

19 September 2019

Geoff Dixon
PO Box 2393
MAREEBA QLD 4880

Planning Officer: Carl Ewin
Direct Telephone: (07) 4086 4656
Our Reference: RAL/19/0018

Dear Applicant

Decision Notice

Planning Act 2016

I refer to your application and advise that on 18 September 2019, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

| | |
|----------------------------|--|
| Application No: | RAL/19/0018 |
| Street Address: | 3946 Kennedy Highway, Mareeba |
| Real Property Description: | Lot 28 on SP160169 |
| Planning Scheme: | Mareeba Shire Council Planning Scheme 2016 |

DECISION DETAILS

| | |
|-------------------|--|
| Type of Decision: | Approval |
| Type of Approval: | Development Permit for Reconfiguring a Lot - Subdivision (1 into 2 Lots) |
| Date of Decision: | 18 September 2019 |

CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is four (4) years starting the day that this development approval takes effect. (Refer to Section 85 "Lapsing of approval at end of currency period" of the *Planning Act 2016*.)

INFRASTRUCTURE

Where conditions relate to the provision of infrastructure, these are non-trunk infrastructure conditions unless specifically nominated as a "**necessary infrastructure condition**" for the provision of trunk infrastructure as defined under Chapter 4 of the *Planning Act 2016*.

ASSESSMENT MANAGER CONDITIONS

The assessment manager considers that the development has been reasonably conditioned to comply with all relevant instruments.

Specifically, the assessment manager considers that proposed Lots 1 and 2 are not an area for use for primary production, nor will the reconfiguration prevent the establishment of a wide range of rural pursuits in the rural zone.

Proposed Lots 1 and 2 are already developed and their separation will not result in a loss of productive capacity of land within the Class A area. The reconfiguration does not reduce agricultural efficiency or prevent the development of a future agricultural activity.

(A) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out generally in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:

- found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
- to ensure compliance with the following conditions of approval.

2. Timing of Effect

- 2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the endorsement of the plan of survey, except where specified otherwise in these conditions of approval.

3. General

- 3.1 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
- 3.2 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to the endorsement of the plan of survey and at the rate applicable at the time of payment.
- 3.3 The developer must relocate (in accordance with FNQROC standards) any services such as water, sewer, drainage, telecommunications and electricity that are not wholly located within the lots that are being created/serviced where required by the relevant authority unless approved by Council's delegated officer.

- 3.4 Where utilities (such as sewers on non-standard alignments) traverse lots to service another lot, easements must be created in favour of Council for access and maintenance purposes. The developer is to pay all costs (including Council's legal expenses) to prepare and register the easement documents.
- 3.5 Any existing buildings or structures (pools/tennis courts or fences) and/or incidental works that straddle the new boundaries must be altered, demolished or removed, as required, to align with the new property boundaries and/or be wholly contained within a new allotment, unless approved by Council's delegated officer.
- 3.6 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements and to the satisfaction of Council's delegated officer.

3.7 Charges

All outstanding rates, charges and expenses pertaining to the land are to be paid in full.

3.8 Rural Addressing

The applicant must pay a contribution per additional lot for provision of rural addressing at the rate identified in the Fees and Charges Schedule at the time of payment.

4. Infrastructure Services and Standards

4.1 Access Easement

A reciprocal easement in favour of both proposed allotments must be provided over the proposed access easement for the purposes of access/drainage/maintenance.

The approved easement document must be submitted at the same time applicant/developer seeks approval for signing and dating of the plan of survey and must be lodged and registered in the Department of Natural Resource, Mines and Energy in conjunction with the plan of survey.

4.2 Stormwater Drainage

The applicant must ensure a non-worsening effect on surrounding land as a consequence of the development and must take all reasonable and practicable measures to ensure discharge occurs in compliance with the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual.

4.3 Water Supply

Proposed Lots 1 and 2 must be provided with a water supply via:

- (a) a bore or bores are provided in accordance with the Design Guidelines set out in the Planning Scheme Policy 4 – FNQROC Regional Development Manual; or
- (b) A minimum 2 megalitre water allocation from SunWater's irrigation supply network; or
- (c) on-site water storage tank/s:
 - (i) with a minimum capacity of 90,000L;
 - (ii) fitted with a 50mm ball valve with a camlock fitting;
 - (iii) which are installed and connected prior to the occupation or use of the development.

4.4 On-Site Wastewater Management

Each lot must have a standalone on-site effluent disposal system to the satisfaction of the Council's delegated officer.

4.5 Electricity provision/supply

The applicant/developer must ensure that an appropriate level of electricity supply is provided to each allotment in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Written advice from an Electricity Service Provider is to be provided to Council indicating that an agreement has been made for the provision of power reticulation.

4.6 Telecommunications

The applicant/developer must demonstrate that a connection to the national broadband network is available for each allotment, or alternatively, enter into an agreement with a telecommunication carrier to provide telecommunication services to each lot and arrange provision of necessary conduits and enveloping pipes.

REFERRAL AGENCIES

The referral agencies applicable to this application are:

| Reconfiguring a Lot near a State transport corridor | | |
|---|---|--|
| Development application for reconfiguring a lot that is assessable development under section 21, if — | 1 Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 | State Assessment & Referral Agency (SARA) |
| (a) all or part of the premises are within 25m of a State transport corridor; and | | Department of State Development, Manufacturing, Infrastructure & Planning PO Box 2358 |

| | | |
|--|--|--|
| <p>(b) 1 or more of the following apply—</p> <ul style="list-style-type: none"> (i) the total number of lots is increased; (ii) the total number of lots adjacent to the State transport corridor is increased; (iii) there is a new or changed access between the premises and the State transport corridor; (iv) an easement is created adjacent to a railway as defined under the Transport Infrastructure Act, Schedule 6; and <p>(c) the reconfiguration does not relate to government supported transport infrastructure</p> | | <p>Cairns Qld 4870</p> <p>CairnsSARA@dsdmip.qld.gov.au</p> |
|--|--|--|

A copy of any referral agency conditions are attached.

APPROVED PLANS

The following plans are Approved plans for the development:

| Plan/Document Number | Plan/Document Title | Prepared by | Dated |
|----------------------|--|-------------------------------|----------------|
| - | Proposed Division From 1 into 2 Blocks located at 3946 Kennedy Hwy Mareeba | Geoff Dixon (amended by SARA) | 27 August 2019 |

ADVISORY NOTES

The following notes are included for guidance and information purposes only and do not form part of the assessment manager conditions:

(A) ASSESSMENT MANAGER'S ADVICE

- (a) A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.

(b) Easement Documents

Council has developed standard easement documentation to assist in the drafting of formal easement documents for Council easements. Please contact the Planning Section for more information regarding the drafting of easement documents for Council easements.

(c) Endorsement Fees

Council charges a fee for the endorsement of a Survey Plan, Community Management Statements, easement documents, and covenants. The fee is set out in Council's Fees & Charges Schedule applicable for each respective financial year.

(d) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

(e) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from www.environment.gov.au.

(f) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the "cultural heritage duty of care"). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from www.datsip.qld.gov.au.

(B) REFERRAL AGENCY CONDITIONS

Department of State Development, Manufacturing, Infrastructure and Planning conditions dated 27 August 2019.

PROPERTY NOTES

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

Not Applicable.

SUBMISSIONS

Not Applicable.

RIGHTS OF APPEAL

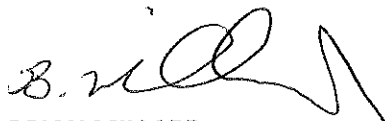
You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

During the appeal period, you as the applicant may suspend your appeal period and make written representations to council about the conditions contained within the development approval. If council agrees or agrees in part with the representations, a "negotiated decision notice" will be issued. Only one "negotiated decision notice" may be given. Taking this step will defer your appeal period, which will commence again from the start the day after you receive a "negotiated decision notice".

OTHER DETAILS

If you wish to obtain more information about Council's decision, electronic copies are available on line at www.msc.qld.gov.au, or at Council Offices.

Yours faithfully



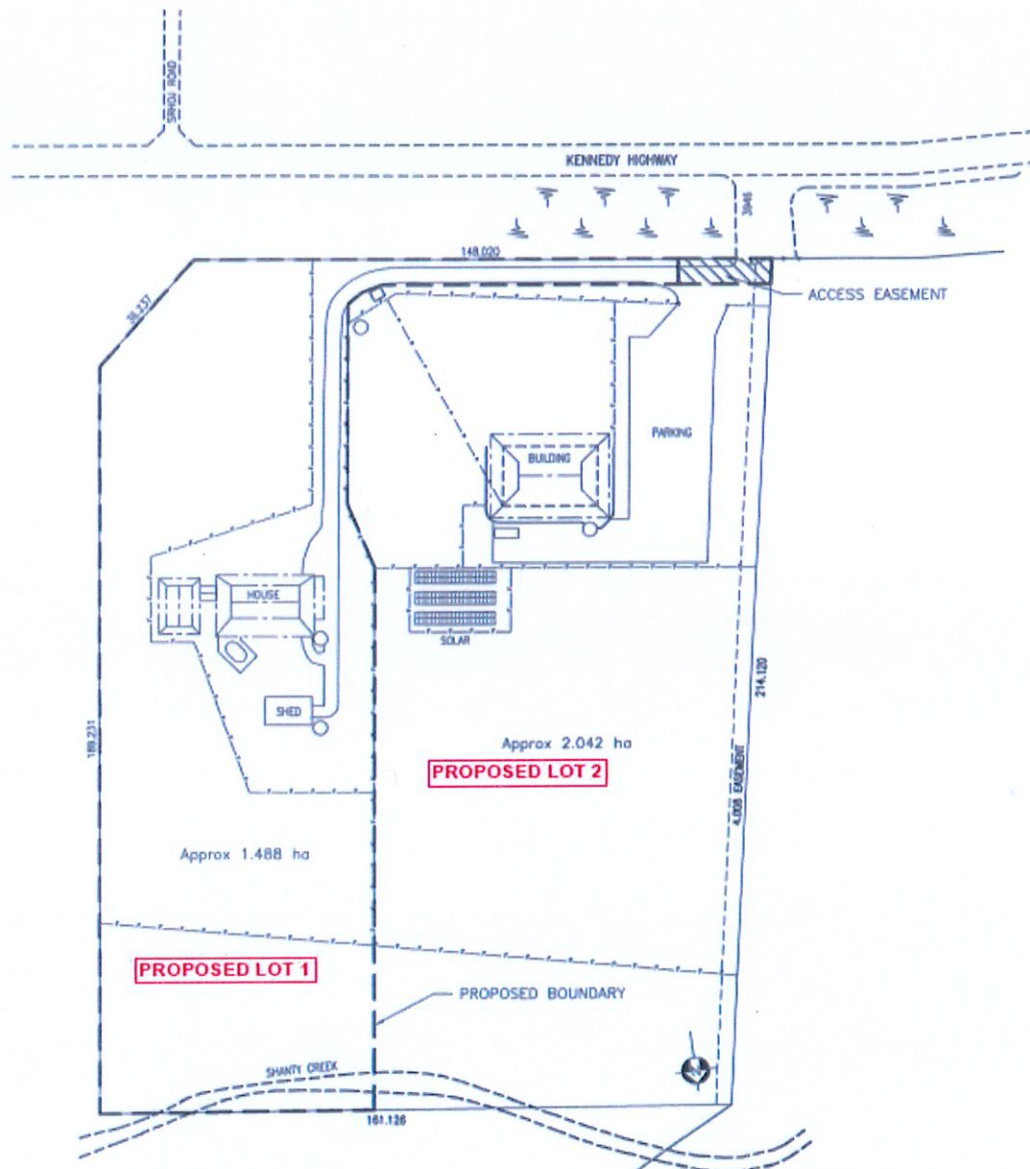
BRIAN MILLARD
SENIOR PLANNER

Enc: Approved Plans/Documents
Referral Agency Response
Appeal Rights

Copy: Department of State Development, Manufacturing, Infrastructure and Planning
CairnsSARA@dsdmip.qld.gov.au

Approved Plans/Documents

Site Plan B



PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE

SARA ref: 1908-12469 ERA

Date: 27 August 2019

Amended in red by SARA on
27 August 2019

PROPOSED DIVISION FROM
1 INTO 2 BLOCKS LOCATED AT
3946 KENNEDY HWY
(LOT 28 / PLAN SP160169)
MAREEBA QLD 4880

SCALE 1:1000 DRAWN BY GEOFF DIXON JULY 2019

19/9/2019
B. Hill

Referral Agency Response

RA5-N



Department of
**State Development,
Manufacturing,
Infrastructure and Planning**

SARA reference: 1908-12469 SRA
Council reference: RAL/19/0018

27 August 2019

Chief Executive Officer
Mareeba Shire Council
PO Box 154
Mareeba QLD 4880
planning@msc.qld.gov.au

Attention: Carl Ewin

Dear Sir/Madam

SARA response—3946 Kennedy Highway, Mareeba

(Referral agency response given under section 50 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the Department of State Development, Manufacturing, Infrastructure and Planning on 2 August 2019.

Response

| | |
|-------------------|--|
| Outcome: | Referral agency response – with conditions. |
| Date of response: | 27 August 2019 |
| Conditions: | The conditions in Attachment 1 must be attached to any development approval. |
| Advice: | Advice to the applicant is in Attachment 2. |
| Reasons: | The reasons for the referral agency response are in Attachment 3. |

Development details

| | | |
|---------------------|--|---|
| Description: | Development permit | Reconfiguring a lot (1 lot into 2 lots) |
| SARA role: | Referral Agency. | |
| SARA trigger: | Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 – Reconfiguring a lot near a State transport corridor (Planning Regulation 2017) | |
| SARA reference: | 1908-12469 SRA | |
| Assessment Manager: | Mareeba Shire Council | |

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Far North Queensland regional office
Ground Floor, Cnr Grafton and Hartley
Street, Cairns
PO Box 2358, Cairns QLD 4870

1906-12469 GRA

Street address: 3846 Kennedy Highway, Mareeba
Real property description: Lot 28 on SP160188
Applicant name: Geoff Dixon
Applicant contact details: PO Box 2393
Mareeba QLD 4880
sharonwill@iinet.net.au

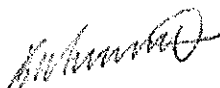
Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules). Copies of the relevant provisions are in Attachment 4.

A copy of this response has been sent to the applicant for their information.

For further information please contact Tony Croke, Principal Planning Officer, on 40373205 or via email CairnsSARA@dsgmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Geoff Dixon, sharonwill@iinet.net.au
enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Change representation provisions
Attachment 5 - Approved plans and specifications

1506-12469 GRA

Attachment 1—Referral agency conditions

(Under section 58(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the plans and specifications referenced below are found at Attachment 5)

| No. | Conditions | Condition timing |
|---|---|--|
| Reconfiguring a lot (1 lot into 2 lots) | | |
| Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 – Reconfiguring a lot near a State transport corridor—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions: | | |
| 1. | The road access location is to be located generally in accordance with Site Plan B: Proposed Division from 1 into 2 Blocks Located at 3948 Kennedy Hwy, prepared by Geoff Dixon, dated July 2019, (as amended by SARA in red). | At all times |
| 2. | <p>(a) The applicant must register an access easement on the title of Proposed Lot 1 for providing access for Proposed Lot 2.</p> <p>(b) The applicant must provide to Cairns Corridor Management Unit (Far.North.Queensland.IDAS@tmr.qld.gov.au) of the Department of Transport and Main Roads a copy of Registration Confirmation Statement and easement registration dealing number as evidence of the registration of the easement referred to in part (a) of this condition.</p> | <p>(a) At the time of survey plan registration.</p> <p>(b) Within 20 business days of registration of the easements.</p> |

1926-12469 SRA

Attachment 2—Advice to the applicant

| General advice | |
|----------------|--|
| 1. | Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) version 2.5. If a word remains undefined it has its ordinary meaning. |

1906-12469 SRA

Attachment 3—Reasons for referral agency response(Given under section 58(7) of the *Planning Act 2016*)

The reasons for the department's decision are:

- The department carried out an assessment of the development application against the State Development Provisions, version 2.5, State code 1: Development in a state-controlled road environment and has found that with conditions, the proposed development complies with the relevant performance outcomes.
- The proposed reconfiguration does not involve any filling/ excavation or the construction of buildings on the premises.
- The proposed development will not change stormwater and/or drainage flows.
- The existing vehicular access to the premises via the Kennedy Highway has current approval under section 62 of the *Transport Infrastructure Act 1994*.
- The proposed development is not increasing traffic generation or changing the type of vehicles utilising the existing approved access.
- The reconfiguration includes an access easement to ensure that legal access can be obtained by both proposed allotments.
- The premises is not impacted by planned upgrades or future state transport corridors.

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version 2.5), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system

1506-12469 SRA

Attachment 4—Change representation provisions

(page left intentionally blank – attached separately)

1908-12459 SRA

Attachment 5—Approved plans and specifications

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Planning Act 2016 – Change representations provisions.

Chapter 3 Development Assessment

Division 2 Changing development approvals

Subdivision 1 Changes during appeal period

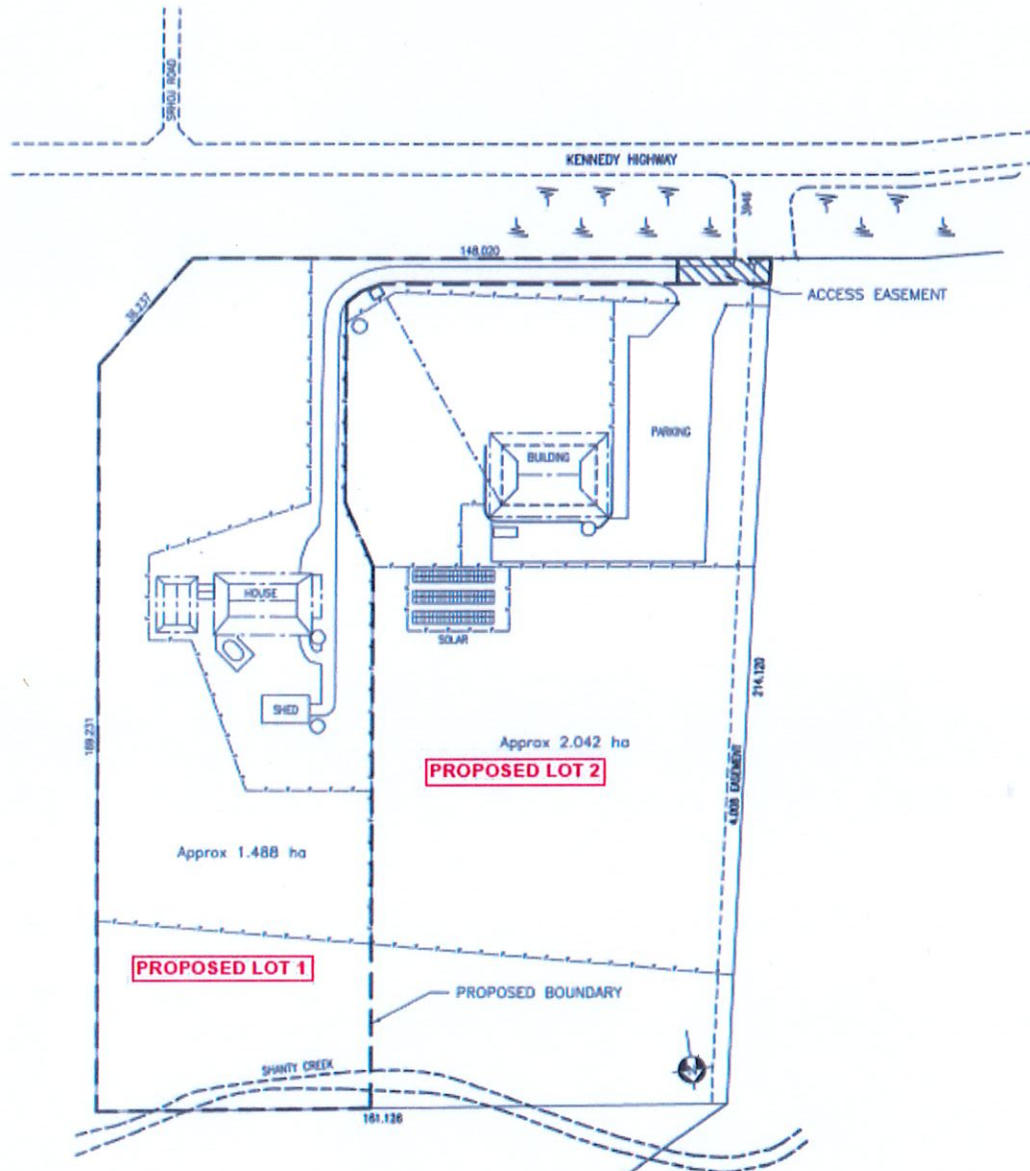
75 Making change representations

- 1) The applicant may make representations (*change representations*) to the assessment manager, during the applicant's appeal period for the development approval, about changing—
 - (a) a matter in the development approval, other than—
 - i. a matter stated because of a referral agency's response; or
 - ii. a development condition imposed under a direction made by the Minister under chapter 3, part 8, division 2; or
 - (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- 2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- 3) Only 1 notice may be given.
- 4) If a notice is given, the appeal period is suspended—
 - (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
 - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
 - i. the applicant withdraws the notice, by giving another notice to the assessment manager; or
 - ii. the applicant receives notice that the assessment manager does not agree with the change representations; or
 - iii. the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- 5) However, if the assessment manager gives the applicant a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

76 Deciding change representations

- 1) The assessment manager must assess the change representations against and having regard to the matters that must be considered when assessing a development application, to the extent those matters are relevant.
- 2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
 - (a) the applicant; and
 - (b) if the assessment manager agrees with any of the change representations—
 - i. each principal submitter; and
 - ii. each referral agency; and
 - iii. if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
 - iv. if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
 - v. another person prescribed by regulation.
- 3) A decision notice (a *negotiated decision notice*) that states the assessment manager agrees with a change representation must—
 - (a) state the nature of the change agreed to; and
 - (b) comply with section 63(2) and (3).
- 4) A negotiated decision notice replaces the decision notice for the development application.
- 5) Only 1 negotiated decision notice may be given.
- 6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.

Site Plan B



PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE

SARA ref: 1908-12469 SRA
Date: 27 August 2019



Amended in red by SARA on
27 August 2019

PROPOSED DIVISION FROM
1 INTO 2 BLOCKS LOCATED AT
3946 KENNEDY HWY
(LOT 28 / PLAN SP160169)
MAREEBA QLD 4880

SCALE 1:1000 DRAWN BY GEOFF DOON JULY 2019

Appeal Rights

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

(1) Schedule 1 of the *Planning Act 2016* states –

- (a) Matters that may be appealed to –
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
- (b) The person-
 - (i) who may appeal a matter (**the appellant**); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.

(Refer to Schedule 1 of the Planning Act 2016)

(2) An appellant may start an appeal within the appeal period.

(3) The **appeal period** is –

- (a) for an appeal by a building advisory agency – 10 business days after a decision notice for the decision is given to the agency; or
- (b) for an appeal against a deemed refusal – at any time after the deemed refusal happens; or
- (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises – 20 business days after a notice is published under section 269(3)(a) or (4); or
- (d) for an appeal against an infrastructure charges notice – 20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given – 30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for any other appeal – 20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note –

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt. It is declared that an appeal against an infrastructure charges notice must not be about-
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund-

- (i) the establishment cost of trunk infrastructure identified in a LGIP; or
- (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that-
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to –
 - (a) the respondent for the appeal ; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, table 1, item 1 – each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (f) for an appeal to the P&E Court – the chief executive; and
 - (g) for an appeal to a tribunal under another Act – any other person who the registrar considers appropriate.
- (4) The *service period* is –
 - (a) if a submitter or advice agency started the appeal in the P&E Court – 2 business days after the appeal has started; or
 - (b) otherwise – 10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section –
decision includes-
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or failure to make a decision; and
 - (d) a purported decision ; and
 - (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter-

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the Judicial Review Act 1991 or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with the rules of the P&E Court.