



Mareeba

SHIRE COUNCIL

65 Rankin Street
PO Box 154 MAREEBA QLD 4880

P: 1300 308 461

F: 07 4092 3323

W: www.msc.qld.gov.au

E: info@msc.qld.gov.au

4 June 2020

Senior Planner: Brian Millard

Direct Phone: 4086 4657

Our Reference: RAL/20/0002

Your Reference: 4131955-63

Queensland Government, Department of Housing and Public Works
C/- GHD Pty Ltd
GPO Box 668
BRISBANE QLD 4000

Attn: Daryl Cochrane

Dear Applicant/s

Decision Notice

Planning Act 2016

I refer to your application and advise that on 4 June 2020 under delegated authority, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No: RAL/20/0002
Street Address: 154 Oak Forest Road, Kuranda
Real Property Description: Lot 279 on NR7210
Planning Scheme: Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision: Approval
Type of Approval: Development Permit for Reconfiguring a Lot - Division by lease (Leases I to P) for a term exceeding 10 years
Date of Decision: 4 June 2020

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**(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 Where Council maintained 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.
 - 3.4 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 unless approved by Council’s delegated officer.

3.5 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.

3.6 Security of access and services

The applicant must ensure that the lease agreement for each lease area secures the continuing right to access and use water, sewerage, stormwater, electricity, telecommunications and vehicular access infrastructure within Lot 279 on NR7210 and/or other lease areas, for the term of each lease.

3.7 Charges

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

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—	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1	MyDAS 2
(a) all or part of the premises are within 25m of a State transport corridor; and		Or
(b) 1 or more of the following apply—		State Assessment & Referral Agency (SARA)
(i) the total number of lots is increased;		Department of State Development, Manufacturing Infrastructure & Planning
(ii) the total number of lots adjacent to the State transport corridor is increased;		PO Box 2358
(iii) there is a new or changed access between the premises and the State transport corridor;		Cairns Qld 4870
(iv) an easement is created adjacent to a railway as defined under the Transport Infrastructure Act, schedule 6; and		CairnsSARA@dsdmip.qld.gov.au
(c) the reconfiguration does not relate to government supported transport infrastructure		

Reconfiguring a lot subject to easement or near a substation site		
Development application for reconfiguring a lot that is assessable development under section 21, if—	Schedule 10, Part 9, Division 2, Table 1	Ergon Energy GPO Box 1461 BRISBANE QLD 4001 townplanning@ergon.com Note: Referral agency may give advice only.
(a) all or part of the lot is subject to an easement—		
(i) for the benefit of a distribution entity, or transmission entity, under the Electricity Act; and		
(ii) for a transmission grid or supply network; or		
(b) part of the lot is within 100m of a substation site		

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
SP311023	Sheet 1 of 4	GE Hopkins	16.04.2019
SP311023	Sheet 2 of 4	GE Hopkins	16.04.2019
SP311023	Sheet 3 of 4	GE Hopkins	16.04.2019
SP311023	Sheet 4 of 4	GE Hopkins	16.04.2019

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) 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.

(c) 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.

(d) 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.

(e) 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) CONCURRENCE AGENCY CONDITIONS

Department of State Development, Manufacturing, Infrastructure and Planning conditions dated 21 May 2020.

PROPERTY NOTES

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

Not Applicable.

SUBMISSIONS

Not Applicable.

RIGHTS OF APPEAL

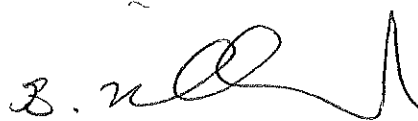
You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

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

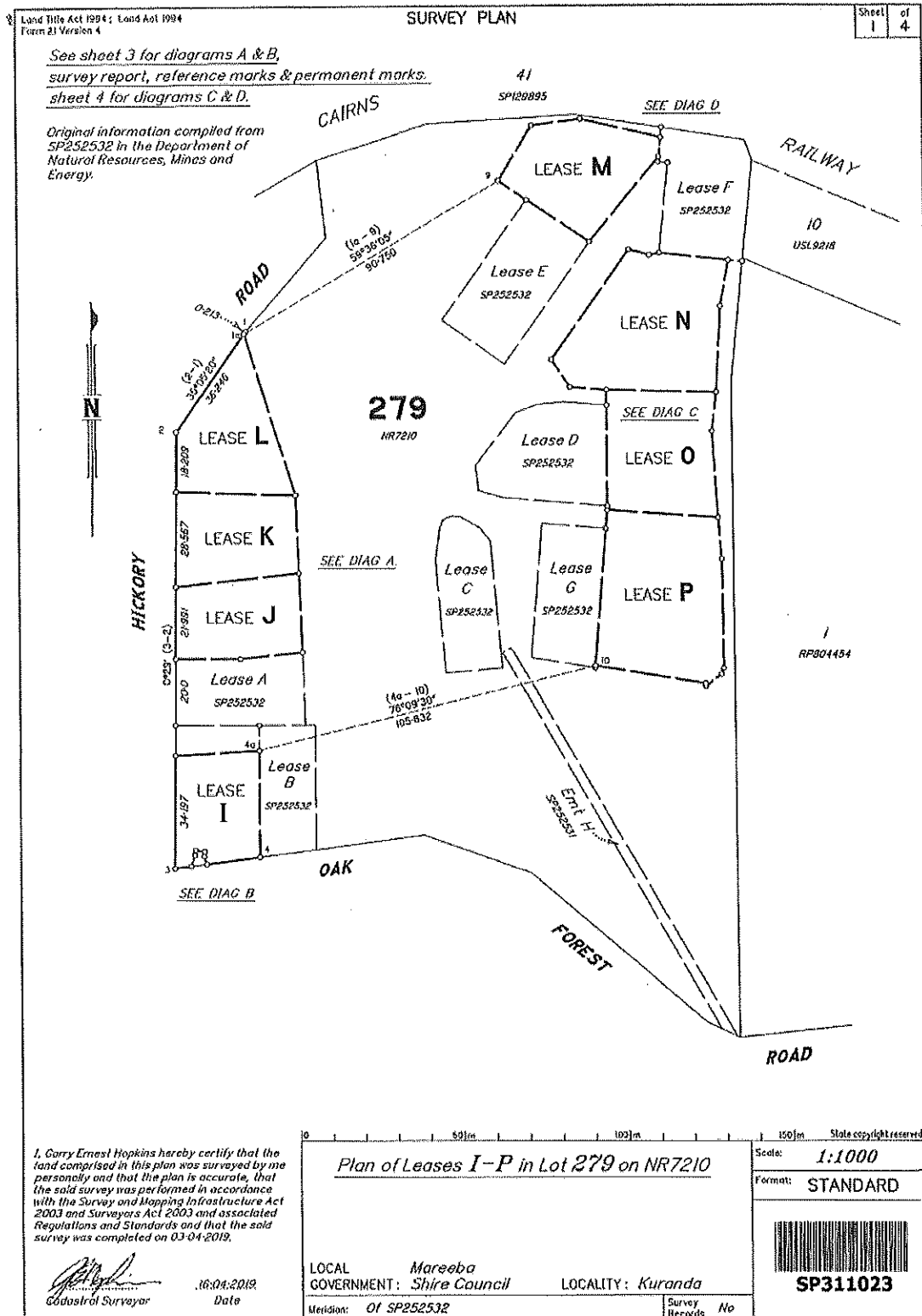



BRIAN MILLARD
SENIOR PLANNER

Enc: Approved Plans/Documents
Referral Agency Response
Appeal Rights

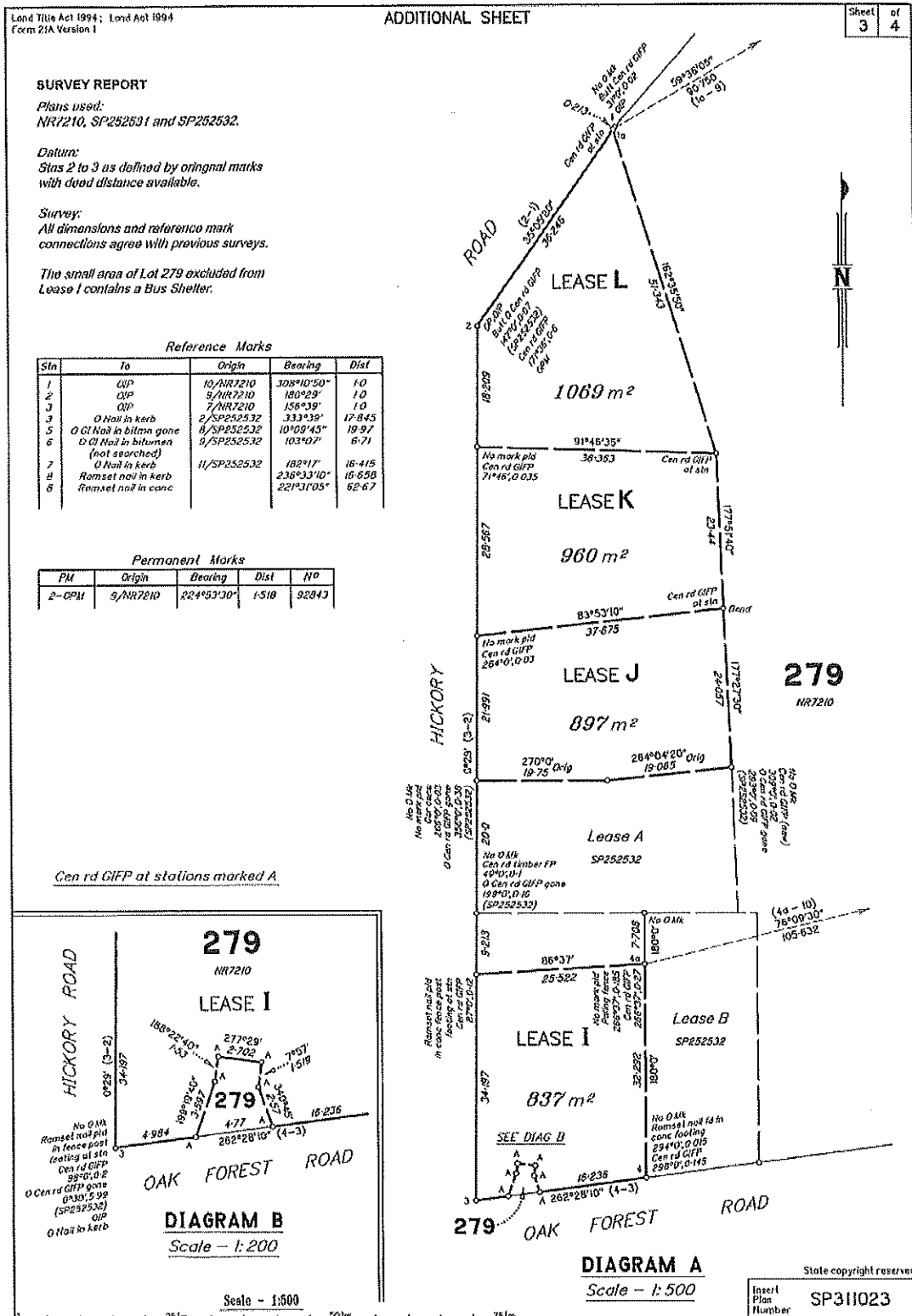
Copy: Department of State Development, Manufacturing, Infrastructure and Planning
CairnsSARA@dsdmip.qld.gov.au

Approved Plans/Documents

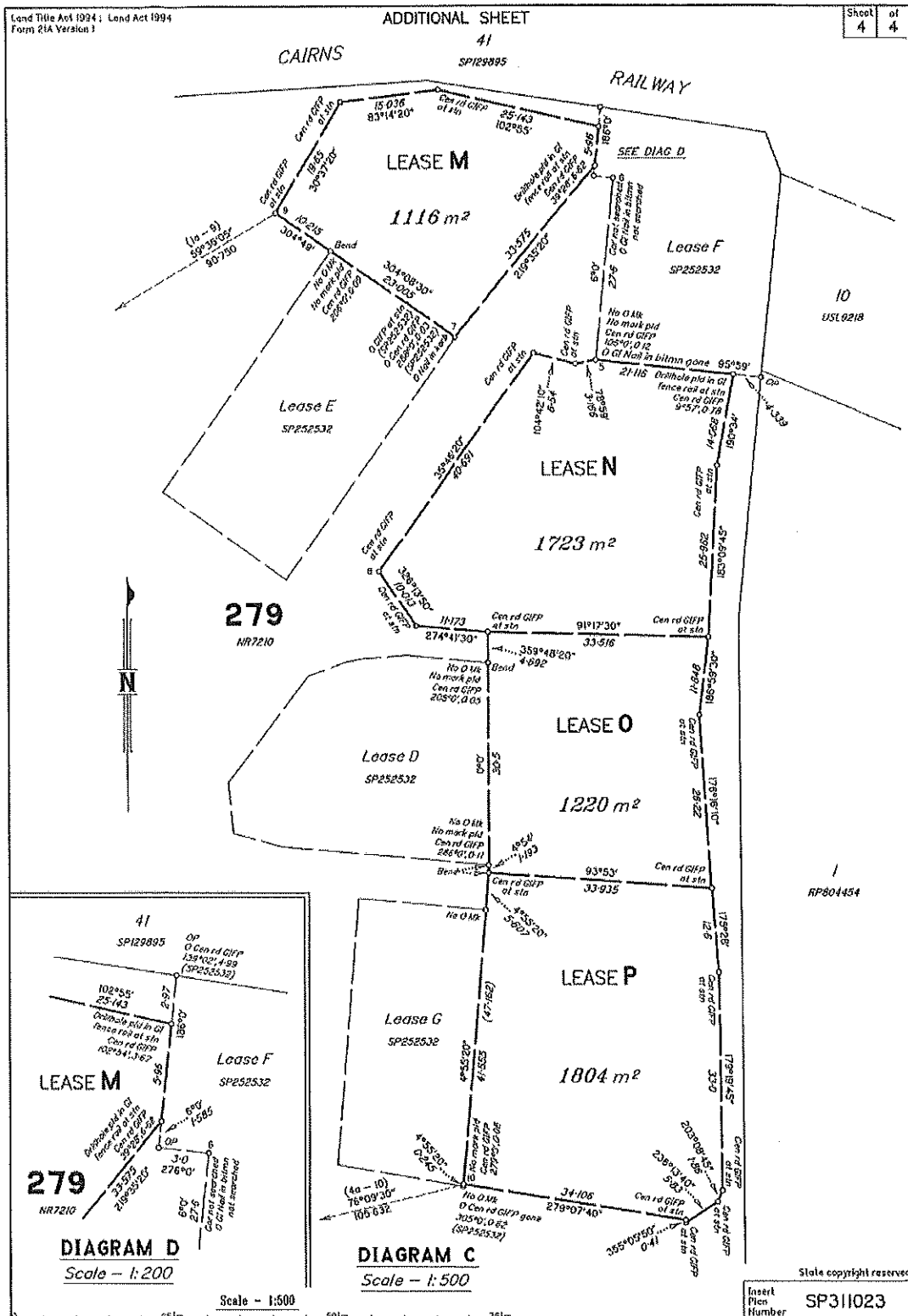


<p>Land Title Act 1994; Land Act 1994 Form 2B Version 1</p> <p style="text-align: center;">(Sealing No.)</p>		<p>WARNING : Folded or Mutilated Plans will not be accepted. Plans may be rolled. Information may not be placed in the outer margins.</p> <p>Sheet 2 of 4</p>																
<p>1. Certificate of Registered Owners or Lessees.</p> <p>I/we <u>Mantaka Aboriginal Land Trust, trustee for the benefit of Aboriginal people particularly concerned with the land and their ancestors and descendants, and under the Aboriginal Land Act 1994.</u></p> <p>(Names in full)</p> <p>* as Registered Owners of this land agree to this plan and dedicate the Public Use Land as shown hereon in accordance with Section 50 of the Land Title Act 1994.</p> <p>* as Lessees of this land agree to this plan:</p> <p><i>[Signatures]</i> Signature of *Registered Owners *Lessees</p> <div style="text-align: center;">  </div> <p>* Rule out whichever is inapplicable</p>		<p>2. Lodged by</p> <p>(Include address, phone number, reference, and Ledger Code)</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th colspan="2">Existing</th> <th colspan="3">Created</th> </tr> <tr> <th>Title Reference</th> <th>Description</th> <th>New Lots</th> <th>Road</th> <th>Secondary Interests</th> </tr> <tr> <td>50202965</td> <td>Lot 279 on NR7210</td> <td style="text-align: center;">-</td> <td style="text-align: center;">-</td> <td>Leases I-P</td> </tr> </table> <p>Leases I-P do not affect any other leases lodged or registered on title 50202965 as at 16-04-2019.</p>		Existing		Created			Title Reference	Description	New Lots	Road	Secondary Interests	50202965	Lot 279 on NR7210	-	-	Leases I-P
Existing		Created																
Title Reference	Description	New Lots	Road	Secondary Interests														
50202965	Lot 279 on NR7210	-	-	Leases I-P														
<p>2. Planning Body Approval.</p> <p>* I hereby approve this plan in accordance with the: %</p> <p>Dated this day of</p> <p>..... # #</p> <p>* Insert the name of the Planning Body. % Insert applicable approving legislation. # Insert designation of signatory or delegation</p>		<p>3. Building Format Plans only.</p> <p>I certify that:</p> <ul style="list-style-type: none"> * As far as it is practical to determine, no part of the building shown on this plan encroaches onto adjoining lots or roads. * Part of the building shown on this plan encroaches onto adjoining * lots and road <p>Cadastral Surveyor/Director * Date</p> <p>Delete words not required</p>																
<p>3. Plans with Community Management Statement:</p> <p>CMS Number:</p> <p>Name:</p>		<p>4. References:</p> <p>Dept File:</p> <p>Local Govt:</p> <p>Surveyor: 19/026</p>																
<p>7. Orig Grant Allocation:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th>Lots</th> <th>Orig</th> </tr> <tr> <td colspan="2" style="text-align: center;">Lot 279 on NR7210</td> </tr> </table>		Lots	Orig	Lot 279 on NR7210		<p>8. Passed & Endorsed:</p> <p>By: <i>[Signature]</i> Date: 23 May 2019 Signed: <i>[Signature]</i> Designation: <i>[Signature]</i> Cadastral Surveyor</p>												
Lots	Orig																	
Lot 279 on NR7210																		
<p>9. Lodgement Fees:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td>Survey Deposit</td> <td>\$</td> </tr> <tr> <td>Lodgement</td> <td>\$</td> </tr> <tr> <td>New Titles</td> <td>\$</td> </tr> <tr> <td>Photocopy</td> <td>\$</td> </tr> <tr> <td>Postage</td> <td>\$</td> </tr> <tr> <td>TOTAL</td> <td>\$</td> </tr> </table>		Survey Deposit	\$	Lodgement	\$	New Titles	\$	Photocopy	\$	Postage	\$	TOTAL	\$	<p>10. Insert Plan Number</p> <p style="text-align: center;">SP311023</p>				
Survey Deposit	\$																	
Lodgement	\$																	
New Titles	\$																	
Photocopy	\$																	
Postage	\$																	
TOTAL	\$																	

4/6/2020
B. [Signature]



4/6/2020
B. n. n.



4/6/2020
B. Hill

Referral Agency Response

RA9-N



Department of
State Development,
Manufacturing,
Infrastructure and Planning

SARA reference: 2004-10459 SRA
Council reference: RAL/20/0002
Applicant reference: 4131955-83

21 May 2020

Chief Executive Officer
Mareeba Shire Council
PO Box 164
Mareeba Qld 4880
planning@msc.qld.gov.au

Attention: Brian Millard

Dear Sir/Madam

SARA response—154 Oak Forest Road, Kuranda

(Referral agency response given under section 58 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 24 April 2020.

Response

Outcome:	Referral agency response - No requirements Under section 58(1)(a) of the <i>Planning Act 2016</i> , the department advises it has no requirements relating to the application.
Date of response:	21 May 2020
Advice:	Advice to the applicant is in Attachment 1.
Reasons:	The reasons for the referral agency response are in Attachment 2.

Development details

Description:	Development permit	Reconfiguring a lot - Division by lease exceeding 10 years (Leases 1 to P)
SARA role:	Referral Agency.	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1 (Planning Regulation 2017)	
	Development application for a reconfiguring a lot within 25m of a railway corridor	

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

Page 1 of 5

2004-16459 SRA

SARA reference: 2004-16459 SRA
Assessment Manager: Mareeba Shire Council
Street address: 154 Oak Forest Road, Kuranda
Real property description: Lot 279 on NR7210
Applicant name: Queensland Government, Department of Housing and Public Works
C/- GHD Pty Ltd
Applicant contact details: 145 Ann Street
Brisbane City QLD 4000
stephanie.munns@ghd.com

Representations

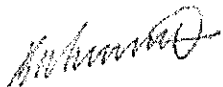
An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s. 30 Development Assessment Rules)

Copies of the relevant provisions are in Attachment 3.

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

For further information please contact Joanne Manson, Principal Planning Officer, SARA Far North QLD on 40373228 or via email CairnsSARA@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Queensland Government, Department of Housing and Public Works C/- GHD Pty Ltd,
stephanie.munns@ghd.com

enc Attachment 1 - Advice to the applicant
Attachment 2 - Reasons for referral agency response
Attachment 3 - Representations provisions

2004-16459 GRA

Attachment 1—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) [v2.6]. If a word remains undefined it has its ordinary meaning.

2004-16459 SRA

Attachment 2 —Reasons for referral agency response(Given under section 58(7) of the *Planning Act 2016*)

The reasons for the department's decision are:

- The premises is located within 25m of the Cairns Railway.
- The department carried out an assessment against the State Development Assessment Provisions, State code 2 and found the proposed development complies with the relevant provisions.
- The proposed development does not require vehicular access via the railway corridor.
- Vehicular access to the premises is via Oak Forest Road and Hickory Road, both local government-controlled roads.
- The proposed development does not propose works within the railway corridor.
- The proposed development is unlikely to impact on the operation, safety or efficiency of the railway.

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 2.0), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system

2004-16459 SRA

Attachment 3 —Change representation provisions

(page left intentionally blank – attached separately)

Development Assessment Rules—Representations about a referral agency response (concurrence)

The following provisions are those set out in sections 28 and 30 of the *Development Assessment Rules*¹ regarding representations about a referral agency response (concurrence).

Part 6: Changes to the application and referral agency responses and Part 7: Miscellaneous

28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

30 Representations about a referral agency response

- 30.1. 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.³

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

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.