



# Mareeba

## SHIRE COUNCIL

65 Rankin Street  
PO Box 154 MAREEBA QLD 4880

P: 1300 308 461  
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W: [www.msc.qld.gov.au](http://www.msc.qld.gov.au)  
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27 April 2021

Mission Australia  
C/- Urban Sync Pty Ltd  
PO Box 2970  
CAIRNS QLD 4870  
Attn: Justin Phipps

Planning Officer: Carl Ewin  
Direct Phone: 4086 4656  
Our Reference: MCU/21/0002  
Your Reference: 20-638

Dear Applicant/s

## Decision Notice

### *Planning Act 2016*

I refer to your application and advise that on 21 April 2021, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

#### APPLICATION DETAILS

Application No:	MCU/21/0002
Street Address:	3338 Kennedy Highway, Mareeba
Real Property Description:	Lot 2 on RP747563
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

#### DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit for Material Change of Use - Rooming Accommodation (Residential Rehabilitation Facility)
Date of Decision:	21 April 2021

#### CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is six (6) 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 commencement of the use except where specified otherwise in these conditions of approval.
  - 2.2 Prior to the commencement of use, the applicant must demonstrate to Council that all the conditions of the development permit have been complied with, 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 external 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.
  - 3.3 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to commencement of the use and at the rate applicable at the time of payment.

- 3.4 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.

3.5 Waste Management

The applicant/developer/operator shall ensure there is no on-site disposal of refuse associated with the approved use unless such refuse is disposed of in refuse bins provided in accordance with the following:

- (i) No refuse is to be stored on site outside the refuse bins at any time.
- (ii) On site refuse storage area for all refuse bins must be provided and be screened from view from adjoining properties and road reserve by a one (1) metre wide landscaped screening buffer, 1.8m high solid fence or building.

3.6 Bushfire Management

3.6.1 The development must be provided with a minimum 5,000 litres or water storage for firefighting purposes. The water storage can comprise of:

- (i) a separate tank; or
- (ii) a reserve section in the bottom part of the main water supply tank; or
- (iii) a dam; or
- (iv) a swimming pool.

Where a tank is provided, it must be fitted with standard rural fire brigade fittings and an adjacent hardstand area for heavy vehicles.

3.6.2 A Bushfire Management Plan, incorporating evacuation procedures for patients and staff, must be prepared to the satisfaction of Council's delegated officer. The approved use must comply with the requirements of the Management Plan at all times.

3.7 Signage

No advertising material associated with the approved use is permitted on-site (where visible from the Kennedy Highway) or along any part of the frontage of the site. Address signage in addition to the standard rural address post is permitted.

- 3.8 Staff must be present on-site 24 hours a day, seven (7) days per week to supervise patients. The direct contact phone number of facility staff must be made available to all neighbouring property owners within a one (1) kilometre radius of the site in order to assist with the reporting of any antisocial behavior.

- 3.9 The use of amplified music or PA systems are not permitted on-site at any time.

#### 4. Infrastructure Services and Standards

##### 4.1 Stormwater Drainage/Water Quality

4.1.1 The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.

4.1.2 All stormwater drainage concentrated by the development must be collected from site and discharged to an approved legal point of discharge.

##### 4.2 Car Parking/Internal Driveways

A designated car parking area must be provided on-site and be of a size that can accommodate 16 vehicles, including one (1) designated disabled parking space. Individual parking bays are not required to be line marked.

The designated car parking area and internal driveway network servicing the development (as shown on the approved plans) must be constructed with compacted gravel to a minimum depth of 100mm and be appropriately drained prior to the commencement of the use, and maintained for the life of the development, to the satisfaction of Council's delegated officer.

##### 4.3 Landscaping

Prior to the commencement of the use, the applicant / developer must prepare and submit a landscape plan in accordance with Planning Scheme Policy 6 for consideration and approval by Council's delegated officer. The landscape plan must include the following:

- (i) A minimum two (2) metre wide landscape buffer along the Kennedy Highway frontage of the site extending from the south-east corner of the site for a length of 165m (excluding the access driveway); and
- (ii) A minimum two (2) metre wide landscape buffer along the southern boundary of the site extending from the south-east corner of the site for a length of 90 metres.

Landscaping associated with points (i) and (ii) should include ground cover, shrubs and trees that will grow to form an effective visual buffer of no less than three (3) metres in height.

All landscaping should be established at the commencement of building works in order to be substantially established at the commencement of the use. All landscape buffers must be mulched, irrigated and maintained for the life of the development and to the satisfaction of Council's Delegated Officer.

#### 4.4 Lighting

Where outdoor lighting is proposed to be installed, it must be designed and installed so as to not cause nuisance to any neighbouring property or Kennedy Highway user.

Illumination resulting from direct, reflected or other incidental light emanating from the subject site does not exceed eight (8) lux when measured at any point 1.5m outside the property boundary of the subject site. The lighting fixtures installed on site must meet appropriate lux levels as documented within Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting.

#### 4.5 Water Supply

The development must be provided with a potable water supply that can satisfy the standards for drinking water set by the Australian Drinking Water Guidelines 6, 2011 (National Health and Medical Research Council and the National Resource Management Ministerial Council).

All non-potable sources of water must be sign posted "non-potable water supply" or similar in order to deter consumption.

#### 4.6 On-Site Wastewater Management

All on site effluent disposal associated with the approved use must be in compliance with the latest version of On-Site Domestic Wastewater Management Standard (ASNZ1547) to the satisfaction of the Council's delegated officer.

### REFERRAL AGENCIES

The referral agencies applicable to this application are:

Material change of use of premises near a State transport corridor or that is a future State transport corridor		
Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorizing instrument, if all or part of the premises—  (a) are within 25m of a State transport corridor; or  (b) are a future State transport corridor; or	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4	State Assessment & Referral Agency (SARA) Department of State Development, Manufacturing, Infrastructure and Planning PO Box 2358 Cairns Qld 4870  <a href="mailto:CairnsSARA@dsdmip.qld.gov.au">CairnsSARA@dsdmip.qld.gov.au</a>

(c) are— (i) adjacent to a road that intersects with a State-controlled road; and (ii) within 100m of the intersection		
<b>Material change of use of premises near a substation site of subject to an easement</b>		
Development application for a material change of use that is assessable development under a local categorising instrument and does not relate to reconfiguring a lot, if—  (a) all or part of the premises are within 100m of a substation site; or  (b) both of the following apply— (i) all or part of the premises are subject to an easement for the benefit of a distribution entity, or transmission entity, under the Electricity Act; (ii) the easement is for a transmission grid or supply network	Schedule 10, Part 9, Division 2, Table 2	Town Planning Ergon Energy PO Box 264 Fortitude Valley Qld 4006  <a href="mailto:townplanning@ergon.com.au">townplanning@ergon.com.au</a>  <b>Note:</b> Referral agency may give advice only.

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
21011 SK00	Cover Sheet & Site Plan	Bau Design Architects	17/01/2021
21011 SK01	Carparking	Bau Design Architects	17/01/2021
21011 SK10	Plans Accommodation	Bau Design Architects	17/01/2021
21011 SK11	Plans Administration	Bau Design Architects	17/01/2021
21011 SK40	Elevations Accommodation	Bau Design Architects	17/01/2021
21011 SK41	Elevations Administration	Bau Design Architects	17/01/2021
21011 SK70	Elevations 3D Images	Bau Design Architects	17/01/2021

#### 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) Food Premises

Premises proposed for the storage and preparation, handling, packing or service of food must comply with the requirements of the Food Act 2006.

(b) 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.

(c) Compliance with Acts and Regulations

The erection and use of the building must comply with the Building Act and all other relevant Acts, Regulations and Laws, and these approval conditions.

(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](http://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](http://www.datsip.qld.gov.au)

(B) REFERRAL AGENCY CONDITIONS

Department of State Development, Infrastructure, Local Government and Planning conditions dated 10 March 2021.

**PROPERTY NOTES**

Not Applicable.

**FURTHER DEVELOPMENT PERMITS REQUIRED**

- Development Permit for Building Work
- Compliance Permit for Plumbing and Drainage Work

**SUBMISSIONS**

There were four (4) properly made submissions about the application. In accordance with the *Planning Act 2016*, the name, residential or business address, and electronic address of the principal submitter for each properly made submission is provided below:

Name of Principal submitter	Address
1. Chris Hermann	76 Spena Road, Mareeba QLD 4880
2. Francesco Barbieri	171 Spena Road, Koah QLD 4881
3. Martin & Tracey Lobert	4 Spena Road, Mareeba QLD 4880
4. Felix & Kathryn Buchgraber	3462 Kennedy Highway, PO Box 370 Mareeba QLD 4880

**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](http://www.msc.qld.gov.au), or at Council Offices.

Yours faithfully



**BRIAN MILLARD**  
**SENIOR PLANNER**

Enc: Approved Plans/Documents  
Referral Agency Response  
Appeal Rights

## Approved Plans/Documents



**bau design**  
architects

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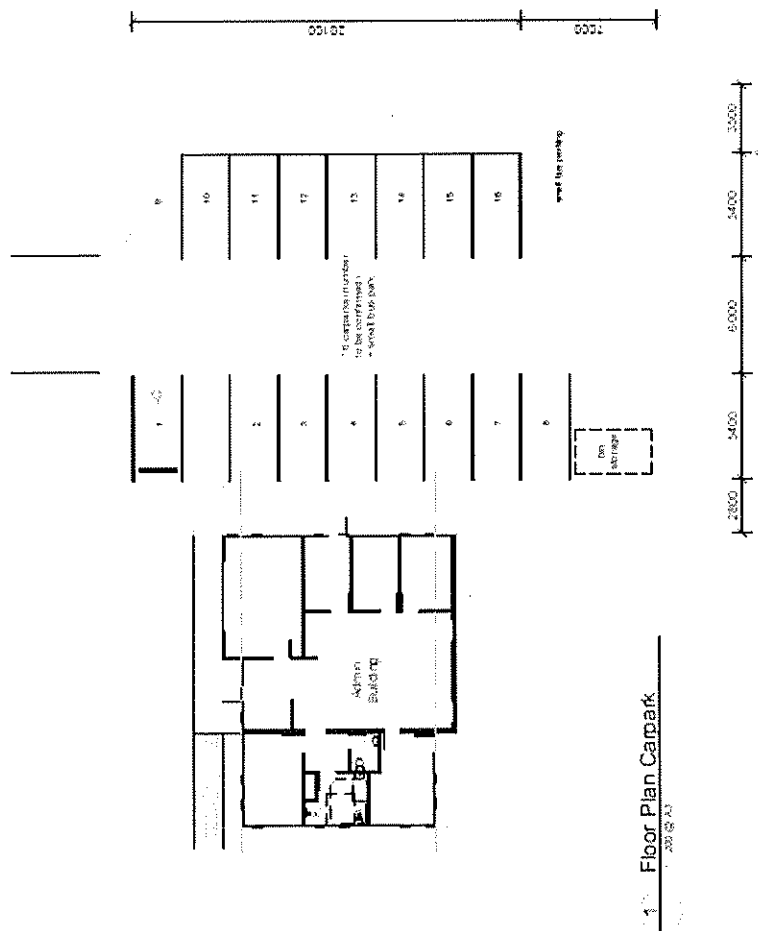
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2021-01-17 Issue 4

SK00	Cover Sheet & Site Plan	As indicated
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Mission Australia  
Residential Rehabilitation Facility

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27/4/2021  
B. M. [Signature]



1 Floor Plan Carpark

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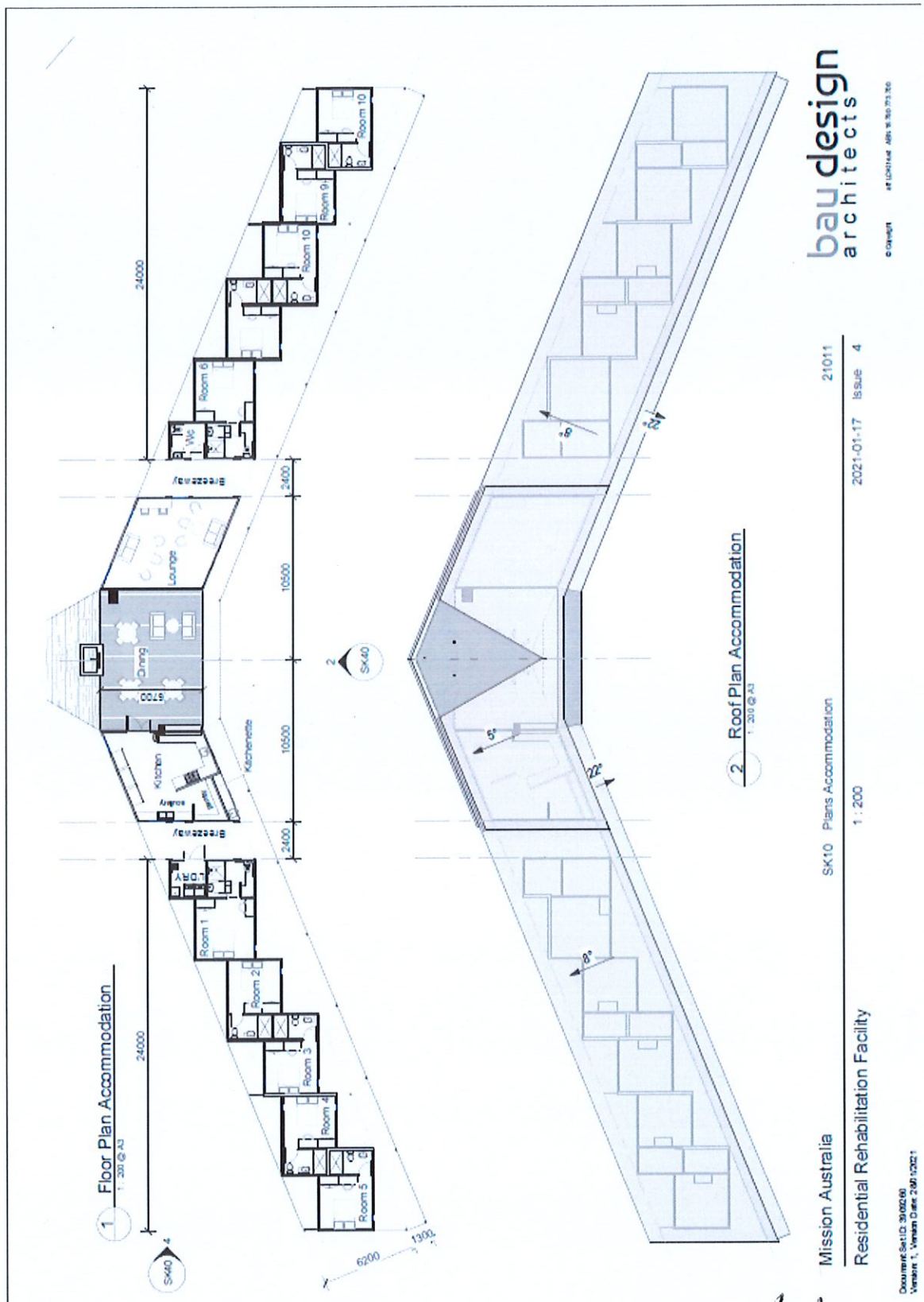
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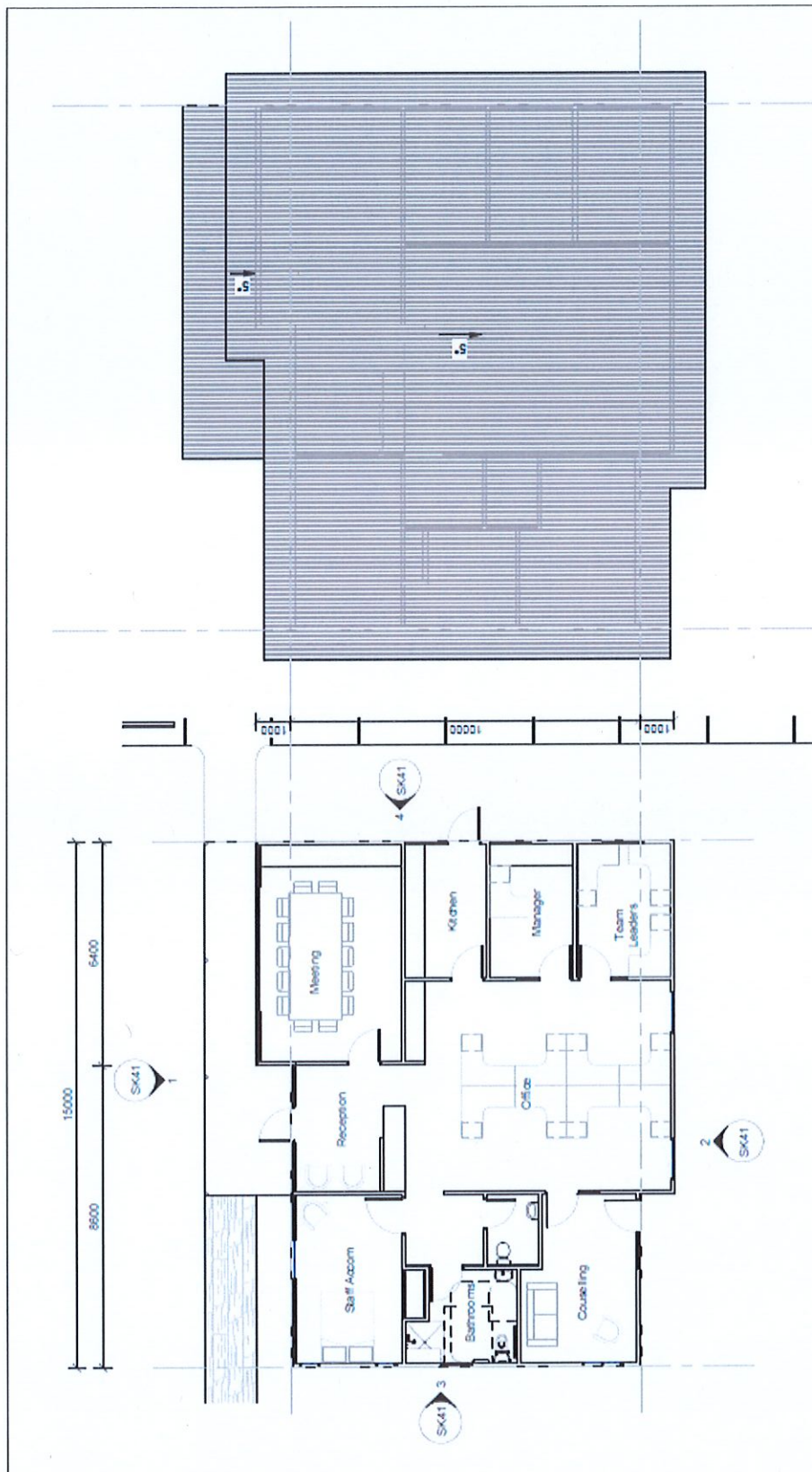
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2 Roof Plan Administration  
1:100 @ A3

1 Floor Plan Administration  
1:100 @ A3

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SK11 Plans Administration

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2021-01-17 Issue 4

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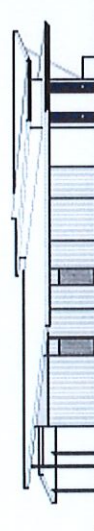
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1 Front Elevation  
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2 Back Elevation  
1:200 @ A3



3 Side Elevation 1  
1:200 @ A3



4 Side Elevation 2  
1:200 @ A3

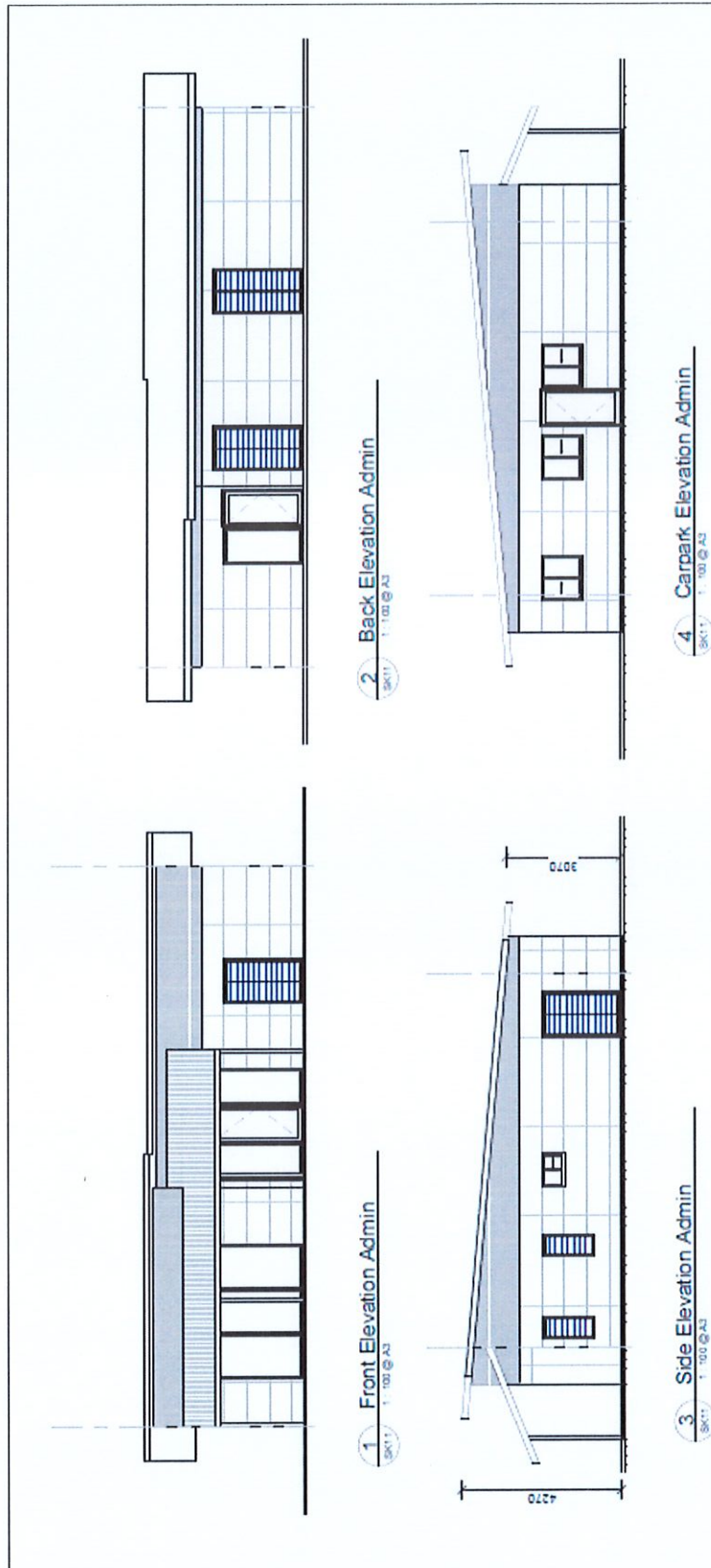
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SK40 Elevations Accommodation  
21011  
2021-01-17 Issue 4  
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Document Set ID: 200200  
Version: 1, Version Date: 20/1/2021



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2021-01-17 Issue 4

SK41 Elevations Administration  
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21011

2021-01-17 Issue 4

SK70 3D Images

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Residential Rehabilitation Facility

Document Set ID: 3000240  
Version: 1, Version Date: 25/01/2021

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B. Z. [Signature]

## Referral Agency Response

Our ref TMR21-032181 (500-1556)  
Your ref 2D-638  
Enquiries Ronald Kaden



Department of  
Transport and Main Roads

8 March 2021

### Decision Notice – Permitted Road Access Location (s62(1) Transport Infrastructure Act 1994)

**This is not an authorisation to commence work on a state-controlled road<sup>1</sup>**

Development application reference number MCU/21/0002, lodged with Mareeba Shire Council involves constructing or changing a vehicular access between Lot 2RP747563 the land the subject of the application, and Kennedy Highway (a state-controlled road).

In accordance with section 62A(2) of the *Transport Infrastructure Act 1994* (TIA), this development application is also taken to be an application for a decision under section 62(1) of TIA.

#### Applicant Details

Name and address Mission Australia  
C/- Urban Sync Pty Ltd  
PO Box 2970  
Cairns QLD 4870

#### Application Details

Address of Property 3338 Kennedy Highway, Mareeba QLD 4880  
Real Property Description 2RP747563  
Aspect/s of Development Development Permit for Material Change of Use for Rooming Accommodation (Residential Rehabilitation Facility)

#### Decision (given under section 67 of TIA)

It has been decided to approve the application, subject to the following conditions:

No.	Conditions of Approval	Condition Timing
1	The permitted road access location is approximately 100 metres from the southern boundary of Lot 2RP747563, in accordance with: 1. TMR Layout Plan (32A - 33.08km) Issue A 08/03/2021; and 2. Cover Sheet & Site Plan prepared by BAU Design Architects dated 17/01/2021 reference SK00 Issue 4.	At all times.
2	Direct access is prohibited between Kennedy Highway and 2RP747563 at any other location other than the permitted road	At all times.

<sup>1</sup> Please refer to the further approvals required under the heading 'Further approvals'

No.	Conditions of Approval	Condition Timing
	access location described in Condition 1.	
3	<p>The use of the permitted road access location is to be restricted to:</p> <p>a) Design vehicles up to a maximum size Four Axle Truck - Class 5 Medium Length Heavy Vehicle**</p> <p>Note: ** as described in Austroads Vehicle Classification System</p>	At all times.

#### Reasons for the decision

The reasons for this decision are as follows:

- Currently the subject site (Lot 2 on RP747563) has road frontage and vehicle access via Kennedy Highway, a Limited Access State-controlled road.
- The proposed development for rooming accommodation (residential rehabilitation facility) will require a changed access due to increased vehicle movements.
- Therefore, a decision under section 62 of the Act is required.

Please refer to **Attachment A** for the findings on material questions of fact and the evidence or other material on which those findings were based.

#### Information about the Decision required to be given under section 67(2) of TIA

- There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
- In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for information.

#### Further information about the decision

- In accordance with section 67(7) of TIA, this decision notice:
  - starts to have effect when the development approval has effect; and
  - stops having effect if the development approval lapses or is cancelled; and
  - replaces any earlier decision made under section 62(1) in relation to the land.
- In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply for a review of this decision only within 28 days after notice of the decision was given under the TIA. A copy of the review provisions under TIA and TPCA are attached in **Attachment C** for information.
- In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

**Further approvals**

The Department of Transport and Main Roads also provides the following information in relation to this approval:

1. **Road Access Works Approval Required** – Written approval is required from the department to carry out road works that are road access works (including driveways) on a state-controlled road in accordance with section 33 of the TIA. This approval must be obtained prior to commencing any works on the state-controlled road. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the department to make an application.

If further information about this approval or any other related query is required, Mr Ronald Kaden, Technical Officer (Development Control) should be contacted by email at [ron.p.kaden@tmr.qld.gov.au](mailto:ron.p.kaden@tmr.qld.gov.au) or on (07) 4045 7151.

Yours sincerely



Peter McNamara  
Principal Engineer (Civil)

Attachments: Attachment A – Decision evidence and findings  
Attachment B - Section 70 of TIA  
Attachment C - Appeal Provisions  
Attachment D - Permitted Road Access Location Plan

**Attachment A**  
**Decision Evidence and Findings**

Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version / Issue
TMR Layout Plan (32A - 33.09km)	Queensland Government Transport and Main Roads	08 March 2021	TMR21-32181 (500-1556)	A
Cover Sheet & Site Plan	BAU Design Architects	17 January 2021	SK00	4

**Attachment B**  
**Section 70 of TIA**

*Transport Infrastructure Act 1994*  
Chapter 6 Road transport infrastructure  
Part 5 Management of State-controlled roads

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**70 Offences about road access locations and road access works, relating to decisions under s 62(1)**

- (1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.
- (2) A person to whom this section applies must not—
- (a) obtain access between the land and the State-controlled road other than at a location at which access is permitted under the decision; or
  - (b) obtain access using road access works to which the decision applies, if the works do not comply with the decision and the noncompliance was within the person's control; or
  - (c) obtain any other access between the land and the road contrary to the decision; or
  - (d) use a road access location or road access works contrary to the decision; or
  - (e) contravene a condition stated in the decision; or
  - (f) permit another person to do a thing mentioned in paragraphs (a) to (e); or
  - (g) fail to remove road access works in accordance with the decision.

Maximum penalty—200 penalty units.

- (3) However, subsection (2)(g) does not apply to a person who is bound by the decision because of section 68.

**Attachment C**  
**Appeal Provisions**

*Transport Infrastructure Act 1994*  
Chapter 16 General provisions

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**485 Internal review of decisions**

- (1) A person whose interests are affected by a decision described in schedule 3 (the *original decision*) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
  - (a) applies to the review; and
  - (b) provides—
    - (i) for the procedure for applying for the review and the way it is to be carried out; and
    - (ii) that the person may apply to QCAT to have the original decision stayed.

**485B Appeals against decisions**

- (1) This section applies in relation to an original decision if a court (the appeal court) is stated in schedule 3 for the decision.
- (2) If the reviewed decision is not the decision sought by the applicant for the review, the applicant may appeal against the reviewed decision to the appeal court.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
  - (a) applies to the appeal; and
  - (b) provides—
    - (i) for the procedure for the appeal and the way it is to be disposed of; and
    - (ii) that the person may apply to the appeal court to have the original decision stayed.
- (4) Subsection (5) applies if—
  - (a) a person appeals to the Planning and Environment Court against a decision under section 62(1) on a planning application that is taken, under section 62A(2), to also be an application for a decision under section 62(1); and

(b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.

(5) The court may order—

(a) the appeals to be heard together or 1 immediately after the other; or

(b) 1 appeal to be stayed until the other is decided.

(6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.

(7) In this section—

*original decision* means a decision described in schedule 3.

*reviewed decision* means the chief executive's decision on a review under section 485.

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*Transport Planning and Coordination Act 1994*  
Part 5, Division 2 – Review of Original Decisions

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**31 Applying for review**

- (1) A person may apply for a review of an original decision only within 28 days after notice of the original decision was given to the person under the transport Act.
- (2) However, if—
  - (a) the notice did not state the reasons for the original decision; and
  - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)the person may apply within 28 days after the person is given the statement of the reasons.
- (3) In addition, the chief executive may extend the period for applying.
- (4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

**32 Stay of operation of original decision**

- (1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the relevant entity.
- (2) The relevant entity may stay the original decision to secure the effectiveness of the review and any later appeal to or review by the relevant entity.
- (3) In setting the time for hearing the application, the relevant entity must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the relevant entity with it on the chief executive at least 2 business days before the hearing.
- (6) The stay—
  - (a) may be given on conditions the relevant entity considers appropriate; and
  - (b) operates for the period specified by the relevant entity; and
  - (c) may be revoked or amended by the relevant entity.
- (7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period the relevant entity allows the applicant to enable the applicant to appeal against the decision or apply for a review of the decision as provided under the QCAT Act.

(8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.

(9) In this section—

**relevant entity** means—

- (a) if the reviewed decision may be reviewed by QCAT—QCAT; or
- (b) if the reviewed decision may be appealed to the appeal court—the appeal court.

### 35 Time for making appeals

(1) A person may appeal against a reviewed decision only within—

- (a) if a decision notice is given to the person—28 days after the notice was given to the person; or
- (b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

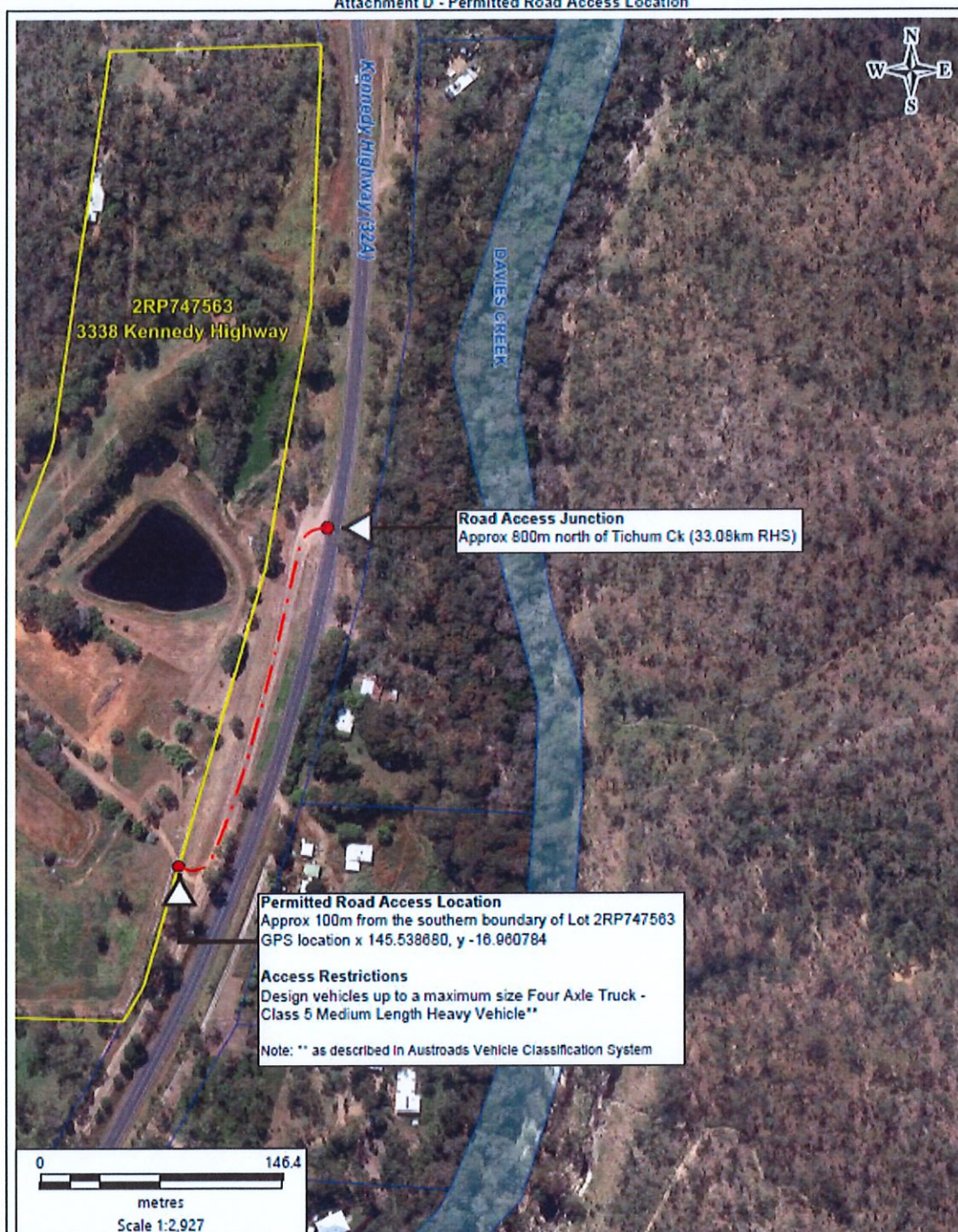
(2) However, if—





- (a) the decision notice did not state the reasons for the decision; and
- (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

the person may apply within 28 days after the person is given a statement of the reasons.

(3) Also, the appeal court may extend the period for appealing.

### Attachment D - Permitted Road Access Location

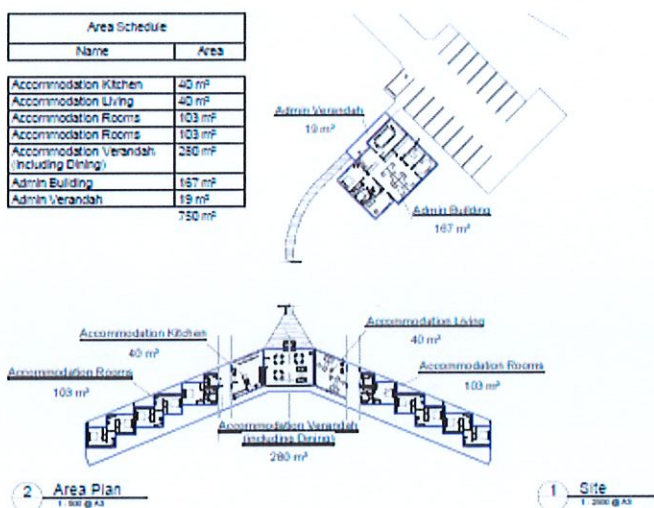


Branch/Unit:	<h1 style="text-align: center;">TMR Layout Plan</h1> <h2 style="text-align: center;">(32A - 33.08km)</h2>		 <div>Queensland Government Transport and Main Roads</div>
Corridor Management / Far North District			
Projection/Datum: Geocentric Datum of Australia (GDA) 1994			
<div>  <div>Parcels</div>  <div>Subject Land</div> </div> <div>  <div>Road access driveway</div> </div>	<div> <div>Plan: 1/1</div> <div>Issue: A</div> <div>Date: 08/03/2021</div> </div> <div> <div>Drawn by: RPK</div> <div>File ref: TMR21-32181 (500-1556)</div> </div>		

Document Set ID: 3933200

## Mission Australia Residential Rehabilitation Facility Mareeba, QLD

Area Schedule	
Name	Area
Accommodation Kitchen	40 m <sup>2</sup>
Accommodation Living	40 m <sup>2</sup>
Accommodation Rooms	103 m <sup>2</sup>
Accommodation Rooms	103 m <sup>2</sup>
Accommodation Verandah (including Dining)	280 m <sup>2</sup>
Admin Building	167 m <sup>2</sup>
Admin Verandah	19 m <sup>2</sup>
	750 m <sup>2</sup>



Mission Australia

SK00 - Cover Sheet &amp; Site Plan

21011

Residential Rehabilitation Facility

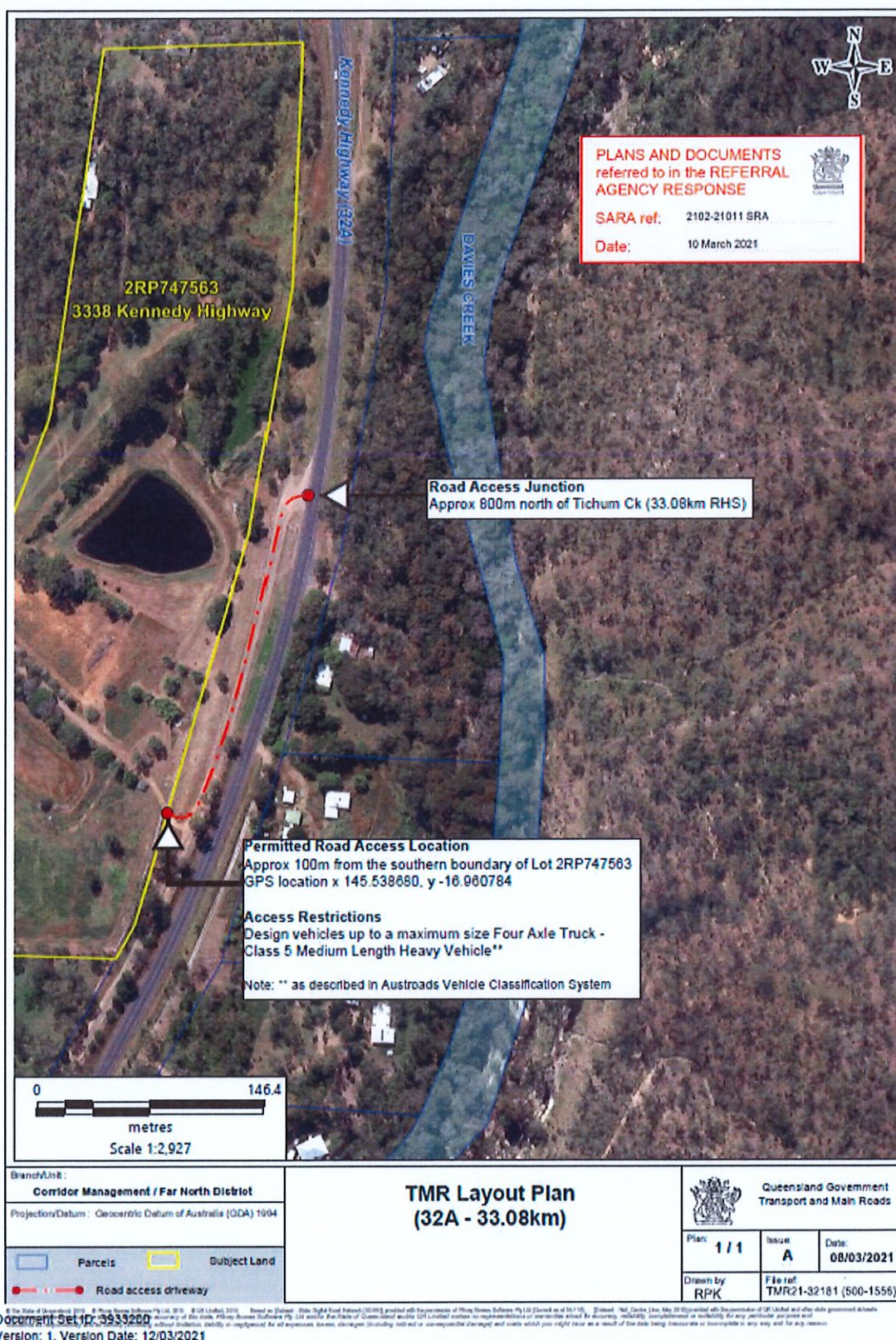
As indicated

2021-01-17 Issue 4

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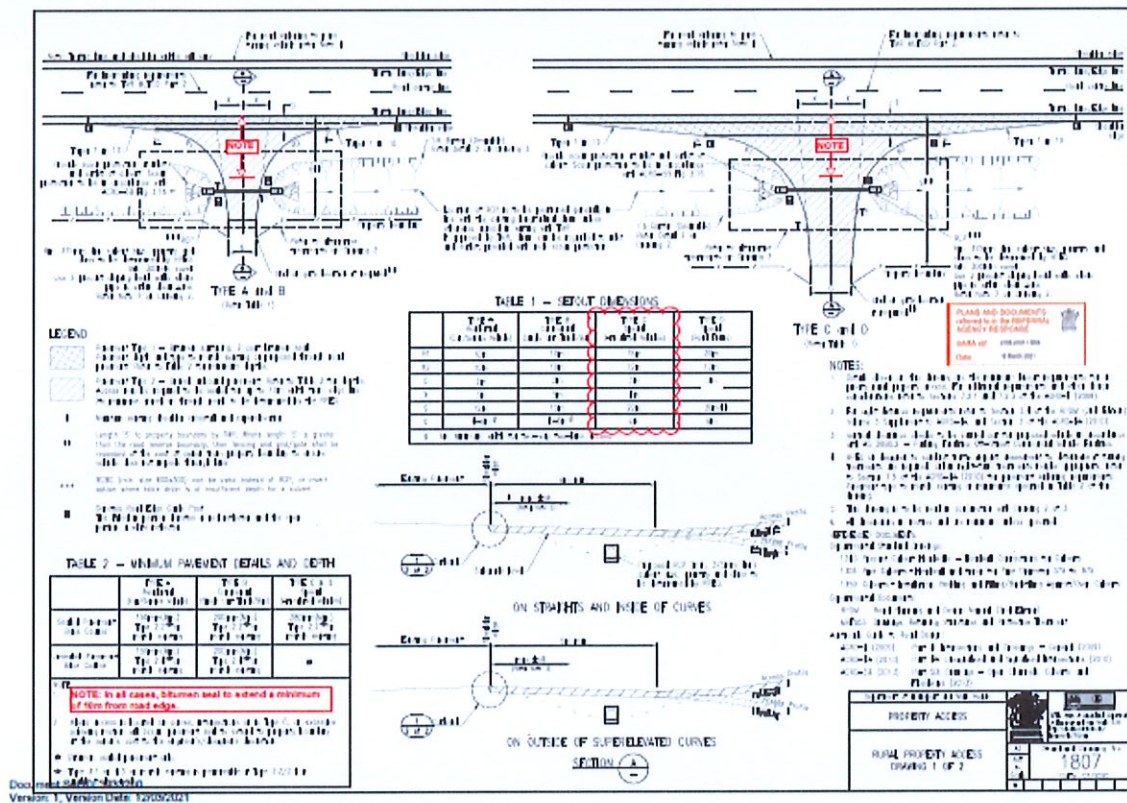
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## Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules<sup>1</sup> regarding representations about a referral agency response

### Part 6: Changes to the application and referral agency responses

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#### 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.<sup>2</sup>
- 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.

---

<sup>1</sup> Pursuant to Section 68 of the *Planning Act 2016*

<sup>2</sup> 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.

## **Part 7: Miscellaneous**

### **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.<sup>3</sup>

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<sup>3</sup> 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.

RA5-N



SARA reference: 2102-21011 SRA  
Council reference: MCU/21/0002  
Applicant reference: 20-638

10 March 2021

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—3338 Kennedy Highway, Mareeba**(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency on 10 February 2021.

**Response**

Outcome:	Referral agency response – with conditions.
Date of response:	10 March 2021
Conditions:	The conditions in <b>Attachment 1</b> must be attached to any development approval.
Advice:	Advice to the applicant is in <b>Attachment 2</b> .
Reasons:	The reasons for the referral agency response are in <b>Attachment 3</b> .

**Development details**

Description:	Development permit	Material Change of Use for Rooming Accommodation (Residential Rehabilitation Facility)
SARA role:	Referral Agency	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 (Planning Regulation 2017)	

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

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2102-21011 SRA

Development application for a material change of use within 25m of a state-controlled road

SARA reference: 2102-21011 SRA

Assessment Manager: Mareeba Shire Council

Street address: 3338 Kennedy Highway, Mareeba

Real property description: Lot 2 on RP747563

Applicant name: Mission Australia

Applicant contact details: C/- Urban Sync Pty Ltd  
PO Box 2970  
Cairns QLD 4870  
admin@urbansync.com.au

State-controlled road access permit: This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved
- Reference: TMR21-032181 (500-1556)
- Date: 8 March 2021

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at Far.North.Queensland.IDAS@tmr.qld.gov.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 Joanne Manson, Principal Planning Officer, SARA Far North QLD on 4037 3228 or via email CairnsSARA@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow  
Manager (Planning)

cc Mission Australia, admin@urbansync.com.au

enc Attachment 1 - Referral agency conditions  
Attachment 2 - Advice to the applicant  
Attachment 3 - Reasons for referral agency response  
Attachment 4 - Representations provisions  
Attachment 5 - Approved plans and specifications

State Assessment and Referral Agency

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2102-21011 SRA

**Attachment 1—Referral agency conditions**

(Under section 56(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
<b>Material change of use</b>		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 – State transport corridors and future State transport corridors —The chief executive administering the Planning Act 2016 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.	<p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.</p> <p>(b) Any works on the land must not:</p> <p>(i) create any new discharge points for stormwater runoff onto the state-controlled road;</p> <p>(ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road;</p> <p>(iii) surcharge any existing culvert or drain on the state-controlled road;</p> <p>(iv) reduce the quality of stormwater discharge onto the state-controlled road.</p>	<p>(a) &amp; (b) At all times.</p>
2.	<p>(a) The road access location is to be located generally in accordance with TMR Layout Plan (32A – 33.08km), prepared by Queensland Government Transport and Main Roads, dated 8/03/2021, Reference TMR21-31181 (500-15356), Issue A.</p> <p>(b) Road access works comprising of a sealed rural property access, must be provided at the road access location.</p> <p>(c) The road access works must be designed and constructed in accordance with TMR Standard Drawing No. 1807, Type C – Rural Property Access, dated 07/2020.</p>	<p>(a) At all times.</p> <p>(b) and (c): Prior to the commencement of use.</p>

2102-21011 SRA

**Attachment 2—Advice to the applicant**

General advice	
1.	Terms and phrases used in this document are defined in the Planning Act 2016 its regulation or the State Development Assessment Provisions (SDAP) v2.6. If a word remains undefined it has its ordinary meaning.
2.	<p>Under section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads to carry out road works.</p> <p>Please contact the Department of Transport and Main Roads on 4045 7144 to make an application for road works approval.</p> <p>This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).</p> <p>Please contact the Department of Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p>

2102-21011 SRA

**Attachment 3—Reasons for referral agency response***(Given under section 56(7) of the Planning Act 2016)***The reasons for the department's decision are:**

- The department carried out an assessment against the State Development Assessment Provisions, State code 1: Development in a state-controlled road environment and found the proposed development, with conditions, complies with the relevant provisions of the state code.
- The proposed development will be setback a sufficient distance of approximately 74m from the road edge of the Kennedy Highway, a state-controlled road and does not require any excavation or filling works.
- To ensure the existing vehicular access via the state-controlled road is upgraded to accommodate the increased traffic generation from the proposed development.
- To ensure impacts of stormwater events associated with the development area minimised and managed to avoid creating adverse impacts on the state transport corridor.
- The proposed development:
  - does not create a safety hazard for users of the state-controlled road
  - does not compromise the structural integrity of the state-controlled road
  - does not result in a worsening of the physical condition or operating performance of the state-controlled road
  - does not compromise the state's ability to maintain and operate the state-controlled road.

**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 2.6), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system

2102-21011 SRA

#### **Attachment 4—Change representation provisions**

(page left intentionally blank – attached separately)

State Assessment and Referral Agency

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### **Attachment 5—Approved plans and specifications**

(page left intentionally blank – attached separately)

State Assessment and Referral Agency

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## 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.