

DELEGATED REPORT

SUBJECT: ANTON DEMOLITIONS PTY LTD - RECONFIGURING A LOT
- BOUNDARY REALIGNMENT & ACCESS EASEMENT - LOT
3 ON SP298325 & LOT 4 ON SP301680 - 3278 & 3580
MULLIGAN HIGHWAY, MOUNT MOLLOY - RAL/21/0009

DATE: 1 July 2021

**REPORT OFFICER'S
TITLE:** Senior Planner

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	Anton Demolitions Pty Ltd	ADDRESS	3278 & 3580 Mulligan Highway, Mount Molloy
DATE LODGED	17 May 2021	RPD	Lot 3 on SP298325 & Lot 4 on SP301680
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Boundary Realignment & Access Easement		

FILE NO	RAL/21/0009	AREA	Lot 3 - 96.04 ha Lot 4 - 77.19 ha
LODGED BY	RPS Australia East Pty Ltd	OWNER	Anton Demolitions Pty Ltd
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural zone		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	n/a		

ATTACHMENTS:

1. Proposal Plan/s
2. SARA Referral Agency response dated 15 June 2021
3. Ergon Advice Agency response dated 16 June 2021

EXECUTIVE SUMMARY

Council is in receipt of a development application described in the above application details.

The application is code assessable and was not required to undergo public notification.

It has been assessed against the relevant statutory planning instruments, including the Regional Plan and the Planning Scheme and does not conflict with any relevant planning instrument.

It is recommended that the application be approved in full with conditions.

OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	Anton Demolitions Pty Ltd	ADDRESS	3278 & 3580 Mulligan Highway, Mount Molloy
DATE LODGED	17 May 2021	RPD	Lot 3 on SP298325 & Lot 4 on SP301680
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Reconfiguring a Lot - Boundary Realignment & Access Easement		

and in accordance with the Planning Act 2016, the applicant be notified that the application for a development permit for the development specified in (A) is:

Approved by Council in accordance with the approved plans/documents listed in (B), subject to assessment manager conditions in (C), assessment manager's advice in (D), concurrence agency conditions in (E), relevant period in (F), further permits in (G), and further approvals from Council listed in (H);

And

The assessment manager does not consider that the assessment manager's decision conflicts with a relevant instrument.

(A) APPROVED DEVELOPMENT: Development Permit for Reconfiguring a Lot - Boundary Realignment and Access Easement

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
PR145175-4 A	Proposed Boundary Realignment - Option A	RPS	13-5-2021

(C) 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, and subject to any alterations:
 - found necessary by the 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 Charges

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

4. Infrastructure Services and Standards

- 4.1 The access road between the existing Mulligan Highway substation access and the northern boundary of proposed Lot 3 must be constructed to all weather gravel standard in accordance with Table 9.4.3.3C of the Parking and Access Code, to the satisfaction of Council's delegated officer.

(D) ASSESSMENT MANAGER'S ADVICE

(a) 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.

(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) Notation on Rates Record

A notation will be placed on Council's Rate record with respect to each lot regarding the following conditions:

- a registered easement over the subject site

(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.

(f) Ergon Energy Advice

The applicant is advised that Ergon Energy has provided an advice agency response dated 16 June 2021.

(E) CONCURRENCE AGENCY CONDITIONS

SARA Referral Agency response dated 15 June 2021.

(F) RELEVANT PERIOD

When approval lapses if development not started (s.85)

- Reconfiguring a Lot – four (4) years (starting the day the approval takes effect);

(G) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS

- Nil

(H) OTHER APPROVALS REQUIRED FROM COUNCIL

- Nil

THE SITE

The subject site comprises of the following allotments:

- Lot 3 on SP298325 (pink), situated at 3278 Mulligan Highway, Mount Molloy, having an area of 96.04 hectares. The land is a rugged largely vegetated rural allotment with more

than 2.5 kilometres of frontage to the Mulligan Highway. Development approval is in place for a concrete recycling facility towards the southern end of the lot. The primary property access is located at the southernmost end of Lot 3.

- Lot 4 on SP301680 (green), situated at 3580 Mulligan Highway, Mount Molloy, having an area of 77.19 hectares. The land is an irregularly shaped rural lot with improvements limited to high voltage overhead transmission lines. The existing Yakula Substation is sited on adjoining Lot 8 on SP145517. Access to Lot 4 is shared with the access to the Yakula Substation.

Lots surrounding the site to the west, north and south are zoned rural while the large lot to the east of the site is a National Park and is zoned Conservation.



Map Disclaimer:

Based on or contains data provided by the State of Queensland (Department of Environment and Resource Management) (2009). In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.

BACKGROUND AND CONTEXT

Nil

PREVIOUS APPLICATIONS & APPROVALS

Nil

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Reconfiguring a Lot - Boundary Realignment & Access Easement in accordance with the plans shown in **Attachment 1**.

The application proposes to transfer approximately 14.45 hectares from existing Lot 4 to Lot 3, to provide Lot 3 with a secondary access to the Mulligan Highway. The landowner has stated that the secondary access was needed to ensure appropriate access in the event of a bushfire.

The realigned lots will be as follows:

- Lot 3 - area of 110.49 hectares, in excess to 2.5 kilometres frontage to the Mulligan Highway. An access easement is proposed within Lot 4 to allow both lots to be accessed using the existing Yakula Substation Mulligan Highway access;
- Lot 4 - area of 62.74 hectares, 78 metres frontage to the Mulligan Highway.

Apart from access, all other servicing arrangements for the existing allotments will remain in place.

REGIONAL PLAN DESIGNATION

The subject site is included within the Regional Landscape and Rural Production Area land use category in the Far North Queensland Regional Plan 2009-2031. The Regional Plan Map 3- 'Areas of Ecological Significance' also identifies the site as:

- *Strategic Rehabilitation Area*
- *State & Regional Conservation Corridors*
- *Terrestrial Area of High Ecological Significance*
- *Terrestrial Area of General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

	Land Use Categories
	<ul style="list-style-type: none"> • <i>Rural Other</i>
	Natural Environmental Elements
	<ul style="list-style-type: none"> • <i>Biodiversity Areas</i> • <i>Ecological Corridor</i>
Strategic Framework:	Infrastructure Elements
	<ul style="list-style-type: none"> • <i>Major Electrical Infrastructure</i>
	Transport Elements
	<ul style="list-style-type: none"> • <i>State Collector Road</i> • <i>B-double Route</i> • <i>Principal Cycle Route</i>
Zone:	Rural zone
	Agricultural Land Overlay
	Bushfire Hazard Overlay
Overlays:	Environmental Significance Overlay
	Hill and Slope Overlay
	Regional Infrastructure Corridors and Substations Overlay

RELEVANT PLANNING INSTRUMENTS

Assessment of the proposed development against the relevant planning instruments is summarised as follows:-

(a) Far North Queensland Regional Plan 2009-2031

Separate assessment against the Regional Plan is not required because the Mareeba Shire Council Planning Scheme appropriately advances the Far North Queensland Regional Plan 2009-2031, as it applies to the planning scheme area.

(b) State Planning Policy

Separate assessment against the State Planning Policy (SPP) is not required because the Mareeba Shire Council Planning Scheme appropriately integrates all relevant aspects of the SPP.

(c) Mareeba Shire Council Planning Scheme 2016

Relevant Development Codes

The following Development Codes are considered to be applicable to the assessment of the application:

- 6.2.9 Rural zone code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.8 Hill and slope overlay code
- 8.2.9 Regional infrastructure corridors and substations overlay code
- 9.4.2 Landscaping code
- 9.4.3 Parking and access code
- 9.4.4 Reconfiguring a lot code
- 9.4.5 Works, services and infrastructure code

The application included a planning report and assessment against the planning scheme. An officer assessment has found that the application satisfies the relevant acceptable outcomes (or performance outcome where no acceptable outcome applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
Rural zone code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Bushfire hazard overlay code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Environmental significance overlay code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Hill and slope overlay code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Regional infrastructure corridors and substations overlay code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Landscaping code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).

Parking and access code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Reconfiguring a lot code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Works, services and infrastructure code	The application can be conditioned to comply with the code's relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).

(e) Planning Scheme Policies/Infrastructure Charges Plan

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

A condition will be attached to any approval requiring any development works be designed and constructed in accordance with FNQROC Development Manual standards

REFERRALS

Concurrence

The application triggered referral to the State Assessment and Referral Agency as a concurrence agency for infrastructure related matters (State controlled road).

That Department advised in a letter dated 15 June 2021 that they require the conditions to be attached to any approval (**Attachment 2**).

Advice

The application triggered referral to Ergon Energy as an Advice Agency.

Ergon Energy responded in a letter dated 16 June 2021 raising no objection to the proposed development (**Attachment 3**).

PLANNING DISCUSSION

Nil

Date Prepared: 30 June 2021

DECISION BY DELEGATE

DECISION

Having considered the Planning Officer's report detailed above, I approve, as a delegate of Council, the application subject to the conditions listed in the report.

Dated the *1st* day of *SOCT* 2021



BRIAN MILLARD
SENIOR PLANNER

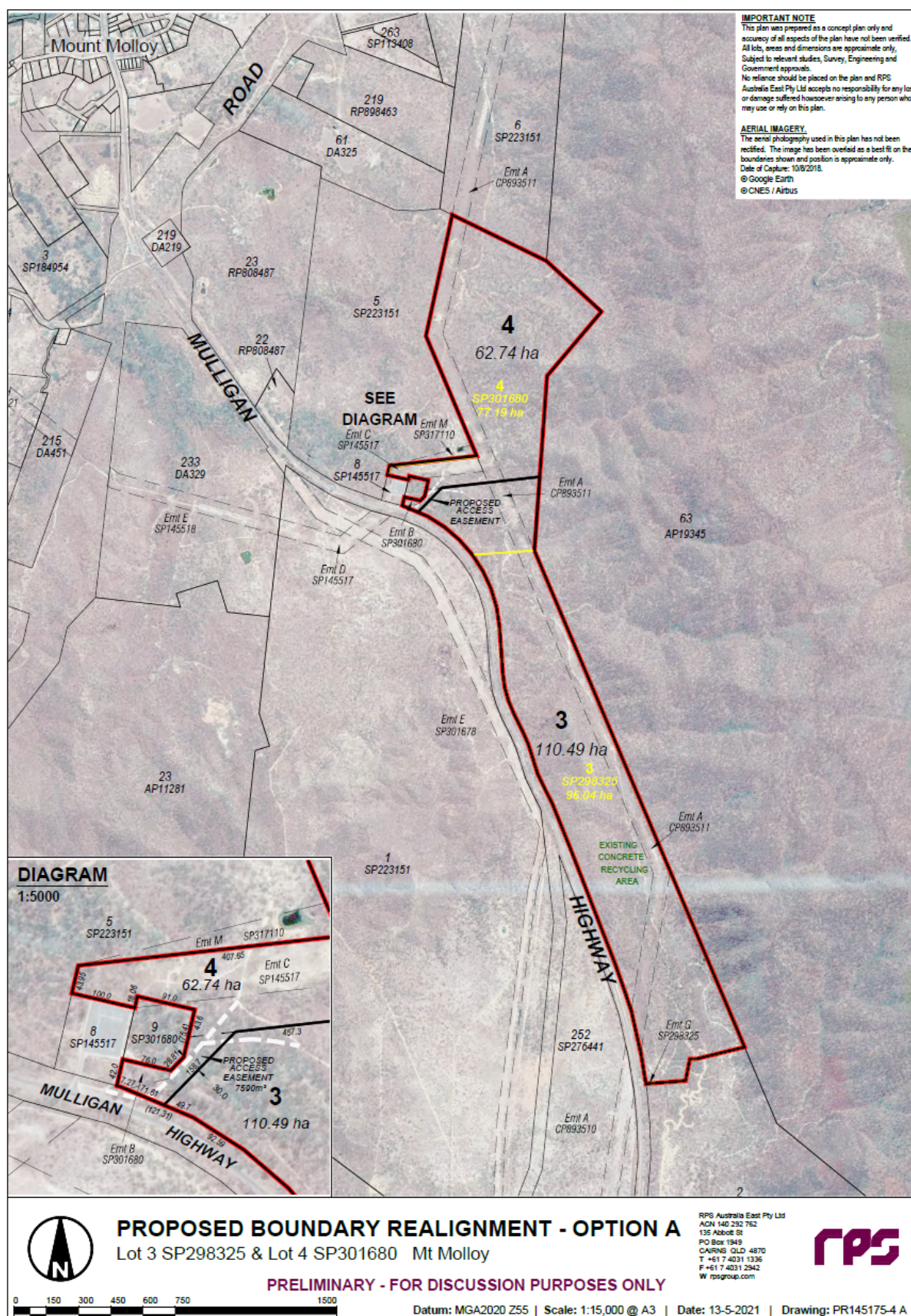


ANTHONY ARCHIE
MANAGER DEVELOPMENT & GOVERNANCE

MAREEBA SHIRE
AS A DELEGATE OF THE COUNCIL

ATTACHMENT 1

PROPOSAL PLANS



ATTACHMENT 2

RA6-N



SARA reference: 2105-22570 SRA
 Council reference: RAL/21/0009
 Applicant reference: PR145175/OLD/SD/L80386

15 June 2021

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

Attention: Mr Carl Ewin

Dear Sir/Madam

SARA response—3278 and 3580 Mulligan Highway, Mount Molloy

(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 18 May 2021.

Response

Outcome:	Referral agency response – with conditions
Date of response:	15 June 2021
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 (boundary realignment - two lots into two lots) & access easement
SARA role:	Referral agency	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 (Planning Regulation 2017)	

Page 1 of 7

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

Document Set ID: 3971190
 Version: 1, Version Date: 22/06/2021

2105-22570 SRA

SARA reference: 2105-22570 SRA
Assessment Manager: Mareeba Shire Council
Street address: 3278 and 3580 Mulligan Highway, Mount Molloy
Real property description: Lot 3 on SP298325 and Lot 4 on SP301680
Applicant name: Anton Demolitions Pty Ltd
c/- RPS Australia East Pty Ltd
Applicant contact details: 135 Abbott Street
Cairns QLD 4870
Stacey.Devaney@rpsgroup.com.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 Belinda Jones, Principal Planning Officer, on 40373239 or via email CairnsSARA@dsmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Joanne Manson
A/Manager (Planning)

cc Anton Demolitions Pty Ltd, Stacey.Devaney@rpsgroup.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

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
Reconfiguring a lot		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 - 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 condition(s):		
1.	The road access location is to be located generally in accordance with TMR Layout Plan 2 (34A – 35.68km), prepared by Queensland Government Transport and Main Roads, dated 11/06/2021, Reference TMR21-32990 (500-1140), Issue B.	At all times.
2.	<p>(a) The applicant must register an access easement on the title of proposed Lot 4 for shared access to proposed Lot 3. The access easement is to continue to provide access to Lot 9 on SP301680.</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/s and easement registration dealing number/s as evidence of the registration of the easement/s 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>

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) v2.6. If a word remains undefined it has its ordinary meaning.

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 site is accessed from a state-controlled road (Mulligan Highway).
- The proposed development is a relatively minor development to realign the boundary between two existing lots and create an access easement.
- The proposed development is unlikely to impact on the safety and operational efficiency of the Mulligan Highway.
- There will be no change to stormwater and drainage associated with the site as the development does not involve any earthworks or new buildings.
- The development will not compromise the structural integrity of the Mulligan Highway.
- The development does not compromise the state's ability to construct future state-controlled roads.
- The department carried out an assessment of the development application against 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.

Material used in the assessment of the application:

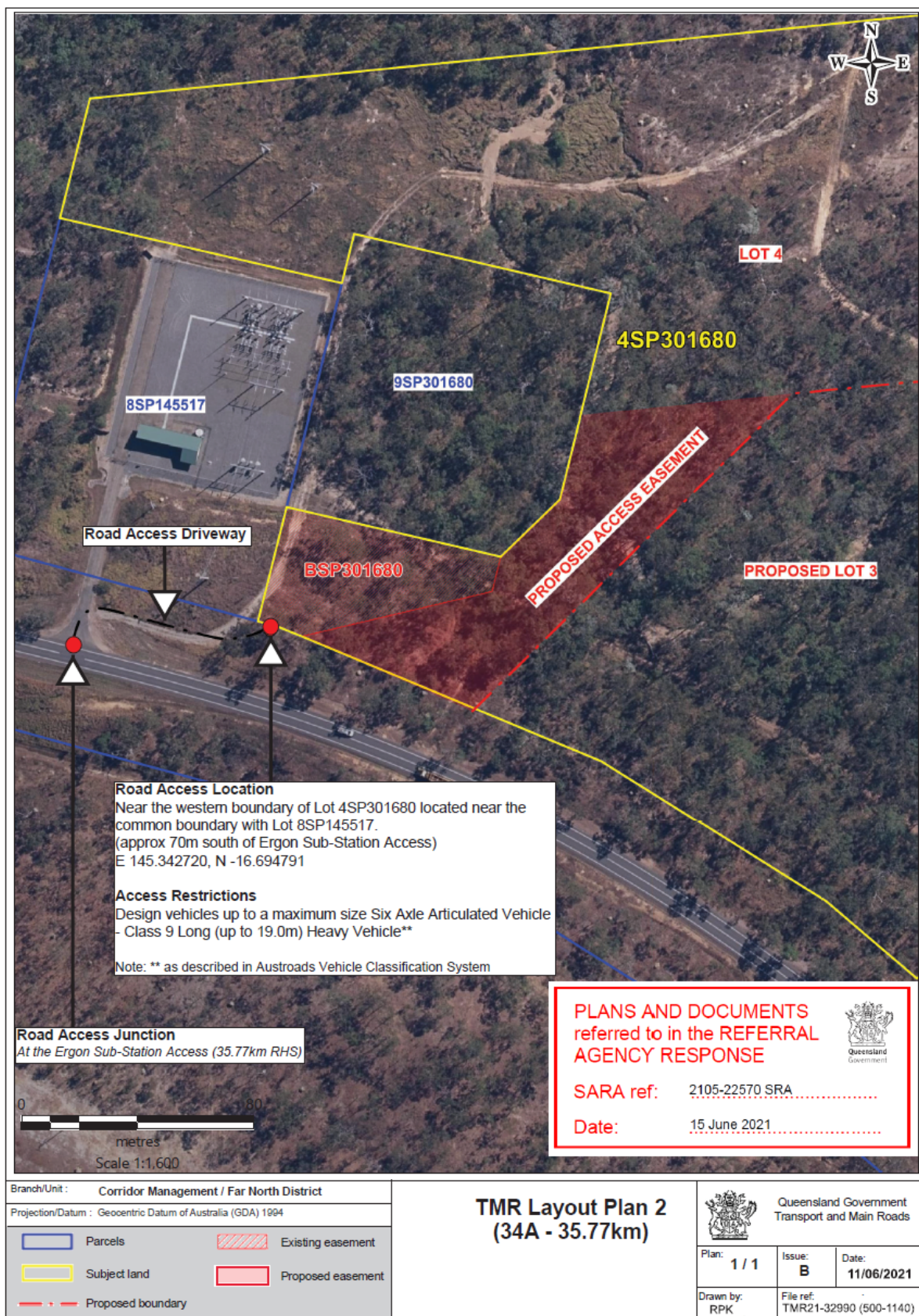
- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version 2.6), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system

Attachment 4—Change representation provisions

(page left intentionally blank – attached separately)

Attachment 5—Approved plans and specifications

(page left intentionally blank – attached separately)



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Version: 1, Version Date: 22/06/2021

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 Rules¹ regarding **representations about a referral agency response**

Part 6: Changes to the application and referral agency responses

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.

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.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.

ATTACHMENT 3



420 Flinders Street, Townsville QLD 4810
 PO Box 1090, Townsville QLD 4810
ergon.com.au

16 June 2021

Mareeba Shire Council
 PO Box 154
 Mareeba QLD 4880

Attention: Carl Erwin
 Via email: info@msc.qld.gov.au

Cc Anton Demolitions Pty Ltd
 c/- RPS Australia East Pty Ltd
 PO Box 1949
 Cairns QLD 4870
 Attention: Stacey Devaney; Owen Dalton
 Via email: stacey.devaney@rpsgroup.com.au

Dear Carl,

Referral Agency Response – Development Permit for Reconfiguring a Lot (Boundary Realignment – 2 into 2 lots and Access Easement) at 3278 & 3580 Mulligan Highway, Mount Molloy (Lot 4 on SP301680 and Lot 3 on SP298325)

Council Ref: RAL/21/0009
Applicant Ref: PR145175
Our Ref: HBD 7341313

We refer to the abovementioned Development Application, which has been referred to Ergon Energy pursuant to section 54(1) of the *Planning Act 2016*.

In accordance with Schedule 10, Part 9, Division 2 of the *Planning Regulation 2017*, the application has been assessed against the purposes of the *Electricity Act 1994* and *Electrical Safety Act 2002*. This notice is provided in accordance with section 56 of the *Planning Act 2016*.

Should the Assessment Manager decide to approve the proposed Reconfiguration of a Lot, as an Advice Agency for the Development Application, Ergon advises the following in relation to the development:

1. The development is to be carried out in accordance with the plans identified on the following page. Any changes to these plans should be resubmitted to Ergon for further review and comment.

Have you seen our fact sheets?

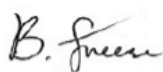
See the 'considerations when developing around electricity infrastructure' section of our website
www.ergon.com.au/referralagency

Approved Plans			
Title	Plan Number	Rev.	Date
Proposed Boundary Realignment – Option A	PR145175-4	A	13 May 2021

2. The conditions of any easements in favour of Ergon must be maintained at all times.

Should you require further information regarding this matter, feel free to contact the undersigned on 0455 403 399 or email townplanning@ergon.com.au.

Yours faithfully,



Benjamin Freese
Town Planner

Have you seen our fact sheets?

See the 'considerations when developing around electricity infrastructure' section of our website
www.ergon.com.au/referralagency