



19 June 2025

Planning Officer: Carl Ewin
Direct Telephone: 07 4086 4656
Our Reference: MCU/21/0014
Your Reference: M7-21

Sutariya Brothers Pty Ltd TTE
C/- U&I Town Plan
35 Sutherland Street
MAREEBA QLD 4880

Dear Applicants,

Minor Change to an Existing Approval ***Planning Act 2016***

I refer to your Change Application (Minor Change) dated 8 May 2025, made in respect of approved Material Change of Use development (Service Station and Caretaker's Accommodation) – MCU/21/0014, and advise that on 18 June 2025, Council decided the change application.

Details of the decision are as follows:

APPLICATION DETAILS

Application No:	MCU/21/0014
Street Address:	5 Malone Road, Mareeba
Real Property Description:	Lot 15 on RP846956
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

The following type of approval had been issued:

Type of Approval: Development Permit for Material Change of Use – Service Station and Caretaker's Accommodation.

In relation to the Change Application, at the Ordinary Council meeting on 18 June 2025, Council resolved to approve the changes as follows:

Condition 3.6 of Council's Amended Decision Notice issued on 21 March 2022 be amended as follows:

- 3.6 The authorised operating hours for the service station and associated shop are limited to between 5am and ~~8.30pm~~ **11:00pm**, seven (7) days per week. No operations associated with the service station or shop are permitted on-site outside these hours, including commercial refuse disposal or the replenishing of underground fuel storage tanks.

CURRENCY PERIOD OF APPROVAL

This development approval has commenced.

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*.

CONSOLIDATED 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 notify 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 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.
- 3.3 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.

3.4 Waste Management

On site refuse storage area must be provided and be screened from view from adjoining properties and road reserve by one (1) metre wide landscaped screening buffer, 1.8m high solid fence or building.

Where bulk bins are used and are to be serviced on site, certification by a Registered Professional Engineer of Queensland (RPEQ) must be provided to Council prior to the issue of a building permit which demonstrates that internal access is of adequate design and construction to allow waste collection/delivery vehicles to enter and exit the site in a forward gear.

3.5 Noise Nuisance

- 3.5.1 Refrigeration equipment, pumps, compressors and mechanical ventilation systems must be located, designed, installed and maintained to achieve a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations and a maximum noise level of 8dB(A) above background levels as measured from commercial locations.
- 3.5.2 The applicant is required to install and maintain suitable screening to all air conditioning, lift motor rooms, plant and service facilities located at the top of or on the external face of the building. The screening structures must be constructed from materials that are consistent with materials used elsewhere on the facade of the building. There are to be no individual external unscreened air conditioning units attached to the exterior building facade.

At Council's Ordinary Meeting held on 18 June 2025, Condition 3.6 of Council's Amended Decision Notice issued on 21 March 2022 be amended as follows:

- ~~3.6 The authorised operating hours for the service station and associated shop are limited to between 5am and 8.30pm, seven (7) days per week. No operations associated with the service station or shop are permitted on-site outside these hours, including commercial refuse disposal or the replenishing of underground fuel storage tanks.~~
- 3.6 The authorised operating hours for the service station and associated shop are limited to between 5am and 8.30pm **11:00pm**, seven (7) days per week. No operations associated with the service station or shop are permitted on-site outside these hours, including commercial refuse disposal or the replenishing of underground fuel storage tanks.
- 3.7 Any fuel ventilation outlets must be located as far away as practically possible from the common boundary with Lot 16 on SP195707.

4. Infrastructure Services and Standards

~~4.1 Access~~

~~A commercial access crossover must be upgraded/constructed (from the edge of Malone Road to the property boundary of the subject land) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.~~

At Council's Ordinary Meeting held on 16 March 2022, condition 4.1 was amended to the extent below:

4.1 Access

Both access crossovers must be upgraded to a commercial crossover standard
~~A commercial access crossover must be upgraded/constructed (from the edge of Malone Road to the property boundary of the subject land) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.~~

4.2 Stormwater Drainage/Water Quality

- 4.2.1 The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.
- 4.2.2 Prior to building works commencing the applicant must submit a Stormwater Management Plan and Report prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards of design and construction set out in the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual to the satisfaction of Council's delegated officer.

- 4.2.3 The Stormwater Management Plan and Report must include provisions to intercept and control stormwater flows along driveways and hardstand areas.
- 4.2.4 The applicant/developer must construct the stormwater drainage infrastructure in accordance with the approved Stormwater Management Plan and Report.
- 4.2.5 All stormwater drainage must be collected from site and discharged to an approved legal point of discharge.
- 4.2.6 In addition to the Stormwater Management Plan, and prior to building works commencing, the applicant/developer must submit an Oily Water Management Plan, prepared and certified by a suitably qualified design engineer (RPEQ). The Plan must demonstrate how contaminants such as oil and/or fuel will be removed and stored prior to stormwater being discharged from the site.

4.3 Car Parking/Internal Driveways

- 4.3.1 The applicant/developer must ensure the service station and shop is provided with a minimum of 16 on-site car parking spaces as depicted on the approved plans (including 1 disabled parking space) as well as 1 RV parking space and 1 service vehicle parking space which are available solely for the parking of vehicles associated with the use of the premises. These parking spaces must be provided in addition to any fuel bowser parking spaces. The caretaker's accommodation must be provided with one (1) undercover parking space.
- 4.3.2 All car parking spaces and trafficable areas, including the truck turn around area and caretaker's accommodation driveway must be concrete sealed, line-marked and appropriately drained prior to the commencement of the use, to the satisfaction of Council's delegated officer.
- 4.3.3 All car parking spaces and trafficable areas must be constructed in compliance with the following standards, to the satisfaction of Council's delegated officer:
 - Australian Standard AS2890:1 Off Street Parking – Car Parking Facilities;
 - Australian Standard AS1428:2001 – Design for Access and Mobility.
- 4.3.4 The applicant/developer must ensure the development is provided with three (3) bicycle parking spaces in proximity to the shop building entrance/s.

A sign must be erected in proximity to the access driveways indicating the availability of on-site parking.

~~4.4 Traffic Impact Assessment – Roadworks External (Malone Road)~~

~~A traffic impact assessment must be prepared by a Registered Professional Engineer of Queensland (RPEQ) in order to estimate the proposed traffic likely to be generated by the development and identify any augmentations or~~

improvements required to the existing road network (Malone Road) to provide safe and convenient access to the site.

The traffic impact assessment should specifically address external works required on Malone Road between the intersection of the Kennedy Highway to a point 10 metres past the access to the site. Malone Road is currently not constructed to standard, so augmentation works should include widening on both sides of the road, turn lanes, traffic islands (if necessary), line-marking, signage and asphalt overlays to minimise damage made by turning vehicles.

The traffic impact assessment must include detailed plans.

Plans for the abovementioned works must be submitted to Council as part of a subsequent application for operational works.

At Council's Ordinary Meeting held on 16 March 2022, condition 4.4 was amended to the extent below:

4.4 Traffic Impact Assessment - Roadworks External (Malone Road)

A traffic impact assessment must be prepared by a Registered Professional Engineer of Queensland (RPEQ) in order to estimate the proposed traffic likely to be generated by the development and identify any augmentations or improvements required to the existing road network (Malone Road) to provide safe and convenient access to the site.

The traffic impact assessment should specifically address external works required on Malone Road between the intersection of the Kennedy Highway to a point 10 metres past the easternmost ingress/egress access to the site. Malone Road is currently not constructed to standard, so augmentation works should include widening on both sides of the road, turn lanes, traffic islands (if necessary), line-marking, signage and asphalt overlays to minimise damage made by turning vehicles.

The traffic impact assessment must include detailed plans.

Plans for the abovementioned works must be submitted to Council as part of a subsequent application for operational works.

4.5 Landscaping

4.5.1 Prior to building works commencing, a landscape plan must be prepared for the site and submitted to Council's delegated officer for consideration and approval. The extent of landscaping on site should be generally consistent with that shown on the submitted plan/s (Site Plan).

4.5.2 The landscape plan should include a three (3) metre wide landscape buffer along the southeast boundary for a length consistent with that shown on the submitted site plan. This southeast boundary landscape buffer must include shrubs, plants and trees that will grow to form an effective visual buffer of no less than four (4) metres in height at maturity and should include at least 25% larger more advanced plant stock.

4.5.3 All plant varieties must be generally in accordance with Schedule A of Planning Scheme Policy No. 9 (Landscaping Policy).

4.5.4 The landscaping of the site must be carried out prior to the commencement of the use and in accordance with the endorsed landscaping plan, and irrigated, mulched and maintained for the life of the development to the satisfaction of Council's delegated officer.

4.6 Acoustic Fencing

Prior to the commencement of the use, the applicant/developer must erect a solid 1.8m high, acoustic fence of neutral colour (timber fencing not permitted) along the southeast boundary (common with Lot 16 on SP195707) for a length of no less than 110 metres from the southern corner of the site.

All fencing on-site must be maintained in good order and safe repair for the life of the development, to the satisfaction of Council's delegated officer.

4.7 Lighting

The developer shall locate, design and install lighting to operate from dusk to dawn within all areas where the public will be given access, which prevents the potential for light spillage to cause nuisance to neighbours and must be provided in accordance with Australian Standard 1158.1 – Lighting for Roads and Public Spaces.

Illumination resulting from direct, reflected or other incidental light emanating from the subject land does not exceed 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.

NOTE: The design is to integrate the principles of Crime Prevention through Environmental Design (CPTED) theory. Lighting design is to illuminate potential areas of concealment and is to project illumination so that a human face is easily discernible from 15 metres and there is to be sufficient night lighting, which renders people, colours, vegetation and objects correctly. i.e. 'white' light. Particular attention should be given to pathways, driveways and common external spaces.

4.8 Signage

Advertising signage locations are limited to the fuelling canopy fascia, shop building fascia, walls and windows and the pylon sign. The pylon sign must be used to advertise fuel prices only. Advertising signage must not move, revolve, strobe or flash (can be illuminated).

Any advertising signage must be maintained in good order and safe repair for the life of the development, to the satisfaction of Council's delegated officer.

4.9 Non-Reticulated Water Supply

The service station and caretaker's accommodation must be provided with a potable water supply that can satisfy the standards for drinking water set by the Australian Drinking Water Guidelines 2004 (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.

4.10 Sewerage Connection

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

REFERRAL AGENCY CONDITIONS

The referral agencies applicable to this application are:

Aspect of development stated in schedule 20		
<p>Development application for an aspect of development stated in schedule 20 that is assessable development under a local categorising instrument or section 21, if—</p> <p>(a) the development is for a purpose stated in schedule 20, column 1 for the aspect; and</p> <p>(b) the development meets or exceeds the threshold —</p> <p>(i) for development in local government area 1 — stated in schedule 20, column 2 for the purpose; or</p> <p>(ii) for development in local government area 2 — stated in schedule 20, column 3 for the purpose; and</p> <p>(c) for development in local government area 1 — the development is not for an accommodation activity or an office at premises wholly or partly in the excluded area</p> <p>However, if the development is for a combination of purposes stated in the same item of schedule 20, the threshold is for the combination of purposes and not for each individual purpose.</p>	<p>Part 9, Division 4, Subdivision 1, Table 1</p>	<p>State Assessment & Referral Agency (SARA) Department of State Development, Manufacturing, Infrastructure and Planning PO Box 2358 Cairns Qld 4870</p> <p>CairnsSARA@dsdmip.qld.gov.au</p>
Material change of use of premises near a State transport corridor or that is a future State transport corridor		
<p>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—</p> <p>(a) are within 25m of a State transport corridor; or</p>	<p>Schedule 10, Part 9, Division 4, Subdivision 2, Table 4</p>	<p>State Assessment & Referral Agency (SARA) Department of State Development, Manufacturing, Infrastructure and Planning PO Box 2358 Cairns Qld 4870</p> <p>CairnsSARA@dsdmip.qld.gov.au</p>

(b) are a future State transport corridor; or		
(c) are—		
(i) adjacent to a road that intersects with a State-controlled road; and		
(ii) within 100m of the intersection		

APPROVED PLANS/DOCUMENTS

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
1532-PD-A-00 Issue-P3	Cover Sheet	Clarke and Prince Architects	May 2021
1532-PD-A-01 Issue-P6	Site Plan	Clarke and Prince Architects	May 2021
1532-PD-A-02 Issue-P3	Service Station Floor Plan	Clarke and Prince Architects	May 2021
1532-PD-A-03 Issue-P2	Fuelling Area Floor Plan	Clarke and Prince Architects	May 2021
1532-PD-A-06 Issue-P1	Floor Plan — Caretakers Residence	Clarke and Prince Architects	May 2021
1532-PD-A-04 Issue-P2	Perspective Images	Clarke and Prince Architects	May 2021
1532-PD-A-05 Issue-P1	Street Elevations	Clarke and Prince Architects	May 2021

At Council's Ordinary Meeting held on 16 March 2022, the Approved Plans were amended to the extent below:

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
1532-PD-A-00 Issue-P3	Cover Sheet	Clarke and Prince Architects	May 2021
1532-PD-A-01 Issue-P6	Site Plan	Clarke and Prince Architects	May 2021
1532-PD-A-02 Issue-P3	Service Station Floor Plan	Clarke and Prince Architects	May 2021
1532-PD-A-03 Issue-P2	Fuelling Area Floor Plan	Clarke and Prince Architects	May 2021
1532-PD-A-06 Issue-P1	Floor Plan — Caretakers Residence	Clarke and Prince Architects	May 2021
1532-PD-A-04 Issue-P2	Perspective Images	Clarke and Prince Architects	May 2021
1532-PD-A-05 Issue-P1	Street Elevations	Clarke and Prince Architects	May 2021
<u>1532-PD-A-100 Issue P1</u>	<u>Cover Sheet</u>	<u>Clarke and Prince Architects</u>	<u>Dec 2021</u>
<u>1532-PD-A-101 Issue P1</u>	<u>Site Plan</u>	<u>Clarke and Prince Architects</u>	<u>Dec 2021</u>
<u>1532-PD-A-102 Issue P1</u>	<u>Service Station Floor Plan</u>	<u>Clarke and Prince Architects</u>	<u>Dec 2021</u>
<u>1532-PD-A-103 Issue P1</u>	<u>Fuelling Area Floor Plan</u>	<u>Clarke and Prince Architects</u>	<u>Dec 2021</u>

<u>1532-PD-A-104 Issue P1</u>	<u>Perspective Images</u>	<u>Clarke and Prince Architects</u>	<u>Dec 2021</u>
<u>1532-PD-A-105 Issue P1</u>	<u>Street Elevations</u>	<u>Clarke and Prince Architects</u>	<u>Dec 2021</u>
<u>1532-PD-A-106 Issue P1</u>	<u>Floor Plan - Caretakers Residence</u>	<u>Clarke and Prince Architects</u>	<u>Dec 2021</u>

ADVISORY NOTES

The following Advisory Notes are for information purposes only and do not form conditions of approval:

(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

(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

PROPERTY NOTES

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

- Development Permit for Operational Work
(Approval Reference No.: OPW/24/0004)
- Development Permit for Building Work
(Approval Reference No.: PC/22/0356)
- Compliance Permit for Plumbing and Drainage Work
(Approval Reference No: PD/22/0172)

SUBMISSIONS

There was one 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. C & C Iacutone	PO Box 677, Mareeba QLD 4880

RIGHTS OF APPEAL

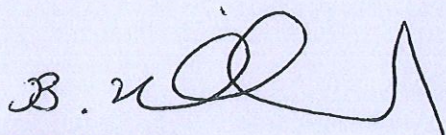
You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

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.

If you have any further queries in relation to the above, please contact Council on the above number.

Yours faithfully



BRIAN MILLARD
COORDINATOR PLANNING & BUILDING

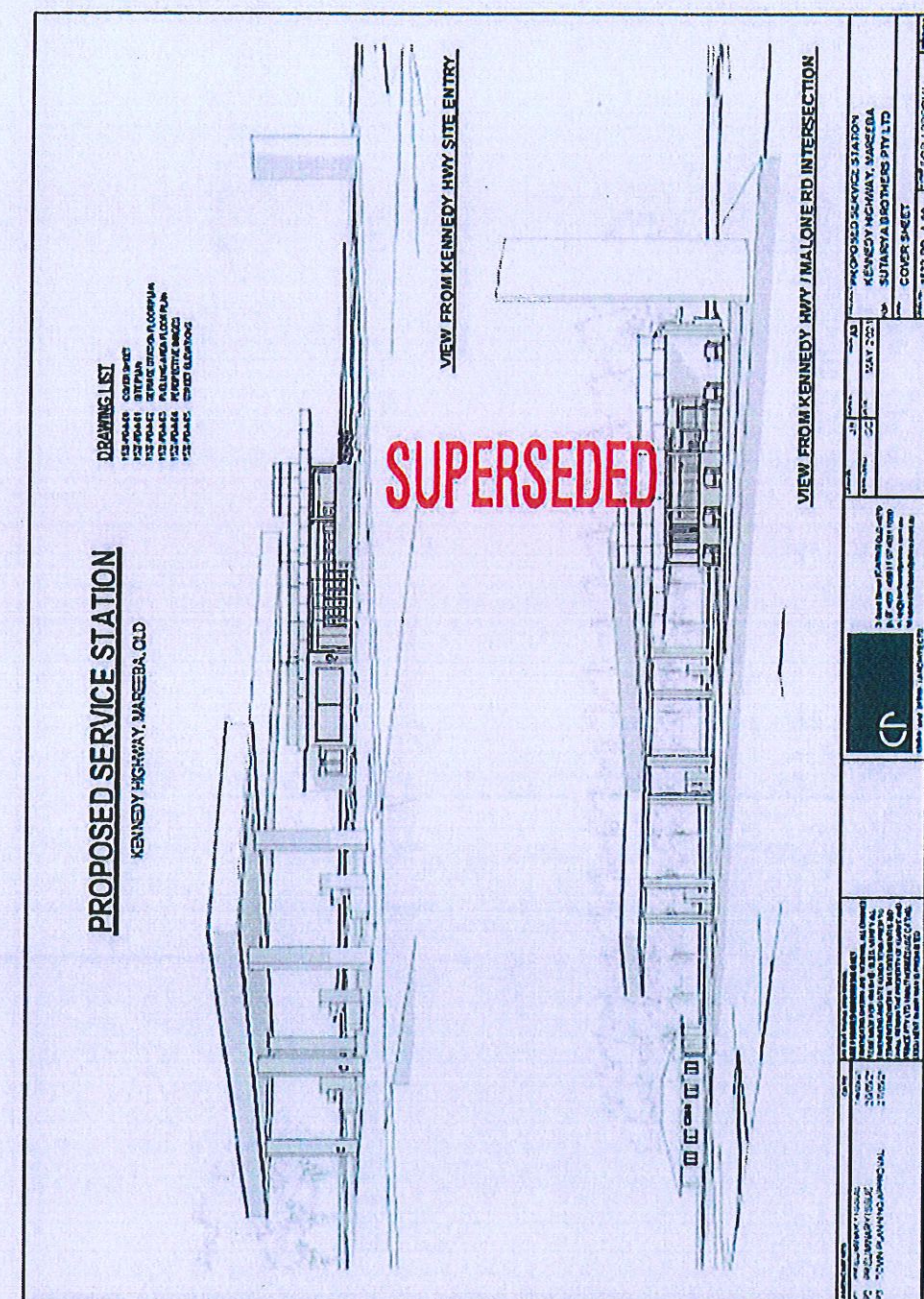
DECISION NOTICE HISTORY

MCU/21/0014 – Original Decision Notice Dated: 18 November 2021
MCU/21/0014 – Minor Change to an Existing Approval Dated: 21 March 2022
MCU/21/0014 – Minor Change to an Existing Approval Dated: 19 June 2025

Encl: Approved Plans/Documents
Appeal Rights

Approved Plans/Documents

SUPERSEDED PLAN



Document ID: 20210014
Version 1, Version Date: 01/10/2021

SUPERSEDED PLAN

PROPERTY INFORMATION

LOT NUMBER: 11
 PLAN NUMBER: RP 44786
 PARCEL: T14L20
 COUNTY: MARICOPA
 SITE AREA: 2.481 AC

TOWN PLANNING SUMMARY

SITE AREAS	
AREA	AREA
P. & C. CONCEPT PLAN	1.75
LANDSCAPE	1.75
CONCRETE DRIVEWAY	1.75
CONCRETE DRIVEWAY	1.75
CONCRETE DRIVEWAY	1.75

COMMENTS:

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PROPOSED SERVICES

KENNEDY HIGHWAY, MARICOPA
 SUBMITTA BROTHERS PVT. LTD.

SITE PLAN

1500' 30"

SUPERSEDED

1 SITE PLAN

SCALE: 1" = 100'

PROPOSED SERVICES

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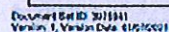
PROPOSED SERVICES

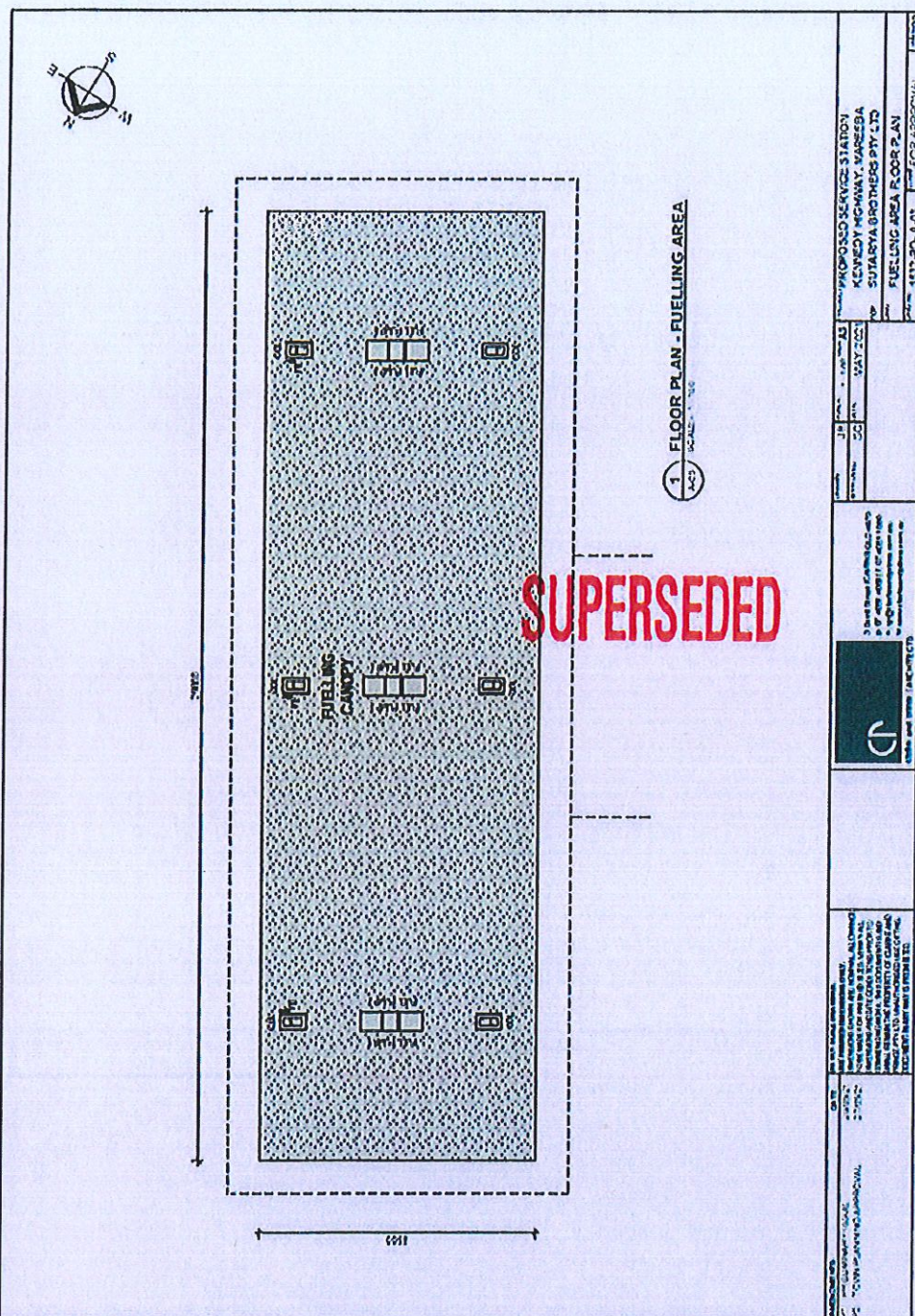
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 SUBMITTA BROTHERS PVT. LTD.

PROPOSED SERVICES

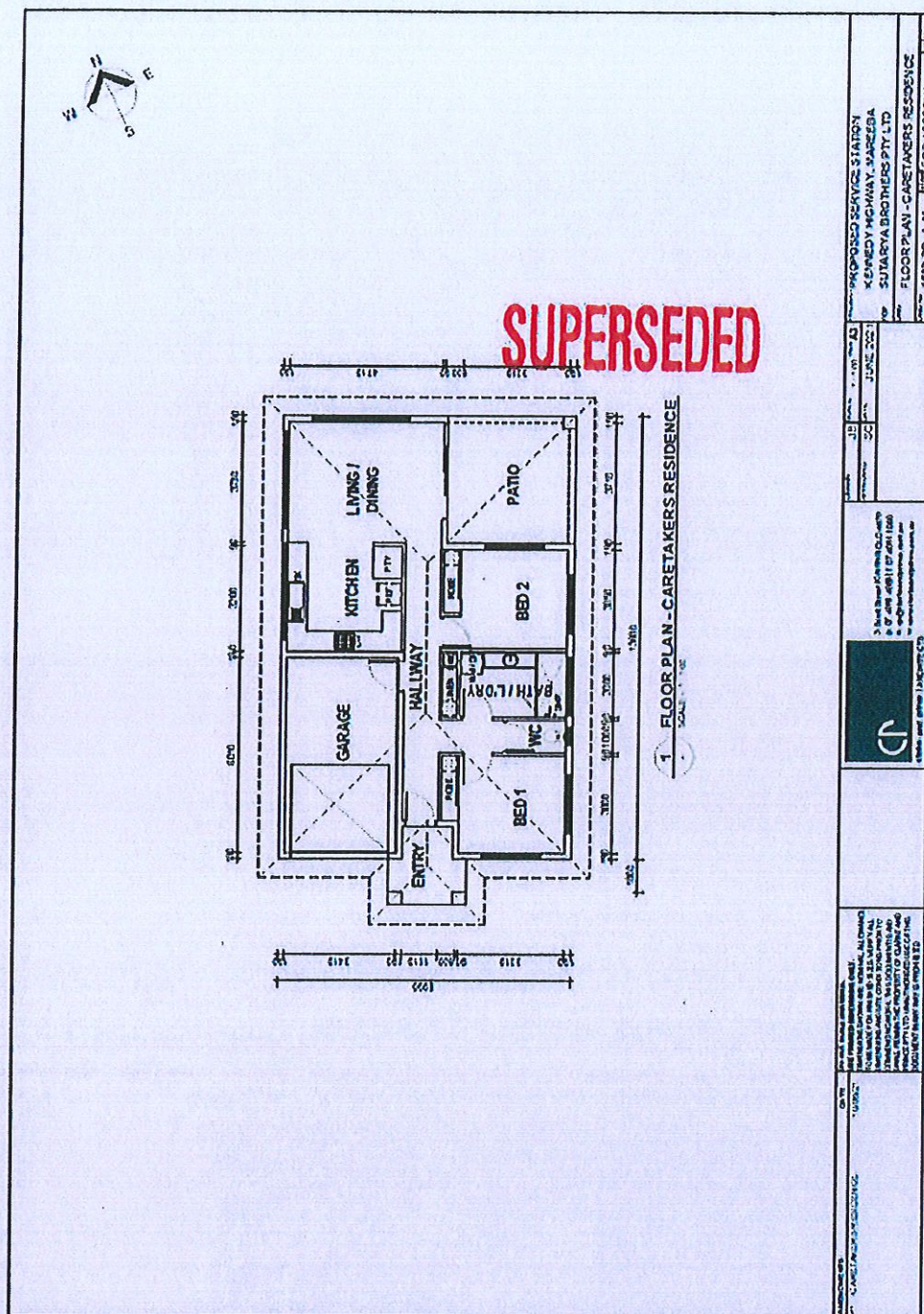
KENNEDY HIGHWAY, MARICOPA
 SUBMITTA BROTHERS PVT. LTD.

SUPERSEDED PLAN



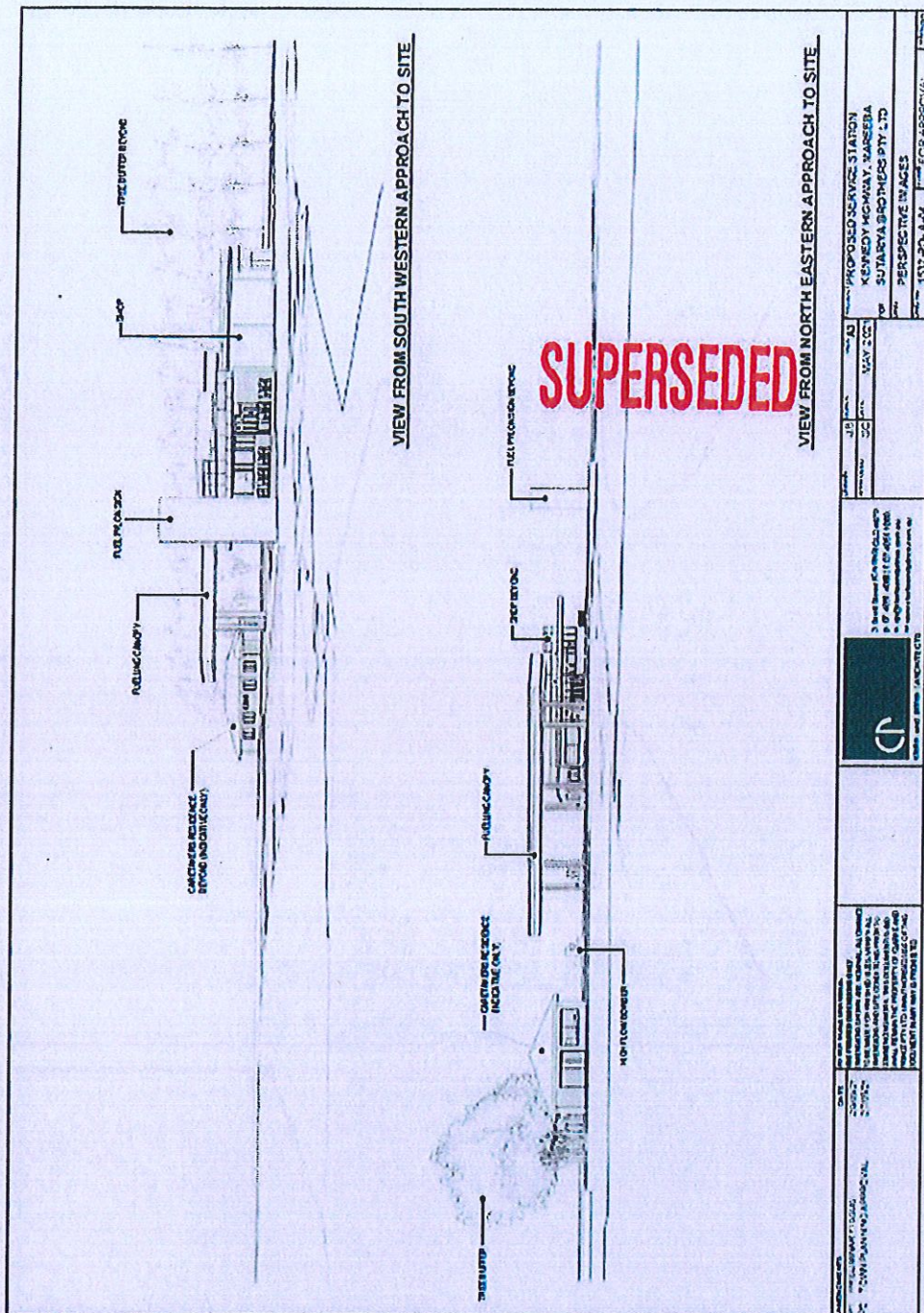


SUPERSEDED PLAN

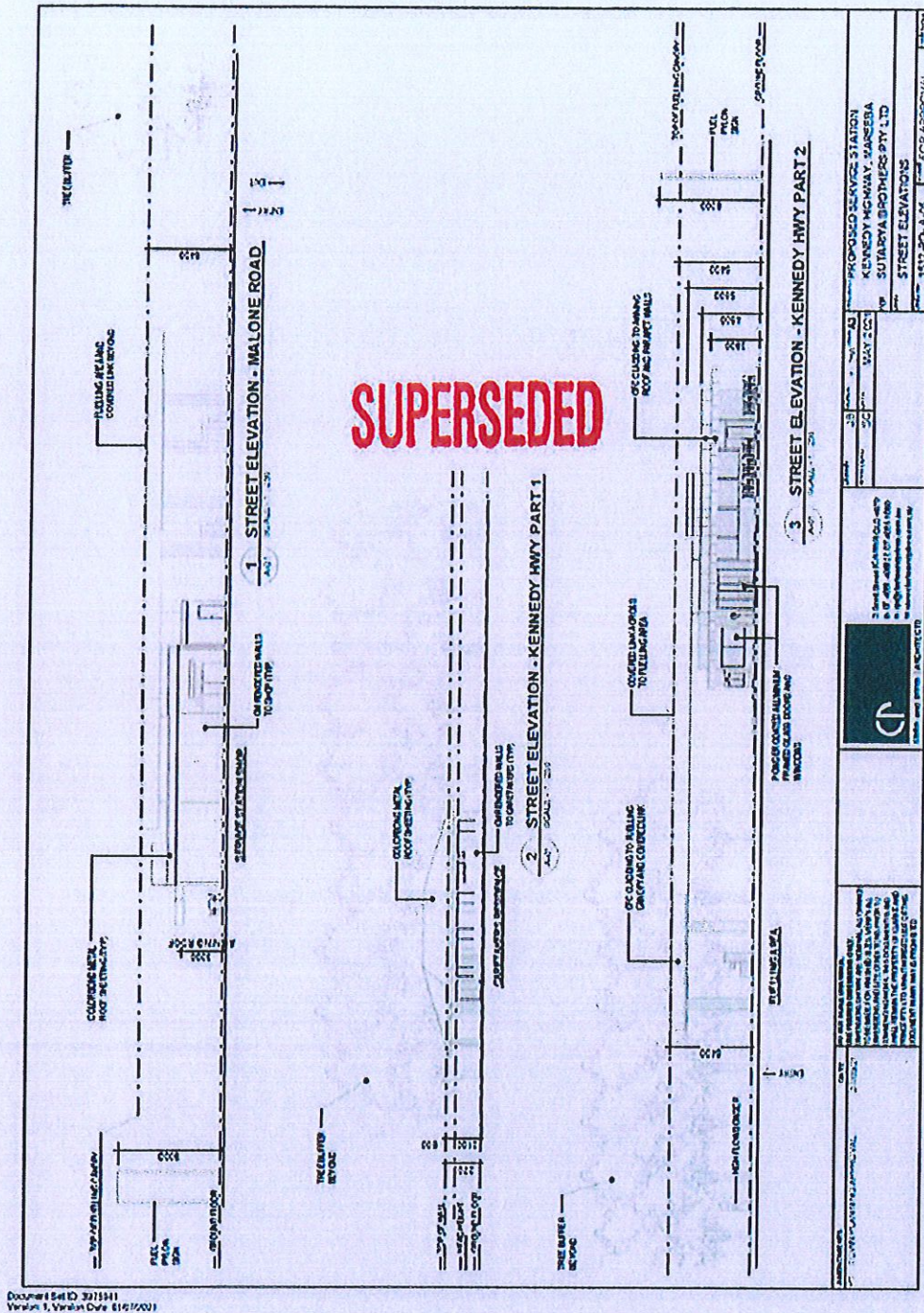


Document Set ID: 3011541
Version: 1, Version Date: 01/12/2021

SUPERSEDED PLAN



SUPERSEDED



NEW APPROVED PLAN (16/03/2022)

PROPOSED SERVICE STATION
KENEDY HIGHWAY, MAREEBA, QLD

DRAWING LIST
HSC04-001 COVER SHEET
HSC04-002 SITE PLAN
HSC04-003 SERVICE STATION OVER PLAN
HSC04-004 PAVED DRIVEWAY FLOOR PLAN
HSC04-005 PROPOSED SITES
HSC04-006 PROPOSED DRIVEWAY
HSC04-007 PROPOSED DRIVEWAY REFERENCE



PROJECT NAME PROPOSED SERVICE STATION		DATE DEC 2021	
CLIENT NAME KENEDY HIGHWAY, MAREEBA		DRAWN BY SUTARNA BROTHERS PTY LTD	
DRAWING NO. HSC04-001		SCALE 1:500	
SHEET NO. 1		SHEET TOTAL 1	
PROJECT LOCATION KENEDY HIGHWAY, MAREEBA, QLD		PROJECT STATUS FOR APPROVAL	
DRAWING DESCRIPTION PROPOSED SERVICE STATION		DRAWING DATE 16/03/2022	
DRAWING SCALE 1:500		DRAWING STATUS FOR APPROVAL	

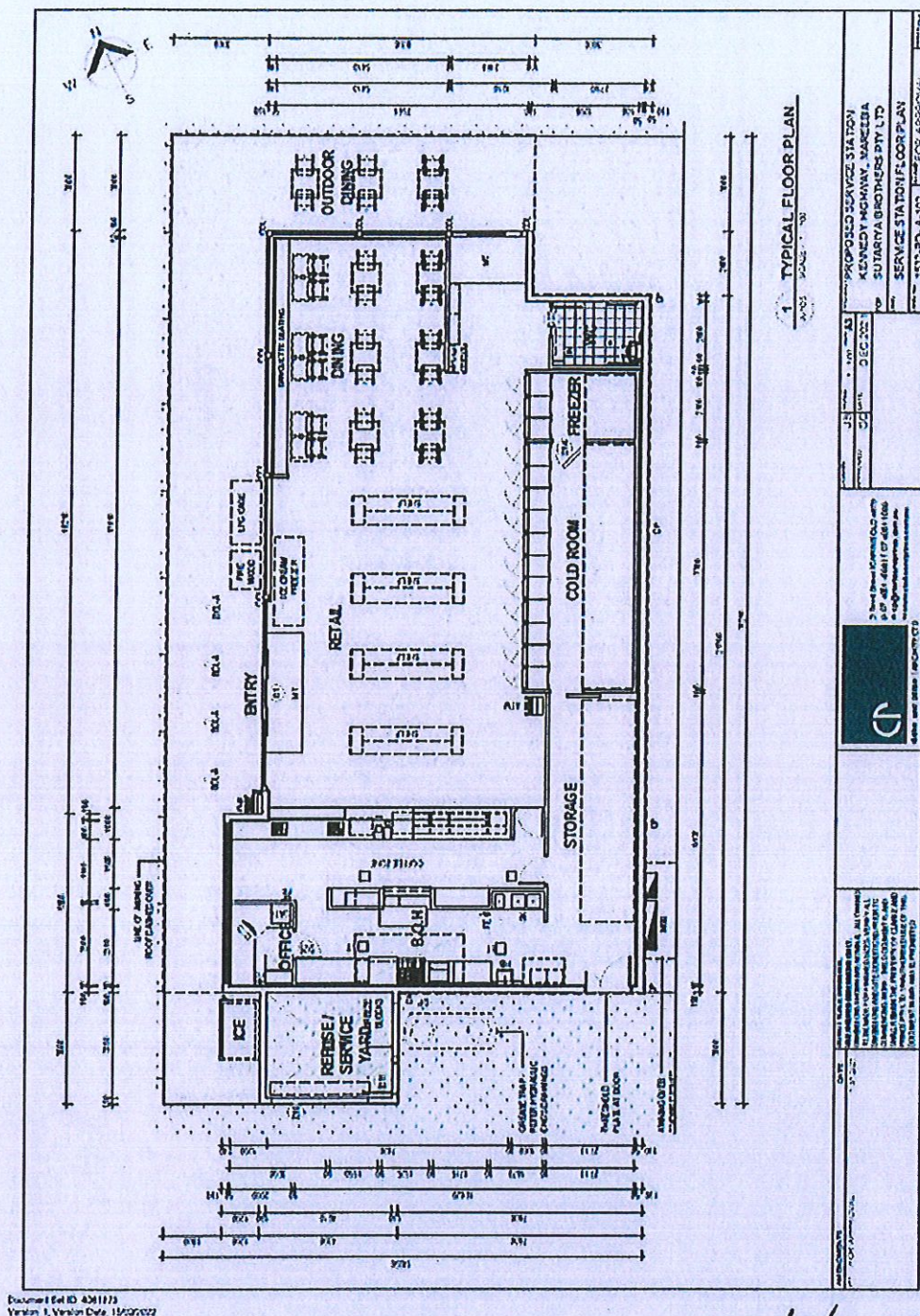
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Version 1, Version Date: 16/03/2022

21/3/2022
B. [Signature]

Document ID: 451171
Version: 1, Version Date: 11/25/2022

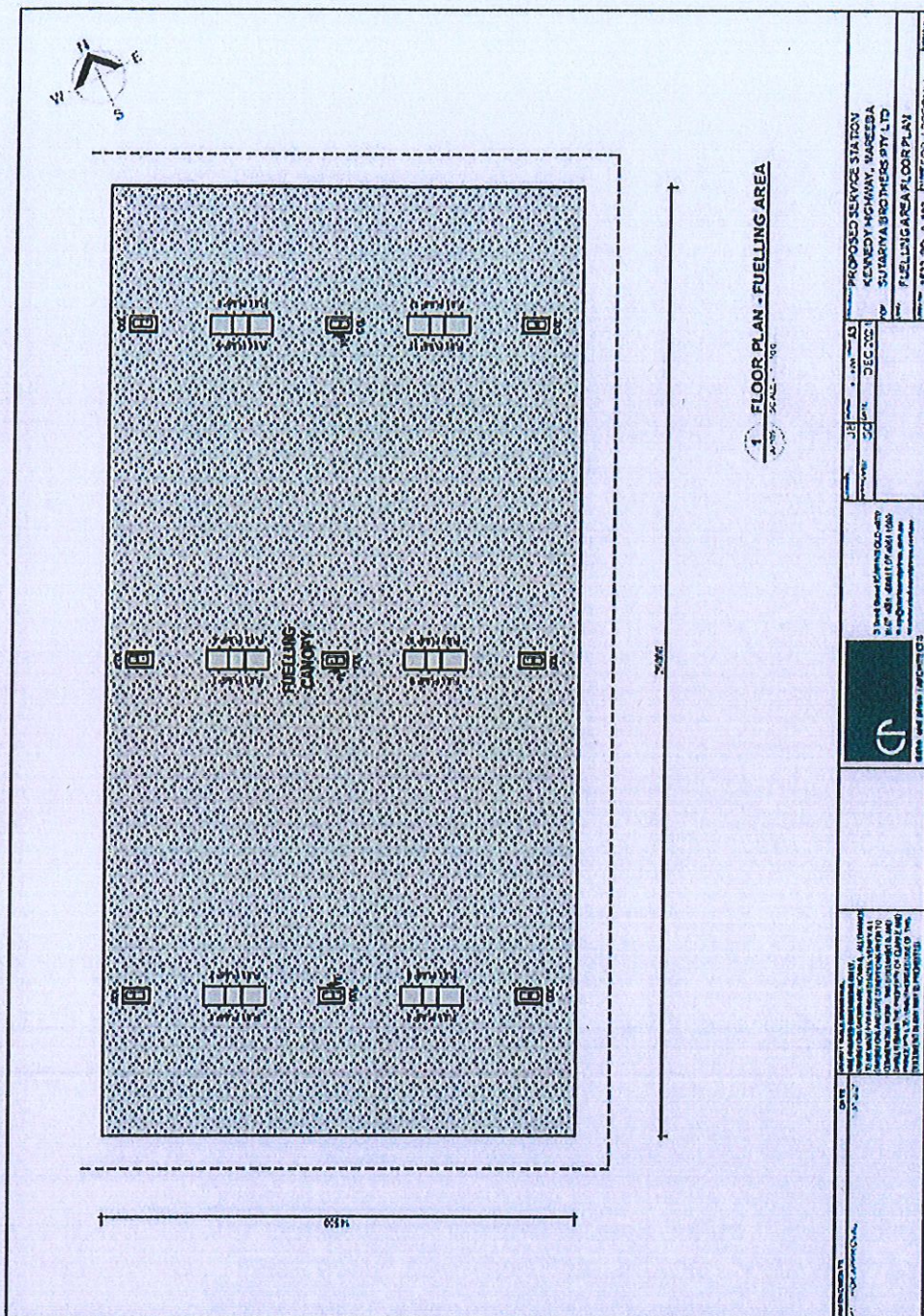
21/3/2022
B. M. [Signature]

NEW APPROVED PLAN (16/03/2022)



21/3/2022
B. Hill

NEW APPROVED PLAN (16/03/2022)



Document Set ID: 4361001
Version: 1, Version Date: 16/03/2022

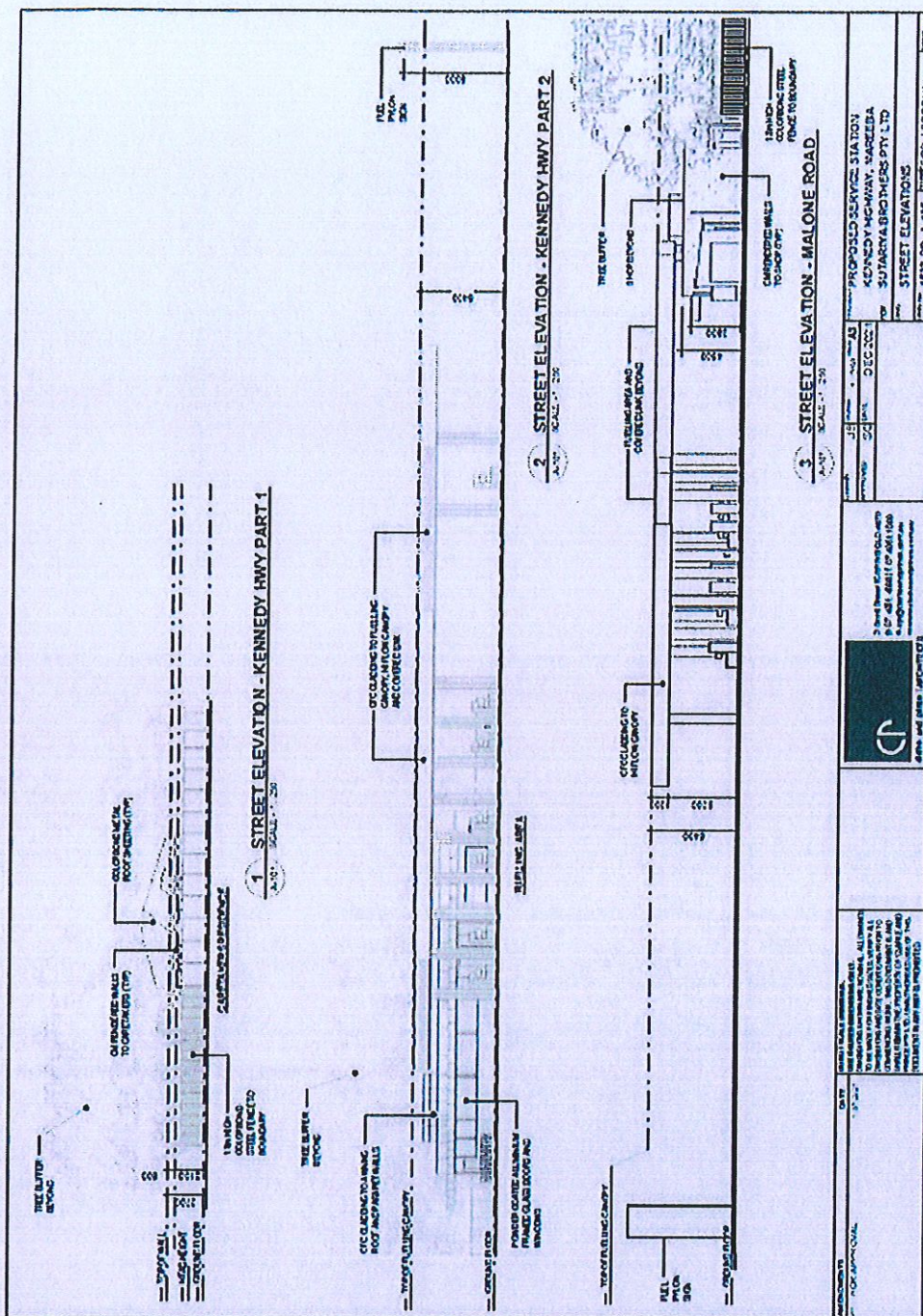
21/3/2022
B. M. [Signature]

NEW APPROVED PLAN (16/03/2022)

<p>VIEW FROM SOUTH WESTERN APPROACH TO SITE</p>		<p>VIEW FROM NORTH EASTERN APPROACH TO SITE</p>	
<p>DATE: 21/3/2022</p> <p>BY: B. R. [Signature]</p>		<p>PROPOSED SERVICE STATION KENNEDY HIGHWAY, MAREEBA SUJATA BROTHERS PTY LTD PERPECTIVE IMAGES</p> <p>1512-PD-A-104 FOR APPROVAL</p>	

Document ID: AX1111
Version: 1, Version Date: 15/03/2022

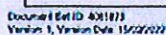
NEW APPROVED PLAN (16/03/2022)



Document ID: 431173
Version 1, Version Date: 15/03/2022

21/3/2022
B. n. [Signature]

NEW APPROVED PLAN (16/03/2022)



21/3/2022
B. R. [Signature]

	Referral Agency Response
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From: "No Reply" <mydas-notifications-prod2@qld.gov.au>
Sent: Wed, 9 Mar 2022 15:37:00 +1000
To: "Mary.McCarthy@dsdilgp.qld.gov.au"
<Mary.McCarthy@dsdilgp.qld.gov.au>; ramon@uitownplan.com.au" <ramon@uitownplan.com.au>
Cc: "Planning (Shared)" <planning@msc.qld.gov.au>
Subject: 2202-27153 SPD application correspondence - Minor Change - Sutariya -
MCU/21/0014
Attachments: Attachment 5 - Approved plans and specifications.pdf, TIA-AP~1.pdf, Planning
Act 2016 - Appeal provisions.pdf, 2202-27153 SPD Changed referral agency response minor change.pdf,
2202-27153 SPD Decision notice change to a development approval.pdf
Importance: Normal

Please find attached a notice regarding application [2202-27153 SPD](#).

If you require any further information in relation to the application, please contact the State Assessment and Referral Agency on the details provided in the notice.

This is a system-generated message. Do not respond to this email.

RE2-N



Internal ID: 22161-2022-0013-0123

Document Set ID: 4074786
Version: 1, Version Date: 21/03/2022

RE2-N



Our reference: 2202-27153 SPD
Your reference: M7-21 (amended)

9 March 2022

Sutariya Brothers Pty Ltd
C/- U&I Town Plan
PO Box 426
COOKTOWN QLD 4895
ramon@uitownplan.com.au

Attention: Ramon Samanes

Dear Sir/Madam

Decision notice—change application
(Given under section 83 of the *Planning Act 2016*)

Your change application under section 78 of the *Planning Act 2016* for the development approval dated 3 September 2021 was made to the State Assessment and Referral Agency on 11 February 2022.

Decision for change application

Date of decision: 9 March 2022
Decision details: Make the change and amend existing conditions.

The changes agreed to are:

1. Amend condition 1 to reference the revised Heath Rodgers Consulting Engineers Pty Ltd Stormwater Management Plan

For further information please contact Mary McCarthy, Senior Planning Officer, on 4758 3404 or via email NQSARA@dsdipg.qld.gov.au who will be pleased to assist.

Yours sincerely

A handwritten signature in black ink, appearing to read "Joanne Manson".

Joanne Manson
A/Manager (Planning)

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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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2202-27153 SPD

cc Mareeba Shire Council, planning@msc.qld.gov.au
enc Attachment 1—Referral agency response showing the change
Attachment 2—Appeal provisions

State Assessment and Referral Agency

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RA5-N



Changed referral agency response

Our reference: 2202-27153 SPD

Referral agency response—with conditions
(Given under section 56 of the *Planning Act 2016*)

Date of original response: 3 September 2021
Original reference: 2107-23539 SRA

The development application described below was properly referred to the State Assessment and Referral Agency on 13 July 2021.

Applicant details

Applicant name: Sutariya Brothers Pty Ltd
Applicant contact details: C/- U&I Town Plan
PO Box 428
Cooktown QLD 4895
ramon@uitownplan.com.au

Location details

Street address: Malone Road, Mareeba
Real property description: Lot 15 on RP846956
Local government area: Mareeba Shire Council

Application details

Development permit: Material change of use – service station and caretaker's accommodation

Referral triggers

The development application was referred to the department under the following provisions of the Planning Regulation 2017:

- Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 – State-controlled road

Conditions

Under section 56(1)(b)(i) of the *Planning Act 2016* (the Act), the conditions set out in Attachment 1 must be attached to any development approval.

Advice to the applicant

Under section 56(3) of the Act, the department offers advice about the application to the applicant—see Attachment 2.

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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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2107-23539 SRA

Reasons for referral agency response

The department must set out the reasons for the decision to impose conditions. These reasons are set out in Attachment 3.

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

State Assessment and Referral Agency

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2107-23539 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
Material change of use		
10.9.4.2.4. —The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
Stormwater management		
1.	<p>(a) The development must be carried out generally in accordance with Section 5 Stormwater Quantity Assessment of the Stormwater Drainage Management Plan prepared by Heath Rodgers Consulting Engineers Pty Ltd, dated 04-08-2024 <u>23/02/2022</u>, Reference 210220, in particular:</p> <ul style="list-style-type: none"> A detention basin is to be located at the north-eastern corner of the site as illustrated by the Concept Stormwater Drainage Plan, prepared by Rodgers Consulting Engineers Pty Ltd, Drawing No FO1, Revision A-P2, dated 03-08-2024 <u>23/02/2022</u>. All post-development stormwater runoff from the site is to be collected and discharged to the detention basin with a system of underground pipes and overland flow paths. <p>(b) RPEQ certification with supporting documentation must be provided to the corridor management unit at far.north.queensland.idas@tmr.qld.gov.au, within the Department of Transport and Main Roads', confirming that the development has been constructed in accordance with part (a) of this condition.</p>	<p>(a) At all times</p> <p>(b) Prior to the commencement of use</p>
Vehicular access to a state-controlled road		
2.	Direct access is not permitted between the Kennedy Highway and the subject site.	At all times

2107-23539 SRA

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v2.6. If a word remains undefined it has its ordinary meaning.
2.	<p>Advertising device The applicant should seek advice from the Department of Transport and Main Roads (DTMR) to ensure that the advertising device visible from a state-controlled road, and beyond the boundaries of the state-controlled road, is unlikely to create a traffic hazard for the state-controlled road.</p> <p>Note: DTMR has powers under section 139 of the <i>Transport Operations (Road Use Management - Accreditation and Other Provisions) Regulation 2015</i> to require removal or modification of an advertising sign and / or a device which is deemed to create a danger to traffic.</p>
3.	<p>Transport Noise Corridor Mandatory Part (MP) 4.4 of the Queensland Development Code (QDC) commenced on 1 September 2010 and applies to building work for the construction or renovation of a residential building in a designated <i>transport noise corridor</i>. MP4.4 seeks to ensure that the habitable rooms of Class 1, 2, 3 and 4 buildings located in a <i>transport noise corridor</i> are designed and constructed to reduce transport noise. <i>Transport noise corridor</i> means land designated under Chapter 8B of the <i>Building Act 1975</i> as a <i>transport noise corridor</i>. Information about <i>transport noise corridors</i> is available at state and local government offices.</p> <p>A free online search tool can be used to find out whether a property is located in a designated <i>transport noise corridor</i>. This tool is available at the State Planning Policy Interactive Mapping System website: https://spp.dsdp.esriaustraliaonline.com.au/geoviewer/map/planmaking and allows searches on a registered lot number and/or property address to determine whether and how the QDC applies to the land. Transport Noise Corridors are located under Information Purposes within Transport Infrastructure of the State Planning Policy (SPP) mapping system.</p>

2107-23539 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 proposed development is for a material change of use for a service station and caretaker's accommodation.
- The proposed development will gain access from Malone Road, a local council road.
- SARA has assessed the development against State code 1: Development in a state-controlled road environment of the State Development Assessment provisions (SDAP), version 2.6, and determined that with conditions, the development achieves compliance with the performance outcomes of the State code.

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

2107-23539 SRA

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State Assessment and Referral Agency

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Attachment 5—Approved plans and specifications

2107-23539 SRA

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State Assessment and Referral Agency

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Planning Act 2016 – Appeal provisions

The following provisions are the appeal rights as defined in the Planning Act 2016, schedule 2.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

(1) Schedule 1 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.

(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 is 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.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

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 the 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 rules of the P&E Court.

Schedule 1 Appeals

1 Appeal rights and parties to appeals

- (1) Table 1 states the matters that may be appealed to—
 - (a) the P&E court; or
 - (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
 - (a) the refusal, or deemed refusal of a development application, for—
 - i a material change of use for a classified building; or
 - ii operational work associated with building work, a retaining wall, or a tennis court; or
 - (b) a provision of a development approval for—
 - i a material change of use for a classified building; or
 - ii operational work associated with building work, a retaining wall, or a tennis court; or
 - (c) if a development permit was applied for—the decision to give a preliminary approval for—
 - i a material change of use for a classified building; or
 - ii operational work associated with building work, a retaining wall, or a tennis court; or

- (d) development condition if—
 - i the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
 - ii the building is, or is proposed to be, not more than 3 storeys; and
 - iii the proposed development is for not more than 60 sole-occupancy units; or
 - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
 - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
 - (g) a matter under this Act, to the extent the matter relates to the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
 - (h) a decision to give an enforcement notice—
 - i in relation to a matter under paragraphs (a) to (g); or
 - ii under the Plumbing and Drainage Act; or
 - (i) an infrastructure charges notice; or
 - (j) the refusal, or deemed refusal, of a conversion application; or
 - (k) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
- (a) for a matter in subsection (2)(a) to (d)—
 - i a development approval for which the development application required impact assessment; and
 - ii a development approval in relation to which the assessment manager received a properly made submission for the development application; or
 - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.
- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
- (a) column 1 states the appellant in the appeal; and
 - (b) column 2 states the respondent in the appeal; and
 - (c) column 3 states the co-respondent (if any) in the appeal; and
 - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.
- (8) In this section—
- storey* see the Building Code, part A1.1.

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
1. Development applications For a development application other than a development application called in by the minister, an appeal may be made against— (a) the refusal of all or part of the development application; or (b) the deemed refusal of the development application; or (c) a provision of the development approval; or (d) if a development permit was applied for—the decision to give a preliminary approval.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	1. A concurrence agency that is not a co-respondent 2. If a chosen assessment manager is the respondent—the prescribed assessment manager 3. Any eligible advice agency for the application 4. Any eligible submitter for the application
2. Change applications For a change application other than a change application made to the P&E Court or called in by the Minister, an appeal may be made against— (a) the responsible entity's decision on the change application; or (b) a deemed refusal of a change application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1. The applicant 2. If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice	The responsible entity	If an affected entity starts the appeal—the applicant	1. A concurrence agency for the development application 2. If a chosen assessment manager is the respondent—the prescribed assessment manager 3. A private certifier for the development application 4. Any eligible advice agency for the change application 5. Any eligible submitter for the change application

3. Extension applications For an extension application other than an extension application called in by the Minister, an appeal may be made against— (a) The assessment manager's decision on the extension application; or (b) A deemed refusal of the extension application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1. The applicant 2. For a matter other than a deemed refusal of an extension application—a concurrence agency, other than the chief executive, for the application	The assessment manager	If a concurrence agency starts the appeal—the applicant	If a chosen assessment manager is the respondent—the prescribed assessment manager
4. Infrastructure charges notices An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds— (a) the notice involved an error relating to— (i) the application of the relevant adopted charge; or Examples of errors in applying an adopted charge: • the incorrect application of gross floor area for a non-residential development • applying an incorrect 'use category', under a regulation, to the development (ii) the working out of extra demand, for section 120; or (iii) an offset or refund; or (b) there was no decision about an offset or refund; or (c) if the infrastructure charges notice states a refund will be given—the timing for giving the refund; or (d) the amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the infrastructure charges notice	The local government that gave the infrastructure charges notice	—	—
5. Conversion applications An appeal may be made against— (a) the refusal of a conversion application; or (b) a deemed refusal of a conversion application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The local government to which the conversion application was made	—	—
6. Enforcement notices An appeal may be made against the decision to give an enforcement notice.			

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the enforcement notice	The enforcement authority	—	If the enforcement authority is not the local government for the premises in relation to which the offence is alleged to have happened—the local government
Table 2 Appeals to the P&E Court only			
1. Appeals from tribunal An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of— (a) an error or mistake in law on the part of the tribunal; or (b) jurisdictional error.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A party to the proceedings for the decision	The other party to the proceedings for the decision	—	—
2. Eligible submitter appeals For a development application or change application other than an application decided by the P&E Court or called in by the Minister, an appeal may be made against the decision to approve the application, to the extent the decision relates to— (a) any part of the development application or change application that required impact assessment; or (b) a variation request			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1. For a development application—an eligible submitter for the development application 2. For a change application—an eligible submitter for the change application	1. For a development application—the assessment manager 2. For a change application—the responsible entity	1. The applicant 2. If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application
3. Eligible submitter and eligible advice agency appeals For a development application or change application other than an application decided by the P&E Court or called in by the Minister, an appeal may be made against a provision of the development approval, or a failure to include a provision in the development approval, to the extent the matter relates to— (a) any part of the development application or the change application, that required impact assessment; or (b) a variation request.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)

<p>1. For a development application—an eligible submitter for the development application</p> <p>2. For a change application—an eligible submitter for the change application</p> <p>3. An eligible advice agency for the development application or change application</p>	<p>1. For a development application—the assessment manager</p> <p>2. For a change application—the responsible entity</p>	<p>1. The applicant</p> <p>2. If the appeal is about a concurrence agency's referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</p>
<p>4. Compensation claims An appeal may be made against—</p> <p>(a) a decision under section 32 about a compensation claim; or</p> <p>(b) a decision under section 265 about a claim for compensation; or</p> <p>(c) a deemed refusal of a claim under paragraph (a) or (b).</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person dissatisfied with the decision	The local government to which the claim was made	—	—
<p>5. Registered premises An appeal may be made against a decision of the Minister under chapter 7, part 4.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1. A person given a decision notice about the decision</p> <p>2. If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the affected area for the registered premises who is dissatisfied with the decision</p>	The Minister	—	If an owner or occupier starts the appeal—the owner of the registered premises
<p>6. Local laws An appeal may be made against a decision of a local government, or conditions applied, under a local law about—</p> <p>(a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or</p> <p>(b) the erection of a building or other structure.</p>			

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who— (a) applied for the decision; and (b) is dissatisfied with the decision or conditions.	The local government	—	—
Table 3 Appeals and tribunal only			
1. Building advisory agency appeals An appeal may be made against giving a development approval for building work to the extent the building work required code assessment against the building assessment provisions.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A building advisory agency for the development application related to the approval	The assessment manager	The applicant	1. A concurrence agency for the development application related to the approval 2. A private certifier for the development application related to the approval
2. Inspection of building work An appeal may be made against a decision of a building certifier or referral agency about the inspection of building work that is the subject of a building development approval under the Building Act.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant for the development approval	The person who made the decision	—	—
3. Certain decisions under the Building Act and the Plumbing and Drainage Act An appeal may be made against— (a) a decision under the Building Act, other than a decision made by the Queensland Building and Construction Commission, if an information notice about the decision was given or required to be given under that Act; or (b) a decision under the Plumbing and Drainage Act, part 4 or 5, if an information notice about the decision was given or required to be given under that Act.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who received, or was entitled to receive, an information notice about the decision	The person who made the decision	—	—
4. Local government failure to decide application under the Building Act An appeal may be made against a local government's failure to decide an application under the Building Act within the period required under that Act.			

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who was entitled to receive notice of the decision	The local government to which the application was made	—	—

Our ref TMR21-033511 (S00-1570)
Applicant ref M7-21
Enquiries Ronald Kaden



Department of
Transport and Main Roads

30 August 2021

Decision Notice – Access Prohibited (s62(1) Transport Infrastructure Act 1994)

Development application reference number MCU/21/0014, lodged with Mareeba Shire Council involves constructing or changing a vehicular access between Lot 15RP846956, 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 Sutariya Brothers Pty Ltd
C/- U&I Town Plan
PO Box 426
Cooktown QLD 4895

Application Details

Address of Property Malone Road, Mareeba QLD 4880
Real Property Description 15RP846956
Aspect/s of Development Development Permit for Material Change of Use for Service Station & Caretaker's Accommodation

Decision (given under section 67 of TIA)

It has been decided that all access between the state-controlled road and the land subject of the application is prohibited.

All access is to be via Malone Road and located a minimum of 45 metres from the outer edge line of the Kennedy Highway.

Reasons for the decision

The reasons for this decision are as follows:

- a) Vehicular access to Lot 15 on RP846956 is via Malone Road via the Kennedy Highway / Malone intersection.
- b) Lot 15 on RP846956 does not have vehicular access via the Kennedy Highway.

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.

Program Delivery and Operations
Far North Region
Calms Corporate Tower, 15 Lake Street Calms QLD 4870
PO Box 6185 Calms QLD 4870

Telephone +61 (07) 4045 7151
Website www.tmr.qld.gov.au
Email ron.p.kaden@tmr.qld.gov.au
ABN: 39 407 690 291

Document Set ID: 4074786
Version: 1, Version Date: 21/03/2022

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

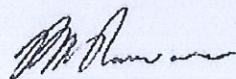
In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as Attachment B, as required, for information.

Further information about the decision

1. In accordance with section 67(7) of TIA, this decision notice:
 - a) starts to have effect when the development approval has effect; and
 - b) stops having effect if the development approval lapses or is cancelled; and
 - c) replaces any earlier decision made under section 62(1) in relation to the land.
2. 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 is attached in Attachment C for information.
3. 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.

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 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 – TMR Layout 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
Planning Report: Combined Development Application for a material Change of Use – Service Station and Caretaker's Accommodation	U & I Town Plan	1 July 2021	M7-21	-
Site Plan	Clark and Price Architects	30/07/21	1532-PD- A-01	P5
TMR Layout Plan (32A - 43.92km)	Queensland Government Transport and Main Roads	30/08/2021	TMR21-33511 (500-1570)	A

Attachment B
Section 70 of TIA

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

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

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.

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

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.

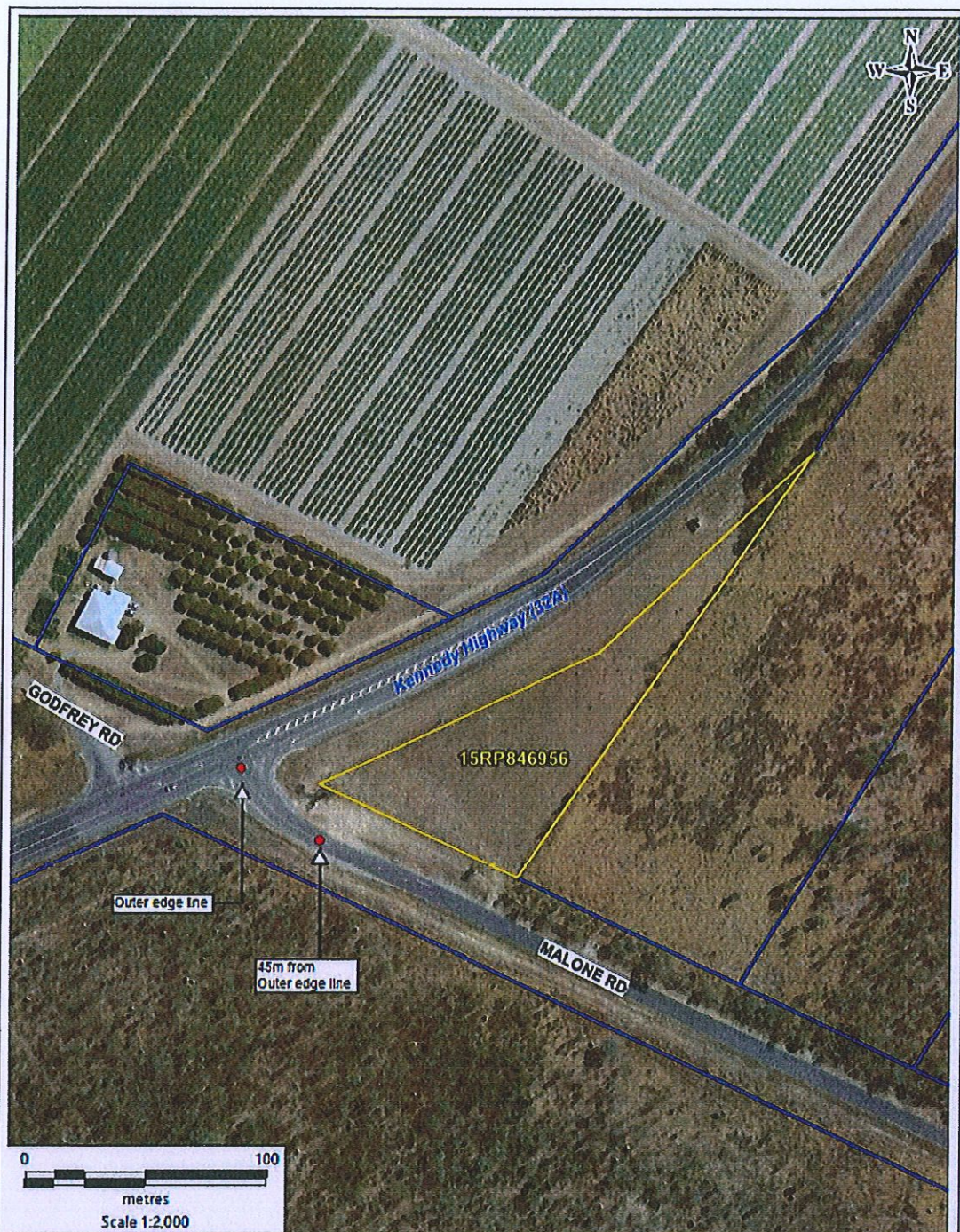
(2) However, if—

(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.



Branch/Unit:
Corridor Management / Far North District
Projection/Datum: Geocentric Datum of Australia (GDA) 2020

Land Parcels
Subject Land

TMR Layout Plan (32A - 43.92km)



Queensland Government
Transport and Main Roads

Plan 1/1	Issue A	Date 30/08/2021
Drawn by RPK		File ref. TMR21-33511 (500-1570)

Document Set ID: RD14768
Version: 1, Version Date: 21/03/2022

RODGERS CONSULTING ENGINEERS

210220 HR/PM 23-02-2022

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Ph: 07 40 519 466
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Heath Rodgers Consulting Engineers Pty Ltd
ABN: 30 610 655 368

To Whom It May Concern

Re: New Service Station

At: Kennedy Highway between Mareeba and Emerald Creek

1 Overview

Rodgers Consulting Engineers has been engaged to prepare a Stormwater Drainage Management Plan to support a Development Application for a Service Station development on Lot 15 on RP 846956 at the corner of Malone Road and Kennedy Highway, Mareeba. The site is and is located within the Mareeba Shire Council local government area.



Figure 1.1 Site Locality

2 Existing Site Details

The site is currently vacant with good grass cover, bounded by heavy vegetation on the south-eastern boundary and falls gently towards the Kennedy Highway. The Malone Road pavement and northern table drain falls gently towards Kennedy Highway where it grades around the corner to the north-east and continues to flow north-east on the eastern side of the Kennedy Highway. The existing site levels and contours are shown on RPS drawing PR149751-1. Kennedy Highway is on a crest approximately 100m east of Malone Road.

Document Set ID: 4074766
Version: 1, Version Date: 21/03/2022

PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE

SARA ref: 2202-27153 SPD
Date: 9 March 2022



3 Proposed development

The proposed development is shown on Clarke & Prince drawing 1532-PD-A-101(P1). The development includes:

- Refuelling areas for general and heavy vehicles
- Concrete hardstand and unsealed truck turning area
- Shop/retail building and on-site carparking
- Playground and caretakers' residence

4 Flood Risk Review

Department of Natural Resources, Mines and Energy regional flood mapping indicates that the site is not affected by Q100 (1% AEP) flooding as shown in Figure 4.1 below.



Figure 4.1 Flood Map

Document Set ID: 4074786
Version: 1, Version Date: 21/03/2022

PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE	
SARA ref:	2202-27153 SPD
Date:	8 March 2022

5 Stormwater Quantity Assessment

The proposed site is zoned Rural Residential and is currently vacant. To ensure a non-worsening impact on adjacent stormwater drainage systems (ie. Kennedy Highway table drain) this development will discharge postdevelopment stormwater flows into a detention basin located at the north-eastern corner of the site. The stormwater detention basin will be sized to detain flows for all events up to Q100 (1% AEP) and discharge flows to the Kennedy Highway at predevelopment flow rates.

The entire site currently falls and drains to the Kennedy Highway table drain and the postdevelopment site will continue to do so. Rodgers Consulting drawing F01 shows the concept stormwater drainage scheme proposed for this development.

Pre & post development stormwater flows calculated in accordance with QUDM are summarised as follows:

CATCHMENT	AREA	TIME OF CONCEN	FRACT IMPER	COEFF.	Vol.	Vol.	Vol.	Vol.	Vol.
	A	Tc	fi	C10	Q2	Q5	Q10	Q20	Q100
	m2	mins			m3/s	m3/s	m3/s	m3/s	m3/s
Predev	8412.5	40	0.10	0.70	0.082	0.113	0.131	0.156	0.227
Postdev	8412.5	6	0.50	0.80	0.200	0.286	0.339	0.410	0.613

Increases in stormwater flow will be detained in a basin located at the northern corner of the site as shown on Rodgers Consulting drawing F01. For the Q100 (1% AEP) event, the maximum storage requirement is 180m³ with a basin of 250m² and 750mm deep. The location of the basin allows for the site to discharge to the Kennedy Highway table drain at the lowest level possible to avoid excessive site filling. All post development stormwater runoff from the site will be collected and discharged to the basin with a system of underground pipes and overland flow paths.

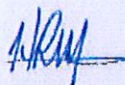
6 Summary

A stormwater drainage detention basin constructed at the northern corner of this site will ensure that post development stormwater discharge to the Kennedy Highway will remain at the predevelopment flow rate and this development will have a non-worsening impact on the Kennedy Highway drainage system.

Please do not hesitate to make contact should you require any clarification or further information.

Yours faithfully

RODGERS CONSULTING ENGINEERS



Heath P Rodgers

B.E. Hons, MIE Aust, RPEQ 7859

Attachments:

(1) RPS Dwg PR149751-1 (2) Clarke & Prince Dwg 1532-PD-A-01 (3) Rodgers Consulting Dwg 210220 F01(P2)

Document Set ID: 4074766
Version: 1, Version Date: 21/03/2022

PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE



SARA ref: 2202-27163 @PD

Date: 9 March 2022



Mareeba Shire Council



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210220 HR/PM 04-06-2021

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Heath Rodgers Consulting Engineers Pty Ltd
ABN: 30 610 655 360

To Whom It May Concern

PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE

SARA ref: 2107-23639-8RA

Date: 3 September 2021



Re: New Service Station

At: Kennedy Highway between Mareeba and Emerald Creek

1 Overview

Rodgers Consultants has been engaged to prepare a Stormwater Drainage Management Plan to support a Development Application for a Service Station development on Lot 15 on RP 846956 at the corner of Malone Road and Kennedy Highway, Mareeba. The site is and is located within the Mareeba Shire Council local government area.

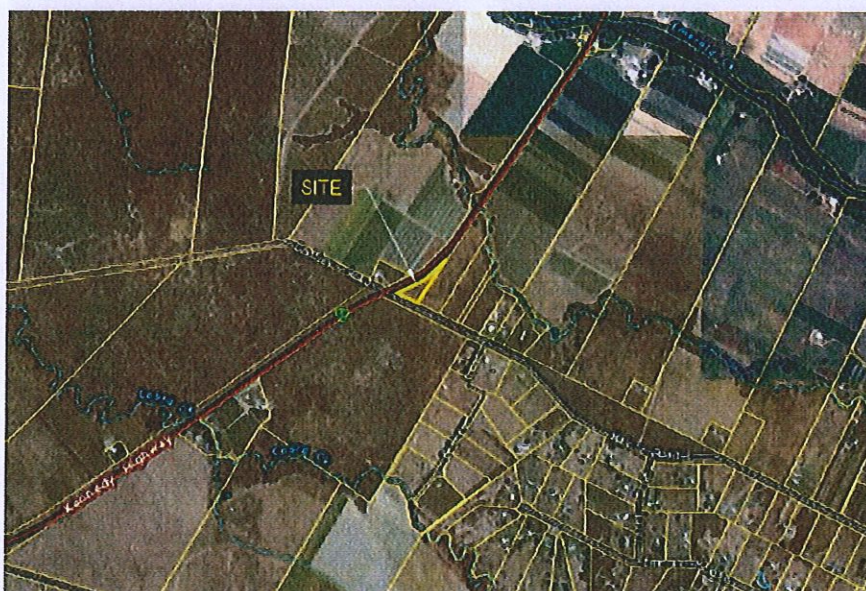


Figure 1.1 Site Locality

2 Existing Site Details

The site is currently vacant with good grass cover, bounded by heavy vegetation on the south-eastern boundary and falls gently towards the Kennedy Highway. The Malone Road pavement and northern table drain falls gently towards Kennedy Highway where it grades around the corner to the north-east and continues to flow north-east on the eastern side of the Kennedy Highway. The existing site levels and contours are shown on RPS drawing PR149751-1. Kennedy Highway is on a crest approximately 100m east of Malone Road.

Superseded by Heath Rodgers Consulting Engineers Pty
Ltd Stormwater Drainage Management Plan, Reference:
210220, dated 23/02/2022

Document Set ID: 4074765
Version: 1, Version Date: 21/03/2022

3 Proposed development

The proposed development is shown on Clarke & Prince drawing 1532-PD-A-01. The development includes:

- Refuelling areas for general and heavy vehicles
- Concrete hardstand and unsealed truck turning area
- Shop/retail building and on-site carparking

4 Flood Risk Review

Department of Natural Resources, Mines and Energy regional flood mapping indicates that the site is not affected by Q100 (1% AEP) flooding as shown in Figure 4.1 below.



Figure 4.1 Flood Map

Document Set ID: 4074766
Version: 1, Version Date: 21/03/2022

Superseded by Heath Rodgers Consulting Engineers Pty
Ltd Stormwater Drainage Management Plan, Reference:
210220, dated 23/02/2022

5 Stormwater Quantity Assessment

The proposed site is zoned Rural Residential and is currently vacant. To ensure a non-worsening impact on adjacent stormwater drainage systems (ie. Kennedy Highway table drain) this development will discharge postdevelopment stormwater flows into a detention basin located at the north-eastern corner of the site. The stormwater detention basin will be sized to detain flows for all events up to Q100 (1% AEP) and discharge flows to the Kennedy Highway at predevelopment flow rates.

The entire site currently falls and drains to the Kennedy Highway table drain and the postdevelopment site will continue to do so. Rodgers Consulting drawing F01 shows the concept stormwater drainage scheme proposed for this development.

Pre & post development stormwater flows calculated in accordance with QUDM are summarised as follows:

CATCHMENT	AREA	TIME OF CONCEN	FRACT IMPER	COEFF.	Vol.	Vol.	Vol.	Vol.	Vol.
	A	Tc	fi	C10	Q2	Q5	Q10	Q20	Q100
	m2	mins			m3/s	m3/s	m3/s	m3/s	m3/s
Predev	8412.5	40	0.10	0.70	0.082	0.113	0.131	0.156	0.227
Postdev	8412.5	6	0.41	0.78	0.195	0.278	0.330	0.399	0.597

Increases in stormwater flow will be detained in a basin located at the northern corner of the site as shown on Rodgers Consulting drawing F01. For the Q100 (1% AEP) event, the maximum storage requirement is 180m³ with a basin of 250m² and 720mm deep. The location of the basin allows for the site to discharge to the Kennedy Highway table drain at the lowest level possible to avoid excessive site filling. All postdevelopment stormwater runoff from the site will be collected and discharged to the basin with a system of underground pipes and overland flow paths.

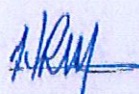
6 Summary

A stormwater drainage detention basin constructed at the northern corner of this site will ensure that postdevelopment stormwater discharge to the Kennedy Highway will remain at the predevelopment flow rate and this development will have a non-worsening impact on the Kennedy Highway drainage system.

Please do not hesitate to make contact should you require any clarification or further information.

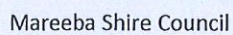
Yours faithfully

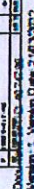
RODGERS CONSULTING ENGINEERS

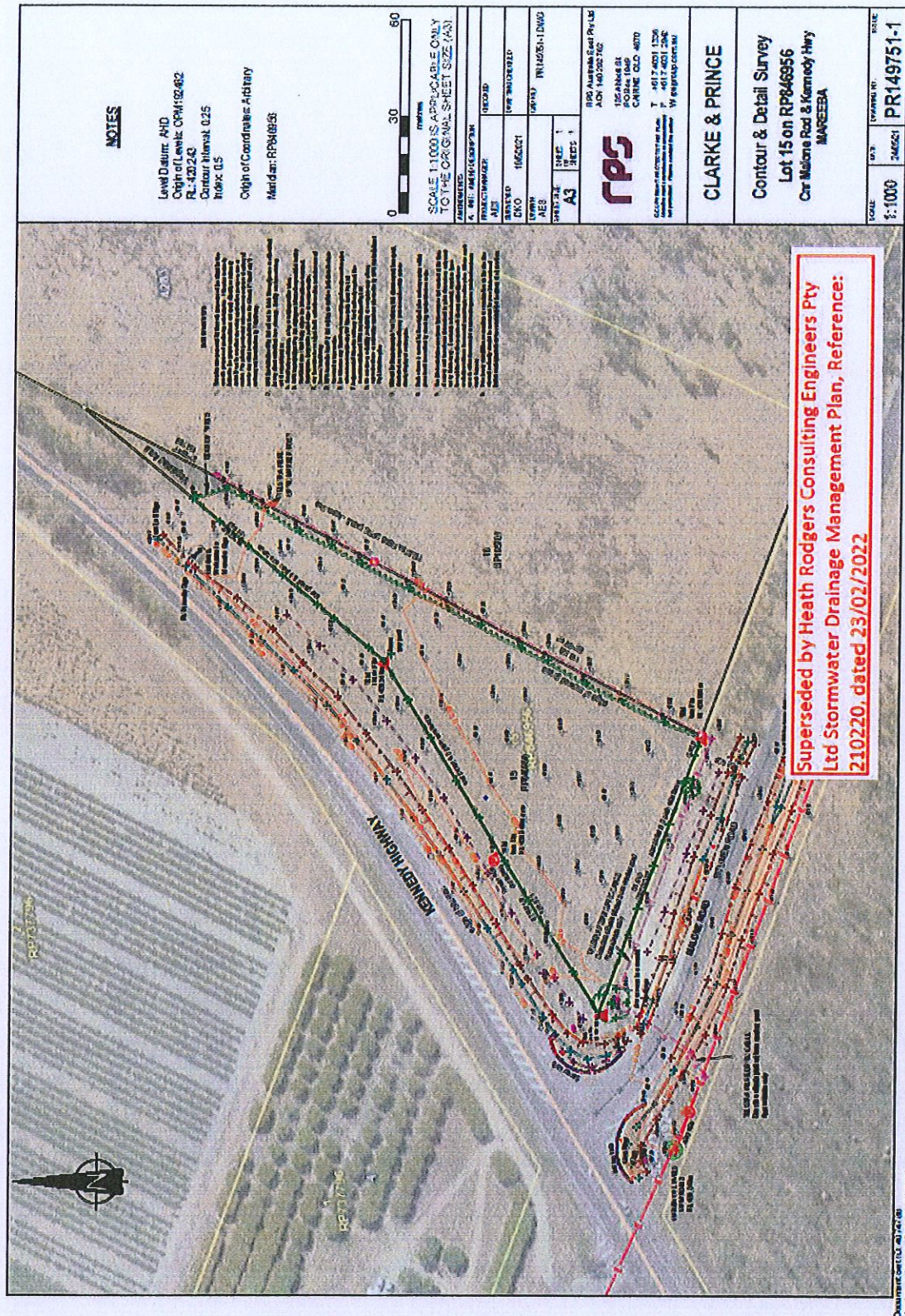


Heath P Rodgers

B.E. Hons, MIE Aust, RPEQ







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.
- 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.

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