Mareeba
SHIRE COUNCIL

65 Rankin Street
PO Box 154 MAREEBA QLD 4880

P: 1300 308 461
F: 07 4092 3323

W: www.msc.qld.gov.au
E: info@msc.qld.gov.au

22 December 2017

Officer: Brian Millard
Direct Telephone: 4086 4657
Our Reference: BM:nj
Your Reference: 9369-8

Pioneer North QLD Pty Ltd
C/- RPS Australia East Pty Ltd
PO Box 1949
CAIRNS QLD 4870

Dear Sir/Madam

Decision Notice
Planning Act 2016

I refer to your application and advise that on 20 December 2017 under delegated authority, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No:	MCU/17/0013
Street Address:	1506 & 1596 Mareeba - Dimbulah Road ARRIGA QLD 4880
Real Property Description:	Lot 2 RP745859 & Lot 12HG387
Planning Scheme:	Mareeba Shire Council Planning 2016

DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit for Material Change of Use - Extractive Industry (expansion)
Date of Decision:	20 December 2017

CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is six (6) years starting the day that this development approval takes effect. (Refer to Section 85 "Lapsing of approval at end of currency period" of the *Planning Act 2016*.)

INFRASTRUCTURE

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

ASSESSMENT MANAGER CONDITIONS

(A) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out substantially 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 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 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 development approval would not have been issued if not for the conditions requiring the construction of infrastructure within the conditions of approval.

   3.2 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.

   3.3 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to commencement of the use and at the rate applicable at the time of payment.

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

3.5 Hours of Operation

All operations pursuant to the extractive industry, or in any way connected with the extractive industry will, for site operations and for removal of material, be limited to the hours between 7.00 am and 6.00 pm Mondays to Friday and 7:00am to 12:00 noon Saturdays (except Public Holidays), PROVIDED ALWAYS that the Council will have the right at any time, and from time to time, to fix other hours of operation, and upon the fixing of any such other hours of operation pursuant to the permit, or in any way connected therewith, the extractive industry will be limited to such other hours. The Applicant will not be allowed to conduct nor permit nor suffer to be conducted, any extractive industry operation nor run nor start any motors, machinery, or the like, nor remove any materials from the said land on any Sunday or Public Holiday, or at any time outside the hours mentioned or such other hours as will be fixed by Council.

3.6 The Applicant shall provide Council with records of quantities of material extracted from the site on a monthly basis.

3.7 All operations pursuant to the extractive industry must be carried out in accordance with an Environmental Management Plan, except where modifications are required by the conditions of this approval. A copy of the Environmental Management Plan must be provided to Council prior to the commencement of extraction.

3.8 The applicant will be required to take every precaution to avoid spillage and any spillage which occurs on any public road, shall be removed at the end of each working day or within four (4) hours of any verbal requirement by Council's delegated officer.

3.9 Scale and Intensity

The extraction volume must not exceed 100,000 tonnes per annum.

3.10 Rehabilitation

A Site Rehabilitation Management Plan is to be prepared by a suitably qualified and experienced person detailing the timing/staging of vegetation removal, method of removal and the sequence of operations and rehabilitation works.

Site rehabilitation works must be provided in a progressive manner in accordance with extraction sequences and staging. The method of rehabilitation needs to be detailed with appropriate revegetation strategies indicated including the species list to be used including plant source. The plan is to be submitted to Council and operations are not to commence prior to receipt of Council's approval of the plan.

All site rehabilitation is to occur in accordance with the approved Site Rehabilitation Management Plan.

3.11 Prevention of the spread of weeds and pests

The applicant must ensure the development is carried out in a manner that prevents the spread of weeds, seeds or other pests into clean areas or away from any existing infested areas.

REFERRAL AGENCIES

The referral agencies applicable to this application are:

Material change of use of premises		
Development application for an aspect of development stated in schedule 20 that is assessable development under a local categorising instrument or section 21, if- *(a) the development is for a purpose stated in schedule 20, column 1 for the aspect; and* *(b) the development meets or exceeds the threshold-* *(i) for development in local government area 1—stated in schedule 20, column 2 for the purpose; or* *(ii) for development in local government area 2—stated in schedule 20, column 3 for the purpose; and* *(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* *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.*	Schedule 10, Part 9, Division 4, Subdivision 1, Table 1	State Assessment & Referral Agency (SARA) Department of Infrastructure, Local Government & Planning PO Box 2358 Cairns Qld 4870 CairnsSARA@dilgp.qld.gov.au

Development application for a material change of use that is assessable development under a local categorizing instrument and relates to a lot that is 5ha or larger, if— *(a) the application—* *(i) is for a preliminary approval that includes a variation request; and* *(ii) relates to a lot that contains native vegetation shown on the regulated vegetation management map as a category A area or category B area; and* *(iii) is for a material change of use, other than a non-referable material change of use; or* *(b) the application is not stated in paragraph (a) and all of the following apply—* *(i) the material change of use does not involve prescribed clearing;* *(ii) accepted operational work may be carried out because of the material change of use, or the material change of use involves operational work that is assessable development under section 5;* *(iii) the accepted operational work or assessable operational work includes development other than the clearing of regulated regrowth vegetation on freehold land, indigenous land, or land the subject of a lease given under the Land Act for agriculture or grazing purposes*	Schedule 10, Part 3, Division 4, Table 3	State Assessment & Referral Agency (SARA) Department of Infrastructure, Local Government & Planning PO Box 2358 Cairns Qld 4870 CairnsSARA@dilgp.qld.gov.au

A copy of any referral agency conditions is attached.

APPROVED PLANS

The following plans are Approved plans for the development:

Approved Plans

Plan/Document Number	Plan/Document Title	Prepared by	Dated
9369-23	Proposal Plan	RPS	9-10-2017

REFERENCED DOCUMENTS

Not Applicable.

ADVISORY NOTES

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

(A) ASSESSMENT MANAGER'S ADVICE

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

(b) 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.

(f) Transportation of Soil

All soil transported to or from the site must be covered to prevent dust or spillage during transport. If soil is tracked or spilt onto the road pavements as a result of the works on the subject site, it must be removed prior to the end of the working day and within four (4) hours of a request from a Council Officer.

(B) REFERRAL AGENCY CONDITIONS

Department of Infrastructure, Local Government and Planning conditions dated 5 December 2017.

PROPERTY NOTES

Not Applicable.

VARIATION APPROVAL

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

Not Applicable.

SUBMISSIONS

Not Applicable.

RIGHTS OF APPEAL

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

During the appeal period, you as the applicant may suspend your appeal period and make written representations to council about the conditions contained within the development approval. If council agrees or agrees in part with the representations, a "negotiated decision

notice" will be issued. Only one "negotiated decision notice" may be given. Taking this step will defer your appeal period, which will commence again from the start the day after you receive a "negotiated decision notice".

OTHER DETAILS

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

Yours faithfully

BRIAN MILLARD
SENIOR PLANNER

Enc: Approved Plans/Documents
Referral Agency Response
Appeal Rights

Copy: Department of Infrastructure, Local Government and Planning
CairnsSARA@dilgp.qld.gov.au

Approved Plans/Documents

22/12/2017

Referral Agency Response

RA6-N

Queensland Government

Department of Infrastructure, Local Government and Planning

Our reference: 1710-2268 SRA
Your reference: MCU/17/0013

5 December 2017

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

Attention: Brian Millard

Dear Sir

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

The development application described below was properly referred to the Department of Infrastructure, Local Government and Planning on 31 October 2017.

Applicant details

Applicant name:	Pioneer North Queensland Pt Ltd
Applicant contact details:	C/- RPS Australia East Pty Ltd PO Box 1949 Cairns QLD 4870 owen.caddick-king@rpsgroup.com.au

Location details

Street address:	1506 and 1596 Mareeba Dimbulah Road, Arriga
Real property description:	Lot 12 on HG387 and Lot 2 on RP745859
Local government area:	Mareeba Shire Council

Application details

Development permit	Material change of use – Extractive industry (expansion)

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

1710-2268 SRA

Referral triggers

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

- 10.3.4.3.1 Clearing native vegetation
- 10.9.4.1.1.1 Infrastructure - state transport infrastructure

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.

Reasons for imposing conditions

These reasons for imposing conditions are set out in Attachment 2.

Advice to the applicant

The department offers advice about the application to the applicant —see Attachment 3.

Approved plans and specifications

The department requires that the plans and specifications set out below and included in Attachment 4 must be attached to any development approval.

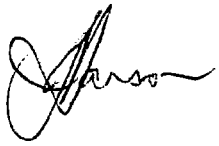
Drawing/report title	Prepared by	Date	Reference no.	Version
Aspect of development: Material change of use – extractive industry				
TMR Layout Plan (664-15.95km)	Queensland Government – Transport and Main Roads	09/11/17	TMR17-22953 (500-1187), as amended in red by SARA on 4 December 2017.	A
Technical Agency Response (Vegetation) Plan of Area A (parts A^1 and A^2) in Lot 12 on HG387 and Lot 2 on RP745859	Queensland Government	07/11/17	TARP SDA 1710-2268 (sheet 1 of 1)	-

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

1710-2268 SRA

For further information please contact Belinda Jones, Senior Planning Officer, on 40373239 or via email CairnsSARA@dilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Joanne Manson
Manager (Planning)

cc Pioneer North Queensland Pt Ltd, owen.caddick-king@rpsgroup.com.au

enc Attachment 1—Conditions to be imposed
Attachment 2—Reasons for decision to impose conditions
Attachment 3—Advice to the applicant
Attachment 4—Approved plans and specifications

1710-2268 SRA

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
State-controlled roads		
10.9.4.1.1.1 State transport infrastructure—The chief executive administering the *Planning Act 2016* nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	Haulage vehicles associated with the extractive industry are only to use the southernmost access (located approximately 230m from the southern boundary of Lot 12HG387) as shown on TMR Layout Plan (664-15.95km), prepared by Queensland Government - Transport and Main Roads, dated 09/11/2017, as amended in red by SARA on 4 December 2017.	At all times
2.	Signage, indicating 'truck movements ahead', is to be installed either side of the road access in accordance with section 1.12.2 Longitudinal Placement of the Department of Transport and Main Roads' Manual of Uniform Traffic Control Devices, Part 1: General introduction and sign illustrations, November 2017.	Prior to the commencement of the use
Clearing native vegetation		
10.3.4.3.1 Clearing native vegetation - The chief executive administering the *Planning Act 2016* nominates the Director-General of the Department of Natural Resources and Mines 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):		
3.	The clearing of vegetation under this development approval is limited to the areas identified as Areas A^1 and A^2 as shown on attached Technical Agency Response Plan (TARP) SDA-1710-2268 dated 07 November 2017.	At all times
4.	Any person(s) engaged or employed to carry out the clearing of vegetation under this development approval must be provided with a full copy of this development approval, and must be made aware of the full extent of clearing authorised by this development approval.	At all times

1710-2268 SRA

Attachment 2—Reasons for decision to impose conditions

The reasons for this decision are:

- To ensure the access to the state-controlled road from the site does not compromise the safety and efficiency of the state-controlled road.
- To maintain the safety and efficiency of the state-controlled road generally.
- To ensure compliance with the State Development Assessment Provisions.
- To ensure compliance with the development approval.

1710-2268 SRA

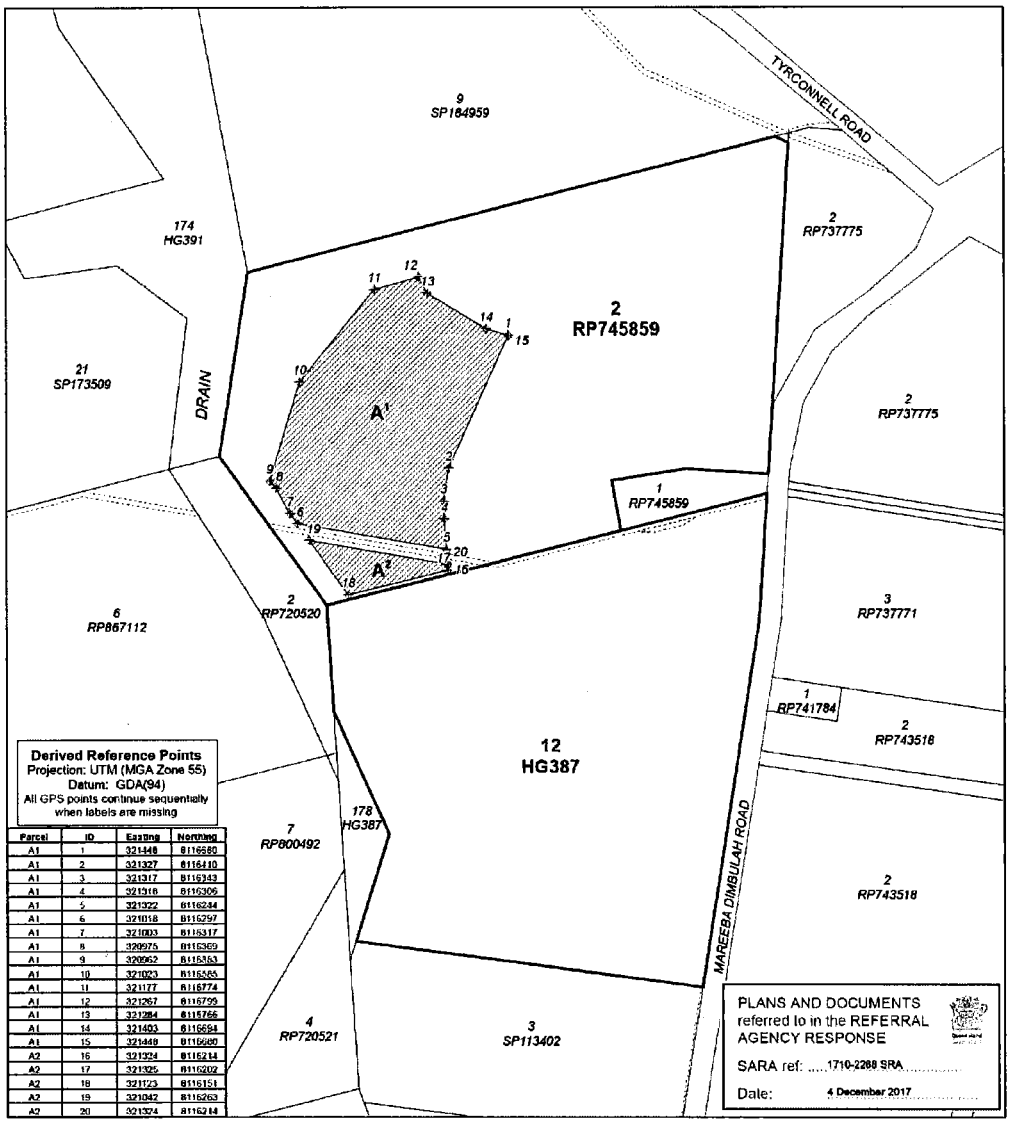
Attachment 3—Advice to the applicant

General advice	
Further development permits, compliance permits or compliance certificates	
1.	In accordance with section 33 of the *Transport Infrastructure Act 1994* (TIA), an applicant must obtain written approval from Department of Transport and Main Roads (DTMR) to carry out road works, including road access works on a state-controlled road. Please contact DTMR on 4045 7144 to make an application under section 33 of the TIA to carry out road works. This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). The road works approval process takes time – please contact Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.

1710-2268 SRA

Attachment 4—Approved Plans

1710-2268 SRA



Parcel	ID	Easting	Northing
A1	1	321448	8116680
A1	2	321327	8116410
A1	3	321317	8116343
A1	4	321316	8116306
A1	5	321322	8116244
A1	6	321018	8116297
A1	7	321003	8116317
A1	8	320975	8116369
A1	9	320962	8116383
A1	10	321023	8116585
A1	11	321177	8116774
A1	12	321267	8116799
A1	13	321284	8116766
A1	14	321403	8116694
A1	15	321449	8116680
A2	16	321324	8116214
A2	17	321325	8116202
A2	18	321123	8116151
A2	19	321042	8116263
A2	20	321324	8116214

1:7500 @ A3 size

0 50 100 200 300 400 500 600 700 m

Projection: UTM (MGA Zone 55) Datum: GDA94

Note: Derived Reference Points are provided to assist in the location of the Referral Agency Response boundaries. Responsibility for locating these boundaries lies solely with the landholder and delegated contractor(s).

The property boundaries shown on this plan are APPROXIMATE ONLY. They are NOT an accurate representation of the legal boundaries.

Note: This plan must be read in conjunction with Technical Agency Response SDA-1710-2268

LEGEND

- Derived Reference Points for GPS
- Subject Lot(s)
- Area A (parts A¹ and A²)

Technical Agency Response (Vegetation) Plan

Plan of Area A (parts A¹ and A²) in Lot 12 on HG387 and Lot 2 on RP745859

eLVAS case: 2017/006140

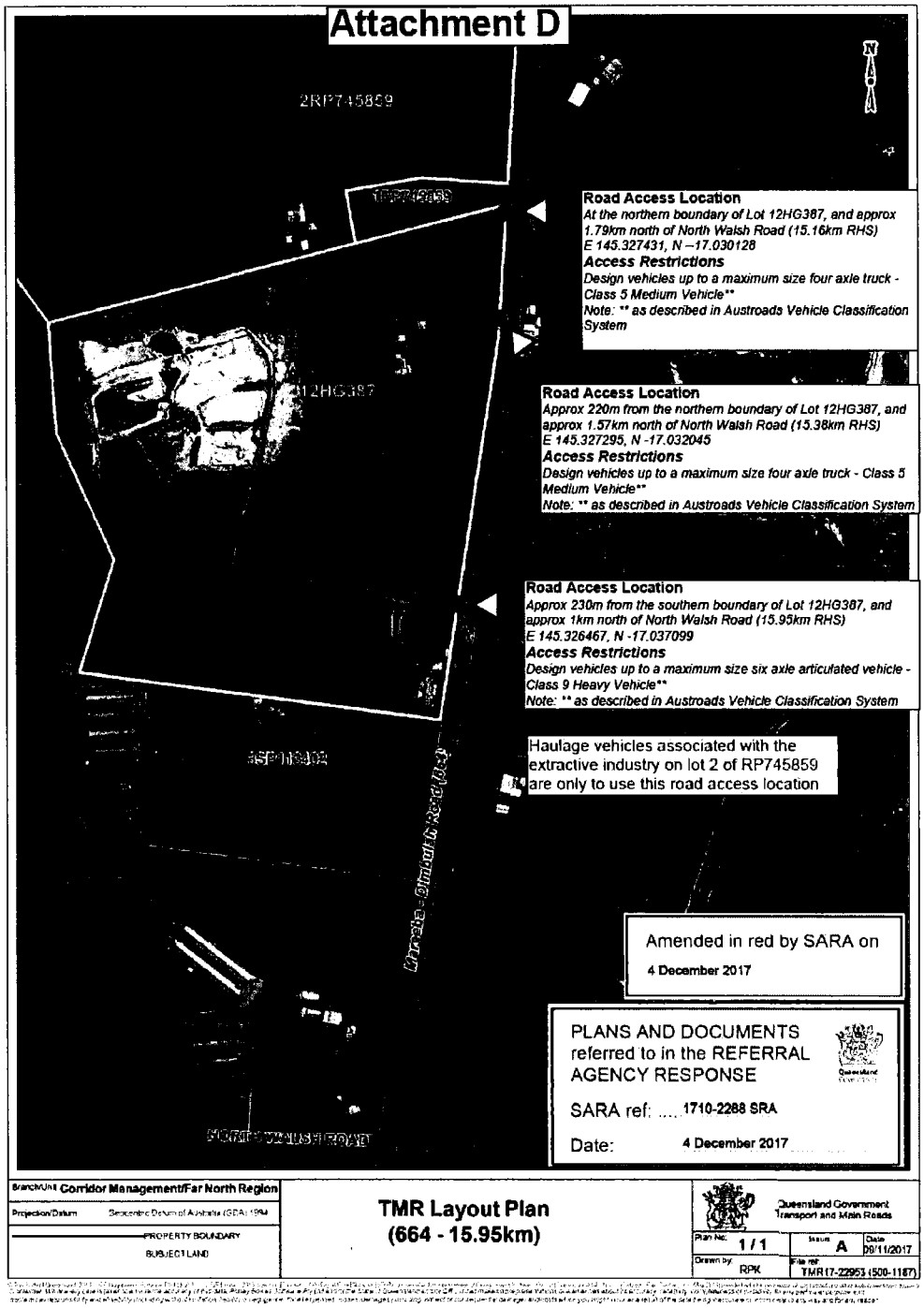
N

Queensland Government

CENTRE: MAREEBA LOCALITY OF ARRIGA	REGION: NORTH LOCAL GOVT: MAREEBA SHIRE
Map Reference: 7663	Compiled from: DCDB, PVMP & VMO Notes
File Reference: eDOCS: 082/0001083	Prepared by: JA - j5383 Date: 07 November 2017

TARP
SDA-1710-2268
Sheet 1 of 1

1710-2268 SRA



GE78-N

Queensland Government

Department of Infrastructure, Local Government and Planning

Department of Infrastructure, Local Government and Planning
Statement of reasons for application 1710-2268 SRA
(Given under section 56 of the *Planning Act 2016*)

Departmental role:	Referral agency

Applicant details

Applicant name:	Pioneer North Queensland Pt Ltd
Applicant contact details:	C/- RPS Australia East Pty ltd PO Box 1949 Cairns QLD 4870 owen.caddick-king@rpsgroup.com.au

Location details

Street address:	1506 and 1596 Mareeba Dimbulah Road, Arriga
Real property description:	Lot 12 on HG387 and Lot 2 on RP745859
Local government area:	Mareeba Shire Council

Development details

Development permit	Material change of use – extractive industry

Assessment matters

Aspect of development requiring code assessment	Applicable codes
1. Material change of use	State Development Assessment Provisions version 2.1, effective 11 August 2017- State code 1: Development in a state-controlled road environment State code16: Native vegetation clearing

Reasons for the department's decision
The reasons for the decision are:

- The proposed development is for an aspect of development stated in schedule 20 of the Planning Regulation 2017 (extractive industry) and exceeds the threshold (10,000t).
- Access to the proposed extractive site is via an existing haul route via Mareeba-Dimbulah Road. The existing access has recently been upgraded to include a basic right turn treatment (BAR) and a rural basic left turn treatment (BAL).
- The design of the access is sufficient to maintain the safety and efficiency of the state-controlled road.
- With conditions, the proposed development complies with the relevant provisions in the State Development Assessment Provisions, State code 1: Development in a state-controlled road environment.

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

1710-2268 SRA

- The site contains vegetation that is identified on the Regulated Vegetation Management Map as category B with least concern status.
- The proposed development will involve the clearing of approximately 18 hectares of vegetation to facilitate an extractive industry development in a Key Resource Area (KRA).
- The extent of clearing has been reasonably minimised and limited to the extraction area on Lot 2 on RP745859.
- The vegetation is not identified as a matter of state environmental significance.
- With conditions, the proposed development complies with the relevant provisions in the State Development Assessment Provisions, State code 16: Native vegetation clearing

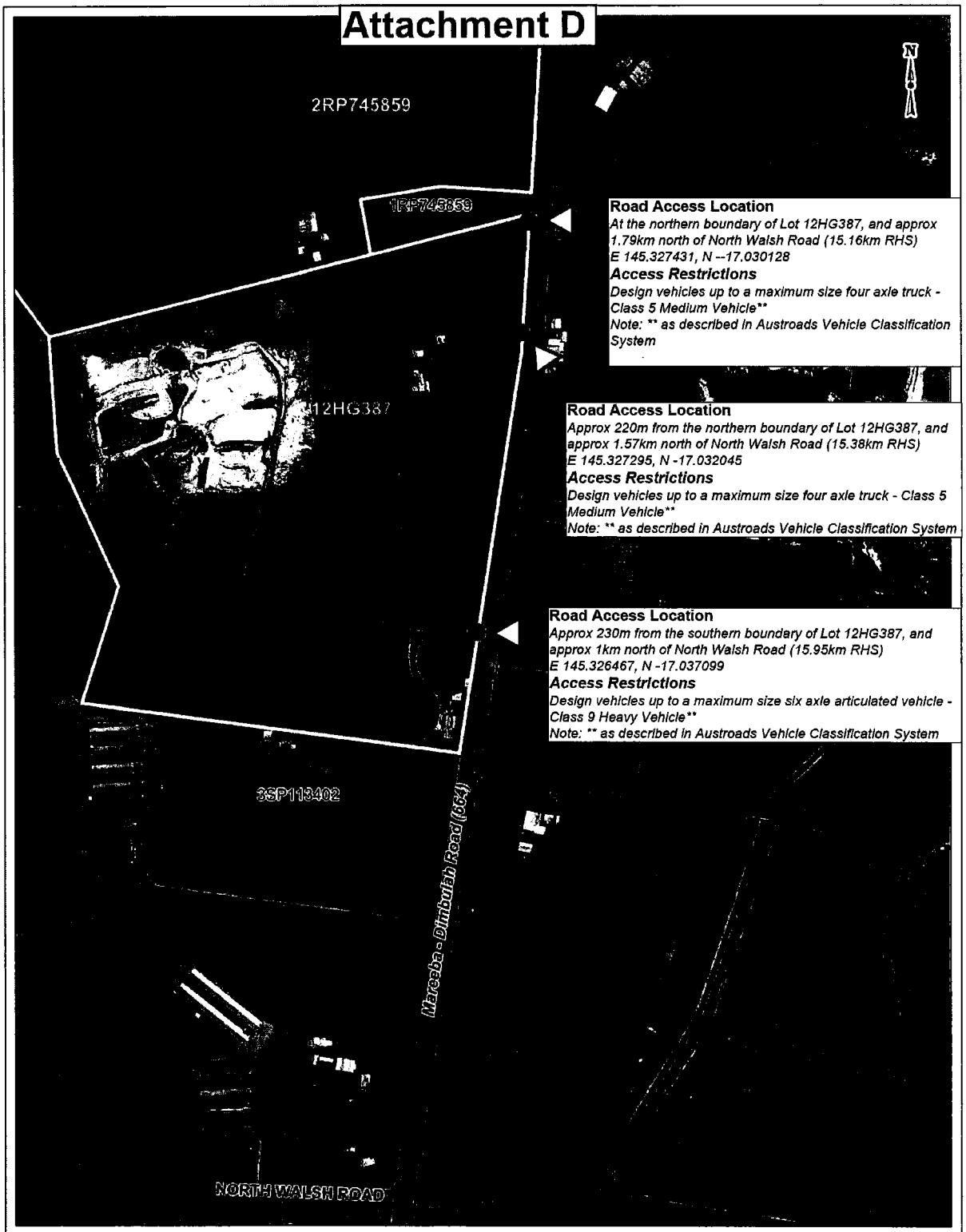
Decision

- The development application is for a material change of use for an extractive industry on Lot 2 on RP745859 and Lot 12 on HG387 (the subject site), located at 1506 and 1596 Mareeba Dimbulah Road, Arriga.
- The department issued a referral agency response with conditions, dated 5 December 2017 to attach to any development approval issued.

Relevant material

- Development application material including planning report prepared by RPS Australia East Pty Ltd, Report number 9369-8/R76881 and dated October 2017.
- State Development Assessment Provisions, version 2.1 published by the Department of Infrastructure, Local Government and Planning
- *Planning Act 2016*
- Planning Regulation 2017
- Development Assessment Rules version 1.1.

Attachment D



Branch/Unit: Corridor Management/Far North Region	**TMR Layout Plan (664 - 15.95km)**	Queensland Government Transport and Main Roads
Projection/Datum: Geocentric Datum of Australia (GDA) 1994		Plan No: 1 / 1 · Issue: A · Date: 09/11/2017
PROPERTY BOUNDARY		Drawn by: RPK · File ref: TMR17-22953 (500-1187)
SUBJECT LAND		

Disclaimer: While every care is taken to ensure the accuracy of this data, Pitney Bowes Software Pty Ltd and/or the State of Queensland and/or QR Limited makes no representations or warranties about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which you might incur as a result of the data being inaccurate or incomplete in any way and for any reason.

Lot 2 RP745859 & Lot 12 HG387
Proposal Plan
LEGEND
Subject Parcels
Proposed Haul Road
Proposed Extraction Areas
RPS
Imagery Date of Capture: 3/6/2015
0 1,000 2,000 3,000 4,000 5,000 10,000
PRELIMINARY - FOR DISCUSSION PURPOSES ONLY
Scale 1:10,000 @ A3 | Date 9-10-2017 | Drawing 9369-23
G:\CAD\PLAN\Road Corridor Permits\ACCESS\6841500-1187_TMR17-22853 Pioneer NQ (1596 Mba - Dimbulah Rd km)\Drawings (Read TMR 31-10-17)

Table A 8: Austroads vehicle classification systems (updated in 1994)

Level 1	Level 2		Level 3	Austroads classification	
Length (indicative)	Axles and axle groups		Vehicle type		
Type	Axles	Groups	Description	Class	Parameters
	Light vehicles				
Short Up to 5.5 m	2	1 or 2	Short Sedan, wagon, 4WD, utility, light van, bicycle, motorcycle, etc.	1	$d_1 \leq 3.2$ m and axles = 2
Medium 5.5 m to 14.5 m	3, 4 or 5	3	Short-towing trailer, caravan, boat, etc.	2	groups = 3, 2.1 m $\leq d_1 \leq$ 3.2 m $d_2 \geq$ 2.1 m, and axles = 3, 4 or 5
	Heavy vehicles				
	2	2	Two axle truck or bus	3	$d_1 >$ 3.2 m and axles = 2
	3	2	Three axle truck or bus	4	Axles = 3 and groups = 2
	> 3	2	Four axle truck	5	Axles > 3 and groups = 2
Long 11.5 m to 19.0 m	3	3	Three axle articulated or rigid vehicle and trailer	6	$d_1 >$ 3.2 m Axles = 3 and groups = 3
	4	> 2	Four axle articulated or rigid vehicle and trailer	7	$d_2 <$ 2.1 m, or $d_1 <$ 2.1 or $d_1 >$ 3.2 m Axles = 4 and groups > 2
	5	> 2	Five axle articulated or rigid vehicle and trailer	8	$d_2 <$ 2.1 m, or $d_1 <$ 2.1 or $d_1 >$ 3.2 m Axles = 5 and groups > 2
	6 > 6	> 2 3	Six axle (or more) articulated or rigid vehicle and trailer	9	Axles = 6 and groups > 2; or axles > 6 and groups = 3
Medium combination 17.5 m to 36.5 m	> 6	4	B Double or heavy truck and trailer	10	Axles > 6 and groups = 4
	> 6	5 or 6	Double road train or heavy truck and two trailers	11	Axles > 6 and groups = 5 or 6
Long combination over 33 m	> 6	> 6	Triple road train or heavy truck and three trailers	12	Axles > 6 and groups > 6

Definitions:

Group: (axle group) – where adjacent axles are less than 2.1 m apart

Groups: number of axle groups

Axles: number of axles (maximum axle spacing of 10 m)

d1: distance between first and second axle

d2: distance between second and third axle.

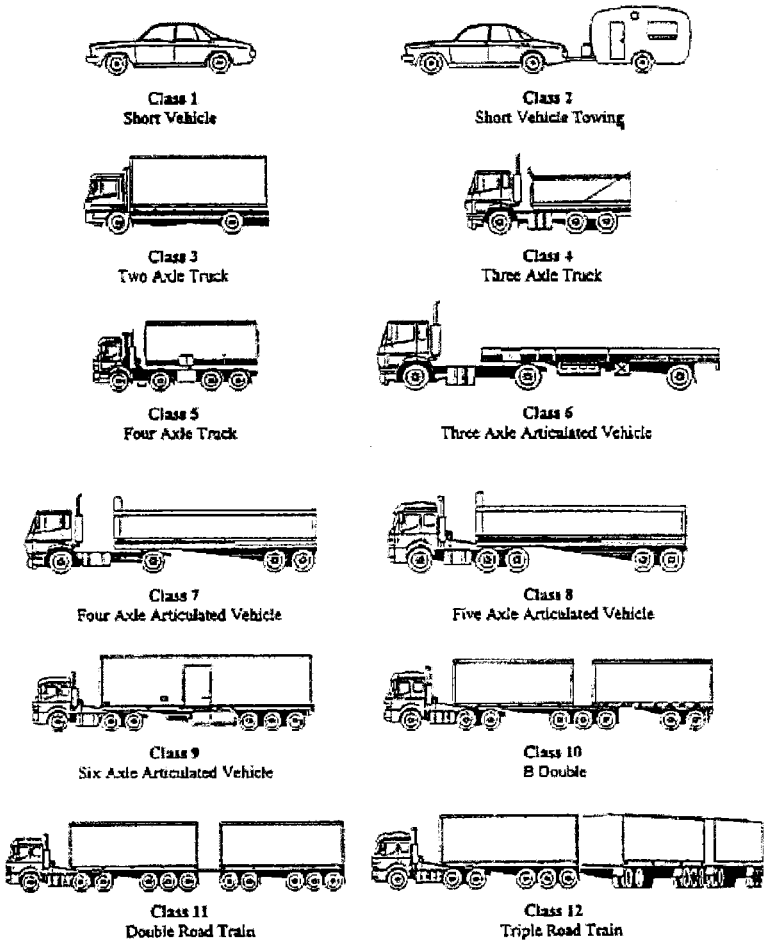


Figure A 13: Representative vehicles in Austroads 12-bin classification system

A.5.3 Methods of Collecting Vehicle Classification Data

Manual vehicle classification methods, based on either vehicle body type (e.g. surveys by the Australian Bureau of Statistics) or axle configurations (e.g. Austroads), have been used for many years. Manual methods are now largely confined to intersection turning movement counts. As these surveys require considerable human resources, they are costly and generally limited to short period counts – generally up to 12 hours duration.

Our ref TMR17-022953 (500-1187)
Your ref 9369-8
Enquiries Ronald Kaden

Queensland Government

Department of
Transport and Main Roads

10 November 2017

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

This is not an authorisation to commence work on a state-controlled road[1]

Development application reference number MCU/17/0013, lodged with Mareeba Shire Council involves constructing or changing a vehicular access between Lot 12HG387, 2RP745859, the land the subject of the application, and Mareeba - Dimbulah Road (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	Pioneer North Queensland C/- RPS Australia East Pty Ltd PO Box 1949 Cairns QLD 4870

Application Details

Address of Property	1596 Mareeba-Dimbulah Road, Arriga QLD 4880
Real Property Description	12HG387, 2RP745859
Aspect/s of Development	Development Permit for Material Change of Use for Extractive Industry (expansion)

Decision (given under section 67 of TIA)

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

No.	Conditions of Approval	Condition Timing
1	The permitted road access location for the extractive industry is approximately 230m from the southern boundary of lot 12HG387, in accordance with: 1. TMR Layout Plan (664 - 15.95km) Issue A 09/11/2017; and 2. Lot 2RP745859 & Lot 12HG387 Proposal Plan prepared by RPS dated 09-10-2017 reference 9369-23.	At all times.
2	The use of the permitted road access location described in Condition 1 is restricted to design vehicle and vehicle associated	At all times.

[1] Please refer to the further approvals required under the heading 'Further approvals'

Program Delivery and Operations Branch
Far North Region, Cairns Corporate Tower, 15 Lake Street Cairns Queensland 4870
PO Box 6185 Cairns Queensland 4870
Telephone (07) 4045 7151
Website www.tmr.qld.gov.au
ABN: 39 407 690 291

No.	Conditions of Approval	Condition Timing
	with the proposed development up to a maximum size six axle articulated vehicle - Class 9 Heavy vehicle** Note: **as described in Austroads Vehicle Classification System	
3	The other permitted road access locations for Lot 12HG387 are; 1. Approximately 230m from the northern boundary of lot 12HG387; and 2. At the northern boundary of lot 12HG387; in accordance with TMR Layout Plan (664 - 15.95km) Issue A 09/11/2017	
4	The use of the permitted road access locations described in Condition 3 are restricted to design vehicle and vehicle up to a maximum size four axle truck - Class 5 Medium vehicle** Note: **as described in Austroads Vehicle Classification System	At all times.
5	Direct access is prohibited between Mareeba - Dimbulah Road and lot 12HG387 at any other location other than the permitted road access locations described in Conditions 1 & 3.	At all times.
6	Direct access is prohibited between Mareeba - Dimbulah Road and lot 2RP745859.	At all times.

Reasons for the decision

The reasons for this decision are as follows:

a. Access to the proposed extractive site is via an existing haul route via Mareeba-Dimbulah Road, refer to RPS Proposal Plan DWG 9369-23.
b. A review of the road access by the department indicates that the access has been upgraded to include a Basic right turn treatment (BAR) and a Rural basic left turn treatment (BAL).
c. The department is of the opinion that the design of the access is sufficient to maintain the safety and efficiency of the state-controlled road.

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

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

1. There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.

2. 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 are 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.

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

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

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

Yours sincerely

Amod RIJAL
Principal Engineer (Civil)

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

Attachment A

Decision Evidence and Findings

Findings on material questions of fact:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version/Issue
Planning Report	RPS Australia East	20 October 2017	9369 / R76881	-
TMR Layout Plan	Queensland Government Transport and Main Roads	9 November 2017	TMR17-22953 (500-1187)	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.

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

231 Other appeals

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

(b) other conduct that relates to the making of a decision; and
(c) the making of a decision or failure to make a decision; and
(d) a purported decision ; and
(e) a deemed refusal.

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

232 Rules of the P&E Court

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