

DELEGATED REPORT

SUBJECT: PIONEER NORTH QLD PTY LTD – MATERIAL CHANGE OF USE – EXTRACTIVE INDUSTRY (EXPANSION) – LOT 2 ON RP745859 & LOT 12 ON HG387 – 1506 & 1596 MAREEBA-DIMBULAH ROAD, ARRIGA – MCU/17/0013

DATE: 20 December 2017

REPORT OFFICER'S TITLE: Senior Planner

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	Pioneer North QLD Pty Ltd	ADDRESS	1506 & 1596 Mareeba-Dimbulah Road, Arriga
DATE LODGED	26 October 2017	RPD	Lot 2 on RP745859 & Lot 12 on HG387
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use – Extractive Industry (expansion)		

FILE NO	MCU/17/0013	AREA	Lot 2 – 74.805 ha Lot 12 – 66.3684 ha
LODGED BY	RPS Australia East Pty Ltd	OWNER	Lot 2 – R Terranova Lot 12 – Pioneer North QLD Pty Ltd
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural zone		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	n/a		

ATTACHMENTS:

1. Proposal Plan/s
2. Department of Infrastructure, Local Government and Planning Referral Agency Response – 5 December 2017

EXECUTIVE SUMMARY

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

The application is code assessable as it involves the expansion of an existing extractive industry in the Rural zone. Being code assessable, the application was not required to undergo public notification.

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

Draft conditions were provided to the Applicant/care of their consultant and have been agreed.

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

OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	Pioneer North QLD Pty Ltd	ADDRESS	1506 & 1596 Mareeba-Dimbulah Road, Arriga
DATE LODGED	26 October 2017	RPD	Lot 2 on RP745859 & Lot 12 on HG387
TYPE OF APPROVAL	Development Permit		
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and in accordance with the Planning Act 2016, the applicant be notified that the application for a development permit for the development specified in (A) is:

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

And

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

(A) APPROVED DEVELOPMENT: Development Permit for Material Change of Use – Extractive Industry (expansion)

(B) APPROVED PLANS:

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

(C) 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.

(D) 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.

(E) REFERRAL AGENCY CONDITIONS

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

(F) RELEVANT PERIOD

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

- Material Change of Use – six (6) years (starting the day the approval takes effect);

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

- Nil

(H) OTHER APPROVALS REQUIRED FROM COUNCIL

- Nil

THE SITE

The subject site comprises land described as Lot 2 on RP745859 and Lot 12 on HG387, situated at 1506 & 1596 Mareeba-Dimbulah Road, Arriga. The site is approximately 11km south-west of Mareeba.

The site has a combined area of 141.17 hectares with a total frontage of approximately 1.15 kilometres to Mareeba-Dimbulah Road. Access to the site is obtained directly off Mareeba-Dimbulah Road via multiple established accesses.

Mareeba-Dimbulah Road is a State controlled road which is constructed to a bitumen sealed width of approximately 6.5 metres for the frontage with the subject site.

An extractive industry (sand quarry) is established over the western half of Lot 12 on HG387 and this application proposes to expand these quarry operations onto Lot 2 on RP745859.

The subject site is located within the Rural zone and is surrounded by agricultural activities, primarily horticultural production of mangoes and avocados, in addition to grazing. The site is also located within the Key Resource Area 151 which reflects the existing sand extraction activities that are conducted within the surrounding vicinity.

The site and surrounding areas are predominantly flat with minor undulations.

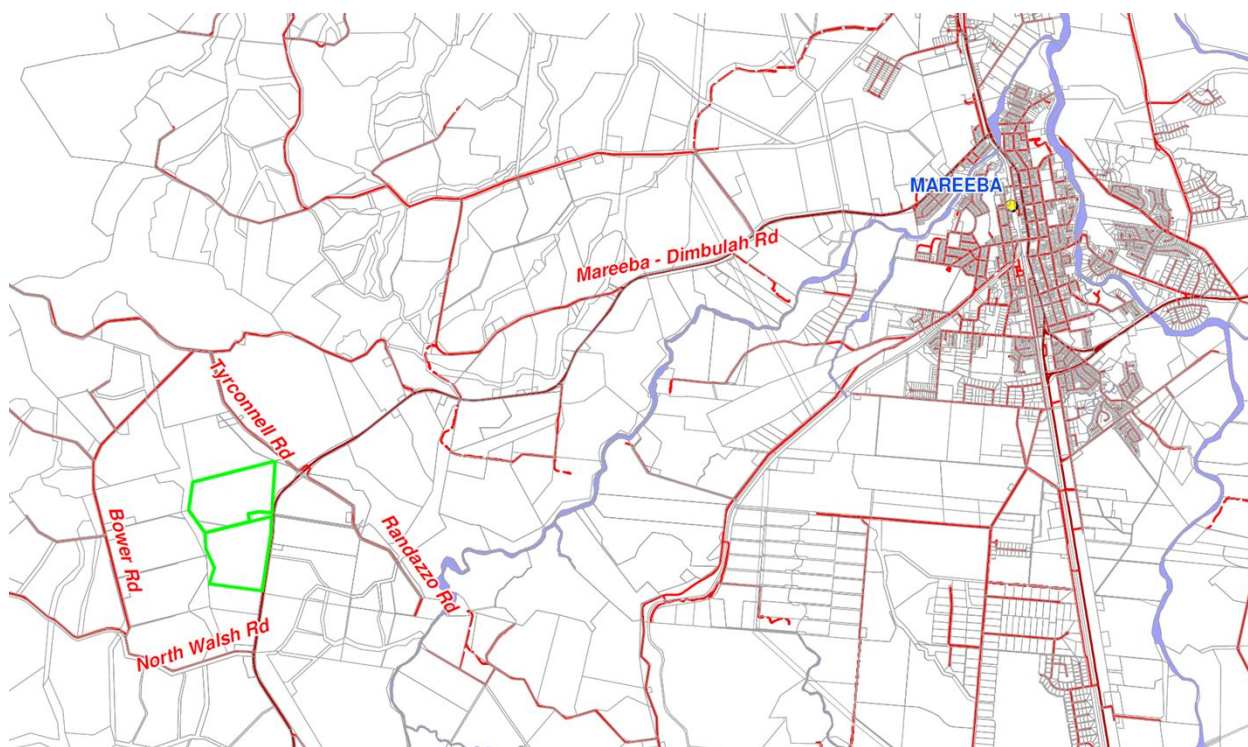
A farm residence and ancillary farm buildings exist on Lot 2 on RP745859 and Lot 12 on HG387 and in each instance, the farm building are located approximately 180m from the existing and proposed extractive Industry activities.

The area of sand extraction proposed on Lot 2 on RP745859 is located within mapped regulated vegetation.



Map Disclaimer:

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

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BACKGROUND AND CONTEXT

NIL

PREVIOUS APPLICATIONS & APPROVALS

On 6 March 2001, Council issued a development permit (MC2000/31) for Material Change of Use – Extractive Industry over land described as part of Lot 12 on HG387.

The approval allows for the progressive extraction of sand from approximately 21.5 hectares of Lot 12. To date, extraction has occurred over most of the approved area.

The current development application would expand the existing extractive industry operations onto adjoining Lot 2 on RP745859. The existing extractive industry access onto the Mareeba-Dimbulah Road would continue to be used by the expanded extractive industry.

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Material Change of Use – Extractive Industry (expansion) in accordance with the plans shown in **Attachment 1**.

The application proposes to expand the extractive industry activities currently occurring on Lot 12 on HG387 onto adjoining Lot 2 on RP745859. It is intended to continue extraction on Lot 12 on HG387 until the sand resource is exhausted. Once exhausted, sand extraction and processing will begin from approximately 18 hectares of Lot 2 on RP745859.

Access between both areas of extraction will continue via the established internal haul road and turnout onto the Mareeba-Dimbulah Road.

The following extractive industry processes will be carried out as part of the project.

- Clearing of vegetation;
- Removal and storage of topsoil in earthen bunds;
- Extraction of the sand resource;
- Screening of the material into stockpiles;
- Haulage off-site via the established access to the Mareeba-Dimbulah Road; and
- Stabilisation and rehabilitation of disturbed areas to facilitate future agricultural use.

The proposed extractive industry operation is intended to extract and process not more than 100,000 tonne of material per year.

The applicant advises that a separate application has been made to the Department of Environment and Heritage Protection for a Site Specific Environmental Authority over the expanded area, for the following:

- ERA 16 2(a) extracting, other than by dredging, in a year, 5,000t to 100,000t of material; and
- ERA 16 3(a) screening, in a year, 5,000t to 100,000t of material.

The potential environmental impacts typically associated with extraction and screening activities would be managed in accordance with the conditions of the environmental authority and an approved Environmental Management Plan.

The standard extractive industry operating hours of 7 am to 6 pm Monday to Friday and 7 am to 12 pm on Saturdays will apply. No activities will take place on Sundays or Public Holidays.

REGIONAL PLAN DESIGNATION

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

- *Terrestrial Area of General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

	Land Use Categories
Strategic Framework:	<ul style="list-style-type: none"> ▪ Rural Other
	Natural Resource Elements
	Key Resource Area
Zone:	Rural zone
	Airport environs overlay
	Bushfire hazard overlay
Overlays:	Environmental significance overlay
	Extractive resources overlay
	Transport infrastructure overlay

The proposed use is defined as:-

Column 1 Use	Column 2 Definition	Column 3 Examples include	Column 4 Does not include the following examples
<i>Extractive industry</i>	<i>Premises used for the extraction and/or processing of extractive resources and associated activities, including their transportation to market.</i>	<i>Quarry</i>	

RELEVANT PLANNING INSTRUMENTS

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

(a) Far North Queensland Regional Plan 2009-2031

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

(b) State Planning Policy

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

(c) Mareeba Shire Council Planning Scheme 2016

Relevant Development Codes

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

- 6.2.9 Rural zone code
- 8.2.2 Airport environs overlay code
- 8.2.3 Bushfire hazard overlay code
- 8.2.5 Extractive resources overlay code
- 8.2.12 Transport infrastructure overlay code
- 9.3.5 Industrial activities code
- 9.4.2 Landscaping code
- 9.4.3 Parking and access code
- 9.4.5 Works, services and infrastructure code

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

Relevant Codes	Comments
Rural zone code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Airport environs overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Bushfire hazard overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Extractive resources overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Transport infrastructure overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Industrial activities code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Landscaping code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Parking and access code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Works, services and infrastructure code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).

(e) Planning Scheme Policies

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

Where relevant, conditions will be attached to any approval requiring all development works be designed and constructed in accordance with the FNQROC Development Manual.

(f) Additional Trunk Infrastructure Condition (Section 130 of PA)

The subject land is located outside the identified Priority Infrastructure Area (PIA).

Section 130 of PA allows Council to condition additional trunk infrastructure outside the PIA.

As the existing extractive industry is accessed directly off the Mareeba-Dimbulah Road (State controlled road) and the proposed expansion will continue to use the same access, a road infrastructure condition is not proposed.

REFERRALS

The application triggered a referral to the State Referral Agency for state transport infrastructure and clearing of vegetation matters.

That Department advised in a response dated 5 December 2017 that they require the conditions to be attached to any approval (**Attachment 2**).

Internal Consultation

Technical Services

PLANNING DISCUSSION

NIL

Date Prepared: 20 December 2017

DECISION BY DELEGATE

DECISION

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

Dated the 20TH day of DECEMBER 2017



BRIAN MILLARD
SENIOR PLANNER

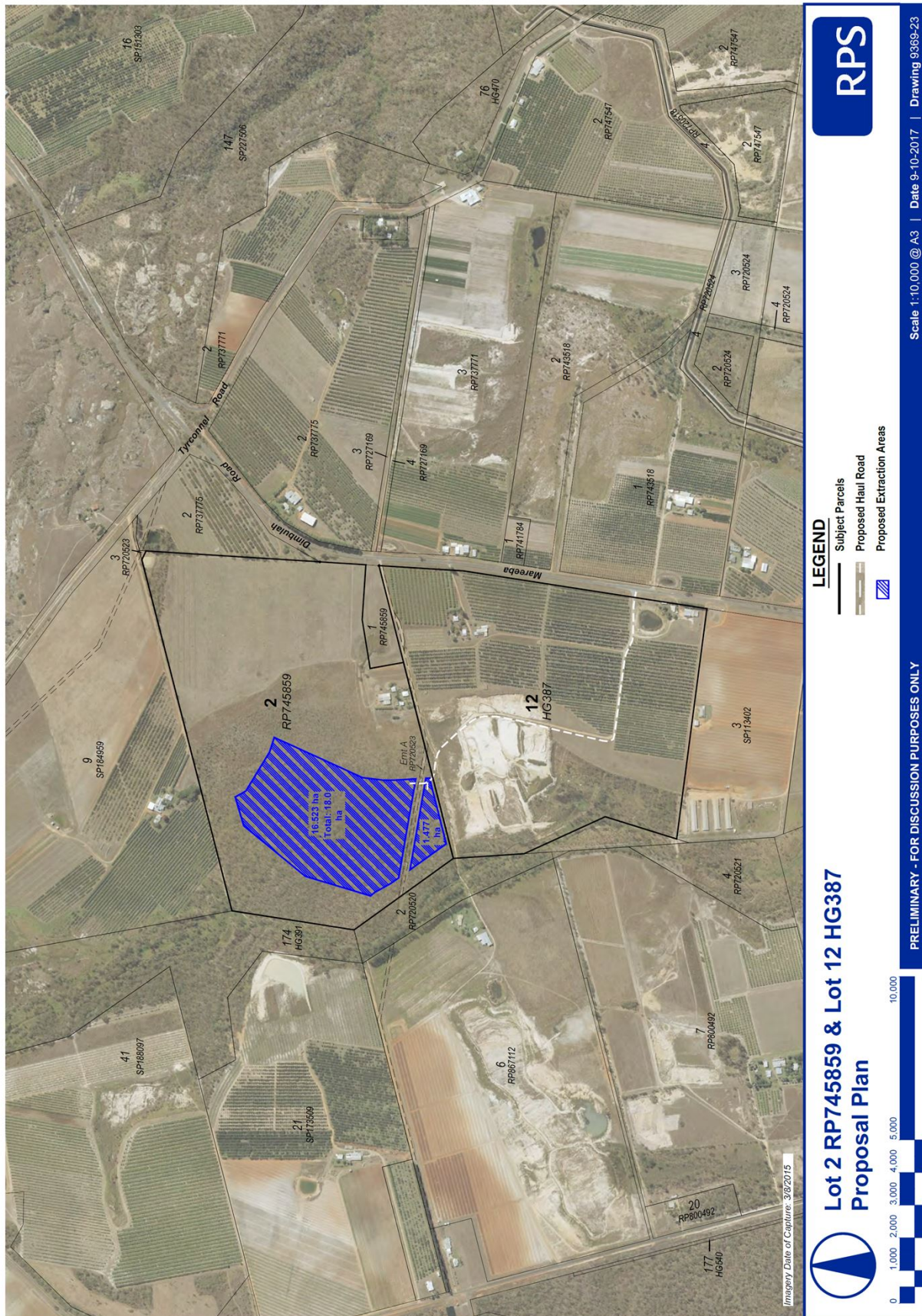


ANTHONY ARCHIE
MANAGER DEVELOPMENT & GOVERNANCE

MAREEBA SHIRE COUNCIL
AS A DELEGATE OF THE COUNCIL

ATTACHMENT 1

APPROVED PLANS



ATTACHMENT 2

RA6-N



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)
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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@diilgp.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

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 <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	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 <i>Planning Act 2016</i> 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

Attachment 2—Reasons for decision to impose conditions

The reasons for this decision are:

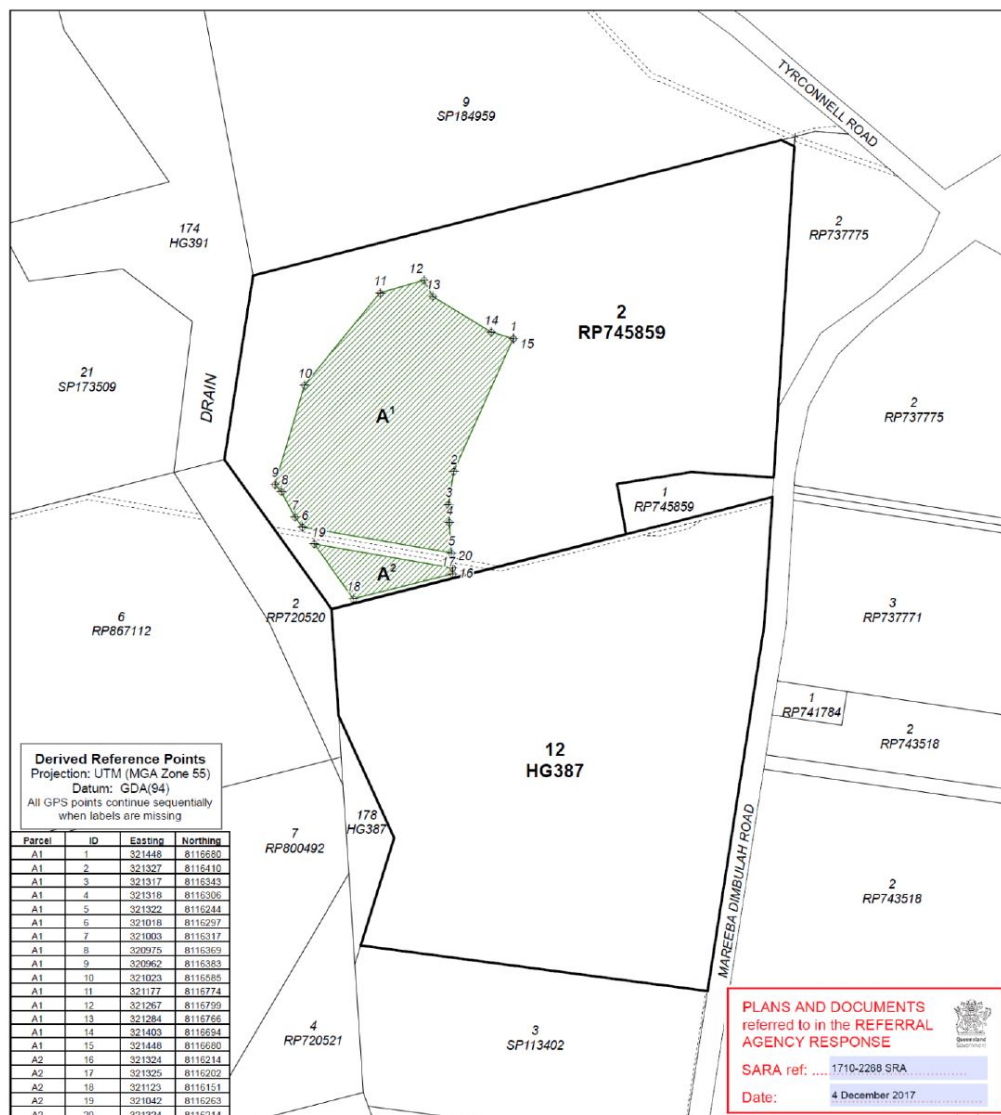
- To ensure the access to the state-controlled road from the site does not compromise the safety and efficiency of the state-controlled road.
- To maintain the safety and efficiency of the state-controlled road generally.
- To ensure compliance with the State Development Assessment Provisions.
- To ensure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

Attachment 3—Advice to the applicant

General advice	
Further development permits, compliance permits or compliance certificates	
1.	<p>In accordance with section 33 of the <i>Transport Infrastructure Act 1994</i> (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).</p> <p>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.</p>

Attachment 4—Approved Plans

1710-2268 SRA



1:7500 @ A3 size
0 50 100 200 300 400 500 600 700 m
Projection: UTM (MGA Zone 55) Datum: GDA94

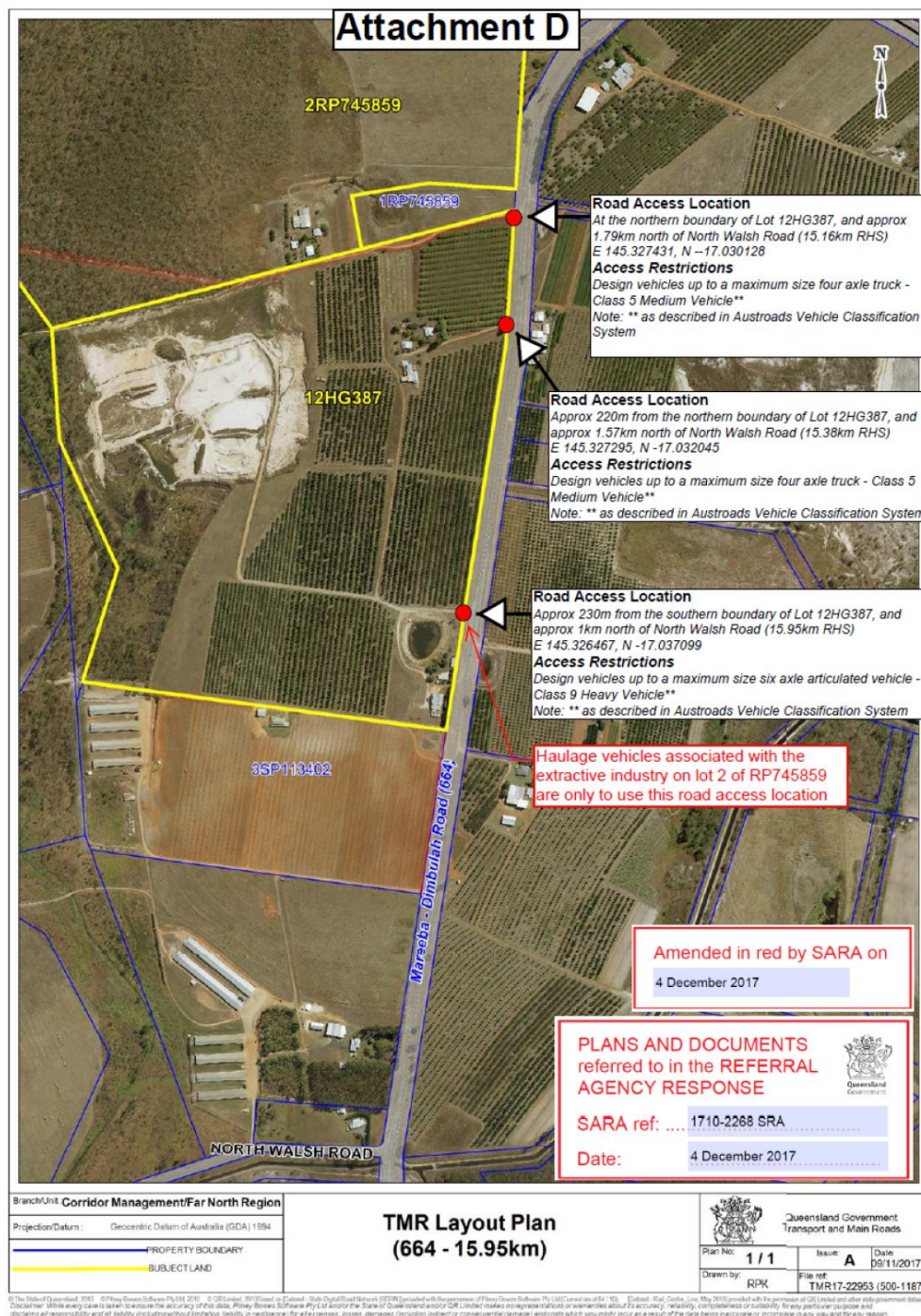
Note: Derived Reference Points are provided to assist in the location of the Referral Agency Response boundaries. Responsibility for locating these boundaries lies solely with the landholder and delegated contractor(s).

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		Technical Agency Response (Vegetation) Plan		CENTRE: MAREEBA LOCALITY OF ARRIGA	
+	Derived Reference Points for GPS	Plan of Area A (parts A ¹ and A ²) in Lot 12 on HG387 and Lot 2 on RP745859		REGION: NORTH LOCAL GOVT: MAREEBA SHIRE	
	Subject Lot(s)			Map Reference: 7993 Compiled from: DCDB, PVMP & VMO Notes	
	Area A (parts A ¹ and A ²)	eLVAS case: 2017/006140		TARP SDA-1710-2268 Sheet 1 of 1	
		File Reference: eDOCS 082/0001983		Prepared by: JA - j5383 Date: 07 November 2017	

1710-2268 SRA



GE78-N



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 code 16: 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

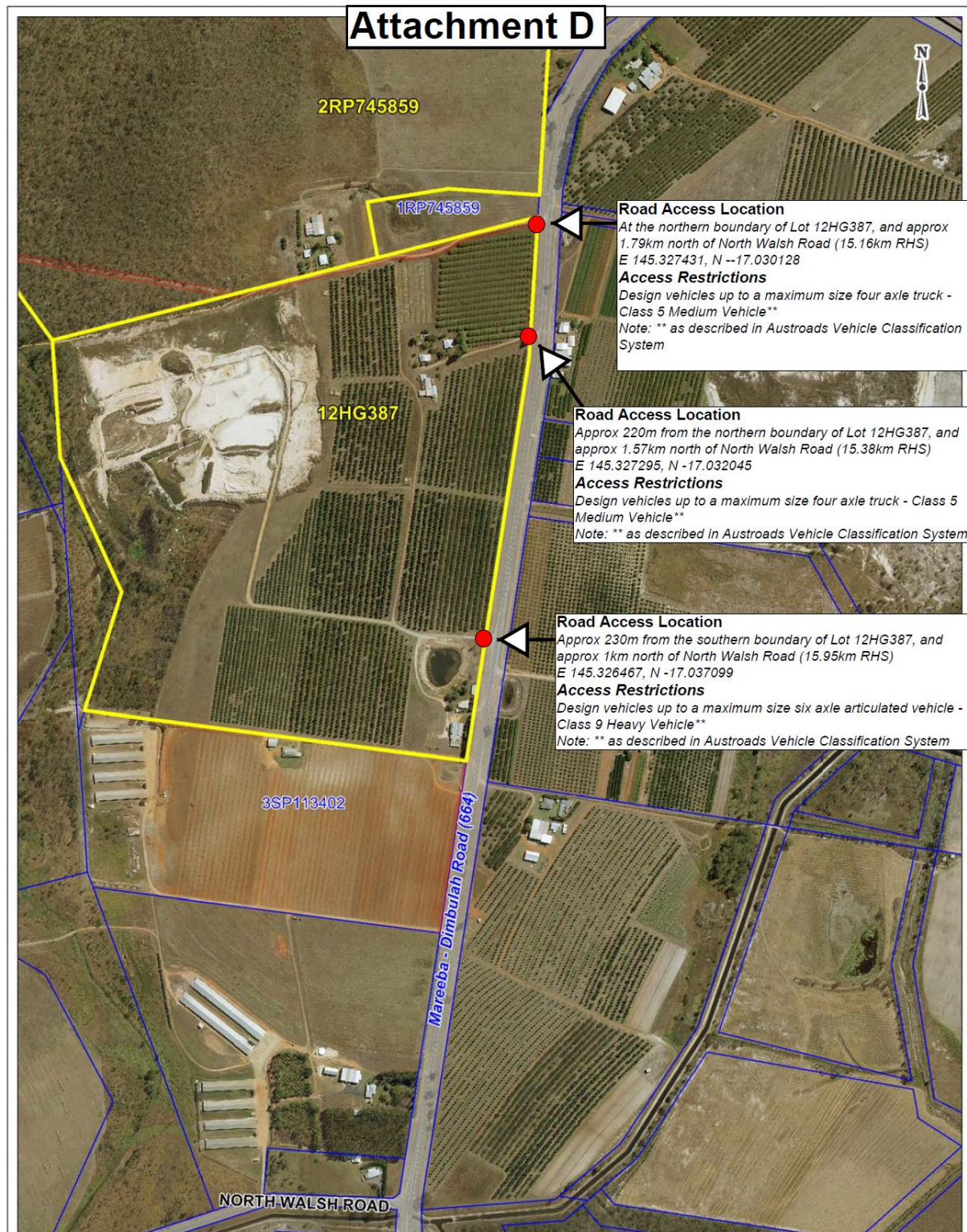
- The site contains vegetation that is identified on the Regulated Vegetation Management Map as category B with least concern status.
- The proposed development will involve the clearing of approximately 18 hectares of vegetation to facilitate an extractive industry development in a Key Resource Area (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.



Branch/Unit: Corridor Management/Far North Region

Projection/Datum: Geocentric Datum of Australia (GDA) 1994

— PROPERTY BOUNDARY

— SUBJECT LAND

TMR Layout Plan (664 - 15.95km)

Queensland Government
Transport and Main Roads

Plan No:	1 / 1	Issue:	A	Date:	09/11/2017
Drawn by:	RPK	File ref:	TMR17-22953 (500-1187)		

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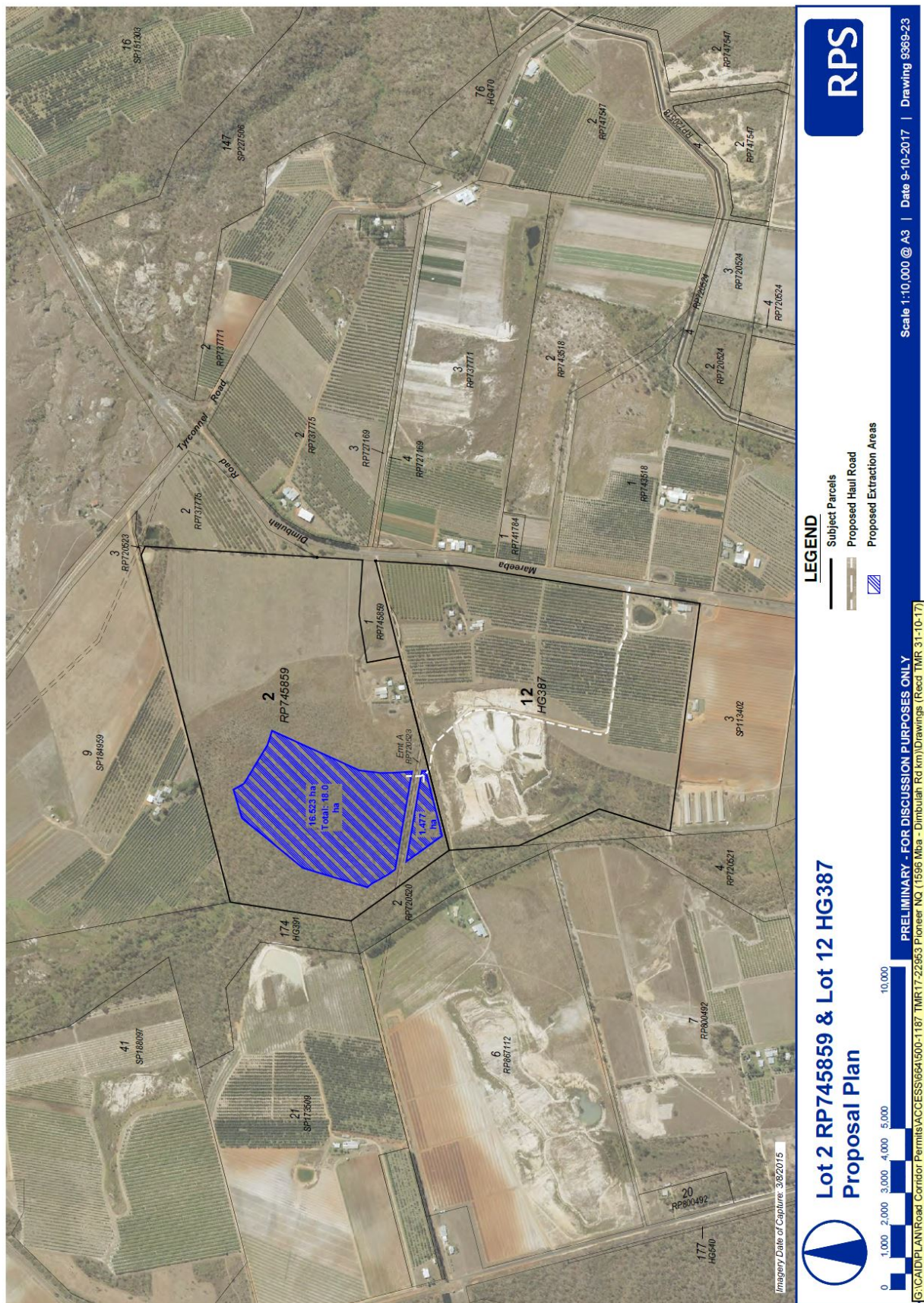


Table A 8: Austroads vehicle classification systems (updated in 1994)

Level 1	Level 2		Level 3	Austroads classification	
Length (indicative)	Axles and axle groups		Vehicle type		
Type	Axles	Groups	Description	Class	Parameters
Short Up to 5.5 m	Light vehicles				
	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, $2.1 \text{ m} \leq d_1 \leq 3.2 \text{ m}$ $d_2 \geq 2.1 \text{ m}$, 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.

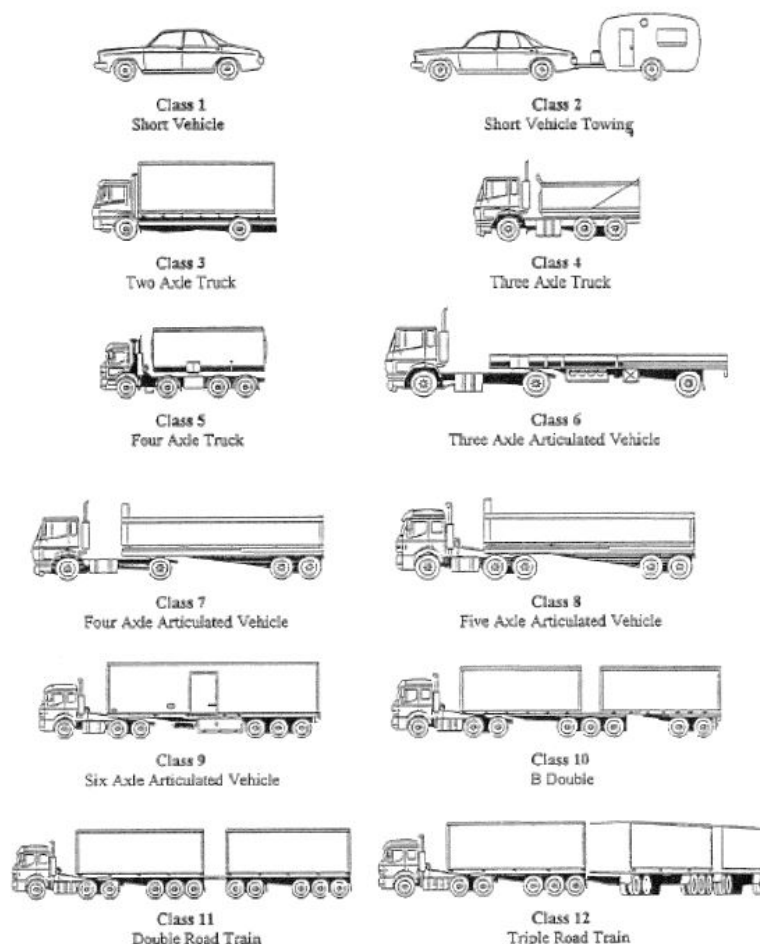


Figure A 13: Representative vehicles in Austroads 12-bin classification system

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



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 road¹

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.

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.