



Mareeba

SHIRE COUNCIL

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16 March 2023

Mareeba 232 Pty Ltd
C/- Urban Sync Pty Ltd
PO Box 2970
CAIRNS QLD 4870

Senior Planner: Brian Millard
Direct Phone: 4086 4657
Our Reference: MCU/22/0003
Your Reference: 21-740

Dear Applicants,

Decision Notice

Planning Act 2016

I refer to your application and advise that on 15 March 2023, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No:	MCU/22/0003
Street Address:	232 Byrnes Street and Close Street, Mareeba
Real Property Description:	Lot 78 on SP298287 and Lease A in Lot 20 on NR7137
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit for Material Change of Use – Shopping Centre and Food and Drink Outlet
Date of Decision:	15 March 2023

CURRENCY PERIOD OF APPROVAL

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

INFRASTRUCTURE

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

ASSESSMENT MANAGER CONDITIONS**(A) ASSESSMENT MANAGER’S CONDITIONS (COUNCIL)****(a) Development assessable against the Planning Scheme**

1. Development must be carried out generally in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
 - found necessary by Council’s delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
 - to ensure compliance with the following conditions of approval and the conditions of the State Referral Agency.
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 have been complied with, except where specified otherwise in these conditions of approval.
 - 2.3 Prior to the commencement of use, the applicant must provide a letter from the State Referral Agency confirming that the department is satisfied their conditions are complied with and/or that the department has no objections to the commencement of the use.
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 works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council’s delegated officer.

3.4 Emissions

Emissions associated with operational activities must not cause an 'environmental nuisance' within the meaning of the Environmental Protection Act (1994) to any sensitive receptor and comply with the Air Quality Objectives as stated within Schedule 1 of the Environmental Protection (Air) Policy 2019.

3.5 Waste Management

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

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

3.6 Trolley Bays

Trolley bay areas must be provided on the site generally in accordance with Drawing No. TA#19.0298.17 A1.02 Rev. 14.

3.7 Rubbish Bins

Waste bins must be provided at each pedestrian entrance to the proposed development.

3.8 Amenity

3.8.1 The southern wall of the supermarket must be finished in a combination of Woolworths green, Dulux monument and Dulux vivid white to prevent the dominance of any one colour, to the satisfaction of Council's delegated officer.

3.8.2 All building materials and colours to be used must be non-reflective and be generally in accordance with the approved plans to the satisfaction of Council's delegated officer.

3.9 No trucks, other than service vehicles for the shopping centre, are permitted to park on the subject land when the shopping centre is closed to the public. All service vehicles must leave the subject land as soon as reasonably practical after serving the shopping centre.

3.10 Advertising signage

The placement and sizing of advertising signage is to be generally in accordance with the approved plans.

4. Infrastructure Services and Standards

4.1 Access – Rankin Street

Any crossover/s used to access the development must be constructed to Commercial standard (from the edge of the road pavement to the property boundary of the subject lot) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

Where applicable, the applicant/developer must ensure that any redundant vehicle crossovers are removed and reinstated with kerb and channel.

4.2 Stormwater Drainage/Water Quality

- 4.2.1 The applicant/developer must take all reasonable steps to ensure a non-worsening effect on surrounding land as a consequence of the development.
- 4.2.2 Prior to the issue of a development permit for operational works, the applicant/developer must submit a revised Stormwater Management Plan prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards of design and construction set out in the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual, to the satisfaction of Council's delegated officer.
- 4.2.3 The applicant/developer must construct the stormwater drainage infrastructure in accordance with the approved Stormwater Management Plan.
- 4.2.4 All stormwater drainage must be collected from site and discharged to an approved legal point of discharge.

4.3 Car Parking/Internal Driveways

The applicant/developer must ensure that the development is provided with on-site car parking spaces, generally in accordance with Drawing No. TA#19.0298.17 A1.02 rev.14, which are available for use solely for the parking of vehicles associated with the use of the premises. All car parking spaces must be sealed, line-marked and appropriately drained prior to the commencement of the use, to the satisfaction of Council's delegated officer.

Car parking shade structures must generally be provided in accordance with Drawing No. TA#19.0298.17 A1.01 rev. 18A.

Prior to the issue of a development permit for operational works, the applicant/developer must submit engineering plans and specifications, prepared by a Registered Professional Engineer of Queensland (RPEQ) or an Architectural Building Designer, for the construction of proposed car parking facilities and internal driveways demonstrating:

- Compliance with Australian Standard AS2890.1 Off Street Parking – Car Parking Facilities;
- Compliance with Australian Standard AS2890.2 – Parking Facilities (Off-street Parking) Commercial Vehicle Facilities;
- Compliance with Australian Standard AS2890.3 Bicycle Parking Facilities;
- Compliance with Australian Standard AS2890.6 – Parking Facilities – Off-street parking for people with disabilities;
- A sign must be erected in proximity to the access driveway indicating the availability of on-site car parking.

4.4 Frontage Works - Byrnes Street

The applicant/developer is required to construct the following works, designed in accordance with FNQROC Development Manual standards (as amended) to

the satisfaction of Council's delegated officer and the Department of Transport and Main Roads:

- 4.4.1 Kerb and channelling for the full frontage of Lot 78 on SP298287.
- 4.4.2 Signage and line marking as per the Department of Transport and Main Roads Manual of Uniform Traffic control Devices (MUTCD).
- 4.4.3 Entry/exit arrangements in accordance with the extent of works shown on Drawing No. TA#19.0298.17 A1.02 Rev.14.
- 4.4.4 A paved footpath, including kerb ramps and associated tactile indicators must be constructed on Byrnes Street to the general extent indicated on Drawing No. TA#19.0298.17 A1.02 Rev.14. The footpath must be constructed in accordance with the FNQROC Development Manual. No section of paved footpath is to be less than two (2) metres in width.

Prior to the issue of a development permit for operational works, the applicant/developer must submit engineering plans and specifications for the construction of proposed works.

4.5 Frontage Works - Rankin Street

The applicant/developer is required to construct the following works, designed in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer:

- 4.5.1 Kerb and channelling for the full frontage of Lot 78 on SP298287.
- 4.5.2 Signage and line marking as per the Department of Transport and Main Roads Manual of Uniform Traffic control Devices (MUTCD).
- 4.5.3 On street car parking and entry/exit arrangements in accordance with the extent of works shown on Drawing No. TA#19.0298.17 A1.02 Rev.14
- 4.5.4 A paved footpath, including kerb ramps and associated tactile indicators must be constructed on Rankin Street to the general extent indicated on Drawing TA#19.0298.17 A1.02 Rev.14. The footpath must be constructed in accordance with the FNQROC Development Manual. No section of paved footpath is to be less than two (2) metres in width.

Prior to the issue of a development permit for operational works, the applicant/developer must submit engineering plans and specifications for the construction of proposed works.

4.6 Frew Street Works

The applicant/developer is required to construct the following works, designed in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer:

- 4.6.1 Widening of the sealed pavement on the western side of Frew Street to the existing kerb and channel.
- 4.6.2 Appropriate line marking to allow for RV/larger vehicle parking on the western side of Frew Street.

4.6.3 Construction of a cul-de-sac head at the southern end of Frew Street to allow for turning of RV/larger vehicles.

4.6.4 Construction of concrete footpath and pedestrian level crossing as shown on Drawing No. 1604-002 Revision F in accordance with the FNQROC Development Manual and Queensland Rail standards. No section of paved footpath is to be less than two (2) metres in width.

Prior to the issue of a development permit for operational works, the applicant/developer must submit engineering plans and specifications for the construction of proposed works.

4.7 Landscaping

4.7.1 The development must be landscaped in accordance with an approved landscape plan.

4.7.2 Prior to the issue of the development permit for operational works, a detailed landscape plan must be prepared for the site and submitted to Council's delegated officer for consideration and approval.

4.7.3 The landscape plan should be generally consistent with green areas shown on Drawing No. TA#19.0298.17 A1.02 Rev.14 and demonstrate compliance with the Landscaping Code. Plant species are to be generally selected from the Plant Schedule in Planning Scheme Policy 6 - Landscaping and preferred plant species.

4.7.4 The landscape plan must also provide for the landscaping of Byrnes Street and Rankin Street frontages.

4.7.5 A minimum of 25% of new plants is provided as larger, advanced stock with a minimum plant height of 0.7 metres and mulched to a minimum depth of 0.1 metres with organic mulch.

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

4.8 Lighting

All lighting installed upon the premises including car parking areas must be certified by Ergon Energy (or such other suitably qualified person). The vertical illumination at 1.5 metres outside the boundary of the subject land must not exceed eight (8) lux measured at any level upwards from ground level.

4.9 Water Supply

4.9.1 The applicant/developer must connect the proposed development to the Council's reticulated water supply system in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Where the existing reticulated water supply does not currently service the site or is not at an adequate capacity to serve the proposed development requirements, the applicant/developer is required to extend the reticulated water supply infrastructure to connect the site

to Council's existing infrastructure at a point that has sufficient capacity to service the development requirements in accordance with FNQROC Development Manual Standard (as amended).

- 4.9.2 Prior to the issue of a development permit for operational works, the applicant/developer must submit engineering plans and specifications for the connection of the development to Council's reticulated water supply system demonstrating compliance with Condition 4.9.1.

The engineering plans and specifications for the connection, including any requirement for onsite firefighting storage, must be accompanied by an engineering report demonstrating that Council's existing infrastructure will be able to provide the minimum acceptable standard of service for water reticulation.

4.10 Sewerage Connection

- 4.10.1 The applicant/developer must connect the proposed development to Council's reticulated sewerage system in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Where sewerage connections are not available to the site, or where existing connections are not satisfactory for the proposed development, the applicant/developer is required to extend the reticulated sewerage infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

- 4.10.2 Prior to the issue of a development permit for operational works, the applicant/developer must submit engineering plans and specifications for the connection of the development to Council's reticulated sewerage system demonstrating compliance with Condition 4.10.1.

REFERRAL AGENCIES

The referral agencies applicable to this application are:

Aspect of development stated in schedule 20		
Development application for an aspect of development stated in schedule 20 that is assessable development under a local categorising instrument or section 21, if—	Part 9, Division 4, Subdivision 1, Table 1	State Assessment & Referral Agency (SARA) Department of State Development, Infrastructure, Local Government and Planning PO Box 2358 Cairns Qld 4870 CairnsSARA@dsdilgp.qld.gov.au
(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.		
Material change of use of premises near a State transport corridor or that is a future State transport corridor		
Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorising instrument, if all or part of the premises— (a) are within 25m of a State transport corridor; or (b) are a future State transport corridor; or (c) are— (i) adjacent to a road that intersects with a State-controlled road; and (ii) within 100m of the intersection	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4	State Assessment & Referral Agency (SARA) Department of State Development, Infrastructure, Local Government and Planning PO Box 2358 Cairns Qld 4870 CairnsSARA@dsdilgp.qld.gov.au

A copy of any referral agency conditions are attached.

APPROVED PLANS

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
TA#19.0298.17 A0.00 rev. 7	Cover Sheet	Thomson Adsett	18/01/2023
TA#19.0298.17 A0.10 rev. 7	Site Context	Thomson Adsett	18/01/2023
TA#19.0298.17 A1.01 rev. 18A	Site Plan	Thomson Adsett	19/12/2022

TA#19.0298.17 A1.02 rev. 14	Development Plan	Thomson Adsett	18/01/2023
TA#19.0298.17 A2.01 rev. 12	Ground Floor Plan - Supermarket	Thomson Adsett	18/01/2023
TA#19.0298.17 A2.02 rev. 6	Roof Plan - Supermarket	Thomson Adsett	18/01/2023
TA#19.0298.17 A2.03 rev. 6	Elevations - Supermarket	Thomson Adsett	18/01/2023
TA#19.0298.17 A2.04 rev. 6	Elevations - Supermarket	Thomson Adsett	18/01/2023
TA#19.0298.17 A2.05 rev. 6	Sections - Supermarket	Thomson Adsett	18/01/2023
TA#19.0298.17 A4.01 rev. 6	Ground Floor Plan – Fast Food	Thomson Adsett	11/07/2022
TA#19.0298.17 A4.02 rev. 5	Elevations – Fast Food	Thomson Adsett	06/07/2022
TA#19.0298.17 A5.01 rev. 6	3D Views	Thomson Adsett	18/01/2023
TA#19.0298.17 A5.02 rev. 6	3D Views	Thomson Adsett	18/01/2023
1604-002 Rev. F	Rankin Street Median Extension Concept	Trinity Engineering and Consulting	22/12/22

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) An Adopted Infrastructure Charges Notice has been issued with respect to the approved development. The Adopted Infrastructure Charges Notice details the type of infrastructure charge/s, the amount of the charge/s and when the charge/s are payable.
- (b) The Adopted Infrastructure Charges Notice does not include all charges or payments that are payable with respect to the approved development. 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.
- (c) Food Premises

Premises proposed for the storage and preparation, handling, packing or service of food must comply with the requirements of the Food Act 2006.
- (d) A Trade Waste Permit will be required prior to the commencement of use.
- (e) 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.

(f) 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.

(g) 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.dcceew.gov.au.

(h) 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.dsdsatsip.qld.gov.au.

(B) REFERRAL AGENCY CONDITIONS

State Assessment and Referral Agency response dated 24 February 2023.

FURTHER DEVELOPMENT PERMITS REQUIRED

- Development Permit for Operational Work
- Development Permit for Building Work

SUBMISSIONS

There were two (2) properly made submissions about the application. In accordance with the *Planning Act 2016*, the name, residential or business address, and electronic address of the principal submitter for each properly made submission is provided below:

Name of Principal submitter	Address
1. C Roll	carlieroll@hotmail.com
2. J Burnett	joelineburnett@gmail.com

RIGHTS OF APPEAL

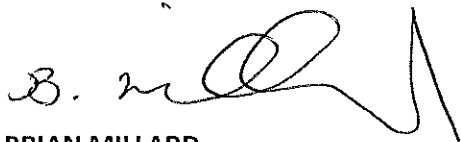
You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

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

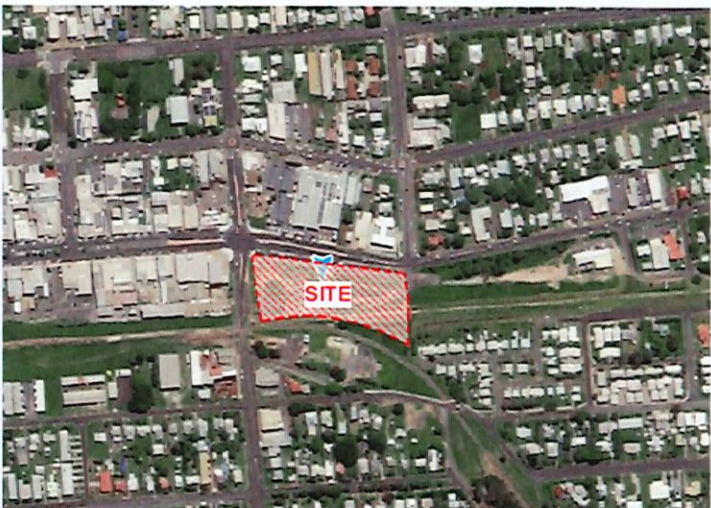


BRIAN MILLARD
SENIOR PLANNER

Enc: Approved Plans/Documents
 Referral Agency Response
 Appeal Rights
 Adopted Infrastructure Charge Notice

Copy: Department of State Development, Manufacturing, Infrastructure and Planning
 CairnsSARA@dsdilgp.qld.gov.au

Approved Plans/Documents



EXISTING VIEW FROM CORNER OF BYRNES & PARKIN STREET

MAREEBA NEIGHBOURHOOD SHOPPING CENTRE

232 BYRNES STREET, MAREEBA

DRAWING LIST - CONCEPT

A	0.00	COVER SHEET
A	0.10	SITE CONTEXT PLAN
A	1.01	SITE PLAN
A	1.02	DEVELOPMENT PLAN
A	2.01	GROUND FLOOR PLAN - SUPERMARKET
A	2.02	ROOF PLAN - SUPERMARKET
A	2.03	ELEVATIONS - SUPERMARKET
A	2.04	ELEVATIONS - SUPERMARKET
A	2.05	SECTIONS - SUPERMARKET
A	4.01	GROUND FLOOR PLAN - FAST FOOD
A	4.02	ELEVATIONS - FAST FOOD
A	5.01	3D VIEWS
A	5.02	3D VIEWS

DEVELOPMENT APPLICATION

MAREEBA NEIGHBOURHOOD SHOPPING CENTRE
232 BYRNES STREET, MAREEBA
MAREEBA 232 PTY LTD

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Drawing No. MAREEBA/2022/0003
Drawing Title: Concept Development Plan
Drawing Date: 16/03/2023
Drawing By: J. Adsett
Drawing For: MAREEBA 232 PTY LTD

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Email: info@thomsonadsett.com
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Fortitude Valley
Queensland 4006 Australia
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thomson
adsett

TA # 19.0298.17

COVER SHEET

1:100 A1

A0.00

16/03/2023

rev. 7



1 SITE CONTEXT PLAN
1:200

PROPOSED MAREEBA
NEIGHBOURHOOD SHOPPING CENTRE

DEVELOPMENT APPLICATION



MAREEBA NEIGHBOURHOOD SHOPPING CENTRE
232 BYRNES STREET, MAREEBA
MAREEBA 232 PTY LTD

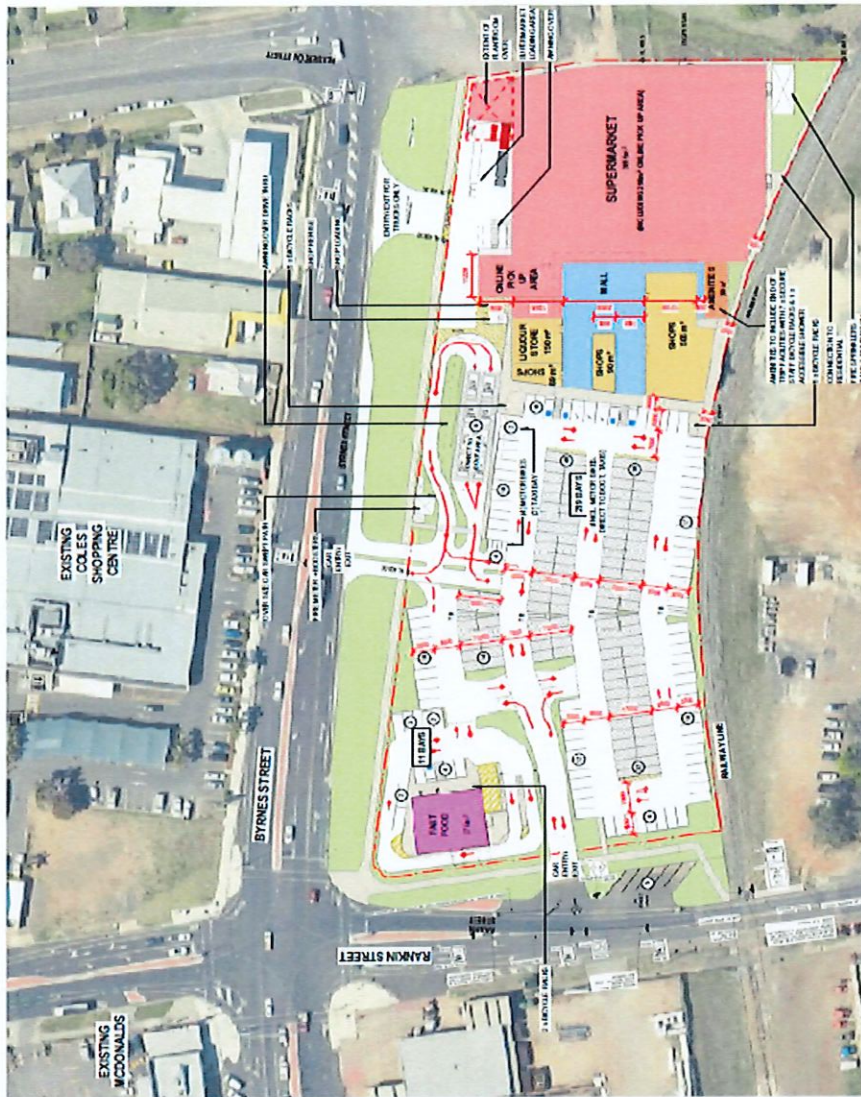
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**thomson
adsett**
TA # 19,0298.17

SITE CONTEXT PLAN
1:250 @ A1
19/05/2023
rev. 7

16/3/2023
B. n. [Signature]



DEVELOPMENT SCHEDULE	
PROPOSED USES	GFA
SUPERMARKET	3655m ²
SHOPS	814m ²
AMENITIES	90m ²
FAST FOOD	270m ²
TOTAL	4829m ²
CAR PARKING SCHEDULE	
CARS FAST FOOD	11
CARS CENTRE	219
ON SITE CARS	230
STREET CARS	5
TOTAL CARS PROVIDED	235
TOTAL CARS REQUIRED	186

NOTE:
CARS REQUIRED IS BASED ON:
1150 UP TO 400m² GFA
1125 ABOVE 400m² GFA

NOTE: SUPERMARKET GLAR EXCLUDES
EXTERNAL WALLS AND LOADING DOCK
COVERED CARPARKS
AREA OF ENCLOSED MALL /
PASSAGE - 637m²

DEVELOPMENT APPLICATION

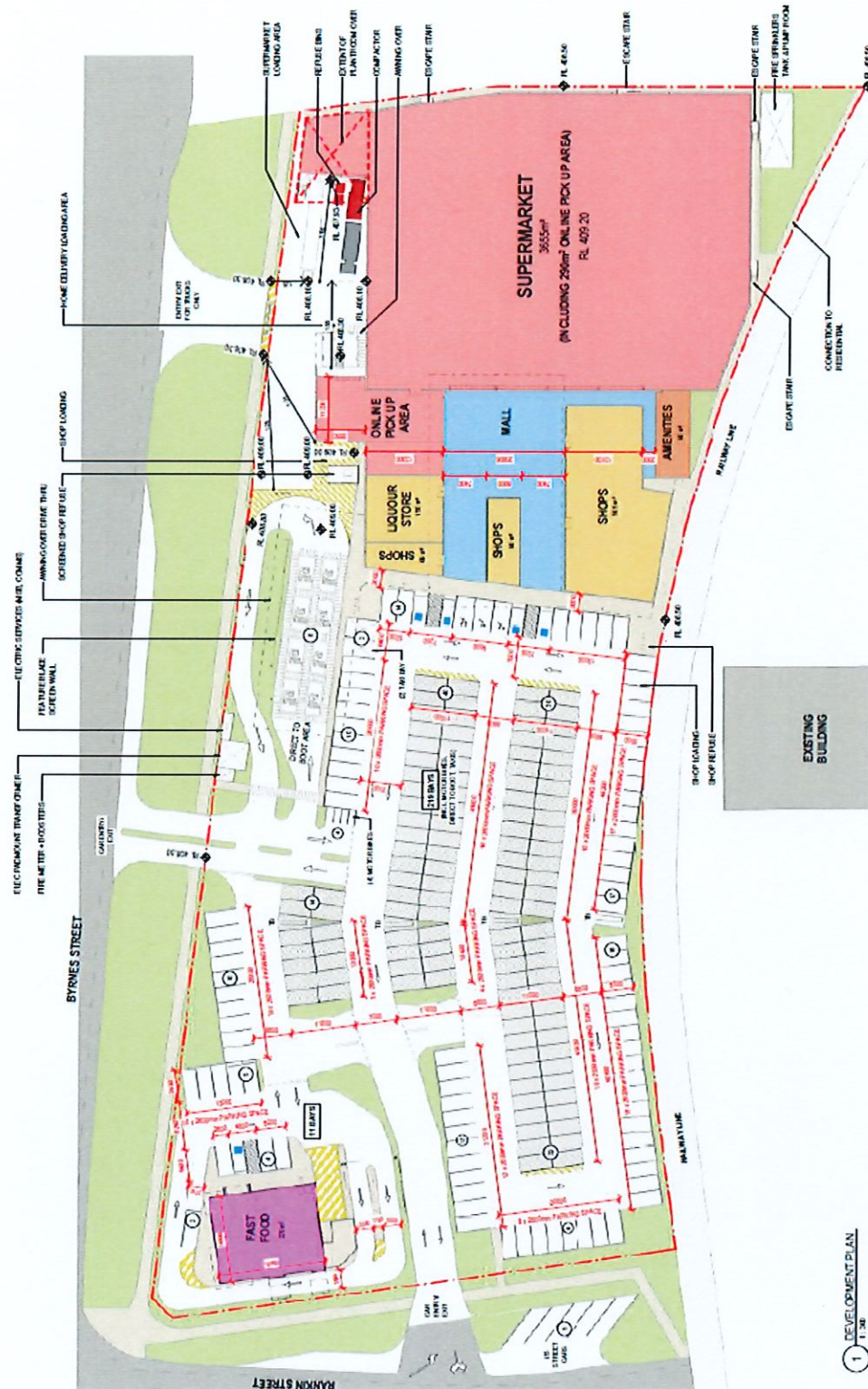
MAREEBA NEIGHBOURHOOD SHOPPING CENTRE
222 BYRNES STREET, MAREEBA
MAREEBA 2322 PTY LTD

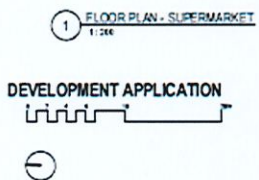
thomson adsett
SITING PLAN
As indicated @ A1
TA # 19 0258.17 A1 D1
19/03/2022
rev. 18A

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16/3/2023
B. v. [Signature]





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GROUND FLOOR PLAN - SUPERMARKET

1:200 @ A1 18/11/2023

A2.01 rev. 12

16/3/2023
S. V.



DEVELOPMENT APPLICATION

DEVELOPMENTAL AFFECTION

Q

MAREEBA NEIGHBOURHOOD SHOPPING CENTRE

220 HYPOXIS STREET, WASHING

WARGEEBA 232 PTY LTD

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 Email: enquiries@harrington.co.uk
 Website: www.harrington.co.uk

thomson
adsett

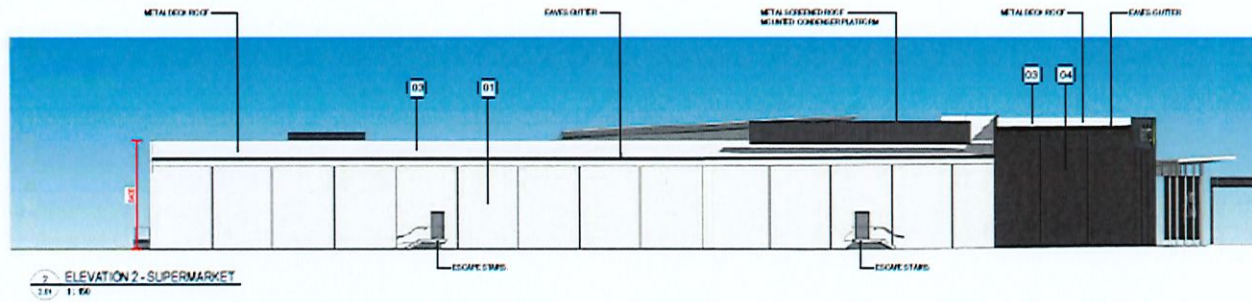
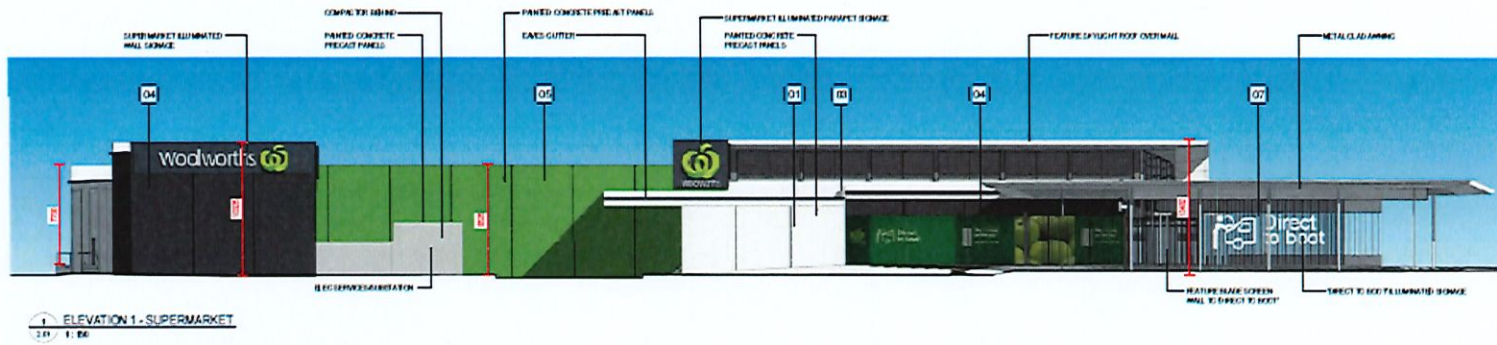
ROOF PLAN - SUPERMARKET

1990

TA # 19.0298.17 A2.02

9. 101

16/3/2023
B. Z. Q.



1	PRECAST CONCRETE PANEL PAINTED GLOSS "MILK WHITE"	3	LONGLINE METAL SHEETING GULLY/MONUMENT	5	PRECAST CONCRETE PANEL PAINTED "WOODEN OAK GREEN"	7	ALUMINIUM FEATURE BLADES PAINTED GLOSS "MILK WHITE"
2	PC CLADDING PAINTED GLOSS "MILK WHITE"	4	PRECAST CONCRETE PANEL PAINTED GLOSS "MILK WHITE"	6	CLEAR GLAZING POWDER COAT ALUMINIUM FRAME DARK GREY	8	POWDER COATED METAL CAPRISOL GUTTER COMPOSITE ROLLER SHUTTER PAINTED GLOSS "MILK WHITE"

DEVELOPMENT APPLICATION

MAREEBA NEIGHBOURHOOD SHOPPING CENTRE
200 BYRNES STREET, MAREEBA
MAREEBA 232 PTY LTD

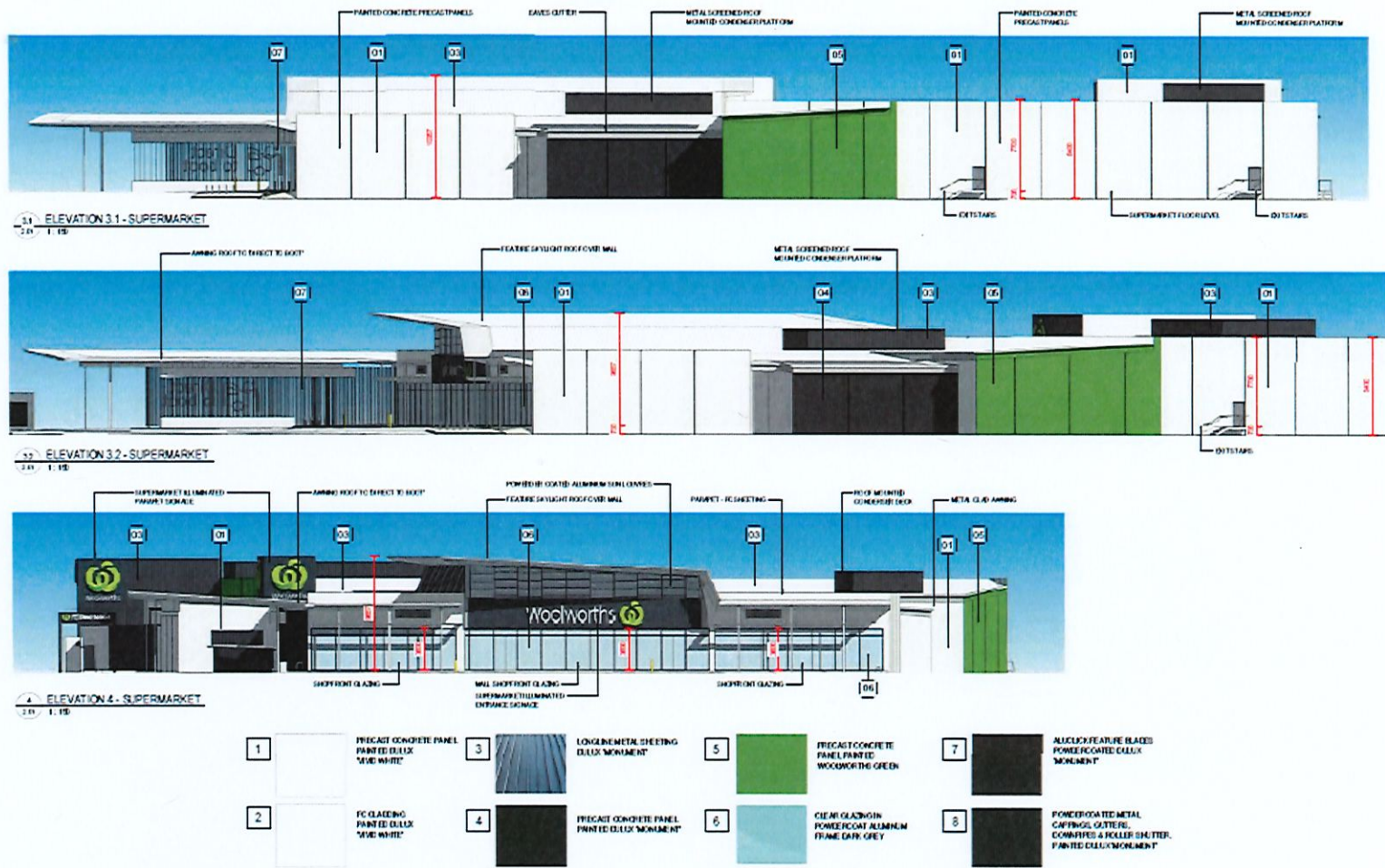
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thomson
adsett
TA # 19.0298.17
A2.03

ELEVATIONS - SUPERMARKET
As indicated @ A1
10/01/2023
rev. 6

16/3/2023
S. n. d. n.



DEVELOPMENT APPLICATION

MAREEBA NEIGHBOURHOOD SHOPPING CENTRE
232 BYRNES STREET, MAREEBA
MAREEBA 232 PTY LTD

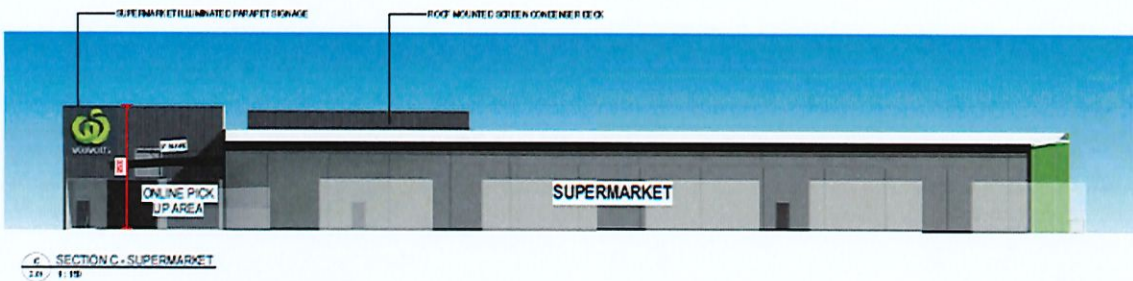
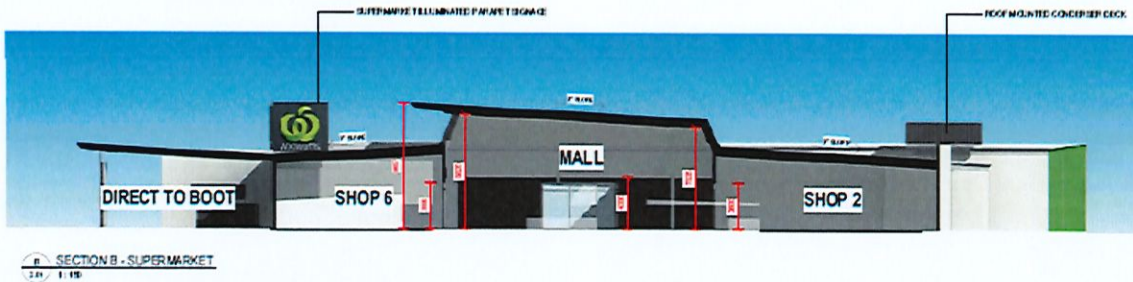
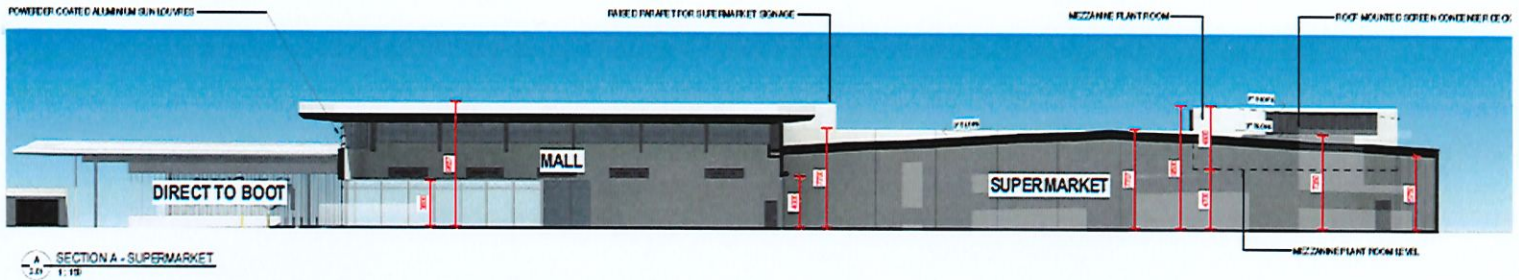
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ELEVATIONS - SUPERMARKET
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18/01/2023
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DEVELOPMENT APPLICATION

MAREEBA NEIGHBOURHOOD SHOPPING CENTRE
232 BYRNES STREET, MAREEBA
MAREEBA 232 PTY LTD

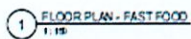
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SECTIONS - SUPERMARKET
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A2.05
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16/3/2023
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Year	Number of people (millions)
1980	18
1985	20
1990	25
1995	30
2000	35
2005	35
2010	35
2015	35
2020	35



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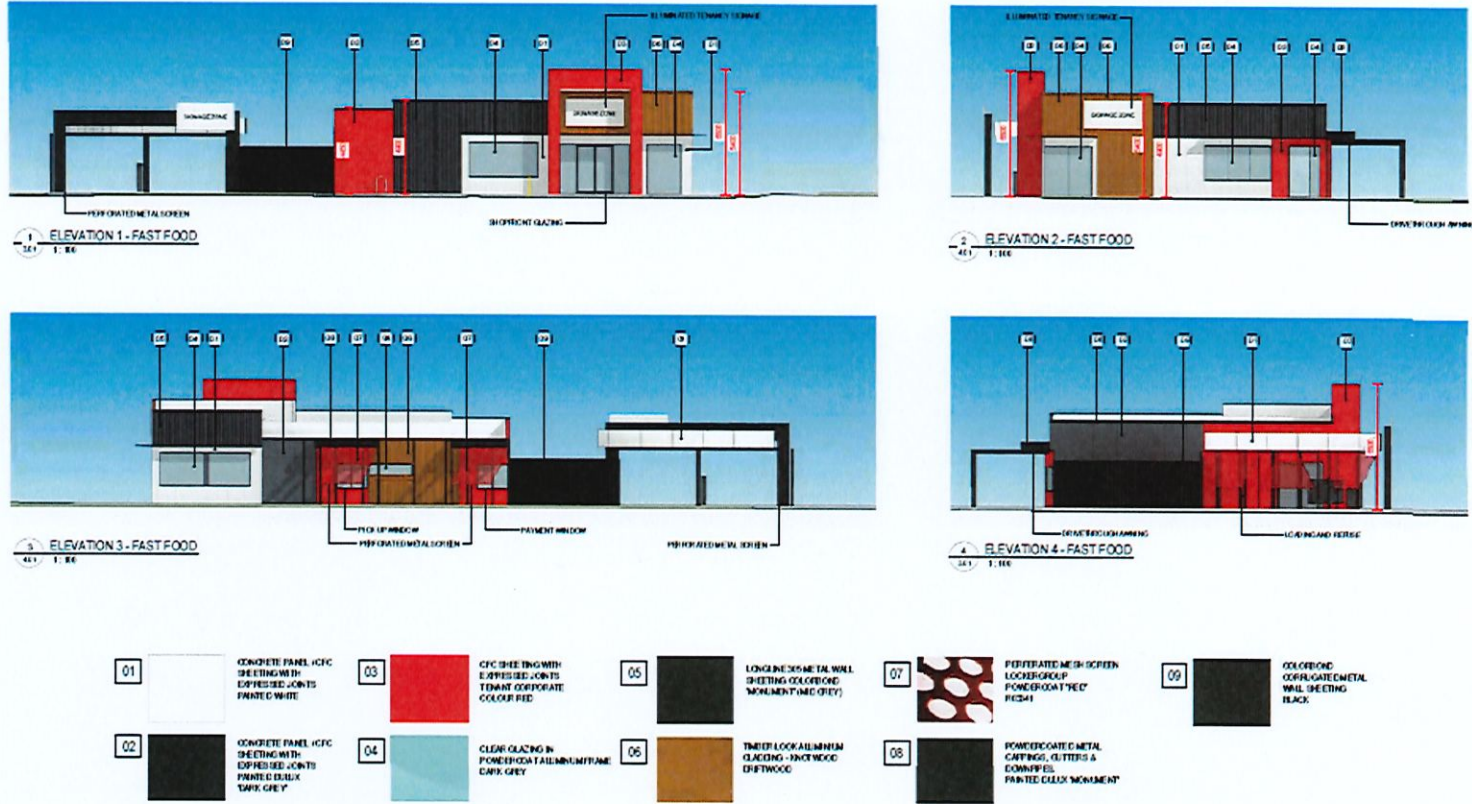
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Qld 4005 Australia
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15/07/2022

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A4.01

rev. 6



DEVELOPMENT APPLICATION

MAREEBA NEIGHBOURHOOD SHOPPING CENTRE
232 BYRNE STREET, MAREEBA
MAREEBA 232 PTY LTD

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rev. 5
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A4.02

16/3/2023
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RANKIN STREET - SITE ENTRANCE



SUPERMARKET VIEW FROM CARPARK

DEVELOPMENT APPLICATION

MAREEBA NEIGHBOURHOOD SHOPPING CENTRE
232 BYRNES STREET, MAREEBA
MAREEBA 232 PTY LTD

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BYRNES STREET - SITE EXIT



BYRNES STREET - TRUCK & LOADING ENTRANCE

DEVELOPMENT APPLICATION

MAREEBA NEIGHBOURHOOD SHOPPING CENTRE
222 BYRNES STREET, MAREEBA
MAREEBA 232 PTY LTD

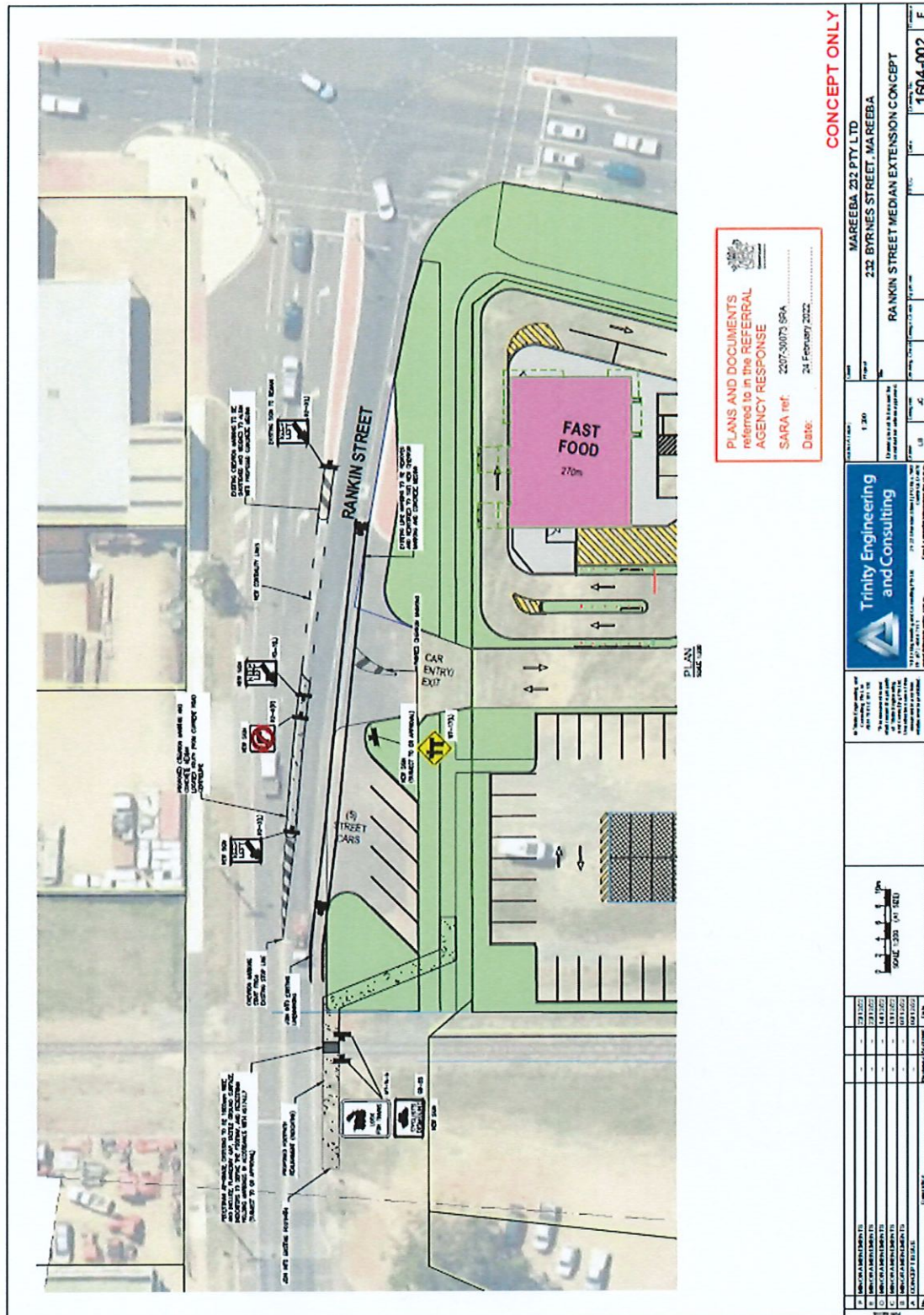
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16/3/2023
B. n. d. n.

Referral Agency Response

RA6-N



SARA reference: 2207-30073 SRA
Council reference: CU/22/0003
Applicant reference: 21-740

24 February 2023

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

Attention: Carl Ewin

Dear Sir/Madam

SARA referral agency response—232 Byrnes Street, Mareeba and 13 Close Street, Mareeba—Shopping Centre, Food and Drink Outlet and Shop

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State
Assessment and Referral Agency (SARA) on 16 August 2022.

Response

Outcome:	Referral agency response – with conditions
Date of response:	24 February 2023
Conditions:	The conditions in Attachment 1 must be attached to any development approval
Advice:	Advice to the applicant is in Attachment 2
Reasons:	The reasons for the referral agency response are in Attachment 3

Development details

Description:	Development permit	Material Change of Use for a Shopping Centre, Food and Drink Outlet and Shop
SARA role:	Referral agency	

Page 1 of 12

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

2207-30073 SRA

SARA triggers:	Schedule 10, Part 9, Division 4, Subdivision 1, Table 1 (Planning Regulation 2017) Development application for material change of use impacting on state transport infrastructure and thresholds Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017) Development application for material change of use near a state-controlled road, intersection, and railway
SARA reference:	2207-30073 SRA
Assessment manager:	Mareeba Shire Council
Street address:	232 Byrnes Street, Mareeba; 13 Close Street, Mareeba
Real property description:	78SP298287; 20NR7137
Applicant name:	Mareeba 232 Pty Ltd
Applicant contact details:	CI- Urban Sync Pty Ltd, PO Box 2970 Cairns QLD 4870 justin@urbansync.com.au
State-controlled road access permit:	This referral included an application for a road access location, under section 62A(2) of <i>Transport Infrastructure Act 1994</i> . Below are the details of the decision: • Approved • Reference: TMR22-037116 • Date: 7 February 2023 If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at Far.North.Queensland.IDAS@tnr.qld.gov.au
Human Rights Act 2019 considerations:	A consideration of the 23 fundamental human rights protected under the <i>Human Right Act 2019</i> has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.

Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules). Copies of the relevant provisions are in Attachment 4.

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

2207-30073 SRA

For further information please contact Tony Croke, Principal Planner, on 40373205 or via email
CairnsSARA@dcdilp.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Mareeba 232 Pty Ltd, justin@urbansync.com.au

enc Attachment 1 - Referral agency conditions

Attachment 2 - Advice to the applicant

Attachment 3 - Reasons for referral agency response

Attachment 4 - Representations about a referral agency response provisions

Attachment 5 - Documents referenced in conditions

2207-30073 SRA

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the documents referenced below are found at Attachment 5)

No.	Conditions	Condition timing
Material change of use		
Schedule 10, Part 9, Division 4, Subdivision 1, Table 1 (Planning Regulation 2017)—Material change of use impacting on state transport infrastructure and thresholds and Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017) Development application for material change of use near a state-controlled road, intersection, and railway—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):		
Railway Corridor		
1.	Locate the shops and supermarket generally in accordance with the Site Plan, prepared by Thomson Adsett, dated 19 December 2022, drawing number A1.01, revision 18A (as amended in red) to achieve the following minimum setbacks to the railway corridor: (a) Shops – 2.4m (b) Supermarket – 1.5m	Prior to the commencement of use and to be maintained at all times.
2.	Locate the Rankin Street site access generally in accordance with the Site Plan, prepared by Thomson Adsett, dated 19 December 2022, drawing number A1.01, revision 18A (as amended in red) to achieve a minimum setback of 35m to the railway corridor.	Prior to the commencement of use and to be maintained at all times.
3.	Provide raised kerb wheel stops to all car parking spaces located perpendicular to the railway corridor as shown on the Site Plan, prepared by Thomson Adsett, dated 19 December 2022, drawing number A1.01, revision 18A (as amended in red).	Prior to the commencement of use and to be maintained at all times
4.	The Mareeba-Dimbulah Road (Byrnes Street) site access must be separated from the Rankin Street / Mareeba-Dimbulah Road (Byrnes Street) signalised pedestrian crossing by 72m generally in accordance with the Site Plan, prepared by Thomson Adsett, dated 19 December 2022, drawing number A1.01, revision 18A (as amended in red) for potential future public passenger transport.	Prior to the commencement of use and to be maintained at all times.
Fencing		
5.	Provide fencing along the site boundary with the railway corridor, in accordance with the railway manager's standards: (i) Queensland Rail drawing number QR-C-S3230 – 1.8m High Chain Link Security Fence with Without Rails Using 50mm Diamond Mesh General Arrangement; or (ii) Queensland Rail drawing number QR-C-S3231 – Standard	Prior to the commencement of use and to be maintained at all times.

2207-30073 SRA

	Timber Fence 1800mm High Timber Paling Fence.	
Filling and excavation		
6.	Any excavation, filling/backfilling/compaction, retaining structures and other works involving ground disturbance must not encroach or de-stabilise the railway corridor and state-controlled road corridor including all transport infrastructure or the land supporting this infrastructure, or cause similar adverse impacts.	At all times.
Railway level crossing safety		
7.	(a) Road works to prevent right turns into the site at the Rankin Street site access, including a concrete traffic island, signage and line marking, must be provided generally in accordance with the Median Extension Concept, prepared by Trinity Engineering and Consulting, dated 22 December 2022, drawing number 1604-002, revision F as amended in red. (b) The road works in part (a) must be designed and constructed in accordance with: (i) Department of Transport and Main Roads' Road Planning and Design Manual (2nd Edition); and (ii) Manual of Uniform Traffic Control Devices (MUTCD).	Prior to the commencement of use
8.	(a) Locate the pedestrian railway crossing, including pathway connections to the footpath in Rankin Street, generally in accordance with the Median Extension Concept, prepared by Trinity Engineering and Consulting, dated 22 December 2022, drawing number 1604-002, revision F (as amended in red). (b) The pedestrian railway crossing mentioned in part (a) of this condition must be designed and constructed in accordance with: (i) AS1742.7:2016 Manual of uniform traffic control devices, Part 7: <i>Railway crossings</i>; and (ii) Queensland Rail Pedestrian Level Crossings, drawing number 10698.	Prior to the commencement of use
9.	(a) Provide a dedicated taxi rank parallel to the kerb within the location shown on the Site Plan, prepared by Thomson Adsett, dated 19 December 2022, drawing number A1.01, revision 18A (as amended in red). (b) The dedicated taxi rank must be designed and constructed to include the following: (i) a minimum of two (2) taxi parking bays in total in accordance with AS2890.5 - Parking facilities, Part 5: On-street parking; (ii) of the taxi bays provided, at least one (1) is to be of a length and width suitable for use by people with disabilities in accordance AS1428.1 - Design for access and mobility and AS2890.6 – Parking Facilities, Part 6: Off-street parking for people with disabilities	(a) & (b) Prior to the commencement of use and to be maintained at all times

2207-30073 SRA

	(iii) two taxi zone signs R5-21, placed at either end of the rank, and taxi zone line marking in accordance with AS1742.11 – Manual of uniform traffic control devices, Part 11: Parking controls (iv) lighting in accordance with AS/NZS 1158.3.1 – Lighting for Roads and Public Spaces, Part 3.1: Pedestrian Area (Category P) Lighting – Performance and Design Requirements and (v) accessibility in accordance with the Disability Standards for Accessible Public Transport 2002 made under subsection 31(1) of the <i>Disability Discrimination Act 1992</i> and the Department of Transport and Main Roads <i>Public Transport Infrastructure Manual 2015</i>. (c) Provide RPEQ certification, with supporting documentation, to the Program Delivery and Operations Unit, Far North Queensland Region (Far.North.Queensland.IDAS@tmr.qld.gov.au), within the Department of Transport and Main Roads confirming that the development has been constructed in accordance with parts (a) and (b) of this condition.	(c) Prior to the commencement of use
Public Passenger Transport		
10.	Any roadworks in Mareeba-Dimbulah Road (Byrnes Street) must be designed and constructed to be in accordance with the following, to accommodate a single unit rigid bus of 12.5m in length: (i) Department of Transport and Main Roads <i>Road Planning and Design Manual, 2nd Edition, Volume 3 – Guide to Road Design</i> (ii) Department of Transport and Main Roads <i>Supplement to Austroads Guide to Road Design (Parts 3, 4-4C and 6)</i> (iii) <i>Austroads Guide to Road Design (Parts 3, 4-4C and 6)</i> (iv) <i>Austroads Design Vehicles and Turning Path Templates</i> (v) Queensland Manual of Uniform Traffic Control Devices, Part 13: <i>Local Area Traffic Management</i> and AS 1742.13-2009 Manual of Uniform Traffic Control Devices – <i>Local Area Traffic Management</i> and (vi) Chapter 2 - Planning and Design, Section 2.3.2 Bus Route Infrastructure (page 6) of the Department of Transport and Main Roads <i>Public Transport Infrastructure Manual 2015</i>.	Prior to the commencement of use

2207-30073 SRA

Stormwater Management		
11.	(a) Stormwater management of the development must not cause worsening to the operating performance of the railway corridor and state-controlled road, such that any works on the land must not: (i) create any new discharge points for stormwater runoff onto the railway corridor and state-controlled road (ii) concentrate or increase the velocity of flows to a railway corridor and a state-controlled road (iii) interfere with and/or cause damage to the existing stormwater drainage on the railway corridor and state-controlled road (iv) surcharge any existing culvert or drain on the railway corridor and state-controlled road (v) reduce the quality of stormwater discharge onto the railway corridor and state-controlled road (vi) impede or interfere with any overland flow or hydraulic conveyance from the railway corridor and state-controlled road (vii) reduce the floodplain immunity of the railway corridor and state-controlled road. (b) Submit RPEQ certification Cairns Corridor Management Unit (Far.North.Queensland.IDAS@tmr.qld.gov.au) within the Department of Transport and Main Roads, confirming that the development has been designed in accordance with part (a) of this condition. (c) Submit RPEQ certification Cairns Corridor Management Unit (Far.North.Queensland.IDAS@tmr.qld.gov.au) within the Department of Transport and Main Roads, confirming that the development has been constructed in accordance with parts (a) and (b) of this condition.	(a) At all times. (b) Prior to obtaining development approval for operational work or building work, whichever occurs first. (c) Within 20 business days of the completion of works.
Roadworks on a state-controlled road		
12.	(a) Road works comprising in the extension of the existing concrete centre median for approximately 75m along Mareeba-Dimbulah Road (Byrnes Street) ending prior to the Herberton Street intersection must be provided. (b) The road works must be designed and constructed in accordance with Department of Transport and Main Roads', Road Planning and Design Manual, 2nd Edition, November 2021, Volume 3 – Guide to Road Design.	Prior to the commencement of use.
Vehicular access to a state-controlled road		
13.	(a) The existing vehicular property accesses located between Lot 78 on SP298287, and Mareeba-Dimbulah Road (Byrnes Street) must be permanently closed and removed. (b) The kerb and channeling between the pavement edge and the property boundary must be reinstated in accordance with Far	Prior to the commencement of use.

2207-32073 SRA

	North Queensland Regional Council Organisation (FNQROC) Concrete Kerb and Channel, Standard Drawing S1000, dated 27/08/20, Revision G at no cost to the Department of Transport and Main Roads'.	
14.	(a) The road access locations on Mareeba-Dimbulah Road (Byrnes Street) are to be located generally in accordance with TMR Layout Plan (664 – 1.60km), prepared by Queensland Government Transport and Main Roads, dated 06/02/2023, Reference TMR22-37116 (500-310), Issue D. (b) Road access works comprising of: (i) a sealed left-in / left-out northern vehicular access (main access) including an auxiliary left-turn lane (AUL) and (ii) a sealed left-in / left-out southern vehicular access (service access) must be provided at the road access locations. (c) The road access works must be designed and constructed generally in accordance with: (i) Austroads Guide to Road Design, Part 4: Intersections and Crossing – General, 2021, Figure 8.6: Urban Auxiliary left-turn treatment (AUL) (ii) Department of Transport and Main Roads' Standard Rural Property Access Drawing, Sheets 1 & 2, Drawing No. 1807, Type C – Rural Property Access, dated 11/2021, Revision B; and (iii) Department of Transport and Main Roads', Road Planning and Design Manual, 2nd Edition, November 2021, Volume 3 – Guide to Road Design.	(a) At all times. (b) and (c): Prior to the commencement of use.

2207-30073 SRA

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases Terms and phrases used in this document are defined in the <i>Planning Act 2016</i>, its regulation or the State Development Assessment Provisions (SDAP) (version 3.0). If a word remains undefined it has its ordinary meaning.
2.	Advertising device The shopping centre, food and drink outlet and shops development is proposing to erect an advertising device that will be visible from a state-controlled road. The applicant should seek advice from the Department of Transport and Main Roads (DTMR) to ensure that the advertising device visible from a state-controlled road, and beyond the boundaries of the state-controlled road, is unlikely to create a traffic hazard for the state-controlled road. Note: DTMR has powers under section 139 of the <i>Transport Operations (Road Use Management - Accreditation and Other Provisions) Regulation 2015</i> to require removal or modification of an advertising sign and / or a device which is deemed to create a danger to traffic.
3.	Railway Corridor Pursuant to section 255 of the <i>Transport Infrastructure Act 1994</i>, the railway manager's written approval is required to carry out works in or on a railway corridor or otherwise interfere with the railway or its operations. In particular, the pedestrian crossing over the railway and fencing along the railway corridor boundary will require relevant approvals to be obtained from the railway manager. Please be advised that this referral agency response does not constitute an approval under section 255 of the <i>Transport Infrastructure Act 1994</i> and that such approvals need to be separately obtained from the relevant railway manager. The applicant should contact Queensland Rail Property Team at PropertyLeasing@qr.com.au in relation to this matter.
4.	Public Passenger Transport The existing urban bus route 850 (Atherton Tablelands to Cairns) travels along Byrnes Street and may be impacted on by the development. Urban bus route 850 needs to be able to function during the construction of the development. Accordingly, if any temporary road closures are required, the applicant needs to reach agreement on suitable arrangements with the Department of Transport and Main Roads' TransLink Division (bus_stops@translink.com.au or on 3851 8700) prior to any construction or works commencing.
5.	Road Works Approval Under section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads to carry out road works. Please contact the Department of Transport and Main Roads on 4045 7144 to make an application for road works approval. 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). Please contact the Department of Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.
6.	Road Corridor Permit

2207-30073 SRA

	An application for a road corridor permit is required for any ancillary works and encroachments on a state-controlled road. Under section 50(2) and Schedule 6 of the <i>Transport Infrastructure Act 1994</i> (TIA) and Part 5 and Schedule 1 of the <i>Transport Infrastructure (State-Controlled Roads) Regulation 2006</i>, the applicant must obtain a road corridor permit from the Department of Transport and Main Roads (DTMR) to carry out ancillary and encroachments works on a state-controlled road. The applicant is required to contact the Cairns district office of the Department of Transport and Main Roads on 4045 7144 to make an application for a road corridor permit to carry out ancillary works and encroachments. Ancillary works and encroachments include but are not limited to advertising signs or other advertising devices, paths or bikeways, buildings/shelters/structures, vegetation clearing, landscaping and planting.
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2207-30073 SRA

Attachment 3—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

The reasons for the SARA's decision are:

The development complies with State code 1: Development in a state-controlled road environment, State code 2: Development in a railway environment and State code 6: Protection of state transport networks of the State Development Assessment Provisions (SDAP) as:

- The development is not located in the railway corridor or the state-controlled road.
- The vehicular access locations via Mareeba-Dimbulah Road will be required to be upgraded and constructed to the relevant standards.
- The centre median along Mareeba-Dimbulah Road will be extended up to the Herberton Street intersection.
- Additional traffic movements will be directed to Rankin Street, a local council road.
- The proposed development will require drainage infrastructure within the development site.
- The design of the development allows for the provision of a future bus stop and services.
- An on-site taxi set down, parallel to the shopping centre entrance, will be provided. One of the spaces will be accessible for people with a disability.
- Traffic management measures in Rankin Street adequately cater for the railway level crossing.
- Vehicular movements via Mareeba-Dimbulah Road will be via left-in / left-out access locations.
- A minimum setback of the development from the railway corridor will ensure maintenance can be carried out without access to the railway.
- The development is unlikely to cause significant damage to the railway corridor in the event of a train derailment.
- Fencing will be provided along the site boundary to prevent projectiles from being thrown onto the railway and to prevent unauthorised access to the railway by vehicles and pedestrians.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (version 3.0), as published by SARA
- the Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- section 58 of the *Human Rights Act 2019*

Attachment 4—Representations about a referral agency response provisions

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2207-39073 SRA

Attachment 5—Documents referenced in conditions

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DEVELOPMENT SCHEDULE		
PROPOSED USES	GFA	GLAR
SUPERMARKET	3655m ²	3603m ²
SHOPS	814m ²	796m ²
AMENITIES	90m ²	
TOTAL CENTRE	4559m ²	4399m ²
FAST FOOD	270m ²	270m ²
TOTAL	4829m ²	4669m ² (6.88ha)
CAR PARKING SCHEDULE		
CARS FAST FOOD		11
CARS CENTRE		219
AVL MOTOR VEH. (DIRECT TO DOCK + TARE)		
ON SITE CARS		230
STREET CARS		5
TOTAL CARS PROVIDED		235
TOTAL CARS REQUIRED		186

NOTE:
CARS REQUIRED IS BASED ON:
150 UP TO 400m² GFA
125 ABOVE 400m² GFA

NOTE: SUPERMARKET GLAR EXCLUDES
EXTERNAL WALLS AND LOADING DOCK

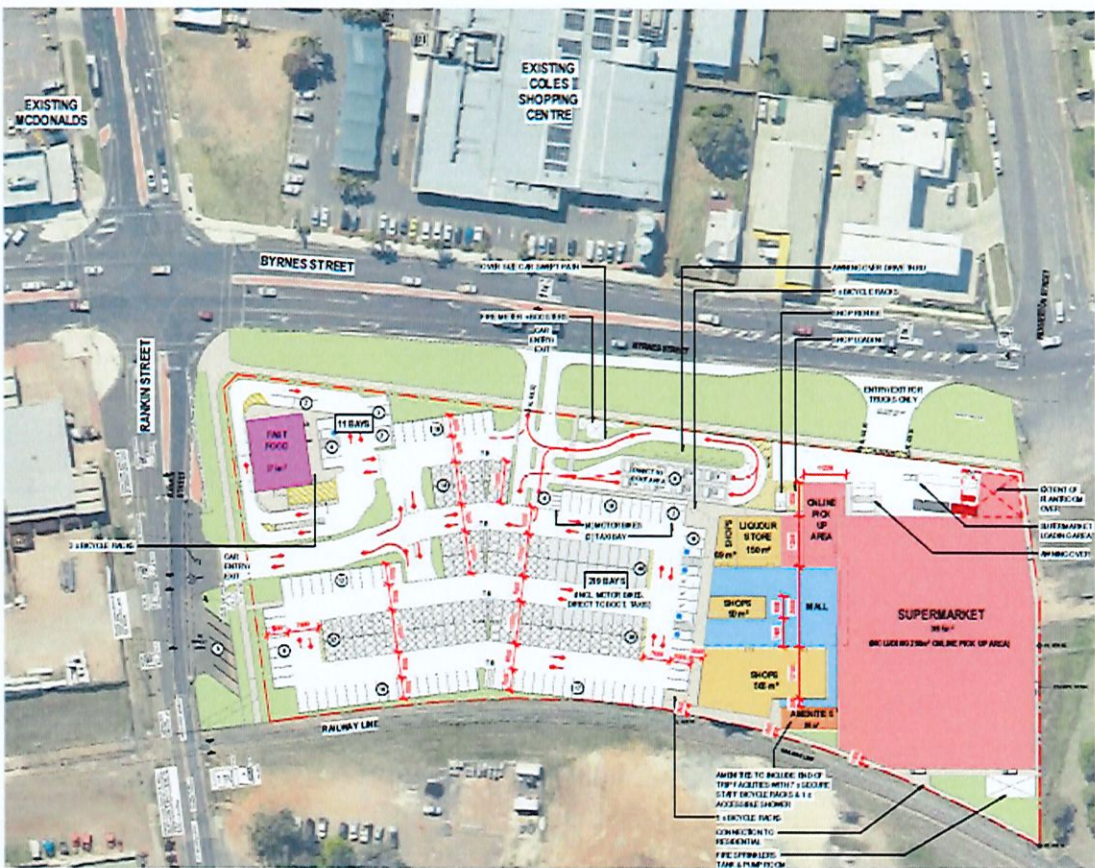
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	AREA OF ENCLOSED MALL / PASSAGE - 637m ²

PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE

SARA ref: 2267-30073 SRA

Date: 24 February 2022

DEVELOPMENT APPLICATION



1 SITE PLAN
1:500

MAREEBA NEIGHBOURHOOD SHOPPING CENTRE
222 BYRNES STREET, MAREEBA
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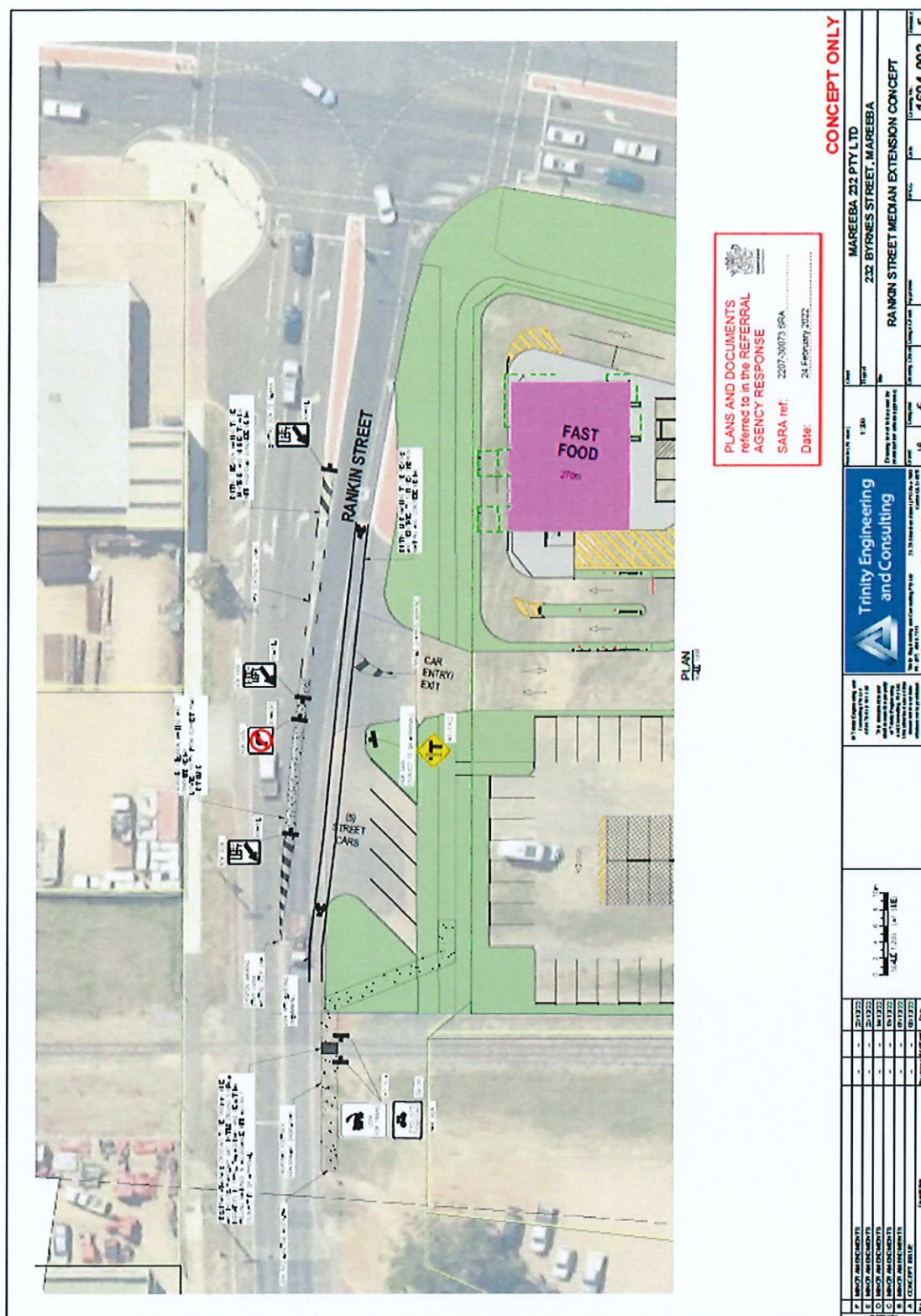
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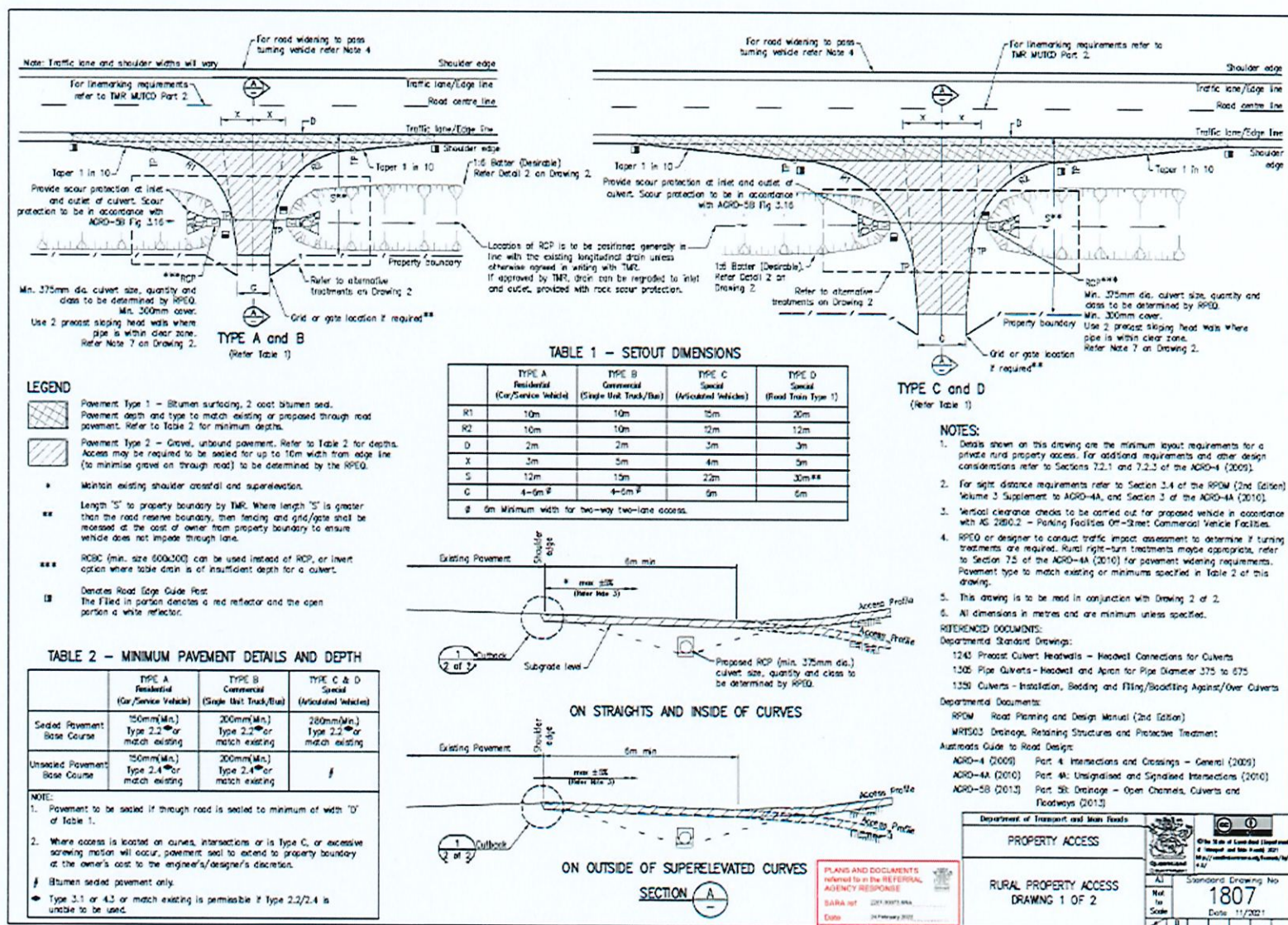
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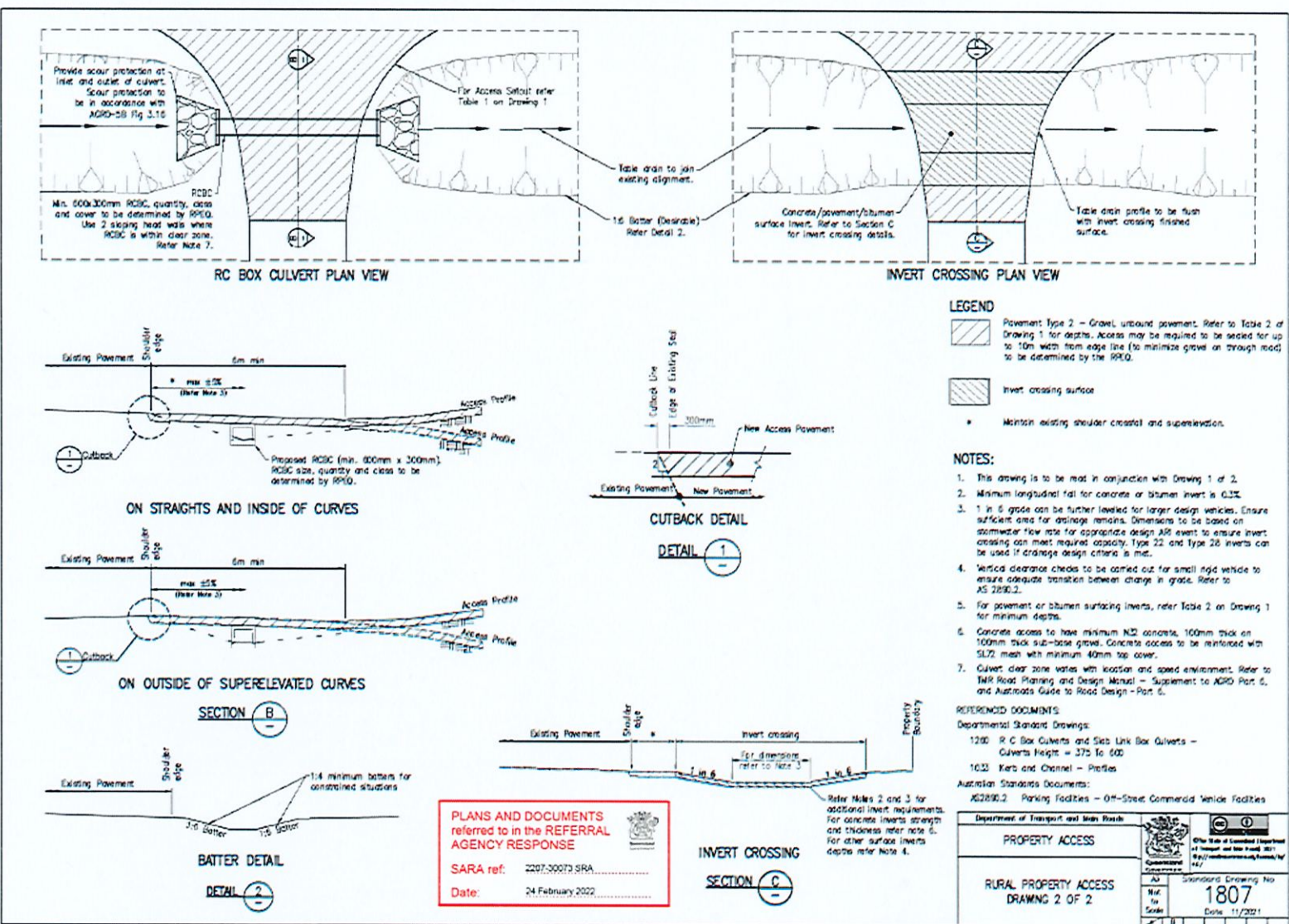
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As indicated @ A1

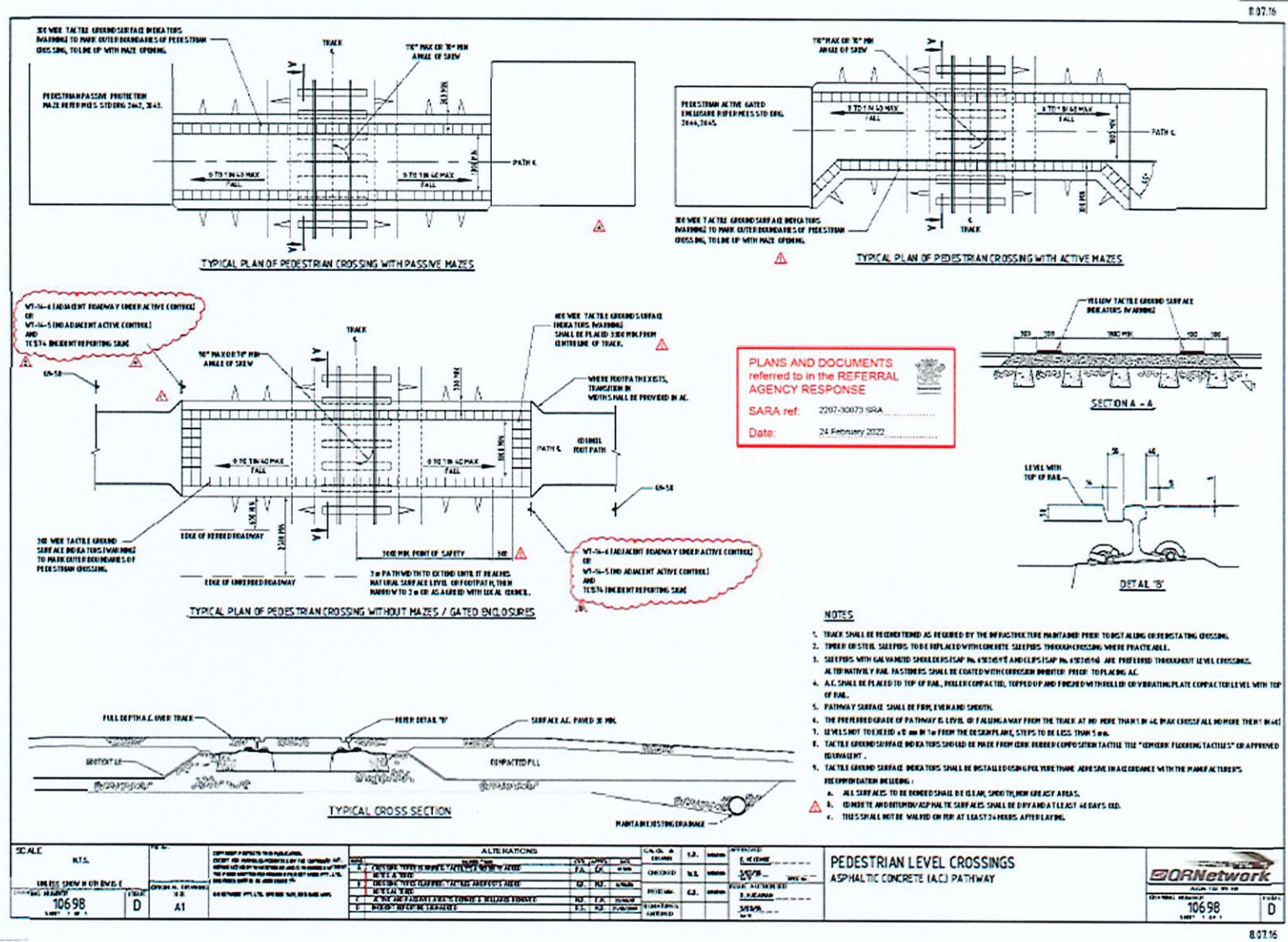
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rev. 15A



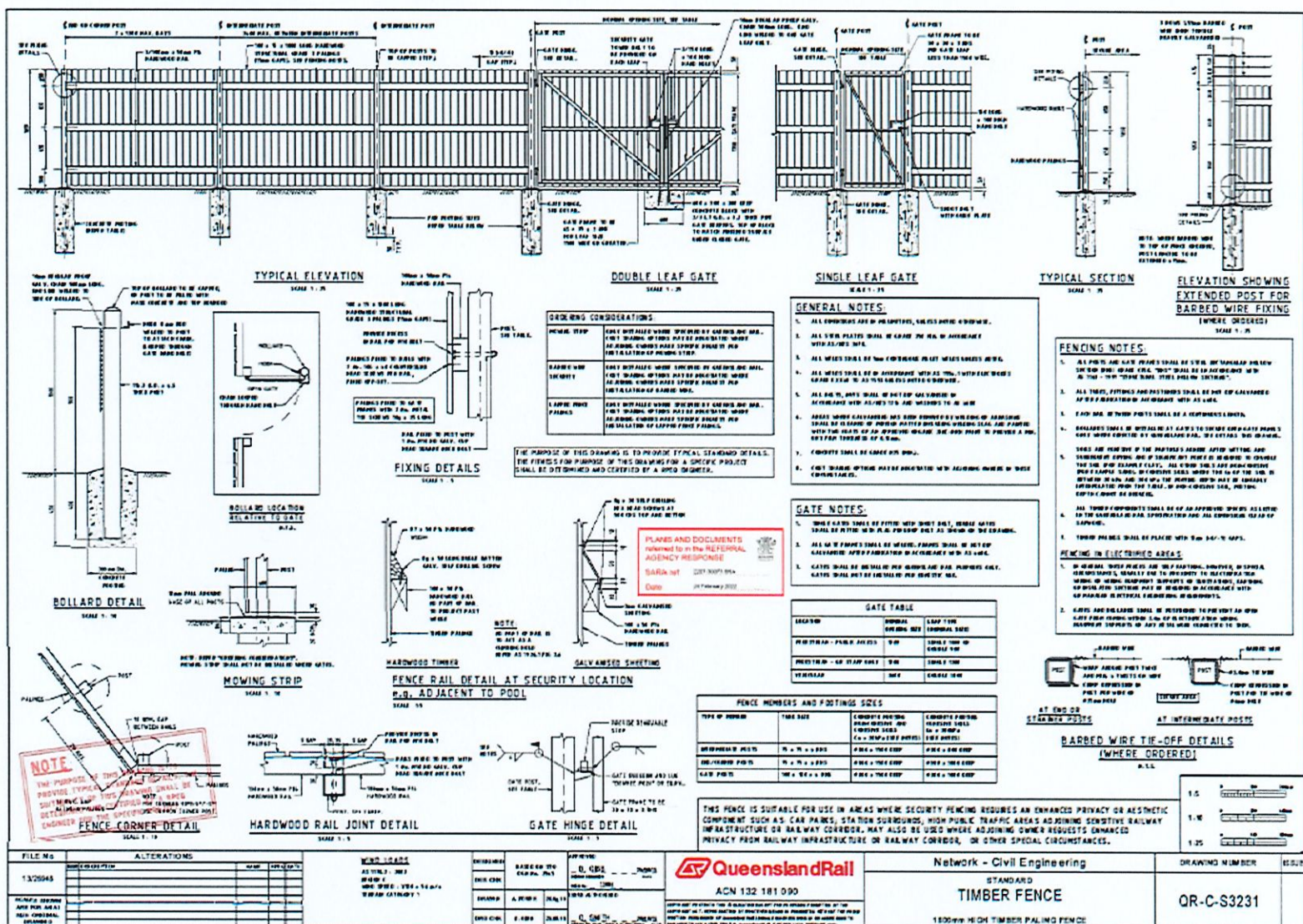












Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules¹ regarding representations about a referral agency response

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

Part 7: Miscellaneous

30 Representations about a referral agency response

- 30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

Appeal Rights

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

(1) Schedule 1 of the *Planning Act 2016* states –

- (a) Matters that may be appealed to –
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
- (b) The person-
 - (i) who may appeal a matter (**the appellant**); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.

(Refer to Schedule 1 of the Planning Act 2016)

(2) An appellant may start an appeal within the appeal period.

(3) The **appeal period** is –

- (a) for an appeal by a building advisory agency – 10 business days after a decision notice for the decision is given to the agency; or
- (b) for an appeal against a deemed refusal – at any time after the deemed refusal happens; or
- (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises – 20 business days after a notice is published under section 269(3)(a) or (4); or
- (d) for an appeal against an infrastructure charges notice – 20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given – 30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for any other appeal – 20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note –

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.

- (6) To remove any doubt. It is declared that an appeal against an infrastructure charges notice must not be about-
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund-
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

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

231 Other appeals

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

decision includes-

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

non-appealable, for a decision or matter, means the decision or matter-

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

232 Rules of the P&E Court

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