



Mareeba

SHIRE COUNCIL

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17 November 2022

LJ & SC Speight
C/- Freshwater Planning Pty Ltd
17 Barronview Drive
FRESHWATER QLD 4870

Planning Officer: Carl Ewin
Direct Phone: 4086 4656
Our Reference: MCU/22/0016
Your Reference: F22/01

Dear Applicants,

Decision Notice

Planning Act 2016

I refer to your application and advise that on 16 November 2022, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No:	MCU/22/0016
Street Address:	Kennedy Highway, Mareeba
Real Property Description:	Lot 512 on NR8022
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit for Material Change of Use - Undefined Use ('Workforce Accommodation' as defined by the Planning Regulation 2017)
Date of Decision:	16 November 2022

CURRENCY PERIOD OF APPROVAL

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

INFRASTRUCTURE

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

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

1. Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
 - found necessary by Council’s delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
 - to ensure compliance with the following conditions of approval.
2. Timing of Effect
 - 2.1 The conditions of the development permit must be complied with to the satisfaction of Council’s delegated officer prior to the commencement of the use except where specified otherwise in these conditions of approval.
 - 2.2 Prior to the commencement of use, the applicant must notify Council that all the conditions of the development permit have been complied with, except where specified otherwise in these conditions of approval.
3. General
 - 3.1 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
 - 3.2 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to commencement of the use and at the rate applicable at the time of payment.
 - 3.3 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council’s delegated officer.
 - 3.4 Noise Nuisance
 - 3.4.1 Refrigeration equipment, pumps, compressors and mechanical ventilation systems must be located, designed, installed and maintained to achieve a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations and a maximum noise level of 8dB(A) above background levels as measured from commercial locations.

3.4.2 The applicant/developer must ensure the approved accommodation use is operated and managed (including noise generated by guests) to not exceed a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations.

No amplified music is permitted on-site at any time.

3.5 Waste Management

3.5.1 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.

3.5.2 Where bulk bins are used and are to be serviced on site, prior to the issue of a development permit for building works, Council's delegated officer must be satisfied 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 only.

3.6 Length of Stay

The maximum length of stay for guests must not typically exceed nine (9) consecutive months, unless otherwise approved by Council's delegated officer.

3.7 Accommodation Capacity

No more than 64 individual workers shall be accommodated on-site at any given time.

Occupancy records must be kept and presented to Council upon request should any complaint of overcrowding be received.

3.8 Signage

Any advertising devices relating to the development must be wholly sited on the subject site and be limited to a cumulative sign face area of 6m² and must:

- (i) Not resemble a traffic control device or give instructions to traffic;
- (ii) Not incorporate highly reflective materials or finishes;
- (iii) Not be illuminated, move, revolve, strobe or flash; and
- (iv) Be kept clean, in good order and safe repair for the life of the development.

The erection of any signage must comply with the Building Act and all other relevant Acts, Regulations and these approval conditions. The sign must be removed at the decommissioning and rehabilitation stage of the development.

3.9 Notification of Potential Rural Zone Impacts

The applicant is to erect signage in plain sight and in large legible writing at the kitchen/dining area, recreational area, and on each accommodation building advising guests that the subject land is zoned Rural under the Mareeba Shire Council Planning Scheme 2016 and is in a rural locality. The signage should generally state the following:

"Guests should take note:

- *The locality may be used for intensive rural uses;*
- *Guests may experience off site effects from rural activities, including noise, sprays and dust that may cause a loss of residential amenity. Existing and/or self-assessable agricultural and rural uses in the locality have a 'right to farm' or a right to legally continue the use."*

- 3.10 The workforce accommodation shall not be used for any other purpose than that included in the Planning Regulation definition for 'Workforce Accommodation'.

Upon request by Council, the applicant/owner/operator shall be responsible for providing records to Council, which demonstrates that the occupants of the workforce accommodation are employed in the locality at a place of employment consistent with the Planning Regulation definition.

- 3.11 A site manager must be present on-site at all times to ensure compliance with these conditions of approval.

3.12 Bushfire Management

3.12.1 A Bushfire Management Plan for the site, incorporating evacuation procedures for guests, must be prepared to the satisfaction of Council's delegated officer. The approved use must comply with the requirements of the Management Plan at all times.

3.12.2 An on-site water supply for firefighting purposes must be provided with a minimum capacity of 5,000 litres that must comprise either:

- (a) a stand-alone tank; or
- (b) a reserve section in the bottom part of the main water supply tank; or
- (c) a dam; or
- (d) a swimming pool.

Where tank water supply is provided, the outlet must be fitted with a 50mm ball valve with a camlock fitting for connection to firefighting appliances.

4. Infrastructure Services and Standards

4.1 Stormwater Drainage

4.1.1 The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.

4.1.2 All stormwater drainage concentrated by the development must be collected from site and discharged to an approved legal point of discharge.

4.2 Car Parking/Internal Driveways

4.2.1 The applicant/developer must ensure that the development is provided with 17 vehicle parking spaces, and four (4) bus parking spaces as shown on the approved plans. No parking of vehicles or buses is permitted to occur off-site.

4.2.2 All car parking spaces, and trafficable areas must be surface treated with an all-weather compacted gravel seal and appropriately drained prior to the commencement of the use, to the satisfaction of Council's delegated officer.

4.2.3 All car parking spaces and internal driveways must be constructed in compliance with the following standards, to the satisfaction of Council's delegated officer:

- Australian Standard AS2890:1 Off Street Parking – Car Parking Facilities;
- Australian Standard AS1428:2001 – Design for Access and Mobility.

4.2.4 All parking spaces and trafficable areas must be maintained in good order and safe repair for the life of the development, to the satisfaction of Council's delegated officer.

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

4.3 Landscaping & Fencing

Prior to building works commencing, the applicant/developer must prepare and submit a landscape plan in accordance with Planning Scheme Policy 6 for consideration and approval by Council's Delegated Officer. The landscape plan must include the following:

- (i) A minimum three (3) metre wide landscape buffer along the entire Kennedy Highway frontage of the site;
- (ii) A minimum two (2) metre wide landscape buffer along the entire length of the northern boundary (excluding access ways);
- (iii) a minimum two (2) metre wide landscape buffer along the entire length of the eastern boundary;
- (iv) a minimum two (2) metre wide landscape buffer along the entire length of the southern boundary of the site.
- (v) a 1.8m high colorbond fence (of neutral colour) or timber paling fence (with no gaps) along the entire length of the southern boundary sited on the inside of the 2m landscape buffer required under (iv).
- (vi) any landscaping proposed throughout the facility (not compulsory)

Landscaping associated with points (i), (ii), (iii) and (iv) should include ground cover, shrubs and trees that will grow to form an effective buffer of no less than 4 metres in height.

All perimeter landscaping must be undertaken when the building works commence so as to ensure reasonable establishment before the commencement of the use and must be mulched, irrigated and maintained for the life of the development and to the satisfaction of Council's Delegated Officer. The fencing required under (v) must be installed prior to the commencement of the use.

4.4 Non-Reticulated Water Supply

The development must be provided with a potable water supply that can satisfy the standards for drinking water set by the Australian Drinking Water Guidelines 2004 (National Health and Medical Research Council and the National Resource Management Ministerial Council).

All non-potable sources of water must be sign posted "non-potable water supply" or similar in order to deter consumption.

4.5 On-Site Wastewater Management

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

Note: Any on-site wastewater treatment system with a total daily peak design capacity of at least 21 equivalent persons (EP) is an Environmentally Relevant Activity (ERA 63 - Sewerage Treatment) and an Environmental Authority is required.

4.6 Lighting

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

Illumination resulting from direct, reflected or other incidental light emanating from the subject land does not exceed 8 lux when measured at any point 1.5m outside the property boundary of the subject site. The lighting fixtures installed on site must meet appropriate lux levels as documented within Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting.

REFERRAL AGENCIES

The referral agencies applicable to this application are:

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	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4	State Assessment & Referral Agency (SARA) Department of State Development, Manufacturing, Infrastructure and Planning

categorizing instrument, if all or part of the premises—		PO Box 2358 Cairns Qld 4870 CalrnsSARA@dsdmip.qld.gov.au
(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		

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
ARCH-01 000	Floor Plan / Site Plan / Site Area	-	1 July 2022
ARCH-01 01/01 Rev 3	Floor Plan	-	1 May 2022
ARCH-03 03/05	Elevations	-	1 May 2022
ARCH-04 04/05 Rev 3	Floor Plan / Elevations / Perspectives	-	1 May 2022
ARCH-05 05/05	Floor Plan / Elevations / Perspectives	-	1 May 2022

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) Food Premises

Premises proposed for the storage and preparation, handling, packing or service of food must comply with the requirements of the Food Act 2006.

(b) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

(c) Compliance with Acts and Regulations

The erection and use of the building must comply with the Building Act and all other relevant Acts, Regulations and Laws, and these approval conditions.

(d) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from www.dcceew.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.dsdsatsip.qld.gov.au

PROPERTY NOTES

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

- Development Permit for Building Work
- Compliance Permit for Plumbing and Drainage Work

SUBMISSIONS

There were no properly made submissions about the application.

RIGHTS OF APPEAL

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

During the appeal period, you as the applicant may suspend your appeal period and make written representations to council about the conditions contained within the development approval. If council agrees or agrees in part with the representations, a "negotiated decision notice" will be issued. Only one "negotiated decision notice" may be given. Taking this step will defer your appeal period, which will commence again from the start the day after you receive a "negotiated decision notice".

OTHER DETAILS

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

Yours faithfully

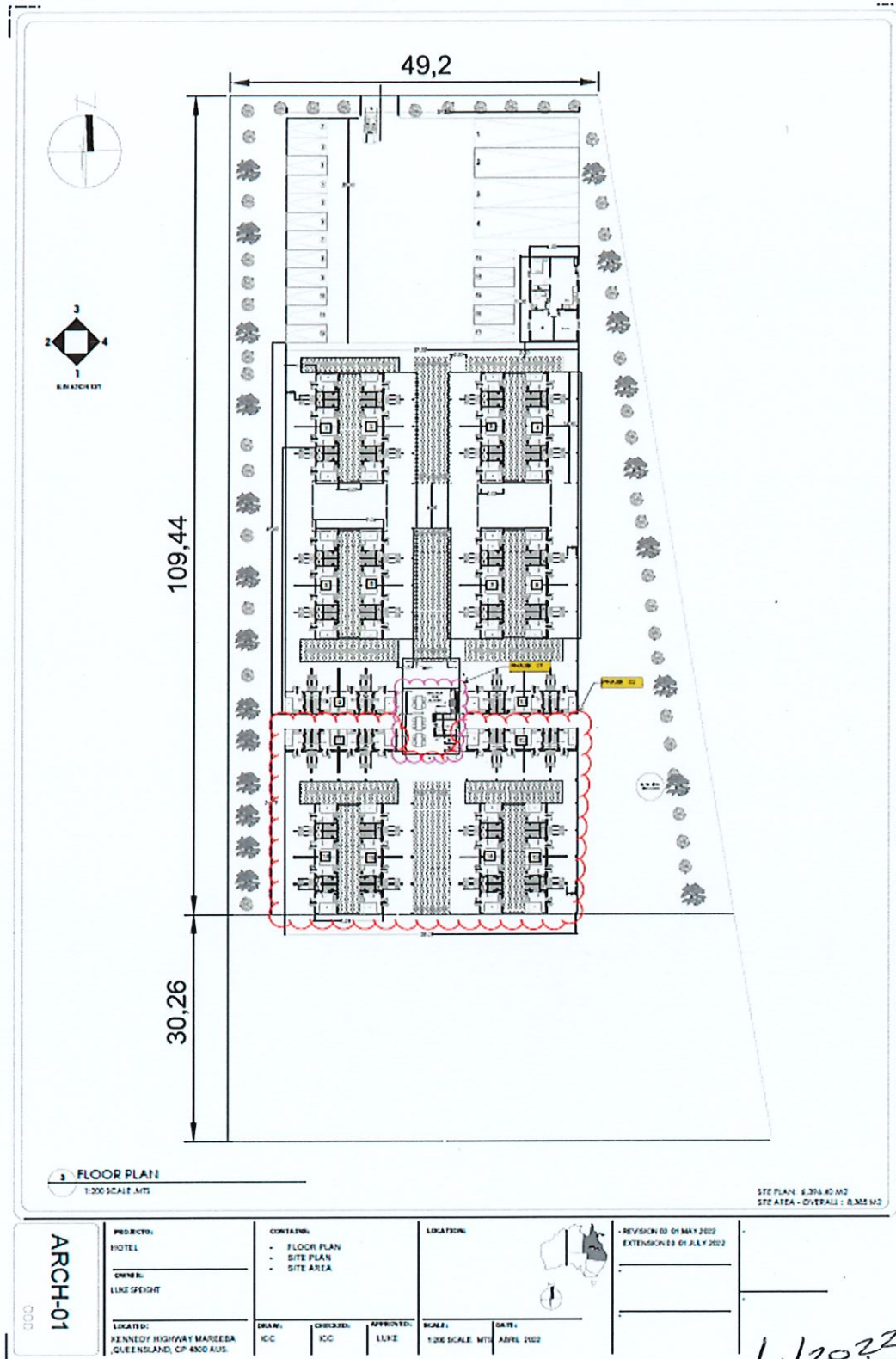


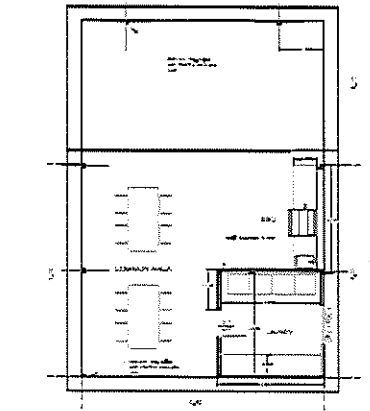
BRIAN MILLARD
SENIOR PLANNER

Enc: Approved Plans/Documents
 Referral Agency Response
 Appeal Rights

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

Approved Plans/Documents





Left side elevation

1:50 SCALE (M)

DENKURFAL

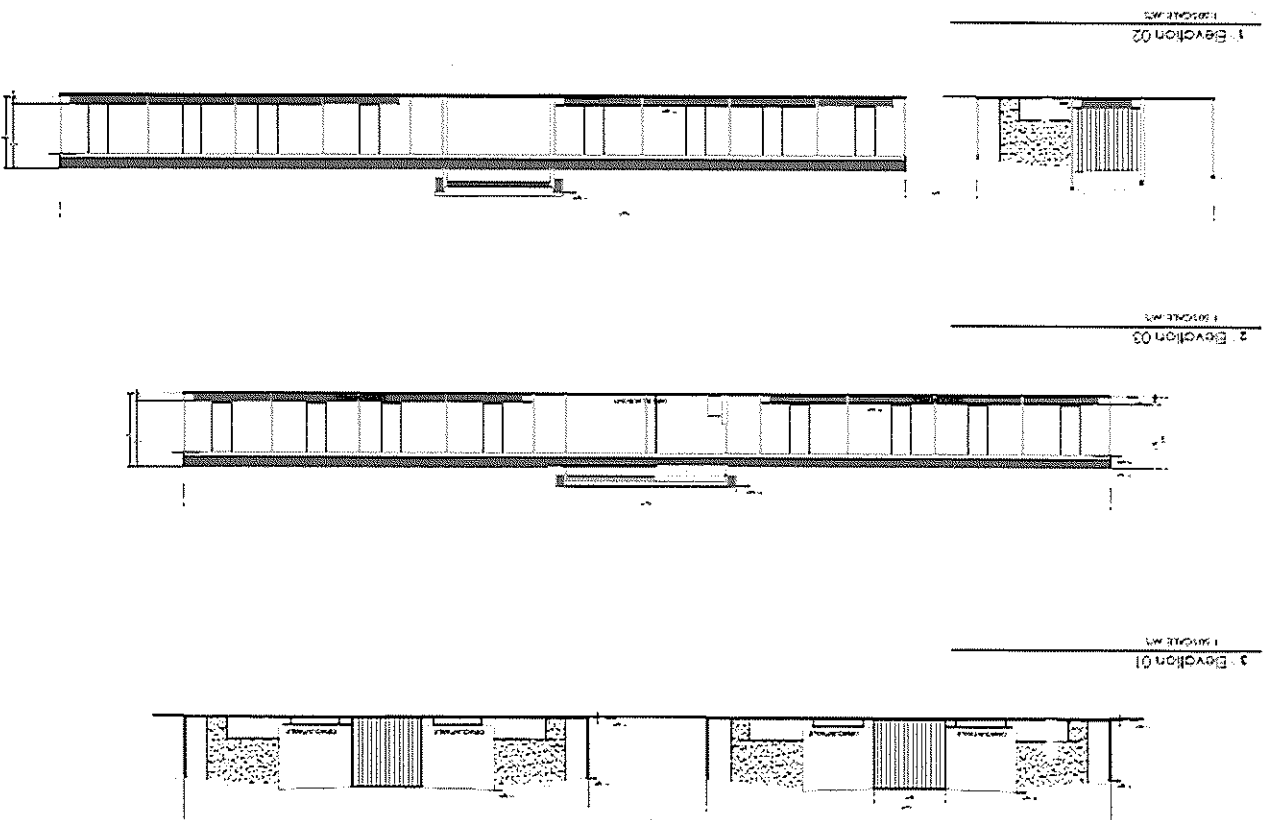
The floor plan shows a symmetrical layout with a central corridor. On the left side, from top to bottom, are Room 201 (12' x 12'), Restroom (5' x 6'), Room 202 (12' x 12'), Restroom (5' x 6'), Room 203 (12' x 12'), Restroom (5' x 6'), and Room 204 (12' x 12'). On the right side, from top to bottom, are Room 205 (12' x 12'), Restroom (5' x 6'), Room 206 (12' x 12'), Restroom (5' x 6'), Room 207 (12' x 12'), Restroom (5' x 6'), and Room 208 (12' x 12'). The central corridor is 10' wide. The overall dimensions of the building are 36' x 48'. The plan also shows a central staircase and a large open area at the bottom labeled 'OFFICE'.

Figure 1 is a schematic diagram of the experimental setup. It shows a participant seated at a table, looking at a screen. The screen displays a sequence of four stimuli: a fixation cross, a fixation cross, a fixation cross, and a fixation cross. The stimuli are labeled 'fix', 'fix', 'fix', and 'fix' respectively. The participant's response is recorded via a button press.

[illegible]

ARCH-01

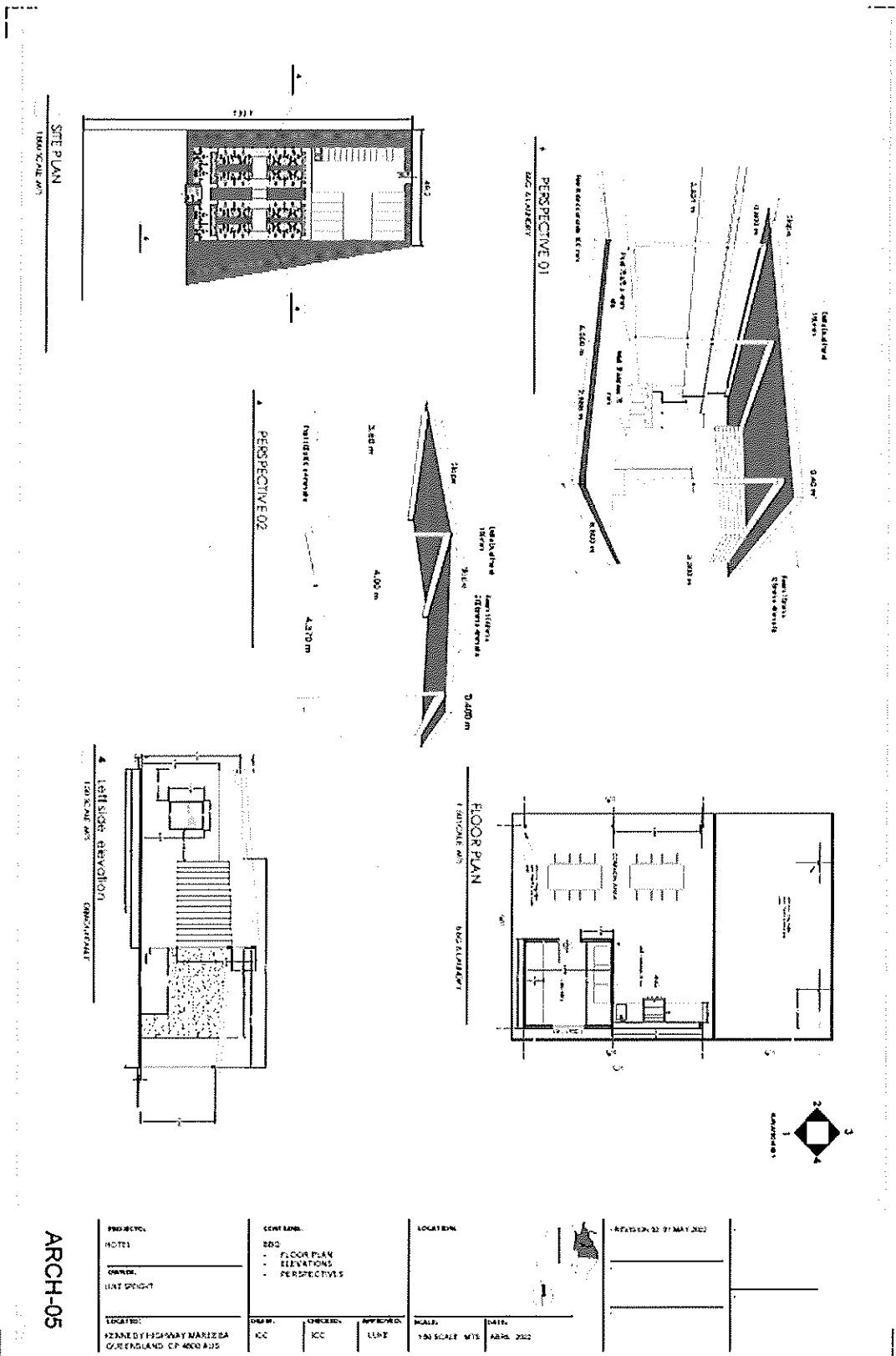
17/11/2022



ARCH-03

PROJEC: HOTEL	CONTENTS: ELEVATIONS	LOCATION: 170 SCALE WTS 170 SCALE WTS	
OWNER: LUT PROCT	DATE: 10/10/2022	SCALE: 1:50 SCALE WTS	DATE: 10/10/2022

17/11/2022
B. J. J.



17/11/2022
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Referral Agency Response

RA6-N



SARA reference: 2209-30763 SRA
Council reference: MCU/22/0016
Applicant reference: F22/01

4 October 2022

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

Attention: Mr Carl Ewin

Dear Sir/Madam

SARA response—Kennedy Highway, Mareeba

(Referral agency response given under section 58 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 2 September 2022.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	4 October 2022
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 - Undefined Use (Workforce Accommodation as Defined by the Planning Regulation 2017)
SARA role:	Referral agency	

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

2209-30763 SRA

SARA trigger: Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017) – Material change of use of premises near a State transport corridor

SARA reference: 2209-30763 SRA

Assessment Manager: Mareeba Shire Council

Street address: Kennedy Highway, Mareeba

Real property description: Lot 512 on NR8022

Applicant name: LJ and SC Speight

Applicant contact details: C/- Freshwater Planning Pty Ltd
17 Barron View Drive
Freshwater QLD 4870
freshwaterplanning@outlook.com

State-controlled road access permit: This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved
- Reference: TMR22-037288 (500-1671)
- Date: 29 September 2022

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@tmr.qld.gov.au

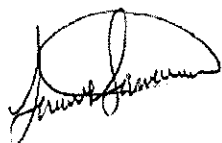
Representations

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

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

For further information please contact Belinda Jones, A/Principal Planning Officer, on 40373208 or via email CairnsSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Javier Samanes
A/Manager (Planning)

cc LJ and SC Speight C/- Freshwater Planning Pty Ltd, freshwaterplanning@outlook.com

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations provisions
Attachment 5 - Approved plans and specifications

2202-30763 SRA

Attachment 1—Referral agency conditions

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

No.	Conditions	Condition timing
Material change of use		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017) – Material change of use of premises near a State transport corridor —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.	<p>(a) Road works comprising of a basic right turn treatment (BAR), a rural basic left-turn treatment (BAL) and a flag light must be provided at the Kennedy Highway / Unnamed Road T-intersection.</p> <p>(b) The road works must be designed and constructed in accordance with:</p> <ul style="list-style-type: none"> (i) Figure A 6: Basic right (BAR) turn treatment on a two-lane rural road, Part 4: Intersections and Crossings – General, Austroads Guide to Road Design, 2021; (ii) Figure 6.2: Rural basic left-turn treatment (BAL), Part 4A: Unsignalised and Signalised Intersections, Austroads Guide to Road Design, 2021; and (iii) Figure 7.1.4(a) – Flag lighting at isolated intersections of the Department of Main Roads Road Planning and Design Manual 2nd Edition, March 2021, Volume 6 – Lighting. 	Prior to commencement of use
2.	<p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.</p> <p>(b) Any works on the land must not:</p> <ul style="list-style-type: none"> (i) create any new discharge points for stormwater runoff onto the state-controlled road; (ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road; (iii) surcharge any existing culvert or drain on the state-controlled road; (iv) reduce the quality of stormwater discharge onto the state-controlled road. 	(a) and (b): At all times
3.	<p>(a) The road access location is to be located generally in accordance with TMR Layout Plan 1 (32B – 7.90km), prepared by Queensland Government Transport and Main Roads, dated 22/09/2022, Reference TMR21-37288 (500-1671), Issue A and amended by SARA on 4 October 2022.</p> <p>(b) Road access works comprising of a sealed 'Type B' rural property vehicular access must be provided at the road access location.</p>	<p>(a) At all times</p> <p>(b) and (c): Prior to the commencement of</p>

2202-30783 SRA

	(c) The road access works must be designed and constructed in accordance with TMR Standard Rural Property Access Drawing, Sheets 1 & 2, Drawing No. 1807, Type B – Rural Property Access, dated 07/2020, and Revision A.	use
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2202-30763 SRA

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v3.0. If a word remains undefined it has its ordinary meaning.
2.	<p>Mandatory Part (MP) 4.4 of the Queensland Development Code (QDC) applies to building work for the construction or renovation of a residential building in a designated <i>transport noise corridor</i>. MP4.4 seeks to ensure that the habitable rooms of Class 1, 2, 3 and 4 buildings located in a <i>transport noise corridor</i> are designed and constructed to reduce transport noise. <i>Transport noise corridor</i> means land designated under Chapter 8B of the <i>Building Act 1975</i> as a <i>transport noise corridor</i>. Information about <i>transport noise corridors</i> is available at state and local government offices.</p> <p>A free online search tool can be used to find out whether a property is located in a designated <i>transport noise corridor</i>. This tool is available at the State Planning Policy Interactive Mapping System website: https://spp.dsdp.esriaustraliaonline.com.au/geoviewer/map/planmaking and allows searches on a registered lot number and/or property address to determine whether and how the QDC applies to the land. Transport Noise Corridors are located under Information Purposes within Transport Infrastructure of the State Planning Policy (SPP) mapping system.</p>
3.	<p>The proposed development is required to install a flag light at the Kennedy Highway / Unnamed Road T-intersection.</p> <p>The applicant should seek advice from DTMR regarding DTMR's preferred tariff (i.e Rate 2 or Rate 3) lighting specifications. Please contact Paul Morris – Principal Technical Officer (Electrical) on 0407750598 or email at Paul.z.morris@tmr.qld.gov.au.</p>
Further development permits required	
4.	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.

2202-30763 SRA

Attachment 3—Reasons for referral agency response(Given under section 58(7) of the *Planning Act 2016*)

The reasons for SARA's decision are:

- The site has road frontage and access from Kennedy Highway, a state-controlled road.
- The development has been conditioned to ensure that stormwater and drainage does not adversely impact on the Kennedy Highway.
- The development is unlikely to compromise the safety, efficiency and operating conditions of Kennedy Highway as the development has been conditioned to ensure that the existing intersection is upgraded.
- The development is unlikely to impact the structural integrity or physical condition of the Kennedy Highway.
- The proposed development will not impact on the ability or cost to plan, construct, maintain or operate state transport corridors.
- SARA has carried out an assessment of the development application against State code 1: Development in a state-controlled road environment and has found that with conditions, the proposed development complies with relevant performance outcomes.

Material used in the assessment of the application:

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

2202-30763 SRA

Attachment 4—Change representation provisions

(page left intentionally blank – attached separately)

2202-30783 SRA

Attachment 5—Approved plans and specifications

(page left intentionally blank – attached separately)

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 66 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

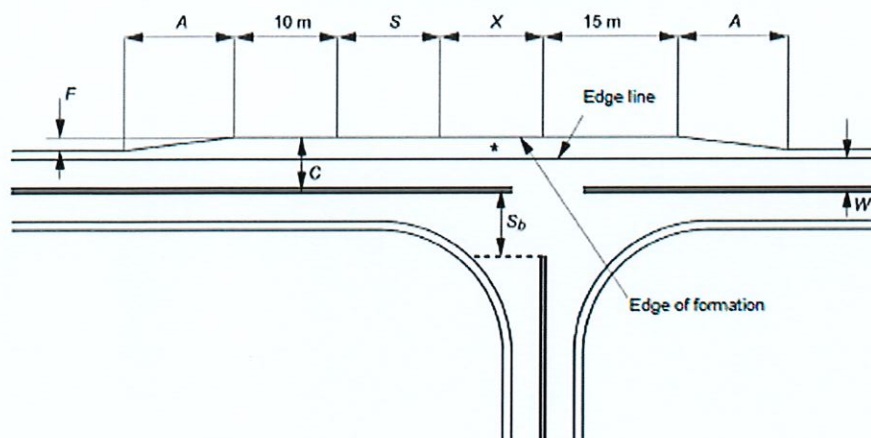
30 Representations about a referral agency response

- 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.

Figure A 6: Basic right (BAR) turn treatment on a two-lane rural road

* It is preferred that the widened shoulder is sealed, unless the shoulder can be maintained with a sound and even surface



Notes:

This treatment applies to the right turn from a major road to a minor road.

The dimensions of the treatment are:

W = Nominal through lane width (m) (including widening for curves). Width to be continuous through the intersection.

C = On straights – 8.5 m minimum

7.0 m minimum for Type 1 & Type 2 road trains

On curves – as above + curve widening (based on widening for the design turning vehicle plus widening for the design through vehicle)

$$A = \frac{0.5VF}{3.6}$$

Increase length A on tighter curves (e.g. those with a side friction demand greater than the maximum desirable). Where the design through vehicle is larger than or equal to a 19 m semi-trailer the minimum speed used to calculate A is 80 km/h

V = Design speed of major road approach (km/h)

F = Formation/carrageway widening (m)

S = Storage length to cater for one design turning vehicle (m) (minimum length 12.5 m)

X = Distance based on design vehicle turning path, typically 10–15 m

Source: Department of Main Roads (2006)¹².

PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE



SARA ref: 2209-30763 SRA

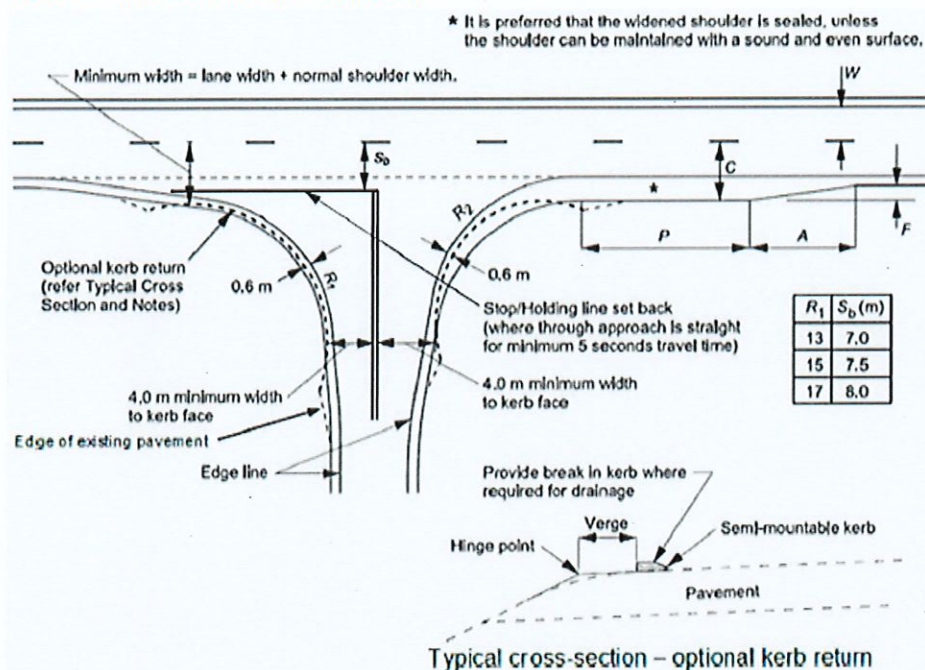
Date: 4 October 2022

12 Department of Main Roads (2008) has been superseded and Figure A 6 has not been carried forward into Queensland Department of Transport and Main Roads (2016).

Department of Transport and Main Roads note:
Site specific requirements may not reflect this example in its
entirety. Drawing details must reflect site specific conditions
for Road Works / Road Access Works.

Guide to Road Design Part 4A: Unsignalised and Signalised Intersections

Figure 8.2: Rural basic left-turn treatment (BAL)



Notes:

- R_1 and R_2 are determined by the swept path of the design vehicle.
- The dimensions of the treatment are defined thus:
 - W = Nominal through lane width (m) (including widening for curves).
 - C = On straights – 6.0 m minimum.
On curves – 6.0 m plus curve widening (based on widening for the design turning vehicle plus widening for the design through vehicle).
 - $A = \frac{0.5VF}{3.6}$
 - V = Design speed of major road approach (km/h).
 - F = Formation/carrage way widening (m).
 - P = Minimum length of parallel widened shoulder (Table 8.1).
 - S_0 = Setback distance between the centre of the major road and the give way or stop line in the minor road.

Source: Department of Main Roads (2006)³⁵.

PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE

SARA ref: 2209-30763 SRA

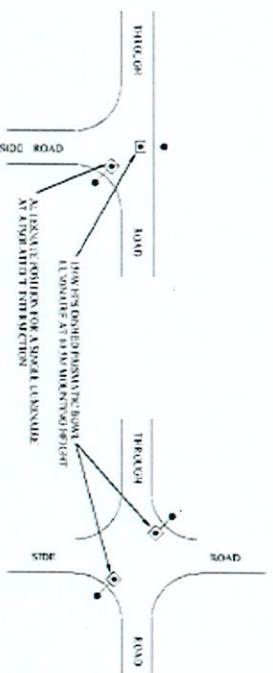
Date: 4 October 2022

35 Department of Main Roads (2006) has been superseded and Figure 8.2 has not been carried forward into Queensland Department of Transport and Main Roads (2016).

Department of Transport and Main Roads note:
Site specific requirements may not reflect the example in its
entirety. Drawing details must reflect site specific conditions
for Road Works / Road Access Works.

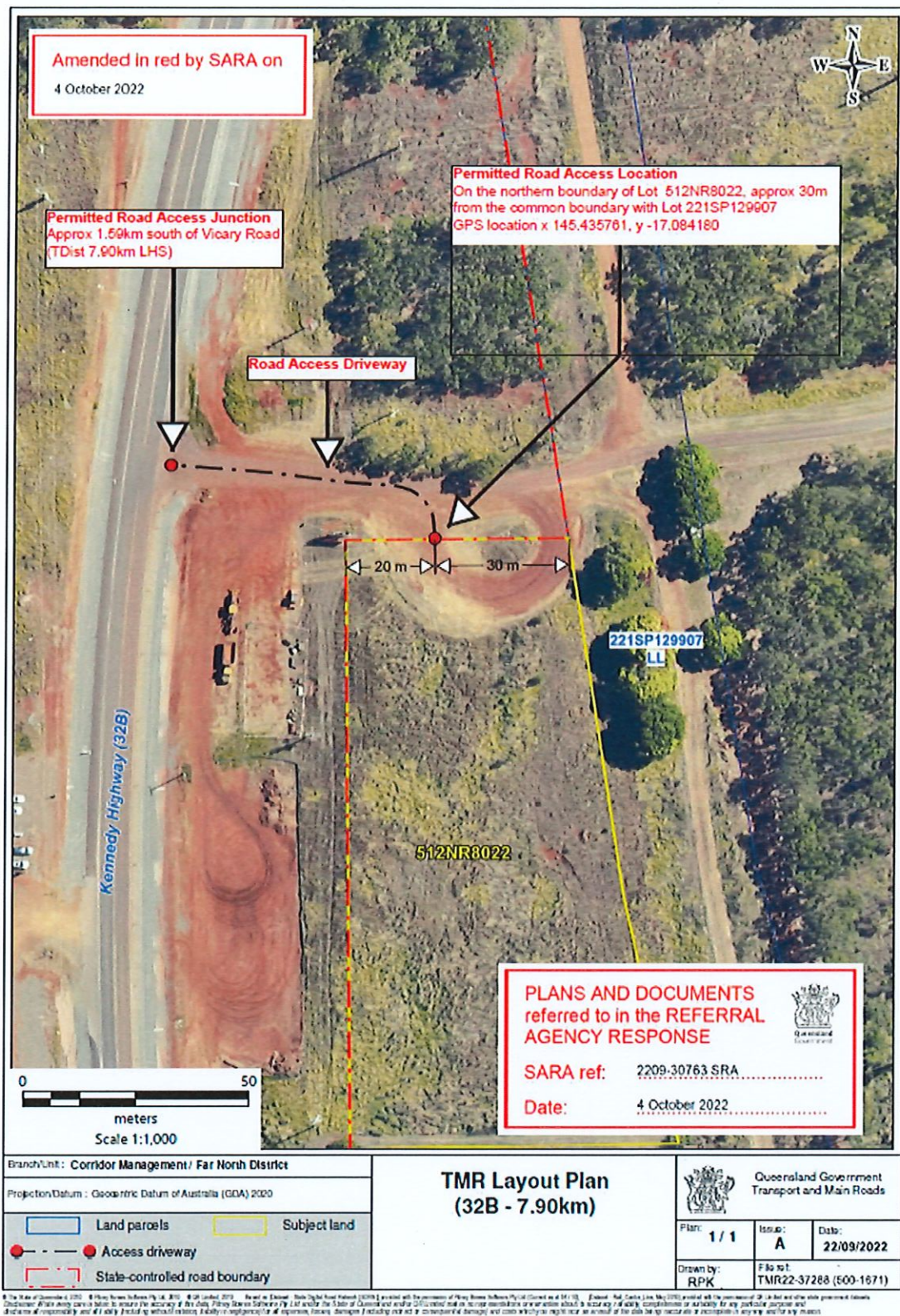
Volume 6: Lighting

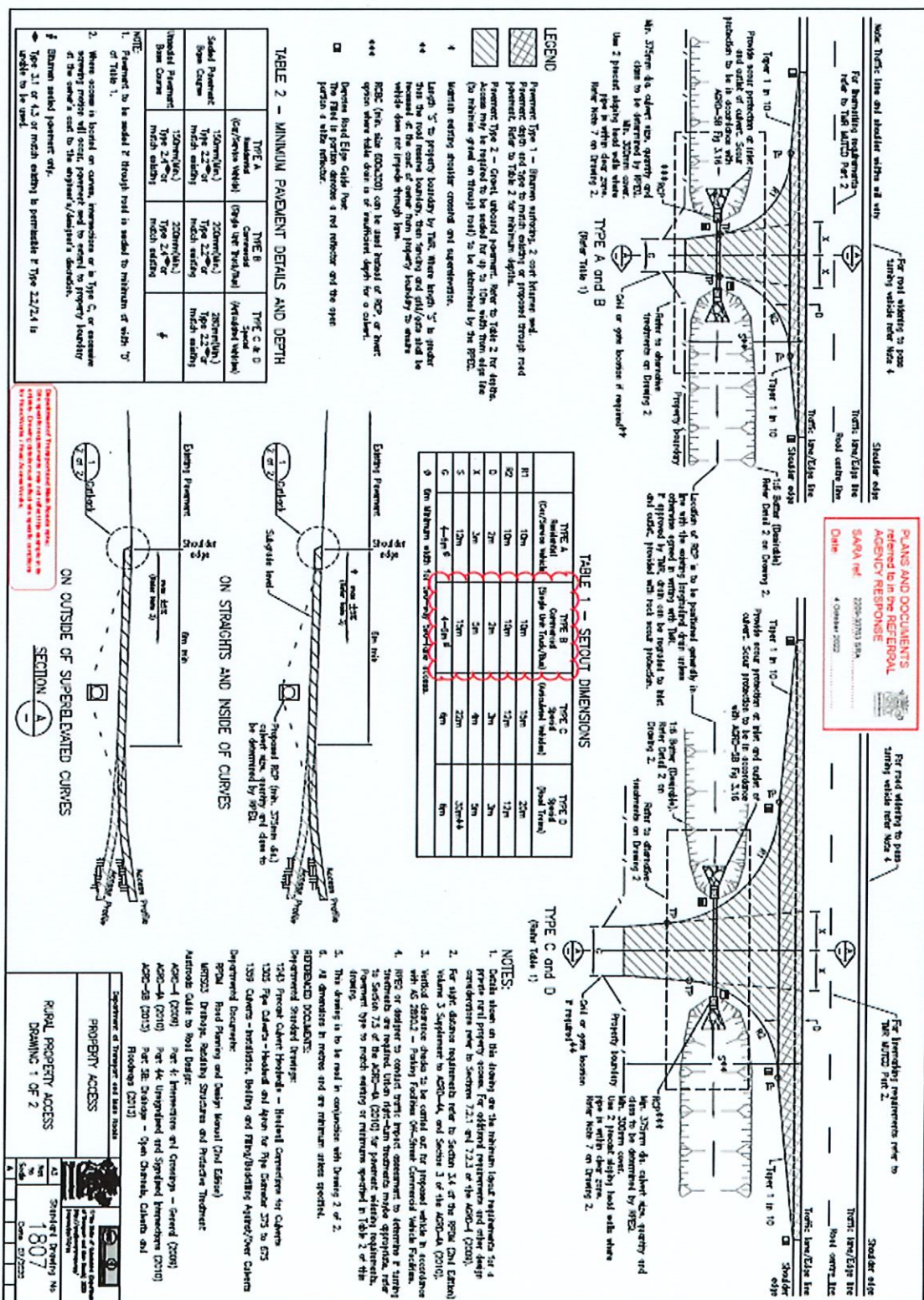
Figure 7.1.4(a) – Flag lighting at isolated intersections

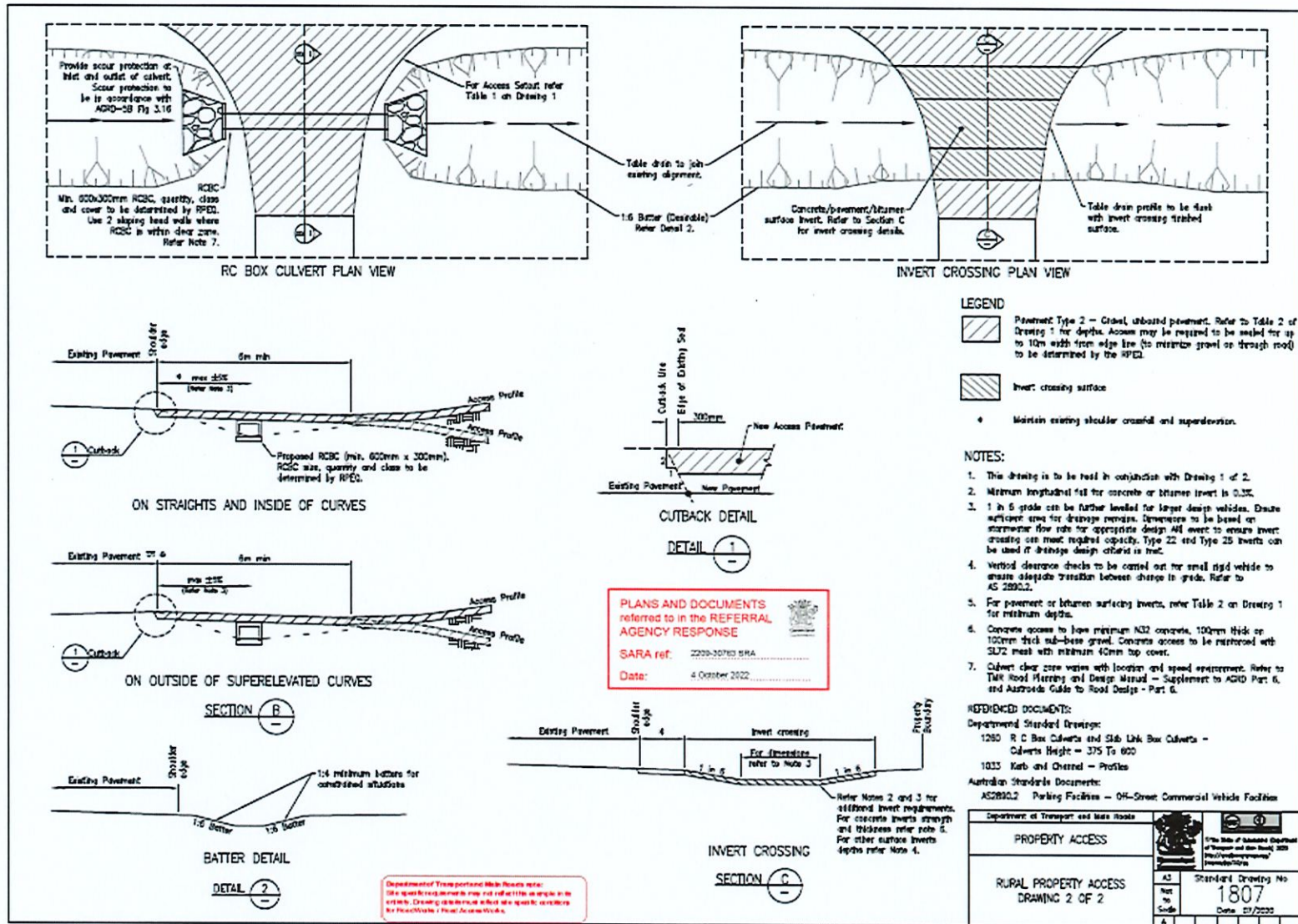


Examples of some special locations that may require consideration are as follows:

- isolated intersections in fog prone areas – these locations may require one or two luminaires so that, on foggy nights, the turn-off can be readily identified
- train crossings where there is regular shunting or the crossing is frequently blocked at night – these sites may require one luminaire situated on either side of the road in appropriate locations to provide lighting in accordance with AS/NZS 1158 only on the actual rail crossing conflict; for example, on a 9 m carriageway, a luminaire located 20 m from the track on either side as shown in Figure 7.1.4(b) will provide approximately V5 coverage on the crossing conflict, and
- painted channelised intersections not provided with lighting in accordance with AS/NZS 1158.







Our ref: TMR22-037255 (500-1671)
Your ref: F22/01
Enquiries: Ronald Kaden



29 September 2022

Department of
Transport and Main Roads

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/22/0016, lodged with Mareeba Shire Council involves constructing or changing a vehicular access between Lot 512NR8022, the land the subject of the application, and Kennedy Highway (a state-controlled road).

In accordance with section 62A(2) of the *Transport Infrastructure Act 1994* (TIA), this development application is also taken to be an application for a decision under section 62(1) of TIA.

Applicant Details

Name and address LJ and SC Speight
C/- Freshwater Planning Pty Ltd
17 Barronview Drive
Freshwater QLD 4870

Application Details

Address of Property Kennedy Highway, Mareeba QLD 4880
Real Property Description 512NR8022
Aspect/s of Development Development Permit for Material Change of Use for Workforce Accommodation

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 is along the northern boundary of Lot 512NR8022, approximately 30 metres from the common boundary with Lot 221SP129907, in accordance with: 1. TMR Layout Plan (32B - 7.90km) Issue A 22-09-2022	At all times.
2	Direct access is prohibited between Kennedy Highway and Lot 512NR8022 at any other location other than the permitted road access location described in Condition 1.	At all times.

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

Program Delivery and Operations
Far North Region
Cairns Corporate Tower, 15 Lake Street Cairns QLD 4870
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Email Far.North.Queensland.IDAS@tmr.qld.gov.au
ABN: 39 407 690 291

No.	Conditions of Approval	Condition Timing
3	<p>The use of the permitted road access location is to be restricted to:</p> <p>a) Design vehicles up to a maximum size Four Axle Truck - Class 5 Medium Length Heavy Vehicle**</p> <p>Note: ** as described in Austroads Vehicle Classification System</p>	At all times.
4	<p>Road works comprising:</p> <ol style="list-style-type: none"> 1. Basic right (BAR) and Basic left (BAL) turn treatments at the road access junction, 2. Widening and sealing of the road access driveway, and 3. Installation of a Flag Light. <p>must be provided generally in accordance with:</p> <ol style="list-style-type: none"> a) Austroads Guide to Road Design Part 4: Intersections and Crossings - General Figure A6: Basic right (BAR) turn treatment on a two-lane rural road. b) Austroads Guide to Road Design Part 4A: Unsignalised and Signalised Intersections Figure 8.2: Rural basic left-turn treatment (BAL) c) Property Access drawing prepared by Queensland Government dated 11/2021 reference 1807 Issue B d) Department of Main Roads Road Planning and Design Manual 2nd Edition, March 2021, Volume 6 – Lighting. 	Prior to commencement of use.

Reasons for the decision

The reasons for this decision are as follows:

- a) Currently the subject site (Lot 512 on NR8022) has road frontage to the Kennedy Highway, a state-controlled road.
- b) The proposed development is for non-residential workforce accommodation.
- c) The proposed development will require a changed access as the proposed development is increasing vehicle movements to the land via a new access,
- d) As the proposed development is seeking a new access and increasing generation, a section 62 approval is required to be issued by TMR.

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. This decision has been based on the current land use and the historic nature of the access subject to this decision. Be advised that in the event that the land is further developed and/or intensified, the department will reassess the access requirements in accordance with the department's policies at that time to ensure that the road safety and transport efficiency outcomes for the state-controlled road network are maximised. This may or may not require all future access to be provided via the local road network.
3. 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, Technical Officer (Development Control) should be contacted by email at ron.p.kaden@tmr.qld.gov.au or on (07) 4045 7151.

Yours sincerely



Peter McNamara
Principal Engineer (Civil)

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

Attachment A
Decision Evidence and Findings

Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version / Issue
TMR Layout Plan (32B - 7.90km)	Queensland Government Transport and Main Roads	22 September 2022	TMR22-37288 (500-1671)	A
Rural Property Access	Queensland Government	November 2021	1807	B
Rural basic left-turn treatment (BAL)	Austroads	2021	Guide to Road Design Part 4A: Unsignalised and Signalised Intersections Figure 8.2	-
Basic right turn treatment on a two-lane rural road (BAR)	Austroads	2021	Guide to Road Design Part 4: Intersections and crossings - General Figure A 6	-
Figure 7.1.4(a) - Flag lighting at isolated intersections	Department of Main Roads	March 2021	Road Planning and Design Manual, Volume 6 - Lighting	2 nd Edition
Site access design	SMEC	Received 05 September 2022	-	-
Vehicle Access to state-controlled roads policy	Queensland Government Transport and Main Roads	2019	-	-

Attachment B**Section 70 of TIA***Transport Infrastructure Act 1994*

Chapter 6 Road transport infrastructure

Part 5 Management of State-controlled roads

70 Offences about road access locations and road access works, relating to decisions under s 62(1)

- (1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.
- (2) A person to whom this section applies must not—
- (a) obtain access between the land and the State-controlled road other than at a location at which access is permitted under the decision; or
 - (b) obtain access using road access works to which the decision applies, if the works do not comply with the decision and the noncompliance was within the person's control; or
 - (c) obtain any other access between the land and the road contrary to the decision; or
 - (d) use a road access location or road access works contrary to the decision; or
 - (e) contravene a condition stated in the decision; or
 - (f) permit another person to do a thing mentioned in paragraphs (a) to (e); or
 - (g) fail to remove road access works in accordance with the decision.

Maximum penalty—200 penalty units.

- (3) However, subsection (2)(g) does not apply to a person who is bound by the decision because of section 68.

Attachment C
Appeal Provisions

Transport Infrastructure Act 1994
Chapter 16 General provisions

485 Internal review of decisions

- (1) A person whose interests are affected by a decision described in schedule 3 (the **original decision**) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
 - (a) applies to the review; and
 - (b) provides—
 - (i) for the procedure for applying for the review and the way it is to be carried out; and
 - (ii) that the person may apply to QCAT to have the original decision stayed.

485B Appeals against decisions

- (1) This section applies in relation to an original decision if a court (the appeal court) is stated in schedule 3 for the decision.
- (2) If the reviewed decision is not the decision sought by the applicant for the review, the applicant may appeal against the reviewed decision to the appeal court.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
 - (a) applies to the appeal; and
 - (b) provides—
 - (i) for the procedure for the appeal and the way it is to be disposed of; and
 - (ii) that the person may apply to the appeal court to have the original decision stayed.
- (4) Subsection (5) applies if—
 - (a) a person appeals to the Planning and Environment Court against a decision under section 62(1) on a planning application that is taken, under section 62A(2), to also be an application for a decision under section 62(1); and
 - (b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.

(5) The court may order—

- (a) the appeals to be heard together or 1 immediately after the other; or
- (b) 1 appeal to be stayed until the other is decided.

(6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.

(7) In this section—

original decision means a decision described in schedule 3.

reviewed decision means the chief executive's decision on a review under section 485.

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

31 Applying for review

- (1) A person may apply for a review of an original decision only within 28 days after notice of the original decision was given to the person under the transport Act.
- (2) However, if—
 - (a) the notice did not state the reasons for the original decision; and
 - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)the person may apply within 28 days after the person is given the statement of the reasons.
- (3) In addition, the chief executive may extend the period for applying.
- (4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

32 Stay of operation of original decision

- (1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the relevant entity.
- (2) The relevant entity may stay the original decision to secure the effectiveness of the review and any later appeal to or review by the relevant entity.
- (3) In setting the time for hearing the application, the relevant entity must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the relevant entity with it on the chief executive at least 2 business days before the hearing.
- (6) The stay—
 - (a) may be given on conditions the relevant entity considers appropriate; and
 - (b) operates for the period specified by the relevant entity; and
 - (c) may be revoked or amended by the relevant entity.
- (7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period the relevant entity allows the applicant to enable the applicant to appeal against the decision or apply for a review of the decision as provided under the QCAT Act.
- (8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.

(9) In this section—

relevant entity means—

- (a) if the reviewed decision may be reviewed by QCAT—QCAT; or
- (b) if the reviewed decision may be appealed to the appeal court—the appeal court.

35 Time for making appeals

(1) A person may appeal against a reviewed decision only within—

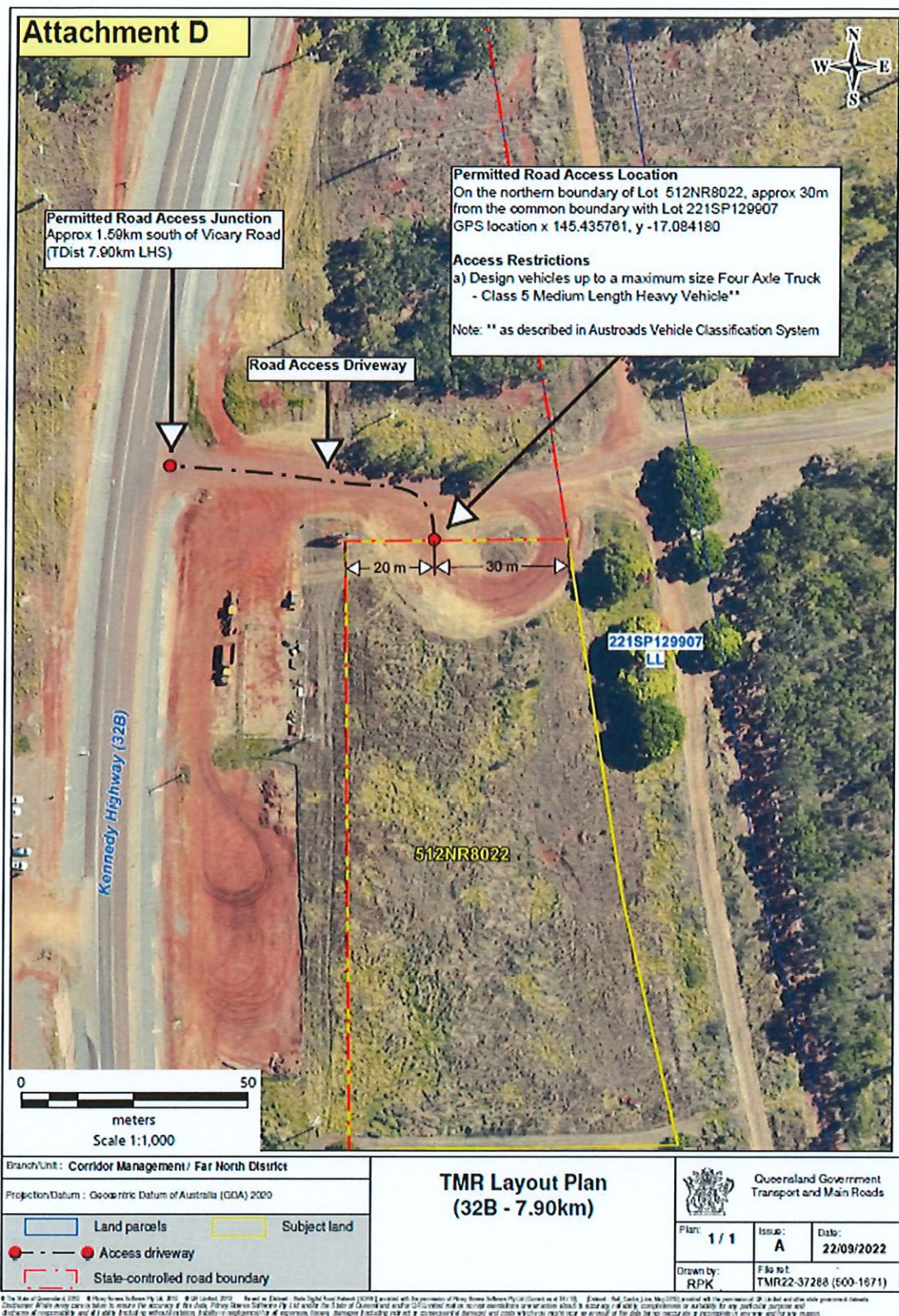
- (a) if a decision notice is given to the person—28 days after the notice was given to the person; or
- (b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

(2) However, if—

- (a) the decision notice did not state the reasons for the decision; and
- (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

the person may apply within 28 days after the person is given a statement of the reasons.

(3) Also, the appeal court may extend the period for appealing.



Appeal Rights

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

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

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

(Refer to Schedule 1 of the Planning Act 2016)

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

(3) The **appeal period** is –

- (a) for an appeal by a building advisory agency – 10 business days after a decision notice for the decision is given to the agency; or
- (b) for an appeal against a deemed refusal – at any time after the deemed refusal happens; or
- (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises – 20 business days after a notice 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.