



SARA reference: 2411-43684 SRA
 Council reference: MCU/24/0021
 Applicant reference: 24019

2 January 2025

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—3711 Kennedy Highway, Mareeba

(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 5 December 2024.

Response

Outcome:	Referral agency response – with conditions
Date of response:	2 January 2025
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 Tourist Park (3 x Cabins & Ancillary Guest Facilities)
SARA role:	Referral agency	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017)	

	Development application for a material change of use within 25m of a state-controlled road
SARA reference:	2411-43684 SRA
Assessment manager:	Mareeba Shire Council
Street address:	3711 Kennedy Highway, Mareeba
Real property description:	4RP725861
Applicant name:	Mr A. Pezzelato C/- Scope Town Planning
Applicant contact details:	183 Summerfields Drive Caboolture QLD 4510 scopetownplanning@gmail.com
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: <ul style="list-style-type: none"> • Approved • Reference: TMR24-044427 • Date: 20 December 2024 <p>If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at by email at cairns.office@tmr.qld.gov.au or by phone on (07) 4045 7151.</p>
<i>Human Rights Act 2019</i> considerations:	A consideration of the 23 fundamental human rights protected under the <i>Human Rights Act 2019</i> has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.

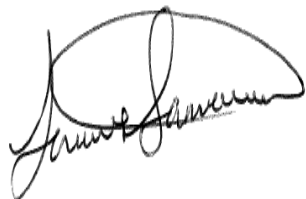
Representations

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.

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

Yours sincerely

A handwritten signature in black ink, appearing to read 'Javier Samanes', written in a cursive style.

Javier Samanes
A/ Manager (Planning)

cc Mr A. Pezzelato, scopetownplanning@gmail.com

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

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
Development Permit - Material change of use (Tourist Park)		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 – Material change of use near a state transport corridor—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of 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.	The road access location is to be located generally in accordance with TMR Layout Plan (32A – 36.87km), prepared by Queensland Government Transport and Main Roads, dated 19/12/2024, Reference TMR24-044427, Issue B.	At all time
2.	The existing vehicular property access located between Lot 4 on RP725861 and the Kennedy Highway must be permanently closed and removed and the fence line reinstated with the existing adjacent fence line.	Prior to commence of use

Attachment 2—Advice to the applicant

General advice	
1.	<p>Terms and phrases</p> <p>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 3.1). If a word remains undefined it has its ordinary meaning.</p>
2.	<p>Advertising device</p> <p>The applicant should seek advice from the Department of Transport and Main Roads (DTMR) to ensure that advertising device(s) visible from a state-controlled road, and beyond the boundaries of the state-controlled road, is unlikely to create a traffic hazard for the state-controlled road.</p> <p>Note: DTMR has powers under section 139 of the <i>Transport Operations (Road Use Management - Accreditation and Other Provisions) Regulation 2015</i> to require removal or modification of an advertising sign and / or a device which is deemed to create a danger to traffic</p> <p>For more information regarding the RAM or the Third-Party Advice process, please contact the Department of Transport and Main Roads at Far.North.Queensland.IDAS@tmr.qld.gov.au.</p>

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:

SARA assessed the proposed development against the relevant provisions of the SDAP:

- State code 1: Development in a state-controlled road environment

The development complies with the assessment benchmarks of State code 1 of SDAP (version 3.1) in that the development:

- is unlikely to create a safety hazard for users of the state-controlled road
- does not compromise the structural integrity of the state-controlled road
- does not result in a worsening of the physical condition or operating performance of the state-controlled road
- does not compromise the state's ability to maintain and operate state-controlled roads or, or significantly increase the cost to maintain and operate state-controlled roads
- is unlikely to compromise the safety, function, and efficiency of the state-controlled road, or the state-controlled road network.

Stormwater resulting from the proposed development is unlikely to adversely impact the state-controlled road.

The development is therefore considered to comply with the assessment benchmarks, subject to conditions that:

- specifies a road access location and require a commercial vehicle access
- limits the road access to one location and requires a redundant road access to be closed.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (version 3.1), 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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Attachment 5—Documents referenced in conditions

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PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE



SARA ref: 2411-43684 SRA

Date: 2 January 2025

Permitted Road Access Location

Near the common boundary with Lot 3RP725861

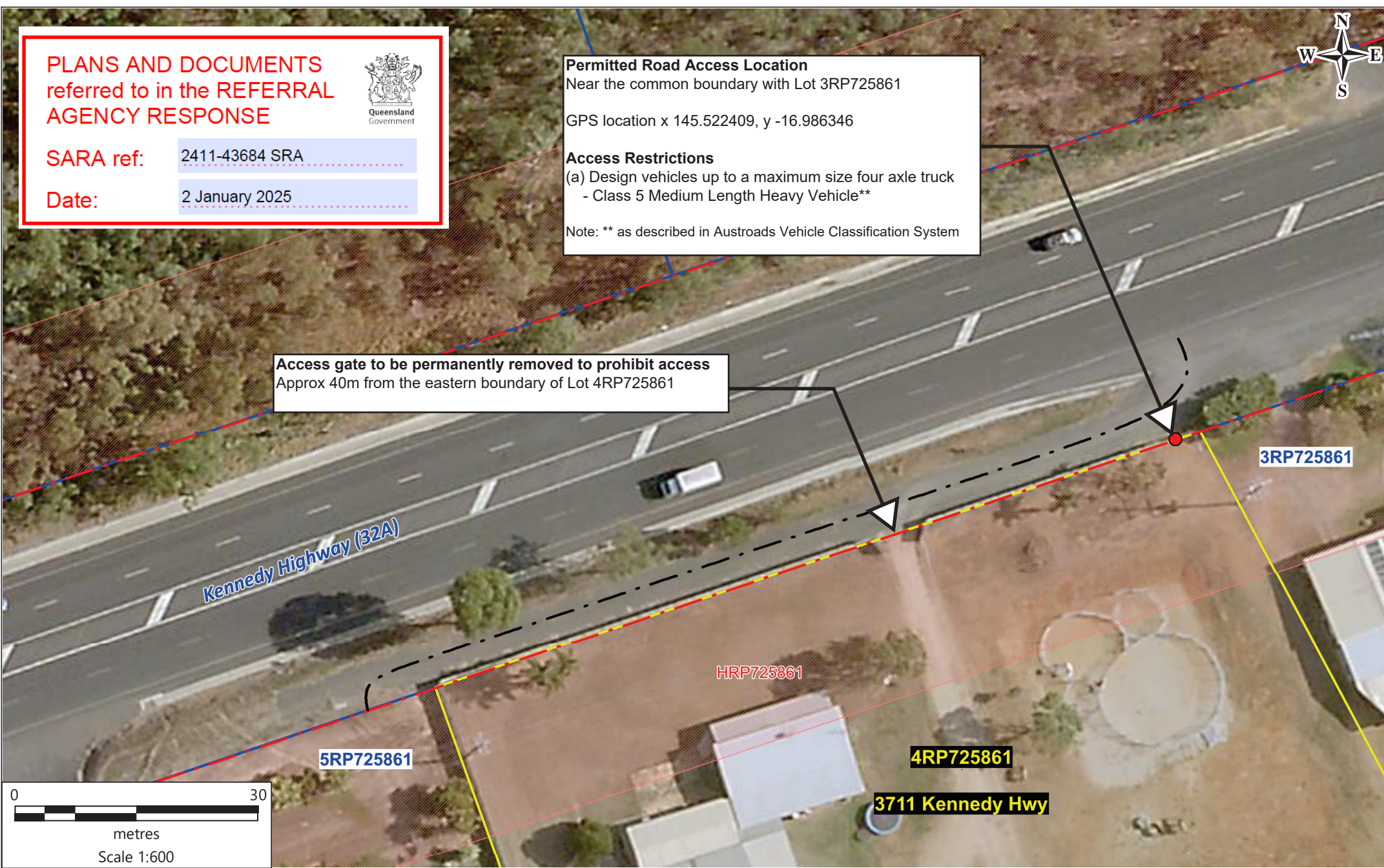
GPS location x 145.522409, y -16.986346

Access Restrictions

(a) Design vehicles up to a maximum size four axle truck
- Class 5 Medium Length Heavy Vehicle**

Note: ** as described in Austroads Vehicle Classification System

Access gate to be permanently removed to prohibit access
Approx 40m from the eastern boundary of Lot 4RP725861



Branch/Unit : **Corridor Management / Far North District**

Projection/Datum : Geocentric Datum of Australia (GDA) 2020

File ref: TMR24-044427

- Land parcels
- Easements
- Subject land
- Access track
- State-controlled road corridor

TMR Layout Plan (32A - 36.87km)

Plan: 1 / 1

Issue: B

Drawn by: RPK



Queensland Government Transport and Main Roads

Date: 19/12/2024

Our ref TMR24-044427
Your ref
Enquiries Ronald Kaden



Department of
Transport and Main Roads

20 December 2024

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 U/24/0021, lodged with Mareeba Shire Council involves constructing or changing a vehicular access between Lot 4RP725861, 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 A. Pezzelato c/- Scope Town Planning
c/- Scope Town Planning 183 Summerfields Drive
Caboolture QLD 4510

Application Details

Address of Property 3711 Kennedy Highway, Mareeba QLD 4880
Real Property Description 4RP725861
Aspect/s of Development Development Permit for Material Change of Use for Tourist Park (3 x Tourist Cabins & Ancillary Guest Facilities)

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 near the common boundary with Lot 3RP725861, in accordance with: a) TMR Layout Plan (32A - 36.87km) Issue B 19/12/2024 (Attachment D)	At all times.
2	Direct access is prohibited between Kennedy Highway and Lot 4RP725861 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'

No.	Conditions of Approval	Condition Timing
3	<p>The use of the permitted road access location described in Condition 1 is to be restricted to:</p> <ul style="list-style-type: none"> a) Design vehicles up to a maximum size Four Axle Truck - Class 5 Medium Length Heavy Vehicle** <p>Note: ** as described in Austroads Vehicle Classification System</p>	At all times.
4	<p>The existing Road Access Location (gate) situated:</p> <ul style="list-style-type: none"> a) between Kennedy Highway and Lot 4RP725861, and b) approximately 40 metres from the common boundary with Lot 3RP725861 must be permanently closed and the fence line reinstated with the existing adjacent fence line. 	Prior to commencement of development use.

Reasons for the decision

The reasons for this decision are as follows:

- a) The subject site (Lot 4 on RP725861) has road frontage and vehicle access via Kennedy Highway, a state-controlled road.
- b) Kennedy Highway is a limited access road (Limited Access Plan LA 10583).
- c) The previous use of the land was a mangoe farm which required semi-trailer (19.0m) articulated vehicular access.
- d) The proposed development is for a tourist park which will not require the larger size vehicles and therefore has been restricted to single body trucks.
- e) A previous section 62 decision for access was made for this land in March 2018 at its western boundary. This access appears to never have been used.
- f) A property gate has, at some stage, been installed approximately 40 metres from the eastern boundary.
- g) The proposed development indicates access required to be at the eastern boundary.
- h) As the proposed development is seeking a new access and increasing generation, a new 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 if 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, Ronald Kaden, Technical Officer (Development Control) should be contacted by email at cairns.office@tmr.qld.gov.au or on (07) 4045 7151.

Yours sincerely



Liliya Yates
A/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 (32A - 36.87km)	Queensland Government Transport and Main Roads	19 December 2024	TMR24-044427	B
Proposed Tourist Park layout (STP)	Scope Town Planning	-	Figure 5	-
Vehicle Access to state- controlled roads policy	Queensland Government Transport and Main Roads	2023	-	-

Attachment B

Section 70 of TIA

Transport Infrastructure Act 1994

Chapter 6 Road transport infrastructure

Part 5 Management of State-controlled roads

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

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

Maximum penalty—200 penalty units.

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

Attachment C
Appeal Provisions

Transport Infrastructure Act 1994
Chapter 16 General provisions

485 Internal review of decisions

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

485B Appeals against decisions

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

(b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.

(5) The court may order—

(a) the appeals to be heard together or 1 immediately after the other; or

(b) 1 appeal to be stayed until the other is decided.

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

(7) In this section—

original decision means a decision described in schedule 3.

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

31 Applying for review

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

32 Stay of operation of original decision

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

(8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.

(9) In this section—

relevant entity means—

(a) if the reviewed decision may be reviewed by QCAT—QCAT; or

(b) if the reviewed decision may be appealed to the appeal court—the appeal court.

35 Time for making appeals

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

(a) if a decision notice is given to the person—28 days after the notice was given to the person; or

(b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

(2) However, if—

(a) the decision notice did not state the reasons for the decision; and

(b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

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

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

Attachment D



Permitted Road Access Location
 Near the common boundary with Lot 3RP725861
 GPS location x 145.522409, y -16.986346

Access Restrictions
 (a) Design vehicles up to a maximum size four axle truck
 - Class 5 Medium Length Heavy Vehicle**

Note: ** as described in Austroads Vehicle Classification System

Access gate to be permanently removed to prohibit access
 Approx 40m from the eastern boundary of Lot 4RP725861



Branch/Unit : **Corridor Management / Far North District**

Projection/Datum : Geocentric Datum of Australia (GDA) 2020

File ref: TMR24-044427

- Land parcels
- Easements
- Subject land
- Access track
- State-controlled road corridor

TMR Layout Plan (32A - 36.87km)

Plan: **1 / 1**

Issue: **B**

Drawn by: **RPK**

Queensland Government
 Transport and Main Roads

Date: **19/12/2024**

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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.