

3 October 2017

Mareeba Shire Job Training Association Inc
C/- Freshwater Planning Pty Ltd
17 Barron View Drive
FRESHWATER QLD 4870

Officer: Brian Millard
Direct Telephone: 07 4086 4657
Our Reference: MCU/17/0004
Your Reference: F17/17

Dear Sir/Madam

Decision Notice

Planning Act 2016

I refer to your application and advise that on 3 October 2017, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No: MCU/17/0004
Street Address: 126 Byrnes Street MAREEBA QLD 4880
Real Property Description: Lot 2 on M356154
Planning Scheme: Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision: Approval
Type of Approval: Development Permit for Material Change of Use - Office
Date of Decision: 3 October 2017

CURRENCY PERIOD OF APPROVAL

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

INFRASTRUCTURE

Not Applicable

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, as applicable to the relevant stage, have been complied with, except where specified otherwise in these conditions of approval.
3. General
 - 3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure within the conditions of approval.
 - 3.2 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
 - 3.3 All payments or bonds, required to be made to the Council pursuant to any condition of this approval must be made prior to commencement of the use and at the rate applicable at the time of payment.

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

3.5 Noise Nuisance

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.

3.6 Waste Management

On site refuse storage area must be provided and be screened from view from adjoining properties and road reserve.

4. Infrastructure Services and Standards

4.1 Stormwater Drainage

- (a) The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.
- (b) All stormwater drainage concentrated by the development must be collected from site and discharged to an approved legal point of discharge.

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 categorizing 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—	Schedule 10, Table 4, item 1	State Assessment & Referral Agency (SARA) Department of Infrastructure, Local Government & Planning PO Box 2358 Cairns Qld 4870 CairnsSARA@dilgp.qld.gov.au

<p>(i) adjacent to a road that intersects with a State-controlled road; and</p> <p>(ii) within 100m of the intersection</p>		
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A copy of any referral agency conditions is attached.

APPROVED PLANS

The following plans are Approved plans for the development:

Approved Plans

Plan No.	Plan Name	Prepared by	Date
1703 SD-002	QITE Office Refurbishment - Ground Floor Plan	Fisher Buttrose Architects	19/07/2017
1703 SD-003	QITE Office Refurbishment - First Floor Plan	Fisher Buttrose Architects	19/07/2017
1703 SD-004	QITE Office Refurbishment - Elevations	Fisher Buttrose Architects	19/07/2017
1704 SD-005	QITE Office Refurbishment - Elevations	Fisher Buttrose Architects	19/07/2017

REFERENCED DOCUMENTS

Not Applicable.

ADVISORY NOTES

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

(A) ASSESSMENT MANAGER'S ADVICE

- (a) A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.
- (b) The change in the use of the building may also require a change in the classification of the building under the Building Act. You are advised to contact a Building Certifier to establish if a change in the classification of the building is required.
- (c) A Trade Waste Permit may be required prior to the commencement of use.

(d) 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.

(e) 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.

(f) Environmental Protection and Biodiversity Conservation Act 1999

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

(g) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the "cultural heritage duty of care"). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from www.datsip.qld.gov.au

PROPERTY NOTES

Not Applicable.

VARIATION APPROVAL

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

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

SUBMISSIONS

Not Applicable

RIGHTS OF APPEAL

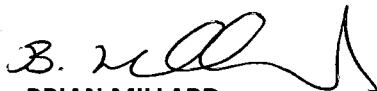
You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

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

OTHER DETAILS

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

Yours faithfully



BRIAN MILLARD
SENIOR PLANNER

Enc: Approved Plans
Referral Agency Response
Appeal Rights

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

APPROVED PLANS (ECM Doc Set ID 3273417)

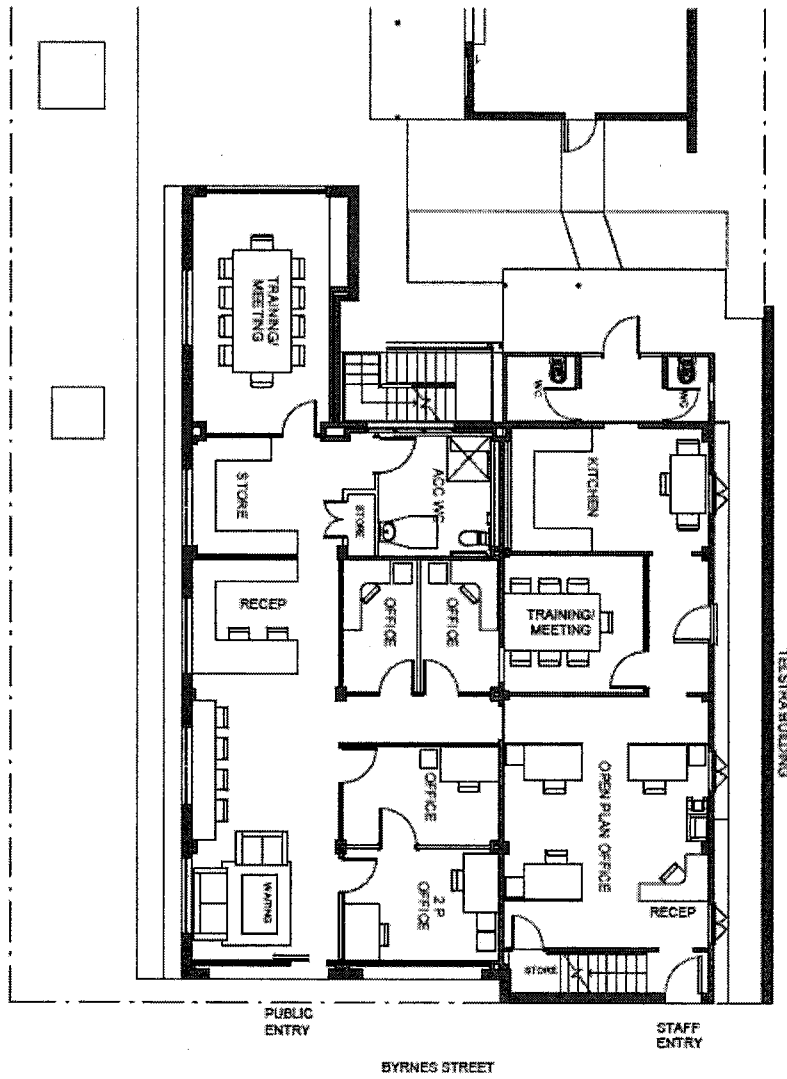
shar architects
outrose

PROJECT NO. 1700
DATE 17/03/2017
DRAWN BY B. WILLIAMS
CHECKED BY B. WILLIAMS
SCALE 1:1000



QTE OFFICE REORGANISATION
GROUND FLOOR PLAN
SCALE 1:1000

17/03/17



17/03/17
B. WILLIAMS

3/10/2017
B. WILLIAMS

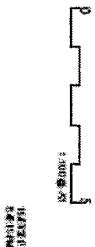
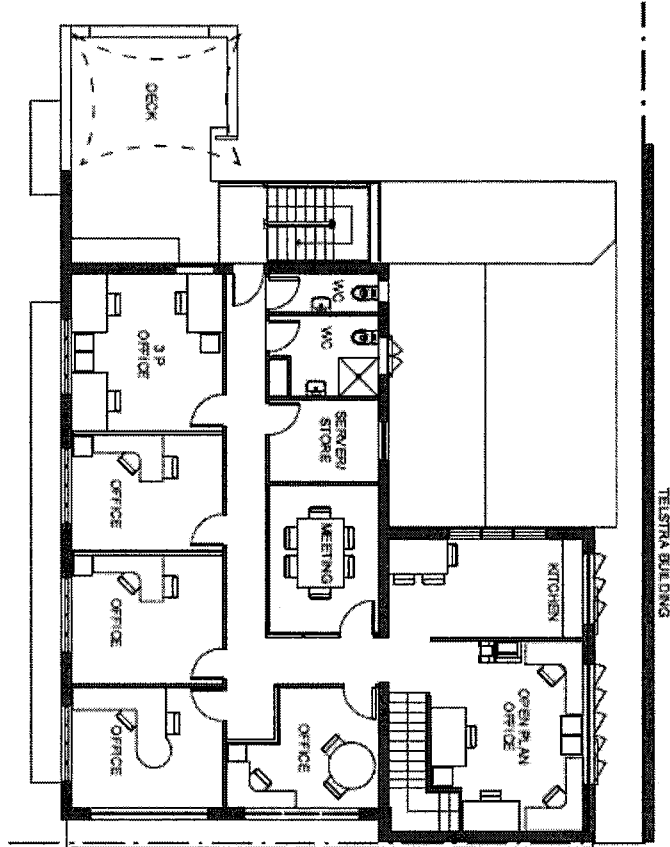
fisher
architects
buttrose

1. PREFERENTIAL AND OVERSIGHT
2. ARCHITECTS
3. PLANNING AND DESIGN
4. ENVIRONMENTAL AND SUSTAINABILITY
5. OPERATIONAL MANAGEMENT
6. PROJECT AND PROGRAM MANAGEMENT
7. COMMUNITY ENGAGEMENT
8. LEARNING AND INNOVATION
9. COMMUNICATION
10. RISK MANAGEMENT
11. COMPLIANCE AND REGULATION
12. SERVICE DELIVERY



QTE OFFICE REDESIGNMENT
FIRST FLOOR PLAN
1702 SC-002 19/01/2017
DATE
DRAFTED BY: JAMES GILBERT

1001210



1:1000
DATE: 19/01/2017

3/10/2017
B. Will

fisher architects butrose

REGISTERED ARCHITECTS
MEMBER OF THE
AUSTRALIAN INSTITUTE OF ARCHITECTS
1700/1702 STAMFORD STREET
MAREEBA QLD 4270
07 5522 1111

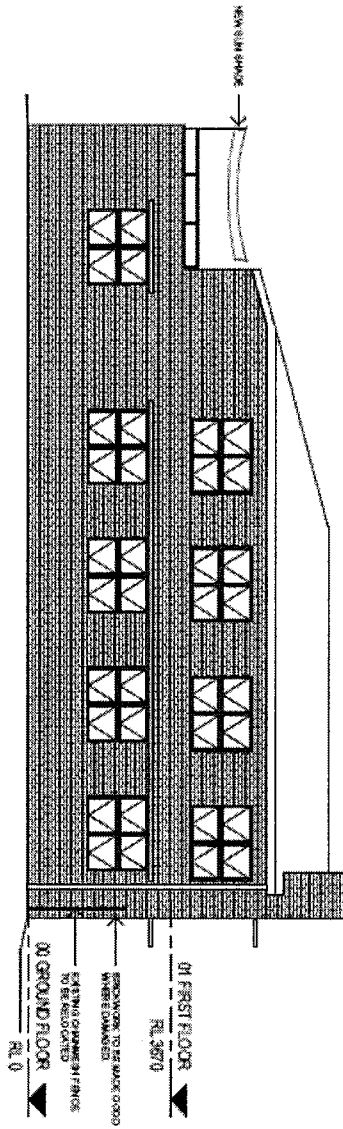


DATE: 17/02/2017
SCALE: AS SHOWN
DRAWING NO: 1700/1702-010

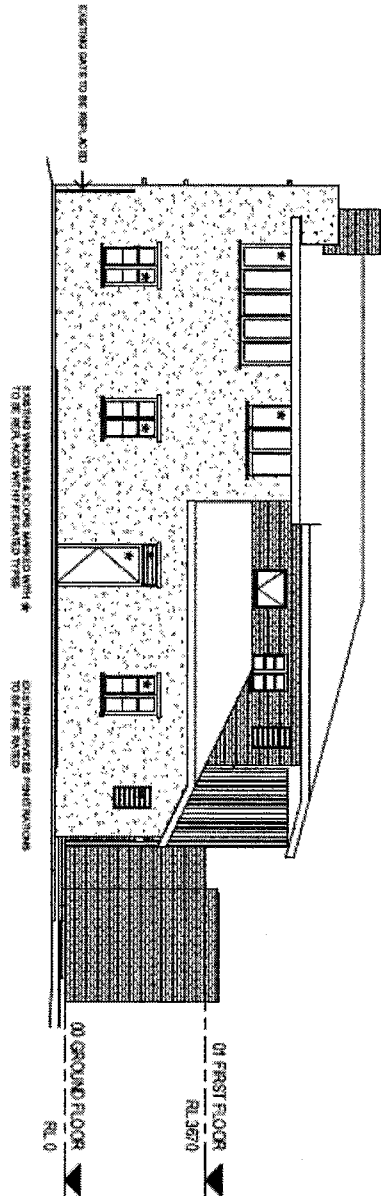
2017/02

22/02/17
3:00 PM

SOUTH ELEVATION
1 : 100



NORTH ELEVATION
1 : 100



3/10/2017
B. [Signature]

	Referral Agency Response - 11 September 2017
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Department of Infrastructure,
Local Government and Planning

GE78-N

Department of Infrastructure, Local Government and Planning
Statement of reasons for application 1708-733 SRA
(Given under section 56 of the *Planning Act 2016*)

Departmental role: Referral agency

Applicant details

Applicant name: Mareeba Shire Job Training Association Inc
Applicant contact details: 17 Barron View Drive
Freshwater QLD 4870
freshwaterplanning@outlook.com

Location details

Street address: 126 Bymes Street, Mareeba
Real property description: 2M356154
Local government area: Mareeba Shire Council

Development details

Development permit: Material change of use for an office

Assessment matters

Aspect of development requiring code assessment	Applicable codes
1. Material change of use	State Development Assessment Provisions version 2.0, effective 3 July 2017 – State code 1: Development in a state-controlled road environment.

Reasons for the department's decision

The reasons for the decision are:

- The proposed development no longer requires direct access via Mareeba-Dimbutah Road (Bymes Street) a state-controlled road.
- The changed access to the state-controlled road has been assessed in accordance with the *Transport Infrastructure Act 1994*.
- A decision notice has been given under Section 62 of *Transport Infrastructure Act 1994* prohibiting access to the state-controlled road.

Decision

- The development application is for a material change of use for an office located at 126 Bymes Street, Mareeba.

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

1708-733 SRA

- The subject site has road frontage and direct access to Mareeba-Dimbulah Road (Byrnes Street) a state-controlled road.
- Plans provided in the application material identify that access to the subject site will be gained via Railway Avenue, a local government controlled road and the proposed development no longer requires access to the state-controlled road.
- The inclusion of the concurrence agency conditions will ensure that the access to the state-controlled road is closed and removed and the kerb and channel along the state-controlled road is reinstated to maintain the safety and efficiency of the state-controlled road.

Relevant material

- Development application material including a planning report prepared by Freshwater Planning including the proposed plans showing the proposed development no longer requires access to the state-controlled road.
- State Development Assessment Provisions published by the Department of Infrastructure, Local Government and Planning.
- *Planning Act 2016*
- *Planning Regulation 2017*

Our ref TMR17-022241 (500-1158)
Applicant ref F17/17
Enquiries Ronald Kaden



Department of
Transport and Main Roads

1 September 2017

Decision Notice – Access Prohibited (s62(1) Transport Infrastructure Act 1994)

Development application reference number MCU/17/0004, lodged with Mareeba Shire Council involves constructing or changing a vehicular access between 2M356154, the land the subject of the application, and Mareeba - Dimbulah Road (a state-controlled road).

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

Applicant Details

Name and address Mareeba Shire Job Training Association Inc
C/- Freshwater Planning Pty Ltd
17 Barron View Drive
Freshwater QLD 4870

Application Details

Address of Property 126 Byrnes Street, Mareeba QLD 4880
Real Property Description 2M356154
Aspect/s of Development Development Approval for Material Change of Use for Professional Offices

Decision (given under section 67 of TIA)

It has been decided that all access between the state-controlled road and the land subject of the application is prohibited.

Reasons for the decision

The reasons for this decision are as follows -

- The proposed development is not seeking access via the state-controlled road (Byrnes Street),
- Due to the nature of the proposed development, the subject site no longer requires direct access via the state-controlled road (Byrnes Street),
- Access to the subject site can be achieved via Railway Avenue,
- The existing crossover is required to be closed and removed. Kerb and channel is to be constructed if required.

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.

Program Delivery and Operations
Far North Region
Cairns Corporate Tower, 15 Lake Street Cairns Queensland 4870
PO Box 6185 Cairns Queensland 4870

Telephone +61 7 (07) 4045 7151
Website www.tmr.qld.gov.au
ABN: 38 407 690 291

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

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 is 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.

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

Yours sincerely



Amod RIJAL
Principal Engineer (Civil)

Attachments: Attachment A – Decision evidence and findings
Attachment B - Section 70 of TIA
Attachment C - Appeal Provisions

Attachment A
Decision Evidence and Findings

Findings on material questions of fact

Title of Evidence / Material	Prepared by	Date	Reference no.	Version/Issue
Application for a Material Change of Use – Offices	Freshwater Planning	28 July 2017	-	-
Development Plans	Max Slade Designs	May 2017	A101 - A114	-
Development Plans	Fisher Buttrose Architects	19/07/2017	SD-002&SD-003	2
Development Plans	Fisher Buttrose Architects	27/07/2017	SD-004&SD-005	1

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) (i) for the procedure for the appeal and the way it is to
 - (ii) be disposed of; and
 - (iii) (ii) that the person may apply to the appeal court to
 - (iv) 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.

RA8-N

Department of Infrastructure,
Local Government and Planning

Our reference: 1708-733 SRA
 Council reference: MCU/17/0004
 Applicant reference: F17/17

11 September 2017

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

Attention: Brian Millard

Dear Sir / Madam

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

The development application described below was properly referred to the Department of Infrastructure, Local Government and Planning on 14 August 2017.

Applicant details

Applicant name:	Mareeba Shire Job Training Association Inc
Applicant contact details:	17 Barron View Drive Freshwater QLD 4870 freshwaterplanning@outlook.com

Location details

Street address:	126 Byrnes Street, Mareeba
Real property description:	2M356154
Local government area:	Mareeba Shire Council

Application details

Development permit	Material change of use for an office
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Page 1 of 4

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

1708-733 SRA

Referral triggers

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

- 10.9.4.2.4.1 State transport corridors and future State transport corridors

Conditions

Under section 56(1)(b)(i) of the *Planning Act 2016* (the Act), the conditions set out in Attachment 1 must be attached to any development approval.

Reasons for decision to impose conditions

The department must provide reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

Advice to the assessment manager

Under section 56(3) of the Act, the department offers advice about the application to the assessment manager—see Attachment 3.

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

For further information please contact Joanne Manson, Principal Planning Officer, SARA Far North QLD on 4037 2228 or via email CairnsSARA@dilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Mareeba Shire Job Training Association Inc, c/- Freshwater Planning,
email: freshwaterplanning@outlook.com

enc Attachment 1—Conditions to be imposed
Attachment 2—Reasons for decision to impose conditions

1708-733 SRA

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Material change of use for an office		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 – material change of use of premises near a State transport corridor or that is a future 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 conditions:		
1.	Direct access is not permitted between the state-controlled road (Byrnes Street) and the subject site.	At all times
2.	(a) The existing vehicular property access located between Lot 2 on M356154 and Mareeba-Dimbulah Road (Byrnes Street) must be permanently closed and removed. (b) The kerb and channel between the pavement edge and the property boundary must be reinstated in accordance with the local government standard at no cost to the Department of Transport and Main Roads.	(a) and (b) Prior to the commencement of use

1708-733 SRA

Attachment 2—Reasons for decision to impose conditions

The reasons for this decision are:

- Condition 1 has been imposed to ensure the access to the state-controlled road is prohibited where not required.
- Condition 2(a) has been imposed to ensure the access to the state-controlled road is closed and removed where not required.
- Condition 2(b) has been imposed to ensure the kerb and channel along the state-controlled road is reinstated to maintain the safety and efficiency of the state-controlled road.

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

231 Other appeals

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

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

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

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

232 Rules of the P&E Court

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