

**DELEGATED REPORT**

**SUBJECT:** MAREEBA SHIRE JOB TRAINING ASSOCIATION INC -  
MATERIAL CHANGE OF USE - OFFICE - LOT 2 ON M356154  
- 126 BYRNES STREET, MAREEBA - MCU/17/0004

**DATE:** 3 October 2017

**REPORT OFFICER'S  
TITLE:** Planning Officer

**DEPARTMENT:** Corporate and Community Services

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**APPLICATION DETAILS**

APPLICATION		PREMISES	
<b>APPLICANT</b>	Mareeba Shire Job Training Association Inc	<b>ADDRESS</b>	126 Byrnes Street, Mareeba
<b>DATE LODGED</b>	31 July 2017	<b>RPD</b>	Lot 2 on M356154
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Material Change of Use - Office		

<b>FILE NO</b>	MCU/17/0004	<b>AREA</b>	893m2
<b>LODGED BY</b>	Freshwater Planning Pty Ltd	<b>OWNER</b>	Mareeba Shire Job Training Association Inc
<b>PLANNING SCHEME</b>	Mareeba Shire Council Planning Scheme 2016		
<b>ZONE</b>	Community Facilities zone		
<b>LEVEL OF ASSESSMENT</b>	Code Assessment		
<b>SUBMISSIONS</b>	n/a		

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**ATTACHMENTS:**

1. Proposal Plan/s
2. Department of Infrastructure, Local Government and Planning Referral Agency Response - 11 September 2017

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**EXECUTIVE SUMMARY**

*Council is in receipt of a code assessable development application described in the above application details. Being code assessable, the application was not required to undergo public notification.*

*The applicants propose the conversion of the former Mareeba Fire Station into approximately 403m<sup>2</sup> of professional office space for use by Q.I.T.E, a local job find agency who currently occupy a business premises at the northern end of Byrnes Street, on the fringe of the CBD.*

*The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and no conflict with the Planning Scheme has been identified.*

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

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

## OFFICER'S RECOMMENDATION

- That in relation to the following development application:

APPLICATION		PREMISES	
<b>APPLICANT</b>	Mareeba Shire Job Training Association Inc	<b>ADDRESS</b>	126 Byrnes Street, Mareeba
<b>DATE LODGED</b>	31 July 2017	<b>RPD</b>	Lot 2 on M356154
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Material Change of Use - Office		

and in accordance with the Planning Act 2016, the applicant be notified that the application for a development permit for the development specified in (A) is:

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

And

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

(A) APPROVED DEVELOPMENT: Development Permit for Material Change of Use - Office

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
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

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
  - found necessary by 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.

## (D) ASSESSMENT MANAGER'S ADVICE

- (a) A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.
- (b) 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](http://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](http://www.datsip.qld.gov.au)

(E) CONCURRENCE AGENCY CONDITIONS

Department of Infrastructure, Local Government and Planning conditions dated 11 September 2017.

(F) RELEVANT PERIOD

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

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

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

- Development Permit for Building Work

(H) OTHER APPROVALS REQUIRED FROM COUNCIL

- Compliance Permit for Plumbing and Drainage Work

## THE SITE

The site is situated at 126 Byrnes Street, Mareeba and is described as Lot 2 on M356154. The site is generally regular in shape with an area of 893m<sup>2</sup> and is zoned Community Facilities under the Mareeba Shire Council Planning Scheme 2016. The site contains 19.5 metres of frontage to Byrnes Street as well as frontage to Railway Avenue to the rear of the site. Railway Avenue is not situated within a section of road reserve; instead it is situated within a larger parcel of State Land which also includes a Queensland Rail Depot, public car parking, a Telstra telecommunications tower and Anzac Park. Anzac Park is situated immediately to the south of the site.

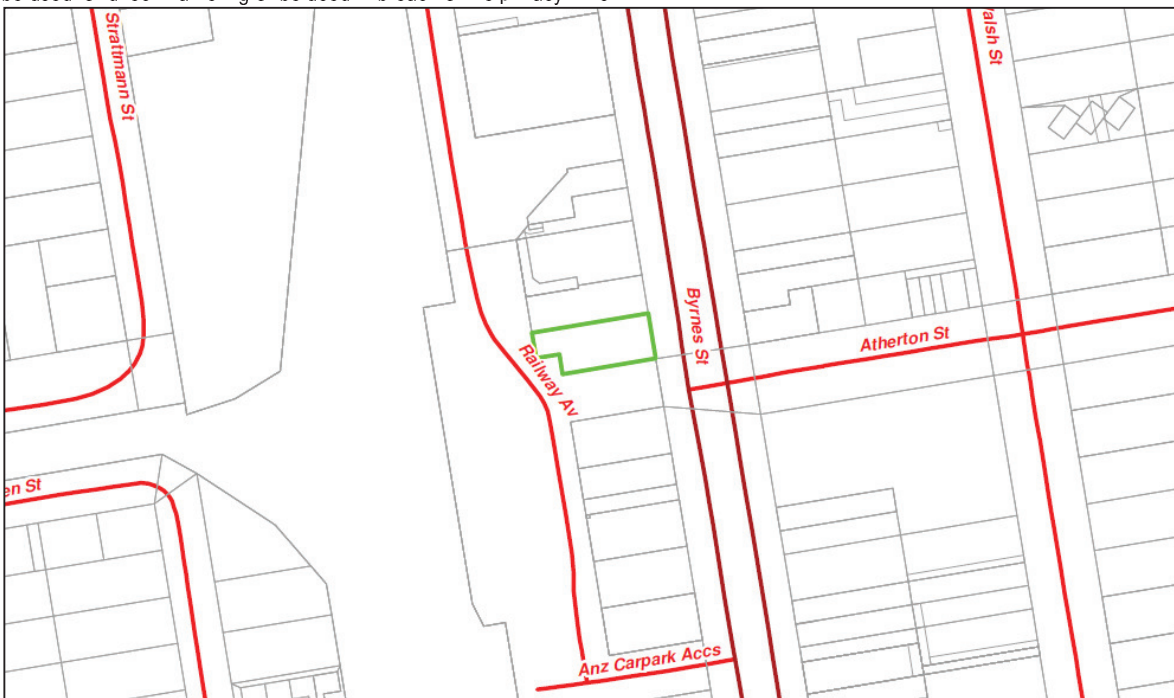
The site was previously used as the Mareeba Fire Station and contains multiple improvements including a covered carport at the rear of the site, a lattice tower previously used for training, hanging fire hoses etc., a storeroom building towards the centre of the site and a large multi storey building at the very front of the site which was the main fire station building and was used to house fire fighting equipment like fire trucks, as well as administration facilities and accommodation/amenities for fire fighting personnel. This main building is built right to the front boundary of the site with two large roller doors facing Byrnes Street. The majority of the site not built on has been concreted and was previously used for parking, training and maintenance.

The land immediately to the north of the site is zoned Centre and contains the main Telstra exchange building while land to the west and south of the site is zoned Community Facilities and contains uses previously discussed (railway depot, Anzac Park etc.).



Map Disclaimer:

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



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## BACKGROUND AND CONTEXT

Nil

## PREVIOUS APPLICATIONS & APPROVALS

Nil

## DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Material Change of Use - Offices in accordance with the plans shown in **Attachment 1**.

The applicants propose the conversion of the former Mareeba Fire Station into approximately 403m<sup>2</sup> of professional office space for use by the local job find company Q.I.T.E who are currently occupying office space towards the northern end of Byrnes Street, on the fringe of the CBD. The conversion will utilise all of the sites current improvements and both ground floor and first floor levels. The large roller doors at either end of the building will be removed and fitted with windows and standard access doors with the primary access gained from Byrnes Street. The internal fit out of the office space will include reception and waiting rooms, a mix of private and open plan offices, training and meeting rooms, store rooms, staff rooms and toilet facilities.

An open sided carport to the rear of the site will continue to be used for staff parking for up to 3 cars, and additional hardstand areas on site are available for use for additional on-site car parking as required.

## REGIONAL PLAN DESIGNATION

The subject site is included within the Urban Footprint land use category in the Far North Queensland Regional Plan 2009-2031. Mareeba is identified as a Major Regional Activity Centre in the Regional Plan. The Regional Plan Map 3 - 'Areas of Ecological Significance' does not identify the site as being of any significance.

## PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Centre Area
Zone:	Community Facility zone
Mareeba Local Plan:	Town Centre Core
Overlays:	Airport environs overlay Transport infrastructure overlay

## Planning Scheme Definitions

The proposed use is defined as:-

<b>Column 1 Use</b>	<b>Column 2 Definition</b>	<b>Column 3 Examples include</b>	<b>Column 4 Does not include the following examples</b>
Office	<p>Premises used for an administrative, secretarial or management service or the practice of a profession, whereon goods or materials are made, sold or hired and where the principal activity provides for one or more of the following:</p> <ul style="list-style-type: none"> <li>• business or professional advice</li> <li>• service of goods that are not physically on the premises</li> <li>• office based administrative functions of an organisation.</li> </ul>	Bank, real estate agent, administration building	Home based business, home office, shop, outdoor sales

## RELEVANT PLANNING INSTRUMENTS

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

### (a) Far North Queensland Regional Plan 2009-2031

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

### (b) State Planning Policy

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

### (c) Mareeba Shire Council Planning Scheme 2016

## Relevant Development Codes

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

- 6.2.2 Community facilities zone code
- 7.2.2 Mareeba local plan code
- 8.2.11 Transport infrastructure overlay code
- 9.3.2 Commercial activities code
- 9.4.2 Landscaping code
- 9.4.3 Parking and access code
- 9.4.5 Works, services and infrastructure code

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

Relevant Codes	Comments
Community Facilities Zone Code	<p>The development application can be conditioned to comply with the acceptable outcomes contained within the code apart from the following:</p> <ul style="list-style-type: none"> <li>▪ Acceptable Outcome AO2.1</li> <li>▪ Acceptable Outcome AO2.2</li> <li>▪ Acceptable Outcome AO4.2</li> </ul> <p>Despite not complying with the above acceptable outcomes, in each case it is considered that the higher order Performance Outcomes can be achieved. Refer to Development Code document for full discussion.</p>
Mareeba Local Plan Code	<p>The application complies with applicable acceptable/Performance outcomes (where no acceptable outcome is provided) contained within the code:</p>
Transport Infrastructure Overlay Code	<p>The application complies with applicable acceptable outcomes contained within the code:</p>
Commercial Activities Code	<p>The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.</p>
Landscaping Code	<p>Given the location of the subject site adjacent Anzac Park which is well landscaped and the fact that the development will utilise the sites existing improvements which achieve a 0 metre setback to Byrnes Street, additional landscaping is not considered necessary. Refer to Development Code document for full discussion.</p>
Parking and Access Code	<p>The application can be conditioned to comply with the applicable acceptable outcomes contained within the code apart from the following:</p> <ul style="list-style-type: none"> <li>▪ Acceptable Outcome AO1</li> </ul> <p>In this case it is considered that the higher order Performance Outcome can be achieved. Refer to Development Code document for full discussion.</p>
Works, Services and Infrastructure Code	<p>The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.</p>

**(e) Planning Scheme Policies**

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

A condition will be attached to any approval required all development works to be designed and constructed in accordance with FNQROC Development Manual standards.

**(f) Adopted Infrastructure Charges Notice**

The subject site is zoned "Community Facilities" under the Mareeba Shire Council Planning Scheme 2016 because the site was used as the Mareeba Fire Station at the time the Planning Scheme was developed. The subject site is no longer used as the Mareeba Fire Station and it is acknowledged that it should be situated within the Centre Zone which is likely to occur during a future Planning Scheme amendment.

The proposed "office" development would be accepted development (no requirements) if the subject site was situated within the Centre Zone. Considering this, and the fact that the development is not likely to result in a significant increase in demand on Council trunk infrastructure from the site, infrastructure charges are not considered necessary.

**REFERRALS****Concurrence**

The application triggered a referral to the Department of Infrastructure, Local Government and Planning as a Concurrence Agency (SARA - State controlled roads).

That Department advised in a letter dated 11 September 2017 that they require the conditions to be attached to any approval (**Attachment 2**).

**Advice**

This application did not trigger a referral to an Advice Agency.

**Internal Consultation**

Technical Services

**PLANNING DISCUSSION**

Nil


**Date Prepared:** 3 October 2017

## DECISION BY DELEGATE

## DECISION

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

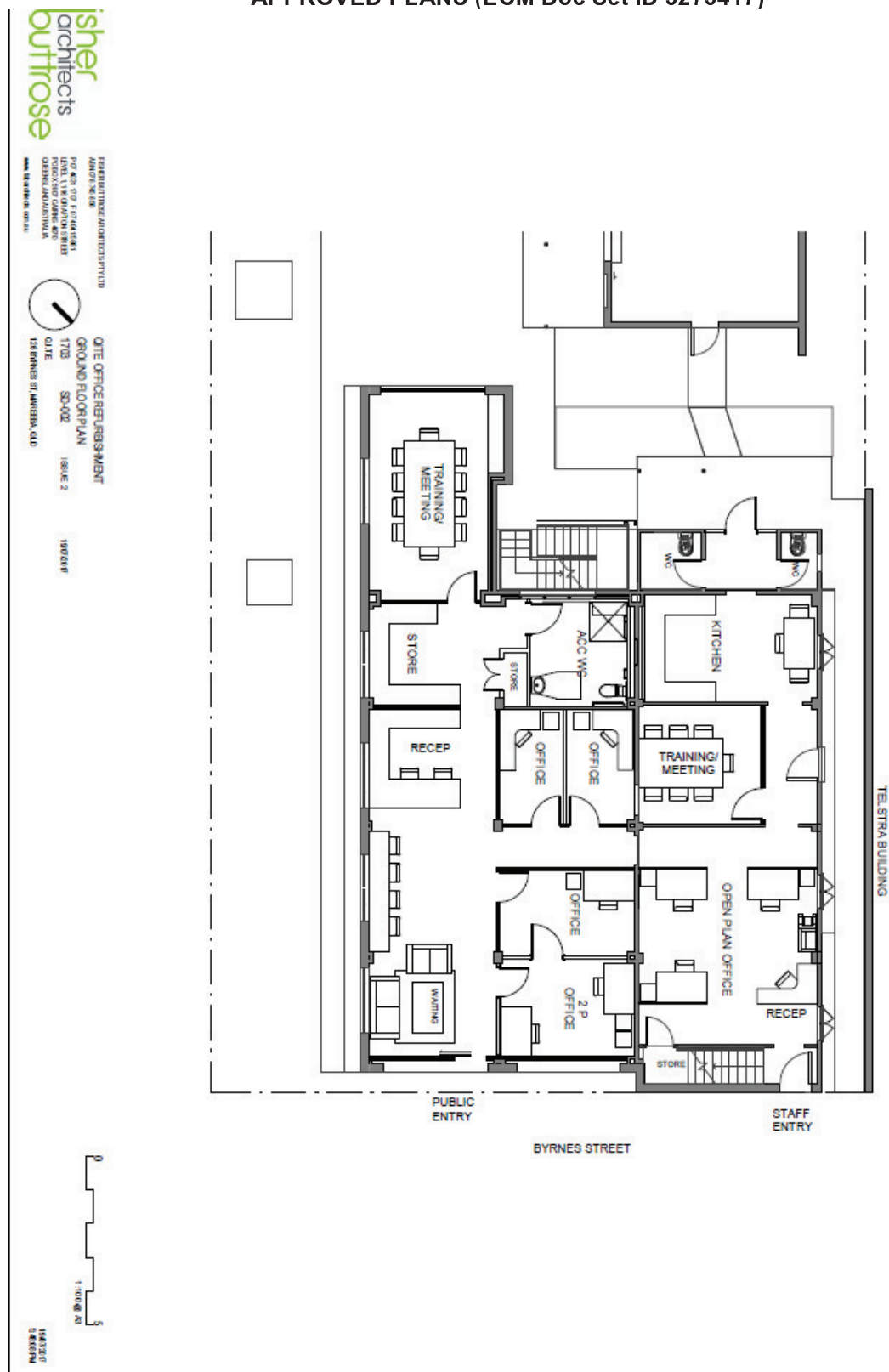
Dated the 30 day of October 2017

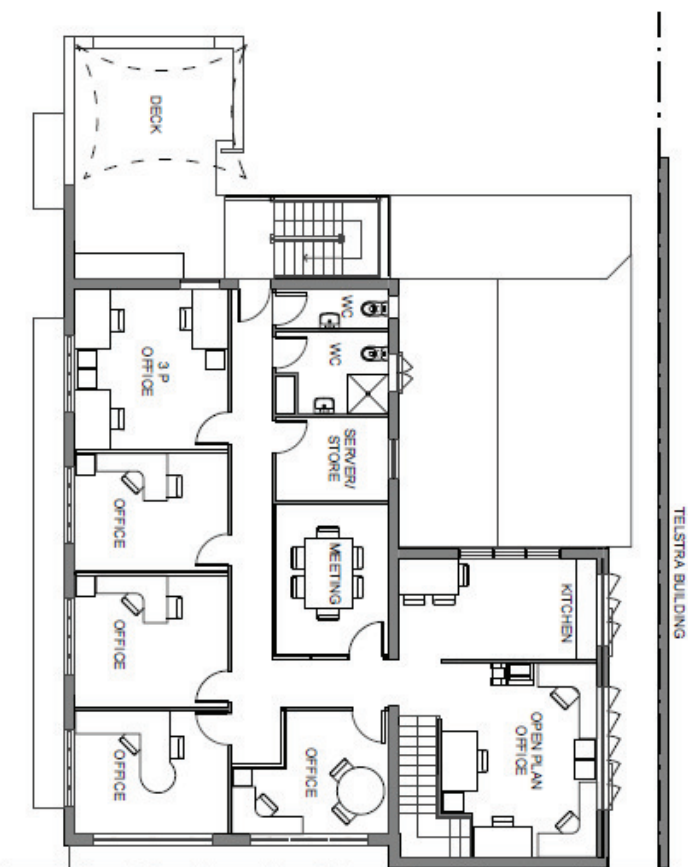


**BRIAN MILLARD**  
**SENIOR PLANNER**

MAREEBA SHIRE  
AS A DELEGATE OF THE COUNCIL

**APPROVED PLANS (ECM Doc Set ID 3273417)**





fisher  
architects  
boutrose

PRELIMINARY ARCHITECTURAL  
DRAWING NO. 100  
DATE: 11/10/2016  
PROJECT: TELSTRA BUILDING  
DRAWN BY: J. BOUTROSE  
CHECKED BY: J. BOUTROSE

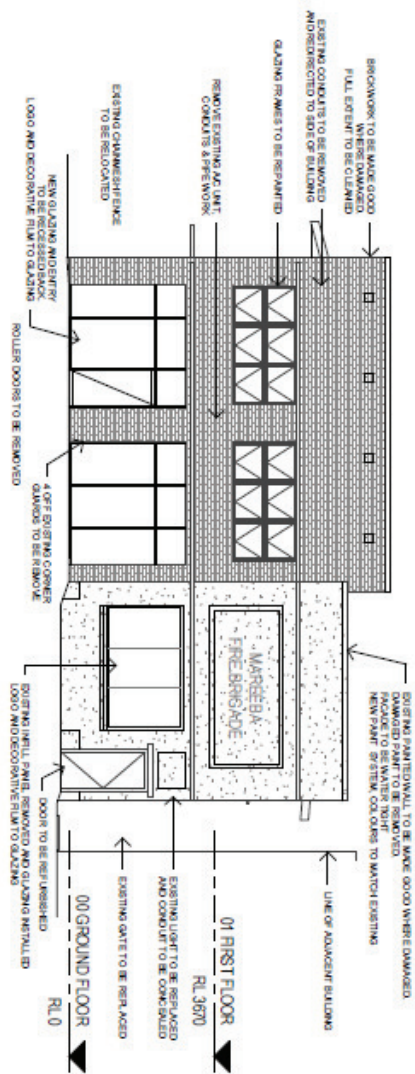


OTE OFFICE RE-ARRANGEMENT  
FIRST FLOOR PLAN  
1703 SD-008 ISSUE 2  
DATE 12/08/2016  
DESIGNED BY: J. BOUTROSE, AIA

100' 0" 0"

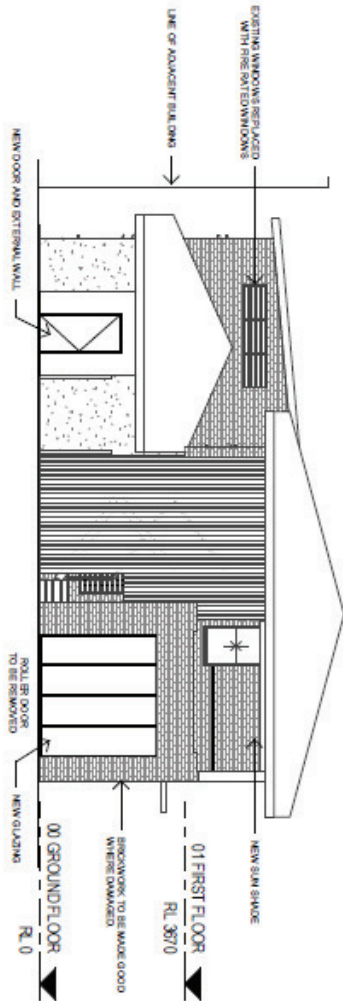


100' 0" 0"  
SCALE



EAST ELEVATION

1 : 100



WEST ELEVATION

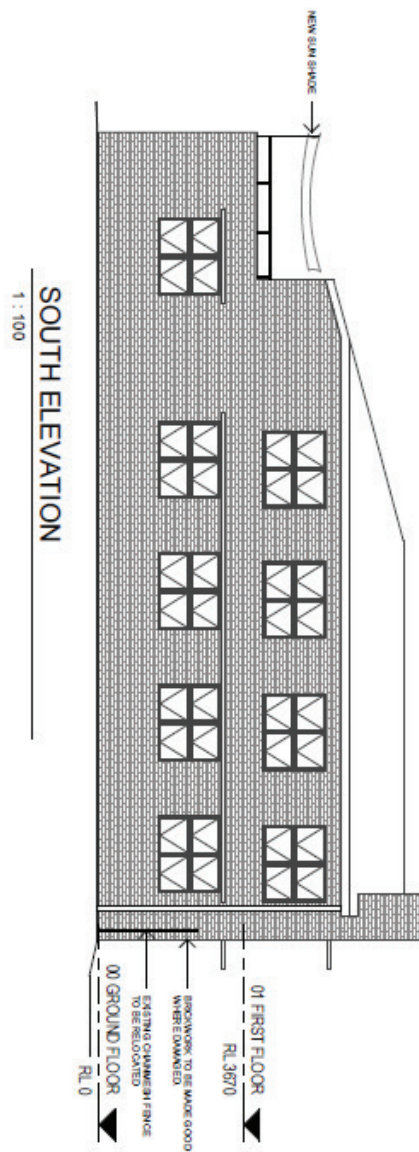
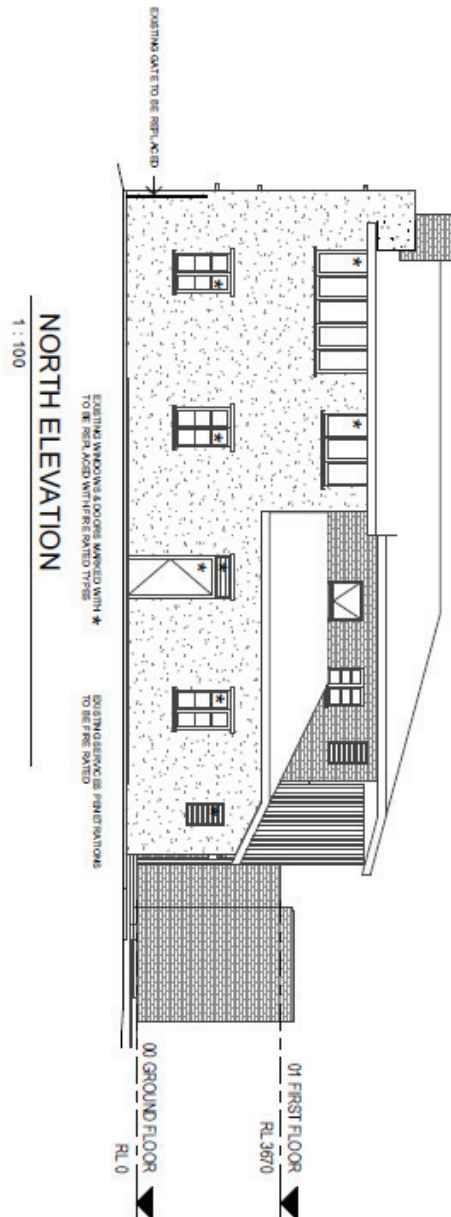
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fisher  
architects  
burtrose

PROFESSIONAL ARCHITECTS  
AMVIC NO. 108  
FOR A FULL LIST OF  
LOCAL LISTED ARCHITECTS  
CONTACT US AT  
0438 242 242

QITE OFFICE REFURBISHMENT  
ELEVATIONS  
1708 SC-004 ISSUE 1  
DATE 17/08/2018  
DRAWN BY J. BURTROSE  
CHECKED BY J. BURTROSE  
DATE 17/08/2018

27/08/18  
30/08/18



## ATTACHMENT 2



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-Dimbulah 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](http://www.tmr.qld.gov.au)  
 ABN: 39 407 690 291

**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@tmr.qld.gov.au](mailto:ron.p.kaden@tmr.qld.gov.au) or on (07) 4045 7151.

Yours sincerely



Amod RIJAL  
Principal Engineer (Civil)

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

**Attachment 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

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**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 be disposed of; and
    - (ii) (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

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**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.

RA6-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 Bymes 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

**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@dlgp.qld.gov.au](mailto:CairnsSARA@dlgp.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](mailto:freshwaterplanning@outlook.com)

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

## Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
<b>Material change of use for an office</b>		
<p><b>Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1</b> – 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 <b>Department of Transport and Main Roads</b> 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:</p>		
1.	Direct access is not permitted between the state-controlled road (Byrnes Street) and the subject site.	At all times
2.	<p>(a) The existing vehicular property access located between Lot 2 on M356154 and Mareeba-Dimbulah Road (Byrnes Street) must be permanently closed and removed.</p> <p>(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.</p>	(a) and (b) Prior to the commencement of use

**Attachment 2—Reasons for decision to impose conditions**

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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.