



Mareeba

SHIRE COUNCIL

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19 July 2018

Telstra Corporation Limited
C/- Visionstream Pty Ltd
PO Box 5452
WEST END QLD 4101

Attention: Elizabeth Waisel

Dear Madam

Senior Planner: Brian Millard
Direct Telephone: 4086 4657
Our Reference: BM:nj
Your Reference: Telstra - Watsonville

Decision Notice

Planning Act 2016

I refer to your application and advise that on 18 July 2018, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No: MCU/18/0013
Street Address: Ann Street (Herberton - Petford Road), Watsonville
Real Property Description: Lot 114 on W2631
Planning Scheme: Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision: Approval
Type of Approval: Development Permit for Material Change of Use - Telecommunications Facility
Date of Decision: 18 July 2018

CURRENCY PERIOD OF APPROVAL

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

INFRASTRUCTURE

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

ASSESSMENT MANAGER CONDITIONS**(A) ASSESSMENT MANAGER’S CONDITIONS (COUNCIL)**

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 the Council’s delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
 - to ensure compliance with the following conditions of approval.
2. Timing of Effect
 - 2.1 The conditions of the development permit must be complied with to the satisfaction of Council’s delegated officer prior to the commencement of the use except where specified otherwise in these conditions of approval.
 - 2.2 Prior to the commencement of use, the applicant must notify Council that all the conditions of the development permit have been complied with, except where specified otherwise in these conditions of approval.
3. General
 - 3.1 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by the condition(s) of this approval.
 - 3.2 All payments required to be made to the Council (including contributions, charges and bonds) pursuant to any condition of this approval must be made prior to the commencement of the use and at the rate applicable at the time of payment.
 - 3.3 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council’s delegated officer.

3.4 Noise Nuisance

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.

Suitable screening to all air conditioning, lift motor rooms, plant and service facilities located at the top of or on the external face of the building must be installed and maintained. The screening structures must be constructed from materials that are consistent with materials used elsewhere on the facade of the building. There are to be no individual external unscreened air conditioning units attached to the exterior building facade.

4. Infrastructure Services and Standards

4.1 Lighting

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

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

4.1.2 Warning lights shall not be installed on the tower, unless specifically required by other relevant legislation.

4.2 Building Materials & Finishes

4.2.1 Any equipment cabinets shall be a neutral colour.

4.2.2 The monopole tower shall be painted a colour equivalent to Colorbond 'Pale Eucalypt' in order to help achieve an effective visual blend with the surrounding landscape.

4.3 Operational Requirements

4.3.1 The radiofrequency field emissions and electromagnetic emissions from the installed tower shall not exceed the Australian Radiation Protection and Nuclear Safety Agency mandated exposure limits for

continuous exposure to radio frequency and electromagnetic energy transmissions from mobile phone base stations at any time, at any location.

- 4.3.2 Within three months of the site becoming operational, a site compliance inspection is to be carried out by an appropriately qualified person and certificate issued to verify that the site complies with the requirements and limits of the Australian Radiation Protection and Nuclear Safety Agency, Radiation Protection Standard, 2002 Maximum Exposure Levels to Radio Frequency Fields – 3 kHz to 300 GHz. This certificate is to be submitted to Council for consideration within three (3) months of the tower becoming operational.

4.4 Decommissioning and Site Rehabilitation

If the use is abandoned, the site must be rehabilitated to a level that achieves the following:

- (i) The monopole and associated infrastructure is removed from the site; and
- (ii) The site is made suitable for other uses compatible with the locality; and
- (iii) Restores the visual amenity of the site.

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—	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4	State Assessment & Referral Agency (SARA) Department of State Development, Manufacturing, Infrastructure and Planning PO Box 2358 Cairns Qld 4870 CairnsSARA@dilgp.qld.gov.au
(a) are within 25m of a State transport corridor; or		
(b) are a future State transport corridor; or		
(c) are—		
(i) adjacent to a road that intersects with a State-controlled road; and		
(ii) within 100m of the intersection		

A copy of any referral agency conditions are attached.

APPROVED PLANS

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
Q113992 Sheet No. S1	Site Layout and Access	Visionstream Pty Ltd	27 April 2018
Q113992 Sheet No. S1-1	Antenna Layout	Visionstream Pty Ltd	2 April 2018
Q113992 Sheet No. S3	South East Elevation	Visionstream Pty Ltd	27 April 2018

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) 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.

(b) 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.

(c) 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

(d) 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

(e) Transportation of Soil

All soil transported to or from the site must be covered to prevent dust or spillage during transport. If soil is tracked or spilt onto the road pavements as a result of works on the subject site, it must be removed prior to the end of the working day and within four (4) hours of a request from a Council Officer.

(B) REFERRAL AGENCY CONDITIONS

Department of State Development, Manufacturing, Infrastructure and Planning conditions dated 25 May 2018

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

There were fourteen (14) properly made submissions about the application. In accordance with the *Planning Act 2016*, the name, residential or business address of the principal submitter for each properly made submission is provided below;

Name of principal submitter	Address
1. Roger Hockey (2 x submissions)	PO Box 1683, Mareeba QLD 4880
2. Lyndell Johns	6A Harwood Drive, Babinda QLD 4861

3.	Alison Peachey	949 Leafgold Weir Road, Dimbulah QLD 4872
4.	Nathan Peachey	949 Leafgold Weir Road, Dimbulah QLD 4872
5.	Brodey Hockey	PO Box 1683, Mareeba QLD 4880
6.	Shakiah Hockey	PO Box 1683, Mareeba QLD 4880
7.	David Hockey	PO Box 1683, Mareeba QLD 4880
8.	Breanna Hockey	PO Box 1683, Mareeba QLD 4880
9.	Jared Hockey	PO Box 1683, Mareeba QLD 4880
10.	Latisha Hockey	PO Box 1683, Mareeba QLD 4880
11.	Ethan Hockey	PO Box 1683, Mareeba QLD 4880
12.	Tyler Hockey	PO Box 1683, Mareeba QLD 4880
13.	Delwyn & Lyndon Hockey	39 Supply Road, Bentley Park QLD 4869

RIGHTS OF APPEAL

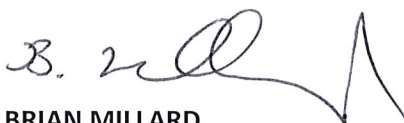
You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

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

OTHER DETAILS

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

Yours faithfully



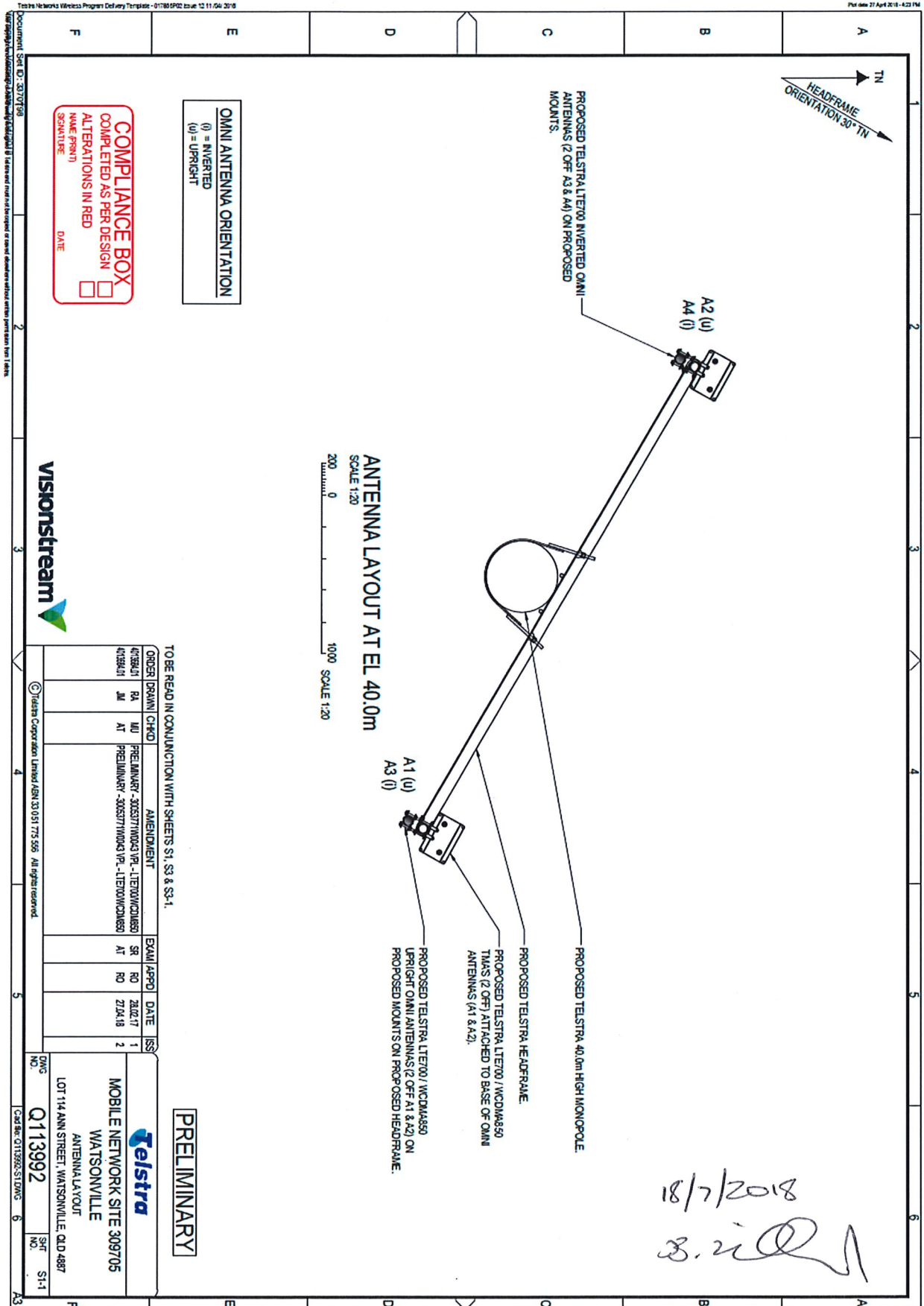
BRIAN MILLARD
SENIOR PLANNER

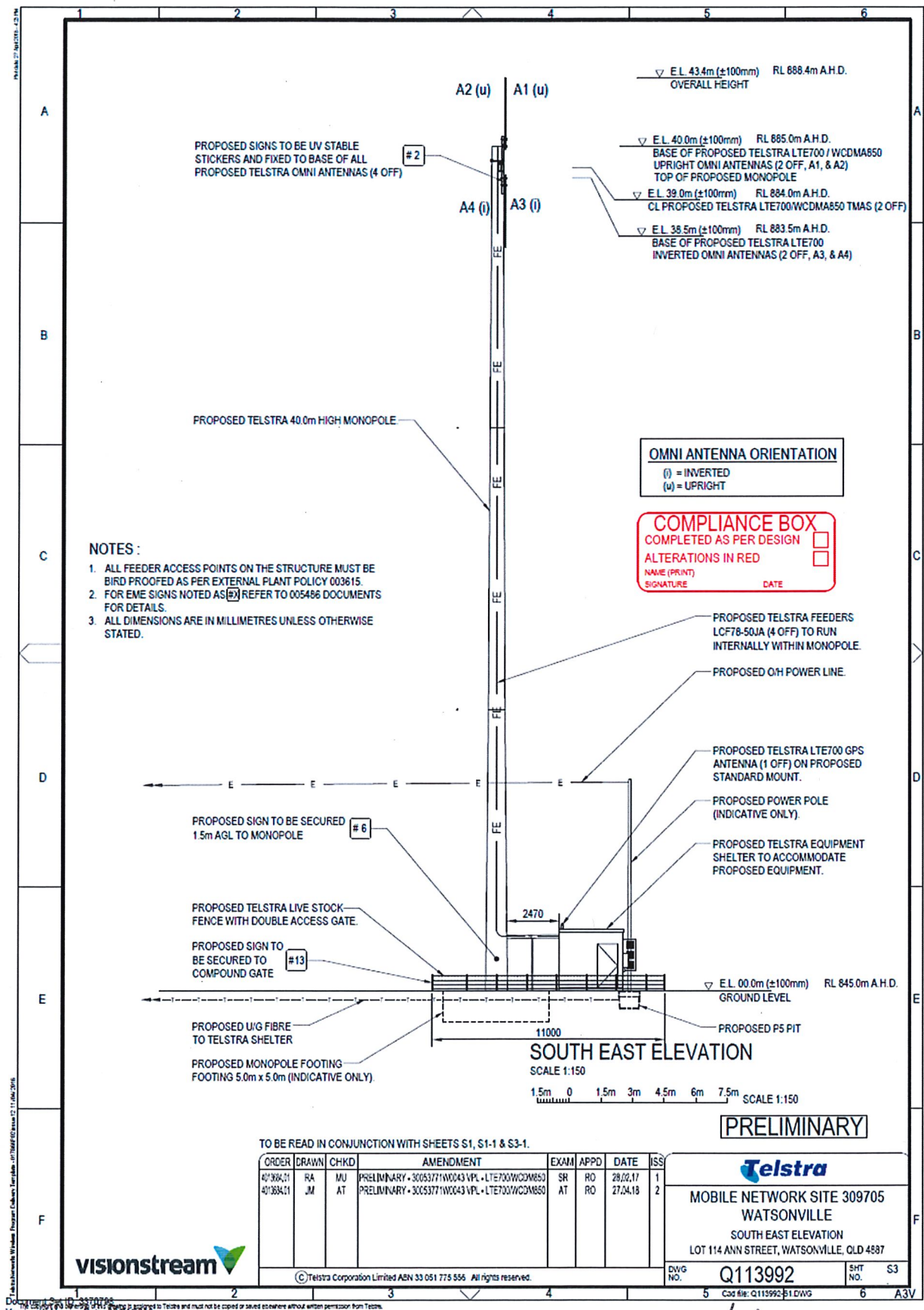
Enc: Approved Plans/Documents
Referral Agency Response
Appeal Rights

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

[illegible]

18/7/2018
B. Reed





Referral Agency Response

RA5-N



Department of
**State Development,
Manufacturing,
Infrastructure and Planning**

Our reference: 1605-5239 SRA
Council reference: MCU/18/0013
Your reference: 4013684.01 Watsonville

25 May 2018

Chief Executive Officer
Mareeba Shire Council
PO Box 154
Mareeba Qld 4880
planning@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 State Development, Manufacturing, Infrastructure and Planning on 10 May 2018.

Applicant details

Applicant name: Miss Liz Wasieł
c/- visionstream
Applicant contact details: PO Box 5452
West End QLD 4101
elizabeth.wasieł@visionstream.com.au

Location details

Street address: Ann Street (Herberton-Petford), Watsonville
Real property description: Lot 114 on W2631
Local government area: Mareeba Shire Council

Application details

Development permit Telecommunications facility

Referral triggers

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

Page 1 of 7

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

1805-5239 SRA

- 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.

Approved plans and specifications

The department requires that the plans and specifications set out below and enclosed must be attached to any development approval.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Aspect of development: Material change of use				
TMR Layout Plan (6632-10.83km)	Queensland Government Transport and Main Roads	17/05/2018	TMR18-24536 (500-1198)	B
Site Layout and Access Lot 114 Ann Street Watsonville QLD 4887	visionstream	27.04.18	Q113992 Sheet 1	-

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

For further information please contact Joanne Manson, Principal Planning Officer, on 40373228 or via email CairnsSARA@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Miss Liz Wasieł, c/- Vision Stream elizabeth.wasiel@visionstream.com.au

enc Attachment 1—Conditions to be imposed
Attachment 2—Reasons for decision to impose conditions
Attachment 3—Advice to the assessment manager
Approved plans and specifications

1805-5239 SRA

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Material change of use		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 – Material change of use of premises near a State transport corridor 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.	<p>(a) The road access location, is to be located generally in accordance with:</p> <ul style="list-style-type: none"> TMR Layout Plan (6632-10.83km), prepared by Queensland Government Transport and Main Roads, dated 17/05/2018, reference TMR18-24536 (500-1196), issue B. Site Layout and Access Lot 114 Ann Street Watsonville QLD 4887 plan, prepared by visionstream, dated 27.04.18, reference Q113992 Sheet 1. <p>(b) Road access works comprising Rural Allotment Access, (at the road access location) must be provided generally in accordance with FNQROC Standard Drawing S1105.</p>	<p>(a) At all times</p> <p>(b) Prior to the commencement of use</p>
2.	Direct access is not permitted between Herberton-Petford Road and Lot 114 on W2631 at any other location other than the permitted roads access location described in Condition 1.	At all times

1805-5239 SRA

Attachment 2—Reasons for decision to impose conditions

The reasons for this decision are:

- To ensure the road access location to the state-controlled road from the site does not compromise the safety and efficiency of the state-controlled road.
- To ensure the design of any road access maintains the safety and efficiency of the state-controlled road.
- To ensure access to the state-controlled road from the site does not compromise the safety and efficiency of the state-controlled road. Direct access to the state-controlled road is prohibited where not required.

1805-5239 SRA

Attachment 3—Advice to the assessment manager

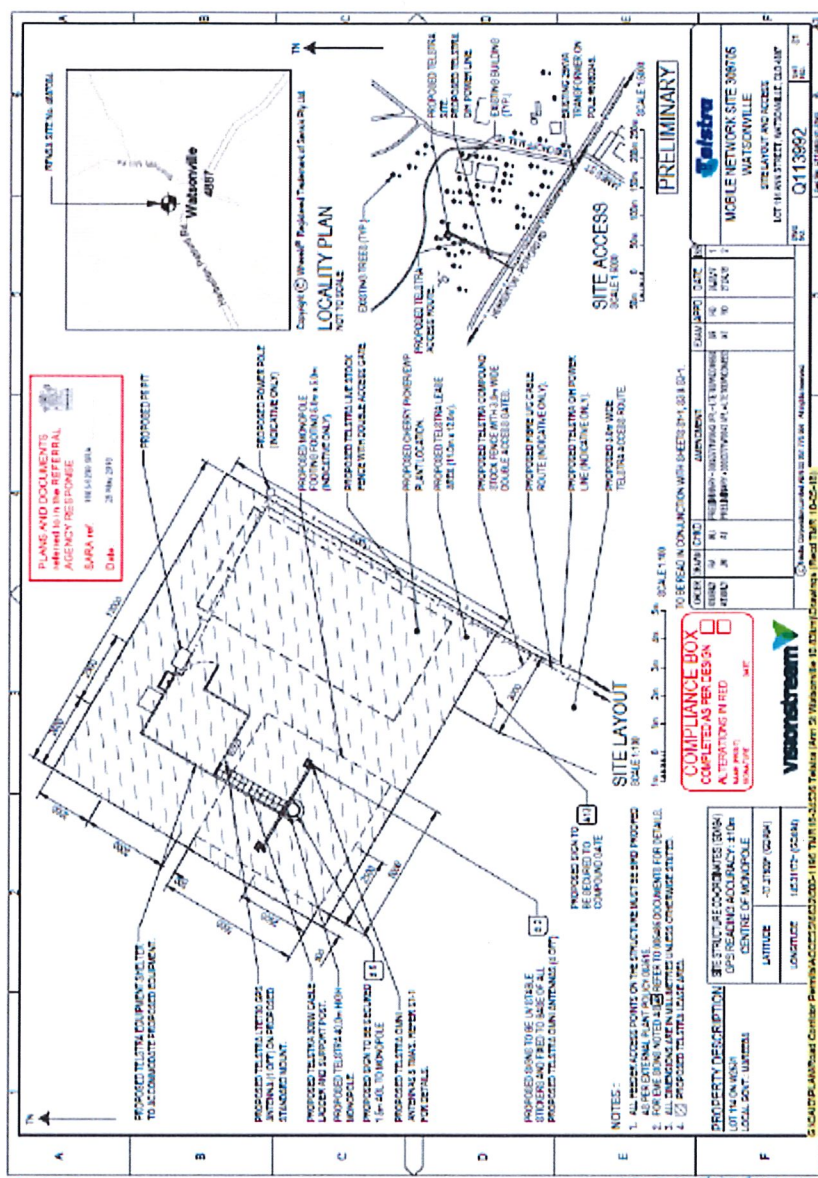
General advice	
Ref	Road Works Approval
1.	<p>In accordance with section 33 of the <i>Transport Infrastructure Act 1994</i> (TIA), an applicant must obtain written approval from Department of Transport and Main Roads to carry out road works, including road access works on a state-controlled road.</p> <p>Please contact the Department of Transport and Main Roads on 4045 7144 to make an application for the road works approval. This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the Department of Transport and Main Roads' as soon as possible to ensure that gaining approval does not delay construction.</p>

RA5-N

Approved plans and specifications



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



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PO Box 2358, Cairns QLD 4870

Appeal Rights

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 of the *Planning Act 2016* states –
- (a) Matters that may be appealed to –
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) The person-
 - (i) who may appeal a matter (**the appellant**); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.

(Refer to Schedule 1 of the Planning Act 2016)

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

Note –

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

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt. It is declared that an appeal against an infrastructure charges notice must not be about-

- (a) the adopted charge itself; or
- (b) for a decision about an offset or refund-
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

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

231 Other appeals

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

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

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

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

232 Rules of the P&E Court

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