

PLANNING REPORT

SUBJECT: TELSTRA CORPORATION LIMITED - MATERIAL CHANGE OF USE - TELECOMMUNICATIONS FACILITY - LOT 3 ON L3148 - MACDONALD STREET, IRVINEBANK - MCU/17/0005

MEETING: Ordinary

MEETING DATE: 20 December 2017

REPORT OFFICER'S TITLE: Planning Officer

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	Telstra Corporation Limited	ADDRESS	MacDonald Street, Irvinebank
DATE LODGED	4 September 2017	RPD	Lot 3 on L3148
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Telecommunications Facility		

FILE NO	MCU/17/0005	AREA	1,012m ²
LODGED BY	Servicestream Mobile Communications	OWNER	Telstra Corporation Limited
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Low Density Residential Zone		
LEVEL OF ASSESSMENT	Impact Assessment		
SUBMISSIONS	No Submissions Received		

ATTACHMENTS:

1. Proposal Plan/s
2. Department of Infrastructure, Local Government and Planning Referral Agency Response dated 27 September 2017

EXECUTIVE SUMMARY

Council is in receipt of an impact assessable development application described in the above application details. Public notification of the proposed development did not attract any submitters.

Telstra Corporation Limited proposes the construction of a telecommunications facility (mobile phone base station) on the eastern edge of the Irvinebank Township as part of the Federal Governments Mobile Black Spot Program. Currently, there is no mobile phone reception in

Irvinebank or immediate surrounds. The facility will include a 40 metre high monopole tower and will be constructed adjacent an existing Telstra facility.

The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and is not considered to conflict with any aspect of the Planning Scheme.

Given the height of the proposed monopole tower, some visual amenity impacts are likely as the tower will encroach into the skyline; however, a minor degree of visual impact is considered acceptable given the likely community benefit provided by the development (mobile phone reception).

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, subject to conditions.

OFFICER'S RECOMMENDATION

"1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	Telstra Corporation Limited	ADDRESS	MacDonald Street, Irvinebank
DATE LODGED	4 September 2017	RPD	Lot 3 on L3148
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Telecommunications Facility		

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 - Telecommunications Facility

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
Q114355 Sheet No. S1	Site Access and Locality Plan	Servicestream Mobile Communications	8/08/17
Q114355 Sheet No. S1-1	Site Layout	Servicestream Mobile Communications	8/08/17
Q114355 Sheet No. S1-2	Antenna Layout	Servicestream Mobile Communications	8/08/17
Q114355 Sheet No. S3	North West Elevation	Servicestream Mobile Communications	8/08/17

(C) 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 from the installed tower shall not exceed the Australian Radiation Protection and Nuclear Safety Agency mandated exposure limits for continuous exposure to radio frequency transmissions from mobile phone base stations at any time, at any location.

4.3.2 Within three (3) months of the site becoming operational, a site compliance certificate is to be carried out by an appropriately qualified person 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.

(D) 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.

(E) CONCURRENCE AGENCY CONDITIONS

Department of Infrastructure, Local Government and Planning conditions dated 27 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 subject site is situated at MacDonald Street, Irvinebank, and is described as Lot 3 on L3148. The site is regular in shape with an area of 1,012m² and is zoned Low Density Residential under the Mareeba Shire Council Planning Scheme 2016. The site contains 20.11 metres of frontage to Herberton - Petford Road which is constructed to a bitumen sealed standard.

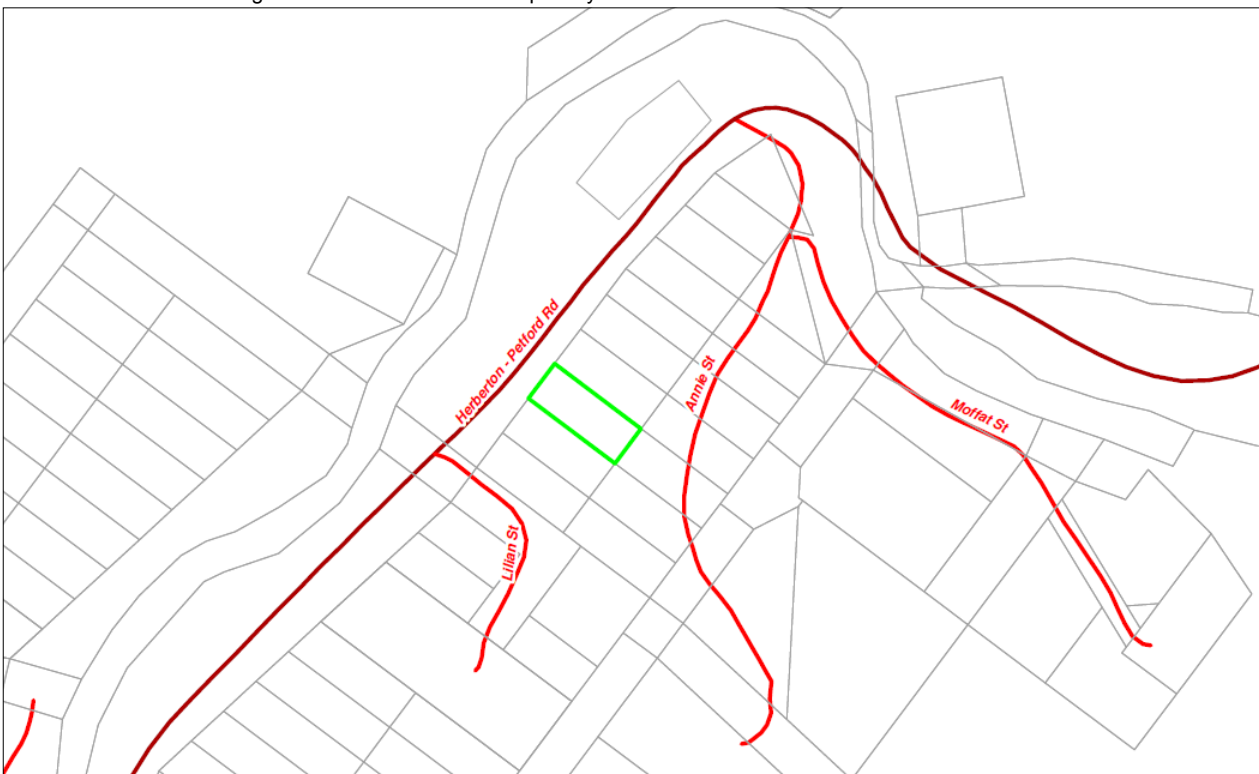
The front half the site is cleared and level and contains an existing Telstra telecommunications facility while the rear half of the site is vegetated and rocky, sloping steeply uphill to the rear of the site. A one (1) metre high (approx.) stock fence has been constructed around the front half of the site and includes an access gate.

All lots immediately surrounding the site are zoned Low Density Residential and are vacant State owned land with the exception of the adjoining lot to the northeast which appears to be improved by a shed. Other lots in the general surrounds are zoned either Low Density Residential or Rural and where improved, contain single detached dwellings.



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 - Telecommunications Facility in accordance with the plans shown in **Attachment 1**.

Service Stream Mobile Communications, on behalf of Telstra Corporation Limited, propose the construction of a new telecommunications facility (mobile phone base station) to provide mobile phone service capabilities in the Irvinebank area as part of the Federal Governments Mobile Black Spot Program. The proposed facility will consist of the following:

- A 40 metre high monopole tower;
- Two (2) Argus omnidirectional antennas at a centreline elevation of 40 metres and two (2) Argus omnidirectional antennas at a centreline elevation of 39 metres (overall tower height with antennas - 43.1 metres); and
- Installation of associated/ancillary equipment including remote radio units, combiners, feeders mast head amplifiers and cabling (to be housed in existing Telstra equipment shelter where possible).

All infrastructure will be contained within the existing Telstra lease area. A stock fence exists around this lease area which is proposed to be maintained. A new double access gate will be installed generally in the centre of the site frontage.

The Department of Infrastructure, Local Government and Planning's (DTMR) Referral Agency response requires the construction of a new rural access crossover between the edge of the Herberton - Petford Road and the boundary of the subject site.

The proposed facility will operate unmanned on a daily basis (remotely operated). Once operational, the facility will require only infrequent maintenance inspections (4 - 6 times per year).

REGIONAL PLAN DESIGNATION

The subject site is included within the Urban Footprint land use category in the Far North Queensland Regional Plan 2009-2031. The Regional Plan Map 3- 'Areas of Ecological Significance' also identifies the site does not contain any areas of ecological significance.

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories <ul style="list-style-type: none"> • Residential Area Transport Element <ul style="list-style-type: none"> • State Controlled Road
Zone:	Low Density Residential
Overlays:	Bushfire Hazard Overlay Transport Infrastructure Overlay Hill and Slope Overlay

Planning Scheme Definitions

The proposed use is defined as:-

Column 1 Use	Column 2 Definition	Column 3 Examples include	Column 4 Does not include the following examples
Telecommunications facility	<i>Premises used for systems that carry communications and signals by means of radio, including guided or unguided electromagnetic energy, whether such facility is manned or remotely controlled.</i>	<i>Telecommunication tower, broadcasting station, television station</i>	<i>Aviation facility, 'low impact telecommunications facility' as defined under the Telecommunications Act 1997</i>

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

Strategic Framework

3.3.6 Element - Rural Villages

3.3.6.1 Specific Outcomes

- (1) *Biboohra, Irvinebank, Julatten, Koah, Mutchilba, Mt Molloy, Myola and Speewah are rural villages that have limited centre activities and other non-residential activities. Some rural villages include small clusters of activity in which limited, small-scale development may occur. Any growth within rural villages is limited and is proportionate to their current scale.*

Comment

Irvinebank has been identified as a mobile black spot area. The proposed telecommunications facility (mobile phone base station) will provide mobile phone reception in Irvinebank and surrounds. The development is considered to be proportionate to the development scale of the Irvinebank and is not likely to result in an increase in future development in the Township.

The development complies.

3.6.11 Element - Information and communication technology

3.6.11.1 Specific Outcomes

- (2) *Telecommunications facilities, particularly mobile phone towers, are located to ensure visual amenity is not compromised, with these facilities co-located wherever possible.*

Comment

Given the height of the proposed monopole tower, some minor visual amenity impacts are likely, however, any impact is considered acceptable due to the overriding community need for the development which will provide mobile phone reception to the Irvinebank area, which is currently a mobile phone black spot.

The proposed development will be co-located with an existing Telstra telecommunications facility.

The development complies.

Relevant Development Codes

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

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

Relevant Codes	Comments
Low density residential zone code	The application can be conditioned to comply with the relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome provided) apart from the following: <ul style="list-style-type: none"> Acceptable Outcome AO1 Refer to planning discussion section of report.
Bushfire hazard overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Hill and slope overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Transport infrastructure overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Energy and infrastructure activities code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Landscaping code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Parking and access code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Works, services and infrastructure code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).

(e) Planning Scheme Policies/Infrastructure Charges Plan

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 requiring all development works be designed and constructed in accordance with FNQROC Development Manual standards.

REFERRALS

Concurrence

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

That Department advised in a letter dated 27 September 2017 that they require the conditions to be attached to any approval (**Attachment 2**).

Advice

This application did not trigger referral to an Advice Agency.

Internal Consultation

Nil

PUBLIC NOTIFICATION

The development proposal was placed on public notification from 13 October 2017 to 3 November 2017. The applicant submitted the notice of compliance on 6 November 2017 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

No submissions were received.

PLANNING DISCUSSION

Noncompliance with the relevant acceptable outcomes of the following development codes is discussed below. Where the development cannot comply with an acceptable outcome, it is considered compliance with the higher order specific outcome can be achieved.

Low Density Residential Zone Code

Height

PO1 *Building height takes into consideration and respects the following:*

- (a) *the height of existing buildings on adjoining premises;*
- (b) *the development potential, with respect to height, on adjoining premises;*
- (c) *the height of buildings in the vicinity of the site;*
- (d) *access to sunlight and daylight for the site and adjoining sites;*
- (e) *privacy and overlooking; and*
- (f) *site area and street frontage length.*

AO1 *Development has a maximum height of:*

- (a) *8.5 metres; and*
- (b) *2 storeys above ground level.*

Comment

The proposed development will include the construction of a 40 metre high monopole telecommunications tower with antennas mounted at an elevation of 40 metres, bringing the developments overall height to 43.1 metres, which is non-compliant with AO1.

The height and location of the proposed development is considered necessary to achieve the desired coverage objectives, and the subject site itself is not immediately adjoined by any residential uses. The proposed monopole tower is of a slimline design and a condition will be attached to any approval requiring the monopole to be painted a 'pale eucalypt' colour in order to help achieve an effective visual blend with the surrounding environment. Once operational, the development will operate unmanned on a daily basis and will not produce any solid or liquid wastes, odours, dust, smoke or significant noise (air conditioner noise only).

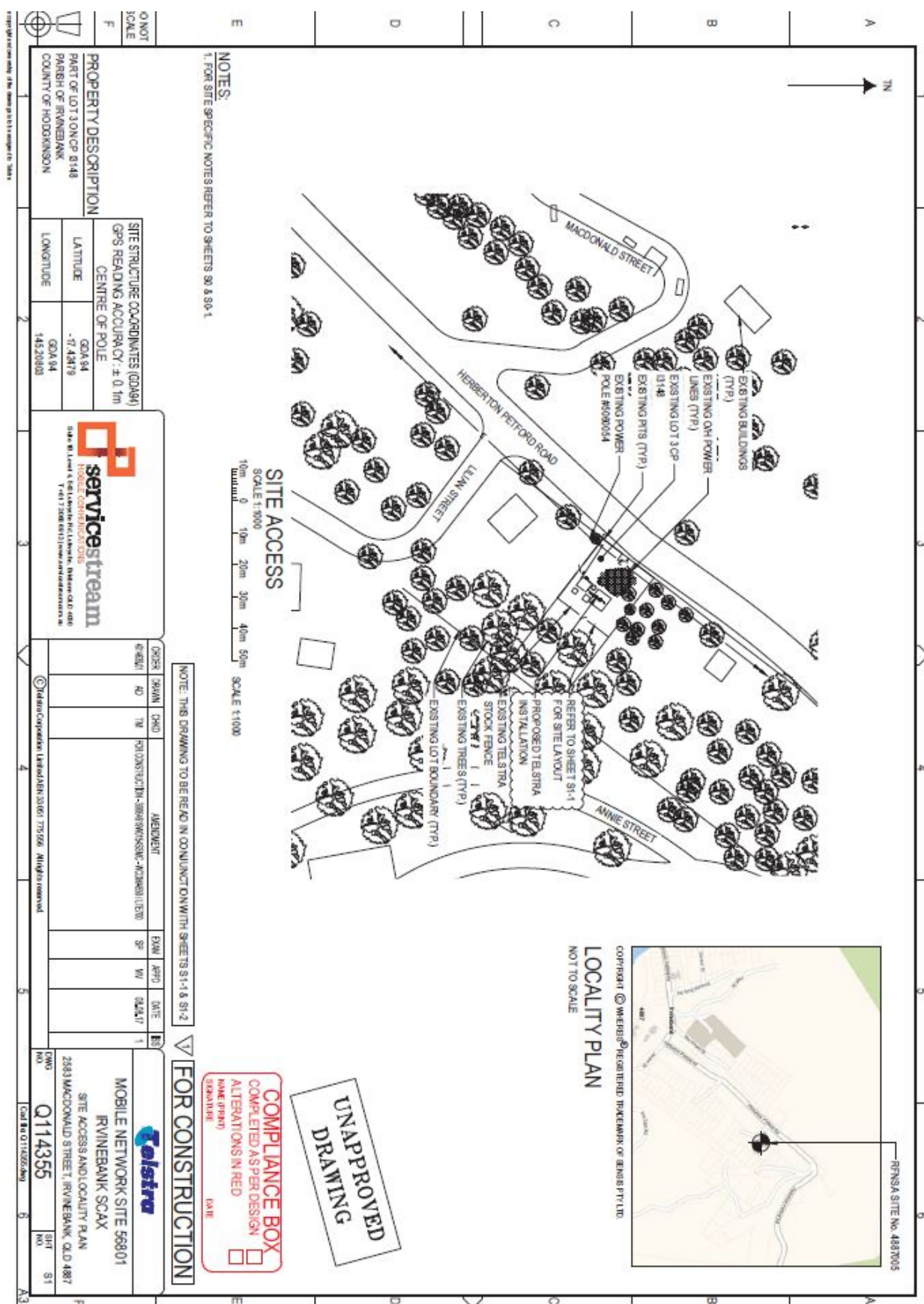
Considering this, the proposed development is not likely to have a significant visual or functional impact on residential uses in the surrounding vicinity or on nearby road users.

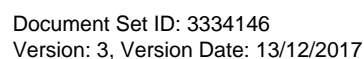
Some degree of visual impact is considered acceptable given the likely community benefit provided by the development (mobile phone reception). No submissions against the development were received during the applications public notification period, which would have indicated a perceived amenity impact.

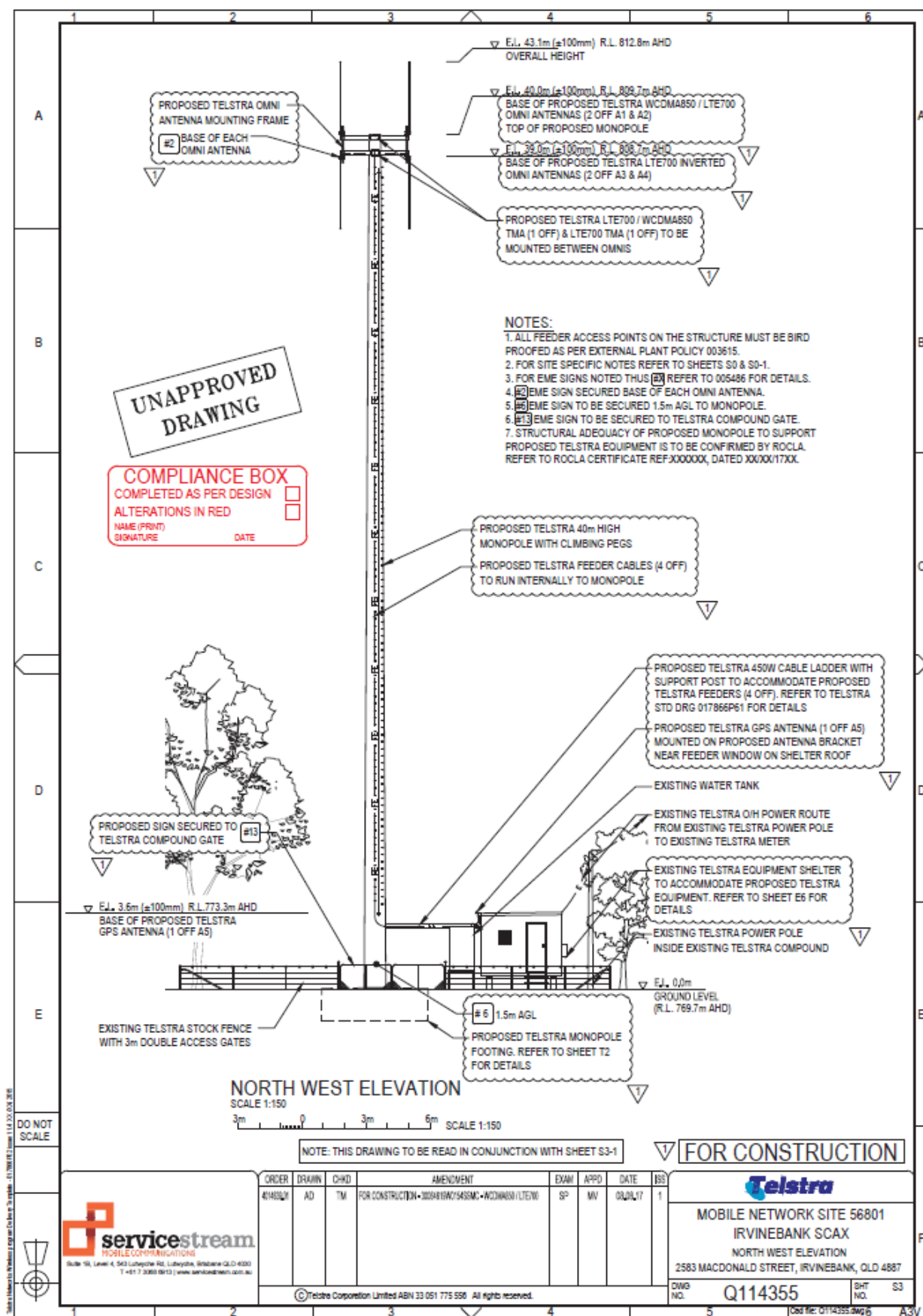
On balance, the development is considered to achieve compliance with PO1.

Date Prepared: 20 November 2017

APPROVED PLANS (ECM Doc Set ID 3283938)







ATTACHMENT 2

Our ref TMR17-022488 (500-1167)
 Your ref Irvinebank 56801
 Enquiries Ronald Kaden



Department of
Transport and Main Roads

27 September 2017

Decision Notice – Permitted Road Access Location (s62(1) *Transport Infrastructure Act 1994*)

This is not an authorisation to commence work on a state-controlled road¹

Development application reference number MCU/17/0005, lodged with Mareeba Shire Council involves constructing or changing a vehicular access between Lot 3I3148 the land the subject of the application, and Herberton - Petford 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 Telstra Corporation Limited C/- Service Stream Mobile
 Communications
 PO Box 510
 Lutwyche QLD 4030

Application Details

Address of Property Herberton - Petford Road, Irvinebank QLD 4887
 Real Property Description 3I3148
 Aspect/s of Development Development Approval for Material Change of Use for
 Telecommunications Facility

Decision (given under section 67 of TIA)

It has been decided to approve the application, subject to the following conditions:

No.	Conditions of Approval	Condition Timing
1	The permitted road access location is to be approx 10m from the northern boundary of lot 3I3148, and approx 55m north of Lilian Street in accordance with: a) TMR Layout Plan (6632 - 25.73km) Issue A dated 19/09/2017, and b) Telstra Mobile Network Site 56801 - Dwg Q114355 Issue 1 (Recd TMR 12-09-17)	At all times.
2	Direct access is prohibited between Herberton - Petford Road and lot 3I3148 at any other location other than the permitted road	At all times.

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

No.	Conditions of Approval	Condition Timing
	access location described in Condition 1.	
3	The use of the permitted road access location is to be restricted to vehicles of maximum size equivalent to a single body truck.	At all times.
4	Road access works comprising a Rural Allotment Access must be provided at the permitted access location, generally in accordance with FNQROC Standard Drawing S1105 - Rural Allotment Access	MCU - Prior to commencement of use

Reasons for the decision

The reasons for this decision are as follows:

- a) The subject site has direct access via Herberton-Petford Road, a state-controlled road.
- b) The existing access is currently unsealed and does not comply with the minimal DTMR access standard.
- c) The department notes that a section 62 has not been issued for the subject land to provide direct access via the state-controlled road.
- d) The proposed development is seeking to construct a telecommunications facility in addition to existing infrastructure on the subject site.
- e) Traffic generation will be minimal, between 2 - 6 movements per year including cherry pickers.
- f) The Department of Transport and Main Roads (TMR) has assessed that the existing access is considered a changed access and requires a section 62 approval in accordance with the *Transport Infrastructure Act 1994*.

Please refer to **Attachment A** for the findings on material questions of fact and the evidence or other material on which those findings were based.

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

1. There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
2. In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for information.

Further information about the decision

1. In accordance with section 67(7) of TIA, this decision notice:
 - a) starts to have effect when the development approval has effect; and
 - b) stops having effect if the development approval lapses or is cancelled; and
 - c) replaces any earlier decision made under section 62(1) in relation to the land.
2. In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply for a review of this decision only within 28 days after notice of the decision was given under the TIA. A copy of the review provisions under TIA and TPCA are attached in **Attachment C** for information.

3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

Further approvals

The Department of Transport and Main Roads also provides the following information in relation to this approval:

1. Road Access Works Approval Required – Written approval is required from the department to carry out road works that are road access works (including driveways) on a state-controlled road in accordance with section 33 of the TIA. This approval must be obtained prior to commencing any works on the state-controlled road. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the department to make an application.

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

Yours sincerely



Peter McNamara
Principal Engineer (Civil)

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

Attachment A
Decision Evidence and Findings

Findings on material questions of fact:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version/ Issue
Planning Report: Proposed Telstra Corporation Limited Mobile Telecommunications Facility	Servicestream Mobile Communication	11/08/2017	568014	
SDAP Assessment- State Code 1: Development in a State-controlled environment	Servicestream Mobile Communication	11/08/2017	-	2.0
Site Access and Locality Plan	Servicestream Mobile Communication	08.08.17	Q114355	1
Site Layout	Servicestream Mobile Communication	08.08.17	Q114355	S1-1
TMR Layout Plan	Queensland Government Department of Transport and Main Roads	19 September 2017	TMR17-22488 (500-1167)	A

Attachment B
Section 70 of TIA

Transport Infrastructure Act 1994
Chapter 6 Road transport infrastructure
Part 5 Management of State-controlled roads

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

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

Maximum penalty—200 penalty units.

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

Attachment C
Appeal Provisions

Transport Infrastructure Act 1994
Chapter 16 General provisions

485 Internal review of decisions

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

485B Appeals against decisions

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

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

(5) The court may order—

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

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

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

(7) In this section—

original decision means a decision described in schedule 3.

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

31 Applying for review

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

32 Stay of operation of original decision

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

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

(9) In this section—

relevant entity means—

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

35 Time for making appeals

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

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

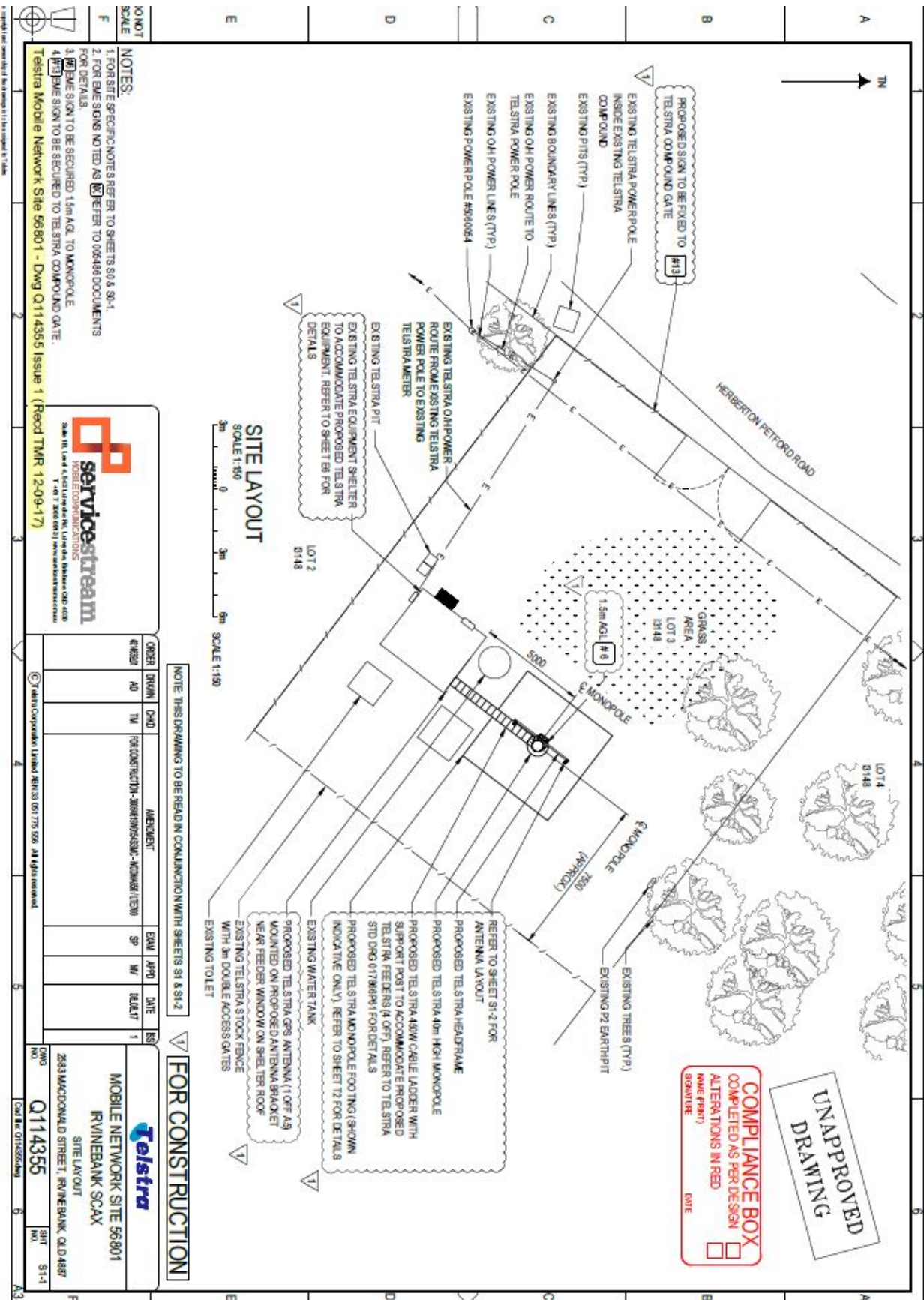
(2) However, if—

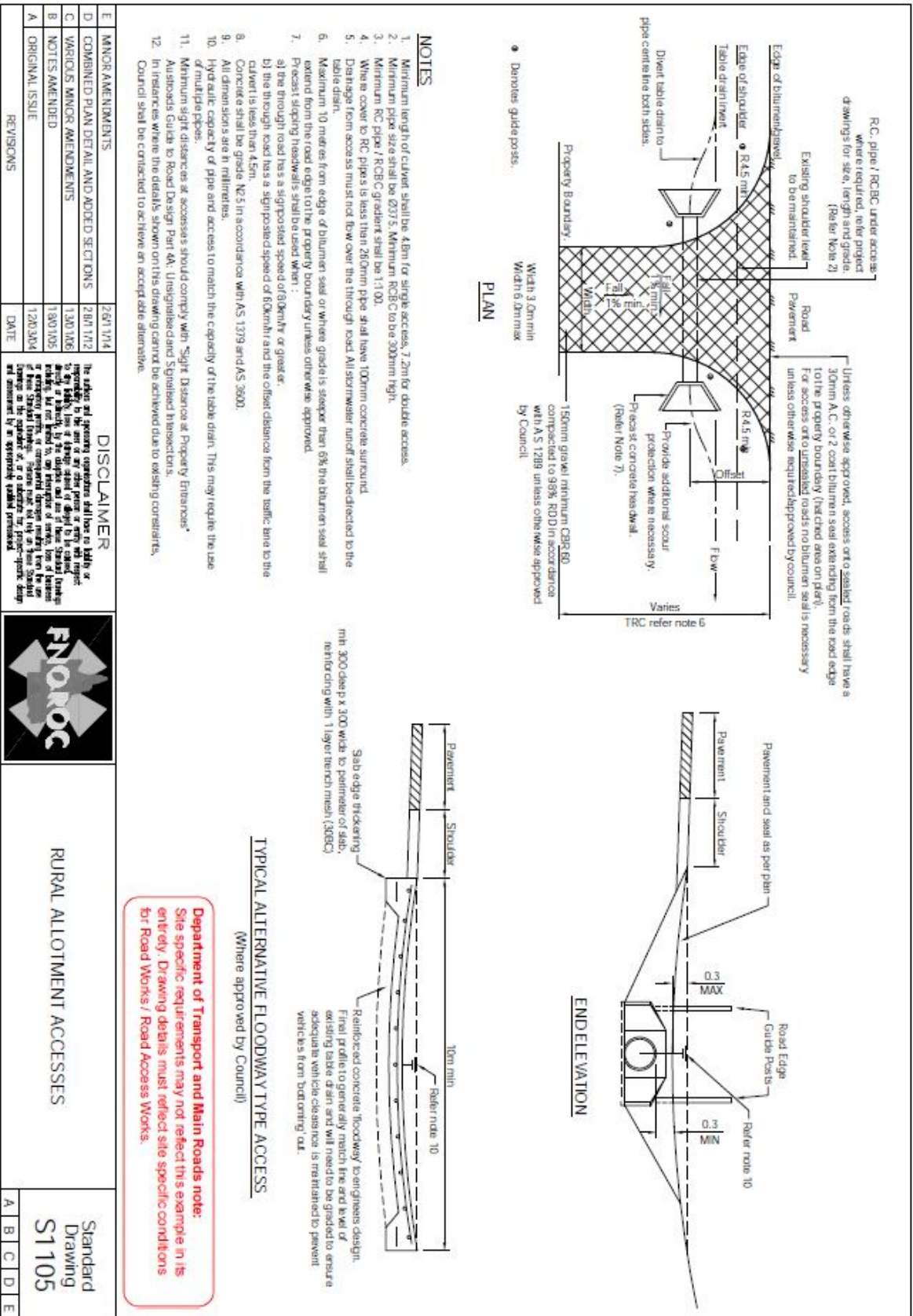
- (a) the decision notice did not state the reasons for the decision; and
- (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

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

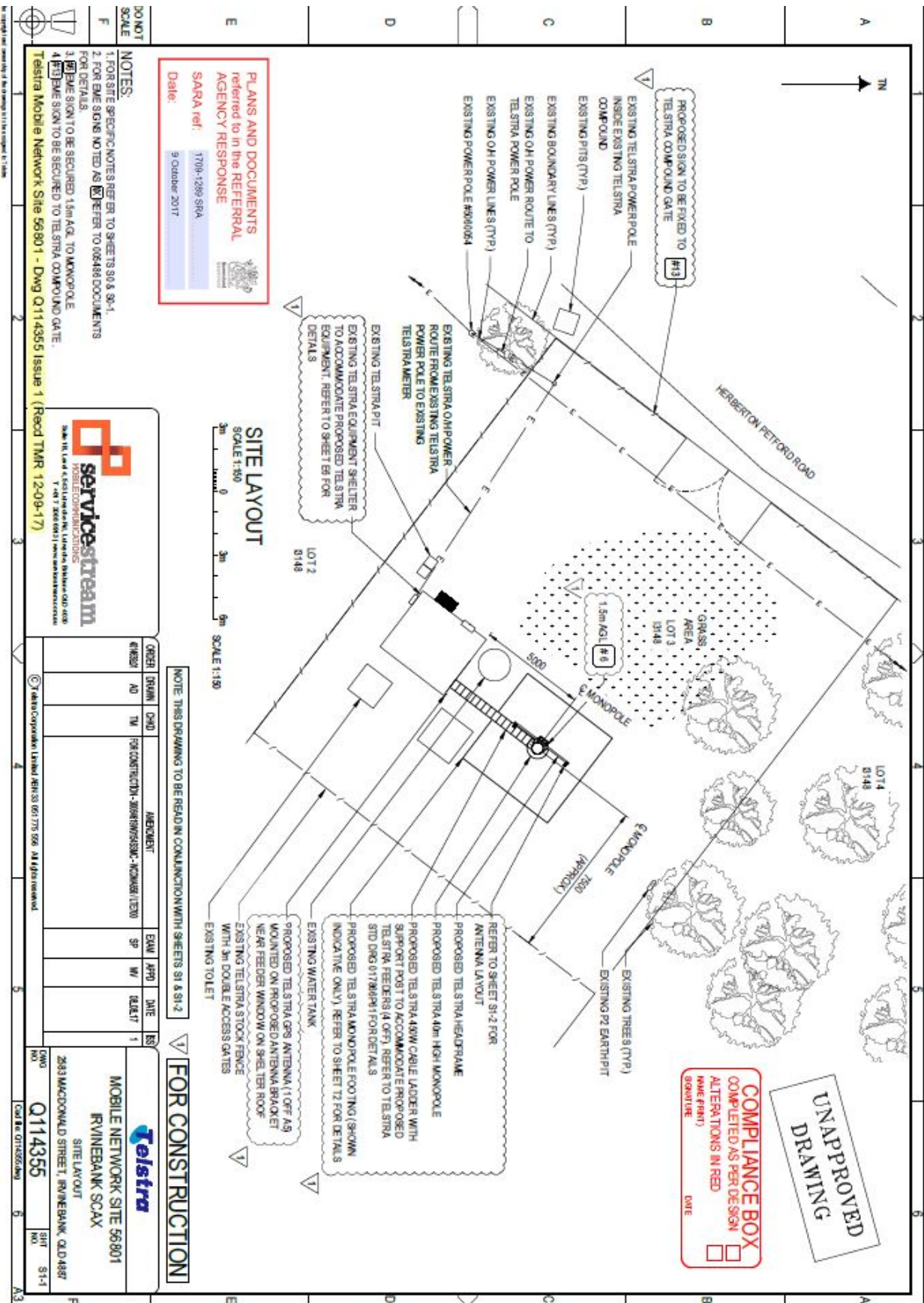
(3) Also, the appeal court may extend the period for appealing.











RA6-N



Department of Infrastructure,
Local Government and Planning

Our reference: 1709-1289 SRA
Your reference: MCU/17/0005

9 October 2017

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

Attention: Carl Ewin

Dear Sir/Madam

Referral agency response—with conditions

(Given under section 58 of the *Planning Act 2016*)

The development application described below was properly referred to the Department of Infrastructure, Local Government and Planning on 12 September 2017.

Applicant details

Applicant name:	Telstra Corporation Limited C/- Service Stream
Applicant contact details:	Service Stream Mobile Communications PO Box 510 Lutwyche QLD 4030 geordie.pippos@servicestream.com.au

Location details

Street address:	Herberton - Petford Road, Irvinebank
Real property description:	Lot 3 on I3148
Local government area:	Mareeba Shire Council

Application details

Development permit	Material change of use for Telecommunications Facility, 40m Monopole
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Referral triggers

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

Page 1 of 5

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

- 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 - 25.73km)	Department of Transport and Main Roads	19/09/2017	TMR17-22488 (500/1167)	A
Telstra Mobile Network Site 56801 – Irvinebank SCAX	Service Stream Mobile Communications	08.08.17	Q114355	1

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

For further information please contact Jenny Sapuppo, Senior Planning Officer, on 5644 3212 or via email CairnsSARA@dilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Telstra Corporation Limited C/- Service Stream, geordie.pippos@servicestream.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

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Material change of use		
State transport corridors and future State transport corridors —The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	<p>(a) The road access location is to be located generally in accordance with:</p> <ul style="list-style-type: none"> • TMR Layout Plan (6632 - 25.73km), reference number TMR17-22488 (500-1167), Issue A, dated 19/09/2017 • Telstra Mobile Network Site 56801 – Irvinebank SCAX, prepared by Service Stream Mobile Communications, drawing number Q114355, Issue 1, dated 08.08.17. <p>(b) Road access works comprising a Rural Allotment Access must be provided at the permitted access location, generally in accordance with FNQROC Standard Drawing S1105 – Rural Allotment Access.</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 3 on I3148 at any other location other than the permitted road access location described in Condition 1.	At all times.

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.

Attachment 3—Advice to the assessment manager

General advice – Road access works approval	
1.	<p>Under sections 62 and 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads to carry out road works that are road access works (including driveways) on a state-controlled road. Please contact the Cairns district office of the Department of Transport and Main Roads on 4045 7144 to make an application for road works approval. This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).</p> <p>The road access works approval process takes time – please contact the Department of Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p>