

25 January 2018

Officer: Carl Ewin  
Direct Telephone: 07 4086 4656  
Our Reference: MCU/17/0007  
Your Reference: F17/21

Maisel Ag Pty Ltd TTE  
C/- Freshwater Planning Pty Ltd  
17 Barron View Drive  
FRESHWATER QLD 4870

Dear Sir/Madam

## **Negotiated Decision Notice**

### ***Planning Act 2016***

I refer to your application and the representations you made in respect to the Decision Notice dated 20 December 2017. On 24 January 2018, Council decided your representations.

Details of the decision are as follows:

#### **APPLICATION DETAILS**

Application No: MCU/17/0007  
Street Address: 308 Byrnes Street MAREEBA QLD 4880  
Real Property Description: Lot 2 on M35663  
Planning Scheme: Mareeba Shire Council Planning Scheme 2016

#### **DECISION DETAILS**

Council, on 24 January 2018, decided to issue the following type of approval:

Development Permit for Material Change of Use - Car Wash

In relation to representations, Council decided to:

A. Agree to change conditions 3.6.1, 4.1, 4.2, 3.4.1, 3.4.2 and 3.4.3

#### **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)

(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 have been complied with, except where specified otherwise in these conditions of approval.
  - 2.3 Prior to the commencement of use, the applicant must provide a letter from the State Referral Agency confirming that the department is satisfied their conditions are complied with and/or that the department has no objections to the commencement of the use.
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 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/Control

- 3.4.1 Refrigeration equipment, pumps, filter systems, mechanical plant, 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.

The applicant is required to install and maintain 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. 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.

- 3.4.2 All noise attenuation measures proposed for the development and included on the approved plans, including the concrete panel walls, acoustic fencing and the recommendations included in Part 6 – Recommendations and Discussion of EcoAcoustics Environmental Noise Assessment dated 20 November 2017 (Report No. 17060451-01b) must be constructed and implemented prior to the commencement of the use to the satisfaction of Council's delegated officer.

The approved use is not to include any sound projecting objects or systems that may cause nuisance to adjoining properties.

- 3.4.3 Within three (3) months of the commencement of use, the applicant/developer or subsequent owner/operator, at their sole cost, must commission a suitably qualified acoustical consultant (Member of the Australian Acoustical Society (AAS) or eligible for membership to the AAS) to conduct an acoustic assessment to verify that the noise emissions from the site are compliant with the conditions of approval and the Environmental Protection (Noise) Policy, 2008. The assessment report will be supplied to Council within fourteen (14) days of receipt by the applicant/developer or subsequent owner/operator, and no longer than six (6) months after the commencement of the use.

Where compliance with the Environmental Protection (Noise) Policy, 2008 is not achieved, the applicant/developer or any subsequent owner/operator is required to locate the source of the noncompliant noise and reduce this to within acceptable levels within three (3) months of Council receiving the acoustic assessment by implementing the further mitigation measures outlined in the assessment.

Where compliance with the Environmental Protection (Noise) Policy, 2008 is achieved in the first instance, or where compliance is not

achieved and Council is satisfied that subsequent noise nuisance mitigation strategies have been implemented, the applicant/developer or subsequent owner/operator will not be required to undertake any further noise nuisance investigations unless significant operational changes are made to the car wash use, including mechanical plant.

### 3.5 Waste Management

On-site refuse storage area must be provided and be screened from view from adjoining properties and road reserve by one (1) metre wide landscaped screening buffer or 1.8m high solid fence or building.

Where bulk bins are used and are to be serviced on site, certification by a Registered Professional Engineer of Queensland (RPEQ) must be provided to Council prior to the issue of a building permit which demonstrates that internal access is of adequate design and construction to allow waste collection/delivery vehicles to enter and exit the site in a forward gear.

### 3.6 Hours of Operation

#### 3.6.1 Car Wash Bays

The car wash component of the approved use (super wash bay, wash bays 1 & 2 and auto wash bays 1 & 2) are permitted to operate 24 hours a day, 7 days per week.

#### 3.6.2 Vacuum/dog Wash Bays

The vacuum bays and dog wash bays are permitted to operate between the hours of 7 am and 10 pm, seven (7) days per week. No operation of these components of the approved use are permitted to operate outside these hours.

### 3.7 Signage

#### 3.7.1 Building Signage

Any signage erected on any buildings:

- Must only contain content relating to the approved use;
- Must not exceed the height of the building they are mounted on; and
- Must not move, revolve, strobe or flash;

#### 3.7.2 Freestanding Signage

One (1) freestanding sign is permitted to advertise the approved use only, and must generally be constructed in accordance with the dimensions, location and construction notes shown on the approved plan/s (Drawing No. 17-025 DA Sheet 2 of 7 Proposed Site Layout dated Nov 2017).

All signage must be kept clean, in good order and safe repair for the life of the development, and must be removed when no longer required, to the satisfaction of Council's delegated officer.

The erection and use of any advertising signage must comply with the Building Act and all other relevant Acts, Regulations and these approval conditions.

#### 4. Infrastructure Services and Standards

##### 4.1 Access

A **commercial** access crossover (at minimum) must be constructed (from the edge of Lerra Street to the property boundary of the subject lot) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

The applicant/developer must ensure that any redundant vehicle crossovers are removed and reinstated with kerb and channel.

##### 4.2 Roadworks External Construction

Prior to the commencement of the use, the applicant/developer is required to construct the following works, designed in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

- The development side of Lerra Street only, must be widened from the edge of the existing bitumen seal to the existing kerb and channel from the intersection of Lerra Street and Byrnes Street to the intersection of Lerra Street and Kennedy Street.
- The widening works must be bitumen or asphalt standard, and must include sufficient overlapping of the existing bitumen seal to ensure an appropriate bond of surfaces is achieved, to the satisfaction of Council's delegated officer.

Prior to works commencing, plans for the works described above must be approved as part of a subsequent application for operational works.

##### 4.3 Stormwater Management

4.3.1 Prior to building works commencing, the applicant must submit a Stormwater Management Plan and Report prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards of design and construction set out in the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual to the satisfaction of Council's delegated officer.

4.3.2 The Stormwater Management Plan must ensure a non-worsening effect on surrounding land as a consequence of the development, and must take all reasonable and practicable measures to ensure discharge occurs in compliance with the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual.

4.3.3 The applicant/developer must construct the stormwater drainage infrastructure for the development in accordance with the approved Stormwater Management Plan and Report.

4.3.4 All stormwater drainage must be collected from site and discharged to an approved legal point of discharge.

#### 4.4 Car Parking/Internal Driveways

The applicant/developer must ensure the development is provided with one (1) designated employee car park which is available solely for the parking of employee vehicles.

All car parking spaces and internal driveways/vehicle manoeuvring areas (as shown on the approved plans) must be concrete sealed, line marked where necessary, and appropriately drained prior to the commencement of the use, to the satisfaction of Council's delegated officer.

All car parking spaces and internal driveways must be constructed in compliance with the following standards and to the satisfaction of Council's delegated officer:

- Australian Standard AS2890:1 Off Street Parking – Car Parking Facilities;
- Australian Standard AS1428:2001 – Design for Access and Mobility.

#### 4.5 Landscaping & Fencing

4.5.1 Prior to the commencement of the use, the applicant/developer is to provide landscaping on the site in accordance with the submitted landscape plan (Drawing No. 17-025 DA Sheet No. 6 of 7 Proposed Landscape & Lighting Plan dated Nov 2017), to the satisfaction of Council's delegated officer.

All landscaping must be mulched, irrigated and maintained for the life of the development.

4.5.2 The external faces of the concrete panel walls along the western and northern boundaries of the site (as shown on the approved plans) are to be painted a neutral colour agreed to by Council's delegated officer.

1.8-metre-high solid screen fencing of neutral colour, is to be erected along the northern boundary of the site between the bin area/oil separator wall and super wash bay wall, and between the super wash bay wall and the north-east corner of the site, to the satisfaction of Council's delegated officer.

All fencing must be kept clean, in good order and safe repair for the life of the development, to the satisfaction of Council's delegated officer.

No fencing is to be erected along the Byrnes Street frontage of the site.

#### 4.6 Lighting

Where 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.

#### 4.7 Water Supply

A water service connection must be provided to the subject lot in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Where the existing reticulated water supply does not currently service the site or is not at an adequate capacity to serve the proposed development requirements, the developer is required to extend the reticulated water supply infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development requirements in accordance with FNQROC Development Manual Standard (as amended).

#### 4.8 Sewerage Connection

The developer must connect the proposed development to Council's reticulated sewerage system in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Where sewerage connections are not available to the site, or where existing connections are not satisfactory for the proposed development, the developer is required to extend the reticulated sewerage infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

**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		
<p>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—</p> <p>(a) are within 25m of a State transport corridor; or</p> <p>(b) are a future State transport corridor; or</p> <p>(c) are—</p> <p>(i) adjacent to a road that intersects with a State-controlled road; and</p> <p>(ii) within 100m of the intersection</p>	Schedule 10, Table 4, item 1	<p>State Assessment &amp; Referral Agency (SARA) Department of Infrastructure, Local Government &amp; Planning PO Box 2358 Cairns Qld 4870</p> <p><a href="mailto:CairnsSARA@diilgp.qld.gov.au">CairnsSARA@diilgp.qld.gov.au</a></p>

A copy of any referral agency conditions is attached.

**APPROVED PLANS**

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
17-025 DA Sheet 1 of 7	Existing Conditions Plan	TMC Building Design Group	Nov 2017
17-025 DA Sheet 2 of 7	Proposed Site Plan	TMC Building Design Group	Nov 2017
17-025 DA Sheet 3 of 7	Elevations	TMC Building Design Group	Nov 2017
17-025 DA Sheet 4 of 7	Sections	TMC Building Design Group	Nov 2017
17-025 DA Sheet 5 of 7	Proposed Stormwater & Sewer Plan	TMC Building Design Group	Nov 2017
17-025 DA Sheet 6 of 7	Proposed Landscaping & Lighting Plan	TMC Building Design Group	Nov 2017
17-025 DA Sheet 7 of 7	Car Swept Paths & Car Parking Layout	TMC Building Design Group	Nov 2017

**REFERENCED DOCUMENTS**

Not Applicable.



**ADVISORY NOTES**

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

(A) ASSESSMENT MANAGER'S ADVICE

- (a) A number of other charges or payments may be payable as a result of conditions of approval. The applicable fees are set out in Council's Fees & Charges Schedule for each respective financial year.

(b) Water Meters/Water Service Connection

Prior to the water service connection works commencing and the installation of the meters by Council, an application for a Plumbing Compliance Permit is required to be submitted with detailed hydraulic drawings. The cost of the required water connection and meter (capping of any existing meter may be required) will be determined based upon the approved hydraulic drawings at the time of lodgement of a Water Quotation Request.

(c) Property Connection to existing sewer main

Prior to the property connection to the existing sewer main commencing, a request for a Property Connection Quotation must be lodged with Council. The cost of the required property connection will be determined based upon the assessment of the Property Connection Quotation Request.

- (d) A Trade Waste Permit will be required prior to the commencement of use.

(e) 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.

(f) 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.

(g) 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)

(h) 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)

(i) 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 Infrastructure, Local Government and Planning conditions dated 31 October 2017.

**PROPERTY NOTES**

Not Applicable.

**VARIATION APPROVAL**

Not Applicable.

**FURTHER DEVELOPMENT PERMITS REQUIRED**

- Development Permit for Operational Work (road widening works)
- Development Permit for Building Work
- Compliance Permit for Plumbing and Drainage Work

**SUBMISSIONS**

There were two (2) properly made submissions about the application. In accordance with the *Planning Act 2016*, the name, residential or business address, and electronic address of the principal submitter for each properly made submission is provided below;

	<b>Name of principal submitter</b>	<b>Address</b>
1.	N Brtevnik & Steve Kemp	1 Lerra Street, Mareeba QLD 4880
2.	Mareeba Chamber of Commerce	345 Byrnes Street, Mareeba QLD 4880

**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.

**17. 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](http://www.msc.qld.gov.au), or at Council Offices.

**DECISION NOTICE HISTORY**

**MCU/17/0007 Original Decision Notice 20 December 2017.**

**MCU/17/0007 Negotiated Decision Notice 25 January 2018.**

Yours faithfully

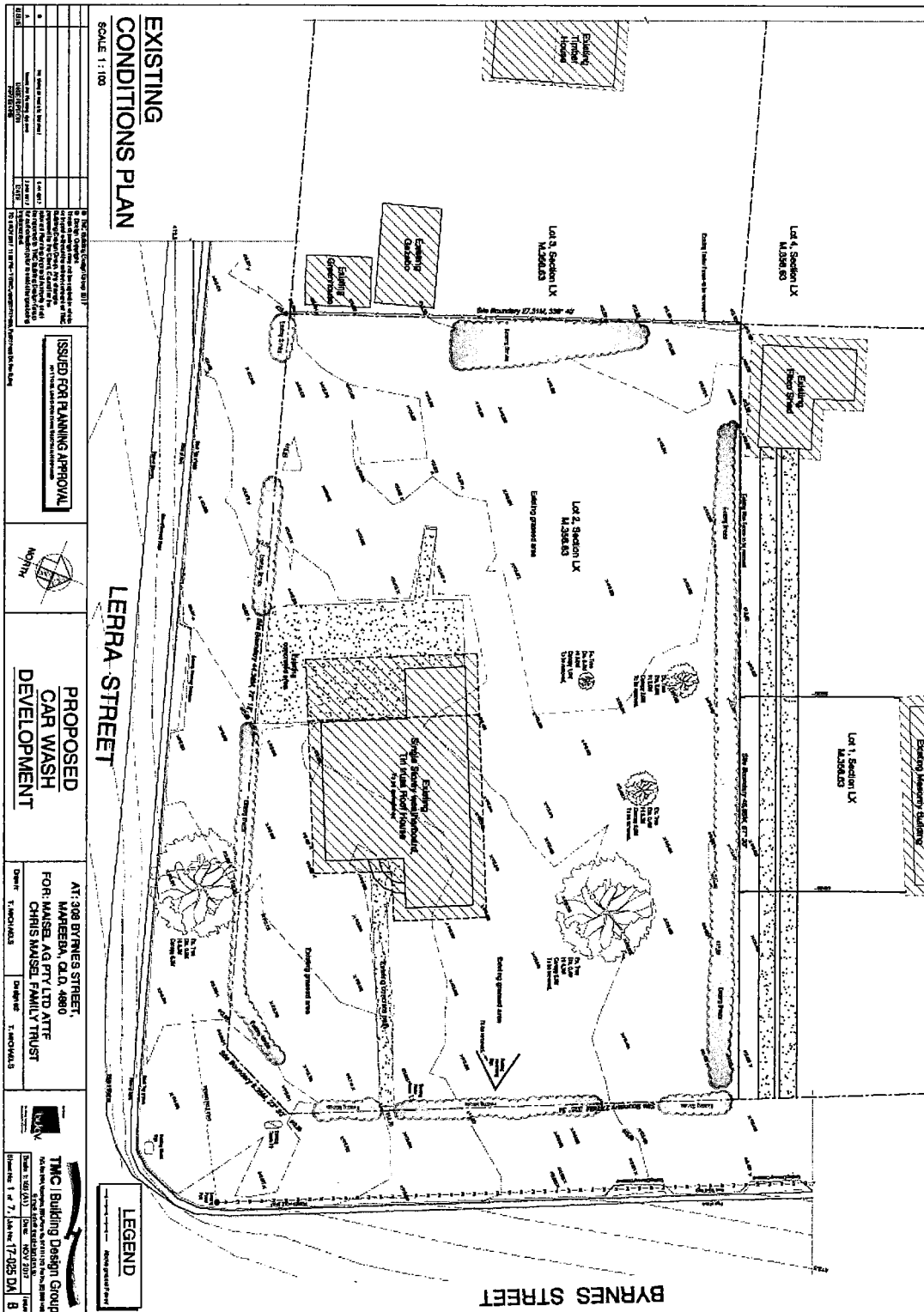


**BRIAN MILLARD**  
**SENIOR PLANNER**

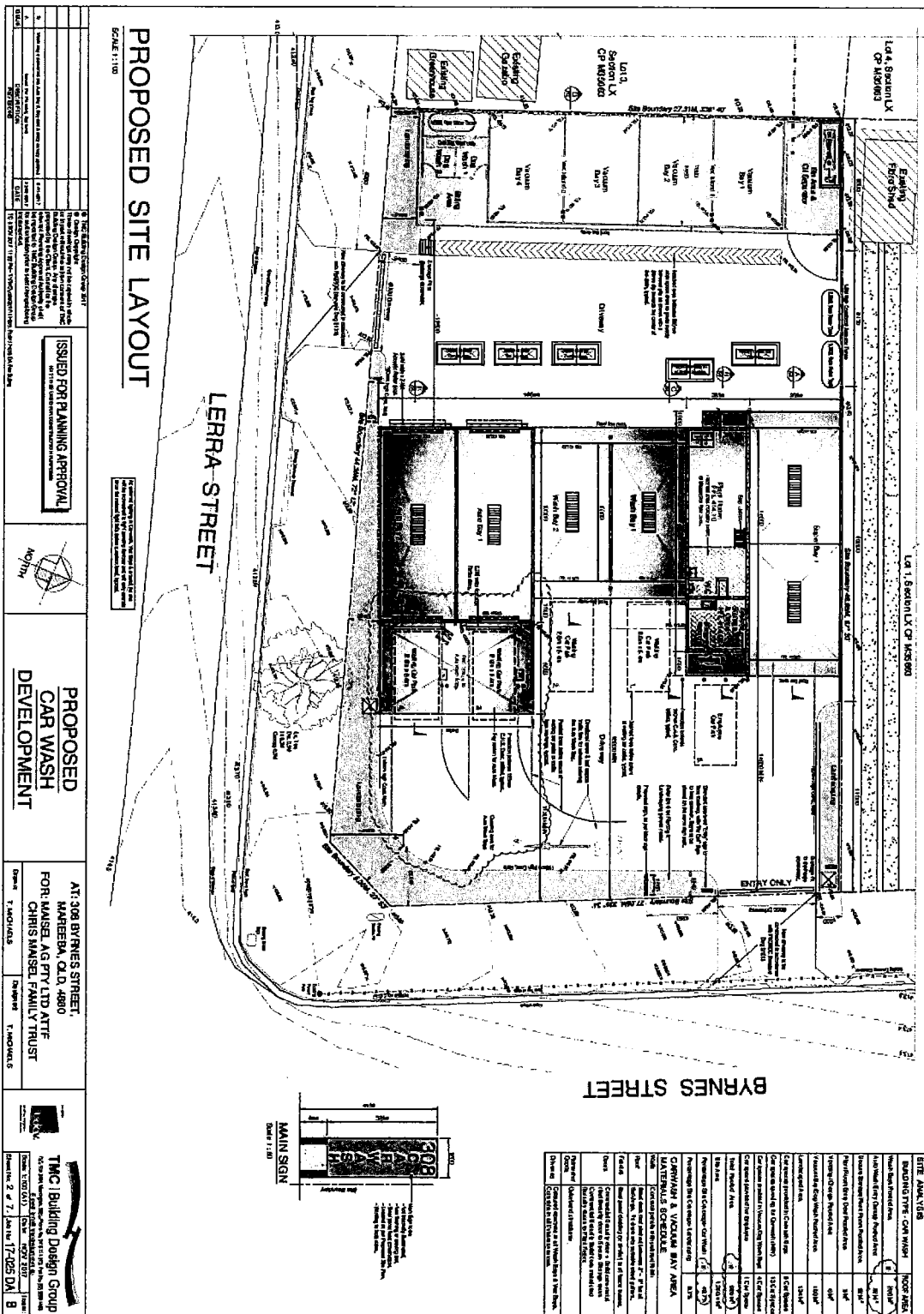
Enc: Approved Plans/Documents  
Referral Agency Response  
List of Submitters  
Appeal Rights

Copy: Department of Infrastructure, Local Government and Planning  
[CairnsSARA@dilgp.qld.gov.au](mailto:CairnsSARA@dilgp.qld.gov.au)

Approved Plans/Documents



25/1/2018  
B. M. [Signature]



25/1/2018  
B. Mill

**EAST ELEVATION**  
CAR WASH BUILDING

**WEST ELEVATION**  
CAR WASH BUILDING

**NORTH ELEVATION**  
CAR WASH BUILDING & VACUUM BAYS

**SOUTH ELEVATION**  
VACUUM BAYS, CAR WASH BUILDING & CAR WASH BUILDING

1. DATE: 15/01/2018	2. DRAWING NO: 17-025 DA	3. PROJECT: PROPOSED CAR WASH DEVELOPMENT	4. CLIENT: AT 308 BYRNES STREET, MAREEBA, QLD, 4880 FOR: MAREBA AG PTY LTD ATTF CHRIS MAREBA FAMILY TRUST	5. ARCHITECT: TMC Building Design Group
6. SCALE: 1:100	7. SHEET NO: 8	8. TOTAL SHEETS: 8	9. DRAWING DATE: 15/01/2018	10. DRAWING TIME: 7:00 PM

25/1/2018  
B. Will

**ISSUED FOR PLANNING APPROVAL**

**PROPOSED CAR WASH DEVELOPMENT**

AT: 308 BYRNES STREET, MAREEBA, Q.D. 4680  
FOR: MAISEL AG PTY LTD ATF CHRIS MAISEL FAMILY TRUST

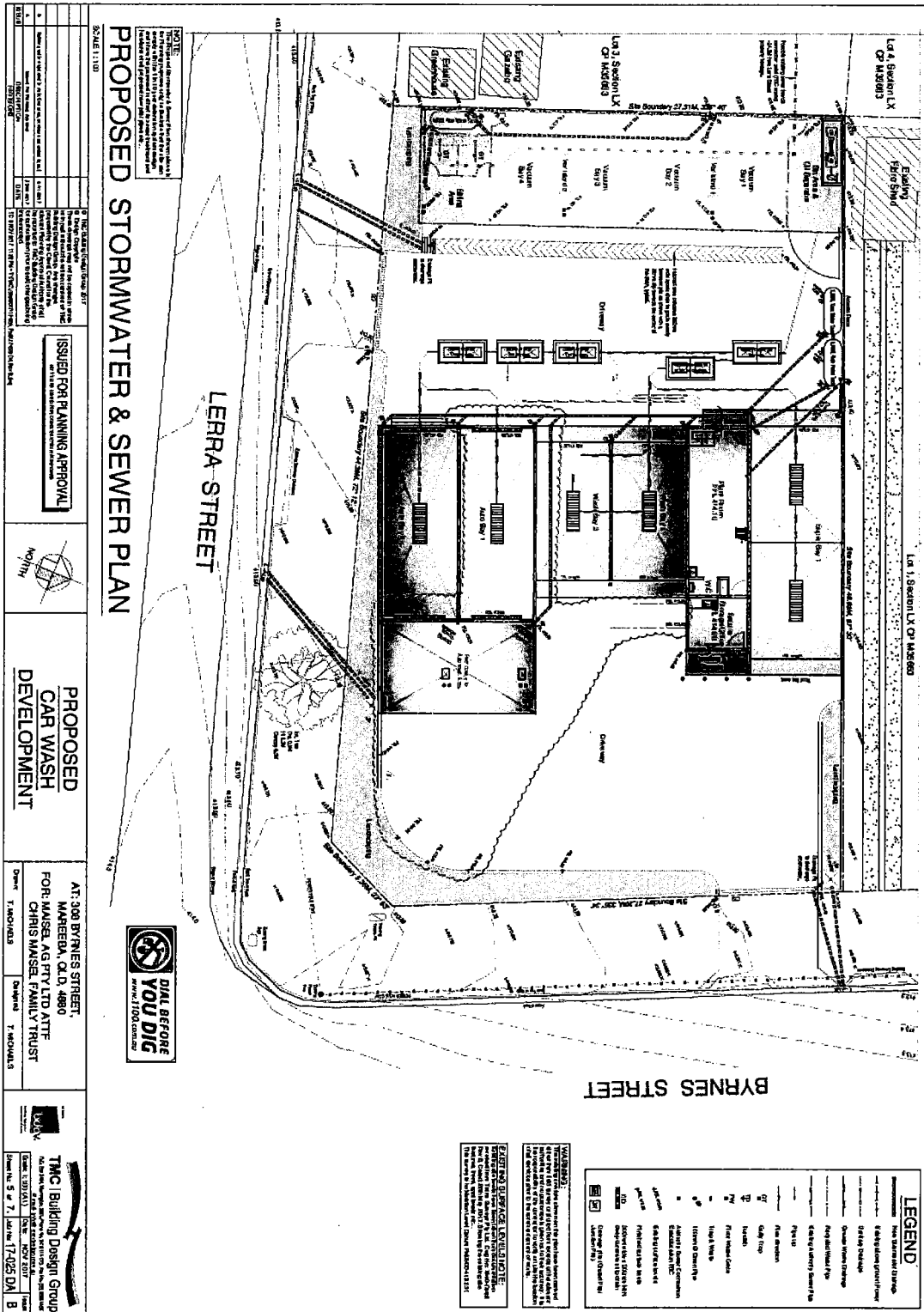
Client: T. MAISEL S  
Designer: T. MAISEL S

**TMC Building Design Group**  
15/1500/0017  
Phone: 07 5523 3311  
Fax: 07 5523 3311  
Email: info@tmc.com.au  
Website: www.tmc.com.au

**CAR WASH COLUMN SCHEDULE**

COLUMN NUMBER	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
COLUMN TYPE	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
CONCRETE TYPE	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
REINFORCEMENT	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
FINISH	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
HEIGHT	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
LOCATION	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
NOTES	1. ALL CONCRETE TO BE CAST IN PLACE. 2. ALL CONCRETE TO BE CAST WITH 10% FIBRE. 3. ALL CONCRETE TO BE CAST WITH 10% FIBRE. 4. ALL CONCRETE TO BE CAST WITH 10% FIBRE. 5. ALL CONCRETE TO BE CAST WITH 10% FIBRE. 6. ALL CONCRETE TO BE CAST WITH 10% FIBRE. 7. ALL CONCRETE TO BE CAST WITH 10% FIBRE. 8. ALL CONCRETE TO BE CAST WITH 10% FIBRE. 9. ALL CONCRETE TO BE CAST WITH 10% FIBRE. 10. ALL CONCRETE TO BE CAST WITH 10% FIBRE. 11. ALL CONCRETE TO BE CAST WITH 10% FIBRE. 12. ALL CONCRETE TO BE CAST WITH 10% FIBRE. 13. ALL CONCRETE TO BE CAST WITH 10% FIBRE. 14. ALL CONCRETE TO BE CAST WITH 10% FIBRE. 15. ALL CONCRETE TO BE CAST WITH 10% FIBRE.														

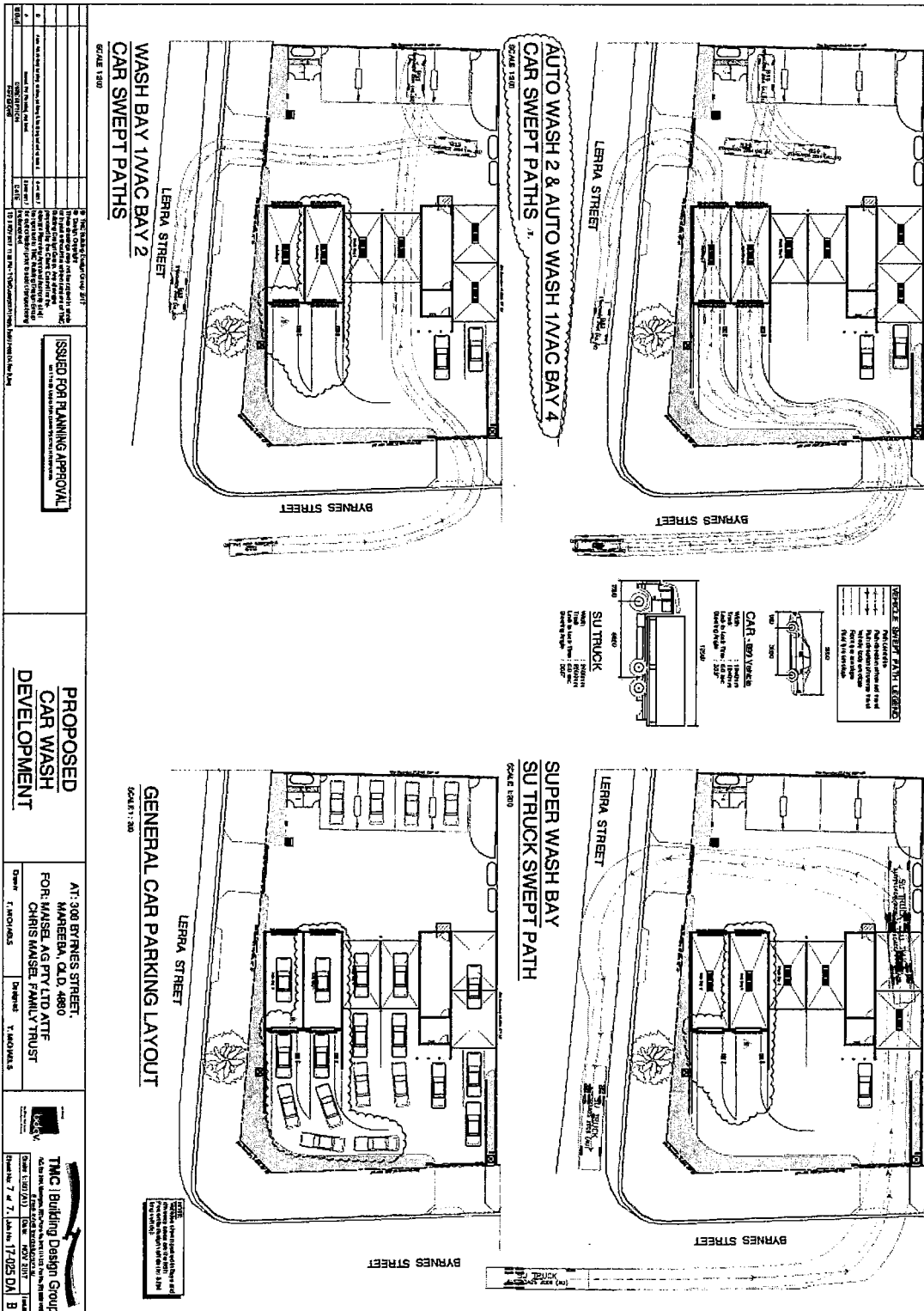
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1	Site Plan	1:500
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3	Site Plan	1:500
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17	Site Plan	1:500
18	Site Plan	1:500
19	Site Plan	1:500
20	Site Plan	1:500

ISSUED FOR PLANNING APPROVAL  
 AT: 300 BYRNES STREET, MAREEBA, QLD, 4880  
 FOR: MAISEL AG PTY LTD ATTF  
 CHRIS MAISEL FAMILY TRUST

PROPOSED CAR WASH DEVELOPMENT

AT: 300 BYRNES STREET, MAREEBA, QLD, 4880  
 FOR: MAISEL AG PTY LTD ATTF  
 CHRIS MAISEL FAMILY TRUST

TMC Building Design Group  
 17-025 DN B

25/1/2018  
 B. Will

## Referral Agency Response

RA6-N



Department of Infrastructure,  
Local Government and Planning

Our reference: 1709-1647 SRA  
Your reference: MCU/17/0007

31 October 2017

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

Attention: Mr Carl Ewin

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 28 September 2017.

### Applicant details

Applicant name:	MAISEL AG Pty Ltd ATTF Chris Maisel Family Trust
Applicant contact details:	C/- Freshwater Planning Pty Ltd, 17 Barron View Drive Freshwater QLD 4870 freshwaterplanning@outlook.com

### Location details

Street address:	308 Byrnes Street, Mareeba
Real property description:	Lot 2 M35663
Local government area:	Mareeba Shire Council

### Application details

Development permit	Material change of use for car wash facility
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### 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

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

1709-1647 SRA

**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**

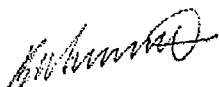
The department requires that the plans and specifications set out below and enclosed must be attached to any development approval.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
<b>Aspect of development: Material change of use</b>				
TMR Layout Plan (664-0.96km)	Queensland Government Transport and Main Roads	23/10/2017	RMR17-22649(500-1174)	B
Proposed Car Wash Development	TMC Building Design Group	August, 2017	17-025 DA Sheet 2 of 7	A

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

For further information please contact Belinda Jones, Senior Planning Officer, on 40373239 or via email CairnsSARA@dilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow  
Manager (Planning)

cc MAISEL AG Pty Ltd ATTF Chris Maisel Family Trust c/- freshwaterplanning@outlook.com

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

1709-1647 SRA

**Attachment 1—Conditions to be imposed**

No.	Conditions	Condition timing
<b>Material change of use</b>		
10.9.4.2.2.1 State transport infrastructure—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	<p>The development must be carried out generally in accordance with the following plan:</p> <ul style="list-style-type: none"> <li>• Proposed Site Layout prepared by TMC Building Design Group dated August 2017, reference Sheet No. 2 of 7 and revision A.</li> </ul>	Prior to the commencement of the use and to be maintained at all times
2.	<p>(a) The road access locations, are to be located generally in accordance with TMR Layout Plan (664-0.96km), prepared by Queensland Government Transport and Main Roads, dated 23/10/2017, reference TMR17-22649(500-1174), Issue B. In particular road access location from Byrnes Street is to be located near the northern boundary of Lot 2 on M35663 and approximately 40m north of Lerra Street. The access is to be entry only and restricted to a design vehicle up to a maximum size single body truck – Class 5 heavy vehicle as described in Austroads Vehicle Classification System.</p> <p>(b) The road access works comprising commercial and industrial crossover must be designed and constructed in accordance with the FNQROC Standard Drawing S1015.</p>	<p>(a) At all times</p> <p>(b) Prior to the commencement of use</p>
3.	Direct access is not permitted between Byrnes Street and the subject site at any location other than the permitted road access location identified in Condition 1.	At all times
4.	<p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.</p> <p>(b) Any works on the land must not:</p> <ul style="list-style-type: none"> <li>(i) create any new discharge points for stormwater runoff onto the state-controlled road;</li> <li>(ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road;</li> <li>(iii) surcharge any existing culvert or drain on the state-controlled road;</li> <li>(iv) reduce the quality of stormwater discharge onto the state-controlled road.</li> </ul>	(a) and (b) at all times

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

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The reasons for the decision to impose conditions are:

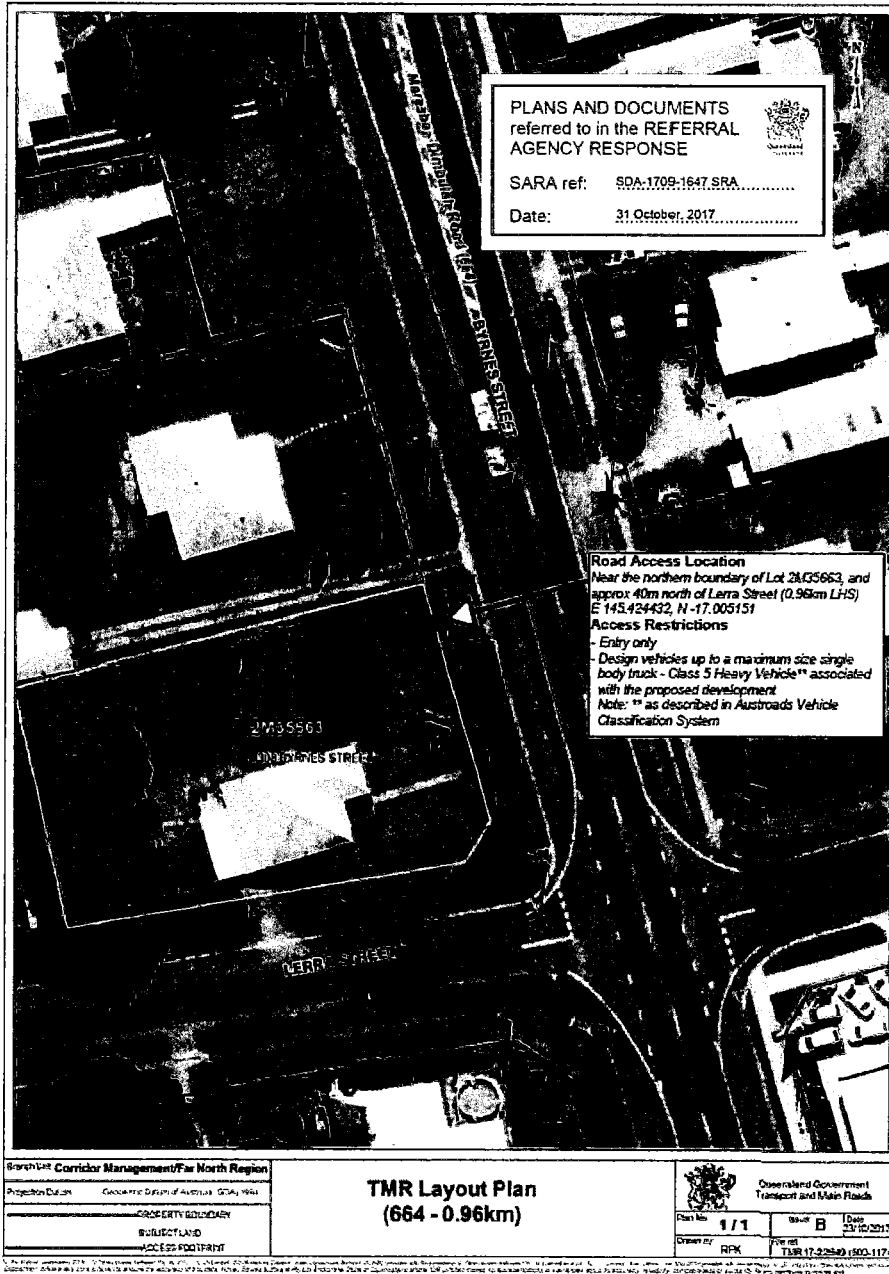
- To ensure the development is carried out generally in accordance with the plan of development submitted with the application.
- To ensure the impacts of stormwater events associated with development are minimised and managed to avoid creating any adverse impacts on the state-transport corridor.
- To 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.

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**Attachment 3—Advice to the assessment manager**

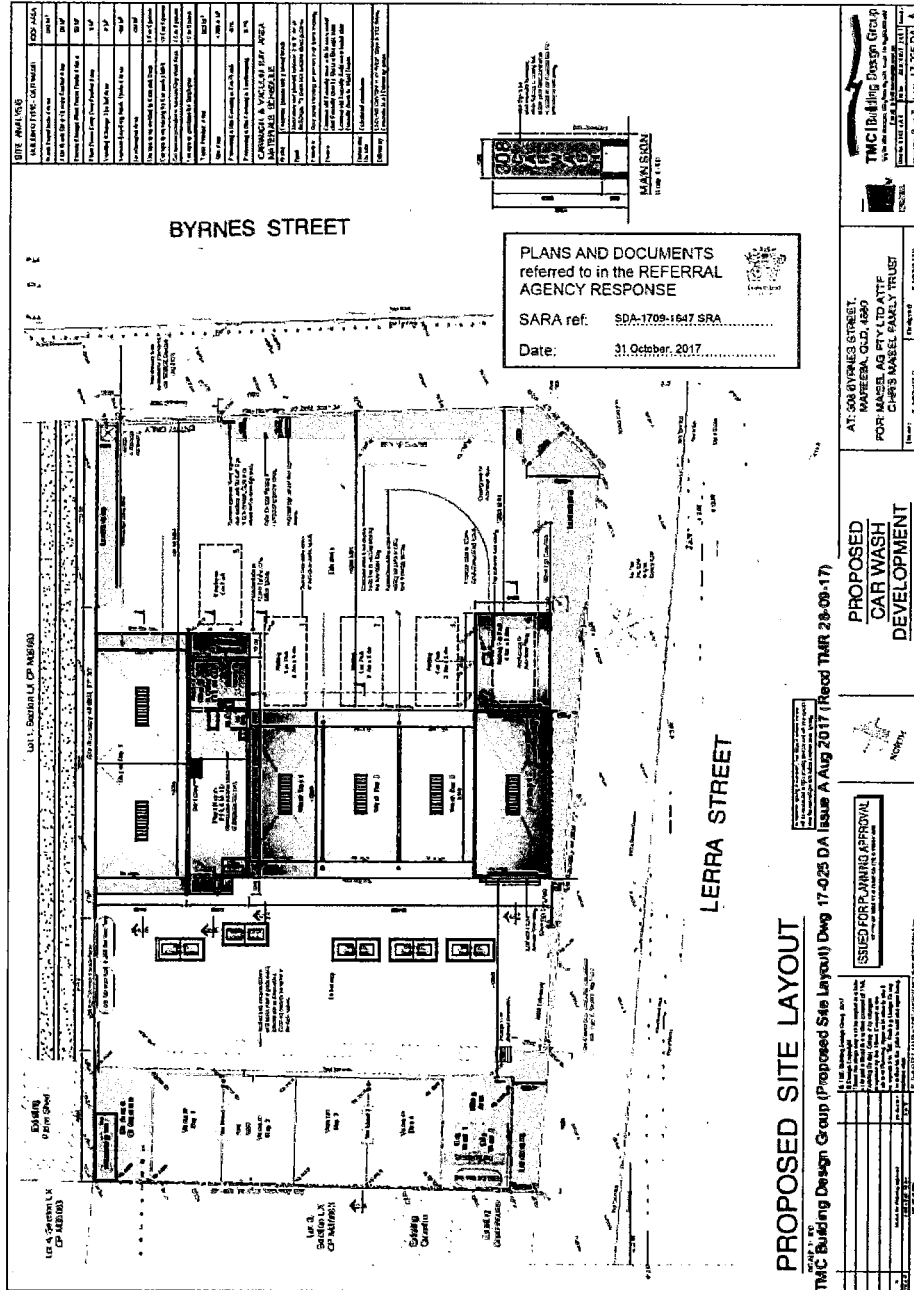
<b>General advice</b>	
<b>Road access works approval</b>	
1.	Under section 33 of the <i>Transport Infrastructure Act 1994</i> , written approval is required from the Department of Transport and Main Roads to carry out road works on a state-controlled road. Please contact the Cairns district office of 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). Please contact Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.

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## Appeal Rights

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

### Chapter 6 Dispute resolution

#### Part 1 Appeal rights

#### 229 Appeals to tribunal or P&E Court

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

(Refer to Schedule 1 of the Planning Act 2016)

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

*Note –*

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

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

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

### 230 Notice of appeal

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

### 231 Other appeals

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

*decision* includes-

  - (a) conduct engaged in for the purpose of making a decision; and
  - (b) other conduct that relates to the making of a decision; and
  - (c) the making of a decision or failure to make a decision; and
  - (d) a purported decision ; and

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

#### 232 Rules of the P&E Court

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