



# Mareeba

## SHIRE COUNCIL

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4 September 2018

Senior Planner: Brian Millard  
Direct Phone: 4086 4657  
Our Reference: BM:nj

M & J Taylor  
PO Box 1485  
MAREEBA QLD 4880

Dear Sir/Madam

## Decision Notice

### *Planning Act 2016*

I refer to your application and advise that on 31 August 2018 under delegated authority, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

#### APPLICATION DETAILS

Application No:	MCU/18/0024
Street Address:	57-59 Byrnes Street Mareeba
Real Property Description:	Lot 308 on M3563
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

#### DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit for Material Change of Use - Shop and Low Impact Industry
Date of Decision:	31 August 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)

#### (a) Development assessable against the Planning Scheme

1. Development must be carried out generally 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

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.
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
    - 3.4.1 Refrigeration equipment, pumps, compressors and mechanical ventilation systems must be located, designed, installed and maintained to achieve a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations

and a maximum noise level of 8dB(A) above background levels as measured from commercial locations.

- 3.4.2 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.

### 3.5 Waste Management

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

## 4. Infrastructure Services and Standards

### 4.1 Access

A **commercial** access crossover must be constructed (from the edge of Byrnes 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 Frontage Works

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

- A concrete footpath (extending from the edge of the building to the kerb), along the full frontage of the site to Byrnes Street.
- Adjustments and relocations necessary to public utility services resulting from these works.



Where the existing footpath abuts the new footpath works, the old footpath must be modified to steadily transition into the new section of footpath.

Prior to works commencing, plans for the works described above must be approved as part of an Operational Works Application.

#### 4.3 Stormwater Drainage/Water Quality

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

4.4.1 The applicant/developer must ensure that the development is provided with 8 on-site parking spaces including a minimum of 1 disabled parking space, which are available solely for the parking of vehicles associated with the use of the premises.

4.4.2 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.

4.4.3 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 and Fencing

- 4.5.1 The development must be landscaped in accordance with an approved landscape plan.
- 4.5.2 Prior to the issue of the development permit for operational works, a detailed landscape plan, must be prepared for the site and submitted to Council's delegated officer for consideration and approval.
- 4.5.3 The landscape plan must demonstrate compliance with the Landscaping Code. Plant species are to be generally selected from the Plant Schedule in Planning Scheme Policy 6 - Landscaping and preferred plant species.
- 4.5.4 The landscaping plan must incorporate the following:
  - (i) A 1.8 metre high colorbond (neutral colour) screen fence must be constructed along the site boundaries to the extent shown on Drawing No. M18-4638 A102a.
  - (ii) The fencing is to be erected prior to the commencement of the use and maintained in good order for the life of the development, to the satisfaction of Council's delegated officer.
- 4.5.5 A minimum of 25% of new plants is provided as larger, advanced stock with a minimum plant height of 0.7 metres and mulched to a minimum depth of 0.1 metres with organic mulch.
- 4.5.6 The landscaping of the site must be carried out in accordance with the endorsed landscape plan/s, and prior to the commencement of the use, and mulched, irrigated and maintained to the satisfaction of Council's delegated officer.

#### 4.6 Lighting

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.

NOTE: The design is to integrate the principles of Crime Prevention through Environmental Design (CPTED) theory. Lighting design is to illuminate potential areas of concealment and is to project illumination so that a human face is easily discernible from 15 metres and there is to be sufficient night lighting, which renders people, colours, vegetation and objects correctly. i.e. 'white' light. Particular attention should be given to pathways, driveways and common external spaces.

#### 4.7 Water Supply

4.7.1 Where the existing reticulated water supply does not currently service the site or is not at an adequate capacity, the developer is required to extend or upgrade 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 in accordance with FNQROC Development Manual standards (as amended).

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

#### 4.8 Sewerage Connection

4.8.1 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.

4.8.2 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 or upgrade 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		
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 & Planning PO Box 2358 Cairns QLD 4870  <a href="mailto:CairnsSARA@dsdmip.qld.gov.au">CairnsSARA@dsdmip.qld.gov.au</a>
(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 the 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
M18-4638 A101	Aerial Site & Locality Plan	Max Slade Designs	24.07.18
M18-4638 A102	Layout Plan	Max Slade Designs	24.07.18
M18-4638 A102a	Layout Plan 1-200	Max Slade Designs	24.07.18
M18-4638 A102b	GFA Area Plan & Individual Area Plan	Max Slade Designs	24.07.18
M18-4638 A103	Front Elevation Rear Elevation	Max Slade Designs	24.07.18
M18-4638 A104	North Elevation South Elevation	Max Slade Designs	24.07.18
M18-4638 A104a	3D Views	Max Slade Designs	24.07.18



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**REFERENCED DOCUMENTS**

Not Applicable.

**ADVISORY NOTES**

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

(A) ASSESSMENT MANAGER'S ADVICE

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

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

- (c) 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.

- (d) 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.

- (e) 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).

- (f) 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).

**(B) REFERRAL AGENCY CONDITIONS**

Department of State Development, Manufacturing, Infrastructure and Planning Referral Agency Response dated 30 August 2018.

**FURTHER DEVELOPMENT PERMITS REQUIRED**

- Development Permit for Operational Work
- Development Permit for Building Work
- Compliance Permit for Plumbing and Drainage Work
- Access approval arising from condition number 4.1 (Please contact Planning Section to obtain application form and applicable fee)

**SUBMISSIONS**

Not Applicable.

**RIGHTS OF APPEAL**

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

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

**OTHER DETAILS**

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

Yours faithfully



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

Enc: Approved Plans/Documents  
Referral Agency Response  
Appeal Rights

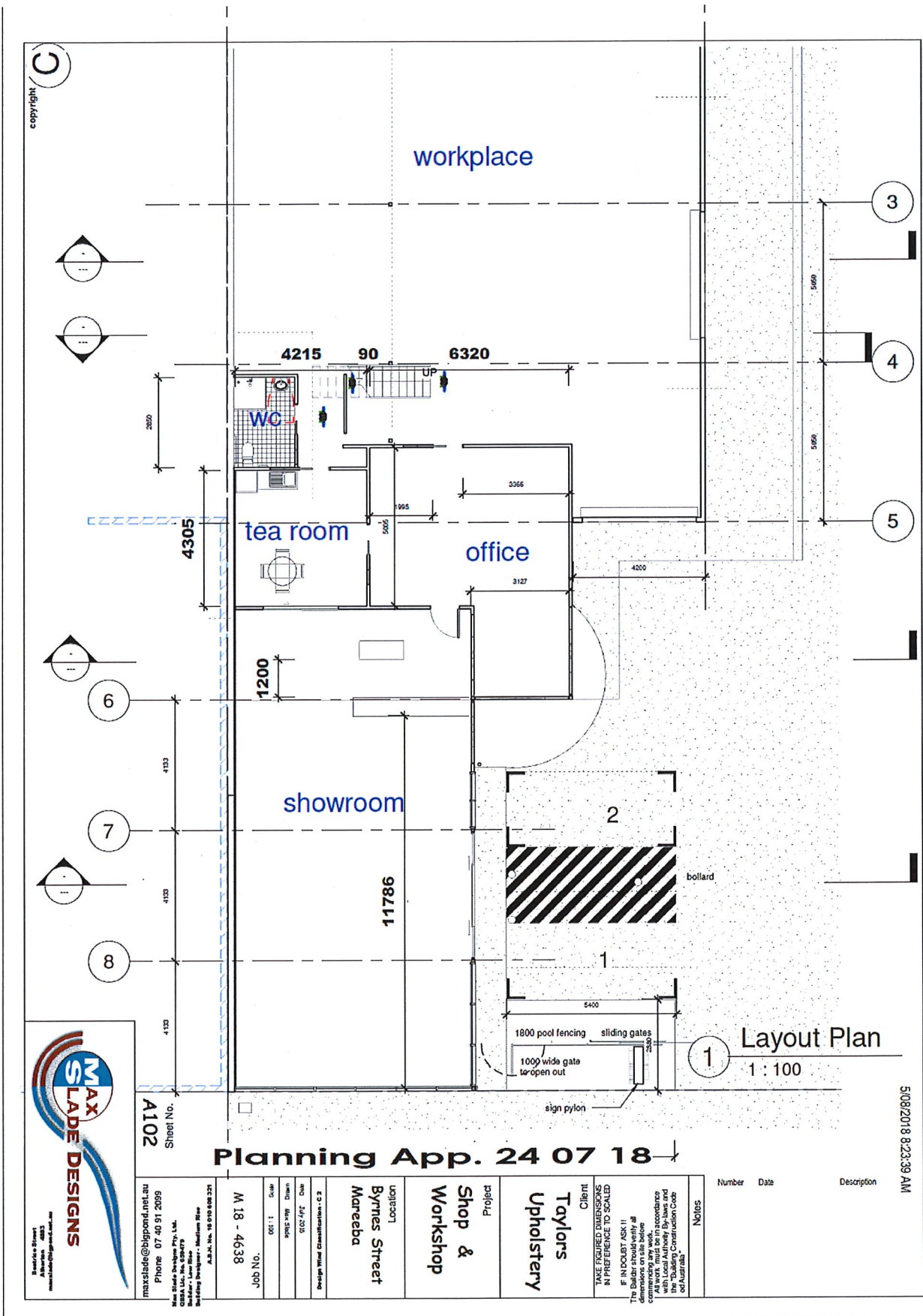
Copy: Department of State Development, Manufacturing, Infrastructure and Planning  
[CairnsSARA@dsdmip.qld.gov.au](mailto:CairnsSARA@dsdmip.qld.gov.au)



## Approved Plans/Documents

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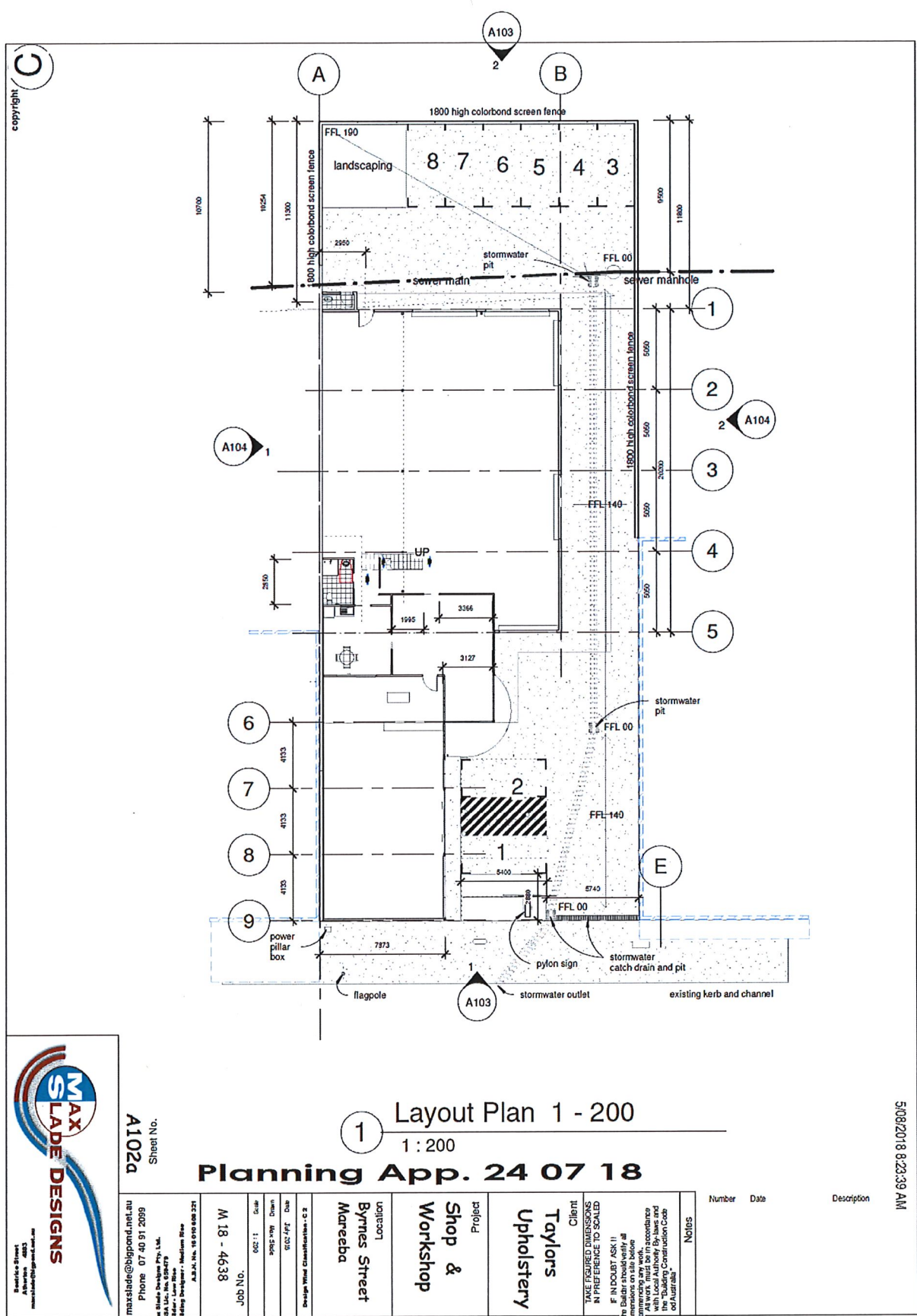




be aware - SUBSTITUTION OF ANY STRUCTURAL MEMBERS & OR ANY VARIATIONS TO THE DESIGN WILL VOID ANY RESPONSIBILITY OF THE BUILDING DESIGNER FOR THE STRUCTURAL INTEGRITY & PERFORMANCE OF THE BUILDING

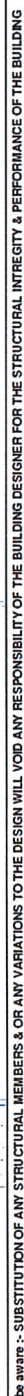
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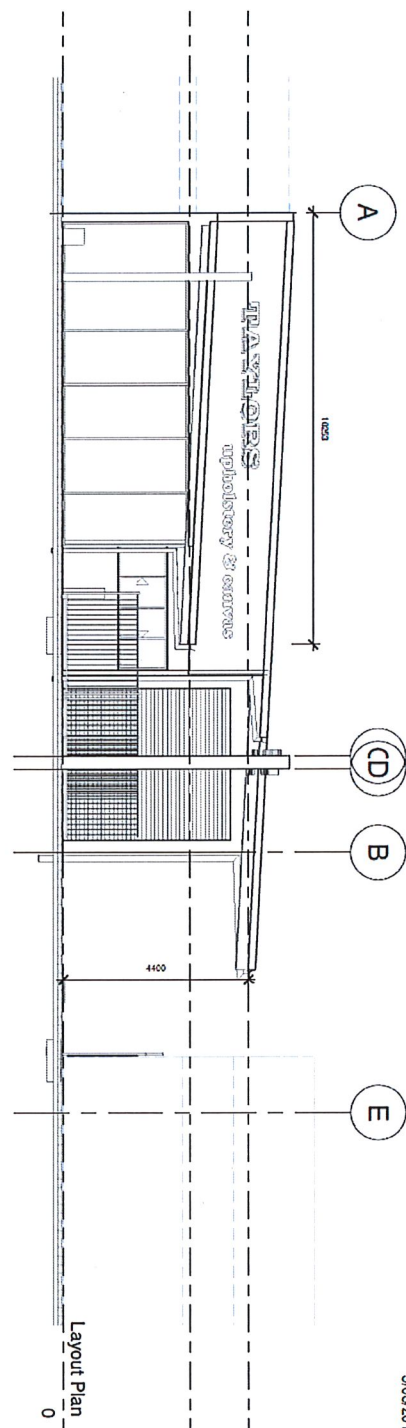
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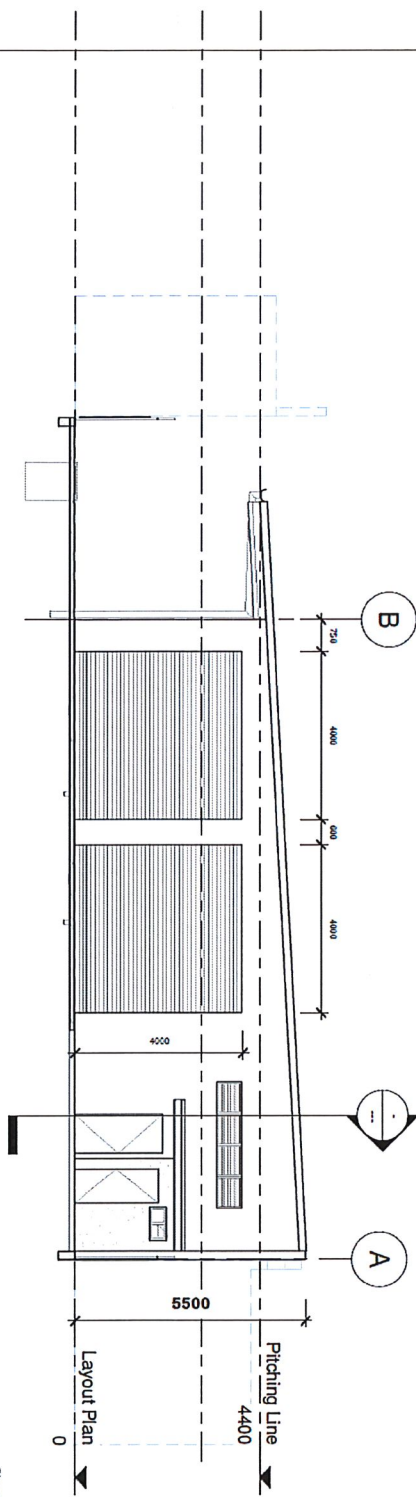


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1 : 100  
Front Elevation



2  
1 : 100  
Rear Elevation

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Planning App. 24 07 18

Sheet No.  
A103



Number Date Description

Notes

All work must be in accordance with Local Authority By-laws and The Building Construction Code. The Builder should verify all dimensions on site before TAKE OFFED DIMENSIONS IN PREFERENCE TO SCALED PLAN DIMENSIONS.

Client: Taylors Upholstery

Project: Shop & Workshop

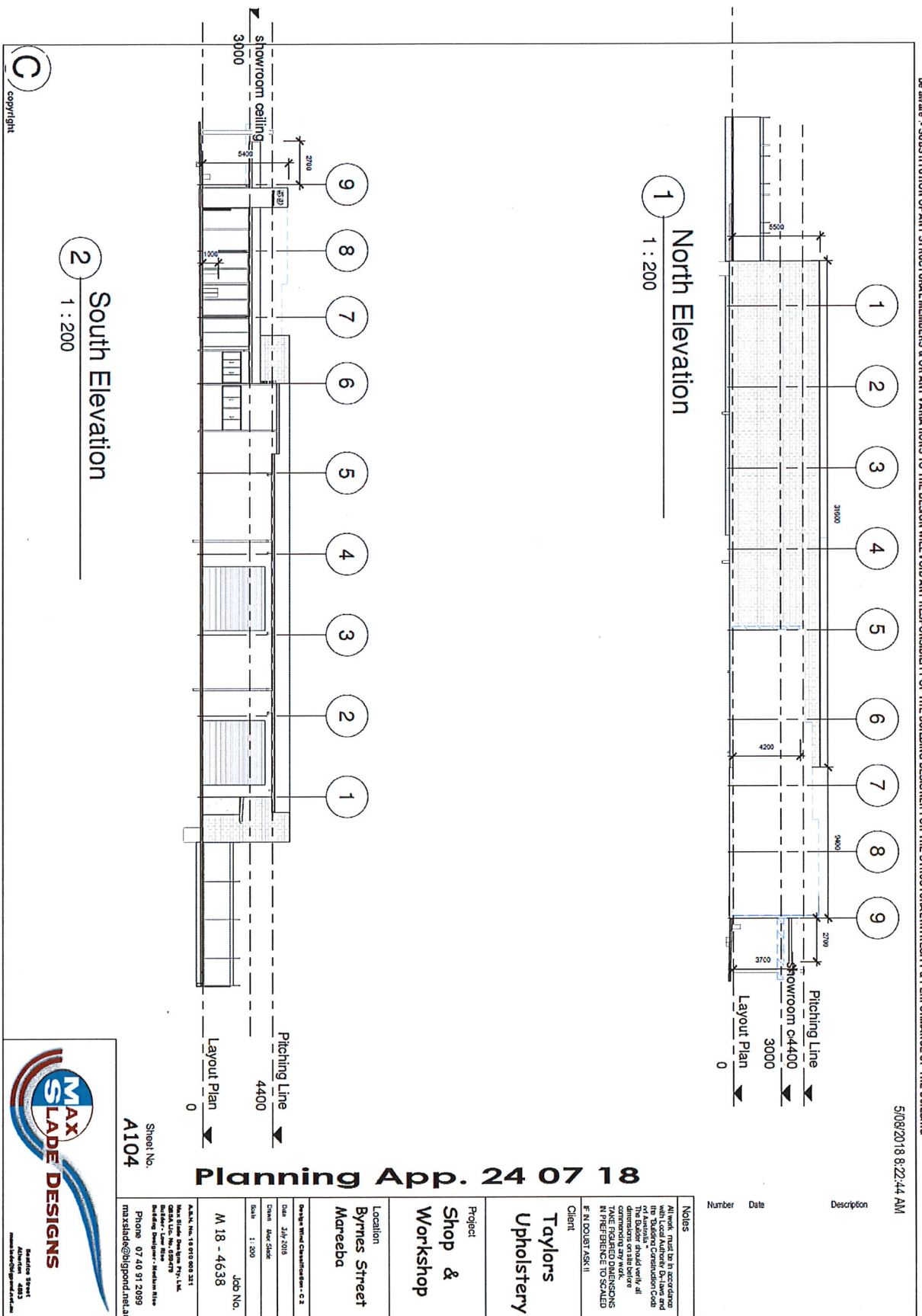
Location: Byrnes Street Mareeba

Design and Construction - C 2  
Date: July 2018  
Drawn: Max Slade  
Scale: 1:100

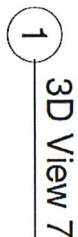
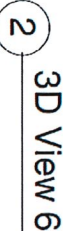
Job No.  
M 18 - 4638

A.A.L. No. 18 010 003 231  
Max Slade, Design Pty. Ltd.  
10/100, 10/100, 10/100  
Building Designer - Medium Size  
Phone: 07 40 91 2099  
maxslade@bigpond.net.au

4/9/2018  
B. Hill



4/9/2018  
B.210



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Max Slade  
 4823  
 Alhambra  
 Studio City, CA 91618  
 818.761.1111  
 max@maxsladedesigns.com

**Planning App. 24 07 18**

4/9/2018  
B. McQuinn



## Referral Agency Response

RA6-N



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

Our reference: 1808-6757 SRA  
Your reference: MCU/18/0024

30 August 2018

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

### Applicant details

Applicant name:	M and J Taylor C/- Max Slade Designs Pty Ltd
Applicant contact details:	PO Box 834 Tolga QLD 4882 maxslade@bigpond.net.au

### Location details

Street address:	57-59 Byrnes Street, Mareeba
Real property description:	Lot 308 on M3563
Local government area:	Mareeba Shire Council

### Application details

Development permit	Material change of use for shop and low impact industry
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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

1808-6757 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 applicant**

The department offers advice about the application to the applicant—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 (664-2.70km)	Queensland Government Transport and Main Roads	22/02/2018	TMR 18-25248 (500-1300)	Issue 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@dsgmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow  
Manager (Planning)

cc M and J Taylor C/- Max Slade Designs Pty Ltd, maxslade@bigpond.net.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

1808-6757 SRA

**Attachment 1—Conditions to be imposed**

No.	Conditions	Condition timing
<b>Material change of use</b>		
10.9.4.2.4.1 State-controlled road —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"> <li>TMR Layout Plan (664 – 2.70km) prepared by Queensland Government Transport and Main Roads, dated 22/08/2018, File Reference TMR18-25248 (500-1300), Issue A</li> </ul> <p>(b) Road access works comprising of a commercial / industrial vehicle crossover must be provided at the road access location.</p> <p>(c) The road access works must be designed and constructed in accordance with Far North Queensland Regional Organisation of Councils (FNQROC) Standard Drawing S1015 - Access Crossovers, dated 23/10/17, Revision D.</p>	<p>(a) At all times</p> <p>(b) and (c) Prior to the commencement of use and to be maintained at all times.</p>
2	<p>The existing vehicular property access located between Lot 308 on M3563 and Mareeba-Dimbulah (Byrnes Street) must be permanently closed and removed.</p> <p>The kerb and channelling between the pavement edge and the property boundary must be reinstated in accordance with Far North Queensland Regional Organisation of Councils (FNQROC) Standard Drawing S1000 – Concrete Kerb &amp; Channel Profiles and Dimensions dated 23/10/17, Revision F.</p>	Prior to the commencement of use
3	Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.	At all times



1808-6757 SRA

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

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The reasons for this decision to impose conditions 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 maintain the safety and efficiency of the state-controlled road by reducing the number of road access points to the state-controlled road.
- To ensure that the impacts of stormwater events associated with development are minimised and managed to avoid creating any adverse impacts on the state-transport corridor.

1808-6757 SRA

**Attachment 3—Advice to applicant**

<b>Further development permits required</b>	
<b>Ref</b>	<b>Road Works Approval</b>
1.	<p>In accordance with section 33 of the Transport Infrastructure Act 1994 (TIA), an applicant must obtain written approval from Department of Transport and Main Roads (DTMR) to carry out road works, including road access works on a state-controlled road. Please contact DTMR on 4045 7144 to make an application under section 33 of the TIA to carry out road works. 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). The road works approval process takes time – please contact Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p>
<b>Ancillary works and encroachments</b>	
2.	<p>In accordance with section 50(2) and Schedule 6 of the <i>Transport Infrastructure Act 1994</i> (TIA) and Part 5 and Schedule 1 of the <i>Transport Infrastructure (State-Controlled Roads) Regulation 2006</i>, the applicant / development must obtain Department of Transport and Main Roads (DTMR) approval to carry out ancillary works and encroachments 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 a Road Corridor Permit under section 50(2) of the TIA to carry out ancillary works and encroachments.</p> <p>The approval process may require the approval of design drawings of the proposed works by a certified by a Registered Professional Engineer of Queensland (RPEQ).</p> <p><b>Ancillary works and encroachments include but are not limited to advertising signs or other advertising devices, paths or bikeways, buildings/shelters/structures, vegetation clearing, landscaping and planting. The proposed development involves an awning and this will require approval to carry out ancillary works and encroachments on a state-controlled road.</b></p>

1808-6757 SRA



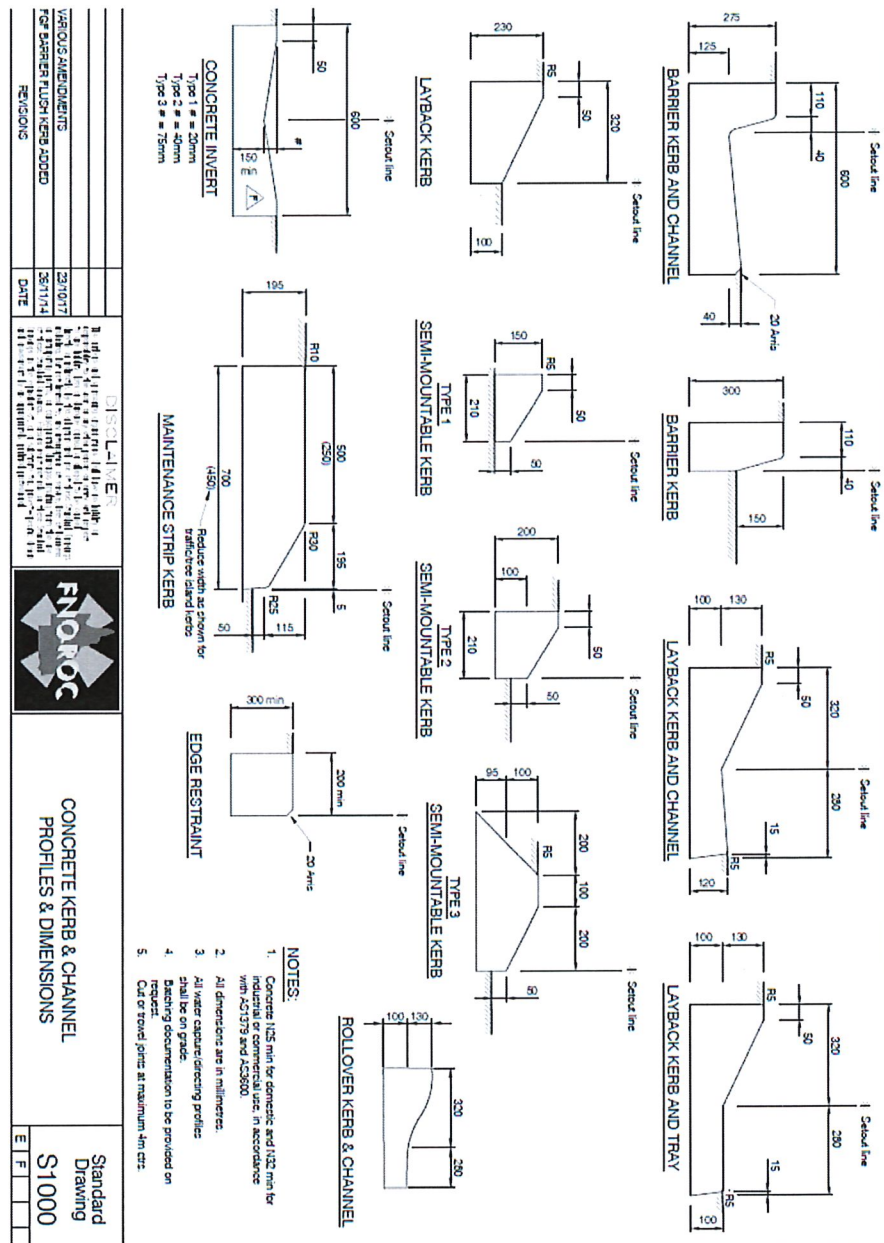


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PLANS AND DOCUMENTS  
referred to in the REFERRAL  
AGENCY RESPONSE

**SARA ref:** 1808-6757 SRA

Date: 30 August 2018



PLANS AND DOCUMENTS  
referred to in the REFERRAL  
AGENCY RESPONSE

SARA ref: 1808-6757 SRA

Date: 30 August 2018

## 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.