

6.6. COMBINED APPLICATION FOR 6133 CAPTAIN COOK HIGHWAY FOR MCU LOW IMPACT INDUSTRY AND ROL FOR LEASE AGREEMENT FOR MORE THAN 10 YEARS

REPORT AUTHOR	Jenny Elphinstone, Senior Planning Officer
MANAGER	Paul Hoyer, Manager Environment and Planning
DEPARTMENT	Environment and Planning
APPLICATION NO	CA 2023_5331/1
PROPOSAL	Combined Application-Material Change of use (Low Impact Industry) and Reconfiguration of a Lot (creating a lot by lease agreement for a period of more than 10 years).
APPLICANT	Angela Whittaker C/ Scope Town Planning 38 Kowa Street, Mareeba Qld 4880
LOCATION	6133 Captain Cook Highway Craiglie
PROPERTY	Lot 3 on RP743352
PLANNING SCHEME	2018 Douglas Shire Council Planning Scheme Version 1.0
ZONING	Rural Zone
LEVEL OF ASSESSMENT	Impact
PROPERLY MADE DATE	13 April 2023
STATUTORY ASSESSMENT DEADLINE	30 August 2023
REFERRAL AGENCIES	State Assessment & Referral Agency

LOCALITY



Figure 1 –Locality Plan

RECOMMENDATION

That Council refuses the development application for Combined Application over land described as Lot 3 on RP743352 for:

- A. Material Change of Use for Low Impact Industry for the manufacture of residential and commercial window and door fabrication in addition to the continuing use of the dwelling house and secondary dwelling; and
- B. Reconfiguring of a Lot of part of the lot by lease agreement for a period of more than ten (10 years); and
- C. Reconfiguring of a Lot creating an access easement to a road,

Be refused on the following grounds.

- 1. The development conflicts with the Strategic Framework under 3.4.2 Element – Urban settlement, as the industrial development does not occur in an identified area and there are no supporting planning considerations to justify the conflict. The nature of the proposed industry serves residential development in the urban area and this should be contained to the urban area.
- 2. The development conflict with the Strategic Framework under 3.4.4 Element – Industry areas and activities as proposal seeks to expand industrial development outside both Mossman and Port Douglas and there are no supporting planning considerations to justify the conflict. The development should occur in an industrial zone in Mossman or Port Douglas / Craiglie. Sufficient land and infrastructure are already supplied in Industry areas such as Craiglie and Mossman South to accommodate new and expanding enterprises.
- 3. The development conflicts with the Overall Outcomes of the Rural Zone Code:
 - a. The development further fragments rural land and compromise the long-term use of the land for rural purposes; and
 - b. The development does not provide for rural uses including cropping, intensive horticulture, intensive animal industries, animal husbandry, animal keeping and other primary production activities
- 4. The development conflicts with Performance Criteria PO4 of the Rural Zone:
 - a. The development is an intrusion of an inconsistent use in the rural Zone.
- 5. The development cannot be appropriately conditioned to overcome the non-compliance with the Strategic Framework or assessment benchmarks of the applicable codes.

Assessment Benchmarks

The following are the benchmarks applying to the development.

Benchmarks applying for the development	Benchmark reference
Strategic Framework Rural zone code Reconfiguring a lot code Acid sulphate soils overlay code Bushfire hazard Flood and storm tide hazard overlay code Landscape values overlay code Natural areas overlay code	Douglas Shire Planning Scheme 2018 (V1.0) in effect 2 January 2018

Benchmarks applying for the development	Benchmark reference
Transport network overlay code Industry activities code Access, parking and servicing code Environmental performance code Infrastructure works code Landscaping code	

EXECUTIVE SUMMARY

Application has been made to utilise part of an existing shed for an industrial activity. The land is not used for any rural purpose and the applicant contends the land is insufficient in size to be used for a rural use. The Applicant uses the land only as a rural lifestyle property.

The Applicant asserts there is a lack of supply of industrial land in the Port Douglas / Craiglie area. Further, that to develop a shed for the industrial use sought, is too costly in this local area. The Applicant considers the use of the existing shed on the land already owned is cost efficient to operating the industrial activity. Concern is raised with this reasoning for supporting the application.

Development approvals run with the land not with an individual operator. An Applicant's personal financial considerations or convenience of access are not planning considerations under the *Planning Act 2016*. The supply of industrial land needs to be considered Shire wide.

Public Notification of the proposal was carried in accordance with the requirements of the *Planning Act 2016* and no submissions were received. It is agreed that the physical impacts of the proposed use are relatively minor and that the proposed level of activity is comparatively low.

The land is located outside the Shire's urban areas. The land is not within the Local Plan boundary of the Port Douglas / Craiglie Local Plan. The land is within the Rural Area of the Strategic Framework.

The land is within the Rural Zone under the 2018 Douglas Shire Planning Scheme. In the Rural Zone development of a Low Impact Industry is nominated as Impact Assessable (inconsistent) use.

Significant concern is held with the proposed industrial activity as the activity does not relate to: the rural use of the land; a rural use in the surrounding area; a rural use in the Shire; or is relevant to the rural zoning.

It has not been substantiated that there is a need for the development to be undertaken on land in the Rural Area or on land in the Rural Zone. The development is an incursion of urban industrial uses beyond the Shire's urban areas. The development is an urban incursion into the Rural Area and Rural zone.

The development is contrary to the Regional Plan, the State Planning Policies and the strategic framework of Council's Planning Scheme. The proposal is in conflict the planning intent for the site and the zone. It is recommended that the application be refused.

TOWN PLANNING CONSIDERATIONS

Background

The land has been developed as a dwelling house, a secondary dwelling and associated Class 10a sheds and carports. Development and use of the land to date has utilised a driveway that traverses the neighbouring land. The dwelling house is setback a significant distance from the road frontage to the Captain Cook Highway. The road area of the Highway is naturally vegetated. The land and the adjacent road also contain Crees Creek.

Proposal

The Applicant is the landowner and is also the Company Director of Port Douglas Windows & Glass (QLD) Pty Ltd that manufactures and supplies windows, doors and security screens. The Applicant advises that the business was previously operated out of a shed at Port Traders located on the Captain Cook Highway at 5964 Captain Cook Highway, Craiglie. The Applicant initially stated that the company supplies residential and commercial windows and door fabrication servicing areas from Palm Cove, Mossman, Daintree, Julatten and Cooktown.

It is understood the company is currently operating from the premises at 6133 Captain Cook Highway. The Applicant states that the company has been unable to find a suitable premises in the Shire in which to operate from due to non-availability of sufficient land to develop a premises and non-availability of a suitable existing industrial premises at reasonable cost.

In the response to Council's request to further information, the Applicant advised that the business is small with only 2 on-site employees but has specific height requirements for its activities.

After extensive research and attempts to secure land or leases in the Craiglie industrial area, the Applicant found that the existing available sheds for lease were unsuitable for use due to size and/or height constraints and that the cost to purchase land to build a suitable building was unviable against the business turnover.

The Applicant further advised that the proposed activity cannot be located in Mossman as the business owner, staff and the majority of clientele are located in the greater Port Douglas area. Thus, the business is strategically located in Craiglie. The Applicant acknowledges there is a small industrial precinct located in Craiglie, however several factors have inhibited the business owner from using one of these sites.

The application has been lodged for a combined development of:

1. Material Change of Use for Low Impact Industry for the manufacture of residential and commercial window and door fabrication in addition to the continuing use of the dwelling house and secondary dwelling; and
2. Reconfiguring of a Lot of part of the lot by lease agreement for a period of more than ten (10 years); and
3. Reconfiguring of a Lot creating an access easement to a road.

The company will lease the existing large shed (288m² floor area) and a curtilage yard for a period of more than ten years to operate the use. The length of the lease triggers a requirement for a development permit under the *Planning Act 2016* and where approved the lease must be registered on the land title.

The proposed use is classified as a Low Impact Industry activity. The shed will be complimented with new amenities.

The applicant advised the following details.

"The proposed development involves the fabrication of windows and doors including window glazing and security screens. The fabrication process requires only punch machines and a drop saw which are only operated as required.

The fabrication activities involve only 2 on-site employees with fabrication to be carried out between 7:30am and 4:30pm, Monday to Friday however fabrication will not occur every day as the same employees will spend some days off-site for deliveries and installation.

The proposed facility does not include any display rooms, offices or administration activities and no visitors will be allowed on-site.

Infrastructure required to service the site is accessible via the Captain Cook Highway frontage including site access, Electricity and Telecommunications network connections. Potable water is provided via an on-site water bore and rainwater tanks. Effluent waste is serviced via an on-site septic system located between the shed and outbuildings. ...

Operational activities will involve the fabrication of windows, glazed windows, doors and security screens and will be managed in an environmentally responsible manner. The proposed activities do not produce any significant volume of dust, odour or noise emissions with any such pollutants being contained within the building. No hazardous materials are to be stored within the Shed and the activities do not produce any hazardous waste materials.

Trade waste will be contained within a regularly service skip bin with all waste aluminium being stored in a separate bin for recycling."

The Applicant contends,

"Although zoned a Rural land, the site is not of a suitable area to accommodate Rural Activities of any significant scale."

The land owner, also being the business owner, has sought to locate the window and door fabrication at an appropriately located industrial zoned site within the region however has been unsuccessful. As such, it is proposed that a relaxation be granted to allow the very low impact industrial activity to be carried out on the property.

The site is considered a logistically practical location for the proposed activities being located on the business owner's property, centrally located in the service catchment and having good access to the road network."

The existing use of dwelling house with a secondary dwelling will continue. A new access driveway will be developed on the land so that access, for the dwelling house, secondary dwelling and the new industrial use does not traverse the neighbouring land.

Refer to the proposal plans in Attachments.

Planning Act Requirements

While the Applicant has raised contentions that the development of a suitable premises is cost adverse, the cost considerations are based on personal financial considerations.

S 43 (2) of the *Planning Act 2016* specifically states,

- “(2) An assessment benchmark does not include—*
- (a) a matter of a person’s opinion; or*
 - (b) a person’s circumstances, financial or otherwise;”*

S 45 of the Act further clarifies impact assessment as

- “(5) An impact assessment is an assessment that—*
- (a) must be carried out—*
 - (i) against the assessment benchmarks in a categorising instrument for the development; and*
 - (ii) having regard to any matters prescribed by regulation for this subparagraph; and*
 - (b) may be carried out against, or having regard to, any other relevant matter, other than a person’s personal circumstances, financial or otherwise.*

Examples of another relevant matter—

- *a planning need;*
- *the current relevance of the assessment benchmarks in the light of changed circumstances;*
- *whether assessment benchmarks or other prescribed matters were based on material errors.”*

State Planning Requirements

State Planning Policy

The State Planning Policy (‘SPP’) was introduced on 3 July 2017 as part of the State’s planning system.

The SPP defines the Queensland Government’s policies about matters of state interest in land use planning and development, providing direction for the preparation of local planning instruments and assessment of development applications.

The 2018 Douglas Shire Planning Scheme version 1.0 reflects the applicable State interests in respect to urban area and rural land.

Further assessment with respect to these planning considerations is deferred to the assessment of the development against the Strategic Framework of the Planning Scheme.

Far North Queensland Regional Plan 2009-2031

The Far North Queensland Regional Plan 2009-2031 ('FNQ Regional Plan') provides the framework for the sustainable management of growth and development in Far North Queensland. The site is contained within the Regional Landscape and Rural Production Area of the FNQ Regional Plan.

The *Planning Regulation 2017* requires the development be assessed against the Regional Plan to the extent that the Regional Plan is not appropriately reflected in the Planning Scheme.


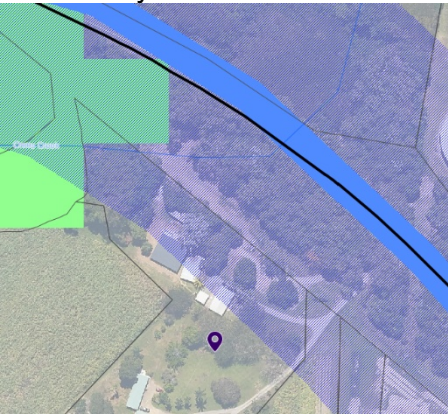
The Douglas Shire Planning Scheme has been endorsed by the Minister as appropriately integrating the Regional Plan. Further assessment with respect to these planning considerations is deferred to the assessment of the development against the Strategic Framework of the Planning Scheme.


DOUGLAS SHIRE PLANNING SCHEME ASSESSMENT

The following benchmarks are applicable to the proposed development:

Table1.

Douglas Shire Planning Locality	Comment
Strategic Framework	
Strategic Framework considerations	Does not comply, refer to comments below.
Planning Zone	
Rural Zone	Does not comply, refer to comments below.
Local Plan Code	
Port Douglas/Craiglie	<p>The Applicant purports that as the access to the premises, through the Captain Cook Highway, is within the Local Plan Area, the application should be considered having regard to the Local Plan.</p> <p>While the access driveway between the property frontage and the Captain Cook Highway is within the Local Plan area, the land is not. The land is outside the urban footprint area of the Regional Plan, which is reflected by the mapped Urban Area of the Strategic Framework, and the mapped area of the Local Plan.</p>
Overlay Codes	
Acid sulphate soils overlay	Complies. The land is mapped by the overlay as being Acid Sulfate Soils (5-20m AHD). No excavation to fill is proposed and therefore no further impact on PASS.
Bushfire hazard overlay	Can comply with conditions. The land is mapped as part Medium Potential Bushfire Intensity and part Potential Impact Buffer.

Douglas Shire Planning Locality	Comment
Flood and storm tide hazard overlay	<p>Satisfactory. While the majority of the land is mapped as within the 100 Year ARI - Port Douglas Flood Studies, the use will be conducted in Class 10 buildings. The shed building in which the activity will occur is not mapped by the overlay.</p> 
Landscape values overlay	<p>The area where the activity will occur lies in the Scenic route buffer for the adjacent Captain Cook Highway (scenic route), as per the map of the Overlay below.</p>  <p>A vegetation buffer should not rely on the road corridor vegetation. The State has advised access can be appropriately provided. The building is setback sufficiently from the boundary that further landscaped screening can be provided if necessary.</p>

Douglas Shire Planning Locality	Comment
Natural areas overlay	<p>No significant concerns are held as the activity is proposed to be conducted inside the existing shed. The Overlay maps the land as below and the shed is on the edge of the buffer to the watercourse.</p> 
Transport network overlay	Can comply through the conditions of the Concurrence agency and a further requirement for a sealed access onto the land.
Other Development Codes	
Access, parking and servicing code	Can comply through conditions of the approval requiring a sealed parking area and access driveway.
Advertising devices code	None are nominated and this could be conditioned. Check code for compliance with view corridor for the scenic route – this is the higher order code.
Environmental performance code	Noise from aluminium and glass cutting is acute and can lead to a nuisance. The applicant has provided specific advice in the form of a noise report. The shed could be attenuated, and the activity conducted fully indoors to reduce further impact. To this extent conditions could be included to achieve satisfactory compliance.
Filling and excavation code	Not applicable as none proposed.
Infrastructure works code	Can comply through conditions of the approval.
Landscaping code	Can comply through conditions of the approval.
Reconfiguring a lot code	Concern is raised with the creation of a lease lot that gives effect to an inconsistent use. Refer to comment below

Compliance Issues

Regional Plan, Strategic Framework and Rural Zone.

The Regional Plan and the Strategic Framework clearly map the urban areas of the Shire. The zoning of land is developed on need and supply considerations for the whole of the Shire, as well as considering undeveloped land within an urban area. The spread of an urban activity into the rural area has been resisted by the Regional Plan, the Strategic Framework and the land zoning.

There are numerous sheds in the Rural Area and in the Rural Zone. Concern is raised as to the opportunity that could be sought by others, as a result of approval of this application, to have further intrusions of urban activity into the Rural Area and Rural Zone.

In some instances, it can be appropriate that an industrial activity is clearly more suited to a rural area as the activity relates to the development and land uses that occur in the Rural Area and the Rural Zone. Appropriate examples include large scale landscape supplies and work equipment depots for machinery that service the sugarcane farming, road construction and other farming practises. These developments are of a scale and nature that are more appropriately located in the Rural Area.

In this instance it is not the size of the industry, the associated noise impacts or intensity of use that cause concern.

This application is not an industrial activity that by its nature is better suited to a Rural Area or a Rural Zone. This is not an industrial activity that has a tangible connection to other rural activities. The development sought by the Applicant based on personal convenience and personal availability.

Reconfiguration of a Lot Code Inconsistencies.

Concern is raised with the creation of the lot by agreement as it would in effect provide long-term tenure for a non-compliant land use that is inconsistent with the Zone purpose and inconsistent with the use of land in a Rural Area.

Public Notification / Submissions

Public notification was carried out in accordance with section 53 of the *Planning Act 2016* for the proposed development. Council is satisfied the fifteen business days public notification was appropriately undertaken. No submissions received by Council in relation to the proposed development.

Referral Agency Requirements

Schedule 10 of the Planning Regulation 2017 prescribes that the development application triggers state agency referral to the State Assessment & Referral Agency (SARA) as a concurrence agency due to the site adjoining a State controlled road (Port Douglas Road). The State has issued a concurrence agency response that includes conditions regulating the development being in respect to the vehicle access. A copy of the response is included in Attachments.

ADOPTED INFRASTRUCTURE CHARGES

The development triggers Infrastructure Charges only in the instance when an approval issues.

COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following area outlines where Council has a clear responsibility to act:

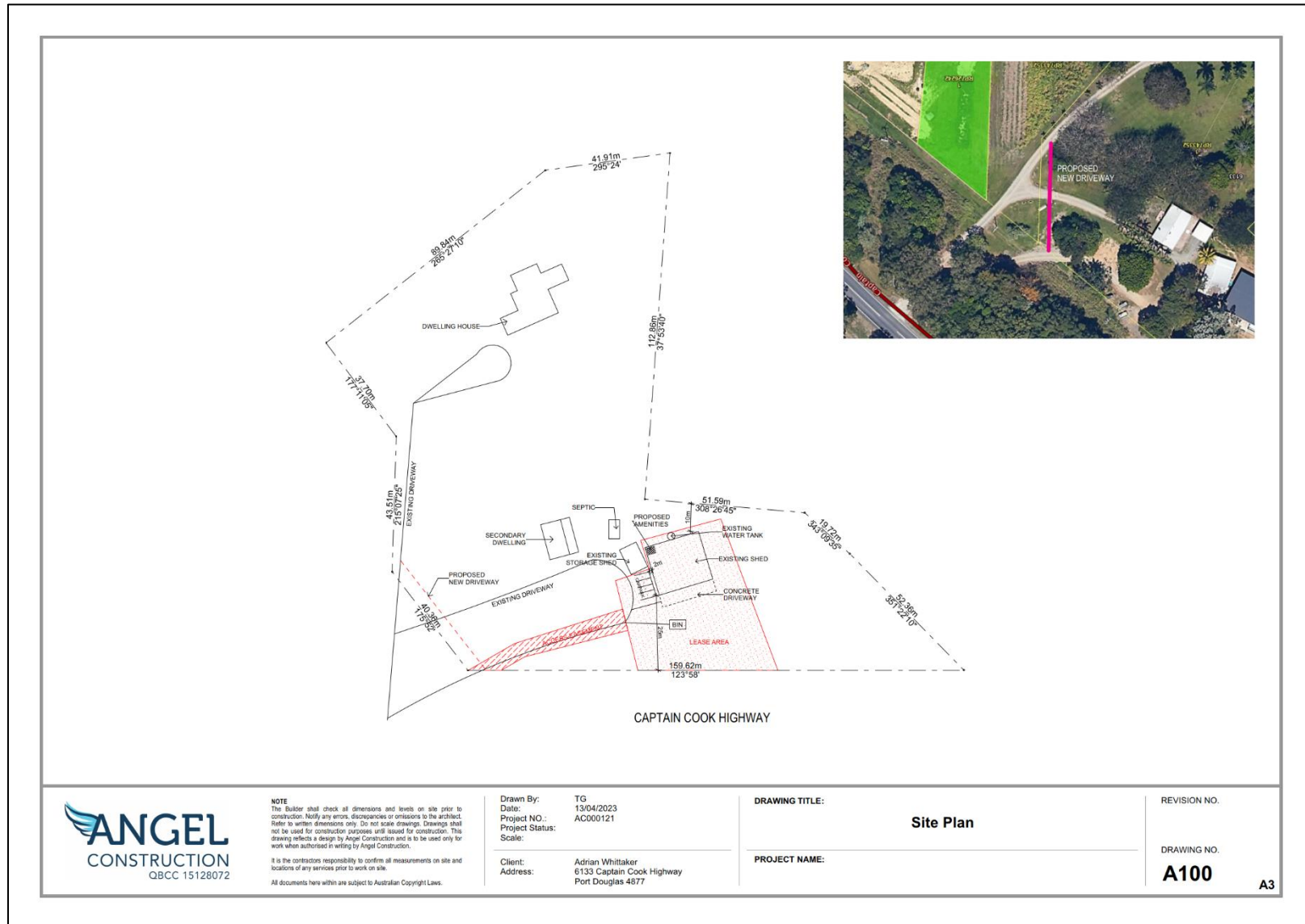
Regulator: Council has a number of statutory obligations detailed in numerous regulations and legislative Acts. Council also makes local laws to ensure that the Shire is well governed. In fulfilling its role as regulator, Council will utilise an outcomes based approach that balances the needs of the community with social and natural justice.

Under the *Planning Act 2016* and the *Planning Regulation 2017*, Council is the assessment manager for the application.

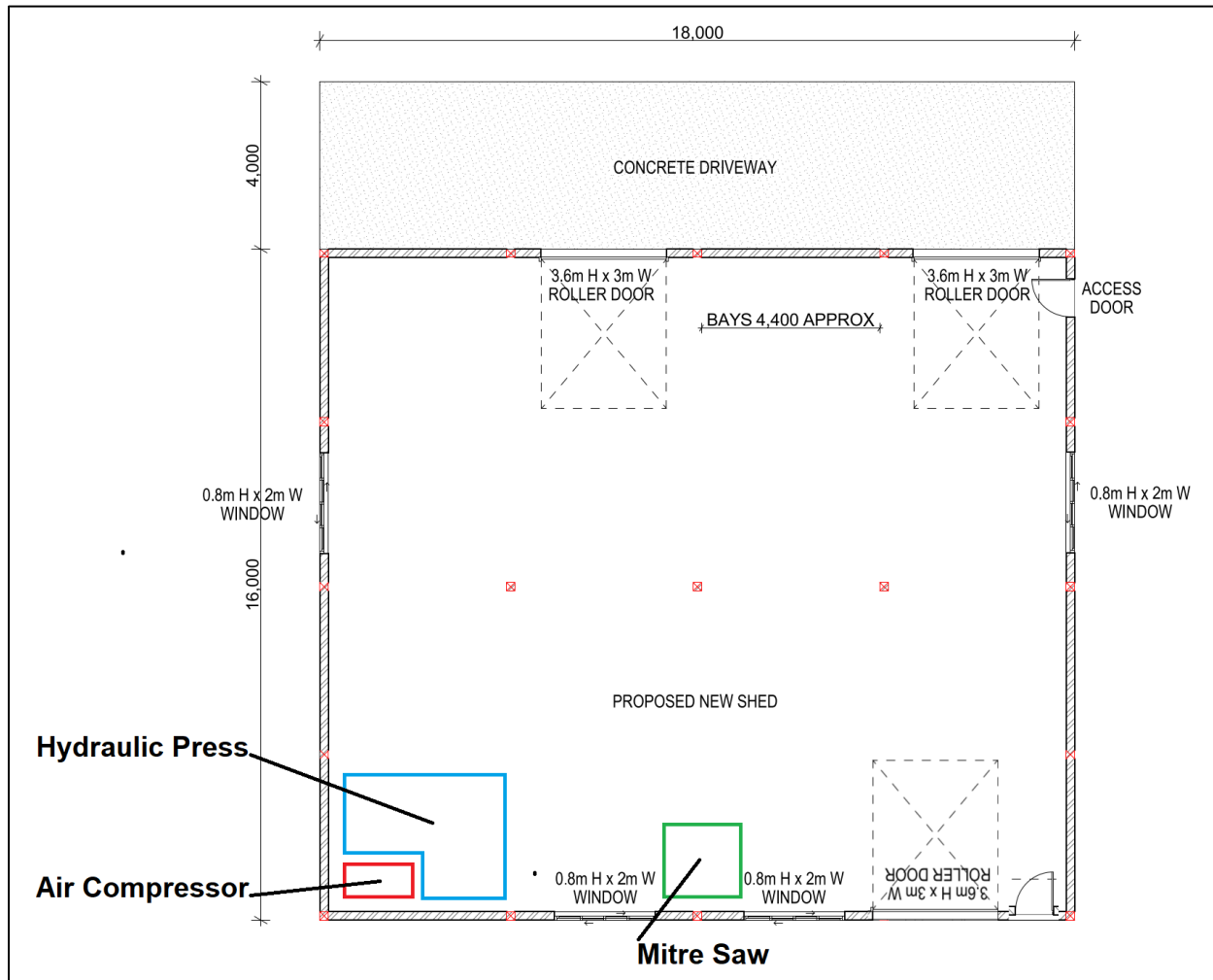
ATTACHMENTS

1. Attachment 1 Proposal Plans [6.6.1 - 2 pages]
2. Attachment 2 SARA Concurrence Response [6.6.2 - 23 pages]

12.1 Development Plans



12.2 Shed Layout





SARA reference: 2304-34249 SRA
Council reference: CA 2023_5331/1
Applicant reference: 23006

26 May 2023

Chief Executive Officer
Douglas Shire Council
PO Box 723
MOSSMAN QLD 4873
enquiries@douglas.qld.gov.au

Attention: Jenny Elphinstone

Dear Sir/Madam

SARA referral agency response— Reconfiguring a Lot and Industrial Use at 6133 Captain Cook Highway, Craiglie

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 20 April 2023.

Response

Outcome:	Referral agency response – with conditions
Date of response:	26 May 2023
Conditions:	The conditions in Attachment 1 must be attached to any development approval
Advice:	Advice to the applicant is in Attachment 2
Reasons:	The reasons for the referral agency response are in Attachment 3

Development details

Description:	Development permit	Reconfiguring a lot (1 lot into 2 plus access easement) by lease agreement for a period of more than 10 years, and material change of use for low impact industry
SARA role:	Referral agency	

SARA trigger:	<p>Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 (Planning Regulation 2017) – Reconfiguring a lot near a state-controlled road</p> <p>Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017) – Material change of use near a state-controlled road</p>
SARA reference:	2304-34249 SRA
Assessment manager:	Douglas Shire Council
Street address:	6133 Captain Cook Highway, Craiglie
Real property description:	Lot 3 on RP743352
Applicant name:	Angela Whittaker
Applicant contact details:	<p>C/- Scope Town Planning 38 Kowa Street Mareeba QLD 4880 jburns@scopetownplanning.com.au</p>
State-controlled road access permit:	<p>This referral included an application for a road access location, under section 62A(2) of <i>Transport Infrastructure Act 1994</i>. Below are the details of the decision:</p> <ul style="list-style-type: none"> • Approved • Reference: TMR23-039143 (500-1754) • Date: 22 May 2023 <p>If you are seeking further information on the road access permit, please contact Mr Ronald Kaden, Technical Officer (Development Control) at the Department of Transport and Main Roads by email at caid_cm@tmr.qld.gov.au or on (07) 4045 7151.</p>
<i>Human Rights Act 2019</i> considerations:	<p>Section 58 of the <i>Human Rights Act 2019</i> specifies required conduct for public entities when acting or making a decision. Sections 15 – 37 of the <i>Human Rights Act 2019</i> identifies the human rights a public entity must consider in making a decision.</p> <p>This decision does not limit the above identified human rights.</p>

Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules). Copies of the relevant provisions are in **Attachment 4**.

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

For further information please contact Anthony Westbury, Planning Officer, on 40373214 or via email CairnsSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Angela Whittaker, scopetownplanning@gmail.com

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations about a referral agency response
Attachment 5 - Documents referenced in conditions

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the plans and specifications referenced below are found at **Attachment 5**)

Reconfiguring a lot		
Schedule 10, Part 9, Division 4, Subdivision 2, Table – Reconfiguring a lot near a state-controlled road and intersection—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
1.	<p>(a) The road accesses are to be located generally in accordance with TMR Layout Plan (20A – 61.45km), prepared by Queensland Government Transport and Main Roads, dated 18/05/2023, Reference TMR23-39143 (500-1754), Issue A.</p> <p>(b) Road access works comprising of a sealed 'Type B' rural property access must be provided at the road access junction.</p> <p>(c) The road access works must be designed and constructed in accordance with the Department of Transport and Main Roads' Standard Rural Property Access Drawing, Sheets 1 & 2, Drawing No. 1807, Type B – Rural Property Access, dated 11/2021, and Revision B.</p>	<p>(a) At all times.</p> <p>(b) and (c) Prior to submitting the Plan of Survey to the local government for approval.</p>
2.	<p>(a) The applicant must register an access easement on the title of Lot 3 on RP7463352 for shared access to the proposed lease area.</p> <p>(b) The applicant must provide to Cairns Corridor Management Unit (Far.North.Queensland.IDAS@tmr.qld.gov.au) of the Department of Transport and Main Roads a copy of Registration Confirmation Statement/s and easement registration dealing number/s as evidence of the registration of the easement/s referred to in part (a) of this condition.</p>	<p>(a) At the time of survey plan registration.</p> <p>(b) Within 20 business days of registration of the easement.</p>
Material change of use		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 – Material change of use of premises near a state-controlled road and intersection—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
3.	<p>(a) The road accesses are to be located generally in accordance with TMR Layout Plan (20A – 61.45km), prepared by Queensland Government Transport and Main Roads, dated 18/05/2023, Reference TMR23-39143 (500-1754), Issue A.</p> <p>(b) Road access works comprising of a sealed 'Type B' rural property access must be provided at the road access junction.</p> <p>(c) The road access works must be designed and constructed in accordance with the Department of Transport and Main Roads' Standard Rural Property Access Drawing, Sheets 1 & 2, Drawing No. 1807, Type B – Rural Property Access, dated 11/2021, and Revision B.</p>	<p>(a) At all times.</p> <p>(b) and (c) Prior to the commencement of use.</p>

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v3.0. If a word remains undefined it has its ordinary meaning.
2.	<p>Advertising device</p> <p>If the low impact industry development does decide to erect an advertising device that will be visible from a state-controlled road, the applicant should seek advice from the Department of Transport and Main Roads (DTMR) to ensure that the advertising device visible from a state-controlled road, and beyond the boundaries of the state-controlled road, is unlikely to create a traffic hazard for the state-controlled road.</p> <p>Note: DTMR has powers under section 139 of the Transport Operations (Road Use Management - Accreditation and Other Provisions) Regulation 2015 to require removal or modification of an advertising sign and / or a device which is deemed to create a danger to traffic.</p>
3.	<p>Road works approval</p> <p>Under section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the DTMR to carry out road works on a state-controlled road.</p> <p>Please contact DTMR on 4045 7144 to make an application for road works approval.</p> <p>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>Please contact DTMR as soon as possible to ensure that gaining approval does not delay construction.</p>

Attachment 3—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

The reasons for the SARA decision are:

The proposed development, with conditions, complies with the relevant provisions of State code 1: Development in a state-controlled road environment as follows:

- The proposed development is unlikely to compromise the safety, function, and efficiency of Captain Cook Highway, a state-controlled road.
- An upgraded vehicle access crossover to be constructed to Captain Cook Highway, will ensure compliance with the Department of Transport and Main Roads' current access standards and requirements.
- The increased traffic generation by the proposed development will be low and can be adequately accommodated by the upgraded access to Captain Cook Highway.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the State Development Assessment Provisions (version 3.0)
- the Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- *Human Rights Act 2019*

Attachment 4— Representations about a referral agency response

(page left intentionally blank – attached separately)

Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules¹ regarding **representations about a referral agency response**

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

Part 7: Miscellaneous

30 Representations about a referral agency response

30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

Attachment 5—Documents referenced in conditions

(page left intentionally blank – attached separately)



Branch/Unit : **Corridor Management / Far North District**

Projection/Datum : Geocentric Datum of Australia (GDA) 2020

File ref: TMR23-39143 (500-1754)

Land parcels

Subject land

State-controlled road boundary

Road access driveway

TMR Layout Plan (20A - 61.45km)

Ordinary Council Meeting - 26 September 2023

Plan:
1 / 1

Issue:
A

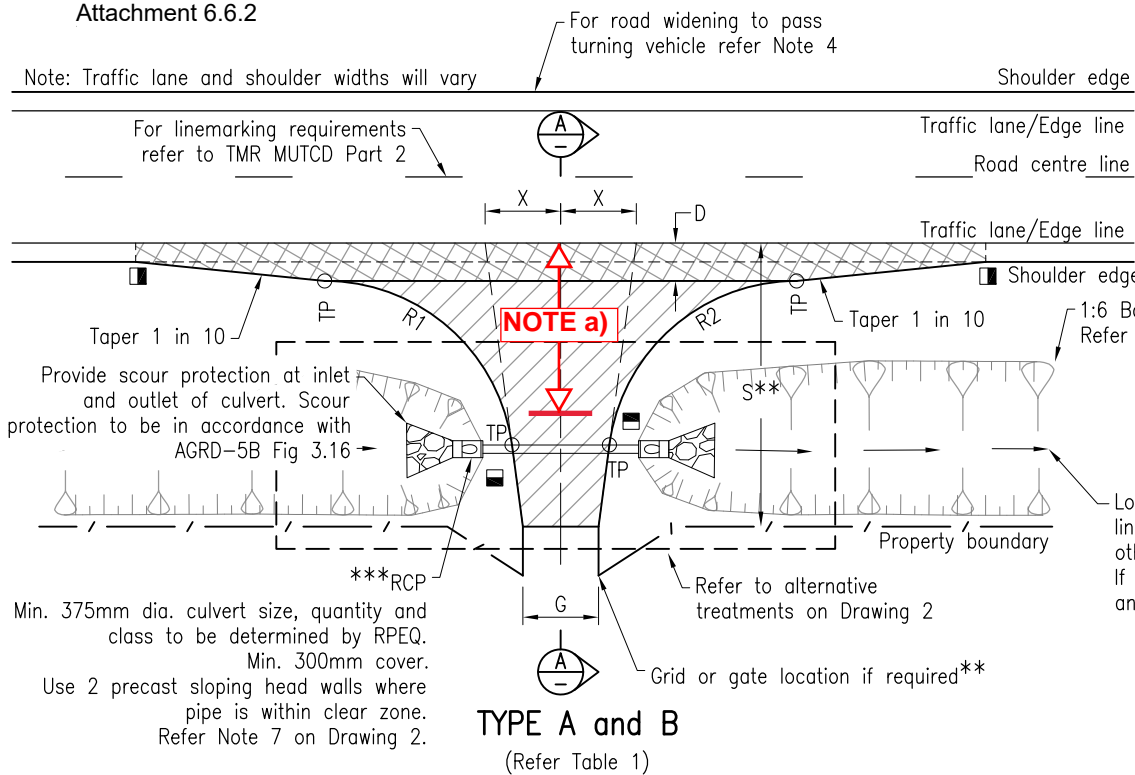
Drawn by:
RPK



Queensland Government
Transport and Main Roads

Date:
18/05/2023

Attachment 6.6.2



PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE



SARA ref: 2304-34249 SRA

Date: 26 May 2023

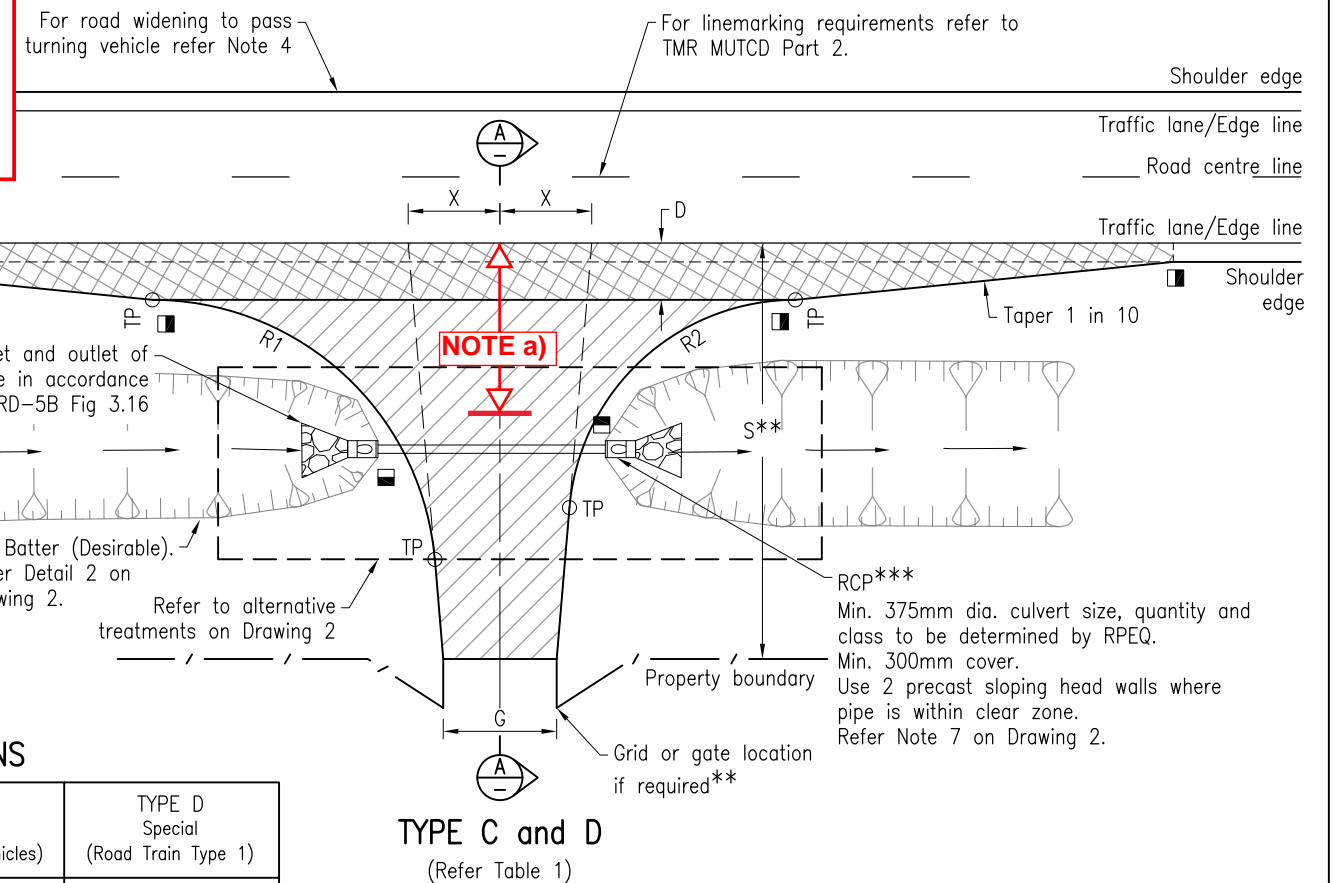
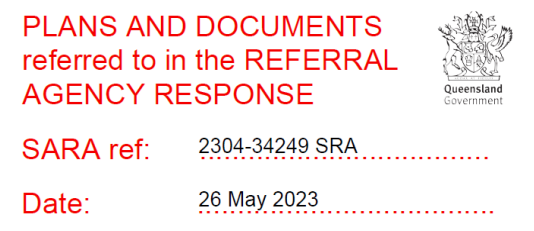


TABLE 1 – SETOUT DIMENSIONS

	TYPE A Residential (Car/Service Vehicle)	TYPE B Commercial (Single Unit Truck/Bus)	TYPE C Special (Articulated Vehicles)	TYPE D Special (Road Train Type 1)
R1	10m	10m	15m	20m
R2	10m	10m	12m	12m
D	2m	2m	3m	3m
X	3m	5m	4m	5m
S	12m	15m	22m	30m**
G	4–6m Ø	4–6m Ø	6m	6m
Ø	6m Minimum width for two-way two-lane access.			

LEGEND



Pavement Type 1 – Bitumen surfacing, 2 coat bitumen seal.
Pavement depth and type to match existing or proposed through road pavement. Refer to Table 2 for minimum depths.



Pavement Type 2 – Gravel, unbound pavement. Refer to Table 2 for depths.
Access may be required to be sealed for up to 10m width from edge line (to minimise gravel on through road) to be determined by the RPEQ.

* Maintain existing shoulder crossfall and superelevation.

** Length 'S' to property boundary by TMR. Where length 'S' is greater than the road reserve boundary, then fencing and grid/gate shall be recessed at the cost of owner from property boundary to ensure vehicle does not impede through lane.

*** RCBC (min. size 600x300) can be used instead of RCP, or invert option where table drain is of insufficient depth for a culvert.

Denotes Road Edge Guide Post
The Filled in portion denotes a red reflector and the open portion a white reflector.

TABLE 2 – MINIMUM PAVEMENT DETAILS AND DEPTH

	TYPE A Residential (Car/Service Vehicle)	TYPE B Commercial (Single Unit Truck/Bus)	TYPE C & D Special (Articulated Vehicles)
Sealed Pavement Base Course	150mm(Min.) Type 2.2 or match existing	200mm(Min.) Type 2.2 or match existing	280mm(Min.) Type 2.2 or match existing
Unsealed Pavement Base Course	150mm(Min.) Type 2.4 or match existing	200mm(Min.) Type 2.4 or match existing	#

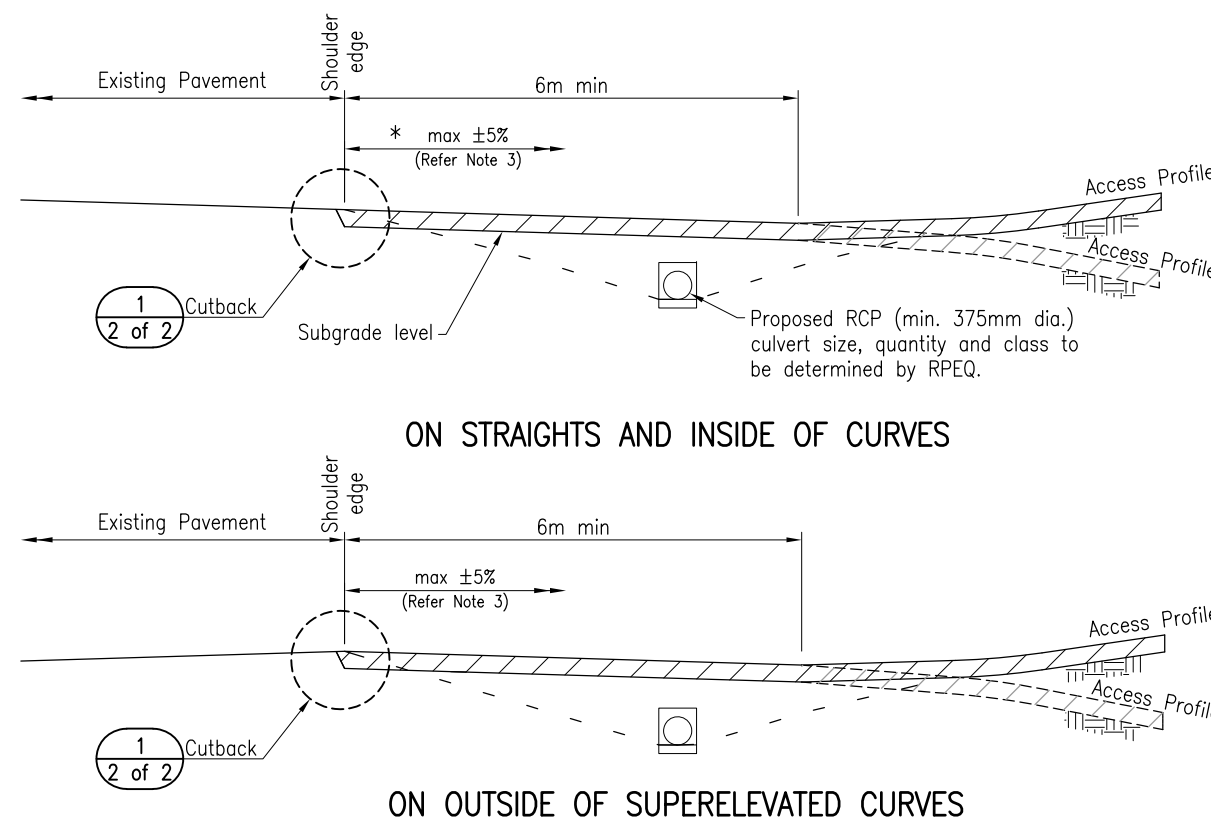
NOTE:

- Refer to additional notes on drawing 2 of 2
- Where access is located on curves, intersections or is Type C, or excessive screwing motion will occur, pavement seal to extend to property boundary at the owner's cost to the engineer's/designer's discretion.

Bitumen sealed pavement only.

◆ Type 3.1 or 4.3 or match existing is permissible if Type 2.2/2.4 is unable to be used.

Department of Transport and Main Roads note:
Site specific requirements may not reflect this example in its entirety. Drawing details must reflect site specific conditions for Road Works / Road Access Works.



SECTION A

Council Meeting - 26 September 2023

NOTES:

- Details shown on this drawing are the minimum layout requirements for a private rural property access. For additional requirements and other design considerations refer to Sections 7.2.1 and 7.2.3 of the AGRD-4 (2009).
- For sight distance requirements refer to Section 3.4 of the RPDM (2nd Edition) Volume 3 Supplement to AGRD-4A, and Section 3 of the AGRD-4A (2010).
- Vertical clearance checks to be carried out for proposed vehicle in accordance with AS 2890.2 – Parking Facilities Off-Street Commercial Vehicle Facilities.
- RPEQ or designer to conduct traffic impact assessment to determine if turning treatments are required. Rural right-turn treatments maybe appropriate, refer to Section 7.5 of the AGRD-4A (2010) for pavement widening requirements. Pavement type to match existing or minimums specified in Table 2 of this drawing.
- This drawing is to be read in conjunction with Drawing 2 of 2.
- All dimensions in metres and are minimum unless specified.

REFERENCED DOCUMENTS:

Departmental Standard Drawings:

- 1243 Precast Culvert Headwalls – Headwall Connections for Culverts
- 1305 Pipe Culverts – Headwall and Apron for Pipe Diameter 375 to 675
- 1359 Culverts – Installation, Bedding and Filling/Backfilling Against/Over Culverts

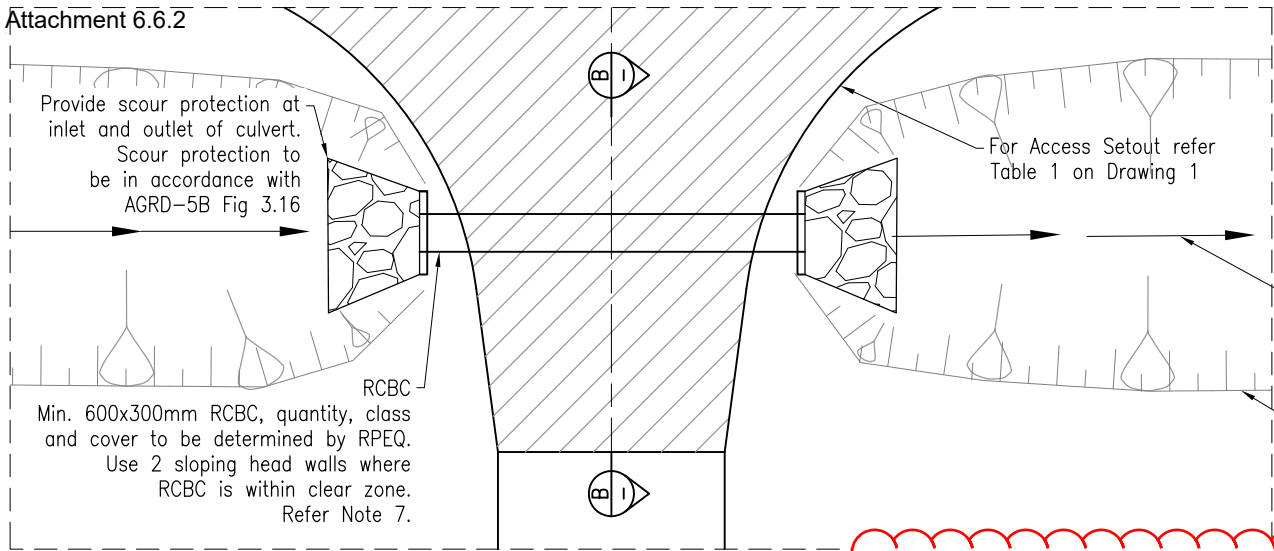
Departmental Documents:

- RPDM Road Planning and Design Manual (2nd Edition)
- MRTS03 Drainage, Retaining Structures and Protective Treatment

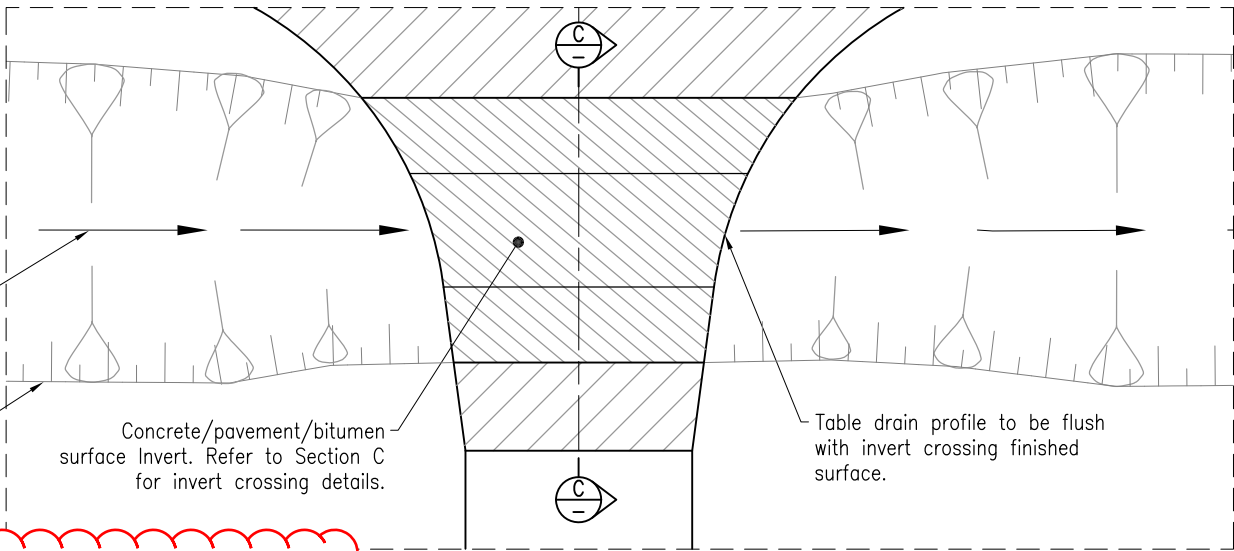
Austroads Guide to Road Design:

- AGRD-4 (2009) Part 4: Intersections and Crossings – General (2009)
- AGRD-4A (2010) Part 4A: Unsignalised and Signalised Intersections (2010)
- AGRD-5B (2013) Part 5B: Drainage – Open Channels, Culverts and Floodways (2013)

Department of Transport and Main Roads					
PROPERTY ACCESS		A3		Standard Drawing No	
RURAL PROPERTY ACCESS		Not to Scale		1807	
DRAWING 1 OF 2		A		Date 11/2021	



RC BOX CULVERT PLAN VIEW



INVERT CROSSING PLAN VIEW

ADDITIONAL NOTES:
a) In all cases, bitumen seal to extend a minimum of 10m from road edge.
b) Annexure to construction drawings is to be read in conjunction with standard drawing 1807.

LEGEND

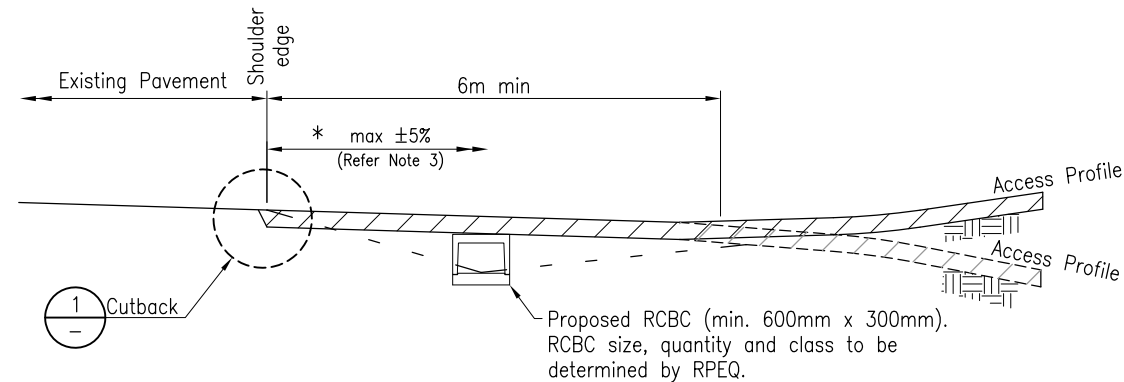
- Pavement Type 2 – Gravel, unbound pavement. Refer to Table 2 of Drawing 1 for depths. Access may be required to be sealed for up to 10m width from edge line (to minimize gravel on through road) to be determined by the RPEQ.
- Invert crossing surface
- * Maintain existing shoulder crossfall and superelevation.

NOTES:

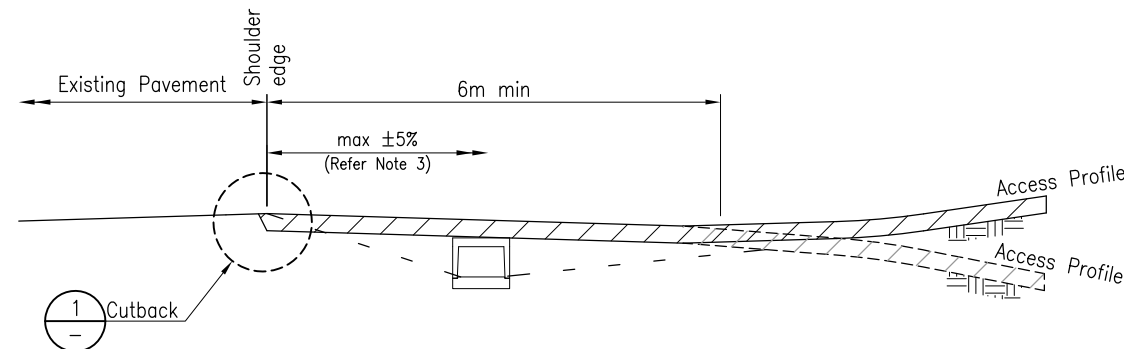
- This drawing is to be read in conjunction with Drawing 1 of 2.
- Minimum longitudinal fall for concrete or bitumen invert is 0.3%.
- 1 in 6 grade can be further levelled for larger design vehicles. Ensure sufficient area for drainage remains. Dimensions to be based on stormwater flow rate for appropriate design ARI event to ensure invert crossing can meet required capacity. Type 22 and Type 28 inverts can be used if drainage design criteria is met.
- Vertical clearance checks to be carried out for small rigid vehicle to ensure adequate transition between change in grade. Refer to AS 2890.2.
- For pavement or bitumen surfacing inverts, refer Table 2 on Drawing 1 for minimum depths.
- Concrete access to have minimum N32 concrete, 100mm thick on 100mm thick sub-base gravel. Concrete access to be reinforced with SL72 mesh with minimum 40mm top cover.
- Culvert clear zone varies with location and speed environment. Refer to TMR Road Planning and Design Manual – Supplement to AGRD Part 6, and Austroads Guide to Road Design – Part 6.

REFERENCED DOCUMENTS:

- Departmental Standard Drawings:
- 1260 R C Box Culverts and Slab Link Box Culverts – Culverts Height = 375 To 600
 - 1033 Kerb and Channel – Profiles
- Australian Standards Documents:
- AS2890.2 Parking Facilities – Off-Street Commercial Vehicle Facilities

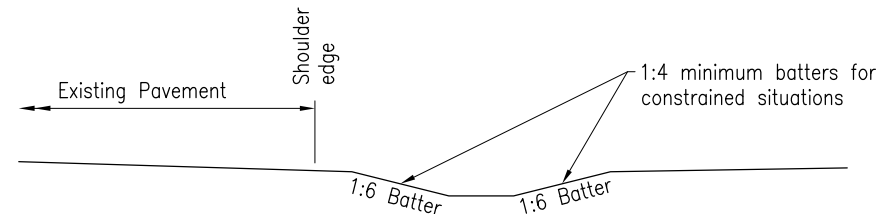


ON STRAIGHTS AND INSIDE OF CURVES



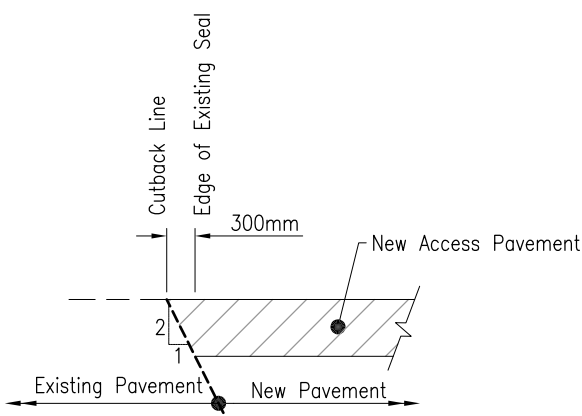
ON OUTSIDE OF SUPERELEVATED CURVES

SECTION B



BATTER DETAIL

DETAIL 2



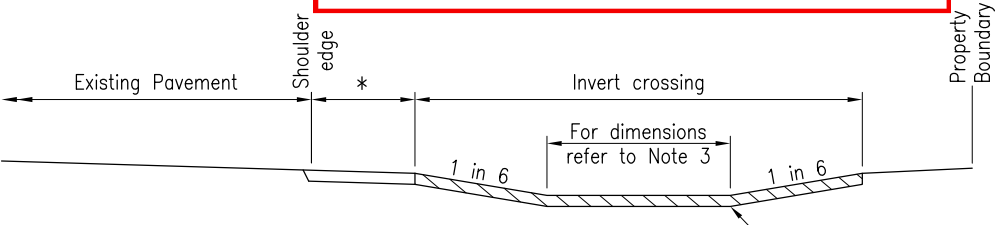
CUTBACK DETAIL

DETAIL 1

PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE

SARA ref: 2304-34249 SRA

Date: 26 May 2023



INVERT CROSSING

SECTION C

Department of Transport and Main Roads note:
Site specific requirements may not reflect this example in its entirety. Drawing details must reflect site specific conditions for Road Works / Road Access Works.

Council Meeting - 26 September 2023

Department of Transport and Main Roads					
PROPERTY ACCESS		Standard Drawing No		1807	
RURAL PROPERTY ACCESS		DRAWING 2 OF 2		Date 11/2021	
A3	Not to Scale	A	B		

Our ref TMR23-039143 (500-1754)
 Your ref 23006
 Enquiries Ronald Kaden



22 May 2023

Department of
Transport and Main Roads

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 CA 2023_5331/1, lodged with Douglas Shire Council involves constructing or changing a vehicular access between Lot 3RP743352, the land the subject of the application, and Captain Cook Highway (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 Angela Whittaker
 C/- Scope Town Planning
 38 Kowa Street
 Mareeba QLD 4880

Application Details

Address of Property 6133 Captain Cook Highway, Craiglie QLD 4877
 Real Property Description 3RP743352
 Aspect/s of Development Development Permit for Material Change of Use for Window and door Manufacturing
 Development Permit for Reconfiguration of a Lot for 1 Lot into 2 Lots and an Access Easement

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 near the south eastern boundary of Lot 3RP743352, in accordance with: 1. TMR Layout Plan (20A - 61.45km) Issue A 18/05/2023	At all times.
2	Direct access is prohibited between Captain Cook Highway and Lot 3RP743352 at any other location other than the permitted road access location described in Condition 1.	At all times.

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

No.	Conditions of Approval	Condition Timing
3	<p>The use of the permitted road access location is to be restricted to:</p> <p>a) Design vehicles up to a maximum size Four Axle Truck - Class 5 Medium Length Heavy Vehicle**</p> <p>Note: ** as described in Austroads Vehicle Classification System</p>	At all times.
4	<p>Road access works comprising Type B property access must be provided for the permitted access location, generally in accordance with:</p> <p>a) Property Access drawing prepared by Queensland Government dated 11/2021 reference 1807 Issue B (with additional notes).</p>	<p>MCU - Prior to commencement of use</p> <p>ROL - Prior to submitting the Plan of Survey to the local government for approval</p>

Reasons for the decision

The reasons for this decision are as follows:

- a) Currently the subject site (Lot 3 on RP743352) has road frontage and vehicle access via Captain Cook Highway, a state-controlled road,
- b) The proposed development is for a Reconfiguration of a Lot (Creation of a Lease Area and access easement) and Material Change of Use (Window and Door Manufacturing),
- c) The proposed development will require a changed access as the proposed development is increasing vehicle movements to the 'Lease Area' via the existing access,
- d) An assessment by the department indicates that the existing access is required to be modified to a Type B property access to suit the stated vehicle types for the proposed development,
- e) As the proposed development is seeking a new access and increasing generation, a new section 62 approval is required to be issued by TMR.

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. This decision has been based on the current land use and the historic nature of the access subject to this decision. Be advised that if the land is further developed and/or intensified, the department will reassess the access requirements in accordance with the department's policies at that time to ensure that the road safety and transport efficiency outcomes for the state-controlled road network are maximised. This may or may not require all future access to be provided via the local road network.
3. 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, Ronald Kaden, Technical Officer (Development Control) should be contacted by email at caid_cm@tmr.qld.gov.au or on (07) 4045 7151.

Yours sincerely



Liliya Yates
Senior 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**

Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version / Issue
TMR Layout Plan (20A - 61.45km)	Queensland Government Transport and Main Roads	18 May 2023	TMR23-39143 (500-1754)	A
Rural Property Access (with additional notes)	Queensland Government	November 2021	1807	B
Site Plan	Angel Construction	13 April 2023	AC000121 A100	-
Vehicle Access to state- controlled roads policy	Queensland Government Transport and Main Roads	2019	-	-
Planning Report	Scope Town Planning	March 2023	23006	-

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.

Transport Planning and Coordination Act 1994
Part 5, Division 2 – Review of Original Decisions

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.

Attachment D

Permitted Road Access Location

Near the south eastern boundary of Lot 3RP743352

GPS location x 145.457660, y -16.524697

Access Restrictions

- a) Design vehicles up to a maximum size four axle truck
- Class 5 Medium Length Heavy Vehicle**

Note: ** as described in Austroads Vehicle Classification System

Permitted Road Access Junction

Approx 250m south east of Crees Creek
(TDist 61.45km LHS)



Branch/Unit : Corridor Management / Far North District

Projection/Datum : Geocentric Datum of Australia (GDA) 2020

File ref: TMR23-39143 (500-1754)



Land parcels



Subject land



State-controlled road boundary



Road access driveway

TMR Layout Plan (20A - 61.45km)

Ordinary Council Meeting - 26 September 2023

Plan:
1 / 1

Issue:
A

Drawn by:
RPK



Queensland Government
Transport and Main Roads

Date:
18/05/2023