

15 February 2021

**Enquiries:** Rebecca Taranto  
**Our Ref:** ROL 2020\_3842/1 (989522)  
**Your Ref:** 5555

Administration Office  
64 - 66 Front St Mossman  
P 07 4099 9444  
F 07 4098 2902

Gold Coast Marine Aquaculture  
C/- Gassman Development Perspectives  
PO Box 392  
BEENLEIGH QLD 4207

Dear Sir/Madam

**Development Application for Reconfiguring a Lot  
(Boundary re-alignment-new road opening)  
At Lot 203 Captain Cook Highway, Killaloe  
On Land Described as Lot 203 on SP 264765**

Please find attached the Decision Notice for the above-mentioned development application.

Please quote Council's application number ROL 2020\_3842/1 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Rebecca Taranto on telephone 07 4099 9444.

Yours faithfully



**Paul Hoyer**  
**Manager Environment & Planning**

cc. State Assessment and Referral Agency (SARA) E: [CairnsSARA@dilgp.qld.gov.au](mailto:CairnsSARA@dilgp.qld.gov.au)  
encl.

- Decision Notice
  - Approved Drawing(s) and/or Document(s)
  - Concurrence Agency Response
  - Reasons for Decision - response to properly made submissions.
- Advice For Making Representations and Appeals (Decision Notice)

## Decision Notice

### Approval (with conditions)

*Given under section 63 of the Planning Act 2016*

#### Applicant Details

Name: Gold Coast Marine Aquaculture  
Postal Address: C/- Gassman Development Perspectives  
PO Box 392  
BEENLEIGH QLD 4207  
Email: fraser@gassman.com.au

#### Property Details

Street Address: Lot 203 Captain Cook Highway, Killaloe  
Real Property Description: Lot 203 on SP264765  
Local Government Area: Douglas Shire Council

#### Details of Proposed Development

Development Permit for Reconfiguring a Lot (Boundary re-alignment-new road opening)

#### Decision

Date of Decision: 15 February 2021  
Decision Details: Approved (subject to conditions)

#### Approved Drawing(s) and/or Document(s)

Copies of the following plans, specifications and/or drawings are enclosed.

Drawing or Document	Reference	Date
Reconfiguring Proposal for New Road Opening	Gassman Development Perspectives. Drawing no. 5555 P ROL 03	29/06/2020
Vehicle Turning Head	Gassman Development Perspectives. Vehicle Turning Head. Sheet 2 of 2.	26/06/2020

Drawing or Document	Reference	Date
Statement of Landscape Intent Plan	Gassman Development Perspectives (as submitted to Council on 26 November 2020 Council document 982405.	Not nominated
<b>FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access</b>		
Rural Allotment Access	Standard Drawing S1105 Issue E	26 November 2014

**Note** – The plans referenced above will require amending in order to comply with conditions of this Decision Notice.

### **Assessment Manager Conditions & Advices**

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
  - a. The specifications, facts and circumstances as set out in the application submitted to Council; and
  - b. The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

Except where modified by these conditions of approval.

2. The conditions of the Development Permit must be effected prior to Council endorsement of the Plan of Survey, except where specified otherwise in these conditions of approval.

### **Amendment of Plans**

3. An amended plan for the proposed cul-de-sac must be submitted to Council to the satisfaction and requirements of the Chief Executive Officer, which has regard to the following:
  - a. Maintaining the amenity of Lot 4 on RP740593 with respect to the location of the cul-de-sac;
  - b. The absence of a verge between the north-east corner of Lot 4 on RP740593 and the neck of the proposed cul-de-sac;
  - c. Boundary realignment of Lot 203 on SP264765 and alteration of EMT A must not result in a large portion of land becoming Council responsibility.

An amended plan addressing the above items must be submitted for approval by the Chief Executive Officer. An amended plan must be approved by the Chief Executive Officer prior to seeking a Development Permit for Operational Works.

### **Operational Work**

4. An operational work approval is required for the construction of the cul-de-sac and associated drainage requirements.

The application must be accompanied by RPEQ certified drawings that shows;

- a. The AV swept paths within the cul-de-sac and from the cul-de-sac into EMT A on RP846941;
- b. Road markings and signage for the balance of the cul-de-sac;
- c. Pavement design in accordance with the FNQROC Development Manual;
- d. Accommodate drainage.

Such works must be completed to the satisfaction of the Chief Executive Officer prior to the registration of the Survey Plan.

### Landscaping

5. Submit a Landscape Plan which indicates landscaping around the cul-de-sac sited on Lot 203 on SP264765 for approval by the Chief Executive Officer.

The Landscaping Plan must demonstrate;

- a. Nominate the species and densities to be used, in order to soften the hardscape of the cul-de-sac. Species selection should have regard to Council's Planning Scheme Policy No. 7 Landscaping- SC6.7.6 Minimum design requirements for lot reconfiguration;
- b. Detail ground preparation and removal of potential contaminated soils associated with concrete surfacing works. The soil must be well prepared (not compacted) and fertilized with organic fertilizers to promote strong growth;
- c. Detail the interface between landscaping works and the cul-de-sac and drainage infrastructure.

### Advices

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.
2. This approval does not negate the requirement for compliance with all relevant Local Laws and statutory requirements.
3. For information relating to the *Planning Act 2016*, log on to [www.dsdmip.qld.gov.au](http://www.dsdmip.qld.gov.au) . To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to [www.douglas.qld.gov.au](http://www.douglas.qld.gov.au) .

### Further Development Permits

Development Permit for Operational Work- Construction of a cul-de-sac.

### Concurrence Agency Response

Concurrence Agency	Concurrence Agency Reference	Date	Council Electronic Reference
State Assessment and Referral Agency	2012-20071 SRA	6 January 2021	990933

**Note** – Concurrence Agency Response is attached. This Concurrence Agency Response maybe amended by agreement with the respective agency.

### **Currency Period for the Approval**

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This approval, granted under the provisions of the *Planning Act 2016*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

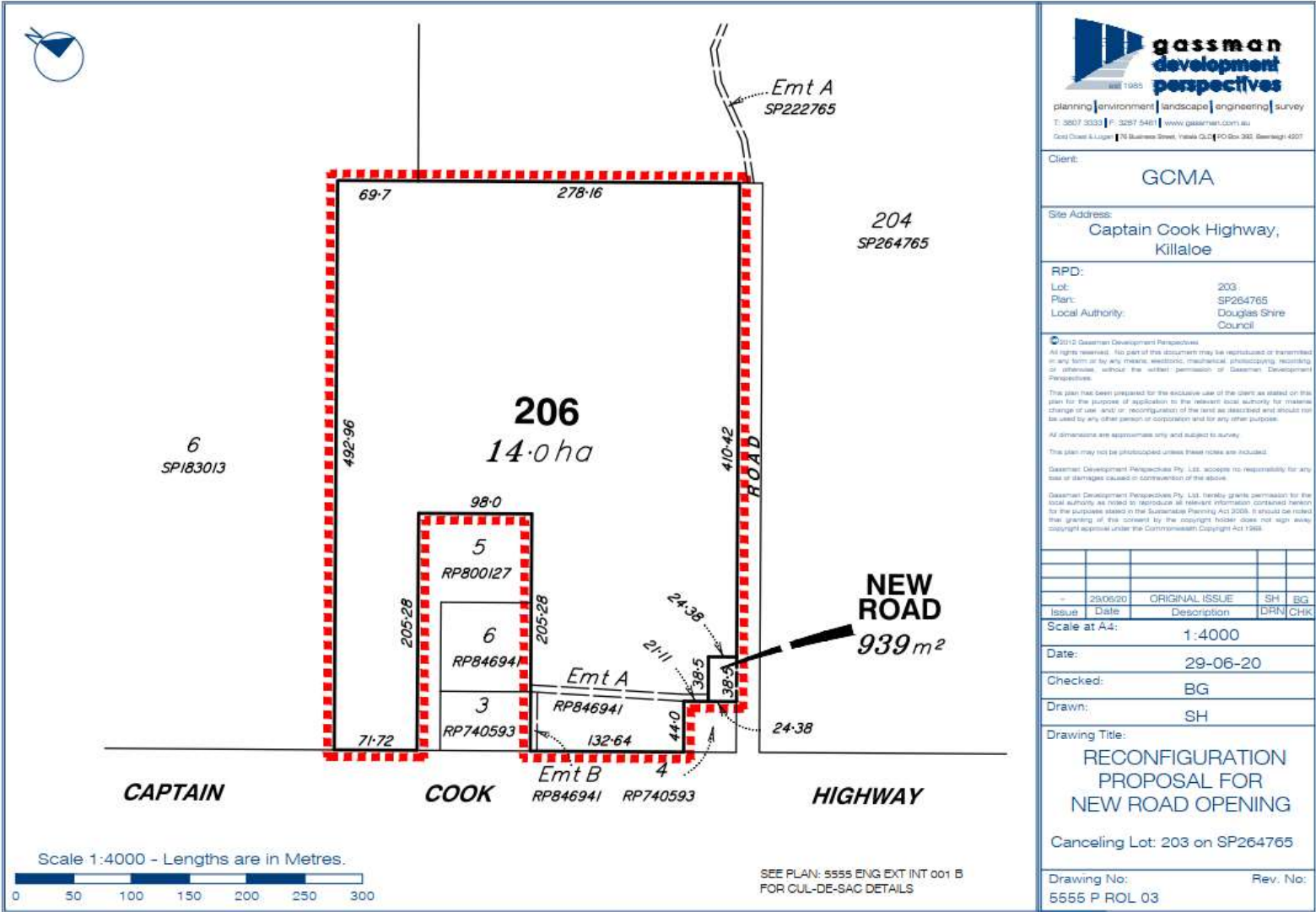
### **Rights to make Representations & Rights of Appeal**

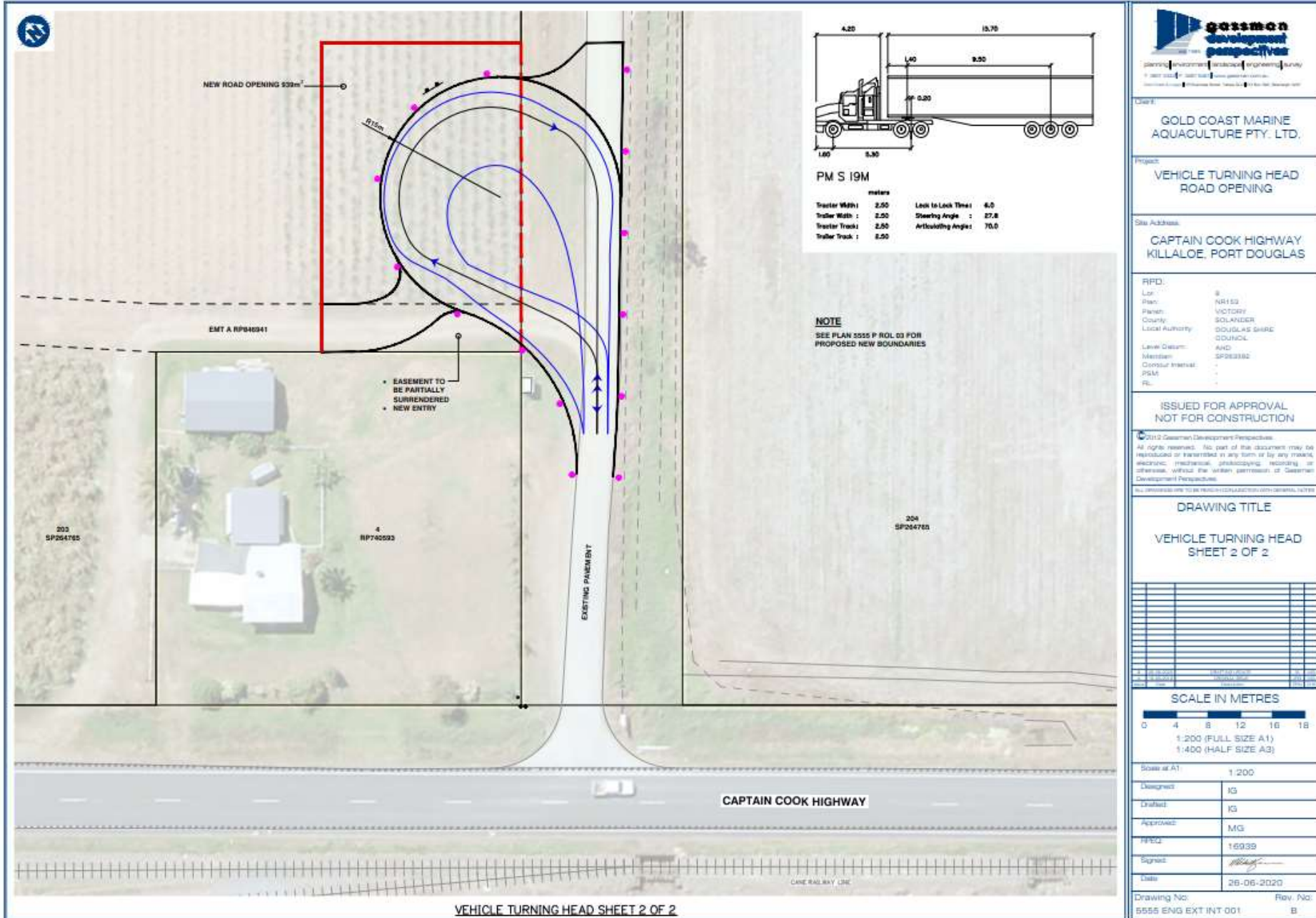
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The rights of applicants to make representations and rights to appeal to a Tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

A copy of the relevant appeal provisions are attached.

Approved Drawing(s) and/or Document(s)

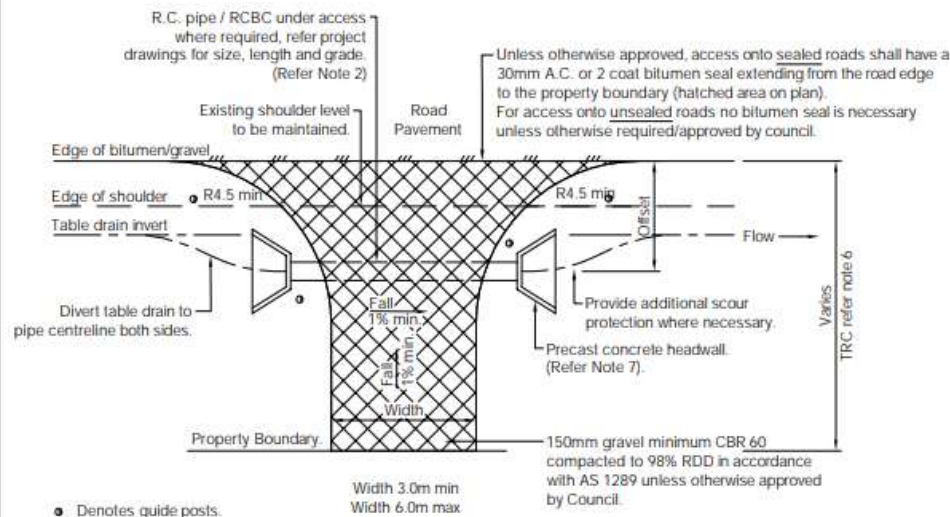








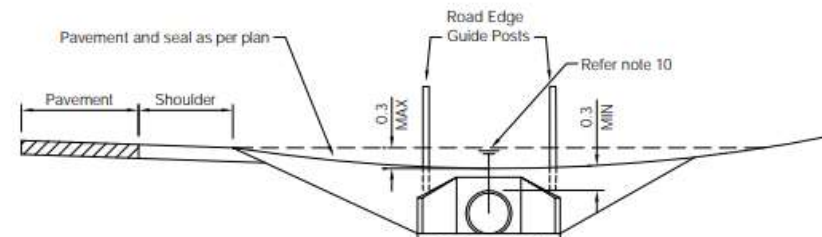




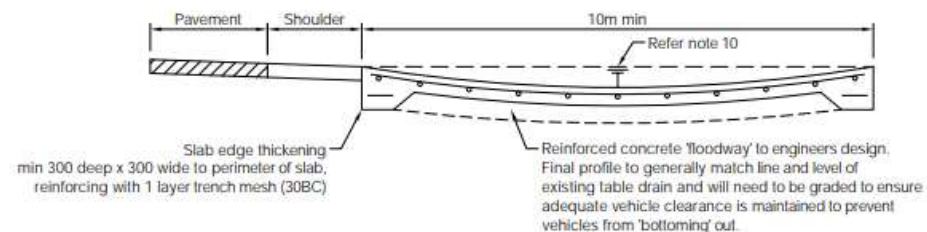
PLAN

## NOTES

1. Minimum length of culvert shall be 4.8m for single access, 7.2m for double access.
2. Minimum pipe size shall be Ø375. Minimum RCBC to be 300mm high.
3. Minimum RC pipe / RCBC gradient shall be 1:100.
4. Where cover to RC pipes is less than 260mm pipe shall have 100mm concrete surround.
5. Drainage from access must not flow over the through road. All stormwater runoff shall be directed to the table drain.
6. Maximum 10 metres from edge of bitumen seal or where grade is steeper than 6% the bitumen seal shall extend from the road edge to the property boundary unless otherwise approved.
7. Precast sloping headwalls shall be used when :
  - a) the through road has a signposted speed of 80km/hr or greater.
  - b) the through road has a signposted speed of 60km/hr and the offset distance from the traffic lane to the culvert is less than 4.5m.
8. Concrete shall be grade N25 in accordance with AS 1379 and AS 3600.
9. All dimensions are in millimetres.
10. Hydraulic capacity of pipe and access to match the capacity of the table drain. This may require the use of multiple pipes.
11. Minimum sight distances at accesses should comply with "Sight Distance at Property Entrances" Austroads Guide to Road Design Part 4A: Unsignalised and Signalised Intersections.
12. In instances where the detail/s shown on this drawing cannot be achieved due to existing constraints, Council shall be contacted to achieve an acceptable alternative.



END ELEVATION



TYPICAL ALTERNATIVE FLOODWAY TYPE ACCESS

(Where approved by Council)

E	MINOR AMENDMENTS	26/11/14
D	COMBINED PLAN DETAIL AND ADDED SECTIONS	28/11/12
C	VARIOUS MINOR AMENDMENTS	13/01/06
B	NOTES AMENDED	18/01/05
A	ORIGINAL ISSUE	12/03/04
REVISIONS		DATE

## DISCLAIMER

The authors and sponsoring organisations shall have no liability or responsibility to the user or any other person or entity with respect to any liability, loss or damage caused or alleged to be caused, directly or indirectly, by the adoption and use of these Standard Drawings including, but not limited to, any interruption of service, loss of business or anticipatory profits, or consequential damages resulting from the use of these Standard Drawings. Persons must not rely on these Standard Drawings as the equivalent of, or a substitute for, project-specific design and assessment by an appropriately qualified professional.



RURAL ALLOTMENT ACCESSSES

Standard  
Drawing  
S1105

A B C D E



SARA reference: 2012-20071 SRA  
 Council reference: ROL 2020\_3842/1  
 Applicant reference: 5555

6 January 2021

Chief Executive Officer  
 Douglas Shire Council  
 PO Box 723  
 Mossman Qld 4873  
[enquiries@douglas.qld.gov.au](mailto:enquiries@douglas.qld.gov.au)

Attention: Rebecca Taranto

Dear Sir/Madam

## SARA response—Boundary Realignment and Road Opening at Captain Cook Highway, Killaloe

(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 on 8 December 2020.

### Response

Outcome:	Referral agency response - No requirements Under section 56(1)(a) of the <i>Planning Act 2016</i> , SARA advises it has no requirements relating to the application.
Date of response:	6 January 2021
Advice:	Advice to the applicant is in <b>Attachment 1</b> .
Reasons:	The reasons for the referral agency response are in <b>Attachment 2</b> .

### Development details

Description:	Development permit	Reconfiguring a lot for boundary realignment and new road opening
SARA role:	Referral Agency.	
SARA trigger:	<b>Schedule 10, Part 9, Division 4, Subdivision 2, Table 3, Item 1</b> (Planning Regulation 2017) – Reconfiguring a lot near a State-controlled road intersection	

SARA reference: 2012-20071 SRA  
Assessment Manager: Douglas Shire Council  
Street address: Captain Cook Highway, Killaloe  
Real property description: Lot 203 on SP264765  
Applicant name: Gold Coast Marine Aquaculture  
Applicant contact details: C/- Gassman Development Perspectives  
PO Box 392  
Beenleigh QLD 4207  
admin@gassman.com.au

## 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 40373215 or via email CairnsSARA@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Graeme Kenna  
Manager (Planning)

cc Gold Coast Marine Aquaculture, admin@gassman.com.au

enc Attachment 1 - Referral agency conditions  
Attachment 2 - Advice to the applicant  
Attachment 3 - Reasons for referral agency response  
Attachment 4 - Representations provisions

**Attachment 1—Advice to the applicant**

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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) v2.6. If a word remains undefined it has its ordinary meaning.

## Attachment 2—Reasons for referral agency response

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

### The reasons for the SARA decision are:

- The subject site has road frontage and access to both the Captain Cook Highway, and an unnamed local road (a no through road) that intersects with Captain Cook Highway.
- The proposed boundary realignment and road opening is not creating an additional lot, increasing the total number of lots adjacent to the state-controlled road, or changing existing access arrangements between the subject site and the Captain Cook Highway.
- The location of the proposed road opening is approximately 58m from the T-intersection with the Captain Cook Highway.
- The proposed development is unlikely to compromise the safety, efficiency and operating conditions of the Captain Cook Highway.
- The proposed development complies with the relevant provisions of State code 1: Development in a state-controlled road environment.

### 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 2.6)
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system

### **Attachment 3—Change representation provisions**

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(page left intentionally blank – attached separately)



## Reasons for Decision

1. The reasons for this decision are:
  - a. Sections 60, 62 and 63 of the *Planning Act 2016*;
  - b. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and
  - c. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
  - a. the development application was properly lodged to the Douglas Shire Council 26/11/2020 under section 51 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;
  - b. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
  - a. the development triggered assessable development under the Assessment Table associated with the Rural Zone Code;
  - b. Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
  - c. the applicant's reasons have been considered and the following findings are made:
    - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

## Non-Compliance with Assessment Benchmarks

Through the conditions of the approval the development complies with the planning scheme and no concerns are raised.

## Extracts from the Planning Act 2016 - Making Representations During Applicant's Appeal Period

Planning Act 2016  
Chapter 3 Development assessment

[s 74]

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### Division 2 Changing development approvals

#### Subdivision 1 Changes during appeal period

##### 74 What this subdivision is about

- (1) This subdivision is about changing a development approval before the applicant's appeal period for the approval ends.
- (2) This subdivision also applies to an approval of a change application, other than a change application for a minor change to a development approval.
- (3) For subsection (2), sections 75 and 76 apply—
  - (a) as if a reference in section 75 to a development approval were a reference to an approval of a change application; and
  - (b) as if a reference in the sections to the assessment manager were a reference to the responsible entity; and
  - (c) as if a reference in section 76 to a development application were a reference to a change application; and
  - (d) as if the reference in section 76(3)(b) to section 63(2) and (3) were a reference to section 83(4); and
  - (e) with any other necessary changes.

##### 75 Making change representations

- (1) The applicant may make representations (*change representations*) to the assessment manager, during the applicant's appeal period for the development approval, about changing—
  - (a) a matter in the development approval, other than—
    - (i) a matter stated because of a referral agency's response; or

- (ii) a development condition imposed under a direction made by the Minister under chapter 3, part 6, division 2; or
- (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- (2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- (3) Only 1 notice may be given.
- (4) If a notice is given, the appeal period is suspended—
  - (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
  - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
    - (i) the applicant withdraws the notice, by giving another notice to the assessment manager; or
    - (ii) the applicant receives notice that the assessment manager does not agree with the change representations; or
    - (iii) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- (5) However, if the assessment manager gives the applicant a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

## **76 Deciding change representations**

- (1) The assessment manager must assess the change representations against and having regard to the matters that

must be considered when assessing a development application, to the extent those matters are relevant.

- (2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
  - (a) the applicant; and
  - (b) if the assessment manager agrees with any of the change representations—
    - (i) each principal submitter; and
    - (ii) each referral agency; and
    - (iii) if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
    - (iv) if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
    - (v) another person prescribed by regulation.
- (3) A decision notice (a ***negotiated decision notice***) that states the assessment manager agrees with a change representation must—
  - (a) state the nature of the change agreed to; and
  - (b) comply with section 63(2) and (3).
- (4) A negotiated decision notice replaces the decision notice for the development application.
- (5) Only 1 negotiated decision notice may be given.
- (6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.



## Extracts from the Planning Act 2016 – Appeal Rights

Planning Act 2016  
Chapter 6 Dispute resolution

[s 229]

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- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.
- (3) In this section—
  - conduct* means an act or omission.
  - representative* means—
    - (a) of a corporation—an executive officer, employee or agent of the corporation; or
    - (b) of an individual—an employee or agent of the individual.
  - state of mind*, of a person, includes the person's—
    - (a) knowledge, intention, opinion, belief or purpose; and
    - (b) reasons for the intention, opinion, belief or purpose.

## Chapter 6 Dispute resolution

### Part 1 Appeal rights

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

- (1) Schedule 1 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

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Current as at 1 October 2020

Authorised by the Parliamentary Counsel

- (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.
- (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 an appeal relating to the *Plumbing and Drainage Act 2018*—
    - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
    - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or



- (iii) otherwise—20 business days after the day the notice is given; or
- (g) 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, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
  - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
  - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; 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 is 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 to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
  - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.

- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

## 231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), 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 the 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,