

PO Box 723 Mossman Qld 4873 www.douglas.qld.gov.au enquiries@douglas.qld.gov.au ABN 71 241 237 800

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

1 July 2025

**Enquiries:** 

Daniel Lamond

Our Ref: OP 2025\_5717/1 (1302868)
Your Ref: PA3962-RHD-PR-AU-RP-P-02

Department of Transport & Main Roads AECOM Australia Pty Ltd PO Box 5971 Cairns 4870

Dear Sir/Madam

# Development Application for Operational Works (Revetment Wall Works at Pebbly Beach) At Captain Cook Highway WANGETTI Adjacent Land Described as LOT: 174 NPW: 930

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

Please quote Council's application number: OP 2025\_5717/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully

For

**Leonard Vogel** 

**Manager Environment & Planning** 

cc. State Assessment and Referral Agency (SARA) **E**: <u>CairnsSARA@dilgp.qld.gov.au</u> encl.

- Decision Notice
  - Approved Drawing(s) and/or Document(s)
  - Concurrence Agency Response
  - Reasons for Decision
- Advice For Making Representations and Appeals (Decision Notice)



## **Decision Notice**

Approval (with conditions)

#### Given under s 63 of the Planning Act 2016

#### **Applicant Details**

Name: Department of Transport & Main Roads

Postal Address: AECOM Australia Pty Ltd

PO Box 5971 Cairns 4870

Email: Katherine.jaenke@aecom.com

#### **Property Details**

Street Address: Captain Cook Highway WANGETTI

Real Property Description: LOT: 174 NPW: 930

Local Government Area: Douglas Shire Council

#### **Details of Proposed Development**

Development Permit- Operational Works (Revetment Wall Works at Pebbly Beach)

#### **Decision**

Date of Decision: 27 June 2025

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	Reference	Date
Priority 1- site 6- Marine Plant Mapping	TMR DRFA 24E, 60730804- 064202-SP, Rev 2	19 November 2024
Landscaping and Surfacing Plans, site 6, Sheet 1 of 4	Queensland Government Plan, Drawing No. 958884	21 March 2025
Landscaping and Surfacing Plans, site 6, Sheet 2 of 4	Queensland Government Plan, Drawing No. 958885	21 March 2025

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Landscaping and Surfacing Plans, site 6 Sheet 3 of 4	Queensland Government Plan, Drawing No. 958886	21 March 2025
Landscaping and Surfacing Plans, site 6, Sheet 3 of 4	Queensland Government Plan, Drawing No. 958887	21 March 2025
Landscaping and Surfacing Plans, site 6, Sheet- Culvert tie-ins- sheet 1 of 3	Queensland Government Plan, Drawing No. 958888	21 March 2025
Landscaping and Surfacing Plans, site 6, Sheet- Culvert tie-ins- sheet 2 of 3	Queensland Government Plan, Drawing No. 958889	21 March 2025
Landscaping and Surfacing Plans, site 6, Sheet- Culvert tie-ins- sheet 3 of 3	Queensland Government Plan, Drawing No. 958889	6 December 2024
Typical Sections, site 6- Sheet 1 of 3	Queensland Government Plan, Drawing No. 958864	6 December 2024
Typical Sections, site 6- Sheet 2 of 3	Queensland Government Plan, Drawing No. 958865	6 December 2024
Typical Sections, site 6- Sheet 3 of 3	Queensland Government Plan, Drawing No. 958866	6 December 2024
General Arrangement, site 6	Queensland Government Plan, Drawing No. 958869	6 December 2024
Demolition and Clearing Plans, site 6- Sheet 1 of 4	Queensland Government Plan, Drawing No. 958870	6 December 2024
Demolition and Clearing Plans, site 6- Sheet 2 of 4	Queensland Government Plan, Drawing No. 958871	6 December 2024
Demolition and Clearing Plans, site 6- Sheet 3 of 4	Queensland Government Plan, Drawing No. 958872	6 December 2024
Demolition and Clearing Plans, site 6- Sheet 4 of 4	Queensland Government Plan, Drawing No. 958873	6 December 2024
Drainage Detail, site 6	Queensland Government Plan, Drawing No. 958874	6 December 2024

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

#### SCHEDULE 1- CONDITIONS IMPOSED BY THE ASSESSMENT MANAGER

#### 1. Landscaping

The site must be landscaped and revegetated in accordance with the Queensland Government Landscaping and Surfacing Plan numbers 958866, 958884, 958885, 958886 and 958887. Submit a landscaping plan confirming density for new planting spacings for endorsement by the Chief Executive Officer prior to the prestart meeting.

#### 2. Construction Plan

Provide a construction layout plan nominating areas for stockpiling stripped topsoil, laydown area of imported material, plant storage and vehicle manoeuvring area. This plan must be accompanied by its own erosion and sediment control plan prepared in accordance with the requirements of the FNQROC Development Manual. The plan must be endorsed by the Chief Executive Officer prior to the prestart meeting.

#### 3. Pebble Security and Redistribution

The iconic pebbles which characterise the beach are to be protected and re-applied to the surface of the beach at the toe of the revetment wall. Provide a security plan detailing how the iconic pebbly beach stones will be protected from thieves while they are stockpiled. CCTV, fencing or inaccessible stockpiling locations are considered appropriate measures which may be part of the security plan. The plan must be submitted for endorsement by the Chief Executive Officer prior to the prestart meeting

#### **ADVICES**

- 1. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
- 2. For information relating to the *Planning Act 2016* log on to <a href="www.dsdmip.qld.gov.au">www.dsdmip.qld.gov.au</a>. To access the *FNQROC Development Manual*, Local Laws and other applicable Policies, log on to <a href="www.douglas.qld.gov.au">www.douglas.qld.gov.au</a>.
- 3. It is recommended that the designer confirm the separation between the proposed mains and existing guard rail footings on the northern bridge approach is appropriate.

#### **REASONS FOR DECISION**

 To ensure the proposed development meets the requirements of the relevant benchmarks from the 2018 Douglas Shire Planning Scheme and in particular, the requirements of the FNQROC Development Manual and relevant Australian Standards.

#### **SCHEDULE 2- STANDARD CONDITIONS**

#### General

- 1. The proposed works are permitted subject to any alterations:
  - found necessary by Chief Executive Officer at the time of examination of Engineering drawings or during construction of the works because of particular engineering requirements and.
  - to ensure the works comply in all respects with the requirements of the FNQROC Development Manual and good engineering practice; and

c. to comply with project specific conditions and the following standard conditions of approval.

All works must be carried out in accordance with the approved plans, conditions and specifications, to the requirements and satisfaction of the Chief Executive Officer.

- Council's examination of the documents should not be taken to mean that the documents have been checked in detail and Council takes no responsibility for their accuracy. If during construction, inadequacies of the design are discovered, it is the responsibility of the Principal Consulting Engineer to resubmit amended plans to Council for approval and rectify works accordingly.
- 3. Notwithstanding any approval given to engineering documents, where a discrepancy occurs between these documents and Council's standards, then Council's standards shall apply unless the design is RPEQ certified. All works must be performed in accordance with Council standards and Local Laws and other statutory requirements.
- 4. If in fact there are errors, omissions or insufficient detail on the plans for the purpose of construction, these deficiencies shall be made good during construction and Council reserves the right to withhold approval of construction until such deficiencies are made good to its satisfaction.

#### **Timing of Effect**

5. The conditions of this development permit must be effected prior to construction commencing, except where specified otherwise in these conditions of approval, or at Council's discretion.

#### **Works Acceptance-Landscaping**

6. Landscaping works must be constructed in accordance with the approved and endorsed plans and to Council's satisfaction prior to final works acceptance.

#### **Public Notification of the Works**

- 7. The applicant must provide:
  - Public notification of the development in local newspapers in accordance with Section CP1.11 of the FNQROC Development Manual.
  - b. Signage identifying the location of the project, general proposal plan, contact numbers (including out-of-office hours emergency numbers) must be provided at all entrance points to the development. All signage must be appropriately positioned, prior to the commencement of any works on the site.

#### **Portable Long Service Leave Notification**

8. As per the QLeave – Building and Construction Industry Authority Guidelines, if the works are over \$150 000, Council must sight a copy of the receipted Portable Long Service Notification and Payment form prior to commencement of work.

#### **Commencement of Works**

9. Council is to receive written Notice of Intention to Commence Works and may require a prestart meeting.

#### Advice

- 1. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
- 2. This approval does not negate the requirement for compliance with all other relevant Council Local Laws and other statutory requirements.
- 3. For information relating to the *Planning Act 2016* log on to <a href="https://planning.dsdmip.qld.gov.au/">https://planning.dsdmip.qld.gov.au/</a>. To access the *FNQROC Regional Development Manual*, Local Laws, the Douglas Shire Planning Scheme and other applicable Policies log on to <a href="https://www.douglas.qld.gov.au">www.douglas.qld.gov.au</a>.

#### **Concurrence Agency Response**

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

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

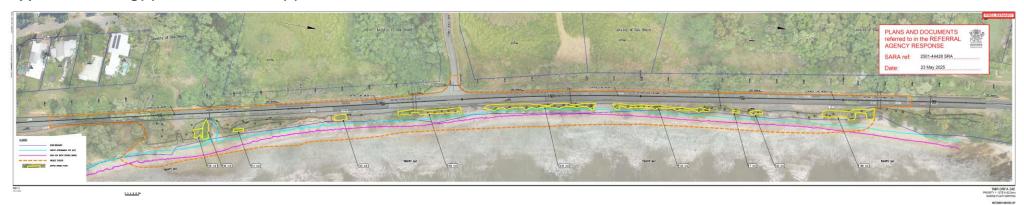
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

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

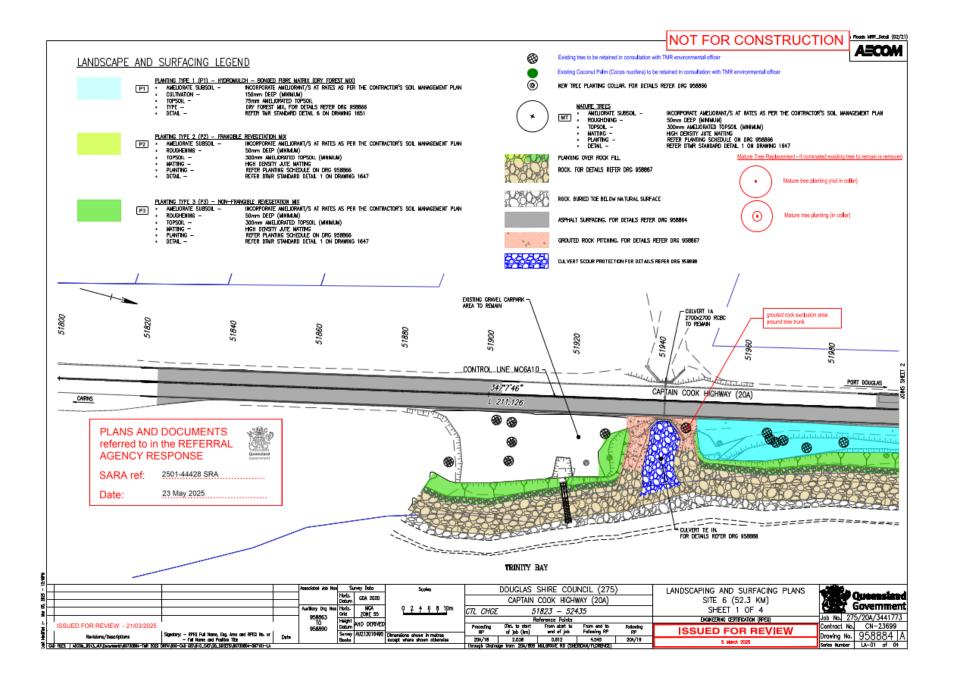
The rights of applicants to make representations and rights to appeal to a Tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

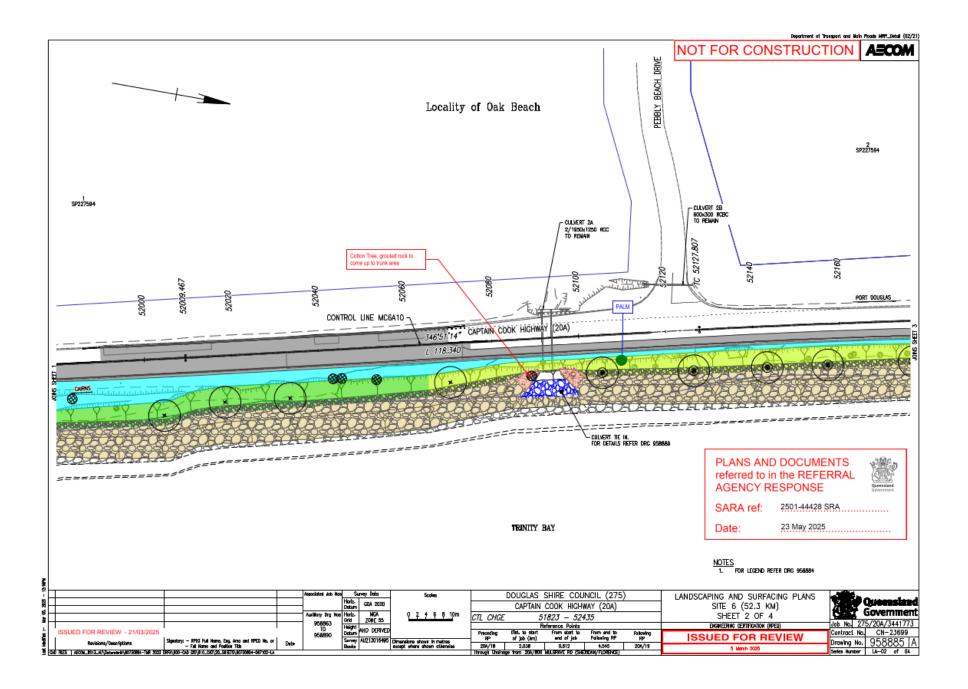
A copy of the relevant appeal provisions is attached.

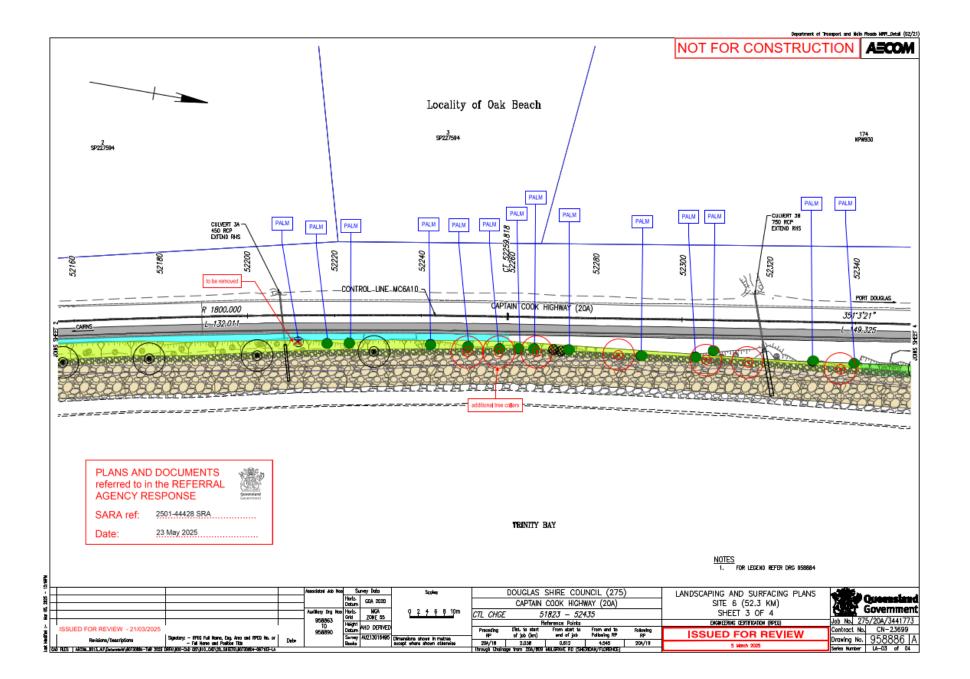
## Approved Drawing(s) and/or Document(s)

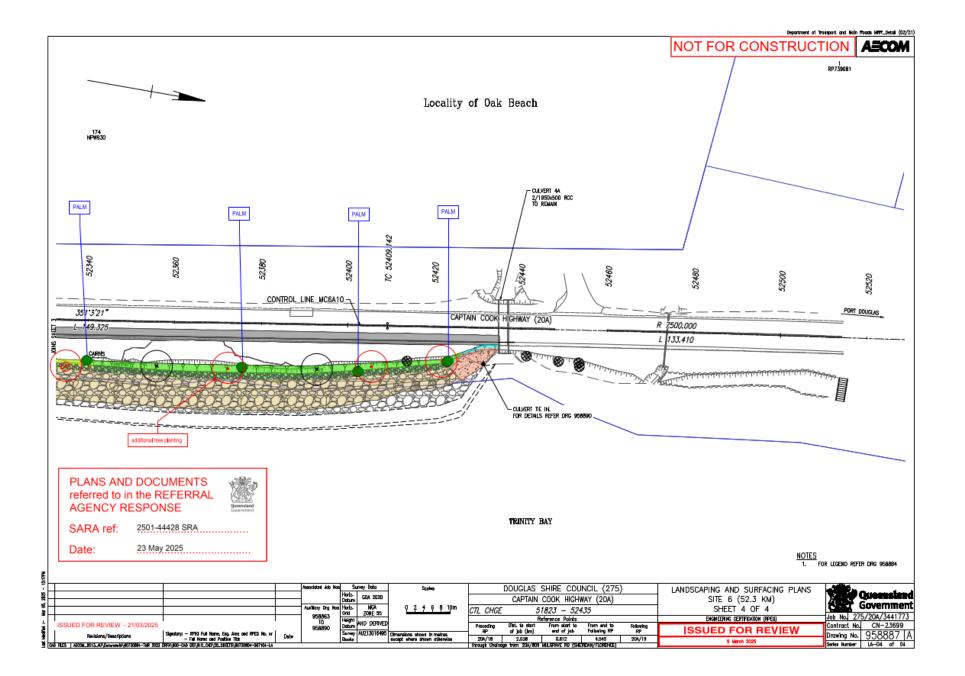


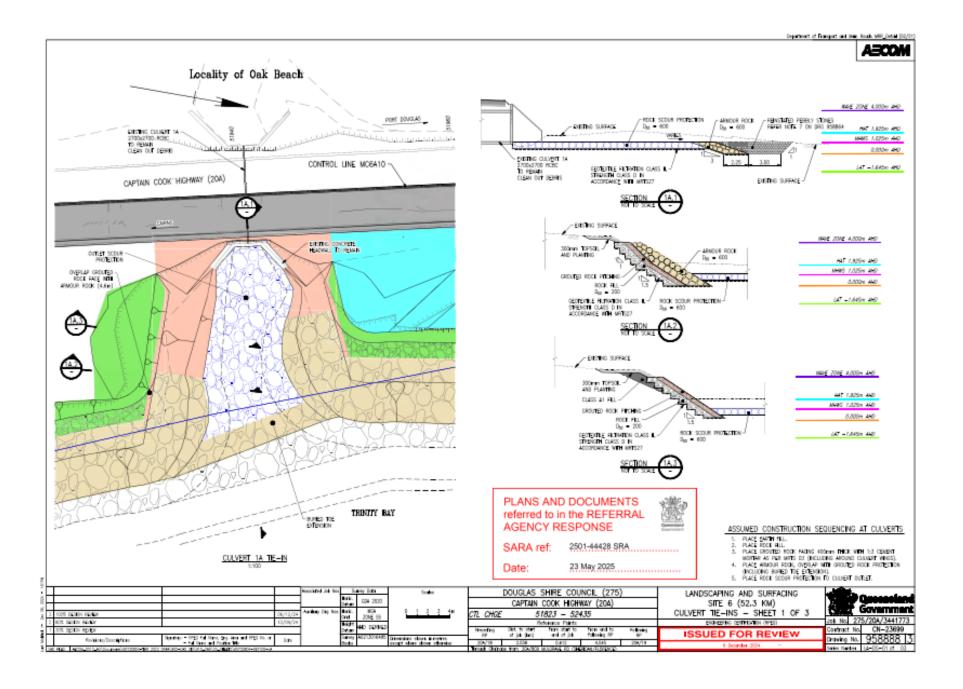
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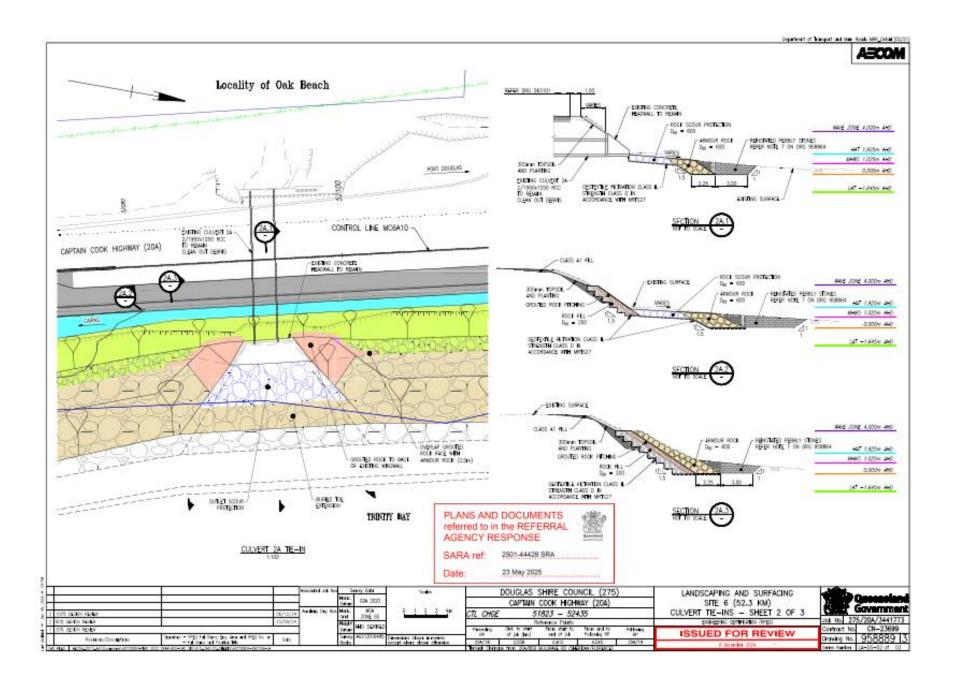


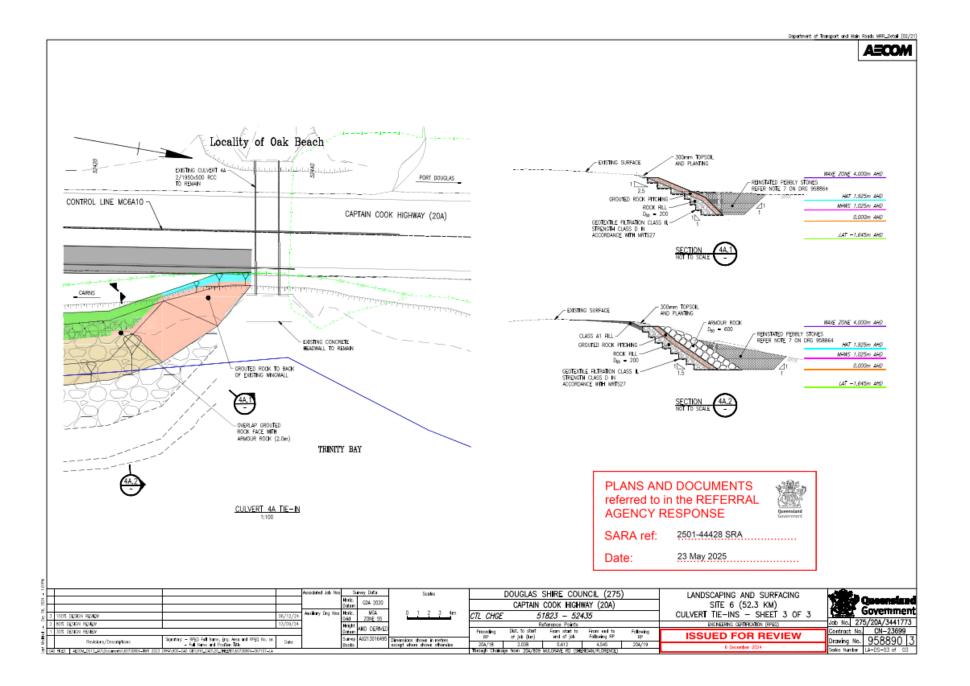


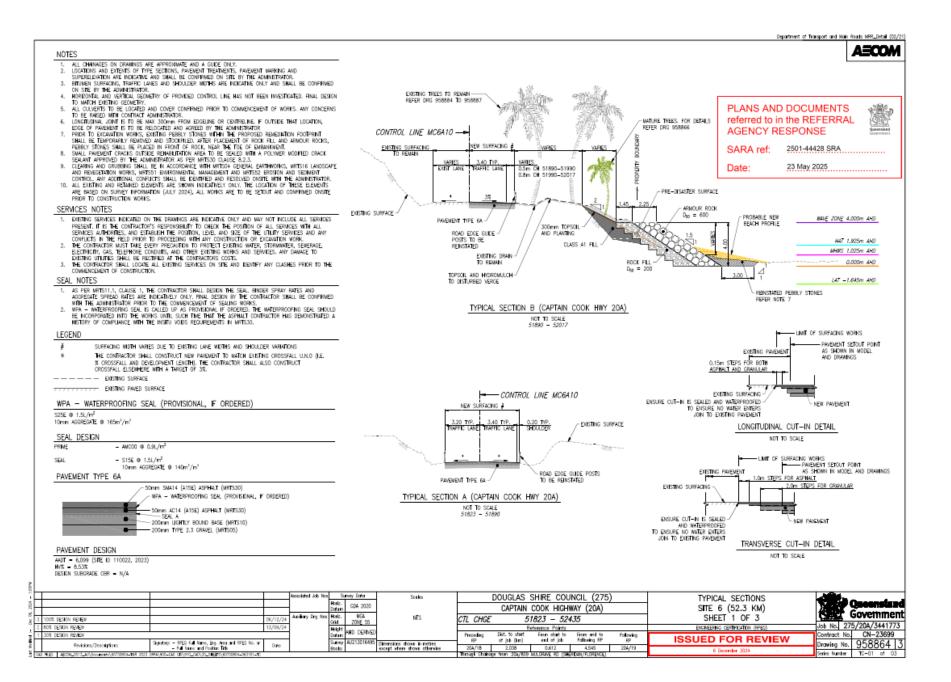


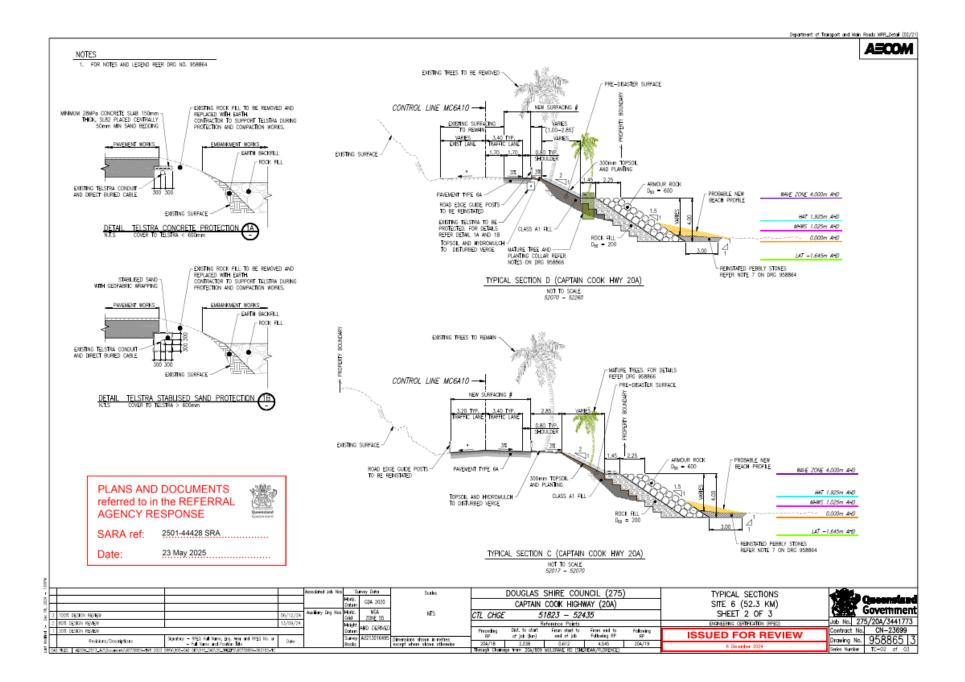


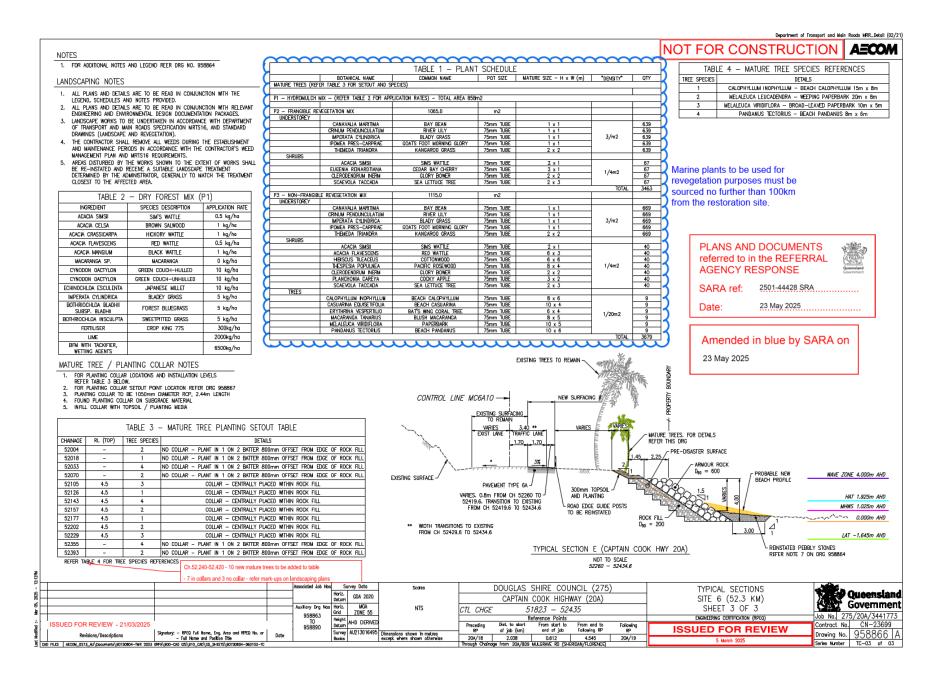


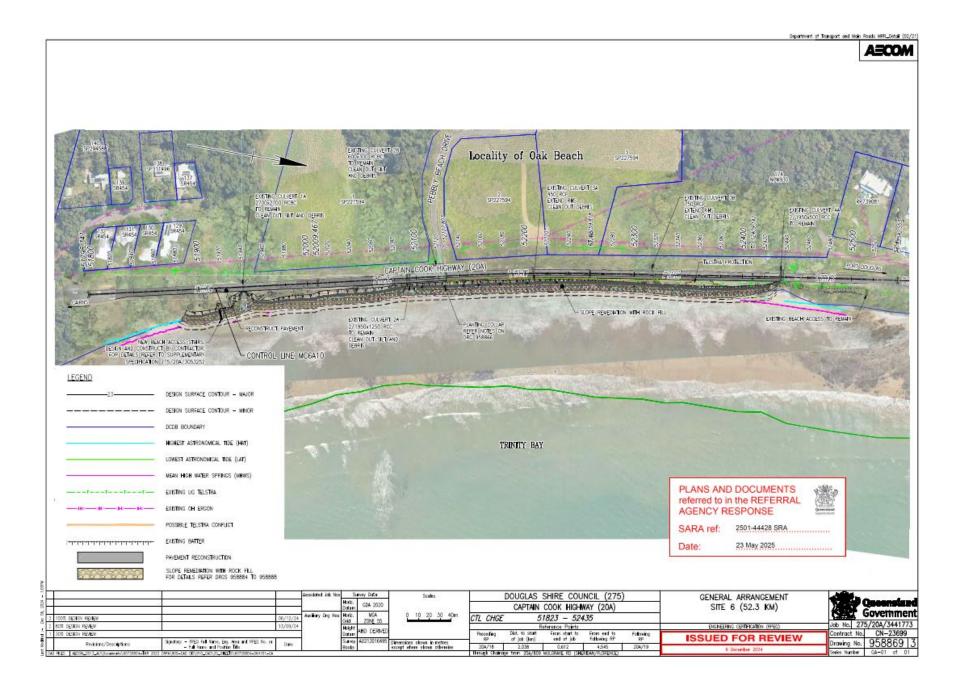


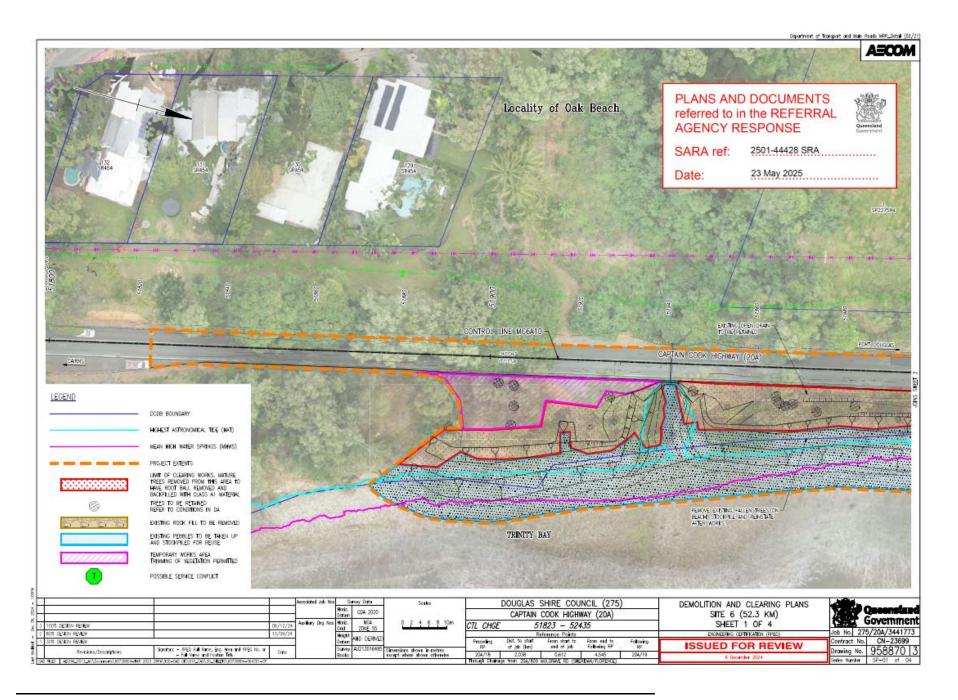


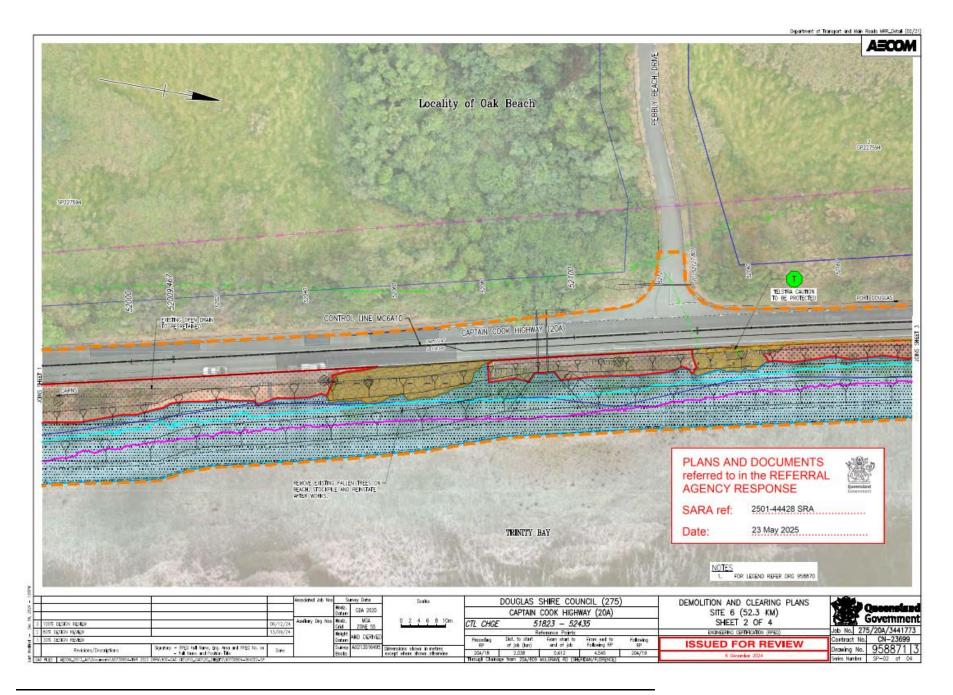


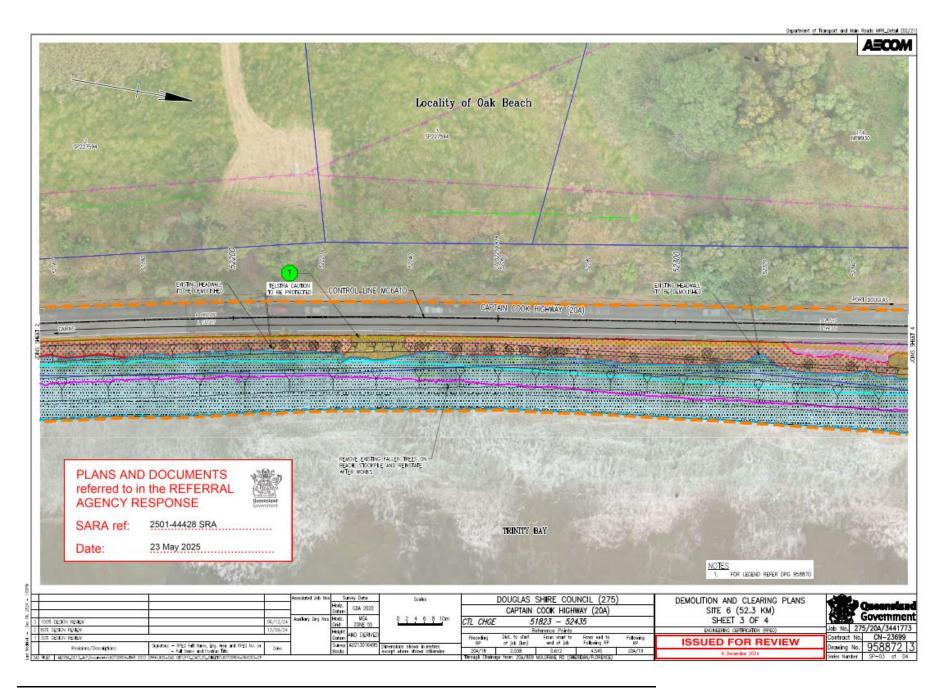


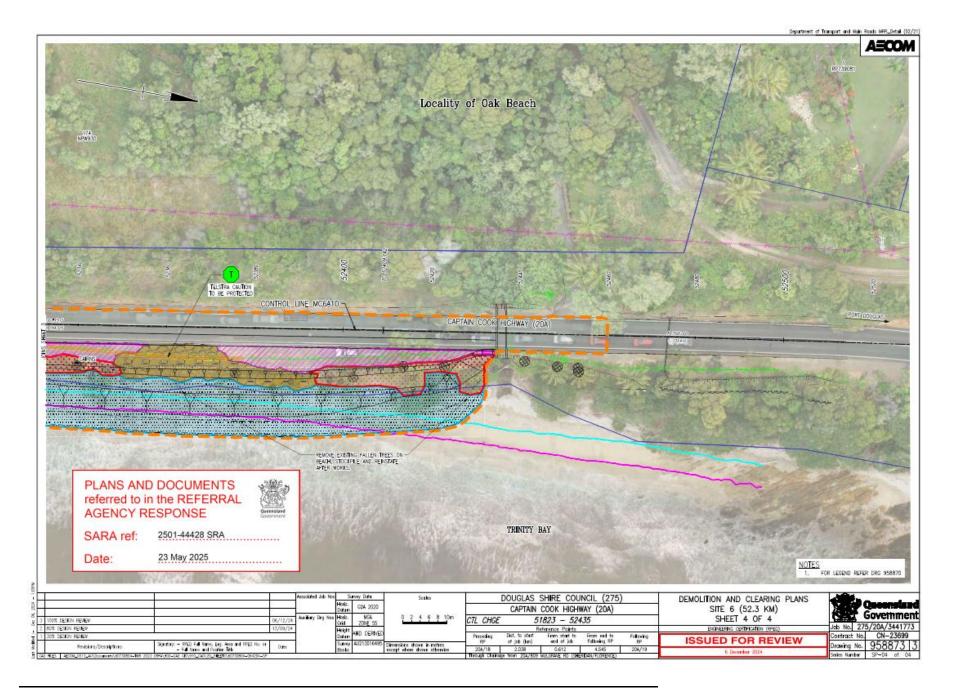


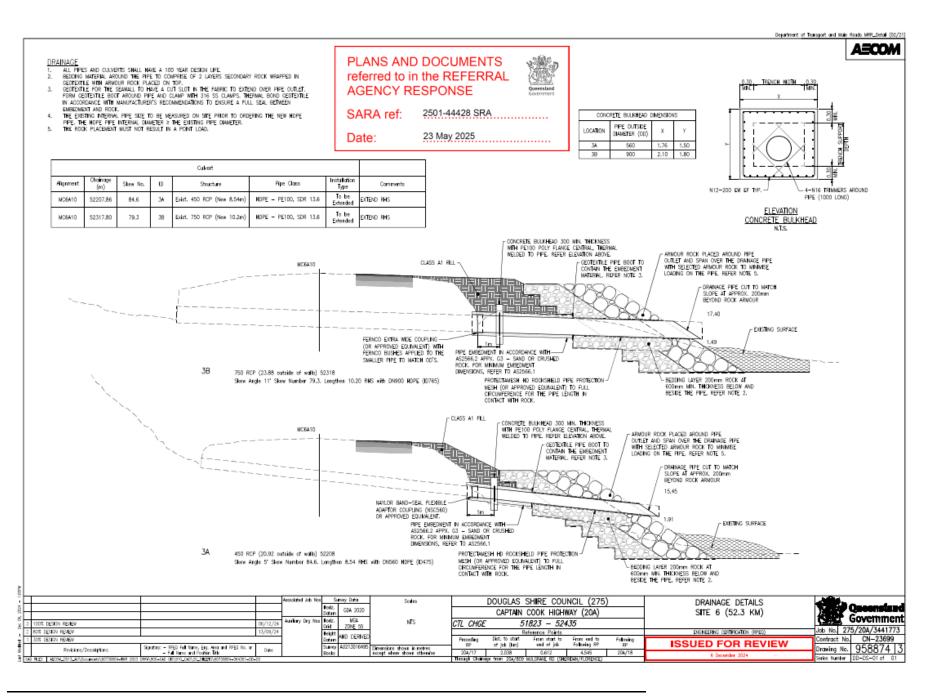












#### **Concurrence Agency Conditions**

RA29-N



Our reference: 2401-44428 SRA Council reference: OP 2025\_5717/1

Applicant reference:

23 May 2025

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

Attention: Daniel Lamond

Dear Sir/Madam

# Changed SARA referral agency response – Captain Cook Highway, Mowbray

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

On 6 May 2025 the State Assessment and Referral Agency (SARA) received representations from the applicant requesting SARA to change its referral agency response. SARA has considered the representations and now provides this changed referral agency response which replaces the response dated 24 April 2025.

#### Response

Outcome: Changed referral agency response – with conditions

Date of response: 23 May 2025

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 Operational work for prescribed tidal

works - revetment wall

SARA role: Referral agency

Far North Queensland regional office

Ground Floor, Cnr Grafton and Hartley Street, Cairns PO Box 2358, Cairns QLD 4870

Page 1 of 10 PO Box 2358, Cairns QLD 48

SARA triggers: Schedule 10, Part 6, Division 3, Subdivision 3, Table 1, Item 1

(Planning Regulation 2017) - Operational work involving marine

plants

Schedule 10, Part 17, Division 3, Table 2, Item 1 (Planning

Regulation 2017) - Operational work that is tidal works or work in a

coastal management district

SARA reference: 2401-44428 SRA

Assessment manager: Douglas Shire Council

Street address: Captain Cook Highway, Mowbray

Co-ordinates of premises: Longitude 145.51227 Latitude -16.58066

Applicant name: Department of Transport and Main Roads

Applicant contact details: C/- AECOM

Level 5, 7-13 Tomlins Street

PO Box 359

SOUTH TOWNSVILLE QLD 4810 frances.mahlouzarides@aecom.com

Human Rights Act 2019

considerations:

A consideration of the 23 fundamental human rights protected under the *Human Rights Act 2019* has been undertaken as part of this decision. It has been determined that this decision does not limit

human rights.

#### 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 Charlton Best, A/Principal Planning Officer, on 07 4037 3200 or via email CairnsSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely

Javier Samanes A/ Manager (Planning)

cc Department of Transport and Main Roads c/- AECOM, frances.mahlouzarides@aecom.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 provisions

Attachment 5 - Documents referenced in conditions

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# 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 documents referenced below are found at Attachment 5)

No.	Conditions	Condition timing	
work i the Di develo	Schedule 10, Part 6, Division 3, Subdivision 3, Table 1 (Planning Regulation 2017) — Operational work involving marine plants — The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Primary Industries to be the enforcement authority for the development to which this referral agency response notice relates for the administration and enforcement of any matter relating to the following conditions:		
1.	Development is limited to permanent removal of 834m² of marine plants within the footprint of the revetment structure as shown on the following plan:  • Marine Plant Mapping, Priority 1 – Site 6 (52.3km) TMR DRFA 24E, 60730804-064202-SP, dated 19/11/2024, revision 2	At all times.	
2.	Enter into an agreed delivery arrangement to deliver an environmental offset in accordance with the <i>Environmental Offsets Act 2014</i> to counterbalance the significant residual impacts on the matter of state environmental significance being 834m <sup>2</sup> of marine plants.	Prior to commencing any works that impact on the marine plants.	
3.	Any person(s) engaged or employed to carry out the clearing of marine plants must be provided with a full copy of this referral agency response notice, including the approved plans and specifications, and must be made aware of the full extent of clearing authorised by this referral agency response notice.	Prior to clearing of marine plants.	
4.	<ul> <li>(a) Remove marine plants that have been authorised for removal as part of this development from the intertidal zone.</li> <li>(b) Dispose of all material associated with the development (e.g., debris, construction material, soil, etc.) from the intertidal zone at an appropriate licensed facility.</li> </ul>	(a) As soon as reasonably practicable after the marine plants have been removed.  (b) As soon as reasonably practicable.	
5.	Submit written notice to the Department of Primary Industries at <a href="mailto:notifications@daf.qld.gov.au">notifications@daf.qld.gov.au</a> advising when the development authorised under this referral agency response notice:  (a) Will start.  (b) When it has been completed.  Any notice must state the application's reference number: 2501-44428 SRA.	(a) At least 5 business days but no greater than 20 business days prior to the commencement of the works.  (b) Within 15 business days of the completion of the fisheries development works.	
6.	(a) Restore the area where marine plants are temporarily removed, damaged or destroyed by this development generally in accordance with the following plans:	(a) In accordance with the plans.	

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	<ul> <li>Landscaping and surfacing plans, Site 6 (52.3 KM) Sheet 1 of 4, prepared by AECOM, dated 21/03/2025, drawing no. 958884 A</li> </ul>	
	<ul> <li>Landscaping and surfacing plans, Site 6 (52.3 KM) Sheet 2 of 4, prepared by AECOM, dated 21/03/2025, drawing no. 958885 A</li> </ul>	
	<ul> <li>Landscaping and surfacing plans, Site 6 (52.3 KM) Sheet 3 of 4, prepared by AECOM, dated 21/03/2025, drawing no. 958886 A</li> </ul>	
	<ul> <li>Landscaping and surfacing plans, Site 6 (52.3 KM) Sheet 4 of 4, prepared by AECOM, dated 21/03/2025, drawing no. 958887 A</li> </ul>	
	<ul> <li>Landscaping and surfacing plans, Site 6 (52.3 KM) Culvert Tie-ins – Sheet 1 of 3, prepared by AECOM, dated 06/12/24, drawing no. 958888, revision 3</li> </ul>	
	<ul> <li>Landscaping and surfacing plans, Site 6 (52.3 KM) Culvert Tie-ins – Sheet 2 of 3, prepared by AECOM, dated 06/12/24, drawing no. 958889, revision 3</li> </ul>	
	<ul> <li>Landscaping and surfacing plans, Site 6 (52.3 KM) Culvert Tie-ins – Sheet 3 of 3, prepared by AECOM, dated 06/12/24, drawing no. 958890, revision 3</li> </ul>	
	<ul> <li>Typical sections, Site 6 (52.3 KM) Sheet 3 of 3, prepared by AECOM, dated 21/03/2025, drawing no. 958866 A, as amended in blue by SARA.</li> </ul>	
	(b) Submit written notice to the Department of Primary Industries at <a href="mailto:notifications@daf.qld.gov.au">notifications@daf.qld.gov.au</a> upon completion of the restoration works required by part (a) of this condition.	(b) Within 10 business days of completion of the restoration works and within 5 years of any removal, damage
	Any notice must state the application's reference number: 2501-44428 SRA.	or destruction of marine plants.
7.	Spoil is not disposed of on tidal lands or within waterways and is managed to prevent acid soil development.	At all times.
8.	This fisheries development (as defined by the <i>Fisheries Act 1994</i> ) constitutes a place that is required to be open for inspection by an inspector, pursuant to section 145 of the <i>Fisheries Act 1994</i> .	At all times.
Schedule 10, Part 17, Division 3, Table 2 – Tidal works or work in a coastal management district – The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Environment, Tourism, Science and Innovation to be the enforcement authority for the development to which this referral agency response notice relates for the administration and enforcement of any matter relating to the following conditions:		
9.	The development works must be carried out generally in accordance with the following plans:	For the duration of the works.
	<ul> <li>Landscaping and surfacing plans, Site 6 (52.3 KM) Sheet 1 of 4, prepared by AECOM, dated 21/03/2025, drawing no.</li> </ul>	

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958884 A

958885 A

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Landscaping and surfacing plans, Site 6 (52.3 KM) Sheet 2 of 4, prepared by AECOM, dated 21/03/2025, drawing no.

Landscaping and surfacing plans, Site 6 (52.3 KM) Sheet 3 of

	<ol> <li>prepared by AECOM, dated 21/03/2025, drawing no.</li> <li>958886 A</li> </ol>	
	<ul> <li>Landscaping and surfacing plans, Site 6 (52.3 KM) Sheet 4 of</li> </ul>	
	<ol> <li>prepared by AECOM, dated 21/03/2025, drawing no.</li> <li>958887 A</li> </ol>	
	<ul> <li>Landscaping and surfacing plans, Site 6 (52.3 KM) Culvert</li> </ul>	
	Tie-ins - Sheet 1 of 3, prepared by AECOM, dated 06/12/24,	
	drawing no. 958888, revision 3	
	<ul> <li>Landscaping and surfacing plans, Site 6 (52.3 KM) Culvert Tie-ins – Sheet 2 of 3, prepared by AECOM, dated 06/12/24, drawing no. 958889, revision 3</li> </ul>	
	Landscaping and surfacing plans, Site 6 (52.3 KM) Culvert	
	Tie-ins – Sheet 3 of 3, prepared by AECOM, dated 06/12/24,	
	drawing no. 958890, revision 3	
	<ul> <li>Typical sections, Site 6 (52.3 KM) Sheet 1 of 3, prepared by</li> </ul>	
	AECOM, dated 06/12/24, drawing no. 958864, revision 3	
	<ul> <li>Typical sections, Site 6 (52.3 KM) Sheet 2 of 3, prepared by</li> </ul>	
	AECOM, dated 06/12/24, drawing no. 958865, revision 3	
	<ul> <li>Typical sections, Site 6 (52.3 KM) Sheet 3 of 3, prepared by</li> </ul>	
	AECOM, dated 21/03/2025, drawing no. 958866 A, as	
	amended in blue by SARA	
	<ul> <li>General arrangement, Site 6, prepared by AECOM, dated 06/12/2024, drawing no. 958869, revision 3</li> </ul>	
	<ul> <li>Demolition and clearing plan, Site 6 (52.3 km) Sheet 1 of 4,</li> </ul>	
	prepared by AECOM, dated 06/12/2024, drawing no. 958870, issue 3	
	<ul> <li>Demolition and clearing plan, Site 6 (52.3 km) Sheet 2 of 4,</li> </ul>	
	prepared by AECOM, dated 06/12/2024, drawing no. 958871, issue 3	
	<ul> <li>Demolition and clearing plan, Site 6 (52.3 km) Sheet 3 of 4,</li> </ul>	
	prepared by AECOM, dated 06/12/2024, drawing no. 958872, issue 3	
	<ul> <li>Demolition and clearing plan, Site 6 (52.3 km) Sheet 4 of 4,</li> </ul>	
	prepared by AECOM, dated 06/12/2024, drawing no. 958873, issue 3	
	<ul> <li>Drainage details, Site 6 (52.3 km) prepared by AECOM,</li> </ul>	
	dated 06/12/2024, drawing no. 958874, issue 3	
10.	For the development works, only use clean materials which are free	For the duration of the
	from prescribed water contaminants.	works.
11.	Development must prevent the release of sediment to tidal waters by	For the duration of the
	installing and maintaining erosion and sediment control measures in	works.
	accordance with the Best Practice Erosion and Sediment Control	
	(BPESC) guidelines for Australia (International Erosion Control Association).	
12.	Submit "As Constructed drawings" to palm@desti.qld.gov.au or mail	Within 20 business
	to:	days of the completion
	Department of Environment, Tourism, Science and Innovation	of the works.
	Permit and Licence Management	

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	GPO Box 2454 Brisbane Qld 4001	
13.	(a) In the event that the works cause disturbance or oxidisation of acid sulfate soil, the affected soil must be treated and thereafter managed (until the affected soil has been neutralised or contained) in accordance with the current Queensland Acid Sulfate Soil Technical Manual: Soil Management Guidelines, prepared by the Department of Resources, 2023.	(a) Upon disturbance or oxidisation until the affected soil has been neutralised or contained.
	(b) Certification by an <u>appropriately qualified person</u> , confirming that the affected soil has been neutralised or contained, in accordance with (a) above is to be provided to <u>palm@desti.qld.gov.au</u> or mailed to:	(b) At the time the soils have been neutralised or contained.
	Department of Environment, Tourism, Science and Innovation Permit and Licence Management GPO Box 2454 Brisbane Qld 4001	
	Note: <u>Appropriately qualified person</u> means a person or persons who has professional qualifications, training, skills and experience relevant to soil chemistry or acid sulfate soil management and can give authoritative assessment, advice and analysis in relation to acid sulfate soil management using the relevant protocols, standards, methods or literature.	
14.	<ul><li>(a) Remove the entire existing rock fill.</li><li>(b) All waste generated whilst carrying out the removal must be lawfully reused, recycled, or removed to a facility that can lawfully accept the waste.</li></ul>	(a) As soon as reasonably practicable in accordance with the plans referenced in condition 9.
		(b) Within three months of commencement of the demolition.
15.	Maintain the development in accordance with the plans referenced in condition 9, and the requirements of any conditions included in this referral agency response notice.	At all times.

## Attachment 2—Advice to the applicant

#### General advice

 Terms and phrases used in this document are defined in the *Planning Act 2016*, its regulation or the State Development Assessment Provisions (SDAP) version 3.2. If a word remains undefined it has its ordinary meaning.

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#### Attachment 3—Reasons for referral agency response

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

#### The reasons for the SARA's decision are:

The development complies with State code 8: Coastal development and tidal works of the SDAP. Specifically:

- The development will protect life, buildings and infrastructure from the impacts of coastal erosion.
- The development will maintain appropriate public use of, and access to and along, state coastal land
- With conditions the development will not impact on the environmental values of receiving waters.
- The works do not result in a significant residual impact on a matter of state environmental significance.

The development complies with State code 11: Removal, destruction or damage of marine plants of the SDAP. Specifically:

- The development is designed and located to avoid impacts or, where the matters of state
  environmental significance cannot be reasonably avoided, impacts are reasonably minimised and
  mitigated.
- To counterbalance the significant residual impact on a matter of state environmental significance (MSES), the proposed development has been conditioned to deliver an environmental offset in accordance with the *Environmental Offsets Act 2014*.

#### 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 3.2)
- 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 provisions

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State Assessment and Referral Agency

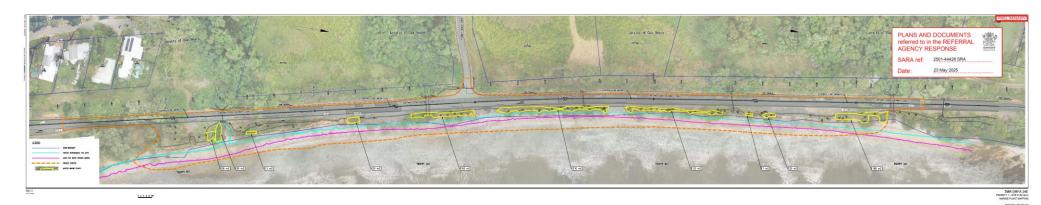
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# Attachment 5—Documents referenced in conditions (page left intentionally blank)

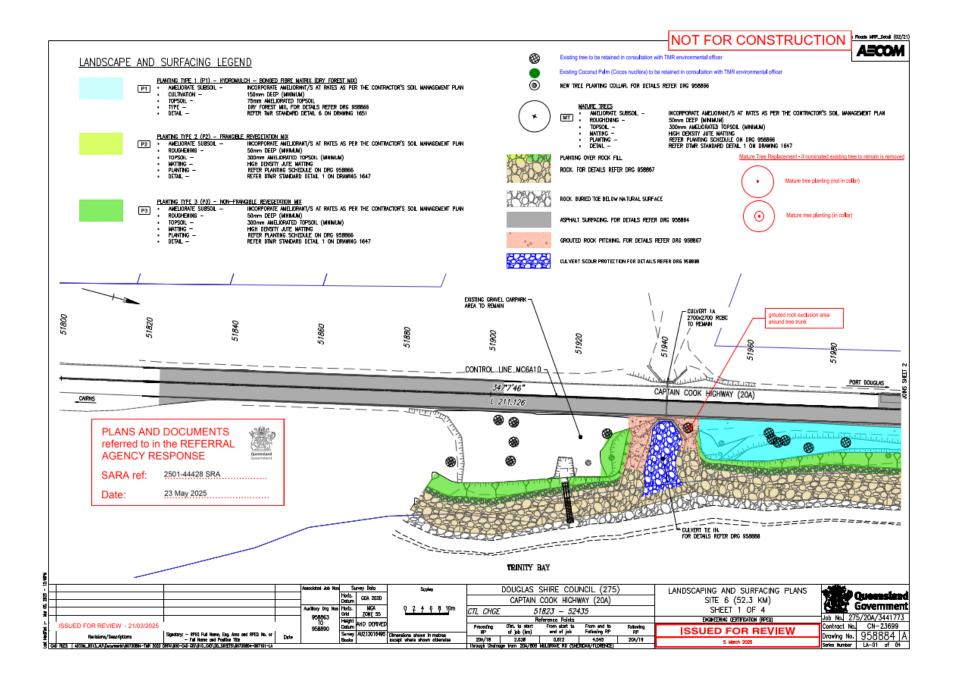
State Assessment and Referral Agency

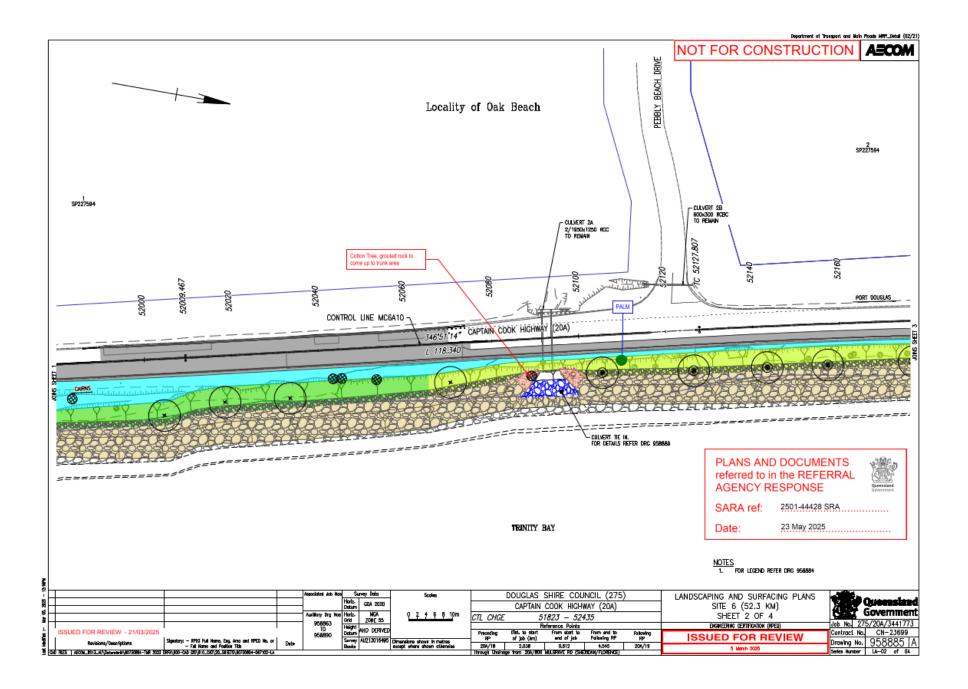
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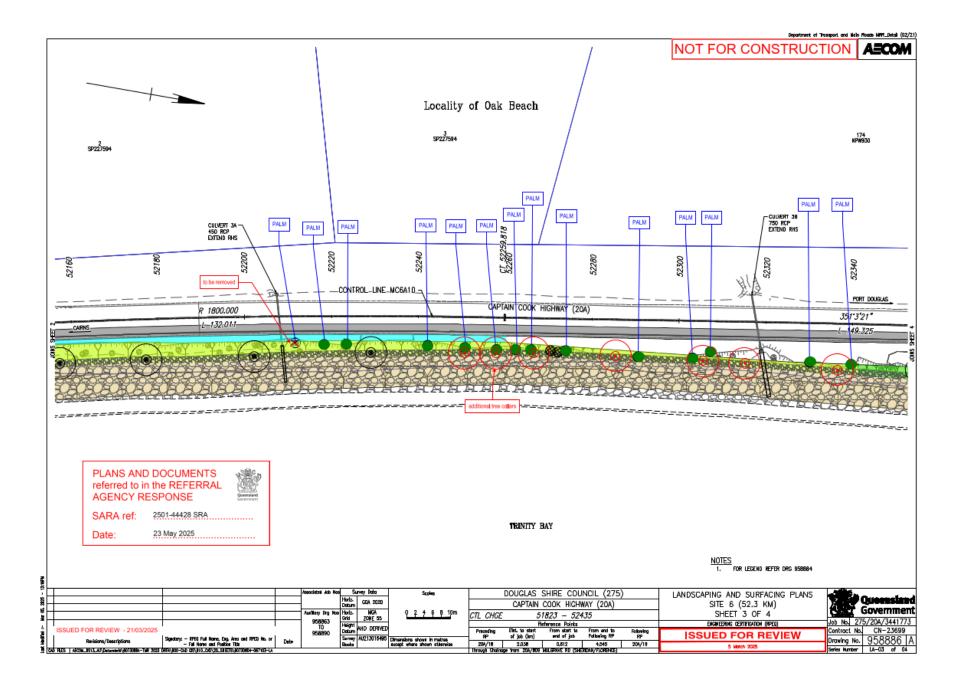
### **SARA Approved Plans**

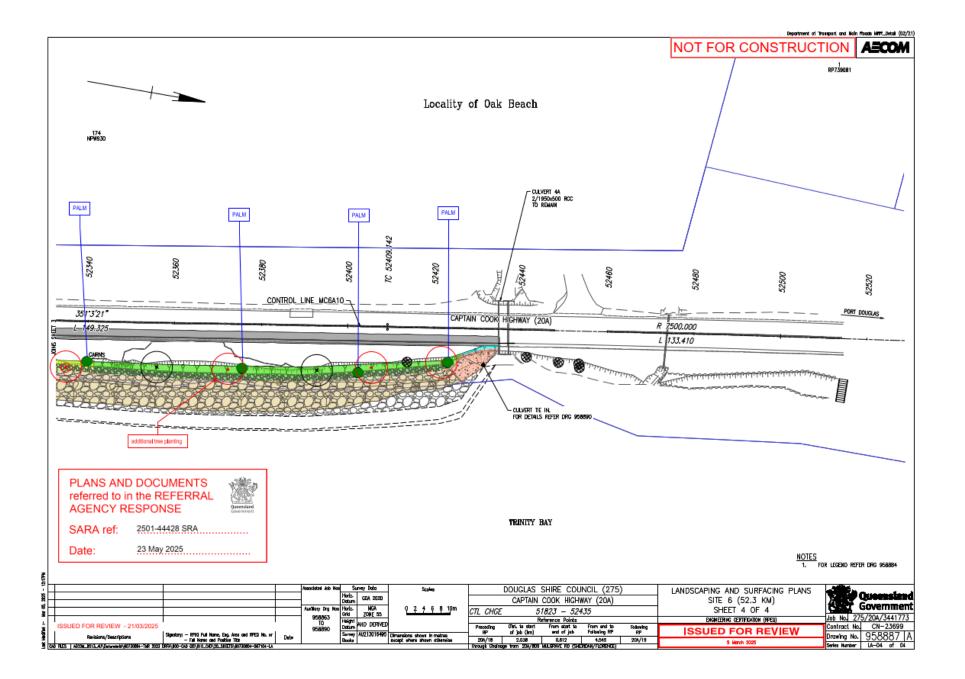


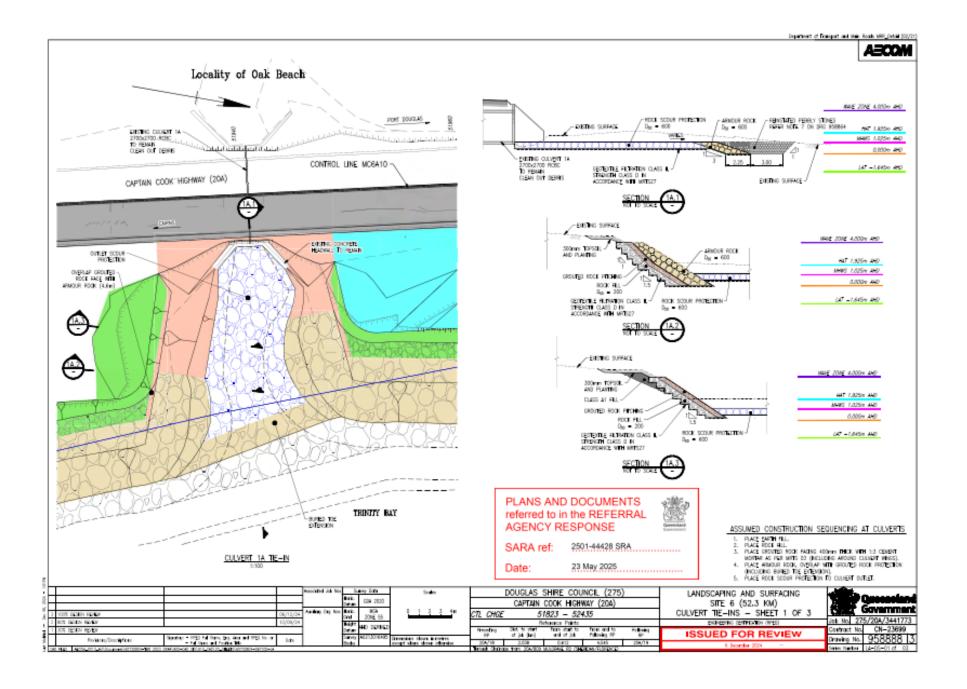
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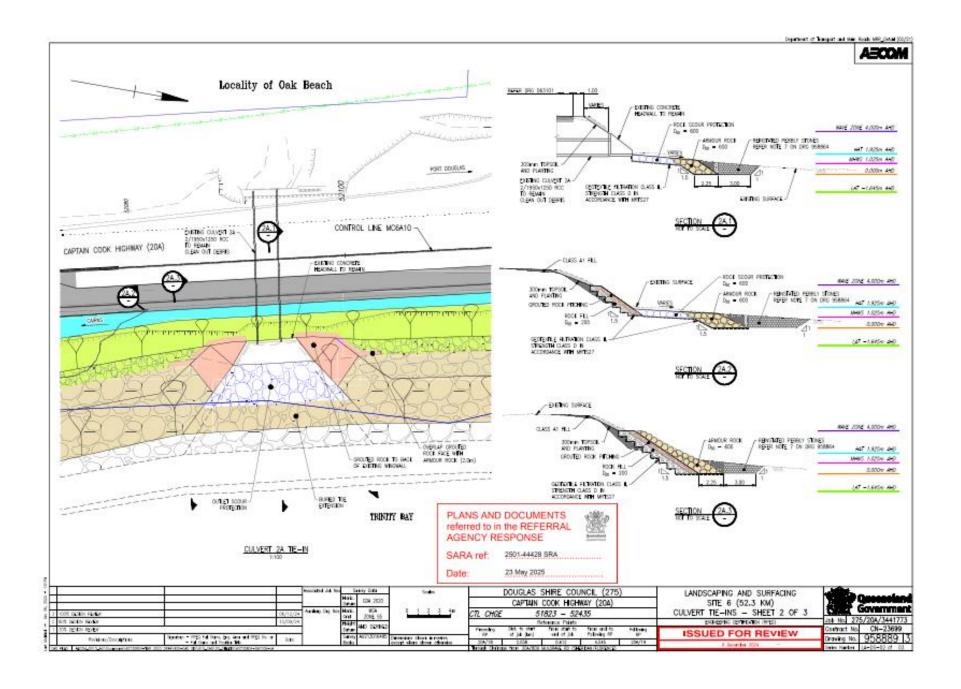


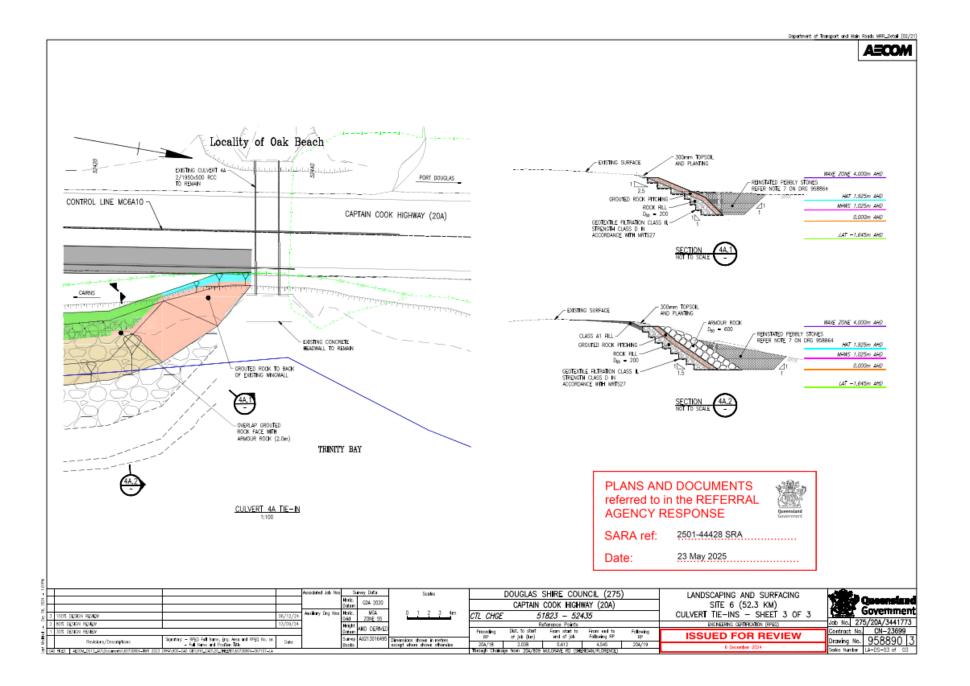


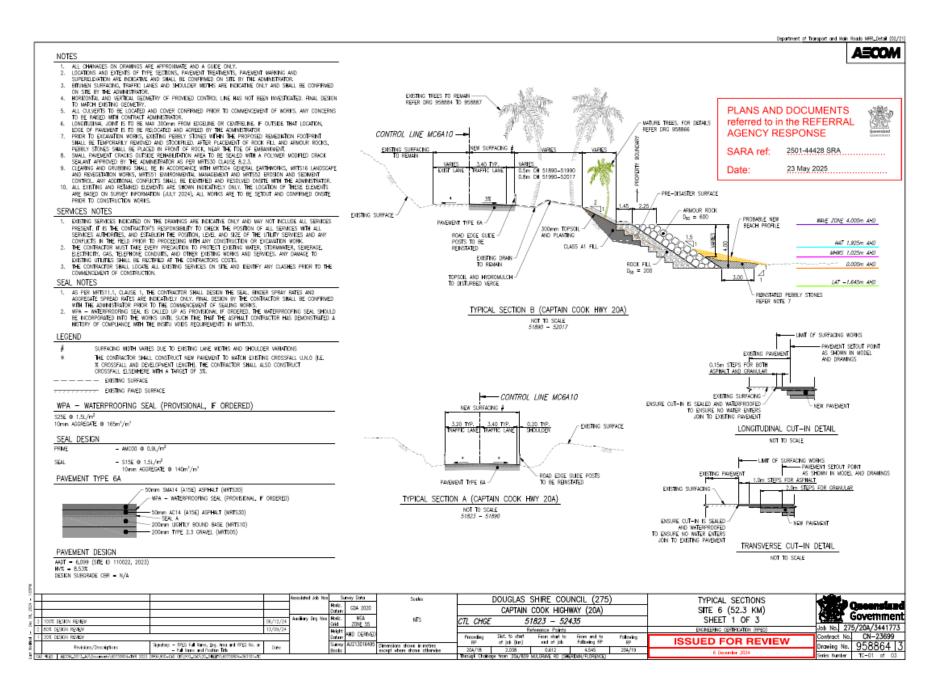


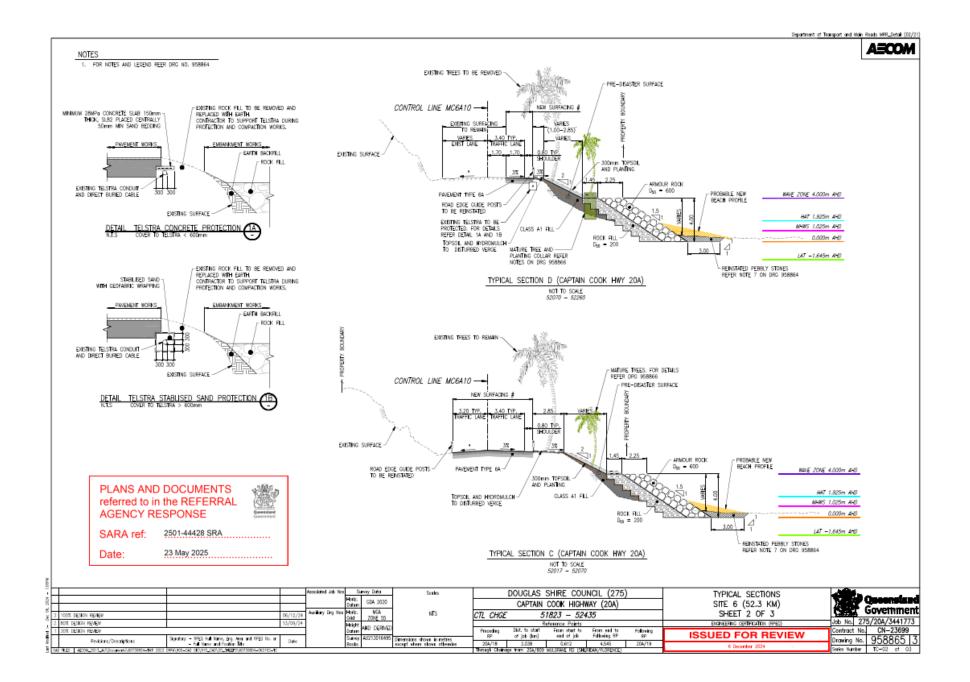


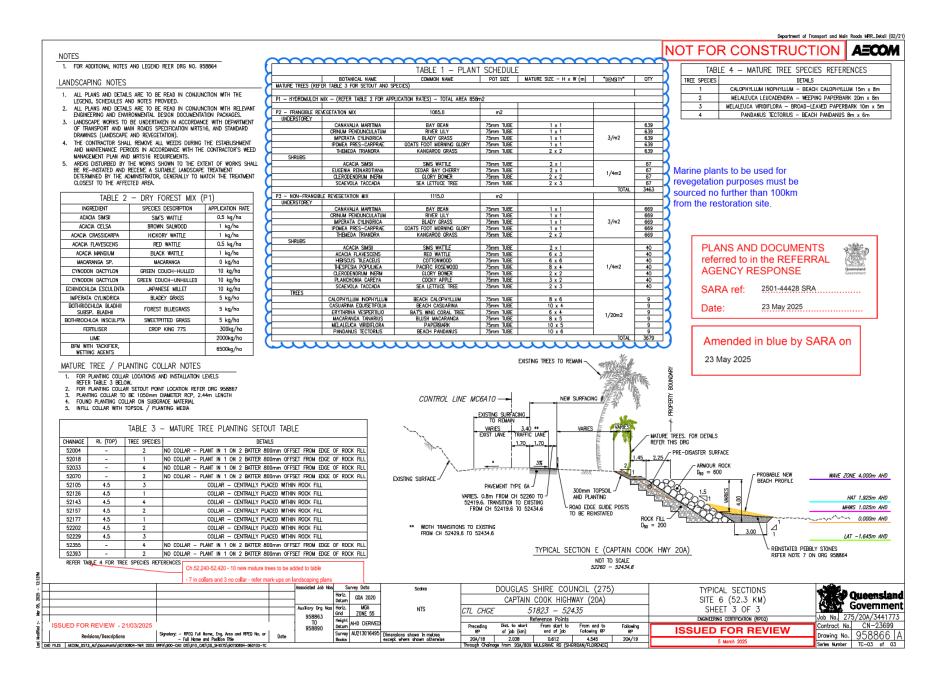


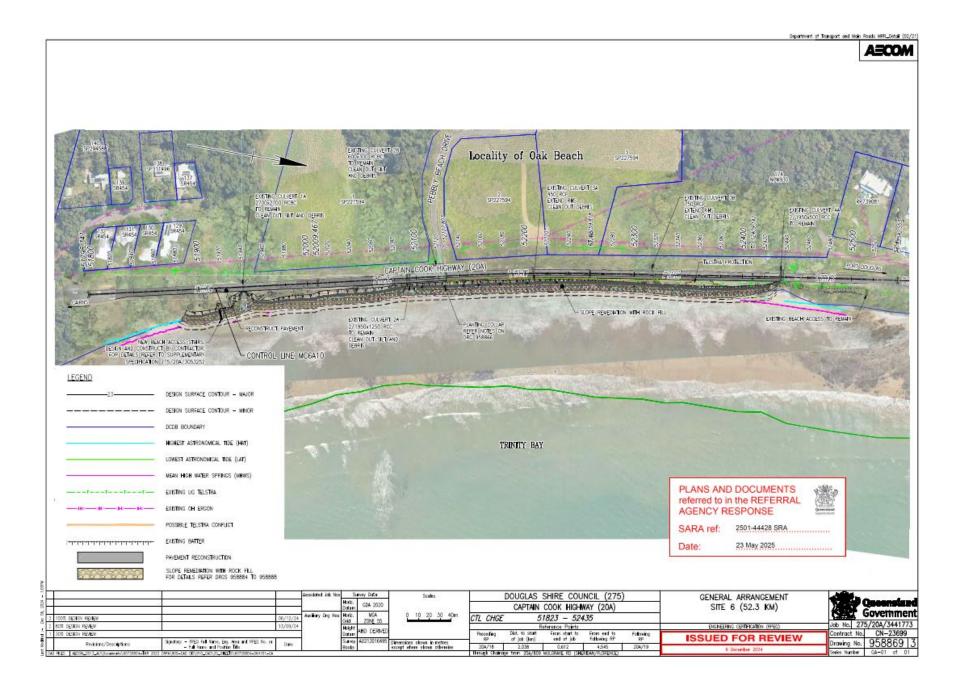


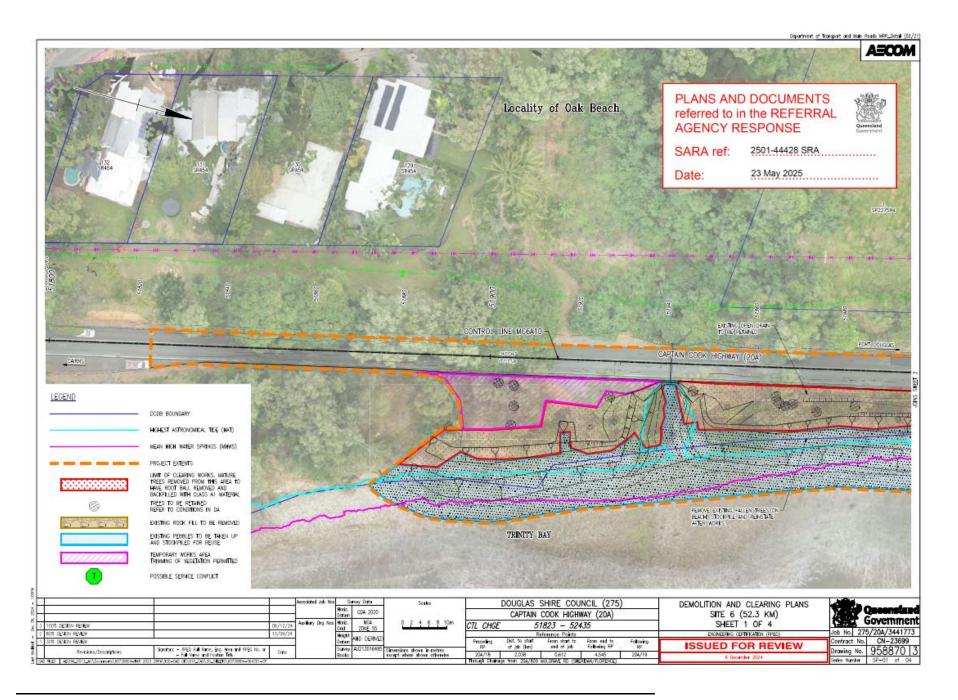


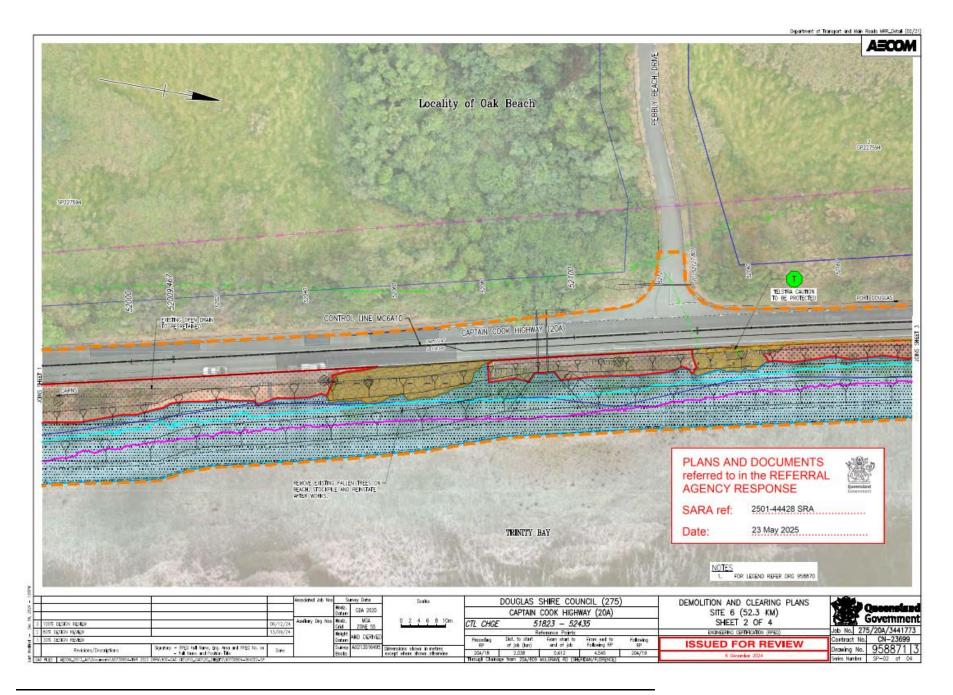


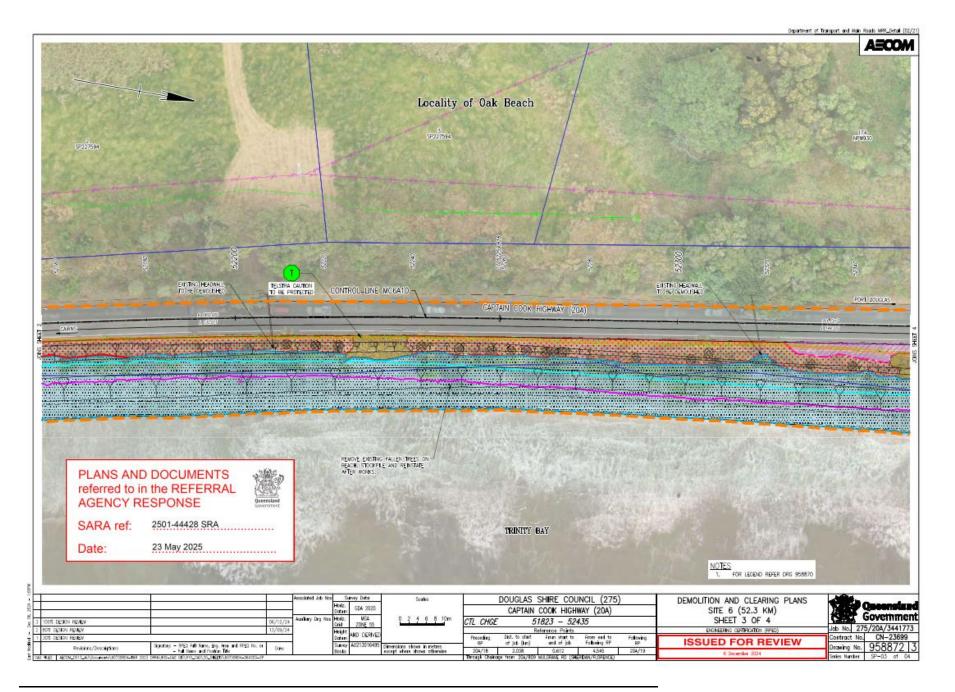


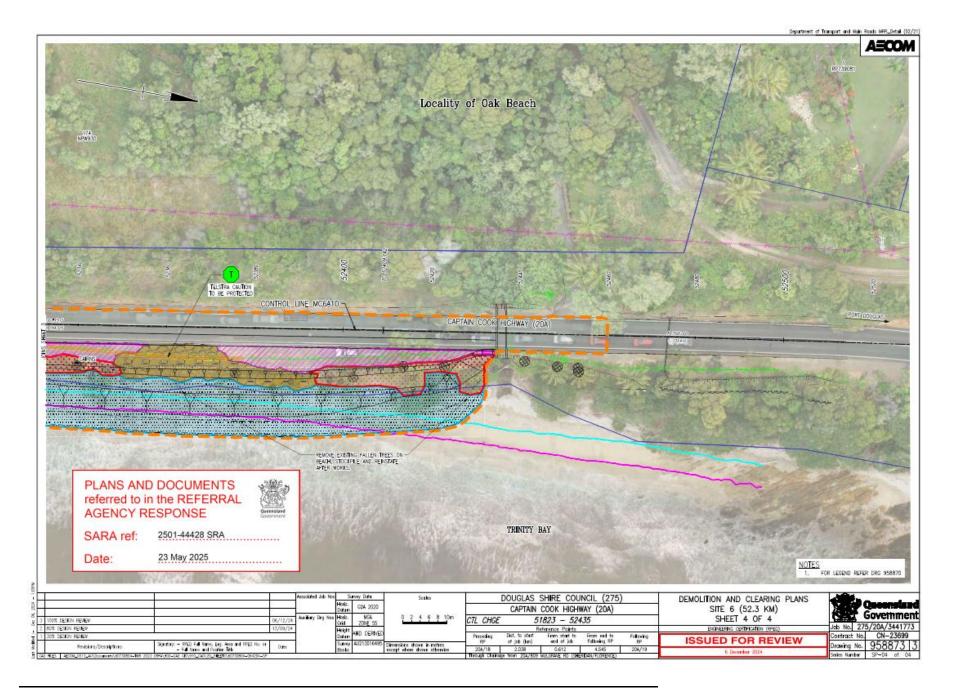


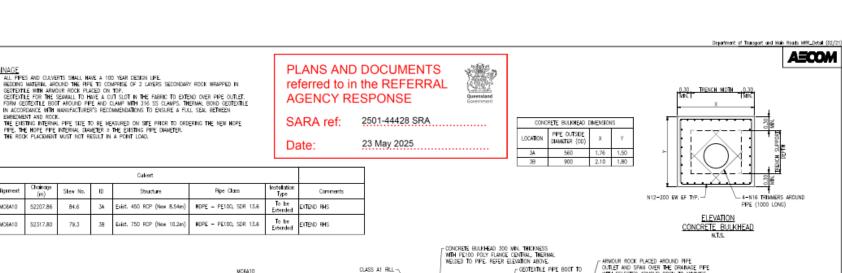


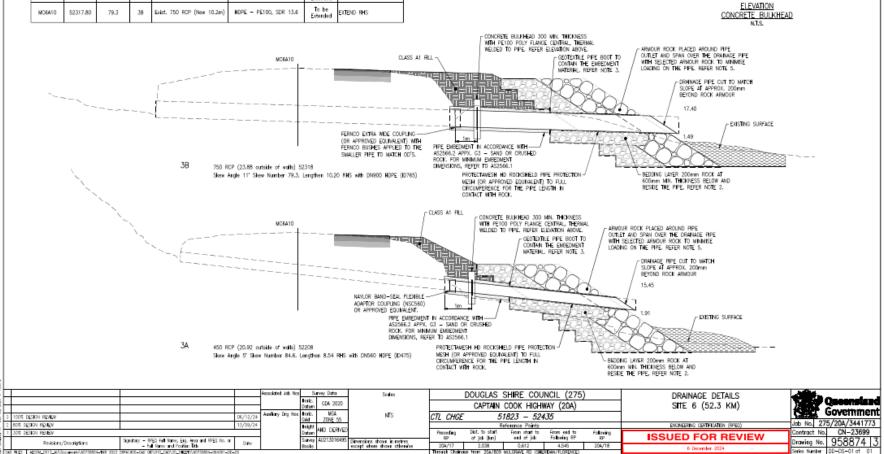












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#### **Reasons for Decision**

- 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 12
     February 2025 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.

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

Planning Act 2016 Chapter 3 Development assessment

[s 74]

# Division 2 Changing development approvals

# Subdivision 1 Changes during appeal period

### 74 What this subdivision is about

- 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-
    - a matter stated because of a referral agency's response; or

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- (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—
    - the applicant withdraws the notice, by giving another notice to the assessment manager; or
    - the assessment manager gives the applicant the decision notice for 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) If the applicant makes the change representations during the appeal period without giving a notice under subsection (2), the appeal period is suspended from the day the representations are made until—
  - the applicant withdraws the change representations by notice given to the assessment manager; or
  - the assessment manager gives the applicant the decision notice for the change representations; or

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- (c) 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.
- (6) Despite subsections (4) and (5), if the decision notice mentioned in subsection (4)(b)(ii) or (5)(b) is 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
  - 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

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- (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.

# Subdivision 2 Changes after appeal period

#### 77 What this subdivision is about

This subdivision is about changing a development approval, other than the currency period, after all appeal periods in relation to the approval end.

# 78 Making change application

 A person may make an application (a change application) to change a development approval.

Note-

For the making of a change application for a development approval that was a PDA development approval, see also the *Economic Development* Act 2012, sections 51AM, 51AN and 51AO.

A change application must be made to the responsible entity for the application.

### 78A Responsible entity for change applications

- The responsible entity for a change application is—
  - (a) if the change application is for a minor change to a development condition of a development approval stated in a referral agency's response for the development application or another change application for the approval—the referral agency; or

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Planning Act 2016 Chapter 6 Dispute resolution

[s 229]

- (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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- (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.
- An appellant may start an appeal within the appeal period.
- (3) The appeal period is—
  - 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 a decision of the Minister, under chapter 7, part 4, to amend the registration of premises to include additional land in the affected area for the premises—20 business days after the day a notice is published under section 269A(2)(a); or
  - (e) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
  - (f) 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
  - (g) 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

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- (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) for an appeal against a failure to make a decision about an application or other matter under the Plumbing and Drainage Act 2018—at anytime after the period within which the application or matter was required to be decided ends; or
- (iv) otherwise—20 business days after the day the notice is given; or
- (h) 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—
    - the establishment cost of trunk infrastructure identified in a LGIP; or
    - the cost of infrastructure decided using the method included in the local government's charges resolution.

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### 230 Notice of appeal

- 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;
  - (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.

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- (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

- 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

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- (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, whether by the Supreme Court, another court, any tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

### 232 Rules of the P&E Court

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

# Part 2 Development tribunal

### Division 1 General

### 233 Appointment of referees

The Minister, or chief executive, (the appointer) may appoint
a person to be a referee, by an appointment notice, if the
appointer considers the person—

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