

20 October 2021

Enquiries: Jenny Elphinstone
Our Ref: ROL 2021_4227/1 (Doc ID 1022429)
Your Ref: Gabriel Nucifora Doc#1019444

Douglas Shire Council
PO Box 723
MOSSMAN QLD 4873

Attention Mr Gabriel Nucifora

Email: gabriel.nucifora@douglas.qld.gov.au

Dear Sir

**Development Application for Reconfiguring a Lot for Boundary Realignment and creation
of access and service easements to a road
At Lots 1 and 2 Bonnie Doon Road and 433 and 461 Bonnie Doon Road Bonnie Doon
On Land Described as Lot 1 on RP738986, Lot 2 on RP738987 & Lot 2 on SR462**

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

Please quote Council's application number: ROL 2021_4227/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully



For

For
Paul Hoyer
Manager Environment & Planning

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

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 section 63 of the Planning Act 2016

Applicant Details

Name: Douglas Shire Council

Postal Address: PO Box 723
Mossman Qld 4873
Attention Mr Gabriel Nucifora

Email: gabriel.nucifora@douglas.qld.gov.au

Property Details

Street Address: Lots 1 and 2 Bonnie Doon Road and 433 and 461 Bonnie Doon Road Bonnie Doon.

Real Property Description: Lot 1 on RP738986, Lot 2 on RP738987 & Lot 2 on SR462

Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Reconfiguring a Lot for a Boundary Realignment and creation of access and service easements to a road.

Decision

Date of Decision: 20 October 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.

The term 'approved drawing(s) and/or document(s) or other similar expressions means:

| Drawing or Document | Reference | Date |
|--|---|------------------|
| Plan of Lots 1 and 2 and Easements E and G in Lot 2 on RP738986, cancelling Lot 1 on and Lot 2 on RP738987 and Easement F in Lot 2 on SR 462 | Survey plan prepared by RPS Australia East Pty Ltd. (Council document 1021402.) | 19 January 2021. |

| Drawing or Document | Reference | Date |
|--|--------------------------------|----------------|
| FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access | | |
| Rural Allotment Access | Standard Drawing S1105 Issue E | 27 August 2020 |

Assessment Manager Conditions & Advices

Conditions

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

Timing of Effect

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.

External Works

3. Construct a rural vehicle access crossover, at the intersection of the access easement with Bonnie Doon Road, in accordance with the FNQROC Regional Development Manual to the satisfaction of the Chief Executive Officer prior to the signing and dating of the survey plan.

Easements

4. For any proposed easements a copy of the easement documents must be submitted to Council for the approval of Council's solicitors at no cost to Council. The approved easement documents must be submitted at the same time as seeking approval and dating of the Plan of Survey and must be lodged and registered with the Department of Natural Resources in conjunction with the Plan of Survey.

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. 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 potential cyclone warning and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
3. This approval does not negate the requirement for compliance with all relevant Local Laws and statutory requirements.
4. For information relating to the *Planning Act 2016*, log on to 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 .

Further Development Permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Operational Work

All Plumbing and Drainage Work must only be carried in compliance with the Queensland *Plumbing and Drainage Act 2018*.

Concurrence Agency Response

| Concurrence Agency | Concurrence Agency Reference | Date | Doc ID |
|---|------------------------------|-----------------|---------|
| Department of State Development, Manufacturing, Infrastructure and Planning | 2109-24718 SRA | 18 October 2021 | 1042886 |

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

Currency Period for the Approval

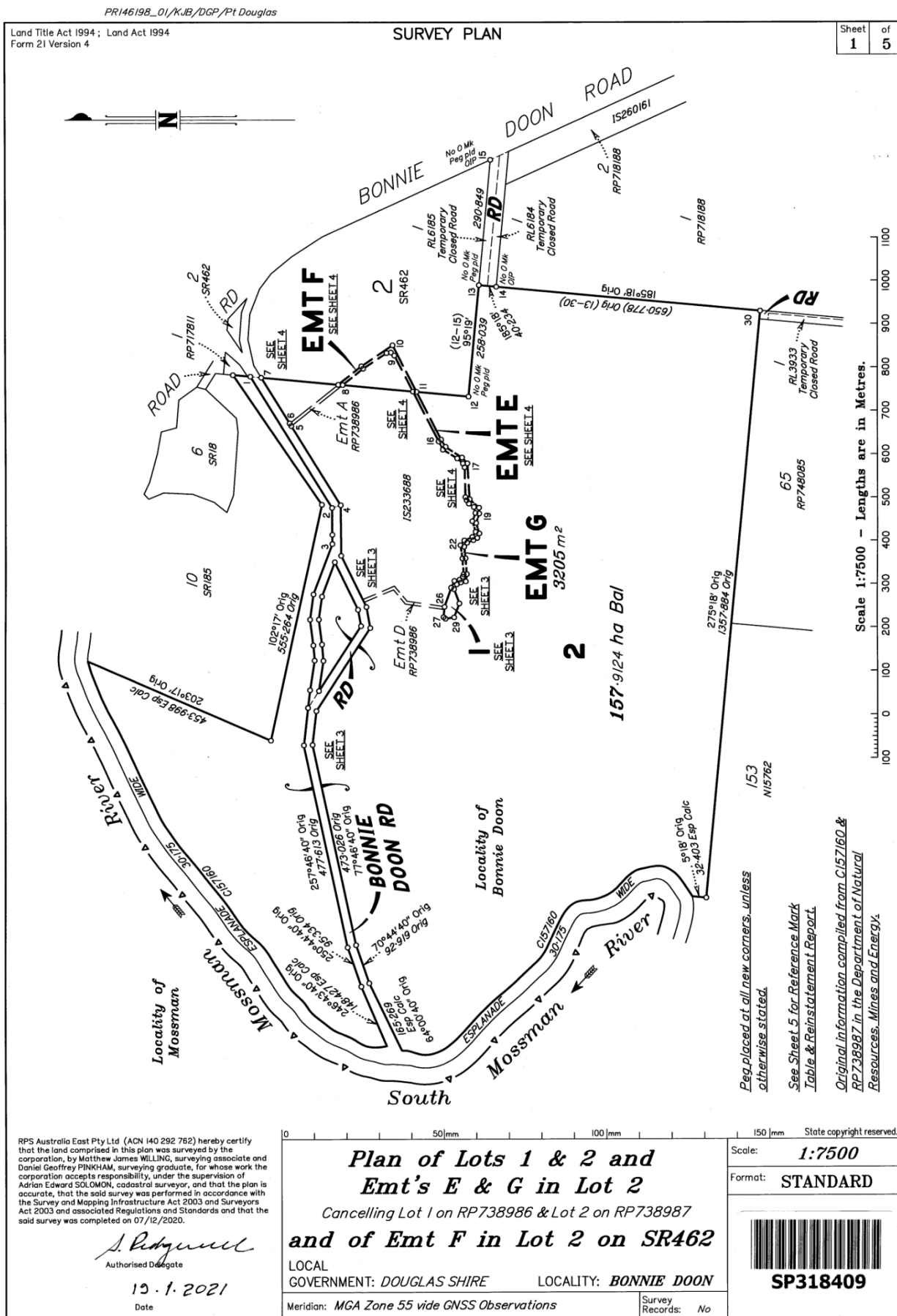
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

Rights to make Representations & Rights of Appeal

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)



WARNING : Folded or Mutilated Plans will not be accepted.
Plans may be rolled.
Information may not be placed in the outer margins.

Sheet **2** of **5**

(Dealing No.)

5. Lodged by

(Include address, phone number, reference, and Lodger Code)

1. Certificate of Registered Owners or Lessees.

1/We DOUGLAS SHIRE COUNCIL
DOUGLAS JOHN CREES 1/2 INTEREST
ANTHEA JANE CREES 1/2 INTEREST
AS TENANTS IN COMMON

(Names in full)

* as Registered Owners of this land agree to this plan ~~and dedicate the Public Use~~
~~Land as shown hereon~~ in accordance with Section 50 of the Land Title Act 1994.

* as Lessees of this land agree to this plan.

Signature of *Registered Owners *Lessees

* Rule out whichever is inapplicable

2. Planning Body Approval.

*
hereby approves this plan in accordance with the :
%

Dated this day of

..... #
..... #

* Insert the name of the Planning Body.
Insert designation of signatory or delegation

% Insert applicable approving legislation.

3. Plans with Community Management Statement :

CMS Number :
Name :

4. References :

Dept File :
Local Govt :
Surveyor : PR146198

| 6. Existing | | Created | | |
|-----------------|-------------------|----------|------|----------------------|
| Title Reference | Description | New Lots | Road | Secondary Interests |
| 21306022 | Lot 1 on RP738986 | 1 & 2 | | |
| 21301027 | Lot 2 on RP738987 | 1 & 2 | | |
| 50727961 | Lot 2 on SR462 | | | Emt's E & G Emt F |

ENCUMBRANCE EASEMENT ALLOCATIONS

| Easement | Lots to be Encumbered |
|----------------------------------|-----------------------|
| 601118579 (Emt A on RP738986) | 2 |
| 601118579 (Emt D on RP738986) | 1 & 2 |

EXISTING ADMINISTRATIVE ADVICE ALLOCATIONS

| Administrative Advice | Lots to be Encumbered |
|-----------------------|-----------------------|
| 709620603 | 2 |

Easement 601118579 to be partially surrendered
(Emt's B & C on RP738986) prior to the registration of this plan.

| | |
|-------|---------|
| I & 2 | Por 114 |
| Lots | Orig |

7. Orig Grant Allocation :

8. Passed & Endorsed :

By: RPS Australia East Pty Ltd
Date: 19. 1. 2021
Signed: *S. Redman*
Designation: Cadastal Surveyor

9. Building Format Plans only.

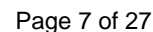
I certify that :
* As far as it is practical to determine, no part of the building shown on this plan encroaches onto adjoining lots or road.
* Part of the building shown on this plan encroaches onto adjoining * lots and road

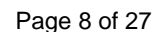
..... *
Cadastal Surveyor/Director * Date
* delete words not required

10. Lodgement Fees :

Survey Deposit \$
Lodgement \$
..... New Titles \$
Photocopy \$
Postage \$
TOTAL \$

II. Insert Plan Number **SP318409**





Reinstatement Report

Plans Searched: RP738986, RP738987, CI57160, DP890709, SR461, SR130, IS233688, IS260161, SR462 & RP718188.

Datum of survey is from stations 1-2 fixed by OIP at station 1 & O Nail at station 2. This fix resulting in distance in agreement with DP890709 (0-005m excess from deed) and meridian difference of +5°19'20".

The boundary from stations 2-3 has been fixed by OIP at station 3 resulting in deed angle at station 2 and distance in agreement with DP890709 (0-005m excess from deed). This fix confirmed by good agreement to O Nail at station 2a.

Station 4 has been fixed by maintaining original secant connection (SR130) from station 2.

The boundary from stations 4 - 7 has been fixed by OIP at station 7 resulting in road frontage bearing parallel to Stations 2-1 and 0-035m excess from deed. This fix also resulting in original distance from stations 1-7 in agreement with RP738986 & SR462.

This fix resulting in disagreement to OIP's at stations 5 & 6. These differences originating from a different reinstatement of the road frontage alignment compared to RP738986.

The boundary from stations 15-13 fixed by OIP at station 15 & maintaining original MGA bearing from IS260161. It was identified that the OIP reference at station 14 has booking error on IS260161 where the true connection should be 263°03' rather than 203°03'. The distance from station 15-13 being in agreement with closing distance of road reserve on RP718188.

The boundaries from stations 12-13 has been fixed by maintaining bearing from stations 15-13 and holding deed angle at station 12 to station 7. This resulting in overall distance from stations 12-15 0-059m short from RP738986 and SR462. This also resulting in 0-687m excess from deed between stations 7 & 12 and angle up 0°01'20" at station 7. A close calculation of Lot 2 on SR462 identifies similar excess along this boundary confirming this reinstatement.

The reinstatement of original boundaries for Easements E, F & G and Lot 1 are based on connection to original reference marks from IS233688 & RP738986. The reinstatement identified a meridian difference of +0°02'10" from IS233688.

All other boundaries are compiled from original plans.

REFERENCE MARKS

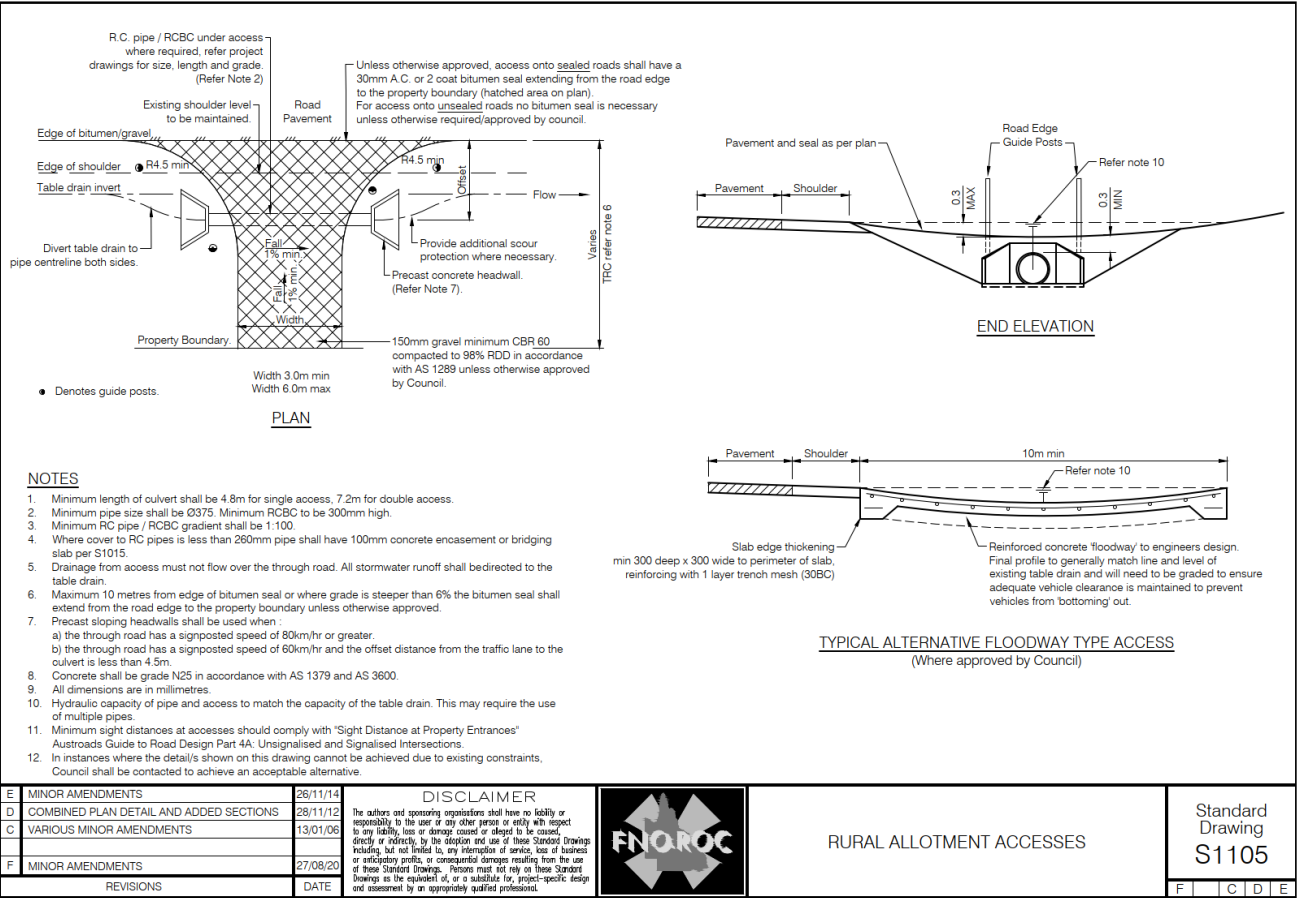
| STN | TO | ORIGIN | BEARING | DIST | |
|-----|------------------|--------------|------------|--------|-------------|
| 1 | OIP | 13x/RP738986 | 185°18' | 1-5 | |
| 2 | O GI Nail in Bit | 12/DP890709 | 224°04'20" | 4-415 | |
| 2 | OIP Distd | 12/DP890709 | 52°01'30" | 10-826 | New Ref |
| 2a | O Nail in Conc | 15/DP890709 | 131°57'20" | 9-055 | |
| 3 | OIP | 27a/SR461 | 89°24'40" | 1-006 | |
| 4 | OIP gone | 62a/RP738986 | 343°45'40" | 3-0 | |
| 4 | Pin | | 346°19'30" | 3-952 | |
| 5 | OIP | 25/RP738986 | 321°37'25" | 0-544 | New Ref N&C |
| 6 | OIP | 28/IS233688 | 358°20' | 0-66 | New Ref N&C |
| 7 | OIP (0-5 deep) | 14x/RP738986 | 5°18' | 1-006 | |
| 8 | Pin | | 188°17' | 1-183 | |
| 9 | OIP | 23/RP738986 | 102°46'30" | 10-255 | New Conn |
| 10 | O Nail in Hdwl | 27/IS233688 | 333°43'10" | 2-47 | |
| 10 | OIP | 27/IS233688 | 9°00'10" | 5-913 | |
| 11 | Pin | | 305°36' | 0-927 | |
| 12 | Pin | | 200°44' | 12-73 | |
| 13 | Pin | | 138°35' | 0-864 | |
| 14 | OIP | 5/IS260161 | 263°03' | 2-115 | New Ref N&C |
| 15 | OIP | 4/SR462 | 335°29' | 1-006 | |
| 16 | OIP | 25/IS233688 | 220°53' | 11-648 | New Ref N&C |
| 17 | OIP | 24/IS233688 | 38°36'30" | 7-478 | New Conn |
| 18 | OIP | 23/IS233688 | 42°11' | 6-019 | New Conn |
| 19 | Screw in Hdwl | | 76°57' | 3-424 | |
| 20 | OIP | 21/IS233688 | 80°07' | 6-001 | New Conn |
| 21 | O Nail in Hdwl | 20/IS233688 | 99°45' | 1-702 | New Conn |
| 22 | OIP | 18/IS233688 | 169°21' | 4-66 | New Conn |
| 23 | OIP | 16/IS233688 | 118°56' | 2-725 | New Conn |
| 24 | OIP | 31/IS233688 | 276°48' | 10-602 | New Conn |
| 25 | O Nail in Conc | 30/IS233688 | 276°31' | 10-415 | New Conn |
| 26 | O Screw in Conc | 7/IS233688 | 185°00'40" | 6-53 | |
| 27 | O Nail in Conc | 8/IS233688 | 134°25' | 6-784 | New Conn |
| 27 | OIP | 8/IS233688 | 109°07' | 7-838 | New Conn |
| 28 | OIP | 4/RP738986 | 174°31' | 7-4 | New Conn |
| 29 | Pin | | 37°57' | 4-276 | |

State copyright reserved.

Insert
Plan
Number
SP318409

0 50mm 100mm 150mm

FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access



Concurrence Agency Conditions

RA6-N



SARA reference: 2109-24718 SRA
Council reference: ROL2021_4227/1
Applicant reference: doc#1019444

18 October 2021

Douglas Shire Council
64-66 Front Street
MOSSMAN Qld 4873
daniel.favier@douglas.qld.gov.au

Attention: Daniel Favier

Dear Sir/Madam

SARA response—461 Bonnie Doon Road, Bonnie Doon

(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 16 September 2021.

Response

| | |
|-------------------|---|
| Outcome: | Referral agency response – with conditions. |
| Date of response: | 18 October 2021 |
| 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 (3 Lots into 3 Lots and Access/Service Easement) |
| SARA role: | Referral Agency. | |
| SARA trigger: | Schedule 10, Part 3, Division 4, Table 2, Item 1 (Planning Regulation 2017) | |
| | Clearing native vegetation | |
| SARA reference: | 2109-24718 SRA | |

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

Assessment Manager: Douglas Shire Council
Street address: 461 Bonnie Doon Road, Bonnie Doon
Real property description: Lot 1 on RP738986; Lot 2 on RP738987 and Lot 2 on SR462
Applicant name: Douglas Shire Council
Applicant contact details: 64-66 Front Street
MOSSMAN QLD 4873
daniel.favier@douglas.qld.gov.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 Mary McCarthy, Senior Planning Officer, on 47583404 or via email CairnsSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Joanne Manson
A/Manager (Planning)

cc Douglas Shire Council, daniel.favier@douglas.qld.gov.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 5 - Approved plans and specifications

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**)

| No. | Conditions | Condition timing |
|--|--|--|
| Reconfiguring a lot | | |
| Schedule 10, Part 3, Division 4, Table 2, Item 1 —Clearing native vegetation – The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Resources to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition: | | |
| 1. | The reconfiguring a lot must be undertaken generally in accordance with the following plan: <ul style="list-style-type: none"> Plan of Lots 1 and 2 and Emt's E & G in Lot 2 – Cancelling Lot 1 on RP738986 & Lot 2 on RP738987 and of Emt F in Lot 2 on SR462, prepared by RPS Australia East Pty Ltd, dated 19/01/2021, reference SP318409. | Prior to submitting the Plan of Survey to the local government of approval |

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

Attachment 3—Reasons for referral agency response

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

The reasons for the department's decision are:

- The proposed development involves clearing approximately 1.29ha of total assessable clearing within the subject lots.
- The department carried out an assessment against the State Development Assessment Provisions, State code 16 and found the proposed development, with conditions, complies with the relevant provisions of the state codes.
- The proposed development:
 - avoids clearing, or where avoidance is not reasonably possible, minimises clearing to conserve vegetation, avoids land degradation, avoids the loss of biodiversity and maintains ecological processes
 - avoids impacts on the vegetation that is essential habitat, least concern regional ecosystems or of concern regional ecosystems.

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]), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system

Attachment 5—Approved plans and specifications

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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 30 June 2021 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 Special Purpose Zone Code and 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

N/A 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]

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]

- (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

- (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,

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

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

Part 2 Development tribunal

Division 1 General

233 Appointment of referees

- (1) 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—
 - (a) has the qualifications or experience prescribed by regulation; and
 - (b) has demonstrated an ability—
 - (i) to negotiate and mediate outcomes between parties to a proceeding; and
 - (ii) to apply the principles of natural justice; and
 - (iii) to analyse complex technical issues; and
 - (iv) to communicate effectively, including, for example, to write informed succinct and well-organised decisions, reports, submissions or other documents.