

23 January 2026

Enquiries: Rebecca Taranto
Our Ref: OP 2025_5849/1 (Doc ID:1343509)
Your Ref: 402031

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

Douglas Shire Council
PO Box 723
Mossman QLD 4873

Dear Sir/Madam

**Development Application for Operational Works (Operational Work for a temporary
bypass crossing over Noah Creek)
At Cape Tribulation Road Thornton Beach
On Land Described as Lot 900 on SP296959**

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

Please quote Council's application number: OP 2025_5849/1 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



Leonard Vogel
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 - response to properly made submissions.
- 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: Douglas Shire Council
Postal Address: PO Box 723
MOSSMAN QLD 4873
Email: Stacey.Devaney@rpsconsulting.com

Property Details

Street Address: Cape Tribulation Road Thornton Beach
Real Property Description: Lot 900 on SP296959
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Operational Work for a temporary bypass crossing over Noah Creek

Decision

Date of Decision: 23 January 2026
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
Side Track Layout	Premise Designed By S. Brogan Job No P001388 Sheet No SKC21 Rev 4	01/10/2025

Side Track Typical Sections	Premise Designed By S. Brogan Job No P001388 Sheet No SKC22 Rev 2	01/10/2025
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Assessment Manager Conditions & Advices

General

1. The proposed works are permitted subject to any alterations:
 - a. 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.
 - b. 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.

2. 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.

Public Notification of the Works

6. The applicant must provide:
 - a. 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.

Erosion and Sediment Control

7. A copy of the contractors Erosion and Sediment Control (ESC) Plan is to be submitted to Council and endorsed by the Consulting Engineer, prior to commencement of any works. In particular, the ESC Plan must address the Institution of Engineers Australia Guidelines

for Soil Erosion and Sediment Control and the Environment Protection (Water) Policy and Clauses CP1.05, CP1.13 and D5.10 of Council's FNQROC Development Manual. The ESC Plan must be relevant to all phases of the construction and be updated where necessary as works progress.

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 received Portable Long Service Notification and Payment form prior to commencement of work.

Cultural Heritage

9. The *Aboriginal Cultural Heritage Act 2003* (the Act) seeks to protect artefacts and cultural sites that are of significance to Aboriginal people. The Act requires anyone carrying out an activity to exercise a Duty of Care. Guidelines have been produced to enable assessment of sites under the Act. These are available from Department of Environment Heritage Protection and can be downloaded from their website at www.ehp.qld.gov.au. The work identified in the project documentation is likely to require assessment of the site under the Act.

Traffic Management Plan

10. Prior to commencement of work, a traffic management plan must be endorsed by Chief Executive Officer. The traffic management plan must be in accordance with the relevant Australian Standards and current best practices.

Decommissioning of Temporary Bypass Bridge and Side Tracks to Bypass

11. On completion of the permanent bridge, the temporary bypass the subject of this approval must be removed in its entirety.

The side tracks and surface treatments connecting to the temporary bypass must also be removed, and the entrance to the side tracks from Cape Tribulation Road must be with blocked with boulders, or similar, to prevent access.

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 <https://planning.dsdlip.qld.gov.au>. To access the *FNQROC Regional Development Manual*, Local Laws, the Douglas Shire Planning Scheme and other applicable Policies log on to www.douglas.qld.gov.au.

Further Development Permits

Not applicable

Concurrence Agency Response

Concurrence Agency	Concurrence Reference	Agency	Date	Doc ID
State Assessment and Referral Agency	2510-48919 SRA		2 December 2025	Doc id; 1337364

Currency Period for the Approval

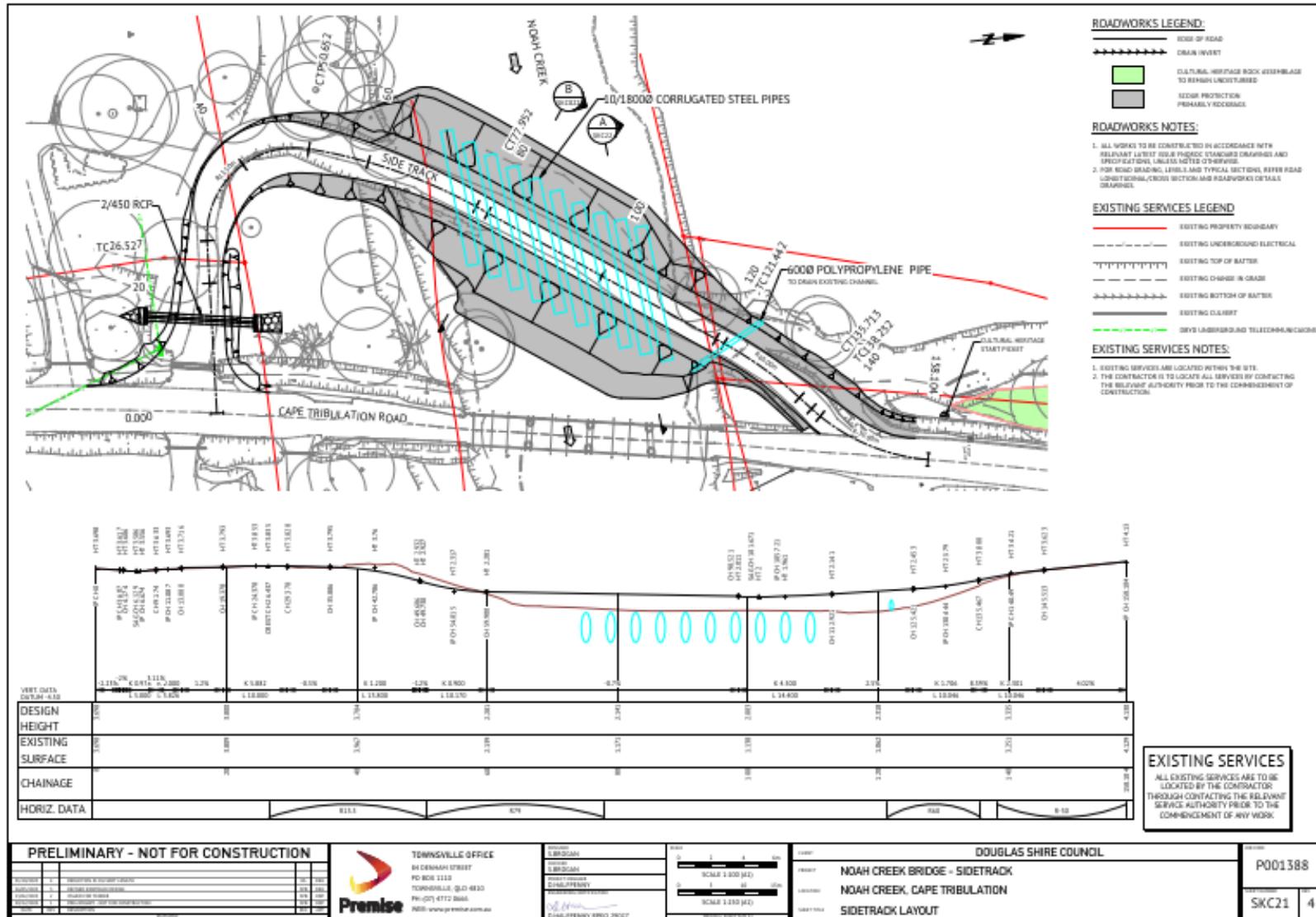
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse two (2) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

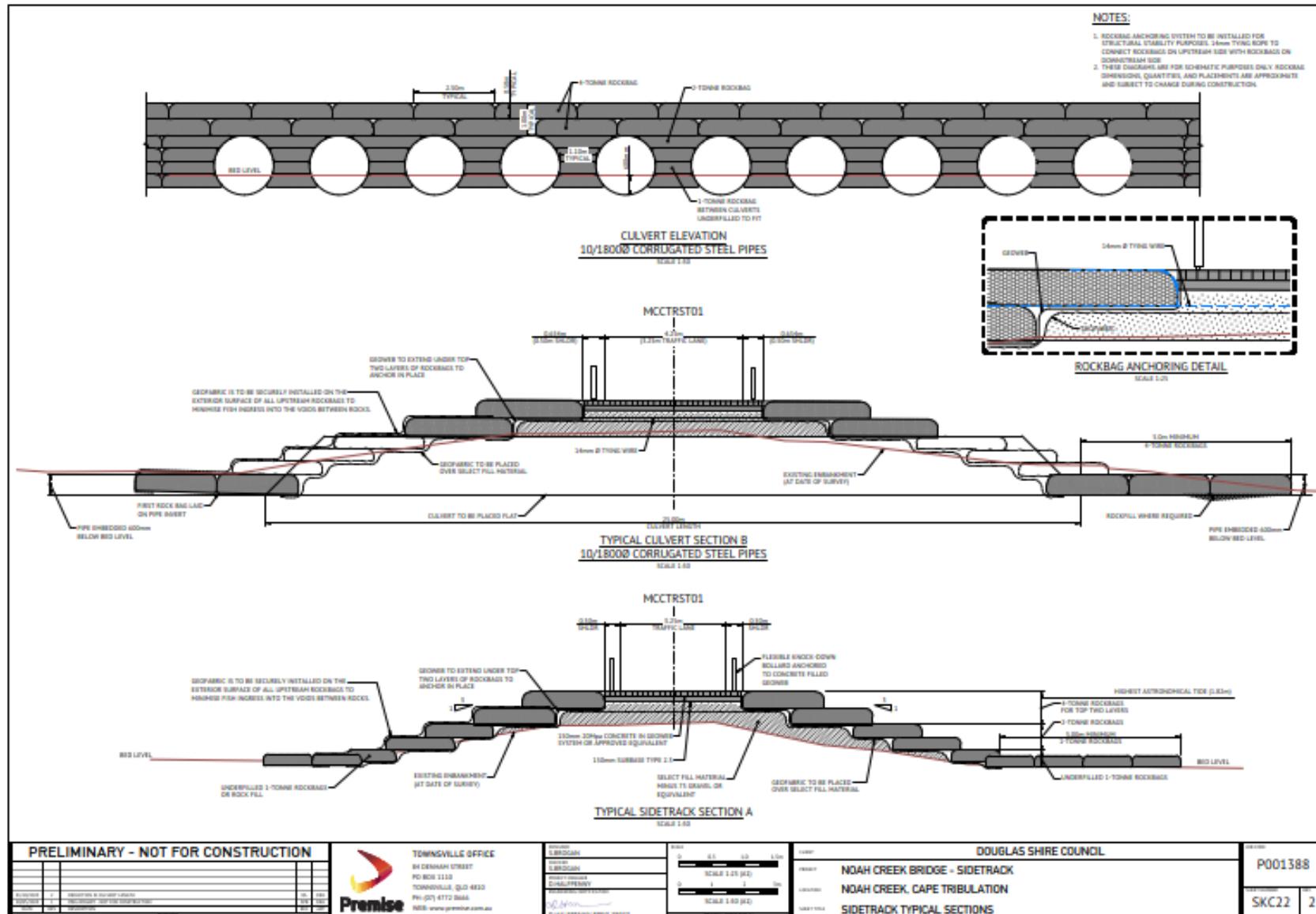
Rights to make Representations & Rights of Appeal

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)





Concurrence Agency Conditions

RA6-N

DELIVERING
FOR QUEENSLAND



Department of
State Development,
Infrastructure and Planning

SARA reference: 2510-48919 SRA
Council reference: OP 2025_5849/1 (1329359)
Applicant reference: 402031

2 December 2025

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

Attention: Rebecca Taranto

Dear Sir/Madam

SARA referral agency response – Cape Tribulation Road, Cape Tribulation (Noah Creek temporary crossing)

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

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 14 November 2025.

Response

Outcome:	Referral agency response – with conditions
Date of response:	2 December 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 works for Waterway barrier work and Prescribed tidal work (temporary bypass crossing of Noah Creek)
SARA role:	Referral agency	
SARA triggers:	Schedule 10, Part 6, Division 4, Subdivision 3, Table 1, Item 1	

(Planning Regulation 2017) – Operational work for waterway barrier work	
Schedule 10, Part 17, Division 3, Table 1, Item 1 (Planning Regulation 2017) – Operational work that is tidal works or work in a coastal management district	
SARA reference:	2510-48919 SRA
Assessment manager:	Douglas Shire Council
Street address:	Cape Tribulation Road, Cape Tribulation
Real property description:	Adjoining Lot 900 on SP296959
Applicant name:	Douglas Shire Council
Applicant contact details:	C/- RPS AAP Consulting Pty Ltd 135 Abbott Street Cairns QLD 4870 stacey.devaney@rpsconsulting.com
Human Rights Act 2019 considerations:	A consideration of the 23 fundamental human rights protected under the <i>Human Rights Act 2019</i> 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, Senior Planning Officer, on 07 4037 3200 or via email CairnsSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely

Poppy Ellis-Southwell
A/Manager

cc Douglas Shire Council, stacey.devaney@rpsconsulting.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

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
Schedule 10, Part 6, Division 4, Subdivision 3, Table 1, Item 1 – Operational work for waterway barrier work — The chief executive administering the Planning Act 2016 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.	<p>Development is limited to the operational work to raise or construct a temporary waterway barrier work that is a pipe culvert crossing within Noah Creek as shown on the following plans:</p> <ul style="list-style-type: none"> • Sidetrack layout plan, prepared by Premise, dated 01/10/2025, Job Code P001388, Sheet Number SKC21, Revision 4. • Sidetrack typical sections plan, prepared by Premise, dated 01/10/2025, Job Code P001388, Sheet Number SKC22, Revision 2. 	For the duration of the works.
2.	<p>Submit written notice to the Department of Primary Industries at notifications@dpi.qld.gov.au advising when the development authorised under this referral agency response:</p> <ul style="list-style-type: none"> (a) Will start. (b) When the temporary culvert has been completely removed from the waterway and restoration works to bankside vegetation has been completed. <p>Any notice must state the application's reference number: 2510-48919 SRA.</p>	<ul style="list-style-type: none"> (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.
3.	Maintain the development in accordance with the plans referenced in condition 1, and the requirements of any conditions included in this referral agency response.	At all times.
4.	Spoil is not disposed of on tidal lands or within waterways and is managed to prevent acid soil development.	At all times.
5.	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.
6.	<p>In the event of fish stranding or entrapment as a result of the approved works:</p> <ul style="list-style-type: none"> (a) Fish salvage must be undertaken generally in accordance with the Business Queensland Guidelines for fish salvage. (b) Submit written notice to the Department of Primary Industries at notifications@dpi.qld.gov.au advising at any time(s) fish salvage is undertaken in accordance with part (a) of this 	<ul style="list-style-type: none"> (a) and (b) For the duration of the works.

	<p>condition.</p> <p>Any notice must state the application's reference number: 2510-48919 SRA.</p>	
7.	<p>Any person(s) engaged or employed to carry out works under this development approval must:</p> <p>(a) Be provided with a full copy of this development approval, including the approved plans and specifications; and</p> <p>(b) Maintain a legible copy of the development approval, including the approved plans and specifications, on site and kept available for inspection.</p>	(a) and (b) For the duration of the works.
8.	Construct and maintain the temporary waterway barrier(s) to avoid fish injury, mortality and/or entrapment.	At all times.
9.	Remove the temporary waterway barrier.	Within 30 days of bridge replacement (Council reference: OP 2020_3516/2) being completed.
10.	Restore the waterway bank profiles and replant them with suitable native riparian species once the temporary waterway barrier is removed.	Within 10 business days of completion of the works and prior to post works notification.
<p>Schedule 10, Part 17, Division 3, Table 1 – 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 the 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:</p>		
11.	<p>The construction of the sidetrack must be undertaken generally in accordance with the following plans:</p> <ul style="list-style-type: none"> • Sidetrack layout plan, prepared by Premise, dated 01/10/2025, Job Code P001388, Sheet Number SKC21, Revision 4. • Sidetrack typical sections plan, prepared by Premise, dated 01/10/2025, Job Code P001388, Sheet Number SKC22, Revision 2. 	For the duration of the works.
12.	For the proposed works, only use clean materials which are free from prescribed water contaminants.	For the duration of the works.
13.	Development must prevent the release of sediment to tidal waters by installing and maintaining erosion and sediment control measures which are in accordance with the Best Practice Erosion and Sediment Control (BPESC) guidelines for Australia (International Erosion Control Association).	For the duration of the works.
14.	Should the sidetrack collapse, fail or otherwise suffer structural consequences which impact their integrity or ability to function as	(a) and (b) As soon as reasonably practicable subsequent to the

	<p>intended, the works must be:</p> <p>(a) Reinstated in accordance with this development approval; or</p> <p>(b) Removed and disposed of at an appropriately licensed facility.</p>	damage.
15.	<p>Submit "As Constructed drawings" to palm@desti.qld.gov.au or mail to:</p> <p>Department of the Environment, Tourism, Science and Innovation Permit and Licence Management Implementation and Support Unit GPO Box 2454 Brisbane Qld 4001</p>	Within 20 business days of the completion of the works.
16.	<p>(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 State of Queensland, 2024.</p> <p>(b) Submit certification from an appropriately qualified person on acid sulfate soil, confirming that the affected soil has been neutralised or contained in accordance with (a) above to palm@desti.qld.gov.au or mailed to:</p> <p>Department of the Environment, Tourism, Science and Innovation Permit and Licence Management Implementation and Support Unit GPO Box 2454 Brisbane Qld 4001</p> <p>Note: Appropriately qualified person 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.</p>	<p>(a) Upon disturbance or oxidisation until the affected soil has been neutralised or contained.</p> <p>(b) At the time the soils have been neutralised or contained.</p>
17.	Remove the entire sidetrack from tidally influenced waters.	By 1 November 2026.

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) version 3.3. If a word remains undefined it has its ordinary meaning.

Attachment 3—Reasons for referral agency response

(Given under section 58(7) of the Planning Act 2016)

The reasons for the SARA's decision are:

SARA has carried out an assessment of the development application against State code 8: Coastal development and tidal works of the SDAP and has found that, the proposed development complies with relevant performance outcomes, namely:

- 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.

SARA has carried out an assessment of the development application against State code 18: Constructing or raising waterway barrier works in fish habitats of the SDAP and has found that, the proposed development complies with relevant performance outcomes, namely:

- the temporary waterway barrier works will maintain fish movement and connectivity throughout waterways and within and between fish habitats
- the temporary waterway barrier works will continue to maintain the health and productivity of fisheries resources and fish habitat
- the temporary waterway barrier works will not impact the community and fishing sectors' use of the area and access to fisheries resources
- the temporary waterway barrier works will avoid impacts or, where the matters of state environmental significance cannot be reasonably avoided, impacts are reasonably minimised and mitigated.

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 3.3)
- 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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Attachment 5—Documents referenced in conditions

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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 10/10/2025 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 Conservation 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.*

relevant preliminary approval means a preliminary approval given under the old Act by an entity other than a private certifier.

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 given by the Minister under part 6, division 2; or
 - (iii) a development condition imposed under a direction given by the chief executive under section 106ZF(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)(d).

(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 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—

- (a) the applicant withdraws the change representations by notice given to the assessment manager; or
- (b) the assessment manager gives the applicant the decision notice for the change representations; or
- (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.

Note—

For change representations for a development approval for development requiring social impact assessment, see also section 106ZI.

(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.

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

- (1) 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.

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.

Note—

For limitations on appeal rights in relation to a development approval for development requiring social impact assessment, see section 106ZJ.

- (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 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

- (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—
 - (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—