

14 April 2021

Enquiries: Daniel Lamond
Our Ref: MCUC 2021_3973/1 (1007629)
Your Ref: 20205111

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

R Scomazzon & R Scomazzon
C-/ GMA Certification Group Pty Ltd
PO Box 831
PORT DOUGLAS QLD 4877

Dear Sir/Madam

**Development Application for Material Change of Use (Dwelling house)
At Mossman Daintree Road MIALLO
On Land Described as LOT: 255 TYP: SR PLN: 364**

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

Please quote Council's application number: MCUC 2021_3973/1 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
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: R Scomazzon & R Scomazzon
Postal Address: C-/ GMA Certification Group Pty Ltd
PO Box 831
PORT DOUGLAS QLD 4877
Email: adminpd@gmacer.com.au

Property Details

Street Address: Mossman Daintree Road MIALLO
Real Property Description: LOT: 255 TYP: SR PLN: 364
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit- Material Change of Use (Dwelling house)

Decision

Date of Decision: 14 April 2021
Decision Details: Approved (subject to conditions)

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

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

Drawing or Document	Reference	Date
Site Plan	Plan prepared by AKTIV Engineering, Sheet 1 of 23, Revision A	9 November 2020
Proposed Plan	Plan prepared by AKTIV Engineering, Sheet 2 of 23, Revision A	9 November 2020

Elevations	Plan prepared by AKTIV Engineering, Sheet 3 of 23, Revision A	9 November 2020
Elevations 2	Plan prepared by AKTIV Engineering, Sheet 4 of 23, Revision A	9 November 2020

Assessment Manager Conditions & Advices

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
 - a. The specifications, facts and circumstances as set out in the application submitted to Council;
 - 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 Commencement of use, except where specified otherwise in these conditions of approval.

Finished Floor Levels

3. The finished floor levels of all habitable rooms must be a minimum of 300mm above the 1% AEP level for flood and storm tide inundation.

On-Site Effluent Disposal

4. The method of on-site effluent disposal must be in accordance with the Queensland Plumbing & Wastewater Code.

Sediment and Erosion Control

5. All earthworks must be carried out in accordance with section CP1.13 and D5 of the FNQROC Development Manual. A sediment and Erosion control plan must be put in place so that no sediment discharges from the site.

External building colours

External building colours must not be white and must be non-reflective. Colours must be reflective of the surrounding natural environment. Prior to the issue of a Development Permit for Building Work, provide the external building colours to Council for endorsement by the Chief Executive Officer.

Further Development Permits

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

- All Building Work

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

Concurrence Agency Response

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

Currency Period for the Approval

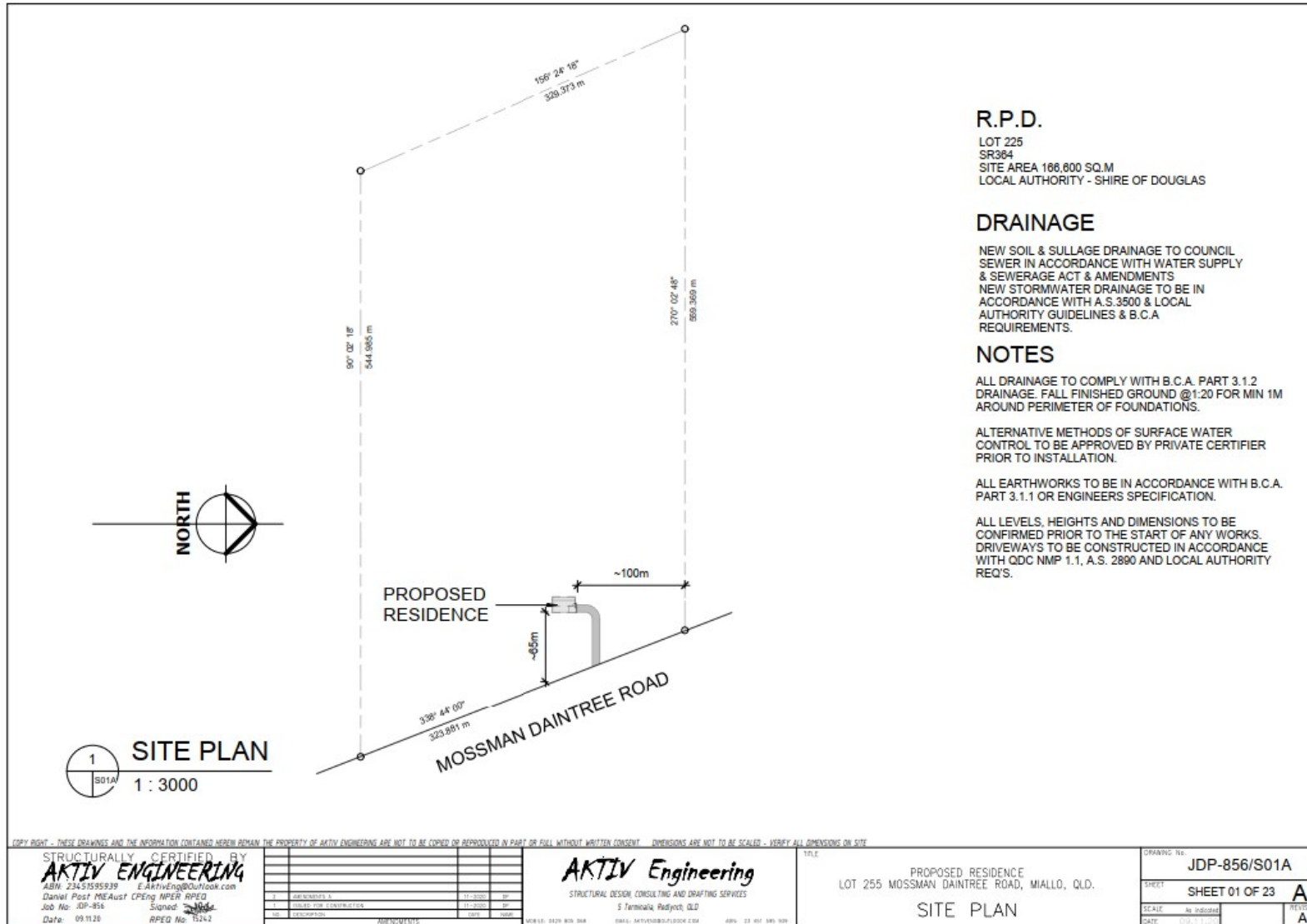
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

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 are attached.

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

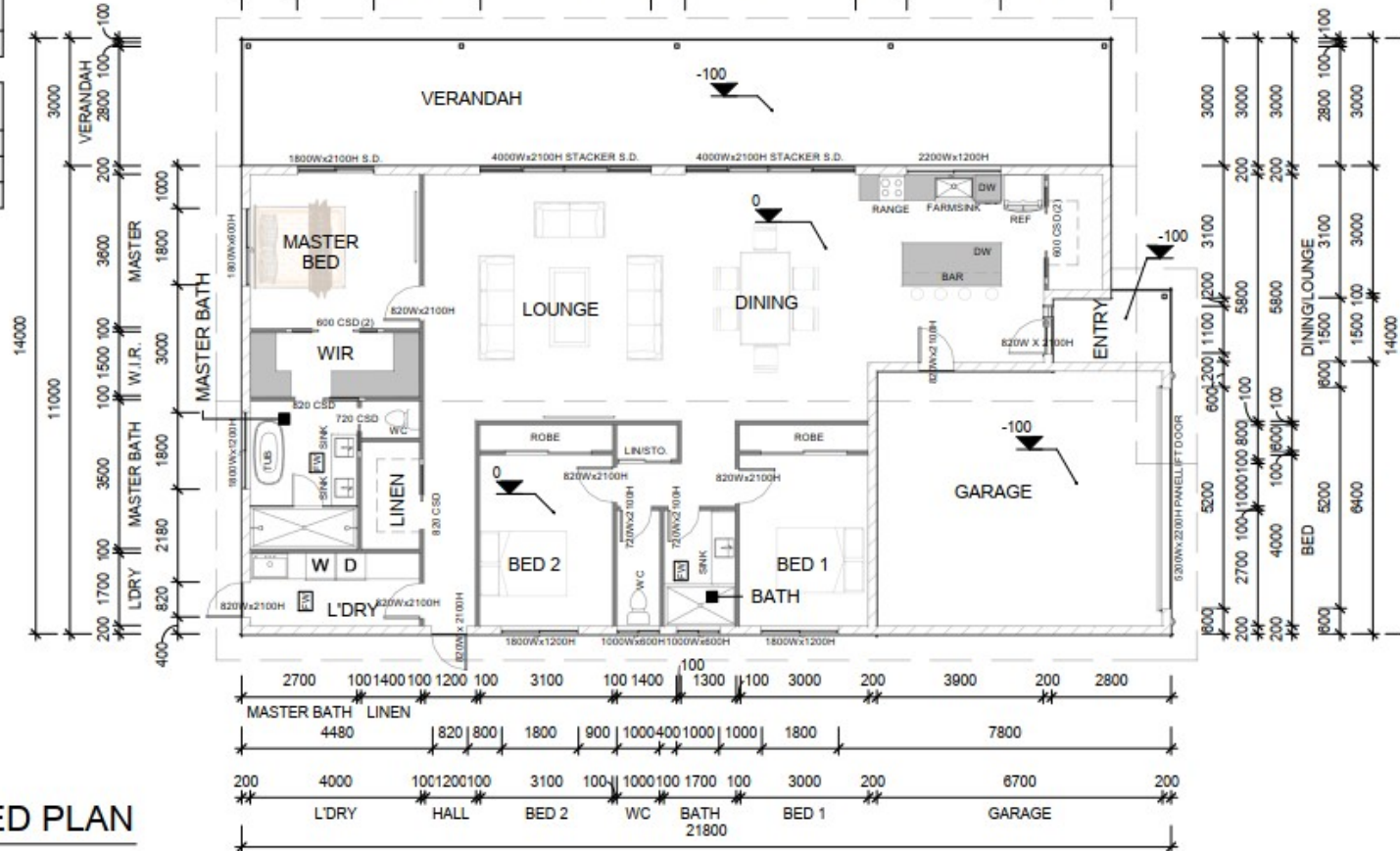


CONSTRUCTION NOTES:

ALL CONSTRUCTION METHODS TO BE IN ACCORDANCE WITH THE N.C.C. & RELEVANT AUSTRALIAN STANDARDS
ALL LEVELS & DIMENSIONS TO BE VERIFIED ON SITE PRIOR TO THE START OF ANY WORKS.
ALL WRITTEN DIMENSIONS TO TAKE PRECEDENCE OVER SCALE
ALL TIMBER FRAMING TO BE IN ACCORDANCE WITH A.S. 1684 REQUIREMENTS

Area Schedule

Name	Area
PROPOSED RESIDENCE	188.9 m ²
VERANDAH	61.8 m ²
GARAGE	43.3 m ²
ENTRY	3.9 m ²
	297.9 m ²



PROPOSED PLAN

1 : 100

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STRUCTURALLY CERTIFIED BY
AKTIV ENGINEERING
ABN: 23451595939 E: AktivEng@Outlook.com
Daniel Post MEng Aust CPEng NPER RPED
Job No: JDP-856 Signed: [Signature]
Date: 09.11.20 RPED No: 15242

AKTIV Engineering
STRUCTURAL DESIGN, CONSULTING AND DRAFTING SERVICES
5 Terminalia, Redlynch, QLD

TITLE

PROPOSED RESIDENCE
LOT 255 MOSSMAN DAINTREE ROAD, MIALLO, QLD.

PROPOSED PLAN

DRAWING No.

JDP-856/S02A

SHEET

SHEET 02 OF 23

A3

SCALE

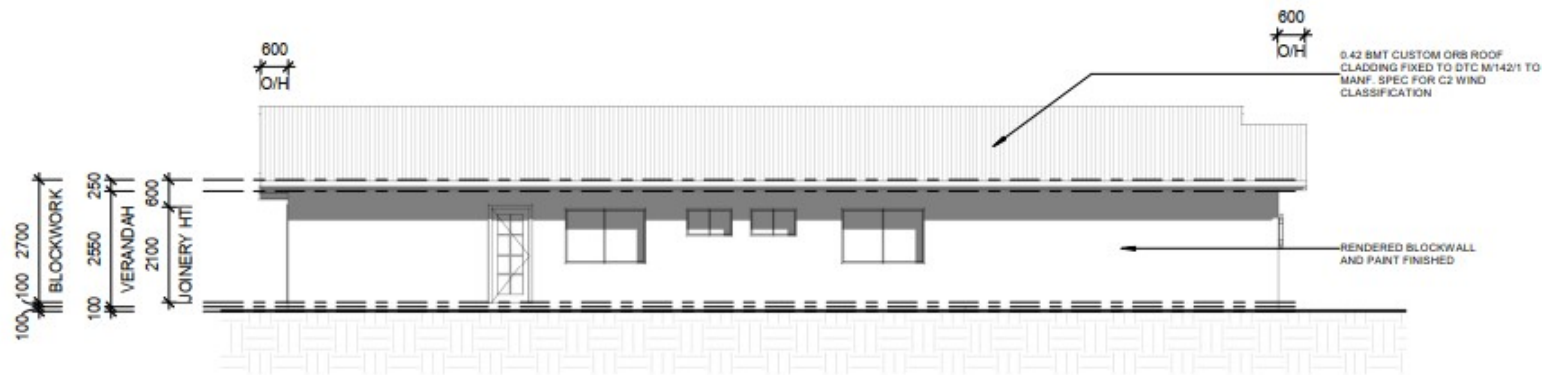
1 : 100

DATE

09.11.20

REVISION

A



1 LEFT ELEVATION
1 : 100



2 FRONT ELEVATION
1 : 100

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AKTIV ENGINEERING
ABN: 23451595939 E: AktivEng@Outlook.com
Daniel Post ME Aust CP Eng NPER RPED
Job No: JDP-856 Signed: [Signature]
Date: 09.11.20 RPED No: 75242

NO.	DESCRIPTION	DATE	BY
1	AMENDMENTS		
2	AMENDMENTS		
3	AMENDMENTS		
4	AMENDMENTS		
5	AMENDMENTS		

AKTIV Engineering
STRUCTURAL DESIGN, CONSULTING AND DRAFTING SERVICES
5 Terminalia, Redlynch, QLD
MOBILE: 0429 808 008 EMAIL: MYVEN@OUTLOOK.COM ABN: 23 451 595 939

TITLE
PROPOSED RESIDENCE
LOT 255 MOSSMAN DAINTREE ROAD, MIALLO, QLD.
ELEVATIONS

DRAWING NO:	JDP-856/S03A
SHEET	SHEET 03 OF 23
SCALE	1 : 100
DATE	09.11.20
REVISION	A



1 REAR ELEVATION
1 : 100



2 RIGHT ELEVATION
1 : 100

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STRUCTURALLY CERTIFIED BY
AKTIV ENGINEERING

ABN: 23451595939 E: aktiveng@ourlook.com
Daniel Post MIE Aust CPEng NPER RPEQ
Job No: JDP-856 Signed: [Signature]
Date: 09.11.20 RPEQ No: 15142

NO.	REVISION	DATE	BY
1	ISSUED FOR CONSTRUCTION	11-03-20	SP
2	AMENDMENTS	11-03-20	SP

AKTIV Engineering

STRUCTURAL DESIGN, CONSULTING AND DRAFTING SERVICES
5 Terminalia, Redlynch, QLD

MOBILE: 0820 808 308 EMAIL: aktiv@ourlook.com.au ABN: 23 451 595 939

TITLE
PROPOSED RESIDENCE
LOT 255 MOSSMAN DAINTREE ROAD, MIALLO, QLD.
ELEVATIONS

DRAWING No:	JDP-856/S04A
SHEET	SHEET 04 OF 23
SCALE	1 : 100
DATE	10.11.20
REVISION	A

A3

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 2 February 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 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

- (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.



SARA reference: 2103-21356 SRA
Council reference: MCUC2021_3973/1
Applicant reference: 20205111

1 April 2021

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

Attention: Daniel Lamond

Dear Sir/Madam

SARA response— Material Change of Use for Dwelling House at Mossman Daintree Road, Miallo

(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 3 March 2021.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	1 April 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	Material Change of Use (Dwelling House)
SARA role:	Referral Agency.	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017)	

Material change of use within 25m of a state-controlled road

SARA reference: 2103-21356 SRA

Assessment Manager: Douglas Shire Council

Street address: Mossman Daintree Road, Miallo

Real property description: Lot 255 on SR364

Applicant name: Rebecca & Royce Scmazzon

Applicant contact details: C/- GMA Certification
PO Box 831
Port Douglas QLD 4877
patrick.C@gmacert.com.au

State-controlled road access permit: This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved
- Reference: TMR21-032346 (500-11995)
- Date: 26 March 2021

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at ron.p.kaden@tmr.qld.gov.au or on (07) 4045 7151.

Representations

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

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

For further information please contact Anthony Westbury, Planning Officer, on 40373215 or via email CairnsSARA@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Anthony Walsh
Manager Planning

cc Rebecca & Royce Scmazzon C/- GMA Certification, patrick.C@gmacert.com.au

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations provisions
Attachment 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
Material change of use		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 – Material change of use of premises near a State transport corridor—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	<p>(a) The road access location is to be located generally in accordance with TMR Layout Plan (655 – 5.20km), prepared by Queensland Government Transport and Main Roads, dated 26/03/2021, Reference TMR21-32346 (500-1195), Issue A.</p> <p>(b) Road access works comprising of a sealed rural property access must be provided at the road access location.</p> <p>(c) The road access works must be designed and constructed in accordance with TMR Standard Drawing No. 1807, Type B – Rural Property Access, dated 07/2020.</p>	<p>(a): At all times.</p> <p>(b) and (c): Prior to the commencement of use.</p>

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v2.6. If a word remains undefined it has its ordinary meaning.
2.	<p>Road works approval</p> <p>Under section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads to carry out road works.</p> <p>Please contact the Department of Transport and Main Roads on 4045 7144 to make an application for road works approval.</p> <p>This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).</p> <p>Please contact the Department of Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p>

Attachment 3—Reasons for referral agency response

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

The reasons for the SARA decision are:

- The site has road frontage to Mossman-Daintree Road, a state-controlled road.
- The proposed dwelling house is located approximately 65m from the property boundary and 76m from the Mossman-Daintree Road carriageway.
- The development will not be significantly impacted by the noise of vehicles using the state-controlled road.
- The proposed dwelling house is considered a low scale development and increased traffic generation and vehicle movements will not impact on the function of Mossman-Daintree Road.
- Road works to construct a sealed property access will ensure that operating conditions and safety on the state-controlled road network is maintained.
- Increased stormwater flows from the proposed development will be minimal, and can be discharged and adequately managed on-site, and are unlikely to impact the state-controlled road.
- The proposed development complies with the relevant provisions of State code 1: Development in a state-controlled road environment.

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version 2.6)
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system

Attachment 4—Change representation provisions

(page left intentionally blank – attached separately)

Attachment 5—Approved plans and specifications

(page left intentionally blank – attached separately)

Development Assessment Rules—Representations about a referral agency response

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

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

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

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

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

Part 7: Miscellaneous

30 Representations about a referral agency response

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

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



255SR364

Road Access Location

Approx 90m from the north boundary of Lot 255SR364, and approx 210m north of Bells Road (5.20km LHS)

GPS Location

x 145.386729, y -16.421709

Access Restrictions

Design vehicles up to a maximum size Two Axle Single Body Truck
- Class 3 Medium Length Heavy Vehicle**

Note: ** as described in Austroads Vehicle Classification System

PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE



SARA ref: 2103-21356 SRA

Date: 1 April 2021

BELLS RD

Mossman - Daintree Road (655)

0 70
metres
Scale 1:1,400

Branch/Unit :

Corridor Management / Far North District

Projection/Datum : Geocentric Datum of Australia (GDA) 1994

TMR Layout Plan (655 - 5.20km)



Queensland Government
Transport and Main Roads

Plan:
1 / 2

Issue:
A

Date:
26/03/2021

Drawn by:
RPK

File ref:
TMR21-32346 (500-1195)

Parcels Subject Land

Our ref TMR21-032346 (500-11995)
Your ref 20205111
Enquiries Ronald Kaden



Department of
Transport and Main Roads

26 March 2021

Decision Notice – Permitted Road Access Location **(s62(1) Transport Infrastructure Act 1994)**

This is not an authorisation to commence work on a state-controlled road¹

Development application reference number MCUC2021_3973/1, lodged with Douglas Shire Council involves constructing or changing a vehicular access between Lot 255SP364 the land the subject of the application, and Mossman - Daintree Road (a state-controlled road).

In accordance with section 62A(2) of the *Transport Infrastructure Act 1994* (TIA), this development application is also taken to be an application for a decision under section 62(1) of TIA.

Applicant Details

Name and address Rebecca and Royce Scomazzon
C/- GMA Certification
PO Box 831
Port Douglas QLD 4877

Application Details

Address of Property Mossman-Daintree Road, Miallo QLD 4877
Real Property Description 255SP364
Aspect/s of Development Development Permit for Material Change of Use for Dwelling house

Decision (given under section 67 of TIA)

It has been decided to approve the application, subject to the following conditions:

No.	Conditions of Approval	Condition Timing
1	The permitted road access location is approximately 90 metres from the northern boundary of Lot 255SR364 in accordance with: 1. TMR Layout Plan (655 - 5.20km) Issue A 26/03/2021; and 2. Site Plan prepared by AKTIV Engineering dated 09/11/20 reference JDP-856/S01A revision 2	At all times.
2	Direct access is prohibited between Mossman - Daintree Road and 255SR364 at any other location other than the permitted road access location described in Condition 1.	At all times.
3	The use of the permitted road access location is to be restricted to:	At all times.

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

No.	Conditions of Approval	Condition Timing
	a) Design vehicles up to a maximum size Two Axle Truck or Bus - Class 3 Medium Length Heavy Vehicle** Note: ** as described in Austroads Vehicle Classification System	
2	Road Access Works comprising a Type B rural property access must be provided at the Permitted Road Access Location in accordance with; a) Property Access drawing prepared by Queensland Government dated 07/2020 reference 1807 Issue A (with bitumen seal amendments).	Prior to commencement of use Construction of road works must not commence until TMR has issued an 'Authority to Commence Works'.

Reasons for the decision

The reasons for this decision are as follows:

- a) The subject land (Lot 255 on SR364) has road frontage to Mossman - Daintree Road, a state-controlled road.
- b) The department issued a s62 approval on 20 November 2017 for direct access between Lot 255 and Mossman - Daintree Road.
- c) The proposed dwelling house development is seeking a change in the previously approved access location.
- d) In accordance with s33 (5) of the Act, where **road works** that are **road access works** (including driveways) are proposed, approval of the works cannot be given until the Department of Transport and Main Roads has approved the **road access location**.
- e) Therefore, a decision under section 62 of the Act is required as no prior approval for road access location is evidenced.

Please refer to **Attachment A** for the findings on material questions of fact and the evidence or other material on which those findings were based.

Information about the Decision required to be given under section 67(2) of TIA

1. There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
2. In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for information.

Further information about the decision

1. In accordance with section 67(7) of TIA, this decision notice:
 - a) starts to have effect when the development approval has effect; and
 - b) stops having effect if the development approval lapses or is cancelled; and
 - c) replaces any earlier decision made under section 62(1) in relation to the land.
2. In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply

for a review of this decision only within 28 days after notice of the decision was given under the TIA. A copy of the review provisions under TIA and TPCA are attached in **Attachment C** for information.

3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

Further approvals

The Department of Transport and Main Roads also provides the following information in relation to this approval:

1. Road Access Works Approval Required – Written approval is required from the department to carry out road works that are road access works (including driveways) on a state-controlled road in accordance with section 33 of the TIA. This approval must be obtained prior to commencing any works on the state-controlled road. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the department to make an application.

If further information about this approval or any other related query is required, Mr Ronald Kaden, Technical Officer (Development Control) should be contacted by email at ron.p.kaden@tmr.qld.gov.au or on (07) 4045 7151.

Yours sincerely



Peter McNamara
Principal Engineer (Civil)

Attachments: Attachment A – Decision evidence and findings
Attachment B - Section 70 of TIA
Attachment C - Appeal Provisions
Attachment D - Permitted Road Access Location Plan

Attachment A

Decision Evidence and Findings

Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version / Issue
TMR Layout Plan (655 - 5.20km)	Queensland Government Transport and Main Roads	26 March 2021	TMR21-32346 (500-1195)	A
Site Plan	AKTIV Engineering	09 November 2020	JDP-856/S01	A

Attachment B

Section 70 of TIA

Transport Infrastructure Act 1994

Chapter 6 Road transport infrastructure

Part 5 Management of State-controlled roads

70 Offences about road access locations and road access works, relating to decisions under s 62(1)

- (1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.
- (2) A person to whom this section applies must not—
 - (a) obtain access between the land and the State-controlled road other than at a location at which access is permitted under the decision; or
 - (b) obtain access using road access works to which the decision applies, if the works do not comply with the decision and the noncompliance was within the person's control; or
 - (c) obtain any other access between the land and the road contrary to the decision; or
 - (d) use a road access location or road access works contrary to the decision; or
 - (e) contravene a condition stated in the decision; or
 - (f) permit another person to do a thing mentioned in paragraphs (a) to (e); or
 - (g) fail to remove road access works in accordance with the decision.

Maximum penalty—200 penalty units.

- (3) However, subsection (2)(g) does not apply to a person who is bound by the decision because of section 68.

Attachment C
Appeal Provisions

Transport Infrastructure Act 1994
Chapter 16 General provisions

485 Internal review of decisions

- (1) A person whose interests are affected by a decision described in schedule 3 (the *original decision*) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
 - (a) applies to the review; and
 - (b) provides—
 - (i) for the procedure for applying for the review and the way it is to be carried out; and
 - (ii) that the person may apply to QCAT to have the original decision stayed.

485B Appeals against decisions

- (1) This section applies in relation to an original decision if a court (the appeal court) is stated in schedule 3 for the decision.
- (2) If the reviewed decision is not the decision sought by the applicant for the review, the applicant may appeal against the reviewed decision to the appeal court.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
 - (a) applies to the appeal; and
 - (b) provides—
 - (i) for the procedure for the appeal and the way it is to be disposed of; and
 - (ii) that the person may apply to the appeal court to have the original decision stayed.
- (4) Subsection (5) applies if—
 - (a) a person appeals to the Planning and Environment Court against a decision under section 62(1) on a planning application that is taken, under section 62A(2), to also be an application for a decision under section 62(1); and

(b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.

(5) The court may order—

(a) the appeals to be heard together or 1 immediately after the other; or

(b) 1 appeal to be stayed until the other is decided.

(6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.

(7) In this section—

original decision means a decision described in schedule 3.

reviewed decision means the chief executive's decision on a review under section 485.

31 Applying for review

- (1) A person may apply for a review of an original decision only within 28 days after notice of the original decision was given to the person under the transport Act.
- (2) However, if—
 - (a) the notice did not state the reasons for the original decision; and
 - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)the person may apply within 28 days after the person is given the statement of the reasons.
- (3) In addition, the chief executive may extend the period for applying.
- (4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

32 Stay of operation of original decision

- (1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the relevant entity.
- (2) The relevant entity may stay the original decision to secure the effectiveness of the review and any later appeal to or review by the relevant entity.
- (3) In setting the time for hearing the application, the relevant entity must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the relevant entity with it on the chief executive at least 2 business days before the hearing.
- (6) The stay—
 - (a) may be given on conditions the relevant entity considers appropriate; and
 - (b) operates for the period specified by the relevant entity; and
 - (c) may be revoked or amended by the relevant entity.
- (7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period the relevant entity allows the applicant to enable the applicant to appeal against the decision or apply for a review of the decision as provided under the QCAT Act.

(8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.

(9) In this section—

relevant entity means—

(a) if the reviewed decision may be reviewed by QCAT—QCAT; or

(b) if the reviewed decision may be appealed to the appeal court—the appeal court.

35 Time for making appeals

(1) A person may appeal against a reviewed decision only within—

(a) if a decision notice is given to the person—28 days after the notice was given to the person; or

(b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

(2) However, if—

(a) the decision notice did not state the reasons for the decision; and

(b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

the person may apply within 28 days after the person is given a statement of the reasons.

(3) Also, the appeal court may extend the period for appealing.



255SR364

Road Access Location

Approx 90m from the north boundary of Lot 255SR364, and
approx 210m north of Bells Road (5.20km LHS)

GPS Location

x 145.386729, y -16.421709

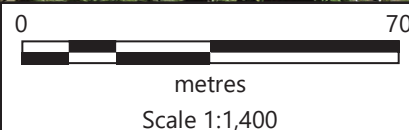
Access Restrictions

Design vehicles up to a maximum size Two Axle Single Body Truck
- Class 3 Medium Length Heavy Vehicle**

Note: ** as described in Austroads Vehicle Classification System

Mossman - Daintree Road (655)

BELLS RD



Branch/Unit :

Corridor Management / Far North District

Projection/Datum : Geocentric Datum of Australia (GDA) 1994

TMR Layout Plan (655 - 5.20km)



Queensland Government
Transport and Main Roads

Plan:
1 / 2

Issue:
A

Date:
26/03/2021

Drawn by:
RPK

File ref:
TMR21-32346 (500-1195)

Parcels Subject Land

R.P.D.

LOT 225
SR364
SITE AREA 166,600 SQ.M
LOCAL AUTHORITY - SHIRE OF DOUGLAS

DRAINAGE

NEW SOIL & SULLAGE DRAINAGE TO COUNCIL
SEWER IN ACCORDANCE WITH WATER SUPPLY
& SEWERAGE ACT & AMENDMENTS
NEW STORMWATER DRAINAGE TO BE IN
ACCORDANCE WITH A.S.3500 & LOCAL
AUTHORITY GUIDELINES & B.C.A
REQUIREMENTS.

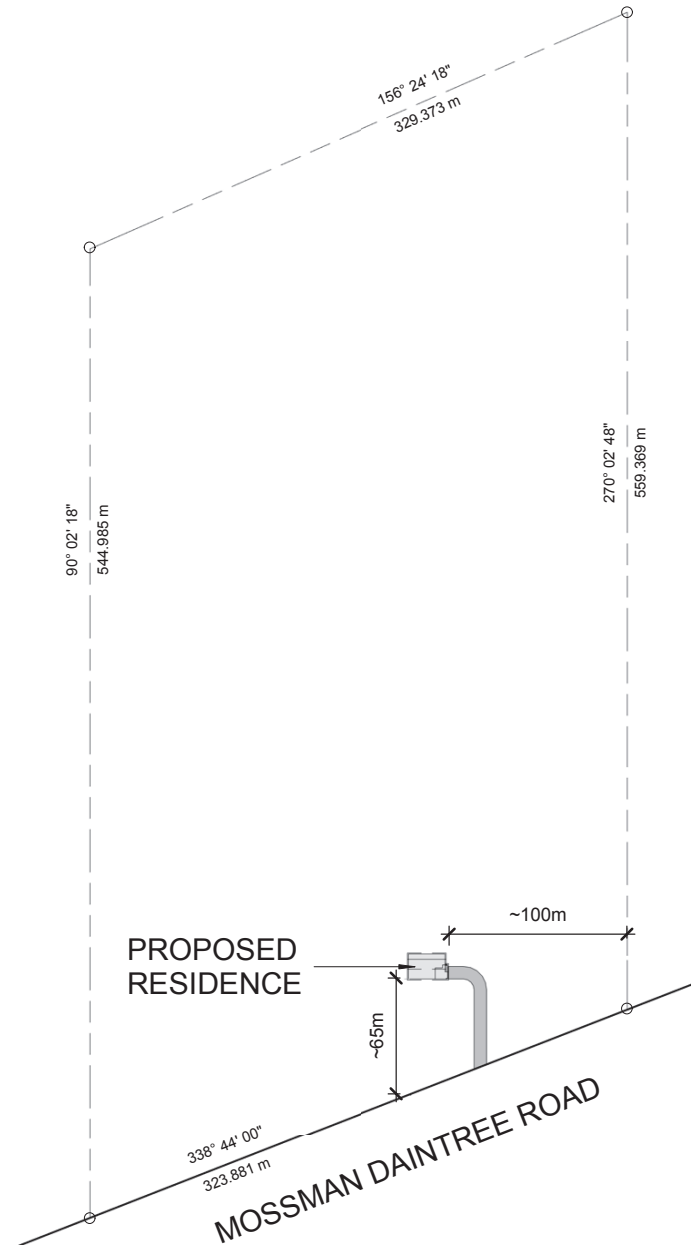
NOTES

ALL DRAINAGE TO COMPLY WITH B.C.A. PART 3.1.2
DRAINAGE. FALL FINISHED GROUND @1:20 FOR MIN 1M
AROUND PERIMETER OF FOUNDATIONS.

ALTERNATIVE METHODS OF SURFACE WATER
CONTROL TO BE APPROVED BY PRIVATE CERTIFIER
PRIOR TO INSTALLATION.

ALL EARTHWORKS TO BE IN ACCORDANCE WITH B.C.A.
PART 3.1.1 OR ENGINEERS SPECIFICATION.

ALL LEVELS, HEIGHTS AND DIMENSIONS TO BE
CONFIRMED PRIOR TO THE START OF ANY WORKS.
DRIVEWAYS TO BE CONSTRUCTED IN ACCORDANCE
WITH QDC NMP 1.1, A.S. 2890 AND LOCAL AUTHORITY
REQ'S.



NORTH

SITE PLAN

1 : 3000

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STRUCTURALLY CERTIFIED BY
AKTIV ENGINEERING

ABN: 23451595939 E: AktivEng@Outlook.com

Daniel Post MIEAust CPEng NPER RPEQ

Job No: JDP-856 Signed: *[Signature]*

Date: 09.11.20 RPEQ No: 15242

NO.	DESCRIPTION	DATE	NAME
2	AMENDMENTS A	11-2020	DP
1	ISSUED FOR CONSTRUCTION	11-2020	DP

AKTIV Engineering

STRUCTURAL DESIGN, CONSULTING AND DRAFTING SERVICES

5 Terminalia, Redlynch, QLD

MOBILE: 0429 805 068

EMAIL: AKTIVENG@OUTLOOK.COM

ABN: 23 451 595 939

TITLE

PROPOSED RESIDENCE
LOT 255 MOSSMAN DAINTREE ROAD, MIALLO, QLD.

SITE PLAN

DRAWING No. JDP-856/S01A

SHEET SHEET 01 OF 23 **A3**

SCALE As indicated
DATE 09.11.20 REVISION A