

30 May 2023

**Enquiries:** Jenny Elphinstone  
**Our Ref:** ROL 2023\_5340/1 (Doc ID 1158734)  
**Your Ref:** 22019

Paul Bass  
C/ Johnathan Burns (Scope Town Planning)  
38 Kowa Street  
MAREEBA QLD 4880

Email: [jburns@scopetownplanning.com.au](mailto:jburns@scopetownplanning.com.au)

Dear Sir

**Development Application for Reconfiguring a Lot (One lot into two lots)  
At 348 Port Douglas Road Port Douglas  
On Land Described as Lot 2 on RP734535**

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

Please quote Council's application number: ROL 2023\_5340/1 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**  
**Paul Hoyer**  
**Manager Environment & Planning**

cc. State Assessment and Referral Agency (SARA) E: [CairnsSARA@dilqp.qld.gov.au](mailto:CairnsSARA@dilqp.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)
- Adopted Infrastructure Charges Notice
- Advice For Making Representations and Appeals (Infrastructure Charges)



## Decision Notice

### Approval (with conditions)

*Given under s 63 of the Planning Act 2016*

#### Applicant Details

Name: Paul Bass  
Postal Address: C/ Johnathan Burns (Scope Town Planning)  
38 Kowa St  
Mareeba Qld 4880  
Email: [jburns@scopetownplanning.com.au](mailto:jburns@scopetownplanning.com.au)

#### Property Details

Street Address: 348 Port Douglas Road Port Douglas  
Real Property Description: Lot 2 on RP734535  
Local Government Area: Douglas Shire Council

#### Details of Proposed Development

Development Permit for Reconfiguring a Lot (One lot into two lots).

#### Decision

Date of Decision: 30 May 2023  
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
Lot plan with building envelopes	Scope Town Planning, Job 22019, Drawing (Council document ID 1159939.	May 2023.

Drawing or Document	Reference	Date
<b>FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access</b>		
Access Crossovers	Standard Drawing S1015 Issue E	27 August 2020
Concrete driveway for allotment access	Standard Drawing S1110 Issue F	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.
  - 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.

### **Building Areas**

3. Building areas for future dwellings must be within the approved building envelopes, unless otherwise approved by the Chief Executive Officer.

### **Removal of existing buildings and capping of services**

4. All buildings and on the site and the front fence must be demolished and/or removed from the land prior to the endorsement of the Plan of Survey. Prior to the commencement of demolition work all existing services are to be suitably capped off and stopped at the property boundary.

### **Vegetation removal**

5. Other than removal for the development of infrastructure associated with the reconfiguration herein approved, all significant trees must remain until further development approvals are issued to the land, unless separate approval is achieved.

### **External Works**

6. Undertake the following works external to the land at no cost to Council:
  - a. Remove the existing crossover to the site;
  - b. Construct new vehicle access concrete crossovers, aprons and driveways, one to each lot, in accordance with the FNQROC Regional Development Manual Standard Drawing S1105 Issue E and Standard Drawing S1110 Issue F; and
  - c. Construct new kerb and channel to match the new vehicle crossing to the existing kerb and channel in front of proposed Lot 1.

All works in the road reserve need to be properly separated from pedestrians and vehicles, with any diversions adequately signed and guarded.

The external works outlined above constitute Operational Works. Three (3) copies of a plan of the works at A1 size and one (1) copy at A3 size must be endorsed by the Chief Executive Officer prior to commencement of such works. Such work must be constructed in accordance with the endorsed plan to the satisfaction of the Chief Executive Officer prior to Commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.

Note: the above works are not considered to be creditable or trunk related works in accordance with Section 145 of the *Planning Act 2016*.

### **Water Supply and Sewerage Works**

7. Undertake the following water supply and sewerage works internal to the subject land:
  - a. Provide a single internal sewer connection to each lot in accordance with the FNQROC Development Manual;
  - b. Provide a single water connection to each lot in accordance with the FNQROC Development Manual;

The water supply and sewerage plans must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Work. All identified work must be satisfactorily completed prior to the endorsement of the Plan of Survey.

### **Inspection of Sewers**

8. CCTV inspections of sewers must be undertaken both prior to commencement of works on site and at works completion where works have been undertaken over or to sewers. Defects must be rectified to the satisfaction of the Chief Executive Officer at no cost to Council prior to Commencement of Use or approval and dating of the Building Format Plan, whichever occurs first.

### **Electricity and Telecommunications**

9. Written evidence of negotiations with Ergon Energy and the telecommunication authority must be submitted to Council stating that both an underground electricity supply and telecommunications service will be provided to the development prior to the endorsement of the Plan of Survey.

### **Lawful Point of Discharge**

10. All stormwater from each lot must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development to the requirements and satisfaction of the Chief Executive Officer.

### **Damage to Council Infrastructure**

11. In the event that any part of Council's existing sewer / water or road infrastructure is damaged as a result of construction activities occurring on the site, including but not limited to; mobilisation of heavy construction equipment, stripping and grubbing, the applicant/owner must notify Council immediately of the affected infrastructure and have it repaired or replaced at the developer's/owners/builders cost, prior to the Commencement of Use.

### **Advices**

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.
2. This approval does not negate the requirement for compliance with all relevant Local Laws and statutory requirements.

### Proposed Sewer Connections

3. The additional sewer House Connection Branch (HCB) should be installed using a wang type Y junction. The junction will need to be relined by a relining contractor and evidence provided to council. If existing property service is in poor condition, it will require rectification. Property connections need to be installed in accordance with FNQROC D7.14 and standard drawings S3005. Clearances around HCB's should be maintained in accordance with QDC MP 1.4 and/or FNQROC. HCB's are required to be finished to surface level. Note - evidence of relining of sewer/property connection is required once work is complete.

### Storm Tide Inundation Study and Required Construction Levels

4. The proposed lots remain affected by the Flood and Storm Tide Inundation Overlay and the development of a house on each lot is subject to the Overlay and consideration of appropriate finished floor height can be addressed at a later date through a request for an exemption certificate or alternatively through a development permit.

### Infrastructure Charges Notice

5. A charge levied for the supply of trunk infrastructure is payable to Council towards the provision of trunk infrastructure in accordance with the Infrastructure Charges Notice. The original Infrastructure Charges Notice will be provided under cover of a separate letter.

The amount in the Infrastructure Charges Notice has been calculated according to Council's Infrastructure Charges Resolution.

Please note that this Decision Notice and the Infrastructure Charges Notice are stand-alone documents. The *Planning Act 2016* confers rights to make representations and appeal in relation to a Decision Notice and an Infrastructure Charges Notice separately.

The amount in the Infrastructure Charges Notice is subject to index adjustments and may be different at the time of payment. Please contact the Development Assessment Team at council for review of the charge amount prior to payment.

The time when payment is due is contained in the Adopted Infrastructure Charges Notice.

6. For information relating to the *Planning Act 2016*, log on to [www.dsdmip.qld.gov.au](http://www.dsdmip.qld.gov.au) . To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to [www.douglas.qld.gov.au](http://www.douglas.qld.gov.au) .

### Further Development Permits

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

- All Building Work for demolition of the existing buildings.
- 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 Reference	Agency Date	Doc ID
State Assessment and Referral Agency (SARA)			2304-34300 SRA.	26 May 2023	1159429

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

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

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

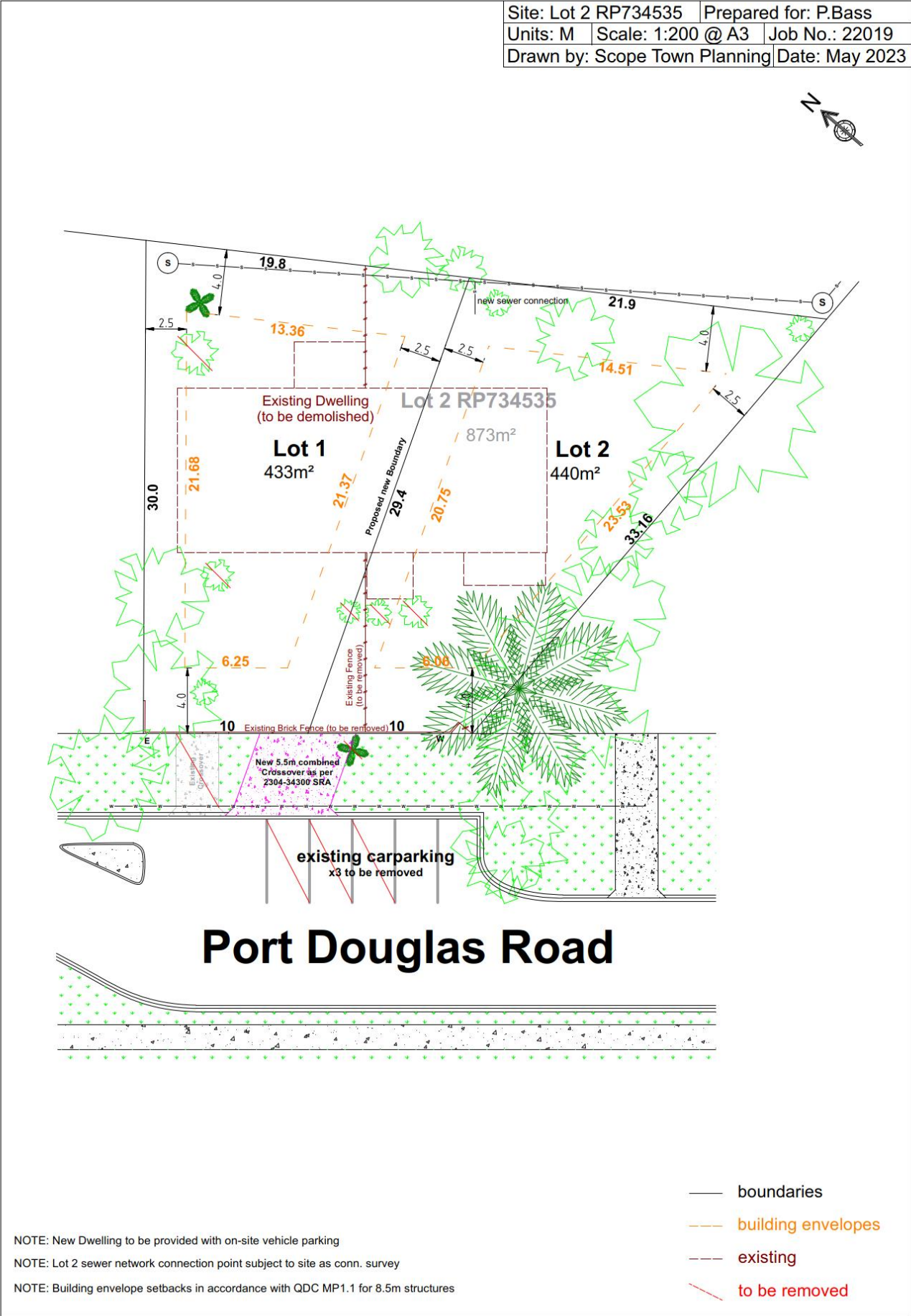
### **Rights to make Representations & Rights of Appeal**

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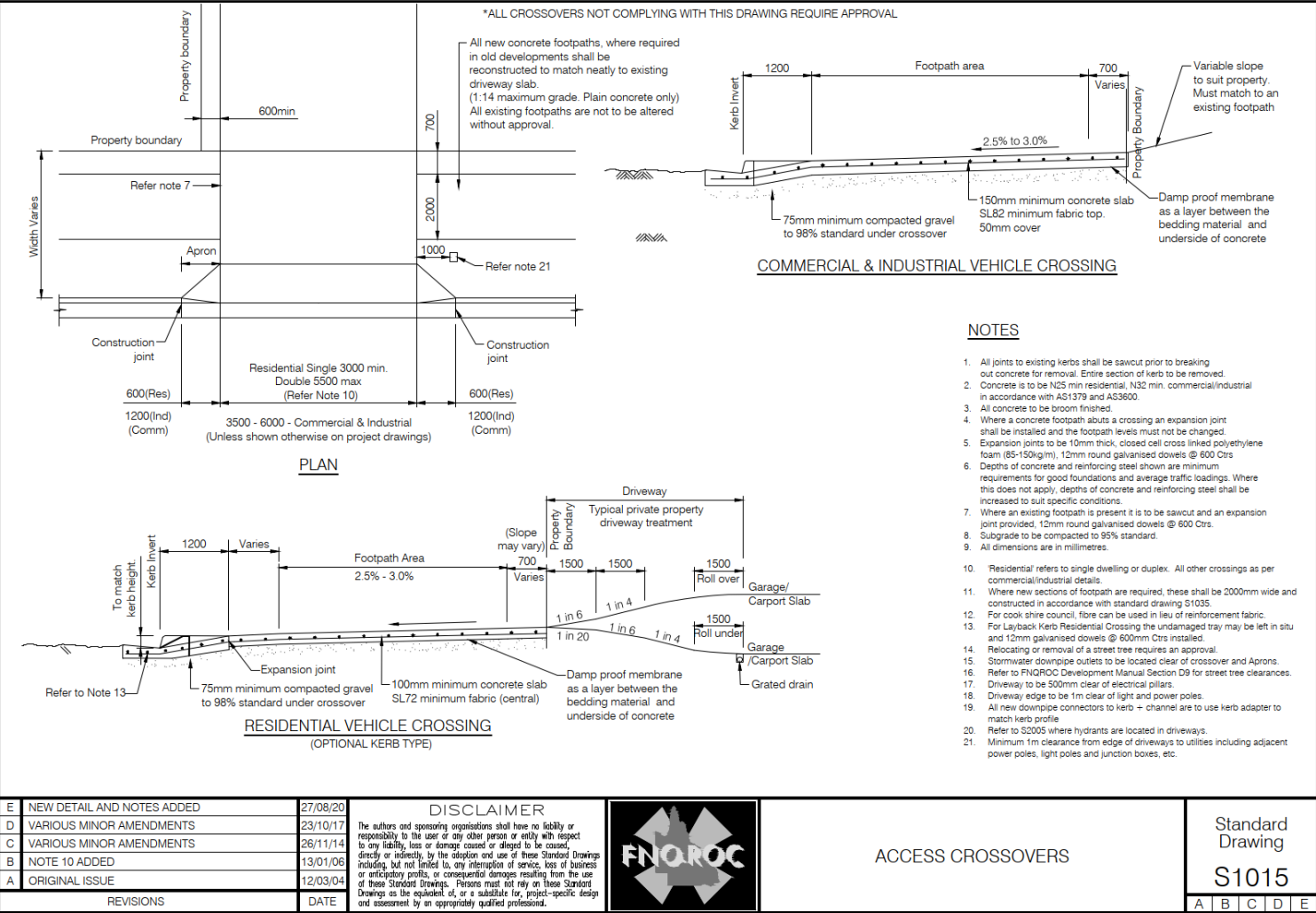
The rights of applicants to make representations and rights to appeal to a Tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

A copy of the relevant appeal provisions is attached.

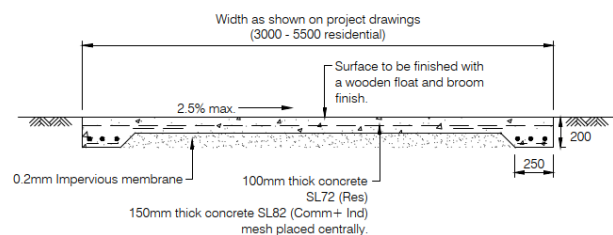
Approved Drawing(s) and/or Document(s)



FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access



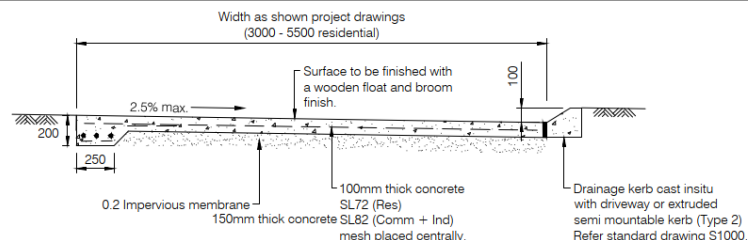




**CONCRETE DRIVEWAY - TYPE 1**

(Without drainage)

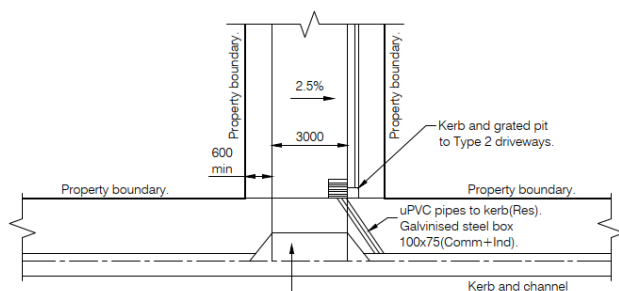
F8 TM 3BAA (Res)  
F11 TM 3BAA (Comm + Ind)



**CONCRETE DRIVEWAY - TYPE 2**

(With drainage)

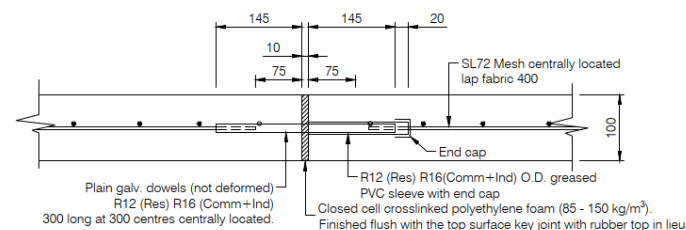
Closed cell cross linked polyethylene foam  
with 12mm galvanised dowels @ 600mm Ctrs



**TYPICAL DRIVEWAY LAYOUT**

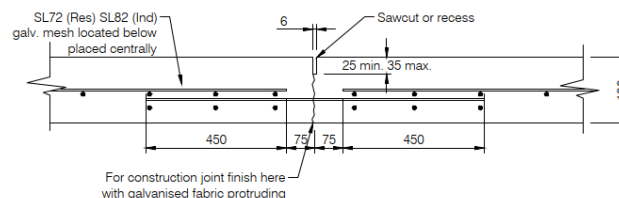
## NOTES

- For driveway alignment, longitudinal grade and associated drainage details refer project drawings.
- Concrete is N25 in accordance with AS 1379 and AS 3600.
- Construction joints shall be provided at 4.0m max. Ctrs with expansion joints or approved equivalent @ 16.0m max. Ctrs.
- All dimensions to be in millimetres.
- Residential refers to single dwelling/duplex.
- For commercial or industrial driveways 150mm thick N32 concrete and SL82 mesh.
- Access to Gross Pollutant Traps (GPT) to be min 3.5m wide to commercial/ industrial driveway standard.
- All grates within driveway/roadway are to be Class D for vehicle traffic.



**EXPANSION JOINT**

Spacing 16000 max.



**CONTRACTION JOINT**

Spacing 4000 max.

E	VARIOUS AMENDMENTS	23/10/17
D	MINOR AMENDMENTS	26/11/14
C	TYPES 1 AND 2 REVISED, NOTE 3 AMENDED	01/02/06
F	NOTE ADDED	27/08/20
REVISIONS		DATE

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



CONCRETE DRIVEWAY  
FOR ALLOTMENT ACCESS

Standard  
Drawing

**S1110**

F C D E

# Concurrence Agency Conditions

RA9-N



Department of  
**State Development,  
Manufacturing,  
Infrastructure and Planning**

SARA reference: 2304-34300 SRA  
Council reference: 22019  
Applicant reference: ROL 2023\_5340

26 May 2023

Paul Bass  
C/- Scope Town Planning  
38 Kowa Street  
Mareeba QLD 4880  
[scopetownplanning@gmail.com](mailto:scopetownplanning@gmail.com)

Attention: Johnathan Burns

Dear Sir/Madam

## SARA response—Reconfiguring a lot (1 into 2 lots)

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

The development application described below was confirmed as properly referred by the Department of State Development, Manufacturing, Infrastructure and Planning on 26 April 2023.

## Response

Outcome:	Referral agency response - with conditions
Date of response:	26 May 2023
Conditions:	The conditions in <b>Attachment 1</b> must be attached to any development approval
Advice:	Advice to the applicant is in <b>Attachment 2</b>
Reasons:	The reasons for the referral agency response are in <b>Attachment 3</b> .

## Development details

Description:	Development permit      Reconfiguring a lot (1 into 2 lots)
SARA role:	Referral Agency
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 3, Table 1 (Planning Regulation 2017) – State transport corridors and future State transport corridors
SARA reference:	2304-34300 SRA
Assessment Manager:	Douglas Shire Council

Street address: 348 Port Douglas Road, Port Douglas  
 Real property description: Lot 2 on RP734535  
 Applicant name: Paul Bass  
 C/- Scope Town Planning  
 Applicant contact details: 38 Kowa Street  
 Mareeba QLD 4880  
[scopetownplanning@gmail.com](mailto:scopetownplanning@gmail.com)

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: TMR23-039151 (500-186)
- Date: 23 May 2023

If you are seeking further information on the road access permit, please contact Ronald Kaden, Technical Officer (Development Control), Department of Transport and Main Roads by email at [caid\\_cm@tmr.qld.gov.au](mailto:caid_cm@tmr.qld.gov.au) or on (07) 4045 7151.

*Human Rights Act 2019* considerations:

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

## Representations

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

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

For further information please contact Isley Peacey, Senior Planning Officer, on 07 4037 3202 or via email [CairnsSARA@dsdmip.qld.gov.au](mailto:CairnsSARA@dsdmip.qld.gov.au) who will be pleased to assist.

Yours sincerely



Brett Nancarrow  
 Manager (Planning)

cc Douglas Shire Council, [enquiries@douglas.qld.gov.au](mailto:enquiries@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 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
<b>Development Permit - Reconfiguring a Lot (1 Lot into 2 Lots)</b>		
<b>Vehicular access to a state-controlled road</b>		
10.9.4.2.1.1 – Reconfiguring a lot near a state transport corridor —The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of 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 (6504 – 1.54km), prepared by Queensland Government Transport and Main Roads, dated 23/05/2023, Reference TMR23-39151 (500-186), Issue A.</p> <p>(b) Road access works comprising of a sealed shared residential vehicular crossover must be provided at the road access location.</p> <p>(c) The road access works must be designed and constructed in accordance with Far North Queensland Regional Organisation of Councils (FNQROC) Standard Drawing S1015 - Access Crossovers, dated 27/08/20, Revision E.</p>	<p>(a) At all times.</p> <p>(b) and (c): Prior to submitting the Plan of Survey to the local government for approval.</p>
2.	<p>(a) The existing vehicular property access location between Lot 2 on RP734535 and the Port Douglas service road must be permanently closed and removed.</p> <p>(b) The kerb and channelling between the pavement edge and the property boundary must be reinstated in accordance with Far North Queensland Regional Council Organisation (FNQROC) Concrete Kerb and Channel, Standard Drawing S1000, dated 27/08/20, Revision G at no cost to the Department of Transport and Main Roads'.</p> <p>(c) Any on-street car parking spaces and associated line markings which encroach on the road access location, as outlined in TMR Layout Plan (6504 – 1.54km), prepared by Queensland Government Transport and Main Roads, dated 23/05/2023, Reference TMR23-39151 (500-186), Issue A, must be removed.</p>	<p>(a), (b) and (c): Prior to submitting the Plan of Survey to the local government for approval.</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) (version 3.0). If a word remains undefined it has its ordinary meaning.
Transport noise corridor	
2.	<p>Proposed Lot 1 and proposed Lot 2 are impacted by transport corridor noise. Habitable rooms associated with any future residential dwelling should comply with mandatory Part (MP) 4.4 of the Queensland Development Code (QDC). The QDC commenced on 1 September 2010 and applies to building work for the construction or renovation of a residential building in a designated <i>transport noise corridor</i>. MP4.4 seeks to ensure that the habitable rooms of Class 1, 2, 3 and 4 buildings located in a <i>transport noise corridor</i> are designed and constructed to reduce transport noise. <i>Transport noise corridor</i> means land designated under Chapter 8B of the <i>Building Act 1975</i> as a <i>transport noise corridor</i>. Information about <i>transport noise corridors</i> is available at state and local government offices. Where possible, open space living areas should be located to the rear of the site to minimise noise impacts from the road.</p> <p>A free online search tool can be used to find out whether a property is located in a designated <i>transport noise corridor</i>. This tool is available at the State Planning Policy Interactive Mapping System website: <a href="https://spp.dsdp.esriaustraliaonline.com.au/geoviewer/map/planmaking">https://spp.dsdp.esriaustraliaonline.com.au/geoviewer/map/planmaking</a> and allows searches on a registered lot number and/or property address to determine whether and how the QDC applies to the land. Transport Noise Corridors are located under Information Purposes within Transport Infrastructure of the State Planning Policy (SPP) mapping system.</p>
Further development permits required	
Ref.	Road Works Approval
3.	<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's decision are:

- The proposed development can be conditioned so that the development does not impact on the safety, function or efficiency of the state-controlled road;
- The proposed development does not adversely impact the physical condition of the state-controlled road or associated infrastructure;
- There is no future works or upgrades to the state-controlled road within the vicinity of the development site;
- Drainage and stormwater associated with the development is considered to be minimal and is unlikely to have a negative impact on the state-controlled road;
- Noise impacts from the state-controlled road are minimal and can be addressed through compliance with building code requirements; and
- The proposed development complies with SDAP version 3.0, State Code 1: Development in a state-controlled road environment with reasonable and relevant conditions.

### 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 3.0)
- 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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Branch/Unit : Corridor Management / Far North District

Projection/Datum : Geocentric Datum of Australia (GDA) 2020

- Land parcels
- Subject land
- State-controlled road boundary
- Proposed new boundary

## TMR Layout Plan (6504 - 1.54km)



Queensland Government  
Transport and Main Roads

Plan: 1 / 1

Issue: A

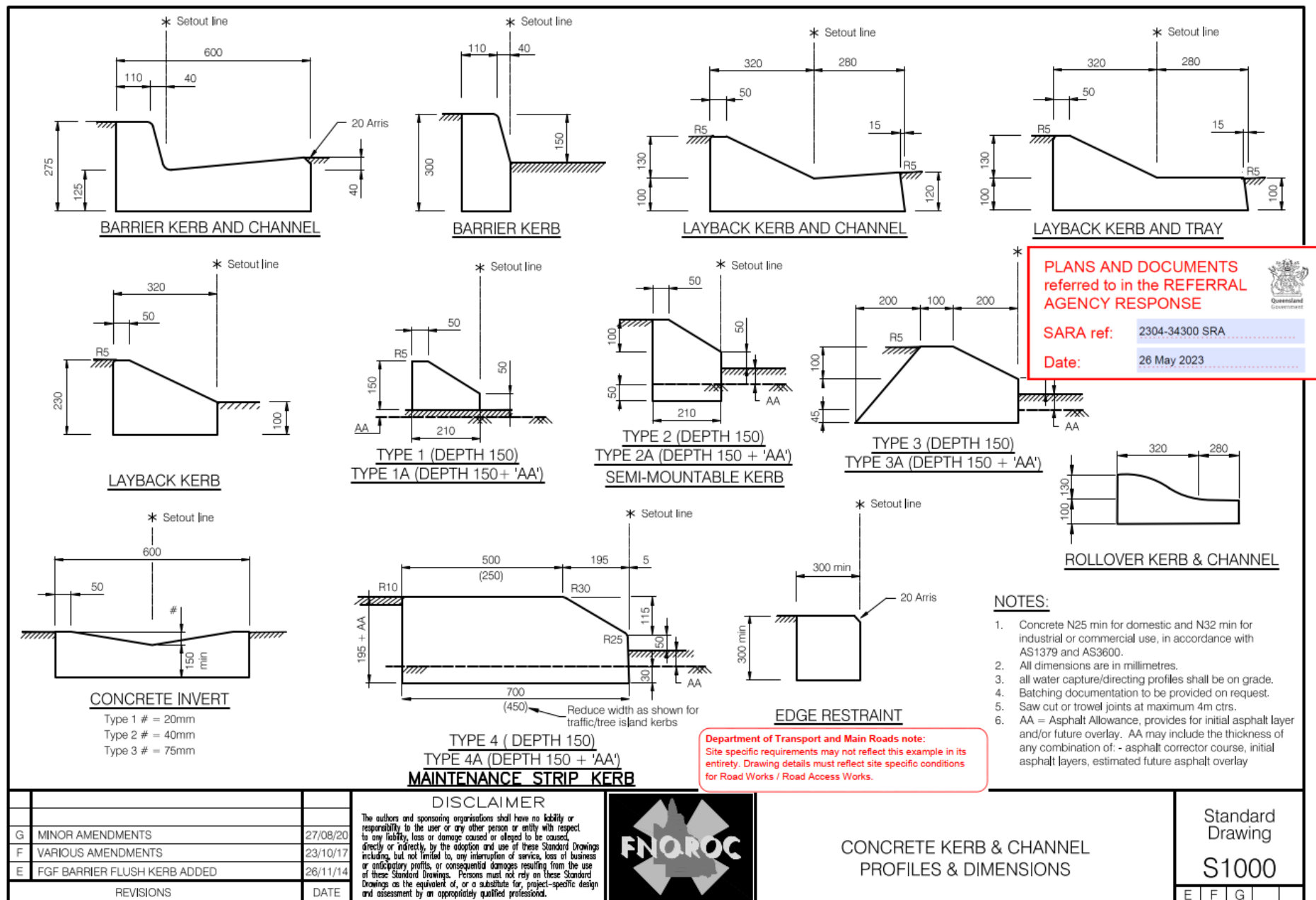
Date: 23/05/2023

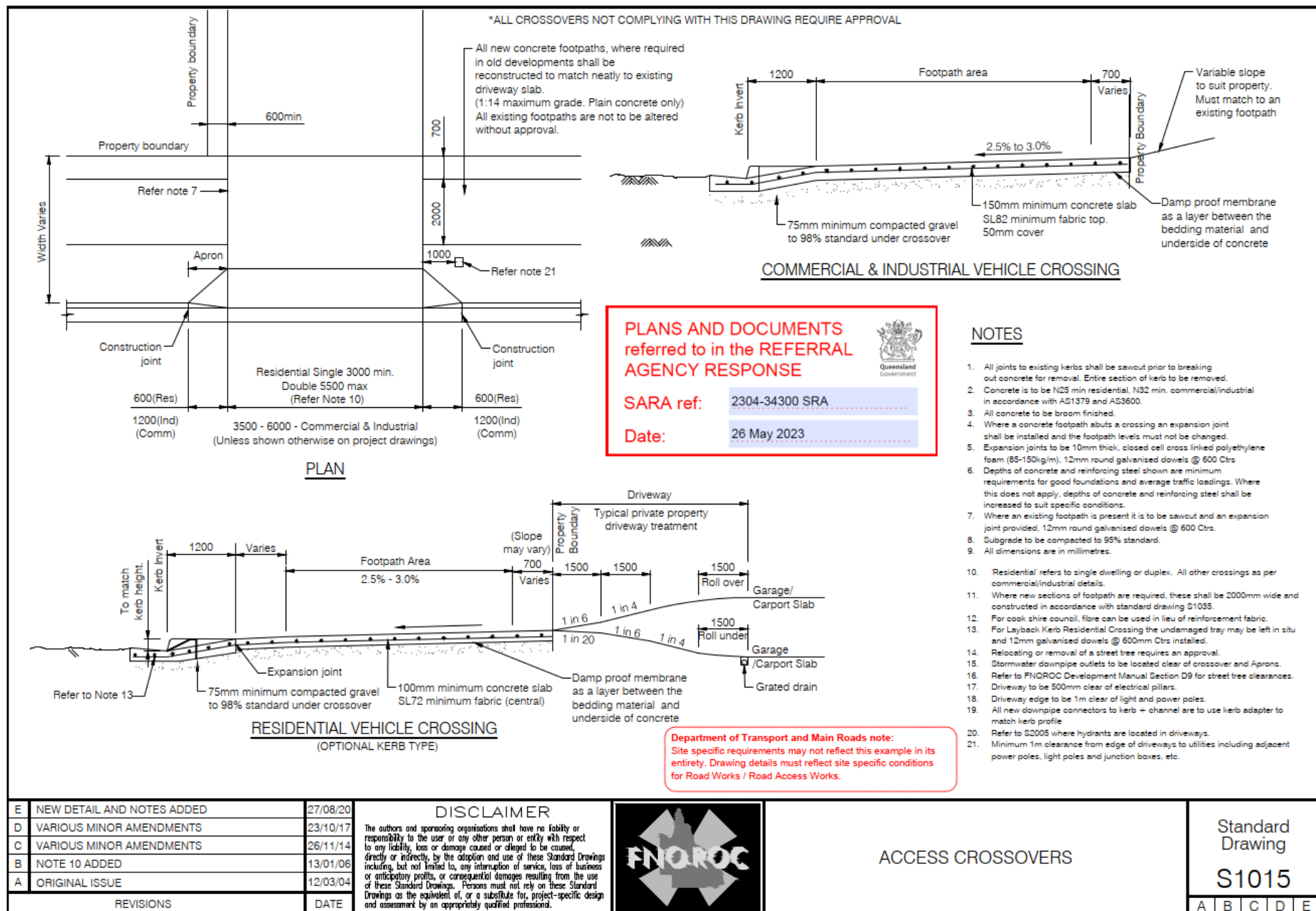
Drawn by: RPK

File ref: TMR23-39151 (500-186)

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Our ref TMR23-039151 (500-186)  
Your ref 22019  
Enquiries Ronald Kaden



23 May 2023

Department of  
Transport and Main Roads

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

**This is not an authorisation to commence work on a state-controlled road<sup>1</sup>**

Development application reference number ROL2023\_5340/1, lodged with Douglas Shire Council involves constructing or changing a vehicular access between Lot 2RP734535, the land the subject of the application, and Port Douglas 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 Paul Bass  
C/- Scope Town Planning  
38 Kowa Street  
Mareeba QLD 4880

### Application Details

Address of Property 348 Port Douglas Road, Port Douglas QLD 4877  
Real Property Description 2RP734535  
Aspect/s of Development Development Permit for Reconfiguration of a Lot for 1 Lot into 2 Lots

### 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 at the common boundary between proposed Lots 1 & 2, located approximately 10 metres from the north eastern boundary of Lot 2RP734535, in accordance with: 1. TMR Layout Plan (6504 - 1.54km) Issue A 23/05/2023	At all times.
2	Direct access is prohibited between Port Douglas Road (service road) and 2RP734535 (proposed Lots 1 & 2) at any other location	At all times.

<sup>1</sup> Please refer to the further approvals required under the heading 'Further approvals'

Program Delivery and Operations  
Far North Region  
Cairns Corporate Tower, 15 Lake Street Cairns QLD 4870  
PO Box 6185 Cairns QLD 4870

**Telephone** +61 7 (07) 4045 7151  
**Website** [www.tmr.qld.gov.au](http://www.tmr.qld.gov.au)  
**Email** [Far.North.Queensland.IDAS@tmr.qld.gov.au](mailto:Far.North.Queensland.IDAS@tmr.qld.gov.au)  
ABN: 39 407 690 291

No.	Conditions of Approval	Condition Timing
	other than the permitted road access location described in Condition 1.	
3	Access to Port Douglas Road is to be via the Port Douglas Rd (service road) and Atoll Close intersection.	
4	<p>The use of the permitted road access location is to be restricted to:</p> <p>a) Design vehicles up to a maximum size short towing trailer - Class 2 Medium Length Light Vehicle**</p> <p>Note: ** as described in Austroads Vehicle Classification System</p>	At all times.
5	<p>Road access works comprising residential vehicle access must be provided at the permitted access location, generally in accordance with:</p> <p>a) FNQROC Standard Drawing S1015 - Access Crossovers</p>	Prior to submitting the Plan of Survey to the local government for approval
	<p>The existing road access works situated near the north western boundary of Lot 2RP734535 must be permanently removed and all barrier kerb and channel reinstated in accordance with:</p> <p>a) FNQROC Standard Drawing S1000 - Concrete Kerb and Channel</p>	Prior to submitting the Plan of Survey to the local government for approval

#### Reasons for the decision

The reasons for this decision are as follows:

- a) Currently the subject site (Lot 2 on RP734535) has road frontage and vehicle access via Port Douglas Road (service road), a state-controlled road.
- b) The proposed development is proposing two access locations, each situated centrally along the boundary frontage of each proposed Lot.
- c) As the proposed development is seeking a new access and increasing generation, a section 62 approval is required to be issued by TMR.

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. This decision has been based on the current land use and the historic nature of the access subject to this decision. Be advised that if the land is further developed and/or intensified, the department will reassess the access requirements in accordance with the department's policies at that time to ensure that the road safety and transport efficiency outcomes for the state-controlled road network are maximised. This may or may not require all future access to be provided via the local road network.

3. 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.
2. General advice:
  - a) A single shared access at the common boundary of proposed Lots 1 & 2 has been conditioned as the road (chicane) configuration and double barrier linemarking would only permit Left-In, Left-Out vehicle movements for proposed Lot 1.
  - b) The single shared access provides All-Movements access for both proposed Lots.

If further information about this approval or any other related query is required, Ronald Kaden, Technical Officer (Development Control) should be contacted by email at [caid\\_cm@tmr.qld.gov.au](mailto:caid_cm@tmr.qld.gov.au) or on (07) 4045 7151.

Yours sincerely



Liliya Yates  
Senior 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:

<b>Title of Evidence / Material</b>	<b>Prepared by</b>	<b>Date</b>	<b>Reference no.</b>	<b>Version / Issue</b>
TMR Layout Plan (6504 - 1.54km)	Queensland Government Transport and Main Roads	23 May 2023	TMR23-39151 (500-186)	A
Access Crossovers	FNQROC	27 August 2020	S1015	E
Kerb and Channel	FNQROC	27 August 2020	S1000	G
Vehicle Access to state- controlled roads policy	Queensland Government Transport and Main Roads	2019	-	-
Site Lot 2RP734535	Scope Town Planning	April 2023	22019	-



**Attachment B**

**Section 70 of TIA**

*Transport Infrastructure Act 1994*

Chapter 6 Road transport infrastructure

Part 5 Management of State-controlled roads

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**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

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**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.



# Attachment D



Branch/Unit : Corridor Management / Far North District

Projection/Datum : Geocentric Datum of Australia (GDA) 2020

- Land parcels
- Subject land
- State-controlled road boundary
- Proposed new boundary

## TMR Layout Plan (6504 - 1.54km)



Queensland Government  
Transport and Main Roads

Plan: 1 / 1

Issue: A

Date: 23/05/2023

Drawn by: RPK

File ref: TMR23-39151 (500-186)

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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 14 April 2023 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 Low-Medium Density Residential Zone Code;
  - b. Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
  - c. the applicant's reasons have been considered and the following findings are made:
    - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

## Non-Compliance with Assessment Benchmarks

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

Benchmark Reference	Alternative Measure/Comment
PO7, PO8, PO9	The existing lot is irregular in shape and supports a dual occupancy development. The proposed lots are generally regular, provide sufficient frontage and depth to Port Douglas Road to enable a dwelling house to be constructed on each lot.



Planning Act 2016  
Chapter 3 Development assessment

[s 74]

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## **Division 2            Changing development approvals**

### **Subdivision 1        Changes during appeal period**

#### **74        What this subdivision is about**

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

#### **75        Making change representations**

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

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

## **76 Deciding change representations**

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



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

## 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) 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
- (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.

30 May 2023

**Enquiries:** Jenny Elphinstone  
**Our Ref:** ROL 2023\_5340 (Doc ID 1158734)  
**Your Ref:** 22019

Paul Bass  
Johnathan Burns (Scope Town Planning)  
38 Kowa Street  
**MAREEBA QLD 4880**

Email: [jburns@scopetownplanning.com.au](mailto:jburns@scopetownplanning.com.au)

Dear Sir

**Adopted Infrastructure Charge Notice  
For Development Application Reconfiguring a Lot (One lot into two lots)  
At 348 Port Douglas Road Port Douglas  
On Land Described as Lot 2 on RP734535**

Please find attached the Adopted Infrastructure Charges Notice issued in accordance with section 119 of the *Planning Act 2016*.

The amount in the Adopted Infrastructure Charges Notice has been calculated according to Council's Adopted Infrastructure Charges Resolution.

Please also find attached extracts from the Act regarding the following:

- your right to make representations to Council about the Adopted Infrastructure Charges Notice; and
- your Appeal rights with respect to the Adopted Infrastructure Charges Notice.

Please quote Council's application number: ROL 2023\_5340 in all subsequent correspondence relating to this matter.

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

Yours faithfully



**For**

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

encl.

- Adopted Infrastructure Charges Notice
- Rights to Make Representations and Appeals Regarding Infrastructure Charges

## Adopted Infrastructure Charges Notice



2018 Douglas Shire Planning Scheme version 1.0 Applications

### ADOPTED INFRASTRUCTURE CHARGES NOTICE

Paul Bass DEVELOPERS NAME		N/A ESTATE NAME	0 STAGE
348 Port Douglas Road STREET No. & NAME	Port Douglas SUBURB	L2 RP734535 LOT & RP No.s	657 PARCEL No.
ROL (1 into 2) DEVELOPMENT TYPE		ROL 2023_5340 COUNCIL FILE NO.	6 VALIDITY PERIOD (year)
1153887 DSC Reference Doc. No.	1 VERSION No.	<div style="border: 2px solid red; padding: 5px;">                     Payment before commencement of use for MCU; and                      Prior to signing and sealing of survey form for ROL                 </div>	

Infrastructure Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021 (Came into effect on 1 March 2021)

	Charge per Use	\$ Rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
<b>Proposed Demand</b>						
Residential	Per new Lot	\$_per_3_or_more_bedroom_dwelling	25,314.98	2	\$50,629.96	
	<b>Total Demand</b>				<b>\$50,629.96</b>	
<b>Credit</b>						
<u>Existing land use</u>						
Residential	Dual Occupancy	\$_per_1_bedroom_dwelling	13,865.70	1	\$13,865.70	
Residential	Dual occupancy	\$_per_3_or_more_bedroom_dwelling	25,314.98	1	\$25,314.98	
	<b>Total Credit</b>				<b>\$39,180.68</b>	
						Prior arrangement for online payment via invoicing - see below.
						Code 895 GL GL7500.135.825

Required Payment or Credit **TOTAL** **\$11,449.28**

Prepared by	Jenny Elphinstone	28-Apr-23	Amount Paid	
Checked by	Rebeca Taranto	24-May-23	Date Paid	
Date Payable	ROL - Before the Local Government approves the plan of subdivision		Receipt No.	
Amendments		Date	Cashier	

#### Note:

The Infrastructure Charges in this Notice are payable in accordance with Sections 119 and 120 of the *Planning Act 2016* as from Council's resolution from the Ordinary Meeting held on 23 February 2021.

Charge rates under the Policy are subject to indexing.

Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

Charges are payable to: Douglas Shire Council. You can make payment at any of Council's Business Offices or by mail with your cheque or money order to Douglas Shire Council, PO Box 723, Mossman QLD 4873. Cheques must be made payable to Douglas Shire Council and marked 'Not Negotiable.' Acceptance of a cheque is subject to collection of the proceeds. Post dated cheques will not be accepted.

If you seek to pay online, please request an invoice to be issued via [enquiries@douglas.qld.gov.au](mailto:enquiries@douglas.qld.gov.au)

Any enquiries regarding Infrastructure Charges can be directed to the Development & Environment, Douglas Shire Council on 07 4099 9444 or by email on [enquiries@douglas.qld.gov.au](mailto:enquiries@douglas.qld.gov.au)



## **Subdivision 5      Changing charges during relevant appeal period**

### **124      Application of this subdivision**

This subdivision applies to the recipient of an infrastructure charges notice given by a local government.

### **125      Representations about infrastructure charges notice**

- (1) During the appeal period for the infrastructure charges notice, the recipient may make representations to the local government about the infrastructure charges notice.
- (2) The local government must consider the representations.
- (3) If the local government—
  - (a) agrees with a representation; and
  - (b) decides to change the infrastructure charges notice;the local government must, within 10 business days after making the decision, give a new infrastructure charges notice (a *negotiated notice*) to the recipient.
- (4) The local government may give only 1 negotiated notice.
- (5) A negotiated notice—
  - (a) must be in the same form as the infrastructure charges notice; and
  - (b) must state the nature of the changes; and
  - (c) replaces the infrastructure charges notice.
- (6) If the local government does not agree with any of the representations, the local government must, within 10 business days after making the decision, give a decision notice about the decision to the recipient.
- (7) The appeal period for the infrastructure charges notice starts again when the local government gives the decision notice to the recipient.

## **126 Suspending relevant appeal period**

- (1) If the recipient needs more time to make representations, the recipient may give a notice suspending the relevant appeal period to the local government.
- (2) The recipient may give only 1 notice.
- (3) If the representations are not made within 20 business days after the notice is given, the balance of the relevant appeal period restarts.
- (4) If representations are made within the 20 business days and the recipient gives the local government a notice withdrawing the notice of suspension, the balance of the relevant appeal period restarts the day after the local government receives the notice of withdrawal.

## **Division 3 Development approval conditions about trunk infrastructure**

### **Subdivision 1 Conditions for necessary trunk infrastructure**

#### **127 Application and operation of subdivision**

- (1) This subdivision applies if—
  - (a) trunk infrastructure—
    - (i) has not been provided; or
    - (ii) has been provided but is not adequate; and
  - (b) the trunk infrastructure is or will be located on—
    - (i) premises (the *subject premises*) that are the subject of a development application, whether or not the infrastructure is necessary to service the subject premises; or
    - (ii) other premises, but is necessary to service the subject premises.

## 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) 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
- (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.