DOUGLAS SHIRE COUNCIL

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

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

14 October 2026

Enquiries: Rebecca Taranto
Our Ref: ROL 2026_5921/2 (Doc ID:1397712)

Avenol Developments Pty Ltd
C/- Brazier Motti
PO Box 1185
Cairns QLD 4870

Dear Sir/Madam

Development Application for Minor Change to the Development Approval for Reconfiguring a Lot (Access Easements)
At Cassowary Road Cassowary
On Land Described as Lot 41 on N157598, Lot 80 on NR616 and Lot 81 on SR571

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

Please quote Council's application number: ROL 2026_5921/2 in all subsequent correspondence relating to this development application.

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

Yours faithfully



For
Leonard Vogel
Manager Environment & Planning

encl.

- Decision Notice
  - Concurrence Agency Response
  - Reasons for Decision - response to properly made submissions.
- Advice For Making Representations and Appeals (Decision Notice)

Decision Notice

Approval (with conditions)

Given under s 83 of the Planning Act 2016

Applicant Details

Name:	Avenol Developments Pty Ltd
Postal Address:	C/- Brazier Motti PO Box 1185 Cairns QLD 4870
Email:	cairns@braziermotti.com.au

Property Details

Street Address:	Cassowary Road Cassowary
Real Property Description:	Lot 41 on N157598 Lot 80 on NR616 Lot 81 on SR571
Local Government Area:	Douglas Shire Council

Details of Proposed Development

Application for a Minor Change to the Development Approval for Reconfiguring a Lot (Access Easements)

Decision

Date of Decision:	14 October 2026
Decision Details:	Approved

Condition 5 of the approval is amended as follows;
Crossing over Cassowary Creek

5. Prior to endorsement of the Survey Plan, the existing vehicle creek crossing located between Lot 41 and Lot 80 must be inspected by a Registered Professional Engineer of Queensland (RPEQ). A copy of the inspection report must be submitted to Council and must certify that the crossing is structurally sound and fit for its intended purpose.

   Any repairs, upgrading works, or other recommendations

identified in the RPEQ inspection report must be completed to the satisfaction of Council prior to endorsement of the Survey Plan.

Existing Approval

A copy of the existing approval is attached.

Further Development Permits

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

- All Operational Work

Concurrence Agency Response

Concurrence Agency	**Concurrence Agency Reference**	**Date**	**Doc ID**
Ergon Energy Network	EMC 40180839-43039441	10 October 2026	Council Doc id; 1396126

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

Currency Period for the Approval

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

Concurrence Agency Conditions

420 Flinders Street, Townsville QLD 4810
PO Box 1090, Townsville QLD 4810
ergon.com.au

05 October 2026

Chief Executive Officer
Douglas Shire Council
Attention: Rebecca Taranto
Via email: enquiries@douglas.qld.gov.au

cc Avenol Developments Pty Ltd
c/- Brazier Motti Pty Ltd
Attention: Michael Tessaro
Via email: Michael.Tessaro@braziermotti.com.au

Dear Sir/Madam,

Affected Entity (Ergon) Response Notice
Our Ref: ECM 40180839 - 43039441

As an Affected Entity to the below referenced Minor Change application the following response is provided in accordance with Section 80 of the *Planning Act 2016*.

Development Details	
Applicant	Brazier Motti Pty Ltd
Assessment Manager	Douglas Shire Council
Council Application No.	ROL 2026_5921/1
Street Address	Cassowary Road, Cassowary
RPD	41N157598, 80NR616 and 81SR571
Development Type	Minor Change to Reconfiguring a Lot (Access Easement)
Referral Trigger	☒ Schedule 10, Part 9, Division 2, Table 1, Item 1 (10.9.2.1.1) – Reconfiguring a lot subject to an easement for the benefit of a distribution entity under the Electricity Act for a supply network; or part of the lot is within 100m of a substation site

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www.ergon.com.au/referralagency

Impacted Electrical Infrastructure	Easement A RP898041 – 132kV O/H Line (Feeder: 7200 & 7496)

Ergon provides the following response to the application in accordance with Section 80(4)of the *Planning Act 2016*.

Component of Development	Advice Agency direction
MCU/ ROL/ OPW	☒ S80(4)(a)– no objection

Ergon's assessment of the Minor Change request has been made relative to the following submitted material.

Table 1		
Specialist Reports/ Documents forming part of this Approval		
Name	*Document No*	*Date*
Change Application letter	*36650-001-01*	*02.10.2026*

Ergon's original Referral Response, dated 21 May 2026 reference number ECM 40180839 – 40263619, remains relevant to the application.

General Advice:

- Ergon's referral response is limited to the management of impacts on electrical infrastructure within its referral jurisdiction and does not assess or confirm electricity supply, network capacity, or connection requirements; proponents must undertake a separate connection enquiry via Ergon's Customer Portal to initiate investigations and obtain formal advice and approvals relating to network connections.
- Compliance with the Electrical Safety Act 2002, including any Code of Practice under the Act and the Electrical safety Regulation 2013 including any safety exclusion zones defined in the Regulation is mandatory

  Should any doubt exist in maintaining the prescribed clearance to the overhead conductors and electrical infrastructure then the applicant is obliged under the Act to seek advice from Ergon.
- Any costs incurred by Ergon as a result of the works on the easement are to be met by the property Developer / owner.
- This response does not constitute an approval to commence any works within the easement. Consent to commence works relevant to the conditions of the easement is required. All works on easement (including but not limited to earthworks, drainage and detention basins, road construction,

underground and overhead services installation) require detailed submissions, assessment, and consent (or otherwise) by Ergon.

- All works proposed to be undertaken in close proximity to overhead or underground electrical lines are to be undertaken in accordance with Ergon's Works Practice Manual WP1323. This document refers to various standards, guidelines, calculations, legal requirements, technical details, and other information relevant to working near high voltage infrastructure. A copy of WP1323 can be found online via Ergon's document library (Document library | Ergon).

Should you require any further information on the above matter, please contact the undersigned on 0428 943 997 or via email at townplanning@ergon.com.au.

Yours faithfully,



Scott Pearson
Senior Town Planner

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See the 'considerations when developing around electricity infrastructure' section of our website
www.ergon.com.au/referralagency

DOUGLAS SHIRE COUNCIL

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ABN 71 241 237 800

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

19 June 2026

Enquiries: Rebecca Taranto
Our Ref: ROL 2026 5921/1 (Doc ID:1370604)
Your Ref: 36650-001-01

Avenol Developments Pty Ltd
C/- Brazier Motti
PO Box 1185
Cairns QLD 4870

Dear Sir/Madam

Development Application for Reconfiguring a Lot (Access Easements)
At Cassowary Road Cassowary
On Land Described as Lot 41 on N157598, Lot 80 on NR616 and Lot 81 on SR571

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

Please quote Council's application number: ROL 2026_5921/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully

For
Leonard Vogel
Manager Environment & Planning

encl.

- Decision Notice
  - Approved Drawing(s) and/or Document(s)
  - Concurrence Agency Response
  - Reasons for Decision - response to properly made submissions.
- Advice For Making Representations and Appeals (Decision Notice)

DOUGLAS SHIRE COUNCIL

Decision Notice

Approval (with conditions)

Given under s 63 of the Planning Act 2016

Applicant Details

Name:	Avenol Developments Pty Ltd
Postal Address:	C/- Brazier Motti PO Box 1185 Cairns QLD 4870
Email:	cairns@braziermotti.com.au

Property Details

Street Address:	Cassowary Road Cassowary
Real Property Description:	Lot 41 on N157598 Lot 80 on NR616 Lot 81 on SR571
Local Government Area:	Douglas Shire Council

Details of Proposed Development

Development Permit for Reconfiguring a Lot (Access Easements)

Decision

Date of Decision:	19 June 2026
Decision Details:	Approved (subject to conditions)

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

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

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

Drawing or Document	Reference	Date
Proposal Plan	Brazier Motti Drawing No. 36650/001A	20 March 2026
FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access		

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; and

   b. The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

   Except where modified by these conditions of approval.

Timing of Effect

2. The conditions of the Development Permit must be effected prior to endorsement of the Survey Plan except otherwise nominated in these conditions of approval.

Access Easement

3. Create the following access easements:

   a. Easement AA on Lot 81 on SR571 in favour of Lot 80 on NR616, Lot 41 on N157598 and Lot 85 on NR616;

   b. Easement AB on Lot 80 on NR616 in favour of Lot 41 on N157598 and Lot 85 on NR616; and

   c. Easement AC on Lot 41 on N157598 in favour of Lot 85 on NR616.

   All easements must have a minimum width of 20m. A copy of the executed easement document must be submitted to Council at the time of seeking Survey Plan endorsement.

Road Licence RL1779

4. Prior to endorsement of the Survey Plan, Road Licence No. RL 1779 must be extinguished in its entirety. Council must be provided with a copy of the written consent approval from the Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development.

Crossing over Cassowary Creek

5. Prior to the endorsement of Survey Plan, the existing creek crossing between Lots 41 and Lot 80 must be certified by a RPEQ (Registered Practising Engineer Queensland) as being structurally sound and suitable for an Annual Exceedance Probability (AEP) of 10%.

   A copy of the certification must be provided to Council.

   Should the existing crossing require replacement, the Applicant must submit an Operational Works application to Council for a new sealed creek crossing between Lot 41 and Lot 80.

   The application should include:

   a. A catchment study for the catchment upstream of the crossing that considers flows for the 5, 20, 50 and 100 year Annual Recurrence Interval (ARI);

   b. A crossing designed and certified by a RPEQ (Registered Practising Engineer Queensland). The crossing must accommodate for a minimum 10% AEP;

   c. A sediment and erosion control plan for the impacted area;

   d. A plan showing how the disturbed area will be stabilised and rehabilitated upon completion.

   The design of the creek crossing must not inhibit fish passage within the waterway.

The creek crossing must be constructed and certified by an RPEQ as having been appropriately constructed. The above work must be undertaken at no cost to Council.

Such work must be constructed to the satisfaction of the Chief Executive Officer prior to endorsement of the Survey Plan.

External Works

6. Undertake the following works external to the land at no cost to Council:

   a. Provision of an access crossover and apron in accordance with FNQROC Development Manual Standard Drawing S1105;

   Where the vehicle crossing is constructed in accordance with the FNQROC Regional Development Manual the works do not constitute Operational Works. Such work must be constructed to the satisfaction of the Chief Executive Officer prior to commencement of use.

Ergon Referral Conditions

7. All conditions of Ergon Referral Agency Response Reference No. ECM40180839-40263619 must be complied with at all times.

Advice

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

Further Development Permits

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

- All Operational Work

Concurrence Agency Response

Concurrence Agency	Concurrence Agency Reference	Date	Doc ID
Ergon Energy Network	EMC 40180839-40263619	21 May 2026	Council Doc id; 1367569

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

Currency Period for the Approval

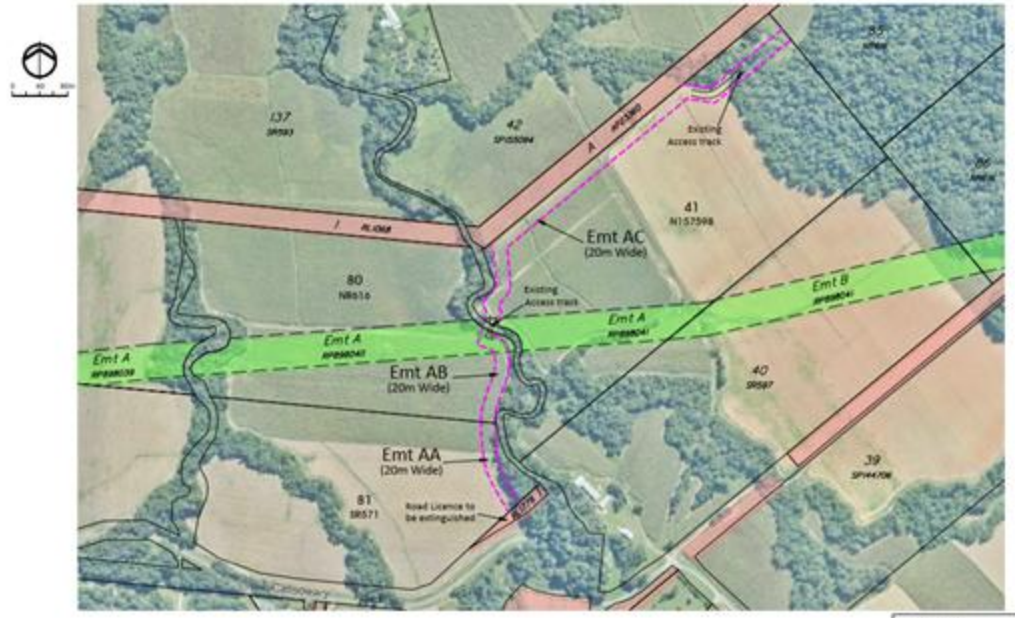
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

Rights to make Representations & Rights of Appeal

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

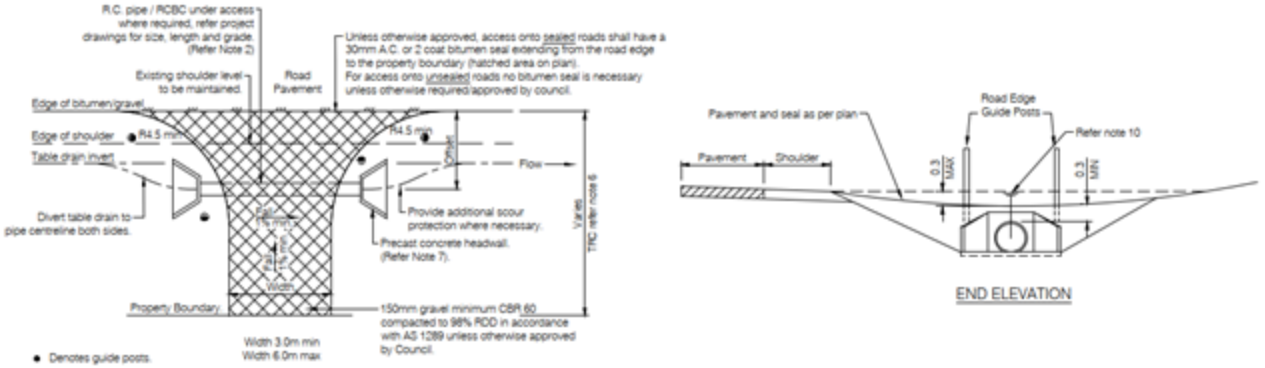
A copy of the relevant appeal provisions is attached.

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



PROPOSED EASEMENTS
AA, AB & AC within Lot 81 on SR571,
Lot 80 on NR616 and Lot 41 on N157598

Plan No: 36650/001 A



NOTES

1. Minimum length of culvert shall be 4.8m for single access, 7.2m for double access.
2. Minimum pipe size shall be Ø375. Minimum RCBC to be 300mm high.
3. Minimum RC pipe / RCBC gradient shall be 1:100.
4. Where cover to RC pipes is less than 250mm pipe shall have 100mm concrete encasement or bridging slab per S1015.
5. Drainage from access must not flow over the through road. All stormwater runoff shall bedirected to the table drain.
6. Maximum 10 metres from edge of bitumen seal or where grade is steeper than 6% the bitumen seal shall extend from the road edge to the property boundary unless otherwise approved.
7. Precast sloping headwalls shall be used when :
   a) the through road has a signposted speed of 80km/hr or greater.
   b) the through road has a signposted speed of 60km/hr and the offset distance from the traffic lane to the culvert is less than 4.5m.
8. Concrete shall be grade N32 minimum in accordance with AS 1379 and AS 3600.
9. All dimensions are in millimetres.
10. Hydraulic capacity of pipe and access to match the capacity of the table drain. This may require the use of multiple pipes.
11. Minimum sight distances at accesses should comply with 'Sight Distance at Property Entrances' Austroads Guide to Road Design Part 4A: Unsignalised and Signalised Intersections.
12. In instances where the detail/s shown on this drawing cannot be achieved due to existing constraints, Council shall be contacted to achieve an acceptable alternative.

G	MINOR AMENDMENT TO NOTES	05/12/23
F	MINOR AMENDMENTS	27/06/22
	REVISIONS	DATE

DISCLAIMER
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.

RURAL ALLOTMENT ACCESSES

Standard Drawing
S1105
F G

Concurrence Agency Conditions

420 Flinders Street, Townsville QLD 4810
PO Box 1090, Townsville QLD 4810
ergon.com.au

21 May 2026

Chief Executive Officer
Douglas Shire Council

Attention: Rebecca Taranto
Via email: enquiries@douglas.qld.gov.au

cc Avenol Developments Pty Ltd
c/- Brazier Motti Pty Ltd

Attention: Michael Tessaro
Via email: cns.planning@braziermotti.com.au

Dear Sir/Madam,

Ergon Advice Agency Response – Reconfiguring a Lot (Access Easement) located at Cassowary Road, Cassowary, formally described as Lot 41 on N157598, Lot 80 on NR616 and Lot 81 on SR571
Council Ref: ROL 2026_5921/1
Applicant Ref: 36650-001-01
Our Ref: ECM 40180839 - 40263619

This Referral Agency response is given under section 56 of the *Planning Act 2016*.

Response	
Outcome	Approved in full - subject to conditions
Referral assessment capacity	Advice
Matters referral assessment made against (S55(2))	The purpose of the *Electricity Act 1994* and *Electricity Safety Act 2002*
Reasons for decision (S56(7)(b))	The works do not conflict with: • the objectives set out within Part 2, Section 3 of the Electricity Act 1994

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- the purpose of the Electricity Safety Act 2002 as set out within Part 1 Division 2 Section 4 & 5.

The works do not adversely impact on the safe, efficient, and economically viable operation of the supply network.

Development Details	
Applicant	Avenol Developments Pty Ltd c/- Brazier Motti Pty Ltd
Assessment Manager	Douglas Shire Council
Council Application No.	ROL 2026_5921/1
Street Address	Cassowary Road, Cassowary
RPD	41N157598, 80NR616 and 81SR571
Development Type	Reconfiguring a Lot (Access Easement)
Referral Trigger	☒ Schedule 10, Part 9, Division 2, Table 1, Item 1 (10.9.2.1.1) – Reconfiguring a lot subject to an easement for the benefit of a distribution entity under the Electricity Act for a supply network;
Impacted Electrical Infrastructure	Easement A RP898041 – 132kV O/H Line (Feeder: 7200 & 7496)

Ergon provides the following response to the application in accordance with Section 56(1) of the *Planning Act 2016*:

Component of Development	Advice Agency direction
ROL	☒ S56(1)(b)(i) – approval subject to stated development conditions

In accordance with Section 56(1) should the Assessment Manager decide to approve the proposed Development Application, as an Advice Agency, Ergon requires that the assessment manager impose the below conditions. These conditions have been imposed in response to the matters prescribed under Section 55 (2) of the *Planning Act 2016*.

Table 1			
Plans forming part of this Approval			
Title	*Plan No.*	*Issue*	*Date*
Proposed Easements AA, AB & AC within Lot 81 on SR571, Lot 80 on NR616 and Lot 41 on N157598	*36650/001*	*A*	*20 March 2026*

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www.ergon.com.au/referralagency

Table 2			
Condition		Timing	Purpose/Reason
1	Carry out the approved development generally in accordance with the approved plans and documents outlined within Table 1 of this approval and the following: • The specifications, facts and circumstances as set out in the development application submitted to Ergon; and • Where a discrepancy or conflict exists between the written conditions of the approval and the approved plans, the requirements of the written conditions prevail	At all times	To ensure the development is carried out generally in accordance with the plans of development submitted within the application
2	Any alterations to the plans and document(s) identified within Table 1 of this response are to be resubmitted to Ergon for comment	At all times	To ensure the development is carried out generally in accordance with the plans of development submitted within the application
3	Access to and along Easement A RP898041 must be available to Ergon personnel and heavy equipment for construction, maintenance and emergency purposes. Where fencing prohibits access to and along Easement A RP898041 gates are to be supplied and installed by the developer/ landowner. To enable travel along the easement at any time the gates must be series locked with an Ergon padlock.	At all times	To ensure the safe and efficient operation of the supply network.

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	Note: *Both a padlock and design drawing of an acceptable gate will be made available by Ergon upon request.*		
4	Vehicles and machinery operating within Easement A RP898041 must maintain safety exclusions zones to the overhead electricity wire in accordance with the Electrical Safety Regulation 2013. *Note:* *Compliance with the Electrical Safety Act 2002, including any Code of Practice under the Act and the Electrical safety Regulation 2013 including any safety exclusion zones defined in the Regulation is mandatory.*	At all times	To ensure the maintenance of statutory clearance in accordance with the Electrical Safety Regulation 2013.
5	All conditions relevant to Easement A RP898041 must be maintained	At all times	To ensure the safe and efficient operation of the supply network.

General Advice:

- Compliance with the Electrical Safety Act 2002, including any Code of Practice under the Act and the Electrical safety Regulation 2013 including any safety exclusion zones defined in the Regulation is mandatory

  Should any doubt exist in maintaining the prescribed clearance to the overhead conductors and electrical infrastructure then the applicant is obliged under the Act to seek advice from Ergon.

- Any costs incurred by Ergon as a result of the works on the easement are to be met by the property Developer / owner.

- This response does not constitute an approval to commence any works within the easement. Consent to commence works relevant to the conditions of the easement is required. All works on easement (including but not limited to earthworks, drainage and detention basins, road construction,

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underground and overhead services installation) require detailed submissions, assessment, and consent (or otherwise) by Ergon.

- All works proposed to be undertaken in close proximity to overhead or underground electrical lines are to be undertaken in accordance with Ergon's Works Practice Manual WP1323. This document refers to various standards, guidelines, calculations, legal requirements, technical details, and other information relevant to working near high voltage infrastructure. A copy of WP1323 can be found online via Ergon's document library (Document library | Ergon).

Should you require any further information on the above matter, please contact Tammara Scott on 0492 137 878 or via email at townplanning@ergon.com.au.

Yours faithfully,

Tammara Scott
Town Planner

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www.ergon.com.au/referralagency

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 13/04/2026 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.

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

Division 2 Changing development approvals

Subdivision 1 Changes during appeal period

74 What this subdivision is about

(1) This subdivision is about changing a development approval before the applicant's appeal period for the approval ends.

(2) This subdivision also applies to an approval of a change application, other than a change application for a minor change to a development approval.

(3) For subsection (2), sections 75 and 76 apply—

(a) as if a reference in section 75 to a development approval were a reference to an approval of a change application; and

(b) as if a reference in the sections to the assessment manager were a reference to the responsible entity; and

(c) as if a reference in section 76 to a development application were a reference to a change application; and

(d) as if the reference in section 76(3)(b) to section 63(2) and (3) were a reference to section 83(4); and

(e) with any other necessary changes.

75 Making change representations

(1) The applicant may make representations (***change representations***) to the assessment manager, during the applicant's appeal period for the development approval, about changing—

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(a) a matter in the development approval, other than—

(i) a matter stated because of a referral agency's response; or

(ii) a development condition imposed under a direction given by the Minister under part 6, division 2; or

(iii) a development condition imposed under a direction given by the chief executive under section 106ZF(2); or

(b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(d).

(2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.

(3) Only 1 notice may be given.

(4) If a notice is given, the appeal period is suspended—

(a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or

(b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—

(i) the applicant withdraws the notice, by giving another notice to the assessment manager; or

(ii) the assessment manager gives the applicant the decision notice for the change representations; or

(iii) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.

(5) If the applicant makes the change representations during the appeal period without giving a notice under subsection (2),

Authorised by the Parliamentary Counsel

the appeal period is suspended from the day the representations are made until—

(a) the applicant withdraws the change representations by notice given to the assessment manager; or

(b) the assessment manager gives the applicant the decision notice for the change representations; or

(c) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.

(6) Despite subsections (4) and (5), if the decision notice mentioned in subsection (4)(b)(ii) or (5)(b) is a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

76 Deciding change representations

(1) The assessment manager must assess the change representations against and having regard to the matters that must be considered when assessing a development application, to the extent those matters are relevant.

Note—

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

(2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—

(a) the applicant; and

(b) if the assessment manager agrees with any of the change representations—

(i) each principal submitter; and

(ii) each referral agency; and

(iii) if the assessment manager is not a local government and the development is in a local

(2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.

(3) In this section—

conduct means an act or omission.

representative means—

(a) of a corporation—an executive officer, employee or agent of the corporation; or

(b) of an individual—an employee or agent of the individual.

state of mind, of a person, includes the person's—

(a) knowledge, intention, opinion, belief or purpose; and

(b) reasons for the intention, opinion, belief or purpose.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

(1) Schedule 1 states—

(a) matters that may be appealed to—

(i) either a tribunal or the P&E Court; or

(ii) only a tribunal; or

(iii) only the P&E Court; and

(b) the person—

(i) who may appeal a matter (the ***appellant***); and

(ii) who is a respondent in an appeal of the matter; and

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(iii) who is a co-respondent in an appeal of the matter; and

(iv) who may elect to be a co-respondent in an appeal of the matter.

Note—

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

(2) An appellant may start an appeal within the appeal period.

(3) The ***appeal period*** is—

(a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or

(b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or

(c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or

(d) for an appeal against a decision of the Minister, under chapter 7, part 4, to amend the registration of premises to include additional land in the affected area for the premises—20 business days after the day a notice is published under section 269A(2)(a); or

(e) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or

(f) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or

(g) for an appeal relating to the *Plumbing and Drainage Act 2018*—

(i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and*

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Drainage Act 2018, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or

(ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or

(iii) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or

(iv) otherwise—20 business days after the day the notice is given; or

(h) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

(4) Each respondent and co-respondent for an appeal may be heard in the appeal.

(5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.

(6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—

(a) the adopted charge itself; or

(b) for a decision about an offset or refund—

(i) the establishment cost of trunk infrastructure identified in a LGIP; or

(ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

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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.

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(5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).

(6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—

(a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or

(b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.

(7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

(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

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(c) the making of a decision or the failure to make a decision; and

(d) a purported decision; and

(e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter—

(a) is final and conclusive; and

(b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and

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

232 Rules of the P&E Court

(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—

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