

17 May 2022

Enquiries: Jenny Elphinstone
Our Ref: ROL 2021_4227/2 (Doc ID 1085242)
Your Ref: Gabriel Nucifora Doc#1019444

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

Douglas Shire Council
PO Box 723
MOSSMAN QLD 4873

Attention Mr Gabriel Nucifora

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

Dear Sir

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

Please find attached the Amended Decision Notice for the above-mentioned development application for a minor change.

Please quote Council's application number: ROL 2021_4227/2 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@dilgp.qld.gov.au
encl.

- Decision Notice
 - Reasons for Decision
 - Existing Approval
- Advice For Appeals (Decision Notice)



Amended Decision Notice

Approval (with conditions)

Given under section Sections 78, 78A, 79, 81, 81A and 83 of the Planning Act 2016

Applicant Details

Name: Douglas Shire Council

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

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

Property Details

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

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

Local Government Area: Douglas Shire Council

Details of Proposed Development

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

Decision

Date of Decision: 17 May 2022

Decision Details: Minor change to the development approval (subject to conditions). This Decision Notice supersedes the decision Notice issued 20 October 2021 whereby:

- Condition 3 is amended as follows:
External Works
 - Construct a rural vehicle access crossover, at the intersection of the access easement with Bonnie Doon Road, in accordance with the FNQROC Regional Development Manual to the satisfaction of the Chief Executive Officer prior to commencing the upgrade of the associated Cooya Beach Reservoir ~~the signing and dating of the survey plan.~~
- All other conditions of the approval remain unchanged.

Existing Approval

A copy of the existing approval is enclosed.

Further Development Permits

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

- All Operational Work

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

Concurrence Agency Response

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

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

Currency Period for the Approval

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

Rights to make Representations & Rights of Appeal

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

A copy of the relevant appeal provisions is attached.

Reasons for decision

1. The reasons for this decision are:
 - a. Sections 78, 78A, 79, 81, 81A and 83 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 application for a minor change was properly lodged to the Douglas Shire Council 12 May 2022 under section 78, 78A, 79 of the *Planning Act 2016* and Part 1 of the Development Assessment Rules;
 - b. The application is for a minor change, being a minor change consistent with Schedule 2 of the *Planning Act 2016*;
 - c. the application contained information from the applicant which Council reviewed together with Council's own assessment against the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
 - a. the development triggered assessable development under the Assessment Table associated with the Special Purpose Zone Code and the Rural Zone Code;
 - b. Council undertook an assessment in accordance with the provisions of sections 81, 81A and 83 of the *Planning Act 2016*; and
 - c. the applicant's reasons have been considered and the following findings are made:
 - i. the change to the condition does not affect the ability for the development to satisfactorily meet the Planning Scheme benchmarks.



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

20 October 2021

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

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

Douglas Shire Council
PO Box 723
MOSSMAN QLD 4873

Attention Mr Gabriel Nucifora

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

Dear Sir

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

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

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

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

Yours faithfully

A handwritten signature in black ink, appearing to read "Paul Hoyer".

For

For
Paul Hoyer
Manager Environment & Planning

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

- Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - Concurrence Agency Response
 - Reasons for Decision
- Advice For Making Representations and Appeals (Decision Notice)



Decision Notice

Approval (with conditions)

Given under section 63 of the Planning Act 2016

Applicant Details

Name: Douglas Shire Council
Postal Address: PO Box 723
Mossman Qld 4873
Attention Mr Gabriel Nucifora
Email: gabriel.nucifora@douglas.qld.gov.au

Property Details

Street Address: Lots 1 and 2 Bonnie Doon Road and 433 and 461 Bonnie Doon Road Bonnie Doon.
Real Property Description: Lot 1 on RP738986, Lot 2 on RP738987 & Lot 2 on SR462
Local Government Area: Douglas Shire Council

Details of Proposed Development

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

Decision

Date of Decision: 20 October 2021
Decision Details: Approved (subject to conditions)

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

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

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

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

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

Assessment Manager Conditions & Advices

Conditions

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
 - a. The specifications, facts and circumstances as set out in the application submitted to Council; and
 - b. The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

Except where modified by these conditions of approval

Timing of Effect

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

External Works

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

Easements

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

Advices

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.
2. All building site managers must take all action necessary to ensure building materials and/or machinery on construction sites are secured immediately following the first potential cyclone warning and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
3. This approval does not negate the requirement for compliance with all relevant Local Laws and statutory requirements.
4. For information relating to the *Planning Act 2016*, log on to www.dsdmip.qld.gov.au . To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au .

Further Development Permits

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

- All Operational Work

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

Concurrence Agency Response

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

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

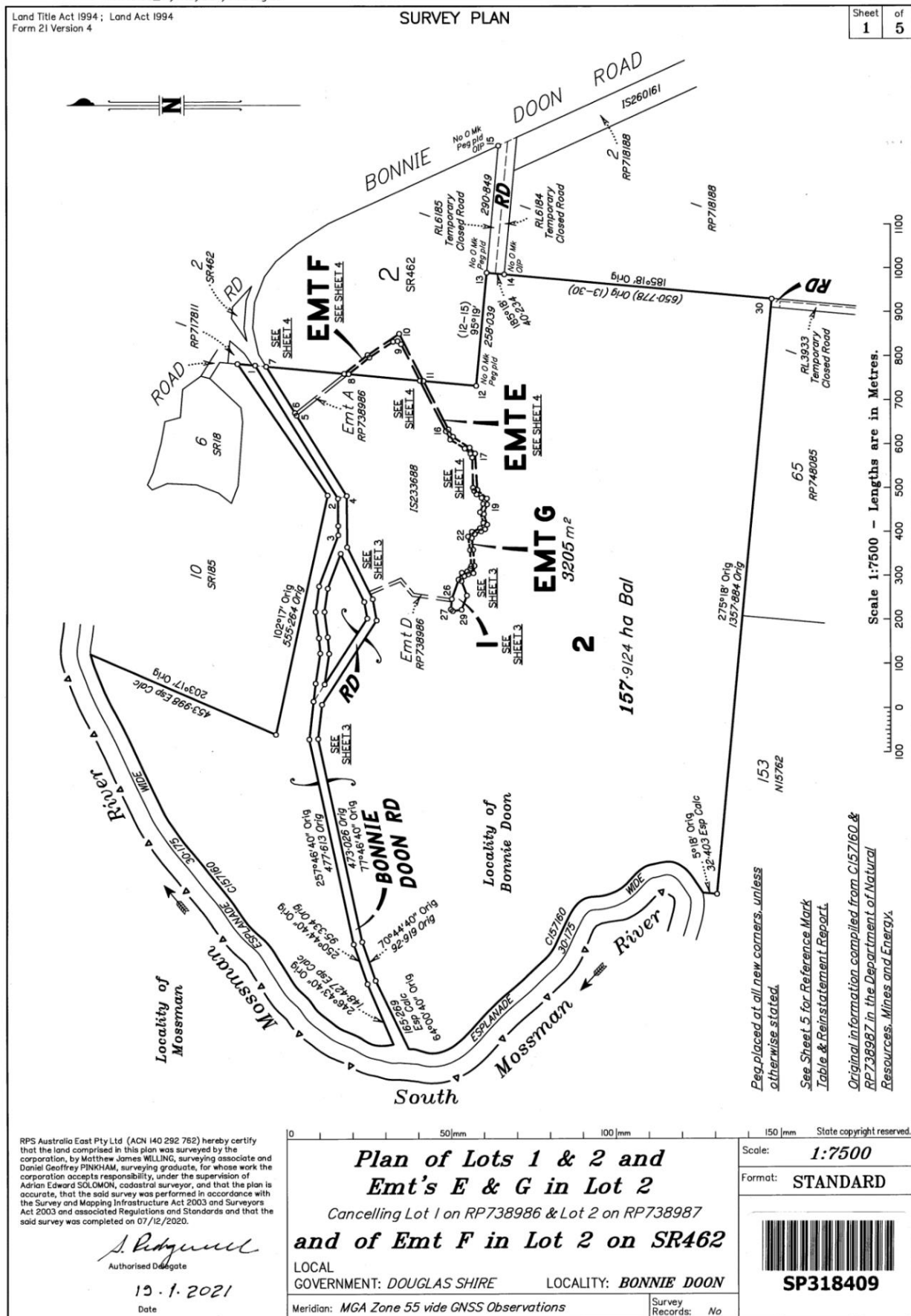
Currency Period for the Approval

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

Rights to make Representations & Rights of Appeal

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

A copy of the relevant appeal provisions is attached.



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

Sheet 2 of 5

(Dealing No.)

5. Lodged by

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

1. Certificate of Registered Owners or Lessees.

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

(Names in full)

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

* as Lessees of this land agree to this plan.

Signature of *Registered Owners *Lessees

* Rule out whichever is inapplicable

2. Planning Body Approval.

*
hereby approves this plan in accordance with the :
%

Dated this day of

..... #

..... #

* Insert the name of the Planning Body.

% Insert applicable approving legislation.

3. Plans with Community Management Statement :

CMS Number :

Name :

4. References :

Dept File :

Local Govt :

Surveyor : PRI46198

6. Existing		Created		
Title Reference	Description	New Lots	Road	Secondary Interests
21306022	Lot 1 on RP738986	I & 2		
21310127	Lot 2 on RP738987	I & 2		Emt's E & G
50727961	Lot 2 on SR462			Emt F

ENCUMBRANCE EASEMENT ALLOCATIONS

Easement	Lots to be Encumbered
601118579 (Emt A on RP738986)	2
601118579 (Emt D on RP738986)	I & 2

EXISTING ADMINISTRATIVE ADVICE ALLOCATIONS

Administrative Advice	Lots to be Encumbered
709620603	2

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

9. Building Format Plans only.

I certify that :

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

Cadastral Surveyor/Director * Date

* delete words not required

10. Lodgement Fees :

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

11. Insert Plan Number

SP318409

7. Orig Grant Allocation :

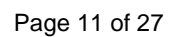
8. Passed & Endorsed :

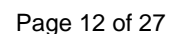
By : RPS Australia East Pty Ltd

Date : 10. 1. 2021

Signed : *S. Ridgway*

Designation : Cadastral Surveyor





Reinstatement Report

Plans Searched: RP738986, RP738987, C157160, DP890709, SR461, SR130, IS233688, IS260161, SR462 & RP718188.

Datum of survey is from stations 1-2 fixed by OIP at station 1 & O Nail at station 2. This fix resulting in distance in agreement with DP890709 (0.005m excess from deed) and meridian difference of +5°19'20".

The boundary from stations 2-3 has been fixed by OIP at station 3 resulting in deed angle at station 2 and distance in agreement with DP890709 (0.005m excess from deed). This fix confirmed by good agreement to O Nail at station 2a.

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

The boundary from stations 4 - 7 has been fixed by OIP at station 7 resulting in road frontage bearing parallel to Stations 2-1 and 0.035m excess from deed. This fix also resulting in original distance from stations 1-7 in agreement with RP738986 & SR462.

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

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

The boundaries from stations 12-13 has been fixed by maintaining bearing from stations 15-13 and holding deed angle at station 12 to station 7. This resulting in overall distance from stations 12-15 0.059m short from RP738986 and SR462. This fix also resulting in 0.687m excess from deed between stations 7 & 12 and angle up 0°01'20" at station 7. A close calculation of Lot 2 on SR462 identifies similar excess along this boundary confirming this reinstatement.

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

All other boundaries are compiled from original plans.

REFERENCE MARKS

STN	TO	ORIGIN	BEARING	DIST	
1	OIP	13x/RP738986	185°18'	1.5	
2	O GI Nail in Bit	12/DP890709	224°04'20"	4.415	
2	OIP Distd	12/DP890709	52°01'30"	10.826	New Ref
2a	O Nail in Conc	15/DP890709	131°57'20"	9.055	
3	OIP	27a/SR461	89°24'40"	1.006	
4	OIP gone	62a/RP738986	343°45'40"	3.0	
4	Pin		346°19'30"	3.952	
5	OIP	25/RP738986	321°37'25"	0.544	New Ref N&C
6	OIP	28/IS233688	358°20'	0.66	New Ref N&C
7	OIP (0.5 deep)	14x/RP738986	5°18'	1.006	
8	Pin		188°17'	1.183	
9	OIP	23/RP738986	102°46'30"	10.255	New Conn
10	O Nail in Hdwl	27/IS233688	333°43'10"	2.47	
10	OIP	27/IS233688	9°00'10"	5.913	
11	Pin		305°36'	0.927	
12	Pin		200°44'	12.73	
13	Pin		138°35'	0.864	
14	OIP	5/IS260161	263°03'	2.115	New Ref N&C
15	OIP	4/SR462	335°29'	1.006	
16	OIP	25/IS233688	220°53'	11.648	New Ref N&C
17	OIP	24/IS233688	38°36'30"	7.478	New Conn
18	OIP	23/IS233688	42°11'	6.019	New Conn
19	Screw in Hdwl		76°57'	3.424	
20	OIP	21/IS233688	80°07'	6.001	New Conn
21	O Nail in Hdwl	20/IS233688	99°45'	1.702	New Conn
22	OIP	18/IS233688	169°21'	4.66	New Conn
23	OIP	16/IS233688	118°56'	2.725	New Conn
24	OIP	31/IS233688	276°48'	10.602	New Conn
25	O Nail in Conc	30/IS233688	276°31'	10.415	New Conn
26	O Screw in Conc	7/IS233688	185°00'40"	6.53	
27	O Nail in Conc	8/IS233688	134°25'	6.784	New Conn
27	OIP	8/IS233688	109°07'	7.838	New Conn
28	OIP	4/RP738986	174°31'	7.4	New Conn
29	Pin		37°57'	4.276	

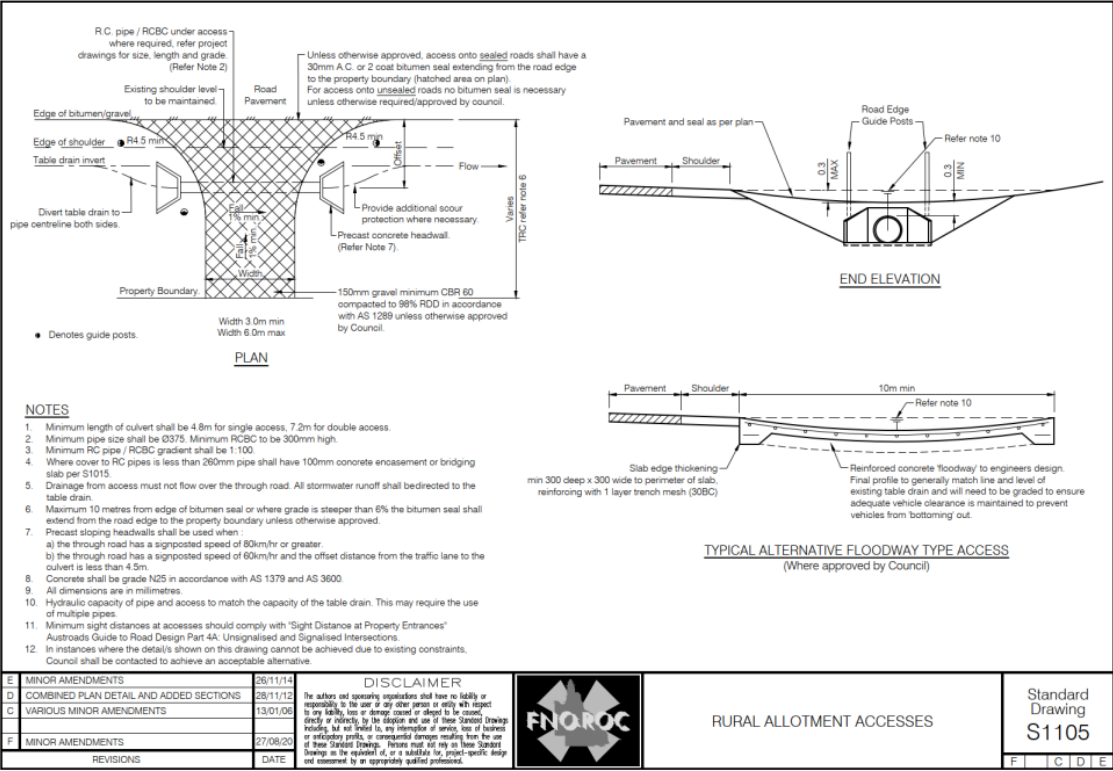
State copyright reserved.

Insert
Plan
Number

SP318409

0 50mm 100mm 150mm

FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access



Concurrence Agency Conditions

RA6-N



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

18 October 2021

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

Attention: Daniel Favier

Dear Sir/Madam

SARA response—461 Bonnie Doon Road, Bonnie Doon

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

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency on 16 September 2021.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	18 October 2021
Conditions:	The conditions in Attachment 1 must be attached to any development approval.
Advice:	Advice to the applicant is in Attachment 2 .
Reasons:	The reasons for the referral agency response are in Attachment 3 .

Development details

Description:	Development permit	Reconfiguring a lot (3 Lots into 3 Lots and Access/Service Easement)
SARA role:	Referral Agency.	
SARA trigger:	Schedule 10, Part 3, Division 4, Table 2, Item 1 (Planning Regulation 2017)	
	Clearing native vegetation	
SARA reference:	2109-24718 SRA	

Page 1 of 7

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

Assessment Manager: Douglas Shire Council
 Street address: 461 Bonnie Doon Road, Bonnie Doon
 Real property description: Lot 1 on RP738986; Lot 2 on RP738987 and Lot 2 on SR462
 Applicant name: Douglas Shire Council
 Applicant contact details: 64-66 Front Street
 MOSSMAN QLD 4873
 daniel.favier@douglas.qld.gov.au

Representations

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

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

For further information please contact Mary McCarthy, Senior Planning Officer, on 47583404 or via email CairnsSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Joanne Manson
 A/Manager (Planning)

cc Douglas Shire Council, daniel.favier@douglas.qld.gov.au

 enc Attachment 1 - Referral agency conditions
 Attachment 2 - Advice to the applicant
 Attachment 3 - Reasons for referral agency response
 Attachment 4 - Representations provisions
 Attachment 5 - Approved plans and specifications

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the plans and specifications referenced below are found at **Attachment 5**)

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

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v2.6. If a word remains undefined it has its ordinary meaning.

Attachment 3—Reasons for referral agency response

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

The reasons for the department's decision are:

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

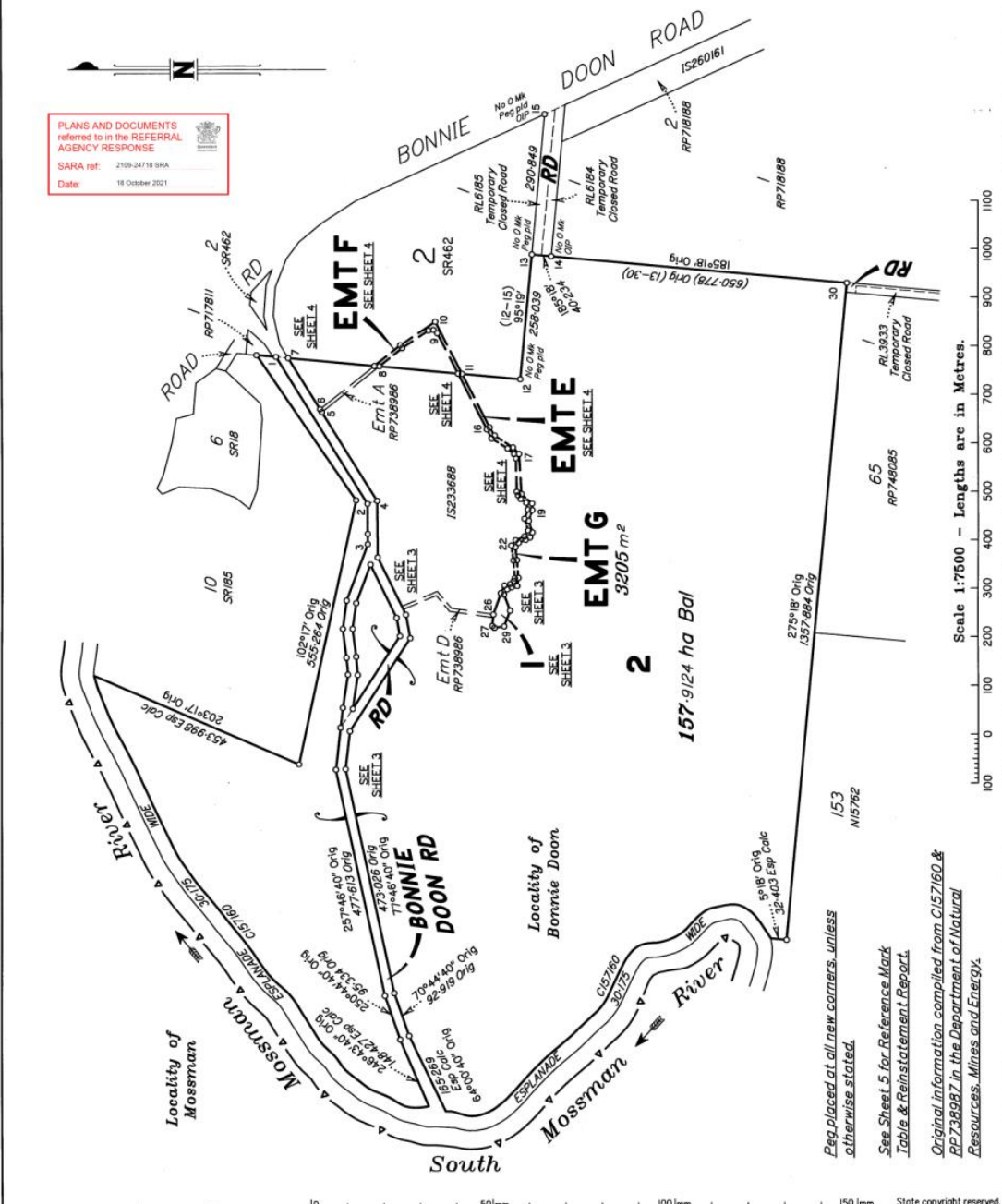
Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version [2.6]), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system

Attachment 5—Approved plans and specifications

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PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE
SARA ref: 2109-24718 SRA
Date: 18 October 2021



RPS Australia East Pty Ltd (ACN 140 292 762) hereby certify that the land comprised in this plan was surveyed by the corporation, by Matthew James WILLING, surveying associate and Daniel Geoffrey PINKHAM, surveying graduate, for whose work the corporation accepts responsibility, under the supervision of Adrian Edward SOLOMON, cadastral surveyor, and that the plan is accurate, that the said survey was performed in accordance with the Survey and Mapping Infrastructure Act 2003 and Surveyors Act 2003 and associated Regulations and Standards and that the said survey was completed on 07/12/2020.

A. Pinkham
Authorised Delegate

12.1.2021

Date

<p>Plan of Lots 1 & 2 and Emt's E & G in Lot 2 and of Emt F in Lot 2 on SR462</p> <p>Cancelling Lot 1 on RP738986 & Lot 2 on RP738987</p> <p>LOCAL GOVERNMENT: DOUGLAS SHIRE LOCALITY: BONNIE DOON</p> <p>Meridian: MGA Zone 55 wide GNSS Observations Survey Records: No</p>		<p>Scale: 1:7500</p> <p>Format: STANDARD</p> <p></p> <p>SP318409</p>
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Reasons for Decision

1. The reasons for this decision are:
 - a. Sections 60, 62 and 63 of the *Planning Act 2016*:
 - b. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and
 - c. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
 - a. the development application was properly lodged to the Douglas Shire Council 30 June 2021 under section 51 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;
 - b. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
 - a. the development triggered assessable development under the Assessment Table associated with the Special Purpose Zone Code and the Rural Zone Code;
 - b. Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
 - c. the applicant's reasons have been considered and the following findings are made:
 - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

Non-Compliance with Assessment Benchmarks

N/A Development complies with the planning scheme and no concerns are raised.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the *appellant*); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or

- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
 - (iii) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

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

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or

- (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
 - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and

- (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
 - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
 - (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.

(4) In this section—

decision includes—

- (a) conduct engaged in for the purpose of making a decision; and
- (b) other conduct that relates to the making of a decision; and
- (c) the making of a decision or the failure to make a decision; and
- (d) a purported decision; and
- (e) a deemed refusal.

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

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

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