

4 October 2022

Enquiries: Daniel Lamond
Our Ref: ROL 2022_4731/1 (1113790)
Your Ref: PR151319

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

NCAA Holdings Pty Ltd (Tte)
C/- RPS Australia East Pty Ltd
PO Box 1949
CAIRNS QLD 4870

Dear Sir/Madam

**Development Application for Reconfiguring a Lot (One lot into six lots)
At 59-61 Alchera Drive MOSSMAN
On Land Described as LOT: 2 RP: 709581**

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

Please quote Council's application number: ROL 2022_4731/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully



Paul Hoyer
Manager Environment & Planning

cc. State Assessment and Referral Agency (SARA) E: CairnsSARA@dsdmip.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: NCAA Holdings Pty Ltd (Tte)
Postal Address: C/- RPS Australia East Pty Ltd
PO Box 1949
CAIRNS QLD 4870

Property Details

Street Address: 59-61 Alchera Drive MOSSMAN
Real Property Description: LOT: 2 RP: 709581
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit - Reconfiguring a Lot (One lot into six lots)

Decision

Date of Decision: 4 October 2022
Decision Details: Approved (subject to conditions)

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

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

Drawing or Document	Reference	Date
Proposal plan	Drawing: PR151319-1 E	25 July 2022

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 the approval and dating of the Plan of Survey, except where specified otherwise in these conditions of approval.

Water Supply and Sewerage Works

3. Undertake the following water supply and sewerage works internal to the subject land:
 - a. Provide a single internal sewer connection (house connection branch) to each lot in accordance with the FNQROC Development Manual;
 - b. Lots 2, 3, 5, and 6 must be connected to the nearest manhole;
 - c. Lots 1 and 4 may be connected via a new house connection branch off the trunk main;
 - d. Provide a single water connection to each lot in accordance with the FNQROC Development Manual;
 - e. The sewer design plans are required to demonstrate that the sewer alignments achieve the separation and setback distances from buildings, structures and boundaries in accordance with FNQROC Development Manual and Water and Sewerage Authority (WASA) guidelines.

All works must be carried out in accordance with a Development Permit for Operational Works and works must be to the satisfaction of the Chief Executive Officer prior to the sealing the Plan of Survey.

Stormwater Discharge

4. All stormwater drainage works must be designed and constructed in accordance with the FNQROC Development Manual.

All stormwater must be directed to a lawful point of discharge and must not be directed concentrated flows to surrounding properties or create ponding nuisance to the satisfaction of the Chief Executive Officer.

All drainage work must be satisfactorily completed prior to the endorsement of the Plan of Survey and the filling of the sites will constitute part of an Operational Works Development application.

Sewer Easement

5. Provide a sewer easement in gross for the section of trunk sewer main traversing lot 2.

Easements

6. 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 sealing of the Plan of Survey and must be lodged and registered with the Department of Resources in conjunction with the Plan of Survey.

Electricity and Telecommunications

7. 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.

Vehicle Access

8. Provide a vehicle access leg in accordance with the following specifications;
- Pavement treatment must be of concrete or bitumen for the full length of the common property;
 - Pavement treatment must be for a width of no less than 5500mm for the common property.

Plans demonstrating compliance with the above requirements must be submitted with the Operational Works Development Application for approval. All access works must be completed prior to the endorsement of the Plan of Survey.

Further Development Permits

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

- 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			TMR22-035914 (500-1690)	(500-	26 April 2022	1084261

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

Currency Period for the Approval

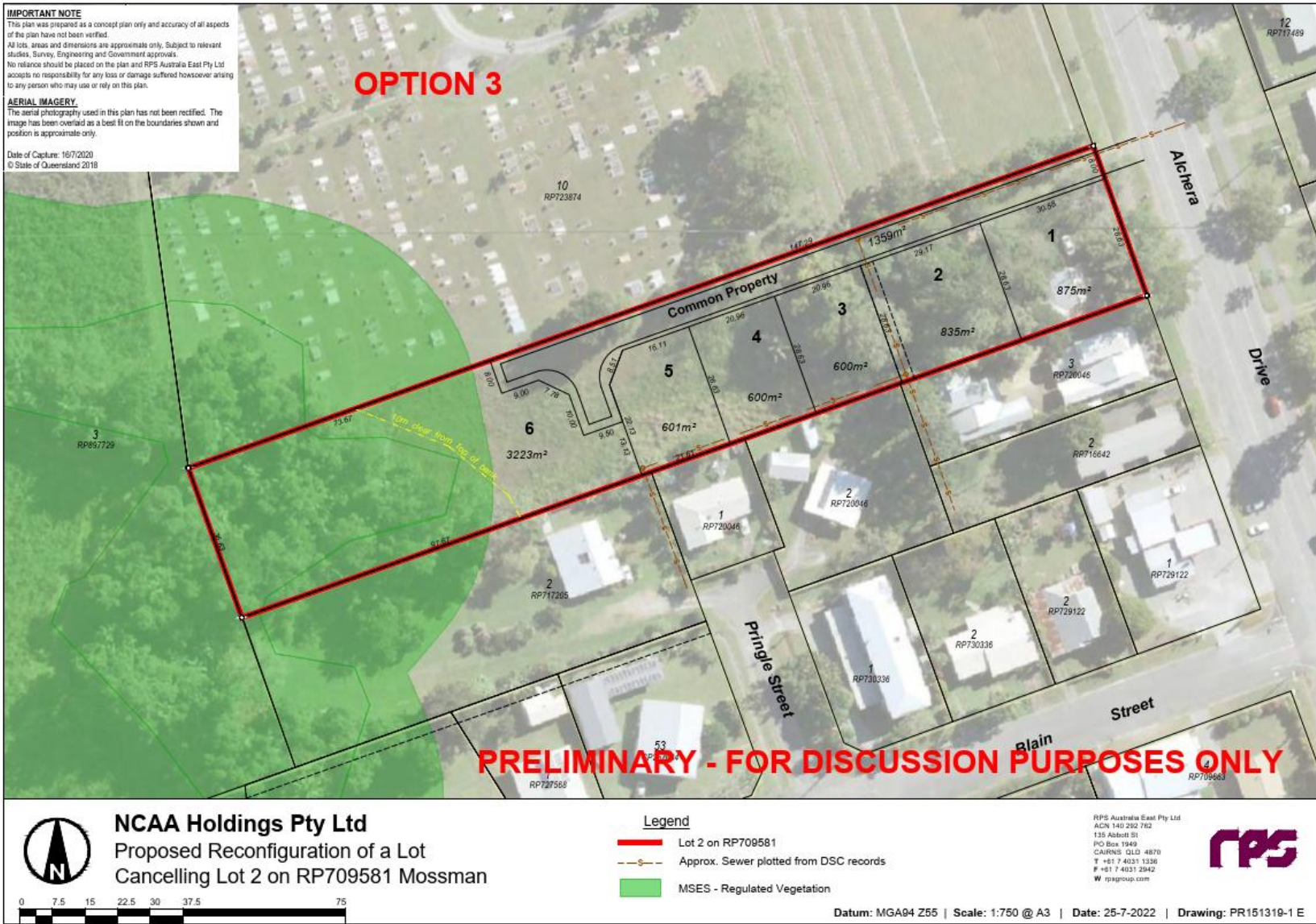
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

Rights to make Representations & Rights of Appeal

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

A copy of the relevant appeal provisions are attached.

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



Concurrence Agency Conditions

RA29-N



Our reference: 2203-28052 SRA
Your reference: MCUC2022_4731/1

30 September 2022

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

Attention: Daniel Lamond

Dear Sir/Madam

Changed SARA response——59-61 Alchera Drive, Mossman— Reconfiguring a Lot (1 lot into 9 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 State Assessment and Referral Agency (SARA) on 25 March 2022.

Response

Outcome:	Referral agency response – with conditions
Date of response:	30 September 2022
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 (1 Lot into 9 Lots)
SARA role:	Referral agency
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 (Planning Regulation 2017) Development application for a material change of use within 25m of a state-controlled road
SARA reference:	2203-28052 SRA

Assessment manager: Douglas Shire Council
 Street address: 59-61 Alchera Drive, Mossman
 Real property description: Lot 2 on RP709581
 Applicant name: NCAA Holdings Pty Ltd C/- RPS Australia East Pty Ltd
 Applicant contact details: PO Box 1949
 Cairns QLD 4870
 Patrick.Clifton@rpsgroup.com.au
 State-controlled road access permit: This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved
- Reference: TMR22-035914 (500-1690)
- Date: 26 April 2022

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at Far.North.Queensland.IDAS@tmr.qld.gov.au.

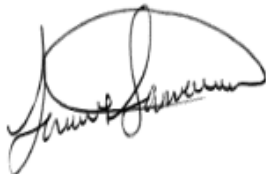
Representations

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 changed response has been sent to the applicant for their information.

For further information please contact Tony Croke, Principal Planner, on 40373205 or via email CairnsSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Javier Samanes
A/Manager (Planning)

cc NCAA Holdings Pty Ltd C/- RPS Australia East Pty Ltd, Patrick.Clifton@rpsgroup.com.au

enc Attachment 1 – Changed 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—Changed 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 (1 lot into 9 lots)		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 — State-controlled road —The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
Stormwater management		
1.	<p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.</p> <p>(b) Any works on the land must not:</p> <ul style="list-style-type: none"> (i) create any new discharge points for stormwater runoff onto the state-controlled road (ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road (iii) surcharge any existing culvert or drain on the state-controlled road (iv) reduce the quality of stormwater discharge onto the state-controlled road. 	<p>(a) & (b) At all times.</p>
Vehicular access to a state-controlled road		
2.	<p>(a) The road access location is to be located generally in accordance with TMR Layout Plan (20A – 73.33km), prepared by Queensland Government Transport and Main Roads, dated 25/04/2022 19/09/2022, Reference TMR22-35914 (500-1690), Issue A B.</p> <p>(b) Road access works comprising of a modified sealed property access, (at the road access location) must be provided generally in accordance with TMR Layout Plan (Roadworks Footprint), prepared by Queensland Government Transport and Main Roads, dated 26/04/2022 21/09/2022, Reference TMR22-35914 (500-1690), Issue B C.</p> <p>(c) The road access works must be designed and constructed in accordance with:</p> <ul style="list-style-type: none"> • Far North Queensland Regional Organisation of Councils (FNQROC) Standard Drawing S1015 - Access Crossovers, dated 27/08/20, Revision E; and • Far North Queensland Regional Organisation of Councils (FNQROC) Standard Drawing S1105 – Rural Allotment Accesses, dated 27/08/20, Revision F (as amended in red). 	<p>(a) At all times.</p> <p>(b) and (c): Prior to submitting the Plan of Survey to the local government for approval.</p>
3.	(a) The applicant must register reciprocal access easements on the	(a)

	<p>titles of proposed Lots 1, 2, 3, 4, 5, 6, 7 and 8 for the shared access between proposed Lots 1 – 9.</p> <p>(b) The applicant must provide to Cairns Corridor Management Unit (Far North Queensland IDAS@tmr.qld.gov.au) of the Department of Transport and Main Roads a copy of Registration Confirmation Statement/s and easement registration dealing number/s as evidence of the registration of the easement/s referred to in part (a) of this condition.</p>	<p>At the time of survey plan registration.</p> <p>(b) Within 20 business days of registration of the easements.</p>
3 4	The existing vehicular property access between Lot 2 on RP709581 (proposed Lot 1) and the Captain Cook Highway must be permanently closed and removed.	Prior to submitting the Plan of Survey to the local government for approval.
Road works on a state-controlled road		
4 5	<p>(a) Road works comprising of a flag light, must be provided generally in accordance with TMR Layout Plan (Roadworks Footprint), prepared by Queensland Government Transport and Main Roads dated 26/04/2022 21/09/2022, Reference TMR22-35914 (500- 1690), Issue B <u>C</u>.</p> <p>(b) The road works must be designed and constructed in accordance with Department of Main Roads Road Planning and Design Manual 2nd Edition, March 2021, Volume 6 – Lighting.</p>	Prior to submitting the Plan of Survey to the local government for approval.

Attachment 2—Advice to the applicant

General advice	
1.	<p>Terms and Phrases</p> <p>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) 3.0 commenced 18 February 2022. If a word remains undefined it has its ordinary meaning.</p>
2.	<p>Road Lighting Advice</p> <p>The proposed development is required to install a flag light on an existing power pole as illustrated by TMR Layout Plan (Access Footprint), dated 26/04/2022.</p> <p>The applicant should seek advice from the Department of Transport and Main Roads (DTMR) regarding its preferred tariff (i.e. Rate 2 or Rate 3) lighting specifications.</p> <p>Please contact Paul Morris – Principal Technical Officer (Electrical) on 0407750598 or email at Paul.z.morris@tmr.qld.gov.au.</p>
3.	<p>Transport Noise Corridor</p> <p>Mandatory Part (MP) 4.4 of the Queensland Development Code (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.</p> <p><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.</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: https://spp.dsdip.esriaustraliaonline.com.au/geoviewer/map/planmaking 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>
4.	<p>Road Works Approval</p> <p>Under section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads to carry out road works.</p> <p>Please contact the Department of Transport and Main Roads on 4045 7144 to make an application for road works approval.</p> <p>This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).</p> <p>Please contact the Department of Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p>
5.	<p>Road Corridor Permit</p> <p>An application for a road corridor permit is required for any ancillary works and encroachments on a state-controlled road. Under section 50(2) and Schedule 6 of the <i>Transport Infrastructure Act 1994</i> (TIA) and Part 5 and Schedule 1 of the <i>Transport Infrastructure (State-Controlled Roads) Regulation 2006</i>, the applicant must obtain a road corridor permit from the Department</p>

General advice

of Transport and Main Roads (DTMR) to carry out ancillary and encroachments works on a state-controlled road.

The applicant is required to contact the Cairns district office of the Department of Transport and Main Roads on 4045 7144 to make an application for a road corridor permit to carry out ancillary works and encroachments.

Ancillary works and encroachments include but are not limited to advertising signs or other advertising devices, paths or bikeways, buildings/shelters/structures, vegetation clearing, landscaping and planting.

Attachment 3—Changed reasons for referral agency response

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

The reasons for SARA's decision are:

- The proposed reconfiguration development (1 lot into 9 6 lots) is not located in a state-controlled road.
- Increased stormwater and drainage run-off must not result in a material worsening of the operating conditions of the Captain Cook Highway.
- The proposed subdivision will require a changed vehicular access to accommodate increase vehicle movements via the Captain Cook Highway.
- The changed vehicular access will be required to be sealed and upgraded.
- The unused access will need to be closed and removed.
- The changed vehicular access is not impacted by a limited access road.
- **The changed vehicular access will allow for a garbage truck to enter and leave the site in a forward gear.**
- A flag light will be required for additional night visibility.
- Any future filling, excavation, building foundations and retaining structures will be located on the premises.
- Subject to conditions, the development complies with State code 1: *Development in a state-controlled road environment* of the State Development Assessment Provision (SDAP): Specifically, the development:
 - does not create a safety hazard for users of a state transport corridor
 - does not compromise the structural integrity of state transport corridors, transport infrastructure or works
 - does not result in a worsening of the physical condition or operating performance of state transport corridors and the surrounding road networks
 - does not compromise the state's ability to construct, or significantly increase the cost to construct state-controlled roads and future state-controlled roads
 - does not compromise the state's ability to maintain and operate state-controlled roads, or significantly increase the cost to maintain and operate state-controlled roads.

Material used in the assessment of the application:

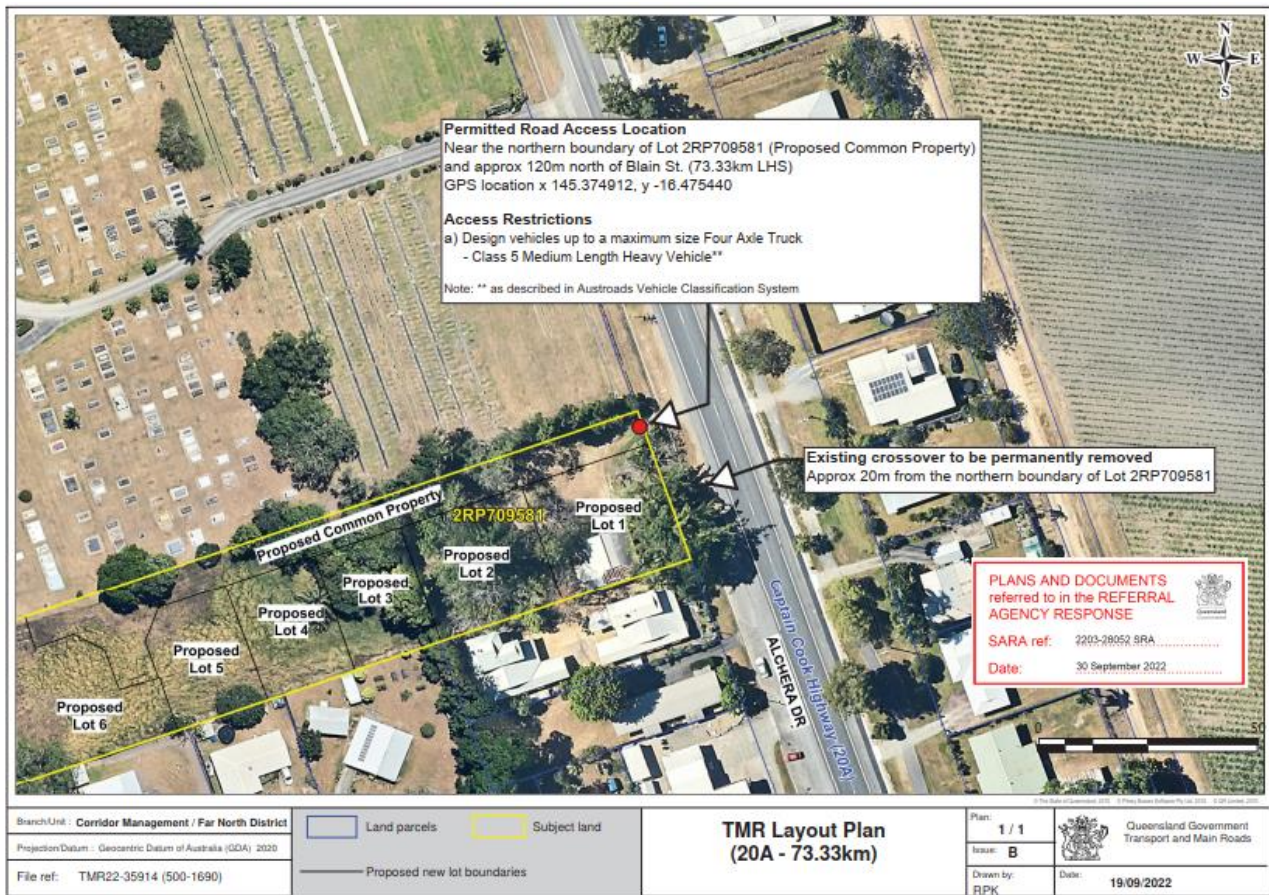
- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The SDAP (version 3.0), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system

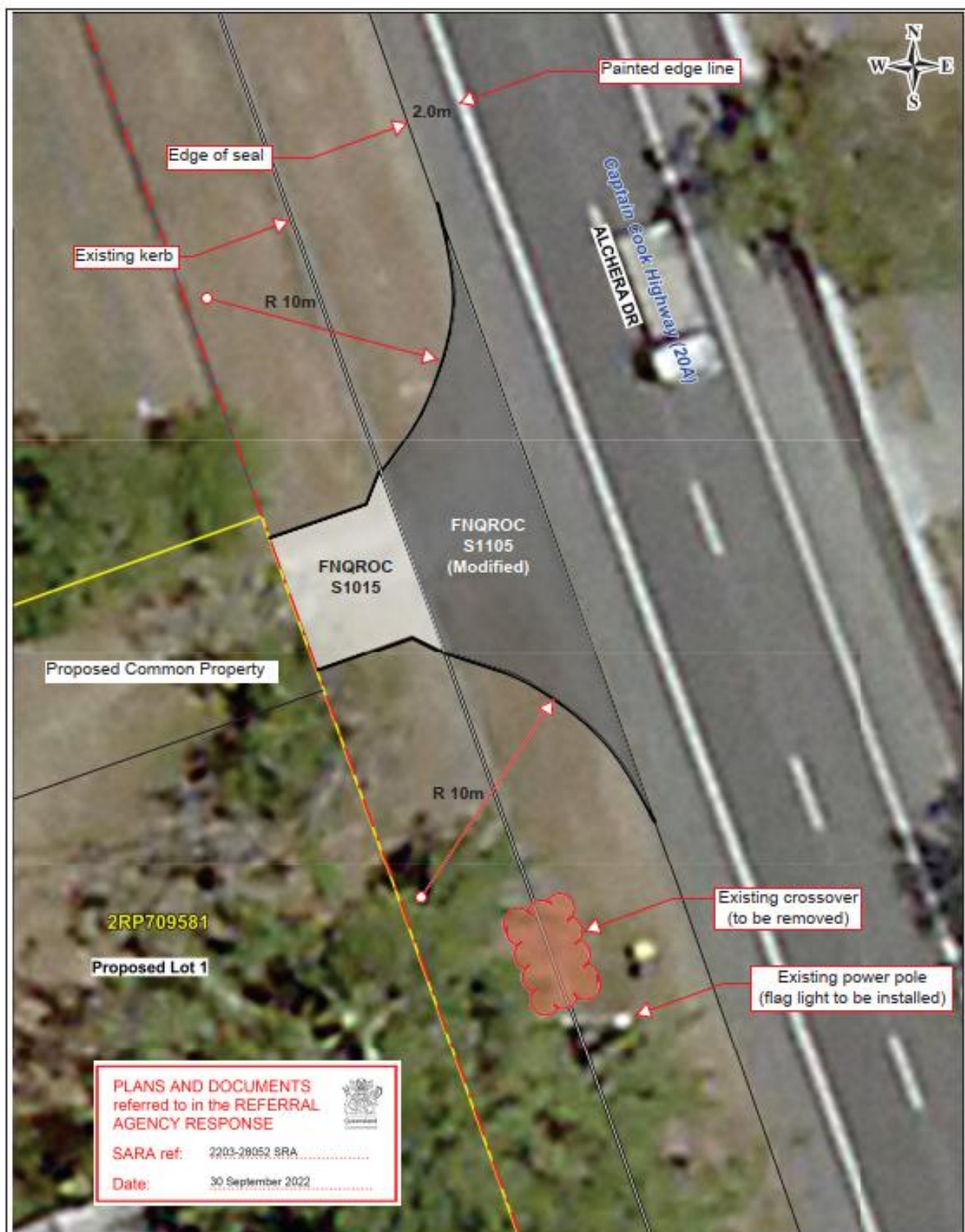
Attachment 4—Representations provisions

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Attachment 5—Approved plans and specifications

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PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE

SARA ref: 2203-28052 BRA

Date: 30 September 2022

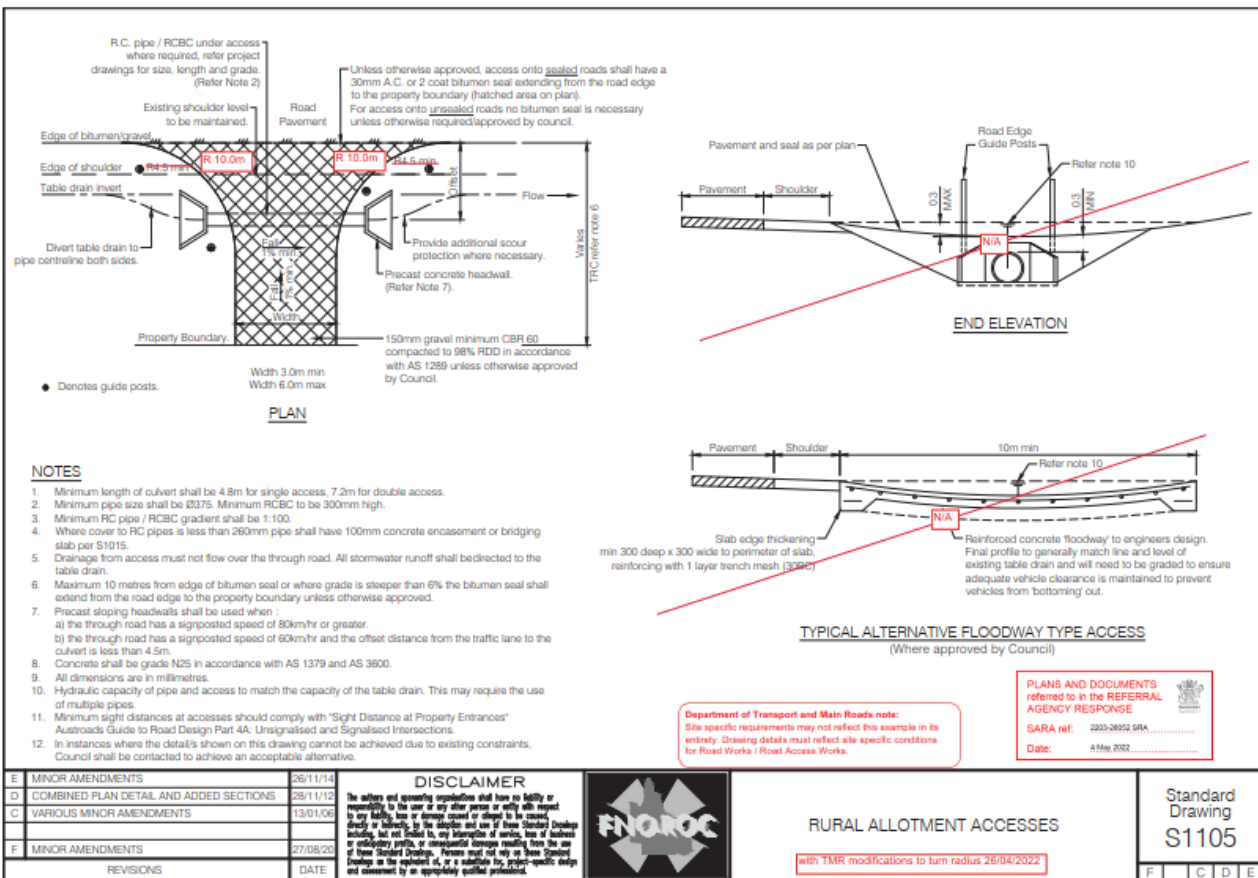
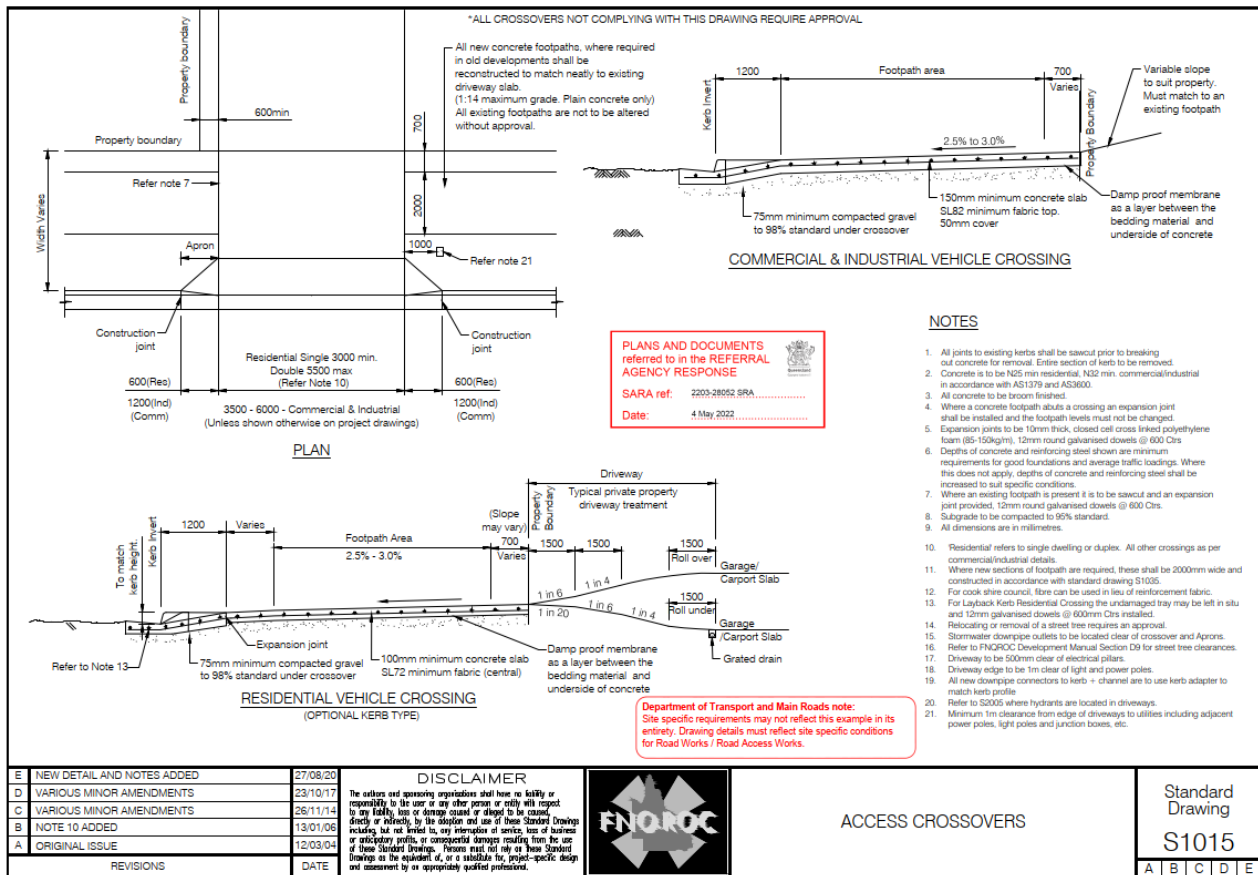
Branch/Unit: Corridor Management / Far North District	
Projection/Datum: Geocentric Datum of Australia (GDA) 2020	
Land parcels	Subject land
State-controlled road boundary	

**TMR Layout Plan
(Roadworks Footprint)**

Plan: 1 / 1	Issue: C	Date: 21/09/2022
Drawn by: RPK	File ref: TMR22-35914 (500-1680)	

Queensland Government
Transport and Main Roads

This plan is submitted to the Queensland Government for its use. It is not to be used for any other purpose without the written consent of the Queensland Government. The Queensland Government does not warrant the accuracy or reliability of the information contained in this plan. The Queensland Government is not responsible for any loss or damage arising from the use of this plan. The Queensland Government is not responsible for any loss or damage arising from the use of this plan. The Queensland Government is not responsible for any loss or damage arising from the use of this plan.



Our ref TMR22-035914 (500-1690)
Your ref PR151319
Enquiries Ronald Kaden



Department of
Transport and Main Roads

23 September 2022

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

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

Development application reference number MCUC2022_4731/1, lodged with Douglas Shire Council involves constructing or changing a vehicular access between Lot 2RP709581, the land the subject of the application, and Captain Cook Highway (Alchera Drive) (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 NCAA Holdings Pty Ltd A.C.N. 602295401
C/- RPS Australia East Pty Ltd
PO Box 1949
Cairns QLD 4870

Application Details

Address of Property 59-61 Alchera Drive, Mossman QLD 4873
Real Property Description 2RP709581
Aspect/s of Development Development Permit for Reconfiguration of a Lot for 1 Lot into 6 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 near the northern boundary of Lot 2RP709581 (proposed common property), in accordance with: 1. TMR Layout Plan (20A - 73.33km) Issue B 19/09/2022	At all times.
2	Direct access is prohibited between Captain Cook Highway and the proposed common property at any other location other than the permitted road access location described in Condition 1.	At all times.
3	Direct access is prohibited between Captain Cook Highway and	At all times.

¹ 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
Email Far.North.Queensland.IDAS@tmr.qld.gov.au
ABN: 39 407 690 291

No.	Conditions of Approval	Condition Timing
	proposed Lot 1.	
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 Four Axle Truck - Class 5 Medium Length Heavy Vehicle**</p> <p>Note: ** as described in Austroads Vehicle Classification System</p>	At all times.
5	<p>Road access works must be provided at the permitted access location, generally in accordance with:</p> <p>a) FNQROC Standard Drawing S1105 - with TMR modifications, (between the road edge and kerb).</p> <p>b) FNQROC Standard Drawing S1015, (between the kerb and property boundary).</p>	Prior to submitting the Plan of Survey to the local government for approval
6	<p>The existing crossover situated:</p> <p>a) between Captain Cook Highway and Lot 2RP709581 (proposed Lot 1) and,</p> <p>b) approximately 20 metres from the northern property boundary of Lot 2RP709581,</p> <p>must be removed in its entirety and all kerb & channel/ table drain/ footpath and revegetation reinstated between the pavement edge and the property boundary in accordance with Council drawings.</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:

- Currently the subject site (Lot 2 on RP709581) has road frontage and vehicle access via Captain Cook Highway (Alchera Drive), a state-controlled road.
- The proposed development will require a changed access as the proposed development is increasing vehicle movements to the subject land.
- As the proposed development is increasing traffic generation, a new 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

- There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
- 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

- In accordance with section 67(7) of TIA, this decision notice:
 - starts to have effect when the development approval has effect; and
 - stops having effect if the development approval lapses or is cancelled; and

- c) replaces any earlier decision made under section 62(1) in relation to the land.
2. In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply for a review of this decision only within 28 days after notice of the decision was given under the TIA. A copy of the review provisions under TIA and TPCA are attached in **Attachment C** for information.
 3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

Further approvals

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

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

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

Yours sincerely



Peter McNamara
Principal Engineer (Civil)

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

Attachment A

Decision Evidence and Findings

Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version / Issue
Representations about referral agency response	RPS Australia East Pty Ltd	13 September 2022	PR151319	-
NCAA Holdings Pty Ltd Proposed reconfiguration of a lot Cancelling Lot 2 on RP709581 Mossman	RPS Australia East Pty Ltd	25 July 2022	PR151319-1 (Preliminary)	E
TMR Layout Plan (20A - 73.33km)	Queensland Government Transport and Main Roads	19 September 2022	TMR22-35914 (500-1690)	B
Rural Allotment Accesses (with TMR amendments 26/04/2022)	FNQROC	27 August 2020	S1105	F
Access Crossovers	FNQROC	27 August 2020	S1015	E
Vehicle Access to state-controlled roads policy	Queensland Government Transport and Main Roads	2019	-	-

Attachment B
Section 70 of TIA

Transport Infrastructure Act 1994
Chapter 6 Road transport infrastructure
Part 5 Management of State-controlled roads

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

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

Maximum penalty—200 penalty units.

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

Attachment C
Appeal Provisions

Transport Infrastructure Act 1994
Chapter 16 General provisions

485 Internal review of decisions

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

485B Appeals against decisions

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

- (b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.
- (5) The court may order—
 - (a) the appeals to be heard together or 1 immediately after the other; or
 - (b) 1 appeal to be stayed until the other is decided.
- (6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.
- (7) In this section—

original decision means a decision described in schedule 3.

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

31 Applying for review

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

32 Stay of operation of original decision

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

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

(9) In this section—

relevant entity means—

- (a) if the reviewed decision may be reviewed by QCAT—QCAT; or
- (b) if the reviewed decision may be appealed to the appeal court—the appeal court.

35 Time for making appeals

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

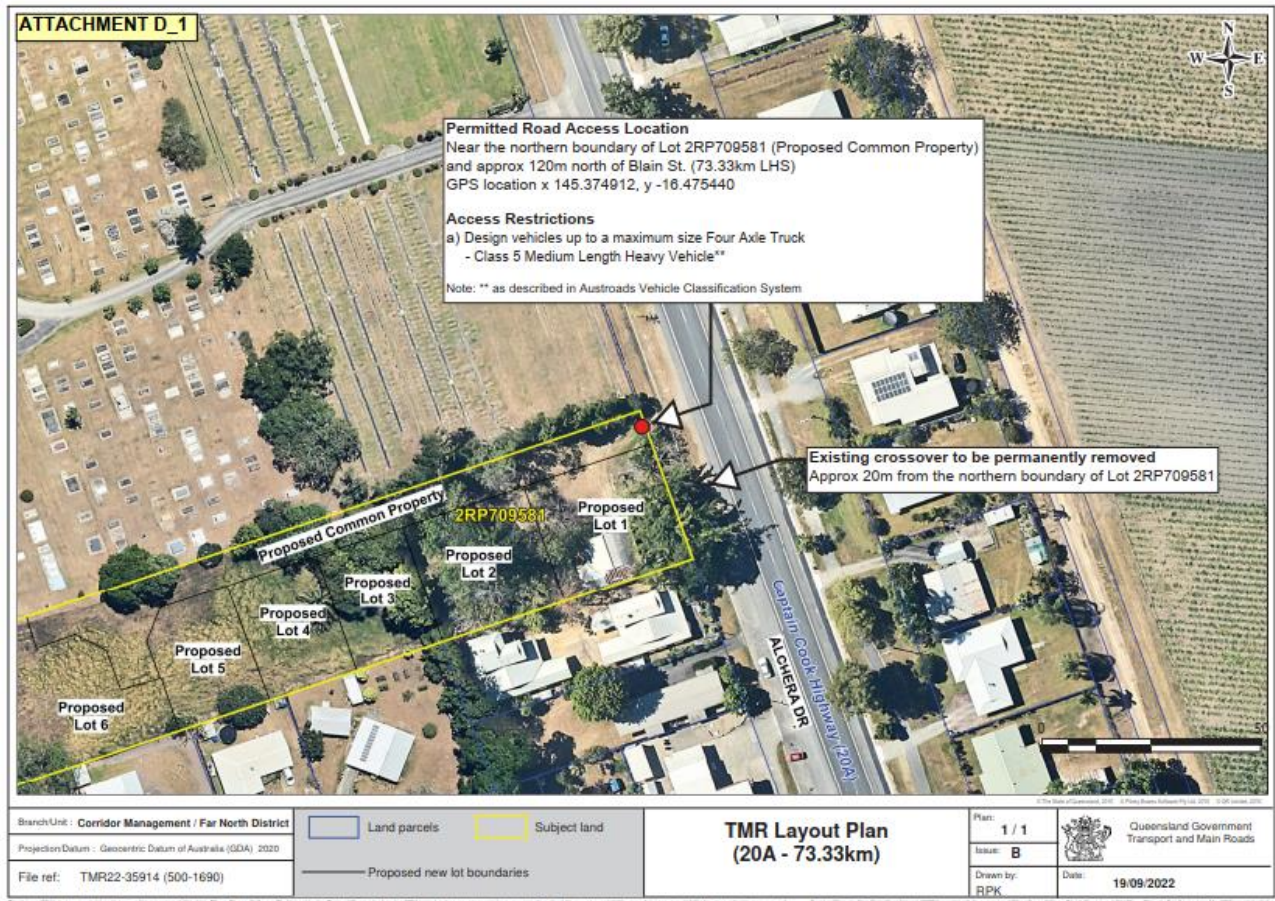
- (a) if a decision notice is given to the person—28 days after the notice was given to the person; or
- (b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

(2) However, if—

- (a) the decision notice did not state the reasons for the decision; and
- (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

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

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



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 16/03/2022 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 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.

Planning Act 2016
Chapter 3 Development assessment

[s 74]

Division 2 Changing development approvals

Subdivision 1 Changes during appeal period

74 What this subdivision is about

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

75 Making change representations

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

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

76 Deciding change representations

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

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

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.

4 October 2022

Enquiries: Daniel Lamond
Our Ref: ROL 2022_4731 (1113790)
Your Ref: PR151319

NCAA Holdings Pty Ltd (Tte)
C/- RPS Australia East Pty Ltd
PO Box 1949
CAIRNS QLD 4870

Dear Sir/Madam

**Adopted Infrastructure Charge Notice
For Development Application Reconfiguring a Lot (One lot into six lots)
At 59-61 Alchera Drive MOSSMAN
On Land Described as LOT: 2 RP: 709581**

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 2022_4731 in all subsequent correspondence relating to this matter.

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

Yours faithfully



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

NCAA Holdings Pty Ltd C/- RPS Australia East Pty Ltd DEVELOPERS NAME		ESTATE NAME	0 STAGE
59-61 Alchera Drive STREET No. & NAME	Mossman SUBURB	Lot 2 on RP709581 LOT & RP No.s	2971 PARCEL No.
Reconfiguration of a Lot (1 into 6 and common property) DEVELOPMENT TYPE		1106553 COUNCIL FILE NO.	6 VALIDITY PERIOD (year)
ROL 2022_4731 DSC Reference Doc. No.	1 VERSION No.	Payment before sealing of Plan of Survey	

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

Proposed Demand	Charge per Use	\$ Rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
Residential Dwelling House	3 or more bedroom dwelling	24,553.81	6	\$147,322.86		
Total Demand				\$147,322.86		
Credit						
Existing land use						
3 or more bedroom dwelling 1 lot		24,553.81	1	\$24,553.81		
Total Credit				\$24,553.81		

Code 895
GL GL7500.135.825

Required Payment or Credit TOTAL \$122,769.05

Prepared by	D Lamond	31-Aug-22	Amount Paid
Checked by	J Elphinstone	4-Oct-22	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

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

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.