



SARA reference: 2210-31740 SRA
Council reference: ROL 2022_4962/1
Applicant reference: ARO0188

13 July 2023

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

Attention: Ms Jenny Elphinstone

Dear Sir/Madam

SARA referral agency response—368-380 Port Douglas Road and Barrier Street, Port Douglas

(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 31 October 2022.

Response

Outcome:	Referral agency response – with conditions
Date of response:	13 July 2023
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 (one lot into nine lots)
SARA role:	Referral agency	

SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 (Planning Regulation 2017) – Reconfiguring a lot near a state transport corridor.
	Schedule 10, Part 9, division 4, Subdivision 2, Table 3 (Planning Regulation 2017) – Reconfiguring a lot near a state-controlled road intersection.
	Schedule 10, Part 20, Division 4, Table 2 (Planning Regulation 2017) – Reconfiguring a lot in a wetland protection area.
SARA reference:	2210-31740 SRA
Assessment manager:	Douglas Shire Council
Street address:	368-380 Port Douglas Road and Barrier Street, Port Douglas
Real property description:	Lot 10 on RP729037 and Lot 3 on RP729037
Applicant name:	John Stuart William Donald C/- Kelly Reaston Development and Property Services
Applicant contact details:	51 Sheridan Street Cairns QLD 4870 kelly@kellyreaston.com.au
State-controlled road access permit:	This referral included an application for a road access location, under section 62A(2) of <i>Transport Infrastructure Act 1994</i> . Below are the details of the decision: <ul style="list-style-type: none"> • Approved • Reference: TMR22-038192 • Date: 28 June 2023 <p>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.</p>
<i>Human Rights Act 2019</i> considerations:	A consideration of the 23 fundamental human rights protected under the <i>Human Right Act 2019</i> has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.

Representations

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

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

For further information please contact Belinda Jones, Principal Planning Officer, on 40373208 or via email CairnsSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brett Nancarrow', written in a cursive style.

Brett Nancarrow
Manager (Planning)

cc John Stuart William Donald, kelly@kellyreaston.com.au

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations about a referral agency response provisions
Attachment 5 - Documents referenced in conditions

Attachment 1—Referral agency conditions

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

No.	Conditions	Condition timing
Reconfiguring a Lot		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 (Planning Regulation 2017) – Reconfiguring a lot near a state transport corridor and Schedule 10, Part 9, division 4, Subdivision 2, Table 3 (Planning Regulation 2017) – Reconfiguring a lot near a state-controlled road intersection — The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	Stormwater infrastructure (shown in pink) and the direction of fall of the proposed lots must be carried out generally in accordance with Layout Plan prepared by ARO, dated 15 June 2023, Drawing ARO0188-SK05, Issue 2.	At all times.
2.	<p>(a) The shared road access location is to be located generally in accordance with TMR Layout Plan (6504 – 1.02km), prepared by Queensland Government Transport and Main Roads, dated 14/06/2023, Reference TMR22-38192 (500-1734), Issue A.</p> <p>(b) Road access works must reinstate a sealed property driveway access to Lot 4 on RP729037.</p> <p>(c) The road access works must be designed and constructed in accordance with the Department of Transport and Main Roads', Road Planning and Design Manual, 2nd Edition, November 2021, Volume 3 – Guide to Road Design.</p>	<p>(a) At all times.</p> <p>(b) and (c): Prior to submitting the Plan of Survey to the local government for approval.</p>
3.	<p>(a) Road works comprising of a sealed left-in / left-out property access must be provided, (at the access location) generally in accordance with TMR Layout Plan (Access Footprint), prepared by Queensland Government Transport and Main Roads, dated 22/06/2023, Reference TMR22-38192 (500-1734), Issue A.</p> <p>(b) The road works must be designed and constructed in accordance with:</p> <ul style="list-style-type: none"> • Austroads Guide to Road Design, Part 4A: Unsignalised and Signalised Intersections, 2021, Figure A 17: Auxiliary left-turn treatment (AUL(S))on the major leg of an intersection; • Austroads Guide to Road Design Part 4A: Unsignalised and Signalised Intersections: Part 6 Traffic Islands and Medians; and • Department of Transport and Main Roads', Road Planning and Design Manual, 2nd Edition, November 2021, Volume 3 – Guide to Road Design. 	<p>(a) At all times.</p> <p>(b) Prior to submitting the Plan of Survey to the local government for approval.</p>
4.	(a) The existing shared vehicular property access located between Lot 3 and Lot 4 on RP729037 must be permanently closed and	(a) and (b): Prior to submitting the Plan of Survey to the

	<p>removed.</p> <p>(b) The table drain between the pavement edge and the property boundary must be reinstated in accordance with Department of Transport and Main Roads', Road Planning and Design Manual, 2nd Edition, November 2021, Volume 3 – Guide to Road Design, at no cost to the Department of Transport and Main Roads'.</p>	local government for approval.
5.	<p>(a) Provide noise attenuation measures to achieve the following noise criteria for proposed Lot 1 and proposed Lot 9:</p> <ul style="list-style-type: none"> • ≤57 dB(A) L10 (18 hour) free field (measured L90 (18 hour) free field between 6am and 12 midnight ≤45 dB(A)). <p>OR</p> <ul style="list-style-type: none"> • ≤60 dB(A) L10 (18 hour) free field (measured L90 (18 hour) free field between 6am and 12 midnight >45 dB(A)). <p>(b) RPEQ certification must be provided to the Cairns Corridor Management Unit, Far North Queensland Region (Far.North.Queensland.IDAS@tmr.qld.gov.au) within the Department of Transport and Main Roads, confirming that the development has been constructed in accordance with part (a) of this condition.</p>	(a) and (b): Prior to submitting the Plan of Survey to the local government for approval and to be maintained at all times.
Schedule 10, Part 20, Division 4, Table 2 (Planning Regulation 2017) – Reconfiguring a lot in a wetland protection area — The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Environment and Science 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):		
6.	<p>The reconfiguration of a lot must be undertaken generally in accordance with the following plans:</p> <ul style="list-style-type: none"> • Residential Land Development Lot 3 on RP729037 – Layout Plan prepared by ARO Industries dated 28/03/2023, reference ARO0188-SK05, version 1. • Residential Land Development Lot 3 on RP729037 – Alternate Intersection Location prepared by ARO Industries dated 28/03/2023, reference ARO0188-SK06, version 1. 	Prior to submitting the Plan of Survey to the local government for approval.
7.	Untreated stormwater from the works must be diverted or bypassed around the wetland in the Wetland Protection Area (WPA).	For the duration of the work.
8.	Stormwater runoff leaving the site or discharging into the Wetland Protection Area must not exceed a maximum concentration of 50 mg/L of total suspended solids.	For the duration of the work.
9.	Earthworks and construction must only occur during May to November of the dry season.	For the duration of the work.
10.	Erosion and sediment control measures which are in accordance with the <i>Best Practice Erosion and Sediment Control (BPESC) guidelines for Australia (International Erosion Control Association)</i> , are to be	For the duration of the work.

	installed and maintained to prevent the release of sediment to the wetland buffer.	
11.	Prior to arrival on site, all vehicles and machinery is to be cleaned down in accordance with the Department of Agriculture and Fisheries Queensland <u>Vehicle and machinery checklists Clean-down procedures 2014.</u>	For the duration of the work.

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> , its regulation or the State Development Assessment Provisions (SDAP) (version 3.0). If a word remains undefined it has its ordinary meaning.
2.	<p>Mandatory Part (MP) 4.4 of the Queensland Development Code (QDC) applies to building work for the construction or renovation of a residential building in a designated transport noise corridor. MP4.4 seeks to ensure that the habitable rooms of Class 1, 2, 3 and 4 buildings located on proposed Lot 1 and Lot 9 are designed and constructed to reduce transport noise. Transport noise corridor means land designated under Chapter 8B of the <i>Building Act 1975</i> as a transport noise corridor. Information about transport noise corridors 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 transport noise corridor. 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>
3.	<p>Under section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads to carry out road works. 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). Please contact the Department of Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p>

Attachment 3—Reasons for referral agency response

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

The reasons for the SARA's decision are:

- The site has frontage to Port Douglas Road, a state-controlled road.
- Stormwater resulting from the proposed development is unlikely to adversely impact on the state-controlled road.
- The development is unlikely to compromise the safety, efficiency and operating conditions of the state-controlled road.
- The new access is of a left-in and left-out configuration adequately setback from Old Port Road intersection at the commencement of the auxiliary left-turn treatment. The new access will be a shared vehicular access to the site and adjoining Lot 4 on RP729037.
- The development is unlikely to impact the structural integrity or physical condition of the state-controlled road.
- The proposed development is unlikely to impact on the ability or cost to plan, construct, maintain or operate state transport corridors.
- The reconfiguring a lot will minimise free field noise intrusion from Port Douglas Road.
- The site is located over 70 metres from a mapped wetland.
- The proposed development is unlikely to result in an unacceptable impact on wetland environmental values and matters of state environmental significance.
- SARA has carried out an assessment of the development application against State code 1: Development in a state-controlled road environment and State code 9: Great Barrier Reef wetland Protection areas and has found that with conditions the proposed development complies with relevant performance outcomes.

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 SARA
- the Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- section 58 of the *Human Rights Act 2019*

Attachment 4—Representations about a referral agency response provisions

(page left intentionally blank – attached separately)

Attachment 5—Documents referenced in conditions

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Development Assessment Rules—Representations about a referral agency response

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

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

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

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

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

Part 7: Miscellaneous

30 Representations about a referral agency response

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

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



PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE



SARA ref: 2210-31740 SRA

Date: 13 July 2023

Branch/Unit : Corridor Management / Far North District

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

File ref: TMR22-38192 (500-1734)

Land parcels

Proposed road access driveway

State-controlled road corridor

Subject land

Proposed boundaries

TMR Layout Plan (6504 - 1.02km)

Plan:
1 / 1

Issue: A

Drawn by:
RPK



Queensland Government
Transport and Main Roads

Date: 14/06/2023



PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE



SARA ref: 2210-31740 SRA

Date: 13 July 2023

Concrete median to prevent right-in
& right-out vehicle movements

Information taken from:

Austrorads Guide to Road Design Part 4: Intersections and Crossings - General
Figure A 17: Auxiliary left-turn treatment AUL(S)

TMR Road Planning & Design Manual Part 4A: Unsignalised & Signalised Intersections &
Austrorads Guide to Road Design Part 4A: Unsignalised and Signalised Intersections
Part 6 Traffic Islands and Medians

Branch/Unit : **Corridor Management / Far North District**

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

All information is indicative only.

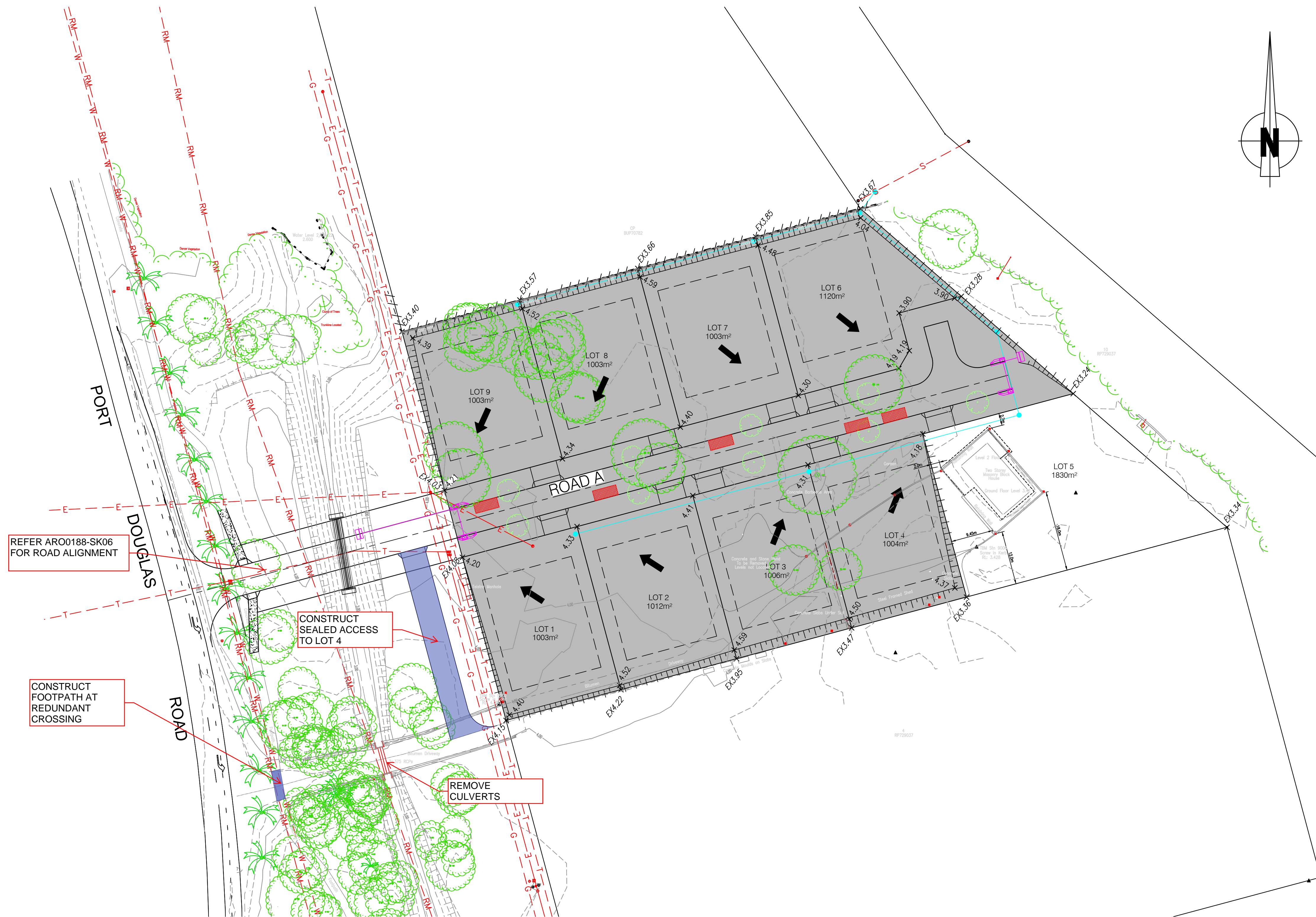
TMR Layout Plan
(Access Footprint)



Queensland Government
Transport and Main Roads

Plan: **1 / 1** Issue: **A** Date: **22/06/2023**

Drawn by: **RPK** File ref: **TMR22-38192 (500-1734)**



LEGEND

- DIRECTION OF FALL ON LOTS
- FINISHED SURFACE LEVEL ON ALLOTMENT (REFER NOTE 1)
- EXISTING SURFACE LEVEL
- EXISTING SURFACE CONTOUR (0.5m INTERVAL)
- FILL AREAS
- 2.0m WIDE CONCRETE PATHWAY (REFER NOTE 12)
- KERB RAMP
- TOP OF BATTER
- ACCESS CROSSOVER
- EDGE OF EXISTING SEALED ROAD
- EXISTING STORMWATER
- EXISTING WATER
- EXISTING TELECOMMUNICATIONS
- EXISTING SEWER RISING MAIN
- EXISTING OVERHEAD ELECTRICITY
- EDGE OF EXISTING VEGETATION

PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE



SARA ref: 2210-31740 SRA
Date: 13 July 2023



51 Sheridan Street
Cairns Qld 4870
T (07) 4281 6897
E admin@arindustries.com.au
W www.arindustries.com.au
ABN: 49 641 461 298

RESIDENTIAL LAND
DEVELOPMENT
LOT 3 ON RP729037

LAYOUT PLAN

ARO0188-SK05

Acad No. ARO0188-SK05(2)

1:250
A1 Full Size

15th June 2023

Our ref TMR22-038192 (500-1734)
Your ref ARO0188
Enquiries Ronald Kaden



28 June 2023

Department of
Transport and Main Roads

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

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

Development application reference number ROL 2022_4962/1, lodged with Douglas Shire Council involves constructing or changing a vehicular access between Lot 3RP729037 the land the subject of the application, Lot 4RP729037 the adjacent property, and Port Douglas Road (a state-controlled road).

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

Applicant Details

Name and address John Stuart William Donald
C/- Kelly Reaston Development & Property Services
44 McLeod Street
Cairns QLD 4870

Application Details

Address of Property 368-380 Port Douglas Road, Port Douglas QLD 4877
Real Property Description 3RP729037
Aspect/s of Development Development Permit for Reconfiguration of a Lot for 1 Lot into 9 Lots and road

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	Proposed Lots 1 - 9 and new road The permitted road access location is approximately 90 metres from the northern boundary of Lot 3 on RP729037, in accordance with: 1. TMR Layout Plan (6504 - 1.02km) Issue A 14/06/2023	At all times.
2	Direct access is prohibited between Port Douglas Road and Lot 3 on RP729037 at any other location other than the permitted road access location described in Condition 1.	At all times.

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

No.	Conditions of Approval	Condition Timing
3	<p>The use of the permitted road access location is to be restricted to:</p> <ul style="list-style-type: none"> a) Left-In, Left-Out vehicle movements only b) Design vehicles up to a maximum size Four Axle Truck - Class 5 Medium Length Heavy Vehicle** <p>Note: ** as described in Austroads Vehicle Classification System</p>	At all times.
4	<p>Road access works comprising:</p> <ul style="list-style-type: none"> 1. Auxiliary left-turn treatment at the road access junction, 2. Raised concrete traffic island, 3. Reinstating a sealed access (like for like) to Lot 4 on RP729037, 4. Sealing of the road access driveway to the property boundary <p>must be provided generally in accordance with:</p> <ul style="list-style-type: none"> a) Austroads Guide to Road Design Part 4: Intersections and Crossings - General Figure A 17: Auxiliary left-turn treatment AUL(S). b) Department of Transport and Main Roads Road Planning & Design Manual Part 4A: Unsignalised & Signalised Intersections, c) Austroads Guide to Road Design Part 4A: Unsignalised and Signalised Intersections Part 6 Traffic Islands and Medians d) Property Access drawing prepared by Queensland Government dated 11/2021 reference 1807 Issue B 	Prior to submitting the Plan of Survey to the local government for approval
5	<p>The existing road access works situated:</p> <ul style="list-style-type: none"> a) between Port Douglas Road and Lots 3 & 4 on RP729037, and b) at the common boundary of Lots 3 & 4 on RP729037, <p>must be permanently closed, removed and the table drain, concrete footpath and revegetated between the pavement edge and the property boundary in accordance with Department of Transport and Main Roads', Road Planning and Design Manual, 2nd Edition, November 2021, Volume 3 – Guide to Road Design, at no cost to the Department of Transport and Main Roads'.</p>	Prior to submitting the Plan of Survey to the local government for approval

Reasons for the decision

The reasons for this decision are as follows:

- a) Currently the subject site (Lot 3 on RP729037) has road frontage and vehicle access via a shared driveway with Lot 4 on RP729037 to Port Douglas Road, a state-controlled road.
- b) The proposed development intends removing the existing access, relocating it northward, still to service both lots.

- c) The proposed development is for only left-in, left-out vehicle movements to occur.
- d) Additional road works will be required to ensure that vehicles turning left into the proposed reconfiguration (1 lot into 9 lots) development including Lot 4 on RP229037 do not conflict with vehicles turning left into Old Port Road.
- e) A concrete median will be required at the access junction to ensure left-in, left-out restriction as there is no reasonable alternative option to ensure these vehicle movements are maintained.
- f) As the proposed development is seeking a new access and increasing 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

- 1. There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
- 2. This decision has been based on the current land use and the historic nature of the access subject to this decision. Be advised that if the land is further developed and/or intensified, the department will reassess the access requirements in accordance with the department's policies at that time to ensure that the road safety and transport efficiency outcomes for the state-controlled road network are maximised. This may or may not require all future access to be provided via the local road network.
- 3. In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for information.

Further information about the decision

- 1. In accordance with section 67(7) of TIA, this decision notice:
 - a) starts to have effect when the development approval has effect; and
 - b) stops having effect if the development approval lapses or is cancelled; and
 - c) replaces any earlier decision made under section 62(1) in relation to the land.
- 2. In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply for a review of this decision only within 28 days after notice of the decision was given under the TIA. A copy of the review provisions under TIA and TPCA are attached in **Attachment C** for information.
- 3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

Further approvals

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

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

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

Yours sincerely



Peter McNamara
Principal Engineer (Civil)

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

Attachment A

Decision Evidence and Findings

Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version / Issue
TMR Layout Plan (6504 - 1.02km)	Queensland Government Transport and Main Roads	14 June 2023	TMR22-38192 (500-1734)	A
Layout Plan	ARO	15 June 2023	ARO0188-SK05	2
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.

Attachment D

Permitted Road Access Location - Lot 3RP729037

Approx 45m from the northern boundary of Lot 3RP729037

GPS location x 145.468431, y -16.521976

Access Restrictions

- a) Left-In, Left-Out vehicle movements only
- a) Design vehicles up to a maximum size four axle truck
- Class 5 Medium Length Heavy Vehicle**

Note: ** as described in Austroads Vehicle Classification System

Road Access Junction

Approx 100m north of Old Port Road
(1.02km RHS)

Access to be permanently removed

Approx 50m north of Old Port Road
(0.97km RHS)

Permitted Road Access Location - Lot 4RP729037

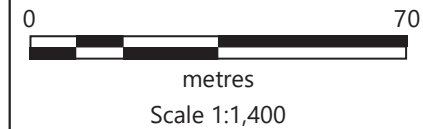
At the northern boundary of Lot 4RP729037

GPS location x 145.468501, y -16.522409

Access Restrictions

- a) Left-In, Left-Out vehicle movements only
- b) Design vehicles up to a maximum size four axle truck
- Class 5 Medium Length Heavy Vehicle**

Note: ** as described in Austroads Vehicle Classification System



Branch/Unit : Corridor Management / Far North District

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

File ref: TMR22-38192 (500-1734)

Land parcels Subject land

Proposed road access driveway Proposed boundaries

State-controlled road corridor

TMR Layout Plan (6504 - 1.02km)

Plan:
1 / 1

Issue: A

Drawn by:
RPK



Queensland Government
Transport and Main Roads

Date: 14/06/2023