



SARA reference: 2103-21831 SRA
Council reference: MCUC2021_4008/1
Applicant reference: 21-05/001073

31 May 2021

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

Attention: Jenny Elphinstone

Dear Sir/Madam

SARA response—Multiple Dwellings and Short-term Accommodation at 8 Davidson 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 30 April 2021.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	31 May 2021
Conditions:	The conditions in Attachment 1 must be attached to any development approval.
Advice:	Advice to the applicant is in Attachment 2 .
Reasons:	The reasons for the referral agency response are in Attachment 3 .

Development details

Description:	Development permit	Material change of use for Multiple Dwellings & Short Term Accommodation
SARA role:	Referral Agency	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017)	

Development application for a material change of use near a state-controlled road

SARA reference: 2103-21831 SRA

Assessment Manager: Douglas Shire Council

Street address: 8 Davidson Street, Port Douglas

Real property description: Lot 704 on PTD2092

Applicant name: "Verge" Port Douglas Pty Ltd

Applicant contact details: C/- Planning Plus
PO Box 399
Redlynch QLD 4870
info@planningplusqld.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: TMR21-032805 (500-1586)
- Date: 24 May 2021

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at ron.p.kaden@tmr.qld.gov.au or on (07) 4045 7151.

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 Anthony Westbury, Planning Officer, on 40373215 or via email CairnsSARA@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Joanne Manson
A/Manager (Planning)

cc "Verge" Port Douglas Pty Ltd, info@planningplusqld.com.au

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

Attachment 1—Referral agency conditions

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

No.	Conditions	Condition timing
Material change of use		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 – Material change of use of premises near a State transport corridor—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 management of the development must ensure no worsening or actionable nuisance to the state-controlled road.	At all times
2.	<p>(a) The road access location is to be located generally in accordance with TMR Layout Plan (6504 – 5.23km), prepared by Queensland Government Transport and Main Roads, dated 24/05/2021, Reference TMR21-32805 (500-1586), Issue A.</p> <p>(b) Road access works comprising of a sealed commercial vehicular crossover and driveway must be provided at the road access location.</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 23/10/17, Revision D. Far North Queensland Regional Organisation of Councils (FNQROC) Standard Drawing S1110 – Concrete Driveway for Allotment Access, dated 23/10/17, Revision E. 	<p>(a): At all times.</p> <p>(b) and (c): Prior to the commencement of use.</p>

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v2.6. If a word remains undefined it has its ordinary meaning.
2.	<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>

Attachment 3—Reasons for referral agency response

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

The reasons for the SARA decision are:

- The site has road frontage to Davidson Street (Port Douglas Road), a state-controlled road.
- The proposed development is located approximately 19m from the Davidson Street carriageway, and will not be significantly impacted by the noise of vehicles using the state-controlled road.
- The proposal is considered a low scale development and increased traffic generation and vehicle movements will not impact on the function of Davidson Street.
- Road works to construct a sealed property crossover and driveway access will ensure that operating conditions and safety on the state-controlled road network is maintained.
- Increased stormwater and drainage flows will be discharged to the drainage easement at the rear of the site, and are unlikely to impact the state-controlled road.
- The proposed development is unlikely to compromise the safety, efficiency, and operating conditions of Davidson Street.
- The proposed development complies with the relevant provisions of State code 1: Development in a state-controlled road environment.

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version 2.6)
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system

Attachment 4—Change representation provisions

(page left intentionally blank – attached separately)

Attachment 5—Approved plans and specifications

(page left intentionally blank – attached separately)

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: 2103-21831 SRA

Date: 31 May 2021

Permitted Road Access Location

Near the southern boundary of Lot 704PTD2092
GPS location x 145.466320, y -16.485648

Access Restrictions

Design vehicles up to a maximum size short sedan
- Class 1 Short Length Light Vehicle**

Note: ** as described in Austroads Vehicle Classification System

Permitted Road Access Junction

Approx 110m south of Macrossan Street
(TDist 5.23km RHS)

Road Access Driveway

704PTD2092
8 DAVIDSON ST

0 20
metres
Scale 1:400

Branch/Unit :

Corridor Management / Far North District

Projection/Datum : Geocentric Datum of Australia (GDA) 1994

Parcels Subject Land

**TMR Layout Plan
(6504 - 5.23km)**



Queensland Government
Transport and Main Roads

Plan:
1 / 1

Issue:
A

Date:
24/05/2021

Drawn by:
RPK

File ref:
TMR21-32805 (500-1586)

Our ref TMR21-032805 (500-1586)
Your ref
Enquiries Ronald Kaden



Department of
Transport and Main Roads

24 May 2021

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 MCUC 2021_4008/1, lodged with Douglas Shire Council involves constructing or changing a vehicular access between Lot 704PTD2092, the land the subject of the application, and Port Douglas Road (Davidson Street) (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 "Verge" Port Douglas
C/- Planning Plus
PO Box 399
Redlynch QLD 4870

Application Details

Address of Property 8 Davidson Street, Port Douglas QLD 4877
Real Property Description 704PTD2092
Aspect/s of Development Development Permit for Material Change of Use for Multiple Dwellings & Short Term Accommodation

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 southern boundary of Lot 704PTD2092, in accordance with: a) TMR Layout Plan (6504 - 5.23km) Issue A 24/05/2021	At all times.
2	Direct access is prohibited between Port Douglas Road (Davidson Street) and 704PTD2092 at any other location other than the permitted road access location described in Condition 1.	At all times.
3	The use of the permitted road access location is to be restricted to: a) Design vehicles up to a maximum size short sedan - Class	At all times.

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

No.	Conditions of Approval	Condition Timing
	1 Short Length Light Vehicle ** Note: ** as described in Austroads Vehicle Classification System	

Reasons for the decision

The reasons for this decision are as follows:

- a) The subject site (Lot 704 on PTD2092) has road frontage to Port Douglas Road (Davidson Street), a state-controlled road.
- b) The subject site currently has no direct access to the state-controlled road.
- c) No alternative arrangements (e.g. local government-controlled road or via easement) are available or practical.
- d) The proposed development will require construction of a new commercial access via Thursday Island Road and to construct a new residential access via John Street, a local road controlled by Council.
- e) 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. 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, 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
TMR Layout Plan (6504 - 5.23km)	Queensland Government Transport and Main Roads	24 May 2021	TMR21-32805 (500-1586)	A
Ground Floor Plan Project 21-0002	C&B Group	February 2021	TP210	A
Access Crossovers	FNQROC	23 October 2017	S1015	D
Concrete Driveway for Allotment Access	FNQROC	23 October 2017	S1110	E

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

Near the southern boundary of Lot 704PTD2092
GPS location x 145.466320, y -16.485648

Access Restrictions

Design vehicles up to a maximum size short sedan
- Class 1 Short Length Light Vehicle**

Note: ** as described in Austroads Vehicle Classification System




Permitted Road Access Junction

Approx 110m south of Macrossan Street
(TDist 5.23km RHS)

Road Access Driveway

704PTD2092
8 DAVIDSON ST

0 20
metres
Scale 1:400

Branch/Unit : Corridor Management / Far North District		 Queensland Government Transport and Main Roads	
Projection/Datum : Geocentric Datum of Australia (GDA) 1994			
 Parcels  Subject Land		TMR Layout Plan (6504 - 5.23km)	
Plan: 1 / 1		Issue: A	Date: 24/05/2021
Drawn by: RPK		File ref: TMR21-32805 (500-1586)	

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