

Our Ref: 1559  
DSC Ref: ROL 2024\_5654/2

16 February 2026

Chief Executive Officer  
Douglas Shire Council  
PO Box 723  
**MOSSMAN QLD 4873**

**Attention: Environment & Planning**

Dear Sir/Madam

**CHANGE APPLICATION (MINOR CHANGE)  
DEVELOPMENT PERMIT FOR RECONFIGURING A LOT (BOUNDARY REALIGNMENT & ACCESS EASEMENT)  
SYNDICATE ROAD & O'DONOGHUE ROAD, MIALLO – LOT 97 ON SR231 & LOTS 4 & 5 ON RP731070**

We refer to the above and advise that MD Land Surveys acts on behalf of the Applicants, John Pollock, Barbara Noakes and Donald Pollock in relation to this matter. On behalf of the Applicants, we hereby submit a Change Application to amend the existing approval.

On 6<sup>th</sup> February 2025 Douglas Shire Council issued an approval for for Reconfiguring a Lot (Boundary Realignment and Access Easement) on land located at Syndicate Road and O'Donoghue Road, Miallo, being properly described as Lot 97 on SR231 and Lots 4 and 5 on RP731070.

In accordance with section 78 of the *Planning Act 2016* we hereby submit a Change Application for a minor change to the abovementioned Development Permit to amend the approved plan of proposed reconfiguration.

**PROPOSED CHANGE**

The existing approval seeks to realign the existing property boundaries to rationalise the land holdings, so that the existing Dwelling House and associated shed, currently located on Lot 97 on SR231 is situated on an allotment separated from the balance of the farm. In addition, the proposal sought to create an Access Easement (Easement C), to provide access to Lot 97, through Lot 4, from the existing access location on O'Donoghue Road.

It is now proposed to amend the configuration of the Access Easement, so that it follows the existing access track that traverses proposed Lot 4. The proposed revised easement configuration is shown on the amended Plan of Proposed Reconfiguration (included at *Attachment B*).

Accordingly, it is requested that the schedule of approval plans be to reflect the amended Plan of Proposed Reconfiguration (Plan Reference: Drawing No. P24-032C.dwg). As the proposed revised Access Easement aligns with the existing access track, it is considered that condition 3 (Access) is not required.

**CHANGE APPLICATION (MINOR CHANGE)**

Section 78 of the *Planning Act 2016* states that a Change Application must be made to the responsible entity. Pursuant to section 78A, the responsible entity for this Change Application is Douglas Shire Council.

A Change Application can only be assessed as a minor change if the change satisfies the definition of minor change provided in Schedule 2 of the *Planning Act 2016* as follows:

*“minor change means a change that—*

*.....*

- (b) for a development approval—*
- (i) would not result in substantially different development; and*
  - (ii) if a development application for the development, including the change, were made when the change application is made would not cause—*
    - (A) the inclusion of prohibited development in the application; or*
    - (B) referral to a referral agency, other than to the chief executive, if there were no referral agencies for the development application; or*
    - (C) referral to extra referral agencies, other than to the chief executive; or*
    - (D) a referral agency to assess the application against, or have regard to, matters prescribed by regulation under section 55(2), other than matters the referral agency*  
*must have assessed the application against, or have had regard to, when the application was made; or*
    - (E) public notification if public notification was not required for the development application.”*

The following provides confirmation that this Change Application satisfies the criteria of *minor change*, as defined within the *Planning Act 2016*.

- i) would not result in substantially different development;*

Response:

Schedule 1 of the Development Assessment Rules provides advice on determining what is considered substantially different development. On review, it is considered that the proposed changes do not result in a substantially different development as:

- The proposed change does not involve a new use.
  - The change does not result in the application applying to a new parcel of land.
  - The proposed change is to amend the configuration of the Access Easement and does not involve any changes to built form.
  - The proposed change does not result in the proposed development to operate as originally intended.
  - The change does not result in removing any component of the development that is integral to the operation.
  - The proposed change will not result in significant impacts on traffic flow and the transport network.
  - The proposed changes do not introduce or increase the severity of any known impacts.
  - There is no incentive or offset component associated with the development approval.
  - The proposed change will not have any impacts on infrastructure.
- ii) if a development application for the development, including the change, were made when the change application is made would not cause –*

- (A) the inclusion of prohibited development in the application; or*

Response:

The proposed changes do not result in the inclusion of prohibited development in the application.

- (B) referral to a referral agency, other than to the chief executive, if there were no referral agencies for the development application; or*
- (C) referral to extra referral agencies, other than to the chief executive; or*
- (D) a referral agency to assess the application against, or have regard to, matters prescribed by*

Response:

The initial application did not trigger referral to any referral agencies. A review of the referral triggers confirms that if the application were submitted today, referral to any additional referral agencies or for any other matters would not be triggered.

*(E) public notification if public notification was not required for the development application.*

Response:

The initial development application did not require public notification and the change does not cause a change to the level of assessment for the development.

Accordingly, based on the above, we advise that the proposed change is considered a minor change as it does not result in substantially different development, does not introduce development that would now be considered prohibited, has no effect on referral agency triggers should the application be remade now and would not require public notification should the application be remade now.

**ASSESSING CHANGE APPLICATIONS FOR MINOR CHANGES**

In assessing this change application, Section 81(2) of the *Planning Act 2016* requires Council to consider:

- a. the information that has been included with the application
- b. any properly made submissions about the development application for the approval;
- c. all matters Council would or may assess the Application against or have regard to, if the change application were a development application; and
- d. any other matter Council considers relevant.

Information Included with the Application

This correspondence, including the associated attachments provides all information regarding the proposed change.

Properly Made Submissions

There were no properly made submissions received about the development application.

Matters Council Would or May Assess Against if the Change Application was a Development Application

Pursuant to section 81(3) of the *Planning Act 2016*, Council:

- a. must assess against, or have regard to, the statutory instrument that applied when the development application was properly made; and
- b. may assess against, or have regard to, the statutory instrument that applies when this change application is made.

The original application was assessed against the provisions of the Douglas Shire Planning Scheme 2018, which is the current planning scheme. An assessment of the proposed change, against Douglas Shire Planning Scheme 2018, confirms that the proposed development does not change the overall compliance with the relevant provisions of the planning scheme.

**SUPPORTING DOCUMENTS**

In accordance with the *Planning Act 2016*, the following documentation is attached to allow consideration of the application:

- Attachment A: Planning Act Form 5 – Change Application Form;
- Attachment B: Amended Plan of Proposed Reconfiguration; and
- Attachment C: Douglas Shire Council Decision Notice – dated 6<sup>th</sup> February 2025

**CONCLUSION**

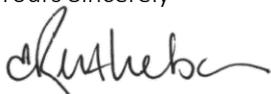
As demonstrated above, the proposed change constitutes a minor change and the proposed change will not result in substantially different development, nor do they exacerbate or detrimentally impact issues considered in the original application assessment.

Accordingly, it is submitted that the proposed changes to the Development Permit for Reconfiguring a Lot Boundary (Realignment and Access Easement) are minor and may be decided by Council on this basis, in accordance with the *Planning Act 2016*.

We trust that the enclosed documentation is sufficient to allow Council's assessment of the proposed change, however, should you have any further queries or wish to discuss please do not hesitate to contact the undersigned on 0402 806 016 or [erin@mdlandsurveys.com.au](mailto:erin@mdlandsurveys.com.au).

We look forward to receiving notification of Council's decision on this application as soon as possible.

Yours Sincerely



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**Erin Berthelsen**  
*Senior Planner*

# ATTACHMENT A

# Change application form

**Planning Act Form 5 (version 1.2 effective 7 February 2020) made under Section 282 of the Planning Act 2016.**

This form is to be used for a change application made under section 78 of the *Planning Act 2016*. It is important when making a change application to be aware of whether the application is for a minor change that will be assessed under section 81 of the *Planning Act 2016* or for an other change that will be assessed under section 82 of the *Planning Act 2016*.

An applicant must complete all parts of this form, and provide any supporting information that the form identifies as being required to accompany the change application, unless stated otherwise. Additional pages may be attached if there is insufficient space on the form to complete any part.

**Note:** All terms used in this form have the meaning given under the *Planning Act 2016*, the *Planning Regulation 2017*, or the *Development Assessment Rules (DA Rules)*.

## PART 1 – APPLICANT DETAILS

1) Applicant details	
Applicant name(s) (individual or company full name)	John Pollock, Barbara Noakes and Donald Pollock
Contact name (only applicable for companies)	C/- MD Land Surveys (Erin Berthelsen)
Postal address (P.O. Box or street address)	228 Draper Street
Suburb	Parramatta Park
State	QLD
Postcode	4870
Country	Australia
Email address (non-mandatory)	erin@mdlandsurveys.com.au
Mobile number (non-mandatory)	0402 806 016
Applicant's reference number(s) (if applicable)	1559

## 2) Owner's consent - Is written consent of the owner required for this change application?

**Note:** Section 79(1A) of the *Planning Act 2016* states the requirements in relation to owner's consent.

- Yes – the written consent of the owner(s) is attached to this change application  
 No

## PART 2 – LOCATION DETAILS

### 3) Location of the premises (complete 3.1) or 3.2), and 3.3) as applicable)

#### 3.1) Street address and lot on plan

- Street address **AND** lot on plan (all lots must be listed), **or**  
 Street address **AND** lot on plan for an adjoining or adjacent property of the premises (appropriate for development in water but adjoining or adjacent to land e.g. jetty, pontoon. All lots must be listed).

a)	Unit No.	Street No.	Street Name and Type	Suburb
		28	O'Donoghue Road	Miallo
	Postcode	Lot No.	Plan Type and Number (e.g. RP, SP)	Local Government Area(s)
	4873	97	SR231	Douglas
b)	Unit No.	Street No.	Street Name and Type	Suburb
		279	Syndicate Road	Miallo
	Postcode	Lot No.	Plan Type and Number (e.g. RP, SP)	Local Government Area(s)
	4873	5	RP731070	Douglas



**Queensland  
Government**

c)	Unit No.	Street No.	Street Name and Type	Suburb
			Syndicate Road	Miallo
	Postcode	Lot No.	Plan Type and Number (e.g. RP, SP)	Local Government Area(s)
	4873	4	RP731070	Douglas

**3.2) Coordinates of premises** (appropriate for development in remote areas, over part of a lot or in water not adjoining or adjacent to land e.g. channel dredging in Moreton Bay)

**Note:** Place each set of coordinates in a separate row.

Coordinates of premises by longitude and latitude

Longitude(s)	Latitude(s)	Datum	Local Government Area(s) (if applicable)
		<input type="checkbox"/> WGS84 <input type="checkbox"/> GDA94 <input type="checkbox"/> Other: <input type="text"/>	

Coordinates of premises by easting and northing

Easting(s)	Northing(s)	Zone Ref.	Datum	Local Government Area(s) (if applicable)
		<input type="checkbox"/> 54 <input type="checkbox"/> 55 <input type="checkbox"/> 56	<input type="checkbox"/> WGS84 <input type="checkbox"/> GDA94 <input type="checkbox"/> Other: <input type="text"/>	

**3.3) Additional premises**

- Additional premises are relevant to the original development approval and the details of these premises have been attached in a schedule to this application
- Not required

## PART 3 – RESPONSIBLE ENTITY DETAILS

**4) Identify the responsible entity that will be assessing this change application**

**Note:** see section 78(3) of the Planning Act 2016

Douglas Shire Council

## PART 4 – CHANGE DETAILS

**5) Provide details of the existing development approval subject to this change application**

Approval type	Reference number	Date issued	Assessment manager/approval entity
<input checked="" type="checkbox"/> Development permit <input type="checkbox"/> Preliminary approval	ROL 2024_5654/2 (1278897)	6 <sup>th</sup> February 2025	Douglas Shire Council
<input type="checkbox"/> Development permit <input type="checkbox"/> Preliminary approval			

**6) Type of change proposed**

**6.1) Provide a brief description of the changes proposed to the development approval (e.g. changing a development approval for a five unit apartment building to provide for a six unit apartment building):**

The existing approval seeks to realign the existing property boundaries to rationalise the land holdings, so that the existing Dwelling House and associated shed, currently located on Lot 97 on SR231 is situated on an allotment separated from the balance of the farm. In addition, the proposal sought to create an Access Easement (Easement C), to provide access to Lot 97, through Lot 4, from the existing access location on O'Donoghue Road.

It is now proposed to amend the configuration of the Access Easement, so that it follows the existing access track that traverses proposed Lot 4. The proposed revised easement configuration is shown on the amended Plan of Proposed Reconfiguration (included at Attachment B).

**6.2) What type of change does this application propose?**

- Minor change application – proceed to Part 5  
 Other change application – proceed to Part 6

**PART 5 – MINOR CHANGE APPLICATION REQUIREMENTS**

**7) Are there any affected entities for this change application**

- No – proceed to Part 7  
 Yes – list all affected entities below and proceed to Part 7

**Note:** section 80(1) of the Planning Act 2016 states that the person making the change application must give notice of the proposal and the details of the change to each affected entity as identified in section 80(2) of the Planning Act 2016.

Affected entity	Pre-request response provided? (where a pre-request response notice for the application has been given, a copy of the notice must accompany this change application)	Date notice given (where no pre-request response provided)
	<input type="checkbox"/> No <input type="checkbox"/> Yes – pre-request response is attached to this change application	
	<input type="checkbox"/> No <input type="checkbox"/> Yes – pre-request response is attached to this change application	
	<input type="checkbox"/> No <input type="checkbox"/> Yes – pre-request response is attached to this change application	

**PART 6 – OTHER CHANGE APPLICATION REQUIREMENTS**

**Note:** To complete this part it will be necessary for you to complete parts of DA Form 1 – Development application details and in some instances parts of DA Form 2 – Building work details, as mentioned below. These forms are available at <https://planning.dsdmip.qld.gov.au>.

**8) Location details - Are there any additional premises included in this change application that were not part of the original development approval?**

- No  
 Yes

**9) Development details**

**9.1) Is there any change to the type of development, approval type, or level of assessment in this change application?**

- No  
 Yes – the completed Sections 1 and 2 of Part 3 (Development details) of DA Form 1 – Development application details as these sections relate to the new or changed aspects of development are provided with this application.

**9.2) Does the change application involve building work?**

- No  
 Yes – the completed Part 5 (Building work details) of DA Form 2 – Building work details as it relates to the change application is provided with this application.

**10) Referral details – Does the change application require referral for any referral requirements?**

**Note:** The application must be referred to each referral agency triggered by the change application as if the change application was the original development application including the proposed change.

- No
- Yes – the completed Part 5 (Referral details) of *DA Form 1 – Development application details* as it relates to the change application is provided with this application. Where referral is required for matters relating to building work the [Referral checklist for building work](#) is also completed.

**11) Information request under Part 3 of the DA Rules**

- I agree to receive an information request if determined necessary for this change application
- I do not agree to accept an information request for this change application

**Note:** By not agreeing to accept an information request I, the applicant, acknowledge:

- that this change application will be assessed and decided based on the information provided when making this change application and the assessment manager and any referral agencies relevant to the change application are not obligated under the DA Rules to accept any additional information provided by the applicant for the change application unless agreed to by the relevant parties
- Part 3 of the DA Rules will still apply if the application is an application listed under section 11.3 of the DA Rules.

Further advice about information requests is contained in the [DA Forms Guide: Forms 1 and 2](#).

**12) Further details**

- Part 7 of *DA Form 1 – Development application details* is completed as if the change application was a development application and is provided with this application.

**PART 7 – CHECKLIST AND APPLICANT DECLARATION**

**13) Change application checklist**

I have identified the:

- responsible entity in 4); and
- for a minor change, any affected entities; and  Yes
- for an other change all relevant referral requirement(s) in 10)

**Note:** See the *Planning Regulation 2017* for referral requirements

For an other change application, the relevant sections of [DA Form 1 – Development application details](#) have been completed and is attached to this application  Yes  Not applicable

For an other change application, where building work is associated with the change application, the relevant sections of [DA Form 2 – Building work details](#) have been completed and is attached to this application  Yes  Not applicable

Supporting information addressing any applicable assessment benchmarks is attached to this application  Yes

**Note:** This includes any templates provided under 23.6 and 23.7 of *DA Form 1 – Development application details* that are relevant as a result of the change application, a planning report and any technical reports required by the relevant categorising instrument(s) (e.g. the local government planning scheme, State Planning Policy, State Development Assessment Provisions). For further information, see [DA Forms Guide: Planning report template](#).

Relevant plans of the development are attached to this development application  Yes

**Note:** Relevant plans are required to be submitted for all relevant aspects of this change application. For further information, see [DA Forms Guide: Relevant plans](#).

**14) Applicant declaration**

- By making this change application, I declare that all information in this change application is true and correct.
- Where an email address is provided in Part 1 of this form, I consent to receive future electronic communications from the responsible entity and any relevant affected entity or referral agency for the change application where written information is required or permitted pursuant to sections 11 and 12 of the *Electronic Transactions Act 2001*.

**Note:** It is unlawful to intentionally provide false or misleading information.

**Privacy** – Personal information collected in this form will be used by the responsible entity and/or chosen assessment manager, any relevant affected entity or referral agency and/or building certifier (including any professional advisers which may be engaged by those entities) while processing, assessing and deciding the change application.

All information relating to this change application may be available for inspection and purchase, and/or published on the assessment manager's and/or referral agency's website.

Personal information will not be disclosed for a purpose unrelated to the *Planning Act 2016*, *Planning Regulation 2017* and the DA Rules except where:

- such disclosure is in accordance with the provisions about public access to documents contained in the *Planning Act 2016* and the *Planning Regulation 2017*, and the access rules made under the *Planning Act 2016* and *Planning Regulation 2017*; or
- required by other legislation (including the *Right to Information Act 2009*); or
- otherwise required by law.

This information may be stored in relevant databases. The information collected will be retained as required by the *Public Records Act 2002*.

## PART 8 – FOR COMPLETION OF THE ASSESSMENT MANAGER – FOR OFFICE USE ONLY

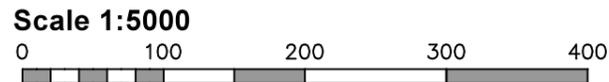
Date received:  Reference number(s):

### QLeave notification and payment

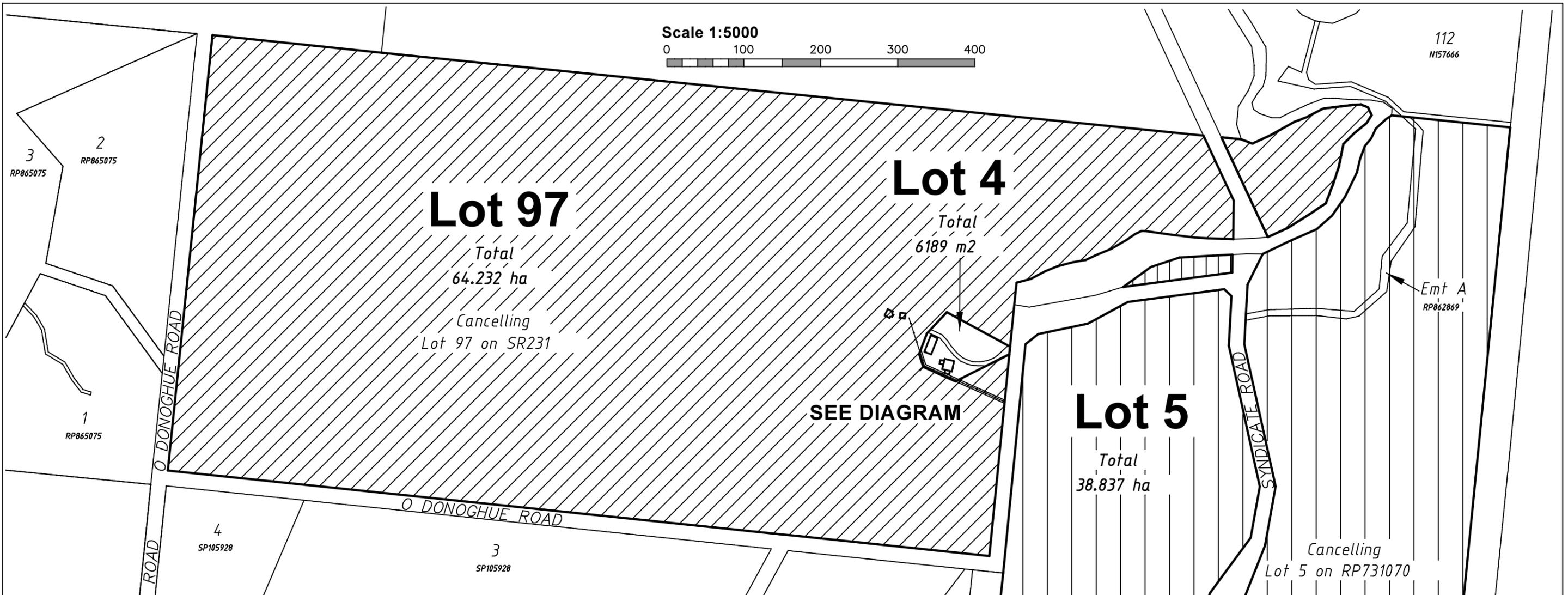
*Note: For completion by assessment manager if applicable*

Description of the work			
QLeave project number			
Amount paid (\$)		Date paid (dd/mm/yy)	
Date receipted form sighted by assessment manager			
Name of officer who sighted the form			

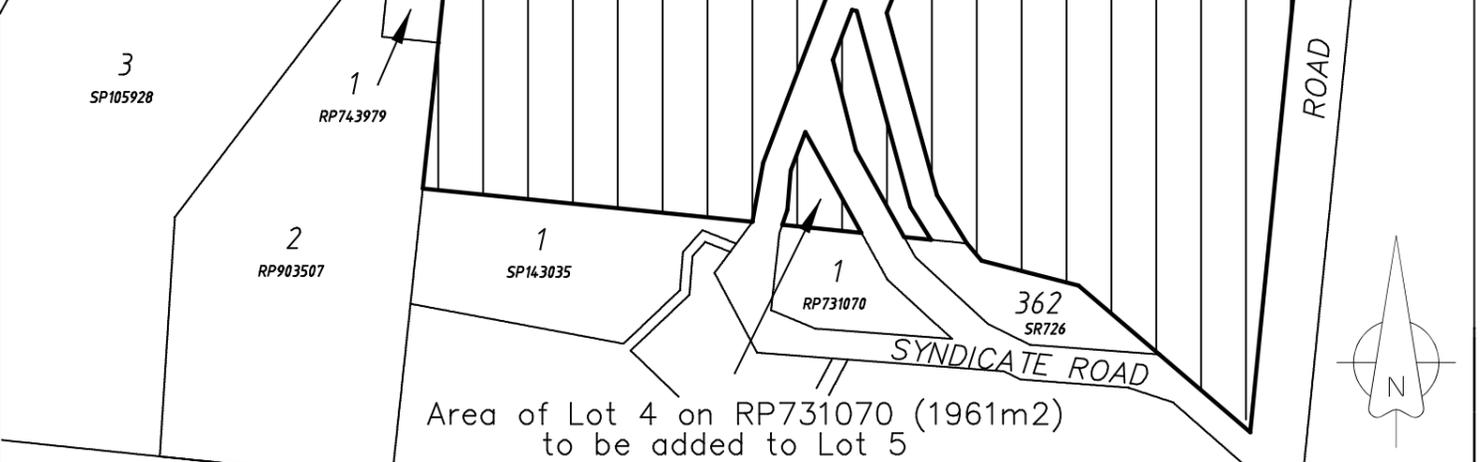
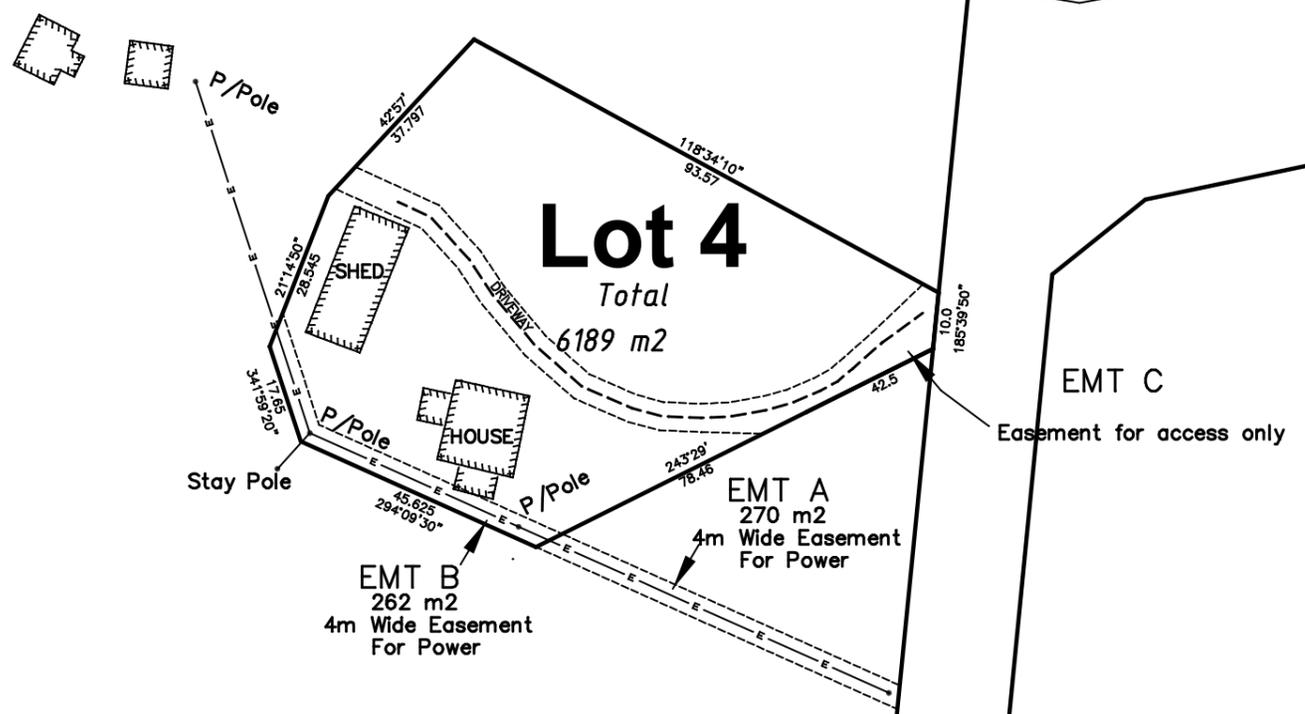
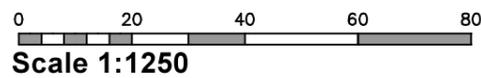
# ATTACHMENT B



112  
N157666



**DIAGRAM**



<p>This plan was prepared for the purpose and exclusive use of <b>DON POLLOCK</b> to accompany application to <b>DOUGLAS SHIRE COUNCIL</b> for approval to rezone/subdivide the land described in this plan. This does not infer in any way that council will approve this subdivision. This plan is not to be used for any other purpose or by any other person or corporation without the written approval of the producer. Atkinson Surveys accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this plan in contravention of the terms of this clause or the clauses below.</p> <p>The dimensions, area, size and location of improvements, flood information (if shown) and number of lots shown on this plan are approximate only and may vary.</p> <p>This plan may not be reproduced unless the above notes are included.</p>			<p><b>PROPOSED RECONFIGURATION OF LOTS 4, 5 &amp; 97 &amp; Easements A, B &amp; C</b> Cancelling LOTS 4 – 5 on RP731070 &amp; LOT 97 on SR231</p>			<p>LOCALITY: MIALLO</p> <p><b>Atkinson SURVEYS</b> 33 Castlemaine St, Kirwan QLD 4817 Phone: (07) 47234885 CADASTRAL SURVEYS</p> <p>P24-032d.dwg Sheet 1 of 1 Form 1.4</p>		
<p>CLIENT <b>DON POLLOCK</b></p>			<p>LOCAL GOVERNMENT Douglas Shire Council</p>			<p>DATE 04/02/2026</p>		
<p>TITLE REF: 20464193, 21054247 &amp; 21054248</p>		<p>FILE P24-032</p>		<p>SCALE as shown @ A3</p>		<p>DRAWN: IWF</p>		
<p>SURVEYOR REF. 24-032</p>		<p>FIELDBOOK N/A</p>						

# ATTACHMENT C

6 February 2025

**Enquiries:** Neil Beck  
**Our Ref:** ROL 2024\_5654/2 (1278897)  
**Your Ref:** 1559

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

D C Pollock & B C Noakes & J S Pollock  
C/- MD Land Surveys  
228 Draper St  
PARRAMATTA PARK QLD 1870

Dear Sir/Madam

**Development Application for Reconfiguring a Lot (Boundary Realignment and Access Easement) At 28 O'Donoghue Road MIALLO, Syndicate Road MIALLO, 279 Syndicate Road MIALLO On Land Described as LOT: 97 TYP: SR PLN: 231, LOT: 4 RP: 731070, LOT: 5 RP: 731070**

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

Please quote Council's application number: ROL 2024\_5654/2 in all subsequent correspondence relating to this development application.

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

Yours faithfully



**Neil Beck**  
**A/Manager Environment & Planning**

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



## Decision Notice

### Approval (with conditions)

*Given under s 63 of the Planning Act 2016*

#### Applicant Details

Name: D C Pollock & B C Noakes & J S Pollock  
Postal Address: C/- MD Land Surveys  
228 Draper St  
PARRAMATTA PARK QLD 1870  
Email: erin@mdlandsurveys.com.au or johnpatpollock@gmail.com  
john.pollock@me.com

#### Property Details

Street Address: 28 O'Donoghue Road MIALLO, Syndicate Road MIALLO, 279  
Syndicate Road MIALLO  
Real Property Description: LOT: 97 TYP: SR PLN: 231, LOT: 4 RP: 731070, LOT: 5 RP:  
731070  
Local Government Area: Douglas Shire Council

#### Details of Proposed Development

Development Permit for Development Applications (Reconfiguring a Lot - Boundary Realignment and Access Easement)

#### Decision

Date of Decision: 6 February 2025  
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 No. P24-032C.dwg	16 February 2025

## **Assessment Manager Conditions & Advices**

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

### **Access**

3. In order to establish lawful and practical access to the existing dwelling on Lot 94, the following works are required:
  - a. Construct a gravel driveway extending from the gravel driveway in Access Easement C adjacent the southern and western boundary of Lot 4 to connect with the existing driveway providing access to the dwelling on Lot 97. A plan of works must be prepared detailing the alignment of the driveway and how the driveway responds to and accommodates existing drainage features. The plan of works is to be prepared by an appropriately qualified person and endorsed by the Chief Executive Officer before commencing works;
  - b. The southern boundary of Lot 4 and proposed Easement C may need adjusting to accommodate the driveway works required above.

All works must be completed to the satisfaction of the Chief Executive Officer prior to the endorsement of the Survey Plan.

### **ADVICE**

1. This approval, granted under the provisions of the *Planning Act 2016*, shall in accordance with the provisions of Section 339 and Section 341 of the *Planning Act 2009*.
2. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.

### **Further Development Permits**

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Not applicable

### **Concurrence Agency Response**

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None Applicable.

### **Currency Period for the Approval**

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

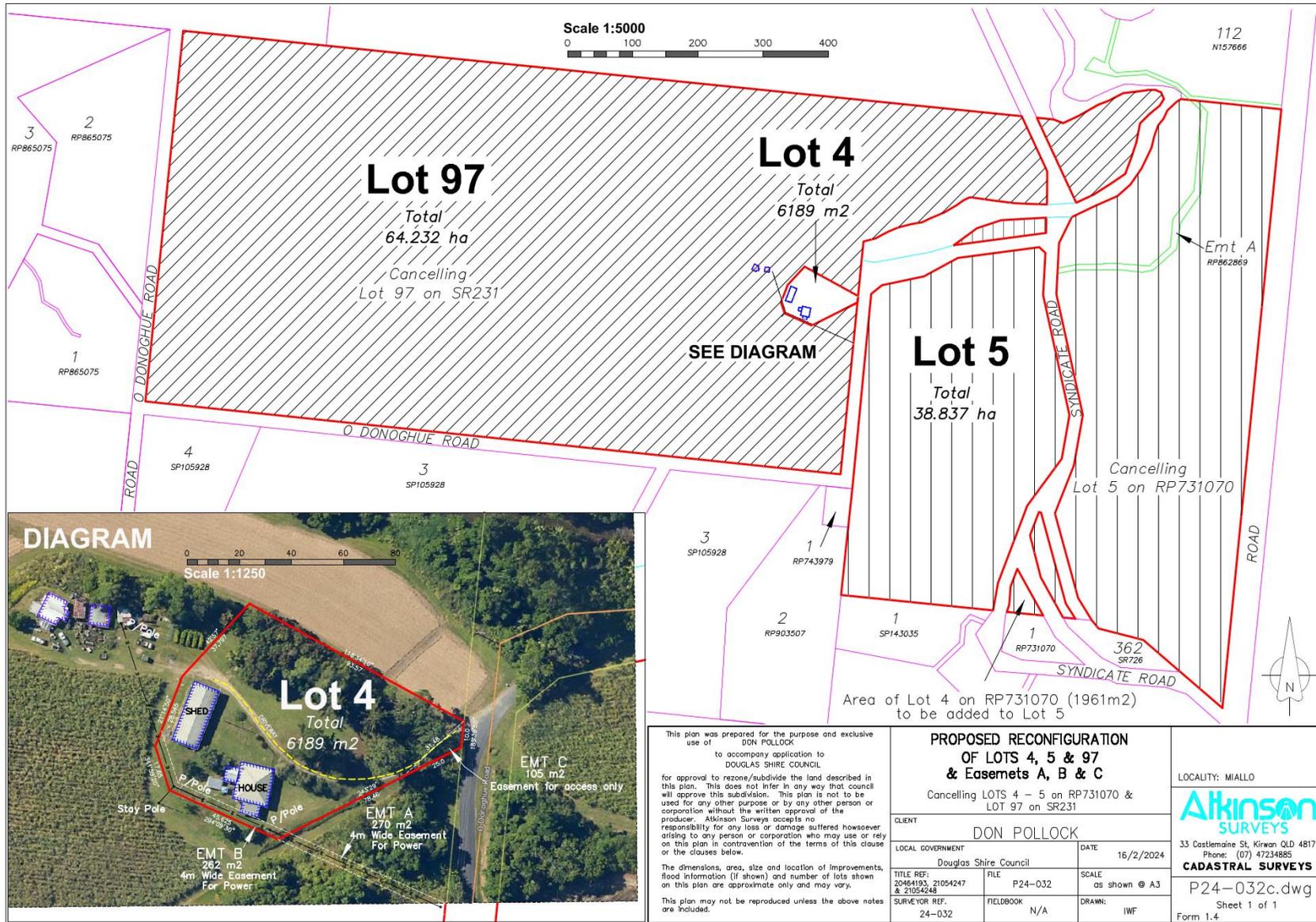
## **Rights to make Representations & Rights of Appeal**

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

A copy of the relevant appeal provisions is attached.

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



This plan was prepared for the purpose and exclusive use of DON POLLOCK to accompany application to DOUGLAS SHIRE COUNCIL for approval to rezone/subdivide the land described in this plan. This does not infer in any way that council will approve this subdivision. This plan is not to be used for any other purpose or by any other person or corporation without the written approval of the producer. Atkinson Surveys accepts no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this plan in contravention of the terms of this clause or the clauses below.

The dimensions, area, size and location of Improvements, flood information (if shown) and number of lots shown on this plan are approximate only and may vary.

This plan may not be reproduced unless the above notes are included.

PROPOSED RECONFIGURATION OF LOTS 4, 5 & 97 & Easements A, B & C			
Cancelling LOTS 4 – 5 on RP731070 & LOT 97 on SR231			
CLIENT	DON POLLOCK		
LOCAL GOVERNMENT	Douglas Shire Council	DATE	16/2/2024
TITLE REF:	20464193, 21054247 & 21054248	FILE	P24-032
SURVEYOR REF:	24-032	FIELDBOOK	N/A
		SCALE	as shown @ A3
		DRAWN:	IWF

LOCALITY: MIALLO

**Atkinson SURVEYS**  
33 Castlemaine St, Kirwan QLD 4817  
Phone: (07) 47234885  
**CADASTRAL SURVEYS**

P24-032c.dwg  
Sheet 1 of 1  
Form 1.4

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## 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 assessment manager gives the applicant the decision notice for the change representations; or
    - (iii) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- (5) If the applicant makes the change representations during the appeal period without giving a notice under subsection (2), the appeal period is suspended from the day the representations are made until—
- (a) the applicant withdraws the change representations by notice given to the assessment manager; or
  - (b) the assessment manager gives the applicant the decision notice for the change representations; or

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- (c) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
  - (6) Despite subsections (4) and (5), if the decision notice mentioned in subsection (4)(b)(ii) or (5)(b) is a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

## 76 Deciding change representations

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

## Subdivision 2 Changes after appeal period

### 77 What this subdivision is about

This subdivision is about changing a development approval, other than the currency period, after all appeal periods in relation to the approval end.

### 78 Making change application

- (1) A person may make an application (a *change application*) to change a development approval.

*Note—*

For the making of a change application for a development approval that was a PDA development approval, see also the *Economic Development Act 2012*, sections 51AM, 51AN and 51AO.

- (2) A change application must be made to the responsible entity for the application.

### 78A Responsible entity for change applications

- (1) The *responsible entity* for a change application is—
  - (a) if the change application is for a minor change to a development condition of a development approval stated in a referral agency's response for the development application or another change application for the approval—the referral agency; or

## Extracts from the Planning Act 2016 – Appeal Rights

Planning Act 2016  
Chapter 6 Dispute resolution

[s 229]

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

(3) In this section—

**conduct** means an act or omission.

**representative** means—

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

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

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

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

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

## Chapter 6 Dispute resolution

### Part 1 Appeal rights

#### 229 Appeals to tribunal or P&E Court

(1) Schedule 1 states—

(a) matters that may be appealed to—

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

(ii) only a tribunal; or

(iii) only the P&E Court; and

(b) the person—

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

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

- (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 a decision of the Minister, under  
chapter 7, part 4, to amend the registration of premises  
to include additional land in the affected area for the  
premises—20 business days after the day a notice is  
published under section 269A(2)(a); or
  - (e) for an appeal against an infrastructure charges  
notice—20 business days after the infrastructure charges  
notice is given to the person; or
  - (f) for an appeal about a deemed approval of a development  
application for which a decision notice has not been  
given—30 business days after the applicant gives the  
deemed approval notice to the assessment manager; or
  - (g) for an appeal relating to the *Plumbing and Drainage Act  
2018*—
    - (i) for an appeal against an enforcement notice given  
because of a belief mentioned in the *Plumbing and  
Drainage Act 2018*, section 143(2)(a)(i), (b) or  
(c)—5 business days after the day the notice is  
given; or

- (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
  - (iii) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
  - (iv) otherwise—20 business days after the day the notice is given; or
- (h) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note—*

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

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency’s response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
  - (a) the adopted charge itself; or
  - (b) for a decision about an offset or refund—
    - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
    - (ii) the cost of infrastructure decided using the method included in the local government’s charges resolution.

**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

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- (c) the making of a decision or the failure to make a decision; and
  - (d) a purported decision; and
  - (e) a deemed refusal.

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

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

## **232 Rules of the P&E Court**

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

## **Part 2 Development tribunal**

### **Division 1 General**

#### **233 Appointment of referees**

- (1) The Minister, or chief executive, (the ***appointer***) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—