



Our Ref: LM:DA/4553 AD2023/0000222

Your Ref: SHERRIN ESP

24 January 2023

Cook Shire Council
c/-Environment Pacific Pty Ltd
E-mail: Kristin.Keane@environmentpacific.com
Attention: Kristin Keane

Dear Ms Keane

Decision Notice - Approval
Given under section 63 of the *Planning Act 2016*

With reference to the abovementioned Development Application, please find attached the relevant Decision Notice, which was approved by Cook Shire Council in full, subject to conditions.

Details of the decision are as follows:

Decision Details

Date of Decision: Council approved the Development Application by delegation on 23 January 2023.

Approval Details: **Approved in full** with conditions. These conditions are set out in Attachment 1 and are clearly identified to indicate whether the assessment manager or concurrence agency imposed them.

Variation approval details

Not Applicable

Application Details

Application Number: DA/4553

Approval Sought: Development Permit for Operational Works

Description of the Development: Prescribed Tidal Work (Footpath and Stormwater Infrastructure)

Category of Development: Assessable Development

Category of Assessment: Code Assessment

Planning Scheme: Cook Shire Council Planning Scheme 2017

Location Details

Street Address: Sherrin Esplanade, COOKTOWN 4895

Real Property Description: Adjacent to Lot 3 USL8248

Local Government Area: Cook Shire

Assessment Manager Conditions

This approval is subject to the conditions in Attachment 1.

Further Development Permits

Not Applicable.

Properly Made Submissions

Not applicable - no part of the application required public notification.

Referral Agencies

The referral agencies for the application are:

Referral Agency	Referral Matter
State Assessment and Referral Agency (SARA)	Schedule 10, Part 6, Division 3, Subdivision 3, Table 1, Item 1 (<i>Planning Regulation 2017</i>)
Far North Queensland Regional Office PO Box 2358 CAIRNS QLD 4870 Ph: 07 4037 3214 E-mail: CairnsSARA@dsdilgp.qld.gov.au MyDAS2 online referrals: https://prod2.dev-assess.qld.gov.au/suite/	Schedule 10, Part 17, Division 3, Table 1, Item 1 (<i>Planning Regulation 2017</i>)

Other requirements under section 43 of the *Planning Regulation 2017*

Not Applicable.

Approved Plans and Specifications

Copies of the approved plans, specifications and/or drawings are enclosed in **Attachment 2**.

Currency Period for the Approval

This development approval will lapse at the end of the period set out in section 85 of the *Planning Act 2016*.

Lapsing of approval if development started but not completed

In accordance with section 88(1) of the *Planning Act 2016*, a development approval, other than a variation approval, for development lapses to the extent the development is not completed within any period or periods required under a development condition.

Rights of Appeal

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* are provided in Attachment 4 of this Decision Notice.

Other Details

Council relies on the accuracy of information included in the application documentation when assessing and deciding applications.

If you find an inaccuracy in any of the information provided above, have a query, or need to seek clarification about any of these details, please contact Cook Shire Council's Planning and Environment Department on 07 4082 0500 or E-mail: mail@cook.qld.gov.au.

Yours sincerely



Lisa Miller
Manager
Planning and Environment
Cook Shire Council

cc: State Assessment and Referral Agency (SARA)
E-mail: CairnsSARA@dasilgp.qld.gov.au



Cook Shire COUNCIL

- enc: **Attachment 1 (A)** – Conditions imposed by the assessment manager
Attachment 1 (B) – Conditions imposed by a concurrence agency (D22/32679)
Attachment 2 – Approved Plans (D23/2260)
Attachment 3 – Notice of Decision – Statement of Reasons (AD2023/0000223)
Attachment 4 - Extract of Appeal Provisions (Chapter 6 part 1 of the *Planning Act 2016*)



Attachment 1 (A) - Conditions imposed by the assessment manager (Cook Shire Council)

A. Assessment Manager (Council) Conditions

Approved Plan

1. The development must be carried out generally in accordance with the following plans/specialist reporting submitted with the application, except for any variations required to comply with the conditions of this approval:
 - Sherrin Esplanade Post Development Tide Levels – Drawing No. 1462-051 (Rev A) – Trinity Engineering and Consulting – 15/11/2022.
2. Implement and maintain an Erosion and Sediment Control Plan on-site for the duration of the works, and until such time all exposed soil areas are permanently stabilised (e.g. turfed, hydro mulched, concreted, and landscaped etc.). The Erosion and Sediment Control Plan must be available on-site for inspection by Council Officers during the works.

B. Assessment Manager (Council) Advice

1. The currency period for this application is two (2) years. Should the approved use not commence within this time, the approval shall lapse.

C. Referral Agency Response

1. State Assessment Referral Agency response dated 19 December 2022.



Attachment 1 (B) – Conditions imposed by a concurrence agency (D22/32679)



SARA reference: 2209-31204 SRA
 Council reference: DA/4553
 Applicant reference: Sherrin Esplanade Operational works (including prescribed tidal works)

19 December 2022

Chief Executive Officer
 Cook Shire Council
 PO Box 3
 Cooktown QLD 4895
 mail@cook.qld.gov.au

Attention: Ms Kristin Keane

Dear Sir/Madam

SARA response—Footpath and stormwater infrastructure at Sherrin Esplanade, Cooktown

(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 September 2022.

Response

Outcome:	Referral agency response – with conditions
Date of response:	19 December 2022
Conditions:	The conditions in Attachment 1 must be attached to any development approval
Advice:	Advice to the applicant is in Attachment 2
Reasons:	The reasons for the referral agency response are in Attachment 3

Development details

Description:	Development permit	Operational Work for Prescribed Tidal Works (footpath and stormwater infrastructure)
SARA role:	Referral agency	

SARA trigger: Schedule 10, Part 6, Division 3, Subdivision 3, Table 1 (Planning Regulation 2017)
Marine plant removal, destruction and damage

Schedule 10, Part 17, Division 3, Table 1 (Planning Regulation 2017)
Tidal works and work in a coastal management district

SARA reference: 2209-31204 SRA

Assessment manager: Cook Shire Council

Street address: Sherrin Esplanade, Cooktown

Real property description: Adjacent to Lot 3 on USL8248

Applicant name: Cook Shire Council

Applicant contact details: PO Box 724
Edge Hill QLD 4870
kristin.keane@environmentpacific.com

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 Tony Croke, Principal Planner, on 40373205 or via email CairnsSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Javier Samanes
A/Manager (Planning)

cc Cook Shire Council, kristin.keane@environmentpacific.com

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
Operational Work		
Schedule 10, Part 6, Division 3, Subdivision 3, Table 1—Marine plant removal, destruction and damage—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Agriculture and Fisheries 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 conditions:		
1.	Development authorised under this approval is limited as follows: (a) Operational work for the permanent removal, destruction or damage of marine plants for a footpath and a stormwater culvert being limited to 256 m ² for trimming of mangroves and impacts to salt couch <i>Sporobolus virginicus</i> as shown within the footprint of the proposed 3 m wide shared concrete pathway and placed rock scour protection to outlet 2 m wide 3 m long as shown in: i. Sherrin Esplanade Post-Development Tide Levels prepared by Trinity Engineering and Consulting, dated 15/11/2022, drawing no. 1462-051, revision A.	At all times
2.	The trimming of mangroves is to be limited to a 1-metre-wide area along the western edge of the footpath alignment generally in accordance with the Sherrin Esplanade Post-Development Tide Levels prepared by Trinity Engineering and Consulting, dated 15/11/2022, drawing no. 1462-051, revision A.	For the duration of the works
3.	The stormwater culvert must be undertaken generally in accordance with the following plan: (a) Sherrin Esplanade Post-Development Tide Levels prepared by Trinity Engineering and Consulting, dated 15/11/2022, drawing no. 1462-051, revision A.	For the duration of the works
4.	The works must be undertaken generally in accordance with section 5. Construction and 6. Management measures of “Sherrin Esplanade Operational works (including prescribed tidal works)” report prepared by Environmental Pacific dated 13.09.2022, unreferenced, revision 2 (as amended in red by SARA on 19 December 2022).	For the duration of the works
5.	Enter into an agreed delivery arrangement to deliver an environmental offset in accordance with the <i>Environmental Offsets Act 2014</i> to counterbalance the significant residual impacts on the	Prior to commencing any works that impact

	matter/s of state environmental significance being 256 m ² of marine plants.	on the marine plants
6.	<p>Provide written notice to the Department of Agriculture and Fisheries at notifications@daf.qld.gov.au advising when the development authorised under this referral agency response:</p> <p>(a) will start</p> <p>(b) when it has been completed</p> <p>Any notice must state the application's reference number: 2209-31204 SRA.</p>	<p>(a) At least 5 business days but no greater than 20 business days prior to the commencement of the works</p> <p>(b) Within 15 business days of the completion of the fisheries development works</p>
7.	Spoil is not disposed of on tidal lands or within waterways and is managed to prevent acid soil development.	At all times
8.	This fisheries development (as defined by the <i>Fisheries Act 1994</i>) constitutes a place that is required to be open for inspection by an inspector at all times, pursuant to section 145 of the <i>Fisheries Act 1994</i> .	At all times
9.	<p>(a) Remove marine plants that have been authorised for trimming/removal as part of this development from the intertidal zone.</p> <p>(b) Dispose of all material associated with the development (e.g., debris, construction material, soil, etc.) from the intertidal zone at an appropriate licensed facility that accepts marine plant vegetation</p>	<p>(a) As soon as reasonably practicable after the marine plants have been removed</p> <p>(b) As soon as reasonably practicable</p>
10.	Mark with corner pegs and/or buoys, the boundary of the approved tidal and marine plant component of the development footprint, as shown on Sherrin Esplanade Post-Development Tide Levels prepared by Trinity Engineering and Consulting, dated 15/11/2022, drawing no. 1462-051, revision A.	Prior to the commencement of the works, and to be maintained until the works have been completed
11.	Tidal land profiles that are temporarily disturbed by the development works (other than those within the permanent development footprint, as shown on Sherrin Esplanade Post-Development Tide Levels prepared by Trinity Engineering and Consulting, dated 15/11/2022, drawing no. 1462-051, revision A, must be promptly restored to pre-work profiles.	Within 10 business days of completion of the works and prior to post works notification

<p>Schedule 10, Part 17, Division 3, Table 1—Tidal works and work in a coastal management district— 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 conditions:</p>		
12.	<p>The footpath and stormwater culvert must be carried out generally in accordance with the following plans:</p> <p>(a) Sherrin Esplanade Post-Development Tide Levels prepared by Trinity Engineering and Consulting, dated 15/11/2022, drawing no. 1462-051, revision A.</p>	For the duration of the works
13.	For the proposed works, only use clean materials which are free from prescribed water contaminants.	For the duration of the works
14.	Development must prevent the release of sediment to tidal waters by installing and maintaining erosion and sediment control measures in accordance with the Best Practice Erosion and Sediment Control (BPESC) guidelines for Australia (International Erosion Control Association).	For the duration of the works
15.	<p>Submit “As Constructed drawings” to palm@des.qld.gov.au or mail to:</p> <p style="text-align: center;">Department of Environment and Science Permit and License Management GPO Box 2454 Brisbane QLD 4001.</p>	Within 20 business days of the completion of the works
16.	<p>(a) In the event that the works cause disturbance or oxidisation of acid sulfate soil, the affected soil must be treated and thereafter managed (until the affected soil has been neutralised or contained) in accordance with the current Queensland Acid Sulfate Soil Technical Manual: Soil management guidelines, prepared by the Department of Science, Information Technology, Innovation and the Arts, 2014.</p> <p>(b) Submit certification from an appropriately qualified person on acid sulfate soil, confirming that the affected soil has been neutralised or contained in accordance with (a) above to palm@des.qld.gov.au or mail to:</p> <p style="text-align: center;">Department of Environment and Science Permit and License Management GPO Box 2454 Brisbane QLD 4001.</p> <p><i>Note: Appropriately qualified person(s) means a person or persons who has professional qualifications, training, skills and experience relevant to soil chemistry or acid sulfate soil management and can give authoritative assessment, advice and analysis in relation to acid sulfate soil management using the relevant protocols, standards, methods or</i></p>	<p>(a) Upon disturbance or oxidisation until the affected soil has been neutralised or contained</p> <p>(b) At the time the soils have been neutralised or contained.</p>

	<i>literature.</i>	
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Attachment 2—Advice to the applicant

General advice	
1.	<p>Terms and phrases</p> <p>Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) version 3, commenced 18 February 2022. If a word remains undefined it has its ordinary meaning.</p>
2.	<p>Maintenance</p> <p>It is acknowledged that the marine plants are to be trimmed indefinitely as maintenance of the shared pathway.</p> <p>It is recommended the pathway be maintained under the prescribed work type 3.1 <i>For maintenance of an existing lawful work that is not specifically referenced in any other item of this Table 3.</i></p>

Attachment 3—Reasons for referral agency response

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

The reasons for SARA's decision are:

- Construction methodology, environmental controls and the location and footprint design will minimise impacts on marine plants.
- The significant residual impact of the development on marine plants is considered acceptable and the development has been conditioned to require an offset to counterbalance potential impacts.
- The proposed development does not significantly increase the risk of impacts to people and property from coastal erosion.
- The proposed development is unlikely to impact on coastal processes, coastal resources or impact on public access or use of coastal land.
- SARA has carried out an assessment of the development application against State code 8: Coastal development and tidal works and State code 11: Removal, destruction or damage of marine plants 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, commenced 18 February 2022)
- the Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- *Human Rights Act 2019*.

Attachment 4—Representations provisions

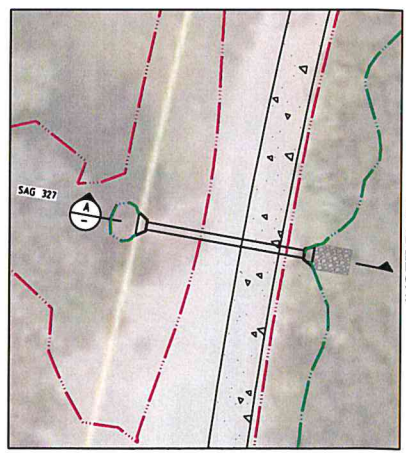
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Attachment 5—Approved plans and specifications

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GENERAL ARRANGEMENT
SCALE 1:750



INSET PLAN
SCALE 1:200

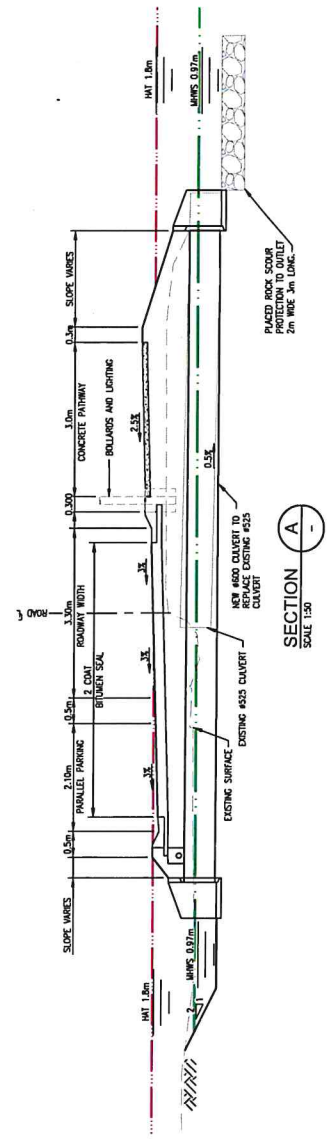
GENERAL NOTES

- #1. HIGHEST ASTRONOMICAL TIDE CONTOUR WAS DERIVED FROM A COMBINATION OF LOCAL SURVEY AND DESIGN CONTOUR.
- #2. MEAN HIGH WATER SPRINGS CONTOUR WAS DERIVED FROM A COMBINATION OF LOCAL SURVEY.
- 3. TIDE LEVELS WERE SOURCED FROM 'QUEENSLAND TIDE TABLES STANDARD PORT TIDE TIMES 2022' BY OTHER.

LEGEND

- PROPOSED 3m WIDE SHARED CONCRETE PATHWAY
- TOP OF BATTER
- TIDE OF BATTER
- 1.8m AHD CONTOUR (HIGHEST ASTRONOMICAL TIDE) #
- 0.97m AHD CONTOUR (MEAN HIGH WATER SPRINGS) *

FOR APPROVAL



SECTION A-A
SCALE 1:50

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.

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

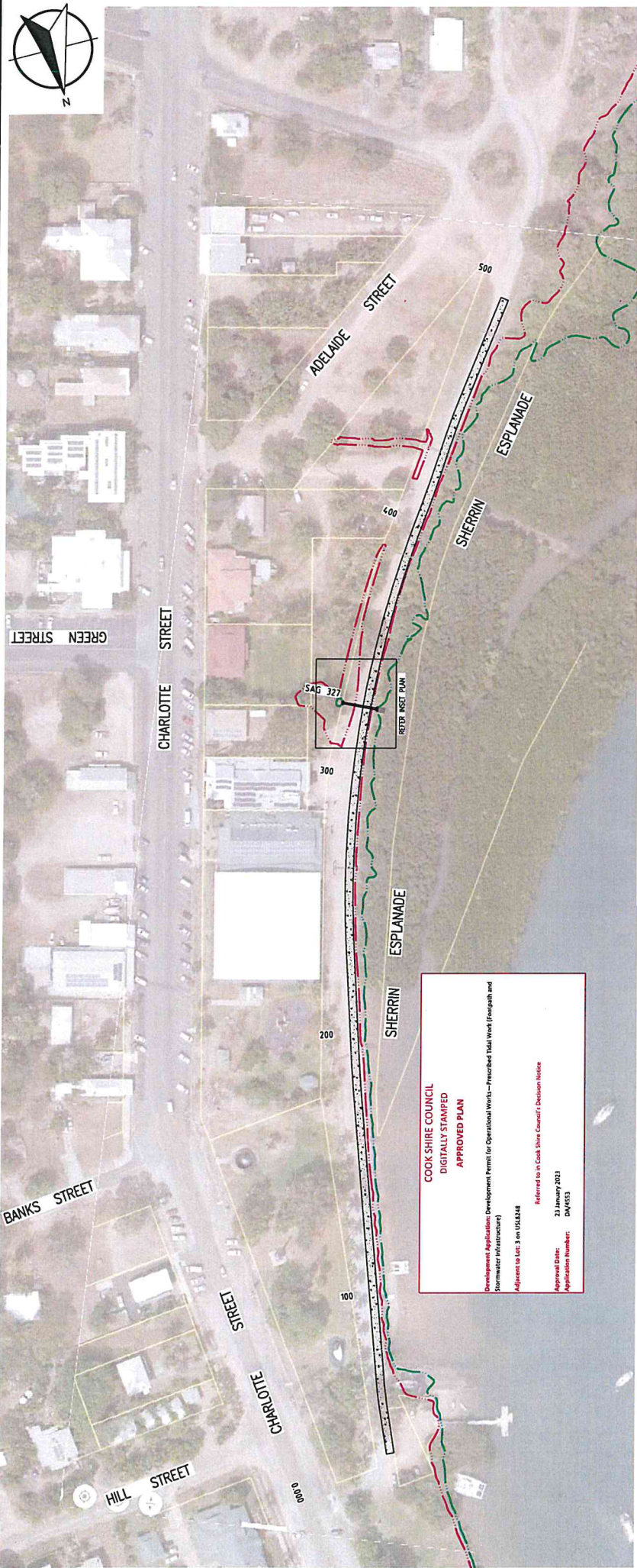
- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency 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.



Attachment 2 – Approved Plans (D22/2260)

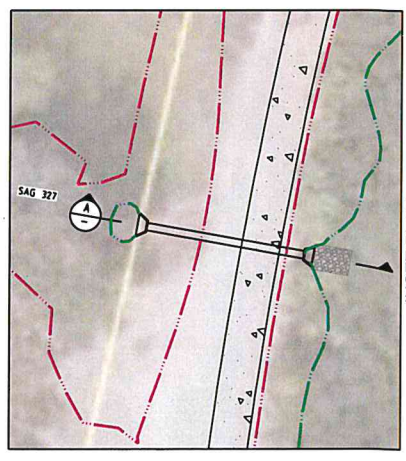


COOK SHIRE COUNCIL
DIGITALLY STAMPED
APPROVED PLAN

Development Application: Development Permit for Operational Works - Prescribed Road Work (Pavement and Stormwater Infrastructure)
 Alignment to Lot: 3 on 1528248
 Referred to in Cook Shire Council Decision Notice

Approval Date: 23 January 2023
 Application Number: DM/4553

GENERAL ARRANGEMENT
 SCALE 1:150

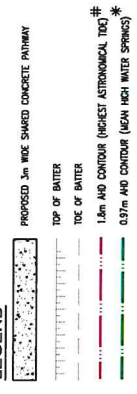


INSET PLAN
 SCALE 1:200

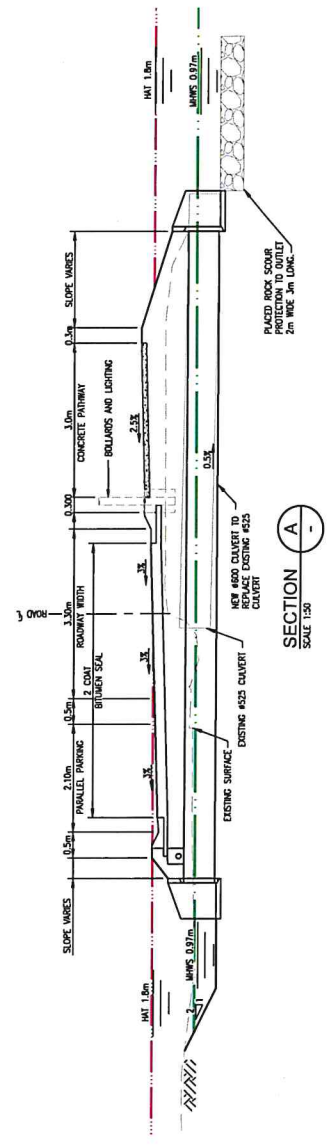
GENERAL NOTES

- #1. HIGHEST ASTRONOMICAL TIDE CONTOUR WAS DERIVED FROM A COMPARISON OF LGRA, SHERRIN AND DESIGN CONTOUR.
- #2. HIGH HIGH WATER SPRINGS CONTOUR WAS DERIVED FROM A COMPARISON OF LGRA AND SURVEY.
- 3. TIDE LEVELS WERE SOURCED FROM 'QUEENSLAND TIDE TABLES STANDARD PART TIDE TIMES 2022' BY OTHER.

LEGEND



FOR APPROVAL



SECTION A-A
 SCALE 1:200



Attachment 3 – Notice of Decision – Statement of Reasons (AD2023/0000223)

NOTICE ABOUT DECISION – STATEMENT OF REASONS

This Notice is prepared in accordance with s63(5) and s83(9) of the Planning Act 2016 to provide information about a decision that has been made in relation to a development application. The purpose of the Notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:

- *the relevant parts of the Planning Scheme and Assessment Benchmarks against which the application was assessed; and*
- *any other information, documents or other material Council was either required to, or able to, consider in its assessment.*

All terms used in this Notice have the meanings given them in the Planning Act 2016 or otherwise their ordinary meaning.

APPLICATION DETAILS

Application No:	DA/4553
Applicant:	Cook Shire Council c/- Environment Pacific Pty Ltd
Proposal:	Development Permit for Operational Works
Description of the Development:	Operational Works - Prescribed Tidal Work (Footpath and Stormwater Infrastructure)
Street Address:	Sherrin Esplanade
Real Property Description:	Adjacent to Lot 3 on USL8248
Planning Scheme:	Cook Shire Council Planning Scheme 2017 v2.0
Land Zoning:	Environmental Management and Conservation
Assessment Type:	Code Assessment

DECISION DETAILS

Type of Decision:	Approval with Conditions
Type of Approval:	Development Permit for Operational Works - Prescribed Tidal Work (Footpath and Stormwater Infrastructure)
Date of Decision:	23 January 2023

ASSESSMENT BENCHMARKS

The following Assessment Benchmarks applied to the development from the following Categorising Instruments:

Assessment Benchmarks	Comment
<i>Planning Regulation 2017</i> (Schedule 9)	Schedule 9 is not applicable as the application is not for building work under the Building Act.
<i>Planning Regulation 2017</i> (Schedule 10)	<p>In accordance with Schedule 10, Part 17, Division 2, Table 1 where the local government is the assessment manager the prescribed assessment benchmark is the Coastal Regulation, Schedule 3. An assessment against Schedule 3 of the Coastal Protection and Management Regulation 2017 determined the proposal achieves compliance with the prescribed Performance Outcomes.</p> <p>The application triggered a referral to SARA under Schedule 10, Part 6, Division 3, Subdivision 3, Table 1 – Marine Plant Removal, Destruction and Damage AND Schedule 10, Part 17, Division 3, Table 1 – for tidal works and work in a coastal management district.</p>
Regional Plan	Section 2.2 of the Planning Scheme identifies that the Cape York Regional Plan has been adequately reflected in the Planning Scheme.
State Planning Policy (SPP), Part E	<p>Section 2.1 of the Planning Scheme identifies that the superseded version of the <i>State Planning Policy</i> is integrated in the Planning Scheme.</p> <p>The Planning Scheme does not reflect the current SPP (July 2017) Assessment Benchmark mapping for Natural Hazards Risk and Resilience – Bushfire Prone Areas, Erosion Prone Areas and Storm Tide Inundation areas. An assessment against the State Planning Policy determined the proposal achieved compliance with the relevant assessment benchmarks.</p>
Temporary State Planning Policy	There are no Temporary State Planning Policies

Local Categorising Instrument (Cook Shire Council Planning Scheme 2017):

- Not applicable

Local Categorising Instrument (Variation Approval)

Not Applicable

Local Categorising Instrument (Temporary Local Planning Instrument)

Not Applicable

PUBLIC NOTIFICATION

Not Applicable

REASONS FOR THE DECISION

The application is **approved** on the following grounds:

- a. An assessment was made against the applicable assessment benchmarks and the proposed development demonstrated compliance.
- b. The proposed development for Operational Work - Prescribed Tidal Work (Footpath and Stormwater Infrastructure) is an appropriate use to be located on the site and will have no adverse impact on the amenity of the locality.

REASONS FOR APPROVAL DESPITE NON-COMPLIANCE WITH ASSESSMENT BENCHMARKS

Not Applicable

ADDITIONAL RELEVANT MATTERS FOR IMPACT ASSESSMENT

Not Applicable

OTHER MATTERS PRESCRIBED BY THE PLANNING REGULATION 2017

Not Applicable

OTHER DETAILS

If you wish to obtain more information about Council's decision, including a copy of Council's Decision Notice and any conditions or plans relating to the development, please refer to Council's webpage.



Attachment 4 - Extract of Appeal Provisions (Chapter 6 part 1 of the *Planning Act 2016*)

Chapter 6 Dispute resolution

Part 1

Appeal rights

229 Appeals to tribunal or P&E Court

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

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

Note—

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

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.

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

230 Notice of appeal

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

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

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.

- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
decision includes—
- (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.
- non-appealable*, for a decision or matter, means the decision or matter—
- (a) is final and conclusive; and
 - (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

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