

Our Ref: LM:DA/4554 AD2023/0000818

Your Ref: 22013

07 March 2023

Mrs Carol Gavin c/-Scope Town Planning

75 Hastie Road

MAREEBA QLD 4880

E-mail: [jburns@scopetownplanning.com.au](mailto:jburns@scopetownplanning.com.au)

Attention: Jonathan Burns

Dear Mr Burns

**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**

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Date of Decision: Council approved the Development Application at a Council meeting on 28 February 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**

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Not Applicable

**Application Details**

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Application Number: DA/4554

Approval Sought: Development Permit for Reconfiguration of a Lot

Description of the Development: Reconfiguration of a Lot (1 into 4 lots)

Category of Development: Assessable Development

Category of Assessment: Code Assessment

Planning Scheme: Cook Shire Council Planning Scheme 2017 v2.0

### Location Details

Street Address: 719 Shiptons Flat Road ROSSVILLE 4895

Real Property Description: Lot 1 on Plan SP241618

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 9, Division 4, Subdivision 2, Table 1 ( <i>Planning Regulation 2017</i> )
Far North Queensland Regional Office PO Box 2358 CAIRNS QLD 4870 Ph: 07 4037 3214  E-mail: <a href="mailto:CairnsSARA@dsdilgp.qld.gov.au">CairnsSARA@dsdilgp.qld.gov.au</a> MyDAS2 online referrals: <a href="https://prod2.dev-assess.qld.gov.au/suite/">https://prod2.dev-assess.qld.gov.au/suite/</a>	Schedule 10, Part 3, Division 4, Table 2 ( <i>Planning Regulation 2017</i> )



# Cook Shire COUNCIL

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

Not Applicable.

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## Approved Plans and Specifications

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

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## Currency Period for the Approval

(For a reconfiguring a lot) This approval lapses if a plan for the reconfiguration that, under the *Land Title Act 1994*, is required to be given to a local government for approval is not given within *four (4) years*.

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## 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.

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## 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.

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## 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](mailto: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@dsdilgp.qld.gov.au](mailto:CairnsSARA@dsdilgp.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 (D23/4954)  
**Attachment 2** – Approved Plans (D23/7585)  
**Attachment 3** – Notice of Decision – Statement of Reasons (AD2023/0000864)  
**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

No.	Condition	Timing
<b>GENERAL</b>		
1.	<b>COMPLIANCE WITH CONDITIONS</b> The Developer is responsible for ensuring compliance with this development approval and the conditions of the approval by an employee, agent, contractor, or invitee of the Developer.	At all times
2.	<b>OUTSTANDING CHARGES</b> All rates, service charges, interest and other charges levied on the land must be paid prior to Council endorsement of the Plan of Survey.	Prior to Council endorsement of the Plan of Survey
3.	<b>WORKS - DEVELOPER'S EXPENSE</b> The cost of all works associated with the development and construction of the development, including services, facilities and/or public utility alterations required are met at no cost to the Council or relevant utility provider, unless otherwise stated in a development condition.	At all times
4.	<b>WORKS - DAMAGE TO INFRASTRUCTURE</b> The Developer must repair any damage to existing infrastructure that may have occurred during any works undertaken as part of the development. Any damage that is deemed to create a hazard to the community, must be repaired immediately.	At all times
5.	<b>WORKS - DESIGN &amp; STANDARD</b> Unless otherwise stated, all works must be designed, constructed, and maintained in accordance with the relevant Council policies, guidelines, and standards.	At all times
6.	<b>WORKS - SPECIFICATION &amp; CONSTRUCTION</b> All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant Australian Standards and must be approved, supervised, and certified by a Registered Professional Engineer of Queensland (RPEQ).	At all times
<b>APPROVED PLANS &amp; DOCUMENTS</b>		
7.	<b>APPROVED PLANS &amp; DOCUMENTS</b> Undertake the approved development generally in accordance with the approved plans and documents, including any amendments made in red	At all times



on the approved plan(s) or document(s):		
Title	Date	Prepared by
Site Plan	August 2022	Scope Town Planning
8.	<b>CONDITIONS OF APPROVAL &amp; APPROVED PLANS</b> Where there is a conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval take precedence.	At all times
<b>WATER SUPPLY</b>		
9.	A separate source of water supply must be provided for proposed Lot 2, Lot 3 and Lot 4 at the time of construction of a dwelling house. This would be satisfied by the provision of a rainwater tank with a minimum capacity of 50,000 litres. Where an alternative source of supply is available within the allotment, the applicant can provide certified evidence as to the flow rates and water quality of the bore water or other supply to eliminate or reduce the requirement of on-site water storage.	At the time of construction of a dwelling house
<b>EFFLUENT DISPOSAL</b>		
10.	On-site septic systems must be provided on proposed Lot 2, Lot 3 and Lot 4 at the time of construction of a dwelling house. Any application for wastewater treatment and disposal must include details of the proposed wastewater disposal systems and calculation demonstrating compliance with the Queensland Plumbing and Wastewater Code and AS/NZS 1547:2000 – 'On-site domestic wastewater management'. Details are to be provided at the time of lodgement of a plumbing and building application	At the time of construction of a dwelling house
<b>BUILDING ENVELOPE</b>		
11.	All buildings or structures within proposed Lots 1, 3 and 4 must be located within the identified building envelope. Should the owner wish to locate any building or structure outside the identified building envelope, approval must be obtained from the Manager Planning and Environment Services at the time of Building application.	At all times





ACCESS		
12.	<p>Vehicle access to proposed Lot 1, Lot 2 and Lot 3 must be constructed from the approved location from Shiptons Flat Road.</p> <p><b>Note</b> - vehicle access to be provided in accordance with the State Assessment and Referral Agency (SARA) approval and the Department of Transport and Main Roads Permitted Road Access Location Decision Notice.</p>	At all times
13.	<p>The access crossover and driveway for proposed Lot 4 must be constructed prior to the commencement of building work and maintained at the nominated location and to a rural crossover standard in accordance with the FNQROC Development Manual Standard Drawing S1105.</p> <p>The crossing of the roadside table drain must include a reinforced concrete pipe or box culvert appropriately sized for the local catchment flows. Scour protection must be provided upstream and downstream from the crossover.</p> <p><b>Note</b> - An application with Engineered Plans must be submitted to Council for approval by Council's Director Infrastructure as part of a Local Law application to 'Make Alterations or Improvements to a Road', prior to works commencing for construction of the access to proposed Lot 4. These plans must provide evidence that the sight distance requirements as per AS2890.1:2004 will be met.</p>	At all times
BUSH FIRE MANAGEMENT		
14.	<p>The development must be maintained at all times to a standard so as not to create a fire hazard.</p>	At all times
15.	<p>Any new building (other than a class 10a) erected on any of the proposed lots shall:</p> <ol style="list-style-type: none"><li>1. Achieve setbacks from fire hazardous vegetation of 1.5 times the predominant mature canopy tree height or ten (10) metres, whichever is greater;</li><li>2. Be provided with a source of water for fire-fighting purposes of not less than 10,000 litres. This must be satisfied by the provision of an accessible dam, swimming pool, or water tank. In the case of a tank supply, delivery of the water should be provided through a 50mm male Camlock fitting. The outlet from the tank water supply or the dam/pool shall be located within an accessible position within forty (40) metres from the habitable</li></ol>	At all times



	buildings.	
<b>VEGETATION CLEARING</b>		
16.	Vegetation clearing must be limited to that required for firebreaks, dwelling houses, and associated infrastructure. Any regulated vegetation not required for building works or bush fire management purposes must be retained.	At all times
17.	The significant trees identified on the approved plan of development must be retained.	At all times
<b>STORM WATER</b>		
18.	Storm water drainage must be directed to a lawful point of discharge.	At all times
19.	Site works must not adversely affect flooding or drainage characteristics of properties that are upstream, downstream, or adjacent to the development site.	At all times
<b>EROSION AND SEDIMENT CONTROL</b>		
20.	The applicant must ensure that no sand, soil or silt runoff occurs from the site during the construction and operational phase of the development and erosion and sediment controls are in place.	

## **B. Assessment Manager (Council) Advice**

1. The reconfiguring a lot approval authorised under this Development Permit must be completed and the Plan of Survey submitted to Council for endorsement within **four (4) years** from the commencement of this approval or the approval will lapse.
2. A development permit is required for carrying out Building Works, and a Plumbing and Drainage Approval/compliance permit is required for Plumbing and Drainage Works prior to construction of any buildings associated with this development.
3. Property Notation for proposed Lot 1, Lot 3 and Lot 4 – All buildings or structures must be located within the approved building envelope plan (Council file reference DA/4554). Should the owner wish to locate any building or structure outside the identified building envelope, approval must be obtained from the Manager Planning and Environment Services at the time of Building application.
4. Property Notation for proposed Lot 1, Lot 2 and Lot 3 – vehicle access to be provided in accordance with the State Assessment and Referral Agency (SARA) approval and the Department of Transport and Main Roads Permitted Road Access Location Decision Notice.





5. Property Notation for proposed Lot 4 – vehicle access to be provided in accordance with the approved building envelopment plan (Council file reference DA/4554) and subject to a Local Law application to ‘Make Alterations or Improvements to a Road’, prior to works commencing for construction of the access.
6. Removal of Protected Vegetation - This development approval does not approve of authorize the removal of vegetation that is otherwise protected under separate State or Federal legislation, including under the following:
  - *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*;
  - *Nature Conservation Act 1999 (Qld)*;
  - *Vegetation Management Act 1999 (Qld)*.
7. The applicant/owner must notify Council their intention to commence the use after acceptable of and compliance with these conditions or negotiated conditions (or court determined conditions) and prior to the commencement of the use. This will allow a check for compliance with conditions to be carried out by Council officers.
8. The applicant/owner is to ensure compliance with the requirements of the *Aboriginal Cultural Heritage Act* and in particular ‘the duty of care’ that it imposes on all landowners.



Attachment 1 (B) – Conditions imposed by a concurrence agency (D23/4954)

SARA reference: 2210-31480 SRA  
 Council reference: DA/4554  
 Applicant reference: 22013

13 December 2022

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

Attention: Lisa Miller

Dear Sir/Madam

## SARA response—719 Shiptons Flat Road, Rossville— Reconfiguring a Lot (1 lot into 4 lots)

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 10 November 2022.

### Response

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Outcome:	Referral agency response – with conditions
Date of response:	13 December 2022
Conditions:	The conditions in <b>Attachment 1</b> must be attached to any development approval
Advice:	Advice to the applicant is in <b>Attachment 2</b>
Reasons:	The reasons for the referral agency response are in <b>Attachment 3</b>

### Development details

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Description:	Development permit	Reconfiguring a lot for ROL (1 lot into 4 lots)
SARA role:	Referral agency	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 (Planning Regulation 2017)	

Development application for reconfiguring a lot within 25m of a State-controlled road

Schedule 10, Part 3, Division 4, Table 2 (Planning Regulation 2017)

Development application for reconfiguring a lot involving clearing native vegetation

SARA reference: 2210-31480 SRA

Assessment Manager: Cook Shire Council

Street address: 719 Shiptons Flat Road, Rossville

Real property description: Lot 1 on SP241618

Applicant name: Cape York Folk Club Inc. C/- Scope Town Planning

Applicant contact details: 38 Kowa St  
Mareeba QLD 4880  
scopetownplanning@gmail.com

State-controlled road access permit: This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved
- Reference: TMR22-037953 (500-1729)
- Date: 12 December 2022

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

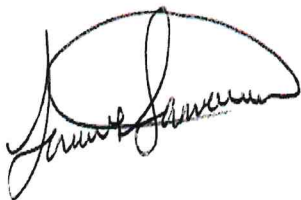
## Representations

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

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

For further information please contact Tony Croke, Principal Planner, on 07 4037 3205 or via email [CairnsSARA@dssdilgp.qld.gov.au](mailto:CairnsSARA@dssdilgp.qld.gov.au) who will be pleased to assist.

Yours sincerely



Javier Samanes  
A/Manager (Planning)

cc Cape York Folk Club Inc. C/- Scope Town Planning, scopetownplanning@gmail.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
<b>Reconfiguring a lot (1 lot into 4 lots)</b>		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 1— 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:		
1.	The road access locations are to be located generally in accordance with TMR Layout Plan (6507 - 7.33km), prepared by Queensland Government Transport and Main Roads, dated 5/12/2022, Reference TMR22-37953 (500-1729), Issue A.	At all times
Schedule 10, Part 3, Division 4, Table 2 — The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Resources 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:		
2.	The reconfiguring a lot must be carried out generally in accordance with the Subdivision Plan – “Prepared for: Cape York Folk Club Inc.; Site: Lot 1 SP241618”, prepared by Scope Town Planning, dated August 2022, Ref Job No: 22013.	Prior to submitting the Plan of Survey to the local government for approval

## Attachment 2—Advice to the applicant

<b>General advice</b>	
1.	<p><b>Terms and phrases</b></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><b>Transport Noise Corridor</b></p> <p>Mandatory Part (MP) 4.4 of the Queensland Development Code (QDC) commenced on 1 September 2010 and applies to building work for the construction or renovation of a residential building in a designated <i>transport noise corridor</i>. MP4.4 seeks to ensure that the habitable rooms of Class 1, 2, 3 and 4 buildings located in a <i>transport noise corridor</i> are designed and constructed to reduce transport noise. <i>Transport noise corridor</i> means land designated under Chapter 8B of the <i>Building Act 1975</i> as a <i>transport noise corridor</i>. Information about <i>transport noise corridors</i> is available at state and local government offices.</p> <p>A free online search tool can be used to find out whether a property is located in a designated <i>transport noise corridor</i>. This tool is available at the State Planning Policy Interactive Mapping System website: <a href="https://spp.dsdip.esriaustraliaonline.com.au/geoviewer/map/planmaking">https://spp.dsdip.esriaustraliaonline.com.au/geoviewer/map/planmaking</a> and allows searches on a registered lot number and/or property address to determine whether and how the QDC applies to the land. Transport Noise Corridors are located under Information Purposes within Transport Infrastructure of the State Planning Policy (SPP) mapping system.</p>

## Attachment 3—Reasons for referral agency response

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

### The reasons for SARA's decision are:

The development complies with State code 1: Development in a state-controlled road environment, as the proposed development, as conditioned:

- does not increase the likelihood or frequency of accidents, fatalities, or serious injury for users of a state-controlled road
- does not adversely impact the structural integrity or physical condition of the state-controlled road
- does not adversely impact the function and efficiency of the state-controlled road
- does not compromise the operating performance of the state-controlled road
- does not adversely impact the state's ability to plan, construct, maintain, upgrade, or operate the state-controlled road.

The development complies with State code 16: Clearing native vegetation, as the proposed development, as conditioned:

- Reconfiguring a lot avoids impacts on vegetation and minimises and mitigates impacts on vegetation to:
  - o conserve vegetation
  - o avoid land degradation
  - o avoid the loss of biodiversity
  - o maintain ecological processes
- Reconfiguring a lot does not result in a significant residual impact on a matter of state environmental significance.
- Building envelopes are proposed on lots 3 and 4.
- There are no wetlands, watercourses or drainage features on the premises.
- There are no essential habitat areas on the premises.
- The vegetation is greater than 10ha and is in excess of 100m width.
- The extent of assessable clearing will not reduce vegetation to less than 30 per cent of the total area of the premises.
- There are no notices requiring compliance, particular regulated areas, or legally secured offset areas over the premises.

### 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), as published by SARA
- The Development Assessment Rules
- SARA DA Mapping system

- *Human Rights Act 2019.*
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## **Attachment 4—Representations provisions**

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## **Attachment 5—Approved plans and specifications**

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PLANS AND DOCUMENTS  
referred to in the REFERRAL  
AGENCY RESPONSE

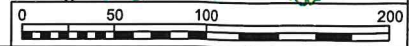
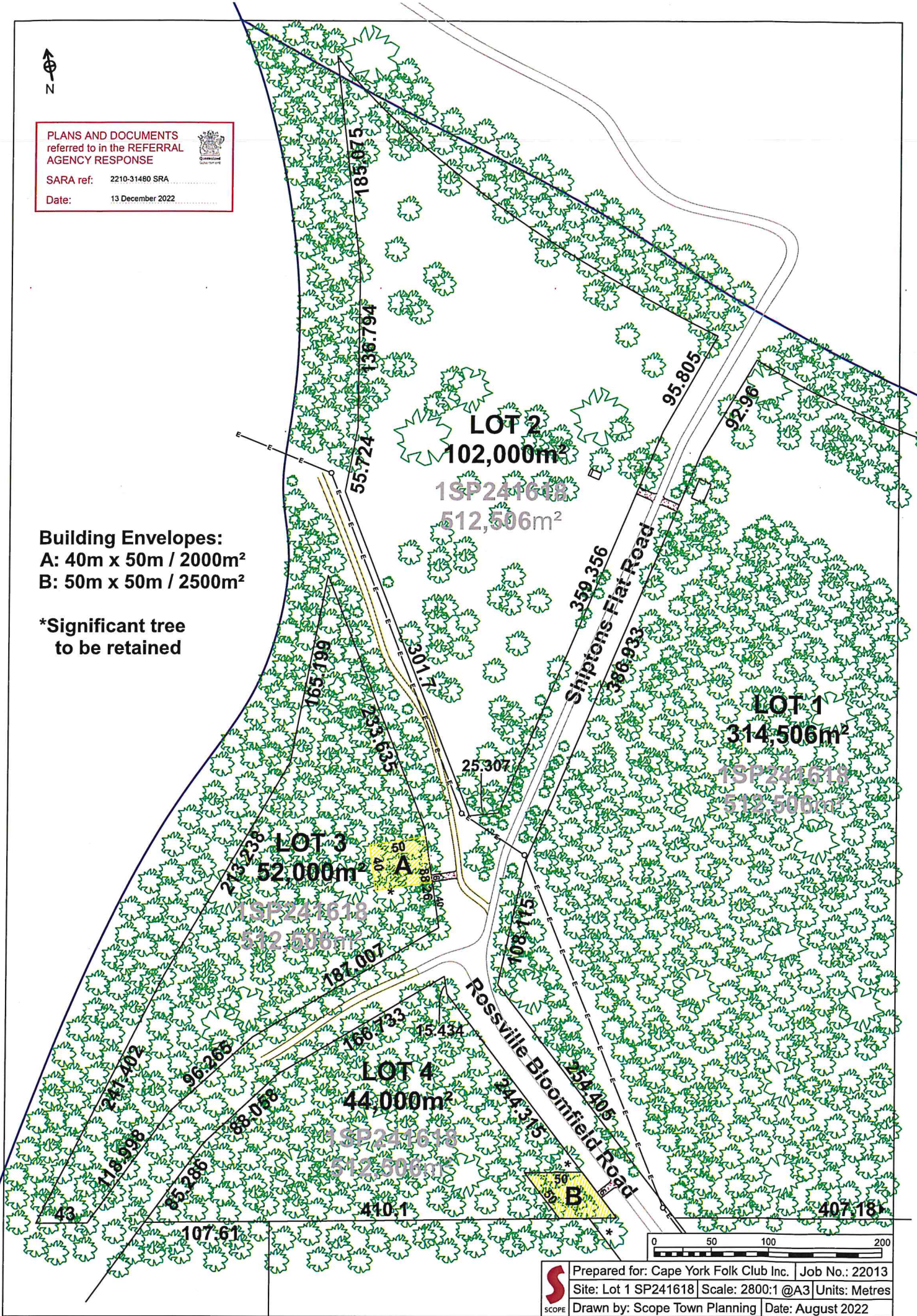


SARA ref: 2210-31480 SRA

Date: 13 December 2022

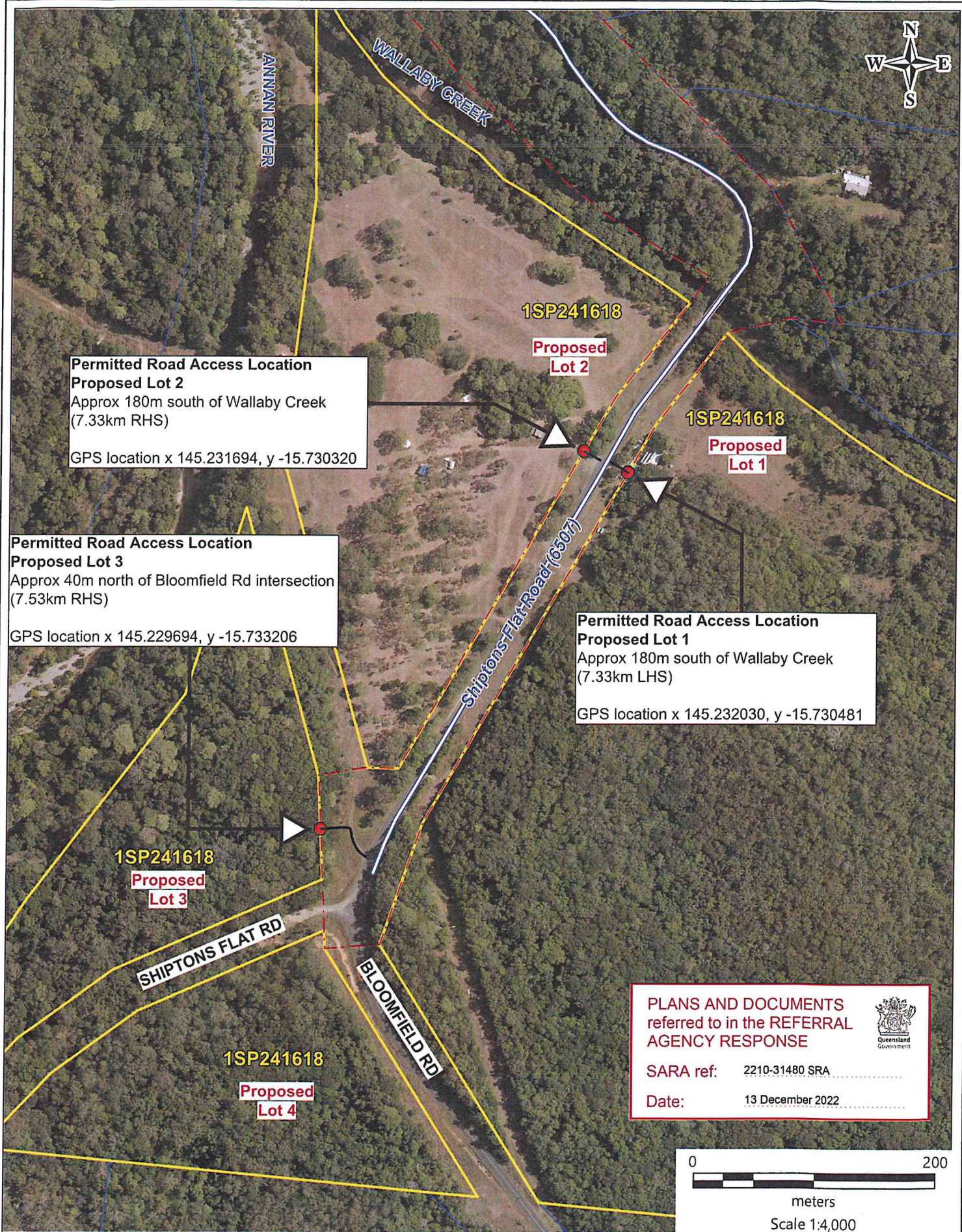
**Building Envelopes:**  
A: 40m x 50m / 2000m<sup>2</sup>  
B: 50m x 50m / 2500m<sup>2</sup>

\*Significant tree  
to be retained



SCOPE	Prepared for: Cape York Folk Club Inc.	Job No.: 22013	
	Site: Lot 1 SP241618	Scale: 2800:1 @A3	Units: Metres
	Drawn by: Scope Town Planning	Date: August 2022	





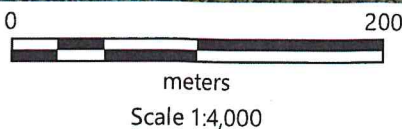
**Permitted Road Access Location**  
**Proposed Lot 2**  
 Approx 180m south of Wallaby Creek  
 (7.33km RHS)  
 GPS location x 145.231694, y -15.730320

**Permitted Road Access Location**  
**Proposed Lot 3**  
 Approx 40m north of Bloomfield Rd intersection  
 (7.53km RHS)  
 GPS location x 145.229694, y -15.733206

**Permitted Road Access Location**  
**Proposed Lot 1**  
 Approx 180m south of Wallaby Creek  
 (7.33km LHS)  
 GPS location x 145.232030, y -15.730481

**PLANS AND DOCUMENTS**  
 referred to in the REFERRAL  
 AGENCY RESPONSE

SARA ref: 2210-31480 SRA  
 Date: 13 December 2022



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

**TMR Layout Plan**  
**(6507 - 7.33km)**



Queensland Government  
 Transport and Main Roads

Plan: <b>1 / 1</b>	Issue: <b>A</b>	Date: <b>5/12/2022</b>
Drawn by: <b>RPK</b>	File ref: <b>TMR22-37953 (500-1729)</b>	

© The State of Queensland, 2010 © Pitney Bowes Software Pty Ltd, 2010 © QR Limited, 2010 Based on [Dataset - State Digital Road Network (SDRN)] provided with the permission of Pitney Bowes Software Pty Ltd (Current as at 04/1/10). [Dataset - Rail\_Centre\_Line, May 2010] provided with the permission of QR Limited and other state government datasets. Disclaimer: While every care is taken to ensure the accuracy of this data, Pitney Bowes Software Pty Ltd and/or the State of Queensland and/or QR Limited makes no representations or warranties about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability (including without limitation, liability in negligence) for all expenses, losses, damages (including indirect or consequential damage) and costs which you might incur as a result of the data being inaccurate or incomplete in any way and for any reason.





**Cook Shire**  
**COUNCIL**

Attachment 2 – Approved Plans (D23/7585)





COOK SHIRE COUNCIL

DIGITALLY STAMPED  
APPROVED PLAN

Development Application: Development Permit for Reconfiguration of a Lot (1 into 4)

Lot: 1 on SP241618

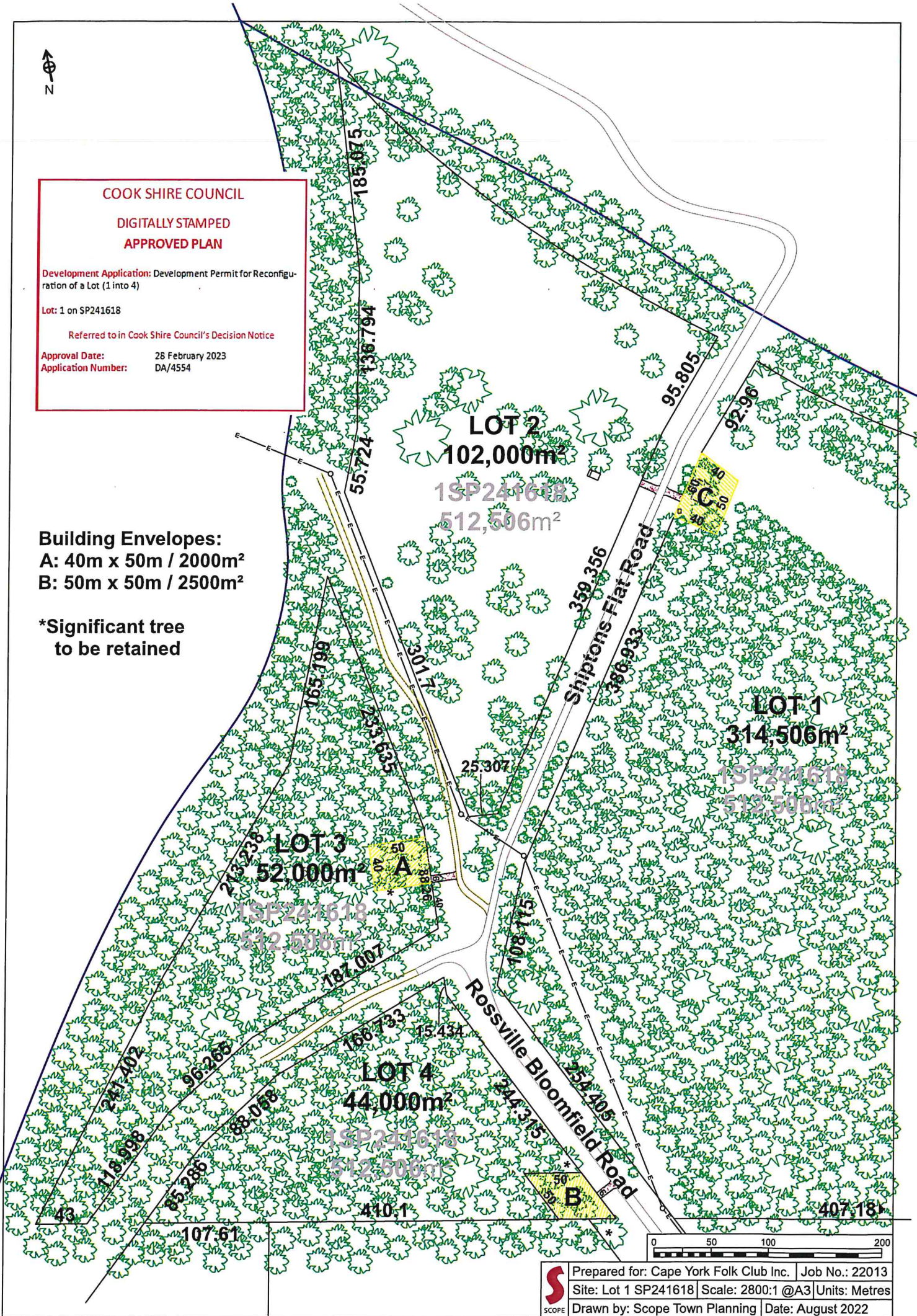
Referred to in Cook Shire Council's Decision Notice

Approval Date: 28 February 2023

Application Number: DA/4554

Building Envelopes:  
A: 40m x 50m / 2000m<sup>2</sup>  
B: 50m x 50m / 2500m<sup>2</sup>

\*Significant tree  
to be retained



SCOPE	Prepared for: Cape York Folk Club Inc.	Job No.: 22013
	Site: Lot 1 SP241618	Scale: 2800:1 @A3
	Units: Metres	Date: August 2022



**Attachment 3 – Notice of Decision – Statement of Reasons (AD2023/0000864)**

## 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

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Application No:	DA/4554
Applicant:	Cape York Folk Club Inc. C/- Scope Town Planning
Proposal:	Development Permit for Reconfiguration of a Lot
Description of the Development:	Reconfiguration of a Lot (1 into 4 lots)
Street Address:	719 Shiptons Flat Road, Rossville 4895
Real Property Description:	Lot 1 on SP241618
Planning Scheme:	Cook Shire Council Planning Scheme 2017 v2.0
Land Zoning:	Rural zone
Assessment Type:	Code Assessment

### DECISION DETAILS

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Type of Decision:	Approval with Conditions
Type of Approval:	Development Permit for Reconfiguration of a Lot (1 into 4 lots)
Date of Decision:	28 February 2023

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## ASSESSMENT BENCHMARKS

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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)	The application triggered a referral to SARA under Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, – for reconfiguring a lot within 25m of a State-controlled road and Schedule 10, Part 3, Division 4, Table 2 – for reconfiguring a lot involving clearing native vegetation.
Regional Plan	Section 2.2 of the Planning Scheme identifies that the Cape York Regional Plan has been adequately reflected in the Planning Scheme. A separate assessment against the Regional Plan is not required.
State Planning Policy (SPP), Part E	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. A review of the current version of the SPP (July 2017) and assessment benchmark mapping applicable to Part E has determined that the state interests (Biodiversity and Bushfire Hazards) are reflected in the Planning Scheme and no additional assessment provisions in the current SPP (Part E) or updated mapping are applicable requiring further assessment against the SPP.
Temporary State Planning Policy	There are no Temporary State Planning Policies.

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

- Rural Zone code (6.2.9);
- Biodiversity overlay code (8.2.2);
- Bushfire Hazard overlay code (8.2.3);
- Flood and Other Coastal Hazards overlay code (8.2.6);
- Reconfiguring a Lot code (9.4.1);
- Works, Services, and Infrastructure code (9.4.3); and

- Eastern Kuku Yalanji Local Plan code (7.1.1)

**Local Categorising Instrument (Variation Approval)**

Not Applicable

**Local Categorising Instrument (Temporary Local Planning Instrument)**

Not Applicable

**PUBLIC NOTIFICATION**

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Not Applicable

**REASONS FOR THE DECISION**

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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 Reconfiguring a Lot (1 lot into 4 lots) at 719 Shiptons Flat Road, Rossville, formally described as Lot 1 on SP241618 is an appropriate for the site and will have no adverse impact on the rural character and amenity of the locality or adjoining lots.

**REASONS FOR APPROVAL DESPITE NON-COMPLIANCE WITH ASSESSMENT BENCHMARKS**

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Not Applicable

**ADDITIONAL RELEVANT MATTERS FOR IMPACT ASSESSMENT**

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Not Applicable

**OTHER MATTERS PRESCRIBED BY THE PLANNING REGULATION 2017**

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Not Applicable

**OTHER DETAILS**

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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.

- (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.

- (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

- (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.