

Our Ref: LM:tt DA/4694 AD2024/0000470  
Your Ref: F23/32

15 February 2024

P.C Wallace and K.A Shaw  
c/- Freshwater Planning Pty Ltd  
17 Barron View Drive  
FRESHWATER QLD 4870  
E-mail: [FreshwaterPlanning@outlook.com](mailto:FreshwaterPlanning@outlook.com)

Attention: Matthew Andrejic

Dear Mr Andrejic

**Decision Notice - Approval**

Given under section 63 of the *Planning Act 2016*

With reference Development Application (DA/4694), 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 **14 February 2024**.

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/4694

Approval Sought: Development Permit for Lot Reconfiguration

Description of the Development: Reconfiguration of a Lot – 1 into 2 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: 2218 Peninsula Developmental Road LAKELAND 4871

Real Property Description: Lot 108 SP256276

Local Government Area: Cook Shire

### Assessment Manager Conditions

This approval is subject to the conditions in Attachment 1.

### Further Development Permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

1. Development Permit for Plumbing and Drainage Work
2. Development Permit for Building Work

### 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)  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 9, Division 4, Subdivision 2, Table 1 ( <i>Planning Regulation 2017</i> ) - <i>Reconfiguring a lot near a state controlled road.</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 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*.

---

**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](mailto:mail@cook.qld.gov.au).

Yours sincerely



Darryn Higgins  
Acting Manager Planning and Environment

cc: State Assessment Referral Agency (SARA) [CairnsSARA@dadmip.qld.gov.au](mailto:CairnsSARA@dadmip.qld.gov.au)

enc: **Attachment 1 (A)** Conditions Imposed by the Assessment Manager  
**Attachment 1 (B)** Conditions Imposed by a Concurrence Agency (D23/44569)  
**Attachment 2** Approved Plans (D24/5604)  
**Attachment 3** Notice of Decision – Statement of Reasons (AD2024/0000472)  
**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>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
3.	<b>WORKS - DAMAGE TO INFRASTRUCTURE</b> The Developer must repair any damage to existing infrastructure (e.g. kerb and channel, footpath, or roadway) 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
4.	<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
5.	<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
6.	<b>COMMENCEMENT OF USE</b> The use must not commence until the conditions of the approval relevant to each stage have been complied with.	At all times
7.	<b>INFRASTRUCTURE CONDITIONS</b> All development conditions contained in this development approval about infrastructure under Chapter 4 of the <i>Planning Act 2016</i> (the Act), should be read as being non-trunk infrastructure conditioned under section 145 of the Act, unless otherwise stated.	At all times



APPROVED PLANS & DOCUMENTS																						
8.	<p><b>APPROVED PLANS &amp; DOCUMENTS</b></p> <p>Undertake the approved development generally in accordance with the approved plans and documents, including any amendments made in red on the approved plan(s) or document(s):</p> <table border="1"> <thead> <tr> <th>Title</th> <th>Sheet No.</th> <th>Date</th> <th>Prepared By</th> </tr> </thead> <tbody> <tr> <td>TMR Layout Plan</td> <td>TMRR23-40967 (90b-22.62km) – Issue A</td> <td>21/11/2023</td> <td>Queensland Government Transport and Main Roads</td> </tr> <tr> <td>Rural Property Access Drawing 1 of 2</td> <td>1807 – Rev B</td> <td>11/2021</td> <td>Queensland Government Transport and Main Roads</td> </tr> <tr> <td>Rural Property Access Drawing 2 of 2</td> <td>1807 – Rev B</td> <td>11/2021</td> <td>Queensland Government Transport and Main Roads</td> </tr> <tr> <td>Development Plan</td> <td>9197-Rev A</td> <td>23/11/23</td> <td>Twine Surveys</td> </tr> </tbody> </table>	Title	Sheet No.	Date	Prepared By	TMR Layout Plan	TMRR23-40967 (90b-22.62km) – Issue A	21/11/2023	Queensland Government Transport and Main Roads	Rural Property Access Drawing 1 of 2	1807 – Rev B	11/2021	Queensland Government Transport and Main Roads	Rural Property Access Drawing 2 of 2	1807 – Rev B	11/2021	Queensland Government Transport and Main Roads	Development Plan	9197-Rev A	23/11/23	Twine Surveys	At all times
Title	Sheet No.	Date	Prepared By																			
TMR Layout Plan	TMRR23-40967 (90b-22.62km) – Issue A	21/11/2023	Queensland Government Transport and Main Roads																			
Rural Property Access Drawing 1 of 2	1807 – Rev B	11/2021	Queensland Government Transport and Main Roads																			
Rural Property Access Drawing 2 of 2	1807 – Rev B	11/2021	Queensland Government Transport and Main Roads																			
Development Plan	9197-Rev A	23/11/23	Twine Surveys																			
9.	<p><b>CONDITIONS OF APPROVAL &amp; APPROVED PLANS</b></p> <p>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.</p>	At all times																				

WATER SUPPLY		
10.	<p>A separate source of water supply must be provided to proposed Lot 1 and Lot 2 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 must 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.</p>	At the time of construction of a dwelling house

EFFLUENT DISPOSAL		
11.	<p>An on-site wastewater system must be provided for proposed Lot 1 and Lot 2 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</p>	At the time of construction of a dwelling house

	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.	
--	--	--

<b>BUILDING SITING</b>		
12.	All buildings or structures within proposed Lot 1 and Lot 2 must be located outside the proposed setback area nominated on the approved plans of development. Should the owner wish to locate any building or structure outside the identified building setback, approval must be obtained from the Manager Planning and Environment Services at the time of Building application.	At all times

<b>ACCESS</b>		
13.	Access to proposed Lot 1 and Lot 2 must be located as specified in the approved TMR Layout Plan (TMR23-40967) and constructed in accordance with the conditions of approval issued in the Referral Agency response 2311-37537 SRA dated 7 December 2023.	(a) At all times; and (b) Prior to submitting the Plan of Survey to Council for endorsement
14.	The unapproved access driveway must be permanently closed and removed and the table drain reinstated as per Condition 2 (a) and 2 (b) of the conditions of approval issued in the Referral Agency response 2311-37537 SRA dated 7 December 2023.	Prior to submitting the Plan of Survey to Council for endorsement.

<b>BUSHFIRE MANAGEMENT</b>		
15.	The development must be maintained at all times to a standard so as not to create a fire hazard.	At all times
16.	Any new building (other than a Class 10a) erected on any of the proposed lots shall: <ul style="list-style-type: none"> <li>(i) Achieve setbacks from fire hazardous vegetation of 1.5 times the predominant mature canopy tree height or ten (10) metres, whichever is greater; and</li> <li>(ii) 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</li> </ul>	At all times

	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 buildings.	
--	--	--

VEGETATION CLEARING		
17.	Vegetation clearing must be limited to that required for firebreaks, dwelling houses, and associated infrastructure. Any regulated vegetation not required for building works or bushfire management purposes must be retained.	At all times

STORMWATER		
18.	Stormwater drainage must be directed to a legal point of discharge.	At all times
19.	Site works must not adversely affect flooding or drainage characterises of properties that are upstream, downstream, or adjacent to the development site.	At all times

SEDIMENT CONTROL		
20.	The developer must ensure that effective measures are put in place to ensure construction activity does not cause erosion.	At all times
21.	The developer must ensure that no soil or silt runoff occurs from the site during the construction and operational phase of the development.	At all times

ELECTRICITY SUPPLY		
22.	Proposed Lot 1 must be connected to the reticulated electricity supply at the time of application for a development permit to carry out building works. If the development is proposed to be connected to another means of electricity supply, details of this supply must be provided for Council approval at the time of building application.	At the time of construction of a dwelling house

COMPLIANCE		
23.	All relevant conditions of this development permit must be complied with prior to Council endorsement of the Plan of Survey.	Prior to Council endorsement of the Plan of Survey

**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. 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.
4. Property Notation for proposed Lots 1 and 2 – All buildings or structures within proposed Lot 1 and Lot 2, must be located outside the proposed setback area nominated on the approved plans of development (Council reference DA/4694). Should the owner wish to locate any building or structure outside the identified building setback, approval must be obtained from the Manager Planning and Environment Services at the time of lodgement of Building application.

**5. Removal of Protected Vegetation**

This development approval does not approve or authorise the removal of vegetation that is otherwise protected under separate State or Federal legislation, including under the following:

- A. *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*;
- B. *Nature Conservation Act 1999 (Qld)*;
- C. *Vegetation Management Act 1999 (Qld)*.

**Attachment 1 (B) – Conditions Imposed by a Concurrence Agency (D23/44569)**



SARA reference: 2311-37537 SRA  
 Council reference: DA/4694  
 Applicant reference: F23/32

7 December 2023

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

Attention: Lisa Miller

Dear Sir/Madam

## SARA referral agency response—Reconfiguring a Lot (1 lot into 2 lots) at 2218 Peninsula Developmental Road, Lakeland

(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 2 November 2023.

### Response

---

Outcome:	Referral agency response – with conditions
Date of response:	7 December 2023
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

---

Description:	Development permit    Reconfiguring a lot (1 lot into 2 lots)
SARA role:	Referral agency
SARA trigger:	<b>Schedule 10, Part 9, Division 4, Subdivision 2, Table 1</b> (Planning Regulation 2017) – Reconfiguring a lot near a state-controlled road

SARA reference:	2311-37537 SRA
Assessment manager:	Cook Shire Council
Street address:	2218 Peninsula Developmental Road, Lakeland
Real property description:	Lot 108 on SP256276
Applicant name:	P.C Wallace and K.A Shaw
Applicant contact details:	C/- Freshwater Planning Pty Ltd 17 Barron View Drive FRESHWATER QLD 4870 freshwaterplanning@outlook.com
State-controlled road access permit:	<p>This referral included an application for a road access location, under section 62A(2) of <i>Transport Infrastructure Act 1994</i>. Below are the details of the decision:</p> <ul style="list-style-type: none"> <li>• Approved</li> <li>• Reference: TMR23-040967</li> <li>• Date: 22 November 2023</li> </ul> <p>If you are seeking further information on the road access permit, please contact Ronald Kaden, Technical Officer (Development Control), Department of Transport and Main Roads at <a href="mailto:cairns.office@tmr.qld.gov.au">cairns.office@tmr.qld.gov.au</a>, or on (07) 4045 7151.</p>
<i>Human Rights Act 2019</i> considerations:	<p>Section 58 of the <i>Human Rights Act 2019</i> specifies required conduct for public entities when acting or making a decision. Sections 15 – 37 of the <i>Human Rights Act 2019</i> identifies the human rights a public entity must consider in making a decision.</p> <p>This decision does not limit the above identified human rights.</p>

## Representations

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

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

For further information please contact Anthony Westbury, A/Senior Planning Officer, on 40373215 or via email NQSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely

A handwritten signature in black ink, appearing to read "Livingstone", enclosed in a thin black rectangular border.

Duncan Livingstone  
A/Manager (Planning)

cc P.C Wallace and K.A Shaw, freshwaterplanning@outlook.com

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



## Attachment 1—Referral agency conditions

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

No.	Conditions	Condition timing
<b>Reconfiguring a lot</b>		
Schedule 10, Part 9, Division 4, Subdivision 2, Table – Reconfiguring a lot near a state-controlled road—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 conditions:		
1.	<p>(a) The road access locations are to be located generally in accordance with TMR Layout Plan (90B – 22.62km), prepared by Queensland Government Transport and Main Roads, dated 21/11/2023, Reference TMR23-40967, Issue A.</p> <p>(b) Road access works comprising of a ‘Type B’ rural property access must be provided at the road access location for proposed Lot 1.</p> <p>(c) The road access works must be designed and constructed in accordance with TMR Standard Rural Property Access Drawing, Sheets 1 &amp; 2, Drawing No. 1807, Type B – Rural Property Access, dated 11/2021, and Revision B.</p>	<p>(a) At all times.</p> <p>(b) and (c) Prior to submitting the Plan of Survey to the local government for approval.</p>
2.	<p>(a) The unapproved vehicular property access located at the common boundary of proposed Lot 1 and proposed Lot 2 via the Peninsula Developmental Road must be permanently closed and removed.</p> <p>(b) The table drain between the pavement edge and the property boundary must be reinstated in accordance with Department of Transport and Main Roads', Road Planning and Design Manual, 2<sup>nd</sup> Edition, Queensland Practice, October 2022, Volume 3 – Guide to Road Design.</p>	<p>Prior to submitting the Plan of Survey to the local government for approval.</p>

## Attachment 2—Advice to the applicant

---

<b>General advice</b>	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v3.0. If a word remains undefined it has its ordinary meaning.
2.	<p><b>Road Works Approval</b></p> <p>Under section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads to carry out road works.</p> <p>Please contact the Department of Transport and Main Roads (DTMR) on 4045 7144 to make an application for road works approval.</p> <p>This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).</p> <p>Please contact DTMR as soon as possible to ensure that gaining approval does not delay construction.</p>

## **Attachment 3—Reasons for referral agency response**

---

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

### **The reasons for the SARA decision are:**

The proposed development, with conditions, complies with the relevant provisions of State code 1: Development in a state-controlled road environment as follows:

- The proposed development is unlikely to compromise the safety, function, and efficiency of Peninsula Developmental Road, a state-controlled road.
- Access to proposed Lots 1 and 2 complies with the Department of Transport and Main Roads' current access standards and specifications.
- Peninsula Developmental Road at this location is within a voluntary transport noise corridor area and no mandatory measures to mitigate impacts from transport corridor noise are required.

### **Material used in the assessment of the application:**

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the State Development Assessment Provisions (version 3.0)
- the Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- *Human Rights Act 2019*

## **Attachment 4— Representations about a referral agency response**

(page left intentionally blank – attached separately)

## **Attachment 5—Documents referenced in conditions**

---

(page left intentionally blank – attached separately)

# Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules<sup>1</sup> 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.<sup>2</sup>
- 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.

---

<sup>1</sup> Pursuant to Section 68 of the *Planning Act 2016*

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

## **Part 7: Miscellaneous**

### **30 Representations about a referral agency response**

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

---

<sup>3</sup> 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.

Our ref TMR23-040967  
Your ref F23/32  
Enquiries Ronald Kaden



22 November 2023

Department of  
**Transport and Main Roads**

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

**This is not an authorisation to commence work on a state-controlled road<sup>1</sup>**

Development application reference number LM:LMIL:DA/4694:AD2023/0006032, lodged with Cook Shire Council involves constructing or changing a vehicular access between Lot 108SP256276, the land the subject of the application, and Peninsula Developmental Road (a state-controlled road).

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

### Applicant Details

Name and address P.C Wallace and K.A Shaw c/o Freshwater Planning Pty Ltd  
17 Barronview Drive  
Freshwater QLD 4870

### Application Details

Address of Property 2218 Peninsula Developmental Road, Lakeland QLD 4871  
Real Property Description 108SP256276  
Aspect/s of Development Development Permit for Reconfiguration of a Lot for 1 Lot into 2 Lots

### Decision (given under section 67 of TIA)

It has been decided to approve the application, subject to the following conditions:

No.	Conditions of Approval	Condition Timing
1	<b>Proposed Lot 1</b> The Permitted Road Access Location is approximately 145 metres from the common boundary with Lot 109SP256276 in accordance with: a) TMR Layout Plan (90B - 22.62km) Issue A 21/11/2023	At all times.
2	<b>Proposed Lot 2</b> The Permitted Road Access Location is approximately 100 metres from the common boundary with Lot 107SP256276 in accordance with: a) TMR Layout Plan (90B - 22.62km) Issue A 21/11/2023	At all times.

<sup>1</sup> Please refer to the further approvals required under the heading 'Further approvals'



No.	Conditions of Approval	Condition Timing
3	Direct access is prohibited between Peninsula Developmental Road and Lot 108SP256276 (Proposed Lots 1 & 2) at any other location other than the Permitted Road Access Locations described in Conditions 1 and 2.	At all times.
4	<p>The use of the permitted road access locations described in Conditions 1 &amp; 2 is to be restricted to:</p> <p>a) Design vehicles up to a maximum size Four Axle Truck - Class 5 Medium Length Heavy Vehicle**</p> <p>Note: ** as described in Austroads Vehicle Classification System</p>	At all times.
5	<p>Road Access Works for <b>Proposed Lot 1</b> comprising a Type B access must be provided at the permitted road access location identified in Condition 1, generally in accordance with:</p> <p>a) Property Access drawing prepared by Queensland Government dated 11/2021 reference 1807 Issue B</p>	Prior to the commencement of the use of the Road Access Works and to be maintained at all times.
6	<p>The existing Road Access Works for <b>Proposed Lot 2</b> at the permitted road access location identified in Condition 2 must be maintained to a Type B access standard, generally in accordance with:</p> <p>a) Property Access drawing prepared by Queensland Government dated 11/2021 reference 1807 Issue B</p>	To be maintained at all times.
7	<p>The existing Road Access Works situated:</p> <p>a) between Peninsula Developmental Road and Lot 108SP256276, and</p> <p>b) near the common boundary between proposed lots 1 &amp; 2, approximately 510 metres south of Culvert Number 33,</p> <p>must be permanently removed and all table drain reinstated between the pavement edge and the property boundary in accordance with Department of Transport and Main Roads Technical Specification MRTS1104 General Earthworks.</p>	<p>Prior to completion of Road Access Works for new permitted road access location,</p> <p>and</p> <p>Prior to submitting the Plan of Survey to the local government for approval.</p>

### Reasons for the decision

The reasons for this decision are as follows:

- a) Currently the subject site (Lot 108 on SP256276) has road frontage and vehicle access via Peninsula Developmental Road, a state-controlled road.
- b) A review by TMR indicates unapproved road access works have been undertaken prior to October 2021 near the proposed common boundary between proposed lots 1 & 2 which inhibits water flow in the existing table drain.
- c) TMR notes the works mentioned in paragraph b) do not comply with current TMR standards and are required to be removed, generally in accordance with MRTS11:04.

- d) A review by TMR indicates unapproved road access works have been undertaken prior to October 2022 at the location where access for proposed lot 1 is required. These works are unsealed and inhibit water flow in the existing table drain.
- e) TMR notes the existing unsealed access works mentioned in paragraph d) do not comply with current TMR access standards and are required to be upgraded and sealed, generally in accordance with a Type B property access SD1807,
- f) Therefore, a decision under section 62 of the TIA is required for proposed lot 1 as no prior approval for road access location is evidenced.
- g) A review by TMR indicates approved road access works were undertaken in 2013 as part of a Development Approval (DA) at the approved road access location for proposed lot 2.
- h) TMR notes the existing access works mentioned in paragraph g) comply with the DA requirements. No additional works are required however a decision under section 62 of the TIA was under a different ownership which is not binding on the current one.
- i) Therefore, a decision under section 62 of the TIA is required for proposed lot 2 as it is considered a changed access.

Please refer to **Attachment A** for the findings on material questions of fact and the evidence or other material on which those findings were based.

#### **Information about the Decision required to be given under section 67(2) of TIA**

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

#### **Further information about the decision**

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

3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

### **Further approvals**

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

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

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

Yours sincerely



Liliya Yates  
A/Principal Engineer (Civil)

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

## Attachment A

### Decision Evidence and Findings

Evidence or other material on which findings were based:

<b>Title of Evidence / Material</b>	<b>Prepared by</b>	<b>Date</b>	<b>Reference no.</b>	<b>Version / Issue</b>
TMR Layout Plan (90B - 22.62km)	Queensland Government Transport and Main Roads	21 November 2023	TMR23-40967	A
Rural Property Access (with additional notes)	Queensland Government	November 2021	1807	B
Development Plan Plan of Lots 1 & 2 Cancelling Lot 108 on SP256276	Twine Surveys Pty Ltd	28 September 2022	9197	A
Vehicle Access to state- controlled roads policy	Queensland Government Transport and Main Roads	2019	-	-
Town Planning Application Reconfiguration of a Lot - 1 lot into 2 lots Lot 108 on SP256276, 2218 Peninsula Developmental Road, Lakeland	Freshwater Planning Pty Ltd	Received TMR 09 November 2023	-	-

## **Attachment B**

### **Section 70 of TIA**

*Transport Infrastructure Act 1994*

Chapter 6 Road transport infrastructure

Part 5 Management of State-controlled roads

---

#### **70 Offences about road access locations and road access works, relating to decisions under s 62(1)**

- (1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.
- (2) A person to whom this section applies must not—
  - (a) obtain access between the land and the State-controlled road other than at a location at which access is permitted under the decision; or
  - (b) obtain access using road access works to which the decision applies, if the works do not comply with the decision and the noncompliance was within the person's control; or
  - (c) obtain any other access between the land and the road contrary to the decision; or
  - (d) use a road access location or road access works contrary to the decision; or
  - (e) contravene a condition stated in the decision; or
  - (f) permit another person to do a thing mentioned in paragraphs (a) to (e); or
  - (g) fail to remove road access works in accordance with the decision.

Maximum penalty—200 penalty units.

- (3) However, subsection (2)(g) does not apply to a person who is bound by the decision because of section 68.

**Attachment C**  
**Appeal Provisions**

*Transport Infrastructure Act 1994*  
Chapter 16 General provisions

---

**485 Internal review of decisions**

- (1) A person whose interests are affected by a decision described in schedule 3 (the **original decision**) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
  - (a) applies to the review; and
  - (b) provides—
    - (i) for the procedure for applying for the review and the way it is to be carried out; and
    - (ii) that the person may apply to QCAT to have the original decision stayed.

**485B Appeals against decisions**

- (1) This section applies in relation to an original decision if a court (the appeal court) is stated in schedule 3 for the decision.
- (2) If the reviewed decision is not the decision sought by the applicant for the review, the applicant may appeal against the reviewed decision to the appeal court.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
  - (a) applies to the appeal; and
  - (b) provides—
    - (i) for the procedure for the appeal and the way it is to be disposed of; and
    - (ii) that the person may apply to the appeal court to have the original decision stayed.
- (4) Subsection (5) applies if—
  - (a) a person appeals to the Planning and Environment Court against a decision under section 62(1) on a planning application that is taken, under section 62A(2), to also be an application for a decision under section 62(1); and
  - (b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.

- (5) The court may order—
  - (a) the appeals to be heard together or 1 immediately after the other; or
  - (b) 1 appeal to be stayed until the other is decided.
- (6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.
- (7) In this section—

**original decision** means a decision described in schedule 3.

**reviewed decision** means the chief executive's decision on a review under section 485.

### **31 Applying for review**

- (1) A person may apply for a review of an original decision only within 28 days after notice of the original decision was given to the person under the transport Act.
- (2) However, if—
  - (a) the notice did not state the reasons for the original decision; and
  - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)the person may apply within 28 days after the person is given the statement of the reasons.
- (3) In addition, the chief executive may extend the period for applying.
- (4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

### **32 Stay of operation of original decision**

- (1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the relevant entity.
- (2) The relevant entity may stay the original decision to secure the effectiveness of the review and any later appeal to or review by the relevant entity.
- (3) In setting the time for hearing the application, the relevant entity must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the relevant entity with it on the chief executive at least 2 business days before the hearing.
- (6) The stay—
  - (a) may be given on conditions the relevant entity considers appropriate; and
  - (b) operates for the period specified by the relevant entity; and
  - (c) may be revoked or amended by the relevant entity.
- (7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period the relevant entity allows the applicant to enable the applicant to appeal against the decision or apply for a review of the decision as provided under the QCAT Act.
- (8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.



(9) In this section—

**relevant entity** means—

- (a) if the reviewed decision may be reviewed by QCAT—QCAT; or
- (b) if the reviewed decision may be appealed to the appeal court—the appeal court.

### **35 Time for making appeals**

(1) A person may appeal against a reviewed decision only within—

- (a) if a decision notice is given to the person—28 days after the notice was given to the person; or
- (b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

(2) However, if—

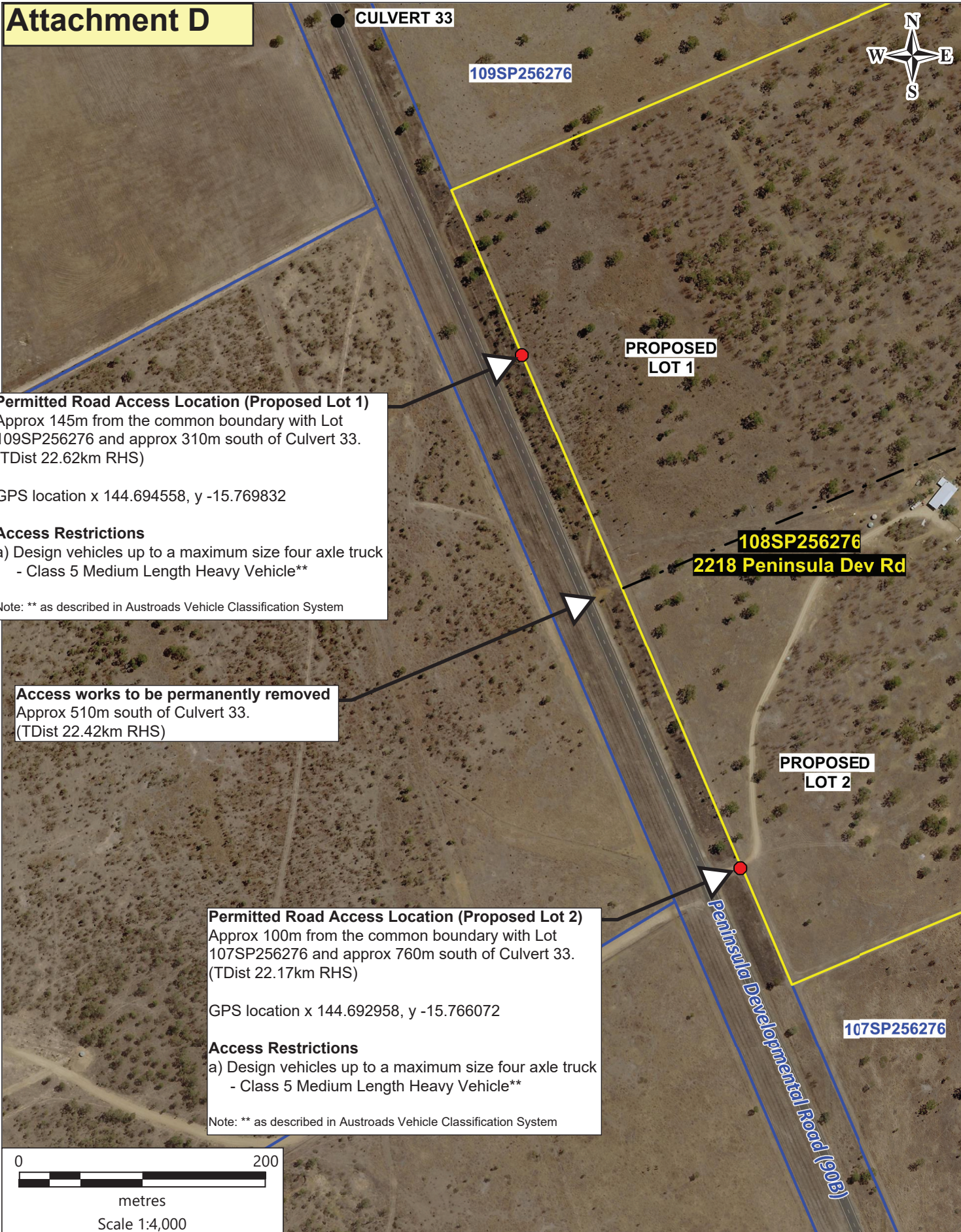
- (a) the decision notice did not state the reasons for the decision; and
- (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

the person may apply within 28 days after the person is given a statement of the reasons.

(3) Also, the appeal court may extend the period for appealing.



# Attachment D



**Permitted Road Access Location (Proposed Lot 1)**  
 Approx 145m from the common boundary with Lot 109SP256276 and approx 310m south of Culvert 33.  
 (TDist 22.62km RHS)

GPS location x 144.694558, y -15.769832

**Access Restrictions**  
 a) Design vehicles up to a maximum size four axle truck  
 - Class 5 Medium Length Heavy Vehicle\*\*

Note: \*\* as described in Austroads Vehicle Classification System



**Access works to be permanently removed**  
 Approx 510m south of Culvert 33.  
 (TDist 22.42km RHS)

**Permitted Road Access Location (Proposed Lot 2)**  
 Approx 100m from the common boundary with Lot 107SP256276 and approx 760m south of Culvert 33.  
 (TDist 22.17km RHS)

GPS location x 144.692958, y -15.766072

**Access Restrictions**  
 a) Design vehicles up to a maximum size four axle truck  
 - Class 5 Medium Length Heavy Vehicle\*\*

Note: \*\* as described in Austroads Vehicle Classification System

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

## TMR Layout Plan (90B - 22.62km)



Queensland Government  
 Transport and Main Roads

Plan: <b>1 / 1</b>	Issue: <b>A</b>	Date: <b>21/11/2023</b>
Drawn by: <b>RPK</b>	File ref: <b>TMR23-40967</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 / 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.



CULVERT 33

109SP256276



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



SARA ref: 2311-37537 SRA

Date: 7 December 2023

**PROPOSED  
LOT 1**

**Permitted Road Access Location (Proposed Lot 1)**

Approx 145m from the common boundary with Lot 109SP256276 and approx 310m south of Culvert 33.  
(TDist 22.62km RHS)

GPS location x 144.694558, y -15.769832

**Access Restrictions**

- a) Design vehicles up to a maximum size four axle truck  
- Class 5 Medium Length Heavy Vehicle\*\*

Note: \*\* as described in Austroads Vehicle Classification System

108SP256276

**2218 Peninsula Dev Rd**

**Access works to be permanently removed**

Approx 510m south of Culvert 33.  
(TDist 22.42km RHS)

**PROPOSED  
LOT 2**

**Permitted Road Access Location (Proposed Lot 2)**

Approx 100m from the common boundary with Lot 107SP256276 and approx 760m south of Culvert 33.  
(TDist 22.17km RHS)

GPS location x 144.692958, y -15.766072

**Access Restrictions**

- a) Design vehicles up to a maximum size four axle truck  
- Class 5 Medium Length Heavy Vehicle\*\*

Note: \*\* as described in Austroads Vehicle Classification System

Peninsula Developmental Road (90B)

107SP256276

0 200



metres

Scale 1:4,000

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

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

Land parcels Subject land

Proposed boundary

**TMR Layout Plan  
(90B - 22.62km)**



Queensland Government  
Transport and Main Roads

Plan: 1 / 1

Issue: A

Date: 21/11/2023

Drawn by: RPK

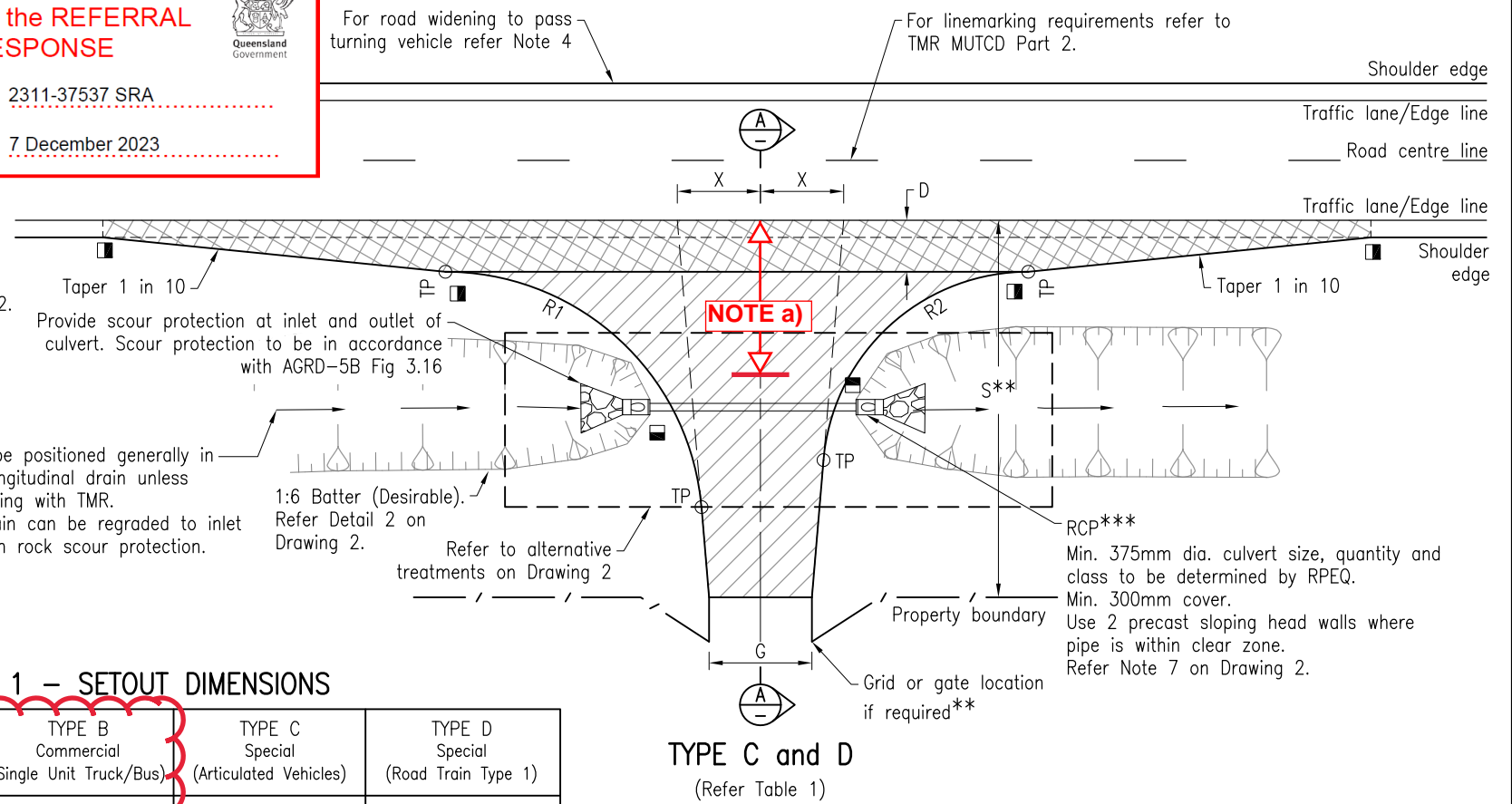
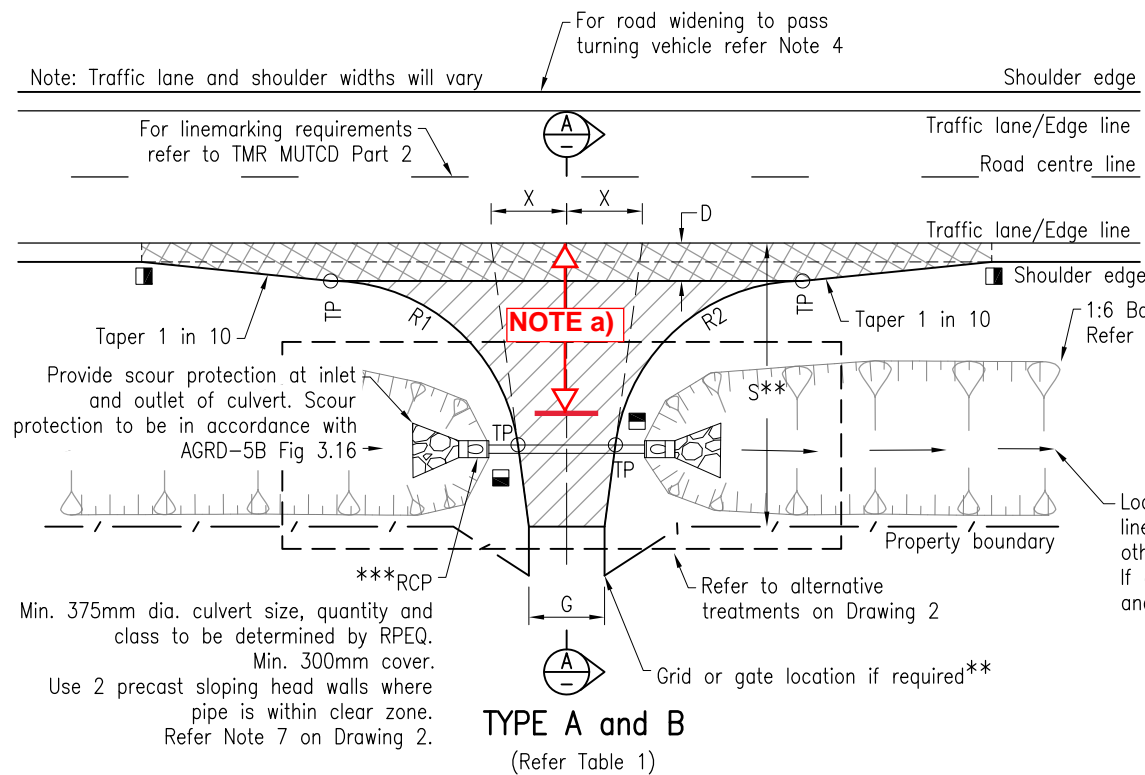
File ref: TMR23-40967



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



SARA ref: 2311-37537 SRA  
Date: 7 December 2023



**TABLE 1 – SETOUT DIMENSIONS**

	TYPE A Residential (Car/Service Vehicle)	TYPE B Commercial (Single Unit Truck/Bus)	TYPE C Special (Articulated Vehicles)	TYPE D Special (Road Train Type 1)
R1	10m	10m	15m	20m
R2	10m	10m	12m	12m
D	2m	2m	3m	3m
X	3m	5m	4m	5m
S	12m	15m	22m	30m**
G	4-6m $\phi$	4-6m $\phi$	6m	6m
$\phi$	6m Minimum width for two-way two-lane access.			

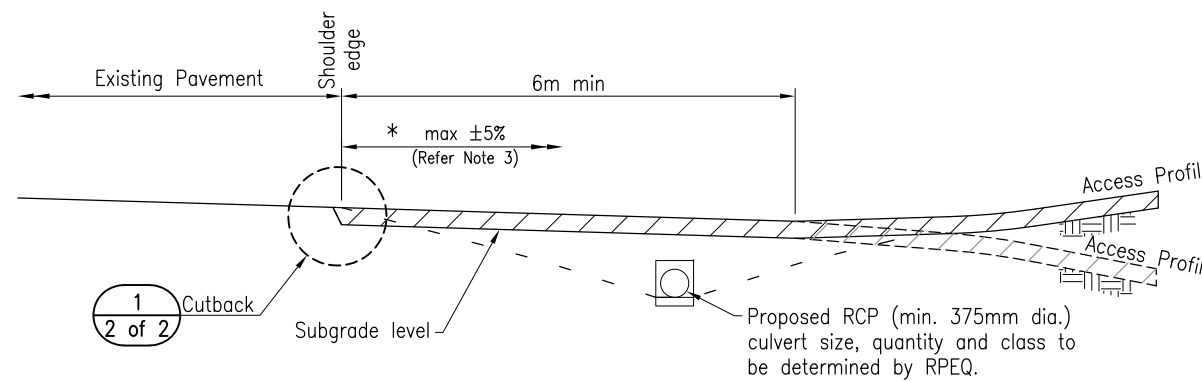
**LEGEND**

- Pavement Type 1 – Bitumen surfacing, 2 coat bitumen seal. Pavement depth and type to match existing or proposed through road pavement. Refer to Table 2 for minimum depths.
- Pavement Type 2 – Gravel, unbound pavement. Refer to Table 2 for depths. Access may be required to be sealed for up to 10m width from edge line (to minimise gravel on through road) to be determined by the RPEQ.
- \* Maintain existing shoulder crossfall and superelevation.
- \*\* Length 'S' to property boundary by TMR. Where length 'S' is greater than the road reserve boundary, then fencing and grid/gate shall be recessed at the cost of owner from property boundary to ensure vehicle does not impede through lane.
- \*\*\* RCBC (min. size 600x300) can be used instead of RCP, or invert option where table drain is of insufficient depth for a culvert.
- Denotes Road Edge Guide Post
- The Filled in portion denotes a red reflector and the open portion a white reflector.

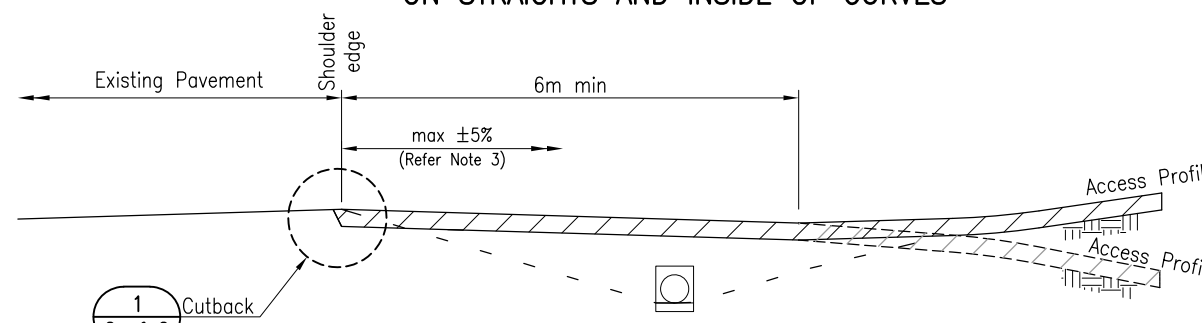
**TABLE 2 – MINIMUM PAVEMENT DETAILS AND DEPTH**

	TYPE A Residential (Car/Service Vehicle)	TYPE B Commercial (Single Unit Truck/Bus)	TYPE C & D Special (Articulated Vehicles)
Sealed Pavement Base Course	150mm(Min.) Type 2.2 or match existing	200mm(Min.) Type 2.2 or match existing	280mm(Min.) Type 2.2 or match existing
Unsealed Pavement Base Course	150mm(Min.) Type 2.4 or match existing	200mm(Min.) Type 2.4 or match existing	#

NOTE:  
1. Refer to additional notes on drawing 2 of 2  
2. Where access is located on curves, intersections or is Type C, or excessive screwing motion will occur, pavement seal to extend to property boundary at the owner's cost to the engineer's/designer's discretion.  
# Bitumen sealed pavement only.  
◆ Type 3.1 or 4.3 or match existing is permissible if Type 2.2/2.4 is unable to be used.



**ON STRAIGHTS AND INSIDE OF CURVES**



**ON OUTSIDE OF SUPERELEVATED CURVES**

**SECTION A**

Department of Transport and Main Roads note:  
Site specific requirements may not reflect this example in its entirety. Drawing details must reflect site specific conditions for Road Works / Road Access Works.

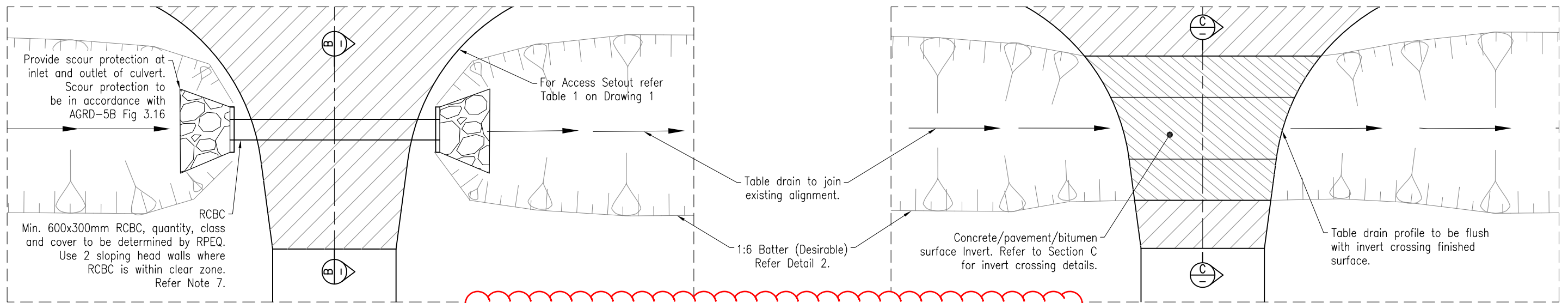
**NOTES:**

1. Details shown on this drawing are the minimum layout requirements for a private rural property access. For additional requirements and other design considerations refer to Sections 7.2.1 and 7.2.3 of the AGRD-4 (2009).
2. For sight distance requirements refer to Section 3.4 of the RPDM (2nd Edition) Volume 3 Supplement to AGRD-4A, and Section 3 of the AGRD-4A (2010).
3. Vertical clearance checks to be carried out for proposed vehicle in accordance with AS 2890.2 – Parking Facilities Off-Street Commercial Vehicle Facilities.
4. RPEQ or designer to conduct traffic impact assessment to determine if turning treatments are required. Rural right-turn treatments maybe appropriate, refer to Section 7.5 of the AGRD-4A (2010) for pavement widening requirements. Pavement type to match existing or minimums specified in Table 2 of this drawing.
5. This drawing is to be read in conjunction with Drawing 2 of 2.
6. All dimensions in metres and are minimum unless specified.

**REFERENCED DOCUMENTS:**

- Departmental Standard Drawings:  
1243 Precast Culvert Headwalls – Headwall Connections for Culverts  
1305 Pipe Culverts - Headwall and Apron for Pipe Diameter 375 to 675  
1359 Culverts - Installation, Bedding and Filling/Backfilling Against/Over Culverts
- Departmental Documents:  
RPDM Road Planning and Design Manual (2nd Edition)  
MRTS03 Drainage, Retaining Structures and Protective Treatment
- Austrroads Guide to Road Design:  
AGRD-4 (2009) Part 4: Intersections and Crossings – General (2009)  
AGRD-4A (2010) Part 4A: Unsignalised and Signalised Intersections (2010)  
AGRD-5B (2013) Part 5B: Drainage – Open Channels, Culverts and Floodways (2013)

Department of Transport and Main Roads			
PROPERTY ACCESS		Standard Drawing No	1807
RURAL PROPERTY ACCESS		Date	11/2021
A3	Not to Scale		
A	B		





RC BOX CULVERT PLAN VIEW

INVERT CROSSING PLAN VIEW

**ADDITIONAL NOTES:**  
**a) In all cases, bitumen seal to extend a minimum of 10m from road edge.**  
**b) Annexure to construction drawings is to be read in conjunction with standard drawing 1807.**

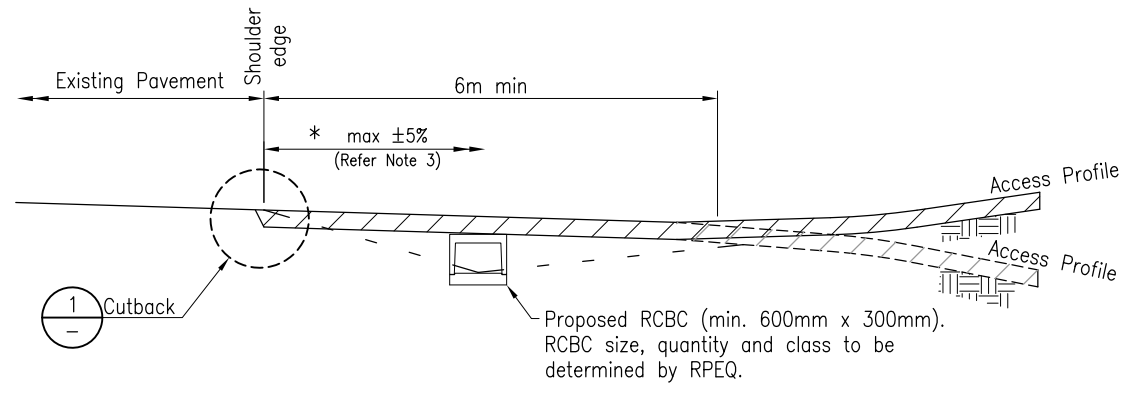
**LEGEND**

-  Pavement Type 2 – Gravel, unbound pavement. Refer to Table 2 of Drawing 1 for depths. Access may be required to be sealed for up to 10m width from edge line (to minimize gravel on through road) to be determined by the RPEQ.
-  Invert crossing surface
- \* Maintain existing shoulder crossfall and superelevation.

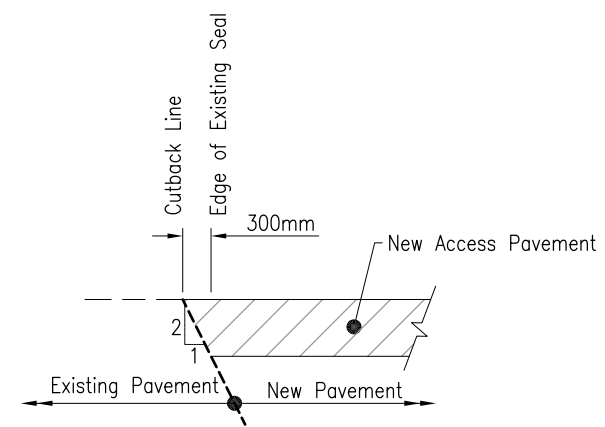
**NOTES:**

1. This drawing is to be read in conjunction with Drawing 1 of 2.
2. Minimum longitudinal fall for concrete or bitumen invert is 0.3%.
3. 1 in 6 grade can be further levelled for larger design vehicles. Ensure sufficient area for drainage remains. Dimensions to be based on stormwater flow rate for appropriate design ARI event to ensure invert crossing can meet required capacity. Type 22 and Type 28 inverts can be used if drainage design criteria is met.
4. Vertical clearance checks to be carried out for small rigid vehicle to ensure adequate transition between change in grade. Refer to AS 2890.2.
5. For pavement or bitumen surfacing inverts, refer Table 2 on Drawing 1 for minimum depths.
6. Concrete access to have minimum N32 concrete, 100mm thick on 100mm thick sub-base gravel. Concrete access to be reinforced with SL72 mesh with minimum 40mm top cover.
7. Culvert clear zone varies with location and speed environment. Refer to TMR Road Planning and Design Manual – Supplement to AGRD Part 6, and Austroads Guide to Road Design - Part 6.

- REFERENCED DOCUMENTS:**
- Departmental Standard Drawings:  
 1260 R C Box Culverts and Slab Link Box Culverts – Culverts Height = 375 To 600  
 1033 Kerb and Channel – Profiles
- Australian Standards Documents:  
 AS2890.2 Parking Facilities – Off-Street Commercial Vehicle Facilities



ON STRAIGHTS AND INSIDE OF CURVES




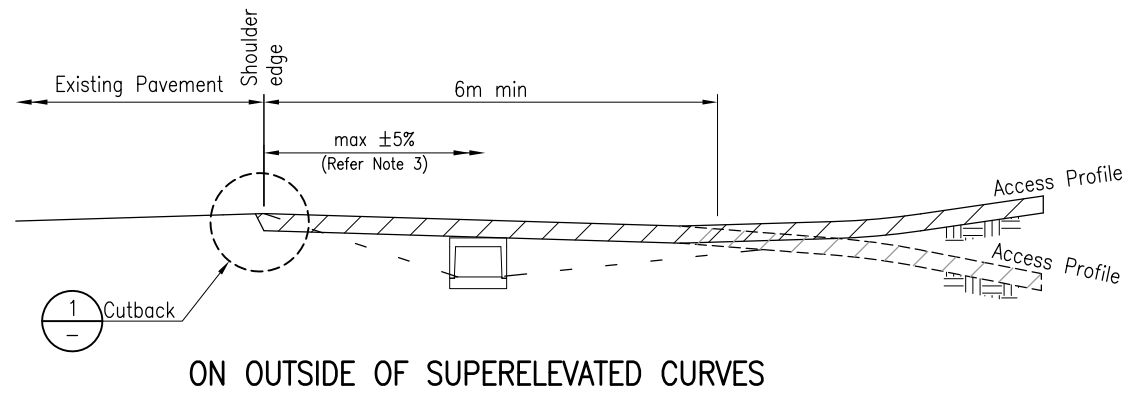
CUTBACK DETAIL

DETAIL 1

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

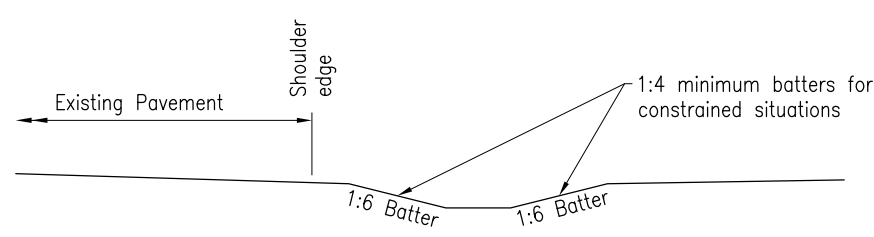
SARA ref: 2311-37537 SRA

Date: 7 December 2023

ON OUTSIDE OF SUPERELEVATED CURVES

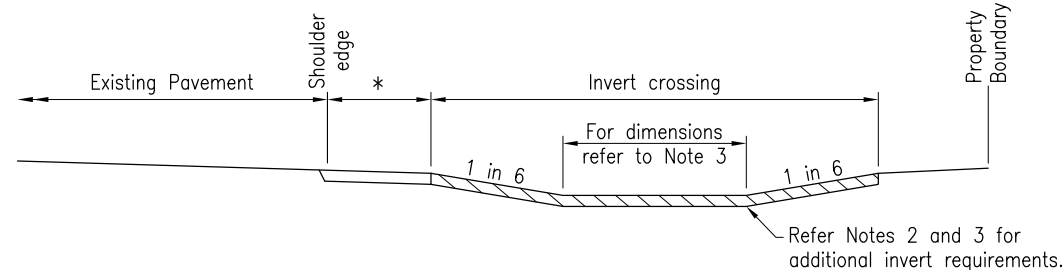
SECTION B



BATTER DETAIL

DETAIL 2



**Department of Transport and Main Roads note:**  
 Site specific requirements may not reflect this example in its entirety. Drawing details must reflect site specific conditions for Road Works / Road Access Works.



INVERT CROSSING

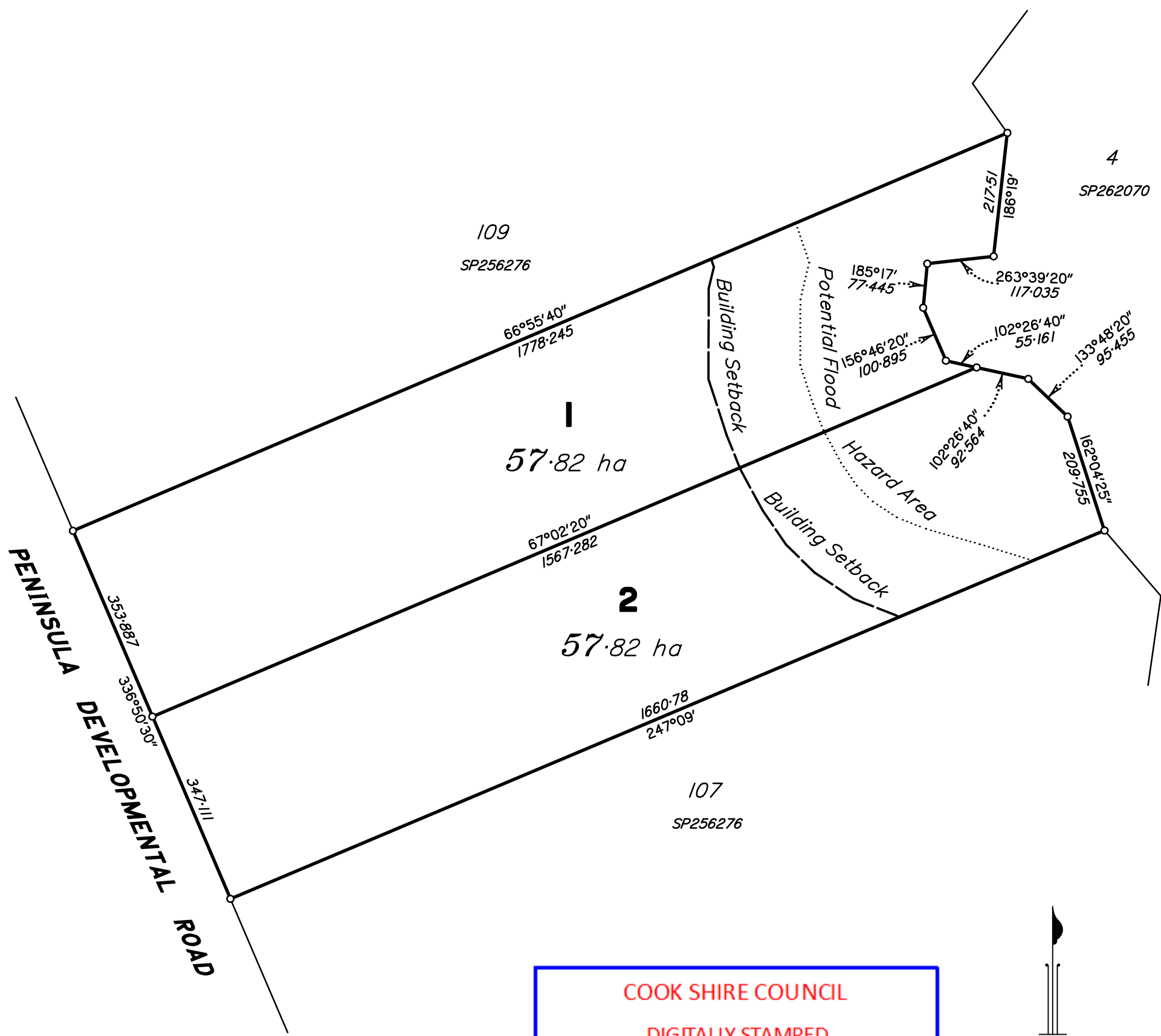
SECTION C

Refer Notes 2 and 3 for additional invert requirements. For concrete inverts strength and thickness refer note 6. For other surface inverts depths refer Note 4.

Department of Transport and Main Roads				© The State of Queensland (Department of Transport and Main Roads) 2021 <a href="http://creativecommons.org/licenses/by/4.0/">http://creativecommons.org/licenses/by/4.0/</a>	
PROPERTY ACCESS				A3	Standard Drawing No
RURAL PROPERTY ACCESS		Not to Scale	1807		
DRAWING 2 OF 2		A	B	Date 11/2021	

**Attachment 2 – Approved Plans (D24/5604)**

Areas and metes and bounds are subject to final survey.



**COOK SHIRE COUNCIL**  
**DIGITALLY STAMPED**  
**APPROVED PLAN**

**Development Application:** Development Permit for Reconfiguration of a Lot (1 Lot into 2 Lots)

**Lot:** 180 on Plan SP256276

Referred to in Cook Shire Council's Decision Notice

**Approval Date:** 14 February 2024  
**Application Number:** DA/4694



0 400m 800m 1.2km

LOCAL GOVERNMENT: CSC  
 LOCALITY: Lakeland  
 Scale 1: 8000  
 Reference: 9197 – Rev A  
 Lot Layout – 23.11.2023

**DEVELOPMENT PLAN**  
*Plan of Lots 1 & 2*  
Cancelling Lot 108 on SP256276



TWINE SURVEYS PTY LTD  
 36 Mabel Street, Atherton QLD 4883  
 PO Box 146, Atherton QLD 4883  
 P: 07 4091 1303  
 E: info@twinesurveys.com.au

**Attachment 3 – Notice of Decision – Statement of Reasons (AD2024/0000472)**



## 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/4694
Applicant:	P.C. Wallace and K.A Shaw
Proposal:	Development Permit for a Reconfiguration of a Lot
Description of the Development:	1 Lot into 2 Lots
Street Address:	2218 Peninsula Developmental Road, Lakeland QLD 4871
Real Property Description:	Lot 108 on SP256276
Planning Scheme:	Cook Shire Council Planning Scheme 2017 v2.0
Land Zoning:	Rural Zone
Assessment Type:	Code Assessment

### DECISION DETAILS

---

Type of Decision:	Approval with Conditions
Type of Approval:	Development Permit for Reconfiguration of a Lot (1 into 2 Lots)
Date of Decision:	14 February 2024

---

## 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)	The application triggered a referral to SARA under Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, – Reconfiguring a lot near a state-controlled road.
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	<p>Section 2.1 of the Planning Scheme identifies that the superseded version of the State Planning Policy is integrated in the Planning Scheme. A review of the current version of the SPP (July 2017) and mapping has determined that the state interests are adequately 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.</p> <p>However, amendments to any part of the SPP or supporting mapping may result in a local planning instrument no longer appropriately integrating a particular State interest. In these instances the SPP and/or the supporting mapping apply to the extent of any inconsistency.</p>
Temporary State Planning Policy	There are no Temporary State Planning Policies.

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

- Rural Zone Code
- Reconfiguring a Lot Code
- Works, Services, and Infrastructure Code
- Biodiversity Overlay Code
- Flood & Other Coastal Hazards Overlay Code
- Bushfire Hazard Overlay Code

**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 will have no detrimental impact on the property, surrounding properties, or the environment itself.

**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.