

Your Reference:

Our Reference: KH: RR: GD: mw: 20-04 (FID86514, RAL008-19/20, 14256-00000-000, ID1533943, ID1545764)

Contact: Rentia Robertson

17 April 2020

James & Deslea Yeldham
C/- VSB Surveys Pty Ltd
19 Withers Street
KAWANA QLD 4701

Dear Sir/Madam

Decision Notice – Approval

(Given under section 63 of the Planning Act 2016)

Application Number: RAL008-19/20
Description: Reconfiguring a Lot (2 into 2)
Level of Assessment: Code Assessable
Site Address: 48074 BURNETT HIGHWAY, DULULU
Lot & Plan Details: Lot 164 on RN1394 and Lot 165 on RN1394

On 17 April 2020, under delegated authority, the above development application was approved in full subject to conditions. The conditions of this approval are set out in Attachment 1. These conditions are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

1. Details of Approval

The following approval is given:

	Planning Regulation 2017 reference	Development Permit	Preliminary Approval
Reconfiguring a Lot	s20	<input checked="" type="checkbox"/>	<input type="checkbox"/>

2. Approved Plans

The approved plans and/or documents for this development approval are listed in the following table:

Plan Number	Plan/Document name	Date
Nil	Attachment F – Sketch showing the proposed new Boundary in relation to the existing driveway and building offsets	As received on the 12/03/2020
1219	PROPOSED LOT 164 & 165 CANCELLING LOT 164 & 165 ON RN1394	As received 20/02/2020

3. Further Development Permits

Please be advised that there are no further development permits required.

4. Submissions

Not applicable (Public Notification not required)

5. Referral Agencies

The referral agency for this application was:

Name of referral agency	Advice agency or concurrence agency	Referral Basis	Address
Chief Executive - Department of State Development, Infrastructure and Planning (DSDIP) - State Assessment Referral Agency (SARA)	Concurrence	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1.	RockhamptonSAR A@dsmip.qld.gov.au Fitzroy & Central Region PO Box 113 ROCKHAMPTON QLD 4701

6. Currency Period for the Approval

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

7. Statement of Reasons

Description of the development	Reconfiguring a Lot (Boundary Realignment - 2 into 2)
Assessment Benchmarks	Rural Code Development Standards Code Reconfiguring a Lot Code House Code Economic Resource Overlay Code Natural Hazards Overlay Code Natural Features and Conservation Area Overlay Code

Reasons for Decision	<u>Rural Zone Code</u> The development complies with all applicable Acceptable Outcomes.
	<u>Development Standards Code</u> The development complies with all applicable Acceptable Outcomes. A condition has been imposed on PO11 in relation to the on-site wastewater treatment system for Lot 164RN1394.
	<u>Reconfiguring a Lot Code</u> The development complies with all applicable Acceptable Outcomes.
	<u>Economic Resources Overlay Code</u> The development complies with all applicable Acceptable Outcomes.
	<u>Natural Disaster Overlay Code</u> The development complies with all applicable Acceptable Outcomes. A Condition has been imposed on PO4 in relation to the storage, handling and manufacturing of hazardous materials in areas mapped as medium-high bushfire severity.

8. Appeal rights

The rights of an applicant to appeal to a tribunal or the Planning and Environment Court against a decision about a development application are set out in chapter 6, part 1 of the Planning Act 2016. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the Planning Act 2016).

Appeal by an applicant

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

An applicant may also have a right to appeal to the Development tribunal. For more information, see schedule 1 of the Planning Act 2016.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 229 of the Planning Act 2016.

Attachment 2 is an extract from the Planning Act 2016 that sets down the applicant's appeal rights and the appeal rights of a submitter.

The Planning and Environment Court appeals database lists all the appeals lodged in the Planning and Environment Court since 15 March 2008, which the department has been notified of. It contains information about the appeal, including the appeal number, site address, local government area, and a copy of the appeal notice, including grounds for the appeal. The appeal database is an easy way for anyone to obtain information about an appeal or check if an appeal has been lodged for a specific development application or approval.

The appeal database is available at <https://planning.dsdmip.qld.gov.au/planning/our-planning-system/dispute-resolution>.

Should you require further assistance in relation to this matter, please do not hesitate to contact Council's Development Services section on (07) 4992 9500, quoting you application number of RAL008-19/20.

Yours Sincerely



Dr Keith Halford
MANAGER ENVIRONMENT & PLANNING

CC All Referral Agencies (both advice and concurrence)

State Assessment and Referral Agency (SARA)
rockhamptonSARA@dilgp.qld.gov.au

Enc Attachment 1 – Part A Conditions imposed by the Assessment Manager
Attachment 1 – Part B Assessment Manager Notes
Attachment 1 – Part C Conditions imposed by Department of State
Development, Manufacturing, Infrastructure and Planning
Attachment 2 – Appeal Rights
Attachment 3 – Approved Drawings
Attachment 4 – Environmental Obligations

RAL008-19/20 Attachment 1

Part A - Conditions imposed by the Assessment Manager

General

- 1 The reconfiguration is to be completed generally in accordance with the following approved plans, as attached to this Decision Notice, except where modified by the conditions below–

Plan/Document number	Plan/Document name	Date
Nil	Attachment F – Sketch showing the proposed new Boundary in relation to the existing driveway and building offsets	As received on the 12/03/2020
1219	PROPOSED LOT 164 & 165 CANCELLING LOT 164 & 165 ON RN1394	As received 20/02/2020

- 2 Comply with all of the conditions of this Development Approval prior to the submission of the Subdivision Plan for compliance assessment, unless otherwise stated.
- 3 All works required by the conditions of this Development Approval are to be completed prior to the submission of the Subdivision Plan for compliance assessment, unless otherwise stated.
- 4 Complete all associated works, including any relocation or installation of services, at no cost to Council.
- 5 At the time of submitting the Subdivision Plan for endorsement, provide a report demonstrating compliance with all conditions of this Development Approval.
- 6 A note will be placed on the Councils rate card for the properties confirming that:
- The properties are outside Councils water and sewer area and these services will not be extended to service the property;
 - Owner's and future purchasers of Proposed Lot 2 should be aware that connections for electricity and telecommunications to any future dwelling or use are the responsibility of the owner of land at the time such connections are required.

Road & Access

- 7 A rural access shall be provided to Lots 164 and 165 on RN1394.

Water Supply and Wastewater

- 8 The applicant is responsible for ensuring an adequate supply of potable water is available and water storage/s of no less than 5,000 litres is available for the purposes of fire fighting for Lot 165 on RN1394.
- 9 Lot 164 on RN1394 is to be provided with an approved on-site wastewater treatment system that complies with the Queensland Plumbing and Wastewater Code 2013, or any subsequent update, prior to the issuance of a Certificate of Classification for a residence. A property note will be placed on the Council rate system to this effect.
- 10 Lot 164 on RN1394 is to be provided with a separate water supply either in the form of an approved water extraction licence or water tanks with a minimum capacity of 47,000 litres prior to making a building application for a residence. A property note will be placed on the Council rate system to this effect.

Electricity & Telecommunications

- 11 A property note will be placed on the Council rate system which will be provided as advice as part of any rate search including the availability of electricity and telecommunications for Lot 164 on RN1394.

Hazardous Material

- 12 The applicant is responsible for ensuring that commercial or bulk volumes of hazardous materials are stored and handled in an area that has low bushfire intensity. The storage, handling or manufacturing of any hazardous materials in commercial quantities are not permitted within a medium or high Bushfire hazard area.

RAL008-19/20 Attachment 1

Part B – Assessment Manager Notes

- A In carrying out the activity or works associated with the development, all reasonable and practical measures are to be taken to minimise releases and the likelihood of releases of contaminants to the environment, except as otherwise provided by the conditions of this development approval.
- B Please note the advice surrounding the applicants 'Environmental Obligations' contained in an attachment to the Decision Notice.
- C All works required pursuant to these conditions shall be undertaken and completed in accordance with Council's Standards (Capricorn Municipal Development Guidelines) at the Applicant's expense.
- D Failure to ensure ongoing compliance with the conditions of this Development Approval including conditions relating to the ongoing use of the premise, and the design and layout of the development may constitute an offence under the Planning Act.
- E Where further development is proposed it is the applicant's / developer's responsibility to ensure further approvals are sought as required by the Banana Planning Scheme.
- F The approved development must comply with Council's current Local Laws under the Local Government Act 2009.
- G In carrying out the activity or works associated with the development, all reasonable and practical measures are to be taken to minimise releases and the likelihood of releases of contaminants to the environment, except as otherwise provided by the conditions of this development approval.
- H Please note the conditions dated 2 April 2020 imposed by the State Assessment and Referral Agency (SARA) as a concurrence agency and attached to this Decision Notice.

Engineering

- A Any damage incurred by the existing road surface, services or furniture as a result of the works required for the installation of the new access is to be repaired to the pre-existing or better condition.
- B Any access from a State controlled road shall be constructed as per the advice obtained from all referral agencies. Reference is made to the attached conditions imposed by the State Assessment and Referral Agency (SARA) reference: 2003-15737 SRA.pdf

Cultural Heritage

- A This development approval does not authorise any activity that may harm Aboriginal cultural heritage. Under the Aboriginal Cultural Heritage Act 2003 you have a duty of care in relation to such heritage. Section 23(1) provides that, "A person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage".

Council does not warrant that the approved development avoids affecting Aboriginal cultural heritage. It may therefore be prudent for you to carry out searches, consultation, or a cultural heritage assessment to ascertain the presence or otherwise of Aboriginal cultural heritage. The Act and the associated duty of care guidelines explain your obligations in more detail and should be consulted before proceeding.

Declared Pests/Plants

- A The applicant/developer is responsible for ensuring that all declared plants are treated as required by the provisions of the Land Protection (Pest and Stock Route Management) Act 2002.

Property Notes

- A The following property notes will be recorded against Lot 164 on RN1394 at the time the subdivision plan is lodged with Council for Compliance Assessment.
- A low voltage main power supply may not be available to Lot 164 on RN1394. Intending purchasers should be aware of the cost and other implications prior to purchase and make their own enquiries to the relevant electricity supply entity on the matter.
- B The following property notes will be recorded against Lot 164 on RN1394 at the time the subdivision plan is lodged with Council for Compliance Assessment.
- Telecommunications may not be available to Lot 164 on RN1394. Intending purchasers should be aware of the cost and other implications prior to purchase and make their own enquiries to the relevant telecommunications supply entity on the matter.

RAL008-19/20 Attachment 1

*Part C - Conditions imposed by the Department of State
Development, Manufacturing, Infrastrucutre and Planning*



Department of
**State Development,
 Manufacturing,
 Infrastructure and Planning**

SARA reference: 2003-15737 SRA
 Council reference: RAL008-19/20
 Applicant reference: 1219

2 April 2020

Chief Executive Officer
 Banana Shire Council
 PO Box 412
 Biloela Qld 4715
 enquiries@banana.qld.gov.au

Attention: Dr Keith Halford

Dear Sir/Madam

SARA response—Burnett Highway, Dululu; 48074 Burnett Highway, Dululu

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

The development application described below was confirmed as properly referred by the Department of State Development, Manufacturing, Infrastructure and Planning on 4 March 2020.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	2 April 2020
Conditions:	The conditions in Attachment 1 must be attached to any development approval.
Advice:	Advice to the applicant is in Attachment 2 .
Reasons:	The reasons for the referral agency response are in Attachment 3 .

Development details

Description:	Development permit	Reconfiguring a lot for realignment of boundary—two lots into two lots.
SARA role:	Referral agency	
SARA trigger:	Schedule 10, Part 9, div 4, sub 2, table 4 (Planning Regulation 2017)	

Development application for a reconfiguration of a lot near a State transport corridor

SARA reference: 2003-15737 SRA
Assessment Manager: Banana Shire Council
Street address: Burnett Highway, Dululu; 48074 Burnett Highway, Dululu
Real property description: 164RN1394; 165RN1394
Applicant name: James and Deslea Yeldham
Applicant contact details: 19 Withers Street
Kawana QLD 4701
amber@vsbsurveys.com.au

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

- Approved
- Reference: TMR20-029574
- Date: 31 March 2020

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at CorridorManagement@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 Carl Porter, Principal Planning Officer, on 07 4924 2918 or via email RockhamptonSARA@dsmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Anthony Walsh
Manager Planning

cc James and Deslea Yeldham, amber@vsbsurveys.com.au

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

Attachment 1—Referral agency conditions

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

No.	Conditions	Condition timing
Reconfiguring a lot		
Development application for a reconfiguration of a lot near a State transport corridor— The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	<p>(a) The road access location is to be centrally located with the proposed new shared boundary of Lots 164 and 165 RN1394 to enable access to both lots without the need to establish any access easements over either lot, generally in accordance with Sketch for Planning Purposes only, prepared by VSB Surveys Pty Ltd, undated, reference 1219.</p> <p>(b) Road access works comprising driveway crossover, (at the road access location) must be provided generally in accordance with Standard Drawing – Property Access Main Roads AADT <2000 vpd prepared by the Department of Transport and Main Roads dated 3 October 2007 reference SP-01 revision B (amended by C Murphy on 21/03/2019).</p>	<p>(a) At all times.</p> <p>(b) Prior to submitting the Plan of Survey to the local government for approval.</p>
2.	Direct access is not permitted between the Burnett Highway (the state-controlled road) and the subject site at any other location than the road access location described in condition 1.	At all times

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) [v2.6]. If a word remains undefined it has its ordinary meaning.
Further permits or approvals	
2.	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 on a state-controlled road. Please contact the Department of Transport and Main Roads' on CorridorManagement@tmr.qld.gov.au to make an application for road works approval. 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). Please contact the Department of Transport and Main Roads' as soon as possible to ensure that gaining approval does not delay construction.

Attachment 3—Reasons for referral agency response

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

The reasons for the department's decision are:

- The proposed development is a reconfiguring of a lot (2 lots into 2 lots).
- The purpose of the proposed development is to realign the boundary between the lots, which is presently built over by a dwelling house and associated sheds.
- Referral was required due to the subject site adjoining a State-controlled Road (Burnett Highway).
- While the reconfiguration will result in the need to provide for separate driveway access to each newly created lot, the applicant has demonstrated that this can be installed using the existing driveway crossover to the State-controlled road due to its width.

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version [2.6]), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system

Attachment 4—Change representation provisions

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Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules¹ regarding **representations about a referral agency response**

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

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

Part 7: Miscellaneous

30 Representations about a referral agency response

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

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

Attachment 5—Approved plans and specifications

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NEW PAVEMENT (Refer Section A)

Access Pavement:



Widened Shoulder Pavement:



Compaction (all work) - 100% STD

Ø Match existing crossfall

BITUMEN SEALING (Refer General Layout)



Blumen Sealed Pavement (2 Coat - Same Day)

First coat: C170 (3% cutter) at 1.5 litres/m²
Cover Aggregate 14mm @ 95m²/m²

Second coat: C170 (3% cutter) @ 1.2 litres/m²
Cover Aggregate 10mm @ 120m²/m²

100mm overlap of existing Blumen Seal with New Blumen Seal

VISIBILITY TRIANGLE

Ø Sight Distance:

Posted Speed km/h	100	80	60
Desirable (SD)	500m	400m	220m
Minimum (SID)	297m	215m	149m

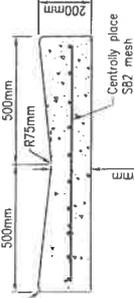
Sight distances are based on the design speed being 10 km/h greater than the posted speed limit.

Visibility Line Of Sight to be based on a Driver Eye Height of 1.7m above the main road and 1.1m above the access. 1.1m above the road and 1.25m to the top of car.

VISIBILITY BENCHING

* Physical Bench to be provided by removing vegetation and embankment to 800mm below Visibility Line Of Sight. This allows for vegetation regrowth up to 300mm in height.

THIS DRAWING IS TO BE READ IN CONJUNCTION WITH DEPARTMENT OF MAIN ROADS SPECIFICATIONS AND THE STANDARD CONDITIONS FOR THE CONSTRUCTION OF PROPERTY ENTRANCE.



DETAIL B

GATE/GRID LOCATION

A 3.6m gate (opening inwards) shall be installed at the following distance from the Main Road Edge Line (EL) depending on the type of vehicle using the access.

Vehicle Type	Minimum Distance from Edge Line
Articulated	22m
Single Unit	15m

If the access point at the property fence line is less than the minimum distance specified above, a grid shall be installed with a minimum width equal to the width of the access formation at that point.

DRAINAGE OPTIONS

- Provide 375mm dia. (or as specified) RCP class 3 with precast concrete sloping and structures. Minimum cover to be 300mm.
- If a grid is installed, the table drain flow may be diverted under the grid in lieu of installing an RCP.
- In special circumstances only, Main Roads may approve the use of a concrete invert (see Detail B) in lieu of installing an RCP.
- If practical, the table drain flow may be diverted away from the road.

MINIMUM RCP PIPE LENGTHS

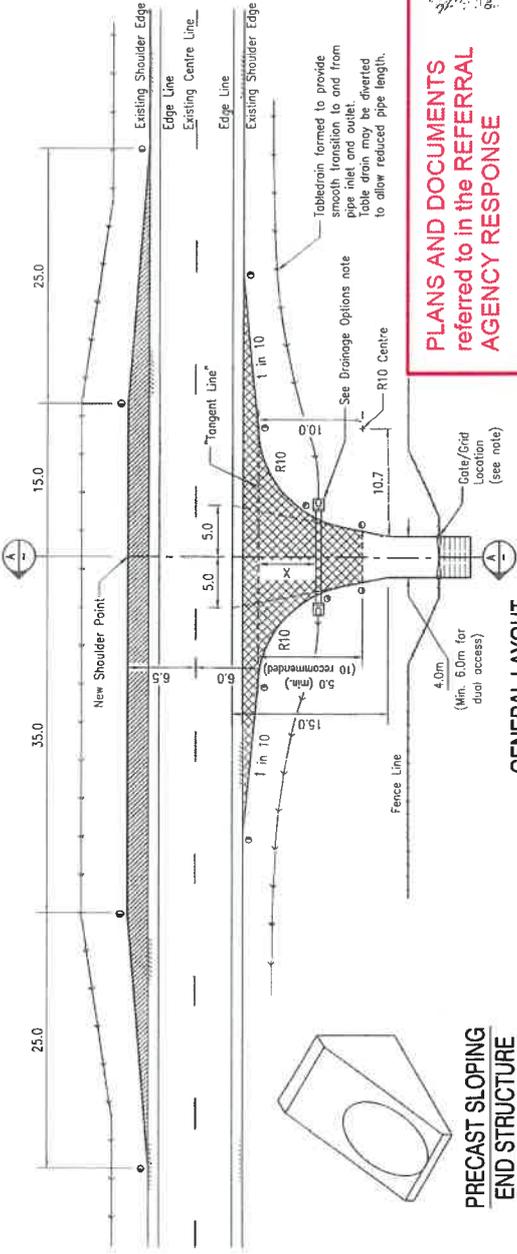
Distance X	ACCESS WIDTH	PIPE LENGTHS (m)
3	4.0m	6.0m
4	13.2	14.4
5	12.0	13.2
6	10.8	12.0
7	9.6	10.8
8	8.4	9.6

Ø Road Edge Guide Post

PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE

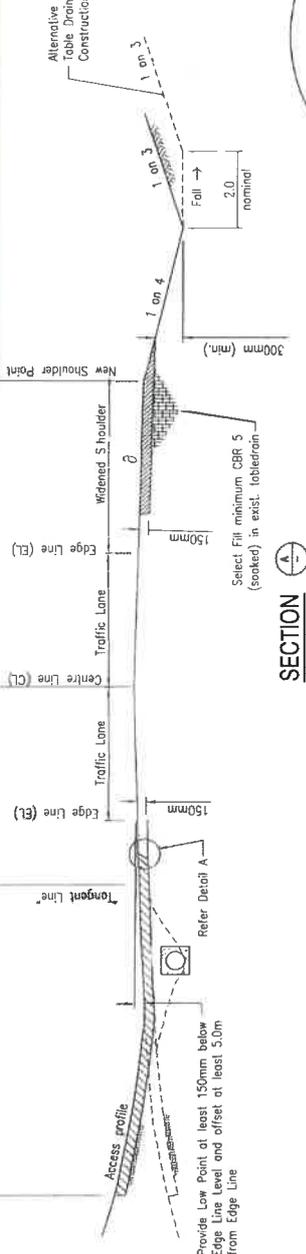
SARA ref: 2003-15737 SRA

Date: 2 April 2020

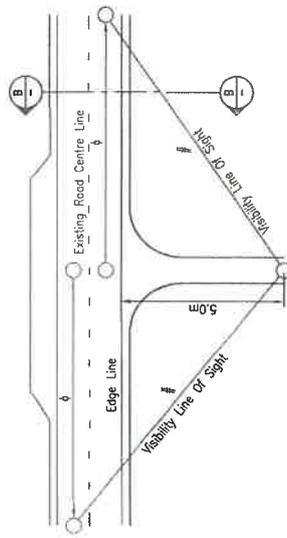


PRECAST SLOPING END STRUCTURE

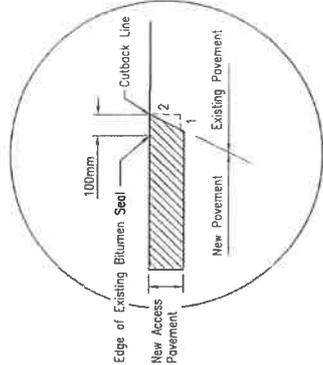
Provide 5.0m min. length of sealed access (10.0m recommended)



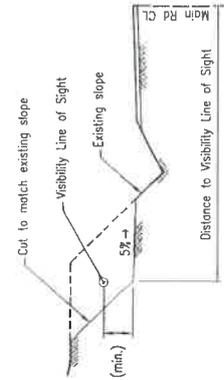
SECTION



VISIBILITY TRIANGLES



DETAIL A



TYPICAL SECTION VISIBILITY BENCHING

SCALE

General Layout: 0 2 4 6 8 10m
All other details: Not to Scale

Revisions	Certified	Date	Microplotted	Associated Job Ref	Survey Data
B	RPDM	Ch 13 Ver Oct 2016			
A		Original Issue A1/A3			

Heights	Datum	Asimuth	Datum	Height	Survey	Notes

Dimensions shown in metres except where shown otherwise

Through Drainage from

Reference Points

Drawing	Design	Design	Design	Design
Checked	D.I. White	Verified	Design	Design
	A.J. Williams		D.I. White	D.I. White

STANDARD DRAWING - Property Access
Main Roads AADT < 2000 vpd

CENTRAL DISTRICT
Queensland Government
Department of Main Roads

Approval No.	SP-01
Drawing No.	B
Series Number	
MR Design	105/15

Amended: C. Humphrey 21/3/19

Our ref TMR20-029574
Your ref
Enquiries Anton DeKlerk



Department of
Transport and Main Roads

31 March 2020

James & Deslea Yeldham
c/- VSB Surveys Pty Ltd
19 Wither Street
Kawana QLD 4701

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

This is not an authorisation to commence work on a state-controlled road¹

Development application reference number RAL008-19/20, lodged with Banana Shire Council involves constructing or changing a vehicular access between Lot 164RN1394, 165RN1394, the land the subject of the application, and Road 41E Burnett Highway (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.

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

Road Access Location

- | | | |
|---|--|--|
| 1 | The permitted road access location for both Lot 164 RN1394 and Lot 165 RN1394 is to be located on the Burnett Highway (Road 41E) at approximate chainage 74.535km (LHS) (Lat: -23.826620; Long: 150.278738).

Both parcels of land are to be accessed via this single access location. | At all times. |
| 2 | Road access works comprising driveway crossover must be provided at the permitted access location, generally in accordance with Standard Drawing – Property Access Main Roads AADT <2000 vpd prepared by the Department of Transport and Main Roads dated 3 October 2007 reference SP-01 revision B (amended by C Murphy on 21/03/2019).

Note: <ul style="list-style-type: none">• The dual access must be a minimum of 6.0m wide; and• The proposed new shared boundary of proposed Lots 164 and 165 must be located centrally with the access to ensure it can provide access to both lots without the need to establish any access easements over either lot. | Prior to submitting the Plan of Survey to the local government for approval. |

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

No.	Conditions of Approval	Condition Timing
3	Direct access is prohibited between the Burnett Highway and Lot 164 RN1394 and Lot 165 RN1394 at any other location other than the permitted road access location described in Condition 1.	At all times.
4	Any other existing vehicular property access (other than described in condition 1) located between Lot 164 RN1394 and Lot 165 RN1394 and the Burnett Highway (the state-controlled road) must be permanently closed and removed and the verge areas and table drains reinstated to a condition similar to the adjacent verge areas.	Prior to submitting the Plan of Survey to the local government for approval.
5	The use of the access is limited to vehicles not exceeding 19m in length.	At all times
6	The road access is to be constructed and maintained at no cost to the department in accordance with section 64(a) & (b) of the <i>Transport Infrastructure Act 1994</i> .	At all times.
7	The applicant shall be responsible for all maintenance works for the access in accordance with Module 9 of the Local Government Association of Queensland document 'TMR/Local Government Cost Sharing Arrangement', dated October 2017.	At all times
8	The road access to the subject allotments are to be used generally in accordance with this approval use of the site (rural / rural residential) with typical vehicle movements of approximately 20 vehicle trips per day.	At all times.
9	All vehicles entering and/or exiting the property via the Permitted Road Access and the Burnett Highway shall travel in a forward direction only.	At all times.
10	Reasonable steps are taken to ensure that the permitted road access is used by others in accordance with these conditions.	At all times.

Reasons for the decision

The reasons for this decision are as follows:

- a) To maintain the safety and efficiency of the state-controlled road.

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

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

1. There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
2. In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for information.

Further information about the decision

1. In accordance with section 67(7) of TIA, this decision notice:

- a) starts to have effect when the development approval has effect; and
 - b) stops having effect if the development approval lapses or is cancelled; and
 - c) replaces any earlier decision made under section 62(1) in relation to the land.
2. In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply for a review of this decision only within 28 days after notice of the decision was given under the TIA. A copy of the review provisions under TIA and TPCA are attached in **Attachment C** for information.
 3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

Further approvals

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

1. Road Access Works Approval Required – Written approval is required from the department to carry out road works that are road access works (including removal of driveways and reinstatement of verge areas) on a state-controlled road in accordance with section 33 of the TIA. Therefore, all existing informal access and access tracks within the Burnett Highway must be closed, use of them ceased and the previously disturbed verge areas and table drains reinstated generally in accordance with the verge areas immediately adjacent to the closed accesses and tracks.
2. The section 33 application must also demonstrate that suitable sight visibility exists or is able to be provided in accordance with the requirements of the departments Road Planning and Design Manual. It should be noted that some minor vegetation clearing may be required to ensure suitable sight distance is provided. The extents of any vegetation clearing may need to be accurately determined on site during the construction works.

This approval must be obtained prior to commencing any works on the state-controlled road. The approval process will require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the department to make an application.

If further information about this approval or any other related query is required, Mr Anton DeKlerk, Principal Town Planner should be contacted by email at CorridorManagement@tmr.qld.gov.au or on (07) 4931 1545.

Yours sincerely



Anton DeKlerk
Principal Town Planner

Attachments: Attachment A – Decision evidence and findings
Attachment B - Section 70 of TIA
Attachment C - Appeal Provisions
Attachment D - Sketch for Planning Purposes only, prepared by VSB Surveys Pty Ltd, undated, reference 1219
Attachment E - Standard Drawing – Property Access Main Roads AADT <2000 vpd prepared by the Department of Transport and Main Roads dated 3 October 2007 reference SP-01 revision B (amended by C Murphy on 21/03/2019).

Attachment A

Decision Evidence and Findings

Findings on material questions of fact:

- The proposal is for Reconfigutring a lot (two lots into two lots), moving the boundary between Lot 164 and Lot 165 further towards the northeast.
- Currently the boundary line between Lot 164 and 165 on RN1394, Dululu traverse the main dwelling house. The intent of the boundary realignment is to allow all building to be located within the same property (being Lot 165) and to have a single access location for both allotments (via a dual access).
- The existing access is obtained from the Burnet Highway at approximate chainage 74.535km (LHS) and is anticipated to cater for both properties as a 'dual access'.
- Lot 165 does seem to have an informal access at approximate chainage 74.245km (LHS) which must be closed and removed, including the verge and table drain to be reinstated.
- The Annual Average Daily Traffic (AADT) on this section of the Burnett Highway was 931 vehicles per day (vpd) in 2018.
- While the geometry of the existing access may be generally suitable for the current use, there is no shoulder widening opposite the access to allow a following vehicle to pass to the left of a vehicle propped in the southbound through lane waiting to turn right into the access. The access should be upgraded to provide this shoulder widening as well as being widened to a minimum of 6.0m to allow dual use by both Lots 164 and 165.

As long at the access is widened to a minimum of 6m and the new shared property boundary is located centrally within this 6m width, the access will be wide enough for use by both lots without the need for any access easements over either lot.

- TMR will therefore condition the access to be used for both allotments (being Lot 164 and Lot 165 on RN1394) and to be sealed to comply with current standard drawing, being a SP-01 (amended by C Murphy 21/03/2019).

Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version/Issue
(Planning Report) Realignment of Boundary	VSB Surveys Pty Ltd	undated	un referenced	-
Sketch – for Planning Purposes only	VSB Surveys Pty Ltd	undated	1219	-
Standard Drawing – Property Access Main Roads AADT <2000 vpd (amended by C Murphy on 21/03/2019)	Queensland Government Department of Main Roads	3 October 2007	SP-01	B

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 2

Planning Act 2016 Extract on Appeal Rights

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 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–

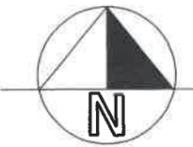
(a) the adopted charge itself; or

(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.

Attachment 3
Approved Drawings



14
PN109

PROPOSED
LOT 164
ABOUT 103ha

PROPOSED
LOT 165
ABOUT 115ha

190
RN215

191
RN215

166
RN215

166
RN215

165
RN1394

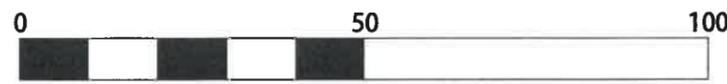
HIGHWAY
164
RN1394

DEE RIVER

BURNETT

DUFFS ROAD

14
RN249



Banana Shire Council
PLANNING APPROVAL

17 APR 2020

RAL008-19/20

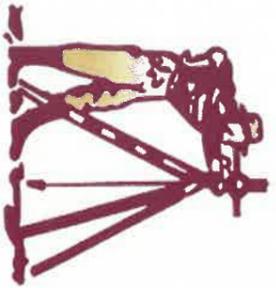


VSB SURVEYS PTY LTD
19 WITHERS STREET
NORTH ROCKHAMPTON
QLD 4701
FILE REF: 1219

PROPOSED BOUNDARY REALIGNMENT
48074 BURNETT HIGHWAY, DULULU
PROPOSED LOT 164 & 165
CANCELLING LOT 164 & 165 ON RN1394
LGA: BANANA SHIRE COUNCIL LOCALITY: DULULU

SCALE:
Lengths are in Metres
MERIDIAN: RN215

SKETCH
FOR PLANNING PURPOSES ONLY

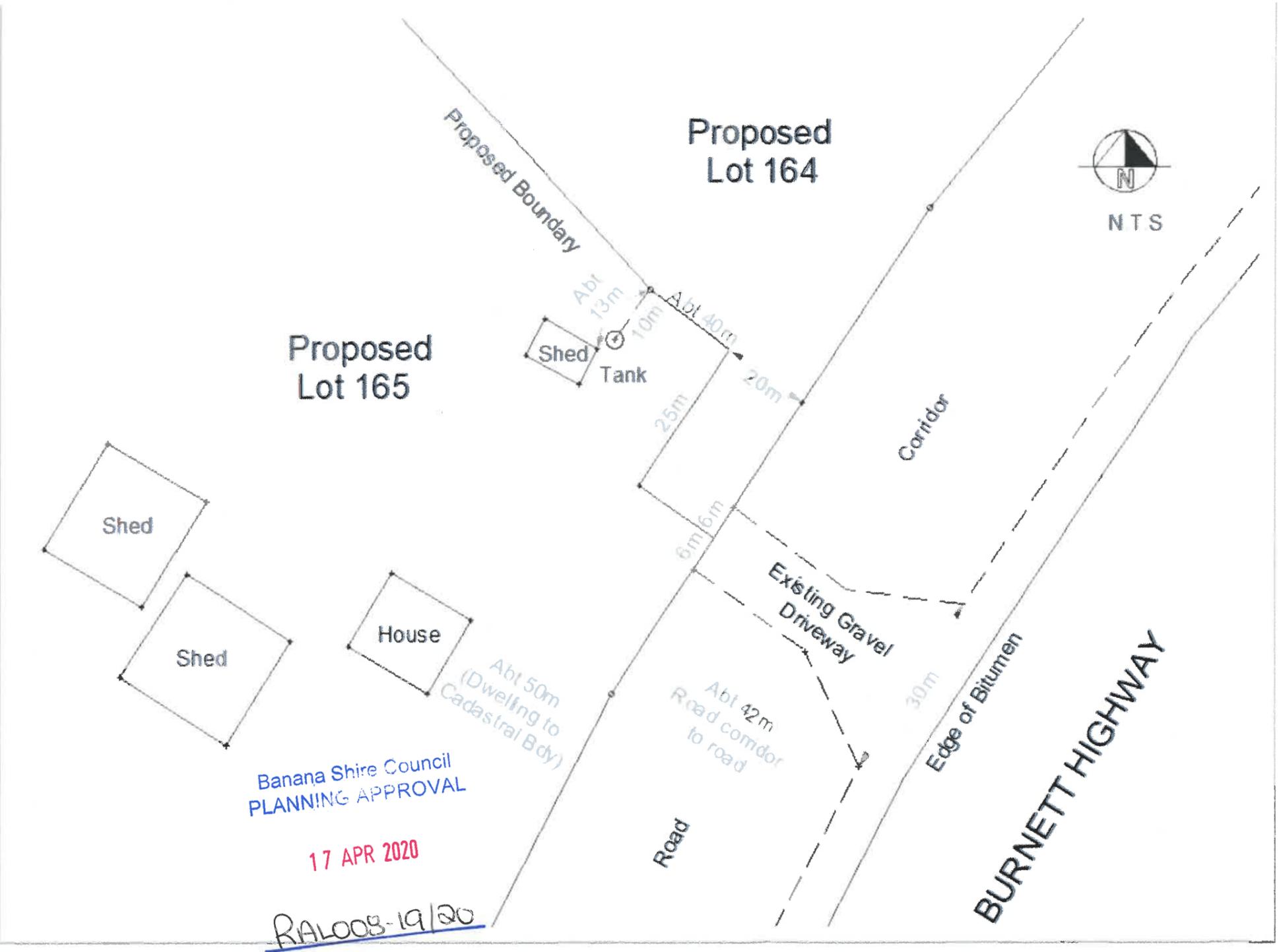


VSB SURVEYS Pty Ltd

ACN 619 565 721

Business Address: 19 Withers Street, NORTH ROCKHAMPTON, Qld 4701
Postal Address: 19 Withers Street, NORTH ROCKHAMPTON, Qld 4701
• M: 0413 005 256 • M: 0487 107 477 • E: vince@vsbsurveys.com.au

Attachment F – Sketch showing the proposed new boundary in relation to the existing driveway and building offsets. (As per information request Item 1 and Item 2).



Attachment 4
Environmental Obligations

Environmental Obligations

SCHEDULE A – General

- A1 The *Environmental Protection Act 1994* places a general environmental duty on everyone. Activity that causes or is likely to cause environmental harm must not be carried out unless all reasonable and practicable measures are taken to prevent or minimise the harm. Anyone becoming aware of serious or material environmental harm being caused or threatened by an activity they are involved in, has a duty to report that harm.
- A2 It is an offence under the *Environmental Protection Act 1994* to cause environmental nuisance. Environmental nuisance includes unreasonable interference caused by noise, dust, fumes, odour, smoke, aerosols, particles or light.
- A3 All reasonable precautions must be taken to avoid or minimise nuisance to adjacent premises or other property during construction work on the site, to the satisfaction of Council. Such precautions are to be discussed and agreed to by Council prior to construction commencing and will form part of any Construction Site Management Plan.

SCHEDULE B - Noise

- B1 Activities must be managed such that noise emissions from the premises do not cause harm or nuisance to adjoining residents and comply with the requirements of the *Environmental Protection Act 1994* and Environmental Protection (Noise) Policy 2019.
- B2 Noise must not be emitted outside the hours specified below-

Noise Source	Allowable Hours
Building work <i>(Builders and owner-builders, including excavation. For home renovations or other uses refer to regulated devices)</i>	6:30am and 6:30pm Monday to Saturday, excluding public holidays.
Regulated devices <i>(eg mowers, power tools, compressors, leaf blowers, nail guns etc)</i>	7:00am to 7:00pm Monday to Saturday 8:00am to 7:00pm Sundays and public holidays
Amplifier devices <i>(other than indoor venues and open air events)</i>	7am to 10pm Business days 8am to 6pm Other days

- B3 All noise producing machinery and equipment (including air conditioners, compressors and cooling systems) are to be fitted with noise attenuation features so that noise at a sensitive receptor does not exceed the levels indicated in Schedule 1 of the Environmental Protection (Noise) Policy 2019 as follows -

Schedule 1 Acoustic quality objectives

Column 1	Column 2	Column 3		
Sensitive receptor	Time of Day	Acoustic quality objectives (measured at the receptor <i>dB(A)</i>)		
		<i>L_{eq,adj,1hr}</i>	<i>L_{10,adj,1hr}</i>	<i>L_{1,adj,1hr}</i>
residence (for outdoors)	daytime and evening	50	55	65
residence (for indoors)	daytime and evening	35	40	45
	night-time	30	35	40
library and educational institution (including a school, college and university) (for indoors)	when open for business or when classes are being offered	35		
childcare centre or kindergarten (for indoors)	when open for business, other than when the children usually sleep	35		
childcare centre or kindergarten (for indoors)	when the children usually sleep	30		
school or playground (for outdoors)	when the children usually play outside	55		
hospital, surgery or other medical institution (for indoors)	visiting hours	35		
hospital, surgery or other medical institution (for indoors)	anytime, other than visiting hours	30		
commercial and retail activity (for indoors)	when the activity is open for business	45		
protected area or critical area	anytime	the level of noise that preserves the amenity of the existing area or place		
marine park	anytime	the level of noise that preserves the amenity of the existing marine park		
park or garden that is open to the public (whether or not on payment of an amount) for use other than for sport or organised entertainment	anytime	the level of noise that preserves the amenity of the existing park or garden		

SCHEDULE C – Air and Light

- C1 Air and light emissions must be appropriately managed to prevent environmental nuisance beyond the boundaries of the property during all stages of the development including earthworks and construction.
- C2 Suitable dust suppression should be used and/or screens or barriers

should be erected, where required during excavation and building works, to reduce the emission of dust or other such emissions from the site.

- C3 All artificial illumination is to be designed and installed so as not to cause a nuisance to occupants of nearby premises and any passing traffic. Security and flood lighting is to be directed away from adjacent premises to minimise the protrusion of light outside the site.
- C4 Development shall comply with the applicable requirements of the Environmental Protection (Air) Policy 2019.

SCHEDULE D – Water and Stormwater

- D1 It is an offence under the *Environmental Protection Act 1994* to discharge sand, silt, mud and other such contaminants to a stormwater drain, roadside gutter or a water course.
- D2 During construction, stockpiles and areas of bare soil or earth that are likely to become eroded must be adequately protected – by upslope surface water diversion, downslope sediment fencing and/or temporary surface coverings.
- D3 It is an offence under the *Environmental Protection Act 1994* to discharge oils, chemicals, cement or concrete, paint, thinner, degreaser, rubbish and other such contaminants to a stormwater drain, roadside gutter or a water course.
- D4 Any spills of oils, paints, chemicals etc must be contained and cleaned up as soon as possible.
- D5 Concrete, paint or thinner waste must not be washed out near a drain, gutter or anywhere waste could end up in a water course – appropriate containment and disposal should be used rather than discharging to the ground.
- D6 Development shall comply with the applicable requirements of the Environmental Protection (Water and Wetland Biodiversity) Policy 2019.

SCHEDULE E – Waste Management

- E1 It is an offence under the *Waste Reduction and Recycling Act 2011* to leave litter behind or allow litter to blow from site. All waste must be appropriately contained on site prior to removal.
- E2 All waste should be collected by a licensed contractor and taken to an approved waste disposal facility by an approved transporter.
- E3 Trap Gully Landfill is the only approved waste facility within the Banana Shire for the disposal of commercial waste. No commercial waste is to be deposited at other Banana Shire landfills or transfer stations without prior written approval from Council.

- E4 It is an offence under the Environmental Protection Regulation 2019 to fail to comply with signage or directions at a waste facility.
- E5 Any building repairs involving asbestos material must be undertaken in accordance with Workplace Health and Safety requirements.
- E6 Regulated waste (including asbestos) is only to be disposed of at Trap Gully Landfill and an application form must be completed and approved prior to disposal.
- E7 Council will not enter onto private property to service wheelie bins, any bins to be serviced by Council will be required to be placed at the kerbside for collection.

SCHEDULE F – Land

F1 Section 23 of the *Biosecurity Act 2014* outlines the General Biosecurity Obligation. All landowners have a General Biosecurity Obligation (GBO) for managing biosecurity risks that are under their control and that they know about or should reasonably be expected to know about. All individuals and organisations whose activities pose or is likely to pose a biosecurity risk must:

- take all reasonable and practical measures to prevent or minimise the biosecurity risk
- minimise the likelihood of causing a biosecurity event and limit the consequences if such an event occurs
- prevent or minimise the harmful effects a biosecurity risk could have
- not do anything that might make any harmful effects of a biosecurity risk worse

A biosecurity risk exists when you deal with any pest, disease, weed or contaminant. This includes moving an animal, plant, turf, soil, machinery and/or equipment that could carry a pest, disease, weed or contaminant.