



**HINCHINBROOK
SHIRE COUNCIL**

Our Ref: RC17\0013

29 November 2017

Hansen Surveys Pty Ltd
27 Palm Terrace
Ingham QLD 4850

Email: gehansen@iprimus.com.au

Dear Sir,

DECISION NOTICE
Planning Act 2016

In relation to your recent request for reconfiguration of land, Council have assessed your application and it was APPROVED SUBJECT TO CONDITIONS. The decision was made on 28 November 2017.

APPLICATION DETAILS

Application Number: RC17\0013
Property ID Number: 106662

Applicant Details: Hansen Surveys Pty Ltd
27 Palm Terrace
Ingham QLD 4850

Owner Details: Errol Peter Cantamessa
PO Box 407
Ingham QLD 4850

Property Description: Bruce Highway, Gairloch
Lot 4 and Lot 5 on SP158703, Parish of Marathon

Proposal: Reconfiguration of Land
Rearrangement of Boundaries & Access Easement

Level of Assessment: Code Assessment



Assessment Benchmarks: Reconfiguring a Lot Code
Flooding & Inundation Code

DEEMED APPROVAL

The application has not deemed to be approved under s.64 of the *Planning Act 2016*.

CONDITIONS OF APPROVAL

The conditions of this approval are set out in the Schedule of Conditions. The conditions are identified to indicate whether the Assessment Manager or a referral agency (if any) imposed them.

REFERRAL AGENCIES

Referral Agency and Address	Referral Trigger
Department of Infrastructure, Local Government and Planning State Assessment and Referral Agency PO Box 5666 Townsville QLD 4810 Email: nqsara@dilgp.qld.gov.au	<p style="text-align: center;">Reconfiguring a lot near a State transport corridor</p> <p style="text-align: center;"><i>Planning Regulation 2017</i> <i>Schedule 10, Part 9, Division 4, Subdivision 2, Table 1</i></p>

PROPERTY NOTES

Not Applicable

FURTHER DEVELOPMENT PERMITS REQUIRED

Not Applicable

RIGHTS OF APPEAL

You may appeal against any matter stated in the Decision Notice. Chapter 6, Part 1 and Part 2 of the *Planning Act 2016* detail appeal rights afforded to the applicant and submitter/s (if any) to the Planning and Environment Court or Building and Development Dispute Resolution Committee. Attached are the relevant provisions of the *Planning Act 2016* relating to the Rights of Appeal.

APPROVAL CURRENCY PERIOD

s.85 of the *Planning Act 2016* indicates when an approval lapses and this section is attached for your information.

APPROVED PLANS & SPECIFICATIONS

In accordance with the *Planning Act 2016*, a copy of the approved plans and specifications (if relevant) are attached.



FURTHER INFORMATION

The development must be carried out in accordance with the approved plans and specifications and the requirements of all relevant laws, and any deviation there from must have the prior approval of the Chief Executive Officer.

This approval does not authorise any building work, any works within Council's Road Reserve (e.g. new/additional accesses, repair/modifications to existing accesses or works to footpaths), or any filling of land permits.

Should you have any questions or seek clarification with regard to any aspect of this notice, I encourage you to contact Council's Development, Planning and Environmental Services on telephone (07) 4776 4609.

Yours sincerely,

Gerhard Visser
Planning & Development Manager

Enclosed: Approved Plans/Documents
 Referral Agency Conditions
 Appeal Rights



NOTICE ABOUT DECISION – STATEMENT OF REASONS

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

This Notice is prepared in accordance with s.63(5) and s.83(7) of the *Planning Act 2016* to inform the public 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*.

REASONS FOR THE DECISION

The proposed development is considered to be consistent with the relevant overall outcomes of the planning scheme, in particular:

- The development will not result in a material change in the way the land is currently used;
- The proposed allotments have dimensions and a configuration which is better suited to facilitate access arrangements to the cane railway line;
- The application does not propose any new allotments; and
- It is unlikely that the proposed reconfiguration will result in any detrimental outcomes to the continuation of existing cane farming practices on the land.



CONDITIONS OF APPROVAL**Conditions of Development**

The conditions of development for this development permit are as follows

Approved Plans

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:-
 - a) The specifications, facts and circumstances as set out in the application submitted to Council, including recommendations and findings confirmed within technical reports; and
 - b) The following conditions of approval and the requirements of Council's Planning Scheme and best practice engineering.

Timing of Effect

2. Conditions of the Development Permit must be satisfied prior to issue of a Compliance Certificate for the Plan of Survey, except where specified otherwise in these conditions of approval.

Access

3. Access provision must be provided to all allotments or demonstrate that such is already in existence. Future maintenance of all accesses is the responsibility of the landowner. As the Bruce Highway is a State-controlled Road, it is the owner's responsibility to consult with the Department of Transport and Main Roads and construct the turnout in accordance with their specifications and approval processes if required.
4. Specifically regarding the access easement to the cane railway, provision for this easement must allow for an access corridor of adequate width, so as to ensure persons and plant do not encroach on adjacent lots when undertaking any construction and/or maintenance to the access surface and any drainage structures.
5. Future maintenance of all accesses is the responsibility of the landowner.
6. The access and access easement on Lot 4 must comply with the condition of the s.62(1) Decision Notice (TMR17-021596) or as amended of the Department of Transport and Main Roads.



HINCHINBROOK SHIRE COUNCIL

File Ref: RC17\0013



- Legend
- Road Names
 - Cadastre

□ Site Location

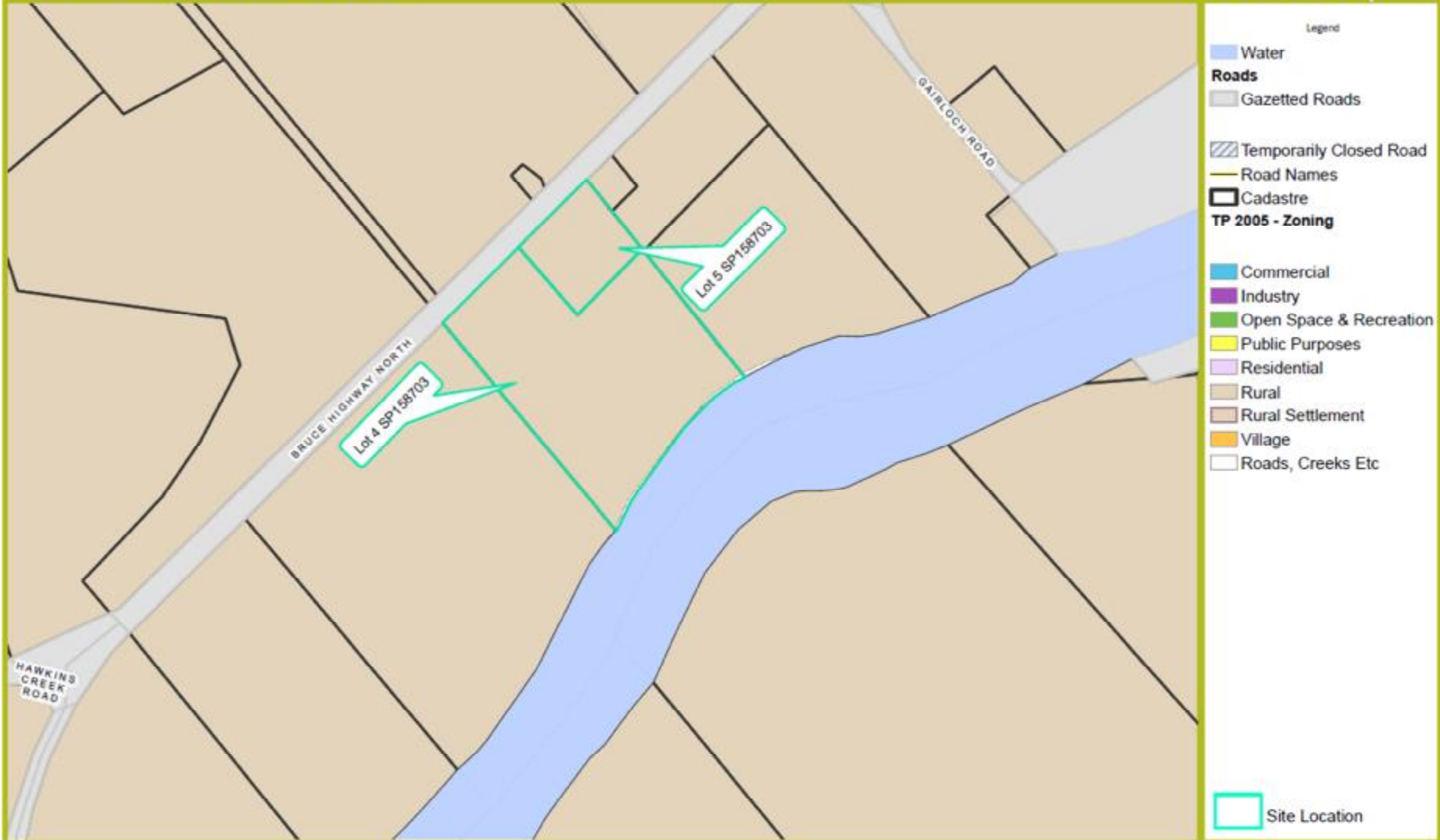


Data Sources & Acknowledgments
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Application for Reconfiguration of Land - Rearrangement of Boundaries

Path: G:\Sandpit\HayleyRoy\HAYLEY_APRIL_2017.mxd
Compiled By: hayley1007 Date: 30/10/2017



Data Sources & Acknowledgments

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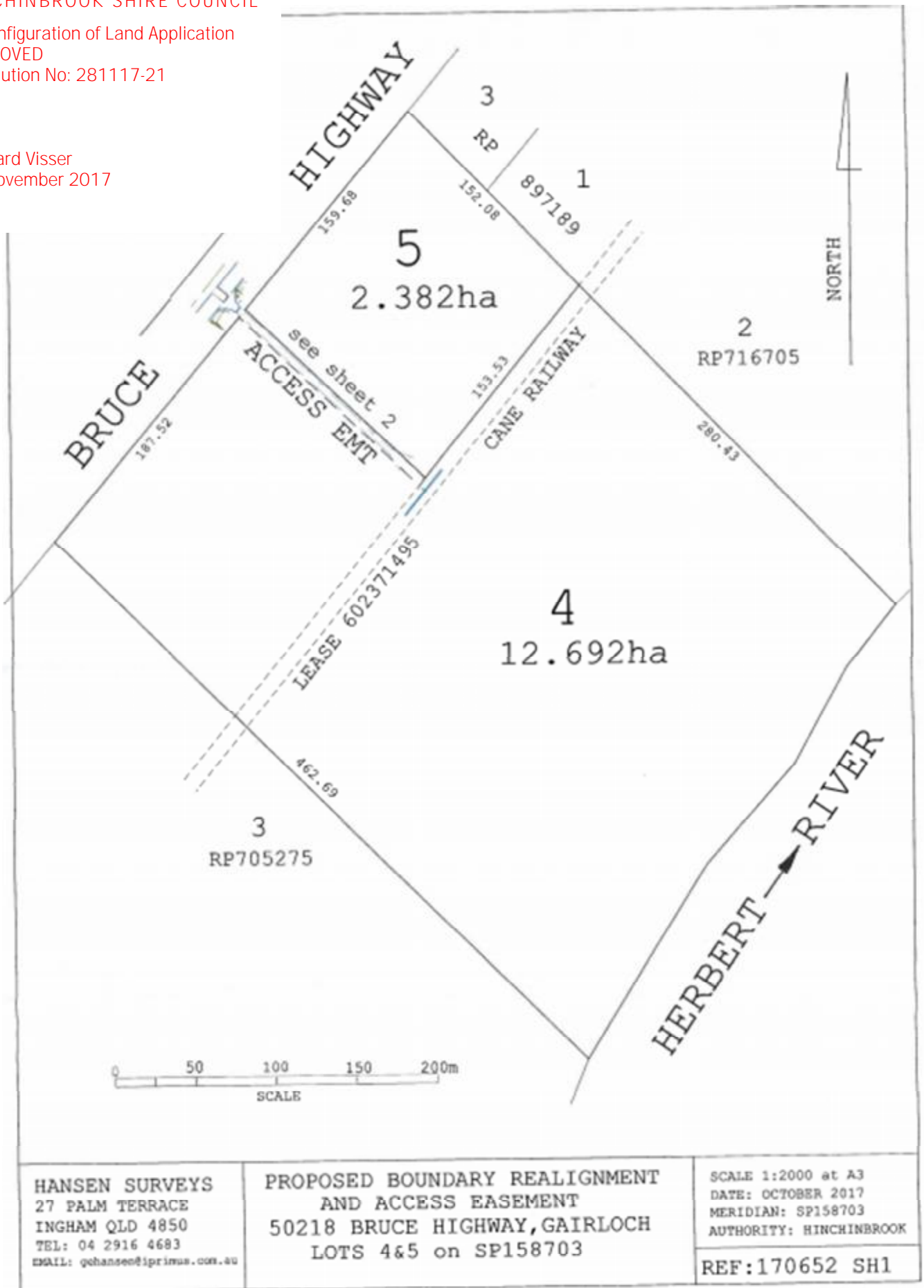
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HINCHINBROOK SHIRE COUNCIL

Reconfiguration of Land Application
APPROVED
Resolution No: 281117-21

Gerhard Visser
29 November 2017

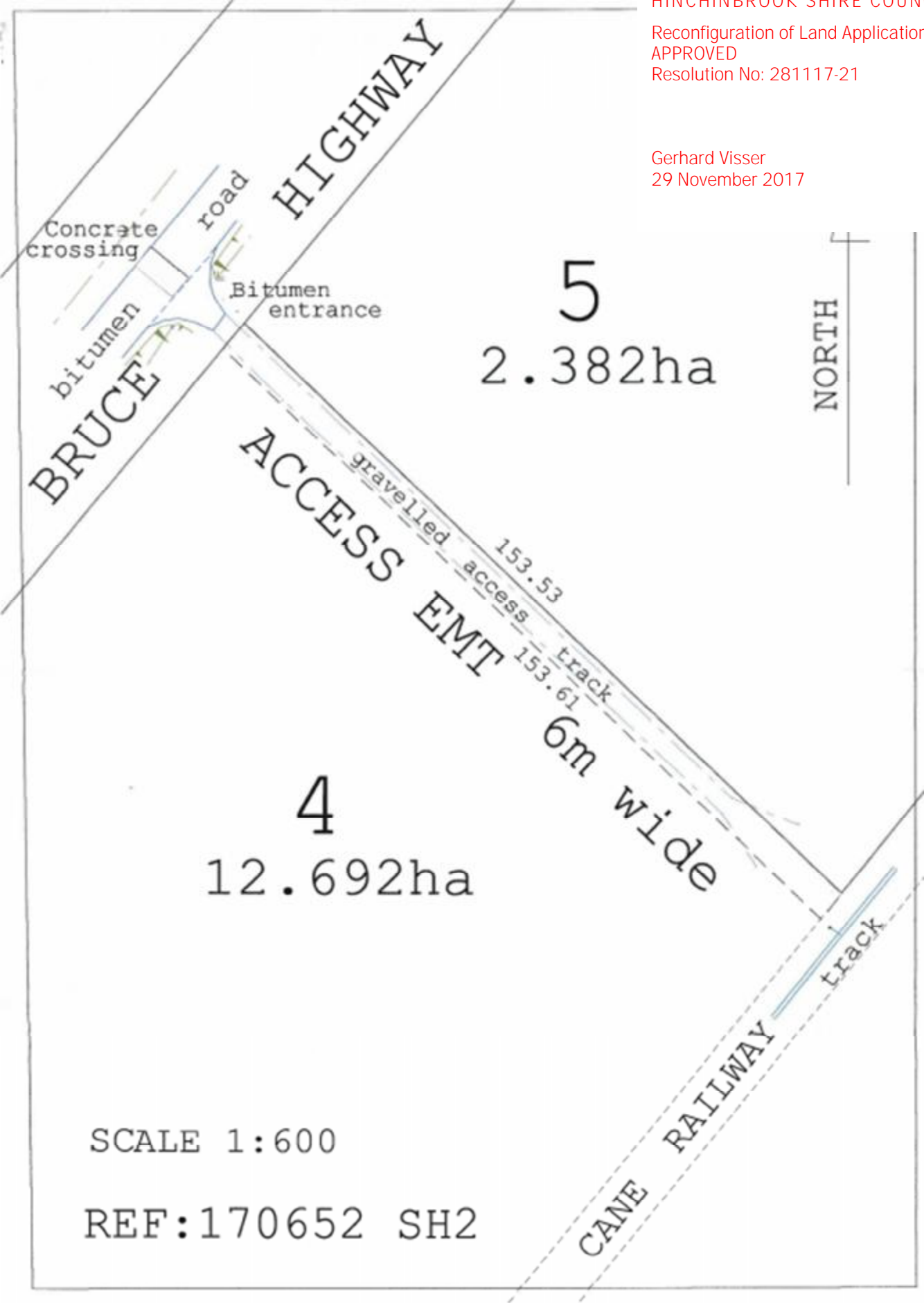


HANSEN SURVEYS
27 PALM TERRACE
INGHAM QLD 4850
TEL: 04 2916 4683
EMAIL: gchansee@primus.com.au

PROPOSED BOUNDARY REALIGNMENT
AND ACCESS EASEMENT
50218 BRUCE HIGHWAY, GAIRLOCH
LOTS 4&5 on SP158703

SCALE 1:2000 at A3
DATE: OCTOBER 2017
MERIDIAN: SP158703
AUTHORITY: HINCHINBROOK
REF:170652 SH1

Gerhard Visser
29 November 2017



APPEAL RIGHTS***PLANNING ACT 2016 & THE PLANNING REGULATION 2017*****Chapter 6 Dispute resolution****Part 1 Appeal rights****229 Appeals to tribunal or P&E Court**

- (1) Schedule 1 of the *Planning Act 2016* 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.

(Refer to Schedule 1 of the Planning Act 2016)

- (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.

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, table 1, item 1 – each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); 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 has 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 by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.



231 Other appeals

- (1) Subject to this chapter, 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 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, a tribunal or another entity; and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a 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 the rules of the P&E Court.

