



HINCHINBROOK SHIRE COUNCIL

Our Ref: RC17\0014

08 March 2018

Hinchinbrook Shire Council
PO Box 366
Ingham QLD 4850

Email: council@hinchinbrook.qld.gov.au

Attention: James Stewart

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 27 February 2018.

APPLICATION DETAILS

Application Number: RC17\0014
Property ID Number: 102508

Applicant Details: Hinchinbrook Shire Council
PO Box 366
Ingham QLD 4850

Owner Details: AA Paris, JM Aranas, MS Taylor and Laura (Aust) Pty Ltd
PO Box 1202
Ingham QLD 4850

Property Description: 1-27 Eleanor Street, Ingham
Lot 1 on RP714968, Parish of Cordelia

Proposal: Reconfiguration of Land
Subdivision of One (1) Lot into Two (2) Lots



Level of Assessment: Code Assessment

Assessment Benchmarks: Reconfiguring a Lot Code;
Open Space Code; and
Industry Zone 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	Reconfiguration a Lot near a State transport corridor <i>Planning Regulation 2017 Schedule 10, Part 9, Division 4, Subdivision 2, Table 1</i>

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 Authority Response
 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 provides better flood & inundation resilience within the Palm Creek area;
- The development is not considered to result in an incompatible land use intruding on (or compromising) the development and continuation of the existing uses along Palm Creek;
- The development will not compromise natural vegetation;
- The development creates an opportunity for the provision of conservation area at Palm Creek;
- The development will not result in a change in the character of the area; and
- The proposed subdivision of the land is compatible with the existing surrounding landscape and is not considered to result in adverse impacts on the amenity of the locality.



CONDITIONS OF APPROVAL

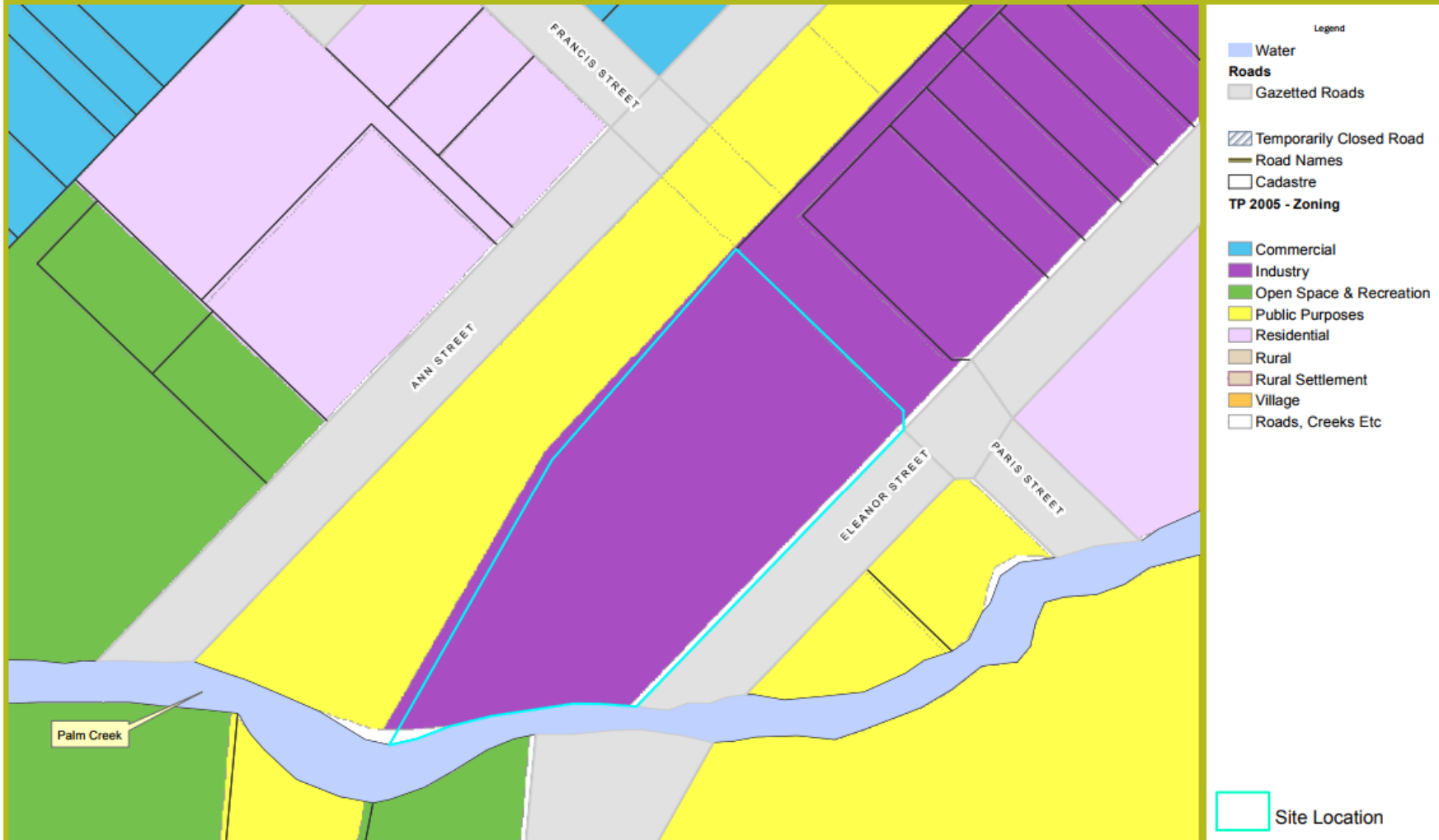
Conditions of Development								
The conditions of development for this development permit are as follows								
Administration								
(1)	The developer is responsible to carry out the approved development and comply with relevant requirements in accordance with:- a. The specifications, facts and circumstances as set out in the application submitted to Council, including recommendations and findings confirmed within the technical reports; b. The development must unless otherwise stated, be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards; and c. The conditions of approval, the requirements of Council's Planning Scheme and best practice engineering; d. The conditions of the Referral Authority; and e. The General Advices in respect of Railways.	At all times						
Approved Plans								
(2)	The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit: <table><tr><th>Plan / Document Name</th><th>Number</th><th>Date</th></tr><tr><td>Hinchinbrook Shire Council, Eleanor Street - Ingham, Reconfiguration sketch</td><td>7704</td><td>January 2018</td></tr></table>	Plan / Document Name	Number	Date	Hinchinbrook Shire Council, Eleanor Street - Ingham, Reconfiguration sketch	7704	January 2018	At all times
Plan / Document Name	Number	Date						
Hinchinbrook Shire Council, Eleanor Street - Ingham, Reconfiguration sketch	7704	January 2018						
(3)	Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval prevail.	At all times						
(4)	Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for endorsement by Council prior to the submission of a Development Application for Operational Works.	As per condition						
Easement								
(5)	The drainage easement (easement A on RP714968) to the north-eastern end of Lot 1 on RP714968 be cancelled.	Prior endorsement survey plan to of						



Construction and Operations	
(6) Any construction work associated with this development shall be carried out in accordance with sound engineering practice. In particular, no nuisance is to be caused to adjoining residents by way of smoke, dust, stormwater discharge or siltation of drains, at any time, including non-working hours. Where material is to be carted to or from the site, loads are to be covered to prevent dust or spillage. Where material is spilled or carried on to existing roads, it is to be removed forthwith so as to restrict dust nuisance and ensure traffic safety.	At all times
Damage to Infrastructure	
(7) In the event that any part of Council's existing sewer/water infrastructure is damaged as a result of work associated with the development, Council must be notified immediately of the affected infrastructure and have it repaired or replaced by Council, at no cost to Council. All works must be complied to prior to the issue of a Compliance Certificate for the Plan of Survey.	As per condition







Data Sources & Acknowledgements

While every care is taken to ensure the accuracy of the data used on this map, the Council nor any data providers make no representation or warranties about the accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and all liability for all expenses, losses, damages and costs which you might incur as a result of the data being inaccurate or incomplete in any way for any reason.

Cadastral information sourced from Department of Natural Resources and Mines is current as at 2017 and is accurate 1:50,000. Copyright Department of Natural Resources and Mines 2017.

This map is not to be resold or re-made as part of a commercial product



HINCHINBROOK SHIRE COUNCIL

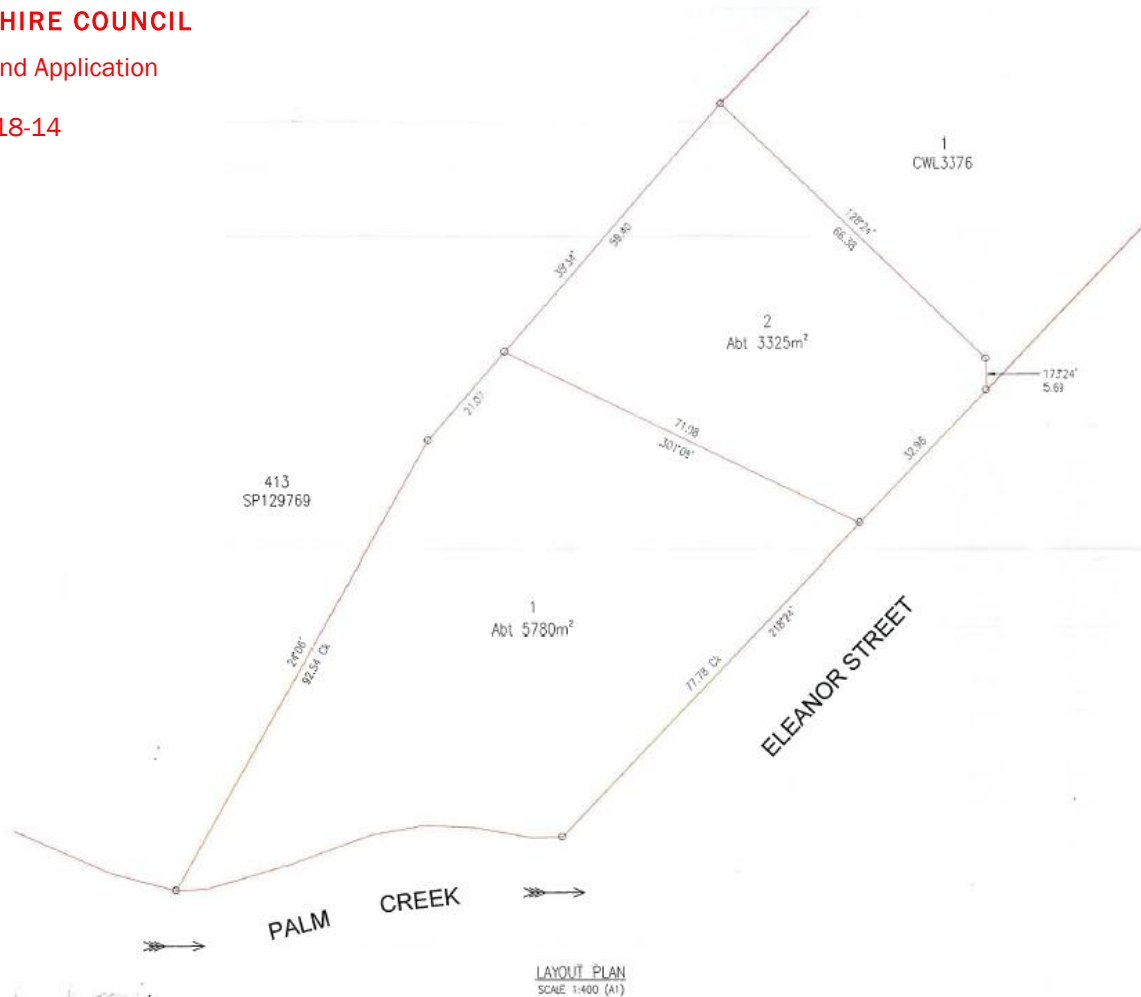
Reconfiguration of Land Application

APPROVED

Resolution No: 270218-14

Gerhard Visser

08 March 2018



All dimensions and areas
are subject to final survey
and plan completion

			As Shown	LEVEL DATUM: AHD or	Drafted: 	Designed: 	Examined By Client: 	Approved by Council's EMSO: 	Survey Number XXXX	Field Books XXXX	Level Books XXXX		HINCHINBROOK SHIRE COUNCIL ELEANOR STREET - INGHAM RECONFIGURATION SKETCH		Job No
A	13/10/2017	Original		Associated Plans:	Checked: 	Checked: 	Date: 13/10/17	Date: 13/10/17							Plan No 7704
FILEPATH: D:\ELEANOR STREET\DESIGN\7704\PALM CREEK\PALM CREEK CONVEYANCE - 1702\DWG\7704.DWG DATE PLOTTED: Friday, 13 October 2017 4:44 PM				Scale	Plan No. 1 of 1	RPEQ No. 16571		A							

DATE PLOTTED: Fri, 12 October 2017 4:54:50 PM

REFERRAL AUTHORITY RESPONSE

RA29-N



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

Our reference: 1711-2392 SRA
Your reference: RC17/0014

24 January 2018

The Chief Executive Officer
Hinchinbrook Shire Council
PO Box 366
Ingham Qld 4850
council@hinchinbrook.qld.gov.au

Dear Sir/Madam

Changed referral agency response—with conditions
(Given under section 28 of the Development Assessment Rules)

On 10 January 2018 the department received representations from the applicant requesting the department change its referral agency response. The department has considered the representations and now provides this changed referral agency response which replaces the response dated 18 December 2017.

Applicant details

Applicant name:	Mr James Stewart
Applicant contact details:	PO Box 366 Ingham QLD 4850 council@hinchinbrook.qld.gov.au

Location details

Street address:	1-13 Eleanor Street, Ingham
Real property description:	Lot 1 on RP714968
Local government area:	Hinchinbrook Shire Council

Application details

Development permit	Reconfiguring a lot - One (1) into Two (2) Lots
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Referral triggers

The development application was referred to the department under the following provisions of the Planning Regulation 2017:

- 10.9.4.2.1.1 State transport corridors and future State transport corridors

Conditions

Under section 56(1)(b)(i) of Planning Act 2016, the conditions set out in Attachment 1 must be attached to any development approval.

Reasons for decision to impose conditions

The department must provide reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

Currency period

The currency period for this development approval is to be as per section 56(1)(b)(iv) of the Act.

Approved plans and specifications

The department requires that the plans and specifications set out below and enclosed must be attached to any development approval.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Aspect of development: Reconfiguring a Lot				
Reconfiguration Sketch as amended in red	Hinchinbrook Shire Council	13/10/17	7704	A

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

For further information please contact Louise McGrath, Senior Planning Officer, on 47583404 or via email NQSARA@dilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Graeme Kenna
Manager (Planning)

cc Mr James Stewart, council@hinchinbrook.qld.gov.au

enc Attachment 1—Changed conditions to be imposed
Attachment 2—Changed reasons for decision to impose conditions
Approved plans and specifications

Attachment 1—Changed conditions to be imposed

No.	Conditions	Condition timing
Reconfiguring a Lot – One (1) into Two (2) Lots		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 Item 1 – State transport corridors—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	<p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the railway corridor.</p> <p>(b) Any works on the land must not:</p> <ol style="list-style-type: none"> create any new discharge points for stormwater runoff onto the railway corridor; interfere with and/or cause damage to the existing stormwater drainage on the railway corridor; surcharge any existing culvert or drain on the railway corridor; reduce the quality of stormwater discharge onto the railway corridor. <p>(c) RPEQ certification with supporting documentation must be provided to the Program Delivery and Operations Unit, Department of Transport and Main Roads, North Queensland Region (North.Queensland.IDAS@tmr.qld.gov.au) within the Department of Transport and Main Roads, confirming that the development has constructed in accordance with parts (a) and (b) of this condition.</p>	<p>(a) & (b) At all times</p> <p>(c) Prior to submitting the Plan of Survey to the local government</p>
2.	<p>Fencing must be provided along the site boundary with the railway corridor in accordance with Queensland Rail standard drawing number QR-C 2573 '1200m high chain link fabric fence for sites with barrier and non barrier loading 50mm chain link fabric with top rail'. Provide two (2) signs in accordance with AS1319-1994 – Safety Signs for the occupational environment: Type 403 – No Pedestrian Access along the Lot 1 boundary with the railway corridor as shown on the Reconfiguration Sketch, dated 13/10/2017, plan number 7704 and revision A as amended in red.</p>	<p>Prior to submitting the Plan of Survey to the local government for approval</p>

Attachment 2—Changed reasons for decision to impose conditions

The reasons for this decision are:

- To ensure the development does not result in a worsening of the physical condition or operating performance of railways and the rail network
- To ensure the development does not create a safety hazard for users of a railway; by increasing the likelihood or frequency of loss of life or serious injury

Evidence or other material on which the findings were based

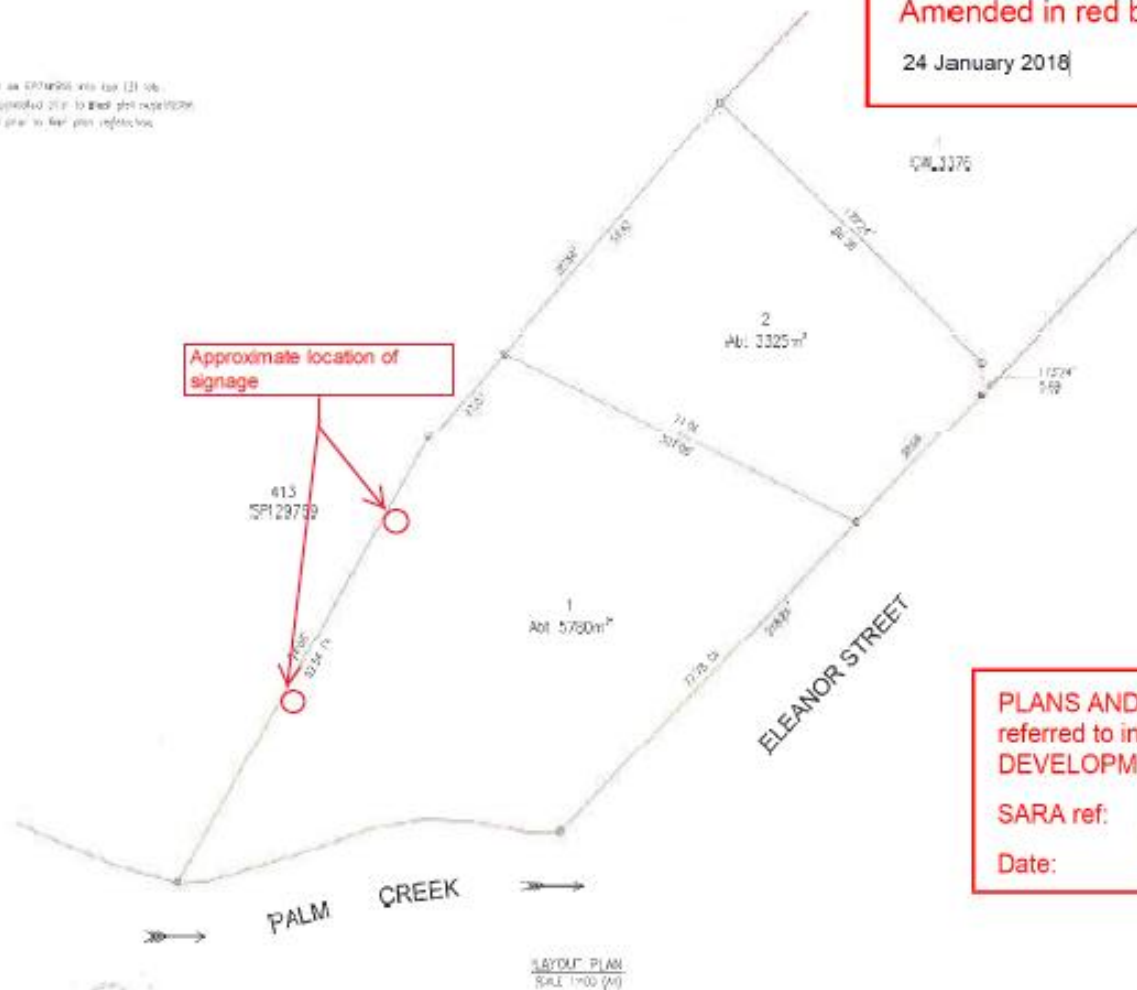
- development application
- Technical agency response
- State Development Assessment Provisions published by the Department of State Development, Manufacturing, Infrastructure and Planning
- [any planning instruments considered]
- *Planning Act 2016*
- Planning Regulation 2017
- Development Assessment Rules

NOTES:

- Proposed Reconfiguration of Lot 1 as SP14895 into two (2) lots.
- Screened 7 lot SP14895 by the proposed 20m to shed plan configuration.
- Lot 1 SP14895 to be screened prior to shed plan configuration.

Amended in red by SARA on

24 January 2018



PLANS AND DOCUMENTS
referred to in the
DEVELOPMENT APPROVAL



SARA ref: 1711-2392 SRA

Date: 24 January 2018

All dimensions and areas
are subject to final survey
and plan completion

13/10/2017 Original		LVR: 100% (100%)		Draft: [Signature] Checked: [Signature]		Approved by Council's EASO: [Signature] Date: 13/10/17 KRC No. 16571		HINCHINBROOK SHIRE COUNCIL ELEANOR STREET - INGHAM RECONFIGURATION SKETCH		A/C No. 7704	
13/10/2017 Original		LVR: 100% (100%)		Draft: [Signature] Checked: [Signature]		Approved by Council's EASO: [Signature] Date: 13/10/17 KRC No. 16571		HINCHINBROOK SHIRE COUNCIL ELEANOR STREET - INGHAM RECONFIGURATION SKETCH		A/C No. 7704	

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 and 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.

