



HINCHINBROOK SHIRE COUNCIL

Our Ref: GV:HJR RC17\0016

30 April 2018

Hansen Surveys Pty Ltd
27 Palm Terrace
Ingham QLD 4850

Email: gehansen@iprimus.com.au

Attention: Geoff Hansen

Dear Sir,

DECISION NOTICE *Planning Act 2016*

In relation to your request for reconfiguration of land, Council have assessed your application and it was APPROVED SUBJECT TO CONDITIONS. The decision was made on 24 April 2018.

APPLICATION DETAILS

Application Number: RC17\0016
Property ID Number: 105658

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

Owner Details: Vanda A Raiteri, Lorenzo Raiteri and Maurice A P Raiteri
PO Box 1367
Ingham QLD 4850

Property Description: Forrest Beach Road, Braemeadows, Queensland, 4850
Lot 10 on SP241467, 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; and
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 | 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 does not compromise the long term sustainability of agricultural use, given the proposal will result in the creation of allotments within the minimum lot size and frontage parameters set out within the planning scheme;
- The development will not result in a material change in the way the land is used;
- The development is not considered to result in an incompatible land use intruding on (or compromising) the development and continuation of the primary use of the lots;
- The development will not compromise riparian vegetation and stream bank stability, remnant areas of native vegetation;
- The development provides allotments that facilitate the existing uses at an intensity appropriate to the existing use of the land and local area; and
- The proposal does not change the existing access arrangements to the allotments.



CONDITIONS OF APPROVAL

RECONFIGURATION OF A LOT
CONDITIONS OF APPROVAL – LOT 10 ON SP241467, PARISH OF CORDELIA

| Conditions | | Compliance timing | | | | | | | | | |
|---|----------------|--|--------|------|---|----------------|---------------|---|----------------|---------------|--------------|
| Administration | | | | | | | | | | | |
| <p>(1) The developer is responsible to carry out the approved development and comply with relevant requirements in accordance with:-</p> <ul style="list-style-type: none"> 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 c. The conditions of approval, the requirements of Council's Planning Scheme and best practice engineering. d. The conditions of the Infrastructure Charges Notice. e. The conditions of the Referral Authority Advices <ul style="list-style-type: none"> (i) 1711-2801 SRA dated 09 March 2018 | | At all times | | | | | | | | | |
| Currency Period | | | | | | | | | | | |
| <p>(2) The currency period applicable to this approval.</p> <ul style="list-style-type: none"> • MCU/ROL – 6 years until 1 May 2024 | | At all times | | | | | | | | | |
| Approved plans | | | | | | | | | | | |
| <p>(3) The development of the site is to be generally in accordance with the following plans that are to be the approved Plans of Development, except as altered by any other condition of this approval:</p> <table border="1" data-bbox="244 1243 1099 1485"> <thead> <tr> <th>Plan / Document Name</th><th>Number</th><th>Date</th></tr> </thead> <tbody> <tr> <td>Proposed Reconfiguration - 511 Forrest Beach Road, Braemeadows Lot 10 on SP241467</td><td>171054 Sheet 1</td><td>November 2017</td></tr> <tr> <td>Proposed Reconfiguration - 511 Forrest Beach Road, Braemeadows Lot 10 on SP241467</td><td>171054 Sheet 2</td><td>November 2017</td></tr> </tbody> </table> | | Plan / Document Name | Number | Date | Proposed Reconfiguration - 511 Forrest Beach Road, Braemeadows Lot 10 on SP241467 | 171054 Sheet 1 | November 2017 | Proposed Reconfiguration - 511 Forrest Beach Road, Braemeadows Lot 10 on SP241467 | 171054 Sheet 2 | November 2017 | At all times |
| Plan / Document Name | Number | Date | | | | | | | | | |
| Proposed Reconfiguration - 511 Forrest Beach Road, Braemeadows Lot 10 on SP241467 | 171054 Sheet 1 | November 2017 | | | | | | | | | |
| Proposed Reconfiguration - 511 Forrest Beach Road, Braemeadows Lot 10 on SP241467 | 171054 Sheet 2 | November 2017 | | | | | | | | | |
| <p>(4) 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 must prevail.</p> | | At all times | | | | | | | | | |
| <p>(5) 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</p> | | At all times | | | | | | | | | |
| Internal works | | | | | | | | | | | |
| Water | | | | | | | | | | | |
| <p>(6) Provide each individual tenancy or dwelling unit with separate system for the metering of water consumption;</p> | | Prior to final building / plumbing certification | | | | | | | | | |
| <p>(7) Water supply sub-metering must be designed and installed in accordance with The Plumbing and Drainage Act 2002 and the Water Act 2000 (applies to developments which will be reconfigured by Building Format Plan);</p> | | Prior to final building / plumbing certification | | | | | | | | | |



RECONFIGURATION OF A LOT
CONDITIONS OF APPROVAL – LOT 10 ON SP241467, PARISH OF CORDELIA

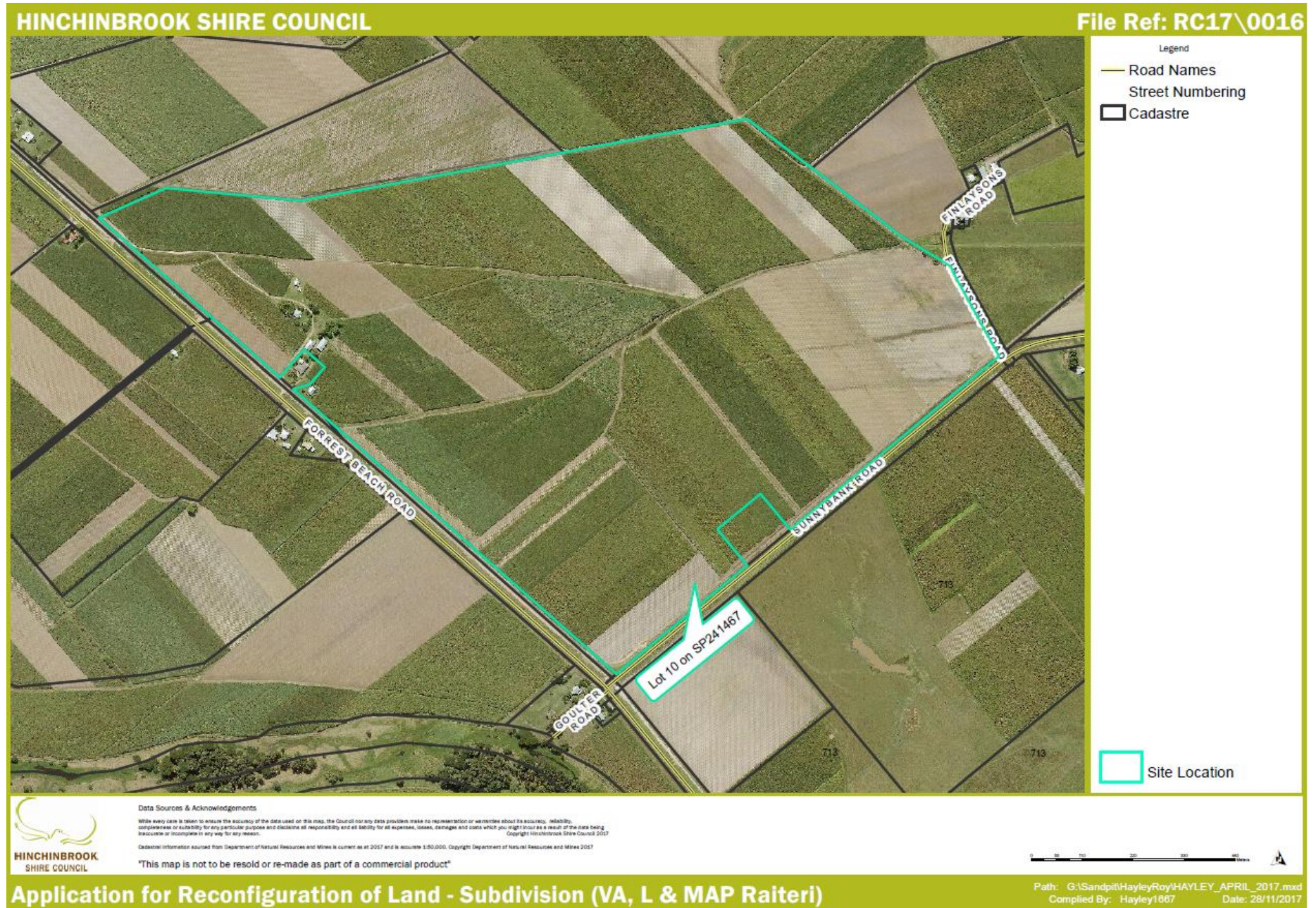
| Conditions | Compliance timing |
|--|---|
| <p>(8) Written confirmation of the location of existing meters for water consumption must be provided by either the applicant or a licensed surveyor. In any instance where existing services are contained within another lot, relocate the services to be contained within the respective lot or to within a reciprocal services easement.</p> <p>Sewerage</p> <p>(9) Provide each individual allotment or dwelling unit with separate on-site sewerage system;</p> <p>Plumbing</p> <p>(10) All plumbing and sanitary drainage works must be in accordance with regulated work under the Plumbing and Drainage Act and Council Plumbing and Drainage Policies and must be completely separate for each dwelling unit</p> <p>Drainage</p> <p>(11) The Applicant/Developer must submit for Council's consideration and approval a stormwater drainage plan. The plan must reflect the following considerations:</p> <ul style="list-style-type: none"> (i) Surface drainage must be catered for in a manner that lessens possible impacts in receiving areas; and (ii) The development must drain to road frontages or other legal points of discharge <p>(12) All existing creek systems and drainage areas must be left in their current state, including no channel alterations and no removal of vegetation, unless consented to in writing by the Chief Executive Officer.</p> <p>(13) That any works as a result of the reconfiguration must not interfere with stormwater flow over or through the land.</p> <p>Building</p> <p>(14) The Applicant is to seek and comply with all relevant building approvals to be issued by a qualified Building Certifier.</p> <p>(15) Any lighting devices associated with the development, such as sensory lighting, must be positioned on the site and shielded so as not to cause glare or other nuisance to nearby residents and motorists. Night lighting must be designed, constructed and operated in accordance with Australian Standard AS4282 "Control of the obtrusive effects of outdoor lighting".</p> | <p>Prior to the Approval of Survey Plan</p> <p>Prior to final building / plumbing certification</p> <p>Prior to final building / plumbing certification</p> <p>Prior to the Approval of Survey Plan</p> <p>At all times</p> <p>At all times</p> <p>Prior to final building / plumbing certification</p> <p>Prior to final building / plumbing certification</p> |
| External Works | |
| <p>Lawful Point of Discharge</p> <p>(16) All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development, all to the requirements and satisfaction of the Chief Executive Officer.</p> <p>That any works as a result of the reconfiguration must not interfere with stormwater flow over or through the land.</p> | <p>Prior to the Approval of Survey Plan</p> |



RECONFIGURATION OF A LOT
CONDITIONS OF APPROVAL – LOT 10 ON SP241467, PARISH OF CORDELIA

| Conditions | Compliance timing |
|--|--------------------------------------|
| Other | |
| <p>Existing Services</p> <p>(17) Written confirmation of the location of existing electrical and telecommunication services for the land must be provided by either the applicant or a licensed surveyor. In any instance where existing services are contained within another lot, relocate the services to be contained within the respective lot or to within a reciprocal services easements.</p> | Prior to the Approval of Survey Plan |
| <p>Construction</p> <p>(18) 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.</p> | At all times |
| <p>Damage to Infrastructure</p> <p>(19) In the event that any part of Council's 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 completed prior to the issue of a Compliance Certificate for the Plan of Survey.</p> | At all times |
| <p>Electricity</p> <p>(20) Provide evidence that adequate electricity supply standard or renewable energy will be supplied and is supported/approved by relevant authority.</p> | Prior to the Approval of Survey Plan |
| <p>Cane Rail Easement</p> <p>(21) Easement documentation, outlining full access provision from Forrest Beach Road to all proposed allotments, between the applicant and Wilmar Sugar Pty Ltd to be amended to include newly created allotments. A copy of all signed & endorsed easement documentation to be provided to Council.</p> | Prior to the Approval of Survey Plan |







-  Proposed Lot 12
59.4ha
-  Proposed Lot 13
60.8ha
-  Site Location



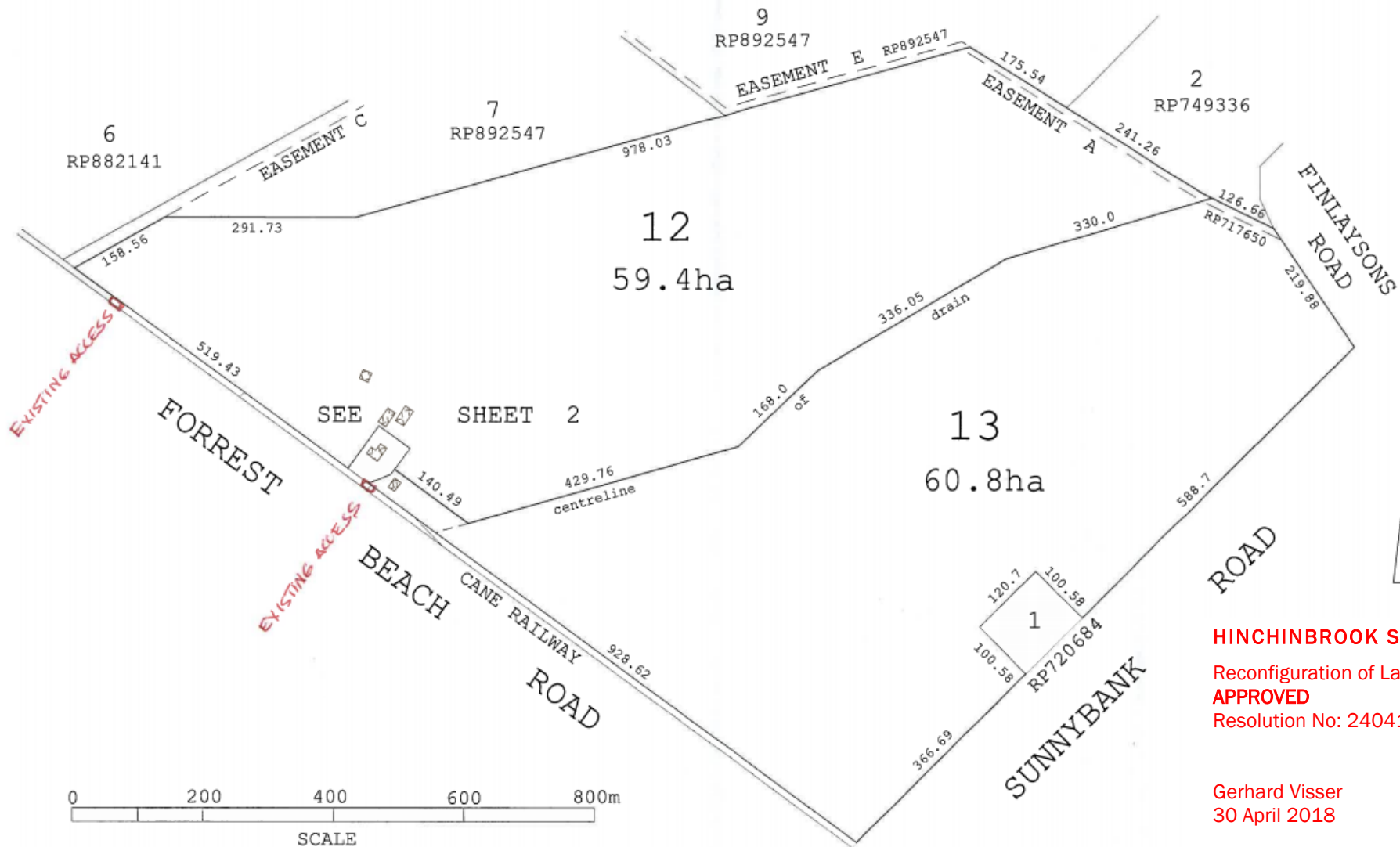
Data Sources & Acknowledgements

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HINCHINBROOK SHIRE COUNCIL

Reconfiguration of Land Application

APPROVED

Resolution No: 240418-27

Gerhard Visser

30 April 2018

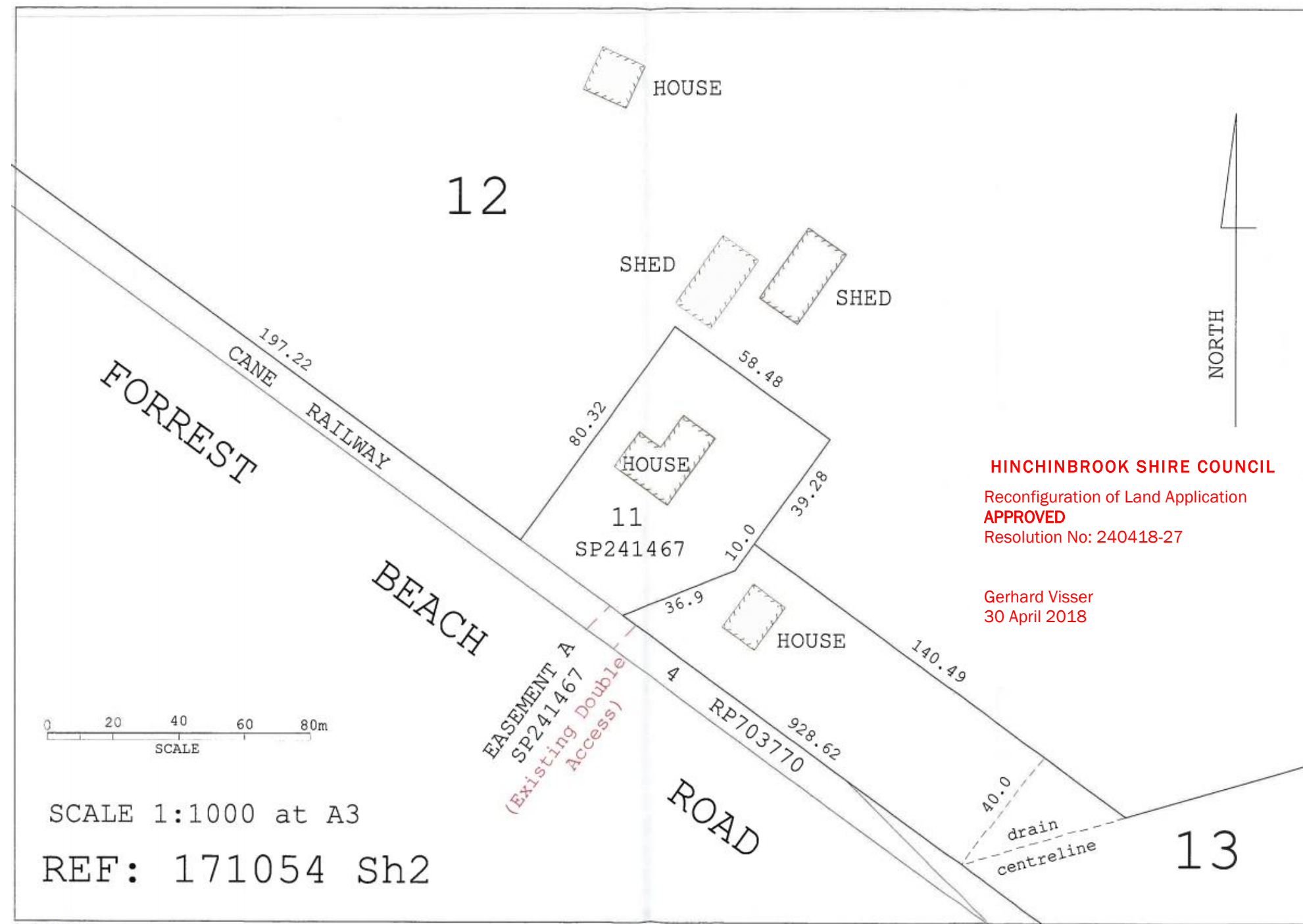
HANSEN SURVEYS
27 PALM TERRACE
INGHAM QLD 4850
TEL: 0429 164 683
EMAIL: gehansen@iprimus.com.au

PROPOSED RECONFIGURATION
511 FORREST BEACH ROAD
BRAEMEADOWS
LOT 10 on SP241467

NOTE: DIMENSIONS & AREAS
ARE APPROXIMATE AND ARE
SUBJECT TO SURVEY

SCALE 1:6000 at A3
DATE: NOVEMBER 2017
MERIDIAN: SP241467

REF: 171054 Sh1



HINCHINBROOK SHIRE COUNCIL

Reconfiguration of Land Application

APPROVED

Resolution No: 240418-27

Gerhard Visser

30 April 2018

REFERRAL AUTHORITY RESPONSE

RA6-N



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

Our reference: 1711-2801 SRA
Your reference: RC17/0016

9 March 2018

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

Dear Sir/Madam,

Referral agency response—with conditions

Development Permit for Reconfiguring a Lot (1 Lot into 2 Lots) at Forrest Beach Road, Braemeadows – more properly described as Lot 10 on SP241467
(Given under section 56 of the *Planning Act 2016*)

The development application described below was properly referred to the Department of State Development, Manufacturing, Infrastructure and Planning on 15 December 2017.

Applicant details

| | |
|----------------------------|---|
| Applicant name: | Mr Geoff Hansen |
| Applicant contact details: | 27 Palm Terrace Ingham QLD 4850 gehansen@iprimus.com.au |

Location details

| | |
|----------------------------|---------------------------------|
| Street address: | Forrest Beach Road, Braemeadows |
| Real property description: | Lot 10 on SP241467 |
| Local government area: | Hinchinbrook Shire Council |

Application details

| | |
|--------------------|---|
| Development Permit | Reconfiguring a Lot – One (1) Lot into Two (2) Lots |
|--------------------|---|

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 the *Planning Act 2016* (the Act), 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.

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 |
|---|----------------|---------------|---------------|---------|
| Aspect of development: Reconfiguring a Lot | | | | |
| Proposed Reconfiguration 511 Forrest Beach Road Braemeadows Lot 10 on SP241467 | Hansen Surveys | November 2017 | 171054 Sh1 | n/a |
| Proposed Reconfiguration 511 Forrest Beach Road Braemeadows Lot 10 on SP241467 | Hansen Surveys | November 2017 | 171054 Sh2 | n/a |

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

For further information please contact Jeff Krafft, Senior Planning Officer, on 4758 3424 or via email NQSARA@dilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Graeme Kenna
Manager (Planning)

cc Mr Geoff Hansen, gehansen@iprimus.com.au

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

Attachment 1—Conditions to be imposed

| Reconfiguring a Lot – One (1) Lot 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 conditions: | | |
| No. | Conditions | Condition timing |
| 1. | <p>The development must be carried out generally in accordance with the following plans:</p> <ul style="list-style-type: none"> - <i>Proposed Reconfiguration 511 Forrest Beach Road Braemeadows Lot 10 on SP241467</i>, prepared by Hansen Surveys, dated November 2017 (ref: 171054 Sh1; Attachment A); and - <i>Proposed Reconfiguration 511 Forrest Beach Road Braemeadows Lot 10 on SP241467</i>, prepared by Hansen Surveys, dated November 2017 (ref: 171054 Sh2; Attachment B). | Prior to submitting the Plan of Survey to the local government for approval |
| 2. | The road access locations are to be located generally in accordance with <i>Proposed Reconfiguration 511 Forrest Beach Road Braemeadows Lot 10 on SP241467</i> , prepared by Hansen Surveys, dated November 2017 (ref: 171054 Sh1; Attachment A). | At all times |

Attachment 2—Reasons for decision to impose conditions

- The development does not create a safety hazard for users of a state-controlled road.
- The development does not compromise the structural integrity of state-controlled roads, road transport infrastructure or road works.
- The development does not result in worsening of the physical condition or operating performance of state-controlled roads and surrounding road network.
- The development does not compromise the state's ability to maintain and operate state-controlled roads or significantly increase the cost to maintain and operate state-controlled roads.

Relevant material on which the findings were based

- Development Application
- State Development Assessment Provisions
- Technical Agency Response
- *Planning Act 2016*
- Planning Regulation 2017



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

Department of State Development, Manufacturing, Infrastructure and Planning

Statement of reasons for application 1711-2801 SRA

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

Departmental role: Referral agency

Applicant details

Applicant name: Mr Geoff Hansen
 Applicant contact details: 27 Palm Terrace
 Ingham QLD 4850
 gehansen@iprimus.com.au

Location details

Street address: Forrest Beach Road, Braemeadows
 Real property description: Lot 10 on SP241467
 Local government area: Hinchinbrook Shire Council

Development details

Development permit Reconfiguring a Lot – One (1) Lot into Two (2) Lots

Assessment matters

| Aspect of development requiring code assessment | Applicable codes |
|---|--|
| 1. Reconfiguring a Lot | State code 1: Development in a state-controlled road environment |

Reasons for the department's decision

- The development does not create a safety hazard for users of a state-controlled road.
- The development does not compromise the structural integrity of state-controlled roads, road transport infrastructure or road works.
- The development does not result in worsening of the physical condition or operating performance of state-controlled roads and surrounding road network.
- The development does not compromise the state's ability to maintain and operate state-controlled roads or significantly increase the cost to maintain and operate state-controlled roads.

Decision

- The development application is for Reconfiguring a Lot (One (1) Lot into Two (2) Lots) on land located at Forrest Beach Road, Braemeadows – more properly described as Lot 10 on SP241467.
- The Department of State Development, Manufacturing, Infrastructure and Planning provided a referral agency response on 8 March 2018.

Relevant material on which the findings were based

- Development Application
- State Development Assessment Provisions
- Technical Agency Response
- *Planning Act 2016*
- Planning Regulation 2017

Our ref TMR17-023325
Your ref
Enquiries Sarah Dillon



Department of
Transport and Main Roads

5 March 2018

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

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

Development application reference numbers RC17\0016 and 1711-2801 SRA, lodged with Hinchinbrook Shire Council involves two vehicular accesses between Lot 10 on SP241467, the land the subject of the application, and Ingham-Forrest beach Road (a state-controlled road).

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

Applicant Details

Name and address Hansen Surveys Pty Ltd C/- Vanda A Raiteri, Lorenzo Raiteri and
Maurice A P Raiteri
27 Palm Terrace
Ingham QLD 4850

Application Details

Address of Property Forrest Beach Road, Braemeadows QLD 4850
Real Property Description 10 on SP241467
Aspect/s of Development Development Permit for Reconfiguration of Land for Subdivision
of One (1) Lot into Two (2) Lots
-

Decision (given under section 67 of TIA)

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

| | | |
|---|--|---------------|
| 1 | The permitted road access locations are to be generally in accordance with the plans: 1. <i>Proposed Reconfiguration 511 Forrest Beach Road Braemeadows Lot 10 on SP241467</i> prepared by Hansen Surveys dated November 2017, reference 171054 Sh1 (Attachment D), and: 2. <i>Proposed Reconfiguration 511 Forrest Beach Road Braemeadows Lot 10 on SP241467</i> prepared by Hansen Surveys dated November 2017, reference 171054 Sh2 (Attachment D). | At all times. |
| 2 | Direct access is prohibited between Ingham-Forrest Beach Road | At all times. |

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

| | | |
|---|---|---------------|
| | and Lot 10 SP241467 at any location other than the permitted road access locations. | |
| 3 | The permitted road access locations are for a rural zone use only (in accordance with the Hinchinbrook Shire Council Planning Scheme 2005). | At all times. |

Reasons for the decision

The reasons for this decision are as follows:

- a) The proposed 1 into 2 lot subdivision of rural lots is not expected to generate a significant volume of vehicular traffic;
- b) The two accesses are located approximately 480m apart. The two accesses do not impose significant concerns for the safety or 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. Should any works be required to be undertaken a Road Access Works Approval will be required.

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

If further information about this approval or any other related query is required, Sarah Dillon, Town Planner, should be contacted by email at sarah.a.dillon@tmr.qld.gov.au or on 4421 8702.

Yours sincerely



Lisa Brooks

A/Senior Town Planner (Project Planning and Corridor Management)

Attachments: Attachment A – Decision evidence and findings

Attachment B - Section 70 of TIA

Attachment C - Appeal Provisions

Attachment D - Permitted Road Access Locations Plans –

1. *Proposed Reconfiguration 511 Forrest Beach Road Braemeadows Lot 10 on SP241467* prepared by Hansen Surveys dated November 2017, reference 171054 Sh1; and:
2. *Proposed Reconfiguration 511 Forrest Beach Road Braemeadows Lot 10 on SP241467* prepared by Hansen Surveys dated November 2017, reference 171054 Sh2.

Attachment A

Decision Evidence and Findings

Findings on material questions of fact:

- The proposed development application is for a reconfiguration of a lot (1 into 2 rural lots);
- The two accesses will be located approximately 480m apart;
- The proposed land uses are not expected to generate a significant volume of vehicular traffic, therefore will not impact on the safety and efficiency of the state-controlled road.

Attachment B

Section 70 of TIA

Transport Infrastructure Act 1994
Chapter 6 Road transport infrastructure
Part 5 Management of State-controlled roads

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

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

Maximum penalty—200 penalty units.

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

Attachment C
Appeal Provisions

Transport Infrastructure Act 1994
Chapter 16 General provisions

485 Internal review of decisions

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

485B Appeals against decisions

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

(b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.

(5) The court may order—

(a) the appeals to be heard together or 1 immediately after the other; or

(b) 1 appeal to be stayed until the other is decided.

(6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.

(7) In this section—

original decision means a decision described in schedule 3.

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

31 Applying for review

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

32 Stay of operation of original decision

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

(8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.

(9) In this section—

relevant entity means—

(a) if the reviewed decision may be reviewed by QCAT—QCAT; or

(b) if the reviewed decision may be appealed to the appeal court—the appeal court.

35 Time for making appeals

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

(a) if a decision notice is given to the person—28 days after the notice was given to the person; or

(b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

(2) However, if—

(a) the decision notice did not state the reasons for the decision; and

(b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

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

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

Attachment D

Permitted Road Access Locations Plans

Attachment A



PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE

SARA ref: 1711-2801 SRA

Date: 8 March 2018

HANSEN SURVEYS
27 PALM TERRACE
INGHAM QLD 4850
TEL: 0429 164 683
EMAIL: gehansen@iprimus.com.au

PROPOSED RECONFIGURATION
511 FORREST BEACH ROAD
BRAEMEADOWS
LOT 10 on SP241467

NOTE: DIMENSIONS & AREAS
ARE APPROXIMATE AND ARE
SUBJECT TO SURVEY

SCALE 1:6000 at A3
DATE: NOVEMBER 2017
MERIDIAN: SP241467

REF: 171054 Sh1

Attachment B

PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE



SARA ref: 1711-2801 SRA

Date: 8 March 2018

12



HOUSE

SHED

SHED

FORREST

197.22
CANE RAILWAY



11

SP241467

BEACH

EASEMENT A
SP241467
(Existing Double
Access)

HOUSE

ROAD

0 20 40 60 80m
SCALE

SCALE 1:1000 at A3

REF: 171054 Sh2

4
RP703770
928.62

140.49

40.0
drain
centreline

NORTH

13

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.

