

From: Amy Andersen
Sent: Wed, 7 Apr 2021 15:10:55 +1000
To: evan@planningplusqld.com.au
Subject: Decision Notice, Reconfiguring a Lot for Access Easements at Mound Cudmore Road, Bemerside.
Attachments: Decision Notice, Reconfiguring a Lot for Access Easements at Mount Cudmore Road, Bemerside.pdf

Good Afternoon,

Please find attached the Decision Notice relating to Reconfiguring a Lot for Access Easements at Mound Cudmore Road, Bemerside.

Should you have any enquiries please contact Council's Built Environment Support Officer, Aimee Godfrey on 4776 4658 for the necessary assistance.

AMY ANDERSEN

Administration Support Officer

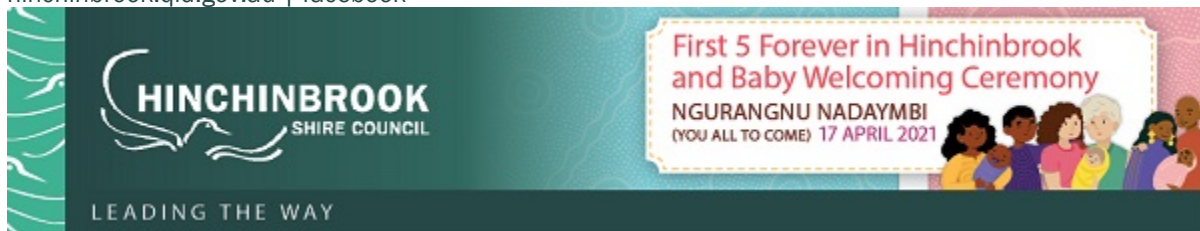
P 07 4776 4600

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- Hinchinbrook Shire Council

E aandersen@hinchinbrook.qld.gov.au



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Please consider the environment before printing this email. HSC_2021

Your Ref: Reconfiguring a Lot – Access Easements
Our Ref: PC:AG RC21\0001

1 April 2021

Mr Evan Yelavich
Director
Planning Plus Pty Ltd
PO Box 399
REDLYNCH QLD 4870

evan@planningplusqld.com.au

Dear Mr Yelavich

Decision Notice
Reconfiguring a Lot for Access Easements
Mount Cudmore Road Bemerside
Lot 32 on SP311019 and Lot 125 on CWL2515
Planning Act 2016

Receipt of your application deemed to be properly made on Tuesday 12 January 2021 seeking a Development Permit for Reconfiguring a Lot – Access Easements at Mount Cudmore Road Bemerside, is acknowledged and its contents noted.

Your application was assessed by relevant staff and considered by Council at its General Meeting held on Tuesday 30 March 2021.

Council resolved to approve the proposed application, subject to reasonable and relevant conditions which accord generally with the application as made. Council's Decision Notice is attached for your perusal.

This Notice outlines aspects of the development's condition of approval, currency period, approved plans, referral agency response and includes extracts from the *Planning Act 2016* with respect to making representations about conditions, negotiated decisions, suspension of the appeal period and lodging an appeal, should you wish to do so.

Should you require any further information or clarification concerning this matter, please contact Council's Built Environment Support Officer, Aimee Godfrey on 4776 4658 for the necessary assistance.

Yours sincerely



Kelvin Tytherleigh
Chief Executive Officer

Encl - Decision Notice



25 Lannercost Street
INGHAM QLD 4850



PO Box 366 INGHAM QLD 4850
ABN 46 291 971 168



4776 4600
4776 3233



council@hinchinbrook.qld.gov.au
HinchinbrookShireCouncil



1 April 2021

SECTION 83 OF PLANNING ACT 2016

APPLICATION DETAILS

This Decision Notice relates to the below development application:

Application Number	RC21\0001
Property ID Number	100524
Applicant Details	Mr Evan Yelavich Director Planning Plus Pty Ltd PO Box 399 REDLYNCH QLD 4870
Owner Details	The National Bank of Australia (GFYNAD Pty Ltd) 69 Kununurra Crescent SHAILER PARK QLD 4128
Property Description	Mount Cudmore Road Bemerside Lot 32 on SP311019 and Lot 125 on CWL2515
Proposal	Reconfiguring a Lot – Access Easements
Level of Assessment	Code Assessment

DECISION

The information below outlines the specifics of any approval or refusal issued by the Assessment Manager resulting from development assessment as per the provisions of the *Planning Act 2016*:

Decision	The application was approved subject to conditions.
Decision Date	30 March 2021
Decision Type	Development Permit
Assessment Instrument	<i>Hinchinbrook Shire Planning Scheme 2017</i>
Deemed Approval	The Development Permit is not a deemed approval under Section 64 of the <i>Planning Act 2016</i>
Submissions	Not Applicable

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 Referral Agency (if any) imposed them.

REFERRAL AGENCIES

Department of State Development, Manufacturing, Infrastructure and Planning
PO Box 5666
TOWNSVILLE QLD 4810

Pursuant to Section 56 of the *Planning Act 2016*, the SARA advises that it has no objection to Hinchinbrook Shire Council issuing a Development Permit for Reconfiguring a Lot, subject to the conditions, as attached.

FURTHER APPROVALS REQUIRED

This approval does not authorise any filling of land or building work and a Development Permit for carrying out the above mentioned may require additional assessment.

This approval does not authorise any works within Council's Road Reserve (e.g. new/additional access, repair/modification to existing access or works to footpaths). If this is required as part of your development proposal, an application will need to be lodged with Council or other relevant authority.

INFRASTRUCTURE CHARGES

Not Applicable.

Infrastructure charges do not apply for this development proposal given it does not create any new lots and only relates to the creation of access easements.

RIGHTS OF APPEAL

The rights of an applicant to appeal to 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*. 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*).

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; and
- A deemed refusal of the development application.

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

APPROVAL CURRENCY PERIOD

Pursuant to Section 85 of the *Planning Act 2016*, the development approval will lapse four (4) years after the approval starts to have effect, unless otherwise conditioned.

APPROVED PLANS AND SPECIFICATIONS

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

Copies of the approved plans, specifications and/or drawings are attached.

NOTICE ABOUT DECISION – STATEMENT OF REASONS

This Notice is prepared in accordance with section 63(5) and section 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 this Notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:

- The relevant part 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 meaning given to them in the *Planning Act 2016*.

The proposed development is considered to be consistent with the relevant overall outcomes and assessment benchmarks of the *Hinchinbrook Shire Planning Scheme 2017*, in particular:

- The application has been approved as it is considered to meet, or have the ability to meet the requirements of the relevant aspects of the *Hinchinbrook Shire Planning Scheme 2017*; and
- Conditions of approval have been included to ensure that compliance with the *Hinchinbrook Shire Planning Scheme 2017*.

Should you require any further information or clarification concerning this matter, please contact Council's Built Environment Support Officer, Aimee Godfrey on 4776 4658 for the necessary assistance.

CONDITION		TIMING									
1.	<p>Administration</p> <p>The applicant is responsible to carry out the approved development and comply with relevant requirements in accordance with:</p> <p>1.1 The specifications, facts and circumstances as set out in the application submitted to Council, including recommendations and findings confirmed within relevant technical reports;</p> <p>1.2 The development must, unless stated, be designed, constructed and maintained in accordance with relevant Council policies, guidelines and standards; and</p> <p>1.3 The Conditions of Approval, the requirements of Council's Planning Scheme and best practice engineering.</p>	At all times.									
2.	<p>Approved Plans</p> <p>2.1 The development and use 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 approval; and</p> <table><tr><th>Plan / Document Name</th><th>Number</th><th>Date</th></tr><tr><td>Existing Access Plan</td><td>SP-01</td><td>July 2020</td></tr><tr><td>Existing Access Plan</td><td>SP-03</td><td>July 2020</td></tr></table> <p>2.2 Where there is any conflict between the conditions of this approval and the details shown on the approved plan and documents, the Conditions of Approval prevail.</p>	Plan / Document Name	Number	Date	Existing Access Plan	SP-01	July 2020	Existing Access Plan	SP-03	July 2020	At all times.
Plan / Document Name	Number	Date									
Existing Access Plan	SP-01	July 2020									
Existing Access Plan	SP-03	July 2020									
3.	<p>Access Easement</p> <p>3.1 An access easement to allow pedestrian and vehicle access burdened to Lot 125 on CWL2515 and benefitting Lot 1 on CWL2514 must be provided generally in accordance with the approved plans referenced in Condition 2; and</p> <p>3.2 The access easement must be maintained in a clear and tidy condition to ensure safe and efficient vehicle manoeuvrability at all times.</p>	Easement documents are to be provided to Council for endorsement at the time of lodgement of the survey plan and registered in accordance with the <i>Land Title Act 1994</i> .									
4.	<p>Existing Services</p> <p>4.1 Written confirmation of the location of any existing services for the land must be provided by either the applicant or licensed surveyor. In any instance where existing services to be contained within the respective lot or within a reciprocal services easement; and</p> <p>4.2 Any existing on-site wastewater treatment system contained within the proposed easement must be removed and relocated to an alternative on-site location and contained wholly within the allotment, unless otherwise approved by Council.</p>	Prior to Council's endorsement of the formal survey plan.									

CONDITION	TIMING
<p>5. Damage to Infrastructure In the event that any part of Council's infrastructure is damaged as a result of work associated with the development or operation of the access easement, Council must be notified immediately of the affected infrastructure and have it repaired or replaced by Council, at no cost to Council.</p>	<p>At all times.</p>
<p>6. Relocation of Utilities Any relocation and/or alteration to any public utility installation required as a result of any works carried out in connection with this development must be carried out at no cost to Council.</p>	<p>Prior to Council's endorsement of the formal survey plan.</p>





RA6-N



SARA reference: 2101-20810 SRA
Council reference: RC21/0001
Applicant reference: 20-19

9 March 2021

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

Attention: Ms Aimee Godfrey

Dear Ms Godfrey

SARA response—Reconfiguring a lot (Access easements) at Mount Cudmore Road, Bemerside

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

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 9 February 2021.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	9 March 2021
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 (Access easements)
SARA role:	Referral Agency
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 Item 1 (Planning Regulation 2017)

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North and North West regional office
Level 4, 445 Flinders Street, Townsville
PO Box 5666, Townsville QLD 4810

2101-20810 SRA

Development application for a Reconfiguring a lot near a State transport corridor (the North Coast rail line)

SARA reference: 2101-20810 SRA
Assessment Manager: Hinchinbrook Shire Council
Street address: Mount Cudmore Road, Bemerside
Real property description: Lot 125 on CWL2515 & Lot 32 on SP311019
Applicant name: B Cheshire, D Cheshire K Court, & G Della Ricca C/- Planning Plus
Applicant contact details: PO Box 399
Redlynch QLD 4870
evan@planningplusqld.com.au

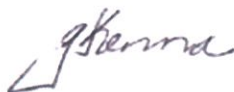
Representations

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 John Irving, Principal Planning Officer, on 47583421 or via email NQSARA@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Graeme Kenna
Manager (Planning)

cc B Cheshire D Cheshire K Court and G Della Ricca C/- Planning Plus, evan@planningplusqld.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 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)

No.	Conditions	Condition timing
Material change of use		
10.9.4.2.1.1—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Transport & 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.	Provide written evidence to the Program Delivery and Operations Unit, North Queensland Region of the Department of Transport and Main Roads at North.Queensland.IDAS@tmr.qld.gov.au , that an executed occupational crossing licence (or other access agreement) has been obtained from the railway manager (Queensland Rail) for the proposed access over the North Coast Line via railway level crossing LXR_06684 (Access Road - Hinchinbrook).	Prior to submitting a Plan of Survey to the local government for approval.

Attachment 2—Advice to the applicant

General advice	
State Development Assessment Provisions	
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 v2.6. If a word remains undefined it has its ordinary meaning.
Railway corridor	
2.	<p>Pursuant to section 255 of the <i>Transport Infrastructure Act 1994</i>, the railway manager's written approval is required to carry out works in or on a railway corridor or otherwise interfere with the railway or its operations.</p> <p>The applicant is advised that an executed occupational crossing licence and interface agreement are required to be obtained from the railway manager. This will be subject to certain conditions and validity restrictions. A valid crossing licence and interface agreement must exist at all times.</p> <p>This referral agency response does not constitute an approval under section 255 of the <i>Transport Infrastructure Act 1994</i>.</p> <p>Please contact the railway manger – Queensland Rail via email at developmentenquiries@qr.com.au in relation to this matter.</p>

Attachment 3—Reasons for referral agency response

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

The reasons for the SARA's decision are:

The development complies with State code 2: Development in a railway environment of the State Development Assessment Provisions. Specifically, the development:

- does not create a safety hazard for users of a state-controlled railway
- does not compromise the structural integrity of state-controlled railway
- does not result in a worsening of the physical condition or operating performance of state-controlled railway and the surrounding network
- does not compromise the state's ability to construct, or significantly increase the cost to construct state-controlled railways and future state-controlled railways
- does not compromise the state's ability to maintain and operate state-controlled railways, or significantly increase the cost to maintain and operate state-controlled railways

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 SARA
- The Development Assessment Rules
- SARA DA Mapping system.

2101-20810 SRA

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.