

13 June 2024

**Application no.: DA240006**  
**Document ID: 1229621**

Cunliffe Colleen  
C/- JB Serisier Surveyors  
PO Box 540  
PIALBA QLD 4655

Dear Applicant

**RE: DEVELOPMENT APPLICATION FOR RECONFIGURING A LOT - BOUNDARY REALIGNMENT (2 INTO 2 LOTS) AT 44 WALSH STREET, BIGGENDEN; LAND DESCRIBED AS 63RP79469**

Thank you for the above-mentioned development application lodged with the North Burnett Regional Council on 21 February 2024 and taken to be properly made on 22 February 2024.

Please find attached the Decision Notice for the above-mentioned development application.

Sections 71 and 72 of the Planning Act 2016 identifies when a development approval has effect and the development may start. In summary, a development approval generally has immediate effect, except when—

- if there is an appeal, after the appeal has ended;
- if there is no appeal but there was a submitter, all submitters have notified the Council that they will not appeal the decision, or when the last appeal period ends.

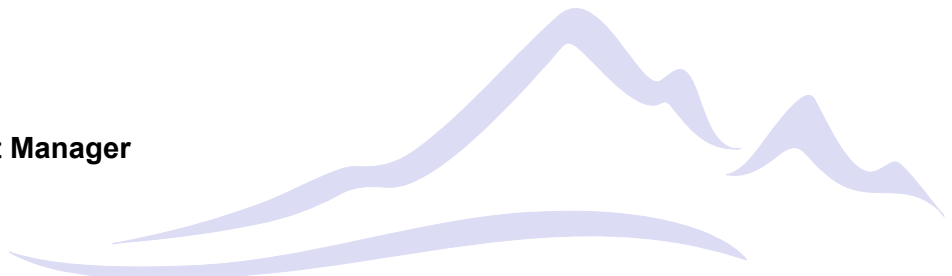
Please quote Council's application number: DA240006 in all subsequent correspondence relating to this development application. Should you require any clarification regarding this matter or wish to schedule a meeting, please contact Council's Development Services team on telephone 1300 696 272.

Yours sincerely,

for 

Michael Lisle  
**Planning & Environment Manager**

Enc: Decision notice  
Approved plans



## Decision notice — approval (with conditions)

(Given under section 63 of the Planning Act 2016)

Thank you for your development application detailed below which was properly made on 22 February 2024. The North Burnett Regional Council has assessed your application and decided it as follows—

### Applicant's Details

Name: Colleen Cunliffe  
 Postal Address: C/- JB Serisier Surveyors  
 PO Box 540  
 PIALBA QLD 4655  
 Email: surevyng@cullenc.com.au  
 Phone No.: 07 4124 7054  
 Mobile No.:

### Location details

Street address: 44 WALSH STREET, BIGGENDEN  
 Real property description: 63RP79469  
 Local government area: North Burnett Regional Council

### Application details:

Application number: DA240006  
 Approval sought: Development Permit  
 Description of development proposed: Reconfiguring a lot — Boundary Realignment (2 into 2 lots)

### Decision

Date of decision: 13 June 2024  
 Decision details: Approved in full with conditions. These conditions are set out in Attachment 1 and are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

	Planning Regulation 2017 reference	Development Permit	Preliminary Approval
Development assessable under the planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval		<input checked="" type="checkbox"/>	<input type="checkbox"/>

## Approved plans and specifications

Copies of the following plans, specifications and/or drawings are enclosed in attachment 3—

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
S230887	JB Serisier Surveyors and Planners	23/1/24		Pro1

## Conditions

This approval is subject to the conditions in Attachment 1 and 2. These conditions are clearly identified to indicate whether the assessment manager or concurrence agency imposed them.

## Further development permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Building Work
- All Plumbing and Drainage Work
- All Operational Work

## Properly made submissions

Not applicable — No part of the application required public notification.

## Referral agencies for the application

The referral agencies for this application are—

For an application involving	Name of referral agency and address	Advice or concurrence agency
<b>State transport corridors and future State transport corridors</b> Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 of the <i>Planning Regulation 2017</i> Reconfiguring a lot near a state transport corridor	<b>Department of Housing, Local Government, Planning and Public Works</b> State Assessment and Referral Agency (SARA) E: <a href="mailto:WBBSARA@dndmip.qld.gov.au">WBBSARA@dndmip.qld.gov.au</a> P: PO Box 979 Bundaberg QLD 4670	Concurrence
<b>State transport corridors and future State transport corridors</b> Schedule 10, Part 9, Division 4, Subdivision 2, Table 3 of the <i>Planning Regulation 2017</i> Reconfiguring a lot near a state controlled road intersection	<b>Department of Housing, Local Government, Planning and Public Works</b> State Assessment and Referral Agency (SARA) E: <a href="mailto:WBBSARA@dndmip.qld.gov.au">WBBSARA@dndmip.qld.gov.au</a> P: PO Box 979 Bundaberg QLD 4670	Concurrence

## Currency period for the approval

This development approval will lapse at the end of the period set out in section 85 of *Planning Act 2016*—refer <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2016-025#sec.85>. A hard copy of section 85 of *Planning Act 2016* can be provided upon request.

## Conditions about infrastructure

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No conditions about infrastructure have been imposed under Chapter 4 of the Planning Act 2016

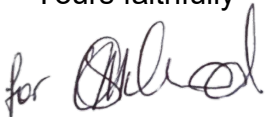
## Rights of appeal

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The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016* (<https://www.legislation.qld.gov.au/view/html/inforce/current/act-2016-025#ch.6>) and Schedule 1 of the *Planning Act 2016* (<https://www.legislation.qld.gov.au/view/html/inforce/current/act-2016-025#sch.1>). For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016* – <https://www.legislation.qld.gov.au/view/html/inforce/current/act-2016-025#ch.6-pt.2>). A hard copy of the appeal rights extracted from the *Planning Act 2016* can be provided upon request.

Should you require any further assistance in process, please contact Council's Development Services Department on 1300 696 272.

Yours faithfully



Michael Lisle

**Planning & Environment Manager**

Enc: Attachment 1-conditions imposed by assessment manager  
Attachment 2-conditions imposed by concurrence agency/s  
Attachment 3-approved plans  
Attachment 4-appeal rights

## **Attachment 1 – Conditions Imposed by Assessment Manager**

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### **General**

- 1) Carry out the approved development in accordance with the approved plans and documents identified in section 5 “Approved plans” of the decision notice approval, except as modified by the conditions of this approval as relevant.
- 2) Where the conditions of this approval conflict with the details shown on the approved plans and documents, the conditions prevail.
- 3) Exercise the approval and complete all associated works, including any relocation or installation of services, at no cost to the Council.

### **Survey**

- 4) Lodge a Plan of Subdivision with Council in accordance with *Schedule 18 of the Planning Regulation 2017* on or before the end of the currency period.

### **Existing Services and Structures**

- 5) Ensure all existing and proposed utility services and connections (e.g. electricity, telecommunications, water, and sewerage) are wholly located within the lot they serve.
- 6) Certification must be submitted to the council from a cadastral surveyor which certifies that:
  - (a) the boundary clearances for any existing buildings that are to remain on the site comply with the relevant provisions of the planning scheme and the *Building Act 1975* (unless varied by this development approval), where boundary clearances for buildings other than class 1 or 10 buildings are to be determined by a building certifier
  - (b) all existing effluent disposal areas are wholly located within the lot they serve and comply with the boundary setback requirements of the *Plumbing and Drainage Act 2002* and associated codes and requirements, as determined by a building certifier or other suitably qualified professional.

### **Advice to the applicant**

- Unless otherwise explicitly identified, all conditions of this development permit must be completed to the Council’s satisfaction prior to the Subdivision of Plan being endorsed by the Council or proposed use commenced.
- This approval does not include any easement giving access to a lot from a constructed road, and therefore it would be necessary for vehicles accessing the shed and the rear yard of proposed Lot 1 to gain access via Kent Street frontage.
- All rates, charges or any expenses levied by the Council over the land must be paid prior to the Subdivision Plan being endorsed by the Council.
- This approval relates to development requiring approval under the *Planning Act 2016* only. It is the applicant’s responsibility to obtain any other necessary approvals, licences or permits required under State and Commonwealth legislation or council local law, prior to carrying out the development. Information with respect to other council approvals, licences or permits may be found on the North Burnett Regional Council website ([www.northburnett.qld.gov.au](http://www.northburnett.qld.gov.au)). For information about State and Commonwealth requirements, please consult with these agencies directly.

- This development approval does not authorise any activity that may harm Aboriginal cultural heritage. Under the Aboriginal Cultural Heritage Act 2003 you have a duty of care in relation to such heritage. Section 23(1) provides that "A person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage." The council does not warrant that the approved development avoids affecting Aboriginal cultural heritage. Therefore, it may be prudent for you to conduct searches, consultation, or a cultural heritage assessment to ascertain the presence or otherwise of Aboriginal cultural heritage. The Act and the associated duty of care guidelines explain your obligations in more detail and should be consulted before proceeding.



*Mailing Address:* PO Box 390, Gayndah Qld 4625  
*Street Address:* 34-36 Capper Street, Gayndah Qld 4625  
*Telephone:* 1300 696 272  
*Facsimile:* (07) 4161 1425  
*Email:* [admin@northburnett.qld.gov.au](mailto:admin@northburnett.qld.gov.au)  
*Web:* [northburnett.qld.gov.au](http://northburnett.qld.gov.au)  
*ABN:* 23 439 388 197

## **Attachment 2 – Conditions Imposed by Concurrence Agency**

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**Please refer to the following pages for the conditions imposed  
by the Concurrence Agency.**

Our reference: 2402-39317 SRA  
Council reference: DA240006  
Applicant reference: S230887

3 April 2024

Chief Executive Officer  
North Burnett Regional Council  
PO Box 390  
GAYNDAH QLD 4625  
admin@northburnett.qld.gov.au

**Attention: Ms Lyn McLeod**

Dear Ms McLeod

## **SARA Response – 1 Kent Street and 44 Walsh Street, BIGGENDEN (Lot 1 on SP118837)**

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

The development application described below was confirmed as being properly referred to the State Assessment and Referral Agency (SARA) on 1 March 2024.

### **Response**

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Outcome:	Referral Agency Response under Section 56(1)(b) of the <i>Planning Act 2016</i>
Date of response:	3 April 2024
Conditions:	The approval is subject to the conditions in <b>Attachment 1</b>
Advice:	Advice to the applicant is in <b>Attachment 2</b>
Reasons:	The reasons for the referral agency response are in <b>Attachment 3</b>

### **Development Details**

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Description:	Development Permit for Reconfiguring a Lot (RAL) – Boundary Realignment (2 into 2 lots)
SARA role:	Referral agency



SARA triggers:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1– Reconfiguring a lot near a State transport corridor (Planning Regulation 2017)
	Schedule 10, Part 9, Division 4, Subdivision 2, Table 3, Item 1– Reconfiguring a lot near a State-controlled road intersection (Planning Regulation 2017)
SARA reference:	2402-39317 SRA
Assessment Manager:	North Burnett Regional Council
Street address:	1 Kent Street and 44 Walsh Street, BIGGENDEN
Real property description:	Lot 1 on RP166611 and Lot 63 on RP79469
Applicant name:	Colleen Cunliffe C/- JB Serisier Surveyors
Applicant contact details:	PO Box 540 PIALBA QLD 4655 lauren@cullenc.com.au
State-controlled road access permit:	This referral included an application for a road access location, under Section 62A(2) of the <i>Transport Infrastructure Act 1994</i> .

Below are the details of this decision:

- Approved – with conditions
- TMR24-041920
- Date: 28 March 2024

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads (TMR) at Wide.Bay.Burnett.IDAS@tmr.qld.gov.au.

<i>Human Rights Act 2019</i> considerations:	A consideration of the 23 fundamental human rights protected under the <i>Human Rights Act 2019</i> has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.
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## 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 (section 30 of the 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 Peter Mulcahy, Principal Planning Officer, on (07) 3307 6152 or via email [WBBSARA@dsdilgp.qld.gov.au](mailto:WBBSARA@dsdilgp.qld.gov.au) who will be pleased to assist.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jamaica Hewston', written in a cursive style.

Jamaica Hewston  
A/Manager

enc Attachment 1 – Referral agency conditions  
Attachment 2 – Advice to the applicant  
Attachment 3 – Reasons for referral agency response  
Attachment 4 – Representations about a referral agency response  
Attachment 5 - Documents referenced in conditions

cc Colleen Cunliffe  
C/- JB Serisier Surveyors  
lauren@cullenc.com.au

Department of Transport and Main Roads  
Wide.Bay.Burnett.IDAS@tmr.qld.gov.au

## Attachment 1—Referral agency conditions

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

No.	Conditions	Condition timing
<b>Development Permit for Reconfiguring a Lot (RAL) – Boundary Realignment (2 into 2 lots)</b>		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1 and Schedule 10, Part 9, Division 4, Subdivision 2, Table 3, Item 1 of the <i>Planning Regulation 2017</i> —The Chief Executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads (TMR) 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:		
1.	<p>The road access location between proposed Lot 63 and the Isis Highway is in accordance with:</p> <ul style="list-style-type: none"> <li>• <i>Plan of Proposed Lots 1 &amp; 63</i>, prepared by JB Serisier Surveyors and Planners, reference S230887-Pro1, dated 23 January 2024 and amended in red by SARA on 3 April 2024.</li> </ul>	At all times.

## Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v3.0. If a word remains undefined it has its ordinary meaning.
Encroachment within the State-controlled road corridor	
2.	<p>The Department of Transport and Main Roads (TMR) has advised that the extent of existing encroachment of the motel into the State controlled road corridor will need to be clearly identified by way of survey.</p> <p>Following the survey, to address the encroachment, there are potentially three options. These are:</p> <p>(a) Remove the part of building from the state-controlled road such that all of the building and associated structures/improvements no longer encroaches into the state-controlled road corridor.</p> <p>or</p> <p>(b) Make an application to the Department of Resources for a permanent road closure. The extent of closure will need to ensure all buildings, and encroachments are wholly contained within the land (including car park manoeuvring areas) and that access to the balance area west of the building can also be achieved via Kent Street.</p> <p>or</p> <p>(c) If it is only the veranda/car parking awning part of the building that encroaches the road reserve, then an application to TMR for a Road Corridor Permit under Section 50 of the <i>Transport Infrastructure Act 1994</i> may be considered. This option only applies if it is the awning structure only that encroaches. If the main part of the motel building also encroaches into the road reserve, then only options (a) and (b) will be available to formally resolve the issue.</p> <p>If Option (b) is pursued, the Department of Resources will seek comment from the TMR about whether the permanent road closure is supported. It is encouraged that before you make application to the Department of Resources, you first contact the TMR office via email (<a href="mailto:Bundaberg.Office@tmr.qld.gov.au">Bundaberg.Office@tmr.qld.gov.au</a>) to discuss and reach in-principle agreement about the area required for the permanent road closure.</p> <p>If option (c) can be pursued it is recommended the landowner contact TMR to discuss a potential application and what is involved/required. For option (c), TMR will require survey evidence to demonstrate what parts of the building are encroaching the road reserve. Further information about road corridor permits is available at the TMR <a href="#">website</a>.</p> <p>The process for applying for and finalising any permanent closure of road corridor is totally outside of the planning approval process.</p>

## **Attachment 3—Reasons for referral agency response**

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

### **The reasons for the SARA decision are:**

The proposed development complies with the assessment benchmarks and purpose statement within State Code 1: Development in a state-controlled road environment of the State Development Assessment Provisions (SDAP), as the proposed development is considered to:

- maintain the safety and operating performance of the State-controlled road network

A condition has been applied to ensure compliance with State Code 1.

### **Material used in the assessment of the application:**

- The development application material
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (Version 3.0) as published by the SARA
- The Development Assessment Rules (DA Rules)
- SARA DA Mapping system
- *Human Rights Act 2019*.

## **Attachment 4—Representations about a referral agency response**

# 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 Rules<sup>1</sup> regarding **representations about a referral agency response**

## Part 6: Changes to the application and referral agency responses

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### 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.<sup>2</sup>
- 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.

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<sup>1</sup> Pursuant to Section 68 of the *Planning Act 2016*

<sup>2</sup> 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.<sup>3</sup>

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



## **Attachment 5—Documents reference in condition**

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Our ref TMR24-041920  
Your ref S230887  
Enquiries Adam Fryer



Department of  
**Transport and Main Roads**

28 March 2024

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

**This is not an authorisation to commence work on a state-controlled road<sup>1</sup>**

Development application reference number DA240006, lodged with North Burnett Regional Council involves constructing or changing a vehicular access between Lot 63RP79469, 1RP166611, the land the subject of the application, and the Isis Highway (a state-controlled road).

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

### Applicant Details

Name and address Colleen Cunliffe C/- JB Serisier Surveyors  
PO Box 540  
Pialba QLD 4655

### Application Details

Address of Property 44 Walsh Street, Biggenden QLD 4621  
Real Property Description 63RP79469, 1RP166611  
Aspect/s of Development Development Permit for Reconfiguration of a Lot for Boundary Realignment (2 into 2 lots)

### Decision (given under section 67 of TIA)

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

No.	Conditions of Approval	Condition Timing
1	The Permitted Road Access Location between Lot 63 and the Isis Highway is in accordance with: <ul style="list-style-type: none"><li>Plan of Proposed Lots 1 &amp; prepared by JB Serisier Surveyors and Planners, reference S230887-Pro1, dated 23/01/2024, as modified in red by the Department of Transport and Main Roads dated 28 March 2024.</li></ul>	At all times.
2	Use of the Permitted Road Access Location is approved for vehicles associated with the following purposes: <ul style="list-style-type: none"><li>Motel.</li></ul>	At all times

<sup>1</sup> Please refer to the further approvals required under the heading 'Further approvals'

No.	Conditions of Approval	Condition Timing
	<ul style="list-style-type: none"> <li>• Food and Drink Outlet approved under North Burnett Regional Council development permit number DA200101.</li> </ul>	
2	Direct access is prohibited between the Isis Highway and Lot 63 at any other location other than the permitted road access location described in Condition 1.	At all times.

### Reasons for the decision

The reasons for this decision are as follows:

- a) Access between a state-controlled road the Isis Highway and adjacent land is managed by the Department of Transport and Main Roads under the *Transport Infrastructure Act 1994*.
- b) The applicant applied for a development permit for reconfiguration of a lot realigning the boundaries so that vacant land at the rear of the existing dwelling on Lot 1 RP166611 is transferred to the lot containing the existing motel and food and drink outlet.
- c) This decision about access recognises the change in boundary and the existing uses on the realigned parcel that will front the Isis Highway.
- d) The existing access at the location proposed should not create an unreasonable impact on safe operation of the Isis Highway if maintained according to the conditions above and used in accordance with the road rules.

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.

### **General Advice**

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

1. This decision about access approves access at an existing location for uses that are existing on proposed Lot 63 at the time of approval. Direct access to the vacant portion of proposed Lot 63 from the Isis Highway is not permitted. Any proposal for direct access between that portion of Lot 63 and the Isis Highway will require a new application to the Department of Transport and Main Roads under section 62 of the *Transport Infrastructure Act 1994*. Please be advised that no new access will be supported however rationalising or relocating access so that both the Motel and rear vacant area use a single access junction may be considered.

If further information about this approval or any other related query is required, Adam Fryer, Principal Advisor (Corridor & Land Management) should be contacted by email at [wbb.idas@tmr.qld.gov.au](mailto:wbb.idas@tmr.qld.gov.au) or on (07) 4154 0238.

Yours sincerely



Adam Fryer  
Principal Advisor (Corridor & Land Management)

Attachments: Attachment A – Decision evidence and findings  
Attachment B - Section 70 of TIA  
Attachment C - Appeal Provisions  
Attachment D - Permitted Road Access Location Plan

## Attachment A

### Decision Evidence and Findings

Findings on material questions of fact:

- Access between a state-controlled road the Isis Highway and adjacent land is managed by the Department of Transport and Main Roads under the *Transport Infrastructure Act 1994*.
- Section 62 of the *Transport Infrastructure Act 1994* allows the Department of Transport and Main Roads to make a decision about road access.
- This approval will realign property boundaries with new Lot 63 being reliant on an existing access location
- The applicant has been clear in the application material that use of the existing access is what is proposed. No access to the vacant portion of Lot 63 is sought..
- This decision about access is provided to recognise the changed boundaries of proposed Lot 63 that remove potential for access to the vacant portion of proposed Lot 63 from Kent Street, as well as to provide certainty about the purposes that the access is permitted to be used for.
- The access is functioning satisfactorily with no impacts currently identified on the safety and efficiency of the road network and as such road access works are not required to be undertaken for this development.

Evidence or other material on which findings were based:

<b>Title of Evidence / Material</b>	<b>Prepared by</b>	<b>Date</b>	<b>Reference no.</b>	<b>Version/Issue</b>
Confirmation Notice	North Burnett Regional Council	28 February 2024	DA240006	--
Referral Confirmation Notice	State Assessment and Referral Agency	1 March 2024	2402-39317 SRA	
Town Planning Report	JB Serisier Surveyors and Planners	February 2024	S230887	--
Plan of Proposed Lots 1 & 63	JB Serisier Surveyors and Planners	23/01/2024	S230887-Pro1	--

## **Attachment B**

### **Section 70 of TIA**

*Transport Infrastructure Act 1994*

Chapter 6 Road transport infrastructure

Part 5 Management of State-controlled roads

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#### **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

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**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—

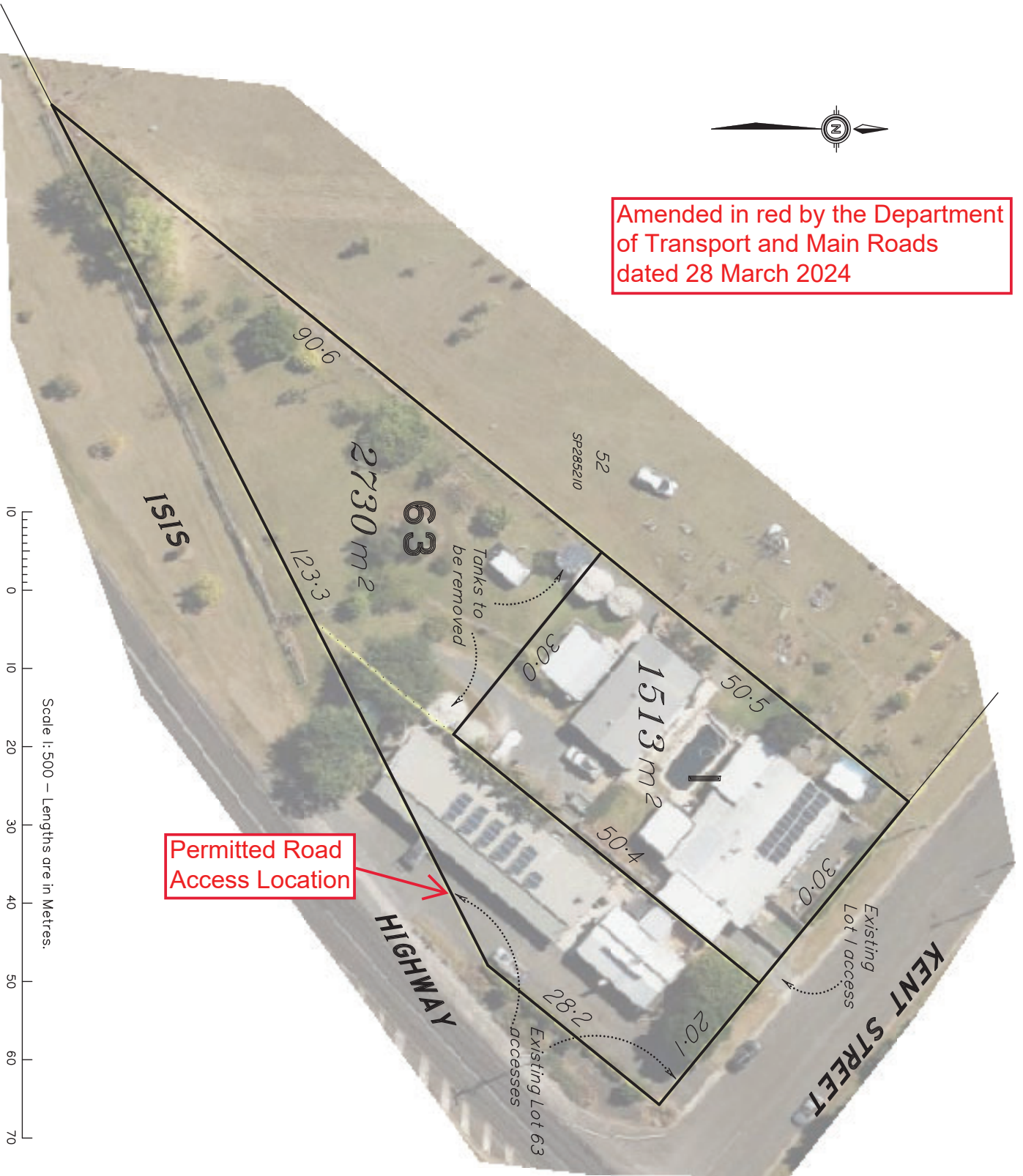
- (a) the decision notice did not state the reasons for the decision; and
- (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

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.



Amended in red by the Department of Transport and Main Roads dated 28 March 2024



Scale 1:500 – Lengths are in Metres.

0 50mm 100mm 150mm

**DISCLAIMER**

1. This plan was prepared for the purpose and exclusive use of J & C Cunliffe to accompany an application to the North Burnett Regional Council for approval to reconfigure the land described in the plan and is not to be used for any other purpose or by any other person person or corporation. CULLEN & COUPER PTY LTD accept no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this plan in contravention of the terms of this clause or clauses 2 or 3 hereof.

2. The dimensions, area, size and location of utilities, improvements, flood information (if shown) and number of lots shown on this plan are approx. only and may vary.

3. This plan may not be photocopied unless this note is included.

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**Plan of Proposed  
 Lots 1 & 63**

FORMAT *Proposal*  
 LOCALITY *Biggenden*  
 LOCAL GOVERNMENT *North Burnett RC*

*Cancelling Lot 1 on RP166611 & Lot 63 on RP79469*

**S230887-Pro1**

MERIDIAN RP166611	DATE 23/01/2024	SCALE 1:500 @ A3	SURVEYORS REF S230887
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*Web:* [northburnett.qld.gov.au](http://northburnett.qld.gov.au)  
*ABN:* 23 439 388 197

## **Attachment 3 – Approved Plans**

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**Please refer to the following pages for approved plans.**



Scale 1: 500 – Lengths are in Metres.

DISCLAIMER

1. This plan was prepared for the purpose and exclusive use of J & C Cunliffe to accompany an application to the North Burnett Regional Council for approval to reconfigure the land described in the plan and is not to be used for any other purpose or by any other person or corporation. CULLEN & COUPER PTY LTD accept no responsibility for any loss or damage suffered howsoever arising to any person or corporation who may use or rely on this plan in contravention of the terms of this clause or clauses 2 or 3 hereof.
2. The dimensions, area, size and location of utilities, improvements, flood information (if shown) and number of lots shown on this plan are approx. only and may vary.
3. This plan may not be photocopied unless this note is included.

CUNLIFFE

Plan of Proposed  
Lots 1 & 63

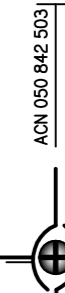
Cancelling Lot 1 on RP166611 & Lot 63 on RP79469

MERIDIAN	DATE	SCALE	SURVEYORS REF
RP166611	23/01/2024	1:500 @ A3	S230887

FORMAT Proposal

LOCALITY Biggenden  
LOCAL GOVERNMENT North Burnett RC

S230887 – Pro1



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## **Attachment 4 – Appeal Rights Planning Act 2016**

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**Please refer to attached document or**

<https://www.legislation.qld.gov.au/view/html/inforce/current/act-2016-025#ch.6>

<https://www.legislation.qld.gov.au/view/html/inforce/current/act-2016-025#sch.1>