



SARA reference: 2303-33728 SRA
Council reference: RAL2023/0002
Applicant reference: RAL2023/002

11 April 2023

Chief Executive Officer
Charters Towers Regional Council
PO Box 189
Charters Towers QLD 4820
mail@charterstowers.qld.gov.au

Attention: Ms Jorja Feldt

Dear Ms Feldt

SARA referral agency response—25 Dalrymple Road, Toll

(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 14 March 2023.

Response

Outcome:	Referral agency response – with conditions
Date of response:	11 April 2023
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 for Reconfiguring 1 lot into 2 for residential use. Existing dwelling will remain.
SARA role:	Referral agency	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 (Planning Regulation 2017)	

Development application for a reconfiguring or a lot within 25m of a state-controlled road corridor

SARA reference: 2303-33728 SRA

Assessment manager: Charters Towers Regional Council

Street address: 25 Dalrymple Road, Toll

Real property description: 1MPH1580

Applicant name: Ms Tracey Murphy

Applicant contact details: 27 Dalrymple Road
Toll QLD 4820
Tracey.Murphy@4gc.com.au

State-controlled road access permit: This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved
- Reference: TMR23-038851
- Date: 05/04/2023

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at North.Queensland.IDAS@tmr.qld.gov.au

Human Rights Act 2019 considerations: Considered. The decision does not limit human rights.

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 Helena Xu, Senior Planning Officer, on 073452 6724 or via email NQSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Graeme Kenna
Manager (Planning)

cc Ms Tracey Murphy, Tracey.Murphy@4gc.com.au

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 provisions
Attachment 5 - Documents referenced in conditions

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
Reconfiguring of a lot		
10.9.4.2.1.1 – Reconfiguring a lot near a state transport corridor—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	<p>(a) The road access locations, are to be located generally in accordance with Site Plan, prepared by Atkinson & Booy Surveys, dated 20/02/2023, reference P23-048a.dwg sheet 1 of 1.</p> <p>(b) The road access works must be designed and constructed in accordance with Charters Towers Regional Council standard drawings for residential accesses.</p>	<p>(a) At all times.</p> <p>(b) Prior to submitting the Plan of Survey to the local government for approval</p>
2.	<p>(a) The applicant must register reciprocal access easements on the titles of proposed lots 1 and 2 for the shared access.</p> <p>(b) The applicant must provide to North.Queensland.IDAS@tmr.qld.gov.au a copy of Registration Confirmation Statement/s and easement registration dealing number/s as evidence of the registration of the easement/s referred to in part (a) of this condition.</p>	<p>(a) At the time of survey plan registration</p> <p>(b) Within 20 business days of registration of the easements</p>
3.	<p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.</p> <p>(b) Any works on the land must not:</p> <ul style="list-style-type: none"> (i) create any new discharge points for stormwater runoff onto the state-controlled road; (ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road; (iii) reduce the quality of stormwater discharge onto the state-controlled road. 	At all times.

Attachment 2—Advice to the applicant

General advice

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| 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) (version 3.0). If a word remains undefined it has its ordinary meaning. |
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Further permit

- | | |
|----|---|
| 2. | <p>Under section 33 of the Transport Infrastructure Act 1994, written approval is required from TMR in order to carry out road works on a State-controlled Road or to interfere with the State-controlled Road or its operation. Please contact TMR at North.Queensland.IDAS@tmr.qld.gov.au to make an application for a road works approval.</p> <p>This approval must be obtained prior to commencing any works on the State-controlled Road or its associated road reserve. The approval process may require the review and approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). The road works approval process takes time – please contact TMR as soon as possible to ensure that gaining approval does not delay construction. Where works have been carried out within the road reserve, without prior approval from TMR, compliance action may be required.</p> |
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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 proposed development is considered to achieve the relevant assessment benchmarks of State code 1 of SDAP. Specifically the development

- does not increase the likelihood or frequency of accidents, fatalities or serious injury for users of state-controlled road;
- does not adversely impact the structural integrity or physical condition of state-controlled road;
- does not adversely impact road transport infrastructure, public passenger transport infrastructure or active transport infrastructure;
- does not adversely impact the function and efficiency of state-controlled road;
- does not adversely impact the state's ability to plan, construct, maintain, upgrade or operate state-controlled roads, future state-controlled roads or road transport infrastructure; and,
- does not significantly increase the cost to the state to plan, construct, upgrade or maintain state-controlled roads, future state-controlled roads or road transport infrastructure.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (version 3.0), as published by SARA
- the Development Assessment Rules
- SARA DA Mapping system
- section 58 of the *Human Rights Act 2019*

Attachment 4—Representations about a referral agency response provisions

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Attachment 5—Documents referenced in conditions

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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

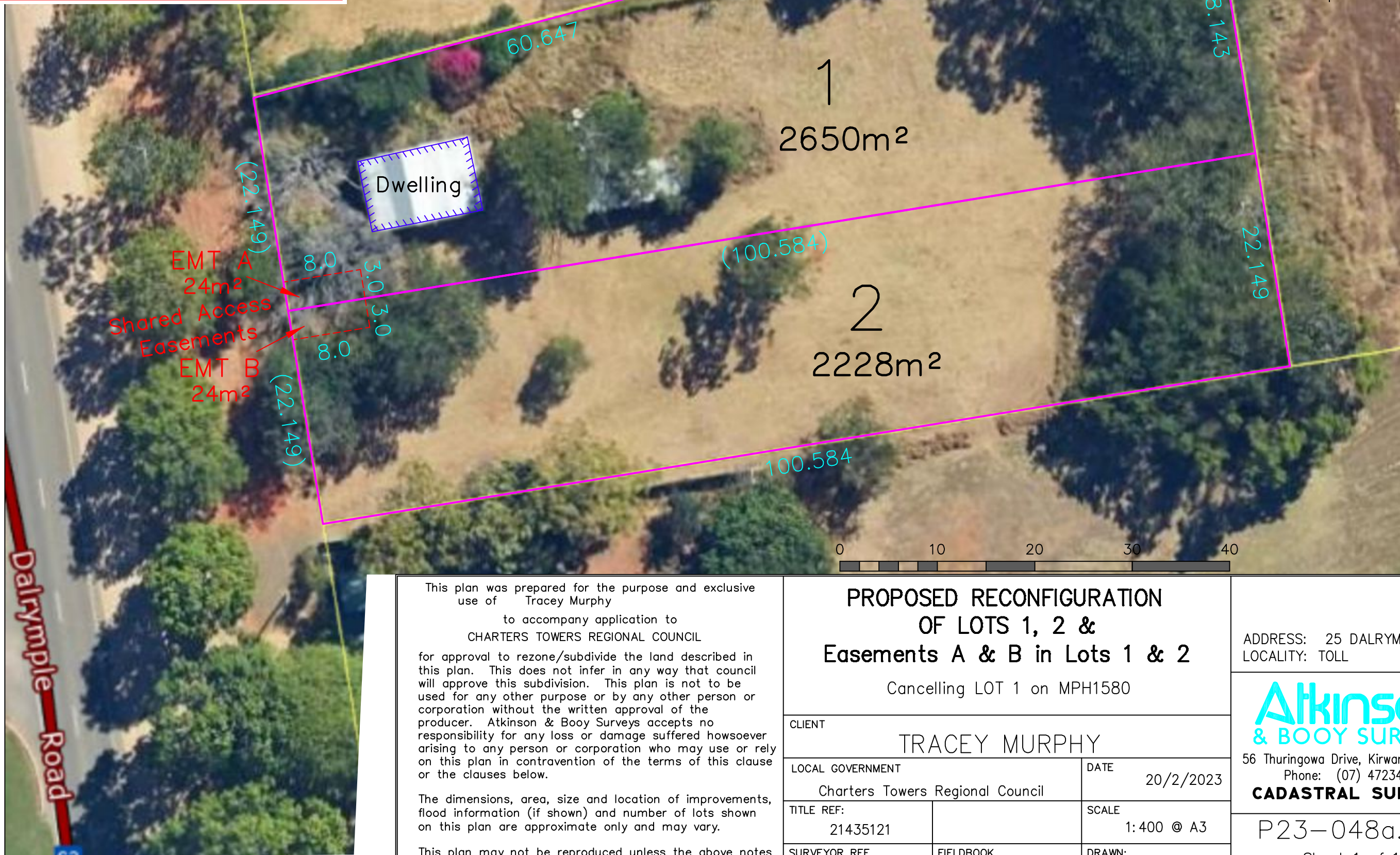
³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE



SARA ref: 2303-33728 SRA

Date: 11 April 2023



This plan was prepared for the purpose and exclusive
use of Tracey Murphy
to accompany application to
CHARTERS TOWERS REGIONAL COUNCIL

for approval to rezone/subdivide the land described in
this plan. This does not infer in any way that council
will approve this subdivision. This plan is not to be
used for any other purpose or by any other person or
corporation without the written approval of the
producer. Atkinson & Booy Surveys accepts 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 the clauses below.

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

This plan may not be reproduced unless the above notes
are included.

PROPOSED RECONFIGURATION
OF LOTS 1, 2 &
Easements A & B in Lots 1 & 2

Cancelling LOT 1 on MPH1580

CLIENT

TRACEY MURPHY

LOCAL GOVERNMENT

Charters Towers Regional Council

DATE

20/2/2023

TITLE REF:

21435121

SCALE

1:400 @ A3

SURVEYOR REF.

23-048

FIELDBOOK

N/A

DRAWN:

IWF

ADDRESS: 25 DALRYMPLE ROAD
LOCALITY: TOLL

Atkinson
& BOOY SURVEYS

56 Thuringowa Drive, Kirwan QLD 4817
Phone: (07) 47234885
CADASTRAL SURVEYS

P23-048a.dwg

Sheet 1 of 1
Form 1.4

Our ref TMR23-038851
Your ref RAL2023/0002
Enquiries Aidan Colahan



5 April 2023

Department of
Transport and Main Roads

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

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

Development application reference number RAL2023/0002, lodged with Charters Towers Regional Council involves constructing or changing a vehicular access between Lot 1 on MPH1580, the land the subject of the application, and Dalrymple Road, Toll (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 Ms Tracey Murphy
25 Dalrymple Road
Toll QLD 4820

Application Details

Address of Property 25 Dalrymple Road, Toll QLD 4820
Real Property Description 1MPH1580
Aspect/s of Development Development Permit for Reconfiguring a Lot (1 into 2 lot subdivision and creation of access easements)

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	a) The permitted combined road access location to proposed lot 1 and proposed lot 2 from Dalrymple Road is to be located at the shared property boundary, generally in accordance with: (i) Site Plan Prepared by Atkinson & Booy Surveys, dated 20/02/2023, reference P23-048a.dwg, as amended in red, and (ii) Constructed in accordance with Charters Towers Regional Council standard drawings for residential access.	At all times.

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

2	The landowner(s) will undertake responsibility of maintaining the crossover between the property boundary and the edge of the road pavement as required to continue safe and efficient access between the permitted road access point and the State-controlled Road.	At all times.
3	Direct access is prohibited between Dalrymple Road and Proposed Lot 1 and Proposed Lot 2 at any other location other than the permitted road access location described in Condition 1.	At all times.
4	<p>(a) The applicant must register reciprocal access easements on the titles of proposed lots 1 and 2 for the shared access.</p> <p>(b) The applicant must provide to North.Queensland.IDAS@tmr.qld.gov.au a copy of Registration Confirmation Statement/s and easement registration dealing number/s as evidence of the registration of the easement/s referred to in part (a) of this condition.</p>	<p>(a) At the time of survey plan registration</p> <p>(b) Within 20 business days of registration of the easements</p>

Reasons for the decision

The reasons for this decision are as follows:

- a) To ensure access to the State-controlled Road from the property does not compromise the safety and efficiency of the State-controlled Road network.

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.

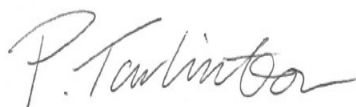
Further approvals

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

1. Road Access Works Approval Required – 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.
2. General advice:
 - a) This approval does not permit works to occur within the State-controlled Road reserve. Further approval is required from the Department of Transport and Main Roads prior to any works occurring.
 - b) Road Works Approval Required – In addition to the Road Access Works Approval, a Road Works approval is required pursuant to section 33 of the TIA. Written approval is required from the Department to carry out road works, including the conditioned line marking, 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, Mr Aidan Colahan, Town Planner (Corridor Management) should be contacted by email at aidan.colahan@tmr.qld.gov.au or on 07 4421 8708.

Yours sincerely



Peter Tarlinton
A/Principal Advisor

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:

- The objective of the Transport Infrastructure Act 1994 requires the establishment of a road regime that is safe and efficient.
- Section 62 of the Transport Infrastructure Act 1994 allows the Department of Transport and Main Roads to make decisions about permitted road access locations between particular / adjacent land and a State-controlled Road
- The subject site relates to a residential property located at Lot 1 on MPH1580 and future Lot 2 on MPH 1580 with frontage to Dalrymple Road and more formally known as Gregory Developmental Road (TMR ID: 98C).
- Dalrymple Road is not identified as a limited Access Road.
- Where proximate to the site, Dalrymple Road has a speed limit of 60kmph.
- Dalrymple Road has an AADT of 1481 vehicles, of which approximately 14% are heavy vehicles.
- As the property is residential, daily vehicles movements are to be infrequent.
- The location of the access is not foreseen to compromise the safety of users of the state-controlled road.
- The landowner shall be responsible for the maintenance of the crossover between the property boundary and the edge of the kerb as required to continue the safe and efficient access between the permitted road access location and Dalrymple Road.
- The access has been assessed on the current conditions and not on any future planning within the area.

Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version/Issue
Site Plan	Atkinson & Booy Surveys	20 February 2023	P23-048a.dwg	-

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.

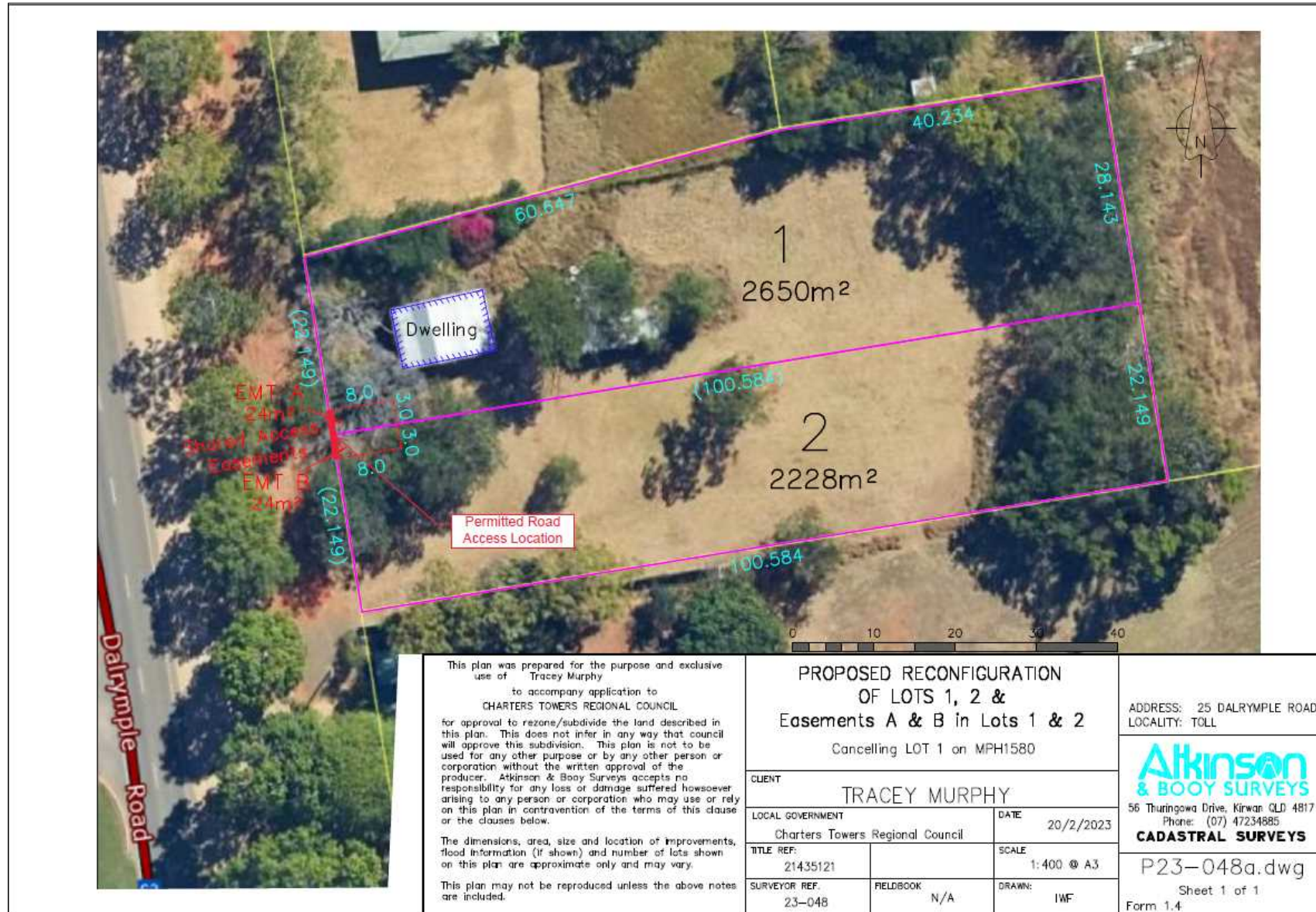
(2) However, if—

- (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 Location Plan



Program Delivery and Operations
North Queensland Region
445 Flinders Street Townsville QLD 4810
PO Box 1089 Townsville QLD 4810

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