

21 August 2025

Our Ref: 5101685
File Ref: RAL2025/0003
Enquiries: Peter Boyd

Atkinson Surveys Pty Ltd
PO Box 1479
THURINGOWA CENTRAL QLD 48117

Sent via email: dale@atkinsonsurveys.com.au

Dear Dale,

Decision Notice – Approval
(Given under Section 63 of the *Planning Act 2016*)

The assessment manager wishes to advise that the application was approved under delegated authority on 19 August 2025. The approval is subject to reasonable and relevant conditions and supported by a notice of reasons as detailed below:

Applicant details

Applicant name: Atkinson Surveys Pty Ltd

Location details

Street address: 44 Urdera Road, Southern Cross QLD 4820
Real property description: Lot 1 on MPH13786 and Lot 2 on MPH13831

Application details

Application number: RAL2025/0003
Approval type: Development Permit
Development type: Reconfiguring a Lot
Category of assessment: Impact Assessment
Description of development: Reconfiguring a Lot – 2 into 2 Lots (Boundary Realignment)
Categorising instrument: Charters Towers Regional Town Plan Version 2



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1. Details of the approval

Details of the approval are listed below in accordance with the *Planning Regulation 2017*.

	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"/>

2. Conditions of approval

Condition Number	Condition	Timing										
Approved Plans/Documents												
1.	<div>Development is to be carried out generally in accordance with the submitted application including the following plans and supporting documentation except where amendments are required to satisfy the conditions of this approval:</div> <table><tr><th>Drawing Title:</th><th>Prepared by:</th><th>Date:</th><th>Reference No:</th><th>Revision:</th></tr><tr><td>Plan of Lots 1 & 2 Cancelling Lot 1 on MPH13786 and Lot 2 on MPH13831</td><td>-</td><td>-</td><td>25_049</td><td>-</td></tr></table>	Drawing Title:	Prepared by:	Date:	Reference No:	Revision:	Plan of Lots 1 & 2 Cancelling Lot 1 on MPH13786 and Lot 2 on MPH13831	-	-	25_049	-	At all times.
Drawing Title:	Prepared by:	Date:	Reference No:	Revision:								
Plan of Lots 1 & 2 Cancelling Lot 1 on MPH13786 and Lot 2 on MPH13831	-	-	25_049	-								
General												
2.	<div>a) Comply with all conditions within this Development Permit with conditions prevailing over the approved plan(s) and document(s) in all instances</div> <div>b) Meet the cost of all works associated with the development including any alterations, relocations or repairs to damaged Council infrastructure, and</div> <div>c) All repairs, alterations and relocations of Council infrastructure are to be in accordance with the relevant Council policy and/or Australian Standard.</div>	At all times.										
Existing Services												
3.	<div>Written confirmation of the location of existing services for the land must be provided to Council.</div> <div>In any instance where existing services are contained within another lot, the following applies, either:</div> <div>a) Relocate the services to comply with this requirement; or</div> <div>b) Arrange registration of necessary easements over services located within another lot prior to, or in conjunction with, the lodgement of the Plan of Survey creating the lot.</div>	Prior to survey plan endorsement.										



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Condition Number	Condition	Timing
Survey Plan Endorsement		
4.	<p>Lodge to Council, for approval, an application for Survey Plan Endorsement which includes:</p> <ul style="list-style-type: none"> a) Payment of application fee in accordance with Council's fees and charges at the time of lodgement b) All survey marks in their correct position in accordance with the Survey Plan c) A compliance report demonstrating compliance with all associated Development Permit(s) d) One copy of the survey plan and/or easement documentation each fully executed for the lodgement with the Titles Office e) Payment of any outstanding rates and charges in accordance with Schedule 18, Item 2(1)(c) of the <i>Planning Regulation 2017</i>, and f) Payment of any outstanding Adopted Infrastructure Charges. 	As part of survey plan endorsement.

Advisory Notes

Scale or Intensity of Use

- A. Any proposal to increase the scale or intensity of the use/new use on the subject land, that is assessable development under the Planning Scheme, would be subject to a separate application for assessment in accordance with the *Planning Act 2016* and would have to comply with the requirements of the relevant provisions.

Local and State Heritage

- B. The Charters Towers Regional Council local government area contains significant Local and State heritage features including stone pitch kerbing and channels and footbridges. Persons damaging or removing Local or State heritage features may be prosecuted and fined with the maximum penalty under the *Planning Act 2016*. Please contact Council prior to commencing any works, to determine if there are any Local or State heritage features within or adjacent to the premises.

Aboriginal and Cultural Heritage

- C. The *Aboriginal Cultural Heritage Act 2003* and *Torres Strait Islander Cultural Heritage Act 2003* requires anyone who carries out a land-use activity to exercise a duty of care. Land users must take all reasonable and practicable measures to ensure their activity does not harm Aboriginal or Torres Strait Islander cultural heritage. Prior to carrying out works, it is advised that you contact the Department of Aboriginal and Torres Strait Islander Partnerships on (07) 4799 7470 or by post at PO Box 5620 TOWNSVILLE QLD 4810. For further information on cultural heritage duty of care please visit: <https://www.datsip.qld.gov.au/people-communities/aboriginal-torres-strait-islander-cultural-heritage/cultural-heritage-duty-care>

Abandoned Mine Shafts

- D. The city of Charters Towers is subject to a significant number of abandoned mine shafts due to the former gold rush era. It is recommended that all searches be undertaken through the Queensland State Government's Department of Natural Resources Mines and Energy (DNRME) to ensure that the development is not unduly impacted upon by these shafts. The DNRME can be contacted on 13 74 68.



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3. Currency period for the development application approval

In accordance with section 85 of the *Planning Act 2016*, this approval has a currency period of four (4) years.

4. Further development permits

Not Applicable.

5. Referral agencies

The referral agencies for this application are:

Agency:	Trigger:	Address:	Date and Ref:
State Assessment and Referral Agency	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1 – Reconfiguring a lot of premises within 25m of a state transport corridor	PO Box 5666 Townsville QLD 4810	4 June 2025 2505-45904 SRA

The conditions imposed by the referral agencies are included as an attachment.

6. Submission(s)

None received.

7. Notice of reasons

This notice is prepared in accordance with Section 63(5) of the *Planning Act 2016* to inform the public about a decision that has been made in relation to a development application.

Description of the development:	The proposed development is for Reconfiguring a Lot Code, Boundary Realignment (Two (2) Lots into Two (2) Lots).
Reasons for the decision:	The proposed development is supported as it seeks to establish a better configuration of the two rural parcels.
Assessment benchmarks:	<p>The proposed development was assessed against the relevant assessment benchmarks of the North Queensland Regional Plan 2020 and the Charters Towers Regional Town Plan Version 2 including the:</p> <ol style="list-style-type: none">1) Rural zone code;2) Bushfire hazard overlay code;3) Flood hazard overlay code;4) Reconfiguring a lot code; and5) Development works code. <p>The proposed development was assessed against all the assessment benchmarks listed about and complies with all with the exceptions listed and responded to below.</p>



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	Assessment benchmark:	Reasons for the approval despite non-compliance with benchmark:
	N/A	N/A
Matters raised in submissions:	Submission Point:	Council Response:
	N/A	N/A

8. Other requirements under section 43 of the *Planning Regulation 2017*

There are no other requirements.

9. Appeal rights

The rights of an applicant to appeal to a tribunal or the Planning and Environment Court against a decision are set out in Chapter 6, Part 1 of the *Planning Act 2016*. 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*). Information about how to proceed with an appeal to the Planning and Environment Court may be found on the Court's website: <http://www.courts.qld.gov.au/courts/planning-and-environment-court>.

An applicant may also have a right to appeal to the Development tribunal. For more information, see schedule 1 of the *Planning Act 2016*. The timeframes for starting an appeal in the Planning and Environment Court are set out in Section 229 and Schedule 1 of the *Planning Act 2016*.

Should you wish to discuss this matter, please contact Council on (07) 4761 5300.

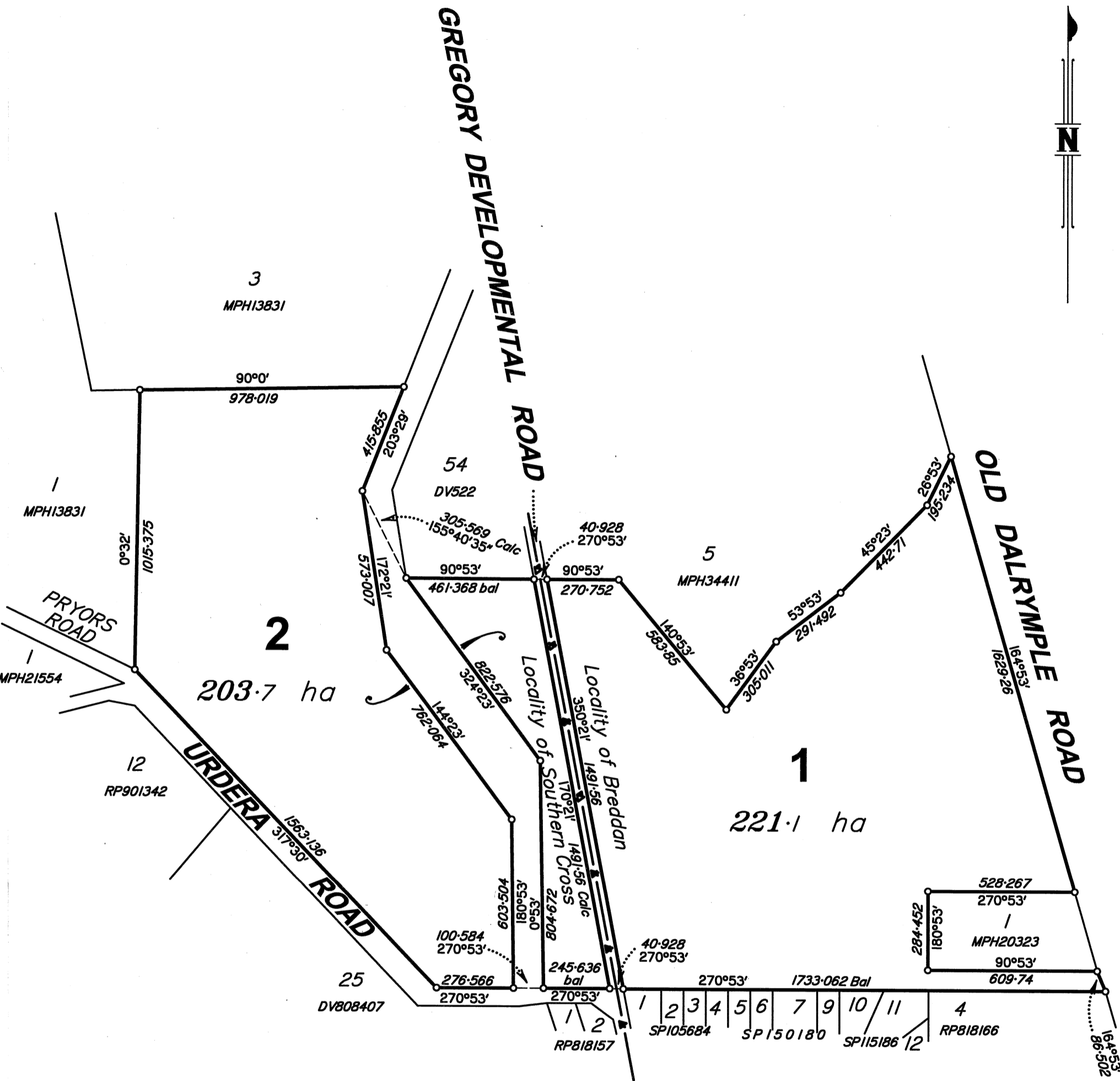
Yours faithfully



Timna Green
Manager Planning & Development

Enc. Approved Plan
Referral Agency Response
Appeal Rights





0m		750m		1500m		2250m		State copyright reserved.	
0		50 mm		100 mm		150 mm			
Plan of Lots 1 & 2							Scale: 1:15,000		
Cancelling Lot 1 on MPH13786 & Lot 2 on MPH13831							Format: STANDARD		
							25_049		
LOCAL CHARTERS		Southern Cross							
GOVERNMENT: TOWERS REGIONAL		LOCALITY: & Breddan							
Meridian: MPH 13831					Survey Records: No				





SARA reference: 2505-45904 SRA
Council reference: RAL2025/0003
Applicant reference: 25_049

4 June 2025

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

Attention: Peter Boyd

Dear Mr Boyd

SARA referral agency response—349 Old Dalrymple Road, Breddan and 44 Urdera Road, Southern Cross

(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 7 May 2025.

Response

Outcome:	Referral agency response – with conditions	
Date of response:	4 June 2025	
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 a boundary realignment (two lots into two lots)
SARA role:	Referral agency	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1 – Reconfiguring a lot of premises within 25m of a state transport corridor	

(Planning Regulation 2017)

SARA reference: 2505-45904 SRA

Assessment manager: Charters Towers Regional Council

Street address: 349 Old Dalrymple Road, Breddan and 44 Urdera Road, Southern Cross

Real property description: Lot 1 on MPH13786 and Lot 2 on MPH13831

Applicant name: Mr Dale Atkinson

Applicant contact details: PO Box 1479
THURINGOWA CENTRAL QLD 4817
dale@atkinsons-surveys.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: TMR25-045704
- Date: 3 June 2025

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: A consideration of the 23 fundamental human rights protected under the Human Rights Act 2019 has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.

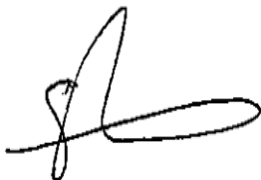
Representations

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 Kaitlyn O'Malley, Senior Planning Officer, on 07 4758 3429 or via email NQSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Carl Porter
A/ Manager Planning

cc Mr Dale Atkinson, dale@atkinsons-surveys.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 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.	Road access is located generally in accordance with Permitted Road Access Location Plan, prepared by Department of Transport and Main Roads, dated 3 June 2025, reference DA001, and revision A, as amended in red by SARA.	At all times.
2.	Direct access between the proposed lots and the Lynd Highway (Gregory Developmental Road) is not permitted at any location other than those described in Condition 1.	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) (version 3.2). If a word remains undefined it has its ordinary meaning.

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:

- SARA assessed the development against the following code(s) of the State Development Assessment Provisions (SDAP), version 3.2:
 - o State code 1: Development in a state-controlled road environment.
- The development complies with the assessment benchmarks of State code 1 of SDAP (version 3.2) in that the development:
 - o does not adversely impact the structural integrity or physical condition of the state controlled road
 - o does not adversely impact the function and efficiency of the state controlled road
 - o maintains access to active 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 3.2, as published by SARA
- the Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- section 58 of the *Human Rights Act 2019*

Attachment 4—Representations about a referral agency response 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.

Attachment 5—Documents referenced in conditions

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PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE

SARA ref: 2505-45904 SRA

Date: 04 June 2025



Legend :

- ▲ Property Search
- Franchised Roads
- State-controlled Roads
- - - Tunnels
- Major Roads
- Minor Roads
- Private Roads
- Parcels - Urban

Amended in red by SARA on
04 June 2025

Department of
Transport and Main
Roads.

Plan No:
DA001, Rev A
Date: 3 June 2025



Our ref TMR25-045704
Your ref RAL2025/0003
Enquiries Linda Henning



3 June 2025

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 RAL2025/0003, lodged with Charters Towers Regional Council involves constructing or changing a vehicular access between 2MPH13831, 1MPH13786, the land the subject of the application, and Lynd 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 Atkinson Surveys Pty Ltd
PO Box 1479
Thuringowa Central QLD 4817

Application Details

Address of Property 349 Old Dalrymple Road, Breddan QLD 4820
Real Property Description 2MPH13831, 1MPH13786
Aspect/s of Development Development Permit for Reconfiguration of a Lot for
Reconfiguration of Two lots into Two 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 is in accordance with Permitted Road Access Location Plan, prepared by Department of Transport and Main Roads, dated 3 June 2025, reference DA001, and revision A.	At all times.
2.	Direct access is prohibited: a. between Lynd Highway and the newly created proposed Lot 2 on Draft Survey Plan 25-049 prepared by Atkinson Surveys.	At all times

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

No.	Conditions of Approval	Condition Timing
	b. between Lynd Highway and proposed Lot 1 on Draft Survey Plan 25-049, prepared by Atkinson Surveys, other than the permitted access location as per the plan in Condition 1.	
3.	The owner of the land is responsible for all costs associated with the maintenance of the road access (including driveways) between the road pavement edge and the property boundary.	At all times

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.
- b) To provide safe access for all vehicles associated with the use.

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.

If further information about this approval or any other related query is required, Linda Henning, A/Senior Town Planner should be contacted by email at north.queensland.idas@tmr.qld.gov.au or on (07) 4421 8763.

Yours sincerely

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

Denise Hinneberg
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 (SCR).
- The Applicant is seeking a development permit to facilitate a reconfiguring a lot (boundary re-alignment), resulting in two (2) lots into two (2) lots (proposed development).
- More specifically, the proposed development seeks to consolidate the western portion of Lot 1 on MPH13786 on the western side of Lynd Highway with Lot 2 on MPH13831, also to the western side of Lynd Highway.
- Both the above allotment numbers will be cancelled, and new numbers will be created as follows:
 - Proposed Lot 1 – 221.1ha, with an existing access of Lynd Highway allowing access to the existing house, shed, bore and septic tank.
 - Proposed Lot 2 – 203.7ha with an existing access off Urdera Rd to provide access to the existing homestead.
- No new accesses are proposed, however the existing access to the homestead on the current Lot 1 on MPH13786 is regarded as the permitted road access location.
- This application for a Reconfiguring a Lot (Boundary Re-alignment) 2 into 2, relates to land located at 349 Old Dalrymple Road, Breddan and 44 Urdera Road, Southern Cross, formally described as Lot 1 on MPH13786 and Lot 2 on MPH13831 (subject sites).
- Lot 1 MPH13786 at 349 Old Dalrymple Road, Breddan consist of two portions. One portion to the east of Lynd Highway and a smaller portion to the west of Lynd Highway, with both portions having direct frontage to Lynd Highway, however only the portion to the east of the highway has direct access onto Lynd Highway and provides access to the homestead. This access will be retained.
- Lot 2 on MPH13813 at 44 Urdera Road, is located to the west of the western portion of Lot 1, and has no frontage to Lynd Highway, but has frontage and direct access to Urdera Road a local road under the jurisdiction of the Charters Towers Regional Council. Access to Proposed Lot 2 will remain from Urdera Road.
- Lynd Highway is a State-controlled Road (**SCR**) under the jurisdiction of the Department of Transport and Main Roads (**TMR**), with Road ID 98C and is not a Limited Access Road. It comprises a single carriageway and has a posted speed limit of 100km per hour and supports an annual average daily traffic count (**AADT**) of 262 vehicles of which 131 are in the gazetted direction and 131 against Gazetted Direction.
- The subject site is located within the Charters Towers Regional Council local government area and the application is assessable under the *Charters Towers Regional Town Plan, Version 2 (Planning Scheme)*.

Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version/Issue
Application Letter	Atkinson Surveys	29 January 2025	-	-
Survey Plan	Atkinson Surveys	-	Plan of Lots 1 & 2 – MPH 13831- 25_049	-

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



Planning Act 2016

Reprint current from 2 August 2024

Chapter 6 > Part 1

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 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.
- (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 a decision of the Minister, under chapter 7, part 4, to amend the registration of premises to include additional land in the affected area for the premises—20 business days after the day a notice is published under section 269A(2)(a); or
 - (e) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (f) 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

- (g) for an appeal relating to the Plumbing and Drainage Act 2018—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the Plumbing and Drainage Act 2018, section 143(2)(a) (i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the Plumbing and Drainage Act 2018—5 business days after the notice is given; or
 - (iii) for an appeal against a failure to make a decision about an application or other matter under the Plumbing and Drainage Act 2018—at anytime after the period within which the application or matter was required to be decided ends; or
 - (iv) otherwise—20 business days after the day the notice is given; or
- (h) 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, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and

- (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
 - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; 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 is 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 to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), 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 the 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, any tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any 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 rules of the P&E Court.