

Council File Reference: 491718  
Council Contact: Brett Walsh  
Council Contact Phone: 07 4651 5600

23 January 2019

Barcaldine Regional Council  
C/- Murray and Associates (QLD) Pty Ltd  
PO Box 665  
Emerald QLD 4720

**Development Application**

**Development Permit - Material Change of Use for Outdoor Recreation**

**Lot 9 on SP297069, Landsborough Highway, Barcaldine**

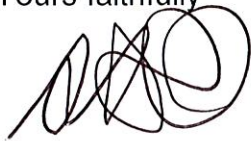
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We refer to the assessment of the abovementioned development application.

Pursuant to section 83 of the *Planning Act 2016*, please find enclosed the **Decision Notice**.

If you have any queries please contact Brett Walsh at the Barcaldine Executive Office.

Yours faithfully



**Steven Boxall**  
Chief Executive Officer

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# DECISION NOTICE APPROVAL

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PLANNING ACT 2016, SECTION 63

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I refer to your application and advise that on 16 January 2019, Barcaldine Regional Council decided to approve the application in full, subject to conditions. Details of the decision are as follows:

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## 1. APPLICATION DETAILS

Applicant Number: 491718  
Properly made date: 23 March 2018  
Approval sought: Development Permit for a Material Change of Use  
Description of the proposed development: Outdoor Recreation (Barcaldine Recreation Park)  
Planning Scheme: Barcaldine Shire Planning Scheme 2006 (Version 2)

## 2. APPLICANT DETAILS

Applicant name: Barcaldine Regional Council  
C/- Murray and Associates (QLD) Pty Ltd  
Applicant contact details: PO Box 665  
Emerald QLD 4720  
[andrewb@mursurv.com](mailto:andrewb@mursurv.com)

## 3. PROPERTY DETAILS

Street address: Landsborough Highway, Barcaldine QLD 4725  
Real property description: Lot 9 on SP297069  
Local Government Area: Barcaldine Regional Council

## 4. DECISION DETAILS

Date of decision: 16 January 2019  
The following type of approval has been issued: Development Permit for a Material Change of Use for Outdoor Recreation  
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 concurrence agency imposed them.

## 5. APPROVED PLANS AND DOCUMENTS

Copies of the following plans, specifications and/or drawings are enclosed (Attachment 2).

Drawing / report title	Prepared by	Date	Reference no.	Version / issue
General Layout, Typical Sections and Details	GBA Consulting Engineers	18/11/2016	160158-1/01	P1
Amenities Building – Location and 3D Views	GBA Consulting Engineers	04/12/2017	160158-2/01	P2
Amenities Building – Layout Plan	GBA Consulting Engineers	04/12/2017	160158-2/02	P2
Amenities Building – Elevations	GBA Consulting Engineers	04/12/2017	160158-2/02	P2
Plan Showing Offsets from Property Boundaries and Proposed Pond	SMK Consultants	09/02/2018	17-412 (1 of 1)	A
Cultural Heritage Risk Assessment Barcaldine Water Ski and BMX Park	GBA Consulting Engineers	05/05/2017	160158	Approve

#### 6. CURRENCY PERIOD

This development approval will lapse at the end of the period set out in section 85 of the *Planning Act 2016*: if the first change of use does not happen within six (6) years after the approval starts to have effect.

#### 7. PROPERLY MADE SUBMISSIONS

Not applicable - no part of the application required public notification.

#### 8. FURTHER DEVELOPMENT PERMITS REQUIRED

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

1. Operational works for Excavation and Filling;
2. Plumbing and Drainage Works; and
3. Building Works.

#### 9. REFERRAL AGENCIES

The referral agencies for the application are:

Referral Agency	Referral Matter	Referral Role
Town Planning Ergon Energy PO Box 264 Fortitude Valley QLD 4006 Email: <a href="mailto:townplanning@ergon.com.au">townplanning@ergon.com.au</a>	Schedule 10, Part 9, Division 2, Table 2, Item (1)(b)	Advice

<p>Chief Executive - Department of State Development, Manufacturing, Infrastructure and Planning</p> <p>Mackay Isaac Whitsunday Region Office PO Box 257 MACKAY QLD 4740 Ph: (07) 4898 6888 Email: MIWSARA@dsmip.qld.gov.au</p> <p>MyDAS2 online referrals: <a href="https://prod2.dev-assess.qld.gov.au/suite/">https://prod2.dev-assess.qld.gov.au/suite/</a></p>	<p>Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item (1)(a) and (c)</p>	<p>Concurrence</p>
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## 10. RIGHTS OF APPEAL

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*. For particular applications, there may be also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

An applicant may appeal to the Planning and Environment Court or the Development tribunal against a number of matters (see Schedule 1 of the *Planning Act 2016*).

A copy of the extracts of the above referenced sections of the *Planning Act 2016* are attached (Attachment 3).

If you have any queries please do not hesitate to contact Brett Walsh at the Barcardine Executive Office.

Yours sincerely,



**Steven Boxall**  
Chief Executive Officer

**CC** Department of State Development, Manufacturing, Infrastructure and Planning; and Ergon Energy.

**ENC** Attachment 1 (Part 1) – Conditions imposed by the assessment manager

Attachment 1 (Part 2) – Conditions imposed by a concurrence agency.

Attachment 2 – Approved Plans and Documents

Attachment 3 – Extract of Appeal Provisions (Chapter 6, Part 1 and Part 2 and Schedule 1 of the *Planning Act 2016*).

Attachment 4 – Statement of Reasons

# Attachment 1

## Conditions of the approval

### Part 1 – Conditions imposed by the assessment manager

THAT the Development Application (application number: DA491718) be approved and a Development Permit for Material Change of Use for Outdoor Recreation located at Landsborough Highway, Barcaldine, formally described as Lot 9 on SP297069 be granted, subject to the following conditions:

#### 1.0 APPROVED PLANS AND DOCUMENTS

1.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:

Title	Plan number	Revision	Date	Prepared by
General Layout, Typical Sections and Details	160158-1/01	P1	18/11/2016	GBA Consulting Engineers
Amenities Building – Location and 3D Views	160158-2/01	P2	04/12/2017	GBA Consulting Engineers
Amenities Building – Layout Plan	160158-2/02	P2	04/12/2017	GBA Consulting Engineers
Amenities Building – Elevations	160158-2/02	P2	04/12/2017	GBA Consulting Engineers
Plan Showing Offsets from Property Boundaries and Proposed Pond	17-412 (1 of 1)	A	09/02/2018	SMK Consultants

Title	Document number	Revision	Date	Prepared by
Cultural Heritage Risk Assessment Barcaldine Water Ski and BMX Park	160158	Approve	05/05/2017	GBA Consulting Engineers

1.2 Implement the recommendations of the Cultural Heritage Risk Assessment, herein listed under item 1.1, submitted to Council in support of the development application, and more specifically the following:

- a) The cultural heritage mitigation strategies listed in Table 1 on page iii of the approved document be included on the project design and construction plan;
- b) Establishment of an 'Exclusion Zone' with fencing and/or signage around the 'Exclusion Zone Scatter';
- c) Restricted access to 'Cultural Heritage Significant Area' to the south west section of the site, which is to be submitted to the Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP) Register as an Aboriginal cultural site under the status of an 'Artefact Scatter' in accordance with figure 3 of the approved document;

- d) Traditional Owner Field Officer (TOFO) site monitoring requested during the first day of excavations in the front paddock area at the location of the ski lake excavation and filling works, to inspect for any potential sub-surface cultural material;
  - e) Should any material of a cultural nature be located on site during project operations, all works in the immediate location of the finds must be halted until further clearance can be undertaken by Bidjara representatives and suitably qualified personnel; and
  - f) Relocation of the historic tractor to Barcaldine Historical Society museum / storage place.
- 1.3 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.
- 1.4 The approved use must be conducted generally in accordance with the facts and circumstances as set out in the application submitted to Council.
- 1.5 A copy of this decision notice and stamped approved plans/drawings must be submitted with any development application for building work relating to or arising from this development approval.
- 1.6 A copy of this decision notice and stamped approved plans/drawings must be retained on site at all times. This decision notice must be read in conjunction with the stamped approved plans to ensure consistency in construction, establishment and maintenance of approved works.

## **2.0 COMPLIANCE TIMING**

- 2.1 Comply with all conditions of this development approval at no cost to Council and prior to the Final Inspection Certificate by a Building Certifier or commencement of the use, whichever comes first unless otherwise stated in a specific condition.

## **3.0 AMENITY**

- 3.1 Undertake the activities associated with the construction between the hours of 6:30am and 6:30pm, Monday to Saturday. Construction works are not permitted to be carried out on Sundays or public holidays without the prior written approval of the Chief Executive Officer.
- 3.2 Undertake the use so that there is no environmental nuisance or detrimental effect on any surrounding land uses and activities by reasons of the emission of vibration, smell, fumes, smoke, vapour, steam, soot, ash, waste water, waste products, grit, oil or otherwise.
- 3.3 Conduct the activity in a manner that achieves the acoustic quality objectives outlined in Schedule 1 of the Environmental Protection (Noise) Policy 2008 and does not allow the unreasonable emission of noise to the environment.
- 3.4 A Noise Impact Assessment Study must be prepared that has regard to the proposed operations of the recreation park, including acceptable hours of operation, and include details of mitigation measures to address any adverse impacts to sensitive receptors, such as nearby dwelling houses. The Noise Impact Assessment Study must be submitted to Council for the Chief

Executive's endorsement prior to, or with, the submission of any development application prior to commencement of use.

- 3.5 Angle or shade lighting is to be used to illuminate the premises, so that light does not directly illuminate or cause any environmental nuisance (e.g. glare) to nearby premises or roads. Night lighting must be designed, constructed and operated in accordance with *Australian Standard AS4282 "Control of the obtrusive effects of outdoor lighting"*.

#### **4.0 BUILDING AND CERTIFICATION**

- 4.1 Demolish or relocate off site all existing buildings and/or structures on site that are made redundant by the development. Ensure all services to the existing buildings and/or structures are disconnected and where required capped prior to demolition commencing.

#### **5.0 ACCESS AND PARKING WORKS**

- 5.1 The internal access driveway must be designed and constructed to a paved surface standard in accordance with *Austroads standards and Schedule 1, Division 2: Standards for Roads, Carparking, Manoeuvring Areas and Access of the Barcaldine Shire Planning Scheme 2006*, or to other accepted and Council endorsed engineering standards. Appropriate signage and line marking shall be provided.

- 5.2 All vehicles up to the maximum design vehicle for the premises, inclusive of refuse collection vehicles, must be able to enter and exit the site in a forward gear. Loading and unloading areas must be located clear of visitor parking areas.

- 5.3 Car parking shall be constructed generally in accordance with the approved plans and in accordance with *AS2890.1 – Off Street Car Parking*.

- 5.4 Disabled car parking is to be constructed generally in accordance with the approved plans and the *AS2890.6 – Off Street Parking for people with Disabilities*.

#### **6.0 EXCAVATION AND FILLING**

- 6.1 A Development Permit for Operational Works is required for the filling and/or excavation works.

- 6.2 No fill is to be imported and placed on the site for the BMX bike track.

*Advisory note: The State Planning Policy 2017 Mapping identifies the footprint of the BMX track located in the Flood Hazard Area. Preliminary calculations of the excavation to fill ratio for the ski lake is estimated at 1:125. It is expected that the excess material will be used to form the BMX track and will not result in a net increase in fill across the entire development site.*

- 6.2 Effective erosion and sedimentation control must be provided at all times during the works, including post construction in accordance with *Schedule 1, Division 1: Standards for Construction Activities, Section 1.1* of the Barcaldine Shire Planning Scheme 2006. Runoff from all areas where the natural surface is disturbed by construction shall be free of pollutants and / or sediment before

it is dispersed to stable areas or directed to existing stormwater drains or natural watercourses.

## 7.0 FLOOD HAZARD ASSESSMENT STUDY

7.1 A Flood Hazard Assessment Study must be prepared to demonstrate that the development does not result in a material increase in the extent or severity of flood in terms of on-site and off-site flood hazard impacts. Where impacts from the development are known, further hazard and risk assessment is required to be undertaken to identify mitigation measures that ensure the safety of people is protected and the risk of harm to property and the natural environment from flood is minimised to an acceptable or tolerable level.

The Flood Hazard Assessment Study must include the following:

- A. Flood Hazard Assessment Report
  - i. Prepared and certified by a Register Practicing Engineer of Queensland (RPEQ) with experience in flood modelling and management in accordance with the industry best practice methodology;
  - ii. Consider Council's flood and drainage studies for the catchment (it is understood preliminary modelling of the proposed development has been undertaken which has identified impacts to properties on the eastern side of Lagoon Creek); and
  - iii. As relevant, include accurate hydrological and hydraulic modelling of the waterway network and assessment of existing flooding and flood levels of major water systems including modelling of the 50%, 10%, 5%, 1% and 0.2% AEP (annual exceedance probability) flood events and the PMF (probable maximum flood).
- B. Flood Hazard Mitigation Report. This report is required to:
  - i. be consistent with the international risk management standard *AS/NZ ISO 31000:2009 Risk Management*;
  - ii. assess the potential impacts of the development on the flood hazard;
  - iii. assess the potential impacts of flood hazard on the development and any affected properties external to the site;
  - iv. recommend strategies to be incorporated into the development to satisfy the requirements of the *Assessment benchmarks – natural hazards, risk and resilience* as it relates to flood hazard under the State Planning Policy 2017;
  - v. recommend strategies to be incorporated into the development to satisfy the requirements of *PC42 Flooding* under the Open Space and Recreation Zone Code, Table 4.7.3.4 – Part B, of the Barcaldine Shire Planning Scheme 2006 (V2).
  - vi. describe and evaluate the impact of the proposed mitigation strategies on the existing and likely future use of land and buildings in proximity to the proposed development; and
  - vii. address the following:
    - a. waterways, including bank stability;
    - b. impacts on properties both upstream and downstream and mitigation strategies to address the protection of life and property on these properties;



- c. preferred areas and non-preferred areas on site for various activities, based on the probability of inundation and the volume and velocity of flows;
- d. the use of flood resistant materials and construction techniques able to withstand relevant hydraulic and debris loads where appropriate;
- e. the location and height of means of ingress and egress, including possible flood-free escape routes;
- f. structural design, including the design of footings and foundations to take account of static and dynamic loads (including debris loads and any reduced bearing capacity owing to submerged soils);
- g. the location and design of plant and equipment, including electrical fittings;
- h. the storage of any materials which are likely to cause environmental harm if released as a result of inundation or stormwater flows;
- i. the appropriate treatment of water supply, sanitation systems and other relevant infrastructure;
- j. relevant management practices, including flood warning and evacuation measures;
- k. details of detention / retention storages or any easements or reserves required for stormwater design.

7.2 The Flood Hazard Assessment Study must be submitted to Council for the Chief Executive's endorsement prior to, or with, the submission of any development application for operational work.

## **8.0 STORMWATER DRAINAGE**

8.1 All stormwater, with the exception of water captured onsite in rainwater tanks, is to be drained from the site without causing annoyance or nuisance to any person to a point where it may be lawfully discharged.

8.2 The design and construction criteria included in the *Queensland Urban Drainage Manual (QDUM)* and *Schedule 1, Division 5: Standards for Stormwater Drainage, Section 5.1* of the Barcaldine Shire Planning Scheme 2006 are met.

## **9.0 POTABLE WATER SUPPLY**

9.1 Provide a sufficient potable water supply to service the development.

9.2 A Drinking Water Quality Management Plan must be prepared and submitted to the Chief Executive Officer, or delegate for approval. The Plan shall make recommendations in relation to the extent of works that will be undertaken to provide a potable water supply to the development. The Plan will detail the monitoring, treatment and maintenance works that will be carried out to ensure that the quality of the drinking water is achieved. The Plan will address the Risk Management Aspects required by Queensland Health to comply with the Australian Drinking Water Guidelines. All proposed works are to be designed and carried out generally in accordance with Council's standards.

## **10.0 SEWAGE TREATMENT**

- 10.1 Connect the development to Council's sewerage infrastructure network.

## **11.0 VEGETATION MANAGEMENT**

- 11.1 Undertake vegetation clearing of the 50 metre wide buffer to watercourse (Lagoon Creek) only within the development footprint of the ski lake, approved buildings and structures and their associated parking and access areas as identified on the approved plans. No clearing is permitted beyond the development footprint other than in accordance with section 4.7.3.4 Part B – Areas other than Protected Areas of the Barcaldine Shire Planning Scheme 2006.
- 11.2 Offset any clearing of vegetation within the 50 metre wide buffer to watercourse (Lagoon Creek) by planting trees, shrubs and grasses within the 'proposed vegetation / sound barrier trees and shrubs' area nominated on the approved plans. Plant the trees, shrubs and grasses within twelve months of the clearing occurring.

## **12.0 WASTE MANAGEMENT**

- 12.1 Refuse storage area must be provided for the amenities building and maintained so as not to cause visual or odour nuisance to the surrounding properties. The refuse storage area must be screened from public view.

## **13.0 PROVISION OF UTILITIES**

- 13.1 Documentary evidence to the Chief Executive Officer or delegate must be provided from relevant electrical and telecommunication service providers that satisfactory arrangements have been made for the provision of such services.

## **14.0 FOOD PREMISES**

- 14.1 The food premises (kitchen area) is to be fitted out in accordance with the requirements of *Australia Standard 4674-2004: Design, construction and fit-out of Food Premises and Food Safety Standard 3.2.3, Food Premises and Equipment*.
- 14.2 Kitchen exhaust points for the development must be located and operated in accordance with *Australian Standard 16682.2-2002: The use of ventilation and air-condition in buildings* (specifically Section 5.10 – Air discharges).

## **15.0 CONSTRUCTION**

- 15.1 The construction of all the works shall be undertaken in accordance with good engineering practice and workmanship and generally in accordance with the provisions of the *Schedule 1, Division 1: Standards for Construction Activities, Section 1.1* of the Barcaldine Shire Planning Scheme 2006.
- 15.2 The construction of all works associated with the proposal shall be supervised by a Registered Practicing Engineer Queensland (RPEQ) whose appointment shall require the approval of the Chief Executive Officer or delegate. On completion of the works the applicant/owner shall give to the Council a Certificate from the Engineer stating that the work of constructing the

operational works has been completed in accordance with the plans and specification approved by Council.

#### **ADVICE**

1. The Developer and his employee, agent, contractor or invitee is responsible for ensuring compliance with the conditions of this development approval.
2. Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements. Any provisions contained in this approval relating to the enforcement of any of the conditions shall be in addition to all other rights, powers and privileges that the Council may possess or obtain, and nothing contained in these conditions shall be construed so as to prejudice, affect or otherwise derogate or limit these rights, powers and privileges of the Council.
4. General environmental duty under the Environmental Protection Act 994 prohibits unlawful environmental nuisance caused by noise, aerosols, particles, dust, ash, fumes, light, odour or smoke beyond the boundaries of the development site during all stages of the development including earthworks, construction and operation.
5. This development approval does not authorise any activity that may harm Aboriginal cultural heritage. It is advised that under section 23 of the Aboriginal Cultural Heritage Act 2003, 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 "cultural heritage duty of care").

## **Part 2**

Conditions imposed by a concurrence agency.



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

Our reference: 1803-4662 SRA  
 Your reference: DA491718/20687

9 January 2019

The Chief Executive Officer  
 Barcaldine Regional Council  
 71 Ash Street  
 BARCALDINE QLD 4725  
 council@barc.qld.gov.au

**Attention: Mr Brett Walsh**

Dear Mr Walsh

**Referral agency response—with conditions**

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

The development application described below was properly referred to the Department of State Development, Manufacturing, Infrastructure and Planning on 6 April 2018.

**Applicant details**

Applicant name:	Barcaldine Regional Council C/- Murray & Associates (QLD) Pty Ltd
Applicant contact details:	PO Box 665 EMERALD QLD 4720 andrewb@mursurv.com

**Location details**

Street address:	Landsborough Highway, Barcaldine QLD 4725
Real property description:	Lot 9 on SP297069 (formerly described as Lot 2 on SP243965 and Lot 90 on SP243965)
Local government area:	Barcaldine Regional Council

**Application details**

Development permit	Material Change of Use for Outdoor Recreation (Water Ski Park and BMX Track).
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### Referral triggers

The development application was referred to the department under the following provisions of the Planning Regulation 2017:

- 10.9.4.2.4.1 State transport corridors and future State transport corridors

### Conditions

Under section 56(1)(b)(i) of the *Planning Act 2016* (the Act), the conditions set out in Attachment 1 must be attached to any development approval.

### Reasons for decision to impose conditions

The department must provide reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

### Advice to the applicant

Under section 56(3) of the Act, the department offers advice about the application to the assessment manager—see Attachment 3.

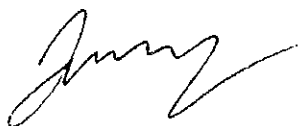
### Referral agency plans and specifications

The department requires that the plans and specifications set out below and enclosed must be attached to any development approval.

Drawing/report title	Prepared by	Date	Reference no.	Version/ issue
<b>Aspect of development: Material Change of Use</b>				
Permitted Access Location Plan	Department of Transport and Main Roads	3 January 2019	TMR18-024343	-
Standard Drawing – Property Access Main Roads AADT < 2000 vpd	Department of Transport and Main Roads	2/10/07	SP-01	B

A copy of this response has been sent to the applicant for their information. For further information please contact Jackie Hunter, Planning Officer, on (07) 4898 6815 or via email [MIWSARA@dsdmp.qld.gov.au](mailto:MIWSARA@dsdmp.qld.gov.au) who will be pleased to assist.

Yours sincerely



Daniel Wagner  
A/Manager (Planning)  
**Mackay Isaac Whitsunday Regional Office**

cc Barcardine Regional Council C/- Murray & Associates (QLD) Pty Ltd, [andrewb@mursurv.com](mailto:andrewb@mursurv.com)  
enc Attachment 1—Conditions to be imposed  
Attachment 2—Reasons for decision to impose conditions  
Attachment 3—Advice to the applicant  
Referral agency plans and specifications  
Section 62 approval (Department of Transport and Main Roads reference TMR18-024343) for Lots 2 and 90 on SP243965 (currently described as Lot 9 on SP297069) under the *Transport Infrastructure Act 1994*

**Attachment 1—Conditions to be imposed**

No.	Conditions	Condition timing
<b>Material Change of Use—Outdoor Recreation (Water Ski Park and BMX Track)</b>		
10.9.4.2.4.1 - State transport corridors and future State transport corridors—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
1.	<p>(a) The road access location, is to be located generally in accordance with the Permitted Access Location Plan prepared by the Department of Transport and Main Roads dated 3 January 2019 and reference TMR18-024343.</p> <p>(b) Road access works, comprising an upgraded property access at approximate chainage 0.68km LHS (latitude -23.551682°, longitude 145.277435°) between Landsborough Highway and the subject site, must be provided generally in accordance with Standard Drawing – Property Access Main Roads AADT &lt; 2000 vpd prepared by Department of Transport and Main Roads dated 2/10/07, reference SP-01 and revision B.</p>	<p>(a) At all times.</p> <p>(b) Prior to commencement of use.</p>
2.	Direct access is not permitted between the Landsborough Highway and the subject site at any location other than the permitted road access location specified in condition 1(b).	At all times.

**Attachment 2—Reasons for decision to impose conditions**

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The reasons for this decision are:

- To ensure the road access location to the state-controlled road from the site does not compromise the safety and efficiency of the state-controlled road.
- To ensure access to the state-controlled road from the site does not compromise the safety and efficiency of the state-controlled road. Direct access to the state-controlled road is prohibited where not required.



**Attachment 3—Advice to the applicant**

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<b>Road works approval</b>	
1.	<p>Under section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads to carry out road works on a state-controlled road. Please contact the Department of Transport and Main Roads' on <a href="mailto:cwppcm@tmr.qld.gov.au">cwppcm@tmr.qld.gov.au</a> to make an application for road works approval. This approval must be obtained prior to commencing any works on the state-controlled road reserve. 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 of Transport and Main Roads' as soon as possible to ensure that gaining approval does not delay construction.</p>

Our ref TMR18-024343  
Your ref  
Enquiries Anton DeKlerk



Department of  
**Transport and Main Roads**

3 January 2019

Barcaldine Regional Council  
c/- Murray & Associates (Qld) Pty Ltd  
PO Box 665  
Emerald QLD 4720  
E: [andrewb@mursurv.com](mailto:andrewb@mursurv.com)

## 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 DA491718/20687, lodged with Barcaldine Regional Council involves constructing or changing a vehicular access between Lot Lots 2 and 90 on SP243965, the land the subject of the application and the Landsborough 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.

### 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 road access location is to be located generally in accordance with the Permitted Access Location Plan prepared by the Department of Transport and Main Roads dated 3 January 2019 and reference TMR18-024343.	At all times
2	Road access works, comprising a new property access at approximate chainage 0.68km LHS (latitude -23.551682°, longitude 145.277435°) between Landsborough Highway and the subject site, must be provided generally in accordance with <i>Standard Drawing – Property Access Main Roads AADT &lt; 2000 vpd</i> prepared by Department of Transport and Main Roads dated 2/10/07, reference SP-01 and revision B	Construction of road access works must not commence until TMR has issued an 'Authority to Commence Works'.
3	Direct access is not permitted between Landsborough Highway (a state-controlled road) and the subject site (Lot 2 SP243965 and Lot 90SP243965) at any other location other than the permitted road access location described in Condition 2.	At all times
4	The road access works are to be constructed and maintained at no	At all times.

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

No.	Conditions of Approval	Condition Timing
	cost to the department in accordance with section 64(1) of the <i>Transport Infrastructure Act 1994</i> .	
5	The applicant shall be responsible for all maintenance works for the access in accordance with Module 9 of the Local Government Association of Queensland document 'TMR/Local Government Cost Sharing Arrangement', dated October 2017.	At all times.
6	The road access to the subject site (Lot 2 SP243965 and Lot 90SP243965) shall be used for the purpose of the approved use of the site, being a Outdoor Recreation (Water Ski Park and BMX Track).	At all times.
7	All vehicles entering or exiting the property via the permitted access must travel in a forward direction only.	At all times.

### Reasons for the decision

The reasons for this decision are as follows:

- a) To maintain the safety and efficiency of the state-controlled road.

Please refer to **Attachment A** for the findings on material questions of fact and the evidence or other material on which those findings were based.

### Information about the Decision required to be given under section 67(2) of TIA

1. There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
2. In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for information.

### Further information about the decision

1. In accordance with section 67(7) of TIA, this decision notice:
  - a) starts to have effect when the development approval has effect; and
  - b) stops having effect if the development approval lapses or is cancelled; and
  - c) replaces any earlier decision made under section 62(1) in relation to the land.
2. In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply for a review of this decision only within 28 days after notice of the decision was given under the TIA. A copy of the review provisions under TIA and TPCA are attached in **Attachment C** for information.
3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

### Further approvals

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

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.

If further information about this approval or any other related query is required, Mr Anton DeKlerk, Principal Town Planner should be contacted by email at [FitzroyDistrict@tmr.qld.gov.au](mailto:FitzroyDistrict@tmr.qld.gov.au) or on (07) 4931 1545.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Anton DeKlerk', written over a horizontal line.

Anton DeKlerk  
**Principal Town Planner**

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 E - Standard Property Access Drawing - SP-01

## Attachment A

### Decision Evidence and Findings

Findings on material questions of fact:

- The proposal is for a Material Change of Use for an Outdoor Recreation (water ski park and bmx track) on land described as Lots 2 and 90 on SP243965, situated at Landsborough Highway, Barcaldine (on the western fringe of the Barcaldine township).
- Access to the site is currently gained via an unsealed gravel track (known as Water Road) at approximate chainage 0.68 km (LHS) on Landsborough Highway.
- It was confirmed that the proposal will use the existing access location. No new access from Landsborough Highway is being proposed (despite what the current proposal plans indicate).
- This section of the Landsborough Highway (Road ID 13E) connects Barcaldine to Longreach. It is a two-way two-lane sealed road with a posted speed limit of 100km/h in the vicinity of the development. The road is currently constructed with 2/3.0m wide traffic lanes and 2/1.0m wide sealed shoulders.
- This section of the Landsborough Highway currently carries approximately 607 vehicles per day (vpd) (2017).
- The Department has no objection to the proposed access, and recommends that the following be conditioned:
  - The Permitted Road Access Location to be at approximate chainage 0.68km LHS (latitude -23.551682°, longitude 145.277435°); and
  - Access to be constructed in accordance with SP-01.

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>
Planning Report	Murray & Associates	March 2018	E61271	-
General Layout, Typical Section and Details	Murray & Associates	28 March 2018	160158-1/01	P4
Preliminary Ski Park Design - Barcaldine	SMK Consultants	9 February 2018	17-412	-

**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.