



Queensland Treasury

SARA reference: 2009-18657 SRA
 Council reference: DA092021
 Applicant reference: 20314

1 December 2020

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

Attention: Mr Brett Walsh

Dear Mr Walsh

SARA response—5 Box Street, Barcaldine, 112 Ash Street, Barcaldine, 113 Ash Street, Barcaldine, and 106 Elm Street, Barcaldine

(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 2 November 2020.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	1 December 2020
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	Material change of use - Visitor Accommodation (Five (5) additional cabins and seven (7) caravan parking sites)
SARA role:	Referral Agency.	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 (Planning Regulation 2017)	

	Development application for a material change of use within 25m of a State transport corridor.
SARA reference:	2009-18657 SRA
Assessment Manager:	Barcaldine Regional Council
Street address:	5 Box Street, Barcaldine, 112 Ash Street, Barcaldine, 113 Ash Street, Barcaldine, and 106 Elm Street, Barcaldine
Real property description:	Lot 1 on RP603055, Lot 2 on RP603055, Lot 3 on RP603055, Lot 4 on RP 603055, Lot 802 on RY184 and Lot 809 on RY184
Applicant name:	Carolyn Madders
Applicant contact details:	c/- Gatley Building Design PO Box 1530 BUNDABERG QLD 4670 admin@gatleybuildingdesign.com.au
State-controlled road access permit:	This referral included an application for a road access location, under section 62A(2) of <i>Transport Infrastructure Act 1994</i> . Below are the details of the decision: <ul style="list-style-type: none"> • Approved • Reference: TMR20-030987 • Date: 23 November 2020 <p>If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at barcaldine.office@tmr.qld.gov.au or (07) 4651 2777.</p>

Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (section 30 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 Madison Harper-McErlean, Planning Officer, on (07) 4898 6812 or via email MIWSARA@dsmip.qld.gov.au who will be pleased to assist.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Patrick Ruettjes', written in a cursive style.

Patrick Ruettjes
Manager (Planning)
Mackay Isaac Whitsunday Regional Office

cc Carolyn Madders, admin@gatleybuildingdesign.com.au

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations provisions
Attachment 5 - Referral plans and specifications

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 plans and specifications referenced below are found at Attachment 5.)

No.	Conditions	Condition timing
Material change of use		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 —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 condition(s):		
1.	<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) surcharge any existing culvert or drain on the State-controlled road; (iv) reduce the quality of stormwater discharge onto the State-controlled road. 	<p>(a) At all times.</p> <p>(b) At all times.</p>
2.	<p>(a) The road access locations are to be located generally in accordance with Context Plan, prepared by Gatley Building Design, dated 19 October 2020, reference 20314-13 and revision B.</p> <p>(b) Road access works comprising a vehicle crossover, (at road access location into Lot 3 on RP603055) must be provided generally in accordance with Context Plan, prepared by Gatley Building Design, dated 19 October 2020, reference 20314-13 and revision B.</p> <p>(c) The road access works must be designed and constructed in accordance with Barcaldine Regional Council Planning Scheme Standard Drawing 1: Roadworks – Residential Property Access, Concrete Invert Crossing.</p>	<p>(a) At all times.</p> <p>(b) and (c): Prior to the commencement of use.</p>
3.	<p>A gate must be installed generally in the location shown on the Site Plan, prepared by Gatley Building Design, dated 19/10/2020, reference 20314-01, and revision B, to limit vehicular access through the site.</p> <p>The gate must be operated in accordance with the following:</p> <ul style="list-style-type: none"> (a) Once the caravan is uncoupled from the tow vehicle, the vehicle will enter and leave the site via the Elm Street Access only. (b) On departure, the van and tow vehicle will leave the site via the Elm Street Driveway. (c) When all caravan parks are full, the gate to the Box Street access will be closed and will remain this way until a site becomes available. (d) Signage will be included to direct people to the reception for 	At all times.

	information.	
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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) [v2.6]. 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 SARA's decision are:

- Assessment of the proposed development identified that the potential impacts on the State transport corridor can be suitably managed through conditions.
- The proposed development complies with the relevant provisions of the State Development Assessment Provisions, State code 1: Development in a State-controlled road environment.

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version 2.6), as published by SARA
- The Development Assessment Rules
- SARA DA Mapping system

Attachment 4—Change representation provisions

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Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules¹ regarding **representations about a referral agency response**

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

Part 7: Miscellaneous

30 Representations about a referral agency response

30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

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

Attachment 5—Referral plans and specifications


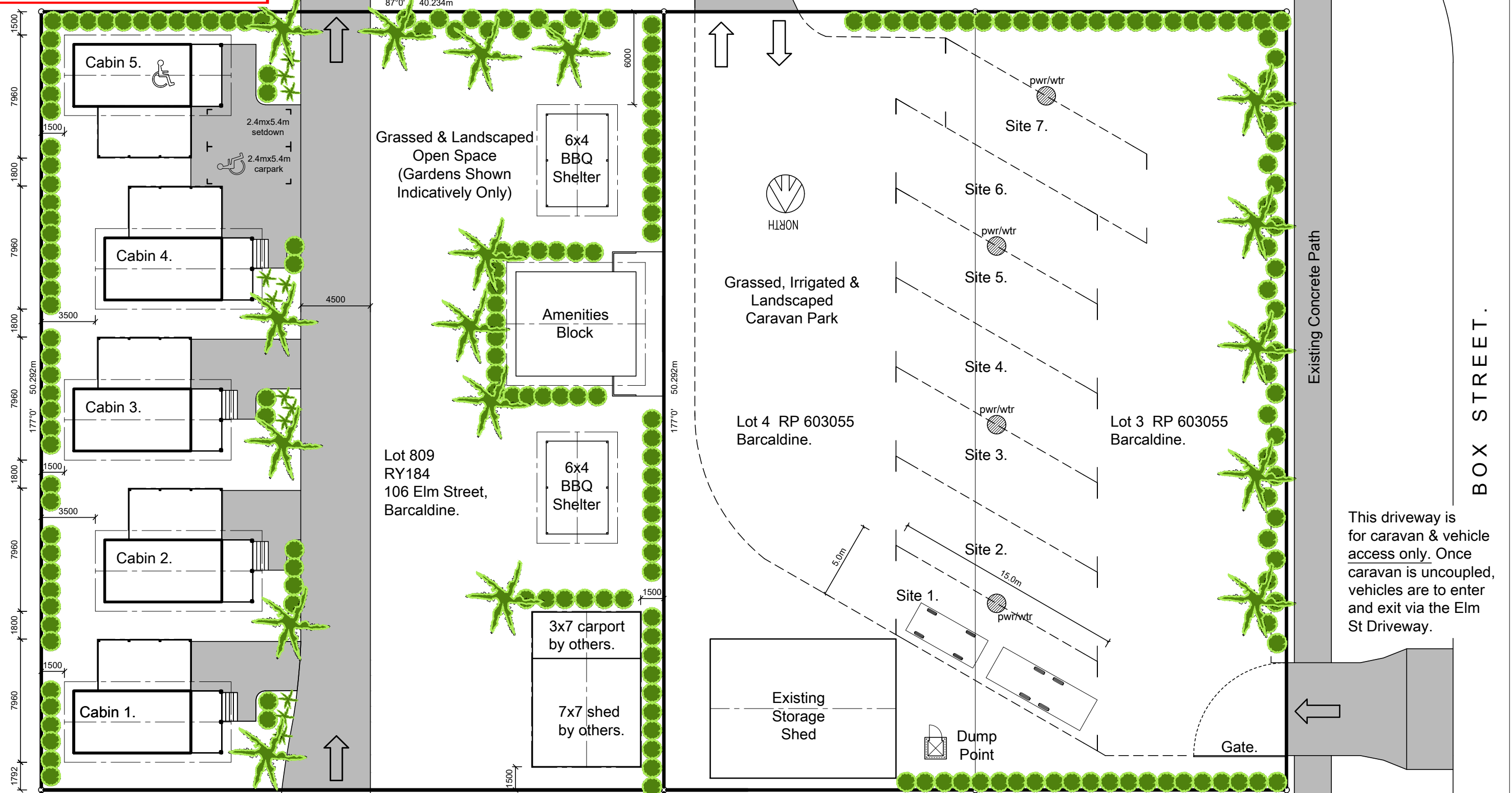
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Rev	Description	Date
A	Inclusion of Lots 3 & 4	30/09/20
B	Inclusion of additional turning paths	19/10/20


PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE

SARA ref: 2009-18657 SRA

Date: 1 December 2020

SITE PLAN
scale 1:200 @A3




Q.B.C.C. No: 1010905
P.O. Box 1530
Bundaberg Q. 4670
Ph: (07) 41531183
Email: admin@gatleybuildingdesign.com.au
Web: www.gatleybuildingdesign.com.au

Site: Barcaldine Country Motor Inn
106 Elm Street, Barcaldine
Lot 809 RY 184
Project: New Holiday Cabins
Client: D. & C. Madders
Description: Site Plan

Issue: **Preliminary - Not For Construction**
Scale at A3: 1:250 Date: 18/05/20
Design: M.J. Drawn: M.J. Approved:
Drawing No: **20314-01**



Rev	Description	Date
A	Inclusion of Lots 3 & 4	30/09/20
B	Inclusion of additional turning paths	19/10/20



 **CONTEXT PLAN**
scale 1:500 @A3

PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE



SARA ref: 2009-18657 SRA
Date: 1 December 2020



Q.B.C.C. No: 1010905
P.O. Box 1530
Bundaberg Q. 4670
Ph: (07) 41531183

Email: admin@gatleybuildingdesign.com.au
Web: www.gatleybuildingdesign.com.au

Site: Barcaldine Country Motor Inn
106 Elm Street, Barcaldine
Lot 809 RY 184

Project: New Holiday Cabins
Client: D. & C. Madders

Description: Context Plan

Issue: **Preliminary - Not For Construction**

Scale at A3: 1:500 Date: 18/05/20

Design: M.J. Drawn: M.J. Approved: .

Drawing No: **20314-13**

Our ref TMR20-030987
Your ref
Enquiries Jason Giddy

Department of
Transport and Main Roads

23 November 2020

Carolyn Madders
Gatley Building Design
PO Box 1530
Bundaberg QLD 4670

Dear Carolyn

**Decision Notice – Permitted Road Access Location
and
Conditional Approval of Road Access Works
(section 62(1) and section 33(1) *Transport Infrastructure Act 1994*)**

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

Development application reference number DA092021, lodged with Barcaldine Regional Council involves constructing or changing a vehicular access between Lot 1 RP603055 and Lot 3 RP603055, the land the subject of the application, and 13D Landsborough Highway (Blackall - Barcaldine) (a state-controlled road).

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

The department has also issued the section 33 road works decision to facilitate the road access works as sufficient information is available to make this decision as part of the development application.

Applicant Details

Name and address	Carolyn Madders c/- Gatley Building Design PO Box 1530 Bundaberg QLD 4760
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Application Details

Address of Property	5 Box Street, Barcaldine
Real Property Description	Lot 1 on RP603055, Lot 2 on RP603055, Lot 802 on RY184 and Lot 809 on RY184

¹ Please refer to the information about the decision under the heading 'Information about the approval given under s33(1) of the TIA'

Aspect/s of Development Development Permit for a Material Change of Use (Visitor Accommodation)

Permitted Road Access Location 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
Road Access Location		
1	<p>The permitted road access locations are to be located in accordance with Context Plan prepared by Gatley Building Design, dated 30 September 2020, reference 20314-13, revision B.</p> <p>Note: The accesses are located at approximate chainages 105.982km (existing) and 105.949km (new).</p>	At all times.
2	Road access works comprising access crossover must be provided at the new road access location, generally in accordance with Barcaldine Regional Council Planning Scheme Standard Drawing 1: Roadworks – Residential Property Access, Concrete Invert Crossing.	Construction of road access works must not commence until TMR has issued an 'Authority to Commence Works'.
3	Direct access is prohibited between 13D Landsborough Highway (Blackall - Barcaldine), and Lot 1 RP603055 and Lot 3 RP603055 at any other location other than the permitted road access location described in Condition 1.	At all times.
4	The road access is to be constructed and maintained at no cost to the department in accordance with section 64(a) & (b) of the <i>Transport Infrastructure Act 1994</i> .	At all times.
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	All vehicles entering or exiting the property via the permitted access must travel in a forward direction only.	At all times.
7	Reasonable steps are taken to ensure that the permitted road access is used by others in accordance with these conditions.	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, you are bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for your information.

Approval of road access works (given under (section 33(1) of TIA)

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

Road Access Works		
1	Road works must be constructed and maintained in accordance with Barcaldine Regional Council Planning Scheme Standard Drawing 1: Roadworks – Residential Property Access, Concrete Invert Crossing.	At all times.
2	The works must be constructed in accordance with the Department of Transport and Main Roads’ Standard Specifications Roads and Standard Drawings.	At all times.
3	The road works are to be constructed at no cost to the department.	At all times.
4	<p>The district must be contacted at least ten (10) business days prior to commencement of construction to arrange and have a pre-start meeting. No work is to commence in the road corridor until after the pre-start meeting and an Authority to Commence Works has been issued by the department.</p> <p>Central West District can be contacted via barcaldine.office@tmr.qld.gov.au or (07) 4651 2777.</p>	At least ten (10) business days prior to construction.
5	<p>The following items are required to be submitted and approved by the department prior to the pre-start meeting:</p> <ul style="list-style-type: none"> • Details of your Contractor – the attached form about the nominated contractor is to be completed and returned to the department. The applicant must demonstrate to the department the nominated contractor has sufficient expertise to carry out the proposed work and holds a current public liability insurance policy in the amount of not less than \$20 million that notes the department’s interest on the policy; • A Construction Workplace Plan including a Traffic Management Plan(s) (including Traffic Guidance Schemes) in accordance with department’s Manual of Uniform Traffic Control Devices (2003), Part 3 – Works on Roads; 	At least five (5) business days prior to the pre-start meeting.

	<ul style="list-style-type: none"> • The Traffic Management Plan must be submitted from a registered Traffic Control Company. A list of Traffic Control companies registered with the department can be accessed via the attached link: http://www.tmr.qld.gov.au/business-industry/Accreditations/Traffic-Management-Registration-Scheme.aspx; • Technical Specification Annexures; • Deed of Indemnity from the Principal Contractor (see attached); • Erosion and Sediment Control Plan (to be verified by the department's representative); • Quality Plan including the Inspection and Testing Plan (ITP), which must be verified by the department's representative and accepted. • Inspection and Testing Plan (ITP): • Cost estimate of works (for Security Bond determination value). 	
6	Works must be carried out by a competent Contractor (prequalified or otherwise) experienced in executing works of a similar nature to the works proposed and who is acceptable to the department.	At all times.
7	Carrying out of works in the State-controlled road reserve must not be undertaken outside of normal working hours. All works must be undertaken during daylight hours.	At all times.
8	Copies of the stamped approved plans must be kept on site at all times and be available for sighting by the department's representative. Under no circumstances will construction be in accordance with any other plans without the express written consent of the department.	At all times.
9	The applicant is required to rectify at no cost to the department or bear the cost of repairing any damage to the existing road infrastructure caused by the construction work or any breach of Workplace Health and Safety Requirements.	At all times.
10	The road works required to satisfy these conditions must be completed within 12 months from the date of this letter, otherwise this approval will lapse.	At all times.

Important information for applicants

This approval does not authorise you to commence road works. Prior to any road works being undertaken within the boundary of the state-controlled road, the department must have issued you with an authority to commence works. The authority to commence works will not be issued until all the requirements of the above conditions have been fulfilled.

If any variations from the approved road works are required, further written approval from the department must first be obtained.

You should also be aware that you may have other statutory obligations. This conditional approval is for the TIA only.

Further information

This decision about access replaces any earlier decision made under section 62(1) of the TIA in relation to the land.

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 is attached in **Attachment C** for your information.

In accordance with sections 485A and 485B of the TIA and section 35 of TPCA you may appeal against a reviewed decision. You must have applied to have the decision reviewed before an appeal about the decision can be lodged in the relevant court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for your information.

This document must be retained as evidence of the road works approval.

If you would like to discuss this application, please contact Jason Giddy, Town Planner by email at Jason.B.Giddy@tmr.qld.gov.au or on (07) 4931 1686.

Yours sincerely



Dale Bowden

Manager (Project Planning & Corridor Management)

Attachments: Attachment A - Decision evidence and findings
Attachment B - Section 70 of TIA
Attachment C - Appeal Provisions

Attachment A

Decision Evidence and Findings

Findings on material questions of fact:

- The department was referred a material change of use application for visitor accommodation in accordance with the provisions of the *Planning Regulation 2017*.
- The application included a proposed new access at chainage 105.949km on 13D Landsborough Highway.
- In accordance with section 62(A) of the *Transport Infrastructure Act 1994* (TIA), a proposal for a new or changed access within a planning application is taken to be an application for a permitted access location under section 62 of the TIA.

Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version/Issue
Planning Report	Gatley Building Design	N/A	20314	N/A
Context Plan	Gatley Building Design	30/09/2020	20314-13	B

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.

485A External review of decisions

- (1) This section applies in relation to an original decision if QCAT 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 chief executive must give the applicant a QCAT information notice for the reviewed decision.
- (3) The applicant may apply, as provided under the QCAT Act, to QCAT for a review of the reviewed decision.

Note—

The QCAT Act, section 22(3) provides that QCAT may stay the operation of the reviewed decision, either on application by a person or on its own initiative.

- (4) 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.

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.

....

- (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.