

Our reference: 1712-2900 SRA  
Your reference: D/136-2017  
Applicant reference: 1714

17 January 2018

The Chief Executive Officer  
Rockhampton Regional Council  
PO Box 1860  
Rockhampton QLD 4700  
enquiries@rrc.qld.gov.au

Attention: Amy Johnson

Dear Sir/Madam,

**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 December 2017.

**Applicant details**

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Applicant name: Diawyn Pty Ltd  
Applicant contact details: PO Box 450  
Rockhampton QLD 4700  
gg@gideontownplanning.com.au

**Location details**

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Street address: 9 Kelly Road, Gracemere  
Real property description: Lot 2 on RP885689  
Local government area: Rockhampton Regional Council

**Application details**

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Development permit Reconfiguring a lot for one (1) lot into two (2) lots subdivision

## Referral triggers

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

- 10.9.4.2.1.1 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 assessment manager

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

## Approved 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: Reconfiguring a lot (1 lot into 2 lots subdivision)</b>				
Site Plan	Design + Architecture	22 November 2017	GG-011	2

A copy of this response has been sent to the applicant for their information.

For further information please contact Haidar Etemadi, Planning Officer, on (07) 4924 2915 or via email [RockhamptonSARA@dilgp.qld.gov.au](mailto:RockhamptonSARA@dilgp.qld.gov.au) who will be pleased to assist.

Yours sincerely



Patrick Ruettjes  
Manager (Planning), Mackay Isaac Whitsunday Regional Office

cc Diawyn Pty Ltd, [gg@gideontownplanning.com.au](mailto:gg@gideontownplanning.com.au)

enc Attachment 1—Conditions to be imposed  
Attachment 2—Reasons for decision to impose conditions  
Attachment 3—Advice to the assessment manager  
Approved plans and specifications

**Attachment 1—Conditions to be imposed**

No.	Conditions	Condition timing
<b>Reconfiguring a lot (1 lot into 2 lots subdivision)</b>		
State-controlled road—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Road 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 Site Plan, prepared by Design + Architecture, dated 22 November 2017 reference GG-011 and revision 2.</p> <p>(b) The road access works must be designed and constructed in accordance with Capricorn Municipal Development Guidelines Standard Drawing titled 'Access Along Bitumen Roads ADT &lt;300 VPD', reference CMDG-R-040, revision E.</p>	<p>(a) At all times.</p> <p>(b) Prior to submitting the Plan of Survey to the local government for approval.</p>
2.	Direct access is not permitted between the Capricorn Highway and Proposed Lot 1.	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;
- the design of any road access maintains the safety and efficiency of the state-controlled road; and
- 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 assessment manager

General advice	
1.	Please note that Hall Road is considered to be a State-Controlled Road (SCR) as it is a service road located within the boundaries of the SCR and therefore under the jurisdiction of the Department of Transport and Main Roads.
2.	<p>Under section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads (DTMR) to carry out road works, including road access works, on a 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).</p> <p>No works are to commence within the State-controlled road reserve until approval of the plan/s showing the proposed works is issued by the DTMR accordingly with section 33 of the <i>Transport Infrastructure Act 1994</i>. This approval will be subject to conditions related to the works construction process.</p> <p>Please contact the Department of Transport and Main Roads (Fitzroy District / Central Queensland Region) at <a href="mailto:FitzroyDistrict@tmr.qld.gov.au">FitzroyDistrict@tmr.qld.gov.au</a> or (07) 4931 1500 to make an application for works in the State-controlled road reserve (WSCRR).</p>

Our ref TMR17-023266  
Your ref  
Enquiries Jason Giddy



Department of  
**Transport and Main Roads**

4 January 2018

## **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 D/136-2017, lodged with Rockhampton Regional Council involves constructing or changing a vehicular access between Lot 2 on RP885689, the land the subject of the application and the Capricorn Highway (Rockhampton – Duarina) (a state-controlled road). The access is located off Hall Road, a service road within the boundaries of the state-controlled road and under the jurisdiction of the department.

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 Diawyn Pty Ltd  
c/- Gideon Town Planning PO Box 450  
Rockhampton QLD 4700

### **Application Details**

Address of Property 9 Kelly Road, Gracemere QLD 4702  
Real Property Description Lot 2 on RP885689  
Aspect/s of Development Reconfiguration of a Lot (1 into 2 lots)

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

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

No.	Conditions of Approval	Condition Timing
1	The Permitted Road Access Location is to be located in accordance with: a) Site Plan compiled by Design + Architecture dated 22 November 2017 reference GG-011 revision 2.  Note: In accordance with the above plan, the Permitted Access Location only applies to Proposed Lot 2. Proposed Lot 1 is to obtain access off Kelly Road, a Local Government Road.	At all times.
2	Direct access is not permitted between the Capricorn Highway and Proposed Lot 1.	At all times.

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

No.	Conditions of Approval	Condition Timing
	Note: This condition also applies to Hall Road as it is a service road located within the boundaries of the state-controlled road.	
3	Road Access Works must be provided at the Permitted Road Access Locations, generally in accordance with:  a) Capricorn Municipal Development Guidelines Standard Drawing titled 'Access Along Bitumen Roads ADT <300 VPD', reference CMDG-R-040, revision E.	Construction of road access works must not commence until TMR has issued an 'Authority to Commence Works'.
4	The road access works are to be constructed and maintained at no cost to the department in accordance with section 64(1) 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	Use of the Permitted Road Access Location shall be limited to a rural property (generally no more than ten (10) vehicle trips per day) and the occasional rigid body truck. A vehicle entering and exiting the property via the access would account for two (2) vehicle trips.	At all times.
7	All vehicles entering and/or exiting the property via the Permitted Road Access and the Capricorn Highway shall travel in a forward direction only.	At all times.
8	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, 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 Jason Giddy, A/Senior Planner should be contacted by email at [FitzroyDistrict@tmr.qld.gov.au](mailto:FitzroyDistrict@tmr.qld.gov.au) or on (07) 49 311 686.

Yours sincerely



Jason Giddy  
**A/Senior Planner**



Attachments: Attachment A - Decision evidence and findings  
Attachment B - Section 70 of TIA  
Attachment C - Appeal Provisions  
Attachment D - Site Plan compiled by Design + Architecture dated 22 November  
2017 reference GG-011 revision 2  
Attachment E - Capricorn Municipal Development Guidelines Standard Drawing titled  
'Access Along Bitumen Roads ADT <300 VPD', reference  
CMDG-R-040, revision E

## Attachment A

### Decision Evidence and Findings

Findings on material questions of fact:

- The submitted application material identifies an access point off Hall Road which is a service road within the state-controlled road corridor and therefore under the jurisdiction of the department. As noted in the revised Site Plan, the access off Hall Road is to be used for accessing Proposed Lot 2 via an access easement over Proposed Lot 1. Proposed Lot 1 obtains access off Kelly Road, a Local Government Road.
- In accordance with the requirements under State Development Assessment Provisions (SDAP) Performance Outcome 16, the department has imposed the applicable access standard to ensure this access does not create a safety hazard for road users or result in a worsening of operating conditions on a state-controlled road.

Evidence or other material on which findings were based:

- Planning Report by Gideon Town Planning, dated 6 November 2017, reference GTP\_1714, version final.
- Revised Site Plan by Design + Architecture, dated 22 november 2017, reference GG-011, version 2.
- State Development Assessment Provisions.
- Capricorn Municipal Development Guidelines.
- *Planning Act 2016*.
- *Transport Infrastructure Act 1994*.

## 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.

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

**Statement of reasons for application 1712-2900 SRA**

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

Departmental role: Referral agency

**Applicant details**

Applicant name: Diawyn Pty Ltd  
 Applicant contact details: PO Box 450  
 Rockhampton QLD 4700  
 gg@gideontownplanning.com.au

**Location details**

Street address: 9 Kelly Road, Gracemere  
 Real property description: Lot 2 on RP885689  
 Local government area: Rockhampton Regional Council

**Development details**

Development permit Reconfiguring a lot for one (1) lot into two (2) lots subdivision

**Assessment matters**

Aspect of development requiring code assessment	State Development Assessment Provisions, version 2.1 Applicable codes
Reconfiguring a lot	<ul style="list-style-type: none"> <li>State code 1: Development in a state-controlled road environment</li> </ul>

**Reasons for the department's response**

The reasons for the response are the proposed development:

- location and design of vehicular access to the state controlled road does not create a safety hazard for users of a state controlled road or result in a worsening of operating conditions on a state-controlled road; and
- complies with State code 1.

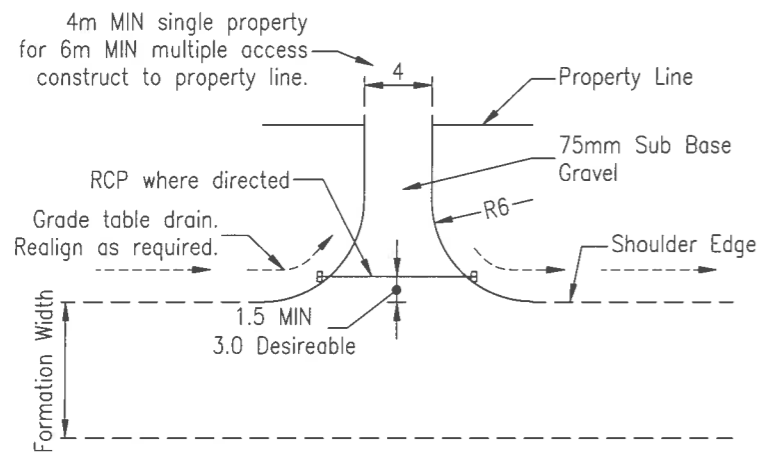
**Response:**

Nature of approval	Response details	Date of response
Development approval	Subject to conditions	17 January 2018



**Relevant material:**

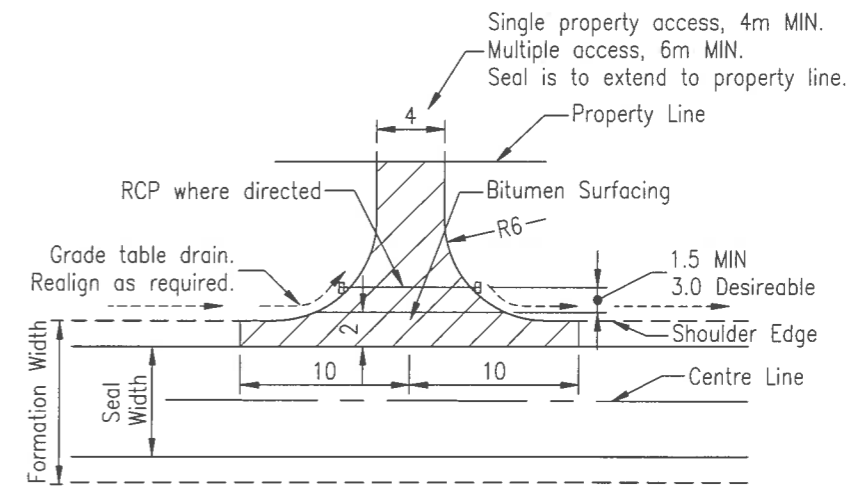
- Development application material
- Information request response
- *Planning Act 2016*
- Planning Regulation 2017
- Development Assessment Rules
- State Development Assessment Provisions



ACCESSES ALONG GRAVEL ROADS

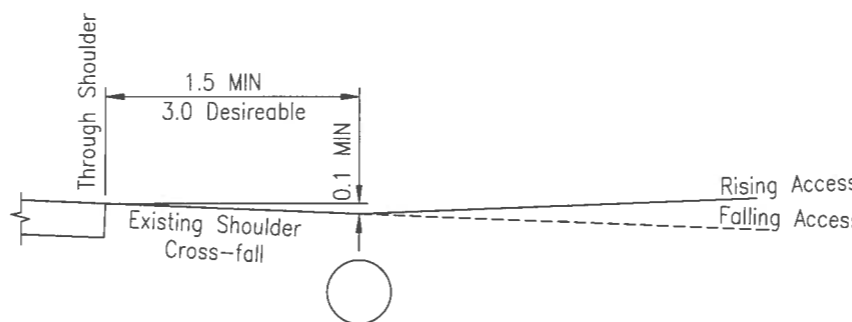
**NOTES:**

1. Where culvert is required, engineering advice to be sought on appropriate pipe size for proposed driveway location.
2. A road opening permit must be obtained from Council, seeking approval of location and levels prior to excavation or construction.
3. Main Roads Approval is required where access is required to a Declared Main Road.
4. Precast Endwalls/Wingwalls may be used. Precast sloping Headwalls to be used where culvert is  $\leq 2.0\text{m}$  from the shoulder edge of road.
5. Where appropriate, a suitably designed reinforced concrete invert for Vehicular access may be approved.
6. All dimensions in metres.
7. Guide posts to be provided in accordance with Manual of Uniform Traffic Control Devices Section 3.2.4.



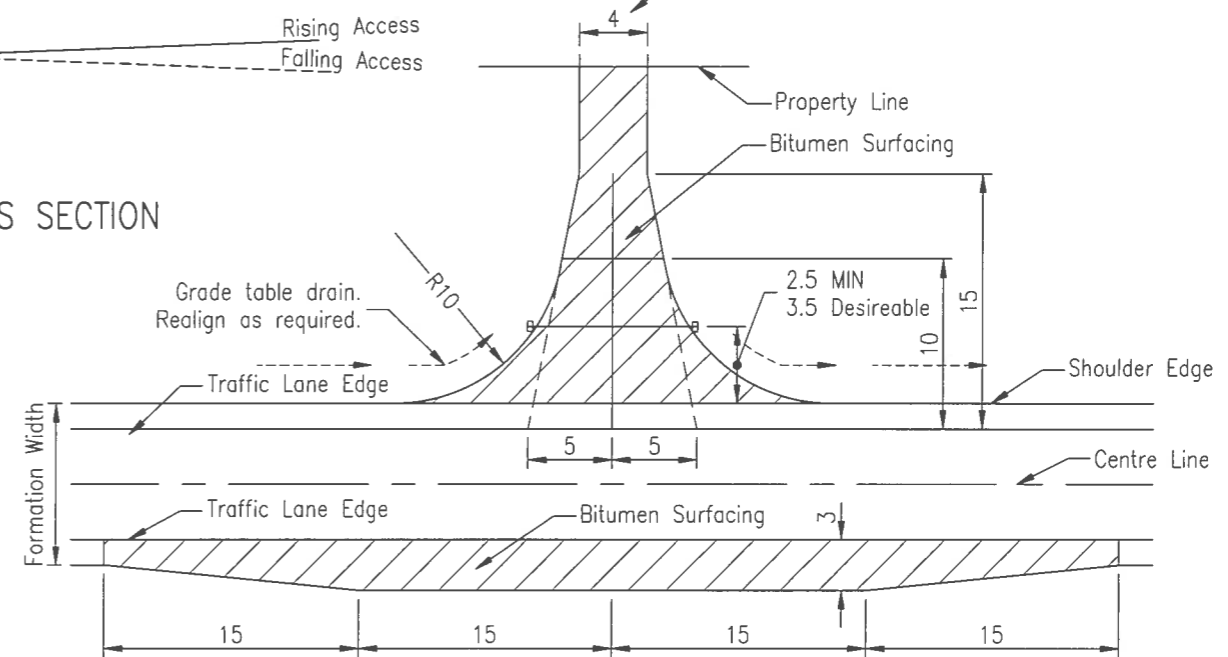
ACCESSES ALONG BITUMEN ROADS

ADT <300 VPD



TYPICAL ACCESS CROSS SECTION

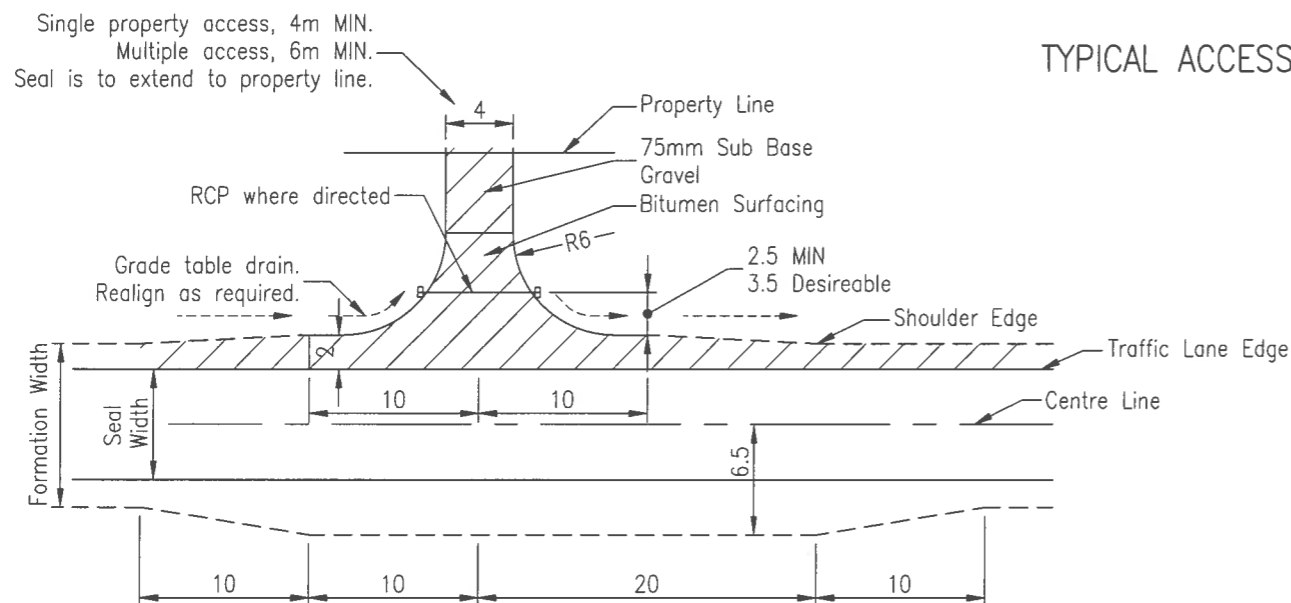
Single property access, 4m MIN. Multiple access, 6m MIN. Seal is to extend to property line.



ACCESSES ALONG ROADS

ADT >1000 VPD

(Refer also Main Roads Standards)



ACCESSES ALONG ROADS  
ADT >300 VPD but <999 VPD

**PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE**



SARA ref: 1712-2900 SRA  
Date: 17/01/2018

APPLICABILITY TABLE

Council	BSC	CHRC	GRC	IRC	LSC	MRC	RRC
Applicable	Yes	Yes	No	Yes	Yes	Yes	Yes
Applicable DWG	CMDG-R-040A						

REVISIONS	DATE
E IRC ADDED	12/2016
D GRC AND LSC ADDED	09/2014
C BITUMEN SURFACING & NOTE 7. AMENDED	03/2012
B MRC ADDED	04/2011
A POST AMALGAMATION REVIEW	01/2010

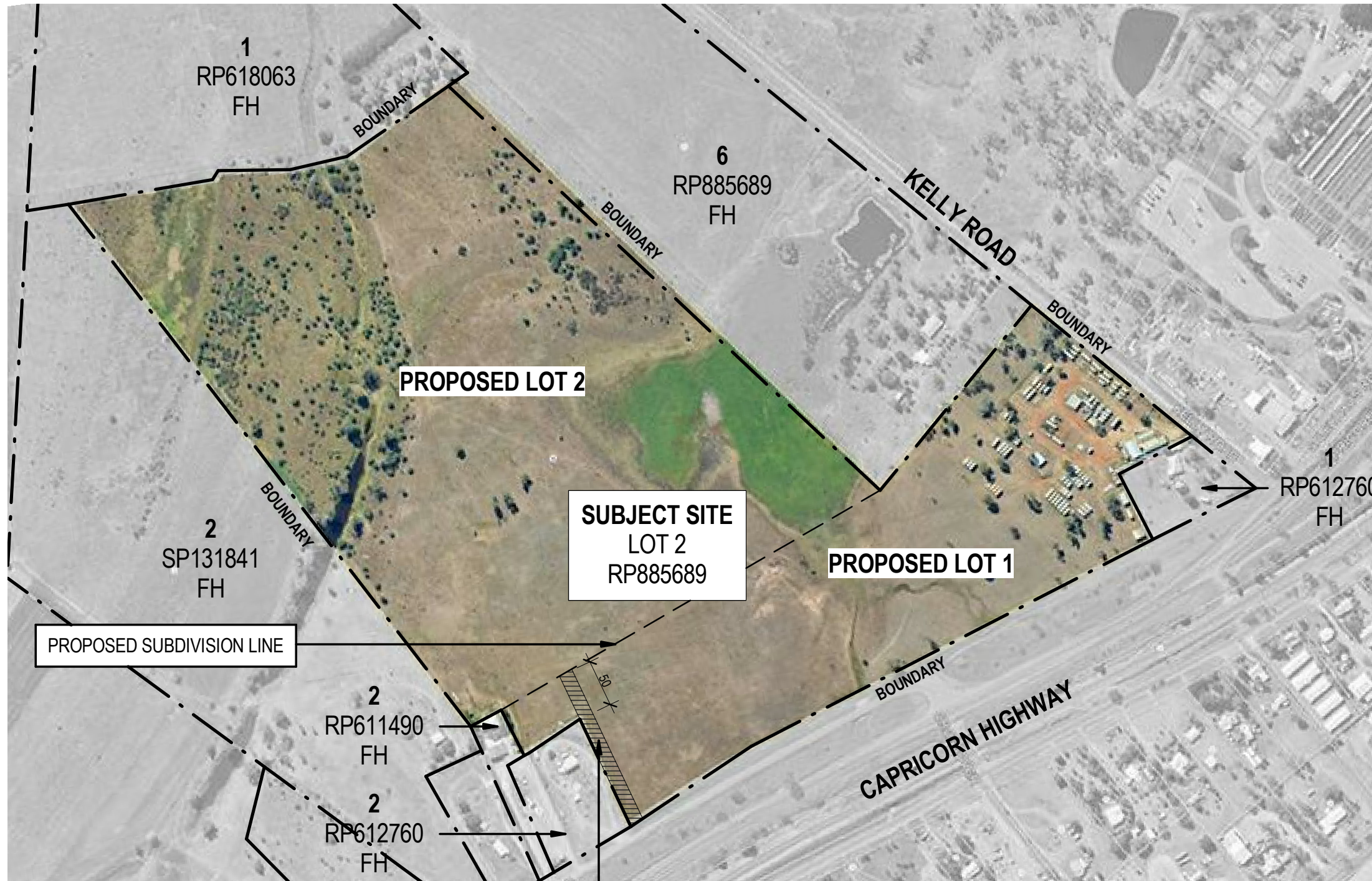
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**Capricorn Municipal Development Guidelines**

Incorporating:  
Banana Shire Council (BSC) Livingstone Shire Council (LSC)  
Central Highlands Regional Council (CHRC) Maranoa Regional Council (MRC)  
Gladstone Regional Council (GRC) Rockhampton Regional Council (RRC)  
Isaac Regional Council (IRC)

RURAL ROAD ACCESS AND PROPERTY ACCESS OVER TABLE DRAINS

ROADS
STANDARD DRAWING
CMDG-R-040
REV.   A   B   C   D   E



**AREA SCHEDULE**  
LOT 2 ON RP885689

OVERALL SITE: 41.53 HA

**PROPOSED**  
PROPOSED LOT 1 13.412 HA  
PROPOSED LOT 2 28.125 HA


PROPOSED SUBDIVISION LINE

PROPOSED 15m WIDE EASEMENT  
(ACCESS TO PROPOSED LOT 2)

**PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE**

SARA ref: 1712-2900 SRA

Date: 17/01/2018



**GENERAL NOTE:**

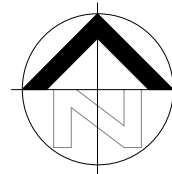
- THESE DRAWINGS ARE PART OF A TOWN PLANNING APPROVAL APPLICATION TO THE LOCAL COUNCIL AND SHOULD NOT BE USED FOR ANY OTHER REASON
- CURRENT LOCATIONS AND BOUNDARY LINE ARE APPROXIMATE, RELEVANT SURVEY TO BE CONDUCTED BEFORE ANY DOCUMENTATION OR CONSTRUCTION
- REFER TO TOWNPLANNING APPLICATION AND OPERATIONAL WORKS DOCUMENTATION WHEN VIEWING THESE PLANS

**INDICATIVE CONCEPT**



drawing title:  
**SITE PLAN**

drawing no: **SK-001**



project: PROPOSED SUBDIVISION	<b>A3 DRAWING</b> NOTED SCALES RELATE TO A3 DRAWINGS
location: 9 KELLY ROAD, GRACEMERE, QUEENSLAND, AUSTRALIA LOT 2/RP885689	client:

REVISION	DESCRIPTION	DATE
1	PRELIMINARY	17-11-07
2	PRELIMINARY	17-11-22

**PRELIMINARY SKETCH PLANS:**  
If the drawings are labelled and issued 'preliminary', below, they are not suitable for Building Application, tender or construction purposes!  
The intent of preliminary sketch plans are only for presenting the concept for the specific project to the client as nominated in the title sheet.

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044 968 2924 design@designna.com.au  
www.designna.com.au reg no:4610

ISSUED FOR <b>PRELIMINARY</b>		
project no: <b>GG-011</b>	scale 1 : 5000 date NOV 17 drawn CC	rev <b>2</b>