

SARA reference: 2304-34270 SRA Council reference: D/39-2023 Applicant reference: -

29 May 2023

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

Dear Sir/Madam

# SARA referral agency response—8 Kiln Court, Parkhurst

(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 28 April 2023.

## Response

Outcome:	Referral agency response – with conditions
Date of response:	29 May 2023
Conditions:	The conditions in <b>Attachment 1</b> 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 for a medium impact industry (Metal Fabrication Facility)	
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		
		Fitzroy/Central regional office	

	railway corridor
SARA reference:	2304-34270 SRA
Assessment manager:	Rockhampton Regional Council
Street address:	8 Kiln Court, Parkhurst
Real property description:	Lot 11 on SP326319
Applicant name:	CASA Engineering (Brisbane) Pty Ltd
Applicant contact details:	c/- Tony Hough Unit 1, 1027 Manly Road Tingalpa QLD 4173 tonyh@bartleyburns.com.au
Human Rights Act 2019 considerations:	A consideration of the 23 fundamental human rights protected under the <i>Human Right Act 2019</i> has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.

## Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules). Copies of the relevant provisions are in **Attachment 4**.

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

For further information please contact Thomas Gardiner, Principal Planning Officer, on 0749242916 or via email RockhamptonSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely

Anthony Walsh Manager Planning

cc CASA Engineering (Brisbane) Pty Ltd, tonyh@bartleyburns.com.au

enc Attachment 1 - Referral agency conditions Attachment 2 - Advice to the applicant Attachment 3 - Reasons for referral agency response Attachment 4 - Representations about a referral agency response provisions Attachment 5 - Documents referenced in conditions

## Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the documents referenced below are found at Attachment 5)

No.	Conditions	Condition timing		
Mater	Material change of use			
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 – Material change of use within 25m of a railway corridor —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.	Fencing must be provided along the site boundary with the railway corridor in accordance with 1.8m High Chain Link Security Fence Without Rails Using 50mm Diamond Mesh General Arrangement, prepared by Queensland Rail, dated 25.08.15, reference QR-C- S3230, no revision.	Prior to the commencement of use and to be maintained at all times.		
2.	Stormwater management of the development must not cause worsening to the operating performance of the railway corridor, such that any works on the land must not:	At all times.		
	<ul> <li>(a) create any new discharge points for stormwater runoff onto the railway corridor.</li> </ul>			
	(b) concentrate or increase the velocity of flows to the railway corridor.			
	(c) interfere with and/or cause damage to the existing stormwater drainage on the railway corridor.			
	<ul> <li>(d) surcharge any existing culvert or drain on the railway corridor.</li> </ul>			
	(e) reduce the quality of stormwater discharge onto the railway corridor.			
	(f) impede or interfere with any overland flow or hydraulic conveyance from the railway corridor.			
	(g) reduce the floodplain immunity of the railway corridor.			

# Attachment 2—Advice to the applicant

General advice		
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> , its regulation or the State Development Assessment Provisions (SDAP) (version 3.0). If a word remains undefined it has its ordinary meaning.	
2.	Pursuant to section 255 of the <i>Transport Infrastructure Act 1994</i> , the railway manager's written approval is required to carry out works in or on a railway corridor or otherwise interfere with the railway or its operations.	
	The applicant should also contact the railway manager prior to the installation of any fencing along the site boundary with the railway corridor. Any interference with stormwater in relation to the railway corridor may require approval from the railway manager.	
	Please be advised that this concurrence agency response does not constitute an approval under section 255 of the <i>Transport Infrastructure Act 1994</i> and that such approvals need to be separately obtained from the relevant railway manager.	

## Attachment 3—Reasons for referral agency response

(Given under section 56(7) of the Planning Act 2016)

#### The reasons for the SARA's decision are:

- The development is a material change of use for a medium impact industry located at 8 Kiln Court, Parkhurst, described as Lot 11 on SP326319.
- The assessment benchmark which is relevant to SARA's assessment is State Development Assessment Provisions (SDAP) State code 2: Development in a railway environment (State code 2).
- The development is considered to comply with the assessment benchmark, subject to conditions which:
  - requires fencing to be provided along the site boundary with the railway corridor to prevent unauthorised access and to protect impacts on the transport corridor.
  - requires stormwater management of the development to not worsen the operating performance of the adjoining railway corridor.

#### Material used in the assessment of the application:

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

# Attachment 4—Representations about a referral agency response provisions

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# Attachment 5—Documents referenced in conditions

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# Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules<sup>1</sup> 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.<sup>2</sup>
- 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.

<sup>&</sup>lt;sup>1</sup> Pursuant to Section 68 of the *Planning Act 2016* 

<sup>&</sup>lt;sup>2</sup> 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.<sup>3</sup>

<sup>&</sup>lt;sup>3</sup> 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.

