

SARA reference: 1811-8443 SRA
Council reference: MCU18/0311
Applicant reference: 180208

24 February 2020

Chief Executive Officer
Sunshine Coast Regional Council
Locked Bag 72
SUNSHINE COAST MAIL CENTRE QLD 4560
mail@sunshinecoast.qld.gov.au

Attention: Jeff Dodd

Dear Mr Dodd

SARA response—2312 Steve Irwin Way, Landsborough

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the Department of State Development, Manufacturing, Infrastructure and Planning on 16 November 2018.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	24 February 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 to establish animal keeping
SARA role:	Referral agency	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017): Development application for a material change of use within 25 metres of a state-controlled road.	

SARA reference: 1811-8443 SRA

Assessment Manager: Sunshine Coast Regional Council

Street address: 2312 Steve Irwin Way, Landsborough

Real property description: Lot 2 on RP180434

Applicant name: Diamond Valley Kennels Pty Ltd C/- Adams + Sparkes Town Planning

Applicant contact details: PO Box 1000
BUDDINA QLD 4575
admin@astpd.com.au

State-controlled road access permit: This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved
- Reference: TMR18-026071
- Date: 20 February 2020

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at North.Coast.IDAS@tmr.qld.gov.au.

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 Jamaica Hewston, Principal Planning Officer, on 5352 9718 or via email SEQNorthSARA@dsgmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Garth Nolan
Manager (Planning)

cc Diamond Valley Kennels Pty Ltd, aspen@astpd.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 - Approved 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		
10.9.4.2.4.1 - 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 conditions:		
1.	<ul style="list-style-type: none"> (a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road. (b) Any works on the land must not: <ul style="list-style-type: none"> (i) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road (ii) surcharge any existing culvert or drain on the state-controlled road (iii) reduce the quality of stormwater discharge onto the state-controlled road. (c) RPEQ certification with supporting documentation must be provided to the North Coast District Development Assessment Team, via North.Coast.IDAS@tmr.qld.gov.au within the Department of Transport and Main Roads, confirming that the development has been designed and constructed in accordance with parts (a) and (b) of this condition. 	<ul style="list-style-type: none"> (a) At all times. (b) At all times. (c) Prior to the commencement of use.
2.	The development staging must be carried out generally in accordance with the Part Site Plan, prepared by Jim Moehead, drawing number 180606-SK1, dated 11/12/19, revision B.	Prior to the commencement of use of each stage and to be maintained at all times.
3.	Stage 1 access: <ul style="list-style-type: none"> (a) The road access location is to be between Lot 2 RP180434 and Steve Irwin Way generally in the location of the existing road access location. (b) The existing road access works comprising a rural driveway with auxiliary right and left turn treatments must be provided at the road access location. (c) The road access works must be maintained in accordance with RS-056 Institute of Public Works Engineering Australia Standard Drawings (IPWEA) and the Department of Transport and Main Roads' Road Planning and Design Manual. 	(a) – (c) Prior to the commencement of use for Stage 1 of the development and to be maintained at all times.

4.	<p>Stage 2 access:</p> <ul style="list-style-type: none"> (a) The road access location is to be between Lot 2 RP180434 and Steve Irwin Way generally in the location of the existing road access location. (b) Road access works comprising a rural driveway with channelised right turn treatment and an auxiliary left turn treatment extended to a length of 175m inclusive of taper must be provided at the road access location. (c) The existing access for Lot 1 on RP110299 on Steve Irwin Way to the Ewen Maddock Wetlands must be retained to at least an auxiliary right and left turn treatment standard when the road access works in (b) are designed and constructed. (d) The road access works must be designed and constructed in accordance with RS-056 Institute of Public Works Engineering Australia Standard Drawings (IPWEA) and the Department of Transport and Main Roads' Road Planning and Design Manual. 	<p>(a) – (d) Prior to the commencement of use for Stage 2 of the development and to be maintained at all times.</p>
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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 <i>State Development Assessment Provisions (SDAP) v2.3</i> . If a word remains undefined it has its ordinary meaning.
2.	Road works approval: 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 North.Coast.IDAS@tmr.qld.gov.au 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 delays in construction.

Attachment 3—Reasons for referral agency response

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

The reasons for the department's decision are:

- The development application seeks a material change of use to establish an animal keeping facility for the breeding and boarding of dogs, and a cattery.
- The animal keeping facility is proposed to be constructed in two stages, stage one is for the breeding facility (40 pens and 60 dogs maximum) and stage two would be for the boarding facility and cattery.
- The proposed facility gains access from Steve Irwin Way, a state-controlled road, and therefore the application was referred to SARA for assessment against State code 1: Development in a state-controlled road environment of the *State Development Assessment Provisions* (version 2.3).
- The attached referral agency conditions will ensure the application complies with State code 1, specifically:
 - o to ensure that the impacts of stormwater events associated with development are minimised and managed to avoid creating any adverse impacts on the state-transport corridor
 - o to ensure that the design and location of the vehicular access to the state-controlled road does not create a safety hazard to users or worsen operating conditions on the state-controlled road.

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 2.3), as published by the department
- 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

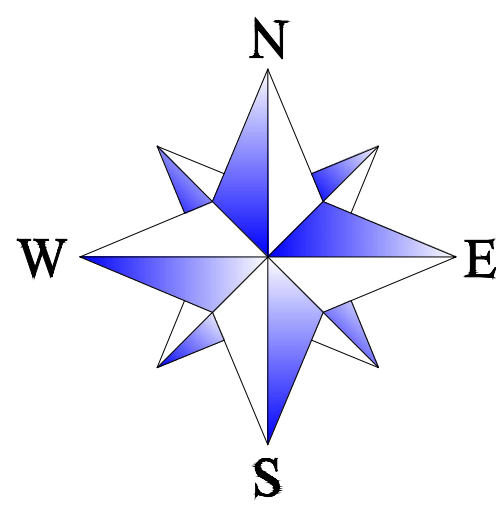
30 Representations about a referral agency response

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—Approved plans and specifications

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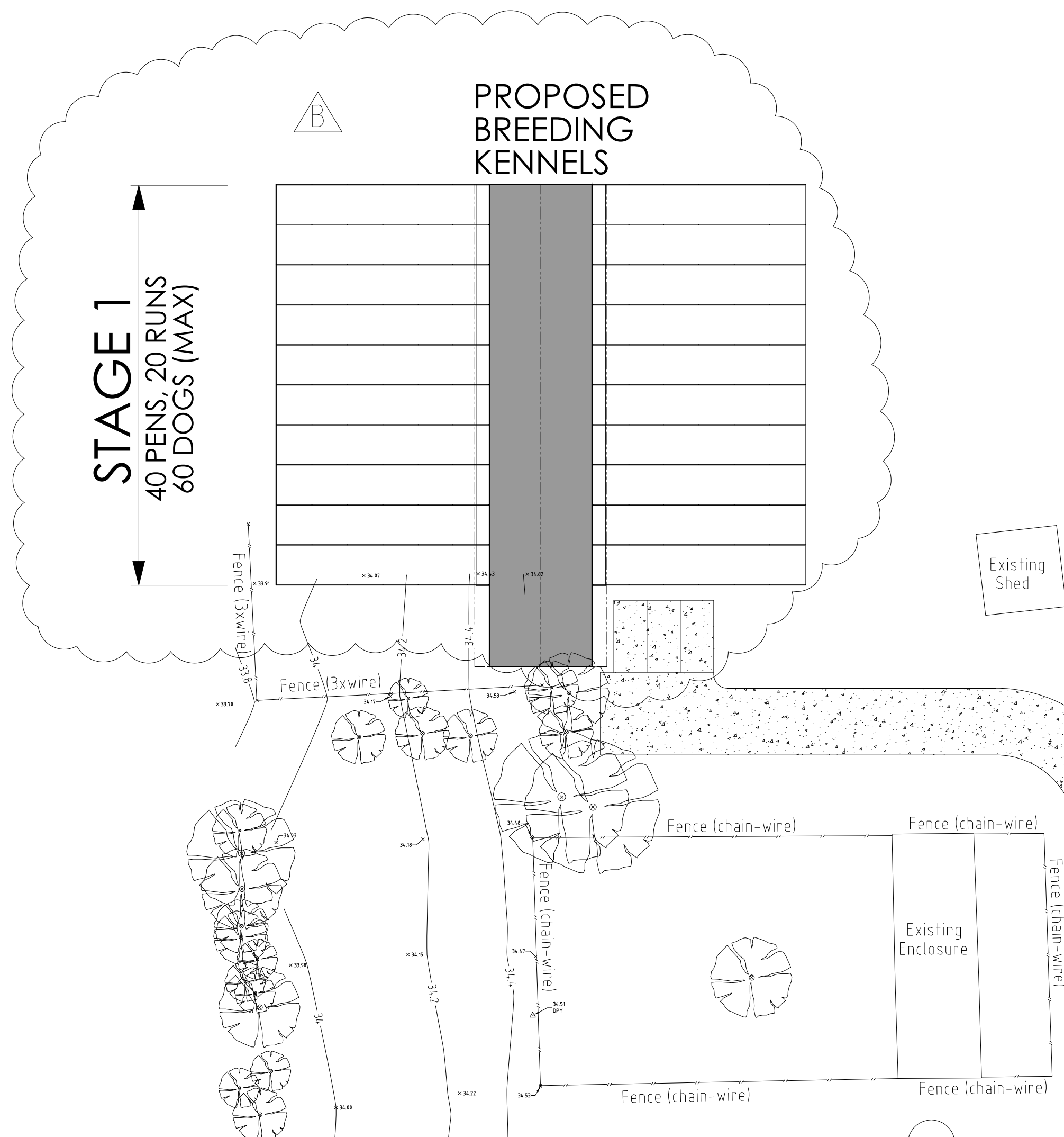
Plan approved only for the purpose of the conditions of SARA's referral agency response for 1811-8443 SRA.

PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE



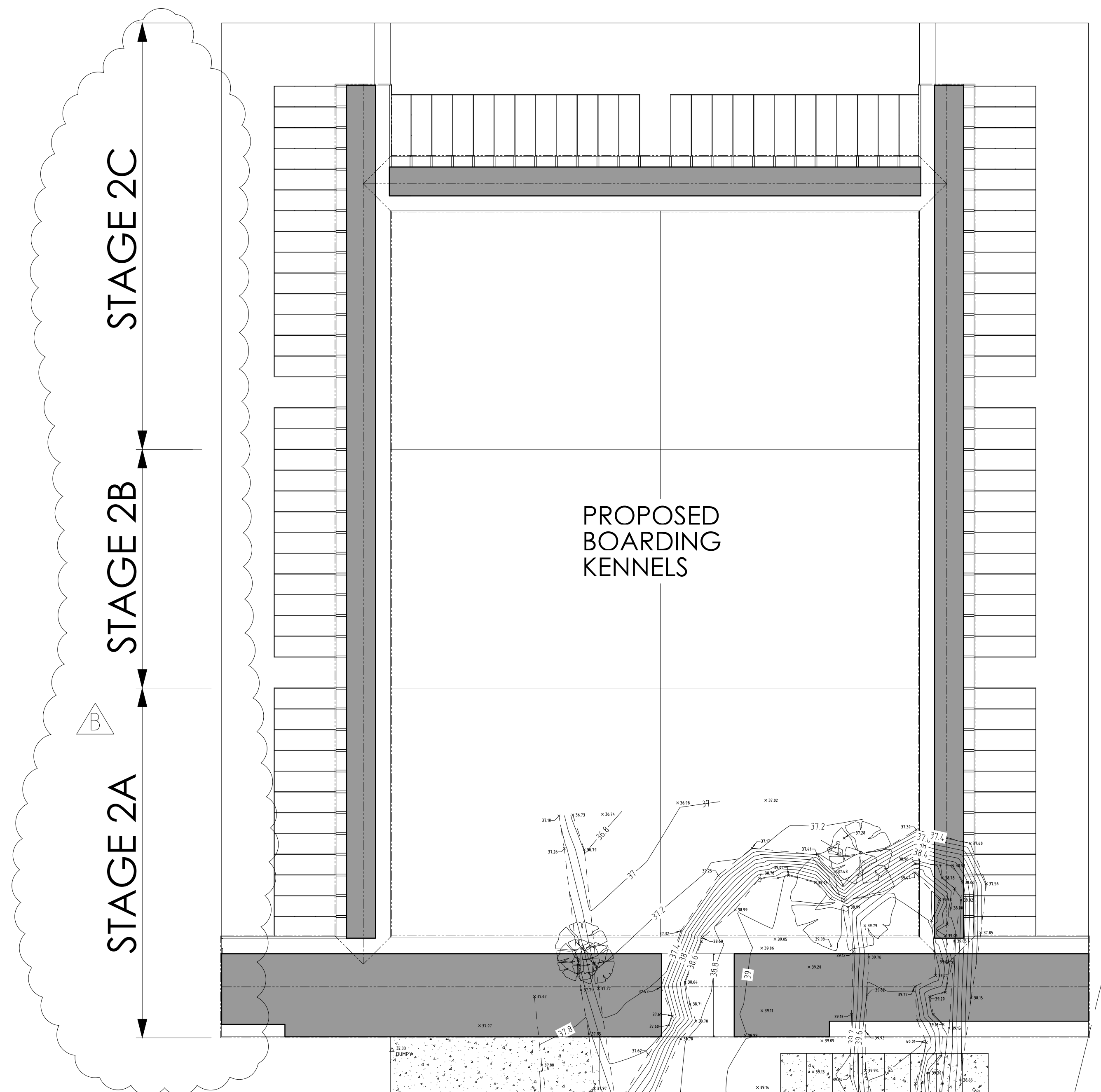
SARA ref: 1811-8443 SRA

Date: 24 February 2020



PART SITE PLAN

3 0 3 6 9 12 15m
SCALE BEFORE REDUCTION 1:300



13°51'10" / 175.88

170.39 / 193°53'

EMT A
RP180434

ISSUED FOR PLANNING APPROVAL
NOT TO BE USED FOR CONSTRUCTION PURPOSES

TITLE: PART SITE PLAN
PROJECT: PROPOSED ANIMAL KEEPING
CLIENT: LISA HOWLETT
ADDRESS: 2312 STEVE IRWIN WAY
LANDSBOROUGH

E		
D		
C		
B	LAYOUT REVISED	11/12/19
A	ORIGINAL ISSUE	26/07/18
REV	DESCRIPTION	DATE
	DRAWN: JM	
	SCALE: AS SHOWN	
	DRAWING NO.	
	180606 -SK2	B

Our ref TMR18-026071
Your ref 180208
Enquiries Susan Brown



Department of
Transport and Main Roads

20 February 2020

Decision Notice – Permitted Road Access Location (s62(1) Transport Infrastructure Act 1994)

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

Development application reference number MCU18/0311, lodged with Sunshine Coast Regional Council involves constructing or changing a vehicular access between Lot 2RP180434, [the land the subject of the application, and Steve Irwin Way: Rd 490 (a state-controlled road).

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

Applicant Details

Name and address Diamond Valley Kennels Pty Ltd C/- ADAMS + SPARKES Town
Planning and Development
PO Box 1000
BUDDINA QLD 4575

Application Details

Address of Property 2312 Steve Irwin Way, Landsborough QLD 4550
Real Property Description 2RP180434
Aspect/s of Development Material Change of Use of Premises to Establish an Animal Keeping

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	(a) The permitted road access location is to be: <ul style="list-style-type: none">between Lot 2 RP180434 and Steve Irwin Way (Road Number 490) at approximately Latitude -26.79689, Longitude 152.99570 at the existing access location. (b) Lawful access to Lot 1 RP180434 is to be maintained via Easement ARP180434.	(a)& (b) At all times.
2	(a) The existing road access works comprising a Rural Driveway with Auxiliary Left Turn and Right Turn treatments are to be maintained at the permitted road access location identified in	(a) & (b) To be maintained at all times for Stage 1

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

No.	Conditions of Approval	Condition Timing
	Condition 1(a). (b) The road access works must be maintained in accordance with RS-056 Institute of Public Works Engineering Australia Standard Drawings (IPWEA) and TMR's Road Planning and Design Manual.	
3	(a) Road access works comprising a Rural Driveway with Channelised Right Turn and an Auxiliary Left Turn Treatment extended to a length of 175m inclusive of taper must be provided at the road access location identified in Condition 1(a). (b) The existing access for Lot 1RP110299 on Steve Irwin Way / Ewen Maddock Wetlands at approximately Latitude -26.79562, Longitude 152.99594, must be retained to at least an Auxiliary Right Turn and Auxiliary Left Turn Treatment when the road access works in 3(a) are designed and constructed. (c) The road access works must be designed and constructed in accordance with RS-056 Institute of Public Works Engineering Australia Standard Drawings (IPWEA) and TMR's Road Planning and Design Manual.	(a) Prior to the commencement of use of Stage 2 and to be maintained at all times.

Reasons for the decision

The reasons for this decision are as follows:

- a) The objective of the Transport Infrastructure Act 1994 (TIA) requires the establishment of a road regime that is safe and efficient. The location of access will ensure the safety of all road users and maintain the operational efficiency of the state-controlled road.
- b) Section 62 of the TIA provides for the Chief Executive of the Department of Transport and Main Roads (the department) to make decisions about permitted road access locations between particular land and a state-controlled road.
- c) The proposed development can be effectively implemented without significant impacts to the safety and efficiency of the state-controlled road network with the conditioned turning treatments and driveway standard.

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, the North Coast District Development Assessment Team, should be contacted by email at North.Coast.IDAS@tmr.qld.gov.au or on (07) 5451 7055.

Yours sincerely



Lena Hobson
Senior Planner (Development Assessment)

Attachments: Attachment A – Decision evidence and findings
Attachment B - Section 70 of TIA
Attachment C - Appeal Provisions
Attachment D - Permitted Road Access Location

Attachment A

Decision Evidence and Findings

Findings on material questions of fact:

- a) The objective of the Transport Infrastructure Act 1994 (TIA) requires the establishment of a road regime that is safe and efficient. The location of access will ensure the safety of all road users and maintain the operational efficiency of the state-controlled road.

- b) Section 62 of the TIA provides for the Chief Executive of the Department of Transport and Main Roads (the department) to make decisions about permitted road access locations between particular land and a state-controlled road.
- c) The proposed development can be effectively implemented without significant impacts to the safety and efficiency of the state-controlled road network with the conditioned turning treatments and driveway standard.

Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version/Issue
Site Plan	Jim Moehead	11.12.19	180606-SK1	B
Part Site Plan	Jim Moehead	11.12.19	180606-SK2	B
Traffic Engineering Report	Hayes Traffic Engineering	30.01.20	RFI 03	-

Attachment B

Section 70 of TIA

Transport Infrastructure Act 1994

Chapter 6 Road transport infrastructure

Part 5 Management of State-controlled roads

70 Offences about road access locations and road access works, relating to decisions under s 62(1)

- (1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.
- (2) A person to whom this section applies must not—
 - (a) obtain access between the land and the State-controlled road other than at a location at which access is permitted under the decision; or
 - (b) obtain access using road access works to which the decision applies, if the works do not comply with the decision and the noncompliance was within the person's control; or
 - (c) obtain any other access between the land and the road contrary to the decision; or
 - (d) use a road access location or road access works contrary to the decision; or
 - (e) contravene a condition stated in the decision; or
 - (f) permit another person to do a thing mentioned in paragraphs (a) to (e); or
 - (g) fail to remove road access works in accordance with the decision.

Maximum penalty—200 penalty units.

- (3) However, subsection (2)(g) does not apply to a person who is bound by the decision because of section 68.

Attachment C
Appeal Provisions

Transport Infrastructure Act 1994
Chapter 16 General provisions

485 Internal review of decisions

- (1) A person whose interests are affected by a decision described in schedule 3 (the *original decision*) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
 - (a) applies to the review; and
 - (b) provides—
 - (i) for the procedure for applying for the review and the way it is to be carried out; and
 - (ii) that the person may apply to QCAT to have the original decision stayed.

485B Appeals against decisions

- (1) This section applies in relation to an original decision if a court (the appeal court) is stated in schedule 3 for the decision.
- (2) If the reviewed decision is not the decision sought by the applicant for the review, the applicant may appeal against the reviewed decision to the appeal court.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
 - (a) applies to the appeal; and
 - (b) provides—
 - (i) for the procedure for the appeal and the way it is to be disposed of; and
 - (ii) that the person may apply to the appeal court to have the original decision stayed.
- (4) Subsection (5) applies if—
 - (a) a person appeals to the Planning and Environment Court against a decision under section 62(1) on a planning application that is taken, under section 62A(2), to also be an application for a decision under section 62(1); and

(b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.

(5) The court may order—

(a) the appeals to be heard together or 1 immediately after the other; or

(b) 1 appeal to be stayed until the other is decided.

(6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.

(7) In this section—

original decision means a decision described in schedule 3.

reviewed decision means the chief executive's decision on a review under section 485.

31 Applying for review

- (1) A person may apply for a review of an original decision only within 28 days after notice of the original decision was given to the person under the transport Act.
- (2) However, if—
 - (a) the notice did not state the reasons for the original decision; and
 - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)the person may apply within 28 days after the person is given the statement of the reasons.
- (3) In addition, the chief executive may extend the period for applying.
- (4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

32 Stay of operation of original decision

- (1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the relevant entity.
- (2) The relevant entity may stay the original decision to secure the effectiveness of the review and any later appeal to or review by the relevant entity.
- (3) In setting the time for hearing the application, the relevant entity must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the relevant entity with it on the chief executive at least 2 business days before the hearing.
- (6) The stay—
 - (a) may be given on conditions the relevant entity considers appropriate; and
 - (b) operates for the period specified by the relevant entity; and
 - (c) may be revoked or amended by the relevant entity.
- (7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period the relevant entity allows the applicant to enable the applicant to appeal against the decision or apply for a review of the decision as provided under the QCAT Act.

(8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.

(9) In this section—

relevant entity means—

(a) if the reviewed decision may be reviewed by QCAT—QCAT; or

(b) if the reviewed decision may be appealed to the appeal court—the appeal court.

35 Time for making appeals

(1) A person may appeal against a reviewed decision only within—

(a) if a decision notice is given to the person—28 days after the notice was given to the person; or

(b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

(2) However, if—

(a) the decision notice did not state the reasons for the decision; and

(b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

the person may apply within 28 days after the person is given a statement of the reasons.

(3) Also, the appeal court may extend the period for appealing.

Attachment D: Permitted Access Location



Attachment E: Staging Plan

