

# Cloncurry Shire Council

38-46 Daintree Street  
PO Box 3  
Cloncurry QLD 4824  
ABN: 76 581 540 914



Telephone: (07) 4742 4100  
Facsimile: (07) 4742 1712  
Email: [council@cloncurry.qld.gov.au](mailto:council@cloncurry.qld.gov.au)  
Website: [www.cloncurry.qld.gov.au](http://www.cloncurry.qld.gov.au)

*Our ref: IE:LT – TP13/21*

19 October 2021

Andrew Batts  
Senior Adviser Environment & Town Planning  
Aurizon Operations Limited  
GPO Box 456  
BRISBANE QLD 4001  
**Email:** [Andrew.Batts@aurizon.com.au](mailto:Andrew.Batts@aurizon.com.au)

Dear Andrew

## **DECISION NOTICE – DEVELOPMENT APPLICATION FOR MATERIAL CHANGE OF USE - HIGH IMPACT INDUSTRY (INTENSIFICATION OF THE EXISTING CLONCURRY CONTAINER TERMINAL)**

(Given under section 63 of the *Planning Act 2016*)

The development application described below was properly made to the Cloncurry Shire Council on 22 July 2021.

### **Applicant details**

Applicant name:	Andrew Batts
Applicant contact details:	C/- Aurizon Operations Limited GPO Box 456 BRISBANE QLD 4001

### **Application details**

Application number:	TP13/21
Approval sought:	Development Permit
Nature of development proposed:	Material Change of Use
Description of the development proposed:	High impact industry (material change in the intensity of the existing use)
Category of assessment:	Impact Assessment

### **Location details**

Street address:	Round Oak Road, Cloncurry
Real property description:	Lot 16 on SP130414 and Part of Lot 46 on SP233672
Local government area:	Cloncurry Shire Council

### **Decision**

Date of decision:	12 October 2021
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## Details of the approval

- 12.1 Planning & Development – Development Application seeking a Development Permit for Material Change of Use – High Impact Industry (Intensification of Existing Cloncurry Container Terminal), Round Oak Road, Cloncurry (Lot 16 on SP130414 and part of Lot 46 on SP233672)

**Moved: Cr Swalling** **Seconded: Cr Bidgood**  
**That the Development Application TP13/21 be approved and a Development Permit for Material Change of Use – High Impact Industry (Intensification of Existing Cloncurry Container Terminal) – Round Oak Road, Cloncurry and described as Lot 16 on SP130414 and part of Lot 46 on SP233672 be granted, subject to the conditions set out in Attachment 2.**  
**CARRIED: 34.211012**

## Conditions

This approval is subject to the conditions in Attachment 1.

## Properly made submissions

There were no properly made submissions for this application.

## Rights of appeal

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

A copy of the relevant appeal provision is attached.

## Currency period for the approval

This development approval will lapse unless substantially started at the end of the period set out in section 85 of *Planning Act 2016* which is 6 years after this approval starts to take effect.

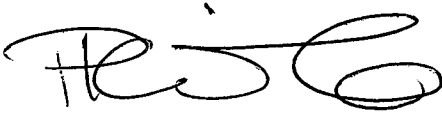
## Approved plans and specifications

**Table 1 Supporting documentation/reports**

<b>Title</b>	<b>Drawing number</b>	<b>Date</b>	<b>Author</b>
Town Planning Report			Aurizon
Cloncurry Container Terminal Technical Assessments			
DAMS Report		06.11.2020	DSDMIP
EMR Search Response		23.05.2017	DEHP
SPP Report		06.11.2020	SPP
Traffic Impact Assessment Report	SLR Ref No:620.30343-R01-v1.1	June 2021	SLR Consulting Australia Pty Ltd
Noise Impact Assessment Report	12544978	April 2021	GHD
Approved Site Based Stormwater Management	NC 2678 78	13 April 2017	Aurizon
Site Layout	AUR-Q-0697-01013	07.07.2017	GHD

Should you have any questions or concerns in respect of this matter please contact Council's Senior Town Planner, Larinda Turrell, at this office.

Yours faithfully

A handwritten signature in black ink, appearing to read 'P. Keirle', with a stylized flourish at the end.

Philip Keirle  
Chief Executive Officer

Enc: Attachment 1 - Conditions of the approval  
Attachment 2 - Extract on appeal rights  
Attachment 3 - Statement of Reasons  
Attachment 4 - Approved Plans  
Attachment 5 - SARA Response

## ATTACHMENT 1 – CONDITIONS OF APPROVAL

NATURE OF DECISION			
<p><b>A</b> Cloncurry Shire Council issues a development permit for Development application - Reference TP13/21 Material Change of Use - High Impact Industry (Intensification of existing Cloncurry Container Terminal), under the <i>Planning Act 2016</i>.</p>			
GENERAL			
<p><b>1. Site Layout</b></p> <p>The development must generally comply with the approved proposal plans and design drawings as referenced in the table below, which forms part of this application, except as otherwise specified by any condition of this approval.</p>			
Title	Drawing number	Date	Author
Town Planning Report			Aurizon
Cloncurry Container Terminal Technical Assessments			
DAMS Report		06.11.2020	DSDMIP
EMR Search Response		23.05.2017	DEHP
SPP Report		06.11.2020	SPP
Traffic Impact Assessment Report	SLR Ref No:620.30343-R01-v1.1	June 2021	SLR Consulting Australia Pty Ltd
Noise Impact Assessment Report	12544978	April 2021	GHD
Approved Site Based Stormwater Management	NC 2678 78	13 April 2017	Aurizon
Site Layout	AUR-Q-0697-01013	07.07.2017	GHD
<p><b>2. Compliance with conditions</b></p> <p>(a) All conditions must be complied with prior to the commencement of the use, unless specified in an individual condition.</p> <p>(b) The conditions of this development approval are to be read in conjunction with the approved plans /drawings/ documents at all times. Where a conflict occurs between the conditions of this approval and the approved plans / documents, the conditions of this development approval shall prevail.</p>			
<p><b>3. Landscaping</b></p> <p>Refer to requirements of Condition 13 of TP09/17</p>			
<p><b>4. Storage Equipment</b></p> <p>Equipment and machinery are stored in appropriate areas so as not to cause a nuisance to existing neighboring surrounds.</p>			
<p><b>5. Waste Management</b></p> <p>A screened waste storage area in the vicinity of a hose cock for cleaning proposes for general waste and regulated waste are to be provided within the site at accessible locations to allow for collection and removal to approved facilities.</p>			
<p><b>6. Stormwater Drainage</b></p> <p>Stormwater Drainage will be in compliance with the Site Based Stormwater Management Plan dated 13 April 2017.</p>			
<p><b>7. Noise Management</b></p> <p>Appropriate noise mitigation measures shall be compliant with the Operational Noise Impact Assessment Update prepared by GHD.</p>			
<p><b>8. Advertising Devices</b></p> <p>For the erection of any advertising devices, an application is to be submitted to Council for approval (Note – Advertising devices must comply with section 9.4.1 – Advertising device code).</p>			

<p><b>9. Hours of Operation</b></p> <p>(a) Unless otherwise approved in writing by the assessment manager, hours of operation must not exceed 6.00am to 6.00pm 7 days per week.</p> <p>(b) Unless otherwise approved in writing by an authorised Council officer, work must not be conducted from the premises outside the above hours.</p>
<p><b>10. Lighting</b></p> <p>Any lighting is to be designed, installed and maintained in accordance with the requirement of AS4282-1997 “Control of the Obtrusive Effects of Outdoor Lighting”.</p>
<p><b>11. Site Access and Intersection with Round Oak Road</b></p> <p>Site Access and Intersection with Round Oak Road will be in compliance with the Traffic Impact Assessment Version No: -v1.1 dated June 2021.</p>
<p><b>12. Internal Road and Access</b></p> <p>Refer to requirement of condition 4 of TP09/17.</p>
<p><b>13. Round Oak Road Pavement Impacts</b></p> <p>Due to the intensification of heavy vehicle movements to and from the site as a result of this development permit placing additional impacts on the existing pavement condition in Round Oak Road (a Council controlled road), the applicant is to undertake a pavement monitoring program in Round Oak Road (with detail to be agreed with Council), for a period not exceeding 18 months (unless otherwise agreed between the Council and the Applicant) from the commencement date in intensifying the haulage capacity provided for by this development permit. This program will determine if there is a level of failure/deterioration occurring to the pavement condition and necessity for undertaking remedial/restoration action by the Council at a cost to be agreed and met wholly the Applicant.</p>
<p><b>ADVICE – Please note that these are not conditions</b></p>
<p><b>A.</b> The Applicant is responsible for securing all necessary approvals, permits and tenure, providing statutory notifications and complying with all relevant laws. Nothing in this development approval alleviates the need for the Applicant to comply with all relevant Local, State and Commonwealth laws and to ensure appropriate tenure arrangements have been made where the use of/reliance upon land other than that owned by the Applicant is involved. Without limiting this obligation, the Applicant is responsible for:</p> <p>(a) Obtaining all other/further necessary approvals, licences, permits, resource entitlements etc by whatever name called (this may include further development approvals under the “<i>Planning Act 2016</i>” and the planning scheme) required by law before the development the subject of this approval can be lawfully commenced and to carry out the activity for its duration;</p> <p>(b) Providing any notifications required by law (by way of example only, to notify the administering authority pursuant to the “<i>Environmental Protection Act 1994</i>” of environmental harm being caused/threatened by the activity, and upon becoming aware the premises is being used for a ‘notifiable activity’); and</p> <p>(c) Ensuring the correct siting of structures on the land. An identification survey demonstrating correct siting and setbacks of structures may be requested of the Applicant to ensure compliance with this decision notice and applicable codes.</p> <p><b>B. Indigenous Cultural Heritage Legislation and Duty of Care Requirement</b></p> <p>The “<i>Aboriginal Cultural Heritage Act 2003</i>” (ACHA) establishes a duty of care to take <b>all</b> reasonable and practicable measures to ensure any activity does not harm Aboriginal cultural heritage. This duty of care:</p> <p>(a) Is not negated by the issuing of this development approval;</p> <p>(b) Applies on all land and water, including freehold land;</p>

- (c) Lies with the person or entity conducting an activity; and
- (d) If breached, is subject to criminal offence penalties.

Those proposing an activity involving surface disturbance beyond that which has already occurred at the proposed site must observe this duty of care. Details of how to fulfil this duty of care are outlined in the duty of care guidelines gazetted with the ACHA. The Applicant should contact the Cultural Heritage Unit on 1300 378 401 for further information on the responsibilities of developers under the ACHA.

**C. Limitation of Approval**

The Council and its officers make no representations and provide no warranties as to the accuracy of the information contained in the development application including its supporting material provided to it by the Applicant.

The Council and its officers rely upon the applicant concerning the accuracy and completeness of the application and its supporting material and accepts the development application and supporting material as constituting a representation by the applicant as to its accuracy and completeness.

## Chapter 6 Dispute resolution

### Part 1 Appeal rights

#### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
  - (a) matters that may be appealed to—
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) the person—
    - (i) who may appeal a matter (the *appellant*); and
    - (ii) who is a respondent in an appeal of the matter; and
    - (iii) who is a co-respondent in an appeal of the matter; and
    - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
  - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
  - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
  - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
  - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note—*

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.

- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
  - (a) the adopted charge itself; or
  - (b) for a decision about an offset or refund—
    - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
    - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

### 230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
  - (a) the respondent for the appeal; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
  - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
  - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
  - (f) for an appeal to the P&E Court—the chief executive; and
  - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
  - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
  - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.



**231 Other appeals**

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
  - (a) conduct engaged in for the purpose of making a decision; and
  - (b) other conduct that relates to the making of a decision; and
  - (c) the making of a decision or the failure to make a decision; and
  - (d) a purported decision; and
  - (e) a deemed refusal.

*non-appealable*, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

**232 Rules of the P&E Court**

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

## **ATTACHMENT 3 – STATEMENT OF REASONS – TP13/21**

### ***NOTICE ABOUT DECISION - STATEMENT OF REASONS***

The following information is provided in accordance with section 63(5) of the  
*Planning Act 2016*

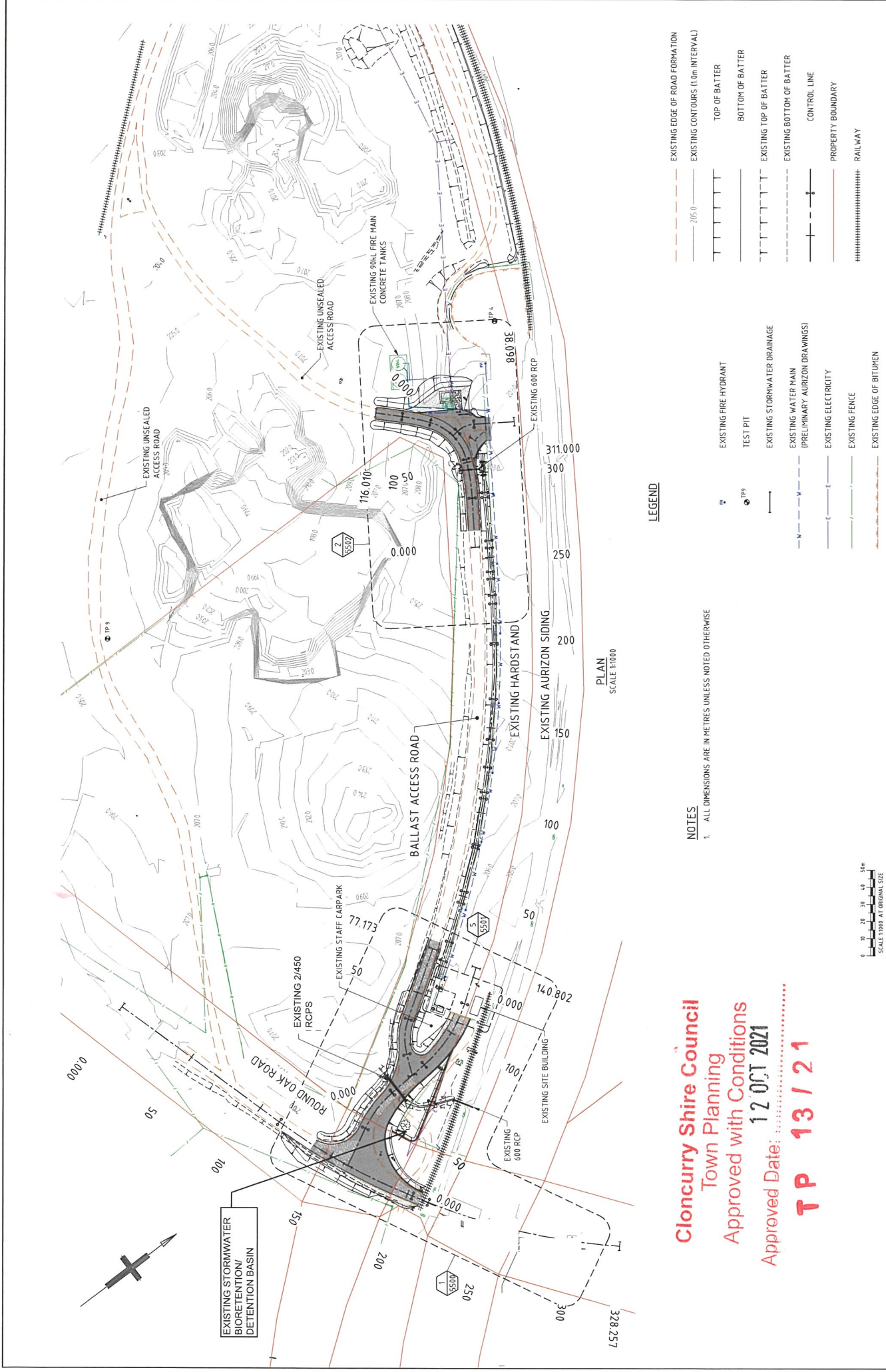
#### **Details of the Development**

The proposed development application seeking a development permit for a Material Change of Use – High Impact Industry (Intensification of Existing Cloncurry Container Terminal), Round Oak Road, Cloncurry (Lot 16 on SP130414 and part of Lot 46 on SP233672)

On 12 October 2021, the above development application was approved in full with conditions.

#### **Reasons for the decision**

A detailed assessment of the application by Council assessing officers has been undertaken and it is concluded as documented in this Development Assessment Report that the applicant has satisfactorily demonstrated compliance with the applicable benchmarks of the relevant planning scheme codes to enable Council to support the proposed development in granting its approval, subject to reasonable and relevant conditions being imposed.



- LEGEND**
- EXISTING EDGE OF ROAD FORMATION
  - EXISTING CONTOURS (10m INTERVAL)
  - TOP OF BATTER
  - BOTTOM OF BATTER
  - EXISTING TOP OF BATTER
  - EXISTING BOTTOM OF BATTER
  - CONTROL LINE
  - PROPERTY BOUNDARY
  - RAILWAY
  - EXISTING FIRE HYDRANT
  - TEST PIT
  - EXISTING STORMWATER DRAINAGE
  - EXISTING WATER MAIN (PRELIMINARY AURIZON DRAWINGS)
  - EXISTING ELECTRICITY
  - EXISTING FENCE
  - EXISTING EDGE OF BITUMEN

**NOTES**

- ALL DIMENSIONS ARE IN METRES UNLESS NOTED OTHERWISE

PLAN  
SCALE 1:1000

**Cloncurry Shire Council**  
**Town Planning**  
**Approved with Conditions**  
**Approved Date: 12 OCT 2021**  
**TP 13 / 21**

AURIZON Operations Ltd - ACN 124 649 967 HUGHENDEN TO CLONCURRY <b>CLONCURRY CONTAINER TERMINAL</b> FROM 768.420km TO 769.400km GREAT NORTHERN LINE SITE LAYOUT PLAN		FILE No DRAWING NUMBER <b>AUR-Q-0697-0103</b> ISSUE <b>A</b>
DESIGN CHECKED DESIGNER DRAWING CHECK APPROVED ADAM BRIDG	REVIEWED FOR AURIZON REC'D FOR PERMITS BY DESIGN MANAGER DESIGNER AUTHORIZED RECD No. 11884 DATE 7.7.17	PROJECT No DRAWING No 41-30409 41-30009-C111
145 Ann St Brisbane QLD 4000 Australia GHD Pty Ltd GPO Box 998 Brisbane QLD 4001 Tel: +61 7 3250 2100 E: brisbane@ghd.com W: www.ghd.com		
ALTERATIONS V.1 V.2 V.3 V.4 V.5 V.6 V.7 V.8 V.9 V.10 V.11 V.12 V.13 V.14 V.15 V.16 V.17 V.18 V.19 V.20 V.21 V.22 V.23 V.24 V.25 V.26 V.27 V.28 V.29 V.30 V.31 V.32 V.33 V.34 V.35 V.36 V.37 V.38 V.39 V.40 V.41 V.42 V.43 V.44 V.45 V.46 V.47 V.48 V.49 V.50	SCALE 100% AT ORIGINAL SIZE 0 10 20 30 40 50m	
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SCALES SHOWN ARE FOR AN A1 SIZE ORIGINAL DRAWING		



SARA reference: 2107-23869 SRA  
 Council reference: TP13/21  
 Applicant reference: -

25 August 2021

Chief Executive Officer  
 Cloncurry Shire Council  
 PO Box 31  
 Cloncurry Qld 4824  
 council@cloncurry.qld.gov.au

Attention: Mr Phillip Keirle

Dear Mr Keirle

## SARA response—Round Oak Road, Cloncurry (Cloncurry Container Terminal)

(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 on 28 July 2021.

### Response

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Outcome:	Referral agency response - No requirements Under section 56(1)(a) of the <i>Planning Act 2016</i> , the department advises it has no requirements relating to the application.
Date of response:	25 August 2021
Advice:	Advice to the applicant is in <b>Attachment 1</b> .
Reasons:	The reasons for the referral agency response are in <b>Attachment 2</b> .

### Development details

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Description:	Development permit	Material change of use for High impact industry (Intensification of the existing use of the Cloncurry Container Terminal from 430,000 tonnes per annum to 800,000 tonnes per annum of containerised mineral concentrates and bulk materials)
SARA role:	Referral Agency.	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 1, Table 1, Item 1 (10.9.4.1.1.1) – Development impacting on state transport	

infrastructure (Planning Regulation 2017)

Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1  
(10.9.4.2.4.1) – Material change of use of premises within 25m of a  
state transport corridor (Planning Regulation 2017)

SARA reference: 2107-23869 SRA  
Assessment Manager: Cloncurry Shire Council  
Street address: Hutchinson Parade, Cloncurry  
Real property description: Lot 16 on SP130414 and Part of Lot 46 on SP233672  
Applicant name: Aurizon Operations Limited  
Applicant contact details: GPO Box 456  
Brisbane QLD 4001  
Andrew.Batts@aurizon.com.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 3**.

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

For further information please contact Catherine Hobbs, Principal Planning Officer, on 4758 3412 or via email [NQSARA@dsdilgp.qld.gov.au](mailto:NQSARA@dsdilgp.qld.gov.au) who will be pleased to assist.

Yours sincerely



Graeme Kenna  
Manager (Planning)

cc Aurizon Operations Limited, [Andrew.Batts@aurizon.com.au](mailto:Andrew.Batts@aurizon.com.au)

enc Attachment 1 - Advice to the applicant  
Attachment 2 - Reasons for referral agency response  
Attachment 3 - Representations provisions

## Attachment 1—Advice to the applicant

General advice	
1.	<p>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.</p>
2.	<p><b>Works on a railway</b></p> <p>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.</p> <p>The applicant is responsible for obtaining any necessary approvals, contract arrangements, and agreements from the railway manager for the operation of the development. In particular the following agreements/approvals, amongst others may be required from Queensland Rail:</p> <ul style="list-style-type: none"> <li>• Rail connection Agreement;</li> <li>• Haulage Agreement;</li> <li>• Interface Risk Management Plans;</li> <li>• Access Agreement &amp; Train Operations Deed;</li> </ul> <p>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.</p> <p>The applicant should contact Queensland Rail Property Team at <a href="mailto:developmentenquiries@qr.com.au">developmentenquiries@qr.com.au</a> in relation to this matter.</p>
3.	<p><b>Memorandum of Understanding for Railway Crossings</b></p> <p>As per the <i>Memorandum of Understanding between the Local Government Association of Queensland and Queensland Rail and the Department of Transport and Main Roads with respect to the Management and Funding Responsibility for Level Crossing Safety</i>, the local government is responsible for any safety upgrades to a level crossing if the change in risk to the level crossing is due to changes in nearby land uses which have been authorised by local government. The proposed development is likely to contribute to cumulative impacts on the safety of the Road Oak Road railway level crossing (LXR: 4033) of the Great Northern Railway.</p> <p>The Cloncurry Shire Council is recommended to maintain and replace faded or missing safety controls in the Round Oak Road road reserve prior to the commencement of use.</p> <p>Cloncurry Shire Council is recommended to consult with Queensland Rail at <a href="mailto:developmentenquiries@qr.com.au">developmentenquiries@qr.com.au</a> regarding the rail level crossing.</p>

## **Attachment 2—Reasons for referral agency response**

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

### **The reasons for the department's decision are:**

- Development does not create a safety hazard for users of a railway
- Development does not compromise the structural integrity of railways, rail transport infrastructure, other rail infrastructure or railway works
- Development does not result in a worsening of the physical condition or operating performance of railways and the rail network
- Development does not compromise the state's ability to construct, or significantly increase the cost to construct railways and future railways
- Development does not compromise the state's ability to maintain and operate, or significantly increase the cost to maintain and operate railways
- Development does not create a safety hazard for users of state transport infrastructure or public passenger services
- Development does not result in a worsening of the physical condition or operating performance of the state transport network
- Development does not compromise the state's ability to cost-effectively construct, operate and maintain state transport infrastructure

### **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 the department
- The Development Assessment Rules
- SARA DA Mapping system

## **Attachment 3—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 Rules<sup>1</sup> regarding representations about a referral agency response

### Part 6: Changes to the application and referral agency responses

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#### 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.

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

<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>

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<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.