

26 February

David Todd

North Queensland Bulk Ports Corporation PO Box 3340 NORTH MACKAY QLD 4740

Email: dtodd@nqbp.com.au

Dear David,

DEVELOPMENT APPROVAL PACKAGE FOR OPERATIONAL WORKS BEING TIDAL WORKS ON LAND DESCRIBED AS 63 ON SP143358 AND LOT 64 ON SP118293, AT THE PORT OF MACKAY

NQBP Reference: PL/04/02/00005

North Queensland Bulk Ports Corporation Ltd (NQBP) wish to advise that your development application seeking approval for tidal works within a coastal management district, being a retrospective approval for upgrade works to an existing breakwater at the Port of Mackay was approved in full subject to conditions on 26 February 2018.

Approvals has been given with respect to tidal works assessable under Schedule 10, Part 17, Division 1, Section 28 (1)(a) under the *Planning Act 2016* and Port Development Approval under the Port of Mackay Land Use Plan (November 2009).

You are strongly advised to read and familiarise yourself with each of the enclosures applicable to this approvals package. If you have any queries regarding the approvals package, please contact the undersigned.

Yours sincerely

Julie Keane

Principal, Development Approvals

Telephone: (07) 3011 7912 Email: JKeane@nqbp.com.au

Doc Reference: E18/04149

Enc: Decision notice issued under to s 63 of the *Planning Act 2016*

Port development approval issued under the Port of Mackay Land Use Plan (November 2009).

Approved drawings

Cc: Referral agencies – Department of State Development, Manufacturing, Infrastructure and Planning

Local government - Mackay Regional Council

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Level 1, Waterfront Place, Mulherin Drive Mackay Harbour Queensland is the Registered Office of:

NORTH QUEENSLAND BULK PORTS CORPORATION LIMITED

ACN 136 880 218 • ABN 36 136 880 218

PORTS CORPORATION OF QUEENSLAND LIMITED ACN 126 302 994 • ABN 49 657 447 879

MACKAY PORTS LIMITED

ACN 131 965 707 • ABN 69 131 965 707



Decision Notice

Planning Act 2016 s.63

1. Details of approval

Applicant name:	North Queensland Bulk Ports Corporation	
Approved development:	Tidal works assessable under Schedule 10, Part 17,	
	Division 1, Section 28 (1)(a), being retrospective approval of	
	upgrade to existing breakwater	
Date of decision	26 February 2018	
Aspect of development:	☐ Material change of use	
	Reconfiguring a lot	
	□ Operational work	
	☐ Building work	
Decision:	☐ Preliminary approval only (with conditions)	
	☐ Part approval only (with conditions)	
	☐ Part approval only (without conditions)	
	Approval (with conditions)	

2. Property description of proposed development

Port:	MACKAY
Street address:	Breakwater Access Road, Mackay Harbour
Real property description:	Lot 63 on SP143358 and Lot 64 on SP118293
Local government area:	Mackay Regional Council

3. Approved drawings and documents

The following drawings and documents have been approved. Copies of approved drawings are provided in an enclosure.

Drawing	Number	Date / revision
Mackay Southern Breakwater Upgrade Work –	698873-DRG-001	06/12/2017
General Arrangement		
Mackay Southern Breakwater Upgrade Work –	698873-DRG-005	06/12/2017
Typical Section Sheet 1		
Mackay Southern Breakwater Upgrade Work –	698873-DRG-006	06/12/2017
Typical Section Sheet 2		
Mackay Southern Breakwater Upgrade Work –	698873-DRG-007	06/12/2017
Typical Section Sheet 3		

4. Referral agency response

The development application was referred to the Department of State Development, Manufacturing, Industry and Planning under the following provisions of the Planning Regulation 2017:

- 10.17.3.2.1 Tidal works or work in a coastal management district
- 10.17.3.1.1 Tidal works or work in a coastal management district



A referral agency response (1712-3175 SRA) has been received from the Department of State Development, Manufacturing, Industry and Planning and is attached to this decision notice.

5. Properly made submissions

Not applicable—no part of the application required public notification.

6. Currency period for the approval

This development approval will lapse at the end of the period set out in section 85 of *Planning Act 2016.*

7. Waiver of representations

The applicant has waived their rights, by written correspondence dated 22 February 2018, to make representations to the Department of State Development, Manufacturing, Industry and Planning under Section 30 of the Development Assessment Rules.

8. 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 provisions is attached.

Further information may be obtained from the Planning and Environment Court website:

http://www.courts.qld.gov.au/courts/planning-and-environment-court



Attachment 1

ASSESSMENT MANAGER CONDITIONS

Conditi	on		Timing
Carry out the approved development			
1. The development must be undertaken generally in accordance the plans and supporting documentation reference in the table below and attached which forms part of this approval, unless otherwise specified by any condition of this approval.			At all times.
Drawing	Number	Date / revision	
Mackay Southern Breakwater Upgrade Work – General Arrangement	698873-DRG-001	06/12/2017	
Mackay Southern Breakwater Upgrade Work – Typical Section Sheet 1	698873-DRG-005	06/12/2017	
Mackay Southern Breakwater Upgrade Work – Typical Section Sheet 2	698873-DRG-006	06/12/2017	
Mackay Southern Breakwater Upgrade 698873-DRG-007 06/12/2017 Work – Typical Section Sheet 3			
 "As constructed" drawings and design certificates certified by an RPEQ must be submitted to NQBP via approvals@nqbp.com.au. The following is to be provided: 			Within two (2) weeks of receipt of decision notice.
 One set of "As-constructed" drawings. 			
 Dimensioned plot plans and general arrangement drawings must also be provided electronically to NQBP in dwg (AutoCAD 2012) and dxf formats (including pen plot, xref, ole, block files and any other external references). 			



Attachment 2

REFERRAL AGENCY RESPONSE

Agency	Reference	Date received
Department of State Development,	1712-3175 SRA	22 February 2018
Manufacturing, Infrastructure and Planning		



Department of
State Development,
Manufacturing,
Infrastructure and Planning

Our reference: 1712-3175 SRA Your reference: PL/04/02/00005

22 February 2018

North Queensland Bulk Ports GPO Box 409 Brisbane QLD 4001 planning@nqbp.com.au

Attention: David Todd

Dear Mr. Todd

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 9 January 2018.

Applicant details

Applicant name: Mr David Todd

Applicant contact details: NQBP Waterfront Place, Mulherin Drive

Mackay Harbour QLD 4740

dtodd@nqbp.com.au

Location details

Street address: Mackay Harbour

Real property description: Lot 63 on SP143358; Lot 64 on SP118293

Local government area: Mackay Regional Council

Application details

Development permit Operational work for Tidal works within a coastal management district,

being a retrospective approval for upgrade works to an existing

breakwater.

Referral triggers

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

10.17.3.2.1 Tidal works or work in a coastal management district
 10.17.3.1.1 Tidal works or work in a coastal management district

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.

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
Aspect of development: O	perational Work			
Mackay Southern Breakwater, Upgrade Work, General Arrangement	North Queensland Bulk Ports Corporation	06/12/17	698873- DRG- 001	-
Mackay Southern Breakwater, Upgrade Works, Typical Section Sheet 1	North Queensland Bulk Ports Corporation	06/12/17	698873- DRG- 005	-
Mackay Southern Breakwater, Upgrade Works, Typical Section Sheet 2	North Queensland Bulk Ports Corporation	06/12/17	698873-DRG- 006	-
Mackay Southern Breakwater, Upgrade Works, Typical Section Sheet 3	North Queensland Bulk Ports Corporation	06/12/17	698873-DRG- 007	-

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

For further information please contact Dylan Brown, A/Senior Planning Officer, on (07) 4898 6812 or via email MIWSARA@dilgp.qld.gov.au who will be pleased to assist.

Yours sincerely

Patrick Ruettjes

Manager (Planning), Mackay Isaac Whitsunday Regional Office

cc Mr David Todd, dtodd@nqbp.com.au

enc Attachment 1—Conditions to be imposed

Attachment 2—Reasons for decision to impose conditions

Approved plans and specifications

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Opera	ational Work – Tidal Works	
the De	3.1.1—The chief executive administering the <i>Planning Act 2016</i> nominate epartment of Environment and Science to be the enforcement authority for this development approval relates for the administration and enforcement lowing condition(s):	the development to
1.	 The development must be carried out generally in accordance with the following plans: Mackay Southern Breakwater, Upgrade Work, General Arrangement, prepared by North Queensland Bulk Ports Corporation, 06/12/17, 698873-DRG-001 MACKAY SOUTHERN BREAKWATER, UPGRADE WORKS, TYPICAL SECTION SHEET 1, prepared by North Queensland Bulk Ports Corporation, 06/12/17, 698873-DRG-005 MACKAY SOUTHERN BREAKWATER, UPGRADE WORKS, TYPICAL SECTION SHEET 2, prepared by North Queensland Bulk Ports Corporation, 06/12/17, 698873-DRG-006 MACKAY SOUTHERN BREAKWATER, UPGRADE WORKS, TYPICAL SECTION SHEET 3, prepared by North Queensland Bulk Ports Corporation, 06/12/17, 698873-DRG-007. 	For the duration of works.
2.	For the works, only use clean materials and ensure that the works do not cause contamination. For the works only use materials which are free from contaminants as defined under section 11 of the <i>Environmental Protection Act 1994</i> .	For the duration of works.
3.	Erosion and sediment control measures which are in accordance with Best Practice Erosion and Sediment Control (BPESC) guidelines for Australia (International Erosion Control Association), are to be installed and maintained to prevent the release of sediment to tidal waters.	For the duration of works.
4.	Submit "As Constructed drawings" to palm@ehp.qld.gov.au or mail to: Department of Environment and Science Permit and License Management Implementation and Support Unit GPO Box 2454 Brisbane QLD 4001.	Within two (2) weeks of the receipt of this concurrence agency response.
Opera	ational Work – Tidal Works	
the De	3.2.1—The chief executive administering the <i>Planning Act 2016</i> nominate epartment of Transport and Main Roads to be the enforcement authority fo this development approval relates for the administration and enforcement lowing condition(s):	r the development to
5.	Any navigational aid that is damaged due to the construction, operation or maintenance of the approved development must be promptly repaired or replaced at the applicant's cost. In the event that any damage is caused to any aid to navigation, the Harbour Master must be immediately contacted on (07) 4944 3700.	At all times.

6.	"As Constructed" drawings of the approved structure must be provided to the Regional Harbour Master, PO Box 58, Mackay QLD 4740.	Within two (2) weeks of the receipt of this concurrence agency response.
7.	 (a) Provide written notice to Regional Harbour Master, PO Box 58, Mackay QLD 4740 when the development authorised under this approval is/was scheduled to commence. Each notice must state this application number, the location and name of registered place and the condition number under which the notice is being given. 	(a) Within two (2) weeks of the receipt of this concurrence agency response.
	 (b) Provide written notice to Regional Harbour Master, PO Box 58 Mackay QLD 4740 when the development authorised under this approval has been completed. Each notice must state this application number, the location and name of registered place and the condition number under which the notice is being given. 	(b) Within two (2) weeks of the receipt of this concurrence agency response OR Within two (2) weeks of the completion of works.
8.	Lighting provided must not obscure, disguise or otherwise interfere with the effectiveness of navigational lighting.	At all times.

Attachment 2—Reasons for decision to impose conditions

The reasons for this decision are:

- To ensure the development is carried out generally in accordance with the plans of development submitted with the application.
- To ensure the development avoids or minimises adverse impacts on coastal resources and their values.
- To allow for compliance in relation to what is considered generally in accordance with the approved
 plans when preliminary plans are submitted with the application. Development inconsistent with the
 approval may have an impact on coastal management that was not considered during the
 assessment.
- To facilitate the monitoring of the development works for compliance purposes.
- To ensure that at all times, all lights on or above the development site do not interfere with safe navigation in surrounding waterways.
- To ensure that the development does not interfere with any existing aids to navigation.

Evidence or other material on which the findings were based

- · development application
- State Development Assessment Provisions published by the Department of State Development, Manufacturing, Infrastructure and Planning
- Planning Act 2016
- Planning Regulation 2017



Attachment 3

APPEAL PROVISIONS

PLANNING ACT 2016

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 **appellant** 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.

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



SCHEDULE 1 APPEALS

- 1 Appeal rights and parties to appeals
 - (1) Table 1 states the matters that may be appealed to—
 - (a) the P&E court; or
 - (b) a tribunal.

Table 1

Appeals to the P&E Court and, for certain matters, to a tribunal

1. Development applications

For a development application other than an excluded application, an appeal may be made against—

- (a) the refusal of all or part of the development application; or
- (b) the deemed refusal of the development application; or
- (c) a provision of the development approval; or
- (d) if a development permit was applied for—the decision to give a preliminary approval.

Column 1	Column 2	Column 3	Column 4
Appellant	Respondent	Co-respondent (if any)	Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	1 A concurrence agency that is not a co-respondent 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application



Statement of Reasons

Planning Act 2016 s.56

1. Applicant details

Applicant name:	North Queensland Bulk Ports Corporation
Applicant contact details:	David Todd
	PO Box 3340
	NORTH MACKAY QLD 4740

2. Property description of proposed development

Port:	Mackay
Street address:	Breakwater Access Road, Mackay Harbour
Real property description:	Lot 63 on SP143358 and Lot 64 on SP118293
Local government area:	Mackay Regional Council

3. Development details

Approved development:	Tidal works within a coastal management district, being a
	retrospective approval for upgrade works to an existing
	breakwater.

4. Assessment matters

The application has been assessed against:

- Port of Mackay Land Use Plan (November 2009).
- Port authority functions under the *Transport Infrastructure Act 1994*, chapter 8, part 3.

5. Reasons for the decision

The reasons for the decision are that the proposal:

- Complies and contributes toward the achievement of the desired environmental outcomes of the Port of Mackay Land Use Plan (November 2009).
- Is consistent with the functions of the Port as specified in the *Transport Infrastructure Act* 1994, chapter 8, part 3.

Evidence or other material on which the findings were based:

• Material provided in the development application.



Port Development Approval

Port of Mackay Land Use Plan (November 2009)

1. Details of approval

Applicant:	North Queensland Bulk Ports Corporation
Approved proposal:	Tidal works within a coastal management district, being a retrospective approval for upgrade works to an existing breakwater.
Currency of approval	This approval will lapse if development is not commenced within two (2) years of the date of decision.
Date of decision	26 February 2018
Decision:	Approved Approved subject to conditions

2. Property description of proposed development

Port:	Mackay
Street address:	Breakwater Access Road, Mackay Harbour
Real property description:	Lot 63 on SP143358 and Lot 64 on SP118293
Lease:	N/a
Lessee:	N/a

3. Approved drawings and documents

The following drawings and documents are approved by NQBP as the basis for the works. Copies of these approved drawings are provided as an enclosure.

Drawing	Number	Date / revision
Mackay Southern Breakwater Upgrade Work – General Arrangement	698873-DRG-001	06/12/2017
Mackay Southern Breakwater Upgrade Work –	698873-DRG-005	06/12/2017
Typical Section Sheet 1		
Mackay Southern Breakwater Upgrade Work – Typical Section Sheet 2	698873-DRG-006	06/12/2017
Mackay Southern Breakwater Upgrade Work – Typical Section Sheet 3	698873-DRG-007	06/12/2017

4. Additional approvals required

This Port Development Approval is limited to proposal described above. At no time should this document be interpreted to imply approval to any other development, operation or land use.

This Port Development Approval does not remove the requirement for any other legislative approval (including approvals under the *Planning Act 2016*).

It is the proponent's responsibility to ensure all necessary approvals, permits and licences are obtained to undertake the proposed use / works.



5. Advisory information

Please note that the information contained in this section under the heading Advisory information has been provided as advice only and does not form part of the development approval conditions. This information has been provided to advise of other obligations under state legislation or local laws that may require action to be undertaken prior to commencing the activity approved by this development approval.

NOTES

Cultural heritage duty of care

Section 23 of the Aboriginal Cultural Heritage Act 2003 establishes a duty of care for all
persons carrying out an activity to take all reasonable and practicable measures to
ensure the activity does not harm Aboriginal cultural heritage. It is the person undertaking
the activity responsibility to ensure compliance with the duty of care.

A copy of the legislation can be accessed via https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/A/AborCultHA03.pdf

Hours of work and noise

2. Section 440R of the *Environmental Protection Act 1994* prohibits construction, building and earthworks activities likely to cause audible noise (including the entry and departure of heavy vehicles) between the hours of 6:30pm and 6:30am from Monday to Saturday and at all times on Sundays or Public Holidays.

A copy of the legislation can be accessed via https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/E/EnvProtA94.pdf

General safety during construction

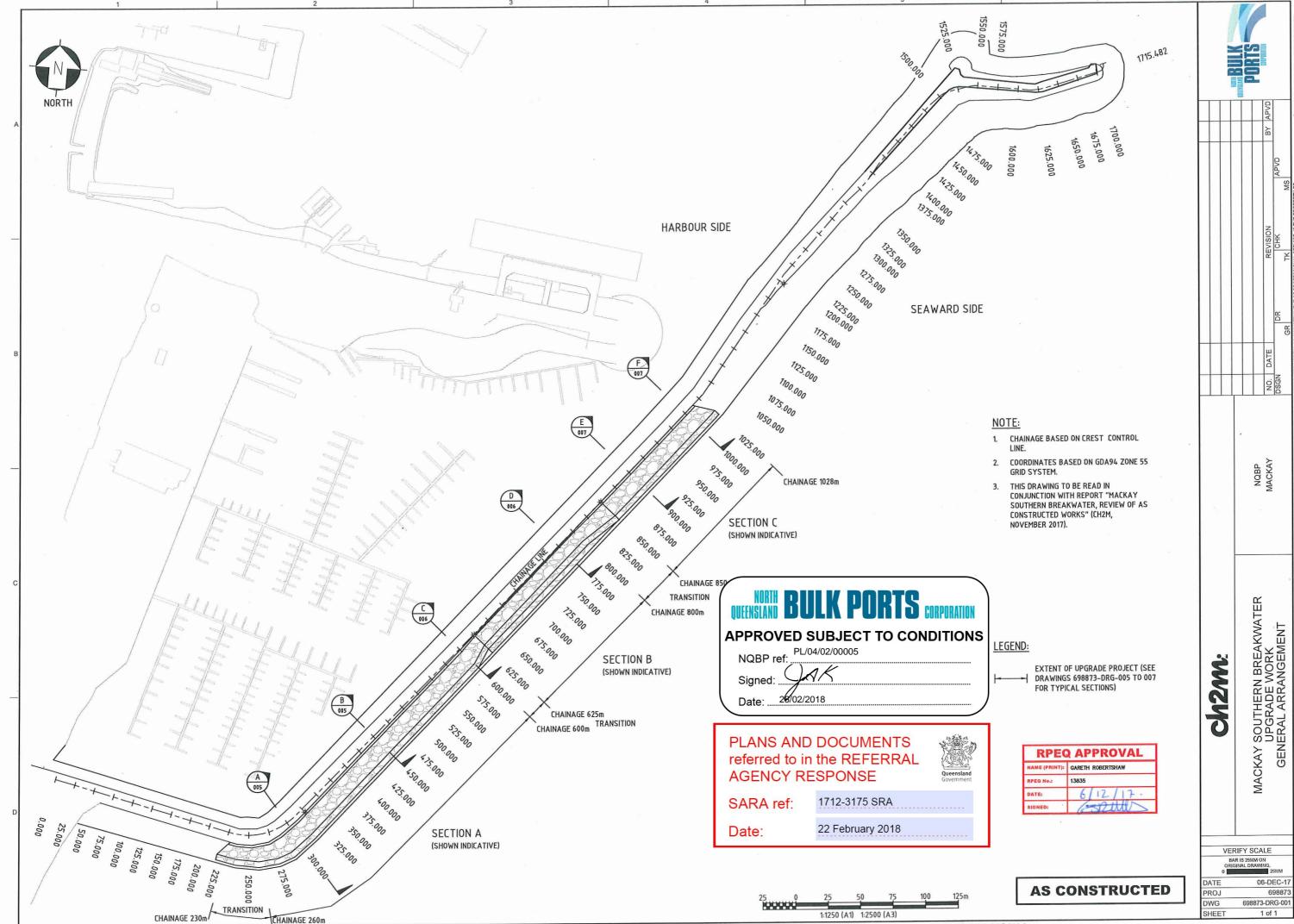
- 3. The Work Health and Safety Act 2011 establishes a number of obligations relevant to the project, in particular:
 - a. Under section 19(2), a person conducting a business or undertaking must ensure the health and safety of other persons is not put at risk from work carried out as part of the conduct of the business or undertaking.
 - b. Under section 20(2), the person in control of the workplace is obliged to ensure that the means of entering and exiting the workplace and anything arising from the workplace are without risks to the health and safety of any person.

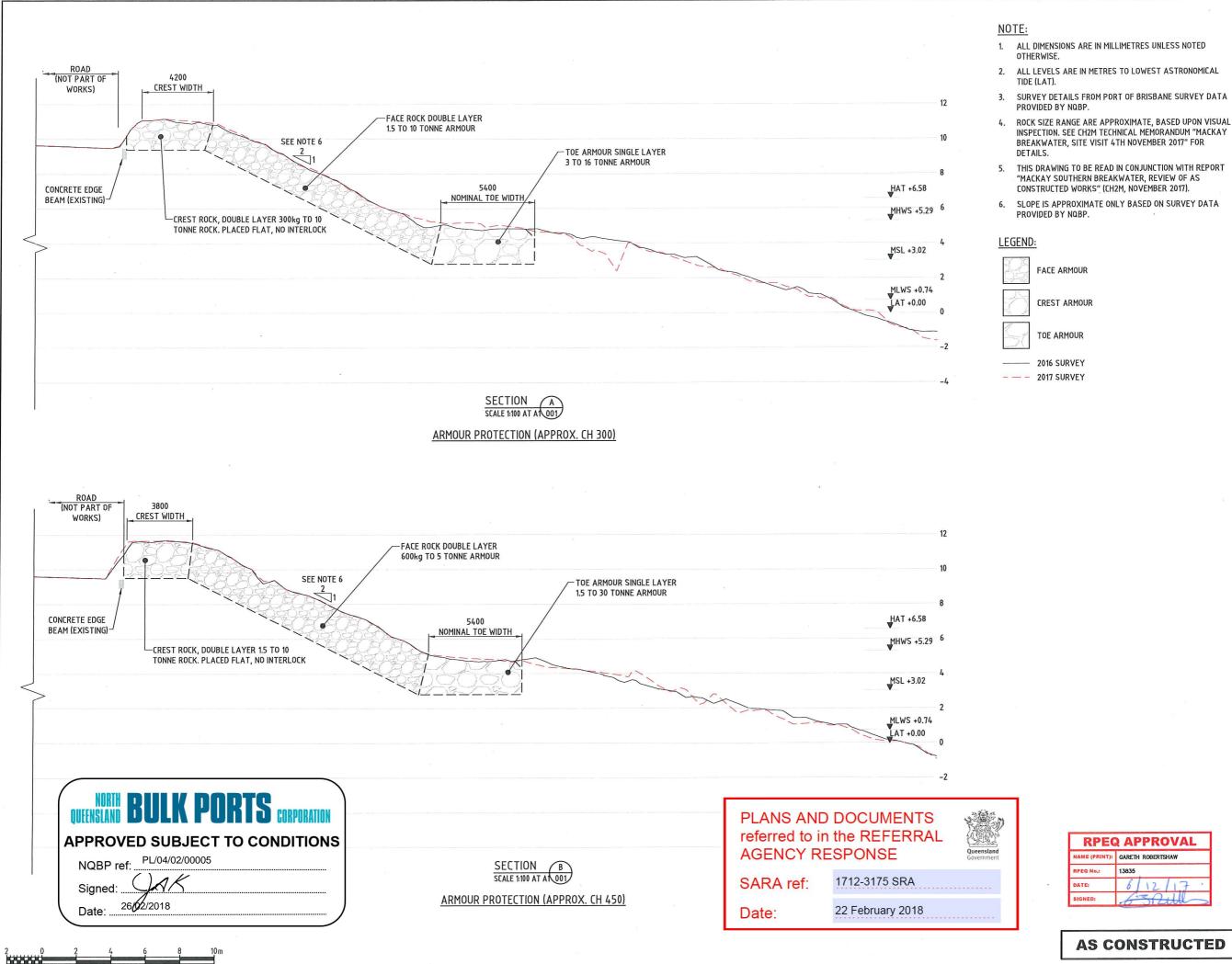
A copy of the legislation can be accessed via https://www.legislation.qld.gov.au/LEGISLTN/CURRENT/W/WorkHSA11.pdf



Approved drawings

Drawing	Number	Date / revision
Mackay Southern Breakwater Upgrade Work – General Arrangement	698873-DRG-001	06/12/2017
Mackay Southern Breakwater Upgrade Work – Typical Section Sheet 1	698873-DRG-005	06/12/2017
Mackay Southern Breakwater Upgrade Work – Typical Section Sheet 2	698873-DRG-006	06/12/2017
Mackay Southern Breakwater Upgrade Work – Typical Section Sheet 3	698873-DRG-007	06/12/2017





1:100 (A1) 1:200 (A3)

1:100

BAR IS 25MM ON

06-DEC-17

698873-DRG-005

698873

MACKAY SOUTHERN BREAKWATER UPGRADE WORKS TYPICAL SECTION SHEET 1

VERIFY SCALE

DATE PROJ

SHEET

