

File: 18/141  
Date: 28 November 2018

Acciona Energy Australia Global Pty Ltd  
Level 12, Southbank Boulevard  
**SOUTHBANK VICTORIA 3006**

Attention: Mr Glenn Skoien

Dear Mr Skoien

**Decision Notice – change application – minor change  
(Given under section 83 of the *Planning Act 2016*)  
Material Change of Use  
Lot 22 on BNT1041, 1261 Carbean Road, Inglewood**

Goondiwindi Regional Council received your change application made under section 78 of the *Planning Act 2016* on 15 November 2018 for the developed approval dated 28 November 2018.

**Decision for change application**

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Date of decision:	28 November 2018
Decision details:	Agreed to the requested change to Condition 3 to allow for the construction of a 120m high mast instead of the 100m originally approved.

The changes agreed to are:

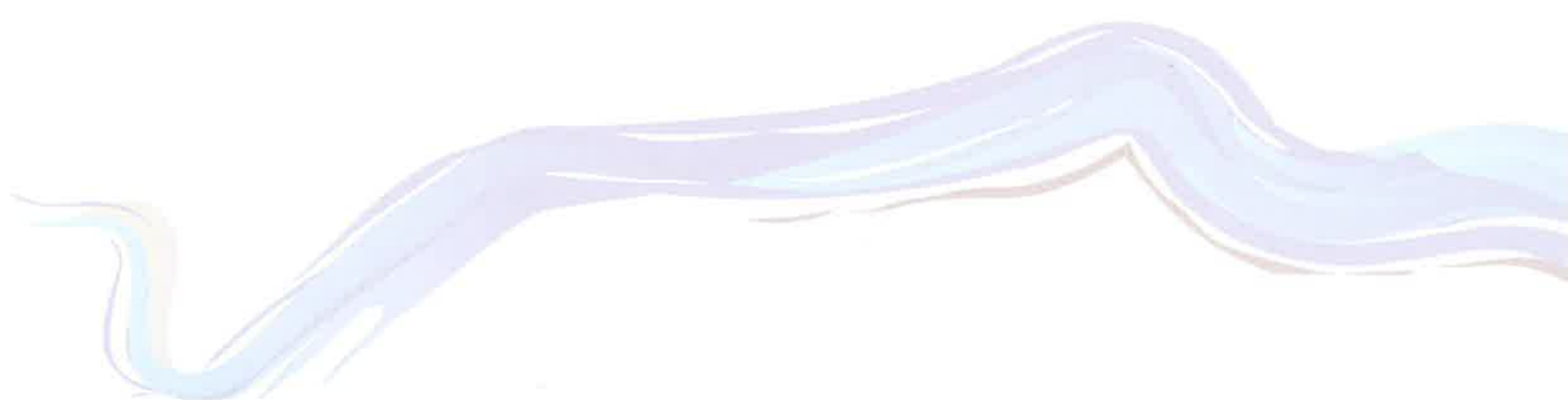
1. Condition 3

If you require any further information, please contact Council's Manager of Planning Services, Mrs Ronnie McMahon, on (07) 4671 7400 or [rmcmahon@grc.qld.gov.au](mailto:rmcmahon@grc.qld.gov.au), who will be pleased to assist.

Yours faithfully



**Ronnie McMahon**  
Manager of Planning Services  
Goondiwindi Regional Council



# Decision Notice approval

## Planning Act 2016 section 63

Council File Reference: 18/141  
Council Contact: Mrs Ronnie McMahon: JML  
Council Contact Phone: (07) 4671 7400

28 November 2018

**Applicant Details:** Acciona Energy Australia Global Pty Ltd  
Level 12, Southbank Boulevard  
Southbank Vic 3006

Attention: Mr Glenn Skoien

The development application described below was properly made to Goondiwindi Regional Council on 27 November 2018.

### Applicant details

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Applicant name: Acciona Energy Australia Global Pty Ltd  
Applicant contact details: Glenn Skoien  
Level 12, Southbank Boulevard  
Southbank, Victoria, 3006  
Ph. 0428 459 901  
[Glenn.skoien@acciona.com](mailto:Glenn.skoien@acciona.com)

### Application details

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Application number: 18/141  
Approval sought: Development Permit – Material Change of Use  
Details of proposed development: "Undefined" – (Meteorological Monitoring Mast)

### Location details

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Street address: 1216 Carbean Road, Cement Mills  
Real property description: Lot 22 on BNT1041

### Decision

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Date of decision: 28 November 2018  
Decision details: Approved in full with conditions. These conditions are set out in Attachment 1 and are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

### Details of the approval

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Development permit: Material Change of Use

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## Description of requested changes

### Existing Condition 3

The development shall be general in accordance with supporting information supplied by the applicant with the development application including the following plans:

Drawing Number	Title	Date
MAC_LAY_050_01D, Rev. C	Site Plan – 22 BNT1041 Proposed Meteorological Mast	24/05/2018
J534-155/1/1	Detailed Plan 100m, 300 F.W., Guyed Butt Mast General Arrangement	24/08/12

Please note these are not approved Building Plans.  
The approved plans are included in **Attachment 2**.

### Recommendation:

Agree

### Requested Changes - Condition 3

The development shall be in accordance with supporting information supplied by the applicant with the development application including the following indicative plans:

Drawing Number	Title	Date
MAC_LAY_050_01C, Rev. C	Site Plan – 8B34342 Proposed Meteorological Masts	26/04/18
18008-GA-TM, Rev A Sheet 4 of 6	Site Layout & General Arrangements	08/05/18
18008-GA-TM, Rev A Sheet 3 of 6	Site Layout & General Arrangements	08/05/18

Please note these are not approved Building Plans.  
The approved plans are included in **Attachment 2**.

## Conditions

This approval is subject to the conditions in Attachment 1. The changed conditions are highlighted for clarification in **Attachment 1**.

**All conditions other than those approved to be changed from the original Decision Notice remain relevant and enforceable.**

**All other parts of the original Decision Notice not amended by this Notice remain relevant and enforceable.**

## Further development permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

1. Approval to carry out building work under the *Building Act 1975*

## Properly made submissions

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

## 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 are attached.

### 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* OR

- [For material change of use] This approval lapses if the first change of use does not happen within 6 years.

### Approved plans and specifications

Copies of the following plans, specifications and drawings are enclosed.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
<b>Aspect of development: [material change of use]</b>				
Proposed Meteorological Monitoring Mast – Site Plan	Acciona energy	24/05/2018	MAC_LAY_050_01D	Revision C
Site Layout & General Arrangement	ART Group	08/05/18	18008-GA-TM, Rev A, Sheet 4 of 6	-
Site Layout & General Arrangement	ART Group	08/05/18	18008-GA-TM, Rev A, Sheet 3 of 6	-

**Attachment 3** is a Notice about decision - Statement of reasons, in accordance with section 63 (5) of *the Planning Act 2016*.

**Attachment 4** is an extract from the *Planning Act 2016*, which details the applicant's appeal rights regarding this decision

If you wish to discuss this matter further, please contact Council's Manager of Planning Services, Mrs Ronnie McMahon, on 07 4671 7400.

Yours Sincerely



**Ronnie McMahon**  
Manager of Planning Services  
Goondiwindi Regional Council

enc Attachment 1—Amended Assessment manager and concurrence agency conditions  
Attachment 2—Amended Approved plans  
Attachment 3—Notice about decision – Statement of reasons  
Attachment 4—Planning Act extracts



## **ATTACHMENTS**

**Attachment 1 – Amended Assessment Manager’s Conditions**

**Attachment 2 – Approved Plans**

**Attachment 3 – Notice about decision - Statement of reasons**

**Attachment 4 – *Planning Act 2016* Extracts**

*Planning Act 2016 appeal provisions*

*Planning Act 2016 lapse dates*



## **Attachment 1 – Amended Assessment Manager’s Conditions**



## Assessment Manager's Conditions

<b>Proposed Use:</b>	"Undefined" <ul style="list-style-type: none"> <li>(Meteorological Monitoring Mast)</li> </ul>
<b>Development:</b>	Material Change of Use – Development Permit
<b>Applicant:</b>	Acciona Energy
<b>Address:</b>	1216 Carbean Road, Cement Mills
<b>Real Property Description:</b>	Lot 22 on BNT1041
<b>Council File Reference:</b>	18/14I

GENERAL CONDITIONS																
1.	Approval is granted for the purpose of a Material Change of Use for: <ul style="list-style-type: none"> <li>"Undefined" – (Meteorological Monitoring Mast)</li> </ul> as defined in the <i>Goondiwindi Region Planning Scheme 2018</i> .															
2.	All conditions must be complied with or bonded prior to the commencement of the use, unless specified in an individual condition.															
3.	The development shall be general in accordance with supporting information supplied by the applicant with the development application including the following plans: <table border="1" data-bbox="236 1205 1417 1621"> <thead> <tr> <th>Drawing Number</th> <th>Title</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>MAC_LAY_050_01 D, Rev. C</td> <td>Site Plan – 22 BNT1041 Proposed Meteorological Mast</td> <td>24/05/2018</td> </tr> <tr> <td>J534-155/1/1</td> <td>Detailed Plan 100m, 300 F.W., Guyed Butt Mast General Arrangement</td> <td>24/08/12</td> </tr> <tr> <td>18008-GA-TM, Rev A Sheet 4 of 6</td> <td>Site Layout &amp; General Arrangements</td> <td>08/05/18</td> </tr> <tr> <td>18008-GA-TM, Rev A Sheet 3 of 6</td> <td>Site Layout &amp; General Arrangements</td> <td>08/05/18</td> </tr> </tbody> </table> <p>Please note these plans are not approved Building Plans. The approved plans are included in <b>Attachment 2</b>.</p>	Drawing Number	Title	Date	MAC_LAY_050_01 D, Rev. C	Site Plan – 22 BNT1041 Proposed Meteorological Mast	24/05/2018	J534-155/1/1	Detailed Plan 100m, 300 F.W., Guyed Butt Mast General Arrangement	24/08/12	18008-GA-TM, Rev A Sheet 4 of 6	Site Layout & General Arrangements	08/05/18	18008-GA-TM, Rev A Sheet 3 of 6	Site Layout & General Arrangements	08/05/18
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18008-GA-TM, Rev A Sheet 3 of 6	Site Layout & General Arrangements	08/05/18														

4.	<p>Complete and maintain the approved development as follows:</p> <ul style="list-style-type: none"> <li>(i) Generally in accordance with development approval documents; and</li> <li>(ii) Strictly in accordance with those parts of the approved development which have been specified in detail by Council unless Council agrees in writing that those parts will be adequately complied with by amended specifications.</li> </ul> <p>All development shall comply with any relevant provisions in the <i>Goondiwindi Region Planning Scheme 2018</i>, Council's standard designs for applicable work and any relevant Australian Standard that applies to that type of work.</p> <p>The development approval documents are the material contained in the development application, approved plans and supporting documentation including any written and electronic correspondence between applicant, Council or any relevant Agencies during all stages of the development application assessment processes.</p>
5.	The developer shall contact Council's Engineering Department to ensure the correct specifications are obtained for all civil works prior to commencement of any works onsite.
6.	It is the responsibility of the developer to ensure that all requirements, legislative or otherwise, relating to this development have been carried out lawfully prior to the commencement of the use.
7.	Prior to any construction work commencing on site, a Building Approval is to be obtained from either an accredited Building Certifier or Goondiwindi Regional Council.
<b>PUBLIC UTILITIES</b>	
8.	If required, the development shall be connected to an adequate electricity and telecommunications supply system, at no cost to Council.
9.	The premises shall make available an adequate volume and supply of water for fire fighting purposes.
<b>ROADS AND VEHICLES</b>	
10.	Access to the site shall be provided as shown on the approved plan Drawing No. MAC_LAY_050_01D, Rev. C. The site access, from the edge of the existing road to the property boundary, shall be maintained or upgraded if required to a residential standard in accordance with Schedule 6, SC6.2 – Planning Scheme Policy 1 – Land Development Standards of the <i>Goondiwindi Region Planning Scheme 2018</i> , to the satisfaction of and at no cost to Council.



	<p>The developer shall contact Council's Engineering Department to ensure the correct specifications are obtained for all civil works prior to commencement of any works onsite.</p> <p>A qualified Council Officer may inspect construction works at the request of the developer to ensure compliance with this condition.</p>
	<b>EARTHWORKS AND EROSION CONTROL</b>
11.	<p>Erosion and sediment control measures shall be in place at the location of all works prior to work commencing and remain until work is completed in accordance with Schedule 6, SC6.2 – Planning Scheme Policy 1 – Land Development Standards of the <i>Goondiwindi Region Planning Scheme 2018</i> to the satisfaction of and at no cost to Council.</p> <p>The developer shall ensure no increase in any silt loads or contaminants in overland flow from the site during the development process and after development has been completed.</p>
12.	<p>All works associated with the development must be carried out in a manner that minimizes erosion and controls sediment. Best practice erosion and sediment control measures shall be in place at the location of all works prior to work commencing and remain until work is completed in accordance with Schedule 6, SC6.2 – Planning Scheme Policy 1 – Land Development Standards of the <i>Goondiwindi Region Planning Scheme 2018</i> to the satisfaction of and at no cost to Council.</p> <p>Control procedures are to be established to ensure sediment from the site is not deposited off site. The developer shall ensure no increase in any silt loads or contaminants in overland flow from the site during the development process and after development has been completed.</p>
13.	<p>Any filling or excavation shall be undertaken in accordance with Schedule 6, SC6.2 – Planning Scheme Policy 1 – Land Development Standards of the <i>Goondiwindi Region Planning Scheme 2018</i> or to other relevant engineering standards to the satisfaction of and at no cost to Council.</p> <p>Excavation or filling within 1.5 metres of any site boundary is battered or retained by a wall that does not exceed 1 metre in height.</p>
	<b>AVOIDING NUISANCE</b>
14.	<p>At all times while the use continues, the development shall be conducted in accordance with the provisions of the <i>Environmental Protection Act 1994</i> and all relevant regulations and standards under that Act. All necessary licences under the Act shall be obtained and shall be maintained at all times while the use continues.</p>
15.	<p>At all times while the use continues, lighting of the site, including any security lighting, shall be such that the lighting intensity does not exceed 8.0 lux at a distance of 1.5 metres from the site at any property boundary.</p>

	All lighting shall be directed or shielded so as to ensure that no glare directly affects nearby properties, motorists or the operational safety of the surrounding road network.
16.	At all times while the use continues it shall be operated in such a manner as to ensure that no nuisance shall arise to adjoining premises as a result of dust, noise, lighting, odour, vibration, rubbish, contaminants, stormwater discharge or siltation or any other potentially detrimental impact.
17.	All construction waste is to be contained on site in either a skip container or enclosed trailer. Construction waste is to be transported to an approved waste facility with recycling of any materials to be undertaken at the waste facility.
18.	Provision shall be made on site for toilet facilities for workers during the construction phase and for ongoing maintenance personnel.
19.	The operator shall be responsible for mitigating any complaints arising from on-site operations.
20.	Construction works must occur so they do not cause unreasonable interference with the amenity of adjoining premises.  During construction the site must be kept in a clean and tidy state at all times.
<b>DEVELOPER'S RESPONSIBILITIES</b>	
	Any alteration or damage to roads and/or public infrastructure that is attributable to the progress of works or vehicles associated with the development of the site shall be repaired to Council's satisfaction or the cost of repairs paid to Council.
	It is the developer's responsibility to ensure that any contractors and subcontractors have current, relevant and appropriate qualifications and insurances in place to carry out the works.
	The developer shall be responsible for meeting all costs reasonably associated with the approved development, unless there is specific agreement by other parties, including the Council, to meeting those costs.
	At all times while the use continues, all requirements of the conditions of the development approval must be maintained.

	<p>It is the developer's responsibility to ensure that potential bushfire hazards are appropriately mitigated to reflect the hazard level of the site in regard to vegetation type and proximity, slope and aspect, bushfire history, on-site environmental values, ease of maintenance, and any specific implications of the development.</p>
	<p><b>COMMENCEMENT OF USE</b></p>
26.	<p>At its discretion, Council may accept bonds or other securities to ensure completion of specified development approval conditions or Council may accept cash payments for Council to undertake the necessary work to ensure completion of specified development approval conditions.</p> <p>It may be necessary for Council to use such bonds for the completion of outstanding works without a specific timeframe agreed.</p>
27.	<p>Council must be notified in writing of the date of the commencement of the use within 14 days of commencement.</p> <p>This approval will lapse if the use has not commenced within <b>six years</b> of the date the development approval takes effect, in accordance with the provisions contained in sections 85(i)(a) of the <i>Planning Act 2016</i>.</p> <p>Section 86 of the <i>Planning Act 2016</i> sets out how an extension to the period of approval can be requested.</p>
28.	<p>A letter outlining and demonstrating that conditions have been, or will be, complied with shall be submitted to Council and approved by a relevant Officer of Council prior to commencement of the use at each relevant stage. Council Officers may require a physical inspection to confirm that all conditions have been satisfied to relevant standards.</p>
	<p><b>PLEASE READ CAREFULLY - NOTES AND ADVICE</b></p>
	<p><i>When approval takes effect</i></p> <p>This approval takes effect in accordance with section 85 of the <i>Planning Act 2016</i>.</p> <p><i>When approval lapses</i></p> <p>This approval will lapse if the change of use has not occurred within the following period, in accordance with the provisions contained in section 85(i)(a) of the <i>Planning Act 2016</i>.</p> <p style="padding-left: 40px;">(a) If no period stated – 6 years after the approval starts to have effect.</p> <p>Section 86 of the <i>Planning Act 2016</i> sets out how an extension to the period of approval can be requested.</p>

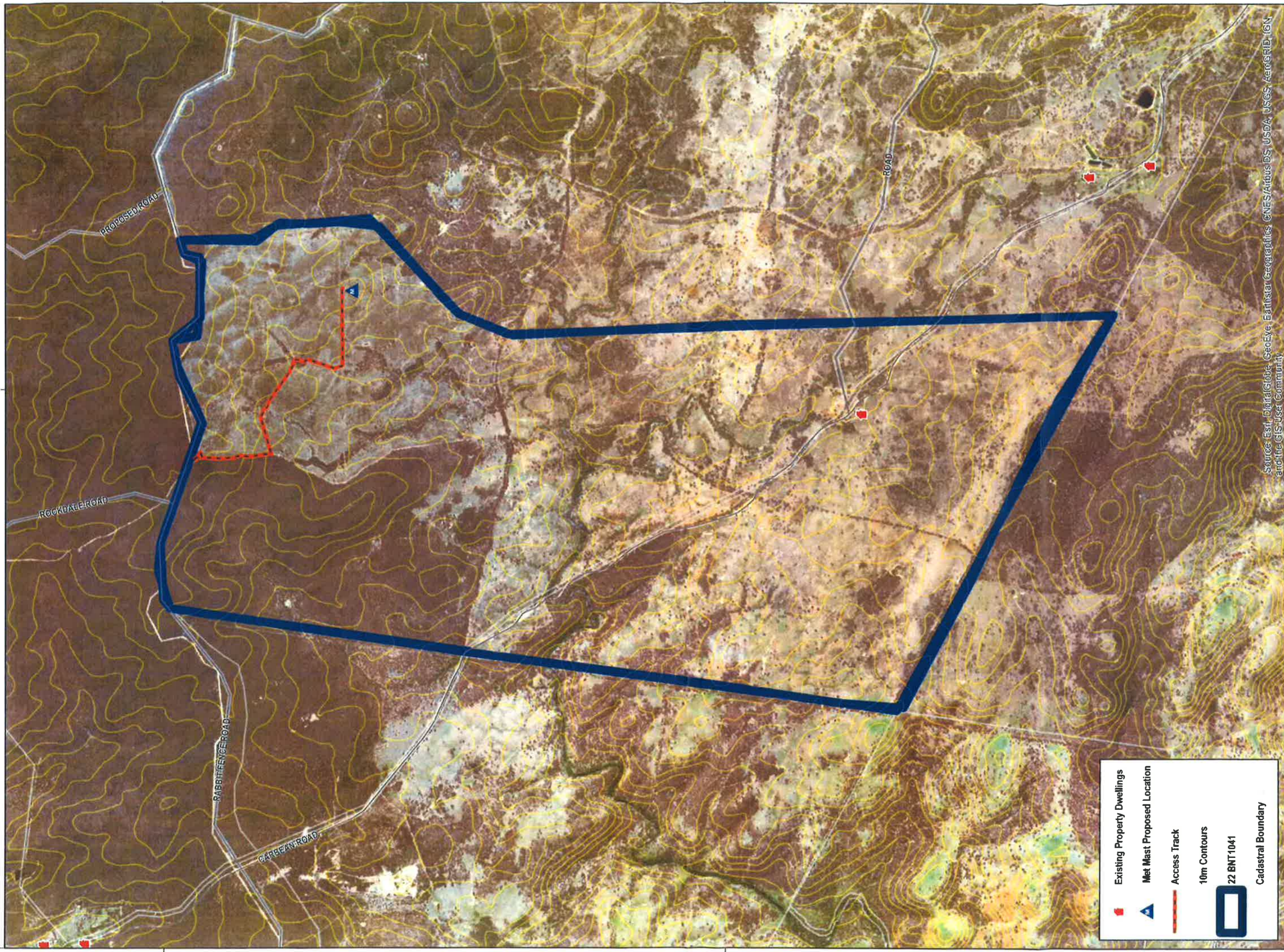
	<p>It is the applicant's responsibility to obtain all statutory approvals prior to commencement of any works onsite.</p>
	<p>This approval in no way removes the duty of care responsibility of the applicant under the <i>Aboriginal Cultural Heritage Act 2003</i>. Pursuant to Section 23(1) of the <i>Aboriginal Cultural Heritage Act 2003</i>, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care").</p>
	<p>This approval in no way authorises the clearing of native vegetation protected under the <i>Vegetation Management Act 1999</i>.</p>
	<p>The approved development does not authorise any deviation from the applicable Australian Standards nor from the application of any laws, including laws covering work place health and safety.</p>



**Attachment 2 – Approved Plans**







Source: Esri, DigitalGlobe, GeoEye, Earthstar Geographics, CNES/Airbus DS, USDA, USGS, AeroGRID, IGN, and the GIS User Community

	Existing Property Dwellings
	Met Mast Proposed Location
	Access Track
	10m Contours
	22 BNT1041
	Cadastral Boundary

8508

Level 12, 2 Southbank Blvd  
 Southbank, Victoria, 3006  
 Phone: +61 3 9027 1000



# PROPOSED METEOROLOGICAL MAST

## Site Plan - 22 BNT1041

Date: 24/05/2018  
 File: MAC\_LAY\_050\_01D  
 Sheet: 1 of 1  
 Revision: C

0 km 1  
 Scale: 1:30,000 @ Page size: A3  
 Coordinate System: GDA 1994 MGA Zone 56

363508



GOONDIWINDI REGIONAL COUNCIL  
Approved Plan referred to in Council's Decision Notice

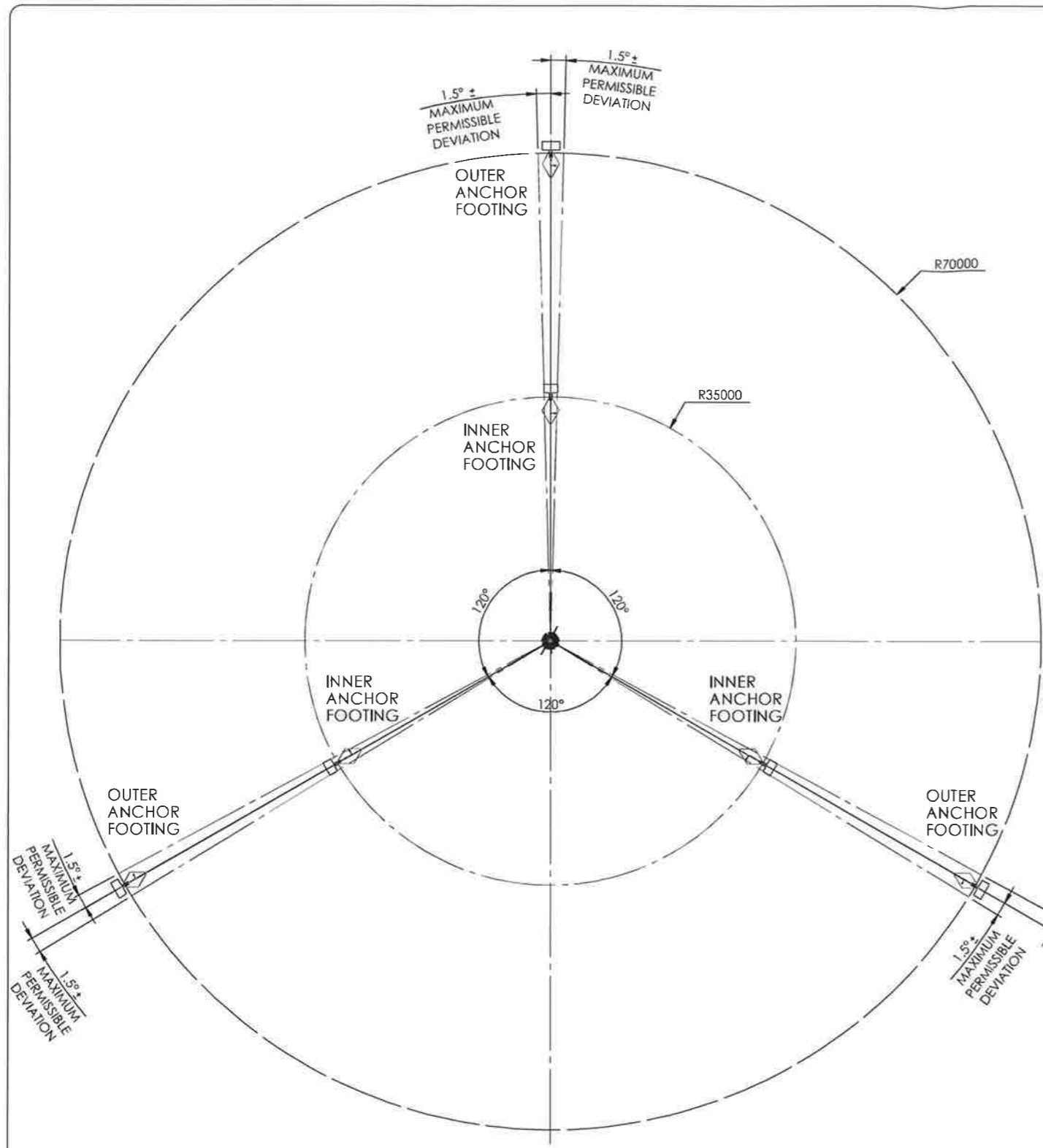
Council Reference: 18/147

Dated: 25 September 2018

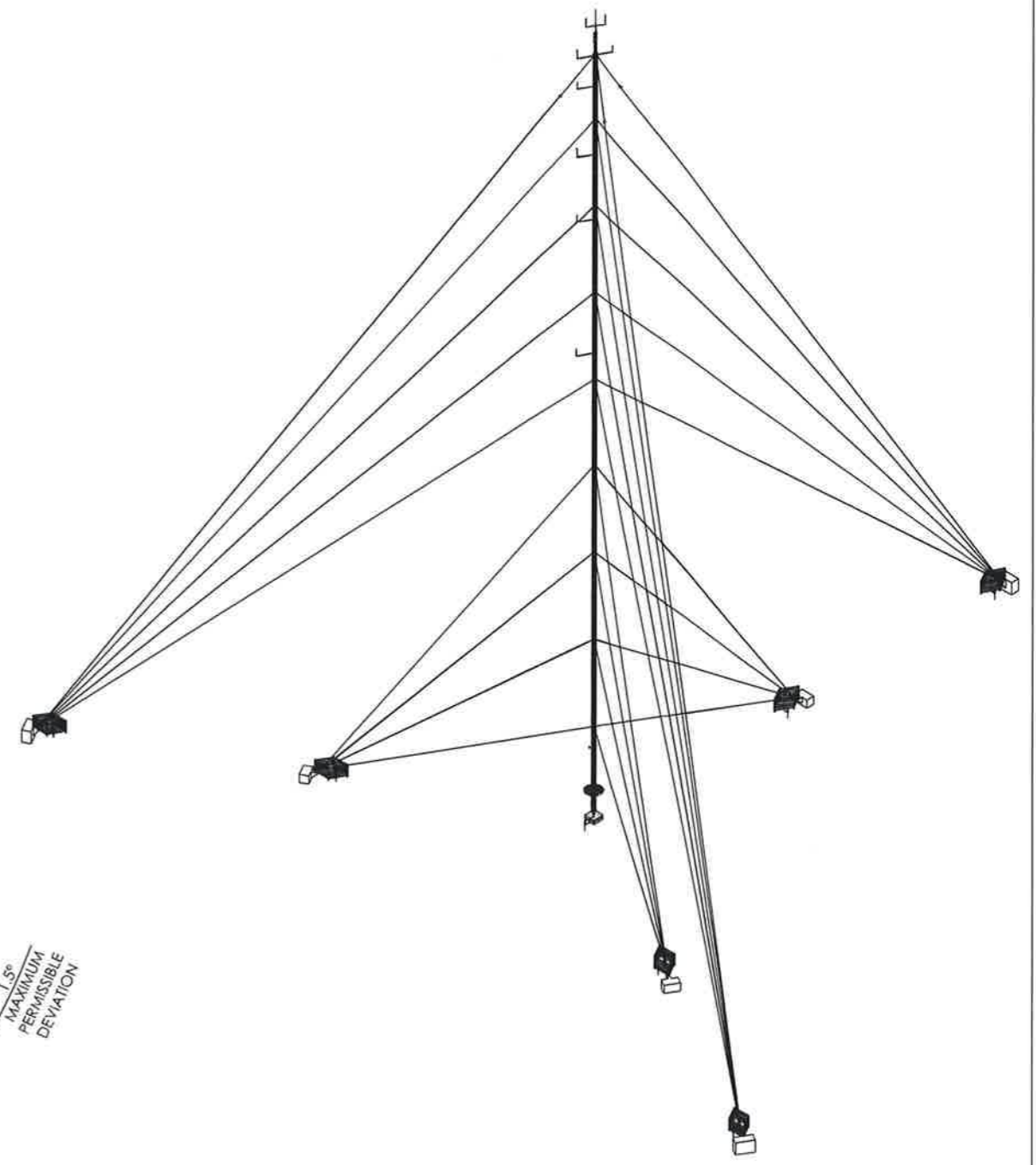
Signed: *R.M.M.A.*

Print Name: M.S. Rennie McWhorter  
(Under Delegation) ASSESSMENT MANAGER

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MAST ASSEMBLY LAYOUT PLAN  
SCALE 1 : 700



ISOMETRIC VIEW  
SCALE 1 : 700

NOTE:  
FOR ORIENTATION REFER TO WIND SYSTEM GA

REV	DATE	REVISIONS	DRAWN	CHK	APRVD
A	08/05/18	ORIGINAL ISSUE - PRELIMINARY	DM	AK	JS
-	-	-	-	-	-
-	-	-	-	-	-
-	-	-	-	-	-

**ART GROUP**  
MURWILLUMBAH 119-125 QUARRY ROAD PH. 02 6672 6200  
E-MAIL: ADMIN@ARTOWERS.COM.AU

**ART GROUP**

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SCALE	1:500	A3	DATE	08/05/18
DESIGNED	DM	08/05/18	CHECKED	AK
APPROVED	JS	08/05/18		

DRAWING No.	18008-GA-TM
	MACINTYRE WIND FARM
	SITE LAYOUT & GENERAL ARRANGEMENT

REV.	A
	SHEET 3 OF 6



GOONDIWINDI REGIONAL COUNCIL  
Approved Plan referred to in Council's Decision Notice  
Council Reference: 18/141  
Dated: 28/11/18  
Signed: *RM McMahon*  
Print Name: Mrs Ronnie McMahon  
(Under Delegation) ASSESSMENT MANAGER

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ANCILLARY DESCRIPTION	MODEL	HEIGHT(m)
ANEMOMETER (A1 - RED)	THIES FIRST CLASS	120
THIES ANEMOMETER(A2 - BLUE)	THIES FIRST CLASS	120
TEMPERATURE PROBE: T1	GALTECH MELA T+H	115
WIND VANE (WV2 - YELLOW)	THIES COMPACT POT	115
WIND VANE(WV1 - WHITE)	THIES COMPACT POT	115
ANEMOMETER(A3 - GREEN)	THIES FIRST CLASS	110
WIND VANE (WV3 - YELLOW/WHITE)	THIES COMPACT POT	100
ANEMOMETER (A4 - BROWN)	THIES FIRST CLASS	90
ANEMOMETER(A5 - GREY)	THIES FIRST CLASS	70
SOLAR PANEL	SYMMETRY 50W	5
ANTI CLIMB	GL550R02	4
TEMPERATURE PROBE: T2	GALTECH MELA T+H	3.5
DATA LOGGER	CAMPBELL SCIENTIFIC	2
PRESSURE SENSOR	AMMONIT AB60	2

ANCILLARY GENERAL TYPE	ESA(m)
LIGHTNING ROD	0.17
WIND VANE + ANEMOMETER + GOAL POST BOOM ARM	0.29
WIND VANE + ANEMOMETER + SINGLE BOOM ARM	0.17
SOLAR PANEL + SUPPORT	0.7
TEMPERATURE HUMIDITY SENSOR + SUPPORT	0.04
JUNCTION BOX	0.125
DATA LOGGER	0.5

1. AN ALLOWANCE HAS BEEN MADE FOR CABLES TO BE BUNDLED DOWN MAST LEG.
2. MAST ANCILLARIES TO BE CONFIRMED WITH CLIENT & CHECKED WITH ENGINEER PRIOR TO MAST ANCILLARIES TO BE CONFIRMED WITH CLIENT & CHECKED WITH ENGINEER PRIOR TO INSTALLATION.

NOTES:  
 1. GUYS 8.25mm (7/2.75mm STRANDS) G1320.  
 (7/2.75mm STRANDS) G1320.

- TENSILE STRENGTH = 1320 MPa.
- BREAKING FORCE = 50 KN.
- PRE-TENSIONNER ANCHOR 3.5 KN & OUTER ANCHOR 4.5KN.

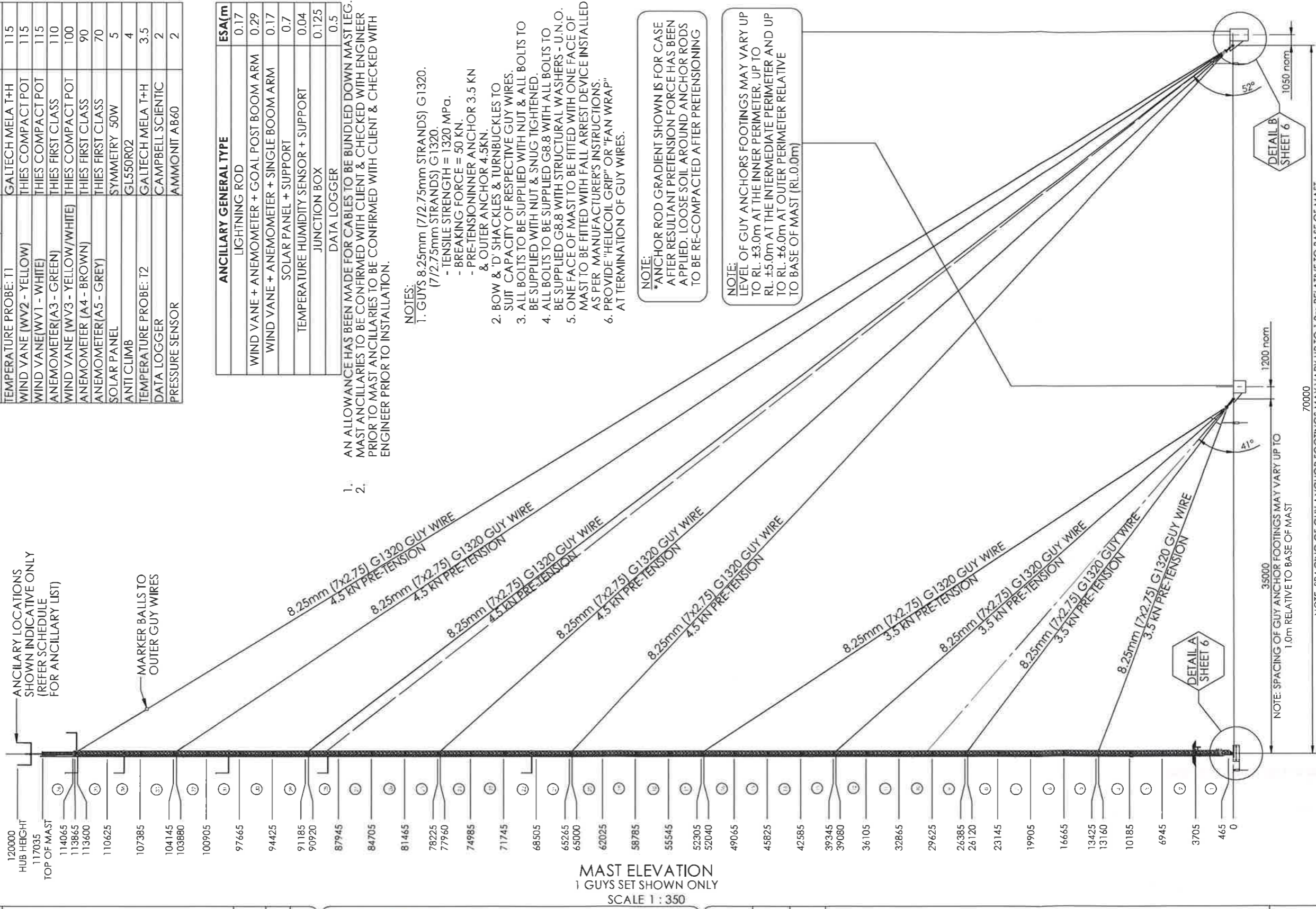
2. BOW & 'D' SHACKLES & TURNBUCKLES TO SUIT CAPACITY OF RESPECTIVE GUY WIRES.
3. ALL BOLTS TO BE SUPPLIED WITH NUT & ALL BOLTS TO BE SUPPLIED WITH NUT & SNUG TIGHTENED.
4. ALL BOLTS TO BE SUPPLIED G8.8 WITH ALL BOLTS TO BE SUPPLIED G8.8 WITH STRUCTURAL WASHERS - U.N.O.
5. ONE FACE OF MAST TO BE FITTED WITH ONE FACE OF MAST TO BE FITTED WITH FALL ARREST DEVICE INSTALLED AS PER MANUFACTURER'S INSTRUCTIONS.
6. PROVIDE "HELICOIL GRIP" OR "FAN WRAP" AT TERMINATION OF GUY WIRES.

NOTE:  
 \*ANCHOR ROD GRADIENT SHOWN IS FOR CASE AFTER RESULTANT PRETENSION FORCE HAS BEEN APPLIED. LOOSE SOIL AROUND ANCHOR RODS TO BE RE-COMPACTED AFTER PRETENSIONING

NOTE:  
 LEVEL OF GUY ANCHORS FOOTINGS MAY VARY UP TO RL. ±3.0m AT THE INNER PERIMETER, UP TO RL. ±5.0m AT THE INTERMEDIATE PERIMETER AND UP TO RL. ±6.0m AT OUTER PERIMETER RELATIVE TO BASE OF MAST (RL.0.0m)

ANCILLARY LOCATIONS SHOWN INDICATIVE ONLY (REFER SCHEDULE FOR ANCILLARY LIST)

MARKER BALLS TO OUTER GUY WIRES



MAST ELEVATION  
 1 GUYS SET SHOWN ONLY  
 SCALE 1 : 350

REV	DATE	REVISIONS	DRAWN	CHK	APRVD
A	08/05/18	ORIGINAL ISSUE - PRELIMINARY	DM	AK	JS

**ART GROUP**  
 MURWILLUMBAH 119-125 QUARRY ROAD PH. 02 6672 6200  
 E-MAIL: ADMIN@ARTOWERS.COM.AU  
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SCALE	1:250	A3	DATE	
DESIGNED	DM		08/05/18	
CHECKED	AK		08/05/18	
APPROVED	JS		08/05/18	

DRAWING No.	18008-GA-TM
MACINTYRE WIND FARM	
SITE LAYOUT & GENERAL ARRANGEMENT	

REV.	A
SHEET 4 OF 6	

**GOONDIWINDI REGIONAL COUNCIL**

Approved Plan referred to in Council's Decision Notice

Council Reference: 18/141

Dated: 28/11/18

Signed: 

Print Name: Mrs. Ronnie McMahon  
(Under Delegation) ASSESSMENT MANAGER



**Attachment 3 – Notice about decision - Statement of reasons**



## Notice about decision - Statement of reasons

The following information is provided in accordance with section 63 (5) of the *Planning Act 2016* and must be published on the assessment managers website.

The development application for "Undefined" – (Meteorological Monitoring Mast) \_\_\_\_\_

18/141 \_\_\_\_\_

1216 Carbean Road, Cement Mills \_\_\_\_\_

Lot 22 on BNT1041 \_\_\_\_\_

On 28 November 2018, the above development application was:

- approved in full or  
 approved in part for \_\_\_\_\_ or  
 approved in full with conditions or  
 approved in part for \_\_\_\_\_ ,  
with conditions or  
 refused.

### 1. Reasons for the decision

The reasons for this decision are:

- *Having regard to the relevant criteria in the Rural Zone code of the Goondiwindi Region Planning Scheme 2018, the proposed development satisfied all relevant criteria, and was approved subject to appropriate, relevant and reasonable conditions.*

### 2. Assessment benchmarks

The following are the benchmarks applying for this development:

Benchmarks applying for the development	Benchmark reference
Rural Zone Code	Goondiwindi Region Planning Scheme 2018: PO1

### 3. Compliance with benchmarks

Not applicable, as the proposed development complied with all applicable benchmarks.

### 4. Relevant matters for impact assessable development

Not required for this minor change application.

### 5. Matters raised in submissions for impact assessable development

Not required for this minor change application.

### 6. Matters prescribed by Regulation

Not required for this minor change application.



**Attachment 4 – *Planning Act 2016* Extracts**



**EXTRACT FROM PLANNING ACT 2016  
RELATING TO APPEAL RIGHTS**

**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.

### **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—

**decision** includes—

(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, a tribunal or another entity; and

(c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a 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.

## **Part 2 Development tribunal**

### **Division 1 General**

#### **233 Appointment of referees**

(1) The Minister, or chief executive, (the appointer) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—

(a) has the qualifications or experience prescribed by regulation; and

(b) has demonstrated an ability—

(i) to negotiate and mediate outcomes between parties to a proceeding; and



(ii) to apply the principles of natural justice;  
and

(iii) to analyse complex technical issues;  
and

(iv) to communicate effectively, including,  
for example, to write informed succinct and  
well-organised decisions, reports,  
submissions or other documents.

(2) The appointer may—

(a) appoint a referee for the term, of not more  
than 3 years, stated in the appointment notice;  
and

(b) reappoint a referee, by notice, for further  
terms of not more than 3 years.

(3) If an appointer appoints a public service officer as  
a referee, the officer holds the appointment  
concurrently with any other appointment that the  
officer holds in the public service.

(4) A referee must not sit on a tribunal unless the  
referee has given a declaration, in the approved  
form and signed by the referee, to the chief  
executive.

(5) The appointer may cancel a referee's  
appointment at any time by giving a notice,  
signed by the appointer, to the referee.

(6) A referee may resign the referee's appointment  
at any time by giving a notice, signed by the  
referee, to the appointer.

(7) In this section—

**appointment notice** means—

(a) if the Minister gives the notice—a gazette  
notice; or

(b) if the chief executive gives the notice—a  
notice given to the person appointed as a referee.

#### **234 Referee with conflict of interest**

(1) This section applies if the chief executive informs  
a referee that the chief executive proposes to  
appoint the referee as a tribunal member, and  
either or both of the following apply—

(a) the tribunal is to hear a matter about  
premises—

(i) the referee owns; or

(ii) for which the referee was, is, or is to be,  
an architect, builder, drainer, engineer,  
planner, plumber, plumbing inspector,  
certifier, site evaluator or soil assessor; or

(iii) for which the referee has been, is, or will  
be, engaged by any party in the referee's  
capacity as an accountant, lawyer or other  
professional; or

(iv) situated or to be situated in the area of  
a local government of which the referee is  
an officer, employee or councillor;

(b) the referee has a direct or indirect personal  
interest in a matter to be considered by the  
tribunal, and the interest could conflict with the  
proper performance of the referee's functions for  
the tribunal's consideration of the matter.

(2) However, this section does not apply to a referee  
only because the referee previously acted in  
relation to the preparation of a relevant local  
planning instrument.

(3) The referee must notify the chief executive that  
this section applies to the referee, and on doing  
so, the chief executive must not appoint the  
referee to the tribunal.

(4) If a tribunal member is, or becomes, aware the  
member should not have been appointed to the  
tribunal, the member must not act, or continue to  
act, as a member of the tribunal.

#### **235 Establishing development tribunal**

(1) The chief executive may at any time establish a  
tribunal, consisting of up to 5 referees, for tribunal  
proceedings.

(2) The chief executive may appoint a referee for  
tribunal proceedings if the chief executive  
considers the referee has the qualifications or  
experience for the proceedings.

(3) The chief executive must appoint a referee as the  
chairperson for each tribunal.

(4) A regulation may specify the qualifications or  
experience required for particular proceedings.

(5) After a tribunal is established, the tribunal's  
membership must not be changed.

### **236 Remuneration**

*A tribunal member must be paid the remuneration the Governor in Council decides.*

### **237 Tribunal proceedings**

- (1) A tribunal must ensure all persons before the tribunal are afforded natural justice.*
- (2) A tribunal must make its decisions in a timely way.*
- (3) A tribunal may—*
  - (a) conduct its business as the tribunal considers appropriate, subject to a regulation made for this section; and*
  - (b) sit at the times and places the tribunal decides; and*
  - (c) hear an appeal and application for a declaration together; and*
  - (d) hear 2 or more appeals or applications for a declaration together.*
- (4) A regulation may provide for—*
  - (a) the way in which a tribunal is to operate, including the qualifications of the chairperson of the tribunal for particular proceedings; or*
  - (b) the required fee for tribunal proceedings.*

### **238 Registrar and other officers**

- (1) The chief executive may, by gazette notice, appoint—*
  - (a) a registrar; and*
  - (b) other officers (including persons who are public service officers) as the chief executive considers appropriate to help a tribunal perform its functions.*
- (2) A person may hold the appointment or assist concurrently with any other public service appointment that the person holds.*

## **Division 2 Applications for declarations**

### **239 Starting proceedings for declarations**

- (1) A person may start proceedings for a declaration by a tribunal by filing an application, in the approved form, with the registrar.*
- (2) The application must be accompanied by the required fee.*

### **240 Application for declaration about making of development application**

- (1) The following persons may start proceedings for a declaration about whether a development application is properly made—*
  - (a) the applicant;*
  - (b) the assessment manager.*
- (2) However, a person may not seek a declaration under this section about whether a development application is accompanied by the written consent of the owner of the premises to the application.*
- (3) The proceedings must be started by—*
  - (a) the applicant within 20 business days after receiving notice from the assessment manager, under the development assessment rules, that the development application is not properly made; or*
  - (b) the assessment manager within 10 business days after receiving the development application.*
- (4) The registrar must, within 10 business days after the proceedings start, give notice of the proceedings to the respondent as a party to the proceedings.*
- (5) In this section—*

**respondent means—**

- (a) if the applicant started the proceedings—the assessment manager; or*
- (b) if the assessment manager started the proceedings—the applicant.*

### **241 Application for declaration about change to development approval**

- (1) This section applies to a change application for a development approval if—*
  - (a) the approval is for a material change of use of premises that involves the use of a classified building; and*
  - (b) the responsible entity for the change application is not the P&E Court.*
- (2) The applicant, or responsible entity, for the change application may start proceedings for a*

declaration about whether the proposed change to the approval is a minor change.

(3) The registrar must, within 10 business days after the proceedings start, give notice of the proceedings to the respondent as a party to the proceedings.

(4) In this section—

**respondent** means—

(a) if the applicant started the proceedings—the responsible entity; or

(b) if the responsible entity started the proceedings—the applicant.

### **Division 3 Tribunal proceedings for appeals and declarations**

#### **242 Action when proceedings start**

If a document starting tribunal proceedings is filed with the registrar within the period required under this Act, and is accompanied by the required fee, the chief executive must—

(a) establish a tribunal for the proceedings; and

(b) appoint 1 of the referees for the tribunal as the tribunal's chairperson, in the way required under a regulation; and

(c) give notice of the establishment of the tribunal to each party to the proceedings.

#### **243 Chief executive excusing noncompliance**

(1) This section applies if—

(a) the registrar receives a document purporting to start tribunal proceedings, accompanied by the required fee; and

(b) the document does not comply with any requirement under this Act for validly starting the proceedings.

(2) The chief executive must consider the document and decide whether or not it is reasonable in the circumstances to excuse the noncompliance (because it would not cause substantial injustice in the proceedings, for example).

(3) If the chief executive decides not to excuse the noncompliance, the chief executive must give a notice stating that the document is of no effect,

because of the noncompliance, to the person who filed the document.

(4) The chief executive must give the notice within 10 business days after the document is given to the chief executive.

(5) If the chief executive does excuse the noncompliance, the chief executive may act under section 242 as if the noncompliance had not happened.

#### **244 Ending tribunal proceedings or establishing new tribunal**

(1) The chief executive may decide not to establish a tribunal when a document starting tribunal proceedings is filed, if the chief executive considers it is not reasonably practicable to establish a tribunal.

Examples of when it is not reasonably practicable to establish a tribunal—

- there are no qualified referees or insufficient qualified referees because of a conflict of interest

- the referees who are available will not be able to decide the proceedings in a timely way

(2) If the chief executive considers a tribunal established for tribunal proceedings—

(a) does not have the expertise to hear or decide the proceedings; or

(b) is not able to make a decision for proceedings (because of a tribunal member's conflict of interest, for example); the chief executive may decide to suspend the proceedings and establish another tribunal, complying with section 242(c), to hear or re-hear the proceedings.

(3) However, the chief executive may instead decide to end the proceedings if the chief executive considers it is not reasonably practicable to establish another tribunal to hear or re-hear the proceedings.

(4) If the chief executive makes a decision under subsection (1) or (3), the chief executive must give a decision notice about the decision to the parties to the proceedings.

(5) Any period for starting proceedings in the P&E Court, for the matter that is the subject of the tribunal proceedings, starts again when the chief

executive gives the decision notice to the party who started the proceedings.

- (6) The decision notice must state the effect of subsection (5).

#### **245 Refunding fees**

The chief executive may, but need not, refund all or part of the fee paid to start proceedings if the chief executive decides under section 244—

- (a) not to establish a tribunal; or  
(b) to end the proceedings.

#### **246 Further material for tribunal proceedings**

- (1) The registrar may, at any time, ask a person to give the registrar any information that the registrar reasonably requires for the proceedings.

Examples of information that the registrar may require—

- material about the proceedings (plans, for example)
- information to help the chief executive decide whether to excuse noncompliance under section 243
- for a deemed refusal—a statement of the reasons why the entity responsible for deciding the application had not decided the application during the period for deciding the application.

- (2) The person must give the information to the registrar within 10 business days after the registrar asks for the information.

#### **247 Representation of Minister if State interest involved**

If, before tribunal proceedings are decided, the Minister decides the proceedings involve a State interest, the Minister may be represented in the proceedings.

#### **248 Representation of parties at hearing**

A party to tribunal proceedings may appear—

- (a) in person; or  
(b) by an agent who is not a lawyer.

#### **249 Conduct of tribunal proceedings**

- (1) Subject to section 237, the chairperson of a tribunal must decide how tribunal proceedings are to be conducted.

- (2) The tribunal may decide the proceedings on submissions if the parties agree.

- (3) If the proceedings are to be decided on submissions, the tribunal must give all parties a notice asking for the submissions to be made to the tribunal within a stated reasonable period.

- (4) Otherwise, the tribunal must give notice of the time and place of the hearing to all parties.

- (5) The tribunal may decide the proceedings without a party's submission (written or oral) if—

- (a) for proceedings to be decided on submissions—the party's submission is not received within the time stated in the notice given under subsection (3); or

- (b) for proceedings to be decided by hearing—the person, or the person's agent, does not appear at the hearing.

- (6) When hearing proceedings, the tribunal—

- (a) need not proceed in a formal way; and

- (b) is not bound by the rules of evidence; and

- (c) may inform itself in the way it considers appropriate; and

- (d) may seek the views of any person; and

- (e) must ensure all persons appearing before the tribunal have a reasonable opportunity to be heard; and

- (f) may prohibit or regulate questioning in the hearing.

- (7) If, because of the time available for the proceedings, a person does not have an opportunity to be heard, or fully heard, the person may make a submission to the tribunal.

#### **250 Tribunal directions or orders**

A tribunal may, at any time during tribunal proceedings, make any direction or order that the tribunal considers appropriate.

Examples of directions—

- a direction to an applicant about how to make their development application comply with this Act
- a direction to an assessment manager to assess a development application, even though the referral agency's response to the assessment manager was to refuse the application

#### **251 Matters tribunal may consider**

- (1) This section applies to tribunal proceedings about—
  - (a) a development application or change application; or
  - (b) an application or request (however called) under the Building Act or the Plumbing and Drainage Act.
- (2) The tribunal must decide the proceedings based on the laws in effect when—
  - (a) the application or request was properly made; or
  - (b) if the application or request was not required to be properly made—the application or request was made.
- (3) However, the tribunal may give the weight that the tribunal considers appropriate, in the circumstances, to any new laws.

#### **252 Deciding no jurisdiction for tribunal proceedings**

- (1) A tribunal may decide that the tribunal has no jurisdiction for tribunal proceedings, at any time before the proceedings are decided—
  - (a) on the tribunal's initiative; or
  - (b) on the application of a party.
- (2) If the tribunal decides that the tribunal has no jurisdiction, the tribunal must give a decision notice about the decision to all parties to the proceedings.
- (3) Any period for starting proceedings in the P&E Court, for the matter that is the subject of the tribunal proceedings, starts again when the tribunal gives the decision notice to the party who started the proceedings.

- (4) The decision notice must state the effect of subsection (3).
- (5) If the tribunal decides to end the proceedings, the fee paid to start the proceedings is not refundable.

#### **253 Conduct of appeals**

- (1) This section applies to an appeal to a tribunal.
- (2) Generally, the appellant must establish the appeal should be upheld.
- (3) However, for an appeal by the recipient of an enforcement notice, the enforcement authority that gave the notice must establish the appeal should be dismissed.
- (4) The tribunal must hear and decide the appeal by way of a reconsideration of the evidence that was before the person who made the decision appealed against.
- (5) However, the tribunal may, but need not, consider—
  - (a) other evidence presented by a party to the appeal with leave of the tribunal; or
  - (b) any information provided under section 246.

#### **254 Deciding appeals to tribunal**

- (1) This section applies to an appeal to a tribunal against a decision.
- (2) The tribunal must decide the appeal by—
  - (a) confirming the decision; or
  - (b) changing the decision; or
  - (c) replacing the decision with another decision; or
  - (d) setting the decision aside, and ordering the person who made the decision to remake the decision by a stated time; or
  - (e) for a deemed refusal of an application—
    - (i) ordering the entity responsible for deciding the application to decide the application by a stated time and, if the entity does not comply with the order, deciding the application; or
    - (ii) deciding the application.