

File: 16/12W  
Date: 23 July 2019

SMK Consultants  
9 Pratten Street  
**GOONDIWINDI QLD 4390**

Attention: Tom Jobling

Dear Mr Jobling

**Decision Notice – change application – minor change  
(Given under section 83 of the *Planning Act 2016*)  
Material Change of Use**

**Lots 62 & 63 on SP308130, "Carpendale II" 18833 Gore Highway, Goondiwindi**

Goondiwindi Regional Council received your change application made under section 78 of the *Planning Act 2016* on 20 June 2019 for the development approval dated 28 October 2016.

**Decision for change application**

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Date of decision: 22 July 2019

Decision details: Make the change and amend existing conditions.

The changes agreed to are:

1. Condition 3 – amend references to approved plans.

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: 16/12W  
Council Contact: Mrs Ronnie McMahon: LMM  
Council Contact Phone: (07) 4671 7400

23 July 2019

**Applicant Details:** SMK Consultants  
9 Pratten Street  
GOONDIWINDI QLD 4390

Attention: Tom Jobling

The development application described below was properly made to Goondiwindi Regional Council on 20 June 2019.

#### Applicant details

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Applicant name: SMK Consultants for Carpendale Farms  
Applicant contact details: 9 Pratten Street, Goondiwindi, QLD, 4390  
[jobling@smk.com.au](mailto:jobling@smk.com.au)  
(07) 4671 2445

#### Application details

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Application number: 16/12W  
Approval sought: Development Permit – Material Change of Use  
Details of proposed development: *“Industrial activities” – “Industry”* (Primary products storage – grain; pulses; and cotton) and *“Industrial activities” – “Transport terminal”* (Distribution)

#### Location details

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Street address: “Carpendale II”, 18833 Gore Highway, Goondiwindi  
Real property description: Lots 62 & 63 on SP308130

#### Decision

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Date of decision: 22 July 2019  
Decision details: Approved in full. A copy of the amended conditions for the application are included in Attachment 1, showing the approved changes.

#### Details of the approval

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Development permit: Material Change of Use

## Description of requested changes

### Existing Condition 3

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

Drawing Number	Title	Date
1937.DRG.007 Revision 1	Site Area and Project Plan Area	05/08/2016
1937.DRG.003 Revision 5	Proposed Site Layout – Industry (Primary Products Storage & Distribution)	04/08/2016
1937.DRG.005 Revision 3	Proposed Elevations – Industry (Primary Products Storage & Distribution)	04/08/2016
A101, Revision A	Floor Plan Transportable Office	24/03/2016
A201, Revision A	Elevations – Transportable Office	24/03/2016
1937.DRG.003 Revision 5	Site Layout – Effluent Disposal Plan	10/08/2016

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

### Requested Changes - Condition 3

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

Drawing Number	Title	Date
1937.DRG.007 Revision 1	Site Area and Project Plan Area	05/08/2016
<del>1937.DRG.003 Revision 5</del>	<del>Proposed Site Layout – Industry (Primary Products Storage &amp; Distribution)</del>	<del>04/08/2016</del>
1937.DRG.003 Revision 6	Proposed Site Layout – Industry (Primary Products Storage & Distribution)	20/06/2019
<del>1937.DRG.005 Revision 3</del>	<del>Proposed Elevations – Industry (Primary Products Storage &amp; Distribution) Existing</del>	<del>04/08/2016</del>
1937.DRG.004 Revision 2	Existing Elevations – Proposed Industry (Primary Products Storage & Distribution)	05/08/2016
A101, Revision A	Floor Plan Transportable Office	24/03/2016
A201, Revision A	Elevations – Transportable Office	24/03/2016
1937.DRG.003 Revision 5	Site Layout – Effluent Disposal Plan	10/08/2016

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

### Recommendation:

Agree

## 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 for building works under the *Building Act 1975*.

## Properly made submissions

Not applicable—No part of the minor change 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*

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

## Approved plans and specifications

Copies of the following plans are enclosed.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
<b>Aspect of development: [material change of use]</b>				
Site Area and Project Plan Area	Groundwork Plus	05/08/2016	1937.DRG.007	Revision 1
Proposed Site Layout – Industry (Primary Products Storage & Distribution)	Groundwork Plus	20/06/2019	1937.DRG.003	Revision 6
Existing Elevations – Proposed Industry	Groundwork Plus	05/08/2016	1937.DRG.004	Revision 2

(Primary Products Storage & Distribution)				
Floor Plan Transportable Office	SBP Australia	24/03/2016	A101	Revision A
Elevations – Transportable Office	SBP Australia	24/03/2016	A201	Revision A
Site Layout – Effluent Disposal Plan	Groundwork Plus	10/08/2016	1937.DRG.003	Revision 5

**Attachment 4** is a Notice about decision - Statement of reasons, in accordance with section 63 (5) of the *Planning Act 2016*.

**Attachment 5** 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—Approved plans  
Attachment 3—Amended Infrastructure Charges Notice  
Attachment 4—Notice about decision – Statement of reasons  
Attachment 5—Planning Act extracts



## **ATTACHMENTS**

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

*Part 1 - Amended Assessment Manager’s Conditions*

*Part 2 - Department of Infrastructure, Local Government and Planning –  
Concurrence Agency Response*

### **Attachment 2 – Approved Plans**

### **Attachment 3 – Amended Infrastructure Charges Notice**

### **Attachment 4 – Notice about decision - Statement of reasons**

### **Attachment 5 – *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>	<i>"Industrial activities"</i> <ul style="list-style-type: none"> <li><i>"Industry"</i> – (Primary products storage – grain; pulses; and cotton) &amp; <i>"Transport terminal"</i> (Distribution)</li> </ul>
<b>Development:</b>	Material Change of Use – Development Permit
<b>Applicant:</b>	SMK Consultants for Carpendale Farms
<b>Address:</b>	'Carpendale II' 18833 Gore Highway, Goondiwindi
<b>Real Property Description:</b>	Lot 62 & 63 on SP308130
<b>Council File Reference:</b>	16/12W

GENERAL CONDITIONS																							
1.	Approval is granted for the purpose of a Material Change of Use for: <ul style="list-style-type: none"><li>“Industrial activities” – “Industry” (Primary products storage – grain; pulses; and cotton) and “Transport terminal” (distribution)</li></ul> as defined in the 2006 Planning Scheme for the former Waggamba Shire Council.																						
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 in accordance with supporting information supplied by the applicant with the development application including the following plans: <table><tr><th>Drawing number</th><th>Title</th><th>Date</th></tr><tr><td>1937.DRG.007, Rev 1</td><td>Site Area and Project Plan Area</td><td>05/08/16</td></tr><tr><td>1937.DRG.003, Rev 5 1937.DRG.003, Revision 6</td><td>Proposed Site Layout – Industry (Primary Products Storage &amp; Distribution)</td><td>04/08/16 20/06/2019</td></tr><tr><td>1937.DRG.005, Rev 3 1937.DRG.004, Revision 2</td><td>Proposed elevations – Industry (Primary Products Storage &amp; Distribution) Existing elevations – Proposed Industry (Primary Products Storage &amp; Distribution)</td><td>04/08/16 05/08/2016</td></tr><tr><td>A101, Rev A</td><td>Floor Plan – Transportable Office</td><td>24/03/16</td></tr><tr><td>A201, Rev A</td><td>Elevations – Transportable Office</td><td>24/03/16</td></tr><tr><td>1937.DRG.003, Rev 5</td><td>Site Layout – Effluent Disposal Plan</td><td>10/08/16</td></tr></table> Please note these plans are not approved Building Plans. The approved plans are included in Attachment 2.		Drawing number	Title	Date	1937.DRG.007, Rev 1	Site Area and Project Plan Area	05/08/16	1937.DRG.003, Rev 5 1937.DRG.003, Revision 6	Proposed Site Layout – Industry (Primary Products Storage & Distribution)	04/08/16 20/06/2019	1937.DRG.005, Rev 3 1937.DRG.004, Revision 2	Proposed elevations – Industry (Primary Products Storage & Distribution) Existing elevations – Proposed Industry (Primary Products Storage & Distribution)	04/08/16 05/08/2016	A101, Rev A	Floor Plan – Transportable Office	24/03/16	A201, Rev A	Elevations – Transportable Office	24/03/16	1937.DRG.003, Rev 5	Site Layout – Effluent Disposal Plan	10/08/16
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A101, Rev A	Floor Plan – Transportable Office	24/03/16																					
A201, Rev A	Elevations – Transportable Office	24/03/16																					
1937.DRG.003, Rev 5	Site Layout – Effluent Disposal Plan	10/08/16																					



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>2006 Planning Scheme for the former Waggamba Shire Council</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.	<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 if use gas bit 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>(a) If no period stated – <b>6 years</b> 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>
6.	<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>
7.	<p>All proposed buildings shall comply with the approval documents, Schedule 1 – Design and Construction Standards of the <i>2006 Planning scheme for the former Waggamba Shire Council</i> and all other relevant statutory acts.</p>
8.	<p>A building approval issued by a Licensed Building Certifier will be required before commencement of the use for the following structures: -</p> <ul style="list-style-type: none"> <li>• Weighbridge, silos and grain drying structures,</li> <li>• Office buildings, storage sheds &amp; carport structures.</li> </ul> <p><i>Note: Compliance with the Disability (Access to Premises – Buildings) Standards 2010 will apply to office structure and amenities.</i></p>

	<b>OPERATION OF THE USE</b>
9.	The proposed industrial use shall be operated generally between the hours of 6:00am and 6:00pm Monday to Saturday.
10.	Loading and unloading shall occur generally between the hours of 6:00am and 6:00pm Monday to Saturday.
	<b>PUBLIC UTILITIES</b>
11.	Connection to reticulated electricity shall be retained to the lot, at no cost to Council.
12.	The development shall be connected to an adequate telecommunications supply system, at no cost to Council.
13.	The developer is responsible for ensuring Queensland Fire Services requirements are met with respect to this development.
	<b>ESSENTIAL SERVICES</b>
14.	The site shall obtain a supply of water of a volume and quality appropriate for the use, including adequate supply for firefighting purposes, in accordance with relevant engineering standards to the satisfaction of Council.
15.	The site shall be provided with an on-site effluent disposal system adequate for the use, in accordance with the <i>Queensland Plumbing and Wastewater Code</i> , to the satisfaction of and at no cost to Council. All sewer infrastructure (including effluent disposal areas) shall be fully located within site boundaries, to the satisfaction of and at no cost to Council.
	<b>ROADS AND VEHICLES</b>
16.	<p>All areas where vehicles manoeuvre and park shall be constructed to a dust suppressant hard stand standard.</p> <p>These works shall be designed and constructed in accordance with Schedule 1, Division 2: Standards for Roads, Carparking, Manoeuvring Areas and Access of the <i>2006 Planning Scheme for the former Waggamba Shire Council</i>, to the satisfaction of and at no cost to Council. These works shall be either constructed or bonded prior to the commencement of use. The developer shall contact Council's Engineering Services Department to ensure the correct specifications are obtained for all civil works prior to commencement of any works on site.</p> <p>A qualified Council Officer may inspect construction works at the request of the developer to ensure compliance with this condition.</p>

17.	<p>A minimum of six (6) car parking spaces shall be supplied on-site in accordance with the approved Drawing No. 1937.DRG.003, Rev 5.</p> <p>Car parking areas shall be either constructed or bonded prior to the commencement of the use.</p> <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>
18.	<p>Vehicle manoeuvring areas shall be provided on-site so that all vehicles, including all heavy vehicles, can enter and leave the site in a forward direction.</p>
	<p><b>STORMWATER</b></p>
19.	<p>Prior to the commencement of the use and at all times while the use continues, the site shall be adequately drained and all stormwater shall be disposed of to a legal discharge point in accordance with Schedule 1, Division 5: Standards for Stormwater Drainage of the <i>2006 Planning Scheme for the former Waggamba Shire Council</i>, to the satisfaction of and at no cost to Council.</p> <p>There shall be no change in direction or increase in the volume, concentration or velocity in any overland flow from the site to any adjoining properties unless agreed in writing by Council and the owners of any adjoining properties affected by these changes.</p> <p>The stormwater system shall be designed to include appropriate pollution control devices or methods to ensure no contamination or silting of waterways.</p>
20.	<p>Stormwater shall not be allowed to pond on the site during the development process and after development has been completed unless the type and size of ponding has been agreed in writing by Council.</p> <p>No ponding, concentration or redirection of stormwater shall occur on adjoining properties unless specifically agreed to in writing by Council and the owners of any adjoining properties affected by these changes.</p>
	<p><b>EARTHWORKS AND EROSION CONTROL</b></p>
21.	<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 1, Division 1: Standards for Construction Activities of the <i>2006 Planning Scheme for the former Waggamba Shire Council</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>

22.	<p>Any filling or excavation shall be undertaken in accordance with Schedule 1, Division 1: Standards for Construction Activities of the <i>2006 Planning Scheme for the former Waggamba Shire Council</i>, or to other relevant engineering standards to the satisfaction of and at no cost to Council.</p> <p>Excavation or filling within 1.5m of any site boundary is battered or retained by a wall that does not exceed 1 metre in height.</p>
	<p><b>AVOIDING NUISANCE</b></p>
23.	<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>
24.	<p>At all times while the use continues, provision must be made on site for the collection of general refuse in covered waste containers with a capacity sufficient for the use.</p> <p>Waste receptacles shall be placed in a screened area. The site must maintain a general tidy appearance.</p>
25.	<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> <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.</p>
26.	<p>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.</p>
27.	<p>The operator shall be responsible for mitigating any complaints arising from the on-site operations.</p>
	<p><b>DEVELOPER'S RESPONSIBILITIES</b></p>
28.	<p>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.</p>
29.	<p>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.</p>

30.	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.
	<b>CHARGES PAID BEFORE USE COMMENCES</b>
31.	All outstanding rates and charges shall be paid to Council prior to the commencement of the use.
	<b>COMMENCEMENT OF USE</b>
32.	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.
33.	<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>
34.	<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 section 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>
	<b>PLEASE READ CAREFULLY – NOTES AND ADVICE</b>
	Infrastructure charges as outlined in the Infrastructure Charges Notice included in <b>Attachment 3</b> shall be paid prior to the commencement of the use.
	It is the applicant's responsibility to obtain all statutory approvals prior to commencement of any works onsite.

	<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 1 – Concurrence Agency Response**

***Part 2 - Department of Infrastructure, Local Government and Planning – Concurrence Agency Response***



Department of Infrastructure,  
Local Government and Planning

Our reference: SDA-0516-030451

Your reference: 16/12W

29 September 2016

The Chief Executive Officer  
Goondiwindi Regional Council  
LMB 7  
INGLEWOOD QLD 4387

**Attention: Mrs Ronnie McMahon**

Dear Ronnie

**Concurrence Agency Response—with conditions—Development Permit for a Material  
Change of Use (Industrial Activities – Storage Facility and Transport Terminal)**

18833 Gore Highway Goondiwindi QLD 4390

(Given under section 285 of the *Sustainable Planning Act 2009*)

The referral agency material for the development application described below was received by the Department of Infrastructure, Local Government and Planning (DILGP) under section 272 of the *Sustainable Planning Act 2009* on 16 June 2016.

**Applicant details**

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Applicant name: Carpendale Farms Pty Ltd

Applicant contact details: C/-Groundwork Plus  
PO BOX 1779  
Milton QLD 4064

**Site details**

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Street address: 18833 Gore Highway Goondiwindi QLD 4390

Lot on plan: Lot 62 on SP146065

Local government area: Goondiwindi Regional Council

**Application details**

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Proposed development: Material Change of Use (Industrial Activities – Storage  
Facility and Transport Terminal)



## Aspects of development and type of approval being sought

Development Permit - Material Change of Use (Industrial Activities – Storage Facility and Transport Terminal)

## Referral triggers

The development application was referred to DILGP under the following provisions of the *Sustainable Planning Regulation 2009*:

Referral trigger	Schedule 7, Table 3, Item 1
	Making a material change of use of premises, other than an excluded material change of use, if any part of the land—
	(a) is within 25m of a State-controlled road or
	(b) is future State-controlled road or
	(c) abuts a road that intersects with a State-controlled road within 100m of the land.
	Schedule 7, Table 3, Item 2
	An aspect of development identified in schedule 9 that -
	(a) is for a purpose mentioned in schedule 9, column 1 and
	(b) meets or exceeds the threshold -
	(i) for development in LGA population 1 - mentioned in schedule 9, column 2 for the purpose or
	(ii) for development in LGA population 2 - mentioned in schedule 9, column 3 for the purpose.
	However, if the development is for a combination of purposes mentioned in the same item of schedule 9, the threshold is for the combination of purposes and not for each purpose individually.

## Conditions

Under section 287(1)(a) of the *Sustainable Planning Act 2009*, the conditions set out in Attachment 1 must be attached to any development approval.

## Reasons for decision to impose conditions

Under section 289(1) of the *Sustainable Planning Act 2009*, DILGP must set out the reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

## Approved plans and specifications

DILGP requires that the following plans and specifications set out below and in Attachment 3 must be attached to any development approval.

Drawing/Report Title	Prepared by	Date	Reference no.	Version/Issue
<b>Aspect of development: Material Change of Use</b>				
Proposed Site Layout – Industry (Primary Products Layout & Distribution)	Groundwork Plus	4 August 2016	1937.DRG.003	5
Swept Path Analysis – Site Access	TTM Consulting Pty Ltd	2 August 2016	16BRT0159-01	B
Figure 8 – Site Access Limits of the Updated Traffic Impact Assessment	TTM Consulting Pty Ltd	2 August 2016	16BRT0159	-

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

For further information, please contact Ms Charmaine Aldridge, Principal Planning Officer, SARA Darling Downs South West on 4616 7305, or email [charmaine.aldridge@dilgp.qld.gov.au](mailto:charmaine.aldridge@dilgp.qld.gov.au) who will be pleased to assist.

Yours sincerely

A handwritten signature in black ink, appearing to read 'IMH', is positioned above the printed name and title.

Ian McHugh  
**A/Manager (Planning)**

cc: Carpendale Farms Pty Ltd, [planning@groundwork.com.au](mailto:planning@groundwork.com.au)  
enc: Attachment 1—Conditions to be imposed  
Attachment 2—Reasons for decision to impose conditions  
Attachment 3—Approved Plans and Specifications

Our reference: SDA-0516-030451

Your reference: 16/12W

**Attachment 1—Conditions to be imposed**

No.	Conditions	Condition timing
<b>Development Permit for a Material Change of Use (Industrial Activities – Storage Facility and Transport Terminal)</b>		
7.3.1; 7.3.2—Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i> , the chief executive administering the Act nominates the Director-General of the Department of Transport and Main Roads (DTMR) to be the assessing authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
<b>Road works on a State-controlled road</b>		
1.	<p>(a) Road works comprising Basic Left Turn Treatment (BAL) and Basic Right Turn Treatment (BAR) must be provided at the development access/Gore Highway intersection. In addition, the road works must include:</p> <ul style="list-style-type: none"> <li>• The design for type 1 road trains; and</li> <li>• “Truck Warning” signs both sides of the road access.</li> </ul> <p>(b) The road works must be designed and constructed in accordance with the DTMR <i>Road Planning and Design Manual</i> and <i>Manual of Uniform Traffic Control Devices</i></p>	Prior to the commencement of use
<b>Vehicular access to the State-controlled road</b>		
2.	<p>(a) The road access location, is to be located generally in accordance with <i>Swept Path Analysis – Site Access</i>, prepared by TTM Consulting Pty Ltd, and dated 2 August 2016 reference 16BRT0159-01.</p> <p>(b) Road access works (at the road access location) must be provided generally in accordance with <i>Swept Path Analysis – Site Access</i>, prepared by TTM Consulting Pty Ltd, dated 2 August 2016 reference 16BRT0159-01. In addition, the installation of guide posts with 3 metre centres delineating the access must be provided generally in accordance with <i>Figure 8 – Site Access Limits of the Traffic Impact Assessment</i> prepared by TTM Consulting, dated 2 August 2016 reference 16BRT0159-01.</p> <p>(c) The road access works must be designed and constructed in accordance with the DTMR <i>Road Planning and Design Manual</i>.</p>	<p>(a) At all times</p> <p>(b) and (c) Prior to the commencement of use and to be maintained at all times</p>
<b>In accordance with approved plans</b>		
3.	<p>The development must be carried out generally in accordance with the following plans:</p> <p><i>Proposed Site Layout – Industry (Primary Products Layout &amp; Distribution)</i> prepared by Groundwork Plus dated 11 May 2016, reference 1937.DRG.003 and revision 3.</p>	Prior to the commencement of use and to be maintained at all times

No.	Conditions	Condition timing
<b>Stormwater management</b>		
4.	<p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the Leichhardt Highway and Gore Highway.</p> <p>(b) Any works on the land must not:</p> <ul style="list-style-type: none"> <li>(i) create any new discharge points for stormwater runoff onto the Gore Highway;</li> <li>(ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road network;</li> </ul> <p>(c) RPEQ certification must be provided to the DTMR, confirming that the development has been designed and constructed in accordance with parts (a) and (b) of this condition.</p>	<p>(a) At all times</p> <p>(b) At all times</p> <p>(c) Prior to the commencement of use</p>

Our reference: SDA-0516-030451

Your reference: 16/12W

## **Attachment 2—Reasons for decision to impose conditions**

---

The reasons for this decision are:

- To ensure the roadworks on, or associated with, the State-controlled road network are undertaken in accordance with applicable standards;
- To ensure the road access location to the State-controlled road from the site does not compromise the safety and efficiency of the State-controlled road;
- To ensure the design of any road access maintains the safety and efficiency of the State-controlled road;
- To ensure the development is carried out generally in accordance with the plans of development submitted with the application; and
- To ensure that the impacts of stormwater events associated with development are minimised and managed to avoid creating any adverse impacts on the State transport corridor.

Our reference: SDA-0516-030451  
Your reference: 16/12W

**Attachment 3—Approved plans and specifications**

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## **Attachment 2 – Approved Plans**









GOONDIWINDI REGIONAL COUNCIL

Approved Plan referred to in Council's Decision Notice

Council Reference: 16/12-13

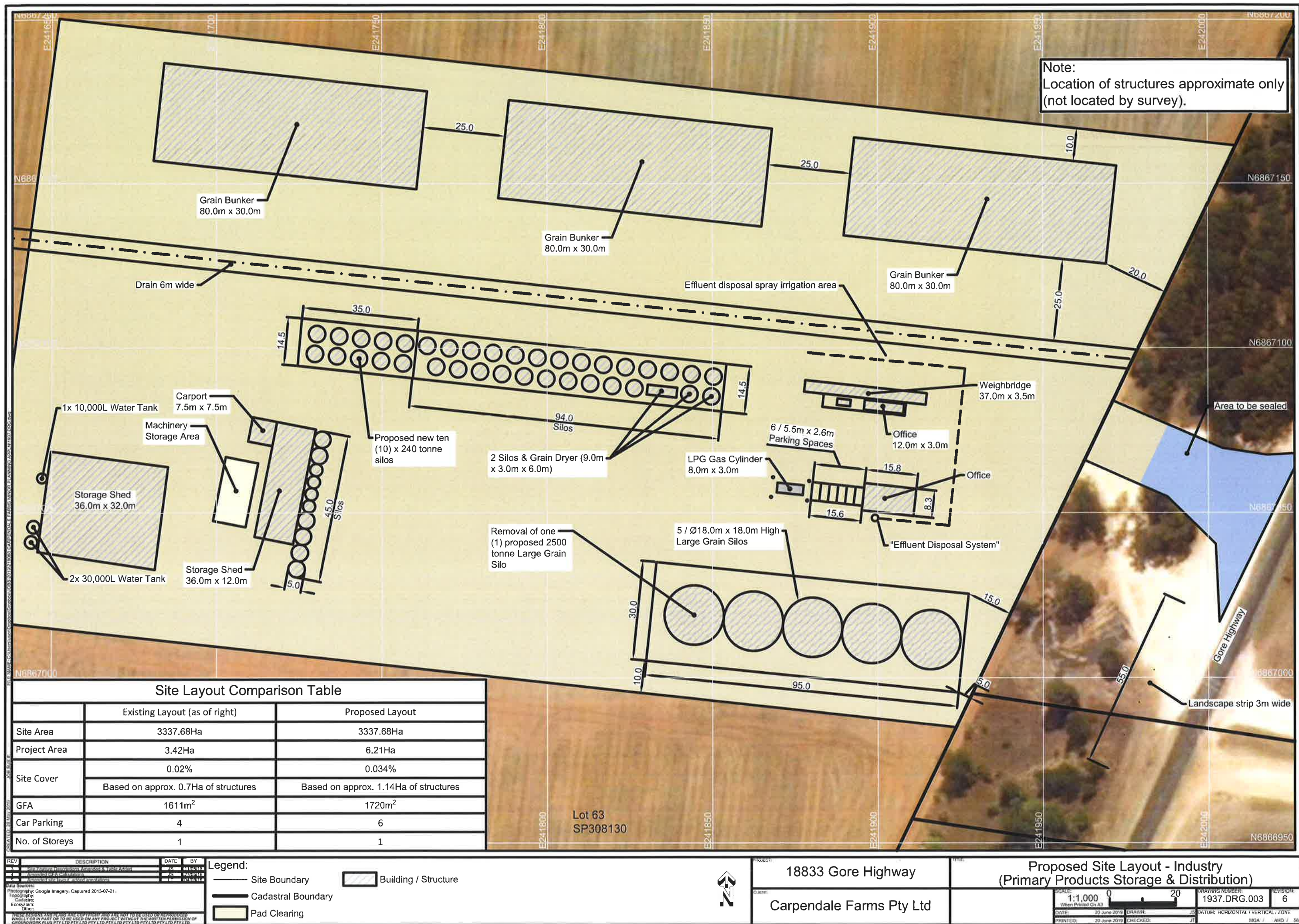
Dated: 28/10/2016

Signed:

Print Name: Mr. Carl Munro

(Under Delegation) ASSESSMENT MANAGER







GOONDIWINDI REGIONAL COUNCIL

Approved Plan referred to in Council's Decision Notice

Council Reference: 16/12w

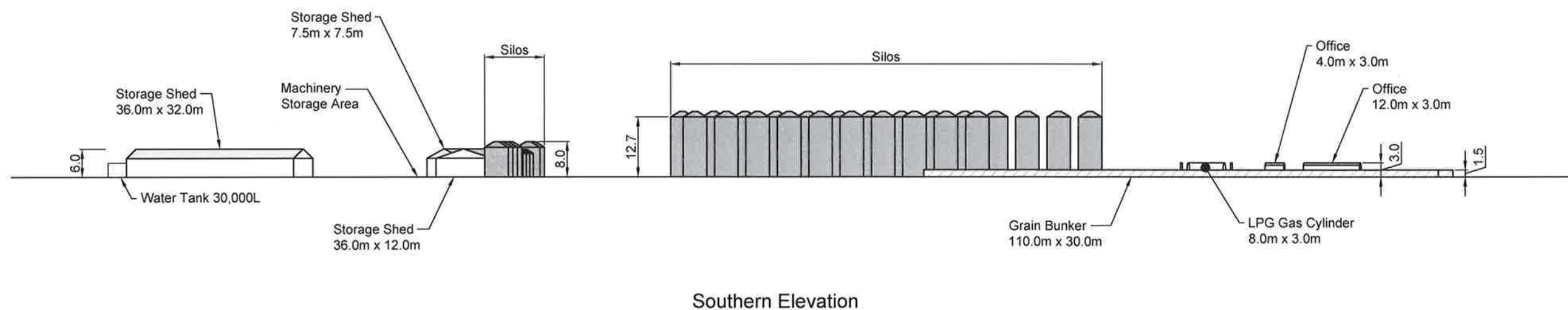
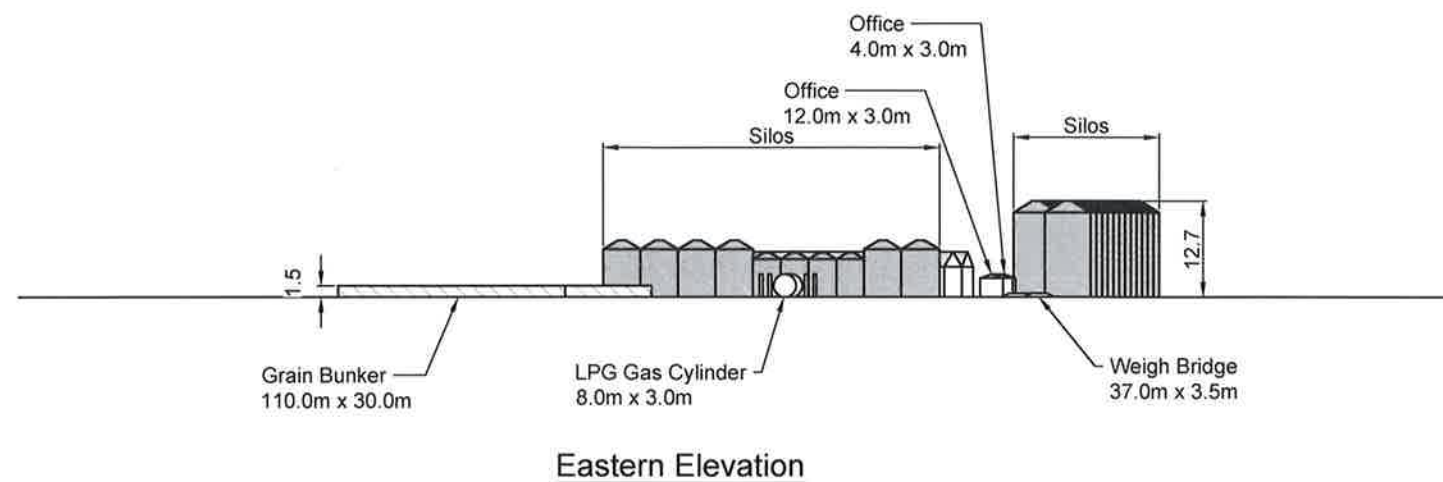
Dated: 22 July 2019

Signed: 

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

Note:  
Location of structures approximate only  
(not located by survey).

GOONDIWINDI REGIONAL COUNCIL  
Approved Plan referred to in Council's Decision Notice  
Council Reference: 16/12w  
Dated: 22 July 2019  
Signed: *RPM*  
Print Name: Mrs Ronnie McAlister  
(Under Delegation) ASSESSMENT MANAGER



FILE NAME: F:\0001\001937\_CARPENDALE\_18833\_Gore\_Highway\Drawings\Drawing\1937\_DRG\_004\_2 - Stage 1 - Elevations.dwg  
JOB SUB #  
CREATED: 5 August 2018

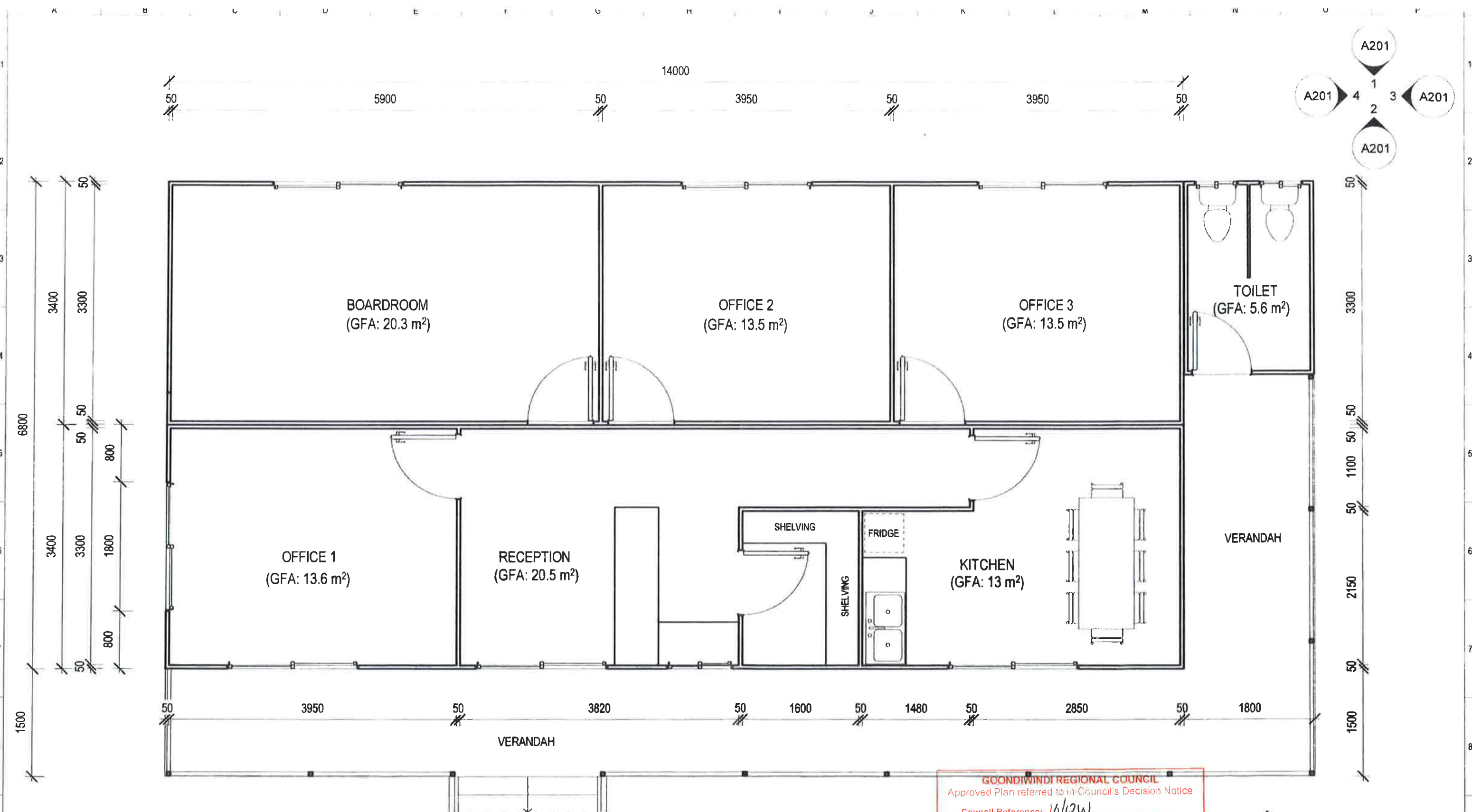
REV	DESCRIPTION	DATE	BY
1	Layout & Title Amended	18/04/18	JS
2	Added water tank	05/08/18	LT

Data Sources:  
Photography: Google Imagery Captured 2013-07-21  
Topography:  
Cadastral:  
Ecosystem:  
Other:

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PROJECT 18833 Gore Highway	TITLE Existing Elevations - Proposed Industry (Primary Products Storage & Distribution)
CLIENT Carpendale Farms Pty Ltd	GROUNDWORK PLUS PH: +61 7 3871 0411 WWW.GROUNDWORK.COM.AU
SCALE 1:1,000 When Printed On A3	DATE 5 August 2018 PRINTED 5 August 2018
DRAWN JS	CHECKED JT
DRAWING NUMBER 1937.DRG.004	REVISION 2
DATUM: HORIZONTAL / VERTICAL / ZONE	MGA / AHD / 56




**1** **GROUND FLOOR**  
1: 50  
Total GFA: 100 m<sup>2</sup>

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

Council Reference: 16/12W


Dated: 28/10/2016

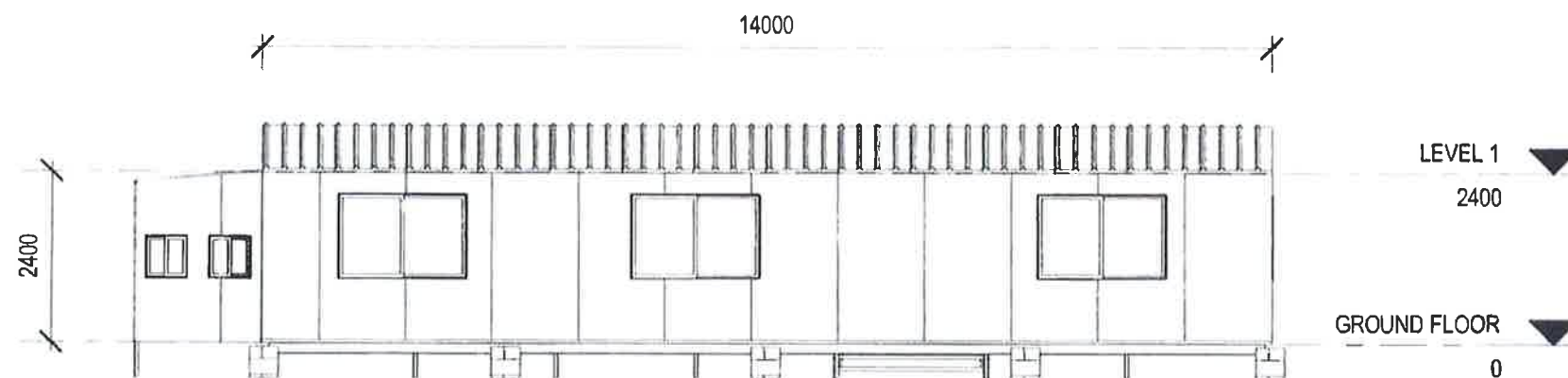
Signed: 

Print Name: Mr. Carl Manton  
(Under Delegation) ASSESSMENT MANAGER

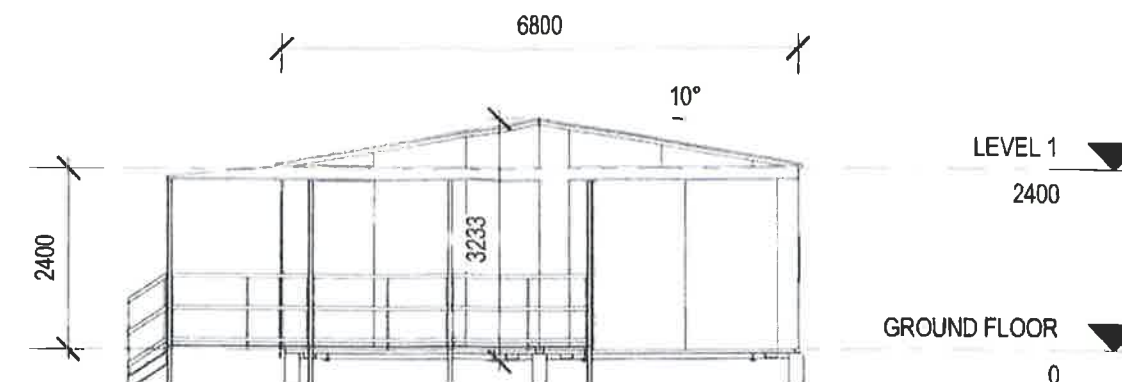
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PRELIMINARY

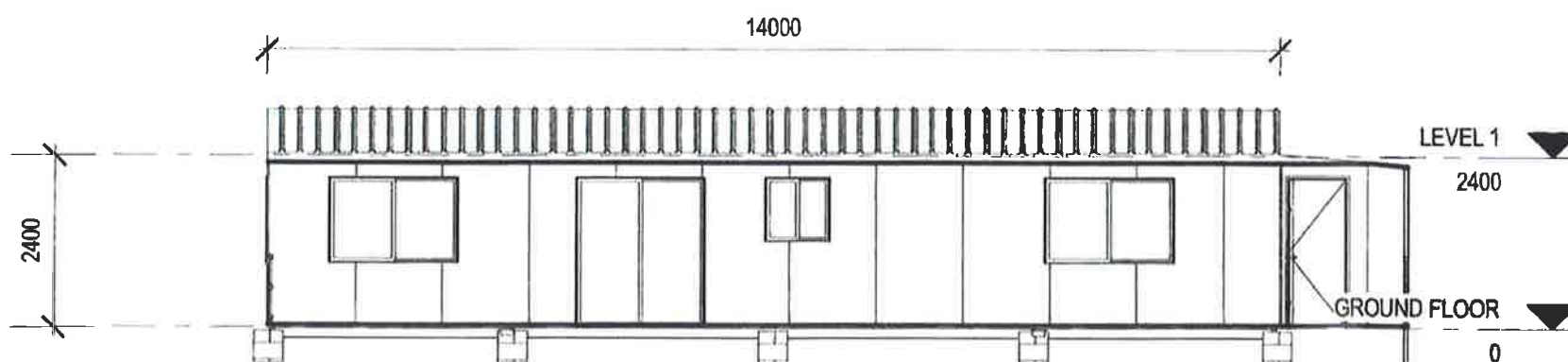
	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
						 <p><b>BUILDING C</b> 2 / 57 ASSEMBLY ST SALISBURY Q 4107 P.O. BOX 143 SALISBURY Q 4107 W: <a href="http://www.sbp.com.au">www.sbp.com.au</a> E: <a href="mailto:info@sbp.com.au">info@sbp.com.au</a> P: (07) 3270 2200 F: (07) 3270 2288</p> <p>ASN 25 077 650 255 QLD Reg Builder 78508 NSW Reg Builder 121183C VIC Reg Builder CB-137274 SA Reg Builder RL02244886 WA Reg Builder S1305</p>				TITLE	FLOOR PLAN	DRAWN	MBRK	SCALE	1 : 50	
											PROJECT	TRANSPORTABLE OFFICE	CHECKED	AM		A3
A	PRELIMINARY DESIGN				24.03.16											
REV	DESCRIPTION				DATE											
This document is subject to copyright to SBP Australia Pty. Ltd. No portion can be copied or distributed to third parties without prior consent from SBP Australia Pty. Ltd.																



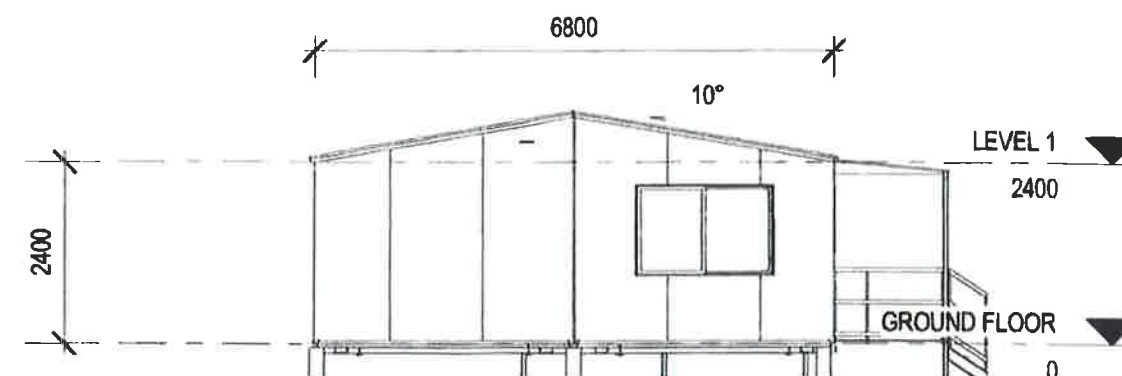
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1:100



3 ELEVATION 3 (EAST)  
1:100



2 ELEVATION 2 (SOUTH)  
1:100



4 ELEVATION 4 (WEST)  
1:100

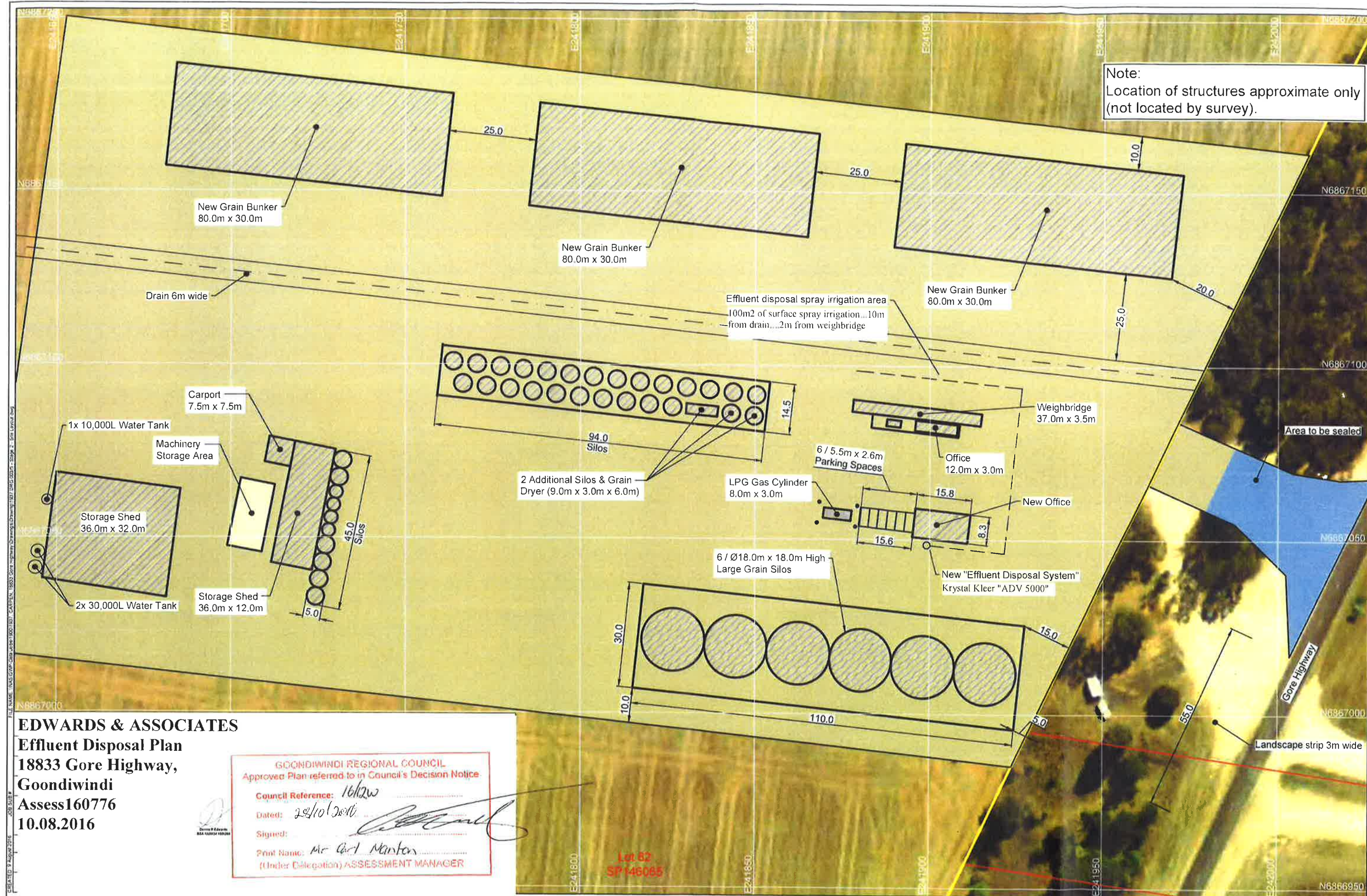
GOONDIWINDI REGIONAL COUNCIL  
Approved Plan referred to in Council's Decision Notice  
Council Reference: 16/12W  
Dated: 28/10/2016  
Signed:   
Print Name: Mr. Carl Manton  
(Under Delegation) ASSESSMENT MANAGER

0 1000 2000 4000mm  
A3 - 1:100

PRELIMINARY

A			F			J			O		
PRELIMINARY DESIGN			SBP AUSTRALIA			ELEVATIONS			DRAWN		
REV			24.03.16			PROJECT			CHECKED		
DESCRIPTION			DATE			TRANSPORTABLE OFFICE			MBRK		
This document is subject to copyright to SBP Australia Pty. Ltd. No portion can be copied or distributed to third parties without prior consent from SBP Australia Pty. Ltd.			24.03.16			CLIENT			AM		
						KLUCK FARMS			24.03.16		
									PROJECT NO		
									B16147		
									DRAWING NO		
									A201		
									REV		
									A		





Note:  
Location of structures approximate only  
(not located by survey).

**EDWARDS & ASSOCIATES**  
Effluent Disposal Plan  
18833 Gore Highway,  
Goondiwindi  
Assess160776  
10.08.2016

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

Council Reference: 16/12w





Dated: 24/10/2016

Signed: 

Print Name: Mr Carl Newton

(Under Delegation) ASSESSMENT MANAGER

**Legend:**

-  Site Boundary
-  Building / Structure
-  Cadastral Boundary
-  Pad Clearing



18833 Gore Highway

Carpendale Farms Pty Ltd





**Attachment 3 – Amended Infrastructure Charges  
Notice**







Goondiwindi Customer Service  
Centre  
4 McLean Street  
Goondiwindi  
Inglewood Customer Service  
Centre  
18 Elizabeth Street  
Inglewood

Locked Mail Bag 7  
Inglewood QLD 4387

Telephone: 07 4671 7400  
Fax: 07 4671 7433

Email: [mail@grc.qld.gov.au](mailto:mail@grc.qld.gov.au)

## Infrastructure Charges Notice

<b>Address</b>	'Carpendale II' 18833 Gore Highway, Goondiwindi
<b>Owner</b>	Western Front (QLD) Pty Ltd TTE The Western Front Trust
<b>Applicant</b>	SMK Consultants for Carpendale Farms
<b>Application No.</b>	16/12W
<b>Lot &amp; Survey Plan</b>	Lots 62 & 63 on SP308130
<b>Date</b>	22 July 2019
<b>Approval</b>	Material Change of Use – Development Permit

### Development Application Details

*"Industrial activities" – "Industry" (Primary products storage – grain; pulses; and cotton) and "Transport terminal" (distribution)*

Proposed Use	Charge Area	Type of Charge	Charge Amount (\$)	Unit	Total Charge (\$)
Industrial	E	Infrastructure	2.45 per m <sup>2</sup> of GFA	1,720m <sup>2</sup>	4,214
		Stormwater	0.00 per m <sup>2</sup> for all impervious area	NIL	NIL

<b>Due Date</b>	When the change of use happens	<b>Total Charge (\$)</b>	4,214.00
<b>Charge to be paid to</b>	Goondiwindi Regional Council		
<b>Lapse Date</b>	22 July 2025		

Authorised by:

Print Name: **Mrs Ronnie McMahon**  
**Manager of Planning Services**

An offset has been applied to this notice for any existing buildings GFA at \$2.45 per m<sup>2</sup> of GFA.

*In accordance with the Planning Act 2016*

### Office Use - Receipt Number

Charges – 1250-1150-0000  
Drainage – 1250-1151-0000





**Attachment 4 – 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 "*Industrial activities*" – "*Industry*" (Primary products storage – grain; pulses; and cotton) and "*Industrial activities*" – "*Transport terminal*" (Distribution)

16/12W

'Carpendale II' 18833 Gore Highway, Goondiwindi

Lot 62 & 63 on SP308130

On 22 July 2019, 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 change satisfied all relevant criteria, and was approved.*

### **2. Assessment benchmarks**

The following are the benchmarks applying for this development:

Benchmarks applying for the development	Benchmark reference
<i>Rural Zone Code</i>	<i>Goondiwindi Region Planning Scheme 2018: PO1, AO2, PO4</i>

### **3. Compliance with benchmarks**

Not applicable, as the proposed change 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 5 – *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.

(3) However, the tribunal must not make a change, other than a minor change, to a development application.

(4) The tribunal's decision takes the place of the decision appealed against.

(5) The tribunal's decision starts to have effect—

(a) if a party does not appeal the decision—at the end of the appeal period for the decision; or

(b) if a party appeals against the decision to the P&E Court—subject to the decision of the court, when the appeal ends.

#### **255 Notice of tribunal's decision**

A tribunal must give a decision notice about the tribunal's decision for tribunal proceedings, other than for any directions or interim orders given by the tribunal, to all parties to proceedings.

#### **256 No costs orders**

A tribunal must not make any order as to costs.

#### **257 Recipient's notice of compliance with direction or order**

If a tribunal directs or orders a party to do something, the party must notify the registrar when the thing is done.

#### **258 Tribunal may extend period to take action**

(1) This section applies if, under this chapter, an action for tribunal proceedings must be taken within a stated period or before a stated time, even if the period has ended or the time has passed.

(2) The tribunal may allow a longer period or a different time to take the action if the tribunal considers there are sufficient grounds for the extension.

#### **259 Publication of tribunal decisions**

The registrar must publish tribunal decisions under the arrangements, and in the way, that the chief executive decides.

### **Schedule 1 Appeals**

#### **section 229**

#### **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.

(2) However, table 1 applies to a tribunal only if the matter involves—

(a) the refusal, or deemed refusal of a development application, for—

(i) a material change of use for a classified building; or

(ii) operational work associated with building work, a retaining wall, or a tennis court; or

(b) a provision of a development approval for—

(i) a material change of use for a classified building; or

(ii) operational work associated with building work, a retaining wall, or a tennis court; or

(c) if a development permit was applied for—the decision to give a preliminary approval for—

(i) a material change of use for a classified building; or

(ii) operational work associated with building work, a retaining wall, or a tennis court; or

(d) a development condition if—

(i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and

(ii) the building is, or is proposed to be, not more than 3 storeys; and

(iii) the proposed development is for not more than 60 sole-occupancy units; or

(e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or

(f) a decision for, or a deemed refusal of, a change

application for a development approval that is only for a material change of use of a classified building; or

(g) a matter under this Act, to the extent the matter relates to the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or

(h) a decision to give an enforcement notice—

(i) in relation to a matter under paragraphs (a) to (g); or

(ii) under the Plumbing and Drainage Act; or

(i) an infrastructure charges notice; or

(j) the refusal, or deemed refusal, of a conversion application; or

(l) a matter prescribed by regulation.

(3) Also, table 1 does not apply to a tribunal if the matter involves—

(a) for a matter in subsection (2)(a) to (d)—

(i) a development approval for which the development application required impact assessment; and

(ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or

(b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.

(4) Table 2 states the matters that may be appealed only to the P&E Court.

(5) Table 3 states the matters that may be appealed only to the tribunal.

(6) In each table—

(a) column 1 states the appellant in the appeal; and

(b) column 2 states the respondent in the appeal; and

(c) column 3 states the co-respondent (if any) in the appeal; and

(d) column 4 states the co-respondents by election (if any) in the appeal.

(7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.

(8) In this section—

**storey** see the Building Code, part A1.1.

**Table 1**

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

**1. Development applications**

For a development application other than a development application called in by the

Minister, 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.

**EXTRACT FROM THE *PLANNING ACT 2016*  
RELATING TO LAPSE DATES**

***Division 4 Lapsing of and extending  
development approvals***

***85 Lapsing of approval at end of current period***

*(1) A part of a development approval lapses at the end of the following period (the **currency period**)—*

*(a) for any part of the development approval relating to a material change of use—if the first change of use does not happen within—*

*(i) the period stated for that part of the approval; or*

*(ii) if no period is stated—6 years after the approval starts to have effect;*

*(b) for any part of the development approval relating to reconfiguring a lot—if a plan for the reconfiguration that, under the Land Title Act, is required to be given to a local government for approval is not given to the local government within—*

*(i) the period stated for that part of the approval; or*

*(ii) if no period is stated—4 years after the approval starts to have effect;*

*(c) for any other part of the development approval if the development does not substantially start within—*

*(i) the period stated for that part of the approval; or*

*(ii) if no period is stated—2 years after the approval starts to take effect.*

*(2) If part of a development approval lapses, any monetary security given for that part of the approval must be released.*