

File: 16/40W  
Date: 26 February 2020

Smithfield Cattle Company Pty Ltd  
Okeden Road  
**PROSTON QLD 4613**

Attention: Andrew Shearer-Smith

Dear Mr Shearer-Smith

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

**Lot 56 on MH235 and Lot 55 on SP169191, 'Sapphire', Kildonan Road, Yelarbon**

Goondiwindi Regional Council received your change application made under section 78 of the *Planning Act 2016* on 31 January 2020 for the development approval dated 13 August 2019.

**Decision for change application**

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Date of decision: 26 February 2020

Decision details: Make the change and amend existing conditions.

The changes agreed to are:

1. Condition 3 – amended 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: 16/40W  
Council Contact: Mrs Ronnie McMahon: JMW  
Council Contact Phone: (07) 4671 7400

26 February 2020

**Applicant Details:** Smithfield Cattle Company Pty Ltd  
Okeden Road  
PROSTON QLD 4613

Attention: Andrew Shearer-Smith

The development application described below was properly made to Goondiwindi Regional Council on 31 January 2020.

#### Applicant details

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Applicant name: Smithfield Cattle Company Pty Ltd

Applicant contact details: Andrew Shearer-Smith  
Okeden Road, Proston Qld 4613  
[andrew@smithfieldcattleco.com](mailto:andrew@smithfieldcattleco.com)  
0439 689 146

#### Application details

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Application number: 16/40W

Approval sought: Development Permit – Material Change of Use

Details of proposed development: *"Rural activities" – "Intensive animal industry"* (Expansion to Feedlot to 19,999SCU)

#### Location details

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Street address: 'Sapphire', Kildonan Road, Yelarbon

Real property description: Lot 56 on MH235 and Lot 55 on SP169191

#### Decision

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Date of decision: 26 February 2020

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 No	Title	Date
SAPPHIRE\STAGE 1\101\B	General Layout	JUNE 2019
SAPPHIRE\STAGE 1\10\B	Finished Surface – North	JUNE 2019
SAPPHIRE\STAGE 1\11\B	Finished Surface – South	JUNE 2019
SAPPHIRE\STAGE 1\12\B	Finished Surface – Effluent	JUNE 2019
SAPPHIRE\STAGE 1\60\B	Controlled Drainage Areas	JUNE 2019
30455.CC.205A	Smithfield Sapphire Proposed Rail Crossing Road Turning Concept	7/7/17

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 plans:

Drawing No	Title	Date
SAPPHIRE\STAGE 1\101\B	General Layout	JUNE 2019
SAPPHIRE\STAGE 1\10\B	Finished Surface – North	JUNE 2019
SAPPHIRE\STAGE 1\11\B	Finished Surface – South	JUNE 2019
SAPPHIRE\STAGE 1\12\B	Finished Surface – Effluent	JUNE 2019
SAPPHIRE\STAGE 1\60\B	Controlled Drainage Areas	JUNE 2019
SAPPHIRE\STAGE 2\01\A	General Layout – 19,999scu	August 2019
SAPPHIRE\STAGE 1\60\F	Controlled Drainage Areas	November 2019
30455.CC.205A	Smithfield Sapphire Proposed Rail Crossing Road Turning Concept	7/7/17

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 for building works 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*:

- [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>				
General Layout – 19,999scu	Anthony Graham	August 2019	SAPPHIRE\STAGE 2\01\A	
Controlled Drainage Areas	Anthony Graham	November 2019	SAPPHIRE\STAGE 1\60\F	
Smithfield Sapphire Proposed Rail Crossing Road Turning Concept	3RE Rural Regional and Remote Engineering	7/7/17	30455.CC.20 5A	Rev 0

**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

A handwritten signature in black ink, appearing to read 'RM McMahon', with a long horizontal flourish extending to the right.

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

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



## **ATTACHMENTS**

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

*Part 1 - Amended Assessment Manager’s Conditions*

*Part 2 - Department of State Development, Manufacturing, Infrastructure and Planning – Amended Concurrence Agency Response*

### **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>	<i>"Rural activities"</i> <ul style="list-style-type: none"> <li><i>"Intensive animal industry"</i> (Expansion to Feedlot to 19,999SCU)</li> </ul>
<b>Development:</b>	Material Change of Use – Development Permit
<b>Applicant:</b>	Smithfield Cattle Company Pty Ltd
<b>Address:</b>	'Sapphire', Kildonan Road, Yelarbon
<b>Real Property Description:</b>	Lot 56 on MH235 and Lot 55 on SP169191
<b>Council File Reference:</b>	16/40W

GENERAL CONDITIONS																												
1.	Approval is granted for the purpose of a Material Change of Use for: <ul style="list-style-type: none"><li>“Rural activities” – “Intensive animal industry” (expansion to feedlot from 8,700SCU to 19,999SCU)</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>SAPPHIRE\STAGE 1\101\B</td><td>General Layout</td><td>JUNE 2019</td></tr><tr><td>SAPPHIRE\STAGE 1\110\B</td><td>Finished Surface – North</td><td>JUNE 2019</td></tr><tr><td>SAPPHIRE\STAGE 1\111\B</td><td>Finished Surface – South</td><td>JUNE 2019</td></tr><tr><td>SAPPHIRE\STAGE 1\112\B</td><td>Finished Surface – Effluent</td><td>JUNE 2019</td></tr><tr><td>SAPPHIRE\STAGE 1\160\B</td><td>Controlled Drainage Areas</td><td>JUNE 2019</td></tr><tr><td>SAPPHIRE\STAGE 2\101\A</td><td>General Layout – 19,999scu</td><td>August 2019</td></tr><tr><td>SAPPHIRE\STAGE 1\160\F</td><td>Controlled Drainage Areas</td><td>November 2019</td></tr><tr><td>30455.CC.205A</td><td>Smithfield Sapphire Proposed Rail Crossing Road Turning Concept</td><td>7/7/17</td></tr></table>	Drawing Number	Title	Date	SAPPHIRE\STAGE 1\101\B	General Layout	JUNE 2019	SAPPHIRE\STAGE 1\110\B	Finished Surface – North	JUNE 2019	SAPPHIRE\STAGE 1\111\B	Finished Surface – South	JUNE 2019	SAPPHIRE\STAGE 1\112\B	Finished Surface – Effluent	JUNE 2019	SAPPHIRE\STAGE 1\160\B	Controlled Drainage Areas	JUNE 2019	SAPPHIRE\STAGE 2\101\A	General Layout – 19,999scu	August 2019	SAPPHIRE\STAGE 1\160\F	Controlled Drainage Areas	November 2019	30455.CC.205A	Smithfield Sapphire Proposed Rail Crossing Road Turning Concept	7/7/17
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Please note these plans are not approved Building Plans. The approved plans are included in <b>Attachment 2</b> .																												



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>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>
6.	<p>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.</p>
	<p><b>PUBLIC UTILITIES</b></p>
7.	<p>Connection to reticulated electricity shall be retained to the subject site, at no cost to Council.</p>
8.	<p>The developer is responsible for ensuring Queensland Fire Services requirements are met with respect to this development.</p>
	<p><b>ROADS AND VEHICLES</b></p>
9.	<p>Both site accesses, from the edge of the existing bitumen to the property boundary, must be maintained or upgraded if required to a industrial standard 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.</p> <p>Crossovers 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>

10.	Heavy vehicle access to the site shall be made in accordance with Traffic Impact Assessment (Report no. 30455.82991), except during times when Kildonan Road is closed. This change is subject to the condition that the intersection shall be constructed to a sealed standard, generally in accordance with drawing 30455.CC.205A, copy attached.
11.	<p>All areas where vehicles manoeuvre and park must be constructed to an all-weather, dust suppressant gravel standard 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.</p> <p>Car parking and manoeuvring 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>
	<b>STORMWATER</b>
12.	<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>
13.	<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>

<b>EARTHWORKS AND EROSION CONTROL</b>	
<b>14.</b>	<p>Any filling or excavation shall be undertake 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 1.5 metres of any site boundary is battered or retained by a wall that does not exceed 1 metre in height.</p>
<b>15.</b>	<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>
<b>16.</b>	<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 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>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>
<b>AVOIDING NUISANCE</b>	
<b>17.</b>	<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>
<b>18.</b>	<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>

19.	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.
20.	The operator shall be responsible for mitigating any complaints arising from on-site operations.
21.	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>	
22.	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.
23.	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.
24.	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.
25.	At all times while the use continues, all requirements of the conditions of the development approval must be maintained.
<b>CHARGES PAID BEFORE USE COMMENCES</b>	
26.	All outstanding rates and charges shall be paid to Council prior to the commencement of the use.
<b>COMMENCEMENT OF USE</b>	
27.	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.  It may be necessary for Council to use such bonds for the completion of outstanding works without a specific timeframe agreed.

28.	<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 commencement within <b>six (6) years</b> of the date the development approval takes effect, in accordance with the provisions contained in section 85 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>
29.	<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 use has not commenced within <b>six (6) years</b> of the date the development approval takes 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 1 – Amended Assessment Manager’s Conditions**

***Part 2 -***

***Department of State Development,  
Manufacturing, Infrastructure and Planning  
– Amended Concurrence Agency Response***





Department of  
**State Development,  
Manufacturing,  
Infrastructure and Planning**

Our reference: 1907-12250 SPD

12 August 2019

Mr Andrew Shearer-Smith  
PO Box 857  
PADDINGTON QLD 4064  
andrew@smithfieldcattleco.com

Dear Andrew

**Decision notice—change application**

(Given under section 83 of the *Planning Act 2016*)

Your change application under section 78 of the *Planning Act 2016* for the development approval dated 21 February 2017 was made to the Department of State Development, Manufacturing, Infrastructure and Planning on 18 July 2019.

**Decision for change application**

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Date of decision:	12 August 2019
Decision details:	Make the change and amend existing conditions.

The changes agreed to are:

1. Deletion of Condition 1.

For further information please contact Danica Clark, Senior Planner, on 4616 7305 or via email [ToowoombaSARA@dsdmip.qld.gov.au](mailto:ToowoombaSARA@dsdmip.qld.gov.au) who will be pleased to assist.

Yours sincerely

A handwritten signature in dark ink, appearing to read "Andrew Foley".

Andrew Foley  
Manager

cc Goondiwindi Regional Council, [mail@grc.qld.gov.au](mailto:mail@grc.qld.gov.au)

enc Attachment 1—Referral agency response showing the change  
Approved plans and specifications



Department of  
**State Development,  
Manufacturing,  
Infrastructure and Planning**

### Changed referral agency response

Our reference: 1907-12250 SPD

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### Referral agency response—with conditions

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

Date of original response: 21 February 2017  
Original reference: SDA-1116-035075

The development application described below was properly referred to the Department of State Development, Manufacturing, Infrastructure and Planning on 21 November 2016.

### Applicant details

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Applicant name: Smithfield Cattle Co.  
Applicant contact details: C/- EnviroAg Australia  
PO Box 411  
Toowoomba QLD 4350

### Location details

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Street address: Yelarbon Kurumbul Road, Yelarbon QLD 4388  
Real property description: Lot 56 on MH235 and Lot 55 on SP169191  
Local government area: Goondiwindi Regional Council

### Application details

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Development permit: Material Change of Use for Rural Activities (Intensive Animal Industry – expansion to Feedlot to 20,000SCU)

### Referral triggers

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

- Schedule 7, Table 2, Item 15A—Railways
- Schedule 7, Table 3, Item 2—State transport infrastructure
- Schedule 7, Table, Item 1—Environmentally relevant activity

### Conditions

Under section 56(1)(b)(i) of the *Planning Act 2016* (the Act), the conditions set out in Attachment 1 must be attached to any development approval.

### Reasons for decision to impose conditions

The department must set out the reasons for the decision to impose conditions. These reasons are set out in Attachment 2.



**Further advice**

The department offers advice about the application—see Attachment 3.

**Approved plans and specifications**

The department requires that the plans and specifications set out below and enclosed must be attached to any development approval.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
<b>Aspect of development: Material change of use</b>				
Smithfield Sapphire Feedlot Expansion Plan	3RE Rural Regional and Remote Engineering	8/04/2016	30453.CC.001	D
Proposed Feedlot Expansion - Site Plan, <u>as amended in red on 12/08/2019 to show road access locations and setback from the South Western Line.</u>	3RE Rural Regional and Remote Engineering	31/10/2016	30453.CC.004	A2
Traffic Impact Assessment	3RE Rural Regional and Remote Engineering	16/09/2016	30455.82991	0
Stormwater Assessment of the Environmental Impact Statement	EnviroAg Australia	05/10/2016	0	0
'Smithfield Sapphire Feedlot Expansion -DTMR Rail Corridor Stormwater Assessment'	Water Biz	08/09/2016	30465.8713	
Sapphire Feedlot Expansion - Site Areas and Concept Drainage	3RE Rural Regional and Remote Engineering	15/09/2016	30453.CC.502	0
Level Crossings QR-C-S3235 - 'Fencing with Steel'	Queensland Rail	<u>17/03/2009</u>	2586	<u>B</u>

enc    Attachment 1—Changed conditions to be imposed  
       Attachment 2—Changed reasons for decision to impose conditions  
       Attachment 3—Changed further advice  
       Approved plans and specifications

## Attachment 1—Changed conditions to be imposed

No.	Conditions of development approval	Condition timing
Development Permit—Material Change of Use—Rural Activities (Intensive Animal Industry (Expansion to Feedlot to 20,000SCU))		
Schedule 7, Table 2, Item 1—Pursuant to section 2550 of the <i>Sustainable Planning Act 2009</i> , the chief executive administering the Act nominates the Director-General of the Department of Agriculture and Fisheries 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 condition(s):		
1.	<p>The development must be carried out generally in accordance with the following plan:</p> <ul style="list-style-type: none"> <li>• <del>Smithfield Sapphire Feedlot Expansion Plan, prepared by 3RE Rural Regional and Remote Engineering, dated 8/04/2016, drawing number 30453.CC.001 and revision D.</del></li> </ul>	Prior to the commencement of use and to be maintained at all times.
Schedule 7, Table 3, Item 15A and Schedule 7, Table 3, Item 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 condition(s):		
2.	<p>The development must be carried out generally in accordance with the following plan:</p> <ul style="list-style-type: none"> <li>• Proposed Feedlot Expansion - Site Plan, prepared by 3RE Rural Regional and Remote Engineering, dated 31/10/2016, drawing number 30453.CC.004 and revision A2, <b><u>as amended in red on 12/08/2019 to show road access locations and setback from the South Western Line.</u></b></li> </ul>	Prior to the commencement of use and to be maintained at all times.
3.	<p>The development must be generally in accordance with:</p> <ul style="list-style-type: none"> <li>• Traffic Impact Assessment, prepared by 3RE, dated 16/09/2016, document number 30455.82991 and revision 0, in particular: <ul style="list-style-type: none"> <li>o Section 4.4 Traffic Over Rail Crossings</li> <li>o Section 2.2 Development Details</li> <li>o Section 3.3 Projected Traffic.</li> </ul> </li> </ul>	Prior to the commencement of use and to be maintained at all times.
4.	<p>The development must be in accordance with:</p> <ul style="list-style-type: none"> <li>• Stormwater Assessment of the Environmental Impact Statement, prepared by EnviroAg Australia, Project No. 24033.84846, dated 05/10/2016 and Revision 0: <ul style="list-style-type: none"> <li>o Appendix H</li> </ul> </li> <li>• 'Smithfield Sapphire Feedlot Expansion - DTMR Rail Corridor Stormwater Assessment', prepared by Water Biz, dated 08/09/2016 and reference 30465.8713, in particular: <ul style="list-style-type: none"> <li>o Section 1.1.1 Water Quantity; and</li> </ul> </li> </ul>	At all times.

No.	Conditions of development approval	Condition timing
	<ul style="list-style-type: none"> <li>Sapphire Feedlot Expansion - Site Areas and Concept Drainage, prepared by 3RE Rural Regional and Remote Engineering, dated 15/09/2016, drawing number 30453.CC.502 and revision 0.</li> </ul>	
5.	<p>(a) The existing occupational railway level crossing of the South Western Line (Crossing ID: ID2037) providing access from Yelarbon-Kurumbul Road to the site must be upgraded at the applicant's expense to include the following:</p> <ul style="list-style-type: none"> <li>On each approach to the crossing install advance warning signage assembly RX-4 in accordance with section 2.2.5 'Railway crossing on side road assembly' and figure 4.10 'Railway crossing on side road controlled by stop signs (passive control)' of AS1742.7:2016 <i>Manual of uniform traffic control devices, Part 7: Railway crossings</i>;</li> <li>Road to be sealed with asphaltic concrete or similar material for a minimum distance of 1 0.0m on both sides of the railway, in accordance with General Note 4 of Queensland Rail standard Level Crossings drawing number 2586 and Revision B - 'Details of Public Road Grading and Sign Posting'; and</li> <li>On each approach to the crossing on Yelarbon-Kurumbul Road and at the exit driveway on Lot 55 on SP169191 install advance warning signage consistent with Australian Standards in durability, appearance and design advising drivers that vehicles exceeding 7.5m in length are not to use the crossing.</li> </ul> <p>(b) Registered Professional Engineer of Queensland certification with supporting documentation must be provided to the Program Delivery and Operations Unit, DTMR, Downs South West Region (Downs.South.West.IDAS@tmr.gld.gov.au) confirming that the development has been designed and constructed in accordance with part (a) of this condition.</p>	<p>(a) Prior to commencement of operational work or building work, whichever occurs first.</p> <p>(b) Prior to the commencement of use.</p>

**Attachment 2—Changed reasons for decision to impose conditions**

---

The reasons for this decision are:

- To ensure that development is in accordance with specified plans and specifications.
- To ensure the development does not compromise the safety and efficiency of the state-controlled road.
- To ensure the development does not compromise the safety of the public.

**Evidence or other material on which the findings were based**

- material provided as part of the change application
- State Development Assessment Provisions published by the Department of State Development, Manufacturing, Infrastructure and Planning
- Planning Act 2016
- Planning Regulation 2017

## Attachment 3—Changed further advice

General advice	
1.	<p><b>Road Manager Approval:</b> Approval from the relevant road manager is required to achieve compliance with the concurrence agency condition relating to railway level crossing safety. In particular, approval would be required from Goondiwindi Regional Council for the installation of new advance warning signage on Yelarbon-Kurumbul Road as specified in the relevant concurrence agency condition.</p>
2.	<p><b>Memorandum of Understanding for Railway Level Crossings:</b> As per the Memorandum of Understanding between the Local Government Association of Queensland and Queensland Rail and the Department of Transport and Main Roads with respect to the Management and Funding Responsibility for Level Crossing Safety, the local government is responsible for any safety upgrades to a level crossing if the change in risk to the level crossing is due to changes in nearby land uses which have been authorised by local government.</p> <p>The development will result in increased vehicle movements, including heavy vehicles, over railway level crossings, in particular the South Kurumbul Road railway level crossing of the South Western Line railway (ID: 2039). This will contribute cumulative impacts to the railway level crossing.</p> <p>Goondiwindi Regional Council should continue to monitor the level of safety risk and number of reported level crossing issues as further development in the area is approved. Consideration should also be given to implementing improved control and safety measures, as required.</p>
3.	<p><b>Dangerous goods:</b> The Environmental Impact Statement, prepared by EnviroAg Australia, Project No. 24033.84846, dated 05/10/2016 and Revision 0 addresses mitigation, management and monitoring of hazardous chemicals in section 7.12.3. Additionally, the Environmental Management Plan, prepared by EnviroAg Australia, dated 21/09/2016, Report No. 24033.85981, Revision 0 addresses risk assessment and mitigation in Chapter 4.</p> <p>The development should be designed, constructed and managed to minimise the impacts of fire, explosion, chemical spill, liquid fuel spill, gas emission or any other impacts on the railway in relation to dangerous goods. Measures should be incorporated into the design and on-going management of the development to minimise the identified risks. This should address the following risks, amongst other identified risks in relation to railways:</p> <ul style="list-style-type: none"> <li>• minimising or controlling the outbreak of fire;</li> <li>• controlling smoke and/or gas release dispersion;</li> <li>• minimising heat build-up in structures;</li> <li>• limiting the possibility of structural components being blast damaged;</li> <li>• providing stability or contingency measures in the proposed development;</li> <li>• providing safe emergency access and egress to and from the railway; and</li> <li>• ensuring effective containment and clean-up of dangerous goods incidents.</li> </ul>
4.	<p><b>Railways and Busways:</b> Pursuant to section 255 of the <i>Transport Infrastructure Act 1994</i>, the railway manager's written approval is required to carry out works in or on a railway corridor or otherwise interfere with the railway or its operations.</p> <p>In particular, the applicant will be required to obtain relevant approvals (such as an interface agreement, wayleave agreement, licence to enter and construct, amongst other approvals) from the railway manager for the removal of gates and installation of railway boundary fencing</p>

	<p>and any works on the railway associated with the railway level crossing upgrade.</p> <p>Please be advised that this concurrence agency response does not constitute an approval under section 255 of the <i>Transport Infrastructure Act 1994</i> and that such approvals need to be separately obtained from the relevant railway manager.</p> <p>The applicant is recommended to consult with the railway manager prior to the detailed design for the proposed upgrades to the railway level crossing.</p> <p>The applicant should contact the Queensland Rail Property Team at <a href="mailto:qrpropertywayleaves@qr.com.au">qrpropertywayleaves@qr.com.au</a> or on telephone number (07) 3072 1068 in relation to these matters.</p>
5.	<p><b>Interface Agreement:</b> In accordance with sections 74(1) (d)(iii) and 76(2)(d) of the <i>Transport (Rail Safety) Act 2010</i>, the Road Manager for crossing ID: 2037 of the South Western Line railway must reasonably seek to enter into an Interface Agreement with the Railway Manager (Queensland Rail) to manage the risks to the safety of persons in respect of the railway level crossing.</p> <p>The applicant should contact the Queensland Rail Property Team at <a href="mailto:qrpropertywayleaves@qr.com.au">qrpropertywayleaves@qr.com.au</a> or on telephone number (07) 3072 1068 in relation to this matter.</p>
6.	<p><b>Overdimensional Road Loads (Queensland Rail):</b> Under the Transport Infrastructure (Rail) Regulation 2006 permission from the Railway Manager (Queensland Rail) is required to take overdimensional road loads across Queensland Rail infrastructure (e.g. rail level crossings and rail bridges). Further information can be obtained from Queensland Rail's website at: <a href="http://www.queenslandrail.com.au/forbusiness/overdimensionalloads">http://www.queenslandrail.com.au/forbusiness/overdimensionalloads</a></p>



Department of  
**State Development,  
 Manufacturing,  
 Infrastructure and Planning**

**Department of State Development, Manufacturing, Infrastructure and Planning**  
**Statement of reasons for application 1907-12250 SPD**

(Given under section 83 of the *Planning Act 2016*)

Departmental role: Responsible entity

**Applicant details**

Applicant name: Mr Andrew Shearer-Smith  
 Applicant contact details: PO Box 857  
 Paddington QLD 4064  
 andrew@smithfieldcattleco.com

**Location details**

Street address: Yelarbon Kurumbul Road, Yelarbon  
 Real property description: Lot 55 on SP169191; Lot 56 on MH235  
 Local government area: Goondiwindi Regional Council

**Development details**

Development Permit Material change of use for rural activities – intensive animal industry  
 (expansion to feedlot to 20,000SCU)

**Assessment matters**

Aspect of development requiring code assessment	Applicable codes
1. Material change of use	State Development Assessment Provisions (version 2.4) State Code 2: Development in a railway environment, State Code 6: Protection of state transport networks and State Code 22: Environmentally relevant activities.

**Reasons for the department's decision**

The reasons for the decision are that the proposed change:

- does not involve a new or changed access over the South West Line
- does not increase the overall capacity of the feedlot
- does not increase the stormwater flow towards the South West Line.

**Relevant material**

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







# Traffic Impact Assessment

## Smithfield Sapphire Feedlot Expansion



Prepared for

**EnviroAg**  
*Australia*

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Prepared by

**3RE**

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## 2. Development Profile

### 2.1 Location

The “Sapphire Feedlot” property description is summarised as follows: SP169191, Lot 59 on SP134244, Lot 57 on SP225447 (also listed as MH80).

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### 2.2 Development Details

#### Development description

- The proposed expansion of the feedlot will increase the current holding capacity\* of 6,000 standard cattle units (SCU, where 1 SCU=a 600kg animal) to 20,000SCU, with a resulting annual turnover of 13,000 to 43,500SCU per annum.
- The expanded feedlot will import approximately 58,000 tonnes of feed at completion, as opposed to the current 17,500 tonnes per annum
- The expansion works will be undertaken over five years, with the initial phase commencing in 2017 and the final phase to be completed by the end 2021.
- The current site contains a feedlot and irrigated and non-irrigated cropping for providing stock feed (1712 ha). Surrounding land use is predominantly irrigated and non-irrigated cropping.

\* Note, current approval for the feedlot is for 8,700 SCU.

#### Site Access

- Currently two accesses are servicing the feedlot. Access off Kildonan Road (Old Warwick Road) to the south of the feedlot are used for B-double trucks, Semi-trailers Road Trains (Type 1). A secondary restricted access off the Yelarbon Kurumbul road to the north of the property is primarily used by staff in cars, utes and other small service vehicles.
- Access for heavy vehicles from Yelarbon-Kurumbul road will travel via South Kurumbul Road and enter the feedlot via the Kildonan Road entrance in the south. A public rail crossing (ID2039) exists on Kurumbul South road, just off the intersection with Yelarbon Kurumbul road.
- Access off Yelarbon Kurumbul Road includes a private access rail crossing (ID2037), with limited short stacking capacity.



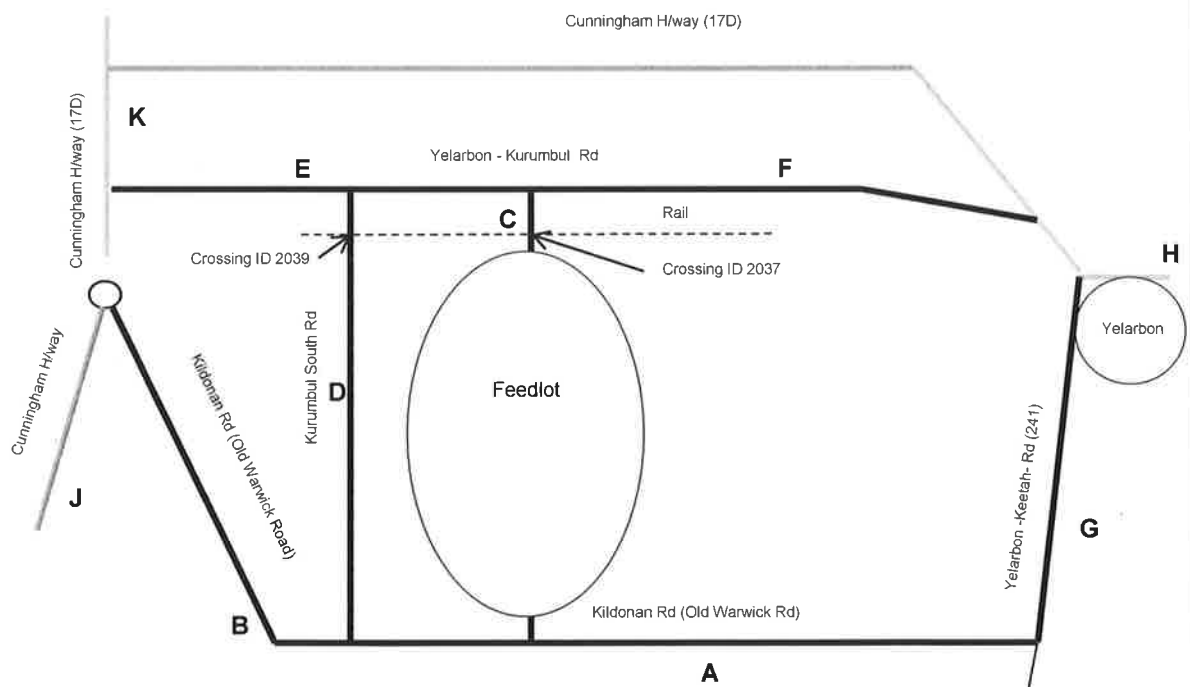
Figure 1 Regional Road Network

## Operations

- The expanded feedlot will retain current operating regime of seven days a week, from 6am to 6pm, with peak times generally at the start and end of this period.
- The workforce is currently residing primarily in Goondiwindi and Yelarbon, and the additional staff for the expanded development is expected to reside in these towns as well.
- 70% of the cattle are currently supplied from across the region north of the NSW border, and 30% from northern NSW via Goondiwindi. This ratio is expected remain the same for the expanded development.
- Approximately 20% of cattle and 90% of feed supplies are transported with road trains, Type 1.
- Approximately 85% of conditioned cattle are currently dispatched to the east to abattoirs in Warwick, Kilcoy, Inglewood and Ipswich, with the remainder dispatched via Goondiwindi to abattoirs in northern NSW, with this to remain so for the foreseeable future.

## Transport Routes

- Current routes to abattoirs in the east are along the regional council's Kildonan Road, then via the state controlled (SCR) Yelarbon Keetah Road, to Warwick via the Cunningham Highway,
- or via regional councils' Kurumbul South Road, then along Kurumbul Road to Yelarbon, and then onto the Cunningham Highway. This route is the only option during flooding of the lower Kildonan Road, between the access to the feedlot and Keetah Road.
- Current routes to abattoirs in northern NSW are along the Kildonan Road, via Goondiwindi.
- Road train access to and from the feedlot is restricted to regional councils' Yelarbon-Kurumbul and Kurumbul South Road, across the rail at crossing ID2039, and Kildonan Road to and from Goondiwindi.



**Figure 2**      **Locality Map**

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### 3.3 Projected Traffic

AADTs were provided by the Department of Transport and Main Roads (DTMR) district office and Goondiwindi Regional Council. The data is appended in Appendix A.

**Table 1 Current & Projected Vehicle Movements**

Reason	Truck type	Current VPD* (2016)	Projected VPD with expansion (2018)	Projected VPD with expansion (2022)
<u><i>A. Kildonan) Road (To and From Yelarbon)</i></u>				
Stock/Grain	B-double	1 - 2	3	4
AADT(assumed)	Heavy	10	10-11	11
Staff	Light vehicles	3 - 4	4	5 - 6
AADT (assumed)	Light	60	35	70
<u><i>B. Kildonan) Road (To and From Goondiwindi)</i></u>				
Stock & Grain	B-double/Road Train	2 - 3	6	9 - 10
AADT	Heavy/Extra Heavy	19	21	23
Staff	Light vehicles	12 - 13	30	41
AADT	Light	72	75	78
<u><i>C. Property Access – Occupation Rail crossing 2037 (To and from Yelarbon)</i></u>				
Light Vehicles	Cars/Utes	2	4	5 - 6
<u><i>D-E. Kurumbul South and rail crossing 2039 Yelarbon-Kurumbul Road / (To and from Goondiwindi)</i></u>				
Grain/Stock movement	B-double/Road Train	0 - 1	0 - 1	1
<u><i>D. E/F Yelarbon-Kurumbul Road /Kurumbul South and rail crossings 2039</i></u>				
Grain/Stock movement	B-double/Road Train	0 - 1	0 - 1	1
Light Vehicles	Cars/Utes	0 - 1	0 - 1	1
<u><i>F-Yelarbon-Kurumbul Road (To and from Yelarbon)</i></u>				
Stock & Grain	B-double/Road Train	2 - 3	0 - 1	0 - 1
AADT (assumed)	Heavy/Extra Heavy	10	12	14
Light Vehicles	Cars/Utes	2	4	5 - 6
AADT	Light	7 - 8	11 - 12	13 - 14
<u><i>G. Keetah-Yelarbon Road (Yelarbon to Kildonan Rd Intersection)</i></u>				
Stock/Grain	B-double	1 - 2	3	4
AADT	Heavy	9	9	10
Staff	Light vehicles	3 - 4	4	5 - 6
AADT	Light Vehicles	95	98	105
<u><i>H. Cunningham H/way east of Yelarbon</i></u>				
Stock	B-Doubles	1 - 2	3	4 - 5
AADT	Heavy Vehicles	620	650	680
Staff	Cars/Utes	2	5	10

Reason	Truck type	Current VPD* (2016)	Projected VPD with expansion (2018)	Projected VPD with expansion (2022)
AADT	Light Vehicles	840	875	920
<u>I. Cunningham H/way north of roundabout at Goondiwindi</u>				
Stock/Grain (70% assumed)	B-double/Road Train	2	3	6
AADT	Heavy Vehicles (831)	831	870	900
Staff	Light vehicles	2	17	26
AADT	Light Vehicles (1,581)	1581	1650	1700
<u>J. Cunningham H/way south of roundabout at Goondiwindi</u>				
Stock (30% assumed)	B-double/Road Train	1	2	3
AADT	Heavy Vehicles (1,326)	1,326	1,380	1,450
Staff	Light vehicles	2	8	15
AADT	Light Vehicles (1,978)	1,978	2,080	2,200

\*Vehicles per day

An average annual growth factor of 2.5% has been used for both SCR's and council roads.

In summary, this study calculated the *additional* traffic generated by fully operational development by the year 2022, to be approximately 15 HVPD trips, and 40 LVPD trips per day, split between the three primary access routes. Off the Kildonan Road to the south of the property, off the Yelarbon-Kurumbul Road to the north of the property, and off Kurumbul Road to the west of the property.

### 3.4 Assessment

It is clear from the projected increase in traffic as shown in Table 1 above, that the current and projected low numbers of vehicles to and from the feedlot can be characterised as the 'occasional' vehicle travelling on the road, or passing through intersections to the feedlot. These numbers equate to values well below 5% of AADT (annual average daily traffic) on all of the SCR roads.

Similarly, the *projected increase* expressed as a percentage on the regional council roads, South Kurumbul, Kildonan and Yelarbon-Kurumbul roads are in some cases marginally above 5%, but that is "high" due to low base numbers on these roads. For all intents and purposes the projected increase of the traffic on the regional council roads, should be expressed in real numbers rather than percentages of increase.

Notwithstanding the above, an increase in number of trucks to and from the feedlots could potentially pose secondary safety concerns due to the increased chance of truck platooning. However, this is very much negated by the operational nature of the dispatch of trucks, i.e. loading and weighing takes approximately 30 minutes for each truck, and the fact that several routes are used to and from the feedlot. Nevertheless, it is recommended that feedlot operational traffic management plan includes driver awareness or similar training to emphasise the hazards associated with truck platooning.

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### 4.3 Compliance with PO1 and PO3 of Module 19.2 of Transport Infrastructure and Network Design Code

No development within 25m of the rail crossing is planned. Therefore it is not expected that the development will have an adverse impact on the operability of the rail crossing, assessed against assessment criteria PO1 and PO3.

Neither is a new access, or an upgrade of an existing access part of the expansion plans.

### 4.4 Traffic Over Rail Crossings

**Table 2 AADT Over Rail Crossing ID 2037**

Year	Without Development (Background Growth)	With Development	No. and dimensions/type of vehicle
2016 (current scenario)	2	6	Light vehicles (cars/utes)
Commencement of construction	2	3	cars/utes
2022	2	6	cars/utes
2026	2	6	cars/utes

**Table 3 AADT Over Rail Crossing ID 2039**

Year	Without Development (Background Growth)	With Development	No. and dimensions/type of vehicle
2016 (current scenario)	2 AADT (estimate only)		1 LVPD & 1 B-double/road train
Commencement of construction (2017)	2 AADT	n/a	1 Semi-trailer
2022	3	6	2 LVPD & 4 B-doubles/road trains
2026	4 AADT (estimate only)	76	2 LVPD & 5 B-doubles/road trains

Similarly, than the impact on intersections on the local network, projected low increase in numbers of vehicles to cross at crossings ID 2037 and 2039 is expected to have an unnoticeable impact, in terms of operability and short stacking.

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## 7. RPEQ Details

I, Du Toit Strydom, am a Registered Professional Engineer of Queensland, (RPEQ 15667 Civil).

I certify, based on the information provided by Smithfield Cattle Company, the numbers and figures in this report (30464.85846), are correct to the best of my knowledge.



Signed

Du Toit Strydom

WaterBiz Pty Limited





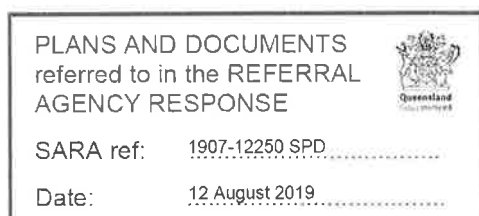
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Your Reference: 21689

PO Box 411  
Unit 1/3 Foundry St  
TOOWOOMBA QLD 4350  
Telephone: (07) 4638 2228  
Facsimile: (02) 6771 5999  
Free Call: 1800 445 389  
ABN 20 116 025 864

08 September 2016

Ryan Francis  
Project Manager  
EnviroAg Pty Limited  
1/3 Foundry Street  
Toowoomba Qld 4350

Dear Ryan



**Re: Smithfield Sapphire Feedlot Expansion – DTMR Rail Corridor Stormwater Assessment (30465)**

It is understood that the Smithfield Cattle Company is proposing to expand their Sapphire feedlot at Yelarbon QLD, in the Goondiwindi Regional Council district from the currently approved 8,700 Standard Cattle Unit (SCU) feedlot to a 20,000 SCU feedlot facility. The expansion of the feedlot will require an Environmental Impact Statement (EIS), as per the requirements of a “Material Change of Use” (MCU) application to the Department of Infrastructure Local Government and Planning (DILGP) to be submitted to gain the appropriate development approvals.

In the MCU prelodgement meeting for the Sapphire Feedlot expansion, Department of Transport and Main Roads (DTMR) have identified that there is the potential for impacts on the rail corridor that is adjacent to the site.

In regards to the prelodgement minutes from DILGP dated 22 June 2016, items specifically identified by DTMR regarding the stormwater aspects of the proposed development and how they may affect the adjacent rail corridor have been addressed in the sections below.

## 1. Stormwater

The management of stormwater within and around the Sapphire Feedlot has been considered as part of the concept design works undertaken to date.

The proposed feedlot development layout and concept drainage features is shown on attached Plan 30453.CC.502 Rev 0. A summary of the areas shown in the plan are included in Table 1.

**Table 1 Description of Sapphire Feedlot – Existing and Proposed development**

Area	Description	Approximate size
Existing feedlot area (including undeveloped portion)	Existing feedlot operation includes area not yet developed (8,700 SCUs). This area of the site is operating under existing approval conditions.	20 ha
Proposed feedlot expansion	Development to the south for the proposed expansion to increase total capacity to 20,000 SCUs	48.6 ha
Levee – as constructed	Levee as constructed and approved (existing levee bank permit No. 00/11 & 05/01) by Goondiwindi Regional Council.	
Levee – as modelled	Approximate location of levee as shown in flood modelling undertaken by Lawson and Treloar (2004).	
Levee – as proposed	Proposed levee location (concept shown) for the feedlot expansion works.	

The management of stormwater within and around the feedlot has been considered in the development of the existing feedlot, and also in the concept design works for the proposed expansion. For the proposed development, the management of stormwater quality and quantity will be documented in the site management plan that will be submitted with the application for the MCU.

## 1.1 Stormwater impact on railway corridor

An assessment of the impact that the drainage associated with the proposed development on the rail corridor is presented in the following sections.

### 1.1.1 Water Quantity

No changes to the overland flow regime are expected to occur external to the site that would impact on the railway corridor are expected to occur due to the proposed feedlot expansion. This is based on the following conclusions (as identified on plan 30453.CC.502):

- The existing topography of the site falls away from the rail corridor to the south, with overland flow generally following this direction.
- Stormwater runoff from the existing feedlot facility flows to the south of the site and reports to sediment and overflow ponds on the southern side of the site. This is a requirement for the management of contaminated runoff from the operational areas of the feedlot facility
- Management of stormwater from the proposed feedlot development will maintain the existing drainage regime i.e. all flows from the development will be to the south of the site, reporting to holding ponds for capture and potential reuse. These are current located approximately 750m from the rail corridor.
- No development will occur within a 50m offset from the rail line. Considering site drainage this will ensure that
  - appropriate drainage structures can be constructed to convey flows from the operational areas of feedlot to the south to the holding ponds
  - assessment of the catchment area in the 50m offset corridor indicates that there will be no increase in size from the current catchment area that would report to the rail corridor. As such there should be no increase in stormwater flows adjacent to the rail corridor
  - the 50m offset should ensure that there is no impediment to drainage from the railway.

Based on the above it is expected that there will be no adverse effects on the rail corridor from stormwater due to the proposed development relating to water quantity.

### 1.1.2 Water Quality

The management of stormwater quality from the current feedlot and proposed expansion is a key consideration in the operation of the site. All stormwater runoff from operational areas of the feedlot must report to the holding ponds for management and treatment, before being discharged off site. Currently holding ponds are located on the southern side of the facility, with the proposed expansion utilising a similar location for the ponds (approximately 750m from the rail corridor).

As such it is expected that there will be no adverse effects on the rail corridor from stormwater due to the proposed development relating to water quality.

## 2. Flooding

The Sapphire feedlot currently has an approved flood levee that provides flood immunity from the adjacent Dumaresq River. The history of the levee development has been as follows

- **Modelled:** Prior to construction a hydraulic impact assessment was undertaken by Lawson and Treloar in 2004 to determine if there would be no significant redistribution of floodwater, increase in flood flow velocity or increases in flood water level on adjacent properties. The modelling was calibrated to the 1976 flood event, with the results of the modelling indicated that there would be no adverse effects on these parameters. The results of the modelling shows that extents of flooding do not encroach on the rail corridor before or after the levee development (refer attached Figure 4 from the hydraulic assessment).
- **Constructed and approved:** Levee was subsequently constructed, however the location and extent of the levee differs from the levee extents used in the impact assessment, primarily due to operational requirements. The constructed levee is approved by Goondiwindi Regional Council, and has a current levee bank permit for the works.
- **Proposed:** The proposed expansion of the feedlot will require the levee to be reconfigured. This will result in the levee being located in a similar position to that used in the initial hydraulic impact assessment.

The location of the levee for the modelled, constructed and proposed scenarios is shown on the plan 30453.CC.502 Rev 0

A review of the flood mapping data has also been undertaken, as subsequent flood events have occurred in the Dumaresq River, with the most notable being the 2011 event. Based on the data in the Queensland Floodplain Assessment Overlay, the approximate flood level from this event has been overlain on the site. It can be seen that this event appears to correlate with the extents shown in the hydraulic impact assessment modelling, which indicates no flood encroachment on the rail in this location.

Based on the above, it is not expected that the proposed development at the Sapphire feedlot will have a worsening or actionable nuisance due to flooding on the rail corridor.

## 3. Concluding remarks

Based on the above it is not expected that the proposed feedlot expansion will have any negligible effect on the adjacent rail corridor for water quantity, quality or flooding.

If you have any further queries please don't hesitate to contact the undersigned


Yours sincerely

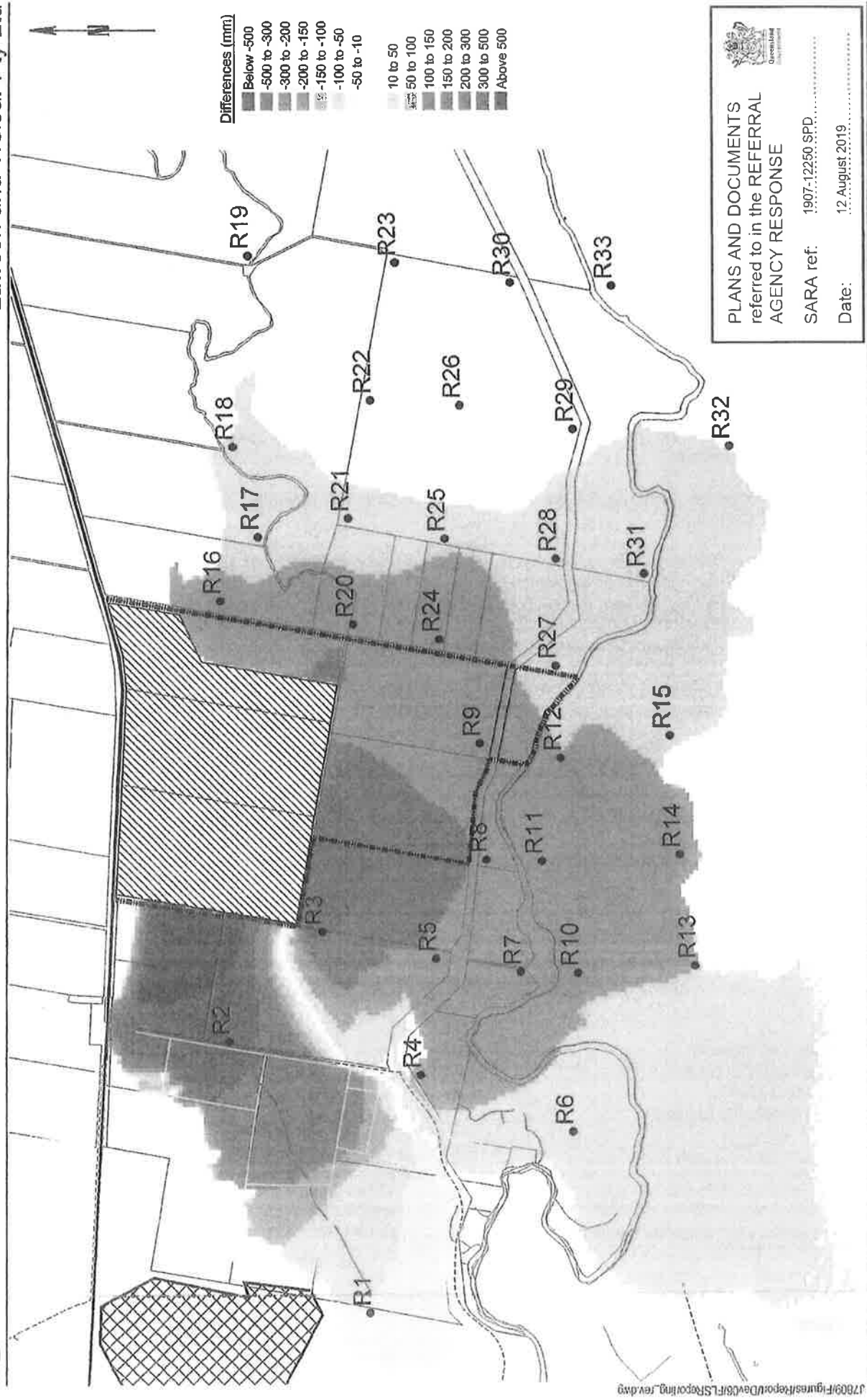


Du Toit Strydom  
Specialist Engineer  
RPEQ 15667  
WaterBiz Pty Limited

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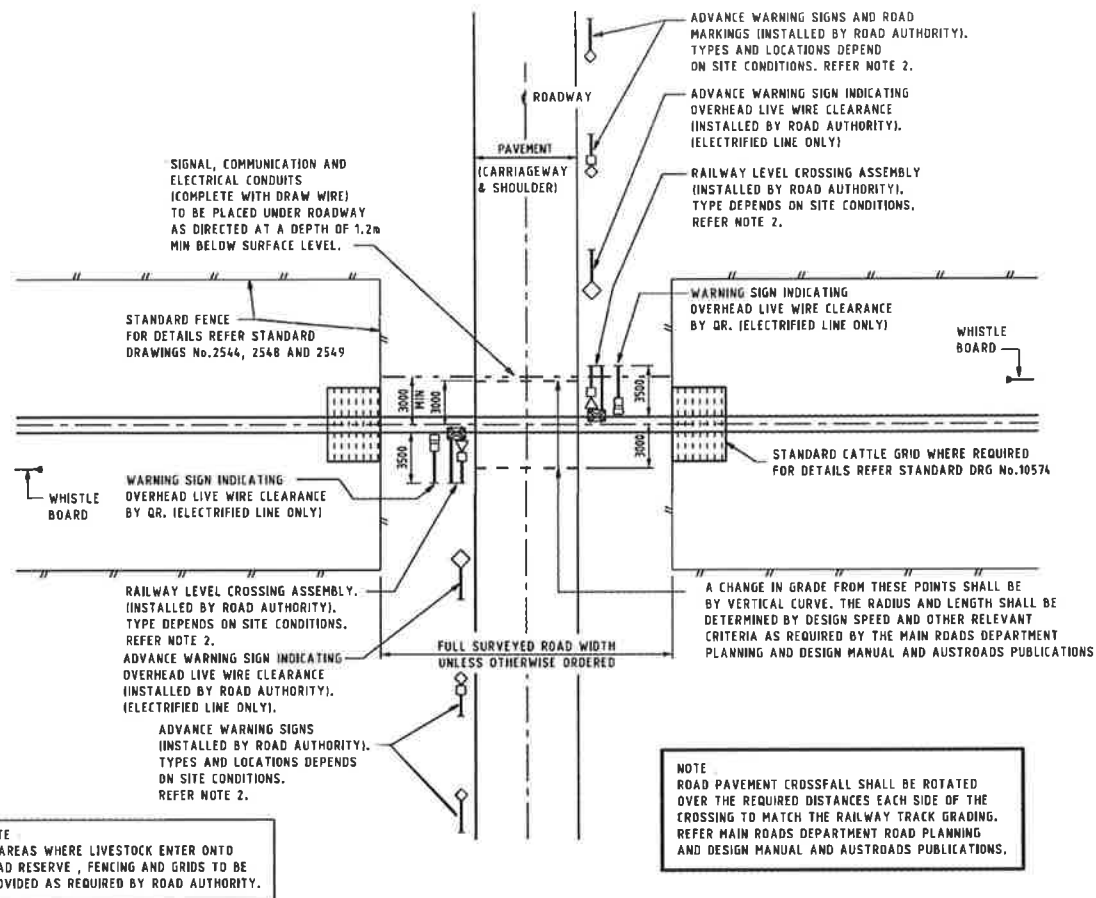
30453.CC.502 Rev 0 Smithfield Sapphire Feedlot Expansion Site Areas and Concept Drainage  
Lawson and Treloar Hydraulic Impact Assessment Figure 4 Peak WSL Difference (76 Event)

PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE		
SARA ref:	1907-12250 SPD	
Date:	12 August 2019	



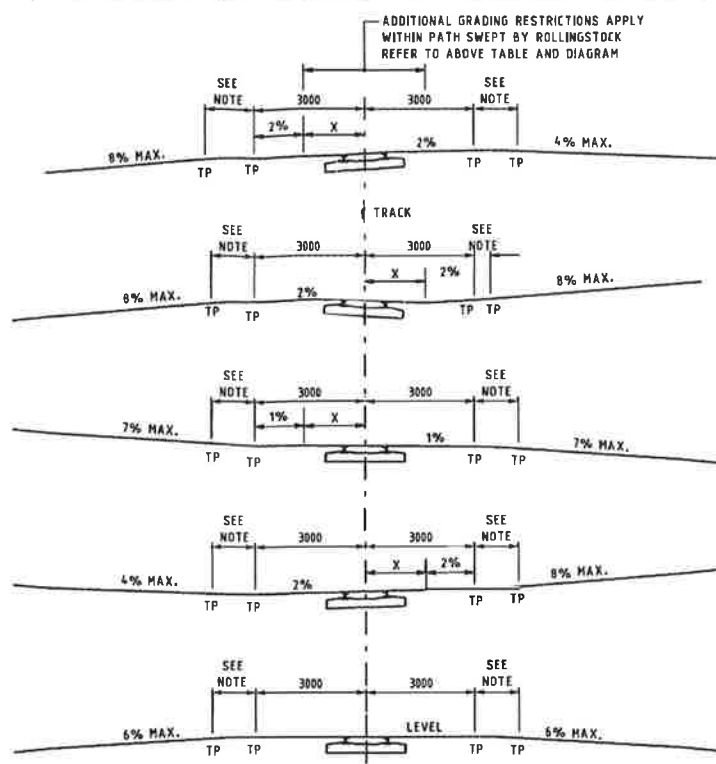




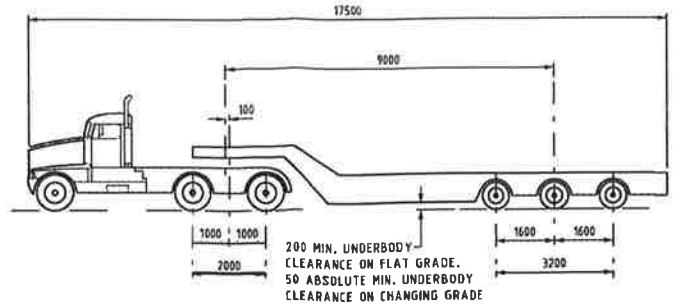


**PLAN OF TYPICAL PUBLIC LEVEL CROSSING WITH ROADWAY SQUARE TO TRACK**  
(MULTI TRACKS SIMILAR)  
SCALE 1:250

TRACK RADIUS (m)	X (mm)
STRAIGHT TRACK	1650
RADIUS > 1200m	1650
R >= 600m & R < 1200m	1700
R >= 300m & R < 600m	1750
R >= 200m & R < 300m	1800
R >= 150m & R < 200m	1850
RADIUS < 150m	1950



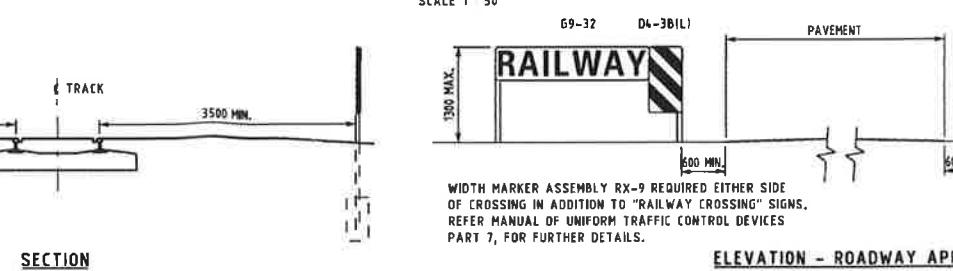
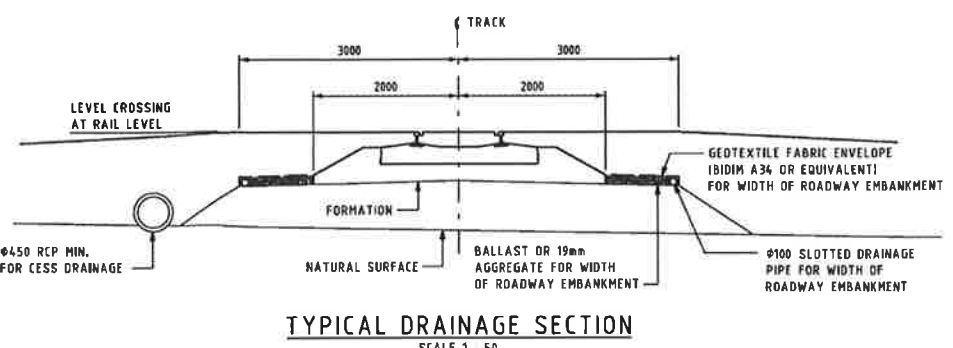
**ROAD GRADING LIMITS AT LEVEL CROSSINGS**  
(TO PROVIDE UNDERBODY CLEARANCE FOR ROLLINGSTOCK AND ROAD VEHICLES)  
SCALE 1:100



**DESIGN VEHICLE (ARTICULATED VEHICLE - LOW LOADER)**  
SCALE 1:100

NOTE  
A CHANGE IN GRADE FROM THESE POINTS SHALL BE BY VERTICAL CURVE. THE RADIUS AND LENGTH SHALL BE DETERMINED BY DESIGN SPEED AND OTHER RELEVANT CRITERIA AS REQUIRED BY THE MAIN ROADS DEPARTMENT ROAD PLANNING AND DESIGN MANUAL AND AUSTRADS PUBLICATIONS FOR THE DESIGN VEHICLE (ARTICULATED VEHICLE - LOW LOADER, UNLESS OTHERWISE APPROVED BY MANAGER CIVIL ENGINEERING).

- GENERAL NOTES:**
- PROPOSED LEVEL CROSSINGS SHALL BE SUBMITTED TO THE MANAGER CIVIL ENGINEERING FOR APPROVAL.
  - FOR DETAILS OF ALL ROAD SIGNS AND ASSEMBLIES FOR RELEVANT CONDITIONS AND THEIR PLACEMENT, REFER TO AS.1742.7, 'THE MANUAL OF UNIFORM TRAFFIC CONTROL DEVICES PART 7' AND OR, SAFETY MANAGEMENT SYSTEM STANDARD SAF/STD/0044/CIV - 'LEVEL CROSSING SAFETY'.
  - THE INFRASTRUCTURE MAINTAINER SHALL LIAISE WITH AND ADVISE ROAD AUTHORITIES TO KEEP ROADWORKS AT LEVEL CROSSINGS FROM INFRINGING THE ROAD GRADING LIMITS SHOWN.
  - ROAD PAVEMENT TO BE SEALED WITH ASPHALTIC CONCRETE OR A SIMILAR MATERIAL FOR A MINIMUM DISTANCE OF 10.0m ON BOTH SIDES OF THE RAILWAY.
  - ANY RELAXATION OF THE ROAD GRADING LIMITS SHOWN WILL REQUIRE APPROVAL FROM THE MANAGER CIVIL ENGINEERING.
  - WHISTLE BOARDS ARE TO BE PROVIDED AT ALL CROSSINGS (INCLUDING THOSE EQUIPPED WITH ACTIVE PROTECTION) AND ARE TO BE LOCATED AS PER QR, SAFETY MANAGEMENT SYSTEM STANDARD SAF/STD/0044/CIV.
  - ELECTRICAL WARNING DEVICES TO BE PROVIDED AS AND WHERE ORDERED.
  - CONDUIT INSTALLATION SHALL BE IN ACCORDANCE WITH AS4799.
  - DRAINAGE REQUIREMENTS TO BE DETERMINED AT THE SITE BY THE ENGINEER, AND CATCH DRAIN IF REQUIRED, NOT TO BE CONSTRUCTED CLOSER THAN 4.0m TO EDGE OF PAVEMENT.
  - FOR LEVEL CROSSINGS WITH OVERHEAD LIVE WIRES, WARNING SIGNS SHALL BE USED IN ACCORDANCE WITH STANDARD DRAWING No. 2458.
  - WHERE GRIDS ARE REQUIRED, I.E. IN AREAS WHERE STOCK IS PRESENT, STANDARD UNIVERSAL TYPE CATTLE GRIDS AS DETAILED ON STANDARD DRAWING No. 10574 SHALL BE USED.
  - THIS DRAWING SUPERSEDES STANDARD DRAWING No. 2457.
  - FOR REMOVAL OF LEVEL CROSSING REFER QR, STD. DRG. 2623.
  - GUARDRAILS TO BE PROVIDED AS NECESSARY WHERE INSUFFICIENT SPACE FOR RX-9 WIDTH MARKER ASSEMBLY OR WHERE REQUIRED FOR ROAD ENVIRONMENT. GUARDRAILS TO BE DESIGNED IN ACCORDANCE WITH MAIN ROADS DEPARTMENT 'ROAD PLANNING AND DESIGN MANUAL' AND AS/NZS 3845 'ROAD SAFETY BARRIER SYSTEMS'.
  - THIS DRAWING DOES NOT COVER SIGNAL AND OPERATIONAL SYSTEM REQUIREMENTS. ADVICE IS TO BE SOUGHT FROM THE SIGNALLING MANAGER.



**PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE**

SARA ref: 1907-12250 SPD

Date: 12 August 2019

**PLAN OF TYPICAL LEVEL CROSSING WITH ROADWAY AT ANGLE TO TRACK**  
(MULTI TRACKS SIMILAR)  
SCALE 1:250

<b>QUEENSLAND RAIL, CIVIL ENGINEERING</b> COPYRIGHT PROTECTS THIS PUBLICATION. EXCEPT FOR PURPOSES PERMITTED BY THE COPYRIGHT ACT, REPRODUCTION BY WHATEVER MEANS IS PROHIBITED WITHOUT THE PRIOR WRITTEN PERMISSION OF QR. ENQUIRIES SHOULD BE ADDRESSED TO MANAGER CIVIL ENGINEERING, QR, GPO BOX 1429, BRISBANE 4001.		<b>ALTERATIONS</b> <table border="1"> <tr> <th>A</th> <th>NOTE 14 ALTERED.</th> <th>P.M.</th> <th>5.9.05</th> </tr> <tr> <th>B</th> <th>NOTES AMENDED.</th> <th>A.G.P.</th> <th>15.3.07</th> </tr> </table>		A	NOTE 14 ALTERED.	P.M.	5.9.05	B	NOTES AMENDED.	A.G.P.	15.3.07	<b>DESIGNED</b> PCS JAN 05 <b>CHECKED</b> GKB MAY 05 <b>DRAWN</b> MVE JAN 05 <b>CHECKED</b> PCS MAY 05 <b>GKB</b> MAY 05 <b>PASSED</b> PN MAY 05		<b>APPROVED</b> L. STEPHENSEN 25/05/05 CIVIC STANDARDS MANAGER RPED No. 3750 ISSUE AUTHORIZED B. R. HAGAMAN 25/06/05 MANAGER CIVIL ENGINEERING		<b>QUEENSLAND RAIL - CIVIL ENGINEERING</b> <b>STANDARD LEVEL CROSSINGS</b> DETAILS OF PUBLIC ROAD GRADING AND SIGN POSTING		DRAWING NUMBER <b>2586</b> ISSUE <b>B</b>	
A	NOTE 14 ALTERED.	P.M.	5.9.05																
B	NOTES AMENDED.	A.G.P.	15.3.07																

## Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules<sup>1</sup> regarding **representations about a referral agency response**

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

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#### 28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
  - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
  - (c) the applicant has given written agreement to the change to the referral agency response.<sup>2</sup>
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
  - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

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

<sup>2</sup> In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

## **Part 7: Miscellaneous**

### **30 Representations about a referral agency response**

30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.<sup>3</sup>

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<sup>3</sup> An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.



# Planning Act 2016 – Appeal provisions

The following provisions are the **appeal rights** as defined in the Planning Act 2016, schedule 2.

## Chapter 6                      Dispute resolution

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### Part 1                      Appeal rights

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

(1) Schedule 1 states—

(a) matters that may be appealed to—

- (i) either a tribunal or the P&E Court; or
- (ii) only a tribunal; or
- (iii) only the P&E Court; and

(b) the person—

- (i) who may appeal a matter (the **appellant**); and
- (ii) who is a respondent in an appeal of the matter; and
- (iii) who is a co-respondent in an appeal of the matter; and
- (iv) who may elect to be a co-respondent in an appeal of the matter.

(2) An appellant may start an appeal within the appeal period.

(3) The **appeal period** is—

- (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
- (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
- (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note—*

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

(4) Each respondent and co-respondent for an appeal may be heard in the appeal.

- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
  - (a) the adopted charge itself; or
  - (b) for a decision about an offset or refund—
    - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
    - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

### **230 Notice of appeal**

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

### **231 Other appeals**

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.

- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.

- (4) In this section—

**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.

# Schedule 1 Appeals

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## 1 Appeal rights and parties to appeals

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

<b>Column 1 Appellant</b>	<b>Column 2 Respondent</b>	<b>Column 3 Co-respondent (if any)</b>	<b>Column 4 Co-respondent by election (if any)</b>
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	<ol style="list-style-type: none"> <li>1. A concurrence agency that is not a co-respondent</li> <li>2. If a chosen assessment manager is the respondent—the prescribed assessment manager</li> <li>3. Any eligible advice agency for the application</li> <li>4. Any eligible submitter for the application</li> </ol>

**2. Change applications**

For a change application other than a change application made to the P&E Court or called in by the Minister, an appeal may be made against—

- (a) the responsible entity's decision on the change application; or
- (b) a deemed refusal of a change application.

<b>Column 1 Appellant</b>	<b>Column 2 Respondent</b>	<b>Column 3 Co-respondent (if any)</b>	<b>Column 4 Co-respondent by election (if any)</b>
<ol style="list-style-type: none"> <li>1. The applicant</li> <li>2. If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice</li> </ol>	The responsible entity	If an affected entity starts the appeal—the applicant	<ol style="list-style-type: none"> <li>1. A concurrence agency for the development application</li> <li>2. If a chosen assessment manager is the respondent—the prescribed assessment manager</li> <li>3. A private certifier for the development application</li> <li>4. Any eligible advice agency for the change application</li> <li>5. Any eligible submitter for the change application</li> </ol>

<b>3. Extension applications</b> For an extension application other than an extension application called in by the Minister, an appeal may be made against— (a) The assessment manager's decision on the extension application; or (b) A deemed refusal of the extension application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1. The applicant 2. For a matter other than a deemed refusal of an extension application—a concurrence agency, other than the chief executive, for the application	The assessment manager	If a concurrence agency starts the appeal—the applicant	If a chosen assessment manager is the respondent—the prescribed assessment manager
<b>4. Infrastructure charges notices</b> An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds— (a) the notice involved an error relating to— (i) the application of the relevant adopted charge; or Examples of errors in applying an adopted charge: <ul style="list-style-type: none"> <li>▪ the incorrect application of gross floor area for a non-residential development</li> <li>▪ applying an incorrect 'use category', under a regulation, to the development</li> </ul> (ii) the working out of extra demand, for section 120; or (iii) an offset or refund; or (b) there was no decision about an offset or refund; or (c) if the infrastructure charges notice states a refund will be given—the timing for giving the refund; or (d) the amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the infrastructure charges notice	The local government that gave the infrastructure charges notice	—	—
<b>5. Conversion applications</b> An appeal may be made against— (a) the refusal of a conversion application; or (b) a deemed refusal of a conversion application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The local government to which the conversion application was made	—	—
<b>6. Enforcement notices</b> An appeal may be made against the decision to give an enforcement notice.			

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the enforcement notice	The enforcement authority	—	If the enforcement authority is not the local government for the premises in relation to which the offence is alleged to have happened—the local government

**Table 2**  
**Appeals to the P&E Court only**

**1. Appeals from tribunal**

An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of—

- (a) an error or mistake in law on the part of the tribunal; or
- (b) jurisdictional error.

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A party to the proceedings for the decision	The other party to the proceedings for the decision	—	—

**2. Eligible submitter appeals**

For a development application or change application other than an application decided by the P&E Court or called in by the Minister, an appeal may be made against the decision to approve the application, to the extent the decision relates to—

- (a) any part of the development application or change application that required impact assessment; or
- (b) a variation request

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<b>1.</b> For a development application—an eligible submitter for the development application  <b>2.</b> For a change application—an eligible submitter for the change application	<b>1.</b> For a development application—the assessment manager  <b>2.</b> For a change application—the responsible entity	<b>1.</b> The applicant  <b>2.</b> If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application

**3. Eligible submitter and eligible advice agency appeals**

For a development application or change application other than an application decided by the P&E Court or called in by the Minister, an appeal may be made against a provision of the development approval, or a failure to include a provision in the development approval, to the extent the matter relates to—

- (a) any part of the development application or the change application, that required impact assessment; or
- (b) a variation request.

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
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1. For a development application—an eligible submitter for the development application 2. For a change application—an eligible submitter for the change application 3. An eligible advice agency for the development application or change application	1. For a development application—the assessment manager 2. For a change application—the responsible entity	1. The applicant 2. If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application
<b>4. Compensation claims</b> An appeal may be made against— (a) a decision under section 32 about a compensation claim; or (b) a decision under section 265 about a claim for compensation; or (c) a deemed refusal of a claim under paragraph (a) or (b).			
<b>Column 1 Appellant</b>	<b>Column 2 Respondent</b>	<b>Column 3 Co-respondent (if any)</b>	<b>Column 4 Co-respondent by election (if any)</b>
A person dissatisfied with the decision	The local government to which the claim was made	—	—
<b>5. Registered premises</b> An appeal may be made against a decision of the Minister under chapter 7, part 4.			
<b>Column 1 Appellant</b>	<b>Column 2 Respondent</b>	<b>Column 3 Co-respondent (if any)</b>	<b>Column 4 Co-respondent by election (if any)</b>
1. A person given a decision notice about the decision 2. If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the affected area for the registered premises who is dissatisfied with the decision	The Minister	—	If an owner or occupier starts the appeal—the owner of the registered premises
<b>6. Local laws</b> An appeal may be made against a decision of a local government, or conditions applied, under a local law about— (a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or (b) the erection of a building or other structure.			



Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who— (a) applied for the decision; and (b) is dissatisfied with the decision or conditions.	The local government	—	—
<b>Table 3</b> <b>Appeals and tribunal only</b>			
<b>1. Building advisory agency appeals</b> An appeal may be made against giving a development approval for building work to the extent the building work required code assessment against the building assessment provisions.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A building advisory agency for the development application related to the approval	The assessment manager	The applicant	1. A concurrence agency for the development application related to the approval  2. A private certifier for the development application related to the approval
<b>2. Inspection of building work</b> An appeal may be made against a decision of a building certifier or referral agency about the inspection of building work that is the subject of a building development approval under the Building Act.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant for the development approval	The person who made the decision	—	—
<b>3. Certain decisions under the Building Act and the Plumbing and Drainage Act</b> An appeal may be made against— (a) a decision under the Building Act, other than a decision made by the Queensland Building and Construction Commission, if an information notice about the decision was given or required to be given under that Act; or (b) a decision under the Plumbing and Drainage Act, part 4 or 5, if an information notice about the decision was given or required to be given under that Act.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who received, or was entitled to receive, an information notice about the decision	The person who made the decision	—	—
<b>4. Local government failure to decide application under the Building Act</b> An appeal may be made against a local government's failure to decide an application under the Building Act within the period required under that Act.			

<b>Column 1 Appellant</b>	<b>Column 2 Respondent</b>	<b>Column 3 Co-respondent (if any)</b>	<b>Column 4 Co-respondent by election (if any)</b>
A person who was entitled to receive notice of the decision	The local government to which the application was made	—	—



## **Attachment 2 – Approved Plans**





LEGEND

- Proposed Fenceline
- Finished Surface Major Contour - 1.0m Interval
- Finished Surface Minor Contour - 0.25m Interval
- Proposed Roadway



GOONDIWINDI REGIONAL COUNCIL  
Approved Plan referred to in Council's Decision Notice  
Council Reference: 16/40W  
Dated: 26/02/2020  
Signed: R M M  
Print Name: RONNIE McMAHON  
(Under Delegation) ASSESSMENT MANAGER



SCALE 1:5000

Project: **SAPPHIRE FEEDLOT EXPANSION - STAGE 2**

Drawing Title: **GENERAL LAYOUT - 19,999scu**

Drawing Number: SAPPHIRE/STAGE 2/01A  
Horizontal Datum: MGA94 ZONE 56  
Vertical Datum: AHD

Surveyed:

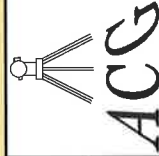
Drawn:

Scale : 1:5,000 (A3)

Date : AUGUST 2019

DWG : EARTHWORKS.DWG

For the exclusive use of  
SMITHFIELD CATTLE CO.  
SAPPHIRE  
VIA YELARBON



**ANTHONY GRAHAM**  
Agricultural & Engineering Surveyor

28 Aberdeen St. RANGETILLE (TOOWOOMBA)  
Ph. 0746 356 126 Mobile 0419 774 256

Approved Date

Amnd. Details

Approved Date

Amnd. Details

Approved Date



LEGEND

Existing Fenceline

Proposed Fenceline

Pens

Miscellaneous Hard Catchment

Soft Catchment

Sedimentation Basin

Holding Pond

CONTROLLED DRAINAGE AREAS		TOTALS	
ITEM	(Ha)	CDA 3	CDA 2
Pens	11.1217	28.8888	40.0105
Hard Catchment	4.6737	10.7730	25.7864
Soft Catchment	1.7316	7.2788	37.0782
Sedimentation Basin	--	--	5.7690
Holding Pond	--	12.5843	12.5843
Total	17.5270	73.4986	121.2284

DESIGN NOTES

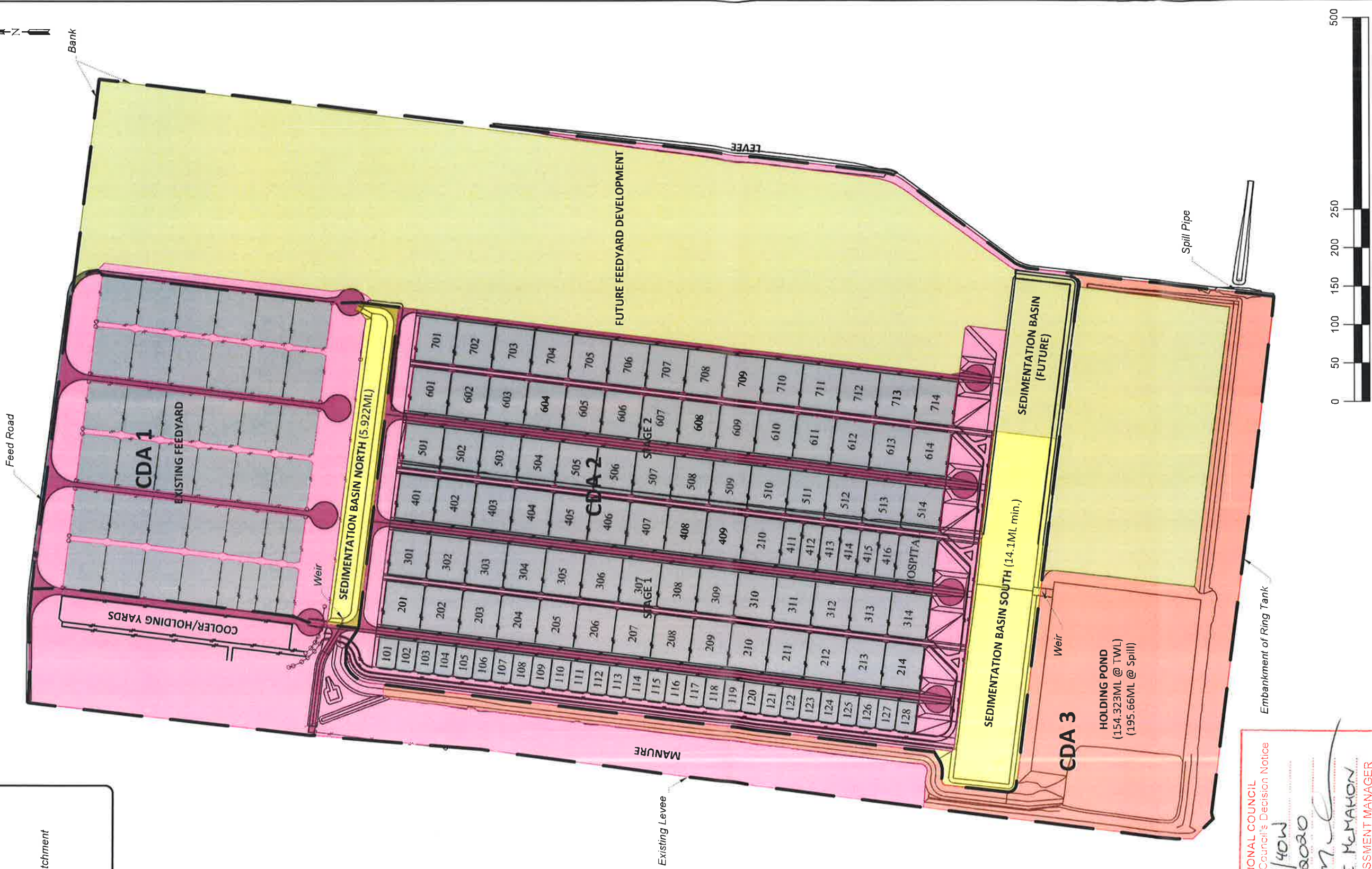
Pen Gradients 3%

Drain Gradients:

Existing 0.28%

Stage 1 0.4%

Stage 2 0.4%



GOONDIWINDI REGIONAL COUNCIL  
Approved Plan referred to in Council's Decision Notice  
Council Reference: 16/40W  
Dated: 26/02/2020  
Signed: RM  
Print Name: RONNIE McMAHON  
(Under Delegation, ASSESSMENT MANAGER)



Project

SAPPHIRE FEEDLOT EXPANSION - STAGE 2

Drawing Title:

CONTROLLED DRAINAGE AREAS

For the exclusive use of

SMITHFIELD CATTLE CO.  
SAPPHIRE  
VIA YELARBON

ANTHONY GRAHAM

Agricultural & Engineering Surveyor

28 Aberdeen St. RANGRILLE (TOOWOOMBA)  
Ph. 0746 356 126 Mobile 0419 774 256

Drawing Number : SAPPHIRE\STAGE 1\B01F

Horizontal Datum : MGA94 ZONE 56

Vertical Datum : AHD

Scale : 1:5000 (A3)

Date : NOVEMBER 2019

DWG : ENVIRONMENTAL.DWG

Surveyed:

Drawn:

Approved Date

Amndt Details

Approved Date


Amndt Details



NOTE:

PROPOSED ROAD CONCEPT DESIGN - AUSTRROADS AND DTMR STANDARD ROAD DESIGN SPECIFICATION

DRAWING NO		REFERENCE DRAWING TITLE		REV	DATE	CONCEPT DESIGN- OPTION C	REVISION DESCRIPTION	DRAWN	DESIGNED	CHECKED	APPROVED
1	2	3	4	5	6	7	8	9	10	11	12

GOONDIWINDI REGIONAL COUNCIL  
Reference: ~~2018~~ referred to in Council's decision notice  
Council Reference: 16/4010  
Dated: 18/05/18  
Signed:   
Print Name: Carl Manton  
in the Capacity of: 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 *"Rural activities" – "Intensive animal industry"* (Expansion to Feedlot to 19,999SCU)

16/40W

'Sapphire', Kildonan Road, Yelarbon

Lot 56 on MH235 and Lot 55 on SP169191

On 26 February 2020, 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, the Rural Activities Code and the Transport and Infrastructure Code of the Goondiwindi Region Planning Scheme 2018, the proposed changes satisfied all relevant criteria, and were 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: AO1, AO2, PO4, AO5.2</i>
<i>Rural Activities Code</i>	<i>Goondiwindi Region Planning Scheme 2018: AO7, AO8</i>
<i>Transport and Infrastructure Code</i>	<i>Goondiwindi Region Planning Scheme 2018: AO1, AO2, PO3, PO4, PO5, PO6, AO7, AO8, AO9, AO10, AO12.1, AO12.2, AO13</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 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.

(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.*