

File: 20/03W
Date: 27 July 2020

Kingswood Pty Ltd
C/- SMK Consultants
PO Box 422
GOONDIWINDI QLD 4390

Attention: Tom Jobling

Dear Mr Jobling

**Decision Notice – approval (with conditions)
Reconfiguring a Lot
Lot 12 on SP196503, 'Kingswood', 47-49 Kingswood Road, Bungunya**

We wish to advise that on 22 July 2020 a decision was made to approve the material change of use development application for one (1) into two (2) lot subdivision and creation of access easement at Lot 12 on SP196503, 'Kingswood', 47-49 Kingswood Road, Bungunya. In accordance with the *Planning Act 2016*, please find attached Council's Decision Notice for the application.

Please read through the conditions carefully as these include actions which must be undertaken **prior to the submission to Council of the Plan of Survey**.

Please not **Condition 24**, which requires a letter outlining and demonstrating that conditions have been complied with, shall be submitted to Council prior to the submission to Council of the Plan of Survey.

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, 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: 20/03W
Council Contact: Mrs Ronnie McMahon: JMW
Council Contact Phone: (07) 4671 7400

27 July 2020

Applicant Details: Kingswood Pty Ltd
C/- SMK Consultants
PO Box 422
GOONDIWINDI QLD 4390

Attention: Tom Jobling

The development application described below was properly made to Goondiwindi Regional Council on 16 March 2020.

Applicant details

Applicant name: SMK Consultants for Kingswood Pty Ltd
Applicant contact details: Mr Tom Jobling
PO Box 422, Goondiwindi, QLD 4390
tom@smkqld.com.au
(07) 4671 2445

Application details

Application number: 20/03W
Approval sought: Development Permit
Details of proposed development: One (1) into two (2) lot subdivision and creation of access easement

Location details

Street address: 'Kingswood', 47-49 Kingswood Road, Bungunya
Real property description: Lot 12 on SP196503

Decision

Date of decision: 22 July 2020
Decision details: Approved in full with conditions. These conditions are set out in Attachment 1 and are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

Details of the approval

The application is not taken to be approved (a deemed approval) under section 64(5) of the *Planning Act 2016*.

The following approvals are given:

	Planning Regulation 2017 reference	Development Permit	Preliminary Approval
Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - building work assessable under the planning scheme - plumbing or drainage work - material change of use - reconfiguring a lot - operational work	N/A	☐ ☐ ☐ ☒ ☐	☐ ☐ ☐ ☐
Carrying out building work (assessable under the <i>Building Act 1975</i>)	Schedule 9, part 1	☐	☐
Development on airport land if the land use plan for the airport land states the development is assessable development - building work - plumbing or drainage work - material change of use (consistent with the land use plan) - reconfiguring a lot - operational work	Schedule 10, part 1, division 1	☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐
Making a material change of use on airport land that is inconsistent with the land use plan for the airport land	Schedule 10, part 1, division 1	☐	☐
Making a material change of use for a brothel	Schedule 10, part 2, division 2	☐	☐
Carrying out operational work for the clearing of native vegetation	Schedule 10, part 3, division 2	☐	☐
Making a material change of use on contaminated land	Schedule 10, part 4, division 1	☐	☐
Making a material change of use of premises for an environmentally relevant activity	Schedule 10, part 5, division 2	☐	☐
Making a material change of use of premises for aquaculture	Schedule 10, part 6, division 1, subdivision 1	☐	☐
Carrying out operational work that is completely or partly in a declared fish habitat area	Schedule 10, part 6, division 2, subdivision 1	☐	☐

	Planning Regulation 2017 reference	Development Permit	Preliminary Approval
Carrying out operational work that is the removal, destruction or damage of a marine plant	Schedule 10, part 6, division 3, subdivision 1	☐	☐
Carrying out operational work that is constructing or raising waterway barrier works	Schedule 10, part 6, division 4, subdivision 1	☐	☐
Making a material change of use for a hazardous chemical facility	Schedule 10, part 7, division 1	☐	☐
Development on a local heritage place (other than a Queensland heritage place) - building work assessable under the <i>Building Act 1975</i> - building work assessable under the planning scheme - plumbing or drainage work - material change of use - reconfiguring a lot - operational work	Schedule 10, part 8, division 1, subdivision 1	☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐
Development on or adjoining a Queensland heritage place - building work assessable under the <i>Building Act 1975</i> - building work assessable under the planning scheme - plumbing or drainage work - material change of use - reconfiguring a lot - operational work	Schedule 10, part 8, division 2, subdivision 1	☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐
Development interfering with koala habitat in koala habitat areas outside koala priority areas	Schedule 10, part 10, division 3, subdivision 1	☐	☐
Development interfering with koala habitat in koala habitat areas for extractive industries in key resource areas	Schedule 10, part 10, division 4, subdivision 1	☐	☐
Carrying out operational work for reconfiguring a lot, if the reconfiguration is also assessable development	Schedule 10, part 12, division 1	☐	☐
Development in a priority port's master planned area that the port overlay for the master planned area states is assessable development - building work - plumbing or drainage work - material change of use - reconfiguring a lot - operational work	Schedule 10, part 13, division 4, subdivision 1	☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐

	Planning Regulation 2017 reference	Development Permit	Preliminary Approval
Development on strategic port land if the land use plan for the strategic port land states the development is assessable development - building work - plumbing or drainage work - material change of use (consistent with the land use plan) - reconfiguring a lot - operational work	Schedule 10, part 13, division 5, subdivision 1	☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐
Making a material change of use on strategic port land that is inconsistent with the land use plan	Schedule 10, part 13, division 5, subdivision 1	☐	☐
Reconfiguring a lot under the <i>Land Title Act 1994</i>	Schedule 10, part 14, division 1	☐	☐
Making a material change of use of premises for a tourist activity or sport and recreation activity in the SEQ regional landscape and rural production area or the SEQ rural living area	Schedule 10, part 16, division 2, subdivision 1	☐	☐
Making a material change of use of premises for a residential care facility in the SEQ regional landscape and rural production area or the SEQ rural living area	Schedule 10, part 16, division 3, subdivision 2	☐	☐
Making a material change of use of premises for a community activity, other than a residential care facility, in the SEQ regional landscape and rural production area or the SEQ rural living area	Schedule 10, part 16, division 3, subdivision 2	☐	☐
Making a material change of use of premises for indoor recreation in the SEQ regional landscape and rural production area or the SEQ rural living area	Schedule 10, part 16, division 4, subdivision 1	☐	☐
Making a material change of use of premises for a biotechnology industry in the SEQ regional landscape and rural production area or the SEQ rural living area	Schedule 10, part 16, division 6, subdivision 2	☐	☐
Making a material change of use of premises for a service station in the SEQ regional landscape and rural production area or the SEQ rural living area	Schedule 10, part 16, division 6, subdivision 2	☐	☐
Making a material change of use of premises for an urban activity other than a biotechnology industry or service station in the SEQ regional landscape and rural production area or the SEQ rural living area	Schedule 10, part 16, division 6, subdivision 2	☐	☐

	Planning Regulation 2017 reference	Development Permit	Preliminary Approval
Making a material change of use of premises for two or more of the following: (i) a community activity (ii) indoor recreation (iii) a sport and recreation activity (iv) a tourist activity (v) an urban activity, in the SEQ regional landscape and rural production area or the SEQ rural living area	Schedule 10, part 16, division 7, subdivision 1	☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐
Carrying out operational work that is tidal works or work carried out completely or partly in a coastal management district	Schedule 10, part 17, division 1	☐	☐
Carrying out operational work that involves taking, or interfering with, water	Schedule 10, part 19, division 1, subdivision 1	☐	☐
Development for removing quarry material from a watercourse or lake - building work assessable under the <i>Building Act 1975</i> - building work assessable under the planning scheme - plumbing or drainage work - material change of use - reconfiguring a lot - operational work	Schedule 10, part 19, division 2, subdivision 1	☐ ☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐ ☐
Carrying out operational work that is the construction of a dam or relates to a dam.	Schedule 10, part 19, division 3, subdivision 1	☐	☐
Carrying out operational work for construction of a new category 2 or 3 levee or for modification of an existing category 2 or 3 levee	Schedule 10, part 19, division 4, subdivision 1	☐	☐
Carrying out operational work that is high impact earthworks in a wetland protection area	Schedule 10, part 20, division 2	☐	☐
Making a material change of use of premises for a wind farm	Schedule 10, part 21, division 1	☐	☐

Conditions

This approval is subject to the conditions in Attachment 1.

Further development permits

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

1. N/A.

Properly made submissions

There were no properly made submissions for this application.

Referral agencies for the application

The referral agencies for this application are:

For an application involving	Name of referral agency	Advice agency or concurrence agency	Address
As per Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1 (10.9.4.2.1.1) of the PR: <i>Development application for reconfiguring a lot that is assessable development under section 21, if—</i> (a) <i>all or part of the premises are within 25m of a State transport corridor; and</i> (b) <i>1 or more of the following apply—</i> (i) <i>the total number of lots is increased;</i> (ii) <i>the total number of lots adjacent to the State transport corridor is increased;</i> (iii) <i>there is a new or changed access between the premises and the State transport corridor;</i> (iv) <i>an easement is created adjacent to a railway as defined under the Transport Infrastructure Act, schedule 6; and</i> (c) <i>the reconfiguration does not relate to government supported transport infrastructure</i>	Department of State Development, Manufacturing, Infrastructure and Planning	Concurrence Agency	Department of State Development, Manufacturing, Infrastructure and Planning, Post: PO Box 825, Visit: 128 Margaret Street, TOOWOOMBA QLD 4350 ToowoombaSARA@dsmip.qld.gov.au Ph: (07) 4616 7307

For an application involving	Name of referral agency	Advice agency or concurrence agency	Address
As per Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 (10.9.4.2.4.1) of the PR: <i>Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorising instrument, if all or part of the premises—</i> (a) <i>are within 25m of a State transport corridor; or</i> (b) <i>are a future State transport corridor; or</i> (c) <i>are—</i> (i) <i>adjacent to a road that intersects with a State-controlled road; and</i> (ii) <i>within 100m of the intersection</i>	Department of State Development, Manufacturing, Infrastructure and Planning	Concurrence Agency	Department of State Development, Manufacturing, Infrastructure and Planning, Post: PO Box 825, Visit: 128 Margaret Street, TOOWOOMBA QLD 4350 ToowoombaSARA@dsd mip.qld.gov.au Ph: (07) 4616 7307
As per Schedule 10, part 9, Division 4, Subdivision 1, Table 1, Item 1 (10.9.4.1.1.1) of the PR: <i>Development application for an aspect of development stated in schedule 20 that is assessable development under a local categorising instrument or section 21, if—</i> (a) <i>the development is for a purpose stated in schedule 20, column 1 for the aspect; and</i> (b) <i>the development meets or exceeds the threshold—</i> (i) <i>for development in local</i>	Department of State Development, Manufacturing, Infrastructure and Planning	Concurrence Agency	Department of State Development, Manufacturing, Infrastructure and Planning, Post: PO Box 825, Visit: 128 Margaret Street, TOOWOOMBA QLD 4350 ToowoombaSARA@dsd mip.qld.gov.au Ph: (07) 4616 7307

For an application involving	Name of referral agency	Advice agency or concurrence agency	Address
<i>government area 1—stated in schedule 20, column 2 for the purpose; or</i> (ii) <i>for development in local government area 2—stated in schedule 20, column 3 for the purpose; and</i> (c) <i>for development in local government area 1—the development is not for an accommodation activity or an office at premises wholly or partly in an excluded area.</i> <i>However, if the development is for a combination of purposes stated in the same item of schedule 20, the threshold is for the combination of purposes and not for each individual purpose.</i>			

Approved plans and specifications

Copies of the following plans are enclosed.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Aspect of development: material change of use				
Proposal Plan for MCU & RCOL – Subdivision of Lot 12 on SP196503	SMK Consultants Pty Ltd	02/10/19	219093-2	

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 reconfiguring a lot] This approval lapses if a plan for the reconfiguration that, under the *Land Title Act 1994*, is required to be given to a local government for approval is not given within **four (4) years**.

Rights of appeal

The rights of an applicant to appeal to a tribunal or the Planning and Environment Court against a decision about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For certain 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*).

Appeal by an applicant

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

An applicant may also have a right to appeal to the Development tribunal. For more information, see schedule 1 of the *Planning Act 2016*.

Appeal by an eligible submitter

An eligible submitter for a development application may appeal to the Planning and Environment Court against the decision to approve the application, to the extent the decision relates to:

- any part of the development application that required impact assessment
- a variation request.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 229 of the *Planning Act 2016*.

Attachment 5 is an extract from the *Planning Act 2016* that sets out the applicant's appeal rights and the appeal rights of a submitter.

To stay informed about any appeal proceedings which may relate to this decision visit: <https://planning.dsdmip.qld.gov.au/planning/our-planning-system/dispute-resolution/pe-court-database>.

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

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 dark ink, appearing to read 'RM McMahon', followed by a long horizontal flourish.

Ronnie McMahon
Manager of Planning Services
Goondiwindi Regional Council

enc Attachment 1—Assessment manager and concurrence agency conditions
 Attachment 2—Approved Plans
 Attachment 3—Infrastructure Charges Notice
 Attachment 4—Notice about decision – Statement of reasons
 Attachment 5—*Planning Act 2016* Extracts



ATTACHMENTS

Attachment 1 – Assessment Manager’s Conditions

Part 1 – Assessment Manager’s Conditions

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

Attachment 2 – Approved Plans

Attachment 3 – Infrastructure Charges Notice

Attachment 4 – Notice about decision - Statement of reasons

Attachment 5 – *Planning Act 2016* Extracts

Planning Act 2016 appeal provisions

Planning Act 2016 lapse dates



Attachment 1 – Assessment Manager's Conditions

Part 1 – Assessment Manager's Conditions



Assessment Manager's Conditions

Proposed Use:	One (1) into two (2) lot subdivision and creation of access easement
Development:	Reconfiguring a Lot – Development Permit
Applicant:	SMK Consultants for Kingswood Pty Ltd
Address:	'Kingswood', 47-49 Kingswood Road, Bungunya
Real Property Description:	Lot 12 on SP196503
Council File Reference:	20/03W

GENERAL CONDITIONS								
1.	Approval is granted for the purpose of Reconfiguring a Lot – One (1) into two (2) lot subdivision and creation of access easement.							
2.	The development shall be in accordance with supporting information supplied by the applicant with the development application including the following plan:							
	<table> <tr> <th>Drawing No</th><th>Title</th><th>Date</th></tr> <tr> <td>219093-2</td><td>Proposal Plan for MCU & RCOL – Subdivision of Lot 12 on SP196503</td><td>02/10/19</td></tr> </table>	Drawing No	Title	Date	219093-2	Proposal Plan for MCU & RCOL – Subdivision of Lot 12 on SP196503	02/10/19	
Drawing No	Title	Date						
219093-2	Proposal Plan for MCU & RCOL – Subdivision of Lot 12 on SP196503	02/10/19						
	Please note this is not an approved Plan of Survey. The approved plan is included in Attachment 2.							
3.	Complete and maintain the approved development as follows: (i) Generally in accordance with development approval documents; and (ii) Strictly in accordance with those parts of the approved development which have been specified in detail by the Council or Referral Agency unless the Council or Referral Agency agrees in writing that those parts will be adequately complied with by amended specifications. All development must comply with any relevant provisions in the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i>, Council's standard designs for applicable work and any relevant Australian Standard that applies to that type of work. The development approval documents are the material contained in the development application, approved plan(s) and supporting documentation including any written and electronic correspondence between applicant, Council or Referral Agencies during all stages of the development application assessment processes.							
4.	All conditions must be complied with or bonded prior to the submission to Council of the Plan of Survey, unless specified in an individual condition.							

	ESSENTIAL SERVICES
5.	Both proposed lots shall be connected or existing connections be retained to a water supply service, to the satisfaction of and at no cost to Council.
6.	Both proposed lots shall be connected or existing connections be retained to an onsite effluent disposal sewerage system, in accordance with the Queensland Plumbing and Wastewater Code, to the satisfaction of and at no cost to Council. All sewer infrastructure (including effluent disposal areas) shall be fully located within site boundaries.
	PUBLIC UTILITIES
7.	Both proposed lots shall remain connected to an electricity and telecommunications supply system, at no cost to Council.
8.	Each proposed lot shall be provided with an adequate and reliable water supply for fire fighting purposes.
	VEHICLE ACCESS
9.	All site accesses, from the edge of the existing bitumen to the property boundary, shall be maintained to an industrial standard, in accordance with Schedule 6.2.1 – Standard Drawing in Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i> or to other relevant engineering standards to the satisfaction of and at no cost to Council. Crossovers shall be either constructed or bonded prior to the submission to Council of the Plan of Survey. The applicant shall contact Council's Department of Engineering to ensure the correct specifications are obtained for all civil works prior to commencement of any works onsite. A qualified Council Officer may inspect construction works at the request of the developer to ensure compliance with this condition.

	STORMWATER
10.	The proposed development shall be adequately drained and all stormwater shall be disposed of to a legal discharge point in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i> or to other relevant engineering standards, to the satisfaction of and at no cost to Council. Any increase in volume, concentration or velocity of stormwater from the site shall be channelled to lawful points of discharge or to other storage or dispersal arrangements which all must be agreed to in writing by Council. 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. The stormwater disposal system shall be designed to include appropriate pollution control devices or methods to ensure no contamination or silting of waterways.
11.	Stormwater shall not be allowed to pond on the site during construction and after construction has been completed unless the type and size of ponding has been agreed in writing by Council. 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.
	DEVELOPER'S RESPONSIBILITIES
12.	Development is to be designed and constructed to avoid significant adverse impacts on areas of environmental significance.
13.	It is the developer's responsibility to ensure that potential bushfire hazards are appropriately mitigated to reflect the hazard level of the site in regard to vegetation type and proximity, slope and aspect, bushfire history, on-site environmental values, ease of maintenance and any specific implications of the development.
14.	The development must be resilient to flood events by ensuring design and built form appropriately responds to the potential risks of flooding.
15.	It is the developer's responsibility to ensure that the development directly, indirectly and cumulatively avoids any increase in water flow velocity or flood level, and does not increase the potential for flood damage wither on-site or on other properties.
16.	Any alteration or damage to roads and public infrastructure that is attributable to the progress of works or vehicles associated with the development must be repaired to Council's satisfaction or the cost of repairs paid to Council.
17.	The developer shall be responsible for meeting all costs reasonably associated with the approved development, unless there is specific agreement by other parties, including Council, to meeting those costs.

18.	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.
19.	The developer shall be responsible for mitigating any complaints arising from on-site operations during construction.
20.	Construction works must occur so they do not cause unreasonable interference with the amenity of adjoining premises. During construction the site must be kept in a clean and tidy state at all times.
21.	At all times all requirements of the conditions of the development approval must be maintained.
BEFORE PLANS WILL BE ENDORSED	
22.	The developer shall submit a detailed Plan of Survey, prepared by a licensed surveyor, for the endorsement of Council. In accordance with Schedule 18 of the <i>Planning Regulations 2017</i>. The relevant Council Fee for endorsement of the Plan of Survey (currently \$185.50; subject to change).
23.	All outstanding rates and charges shall be paid to Council prior to the submission to Council of the Plan of Survey. At its discretion, Council may accept bonds or other securities by way of bank guarantee or cash, to ensure completion of specified development approval conditions to expedite the endorsement of the Plan of Survey. It may be necessary for Council to use such bonds for the completion of outstanding works without a specific timeframe agreed.
24.	A letter outlining and demonstrating that each condition has been complied with of how they will be complied with shall be submitted to Council prior to the submission to Council of the Plan of Survey. Council officers may require a physical inspection to confirm that all conditions have been satisfied to relevant standards. The approval will lapse if a plan for the reconfiguration is not given to the local government within the following period, in accordance with the provisions contained in section 85(1)(b) of the <i>Planning Act 2016</i>: (a) If no period is stated – 4 years after the approval starts to have effect. Section 86 of the <i>Planning Act 2016</i> sets out how an extension to the period of approval can be requested.

	NOTES AND ADVICE
	<i>When approval takes effect</i> This approval takes effect in accordance with section 85 of the <i>Planning Act 2016</i>. <i>When approval lapses</i> The approval will lapse if a plan for the reconfiguration is not given to the local government within the following period, in accordance with the provisions contained in section 85(1)(b) of the <i>Planning Act 2016</i>: (a) If no period is stated – 4 years after the approval starts to have effect. Section 86 of the <i>Planning Act 2016</i> sets out how an extension to the period of approval can be requested.
	Infrastructure charges as outlined in the attached Infrastructure Charges Notice shall be paid upon Council's approval of the Plan of Survey. The Infrastructure Charges Notice is included in Attachment 3.
	All 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.
	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").
	This approval in no way authorises the clearing of native vegetation protected under the <i>Vegetation Management Act 1999</i>.
	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.
	It is the applicant's responsibility to obtain all statutory approvals prior to commencement of any works onsite.



Attachment 1 – Assessment Manager's Conditions

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





Queensland Treasury

SARA reference: 2004-16381 SRA
Council reference: 20/03W

1 June 2020

Chief Executive Officer
Goondiwindi Regional Council
LMB 7
INGLEWOOD QLD 4387
mail@grc.qld.gov.au

Attention: Ronnie McMahon

Dear Ronnie

SARA response—47-49 Kingswood Road, Bungunya

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency on 24 April 2020.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	1 June 2020
Conditions:	The conditions in Attachment 1 must be attached to any development approval.
Advice:	Advice to the applicant is in Attachment 2 .
Reasons:	The reasons for the referral agency response are in Attachment 3 .

Development details

Description:	Development permit	Material change of use and reconfiguring of a lot - "Industrial Activities" - "High Impact Industry" (Seed Grading Plant) and one (1) into two (2) lot subdivision and creation of access easement.
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SARA role: Referral Agency.
SARA trigger: Schedule 10, Part 9, Division 4, Subdivision 1, Table 1, Item 1

(10.9.4.1.1.1)—Development impacting on state transport infrastructure (Planning Regulation 2017)

Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1
(10.9.4.2.1.1)—Reconfiguring a lot near a state transport corridor (Planning Regulation 2017)

Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1
(10.9.4.2.4.1)—Material change of use of premises near a state transport corridor or that is a future state transport corridor (Planning Regulation 2017)

SARA reference: 2004-16381 SRA
 Assessment Manager: Goondiwindi Regional Council
 Street address: 47-49 Kingswood Road, Bungunya
 Real property description: Lot 12 on SP196503
 Applicant name: Kingswood Pty Ltd
 C/- SMK Consultants Pty Ltd
 Applicant contact details: 9 Pratten Street, PO Box 422
 GOONDIWINDI QLD 4390
 jobling@smk.com.au

Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules) Copies of the relevant provisions are in **Attachment 4**.

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

For further information please contact Brittany Hughes, Planning Officer, on (07) 4616 7332 or via email ToowoombaSARA@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Darren Cooper
A/Manager - DDSW (Planning)

cc SMK Consultants for Kingswood Pty Ltd, jobling@smk.com.au

enc Attachment 1 - Referral agency conditions
 Attachment 2 - Advice to the applicant
 Attachment 3 - Reasons for referral agency response
 Attachment 4 - Representations provisions
 Attachment 5 - Approved plans and specifications

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the plans and specifications referenced below are found at Attachment 5)

No.	Conditions	Condition timing
Reconfiguration of a lot		
10.9.4.2.1.1— Reconfiguring a lot near a state transport corridor—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
1.	(a) Stormwater and flooding management of the development must ensure no worsening or actionable nuisance to the railway corridor. (b) Any works on the land must not: - Create any new discharge points for stormwater runoff onto the railway corridor; - Interfere with and/or cause damage to the existing stormwater drainage on the railway corridor; - Surcharge any existing culvert or drain on the railway corridor; - Reduce the quality of stormwater discharge onto the railway corridor; - Impede or interfere with overland flow and/or hydraulic conveyance on the site, including runoff from the railway corridor; - Reduce the floodplain storage capacity of the site.	At all times.
2.	Fencing must be provided along the Easement A boundary with the railway corridor shown on the 'Proposal Plan for MCU & RCOL – Subdivision of Lot 12 SP196503, prepared by SML Consultants Pty Ltd, dated 02/10/2019, plan reference number 219093-2, in accordance with Queensland Rail drawing number QR-C-S3230 – '1.8m High Chain Link Security Fence without Rails Using 50mm Diamond Mesh General Arrangement'.	Prior to submitting the Plan of Survey to the local government for approval.

No.	Conditions	Condition timing
Material Change of Use		
10.9.4.2.4.1—Material change of use of premises near a state transport corridor or that is a future state transport corridor—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
3.	The development must be carried out generally in accordance with the 'Plan of Proposed and Existing Sheds and Silo Complex at Lot 12 on SP196503', prepared by SML Consultants Pty Ltd, dated 08/10/2019, plan reference number 219093-3.	At all times.
4.	(a) Stormwater and flooding management of the development must ensure no worsening or actionable nuisance to the railway corridor. (b) Any works on the land must not:	At all times.

	vii. Create any new discharge points for stormwater runoff onto the railway corridor; viii. Interfere with and/or cause damage to the existing stormwater drainage on the railway corridor; ix. Surcharge any existing culvert or drain on the railway corridor; x. Reduce the quality of stormwater discharge onto the railway corridor; xi. Impede or interfere with overland flow and/or hydraulic conveyance on the site, including runoff from the railway corridor; xii. Reduce the floodplain storage capacity of the site.	
5.	Fencing must be provided along the Easement A boundary with the railway corridor shown on the 'Plan of Proposed and Existing Sheds and Silo Complex at Lot 12 on SP196503', prepared by SML Consultants Pty Ltd, dated 08/10/2019, plan reference number 219093-3, in accordance with Queensland Rail drawing number QR-C-S3230 – '1.8m High Chain Link Security Fence without Rails Using 50mm Diamond Mesh General Arrangement'.	Prior to the commencement of use and to be maintained at all times.

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) (version 2.6). If a word remains undefined it has its ordinary meaning.

Attachment 3—Reasons for referral agency response

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

The reasons for the department's decision are:

The development complies with State code 2: Development in a railway corridor and State Code 6: Protection of state transport networks of the SDAP. Specifically, the development:

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

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The SDAP (version 2.6), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system

Attachment 4—Representations about a referral agency response

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Attachment 5—Approved plans and specifications

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Development Assessment Rules—Representations about a referral agency response (concurrency)

The following provisions are those set out in sections 28 and 30 of the *Development Assessment Rules*¹ regarding **representations about a referral agency response (concurrency)**.

Part 6: Changes to the application and referral agency responses and Part 7: Miscellaneous

28 Concurrency 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.²
- 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.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² 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.

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.³

³ 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.



PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE

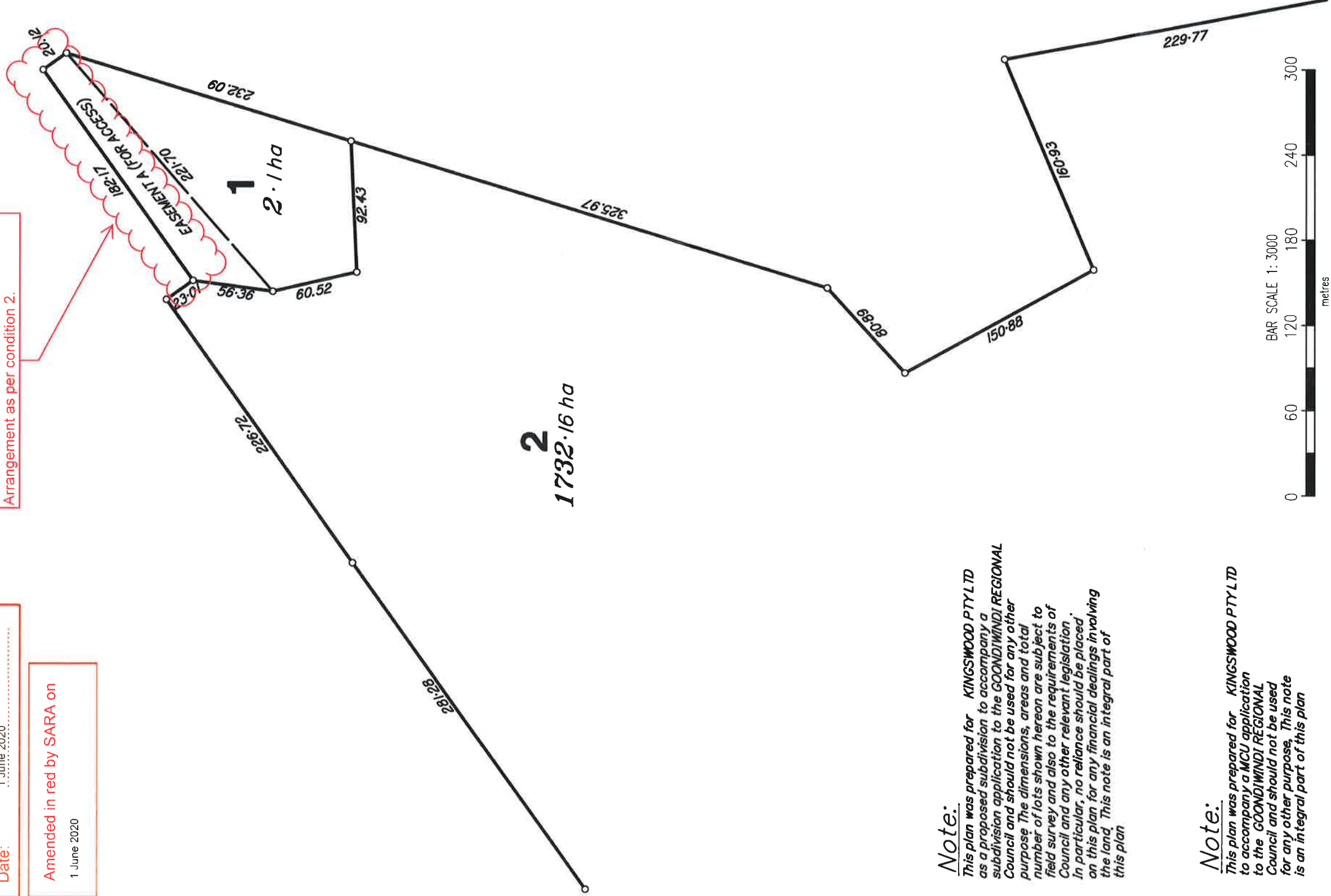
SARA ref: 2004-16381 SRA

Date: 1 June 2020

Amended in red by SARA on

1 June 2020

Fencing must be provided along the
Easement A boundary with the railway
corridor in accordance with Queensland
Rail drawing number QR-C-S3230 – '1.8m
High Chain Link Security Fence without
Rails Using 50mm Diamond Mesh General
Arrangement as per condition 2.



Note:
This plan was prepared for KINGSWOOD PTY LTD
as a proposed subdivision to accompany a
subdivision application to the GOONDIWINDI REGIONAL
Council and should not be used for any other
purpose. The dimensions, areas and total
number of lots shown hereon are subject to
field survey and also to the requirements of
Council and any other relevant legislation.
In particular, no reliance should be placed
on this plan for any financial dealings involving
the land. This note is an integral part of
this plan

Note:
This plan was prepared for KINGSWOOD PTY LTD
to accompany a MCU application
to the GOONDIWINDI REGIONAL
Council and should not be used
for any other purpose. This note
is an integral part of this plan

KINGSWOOD PTY LTD

SMK

CONSULTANTS PTY LTD.

PROPOSAL PLAN FOR
MCU & RCOL - SUBDIVISION
OF LOT 12 SPI96503

SCALE: 1:3000

219093-2

219093

FBK

Drawn TJJ 02/10/19 Checked

A3

Note:

This plan was prepared for **KINGSWOOD PTY LTD** to accompany a MCJ application to the **GOONDIWINDI REGIONAL Council** and should not be used for any other purpose. This note is an integral part of this plan

PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE

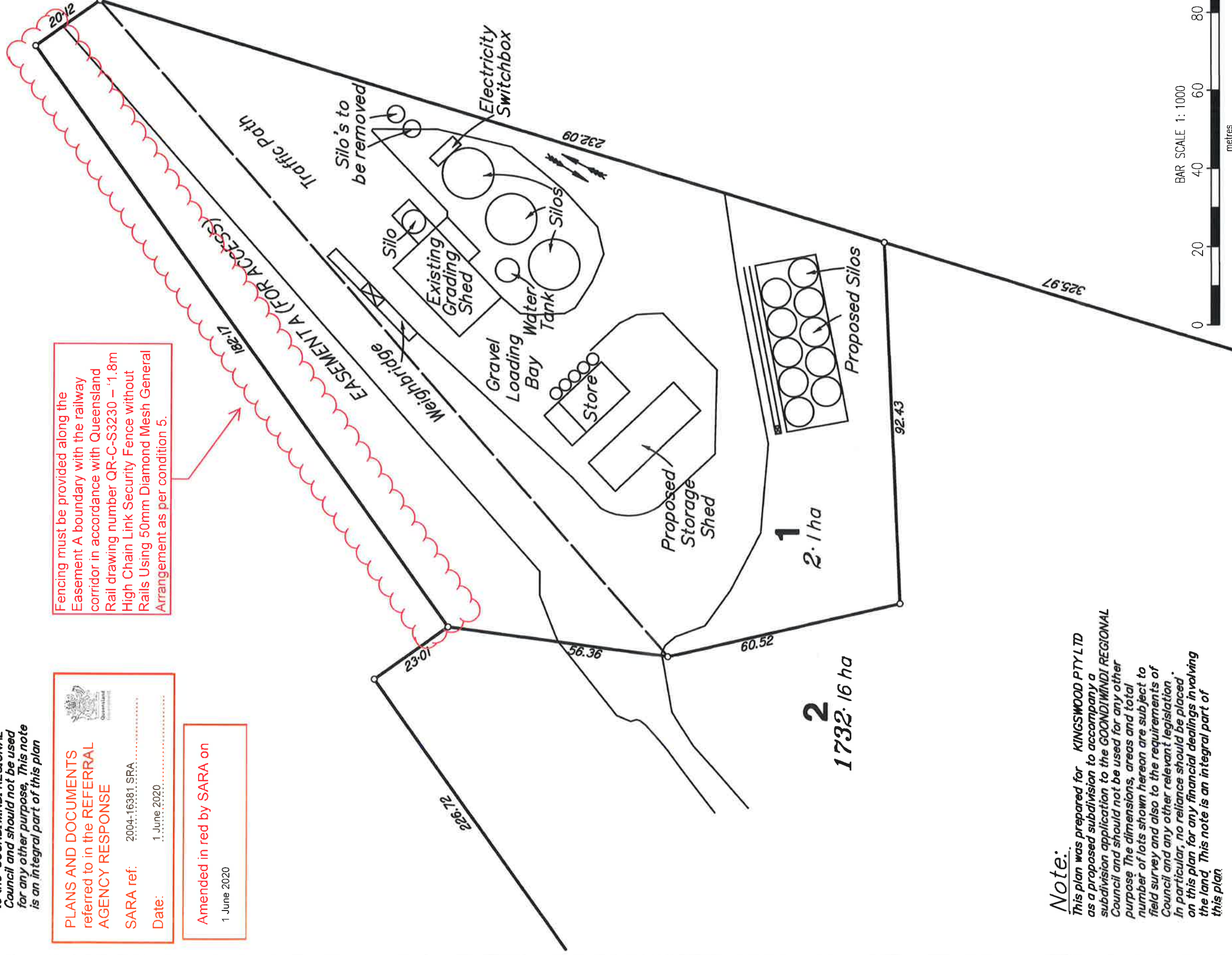
SARA ref: 2004-16381 SRA

Date: 1 June 2020

Amended in red by SARA on

1 June 2020

Fencing must be provided along the Easement A boundary with the railway corridor in accordance with Queensland Rail drawing number QR-C-S3230 - '1.8m High Chain Link Security Fence without Rails Using 50mm Diamond Mesh General Arrangement as per condition 5.



Note:
This plan was prepared for **KINGSWOOD PTY LTD** as a proposed subdivision to accompany a subdivision application to the **GOONDIWINDI REGIONAL Council** and should not be used for any other purpose. The dimensions, areas and total number of lots shown hereon are subject to field survey and also to the requirements of Council and any other relevant legislation. In particular, no reliance should be placed on this plan for any financial dealings involving the land. This note is an integral part of this plan.

KINGSWOOD PTY LTD

SMK

CONSULTANTS PTY LTD.

PLAN OF PROPOSED AND
EXISTING SHEDS AND
SILO COMPLEX AT
LOT 12 ON SPI96503

SCALE: 1:1000

219093-3

Drawn TJJ 08/10/19 Checked FBK 219093

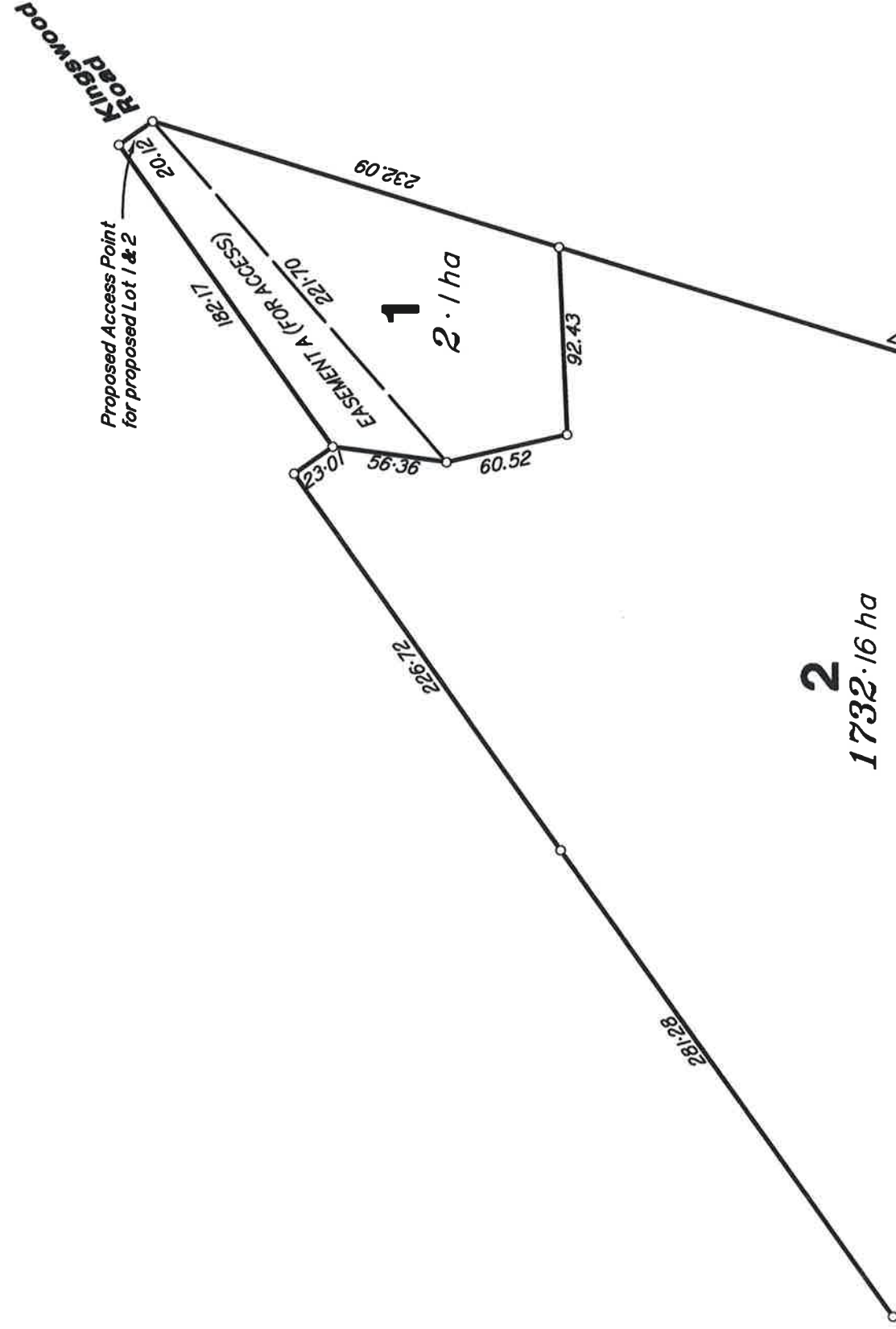
Goondiwindi: 9 Pratten St Goondiwindi 4390
Ph (07)4671 2445 Fax (07)4671 2561
E-Mail qld@smk.com.au
Moree: 39 Frame St Moree 2400
Ph (02)6752 1640 Fax (02)6752 5070

A3



Attachment 2 – Approved Plans

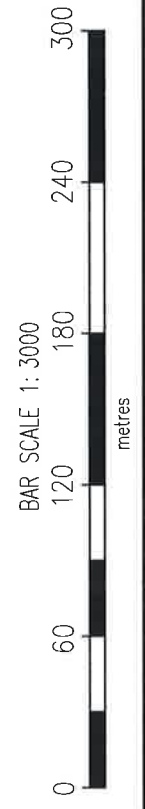




GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 20103W
Dated: 27 July 2020
Signed: RPH/M
Print Name: Mrs Renae McMillan
(Under Delegation) ASSESSMENT MANAGER

Note:
This plan was prepared for KINGSWOOD PTY LTD as a proposed subdivision to accompany a subdivision application to the GOONDIWINDI REGIONAL Council and should not be used for any other purpose. The dimensions, areas and total number of lots shown hereon are subject to field survey and also to the requirements of Council and any other relevant legislation. In particular, no reliance should be placed on this plan for any financial dealings involving the land. This note is an integral part of this plan

Note:
This plan was prepared for KINGSWOOD PTY LTD to accompany a MCU application to the GOONDIWINDI REGIONAL Council and should not be used for any other purpose. This note is an integral part of this plan



KINGSWOOD PTY LTD		PROPOSAL PLAN FOR MCU & RCOL - SUBDIVISION OF LOT 12 SPI96503		SCALE: 1:3000
SMK CONSULTANTS PTY LTD.		Goondiwindi 9 Pratten St Goondiwindi 4390 Ph (07)4671 2445 Fax (07)4671 2561 E-Mail qld@smk.com.au Moree 39 Frome St Moree 2400 Ph (02)6752 1640 Fax (02)6752 5070		219093-2
Drawn TJJ	02/10/19	Checked	FBK	A3



Attachment 3 – Infrastructure Charges Notice





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

Locked Mail Bag 7
Inglewood QLD 4387

Telephone: 07 4671 7400
Fax: 07 4671 7433

Email: mail@grc.qld.gov.au

Infrastructure Charges Notice

Address	'Kingswood' 47-49 Kingswood Road, Bungunya
Owner	Allen Maher
Applicant	SMK Consultants for Kingswood Pty Ltd
Application No.	20/03W
Lot and Survey Plan	Lot 12 on SP196503
Date	27 July 2020
Approval	Development Permit – Reconfiguration of a Lot

Development Application Details
Development Permit for Reconfiguration of a Lot (One (1) into Two (2) lot subdivision, and creation of access easement)

Type of Charge	Charge Area (A, B, C, D or E)	Charge Amount per lot (\$)	Number of additional lots	Charge (\$)
Reconfiguring a Lot	E	1,080	1	1,080

Due Date	When Goondiwindi Regional Council approves the plan of subdivision	Total Charge (\$)	1,080
Charge to be paid to	Goondiwindi Regional Council		
Lapse Date	27 July 2024		

Authorised by:

An offset has been applied to this notice, whereas the existing lot has not been charged. The amount of the charge per lot is \$1,080 for the additional lots.

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

In accordance the Planning Act 2016

Office Use – Receipt Number

Subdivisions – 1250-1150-0000





Attachment 4 – Notice about decision - Statement of reasons



Notice about decision - Statement of reasons

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

The development application for One (1) into two (2) lot subdivision and creation of access easement

20/03W

'Kingswood', 47-49 Kingswood Road, Bungunya

Lot 12 on SP196503

On 22 July 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 *Reconfiguring a Lot Code*, the *Bushfire Hazard Overlay Code*, the *Natural Resources Overlay Code*, the *Biodiversity Areas Overlay Code*, the *Flood Hazard Overlay Code* and the *Strategic Framework of the Goondiwindi Region Planning Scheme 2018 (Version 2)*, and after consideration of the assessment report with particular attention given to the justification for proposed lot 1 being subdivided below the minimum lot size provided for in the planning scheme, the proposed development was approved subject to appropriate, relevant and reasonable conditions.

2. Assessment benchmarks

The following are the benchmarks applying for this development:

Benchmarks applying for the development	Benchmark reference
<i>Reconfiguring a Lot Code</i>	<i>Goondiwindi Region Planning Scheme 2018 (Version 2):</i> PO1, AO3.2, AO4.2, AO5, AO6, AO8, AO9, AO10, PO12
<i>Reconfiguring a Lot Code Purpose</i>	<i>Goondiwindi Region Planning Scheme 2018 (Version 2):</i> Outcome 1, Outcome 2
<i>Bushfire Hazard Overlay Code</i>	<i>Goondiwindi Region Planning Scheme 2018 (Version 2):</i> AO1.1, PO2, AO5, AO6.1, AO6.2, AO6.3, PO7, AO8
<i>Natural Resources Overlay Code</i>	<i>Goondiwindi Region Planning Scheme 2018 (Version 2):</i> PO5, PO6, PO7, PO8

Benchmarks applying for the development	Benchmark reference
<i>Biodiversity Areas Overlay Code</i>	<i>Goondiwindi Region Planning Scheme 2018 (Version 2):</i> AO1.1, AO1.2, AO2, AO3.1, AO3.3, AO3.4
<i>Flood Hazard Overlay Code</i>	<i>Goondiwindi Region Planning Scheme 2018 (Version 2):</i> AO1.1, AO1.2, AO1.3, AO1.4, AO2.2, AO4
<i>Strategic Framework</i>	<i>Goondiwindi Region Planning Scheme 2018 (Version 2):</i> Element 1, Element 2, Element 3, Element 4, Element 5, Element 6, Element 7

3. Compliance with benchmarks

Benchmark reference	Reasons for the approval despite non-compliance with benchmark
Rural Zone Code – AO1.1	After consideration of the assessment report, with particular attention given to the justification for proposed Lot 1 being subdivided below the minimum lot size provided for in the planning scheme, the proposed subdivision was justified on the grounds that, there are multiple existing industrial uses in the town of Bungunya, that the size of proposed Lot 1 will allow for the industrial use to occur on land that would not be sufficient for agricultural purposes, and the continued agricultural use of the surrounding farm land will be maintained.
Rural Zone Code Purpose – Outcome 2(f)	After consideration of the assessment report, with particular attention given to the justification for proposed Lot 1 being subdivided below the minimum lot size provided for in the planning scheme, the proposed subdivision was justified on the grounds that, there are multiple existing industrial uses in the town of Bungunya, that the size of proposed Lot 1 will allow for the industrial use to occur on land that would not be sufficient for agricultural purposes, and the continued agricultural use of the surrounding farm land will be maintained.

4. Relevant matters for impact assessable development

The following matters were given regard to or assessment carried out against, in undertaking the assessment of this development application.

Other relevant matters to the assessment of the development under section 45(5)(b)	Benchmark reference	Assessment carried out against or assessment had regard to
Reconfiguring a Lot Code Purpose of the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i>	Section 9.4.3.2 – Outcomes 1 and 2	☒ assessed against ☐ had regard to
Strategic Framework of the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i>	Part 3 – Elements 1 - 7	☒ assessed against ☐ had regard to

5. Matters raised in submissions for impact assessable development

The application was publically notified, however there were no submissions received by Goondiwindi Regional Council during this period.

6. Matters prescribed by Regulation

Not applicable for this proposed development.



Attachment 5 – *Planning Act 2016* Extracts



EXTRACT FROM *PLANNING ACT 2016* RELATING TO APPEAL RIGHTS

Chapter 6 *Dispute Resolution, Part 1 Appeal Rights*

229 Appeals to tribunal or P&E Court

(1) Schedule 1 states—

(a) matters that may be appealed to—

(i) either a tribunal or the P&E Court; or

(ii) only a tribunal; or

(iii) only the P&E Court; and

(b) the person—

(i) who may appeal a matter (the **appellant**); and

(ii) who is a respondent in an appeal of the matter; and

(iii) who is a co-respondent in an appeal of the matter; and

(iv) who may elect to be a co-respondent in an appeal of the matter.

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

(3) The **appeal period** is—

(a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or

(b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or

(c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or

(d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or

(e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the

deemed approval notice to the assessment manager; or

(f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

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

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

(5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.

(6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—

(a) the adopted charge itself; or

(b) for a decision about an offset or refund—

(i) the establishment cost of trunk infrastructure identified in a LGIP; or

(ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

(1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—

(a) is in the approved form; and

(b) succinctly states the grounds of the appeal.

(2) The notice of appeal must be accompanied by the required fee.

(3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to—

(a) the respondent for the appeal; and

(b) each co-respondent for the appeal; and

(c) for an appeal about a development application under schedule 1, table 1, item 1—each

principal submitter for the development application; and

(d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and

(e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and

(f) for an appeal to the P&E Court—the chief executive; and

(g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.

(4) The service period is—

(a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or

(b) otherwise—10 business days after the appeal is started.

(5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).

(6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

231 Other appeals

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

(2) The Judicial Review Act 1991, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.

(3) A person who, but for subsection (1) could have made an application under the Judicial Review Act 1991 in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.

(4) In this section—

decision includes—

(a) conduct engaged in for the purpose of making a decision; and

(b) other conduct that relates to the making of a decision; and

(c) the making of a decision or the failure to make a decision; and

(d) a purported decision; and

(e) a deemed refusal.

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

(a) is final and conclusive; and

(b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the Judicial Review Act 1991 or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and

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

232 Rules of the P&E Court

(1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.

(2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

Part 2 Development tribunal

Division 1 General

233 Appointment of referees

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

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

(b) has demonstrated an ability—

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

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

(iii) to analyse complex technical issues;
and

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

(2) The appointer may—

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

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

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

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

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

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

(7) In this section—

appointment notice means—

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

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

234 Referee with conflict of interest

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

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

(i) the referee owns; or

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

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

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

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

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

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

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

235 Establishing development tribunal

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

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

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

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

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

236 Remuneration

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

237 Tribunal proceedings

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

238 Registrar and other officers

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

Division 2 Applications for declarations

239 Starting proceedings for declarations

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

240 Application for declaration about making of development application

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

respondent means—

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

241 Application for declaration about change to development approval

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

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

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

- (4) In this section—

respondent means—

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

Division 3 Tribunal proceedings for appeals and declarations

242 Action when proceedings start

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

- (a) establish a tribunal for the proceedings; and
- (b) appoint 1 of the referees for the tribunal as the tribunal's chairperson, in the way required under a regulation; and
- (c) give notice of the establishment of the tribunal to each party to the proceedings.

243 Chief executive excusing noncompliance

- (1) This section applies if—

- (a) the registrar receives a document purporting to start tribunal proceedings, accompanied by the required fee; and
- (b) the document does not comply with any requirement under this Act for validly starting the proceedings.

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

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

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

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

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

244 Ending tribunal proceedings or establishing new tribunal

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

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

- there are no qualified referees or insufficient qualified referees because of a conflict of interest
- the referees who are available will not be able to decide the proceedings in a timely way

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

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

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

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

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

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

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

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

245 Refunding fees

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

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

246 Further material for tribunal proceedings

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

Examples of information that the registrar may require—

- material about the proceedings (plans, for example)
 - information to help the chief executive decide whether to excuse noncompliance under section 243
 - for a deemed refusal—a statement of the reasons why the entity responsible for deciding the application had not decided the application during the period for deciding the application.
- (2) The person must give the information to the registrar within 10 business days after the registrar asks for the information.

247 Representation of Minister if State interest involved

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

248 Representation of parties at hearing

A party to tribunal proceedings may appear—

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

249 Conduct of tribunal proceedings

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

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

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

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

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

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

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

- (6) When hearing proceedings, the tribunal—

- (a) need not proceed in a formal way; and
- (b) is not bound by the rules of evidence; and
- (c) may inform itself in the way it considers appropriate; and
- (d) may seek the views of any person; and
- (e) must ensure all persons appearing before the tribunal have a reasonable opportunity to be heard; and
- (f) may prohibit or regulate questioning in the hearing.

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

250 Tribunal directions or orders

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

Examples of directions—

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

251 Matters tribunal may consider

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

252 Deciding no jurisdiction for tribunal proceedings

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

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

253 Conduct of appeals

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

254 Deciding appeals to tribunal

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

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

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

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

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

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

255 Notice of tribunal's decision

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

256 No costs orders

A tribunal must not make any order as to costs.

257 Recipient's notice of compliance with direction or order

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

258 Tribunal may extend period to take action

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

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

259 Publication of tribunal decisions

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

Schedule 1 Appeals

section 229

Appeal rights and parties to appeals

(1) Table 1 states the matters that may be appealed to—

(a) the P&E court; or

(b) a tribunal.

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

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

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

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

(b) a provision of a development approval for—

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

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

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

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

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

(d) a development condition if—

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

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

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

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

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

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

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

(h) a decision to give an enforcement notice—

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

(ii) under the Plumbing and Drainage Act; or

(i) an infrastructure charges notice; or

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

(l) a matter prescribed by regulation.

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

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

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

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

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

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

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

(6) In each table—

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

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

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

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

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

(8) In this section—

storey see the Building Code, part A1.1.

Table 1

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

1. Development applications

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

Minister, an appeal may be made against—

(a) the refusal of all or part of the development application; or

(b) the deemed refusal of the development application; or

(c) a provision of the development approval; or

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

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

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

85 Lapsing of approval at end of current period

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

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

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

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

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

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

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

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

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

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

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