

File: 22/31
Date: 21 March 2023

GrainCorp Operations Limited
PO Box 136
TOOWOOMBA QLD 4350

Attention: Mr Justin Gardiner

Dear Justin

**Decision Notice –approval (with conditions)
Operational Work
Lot 21 on SP120170, 2-14 Cemetery Road, Goondiwindi**

We wish to advise that on 14 March a decision was made to approve the operational works development application for *Bulk Earthworks (construction of 3 additional grain bunkers, Maintenance of 1 existing bunker and construction of new internal road)* at Lot 21 on SP120170, 2-14 Cemetery Road, Goondiwindi. In accordance with the *Planning Act 2016*, please find attached Council's Decision Notice for the application.

Please read the conditions carefully as these include actions which must be undertaken **prior to the commencement of the work** as well as requirements for the ongoing operation of the use. Please note this approval is for Operational Works only, no use of the site can commence without an effective Material Change of Use Development Permit.

All conditions are required to be either complied with or bonded prior to the commencement of the work. Please note **Condition 23**, which requires a letter to be submitted to Council prior to commencement of the work, outlining and demonstrating compliance with each condition.

The applicant is required to **notify Council in writing of the date of the commencement** of the work, within fourteen (14) business days of commencement.

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: 22/31
Council Contact: Mrs Ronnie McMahon
Council Contact Phone: (07) 4671 7400

21 March 2023

Applicant Details: GrainCorp Operations Limited
PO Box 136
TOOWOOMBA QLD 4350

Attention: Mr Justin Gardiner

The development application described below was properly made to Goondiwindi Regional Council on 5 September 2022.

Applicant details

Applicant name: GrainCorp Operations Limited
Applicant contact details: Attention: Justin Gardiner
PO Box 136, Toowoomba Qld 4350
jgardiner@graincorp.com.au
0409 277 454

Application details

Application number: 22/31
Approval sought: Development Permit
Details of proposed development: Operational Works – Bulk Earthworks (construction of 3 additional grain bunkers, Maintenance of 1 existing bunker and construction of new internal road)

Location details

Street address: 2-14 Cemetery Road, Goondiwindi
Real property description: Lot 21 on SP120170

Decision

Date of decision: 14 March 2023
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	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Carrying out building work (assessable under the <i>Building Act 1975</i>)	Schedule 9, part 1	<input type="checkbox"/>	<input type="checkbox"/>
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	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
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	<input type="checkbox"/>	<input type="checkbox"/>
Making a material change of use for a brothel	Schedule 10, part 2, division 2	<input type="checkbox"/>	<input type="checkbox"/>
Carrying out operational work for the clearing of native vegetation	Schedule 10, part 3, division 2	<input type="checkbox"/>	<input type="checkbox"/>
Making a material change of use on contaminated land	Schedule 10, part 4, division 1	<input type="checkbox"/>	<input type="checkbox"/>
Making a material change of use of premises for an environmentally relevant activity	Schedule 10, part 5, division 2	<input type="checkbox"/>	<input type="checkbox"/>
Making a material change of use of premises for aquaculture	Schedule 10, part 6, division 1, subdivision 1	<input type="checkbox"/>	<input type="checkbox"/>
Carrying out operational work that is completely or partly in a declared fish habitat area	Schedule 10, part 6, division 2, subdivision 1	<input type="checkbox"/>	<input type="checkbox"/>

	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	<input type="checkbox"/>	<input type="checkbox"/>
Carrying out operational work that is constructing or raising waterway barrier works	Schedule 10, part 6, division 4, subdivision 1	<input type="checkbox"/>	<input type="checkbox"/>
Making a material change of use for a hazardous chemical facility	Schedule 10, part 7, division 1	<input type="checkbox"/>	<input type="checkbox"/>
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	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
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	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Development interfering with koala habitat in koala habitat areas outside koala priority areas	Schedule 10, part 10, division 3, subdivision 1	<input type="checkbox"/>	<input type="checkbox"/>
Development interfering with koala habitat in koala habitat areas for extractive industries in key resource areas	Schedule 10, part 10, division 4, subdivision 1	<input type="checkbox"/>	<input type="checkbox"/>
Carrying out operational work for reconfiguring a lot, if the reconfiguration is also assessable development	Schedule 10, part 12, division 1	<input type="checkbox"/>	<input type="checkbox"/>
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	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

	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	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
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	<input type="checkbox"/>	<input type="checkbox"/>
Reconfiguring a lot under the <i>Land Title Act 1994</i>	Schedule 10, part 14, division 1	<input type="checkbox"/>	<input type="checkbox"/>
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	<input type="checkbox"/>	<input type="checkbox"/>
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	<input type="checkbox"/>	<input type="checkbox"/>
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	<input type="checkbox"/>	<input type="checkbox"/>
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	<input type="checkbox"/>	<input type="checkbox"/>
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	<input type="checkbox"/>	<input type="checkbox"/>
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	<input type="checkbox"/>	<input type="checkbox"/>
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	<input type="checkbox"/>	<input type="checkbox"/>

	Planning Regulation 2017 reference	Development Permit	Preliminary Approval
<p>Making a material change of use of premises for two or more of the following:</p> <ul style="list-style-type: none"> (i) a community activity (ii) indoor recreation (iii) a sport and recreation activity (iv) a tourist activity (v) an urban activity, <p>in the SEQ regional landscape and rural production area or the SEQ rural living area</p>	Schedule 10, part 16, division 7, subdivision 1	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
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	<input type="checkbox"/>	<input type="checkbox"/>
Carrying out operational work that involves taking, or interfering with, water	Schedule 10, part 19, division 1, subdivision 1	<input type="checkbox"/>	<input type="checkbox"/>
<p>Development for removing quarry material from a watercourse or lake</p> <ul style="list-style-type: none"> - 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	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Carrying out operational work that is the construction of a dam or relates to a dam.	Schedule 10, part 19, division 3, subdivision 1	<input type="checkbox"/>	<input type="checkbox"/>
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	<input type="checkbox"/>	<input type="checkbox"/>
Carrying out operational work that is high impact earthworks in a wetland protection area	Schedule 10, part 20, division 2	<input type="checkbox"/>	<input type="checkbox"/>
Making a material change of use of premises for a wind farm	Schedule 10, part 21, division 1	<input type="checkbox"/>	<input type="checkbox"/>

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 any use on the site can commence:

1. Material Change of Use

Properly made submissions

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

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
<p><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></p> <p><i>(a) the development is for a purpose stated in schedule 20, column 1 for the aspect; and</i></p> <p><i>(b) the development meets or exceeds the threshold—</i></p> <p><i>(i) for development in local government area 1—stated in schedule 20, column 2 for the purpose; or</i></p> <p><i>(ii) for development in local government area 2—stated in schedule 20, column 3 for the purpose; and</i></p> <p><i>(c) for development in local government area 1—the development is not for an accommodation activity or an office at premises wholly or partly in the excluded area</i></p> <p><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></p>	<p>Department of State Development, Infrastructure, Local Government and Planning –</p>	<p>Concurrence Agency</p>	<p>Department of State Development, Infrastructure, Local Government and Planning, Post: PO Box 825, Visit: 128 Margaret Street, TOOWOOMBA QLD 4350</p> <p>ToowoombaSARA@dsdil.qld.gov.au</p> <p>Ph: (07) 4616 7307</p>

For an application involving	Name of referral agency	Advice agency or concurrence agency	Address
<p><i>Development application for operational work, if—</i></p> <p>(a) <i>all or part of the premises are within 25m of a State transport corridor; and</i></p> <p>(b) <i>the work—</i></p> <p>(i) <i>relates to access to a State transport corridor; or</i></p> <p>(ii) <i>involves extracting, excavating or filling more than 50m³; or</i></p> <p>(iii) <i>involves the redirection or intensification of site stormwater from the premises, through a pipe or culvert with a cross-sectional area of more than 625cm², to a State transport corridor; and</i></p> <p>(c) <i>the work does not relate to—</i></p> <p>(i) <i>a material change of use stated in table 4, item 1, column 2, paragraph (a) or (c); or</i></p> <p>(ii) <i>reconfiguring a lot stated in table 1, item 1, column 2 or table 3, item 1, column 2; or</i></p> <p>(iii) <i>government supported transport infrastructure</i></p>	Department of State Development, Infrastructure, Local Government and Planning	Concurrence Agency	<p>Department of State Development, Infrastructure, Local Government and Planning, Post: PO Box 825, Visit: 128 Margaret Street, TOOWOOMBA QLD 4350</p> <p>ToowoombaSARA@dsdil.qld.gov.au</p> <p>Ph: (07) 4616 7307</p>

Approved plans and specifications

Copies of the following plans are enclosed.

Drawing Number	Title	Date
0655_4.1 Revision H	Graincorp Goondiwindi Proposed Development Site Layout (Sheet 1 of 11)	17/8/22
0655_4.2 Revision H	Graincorp Goondiwindi Description Works Area Layout (Sheet 2 of 11)	17/8/22
0655_4.3 Revision H	Graincorp Goondiwindi Proposed Development Section (Sheet 3 of 11)	17/8/22
0655_4.4 Revision H	Graincorp Goondiwindi Proposed Development Section (Sheet 4 of 11)	17/8/22
0655_4.5 Revision H	Graincorp Goondiwindi Proposed Development Long Section (Sheet 5 of 11)	17/8/22
0655_4.6 Revision H	Graincorp Goondiwindi Proposed Development Cross Section (Sheet 6 of 11)	17/8/22

0655_4.7 Revision H	Graincorp Goondiwindi Proposed Development Works Area Drains Layout (Sheet 7 of 11)	17/8/22
0655_4.8 Revision H	Graincorp Goondiwindi Proposed Development Sections (Sheet 8 of 11)	17/8/22
0655_4.9 Revision H	Graincorp Goondiwindi Proposed Development Sections (Sheet 9 of 11)	17/8/22
0655_4.11 Revision H	Graincorp Goondiwindi Proposed Development Sections (Sheet 10 of 10)	17/8/22
0655_4.11 Revision H	Graincorp Goondiwindi Proposed Development Sections (Sheet 11 of 11)	17/8/22

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*.

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*.

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

Attachment 4 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 3 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



Ronnie McMahon
Manager of Planning Services
Goondiwindi Regional Council

cc Department of State Development, Infrastructure, Local Government and Planning,
PO Box 825,
TOOWOOMBA QLD 4350

ToowoombaSARA@dsdilgp.qld.gov.au

enc Attachment 1— Assessment manager and concurrence agency conditions

- State Assessment and Referral Agency Concurrence Agency Response dated 7 December 2022

Attachment 2—Approved Plans
Attachment 3—Notice about decision – Statement of reasons
Attachment 4—*Planning Act 2016* Extracts



ATTACHMENTS

Attachment 1 – Assessment Manager's Conditions

Attachment 2 – Approved Plans

Attachment 3 – Notice about decision - Statement of reasons

Attachment 4 – *Planning Act 2016* Extracts

Planning Act 2016 appeal provisions

Planning Act 2016 lapse dates



Attachment 1 – Assessment Manager's Conditions



Assessment Manager's Conditions

Description:	"Operational Works" (Bulk Earthworks - construction of 3 additional grain bunkers, Maintenance of 1 existing bunker and construction of new internal road)"
Development:	Operational Works – Development Permit
Applicant:	GrainCorp Operations Limited
Address:	2-14 Cemetery Road, Goondiwindi
Real Property Description:	Lot 21 on SP120170
Council File Reference:	22/31

GENERAL CONDITIONS																																
1.	<p>Approval is granted for the purpose of Operational Works for:</p> <ul style="list-style-type: none"><i>Bulk Earthworks</i> - construction of 3 additional grain bunkers, Maintenance of 1 existing bunker and construction of new internal road) <p>This approval in no way authorises any building work to occur on the relevant site.</p>																															
2.	<p>All conditions must be complied with or bonded prior to the commencement of the use, unless specified in an individual condition.</p>																															
3.	<p>The development shall be constructed in accordance with supporting information supplied by the applicant with the development application including the following plans:</p> <table><tr><th>Drawing Number</th><th>Title</th><th>Date</th></tr><tr><td>0655_4.1 Revision H</td><td>Graincorp Goondiwindi Proposed Development Site Layout (Sheet 1 of 11)</td><td>17/8/22</td></tr><tr><td>0655_4.2 Revision H</td><td>Graincorp Goondiwindi Description Works Area Layout (Sheet 2 of 11)</td><td>17/8/22</td></tr><tr><td>0655_4.3 Revision H</td><td>Graincorp Goondiwindi Proposed Development Section (Sheet 3 of 11)</td><td>17/8/22</td></tr><tr><td>0655_4.4 Revision H</td><td>Graincorp Goondiwindi Proposed Development Section (Sheet 4 of 11)</td><td>17/8/22</td></tr><tr><td>0655_4.5 Revision H</td><td>Graincorp Goondiwindi Proposed Development Long Section (Sheet 5 of 11)</td><td>17/8/22</td></tr><tr><td>0655_4.6 Revision H</td><td>Graincorp Goondiwindi Proposed Development Cross Section (Sheet 6 of 11)</td><td>17/8/22</td></tr><tr><td>0655_4.7 Revision H</td><td>Graincorp Goondiwindi Proposed Development Works Area Drains Layout (Sheet 7 of 11)</td><td>17/8/22</td></tr><tr><td>0655_4.8 Revision H</td><td>Graincorp Goondiwindi Proposed Development Sections (Sheet 8 of 11)</td><td>17/8/22</td></tr><tr><td>0655_4.9 Revision H</td><td>Graincorp Goondiwindi Proposed Development Sections (Sheet 9 of 11)</td><td>17/8/22</td></tr></table>		Drawing Number	Title	Date	0655_4.1 Revision H	Graincorp Goondiwindi Proposed Development Site Layout (Sheet 1 of 11)	17/8/22	0655_4.2 Revision H	Graincorp Goondiwindi Description Works Area Layout (Sheet 2 of 11)	17/8/22	0655_4.3 Revision H	Graincorp Goondiwindi Proposed Development Section (Sheet 3 of 11)	17/8/22	0655_4.4 Revision H	Graincorp Goondiwindi Proposed Development Section (Sheet 4 of 11)	17/8/22	0655_4.5 Revision H	Graincorp Goondiwindi Proposed Development Long Section (Sheet 5 of 11)	17/8/22	0655_4.6 Revision H	Graincorp Goondiwindi Proposed Development Cross Section (Sheet 6 of 11)	17/8/22	0655_4.7 Revision H	Graincorp Goondiwindi Proposed Development Works Area Drains Layout (Sheet 7 of 11)	17/8/22	0655_4.8 Revision H	Graincorp Goondiwindi Proposed Development Sections (Sheet 8 of 11)	17/8/22	0655_4.9 Revision H	Graincorp Goondiwindi Proposed Development Sections (Sheet 9 of 11)	17/8/22
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	0655_4.11 Revision H	Graincorp Goondiwindi Proposed Development Sections (Sheet10 of 10)	17/8/22
	0655_4.11 Revision H	Graincorp Goondiwindi Proposed Development Sections (Sheet 11 of 11)	17/8/22
4.	<p>Complete and maintain the approved development as follows:</p> <ul style="list-style-type: none"> (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 unless Council agrees in writing that those parts will be adequately complied with by amended specifications. <p>All development shall 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.</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>Development does not detract from the amenity of the local area through unacceptable impacts relating to:</p> <ul style="list-style-type: none"> (a) Noise; (b) Hours of operation; (c) Traffic; (d) Advertising devices; (e) Lighting; (f) Visual amenity; (g) Privacy; (h) Odour; or (i) Emissions. 		
7.	<p>The operator shall submit to Council, certification from a Registered Professional Engineer of Queensland (RPEQ-Civil) that all work authorised by this development approval, have been designed and constructed in accordance with the requirements of the development approval:</p> <ul style="list-style-type: none"> (a) submit a Construction Supervision Certificate at completion of the approved work. 		

	EXCAVATION AND FILLING WORKS
8.	Excavating or filling work shall be designed and constructed in accordance with Australian Standards AS3798 and Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the Goondiwindi Region Planning Scheme 2018 (Version 2).
9.	Excavating and filling must not negatively impact on the character and amenity of neighbourhoods, increase flood or drainage impacts on neighbouring properties or infrastructure and cause pollution or contamination of nearby land or watercourses.
10.	Excavating or filling must not result in the permanent retention of surface water.
11.	Excavating or filling must not result in works or structures that extract or retain overland water flows.
12.	Excavating and filling works are to be designed using appropriate engineering standards.
13.	<p>Filling or excavation shall be undertaken in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the Goondiwindi Region Planning Scheme 2018 (Version 2) or to other relevant engineering standards to the satisfaction of and at no cost to Council.</p> <p>Excavating 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>
14.	<p>All works associated with the development must be carried out in a manner that minimises erosion and controls sediment. Best practice erosion and sediment control measures shall be in place at the location of all works prior to work commencing and remain until work is completed in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the Goondiwindi Region Planning Scheme 2018 (Version 2) 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>
	AVOIDING NUISANCE
15.	At all times during the works, the development shall be conducted in accordance with the provision of the <i>Environmental Protection Act 1994</i> (the Act) and all relevant regulation and standards under the Act. All necessary licenses under the Act shall be obtained and shall be maintained at all times.

16.	At all times, no nuisance shall arise to adjoining premises as a result of dust, noise, lighting, odour, vibration, rubbish, contaminants, stormwater discharge or siltation or any other potentially detrimental impact.
17.	The operator shall be responsible for mitigating any complaint arising from on-site operations.
18.	Construction works must occur so they do not cause unreasonable interference with the amenity of surrounding premises. The site must be kept in a clean and tidy state at all times during construction.
DEVELOPER'S RESPONSIBILITIES	
19.	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 either on-site or on other properties.
20.	Any alteration or damage to roads and/or public infrastructure that is attributable to the progress of works or associated with the use of the site shall be repaired to Council's satisfaction or the cost of repairs paid to Council.
21.	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.
22.	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.
COMMENCEMENT OF WORKS	
23.	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. Council Officers may require a physical inspection to confirm that all conditions have been satisfied to relevant standards.

	PLEASE READ CAREFULLY - NOTES AND ADVICE
	<p>When approval takes effect</p> <p>This approval takes effect in accordance with section 71 of the <i>Planning Act 2016</i>.</p> <p>When approval lapses</p> <p>This approval will lapse if the development does not substantially start within two (2) years after the approval starts to take effect, in accordance with section 85(1)(c) of the <i>Planning Act 2016</i>.</p> <p>Section 86 on the <i>Planning Act 2016</i> sets out how an extension to the currency period of approval can be requested.</p>
	<p>This approval is for Operational Works for the purpose set out in the application and decision notice, and does not authorise a change of use from the current vacant land.</p>
	<p>It is the applicant's responsibility to obtain all statutory approvals prior to commencement of any works onsite.</p>
	<p>This approval in no way removes the duty of care responsibility of the applicant under the <i>Aboriginal Cultural Heritage Act 2003</i>. Pursuant to Section 23(1) of the <i>Aboriginal Cultural Heritage Act 2003</i>, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care").</p>
	<p>This approval in no way authorises the clearing of native vegetation protected under the <i>Vegetation Management Act 1999</i>.</p>
	<p>The approved development does not authorise any deviation from the applicable Australian Standards nor from the application of any laws, including laws covering work place health and safety.</p>



Attachment 2 – Approved Plans



PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE

SARA ref: 2209-31018 SRA

Date: 7 December 2022



The development must be
generally in accordance with
Condition 1 of the referral
agency response.

Amended in red by SARA on
7 December 2022

ADDITIONAL
BORROW

SAMPLE
STAND

WORKSHOP

SITE OFFICE

EMERGENCY
ASSEMBLY
AREA

FUEL DEPOT

WEIGHBRIDGE

PROPOSED OFFSITE
DISCHARGE

RIP-RAP SPILLWAY

PUMP SITE FOR:
DUST SUPPRESSION
GROUNDS MAINTENANCE

RELOCATE POWERLINE

BORROW

RIP-RAP SPILLWAY

NO DISCHARGE

RAILWAY LINE

SPOIL

RAIL OUT TURN

SITE ENTRY/EXIT

HOPPER FOR
GRAIN CONVEYOR

CEMETERY RD

CEMETERY RD

LEGEND

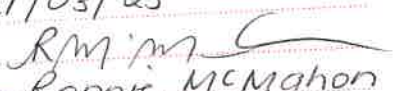
- EXISTING BUNKER
- PROPOSED BUNKER
- DRAIN PATH
- DRAIN
- CONTOUR INTERVAL 0.1m
- BUNKER WALL
- FENCE
- CADASTRE
- POWERLINE
- WORKS AREA (SUITABLE FILL)
- BUNKER
- WORKS AREA (150mm THK GRAVEL)
- LIGHT ROAD / ACCESS
- WORKS AREA (250mm thk GRAVEL)
- HEAVY ROAD / ACCESS
- STACKER
- SPOIL AREA
- BORROW AREA
- TRAFFIC FLOW
- FULL
- EMPTY
- TYPICAL SECTIONS

PRELIMINARY DRAWING
FOR PLANNING APPROVAL

DISCLAIMER

The attached material represents the work of Tahlee Consulting Services, performed by recognised engineering principles and practices appropriate for the terms of reference provided by the contractual customer. This work is confidential and prepared solely for the use of the customer. The contents of this material may not be disclosed to or relied upon by any party other than the customer, and Tahlee Consulting Services assume no liability for any reason, including, but not limited to, negligence, to any other party for any information or representation herein. The attached material must be viewed in its entirety and no liability shall be assumed where instructions, specifications, dimensions, conditions or details are not strictly adhered to. Any deviation from the design, including all instructions, specifications, dimensions, conditions or details, without written consent from Tahlee Consulting Services shall remove all liability from Tahlee Consulting Services.

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G	SECTIONS AND EARTHWORKS UPDATED	17/8/22	BJM				
F	DESIGN, EARTHWORKS AND SECTIONS ADDED	17/6/22	NN				
E	NOTATIONS UPDATED	06/6/22	BJM				
D	UPDATE NOTATIONS	17/5/22	BJM				
No.	REVISION	DATE	BY				

GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 22/31
Dated: 21/03/23
Signed: 
Print Name: Ronnic McMahon
(Under Delegation) ASSESSMENT MANAGER



H	DRAIN DESIGN & SECTIONS UPDATED	17/8/22	BJM	SURVEYED BY: TCS RTK & 2019 LIDAR DATUM: GDA94 AHD	© COPYRIGHT 2022 TAHLEE CONSULTING SERVICES GUNNEDAH	TCS Tahlee Consulting Services	Tahlee Consulting Services ABN 23 829 235 819 CONSULTING ENGINEERS 19A ABBOTT St GUNNEDAH NSW 2380 Tel: 02 6742 5275	PROJECT GRAINCORP GOONDIWINDI EAST	TITLE GOONDIWINDI GRAINCORP DESCRIPTION WORKS AREA LAYOUT SHEET 2 OF 11
G	SECTIONS AND EARTHWORKS UPDATED	17/8/22	BJM						
F	DESIGN, EARTHWORKS AND SECTIONS ADDED	17/6/22	NN						
E	NOTATIONS UPDATED	06/6/22	BJM						
D	UPDATE NOTATIONS	17/5/22	BJM						
No.	REVISION	DATE	BY	DRAWN NN	CHECKED	APPROVED	SCALE 1:2,000 (A3 SHEET)	DRAWING NO. 0655_4.2	AMDT. H

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

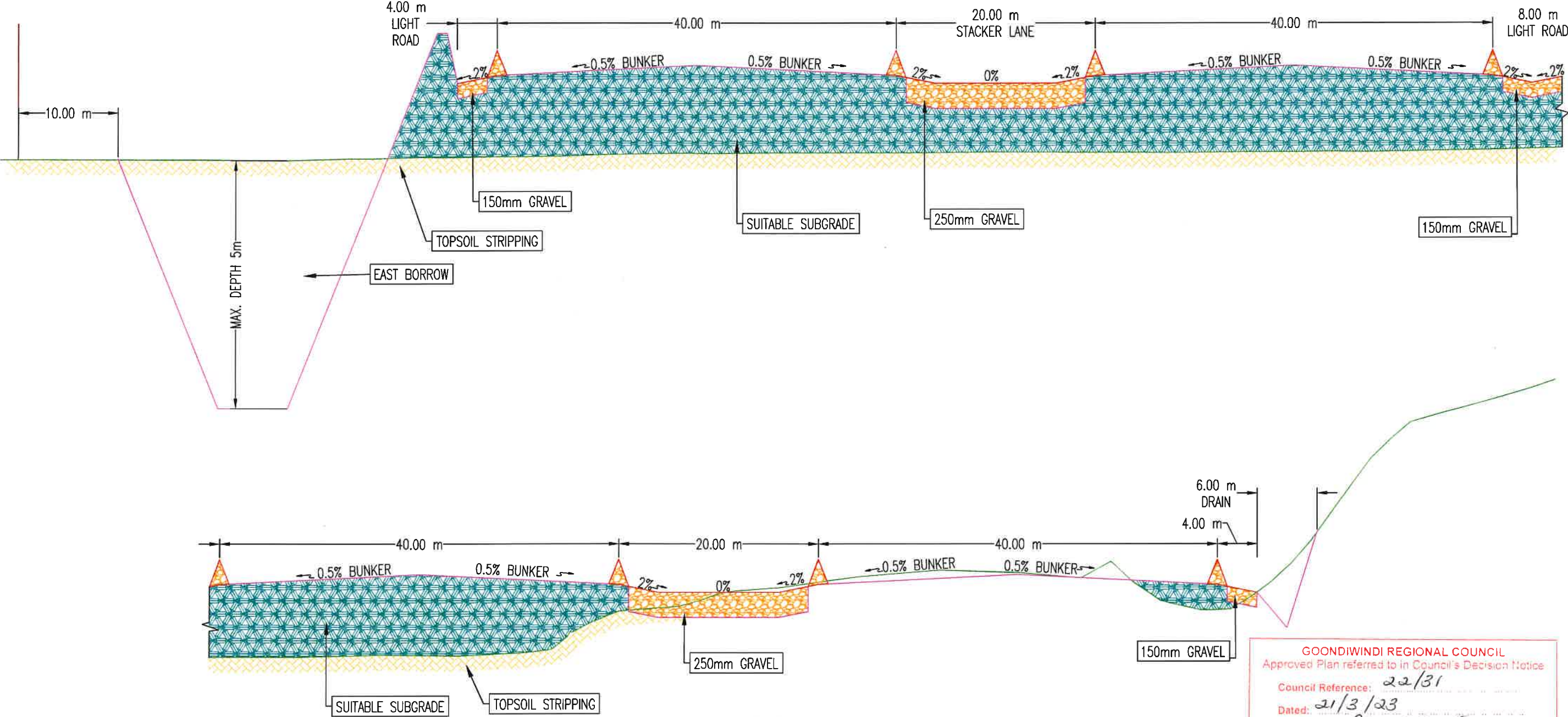
Council Reference: 22/31

Dated: 21/3/23

Signed: *R/M McMahon*

Print Name: Ronnie McMahon
(Under Delegation) ASSESSMENT MANAGER

PRELIMINARY DRAWING
FOR CLIENT APPROVAL

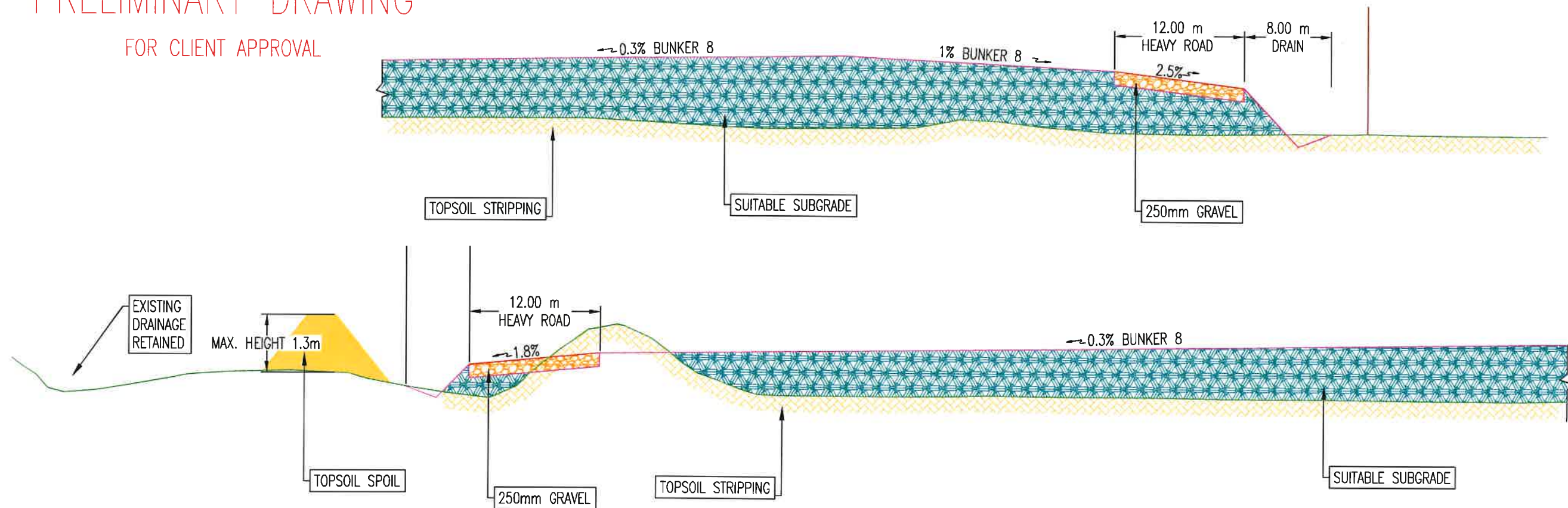


GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 22/31
Dated: 21/3/23
Signed: *Rm McMahon*
Print Name: Ronnie McMahon
(Under Delegation) ASSESSMENT MANAGER

H	DRAIN DESIGN & SECTIONS UPDATED	17/8/22	BJM	SURVEYED BY: TCS RTK & 2019 LIDAR DATUM: GDA94 AHD			© COPYRIGHT 2022 TAHLEE CONSULTING SERVICES GUNNEDAH			 Tahlee Consulting Services ABN 23 829 235 819 CONSULTING ENGINEERS 19A ABBOTT St GUNNEDAH NSW 2380 Tel: 02 6742 5275	PROJECT GRAINCORP GOONDIWINDI EAST		TITLE GRAINCORP GOONDIWINDI PROPOSED DEVELOPMENT SECTION SHEET 3 OF 11	
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No.	REVISION	DATE	BY											

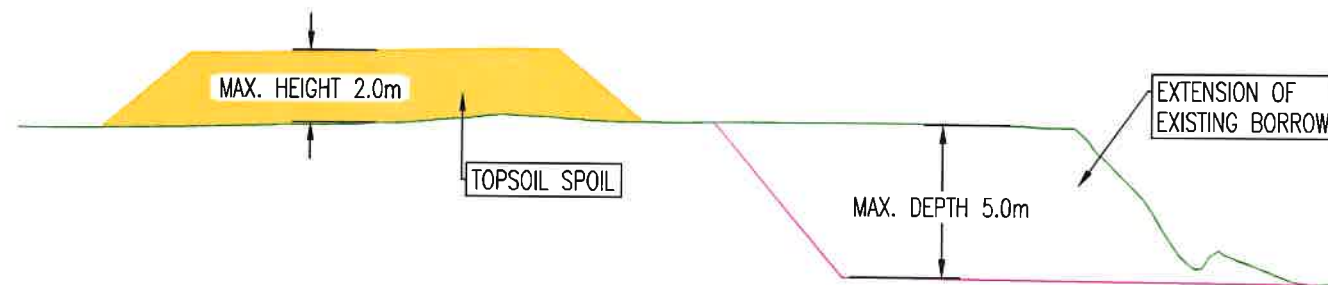
PRELIMINARY DRAWING

FOR CLIENT APPROVAL



SECTION B-B

TYPICAL SECTION:
BUNKER 8



SECTION C-C

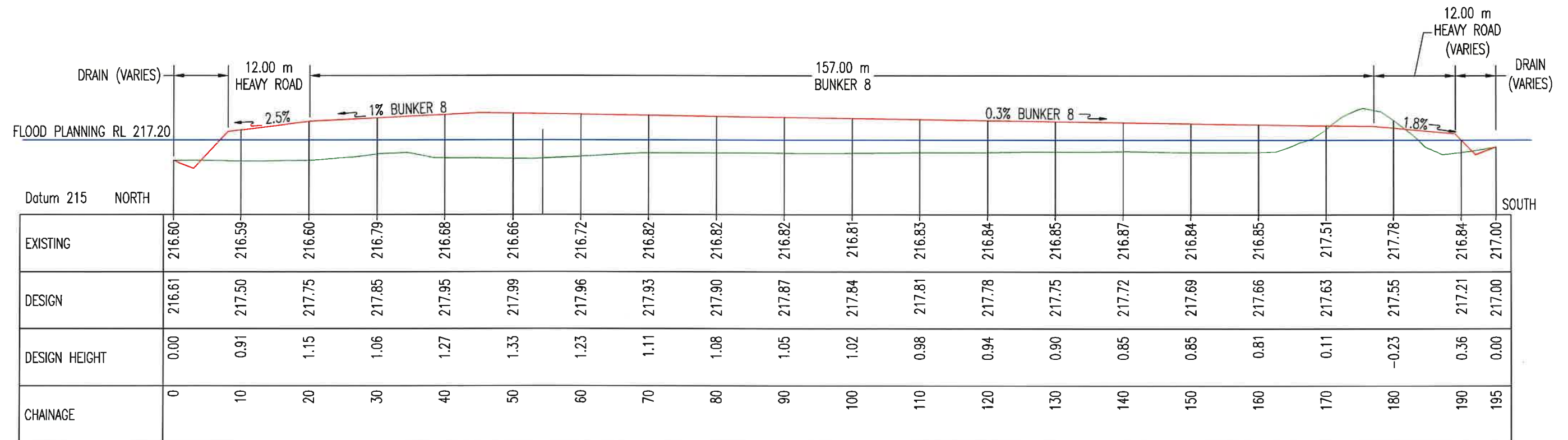
TYPICAL SECTION: WESTERN BORROW AND SPOIL

GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 22/31
Dated: 21/3/23
Signed: *Rm'm*
Print Name: *Ronnie McMahon*
(Under Delegation) ASSESSMENT MANAGER


H	DRAIN DESIGN & SECTIONS UPDATED	17/8/22	BJM	SURVEYED BY:	© COPYRIGHT 2022	<div>Tahlee Consulting Services</div> <div>ABN 23 829 235 819</div> <div>CONSULTING ENGINEERS</div> <div>19A ABBOTT St</div> <div>GUNNEDAH NSW 2380</div> <div>Tel: 02 6742 5275</div>	PROJECT	GRAINCORP GOONDIWINDI EAST	TITLE	GRAINCORP GOONDIWINDI PROPOSED DEVELOPMENT SECTION SHEET 4 OF 11	AMDT. H
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F	DESIGN, EARTHWORKS AND SECTIONS ADDED	17/6/22	NN	DATUM:	SERVICES						
E	NOTATIONS UPDATED	06/6/22	BJM	GDA94 AHD	GUNNEDAH						
D	UPDATE NOTATIONS	17/5/22	BJM	DRAWN	CHECKED	APPROVED	SCALE	NOT TO SCALE (A3 SHEET)	DRAWING NO.	0655_4.4	
No.	REVISION	DATE	BY	NN							

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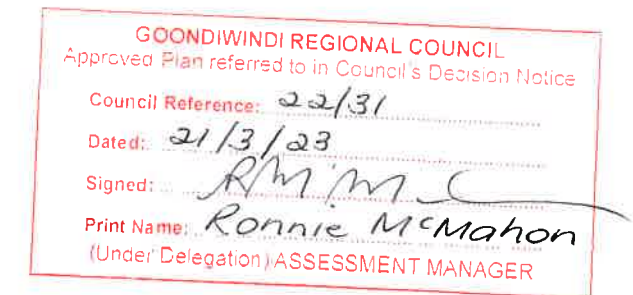
FOR CLIENT APPROVAL



GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 22/31
Dated: 21/3/23
Signed: RM M
Print Name: Ronnie McMahon
(Under Delegation) ASSESSMENT MANAGER

H	DRAIN DESIGN & SECTIONS UPDATED	17/8/22	BJM	SURVEYED BY: TCS RTK & 2019 LIDAR DATUM: GDA94 AHD © COPYRIGHT 2022 TAHLEE CONSULTING SERVICES GUNNEDAH DRAWN NN CHECKED APPROVED	 Tahlee Consulting Services ABN 23 829 235 819 CONSULTING ENGINEERS 19A ABBOTT St GUNNEDAH NSW 2380 Tel: 02 6742 5275	PROJECT GRAINCORP GOONDIWINDI EAST SCALE 1:600 (H) 1:120 (V) (A3 SHEET)	TITLE GRAINCORP GOONDIWINDI PROPOSED DEVELOPMENT LONG SECTION SHEET 5 OF 11 DRAWING NO. 0655_4.5 AMDT. H
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F	DESIGN, EARTHWORKS AND SECTIONS ADDED	17/6/22	NN				
E	NOTATIONS UPDATED	06/6/22	BJM				
D	UPDATE NOTATIONS	17/5/22	BJM				
No.	REVISION	DATE	BY				

FOR CLIENT APPROVAL




H	DRAIN DESIGN & SECTIONS UPDATED	17/8/22	BJM	SURVEYED BY: TCS RTK & 2019 LIDAR DATUM: GDA94 AHD	© COPYRIGHT 2022 TAHLEE CONSULTING SERVICES GUNNEDAH		Tahlee Consulting Services ABN 23 829 235 819 CONSULTING ENGINEERS 19A ABBOTT St GUNNEDAH NSW 2380 Tel: 02 6742 5275	PROJECT GRAINCORP GOONDIWINDI EAST	TITLE GRAINCORP GOONDIWINDI PROPOSED DEVELOPMENT CROSS SECTION SHEET 6 OF 11	
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D	UPDATE NOTATIONS	17/5/22	BJM							
No.	REVISION	DATE	BY	DRAWN NN	CHECKED	APPROVED		SCALE 1:700 (H) 1:70 (V) (A3 SHEET)	DRAWING NO. 0655_4.6	AMDT. H

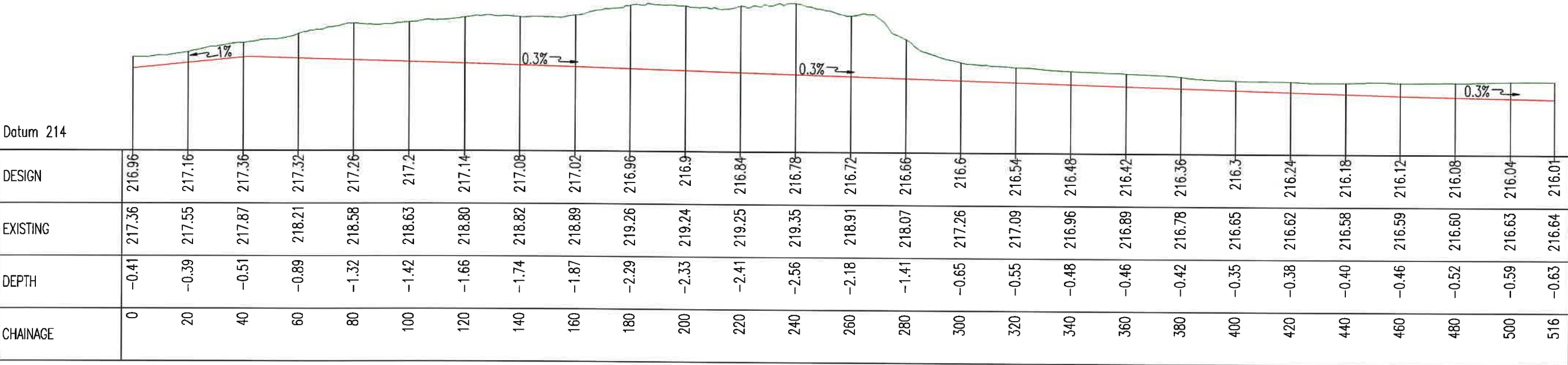
FOR CLIENT APPROVAL



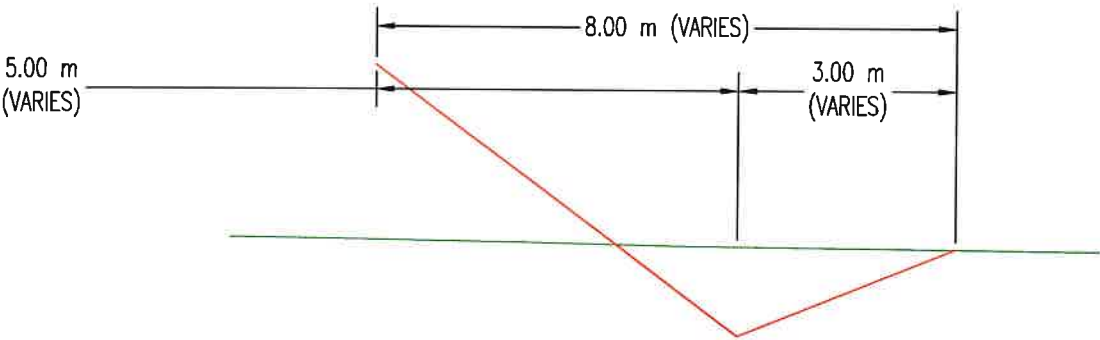
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G	SECTIONS AND EARTHWORKS UPDATED	17/8/22	BJM					
F	DESIGN, EARTHWORKS AND SECTIONS ADDED	17/6/22	NN					
E	NOTATIONS UPDATED	06/6/22	BJM					
D	UPDATE NOTATIONS	17/5/22	BJM					
No.	REVISION	DATE	BY	DRAWN NN	CHECKED	APPROVED	SCALE 1:2,000 (A3 SHEET)	DRAWING NO. 0655_4.7 AMDT. H

GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 22/31
Dated: 21/3/23
Signed: 
Print Name: Ronnie McMahon
(Under Delegation) ASSESSMENT MANAGER

PRELIMINARY DRAWING
FOR CLIENT APPROVAL



NORTH DRAIN LONG SECTION
SCALE 1:1,500 (H) 1:150(V)

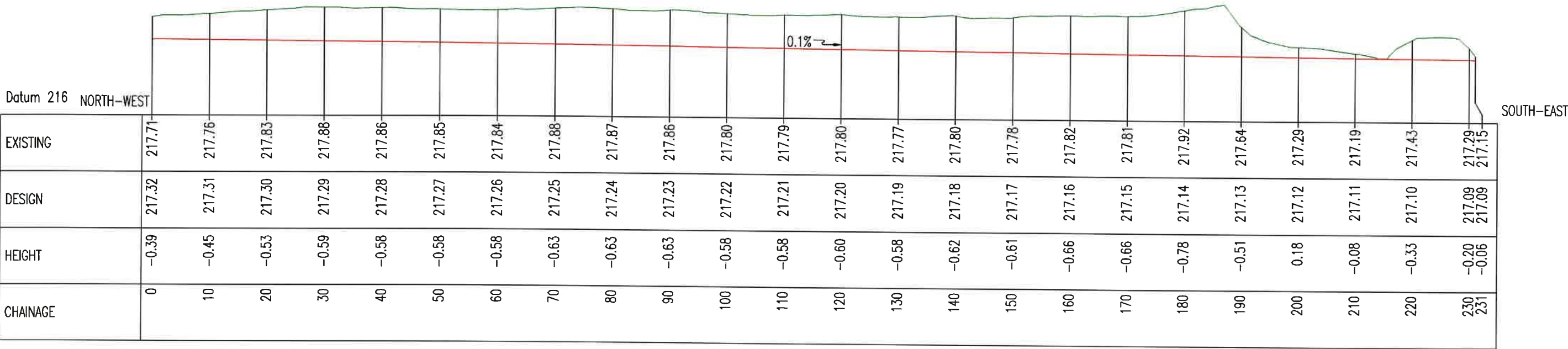


NORTH DRAIN TYPICAL SECTION
SCALE 1:100 (H) 1:50(V)

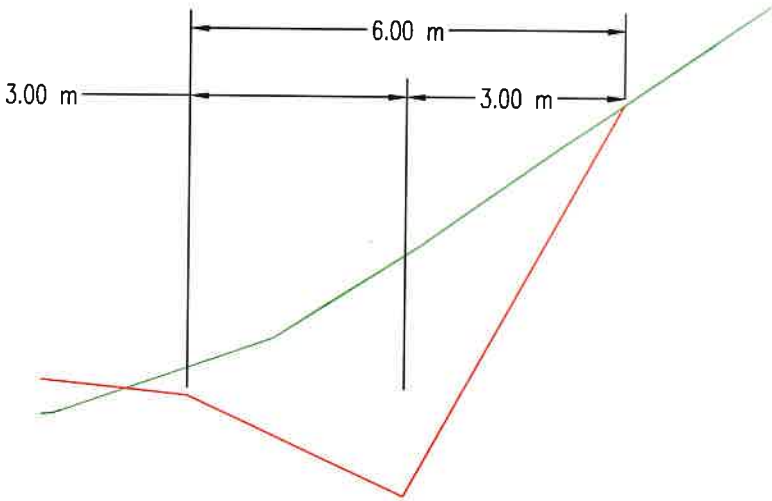
GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 22/31
Dated: 21/3/23
Signed: RM. M. C.
Print Name: Ronnie McMahon
(Under Delegation) ASSESSMENT MANAGER

H	DRAIN DESIGN & SECTIONS UPDATED	17/8/22	BJM	SURVEYED BY:	© COPYRIGHT 2022	<div>Tahlee Consulting Services</div> <div>ABN 23 829 235 819</div> <div>CONSULTING ENGINEERS</div> <div>19A ABBOTT St</div> <div>GUNNEDAH NSW 2380</div> <div>Tel: 02 6742 5275</div>	PROJECT		TITLE		
G	SECTIONS AND EARTHWORKS UPDATED	17/8/22	BJM	TCS RTK & 2019 LIDAR	TAHLEE CONSULTING		GRAINCORP		GRAINCORP GOONDIWINDI		
F	DESIGN, EARTHWORKS AND SECTIONS ADDED	17/6/22	NN	DATUM:	SERVICES		GOONDIWINDI EAST		PROPOSED DEVELOPMENT		
E	NOTATIONS UPDATED	06/6/22	BJM	GDA94 AHD	GUNNEDAH		SCALE		SECTIONS		
D	UPDATE NOTATIONS	17/5/22	BJM	DRAWN	CHECKED	APPROVED	AS SHOWN (A3 SHEET)		SHEET 8 OF 11		
No.	REVISION	DATE	BY	NN					DRAWING NO.		AMDT.
									0655_4.8		H

PRELIMINARY DRAWING
FOR CLIENT APPROVAL



WEST DRAIN LONG SECTION
SCALE 1:700 (H) 1:70(V)



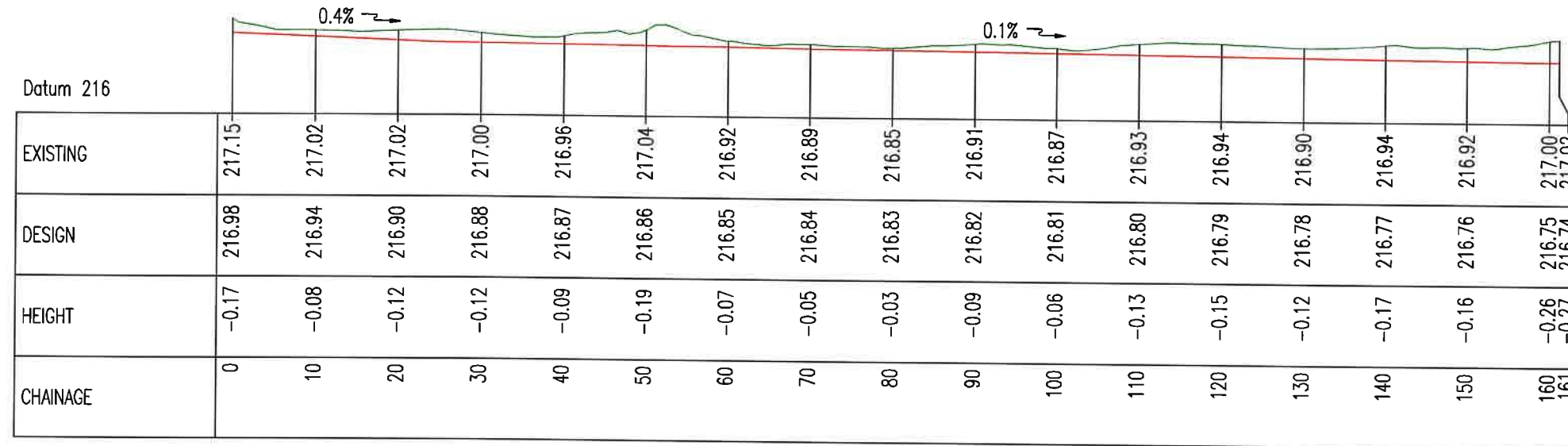
WEST DRAIN TYPICAL SECTION
SCALE 1:100 (H) 1:50(V)

GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 22/31
Dated: 21/3/23
Signed: RM/M
Print Name: Ronnie McMahon
(Under Delegation) ASSESSMENT MANAGER

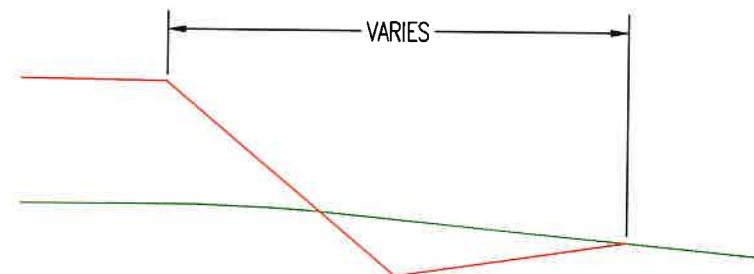
H	DRAIN DESIGN & SECTIONS UPDATED	17/8/22	BJM	SURVEYED BY:	© COPYRIGHT 2022	TCS Tahlee Consulting Services ABN 23 829 235 819 CONSULTING ENGINEERS 19A ABBOTT St GUNNEDAH NSW 2380 Tel: 02 6742 5275	PROJECT GRAINCORP GOONDIWINDI EAST SCALE AS SHOWN (A3 SHEET)	TITLE GRAINCORP GOONDIWINDI PROPOSED DEVELOPMENT SECTIONS SHEET 9 OF 11 DRAWING NO. 0655_4.9 AMDT. H
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E	NOTATIONS UPDATED	06/6/22	BJM	GDA94 AHD	GUNNEDAH			
D	UPDATE NOTATIONS	17/5/22	BJM	DRAWN	CHECKED			
No.	REVISION	DATE	BY	NN	APPROVED			

PRELIMINARY DRAWING

FOR CLIENT APPROVAL



SOUTH DRAIN LONG SECTION
SCALE 1:700 (H) 1:70(V)



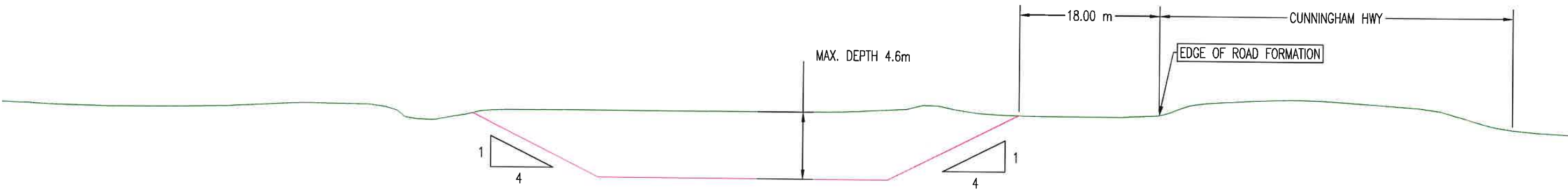
SOUTH DRAIN TYPICAL SECTION
SCALE 1:100 (H) 1:50(V)

GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 22/31
Dated: 21/3/23
Signed: R. McMahon
Print Name: Ronnie McMahon
(Under Delegation) ASSESSMENT MANAGER

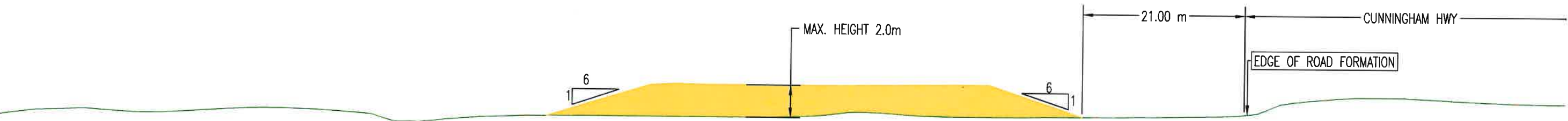
H	DRAIN DESIGN & SECTIONS UPDATED	17/8/22	BJM	SURVEYED BY: TCS RTK & 2019 LIDAR DATUM: GDA94 AHD © COPYRIGHT 2022 TAHLEE CONSULTING SERVICES GUNNEDAH	TCS Tahlee Consulting Services ABN 23 829 235 819 CONSULTING ENGINEERS 19A ABBOTT St GUNNEDAH NSW 2380 Tel: 02 6742 5275	PROJECT GRAINCORP GOONDIWINDI EAST SCALE AS SHOWN (A3 SHEET)	TITLE GRAINCORP GOONDIWINDI PROPOSED DEVELOPMENT SECTIONS SHEET 10 OF 10 DRAWING NO. 0655_4.11 AMDT. H
G	SECTIONS AND EARTHWORKS UPDATED	17/8/22	BJM				
F	DESIGN, EARTHWORKS AND SECTIONS ADDED	17/6/22	NN				
E	NOTATIONS UPDATED	06/6/22	BJM				
D	UPDATE NOTATIONS	17/5/22	BJM	DRAWN NN CHECKED APPROVED			
No.	REVISION	DATE	BY				

PRELIMINARY DRAWING

FOR CLIENT APPROVAL



SECTION D-D
TYPICAL SECTION: WESTERN BORROW EXTENSION
SCALE 1:1,000 (H) 1:500(V)



SECTION E-E
TYPICAL SECTION: WESTERN SPOIL
SCALE 1:1,000 (H) 1:500(V)

GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 22/31
Dated: 21/3/23
Signed: *Rm McMahon*
Print Name: Ronnie McMahon
(Under Delegation) ASSESSMENT MANAGER

H	DRAIN DESIGN & SECTIONS UPDATED	17/8/22	BJM	SURVEYED BY: TCS RTK & 2019 LiDAR DATUM: GDA94 AHD	© COPYRIGHT 2022 TAHLEE CONSULTING SERVICES GUNNEDAH	<div>TCS</div> <div>Tahlee Consulting Services</div>	Tahlee Consulting Services 19A ABBOTT St GUNNEDAH NSW 2380 Tel: 02 6742 5275	PROJECT GRAINCORP GOONDIWINDI EAST	TITLE GRAINCORP GOONDIWINDI PROPOSED DEVELOPMENT SECTIONS SHEET 11 OF 11
G	SECTIONS AND EARTHWORKS UPDATED	17/8/22	BJM						
F	DESIGN, EARTHWORKS AND SECTIONS ADDED	17/6/22	NN	DRAWN NN	CHECKED	APPROVED		SCALE AS SHOWN (A3 SHEET)	DRAWING NO. 0655_4.11
E	NOTATIONS UPDATED	06/6/22	BJM						
D	UPDATE NOTATIONS	17/5/22	BJM						
No.	REVISION	DATE	BY						AMDT. H



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 "Operational Works" (Bulk Earthworks - construction of 3 additional grain bunkers, Maintenance of 1 existing bunker and construction of new internal road)"

22/31

2/14 Cemetery Road, Goondiwindi

Lot 21 on SP120170

On 14 March 2023, 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 Goondiwindi Region Planning Scheme 2018, the proposed development satisfied all relevant criteria, and was approved subject to appropriate, relevant and reasonable conditions.

2. Assessment benchmarks

The following are the benchmarks applying for this development:

Benchmarks applying for the development	Benchmark reference
Low Impact Industry Zone Code	PO5
Operational Works Code	PO1-PO5
Flood Hazard Overlay Code	PO1-PO4

3. Compliance with benchmarks

Benchmark reference	Reasons for the approval despite non-compliance with benchmark
<p>AO1.1 Excavating or filling is designed and constructed in accordance with Australian Standard AS3798 and SC6.2 Planning Scheme Policy 1 – Land Development Standards.</p>	<p>Complies The applicant states that the proposed works will comply. Conditions will be applied to ensure compliance with the relevant standards.</p>
<p>AO1.2 Retaining structures exceeding 1 metre in height are setback a minimum of half the height of the structure from any property boundary and the setback area is landscaped or screened to a minimum height of 1.2 metres.</p>	<p>Complies The proposed works are adequately setback from the property boundaries.</p>
<p>AO1.3 Excavating or filling does not result in the permanent retention of surface water.</p>	<p>Complies The balance of the site will be graded to achieve adequate drainage.</p>
<p>AO1.4 Dams are constructed in accordance with the relevant section of SC6.2 Planning Scheme Policy 1 – Land Development Standards.</p>	<p>Condition to Comply The applicant states that the proposed works will comply. Conditions will be applied to ensure compliance with the relevant standards.</p>
<p>AO1.5 A new levee or modification of an existing levee is designed and constructed in accordance with the standards specified in SC6.2 Planning Scheme Policy 1 – Land Development Standards.</p> <p>Editor's note—The standards specified for levees in SC6.2 Planning Scheme Policy 1 – Land Development Standards are in addition to criteria that apply to levees under the Regulation.</p>	<p>Not Applicable</p>
<p>Where in an <i>urban</i> area or Rural residential zone AO1.6 Excavation is limited to a maximum vertical depth of one metre.</p>	<p>Alternative Solution The proposed borrow pits will have a maximum depth of 5m. conditions will be applied to ensure batter slopes are suitable for an urban area.</p>



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.*