

File: 09/24G
Date: 24 July 2018

Cameron Project Group
PO Box 1432
GOONDIWINDI QLD 4390

Attention: Mr Bruce Cameron

Dear Mr Cameron

**Decision Notice – change application – minor change
(Given under section 83 of the *Planning Act 2016*)
Reconfiguring a Lot
Lot 223 on CP856515, 1-11 Old Kildonan Road, Goondiwindi**

Goondiwindi Regional Council received your change application made under section 78 of the *Planning Act 2016* on 25 June 2018 for the development approval dated 10 February 2010. This change application was properly made to Council on 25 June 2018.

Decision for change application

Date of decision: 24 July 2018
Decision details: Make the changes and impose development conditions.

The changes agreed to are:

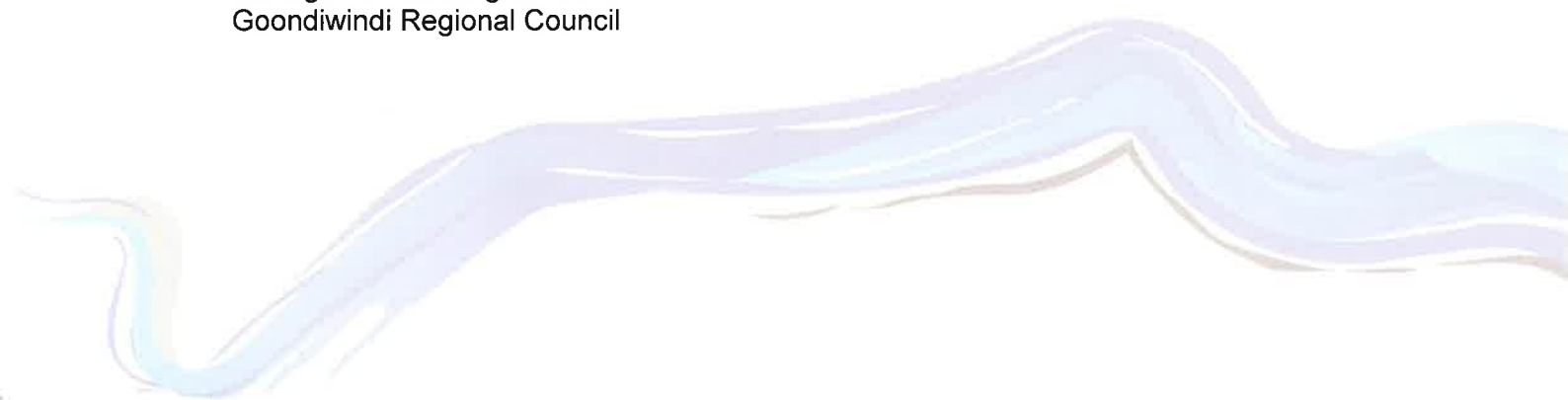
1. Condition 7;
2. Condition 10; and
3. The inclusion of stages for the development.

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: 09/24G
Council Contact: Mrs Ronnie McMahon: LMM
Council Contact Phone: (07) 4671 7400

24 July 2018

Applicant Details: Cameron Project Group
PO Box 1432
GOONDIWINDI QLD 4390

Attention: Mr Bruce Cameron

The development application described below was properly made to Goondiwindi Regional Council on 25 June 2018.

Applicant details

Applicant name: Cameron Project Group
Applicant contact details: Mr Bruce Cameron
Bruce.cameron@cameronprojects.com
0447 316 576
PO Box 1432, GOONDIWINDI, QLD, 4390

Application details

Application number: 09/24G
Approval sought: Development Permit
Details of proposed development: One (1) into sixteen (16) lot subdivision

Location details

Street address: 1-11 Old Kildonan Road, Goondiwindi
Real property description: Lot 223 on CP856515

Decision

Date of decision: 24 July 2018
Decision details: Approved in full with conditions. These conditions are set out in Attachment 1 and are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

Details of the approval

Development permit Reconfiguring a Lot

Description of requested changes

Existing Condition 7

The applicant is to construct a sealed road widening, including table drains, along the Old Kildonan Road and Billsborough Street frontages of the site. The works shall extend to and include the intersection of Billsborough Street and Kildonan Road. Such works are to include appropriate drainage and the roads are to be constructed to the satisfaction of the Director of Engineering and Planning.

Recommendation: Agree with the requested change

Existing Condition 10

The applicant is to dedicate as road reserve, at no cost to Council, an area ten (10) metres wide along the Old Kildonan Road frontage for the full length of the site including a six (6) metre x 3 chord truncation on the corner of Old Kildonan Road and Billsborough Street for road purposes.

Recommendation: Agree with the requested change

Requested Changes - Condition 7

The applicant is to construct a sealed road widening, including table drains, along the Old Kildonan Road and Billsborough Street frontages of the site. The works shall extend to and include the intersection of Billsborough Street and Kildonan Road. Such works are to include appropriate drainage and the roads are to be constructed to the satisfaction of the Director of Engineering and Planning.

Requested Changes – Condition 10

The applicant is to dedicate as road reserve, at no cost to Council, an area ten (10) metres wide along the Old Kildonan Road frontage for the full length of the site including a six (6) metre x 3 chord truncation on the corner of Old Kildonan Road and Billsborough Street for road purposes.

New condition requested – to be included as Condition 29.

Requested New condition for a staged approval

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 *Planning Act 2016*:

(a) The period stated for that part of the approval

Stage #	Description	Completed within:
1	Lots 1 – 7 inclusive	The current approval period of four (4) years.
2	Lots 8 – 13 inclusive	Four (4) years following the completion of stage 1.
3	Lots 14 – 16 inclusive	Four (4) years following the completion of stage 2.

Section 86 of the *Planning Act 2016* sets out how an extension to the period of approval can be request.

Recommendation:

Agree with the requested change

Conditions

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

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

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

Further development permits

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

1. Carry out Operational Work

Properly made submissions

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

Rights of appeal

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

A copy of the relevant appeal provisions are attached.

Currency period for the approval

This development approval will lapse at the end of the period set out in section 85 of *Planning Act 2016*

- [for 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 the period stated for that part of the approval.

Approved plans and specifications

Copies of the following plans are enclosed.

Drawing/report title	Prepared by	Date	Reference no.
Aspect of development: [reconfiguring a lot]			
"Locality Plan"	Cameron Project Group	20/10/2017	CGP 15006_6A_A Dated Oct 20, 2017
"Subdivision Layout"	Cameron Project Group	20/10/2017	CGP 15006_7J_E Dated Oct 20, 2017

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

Attachment 4 includes a Rights of Appeal waiver, which, if completed, will be used to process your request to waive your appeal rights to process your approval without unnecessary delay.

Attachment 5 is an extract from the *Planning Act 2016*, which details the applicant's appeal rights regarding this decision

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

Yours Sincerely

A handwritten signature in dark ink, appearing to read 'R McMahon', followed by a long horizontal flourish.

Ronnie McMahon
Manager of Planning Services
Goondiwindi Regional Council

enc Attachment 1—Amended Assessment manager
 Attachment 2—Approved plans
 Attachment 3—Notice about decision – Statement of reasons
 Attachment 4—Rights of Appeal Waiver
 Attachment 5—Planning Act extracts



ATTACHMENTS

Attachment 1 – Amended Assessment Manager's Conditions

Attachment 2 – Approved Plans

Attachment 3– Notice about decision - Statement of reasons

Attachment 4 – Rights of Appeal waiver

Attachment 5 – *Planning Act 2016* Extracts

Planning Act 2016 appeal provisions

Planning Act 2016 lapse dates



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



Assessment Manager's Conditions

Proposed Use:	One (1) into sixteen (16) lot subdivision
Development:	Reconfiguring a Lot – Development Permit
Applicant:	Cameron Project Group
Address:	1-11 Old Kildonan Road, Goondiwindi
Real Property Description:	Lot 223 on CP856515
Council File Reference:	09/24G

The amended conditions are highlighted in yellow below.

APPROVED PLANS											
1.	Approval is granted for the reconfiguring of a lot (1 into 16 lots).										
2.	The development shall be generally in accordance with the supporting information supplied by the applicant with the development application including the following indicative plans:										
	<table><tr><th>Drawing No</th><th>Title</th><th>Date</th></tr><tr><td>CGP 15006_6A_A Dated Oct 20, 2017</td><td>"Locality Plan"</td><td>20/10/2017</td></tr><tr><td>CGP 15006_7J_E Dated Oct 20, 2017</td><td>"Subdivision Layout"</td><td>20/10/2017</td></tr></table>	Drawing No	Title	Date	CGP 15006_6A_A Dated Oct 20, 2017	"Locality Plan"	20/10/2017	CGP 15006_7J_E Dated Oct 20, 2017	"Subdivision Layout"	20/10/2017	
Drawing No	Title	Date									
CGP 15006_6A_A Dated Oct 20, 2017	"Locality Plan"	20/10/2017									
CGP 15006_7J_E Dated Oct 20, 2017	"Subdivision Layout"	20/10/2017									
AMENITY & ENVIRONMENTAL CONTROLS											
3.	<p>Declared pest plants on the land must be destroyed to the satisfaction of the Director Engineering & Planning, prior to Council signing the Plan of Subdivision.</p> <p>Prior to Council signing the Plan of Subdivision, the applicant is to submit a report to noise emissions and sound attenuation measures for approval by the Director Engineering & Planning. Any measures suggested in the report to overcome potential noise problems associated with the development are to be implemented to the satisfaction of the Director Engineering & Planning.</p>										
4.	<p>Prior to Council signing the plan of subdivision, the applicant is to submit a report in noise emissions and sound attenuation measures for approval by the Director of Engineering and planning. Any measures suggested in the report to overcome potential noise problems associated with the development are to be implemented to the satisfaction of the Director of Engineering and Planning.</p>										

CARPARKING & VEHICULAR ACCESS	
5.	Each proposed lot shall have a sealed vehicle crossover to a formed road in accordance with Schedule 1, Division 2: Standards for Roads, Carparking, Manoeuvring Area and Access, Section 2.3(1) and (2) or to other relevant engineering standards to the satisfaction of Council. Access to Lots 1 and 4 shall be provided prior to the construction of any new buildings unless such works are bonded to the satisfaction of Council's officers.
6.	The vehicular access to proposed Lot 2 and lot 3 shall be designed and constructed to the satisfaction of the Director Engineering & Planning. NO LONGER RELEVANT
ROADWORKS AND STORMWATER DRAINAGE	
7.	The applicant is to construct a sealed road widening, including table drains, along the Old Kildonan Road and Billsborough Street frontages of the site. The works shall extend to and include the intersection of Billsborough Street and Kildonan Road. Such works are to include appropriate drainage and the roads are to be constructed to the satisfaction of the Director of Engineering and Planning.
8.	Local filling will be carried out to ensure all lots are provided with minimum cross fall to the street boundaries. Table drains will be provided in Old Kildonan Road and Billsborough Street to a reinforced concrete grated field inlet. This inlet will be piped to the Macintyre River via gated discharge. Subject to, the applicant demonstrating that the storm water drainage system has sufficient detention capacity in the area, without effecting neighbouring properties, to not be required to install pumps on the outlets, and that local filling is carried out to ensure all lots are provided with minimum fall to street boundaries.
9.	The applicant is to construct at no cost to Council, a stormwater drainage system servicing the development and the stormwater is to be disposed of to a legal point of discharge, in accordance with Schedule 1, Division 5, Section 5.1 "Standards for Stormwater Drainage" or to the satisfaction of the Director Engineering & Planning. Where the finished levels of a proposed allotment are such that stormwater runoff from all or part of the allotment cannot be gravity discharged to the street, an underground drainage line shall be provided to discharge the runoff from the allotment, to the satisfaction of the Director Engineering & Planning. Where necessary suitable easements shall be provided to Council, at the applicant's cost.

	DEDICATIONS
10.	The applicant is to dedicate as road reserve, at no cost to Council, an area ten (10) metres wide along the Old Kildonan Road frontage for the full length of the site including a six (6) metre x 3 chord truncation on the corner of Old Kildonan Road and Billsborough Street for road purposes.
	WATER SUPPLY & SEWERAGE
11.	Each proposed lot shall be connected to Council's reticulated water supply, in accordance with Schedule 1, Division 3: Standards for Water Supply, Section 3.1 of the Goondiwindi Shire Planning Scheme or to other relevant engineering standards to the satisfaction of Council at no cost to Council. The current cost of connection is \$500.00 where the Developer provides the meters.
12.	A water headworks contribution of \$1000 per lot, subject to change, shall be paid by the applicant prior to Council's endorsement of the required Survey Plan.
13.	The existing water supply mains shall be extended to all lots and within the subject site, with capacity sufficient for all stages of development, including adequate pressure for fire fighting purposes, in accordance with Schedule 1, Division 3: Standards for Water Supply, Section 3.1(1) of the Goondiwindi Town Planning Scheme or to other relevant engineering standards to the satisfaction of Council.
14.	Prior to the submission to Council of the Plan of Survey, reporting demonstrating that each lot can be adequately provided with self-sufficient on-site effluent treatment system in accordance with Schedule 1, Division 4: Standards for On-Site Sewerage, Section 4.2 or to other relevant engineering and environmental standards to the satisfaction of Council, shall be prepared by a Registered Professional Engineer Queensland (RPEQ)-Civil or other suitably qualified person and shall be submitted to and for the endorsement of Council.
	PARKS & PEDESTRIAN WORKS
15.	A parks contribution of \$250 per lot, subject to change, shall be paid by the applicant prior to Council's endorsement of the required Survey Plan.
	ELECTRICITY, STREET LIGHTING AND TELECOMMUNICATIONS
16.	The applicant must provide, at no cost to Council, reticulated electricity to each lot to the requirements of Country Energy. Prior to Council signing the Plan of Subdivision, the applicant is to provide written confirmation from Country Energy that reticulated electricity has been installed to service each lot.

17.	Street lighting shall be provided to Billsborough Street and Old Kildonan Road where practical within to the subdivision at the applicant's cost and to the satisfaction of the Director Engineering & Planning.
18.	Prior to Council signing the Plan of Subdivision, the applicant must provide to Council written confirmation from Telstra stating that it has been made aware of the proposed subdivision.
OPERATIONAL WORKS	
19.	Full engineering drawings and specifications certified by an RPEQ shall be provided for the approval of Council's engineer for all civil works on site, prior to the commencement of any works on site.
20.	The applicant must provide a copy of their receipt as proof of payment for QLeave prior to Operational Woks commencing.
21.	All Operational Works shall be subject to a 12 months Defect Liability Period commencing from the date of completion of the works, being the day of the works being accepted on-maintenance by Council officers. 5% of the total construction costs or final contact amount for these operational works shall be submitted to Council to be held by Council as security. Council will hold this money in trust pending the expiration of the defect liability period. These funds will be refunded following a defect-free inspection at the ends of the Defect Liability Period.
22.	The design, schedules and specifications for all Operational Works and the supervision of construction of all work associated with the development shall be carried out by a Registered Professional Engineer in Queensland (RPEQ) and to the satisfaction of the Director Engineering & Planning.
23.	The developer must use roadworks signage on all public roads in accordance with the Manual of Uniform Traffic Control Devices. A Traffic Control Plan is to be submitted to Council prior to the Operational Works commencing.
24.	All works associated with the development shall be carried out so as to minimise soil erosion and to control sediment, and such measures shall be incorporated into the engineering design of the development, to the satisfaction of the Director Engineering & Planning. An erosion and Sediment Control Plan must be submitted for approval with the Application for Operational Works.
25.	Any filling or excavation, including that necessitated to meet the conditions of this approval, shall be undertaken in accordance with Schedule 1, Division 1, Section 1.1 "Construction Standards" or to the satisfaction of the Director Engineering & Planning.

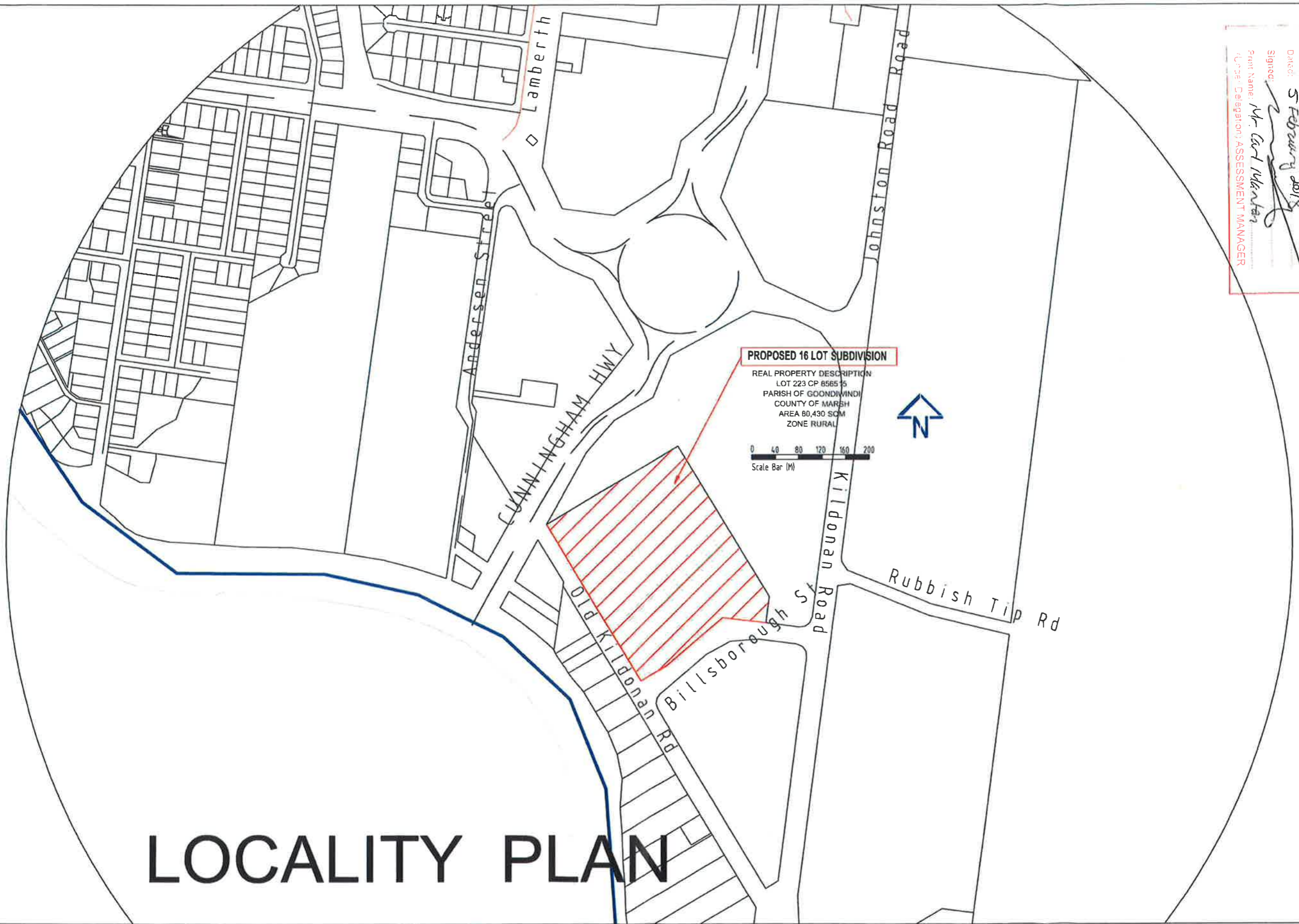
26.	The applicant shall submit a detailed Plan of Survey, prepared by a licensed surveyor, for the approval of Council.												
27.	All outstanding rates and charges shall be paid in full prior to the submission to Council of the Plan of Survey.												
28.	A letter outlining and demonstrating that conditions have been complied with shall be submitted prior to Council's endorsement of the required Survey Plan. Council officers may require a physical inspection to confirm that all conditions have been satisfied to relevant standards.												
BEFORE PLANS WILL BE ENDORSED													
29.	<p>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>:</p> <p>(a) The period stated for that part of the approval</p> <table><tr><th>Stage #</th><th>Description</th><th>Completed within:</th></tr><tr><td>1</td><td>Lots 1 – 7 inclusive</td><td>The current approval period of four (4) years.</td></tr><tr><td>2</td><td>Lots 8 – 13 inclusive</td><td>Four (4) years following the completion of stage 1.</td></tr><tr><td>3</td><td>Lots 14 – 16 inclusive</td><td>Four (4) years following the completion of stage 2.</td></tr></table> <p>Section 86 of the <i>Planning Act 2016</i> sets out how an extension to the period of approval can be request.</p>	Stage #	Description	Completed within:	1	Lots 1 – 7 inclusive	The current approval period of four (4) years.	2	Lots 8 – 13 inclusive	Four (4) years following the completion of stage 1.	3	Lots 14 – 16 inclusive	Four (4) years following the completion of stage 2.
Stage #	Description	Completed within:											
1	Lots 1 – 7 inclusive	The current approval period of four (4) years.											
2	Lots 8 – 13 inclusive	Four (4) years following the completion of stage 1.											
3	Lots 14 – 16 inclusive	Four (4) years following the completion of stage 2.											
NOTES													
	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 development approval is for Reconfiguring a Lot (1 into 16) only and in no way approves the use of any lot for any particular purpose.												



Attachment 2 – Approved Plans



GOONDIWINDI REGIONAL COUNCIL
This drawing is referred to in Council's Decision Notice
Council Reference: 09/24/16
Date: 5 February 2018
Signed: M. Carr-McIntosh
Plant Name: M. Carr-McIntosh
Office: Delegation/ASSESSMENT MANAGER



LOCALITY PLAN

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PO Box 1432
Goondwindi QLD 4390
M: 0447 316 576 | P: 07 4671 0240
E: bruce.cameron@cameronprojects.com

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DO NOT SCALE FROM THIS DRAWING. USE DIMENSIONS WHERE MARKED.

REFER ANY DISCREPANCIES TO ENGINEER PRIOR TO PROCEEDING WITH CONSTRUCTION.

Rev	By	Description	Approved	Date
A	BEC	16 LOT PROPOSAL	BEC	20/10/2017

Horiz	Vert
Designed	BC
Drafter	
Draft check	
Approved	BEC

Client:	24/10/2016
Project:	24/10/2016

K FRANKEL

16 LOT RESIDENTIAL
SUBDIVISION

Drawing Title	LOCALITY PLAN
Drawing No	15006
Sheet	6A
Revision	A
Datum:	
Contour Int:	

PROPOSAL

CONNECT TO EXISTING

LOT DISSECTION		
LOT 223 CP 856515		80430 SQM
LOT 1		4,200 SQM
LOT 2-3		2,100 SQM
LOT 4-5		3,150 SQM
LOT 6		2,000 SQM
LOT 7		4,000 SQM
LOT 8-10		2,000 SQM
LOT 11-13		2,240 SQM
LOT 14		12,735 SQM
LOT 15		18,555 SQM
LOT 16		15,720 SQM
TOTAL		80,430 SQM

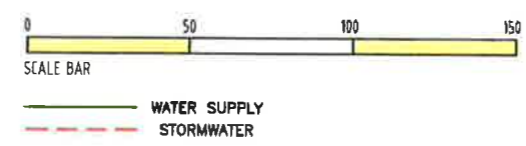
NOTE: ALL BOUNDARIES & AREAS ARE APPROXIMATE AND WILL DEPEND ON FINAL SURVEY



REAL PROPERTY DESCRIPTION
LOT 223
CP 856515
80430 SQM

GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: CP1246
Dated: 5 February 2018
Signed: [Signature]
Print Name: Mr. Carl Manton
(Under Delegation) ASSESSMENT MANAGER

CONCEPT PLAN 16 LOT SUBDIVISION



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PO Box 1432
Goondiwindi QLD 4390
M: 0447 316 576 | P: 07 4671 0240
E: bruce.cameron@cameronprojects.com

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Horiz	Vert	Client:
Designed	BC	24/10/2016
Drafter		
Draft check		
Approved	BEC	24/10/2016

DO NOT SCALE FROM THIS DRAWING USE DIMENSIONS WHERE MARKED

K FRANKEL
16 LOT RESIDENTIAL SUBDIVISION

REFER ANY DISCREPANCIES TO ENGINEER PRIOR TO PROCEEDING WITH CONSTRUCTION

Drawing Title	Drawing No	Sheet	Revision
SUBDIVISION LAYOUT	15006	7J	E
Datum:	Contour Int:		

PROPOSAL

Rev	By	Description	Approved	Date
E	BEC	16 LOT SW PROPOSAL	BEC	20/09/2017
D	BEC	16 LOT PROPOSAL	BEC	07/08/2017
C	BEC	15 LOT PROPOSAL	BEC	07/08/2017
B	BEC	18 LOT PROPOSAL	BEC	31/01/2017
A	BEC	21 LOT PROPOSAL	BEC	24/10/2016



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 Reconfiguring a Lot – One (1) into sixteen (16) lot subdivision

09/24G

1-11 Old Kildonan Road, Goondiwindi

Lot 223 on CP856515

On 24 July 2018, the above development application was:

- ☐ approved in full or
☐ approved in part for _____ or
☒ approved in full with conditions or
☐ approved in part for _____
with conditions or
☐ refused.

1. Reasons for the decision

The reasons for this decision are:

- *Having regard to the relevant criteria in the Reconfiguring a Lot code of the Goondiwindi Region Planning Scheme 2018, the proposed changes were approved.*

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: AO5, AO8, AO9</i>

3. Compliance with benchmarks

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

4. Relevant matters for impact assessable development

Not applicable, as the proposed development was code assessable.

5. Matters raised in submissions for impact assessable development

Not applicable, as the proposed development was code assessable

6. Matters prescribed by Regulation

Not applicable for this proposed development.



Attachment 4 – Rights of Appeal Waiver



Attachment 4: Rights of Appeal Waiver

Planning Act 2016
Rights of Appeal Waiver

Purpose of this form: *This form will be used to process your request to waive your appeal rights to process your approval without unnecessary delay.*

Applicant:	
File Number:	
Property Address:	

This is to confirm that I/We have received the above approval and agree to the conditions contained therein. I/We hereby waive my/our appeal rights available under the *Planning Act 2016*.

Name		Name	
Signature		Signature	
Date		Date	

Please return this form to:

Fax: (07) 4671 7433

Post: LMB 7, Inglewood QLD 4387

Email: mail@grc.qld.gov.au

In person: Council Chambers, 4 McLean Street, Goondiwindi QLD 4390
Goondiwindi Civic Centre, 100 Marshall Street, Goondiwindi QLD 4390
Inglewood Customer Service Centre, 18 Elizabeth Street, Inglewood QLD 4387
Texas Customer Service Centre, High Street, Texas QLD 4385

Privacy Statement

This information collected on this Form will be used by the Goondiwindi Regional Council in accordance with the processing and assessment of your application. Your personal details will not be disclosed for a purpose outside of Council policy, except where required by legislation (including the *Information Privacy Act 2009*) or as required by the Queensland State Government. This information may be stored in the Council database.



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.