

File: 17/48G
Date: 28 March 2018

Woods Grain Pty Ltd
Cnr Boundary Road & West Street
GOONDIWINDI QLD 4390

Attention: Tom Woods

Dear Mr Woods

**Decision Notice – approval (with conditions)
Material Change of Use
Lots 1 to 3 on G477 and Lot 4 on G4742, 67 Barwon Highway, Goondiwindi**

We wish to advise that on 28 March 2018 a decision was made to approve the material change of use development application for "*Rural activities*" – "*Intensive animal industry*" – Aquaculture (Algae farm) at Lots 1 to 3 on G477 and Lot 4 on G4742, 67 Barwon Highway, 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 use** as well as requirements for the ongoing operation of the use.

All conditions are required to be either complied with or bonded prior to the commencement of the use. Please note **Condition 46**, which requires a letter to be submitted to Council prior to commencement of the use, outlining and demonstrating compliance with each condition.

The applicant is required to **notify Council in writing of the date of the commencement** of the use, 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


Carl Manton
Chief Executive Officer
Goondiwindi Regional Council

Copy to: Thomas Tramby
Via email: tom@smk.com.au

Decision Notice approval

Planning Act 2016 section 63

Council File Reference: 17/48G
Council Contact: Mrs Ronnie McMahon: JMW
Council Contact Phone: (07) 4671 7400

28 March 2018

Applicant Details: Woods Grain Pty Ltd
Cnr Boundary Road & West Street
GOONDIWINDI QLD 4390

Attention: Tom Woods

The development application described below was properly made to Goondiwindi Regional Council on 31 October 2017.

Applicant details

Applicant name: Woods Grain Pty Ltd
Applicant contact details: Tom Woods
Cnr Boundary Road & West Street, Goondiwindi Qld 4390
(07) 4670 0400
administration@woodsgrain.com.au

Application details

Application number: 17/48G
Approval sought: Development Permit – Material Change of Use
Details of proposed development: *“Rural activities” – “Intensive animal industry” – Aquaculture (Algae farm)*

Location details

Street address: 67 Barwon Highway, Goondiwindi
Real property description: Lots 1 and 3 on G477 and Lot 4 on G4742

Decision

Date of decision: 28 March 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: Material Change of Use

Conditions

This approval is subject to the conditions in Attachment 1.

Further development permits

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

1. Nil

Properly made submissions

Properly made submissions were received from the following principal submitters:

Submission	Name of Principal Submitter	Address
1	Lorrain Zimmerman	8 Veronica Avenue, Goondiwindi, QLD, 4390
2	Michelle Zimmerman	8 Veronica Avenue, Goondiwindi, QLD, 4390
3	Patrick Buggie & Zoe McMurray	24 Darling Street, Goondiwindi, QLD, 4390
4	Anna Riggs	20 Darling Street, Goondiwindi, QLD, 4390
5	Verna & Cecil Goebel	6 McGregor Street, Goondiwindi, QLD, 4390
6	Krystal Perry & Rick Pedder	54 Bowen Street, Goondiwindi, QLD, 4390
7	Geoffrey & Danielle Cox	17 Lagoon Street, Goondiwindi, QLD, 4390
8	Alan Riggs	20 Darling Street, Goondiwindi, QLD, 4390
9	Brittney Riggs	20 Darling Street, Goondiwindi, QLD, 4390
10	Andrew Maxwell	14 McGregor Street, Goondiwindi, QLD, 4390
11	Shona McGreal & Jamie Cox	16 Darling Street, Goondiwindi, QLD, 4390
12	Dellarnie Woolacott & Paul Fawdon	4 Willow Street, Goondiwindi, QLD, 4390
13	Leanne & Terry O'Keefe	35 Riddle Street, Goondiwindi, QLD, 4390
	Merle Dalby	18 McGregor Street, Goondiwindi, QLD, 4390
	Bill & Nellie Dawson	16 McGregor Street, Goondiwindi, QLD, 4390
	Shelby O'Keefe	35 Riddle Street, Goondiwindi, QLD, 4390

Rights of appeal

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

A copy of the relevant appeal provisions are attached.

Currency period for the approval

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

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

Approved plans and specifications

Copies of the following plans are enclosed.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Aspect of development: material change of use				
Plan Showing Potential Pond Layout	SMK Consultants	02/02/2018	17-208	Revision A

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 McMahan, on 07 4671 7400.

Yours Sincerely



Carl Manton
Chief Executive Officer
Goondiwindi Regional Council

enc Attachment 1—Assessment Manager's Conditions
Attachment 2—Approved Plan
Attachment 3—Statement of Reasons
Attachment 4—Rights of Appeal Waiver
Attachment 5—Appeal provisions



ATTACHMENTS

Attachment 1 – Assessment Manager’s Conditions

Part 1 – Assessment Manager’s Conditions

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

Attachment 2 – Approved Plan

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 – Assessment Manager's Conditions



Assessment Manager's Conditions

Proposed Use:	<p><i>"Rural activities"</i></p> <ul style="list-style-type: none"> <i>"Intensive animal industry" – Aquaculture (Algae farm)</i>
Development:	Material Change of Use – Development Permit
Applicant:	Woods Grain Pty Ltd
Address:	67 Barwon Highway, Goondiwindi
Real Property Description:	Lots 1-3 on G477 and Lot 4 on G4742
Council File Reference:	17/48G

GENERAL CONDITIONS							
1.	<p>Approval is granted for the purpose of a Material Change of Use for:</p> <ul style="list-style-type: none"> <i>"Rural activities" – "Intensive animal industry" – Aquaculture (Algae Farm)</i> <p>as defined in the <i>2006 Planning Scheme for the former Goondiwindi Town Council</i>.</p>						
2.	All conditions must be complied with or bonded prior to the commencement of the use, unless specified in an individual condition.						
3.	<p>The development shall be in accordance with supporting information supplied by the applicant with the development application including the following plan:</p> <table border="1" data-bbox="317 1294 1430 1494"> <thead> <tr> <th>Drawing Number</th> <th>Title</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>17-208, Revision A</td> <td>Plan Showing Potential Pond Layout</td> <td>02/02/2018</td> </tr> </tbody> </table> <p>Please note this plan is not an approved Building Plan. The approved is included in Attachment 2.</p>	Drawing Number	Title	Date	17-208, Revision A	Plan Showing Potential Pond Layout	02/02/2018
Drawing Number	Title	Date					
17-208, Revision A	Plan Showing Potential Pond Layout	02/02/2018					

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>2006 Planning Scheme for the former Goondiwindi Town Council</i>, Council's standard designs for applicable work and any relevant Australian Standard that applies to that type of work.</p> <p>The development approval documents are the material contained in the development application, approved plans and supporting documentation including any written and electronic correspondence between applicant, Council or any relevant Agencies during all stages of the development application assessment processes.</p>
5.	<p>Lot 1 on G477, Lot 2 on G477, Lot 3 on G477 and Lot 4 on G4742 must be amalgamated into a single lot, and the associated survey plan shall be registered with the Titles Office prior to the commencement of the use.</p>
6.	<p>The developer shall contact Council's Engineering Department to ensure the correct specifications are obtained for all civil works prior to commencement of any works onsite.</p>
7.	<p>It is the developer responsibility to obtain all other statutory approvals required prior to commencement of any works on site.</p>
OPERATION OF THE USE	
8.	<p>The proposed use shall be operated generally during daylight hours, 7 days per week.</p>
9.	<p>Loading and unloading shall occur generally between the hours of 7:00am and 5:00pm, 7 days per week.</p>
ESSENTIAL SERVICES	
10.	<p>Connection to Council's reticulated water supply system shall be retained to the subject site, prior to the commencement of the use, and appropriately designed and approved backflow prevention devices shall be installed, in accordance with Schedule 1, Division 3: Standards for Water Supply, of the <i>2006 Planning Scheme for the former Goondiwindi Town Council</i>, to the satisfaction of and at no cost to Council.</p> <p>The developer shall provide all necessary water infrastructure to enable the development to be serviced to relevant engineering standards and to the satisfaction of Council.</p>

11.	Connection to Council's reticulated sewerage system shall be retained to the subject site, in accordance with Schedule 1, Division 4: Standards for Sewerage, of the <i>2006 Planning Scheme for the former Goondiwindi Town Council</i> .
PUBLIC UTILITIES	
12.	Connection to reticulated electricity supply shall be retained to the lot, at no cost to Council.
13.	The developer is responsible for ensuring Queensland Fire Services requirements are met with respect to this development.
ROADS AND VEHICLES	
14.	Vehicle access to the subject site from the Barwon Highway shall be constructed to comply with standards set by the Department of Transport and Main Roads.
15.	<p>All areas where vehicles regularly manoeuvre and park, in the areas hatched blue on the approved plan, shall be constructed to a sealed standard in accordance with Schedule 1, Division 2: Standards for Roads, Carparking, Manoeuvring Areas and Access of the <i>2006 Planning Scheme for the former Goondiwindi Town Council</i>, to the satisfaction of and at no cost to Council.</p> <p>All areas where vehicles regularly manoeuvre and park, in the areas hatched red on the approved plan, shall be constructed to a dust suppressant, all weather standard in accordance with Schedule 1, Division 2: Standards for Roads, Carparking, Manoeuvring Areas and Access of the <i>2006 Planning Scheme for the former Goondiwindi Town Council</i>, to the satisfaction of and at no cost to Council.</p> <p>Car parking and manoeuvring areas shall be either constructed or bonded prior to the commencement of the use.</p> <p>The developer shall contact Council's Engineering Department to ensure the correct specifications are obtained for all civil works prior to commencement of any works onsite.</p> <p>A qualified Council Officer may inspect construction works at the request of the developer to ensure compliance with this condition.</p>
LANDSCAPING AND FENCING	
16.	Perimeter fencing of the pond area is to be maintained to prevent access through or under the 1.8m high security fencing around the site.

17. Landscaping shall be provided in accordance with Schedule 3 – Landscaping Requirements of the 2006 Planning Scheme for the former Goondiwindi Town Council, with a minimum of:

- “Screening landscaping” of external activity areas, 1m wide, for a distance of 264m along the site’s Darling Street frontage, in accordance with the approved plan, “Plan Showing Potential Pond Layout, Drawing Number 17-208”, Revision A, dated 02-02-2018, prepared by SMK Consultants; and
- “Screening landscaping” of external activity areas, 1m wide, for a distance of 206m along the site’s McGregor Street frontage, in accordance with the approved plan, “Plan Showing Potential Pond Layout, Drawing Number 17-208”, Revision A, dated 02-02-2018, prepared by SMK Consultants; and
- “Screening landscaping” of external activity areas, 1m wide, for a distance of 44m along the site’s northern boundary extending from the site’s McGregor Street boundary, in accordance with the approved plan, “Plan Showing Potential Pond Layout, Drawing Number 17-208”, Revision A, dated 02-02-2018, prepared by SMK Consultants.

All landscaping and tree plantings are to be planted and maintained to the satisfaction of Council. A bond for the amount of **\$14,392** is to be submitted prior to the commencement of the use for the maintenance of landscaping.

The bond holding time starts from the acceptance of works. Council must be contacted by the applicant to request an inspection of the landscaping as soon as possible after completion of planting and payment of bond.

If the landscaping complies with Schedule 3 – Landscaping Requirements of the 2006 Planning Scheme for the former Goondiwindi Town Council, the applicant will be advised in writing that the bond is accepted.

The bond shall be returned in accordance with the following schedule if the landscaping meets the criteria:

Time from acceptance of landscaping works	Criteria	Bond Refund / Reduction
9 months – From acceptance of works	Landscaping conforms to requirements, is established and maintained. Adequate provision for on-going watering and growth. Any/all replacement plants provided.	50%
18 months – From acceptance of works	Landscaping is well established (as a guide >50% full growth depending on species). All replacement plants are established. The landscaping intent is being achieved.	25%
24 months – From acceptance of works	Landscaping is fully established, or within 80% depending on species.	25%

	<p>After the required bond holding time has passed, a refund of bond monies will only be considered upon a written request from the person who paid the bond once the required bond holding time has been completed.</p> <p>A Council Officer may inspect landscaping plantings to ensure compliance with this condition and acceptance of the works.</p> <p>Council will hold the funds in trust for a maximum of three years, at which time should work not be carried out and maintained to Council's satisfaction, the bond will be used by Council to have the works performed unless an extension of time is requested by the land owner or applicant and approved by Council.</p> <p>To clarify, bonds can only be refunded upon a written request from the person who paid the bond upon the works being satisfactorily maintained for the required bond holding time.</p>
	<p>STORMWATER</p>
<p>18.</p>	<p>Prior to the commencement of the use, the site shall be adequately drained and all stormwater shall be disposed of to a legal discharge point in accordance with Schedule 1, Division 5: Standards for Stormwater Drainage of the <i>2006 Planning Scheme for the former Goondiwindi Town Council</i>, to the satisfaction of and at no cost to Council.</p> <p>Any increase in volume, concentration or velocity of stormwater from the site shall be channelled to lawful points of discharge or to other storage or dispersal arrangements, which all must be agreed to in writing by Council.</p> <p>There shall be no change in direction or increase in the volume, concentration or velocity in any overland flow from the site to any adjoining properties unless agreed in writing by Council and the owners of any adjoining properties affected by these changes.</p> <p>The stormwater disposal system shall be designed to include appropriate pollution control devices or methods to ensure no contamination or silting of waterways.</p>
<p>19.</p>	<p>Stormwater shall not be allowed to pond on the site during the development process and after development has been completed unless the type and size of ponding has been agreed in writing by Council.</p> <p>No ponding, concentration or redirection of stormwater shall occur on adjoining properties unless specifically agreed to in writing by Council and the owners of any adjoining properties affected by these changes.</p>

20.	<p>Prior to the commencement of construction, a Stormwater Management Plan, prepared by a RPEQ, shall be submitted to and approved by Council. This plan is to indicate how the following are to be managed onsite in a one (1) in ten (10) year ARI rainfall event:</p> <ul style="list-style-type: none"> (a) Contain any water overflow from the algae ponds within the site; and (b) Plan to indicate drainage systems around the ponds to prevent water ponding on the site; and (c) Contain brackish and nutrient enriched water within the site to prevent waters entering Council's street stormwater system and the Macintyre River; and (d) Prior to releasing of any nutrient enriched or brackish water from the algae farm site to Council's stormwater drainage system, it is to be tested to ensure it meets stormwater quality guidelines and Water Quality assessment benchmarks as set out in Part E of the State Planning Policy, July 2017.
EARTHWORKS AND EROSION CONTROL	
21.	<p>Any filling or excavation shall be undertaken in accordance with Schedule 1, Division 1: Standards for Construction Activities of the <i>2006 Planning Scheme for the former Goondiwindi Town Council</i> or to other relevant engineering standards to the satisfaction of and at no cost to Council.</p> <p>Excavation or filling within 1.5 metres of any site boundary is battered or retained by a wall that does not exceed 1 metre in height.</p>
22.	<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 1, Division 1: Standards for Construction Activities of the <i>2006 Planning Scheme for the former Goondiwindi Town Council</i> or in accordance with other relevant engineering standards 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>
ENVIRONMENTAL MANAGEMENT	
23.	<p>At all times while the use continues, the developer must ensure that appropriate emergency management procedures are in place to minimise any adverse impacts at times of disasters.</p>

24.	<p>At all times while the use continues, the developer must meet the obligations under the <i>Environmental Protection Act 1994</i> (the Act) and the regulations made under the Act, and must comply with the following provisions:</p> <ul style="list-style-type: none"> • General environmental duty (section 319); • Duty to notify environmental harm (section 320-320G); • Offence of causing serious or material environmental harm (section 437-439); • Offence of causing environmental nuisance (section 440); • Offence of depositing prescribed water contaminants in waters and related matters (section 440ZG); and • Offence to place contaminant where environmental harm or nuisance may be caused (section 443). <p>All necessary licenses, permits and approvals under the Act and all regulatory provisions and legislation shall be obtained and maintained at all times while the use continues.</p>
25.	<p>At all times while the use continues, it must be undertaken in accordance with written procedures that:</p> <ol style="list-style-type: none"> (a) Identify potential risks to the environment from the activity during routine operations and emergencies; and (b) Establish and maintain control measures that minimise the potential for environmental harm; and (c) Ensure plant, equipment and measures are maintained in a proper and effective condition; and (d) Ensure plant, equipment and measures are operated in a proper and effective manner; and (e) Ensure that staff are trained and aware of their obligations under the <i>Environmental Protection Act 1994</i>; and (f) Ensure that reviews of environmental performance are undertaken annually.
26.	<p>All records must be kept for a period of at least five (5) years and provided to Council upon request.</p>
27.	<p>All reasonable and practicable measures must be taken to prevent or minimise environmental harm caused by the use.</p>
28.	<p>All environmental monitoring and reporting must be undertaken by a suitably qualified person.</p>
29.	<p>The developer shall develop and implement a Site Based Management Plan which provides for the following functions:</p> <ol style="list-style-type: none"> (a) Staff training and awareness of environmental issues; and (b) The conduct of environmental audits; and (c) Waste prevention, treatment and disposal.

30.	In the event of a complaint made to Council about odour, dust or noise generated from the use, the developer must take all reasonable measures to mitigate the nuisance and prevent it from being released beyond the boundaries of the site.
31.	<p>All complaints received by the developer relating to the approved operations on site must be recorded and kept with the following details:</p> <ul style="list-style-type: none"> (a) Time, date and nature of complaint; (b) Type of communication (telephone, letter, email, etc); (c) Name, contact details of the complainant; (d) Response and investigation undertaken as a result of the complaint; (e) Name of person responsible for investigating complaint; and (f) Action taken as a result of the complaint investigation and signature of responsible person.
32.	The developer must ensure that the use is operated in a manner that does not create a public health problem.
33.	When required by Council, monitoring must be undertaken in the manner prescribed by Council to investigate a complaint of environmental nuisance arising from the activity. The monitoring results must be provided within 10 business days to Council upon its request.
34.	In the event that the use is de-commissioned, a Site Rehabilitation Plan shall be developed and implemented, to the satisfaction of Council.
AVOIDING NUISANCE	
35.	<p>Prior to the operation of stage one of the development commencing, a Pest Management Plan is to be developed to address the following vermin, insects and wildlife:</p> <ul style="list-style-type: none"> • Birds, ducks or other animals attracted to the ponds and algae as a food source; and • Mosquito or midge breeding on the site around the ponds. Reference document Queensland Health "Guideline to minimise mosquito & biting midge problems in new development areas", March 2002. <p>A copy of the Pest Management Plan is to be approved by Council prior to the algae farm operations commencing on site.</p>
36.	At all times while the use continues, provision must be made on site for the collection of general refuse in covered waste containers with a capacity sufficient for the use. Waste receptacles shall be placed in a screened area. The site must maintain a general tidy appearance.

37.	<p>At all times while the use continues, lighting of the site, including any security lighting, shall be such that the lighting intensity does not exceed 8.0 lux at a distance of 1.5 metres from the site at any property boundary.</p> <p>All lighting shall be directed or shielded so as to ensure that no glare directly affects nearby properties, motorists or the operational safety of the surrounding road network.</p>
38.	<p>The installation of lighting on site to enable night-time maintenance or operational activities shall be designed and operated in accordance with AS4282-1979, "Control of the obtrusive effects of outdoor lighting".</p>
39.	<p>At all times while the use continues it shall be operated in such a manner as to ensure that no nuisance shall arise to adjoining premises as a result of dust, noise, lighting, odour, vibration, rubbish, contaminants, stormwater discharge or siltation, or any other potentially detrimental impact.</p>
40.	<p>The operator shall be responsible for mitigating any complaints arising from on-site operations.</p>
41.	<p>Construction works must occur so they do not cause unreasonable interference with the amenity of adjoining premises.</p> <p>During construction the site must be kept in a clean and tidy state at all times.</p>
DEVELOPER'S RESPONSIBILITIES	
42.	<p>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.</p>
43.	<p>It is the developer's responsibility to ensure that any contractors and subcontractors have current, relevant and appropriate qualifications and insurances in place to carry out the works.</p>
44.	<p>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.</p>
45.	<p>At all times while the use continues, all requirements of the conditions of the development approval must be maintained.</p>

COMMENCEMENT OF USE	
46.	A letter outlining and demonstrating that conditions have been, or will be, complied with shall be submitted to Council and approved by a relevant Officer of Council prior to commencement of the use at each relevant stage. Council Officers may require a physical inspection to confirm that all conditions have been satisfied to relevant standards.
47.	At its discretion, Council may accept bonds or other securities to ensure completion of specified development approval conditions or Council may accept cash payments for Council to undertake the necessary work to ensure completion of specified development approval conditions. It may be necessary for Council to use such bonds for the completion of outstanding works without a specific timeframe agreed.
48.	Council must be notified in writing of the date of the commencement of the use within 14 days of commencement. This approval will lapse if the use has not commenced within six years of the date the development approval takes effect, in accordance with the provisions contained in sections 85(i)(a) of the <i>Planning Act 2016</i> . Section 86 of the <i>Planning Act 2016</i> sets out how an extension to the period of approval can be requested.
PLEASE READ CAREFULLY - NOTES AND ADVICE	
	<p><i>When approval takes effect</i></p> <p>This approval takes effect in accordance with section 85 of the <i>Planning Act 2016</i>.</p> <p><i>When approval lapses</i></p> <p>This approval will lapse if the change of use has not occurred within the following period, in accordance with the provisions contained in section 85(i)(a) of the <i>Planning Act 2016</i>.</p> <p>(a) If no period stated – 6 years after the approval starts to have effect.</p> <p>Section 86 of the <i>Planning Act 2016</i> sets out how an extension to the period of approval can be requested.</p>
	It is the applicant's responsibility to obtain all statutory approvals prior to commencement of any works onsite.

	<p>This approval in no way removes the duty of care responsibility of the applicant under the <i>Aboriginal Cultural Heritage Act 2003</i>. Pursuant to Section 23(1) of the <i>Aboriginal Cultural Heritage Act 2003</i>, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the “cultural heritage duty of care”).</p>
	<p>This approval in no way authorises the clearing of native vegetation protected under the <i>Vegetation Management Act 1999</i>.</p>
	<p>The approved development does not authorise any deviation from the applicable Australian Standards nor from the application of any laws, including laws covering work place health and safety.</p>



Attachment 1 – Concurrence agency conditions

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





Department of Infrastructure,
Local Government and Planning

Our reference: 1711-2480 SRA

Your reference: 17/48G

21 December 2017

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

Attention: Ronnie McMahon

Dear Ronnie

Referral agency response – with Conditions – Development Permit – Material Change of Use for "Rural Activities" – "Intensive Animal Industry" – Aquaculture (Algae Farm)

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

The development application described below was properly referred to the Department of Infrastructure, Local Government and Planning (DILGP) on 21 November 2017.

Applicant details

Applicant name:	Mr Thomas Woods
Applicant contact details:	Woods Grain Pty Ltd c/- SMK Consultants P.O. Box 774 MOREE NSW 2400 Via email: ptaylor@smk.com.au

Location details

Street address:	67 Barwon Highway, Goondiwindi QLD 4390
Real property description:	Lots 1, 2 and 3 on G477; and Lot 4 on G4742
Local government area:	Goondiwindi Regional Council

Application details

Development permit	Material Change of Use for "Rural Activities" – "Intensive Animal Industry" – Aquaculture (Algae Farm)
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Referral triggers

The development application was referred to DILGP under the following provisions of the Planning Regulation 2017:

- 10.9.4.2.4.1 State transport corridors and future State transport corridors.

Conditions

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

Reasons for decision to impose conditions

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

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

For further information please contact Brittany Hughes, Planning Officer, on 46167307 or via email ToowoombaSARA@dilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Andrew Foley
Manager

cc Mr Thomas Woods, ptaylor@smk.com.au

enc Attachment 1—Conditions to be imposed
Attachment 2—Reasons for decision to impose conditions

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Development Permit – Material Change of Use for "Rural Activities" – "Intensive Animal Industry" – Aquaculture (Algae Farm)		
10.9.4.2.4.1 – State Controlled Road (SCR) – The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
1.	Any excavation, filling/backfilling/compaction, retaining structures and other works involving ground disturbance must not encroach or destabilise the SCR or the land supporting this infrastructure, or cause similar adverse impacts.	At all times.
2.	a) Stormwater management of the development must ensure no worsening or actionable nuisance to the SCR. b) Any works on the land must not: <ul style="list-style-type: none"> (i) create any new discharge points for stormwater runoff onto the SCR; (ii) interfere with and/or cause damage to the existing stormwater drainage on the SCR; (iii) surcharge any existing culvert or drain on the SCR; reduce the quality of stormwater discharge onto the SCR. 	(a) At all times. (b) At all times.

Attachment 2—Reasons for decision to impose conditions

Condition 1 is to ensure the development and its construction does not cause adverse structural impacts on state-transport infrastructure.

Condition 2 is to ensure that the impacts of stormwater events associated with development are minimised and managed to avoid creating any adverse impacts on the state-transport corridor.



Department of Infrastructure,
Local Government and Planning

Department of Infrastructure, Local Government and Planning (DILGP)

Statement of reasons for application 1711-2480 SRA

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

Departmental role: Referral agency

Applicant details

Applicant name: Mr Thomas Woods
 Applicant contact details: Woods Grain Pty Ltd
 c/- SMK Consultants
 P.O. Box 774
 MOREE NSW 2400
 Via email: ptaylor@smk.com.au

Location details

Street address: 67 Barwon Highway, Goondiwindi QLD 4390
 Real property description: Lots 1, 2 and 3 on G477; and Lot 4 on G4742
 Local government area: Goondiwindi Regional Council

Development details

Development permit: Material Change of Use Application "Rural Activities" - "Intensive Animal Industry" - (Algae Farm)

Assessment matters

Aspect of development requiring code assessment	Applicable codes
Material Change of Use	<ul style="list-style-type: none"> State code 1: State Controlled Road (SCR) environment. State code 6: Protection of state transport networks

Reasons for the DILGP's response

The reasons for the response are that the proposed development:

- has suitable access onto the SCR for the expected traffic increase
- does not result in a worsening of the safety of the SCR
- is not expected to generate traffic which may impact the overall state-transport network
- complies with State Codes 1 and 6.

Response:

Nature of approval	Response details	Date of response
Development approval	Subject to conditions.	21 December 2017

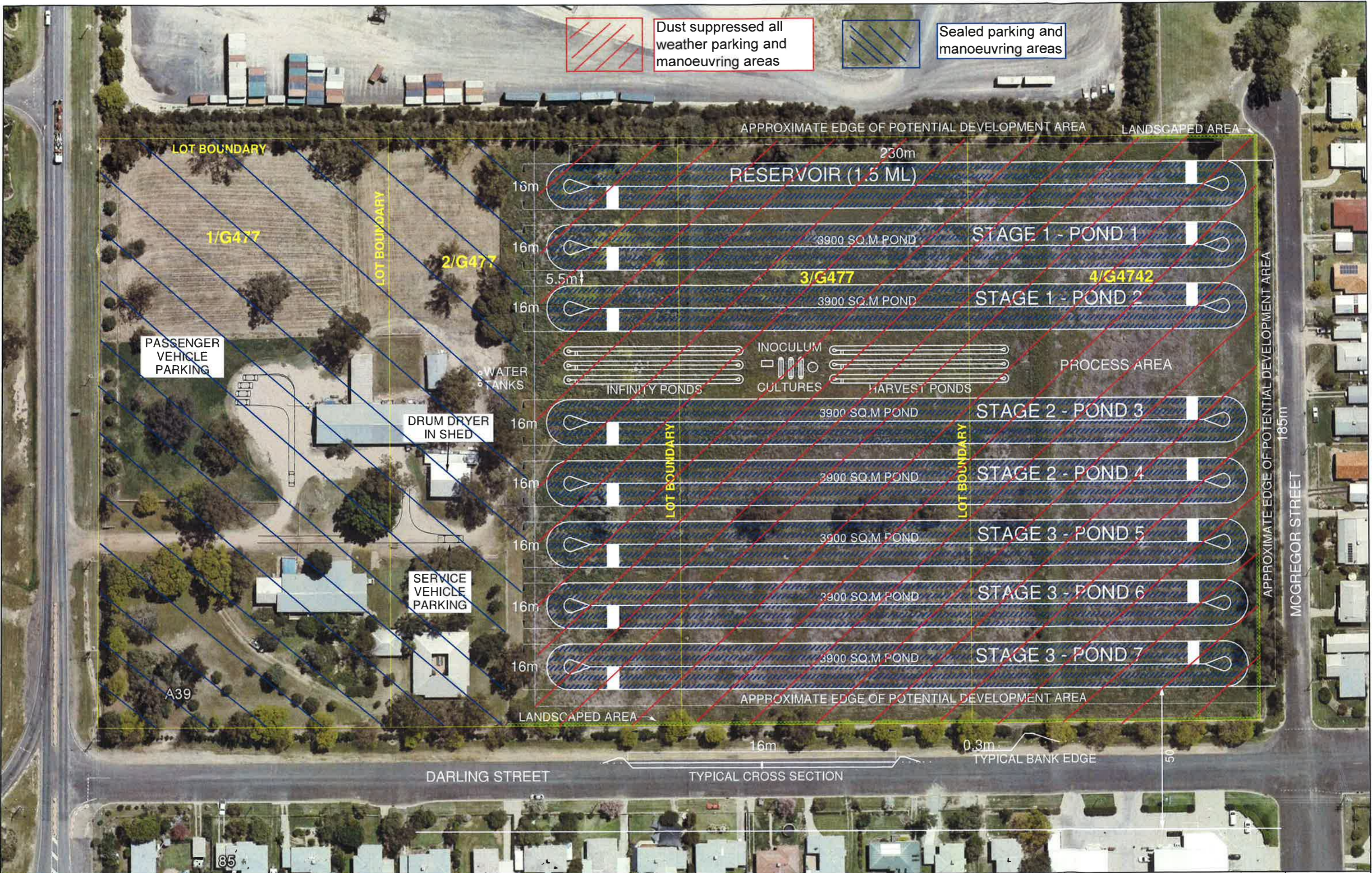
Relevant Material

- Development application.
- SDAP published by the DILGP.
- Technical agency response.
- *Transport Infrastructure Act 2009*.
- *Planning Act 2016*.
- Planning Regulation 2017.
- DA Rules.



Attachment 2 – Approved Plan





SCALES: HORIZ 1 in 1200
 VERT _____
 DATUM: LOCAL AHD MGA ZONE 55
 A3
 SURVEYED SMK CONSULTANTS
 DESIGNED JEREMY BARR
 CHECKED PETER TAYLOR


SMK CONSULTANTS
 surveying - irrigation - environmental
 PO BOX 774 MOREE 2400
 PHONE (02) 67 521021

CLIENT: WOODS GRAIN
 PROJECT: ALGAE PRODUCTION PROJECT

DESCRIPTION:
 PLAN SHOWING POTENTIAL POND LAYOUT

PLAN REVISION:		DATE
A	FIRST ISSUE	02-02-2018
B		
C		

JOB No. 17-208
 COMPUTER FILE:
 17-208.mxd

GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 17/486
Dated: 28/03/2018
Signed: 
Print Name: CARL MANTON
(Under Delegation) ASSESSMENT MANAGER



Attachment 3 – Notice about decision - Statement of reasons



Notice about decision - Statement of reasons

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

The development application for "*Rural Activities*" - "*Intensive animal industry*" – Aquaculture (Algae farm)

17/48G

67 Barwon Highway, Goondiwindi

Lots 1-3 on G477 and Lot 4 on G4742

On 28 March 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 requirements of the 2006 Planning Scheme for the former Goondiwindi Town Council, and the relevant facts and circumstances, Council resolved to approve the proposed development, subject to appropriate, relevant and reasonable conditions.*

2. Assessment benchmarks

The following are the benchmarks applying for this development:

Benchmarks applying for the development	Benchmark reference
<i>2006 Planning Scheme for the former Goondiwindi Town Council – Strategic Directions</i>	<i>Item 3.1, Item 3.2 and Item 3.3</i>
<i>2006 Planning Scheme for the former Goondiwindi Town Council – Urban Zone Code Purpose</i>	<i>Outcome 1, Outcome 2, Outcome 3, Outcome 4, and Outcome 5</i>
<i>2006 Planning Scheme for the former Goondiwindi Town Council – Urban Zone Code</i>	<i>AS1, PC3, AS4, AS5.1, AS5.2, AS8, AS9.1, AS9.3, AS10, PC11, AS12.1, AS13, PC14, AS15.1, AS16.1, AS17, AS18, AS19.2, AS20.1, AS20.2, AS20.3, AS21, PC27, PC28, PC29, AS30.1, AS30.2, AS30.3, AS31, PC33, PC34, PC38</i>

3. Compliance with benchmarks

The proposed development complied with the assessment benchmarks.

4. Relevant matters for impact assessable development

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

Other relevant matters to the assessment of the development under section 45(5)(b)	Benchmark reference	Assessment carried out against or assessment had regard to
Urban Zone Code Purpose of the 2006 Planning Scheme for the former Goondiwindi Town Council	Section 4.3.3.3 – Outcomes 1, 2, 3, 4 and 5	<input checked="" type="checkbox"/> assessed against <input type="checkbox"/> had regard to
Strategic Directions of the 2006 Planning Scheme for the former Goondiwindi Town Council	Part 3 – Items 3.1, 3.2 and 3.3	<input checked="" type="checkbox"/> assessed against <input type="checkbox"/> had regard to

5. Matters raised in submissions for impact assessable development

Matters raised in any submissions	Description of how matters were dealt with in reaching the decision
Health and Safety concerns	The approval conditioned the security fence to be maintained.
Environmental Impacts	Environmental nuisances and management plans were conditioned in the approval.
Lighting	This was conditioned as part of the approval
Odour	Nuisances, including odour, was conditioned as part of the approval.
Dust	Nuisances, including dust, was conditioned as part of the approval.
Noise	Nuisances, including noise, was conditioned as part of the approval.
Mosquitoes	A pest management plan was conditioned as part of the approval.
Visual amenity	Screening landscaping was conditioned as part of the approval.
Separation distances	Separation distances were checked against the approved plan, included with this decision notice.
Swamp-like conditions	The proposed development is considered to be a controlled and technical process, and will not result in swamp-like conditions.
Snakes/vermin	A pest management plan was conditioned as part of the approval.
Post-dated signatures	It was considered that this was not going to prevent a submission being made to Council, and was a scribal error.
Traffic	The ponds will be serviced and accessed by quad bikes, and the site has vehicle access to the Barwon Highway, which is a state-controlled road.
Bore water	Water will be sourced from the artesian bore from an existing entitlement, with any additional water required from the bore to be approved by the state government.
Bio-fuel	The development is to grow algae for stockfeed and human consumption, and not for the cultivation of algae for bio-fuel production.

Matters raised in any submissions	Description of how matters were dealt with in reaching the decision
Property values	This is not a town planning matter, as there is no evidence to suggest that property values will be affected by the development

6. Matters prescribed by Regulation

Not applicable to the 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.