

File: 18/24W  
Date: 12 November 2018

Carpendale Farms Pty Ltd  
PO Box 190  
**GOONDIWINDI QLD 4390**

Attention: Mr Andrew Kluck

Dear Mr Kluck

**Decision Notice – Approval (with conditions)**  
**Reconfiguring a Lot**  
**Lot 62 on SP146065, 'Carpendale II' 18833 Gore Highway, Goondiwindi**

We wish to advise that on 12 November 2018 a decision was made to approve the reconfiguring a lot development application for One (1) into Two (2) lot subdivision at Lot 62 on SP146065, 'Carpendale II' 18833 Gore 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 submission to Council of the Plan of Survey**.

All conditions are required to be either complied with or bonded prior to the submission to Council of the Plan of Survey. Please note **Condition 19**, which requires a letter outlining and demonstrating that conditions have been complied with, shall be submitted to Council prior to the submission to Council of the Plan of Survey.

If you require any further information, please contact Council's Manager of Planning Services, Mrs Ronnie McMahon, on (07) 4671 7400 or [rmcmahon@grc.qld.gov.au](mailto:rmcmahon@grc.qld.gov.au), who will be pleased to assist.

Yours faithfully



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

**Copy to: Mr Tom Jobling**  
**Via email: [jobling@smk.com.au](mailto:jobling@smk.com.au)**



## Decision Notice approval

### Planning Act 2016 section 63

Council File Reference: 18/24W  
Council Contact: Mrs Ronnie McMahon: LMM  
Council Contact Phone: (07) 4671 7400

12 November 2018

**Applicant Details:** Carpendale Farms Pty Ltd  
PO Box 190  
GOONDIWINDI QLD 4390

Attention: Mr Andrew Kluck

The development application described below was properly made to Goondiwindi Regional Council on 21 August 2018.

#### Applicant details

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Applicant name: Andrew Kluck  
Applicant contact details: PO Box 190, Goondiwindi Qld 4390  
(07) 4676 1245  
[andrew@carpendalect.com.au](mailto:andrew@carpendalect.com.au)

#### Application details

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Application number: 18/24W  
Approval sought: Development Permit – Reconfiguring a Lot  
Details of proposed development: One (1) into Two (2) lot subdivision

#### Location details

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Street address: 'Carpendale II' 18833 Gore Highway, Goondiwindi  
Real property description: Lot 62 on SP146065

#### Decision

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Date of decision: 12 November 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

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Development permit Reconfiguring a Lot

## 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. Not applicable

## 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* OR

- [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 **4 years**.

## Approved plans and specifications

Copies of the following plans, specifications and drawings are enclosed.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
<b>Aspect of development: [reconfiguring a lot]</b>				
Plan of Proposed Subdivision of Lot 62 on SP146065	SMK Consultants Pty Ltd	26/7/18	218099-1	-

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

**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



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

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



## **ATTACHMENTS**

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

*Part 1 – Assessment Manager’s Conditions*

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

### **Attachment 2 – Approved Plans**

### **Attachment 3 – Infrastructure Charges Notice**

### **Attachment 4 – Notice about decision - Statement of reasons**

### **Attachment 5 – Planning Act 2016 Extracts**

*Planning Act 2016 appeal provisions*

*Planning Act 2016 lapse dates*



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



## Assessment Manager's Conditions

<b>Description:</b>	One (1) into Two (2) lot subdivision
<b>Development:</b>	Development Permit – Reconfiguring a lot
<b>Applicant:</b>	Carpendale Farms Pty Ltd
<b>Real Property Description:</b>	Lot 62 on SP146065
<b>Address:</b>	'Carpendale II' 18833 Gore Highway, Goondiwindi
<b>Council File Reference:</b>	18/24W

<b>GENERAL CONDITIONS</b>							
1.	Approval is granted for the purpose of Reconfiguring a Lot – One (1) into Two (2) lot subdivision.						
2.	<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"> <thead> <tr> <th>Drawing No</th> <th>Title</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>218099-1</td> <td>Plan of the Proposed Subdivision of Lot 62 on SP146065</td> <td>26/07/18</td> </tr> </tbody> </table> <p>Please note this is not an approved Plan of Survey. The approved plan is included in <b>Attachment 2</b>.</p>	Drawing No	Title	Date	218099-1	Plan of the Proposed Subdivision of Lot 62 on SP146065	26/07/18
Drawing No	Title	Date					
218099-1	Plan of the Proposed Subdivision of Lot 62 on SP146065	26/07/18					
3.	<p>Complete and maintain the approved development as follows:</p> <ul style="list-style-type: none"> <li>(i) Generally in accordance with development approval documents; and</li> <li>(ii) Strictly in accordance with those parts of the approved development which have been specified in detail by the Council or Referral Agency unless the Council or Referral Agency agrees in writing that those parts will be adequately complied with by amended specifications.</li> </ul> <p>All development must comply with any relevant provisions in the <i>Goondiwindi Regional Planning Scheme 2018</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 plan(s) and supporting documentation including any written and electronic correspondence between applicant, Council or Referral Agencies during all stages of the development application assessment processes.</p>						
4.	All conditions must be complied with or bonded prior to the submission to Council of the Plan of Survey, unless specified in an individual condition.						

	<b>ESSENTIAL SERVICES</b>
5.	Each proposed lot shall remain connected to an adequate water supply system, in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the <i>Goondiwindi Region Planning Scheme 2018</i> , to the satisfaction of and at no cost to council.
6.	Each proposed lot shall remain connected to an onsite sewerage system, in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the <i>Goondiwindi Region Planning Scheme 2018</i> , to the satisfaction of and at no cost to council.  All sewer infrastructure (including effluent disposal area) shall be fully located within the site boundaries.
	<b>PUBLIC UTILITIES</b>
7.	Each proposed lot shall remain connected to an adequate electricity and telecommunication supply system, at no cost to Council.
8.	Each proposed lot shall be provided with an adequate and reliable water supply for firefighting purposes which is safety located and has sufficient flow and pressure characteristics.
	<b>VEHICLE ACCESS</b>
9.	Vehicle access to the subject site from the Gore Highway shall be constructed and maintained to comply with standards set by the Department of Transport and Main Roads.  Crossovers shall be either constructed or bonded prior to the submission to Council of the Plan of Survey.  The applicant shall contact the Department of Transport and Main Roads for specifications.  A qualified Council Officer may inspect construction works at the request of the developer to ensure compliance with this condition.
	<b>DEVELOPER'S RESPONSIBILITIES</b>
10.	Any alteration or damage to roads and public infrastructure that is attributable to the progress of works or vehicles associated with the development must be repaired to Council's satisfaction or the cost of repairs paid to Council.
11.	The developer shall be responsible for meeting all costs reasonably associated with the approved development, unless there is specific agreement by other parties, including Council, to meeting those costs.



12.	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.
13.	The developer shall be responsible for mitigating any complaints arising from on-site operations during construction.
14.	Construction works must occur so they do not cause unreasonable interference with the amenity of adjoining premises. During construction the site must be kept in a clean and tidy state at all times.
15.	It is the developer's responsibility to ensure that potential bushfire hazards are appropriately mitigated to reflect the hazard level of the site in regard to vegetation type and proximity, slope and aspect, bushfire history, on-site environmental values, ease of maintenance, and any specific implications of the development.
16.	The development must directly, indirectly and accumulatively avoid any increase in water flow velocity of flood level, and must not increase the potential for flood damage either onsite and or on another property.
<b>BEFORE PLANS WILL BE ENDORSED</b>	
17.	<p>The developer shall submit a detailed Plan of Survey, prepared by a licensed surveyor, for the endorsement of Council. In accordance with Schedule 18 of the <i>Planning Regulations 2017</i>.</p> <p>The relevant Council Fee for endorsement of the Plan of Survey (currently \$175; subject to change).</p>
18.	<p>All outstanding rates and charges shall be paid to Council prior to the submission to Council of the Plan of Survey.</p> <p>At its discretion, Council may accept bonds or other securities by way of bank guarantee or cash, to ensure completion of specified development approval conditions to expedite the endorsement of the Plan of Survey.</p> <p>It may be necessary for Council to use such bonds for the completion of outstanding works without a specific timeframe agreed.</p>

<p><b>19.</b></p>	<p>A letter outlining and demonstrating that conditions have been complied with shall be submitted to Council prior to the submission to Council of the Plan of Survey. Council officers may require a physical inspection to confirm that all conditions have been satisfied to relevant standards.</p> <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) If no period is stated – <b>4 years</b> 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>
<p><b>NOTES AND ADVICE</b></p>	
	<p>Infrastructure charges as outlined in the attached Infrastructure Charges Notice shall be paid upon Council's approval of the Plan of Survey. The Infrastructure Charges Notice is included in <b>Attachment 3</b>.</p>
	<p><i>When approval takes effect</i></p> <p>This approval takes effect in accordance with section 85 of the <i>Planning Act 2016</i>.</p> <p><i>When approval lapses</i></p> <p>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) If no period is stated – <b>4 years</b> 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>
	<p>All development shall be conducted in accordance with the provisions of the <i>Environmental Protection Act 1994</i> and all relevant regulations and standards under that Act. All necessary licences under the Act shall be obtained and shall be maintained at all times.</p>

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



## **Attachment 1 – Concurrency agency conditions**

***Part 2 – Department of State Development, Manufacturing, Infrastructure and Planning Concurrency Agency Response***



Our reference: 1808-6978 SRA  
Your reference: 18/24W

24 October 2018

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—no requirements**

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

The development application described below was properly referred to the Department of State Development, Manufacturing, Infrastructure and Planning (DSDMIP) on 8 October 2018.

**Applicant details**

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Applicant name: Carpendale Farms Pty Ltd  
C/- SMK Consultants

Applicant contact details: 9 Pratten Street, PO Box 422  
Goondiwindi QLD 4390  
Via email: jobling@smk.com.au

**Location details**

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Street address: 18833 Gore Highway, Goondiwindi QLD 4390

Real property description: Lot 62 on SP146065

Local government area: Goondiwindi Regional Council

**Application details**

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Development permit Reconfiguring a lot for one (1) lot into two (2) lots

**Referral triggers**

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

- 10.9.4.2.1.1 State transport corridors and future State transport corridors

**No requirements**

Under section 56(1)(a) of the *Planning Act 2016*, DSDMIP advises it has no requirements relating to the application.

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

For further information please contact Brittany Hughes, Planning Officer, on (07) 4616 7307 or via email [ToowoombaSARA@dsmip.qld.gov.au](mailto:ToowoombaSARA@dsmip.qld.gov.au) who will be pleased to assist.

Yours sincerely



Andrew Foley  
Manager

cc Andrew Kluck for Carpendale Farms, [jobling@smk.com.au](mailto:jobling@smk.com.au)



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

**Department of State Development, Manufacturing, Infrastructure and Planning (DSDMIP)**

**Statement of reasons for application 1808-6978 SRA**

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

Departmental role: Referral agency

**Applicant details**

Applicant name: Carpendale Farms Pty Ltd  
C/- SMK Consultants

Applicant contact details: 9 Pratten Street, PO Box 422  
Goondiwindi QLD 4390  
Via email: jobling@smk.com.au

**Location details**

Street address: 18833 Gore Highway, Goondiwindi QLD 4390

Real property description: Lot 62 on SP146065

Local government area: Goondiwindi Regional Council

**Development details**

Development permit Reconfiguring a lot for one (1) lot into two (2) lots

**Assessment matters**

Aspect of development requiring code assessment	State Development Assessment Provisions (SDAP), version 2.4, applicable code:
1. Reconfiguration of a lot	State code 1: Development on a state-controlled road (SCR) network.

**Reasons for DSDMIP's response:**

The reasons for the decision are that the proposed development:

- does not compromise the operation or capacity of existing drainage infrastructure for a SCR
- involves existing access arrangements that comply with state code 1
- does not impact any planned SCR upgrades
- will not have any impact on the SCR network.

**Response:**

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- Development approval
- No requirements
- Response issued 24 October 2018

**Relevant Material:**

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- Development application
- SDAP published by DSDMIP
- Technical agency response
- *Transport Infrastructure Act 2009*
- *Planning Act 2016*
- Planning Regulation 2017
- Development Application Rules





**Attachment 2 – Approved Plans**





14  
SP200607  
**MANUS RD**

**HIGHWAY**

**ROAD**

**WYAGA CK**

**TENOMBY ROAD**

**GORF ROAD**

7  
CWN175

9  
SPI88452

10  
CWN402

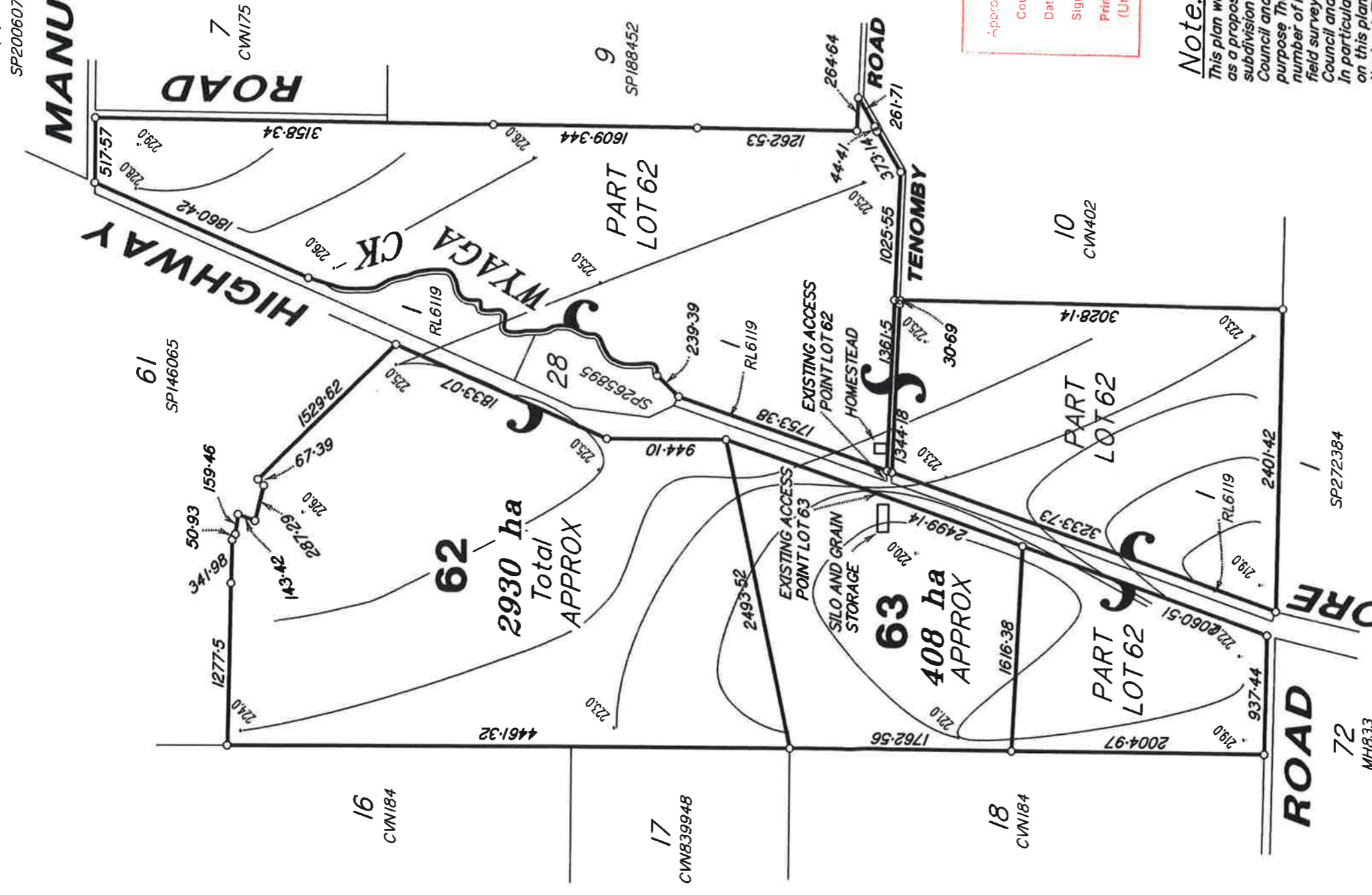
61  
SPI146065

16  
CWN184

17  
CWN839948

18  
CWN184

72  
MH833



GOONDIWINDI REGIONAL COUNCIL  
Approved Plan referred to in Council's Decision Notice  
Council Reference: 18/24W  
Dated: 12 November 2018  
Signed: *R.M.M.*  
Print Name: Mrs Rennie Moulton  
(Under Delegation) ASSESSMENT MANAGER

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

**Note:**  
1) Elevation datum taken from Google Earth  
2) Contours @ 1m intervals



**CARPENDALE FARMS PTY LTD**

Goondiwindi 9 Pratten St Goondiwindi 4390  
Ph (07)4671 2445 Fax (07)4671 2561  
E-Mail [info@emik.com.au](mailto:info@emik.com.au)  
Moree 39 Frome St Moree 2400  
Ph (02)6752 1840 Fax (02)6752 5070

**SMK**  
CONSULTANTS PTY LTD.

Drawn FG 26/7/18 Checked FBK 218099

PLAN OF PROPOSED SUBDIVISION  
OF LOT 62 ON SPI46065

SCALE: 40000

218099-1

**A3**



## Attachment 3 – Infrastructure Charges Notice





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

Locked Mail Bag 7  
Inglewood QLD 4387

Telephone: 07 4671 7400  
Fax: 07 4671 7433

Email: [mail@grc.qld.gov.au](mailto:mail@grc.qld.gov.au)

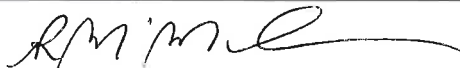
## Infrastructure Charges Notice

<b>Address</b>	'Carpendale II' 18833 Gore Highway, Goondiwindi
<b>Owner</b>	Western Front Pty Ltd
<b>Applicant</b>	Carpendale Farms Pty Ltd
<b>Application No.</b>	18/24W
<b>Lot and Survey Plan</b>	Lot 62 on SP146065
<b>Date</b>	12 November 2018
<b>Approval</b>	Development Permit – Reconfiguration of a Lot

Development Application Details
Development Permit for Reconfiguration of a Lot (One (1) into Two (2) lot subdivision)

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

Due Date	When Goondiwindi Regional Council approves the plan of subdivision	Total Charge (\$)	1,080
Charge to be paid to	Goondiwindi Regional Council		
Lapse Date	12 November 2022		

Authorised by: 

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

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

*In accordance the Planning Act 2016*

<b>Office Use – Receipt Number</b>
Subdivisions – 1250-1150-0000





**Attachment 4 – Notice about decision - Statement of reasons**



## Notice about decision - Statement of reasons

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

The development application for Reconfiguring a lot – one (1) into two (2) lot subdivision

18/24W

'Carpendale II' 18833 Gore Highway, Goondiwindi

Lot 62 on SP146065

On 12 November 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, Biodiversity Overlay Code, Flood Hazard Overlay Code, Bushfire Hazard Overlay Code, Natural Resources Overlay Code, and Infrastructure Overlay Code of the *Goondiwindi Region Planning Scheme 2018*, the proposed development satisfied all relevant criteria, and was approved subject to appropriate, relevant and reasonable conditions.

### 2. Assessment benchmarks

The following are the benchmarks applying for this development:

Benchmarks applying for the development	Benchmark reference
<i>Reconfiguring a Lot Code</i>	<i>Goondiwindi Region Planning Scheme 2018:</i> <i>AO1.1, AO1.2, AO1.3, AO3.2, AO4.2, AO6, AO10</i>
<i>Biodiversity Overlay Code</i>	<i>Goondiwindi Region Planning Scheme 2018:</i> <i>PO1, PO2, AO3.4</i>
<i>Flood Hazard Overlay Code</i>	<i>Goondiwindi Region Planning Scheme 2018:</i> <i>AO1.1, AO1.2, PO2, AO4</i>
<i>Bushfire Hazard Overlay Code</i>	<i>Goondiwindi Region Planning Scheme 2018:</i> <i>AO1.1, AO2.3, AO3, AO5, PO6, AO7.2, AO8</i>
<i>Natural Resources Overlay Code</i>	<i>Goondiwindi Region Planning Scheme 2018:</i> <i>PO5, PO6, PO7, PO8</i>
<i>Infrastructure Overlay Code</i>	<i>Goondiwindi Region Planning Scheme 2018:</i> <i>AO5.2</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 to this proposed development.



**Attachment 5 – *Planning Act 2016* Extracts**





**EXTRACT FROM PLANNING ACT 2016  
RELATING TO APPEAL RIGHTS**

**Chapter 6 Dispute Resolution, Part 1 Appeal Rights**

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

(1) Schedule 1 states—

(a) matters that may be appealed to—

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

(ii) only a tribunal; or

(iii) only the P&E Court; and

(b) the person—

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

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

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

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

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

(3) The **appeal period** is—

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

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

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

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

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

deemed approval notice to the assessment manager; or

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

**Note—**

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

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

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

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

(a) the adopted charge itself; or

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

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

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

**230 Notice of appeal**

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

(a) is in the approved form; and

(b) succinctly states the grounds of the appeal.

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

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

(a) the respondent for the appeal; and

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

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

principal submitter for the development application; and

- (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
- (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
- (f) for an appeal to the P&E Court—the chief executive; and
- (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.

(4) The **service period** is—

- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
  - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

### 231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The Judicial Review Act 1991, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the Judicial Review Act 1991 in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.

(4) In this section—

**decision** includes—

- (a) conduct engaged in for the purpose of making a decision; and
- (b) other conduct that relates to the making of a decision; and
- (c) the making of a decision or the failure to make a decision; and
- (d) a purported decision; and
- (e) a deemed refusal.

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

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the Judicial Review Act 1991 or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

### 232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

## Part 2 Development tribunal

### Division 1 General

#### 233 Appointment of referees

- (1) The Minister, or chief executive, (the appointer) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—
  - (a) has the qualifications or experience prescribed by regulation; and
  - (b) has demonstrated an ability—
    - (i) to negotiate and mediate outcomes between parties to a proceeding; and

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

(iii) to analyse complex technical issues; and

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

(2) The appointer may—

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

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

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

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

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

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

(7) In this section—

**appointment notice** means—

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

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

#### **234 Referee with conflict of interest**

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

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

(i) the referee owns; or

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

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

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

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

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

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

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

#### **235 Establishing development tribunal**

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

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

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

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

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

### **236 Remuneration**

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

### **237 Tribunal proceedings**

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

### **238 Registrar and other officers**

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

## **Division 2 Applications for declarations**

### **239 Starting proceedings for declarations**

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

### **240 Application for declaration about making of development application**

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

#### **respondent means—**

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

### **241 Application for declaration about change to development approval**

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

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

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

(4) In this section—

**respondent means—**

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

(b) if the responsible entity started the proceedings—the applicant.

### **Division 3 Tribunal proceedings for appeals and declarations**

#### **242 Action when proceedings start**

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

(a) establish a tribunal for the proceedings; and

(b) appoint 1 of the referees for the tribunal as the tribunal's chairperson, in the way required under a regulation; and

(c) give notice of the establishment of the tribunal to each party to the proceedings.

#### **243 Chief executive excusing noncompliance**

(1) This section applies if—

(a) the registrar receives a document purporting to start tribunal proceedings, accompanied by the required fee; and

(b) the document does not comply with any requirement under this Act for validly starting the proceedings.

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

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

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

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

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

#### **244 Ending tribunal proceedings or establishing new tribunal**

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

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

• there are no qualified referees or insufficient qualified referees because of a conflict of interest

• the referees who are available will not be able to decide the proceedings in a timely way

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

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

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

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

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

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

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

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

#### **245 Refunding fees**

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

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

#### **246 Further material for tribunal proceedings**

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

Examples of information that the registrar may require—

- material about the proceedings (plans, for example)
- information to help the chief executive decide whether to excuse noncompliance under section 243
- for a deemed refusal—a statement of the reasons why the entity responsible for deciding the application had not decided the application during the period for deciding the application.

- (2) The person must give the information to the registrar within 10 business days after the registrar asks for the information.

#### **247 Representation of Minister if State interest involved**

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

#### **248 Representation of parties at hearing**

A party to tribunal proceedings may appear—

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

#### **249 Conduct of tribunal proceedings**

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

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

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

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

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

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

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

- (6) When hearing proceedings, the tribunal—

(a) need not proceed in a formal way; and

(b) is not bound by the rules of evidence; and

(c) may inform itself in the way it considers appropriate; and

(d) may seek the views of any person; and

(e) must ensure all persons appearing before the tribunal have a reasonable opportunity to be heard; and

(f) may prohibit or regulate questioning in the hearing.

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

#### **250 Tribunal directions or orders**

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

Examples of directions—

• a direction to an applicant about how to make their development application comply with this Act

• a direction to an assessment manager to assess a development application, even though the referral agency's response to the assessment manager was to refuse the application

#### **251 Matters tribunal may consider**

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

#### **252 Deciding no jurisdiction for tribunal proceedings**

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

(4) The decision notice must state the effect of subsection (3).

(5) If the tribunal decides to end the proceedings, the fee paid to start the proceedings is not refundable.

#### **253 Conduct of appeals**

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

#### **254 Deciding appeals to tribunal**

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

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

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

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

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

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

#### **255 Notice of tribunal's decision**

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

#### **256 No costs orders**

A tribunal must not make any order as to costs.

#### **257 Recipient's notice of compliance with direction or order**

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

#### **258 Tribunal may extend period to take action**

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

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

#### **259 Publication of tribunal decisions**

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

## **Schedule 1 Appeals**

### **section 229**

#### **Appeal rights and parties to appeals**

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

(a) the P&E court; or

(b) a tribunal.

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

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

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

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

(b) a provision of a development approval for—

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

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

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

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

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

(d) a development condition if—

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

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

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

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

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



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

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

(h) a decision to give an enforcement notice—

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

(ii) under the Plumbing and Drainage Act; or

(i) an infrastructure charges notice; or

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

(l) a matter prescribed by regulation.

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

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

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

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

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

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

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

(6) In each table—

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

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

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

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

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

(8) In this section—

**storey** see the Building Code, part A1.1.

**Table 1**

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

**1. Development applications**

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

Minister, an appeal may be made against—

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

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

(c) a provision of the development approval; or

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

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

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

***85 Lapsing of approval at end of current period***

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

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

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

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

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

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

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

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

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

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

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