

File: 19/14LB
Date: 28 September 2020

SMK QLD Pty Ltd
PO Box 422
GOONDIWINDI QLD 4390

Attention: Tom Jobling

Dear Mr Jobling

**Decision Notice – approval (with conditions)
Operational Works**

**Lots 6 & 7 on CVN57 and Lot 9 on CVN388, 'Woondulla', Talwood-Boonanga Road,
South Talwood**

We wish to advise that on 24 September 2020 a decision was made to approve the operational works development application for the construction of one (1) proposed levee bank (Category 2) at Lots 6 & 7 on CVN57 and Lot 9 on CVN388, 'Woondulla', Talwood-Boonanga Road, South Talwood. In accordance with the *Planning Act 2016*, please find attached Council's Decision Notice for the application.

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



Jason Quinnell
Acting Chief Executive Officer
Goondiwindi Regional Council

Decision Notice approval

Planning Act 2016 section 63

Council File Reference: 19/14LB
Council Contact: Mrs Ronnie McMahon: JMW
Council Contact Phone: (07) 4671 7400

28 September 2020

Applicant Details: SMK QLD Pty Ltd
PO Box 422
GOONDIWINDI QLD 4390

Attention: Tom Jobling

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

Applicant details

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

Application details

Application number: 19/14LB
Approval sought: Development Permit
Details of proposed development: Operational Works – Construction of one (1) proposed levee bank (Category 2)

Location details

Street address: 'Woondulla', Talwood-Boonanga Road, South Talwood
Real property description: Lots 6 & 7 on CVN57 and Lot 9 on CVN388

Decision

Date of decision: 24 September 2020
Decision details: Approved in full with conditions. These conditions are set out in Attachment 1 and are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

Details of the approval

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

The following approvals are given:

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - building work assessable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

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

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

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

Conditions

This approval is subject to the conditions in Attachment 1.

Further development permits

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

1. Not applicable

Properly made submissions

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

Referral agencies for the application

The referral agencies for this application are:

For an application involving	Name of referral agency	Advice agency or concurrence agency	Address
<p>As per Schedule 10, Part 19, Division 1, Subdivision 3, Table 1, Item 1 (10.19.1.3.1.1) of the PR:</p> <p><i>Development application for operational work that is assessable development under section 29, unless the chief executive is the prescribed assessment manager for the application.</i></p>	<p>Department of State Development, Manufacturing, Infrastructure and Planning</p>	<p>Concurrence Agency</p>	<p>Post: PO Box 825, Visit: 128 Margaret Street, TOOWOOMBA QLD 4350</p> <p>ToowoombaSARA@dsd mip.qld.gov.au</p> <p>Ph: (07) 4616 7307</p>
<p>As per Schedule 10, Part 9, Division 4, Subdivision 2, Table 5, Item 1 (10.9.4.2.5.1) of the PR:</p> <p><i>Development application for operational work, if—</i></p> <p>(a) all or part of the premises are within 25m of a State transport corridor; and</p> <p>(b) the work—</p> <p>(i) relates to access to a State transport corridor; or</p> <p>(ii) involves extractive, excavating or filling more than 50m³; or</p> <p>(iii) involves the redirection or intensification of site stormwater from the premises, through a pipe or culvert with a cross-sectional area of more than 625cm², to a State transport corridor; and</p> <p>(c) the work does not relate to—</p> <p>(i) a material change of use stated in table 4, item 1,</p>	<p>Department of State Development, Manufacturing, Infrastructure and Planning</p>	<p>Concurrence Agency</p>	<p>Post: PO Box 825, Visit: 128 Margaret Street, TOOWOOMBA QLD 4350</p> <p>ToowoombaSARA@dsd mip.qld.gov.au</p> <p>Ph: (07) 4616 7307</p>

For an application involving	Name of referral agency	Advice agency or concurrence agency	Address
<i>column 2, paragraph (a) or (c); or (ii) reconfiguring a lot stated in table 1, item 1, column 2 or table 3, item 1, column 2; or (iii) government supported transport infrastructure.</i>			

Approved plans and specifications

Copies of the following plans are enclosed.

Drawing/report title	Prepared by	Date	Reference no.
Aspect of development: Operational Works			
"Woondulla" Talwood Proposed Levee Alignment "C"	SMK Consultants Pty Ltd	16/6/2020	219037-1
"Woondulla" Talwood Proposed Levee "C" Woondulla Talwood	SMK Consultants Pty Ltd	16/6/2020	219137-3
Property plan "Woondulla"			
Plan – Levee "C" Woondulla			
W.J. & A. Seery "Woondulla" Talwood Proposed Levee Works Typical Embankment Sections	SMK Consultants Pty Ltd	16 th June 2020	219037

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*

- [Operational work] This approval lapses if the development does not substantially start within **two (2) years**.

Rights of appeal

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

Appeal by an applicant

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

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

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

Appeal by an eligible submitter

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

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

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

Attachment 4 is an extract from the *Planning Act 2016* that sets out the applicant's appeal rights and the appeal rights of a submitter.

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

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

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

Yours Sincerely



Jason Quinnell
Acting Chief Executive Officer
Goondiwindi Regional Council

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



ATTACHMENTS

Attachment 1 – Assessment Manager’s Conditions

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 – Notice about decision - Statement of reasons

Attachment 4 – Planning Act 2016 Extracts

Planning Act 2016 appeal provisions

Planning Act 2016 lapse dates



Attachment 1 – Assessment Manager’s Conditions



Assessment Manager's Conditions

Proposed Use:	"Operational Works"- Construction of one (1) proposed levee bank (Category 2)
Development:	Operational Works – Development Permit
Applicant:	SMK QLD Pty Ltd
Address:	'Woondulla', Talwood-Boonanga Road, South Talwood
Real Property Description:	Lots 6 & 7 on CVN57 and Lot 9 on CVN388
Council File Reference:	19/14LB

GENERAL CONDITIONS																			
1.	<p>Approval is granted for the purpose of Operational Works:</p> <p><i>As per the Water Act 2000 and Schedule 10, Part 19, Division 4, Subdivision 1, section 32(c) of the Planning Regulation 2017:</i></p> <ul style="list-style-type: none"> Construction of one (1) Category 2 levee <p>The development shall be in accordance with supporting information supplied by the applicant with the development application including the following plans:</p> <table border="1"> <thead> <tr> <th>Drawing Number</th> <th>Title</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>219037-1</td> <td>"Woondulla" Talwood Proposed Levee Alignment "C"</td> <td>16/6/2020</td> </tr> <tr> <td>219137-3</td> <td>"Woondulla" Talwood Proposed Levee "C" Woondulla Talwood</td> <td>16/6/2020</td> </tr> <tr> <td></td> <td>Property Plan "Woondulla"</td> <td></td> </tr> <tr> <td></td> <td>Plan – Levee "C" "Woondulla"</td> <td></td> </tr> <tr> <td>219037</td> <td>W.J. & A. Seery "Woondulla" Talwood Proposed Levee Works Typical Embankment Sections</td> <td>16th June 2020</td> </tr> </tbody> </table> <p>The development approval relates only to the approved works identified on the approved plan. The approved plan is included in Attachment 2.</p>	Drawing Number	Title	Date	219037-1	"Woondulla" Talwood Proposed Levee Alignment "C"	16/6/2020	219137-3	"Woondulla" Talwood Proposed Levee "C" Woondulla Talwood	16/6/2020		Property Plan "Woondulla"			Plan – Levee "C" "Woondulla"		219037	W.J. & A. Seery "Woondulla" Talwood Proposed Levee Works Typical Embankment Sections	16 th June 2020
Drawing Number	Title	Date																	
219037-1	"Woondulla" Talwood Proposed Levee Alignment "C"	16/6/2020																	
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	Property Plan "Woondulla"																		
	Plan – Levee "C" "Woondulla"																		
219037	W.J. & A. Seery "Woondulla" Talwood Proposed Levee Works Typical Embankment Sections	16 th June 2020																	
2.	<p>Complete and maintain the approved development as follows:</p> <ol style="list-style-type: none"> Generally in accordance with development approval documents; and Strictly in accordance with those parts of the approved development which have been specified in detail by Council unless Council agrees in writing that those parts will be adequately complied with by amended specifications. <p>All aspects of the development shall comply with any relevant provisions in the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i>, the <i>"Guidelines for the construction and modification of category 2 and 3 levees,"</i> (Version 2.0, December 2018) prepared by the Department of Natural Resources, Mines and Energy, Council's standard designs for applicable work and/or 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 any relevant Agencies during all stages of the development application assessment processes.</p>
3.	<p><i>When approval takes effect</i></p> <p>This approval takes effect in accordance with section 71 of the <i>Planning Act 2016</i>.</p> <p><i>When approval lapses</i></p> <p>This approval will lapse if the development does not substantially start within two (2) years after the approval starts to take effect, in accordance with the section 85(1)(c) of the <i>Planning Act 2016</i>.</p> <p>Section 86 of the <i>Planning Act 2016</i> sets out how an extension to the currency period of approval can be requested.</p>
CONSTRUCTION REQUIREMENTS	
4.	<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>
5.	<p>All excavating and filling works are to be designed and certified by a Registered Professional Engineering of Queensland (RPEQ). These works are to be designed and constructed in accordance with Australia Standard AS3798.</p>
6.	<p>Erosion and sediment control measures shall be in place at the location of all works prior to work commencing and remain until work is completed in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i>, to the satisfaction of and at no cost to Council.</p> <p>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>
7.	<p>Excess spoil shall not be used as fill if it would result in changes to the pre-existing drainage patterns.</p>
8.	<p>No spoil is to be placed external to the proposed development area or external to any other existing levied areas unless it is placed in streamlined rills constructed above natural ground level and shall be to the following dimensions:</p> <ul style="list-style-type: none"> • Maximum width 6.m; • Maximum height 0.6m; and • Parallel to the natural flow of flood water at a minimum of 200m centres.

9.	<p>Construction works must occur so they do not cause unreasonable interference with the amenity of adjoining premises.</p> <p>The site must be kept in a clean and tidy state at all times during construction. After construction is completed, the site shall be left in a clean and tidy condition with all batter, excavations or filling trimmed neatly.</p>
10.	<p>Any damage to road pavements or public infrastructure as a result of the construction of the works shall be repaired to Council's satisfaction or the cost of repairs paid to Council.</p>
11.	<p>All contractors and subcontractors shall hold current, relevant and appropriate qualifications and insurances in place to carry out the works.</p>
POST CONSTRUCTION RESPONSIBILITIES	
12.	<p>An "As Constructed" survey plan shall be provided to Council within three (3) months of the completion of construction.</p> <p>The survey shall be certified by a licensed surveyor to AMG / MGA and AHD levels. The survey shall provide sufficient information by way of co-ordinates and levels to demonstrate compliance with this approval.</p>
13.	<p>At all times while the levee is in existence, the applicant must maintain and repair the levee in accordance with:</p> <ul style="list-style-type: none"> • The conditions of the approval; • <i>"Guidelines for the construction and modification of category 2 and 3 levees,"</i> (Version 2.0, December 2018) prepared by the Department of Natural Resources, Mines and Energy; and • The "As Constructed" Survey Plan submitted to Council in accordance with Condition 12 of this Approval.
14.	<p>A qualified Council Officer may inspect construction works at the request of the applicant to ensure compliance with this approval.</p>
15.	<p>If the levee is to be modified or removed it will require an application to Council.</p>
16.	<p>At all times, the development shall be conducted in accordance with the provisions of the <i>Environmental Protection Act 1994</i> (the act) and all relevant regulations and standards under that Act. All necessary licenses under the Act shall be obtained and shall be maintained at all times while the levee is in existence.</p>
17.	<p>At all times, the development 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>

18.	The applicant shall be responsible for mitigating any complaints arising from on-site operations or construction works.
PLEASE READ CAREFULLY – NOTES AND ADVICE	
	It is the applicant's responsibility to obtain all statutory approvals for the construction of the works prior to commencement of any works onsite.
	This approval in no way removes the duty of care responsibility of the applicant under the <i>Aboriginal Cultural Heritage Act 2003</i> . Pursuant to Section 23(1) of the <i>Aboriginal Cultural Heritage Act 2003</i> , a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care").
	This approval in no way authorises the clearing of native vegetation protected under the <i>Vegetation Management Act 1999</i> .
	The approved development does not authorise any deviation from the applicable Australian Standards nor from the application of any laws, including laws covering work place health and safety.



Attachment 1 – Assessment Manager’s Conditions

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





Queensland Treasury

SARA reference: 2006-17466 SRA
 Council reference: 19/14LB

11 August 2020

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

Attention: Lauren McVicar

Dear Lauren

SARA response—987 - 1211 Talwood Boonanga Road, South Talwood

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

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 6 July 2020. This referral agency response replaces 1905-10964 SRA.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	11 August 2020
Conditions:	The conditions in Attachment 1 must be attached to any development approval.
Advice:	Advice to the applicant is in Attachment 2 .
Reasons:	The reasons for the referral agency response are in Attachment 3 .

Development details

Description:	Development permit	Other change - Operational work for Construction of One Proposed Levee Bank (Category 2)
SARA role:	Referral Agency.	
SARA trigger:	Schedule 10, Part 19, Division 1, Subdivision 3, Table 1, Item 1 (10.19.1.3.1.1)—Operational work that involves taking or interfering with water (Planning Regulation 2017)	

Schedule 10, Part 9, Division 4, Subdivision 1, Table 1, Item 1 (10.9.4.1.1.1)—Development impacting on state transport infrastructure (Planning Regulation 2017)

Schedule 10, Part 9, Division 4, Subdivision 2, Table 5, Item 1 (10.9.4.2.5.1)—Operational work on premises near a state transport corridor (Planning Regulation 2017)

SARA reference: 2006-17466 SRA
Assessment Manager: Goondiwindi Regional Council
Street address: 987 - 1211 Talwood Boonanga Road, South Talwood
Real property description: Lots 6 & 7 on CVN57 and Lot 9 on CVN388
Applicant name: SMK Consultants for John Seery
Applicant contact details: 9 Pratten Street, PO Box 422
Goondiwindi QLD 4390
tom@smkqld.com.au

Representations

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

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

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

Yours sincerely



Darren Cooper
Manager - DDSW (Planning)

cc SMK Consultants for Mr John Seery, tom@smkqld.com.au
enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations provisions

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application)

No.	Conditions	Condition timing
Operational work		
<p>10.9.4.2.5.1— Operational work on premises near a state transport corridor—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:</p>		
1.	Any excavation, filling/backfilling/compaction, retaining and other works involving ground disturbance must not encroach or de-stabilise the state-controlled road or the land supporting this infrastructure or cause similar adverse impacts.	At all times.
2.	<p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.</p> <p>(b) Any works on the land must not:</p> <ul style="list-style-type: none"> (i) create any new discharge points for stormwater runoff onto the state-controlled road; (ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road; (iii) surcharge any existing culvert or drain on the state-controlled road; (iv) reduce the quality of stormwater discharge onto the state-controlled road. 	At all times.

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v2.6. If a word remains undefined it has its ordinary meaning.
2.	The works must not capture overland flow water unless the landowner holds a water licence to authorise the take of overland flow water using the works.

Attachment 3—Reasons for referral agency response

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

The reasons for the SARA's decision are:

The development complies with *State Code 1: Development in a state-controlled road environment* and *State Code 6: Protection of state transport networks* of the SDAP. Specifically, the development:

- does not create a safety hazard for users of a state-controlled road
- does not result in a worsening of the physical condition or operating performance of state-controlled roads and the surrounding road network
- does not compromise the state's ability to construct, or significantly increase the cost to construct state-controlled roads and future state-controlled roads
- does not compromise the state's ability to maintain and operate state-controlled roads, or significantly increase the cost to maintain and operate state-controlled roads.

The development complies with *State code 10: Taking or interfering with water* of the SDAP. Specifically, the development:

- does not adversely impact on the natural riverine ecosystem processes, riverine environment, underground water systems or physical integrity of watercourses
- does not adversely impact on connectivity between underground water and water in a watercourse, lake or spring or detrimentally impact on the property of others
- is consistent with the requirements for taking or interfering with water under the *Water Act 2000*
- does not adversely impact the water security of other users and their access to the water resource.

Material used in the assessment of the application:

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

Attachment 4—Representations about a referral agency response

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

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

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

28 Concurrency agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

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

² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

30 Representations about a referral agency response

30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

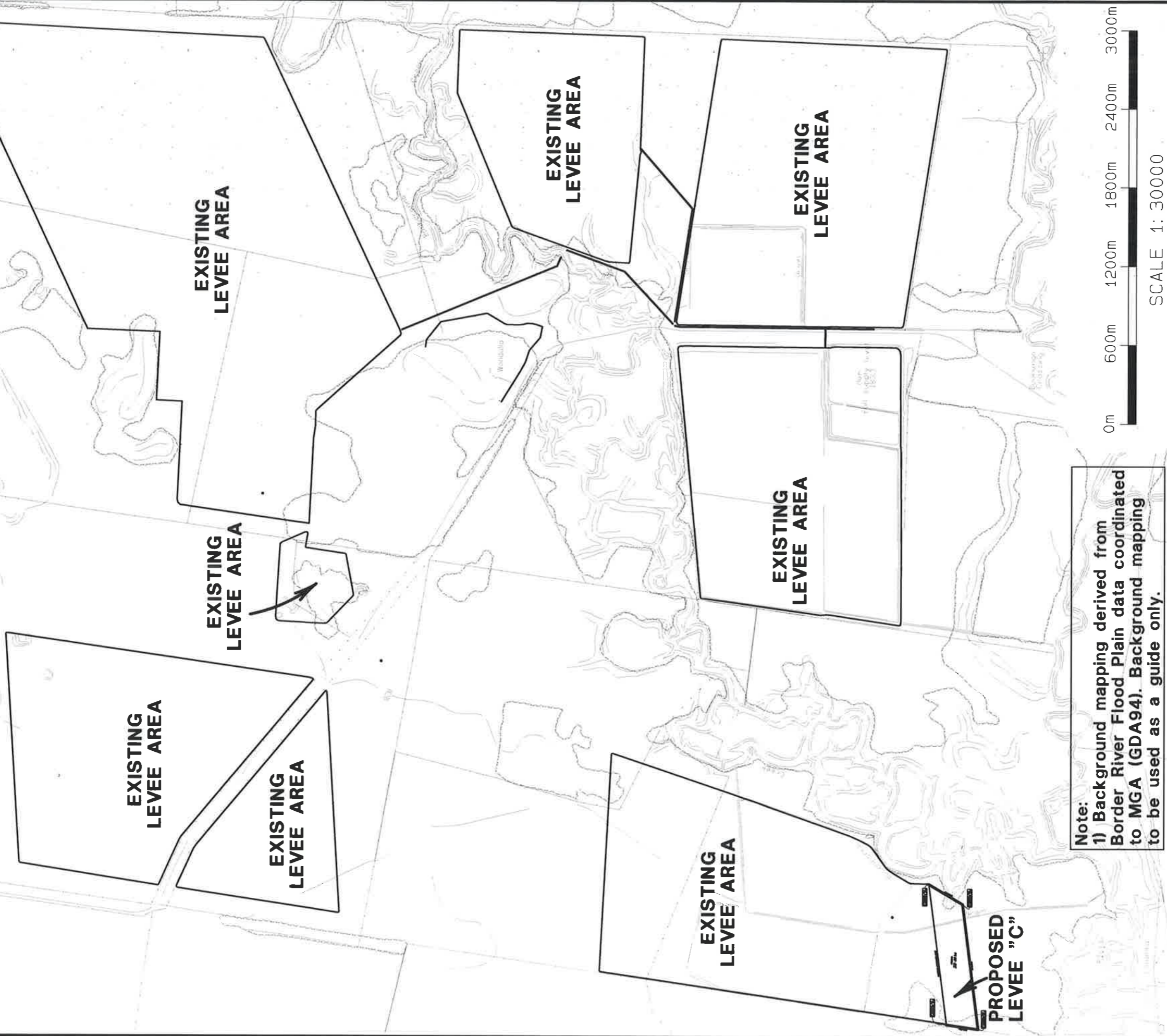


Attachment 2 – Approved Plans

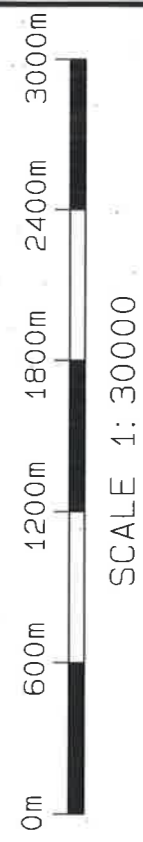




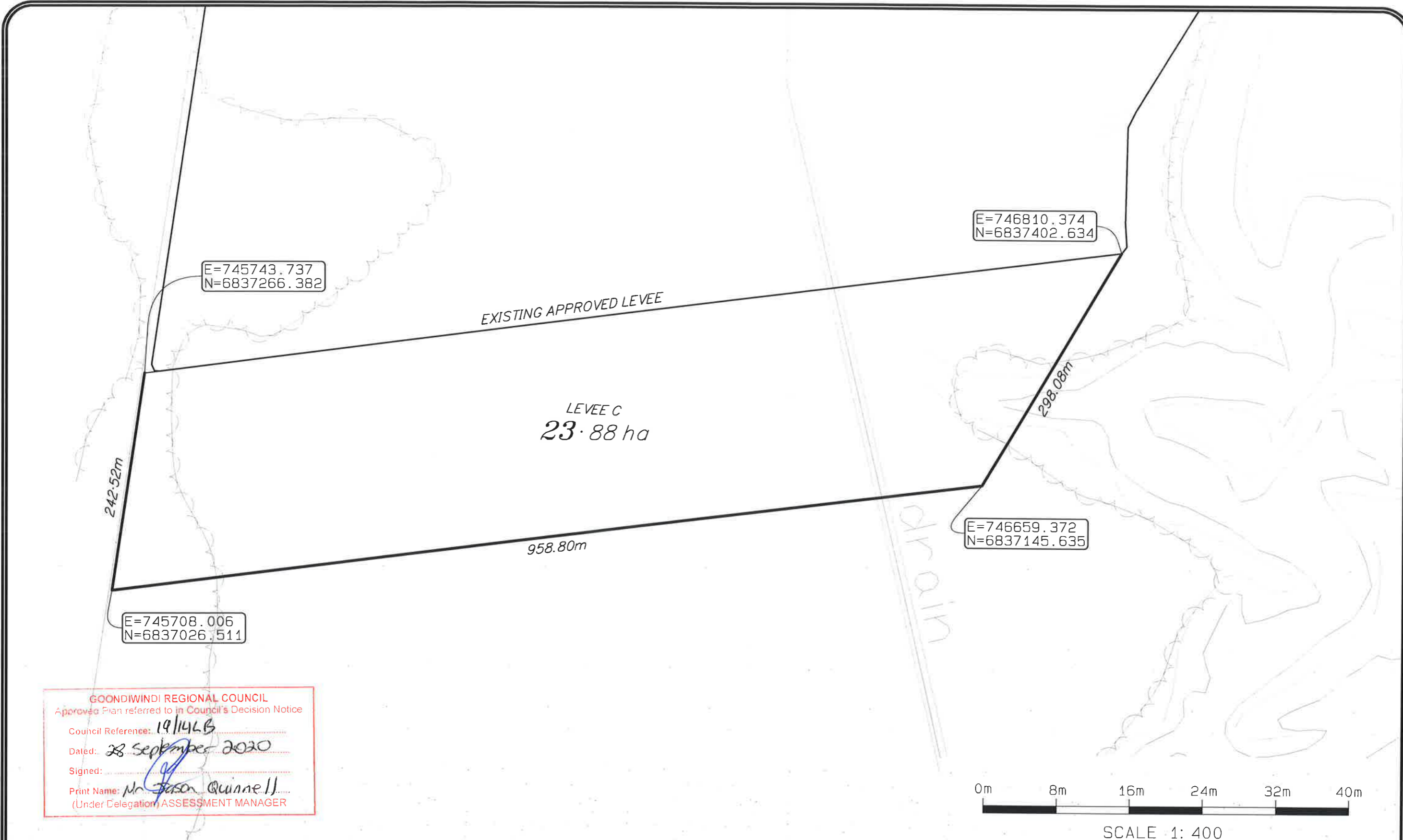
GOONDIWINDI REGIONAL COUNCIL
 Approved Plan referred to in Council's Decision Notice
 Council Reference: **19/14 LB**
 Dated: **28 September 2020**
 Signed: *M. Jason Quinnell*
 Print Name: **M. Jason Quinnell**
 (Under Delegation) ASSESSMENT MANAGER



Note:
 1) Background mapping derived from Border River Flood Plain data coordinated to MGA (GDA94). Background mapping to be used as a guide only.



W. J. & A. SEERY		"WOONDULLA" TALWOOD PROPOSED LEVEE ALIGNMENT "C"		SCALE	Horiz 1:30000
SMK CONSULTANTS PTY. LTD. Goondiwindi: 130 Marshall St Goondiwindi 4390 Ph (07)4671 2445 Fax (07)4671 2561 Email: qlid@smk.com.au Moree: 39 Frame St Moree 2400 Ph (02)6752 1640 Fax (02)6752 5070		H. Datum: MGA (GDA94) V. Datum: Assumed		219037-I	
Surveyor	TJU	16/6/2020	3:11PM	219037	
<small>c:\Users\User\Desktop\Jobbox\Jobbox\2019\219037 JOHN SEERY WOONDULLA LEVEE APPLICATION\219037.dwg</small>			<small>APPLICATION\219037.dwg</small>		



GOONDIWINDI REGIONAL COUNCIL
 Approved Plan referred to in Council's Decision Notice
 Council Reference: 19/146B
 Dated: 28 September 2020
 Signed: *[Signature]*
 Print Name: Mr Jason Quinell
 (Under Delegation) ASSESSMENT MANAGER



W. J. & A. Seery
 SMK CONSULTANTS PTY. LTD.
 Goondiwindi 9 Pratten St Goondiwindi 4390
 Ph (07)4671 2445
 Fax (07)4671 2561
 Email: gld@smk.com.au
 Moree 39 Frome St Moree 2400
 Ph (02)6752 1640 Fax (02)6752 5070

**"WOONDULLA" TALWOOD
 PROPOSED LEVEE "C"
 WOONDULLA TALWOOD**
 Horizontal Datum: MGA (GDA94)
 Vertical Datum: Assumed

219137	A3	219137-3
SCALE Horiz 1:400		

7 PROPERTY PLAN "WOONDULLA"

description for your map

North Talwood

Earth

ESRI/Mapbox

7 km



GOONDIWINDI REGIONAL COUNCIL

Approved Plan referred to in Council's Decision Notice

Council Reference: 19/14 LB

Dated: 28 September 2020

Signed: 

Print Name: Mr. Jason O'Connell
(Under Delegation) ASSESSMENT MANAGER

7 LEVEE "C" "WOONDULLA"

description for your map.



Koramba Rd

1 km

Earth

ES/ AIRBUE

GOONDIWINDI REGIONAL COUNCIL

Approved Plan referred to in Council's Decision Notice

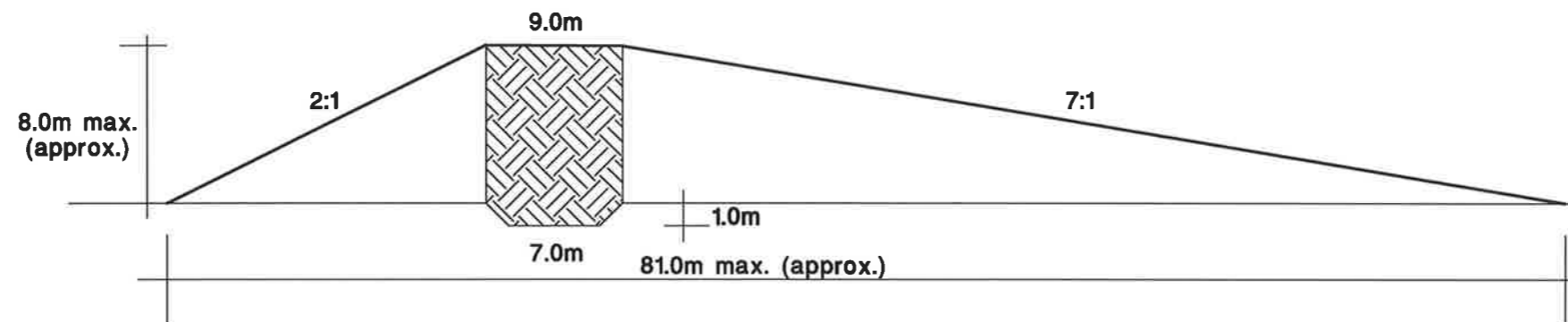
Council Reference: 19/14LB

Dated: 28 September 2020

Signed:

Print Name: Mr Jason Quinell

(Under Delegation) ASSESSMENT MANAGER



**TYPICAL SECTION -
STORAGE EMBANKMENT
(n.t.s.)**


Embankments to be constructed with compacted earthfill

SCALES
HORIZ : 1 :
VERT : 1 :
DATUM :
DATE : 16th June, 2020

SMK CONSULTANTS PTY. LTD.
9 PRATTEN STREET,
P.O. BOX 422, GOONDIWINDI, QLD 4390
PHONE (07) 4671 2445 FAX (07) 4671 2561

PLAN : W.J. & A. SEERY "WOONDULLA" TALWOOD
PROPOSED LEVEE WORKS
TYPICAL EMBANKMENT SECTIONS

REF: 219037
FILE: 219037 LEVEE C
SECTIONS
SHEET: 1 OF 1

GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 19/14LB
Dated: 28 September 2020
Signed: 
Print Name: Mr. Aaron Quinnell
(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 "*Operational Works*" – Construction of one (1) proposed levee bank

(Category 2)

19/14LB

'Woondulla', Talwood-Boonanga Road, South Talwood

Lots 6 & 7 on CVN57 and Lot 9 on CVN388

On 24 September 2020, the above development application was:

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

1. Reasons for the decision

The reasons for this decision are:

- *Having regard to the relevant criteria in the Flood Hazard Overlay Code and the Operational Works Code of the Goondiwindi Region Planning Scheme 2018 (Version 2), 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>Flood Hazard Overlay Code</i>	<i>Goondiwindi Region Planning Scheme 2018 (Version 2): PO2</i>
<i>Operational Works Code</i>	<i>Goondiwindi Region Planning Scheme 2018 (Version 2): PO1, PO2, AO3.1, AO3.2, PO4, AO5, PO6, AO7, PO8, PO9, PO10</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 4 – *Planning Act 2016 Extracts*



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

Chapter 6 Dispute Resolution, Part 1 Appeal Rights

229 Appeals to tribunal or P&E Court

(1) Schedule 1 states—

(a) matters that may be appealed to—

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

(ii) only a tribunal; or

(iii) only the P&E Court; and

(b) the person—

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

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

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

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

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

(3) The **appeal period** is—

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

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

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

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

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

deemed approval notice to the assessment manager; or

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

Note—

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

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

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

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

(a) the adopted charge itself; or

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

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

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

230 Notice of appeal

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

(a) is in the approved form; and

(b) succinctly states the grounds of the appeal.

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

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

(a) the respondent for the appeal; and

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

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

principal submitter for the development application; and

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

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

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

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

(4) The **service period** is—

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

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

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

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

231 Other appeals

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

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

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

(4) In this section—

decision includes—

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

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

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

(d) a purported decision; and

(e) a deemed refusal.

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

(a) is final and conclusive; and

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

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

232 Rules of the P&E Court

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

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

Part 2 Development tribunal

Division 1 General

233 Appointment of referees

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

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

(b) has demonstrated an ability—

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

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

(iii) to analyse complex technical issues; and

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

(2) The appointer may—

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

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

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

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

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

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

(7) In this section—

appointment notice means—

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

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

234 Referee with conflict of interest

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

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

(i) the referee owns; or

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

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

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

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

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

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

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

235 Establishing development tribunal

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

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

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

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

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

236 Remuneration

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

237 Tribunal proceedings

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

238 Registrar and other officers

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

Division 2 Applications for declarations

239 Starting proceedings for declarations

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

240 Application for declaration about making of development application

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

respondent means—

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

241 Application for declaration about change to development approval

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

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

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

(4) In this section—

respondent means—

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

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

Division 3 Tribunal proceedings for appeals and declarations

242 Action when proceedings start

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

(a) establish a tribunal for the proceedings; and

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

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

243 Chief executive excusing noncompliance

(1) This section applies if—

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

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

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

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

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

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

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

244 Ending tribunal proceedings or establishing new tribunal

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

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

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

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

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

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

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

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

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

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

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

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

245 Refunding fees

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

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

246 Further material for tribunal proceedings

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

Examples of information that the registrar may require—

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

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

247 Representation of Minister if State interest involved

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

248 Representation of parties at hearing

A party to tribunal proceedings may appear—

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

249 Conduct of tribunal proceedings

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

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

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

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

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

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

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

- (6) When hearing proceedings, the tribunal—

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

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

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

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

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

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

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

250 Tribunal directions or orders

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

Examples of directions—

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

251 Matters tribunal may consider

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

252 Deciding no jurisdiction for tribunal proceedings

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

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

253 Conduct of appeals

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

254 Deciding appeals to tribunal

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

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

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

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

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

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

255 Notice of tribunal's decision

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

256 No costs orders

A tribunal must not make any order as to costs.

257 Recipient's notice of compliance with direction or order

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

258 Tribunal may extend period to take action

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

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

259 Publication of tribunal decisions

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

Schedule 1 Appeals

section 229

Appeal rights and parties to appeals

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

(a) the P&E court; or

(b) a tribunal.

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

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

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

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

(b) a provision of a development approval for—

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

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

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

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

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

(d) a development condition if—

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

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

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

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

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

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

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

(h) a decision to give an enforcement notice—

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

(ii) under the Plumbing and Drainage Act; or

(i) an infrastructure charges notice; or

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

(l) a matter prescribed by regulation.

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

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

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

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

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

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

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

(6) In each table—

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

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

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

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

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

(8) In this section—

storey see the Building Code, part A1.1.

Table 1

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

1. Development applications

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

Minister, an appeal may be made against—

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

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

(c) a provision of the development approval; or

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

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

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

85 Lapsing of approval at end of current period

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

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

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

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

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

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

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

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

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

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

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