

File: 22/18
Date: 27 August 2024

Elonbreath Pty Ltd
C/- Property Projects Australia
PO Box 3686
TOOWOOMBA QLD 4350

Attention: Ms Harriet Veal & Mr James Juhasz

Dear Harriet & James

Negotiated Decision Notice
(Given under section 76 (3) of the *Planning Act 2016*)
Change Application (Other) – Reconfiguring a Lot
Lots 8-9 on SP158267, 18 Cunningham Highway and 8 Wilson Court, Goondiwindi

Goondiwindi Regional Council received your representations on conditions made under section 75 of the *Planning Act 2016* on 25 July 2024 for the development approval dated 23 May 2024.

Decision for change application

Date of decision: 21 August 2024
Decision details: Agree with the change representations.

The decision on the representations is that:

1. Condition 1 is amended; and
2. Condition 43 is amended.

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

Yours faithfully



Ronnie McMahon
Manager of Planning Services
Goondiwindi Regional Council

Negotiated Decision Notice approval

Planning Act 2016 section 76

Council File Reference: 22/18
Council Contact: Mrs Ronnie McMahon
Council Contact Phone: (07) 4671 7400

27 August 2024

Applicant Details: Elonbreath Pty Ltd
C/- Property Projects Australia
PO Box 3686
TOOWOOMBA QLD 4350

Attention: Ms Harriet Veal & Mr James Juhasz

The change representations were submitted to Goondiwindi Regional Council on 25 July 2024.

Applicant details

Applicant name: Elonbreath Pty Ltd
Applicant contact details: C/- Property Projects Australia
PO Box 3686, Toowoomba Qld 4350
harriet@propertyprojectsaustralia.com.au
james@propertyprojectsaustralia.com.au
0416 922 674

Application details

Application number: 22/18
Approval sought: Negotiated Decision Notice - Change Application (Other) to existing Development Permit
Details of proposed development: Reconfiguring a Lot (Two (2) Lots into Sixteen (16) Lots and road reserve)

Location details

Street address: 18 Cunningham Highway and 8 Wilson Court, Goondiwindi
Real property description: Lots 8-9 on SP158267

Decision

Date of decision: 21 August 2024
Decision details: Agree with the change representations. Changes to 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 checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

Decision on Change Representations

Development Permit Reconfiguring a Lot

Description of changes

Existing Condition 1

1. Approval is granted for the purpose of Reconfiguring a Lot – One (1) into fifteen (15) lot subdivision and road reserve.

Recommendation: Make change as required by Council

Proposed Changes – Condition 1

1. Approval is granted for the purpose of Reconfiguring a Lot – Two (2) lots into Sixteen (16) lots and road reserve

Existing Condition 43

43. A letter outlining and demonstrating that each condition has been complied with or how they will be 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.

When approval takes effect

This approval takes effect in accordance with section 85 of the Planning Act 2016.

When approval lapses

The approval will lapse if a plan for the reconfiguration is not given to the local government within the following periods, in accordance with the provisions contained in section 85(1)(b) of the Planning Act 2016:

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

Stage	Proposed Lots	Time Frame
1	999 & road reserve	Within 1 year of this approval taking effect

Proposed Changes – Condition 43

43. A letter outlining and demonstrating that each condition has been complied with or how they will be 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.

When approval takes effect

This approval takes effect in accordance with section 85 of the Planning Act 2016.

When approval lapses

The approval will lapse if a plan for the reconfiguration is not given to the local government within the following periods, in accordance with the provisions contained in section 85(1)(b) of the Planning Act 2016:

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

Stage	Proposed Lots	Time Frame
1	999 & road reserve	Plan for the reconfiguration to be submitted to Council by 31 January 2027

2	1-7	Within 2 years of this approval taking effect
3	8-15	Within 4 years of this approval taking effect

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

Recommendation: Agree with the change representations

2	1-7	Plan for the reconfiguration to be submitted to Council by 31 January 2028
3	8-15	Plan for the reconfiguration to be submitted to Council by 31 January 2031

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

Conditions

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

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

Further development permits

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

1. Survey Plan approval

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	Address
<p>As per Schedule 10, Part 9, Division 4, Subdivision 1, Table 1, Item 1 (10.9.4.1.1.1) of the PR:</p> <p><i>Development application for an aspect of development stated in schedule 20 that is assessable development under a local categorising instrument or section 21, if—</i></p> <p>(a) <i>the development is for a purpose stated in schedule 20, column 1 for the aspect; and</i></p> <p>(b) <i>the development meets or exceeds the threshold—</i></p> <p>(i) <i>for development in local government area 1—stated in schedule 20, column 2 for the purpose; or</i></p> <p>(ii) <i>for development in local government area 2—stated in schedule 20, column 3 for the purpose; and</i></p> <p>(c) <i>for development in local government area 1—the development is not for an accommodation activity or an office at premises wholly or partly in the excluded area</i></p> <p><i>However, if the development is for a combination of purposes stated in the same item of schedule 20, the threshold is for the combination of purposes and not for each individual purpose.</i></p>	<p>Department of Housing, Local Government Planning and Public Works –</p> <p>Concurrence Agency</p>	<p>Post: PO Box 825, Visit: 128 Margaret Street, TOOWOOMBA QLD 4350</p> <p>ToowoombaSARA@dsdilgp.qld.gov.au</p> <p>Ph: (07) 4616 7307</p>

For an application involving	Name of referral agency	Address
<p>As per Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1 (10.9.4.2.1.1) of the PR:</p> <p><i>Development application for reconfiguring a lot that is assessable development under section 21, if—</i></p> <p>(a) <i>all or part of the premises are within 25m of a State transport corridor; and</i></p> <p>(b) <i>1 or more of the following apply—</i></p> <p style="padding-left: 20px;">(i) <i>the total number of lots is increased;</i></p> <p style="padding-left: 20px;">(ii) <i>the total number of lots adjacent to the State transport corridor is increased;</i></p> <p style="padding-left: 20px;">(iii) <i>there is a new or changed access between the premises and the State transport corridor;</i></p> <p style="padding-left: 20px;">(iv) <i>an easement is created adjacent to a railway as defined under the Transport Infrastructure Act, schedule 6; and</i></p> <p>(c) <i>the reconfiguration does not relate to government supported transport infrastructure</i></p>	<p>Department of Housing, Local Government Planning and Public Works</p>	<p>Post: PO Box 825, Visit: 128 Margaret Street, TOOWOOMBA QLD 4350</p> <p>ToowoombaSARA@dsdilgp.qld.gov.au</p> <p>Ph: (07) 4616 7307</p>

Approved plans and specifications

Copies of the following plans are enclosed.

Drawing No	Title	Date
BE210552-SK01 Rev C	Development Layout Plan, Goondiwindi Subdivision – Johnston Road	25.01.2024
BE210552-SK04 Rev B	Functional Layout Plan, Goondiwindi Subdivision – Johnston Road	29.02.2024
BE210552-TIA-WCA-01	Traffic Impact Assessment – Wilsons Court Access	19.09.2023
BE210552-RP-CER-01	Civil Engineering Report	02/06/2022

Currency period for the approval

The approval will lapse if a plan for the reconfiguration is not given to the local government within the following periods, in accordance with the provisions contained in section 85(1)(b) of the *Planning Act 2016*:

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

Stage	Proposed Lots	Timeframe
1	999 & road reserve	<i>Plan for the reconfiguration to be submitted to Council by 31 January 2027</i>
2	1-7	<i>Plan for the reconfiguration to be submitted to Council by 31 January 2028</i>
3	8-15	<i>Plan for the reconfiguration to be submitted to Council by 31 January 2031</i>

Rights of appeal

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

Appeal by an applicant

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

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

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

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

Attachment 5 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 4 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 McMahan, on 07 4671 7400.

Yours Sincerely



Ronnie McMahon
Manager of Planning Services
Goondiwindi Regional Council

- cc Department of Housing, Local Government, Planning and Public Works
PO Box 825,
TOOWOOMBA QLD 4350
ToowoombaSARA@dSDLGP.qld.gov.au
- enc Attachment 1—Negotiated Assessment manager conditions and concurrence agency conditions
- State Assessment and Referral Agency Concurrence Agency Response dated 21 December 2023
- 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 – Negotiated Assessment Manager’s Conditions

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 – Negotiated Conditions Assessment Manager’s



Negotiated Assessment Manager's Conditions

Description:	Two (2) lots into Sixteen (16) lots and road reserve
Development:	Representations on Conditions - Change Application (Other) to existing Development Permit – Reconfiguring a lot
Applicant:	Elonbreath Pty Ltd C/- Property Projects Australia
Real Property Description:	Lots 8 & 9 on SP158267
Address:	18 Cunningham Highway & 8 Wilson Court, Goondiwindi
Council File Reference:	22/18

The amended conditions are highlighted in yellow below.

GENERAL CONDITIONS																
1.	Approval is granted for the purpose of Reconfiguring a Lot – Two (2) lots into Sixteen (16) lots and road reserve.															
2.	<p>The development shall be in accordance with supporting information supplied by the applicant with the development application including the following plans, subject to and modified by the conditions of this approval:</p> <table border="1"> <thead> <tr> <th>Drawing No</th> <th>Title</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>BE210552-SK01 Rev C</td> <td>Development Layout Plan, Goondiwindi Subdivision – Johnston Road</td> <td>25.01.2024</td> </tr> <tr> <td>BE210552-SK04 Rev B</td> <td>Functional Layout Plan, Goondiwindi Subdivision – Johnston Road</td> <td>29.02.2024</td> </tr> <tr> <td>BE210552-TIA-WCA-01</td> <td>Traffic Impact Assessment – Wilsons Court Access</td> <td>19.09.2023</td> </tr> <tr> <td>BE210552-RP-CER-01</td> <td>Civil Engineering Report</td> <td>02/06/2022</td> </tr> </tbody> </table> <p>Where there is any conflict between the conditions of this development approval and the details shown on the above plans, the conditions must prevail.</p> <p>Please note this is not an approved Plan of Survey. The approved plans are included in Attachment 2.</p>	Drawing No	Title	Date	BE210552-SK01 Rev C	Development Layout Plan, Goondiwindi Subdivision – Johnston Road	25.01.2024	BE210552-SK04 Rev B	Functional Layout Plan, Goondiwindi Subdivision – Johnston Road	29.02.2024	BE210552-TIA-WCA-01	Traffic Impact Assessment – Wilsons Court Access	19.09.2023	BE210552-RP-CER-01	Civil Engineering Report	02/06/2022
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BE210552-RP-CER-01	Civil Engineering Report	02/06/2022														
3.	<p>The approval is over three (3) stages as follows:</p> <ul style="list-style-type: none"> • Stage 1: Lot 999 & dedicate new road corridor (part) • Stage 2: Lots 1-7 (Residential Lots) • Stage 3: Lots 8-15 <p>Conditions within this approval apply to all stages unless otherwise specified.</p>															

3.	<p>Complete and maintain the approved development as follows:</p> <ul style="list-style-type: none"> (i) Generally in accordance with development approval documents; and (ii) Strictly in accordance with those parts of the approved development which have been specified in detail by the Council or Referral Agency unless the Council or Referral Agency agrees in writing that those parts will be adequately complied with by amended specifications. <p>All development must comply with any relevant provisions in the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i>, Council's standard designs for applicable work and any relevant Australian Standard that applies to that type of work.</p> <p>The development approval documents are the material contained in the development application, approved 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.	<p>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.</p>
<p>ESSENTIAL SERVICES</p>	
6.	<p>Prior to the submission to Council of the Plan of Survey for each relevant stage, each proposed lot shall be serviced by and connected to Council's reticulated water supply system in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards in 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 provide all necessary water infrastructure to enable all parcels to be serviced by a standard water connection to the satisfaction of Council and to relevant engineering standards.</p>
7.	<p>Prior to the submission to Council of the Plan of Survey for each relevant stage, each proposed lot shall be serviced by and connected to Council's reticulated sewerage system, in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land development Stands 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 provide all sewerage infrastructure to enable every parcel within the development to be serviced by Council's sewerage reticulation system.</p>
8.	<p>Prior to commencement of any works associated with Stage 2, submit to Council an amended Sewage Pump Station Impact Study in accordance with the Gravity Sewage Code of Australia (WSA02-2014). Any upgrade works required as a result of this study must be completed prior to submission to Council of the Plan of Survey for Stage 2.</p>

	PUBLIC UTILITIES
9.	Each proposed lot shall be connected to an adequate electricity supply system, with services to be installed underground when required, at no cost to Council.
10.	Each proposed lot shall be connected to an adequate telecommunications supply system, with services to be installed underground when required, at no cost to Council.
	FENCING
11.	<p>Prior to the submission to Council of the Plan of Survey for Stage 2, solid screen fencing, 1.8m high, shall be provided for the full length of the western boundaries of Proposed Lots 1-7. Fencing shall be constructed of suitable materials to protect the amenity of the proposed 'residential' lots.</p> <p>The fence shall be appropriately integrated with the proposed landscaping on site and present an attractive visual appearance to adjoining properties.</p>
	VEHICLE ACCESS
12.	<p>Prior to the submission to Council of the Plan of Survey for Stage 1, Proposed Lot 999 shall be provided with an industrial vehicle crossover to Wilson Court in accordance with Schedule 6.2.1 – Standard Drawing in Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i> or to other relevant engineering standards to the satisfaction of and at no cost to Council.</p> <p>The applicant shall contact Council's Department of Engineering to ensure the correct specifications are obtained for all civil works prior to commencement of any works onsite.</p> <p>A qualified Council Officer may inspect construction works at the request of the developer to ensure compliance with this condition.</p>
13.	<p>Prior to the submission to Council of the Plan of Survey for Stage 2, Proposed Lots 1-7 shall be provided with a residential vehicle crossover to Johnston Road in accordance with Schedule 6.2.1 – Standard Drawing in Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i> or to other relevant engineering standards to the satisfaction of and at no cost to Council.</p> <p>The applicant shall contact Council's Department of Engineering to ensure the correct specifications are obtained for all civil works prior to commencement of any works onsite.</p> <p>A qualified Council Officer may inspect construction works at the request of the developer to ensure compliance with this condition.</p>

<p>14.</p>	<p>Prior to the submission to Council of the Plan of Survey for Stage 3, Proposed Lots 8 and 9 shall be provided with an industrial vehicle crossover to the New Road in accordance with Schedule 6.2.1 – Standard Drawing in Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i> or to other relevant engineering standards to the satisfaction of and at no cost to Council.</p> <p>The applicant shall contact Council's Department of Engineering to ensure the correct specifications are obtained for all civil works prior to commencement of any works onsite.</p> <p>A qualified Council Officer may inspect construction works at the request of the developer to ensure compliance with this condition.</p>
<p>15.</p>	<p>Prior to the submission to Council of the Plan of Survey for Stage 3, Proposed Lots 10-15 shall be provided with a commercial vehicle crossover from the New Road in accordance with Schedule 6.2.1 – Standard Drawing in Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i> or to other relevant engineering standards to the satisfaction of and at no cost to Council.</p> <p>The applicant shall contact Council's Department of Engineering to ensure the correct specifications are obtained for all civil works prior to commencement of any works onsite.</p> <p>A qualified Council Officer may inspect construction works at the request of the developer to ensure compliance with this condition.</p>
<p>16.</p>	<p>Prior to the submission to Council of the Plan of Survey for Stage 3, the crossover constructed for Proposed Lot 999 in Stage 1 is to be removed and all kerb reinstated.</p> <p>A new industrial vehicle crossover for Proposed Lot 999 shall be provided from the New Road in accordance with Schedule 6.2.1 – Standard Drawing in Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i> or to other relevant engineering standards to the satisfaction of and at no cost to Council.</p> <p>The applicant shall contact Council's Department of Engineering to ensure the correct specifications are obtained for all civil works prior to commencement of any works onsite.</p> <p>A qualified Council Officer may inspect construction works at the request of the developer to ensure compliance with this condition.</p>
<p>ROADS</p>	
<p>17.</p>	<p>All new roads shall have a minimum reservation width of twenty (20) metres and shall be dedicated as public road at no cost to Council.</p>

18.	<p>All new roads shall be constructed:</p> <ul style="list-style-type: none"> (a) Generally in accordance with the approved plans, the Traffic Impact Assessment and the response to Further Advice (dated 29 February 2024). (b) With an eleven (11) metre pavement width measured from invert of kerb to invert of kerb, to relevant engineering standards as outlined in Schedule 6: Planning Scheme Policies, SC6.2.1 – Standards for Roads, Footpaths and Access of the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i>. (c) To the satisfaction of the Director Engineering Services and shall be in accordance with the relevant engineering standards outlined in Schedule 6: Planning Scheme Policies, SC6.2.1 – Standards for Roads, Footpaths and Access of the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i>.
19.	<p>Prior to the submission to Council of the Plan of Survey for Stage 3, the connection of the new road to the Cunningham Highway shall be constructed to standards determined by the Department of Transport and Main Roads.</p>
20.	<p>Concrete kerb and channelling shall be provided on both sides of the proposed new road at a minimum of eleven (11) metres invert to invert</p>
21.	<p>All new roads shall be appropriately named and all lots shall be given an appropriate street number. The developer shall submit to Council a prioritised list of proposed names for consideration. Council is under no obligation to use any of the names submitted.</p>
22.	<p>Prior to the submission to Council of the Plan of Survey for Stage 3, all street name signs within the development shall be supplied and erected. Street warning and regulatory signage and street name plates shall be designed and installed in accordance with the approved plans, the Manual of Uniform Traffic Control Devices, Transport Infrastructure (Roads) Act 1994 or to other relevant engineering standards, to the satisfaction of and at no cost to Council.</p> <p>A qualified Council Officer may inspect works at the request of the developer to ensure compliance with this condition.</p>
23.	<p>Street lighting shall be provided along the new road, to the satisfaction of the Director Engineering Services in accordance with Australian Standard - AS1158 and to relevant engineering standards as outlined in Schedule 6: Planning Scheme Policies, SC6.2.6 – Standards for Utilities of the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i>.</p>

STORMWATER	
24.	<p>The proposed development shall be adequately drained and all stormwater shall be disposed of to a legal discharge point in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the Goondiwindi Region Planning Scheme 2018 (Version 2) or to other relevant engineering standards, to the satisfaction of and at no cost to Council.</p> <p>Any increases in volume, concentration or velocity of stormwater from the site shall be channelled to lawful points of discharge or to other storage or dispersal arrangements which all must be agreed to in writing by Council.</p> <p>There shall be no change in direction or increase in the volume, concentration or velocity in any overland flow from the site to any adjoining properties unless agreed in writing by Council and the owners of any adjoining properties affected by these changes.</p> <p>The stormwater disposal system shall be designed to include appropriate pollution control devices or methods to ensure no contamination or silting of waterways.</p>
25.	<p>The stormwater drainage system shall be designed for the 1 in 5 year event. The design should be checked for the 1 in 100 year event to establish flow paths within the overall development.</p>
26.	<p>Any fill placed on the subject land in relation to the development shall not cause any ponding of water on any land.</p>
EARTHWORKS & EROSION CONTROL	
27.	<p>Any filling and excavation shall be undertaken in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the Goondiwindi Region Planning Scheme 2018 (Version 2) or to other relevant engineering standards to the satisfaction of and at no cost to Council.</p> <p>Excavation or filling within 1.5 metres of any site boundary is battered or retained by a wall that does not exceed 1 metre in height.</p>
28.	<p>Erosion and sediment control measures shall be in place prior to construction commencing and remain until work is completed in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the Goondiwindi Region Planning Scheme 2018 (Version 2) or to other relevant engineering standards to the satisfaction of and at no cost to Council. The developer shall ensure no increase in any silt loads or contaminants in overland flow from the site during construction and after construction has been completed.</p>

DEVELOPER'S RESPONSIBILITIES	
29.	Prior to the commencement of construction, full detailed design engineering drawings and specifications certified by an RPEQ shall be provided for all roadworks, stormwater drainage, water supply, sewerage works and electricity supply and earthworks for the approval of the Director Engineering Services.
30.	Prior to the commencement of construction, a detailed project management plan addressing quality, safety and environmental management shall be provided for all roadworks, stormwater drainage, water supply, sewerage works and electricity supply and earthworks for the approval of the Director Engineering Services.
31.	<p>Prior to the commencement of construction, a traffic control plan shall be approved by Council regarding all works affecting external roads.</p> <p>All construction works shall comply with the Work Health and Safety Act 2011 and AS 1742 Manual of Uniform Traffic Control Devices or to other relevant engineering standards, to the satisfaction of Council.</p>
32.	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.
33.	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.
34.	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.
35.	The developer shall be responsible for mitigating any complaints arising from on-site operations during construction.
36.	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.
37.	At all times all requirements of the conditions of the development approval must be maintained.
38.	Where appropriate, easements shall be provided in favour of Council to contain infrastructure elements, including water, sewerage and stormwater mains.

	BEFORE PLANS WILL BE ENDORSED
39.	All works necessitated by the conditions of approval for roadworks, stormwater drainage, water supply, sewerage, utilities and earthworks shall be completed prior to the submission to Council of the Plan of Survey required.
40.	Detailed "As Constructed" plans shall be provided for all roadworks, stormwater drainage, water supply, sewerage works and electricity supply and earthworks in an electronic format suitable for uploading to Council's GIS systems.
41.	<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 \$190.00; subject to change).</p>
42.	<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>

43. A letter outlining and demonstrating that each condition has been complied with or how they will be 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.

When approval takes effect

This approval takes effect in accordance with section 85 of the *Planning Act 2016*.

When approval lapses

The approval will lapse if a plan for the reconfiguration is not given to the local government within the following periods, in accordance with the provisions contained in section 85(1)(b) of the *Planning Act 2016*:

(b) The period stated for that part of the approval.

Stage	Proposed Lots	Time Frame
1	999 & road reserve	Plan for the reconfiguration to be submitted to Council by 31 January 2027
2	1-7	Plan for the reconfiguration to be submitted to Council by 31 January 2028
3	8-15	Plan for the reconfiguration to be submitted to Council by 31 January 2031

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

NOTES AND ADVICE

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 **Attachment 3**.

All development shall be conducted in accordance with the provisions of the *Environmental Protection Act 1994* 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.

This approval in no way removes the duty of care responsibility of the applicant under the *Aboriginal Cultural Heritage Act 2003*. Pursuant to Section 23(1) of the *Aboriginal Cultural Heritage Act 2003*, 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 *Vegetation Management Act 1999*.

	<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 2 – Approved Plans





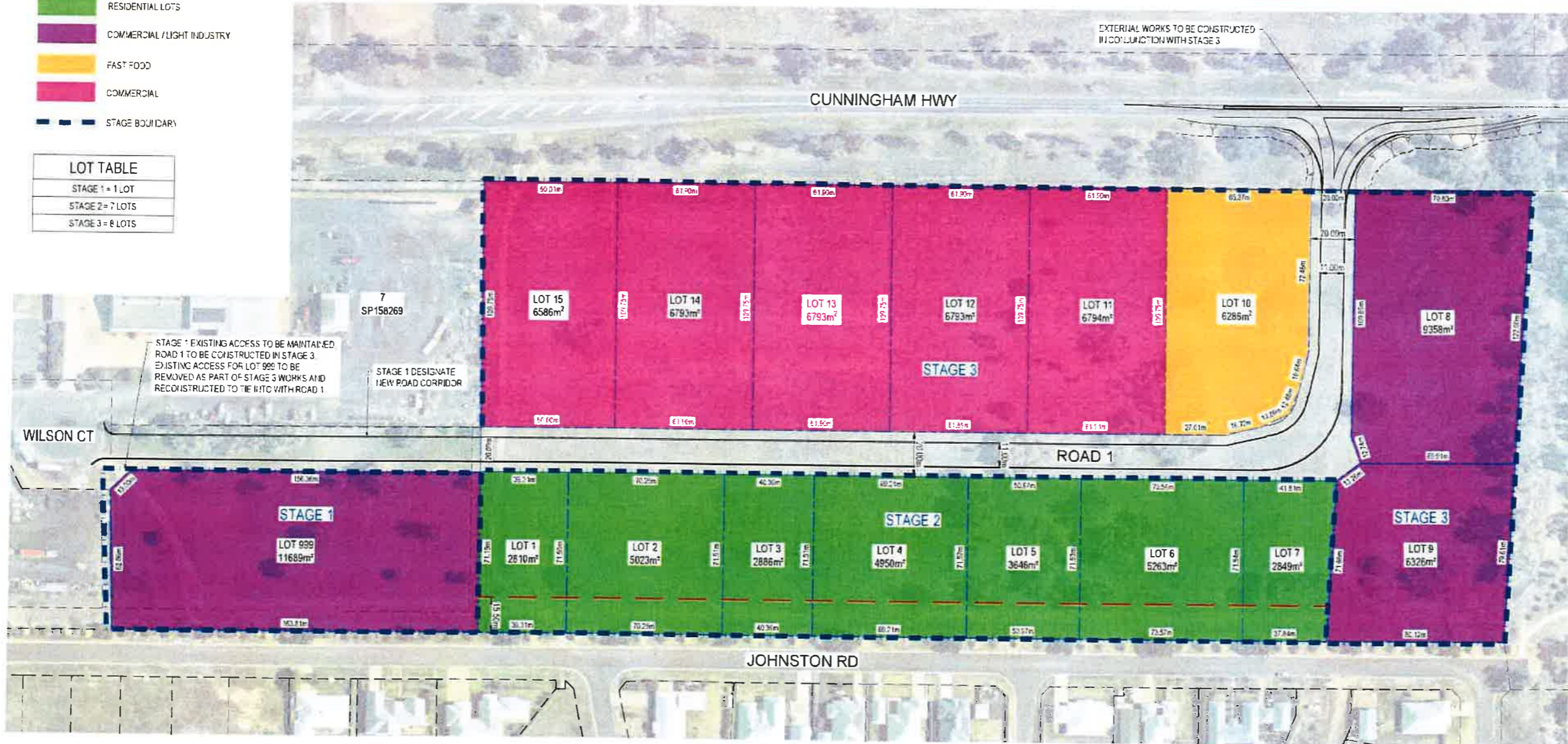
LEGEND

- EXISTING LOT BOUNDARY
- PROPOSED LOT BOUNDARY
- STORMWATER & SEWER EASEMENT
- RESIDENTIAL LOTS
- COMMERCIAL / LIGHT INDUSTRY
- FAST FOOD
- COMMERCIAL
- STAGE BOUNDARY

LOT TABLE
STAGE 1 = 1 LOT
STAGE 2 = 7 LOTS
STAGE 3 = 8 LOTS

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

Control Reference: 22/18
 Date: 23/05/24
 Signed: *R.M. McMahon*
 Print Name: **Ronnie McMahon**
 (Under Delegation) ASSESSMENT MANAGER



Prepared for: ELONBREATH PTY LTD

Designer: TIM EATON
Checked: JEREMY MOORING
Date: 25.01.2024

**DEVELOPMENT LAYOUT PLAN
GOONDIWINDI SUBDIVISION - JOHNSTON RD**

SCALE (metres)
1:1000 (FULL SIZE)

BE210552-SK01 Rev C



Gold Coast | Brisbane | Townsville
 Ipswich | Mackay | Cairns
 Phone: +61 7 5500 6400
 Fax: +61 7 5500 6411
 Email: admin@burchills.com.au
 Coote Burchills Engineering Pty Ltd
 ABN 76 166 942 365



LEGEND

- PROPOSED ROAD CENTRELINE
- EXISTING LOT BOUNDARY
- PROPOSED LOT BOUNDARY
- PROPOSED STORMWATER & SEWER EASEMENT
- RESIDENTIAL LOTS
- COMMERCIAL / LIGHT INDUSTRY
- FAST FCCD
- COMMERCIAL
- STAGE BOUNDARY

Prepared for: ELONBREATH PTY LTD

Designer: TIM EATON
 Checked: JEREMY MOORING
 Date: 29.02.2024

**FUNCTIONAL LAYOUT PLAN
 GOONDIWINDI SUBDIVISION - JOHNSTON RD**

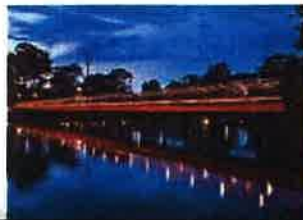
SCALE (metres)
 1:750 (FULL SIZE)

BE210552-SK04 Rev B

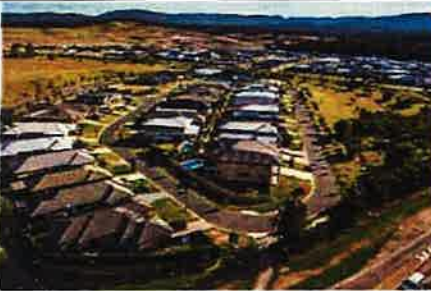
GOONDIWINDI REGIONAL COUNCIL
 Approved Plan referred to in Council's Decision Notice
 Council Reference: 22/18
 Dated: 23/05/24
 Signed:
 Print Name: Ronnie McMahon
 (Under Delegation) ASSESSMENT MANAGER



Gold Coast | Brisbane | Townsville
 Ipswich | Moreton Bay
 Phone: +61 7 5529 6400
 Fax: +61 7 5529 6411
 Email: admin@burchills.com.au
 Coote Burchills Engineering Pty Ltd
 ABN 76 186 942 365



The experience you deserve >



Highway Commercial Precinct Development

18 Cunningham Highway,
Goondiwindi

Traffic Impact Assessment – Wilsons Court Access

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

Council Reference: 22/18


Dated: 23/05/24

Signed: *R.M.M.*

Print Name: *Ronnie McMahon*
(Under Delegation) ASSESSMENT MANAGER

Client: Elonbreath Pty Ltd
Project No: BE210552
Document No: BE210552-TIA-WCA-01

Document Control Record

Prepared by:	Ashutosh Kotnala	Approved by:	Dale Kleimeyer
Position:	Traffic Engineer	Position:	Principal (RPEQ 06876)
Signed:		Signed:	 RPEQ: 06876
Date:	19 September 2023	Date:	19 September 2023

Version No.	Description	Date	Prepared	Approved
01	Final Issue	19 September 2023	AK	DK

Recipients are responsible for eliminating all superseded documents in their possession

Cooto Burchills Engineering Pty Ltd ACN: 166 942 365

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Telephone: +61 7 5509 6400**

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The experience you deserve >



18 Cunningham Highway, Goondiwindi

Civil Engineering Report

Client: FKG Group Pty Ltd

Project No: BE210552


Document No: BE210552-RP-CER-01

June 2022

GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 22/18
Date: 31/01/23
Signed: *RM McMahon*
Print Name: Ronnie McMahon
(Under Delegation) ASSESSMENT MANAGER

The experience

Document Control Record

Prepared by:	Elly Ricketts
Position:	Undergraduate Civil Engineer
Signed:	
Date:	2/06/2022

Approved by:	Rod Barry
Position:	Principal Engineer
Signed:	
Date:	2/06/2022

Version No.	Description	Date	Prepared	Approved
00	Original Issue	25/05/2022	ER	RB
01	Revision 1	2/06/2022	ER	RB

Recipients are responsible for eliminating all superseded documents in their possession

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www.burchills.com.au

Client: FKG Group
Doc No.: BE210552-RP-CER-01
Doc Title: Civil Engineering Report

Page ii



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


Negotiated Infrastructure Charges Notice

Address	18 Cunningham Highway & 8 Wilson Court, Goondiwindi
Owner	Elonbreath Pty Ltd
Applicant	Elonbreath Pty Ltd C/- Property Projects Australia
Application No.	22/18
Lot and Survey Plan	Lots 8 & 9 on SP158267
Date	26 August 2024
Approval	Change Application (Other) to existing Development Permit

Development Application Details
Reconfiguring a Lot (Two (2) lots into Sixteen (16) lots and road reserve) - STAGE 1

Type of Charge	Charge Area (A, B, C, D or E)	Charge Amount per lot (\$)	Number of additional lots	Charge (\$)
Reconfiguring a Lot	A	5,000	0	0

Due Date	When Goondiwindi Regional Council approves the plan of subdivision	Total Charge (\$)	\$0
Charge to be paid to	Goondiwindi Regional Council		
Lapse Date	31 January 2027		

Authorised by: 

An offset has been applied to this notice, where the existing lots have not been charged.

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

In accordance the Planning Act 2016

Office Use – Receipt Number
Subdivisions – 1250-1150-0000





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


Negotiated Infrastructure Charges Notice

Address	18 Cunningham Highway & 8 Wilson Court, Goondiwindi
Owner	Elonbreath Pty Ltd
Applicant	Elonbreath Pty Ltd C/- Property Projects Australia
Application No.	22/18
Lot and Survey Plan	Lots 8 & 9 on SP158267
Date	26 August 2024
Approval	Change Application (Other) to existing Development Permit

Development Application Details
Reconfiguring a Lot (Two (2) lots into Sixteen (16) lots and road reserve) - STAGE 2

Type of Charge	Charge Area (A, B, C, D or E)	Charge Amount per lot (\$)	Number of additional lots	Charge (\$)
Reconfiguring a Lot	A	5,000	7	35,000

Due Date	When Goondiwindi Regional Council approves the plan of subdivision	Total Charge (\$)	\$35,000
Charge to be paid to	Goondiwindi Regional Council		
Lapse Date	31 January 2028		

Authorised by: 

An offset has been applied to this notice, where the existing lots have not been charged.

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

In accordance the Planning Act 2016

Office Use – Receipt Number
Subdivisions – 1250-1150-0000





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


Negotiated Infrastructure Charges Notice

Address	18 Cunningham Highway & 8 Wilson Court, Goondiwindi
Owner	Elonbreath Pty Ltd
Applicant	Elonbreath Pty Ltd C/- Property Projects Australia
Application No.	22/18
Lot and Survey Plan	Lots 8 & 9 on SP158267
Date	26 August 2024
Approval	Change Application (Other) to existing Development Permit

Development Application Details
Reconfiguring a Lot (Two (2) lots into Sixteen (16) lots and road reserve) - STAGE 3

Type of Charge	Charge Area (A, B, C, D or E)	Charge Amount per lot (\$)	Number of additional lots	Charge (\$)
Reconfiguring a Lot	A	5,000	7	35,000

Due Date	When Goondiwindi Regional Council approves the plan of subdivision	Total Charge (\$)	\$35,000
Charge to be paid to	Goondiwindi Regional Council		
Lapse Date	31 January 2031		

Authorised by: 

An offset has been applied to this notice, where the existing lots have not been charged.

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

In accordance the Planning Act 2016

Office Use – Receipt Number

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 (Two (2) lots into Sixteen (16) lots and road reserve)

22/18

18 Cunningham Highway & 8 Wilson Court, Goondiwindi

Lots 8 & 9 on SP158267

On 13 May 2024, the above development application was:

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

1. Reasons for the decision

The reasons for this decision are:

- Having regard to the relevant criteria in the *Goondiwindi Region Planning Scheme 2018 (Version 2)*, the proposed development satisfied all relevant criteria, or any non-compliance was addressed through an approval 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
Reconfiguring a Lot Code	PO1-PO12
Flood Hazard Overlay Code	PO1-PO4
Natural Resources Overlay Code	PO5-PO8

3. Compliance with benchmarks

The proposed development complies with all relevant assessment benchmarks.

4. Relevant matters for impact assessable development

5. Matters raised in submissions for impact assessable development

6. Matters prescribed by Regulation



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 appointor) 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.

