

File: 23/13  
Date: 21 September 2023

SMK QLD Pty Ltd for John Fomiatti  
PO Box 422  
GOONDIWINDI QLD 4390

Attention: Mr Tom Jobling

Dear Tom

**Decision Notice –approval (with conditions)  
Material Change of Use  
Lot 2 on SP333094, Lees Street, Texas**

We wish to advise that on 14 September 2023 a decision was made to approve the material change of use development application for “Accommodation activities” – “Dwelling House” (House in Low Impact Industry Zone) at Lot 2 on SP333094, Lees Street, Texas. In accordance with the *Planning Act 2016*, please find attached Council’s Decision Notice for the application.

Please read the conditions carefully as these include actions which must be undertaken **prior to the commencement of the use** as well as requirements for the ongoing operation of the use.

All conditions are required to be either complied with or bonded prior to the commencement of the use. Please note **Condition 28**, which requires a letter to be submitted to Council prior to commencement of the use, outlining and demonstrating compliance with each condition.

The applicant is required to **notify Council in writing of the date of the commencement** of the use, within fourteen (14) business days of commencement.

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

Yours faithfully



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

## Decision Notice approval

### Planning Act 2016 section 63

Council File Reference: 23/13  
Council Contact: Mrs Ronnie McMahon  
Council Contact Phone: (07) 4671 7400

21 September 2023

**Applicant Details:** SMK QLD Pty Ltd for John Fomiatti  
PO Box 422  
GOONDIWINDI QLD 4390

Attention: Tom Jobling

The development application described below was properly made to Goondiwindi Regional Council on 6 July 2023.

#### Applicant details

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Applicant name: SMK QLD Pty Ltd for John Fomiatti  
Applicant contact details: Attn: Mr Tom Jobling  
PO Box 422, Goondiwindi, QLD 4390  
[tom@smkqld.com.au](mailto:tom@smkqld.com.au)  
(07) 4671 2445

#### Application details

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Application number: 23/13  
Approval sought: Development Permit – Material Change of Use  
Details of proposed development: “Accommodation activities” – “Dwelling House” (House in Low Impact Industry Zone)

#### Location details

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Street address: Lees Street, Texas  
Real property description: Lot 2 on SP333094

#### Decision

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Date of decision: 14 September 2023  
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 checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <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. Development Permit – Building Works
2. Compliance Permit – Plumbing Works

### Properly made submissions

There were no properly made submissions for this application.

### Referral agencies for the application

The referral agencies for this application are:

For an application involving	Name of referral agency	Address
As per Schedule 10, Part 9, Division 2, Table 2, Item 1 (10.9.2.2.1) of the PR: <i>Development application for a material change of use that is assessable development under a local categorising instrument and does not relate to reconfiguring a lot, if—</i>  (a) <i>all or part of the premises are within 100m of a substation site; or</i> (b) <i>both of the following apply—</i>	The chief executive of the distribution entity or transmission entity –  <i>Advice Agency</i>	Essential Energy C/- Property Services Department Post: PO Box 5730, PORT MACQUARIE NSW 2444

For an application involving	Name of referral agency	Address
(i) <i>all or part of the premises are subject to an easement for the benefit of a distribution entity, or transmission entity, under the Electricity Act;</i>		<a href="http://www.essentialenergy.com.au">www.essentialenergy.com.au</a>
(ii) <i>the easement is for a transmission grid or supply network</i>		

### Approved plans and specifications

Copies of the following plans are enclosed.

Drawing Number	Title	Date
21138-1	Proposal Plan to accompany MCU Application on Lot 2 SP333094, Lees Street Texas	15/12/22
WEDS 20-01, Sheet A202	Floor Plan Lot 2	19/10/2020
WEDS 20-01, Sheet A203	Elevations Lot 2	19/10/2020
BMP:220723	Bushfire Hazard Management Plan – John Fomiatti	06/09/2022

### 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*

### 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 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



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

- cc      Essential Energy  
         C/- Property Services Department  
         PO Box 5730  
         PORT MACQUARIE NSW 2444
- enc     Attachment 1—Assessment manager 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**

**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

<b>Description:</b>	"Accommodation activities" <ul style="list-style-type: none"> <li>"Dwelling House" (House in Low Impact Industry Zone)</li> </ul>
<b>Development:</b>	Material change of use – Development Permit
<b>Applicant:</b>	SMK QLD Pty Ltd for John Fomiatti
<b>Address:</b>	Lees Street, Texas
<b>Real Property Description:</b>	Lot 2 on SP333094
<b>Council File Reference:</b>	23/13

GENERAL CONDITIONS																
1.	Approval is granted for the purpose of a Material Change of Use for: <ul style="list-style-type: none"> <li>"Accommodation activities" – "Dwelling House" (House in Low Impact Industry Zone) as defined in the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i>.</li> </ul>															
2.	All conditions must be complied with or bonded prior to the commencement of the use, unless specified in an individual condition.															
3.	Except where changed by conditions of this approval, the development shall be in accordance with supporting information supplied by the applicant with the development application including the following plans: <table border="1" data-bbox="320 1352 1481 1666"> <thead> <tr> <th>Drawing Number</th> <th>Title</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>21138-1</td> <td>Proposal Plan to accompany MCU Application on Lot 2 SP333094, Lees Street Texas</td> <td>15/12/22</td> </tr> <tr> <td>WEDS 20-01, Sheet A202</td> <td>Floor Plan Lot 2</td> <td>19/10/2020</td> </tr> <tr> <td>WEDS 20-01, Sheet A203</td> <td>Elevations Lot 2</td> <td>19/10/2020</td> </tr> <tr> <td>BMP:220723</td> <td>Bushfire Hazard Management Plan – John Fomiatti</td> <td>06/09/2022</td> </tr> </tbody> </table> <p>Please note the plans are not approved Building Plans.</p>	Drawing Number	Title	Date	21138-1	Proposal Plan to accompany MCU Application on Lot 2 SP333094, Lees Street Texas	15/12/22	WEDS 20-01, Sheet A202	Floor Plan Lot 2	19/10/2020	WEDS 20-01, Sheet A203	Elevations Lot 2	19/10/2020	BMP:220723	Bushfire Hazard Management Plan – John Fomiatti	06/09/2022
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4.	<p>Complete and maintain the approved development as follows:</p> <ul style="list-style-type: none"> <li>(i) Generally in accordance with development approval documents; and</li> <li>(ii) Strictly in accordance with those parts of the approved development which have been specified in detail by the Council unless Council agrees in writing that those parts will be adequately complied with by amended specifications.</li> </ul> <p>All development shall 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 plans and supporting documentation including any written and electronic correspondence between applicant, Council or any relevant Agencies during all stages of the development application assessment processes.</p>
5.	<p>Prior to any construction work commencing on the site as a result of this approval, a Development Approval to undertake Building Work is to be obtained either from a Licensed Building Surveyor (Certifier) or Goondiwindi Regional Council.</p>
6.	<p>All buildings associated with the proposed development must be contained within the approved building envelope.</p>
	<p><b>ESSENTIAL SERVICES</b></p>
7.	<p>Prior to the commencement of the use, the development shall be 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 the development to be serviced to relevant engineering standards and to the satisfaction of Council.</p>
8.	<p>The development shall be connected to Council's reticulated sewerage 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>, when required as part of a building approval, to the satisfaction of and at no cost to Council.</p> <p>The developer shall provide all necessary sewer infrastructure to enable the development to be serviced to relevant engineering standards and to the satisfaction of Council.</p>
	<p><b>PUBLIC UTILITIES</b></p>
9.	<p>The development shall be connected to an adequate electricity and telecommunications supply system, at no cost to Council, when required.</p>

	<b>ROADS AND VEHICLES</b>
<b>10.</b>	<p>All site access, from the edge of the existing bitumen to the property boundary, shall be maintained to a residential standard in accordance with Schedule 6.2.1 – Standard Drawing in Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the Goondiwindi Region Planning Scheme 2018, to the satisfaction of and at no cost to Council.</p> <p>The developer shall contact Council's Engineering Department to ensure the correct specifications are obtained for all civil works prior to commencement of any works onsite.</p> <p>A qualified Council Officer may inspect construction works at the request of the development to ensure compliance with this condition.</p>
<b>11.</b>	No access is permitted to Riverton Road at any time.
	<b>STORMWATER</b>
<b>12.</b>	<p>Prior to the commencement of the use, the site shall be adequately drained and all stormwater shall be disposed of to a legal point of discharge 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>Any increase in volume, concentration or velocity of stormwater from the site shall be channelled to lawful points of discharge or to other storage or dispersal arrangements which all must be agreed to in writing by Council.</p> <p>There shall be no change in direction or increase in the volume, concentration or velocity in any overland flow from the site to any adjoining properties unless agreed in writing by Council and the owners of any adjoining properties affected by these changes.</p> <p>The stormwater disposal system shall be designed to include appropriate pollution control devices or methods to ensure no contamination or silting of waterways.</p>
<b>13.</b>	<p>Stormwater shall not be allowed to pond on the site during the development process and after development has been completed unless the type and size of ponding has been agreed in writing by Council.</p> <p>No ponding, concentration or redirection of stormwater shall occur on adjoining properties unless specifically agreed to in writing by Council and the owners of any adjoining properties affected by these changes.</p>

	<b>EARTHWORKS AND EROSION CONTROL</b>
<b>14.</b>	<p>Any filling or excavation shall be undertaken in accordance with 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>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>
<b>15.</b>	<p>All works associated with the development must be carried out in a manner that minimises erosion and controls sediment. Best practice erosion and sediment control measures shall be in place at the location of all works prior to work commencing and remain until work is completed in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i> or in accordance with other relevant engineering standards to the satisfaction of and at no cost to Council.</p> <p>Control procedures are to be established to ensure sediment from the site is not deposited off site. The developer shall ensure no increase in any silt loads or contaminants in overland flow from the site during the development process and after development has been completed.</p>
	<b>AVOIDING NUISANCE</b>
<b>16.</b>	<p>At all times while the use continues, the development shall be conducted in accordance with the provision of the <i>Environmental Protection Act 1994</i> (the Act) and all relevant regulation and standards under the Act.</p> <p>Noise during construction period – must not carry out Building Work, if the noise is audible:</p> <ul style="list-style-type: none"> <li>a) At any time, on a Sunday or public holiday; or</li> <li>b) Before 6:30am or after 6:30pm, on a Saturday or business day.</li> </ul>
<b>17.</b>	<p>At all times while the use continues it shall be operated in such a manner as to ensure that no nuisance shall arise to adjoining premises as a result of dust, noise, lighting, odour, vibration, rubbish, contaminants, stormwater discharge or siltation or any other potentially detrimental impact.</p> <p>Roof water drainage from structures/buildings and the yard area is to be discharged to a Council approved drainage system.</p>
<b>18.</b>	The operator shall be responsible for mitigating any complaint arising from on-site operations.
<b>19.</b>	<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.</p>

20.	Construction waste is to be contained within an approved skip container or enclosed trailer on site to ensure litter does not become an issue off site. All waste is to be disposed of at a suitable waste facility. Separation of waste can achieve cost savings when delivering waste to the Waste Facility.
21.	At all times while the use continues, any air conditioning equipment shall be acoustically screened to ensure noise levels do not exceed 5dB(A) above the background noise level measured at the boundaries of the subject site.
<b>DEVELOPER'S RESPONSIBILITIES</b>	
22.	Any alteration or damage to roads and/or public infrastructure that is attributable to the progress of works or associated with the use of the site shall be repaired to Council's satisfaction or the cost of repairs paid to Council.
23.	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.
24.	The developer shall be responsible for meeting all costs reasonably associated with the approved development, unless there is specific agreement by other parties, including the Council, to meeting those costs.
25.	At all times while the use continues, all requirements of the conditions of the development approval must be maintained.
<b>COMMENCEMENT OF USE</b>	
26.	<p>At its discretion, Council may accept bonds or other securities to ensure completion of specified development approval conditions or Council may accept cash payments for Council to undertake the necessary work to ensure completion of specified development approval conditions.</p> <p>It may be necessary for Council to use such bonds for the completion of outstanding works without a specific timeframe agreed.</p> <p>The decision to accept bonds or other securities to satisfy a condition will be that of Council, not the applicant.</p>
27.	<p>Council must be notified in writing of the date of the commencement of the use within 14 days of commencement.</p> <p>This approval will lapse if the use has not commenced within six years of the date the development approval takes effect, in accordance with the provisions contained in sections 85(i)(a) of the <i>Planning Act 2016</i>.</p>

	Section 86 of the <i>Planning Act 2016</i> sets out how an extension to the period of approval can be requested.
28.	A letter outlining and demonstrating that conditions have been, or will be, complied with shall be submitted to Council and approved by a relevant Officer of Council prior to commencement of the use. Council Officers may require a physical inspection to confirm that all conditions have been satisfied to relevant standards.
	<b>PLEASE READ CAREFULLY - NOTES AND ADVICE</b>
	<p>When approval takes effect</p> <p>This approval takes effect in accordance with section 85 of the <i>Planning Act 2016</i>.</p> <p>When approval lapses</p> <p>This approval will lapse if the change of use has not occurred within the following period, in accordance with the provisions contained in section 85(i)(a) of the <i>Planning Act 2016</i>.</p> <p>(a) If no period stated – 6 years after the approval starts to have effect.</p> <p>Section 86 of the <i>Planning Act 2016</i> sets out how an extension to the period of approval can be requested.</p>
	It is the applicant's responsibility to obtain all statutory approvals prior to commencement of any works onsite.
	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.

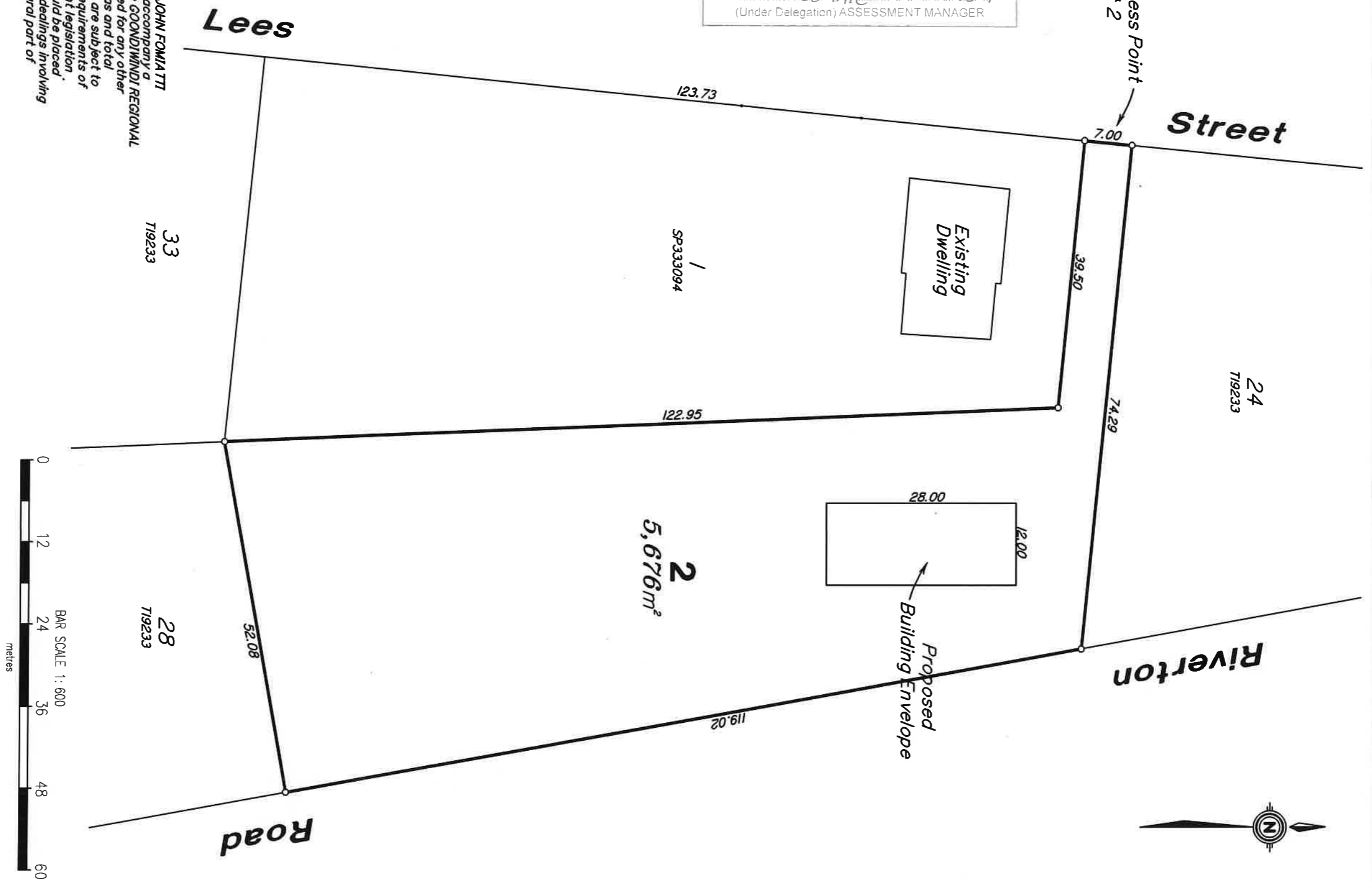


**Attachment 2 – Approved Plans**



GOONDIWINDI REGIONAL COUNCIL  
 Approved Plan referred to in Council's Decision Notice  
 Council Reference: 23/13  
 Dated: 21/09/23  
 Signed: *RM Mc*  
 Print Name: Ronnie McMahon  
 (Under Delegation) ASSESSMENT MANAGER

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



JOHN FOMIATTI

**SMK QLD** PTY. LTD.

Goondiwindi | Brisbane | Gold Coast | Toowoomba | Gatton  
 Ph (07)4671 2445 Email admin@smkqld.com.au

Drawn TJJ 15/12/22 Checked

**A3**

PROPOSAL PLAN TO ACCOMPANY  
 MCGU APPLICATION ON LOT 2  
 SP333094, LEES STREET TEXAS

21138

SCALE: 1:600

21138-1

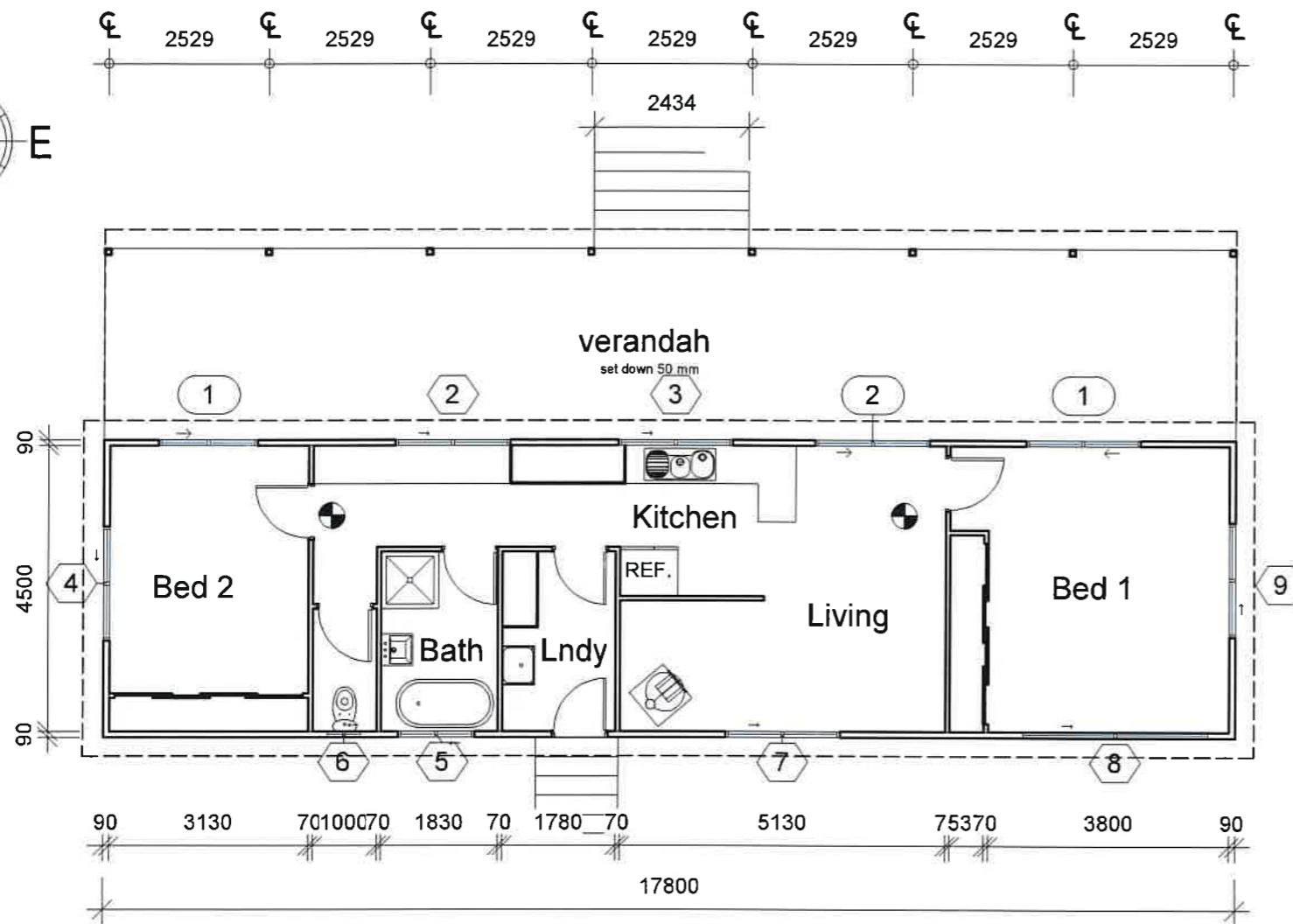
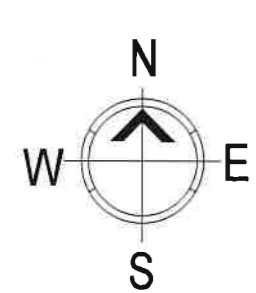
GOONDIWINDI REGIONAL COUNCIL  
 Approved Plan referred to in Council's Decision Notice  
 Council Reference: 23/13  
 Dated: 21/09/23  
 Signed: *RMM*  
 Print Name: Ronnie McMahon  
 (Under Delegation) ASSESSMENT MANAGER



ELEVATIONS

Door Schedule	
Mark	Type
1	2100 x 2700 Sliding Glass Door
1	2100 x 2700 Sliding Glass Door
2	2100 x 2700 Sliding Glass Door
4	820 Swinging Door
5	820 Swinging Door
6	820 Swinging Door
7	820 Swinging Door
8	820 Swinging Door
9	820 Swinging Door

Window Schedule				
Mark	Type	Height	Width	Area2
2	SW01	1000	1500	1.50 m <sup>2</sup>
3	SW01	1000	1500	1.50 m <sup>2</sup>
4	SW01	1500	1500	2.25 m <sup>2</sup>
5	SW01	900	1500	1.35 m <sup>2</sup>
6	SW01	600	1500	0.90 m <sup>2</sup>
7	SW01	900	1500	1.35 m <sup>2</sup>
8	SW01	450	1500	0.68 m <sup>2</sup>
9	SW01	1500	1500	2.25 m <sup>2</sup>
Grand total: 8				11.78 m <sup>2</sup>



1 Floor Plan  
 1 : 100

Smoke Alarm Locations

AutoCad File:  
 D:\WEDS\Texas Jobs\Fommiatti John  
 Subdivision\Revit Files\Lees St Subdivision 2  
 Bedroom Lot 2.rvt  
 Leica Job File:

**Whitton Engineering & Drafting Services**  
 Po Box 213 Tenterfield, 2372  
 02 67361602 email: mwh32250@bigpond.net.au  
 mobile service 0402123843

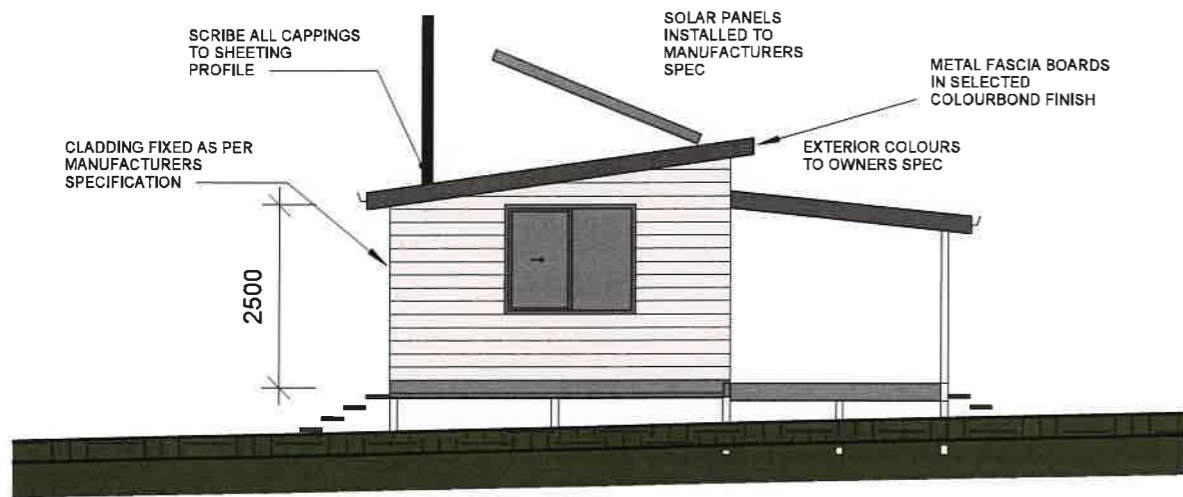
**John Fomiatti**  
 Proposed Residence  
 Lees Street Texas  
 Floor Plan Lot 2

REVISION	
1	Material Change of Use

Surveyed: Approver  
 Designed: Client  
 Drawn: MW  
 Checked: Client  
 Datum Assumed  
 Scale: As indicated  
 Date: 19/10/2020

Amendment  
 1  
 Drawing No  
 WEDS 20-01  
 Sheet: A202



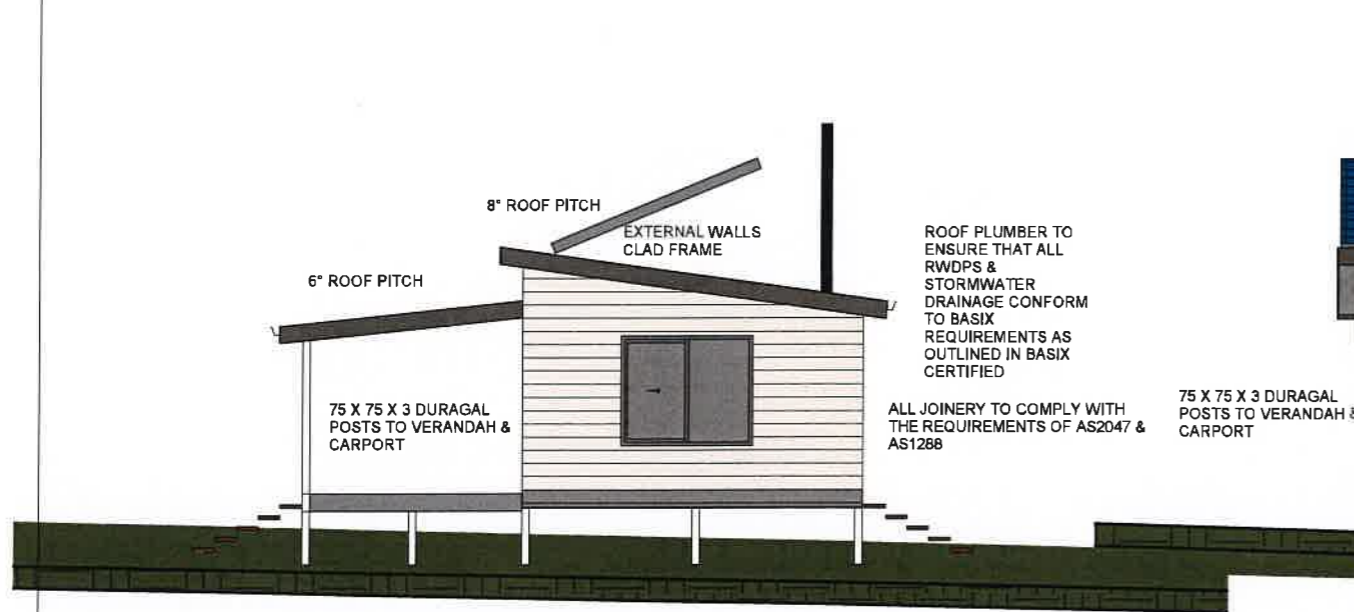


ELEVATION 3

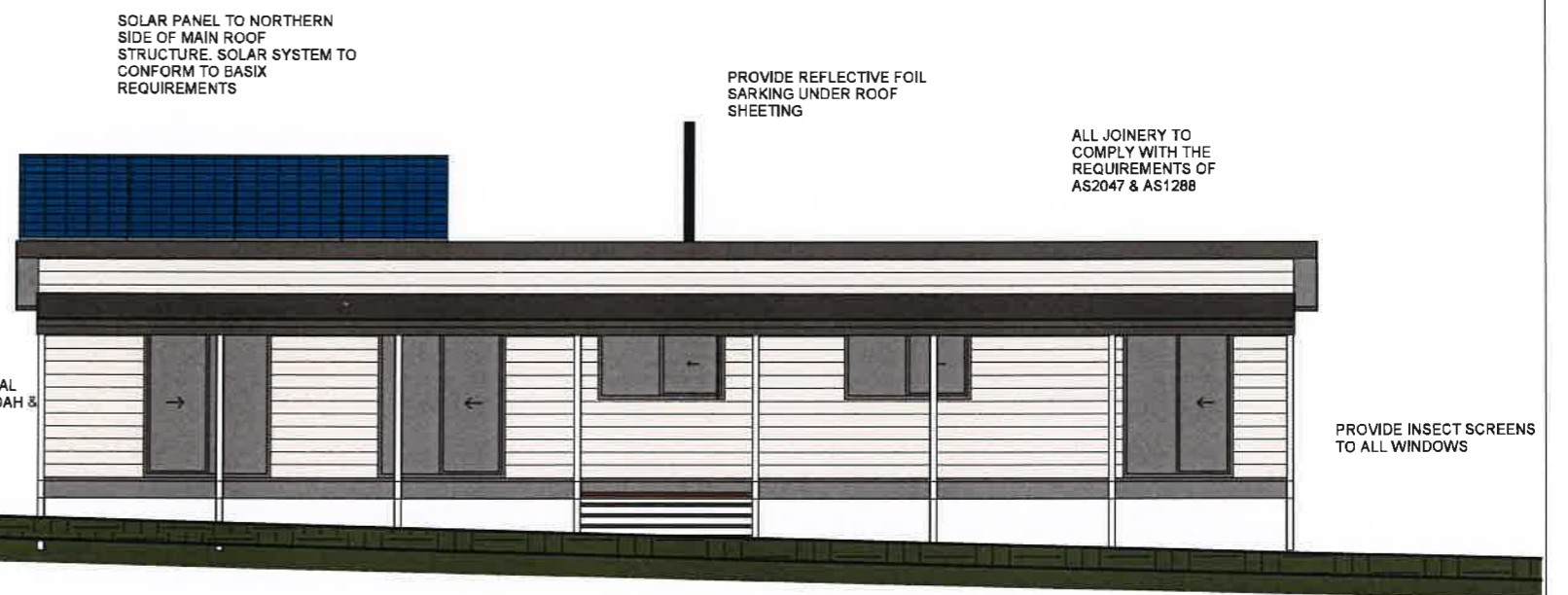


ELEVATION 4

GOONDIWINDI REGIONAL COUNCIL  
 Approved Plan referred to in Council's Decision Notice  
 Council Reference: 23/13  
 Dated: 21/9/23  
 Signed: *RM McMahon*  
 Print Name: Ronnie McMahon  
 (Under Delegation) ASSESSMENT MANAGER



ELEVATION 1



ELEVATION 2

AutoCad File:  
 D:\WEDS\Texas Jobs\Fomiatti John  
 Subdivision\Revit Files\Lees St Subdivision 2  
 Bedroom Lot 2.rvt  
 Leica Job File:



**Whitton Engineering & Drafting Services**  
 Po Box 213 Tenterfield, 2372  
 02 67361602 email: mwh32250@bigpond.net.au  
 mobile service 0402123843

**John Fomiatti**  
 Proposed Residence  
 Lees Street Texas  
 Elevations Lot 2

REVISION	
1	Material Change of Use

Surveyed: Approver  
 Designed: Designer  
 Drawn: Author  
 Checked: Checker  
 Datum Assumed  
 Scale: 1 : 100  
 Date: 19/10/2020

Amendment  
 1  
 Drawing No  
 WEDS 20-01  
 Sheet: A203



# Bushfire Hazard Management PLAN

John Fomiatti

13 Lees Street,  
Texas, QLD 4385

Lots 25-27, 34 & 35 T19233

Prepared by Aquila NRM  
September 2022

<b>GOONDIWINDI REGIONAL COUNCIL</b>	
Approved Plan referred to in Council's Decision Notice	
Council Reference:	23/13
Dated:	21/09/23
Signed:	<i>R/M/McC</i>
Print Name:	Ronnie McMahon
(Under Delegation) ASSESSMENT MANAGER	

## DOCUMENT CONTROL RECORD

<b>Title</b>	Bushfire Management Report
<b>Address</b>	13 Lees Street, Texas, QLD 4385
<b>Project number</b>	BMP 220723
<b>Client</b>	John Fomiatti

### Document Issue

<b>Issue</b>	<b>Date</b>	<b>Prepared By</b>
1	6 September 2022	Rick Galbraith

### Notice to users of this report

This Bushfire Hazard Management Plan has been prepared for John Fomiatti. Aquila NRM cannot accept responsibility for any use of or reliance upon the contents of this report by any third party.

It details a number of bushfire protection measures that when followed will increase the survival prospects of residents and built assets in the event of a bushfire. It must be borne in mind that the measures dealt with in this report cannot guarantee the survival of a building or other assets in a bushfire event. This is due mainly to the unpredictable nature and behaviour of fire, difficulties associated with extreme weather conditions and vegetation management on and surrounding the site subsequent to development.

Bushfire Report prepared by:



Rick Galbraith,  
Dip Horticultural Science  
6<sup>th</sup> September 2022

Aquila NRM  
7701 New England Highway  
Crows Nest Q 4355  
Mobile 0407 622 995  
Email rick@aquilanrm.com.au



This Bushfire Hazard Management Plan is a site-specific assessment of the subject property that has been prepared in accordance with the Goondiwindi Region Planning Scheme (2018).



## Table of Contents

<b>EXECUTIVE SUMMARY .....</b>	<b>4</b>
<b>1.0 INTRODUCTION.....</b>	<b>5</b>
<b>2.0 GENERAL SITE DETAILS .....</b>	<b>5</b>
2.1 SITE DESCRIPTION .....	5
2.2 FIRE BRIGADE.....	10
<b>3.0 VEGETATION.....</b>	<b>11</b>
3.1 REGULATED VEGETATION .....	11
<b>4.0 BUSHFIRE HAZARD AND RISK ASSESSMENT.....</b>	<b>12</b>
4.1 OVERVIEW.....	12
4.2 CLIMATIC CONDITIONS AND FOREST FIRE DANGER INDEX.....	13
4.3 VEGETATION HAZARD CLASSES.....	14
4.4 POTENTIAL BUSHFIRE HAZARD CLASS.....	18
<b>5.0 CONCLUSION.....</b>	<b>21</b>
<b>6.0 REFERENCES.....</b>	<b>22</b>
<b>APPENDIX 1 – SITE PLAN.....</b>	<b>23</b>
<b>APPENDIX 2: SUITABLY QUALIFIED AND EXPERIENCED PRACTITIONER .....</b>	<b>24</b>



## Executive summary

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A development comprising the Reconfiguring of a Lot (RaL) is proposed for 13 Lees Street, Texas, described as Lots 25-27, 34 and 5 T19233, (hereafter referred to as 'the site'). The development comprises the reconfiguring of a Lot from five (5) lots into two (2) lots with areas of 5,870 and 5,676 square metres.

### Bushfire

The site is identified by the Queensland Government State Planning Policy Interactive Mapping System Natural Hazards and Risk Resilience Mapping as containing areas of Medium Bushfire Intensity and Bushfire Potential Impact Buffer. The site assessment identified that the bushfire hazard is less than levels mapped by the Queensland Government due to historical and current vegetation management practices on the site and in the surrounding landscape. The site was assessed as being subject to a Low Potential Bushfire Intensity. Consequently, no bushfire mitigation measures are identified as being applicable to the development.

## 1.0 Introduction

Aquila NRM was engaged by John Fomiatti to undertake a bushfire assessment and prepare a Bushfire Hazard Management Plan for the proposed development at 13 Lees Street, Texas. The development comprises the reconfiguring of 5 lots into 2 residential lots with areas of 5,870 and 5,676 square metres.

## 2.0 General site details

**Table 1:** Summary of general site details

<b>Address</b>	13 Lees Street, Texas
<b>Lot on Plan</b>	Lots 25-27, 34 & 35 T19233
<b>Area</b>	11,546 square metres
<b>Local Government Area</b>	Goondiwindi Regional Council
<b>Planning Scheme / Local Plan</b>	Goondiwindi Region Planning Scheme (2018 Version 2)
<b>Overlays</b>	Bushfire Hazard
<b>VMA 1999</b>	Category X

### 2.1 Site description

The site is located on the eastern outskirts of the township of Texas. Lees Street is located on the western boundary of the site with Riverton Road located on the east. The site contains gentle slopes with the land generally falling from the northeast to the southwest with underlying slopes in the order of 5% or 3 degrees. Urban residential living areas are located to the west of the site, with rural residential areas to the east and rural lands to the north and south. The entire site comprises low threat vegetation that is well maintained. A limited number of shrubs and trees are present that are well-separated. Two small patches of native vegetation are present within 150 metres of the site; however they do not contribute to elevated levels of bushfire hazard for the site.

Figure 1 provides an aerial view of the site and its context within the surrounding landscape; Figure 2 provides contours for the site with Figure 3 illustrating the proposed development superimposed on an aerial image.



**Figure 1:** Aerial view providing landscape context for the site which is highlighted with a yellow border. Imagery sourced from Google Earth Pro that was captured on 3 November 2020.

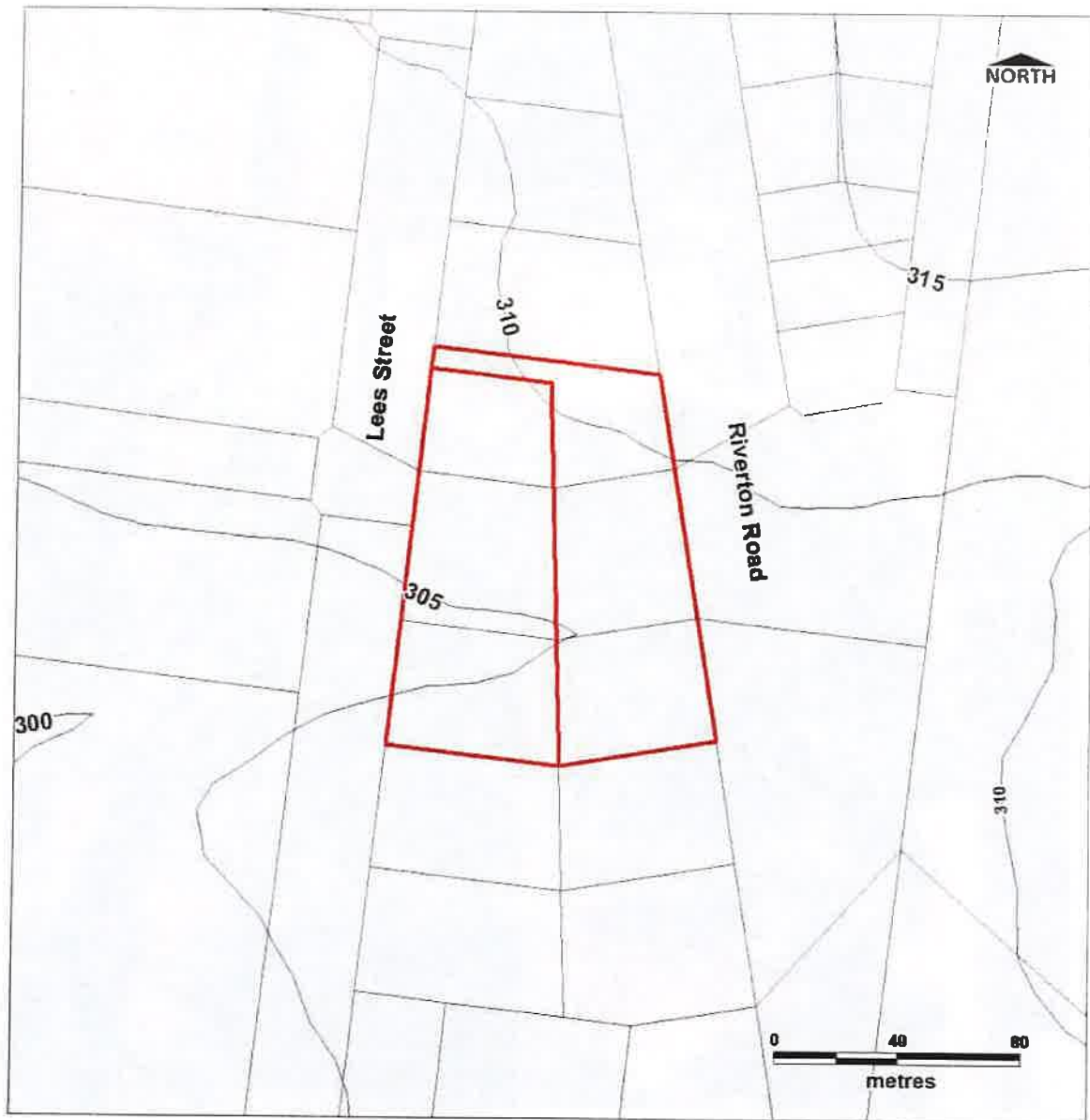


Figure 2: Topography of the site with contour intervals of 5 metres.





**Figure 3:** Aerial view of site and proposed Lots, showing extent of native vegetation cover within the proximity of the development. Imagery sourced from Google Earth Pro that was captured on 3 November 2020.

The following photographs provide a visual representation of the site and vegetation present.



**Photo 1:** Looking east from Lees Street to the site.



**Photo 2:** Looking north over the site from Lees Street



**Photo 3:** Looking south from Lees Street showing areas of low threat vegetation present.



**Photo 4:** Looking north along Riverton Road on the eastern boundary of the site.



**Photo 5:** Looking south along Riverton Road on the eastern boundary of the site.

## 2.2 Fire brigade

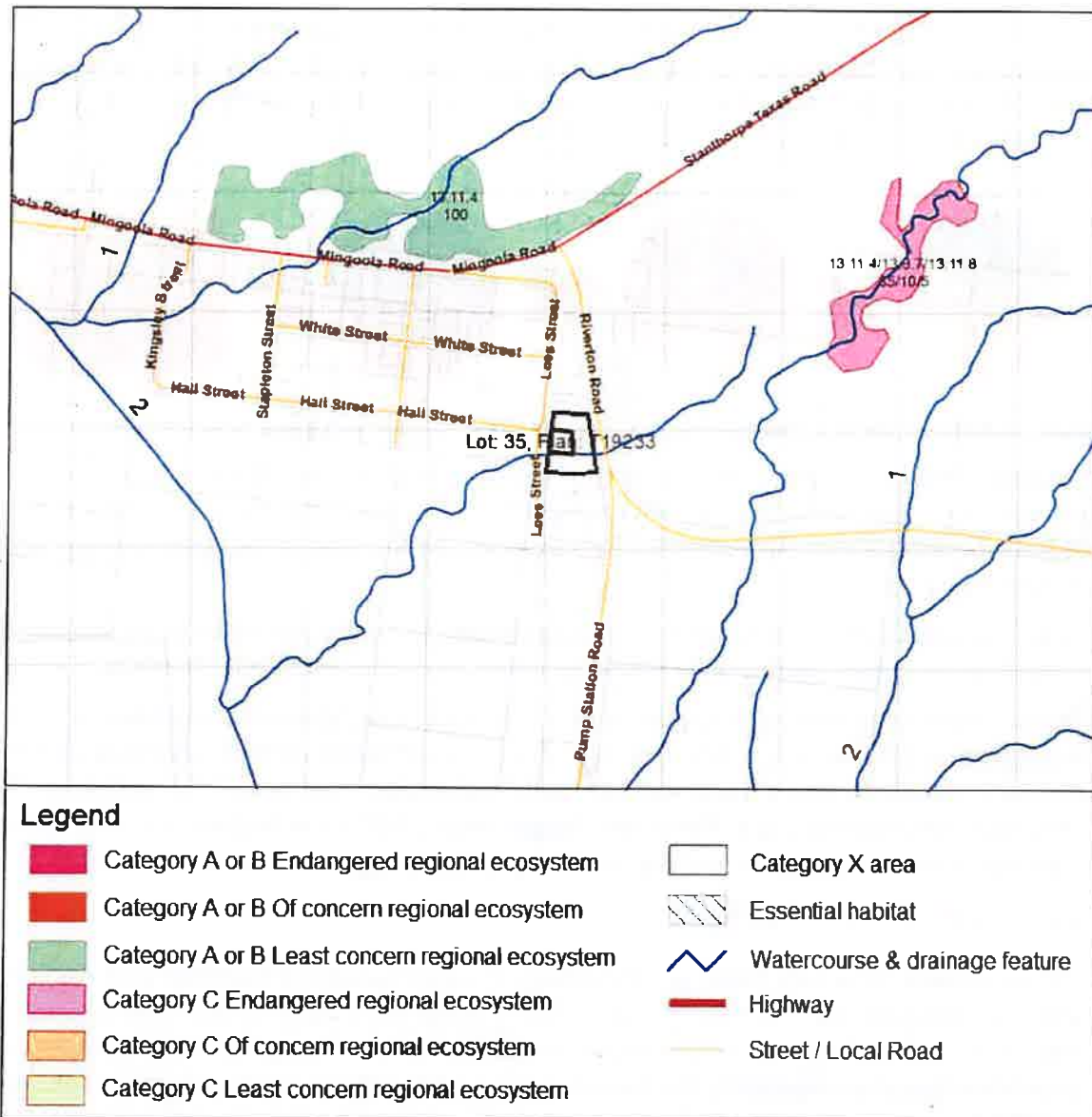
The development site is contained within the Queensland Fire and Emergency Service Goondiwindi Command Centre district. The closest fire brigade equipped to fight structural fires is the Texas Fire Station located at 14 St John St, Texas, approximately 2.5 kilometres by road to the northwest of the site (i.e. less than 5 minutes away). The Smithfield Rural Fire Brigade district is located to the east of the site.

### 3.0 Vegetation

#### 3.1 Regulated vegetation

An assessment of the site was undertaken to verify the bushfire hazard present and the associated risks that may be posed to the proposed development. The current Vegetation Management Supporting Map identifies that the site contains no areas of regulated vegetation. The extent of mapped vegetation in the area and its conservation status is shown in Figure 4.

Minimal woody vegetation is present on the site and immediate surrounding areas. A limited number of trees comprising a range of eucalypt species are present in the area surrounding the site.



**Figure 4:** Extent of regulated vegetation on Lots 25-27, 34 and 35 T19233 and in the immediate vicinity as identified by the Vegetation Management Supporting Map accessed on 2 September 2022 from the Queensland Department of Resources website.

## 4.0 Bushfire hazard and risk assessment

### 4.1 Overview

An assessment of the site was undertaken to verify the bushfire hazard present and the associated risks that may be posed to the proposed development.

The Queensland State-wide mapping methodology was used to identify Bushfire Prone Areas on the site and within a minimum radius of 150 metres. This methodology scales bushfire hazard based on the Potential Fire-line Intensity of a severe bushfire and can be used to predict the radiation profile of areas adjacent to potentially hazardous vegetation. The Potential Fire-line Intensity is a useful indicator of the level of safety afforded for resident egress and firefighter access.

The Potential Fire-line Intensity is calculated using 3 key factors operating at a landscape level, these being Potential Fuel Load (tonnes / hectare), Maximum Landscape Slope (degrees) and Fire Weather Severity (Forest Fire Danger Index). Figure 5 illustrates the variables used to determine the Potential Fire-line Intensity.

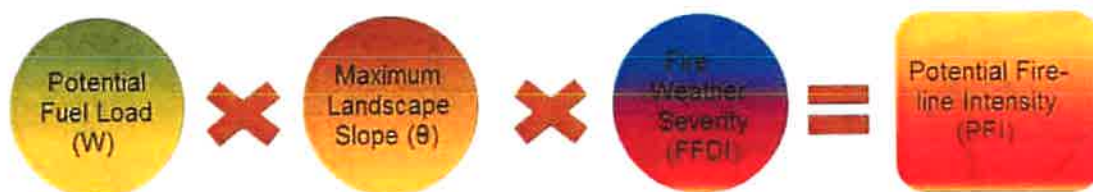


Figure 5: Variables used to determine Potential Fire-line Intensity. (Redrawn from Leonard et al 2013)

**Potential Fuel Load** represent the approximate mass (measured in tonnes/ha) of combustible fuel material that would typically accumulate if vegetation is not regularly burnt or subject to fuel reduction practices. Potential fuel loads vary according to the type of vegetation present and management of it.

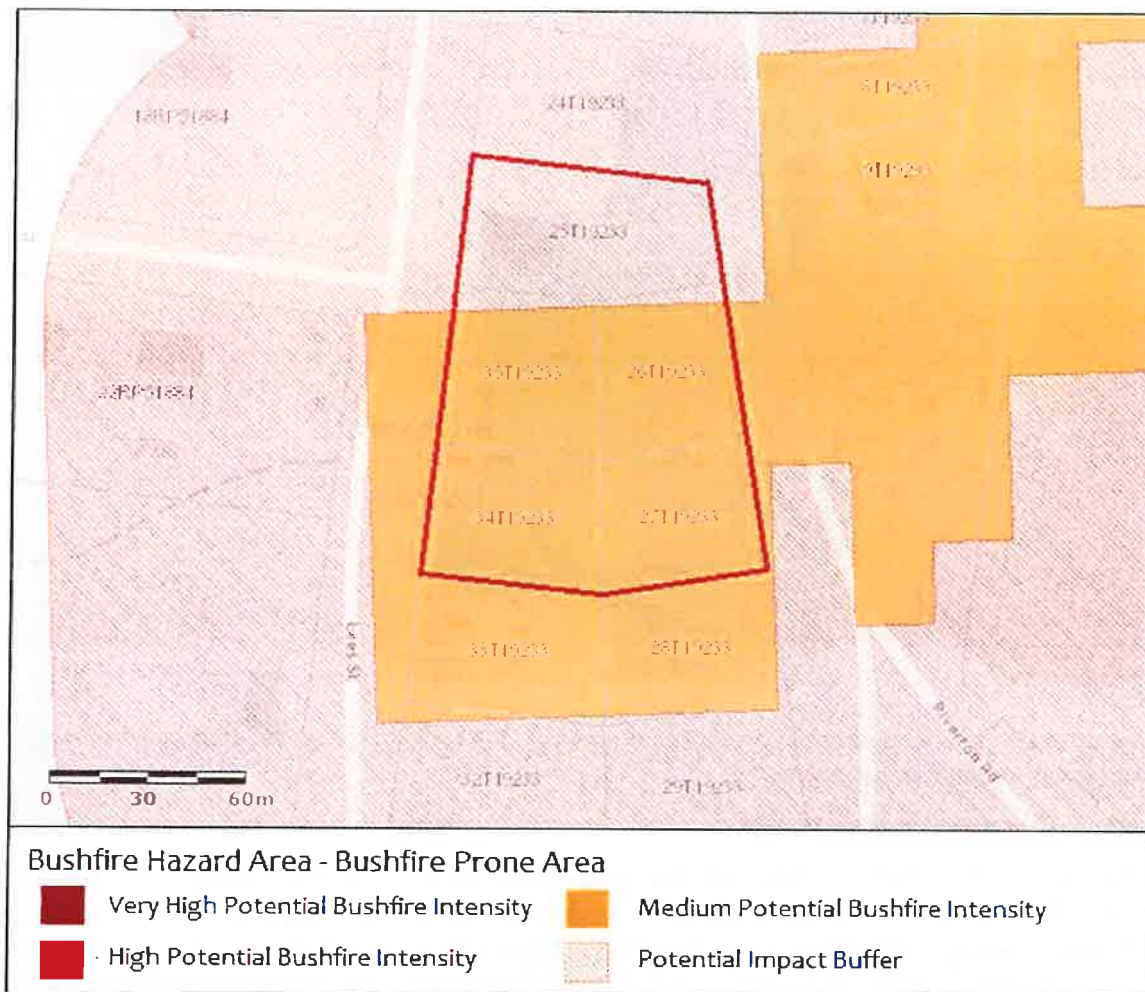
Slope or steepness of land (described as **Landscape Slope**) is a major determinant of fire behaviour, controlling fire spread, the rate of fuel consumption and thus Potential Fire-line Intensity.

Fire behaviour is influenced by a range of weather variables including recent precipitation, current wind speed, relative humidity and temperature. Due to the complexity of these influences, they are commonly combined into a single weather index that can be used to estimate potential fire behaviour. The McArthur (1973) **Forest Fire Danger Index (FFDI)** is the best known, most widely used and thoroughly tested fire weather index adopted by fire agencies throughout Australia.

#### 4.1.1 Bushfire hazard mapping

The Queensland State-wide mapping methodology was used to identify Bushfire Prone Areas on and surrounding the site. This methodology scales bushfire hazard based on the Potential Fire-line Intensity of a severe bushfire, and can be used to predict the radiation profile of areas adjacent to potentially hazardous vegetation. The bushfire hazard for the site and surrounds as identified by the Queensland Government SPP Interactive Mapping System is shown in Figure 6. The SPP mapping indicates the entire site is covered by 'very high potential bushfire intensity'. The Goondiwindi Region Planning Scheme utilises the Queensland Government SPP Bushfire Hazard mapping. The site assessment identified that the bushfire hazard is less than levels mapped by the Queensland Government due to historical and current vegetation management practices on the

site and in the surrounding landscape. Additional details are provided in Section 4.3 Vegetation Hazard Classes which identifies the VHCs present. The potential bushfire intensity that the site may be subject to was calculated using the Potential Fireline Intensity calculator and data collected from the site with a Medium potential bushfire hazard class identified.



**Figure 6:** Bushfire Hazard for the site and surrounding area as identified by the Queensland Government SPP Interactive Mapping System accessed on 4 September 2022.

#### 4.2 Climatic conditions and Forest Fire Danger Index

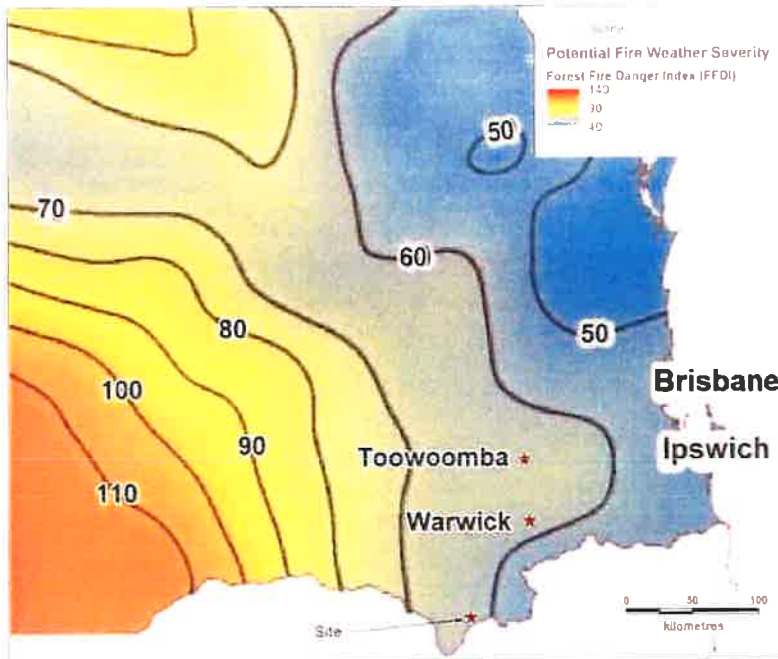
The McArthur Forest Fire Danger Index (or FFDI) is the most common proxy of fire weather severity in Australia and is used for bushfire hazard assessments, emergency management and in regulations such as the Australian Standard 3959–2018 Construction of buildings in bushfire-prone areas.

Unlike Queensland’s adoption of AS 3959–2018 (Method 1) that uses a single FFDI value for all of Queensland (40), the estimate of fire weather severity used as an input to identifying the SPP bushfire prone areas in Queensland recognises that weather conditions vary across the state.

Spatially explicit 5% annual exceedance probability (AEP) fire weather event FFDI values for Queensland have been estimated from a gridded (83 kilometre, three-hourly resolution) prediction of FFDI from long-term spatial weather products produced by the Australian Bureau of Meteorology (BoM). The adopted FFDI values reflect a 5% AEP weather event. Adopted FWS (i.e.

5% AEP fire weather event FFDI) values for Queensland vary from 50 in Southeast Queensland and Cape York bioregions to 130 in the south-western parts of the state.

Adopting a worst-case scenario, an FDI of 70 was used when calculating Bushfire Attack Levels (BAL) for 'the site'. Figure 7 provides a Fire Danger Index (FDI) map of Southeast Queensland and identifies the location of the site.



**Figure 7:** FDI map for Southeast Queensland. Leonard, J. *A New Methodology for State-wide Mapping of Bushfire Prone Areas in Queensland*. 2014

### 4.3 Vegetation Hazard Classes

The new methodology for State-wide mapping of bushfire prone areas in Queensland identifies Potential Fuel Loads that are assigned to vegetation categories (Vegetation Hazard Classes) formed by amalgamating land use and vegetation types with a moderately consistent fuel load and structure. The Potential Fuel Load assigned to each Vegetation Hazard Class (VHC) is generally representative of the higher fuel load expected for the typical vegetation types, landscape and site conditions within each Vegetation Hazard Class. This Potential Fuel Load of each Vegetation Hazard Class would approximate the 80<sup>th</sup> percentile fuel load of the “long unburnt condition” for the class (generally greater than 10 years without burning). The Vegetation Hazard Classes (VHC) mapped for the site and immediate surrounding area are presented in Figure 8 with Table 2 providing a description of them and their potential fuel load characteristics.

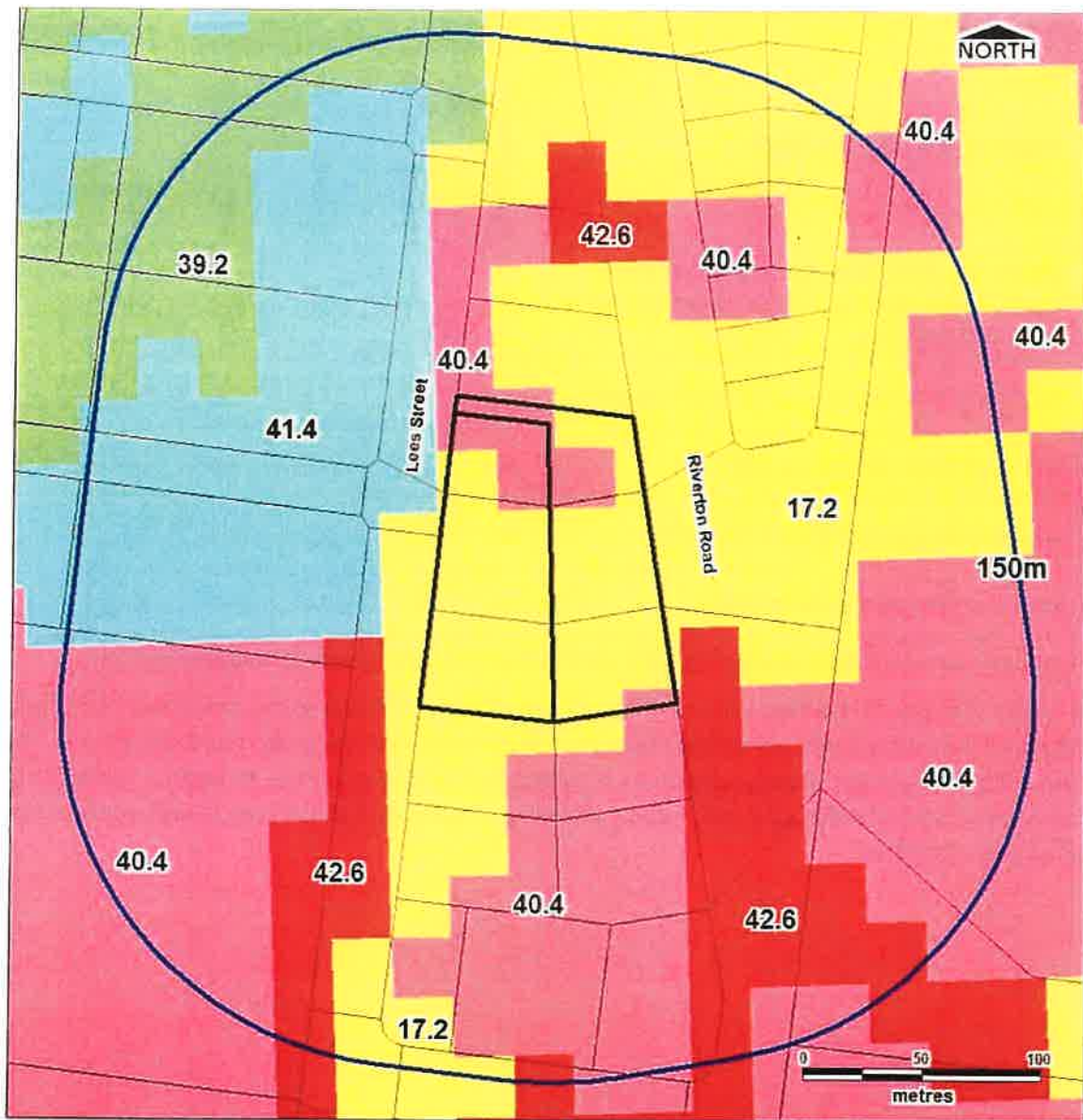


Figure 8: VHCs for the site and surrounding areas as identified by Queensland Government mapping



**Table 2:** Vegetation Hazard Class descriptions and 80<sup>th</sup> percentile potential fuel load

Vegetation Hazard Class (VHC)	Surface (t/ha)	Near surface (t/ha)	Elevated	Bark	Total
17.2 Dry woodlands dominated by poplar box, silver-leaved ironbark or White's ironbark on sand or depositional plains	6.0	3.0	0.6	0.0	9.6
39.2 Low to moderate tree cover in built-up areas	2.0	3.0	2.0	1.0	8.0
40.4 Continuous low grass or tree cover	0.5	4.0	0.5	0.0	5.0
41.4 Discontinuous low grass or tree cover	0.5	2.0	0.5	0.0	3.0
42.6 Nil to very low vegetation cover	1.0	1.0	0.0	0.0	2.0

Fuel load data sources from Bushfire Resilient Communities Technical Reference Guide October 2019

The site was ground truthed and the VHCs present mapped to assist in the process of identifying the level of fuel loads and associated risk of bushfire in relation to the proposed development. The VHCs identified by the site assessment as occurring on the site and in the immediate surrounding area are presented in Figure 9 with Table 3 providing a description of them and their potential fuel load characteristics.

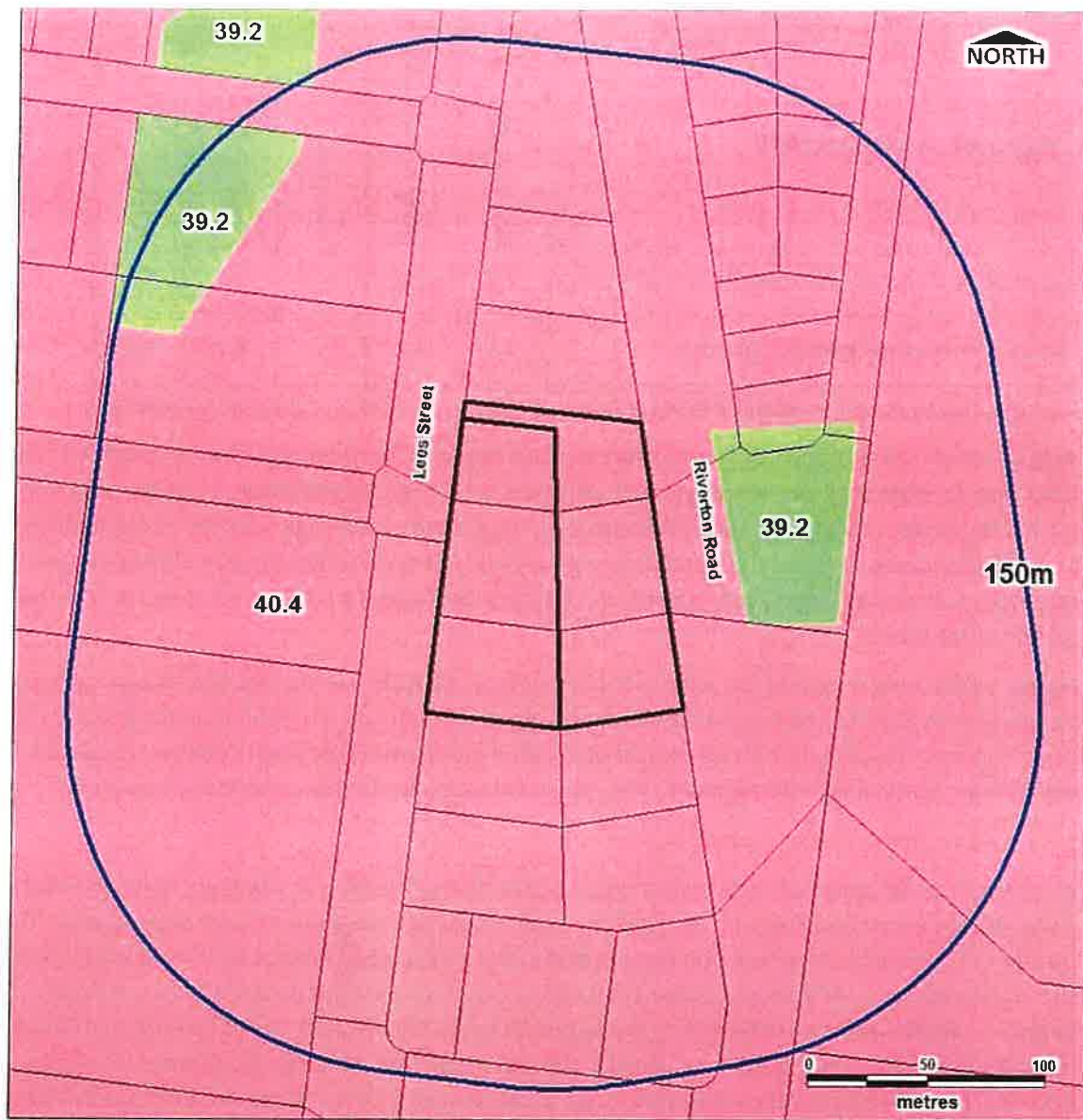


Figure 9: Ground truthed VHCs for the site and surrounding areas mapping

**Table 3:** Ground-truthed Vegetation Hazard Class descriptions and 80<sup>th</sup> percentile potential fuel load

Vegetation Hazard Class (VHC)	Surface (t/ha)	Near surface (t/ha)	Elevated	Bark	Total
39.2 Low to moderate tree cover in built-up areas	2.0	3.0	2.0	1.0	8.0
40.4 Continuous low grass or tree cover	0.5	4.0	0.5	0.0	5.0

Fuel load data sources from Bushfire Resilient Communities Technical Reference Guide October 2019

Vegetation on the site, and in the immediate surrounding area has been significantly modified over time due to historical land management practices and the establishment of urban and rural residential living area and associated infrastructure (e.g. roads, dwellings, associated out buildings and establishment of lawns and landscaped grounds). This has resulted in the almost complete removal of all woody vegetation, apart from 2 small well-isolated patches with areas of less than 4,000 square metres.

Figure 9 shows the extent of the various VHCs that were identified in the site assessment process. Vegetation on the site and immediate surrounds aligns with VHC 40.4 'Continuous low grass or tree cover' in terms of vegetation structure and associated fuel loads. The 2 small patches of vegetation within 150 metres of the site align with VHC 39.2 'Low to moderate tree cover in built-up areas.'

#### 4.4 Potential Bushfire Hazard Class

A 'fit for purpose' approach was undertaken to identify the bushfire risk present using the state-wide mapping methodology in conjunction with local-scale vegetation and slope maps. The location of ground-truthed VHCs on the site and in the surrounding landscape in conjunction with the underlying slope of land was utilised to develop Potential Bushfire Hazard Classes. A slope of 3 degrees was utilised when determining the appropriate bushfire hazard class. The Potential Fireline Intensity calculator was used to calculate the Potential Fireline Intensity (kw/m) to which a Potential Bushfire Hazard Class was attributed. Table 4 provides the various site attributes used to calculate the Potential Bushfire Hazard Class at representative locations around the site. Table 5 provides the correlation between Potential Fireline Intensity and Potential Bushfire Hazard Class.

**Table 4:** Attributes used to calculate the Potential Bushfire Hazard Class

Vegetation Hazard Class (VHC)	Potential Fuel Load (t/ha)	Potential Fire Weather Severity (FFDI)	Slope under hazardous vegetation (deg)	Potential Fireline Intensity (kW/m)	Potential Bushfire Hazard Class
39.2 Low to moderate tree cover in built-up areas	8	70	3	3,416	Low hazard
40.4 Continuous low grass or tree cover	5	70	3	1,335	Low hazard

**Table 5:** Potential bushfire hazards classes

Potential Bushfire Intensity Class	Potential Fire-line Intensity
1. Very high (potential intensity)	>10,000kW/m
2. High (potential intensity)	20,000 – 40,000kW/m
3. Medium (potential intensity)	4,000 – 20,000kW/m
4. Low hazard	<4,000kW/m

Figure 10 identifies the Potential Bushfire Hazard for the site and immediate surrounding areas (within a radius of 150 metres of the site). No areas of Potential Bushfire Hazard are identified on the site or within 150 metres of it.

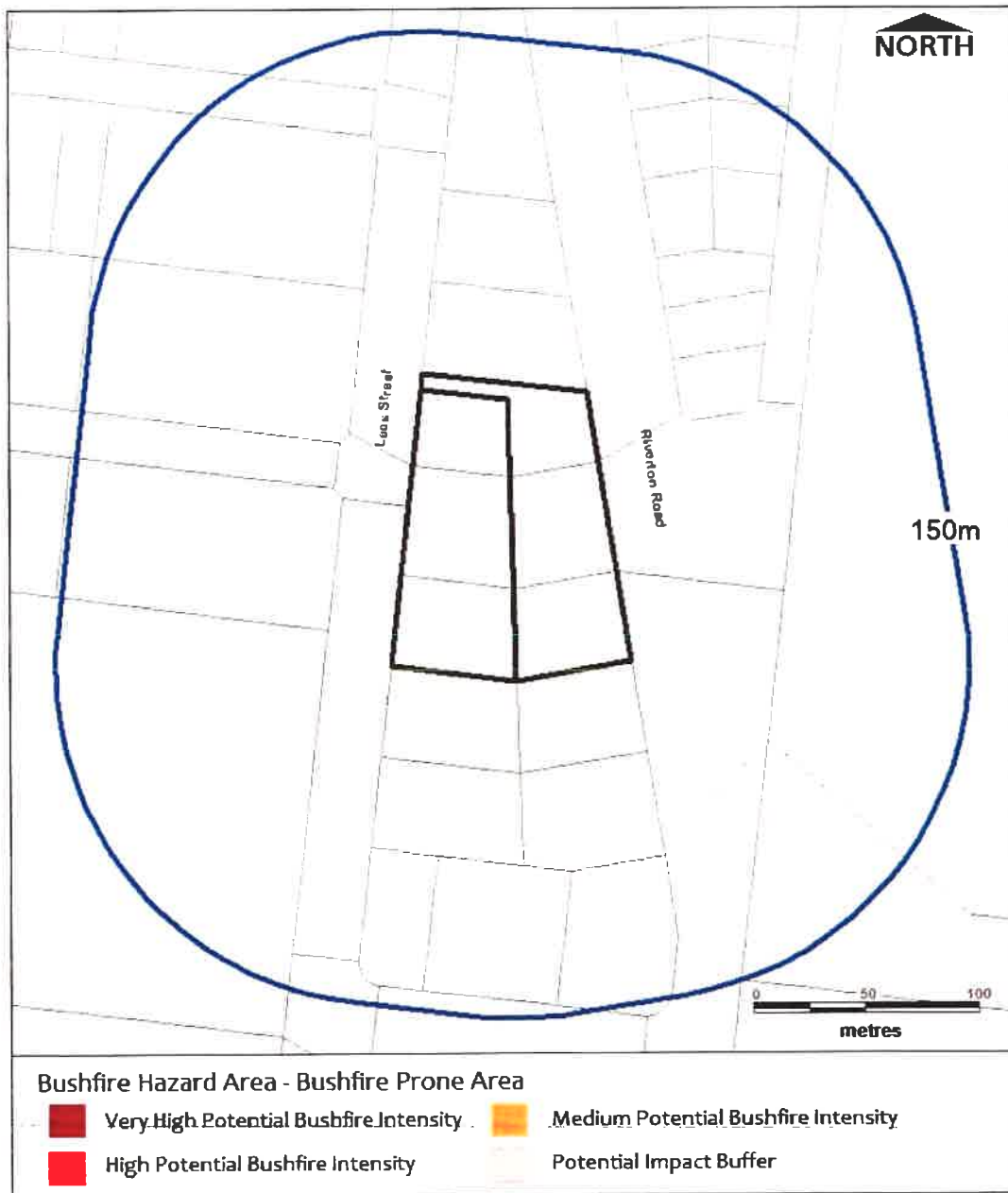


Figure 10: Bushfire Hazard map for the site created using the state-wide SPP mapping methodology.

## 5.0 Conclusion

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The bushfire assessment of the site identified that the entire site is located within an area assessed to comprise Low Bushfire Hazard. Bushfire Attack Levels (BAL) for the 2 lots are assessed to be Low.

The following detail from AS 3959-2018 provides the justification for a BAL - LOW rating.

The Bushfire Attack Level shall be classified **BAL - LOW** where the vegetation is one or a combination of any of the following:

- (a) Vegetation of any type that is more than 100 m from the site.
- (b) Single areas of vegetation less than 1 ha in area and not within 100 m of other areas of vegetation being classified.
- (c) Multiple areas of vegetation less than 0.25 ha in area and not within 20 m of the site, or each other.
- (d) Strips of vegetation less than 20 m in width regardless of length and not within 20 m of the site or each other, or other areas of vegetation being classified.
- (e) Non-vegetated areas, including waterways, roads, footpaths, buildings and rocky outcrops.
- (f) Vegetation regarded as low threat due to factors such as flammability, moisture content or fuel load. This includes grassland managed in a minimal fuel condition, which is defined as *“there is insufficient fuel available to significantly increase the severity of the bushfire attack (recognisable as short-cropped grass for example to a nominal height of 100mm)”*.

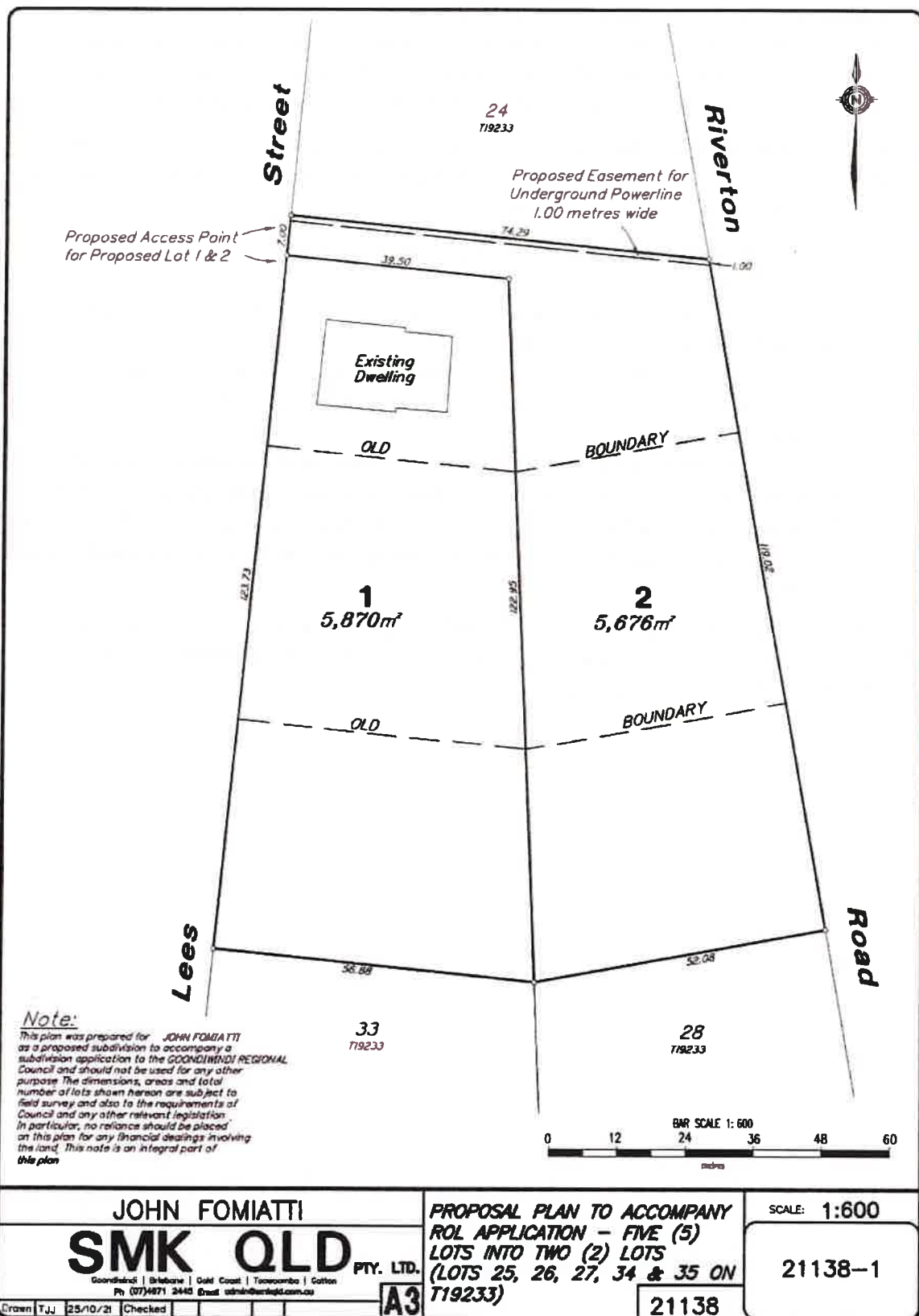
In this situation, vegetation within a 100-metre radius the site at the time of inspection was considered to align with items (b), (c), (d), (e) and (f) above.

## 6.0 References

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- Australian Standard; 2018. *Construction of Buildings in Bushfire-prone Areas (AS3959–2018)*. Sydney.
- Building Code of Australia (BCA); May 2019. *National Construction Code Volumes 1 and 2*.
- Google Earth; 2022.
- Gould JS, McCaw WL, Cheney NP, Ellis PF, Knight IK, Sullivan AL; 2008. *Project Vesta: Fire in Dry Eucalypt Forest. Fuel Structure, Fuel Dynamics and Fire Behaviour*, CSIRO publishing.
- Leonard, J, Newnham, G, Opie, K, and Bianchi, R; 2014. *A New Methodology for State-wide Mapping of Bushfire Prone Areas in Queensland*. CSIRO, Australia.
- NSW Rural Fire Service; 2006 and 2017. *Planning for Bush Fire Protection*. Sydney.
- Queensland Development Assessment Mapping System:  
<https://sara.ds.dip.esriaustraliaonline.com.au/saraviewer/>
- Queensland Department of Resources website; 2022. <https://www.don.qld.gov.au/>
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<http://www.dilgp.qld.gov.au/planning/state-planning-instruments/spp-interactive-mapping-system.html>
- Ramsay, C & Rudolph, L; 2003. *Landscape and Building Design for Bushfire Areas*. CSIRO, Australia.
- Goondiwindi Region Planning Scheme (2018).
- The State of Queensland, October 2019. *Bushfire Resilient Communities Technical Reference Guide for the State Planning Policy State Interest 'Natural Hazards, Risk and Resilience - Bushfire*

Appendix 1 – Site plan







## Appendix 2: Suitably qualified and experienced practitioner

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The Queensland Government publication 'Bushfire Resilient Communities - Technical Reference Guide for the State Planning Policy State Interest 'Natural Hazards, Risk and Resilience - Bushfire' (October 2019) identifies the requirements for suitably qualified and experienced personnel to undertake the preparation of bushfire reports. It identifies the following requirements.

The preparation of planning scheme provisions or applicant-initiated assessments and reports should be prepared by suitably qualified and experienced people. These people should have the following qualifications and experience as a starting point:

1. degree (AQF level 8) qualifications in environmental science, environmental management (or equivalent discipline)
2. demonstrated experience in botanical survey and spatial analysis methods, including use of geographic information systems (GIS) software
3. demonstrated experience in the assessment of bushfire hazard and risks or technical qualifications in environmental science, environmental management (or an equivalent discipline)
4. demonstrated relevant industry experience in the assessment of bushfire hazard and risks for a minimum five years. Where a local government proposes to include advice about the process for preparation of applicant-initiated assessments in its planning scheme (as a planning scheme policy, for example), it is recommended that advice on the necessary expertise also be included.

This bushfire report was prepared by a consultant who possesses tertiary qualifications in horticulture and has extensive experience in items 2 to 4. A CV is attached that provides relevant details of qualifications and expertise.



## Curricula Vitae

### **RICK GALBRAITH**

*Director of Aquila NRM*

Diploma of Horticultural Science 1978

Member - EIANZ

### **SUMMARY OF EXPERIENCE**

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Rick is a senior ecologist and has worked extensively throughout southern inland Queensland for the past 25 years as a natural resource management practitioner with a particular focus on vegetation and bushfire. During this time Rick has worked with Regional, State and Federal Governments, Regional Natural Resource Management (NRM) bodies, Landcare and community groups, developers and consultancy organisations.

Rick has undertaken over 1500 bushfire related projects throughout Queensland for a broad range of clients. These projects have included bushfire assessment and planning reports for residential developments, Age Care facilities, recreational and specialist facilities, and building reports properties in identified bushfire hazard areas.

Additionally, Rick has delivered Fire and Biodiversity Property Planning workshops throughout inland southern Queensland for rural and rural residential landholders to assist them in preparing for bushfire events.

### **KEY AREAS OF EXPERTISE**

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- Bushfire Hazard assessment and preparation of reports in accordance with the State Planning Policy, Natural hazards, risk and resilience – Bushfire, (including methodologies and policies);
- Bushfire Hazard assessment and preparation of reports in accordance with the Regional Council Planning Scheme Policies and Codes;
- Site assessment, preparation of Bushfire Reports for buildings and inspection for compliance with AS3959-2018;
- Environmental Impact Assessments and preparation of environmental management plans for civil construction projects;
- Vegetation assessment and Protected Plant surveys throughout southern inland Queensland.

### **SELECTED CAREER EXPERIENCE**

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Selected projects that Rick has completed throughout his career are provided to demonstrate his capabilities and experience in the fields of environment including vegetation assessment and management and bushfire.

- **Bushfire assessments and reports 2006 – present.**
  - Site assessment and the preparation of planning and bushfire management reports for developments in bushfire prone areas. Reports have been prepared for urban and rural

- 
- residential subdivisions, outdoor education centres, accommodation and conference facilities and campgrounds.
- Undertaken site inspections and the preparation of Bushfire Reports for the past 16 years for the construction of buildings in accordance with the Australian Standard – Construction of buildings in bushfire-prone areas (AS3959-2018). Approximately 250 reports are prepared annually for individuals, builders and various organisations.
  - Preparation of planning reports for developments in bushfire prone areas. These reports have included subdivisions, Outdoor Education Centres, accommodation and conference facilities and campgrounds. Approximately 10 to 15 reports prepared annually.
  - Inspection of buildings for compliance with Bushfire Reports and AS3959-2018 for the purpose of issuing Form 12 Certificates.
  - **Environmental Impact Assessments 2007 – present.** Preparation of Environmental Impact Assessments for developments such as urban and rural residential subdivisions throughout southern inland Queensland.
  - **Flora surveys including Protected Plants 2014 - present:** Flora surveys including protected plants comprising site assessment, identification of plant species and preparation of reports in accordance with relevant guidelines. Flora surveys have been undertaken throughout southern inland Queensland for a range of clients.



**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 "Dwelling House" (House in Low Impact Industry Zone)

23/13

Lees Street, Texas

**Lot 2 on SP333094**

On 14 September 2023, 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, 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
Low Impact Industry Zone Code	PO1-PO8
Accommodation Activities Code	Purpose
Transport & Infrastructure Code	PO1-PO15
Infrastructure Overlay Code	PO5
Biodiversity Areas Overlay Code	PO1-PO3
Bushfire Hazard Overlay Code	PO1-PO8

### 3. Compliance with benchmarks

Benchmark reference	Reasons for the approval despite non-compliance with benchmark
<b>Low Impact Industry Zone Code</b>	
<p><b>PO8</b> Non-industrial uses are not located within the zone unless it can be demonstrated that such uses:</p> <ul style="list-style-type: none"> <li>(a) are ancillary to, or are compatible with, industrial uses; or</li> <li>(b) directly support industries and employees in the zone; and</li> <li>(c) do not compromise the ongoing operation and use of the zone for industry purposes.</li> </ul>	<p><b>Alternative Outcome</b> The proposed development will establish a non-industrial use in the zone. The proposal is not ancillary to an industrial use of the site, though the applicant submits the southern portion of the site is available to be used for industrial purposes in the future. There is limited industrial activity in the area and therefore the use does not directly support any industries or employees.</p> <p>However, the proposal is not considered to compromise the ongoing operation and use of the zone for industry purposes. As the site is adjoined by existing residences to the north and west, the development footprint is heavily constrained from supporting industrial activities. Any future industrial use would need to address the existing residences irrespective of the proposed development.</p>
<b>Transport &amp; Infrastructure Code</b>	
<p><b>AO15.1</b> Landscaping complies with the standards specified in SC6.4 Planning Scheme Policy 1 – Landscaping Standards.</p> <p><b>AO15.2</b> Street frontage landscaping has a minimum width of 2 metres for the full length of the site frontage (excluding driveways).</p> <p><b>AO15.3</b> Landscape screening to external use areas has a minimum width of 3 metres for the full length of all boundaries adjoining external use areas on the site.</p> <p><b>AO15.4</b> For industrial activities adjoining premises not included in an industry zone and used for non-industrial activities, a solid screen fence with a minimum height of 1.8 metres is provided on the common boundary.</p>	<p><b>Alternative Solution</b> The proposed use is for a residential activity. Suitable landscaping and private open space areas will be maintained on site.</p>
<b>Biodiversity Areas Overlay Code</b>	
<p><b>AO3.1</b> A buffer is provided and maintained to a wetland which has a minimum width of:</p> <ul style="list-style-type: none"> <li>(a) 50 metres where the area is located within an <i>urban area</i> or land included in the Rural residential zone; and</li> <li>(b) 200 metres where the area is located outside an <i>urban area</i> or land included in the Rural residential zone.</li> </ul>	<p><b>Not Applicable</b></p>

Benchmark reference	Reasons for the approval despite non-compliance with benchmark
<p><b>AO3.2</b> Development in an urban or rural residential area is setback a minimum of 50m from a waterway<sup>1</sup> on or adjacent to the site.</p> <p>OR</p> <p>Development not in an urban or rural residential area is setback a minimum of 100m from a waterway on or adjacent to the site.</p> <p>Note—The above setback distances are to be measured from the top of the high bank of the watercourse.</p> <p><b>AO3.3</b> Cleared, degraded or disturbed watercourses and watercourse buffers within the development site are rehabilitated in accordance with an approved rehabilitation plan.</p> <p><b>AO3.4</b> Reconfiguring a lot adjacent to a watercourse provides that:- (a) no new lots directly back onto the riparian area; (b) any new roads are located between the watercourse buffer and proposed lots.</p>	<p><b>Alternative Solution</b> The proposed development footprint maintains a suitable setback to the mapped watercourse, reflective of the stream order.</p> <p><b>Not Applicable</b></p> <p><b>Not Applicable</b></p>

**4. Relevant matters for impact assessable development**

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

Other relevant matters to the assessment of the development under section 45(5)(b)	Assessment carried out against or assessment had regard to
Existing development in the locality	<input type="checkbox"/> assessed against <input checked="" type="checkbox"/> had regard to
Availability of Industrial land	<input type="checkbox"/> assessed against <input checked="" type="checkbox"/> had regard to

**5. Matters raised in submissions for impact assessable development**

**6. Matters prescribed by Regulation**

<sup>1</sup> Editor's note—for the purpose of the overlay, waterways are those waterways identified in the SPP interactive mapping system as MSES – Regulated vegetation (intersecting a watercourse)



**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.*