

File: 16/40W
Date: 18 May 2018

Smithfield Cattle Company Pty Ltd
C/- EnviroAg Australia Pty Ltd
PO Box 411
TOOWOOMBA QLD 4350

Attention: Simon Lott

Dear Mr Lott

Decision Notice – change application – minor change
(Given under section 83 of the *Planning Act 2016*)
Material Change of Use

Lot 56 on MH235 & Lot 55 on SP169191, 'Sapphire', Kildonan Road, Yelarbon

Goondiwindi Regional Council received your change application made under section 78 of the *Planning Act 2016* on 27 April 2018 for the developed approval dated 18 May 2018.

Decision for change application

Date of decision: 18 May 2018
Decision details: Make the change and amend existing conditions.

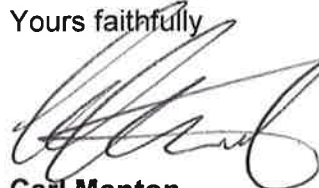
The changes agreed to are:

1. Condition 10 – Change requested approval subject to one condition.

Note: Due to the change of condition 10, condition 3 has been updated to reflect the relevant plans.

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

Yours faithfully



Carl Manton
Chief Executive Officer
Goondiwindi Regional Council

Decision Notice approval

Planning Act 2016 section 63

Council File Reference: 16/40W
Council Contact: Mrs Ronnie McMahon: JML
Council Contact Phone: (07) 4671 7400

18 May 2018

Applicant Details: Smithfield Cattle Co.
C/- EnviroAg Australia Pty Ltd
PO Box 411
TOOWOOMBA QLD 4350

Attention: Simon Lott

The development application described below was properly made to Goondiwindi Regional Council on 1 May 2018.

Applicant details

Applicant name: Smithfield Cattle Co.
Applicant contact details: PO Box 411, Toowoomba, QLD, 4350
Simon.lott@enviroag.net.au

Application details

Application number: 16/40W
Approval sought: Development Permit – Material Change of Use
Details of proposed development: *“Rural Activities” – “Intensive Animal Industry”* (Expansion of Feedlot to 19,999SCU)

Location details

Street address: ‘Sapphire’ Kildonan Road, Yelarbon
Real property description: Lot 56 on MH235 and Lot 55 on SP169191

Decision

Date of decision: 18 May 2018
Decision details: Approved in full. A copy of the amended conditions for the application are included in Attachment 1, showing the approved changes.

Details of the approval

Development permit: Material Change of Use

Description of requested changes

Existing Condition 10

Heavy vehicle access to the site shall be via Kildonan Road only, except during times when Kildonan Road is closed.

Requested Changes - Condition 10

~~Heavy vehicle access to the site shall be via Kildonan Road only, except during times when Kildonan Road is closed.~~

Heavy vehicle access to the site shall be made in accordance with Traffic Impact Assessment (Report no. 30455.82991), except during times when Kildonan Road is closed. Provided the intersection shall also be constructed to a sealed standard, generally in accordance with drawing 30455.CC.205A, copy attached.

Recommendation:

Agree

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 Negotiated Decision Notice remain relevant and enforceable.

All other parts of the Negotiated Decision Notice not amended by this 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. Approval for building works under the *Building Act 1975*

Properly made submissions

There were no properly made submissions received for this minor change application.

Rights of appeal

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

A copy of the relevant appeal provisions are attached.

Currency period for the approval

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

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

Approved Plans and Specifications

Copies of the following plans are enclosed.

Drawing Number	Title	Date
30453.CC.004 Revision A2	Smithfield Sapphire Proposed Feedlot Expansion Site Plan	31/10/2016
30453.CC.001 Revision D	Smithfield Sapphire Feedlot Expansion Plan	8/4/2016
30455.CC.205A	Smithfield Sapphire Proposed Rail Crossing Road Turning Concept	7/7/17

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

Attachment 4 includes a Rights of Appeal waiver, which, if completed, will be used to process your request to waive your appeal rights to process your approval without unnecessary delay.

Attachment 5 is an extract from the *Planning Act 2016*, which details the applicant's appeal rights regarding this decision

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

Yours Sincerely



Carl Manton
Chief Executive Officer
Goondiwindi Regional Council

enc Attachment 1—Amended Assessment manager conditions
 Attachment 2—Approved plans
 Attachment 3—Notice about decision – Statement of Reasons
 Attachment 4—Rights of Appeal waiver
 Attachment 5—Planning Act extracts



ATTACHMENTS

Attachment 1 – Amended Assessment Manager’s Conditions

Part 1 – Amended Assessment Manager’s Conditions

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

Attachment 2 – Approved Plans

Attachment 3 – Notice about decision - Statement of reasons

Attachment 4 – Rights of Appeal waiver

Attachment 5 – Planning Act 2016 Extracts

Planning Act 2016 appeal provisions

Planning Act 2016 lapse dates



**Attachment 1 – Amended Assessment Manager's
Conditions**



Assessment Manager's Conditions

Proposed Use:	<i>"Rural activities"</i> <ul style="list-style-type: none"> <i>"Intensive animal industry"</i> (expansion to feedlot from 8,700SCU to 19,999SCU)
Development:	Material Change of Use – Development Permit
Applicant:	EnviroAg Australia for Smithfield Cattle Co
Address:	'Sapphire', Kildonan Road, Yelarbon
Real Property Description:	Lot 55 on SP169191 and Lot 56 on MH235
Council File Reference:	16/40W

GENERAL CONDITIONS														
1.	Approval is granted for the purpose of a Material Change of Use for: <ul style="list-style-type: none">• <i>“Rural activities” – “Intensive animal industry”</i> (expansion to feedlot from 8,700SCU to 19,999SCU) as defined in the <i>2006 Planning Scheme for the former Waggamba Shire Council</i>.													
2.	All conditions must be complied with or bonded prior to the commencement of the use, unless specified in an individual condition.													
3.	The development shall be in accordance with supporting information supplied by the applicant with the development application including the following plans: <table><tr><th>Drawing Number</th><th>Title</th><th>Date</th></tr><tr><td>30453.CC.004 Revision A2</td><td>Smithfield Sapphire Proposed Feedlot Expansion Site Plan</td><td>31/10/2016</td></tr><tr><td>30453.CC.001 Revision D</td><td>Smithfield Sapphire Feedlot Expansion Plan</td><td>8/4/2016</td></tr><tr><td>30455.CC.205A</td><td>Smithfield Sapphire Proposed Rail Crossing Road Turning Concept</td><td>7/7/17</td></tr></table>		Drawing Number	Title	Date	30453.CC.004 Revision A2	Smithfield Sapphire Proposed Feedlot Expansion Site Plan	31/10/2016	30453.CC.001 Revision D	Smithfield Sapphire Feedlot Expansion Plan	8/4/2016	30455.CC.205A	Smithfield Sapphire Proposed Rail Crossing Road Turning Concept	7/7/17
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30453.CC.001 Revision D	Smithfield Sapphire Feedlot Expansion Plan	8/4/2016												
30455.CC.205A	Smithfield Sapphire Proposed Rail Crossing Road Turning Concept	7/7/17												
Please note these plans are not approved Building Plans. The approved plans are included in Attachment 2 .														

4.	<p>Complete and maintain the approved development as follows:</p> <ul style="list-style-type: none"> (i) Generally in accordance with development approval documents; and (ii) Strictly in accordance with those parts of the approved development which have been specified in detail by Council unless Council agrees in writing that those parts will be adequately complied with by amended specifications. <p>All development shall comply with any relevant provisions in the <i>2006 Planning Scheme for the former Waggamba Shire Council</i>, Council's standard designs for applicable work and any relevant Australian Standard that applies to that type of work.</p> <p>The development approval documents are the material contained in the development application, approved plans and supporting documentation including any written and electronic correspondence between applicant, Council or any relevant Agencies during all stages of the development application assessment processes.</p>
5.	<p>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>
6.	<p>It is the responsibility of the developer to ensure that all requirements, legislative or otherwise, relating to this development have been carried out lawfully prior to the commencement of the use.</p>
	<p>PUBLIC UTILITIES</p>
7.	<p>Connection to reticulated electricity shall be retained to the subject site, at no cost to Council.</p>
8.	<p>The developer is responsible for ensuring Queensland Fire Services requirements are met with respect to this development.</p>
	<p>ROADS AND VEHICLES</p>
9.	<p>Both site accesses, from the edge of the existing bitumen to the property boundary, must be maintained or upgraded if required to a industrial standard in accordance with Schedule 1, Division 2: Standards for Roads, Carparking, Manoeuvring Areas and Access of the <i>2006 Planning Scheme for the former Waggamba Shire Council</i>, to the satisfaction of and at no cost to Council.</p> <p>Crossovers shall be either constructed or bonded prior to the commencement of the use.</p> <p>The developer shall contact Council's Engineering Department to ensure the correct specifications are obtained for all civil works prior to commencement of any works onsite.</p> <p>A qualified Council Officer may inspect construction works at the request of the developer to ensure compliance with this condition.</p>

10.	<p>Heavy vehicle access to the site shall be via Kildonan Road only, except during times when Kildonan Road is closed.</p> <p>Heavy vehicle access to the site shall be made in accordance with Traffic Impact Assessment (Report no. 30455.82991), except during times when Kildonan Road is closed. This change is subject to the condition that the intersection shall be constructed to a sealed standard, generally in accordance with drawing 30455.CC.205A, copy attached.</p>
11.	<p>All areas where vehicles manoeuvre and park must be constructed to an all-weather, dust suppressant gravel standard in accordance with Schedule 1, Division 2: Standards for Roads, Carparking, Manoeuvring Areas and Access of the <i>2006 Planning Scheme for the former Waggamba Shire Council</i>, to the satisfaction of and at no cost to Council.</p> <p>Car parking and manoeuvring areas shall be either constructed or bonded prior to the commencement of the use.</p> <p>The developer shall contact Council's Engineering Department to ensure the correct specifications are obtained for all civil works prior to commencement of any works onsite.</p> <p>A qualified Council Officer may inspect construction works at the request of the developer to ensure compliance with this condition.</p>
	<p>STORMWATER</p>
12.	<p>Prior to the commencement of the use and at all times while the use continues, the site shall be adequately drained and all stormwater shall be disposed of to a legal discharge point in accordance with Schedule 1, Division 5: Standards for Stormwater Drainage of the <i>2006 Planning Scheme for the former Waggamba Shire Council</i>, to the satisfaction of and at no cost to 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 system shall be designed to include appropriate pollution control devices or methods to ensure no contamination or silting of waterways.</p>
13.	<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>

	EARTHWORKS AND EROSION CONTROL
14.	<p>Any filling or excavation shall be undertake in accordance with Schedule 1, Division 1: Standards for Construction Activities of the <i>2006 Planning Scheme for the former Waggamba Shire Council</i> or to other relevant engineering standards to the satisfaction of and at no cost to Council.</p> <p>Excavation or filling within 1.5 metres of any site boundary is battered or retained by a wall that does not exceed 1 metre in height.</p>
15.	<p>Erosion and sediment control measures shall be in place at the location of all works prior to work commencing and remain until work is completed in accordance with Schedule 1, Division 1: Standards for Construction Activities of the <i>2006 Planning Scheme for the former Waggamba Shire Council</i> to the satisfaction of and at no cost to Council.</p> <p>The developer shall ensure no increase in any silt loads or contaminants in overland flow from the site during the development process and after development has been completed.</p>
16.	<p>All works associated with the development must be carried out in a manner that minimizes erosion and controls sediment. Best practice erosion and sediment control measures shall be in place at the location of all works prior to work commencing and remain until work is completed in accordance with Schedule 1, Division 1: Standards for Construction Activities of the <i>2006 Planning Scheme for the former Waggamba Shire Council</i> 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>
	AVOIDING NUISANCE
17.	<p>At all times while the use continues, the development shall be conducted in accordance with the provisions of the <i>Environmental Protection Act 1994</i> and all relevant regulations and standards under that Act. All necessary licences under the Act shall be obtained and shall be maintained at all times while the use continues.</p>
18.	<p>At all times while the use continues, lighting of the site, including any security lighting, shall be such that the lighting intensity does not exceed 8.0 lux at a distance of 1.5 metres from the site at any property boundary.</p> <p>All lighting shall be directed or shielded so as to ensure that no glare directly affects nearby properties, motorists or the operational safety of the surrounding road network.</p>

19.	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.
20.	The operator shall be responsible for mitigating any complaints arising from on-site operations.
21.	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.
DEVELOPER'S RESPONSIBILITIES	
22.	Any alteration or damage to roads and/or public infrastructure that is attributable to the progress of works or vehicles associated with the development 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.
CHARGES PAID BEFORE USE COMMENCES	
26.	All outstanding rates and charges shall be paid to Council prior to the commencement of the use.
COMMENCEMENT OF USE	
27.	At its discretion, Council may accept bonds or other securities to ensure completion of specified development approval conditions or Council may accept cash payments for Council to undertake the necessary work to ensure completion of specified development approval conditions. It may be necessary for Council to use such bonds for the completion of outstanding works without a specific timeframe agreed.

28.	<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 commencement within six (6) years of the date the development approval takes effect, in accordance with the provisions contained in section 85 of the <i>Planning Act 2016</i>.</p> <p>Section 86 of the <i>Planning Act 2016</i> sets out how an extension to the period of approval can be requested.</p>
29.	<p>A letter outlining and demonstrating that conditions have been, or will be, complied with shall be submitted to Council and approved by a relevant Officer of Council prior to commencement of the use at each relevant stage. Council Officers may require a physical inspection to confirm that all conditions have been satisfied to relevant standards.</p>
	<p>PLEASE READ CAREFULLY - NOTES AND ADVICE</p>
	<p><i>When approval takes effect</i></p> <p>This approval takes effect in accordance with section 85 of the <i>Planning Act 2016</i>.</p> <p><i>When approval lapses</i></p> <p>This approval will lapse if the use has not commenced within six (6) years of the date the development approval takes effect.</p> <p>Section 86 of the <i>Planning Act 2016</i> sets out how an extension to the period of approval can be requested.</p>
	<p>It is the applicant's responsibility to obtain all statutory approvals prior to commencement of any works onsite.</p>
	<p>This approval in no way removes the duty of care responsibility of the applicant under the <i>Aboriginal Cultural Heritage Act 2003</i>. Pursuant to Section 23(1) of the <i>Aboriginal Cultural Heritage Act 2003</i>, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care").</p>
	<p>This approval in no way authorises the clearing of native vegetation protected under the <i>Vegetation Management Act 1999</i>.</p>
	<p>The approved development does not authorise any deviation from the applicable Australian Standards nor from the application of any laws, including laws covering work place health and safety.</p>



Attachment 1 – Amended Assessment Manager’s Conditions

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





Department of Infrastructure,
Local Government and Planning

Our reference: SDA-1116-035075

Your reference: 16/40W

21 February 2017

Chief Executive Officer
Goondiwindi Regional Council
LMB 7
Inglewood QLD 4387

Attn: Mrs Ronnie McMahon

Dear Ronnie

Concurrence Agency Response—with Conditions—Development Permit—Material Change of Use—rural activities (Intensive animal industry (expansion to feedlot to 20,000SCU))

Yelarbon Kurumbul Road, Yelarbon QLD 4388

(Given under section 285 of the *Sustainable Planning Act 2009*)

The referral agency material for the development application described below was received by the Department of Infrastructure, Local Government and Planning (DILGP) under section 272 of the *Sustainable Planning Act 2009* on 21 November 2016.

Applicant details

Applicant name: Smithfield Cattle Co
Applicant contact details: C/- EnviroAg Australia
PO BOX 411
TOOWOOMBA QLD 4350
ryan.francis@enviroag.net.au

Site details

Street address: Yelarbon Kurumbul Road, Yelarbon QLD 4388
Lot on plan: Lot 56 on MH235
Lot 55 on SP169191
Local government area: Goondiwindi Regional Council

Application details

Proposed development: Development Permit—Material Change of Use—rural activities (intensive animal industry (expansion to feedlot to 20,000SCU))

Referral triggers

The development application was referred to DILGP under the following provisions of the *Sustainable Planning Regulation 2009*:

Referral trigger	<p>Schedule 7, Table 2, Item 15A—Railways</p> <p>A material change of use of premises, other than an excluded material change of use, if any part of the land is— (a) within 25m of a railway or future railway land; or (b) future railway land.</p> <p>Schedule 7, Table 3, Item 2 –</p> <p>An aspect of development identified in schedule 9 that - (a) is for a purpose mentioned in schedule 9, column 1; and (b) meets or exceeds the threshold - (i) for development in LGA population 1 - mentioned in schedule 9, column 2 for the purpose; or (ii) for development in LGA population 2 - mentioned in schedule 9, column 3 for the purpose. However, if the development is for a combination of purposes mentioned in the same item of schedule 9, the threshold is for the combination of purposes and not for each purpose individually.</p> <p>Schedule 7, Table 2, Item 1 –</p> <p>A material change of use for an environmentally relevant activity made assessable under schedule 3, part 1, table 2, item 1</p>
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Conditions

Under section 287(1)(a) of the *Sustainable Planning Act 2009*, the conditions set out in Attachment 1 must be attached to any development approval.

Reasons for decision to impose conditions

Under section 289(1) of the *Sustainable Planning Act 2009*, DILGP must set out the reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

Further advice

Under section 287(6) of the *Sustainable Planning Act 2009*, DILGP offers advice about the application to the assessment manager—see Attachment 3.

Approved plans and specifications

DILGP requires that the following plans and specifications set out below and in Attachment 4 must be attached to any development approval.

Drawing/Report Title	Prepared by	Date	Reference no.	Version/Issue
Aspect of development: Material Change of Use				
Smithfield Sapphire Feedlot Expansion Plan.	3RE Rural Regional and Remote Engineering	8/04/2016	30453.CC.001	D
Proposed Feedlot Expansion – Site Plan.	3RE Rural Regional and Remote Engineering	31/10/2016	30453.CC.004	A2
Traffic Impact Assessment.	3RE Rural Regional and Remote Engineering	16/09/2016	30455.82991	0
Stormwater Assessment of the Environmental Impact Statement.	EnviroAg Australia	05/10/2016	24033.84846	0
'Smithfield Sapphire Feedlot Expansion – DTMR Rail Corridor Stormwater Assessment'.	Water Biz	08/09/2016	30465.8713	
Sapphire Feedlot Expansion – Site Areas and Concept Drainage.	3RE Rural Regional and Remote Engineering	15/09/2016	30453.CC.502	0
Level Crossings QR-C-S3235 – 'Fencing with Steel'.	Queensland Rail		2586	B

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

For further information, please contact Maria Johnson, Senior Planning Officer, SARA Darling Downs South West on 4616 7307, or email maria.johnson@dilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Andrew Foley

Manager (Planning)

cc: Smithfield Cattle Co, ryan.francis@enviroag.net.au

enc: Attachment 1—Conditions to be imposed

Attachment 2—Reasons for decision to impose conditions

Attachment 3—Further advice

Attachment 4—Approved Plans and Specifications

Our reference: SDA-1116-035075

Your reference: 16/40W

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Development Permit—Material Change of Use—rural activities (intensive animal industry (expansion to feedlot to 20,000SCU))		
Schedule 7, Table 2, Item 1—Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i> , the chief executive administering the Act nominates the Director-General of the Department of Agriculture and Fisheries to be the assessing authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	<p>The development must be carried out generally in accordance with the following plan:</p> <ul style="list-style-type: none"> Smithfield Sapphire Feedlot Expansion Plan, prepared by 3RE Rural Regional and Remote Engineering, dated 8/04/2016, drawing number 30453.CC.001 and revision D. 	Prior to the commencement of use and to be maintained at all times.
Schedule 7, Table 3, Item 15A and Schedule 7, Table 3, Item 2—Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i> , the chief executive administering the Act nominates the Director-General of the Department of Transport and Main Roads (DTMR) to be the assessing authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
2.	<p>The development must be carried out generally in accordance with the following plan:</p> <ul style="list-style-type: none"> Proposed Feedlot Expansion – Site Plan, prepared by 3RE Rural Regional and Remote Engineering, dated 31/10/2016, drawing number 30453.CC.004 and revision A2. 	Prior to the commencement of use and to be maintained at all times.
3.	<p>The development must be generally in accordance with:</p> <ul style="list-style-type: none"> Traffic Impact Assessment, prepared by 3RE, dated 16/09/2016, document number 30455.82991 and revision 0, in particular: <ul style="list-style-type: none"> Section 4.4 Traffic Over Rail Crossings. Section 2.2 Development Details Section 3.3 Projected Traffic 	Prior to the commencement of use and to be maintained at all times.

No.	Conditions	Condition timing
4.	<p>The development must be in accordance with:</p> <ul style="list-style-type: none"> • Stormwater Assessment of the Environmental Impact Statement, prepared by EnviroAg Australia, Project No. 24033.84846, dated 05/10/2016 and Revision 0: <ul style="list-style-type: none"> o Appendix H • 'Smithfield Sapphire Feedlot Expansion – DTMR Rail Corridor Stormwater Assessment', prepared by Water Biz, dated 08/09/2016 and reference 30465.8713, in particular: <ul style="list-style-type: none"> o Section 1.1.1 Water Quantity; and • Sapphire Feedlot Expansion – Site Areas and Concept Drainage, prepared by 3RE Rural Regional and Remote Engineering, dated 15/09/2016, drawing number 30453.CC.502 and revision 0. 	At all times.
5.	<p>(a) The existing occupational railway level crossing of the South Western Line (Crossing ID: ID2037) providing access from Yelarbon–Kurumbul Road to the site must be upgraded at the applicant's expense to include the following:</p> <ul style="list-style-type: none"> • On each approach to the crossing install advance warning signage assembly RX-4 in accordance with section 2.2.5 'Railway crossing on side road assembly' and figure 4.10 'Railway crossing on side road controlled by stop signs (passive control)' of AS1742.7:2016 <i>Manual of uniform traffic control devices, Part 7: Railway crossings</i>; • Road to be sealed with asphaltic concrete or similar material for a minimum distance of 10.0m on both sides of the railway, in accordance with General Note 4 of Queensland Rail standard Level Crossings drawing number 2586 and Revision B - 'Details of Public Road Grading and Sign Posting'; and • On each approach to the crossing on Yelarbon-Kurumbul Road and at the exit driveway on Lot 55 on SP169191 install advance warning signage consistent with Australian Standards in durability, appearance and design advising drivers that vehicles exceeding 7.5m in length are not to use the crossing. <p>(b) Registered Professional Engineer of Queensland certification with supporting documentation must be provided to the Program Delivery and Operations Unit, DTMR, Downs South West Region</p>	<p>(a) Prior to commencement of operational work or building work, whichever occurs first.</p> <p>(b) Prior to the commencement of use.</p>

No.	Conditions	Condition timing
	(Downs.South.West.IDAS@tmr.qld.gov.au) confirming that the development has been designed and constructed in accordance with part (a) of this condition.	

Our reference: SDA-1116-035075

Your reference: 16/40W

Attachment 2—Reasons for decision to impose conditions

The reasons for this decision are:

- To ensure that development is in accordance with specified plans and specifications.
- To ensure the development does not compromise the safety and efficiency of the state-controlled road.
- To ensure the development does not compromise the safety of the public.

Our reference: SDA-1116-035075

Your reference: 16/40W

Attachment 3—Further advice

General advice	
Ref.	Railways
1.	<p>Road Manager Approval</p> <p>Approval from the relevant road manager is required to achieve compliance with the concurrence agency condition relating to railway level crossing safety. In particular, approval would be required from Goondiwindi Regional Council for the installation of new advance warning signage on Yelarbon–Kurumbul Road as specified in the relevant concurrence agency condition.</p>
2.	<p>Memorandum of Understanding for Railway Level Crossings</p> <p>As per the <i>Memorandum of Understanding between the Local Government Association of Queensland and Queensland Rail and the Department of Transport and Main Roads with respect to the Management and Funding Responsibility for Level Crossing Safety</i>, the local government is responsible for any safety upgrades to a level crossing if the change in risk to the level crossing is due to changes in nearby land uses which have been authorised by local government.</p> <p>The development will result in increased vehicle movements, including heavy vehicles, over railway level crossings, in particular the South Kurumbul Road railway level crossing of the South Western Line railway (ID: 2039). This will contribute cumulative impacts to the railway level crossing.</p> <p>Goondiwindi Regional Council should continue to monitor the level of safety risk and number of reported level crossing issues as further development in the area is approved. Consideration should also be given to implementing improved control and safety measures, as required.</p>
3.	<p>Dangerous goods</p> <p>The Environmental Impact Statement, prepared by EnviroAg Australia, Project No. 24033.84846, dated 05/10/2016 and Revision 0 addresses mitigation, management and monitoring of hazardous chemicals in section 7.12.3. Additionally, the Environmental Management Plan, prepared by EnviroAg Australia, dated 21/09/2016, Report No. 24033.85981, Revision 0 addresses risk assessment and mitigation in Chapter 4.</p> <p>The development should be designed, constructed and managed to minimise the impacts of fire, explosion, chemical spill, liquid fuel spill, gas emission or any other impacts on the railway in relation to dangerous goods. Measures should be incorporated into the design and on-going management of the development to minimise the identified risks. This should address the following risks, amongst other identified risks in relation to railways:</p> <ul style="list-style-type: none"> • minimising or controlling the outbreak of fire; • controlling smoke and/or gas release dispersion; • minimising heat build-up in structures;

	<ul style="list-style-type: none"> • limiting the possibility of structural components being blast damaged; • providing stability or contingency measures in the proposed development; • providing safe emergency access and egress to and from the railway; and • ensuring effective containment and clean-up of dangerous goods incidents.
Further development permits, compliance permits or compliance certificates	
Ref.	Railways and Busways
4.	<p>Works on a railway Pursuant to section 255 of the <i>Transport Infrastructure Act 1994</i>, the railway manager's written approval is required to carry out works in or on a railway corridor or otherwise interfere with the railway or its operations.</p> <p>In particular, the applicant will be required to obtain relevant approvals (such as an interface agreement, wayleave agreement, licence to enter and construct, amongst other approvals) from the railway manager for the removal of gates and installation of railway boundary fencing and any works on the railway associated with the railway level crossing upgrade.</p> <p>Please be advised that this concurrence agency response does not constitute an approval under section 255 of the <i>Transport Infrastructure Act 1994</i> and that such approvals need to be separately obtained from the relevant railway manager.</p> <p>The applicant is recommended to consult with the railway manager prior to the detailed design for the proposed upgrades to the railway level crossing.</p> <p>The applicant should contact the Queensland Rail Property Team at qrpropertywayleaves@qr.com.au or on telephone number (07) 3072 1068 in relation to these matters.</p>
5.	<p>Interface Agreement In accordance with sections 74(1) (d)(iii) and 76(2)(d) of the <i>Transport (Rail Safety) Act 2010</i>, the Road Manager for crossing ID: 2037 of the South Western Line railway must reasonably seek to enter into an Interface Agreement with the Railway Manager (Queensland Rail) to manage the risks to the safety of persons in respect of the railway level crossing.</p> <p>The applicant should contact the Queensland Rail Property Team at qrpropertywayleaves@qr.com.au or on telephone number (07) 3072 1068 in relation to this matter.</p>
6.	<p>Overdimensional Road Loads (Queensland Rail) Under the <i>Transport Infrastructure (Rail) Regulation 2006</i> permission from the Railway Manager (Queensland Rail) is required to take overdimensional road loads across Queensland Rail infrastructure (e.g. rail level crossings and rail bridges). Further information can be obtained from Queensland Rail's website at: http://www.queenslandrail.com.au/forbusiness/overdimensionalloads</p>

Our reference: SDA-1116-035075

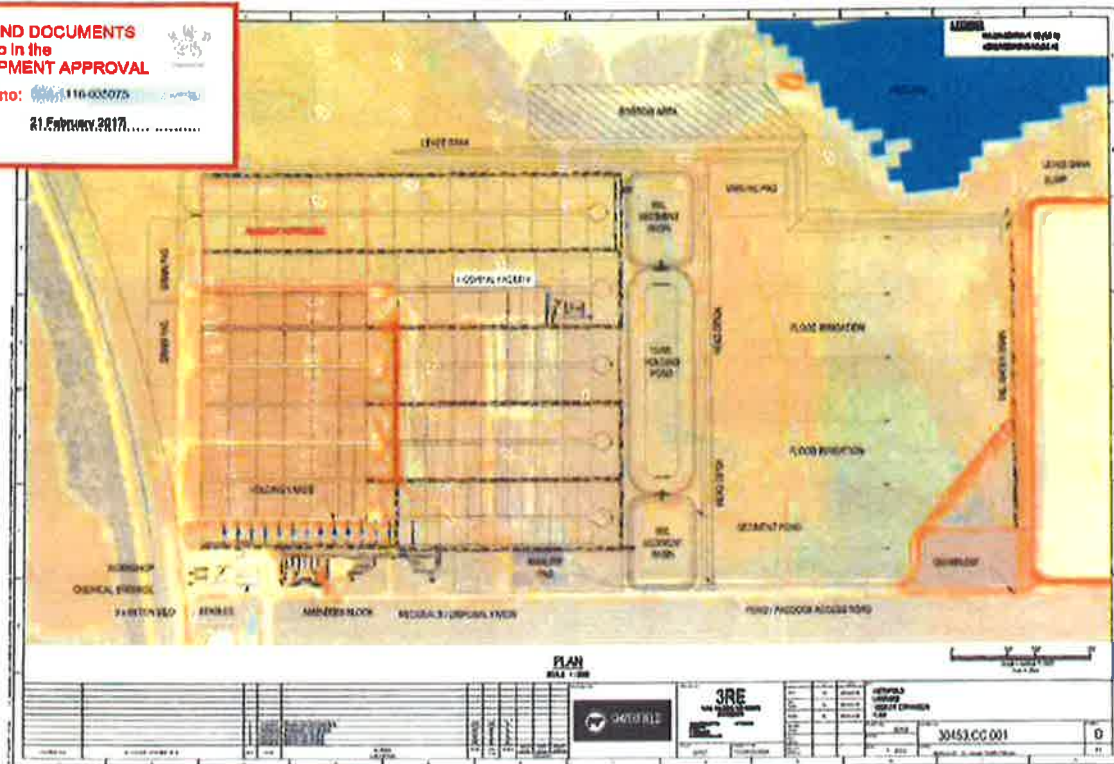
Your reference: 16/40W

Attachment 4—Approved plans and specifications

PLANS AND DOCUMENTS
referred to in the
DEVELOPMENT APPROVAL

Approval no: 1116-035075

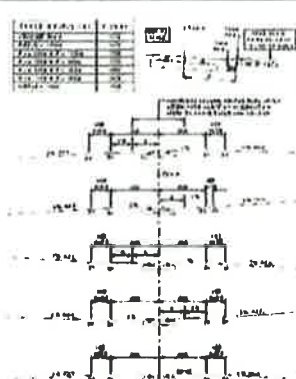
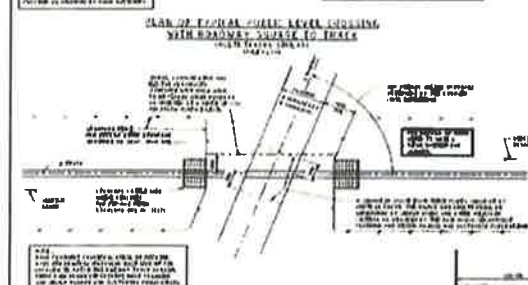
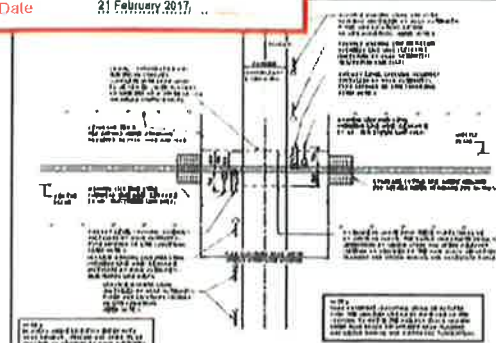
Date: 21 February 2017



PLANS AND DOCUMENTS
referred to in the
DEVELOPMENT APPROVAL

Approval no 8DA-1116-035075

Date 21 February 2017



PLAN OF TYPICAL LEVEL CROSSING
WITH ROADWAY SURFACE TO RAILS

PLAN OF TYPICAL LEVEL CROSSING
WITH ROADWAY SURFACE TO RAILS

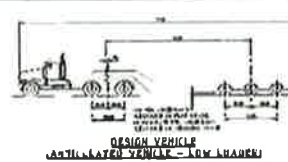
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PLAN OF TYPICAL LEVEL CROSSING
WITH ROADWAY SURFACE TO RAILS



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GENERAL NOTES

1. All dimensions are in millimetres unless otherwise stated.
2. All dimensions are to be maintained unless otherwise stated.
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WITH ROADWAY SURFACE TO RAILS

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PLAN OF TYPICAL LEVEL CROSSING
WITH ROADWAY SURFACE TO RAILS

NO.	REVISION	DESCRIPTION	DATE	BY	CHECKED	APPROVED
2586	A	ISSUED FOR CONSTRUCTION	21/02/2017			

QUEENSLAND RAIL - CIVIL ENGINEERING

LEVEL CROSSINGS

DETAILS OF TYPICAL ROAD CROSSING WITH ROAD SURFACE

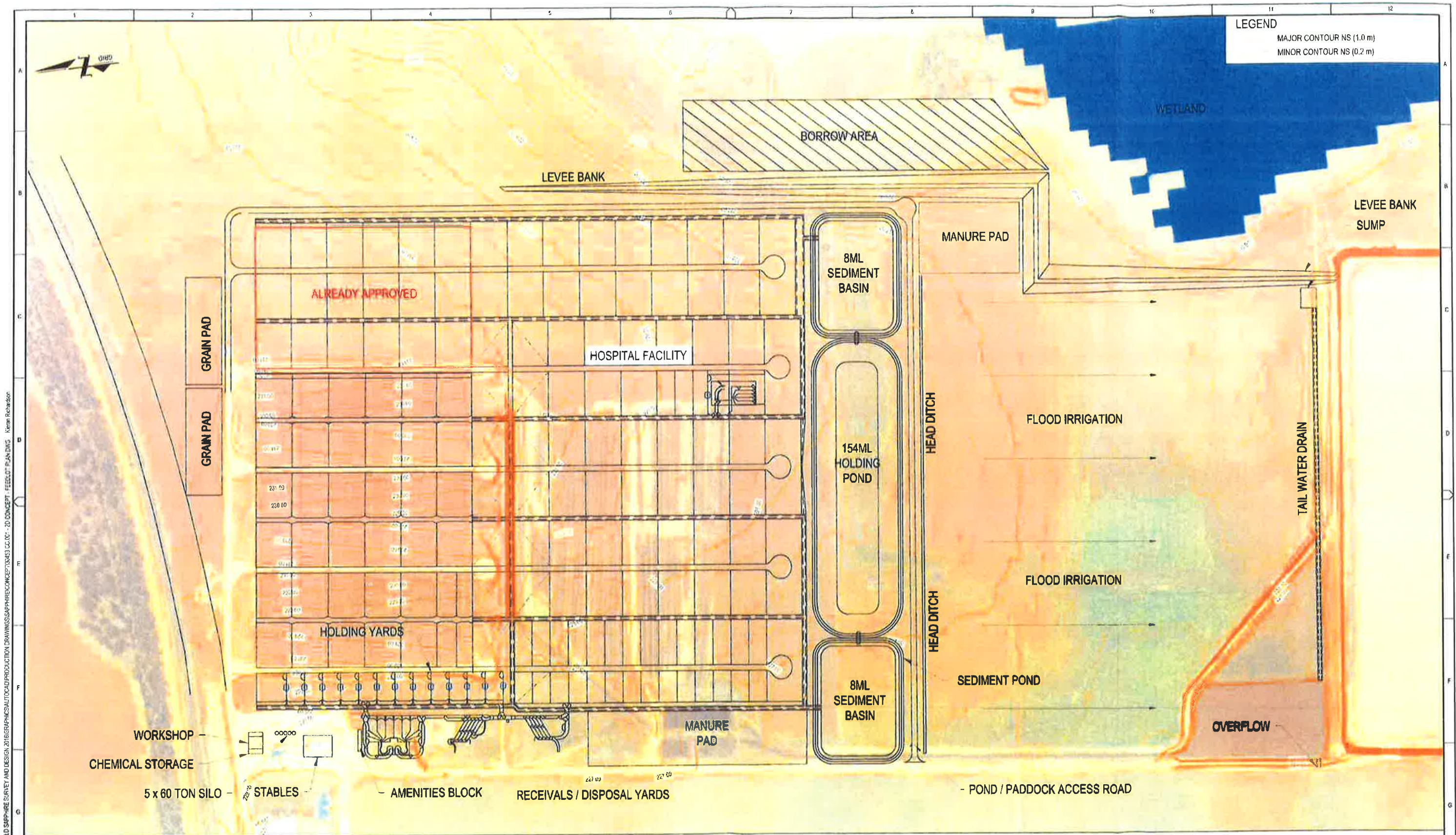
2586

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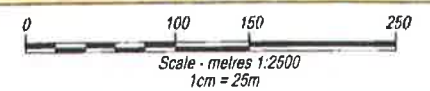


Attachment 2 – Approved Plans





PLAN
SCALE 1:2500



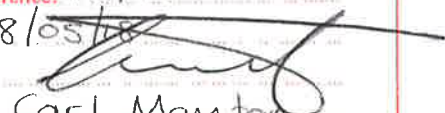
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30453		SMITHFIELD SAPPHIRE FEEDLOT EXPANSION PLAN		A	08/04/2016	ISSUED FOR REVIEW	KPR	JW1	SL	08/04/2016	SMITHFIELD	30453	TOOWOOMBA	30453	TOOWOOMBA	30453	1:2500	30453	SMITHFIELD SAPPHIRE FEEDLOT EXPANSION PLAN	1:2500	08/04/2016	30453
30453		SMITHFIELD SAPPHIRE FEEDLOT EXPANSION PLAN		B	16/08/2016	RE-ISSUED FOR REVIEW	KPR	JW1	SL	16/08/2016	SMITHFIELD	30453	TOOWOOMBA	30453	TOOWOOMBA	30453	1:2500	30453	SMITHFIELD SAPPHIRE FEEDLOT EXPANSION PLAN	1:2500	16/08/2016	30453
30453		SMITHFIELD SAPPHIRE FEEDLOT EXPANSION PLAN		C	08/06/2016	ISSUED FOR REVIEW	KPR	JW1	SL	08/06/2016	SMITHFIELD	30453	TOOWOOMBA	30453	TOOWOOMBA	30453	1:2500	30453	SMITHFIELD SAPPHIRE FEEDLOT EXPANSION PLAN	1:2500	08/06/2016	30453
30453		SMITHFIELD SAPPHIRE FEEDLOT EXPANSION PLAN		D	03/04/2016	ISSUED FOR REVIEW	KPR	JW1	SL	03/04/2016	SMITHFIELD	30453	TOOWOOMBA	30453	TOOWOOMBA	30453	1:2500	30453	SMITHFIELD SAPPHIRE FEEDLOT EXPANSION PLAN	1:2500	03/04/2016	30453

GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 16/40W
Dated: 18-05-18
Signed: 
Print Name: Carl Manton
(Under Delegation) ASSESSMENT MANAGER

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

Council Reference: 16/40w

Dated: 18/05/18


Signed: 

Print Name: Carl Manton
(Under Delegation) ASSESSMENT MANAGER

OPTION - C1 BITUMEN

NOTES:
VEGETATION CLEARING IN RAILWAY
VEGETATION CLEARING IN ROAD RESERVE
QRAIL SPECS
GRC SPECS

LEGEND

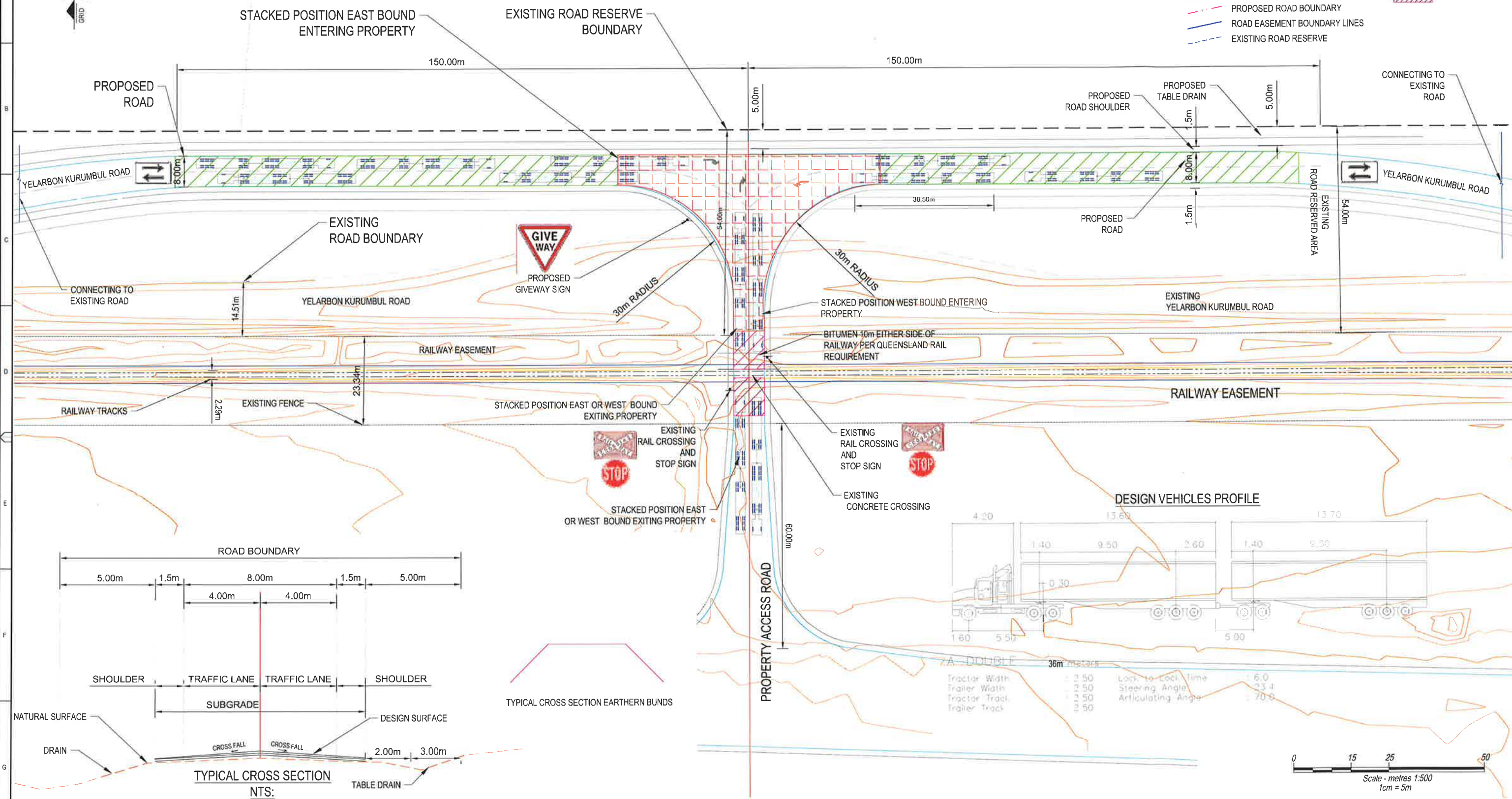
- 
- EXISTING FENCE
 - RAIL TRACKS
 - ROAD CENTER LINE
 - LOT BOUNDARIES
 - PROPOSED ROAD BOUNDARY
 - ROAD EASEMENT BOUNDARY LINES
 - EXISTING ROAD RESERVE



SPRAY SEAL

ASPHALT

BITUMEN



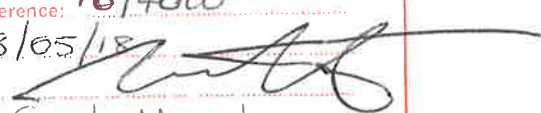
NOTE:
PROPOSED ROAD CONCEPT DESIGN - AUSTRROADS AND DTMR STANDARD ROAD DESIGN SPECIFICATION

ROAD TURNING CONCEPT

SCALE 1 : 500

NOT FOR CONSTRUCTION

[illegible]

GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 16/4010
Dated: 18/05/18
Signed: 
Print Name: Carl Manton
(Under Delegation) ASSESSMENT MANAGER



Attachment 3 – Notice about decision - Statement of reasons



Notice about decision - Statement of reasons

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

The development application for "*Rural Activities*" – "*Intensive Animal Industries*" (Expansion to Feedlot to 19,999SCU)

16/40W

'Sapphire' Kildonan Road, Yelarbon

Lot 56 on MH235 and Lot 55 on SP169191

On 18 May 2018, the above development application was:

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

1. Reasons for the decision

The reasons for this decision are:

- *Having regard to the relevant criteria in the Material Change of use code of the 2006 Planning Scheme for the former Waggamba Shire Council, 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
Rural Zone Code	2006 Planning Scheme for the former Waggamba Shire Council: PC18, AS18.1, AS18.2

3. Compliance with benchmarks

Not applicable, as the proposed development complied with all applicable benchmarks.

4. Relevant matters for impact assessable development

Not required for this minor change application.

5. Matters raised in submissions for impact assessable development

Not required for this minor change application.

6. Matters prescribed by Regulation

Not required for this minor change application.



Attachment 4 – Rights of Appeal Waiver



Attachment 4: Rights of Appeal Waiver

Planning Act 2016
Rights of Appeal Waiver

Purpose of this form: *This form will be used to process your request to waive your appeal rights to process your approval without unnecessary delay.*

Applicant:	Smithfield Cattle Company Pty Ltd
File Number:	16/40W
Property Address:	'Sapphire' Kildonan Road, Yelarbon

This is to confirm that I/We have received the above approval and agree to the conditions contained therein. I/We hereby waive my/our appeal rights available under the *Planning Act 2016*.

Name		Name	
Signature		Signature	
Date		Date	

Please return this form to:

Fax: (07) 4671 7433

Post: LMB 7, Inglewood QLD 4387

Email: mail@grc.qld.gov.au

In person: Council Chambers, 4 McLean Street, Goondiwindi QLD 4390
Goondiwindi Civic Centre, 100 Marshall Street, Goondiwindi QLD 4390
Inglewood Customer Service Centre, 18 Elizabeth Street, Inglewood QLD 4387
Texas Customer Service Centre, High Street, Texas QLD 4385

Privacy Statement

This information collected on this Form will be used by the Goondiwindi Regional Council in accordance with the processing and assessment of your application. Your personal details will not be disclosed for a purpose outside of Council policy, except where required by legislation (including the *Information Privacy Act 2009*) or as required by the Queensland State Government. This information may be stored in the Council database.



Attachment 5 – *Planning Act 2016* Extracts



EXTRACT FROM *PLANNING ACT 2016* RELATING TO APPEAL RIGHTS

Chapter 6 Dispute Resolution, Part 1 Appeal Rights

229 Appeals to tribunal or P&E Court

(1) Schedule 1 states—

(a) matters that may be appealed to—

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

(ii) only a tribunal; or

(iii) only the P&E Court; and

(b) the person—

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

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

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

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

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

(3) The **appeal period** is—

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

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

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

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

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

deemed approval notice to the assessment manager; or

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

Note—

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

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

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

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

(a) the adopted charge itself; or

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

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

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

230 Notice of appeal

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

(a) is in the approved form; and

(b) succinctly states the grounds of the appeal.

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

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

(a) the respondent for the appeal; and

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

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

principal submitter for the development application; and

- (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The **service period** is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

231 Other appeals

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

(4) In this section—

decision includes—

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

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

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

232 Rules of the P&E Court

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

Part 2 Development tribunal

Division 1 General

233 Appointment of referees

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

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

(iii) to analyse complex technical issues;
and

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

(2) The appointer may—

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

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

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

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

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

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

(7) In this section—

appointment notice means—

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

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

234 Referee with conflict of interest

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

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

(i) the referee owns; or

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

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

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

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

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

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

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

235 Establishing development tribunal

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

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

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

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

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

236 Remuneration

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

237 Tribunal proceedings

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

238 Registrar and other officers

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

Division 2 Applications for declarations

239 Starting proceedings for declarations

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

240 Application for declaration about making of development application

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

respondent means—

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

241 Application for declaration about change to development approval

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

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

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

- (4) In this section—

respondent means—

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

Division 3 Tribunal proceedings for appeals and declarations

242 Action when proceedings start

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

- (a) establish a tribunal for the proceedings; and
- (b) appoint 1 of the referees for the tribunal as the tribunal's chairperson, in the way required under a regulation; and
- (c) give notice of the establishment of the tribunal to each party to the proceedings.

243 Chief executive excusing noncompliance

- (1) This section applies if—

- (a) the registrar receives a document purporting to start tribunal proceedings, accompanied by the required fee; and
- (b) the document does not comply with any requirement under this Act for validly starting the proceedings.

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

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

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

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

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

244 Ending tribunal proceedings or establishing new tribunal

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

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

- there are no qualified referees or insufficient qualified referees because of a conflict of interest
- the referees who are available will not be able to decide the proceedings in a timely way

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

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

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

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

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

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

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

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

245 Refunding fees

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

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

246 Further material for tribunal proceedings

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

Examples of information that the registrar may require—

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

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

247 Representation of Minister if State interest involved

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

248 Representation of parties at hearing

A party to tribunal proceedings may appear—

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

249 Conduct of tribunal proceedings

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

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

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

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

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

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

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

- (6) When hearing proceedings, the tribunal—

- (a) need not proceed in a formal way; and
- (b) is not bound by the rules of evidence; and
- (c) may inform itself in the way it considers appropriate; and
- (d) may seek the views of any person; and
- (e) must ensure all persons appearing before the tribunal have a reasonable opportunity to be heard; and
- (f) may prohibit or regulate questioning in the hearing.

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

250 Tribunal directions or orders

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

Examples of directions—

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

251 Matters tribunal may consider

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

252 Deciding no jurisdiction for tribunal proceedings

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

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

253 Conduct of appeals

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

254 Deciding appeals to tribunal

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

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

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

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

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

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

255 Notice of tribunal's decision

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

256 No costs orders

A tribunal must not make any order as to costs.

257 Recipient's notice of compliance with direction or order

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

258 Tribunal may extend period to take action

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

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

259 Publication of tribunal decisions

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

Schedule 1 Appeals

section 229

Appeal rights and parties to appeals

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

(a) the P&E court; or

(b) a tribunal.

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

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

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

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

(b) a provision of a development approval for—

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

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

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

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

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

(d) a development condition if—

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

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

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

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

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

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

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

(h) a decision to give an enforcement notice—

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

(ii) under the Plumbing and Drainage Act; or

(i) an infrastructure charges notice; or

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

(l) a matter prescribed by regulation.

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

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

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

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

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

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

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

(6) In each table—

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

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

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

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

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

(8) In this section—

storey see the Building Code, part A1.1.

Table 1

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

1. Development applications

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

Minister, an appeal may be made against—

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

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

(c) a provision of the development approval; or

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

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

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

85 Lapsing of approval at end of current period

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

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

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

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

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

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

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

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

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

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

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