Goondiwindi REGIONAL COUNCIL | REGIONAL AUSTRALIA at its best!

File: 21/55I
Date: 12 May 2022

Acciona Construction Australia
C/- Attexo Pty Ltd
Ground Floor, 108 Wickham Street
FORTITUDE VALLEY QLD 4006

Attention: Chris Cantwell

Dear Chris

Decision Notice –approval (with conditions)
Material Change of Use
Lot 22 on BNT1041, 1216 Carbean Road, Cement Hills

We wish to advise that on 10 May 2022 a decision was made to approve the material change of use development application for *"Industrial activities"* – *"Extractive Industry"* (Temporary quarry – up to 100,000 tonnes per annum) at Lot 22 on BNT1041, 1216 Carbean Road, Cement Hills. 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 34**, 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, 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: 21/55I
Council Contact: Mrs Ronnie McMahon
Council Contact Phone: (07) 4671 7400

Applicant Details: Acciona Construction Materials
C/- Attexo Pty Ltd
Ground Floor, 108 Wickham Street
FORTITUDE VALLEY QLD 4006

Attention: Chris Cantwell

The development application described below was properly made to Goondiwindi Regional Council on 27 October 2021.

Applicant details

Applicant name:	Acciona Construction Australia C/- Attexo Pty Ltd
Applicant contact details:	Chris Cantwell C/- Attexo Pty Ltd Ground Floor, 109 Wickham Street, Fortitude Valley Q 4006 Chris.cantwell@attexo.com.au 0402 645 874

Application details

Application number:	21/55I
Approval sought:	Development Permit
Details of proposed development:	"Industry Activities" – "Extractive Industry" (Temporary Quarry – up to 100,000 tonnes per annum)

Location details

Street address:	1216 Carbean Road, Cement Hills
Real property description:	Lot 22 on BNT1041

Decision

Date of decision:	10 May 2022
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	☐ ☐ ☒ ☐ ☐	☐ ☐ ☐ ☐ ☐
Carrying out building work *(*assessable under the *Building Act 1975)*	Schedule 9, part 1	☐	☐
Development on airport land if the land use plan for the airport land states the development is assessable development - building work - plumbing or drainage work - material change of use (consistent with the land use plan) - reconfiguring a lot - operational work	Schedule 10, part 1, division 1	☐ ☐ ☐ ☐ ☐	☐ ☐ ☐ ☐ ☐
Making a material change of use on airport land that is inconsistent with the land use plan for the airport land	Schedule 10, part 1, division 1	☐	☐
Making a material change of use for a brothel	Schedule 10, part 2, division 2	☐	☐
Carrying out operational work for the clearing of native vegetation	Schedule 10, part 3, division 2	☐	☐
Making a material change of use on contaminated land	Schedule 10, part 4, division 1	☐	☐
Making a material change of use of premises for an environmentally relevant activity	Schedule 10, part 5, division 2	☐	☐
Making a material change of use of premises for aquaculture	Schedule 10, part 6, division 1, subdivision 1	☐	☐
Carrying out operational work that is completely or partly in a declared fish habitat area	Schedule 10, part 6, division 2, subdivision 1	☐	☐

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

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

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

Conditions

This approval is subject to the conditions in Attachment 1.

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	Advice agency or concurrence agency	Address
As per Schedule 10, Part 9, Division 4, Subdivision 1, Table 1, Item 1 of the PR: *Development application for an aspect of development stated in Schedule 20 that is assessable development under a local categorising instrument* *a) the development is for a purpose stated in schedule 20, column 1 for the aspect; and* *b) the development meets or exceeds the threshold—* *(i) for development in local government area 1—stated in schedule 20, column 2 for the purpose; or* *(ii) for development in local government area 2—stated in schedule 20, column 3 for the purpose; and* *for development in local government area 1—the development is not for an accommodation activity or an office at premises wholly or partly in the excluded area*	Department of State Development, Infrastructure, Local Government and Planning	Concurrence Agency	Department of State Development, Infrastructure, Local Government and Planning, Post: PO Box 825, Visit: 128 Margaret Street, TOOWOOMBA QLD 4350 ToowoombaSARA@dsdilgp.qld.gov.au Ph: (07) 4616 7307

For an application involving	Name of referral agency	Advice agency or concurrence agency	Address
As per Schedule 10, Part 9, Division 2, Table 2, Item 1 *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—* *(a) all or part of the premises are within 100m of a substation site; or* *(b) both of the following apply—* *(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;* *the easement is for a transmission grid or supply network*	Powerlink	Advice Agency	Powerlink Post: PO Box 1193, VIRGINIA QLD 4014 property@powerlink.com.au

Approved plans and specifications

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

Drawing Number	Title	Date
Sheet 1 of	MIWF Quarry Site 1 (1:30000)	n.d.
Sheet 1 of	MIWF Quarry Site 1 (1:3500)	n.d.
Sheet 1 of	Proposed Quarry 1	n.d.
Sheet 1 of	Proposed Quarry 1	n.d.

Currency period for the approval

This development approval will lapse three (3) years after this approval takes effect.

Rights of appeal

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

Appeal by an applicant

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

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

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

Appeal by an eligible submitter

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

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

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

Attachment 5 is an extract from the *Planning Act 2016* that sets out the applicant's appeal rights and the appeal rights of a submitter.

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

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

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

Yours Sincerely

Ronnie McMahon
Manager of Planning Services
Goondiwindi Regional Council

cc Department of State Development, Infrastructure, Local Government and Planning,
PO Box 825
TOOWOOMBA QLD 4350

ToowoombaSARA@dsdilgp.qld.gov.au

Cc Powerlink
PO Box 1193
VIRGINIA QLD 4014

property@powerlink.com.au

enc Attachment 1—Assessment manager and concurrence agency conditions
- Department of State Development, Infrastructure, Local Government and Planning response dated 15 December 2021 (2111-25646 SRA)

Attachment 2—Approved Plans
Attachment 3—Infrastructure Charges Notice
Attachment 4—Notice about decision – Statement of reasons
Attachment 5—*Planning Act 2016* Extracts

ATTACHMENTS

Attachment 1 – Assessment Manager's Conditions

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

Goondiwindi REGIONAL COUNCIL

Attachment 1 – Assessment Manager's Conditions

Assessment Manager's Conditions

Description:	*"Industry activities"* • *"Extractive Industry"* (Temporary quarry – up to 100,000 tonnes per annum)
Development:	Material change of use – Development Permit
Applicant:	Acciona Construction Australia C/- Attexo Pty Ltd
Address:	1216 Carbean Road, Cement Hills
Real Property Description:	Lot 22 on BNT1041
Council File Reference:	21/55I

	GENERAL CONDITIONS
1.	Approval is granted for the purpose of a Material Change of Use for: • *"Industry activities"* – *"Extractive Industry"* (Temporary quarry – up to 100,000 tonnes per annum) as defined in the *Goondiwindi Region Planning Scheme 2018 (Version 2)*.
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: **Drawing Number** | **Title** | **Date** Sheet 1 of | MIWF Quarry Site 1 (1:30000) | n.d. Sheet 1 of | MIWF Quarry Site 1 (1:3500) | n.d. Sheet 1 of | Proposed Quarry 1 | n.d. Sheet 1 of | Proposed Quarry 1 | n.d. Please note these plans are not approved Building Plans.
4.	The approved development is temporary for a period of three (3) years from the date this approval takes effect. The subject site must be adequately rehabilitated upon cessation of the use.

5.	Complete and maintain the approved development as follows: (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. All development shall comply with any relevant provisions in the *Goondiwindi Region Planning Scheme 2018 (Version 2),* Council's standard designs for applicable work and any relevant Australian Standard that applies to that type of work. 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.
6.	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.
7.	It is the developer's responsibility to obtain all other statutory approvals required prior to commencement of any works on site and the commencement of the use.
	OPERATION OF THE USE
8.	Unless otherwise approved in writing by Council, operating hours shall be operated generally between the hours of 6:30am and 6:00pm, Monday to Sunday.
9.	Blasting activities associated with the Extractive Industry shall occur between the hours of 9:00am and 5:00pm, Monday to Friday.
	ESSENTIAL SERVICES
10.	Prior to establishment of any buildings associated with the proposed extractive industry use, it shall be demonstrated to Council that the development has an adequate volume and supply of potable water, including for fire-fighting purposes, to relevant engineering and environmental standards, to the satisfaction of and at no cost to Council.
11.	Prior to establishment of any buildings associated with the proposed extractive industry use, the development shall be connected to an onsite effluent disposal sewerage system in accordance with the Queensland Plumbing and Wastewater Code, to the satisfaction of and at no cost to Council. All sewer infrastructure (including effluent disposal areas) shall be fully located within site boundaries, to the satisfaction of and at no cost to Council.

	ROADS AND VEHICLES
12.	The site access shall be constructed in accordance Schedule 6.2.1 – Standard Drawing in Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the *Goondiwindi Region Planning Scheme 208 (Version 2)*, to the satisfaction of and at no cost to Council. Crossovers shall be either constructed or bonded prior to the commencement of the use. 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. A qualified Council Officer may inspect construction works at the request of the developer to ensure compliance with this condition.
13.	All areas where vehicles manoeuvre and park shall be constructed to an all-weather standard in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the *Goondiwindi Region Planning Scheme 2018 (Version 2)*, to the satisfaction of and at no cost to Council. Parking and manoeuvring areas shall be either constructed or bonded prior to the commencement of the use. 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. A qualified Council Officer may inspect construction works at the request of the developer to ensure compliance with this condition.
14.	Vehicle manoeuvring areas shall be provided on-site so that all vehicles, including all heavy vehicles, can enter and leave the site in a forward direction.
	STORMWATER
15.	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 point of discharge in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the *Goondiwindi Region Planning Scheme 2018 (Version 2)*, to the satisfaction of and at no cost to Council. 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. 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. The stormwater system shall be designed to include appropriate pollution control devices or methods to ensure no contamination or silting of waterways.

16.	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. 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.
	EARTHWORKS AND EROSION CONTROL
17.	Any filling or excavation shall be undertaken in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the *Goondiwindi Region Planning Scheme 2018 (Version 2)* or to other relevant engineering standards to the satisfaction of and at no cost to Council. 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.
18.	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 *Goondiwindi Region Planning Scheme 2018 (Version 2)* to the satisfaction of and at no cost to Council. 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.
	ENVIRONMENT
19.	The development shall be designed and constructed to avoid significant adverse impacts on areas of environmental significance identified within the site.
20.	The design, layout and operation of the development shall minimise adverse impacts on matters of state environmental significance by providing and maintaining adequate buffers and setbacks to regulated vegetation and watercourses.
	AVOIDING NUISANCE
21.	At all times while the use continues, the development shall be conducted in accordance with the provisions of the *Environmental Protection Act 1994* (the Act) 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.

22.	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.
23.	At all times while the use continues, provision must be made on site for the collection of general refuse in covered waste containers with a capacity sufficient for the use. Waste receptacles shall be placed in a screened area. The site must maintain a general tidy appearance.
24.	The operator shall be responsible for mitigating any complaints arising from on-site operations.
25.	Construction works must occur so they do not cause unreasonable interference with the amenity of adjoining premises. The site must be kept on a clean and tidy state at all times during construction.
	DEVELOPER'S RESPONSIBILITIES
26.	It is the developer's responsibility to ensure that the development is resilient to flood events by ensuring design and built form appropriately responds to the potential risks of flooding.
27.	It is the developer's responsibility to ensure that the development directly, indirectly and cumulatively avoids any increase in water flow velocity or flood level, and does not increase the potential for flood damage either on-site or on other properties.
28.	It is the developer's responsibility to ensure that potential bushfire hazards are appropriately mitigated to reflect the hazard level of the site in regard to vegetation type and proximity, slope and aspect, bushfire history, on-site environmental values, ease of maintenance and any specific implications on the development shall be submitted to Council prior to the commencement of the use.
29.	The developer shall ensure that vehicular access is designed to mitigate against bushfire hazard by ensuring adequate access for fire fighting and other emergency vehicles, and adequate access for the evacuation of residents and emergency personnel in an emergency situation.
30.	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.

31.	All costs reasonably associated with the approved development, unless there is specific agreement by other parties to meet these costs, shall be met by the developer.
32.	At all times while the use continues, all requirements of the conditions of the development approval must be maintained.
	COMMENCEMENT OF USE
33.	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. The decision to accept bonds or other securities to satisfy a condition will be that of Council, not the applicant.
34.	Council must be notified in writing of the date of the commencement of the use within 14 days of commencement. This approval will lapse if the use has not commenced within **six (6) years** of the date the development approval takes effect, in accordance with the provisions contained in section 85(i)(a) of the *Planning Act 2016*. Section 86 of the *Planning Act 2016* sets out how an extension to the period of approval can be requested.
35.	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.
	PLEASE READ CAREFULLY - NOTES AND ADVICE
	When approval takes effect This approval takes effect in accordance with section 85 of the *Planning Act 2016*. *When approval lapses* This approval will lapse **three (3) years** after this approval takes effect. Section 86 of the *Planning Act 2016* sets out how an extension to the period of approval can be requested.

	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 *Aboriginal Cultural Heritage Act 2003*. Pursuant to Section 23(1) of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care").
	This approval in no way authorises the clearing of native vegetation protected under the *Vegetation Management Act 1999.*
	The approved development does not authorise any deviation from the applicable Australian Standards nor from the application of any laws, including laws covering workplace health and safety.

Queensland Government

SARA reference: 2111-25646 SRA
Council reference: 21/551

21 January 2022

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

Attention: Ronnie McMahon

Dear Mrs McMahon,

SARA response—1216 Carbean Road, Cement Mills

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

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 3 December 2021.

Response

Outcome:	Referral agency response - no requirements Under section 56(1)(a) of the *Planning Act 2016*, SAAR advises it has no requirements relating to the application
Date of response:	21 January 2022
Advice:	Advice to the applicant is in **Attachment 1**
Reasons:	The reasons for the referral agency response are in **Attachment 2**

Development details

Description:	Development Permit for Material Change of Use for Industry Activities - Extractive Industry (temporary quarry - up to 100,000 tonnes per annum)
SARA role:	Referral Agency
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 1, Table 1, Item 1 (10.9.4.1.1.1) – Development impacting on state transport infrastructure (Planning Regulation 2017)
SARA reference:	2111-25646 SRA
Assessment manager:	Goondiwindi Regional Council

Darling Downs South West regional office
128 Margaret Street, Toowoomba PO
Box 825, Toowoomba QLD 4350

Street address:	1216 Carbean Road, Cement Mills
Real property description:	Lot 22 on BNT1041
Applicant name:	Acciona Construction Australia
Applicant contact details:	C/- Attexo Pty Ltd Ground Floor,108 Wickham Street Fortitude Valley QLD 4006 chris.cantwell@attexo.com.au

Representations

An applicant may make representations to a referral agency, at any time before the application is decided, about changing a matter in the referral agency response (s. 30 Development Assessment Rules). Copies of the relevant provisions are in **Attachment 3**.

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

For further information please contact David Hooper, Principal Planning officer, on 07 3452 7618 or via email ToowoombaSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Javier Samanes
Acting Manager (Planning)

cc Acciona Construction Australia C/- Attexo Pty Ltd, chris.cantwell@attexo.com.au. mail@grc.qld.gov.au

enc Attachment 1 - Advice to the applicant
Attachment 2 - Reasons for referral agency response
Attachment 3 - Representations regarding a referral agency response provisions

Attachment 1—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the *Planning Act 2016* its regulation or the State Development Assessment Provisions (SDAP) version 2.6. If a word remains undefined it has its ordinary meaning.

Attachment 2—Reasons for referral agency response

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

The reasons for SARA's decision are:

The development complies with the relevant provisions of State code 6: Protection of state transport networks of the SDAP. Specifically, the development:

- does not create a safety hazard for users of a state transport infrastructure
- does not result in a worsening of the physical condition or operating performance of the state transport network
- does not compromise the state's ability to cost-effectively construct, operate and maintain state transport infrastructure
- does not impact upon existing public passenger transport infrastructure.

Material used in the assessment of the application:

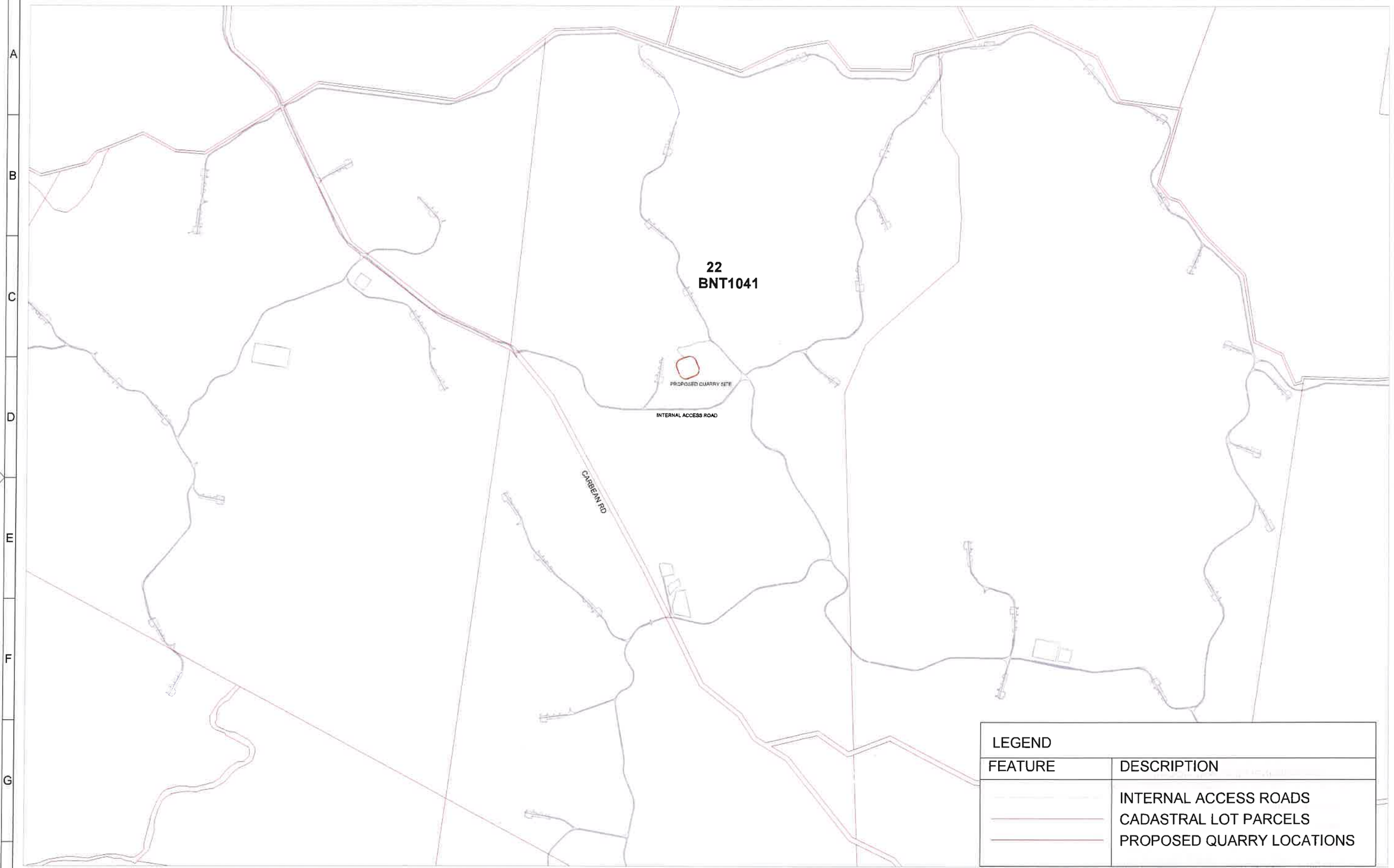
- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (version 2.6), as published by SARA
- the Development Assessment Rules
- *Human Rights Act 2019*
- SARA DA Mapping system.

Attachment 3— Representations about a referral agency response provisions

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Goondiwindi REGIONAL COUNCIL

Attachment 2 – Approved Plans



LEGEND	
FEATURE	DESCRIPTION
	INTERNAL ACCESS ROADS
	CADASTRAL LOT PARCELS
	PROPOSED QUARRY LOCATIONS

REV	ZONE	AMENDMENTS	APP'D	DATE

GENERAL NOTES / REFERENCES

acciona CONSTRUCTION AUSTRALIA

SURVEYED / DRAWN BY	MATT WEIR
COORDINATE SYSTEM	MGA94 Zone 56
HEIGHT DATUM	A.H.D
SCALE	1:30000

PLOT DATE: Tue Oct 26 09:07:41 2021

LOCATION:

MIWF QUARRY SITE 1

SHEET 1 of

Project: Macintyre Windfarm New

GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 21/55I
Dated: 12/05/22
Signed: RM McM
Print Name: Ronnie McMahon
(Under Delegation) ASSESSMENT MANAGER



REV	ZONE	AMENDMENTS	APP'D	DATE

GENERAL NOTES / REFERENCES

acciona
CONSTRUCTION AUSTRALIA

SURVEYED / DRAWN BY: MATT WEIR
COORDINATE SYSTEM: MGA94 Zone 56
HEIGHT DATUM: A.H.D
SCALE: 1:3500

PLOT DATE: Thu Sep 16 10:37:53 2021

LOCATION:

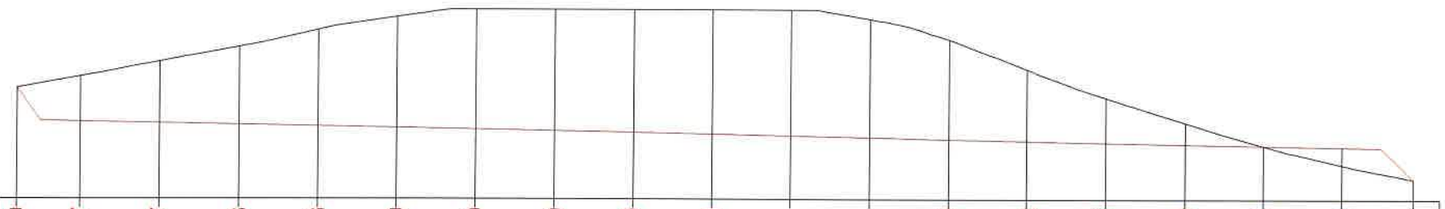
MIWF QUARRY SITE 1

SHEET 1 of

Project: Macintyre Windfarm New

GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 21/55I
Dated: 12/05/22
Signed:
Print Name: Ronnie McMahon
(Under Delegation) ASSESSMENT MANAGER





Datum 570

PROPOSED QUARRY FLOOR	577.019	574.907	574.807	574.708	574.608	574.509	574.409	574.310	574.210	574.110	574.011	573.911	573.812	573.712	573.613	573.513	573.413	573.314	571.271
EXISTING SURFACE	577.022	577.757	578.706	579.639	580.703	581.531	582	582	582	582	582	581.415	580.122	578.238	576.441	574.865	573.402	572.188	571.276
DEPTH	0.003	2.850	3.899	4.931	6.094	7.022	7.591	7.690	7.790	7.890	7.989	7.503	6.310	4.526	2.828	1.352	-0.011	-1.126	0.005
CHAINAGE	-88.093	-80.000	-70.000	-60.000	-50.000	-40.000	-30.000	-20.000	-10.000	0.000	10.000	20.000	30.000	40.000	50.000	60.000	70.000	80.000	88.986

GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 21/55 I
Dated: 12/05/22
Signed: RM McMahon
Print Name: Ronnie McMahon
(Under Delegation) ASSESSMENT MANAGER

REV	ZONE	AMENDMENTS	APP'D	DATE	GENERAL NOTES / REFERENCES

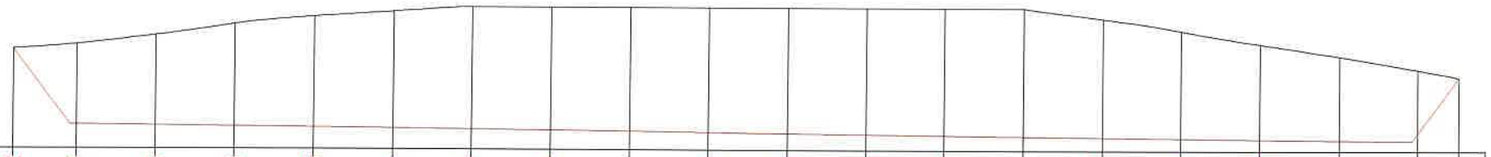
acciona CONSTRUCCION AUSTRALIA

SURVEYED / DRAWN BY: MATT WEIR
COORDINATE SYSTEM: MGA94 Zone 56
HEIGHT DATUM: A.H.D
SCALE: 1:

PLOT DATE: Thu Sep 16 10:33:00 2021
LOCATION:
PROPOSED QUARRY 1
SHEET 1 of

Project: Macintyre Windfarm New





Datum 573

PROPOSED QUARRY FLOOR	579.302	574.517	574.466	574.416	574.365	574.314	574.263	574.212	574.161	574.110	574.060	574.009	573.958	573.907	573.856	573.805	573.754	573.704	574.133	577.671
EXISTING SURFACE	579.325	579.6	580.189	580.914	581.394	581.719	582	582	582	582	582	582	582	581.998	581.349	580.595	579.763	579.003	578.141	577.67
DEPTH	0.023	5.083	5.722	6.499	7.029	7.405	7.737	7.788	7.839	7.890	7.940	7.991	8.042	8.091	7.493	6.790	6.008	5.300	4.008	-0.001
CHAINAGE	-87.887	-80.000	-70.000	-60.000	-50.000	-40.000	-30.000	-20.000	-10.000	0.000	10.000	20.000	30.000	40.000	50.000	60.000	70.000	80.000	90.000	95.306

GOONDIWINDI REGIONAL COUNCIL
As Plan referred to in Council's Decision Notice
Council Reference: 21/55I
Dated: 12/05/22
Signed: RM McM
Print Name: Ronnie McMahon
(Under Delegation) ASSESSMENT MANAGER

REV	ZONE	AMENDMENTS	APP'D	DATE

GENERAL NOTES / REFERENCES

acciona CONSTRUCTION AUSTRALIA

SURVEYED / DRAWN BY: MATT WEIR
COORDINATE SYSTEM: MGA94 Zone 56
HEIGHT DATUM: A.H.D
SCALE: 1:

PLOT DATE: Thu Sep 16 10:34:06 2021
LOCATION:
PROPOSED QUARRY 1
SHEET 1 of

Project: Macintyre Windfarm New

1 2 3 4 5 6 7 8 9 10 11 12

0 10 20 30 40 50 60 70 80 90 100 110 120 130 140 150

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 *Extractive Industry (Temporary quarry – up to 100,000 tonnes per year)*

21/55I

1216 Carbean Road, Cement Hills

Lot 22 on BNT1041

On 10 May 2022, the above development application was:

☐ approved in full or

☐ approved in part for _____ *[detail the extent of the approval]* or

☒ approved in full with conditions or

☐ approved in part for _____ *[detail the extent of the approval]*, 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: *[detail applicable benchmarks]*

Benchmarks applying for the development	Benchmark reference
Strategic Framework	Elements 1 – 7
Rural Zone Code	PO1-PO5
Extractive Industry Zone Code	PO1-PO9
Transport & Infrastructure Code	PO1-PO15
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
Extractive Industry Code	
AO3.2 Extraction, crushing, screening, loading haulage and the operation or maintenance of plant equipment and vehicles are only to be undertaken between the hours of:	**Alternative Solution** The applicant proposes to operate the site from 6:00am to 6:00pm, Monday to Sunday. The applicant submits that due to the separation to the nearest sensitive receptor and

(a) 6.00am and 6.00pm Monday to Friday; and (b) 8.00am and 2.00pm on Saturdays. **AO3.3** No *extractive industry* operations are conducted on a Sunday or public holiday.	the temporary nature of the development, the activity will not result in the disturbance of any sensitive land uses.
AO7.1 Suitable safety fencing is provided and maintained: (a) on the perimeter of the site; (b) around operations areas; and (c) around stockpiles. **AO7.2** Warning signs are placed on the perimeter fence every 200 metres (or part thereof) on any frontage to a public road or boundary to land used for a *sensitive land use*.	**Alternative Solution** The applicant states no public access will be permitted to the development area. Fencing and signage will be provided as part of the wind farm projects.
Transport & Infrastructure Code	
Where within a water supply service area **AO3.1** Development is connected to a reticulated water supply system in accordance with SC6.2 Planning Scheme Policy 1 – Land Development Standards. **Where outside a water supply service area** **AO3.2** Development is connected to a safe and efficient on-site water supply in accordance with SC6.2 Planning Scheme Policy 1 – Land Development Standards.	**Alternative Solution** The subject site is not located within the water service area. It is stated in the application that water trucks will provide water for dust suppression and fire fighting purposes. It can be conditioned as part of an approval, that any buildings are provided with an adequate supply of potable water.
Where within a sewerage service area **AO4.1** Development is connected to a reticulated sewerage system in accordance with SC6.2 Planning Scheme Policy 1 – Land Development Standards. **Where outside a sewerage service area** **AO4.2** Development is connected to an on-site waste water disposal system in accordance with SC6.2 Planning Scheme Policy 1 – Land Development Standards.	**Alternative Solution** The subject site is not located within the sewerage service area. It is stated in the application that the proposed quarry will not be provided with any services as the MacIntyre Wind Farm construction compound will be provided with adequate amenities. It can be conditioned as part of an approval that any buildings are connected to a suitably designed onsite sewerage system.
AO10 Development is connected to the electricity supply network and telecommunications services network in accordance with the requirements of the relevant service provider.	**Alternative Solution** It is stated in the application that proposed extractive industry will not be serviced with separate electricity or telecommunications services. Given the temporary nature of the use, the alternative solution is considered reasonable to accept.
AO15.1 Landscaping complies with the standards specified in SC6.4 Planning Scheme Policy 1 – Landscaping Standards.	**Alternative Solution** It is stated in the application landscaping will only be undertaken as part of rehabilitation works. The existing vegetation will be retained and is considered sufficient for the proposed use.

AO15.2 Street frontage landscaping has a minimum width of 2 metres for the full length of the site frontage (excluding driveways). **AO15.3** 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. **AO15.4** 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.	Therefore, no additional landscaping is considered necessary for the proposed development.

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**
Temporary nature of use	☐ assessed against ☒ had regard to
Association with Renewable Energy Facility (Wind Farm) development	☐ assessed against ☒ had regard to

Goondiwindi REGIONAL COUNCIL

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.