

File: 23/17
Date: 29 May 2023

JGS Equity Pty Ltd T/A Benzina Group
C/- TfA Project Group
166 Knapp Street
FORTITUDE VALLEY QLD 4006

Attention: Mr John Rowell

Dear John

**Decision Notice – change application – minor change
(Given under section 83 of the *Planning Act 2016*)
Material Change of Use
Lot 1 on RP159143, 23129 Cunningham Highway, Coolmunda**

Goondiwindi Regional Council received your change application made under section 78 of the *Planning Act 2016* on 18 April 2023 for the development approval dated 5 October 2016.

Decision for change application

Date of decision: 26 May 2023
Decision details: Make the changes and impose development conditions.

The changes agreed to are:

1. Condition 1;
2. Condition 2;
3. Condition 13;
4. Condition 14;
5. Condition 15;
6. Condition 17;
7. Condition 18;
8. Condition 27.

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

A handwritten signature in black ink, appearing to read 'R. McMahon', followed by a long, horizontal, sweeping flourish.

Ronnie McMahon
Manager of Planning Services
Goondiwindi Regional Council

Decision Notice approval

Planning Act 2016 section 63

Council File Reference: 23/17
Council Contact: Mrs Ronnie McMahon
Council Contact Phone: (07) 4671 7400

29 May 2023

Applicant Details: JGS Equity Pty Ltd T/A Benzina Group
C/- TfA Project Group
166 Knapp Street
FORTITUDE VALLEY QLD 4006

Attention: Mr John Rowell

The change application described below was properly made to Goondiwindi Regional Council on 18 April 2023.

Applicant details

Applicant name: JGS Equity Pty Ltd T/A Benzina Group
Applicant contact details: C/- TfA Project Group
166 Knapp Street, Fortitude Valley QLD 4006
John.rowell@tfa.com.au
0400 884 054

Application details

Application number: 23/17
Approval sought: Minor Change to Existing Development Permit
Details of proposed development: *"Industrial Activities" – "Service Station", "Commercial Activities" – "Catering Premises" (Restaurant) and "Residential Activities" – "Caretakers Residence"*

Location details

Street address: 23129 Cunningham Highway, Coolmunda
Real property description: Lot 1 on RP159143

Decision

Date of decision: 26 May 2023
Decision details: Approved in full.

Details of the approval

Development permit Material Change of Use

Description of changes

Existing Condition 1

1. Approval is granted for the purpose of a Material Change of Use for:

- "Industrial activities" – "Service Station"
- "Commercial activities" – "Catering Premises" (Restaurant)
- "Residential activities" – "Multiple Dwelling" (3 staff accommodation cabins)

as defined in the 2006 Planning Scheme for the former Inglewood Shire Council

Proposed Changes – Condition 1

1. Approval is granted for the purpose of a Material Change of Use for:

- "Industrial activities" – "Service Station"
- "Commercial activities" – "Catering Premises" (Restaurant)
- "Residential activities" – "Caretakers Residence"

as defined in the 2006 Planning Scheme for the former Inglewood Shire Council

Recommendation: Make proposed change

Existing Condition 2

2. 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
16033, D03B	Proposed Site Layout	14/04/16
16033, D11B	A-Double Turning Path (36.2)	07/06/16
16033, D05B	Buildings and Canopies	14/04/16
16033, D07B	Landscaping Concept Plan	14/04/16

Please note the plans are not approved Building Plans. The approved plans are included in **Attachment 2**.

Recommendation: Make proposed change

Proposed Changes - Condition 2

2. 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
10322, A02	Site Plan Coolmunda	20/07/2022
10322, A03	Floor Plan	20/07/2022
10322, A300	Elevations	20/07/2022
10322, A301	Elevations	20/07/2022

Please note the plans are not approved Building Plans. The approved plans are included in **Attachment 2**.

Existing Condition 13

13. Vehicle manoeuvring areas shall be constructed generally in accordance with drawing number 16033 D03 Rev. B.

Recommendation Make proposed change

Proposed Changes - Condition 13

13. Vehicle manoeuvring areas shall be constructed generally in accordance with drawing number 16033-D03-Rev-B the approved Site Plan.

Existing Condition 14

14. Areas for heavy vehicle parking denoted "Gravel Hardstand" on drawing number 16033 D03 Rev. B shall be constructed to an all-weather dust suppressant standard. This pavement shall be designed and certified by a Registered Professional Engineer of Queensland (RPEQ); All sealed areas shall be designed in accordance with Schedule 1, Division 2: Standards for Roads, Carparking, Manoeuvring Areas of the 2006 Planning Scheme for the former Inglewood Shire Council; The applicant shall maintain this surface at all times to the satisfaction of Council; and The developer shall contact Council's Department of Engineering and Regulatory Services to ensure the correct specifications are obtained for all civil works prior to commencement of any works onsite.

Recommendation Make proposed change

Proposed Changes - Condition 14

14. DELETED

Existing Condition 15

15. Areas where vehicles park & manoeuvre denoted "Concrete Hardstand" on drawing number 16033 D03 Rev. B shall be constructed to a concrete or asphaltic concrete sealed standard. This pavement shall be designed and certified by a Registered Professional Engineer of Queensland (RPEQ); All sealed areas shall be designed in accordance with Schedule 1, Division 2: Standards for Roads, Carparking, Manoeuvring Areas of the 2006 Planning Scheme for the former Inglewood Shire Council; The applicant shall maintain this surface at all times to the satisfaction of Council; and The developer shall contact Council's Department of Engineering and Regulatory Services to ensure the correct specifications are obtained for all civil works prior to commencement of any works onsite.

Recommendation Make proposed change

Existing Condition 17

17. A minimum of 33 car parking spaces shall be provided generally in accordance with the following schedule as part of the proposed development:
- 16 x car parks including disable space for customers using the service station and restaurant facilities;
 - 1 x service vehicle loading bay;
 - 5 x B-Double truck parking bays;
 - 3 x AV parking bays;
 - 1 x A-Double truck parking bay;
 - 2 x long-vehicle parking bays;
 - 5 x private car parking for dwelling units;

Proposed Changes - Condition 15

15. All areas where vehicles park & manoeuvre shall be constructed to a sealed standard. This pavement and seal shall be designed and certified by a Registered Professional Engineer of Queensland (RPEQ); All sealed areas shall be designed in accordance with Schedule 1, Division 2: Standards for Roads, Carparking, Manoeuvring Areas of the 2006 Planning Scheme for the former Inglewood Shire Council; The applicant shall maintain this surface at all times to the satisfaction of Council; and The developer shall contact Council's Department of Engineering and Regulatory Services to ensure the correct specifications are obtained for all civil works prior to commencement of any works onsite.

Proposed Changes - Condition 17

17. A minimum of 12 car parking spaces shall be provided generally in accordance with the following schedule as part of the proposed development:
- 10 x car parks including disable space for customers using the service station and restaurant facilities;
 - 1 x dedicated air/way parking bay;
 - 1 x service vehicle loading bay;
- Car parking areas shall be either constructed or bonded prior to the commencement of the use.

Car parking 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.

Recommendation Make proposed change

Existing Condition 18

18. Street frontage landscaping shall be provided, for a distance of 43m along the site's Cunningham Highway frontage, excluding vehicle access points, in accordance with the requirements Goondiwindi Regional Council Landscaping Policy, and in accordance with the approved plan, drawing number 16033, Rev B, dated 14/04/16; and

Screening of "External Activity Areas" landscaping shall be provided around the truck parking area as shown on the Landscaping Concept Plan, drawing number 16033, Rev B, dated 14/04/16, at a width of 2m along the western side and 6m along the southern side, in accordance with the requirements of the Goondiwindi Regional Council Landscaping Policy; and

Privacy screening landscaping shall be provided around the staff accommodation cabins, at a width of 1.5m, in accordance with the requirements of the Goondiwindi Regional Council Landscaping Policy, and in accordance with the approved plan, drawing number 16033, Rev B, dated 14/04/16.; and

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.

Proposed Changes – Condition 18

18. Street frontage landscaping shall be provided, for a distance of 43m along the site's Cunningham Highway frontage, excluding vehicle access points, in accordance with the requirements Goondiwindi Regional Council Landscaping Policy; and

Screening landscaping shall be provided at a width of 2m, **60m** along the western side **of the development footprint**, in accordance with the requirements of the Goondiwindi Regional Council Landscaping Policy; and

Privacy screening landscaping shall be provided around the **caretaker's accommodation**, at a width of 1.5m, in accordance with the requirements of the Goondiwindi Regional Council Landscaping Policy, and in accordance with the approved plan; and

Parking Areas – Shade Trees shall be provided in the vehicle parking areas at a rate of 1 tree per 6 spaces, in accordance with the

... requirements of the Goondiwindi Regional Council Landscaping Policy, and in accordance with the approved plan.

...
Parking Areas – Shade Trees shall be provided in the vehicle parking areas at a rate of 1 tree per 6 spaces, in accordance with the requirements of the Goondiwindi Regional Council Landscaping Policy, and in accordance with the approved plan, drawing number 16033, Rev B, dated 14/04/16.

Recommendation Make proposed change

Existing Condition 27

Proposed Changes – Condition 27

27. Ongoing operations of the site
Storm water and any petroleum spillage on the service station site are to be handled and treated in accordance with the Stormwater Management Plan developed by TFA Project Group Pty Ltd (dated 10/6/2016).

27. Ongoing operations of the site
An amended Stormwater Management Plan demonstrating proposed handling and treatment of stormwater and any petroleum spillage on the service station site shall be submitted to and approved by Council prior to commencement of construction.

Recommendation: Make proposed change

Conditions

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

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

All other parts of the original 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. Not applicable

Properly made submissions

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

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*

Approved plans and specifications

Copies of the following plans are enclosed.

Drawing Number	Title	Date
10322, A02	Site Plan Coolmunda	20/07/2022
10322, A03	Floor Plan	20/07/2022
10322, A300	Elevations	20/07/2022
10322, A301	Elevations	20/07/2022

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



Ronnie McMahon
Manager of Planning Services
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

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 Conditions Assessment Manager’s



Assessment Manager's Conditions

Description:	<ul style="list-style-type: none"> • <i>“Industrial Activities” – “Service Station”, “Commercial Activities” – “Catering Premises” (Restaurant) and “Residential Activities” – “Caretakers Residence”</i>
Development:	Minor Change to an existing Material Change of Use Development Permit
Applicant:	JGS Equity Pty Ltd T/A Benzina Group C/- TfA Project Group
Address:	23129 Cunningham Highway, Coolmunda
Real Property Description:	Lot 1 on RP159143
Council File Reference:	23/17

The amended conditions are highlighted in yellow below.

GENERAL CONDITIONS																
1.	<p>Approval is granted for the purpose of a Material Change of Use for:</p> <ul style="list-style-type: none"> • “Industrial activities” – “Service Station” • “Commercial activities” – “Catering Premises” (Restaurant) • “Residential activities” – “Caretakers Residence” <p>as defined in the 2006 Planning Scheme for the former Inglewood Shire Council</p>															
2.	<p>The development shall be in accordance with supporting information supplied by the applicant with the development application including the following plans:</p> <table border="1"> <thead> <tr> <th>Drawing Number</th> <th>Title</th> <th>Date</th> </tr> </thead> <tbody> <tr> <td>10322, A02</td> <td>Site Plan Coolmunda</td> <td>20/07/2022</td> </tr> <tr> <td>10322, A03</td> <td>Floor Plan</td> <td>20/07/2022</td> </tr> <tr> <td>10322, A300</td> <td>Elevations</td> <td>20/07/2022</td> </tr> <tr> <td>10322, A301</td> <td>Elevations</td> <td>20/07/2022</td> </tr> </tbody> </table> <p>Please note the plans are not approved Building Plans. The approved plans are included in Attachment 2.</p>	Drawing Number	Title	Date	10322, A02	Site Plan Coolmunda	20/07/2022	10322, A03	Floor Plan	20/07/2022	10322, A300	Elevations	20/07/2022	10322, A301	Elevations	20/07/2022
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10322, A300	Elevations	20/07/2022														
10322, A301	Elevations	20/07/2022														

<p>3.</p>	<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 Inglewood 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>
<p>4.</p>	<p><i>When approval takes effect</i></p> <p>This approval takes effect in accordance with section 339 of the <i>Sustainable Planning Act 2009</i>.</p> <p><i>When approval lapses</i></p> <p>This approval will lapse if the use has not commenced within four (4) years of the date the development approval takes effect.</p> <p>Section 383 of the <i>Sustainable Planning Act 2016</i> sets out how an extension to the period of approval can be requested.</p>
<p>5.</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>6.</p>	<p>All conditions must be complied with or bonded prior to the commencement of the use, unless specified in an individual condition.</p>
<p>7.</p>	<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>

PUBLIC UTILITIES	
8.	Connection to reticulated electricity shall be provided and/or retained to the lot, at no cost to Council.
9.	Connection to telecommunications supply system shall be provided and/or retained to the lot, at no cost to Council.
10.	The site shall obtain a supply of water of a volume and quality appropriate for the use purposes, including adequate supply for firefighting purposes, in accordance with relevant engineering standards to the satisfaction of Council.
11.	The developer is responsible for ensuring Queensland Fire Services requirements are met with respect to this development.
12.	The site shall be provided with an on-site effluent disposal system adequate for the use, in accordance with the Queensland Plumbing and Wastewater Code, to the satisfaction of any 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	
13.	Vehicle manoeuvring areas shall be constructed generally in accordance with the approved Site Plan.
14.	DELETED
15.	All areas where vehicles park & manoeuvre shall be constructed to a sealed standard. This pavement and seal shall be designed and certified by a Registered Professional Engineer of Queensland (RPEQ); All sealed areas shall be designed in accordance with Schedule 1, Division 2: Standards for Roads, Carparking, Manoeuvring Areas of the 2006 Planning Scheme for the former Inglewood Shire Council; The applicant shall maintain this surface at all times to the satisfaction of Council; and The developer shall contact Council's Department of Engineering and Regulatory Services to ensure the correct specifications are obtained for all civil works prior to commencement of any works onsite.
16.	Vehicle manoeuvring areas shall be provided so that all vehicles, including heavy vehicles, associated with the use can enter and leave the stie in a forward direction.

17. A minimum of **12** car parking spaces shall be provided generally in accordance with the following schedule as provided as part of the proposed development:

- **10** x car parks including disable space for customers using the service station and restaurant facilities;
- **1 x dedicated air/way parking bay;**
- 1 x service vehicle loading bay;

Car parking 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.

LANDSCAPING

18. Street frontage landscaping shall be provided, for a distance of 43m along the site's Cunningham Highway frontage, excluding vehicle access points, in accordance with the requirements Goondiwindi Regional Council Landscaping Policy; and

Screening landscaping shall be provided at a width of 2m, **60m** along the western side of the **development footprint**, in accordance with the requirements of the Goondiwindi Regional Council Landscaping Policy; and

Privacy screening landscaping shall be provided around the **caretaker's accommodation**, at a width of 1.5m, in accordance with the requirements of the Goondiwindi Regional Council Landscaping Policy, and in accordance with the approved plan; and

Parking Areas – Shade Trees shall be provided in the vehicle parking areas at a rate of 1 tree per 6 spaces, in accordance with the requirements of the Goondiwindi Regional Council Landscaping Policy, and in accordance with the approved plan.

A bond of **\$7,327** shall be paid in accordance with the calculations in **Table 3**.

	AREA (UP TO) / QTY	"GREENFIELD COST"	BONDING	Dimensions nominated	Bond payable
3.1	Screening of External Activity Areas				
(a)	100M2	\$76.00/M2	\$30.00/M2		
(b)	1000M2	\$70.00/M2	\$28.00/M2		
(c)	2000M2	\$64.00/M2	\$26.00/M2		
(d)	3000M2	\$59.00/M2	\$24.00/M2		
(e)	4000M2	\$53.00/M2	\$21.00/M2		
3.2	Standard Street Frontage Landscaping				
(a)	100M2	\$63.00/M2	\$25.00/M2	Cunningham Highway frontage (excluding vehicle access points) = 43m long x 2m wide = 86m ²	86m ² x \$25 = \$2,150
(b)	1000M2	\$59.00/M2	\$24.00/M2		

(c)	2000M2	\$54.00/M2	\$22.00/M2		
(d)	3000M2	\$49.00/M2	\$20.00/M2		
(e)	4000M2	\$44.00/M2	\$18.00/M2		
3.3 Standard Vegetated Buffer					
(a)	100M2	\$44.00/M2	\$18.00/M2		
(b)	1000M2	\$41.00/M2	\$16.00/M2	Western side of development footprint = 60m long x 2m wide = 120m ²	= 120m ² x \$16 = \$1,920
(c)	2000M2	\$37.00/M2	\$15.00/M2		
(d)	3000M2	\$34.00/M2	\$14.00/M2		
(e)	4000M2	\$30.00/M2	\$12.00/M2		
3.4 Protecting Premises Against Dust					
(a)	100M2	\$64.00/M2	\$26.00/M2	Privacy screening around caretaker's residence = 63m long x 1.5m wide = 94.5m ²	= 94.5m ² x \$26 = \$2,457
(b)	1000M2	\$60.00/M2	\$24.00/M2		
(c)	2000M2	\$54.00/M2	\$22.00/M2		
(d)	3000M2	\$50.00/M2	\$20.00/M2		
(e)	4000M2	\$44.00/M2	\$18.00/M2		
3.5 Privacy Screening					
(a)	100M2	\$72.00/M2	\$29.00/M2		
(b)	1000M2	\$67.00/M2	\$27.00/M2		
(c)	2000M2	\$61.00/M2	\$24.00/M2		
(d)	3000M2	\$56.00/M2	\$22.00/M2		
(e)	4000M2	\$50.00/M2	\$20.00/M2		
3.6 Standard Parking Areas – Shade Trees					
(a)	1 Tree	\$1,780.00	\$500.00		
(b)	2 Trees or More	\$1,420.00	\$400.00/Tree	12 parking spaces are proposed = 12 ÷ 6 = 2 trees	2 trees x \$400 = \$800
TOTAL BOND AMOUNT					= \$7,327.00

Time from acceptance of landscaping works	Criteria	Bond Refund / Reduction
9 months – From acceptance of works	Landscaping conforms to requirements, is established and maintained. Adequate provision for on-going watering and growth. Any/all replacement plants are provided.	50%
18 months – From acceptance of works	Landscaping is well established (as a guide >50% full growth depending on species). All replacement plants are established. The landscaping intent is being achieved.	25%

24 months – From acceptance of works	Landscaping is fully established, or within 80% depending on species.	25%
<p>After the required bond holding time has passed, a refund of bond monies will only be considered upon a written request from the person who paid the bond once the required bond holding time has been completed.</p> <p>A qualified Council Officer may inspect landscaping plantings to ensure compliance with this condition and acceptance of the works.</p> <p>Council will hold the funds in trust for a maximum of three years, at which time should work not be carried out and maintained to Council's satisfaction, the bond will be used by Council to have the works performed unless an extension of time is requested by the land owner or applicant and approved by Council.</p> <p>To clarify, bonds can only be refunded upon a written request from the person who paid the bond upon the works being satisfactorily maintained for the required bond holding time.</p>		
STORMWATER		
19.	<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 point of discharge in accordance with Schedule 1, Division 5: Standards for Stormwater Drainage in the <i>2006 Planning Scheme for the former Inglewood 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>	
20.	<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
21.	<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 Inglewood 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>
22.	<p>Any filling or excavation shall be undertaken in accordance with Schedule 1, Division 1: Standards for Construction Activities of the <i>2006 Planning Scheme for the former Inglewood 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>
	DEMOLITION WORKS
23.	<p>Prior to any demolition works commencing on the site a building approval to demolish is to be issued by a Licensed Building Certifier.</p>
24.	<p>Any regulated waste detected within the building is to be removed and transported to an approved waste facility by a Licenced contractor.</p>
25.	<p>General demolish waste is to be segregated into the following waste areas if disposed of at the Inglewood Landfill:</p> <ul style="list-style-type: none"> • Metal products • Concrete/brick/products • Metal/metal clad products
26.	<p>Prior to construction works commencing on the site for the new facility a building approval is to be issued by a Licensed Building Certifier.</p> <p>Note: <i>Plumbing approval for the onsite waste water treatment system will be required prior to any Building Approval being issued for the site.</i></p>
	ENVIRONMENTAL CONTROLS
27.	<p><u>Ongoing operations of the site</u></p> <p>An amended Stormwater Management Plan demonstrating proposed handling and treatment of stormwater and any petroleum spillage on the service station site shall be submitted to and approved by Council prior to commencement of construction.</p>

28.	<p><u>Waste & Litter</u></p> <p>i) During the construction program all waste is to be contained in suitable waste bins or skips with lids or covers to avoid windblown litter and access by animals.</p> <p>Ongoing operations waste is to be stored in suitable waste containers, serviced on a regular basis to avoid vermin and fly issues. All waste is to be disposed of to a licenced waste facility.</p>
WATER QUALITY & CONSTRUCTION STANDARDS	
29.	<p>The proposed water supply to be used within the food premises and residential units is to be tested on a six (6) monthly timeframe with samples being tested by a NATA accredited laboratory and copy of results submitted to the Goondiwindi Regional Council within fourteen (14) days of testing. QLD Health Safe Water on rural properties is a good guide for bacteria controls.</p>
30.	<p>Details of any proposed water treatment system to be installed on site to address chemical imbalance in ground water or roof water storage tanks is to be submitted with the building approval documentation.</p>
31.	<p>Food premises component of the development is to be constructed in accordance with A&NZ Food Standards Code – Standard 3.2.3 & AS4674 (Design, construction and fit-out of food premises).</p>
32.	<p>Prior to the commencement of construction of the food premises a Food Licence application is to be submitted along with plans of the Food premises and all associated food storage area. Approvals are to be issued before construction of the fit-out commences.</p>
AVOIDING NUISANCE	
33.	<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>
34.	<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>

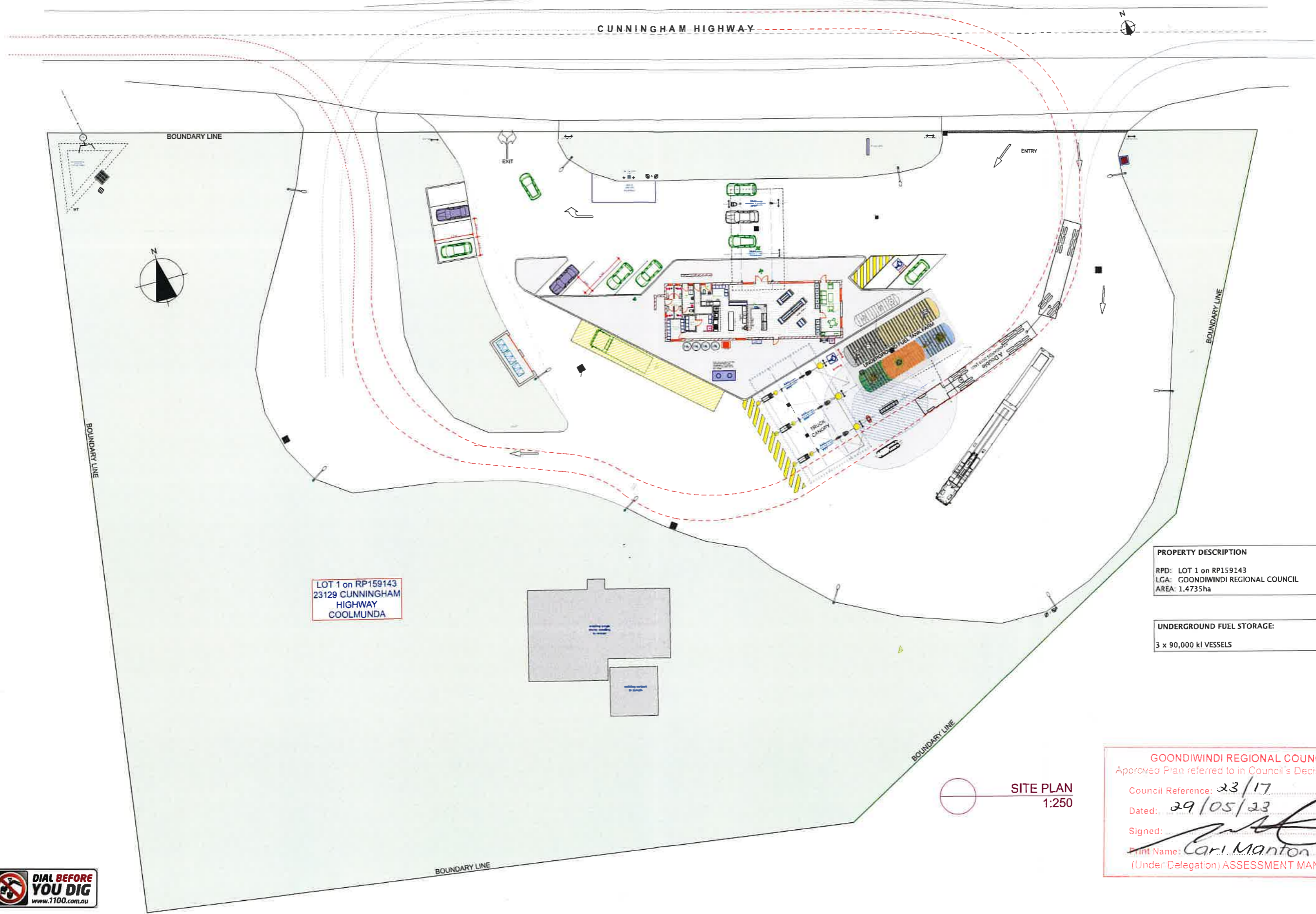
35.	At all times while the use continues it shall be operated in such a manner as to ensure that no nuisance shall arise to adjoining premises as a result of dust, noise, lighting, odour, vibration, rubbish, contaminants, stormwater discharge or siltation or any other potentially detrimental impact.
36.	The operator shall be responsible for mitigating any complaints arising from on-site operations.
37.	Construction works must occur so they do not cause unreasonable interference with the amenity of adjoining premises. The site must be kept in a clean and tidy state at all times during construction.
DEVELOPER'S RESPONSIBILITIES	
38.	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.
39.	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.
40.	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.
CHARGES PAID BEFORE USE COMMENCES	
41.	All outstanding rates and charges shall be paid to Council prior to the commencement of the use.
COMMENCEMENT OF USE	
42.	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.

43.	<p>At its discretion, Council may accept bonds or other securities to ensure completion of specified development approval conditions or Council may accept cash payments for Council to undertake the necessary work to ensure completion of specified development approval conditions.</p> <p>It may be necessary for Council to use such bonds for the completion of outstanding works without a specific timeframe agreed.</p>
44.	<p>Council must be notified in writing of the date of the commencement of the use within 14 days of commencement.</p> <p>This approval will lapse if the use has not commenced within four years of the date the development approval takes effect, in accordance with the provisions contained in sections 341 & 342 of the <i>Sustainable Planning Act 2009</i>.</p> <p>Section 383 of the <i>Sustainable Planning Act 2009</i> sets out how an extension to the period of approval can be requested.</p>
PLEASE READ CAREFULLY - NOTES AND ADVICE	
	<p>Infrastructure charges as outlined in the Infrastructure Charges Notice included in Attachment 3 shall be paid prior to the commencement of the use.</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 2 – Approved Plans





LOT 1 on RP159143
23129 CUNNINGHAM
HIGHWAY
COOLMUNDA

PROPERTY DESCRIPTION
RPD: LOT 1 on RP159143
LGA: GOONDIWINDI REGIONAL COUNCIL
AREA: 1.4735ha

UNDERGROUND FUEL STORAGE:
3 x 90,000 kl VESSELS

SITE PLAN
1:250

GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 23/17
Dated: 29/05/23
Signed: *[Signature]*
Print Name: Carl Manton
(Under Delegation) ASSESSMENT MANAGER



NOTE
The reader shall check all dimensions and levels on ALL 2002 to construction...
All dimensions are subject to the Surveyor's Certificate...
All dimensions are subject to the Surveyor's Certificate...

Project Partners
Refer to consultant documentation when directed
- Civil Engineer - Daniel Chavira of CIVIL & STRUCTURAL ENGINEERING SERVICES PTY LTD
- Structural Engineer - Brian Savello of MEP ENGINEERING SERVICES PTY LTD
- Mechanical Engineer - Brian Savello of MEP ENGINEERING SERVICES PTY LTD
- Services - Planning Consultant
- Electrical Engineer - Deep Narayan of Structural Engineering Services Pty Ltd
- Surveyor - JIM JONES of BMR QLD PTY LTD

DATE	AMENDMENT	REVISION
20/07/2022	reposition Plan sign EV charging stations, Fire water storage tanks	A

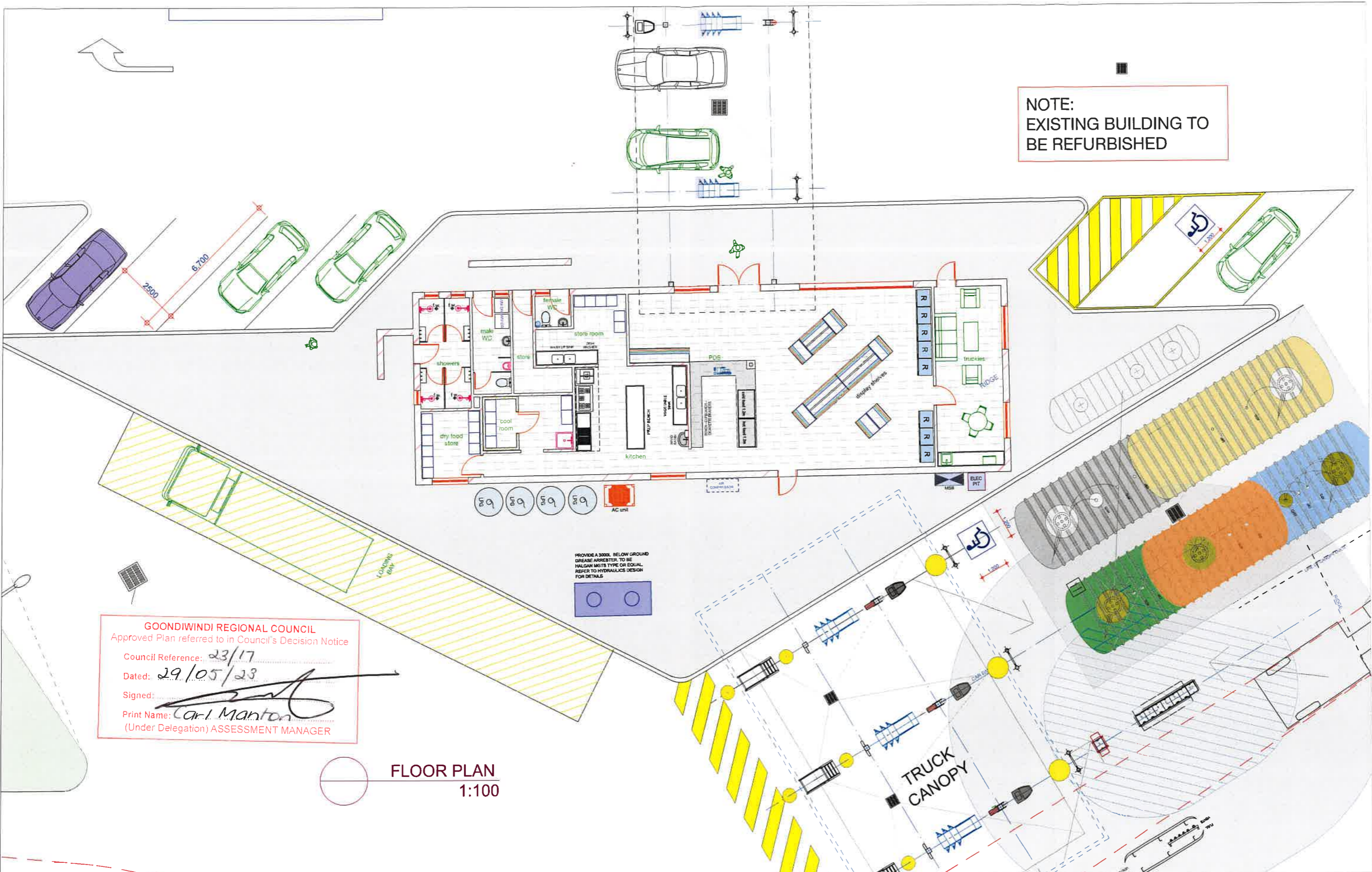
A. Blafari
ABN 13389174366
0414 662 400
a.blafari55@gmail.com
6 Lookout Ave
Blaxland NSW 2774

Plot Data: 28/2/2023
Project NO: 10322
Project Status: CONSTRUCTION
Client: Coolmunda Energy Pty Ltd
Site: 23129 Cunningham Highway
Coolmunda QLD 4387

DRAWING TITLE:
Site and Location Drawings
SITE PLAN COOLMUNDA
PROJECT NAME:
Coolmunda Roadhouse

REVISION NO:
A
DRAWING NO:
A02

**NOTE:
EXISTING BUILDING TO
BE REFURBISHED**



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

Council Reference: 23/17
Dated: 29/05/23
Signed: *Carl Manton*
Print Name: Carl Manton
(Under Delegation) ASSESSMENT MANAGER

FLOOR PLAN
1:100

NOTE
The Builder shall check all dimensions and levels on site prior to construction. Notify any errors, discrepancies or omissions to the architect. Refer to written dimensions only. Do not scale drawings. Drawings shall not be used for construction purposes until issued for construction. This drawing reflects a design by #Contact Company and is to be used only for work when authorised in writing by #Contact Company.
All boundaries and contours are subject to survey drawing W-01. All levels to Australian Height Data. It is the contractor's responsibility to confirm all measurements on site and locations of any services prior to work on site.
All documents here within are subject to Australian Copyright Laws.

Project Partners
Refer to consultant documentation when directed
- NCC Consultant - Jamie Jackson of East Coast Approvals Group Pty Ltd
- Civil Engineer - Osman Chowdhury of Civil & Stormwater Engineering Services Pty Ltd
- Hydraulic Engineer - Invan Sandhu of MEP Engineering Services Pty Ltd
- Landscape Designer - Ray Fuggle of RFA Landscape Architects
- Mechanical Engineer - Imran Sandhu of MEP Engineering Services Pty Ltd
- Planning Consultant - Imran Sandhu of MEP Engineering Services Pty Ltd
- Services - #Services Consultant
- Structural Engineer - Amar Nemarni of Structural Engineering Services Pty Ltd
- Surveyor - Jeff Jones of SMK QLD Pty Ltd

DATE	AMENDMENT	REVISION
20/07/2022	reposition Pylon sign, EV charging stations, Fire water storage tanks	A

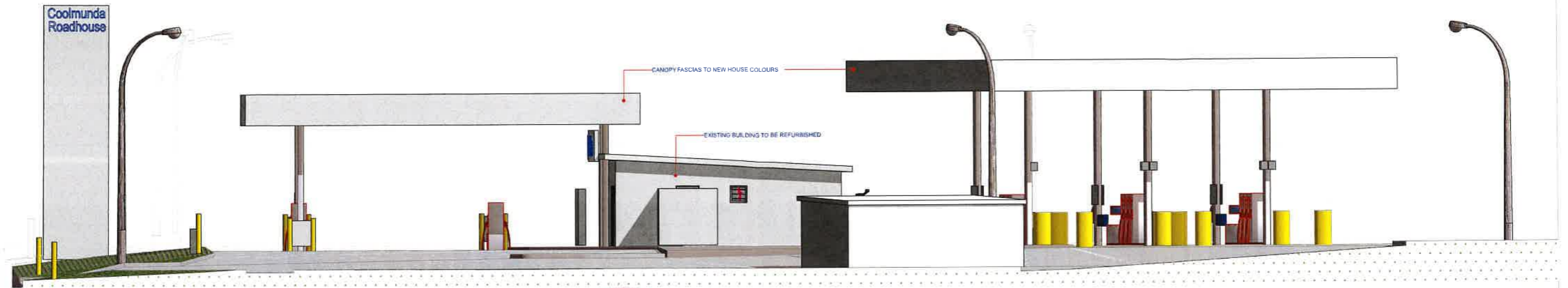
A. Bafari
ABN 13388174088
0414 660 400
a.bafari55@gmail.com
6 Lookout Ave
Blaxland NSW 2774

Plot Date: 28/3/2023
Project NO: 10322
Project Status: CONSTRUCTION
Client: Coolmunda Energy Pty Ltd
Site: 23129 Cunningham Highway
Coolmunda Qld 4387

DRAWING TITLE :
**Site and Location Drawings
FLOOR PLAN**

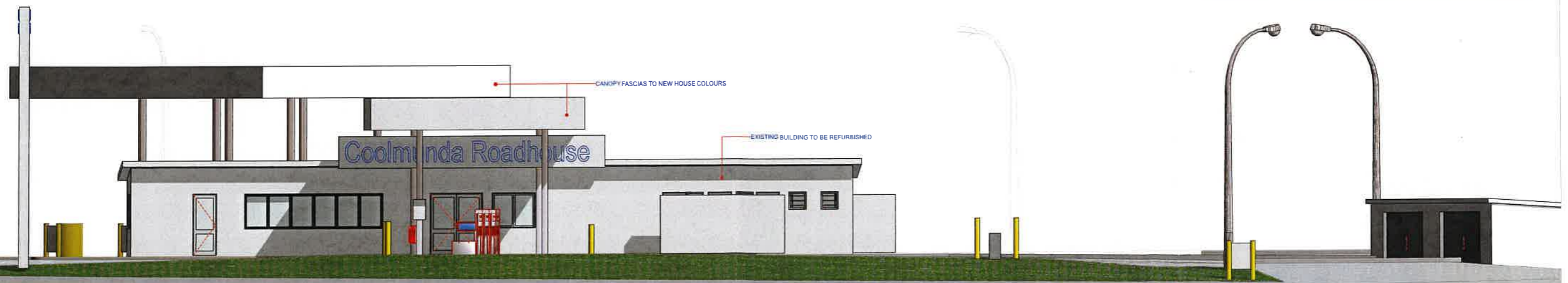
PROJECT NAME :
Coolmunda Roadhouse

REVISION NO.
A
DRAWING NO.
A03



E-11 West Elevation
1:100

GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 23/17
Dated: 29/5/23
Signed: *[Signature]*
Print Name: Carl Manton
(Under Delegation) ASSESSMENT MANAGER



E-10 North Elevation to Cunningham Highway
1:100

NOTE
The Builder shall check all dimensions and levels on site prior to construction. Notify any errors, discrepancies or omissions to the architect. Refer to written dimensions only. Do not scale drawings. Drawings shall not be used for construction purposes until issued for construction. This drawing reflects a design by #Contact Company and is to be used only for work when authorised in writing by #Contact Company.
All boundaries and contours are subject to survey drawing W-01. All levels to Australian Height Data. It is the contractors responsibility to confirm all measurements on site and locations of any services prior to work on site.
All documents here within are subject to Australian Copyright Laws.

Project Partners
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- Hydraulic Engineer - Imran Sandhu of MEP Engineering Services Pty Ltd
- Landscape Designer - Ray Fuggle of RFA Landscape Architects
- Mechanical Engineer - Imran Sandhu of MEP Engineering Services Pty Ltd
- Planning Consultant - Imran Sandhu of MEP Engineering Services Pty Ltd
- Services - #Services Consultant
- Structural Engineer - Amar Nemarni of Structural Engineering Services Pty Ltd
- Surveyor - Jeff Jones of SMK QLD Pty Ltd

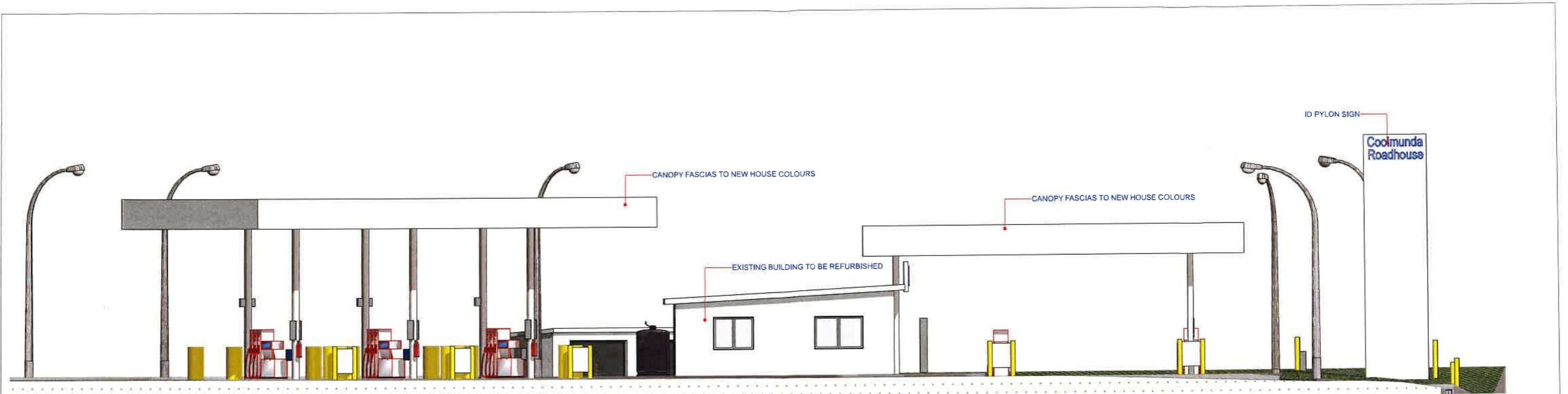
DATE	AMENDMENT	REVISION
20/07/2022	reposition Pylon sign, EV charging stations, Fire water storage tanks	A

A. Biefar
ABN 13386174088
0414 660 400
a.biefar55@gmail.com
6 Lookout Ave
Blaxland NSW 2774

Plot Date: 28/3/2023
Project NO: 10322
Project Status: CONSTRUCTION
Client: Coolmunda Energy Pty Ltd
Site: 23129 Cunningham Highway
Coolmunda Qld 4387

DRAWING TITLE :
**Elevations
ELEVATIONS**
PROJECT NAME :
Coolmunda Roadhouse

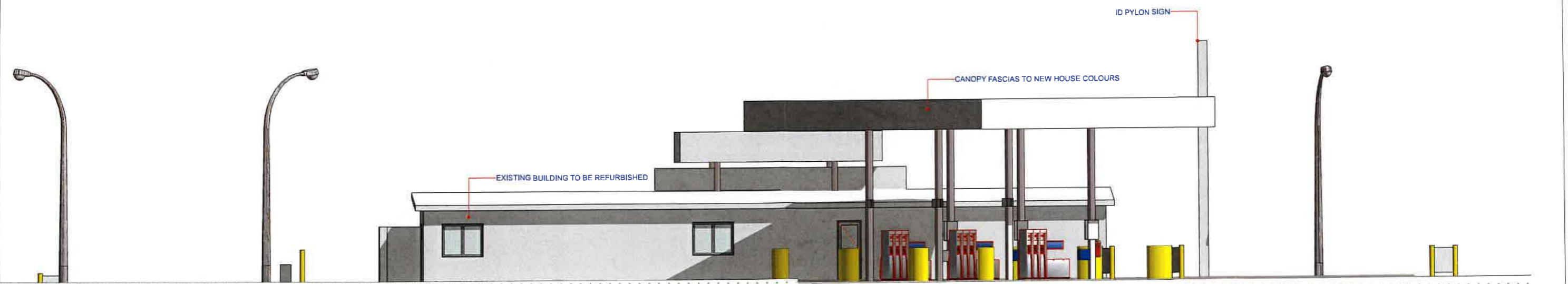
REVISION NO.
A
DRAWING NO.
A300



E-08

East Elevation
1:100

GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 23/17
Dated: 29/5/23
Signed: *Carl Manton*
Print Name: Carl Manton
(Under Delegation) ASSESSMENT MANAGER



E-09

South Elevation
1:100

NOTE
The Builder shall check all dimensions and levels on site prior to construction. Notify any errors, discrepancies or omissions to the architect. Refer to written dimensions only. Do not scale drawings. Drawings shall not be used for construction purposes until issued for construction. This drawing reflects a design by #Contact Company and is to be used only for work when authorised in writing by #Contact Company.
All boundaries and contours are subject to survey drawing W-01. All levels to Australian Height Data. It is the contractors responsibility to confirm all measurements on site and locations of any services prior to work on site.
All documents here within are subject to Australian Copyright Laws.

Project Partners
Refer to consultant documentation when directed
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- Civil Engineer - Daman Chowdhury of Civil & Stormwater Engineering Services Pty Ltd
- Hydraulic Engineer - Imran Sandhu of MEP Engineering Services Pty Ltd
- Landscape Designer - Ray Fuggle of RFA Landscape Architects
- Mechanical Engineer - Imran Sandhu of MEP Engineering Services Pty Ltd
- Planning Consultant - Imran Sandhu of MEP Engineering Services Pty Ltd
- Services - #Services Consultant
- Structural Engineer - Amar Nemami of Structural Engineering Services Pty Ltd
- Surveyor - Jeff Jones of SMK QLD Pty Ltd

DATE	AMENDMENT	REVISION
20/07/2022	reposition Pylon sign, EV charging stations, Fire water storage tanks	A

A. Elefari
ABN 13388174088
0414 660 400
a.blefari55@gmail.com
6 Lookout Ave
Blaxland NSW 2774

Plot Date: 28/3/2023
Project NO. 10322
Project Status CONSTRUCTION
Client Coolmunda Energy Pty Ltd
Site: 23129 Cunningham Highway
Coolmunda Qld 4387

DRAWING TITLE :
Elevations
ELEVATIONS
PROJECT NAME :
Coolmunda Roadhouse

REVISION NO.
A
DRAWING NO.
A301



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 *Industrial Activities* – “*Service Station*”, “*Commercial Activities*” – “*Catering Premises*” (*Restaurant*) and “*Residential Activities*” – “*Caretakers Residence*”

23/17

23129 Cunningham Highway, Coolmunda

Lot 1 on RP159143

On 26 May 2023, the above change application was:

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

1. Reasons for the decision

The reasons for this decision are:

- *Having regard to the relevant criteria in the Goondiwindi Region Planning Scheme 2018, the proposed changes were approved.*

2. Assessment benchmarks

The following are the benchmarks applying for this development:

Benchmarks applying for the development	Benchmark reference
Schedule 2 of the Planning Act	
Schedule 1 of the Development Assessment Rules	
Rural Zone Code	
Accommodation Activities Code	
Transport & Infrastructure Code	
Flood Hazard Overlay Code	
Natural Resources Overlay Code	

3. Compliance with benchmarks

Benchmark reference	Reasons for the approval despite non-compliance with benchmark
Transport & Infrastructure Code	
<p>AO2 Parking is provided on the site in accordance with the requirements identified in Table 9.4.4.2 - Car parking generation rates and service vehicle requirements.</p> <p>Note—where for a <i>supermarket</i> or <i>shopping centre</i> including a <i>supermarket</i> in the Central business district precinct or Pratten Street precinct of the Centre Zone or the Callandoon Street precinct or Marshall Street precinct of the General residential zone, a Traffic and Car Parking Impact Assessment and Street Improvement Plan is undertaken in support of any development application seeking car parking concessions.</p> <p>OR</p> <p>Where development is for a material change of use involving no building work or <i>minor building work</i>, the existing number of car parking spaces on the premises is maintained.</p>	<p>Alternative Solution Table 9.4.4.2 requires 4 spaces per service bay, plus 1 space per 15m² of shop area. The proposed change includes 10 car parking spaces. The alternative solution is considered to be adequate for the expected demand. There is adequate area on site to provide overflow parking if required.</p>

4. Relevant matters for impact assessable development

Not applicable.

5. Matters raised in submissions for impact assessable development

Not applicable.

6. Matters prescribed by Regulation

Not applicable for this proposed development.



Attachment 4 – Rights of Appeal Waiver





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.