

File: 23/44  
Date: 18 October 2024

SMK QLD Pty Ltd for Michael Offerdahl  
PO Bx 422  
GOONDIWINDI QLD 4390

Attention: Mr Tom Jobling

Dear Tom

**Decision Notice – approval in part (with conditions) AND part refusal  
Material Change of Use**

**Lot 1 on SP290080, Lot 106 on T5861, Lot 17 and 18 on T5861 and Lots 5 and 6 on  
T5865, Barwon Highway, 13-15 Pflingst Street, 16 Highway Street and Highway  
Street, Toobeah**

We wish to advise that on 14 October 2024 a decision was made to issue an approval for part of the development application in accordance with Section 60 of the *Planning Act 2016*. Approval is granted for the following aspect of the application (subject to conditions):

- a Material Change of Use for Accommodation activities - "Tourist Park (Five (5) Caravan Sites and ancillary pool and spa) at 13-15 Pflingst Street, Toobeah (Lot 17 and 18 on T5861).

The following aspects of the application are refused:

- Material Change of use for Accommodation Activities - Short Term Accommodation (Four (4) accommodation units) on Lot 106 on T5861.
- The use of Lots 5 and 6 on T5865 for the disposal of effluent from Lot 1 SP290080 and Lot 106 on T5861.

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 38**, which requires a letter to be submitted to Council prior to commencement of the use, outlining and demonstrating compliance with each condition.

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

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

Yours faithfully

A handwritten signature in black ink, appearing to read 'RM McMahon', with a long horizontal flourish extending to the right.

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

**Decision Notice approval**  
**Planning Act 2016 section 63**

Council File Reference: 23/44  
Council Contact: Mrs Ronnie McMahon  
Council Contact Phone: (07) 4671 7400

18 October 2024

**Applicant Details:** SMK QLD Pty Ltd for Michael Offerdahl  
PO Bx 422  
**GOONDIWINDI QLD 4390**

Attention: Tom Jobling

The development application described below was properly made to Goondiwindi Regional Council on 2 November 2023.

**Applicant details**

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

**Application details**

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Application number: 23/44  
Approval sought: Development Permit – Material Change of Use  
Details of proposed development: *"Accommodation Activities"*

- *"Tourist Park (Five (5) Caravan Sites and ancillary pool and spa); and*
- *"Short-term Accommodation" (Four (4) Accommodation Units)*

**Location details**

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Street address: Barwon Highway, 13-15 Pfingst Street, 16 Highway Street and Highway Street, Toobeah  
Real property description: Lot 1 on SP290080, Lot 106 on T5861, Lot 17 and 18 on T5861 and Lots 5 and 6 on T5865

**Decision**

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Date of decision: 14 October 2024

Decision details:

**Council approves, in part:**

A Material Change of Use for Accommodation activities - "Tourist Park (Five (5) Caravan Sites and ancillary pool and spa) at 13-15 Pfingst Street, Toobeah (Lot 17 and 18 on T5861). The development is to be carried out in accordance the conditions of approval and the requirements of Council's Planning Scheme and the Local Laws. Conditions are set out in Attachment 1 and clearly indicate whether the assessment manager or a concurrence agency imposed them.

AND

**Council refuses:**

The balance of the Development Application for Material Change of use for Accommodation Activities - Short Term Accommodation (Four (4) accommodation units) on Lot 106 on T5861 and the use of Lots 5 and 6 on T5865 for the disposal of effluent from Lot 1 SP290080 and Lot 106 on T5861. Grounds for refusal for the balance of the Development Application are set out in Attachment 4 – Notice about decision - Statement of reasons.

**Details of the decision**

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The application is not taken to be approved (a deemed approval) under section 64(5) of the *Planning Act 2016*.

**Part Approved (subject to conditions):**

Council approves the following aspects of the Development Application (subject to conditions):

- Material Change of Use for Accommodation activities - "Tourist Park (Five (5) Caravan Sites and ancillary pool and spa) at 13-15 Pfingst Street, Toobeah (Lot 17 and 18 on T5861).

**Part Refused:**

Council refuses the balance of the Development Application for:

- Material Change of use for Accommodation Activities - Short Term Accommodation (Four (4) accommodation units) on Lot 106 on T5861.
- The use of Lots 5 and 6 on T5865 for the disposal of effluent from Lot 1 SP290080 and Lot 106 on T5861.

**Conditions**

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The part approval is subject to the conditions in Attachment 1.

### Further development permits

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

1. Development Permit – Carry Out Building Work for the proposed pool and spa.
2. Development Permit – Plumbing and Drainage for any plumbing works including the method of disposing of backwash water at the site.
3. Camping and caravan park approval permit to operate the Tourist Park use in accordance with Council's *Subordinate Local Law no. 1.8 (Operation of Caravan Parks) 2011*.

Note: Plans reflecting the required amendments must be submitted to and endorsed by Council prior to the issue of a Development Permit – Carry Out Building Work.

### Properly made submissions

Not application – no part of this application required public notification.

### Referral agencies for the application

The referral agencies for this application are:

For an application involving	Name of referral agency	Address
As per Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 (10.9.4.2.4.1) of the PR: <i>Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorising instrument, if all or part of the premises—</i> (a) <i>are within 25m of a State transport corridor; or</i> (b) <i>are a future State transport corridor; or</i> (c) <i>are—</i> (i) <i>adjacent to a road that intersects with a State-controlled road; and</i> (ii) <i>within 100m of the intersection</i>	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  <a href="mailto:ToowoombaSARA@dsdilgp.qld.gov.au">ToowoombaSARA@dsdilgp.qld.gov.au</a>  Ph: (07) 4616 7307

### Approved plans and specifications

Copies of the following plans are enclosed.

Drawing Number	Title	Date
23135-1	Site Plan for proposed Accommodation Activities on Lots 17, 18 on T5861 & Lot 1 on SP290080, Pfingst Street, Toobeah QLD amended in red by Council on 4 October 2024	16/5/2024
23/44-1	Tourist Park Structure amended in red by Council on 4 October 2024	Received 16/05/2024

### **Currency period for the approval**

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

### **Rights of appeal**

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

#### Appeal by an applicant

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

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

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

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

**Attachment 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 faithfully



**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

enc Attachment 1—Assessment manager and concurrence agency conditions

- State Assessment and Referral Agency Concurrence Agency Response  
dated 5 February 2024

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 – Infrastructure Charges Notice**

**Attachment 4 – Notice about decision - Statement of reasons**

**Attachment 5 – *Planning Act 2016* Extracts**

*Planning Act 2016 appeal provisions*

*Planning Act 2016 lapse dates*





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



### Assessment Manager's Conditions

- A. Council approve only the part of the development application for Material Change of Use for Accommodation activities - "Tourist Park (Five (5) Caravan Sites and ancillary pool and spa) at 13-15 Pfingst Street, Toobeah (Lot 17 and 18 on T5861) subject to the following conditions:

<b>Description:</b>	"Accommodation activities" - "Tourist Park" – Five (5) caravan sites
<b>Development:</b>	Material Change of Use – Development Permit
<b>Applicant:</b>	SMK QLD Pty Ltd for Michael Offerdahl
<b>Address:</b>	13-15 Pfingst Street, Toobeah
<b>Real Property Description:</b>	Lot 17 & 18 on T5861
<b>Council File Reference:</b>	23/44

GENERAL CONDITIONS											
1.	Approval is granted for the purpose of a Material Change of Use for: <ul style="list-style-type: none"><li>• “Accommodation activities” - “Tourist Park (Five (5) Caravan Sites and ancillary pool and spa);</li></ul> as defined in the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i> .										
2.	All conditions must be complied with or bonded prior to the commencement of the use, unless specified in an individual condition.										
3.	Except where changed by conditions of this approval, the development shall be in accordance with supporting information supplied by the applicant with the development application including the following plans: <table><tr><th>Drawing Number</th><th>Title</th><th>Date</th></tr><tr><td>23135-1</td><td>Site Plan for proposed Accommodation Activities on Lots 17, 18 on T5861 &amp; Lot 1 on SP290080, Pfingst Street, Toobeah QLD amended in red by Council on 4 October 2024</td><td>16/5/2024</td></tr><tr><td>23/44-1</td><td>Tourist Park Structure amended in red by Council on 4 October 2024</td><td>Received 16/05/2024</td></tr></table>		Drawing Number	Title	Date	23135-1	Site Plan for proposed Accommodation Activities on Lots 17, 18 on T5861 & Lot 1 on SP290080, Pfingst Street, Toobeah QLD amended in red by Council on 4 October 2024	16/5/2024	23/44-1	Tourist Park Structure amended in red by Council on 4 October 2024	Received 16/05/2024
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23/44-1	Tourist Park Structure amended in red by Council on 4 October 2024	Received 16/05/2024									
Please note these plans are not approved Building Plans.											

4.	<p>Complete and maintain the approved development as follows:</p> <ul style="list-style-type: none"> <li>(i) Generally in accordance with development approval documents; and</li> <li>(ii) Strictly in accordance with those parts of the approved development which have been specified in detail by Council unless Council agrees in writing that those parts will be adequately complied with by amended specifications.</li> </ul> <p>All development shall comply with any relevant provisions in the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i>, Council's standard designs for applicable work and any relevant Australian Standard that applies to that type of work.</p> <p>The development approval documents are the material contained in the development application, approved plans and supporting documentation including any written and electronic correspondence between applicant, Council or any relevant Agencies during all stages of the development application assessment processes.</p>
5.	<p>It is the developer's responsibility to obtain all other statutory approvals required prior to the commencement of the use. The following development permit/s are required to be obtained before the development can be carried out:</p> <ul style="list-style-type: none"> <li>(a) Development Permit - Carry Out Building Work</li> <li>(b) Development Permit - Plumbing and Drainage</li> </ul>
6.	<p>Prior to the commencement of the use, obtain a Camping and Caravan Park Approval Permit to operate the Tourist Park use in accordance with Council's <i>Subordinate Local Law no. 1.8 (Operation of Caravan Parks) 2011</i>.</p>
7.	<p>Lot 17 and Lot 18 on T5861 are to be amalgamated to form one title with the plan to be registered prior to the commencement of the use.</p>
<b>OPERATION OF THE USE</b>	
8.	<p>The development can accommodate a maximum of five (5) self-contained caravans or recreational vehicles<sup>1</sup> only. All caravans, campervans, motorhomes or similar must be self-contained as defined in Council's <i>Subordinate Local Law No. 1.8 (Operation of Caravan Parks) 2011</i>.</p> <p><sup>1</sup><i>Self contained caravan or recreational vehicle means a caravan or recreational vehicle that includes, or is equipped with, each of the following –</i></p> <ul style="list-style-type: none"> <li>(a) a toilet; and</li> <li>(b) a shower; and</li> <li>(c) separate holding tanks for grey and black water.</li> </ul>

15.	<p>Prior to the commencement of the use:</p> <ul style="list-style-type: none"> <li>(e) Submit a revised site plan showing the location and specifications of all services including (but not limited to) a water meter, water stand pipe and waste water disposal point.</li> <li>(f) Submit a waste water design assessment to demonstrate how wastewater (including backwash water from the pool) is to be treated and disposed of on site.</li> <li>(g) obtain all relevant Development Permits for Plumbing.</li> </ul> <p>To receive a compliance certificate at completion of plumbing and drainage works, the final inspection must be completed and approved by a licensed professional. The final inspection must be requested within 7 days of the work being completed.</p>
16.	<p>If water obtained from a particular water outlet in the Tourist Park may be unsuitable for drinking, a sign is prominently displayed at the outlet stating "Unsuitable for Drinking".</p>
	<p><b>PUBLIC UTILITIES</b></p>
17.	<p>The development shall be connected to an adequate electricity and telecommunications supply system, at no cost to Council.</p>
	<p><b>ROADS AND VEHICLES</b></p>
18.	<p>Prior to the commencement of the use, submit an RPEQ certified swept path analysis for the Tourist Park on Lots 17 &amp; 18 on T5861.</p> <p>Submitted drawings must demonstrate:</p> <ul style="list-style-type: none"> <li>(a) all vehicles can enter and exit the site in forward gear.</li> <li>(b) no reverse manoeuvres require vehicles to enter the Coronation Lane road reserve.</li> <li>(c) compliant access and servicing for the development including adequate aisle widths and turning templates for an AV for the Tourist Park use in accordance with Table 9.4.4.2 – Minimum car parking rates and service vehicle requirements.</li> </ul> <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><b>LANDSCAPING</b></p>
19.	<p>All existing landscaping areas shall be maintained in accordance with Schedule 6.3 – Planning Scheme Policy 3 – Landscaping Standards of the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i>.</p> <p>No vehicle parking areas are to be located within the landscaping areas.</p>

9.	<p>Prepare, implement and maintain a site management plan for the Tourist Park use. The site management plan is to include measures to manage operational aspects of the development including, but not limited to, noise management, site care and maintenance, complaints management and refuse management. The site management plan must comply with the requirements of Council's <i>Subordinate Local Law No 1.8 (Operation of Caravan Parks) 2011</i>.</p> <p>Provide a copy of the site management plan to Council prior to the commencement of the use.</p>
10.	<p>The approval holder must keep and maintain a register which details –</p> <ul style="list-style-type: none"> <li>(a) The name and address of each person who hires a site in the Tourist Park; and</li> <li>(b) An identifying number for each Tourist Park site; and</li> <li>(c) If a caravan is brought onto the site, the registration number of the caravan; and</li> <li>(d) The dates when the hiring of the site begins and ends.</li> </ul>
<b>ESSENTIAL SERVICES</b>	
11.	<p>Prior to the issue of a building approval, the development shall be connected to Council's reticulated water supply system, in accordance with Schedule 6.2 Planning Scheme Policy 1 – Land Development Standards in the Goondiwindi Region Planning Scheme 2018 (Version 2), to the satisfaction of and at no cost to Council.</p> <p>The site shall be provided with all necessary water infrastructure, including backflow prevention devices, to enable the development to be serviced to relevant engineering standards and to the satisfaction of Council.</p>
12.	<p>A water meter is to be installed at the premises as per the Queensland Plumbing and Wastewater Code. The water meter must be installed by a licensed plumber/drainier only. Please contact Council's Water and Sewerage Department for further information.</p>
13.	<p>In accordance with the requirements of Council's <i>Subordinate Local Law No 1.8 (Operation of Caravan Parks) 2011</i>, provide a water stand pipe at a place which is publicly available and located in close proximity to Tourist Park sites. The water stand pipe must be installed by a licensed plumber/drainier only.</p>
14.	<p>Wastewater from Tourist Park activities shall only be disposed of at approved dump points. Provide an onsite dump point or wastewater disposal point in accordance with Schedule 6.2 Planning Scheme Policy 1 – Land Development Standards in the Goondiwindi Region Planning Scheme 2018 (Version 2), to the satisfaction of and at no cost to Council.</p> <p>No release of grey water on-site is permitted.</p>

20.	Solid screen fencing, 1.8m high, shall be provided for the full length of all side and rear boundaries of the site. The fence shall be appropriately integrated with the existing landscaping on site and present an attractive visual appearance to adjoining properties.
<b>STORMWATER</b>	
21.	<p>Prior to the commencement of the use, the site shall be adequately drained and all stormwater shall be disposed of to a legal point of discharge in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i>, to the satisfaction of and at no cost to Council.</p> <p>Any increase in volume, concentration or velocity of stormwater from the site shall be channelled to lawful points of discharge or to other storage or dispersal arrangements which all must be agreed to in writing by Council.</p> <p>There shall be no change in direction or increase in the volume, concentration or velocity in any overland flow from the site to any adjoining properties unless agreed in writing by Council and the owners of any adjoining properties affected by these changes.</p> <p>The stormwater disposal system shall be designed to include appropriate pollution control devices or methods to ensure no contamination or silting or waterways.</p>
22.	<p>Stormwater shall not be allowed to pond on the site during the development process and after development has been completed unless the type and size of ponding has been agreed in writing by Council.</p> <p>No ponding, concentration or redirection of stormwater shall occur on adjoining properties unless specifically agreed to in writing by Council and the owners of any adjoining properties affected by these changes.</p>
<b>EARTHWORKS AND EROSION CONTROL</b>	
23.	<p>Any filling or excavation shall be undertaken in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the <i>Goondiwindi Region planning Scheme 2018 (Version 2)</i> or to other relevant engineering standards to the satisfaction of and at no cost to Council.</p> <p>Excavation or filling within 1.5 metres of any site boundary is battered or retained by a wall that does not exceed 1 metre in height.</p>

24.	<p>All works associated with the development must be carried out in a manner that minimises erosion and controls sediment. Best practice erosion and sediment control measures shall be in place at the location of all works prior to work commencing and remain until work is completed in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i> to the satisfaction of and at no cost to Council.</p> <p>Control procedures are to be established to ensure sediment from the site is not deposited off site. The developer shall ensure no increase in any silt loads or contaminants in overland flow from the site during the development process and after development has been completed.</p>
	<p><b>AVOIDING NUISANCE</b></p>
25.	<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> (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.</p>
26.	<p>At all times while the use continues it shall be operated in such a manner as to ensure that no nuisance shall arise to adjoining premises as a result of dust, noise, lighting, odour, vibration, rubbish, contaminants, stormwater discharge or siltation or any other potentially detrimental impact.</p>
27.	<p>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.</p> <p>Waste receptacles shall be placed in a screened area. The site must maintain a general tidy appearance.</p>
28.	<p>The operator shall be responsible for mitigating any complaints arising from on-site operations.</p>
29.	<p>Construction works must occur so they do not cause unreasonable interference with the amenity of adjoining premises.</p> <p>The site must be kept in a clean and tidy state at all times during construction.</p>
30.	<p>At all times while the use continues, any air conditioned equipment shall be acoustically screened to ensure noise levels do not exceed 5 dB(A) above the background noise level measured at the boundaries of the subject site.</p>

	<b>AMENITIES</b>
31.	<p>Tourist park amenities, such as the pool and spa, are to be used by guests only. Access to the general public is not permitted.</p> <p><i>Advice note: Approval for a Material Change of Use for Outdoor Sport and Recreation is required for public use of pool and spa facilities.</i></p>
	<b>DEVELOPER'S RESPONSIBILITIES</b>
32.	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.
33.	All contractors and subcontractors shall hold current, relevant and appropriate qualifications and insurances to carry out the works.
34.	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.
35.	At all times while the use continues, all requirements of the conditions of the development approval must be maintained.
	<b>COMMENCEMENT OF USE</b>
36.	<p>At its discretion, Council may accept bonds or other securities to ensure completion of specified development approval conditions or Council may accept cash payments for Council to undertake the necessary work to ensure completion of specified development approval conditions.</p> <p>It may be necessary for Council to use such bonds for the completion of outstanding works without a specific timeframe agreed.</p> <p>The decision to accept bonds or other securities to satisfy a condition will be that of Council, not the applicant.</p>
37.	<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 <b>six years</b> of the date the development approval takes effect, in accordance with the provisions contained in sections 85(i)(a) of the <i>Planning Act 2016</i>.</p> <p>Section 86 of the <i>Planning Act 2016</i> sets out how an extension to the period of approval can be requested.</p>



38.	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.
	<b>PLEASE READ CAREFULLY - NOTES AND ADVICE</b>
	<p><i>When approval takes effect</i></p> <p>This approval takes effect in accordance with section 85 of the <i>Planning Act 2016</i>.</p> <p><i>When approval lapses</i></p> <p>This approval will lapse if the change of use has not occurred within the following period, in accordance with the provisions contained in section 85(i)(a) of the <i>Planning Act 2016</i>.</p> <p>(a) If no period stated – 6 years after the approval starts to have effect.</p> <p>Section 86 of the <i>Planning Act 2016</i> sets out how an extension to the period of approval can be requested.</p>
	Infrastructure charges as outlined in the Infrastructure Charges Notice included in <b>Attachment 3</b> shall be paid prior to the commencement of the use.
	An application must be submitted with Council's Health and Environmental Services Section for approval to operate a caravan park in accordance with the requirements of Council's Subordinate Local Law No 1.8 (Operation of Caravan Parks) 2011.
	This approval in no way removes the duty of care responsibility of the applicant under the <i>Aboriginal Cultural Heritage Act 2003</i> . Pursuant to Section 23(1) of the <i>Aboriginal Cultural Heritage Act 2003</i> , a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care").
	This approval in no way authorises the clearing of native vegetation protected under the <i>Vegetation Management Act 1999</i> .
	The approved development does not authorise any deviation from the applicable Australian Standards nor from the application of any laws, including laws covering work place health and safety.

Our ref TMR24-041442  
Your ref 23/44  
Enquiries Jeff Lavey



30 January 2024

Department of  
**Transport and Main Roads**

## **Decision Notice – Permitted Road Access Location (s62(1) *Transport Infrastructure Act 1994*)**

This is not an authorisation to commence work on a state-controlled road<sup>1</sup>

Development application reference number 23/44, lodged with Goondiwindi Regional Council involves constructing or changing a vehicular access between Lot 106 T5861 and Lot 7 T5861, the land the subject of the application, and Highway Street (a state-controlled road).

In accordance with section 62A(2) of the *Transport Infrastructure Act 1994* (TIA), this development application is also taken to be an application for a decision under section 62(1) of TIA.

### **Applicant Details**

Name and address SMK QLD Pty Ltd for Michael Offerdahl  
9 Pratten Street  
Goondiwindi QLD 4390

### **Application Details**

Address of Property 16 Highway Street, Toobeah QLD 4498  
Real Property Description Lot 106 T5861, Lot 7 T5861  
Aspect/s of Development Material Change of Use - Accommodation Activities - Tourist Park (Five (5) Caravan Sites) and Short-term Accommodation (Four (4) Accommodation Units)

### **Decision (given under section 67 of TIA)**

It has been decided to approve the application, subject to the following conditions:

- a) The road access location to Lot 106 T5861 (via Lot 7 T5861) is to be located generally in accordance with the Site Plan, prepared by DGA+D, dated 31/07/2023, reference Drawing No. 230729.01 (Rev 1).
- b) The largest vehicle accessing the property is limited to a Medium Rigid Vehicle (MRV).

### **Reasons for the decision**

The reasons for this decision are as follows:

- a) The Department of Transport and Main Roads administers the location of driveway crossovers and vehicular accesses to state-controlled roads.

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<sup>1</sup> Please refer to the further approvals required under the heading 'Further approvals'

Please refer to **Attachment A** for the findings on material questions of fact and the evidence or other material on which those findings were based.

**Information about the Decision required to be given under section 67(2) of TIA**

1. There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
2. In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for information.

**Further information about the decision**

1. In accordance with section 67(7) of TIA, this decision notice:
  - a) starts to have effect when the development approval has effect; and
  - b) stops having effect if the development approval lapses or is cancelled; and
  - c) replaces any earlier decision made under section 62(1) in relation to the land.
2. In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply for a review of this decision only within 28 days after notice of the decision was given under the TIA. A copy of the review provisions under TIA and TPCA are attached in **Attachment C** for information.
3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

**Further approvals**

The Department of Transport and Main Roads also provides the following information in relation to this approval:

1. Road Access Works Approval Required – Written approval is required from the department to carry out road works that are road access works (including driveways) on a state-controlled road in accordance with section 33 of the TIA. This approval must be obtained prior to commencing any works on the state-controlled road. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the department to make an application.

If further information about this approval or any other related query is required, Mr Jeff Lavey, Planner should be contacted by email at [Jeffrey.J.Lavey@tmr.qld.gov.au](mailto:Jeffrey.J.Lavey@tmr.qld.gov.au) or on (07) 4639 0828.

Yours sincerely



Jason McGuire

Senior Town Planner

Attachments: Attachment A – Decision evidence and findings  
Attachment B - Section 70 of TIA  
Attachment C - Appeal Provisions

**Attachment A**  
**Decision Evidence and Findings**

Evidence or other material on which findings were based:

- Development application material submitted in support of Goondiwindi Regional Council development application 23/44
- State Development Assessment Provisions – Assessment Code 1 (Development in a state-controlled road environment)
- Department of Transport and Main Roads' Road Planning and Design Manual, 2nd Edition
- *Planning Act (2016)*
- *Planning Regulations (2017)*
- *Transport Infrastructure Act (1997)*

**Attachment B**

**Section 70 of TIA**

*Transport Infrastructure Act 1994*

Chapter 6 Road transport infrastructure

Part 5 Management of State-controlled roads

---

**70 Offences about road access locations and road access works, relating to decisions under s 62(1)**

- (1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.
- (2) A person to whom this section applies must not—
  - (a) obtain access between the land and the State-controlled road other than at a location at which access is permitted under the decision; or
  - (b) obtain access using road access works to which the decision applies, if the works do not comply with the decision and the noncompliance was within the person's control; or
  - (c) obtain any other access between the land and the road contrary to the decision; or
  - (d) use a road access location or road access works contrary to the decision; or
  - (e) contravene a condition stated in the decision; or
  - (f) permit another person to do a thing mentioned in paragraphs (a) to (e); or
  - (g) fail to remove road access works in accordance with the decision.

Maximum penalty—200 penalty units.

- (3) However, subsection (2)(g) does not apply to a person who is bound by the decision because of section 68.

**Attachment C**  
**Appeal Provisions**

*Transport Infrastructure Act 1994*  
Chapter 16 General provisions

---

**485 Internal review of decisions**

- (1) A person whose interests are affected by a decision described in schedule 3 (the **original decision**) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
  - (a) applies to the review; and
  - (b) provides—
    - (i) for the procedure for applying for the review and the way it is to be carried out; and
    - (ii) that the person may apply to QCAT to have the original decision stayed.

**485B Appeals against decisions**

- (1) This section applies in relation to an original decision if a court (the appeal court) is stated in schedule 3 for the decision.
- (2) If the reviewed decision is not the decision sought by the applicant for the review, the applicant may appeal against the reviewed decision to the appeal court.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
  - (a) applies to the appeal; and
  - (b) provides—
    - (i) for the procedure for the appeal and the way it is to be disposed of; and
    - (ii) that the person may apply to the appeal court to have the original decision stayed.
- (4) Subsection (5) applies if—
  - (a) a person appeals to the Planning and Environment Court against a decision under section 62(1) on a planning application that is taken, under section 62A(2), to also be an application for a decision under section 62(1); and
  - (b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.

(5) The court may order—

(a) the appeals to be heard together or 1 immediately after the other; or

(b) 1 appeal to be stayed until the other is decided.

(6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.

(7) In this section—

**original decision** means a decision described in schedule 3.

**reviewed decision** means the chief executive's decision on a review under section 485.



### **31 Applying for review**

- (1) A person may apply for a review of an original decision only within 28 days after notice of the original decision was given to the person under the transport Act.
- (2) However, if—
  - (a) the notice did not state the reasons for the original decision; and
  - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)the person may apply within 28 days after the person is given the statement of the reasons.
- (3) In addition, the chief executive may extend the period for applying.
- (4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

### **32 Stay of operation of original decision**

- (1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the relevant entity.
- (2) The relevant entity may stay the original decision to secure the effectiveness of the review and any later appeal to or review by the relevant entity.
- (3) In setting the time for hearing the application, the relevant entity must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the relevant entity with it on the chief executive at least 2 business days before the hearing.
- (6) The stay—
  - (a) may be given on conditions the relevant entity considers appropriate; and
  - (b) operates for the period specified by the relevant entity; and
  - (c) may be revoked or amended by the relevant entity.
- (7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period the relevant entity allows the applicant to enable the applicant to appeal against the decision or apply for a review of the decision as provided under the QCAT Act.
- (8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.

(9) In this section—

**relevant entity** means—

- (a) if the reviewed decision may be reviewed by QCAT—QCAT; or
- (b) if the reviewed decision may be appealed to the appeal court—the appeal court.

### **35 Time for making appeals**

(1) A person may appeal against a reviewed decision only within—

- (a) if a decision notice is given to the person—28 days after the notice was given to the person; or
- (b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

(2) However, if—

- (a) the decision notice did not state the reasons for the decision; and
- (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

the person may apply within 28 days after the person is given a statement of the reasons.

(3) Also, the appeal court may extend the period for appealing.



SARA reference: 2312-38382 SRA  
Council reference: 23/44  
Applicant reference: 13/16W

5 February 2024

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

Attention: Ronnie McMahon

Dear Mrs McMahon

## SARA referral agency response—16 Highway Street; and Pfingst Street, Toobeah

(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 21 December 2023.

### Response

Outcome:	Referral agency response – with conditions
Date of response:	5 February 2024
Conditions:	The conditions in <b>Attachment 1</b> must be attached to any development approval
Advice:	Advice to the applicant is in <b>Attachment 2</b>
Reasons:	The reasons for the referral agency response are in <b>Attachment 3</b>

### Development details

Description:	Development permit	Material Change of Use - Accommodation Activities - Tourist Park (five caravan sites) and Short-term Accommodation (four accommodation units)
SARA role:	Referral agency	
SARA trigger:	Schedule 10, part 9, division 4, subdivision 2, table 4, item 1 (Planning Regulation 2017) – Development near a state transport corridor or that	

is a future state transport corridor

SARA reference: 2312-38382 SRA

Assessment manager: Goondiwindi Regional Council

Street address: Highway Street; 16 Highway Street; and Pfingst Street, Toobeah

Real property description: Lot 1 on SP290080; Lots 17, 18 and 106 on T5861; and Lots 5 and 6 on T5865

Applicant name: SMK QLD Pty Ltd for Michael Offerdahl

Applicant contact details: PO Box 422  
Goondiwindi QLD 4390  
tom@smkqld.com.au

State-controlled road access permit: This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved
- Reference: TMR24-041442
- Date: 30 January 2024

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at Downs.South.West.IDAS@tmr.qld.gov.au

*Human Rights Act 2019* considerations: A consideration of the 23 fundamental human rights protected under the *Human Rights Act 2019* has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.

## Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (section 30 of the Development Assessment Rules). Copies of the relevant provisions are in **Attachment 4**.

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

For further information please contact Zac Coombes, Senior Planning Officer, on (07) 3432 2420 or via email ToowoombaSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Kieran Hanna  
Manager (Planning)

enc      Attachment 1 - Referral agency conditions  
            Attachment 2 - Advice to the applicant

Attachment 3 - Reasons for referral agency response  
Attachment 4 - Representations about a referral agency response provisions  
Attachment 5 - Documents referenced in conditions

cc SMK QLD Pty Ltd for Michael Offerdahl, tom@smkqld.com.au

## Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the documents referenced below are found at Attachment 5)

No.	Conditions	Condition timing
<b>Development permit for Material Change of Use for Accommodation Activities - Tourist Park (five caravan sites) and Short-term Accommodation (four accommodation units)</b>		
Schedule 10, part 9, division 4, subdivision 2, table 4, item 1 (Planning Regulation 2017) – Development near a state transport corridor or that is a future state transport corridor —The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition:		
1.	<p>(a) The road access location to Lot 106 on T5861 (via Lot 7 T5861) is to be located generally in accordance with the Site Plan, prepared by DGA+D, dated 31 July 2023, reference Drawing No. 230729.01, Revision 1 as amended in red by SARA on 5 February 2024.</p> <p>(b) Road access works comprising a sealed driveway crossover, (at the road access location) must be provided generally in accordance with the dimensions shown on Site Plan, prepared by DGA+D, dated 31 July 2023 reference Drawing No. 230729.01, Revision 1 as amended in red by SARA on 5 February 2024.</p> <p>(c) The road access works must be designed and constructed in accordance with Goondiwindi Regional Council's commercial driveway crossover standards and the Department of Transport and Main Roads' Road Planning &amp; Design Manual.</p>	<p>(a) At all times</p> <p>(b) and (c) Prior to the commencement of use</p>

## Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> , its regulation or the State Development Assessment Provisions (SDAP) (version 3.0). If a word remains undefined it has its ordinary meaning.
2.	<p><b>Road access works approval</b></p> <p>Under section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads (DTMR) to carry out road works that are road access works (including driveways) on a state-controlled road. Please contact the DTMR on (07) 4639 0828 to make an application for road works approval. This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). <b>The road access works approval process takes time – please contact</b> DTMR as soon as possible to ensure that gaining approval does not delay construction.</p> <p>The applicant should note that reference to the approved plans imply conceptual approval only. Further modifications and inclusions are likely to be required in order for submitted detailed designs to comply with DTMR standards at the roadworks application stage. In particular, detailed designs may require, but should not limited to, necessary lane widening for provision of cycle lanes, lengthening of turn lanes, installation of lighting, signage and line marking, pavements, utilities and services, and roadsides and roadside furniture.</p>

### Attachment 3—Reasons for referral agency response

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

**The reasons for the SARA's decision are:**

The development complies with State code 1: Development in a state-controlled road environment of the State Development Assessment Provisions (SDAP) version 3.0 subject to conditions. Specifically, the development:

- does not create a safety hazard for users of a state-controlled road
- does not compromise the structural integrity of state-controlled roads, road transport infrastructure or road works
- does not result in a worsening of the physical condition or operating performance of state-controlled roads and the surrounding road network
- does not compromise the state's ability to construct, or significantly increase the cost to construct state-controlled roads and future state-controlled roads
- does not compromise the state's ability to maintain and operate state-controlled roads, or significantly increase the cost to maintain and operate state-controlled roads
- avoids or mitigates significant adverse impacts resulting from environmental emissions generated by vehicles on the state-controlled road.

**Material used in the assessment of the application:**

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (v3.0), as published by SARA
- the Development Assessment Rules
- SARA DA Mapping system
- section 58 of the *Human Rights Act 2019*

### Attachment 4—Representations about a referral agency response provisions

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## **Attachment 5—Documents referenced in conditions**

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(page left intentionally blank)

## Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules<sup>1</sup> regarding **representations about a referral agency response**

### Part 6: Changes to the application and referral agency responses

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#### 28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
  - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
  - (c) the applicant has given written agreement to the change to the referral agency response.<sup>2</sup>
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
  - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

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<sup>1</sup> Pursuant to Section 68 of the *Planning Act 2016*

<sup>2</sup> In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

## **Part 7: Miscellaneous**

### **30 Representations about a referral agency response**

30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.<sup>3</sup>

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<sup>3</sup> An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.



CORONATION LANE

PROPOSED  
ACCESSIBLE WC

PROPOSED  
LANDING & RAMP

PROPOSED  
BUILDING

EXISTING BUILDING

TREATMENT  
PLANT

EXISTING CARPARKS

EXISTING  
DRIVEWAY

EXISTING  
5.0M WIDE  
CROSSOVER

BARWON HIGHWAY

1 site plan  
1 : 200

- NOTES:
- SURVEY INFORMATION TO BE CONFIRMED BY LICENSED SURVEYOR PRIOR TO CONSTRUCTION.
  - EXTENT OF SITE EARTHWORKS TO BE CONFIRMED ON SITE PRIOR TO CONSTRUCTION.
  - LOCATION OF BUILDING TO BE CONFIRMED ON SITE PRIOR TO CONSTRUCTION.
  - ALL SERVICES TO BE LOCATED ON SITE PRIOR TO CONSTRUCTION.
  - GROUND SURFACE DRAINAGE PIPE LOCATIONS & CONFIGURATIONS TO DETAIL BY OTHERS.

- ROOF STORMWATER IS TO DISCHARGE TO LOCAL GOVERNMENT REQUIREMENTS AND APPROVALS. TANK/S OVERFLOW AND DOWNPIPES NOT CONNECTED TO RAINWATER TANK/S TO DISCHARGE ON SITE TO NOMINATED DISCHARGE POINTS VIA BUBBLER SYSTEM. UPVC SURFACE DRAIN PIPES WITH A MIN. 1:100 FALL TO COMPLY WITH AS/NZS 3500:2003. A PHYSICAL AIR BREAK OR NON-RETURN VALVE IS TO BE PROVIDED AT THE TANK/S OVERFLOW BEFORE CONNECTING TO THE STORMWATER DRAINAGE SYSTEM.
- REAL PROPERTY DESCRIPTION:
- LOCAL GOVERNMENT - GOONDIWINDI REGIONAL COUNCIL
  - LOT 6 ON T5861
  - SITE AREA - 1112 M<sup>2</sup> approx.

PLANS AND DOCUMENTS  
referred to in the REFERRAL  
AGENCY RESPONSE

SARA ref: 2312-38382 SRA  
Date: 5 February 2024

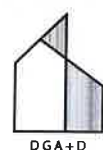
Amended in red by SARA on  
5 February 2024

The road access location  
is to be located in  
accordance with  
Condition 1(a) of the  
referral agency response.  
  
Road access works must  
be provided in  
accordance with  
Condition 1(b) and 1(c) of  
the referral agency  
response.

SIGNATURES

OWNER/S

BUILDER

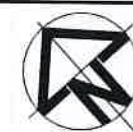


DGA+D  
DAKOTA GIBSON  
74 CALLANDON STREET  
GOONDIWINDI QLD 4390  
QRCC Lic No: 15061411  
ABN 41 485 527 584  
P 0438 634 724  
E MAIL@DGA+D.COM.AU  
WWW.DGA+D.COM.AU

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THIS PLAN HAS BEEN PREPARED IN ACCORDANCE WITH ALL RELEVANT BUILDING CODES AND NO AMENDMENT SHALL BE MADE WITHOUT APPROVAL FROM THE RELEVANT LOCAL AUTHORITY.  
THESE PLANS ARE SUPPLIED ON THE CONDITION THAT, IN THE EVENT OF AN ERROR, DAKOTA GIBSON'S RESPONSIBILITY IS LIMITED TO THE COST OF AMENDING THESE DRAWINGS.  
ALL CONSTRUCTION TO BE IN STRICT ACCORDANCE WITH RELEVANT AUSTRALIAN STANDARDS & BUILDING CODE OF AUSTRALIA.

REVISION:

NO	DATE	DESIGNER	REVISION
1	31/07/2023	DG	ISSUE PRELIMINARY DESIGN FOR COMMENT



CLIENT:  
MICHAEL OFFERDAHL

PROJECT INFO:  
PROPOSED BUILDINGS

DRAWING:  
site plan

DRAWN BY: DG  
CHECKED BY: DIR  
DRAWING SCALE: 1:200  
DRAWING NO: 230729.01  
PROJECT STATUS: PRELIMINARY  
N3  
NO. IN SET: 3  
REVISION: 1

LOT 6, T5861, TOOEBAH, QLD.



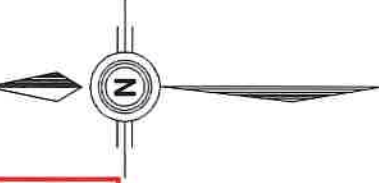
**Attachment 2 – Approved Plans**



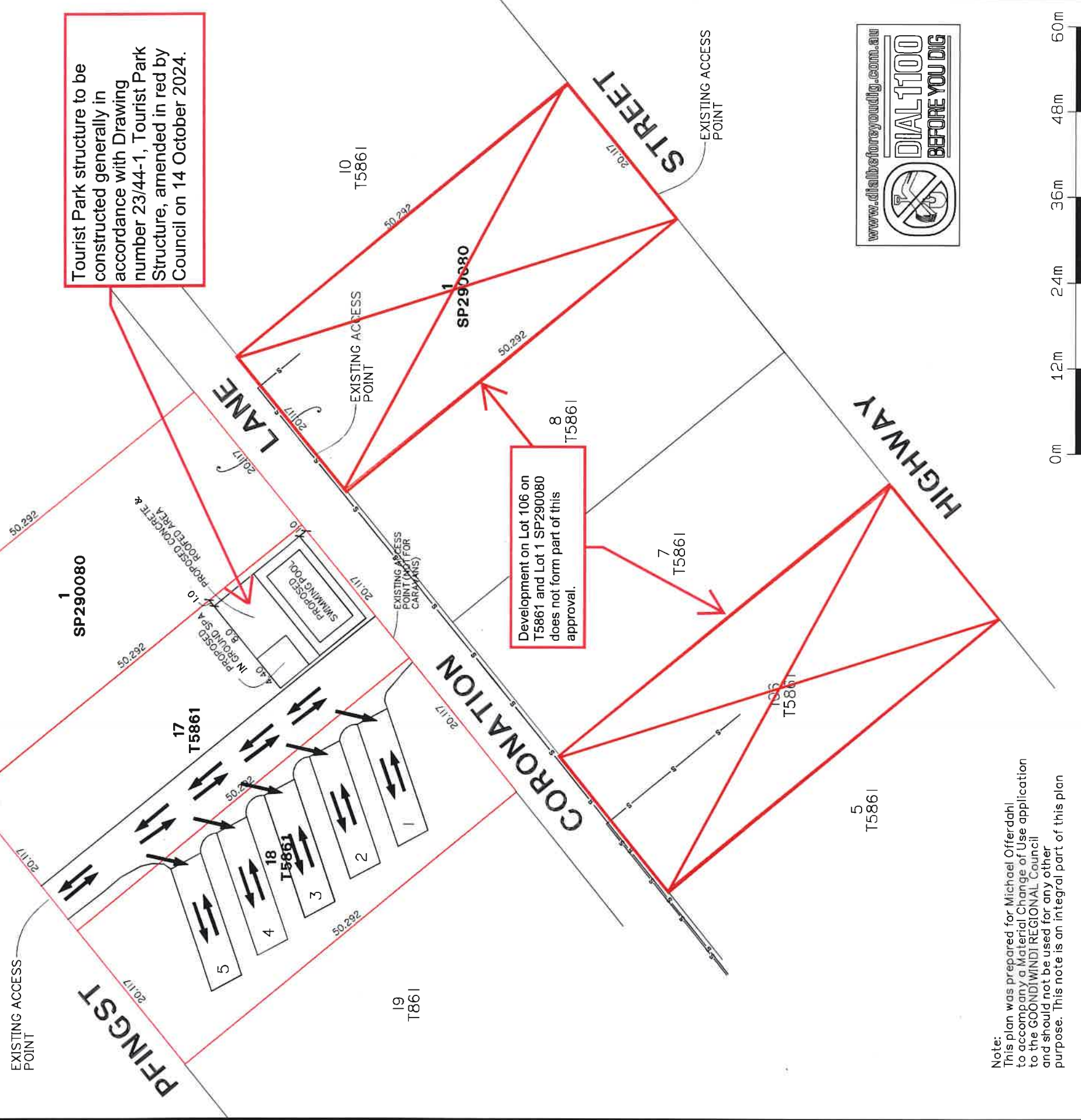


Legend

- Gravel track
- Subject boundary
- Adjoining boundary
- Sewer line



Amended in red by Council on 14/10/24



Note:  
This plan was prepared for Michael Offerdahl  
to accompany a Material Change of Use application  
to the GOONDIWINDI REGIONAL Council  
and should not be used for any other  
purpose. This note is an integral part of this plan

M. OFFERDAHL

SMK OLD

Goondiwindi · Brisbane · Gold Coast · Toowoomba · Gattton  
Phone: (07) 4671 2445 Email: admin@smkqld.com.au

SITE PLAN FOR PROPOSED  
ACCOMMODATION ACTIVITIES  
ON LOTS 17, 18 ON T5861 &  
1 ON SP290080, PINGST  
STREET, TOOBEAH QLD

SCALE Horiz 1:500

23I35-I

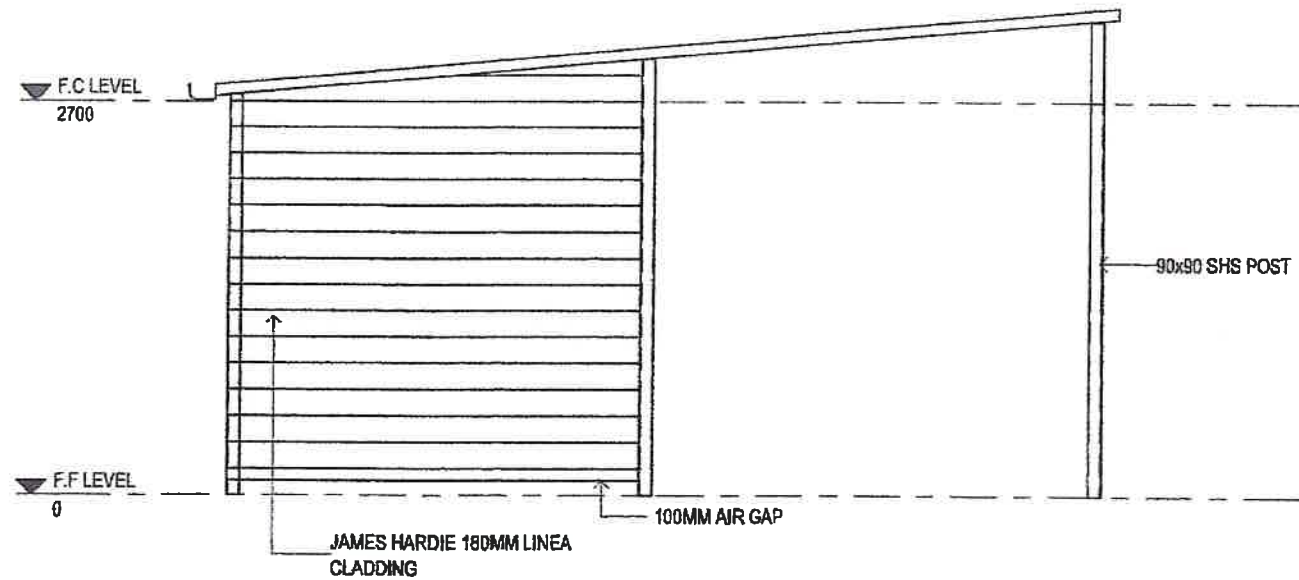
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23I35

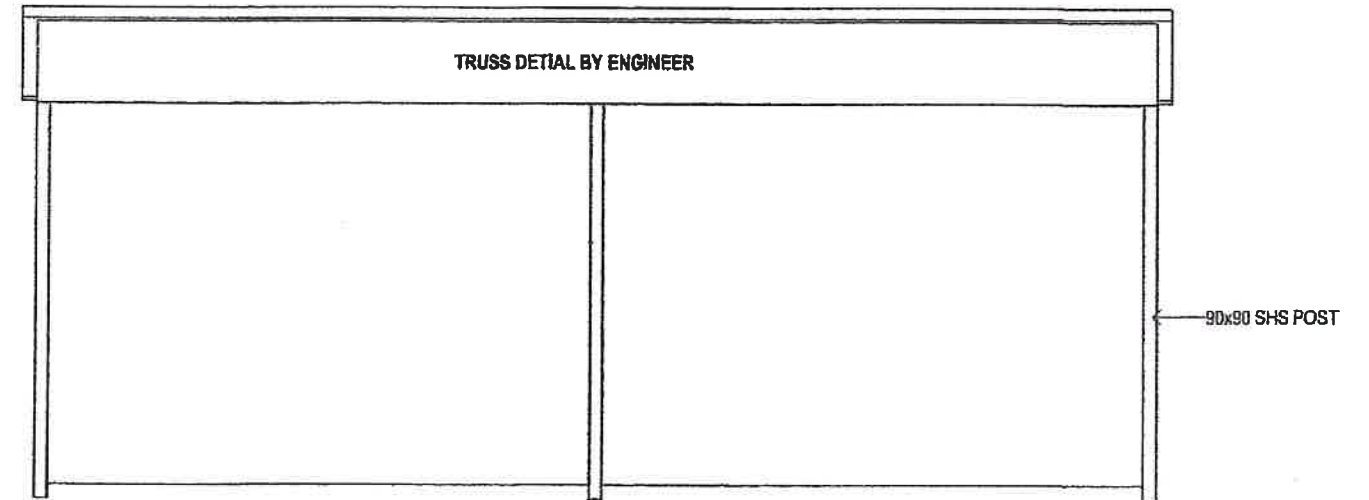
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16/5/2024  
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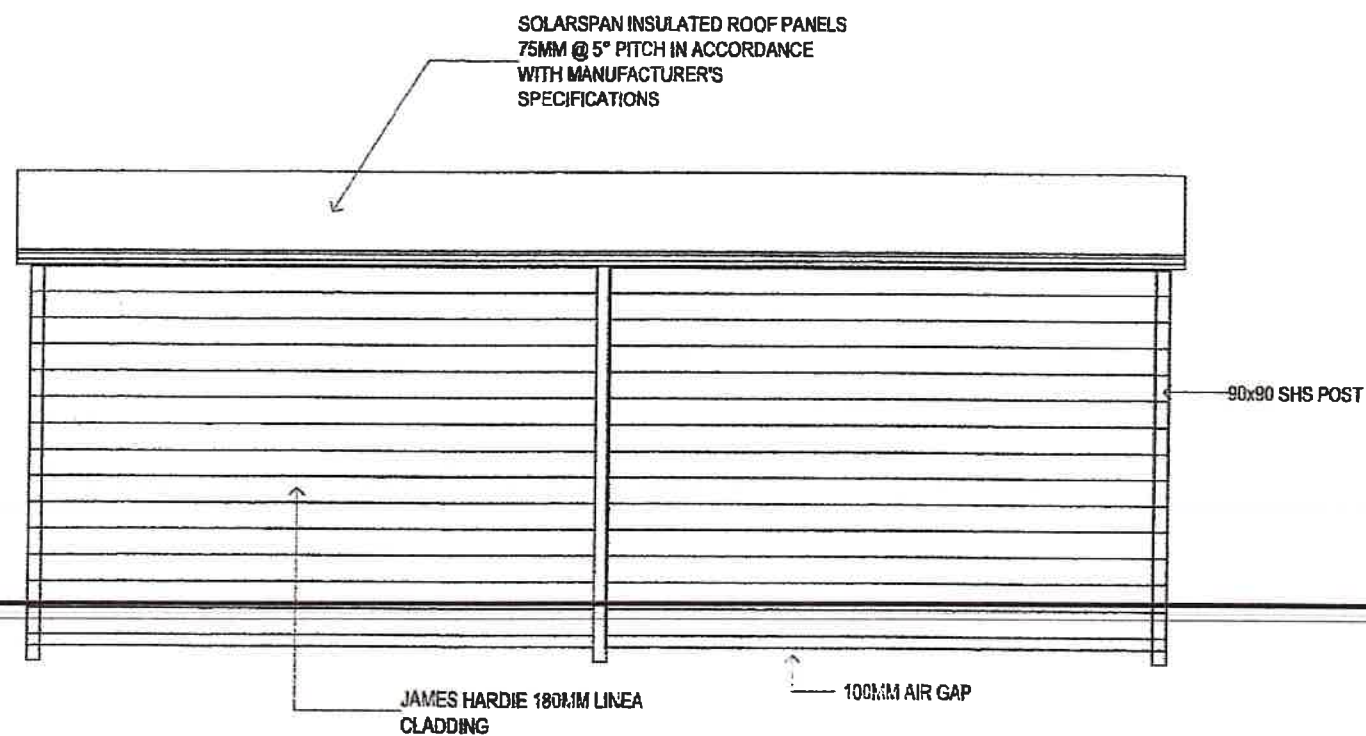
Surveyor



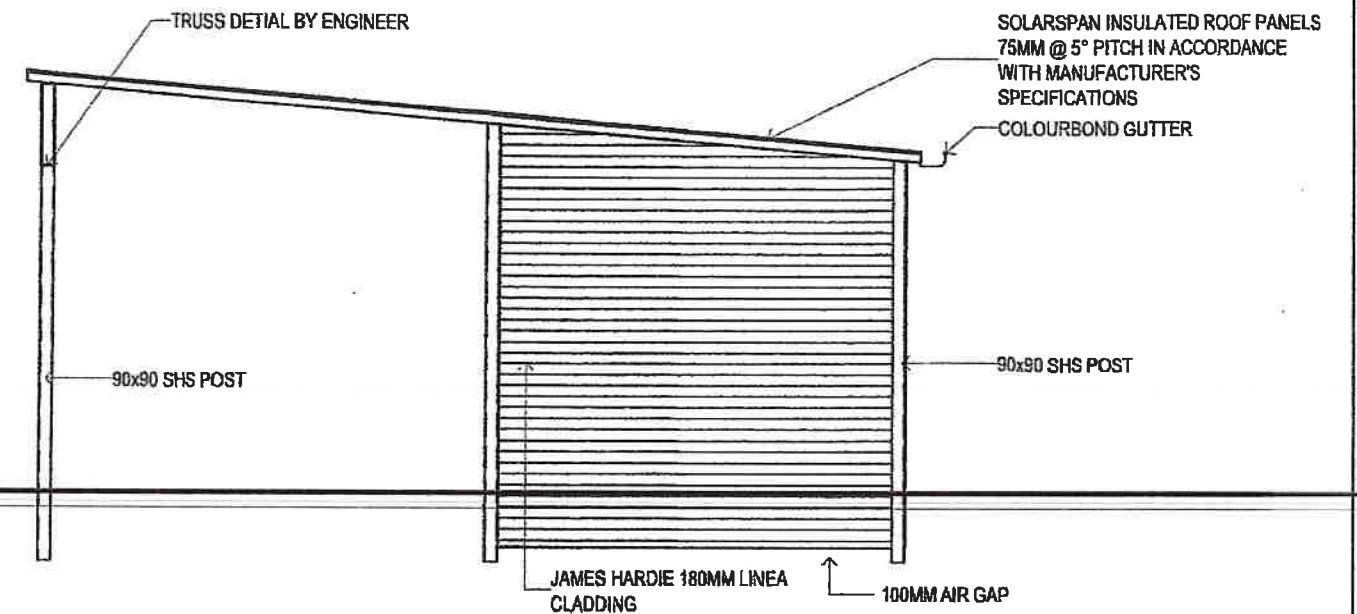
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1:50



2 EAST ELEVATION  
1:50



3 WEST ELEVATION  
1:50



4 NORTH ELEVATION  
1:50

Amended in red by Council on  
14/10/2024

Title: Tourist Park Structure  
Date received: 16/05/2024  
Drawing Reference Number: 23/44-1



**Attachment 3 – Infrastructure Charges Notice**







Goondiwindi Customer Service  
Centre  
4 McLean Street  
Goondiwindi  
Inglewood Customer Service  
Centre  
18 Elizabeth Street  
Inglewood

Locked Mail Bag 7  
Inglewood QLD 4387

Telephone: 07 4671 7400  
Email: [mail@grc.qld.gov.au](mailto:mail@grc.qld.gov.au)

## Infrastructure Charges Notice

<b>Address</b>	13 – 15 Pfingst Street, Toobeah
<b>Owner</b>	Michael John Allan Offerdahl and Michael John Offerdahl
<b>Applicant</b>	SMK QLD Pty Ltd for Michael Offerdahl
<b>Application No.</b>	23/44
<b>Lot and Survey Plan</b>	Lots 17 & 18 on T5861
<b>Date</b>	18 October 2024
<b>Approval</b>	Development Permit – Material Change of Use

Development Application Details
"Accommodation activities" – "Tourist park (Five (5) caravan sites and ancillary pool and spa)

Proposed Use	Charge Area (A, B, C, D or E)	Type of Charge	Charge Amount \$	Additional Demand	Charge (\$)
Tourist Park	D	Water, stormwater, transport and parks	\$945 Each group of 2 sites or less \$1,181.25 Each group of 3 sites	1  1	\$2,126.25

<b>Due Date</b>	When the change of use occurs	<b>Total Charge (\$)</b>	\$2,126.25
<b>Charge to be paid to</b>	Goondiwindi Regional Council		
<b>Lapse Date</b>	18 October 2030		

Authorised by:

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

*In accordance the Planning Act 2016*

### Credit:

A discount of 25% of the charge has been applied to this notice for reticulated sewerage because it is not available to the site.

### Office Use – Receipt Number

Material Change of Use – 1250-  
1150-0000





**Attachment 4 –**

**Notice about decision - Statement of reasons**



**Notice about decision - Statement of reasons**

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

The development application for "Accommodation activities" - "Tourist Park" – Nine (9) caravan sites

23/44

Barwon Highway, 13-15 Pfingst Street, 16 Highway Street and Highway Street, Toobeah

Lot 1 on SP290080, Lot 106 on T5861, Lot 17 & 18 on T5861 and Lots 5 & 6 on T5865

On 14 October 2024, the above development application was:

- ☐ approved in full or
- ☐ approved in part for \_\_\_\_\_ or
- ☐ approved in full with conditions or
- ☒ approved in part for "Accommodation Activities" - Tourist Park (Five (5) Caravan Sites, with conditions or
- ☐ refused.

**1. Reasons for the decision**

**Part Approval**

Council approves only the part of the Development Application for:

- (a) Material Change of Use for Accommodation activities - "Tourist Park (Five (5) Caravan Sites and ancillary pool and spa) at 13-15 Pfingst Street, Toobeah (Lot 17 and 18 on T5861).

This aspect of the Development Application is approved (subject to conditions) on the following grounds:

- (i) The approved aspect of the Development Application is complementary to the exiting Toobeah Hotel and will diversify tourism opportunities within the town of Toobeah and the Region.
- (ii) The approved aspect of the Development Application is low key and compatible with the scale of surrounding development and will maintain the amenity and character of the Toobeah Township in accordance with Overall Outcome (2)(b) of the Township Code and Overall Outcome 2(a) and PO10 of the Accommodation activities code.
- (iii) Subject to the development conditions contained within the attached approval package, the approved aspect of the Development Application can comply with the applicable assessment benchmarks against which the application was required to be assessed.

## **Part Refusal**

Council refuses the balance of the Development Application being:

- (a) Material Change of use for Accommodation Activities – Short Term Accommodation (Four (4) accommodation units) on Lot 106 on T5861;
- (b) The use of Lot 5 and 6 on T5865 for the disposal of effluent from Lot 1 SP290080 and Lot 106 on T5861

The balance of the Development Application is refused on the following grounds:

- (i) The balance of the Development Application does not address effluent disposal for existing and proposed Short Term Accommodation uses on Lot 106 on T5861.
- (ii) The balance of the Development Application does not address the total number of equivalent persons (EP) for Short Term Accommodation uses.
- (iii) The balance of the Development Application is inconsistent with Overall Outcome (i) and PO4 of the Transport and Infrastructure Code as it does not demonstrate how the total volume of wastewater from the Short Term Accommodation uses can be disposed of and managed to a standard which meets the needs of end users. Further, the application does not demonstrate Lots 5 and 6 on T5865 have the capacity to treat effluent from Lot 106 on T5861.
- (iv) The balance of the Development Application is inconsistent with PO5 of the Transport and infrastructure code as effluent disposal is to occur on a different premises to where it is generated and sufficient information has not been provided to demonstrate how best practice environmental management is achieved on the treatment lots (Lot 5 and 6 on T5865).
- (v) There are no relevant matters to justify approval of the balance of the Development Application despite the identified inconsistencies with the relevant provisions of *Goondiwindi Region Planning Scheme 2018*.

## **2. Assessment benchmarks**

The following are the benchmarks applying for this development:

<b>Benchmarks applying for the development</b>	<b>Benchmark reference</b>
Township Zone Code	PO1-PO4
Accommodation Activities Code	PO10
Transport & Infrastructure Code	PO1-PO15
Flood Hazard Overlay Code	PO1-PO4

### 3. Compliance with benchmarks

Benchmark reference	Reasons for the approval despite non-compliance with benchmark
<b>Accommodation Activities Code</b>	
<p><b>AO10.1</b> The <i>tourist park, relocatable home park or short term accommodation</i> is located on a <i>site</i> with a minimum area of 2 hectares.</p> <p><b>AO10.2</b> The <i>site cover</i> for <i>buildings, roofed structures</i> or <i>relocatable homes</i> does not exceed 40%.</p> <p><b>AO10.3</b> Development complies with the provisions in <b>Table 9.3.1.2</b> with respect to: (a) minimum <i>site</i> area for each accommodation type; (b) <i>setbacks</i> to internal road frontages; (c) distances to amenities; (d) distance from refuse storage areas; and (e) minimum area for communal recreation.</p> <p><b>AO10.4</b> The <i>relocatable home park</i> provides communal recreation facilities for the exclusive use of residents.</p>	<p><b>Alternative Solution</b> The Tourist Park site has an area of 1,012m<sup>2</sup>. The proposal complies with PO10 as the design of the accommodation activities is consistent with the reasonable expectations of visitors having regard to the nature of the accommodation use, the scale of development and the prevailing character of the locality.</p> <p><b>Complies</b> The proposal does not exceed 40% site cover.</p> <p><b>Alternative Solution</b> The proposed caravan sites will be approximately 60m<sup>2</sup>, being less than 100m<sup>2</sup>s required in Table 9.3.1.2. Further, no amenities are proposed to be provided on site. The use complements existing land uses to the south, being the Toobeah Hotel and is for stays not exceeding 48 hours. Therefore, the development is considered to provide suitable levels of amenity for the intended use.</p>
<b>Transport &amp; Infrastructure Code</b>	
<p><b>AO1</b> Vehicle access is designed and constructed in accordance with Australian Standard AS2890 or Standard Drawing 1 in SC6.2 – Planning Scheme Policy 1 – Land Development Standards.</p>	<p><b>Conditioned to Comply</b> The submitted drawings do not provide an RPEQ certified swept path showing appropriate access and servicing of the development by the nominated service vehicle.</p> <p>Updated RPEQ certified swept path analysis will be conditioned as part of the Tourist Park development approval.</p> <p>SARA has conditioned the provision of a driveway crossover to Lot 106 on T5861 as part of the approval. Due to fundamental concerns relating to effluent disposal, as discussed in Section 4.6.1 below, development on Lot 106 on T5861 is not recommended for approval.</p>
<p><b>AO2</b> Parking is provided on the site in accordance with the requirements identified in <b>Table 9.4.4.2 - Car</b></p>	<p><b>Approved in part</b></p>

<p><b>parking generation rates and service vehicle requirements.</b></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><b>OR</b></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>Due to the nature and small scale of the Tourist Park use no separate car parking is required in accordance with AO2.</p>
<p><b>Where within a sewerage service area AO4.1</b></p> <p>Development is connected to a reticulated sewerage system in accordance with <b>SC6.2 Planning Scheme Policy 1 – Land Development Standards.</b></p> <p><b>Where outside a sewerage service area AO4.2</b></p> <p>Development is connected to an on-site waste water disposal system in accordance with <b>SC6.2 Planning Scheme Policy 1 – Land Development Standards.</b></p>	<p><b>Refused in part</b></p> <p>The site is not located within a sewerage service area.</p> <p>The applicant has only provided an Onsite Sewerage Facility Report for the existing five rooms of the Barwon Hotel Motel on Lot 1 on SP290080. As a result, the report does not assess all wastewater from existing and proposed activities and does not demonstrate this can be adequately disposed of within Lots 5 &amp; 6 on T5865 as proposed.</p> <p>Due to fundamental concerns relating to effluent disposal (refer Section 4.6.1 below) development on Lot 106 on T5861 is not recommended for approval. Use of Lots 5 &amp; 6 on T5865 for the disposal of effluent from Lot 1 SP290080 and Lot 106 on T5861 is also not supported given the lack of technical evidence to support same.</p> <p>The Tourist park use will be conditioned to ensure a wastewater design assessment is submitted to Council to demonstrate how wastewater (including backwash water from the pool) is to be treated and disposed of on site.</p>
<p><b>AO5.1</b></p> <p>For development with equivalent persons (EP) greater than 20, approval from the Department of Environment and Science is required for wastewater disposal.</p> <p><b>AO5.2</b></p> <p>For development with equivalent persons (EP) less than 20, all effluent is to be disposed of on the premises where it is generated.</p>	<p><b>Refused in part</b></p> <p>The Onsite Sewerage Facility Report does not provide sufficient detail regarding equivalent persons. As a result, development on Lot 106 on T5861 is not recommended for approval.</p>

<p><b>AO12.1</b> All on-site vehicle parking, manoeuvring, loading and unloading areas are designed and constructed in accordance with <i>Australian Standard AS2890</i> and SC6.2 – Planning Scheme Policy 1 – Land Development Standards.</p> <p><b>AO12.2</b> Development provides for all vehicles to enter and exit the site in forward gear.</p>	<p><b>Alternative Solution</b> The submitted drawings do not provide an RPEQ certified swept path showing appropriate access and servicing of the development by the nominated service vehicle. They also show reverse manoeuvres within the Coronation Lane road reserve.</p> <p>Updated RPEQ certified swept path analysis will be conditioned as part of the development approval. The swept path analysis should show compliant access and servicing for the development including adequate aisle widths and turning templates for a Caravan and AV for the Tourist Park use in accordance with Table 9.4.4.2. Amended plans showing service vehicle parking and manoeuvring areas, ensuring all vehicles enter and exit the site in forward gear are required.</p>
<p><b>AO15.1</b> Landscaping complies with the standards specified in <b>SC6.4 Planning Scheme Policy 1 – Landscaping Standards</b>.</p> <p><b>AO15.2</b> Street frontage landscaping has a minimum width of 2 metres for the full length of the site frontage (excluding driveways).</p> <p><b>AO15.3</b> Landscape screening to external use areas has a minimum width of 3 metres for the full length of all boundaries adjoining external use areas on the site.</p> <p><b>AO15.4</b> For industrial activities adjoining premises not included in an industry zone and used for non-industrial activities, a solid screen fence with a minimum height of 1.8 metres is provided on the common boundary.</p>	<p><b>Alternative Solution</b> No additional landscaping has been proposed as part of the application.</p> <p>Given the extent of landscaping on the site associated with the existing use, no additional landscaping is considered to be required for this development.</p> <p>However, conditions will be applied to ensure the existing landscaping and vegetation areas are appropriately maintained.</p>

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

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

Other relevant matters to the assessment of the development under section 45(5)(b)	Assessment carried out against or assessment had regard to
Nature and scale of the proposed use	<input type="checkbox"/> assessed against <input checked="" type="checkbox"/> had regard to

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

**6. Matters prescribed by Regulation**





**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.