

File: 24/53  
Date: 1 May 2025

Elgin Energy Pty Ltd  
C/- Urbis Ltd  
L32, 300 George Street  
BRISBANE QLD 4000

Attention: Rueben Gumina & Matthew Ceccato

Dear Rueben and Matthew,

**Decision Notice –approval (with conditions)  
Material Change of Use & Reconfiguring a Lot  
Lot 81 on SP188446, Bybera Road, Bybera**

We wish to advise that on 23 April 2025 a decision was made to approve the development application for Material Change of Use for "*Industry activities*" - "*Renewable Energy Facility*" (400MW Solar Farm and ancillary Substation and 400MWh BESS) and Reconfiguring a Lot (dividing land into parts by agreement – lease exceeding 10 years) on Lot 81 on SP188446, Bybera Road, Bybera. 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 OR prior to Council's endorsement of the survey plan**, as applicable, 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 a letter is required to be submitted to Council prior to commencement of the use OR prior to Council's endorsement of the survey plan, outlining and demonstrating compliance with each condition as applicable.

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



**Carl Manton**  
Chief Executive Officer  
Goondiwindi Regional Council

## Decision Notice approval

### Planning Act 2016 section 63

Council File Reference: 24/53  
Council Contact: Mrs Ronnie McMahon: PD  
Council Contact Phone: (07) 4671 7400

1 May 2025

**Applicant Details:** Elgin Energy Pty Ltd  
C/- Urbis Ltd  
L32, 300 George Street  
BRISBANE QLD 4000

Attention: Rueben Gumina & Matthew Ceccato

The development application described below was properly made to Goondiwindi Regional Council on 20 December 2024.

#### Applicant details

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Applicant name: Elgin Energy Pty Ltd

Applicant contact details: C/- Urbis Ltd  
L32, 300 George Street, Brisbane Q 4000  
(07) 3007 3564  
[rgumina@urbis.com.au](mailto:rgumina@urbis.com.au) & [mceccato@urbis.com.au](mailto:mceccato@urbis.com.au)

#### Application details

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Application number: 24/53

Approval sought: Development Permit - Material Change of Use and Reconfiguring a Lot

Details of proposed development:

- “Industry activities”
  - “Renewable Energy Facility” (400MW Solar Farm and ancillary Substation and 400MWh BESS); and
- Reconfiguring a Lot (dividing land into parts by agreement – lease exceeding 10 years)

#### Location details

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Street address: Bybera Road, Bybera

Real property description: Lot 1 on SP188446

#### Decision

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Date of decision: 23 April 2025

Decision details: Approved in full with conditions. These conditions are set out in Attachment 1 and are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

### Details of the approval

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

The following approvals are given:

	Planning Regulation 2017 reference	Development Permit	Preliminary Approval
Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval	N/A		
- building work assessable under the planning scheme		<input type="checkbox"/>	<input type="checkbox"/>
- plumbing or drainage work		<input type="checkbox"/>	<input type="checkbox"/>
- material change of use		<input checked="" type="checkbox"/>	<input type="checkbox"/>
- reconfiguring a lot		<input checked="" type="checkbox"/>	<input type="checkbox"/>
- operational work		<input type="checkbox"/>	

### Conditions

This approval is subject to the conditions in Attachment 1.

### Further development permits

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

1. Development Permit – Building Works
2. Compliance Permit – Plumbing Works
3. Survey Plan Approval

### Properly made submissions

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

### Approved plans and specifications

Copies of the following plans are enclosed.

Drawing Number	Title	Date
V01.04.04	Site Layout Plan	28/05/24
28309.001	Site Based Stormwater Management Plan	05.12.24
P0050200	Transport Assessment Report	06/12/2024
RFA24-069	Bushfire Mitigation Plan	20/12/2024
-	Fire Protection System of ESS Container	n.d.

### 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*:

- **Material Change of Use**

This approval lapses if the first change of use does not happen within **6 years** of this approval taking effect.

- **Reconfiguring a Lot**

This approval lapses if a plan for the reconfiguration that, under the *Land Title Act 1994*, is required to be given to a local government for approval is not given within **4 years** of this approval taking effect.

### **Rights of appeal**

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

#### *Appeal by an applicant*

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

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

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

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.dsdmp.qld.gov.au/planning/our-planning-system/dispute-resolution/pe-court-database>.

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

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

Yours Sincerely



**Carl Manton**  
Chief Executive Officer  
Goondiwindi Regional Council

enc      Attachment 1— Assessment manager conditions  
Attachment 2—Approved Plans  
Attachment 3—Notice about decision – Statement of reasons  
Attachment 4—*Planning Act 2016* Extracts



## **ATTACHMENTS**

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

**Attachment 2 – Approved Plans**

**Attachment 3 – Notice about decision - Statement of reasons**

**Attachment 4 – *Planning Act 2016* Extracts**

*Planning Act 2016 appeal provisions*

*Planning Act 2016 lapse dates*



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



## **Assessment Manager's Conditions**

<b>Description:</b>	<ul style="list-style-type: none"> <li>• <i>"Industry activities"</i> <ul style="list-style-type: none"> <li>◦ <i>"Renewable Energy Facility"</i> (400MW Solar Farm and ancillary Substation and 400MWh BESS); and</li> </ul> </li> <li>• <i>Reconfiguring a Lot (dividing land into parts by agreement – lease exceeding 10 years)</i></li> </ul>
<b>Development:</b>	Material Change of Use & Reconfiguring a Lot – Development Permit
<b>Applicant:</b>	Elgin Energy Pty Ltd C/- Urbis Ltd
<b>Address:</b>	Bybera Road, Bybera
<b>Real Property Description:</b>	Lot 81 on SP188446
<b>Council File Reference:</b>	24/53

## **RECONFIGURING A LOT**

	GENERAL CONDITIONS						
1.	Approval is granted for the purpose of Reconfiguring a Lot – Dividing land into parts by agreement – lease exceeding 10 years						
2.	<p>The development shall be in accordance with supporting information supplied by the applicant with the development application including the following plans, subject to and modified by the conditions of this approval:</p> <table><tr><th>Drawing No</th><th>Title</th><th>Date</th></tr><tr><td>V01.04.04</td><td>Site Layout Plan</td><td>28/05/24</td></tr></table> <p>Where there is any conflict between the conditions of this development approval and the details shown on the above plans, the conditions must prevail.</p> <p>Please note this is not an approved Plan of Survey. The approved plans are included in <b>Attachment 2</b>.</p>	Drawing No	Title	Date	V01.04.04	Site Layout Plan	28/05/24
Drawing No	Title	Date					
V01.04.04	Site Layout Plan	28/05/24					
3.	The term of this approval is a maximum of 50 years, from the date of registration of the lease.						
4.	<p>A copy of the registered lease is to be provided to Council once the lease is registered.</p> <p><b>Note:</b> If the applicant does not provide a copy of the lease once it is registered, the commencement date of the term of the lease will be taken from the date the development approval was issued.</p>						



5.	<p>Complete and maintain the approved development as follows:</p> <ul style="list-style-type: none"> <li>(i) Generally in accordance with development approval documents; and</li> <li>(ii) Strictly in accordance with those parts of the approved development which have been specified in detail by the Council or Referral Agency unless the Council or Referral Agency agrees in writing that those parts will be adequately complied with by amended specifications.</li> </ul> <p>All development must 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 plan(s) and supporting documentation including any written and electronic correspondence between applicant, Council or Referral Agencies during all stages of the development application assessment processes.</p>
6.	<p>All conditions must be complied with or bonded prior to the submission to Council of the Plan of Survey, unless specified in an individual condition.</p>
	<p><b>STORMWATER</b></p>
7.	<p>The proposed development shall be adequately drained and all stormwater shall be disposed of to a legal discharge point in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the Goondiwindi Region Planning Scheme 2018 (Version 2) or to other relevant engineering standards, to the satisfaction of and at no cost to Council.</p> <p>Any increases in volume, concentration or velocity of stormwater from the site shall be channelled to lawful points of discharge or to other storage or dispersal arrangements which all must be agreed to in writing by Council.</p> <p>There shall be no change in direction or increase in the volume, concentration or velocity in any overland flow from the site to any adjoining properties unless agreed in writing by Council and the owners of any adjoining properties affected by these changes.</p> <p>The stormwater disposal system shall be designed to include appropriate pollution control devices or methods to ensure no contamination or silting of waterways.</p>
8.	<p>Stormwater shall not be allowed to pond on the site during construction and after construction 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 &amp; EROSION CONTROL</b>
<b>9.</b>	<p>Any filling and excavation shall be undertaken in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the Goondiwindi Region Planning Scheme 2018 (Version 2) or to other relevant engineering standards to the satisfaction of and at no cost to Council.</p> <p>Excavation or filling within 1.5 metres of any site boundary is battered or retained by a wall that does not exceed 1 metre in height.</p>
<b>10.</b>	<p>Erosion and sediment control measures shall be in place prior to construction commencing and remain until work is completed in accordance with Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the Goondiwindi Region Planning Scheme 2018 (Version 2) or to other relevant engineering standards to the satisfaction of and at no cost to Council. The developer shall ensure no increase in any silt loads or contaminants in overland flow from the site during construction and after construction has been completed.</p>
	<b>DEVELOPER'S RESPONSIBILITIES</b>
<b>11.</b>	<p>Any alteration or damage to roads and public infrastructure that is attributable to the progress of works or vehicles associated with the development must be repaired to Council's satisfaction or the cost of repairs paid to Council.</p>
<b>12.</b>	<p>The developer shall be responsible for meeting all costs reasonably associated with the approved development, unless there is specific agreement by other parties, including Council, to meeting those costs.</p>
<b>13.</b>	<p>It is the developer's responsibility to ensure that any contractors and subcontractors have current, relevant and appropriate qualifications and insurances in place to carry out the works.</p>
<b>14.</b>	<p>The developer shall be responsible for mitigating any complaints arising from on-site operations during construction.</p>
<b>15.</b>	<p>Construction works must occur so they do not cause unreasonable interference with the amenity of adjoining premises. During construction the site must be kept in a clean and tidy state at all times.</p>
<b>16.</b>	<p>At all times all requirements of the conditions of the development approval must be maintained.</p>

	<b>BEFORE PLANS WILL BE ENDORSED</b>
<b>21.</b>	All works necessitated by the conditions of approval shall be completed prior to the submission to Council of the Plan of Survey required.
<b>22.</b>	<p>The developer shall submit a detailed Plan of Survey, prepared by a licensed surveyor, for the endorsement of Council. In accordance with Schedule 18 of the <i>Planning Regulations 2017</i>.</p> <p>The relevant Council Fee for endorsement of the Plan of Survey (currently <b>\$215.00</b>; subject to change).</p>
<b>23.</b>	<p>All outstanding rates and charges shall be paid to Council prior to the submission to Council of the Plan of Survey.</p> <p>At its discretion, Council may accept bonds or other securities by way of bank guarantee or cash, to ensure completion of specified development approval conditions to expedite the endorsement of the Plan of Survey.</p> <p>It may be necessary for Council to use such bonds for the completion of outstanding works without a specific timeframe agreed.</p>
<b>24.</b>	<p>A letter outlining and demonstrating that each condition has been complied with or how they will be complied with shall be submitted to Council prior to the submission to Council of the Plan of Survey. Council officers may require a physical inspection to confirm that all conditions have been satisfied to relevant standards. The approval will lapse if a plan for the reconfiguration is not given to the local government within the following period, in accordance with the provisions contained in section 85(1)(b) of the Planning Act 2016:</p> <p>(a) If no period is stated – 4 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>

## **MATERIAL CHANGE OF USE**

	GENERAL CONDITIONS																		
1.	<p>Approval is granted for the purpose of a Material Change of Use for:</p> <ul style="list-style-type: none"><li>“Industry activities” - “Renewable Energy Facility” (400MW Solar Farm and ancillary Substation and 400MWh BESS).</li></ul> <p>as defined in the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i>.</p>																		
2.	<p>All conditions must be complied with or bonded prior to the commencement of the use, unless specified in an individual condition.</p>																		
3.	<p>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 and reports:</p> <table><tr><th>Drawing / Document Number</th><th>Title</th><th>Date</th></tr><tr><td>V01.04.04</td><td>Site Layout Plan</td><td>28/05/24</td></tr><tr><td>28309.001</td><td>Site Based Stormwater Management Plan</td><td>05.12.24</td></tr><tr><td>P0050200</td><td>Transport Assessment Report</td><td>06/12/2024</td></tr><tr><td>RFA24-069</td><td>Bushfire Mitigation Plan</td><td>20/12/2024</td></tr><tr><td>-</td><td>Fire Protection System of ESS Container</td><td>n.d.</td></tr></table> <p>Please note these plans are not approved Building Plans.</p>	Drawing / Document Number	Title	Date	V01.04.04	Site Layout Plan	28/05/24	28309.001	Site Based Stormwater Management Plan	05.12.24	P0050200	Transport Assessment Report	06/12/2024	RFA24-069	Bushfire Mitigation Plan	20/12/2024	-	Fire Protection System of ESS Container	n.d.
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-	Fire Protection System of ESS Container	n.d.																	
4.	<p>The Approved Plans are to be amended in accordance with the conditions of this approval and as outlined below:</p> <p>(a) Provide details of all proposed buildings and structures to be retained on-site for the life of the project. Building Floor Plans and Elevations must also be provided.</p> <p><b>Note:</b> Infrastructure charges will be levied for the gross floor area of all administration and control buildings including storage sheds and site offices. Once detailed plans are provided, an Infrastructure Charges Notice will be issued.</p> <p>(b) Update the Site Plan to illustrate the location of all proposed buildings and structures on the property.</p>																		
5.	<p>Unless otherwise agreed in writing by Council’s authorised delegate, all buildings and structures, including solar panels and batteries, must have a minimum setback distance of 20 metres from the primary road frontage to Bybera Road.</p>																		

6.	Unless otherwise agreed in writing by Council's authorised delegate, all buildings and structures, including solar panels and batteries, must have a minimum side and rear boundary clearance of 15 metres.
7.	<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>
8.	It is the developer's responsibility to obtain all other statutory approvals required prior to the commencement of the use.
	<b>OPERATION OF THE USE</b>
9.	Construction work shall occur only between the hours of 6:00am and 6:00pm.
10.	The use of the land for the purpose of a Renewable Energy Facility is approved for a period of fifty (50) years only, from the commencement of the use.
	<b>SITE REHABILITATION</b>
11.	<p>One (1) year prior to decommissioning of the development, the Operator must submit to Council for endorsement, a Rehabilitation and Exit Plan prepared by a suitably qualified person that, at a minimum:</p> <ul style="list-style-type: none"> <li>(a) demonstrates that the site will be restored to a standard capable of the level of productivity that was available prior to the Material Change of Use upon decommissioning of the Solar Farm and Battery Energy Storage System;</li> <li>(b) identifies possible land use (eg grazing and/or cropping) following cessation of the approved use;</li> <li>(c) clearly establishes the objectives of the Plan;</li> <li>(d) demonstrates adopted performance criteria for rehabilitation efforts;</li> </ul>

	<p>(e) includes an Action Plan, with timing for remedial work such as structure removal, removal of imported materials such as gravel, any soil erosion, drainage and vegetation cover work, along with weed and pest animal control activities required to meet the adopted rehabilitation performance criteria;</p> <p>(f) outlines a program for monitoring rehabilitation success using appropriate indicators; and</p> <p>(g) provides information as to how decommissioning and disposal of solar panels and electrical waste associated with the development will occur.</p>
<b>12.</b>	Post-operational rehabilitation of the site is to be carried out generally in accordance with the strategies identified in the Approved Rehabilitation and Exit Plan.
<b>13.</b>	Rehabilitation work must commence immediately upon cessation of the approved use and be carried out in accordance with the endorsed Rehabilitation and Exit Plan for the length of time included in the Action Plan.
<b>14.</b>	The applicant is to dispose of decommissioned solar panels and associated electrical infrastructure at an appropriately licensed waste facility or an alternative industry best practice solution. The developer is to confirm with Council, the details of the electronic waste disposal prior to decommissioning of any solar panels and associated electrical infrastructure.
<b>ESSENTIAL SERVICES</b>	
<b>15.</b>	It shall be demonstrated to Council that the development has an adequate volume and supply of potable water and an adequate volume and supply of water for fire-fighting purposes, to relevant engineering and environmental standards, to the satisfaction of and at no cost to Council.
<b>16.</b>	<p>Prior to the commencement of the use, the development shall be connected to an approved designed onsite effluent disposal sewerage system, if and when required, in accordance with the Queensland Plumbing and Wastewater Code, to the satisfaction of and at no cost to Council.</p> <p>All sewer infrastructure (including effluent disposal areas) shall be fully located within site boundaries, to the satisfaction of and at no cost to Council.</p>
<b>17.</b>	Obtain an Environmental Authority for Environmentally Relevant Activity No. 63 - Sewerage Treatment for any on-site effluent disposal system/s servicing more than 20 Equivalent Persons on the premises, as required under the <i>Environmental Protection Regulation 2019</i> .

	<b>PUBLIC UTILITIES</b>
<b>18.</b>	The development shall be connected to an adequate electricity and telecommunications supply system, at no cost to Council.
	<b>ROADS AND VEHICLES</b>
<b>19.</b>	<p>The approved access route is from the site access, west along Bybera Road to Merton Road, then south to the Cunningham Highway.</p> <p>No vehicles associated with the proposed use are permitted to travel east of the site access along Bybera Road.</p>
<b>20.</b>	<p>Prior to commencement of construction, the proposed access to Bybera Road, from the edge of the sealed surface to the property boundary, shall be constructed to an industrial standard generally in the location shown in on the approved plans. The crossover must be constructed in accordance with Schedule 6.2.1 – Standard Drawing in Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the Goondiwindi Region Planning Scheme 2018, to the satisfaction of and at no cost to Council.</p> <p>Vegetation management must be undertaken along Bybera Road at the site access to ensure sightlines remain clear for drivers.</p> <p>The developer shall contact Council's Engineering Department to ensure the correct specifications are obtained for all civil works prior to commencement of any works onsite.</p> <p>A qualified Council Officer may inspect construction works at the request of the development to ensure compliance with this condition.</p>
<b>21.</b>	Vehicle manoeuvring areas shall be provided on-site so that all vehicles, up to and including a 26m long B-Double, can enter and leave the site in a forward direction.
<b>22.</b>	Prior to commencement of construction, the existing sealed section of Merton Road shall be upgraded to a minimum 7.5m wide formation, to the satisfaction of and at no cost to Council.
<b>23.</b>	<p>Prior to commencement of construction, the unsealed sections of Merton Road and Bybera Road between chainage 21.65km on Merton Road and the Bybera Road site access shall be upgraded to a minimum of 7.2m wide bitumen seal on a 8.0m wide formation to the satisfaction of and at no cost to Council.. The design vehicle shall be a 26m long B-Double and the check vehicle shall be a 36.5m long Road Train.</p> <p>Detailed engineering plans and specifications for the upgrade works must be submitted to Council for approval prior to commencement of road upgrade works.</p> <p>A qualified Council Officer may inspect construction works at the request of the development to ensure compliance with this condition.</p>

24.	Prior to commencement of construction any floodways on the bitumen sealed section of Merton Road that are less than 7.0m wide shall be assessed and upgraded if required, which may include widening or installation of signage and linemarking in accordance with AS1742.
25.	<p>Prior to commencement of construction, the intersection of Merton Road and the Cunningham Highway shall be upgraded to standards determined by the Department of Transport and Main Roads.</p> <p>The developer shall contact the Department of Transport and Main Roads to confirm the appropriate standards</p>
26.	<p>Prior to commencement of construction, a detailed Road Use Management Plan addressing the following points shall be prepared and submitted to Council for approval:</p> <ul style="list-style-type: none"> <li>• A joint condition inspection of the existing Council Road infrastructure must be undertaken prior to the commencement of road upgrade works, at the completion of road upgrade works prior to construction of the development and at the completion of construction of the development.</li> <li>• The developer must maintain Merton Road and Bybera Road between the intersection with Merton Road and the Bybera Road site access to a safe standard during construction of the development.</li> <li>• Merton Road and Bybera Road must be restored to a condition equivalent to the condition agreed at the completion of road upgrade works prior to construction of the development.</li> <li>• A process for management of and response to traffic and road maintenance issues during the construction period.</li> <li>• Communication protocols to ensure all drivers associated with the development are aware of the route, the conditions and layout of the road network.</li> </ul>
27.	Prior to commencement of construction and not before the completion of road upgrade works, an application be made to the NHVR to extend the B-Double network from Merton Road along Bybera Road to the site access.
28.	<p>Provide adequate on-site parking for all vehicles including staff, deliveries and visitors. All vehicle parking shall be internal to the development. Parking areas shall be constructed to a dust suppressant all weather standard 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>Car parking areas shall be constructed prior to the commencement of the use.</p> <p>The developer shall contact Council's Engineering Department to ensure the correct specifications are obtained for all civil works prior to commencement of any works onsite.</p> <p>A qualified Council Officer may inspect construction works at the request of the developer to ensure compliance with this condition.</p>
29.	Ensure loading and unloading operations are conducted wholly within the site



	LANDSCAPING															
30.	<p>Landscaping shall be provided generally in accordance with Schedule 6.3 – Planning Scheme Policy 3 – Landscaping Standards of the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i>, with a minimum of:</p> <p>a) A buffer area, 40 metres in width, to be provided along the boundary of the site to Bybera Road, exclusive of vehicular access. Within this buffer area, existing native vegetation is to be retained and allowed to naturally regenerate. Within the central 20 metres of the buffer area, random plantings of a variety of native trees and shrubs of differing growth habits are to be provided at spacings of 4-5 metres. The trees and shrubs must be of species that are fast growing, frost resistant and drought hardy. The buffer is to have a mature tree height of at least 3.0 metres. The vegetated buffers are to be maintained so they form an effective buffer.</p> <p>All landscaping and tree plantings are to be planted and maintained to the satisfaction of a qualified Council Officer. A bond for the amount of <b>\$150,000</b> is to be submitted prior to the issue of a building approval for the maintenance of landscaping.</p> <p>The bond holding time starts from the acceptance of works. Council must be contacted by the applicant to request an inspection of the landscaping as soon as possible after completion of planting and payment of bond. The bond shall be returned in accordance with the following schedule if the landscaping meets the criteria:</p> <table><tr><th>Time from acceptance of landscaping works</th><th>Criteria</th><th>Bond Refund / Reduction</th></tr><tr><td>24 months – From acceptance of works</td><td>Landscaping conforms to requirements, is established and maintained. Adequate provision for on-going watering and growth. Any/all replacement plants are provided.</td><td>25%</td></tr><tr><td>36 months – From acceptance of works</td><td>Landscaping is well established (as a guide &gt;50% full growth depending on species). All replacement plants are established. The landscaping intent is being achieved.</td><td>25%</td></tr><tr><td>48 months – From acceptance of works</td><td>Landscaping is fully established, or within 80% depending on species.</td><td>25%</td></tr><tr><td>60 months – from acceptance of works</td><td>Landscaping is fully established and maintained.</td><td>25%</td></tr></table> <p>After the required bond holding time has passed, a refund of bond monies will only be considered upon a written request from the person who paid the bond. A qualified Council Officer may inspect landscaping plantings to ensure compliance with this condition and acceptance of the works.</p> <p>Council will hold the funds in trust for a maximum of five years, at which time should work not be carried out and maintained to Council’s satisfaction, the bond will be used by Council to have the works performed unless an extension of time is requested by the land owner or applicant and approved by Council.</p> <p>To clarify, bonds can only be refunded upon a written request from the person who paid the bond upon the works being satisfactorily maintained for the required bond holding time.</p>	Time from acceptance of landscaping works	Criteria	Bond Refund / Reduction	24 months – From acceptance of works	Landscaping conforms to requirements, is established and maintained. Adequate provision for on-going watering and growth. Any/all replacement plants are provided.	25%	36 months – From acceptance of works	Landscaping is well established (as a guide >50% full growth depending on species). All replacement plants are established. The landscaping intent is being achieved.	25%	48 months – From acceptance of works	Landscaping is fully established, or within 80% depending on species.	25%	60 months – from acceptance of works	Landscaping is fully established and maintained.	25%
Time from acceptance of landscaping works	Criteria	Bond Refund / Reduction														
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48 months – From acceptance of works	Landscaping is fully established, or within 80% depending on species.	25%														
60 months – from acceptance of works	Landscaping is fully established and maintained.	25%														

31.	Boundary fences must be maintained in a good state of repair.
	<b>STORMWATER</b>
32.	<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 the approved Site Based Stormwater Management Plan and Schedule 6.2 – Planning Scheme Policy 1 – Land Development Standards of the <i>Goondiwindi Region Planning Scheme 2018 (Version 2)</i>, to the satisfaction of and at no cost to Council.</p> <p>Any increase in volume, concentration or velocity of stormwater from the site shall be channelled to lawful points of discharge or to other storage or dispersal arrangements which all must be agreed to in writing by Council.</p> <p>There shall be no change in direction or increase in the volume, concentration or velocity in any overland flow from the site to any adjoining properties unless agreed in writing by Council and the owners of any adjoining properties affected by these changes.</p> <p>The stormwater disposal system shall be designed to include appropriate pollution control devices or methods to ensure no contamination or silting of waterways.</p>
33.	<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>
34.	<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>

35.	<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>
36.	<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>
37.	<p>All external lighting is to be compliant with AS/NZS 4282-2019 “<i>Control of obtrusive effects of outdoor lighting</i>”.</p>
38.	<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>
39.	<p>At all times while the use continues, lighting of the site, including any security lighting, shall be such that the lighting intensity does not exceed 8.0 lux at a distance of 1.5 metres from the site at any property boundary.</p> <p>All lighting shall be directed or shielded so as to ensure that no glare directly affects nearby properties, motorists or the operational safety of the surrounding road network.</p>
40.	<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>
41.	<p>The operator shall be responsible for mitigating any complaints arising from on-site operations.</p>

<b>42.</b>	<p>Construction works must occur so they do not cause unreasonable interference with the amenity of adjoining premises.</p> <p>The site must be kept in a clean and tidy state at all times during construction.</p>
<b>DEVELOPER'S RESPONSIBILITIES</b>	
<b>43.</b>	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.
<b>44.</b>	All contractors and subcontractors shall hold current, relevant and appropriate qualifications and insurances to carry out the works.
<b>45.</b>	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.
<b>46.</b>	At all times while the use continues, all requirements of the conditions of the development approval must be maintained.
<b>47.</b>	<p>Prior to commencement of construction, submit to Council for endorsement, a Construction and Nuisance Management Plan for the approved development works for the site. The Plan is to cover where applicable, the following:</p> <ul style="list-style-type: none"> <li>(a) air quality management;</li> <li>(b) noise and vibration management;</li> <li>(c) storm water quality management;</li> <li>(d) erosion and sediment management;</li> <li>(e) vegetation management;</li> <li>(f) waste management;</li> <li>(g) complaint management;</li> <li>(h) community awareness;</li> <li>(i) preparation of site work plans;</li> <li>(j) workers' car parking arrangements; and</li> <li>(k) traffic control during works.</li> </ul>

<p><b>48.</b></p>	<p>Prior to commencement of the use, submit to Council for endorsement, an Environmental Management Plan prepared by a suitably qualified person. The Plan must be specific to the property and include strategies for hazard management of the Renewable Energy Facility (Solar Farm and Battery Energy Storage System). The Plan should include, but not be limited to the following matters:</p> <ul style="list-style-type: none"> <li>(a) lithium-ion batteries, particularly relating to thermal runaway;</li> <li>(b) fire prevention and management including: <ul style="list-style-type: none"> <li>(i) the credible hazards and risks present for the BESS facility, including fire and (internal and external initiators);</li> <li>(ii) fire fighting procedures and equipment required on the property to fight bushfires and battery fires including in the event of an explosion;</li> <li>(iii) procedures and information as to how fires will be detected and monitored by the applicant on the property; and</li> <li>(iv) identification of potential fire risks and the fire management measures which will be implemented to address the potential fire risks during construction and operation of the development;</li> </ul> </li> <li>(c) handling, use and hazard precautions;</li> <li>(d) emergency evacuation and shut down procedures of the Solar Farm for flooding and fire hazards;</li> <li>(e) operational procedures and design measures to minimise damage to the Solar Farm during hail storms. In the event of damage to the Solar Farm due to a hail storm, please provide details of how contaminated stormwater will be managed to avoid run-off from impacting on sensitive environmental receptors including waterways;</li> <li>(f) first aid;</li> <li>(g) storage precautions;</li> <li>(h) damaged products;</li> <li>(i) disposal of waste; and</li> <li>(j) maintenance</li> </ul>
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	COMMENCEMENT OF USE
49.	<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>
50.	<p>Council must be notified in writing of the date of the commencement of the use within 14 days of commencement.</p> <p>This Material Change of Use 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>
51.	<p>A letter outlining and demonstrating that conditions have been, or will be, complied with shall be submitted to Council and approved by a relevant Officer of Council prior to commencement of the use at each relevant stage. Council Officers may require a physical inspection to confirm that all conditions have been satisfied to relevant standards.</p>

## **ADVICE NOTES**

	NOTES AND ADVICE
	<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 Material Change of Use 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>The Reconfiguring a Lot approval will lapse if a plan for the reconfiguration is not given to the local government within the following period, in accordance with the provisions contained in section 85(1)(b) of the <i>Planning Act 2016</i>:</p> <p>(a) If no period stated – 4 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>
	<p>Infrastructure charges as outlined in the Infrastructure Charges Notice included in <b>Attachment 3</b> shall be paid in accordance with the timing specified in the notice.</p>
	<p>This approval in no way removes the duty of care responsibility of the applicant under the <i>Aboriginal Cultural Heritage Act 2003</i>. Pursuant to Section 23(1) of the <i>Aboriginal Cultural Heritage Act 2003</i>, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the “cultural heritage duty of care”).</p>
	<p>This approval in no way authorises the clearing of native vegetation protected under the <i>Vegetation Management Act 1999</i>.</p>
	<p>The approved development does not authorise any deviation from the applicable Australian Standards nor from the application of any laws, including laws covering work place health and safety.</p>
	<p>All development shall be conducted in accordance with the provisions of the <i>Environmental Protection Act 1994</i> and all relevant regulations and standards under that Act. All necessary licences under the Act shall be obtained and shall be maintained at all times.</p>
	<p>It is the applicant’s responsibility to obtain all statutory approvals prior to commencement of any works onsite.</p>



## **Attachment 2 – Approved Plans**







GOONDIWINDI REGIONAL COUNCIL  
Approved Plan referred to in Council's Decision Notice  
Council Reference: 24/53  
Dated: 01/05/2025  
Signed:   
Print Name: Mr Carl Manton  
(Under Delegation) ASSESSMENT MANAGER

# Tender

KEY	
	Site Boundary
	Fences (11.83 km)
	Gates
	Roads
	Vegetation Canopy
	Water Body
	Buildings
	Existing Roads
	High Agricultural Value Land
	30m Setback
	Cable Route
	Stations
	Full Table 84L (7313)
	$\frac{2}{3}$ Table 56L (1285)
	$\frac{1}{3}$ Table 28L (997)

Site Details	
Boundary area	620.12 Ha
Fence Area	605.28 Ha
Electrical Details	
DC Capacity	514.20 MWp
Inverter AC Capacity	483.84 MWac
Grid AC Capacity	430.11 MVA
Number of PV Modules	714 200
Number of Stations	116
PV Module Power	720 Wp

Geographical information	
Coordinate system	MGA-56
Height Datum	AHD

Revision			
V01.04.04	TL	DDO	28/05/24
Version	Designer	Checker	Date

- Notes
- Verifying Dimensions: The contractor shall verify dimensions against such other drawings or site conditions as pertain to this part of the work.
  - This drawing is the sole property of **Elgin Energy EsCo Limited**, it should not be modified, altered, copied, distributed, or disclosed without the express authority of **Elgin Energy EsCo Limited**.



**ELGIN ENERGY**  
+44 (0) 208 068 4240  
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[www.elgin-energy.com](http://www.elgin-energy.com)  
London | Dublin | Sydney

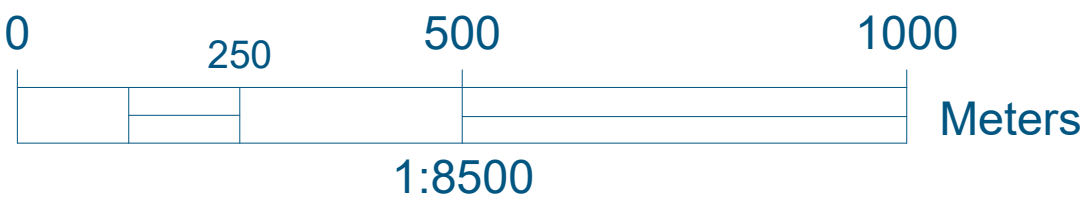
Project **Yelarbon**

Drawing Title **Site Layout Plan**

Site Ref  
2255

Drawing Number  
V01.04.04

Date Created  
28/05/2024





# Yelarbon Solar Farm

3312 Merton Road, Bybera

## Site Based Stormwater Management Plan

Elgin Energy Pty Ltd c/o URBIS Ltd

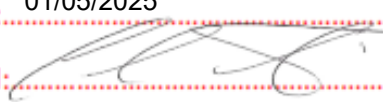
5 December 2024

### GOONDIWINDI REGIONAL COUNCIL

Approved Plan referred to in Council's Decision Notice

Council Reference: 24/53

Dated: 01/05/2025

Signed: 

Print Name: Mr Carl Manton

(Under Delegation) ASSESSMENT MANAGER

## DOCUMENT VERIFICATION

Job Title            **Yelarbon Solar Farm**

Job Number        28309.001

Document Title    Site Based Stormwater Management Plan

## DOCUMENT CONTROL

Date	Document	Revision No.	Author	Reviewer
22.11.24	Site Based Stormwater Management Plan	01	BN	BL
05.12.24	Site Based Stormwater Management Plan	02	BN	BL

## APPROVAL FOR ISSUE

Authority	Name	Signature	Date
Author	Blake Neumann		05.12.24
Reviewer	Brian Lamb (RPEQ 22950)		05.12.24

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# YELARBON SOLAR FARM – TRANSPORT ASSESSMENT REPORT

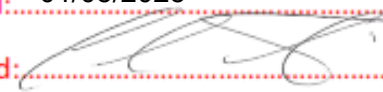
## GOONDIWINDI REGIONAL COUNCIL

Approved Plan referred to in Council's Decision Notice

Council Reference: 24/53

Dated: 01/05/2025

Signed:



Print Name: Mr Carl Manton

(Under Delegation) ASSESSMENT MANAGER



This report is dated **06/12/2024** and incorporates information and events up to that date only and excludes any information arising, or event occurring, after that date which may affect the validity of Urbis Ltd's (Urbis) opinion in this report. Urbis prepared this report on the instructions, and for the benefit only, of **Elgin Energy** (Instructing Party) for the purpose of a **Transport Assessment** (Purpose) and not for any other purpose or use. Urbis expressly disclaims any liability to the Instructing Party who relies or purports to rely on this report for any purpose other than the Purpose and to any party other than the Instructing Party who relies or purports to rely on this report for any purpose whatsoever (including the Purpose).

In preparing this report, Urbis was required to make judgements which may be affected by unforeseen future events including wars, civil unrest, economic disruption, financial market disruption, business cycles, industrial disputes, labour difficulties, political action and changes of government or law, the likelihood and effects of which are not capable of precise assessment.

All surveys, forecasts, projections and recommendations contained in or made in relation to or associated with this report are made in good faith and on the basis of information supplied to Urbis at the date of this report. Achievement of the projections and budgets set out in this report will depend, among other things, on the actions of others over which Urbis has no control.

**Urbis acknowledges the important contribution that Aboriginal and Torres Strait Islander people make in creating a strong and vibrant Australian society.**

**We acknowledge, in each of our offices, the Traditional Owners on whose land we stand.**

Urbis has made all reasonable inquiries that it believes is necessary in preparing this report but it cannot be certain that all information material to the preparation of this report has been provided to it as there may be information that is not publicly available at the time of its inquiry.

In preparing this report, Urbis may rely on or refer to documents in a language other than English which Urbis will procure the translation of into English. Urbis is not responsible for the accuracy or completeness of such translations and to the extent that the inaccurate or incomplete translation of any document results in any statement or opinion made in this report being inaccurate or incomplete, Urbis expressly disclaims any liability for that inaccuracy or incompleteness.

This report has been prepared with due care and diligence by Urbis and the statements and opinions given by Urbis in this report are given in good faith and in the belief on reasonable grounds that such statements and opinions are correct and not misleading bearing in mind the necessary limitations noted in the previous paragraphs. Further, no responsibility is accepted by Urbis or any of its officers or employees for any errors, including errors in data which is either supplied by the Instructing Party, supplied by a third party to Urbis, or which Urbis is required to estimate, or omissions howsoever arising in the preparation of this report, provided that this will not absolve Urbis from liability arising from an opinion expressed recklessly or in bad faith.


**Urbis staff responsible for this report were:**

Director	Andy Johnston
Associate Director	Alice Shi (RPEQ 22028)
Senior Consultant	Ryan Peel
Consultant	Jack Young
Project code	P0050200
Report number	2
RPEQ	Alice Shi (RPEQ 22028)
Signature	

# Rob Friend & Associates Pty Ltd

## Environmental Land Management Consultants

Located in Meanjin on the traditional lands of the Jagera and Turrbul people

GOONDIWINDI REGIONAL COUNCIL	
Approved Plan referred to in Council's Decision Notice	
Council Reference:	24/53
Dated:	01/05/2025
Signed:	
Print Name:	Mr Carl Manton
(Under Delegation) ASSESSMENT MANAGER	

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w - [www.robfriend.com](http://www.robfriend.com)  
ABN 83 097 068 114  
ACN 097 068 114



Your reference: --

Our reference: -- RFA24-069

Date: - 20<sup>th</sup> of December 2024

Chief Executive Officer  
Goondiwindi Regional Council  
LMB 7  
Inglewood, Qld 4387

Dear Madam/Sir,

### Re: - Bushfire Mitigation Plan

As part of the Development Application for a development of land for a Yelardon Solar farm, Battery Energy Storage System (BESS) and local transmission lines to connect the facility to the local energy grid, an assessment of the potential bushfire hazards and risk has been undertaken based on a desktop analysis.

#### General Site Information

Address of the site	3312 Merton Road, Bybera
Property description	Lot 81 on SP188446
Property name	Moogoon The Moogoon property also includes Lot 82 on SP188446 and Lot 7 on MH607 to the south of the subject property.
Area	968.3 hectares
Local Government Area	Goondiwindi Regional Council
Land zoning	Rural Zone

Note – a review of the State Cadastral mapping indicates that a Strata title exists over the properties to the immediate south-east and west being Strata Lot 9 on MH7678 on the adjacent property to the south-east and Lot 12 on MH597 on the adjacent property to the immediate west of the subject property. These lands are forestry leases and as such it is a reasonable expectation that they will stay predominantly vegetated for perpetuity albeit that activities such as tree removal for forestry uses and grazing over those lands may occur.

#### Land form

- The land is flat with a slight downslope from north to south and a fall of approximately 15 metres over 5.2 kilometres.

## Fire Protection System

### 1. Introduction

This document describes the layout and the control logic of various fire protection systems in the ESS Container (INF5015K050PG1-AU).

Xiamen Hithium Energy Storage Technology Co., Ltd. ('Hithium') offers this document as the standard limited document. The content of this document is supposed to be checked and updated when necessary. Please contact Hithium or your distributors for the latest version.

This document is intended to be used for information purpose and by specific addressees, which may contain information that is confidential, you may not reproduce or distribute in any form or by any means.

### 2. Layout and Descriptions

The fire protection system is designed following the NFPA 855 Standard for the Installation of Stationary Energy Storage System.

The fire protection system includes FACP (Fire alarm control panel), automatic alarm system, ventilation system, aerosol fire extinguishing system and dry pipe system (Optional).

The ESS Container enclosure plates have a three-layer structure composed of double steel plates and fireproof rock wool, with a fire resistance rating of 1h.

The combustible gas concentration reduction system is provided with a minimum of 2 hours of standby power according to NFPA 855-2023 section 9.6.5.6.7 (3). The gas detection system is provided with a minimum of 24 hours of standby power and 2 hours in alarm according to NFPA 855-2023 section 9.6.5.6.7 (4).

A secondary power supply is provided for smoke and fire detection systems in accordance with NFPA 72 capable of 24 hours in standby and 2 hours in alarm according to NFPA 855-2023 section 4.8.3.

Table2-1 Introduction of fire protection system button

No.	Item	Quantity	Function
1	Ventilation system emergency start/stop button	1	Manually Start or Stop the Fan.
2	Manual release button (on FACP panel)	1	Manually trigger the Level 2 fire alarm.
3	Hold button (on FACP panel)	1	During the delay release period, it can abort the execution of the firefighting operation.

GOONDIWINDI REGIONAL COUNCIL
Approved Plan referred to in Council's Decision Notice
Council Reference: 24/53
Dated: 01/05/2025
Signed: 
Print Name: Mr Carl Manton
(Under Delegation) ASSESSMENT MANAGER



**Attachment 3 – Notice about decision - Statement of reasons**





## Notice about decision - Statement of reasons

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

The development application for Material Change of Use for “Renewable Energy Facility” (400MW Solar Farm and ancillary Substation and 400MWh BESS) and Reconfiguring a Lot (dividing land into parts by agreement)

24/53

Merton Road, Bybera

Lot 81 on SP188446

On 23 April 2025, the above development application was:

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

### 1. Reasons for the decision

The reasons for this decision are:

- Having regard to the relevant criteria in the Goondiwindi Region Planning Scheme 2018, the proposed development satisfied all relevant criteria, and was approved subject to appropriate, relevant and reasonable conditions.

### 2. Assessment benchmarks

The following are the benchmarks applying for this development:

Benchmarks applying for the development	Benchmark reference
Rural Zone Code	PO1-PO5
Reconfiguring a Lot Code	PO1-PO12
Transport & Infrastructure Code	PO1-PO15
Natural Resources Overlay Code	PO5-PO8

### 3. Compliance with benchmarks

Benchmark reference	Reasons for the approval despite non-compliance with benchmark
<b>Natural Resources Overlay Code</b> <b>PO5</b> Development on ALC Class A and Class B land is limited to: (a) rural activities that make use of and rely upon the quality of the agricultural land resource; and (b) complementary uses that are essential to on-site farming practice.	<b>Performance Solution</b> Parts of the site are mapped as agricultural land.  The northern portion of the site will be retained for rural activities, generally protecting the areas of Class A and B agricultural land. The applicant states that the use is temporary in nature, and the land can be returned to rural production upon cessation of the renewable energy facility use.

4. ~~Relevant matters for impact assessable development~~
5. ~~Matters raised in submissions for impact assessable development~~
6. ~~Matters prescribed by Regulation~~



**Attachment 4 – *Planning Act 2016* Extracts**



# EXTRACT FROM *PLANNING ACT 2016* RELATING TO APPEAL RIGHTS

## **Chapter 6 Dispute Resolution, Part 1 Appeal Rights**

### **229 Appeals to tribunal or P&E Court**

(1) Schedule 1 states—

(a) matters that may be appealed to—

- (i) either a tribunal or the P&E Court; or
- (ii) only a tribunal; or
- (iii) only the P&E Court; and

(b) the person—

- (i) who may appeal a matter (the **appellant**); and
- (ii) who is a respondent in an appeal of the matter; and
- (iii) who is a co-respondent in an appeal of the matter; and
- (iv) who may elect to be a co-respondent in an appeal of the matter.

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

(3) The **appeal period** is—

- (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
- (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
- (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the

deemed approval notice to the assessment manager; or

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

Note—

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

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

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

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

(a) the adopted charge itself; or

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

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

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

### **230 Notice of appeal**

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

(a) is in the approved form; and

(b) succinctly states the grounds of the appeal.

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

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

(a) the respondent for the appeal; and

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

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

*principal submitter for the development application; and*

- (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and*
- (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and*
- (f) for an appeal to the P&E Court—the chief executive; and*
- (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.*

*(4) The **service period** is—*

- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or*
  - (b) otherwise—10 business days after the appeal is started.*
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).*
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.*

### **231 Other appeals**

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

*(4) In this section—*

**decision** includes—

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

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

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

### **232 Rules of the P&E Court**

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

## **Part 2 Development tribunal**

### **Division 1 General**

#### **233 Appointment of referees**

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

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

(iii) to analyse complex technical issues; and

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

(2) The appointer may—

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

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

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

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

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

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

(7) In this section—

**appointment notice** means—

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

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

#### **234 Referee with conflict of interest**

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

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

(i) the referee owns; or

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

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

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

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

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

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

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

#### **235 Establishing development tribunal**

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

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

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

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

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

### **236 Remuneration**

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

### **237 Tribunal proceedings**

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

### **238 Registrar and other officers**

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

## **Division 2 Applications for declarations**

### **239 Starting proceedings for declarations**

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

### **240 Application for declaration about making of development application**

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

**respondent means—**

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

### **241 Application for declaration about change to development approval**

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

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

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

- (4) In this section—

**respondent** means—

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

### **Division 3 Tribunal proceedings for appeals and declarations**

#### **242 Action when proceedings start**

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

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

#### **243 Chief executive excusing noncompliance**

- (1) This section applies if—

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

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

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

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

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

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

#### **244 Ending tribunal proceedings or establishing new tribunal**

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

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

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

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

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

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

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

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

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



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

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

#### **245 Refunding fees**

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

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

#### **246 Further material for tribunal proceedings**

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

Examples of information that the registrar may require—

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

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

#### **247 Representation of Minister if State interest involved**

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

#### **248 Representation of parties at hearing**

A party to tribunal proceedings may appear—

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

#### **249 Conduct of tribunal proceedings**

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

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

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

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

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

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

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

- (6) When hearing proceedings, the tribunal—

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

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

#### **250 Tribunal directions or orders**

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

Examples of directions—

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

#### **251 Matters tribunal may consider**

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

#### **252 Deciding no jurisdiction for tribunal proceedings**

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

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

#### **253 Conduct of appeals**

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

#### **254 Deciding appeals to tribunal**

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

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

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

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

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

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

#### **255 Notice of tribunal's decision**

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

#### **256 No costs orders**

A tribunal must not make any order as to costs.

#### **257 Recipient's notice of compliance with direction or order**

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

#### **258 Tribunal may extend period to take action**

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

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

#### **259 Publication of tribunal decisions**

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

### **Schedule 1 Appeals**

#### **section 229**

#### **Appeal rights and parties to appeals**

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

(a) the P&E court; or

(b) a tribunal.

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

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

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

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

(b) a provision of a development approval for—

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

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

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

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

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

(d) a development condition if—

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

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

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

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

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

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

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

(h) a decision to give an enforcement notice—

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

(ii) under the Plumbing and Drainage Act; or

(i) an infrastructure charges notice; or

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

(l) a matter prescribed by regulation.

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

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

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

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

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

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

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

(6) In each table—

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

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

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

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

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

(8) In this section—

**storey** see the Building Code, part A1.1.

**Table 1**

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

**1. Development applications**

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

Minister, an appeal may be made against—

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

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

(c) a provision of the development approval; or

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

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

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

***85 Lapsing of approval at end of current period***

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

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

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

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

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

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

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

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

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

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

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