

File: 25/23  
Date: 24 July 2025/

Warakirri Cropping  
C/- SMK QLD Pty Ltd  
9 Pratten Street  
GOONDIWINDI QLD 4390

Attention: Tom Jobling

Dear Tom

**Decision Notice –approval (with conditions)  
Reconfiguring a Lot  
Lot 1 on BLM846, 1643 Talwood Mungindi Road, Talwood**

We wish to advise that on 22 July 2025 a decision was made to approve the reconfiguring a lot development application for *Subdivision (One (1) lot into two (2) lots)* at Lot 1 on BLM846, 1643 Talwood Mungindi Road, Talwood. 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 Council's endorsement of the Plan of Survey** as well as requirements for the ongoing operation of the use.

All conditions are required to be either complied with or bonded prior to endorsement of the Plan of Survey. Please note **Condition 22**, which requires a letter to be submitted to Council, outlining and demonstrating compliance with each condition.

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



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

## Decision Notice approval

### Planning Act 2016 section 63

Council File Reference: 25/23  
Council Contact: Mrs Ronnie McMahon: PD  
Council Contact Phone: (07) 4671 7400

24 July 2025

**Applicant Details:** Warakirri Cropping  
C/- SMK QLD Pty Ltd  
9 Pratten Street  
GOONDIWINDI QLD 4390

Attention: Tom Jobling

The development application described below was properly made to Goondiwindi Regional Council on 2 July 2025.

#### Applicant details

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Applicant name: Warakirri Cropping  
Applicant contact details: C/- SMK QLD Pty Ltd  
9 Pratten Street, GOONDIWINDI QLD 4390  
[tom@smkqld.com.au](mailto:tom@smkqld.com.au)  
(07) 4671 2445

#### Application details

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Application number: 25/23  
Approval sought: Development Permit – Reconfiguring a Lot  
Details of proposed development: Subdivision (One (1) lot into two (2) lots)

#### Location details

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Street address: 1643 Talwood Mungindi Road, Talwood  
Real property description: Lot 1 on BLM846

#### Decision

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Date of decision: 22 July 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 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. 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 No	Title	Date
25082-1	Plan of Lots 1 & 2	22/05/25

### 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 Sincerely



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

enc     Attachment 1—Assessment Manager Conditions  
         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**

<b>Description:</b>	Subdivision (One (1) lot into two (2) lots)
<b>Development:</b>	Development Permit – Reconfiguring a lot
<b>Applicant:</b>	Warakirri Cropping C/- SMK QLD Pty Ltd
<b>Real Property Description:</b>	Lot 1 on BLM846
<b>Address:</b>	1643 Talwood Mungindi Road, Talwood
<b>Council File Reference:</b>	25/23

GENERAL CONDITIONS								
1.	Approval is granted for the purpose of Reconfiguring a Lot – Subdivision (One (1) lot into two (2) lots.							
2.	<p>The development shall be in accordance with supporting information supplied by the applicant with the development application including the following plans:</p> <table><tr><th>Drawing No</th><th>Title</th><th>Date</th></tr><tr><td>25082-1</td><td>Plan of Lots 1 &amp; 2</td><td>22/05/25</td></tr></table> <p>Please note this is not an approved Plan of Survey. The approved plan is included in <b>Attachment 2</b>.</p>		Drawing No	Title	Date	25082-1	Plan of Lots 1 & 2	22/05/25
Drawing No	Title	Date						
25082-1	Plan of Lots 1 & 2	22/05/25						
3.	<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>							
4.	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.							

5.	It is the applicant's responsibility to obtain all statutory approvals prior to commencement of any works onsite.
<b>ESSENTIAL SERVICES</b>	
6.	It shall be demonstrated to Council that each lot has an adequate volume and supply of potable water, when required, 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.
7.	<p>Each proposed lot shall be connected to an appropriately designed and approved on-site sewerage effluent disposal system, if or 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 the lot boundaries of the premises being serviced, to the satisfaction of and at no cost to Council.</p>
<b>PUBLIC UTILITIES</b>	
8.	Each proposed lot shall be connected to an adequate electricity supply system, if or when required, at no cost to Council.
<b>VEHICLE ACCESS</b>	
9.	<p>Accesses for both proposed lots, from the edge of the existing bitumen to the property boundary, shall be upgraded to an industrial standard in accordance with Schedule 6.2.1 – Standard Drawing in 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>Crossovers shall be either constructed or bonded prior to the submission to Council of the Plan of Survey.</p> <p>The applicant shall contact Council's Department of Engineering 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>



	<b>STORMWATER</b>
10.	<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 <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>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>
11.	<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>DEVELOPER'S RESPONSIBILITIES</b>
12.	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.
13.	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.
14.	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.
15.	The developer shall be responsible for mitigating any complaints arising from on-site operations during construction.
16.	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.

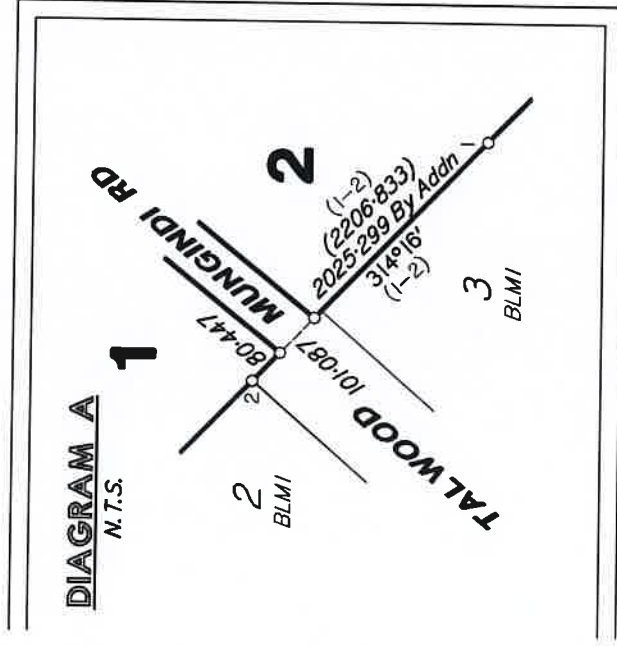
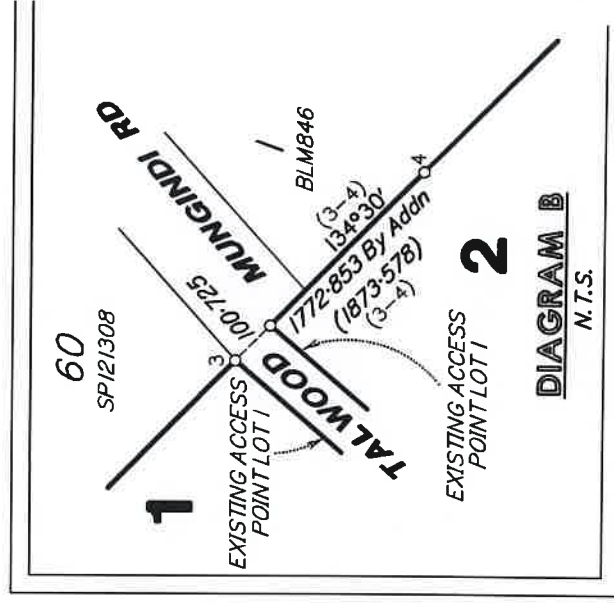
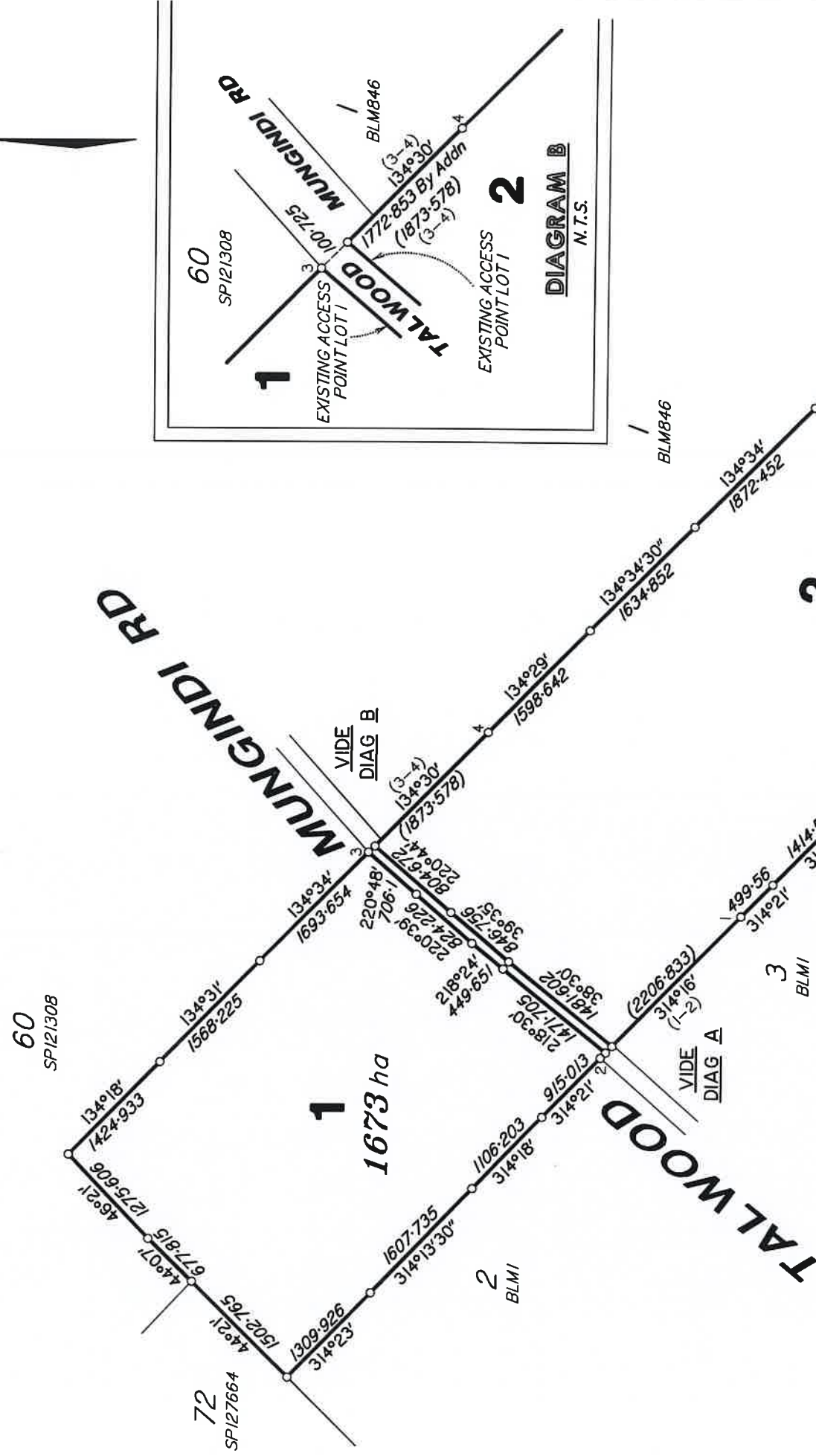
17.	At all times all requirements of the conditions of the development approval must be maintained.
18.	It is the developer's responsibility to ensure that the development is resilient to flood events by ensuring design and built form appropriately responds to the potential risks of flooding.
19.	It is the developer's responsibility to ensure that the development directly, indirectly and cumulatively avoids any increase in water flow velocity or flood level, and does not increase the potential for flood damage either on-site or on other properties.
<b>BEFORE PLANS WILL BE ENDORSED</b>	
20.	<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 \$225.00; subject to change).</p>
21.	<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>
22.	<p>A letter outlining and demonstrating that each condition has been complied with of 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.</p> <p>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 <i>Planning Act 2016</i>:</p> <p>(a) If no period is stated – <b>4 years</b> 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>

	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>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 <i>Planning Act 2016</i>:</p> <p style="padding-left: 40px;">(a) If no period is stated – <b>4 years</b> 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>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>This approval in no way removes the duty of care responsibility of the applicant under the <i>Aboriginal Cultural Heritage Act 2003</i>. Pursuant to Section 23(1) of the <i>Aboriginal Cultural Heritage Act 2003</i>, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the “cultural heritage duty of care”).</p>
	<p>This approval in no way authorises the clearing of native vegetation protected under the <i>Vegetation Management Act 1999</i>.</p>
	<p>The approved development does not authorise any deviation from the applicable Australian Standards nor from the application of any laws, including laws covering work place health and safety.</p>



## **Attachment 2 – Approved Plans**





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

Council Reference: 25/23  
Dated: 24/07/2025  
Signed: *RM McMahon*  
Print Name: Ronnie McMahon  
(Under Delegation) ASSESSMENT MANAGER

BAR SCALE 1: 60000



Plan of Lots 1 & 2

Scale: 1:60000

Format: STANDARD

Cancelling Lot 1 on BLM846

LOCAL GOVERNMENT: GOONDIWINDI REGIONAL COUNCIL  
LOCALITY: TALWOOD  
Meridian: BLM846

25082-1

25082 WARRAKIRRI

I, Ralph Patrick KINSELLA hereby certify that Jeffrey Francis JONES, Surveyor, for whose work I accept responsibility, has made this plan under Section 16 of the Survey and Mapping Infrastructure Regulation 2014 and pursuant to the Survey and Mapping Infrastructure Act 2003 and Surveyors Act 2003 and associated Regulations and Standards and that the plan is accurate, and compiled from BLM803 & BLM846 in the Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development.

*Ralph P. Kinsella*  
Cadastral Surveyor

Date: 27/7/2025

Survey Records: No

DRAWN - JEFF JONES



## **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>	1643 Talwood Mungindi Road, Talwood
<b>Owner</b>	Kotaki Pty Ltd
<b>Applicant</b>	Warakirri Cropping C/- SMK QLD Pty Ltd
<b>Application No.</b>	25/23
<b>Lot and Survey Plan</b>	Lot 1 on BLM846
<b>Date</b>	24 July 2025
<b>Approval</b>	Development Permit – Reconfiguring a Lot

Development Application Details
Subdivision – One (1) lot into two (2) lots

Type of Charge	Charge Area (A, B, C, D or E)	Charge Amount per lot (\$)	Number of additional lots	Charge (\$)
Reconfiguring a Lot	E	378	1	\$378

<b>Due Date</b>	When Goondiwindi Regional Council approves the plan of subdivision	<b>Total Charge (\$)</b>	\$378
<b>Charge to be paid to</b>	Goondiwindi Regional Council		
<b>Lapse Date</b>	24 July 2029		

Authorised by:

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

*In accordance the Planning Act 2016*

**Office Use – Receipt Number**

Subdivisions – 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 Subdivision (One (1) lot into two (2) lots)

25/23

1643 Talwood Mungindi Road, Talwood

Lot 1 on BLM846

On 22 July 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 (Version 2)*, 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:

<b>Benchmarks applying for the development</b>	<b>Benchmark reference</b>
Reconfiguring a Lot Code	PO1-PO12
Biodiversity Areas Overlay Code	PO1-PO3
Bushfire Hazard Overlay Code	PO1-PO8
Natural Resources Overlay Code	PO5-PO8
Flood Hazard Overlay Code	PO1-PO4
Infrastructure Overlay Code	PO5

### 3. Compliance with benchmarks

Benchmark reference	Reasons for the approval despite non-compliance with benchmark
<b>Bushfire Hazard Overlay Code</b>	
<b>AO1.1</b> A site specific assessment of the subject site by a suitably qualified bushfire hazard specialist confirms that the site is not subject to bushfire hazard.  <b>OR</b> The proposed development complies with an approved Bushfire Hazard Management Plan prepared by a suitably qualified person.  <b>OR</b> The development complies with an existing approved Bushfire Hazard Management Plan associated with a lawful and current approval over the subject site.	<b>Alternative Solution</b> The site contains sparse areas of medium bushfire hazard risk. Any future development will be required to be separated from hazardous vegetation or prepare a suitable Bushfire Hazard Management Plan. There is adequate area for any future development to be located clear of mapped hazards.

### 4. Relevant matters for impact assessable development

### 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**

(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.

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

- 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.

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.