



Our Ref: File: P12-23 & 01861-10001-000 JMN:SM
Your Ref: ---

DECISION NOTICE APPROVAL

(Given under section 63 (2) of the *Planning Act 2016*)

28 May 2024

Craig & Katreana Cunningham
c/- CadCon Surveying & Town Planning
PO Box 5774
MAROOCHYDORE BC QLD 4588

Attention: John Gillespie

Dear Mr Gillespie

The development application described below was properly made to the Council on 22 March 2024.

APPLICANT DETAILS

Applicant name: Craig and Katreana Cunningham
Applicant contact details: johng@cadcon.com.au

APPLICATION DETAILS

Application number: P12-23
Approval sought: Reconfiguration of a Lot
Nature of development proposed: Realignment the boundaries in a CMTS
Description of the development proposed: Realigning the boundaries of Lot 1 and Lot 2

LOCATION DETAILS

Street address: "Carbeen Park"
Old Rifle Creek Road/Off Duchess Road
Real property description: Lot 1 on plan SP130422
Lot 2 on plan SP130422
Local government area: Mount Isa City

DECISION

Date of decision: 24 May 2024

Decision details: approved in full with conditions*
 (refer to the conditions contained in Attachment 1)

*Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.

DETAILS OF APPROVAL

This application is / is not taken to have been 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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval <ul style="list-style-type: none"> • Building Work Not Associated with a Material Change or Use • Plumbing or Drainage Work • Material Change of Use • Reconfiguration of a Lot • Operational Work 		<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <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. Nil

PROPERLY MADE SUBMISSIONS

Properly made submissions **were** / **were not** made in relation to the application.

APPROVED PLANS AND SPECIFICATIONS

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

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Aspect of development: Reconfiguration of a Lot				
Planning Report	Cadcon Surveying & Town Planning	March 2024	240225 – Katreana Cunningham	
Proposed Boundary Re-Alignment	Cadcon Surveying & Town Planning	04/03/2023	Dwg No. 240225-02-1	

CURRENCY PERIOD FOR THE APPROVAL (Section 85 of the Planning Act 2016)

Four (4) years from the date of the Decision Notice

STATEMENT OF REASONS

1. Reasons for the Decision

The reasons for this decision are:

- The proposed development was an impact-assessable development for the zone; and
- The proposed development seeks to realign the boundaries of an existing Community Title Management Scheme (CMTS)
- Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity, or can be conditioned to comply with the relevant code requirements; and

The evidence or other material on which the findings were based are:

- The development application material; and
- Council's historical records
- The City of Mount Isa Planning Scheme 2020; and
- State Planning Policy; and
- North Queensland Regional Plan; and

2. Assessment Benchmarks

The following are the benchmarks applying for this development:

Benchmarks applying for the development	Benchmark reference
Reconfiguring a Lot Code	<i>City of Mount Isa Planning Scheme 2020 Part 9 -Other Zone Categories – 9.4.7</i>
Rural Zone Code	<i>City of Mount Isa Planning Scheme 2020 Part 9 -Other Development Codes – 9.4.2</i>
Engineering works and services code	<i>City of Mount Isa Planning Scheme 2020 Part 9 -Other Development Codes – 9.4.2</i>

3. Compliance with Benchmarks

Benchmark reference	Reasons for the approval despite non-compliance with benchmark
Reconfiguring Lot Code	
PO 2 Development provides safe and efficient access for vehicles.	<i>Residents of Community Title Management Scheme (CTMS) are to utilise the existing informal access across Lot 3 on plan SP222005, however must contact the Queensland Government to obtain formal access to the lots.</i>
PO 18 Lots have a regular shape and consistent dimension to facilitate efficient development of the land for its intended purposes and are of a suitable size to accommodate usable open space, landscaping, vehicle access and parking and on-site services.	<i>Lots sizes are suitable to accommodate the existing rural residential style use.</i>

4. Matters Prescribed by Regulation

- The State Planning Policy - Part E
- North Queensland Regional Plan
- City of Mount Isa Planning Scheme 2020

APPEAL RIGHTS

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 particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

APPEAL BY AN APPLICANT

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

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

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

APPEAL BY A SUBMITTER

A submitter for a development application may appeal to the Planning and Environment Court against:


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

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

Attachment 3 is an extract from the *Planning Act 2016* that sets down the applicant's appeal rights and the appeal rights of a submitter.

Should you have any further queries, please contact Council's Development and Land Use section on (07) 4747 3200.

Yours faithfully



Tim Rose
Chief Executive Officer

Encl: **Attachment 1—Conditions of the approval**

Part 1—Conditions imposed by the Assessment Manager (Mount Isa City Council)

Attachment 2 – Approved Plans

Attachment 3—Extract on Appeal Rights (*Planning Act 2016*)

ATTACHMENT 1

PART 1

CONDITIONS IMPOSED BY ASSESSMENT MANAGER (MOUNT ISA CITY COUNCIL)

Application: P12-13 for a Reconfiguration of a Lot (Realignment on Boundaries) at Carbeen Park Off Duchess Road, Mount Isa.

Council advise that the Development Application was approved by Mount Isa City Council's Chief Executive Officer through Delegated Authority (Delegated Authority No. 2057) on 24 May 2024 for the Reconfiguration of a Lot (Realignment of Boundaries) at Carbeen Park- Off Duchess Road, Mount Isa, described as Lot 1 & 2 on plan SP120422, subject to the following conditions:

NUMBER	CONDITION	TIMING
PLANNING		
General		
1.	No additional lots for the Community Title Management Scheme (CMTS) are permitted to be created	<i>As specified</i>
2.	Each Septic Tank and absorption trenches are to be located within the allotments served by these facilities	<i>At all times</i>
3.	The body corporate is to contact either Department of Transport and Main Roads (DTMR) or the Department of Resource to create formal access to Carbeen Park	<i>As specified</i>

The applicant is reminded that, in addition to the conditions of this permit, compliance is required with all applicable Commonwealth and Queensland legislation.

Materials used in the assessment of the application included:

- The development application material and submitted plans
- Information Request Response and Further Advice Response
- *Planning Act 2016*
- *Planning Regulation 2017*
- *The State Development Assessment Provisions (version 2.4)*, as published by the department
- The Development Assessment Rules
- State Planning Policy Interactive Mapping System

ATTACHMENT 2

APPROVED PLANS



Impact Assessable Development Application for

Reconfiguration of a Lot (Two Lots into Two Lots)

over land at

Carbeen Park, Mount Isa i.e. Lots 1 and 2 on SP130422

In the Mount Isa Planning Scheme Area

on behalf of Katreana and Craig Cunningham

March 2024

**MOUNT ISA CITY COUNCIL
DEVELOPMENT APPROVAL**

Permit No.: P12-23

Type of Development: Reconfiguration of a Lot

Approved Use: Realignment of Boundaries of CMTS

Approved By: Mr Tim Rose

Title: Chief Executive Officer

Date: 28/05/2024



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Appendices

Appendix 1	Title, SP, Smartmap
Appendix 2	Proposal Plan
Appendix 3	DA Form 1
Appendix 4	Owners Consent
Appendix 5	Owner Letter re fire, flood

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1 SUMMARY

This report has been prepared on behalf of Katreana and Craig Cunningham.

The subject land is in the rural zone and the lots therefore are already below that zone's minimum lot size of 1000ha. The proposal however does not create any new lots, rather it rearranges the existing boundaries in order to rationalize the use, ownership and infrastructure existing on the land.

Both proposed lots contain an existing dwelling which is serviced to appropriate rural standards i.e. electricity, phone are connected; water is supplied via potable bores on the Common Property; effluent is disposed of via septic tanks within each lot.

Council's preliminary advice is that because of the substantial nature of the proposed boundary changes the application is Impact rather than Code Assessable.

APPLICATION DETAILS	
Site Details	
Land Owner	Katreana and Craig Cunningham
Property Address	Carbeen Park, Mount Isa
Real Property Description	Lots 1 and 2 on SP130422
Site Area	1.664ha
Local Authority	Mount Isa City Council
Current Land Use	Homesteads, grazing and equestrian facilities and ancillary infrastructure.
Proposal	Reconfiguration of Two Lots into Two Lots
STATUTORY DETAILS	
State Government Assessment	
State Referral Agencies	N/A
Local Government Assessment	
Planning Scheme	City of Mount Isa Planning Scheme 2020 (the Scheme)
Zoning	Rural
Assessment Type	Impact
Overlays	<ul style="list-style-type: none"> • Nil
Development Codes	<ul style="list-style-type: none"> • Reconfiguring a Lot Code • Rural Zone Code • Engineering Works and Services Code • Water Quality Code (if applicable).

2 SITE DETAILS AND PROPOSAL DETAIL

The total site area is currently 1.6635ha comprised of existing Lot 1 (1.478ha) and existing Lot 2 (1855m²) i.e. a total of 1.664ha. The land is part of a Community Title Scheme (CTS) but does not include change to any part of Common Property nor the other lots in the CTS i.e. Lots 3 and 4.

New Lot 1 will comprise 4004m² and new Lot 2 will comprise 1.2633m². No changes to external boundaries are proposed i.e. the application is to rearrange the internal boundaries of existing Lots 1 and 2 into new Lots 1 and 2.



The eastern boundary of Lots 1 and 2 adjoins the Leichhardt River – no changes to these boundaries are proposed. The southern boundary adjoins Council owned land. The northern and western boundaries adjoin Common Property (CP). Further west, adjoining the CP is a road reserve and further west again is the Duchess Mount Isa Railway Line.

Despite the zoning the land has long been used for rural residential purposes. The current lot configuration is a result of an earlier reconfiguration approval from 2001 (Council ref I10-00 & 01861-10000-000).

3 STATUTORY ASSESSMENT – STATE GOVERNMENT

3.1 State Planning Policy (SPP)

The State Planning Policy is appropriately reflected and integrated in the City of Mount Isa Planning Scheme 2020. Therefore, the proposal does not require separate assessment against the SPP.

3.2 Referral and State Development Assessment Provisions

There are no State referrals required for this application.

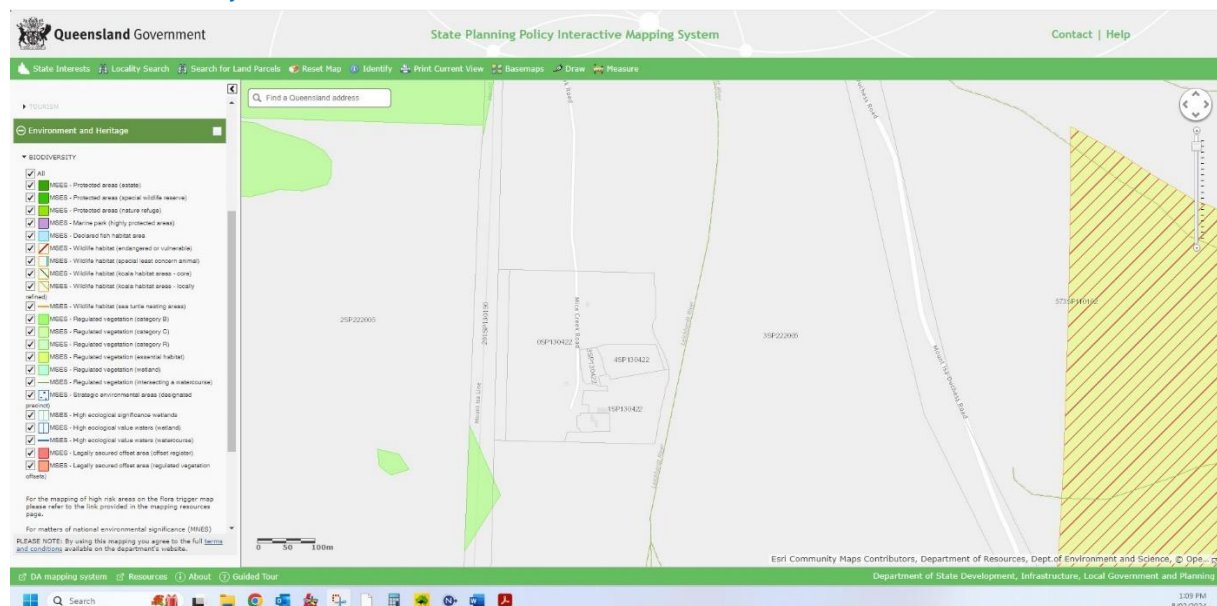
4 STATUTORY ASSESSMENT – LOCAL GOVERNMENT

4.1 Overlays

Mapping indicates the following overlays may be applicable, in so far as they are relevant to the specific proposal.

- Biodiversity.
- Bushfire.
- Flood Hazard.
- Obstacle Limitation Surface.
- Transport Infrastructure (Railway Corridor)

4.1.1 Biodiversity.



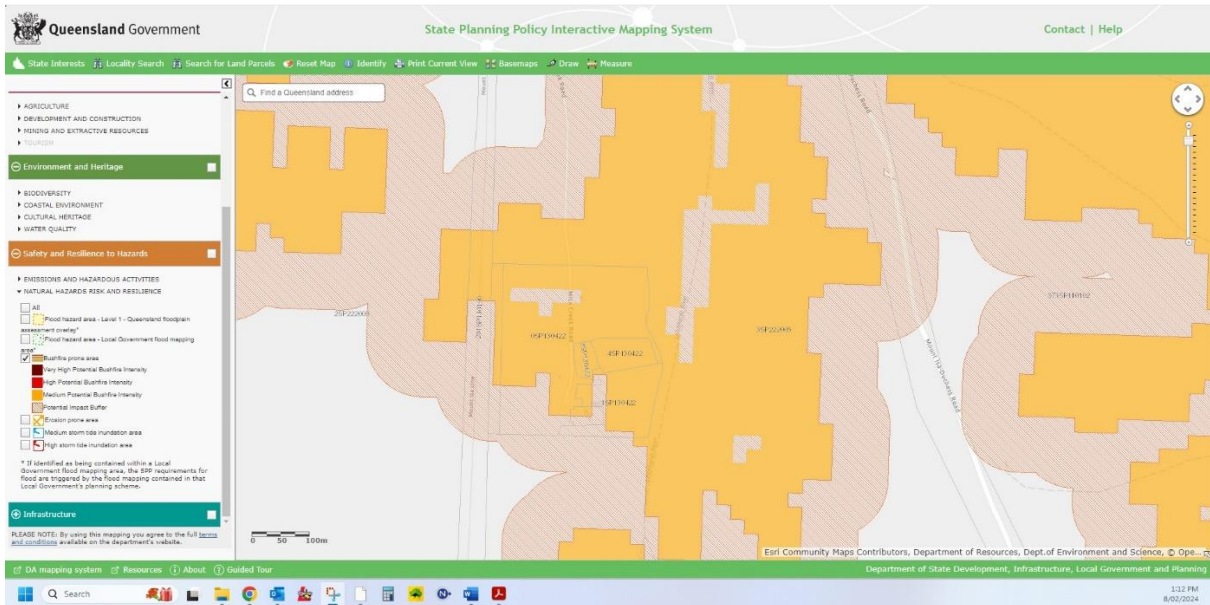
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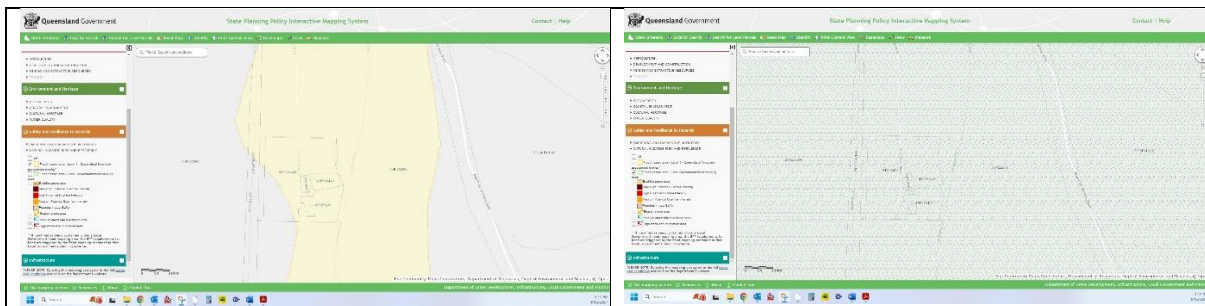
Response: N/A i.e. overlay does not adjoin or overlap subject lots.

4.1.2 Bushfire.



Response: See Appendix 5 for owners' comments re actual site circumstance regarding bushfire. It should also be noted that the application is for rearrangement of internal lot boundaries i.e. it does not create additional lots.

4.1.3 Flood Hazard

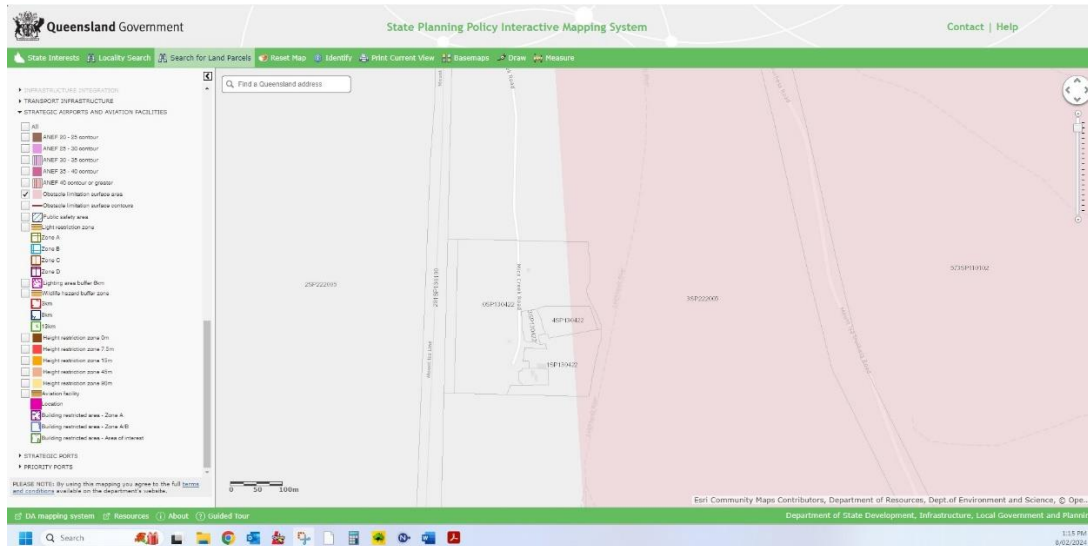


Response: See Appendix 5 for owners re actual site circumstance regarding flooding. It should also be noted that the application is for rearrangement of internal lot boundaries i.e. it does not create additional lots.

See also Appendix 5 for owners' comments re actual site circumstance regarding bushfire. It should also be noted that the application is for rearrangement of internal lot boundaries i.e. it does not create additional lots.

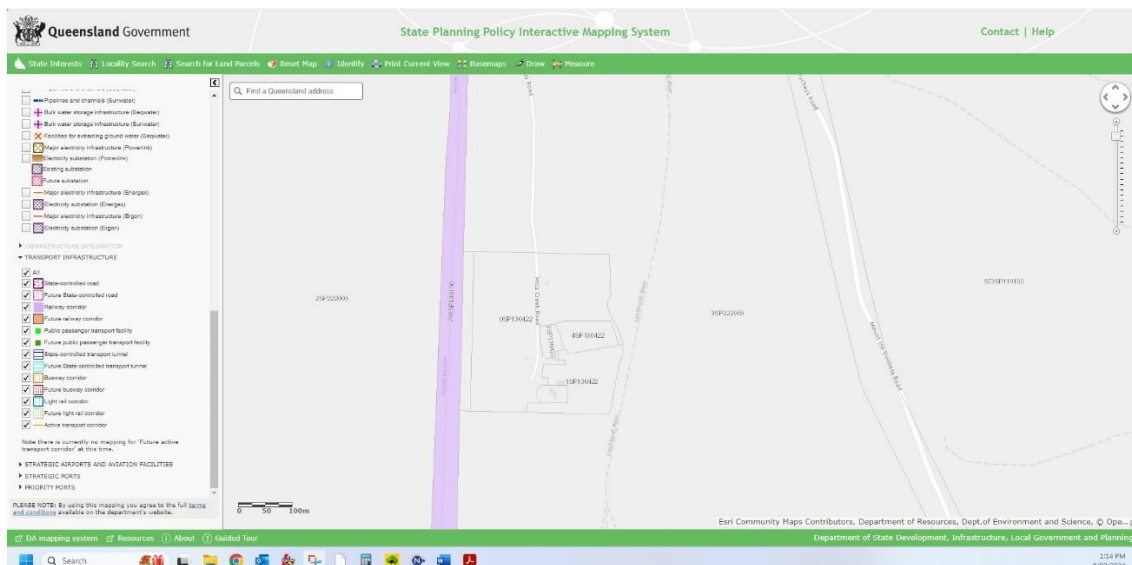


4.1.4 Obstacle Limitation Surface



Response: Despite the overlay overlapping the eastern part of the subject lots no change to existing uses is proposed and no additional consideration of the overlay requirements is required.

4.1.5 Transport Infrastructure (Railway Corridor)



Response: N/A i.e. overlay does not adjoin or overlap subject lots.





4.2 Codes

Council has determined that the proposed development triggers impact assessment. Whilst Impact Assessment means that the application can potentially be assessed against the whole of the scheme, it is submitted that the only relevant codes are those listed in the table of development assessment for a code assessable reconfiguration application i.e.

- Reconfiguring a Lot Code
- Rural Zone Code
- Engineering Works and Services Code
- Water Quality Code (if applicable).

4.2.1 Reconfiguring a Lot Code

Performance Outcome	Acceptable Outcome	Commentary
PO 1 Development avoids land subject to severe bushfire risk.	AO 1.1 New allotments are not created within areas identified as MSES – Very High (Potential Intensity) in Bushfire hazard overlay, refer State Planning Policy (SPP) Interactive Mapping System – Safety and Resilience to Hazards: Natural Hazards Risk and Resilience.	No new allotments are being created.
PO 2 Development provides safe and efficient access for vehicles.	AO 2.1 All new lots have legal road access.	Access arrangements have not changed i.e. the proposal is for an internal boundary reconfiguration and the lots will continue to take access across Common Property onto the existing unnamed road which eventually joins Rifle Creek Pipeline Rd.
PO 3 Reconfiguration avoids risk to human safety and the environment from contaminated land.	AO 3.1 Development on contaminated land is supported by a contamination report prepared by a suitable qualified professional demonstrating that the <i>site</i> is suitable for development.	N/A i.e. no new lots are being proposed.
PO 4	No acceptable outcome is prescribed.	N/A i.e. the lot reconfiguration is occurring within rural zoned land which adjoins Council owned

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Performance Outcome	Acceptable Outcome	Commentary
The reconfiguration is designed in accordance with Crime Prevention Through Environmental Design (CPTED) Guidelines, including: (a) personal and property security; and (b) casual surveillance of footpaths and parkland; and (c) activity and interaction within public spaces and movement networks		
PO 5 Reconfiguration does not result in lots intended for <i>residential activities</i> or <i>sensitive land uses</i> being subject to adverse air quality or impacts.	No acceptable outcome is prescribed.	N/A i.e. no new lots are being proposed.
PO 6 Development conserves non-renewable energy sources through climate-responsive siting, design and subdivision layout, In particular: (a) facilitate the siting of <i>dwellings</i> and buildings to take advantage of and respond to local climate conditions; (b) allow adequate solar access; and (c) where possible, lot layout is designed so as to achieve the maximum number of north-south facing lots.	No acceptable outcome is prescribed.	The lots are of sufficient size to enable satisfaction of PO6 without the need for conditions or design parameters.
PO 7	No acceptable outcome is prescribed.	The proposal is for reconfiguration of lots within an existing community management scheme.

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Performance Outcome	Acceptable Outcome	Commentary
Community management schemes are established where appropriate.		
PO 8 Development conserves significant vegetation, wildlife corridors, riparian corridors and habitat areas.	No acceptable outcome is prescribed.	N/A the reconfiguration is of an existing, fully developed site and does not contain any mapped corridors.
PO 9 Development avoids disturbing natural drainage paths and floodways	No acceptable outcome is prescribed.	N/A i.e. the proposal is to reconfigure the internal boundaries of existing lots.
PO 10 Development: (a) occurs in a logical pattern and sequence that facilitates a mix of lot sizes and development choices; and (b) has access to public spaces and parks; and (c) creates a high quality <i>streetscape</i> ; and (d) is provided with all the necessary infrastructure networks.	No acceptable outcome is prescribed.	As above.
PO 11 Development is responsive to economic resources present on, adjoining or near the <i>site</i> .	No acceptable outcome is prescribed.	N/A i.e. the proposal is to reconfigure the internal boundaries of existing lots.
PO 12 Development protects and maintains any places of cultural heritage significance or character	No acceptable outcome is prescribed.	N/A i.e. the proposal is to reconfigure the internal boundaries of existing lots.

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Performance Outcome	Acceptable Outcome	Commentary
areas present on or adjoining the <i>site</i> .		
PO 13 Development protects surrounding views, landmarks and important vistas.	No acceptable outcome is prescribed.	N/A i.e. the proposal is to reconfigure the internal boundaries of existing lots.
PO 14 Development provides for an adequate amount of water supply for firefighting purposes.	No acceptable outcome is prescribed.	N/A i.e. the proposal is to reconfigure the internal boundaries of existing lots.
PO 15 Land is provided for <i>non-trunk infrastructure</i> where required for stormwater and flood management for the development.	No acceptable outcome is prescribed.	N/A i.e. the proposal is to reconfigure the internal boundaries of existing lots.
PO 16 Each lot is provided with appropriate development infrastructure and services commensurate with the nature and location of the subdivision.	AO 16.1 Development ensures that: (a) a connection to the reticulated water supply infrastructure network is provided where available or otherwise potable water from an on-site water storage is provided; and (b) a connection to the reticulated sewerage infrastructure network is provided or otherwise an on-site effluent treatment and disposal system is provided; and (c) a connection to the reticulated electricity infrastructure network is provided or a separate electricity generation capacity is provided; and (d) where available, access to a high speed	N/A i.e. the proposal is to reconfigure the internal boundaries of existing lots.

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Performance Outcome	Acceptable Outcome	Commentary
	telecommunications network is provided.	
PO 17 Development provides that new lots: (a) are adequately buffered to protect the users of the lot from potential adverse impacts; and (b) include adequate buffers to prevent adverse impacts on <i>adjoining land</i> .	AO 17.1 A landscaped buffer with a minimum width of 15 metres is provided and maintained between land to be reconfigured and <i>adjoining land</i> where: (a) the land to be reconfigured is in a Residential zone and <i>adjoining land</i> is in an Industrial or Commercial zone; or (b) the land to be reconfigured is in an Industrial or Commercial zone and <i>adjoining land</i> is in a Residential zone.	N/A i.e. there are no new lots.
PO 18 Lots have a regular shape and consistent dimension to facilitate efficient development of the land for its intended purposes and are of a suitable size to accommodate usable open space, <i>landscaping</i> , vehicle access and parking and on-site services.	AO 18.1 Development provides that: (a) lot dimensions and size are in accordance with the requirements in Table 9.4.7.2 – Minimum lot dimension and size ; and (b) Development provides that all new lots contain a usable area of land with slope(s) in accordance with the requirements in Table 9.4.7.2 – Minimum lot dimension and size	The lots are of a sufficient size and dimension to facilitate the ongoing use of the properties i.e. rural residential style living and ancillary equestrian and grazing uses.
PO 19 Development provides for parks and open space infrastructure that:	AO 19.1 The lot reconfiguration makes provisions for the	N/A i.e. the proposal is to reconfigure the internal boundaries of existing lots.

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Performance Outcome	Acceptable Outcome	Commentary
(a) provides for a range of passive and active recreation settings and can accommodate adequate facilities to meet the needs of the community; and (b) is well distributed and contributes to the legibility, accessibility and character of the locality; and (c) creates attractive settings and focal points for the community; and (d) benefits the amenity of <i>adjoining land uses</i> ; and (e) incorporates appropriate measures for stormwater and flood management;	establishment of public parks in accordance with the Local government infrastructure plan (LGIP). OR AO 19.2 Where outside the LGIP area as indicated in Schedule 3 , no acceptable outcome is prescribed.	
PO 20 All lots are required to address the <i>road</i> with a <i>road frontage</i> in accordance with the standards in Table 9.4.7.2 – Minimum lot dimension and size.	PO 20.1 No hatchet lots are created.	N/A i.e. the proposal is to reconfigure the internal boundaries of existing lots. The common property surrounding the lots has appropriate widths and dimension to facilitate safe and effective access.
PO 20 All lots are required to address the <i>road</i> with a <i>road frontage</i> in accordance with the standards in Table 9.4.7.2 – Minimum lot dimension and size.	No acceptable outcome is prescribed.	N/A i.e. the proposal is to reconfigure the internal boundaries of existing lots. The common property surrounding the lots has appropriate widths and dimension to facilitate safe and effective access.
PO 21	No acceptable outcome is prescribed.	N/A – no roads are proposed nor required.

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Performance Outcome	Acceptable Outcome	Commentary
<p>Roads are designed and constructed to provide an optimal combination of safety and amenity, convenience and economy for users.</p>		
<p>PO 22 Roads are designed and constructed to support the specified functions of the road and to ensure that: (a) the alignment of new roads provides for safe and efficient movement of traffic; and (b) road pavement surfaces: (i) are durable enough to carry estimated wheel loads of travelling and parked vehicles; and (ii) provide for the safe passage of vehicles, pedestrians and cyclists; and (iii) discharge of stormwater run-off from contributing catchments and the preservation of all-weather access. and (c) kerb and channel: (i) controls vehicle movement by delineating the carriageway for all users; and (ii) conveys road pavement runoff to stormwater drainage. And</p>	<p>PO 22.1 Roads and drainage are designed and constructed in accordance with Schedule 6: Engineering works and services planning scheme policy. PO 22.2 Lots have direct access to an existing public road, or are connected to an existing public road by new roads and on-site access all of which are at least 150 mm above the calculated 100-year <i>Annual recurrence interval (ARI)</i> flood level. PO 22.3 The afflux caused by the construction of a new road or on-site access to a road is not to cause heightened flood levels on other land during the 100-year <i>Annual recurrence interval (ARI)</i> flood. PO 22.4 New roads are not to pass through areas subject to the Scenic amenity overlay as</p>	<p>As above.</p>

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Performance Outcome	Acceptable Outcome	Commentary
<p>(d) verges and footpaths provide: (i) safe access for pedestrians clear of obstructions; and (ii) an access area for vehicles onto properties; and (iii) a corridor allocated for public utilities; and (iv) additional amenity for minor roads. and (e) Any new road layout created by reconfiguring a lot: (i) is consistent with or establishes and makes recognisable and appropriate hierarchy of roads in the locality; and (ii) Provides convenient, safe and efficient movement of a variety of modes of transport including walking, cycling, and where viable, public transport; and (iii) provides for practical access to each new lot; and (iv) integrates with the existing road network; and (v) provides for the construction and drainage of all roads and land in the area to be reconfigured; and (vi) does not adversely impact on the existing environment including by impact on waterways or wildlife</p>	<p>outlined in Scenic Amenity Overlay Maps 1 to 6 (OM-SA-01 to OM-SA-06)</p>	

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Performance Outcome	Acceptable Outcome	Commentary
movement corridors, or vehicular traffic.		
<p>PO 23 Development facilitates a functional overall road hierarchy and maximise the safety and efficiency of the State-controlled road network.</p>	<p>AO 23.1 Where new or upgraded road access is proposed: • If development fronts more than one road, access to the site is via the lowest order road as indicated in Major Infrastructure Overlay – Road Hierarchy Maps 1 to 11 (OM-RH-01 to OM-RH-11) Note—State Controlled Roads are considered higher order than non-State Controlled Roads.</p>	As above.
<p>PO 24 Development provides for the effective drainage of lots and roads in a manner that: (a) maintains pre-existing or natural flow regime; and (b) effectively manages stormwater quality and quantity; and (c) ensures no adverse impacts on receiving waters and the surrounding land.</p>	<p>PO 24.1 Roads and drainage are designed and constructed in accordance with Schedule 6: Engineering works and services planning scheme policy</p>	As above.
<p>PO 25 Development provides that the subdivision of space above or below the surface of land facilitates efficient development in a manner that is consistent with the overall outcomes for the</p>	No acceptable outcome is prescribed.	N/A

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Performance Outcome	Acceptable Outcome	Commentary
zone and local plan area (if applicable) in which the <i>site</i> is located, or is consistent with a development approval that has not lapsed.		

4.2.2 Rural Zone Code

The purpose of the Rural zone is to—

- (a) provide for rural uses and activities; and
- (b) provide for other uses and activities that are compatible with—
 - (i) existing and future rural uses and activities; and
 - (ii) the character and environmental features of the zone; and
- (c) maintain the capacity of land for rural uses and activities by protecting and managing significant natural resources and processes and the purpose is achieved by satisfying the code's overall outcomes i.e.

1. Development provides for a range of rural activities.

Response: The proposal is to reconfigure two lots into two lots such that existing infrastructure and uses are rationalized to be consistent with lot boundaries. The resultant lots are not dissimilar to their original lot sizes albeit Lot 2's area is similar to what was Lot 1's area and vice versa. As such the proposal does not alter achievement of this overall outcome.

2. Development conserves areas of primary production.

Response: N/A the land was semi alienated from large scale primary production by virtue of the 2001 subdivision approval and subsequent development in accordance with the approval.

3. Development reflects and enhances the rural character of the area.

Response: as above.

4. Development within the zone preserves the environment by enhancing and responding to the environmental and topographical features of the land whilst integrating an appropriate scale of rural activities and amongst these features.

Response: the proposal does not alter environmental circumstance associated with the land.

5. Residential activities are supported where they are associated with and ancillary to rural activities.

Response: the land is currently used for rural residential type living and associated semi-rural activities. The proposal does not alter these circumstances.

6. The viability of both existing and future rural activities is protected from the establishment of incompatible uses.

Response: the land is currently used for rural residential type living and associated semi-rural activities. The proposal does not alter these circumstances.



7. Activities that may require isolation from urban areas as a consequence of their impacts, such as noise or odour, may be appropriate where land use conflicts are minimised.
Response: N/A.
8. Low impact activities such as small-scale eco-tourism and outdoor sport and recreation are supported within the zone where the impacts of such uses can be minimised.
Response: N/A
9. Home based businesses may operate within the Rural zone, where they have negligible impacts on surrounding land uses.
Response: N/A
10. Development incorporates and facilitates sustainable practices including maximising energy efficiency and water conservation appropriate to Mount Isa's semi-arid environment.
Response: The proposal has no impact on or from this overall outcome.
11. Development is appropriately designed and located to be responsive to the environmental constraints of the land, including but not limited to natural topography, bushfire and flooding.
Response: The proposal is to reconfigure two lots into two lots such that existing infrastructure and uses are rationalized to be consistent with lot boundaries. The resultant lots are not dissimilar to their original lot sizes, which were approved in 2001, albeit Lot 2's area is similar to what was Lot 1's area and vice versa. As such the proposal does not alter achievement of this overall outcome.
12. Development maintains and enhances rural amenity and does not result in adverse impacts on adjacent properties from, noise, dust, odour, lighting and other locally specific impacts.
Response: As above.
13. Visual impacts of clearing, building design and construction, materials, access ways and other aspects of development and land use are consistent with the Zone purpose.
Response: As above.
14. Natural features such as creeks, gullies, waterways, wetlands and vegetation are protected from the impacts of development.
Response: As above.
15. Development is provided with appropriate infrastructure and services.
Response: The proposal reconfigures internal lot boundaries and therefore has no impact on or from this overall outcome.
16. Development of Non-resident work force accommodation is temporary, maintains small footprint and is located close to Mount Isa.
Response: N/A.

4.2.3 Engineering Works and Services Code

Performance Outcome	Acceptable Outcome	Commentary
PO 1 Development is provided with a water supply that is adequate for the current and future needs of the intended uses.	AO 1.1 Development is connected to the reticulated water supply infrastructure network and is	Both proposed lots contain an existing dwelling which is serviced to appropriate rural standards i.e. electricity and phone are connected, water is supplied via bores and tanks and effluent is disposed of via septic systems.

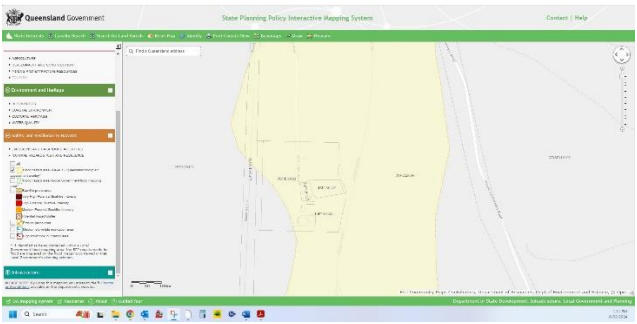


Performance Outcome	Acceptable Outcome	Commentary
	designed and constructed in accordance with Schedule 6: Engineering works and services planning scheme policy.	
PO 2 Development has a safe and effective means of sewerage treatment and disposal for the level of demand generated.	AO 2.1 Development is connected to the reticulated sewerage infrastructure network and is designed and constructed in accordance with Schedule 6: Engineering works and services planning scheme policy	As above.
PO 3 Development is provided with an appropriate energy supply approved by and installed in accordance with the standards of the relevant energy regulatory authority.	AO 3.1 (a) Development is connected to the reticulated electricity infrastructure network; or (b) An alternative energy supply is provided in accordance with the standards of the relevant regulatory authority.	As above.
PO 4 Development is connected to appropriate telecommunications infrastructure.	AO 4.1 Development is connected to telecommunication infrastructure in accordance with the standards of the relevant regulatory authority.	As above.
PO 5 Development provides safe and sufficient lighting and signage.	AO 5.1 Street lighting must comply with <i>d</i> Australian	N/A for rural zoned land.

CadCon provides boundary, contour & detail and construction surveys, town planning applications, liaison & negotiation with Councils & Government, coordination and liaison with architects, engineers etc, coordination and management of development projects from start to finish.





Performance Outcome	Acceptable Outcome	Commentary
	<p><i>Standard 1158 Set:2010 Lighting for Roads and Public Spaces..</i></p> <p>AO 5.2 Road signage is provided in accordance with Schedule 6: Engineering works and services planning scheme policy.</p>	
<p>PO 6 Development has a safe and effective means of sewerage treatment and disposal for the level of demand generated.</p>	<p>AO 6.1 Where a connection to the reticulated sewerage infrastructure network is not available, sufficient area is to be provided on the development site for an appropriately sized on-site effluent treatment and disposal system to meet the needs of the development.</p>	<p>The existing residences on both lots are currently serviced by septic tank systems. No change is proposed.</p>
<p>PO 7 Essential services maintain their function during the occurrence of natural hazards.</p>	<p>AO 7.1 Components of the systems that deliver electricity supply, gas supply, water supply, sewerage and telecommunications services, that will be adversely affected by the inundation by or infiltration of floodwater are: (a) located above the 1 in 100-year <i>Annual recurrence interval (ARI)</i> flood level; or (b) designed and constructed to exclude inundation of floodwater during the 1 per</p>	<p><u>Response:</u> See Appendix 5 for owners comments re actual site circumstance regarding flooding.</p> 

CadCon provides boundary, contour & detail and construction surveys, town planning applications, liaison & negotiation with Councils & Government, coordination and liaison with architects, engineers etc, coordination and management of development projects from start to finish.





Performance Outcome	Acceptable Outcome	Commentary
	cent AEP; or (c) designed to resist the hydrostatic and hydrodynamic forces that result from such inundation.	
<p>PO 8 Roads and access are designed and constructed to ensure that: (a) the alignment of new roads provides for safe and efficient movement of traffic; and (b) road pavement surfaces: (i) are durable enough to carry estimated wheel loads of travelling and parked vehicles; and (ii) provide for the safe passage of vehicles, pedestrians and cyclists; and (iii) provide for the discharge of stormwater run-off from contributing catchments; and (iv) preserve all-weather access; and (c) kerb and channel: (i) controls vehicle movement by delineating the carriageway for all users; and (ii) conveys road pavement runoff to stormwater drainage; and (d) verges and footpaths provide: (i) safe access for pedestrians clear</p>	<p>AO 8.1 Roads are designed and constructed in accordance with Schedule 6: Engineering works and services planning scheme policy.</p>	N/A i.e. no new roads are proposed or required.

CadCon provides boundary, contour & detail and construction surveys, town planning applications, liaison & negotiation with Councils & Government, coordination and liaison with architects, engineers etc, coordination and management of development projects from start to finish.





Performance Outcome	Acceptable Outcome	Commentary
of obstructions; and (ii) an access area for vehicles onto properties; and (iii) a corridor allocated for public utilities; and (iv) additional amenity for minor roads.		
PO 9 Stormwater drainage systems or networks have the capacity to control stormwater flows so that: (a) overland runoff is directed to areas where there is no damage to property or hazards for motorists; and (b) runoff is directed to a lawful point of discharge through controlled outlet structures; and (c) development retains the existing hydrological regime (surface and groundwater cycle and flow) to protect vegetation and habitats in and adjoining watercourses.	AO 9.1 All stormwater runoff from surfaces that are constructed, altered or otherwise affected by development on an allotment is discharged to a lawful point of discharge. AO 9.2 Development does not require the use of stormwater pumps in order to achieve a lawful point of discharge. AO 9.3 Stormwater drainage is designed and constructed in accordance with Schedule 6: Engineering works and services planning scheme policy. AO 9.4 Where the stormwater drainage system includes an underground pipe drain system, runoff from roofs and paved areas is to be connected directly to the pipe drain system.	N/A i.e. no stormwater networks are proposed or required.
PO 1 Development is provided with a water supply	AO 1.1 Where a connection to the reticulated water	The existing residences are supplied by tanks and bores. No change is proposed.

CadCon provides boundary, contour & detail and construction surveys, town planning applications, liaison & negotiation with Councils & Government, coordination and liaison with architects, engineers etc, coordination and management of development projects from start to finish.





Performance Outcome	Acceptable Outcome	Commentary
that is adequate and safe for the current and future needs of the intended uses.	supply is not available, a water supply is to be provided to the development that is: suitable for human consumption in accordance with the National Health and Medical Research Council's Australian Drinking Water Guidelines, 2011 as updated from time to time; and sized and designed to meet the water usage requirements of the development.	
PO 2 The location of underground services does not impede future development.	AO 2.1 Where underground services cross another person's land to service the development, the services are to be located parallel to and within 2 metres of an allotment boundary AO 2.2 Services are not located over a part of a lot that may in future be a suitable location for a development.	There are no existing or proposed underground services.
PO 3 Stormwater drainage systems or networks have the capacity to control the quantity and quality of stormwater flows so that: (a) overland runoff is directed to areas where there is no damage to property or hazards	AO 3.1 Where stormwater pumps are proposed to be used to achieve a lawful point of discharge, evidence is provided to Council that all other options have been exhausted. AO 3.2	N/a for an existing, fully developed lot in rural zoned land.

CadCon provides boundary, contour & detail and construction surveys, town planning applications, liaison & negotiation with Councils & Government, coordination and liaison with architects, engineers etc, coordination and management of development projects from start to finish.





Performance Outcome	Acceptable Outcome	Commentary
for motorists; and (b) runoff is directed to a lawful point of discharge through controlled outlet structures; and (c) development retains the existing hydrological regime (surface and groundwater cycle and flow) to protect vegetation and habitats in and adjoining watercourses.	Stormwater pumping systems must be designed in accordance with Schedule 6: Engineering works and services planning scheme policy.	

4.2.4 Water Quality Code (if applicable).

The proposal, prima facie, requires assessment against this code because it is impact assessable. Having said that the code further specifies when development is assessable against the code for reconfiguring a lot i.e.

Reconfiguring a lot for urban purposes that:

- (i) will result in six or more residential allotments or that provides for six or more dwellings; or
- (ii) involves a land area of more than 2500m² and results in an increased number of lots; or
- (iii) involves operational work disturbing more than 2500 m² of land; or
- (iv) Operational work for urban purposes that involves disturbing greater than 2500 m² of land.
- (v) land.

The application is therefore not assessable against this code.

5 CONCLUSION

This report has demonstrated that despite the land being included in the rural zone it is already fully developed on lots that are below the minimum lot size for rural zoned land but that those lot sizes are consistent with a 2001 approval. The development proposes similar sized lots by way of reconfiguration of internal lot boundaries and as such has no additional impact on the overall outcomes for the various applicable codes.

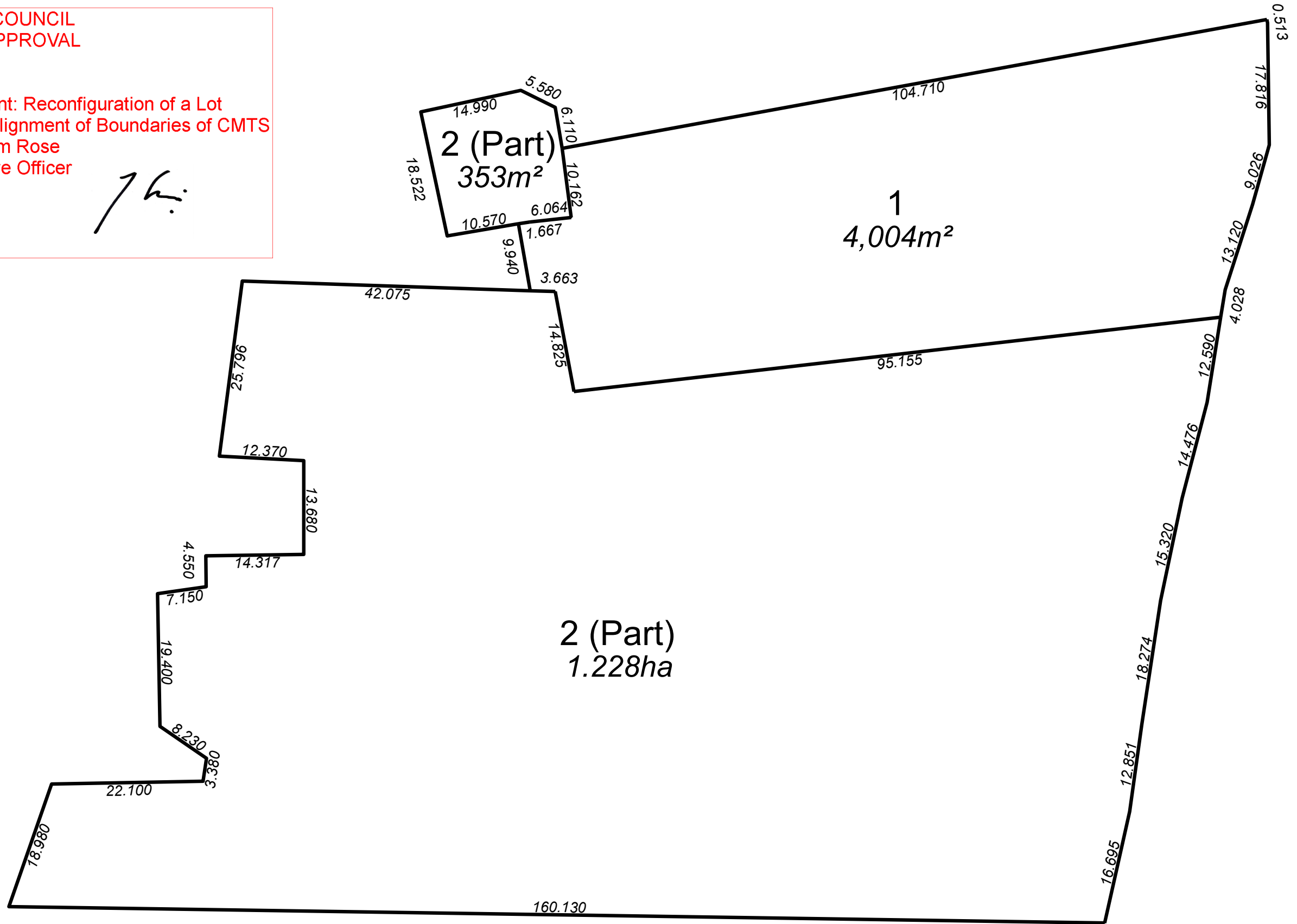
As such the proposal should be approved subject to reasonable and relevant conditions.



**MOUNT ISA CITY COUNCIL
DEVELOPMENT APPROVAL**

Permit No.: P12-23
 Type of Development: Reconfiguration of a Lot
 Approved Use: Realignment of Boundaries of CMTS
 Approved By: Mr Tim Rose
 Title: Chief Executive Officer
 Date: 28/05/2024

Jh.



Notes.

1. Boundaries are compiled from SP130422 and have not been surveyed in the preparation of this plan. Areas and dimensions may therefore vary on survey.
2. Background imagery is from QLD Globe dated 10/02/2023.

Client: **Katreanna Cunningham**
 Drawing Title: **Proposed Boundary Re-Alignment**
 Site Address: **1-2 Mount Isa Duchess Rd, MOUNT ISA**
 Lot on Plan Description: **Lots 1 and 2 on SP130422**

Horizontal Datum: MGA 2020 Z54 vide DCDB
 Vertical Datum: N/A
 Co-Consultants:
 M. H. Lodewyk Pty Ltd

Drawing Number: **240225-02-01**
 Sheet no 1 of 3 sheets.

Rev	Date	Description
-	-	-

Surveyed: N/A
 Drawn: JPG
 Date: 06/02/2023
 Scale: 1: 600 at A3



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ATTACHMENT 3

PLANNING ACT 2016
EXTRACT ON 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 an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
 - (iii) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
 - (iv) otherwise—20 business days after the day the notice is given; or
- (g) 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, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and

- (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; 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 to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department’s website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), 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, any tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any 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.
- (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 an applicable Act if—
 - (i) the application or request relates to a decision made under that Act, other than a decision made by

the Queensland Building and Construction Commission; and

- (ii) an information notice about the decision was given or was required to be given under that 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.
 - (4) In this section—

applicable Act means—

 - (a) the Building Act; or
 - (b) the *Plumbing and Drainage Act 2018*.

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.
- (6) In this section—

enforcement notice includes an enforcement notice under the *Plumbing and Drainage Act 2018*.

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; or
- (f) for a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—
- (i) ordering the entity responsible for deciding the application or matter to decide the application or matter by a stated time and, if the entity does not comply with the order, deciding the application or matter; or
 - (ii) deciding the application or matter.
- (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.

Chapter 7 Miscellaneous

Part 1 Existing uses and rights protected

260 Existing lawful uses, works and approvals

- (1) If, immediately before a planning instrument change, a use of premises was a lawful use of premises, the change does not—
 - (a) stop the use from continuing; or
 - (b) further regulate the use; or
 - (c) require the use to be changed.