

Our Reference: RAL/2023/584/A  
CS Portal Reference: N/A  
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**Decision Notice**  
**CHANGE TO A DEVELOPMENT APPROVAL**  
*Planning Act 2016 Section 83*

Colbar Street Developments Pty Ltd  
C/- Property Projects Australia  
PO Box 3686  
TOOWOOMBA QLD 4350

Email: [blake@propertyprojectsaustralia.com.au](mailto:blake@propertyprojectsaustralia.com.au)

20 September 2023

Dear Sir/Madam

**Development Approval:** Reconfiguring a Lot – Code – One (1) Lot into Thirty-Five (35) Lots  
**Location:** Colbar Street, PITTSWORTH QLD 4356  
**Property Description:** Lot 101 SP257259 and Lot 506 SP257259  
**Relevant Planning Scheme:** *Toowoomba Regional Planning Scheme 2012*

I refer to your application received on 4 September 2023 for a change to the development approval for Reconfiguring a Lot approved on 17 July 2023.

The change application was assessed against the relevant assessment benchmarks as identified in the *Toowoomba Regional Planning Scheme 2012* for the development.

On the 20 September 2023, the change application was approved as per the attached Schedule. The changes are considered to be consistent with the relevant assessment benchmarks

All deletions are identified by **bolded** strikethrough of text and all additions are identified by **bolded** text.

**Rights of Appeal**

Attached is an extract from the *Planning Act 2016* which details your appeal rights regarding this decision.

Yours faithfully



Jayden Forbes-Mitchell  
Senior Planner, Planning



# TOOWOOMBA REGIONAL COUNCIL

A.B.N. 997 8830 5360

## SCHEDULE 1

### DEVELOPMENT PERMIT FOR RECONFIGURING A LOT – CODE

<b>APPLICATION NUMBER:</b>	RAL/2023/584/A
<b>APPLICANT:</b>	Colbar Street Developments Pty Ltd
<b>LOCATION:</b>	Colbar Street, PITTSWORTH QLD 4356
<b>PROPERTY DESCRIPTION:</b>	Lot 101 SP257259 and Lot 506 SP257259
<b>APPROVED USE:</b>	Reconfiguring a Lot – One (1) Lot into Thirty-Five (35) Lots
<b>ZONING:</b>	Low-medium Density Residential / Regional Residential

#### A. ASSESSMENT MANAGER'S CONDITIONS:

##### PLANNING

##### APPROVED DEVELOPMENT

1. This Development Approval is for Reconfiguring a Lot, being the subdivision of one (1) lot into thirty-five (35) lots.

##### CARRY OUT AND MAINTAIN DEVELOPMENT

2. The development must comply with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by this Development Approval.
3. Unless otherwise stated, all conditions must be complied with prior to Council's approval of the Plan of Subdivision prior to registration with the Department of Resources.
4. The development must be maintained generally in accordance with the Approved and Amended Plans and Documents subject to or modified by any conditions of this Development Approval.

##### APPROVED PLANS

5. The development must be carried out generally in accordance with the Approved Plan listed below, subject to the conditions of this Development Approval:

**Plan No:** PR01, Issue **CD**

**Description:** Preliminary Lot Layout, prepared by Kehoe Myers and dated ~~28 April 2023~~ **30 August 2023**

**Amendments:** Nil

##### APPROVED DOCUMENT

6. The development must be carried out generally in accordance with the Approved Document listed below, subject to the conditions of this Development Approval:

**Document:** Project No. J001260, Version 2  
**Description:** Road Traffic Noise Assessment, prepared by Range Environmental Consultants and dated 6 April 2023  
**Amendment:** Nil

#### **LOT NUMBERING**

7. The numbering of all approved lots must remain as indicated on the Approved Plan/s (unless otherwise amended/approved by Council).

#### **COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS (OPERATIONAL WORK)**

8. Prepare and submit applications to Council and obtain a Development Permit for Operational Work for the following:
  - 8.1 Roadworks (including footpaths);
  - 8.2 Bulk Earthworks;
  - 8.3 Stormwater Infrastructure;
  - 8.3 Wastewater Infrastructure;
  - 8.4 Water Infrastructure; and
  - 8.5 Vehicular Crossovers (proposed Lots 86, 95, 96 and 97).

#### **COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS (FOR ENDORSEMENT)**

9. Prepare and submit the following documents in accordance with the conditions of this Development Approval and obtain Council's endorsement:
  - 9.1 Construction Environmental Management Plan; and
  - 9.2 Landscape Plan.

#### **COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS**

10. Prepare and submit for Council's approval a Plan of Subdivision in accordance with Schedule 18 of the *Planning Regulation 2017*.

#### **STAGED DEVELOPMENT**

11. Staging of the development is to occur in accordance with the staging indicated on PR01, Issue **CD** prepared by Kehoe Myers and dated ~~28 April 2023~~ **30 August 2023** subject to and modified by any conditions of this Development Approval.
12. Stages must be completed in sequential order (i.e. Stage 1 must be completed before Stage 2) as identified on the Approved Plans listed within this Development Approval, or may be combined and carried out at one time, subject to all conditions applicable to the relevant stages being complied with.

#### **AVAILABILITY OF APPROVED DOCUMENTATION DURING WORKS**

13. A legible copy of the Development Approval, including the Approved and Amended Plans and Documents bearing Council's approved stamp must be available on the subject land for inspection at all times during subdivision earthworks and construction.

## **DEDICATIONS, AGREEMENT AND CONTRIBUTIONS**

### **DEDICATION OF LAND**

14. The land area identified as Stanley Street, Colbar Street and the 10m wide laneway between proposed Lots 97 and 98 on the Approved Plans listed within this Development Approval must be dedicated as road reserve in accordance with the requirements of the Department of Resources.

*Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.*

15. The transfer of land dedicated to Council must be at no cost to Council. All transfer documentation is to be prepared and submitted to Council, at no cost to Council.
16. All land dedicated for road reserve must not be encumbered by permanent structures, services such as pump stations, services easements or similar operational uses, unless otherwise approved by the conditions of this Development Approval.
17. All land dedicated for road reserve must not be financially encumbered (e.g. mortgaged) unless otherwise approved by the conditions of this Development Approval.

### **EASEMENTS**

18. An easement for water supply purposes must be registered in favour of Council against the title of proposed Lot 95. The easement must be a minimum 3 metres wide and must be located over the proposed easement identified on the Approved Plans listed within this Development Approval and included on the Plan of Subdivision for Council's approval.
19. Where the Grantee is Council or a service authority, the easement documentation must be in accordance with the Grantee's standard easement terms and documents or any other terms and conditions as deemed necessary to fulfil the purpose of the easement.
20. Easement documentation must be prepared and submitted to Council, at no cost to Council, for endorsement where Council is the Grantee or review against conditions of approval otherwise.
21. Unless consistent with the terms of the easement and authorised under this Development Approval, any permanent works or structures must be kept clear of any existing or proposed easements on the subject land.

### **FEES AND CHARGES**

22. All current and outstanding fees, rates, interest and other charges levied on the property, must be paid in accordance with the rate at the time of payment prior to Council's approval of the Plan of Subdivision.

## **WORKS**

### **ENGINEER'S CERTIFICATION AND SUPERVISION OF WORKS**

23. Plans and specifications for all works associated with vehicular access, stormwater drainage, wastewater, water, roadworks, earthworks, or any other works required on Council infrastructure, must be prepared and certified by a Registered Professional Engineer Queensland - Civil (RPEQ).
24. A RPEQ must submit to Council a copy of the:
  - 23.1 Design Certificate prior to commencement of the works; and

- 23.2 Construction Supervision Certificate upon completion of the works certifying that works are in accordance with the approved plans and specifications.
25. Any works that have been certified by an RPEQ must be carried out under the supervision of an RPEQ with all executed works being detailed on a Construction Supervision Certificate.
26. Where any condition refers to, or requires, an Engineer to perform a task or function, the Engineer must hold professional indemnity insurance to the value of \$2,000,000. A Certificate of Currency must be submitted to Council with any Design Certificate or Construction Supervision Certificate.

### **STORMWATER DRAINAGE**

27. All land adjoining the development must be protected from ponding or nuisance from stormwater resulting from the development for the life of the development.
28. All stormwater infrastructure necessary to convey run-off from roof and developed surface areas, and any run-off onto the subject land from adjacent areas, must be provided in accordance with a Development Permit for Operational Work;

*Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.*

29. Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and be approved by Council for the internal and any external stormwater infrastructure. The design and the construction of the works must be certified by a RPEQ – Civil.
30. Submit to Council for approval, as part of the Development Application for a Development Permit for Operational Work, a Detailed Stormwater Management Plan prepared by a Registered Professional Engineer Queensland - Civil (RPEQ) in accordance with the relevant standards in *Planning Scheme Policy No. 2 - Engineering Standards – Roads and Drainage Infrastructure* (PSP No.2) demonstrating the following:
- 30.1 Stormwater is conveyed to a lawful point of discharge in accordance with the stormwater discharge conditions of this Development Approval; and
- 30.2 No increase in peak flow rates downstream from the subject land for storm events as nominated in PSP 6.2 Table SC6.2.7. Major events exceeding ARI of 100 years must be considered in accordance with the requirements of the Queensland Urban Drainage Manual.

### **STORMWATER DISCHARGE**

31. Stormwater from the new roofed and sealed areas must be picked up and discharged by way of sealed underground pipe to the legal point of discharge. Where applicable, the works must be constructed in accordance with the current version of the Institute of Public Works Engineering Australasia standard drawing titled 'Kerb and Channel Residential Drainage Connections, drawing number RS-081.

*Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.*

32. Outlets to the street channel must be limited to a maximum discharge of 50 litres per second at any one point of discharge, and where practical, spread across the street frontages so as not to concentrate the discharge to any one location.
33. Design and construction of all internal stormwater drainage works must comply with applicable section of *Australian and New Zealand Standard AS/NZS 3500 - Plumbing and Drainage Code* and the *Queensland Urban Drainage Manual*.

### **BULK EARTHWORKS OVER 50 M<sup>3</sup> OR OVER 1M CUT OR FILL**

34. All cut, fill and associated batters must be undertaken in accordance with a Development Permit for Operational Work and contained entirely within the subject land.

### **EARTHWORKS AND RETAINING WALLS EXTERNAL TO THE SITE**

35. All earthworks, including batters, must be fully contained within the subject land (Lot 101 SP257259) and must not impact on properties adjoining the subject land (including Lot 506 SP257259), except where approved by Council through a Development Permit for Operational Work for Stormwater Infrastructure.

### **AIR QUALITY IMPACT MITIGATION**

36. Odours or airborne contaminants which are noxious or offensive to public amenity or safety, likely to cause environmental harm or environmental nuisance or exceed the *Air Quality Objectives* listed in the *Environmental Protection (Air) Policy 2019* as measured at any sensitive place or commercial place must not be released to the atmosphere during site works and throughout the life of this Development Approval.
37. All reasonable and feasible avoidance and mitigation measures are employed so that dust emissions generated during site works do not exceed the following levels when measured at any sensitive place or commercial place:
- 37.1 Dust deposition of 133 milligrams per square metre per day, averaged over 1 month, when monitored in accordance with the most recent version of *Australian Standard AS3580.10.1 Methods for sampling and analysis of ambient air - Determination of particulate matter - Deposited matter - Gravimetric method*.

### **VIBRATION IMPACT**

38. Construction activities and equipment that produce vibrations must not impact upon the amenity of adjacent commercial and residential receptors or cause impacts to the structural integrity of the existing buildings/improvements, including foundations, on adjoining properties.
39. Where considered warranted by Council and when requested in writing to do so, a vibration impact investigation must be undertaken to determine what level of vibration impact is occurring. In such circumstances, a suitably qualified person must monitor, interpret and record all parameters in order to determine whether or not vibration impacts are below those stated in Table 1. The results of the investigation must be provided to Council within 14 days of the request or a longer period if specified in any such request.

Table 1 - Human comfort vibration limits to minimise nuisance

Building	Work Period	Resultant PPV (mm/s)	
		Lower Limit	Upper Limit
Dwellings	Standard Hours	1.0	2.0
	Non-standard hours – evening (6pm to 10pm)	0.3	1.0
	Non-standard hours – night (10pm to 7am)		
Medical / health buildings (wards, surgeries, operating theatres, consulting rooms)	All	0.3	1.0
Educational facilities (rooms designed for teaching purposes)	While in use		
Court of Law (Court Rooms)			
Court of Law (Court reporting and transcription areas, Judges' chambers)			
Community Buildings (libraries, places of worship)	While in use	1.0	2.0
Commercial (offices) and retail areas			

Source: Table 3.3.1.1(a) of TMR Transport Noise Management Code of Practice Volume 2 – Construction Noise and Vibration (Code of Practice – Construction)

## CONSTRUCTION WASTE MANAGEMENT & STORAGE

40. Waste generated during demolition, excavation and construction must be managed in accordance with the waste management hierarchy as detailed in the *Waste Reduction and Recycling Act 2011*.
41. The on-site storage and disposal of demolition, excavation and construction waste (including the storage and disposal of night soil) must comply with the *Environmental Protection Regulation 2019*.
42. Fires are not to be lit to dispose of demolition or construction waste.
43. No demolition, excavation or construction waste is to be used as fill or buried on-site (with the exception of cut material recycled from the subject land and used on the subject land), or be used as fill or buried elsewhere, unless otherwise permitted:
  - 43.1 Elsewhere within this Development Approval;
  - 43.2 In accordance with an associated Development Permit for Operational Work;
  - 43.3 In association with and in accordance with an Environmental Authority issued under the *Environmental Protection Act 1994*;
  - 43.4 In accordance with either a general or specific approval of a resource for beneficial use (otherwise known as a beneficial use approval) issued under the *Waste Reduction and Recycling Act 2011*; or
  - 43.5 In accordance with a written approval issued by Council under the *Environmental Protection Regulation 2019* relating to the depositing or disposal of general waste from a premises not serviced by Council.
44. Demolition, excavation and construction waste (including night soil) must not be placed or stored within the road reserve at any time.

## **CONSTRUCTION NOISE IMPACT MITIGATION**

45. Building work (as per the definition of the *Environmental Protection Act 1994*) that creates audible noise must be confined to the hours of 6:30 am and 6:30 pm Monday to Saturday (excluding Public Holidays) unless otherwise approved by Council in an endorsed Construction Environmental Management Plan.

## **EROSION & SEDIMENT CONTROL**

46. Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by the action of wind or running water must be stored clear of drainage paths and not within the road reserve at any time.
47. Measures such as sediment fences, earth berms, temporary drainage, temporary sediment basins, dewatering or stormwater filtering devices to prevent eroded material, sediment or sediment laden water from being transported to adjoining properties, roads or stormwater drainage systems must be provided.
48. Where erosion and sediment control measures have been damaged, fail or are inadequate and erosion or the release of sediment or sediment laden stormwater has occurred from the subject land or associated works, any resultant property or environmental damage or interference caused must be repaired or cleaned up within 24 hours or upon the direction of Council, at no cost to the affected parties.
49. All disturbed areas must be mulched or turfed as soon as possible during construction.
50. Measures such as vehicle baths, wash-down and construction matting together with dust suppressants and wraps, exposed ground and stockpile sprinkling must be put in place to minimise site vehicles tracking sediment onto adjoining streets during the course of the construction period, and to prevent dust nuisance during construction and the ensuing 'on-maintenance' period where applicable.

## **CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN**

51. Prior to commencement of site works and any pre-start meeting for Operational Work, submit to Council for endorsement a Construction Environmental Management Plan prepared by a qualified person that at a minimum includes the following:
  - 51.1 Location of the site, including physical address, lot on plan and relevant scaled maps;
  - 51.2 Description of the site including infrastructure and features on or near the site and those areas requiring protection or avoidance;
  - 51.3 Contact details and responsibilities for site representatives;
  - 51.4 Description of construction activities to be conducted on site;
    - Location of construction areas and adjacent operational / residential areas;
    - Construction staff and vehicle numbers;
    - Construction hours;
    - Amenities; and
    - When relevant, prohibited activities and prohibited areas where no work should be permitted;
  - 51.5 Site Plans clearly showing where proposed activities will occur, including sensitive receptors and areas where impacts on the environment may occur.

- 51.6 Strategies to manage the following environmental impacts;
- Air quality and dust management;
  - Noise and vibration management;
  - Stormwater quality management;
  - Erosion and sediment control;
  - Waste management, storage and collection; and
  - Complaint management procedures.
52. The Construction Environmental Management Plan must receive endorsement by Council prior to issue of any Development Permit for Building Work or Development Permit for Operational Work.
53. The Construction Environmental Management Plan must address both the internal works for the development and any associated external works.
54. The endorsed Construction Environmental Management Plan must be implemented and, maintained where necessary to maintain compliance with the requirements of this Development Approval.

### **DAMAGE TO SERVICES & ASSETS**

55. Protect Council and public utility services and assets during construction of the development.
56. Any damage caused to existing services and assets as a result of the development works must be repaired at no cost to the asset owner in accordance with the following timing:
- 56.1 Where the damage would cause a hazard to pedestrian or vehicle safety or interrupts a service to the community, immediately; or
- 56.2 Where otherwise, as soon as reasonably possible, but no later than completion of the works associated with the development or prior to the commencement of use, whichever is the earlier.
57. Any repair work which includes alteration to the alignment or the level of existing services and assets must first be referred to the relevant service authority for approval.
58. Construction, alterations and any repairs to Council infrastructure is undertaken in accordance with Council's relevant policies and requirements at no cost to Council.

*Note: Council must be notified of any damage to water and sewer immediately on Ph: 131 872.*

### **SERVICES & UTILITIES**

#### **WASTEWATER INFRASTRUCTURE (GENERAL)**

59. The subdivision must be connected to Council's existing wastewater reticulation system in accordance with Council *Wastewater Infrastructure Policy 2.04* at no cost to Council.
- Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.*
60. Any compensation or costs associated with obtaining agreement from owners or trustees of properties affected by the construction of the works must be at no cost to Council.
61. Any works on Council's 'live' wastewater infrastructure must be carried out by Council. A Private Works Quotation must be requested from Council, payment made for the works, and the works completed by Council.

62. Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted and be approved by Council for wastewater reticulation works and in accordance with the approved plans and documents of this Development Approval.

### **WASTEWATER INFRASTRUCTURE (APPROVAL OF LAND OWNER)**

63. Where it is necessary for any proposed wastewater infrastructure to be constructed through land not part of the development, obtain the written approval of the owner of that land and provide evidence of such written approval to Council prior to endorsement of engineering plans and specifications for the works or prior to any request for Council to prepare a quotation for works.

### **WATER SUPPLY**

64. The subdivision must be provided with a water supply system capable of servicing each lot in accordance with Council's *Water Infrastructure Policy 2.03* at no cost to Council.

*Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.*

65. Council's existing reticulation main must be extended in accordance with the following:

65.1 The existing end of line water main located in Lot 66 SP183114 (in an easement) must be extended through the proposed 3.0m wide easement in proposed Lot 95 and connect to the water main in Colbar Street with the proposed development works.

*Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.*

66. Unless able to be used as part of the development, any existing connection must be disconnected at no cost to Council.
67. Any existing water supply connection traversing more than one approved lot must be disconnected and removed.
68. Certification must be provided to Council by RPEQ that the disconnection has been carried out.
69. Where works have been carried out to disconnect or remove traversing pipes, certification must state that a separate water supply has been provided for all lots containing buildings which previously had a metered water supply, and that new water meters have been provided where necessary.
70. Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted and be approved by Council for water supply works and in accordance with the approved plans and documents of this Development Approval.
71. Any works on Council's 'live' water infrastructure must be carried out by Council. A Private Works Quotation must be requested from Council, payment made for the works, and the works completed by Council.

### **TELECOMMUNICATION**

72. Install telecommunications infrastructure to service each approved lot which complies with the following:

72.1 The requirements of the *Telecommunications Act 1997* (Cth);

72.2 For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and

- 72.3 For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line is located underground.
73. Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.
74. Provide to Council written evidence from all relevant service providers that the telecommunications infrastructure is installed in accordance with the conditions of this Development Approval and all applicable legislation at the time of construction.
- Note: The Telecommunications Act 1997 (Cth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required. For further information visit [www.infrastructure.gov.au/tind](http://www.infrastructure.gov.au/tind).*
- Note: For telecommunication services, written evidence must be in the form of either a "Telecommunications Infrastructure Provisioning Confirmation" where such services are provided by Telstra, or a "Notice of Practical Completion", "Confirmation of Payment" or "Post Execution of Development" Letter where such services are provided by NBN Co.*

## **ELECTRICITY**

75. An electricity supply must be made available to service each approved lot within the subdivision. This supply must be in accordance with the relevant standards of the electricity distributor.
76. Written evidence must be submitted to Council from the electricity distributor advising that provision has been made for connection of reticulated electricity service for each approved lot in accordance with all applicable legislation at the time of construction.
- Note: In relation to reticulated electricity, written evidence must be in the form of a "Certificate of Supply" or "Supply is Available" supplied by the relevant service provider.*

## **TRANSPORT & ACCESS**

### **ROADWORKS (INTERNAL TO SUBDIVISION)**

77. Internal roads must generally be constructed as shown on the Approved Plans listed within this Development Approval.
78. The internal roads must be constructed to a sealed standard, including kerb and channel on both sides of the new roads. Such kerb and channeling must be an approved residential kerb and channel. The internal roads must be as follows:
- 78.1 Stanley Street must have a 20 m road reserve width with 7.5 m carriageway width measured between channel inverts, to the intersection with Colbar Street; and
- 78.2 Colbar Street must have a 20 m road reserve width with 7.5 m carriageway width measured between channel inverts.
- Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.*
79. All street surfacing must consist of an approved asphaltic concrete. Segmental clay, concrete pavers or patterned reinforced concrete is only to be used on feature areas of internal streets.
80. Verge widths, street reserve widths, intersection treatment, provision of parking, footpaths and speed control devices must comply with Council's requirements, as set out in *Planning Scheme Policy No. 2 - Engineering Standards - Roads and Drainage Infrastructure (PSP No.2)*.

81. Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and be approved by Council for the road works and in accordance with the approved plans and documents of this Development Approval. All approved road works must be completed and accepted on-maintenance prior to Council's approval of the Plan of Subdivision.

#### **EXTERNAL PEDESTRIAN & CYCLE PATHS**

82. The following works must be constructed in accordance with *Planning Scheme Policy No. 2 - Engineering Standards – Roads and Drainage Infrastructure (PSP No.2)*.

- 82.1 A 1.5m wide concrete pedestrian path within Keith Gordon Park from the proposed pedestrian connection between proposed Lots 97 and 98 and the existing path network in the park; and

*Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.*

- 82.2 Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and be approved by Council for the construction of the concrete path in accordance with the approved plans and documents of this Development Approval. The design and the construction of the works must be certified by a RPEQ – Civil.

#### **ROADWORKS SIGNAGE AND PEDESTRIAN SAFETY**

83. All works carried out on or near roadways must be adequately signed in accordance with the *Manual for Uniform Traffic Control Devices – Part 3, Works on Roads*.

*Note: Road or lane closures require approval from Council's Principal Engineer Road Operations, and all conditions of that approval complied with during construction of the works.*

84. Safe pedestrian access along Council's footpaths must be maintained at all times.

*Note: Should access to footpaths need to be restricted, a separate 'Temporary road or footpath closure' must be obtained from Council's Principal Engineer Road Operations, prior to the commencement of the works.*

#### **STREET LIGHTING**

85. Provide street lighting in accordance with *PSP No. 2 - Engineering Standards – Roads and Drainage Infrastructure* and *Australian Standard AS/NZS 1158 - Lighting for roads and public spaces*.

#### **ACCESS (FOOTPATH CROSSOVERS AND DRIVEWAYS)**

86. A vehicle crossover (crossing of the verge) and a suitable sealed driveway must be constructed from the kerb and channel to the property boundary, for proposed Lots 86, 95, 96 and 97 in accordance with the following requirements:

- 86.1 The Institute of Public Works Engineering Australasia *Drawings RS-049 Residential Driveways Plan 1 of 2* and *RS-050 Residential Driveways Plan 2 of 2*, and in accordance with *Australian Standard AS 2890 – Parking Facilities (Part 1 and as relevant Part 2)*;

- 86.2 Council's standards;

- 86.3 The driveway surfacing must consist of an approved hot mixed asphaltic concrete, segmental clay/concrete pavers or patterned/plain concrete; and

- 86.4 The driveway must be constructed so as not to concentrate stormwater runoff onto neighbouring properties.

## **ENVIRONMENT & WASTE**

### **ACOUSTIC AMENITY - ACOUSTIC BARRIER(S)**

87. Acoustic barriers must be constructed on the subject land for noise attenuation. The barriers must be constructed in accordance with the following requirements:
- 87.1 The barrier must be erected within the subject land, in accordance with Figure 6 and the recommendations of Section 6.5 of the approved Road Traffic Noise Assessment report listed within this Development Approval.
- 87.2 The barrier must have no gaps (i.e. is solid) including between partitions, between partitions and posts and between partitions and the finished ground level.

## **LANDSCAPE & ECOLOGY**

### **LANDSCAPE PLAN**

88. Submit to Council for endorsement, a Landscape Plan prepared by a suitably qualified person that details in particular:
- 88.1 The species to be planted and their location (including street trees);
- 88.2 The number and container size of plants;
- 88.3 The typical planting detail including preparation, backfill, staking and mulching;
- 88.4 Internal dimensions of all planting areas;
- 88.5 Location and height of fencing in the property frontage;
- 88.6 Location and species of existing site vegetation including adjacent street trees;
- 88.7 North point, scale and drawing number; and
- 88.8 Location of all proposed services and other infrastructure that may impact on location of landscaping.
89. The Landscape Plan must be submitted to Council consecutively with the lodgement of any Development Application for a Development Permit for Operational Work and receive endorsement by Council prior to the commencement of any site works or earthworks.

### **LANDSCAPING WORKS (PROVISION OF STREET TREES)**

90. Plant and maintain for a period of 12 months, one (1) street tree within the road reserve for every 15 metres of road frontage on both sides of each road and one (1) street tree per 10 metres of length within the pedestrian connection between proposed Lots 97 and 98. All street trees must be capable of reaching 10 metres in height at maturity. An increase in the number and/or variation to the location of street trees may be varied in an approved Landscape Plan.
91. The selection and planting of any street tree, including any street tree required to replace a removed street tree must be in accordance with the requirements of *Planning Scheme Policy No.8 - Street Trees*, *Planning Scheme Policy No. 2 – Engineering Standards – Roads and Drainage Infrastructure*, the *Toowoomba Regional Council Street Tree Master Plan*, and the approved Landscape Plan.

92. All landscape works must be established by a suitably qualified person and in accordance with the conditions of this Development Approval in a manner that ensures healthy, sustained and vigorous plant growth.

**B. ADVICES:**

**GENERAL ADVICES**

**SUBMISSION OF DOCUMENTS FOR ENDORSEMENT**

- 1) The conditions of this Development Approval require submission of documents to Council for endorsement. Please address the documents for endorsement to Council's Development Services Branch with the Reference No. RAL/2023/584/A and send to [development@tr.qld.gov.au](mailto:development@tr.qld.gov.au).

**INFRASTRUCTURE CHARGES**

- 2) Infrastructure charges are now levied by way of an Infrastructure Charges Notice, issued pursuant to Section 119 of the *Planning Act 2016*.

**OTHER LAWS & REQUIREMENTS**

- 3) This Development Approval relates to development requiring approval under the *Planning Act 2016* only. It is the approval holder's responsibility to obtain any other necessary approvals, licenses or permits required under State and Federal legislation or Council local law, prior to carrying out the development. Information with respect to other Council approvals, licenses or permits may be found on the Toowoomba Regional Council website. For information about State and Federal requirements please consult with these agencies directly.
- 4) Any works impacting outside the property boundary will require a permit under Subordinate Local Law No. 1.15 (2020) (Carrying Out Works on a Road or Interfering with a Road or its Operation). Please contact Council's Road Operations Branch through our Customer Service Centre on 131 872. The application can be found on Council's website at [www.tr.qld.gov.au](http://www.tr.qld.gov.au).
- 5) The development has only been assessed in accordance with the provisions of the *Toowoomba Regional Planning Scheme 2012*. No assessment has been made in respect of the provisions of the *Building Code of Australia* and/or the *Queensland Development Code*.

**WHEN APPROVAL STARTS TO HAVE EFFECT**

- 6) This Development Approval starts to have effect in accordance with the provisions of Section 71 of the *Planning Act 2016*.

**WHEN APPROVAL LAPSES**

- 7) This Development Approval will lapse in accordance with the provisions contained in Sections 85 and 88 of the *Planning Act 2016*, unless otherwise stated elsewhere within this Development Approval.

**EXCAVATION & FILLING**

- 8) The *Toowoomba Regional Planning Scheme 2012* (TRPS) declares excavation and filling activity involving less than 50m<sup>3</sup> of material and excavation and filling activity to a depth or height lower than 1m to be accepted development. Any combination of excavation or filling where 50m<sup>3</sup> or more of fill is deposited on, or 50m<sup>3</sup> or more of excavated material is removed from the premises and excavation or filling is not associated with 'Building Work' as defined under the *Planning Act 2016*, must obtain an Operational Work approval from Council before commencing site works.

## **ENVIRONMENTAL HARM**

- 9) The *Environmental Protection Act 1994* (EP Act) states that a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm.

Environmental harm includes environmental nuisance. In this regard persons and entities involved in the civil, earthworks, construction and operational phases of this development are to adhere to their 'general environmental duty' to minimise the risk of causing environmental harm. Environmental harm is defined by the EP Act as any adverse effect, or potential adverse effect (whether temporary or permanent and of whatever magnitude, duration or frequency) on an environmental value and includes environmental nuisance.

Therefore, no person should cause any interference with the environment or amenity of the area by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit, sediment, oil or otherwise, or cause hazards likely in the opinion of the Administering Authority to cause undue disturbance or annoyance to persons or affect property not connected with the use.

## **WATER POLLUTION**

- 10) In accordance with the *Environmental Protection Act 1994*, all sand, silt, mud, paint, cement, concrete, construction material and demolition material, and other such waste material must not be deposited or placed where it could reasonably be expected to travel into a roadside gutter, stormwater drain or watercourse. On the spot fines apply for such offences.

## **FIRE ANTS**

- 11) The State of Queensland has been declared a quarantine area for the Red Imported Fire Ant. Should this approval involve the movement of restricted items from areas of known infestation the provisions of the *Biosecurity Act 2014* apply, compliance with statutory provisions must be achieved.

## **C. ATTACHMENTS:**

- Concurrence Agency Conditions Schedule 2
- Approved Development Plans
- Approved Document
- Appeal provisions pursuant to the *Planning Act 2016*.

**SCHEDULE 2**

**CONCURRENCE AGENCY (CONDITIONS AND COMMENTS)**

**DEPARTMENT OF STATE DEVELOPMENT, INFRASTRUCTURE, LOCAL GOVERNMENT AND  
PLANNING**



SARA reference: 2303-33560 SRA  
 Council reference: RAL/2023/584  
 Applicant reference: J001578

**RECEIVED**  
 31/05/2023  
**TOOWOOMBA**  
**REGIONAL COUNCIL**

31 May 2023

Chief Executive Officer  
 Toowoomba Regional Council  
 PO Box 3021  
 TOOWOOMBA QLD 4350  
 development@tr.qld.gov.au

Attention: Elliot Barber

Dear Mr Barber

## SARA referral agency response—Colbar Street, Pittsworth

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 2 March 2023.

### Response

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Outcome:	Referral agency response – with conditions
Date of response:	31 May 2023
Conditions:	The conditions in <b>Attachment 1</b> must be attached to any development approval
Advice:	Advice to the applicant is in <b>Attachment 2</b>
Reasons:	The reasons for the referral agency response are in <b>Attachment 3</b>

### Development details

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Description:	Development permit      Reconfiguring a lot – one into 35 lots
SARA role:	Referral agency
SARA trigger:	Schedule 10, part 9, division 4, subdivision 2, table 1 (Planning Regulation 2017)
	Development near a state transport corridor or that is a future state transport corridor

SARA reference: 2303-33560 SRA  
Assessment manager: Toowoomba Regional Council  
Street address: Colbar Street, Pittsworth  
Real property description: Lot 101 on SP257259  
Applicant name: Colbar Street Developments Pty Ltd, C/- Property projects Australia  
Applicant contact details: Level 1, 618 Brunswick Street  
New Farm QLD 4005  
blake@propertyprojectsaustralia.com.au

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

## Representations

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

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

For further information please contact Judy Sandmann, Senior Planning Officer, on (07) 3432 2405 or via email [IpswichSARA@dasilgp.qld.gov.au](mailto:IpswichSARA@dasilgp.qld.gov.au) who will be pleased to assist.

Yours sincerely



Kieran Hanna  
A/Manager

enc Attachment 1 - Referral agency conditions  
Attachment 2 - Advice to the applicant  
Attachment 3 - Reasons for referral agency response  
Attachment 4 - Representations about a referral agency response provisions  
Attachment 5 - Documents referenced in conditions

cc Colbar Street Developments Pty Ltd, C/- Property Projects Australia,  
[blake@propertyprojectsaustralia.com.au](mailto:blake@propertyprojectsaustralia.com.au)

## Attachment 1—Referral agency conditions

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

No.	Conditions	Condition timing
<b>Development permit for reconfiguring a lot – one into 35 lots</b>		
Schedule 10, part 9, division 4, subdivision 2, table 1, item 1 (Planning Regulation 2017)— Reconfiguring a lot near a state transport corridor—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	<p>(a) Carry out the development generally in accordance with the report Road Traffic Noise Assessment, prepared by Range Environmental Consultants dated 6 April 2023, reference number Project No. J001260 (Version 2), as amended by SARA on 31 May 2023. In particular –</p> <ul style="list-style-type: none"> <li>• Construct a 2.4 metre noise barrier in the location shown on plan "<i>Figure 6 Acoustic Barrier Specifications</i>" prepared by Range Environmental Consultants dated 6 April 2023 and given reference number Project No. J001260 (Version 2).</li> </ul> <p>(b) The noise barrier must be designed in accordance with:</p> <ul style="list-style-type: none"> <li>• the Department of Transport and Main Roads' Road Traffic Noise Management Code of Practice, Chapter 5' Specifications MRS15 and MRTS15.</li> </ul> <p>(c) RPEQ certification must be provided to Downs.South.West.IDAS@tmr.qld.gov.au within the Department of Transport and Main Roads, confirming that the development has been constructed in accordance with parts (a) and (b) of this condition.</p>	Prior to submitting the Plan of Survey to the local government for Stages 2 and 3 approval and to be maintained at all times.

## Attachment 2—Advice to the applicant

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<b>General advice</b>	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> , its regulation or the State Development Assessment Provisions (SDAP) (version 3.0). If a word remains undefined it has its ordinary meaning.

## Attachment 3—Reasons for referral agency response

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

### The reasons for SARA's decision are:

With conditions, the proposed development complies with State code 1 of SDAP. Specifically, the development:

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

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

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

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

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

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# Development Assessment Rules—Representations about a referral agency response

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

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

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

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

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

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

## **Part 7: Miscellaneous**

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

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

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

## Chapter 6, Part 1 of the Planning Act 2016 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) 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.