

REPORT TITLE	Reconfiguring a Lot – Code – Reconfigure One (1) Lot into Twelve (12) Lots located at Hunt Street, DARLING HEIGHTS QLD 4350
AUTHOR	Planning Officer (Elliott Barber)
Application No.	RAL/2024/2088

## **PURPOSE OF REPORT**

To consider a Development Application for Reconfiguring a Lot – Code – Reconfigure One (1) Lot into Twelve (12) Lots located at Hunt Street, DARLING HEIGHTS QLD 4350.

## **EXECUTIVE SUMMARY**

This report considers a Development Permit for Reconfiguring a Lot – Code – Reconfigure One (1) Lot into Twelve (12) Lots located at Lot 36 D133638 Hunt Street, Darling Heights. The application proposes to reconfigure Lot 36 D133638 with a site area of 5.463 hectares into Twelve (12) lots. The proposed lots will have site areas ranging from 4,006m<sup>2</sup> to 4,558m<sup>2</sup>. The proposed lot areas comply with the minimum lot size requirements for the Rural Residential Zone.

As the subject premises is located outside of Council's water and sewer service catchments, all proposed lots will rely on on-site rainwater collection and wastewater management.

In accordance with Table 5.6 of the Planning Scheme the proposed development is subject to Code Assessment and has been assessed against all applicable assessment benchmarks as outlined in the report. Non-compliance with the applicable assessment benchmarks has been identified with respect to the inadequacy of the current constructed standard of Fraser and Hayden Streets to safely service the proposed development.

Conditions of approval are recommended to require the dedication of land for road reserve and upgrading of these roads to a suitable standard for forecast traffic volumes. Further detail is provided within the report.

The proposed development complies with, or can be conditioned to comply with, the relevant assessment benchmarks. On this basis, the proposed development is recommended for approval subject to the conditions in the recommendation.

## **RECOMMENDATION**

**APPROVED** - Application No. RAL/2024/2088 for a Development Permit for Reconfiguring a Lot – Code – Reconfigure One (1) Lot into Twelve (12) Lots, pursuant to the provisions of Section 60 of the *Planning Act 2016* and subject to the conditions listed below.

## **ASSESSMENT MANAGER CONDITIONS**

### **PLANNING**

#### **APPROVED DEVELOPMENT**

1. This Development Approval is for Reconfiguring a Lot, being the subdivision of one (1) lot into 12 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.
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:** M5413 6001 001, Revision B

**Description:** Proposed Development Concept Layout Plan, prepared by Minstaff Survey and dated 12 July 2024.

**Amendments:** Nil

## LOT NUMBERING

6. 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)

7. Prepare and submit applications to Council and obtain a Development Permit for Operational Work for the following:
- 7.1 Roadworks;
  - 7.2 Bulk Earthworks; and
  - 7.3 Stormwater Infrastructure.

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

8. Prepare and submit the following documents in accordance with the conditions of this Development Approval and obtain Council's endorsement:
- 8.1 Construction Environmental Management Plan;
  - 8.2 Sediment Control Plan, and
  - 8.3 Landscape Plan.

## COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS

9. Prepare and submit for Council's approval a Plan of Subdivision in accordance with Schedule 18 of the *Planning Regulation 2017*. For the purposes of Section (4) of Schedule 18, the stated date by which the request must be made is the Currency period of this approval.

## AVAILABILITY OF APPROVED DOCUMENTATION DURING WORKS

10. 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

11. The land area identified as '17m Wide Road' on the Approved Plans 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.*

11. The land area defined as 2.5m wide strip for the Fraser Street frontage must be dedicated as road reserve in accordance with the requirements of the Department of Resources.

*Note: This condition is imposed pursuant to Section 128 of the Planning Act 2016.*

12. 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.
13. 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.
14. 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

15. Easements for drainage purposes must be registered in favour of Council against the title of proposed Lots 7-12. The easements must be the proposed easement identified on the Approved Plans and included on the Plan of Subdivision for Council's approval, unless otherwise agreed by Council.
16. 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.
17. 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.
18. 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.

*Note: Council will not take or purchase land in accordance with section 263 of the Planning Act 2016 in order to allow the construction of drainage infrastructure on adjoining land to facilitate the development.*

## FEES AND CHARGES

19. 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

### STREET NAMING

20. Forward a letter of Request for Street Naming to Council providing three alternative names for each new street.

*Note: Street names must be in accordance with AS4819:2011 - Rural and Urban Addressing, and are subject to Council's requirements and payment of the applicable fees in accordance the Fees and Charges Schedule.*

### ENGINEER'S CERTIFICATION AND SUPERVISION OF WORKS

21. Plans and specifications for all works associated with stormwater, earthworks, roadworks, or any other works required on Council infrastructure, must be prepared and certified by a Registered Professional Engineer Queensland - Civil (RPEQ).
22. A RPEQ must submit to Council a copy of the:
  - 22.1 Design Certificate prior to commencement of the works; and
  - 22.2 Construction Supervision Certificate upon completion of the works certifying that works are in accordance with the approved plans and specifications.
23. 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.

24. 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**

25. All land adjoining the development must be protected from ponding or nuisance from stormwater resulting from the development for the life of the development.
26. 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.*

27. 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.
28. 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:

- 28.1 Stormwater is conveyed to a lawful point of discharge in accordance with the stormwater discharge conditions of this Development Approval.

### **STORMWATER DISCHARGE**

29. Stormwater from new roofed areas (including overflow pipes from rainwater tanks) is permitted to be discharged within the subject land, a minimum of 3 metres clear of any building foundations and any adjoining property boundary.
30. The act of on-site stormwater discharge must not cause erosion and scouring and must utilise appropriate control devices at outlets to prevent such erosion and scouring.
31. Stormwater must be dispersed as sheet flow.
32. Design and construction of all internal stormwater drainage works must comply with each applicable section of *Australian and New Zealand Standard AS/NZS 3500 - Plumbing and Drainage Code* and the *Queensland Urban Drainage Manual*.

### **STORMWATER – CONVEYANCE OF STORMWATER VIA DRAINAGE EASEMENT**

33. Drainage easements must be registered over all drainage structures and concentrated flow paths on private land, including on adjoining land where required to connect to a lawful point of discharge, in accordance with the relevant requirements in *Planning Scheme Policy No. 2 - Engineering Standards – Roads and Drainage Infrastructure*.

### **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.

### **AIR QUALITY IMPACT MITIGATION**

35. 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 building and operational works.

36. 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:
- 36.1 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

37. 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.
38. 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

39. 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*.
40. 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*.
41. Fires are not to be lit to dispose of demolition or construction waste.
42. 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:
- 42.1 Elsewhere within this Development Approval;
- 42.2 In accordance with an associated Development Permit for Operational Work;

- 42.3 In association with and in accordance with an Environmental Authority issued under the *Environmental Protection Act 1994*;
  - 42.4 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
  - 42.5 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.
43. 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**

44. 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**

45. 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.
46. 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.
47. 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.
48. All disturbed areas must be mulched or turfed as soon as possible during construction.
49. 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.

#### **EROSION & SEDIMENT CONTROL PLAN**

50. An Erosion and Sediment Control Plan is to be prepared by a Certified Professional for Erosion and Sediment Control and submitted to Council for endorsement prior to construction commencing. This document is to include:
- 50.1 Site analysis of soils, slopes, wind and rainfall;
  - 50.2 Plans showing the diversion of clean offsite water around the development and direction of site dirty water to retention dams or sedimentation ponds;
  - 50.3 Clearly defined water quality release parameters from retention ponds;
  - 50.4 Calculations for the appropriate sizing of retention or sedimentation ponds such that water quality release parameters can be met;

- 50.5 Overflow and release points for new or existing structures with suitable erosion control measures and devices that limit scouring and transport of sediment; and
- 50.6 Clearly defined erosion and sediment control measures suitable for the soil type, wind and rainfall characteristics found on site throughout all stages of development.
51. The Erosion and Sediment Control Plan must receive endorsement by Council prior to issue of any Development Permit for Building Work or Development Permit for Operational Work.
52. The Erosion and Sediment Control Plan must address both the internal works for the development and any associated external works.
53. The endorsed Erosion and Sediment Control Plan must be implemented and, maintained where necessary to maintain compliance with the requirements of this Development Approval.

### **CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN**

54. Prior to commencement of site works and any pre-start meeting for Operational Works, submit to Council for endorsement a Construction Environmental Management Plan prepared by a qualified person that at a minimum includes the following:
  - 54.1 Location of the site, including physical address, lot on plan and relevant scaled maps;
  - 54.2 Description of the site including infrastructure and features on or near the site and those areas requiring protection or avoidance;
  - 54.3 Contact details and responsibilities for site representatives;
  - 54.4 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;
  - 54.5 Site Plans clearly showing where proposed activities will occur, including sensitive receptors and areas where impacts on the environment may occur; and
  - 54.6 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.
55. The Construction Environmental Management Plan must receive endorsement by Council prior to commencement of site works and any pre-start meeting for Operational Works.
56. The Construction Environmental Management Plan must address both the internal works for the development and any associated external works.
57. 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**

58. Protect Council and public utility services and assets during construction of the development.
59. 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:

- 59.1 Where the damage would cause a hazard to pedestrian or vehicle safety or interrupts a service to the community, immediately; or
- 59.2 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.
60. 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.
61. 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

### ELECTRICITY

62. 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.
63. 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 (EXTERNAL TO SUBDIVISION)

64. Existing roads must be widened for the development frontage, as follows:

<b>Street:</b>	Fraser Street
<b>Classification:</b>	Rural Distributor
<b>Construction Standard:</b>	Widening to achieve a minimum 7m sealed pavement width for the full development frontage.

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

65. The design and construction of the road must comply with *Planning Scheme Policy No. 2 - Engineering Standards - Roads and Drainage Infrastructure* (PSP No.2) and must include in particular:
- 65.1 Table drain works on the same side as the widening, as required to suit the new widening;
- 65.2 Relocation of utility and Council services; and
- 65.3 Any required modifications to existing driveway crossovers to facilitate the conditioned widening works and match the condition of existing driveway crossovers.

*Note: To avoid conflicts with services, widening of the sealed pavement on the western side of Fraser Street is recommended.*

66. Any pavement widening must join neatly to the existing pavement so that there are no specific irregularities in line or level resulting at or adjacent to the join for the length of the construction. Where necessary the existing pavement must be brought to a satisfactory standard in accordance with PSP No. 2 to allow for the above.
67. All street surfacing must be in accordance with the pavement construction standards in PSP No. 2.

68. Verge widths, street reserve widths, intersection treatment, provision of parking and speed control devices must comply with Council's requirements in PSP No. 2.
69. 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 approved by Council for the road works external to the subject land 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 the endorsement of any Plan of Subdivision.
70. The design and construction of the works must be certified by a Registered Professional Engineer Queensland (RPEQ) – Civil.

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

71. The internal roads must be constructed to a sealed standard, including kerb and channel on both sides of the new roads. Such kerb and channelling must be an approved residential kerb and channel. The internal roads must be as follows:
  - 71.1 New Road must have a 17m road reserve width with 6m carriageway width measured between channel inverts.

*Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.*
72. All street surfacing must consist of an approved asphaltic concrete.
73. 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)*.
74. 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.
75. Where temporary dead ends are provided at stage boundaries, with a length greater than a single lot frontage, a temporary gravel surfaced turnaround area must be constructed to the geometry of Council's standard cul-de-sac turning areas.
76. The design and the construction of the works must be certified by a RPEQ – Civil.

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

77. 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.*
78. 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.*

#### **REMOVAL OR MODIFICATION OF COUNCIL TRAFFIC SIGNS OR PARKING BAYS**

79. Obtain the written approval of Council's Coordinator Traffic Management for any works involving the removal or modification of existing Council traffic signs or parking bays prior to the works commencing. Where approved by Council such works are to be undertaken at no cost to Council.
80. The installation or modification of any street signs or line marking must be in accordance with the Manual of Uniform Traffic Control Device (MUTCD).

## LANDSCAPE & ECOLOGY

### LANDSCAPE PLAN

81. Submit to Council for endorsement, a Landscape Plan prepared by a suitably qualified person that details in particular:
  - 81.1 The species to be planted and their location (including street trees);
  - 81.2 The number and container size of plants;
  - 81.3 The typical planting detail including preparation, backfill, staking and mulching;
  - 81.4 Internal dimensions of all planting areas;
  - 81.5 Location and height of fencing in the property frontage;
  - 81.6 Location and species of existing site vegetation including adjacent street trees;
  - 81.7 North point, scale and drawing number, and
  - 81.8 Location of all proposed services and other infrastructure that may impact on location of landscaping.
82. The Landscape Plan must be submitted to Council prior to lodgement of any Development Application for a Development Permit for Operational Work and receive endorsement by Council prior to commencement of any site works or earthworks.

### LANDSCAPING WORKS (PROVISION OF STREET TREES)

83. Unless otherwise agreed by Council, plant and maintain for a period of 12 months, one street tree within the road reserve for every 15 metres of new road reserve along the New Road frontages of Proposed Lots 1 – 8, that is capable of reaching 12 metres in height at maturity.
84. 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*, the *Toowoomba Regional Council Street Tree Master Plan*, and the approved Landscape Plan.
85. All landscape works must be established by a qualified person and maintained in accordance with the conditions of this Development Approval for the life of the development, and in a manner that ensures healthy, sustained and vigorous plant growth. All plant material must be allowed to grow to full form and be refurbished when its life expectancy is reached.
86. Certification must be submitted to Council from a qualified person who certifies that landscaping established complies with the requirements of this Development Approval.

## 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 Planning Branch with the Reference No. RAL/2024/2088 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.

### REASONS FOR RECOMMENDATION

The proposed development has been assessed with regard to the applicable assessment benchmarks as identified within this report and the attached Statement of Reasons (refer to Schedule 1). The proposed development generally complies with the assessment benchmarks or it can be conditioned to comply. Where the applicant has not provided sufficient information, conditions have been imposed to ensure compliance.

### DELEGATE'S DECISION:

I have reviewed the report for this application in accordance with the Relevant Instruments, Statutory and Non-Statutory Provisions and in accordance with Council's process and procedures. I agree with the responsible officer's recommendation that the application be Approved subject to the conditions contained in the recommendation. I exercise delegation in accordance with the delegations adopted by the Toowoomba Regional Council.



Jayden Forbes-Mitchell  
Acting Principal Planner, Planning Branch

Decision Date: 23 August 2024

**BACKGROUND**

<b>SITE DETAILS</b>				
<b>Site Address</b>	Hunt Street, DARLING HEIGHTS QLD 4350			
<b>Real Property Description</b>	Lot 36 D133638			
<b>Site Area</b>	5.463 ha.			
<b>Owner</b>	Tahmer Pty Ltd			
<b>SITE CHARACTERISTICS</b>				
<b>Current Land Use</b>	Vacant land. A couple sheds located on site			
<b>Site Frontage/s</b>	~202 metres to both Fraser Street and Hunt Street			
<b>Road/s</b>	<b>Order of Road</b>	<b>Width of Road Reserve</b>	<b>Width of Pavement</b>	<b>Road Material</b>
Fraser Street	Distributor	20m	6m	Asphalt
Hunt Street	Local	20m	N/A	N/A
<b>Easements</b>	Easement A on SP328398			
<b>Existing Structures</b>	Sheds and structures			
<b>Infrastructure</b>	Nil			
<b>Topography</b>	The site has a fall in elevation generally from east, southeast and northeast to northwest of ~6%.			
<b>Street Trees</b>	Nil			
<b>Other Features</b>	The site has an earthen dam located in the northwestern corner of the site.			
<b>PLANNING SCHEME SITE DATA</b>				
<b>Current Planning Scheme</b>	<i>Toowoomba Regional Planning Scheme 2012 (Version 28)</i>			Adopted: 28/11/2024
<b>Zone</b>	Rural Residential			
<b>Precinct</b>	4,000m Minimum Precinct			
<b>Overlays</b>	Airport Environs Overlay <ul style="list-style-type: none"> <li>• 13km Wildlife Hazard Buffer Zones</li> </ul> Environmental Significance <ul style="list-style-type: none"> <li>• Areas of Ecological Significance Buffer</li> </ul> Bushfire Hazard <ul style="list-style-type: none"> <li>• Medium Fire Risk</li> </ul>			
<b>Infrastructure Charges Resolution</b>	<i>Charges Resolution No. 5</i>			Adopted: 01/03/2024
<b>SURROUNDS:</b>				
<b>Direction</b>	<b>Land Use</b>	<b>Zone/Precinct</b>		
<b>North</b>	Dwelling house and ancillary buildings / structures	Rural Residential / 4,000m Minimum Precinct		
<b>East</b>				
<b>South</b>				
<b>West</b>				
<b>Other Features</b>	Nothing to note			
<b>APPLICATION HISTORY</b>				
<b>Application No.</b>	<b>Description</b>	<b>Decision Date</b>	<b>Decision</b>	
OW/2022/2400	Road Work Stormwater Drainage Work Earthworks and Signage	1 September 2022	Approved	
SEAL/2023/5019	Easement	12 December 2023	Approved	
<b>Other</b>	No further relevant details.			

PROPOSED DEVELOPMENT	
Name of Applicant	Tahmer Pty Ltd
Type of Application	Reconfiguring a Lot
Proposed Development	One (1) Lot into Twelve (12) Lots
Variations Sought	Not Applicable
Level of Assessment	Code Assessable
Gross Floor Area	Not Applicable
Impervious Area	Not Applicable
Site Cover	Not Applicable
Car Parking Spaces	Not Applicable
Service Vehicle Provision	Not Applicable
Submissions Received	Objection: Not Applicable
	Support: Not Applicable
Decision Making Period Ends	23 August 2024

## CONSULTATION UNDERTAKEN

### Referral Agency/ies

Not Applicable.

### Internal Referrals

Internal Referral Partner	Referral / Response
Development Engineering	Provided conditions for approval.
Place Environmental	Provided conditions for approval.
Water and Waste	Provided conditions for approval.
Parks and Recreation	Provided conditions for approval.
Infrastructure Charges Unit	Prepared an Infrastructure Charges Notice in accordance with <i>Charges Resolution No. 5</i> .

## ISSUES, RISKS AND RESPONSES – ASSESSMENT

### Categorising Instrument – *Planning Regulation 2017*:

PLANNING REGULATION 2017	
<i>Prohibited Development</i>	The proposed development is not prohibited development in accordance with the <i>Planning Regulation 2017</i> .
<i>Infrastructure Charges</i>	The <i>Planning Regulation 2017</i> provides for the levying of infrastructure charges on development approvals.
<i>Schedules 9 and 10</i>	Schedules 9 and 10 categorises particular development and details the relevant assessment benchmarks for development as relevant.  The proposed development is not for Reconfiguring a Lot as defined in Part 1 of Schedule 12A of the Regulation.

REGIONAL PLANS	
<i>Shaping SEQ – South East Queensland Regional Plan 2023</i>	The subject site is mapped within the bounds of the <i>Shaping SEQ – South East Queensland Regional Plan 2023</i> (SEQRP). The SEQRP identifies that the subject site is within the Urban Footprint, which is intended to identify the land required for the region’s urban development needs up to 2041.  The proposal involves a residential use within an area suitable for such purposes. The development application is consistent with the intent for the

	Urban Footprint as it consolidates urban development within established communities.
<i>Darling Downs Regional Plan October 2013</i>	The Darling Downs Regional Plan 2013 (DDRP) is a statutory regional plan that is intended to provide planning policy to address planning matters that are of State interest and specific to the Darling Downs region. The proposed site is located within the Restricted Area (RA) 384.

<b>STATE PLANNING POLICY (SPP)</b> <i>July 2017</i>	
<b>Interests</b>	<b>Assessment Comments</b>
Housing Supply and Diversity	Complies – the proposed development provides for additional land for housing in an area that is accessible and well-connected to services, employment and infrastructure. The proposed subdivision provides for an appropriate mix of lot sizes consistent with the zoning of the land.
Livable Communities	<p>While the assessment benchmarks are not applicable, the State interest policies identified in Part E of the SPP are considered to be relevant to the proposed development. Therefore, the policies have been given due regard as follows:</p> <p>Complies – the proposed development consolidates urban development in and around existing settlements. The proposed subdivision layout values and nurtures the local landscape character and natural environment.</p>
Agriculture	<p>The interactive mapping which accompanies the SPP identifies that this interest is applicable to the subject property.</p> <p>The subject site is mapped as containing 'Important Agricultural Areas' and 'Agricultural Land Classification (Class A and B)'. However, the State interest policies identified in Part E of the SPP are not considered to be relevant or applicable as the proposal is for the reconfiguration of land within the urban extent of Toowoomba.</p> <p>Further, the subject premises has been identified for future residential development under both local and State planning instruments. It is noted that the land is zoned Rural Residential under the <i>Toowoomba Regional Planning Scheme 2012</i> and the land is included within the 'Priority Living Area' under the <i>Darling Downs Regional Plan 2013</i>.</p>
Development and Construction	Complies – the proposed development contributes to a sufficient supply of suitable land for residential development on appropriately zoned land that considers the physical constraints of the land and availability of and proximity to existing essential infrastructure.
Mining and Extractive Resources	No applicable assessment benchmarks or State interest policies.
Tourism	No applicable assessment benchmarks or State interest policies.
Biodiversity	The interactive mapping which accompanies the SPP identifies that this interest is applicable to the subject property. Complies with State interest policies.
Cultural Heritage	No applicable assessment benchmarks or State interest policies.
Water Quality	No applicable assessment benchmarks or State interest policies.
Emissions and Hazardous Activities	No applicable assessment benchmarks or State interest policies.
Natural Hazards, Risk and Resilience	The development complies with this interest of the SPP.
Energy and Water Supply	No applicable assessment benchmarks or State interest policies.
Infrastructure Integration	No applicable assessment benchmarks. Complies with all relevant State interest policies.
Transport Infrastructure	No applicable assessment benchmarks. Complies with all relevant State interest policies.
Strategic Airports and Aviation Facilities	This State interest applies to all local government areas that contain or are impacted by a strategic airport in Table 2: strategic airports and therefore the State interest policies and assessment benchmarks identified in Part E of the SPP are considered to be relevant to the proposed development.

	The proposed development is considered to comply with, or relevant conditions have been recommended to ensure compliance with the assessment benchmarks in Part E of the SPP.
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**Local Categorising Instrument – Toowoomba Regional Planning Scheme 2012:**

The proposed development was assessed against the following assessment benchmarks:

- Rural Residential Zone Code
- Reconfiguring a Lot Code
- Airport Environs Overlay Code
- Environmental Significance Overlay Code

The development was assessed against all of the assessment benchmarks listed above and is considered to comply except as follows:

**DEVELOPMENT CODES:**

Reconfiguring a Lot Code	
Performance Outcome	Acceptable Outcome
<p>PO<sub>4</sub> All new lots provide sufficient area, frontage and dimensions, and road access that enable their future development to achieve relevant outcomes in applicable Use, Zone, Overlay, and Other Development Codes in relation to:</p> <ul style="list-style-type: none"> <li>(a) dwellings, buildings and/or other structures</li> <li>(b) setbacks ;</li> <li>(c) landscaping;</li> <li>(d) on site car parking and vehicle access;</li> <li>(e) recreation areas (private open space);</li> <li>(f) cultural heritage and character streetscape values;</li> <li>(g) other design criteria.</li> </ul>	<p>AO<sub>4.1</sub> All lots are rectangular and have minimum width to depth ratios, areas, dimensions and frontages as prescribed in Table 9.4.5:4.</p>
Alternate Outcome	
<p>The applicant submits:</p> <p><b>“Complies:</b> <i>All proposed lots are rectangular in configuration and have dimensions that comply with Table 9.4.5:4.”</i></p>	
Officer Comment	
<p>The proposed development does not comply with AO<sub>4.1</sub> as proposed Lots 2, 6, 7 and 11 are not strictly rectangular.</p> <p>The proposed lot designs and subdivision layout provides sufficient area, frontage and dimensions, and road access that enable future development to achieve relevant outcomes in applicable Use, Zone, Overlay, and Other Development Codes. All proposed lots have an area which significantly exceeds the minimum area requirement, allowing for adequate area and siting to accommodate future development, buildings and/or other structures. The proposed lots are considered to provided sufficient area for landscaping, on site car parking and vehicle access and recreation areas (private open space).</p> <p>It is considered that the proposed development satisfies Performance Outcome PO<sub>4</sub>. The proposed development provides sufficient area and lot frontage to adequately accommodate future development.</p>	

**Local Categorising Instrument – Variation Approval:**

Not Applicable

**Local Categorising Instrument – Temporary Local Planning Instrument:**

Not Applicable

**Local Categorising Instrument – Preliminary Approval:**

Not Applicable

**Local Categorising Instrument – Local Government Infrastructure Plan:**

The site is located within Council's identified Priority Infrastructure Area. No future priority infrastructure is mapped on or adjacent to the subject site under Council's LGIP mapping or schedule of works.

**Other Relevant Matters**

Not Applicable

**FINANCIAL / RESOURCE IMPLICATIONS**

Infrastructure charges will be applied in accordance with Council's *Charges Resolution No.5*.

**Human Rights Act 2019 CONSIDERATIONS**

The *Human Rights Act 2019* provides that it is unlawful for a public agency to act or make a decision in a way that is not compatible with human rights, or to fail to give proper consideration to a human right. This necessitates understanding the human rights that are protected. When making decisions or taking actions, consideration needs to be given to how that may impact on a person's human rights. Where there is a restriction on a person's human rights the restriction must be no greater than is justifiable to protect the rights of others or the community at large.

In assessing this application consideration has been given to the following section/s of the *Human Rights Act 2019*:

Section 15 – Recognition and equality before the law  
Section 24 – Property rights

It is the opinion of the decision maker that no human rights have been limited.

**CONCLUSION**

The development has been assessed with regard to the applicable assessment benchmarks as identified within this report and the attached Statement of Reasons (refer to Schedule 1). The proposed development generally complies with the assessment benchmarks or it can be conditioned to comply. Where the applicant has not provided sufficient information, conditions have been imposed to ensure compliance. It is therefore recommended that the development application be approved subject to the conditions identified above.

**ATTACHMENT/S**

Attachment	1	of	3	Aerial Imagery of Subject Site
Attachment	2	of	3	Zoning, Infrastructure and Terrain Map
Attachment	3	of	3	Proposed Subdivision

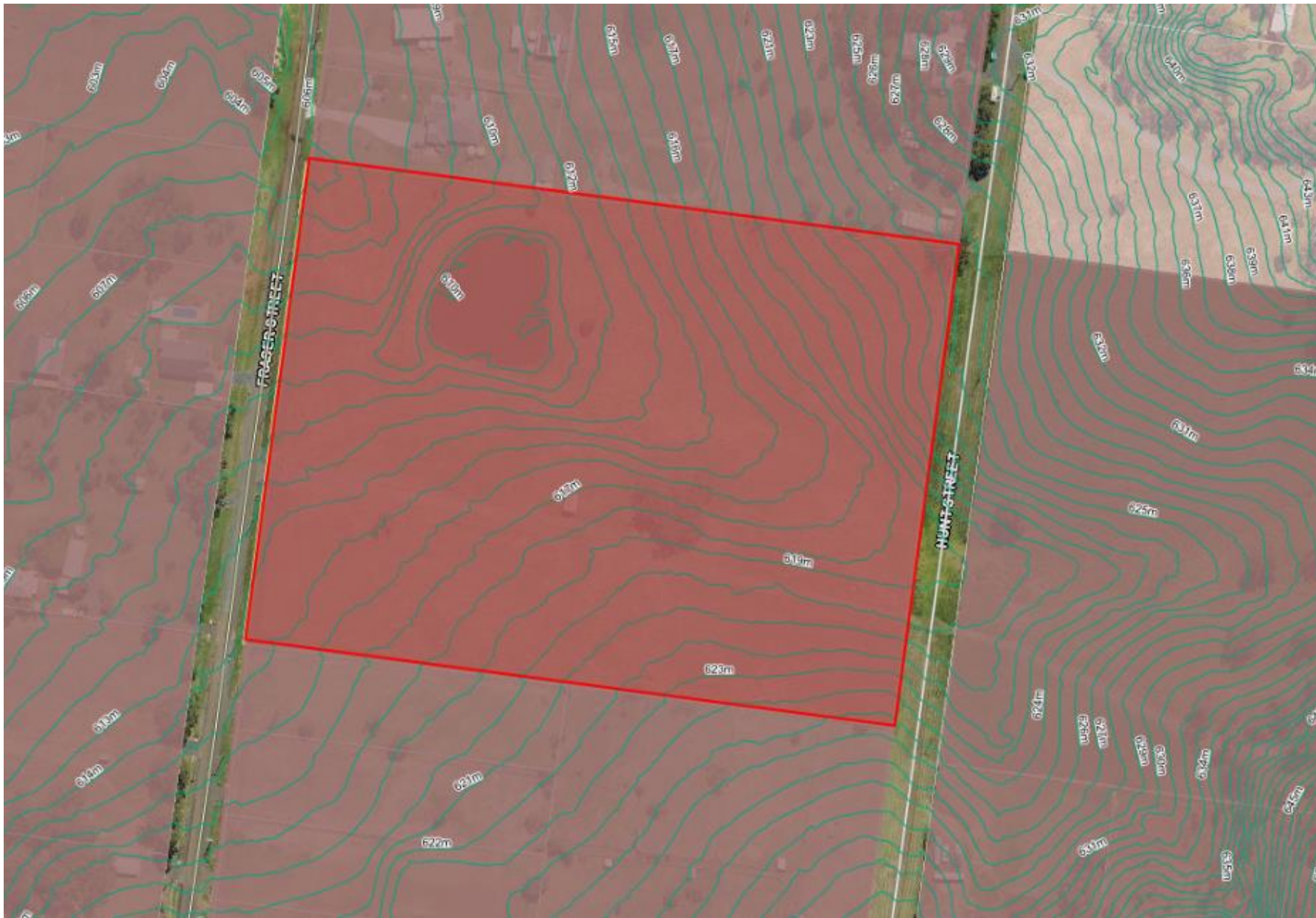
**SCHEDULES**

Schedule 1 Statement of Reasons

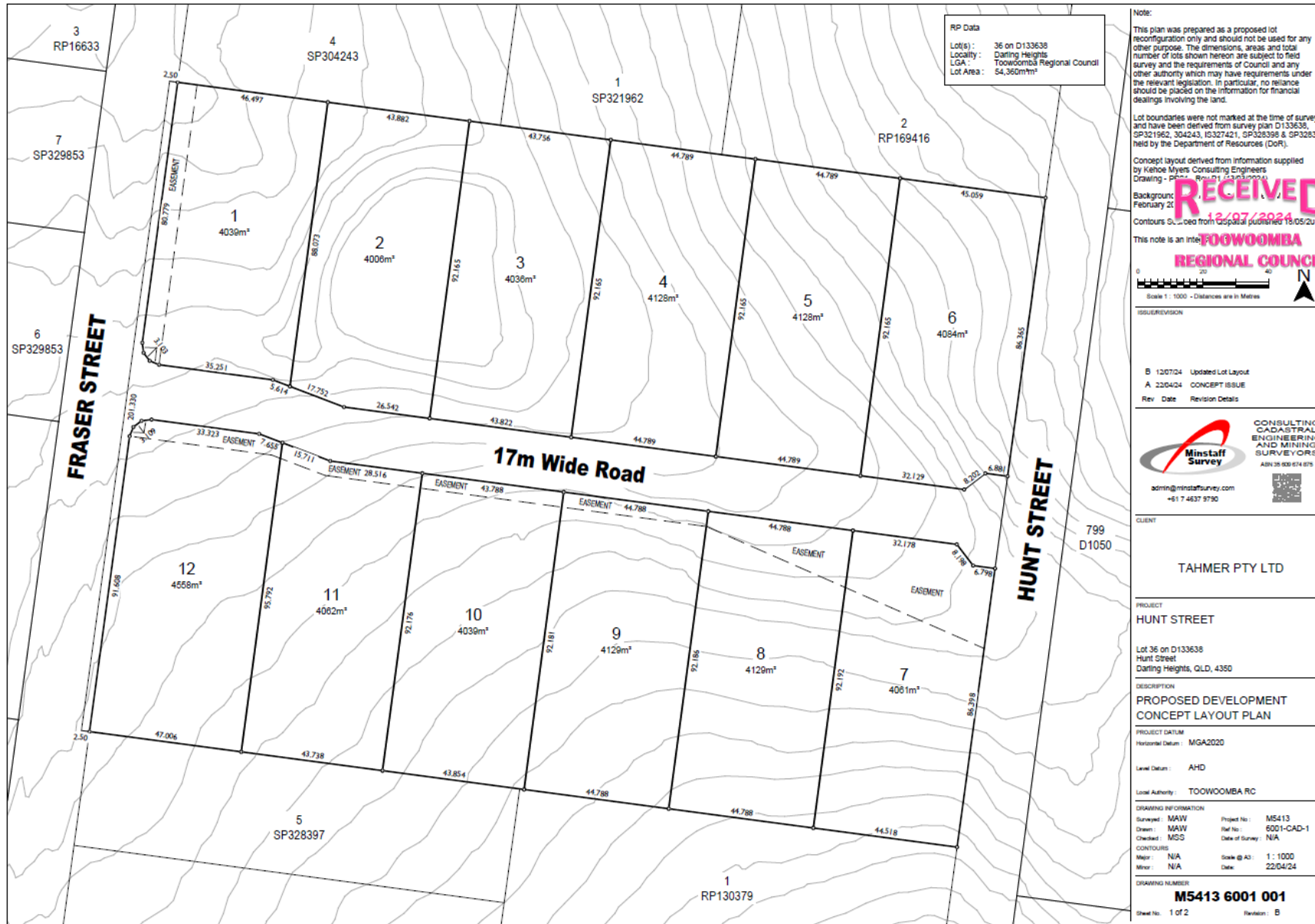
**ATTACHMENTS**



Attachment 1 of 3 Aerial Imagery of Subject Site



Attachment 2 of 3 Zoning, Infrastructure and Terrain Map



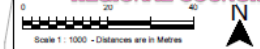
Note:  
 This plan was prepared as a proposed lot reconfiguration only and should not be used for any other purpose. The dimensions, areas and total number of lots shown hereon are subject to field survey and the requirements of Council and any other authority which may have requirements under the relevant legislation. In particular, no reliance should be placed on the information for financial dealings involving the land.

Lot boundaries were not marked at the time of survey and have been derived from survey plan D133636, SP321962, 304243, IS327421, SP328396 & SP328397 held by the Department of Resources (DoR).

Concept layout derived from information supplied by Kehoe Myers Consulting Engineers  
 Drawing - P1001 - Rev 01 (22/04/24)

Background February 2024  
 Contours Sourced from Topographic published 18/05/2018

This note is an integral part of the plan.  
**TOOWOOMBA REGIONAL COUNCIL**



ISSUE/REVISION
B 12/07/24 Updated Lot Layout
A 22/04/24 CONCEPT ISSUE
Rev Date Revision Details

**Minstaff Survey**  
 CONSULTING CADASTRAL ENGINEERING AND MINING SURVEYING SERVICES  
 ABN 35 938 674 875  
 admin@minstaffsurvey.com  
 +61 7 4637 9790

CLIENT  
 799 D1050  
**TAHMER PTY LTD**

PROJECT  
**HUNT STREET**  
 Lot 36 on D133636  
 Hunt Street  
 Darling Heights, QLD, 4350

DESCRIPTION  
**PROPOSED DEVELOPMENT CONCEPT LAYOUT PLAN**

PROJECT DATUM  
 Horizontal Datum : MGA2020

Level Datum : AHD  
 Local Authority : TOOWOOMBA RC

DRAWING INFORMATION  
 Surveyed : MAW Project No : M5413  
 Drawn : MAW Ref No : 6001-CAD-1  
 Checked : MSS Date of Survey : N/A  
 CONTOURS  
 Map : N/A Scale @ A3 : 1: 1000  
 Minor : N/A Date : 22/04/24

DRAWING NUMBER  
**M5413 6001 001**  
 Sheet No : 1 of 2 Revision : B

## **SCHEDULE 1**

### **Statement of Reasons**

**Statement of Reasons**  
Section 63(4) and (5) of the *Planning Act 2016*

SITE DETAILS	
Site Address	Hunt Street, DARLING HEIGHTS QLD 4350
Real Property Description	Lot 36 D133638
Site Area	5.463 ha.
Owner	Tahmer Pty Ltd

PROPOSED DEVELOPMENT	
Name of Applicant	Tahmer Pty Ltd
Type of Application	Reconfiguring a Lot
Proposed Development	One (1) Lot into Twelve (12) Lots
Level of Assessment	Code Assessable
Gross Floor Area	Not Applicable
Impervious Area	Not Applicable
Site Cover	Not Applicable
Car Parking Spaces	Not Applicable
Service Vehicle Provision	Not Applicable
Submissions Received	Objection: Not Applicable
	Support: Not Applicable
Decision	Approval
Decision Date	23 August 2024

ASSESSMENT MATTERS	
Assessment benchmarks	<p>The proposed development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> <li>• Schedules 9 and 10 of the <i>Planning Regulation 2017</i> (as relevant);</li> <li>• <i>State Planning Policy July 2017</i> (as relevant);</li> <li>• South-east Queensland Regional Plan ShapingSEQ 2023 (as relevant);</li> <li>• The Local Government Infrastructure Plan; and</li> <li>• <i>Toowoomba Regional Planning Scheme 2012</i> (Version 28) <ul style="list-style-type: none"> <li>○ Rural Residential Zone Code</li> <li>○ Reconfiguring a Lot Code</li> <li>○ Airport Environs Overlay Code</li> <li>○ Environmental Significance Overlay Code</li> </ul> </li> </ul>
Reasons for decision	The development was assessed against all of the assessment benchmarks listed above and complies with all of these.

For further details on the assessment of this development application, please see the Delegated Report available for public viewing on the Toowoomba Regional Council Planning and Development Online website at: <https://developmenti.tr.qld.gov.au/>. When accessing Council's website please use the following Application Number: RAL/2024/2088.