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| REPORT TITLE    | Assessment of Change Application regarding a development approval for Preliminary Approval for a Variation Request, a Development Permit for Reconfiguring a Lot (Community Title Subdivision) - Two (2) into 64 Lots and Development Permit for Reconfiguring a Lot Two (2) Lots into 12 Lots - Impact and located at Lot 5 SP194434, 574-608 South Street and Lot 20 D133639, 87-145 Euston Road, GLENVALE QLD 4350 |
| AUTHOR          | Principal Planner (Krys den Hertog)   |
| Application No. | MCUI/2017/5690/C & RAL/2017/5693/D  |

## PURPOSE OF REPORT

To consider a change application regarding a development approval for Preliminary Approval for a Variation Request, a Development Permit for Reconfiguring a Lot (Community Title Subdivision) - Two (2) into 64 Lots and Development Permit for Reconfiguring a Lot Two (2) Lots into 12 Lots - Impact and located at Lot 5 SP194434, 574-608 South Street and Lot 20 D133639, 87-145 Euston Road, GLENVALE QLD 4350.

## EXECUTIVE SUMMARY

On 17 April 2019 Council approved development application MCUI/2017/5690 & RAL/2017/5693 for a Preliminary Approval for a Variation Request, a Development Permit for Reconfiguring a Lot (Community Title Subdivision) - Two (2) into 64 Lots and Development Permit for Reconfiguring a Lot Two (2) Lots into 12 Lots - Impact and located at Lot 5 SP194434, 574-608 South Street and Lot 20 D133639, 87-145 Euston Road, GLENVALE QLD 4350.

On 26 June 2019 representations (MCUI/2017/5690/B & RAL/2017/5693/B) seeking a Negotiated Infrastructure Charges Notice were withdrawn by the applicant.

On 17 January 2020 change representations (MCUI/2017/5690/A & RAL/2017/5693/A) were approved and a Negotiated Decision Notice was issued by Council.

On 15 January 2021 conversion application (RAL/2017/5693/C) was submitted to Council. At the date of this report a decision had not been made for the conversion application and an Infrastructure Agreement (IA) was being progressed instead.

On 14 October 2022 Site Plan SK-01, Revision E, Proposed Residential Subdivision, prepared by AM Civil Consulting Engineers and dated 19 September 2016 was approved by Council as Generally in Accordance (GIA) with the approved plans.

On 25 October 2023 this change application (MCUI/2017/5690/C & RAL/2017/5693/D) was submitted. This change application seeks to do two (2) things, each of which are considered acceptable:

1. Annotate anticipated built form for the residential lots on the approved site plan (GIA Site Plan SK-01, Revision E). The annotations are for "Detached dwellings", "Duplex dwellings" and "Multiple dwellings". These annotations do not offend the preferred built form identified for the relevant precinct in the Variation Scheme Document; and
2. Amend Condition 24 of RAL/2017/5693/A so that a sewer pump station is located on a freehold title dedicated to Council, instead of an easement. This will result in the creation of one (1) additional utility lot to be dedicated to Council.

The proposed changes along with consequential changes to conditions of approval are recommended to be approved subject to the amendments identified in the recommendation.

## RECOMMENDATION

**APPROVED** – Change Application MCUI/2017/5690/C & RAL/2017/5693/D regarding a Preliminary Approval for a Variation Request, a Development Permit for Reconfiguring a Lot (Community Title Subdivision) - Two (2) into 64 Lots and Development Permit for Reconfiguring a Lot Two (2) Lots into 12

Lots - Impact, pursuant to the provisions of Section 81 of the *Planning Act 2016* and subject to the amendments listed below.

A revised Infrastructure Charges Notice may be issued in relation to the changes to the development approval.

## ASSESSMENT MANAGER CONDITIONS

### PART 1 – PRELIMINARY APPROVAL FOR VARIATION APPROVAL

#### PLANNING

#### PARAMETERS OF APPROVAL

1. All future development within the Variation Approval Area 'Glenvale Willows Estate Variation Scheme Area' must be undertaken in accordance with the provisions of the Variation Approval Document 'Glenvale Willows Estate Variation Scheme', dated October 2018 (as amended) and the applicable Codes and Planning Scheme Policies contained in the *Toowoomba Regional Planning Scheme 2012 (Version 17)* subject to the following amendments to the Variation Approval Document:
  - 1.1. McDougall Street frontage – dedication of additional road reserve to accommodate the changed alignment of McDougall Street as per Condition 17 of the development permit for RAL/2017/5693;
  - ~~1.2. Public Open Space adjacent to Precinct 1 – width increased to make future provision for infrastructure associated with the Principal Cycle Network as per Condition 101 of the development permit for RAL/2017/5693;~~
  - ~~1.3. Public Open Space Precinct – area increased to reflect amended Public Open Space area requirements as per Condition 128 of the development permit for RAL/2017/5693;~~
  - 1.4. Amend Tables of Assessment to reflect the following:
    - ~~1.4.1. Identify the Glenvale Local Plan Code as an applicable assessment benchmark within the Material Change of Use Assessment Tables for all uses in all precincts, if assessable development.~~
    - 1.4.2. In Table 1 Precinct 1 (Low Density Residential) – In the section corresponding with the use 'Dual Occupancy' delete the following headings and associated criteria; Accepted Development, Accepted development subject to requirements and Code assessment;
    - 1.4.3. In Table 1 Precinct 1 (Low Density Residential) – In the row corresponding with the use 'Dual Occupancy' include the following wording "Applicable Categories of development and assessment and Assessment Benchmarks for Dual Occupancy within the Low Density Residential Precinct are as per the requirements for Low Density Residential Zone outlined in the Temporary Local Planning Instrument 01/2018 (Dual Occupancy) commenced on 21 December 2018. Where the Temporary Local Planning Instrument 01/2018 (Dual Occupancy) is no longer in effect, refer to the Planning Scheme in effect at the time."; and
    - 1.4.4. In Table 1 Precinct 2 (Low-Medium Density Residential Estate) – In the section corresponding with the use 'Dual Occupancy' delete the following headings and associated criteria; Accepted Development, Accepted development subject to requirements and Code assessment; and
    - 1.4.5. In Table 1 Precinct 2 (Low-Medium Density Residential Estate) – In the row corresponding with the use 'Dual Occupancy' include the following wording "Applicable Categories of development and assessment and Assessment Benchmarks for Dual Occupancy within the Low-medium Density Residential Estate Precinct and Assessment Benchmarks are as per the requirements for Low-medium Density Residential Zone outlined in the Temporary Local Planning

Instrument 01/2018 (Dual Occupancy) commenced on 21 December 2018. Where this Instrument is no longer applicable, refer to the Planning Scheme in effect at the time.”.

- 1.5. Amend the Variation Approval Document to reflect the amended precinct boundaries resulting from amendments required by conditions of this approval or related development permit RAL/2017/5693 including public open space, drainage reserve and the layout of lots 65-75.
- 1A. The development may be carried out generally in accordance with the Approved Plan listed below, subject to the conditions of this Development Approval and associated Development Approval RAL/2017/5693/D:**
- Plan No: SK-01, Revision E**  
**Description: Site Plan - Proposed Residential Subdivision, prepared by AM Civil Consulting Engineers, dated 19/9/2022, and annotated to indicate possible built form in Precinct 2.**  
**Amendments: Nil**
2. The amended Variation Approval Document, Glenvale Willows Estate Variation Scheme, dated October 2018 required by Condition 1, must be submitted to the Manager, Development Services for endorsement and must be endorsed prior to the earlier of:
    - 2.1. The making of a further development permit application for development approved in this variation approval; or
    - 2.2. Commencement of any use.
  3. Where the Variation Approval Document, Glenvale Willows Estate Variation Scheme, dated October 2018 (as amended), does not state the way in which the approval will vary the effect of the Planning Scheme, the provisions contained in the *Toowoomba Regional Planning Scheme 2012 (Version 17)* will take effect.
  4. Unless otherwise stated, all conditions must be complied with prior to Council's endorsement of any Plan of Subdivision for RAL/2017/5693.

#### **VARIATION APPROVAL AREA**

5. The Variation Approval Area is the area identified as the 'Glenvale Willows Estate Variation Scheme Area', further summarised as the 'Variation Scheme Area' (VSA) within the endorsed Glenvale Willows Estate Variation Scheme, dated October 2018 (as amended by Condition 1).

#### **VARIATION APPROVAL DOCUMENT**

6. Where the Variation Approval Document Glenvale Willows Estate Variation Scheme dated October 2018 (as amended) is "silent" on a particular issue, the provisions contained in *Toowoomba Regional Planning Scheme 2012 (Version 17)* will take effect.
7. For the assessment of development under the Variation Approval Document Glenvale Willows Estate Variation Scheme dated October 2018 (as amended) by Council as Assessment Manager, where there is any question as to the applicability of the Variation Approval Document Glenvale Willows Estate Variation Scheme dated October 2018 (as amended) or an Applicable Planning Code or Policy, the applicability of the Variation Approval Document Glenvale Willows Estate Variation Scheme dated October 2018 (as amended) or Applicable Planning Code or Policy must be as determined by Council.
8. The Codes and Policies applicable to development within the Variation Approval Area are the *Toowoomba Regional Planning Scheme 2012 (Version 17)* Codes and Policies, unless otherwise specified in the Variation Approval Document Glenvale Willows Estate Variation Scheme dated October 2018 (as amended).
9. The category of development and assessment applicable to development within the Variation Approval Area is in accordance with the *Toowoomba Regional Planning Scheme 2012 (Version*

- 17), unless otherwise specified in the Variation Approval Document Glenvale Willows Estate Variation Scheme dated October 2018 (as amended).
10. The Variation Approval Document varies the effect of the *Toowoomba Regional Planning Scheme 2012 (Version 17)* *Toowoomba Regional Planning Scheme 2012* for the Variation Approval Area pursuant to Section 43(7) of the *Planning Act 2016* by:
    - 10.1. Changing the category of development and assessment for Precinct 1 – Low Density Residential, Precinct 2 – Low-Medium Density Residential Estate and Precinct 3 – Open Space in accordance with the Variation Approval Document Glenvale Willows Estate Variation Scheme dated October 2018 (as amended);
    - 10.2. Identifying development as Accepted Development subject to requirements, or Assessable Development (being Code Assessable) where in accordance with the table of assessment for the Zone or table of assessment for Reconfiguring a Lot;
    - 10.3. Identifying development as Assessable Development (being, Impact Assessable) if not indicated as Accepted Development subject to requirements, or Assessable Development (being, Code Assessment) within the table of assessment for the Zone or table of assessment for Reconfiguring a Lot; and
    - 10.4. Providing Statements of Intent different from those contained within the *Toowoomba Regional Planning Scheme 2012 (Version 17)* for Precinct 1 – Low Density Residential, Precinct 2 – Low-Medium Density Residential Estate and Precinct 3 – Open Space as identified within the Variation Approval Document Glenvale Willows Estate Variation Scheme dated October 2018 (as amended).
  11. The category of development and assessment for future Development Applications for Building Work, Operational Work, Material Change of Use and Reconfiguration of a Lot within the Variation Approval Area must be in accordance with the category of development and assessment specified within the Variation Approval Document Glenvale Willows Estate Variation Scheme dated October 2018 (as amended).

## CURRENCY PERIOD

12. This Variation Approval has a currency period of 5 years from the date this Development Approval starts to have effect.

## PREFERRED USES

13. The preferred uses are those identified in the table of assessment for the relevant Precinct identified within the Variation Approval Document Glenvale Willows Estate Variation Scheme dated October 2018 (as amended) for Material Change of Use and being consistent with the Statement of Intent in s3.2.2 for the relevant precinct, being Precinct 1 – Low Density Residential, Precinct 2 – Low-Medium Density Residential Estate and Precinct 3 – Open Space.

## PART 2 – DEVELOPMENT PERMIT FOR RECONFIGURATION OF A LOT

### PLANNING

#### APPROVED DEVELOPMENT

1. This Development Approval is for Reconfiguring a Lot being Two (2) Lots into ~~Seventy-Seven (77)~~ Seventy-six (76) Lots, which will include:
  - 1.1. Sixty-Four (64) Community Title Lots and Common Property, subject to the following descriptions:
    - 1.1.1. Lots 1 – 64 are approved as “community title lots”;
    - 1.1.2. Lot described as “common facilities with land area of 931m<sup>2</sup>” is approved as “common property lot”; and

- 1.1.3. Area described as Road 2, Road 3, Road 4 and Private Open Space is approved as "common property lot".
- 1.2. Standard format lots residential lots (described as Lots 65- 76 75) and as modified by the conditions of this approval;
- 1.3 A Balance Lot, being what is currently described as Lot 20 D133639; ~~and~~
- 1.4 Open Space (district linear open space corridor), drainage reserve, and road reserve (including additional road reserve as required by Condition 17 and 18); ~~and~~
- 1.5 **Additionally, a Sewer Pump Station Lot as described in Condition 24.**

#### **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/s of Subdivision prior to registration with the Department of Natural Resources, Mines and Energy.
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.-2-

#### **COMMUNITY TITLE**

5. Prior to Council's endorsement of the Plan of Survey to create the community title scheme/s, submit to Council for endorsement a community management statement.
6. Site access, internal streets, on-street vehicle parking, landscaping, open space and other physical elements of the development, including all infrastructure within the Variation Approval Area must be designated within common property within community title schemes and all repair, maintenance and replacement must be the responsibility of the relevant body corporate(s).
7. The overall development within the Variation Approval Area must be controlled by a controlling (parent) body corporate which will ensure the integration and coordination of development within the Variation Approval Area in accordance with the approved Variation Approval Document Glenvale Willows Estate Variation Scheme dated October 2018 (as amended).
8. The Community Management Statement must receive endorsement by Council prior to issue of any Plan of Survey endorsement.
9. The Community Management Statement(s) must appropriately reflect the description of all subject land as detailed within Condition 1.1 of this approval and ensure consistency of built form and landscape outcomes throughout the Variation Approval Area.

#### **APPROVED PLANS**

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

**Plan No:** C-SK0103 Revision E  
**Description:** Preliminary Lot Layout prepared by RMA Engineers and dated 9/10/2018  
**Amendments:** As per Condition 18, ~~101, 102,~~ and 110 ~~and 128~~. Amend to reflect lot layout of Lots 65 to 76, public open space, drainage reserve and Road 1 as defined on Plan SK01 Revision B. Notate lot areas on the plan.

**Plan No:** SK01 Revision B  
**Description:** Preliminary Site Plan prepared by AM Civil and dated 24/10/2019  
**Amendments:** As per Condition 19. Exclude Lots 1 to 64 from this plan as these are defined on Plan C-SK0103 Revision E. Amend the north-western boundary

of Lot 65 by increasing the adjacent open space width to ensure sight distance and lateral clearance to enable a cyclist to see approaching path users and stop and avoid a collision with a pedestrian or cyclist.

- Plan No:** SK02 Revision B  
**Description:** Future Shared Path Preliminary Layout Plan prepared by AM Civil and dated 24/10/2019  
**Amendments:** Amend the north-western boundary of Lot 65 by increasing the adjacent open space width to ensure sight distance and lateral clearance to enable a cyclist to see approaching path users and stop/ avoid a collision with a pedestrian or cyclist.
- Plan No:** SK06 Revision B  
**Description:** Future McDougall Street Cross Sections Sheet 1 prepared by AM Civil and dated 24/10/2019  
**Amendments:** Nil
- Plan No:** SK07 Revision B  
**Description:** Future McDougall Street Cross Sections Sheet 2 prepared by AM Civil and dated 24/10/2019  
**Amendments:** Nil
- Plan No:** SK08 Revision B  
**Description:** Future McDougall Street Cross Sections Sheet 3 prepared by AM Civil and dated 24/10/2019  
**Amendments:** Nil
- Plan No:** SK09 Revision B  
**Description:** Future McDougall Street Preliminary Cross Sections Sheet 4 prepared by AM Civil and dated 24/10/2019  
**Amendments:** Nil
- Plan No:** SK10 Revision B  
**Description:** Future McDougall Street Preliminary Cross Sections Sheet 5 prepared by AM Civil and dated 24/10/2019  
**Amendments:** Nil

11. Plans to be amended must only incorporate the amendment(s) listed within this Development Approval and must be resubmitted to Council for approval prior to the issue of any Operational Works approval, Building Works approval or Council's approval of plumbing and drainage works, or prior to commencement of use, or prior to Council's approval of the Plan of Subdivision, whichever occurs first.

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

12. Prepare and submit applications to Council and obtain Operational Works approval for the following:
- 12.1. Roadworks;
  - 12.2. Bulk Earthworks;
  - 12.3. Stormwater;
  - 12.4. Wastewater Infrastructure; and
  - 12.5. Water Infrastructure.

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

13. Prepare and submit the following documents in accordance with the conditions of this Development Approval and obtain Council's endorsement:

- 13.1. Construction Environmental Management Plan;
- 13.2. Contaminated Land Survey;
- 13.3. Detailed Stormwater Management Plan;
- 13.4. Bushfire Management Plan;
- 13.5. Community Management Statement; and
- 13.6. Landscape Plan.

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

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

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

- 15. 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**

#### **FEES AND CHARGES**

- 16. 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.

#### **DEDICATION OF LAND**

- 17. The land area defined by a strip 2.5m wide along the frontage of South Street must be dedicated as road reserve in accordance with the requirements of the Department of Natural Resources, Mines and Energy.

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

- 18. Dedicate road reserve along the development frontage of McDougall Street for ~~both~~ Lot 5 SP194434 and Lot 20 D133639 for the realignment of McDougall Street as defined by the Approved Plans. ~~the New Road Boundary on Drawing 41-31590-C101 McDougall Street Extension Option A Layout and Longitudinal Section prepared by GHD and dated 16/3/2018 (DM#8518854). In addition the New Road Boundary between ch63 and ch160 must be widened as required to allow for the construction of a 1 on 4 batter within the road reserve. Amend the preliminary lot layout to reflect the road reserve requirements for McDougall Street.~~

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

- 19. The land area identified as Road 1 (including cul-de-sac) on the Approved Plans must be dedicated as road reserve in accordance with the requirements of the Department of Natural Resources, Mines and Energy. A three equal chord 6m radius curve truncation must be provided on both ~~lots~~ Lot 5 SP194434 and Lot 20 D133639 where Road 1 intersects with McDougall Street.

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

- 19A. The land area identified as Drainage Reserve on the Approved Plans must be dedicated in fee simple on trust for stormwater drainage purposes. Submit to Council a Solicitor's Undertaking to register the transfer of the lot to Council at the same time as the registration of the Survey Plan

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

- 19B. The land area required for Sewer Pump Station described in Condition 24 must be dedicated to Council as a freehold lot in accordance with the requirements of the Department of Resources.**

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

20. Meet all costs associated with the transfer of land dedicated to Council.
21. All land dedicated for **sewer pump station**, drainage and 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.
22. All land dedicated for **sewer pump station**, drainage and road reserve must not be financially encumbered (e.g. mortgaged) unless otherwise approved by the conditions of this Development Approval.

## EASEMENTS

23. An easement for stormwater drainage purposes must be registered in favour of Council against the title of all lots required to drain stormwater from South Street, Lot 19 SP283662 and Lot 1 RP187767 to the proposed Public Open Space (district linear open space corridor). The easement width must be by design as outlined in PSP No 2 Engineering Standards Roads and Drainage Infrastructure and included on the Plan of Subdivision for Council's approval.
24. An easement for sewerage drainage purposes must be registered in favour of Council against the title of all private property that contain gravity sewers greater than 225mm diameter, ~~the proposed pump station on lot 20 D133639~~ and the sewer rising main from the proposed pump station to the existing pump station on Lot 6 SP194434. The location and width of the easements is subject to detailed design. The plan of survey for registration must be lodged prior to acceptance of the works on-maintenance **and the said plan must show the proposed pump station located on a freehold title with a minimum area of 625m<sup>2</sup> and minimum dimensions of 25m x 25m, for dedication to Council at the time of registration of the plan with the Department of Resources.**
25. 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.
26. Where Council is the Grantee, the easement documentation must be prepared and submitted to Council for endorsement at no cost to Council.
27. 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.

## WORKS

### PERMANENT SURVEY MARKS

28. A total of one (1) Permanent Survey Mark (PSM) must be supplied and connected to Australian Height Datum and provided in the following locations:
- 28.1. The intersection of McDougall Street and Road 1
29. Documentation detailing placement of the PSM must be lodged with Council at the time of lodgement of the Plan of Subdivision.

### ENGINEER'S CERTIFICATION AND SUPERVISION OF WORKS

30. Plans and specifications for all works associated with earthworks, roadworks, stormwater drainage, wastewater, and water reticulation, or any other works required on Council infrastructure, must be prepared and certified by a Registered Professional Engineer Queensland - Civil (RPEQ).

31. A RPEQ must submit to Council a copy of the:
  - 31.1. Design Certificate prior to commencement of the works; and
  - 31.2. Construction Supervision Certificate upon completion of the works certifying that works are in accordance with the approved plans and specifications.
32. 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.
33. 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**

34. 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 an Operational Works approval.

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

35. Prior to the commencement of any works on the subject land, an Operational Works application 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.
36. Submit to Council for approval, as part of the Operational Works application stormwater design details 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) and State Planning Policy July 2017 demonstrating the following:
  - 36.1. Stormwater is conveyed to a lawful point of discharge in accordance with the stormwater discharge conditions of this Development Approval;
  - 36.2. The achievement of Water Sensitive Urban Design objectives listed in *PSP No. 2 Engineering Standards Roads and Drainage Infrastructure* and *State Planning Policy July 2017*.

*Note: Stormwater quality treatment associated with the community title subdivision must be provided on-site and operated and maintained by the property owner.*

*Note: The waterway that traverses the development site is a moderate impact waterway for waterway barrier works and will trigger a referral to the state government at the operational works stage of the development.*

### **EARTHWORKS – POTENTIAL CONTAMINATED LAND**

37. A Contaminated Land Survey is to be completed by a suitably qualified person for the spoil stockpiles in the northeast corner of the site. This survey is to include land under and around the stockpile to ensure any possible contamination has not leached into surrounding soil. This Contaminated Land Survey must be submitted to Council for endorsement prior to lodgement of Operational Works.

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

38. All cut, fill and associated batters must be undertaken in accordance with an Operational Works approval and contained entirely within the subject land.
39. In conjunction with an application for an Operational Works approval, submit to Council the following:

- 39.1. A Geotechnical Report prepared by a qualified person and certified by a RPEQ experienced in geotechnical engineering;
- 39.2. If contamination is found as per the endorsed Contaminated Land Survey required by Condition 37, the site is to be reported, by the applicant, to the Department of Environment and Science for inclusion on the Contaminated Land Register and bulk earthworks must not commence;
- 39.3. Once any contamination is removed, application must be sought from DES to remove the site from the Contaminated Land Register;
- 39.4. The spoil stockpiles located at the northeast corner of the site, regardless of whether contaminated or not, must be returned to natural elevations or in compliance with any approved Landscape Plan for Public Open Space use;
- 39.5. Design details of any retaining walls required at lot boundaries;
- 39.6. Details of the location of any material to be sourced for fill, including the volume of fill to be moved from any particular source site;
- 39.7. Details of the final location for any material to be exported from the site from excavations;
- 39.8. The haulage routes that will be used. Approval for the haulage truck sizes and the final haul routes is to be obtained prior to works commencing; and
- 39.9. As relevant, details identifying the source and disposal sites for material imported or exported as part of the development. Source sites and receiving sites must have a current development approval enabling them to export and accept any material, respectively.

*Note: The waterway that traverses the development site is a moderate impact waterway for waterway barrier works and will trigger a referral to the state government at the operational works stage of the development.*

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

40. 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.
41. 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.
42. 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.
43. All disturbed areas must be mulched or turfed as soon as possible during construction. Where grass seeding is undertaken, appropriate measures must be in place until the establishment of suitable ground cover.
44. 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.

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

45. Protect Council and public utility services and assets during construction of the development.

46. 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:
  - 46.1. Where the damage would cause a hazard to pedestrian or vehicle safety or interrupts a service to the community, immediately; or
  - 46.2. 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.
47. 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.
48. Construction, alterations and any repairs to Council infrastructure is undertaken in accordance with the *Planning Scheme Policy PSP No. 4 - Development Near Utility Services*.

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

### **CONSTRUCTION WASTE MANAGEMENT & STORAGE**

49. 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*.
50. 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 2008*.
51. Fires are not to be lit to dispose of demolition or construction waste.
52. 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:
  - 52.1. Elsewhere within this Development Approval;
  - 52.2. In accordance with an associated Operational Works approval;
  - 52.3. In association with and in accordance with an Environmental Authority issued under the *Environmental Protection Act 1994*;
  - 52.4. 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
  - 52.5. In accordance with a written approval issued by Council under the *Environmental Protection Regulation 2008* relating to the depositing or disposal of general waste from a premises not serviced by Council.
53. Demolition, excavation and construction waste (including night soil) must not be placed or stored within the road reserve at any time.

### **CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN**

54. Prior to the issue of any Operational Works approval, submit to Council for endorsement a site-specific Construction Environmental Management Plan prepared by a qualified person that at a minimum includes the following:
  - 54.1. Hours of operational work activity;
  - 54.2. Air quality management - emission monitoring;

- 54.3. Noise and vibration management;
  - 54.4. Construction site lighting (where night works are proposed to occur);
  - 54.5. Stormwater quality management;
  - 54.6. Erosion and sediment control management;
  - 54.7. Waste management;
  - 54.8. Construction traffic management;
  - 54.9. Complaint management;
  - 54.10. Community awareness; and
  - 54.11. Preparation of site work plans.
- 55. The Construction Environmental Management Plan must receive endorsement by Council prior to issue of any Building Works approval or Operational Works approval.
  - 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.

## SERVICES & UTILITIES

### WASTEWATER INFRASTRUCTURE (GENERAL)

- 58. The subdivision must be connected to Council's wastewater reticulation (to the proposed wastewater pump station (SPS56) on Lot 20 D133639) at no cost to Council. This includes augmentation works external to the development as required to adequately service the development.

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

*Note: Council will only provide a single sewer connection point for the proposed community title subdivision (Precinct 2 – 64 lots). All sewers upstream of the sewer connection point are private sewers and must be operated and maintained by the property owners.*

*Note: The construction of the proposed wastewater pump station (SPS56) on Lot 20 D133639 is currently within Council's 2021 Planning Horizon strategy. However this delivery timeframe is indicative only and is subject to change without notice. Should the development proceed prior to Council delivery of the infrastructure, the applicant must construct SPS56 on Lot 20 D133639 (or at another location agreed by Council), associated gravity sewers and rising main as required to adequately service the development.*

*Note: Engineering calculation or/and report must be submitted to Council to address the size of the gravity sewer from the development site to the proposed wastewater pump station (SPS56) as part of an operational works application.*

- 59. The design and construction of the works must be in accordance with Council's *Waste Water Infrastructure Policy 2.04*.
- 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, an Operational Works application 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.

#### **WASTEWATER INFRASTRUCTURE (PUMP STATION & TELEMETRY EQUIPMENT)**

64. Construct a wastewater pump station to service the proposed subdivision on Lot 20 D133639 or at another location agreed by Council. The pump station must have adequate wet-well capacity to accept the ultimate development loading from the planned catchment between South Street and Euston Road and the current catchment draining to Council's existing wastewater pump station SPS58 on Lot 16 SP162648 and SPS57 on Lot 19 SP283662.

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

*Note: The applicant must consult the Water and Waste Services – Water Infrastructure Service to finalise the pumping flow rate of proposed wastewater pump station prior to undertaking detailed design.*

*Note: As SPS57 and SPS58 will be decommissioned following the completion of SPS56, the proposed wastewater pump station (SPS56) layout must consider how to receive flows from SPS57 and SPS58.*

65. The proposed wastewater pump station must be designed and constructed in accordance with Council's *Waste Water Infrastructure Policy 2.04, WSA 04 – Sewage Pumping Station Code of Australia* and the requirements of the Department of Natural Resources, Mines and Energy.
66. An Operational Works application must be submitted to and be approved by Council for the wastewater pump station and associated works.
67. A separate water connection fitted with backflow prevention devices must be provided for all wastewater pump stations.
68. All telemetry and electrical equipment must be installed for the pump station in accordance with Council's Specification.

*Note: A quotation may be requested from Council for the supply and installation of telemetry equipment.*

#### **WASTEWATER INFRASTRUCTURE (RISING MAIN)**

69. Any wastewater rising main that may be required in carrying out the conditions of this Development Approval must:
- 69.1. Be constructed within a drainage reserve, road reserve or open space on an approved alignment, or alternatively located within a 4m wide easement in favour of Council.
- 69.2. Be connected to the reticulated gravity wastewater system at a point of connection nominated by Council. The point of connection and any required receiving maintenance hole details must be confirmed with Council as part of the detailed engineering design process.

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

*Note: Prior to undertaking detailed design the applicant must consult the Water and Waste Services – Water Infrastructure Service to finalise the rising main size due to the low sewer demand at the early stage of SPS56 operation.*

70. An Operational Works application must be submitted to and be approved by Council for the wastewater pump station and associated works.

## **WATER SUPPLY**

71. 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. This includes augmentation works external to the development as required to adequately service the development

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

72. Council's existing reticulation main must be upgraded and/or extended in accordance with the following and at no cost to Council:

72.1. A DN150mm new water main extension must be constructed from McDougall Street along Road 1 to service Precinct 1 (12 lots); and

72.2. A DN150mm new water main extension must be constructed along South Street from Lot 31 SP217800 and connected to the Council's existing DN200mm water main currently terminated close to the road intersection of McDougall Street and South Street. Council's existing DN50mm water service pipe along South Street at the street frontage of the development site must be decommissioned by Council at no cost to Council.

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

73. As part of an operational works application the applicant is required to provide a water supply model analysis (certified by a RPEQ) demonstrating extension of Council's existing reticulation main at South Street is sufficient to cater for:

73.1. The proposed fire supply demand of the proposed 64 residential allotments (community title lots) along with the proposed fire service arrangement including connection details to Council's main; and

*Note: The community title scheme component falls into the commercial category and hence the fire flow requirement for this development must be based on the commercial category (30 L/s @12m head for 4 Hrs). Any further upgrade of Council's water infrastructure to cater for the commercial fire flow requirement must be constructed at no cost to Council.*

73.2. The domestic water demand for the Lots 1 to 64.

*Note: As the 64 residential allotments are to be developed in a community title scheme, Council will only provide a single domestic water connection for this development. Each individual tenancy or residence must be provided with a separate system for the metering of water consumption in accordance with Council's Water Infrastructure Policy 2.03 Sub metering Guidelines and Specifications.*

74. The design and construction of the works must be in accordance with Council's *Water Infrastructure Policy 2.03*.

75. Unless able to be used as part of the development, any existing connection must be disconnected at no cost to Council.

76. Any existing water supply connection traversing more than one approved lot must be disconnected and removed.

77. Certification must be provided to Council by a Licensed Plumber that the disconnection has been carried out.

78. 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.
79. Prior to the commencement of any works on the subject land, an Operational Works application must be submitted and be approved by Council for internal and external water supply works and in accordance with the approved plans and documents of this Development Approval.
80. Any works on Council's 'live' water supply 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.
81. The development's internal firefighting system for the proposed community title 64 residential lots must be designed and constructed in accordance with Council Water Infrastructure Policy and relevant Australian Standards at no cost to Council. If the internal firefighting system is proposed to connect to Council reticulation system, the applicant must confirm the compliant performance in the existing system prior to request for any fire service connections. All pressure and flow tests within Council infrastructure must be undertaken by Council at no cost to Council

*Note: If the development needs higher fire flows than what is available for the relevant land zone as per Council Water Infrastructure Policy 2.03, then the applicant is to provide fire break tanks at no cost to Council*

## **TELECOMMUNICATION**

82. Install telecommunications infrastructure to service each approved lot which complies with the following:
  - 82.1. The requirements of the *Telecommunications Act 1997 (Cth)*;
  - 82.2. For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
  - 82.3. For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line is located underground.
83. 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.
84. 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.*

*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**

85. 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.
86. 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)

87. Existing roads must be constructed and widened as follows:

**Street:** South Street (40m east of Sandalwood Drive to cul-de-sac at eastern side of Road No 2)  
**Classification:** Urban Distributor  
**Construction Standard:** One half of the road width plus one 3.5m wide traffic lane plus 0.5m sealed shoulder i.e. 10m wide

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

88. The design and construction of South Street must comply with *Planning Scheme Policy No. 2 - Engineering Standards - Roads and Drainage Infrastructure* (PSP No.2) and must include in particular:

- 88.1. Concrete kerbing and channelling (southern side);
- 88.2. 2m wide concrete footpath (southern side) including kerb ramps to connect to the existing footpath on the northern side of South Street;
- 88.3. Sealed cul-de-sac able to accommodate a refuse vehicle;
- 88.4. Tapers to match back to the existing road;
- 88.5. Underground stormwater drainage;
- 88.6. Table drain works (northern side);
- 88.7. Relocation of utility and Council services;
- 88.8. Street lighting; and
- 88.9. Give way lines and signs on the South Street leg of the Boundary Street intersection.

89. Existing roads must be constructed and widened as follows:

**Street:** McDougall Street (Tangent point south of Balaroo Drive to the northern side of Road No 1)  
**Classification:** Urban Distributor  
**Construction Standard:** Widening to 12m carriageway width (existing kerb section) or construction to 12m carriageway width (unformed section)

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

90. The design and construction of McDougall Street must comply with *Planning Scheme Policy No. 2 - Engineering Standards - Roads and Drainage Infrastructure* (PSP No.2) and must include in particular:

- 90.1. Concrete kerbing and channelling;
- 90.2. 2m wide concrete footpath (western side) including kerb ramps to connect to the existing footpath on the southern side of Balaroo Drive;
- 90.3. Vertical alignment (from ch340 to ch420) as per *Drawing 41-31590-C101 McDougall Street Extension Option A Layout and Longitudinal Section* prepared by GHD and dated 16/3/2018 (DM#8518854)
- 90.4. Tapers to match back to the existing road;

- 90.5. Underground stormwater drainage;
  - 90.6. Relocation of utility and Council services; and
  - 90.7. Street lighting.
91. 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.
  92. All street surfacing must be in accordance with the pavement construction standards in PSP No. 2.
  93. Prior to the commencement of any works on the subject land, an Operational Works application 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.
  94. The design and construction of the works must be certified by a Registered Professional Engineer Queensland (RPEQ) – Civil.

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

95. Internal roads must generally be constructed as shown on the Approved Drawing (as amended).
  96. 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:
    - 96.1. Road 1 must have an eighteen metre (18m) road reserve width, 7m wide carriageway width measured between channel inverts, and 1.5m wide footpath as per Local Access < 75 lots as shown on *Drawing 101385-001 Urban Roads Typical Cross Sections* within *PSP No2 Engineering Standards Roads and Drainage Infrastructure*. A sealed cul-de-sac must be provided at the western end of Road 1; and
    - 96.2. Roads 2, 3 and 4 must have a minimum 6 m carriageway width with additional widening on curves to accommodate a refuse vehicle as a check vehicle. The roads must be permanently surfaced. A vee roads cross section may be used in lieu of kerb and channel.
- Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.*
- Note: Only Road 1 becomes a public road maintained by Council. Roads 2 to 4 are private roads maintained by the property owner.*
97. Street surfacing for Road 1 must consist of an approved asphaltic concrete.
  98. For Road 1 verge widths, street reserve widths, and footpath must comply with Council's requirements, as set out in *Planning Scheme Policy No. 2 - Engineering Standards - Roads and Drainage Infrastructure (PSP No.2)*.
  99. Prior to the commencement of any works on the subject land, an Operational Works application must be submitted to and be approved by Council for the road works associated with Road 1 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.
  100. 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.

## EXTERNAL PEDESTRIAN & CYCLE PATHS

- ~~101. Make provision for the following works in accordance with *Planning Scheme Policy No. 2 - Engineering Standards - Roads and Drainage Infrastructure (PSP No.2), Principal Cycle Network Plan - Downs South West* and the *Austrroads Guide to Road Design Part 6A: Paths for Walking and Cycling*:~~
- ~~101.1. A 3.0m wide shared path within a minimum 15m wide corridor unless otherwise agreed by Council (Public Open Space);~~
  - ~~101.2. At a location and level that permits vertical alignment with a maximum gradient of 3%;~~
  - ~~101.3. Above the Q100 flood level;~~
  - ~~101.4. Designed for a 30km/h design speed and a minimum radius of 25m;~~
  - ~~101.5. Sight distance and lateral clearance to enable a cyclist to see approaching path users and stop and avoid a collision with a pedestrian or cyclist;~~
  - ~~101.6. Designed with a shoulder and side slope that does not require a barrier fence and can be mown with a ride on mower (1 in 6 slope);~~
  - ~~101.7. Earthworks requiring cut towards the lots rather than fill into the drainage reserve;~~
  - ~~101.8. Drainage so that water does not pond on the surface and debris does not wash onto the path during heavy rain; and~~
  - ~~101.9. Able to be constructed after the subdivision of the lots fronting the path without damage or impact on the adjacent blocks.~~
- ~~102. The public open space requirements for the Principal Cycle Network must be by design and in accordance with the parameters as defined in Condition 101 above. Amend the preliminary lot layout to reflect the open space requirements for the Principal Cycle Network. Earthworks for the 15m wide corridor must be constructed as part of the operational works for bulk earthworks and prior to endorsement of any Plan of Subdivision. Earthworks abutting the Open Space must be in accordance with *SC6.2.5.7 PSP No 2 Engineering Standards Roads and Drainage Infrastructure*. Any retaining wall greater than 1m high must be terraced according to PSP No2.~~

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

~~Note: Proposed lot 65 and 66 are likely to be required for open space purposes to satisfy the path design criteria.~~

## ROADWORKS SIGNAGE AND PEDESTRIAN SAFETY

103. 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.*
104. 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

105. 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*.

*Note: This condition is imposed pursuant to Section 128 of the Planning Act 2016 for South Street and McDougall Street.*

*Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016 for Road 1 to 4.*

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

106. 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.
107. The installation or modification of any street signs or line marking must be in accordance with the Manual of Uniform Traffic Control Device (MUTCD).

#### **ACCESS DRIVEWAYS**

108. A sealed driveway must be constructed from South Street to Road 2. The following requirements apply:
  - 108.1. The access must be constructed similar to a local street intersection;
  - 108.2. The driveway surfacing must consist of an approved hot mixed asphaltic concrete;
  - 108.3. The driveway must be constructed so as not to concentrate stormwater runoff onto neighbouring properties. Stormwater overflow from South Street must be directed down the driveway and Road 2 and Road 4 to the drainage reserve;
  - 108.4. Underground service conduits for water supply, electricity, house drainage and any other services must be provided as part of the access driveway; and
  - 108.5. The new concrete footpath on South Street must connect to the driveway with kerb ramps.

#### **PROPERTY ACCESS**

109. Direct access to South Street and McDougall Street is not permitted from proposed lots 16 to 26 and Lot 76 at any time.

#### **BUSHFIRE MANAGEMENT - GENERAL**

110. A Bushfire Management Plan must be prepared by a suitably qualified person. This Bushfire Management Plan must be submitted to Council for endorsement prior to approval of Operational Works.
111. Works must be carried out in accordance with the recommendations of the endorsed Bushfire Management Plan.
112. A copy of the endorsed Bushfire Management Plan must be provided to the nearest fire authority.

#### **BUSHFIRE MANAGEMENT - CERTIFICATION**

113. Certification must be submitted to Council from a suitably qualified person which certifies that subdivisional works have been constructed in accordance with the bushfire management conditions of this Development Approval.

### **ENVIRONMENT & WASTE**

#### **ACOUSTIC AMENITY - NOISE LIMITS**

114. Noise from activity associated with the use of the subject land must not exceed the Acoustic Quality Objectives listed in the *Environment Protection (Noise) Policy 2008* when measured at any sensitive receptor.

115. Where considered warranted by Council and when requested in writing to do so, a noise investigation must be undertaken to investigate a complaint of noise nuisance. In such instances, a suitably qualified person must monitor, interpret and record all parameters that are required to be monitored in order to determine whether or not the Noise Emission Limits listed within this Development Approval have been exceeded. The results of the investigation must be provided to Council within 28 days of the request or a longer period if specified in any such request. Measurement of noise emissions (adjusted for tonality and impulse) must be generally in accordance with the most recent version of *Australian Standard AS1055.1 Acoustics - Description and measurement of environmental noise - General procedures*.

#### **OUTDOOR LIGHTING IMPACT MITIGATION – COMMUNAL FACILITIES**

116. Outdoor lighting associated with the use must be designed, sited, and installed to comply with the relevant parameters of *Australian Standard AS4282-1997 Control of the obtrusive effects of outdoor lighting*.
117. All flood lighting must be of a type that gives no upward component of light when mounted horizontally (i.e. a full cut off luminaire).
118. The vertical illumination resulting from direct, reflected or other incidental light emanating from the tennis court must not exceed 8 lux when measured at any point 1.5 metres outside the boundary, and at any level from ground level upward.

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#### **WASTE MANAGEMENT (BIN PROVISION & STORAGE)**

- ~~119. Refuse storage facilities must be provided generally in accordance with the Approved Plans listed within this Development Approval and the following:~~
- ~~119.1. Provision of 1 x 240L wheelie bin for general waste and 1 x 240L wheelie bin for recyclable waste for each dwelling;~~
- ~~119.2. Provision of a hardstand impervious area within the curtilage of each dwelling for the permanent storage location of wheelie bins, having minimum dimensions of 0.36 m<sup>2</sup> (600mm x 600mm) per wheelie bin and located no closer than 2m to any fresh air intake of a habitable room; and~~
- ~~119.3. Provision of a constructed communal bin store(s) with an impervious hardstand base for the permanent storage location of up to 6 wheelie bins, each having minimum dimensions of 1m<sup>2</sup> per bin, located no closer than 2m to any fresh air intake of a habitable room.~~

#### **WASTE MANAGEMENT (REMOVAL)**

120. Unless otherwise endorsed by Council in a waste management plan, arrangements for waste removal are provided in accordance with the following requirements:
- 120.1. Collection by a refuse vehicle from the kerbside;
- 120.2. Provision of a level area at the kerbside for the temporary storage of wheelie bins on collection days having minimum dimensions of 1m<sup>2</sup> (1,000mm x 1,000mm) per wheelie bin; and
- 120.3. A concrete bin pad for Lots 1 to 5 must be constructed on the kerbside of Road 4 located proximate to the Lots it serves and away from parking bays at the turn around on the southern end of Road 4. The bin pad must be in accordance with any Operational Work approval applicable and sufficiently sized to wholly accommodate up to 10 wheelie bins for general and recyclable waste.

#### **REMOVAL OF EXISTING VEGETATION**

121. Clearing, including felling, pushing, lopping and grubbing of existing trees and vegetation not identified for retention must be undertaken by a suitably qualified person and must include:

- 121.1. Protection of native vegetation to be retained within the area of designated open space and on larger residential Lots.
- 121.2. Exotic weed species be effectively controlled on the site on the site.
- 121.3. Stump grinding to below finished surface level;
- 121.4. Rectification to the finished surface levels and materials;
- 121.5. No damage to other vegetation for retention;
- 121.6. No burning of removed vegetation and debris; and
- 121.7. Conclude with the area being stabilised against erosion and landscaped.

## **FAUNA MANAGEMENT DURING REMOVAL OF EXISTING VEGETATION**

122. Prior to clearing all trees to be removed are to be inspected for wildlife (i.e. koalas, possums, birds nests etc.). If wildlife is present, the tree must not be felled or pruned until the wildlife has left the tree or has been removed by a legislative compliant Fauna Spotter Catcher.

## **LANDSCAPING**

### **PROVISION OF STREET TREES**

123. Unless otherwise agreed by Council **OR** varied in an approved landscape plan (to increase the number and/or vary the location of street trees only), plant and maintain for a period of 12 months, one street tree per lot within the road reserve, capable of reaching ten metres in height at maturity.
124. The selection and planting of any street tree, including a replacement 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.
125. Root barrier devices must be installed where tree plantings are sited within two (2) metres of any services and or structures unless varied within the approved Landscape Plan. Barriers must be fit for purpose and installed in accordance with the manufacturer's specification.
126. Prior to the commencement of any works on site or the issue of a Building Works approval (whichever occurs first) submit to Council for endorsement, a Landscape Plan prepared by a suitably qualified person prepared generally in accordance with Toowoomba Regional Council's Landscape Work Information Sheet 006 and the conditions of this Development Approval, including the landscaping shown on all Approved Plans listed in this Development Approval, that details in particular:
  - 126.1. The species to be planted and their location;
  - 126.2. The number and container size of plants;
  - 126.3. The typical planting detail including preparation, backfill, staking and mulching;
  - 126.4. Internal dimensions of all planting areas;
  - 126.5. Location, height and finish of fencing fronting public land (including street frontages);
  - 126.6. Location and species of existing site vegetation to be removed and/or retained in accordance with this Development Approval, including adjacent street trees to be retained and/or removed;
  - 126.7. Information to demonstrate a high degree of shade (minimum of 25% shade) over hardstand areas including:

- i) Calculation of percentage hardstand (e.g. driveways and paths) and soft landscape areas (e.g. turf and garden beds);
  - ii) Calculation of percentage canopy cover to hardstand surfaces at maturity; and
- 126.8. Construction details of proposed surfaces, surface level changes and structures.
- 126.9. Where street tree(s) are proposed or required as a condition of this Development Approval, the Landscape Plan must include the following additional information:
- i) Location and species of the proposed or required street tree(s);
  - ii) Typical cross section through each street typology indicating clearance of street trees from underground services, kerbs and footpaths in accordance with PSP2 Engineering Standards; and
  - iii) A planting schedule indicating the number of each species type;
- Note: Street trees required to be supplied as a condition if this Development Approval must be supplied in 45L containers or as otherwise specified. Proposed street trees, if approved, are to be supplied in 45L containers.*
- 126.10. Plans and specifications for embellishment including make and model of all proprietary items, paving and soft fall where open space is to be dedicated in accordance with this Development Approval;
- Note: Design of parkland embellishments is to be prepared in consultation with Council's Landscape Architect and Open Space Planner.*
- 126.11. Location and dimensions of any communal bin stores requiring vegetative screening;
- 126.12. Landscaping associated with each stage where relevant;
- 126.13. North point, scale and drawing number.
- 126.14. Vegetated screening of the acoustic barriers in accordance with the conditions of this Development Approval.
127. The Landscape Plan must receive endorsement by Council prior to lodgment of any operational works application **OR** commencement of any site works or earthworks **AND/OR** issue of any Building Works approval.

## **PARKS AND RECREATION**

### **PROVISION OF OPEN SPACE**

- ~~128. Prior to lodgment of any operational works application OR commencement of any site works or earthworks, the applicant is required to submit an amended plan that clearly delineates public open space from land required for stormwater management (within Q100 flood extent). The amended plan must provide a minimum of 2.04ha of public open space located outside of the Q100 flood level. This land is to be located predominantly on the eastern side of the drainage land and meet requirements of the Principal Cycle Network.~~

~~*Note: This condition is imposed pursuant to Section 128 of the Planning Act 2016 as it relates to the open space above the Q100 flood level.*~~

- ~~129. Unless otherwise identified for dedication as Road Reserve purposes under Condition 18, The land area defined as Proposed Public Open Space (as amended by Condition 128) on the Approved Plan-Plans must be dedicated to Council in fee simple on trust for park and open space purposes.~~

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

130. Submit to Council a Solicitor's Undertaking to register the transfer of Lot(s) to Council at the same time as the registration of the first plan of subdivision.
131. Meet all costs associated with the transfer of land dedicated to Council.
132. All land dedicated for ~~drainage~~ and public open space purposes 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.
133. All land dedicated for park and open space purposes must not be financially encumbered (e.g. mortgaged) unless otherwise approved by the conditions of this Development Approval.

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

134. Plant and maintain for a period of eighteen months, one (1) street tree for every 10m of road frontage within the South Street road reserve adjacent to the Community Title portion of the development.

#### **REHABILITATION OF STOCKPILES AND OPEN SPACE**

135. Prior to acceptance of the public open space at off maintenance, any stockpiles on land to be dedicated to Council must be levelled to achieve a grade of 1 in 20, unless otherwise approved by Council and rehabilitated with appropriate native vegetation and grass cover that achieves a low maintenance and high amenity outcome.
136. Public open space and land required for drainage must be free of environmental and woody weeds prior to acceptance at off maintenance.
137. Land is to be provided to Council free of permanent structures.

#### **LANDSCAPING WORKS (PROTECTION OF EXISTING TREES)**

138. Existing trees located in the drainage corridor and open space must be protected and retained, unless otherwise approved by Council.

#### **FENCING AND WALLS – INTERFACE TO PUBLIC REALM**

139. Fences and walls provided adjacent to public places (streets, laneways, public walkways and public open space areas) must not exceed a maximum height of 1.2m if solid or 1.8m unless at least 50% transparent.

### **ADVICES**

#### **RESUBMISSION OF PLANS REQUIRING AMENDMENT**

- 1) The conditions of this Development Approval require resubmission of plans to Council with amendments. Please address the amended plans to Council's Development Services Branch with the Reference No. MCUI/2017/5690/A, and send to [development@tr.qld.gov.au](mailto:development@tr.qld.gov.au).

#### **RESUBMISSION OF DOCUMENTS REQUIRING AMENDMENT**

- 2) The conditions of this Development Approval require resubmission of documents to Council with amendments. Please address the amended documents to Council's Development Services Branch with the Reference No. MCUI/2017/5690/A, and send to [development@tr.qld.gov.au](mailto:development@tr.qld.gov.au).

#### **SUBMISSION OF PLANS FOR ENDORSEMENT**

- 3) The conditions of this Development Approval require submission of plans to Council for endorsement. Please address the plans for endorsement to Council's Development Services Branch with the Reference No. MCUI/2017/5690/A, and send to [development@tr.qld.gov.au](mailto:development@tr.qld.gov.au).

#### **SUBMISSION OF DOCUMENTS FOR ENDORSEMENT**

- 4) 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. MCUI/2017/5690/A, and send to [development@tr.qld.gov.au](mailto:development@tr.qld.gov.au).

#### **OTHER LAWS & REQUIREMENTS**

- 5) 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.
- 6) Any works impacting outside the property boundary will require a permit under Subordinate Local Law 1.15 (Carrying Out Works on a Road or Interfering with a Road or its Operation) 2011. 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) <<http://www.tr.qld.gov.au>>.
- 7) The development has only been assessed in accordance with the provisions of the *Toowoomba Regional Planning Scheme*. 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**

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

#### **EXCAVATION & FILLING**

- 9) The *Toowoomba Regional Planning Scheme* (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 Works approval from Council before commencing site works.

#### **CONTAMINATED LAND**

- 10) It is a requirement of the *Environmental Protection Act 1994* that if an owner or occupier of land becomes aware that a Notifiable Activity (as defined by Schedule 2 of the *Environmental Protection Act 1994*) is being carried out on the land, or that the land is or has been affected by a hazardous contaminant, they must, within 22 business days after becoming so aware, give notice to the Department of Environment and Science's Waste and Contaminated Land Assessment Unit.

#### **ENVIRONMENTAL HARM**

- 11) 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, waste water, 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**

- 12) 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.

## **WORKS WITHIN A WATERCOURSE**

- 13) The development may involve works within a watercourse which will require referral to the Department of Natural Resources, Mines and Energy under the *Water Act 2000* and *Planning Act 2016* at the time of making an application for Operational Works.

## **ABORIGINAL CULTURAL HERITAGE ACT 2003**

- 14) There may be a requirement to establish a Cultural Heritage Management Plan and/or obtain approvals pursuant to the *Aboriginal Cultural Heritage Act 2003* ("ACH Act").

The ACH Act establishes a cultural heritage duty of care which provides that: "A person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage." It is an offence to fail to comply with the duty of care. Substantial monetary penalties may apply to individuals or corporations breaching this duty of care. Injunctions may also be issued by the Land Court, and the Minister administering the ACH Act may also issue stop orders for an activity that is harming or is likely to harm Aboriginal cultural heritage or the cultural heritage value of Aboriginal cultural heritage.

You should contact the Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP) Cultural Heritage Unit on 07 3247 6212 to discuss any obligations under the ACH Act.

## **RECONFIGURING A LOT**

### **RESUBMISSION OF PLANS REQUIRING AMENDMENT**

- 1) The conditions of this Development Approval require resubmission of plans to Council with amendments. Please address the amended plans to Council's Development Services Branch with the Reference No. RAL/2017/5693/A, and send to [development@tr.qld.gov.au](mailto:development@tr.qld.gov.au).

### **SUBMISSION OF PLANS FOR ENDORSEMENT**

- 2) The conditions of this Development Approval require submission of plans to Council for endorsement. Please address the plans for endorsement to Council's Development Services Branch with the Reference No. RAL/2017/5693/A, and send to [development@tr.qld.gov.au](mailto:development@tr.qld.gov.au).

### **SUBMISSION OF DOCUMENTS FOR ENDORSEMENT**

- 3) 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/2017/5693/A, and send to [development@tr.qld.gov.au](mailto:development@tr.qld.gov.au).

## **INFRASTRUCTURE CHARGES**

- 4) 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**

- 5) 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.

- 6) Any works impacting outside the property boundary will require a permit under Subordinate Local Law 1.15 (Carrying Out Works on a Road or Interfering with a Road or its Operation) 2011. 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)<<http://www.tr.qld.gov.au>>.
- 7) The development has only been assessed in accordance with the provisions of the *Toowoomba Regional Planning Scheme*. 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**

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

#### **WHEN APPROVAL LAPSES**

- 9) 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**

- 10) The Toowoomba Regional Planning Scheme (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 Works approval from Council before commencing site works.

#### **BUSHFIRE BUILDING STANDARD**

- 11) This Development Approval has not considered any building assessment provisions under the *Building Code of Australia*. Lot 5 on SP194434 is identified in the *Toowoomba Regional Planning Scheme* as bushfire prone and the bushfire provisions of the *Building Code of Australia* will need to be considered for any building work being undertaken the subject land.

#### **CONTAMINATED SOIL DISPOSAL**

- 12) In accordance with Section 424, if development site become listed on the Department of Environment and Science's Environmental Management Register (EMR) of the *Environmental Protection Act 1994*, a disposal permit must be obtained from the Department's Waste and Contaminated Land Assessment Unit before removing any soil from land that is recorded on the EMR. For further information, and to obtain an Application Form for a disposal permit please contact the Department of Environment and Science on 13 QGOV (13 74 68).

#### **ENVIRONMENTAL HARM**

- 13) 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, waste water, 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.

### **ENVIRONMENT PROTECTION & BIODIVERSITY CONSERVATION ACT 1999**

- 14) An additional approval from the Commonwealth Government under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) may be required in relation to the approved development. The *Environment Protection and Biodiversity Conservation Act 1999* relates to actions that may have a significant impact on matters of national environmental significance (NES) or the environment generally if on Commonwealth land. These matters of NES include nationally listed threatened and migratory species, Ramsar wetlands, World Heritage, Commonwealth marine and nuclear actions.

The EPBC Act provides that a person must not take an action that has, will have or is likely to have a significant impact on matters of NES, without the approval of the Commonwealth Environment Minister. Such actions should be referred to the Minister for a decision on whether or not approval is required under the *Environment Protection and Biodiversity Conservation Act 1999*.

Contact the Australian Government Department of the Environment and Energy on 1800 803 772 to discuss any obligations under the EPBC Act.

### **WATER POLLUTION**

- 15) 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.

### **WORKS WITHIN A WATERCOURSE**

- 16) The development may involve works within a watercourse which will require referral to the Department of Natural Resources & Mines under the *Water Act 2000* and *Planning Act 2016* at the time of making an application for Operational Works.

### **ABORIGINAL CULTURAL HERITAGE ACT 2003**

- 17) There may be a requirement to establish a Cultural Heritage Management Plan and/or obtain approvals pursuant to the *Aboriginal Cultural Heritage Act 2003* ("ACH Act").

The ACH Act establishes a cultural heritage duty of care which provides that: "*A person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage.*" It is an offence to fail to comply with the duty of care. Substantial monetary penalties may apply to individuals or corporations breaching this duty of care. Injunctions may also be issued by the Land Court, and the Minister administering the ACH Act may also issue stop orders for an activity that is harming or is likely to harm Aboriginal cultural heritage or the cultural heritage value of Aboriginal cultural heritage.

You should contact the Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP) Cultural Heritage Unit on 07 3247 6212 to discuss any obligations under the ACH Act.

### **FIRE ANTS**

- 18) 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 *Plant Protection Act 1989* apply, compliance with statutory provisions must be achieved.

### **STORMWATER DISCHARGE TO PARKLAND**

- 19) This Development Approval does not infer or give approval to the owners or occupiers of the subject land to discharge stormwater to Council's parkland. Separate, written approval is required where stormwater is expected to be discharged to Council parkland. Please contact Council's Parks and Recreation Branch via the Customer Service Centre for further information in respect of approval for stormwater discharge to parkland.

### QUALIFIED PERSON

- 20) For the purpose of preparing a Landscape Plan, a suitably qualified person is considered to be a Registered Landscape Architect or Landscape Designer with a minimum of 3 years current experience in the field of landscape design.
- 21) For the purpose of preparing an Arborist Report, a qualified person is considered to be a person with either:
- 21.1 ISA certification; or
- 21.2 A Diploma of Arboriculture in addition to a minimum of 3 years current experience in the field of arboriculture.
- 22) For the purpose of preparing a Bushfire Management Plan, and for certifying compliance with the bushfire management conditions, a suitably qualified person is considered to be an ecologist or a person with formal qualifications relating to bushfire planning and design or fire safety engineering, with a minimum of 3 years current experience in the field of bushfire assessment and management.
- 23) For the purpose of certifying land contamination matters for the development, a suitably qualified person is considered to be a person who meets the criteria set out by the Department of Environment and Science.
- 24) For the purpose of certifying outdoor lighting devices for the development, a suitably qualified person is considered to be either:
- 24.1 A Registered Professional Engineer of Queensland (RPEQ); or
- 24.2 An environmental or electrical design consultant with a minimum of 3 years current experience in the field of outdoor lighting.

### REASONS FOR RECOMMENDATION

The change application has been assessed with regard to the applicable assessment framework as identified within this report. The proposed changes are considered to be generally acceptable. It is therefore recommended that the development approval be changed as identified above.

The Statement of Reasons is not required to be amended.

### 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 request be approved subject to the conditions contained in the recommendation. I exercise delegation in accordance with the delegations adopted by the Toowoomba Regional Council.



Matthew Coleman, Principal Planner  
On behalf of Kari Musgrove, Manager  
Planning

Decision Date: 5 December 2023

**CORPORATE PLAN REFERENCE****Strategic Action 2.3.3**

Ensure development aligns with community sentiment, through effective and efficient assessment, with the planning scheme, planning instruments, codes and legislation.

**BACKGROUND**

| SITE DETAILS                     |  |                              |                          |                      |
|----------------------------------|--|------------------------------|--------------------------|----------------------|
| <b>Site Address</b>              | Lot 5 SP194434, 574-608 South Street and Lot 20 D133639, 87-145 Euston Road, GLENVALE QLD 4350   |                              |                          |                      |
| <b>Real Property Description</b> | Lot 5 SP194434, Emt E SP283664, Lot 20 D133639   |                              |                          |                      |
| <b>Site Area</b>                 | 28.3ha – Subject Site, comprised of: <ul style="list-style-type: none"> <li>• 10.1ha (Lot 5 SP194434) – Development Lot</li> <li>• 18.2ha (Lot 20 D133639) – Part Lot containing infrastructure</li> </ul>   |                              |                          |                      |
| <b>Owner</b>                     | Sharon Evelyn Tunney and Steven John Tunney and Teedale Pty Ltd and Douglas Property Group Pty Ltd   |                              |                          |                      |
| SITE CHARACTERISTICS             |  |                              |                          |                      |
| <b>Current Land Use</b>          | Dwelling house   |                              |                          |                      |
| <b>Site Frontage/s</b>           | South Street – 320m<br>McDougall Street – 280m<br>Boundary Street – 400m   |                              |                          |                      |
| <b>Road/s</b>                    | <b>Order of Road</b>   | <b>Width of Road Reserve</b> | <b>Width of Pavement</b> | <b>Road Material</b> |
| South Street                     | Distributor  | 19.7m                        | 5m                       | Gravel               |
| McDougall Street                 | Distributor  | 22m                          | Not existing             | Not existing         |
| Boundary Street                  | Regional Arterial  | 19.1m                        | 6.4m                     | Bitumen              |
| <b>Easements</b>                 | Existing stormwater easement   |                              |                          |                      |
| <b>Existing Structures</b>       | Existing dwelling  |                              |                          |                      |
| <b>Infrastructure</b>            | Adjoining pump station (North-East corner)<br>Existing stormwater easements traversing western boundary of subject site  |                              |                          |                      |
| <b>Topography</b>                | Varying topography across the subject site<br>Generally flat on North-West (residential development area)<br>Waterway traversing North-East to South-West through subject site (forming low point)   |                              |                          |                      |
| <b>Street Trees</b>              | Nil  |                              |                          |                      |
| <b>Other Features</b>            | Waterway   |                              |                          |                      |
| PLANNING SCHEME SITE DATA        |  |                              |                          |                      |
| <b>Current Planning Scheme</b>   | <i>Toowoomba Regional Planning Scheme 2012 (Version 28)</i>  |                              |                          | Adopted:<br>28/11/22 |
| <b>Zone</b>                      | Low Density Residential Zone, Open Space Zone  |                              |                          |                      |
| <b>Precinct</b>                  | General  |                              |                          |                      |
| <b>Overlays</b>                  | <ul style="list-style-type: none"> <li>• Flood Hazard Overlay (FR1 Low Flood Risk, FR2 Medium Flood Risk, FR3 High Flood Risk, FR4 Extreme Flood Risk, OFP2 Overland Flow (High), OFP1 Overland Flow (Low), Vulnerable Uses Restriction Area, Flood Plan Area)</li> <li>• Bushfire Hazard Overlay</li> <li>• Environmental Significance Overlay (Areas of Ecological Significance and Areas of Ecological Significance Buffer); and</li> <li>• Airport Environs Overlay (8km Wildlife Hazard Buffer, Lighting Area Buffer (6km)</li> </ul> |                              |                          |                      |

|  |   |  |                 |
|--|---|--|-----------------|
| <b>Infrastructure Charges Resolution</b> | Charges Resolution No. 5  | Adopted:<br>01/03/23                             |                 |
| <b>SURROUNDS:</b>                        |   |  |                 |
| <b>Direction</b>                         | <b>Land Use</b>   | <b>Zone/Precinct</b>                             |                 |
| <b>North</b>                             | Darling Downs Christian School  | Community Facilities (Education Precinct)        |                 |
| <b>East</b>                              | Residential   | Low Density Residential (General) and Open Space |                 |
| <b>South</b>                             | Undeveloped   | Low Density Residential (General)                |                 |
| <b>West</b>                              | Residential   | Low Density Residential (General)                |                 |
| <b>Other Features</b>                    | Nil   |  |                 |
| <b>APPLICATION HISTORY</b>               |   |  |                 |
| <b>Application No.</b>                   | <b>Description</b>  | <b>Decision Date</b>                             | <b>Decision</b> |
| MCUI/2017/5690 & RAL/2017/5693           | Combined MCU RAL Preliminary Approval for a Variation Request and Reconfiguring a Lot Community Title Subdivision 1 into 66 Lots and Reconfiguring a Lot 1 into 12 Lots   | 17 April 2019                                    | Approved        |
| MCUI/2017/5690/A & RAL/2017/5693/A       | Request for Negotiated Decision Notice Combined MCU RAL Preliminary Approval for a Variation Request and Reconfiguring a Lot 2 into 77 Lots and Open Space and Drainage Reserve   | 17 January 2022                                  | Approved        |
| MCUI/2017/5690/B & RAL/2017/5693/B       | Request for Negotiated ICN Combined MCU RAL Preliminary Approval for a Variation Request and Reconfiguring a Lot 2 into 77 Lots and Open Space and Drainage Reserve   | Withdrawn  | Withdrawn       |
| RAL/2017/5693/C                          | Request for Trunk Infrastructure Conversion for Combined MCU RAL Preliminary Approval for a Variation Request and Reconfiguring a Lot Community Title Subdivision 1 into 66 Lots and Reconfiguring a Lot 1 into 12 Lots | Undecided  | Undecided       |
| MCUI/2016/6252 & RAL/2016/6490           | Combined MCU and RAL S242 Preliminary Approval to Vary the Effect of the Planning Scheme Eustondale Master Planned Residential Community (over southern land subject to Sewer Pump Station)                             | 19 January 2022                                  | Deemed Refusal  |
| OW/2014/6208                             | Earthworks Erosion and Sediment Control   | 17 December 2014                                 | Approved        |
| OW/2021/6130                             | Sewage Infrastructure   | 27 January 2023                                  | Approved        |
| OW/2021/6130/A                           | Request for Negotiated Decision Sewage Infrastructure   | 22 September 2023                                | Approved        |
| OW/2021/6849                             | Road Work Drainage Work Stormwater Earthworks Water infrastructure and Sewage infrastructure  | 27 June 2023                                     | Approved        |
| OW/2021/6849/A                           | Request for Negotiated Decision Road Work Drainage Work Stormwater Earthworks Water infrastructure and Sewage infrastructure  | 22 September 2023                                | Approved        |
| OW/2022/108                              | Stormwater and Earthworks   | 12 December 2022                                 | Approved        |
| PREL/2014/5340                           | Meeting held 15 October 2014.   |  |                 |
| <b>Other</b>                             | No other relevant history over the subject site.  |  |                 |

**APPROVED DEVELOPMENT**

|  |  |     |
|--|--|-----|
| <b>Type of Approval</b>                  | Preliminary Approval for a Variation Request and Development Permit for Reconfiguring a Lot  |     |
| <b>Approved Development</b>              | Preliminary Approval for a Variation Request, a Development Permit for Reconfiguring a Lot (Community Title Subdivision) - Two (2) into 64 Lots and Development Permit for Reconfiguring a Lot Two (2) Lots into 12 Lots   |     |
| <b>Variations Approved</b>               | <p>Future development is assessed against the Glenvale Willows Estate Variation Scheme Document (VSD).</p> <p>This VSD generally applies the corresponding zone provisions of the <i>Toowoomba Regional Planning Scheme 2012</i> (Version 17) as relevant to the proposed Low Density Residential Precinct (applying Low Density Residential Zone provisions), Low-medium Density Residential Precinct (applying Low-medium Density Residential Zone provisions) and Open Space Precinct (applying Open Space Zone provisions).</p> <p>The VSD does not vary use definitions of the <i>Toowoomba Regional Planning Scheme 2012</i> (Version 17).</p> |     |
| <b>Level of Assessment</b>               | Impact   |     |
| <b>Gross Floor Area</b>                  | N/A  |     |
| <b>Impervious Area</b>                   | N/A  |     |
| <b>Site Cover</b>                        | N/A  |     |
| <b>Car Parking Spaces</b>                | N/A  |     |
| <b>Service Vehicle Provision</b>         | N/A  |     |
| <b>Submissions Received</b>              | Objection:   | Nil |
|  | Support:   | Nil |
| <b>Decision Notice Issued</b>            | 30 April 2019  |     |
| <b>Negotiated Decision Notice Issued</b> | Dated 17 January 2020<br>Emailed 20 January 2020   |     |

| <b>CHANGE APPLICATION</b>          |  |
|------------------------------------|--|
| <b>Applicant Name</b>              | Tunney Investments Pty Ltd (ACN 009 668 026) |
| <b>Type of Application</b>         | Change Application                           |
| <b>Type of Change</b>              | Minor Change                                 |
| <b>Public Notification</b>         | Not required for a Minor Change.             |
| <b>Change Application Received</b> | 25 October 2023                              |

## CONSULTATION UNDERTAKEN

### Internal Referrals

| <b>Internal Referral Partner</b>     | <b>Referral / Response</b>             |
|--------------------------------------|--|
| Development Engineering and Plumbing | Provided draft conditions of approval. |
| Water and Waste                      | Provided draft conditions of approval. |
| Infrastructure Charges Unit          | No requirements.                       |

Public notification was carried out for the original application. During the notification period, no submissions were received by the assessment manager. Public notification was not required for this change application.

## ISSUES, RISKS AND RESPONSES – ASSESSMENT

### Assessment Framework

Section 81 of the *Planning Act 2016* establishes the following parameters in relation to the assessment of change applications for minor changes:

- (2) *In assessing the change application, the responsible entity must consider—*
  - (a) *the information the applicant included with the application; and*
  - (b) *if the responsible entity is the assessment manager—any properly made submissions about the development application or another change application that was approved; and*
  - (c) *any pre-request response notice or response notice given in relation to the change application; and*
  - (d) *if the responsible entity is, under section 78A(3), the Minister—all matters the Minister would or may assess against or have regard to, if the change application were a development application called in by the Minister; and*
  - (da) *if paragraph (d) does not apply—all matters the responsible entity would or may assess against or have regard to, if the change application were a development application; and*
  - (e) *another matter that the responsible entity considers relevant.*
- (3) *Subsections (4) and (5) apply if the responsible entity must, in assessing the change application under subsection (2)(d) or (da), consider—*
  - (a) *a statutory instrument; or*
  - (b) *another document applied, adopted or incorporated (with or without changes) in a statutory instrument.*
- (4) *The responsible entity must consider the statutory instrument, or other document, as in effect when the development application for the development approval was properly made.*
- (5) *However, the responsible entity may give the weight the responsible entity considers is appropriate, in the circumstances, to—*
  - (a) *the statutory instrument or other document as in effect when the change application was made; or*
  - (b) *if the statutory instrument or other document is amended or replaced after the change application is made but before it is decided—the amended or replacement instrument or document; or*
  - (c) *another statutory instrument—*
    - (i) *that comes into effect after the change application is made but before it is decided; and*
    - (ii) *that the responsible entity would have been required to consider if the instrument had been in effect when the development application for the development approval was properly made.*

### **Assessment of Proposed Changes – Change to Development Approval**

Changes to the development approval, not being changes to the conditions of the approval, have been proposed by the applicant. The following table identifies the proposed changes, the relevant representations made by the applicant and the officer's assessment of the proposed changes.

**Assessment of Proposed Changes – Change to Development Approval**

| Proposed Change  | Representations  | Officer’s Assessment   |
|--|--|--|
| <p>Annotate anticipated built form for the residential lots for Precinct 2 on the approved site plan (GIA Site Plan SK-01, Revision E). The annotations are for “Detached dwellings”, “Duplex dwellings” and “Multiple dwellings”.</p> | <p>The applicant states, relevantly:</p> <p><i>“The housing typology indicated in the amended plan is limited to detached, duplex and multiple housing which are forms suitable to the general suburban character of the Willow Glenvale locality.</i></p> <p><i>The locations chosen on site for the multiple dwellings are based on the amenity factors associated with viewlines up the creek gully park land as well as the longer views across to the open space reserves situated to the east of the subject land.</i></p> <p><i>Due to the “Common facilities” site being located on the south-east corner of the community title area of the development, it was logical to also locate the higher density dwellings in the same location for convenience and economic benefits from locating the massed buildings typology in the one location.</i></p> <p><i>The overall net dwelling density being achieved within the community title area of the development and the standard format area is approximately 1:370sqm (27 dwellings per ha) in the community title area and 1:1000sqm (10 dwellings per ha) in the standard format area.</i></p> <p><i>The gross dwelling density, achieved within the entire site is 1 :1000 sqm per dwelling.</i></p> <p><i>These densities are below the 40 dwellings per hectare, but well above the 15 dwellings per hectare specified in the Variation Scheme and</i></p> | <p>Annotations are proposed to a site plan to indicate a preferred built form for residential lots within Precinct 2 – Low-Medium Density Residential Estate.</p> <p>The annotated plan identifies lots in Precinct 2 for “Detached dwellings”, “Duplex dwellings” and “Multiple dwellings”.</p> <p>These annotations are consistent with the Variation Approval. Condition 13 of development approval MCUI/2017/6490/A states:</p> <p><i>“The preferred uses are those identified in the table of assessment for the relevant Precinct identified within the Variation Approval Document Glenvale Willows Estate Variation Scheme dated October 2018 (as amended) for Material Change of Use and being consistent with the Statement of Intent in s3.2.2 for the relevant precinct, being Precinct 1 – Low Density Residential, Precinct 2 – Low-Medium Density Residential Estate and Precinct 3 – Open Space.”</i></p> <p>The approved Variation Scheme Document (VSD) s3.2.2 for Precinct 2 states:</p> <p><i>“The purpose of Precinct 2 of the “Glenvale Willows Estate VSA” is to provide for a range and mix of dwelling types, including dwelling houses and multiple dwellings supported by community uses and small-scale services and facilities that cater for local residents. The amenity and lifestyle of residents in Precinct 2 is conserved while providing mechanisms to promote and implement a mix of housing forms at a density appropriate to the locality. The area also provides for a limited mix of non-residential uses to service the day to day needs of local residents within the Variation Scheme Area. Land within this zone will accommodate the majority of residential growth to occur within the Toowoomba</i></p> |

|  |  |  |
|--|--|--|
|  | <p><i>the TR Planning Scheme.”</i></p> | <p><i>Region over the life of the planning scheme.”</i></p> <p>The table of assessment in the approved VSD categorises Dwelling House as Accepted Development, Dual Occupancy as Accepted Development Subject to Requirements or Code Assessable, and Multiple Dwelling as Code Assessable where the development does not exceed three storeys above ground level or otherwise Impact Assessable.</p> <p>The annotations do not alter any level of assessment or assessment benchmarks and are therefore considered to be consistent with the existing approval. The annotated plan is recommended to be included as an approved plan.</p> <p>It is recommended that the approved VSD is retained as is and this plan is formalised as an additional approved plan by adding a reference in the condition set.</p> |
|--|--|--|

### **Assessment of Proposed Changes – Change to Conditions of the Development Approval**

Changes to the conditions of approval have been proposed by the applicant. The following table identifies the relevant condition of approval, the applicant's proposed changes, any relevant representations made by the applicant, the officer's assessment of the proposed amendments and any recommend amendments to the condition.

**Assessment of Proposed Changes – Change to Conditions of the Development Approval**

| No.  | Original Condition  | Proposed Amended Condition      | Relevant Representation         | Officer's Assessment  | Condition to be Recommended  |
|--|---|---------------------------------|---------------------------------|---|--|
| <b>PRELIMINARY APPROVAL FOR VARIATION APPROVAL</b>     |   |                                 |                                 |   |  |
| 1A.  | N/A – new proposed condition  | N/A – not proposed by applicant | N/A – not proposed by applicant | This new proposed condition identifies the annotated built form plan as an approved plan. Since the annotations complements and does not override the Variation Scheme Document (VSD), the condition text is not limiting or prescriptive.  | <p><b>The development may be carried out generally in accordance with the Approved Plan listed below, subject to the conditions of this Development Approval and associated Development Approval RAL/2017/5693/D:</b></p> <p><b>Plan No: SK-01, Revision E</b><br/> <b>Description: Site Plan - Proposed Residential Subdivision, prepared by AM Civil Consulting Engineers, dated 19/9/2022, and annotated to indicate possible built form in Precinct 2.</b></p> <p><b>Amendments: Nil</b></p>   |
| <b>DEVELOPMENT PERMIT FOR RECONFIGURATION OF A LOT</b> |   |                                 |                                 |   |  |
| 1.   | <p>This Development Approval is for Reconfiguring a Lot being Two (2) Lots into <del>Seventy-Seven (77)</del> <b>Seventy-six (76)</b> Lots, which will include:</p> <p>1.1. Sixty-Four (64) Community Title Lots and Common Property, subject to the following descriptions:</p> <p>1.1.1. Lots 1 – 64 are approved as “community title lots”;</p> <p>1.1.2. Lot described as “common facilities with land area of 931m<sup>2</sup>” is approved as “common property lot”; and</p> <p>1.1.3. Area described as Road 2, Road 3, Road 4 and Private Open Space is approved as “common property lot”.</p> <p>1.2. Standard format lots residential lots (described as Lots 65-<del>76</del><b>75</b>) and as modified by the conditions of this approval;</p> <p>1.3. A Balance Lot, being what is currently described as Lot 20 D133639; and</p> <p>1.4. Open Space (district linear open space corridor), <b>drainage reserve</b>, and road reserve (including additional road reserve as required by Condition <b>17 and 18</b>).</p> | N/A – not proposed by applicant | N/A – not proposed by applicant | This proposed amendment ensures the additional lot for sewer pump station is identifiable as a lot in the approval. Since this is a utility lot for Council, is not a future development lot, and does not increase network demand, it was considered acceptable to retain the total approved lot numbers in the underlying development approval. | <p>This Development Approval is for Reconfiguring a Lot being Two (2) Lots into <del>Seventy-Seven (77)</del> <b>Seventy-six (76)</b> Lots, which will include:</p> <p>1.1. Sixty-Four (64) Community Title Lots and Common Property, subject to the following descriptions:</p> <p>1.1.1. Lots 1 – 64 are approved as “community title lots”;</p> <p>1.1.2. Lot described as “common facilities with land area of 931m<sup>2</sup>” is approved as “common property lot”; and</p> <p>1.1.3. Area described as Road 2, Road 3, Road 4 and Private Open Space is approved as “common property lot”.</p> <p>1.2. Standard format lots residential lots (described as Lots 65- <del>76</del><b>75</b>) and as modified by the conditions of this approval;</p> <p>1.3. A Balance Lot, being what is currently described as Lot 20</p> |

|      |   |                                 |                                 |  |  |
|------|---|---------------------------------|---------------------------------|--|--|
|      |   |                                 |                                 |  | <p>D133639; <del>and</del></p> <p>1.4 Open Space (district linear open space corridor), drainage reserve, and road reserve (including additional road reserve as required by Condition 17 and 18); <b>and</b></p> <p>1.5 <b>Additionally, a Sewer Pump Station Lot as described in Condition 24.</b></p>   |
| 19B. | N/A – new proposed condition  | N/A – not proposed by applicant | N/A – not proposed by applicant | <p>For Council, this new proposed condition ensures the sewer pump station land is identified as land to be dedicated to Council and subject to land dedication conditions.</p> <p>For the proponent, this new proposed condition identifies that the land is dedicated as trunk infrastructure.</p> | <p><b>The land area required for Sewer Pump Station described in Condition 24 must be dedicated to Council as a freehold lot in accordance with the requirements of the Department of Resources.</b></p> <p><b>Note: This condition is imposed pursuant to Section 128 of the Planning Act 2016.</b></p>   |
| 21.  | All land dedicated for <b>drainage and</b> 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.   | N/A – not proposed by applicant | N/A – not proposed by applicant | <p>This proposed amendment ensures the sewer pump station land is not inappropriately encumbered.</p>  | <p>All land dedicated for <b>sewer pump station</b>, drainage and 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.</p>   |
| 22.  | All land dedicated for <b>drainage and</b> road reserve must not be financially encumbered (e.g. mortgaged) unless otherwise approved by the conditions of this Development Approval.   | N/A – not proposed by applicant | N/A – not proposed by applicant | <p>This proposed amendment ensures the sewer pump station land is not inappropriately encumbered.</p>  | <p>All land dedicated for <b>sewer pump station</b>, drainage and road reserve must not be financially encumbered (e.g. mortgaged) unless otherwise approved by the conditions of this Development Approval.</p>   |
| 24.  | An easement for sewerage drainage purposes must be registered in favour of Council against the title of all private property that contain gravity sewers greater than 225mm diameter, the proposed pump station on lot 20 D133639 and the sewer rising main from the proposed pump station to the existing pump station on Lot 6 SP194434. The location and width of the easements is subject to detailed design. The plan of survey for registration must be lodged prior to acceptance of the works on-maintenance. |                                 |                                 |  | <p>An easement for sewerage drainage purposes must be registered in favour of Council against the title of all private property that contain gravity sewers greater than 225mm diameter, <del>the proposed pump station on lot 20 D133639</del> and the sewer rising main from the proposed pump station to the existing pump station on Lot 6 SP194434. The location and width of the easements is subject to detailed design. The plan of survey for registration must be lodged prior to acceptance of the works on-maintenance <b>and the said plan must show the proposed pump station located on a freehold title with a minimum area of 625m<sup>2</sup> and minimum dimensions of 25m x 25m, for dedication to Council at the time of registration of the plan with the Department of Resources.</b></p> |

## FINANCIAL / RESOURCE IMPLICATIONS

The land for sewer pump station, being for trunk infrastructure, will be dedicated under Section 128 of the *Planning Act 2016*, which means it will be available to offset against levied infrastructure charges. Although this was implied in the original and subsequent development approvals, it is made explicit through a note in the decision notice for this change application.

A revised infrastructure charges notice may be issued for the development in conjunction with a decision regarding the change application.

## 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 sections 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 change application has been assessed with regard to the applicable assessment framework as identified within this report. The proposed changes are considered to be generally acceptable. It is therefore recommended that the development approval be changed as identified above.

The Statement of Reasons is not required to be amended.

## ATTACHMENT/S

|            |   |    |   |                    |
|------------|---|----|---|--------------------|
| Attachment | 1 | of | 2 | Approved Site Plan |
| Attachment | 2 | of | 2 | Proposed Site Plan |

## SCHEDULES

|          |   |                             |
|----------|---|-----------------------------|
| Schedule | 1 | Concurrence Agency Response |
|----------|---|-----------------------------|

ATTACHMENTS

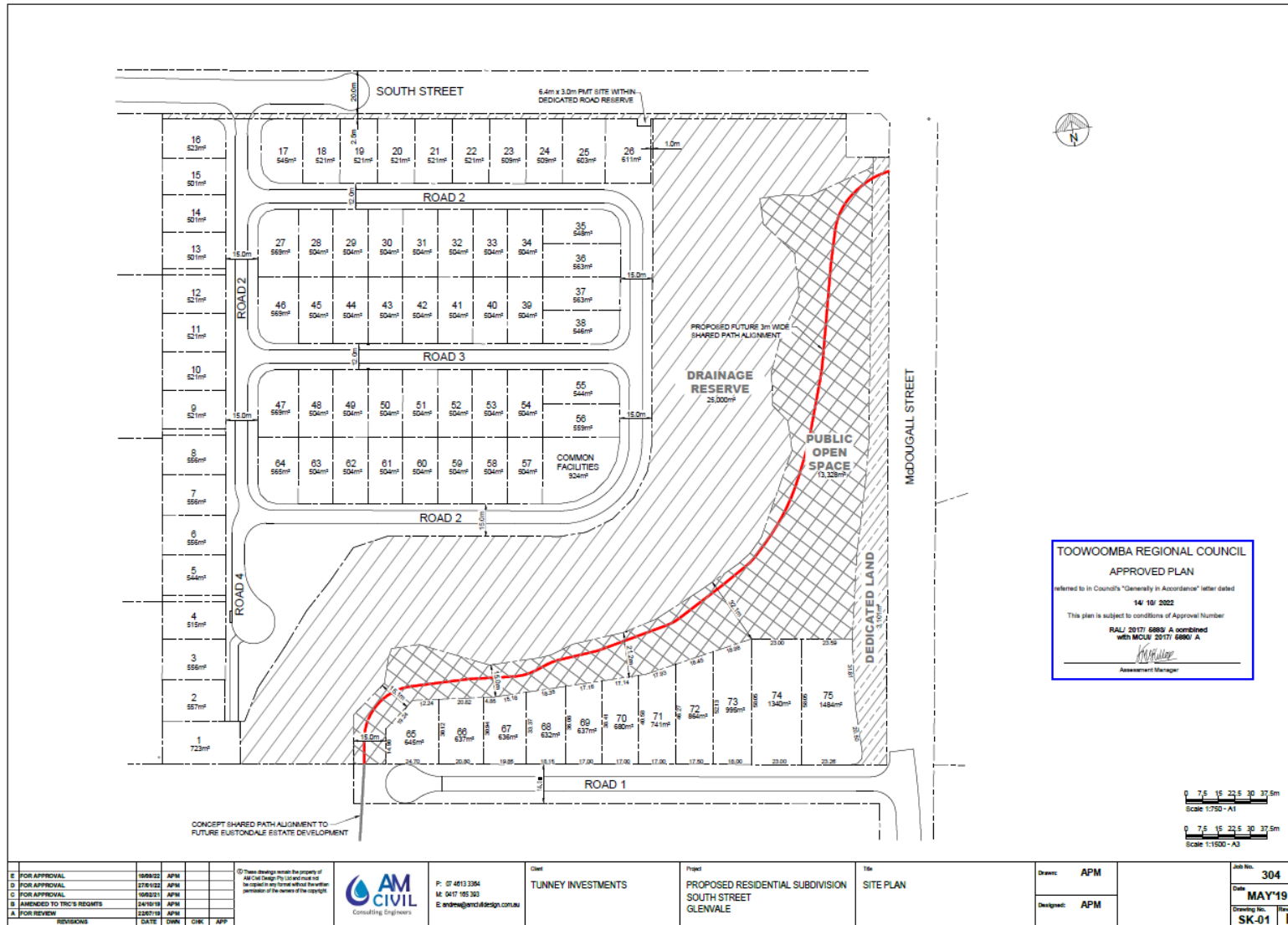


Figure 1: Approved Site Plan. Source: Council

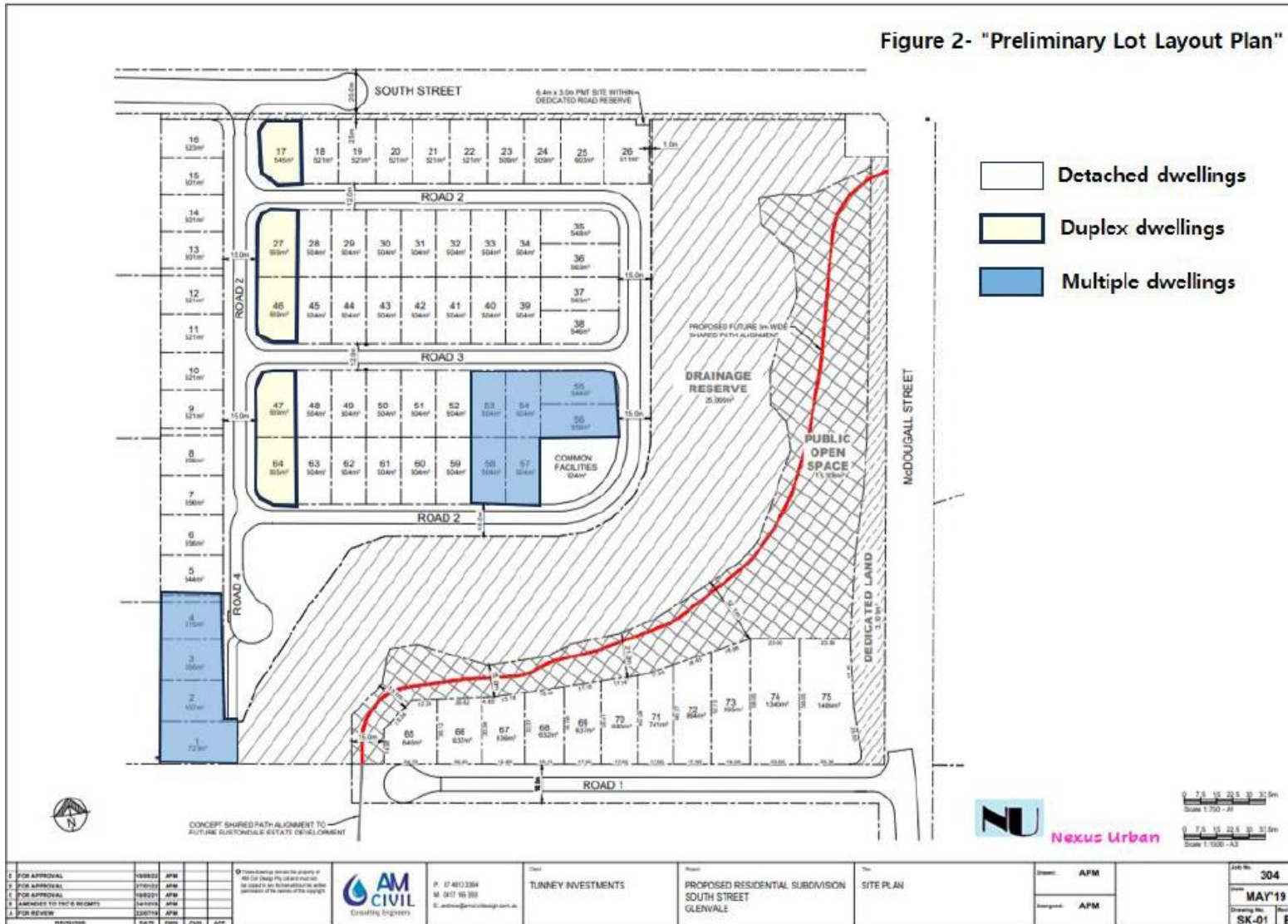


Figure 2: Proposed Site Plan, being Approved Site plan with annotations for “Detached dwellings”, “Duplex dwellings” and “Multiple dwellings”.  
 Source: Applicant

**SCHEDULE 1**

**Concurrence Agency Response (As per previous approval)**



Department of Infrastructure,  
Local Government and Planning

Our reference: 1711-2574 SRA  
Your reference: MCUI/2017/5690

22 December 2017

The Chief Executive Officer  
Toowoomba Regional Council  
PO Box 3021  
TOOWOOMBA QLD 4350  
Via email: [development@tr.qld.gov.au](mailto:development@tr.qld.gov.au)

**RECEIVED**  
22.12.2017  
**TOOWOOMBA**  
**REGIONAL COUNCIL**

**Attention: Lachlan O'Sullivan**

Dear Lachlan

**Referral Agency Response – No Requirements – Material Change of Use (Impact Assessable) – Preliminary Approval – Variation Request for Urban Residential Purposes, Reconfiguring a Lot (Code Assessable) – Development Permit – Community Titles Scheme One (1) Lot into Sixty Six (66) Lots and Reconfiguring a Lot (Code Assessable) – Development Permit – Standard Format Subdivision One (1) into Twelve (12) Lots**

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

The development application described below was properly referred to the Department of Infrastructure, Local Government and Planning (DILGP) on 20 November 2017.

**Applicant details**

Applicant name: SJ & SE Tunney  
Applicant contact details: PO Box 3038  
Toowoomba QLD 4350  
Via email: [glennie@precinctplan.com.au](mailto:glennie@precinctplan.com.au)

**Location details**

Street address: 87 Euston Road, GLENVALE QLD 4350  
574-608 South Street, GLENVALE QLD 4350  
Real property description: Lot 20 on D133639 and Lot 5 on SP194434  
Local government area: Toowoomba Regional Council

**Application details**

Development permit Reconfiguring a Lot (Community Title Subdivision) to create sixty-six (66) urban residential allotments within a community title scheme and a Development Permit for Reconfiguring a Lot (Standard Format Subdivision) to create twelve (12) standard format allotments and an open space lot.  
Preliminary approval that Material Change of Use – Preliminary Approval for a Variation Request

includes a variation request pursuant to section 50(3) of the *Planning Act 2016* to facilitate the on-going use and development of the land for urban residential and open space purposes.

**Referral triggers**

The development application was referred to DILGP under the following provisions of the Planning Regulation 2017:

- 10.9.4.1.1.1 Infrastructure - state transport infrastructure.

**No requirements**

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Under section 56(1)(a) of the *Planning Act 2016*, DILGP advises it has no requirements relating to the application.

**Variation request**

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Under section 56(2)(a) of the *Planning Act 2016*, DILGP advises it has no requirements for the variation request.

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

For further information please contact Brittany Hughes, Planning Officer, on 46167307 or via email [ToowoombaSARA@dilgp.qld.gov.au](mailto:ToowoombaSARA@dilgp.qld.gov.au) who will be pleased to assist.

Yours sincerely



Andrew Foley  
Manager

cc SJ & SE Tunney, [glennie@precinctplan.com.au](mailto:glennie@precinctplan.com.au)



Department of Infrastructure,  
Local Government and Planning

## Department of Infrastructure, Local Government and Planning (DILGP)

### Statement of reasons for application 1711-2574 SRA

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

Departmental role: Referral agency

#### Applicant details

Applicant name: SJ & SE Tunney  
 Applicant contact details: PO Box 3038  
 Toowoomba QLD 4350  
 Via email: glennie@precinctplan.com.au

#### Location details

Street address: 87 Euston Road, GLENVALE QLD 4350  
 574-608 South Street, GLENVALE QLD 4350  
 Real property description: Lot 20 on D133639; and Lot 5 on SP194434  
 Local government area: Toowoomba Regional Council

#### Development details

Development permit Reconfiguring a Lot (Community Title Subdivision) to create sixty-six (66) urban residential allotments within a community title scheme and Development Permit for Reconfiguring a Lot (Standard Format Subdivision) to create twelve (12) standard format allotments and an open space lot.

Preliminary approval that includes a variation request Material Change of Use – Preliminary Approval for a Variation Request pursuant to section 50(3) of the *Planning Act 2016* to facilitate the on-going use and development of the land for urban residential and open space purposes.

#### Assessment matters

| Aspect of development requiring assessment | Applicable codes  |
|--|---|
| 1.Reconfiguring a Lot                      | <ul style="list-style-type: none"> <li>State Code 6: Protection of State Transport Networks.</li> </ul> |
| 2.Material Change of Use                   |   |

### Reasons for DILGP's Response

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The reasons for the response are that the proposed development:

- will not cause significant impacts across the State-controlled road (SCR) network.
- is not expected to generate additional stormwater onto the SCR.
- does not interfere with any public passenger services or infrastructure
- complies with the requirements of State Code 6.

### Response:

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| Nature of approval                                 | Response details | Date of response |
|--|------------------|------------------|
| Development approval<br>(Reconfiguration of a Lot) | No requirements  | 22 December 2017 |
| Development approval (Material<br>Change of Use)   | No requirements  | 22 December 2017 |

### Relevant Material

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- Development application.
- SDAP published by the DILGP.
- Technical agency response.
- *Transport Infrastructure Act 2009*.
- *Planning Act 2016*.
- Planning Regulation 2017.
- DA Rules.