

REPORT TITLE	Assessment of Change Application for Reconfiguring a Lot – Code – One (1) Lot into Thirty-Five (35) Lots located at Lot 101 SP257259 Colbar Street, PITTSWORTH QLD 4356
AUTHOR	Planning Officer (Elliott Barber)
Application No.	RAL/2023/584/A

PURPOSE OF REPORT

To consider a change application regarding a development approval for Reconfiguring a Lot – Code – One (1) Lot into Thirty-Five (35) Lots located at Lot 101 SP257259 Colbar Street, PITTSWORTH QLD 4356.

EXECUTIVE SUMMARY

This report considers a change application (minor change) regarding a development approval for Reconfiguring a Lot – Code – One (1) Lot into Thirty-Five (35) Lots located at Lot 101 SP257259 Colbar Street, Pittsworth (Lot 101 SP257259 and Lot 506 SP257259).

The site is located within the Low-medium Density Residential Zone, Regional Residential Precinct. A small isolated area towards the centre of the site is mapped as being impacted by the Flood Hazard Overlay (Balance Mixed sub-category) and a thin strip along the north-western edge of the site is mapped within the Agricultural Land Overlay. The site has approximately 198.86 metres of frontage to the Gore Highway (State-controlled Road), approximately 62 metres to Stanley Street (Local Road) and approximately 73 metres to Colbar Street (Local Road).

The land located to the south and south west of the subject site is currently developed for residential activities, predominately dwelling houses. To the north, the site adjoins the Gore Highway. To the east, the site adjoins parkland (Keith Gordon Park) and community sports facilities. Road access to the subject site is provided from both Stanley Street and Colbar Street, which both end in temporary turnarounds at the property boundary. Vehicular access will be provided via a new internal road network, which will extend from the current termination of Colbar Street and Stanley Street. The proposed road will have a reserve width of 20 metres and a pavement width of 7.5 metres, consistent with Toowoomba Regional Council standards. A new footpath connection is proposed to adjoining Council parkland to the east from the internal road.

The approved development is to be delivered over three (3) stages, with Stage 1 to deliver ten (10) lots, Stage 2 to deliver thirteen (13) lots and Stage 3 to deliver of twelve (12) lots.

The proposed change seeks to rearrange the approved staging boundaries to include proposed Lots 115 and 116 in Stage 1 instead of Stage 2. Stage 1 will instead deliver twelve (12) lots, Stage 2 will deliver eleven (11) lots and Stage 3 will involve the delivery of twelve (12) lots. The amended plans submitted with the change application also show a 3m x 2.8m cutout from proposed Lot 109 for a Pad Mounted Transformer (PMT), reducing the area of proposed Lot 109 from 800m² to 792m².

The change application has been accepted and assessed as a 'Minor Change' as the sum of the proposed changes is minor in nature. The proposed change has been assessed against relevant assessment criteria and is considered to comply. The application therefore is recommended to be approved subject to reasonable and relevant conditions.

RECOMMENDATION

APPROVED – Change Application regarding Development Approval RAL/2023/584 for Reconfiguring a Lot – Code – One (1) Lot into Thirty-Five (35) Lots, pursuant to the provisions of Sections 81 and 81A of the *Planning Act 2016* and subject to the amendments listed below.

An amended Infrastructure Charges Notice will be issued in relation to the changes to the development approval.

ASSESSMENT MANAGER CONDITIONS

PLANNING

APPROVED DEVELOPMENT

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

CARRY OUT AND MAINTAIN DEVELOPMENT

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

APPROVED PLANS

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

Plan No: PR01, Issue **CD**

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

Amendments: Nil

APPROVED DOCUMENT

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

Document: Project No. J001260, Version 2

Description: Road Traffic Noise Assessment, prepared by Range Environmental Consultants and dated 6 April 2023

Amendment: Nil

LOT NUMBERING

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

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

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

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

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

COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS

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

STAGED DEVELOPMENT

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

AVAILABILITY OF APPROVED DOCUMENTATION DURING WORKS

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

DEDICATIONS, AGREEMENT AND CONTRIBUTIONS**DEDICATION OF LAND**

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

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

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

EASEMENTS

18. An easement for water supply purposes must be registered in favour of Council against the title of proposed Lot 95. The easement must be a minimum 3 metres wide and must be located over the proposed easement identified on the Approved Plans listed within this Development Approval and included on the Plan of Subdivision for Council's approval.
19. Where the Grantee is Council or a service authority, the easement documentation must be in accordance with the Grantee's standard easement terms and documents or any other terms and conditions as deemed necessary to fulfil the purpose of the easement.

20. Easement documentation must be prepared and submitted to Council, at no cost to Council, for endorsement where Council is the Grantee or review against conditions of approval otherwise.
21. Unless consistent with the terms of the easement and authorised under this Development Approval, any permanent works or structures must be kept clear of any existing or proposed easements on the subject land.

FEES AND CHARGES

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

WORKS

ENGINEER'S CERTIFICATION AND SUPERVISION OF WORKS

23. Plans and specifications for all works associated with vehicular access, stormwater drainage, wastewater, water, roadworks, earthworks, or any other works required on Council infrastructure, must be prepared and certified by a Registered Professional Engineer Queensland - Civil (RPEQ).
24. A RPEQ must submit to Council a copy of the:
 - 23.1 Design Certificate prior to commencement of the works; and
 - 23.2 Construction Supervision Certificate upon completion of the works certifying that works are in accordance with the approved plans and specifications.
25. Any works that have been certified by an RPEQ must be carried out under the supervision of an RPEQ with all executed works being detailed on a Construction Supervision Certificate.
26. Where any condition refers to, or requires, an Engineer to perform a task or function, the Engineer must hold professional indemnity insurance to the value of \$2,000,000. A Certificate of Currency must be submitted to Council with any Design Certificate or Construction Supervision Certificate.

STORMWATER DRAINAGE

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

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

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

considered in accordance with the requirements of the Queensland Urban Drainage Manual.

STORMWATER DISCHARGE

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

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

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

BULK EARTHWORKS OVER 50 M³ OR OVER 1M CUT OR FILL

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

EARTHWORKS AND RETAINING WALLS EXTERNAL TO THE SITE

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

AIR QUALITY IMPACT MITIGATION

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

VIBRATION IMPACT

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

Table 1 - Human comfort vibration limits to minimise nuisance

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

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

CONSTRUCTION WASTE MANAGEMENT & STORAGE

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

CONSTRUCTION NOISE IMPACT MITIGATION

45. Building work (as per the definition of the *Environmental Protection Act 1994*) that creates audible noise must be confined to the hours of 6:30 am and 6:30 pm Monday to Saturday (excluding Public

Holidays) unless otherwise approved by Council in an endorsed Construction Environmental Management Plan.

EROSION & SEDIMENT CONTROL

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

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

51. Prior to commencement of site works and any pre-start meeting for Operational Work, submit to Council for endorsement a Construction Environmental Management Plan prepared by a qualified person that at a minimum includes the following:
 - 51.1 Location of the site, including physical address, lot on plan and relevant scaled maps;
 - 51.2 Description of the site including infrastructure and features on or near the site and those areas requiring protection or avoidance;
 - 51.3 Contact details and responsibilities for site representatives;
 - 51.4 Description of construction activities to be conducted on site;
 - Location of construction areas and adjacent operational / residential areas;
 - Construction staff and vehicle numbers;
 - Construction hours;
 - Amenities; and
 - When relevant, prohibited activities and prohibited areas where no work should be permitted;
 - 51.5 Site Plans clearly showing where proposed activities will occur, including sensitive receptors and areas where impacts on the environment may occur.
 - 51.6 Strategies to manage the following environmental impacts;
 - Air quality and dust management;
 - Noise and vibration management;
 - Stormwater quality management;
 - Erosion and sediment control;
 - Waste management, storage and collection; and
 - Complaint management procedures.
52. The Construction Environmental Management Plan must receive endorsement by Council prior to issue of any Development Permit for Building Work or Development Permit for Operational Work.

53. The Construction Environmental Management Plan must address both the internal works for the development and any associated external works.
54. The endorsed Construction Environmental Management Plan must be implemented and, maintained where necessary to maintain compliance with the requirements of this Development Approval.

DAMAGE TO SERVICES & ASSETS

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

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

SERVICES & UTILITIES

WASTEWATER INFRASTRUCTURE (GENERAL)

59. The subdivision must be connected to Council's existing wastewater reticulation system in accordance with Council *Wastewater Infrastructure Policy 2.04* at no cost to Council.

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

60. Any compensation or costs associated with obtaining agreement from owners or trustees of properties affected by the construction of the works must be at no cost to Council.
61. Any works on Council's 'live' wastewater infrastructure must be carried out by Council. A Private Works Quotation must be requested from Council, payment made for the works, and the works completed by Council.
62. Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted and be approved by Council for wastewater reticulation works and in accordance with the approved plans and documents of this Development Approval.

WASTEWATER INFRASTRUCTURE (APPROVAL OF LAND OWNER)

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

WATER SUPPLY

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

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

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

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

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

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

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

68. Certification must be provided to Council by RPEQ that the disconnection has been carried out.

69. Where works have been carried out to disconnect or remove traversing pipes, certification must state that a separate water supply has been provided for all lots containing buildings which previously had a metered water supply, and that new water meters have been provided where necessary.

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

71. Any works on Council's 'live' water infrastructure must be carried out by Council. A Private Works Quotation must be requested from Council, payment made for the works, and the works completed by Council.

TELECOMMUNICATION

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

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

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

72.3 For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line is located underground.

73. Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.

74. Provide to Council written evidence from all relevant service providers that the telecommunications infrastructure is installed in accordance with the conditions of this Development Approval and all applicable legislation at the time of construction.

Note: The Telecommunications Act 1997 (Cth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required. For further information visit www.infrastructure.gov.au/tind.

Note: For telecommunication services, written evidence must be in the form of either a "Telecommunications Infrastructure Provisioning Confirmation" where such services are provided by Telstra, or a "Notice of Practical Completion", "Confirmation of Payment" or "Post Execution of Development" Letter where such services are provided by NBN Co.

ELECTRICITY

75. An electricity supply must be made available to service each approved lot within the subdivision. This supply must be in accordance with the relevant standards of the electricity distributor.
76. Written evidence must be submitted to Council from the electricity distributor advising that provision has been made for connection of reticulated electricity service for each approved lot in accordance with all applicable legislation at the time of construction.

Note: In relation to reticulated electricity, written evidence must be in the form of a "Certificate of Supply" or "Supply is Available" supplied by the relevant service provider.

TRANSPORT & ACCESS

ROADWORKS (INTERNAL TO SUBDIVISION)

77. Internal roads must generally be constructed as shown on the Approved Plans listed within this Development Approval.
78. The internal roads must be constructed to a sealed standard, including kerb and channel on both sides of the new roads. Such kerb and channeling must be an approved residential kerb and channel. The internal roads must be as follows:
- 78.1 Stanley Street must have a 20 m road reserve width with 7.5 m carriageway width measured between channel inverts, to the intersection with Colbar Street; and
- 78.2 Colbar Street must have a 20 m road reserve width with 7.5 m carriageway width measured between channel inverts.

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

79. All street surfacing must consist of an approved asphaltic concrete. Segmental clay, concrete pavers or patterned reinforced concrete is only to be used on feature areas of internal streets.
80. Verge widths, street reserve widths, intersection treatment, provision of parking, footpaths and speed control devices must comply with Council's requirements, as set out in *Planning Scheme Policy No. 2 - Engineering Standards - Roads and Drainage Infrastructure (PSP No.2)*.
81. Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and be approved by Council for the road works and in accordance with the approved plans and documents of this Development Approval. All approved road works must be completed and accepted on-maintenance prior to Council's approval of the Plan of Subdivision.

EXTERNAL PEDESTRIAN & CYCLE PATHS

82. The following works must be constructed in accordance with *Planning Scheme Policy No. 2 - Engineering Standards – Roads and Drainage Infrastructure (PSP No.2)*.
- 82.1 A 1.5m wide concrete pedestrian path within Keith Gordon Park from the proposed pedestrian connection between proposed Lots 97 and 98 and the existing path network in the park; and

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

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

ROADWORKS SIGNAGE AND PEDESTRIAN SAFETY

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

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

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

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

STREET LIGHTING

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

ACCESS (FOOTPATH CROSSOVERS AND DRIVEWAYS)

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

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

86.2 Council's standards;

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

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

ENVIRONMENT & WASTE

ACOUSTIC AMENITY - ACOUSTIC BARRIER(S)

87. Acoustic barriers must be constructed on the subject land for noise attenuation. The barriers must be constructed in accordance with the following requirements:

87.1 The barrier must be erected within the subject land, in accordance with Figure 6 and the recommendations of Section 6.5 of the approved Road Traffic Noise Assessment report listed within this Development Approval.

87.2 The barrier must have no gaps (i.e. is solid) including between partitions, between partitions and posts and between partitions and the finished ground level.

LANDSCAPE & ECOLOGY

LANDSCAPE PLAN

88. Submit to Council for endorsement, a Landscape Plan prepared by a suitably qualified person that details in particular:

88.1 The species to be planted and their location (including street trees);

88.2 The number and container size of plants;

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

LANDSCAPING WORKS (PROVISION OF STREET TREES)

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

GENERAL ADVICES

SUBMISSION OF DOCUMENTS FOR ENDORSEMENT

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

INFRASTRUCTURE CHARGES

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

OTHER LAWS & REQUIREMENTS

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

- 5) The development has only been assessed in accordance with the provisions of the *Toowoomba Regional Planning Scheme 2012*. No assessment has been made in respect of the provisions of the *Building Code of Australia* and/or the *Queensland Development Code*.

WHEN APPROVAL STARTS TO HAVE EFFECT

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

WHEN APPROVAL LAPSES

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

EXCAVATION & FILLING

- 8) The *Toowoomba Regional Planning Scheme 2012* (TRPS) declares excavation and filling activity involving less than 50m³ 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 50m³ or more of fill is deposited on, or 50m³ or more of excavated material is removed from the premises and excavation or filling is not associated with 'Building Work' as defined under the *Planning Act 2016*, must obtain an Operational Work approval from Council before commencing site works.

ENVIRONMENTAL HARM

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

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

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

WATER POLLUTION

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

FIRE ANTS

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

REASONS FOR RECOMMENDATION

The 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.

A Statement of Reasons is not required to be published in accordance with Section 83(8) of the *Planning Act 2016*.

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.



Jayden Forbes-Mitchell
Senior Planner, Planning

Decision Date: 20 September 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				
Site Address	Lot 101 SP257259 Colbar Street PITTSWORTH QLD 4356			
Real Property Description	Lot 101 SP257259 and Lot 506 SP257259			
Site Area	3.94ha. (Lot 101 SP257259)			
Owner	Colbar Street Developments Pty Ltd (Lot 101 SP257259) Toowoomba Regional Council (Lot 506 SP257259)			
SITE CHARACTERISTICS				
Current Land Use	Vacant Land			
Site Frontage/s	Gore Highway 28A - ~200 metres Stanley Street - ~60 metres Colbar Street ~73 metres			
Road/s	Order of Road	Width of Road Reserve	Width of Pavement	Road Material
Gore Highway 28A	Highway	~60 metres	~9 metres	Bitumen
Stanley Street	Local	~20 metres	~8.5 metres	Bitumen
Colbar Street	Local	~20 metres	~8.5 metres	Bitumen
Easements	Nil.			
Existing Structures	Vacant Land			
Infrastructure	The site is serviced by Council's reticulated water and sewer infrastructure and stormwater.			
Topography	The site slopes slightly from the eastern property boundary towards the western property boundary.			
Street Trees	Nil.			
Other Features	The site adjoins Council's Keith Gordon Park to the east.			
PLANNING SCHEME SITE DATA				
Current Planning Scheme	<i>Toowoomba Regional Planning Scheme 2012</i> (Version 28)			Adopted: 28/11/2022
Zone	Low-medium Density Residential			
Precinct	Regional Residential			
Overlays	Agricultural Land Overlay Flood Hazard Overlay <ul style="list-style-type: none"> <i>Balanced Mixed</i> 			
Infrastructure Charges Resolution	<i>Charges Resolution No. 5</i>			Adopted: 01/03/2022
SURROUNDS:				
Direction	Land Use	Zone/Precinct		
North	Assembly of God – Place of Worship (MCUC/2009/7481)	Community Facilities / Other Community Purposes Precinct		
East	Reserve For Park	Sport and Recreation		
South	Dwelling Houses	Low-medium Density Residential / Regional Residential		
West	Gore Highways 28A			
Other Features	Nothing to note			

APPLICATION HISTORY			
Application No.	Description	Decision Date	Decision
RAL/2023/584	Development Permit for Reconfiguring a Lot - One (1) Lot into Thirty-Five (35) Lots	17 July 2023	Approved

APPROVED DEVELOPMENT		
Type of Approval	Reconfiguring a Lot	
Approved Development	One (1) Lot into Thirty-Five (35) Lots	
Variations Sought	Not applicable	
Level of Assessment	Code Assessable	
Gross Floor Area	Not Applicable	
Impervious Area	Not Applicable	
Site Cover	Not Applicable	
Car Parking Spaces	Not Applicable	
Service Vehicle Provision	Not Applicable	
Submissions Received	Objection:	Not Applicable
	Support:	Not Applicable
Decision Notice Issued	18 July 2023	

CHANGE APPLICATION	
Applicant Name	Colbar Street Developments Pty Ltd
Type of Application	Change Application
Type of Change	Minor Change
Public Notification	Not required for a Minor Change.
Representations Received	4 September 2023

CONSULTATION UNDERTAKEN

Internal Referrals

Internal Referral Partner	Referral / Response
Development Engineering and Plumbing	No requirements
Water and Waste	No requirements
Infrastructure Charges Unit	A revised infrastructure charges notice will be issued for the development in conjunction with a decision regarding the 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
The proposed change seeks to rearrange the approved staging boundaries to include proposed Lots 115 and 116 in Stage 1 instead of Stage 2. Stage 1 will instead deliver twelve (12) lots, Stage 2 will deliver eleven (11) lots and Stage 3 will involve the delivery of twelve (12) lots. The amended plans submitted with the change application also show a 3m x 2.8m cutout from proposed Lot 109 for a Pad Mounted Transformer (PMT), reducing the area of proposed Lot 109 from 800m ² to 792m ² .
Representations
Extract of approved staging plan, with mark up of area subject to proposed changes outlined in red, refer to Attachment 3 - Proposed Change to Staging Boundary .
Officer's Assessment
The change application has been accepted and assessed as an 'Minor Change' as the sum of the proposed change is minor in nature. The proposed change has been assessed against relevant assessment criteria and is considered to comply. The application therefore is recommended to be approved subject to reasonable and relevant conditions.

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	Officer's Assessment	Condition to be Recommended
5	<p>The development must be carried out generally in accordance with the Approved Plan listed below, subject to the conditions of this Development Approval:</p> <p>Plan No: PR01, Issue C Description: Preliminary Lot Layout, prepared by Kehoe Myers and dated 28 April 2023 Amendments: Nil</p>	<p>The change application has been accepted and assessed as an 'Minor Change' as the sum of the proposed changes is minor in nature. The proposed change has been assessed against relevant assessment criteria and is considered to comply. The application therefore is recommended to be approved subject to reasonable and relevant conditions.</p>	<p>The development must be carried out generally in accordance with the Approved Plan listed below, subject to the conditions of this Development Approval:</p> <p>Plan No: PR01, Issue CD Description: Preliminary Lot Layout, prepared by Kehoe Myers and dated 28 April 2023 30 August 2023 Amendments: Nil</p>
11	<p>Staging of the development is to occur in accordance with the staging indicated on PR01, Issue C prepared by Kehoe Myers and dated 28 April 2023 subject to and modified by any conditions of this Development Approval.</p>	<p>Condition 11 is to be amended to represent the updated plan reference.</p>	<p>Staging of the development is to occur in accordance with the staging indicated on PR01, Issue CD prepared by Kehoe Myers and dated 28 April 2023 30 August 2023 subject to and modified by any conditions of this Development Approval.</p>

FINANCIAL / RESOURCE IMPLICATIONS

There is no financial or resource implication associated with this decision.

A revised infrastructure charges notice will 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 section/s of the *Human Rights Act 2019*:

Section 15 – Recognition and equality before the law
 Section 21 – Freedom of expression
 Section 24 – Property rights
 Section 25 – Privacy and reputation
 Section 27 – Cultural rights – generally
 Section 28 – Cultural rights – Aboriginal peoples and Torres Strait Islander peoples

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.

A Statement of Reasons is not required to be published in accordance with Section 83(8) of the *Planning Act 2016*.

ATTACHMENT/S

Attachment	1	of	3	Aerial Imagery of Subject Site
Attachment	2	of	3	Zoning, Infrastructure and Terrain Map
Attachment	3	of	3	Proposed Change to Staging Boundary

SCHEDULES

Schedule	1	Concurrence Agency Response
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ATTACHMENTS



Attachment 1 of 3 Aerial Imagery of Subject Site



Attachment 2 of 3 Zoning, Infrastructure and Terrain Map



Attachment 3 of 3 Proposed Change to Staging Boundary

SCHEDULE 1

Concurrence Agency Response/s



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

RECEIVED
 31/05/2023
TOOWOOMBA
REGIONAL COUNCIL

31 May 2023

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

Attention: Elliot Barber

Dear Mr Barber

SARA referral agency response—Colbar Street, Pittsworth

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

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

Response

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

Development details

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

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

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

Representations

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

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

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

Yours sincerely



Kieran Hanna
A/Manager

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

cc Colbar Street Developments Pty Ltd, C/- Property Projects Australia,
blake@propertyprojectsaustralia.com.au

Attachment 1—Referral agency conditions

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

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

Attachment 2—Advice to the applicant

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

Attachment 3—Reasons for referral agency response

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

The reasons for SARA's decision are:

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

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

Material used in the assessment of the application:

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

Attachment 4—Representations about a referral agency response provisions

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Attachment 5—Documents referenced in conditions

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Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules¹ regarding **representations about a referral agency response**

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

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

¹ Pursuant to Section 68 of the *Planning Act 2016*

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

Part 7: Miscellaneous

30 Representations about a referral agency response

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

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