

REPORT TITLE	Reconfiguring a Lot – Code –Two (2) Lots into 14 Lots located at McCleverty Court and 420-462 Hermitage Road, COTSWOLD HILLS QLD 4350
AUTHOR	A/Lead Senior Planner (Emily Hinchliffe)
Application No.	RAL/2024/1633

PURPOSE OF REPORT

To consider a Development Application for Reconfiguring a Lot – Code – Two (2) Lots into 14 Lots located at McCleverty Court and 420-462 Hermitage Road, COTSWOLD HILLS QLD 4350.

EXECUTIVE SUMMARY

The report considers a Development Application (Development Permit) for Reconfiguring a Lot to subdivide Two (2) Lots into 14 Lots. The site is located at McCleverty Court and 420-462 Hermitage Road, Cotswold Hills and is described as Lots 1 and 2 SP339842. The site is located in the Emerging Community Zone under the *Toowoomba Regional Planning Scheme 2012* (Version 28) and is currently used for agricultural purposes and is improved by an associated shed.

The proposed development is subject to Temporary Local Planning Instrument 01/2022 – Housing Supply Assistance Measures (TLPI). Under the TPLI, the provisions of the Planning Scheme apply to the proposed development as if references to the Emerging Community Zone and Emerging Community Zone Code are a reference to the Low Density Residential Zone and Low Density Residential Zone Code respectively. All lots proposed meet the minimum lots sizes required within the Low-medium Density Residential Zone. Accordingly, under TLPI, the proposed Reconfiguring a Lot is subject to Code Assessment.

The site is subject to the Airport Environs (8km Wildlife Hazard Buffer Area, Lighting Area Buffer (6km)), Environmental Significance (Areas of Ecological Significance, Areas of Ecological Significance Buffer), Bushfire Hazard (Medium Fire Risk) and Regional Infrastructure Corridors and Substations (Petroleum/Natural Gas Corridor) Overlays. It is considered that the proposed development will not have any adverse impact upon the operation of the Toowoomba Airport. It is also considered that the development will have no impact on the ongoing operation of the natural gas corridor, noting that the pipeline itself is located on the opposite side of hermitage road than the subject site, and that the extent of the mapped overlay will remain wholly located within the bounds of Lot 1 SP339842. Further, it is considered that bushfire risk and impacts environmentally significant vegetation can be appropriately managed having regard to the proposed development

The proposed subdivision will result in the creation of 13 new lots for residential purposes, ranging in size from 695m² to 2,445m². The proposed development will result in an extension to McCleverty Court, including a cul-de-sac treatment at its northern end. Lot 1 SP339842 will maintain its existing bounds, noting that is has been included in the application to ensure that the newly proposed subdivision has access to sewer.

The proposal is considered to comply with relevant Planning Scheme provisions or, to the extent of non-compliance, is considered capable of being conditioned to comply. Therefore, the development application is recommended for approval subject to relevant and reasonable conditions.

RECOMMENDATION

APPROVED – Application No. RAL/2024/1633 for a Development Permit for Reconfiguring Lot – Code – Two (2) Lots into 14 Lots, pursuant to the provisions of Section 60 of the *Planning Act 2016* and subject to the conditions listed below.

ASSESSMENT MANAGER CONDITIONS

PLANNING

APPROVED DEVELOPMENT

1. This Development Approval is for Reconfiguring a Lot, being the subdivision of two (2) lots into 14 lots.

CARRY OUT AND MAINTAIN DEVELOPMENT

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

APPROVED PLANS

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

Plan No: S24-012-PC02, Revision C

Description: Proposed Residential Subdivision, Sheet 02 of 07, prepared by Westera Partners and dated 13 November 2024

Amendments: As amended by Council in Red.

Plan No: S24-012-PC03, Revision C

Description: Preliminary Lot Layout Plan, Sheet 03 of 07, prepared by Westera Partners and dated 13 November 2024.

Amendments: As amended by Council in Red and Orange.

APPROVED DOCUMENTS

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

Document: Ecological Assessment Report, Version 2

Description: Ecological Assessment Report, Project No. J001698, prepared by Range Environmental Consultants and dated 21 March 2024.

Amendments: 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 Bulk Earthworks;
 - 8.2 Stormwater Infrastructure;
 - 8.3 Wastewater Infrastructure;
 - 8.4 Water Infrastructure; and
 - 8.5 Roadworks; and
 - 8.6 Driveway Crossover.

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 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*. For the purposes of Section (4) of Schedule 18, the stated date by which the request must be made is the Currency period of this approval.

AVAILABILITY OF APPROVED DOCUMENTATION DURING WORKS

11. 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

12. The land area located at the head of the cul-de-sac in front of proposed lot 25 for the proposed bio-retention basin must be dedicated to Council in fee simple on trust for drainage purposes.

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

13. Submit to Council a Solicitor's Undertaking to register the transfer of lot for drainage purposes 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*.

14. Obtain a valuation of the land from a registered land property valuer to determine payment of any applicable stamp duty payable upon registration of the transfer of the land to Council.

15. The land to be dedicated to Council must be identified as a lot on survey plan and must be submitted to Council with one original signed and 'stamped' *Queensland Land Registry Transfer of Ownership* and relevant forms for each lot dedicated, together with a copy of the land valuation. No other annotation of the purpose of the lot is to be made on the original survey plan submitted to Council for approval.

16. The land area identified to be dedicated as Road Reserve on the Approved Plans must be dedicated as road reserve in accordance with the requirements of the Department of Resources.

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

17. 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.

18. All land dedicated for 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.

19. All land dedicated for drainage and road reserve must not be financially encumbered (e.g. mortgaged) unless otherwise approved by the conditions of this Development Approval.

EASEMENTS

20. An easement for drainage purposes must be registered in favour of Council against the title of proposed Lot 25. The easement must be a minimum 3 metres wide and included on the Plan of Subdivision for Council's approval.

21. An easement for drainage purposes must be registered in favour of Council against the title of proposed Lot 26. The easement must be a minimum 3 metres wide and included on the Plan of Subdivision for Council's approval.

22. An easement for drainage purposes must be registered in favour of Council against the title of Lot 1 SP339842. The easement must be a minimum 3 metres wide and included on the Plan of Subdivision for Council's approval.
23. An easement for sewerage purposes must be registered in favour of Council against the title of Lot 1 SP339842. The easement must be a minimum 3 metres wide and included on the Plan of Subdivision for Council's approval.
24. 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.
25. 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.
26. Unless consistent with the terms of the easement and authorised under this Development Approval, any permanent works or structures must be kept clear of any existing or proposed easements on the subject land.

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

FEES AND CHARGES

27. 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

28. Plans and specifications for all works associated with stormwater infrastructure, wastewater infrastructure, water infrastructure, roadworks, earthworks, or any other works required on Council infrastructure, must be prepared and certified by a Registered Professional Engineer Queensland – Civil (RPEQ).
29. A RPEQ must submit to Council a copy of the:
 - 29.1 Design Certificate prior to commencement of the works; and
 - 29.2 Construction Supervision Certificate upon completion of the works certifying that works are in accordance with the approved plans and specifications.
30. 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.
31. 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

32. All land adjoining the development must be protected from ponding or nuisance from stormwater resulting from the development for the life of the development.
33. 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.

34. 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) and *State Planning Policy – July 2017* demonstrating the following:

- 34.1 Stormwater is conveyed to a lawful point of discharge in accordance with the stormwater discharge conditions of this Development Approval;
- 34.2 Appropriate inspection and maintenance of stormwater quality control infrastructure in accordance with a program; and
- 34.3 The achievement of Water Sensitive Urban Design objectives listed in PSP No. 2 and *State Planning Policy – July 2017*.

Note: Council may consider entering into an Infrastructure Agreement for a partial contribution in lieu of constructing the required stormwater quality works. This will require a separate request to be made to Council. This agreement will be subject to a demonstration of partial treatment onsite.

STORMWATER DISCHARGE

35. 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.

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

36. 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 frontage so as not to concentrate the discharge to any one location.

37. 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*.

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

STORMWATER – CONVEYANCE OF STORMWATER VIA DRAINAGE EASEMENT

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

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

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

AIR QUALITY IMPACT MITIGATION

40. Odours or airborne contaminants which are noxious or offensive to public amenity or safety, likely to cause environmental harm or environmental nuisance or exceed the *Air Quality Objectives* listed in the *Environmental Protection (Air) Policy 2019* as measured at any sensitive place or commercial place must not be released to the atmosphere during building and operational works.

41. 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:

- 41.1 Dust deposition of 120 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.

CONSTRUCTION WASTE MANAGEMENT & STORAGE

42. 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*.
43. 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*.
44. Fires are not to be lit to dispose of demolition or construction waste.
45. 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:
 - 45.1 Elsewhere within this Development Approval;
 - 45.2 In accordance with an associated Development Permit for Operational Work;
 - 45.3 In association with and in accordance with an Environmental Authority issued under the *Environmental Protection Act 1994*;
 - 45.4 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
 - 45.5 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.
46. 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

47. 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

48. 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.
49. 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.
50. 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.
51. All disturbed areas must be mulched or turfed as soon as possible during construction.
52. 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

53. Protect Council and public utility services and assets during construction of the development.
54. 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:
 - 54.1 Where the damage would cause a hazard to pedestrian or vehicle safety or interrupts a service to the community, immediately; or
 - 54.2 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.
55. 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.
56. 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)

57. The subdivision must be connected to Council's existing wastewater reticulation system 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.
58. The design and construction of the works must be in accordance with Council's *Wastewater Infrastructure Policy 2.04*.

Note: A separate Development Application for a Development Permit for Operational Work may be required to be lodged.
59. 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.
60. 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.
61. 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 internal and external wastewater reticulation works and in accordance with the approved plans and documents of this Development Approval.

WATER SUPPLY

62. 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.
63. Unless able to be used as part of the development, any existing connection must be disconnected at no cost to Council.

64. Certification must be provided to Council by RPEQ or Licensed Plumber that the disconnection has been carried out.
65. 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 internal and external water supply works and in accordance with the approved plans and documents of this Development Approval.

TELECOMMUNICATION

66. Install telecommunications infrastructure to service each approved lot which complies with the following:
 - 66.1 The requirements of the *Telecommunications Act 1997* (Cth);
 - 66.2 For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
 - 66.3 For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line is located underground.
67. 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.
68. 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

69. 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.
70. 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)

71. The extension of McCleverty Court must generally be constructed as shown on the Approved Plans.
72. The internal road 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:
 - 72.1 The extension of McCleverty Court must have a 20.0m road reserve width with a 6.0m carriageway width measured between channel inverts, generally in accordance with the Approved Plans; and

- 72.2 A cul-de-sac must be provided in accordance with the *Planning Scheme Policy No. 2 – Engineering Standards – Roads and Drainage Infrastructure* at the northern end of McCleverty Court, with the exception that a footpath is not required.

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

73. All street surfacing must consist of an approved asphaltic concrete.
74. Verge widths, street reserve widths and vertical alignment must comply with Council's requirements, as set out in *Planning Scheme Policy No. 2 – Engineering Standards – Roads and Drainage Infrastructure (PSP No.2)*.
75. 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.
76. The design and the construction of the works must be certified by a RPEQ - Civil.

ACCESS

77. 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 Lot 25 in accordance with the following requirements:
- 77.1 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)*;
- 77.2 Council's standards;
- 77.3 The driveway must be constructed so as not to concentrate stormwater runoff onto neighbouring properties;
- 77.4 Underground service conduits for water supply, electricity, house drainage and any other services must be provided as part of the access driveway; and
- 77.5 Where used for parking, the longitudinal gradient and crossfall of all driveways must comply with the requirements of AS2890.1.
78. Prior to 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 the Council for Driveway Crossover. The design and construction of the works must be certified by a RPEQ – Civil.

ROADWORKS SIGNAGE AND PEDESTRIAN SAFETY

79. 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.

80. 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

81. 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*.

LANDSCAPE & ECOLOGY

LANDSCAPE PLAN

82. Prior to commencement of any works on site or the issue of a Development Permit for Operational Works or Building Work (whichever occurs first) submit to Council for endorsement, a Landscape Plan prepared by a suitably qualified person for street trees that details in particular:
- 82.1 The species to be planted and their location;
 - 82.2 The number and container size of plants;
 - 82.3 Typical cross section/s through each street typology indicating clearance of street trees from underground services, kerbs and footpaths in accordance with *Planning Scheme Policy No. 2 – Engineering Standards – Roads and Drainage Infrastructure*;
 - 82.4 The typical planting detail including preparation, backfill, staking and mulching; and
 - 82.5 Internal dimensions of all planting areas.

LANDSCAPING WORKS (PROVISION OF STREET TREES)

83. Unless otherwise agreed by Council, plant and maintain for a period of 12 months, one (1) street tree within the road reserve for every 15 metres of the road extension of McCleverty Court that is capable of reaching 12 metres in height at maturity.
84. The selection and planting of any street tree, including any street tree required to replace a removed street tree must be in accordance with the requirements of *Planning Scheme Policy No.8 – Street Trees*, the *Toowoomba Regional Council Street Tree Master Plan*, and the approved Landscape Plan.
85. All landscape works must be established by a qualified person and maintained in accordance with the conditions of this Development Approval for the life of the development, and in a manner that ensures healthy, sustained and vigorous plant growth. All plant material must be allowed to grow to full form and be refurbished when its life expectancy is reached.
86. Certification must be submitted to Council from a qualified person who certifies that landscaping established complies with the requirements of this Development Approval.

RETENTION AND REMOVAL OF EXISTING TREES AND VEGETATION

87. The retention and clearing of trees must be carried out in accordance with Section 5 and Figures 10 and 11 of the Ecological Assessment Report listed within this Development Approval, as well as the following:
- 87.1 Retain old growth tree hollows and suitably relocate and distribute for nesting fauna;
 - 87.2 Mulch all other wood and leaf material (without root balls, soil or debris and minimising weed seeds) for re-usable mulch;
 - 87.3 Have mulch for re-use in landscape or rehabilitation stockpiled and aged for a minimum of three (3) months;
 - 87.4 Have mulch stockpiles no larger than 1,000m³, 2.5m in height and with 10m separation between piles;
 - 87.5 Allow for existing endemic ground flora to be translocated to suitable landscaping and rehabilitation areas; and
 - 87.6 Conclude with the area being stabilised against erosion and rehabilitated.

88. Any processing of trees or vegetation must be carried out in a safe manner and without exceeding the noise and air emission levels listed or prescribed in this Development Approval.

FAUNA MANAGEMENT DURING REMOVAL OF EXISTING TREES AND VEGETATION

89. A legislative compliant Fauna Spotter Catcher must be engaged to manage fauna prior and during clearing to:
- 89.1 Ensure works are carried out in accordance with Section 5.2 and Section 7 the approved Ecological Assessment Report listed within the Development Approval and the *Nature Conservation Act 1992*;
 - 89.2 Undertake pre-clearing inspections including fauna relocation and removal or blocking of all vacant hollows;
 - 89.3 Ensure clearing works avoids nesting times of animals and birds;
 - 89.4 Co-ordinate the sequence of clearing with fauna protection measures;
 - 89.5 Protect and recover fauna during clearing operations (not previously removed); and
 - 89.6 Manage the translocation of animals and recovery procedures in accordance with relevant legislation.

ADVICES

INFRASTRUCTURE CHARGES

- 1) 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

- 2) 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.
- 3) 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.
- 4) 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

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

WHEN APPROVAL LAPSES

- 6) 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

- 7) 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.

BUSHFIRE BUILDING STANDARD

- 8) This Development Approval has not considered any building assessment provisions under the *Building Code of Australia*. Lots 25 to 32 are identified in the *Toowoomba Regional Planning Scheme 2012* 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.

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.

QUALIFIED PERSON

- 12) 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 three (3) years current experience in the field of landscape design.

REASONS FOR RECOMMENDATION

The proposed development has been assessed with regard to the applicable assessment benchmarks as identified within this report and the attached Statement of Reasons (refer to Schedule 2). The proposed development generally complies with the assessment benchmarks or it can be conditioned to comply. Where the applicant has not provided sufficient information, conditions have been imposed to ensure compliance.

DELEGATE'S DECISION:

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



Richard Green, Lead Senior Planner
Planning Branch

Decision Date: 2 December 2024

CORPORATE PLAN REFERENCE

Nil.

BACKGROUND

SITE DETAILS				
Site Address	McCleverty Court and 420-462 Hermitage Road, COTSWOLD HILLS QLD 4350			
Real Property Description	Lots 1 and 2 SP339842, Easements C and D SP339842 and Easement B SP247500			
Site Area	14.248ha			
Owner	Lot 1 SP339842 – LG Resorts No 2 Pty Ltd and Lot 2 SP339842 – Cotswold Hills Holdings Pty Ltd			
SITE CHARACTERISTICS				
Current Land Use	Lot 1 – Agricultural Lot 2 – Agricultural and associated shed.			
Site Frontage/s	Hermitage Road – 425m Nugent Pinch Road – 342m McCleverty Court – 20m			
Road/s	Order of Road	Width of Road Reserve	Width of Pavement	Road Material
Hermitage Road	Sub-arterial Road	40m	6.5m	Asphalt
Nugent Pinch Road	Sub-arterial Road	20m	Gravel - 5.5m Asphalt – 7m	187m south of intersection with Hermitage Road is Gravel Remaining extent of road frontage is Asphalt
McCleverty Court	Local	20m	6m	Asphalt
Easements	Easement B SP247500 – Water and Sewer Infrastructure Easement C SP339842 – Right of Way Easement D SP339842 – Stormwater Drainage Easement E SP339845 – Stormwater Drainage Easement F SP339845 – Stormwater Drainage			
Existing Structures	Lot 1 – Vacant Lot 2 – Shed			
Infrastructure	Water and Sewer infrastructure is available to the subject site via Hermitage Road. Water and sewer infrastructure also traverses the north-western corner of the site (Easement B SP247500). Water infrastructure is also available from McCleverty Court and within the south-eastern corner of the subject site. Stormwater infrastructure is available from Nugent Pinch Road.			
Topography	The south-western corner of the subject site (Lot 2) is elevated above the remainder of the site. The rest of the site falls north-east toward the intersection of Hermitage Road and Nugent Pinch Road.			
Street Trees	There are a total of three (3) trees located within the site's frontages to Hermitage Road and Nugent Pinch Road. There are no street trees located within the site's frontage to McCleverty Court.			
Other Features	The subject site is located within a Greenfield Area under the <i>Toowoomba Regional Planning Scheme 2012 (Version 28)</i> . The site is also subject to Council's <i>Temporary Local Planning Instrument 01/2022 – Housing Supply Assistance Measures</i> .			
PLANNING SCHEME SITE DATA				
Current Planning Scheme	<i>Toowoomba Regional Planning Scheme 2012 (Version 28)</i>			Adopted: 28/11/22

Zone	Emerging Community	
Precinct	Nil.	
Overlays	Airport Environs Overlay - 8km Wildlife Hazard Buffer Area - Lighting Area Buffer (6km) Environmental Significance Overlay - Areas of Ecological Significance - Areas of Ecological Significance Buffer Bushfire Hazard Overlay - Medium Fire Risk Regional Infrastructure Corridors and Substations Overlay Petroleum/Natural Gas Corridor	
Infrastructure Charges Resolution	<i>Charges Resolution No. 5</i>	Adopted: 01/03/22
SURROUNDS:		
Direction	Land Use	Zone/Precinct
North	Agricultural and associated Dwelling House, Sheds and Structures	Community Facilities/Government Rural / 100ha Minimum Precinct
East	Residential Agricultural	Low Density Residential/General
South	Residential	Rural Residential/4,000m ² Minimum
West	Agricultural	Emerging Communities
Other Features	The subject site is located within 25m of the Warrego Highway (State-controlled Road).	

APPLICATION HISTORY			
Application No.	Description	Decision Date	Decision
RAL/2023/187	Development Permit for Reconfiguring a Lot – Subdivide One (1) into Two (2) Lots	21 April 2023	Approved.
MCUC/2023/5258	Development Permit for Material Change of Use – Code – Retirement Facility	23 April 2024	Approved.
OW/2024/2982	Development Application for Development Permit for Operational Works – Earthworks	Under Assessment	Under Assessment
Other	The extent of the proposed subdivision relates to subdividing Lot 2 into 13 lots. Lot 1 has been included in the application noting that connections to Council infrastructure are proposed through the lot. Lots 1 and 2 the subject of this application were approved by RAL/2023/187 and sealed on 4 May 2023 under SEAL/2023/1836. The approved retirement facility is located over Lot 1.		

PROPOSED DEVELOPMENT	
Name of Applicant	Cotswold Hills Holdings Pty Ltd
Type of Application	Reconfiguring a Lot
Proposed Development	Two (2) Lots into 14 Lots
Variations Sought	Not Applicable
Level of Assessment	Code Assessable.
Decision Making Period Ends	2 December 2024

CONSULTATION UNDERTAKEN

Referral Agency/ies

Referral Agency (Technical Agency)	Referral Role	Aspect of Development Requiring Referral	Response
Department of State Development, Manufacturing, Infrastructure and Planning	Concurrence	<p>State transport infrastructure</p> <ul style="list-style-type: none"> Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 – Item 1 	A Referral Agency Response advising of no requirements dated 30 May 2024 was provided to Council.

Internal Referrals

Internal Referral Partner	Referral / Response
Development Engineering and Plumbing	Reviewed application and recommended conditions for approval.
Place Environmental	Reviewed application and recommended conditions for approval.
Parks and Recreation	Reviewed application and recommended conditions for approval.
Infrastructure Charges Unit	Preparing an Infrastructure Charges Notice in accordance <i>with Charges Resolution No. 5</i> to accompany an approval of the development.

ISSUES, RISKS AND RESPONSES – ASSESSMENT

Categorising Instrument – *Planning Regulation 2017*:

PLANNING REGULATION 2017	
<i>Prohibited Development</i>	The proposed development is not prohibited development in accordance with the <i>Planning Regulation 2017</i> .
<i>Infrastructure Charges</i>	The <i>Planning Regulation 2017</i> provides for the levying of infrastructure charges on development approvals.
<i>Schedules 9 and 10</i>	<p>Schedules 9 and 10 categorises particular development and details the relevant assessment benchmarks for development as relevant. the proposed development was referred to State for assessment in accordance with Schedule 10.</p> <p>Further, Schedule 10, Part 14 of the <i>Planning Regulation 2017</i> prescribes that Reconfiguring a Lot as defined in Part 1 of Schedule 12A (Walkable Neighbourhoods) of the Regulation is assessable development and must be assessed against the Assessment Benchmarks prescribed in Part 2 of Schedule 12A.</p> <p>The proposed development is a Reconfiguring a Lot as defined in Schedule 12A of the Regulation and has been assessed against the relevant Assessment Benchmarks. The proposed reconfiguring a Lot is considered to comply with the relevant Assessment Benchmarks.</p>

REGIONAL PLANS	
<i>Shaping SEQ – South East Queensland Regional Plan 2023</i>	<p>The subject site is mapped within the bounds of the <i>Shaping SEQ – South East Queensland Regional Plan 2023</i> (ShapingSEQ). ShapingSEQ identifies that the subject site is within the Urban Footprint, which is intended to identify the land required for the region's urban development needs up to 2046.</p> <p>The development application is consistent with the land use intent for the Urban Footprint as it proposes an urban use within the bounds of the urban footprint.</p>
<i>Darling Downs Regional Plan October 2013</i>	The <i>Darling Downs Regional Plan 2013</i> (DDRP) is a statutory regional plan that is intended to provide planning policy to address planning matters that are of State interest and specific to the Darling Downs region. The subject

	site is located within the Restricted Area 384 of the DDRP as it is located within the SEQRP and accordingly the DDRP has no requirements.
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STATE PLANNING POLICY (SPP) <i>July 2017</i>	
Interests	Assessment Comments
Housing Supply and Diversity	No applicable assessment benchmarks.
Livable Communities	No applicable assessment benchmarks.
Agriculture	No applicable assessment benchmarks.
Development and Construction	No applicable assessment benchmarks.
Mining and Extractive Resources	No applicable assessment benchmarks.
Tourism	No applicable assessment benchmarks.
Biodiversity	No applicable assessment benchmarks.
Cultural Heritage	No applicable assessment benchmarks.
Water Quality	No applicable assessment benchmarks.
Emissions and Hazardous Activities	No applicable assessment benchmarks.
Natural Hazards, Risk and Resilience	<p>The Department of State Development, Manufacturing, Infrastructure and Planning (DSDMIP) interactive mapping (DAMS) which accompanies the SPP identifies that this interest is applicable to the subject property. Specifically, the subject site is located within the Medium Potential Bushfire Intensity and Potential Impact Buffer of the identified Bushfire Prone Areas.</p> <p>Accordingly, the following assessment benchmarks are applicable to the proposed development:</p> <ul style="list-style-type: none"> (3) Development other than that assessed against (1) above, avoids natural hazard areas, or where it is not possible to avoid the natural hazard area, development mitigates the risks to people and property to an acceptable or tolerable level. (4) Development supports and does not hinder disaster management response or recovery capacity and capabilities. (5) Development directly, indirectly and cumulatively avoids an increase in the severity of the natural hazard and the potential for damage on the site or to other properties. (6) Risks to public safety and the environment from the location of hazardous materials and the release of these materials as a result of a natural hazard are avoided. (7) The natural processes and the protective function of landforms and the vegetation that can mitigate risks associated with the natural hazard are maintained or enhanced. <p>As advised by Council’s Acting Senior Environmental Officer, a Bushfire Management Report has been provided by the applicant. The Bushfire Management Report demonstrates that the risk of bushfire to future dwellings is low particularly once vegetation is managed in accordance with the Ecological Assessment Report provided as part of the application material. Noting that the Ecological Assessment Report has been recommended for approval, it is considered that the risks of bushfire will be appropriately mitigated on the site. Accordingly, the proposed development is considered to comply with the requirements of the State Planning Policy.</p>
Energy and Water Supply	No applicable assessment benchmarks.

Infrastructure Integration	No applicable assessment benchmarks.
Transport Infrastructure	No applicable assessment benchmarks.
Strategic Airports and Aviation Facilities	The Department of State Development, Manufacturing, Infrastructure and Planning (DSDMIP) interactive mapping which accompanies the SPP identifies that this interest is applicable to the subject property. However, the assessment benchmarks identified in Part E of the SPP do not apply to the proposed development.

Local Categorising Instrument – Toowoomba Regional Planning Scheme 2012:

The proposed development is subject to Temporary Local Planning Instrument 01/2022 – Housing Supply Assistance Measures (TLPI). Under the TPLI, the provisions of the Planning Scheme apply to the proposed development as if references to the Emerging Community Zone and Emerging Community Zone Code are a reference to the Low Density Residential Zone and Low Density Residential Zone Code respectively.

The proposed development was assessed against the following assessment benchmarks:

- Airport Environs Overlay Code;
- Bushfire Hazard Overlay Code;
- Regional Infrastructure Corridors and Substations Overlay Code;
- Environmental Significance Overlay Code;
- Low Density Residential Zone Code; and
- Reconfiguring a Lot Code

The development was assessed against all of the assessment benchmarks listed above and is considered to comply without exception as follows:

OVERLAY CODE/S:

BUSHFIRE HAZARD OVERLAY CODE	
Performance Outcome	Performance Outcome
<p><i>PO₅</i> <i>Lot design and the siting of buildings provide safe sites for habitable and non-habitable buildings</i></p>	<p><i>AO_{5.1}</i> <i>All development enables buildings and structures to achieve setbacks from hazardous vegetation that are:</i> <i>(a) sited within the area of lowest hazard within the lot; and</i> <i>(b) provide for adequate setbacks from hazardous vegetation; and</i> <i>(c) 1.5 times the predominant mature canopy tree height or 10m, whichever is the greater; and</i> <i>(d) 10m from any retained vegetation strips or small areas of vegetation; and</i> <i>(e) sited so that elements of the development least susceptible to fire are sited closest to the bushfire hazard</i></p>
Alternate Outcome	
<p>The applicant provided a Bushfire Hazard Report which submits:</p> <p><i>"PS5.1</i> <i>The proposed RaL configuration enables buildings and structures to be sited within development in areas with:</i></p> <ol style="list-style-type: none"> <i>a. The lowest area of bushfire hazard;</i> <i>b. Adequate setbacks from potentially hazardous vegetation are achieved;</i> <i>c. All dwellings are to be located a minimum of 10 metres from any retained vegetation strips or small areas of vegetation. The height of mature canopy trees on the site is in the order of 15 to 20 metres. The Australian Standard AS3959-2018 allows for the construction of buildings close to vegetation than this provided that they are built to a higher standards; and</i> <i>d. All dwellings are to be located a minimum of 10 metres from any retained vegetation strips or small areas of vegetations; and</i> <i>e. All dwellings are to be located a minimum of 10 metres from any retained vegetation strips or</i> 	

small areas of vegetation.

Construction of structures is to comply with AS3959-2018 and the BCA.

Appendix B provides additional information on the level of bushfire hazard posed to buildings and the methodology used to calculate it. A site-specific bushfire report should be prepared for dwellings located within a mapped bushfire hazard area to guide the construction of new dwellings taking into account location of buildings and prevailing building requirements."

Officer Comment

As advised by Council's Acting Senior Environmental Officer, a Bushfire Management Report was provided by the applicant which demonstrated that the risk of bushfire to future dwellings is low once vegetation is managed in accordance with the requirements of the Ecological Assessment Report provided as part of the application material. It is considered that it is unlikely that building treatments will be required for future dwellings within the development site. In this regard it is considered that future dwellings can be located on the newly proposed lots in a manner that is safe from bushfire hazard. Accordingly, it is considered that the proposed subdivision complies with PO₅.

ENVIRONMENTAL SIGNIFICANCE OVERLAY CODE

Performance Outcome	Acceptable Outcome
<p><i>PO₁</i> <i>Vegetation disturbance or other impacts on areas of ecological significance shown on the Environmental Significance Overlay maps, is avoided or where disturbance cannot be avoided the loss or reduction of ecological values is minimised.</i></p>	<p><i>AO_{1.1}</i> <i>Impacts are avoided by locating development wholly outside mapped areas of ecological significance and areas of ecological significance buffer identified on the Environmental Significance Overlay maps.</i></p> <p><i>OR</i></p> <p><i>Where impacts on areas of ecological significance shown on the Environmental Significance Overlay Maps cannot be avoided, they are minimised by:</i></p> <ul style="list-style-type: none"> <i>(a) minimising the total footprint within which activities, buildings, structures, driveways and other works or activities are contained;</i> <i>(b) avoiding further fragmentation of areas of ecological significance and strengthening linkages where possible;</i> <i>(c) utilising areas of lesser importance in terms of biodiversity values so that areas of higher value are conserved to the greatest extent practicable; and</i> <i>(d) maintaining areas of ecological significance in patches of greatest possible size and with the smallest possible edge to area ratio.</i>

Alternate Outcome

The applicant provided an Ecological Assessment Report which submits:

"AOI.1 will be met by the development because:

- a. The development footprint is located within a degraded ecological area, with building location envelopes provided which minimise the footprint size and limit the location of dwellings to areas in proximity to the proposed access road.*
- b. The site is already extremely fragmented with limited connectivity. By ensuring protection of trees within lots in the east of the site adjacent vegetation values will be retained.*
- c. The development is located primarily within areas assessed as containing degraded native vegetation and habitat values (the whole of the site). Furthermore, the development is concentrated around the proposed road to facilitate retention of native vegetation values in the north and east of the site.*
- d. The vegetation within the north eastern extent of the site will be retained. Noting the extensive level of historic fragmentation of the vegetation patch and relatively small size of the patch limited further opportunities are available for enhanced retention in an alternate configuration."*

Officer Comment

As advised by Council's Acting Senior Environmental Officer, an Ecological Assessment Report was provided by the applicant which demonstrates that future development could be provided on each newly proposed lot in a manner which minimises vegetation disturbance with the site. Accordingly, this report has been recommended for endorsement. Further, conditions or approval have been recommended to

ensure that vegetation removal and retention occurs in accordance with the recommendations of the Ecological Assessment Report and that appropriate fauna management is undertaken when vegetation is removed.

DEVELOPMENT CODES:

RECONFIGURING A LOT CODE	
Table 9.4.5:1	
Performance Outcome	Acceptable Outcome
<p><i>PO₄</i> <i>All new lots provide sufficient area, frontage and dimensions, and road access that enable their future development to achieve relevant outcomes in applicable Use, Zone, Overlay, and Other Development Codes in relation to:</i></p> <ul style="list-style-type: none"> <i>(a) dwellings, buildings and/or other structures;</i> <i>(b) setbacks;</i> <i>(c) landscaping;</i> <i>(d) on site car parking and vehicle access;</i> <i>(e) recreation areas (private open space);</i> <i>(f) cultural heritage and character streetscape values;</i> <i>(g) other design criteria.</i> 	<p><i>AO_{4.1}</i> <i>All lots are rectangular and have minimum width to depth ratios, areas, dimensions and frontages as prescribed in Table 9.4.5:4.</i></p>
Alternate Outcome	
<p>The applicant submits:</p> <p><i>“Complies (P04)</i> <i>The proposed allotments have sufficient for their future development and this area is located where it will be accessible from the extension to McCleverty Court. The areas may accommodate future development that are not affected by mapped constraints including steep slopes, are not adversely impacted by bushfire hazard (refer to Section 4.1), and appropriately minimise impacts on ecological values (refer to Section 4.2).”</i></p>	
Officer Comment	
<p>Proposed lots 24-29 are not rectangular in shape. Further proposed lots 25 and 27-29 have frontages less than the minimum 15m requirement within Table 9.4.5:4. Accordingly, the development does not comply with AO_{4.1}. Notwithstanding, it is considered that the proposed development will create new lots which can provide sufficient area, frontage and dimensions to ensure that future dwellings on the site can be wholly contained within the bounds of each new lot in a manner that reflects the overall density outcomes of the site. Accordingly, it is considered that the proposed development complies with Performance Outcome PO₄.</p>	
Table 9.4.5:2	
Performance Outcome	Acceptable Outcome
<p><i>PO₁</i> <i>Except where in the Rural Zone (other than where in the Heinemann Road Transport Precinct) Limited Development (Constrained Land) Zone, Community Facilities Zone, Open Space Zone or Recreation Zone, development:</i></p> <ul style="list-style-type: none"> <i>(a) occurs in a logical pattern and sequence;</i> <i>(b) is of a scale and density that facilitates an efficient land use pattern and facilitates a mix of lot sizes that provide for a range of residential dwelling choices;</i> <i>(c) is designed to create compact and walkable neighbourhoods that are well connected to employment nodes,</i> 	<p><i>AO_{1.1}</i> <i>A Master Plan is prepared in accordance with SC6.4 PSP No. 4 Master Planning.</i></p>

<p><i>centres, open space and recreational areas, community services and educational opportunities;</i></p> <p><i>(d) creates a high quality streetscape and public open space network with connected public spaces and parks;</i></p> <p><i>(e) appropriately responds to constraints and natural values and mitigates any adverse impacts on areas of ecological significance;</i></p> <p><i>(f) is provided with all necessary infrastructure networks and is well serviced by community facilities; and</i></p> <p><i>(g) creates lots which are suitable for their intended use without requiring significant earthworks.</i></p>	
<p>Alternate Outcome</p>	
<p>The applicant submits:</p> <p>“Complies (P01)</p> <p>a) <i>The proposed creation of residential lots is occurring in a logical pattern and sequence. Land surrounding the subject site has been developed or will soon be developed demand for land for suburban residential development, and required infrastructure is in place surrounding the subject site.</i></p> <p>b) <i>The proposal is for thirteen (13) lots. However, the scale of these lots is sufficient to accommodate future development at the suburban level of intensity intended for the surrounding area.</i></p> <p>c) <i>The proposed lot configuration does not compromise future development creating neighbourhoods that meet this intended outcome.</i></p> <p>d) <i>The proposed lot configuration does not prevent the future provision of a high-quality streetscape and open space network.</i></p> <p>e) <i>The proposed lot layout responds to the constraints provided by the steep topography to the north-east and north west of the site, by aligning lot boundaries with this affected area.</i></p> <p>f) <i>This arrangement does not warrant the provision of major earthworks to facilitate future development. Refer to Table 3. The development will be connected to essential council infrastructure networks.</i></p> <p>g) <i>The proposal does not result in lots that require extensive earthworks to facilitate the intended use. Notably, each lot is provided with a generous area that is not located within the more steeply sloping areas located towards the north-east of the subject site.”</i></p> <p>Further, in response to Council's Information Request, the applicant submits:</p> <p><i>“The requirement to service the property to the west from the land to the south does not appear to have been previously required when looking at the lots accessed from Phoebe Court or William Court to the west which would have been far more logical choices. An indicative future road layout and associated lot layout plan for the escarpment to the west of the development site has been prepared and is included in Attachment A to this letter. The plan includes indicative driveways for each of the four lots over the high point of this site including anticipated driveway levels and grades. No issues are considered to be present gaining access to the elevated portion of the site with some sensible driveway design.”</i></p>	
<p>Officer Comment</p>	
<p>The proposed subdivision does not provide for road connectivity to the elevated south-eastern corner of Lot 241 SP198122. Notwithstanding, while McCleverty Court could be extended to the west, it could not be provided as through road given the topography of this corner of Lot 241.</p> <p>The applicant has provided an indicative lot layout for the elevated south-eastern of Lot 241, along with a possible future road layout. This plan demonstrates that while the subdivision the subject of this application does not provide road connectivity through to the west, the south-eastern corner of Lot 241 is still able to be subdivided in the future with road access provided from the bottom of the plateau (see Attachment 4). In this regard, it is considered that the proposed lot layout will minimise the number of lots taking access off a cul-de-sac while ensuring the residential density of both the subject site and Lot 241 can be increased as intended under the TLPI. Accordingly, it is considered that the proposed subdivision complies with Performance Outcome PO₁.</p>	

Local Categorising Instrument – Variation Approval:

Not Applicable

Local Categorising Instrument – Temporary Local Planning Instrument:

The proposed development is subject to Temporary Local Planning Instrument 01/2022 – Housing Supply Assistance Measures (TLPI). Under the TPLI, the provisions of the Planning Scheme apply to the proposed development as if references to the Emerging Community Zone and Emerging Community Zone Code are a reference to the Low Density Residential Zone and Low Density Residential Zone Code respectively. Further, the proposed development is also assessable against the assessment benchmarks presented in Table 4 – TLPI Additional Requirements assessment benchmarks for assessable development of the TLPI.

The development was assessed against the relevant assessment benchmarks listed above and is considered to comply without exception.

Local Categorising Instrument – Preliminary Approval:

Not Applicable

Local Categorising Instrument – Local Government Infrastructure Plan:

The subject site is located within the Priority Infrastructure Area (PIA).

Other Relevant Matters

Not Applicable

FINANCIAL / RESOURCE IMPLICATIONS

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

Human Rights Act 2019 CONSIDERATIONS

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

In assessing this application consideration has been given to the following 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 inappropriately limited.

CONCLUSION

The development has been assessed with regard to the applicable assessment benchmarks as identified within this report and the attached Statement of Reasons (refer to Schedule 2). The proposed development generally complies with the assessment benchmarks or it can be conditioned to comply. Where the applicant has not provided sufficient information, conditions have been imposed to ensure compliance. It is therefore recommended that the development application be approved subject to the conditions identified above.

ATTACHMENT/S

Attachment	1	of	4	Aerial Image
Attachment	2	of	4	Zoning Map
Attachment	3	of	4	Proposed Lot Layout
Attachment	4	of	4	Indicative Lot Layout and Access Driveways

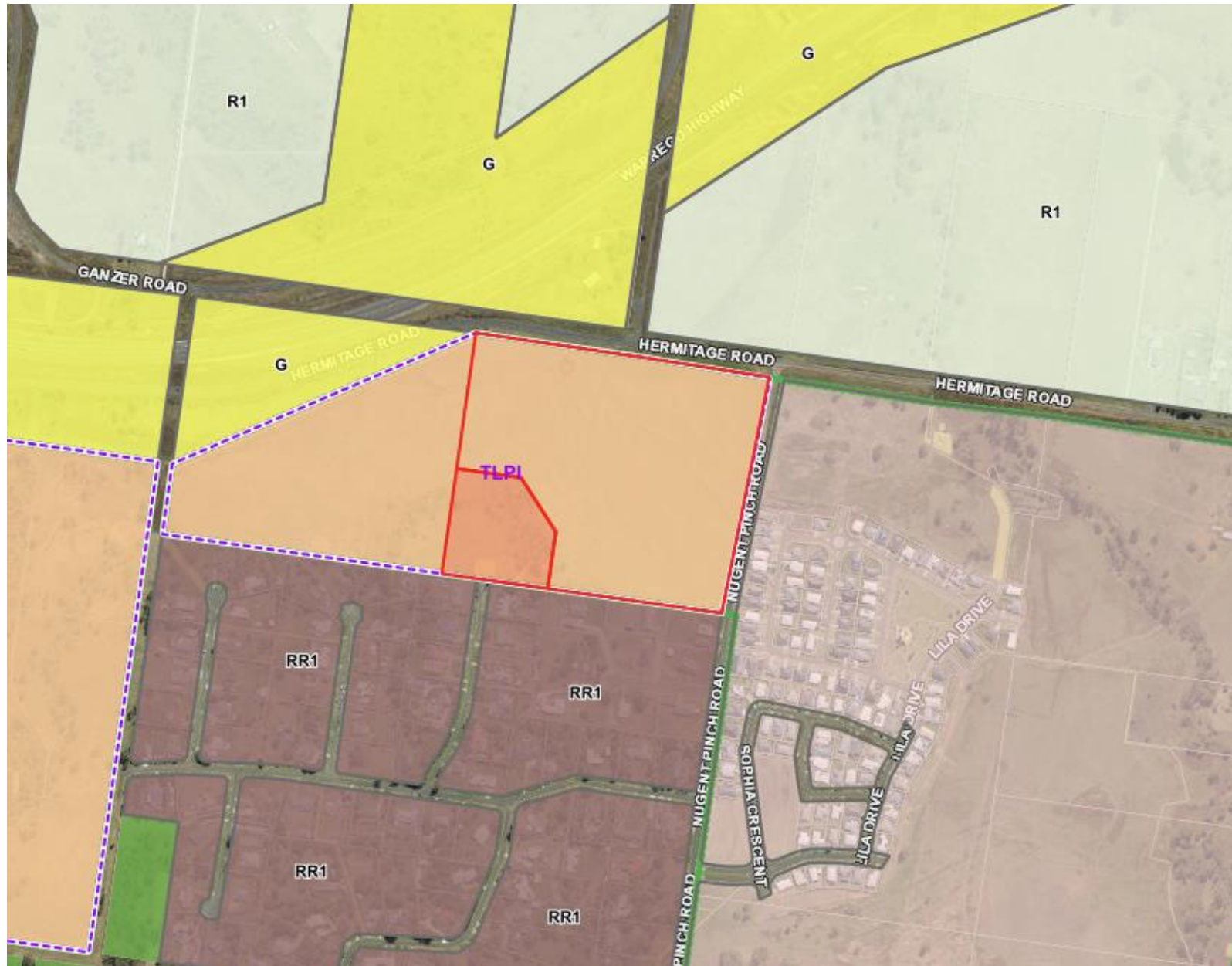
SCHEDULES

Schedule	1	Concurrence Agency Response
Schedule	2	Statement of Reasons

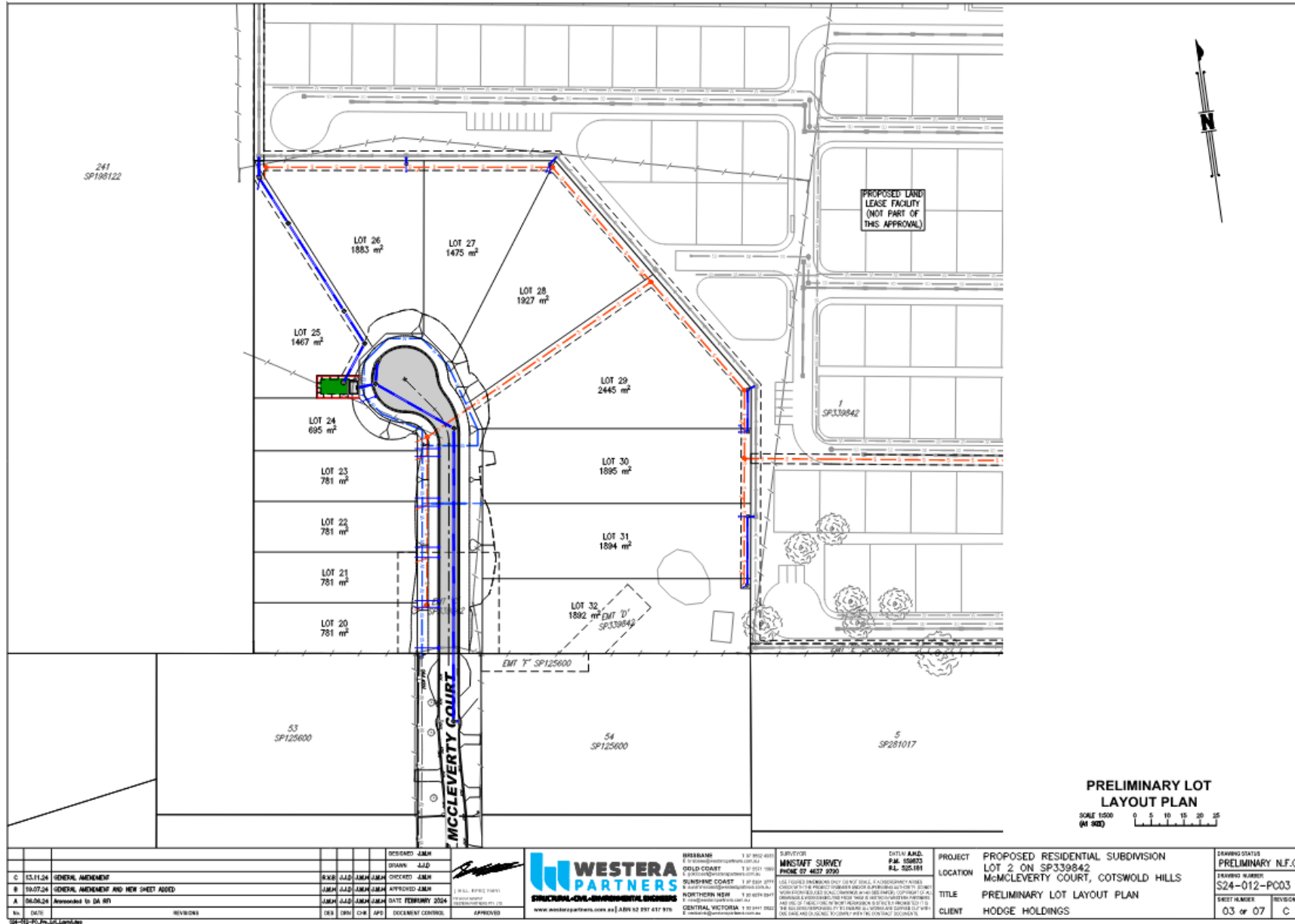
ATTACHMENTS



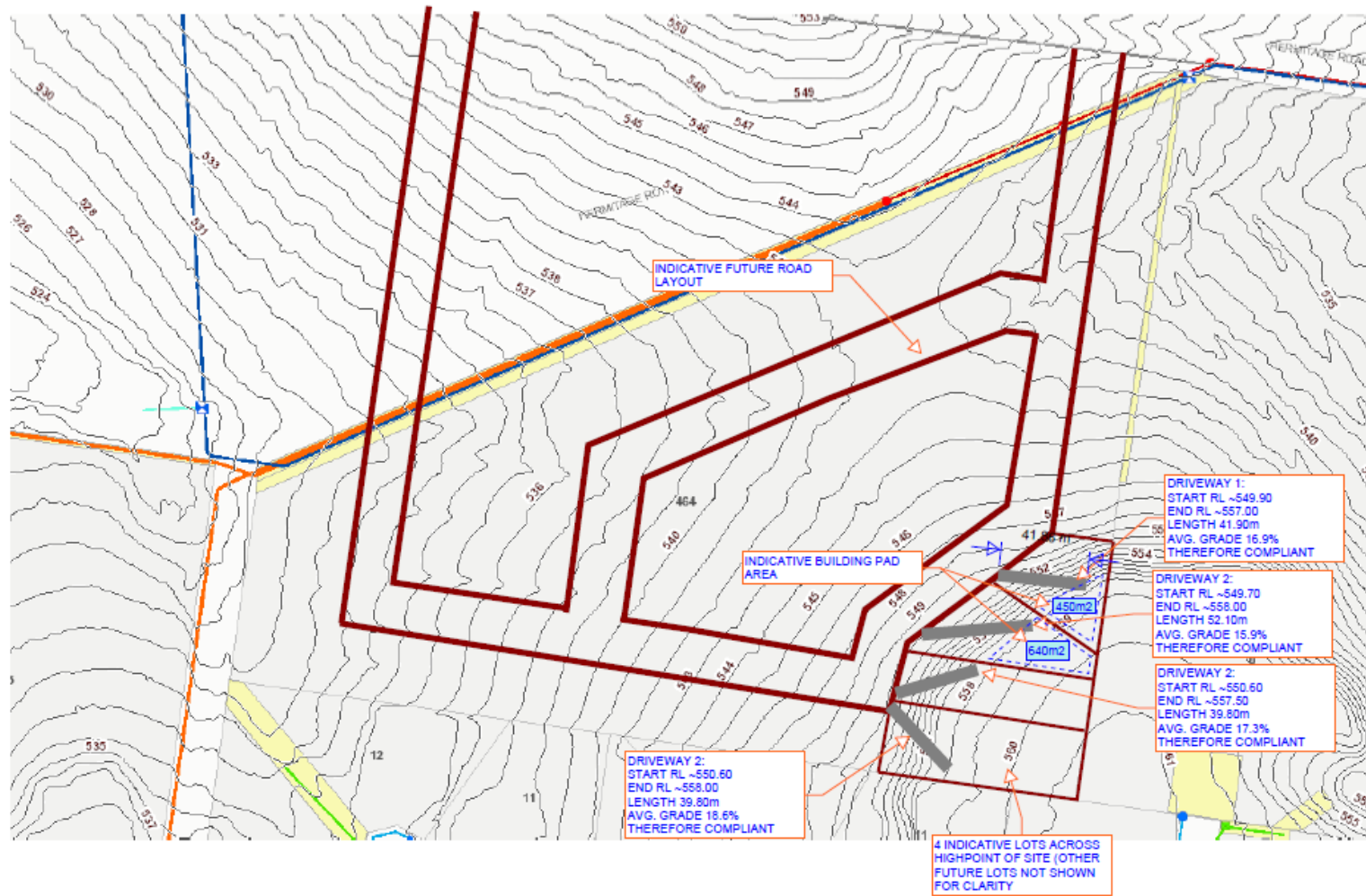
Attachment 1 – Aerial Image (Source: IntraMaps 2024)



Attachment 2 – Zoning Map (Source: IntraMaps 2024)



Attachment 3 – Proposed Lot Layout (Source: Applicant)



FUTURE LOT LAYOUT & ACCESS DRIVEWAYS
 J.HILL 10/06/2024

Attachment 4 – Indicative Lot Layout and Access Driveways (Source: Applicant)

SCHEDULE 1

Concurrence Agency Response/s



SARA reference: 2405-40248 SRA
Council reference: RAL/2024/1633

30 May 2024

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

Attention: Emily Hinchliffe

Dear Ms Hinchliffe

SARA referral agency response—420-462 Hermitage Road and McCleverty Court Cotswold Hills

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

(Referral agency response given under section 28 of the Development Assessment Rules)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 3 May 2024.

Response

Outcome:	Referral agency response - No requirements Under section 56(1)(a) of the <i>Planning Act 2016</i> , SARA advises it has no requirements relating to the application.
Date of response:	30 May 2024
Advice:	Advice to the applicant is in Attachment 1
Reasons:	The reasons for the referral agency response are in Attachment 2

Development details

Description:	Development permit	Reconfiguring a Lot – One (1) Lot into 13 Lots
SARA role:	Referral agency	
SARA trigger:	Schedule 10, part 9, division 4, subdivision, table1, item 1 (Planning Regulation 2017) – Reconfiguring a lot near a state transport corridor	

SARA reference: 2405-40248 SRA
Assessment manager: Toowoomba Regional Council
Street address: 420-462 Hermitage Road, Cotswold Hills
Real property description: Lots 1 and 2 on SP339842
Applicant name: Cotswold Hills Holdings Pty Ltd
Applicant contact details: C/-Property Projects Australia
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 (s. 30 Development Assessment Rules).

Copies of the relevant provisions are in **Attachment 3**.

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

For further information please contact Malcolm McDowell, Planning Officer, on (07) 3452 6897 or via email ToowoombaSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



###Secondary2###
A/Manager

cc Cotswold Hills Holdings Pty Ltd, blake@propertyprojectsaustralia.com.au
enc Attachment 1 - Advice to the applicant
Attachment 2 - Reasons for referral agency response
Attachment 3 - Representations about a referral agency response provisions

Attachment 1—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:

The development complies with State code 1: Development in a state-controlled road of the SDAP version 3.0. Specifically, the development does not:

- increase the likelihood or frequency of accidents, fatalities, or serious injury for users of a state-controlled road
- adversely impact the structural integrity or physical condition of state-controlled roads, road transport infrastructure, public passenger transport infrastructure or active transport infrastructure
- adversely impact the function efficiency of state-controlled roads or future state-controlled roads
- adversely impact the state's ability to plan, construct, maintain, upgrade or operate state-controlled roads, future state-controlled roads or road transport infrastructure
- significantly increase the cost to plan, construct, upgrade or maintain state-controlled roads, future state-controlled roads or road transport infrastructure.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP, version 3.0, as published by SARA
- the Development Assessment Rules
- SARA DA Mapping system
- Section 58 of the *Human Rights Act 2019*.

Attachment 3— Representations about a referral agency response provisions

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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.

SCHEDULE 2

Statement of Reasons

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

SITE DETAILS	
Site Address	McCleverty Court and 420-462 Hermitage Road, COTSWOLD HILLS QLD 4350
Real Property Description	Lots 1 and 2 SP339842, Easements C and D SP339842 and Easement B SP247500
Site Area	14.248ha
Owner	Lot 1 SP339842 – LG Resorts No 2 Pty Ltd and Lot 2 SP339842 – Cotswold Hills Holdings Pty Ltd

PROPOSED DEVELOPMENT	
Name of Applicant	Cotswold Hills Holdings Pty Ltd
Type of Application	Reconfiguring a Lot
Proposed Development	Two (2) Lots into 14 Lots
Level of Assessment	Code Assessable.
Decision	Approval
Decision Date	2 December 2024

ASSESSMENT MATTERS	
Assessment benchmarks	<p>The proposed development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> • Schedules 9 and 10 of the <i>Planning Regulation 2017</i> (as relevant); • South-east Queensland Regional Plan ShapingSEQ 2023/Darling Downs Regional Plan (as relevant); • The Local Government Infrastructure Plan; • Temporary Local Planning Instrument 01/2022 – Housing Supply Assistance Measure; and • <i>Toowoomba Regional Planning Scheme 2012</i> (Version 28) <ul style="list-style-type: none"> ○ Airport Environs Overlay Code; ○ Bushfire Hazard Overlay Code; ○ Regional Infrastructure Corridors and Substations Overlay Code; ○ Environmental Significance Overlay Code; ○ Low Density Residential Zone Code; and ○ Reconfiguring a Lot Code
Reasons for decision	The development was assessed against all of the assessment benchmarks listed above and complies with, or can be conditioned to comply with, all of these without exception.

For further details on the assessment of this development application, please see the Delegated Report available for public viewing on the Toowoomba Regional Council Planning and Development Online website at: <https://developmenti.tr.qld.gov.au/>. When accessing Council's website please use the following Application Number: RAL/2024/1633