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| REPORT TITLE | Assessment of Change Application for Reconfiguring a Lot – Impact – Ten (10) Lots into Fifty-six (56) Residential Lots plus Two (2) Balance Lots at 689 Toowoomba Cecil Plains Road, WELLCAMP QLD 4350 |
| AUTHOR | Planning Officer (Bevan Koelmeyer) |
| Application No. | RAL/2020/5054/A |

PURPOSE OF REPORT

To consider a change application regarding a development approval for Reconfiguring a Lot – Ten (10) Lots into Fifty-six (56) Residential Lots plus Two (2) Balance Lots at 689 Toowoomba Cecil Plains Road, Wellcamp.

EXECUTIVE SUMMARY

This report considers a change application regarding a development approval for Reconfiguring a Lot for Ten (10) Lots into Fifty-six (56) Residential Lots plus Two (2) Balance Lots at 689 Toowoomba Cecil Plains Road, WELLCAMP QLD 4350.

A summary of the applicant's proposed changes are detailed as follows:

- To construct a roundabout intersection within Stage 1 of the development's proposed new 25m wide road which will provide a connection to a new 18m wide road and balance parcels;
- To facilitate the construction of the proposed roundabout, the area of Stage 1 is proposed to be increased by approximately 480m² in size;
- The inclusion of additional corner truncations for proposed Lots 1, 12 and 13 to accommodate the proposed roundabout;
- The inclusion of a 4.5m wide dedication along the development frontage, including the balance lots, to facilitate future road widening along the site's frontage to Hursley Road; and
- Primarily to facilitate the construction of the proposed roundabout, the size of a number of proposed lots are proposed to be amended. It is noted that all proposed lots are to be a minimum of 500m² in size which is consistent with Preliminary Approval: MCUI/2020/5051, whereby the approved Gainsborough Lodge Variation Scheme Document identifies a minimum lot size of 450m² where located within the 'Gainsborough Lodge Low Density Residential Zone' which applies wholly to the footprint of Stage 1 of the development.

Where changes to proposed lot sizes have been proposed by the applicant, a comparison detailing the current proposed lot sizes and proposed lot sizes are detailed in the table below:

| Proposed Lot Description | Lot Sizes (Current Approved) | Lot Sizes (Proposed) |
|--------------------------|------------------------------|----------------------|
| Lot 1 | 730 m ² | 915 m ² |
| Lot 2 | 600 m ² | 535 m ² |
| Lot 3 | 670 m ² | 535 m ² |
| Lot 5 | 670 m ² | 600 m ² |
| Lot 12 | 870 m ² | 725 m ² |
| Lot 13 | 805 m ² | 795 m ² |
| Lot 27 | 965 m ² | 970 m ² |
| Lot 44 | 845 m ² | 850 m ² |
| Lot 46 | 600 m ² | 670 m ² |
| Lot 49 | 670 m ² | 600 m ² |
| Lot 50 | 665 m ² | 660 m ² |
| Lot 55 | 810 m ² | 815 m ² |

The proposed changes are considered to constitute a 'minor change' under Section 81 of the *Planning Act*

2016. The proposed changes have been found to generally comply with the conditions of the existing approval, the current Planning Scheme, the Planning Scheme in effect at the time of the original application, the required tests for a minor change under the *Planning Act 2016* and any other relevant considerations. For this reason it is recommended that the proposed changes be approved.

Approval of the proposed changes requires amendment of existing conditions. These changes are detailed within the report.

RECOMMENDATION

APPROVED – Change Application regarding Development Approval RAL/2020/5054 for Reconfiguring a Lot for Ten (10) Lots into Fifty-six (56) Residential Lots, plus Two (2) Balance Lots, pursuant to the provisions of Sections 81 and 81A of the *Planning Act 2016* and subject to the amendments listed below.

ASSESSMENT MANAGER CONDITIONS

PLANNING

APPROVED DEVELOPMENT

1. This Development Approval is for Reconfiguring a Lot, being the subdivision of Ten (10) Lots into Fifty-six (56) Residential Lots, plus Two (2) Balance 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 Plans listed below, subject to the conditions of this Development Approval and the amendments listed below:

Plan No: 136664-27 Revision ~~D~~ **H**

Description: Gainsborough Lodge Proposal Plan, prepared by RPS, dated ~~24 February~~ **14 June** 2022 and received by Council ~~28 February~~ **4 August** 2022.

Amendments: ~~As noted in red by Council – 4.5m road dedication from the Balance Lots in accordance with Condition 12.~~ **Nil**

APPROVED DOCUMENT

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: 13733 Revision 2

Description: Stormwater Management Plan Gainsborough Lodge Development – Toowoomba Cecil Plains Road – Wellcamp, prepared by RMA and dated 25 February 2021.

Amendments: Nil

Document: 14700 Revision C

Description: Slope Stability Risk Assessment – Soils – Gainsborough Lodge Development – Toowoomba Cecil Plains Road – Glenvale, prepared by RMA and dated 7 November 2019.

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 Roadworks;
 - 8.2 Bulk Earthworks;
 - 8.3 Stormwater Infrastructure;
 - 8.4 Wastewater Infrastructure; and
 - 8.5 Water Infrastructure.

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*.

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 identified as Hursley Road Resumption on the Approved Plans (as amended) including a 4.5m dedication along the Hursley Road frontage of the Balance Lots and any additional road dedication required to satisfy conditions of 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 128 of the Planning Act 2016.

13. 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.
14. All land dedicated for road purposes must not be encumbered by permanent structures, services such as pump stations, services easements or similar operational uses, unless otherwise approved by the conditions of this Development Approval.
15. All land dedicated for road purposes must not be financially encumbered (e.g. mortgaged) unless otherwise approved by the conditions of this Development Approval.

EASEMENTS

16. An easement for stormwater drainage purposes must be registered in favour of Council against the title of Lot 279 AG3110 and Lot 20 A341. The easement must be by design and include the detention basin, maintenance access and the pipe or overflow path from Stage 1 to the lawful point of discharge at Toowoomba-Cecil Plains Road. The easement must be included on the Plan of Subdivision for Council's approval.
17. An easement for stormwater drainage purposes must be registered in favour of Council against the balance lot. The easement must be by design and include the pipe or overflow path from Stage 1 to the lawful point of discharge at Devine Road. The easement must be included on the Plan of Subdivision for Council's approval.
18. 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.
19. 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.
20. 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

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

WORKS

STREET NAMING

22. Forward a letter of Request for Street Naming to Council providing three (3) alternative names for each new street.

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

PERMANENT SURVEY MARKS

23. A total of one (1) Permanent Survey Mark (PSM) must be supplied and connected to Australian Height Datum and provided in the following locations:
 - 23.1 Corner of Hursley Road and New 25m Wide Road.
24. Documentation detailing placement of the PSMs must be lodged with Council at the time of lodgement of the Plan of Subdivision.

ENGINEER'S CERTIFICATION AND SUPERVISION OF WORKS

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

- 26.2 Construction Supervision Certificate upon completion of the works certifying that works are in accordance with the approved plans and specifications.
27. 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.
28. 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

29. All internal and external stormwater drainage works must be constructed generally in accordance with the approved Stormwater Management Plan listed within this Development Approval.

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

30. Provide a sealed 3.5m wide maintenance access from New 18m Wide Road to the detention basin.
31. 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 external stormwater infrastructure and 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.
32. Submit to Council for approval, as part of the Development Application for a Development Permit for Operational Work, Detailed Stormwater Management Plan and Drawings 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:
- 32.1 Stormwater is conveyed to a lawful point of discharge in accordance with the stormwater discharge conditions of this Development Approval;
- 32.2 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;
- 32.3 No increase in flood levels external to the subject land;
- 32.4 No increase in duration of inundation external to the subject land that could cause loss or damage; and
- 32.5 The achievement of Water Sensitive Urban Design objectives listed in PSP No. 2 and *State Planning Policy July 2017*.

STORMWATER – CONVEYANCE OF STORMWATER VIA DRAINAGE EASEMENT

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

GEOTECHNICAL STABILITY

34. Development must be generally carried out in accordance with the Approved Slope Stability Risk Assessment listed within this Development Approval with additional testing to confirm Stage 1 soils are consistent with the assumptions in the Slope Stability Risk Assessment.

35. A RPEQ experienced in geotechnical engineering, or engineering geology, must supervise the construction of the development to ensure that the works are undertaken in accordance with the endorsed Geotechnical Report.
36. All executed works must be detailed by a RPEQ experienced in geotechnical engineering on a Certificate of Supervision.

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

37. 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

38. 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.
39. 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:
40. 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

41. 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*.
42. 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*.
43. Fires are not to be lit to dispose of demolition or construction waste.
44. 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:
 - 44.1 Elsewhere within this Development Approval;
 - 44.2 In accordance with an associated Development Permit for Operational Work;
 - 44.3 In association with and in accordance with an Environmental Authority issued under the *Environmental Protection Act 1994*;
 - 44.4 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
 - 44.5 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.
45. Demolition, excavation and construction waste (including night soil) must not be placed or stored within the road reserve at any time.

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.

DAMAGE TO SERVICES & ASSETS

51. Protect Council and public utility services and assets during construction of the development.
52. 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:
 - 52.1 Where the damage would cause a hazard to pedestrian or vehicle safety or interrupts a service to the community, immediately; or
 - 52.2 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.
53. 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.
54. 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 Ph: 131 872.

SERVICES & UTILITIES

WASTEWATER INFRASTRUCTURE (GENERAL)

55. The development must be provided with an internal sewerage reticulation system capable of servicing each lot in accordance with Council's *Wastewater Infrastructure Policy 2.04* at no cost to Council.

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

56. Construct an external trunk gravity sewer main extension to service the development in accordance with the requirements of *Planning Scheme Policy No. 3 – Engineering Standards – Water and Wastewater Infrastructure* (PSP No. 3) and other relevant standards at no cost to Council. The sewer extension must be constructed from the existing Troys Road sewer pump

station, generally in accordance with Figure I-3: Torrington LGIP Infrastructure in Greater Western Toowoomba Sewerage Strategy Study (WWFGS10047).

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

Note: Any sewerage infrastructure greater than DN225, which traverses through private properties shall be located in an easement in favour of Council. The width of the easement will be determined during detailed design (OW) stage.

Note: The trunk gravity main to the Troys Road Sewer Pump Station was approved under OW/2018/6323/A but has not yet been constructed. The applicant will need to construct the trunk sewer main if not constructed at the time of development.

57. The design and construction of the works must be in accordance with Council's *Wastewater Infrastructure Policy 2.04*.
58. 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.
59. Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must 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

60. The development 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.

61. Construct an external water main extension, connecting the internal water reticulation system of the development to Council's existing DN200 water main in Hursley Road in accordance with the requirements of *Planning Scheme Policy No. 3 – Engineering Standards – Water and Wastewater Infrastructure* (PSP No. 3) and other relevant standards at no cost to Council.

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

62. Unless able to be used as part of the development, any existing connection must be disconnected at no cost to Council.
63. Certification must be provided to Council by a Licensed Plumber that the disconnection has been carried out.
64. 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.
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.
66. Any works on Council's 'live' water supply must be carried out by Council. A Private Works Quotation must be requested from Council, payment made for the works, and the works completed by Council.

TELECOMMUNICATION

67. Install telecommunications infrastructure to service each approved lot which complies with the following:
- 67.1 The requirements of the *Telecommunications Act 1997* (Cth);
 - 67.2 For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
 - 67.3 For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line is located underground.
68. 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.
69. 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

70. 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.
71. Written evidence must be submitted to Council from the electricity distributor advising that provision has been made for connection of reticulated electricity service for each approved lot in accordance with all applicable legislation at the time of construction.

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

TRANSPORT & ACCESS

ROADWORKS (EXTERNAL TO SUBDIVISION)

72. Existing roads must be constructed as follows:

| | |
|-------------------------------|--|
| Street: | Hursley Road |
| Classification: | Sub Arterial (Urban) |
| Construction Standard: | Sub arterial urban standard frontage works as per <i>PSP No 2 Engineering Standards Roads and Drainage Infrastructure</i> including: |

- 72.1 Widening to provide a ~~3.5m~~ **3.3m** wide westbound traffic lane and adjacent ~~2.5m~~ **1.95m** bike/breakdown lane, kerb and channel and 2m wide path (**as per Condition 84.1**) along the Stage 1 development frontage **and balance lots**;
- 72.2 Provision of a 3m wide CHR right turn lane and a BAL left turn treatment at the New 25m Wide Road Intersection including widening of the eastbound lane to 3.5m and the provision of an adjacent 1.5m wide sealed shoulder. ~~The width of the westbound bike/breakdown lane can be reduced to 1.95m including kerb and channel in the~~

~~vicinity of the intersection with kerb and channel extending to the eastern taper of the intersection;~~ and

- 72.3 Design of drainage infrastructure and services to facilitate the future provision of a single lane roundabout at the New 25m Wide Road intersection with minimal service relocation works.

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

73. The design and construction of Hursley Road must comply with *Planning Scheme Policy No. 2 – Engineering Standards – Roads and Drainage Infrastructure* (PSP No.2) and must include in particular:

- 73.1 The construction of the works as per Condition 72 of this Development Approval, including any transitions to the existing road alignment;
- 73.2 Concrete kerbing and channelling;
- 73.3 Kerb and channel, longitudinal drainage and/or retaining walls may be required on the northern side of the New 25m Wide Road Intersection to ensure the works are confined to the road reserve;
- 73.4 Temporary asphalt kerbing to tapers;
- 73.5 Underground stormwater drainage;
- 73.6 Table drain works;
- 73.7 Relocation of utility and Council services; and
- 73.8 Street lighting.

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

75. All street surfacing must be in accordance with the pavement construction standards in PSP No. 2.

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

77. The design and construction of the works must be certified by a Registered Professional Engineer Queensland (RPEQ) – Civil.

ROADWORKS (INTERNAL TO SUBDIVISION)

78. Internal roads must generally be constructed as shown on the Approved Plans.

79. The internal roads must be constructed to a sealed standard, including kerb and channel on both sides of the new roads. Such kerb and channel must be an approved residential kerb and channel. The internal roads must be as follows:

- 79.1 The three (3) 17m wide roads (Cul-de-Sacs) must have a 17m road reserve width with 6m carriageway width measured between channel inverts. A 1.5m footpath is required one side of the street. Infrastructure (e.g. bollards, fences, trees) to physically prevent vehicles driving across the verge between the cul-de-sac and New Road 25m Wide must be provided;

- 79.2 The two (2) 18m wide roads (Local Access < 75 lots) must have a 18m road reserve width with 7m carriageway width measured between channel inverts. A 1.5m footpath is required one side of the street **and for the western 18m wide road, must extend for the full length including adjacent to proposed Lots 36 and 51 and must connect to the Hursley Road footpath; and**
- 79.3 The New 25m Wide Road (Distributor) must have a minimum 25m road reserve width with 12m carriageway width measured between channel inverts. A minimum 2.0 m wide path is required on both sides of the street;**and**
- 79.4 The intersection of New 25m Wide Road and New 18m Wide Road must be a single lane roundabout. The road reserve and carriageway width on the eastern approach must be to collector road standards. Unless otherwise agreed in writing by Council, raised priority crossings or wombat crossings must be provided on all legs, and the extent of the road reserve of the eastern approach stub must be sufficient to accommodate a raised priority or wombat crossing.**

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

80. All street surfacing must consist of an approved asphaltic concrete.
81. 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)*.
82. 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.
83. The design and the construction of the works must be certified by a RPEQ – Civil.

EXTERNAL PEDESTRIAN & CYCLE PATHS

84. The following works must be constructed in accordance with *Planning Scheme Policy No. 2 – Engineering Standards – Roads and Drainage Infrastructure (PSP No.2)*:
- 84.1 A minimum 2.0m wide concrete pedestrian path on the southern side of Hursley Road **along the Stage 1 development frontage and balance lots connecting New 25m Wide Road to the western side of the Hursley Road/London Circuit intersection**, including a 2.4m wide pedestrian refuge (including street lighting) within the painted median west of the **Hursley Road/London Circuit** intersection.
- Note: This condition is imposed pursuant to Section 128 of the Planning Act 2016.*
- 84.2 The alignment of the path must include sufficient clearance to power poles and street trees;
- 84.3 Provision must be made for wheelchair and pram access at all kerb crossings associated with pathways, in accordance with *IPWEA Standard Drawing RS-090 – Ramped Pedestrian Crossings*;
- 84.4 The required work includes any surface earthworks, grinding or saw cutting to ensure the footpath finishes flush with all existing service covers and the like, or alternatively these services are raised or altered, so as not to create a pedestrian safety hazard; and
- 84.5 Any concrete footpath or cycleway must comply with *IPWEA Standard Drawing RS-065 – Concrete Pathway*. Where necessary, reprofiling of the verge area must be undertaken to enable the construction of concrete pathways with a maximum cross fall of 2.5%.

85. 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 footpaths in accordance with the Approved Plans (as Amended) and Approved 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

86. 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.

87. 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

88. 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*.

REMOVAL OR MODIFICATION OF COUNCIL TRAFFIC SIGNS OR PARKING BAYS

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

PROPERTY ACCESS

91. Direct access to Hursley Road is not permitted from proposed Lots 36 to 44 or Balance Lots at any time.
92. Direct access to New 25m Wide Road is not permitted from proposed Lots 1, 12, 13, 27, 44, 45, 55 and 56 at any time.

REMOVAL OF UNNECESSARY PROPERTY ACCESS

93. Remove the existing redundant property access for Lot 279 AG3110 adjacent to the subject land. The works must include, but are not limited to the following:
- 93.1 Removal of the existing property access; and
- 93.2 Reinstatement of the verge and turfing to match the required verge profile.

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

PREMISES IDENTIFICATION

94. Prior to off maintenance, reflective street numbers must be affixed to the kerb in front of each lot.

DEVELOPMENT CONSTRAINTS

AIRPORT ENVIRONS

95. No part of any structure may be constructed within the Obstacle Limitation Surface as shown on the Airport Environs Overlay Maps in the *Toowoomba Regional Planning Scheme 2012*. This restriction also applies to crane jibs, towers and any other temporary structures during subdivision works unless otherwise approved by Council.
96. Any cleared vegetation must be mulched or removed from the subject land and not burnt on-site.
97. Any outdoor lighting, including street lighting must comply with the requirements of Chapter 9 of the *CASA Manual of Standards Part 139 – Aerodromes*.

LANDSCAPE & ECOLOGY

LANDSCAPING WORKS (GENERAL)

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

98.1 For Street Trees:

- i) The species to be planted and their location;
- ii) A planting schedule indicating the number and container size of each species type;
- iii) The typical planting detail including preparation, backfill, staking and mulching;
- iv) Typical cross section through each street typology indicating clearance of street trees from underground services, kerbs and footpaths in accordance with PSP2 Engineering Standards; and
- v) North point, scale and drawing number.

Note: *Street trees required to be supplied as a condition of this Development Approval must be supplied in a minimum of 45L containers.*

Note: *Landscaping beyond trees is not supported within existing public land (e.g. road reserves) or land to be dedicated to Council as future public land (e.g. park, road reserves or drainage land) unless agreed to by Council.*

99. The Landscape Plan must receive endorsement by Council prior to lodgement of any Development Application for a Development Permit for Operational Work, or commencement of any site works or earthworks.

LANDSCAPING WORKS (PROVISION OF STREET TREES)

100. Plant and maintain for a period of 12 months, one (1) street tree within the road reserves (all road types) internal to the development for every 15 metres of road frontage, capable of reaching 10-12 metres in height ~~within~~ at maturity.
101. Plant and maintain for a period of 12 months, one (1) street tree within the Hursley Road road reserve for every 10 metres of road frontage, capable of reaching ~~10-12~~ 5 metres in height ~~within~~ at maturity. **Alternatively, a variation in the number and/or spacing of street trees may be agreed by Council in writing or varied in an approved Landscape Plan.**
102. 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.

REMOVAL OF EXISTING STREET TREES

103. The removal or modification (including any disturbance of the root system within the drip line) of a street tree must not be undertaken unless otherwise approved in writing by Council and in accordance with any conditions associated with the granted approval.

PROTECTION OF STREET TREES

104. Street trees affected by works within the 'Precautionary Area', must be protected for the duration of construction. All works must be carried out in accordance with the relevant standards in *Planning Scheme Policy No.8 – Street Trees* and must include in particular:
- 104.1 Establishment of a work exclusion area around the street tree to be retained prior to commencement of construction to avoid damage and soil compaction from plant and machinery;
 - 104.2 Providing Council with one (1) weeks' notice of any excavation works affecting the 'Precautionary Area' of a street tree so that a Council Arborist may be present during excavation works;
 - 104.3 During excavation works, where roots greater than 50mm diameter are uncovered that need to be severed, obtain approval from a Council Arborist to sever the root, and if granted, do so with a cutting device and not a ripping device; and
 - 104.4 Street tree protection is to be maintained until works are completed or accepted on-maintenance.

REMOVAL OF EXISTING TREES AND VEGETATION

105. Clearing, including felling, pushing, lopping and grubbing of existing trees and vegetation not identified for retention must be undertaken by a suitably qualified person and must include:
- 105.1 Stump grinding to below finished surface level;
 - 105.2 Rectification to the finished surface levels and materials;
 - 105.3 No damage to other vegetation to be retained;
 - 105.4 No burning of removed vegetation and debris; and
 - 105.5 Conclude with the area being stabilised against erosion.

FAUNA MANAGEMENT DURING REMOVAL OF EXISTING TREES AND VEGETATION

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

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/2020/5054/A and send to development@tr.qld.gov.au.

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 1.15 (Carrying Out Works on a Road or Interfering with a Road or its Operation) 2011. Please contact Council's Road Operations Branch through our Customer Service Centre on 131 872. The application can be found on Council's website at www.tr.qld.gov.au.
- 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.

CLEARING OF NATIVE VEGETATION

- 7) The subject land supports regulated vegetation under the *Vegetation Management Act 1999* (VM Act). The clearing of regulated vegetation can only be undertaken where associated with exempt clearing activities established under the VM Act. For further information regarding exempt clearing activities please contact your local office of the Department of Resources.

CLEARING OF PROTECTED PLANTS

- 8) In accordance with *Nature Conservation (Animals) Regulation 2020* you must check the flora survey trigger map, prior to the clearing of any native plants found on the subject land to determine if a flora survey must be undertaken and if a clearing permit for clearing endangered, vulnerable and near threatened plants ('EVNT plants') and their supporting habitat is required.

Under the Regulation, if a flora survey identifies that EVNT plants are not present or can be avoided by 100m, the clearing activity may be exempt from a permit, however an exempt clearing notification form must be submitted to the Department of Environment and Science. In an area other than a high risk area, a clearing permit is only required where a person is, or becomes, aware that EVNT plants are present, though a range of exemptions do apply. Clearing of least concern plants is generally exempt from requiring a clearing permit. For further information associated with the clearing of protected plants and to obtain flora survey trigger map for your site please refer to the Departmental website.

EXCAVATION & FILLING

- 9) 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

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

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

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

ENVIRONMENT PROTECTION & BIODIVERSITY CONSERVATION ACT 1999

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

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

Contact the Australian Government Department of Agriculture, Water and the Environment to discuss any obligations under the EPBC Act.

WATER POLLUTION

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

ABORIGINAL CULTURAL HERITAGE ACT 2003

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

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

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

FIRE ANTS

- 14) 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.

THIRD PARTY ADVICE – SEQWATER

- 15) Council received third-party advice on 18 October 2021 from the Queensland Government Bulk Water Authority (Seqwater) in regard to a preferred preliminary alignment for a bulk water pipeline (part of) the Southern Downs Drought Resilience Package, the preparatory works of which follow designation in Division 10 of the *State Development and Public Works Organisation Amendment Regulation 2021*.

The preferred pipeline alignment, subject to final design, traverses the subject land over Lot 279 AG3110. The third-party advice was provided to the applicant on 4 November 2021. Please contact Seqwater for further information regarding the advice.

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, Development Services

Decision Date: 31 October 2022

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 | 689 Toowoomba Cecil Plains Road, WELLCAMP QLD 4350 | | | |
| Real Property Description | Lots 4, 5, 6, 7, 8, 20, 21, 22, 23 and 24 on A341, Lots 9 and 19 on RP113281, Lot 279 on AG3110 and Lot 280 on AG3111 | | | |
| Site Area | 102.051 ha | | | |
| Owner | Charles Calthrop Pty Ltd | | | |
| SITE CHARACTERISTICS | | | | |
| Current Land Use | Animal Husbandry | | | |
| Site Frontage/s | Hursley Road (955m), Toowoomba-Cecil Plains Road (310m) Devine Road (1,270m) | | | |
| Road/s | Order of Road | Width of Road Reserve | Width of Pavement | Road Material |
| Hursley Road | Sub-Arterial | 18m | 8m | Bitumen |
| Toowoomba – Cecil Plains Road | Regional-Arterial (State Controlled Road) | 20m | 8m | Bitumen |
| Devine Road | Local | 37m | Not applicable | Mostly unformed with a short section in the west of the site frontage being a gravel driveway |
| Easements | Nil | | | |
| Existing Structures | Structures and buildings associated with the horse stud are mainly contained in the western part of the site which is not proposed to be developed for residential lots. | | | |
| Infrastructure | <ul style="list-style-type: none">A stormwater main is located in the Hursley Road and Toowoomba-Cecil Plains Road verges along the frontage of the subject land.Reticulated sewer infrastructure is located across Hursley Road which services the existing development at London Circuit.Existing overhead electricity supply infrastructure is located adjacent to the site in the Hursley Road and Toowoomba-Cecil Plains Road frontages. | | | |
| Topography | The topography of the subject land is characterised by a steep vegetated hill in its east which adjoins Harvey Court Park (a bushland park) and low-lying areas over the balance of the site. | | | |
| Street Trees | Nil | | | |
| Other Features | Low-lying areas of the site are characterised by cleared paddocks currently used for animal husbandry. Areas of environmental significance, bushfire hazard and landslide hazard are present in the hilly area of the subject land with areas of overland flow present over parts of the low-lying areas. | | | |
| PLANNING SCHEME SITE DATA | | | | |
| Current Planning Scheme | Toowoomba Regional Planning Scheme 2012 (Version 27) | | | Adopted: 25 February 2022 |
| Zone | Emerging Community and Rural | | | |
| Precinct | Rural 100 ha Precinct | | | |
| Overlays | <ul style="list-style-type: none">Agricultural Land Overlay; | | | |

| | | | |
|--|--|---|-----------------|
| | <ul style="list-style-type: none">• Environmental Significance Overlay;• Bushfire Hazard Overlay;• Landslide Hazard Overlay; and• Flood Hazard Overlay. | | |
| Infrastructure Charges Resolution | <i>Charges Resolution No. 5</i> | Adopted: 1 March 2022 | |
| SURROUNDS: | | | |
| Direction | Land Use | Zone/Precinct | |
| North | Medium density residential and rural residential development | Emerging Community Zone and Rural Zone/100 ha Precinct (opposite Hursley Road); | |
| East | Parkland and low-density residential development | Open Space Zone and Rural Residential Zone/4,000m ² Precinct | |
| South | Medium density residential development under construction | Emerging Community Zone | |
| West | Rural and warehousing/logistics uses | Rural Zone/100 ha Precinct | |
| Other Features | The subject land is located at the western edge of, and partly within, the urban footprint in the South-east Queensland Regional Plan 2017 and is partly contained in the Rural Zone and partly in the Emerging Community Zone of the Toowoomba Regional Planning Scheme 2012. The subject land included in the Rural Zone is outside of the Priority Infrastructure Area (PIA). | | |
| APPLICATION HISTORY | | | |
| Application No. | Description | Decision Date | Decision |
| RAL/2020/5054 | Reconfiguring a Lot – Ten (10) Lots into Fifty-six (56) Residential Lots plus Two (2) Balance Lots | 3 March 2022 | Approved |
| MCUI/2020/5051 | Material Change of Use – Variation Request | 3 March 2022 | Approved |
| Other | Nil. | | |

| APPROVED DEVELOPMENT | | |
|------------------------|--|-----|
| Type of Approval | Development Permit for Reconfiguring a Lot | |
| Approved Development | Reconfiguring a Lot – Ten (10) Lots into Fifty-six (56) Residential Lots plus Two (2) Balance Lots | |
| Variations Sought | Not applicable | |
| Level of Assessment | Original Approval was Impact Assessable | |
| Submissions Received | Objection: | Nil |
| | Support: | Nil |
| Decision Notice Issued | 4 March 2022 | |

| | |
|---------------------------------|-----------------------------------|
| CHANGE APPLICATION | |
| Applicant Name | Gainsborough Developments Pty Ltd |
| Type of Application | Change Application |
| Type of Change | Minor Change |
| Public Notification | Not required for a Minor Change. |
| Representations Received | 28 June 2022 |

CONSULTATION UNDERTAKEN

Internal Referrals

| Internal Referral Partner | Referral / Response |
|---------------------------|---|
| Development Engineering | Recommended requested changes to be approved. |
| Water and Waste | Recommended requested changes to be approved. |
| Parks | Recommended requested changes be approved. |

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 Conditions of the Development Approval

Changes to the conditions of approval have been proposed by the applicant and by Council with written agreement by the applicant provided. The following table identifies the relevant condition of approval, the proposed changes, the officer's assessment and summary of the amendments and recommended 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 Plans listed below, subject to the conditions of this Development Approval and the amendments listed below:</p> <p>Plan No: 136664-27 Revision D</p> <p>Description: Gainsborough Lodge Proposal Plan, prepared by RPS, dated 24 February 2022 and received by Council 28 February 2022.</p> <p>Amendments: As noted in red by Council – 4.5m road dedication from the Balance Lots in accordance with Condition 12.</p> | <p>The applicant's proposed changes to the proposal plan are detailed below:</p> <ul style="list-style-type: none"> To construct a roundabout intersection within Stage 1 of the development's proposed new 25m wide road which will provide a connection to a new 18m wide road and balance parcels; To facilitate the construction of the proposed roundabout, the area of Stage 1 is proposed to be increased by approximately 480m² in size; The inclusion of additional corner truncations for proposed lots 1, 12 and 13 to accommodate the proposed roundabout; The inclusion of a 4.5m wide dedication along the development frontage, including the balance lots, to facilitate future road widening along the site's frontage to Hursley Road; and Primarily to facilitate the construction of the proposed roundabout, the size of a number of proposed lots are proposed to be amended. It is noted that all proposed lots are to be a minimum of 500m² in size which is consistent with Preliminary Approval: MCUI/2020/50151 with the approved Gainsborough Lodge Variation Scheme Document defining the minimum lot size as as 450m² where located within the Low Density Residential Zone which applies wholly to the footprint of Stage 1 of the development. <p>The proposed changes do not conflict with any existing conditions of approval, therefore the changes to this condition are to be approved.</p> | <p>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:</p> <p>Plan No: 136664-27 Revision D H</p> <p>Description: Gainsborough Lodge Proposal Plan, prepared by RPS, dated 24 February 14 June 2022 and received by Council 28 February 4 August 2022.</p> <p>Amendments: As noted in red by Council – 4.5m road dedication from the Balance Lots in accordance with Condition 12. Nil</p> |
| 72.1 & 72.2 | <p>72.1 Widening to provide a 3.5m wide westbound traffic lane and adjacent 2.5m bike/breakdown lane, kerb and channel and 2m wide path along the Stage 1 development frontage;</p> <p>72.2 Provision of a 3m wide CHR right turn lane and a BAL left turn treatment at the New 25m Wide Road Intersection including widening of the eastbound lane to 3.5m and the provision of an adjacent 1.5m wide sealed shoulder. The width of the westbound bike/breakdown lane can be reduced to 1.95m including kerb and channel in the vicinity of the intersection with kerb and channel extending to the eastern taper of the intersection; and</p> | <p>It was identified by Council's Engineer that the westbound road design frontage works of Hursley Road, including the traffic lane and adjacent bike/breakdown lane, would need to be reduced in width to facilitate infrastructure works within the road reserve including allowing works to extend the existing trunk water main along its existing alignment as referenced in condition 61. Additionally, the extent of road works has been increased beyond the Stage 1 development frontage to also include the development's balance lots.</p> <p>The applicant agreed to these proposed changes and therefore the changes to this condition to make the above changes to the proposal plan are to be approved.</p> | <p>72.1 Widening to provide a 3.5m 3.3m wide westbound traffic lane and adjacent 2.5m 1.95m bike/breakdown lane, kerb and channel and 2m wide path (as per Condition 84.1) along the Stage 1 development frontage and balance lots;</p> <p>72.2 Provision of a 3m wide CHR right turn lane and a BAL left turn treatment at the New 25m Wide Road Intersection including widening of the eastbound lane to 3.5m and the provision of an adjacent 1.5m wide sealed shoulder. The width of the westbound bike/breakdown lane can be reduced to 1.95m including kerb and channel in the vicinity of the intersection with kerb and channel extending to the eastern taper of the intersection; and</p> |
| 79.2 | <p>The two (2) 18m wide roads (Local Access < 75 lots) must have a 18m road reserve width with 7m carriageway width measured between channel inverts. A 1.5m footpath is required one side of the street; and</p> | <p>The applicant's proposed changes to the proposal plan included an amendment to the proposed western 18m wide road located within Lot 279 AG3110. This proposed change is for this road to no longer terminate at the south of the Stage 1 development footprint and instead terminate at the south by connecting to the new 17m wide road proposed to be located between proposed lots 45-50 and 51-55. This proposed change also results in direct connectivity to the balance parcel to the south being removed which is intended to accommodate future Stage 6 of the development.</p> <p>This amendment to the proposal plan was assessed by Council's Engineer who was satisfied that sufficient connectivity will be maintained for the development with the inclusion of the proposed roundabout to the north connecting the proposed 18m wide road with the proposed 25m wide distributor road. This condition was recommended to be amended by Council's Engineer to clearly require that the footpath for the proposed western 18m wide road be extended including adjacent to proposed lots 36 and 51 where no road is proposed, to ensure the proposed footpath connects with the Hursley Road footpath.</p> <p>The applicant agreed to these proposed changes and therefore the changes to this condition to make the above changes to the proposal plan are to be approved.</p> | <p>The two (2) 18m wide roads (Local Access < 75 lots) must have a 18m road reserve width with 7m carriageway width measured between channel inverts. A 1.5m footpath is required one side of the street and for the western 18m wide road, must extend for the full length including adjacent to proposed Lots 36 and 51 and must connect to the Hursley Road footpath; and</p> |

| | | | |
|------|---|--|---|
| 79.4 | N/A – New condition added | <p>This condition was recommended to be added by Council's Engineer to define the detailed design parameters for the proposed roundabout. This condition ensures that the roundabout is designed appropriately to cater for expected traffic and makes provision for safe pedestrian movements within the development's internal road network including raised priority crossings or wombat crossings on all legs of the roundabout.</p> <p>The applicant agreed to Council's proposed inclusion of this condition and therefore this condition is to be approved.</p> | <p>The intersection of New 25m Wide Road and New 18m Wide Road must be a single lane roundabout. The road reserve and carriageway width on the eastern approach must be to collector road standards. Unless otherwise agreed in writing by Council raised priority crossings or wombat crossings must be provided on all legs, and the extent of the road reserve of the eastern approach stub must be sufficient to accommodate a raised priority or wombat crossing.</p> |
| 84.1 | <p>The following works must be constructed in accordance with <i>Planning Scheme Policy No. 2 – Engineering Standards – Roads and Drainage Infrastructure (PSP No.2)</i>:</p> <p>84.1 A minimum 2.0m wide concrete pedestrian path on the southern side of Hursley Road along the connecting New 25m Wide Road to the western side of the Hursley Road/London Circuit intersection, including a 2.4m wide pedestrian refuge (including street lighting) within the painted median west of the intersection.</p> | <p>It was identified by Council's Engineer that the extent of the pedestrian footpath required to be constructed along the southern side of Hursley Road should be increased to extend beyond the Hursley Road/London Street intersection for the full road frontage of the development including its balance lots.</p> <p>The applicant agreed to these proposed changes and therefore the changes to this condition are to be approved.</p> | <p>The following works must be constructed in accordance with <i>Planning Scheme Policy No. 2 – Engineering Standards – Roads and Drainage Infrastructure (PSP No.2)</i>:</p> <p>84.1 A minimum 2.0m wide concrete pedestrian path on the southern side of Hursley Road along the Stage 1 development frontage and balance lots connecting New 25m Wide Road to the western side of the Hursley Road/London Circuit intersection, including a 2.4m wide pedestrian refuge (including street lighting) within the painted median west of the Hursley Road/London Circuit intersection.</p> |
| 101 | Plant and maintain for a period of 12 months, one (1) street tree within the Hursley Road road reserve for every 10 metres of road frontage, capable of reaching 10-12 metres in height within at maturity. | <p>The applicant originally requested that this condition be removed due to issues with achieving compliance within the Hursley Road road reserve because:</p> <ul style="list-style-type: none"> The requirement for the mature height of street trees to achieve a maximum height of 10-12m conflicts with the height of existing electricity and telecommunications lines within the Hursley Road road reserve frontage which are only approximately 7.37m and 5.4m in height respectively; and The location of existing infrastructure such as power poles and potentially the alignment of extensions to the water main (refer to condition 61) within the Hursley Road road reserve may cause issues with achieving the prescribed street tree spacing of one (1) tree for every 10m along the Hursley Road road reserve frontage. <p>Council did not agree to delete this condition in accordance with the applicant's request however amended wording was recommended to:</p> <ul style="list-style-type: none"> Require the mature height of street trees to achieve a minimum of 5m in height in order to achieve vertical separation from electricity transmissions lines and telecommunications lines; and To provide discretion for the applicant to propose an alternative number and/or spacing of street trees if demonstrated to be necessary because of infrastructure location conflicts, which can be agreed by Council or else varied through an approved landscape plan. <p>The applicant agreed to Council's proposed changes to this condition and therefore the changes to this condition are to be approved.</p> | <p>Plant and maintain for a period of 12 months, one (1) street tree within the Hursley Road road reserve for every 10 metres of road frontage, capable of reaching 10-12 5 metres in height within at maturity. Alternatively, a variation in the number and/or spacing of street trees may be agreed by Council in writing or varied in an approved landscape plan.</p> |

FINANCIAL / RESOURCE IMPLICATIONS

There are no financial or resource implications associated with this decision.

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*.

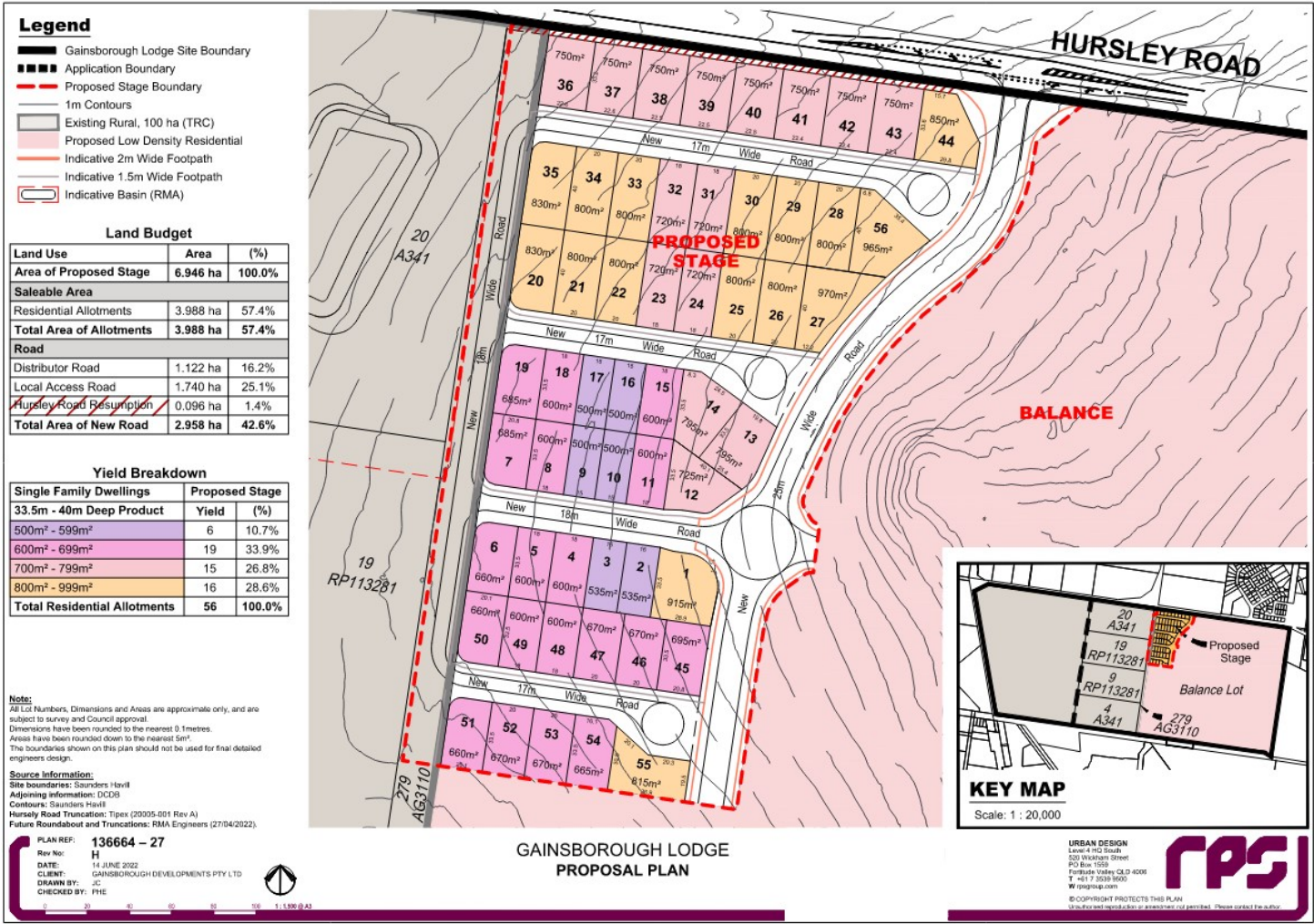
ATTACHMENT/S

Attachment 1 of 1 Proposal Plan

SCHEDULES

Schedule 1 Concurrence Agency Response

ATTACHMENT 1 – PROPOSAL PLAN



SCHEDULE 1

Concurrence Agency Response

RA6-N



SARA reference: 2012-20145 SRA
 Council reference: MCUI/2020/5051 & RAL/2020/5054
 Applicant reference: 8824

24 February 2021

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

Attention: Mr Liam Wiley

Dear Liam

SARA response—689 Toowoomba Cecil Plains Road, Wellcamp

(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 17 December 2020.

Response

| | |
|-------------------|---|
| Outcome: | Referral agency response – with conditions. |
| Date of response: | 24 February 2021 |
| 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 | Preliminary Approval for a Material Change of Use for a Variation Request and a Development Permit for Reconfiguring a Lot – Fourteen (14) Lots into Fifty – Eight (58) Lots and Balance Lot in Two (2) Stages) |
| SARA role: | Referral Agency. | |
| SARA trigger: | Schedule 10, Part 9, Division 4, Subdivision 1, Table 1, Item 1 | |

2012-20145 SRA

(10.9.4.1.1.1) - Development impacting on state transport infrastructure

Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1
(10.9.4.2.1.1) Reconfiguring a lot near a state transport corridor

Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1
(10.9.4.2.4.1) Material change of use of premises near a state transport corridor

SARA reference: 2012-20145 SRA
Assessment Manager: Toowoomba Regional Council
Street address: 689 Toowoomba Cecil Plains Road, Wellcamp
Real property description: Lots 19-24 on A341, Lot 279 on AG3110, Lot 280 on AG3111, Lots 4-8 on A341 and Lot 9 on RP113281
Applicant name: Gainsborough Developments Pty Ltd
C/- Saunders Havill Group
Applicant contact details: 9 Thompson Street
BOWEN HILLS QLD 4006
liamwiley@saundershavill.com

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 4**.

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

For further information please contact Ian McHugh, Principal Planning Officer, on (07) 4616 7320 or via email ToowoombaSARA@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Darren Cooper
Manager - DDSW (Planning)

cc Gainsborough Developments Pty Ltd, liamwiley@saundershavill.com
enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency decision
Attachment 4 - Representations about a referral agency response

2012-20145 SRA

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 plans and specifications referenced below are found at Attachment 5)

| No. | Conditions | Condition timing |
|---|--|---|
| Development Permit - Reconfiguring a Lot [Fourteen (14) Lots into Fifty – Eight (58) Lots and Balance Lot in Two (2) Stages | | |
| 10.9.4.1.1.1, 10.9.4.2.1.1 & 10.9.4.2.4.1—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 conditions: | | |
| 1. | <p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.</p> <p>(b) Any works on the land must not:</p> <ul style="list-style-type: none"> (i) create any new discharge points for stormwater runoff onto the state-controlled road; (ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road; (iii) surcharge any existing culvert or drain on the state-controlled road; (iv) reduce the quality of stormwater discharge onto the state-controlled road. <p>(c) Registered Professional Engineer Queensland certification with supporting documentation 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 designed and constructed in accordance with parts (a) and (b) of this condition.</p> | <p>(a) At all times</p> <p>(b) At all times</p> <p>(c) Prior to the commencement of use</p> |

2012-20145 SRA

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 2.6. If a word remains undefined it has its ordinary meaning. |
| 2. | The Department of Transport and Main Roads is presently investigating potential corridor routes for a bypass road to the west of the Toowoomba urban area. The Preliminary Approval area, and specifically stage 1 of the proposed reconfiguration, is located within an alignment being considered by DTMR for the bypass. |

2012-20145 SRA

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 is a state-controlled road environment and State code 6: Protection of state transport networks of the 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

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The SDAP (version 2.6)
- The Development Assessment Rules
- SARA DA Mapping system.