

REPORT TITLE	Reconfiguring a Lot - Boundary Realignment 2 Into 2 Lots and Material Change of Use - Dwelling House located at 10 Widderick Road, CROWS NEST QLD 4355
AUTHOR	Planner (Shen Liu)
Application No.	RAL/2026/2586 & MCUC/2026/2587

PURPOSE OF REPORT

To consider a Development Application for Reconfiguring a Lot - Boundary Realignment 2 Into 2 Lots and Material Change of Use - Dwelling House located at 10 Widderick Road, CROWS NEST QLD 4355

EXECUTIVE SUMMARY

This report considers an impact assessable Development Application for Reconfiguring a Lot (Boundary Realignment 2 into 2 Lots) and Material Change of Use (Dwelling House) over land located at 10 Widderick Road, Crows Nest, described as Lot 1 RP15463 and Lot 181 CSH1741.

The site is zoned Rural (100 ha minimum Precinct) under the *Toowoomba Regional Planning Scheme 2012* (Version 28) and is affected by the Environmental Significance Overlay (Areas of Ecological Significance Buffer, and Areas of Ecological Significance), Bushfire Hazard Overlay (Medium Fire Risk), Agricultural Land Overlay, and Water Resources Catchment Overlay (refer to **attachment 2 and 3**). The site is currently vacant.

The development proposes a Material Change of Use for a Dwelling House on Proposed Lot B, and a Reconfiguring a Lot for boundary realignment creating two lots, resulting in:

- Proposed Lot A: 6.48ha
- Proposed Lot B: 5,144m²

Proposed Lot A will retain the existing dwelling house and its ancillary infrastructure.

The resultant lot sizes do not meet the minimum lot size of the Rural Zone of 100ha. Under the Planning Scheme, a Reconfiguring a Lot application that proposes lots below the prescribed minimum lot size elevates the whole application to Impact Assessment. No properly made submissions were received during the public notification period.

While the development does not meet the minimum lot size requirements, the existing lot alignment is a legacy of former infrastructure and does not support rural activities on the land nor reasonably enable development rights. The proposed boundary realignment is considered an improvement to the existing arrangement, increasing the area of the subject lot and creating a more practical and functional lot configuration.

The proposed development has been assessed with regard to the relevant assessment benchmarks as identified within this report and the attached Statement of Reasons (refer to **Schedule 1**). The proposal is considered to comply with the relevant assessment 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/2026/2586 & MCUC/2026/2587 for a Development Permit for Reconfiguring a Lot - Boundary Realignment 2 Into 2 Lots and Material Change of Use - Dwelling House, pursuant to the provisions of Section 60 of the *Planning Act 2016* and subject to the conditions listed below.

ASSESSMENT MANAGER CONDITIONS

PART A: RECONFIGURING A LOT

PLANNING

APPROVED USE

1. This Development Approval is for Reconfiguring a Lot, being a Boundary Realignment of two (2) into two (2) lots.

CARRY OUT & MAINTAIN DEVELOPMENT

2. Unless otherwise stated, all conditions must be complied with prior to the commencement of use and thereafter.
3. 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

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

Plan No: DA-2026-0028-01, Rev A

Description: Boundary Realignment Lots A and B, sheet 1 of 2, prepared by Cross Solutions and dated 19 February 2026

Amendments: Amended in red for the indicated driveway area; and
Amended in red to avoid the removal of existing trees within the Environmental Significance Overlay.

Plan No: DA-2026-0028-01, Rev A

Description: Boundary Realignment Lots A and B, sheet 2 of 2, prepared by Cross Solutions and dated 19 February 2026

Amendments: Nil.

Plan No: Figure 18, Version 1

Description: Excerpt from Planning Report of Environmental Significance Overlay, prepared by Gilvear Planning and dated 25 March 2026

Amendments: Nil.

APPROVED DOCUMENTS

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

Document: R6009, Bushfire Management Report

Description: Bushfire Management Report, Version 1, prepared by Max Bushfire Protection Consulting and dated 09 March 2026

Amendments: Nil.

COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS

6. 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 1(4) of Schedule 18, the stated date by which the request must be made is the last date of the currency period of this approval.

DEDICATIONS, AGREEMENT AND CONTRIBUTIONS

FEES AND CHARGES

7. 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.

DEVELOPMENT CONSTRAINTS

BUSHFIRE MANAGEMENT - GENERAL

8. Subdivision works must be carried out in accordance with Section 7 of the approved Bushfire Management Report listed within this Development Approval.

WORKS

STORMWATER DRAINAGE

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

SERVICES & UTILITIES

WATER SUPPLY

10. 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.

Note: The size of any new service connection is to be determined during Plumbing approval.

Note: Water meters will be installed at the road verge of Andrews Road.

11. All live connections to the existing water supply networks and water meter installations must be carried out by Council at no cost to Council.

Note: For a private works quotation for the required works Council's Water & Wastewater Department can be contacted on ph 131 872. Subject to payment of the quotation, a suitable time for this work to be carried out must be agreed with Council.

12. Unless able to be used as part of the development, any existing connection must be compliantly disconnected and meters recovered by Council at no cost to Council.
13. Any existing water supply connection traversing more than one approved lot must be compliantly disconnected and removed.
14. Certification must be provided to Council by Licensed Plumber that any necessary disconnections have been carried out.
15. 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.

ELECTRICITY

16. 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.
17. 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.

ECOLOGY

18. Existing trees on the subject land within the Environmental Significance Overlay as identified in the Approved Plans listed in this Development Approval must be retained.

GENERAL ADVICES – RECONFIGURING A LOT

INFRASTRUCTURE CHARGES

- 1) Infrastructure charges are 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) Carrying out works on a road or interfering with the road or its operation will require a permit under *Subordinate Local Law No. 1.15 (2020)*. The application form can be found on Council's website at www.tr.qld.gov.au. For further information contact the Road Operations Branch through Council's Customer Service Centre on 131 872.
- 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.

ENVIRONMENTAL HARM

- 8) 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.

FIRE ANTS

- 9) 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.

BUILDING APPROVAL REQUIRED FOR CERTAIN FENCES & RETAINING WALLS

- 10) A Development Approval for Building Work is required for the following:

- 10.1 Fences where:
- The fence is part of a pool fence; or
 - The fence is over 2m in height (from natural ground level); or
 - The fence is attached to a retaining wall and the combined mean height is over 2.4m in height from natural ground level;
- 10.2 Retaining walls where:
- The wall is retaining fill having a height greater than 1m in height above the wall's natural ground surface; or
 - The wall is located within 1.5m of a building or another retaining wall; or
 - There is a load or surcharge imposed above the retaining wall (i.e. driveway, batter, building or the like); and
- 10.3 Retaining walls and/or fences are sited within 1.5m of a property boundary line and the combined height of the structures exceeds 2m (including where the retaining wall is less than 1m).
- 11) A siting discretion may be required from Council where a fence is proposed to be built atop the retaining wall and the combined height of the structure exceeds 2m above natural ground level.

DRIVEWAY CROSSOVERS

- 12) A Development Application for a Development Permit for Operational Works may be required for the construction of the driveway crossover, where not complying with the relevant assessment benchmarks of the Works and Services Code of the *Toowoomba Regional Planning Scheme 2012*.

PART B: MATERIAL CHANGE OF USE

PLANNING

APPROVED USE

1. This Development Approval is for a Material Change of Use for a Dwelling House.

CARRY OUT & MAINTAIN DEVELOPMENT

2. Unless otherwise stated, all conditions must be complied with prior to the commencement of use and thereafter.
3. Complete all building work associated with this Development Approval, including work required by any of the conditions of this Development Approval prior to the commencement of use. Such building work is to be carried out generally in accordance with the Approved Plans and Documents and, where the building work is assessable development, in accordance with a current Building Work approval.
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: DA-2026-0028-01, Rev A

Description: Boundary Realignment Lots A and B, sheet 1 of 2, prepared by Cross Solutions and dated 19 February 2026

Amendments: Amended in red for the indicated driveway area; and
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Description: Boundary Realignment Lots A and B, sheet 2 of 2, prepared by Cross Solutions and dated 19 February 2026

Amendments: Nil.

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Amendments: Nil.

APPROVED DOCUMENTS

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

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Description: Bushfire Management Report, Version 1, prepared by Max Bushfire Protection Consulting and dated 09 March 2026

Amendments: Nil.

AVAILABILITY OF APPROVED DOCUMENTATION DURING WORKS

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

DEDICATIONS, AGREEMENT AND CONTRIBUTIONS

REGISTRATION OF PLAN OF SURVEY

8. Prior to the commencement of the use, the Boundary Realignment under Development Permit RAL/2026/2586 must be registered in accordance with the requirements of Development Permit RAL/2026/2586. The Plan of Subdivision must be registered with the Department of Resources and proof of registration provided to Council.

WORKS

STORMWATER DRAINAGE

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

STORMWATER DISCHARGE

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

EROSION & SEDIMENT CONTROL

14. 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.
15. 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.

16. 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.
17. All disturbed areas must be mulched or turfed as soon as possible during construction.

DAMAGE TO SERVICES & ASSETS

18. Protect Council and public utility services and assets during construction of the development.
19. 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:
 - 19.1 Where the damage would cause a hazard to pedestrian or vehicle safety or interrupts a service to the community, immediately; or
 - 19.2 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.
20. 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.
21. 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

ON-SITE WASTEWATER TREATMENT & DISPOSAL

22. The development must be provided with an on-site wastewater treatment and effluent disposal system having a capacity and land application area sufficient for the use. The area nominated for the wastewater treatment and effluent disposal, including irrigation areas, must be maintained for this purpose for the life of the approval.
23. The wastewater treatment and effluent disposal system must comply with *Australian Standard AS3500.2 – National Plumbing and Drainage - Sanitary Plumbing and Drainage*; and *Australian Standard AS1547:2012 - On Site Domestic-Wastewater Management* where system size is not exceeded (ref. Part 1.2.1.2 of AS1547:2012).
24. All reasonable and practicable measures must be undertaken to prevent treated wastewater and effluent from overflowing or seeping onto adjoining properties

WATER SUPPLY

25. The development must be connected to Council's reticulated water supply 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.

Note: The size of any new service connection is to be determined during Plumbing approval.

26. All water main fittings, services and meters must be located 1.0m clear of the driveway footpath crossover unless otherwise approved in writing by Council. Any relocation of fittings clear of driveways must be undertaken by Council at no cost to Council.
27. 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.

ELECTRICITY

28. An electricity supply must be made available to service the development. This supply must be in accordance with the relevant standards of the electricity distributor.

TRANSPORT, VEHICULAR ACCESS & PARKING

ROADWORKS SIGNAGE AND PEDESTRIAN SAFETY

29. 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.

30. 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.

PROVISION OF VEHICULAR ACCESS

31. The vehicle access from the subject land to Andrews Road must be sealed from the road edge to the property boundary. The vehicle access (crossing the verge) must be constructed generally in accordance with the Institute of Public Works Engineering Australasia *Drawing RS-056 Rural Driveways*, and in accordance with *Australian Standard AS 2890 – Parking Facilities (Part 1 and as relevant Part 2)*.

ECOLOGY

32. Existing trees on the subject land within the Environmental Significance Overlay as identified in the Approved Plans listed in this Development Approval must be retained.

GENERAL ADVICES – MATERIAL CHANGE OF USE

INFRASTRUCTURE CHARGES

- 1) Infrastructure charges are 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) Carrying out works on a road or interfering with the road or its operation will require a permit under *Subordinate Local Law No. 1.15 (2020)*. The application form can be found on Council's website at www.tr.qld.gov.au. For further information contact the Road Operations Branch through Council's Customer Service Centre on 131 872.
- 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 (VMA)*. The clearing of regulated vegetation can only be undertaken where associated with exempt clearing activities established under the VMA. For further information regarding exempt clearing activities please contact your local office of the Department of Resources.

EXCAVATION & FILLING

- 8) The *Toowoomba Regional Planning Scheme 2012 (TRPS)* declares excavation and filling activity involving less than 50m³ of material and excavation and filling activity to a depth or height lower than 1m to be accepted development. Any combination of excavation or filling where 50m³ or more of fill is deposited on, or 50m³ or more of excavated material is removed from the premises and excavation or filling is not associated with 'Building Work' as defined under the *Planning Act 2016*, must obtain an Operational Work approval from Council before commencing site works.

ENVIRONMENTAL HARM

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

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

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

FIRE ANTS

- 10) 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.

BUILDING APPROVAL REQUIRED FOR CERTAIN FENCES & RETAINING WALLS

- 11) A Development Approval for Building Work is required for the following:

11.1 Fences where:

- The fence is part of a pool fence; or
- The fence is over 2m in height (from natural ground level); or
- The fence is attached to a retaining wall and the combined mean height is over 2.4m in height from natural ground level;

11.2 Retaining walls where:

- The wall is retaining fill having a height greater than 1m in height above the wall's natural ground surface; or
- The wall is located within 1.5m of a building or another retaining wall; or
- There is a load or surcharge imposed above the retaining wall (i.e. driveway, batter, building or the like); and

- 11.3 Retaining walls and/or fences are sited within 1.5m of a property boundary line and the combined height of the structures exceeds 2m (including where the retaining wall is less than 1m).
- 12) A siting discretion may be required from Council where a fence is proposed to be built atop the retaining wall and the combined height of the structure exceeds 2m above natural ground level.

BUILDING OVER, OR NEAR, COUNCIL INFRASTRUCTURE

- 13) Any construction carried out near or over existing Council services should be in accordance with Council's adopted Policy (*Queensland Development Code NMP 1.4 – Excavation and Piling Near Sewers, Stormwater Drains and Water Mains*) and Council's Planning Scheme Policy SC6.3 PSP No. 3– *Water and Wastewater Infrastructure*. A Concurrence Agency referral of the Building Work Application to Council's Water and Wastewater Infrastructure Branch may be required.

REASONS FOR RECOMMENDATION

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

DELEGATE'S RECOMMENDATION:

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.



Sophie Spencer
Lead Senior Planner, Planning Branch

Decision Date: 27 August 2026

BACKGROUND

SITE DETAILS				
Site Address	10 Widderick Road, CROWS NEST QLD 4355			
Real Property Description	Lot 1 RP15463, Lot 181 CSH1741			
Site Area	70,131m ²			
Owner	Julia Petts and Stephen Jozsef Gerard Prokop			
SITE CHARACTERISTICS				
Current Land Use	Vacant			
Site Frontage/s	Andrews Road – 264m			
Road/s	Order of Road	Width of Road Reserve	Width of Pavement	Road Material
Andrews Road	Local	~19m	~8.7m	Sealed
Easements	Nil.			
Existing Structures	Nil.			
Infrastructure	The site has access to the road and water infrastructure.			
Topography	The site falls from northwest 575m AHD towards east 557m AHD.			
Street Trees	Nil.			
Other Features	Within the SPP MSES – Wildlife Habitat and Regulated Vegetation Within the SPP Bushfire Prone Area Within the DAMS Regulated Vegetation Management Map (category A and B)			
PLANNING SCHEME SITE DATA				
Current Planning Scheme	Toowoomba Regional Planning Scheme 2012 (Version 28)			Adopted: 28/11/2022
Zone	Rural			
Precinct	100 ha minimum Precinct			
Overlays	Environmental Significance Overlay - Areas of Ecological Significance Buffer - Areas of Ecological Significance Bushfire Hazard Overlay - Medium Fire Risk Agricultural Land Overlay Water Resources Catchment Overlay			
Infrastructure Charges Resolution	Charges Resolution No. 7			Adopted: 19/08/2026
SURROUNDS:				
Direction	Land Use	Zone/Precinct		
North	Vacant	Rural/100 ha minimum Precinct		
East	Vacant Dwelling House and Ancillary Structures	Low Density Residential/General Limited Development (Constrained Land)		
South	Vacant	Rural/100 ha minimum Precinct		
West	Dwelling House and Ancillary Structures	Rural/100 ha minimum Precinct		
Other Features	Nothing to note			

APPLICATION HISTORY

No relevant details.

PROPOSED DEVELOPMENT

Name of Applicant	Stephen Jozsef Gerard Prokop and Julia Petts	
Type of Application	Reconfiguring a Lot & Material Change of Use	
Proposed Development	Reconfiguring a Lot - Boundary Realignment 2 Into 2 Lots and Material Change of Use - Dwelling House	
Variations Sought	Not Applicable	
Level of Assessment	Impact	
Submissions Received	Objection:	0
	Support:	0
Decision Making Period Ends	28 August 2026	

CONSULTATION UNDERTAKEN

Referral Agency/ies

Not Applicable.

Internal Referrals

Internal Referral Partner	Referral / Response
Development Infrastructure and Growth	Recommended conditions should the development be approved.
Place Environmental	Recommended conditions should the development be approved.
Infrastructure Charges Unit	Will prepare an Infrastructure Charges Notice in accordance <i>with Charges Resolution No. 7</i> to accompany an approval of the development.

Public Notification

The Notice of Compliance was received by Council on 9 June 2026. The information attached to the notice confirms that the public notification of the application was undertaken in accordance with the requirements of Part 4 of the *Planning Act 2016*. The Notice of Compliance states the public notification included:

- Publishing a notice in the Chronicle on 15 May 2026;
- Placing a notice on the land from 15 May 2026 until 8 June 2026; and
- Notifying owners of all land adjoining the site on 14 May 2026.

No submission was received regarding 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>	Schedules 9 and 10 categorises particular development and details the relevant assessment benchmarks for development as relevant. 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.

	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.
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REGIONAL PLANS	
<i>Shaping SEQ – South East Queensland Regional Plan 2017</i>	Not applicable.
<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 DDRP identifies that the subject site is mapped within a Priority Agricultural Area (PAA) and Priority Living Area (PLA). However, the development application does not conflict with the intent for a PAA and PLA because the subject site is of a size which is unable to be used for agricultural area and therefore it is considered that the development application is consistent with the regional policies included within the DDRP.

STATE PLANNING POLICY (SPP) July 2017	
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	The state interest policies identified in Part E of the SPP are considered to be relevant to the proposed development. Therefore the policies has been given due regard as follows: (1) Development is located in areas to avoid significant impacts on matters of national environmental significance and considers the requirements of the Environment Protection and Biodiversity Conservation Act 1999. (2) Matters of state environmental significance are identified and development is located in areas that avoid adverse impacts; where adverse impacts cannot be reasonably avoided, they are minimised. (3) Matters of local environmental significance are identified and development is located in areas that avoid adverse impacts; where adverse impacts cannot be reasonably avoided, they are minimised. Officer Comment: The proposed Dwelling House and ancillary infrastructure is shown to be entirely contained outside of the MSES - Regulated Vegetation area and Wildlife Habitat (endangered or vulnerable). The applicant further advises that which the development will not involve any vegetation clearing. As such no referr to SARA was required for interfering with Regulated Vegetation. It is considered the proposed Dwelling House does not compromise this State interest.
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	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 (Bushfire Prone Area). It is considered the proposed Dwelling House does not compromise this State interest.
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	No applicable assessment benchmarks

Local Categorising Instrument – *Toowoomba Regional Planning Scheme 2012:*

The proposed development was assessed against the following assessment benchmarks:

- Strategic Framework
- Rural Zone Code
- Reconfiguring a Lot Code
- Environmental Significance Overlay Code
- Bushfire Hazard Overlay Code
- Agricultural Land Overlay Code
- Water Resources Catchment Overlay Code

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

DEVELOPMENT CODES:

Reconfiguring a Lot Code	
Performance Outcome	Acceptable Outcome
PO4 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: a) dwellings, buildings and/or other structures b) setbacks; c) landscaping; d) on site car parking and vehicle access; e) recreation areas (private open space); f) cultural heritage and character streetscape values; g) other design criteria.	AO4.1 All lots are rectangular and have minimum width to depth ratios, areas, dimensions and frontages as prescribed in Table 9.4.5:4. AO4.2 Where in the Low Medium Density Residential Zone development for lots 450m² or less in area are capable of accommodating a rectangular building envelope with area and dimensions for: a) a dwelling, including ancillary buildings and structures such as garages, covered carports and decks, that comply with the minimum setback requirements of the overlay or zone in which the land is located and building regulations; b) private open space and recreation areas; c) vehicle access and on-site car parking in accordance with the Transport, Access and Parking Code.
Alternate Outcome	
The applicant submits: <i>“Complies with PO4.</i> <i>It is proposed to realign the existing boundaries of Lot 1 on RP15463 and Lot 181 on CSH1741 into the following lots:</i> • <i>Proposed Lot A – 6.48 hectares in area, 192.015m frontage to Andrews Road, and 330.365m frontage to Widderick Road;</i> • <i>Proposed Lot B – 5,144m² (0.5144 hectares), 51.51m frontage to the constructed/formed Andrews Road reserve, and 27.22m frontage to the unconstructed Andrews Road reserve.</i>	

Table 9.4.5:4 requires lots in the 100 hectare precinct of the Rural Zone to have a minimum lot size of 100 hectares and minimum frontage/width of 125m.

While the proposal creates lots less than 100 hectares in area, we note the following:

- *The existing lots are significantly less than 100 hectares, being 6.399 hectares (Lot 1) and 0.6141 hectares (Lot 181);*
- *The site is within an area of the precinct clearly characterised by smaller rural lots all less than the minimum 100 hectares;*
- *The closest 100 hectare lot (Lot 1 on RP15448) is roughly 3km north-east from the subject site.*

Aside from this, the proposed lots comply with PO4 for the following reasons:

- *The proposed Building Envelope over Proposed Lot B enables a future Dwelling House to achieve relevant outcomes for setbacks, landscaping, on-site car parking and vehicle access, and private open space.*
- *All existing development at the site is retained and wholly contained within Proposed Lot A, including infrastructure connections."*

Officer Comment

The subject site comprises an existing lot configuration that reflects a legacy cadastral pattern and does not readily accommodate ongoing rural land use activities. The proposed boundary realignment will create a more functional lot configuration by increasing the area of the subject lot and improving its capacity to support rural purposes.

PO4 seeks to ensure lots provide sufficient area, frontage, dimensions and access to support relevant land use outcomes. While the resulting lot will remain below the prescribed minimum lot size, the proposal does not further constrain the site's rural use potential. Rather, the boundary realignment is considered to improve the functionality of the lot and better support the intent of the Rural Zone.

Accordingly, the proposal is not considered to conflict with PO4 and is assessed as complying with the Reconfiguring a Lot Code.

Local Categorising Instrument – Variation Approval:

Not Applicable

Local Categorising Instrument – Temporary Local Planning Instrument:

Not Applicable

Local Categorising Instrument – Preliminary Approval:

Not Applicable

Local Categorising Instrument – Local Government Infrastructure Plan:

The subject site is not located within the Priority Infrastructure Area.

Other Relevant Matters

Not Applicable

FINANCIAL / RESOURCE IMPLICATIONS

Infrastructure charges will be applied in accordance with Council's *Charges Resolution No.7*.

Human Rights Act 2019 CONSIDERATIONS

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

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

Section 15 – Recognition and equality before the law

Section 24 – Property rights

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

CONCLUSION

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

ATTACHMENT/S

Attachment	1	of	4	Aerial Image
Attachment	2	of	4	Zoning Map
Attachment	3	of	4	Overlay Map
Attachment	4	of	4	Site Plan

SCHEDULES

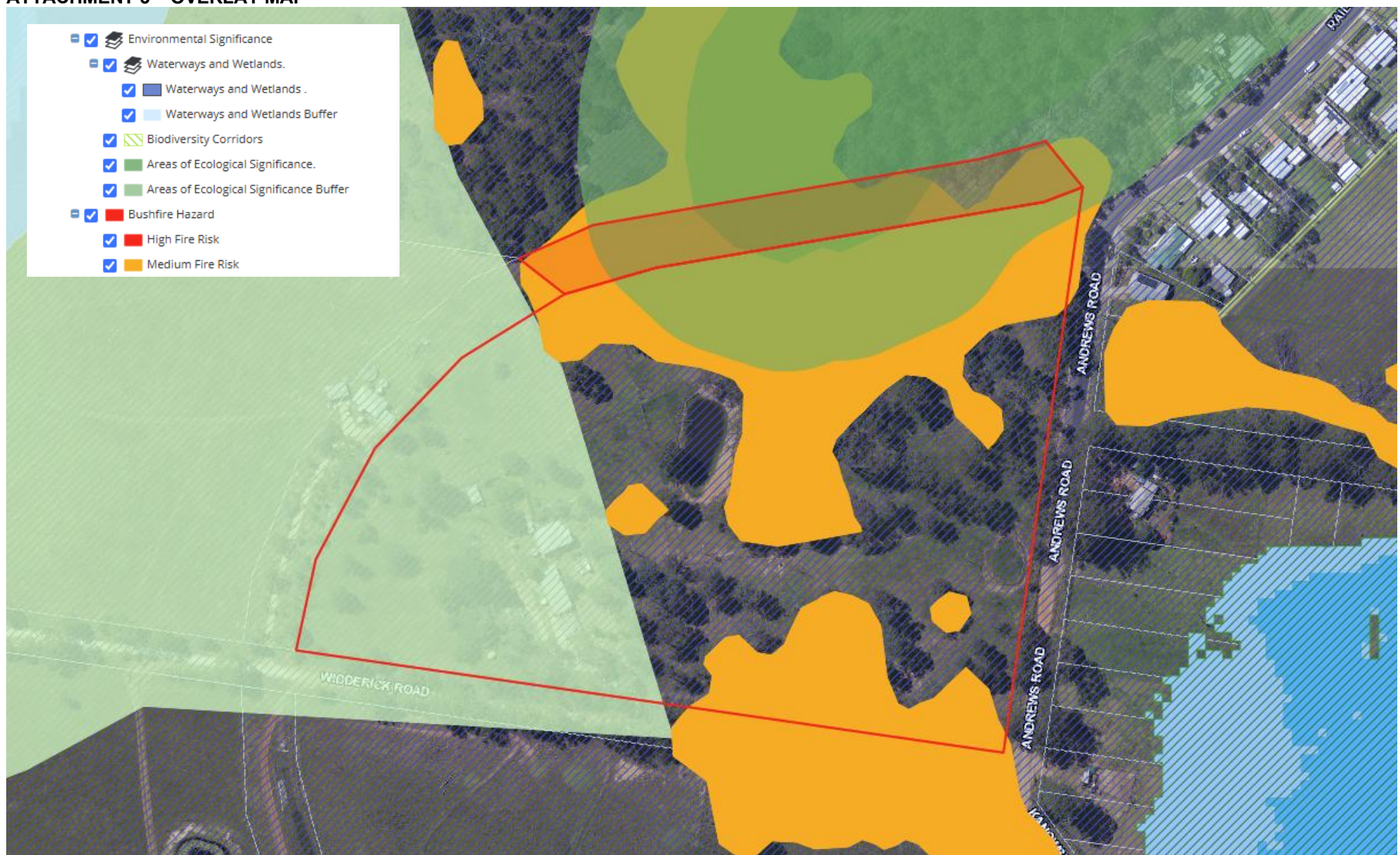
Schedule	1	Statement of Reasons
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ATTACHMENT 1 – AERIAL IMAGE

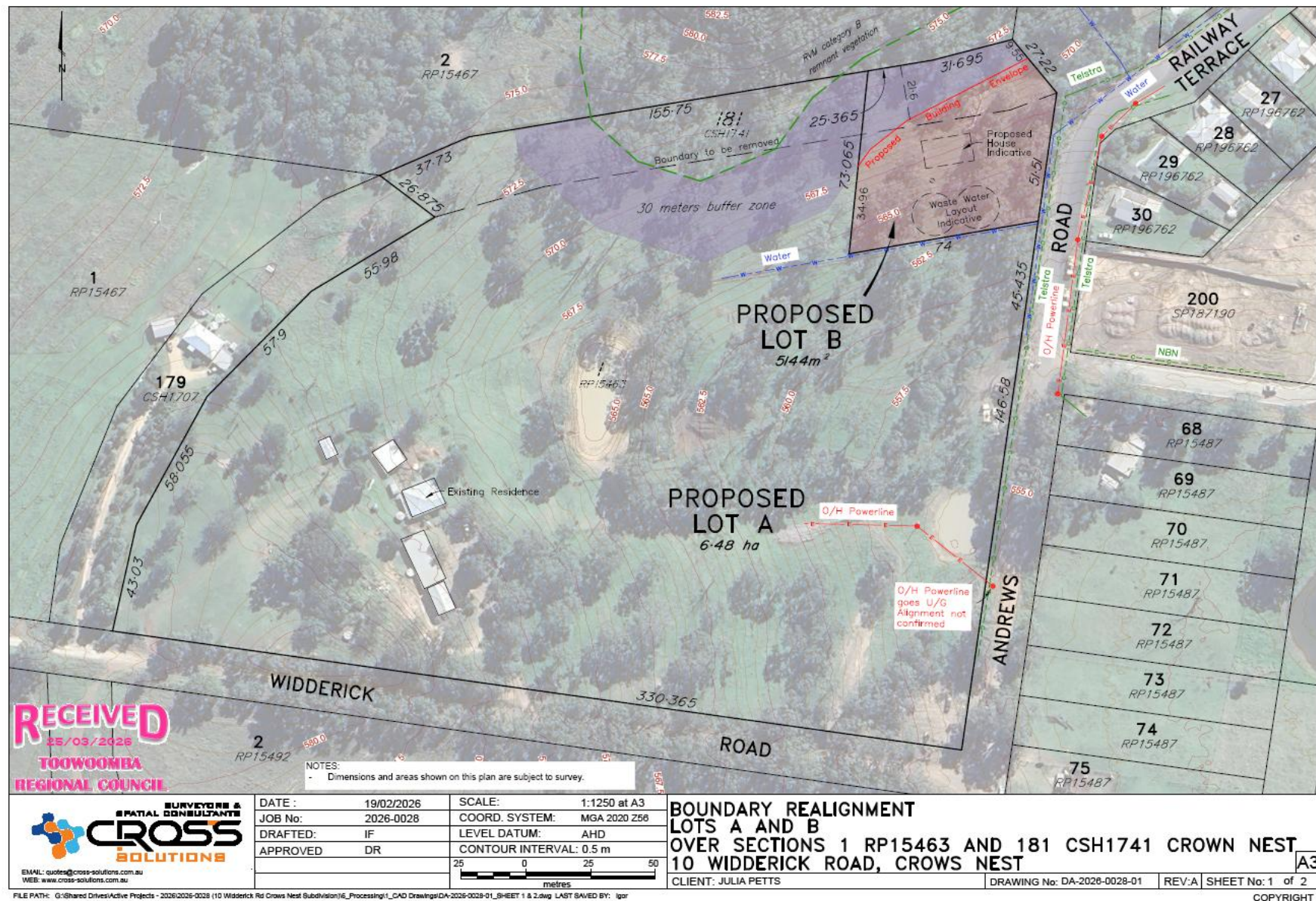


ATTACHMENT 2 – ZONING MAP



ATTACHMENT 3 – OVERLAY MAP

ATTACHMENT 4 – SITE PLAN



SCHEDULE 1

Statement of Reasons

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

SITE DETAILS	
Site Address	10 Widderick Road, CROWS NEST QLD 4355
Real Property Description	Lot 1 RP15463, Lot 181 CSH1741
Site Area	70,131m ²
Owner	Julia Petts and Stephen Jozsef Gerard Prokop

PROPOSED DEVELOPMENT		
Name of Applicant	Stephen Jozsef Gerard Prokop and Julia Petts	
Type of Application	Reconfiguring a Lot & Material Change of Use	
Proposed Development	Reconfiguring a Lot - Boundary Realignment 2 into 2 Lots and Material Change of Use - Dwelling House	
Level of Assessment	Impact	
Submissions Received	Objection:	0
	Support:	0
Decision	Approval	
Decision Date	27 August 2026	

ASSESSMENT MATTERS	
Assessment benchmarks	The proposed development was assessed against the following assessment benchmarks: • Schedules 9 and 10 of the <i>Planning Regulation 2017</i> (as relevant); • <i>State Planning Policy July 2017</i> (as relevant); • Darling Downs Regional Plan (as relevant); • The Local Government Infrastructure Plan; and • <i>Toowoomba Regional Planning Scheme 2012</i> (Version 28) ○ Strategic Framework ○ Rural Zone Code ○ Reconfiguring a Lot Code ○ Environmental Significance Overlay Code ○ Bushfire Hazard Overlay Code ○ Agricultural Land Overlay Code ○ Water Resources Catchment Overlay Code
Reasons for decision	The development was assessed against all of the assessment benchmarks listed above and complies 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/2026/2586 & MCUC/2026/2587