

Our Reference: MCUI/2018/2226/C
CS Portal Reference: N/A
Contact Officer: James Leader
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Decision Notice
CHANGE TO A DEVELOPMENT APPROVAL
Planning Act 2016 Section 83

Tunney Investments Pty Ltd
C/- Nexus Urban Consultants
219 Geddes Street
SOUTH TOOWOOMBA QLD 4350

Email: nexusconnections@hotmail.com

19 February 2026

Dear Sir/Madam

Development Approval: **Material Change of Use – Impact – Preliminary Approval for a Variation Request**
Location: **Robson Hursley Road and Rielly Street, TORRINGTON QLD 4350**
Property Description: **Lot 1 SP349893 and Lot 32 SP304226**
Relevant Planning Scheme: ***Toowoomba Regional Planning Scheme 2012***

I refer to your application received on 25 September 2025 for a change to the development approval for Material Change of Use – Impact – Preliminary Approval for a Variation Request approved on 19 October 2018.

The change application was assessed against the relevant assessment benchmarks as identified in the *Toowoomba Regional Planning Scheme 2012* for the development.

On the 19 February 2026, the change application was approved as per the attached Schedule. The changes are considered to be consistent with the relevant assessment benchmarks.

All deletions are identified by **bolded** strikethrough of text and all additions are identified by **bolded** text.

Rights of Appeal

Attached is an extract from the *Planning Act 2016* which details your appeal rights regarding this decision.

Yours faithfully



Richard Green,
Lead Senior Planner, Planning Branch



TOOWOOMBA REGIONAL COUNCIL

A.B.N. 997 8830 5360

SCHEDULE 1

DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF USE – IMPACT

APPLICATION NUMBER:	MCUI/2018/2226/C
APPLICANT:	Tunney Investments Pty Ltd
LOCATION:	Robson Hursley Road and Rielly Street, TORRINGTON QLD 4350
PROPERTY DESCRIPTION:	Lot 1 SP349893 and Lot 32 SP304226
APPROVED USE:	Preliminary Approval for a Variation Request – Change Approval
ZONING / PRECINCT:	Emerging Community Zone / No Precinct

A. ASSESSMENT MANAGER'S CONDITIONS:

PLANNING

~~PRIOR VARIATION APPROVAL~~

- ~~1. Cancel existing Variation Approval (Section 242 Preliminary Approval) MCUI/2014/6234 and RAL/2014/6232.~~

~~**Note:** Variation Approval (Section 242 Preliminary Approval) MCUI/2014/6234 and RAL/2014/6232 for residential purposes conflicts with this Variation Approval for industrial purposes and has been conditioned to be cancelled as requested by the applicant in their response (dated 19 June 2018 and received 20 June 2018) to Council's Information Request (issued 25 May 2018).~~

PARAMETERS OF APPROVAL

- All future development within the Variation Approval Area must be undertaken in accordance with the provisions of this Variation Approval and the applicable Codes and Planning Scheme Policies contained in the *Toowoomba Regional Planning Scheme 2012* Version 19.
- Development within the Variation Approval Area is categorised as Accepted Development, Accepted Development Subject to Requirements, Code Assessable Development, or Impact Assessable Development in accordance with Variation Approval Categories of Assessment and Development Tables 1.1, 1.2, 1.3, 2.1 and 3.1.
- Accepted Development Subject to Requirements within the Variation Approval Area is required to comply with the requirements identified by Variation Approval Categories of Assessment and Development Tables 1.1, 1.2, 1.3, 2.1 and 3.1. Where not complying with one (1) or more requirements, Accepted Development Subject to Requirements becomes Code Assessable Development.
- Code Assessable Development within the Variation Approval Area is assessed against the Assessment Benchmarks identified by Variation Approval Categories of Assessment and Development Tables 1.1, 1.2, 1.3, 2.1 and 3.1 and this Variation Approval.

6. Impact Assessable Development within the Variation Approval Area is assessed against the entire *Toowoomba Regional Planning Scheme 2012* Version 19 as applicable to the Emerging Community Zone and this Variation Approval.
7. Any Development not specifically identified by the Variation Approval Categories of Assessment and Development Tables 1.1, 1.2, 1.3, 2.1 and 3.1 is categorised and assessed in accordance with the provisions of the *Toowoomba Regional Planning Scheme 2012* Version 19 as applicable to the Emerging Community Zone.

COMPLIANCE WITH CONDITIONS

GENERAL COMPLIANCE

8. Where not otherwise specified in a condition of this approval, all conditions must be complied with prior to the lodgement of a development application pursuant to this Variation Approval.
9. ~~Conditions 1 to 23 and 29 to 30 must be complied with prior to the lodgement of a development application pursuant to this Variation Approval on the land area identified as Lot 32 and Easement B on SP304226 (Reserved Survey Plan).~~
10. ~~Conditions 1 to 30 must be complied with prior to the lodgement of a development application pursuant to this Variation Approval outside of the land area identified as Lot 32 and Easement B on SP304226 (Reserved Survey Plan).~~
11. Unless otherwise agreed by the Manager, Development Services, all development in the Preliminary Approval Area, other than development on Lot 32 and Easement B on SP304226 (Reserved Survey Plan), must be consistent with the approved Overall Strategies required by Condition 24 of this Variation Approval.

Note: Approved Overall Strategies may be varied through the provision of a detailed report(s) addressing alternative solutions/strategies at the discretion of Council.

VARIATION APPROVAL AREA

12. The Variation Approval Area is the area ~~outlined in red and identified as 'Variation Approval Area' shown on Amended~~ Drawing Number ~~12/205-SP01 Revision E~~ **NU-09/2025-Version A**, prepared by ~~Byrne Surveyors Nexus Urban~~ and dated ~~September 2025 18 October 2018~~.

APPROVED PLAN

13. The following plan is an Approved Plan subject to the conditions of this Variation Approval and the amendments described below:

~~Plan No: 12/205-SP01 Revision E~~

~~Description: Structure Plan, prepared by Byrne Surveyors and dated 18 October 2018~~

~~Amendments: Amend to comply with Condition 14.~~

Plan No: NU-09/2025-Version A

Description: Structure Plan, prepared by Nexus Urban and dated September 2025

Amendments: Nil

14. ~~Amend Drawing Number 12/205-SP01 Revision E, prepared by Byrne Surveyors and dated 18 October 2018 as follows:~~

~~14.1 Amend text from 'Proposed Low Impact Industry' to 'Low Impact Industry Area';~~

~~14.2 Amend text from 'Proposed Medium Impact Industry' to 'Medium Impact Industry Area';~~

- ~~14.3 — Remove text ‘Existing Medium Impact Industry’;~~
- ~~14.4 — Remove text ‘Existing Low Impact Industry’;~~
- ~~14.5 — Remove text ‘Existing Emerging Community’;~~
- ~~14.6 — Remove text and associated legend icon ‘Proposed Access Location to Existing External Road Network’;~~
- ~~14.7 — Amend text from ‘Preliminary Approval Area’ to ‘Variation Approval Area’;~~
- ~~14.8 — Remove colours (i.e. area or zone colours) to all areas outside of the area identified as Variation Approval Area;~~
- ~~14.9 — Remove light blue colour for Low Impact Industry Area to all areas within the Constrained Land area;~~
- ~~14.10 — Add a new colour, not used elsewhere on the plan, for the Constrained Land Area and~~
- ~~(a) — Mark the Constrained Land Area in that colour; and~~
- ~~(b) — Reference the Constrained Land Area to that colour in a legend;~~
- ~~14.11 — Identify the following area as Constrained Land Area:~~
- ~~(a) — The entire area within 110m north of the southern boundary of the area identified as Variation Approval Area; and~~
- ~~(b) — The entire area within 220m north of the southern boundary and 130m east of the western boundary of the area identified as Variation Approval Area; and~~
15. ~~The Plan to be amended must incorporate only the amendments listed within this Variation Approval and must be resubmitted to the Manager, Development Services for endorsement and be endorsed by the Manager, prior to the lodgement of a development application made pursuant to this Variation Approval.~~

VARIATION APPROVAL CATEGORIES OF ASSESSMENT AND DEVELOPMENT

16. The following documents are Approved Documents subject to the conditions of this Variation Approval and the amendments described below:
- Document No:** ~~Unnumbered Version 2025/01.1A~~
- Description:** ~~Variation Approval Categories of Assessment and Development Table 1.1 Low Impact Industry Area, prepared by Nexus Urban Consultants and received by Council 17 February 2026 Property Projects Australia, undated, and amended received by Council on 7 July 2022 18 October 2018.~~
- Amendments:** ~~Nil Amend to comply with Condition 17~~
- Document No:** ~~Unnumbered Version 2025/01.2A~~
- Description:** ~~Variation Approval Categories of Assessment and Development Table 1.2 Medium Impact Industry Area, prepared by Nexus Urban Consultants and received by Council 17 February 2026 Property Projects Australia, undated, and amended received by Council on 7 July 2022 18 October 2018.~~
- Amendments:** ~~Nil Amend to comply with Condition 17~~

Document No: Unnumbered
Description: Variation Approval Categories of Assessment and Development Table 1.3 Constrained Land Area, prepared by Property Projects Australia, undated, and received by Council on 7 August 2020.
Amendments: Nil

Document No: Unnumbered
Description: Variation Approval Categories of Assessment and Development Table 2.1 Reconfiguring a Lot within the Preliminary Approval Area, prepared by Property Projects Australia, undated, and amended received by Council on 7 July 2022
~~18 October 2018.~~
Amendments: Nil Amend to comply with Condition 17

Document No: Unnumbered
Description: Variation Approval Categories of Assessment and Development Table 3.1 Assessment benchmarks for overlays, prepared by Property Projects Australia, undated, and received by Council on 18 October 2018.
Amendments: Nil Amend to comply with Condition 17.

17. ~~Amend Variation Approval Categories of Assessment and Development Tables as follows:~~

~~17.1 Material Change of Use Table 1.1 Low Impact Industry Area:~~

- ~~(a) Delete all Uses and all associated text under Categories of development and assessment and Assessment benchmarks;~~
- ~~(b) Delete the text 'Any use listed in this table where a building, structure, vehicle movement area or external use area (such as a storage area but excluding works for stormwater drainage or supporting infrastructure), are proposed partly or wholly within the Constrained Land Area shown on the approved Structure Plan';~~
- ~~(c) Insert the Uses 'Transport Depot' and 'Warehouse';~~
- ~~(d) For Transport Depot and Warehouse, under the subheading Accepted development subject to requirements, insert the text: 'If the reuse of an existing approved development and there is no increase in Gross Floor Area and no increase in impervious area';~~
- ~~(e) For Transport Depot and Warehouse, under the subheading Code assessment, insert the text:

'If:

(i) not meeting the description listed in the categories of development and assessment column for accepted development subject to requirements; or

(ii) meeting the description listed in the categories of development and assessment column for accepted development subject to requirements and not complying with one or more required acceptable outcomes in the assessment benchmarks identified for accepted development subject to requirements;~~

~~Or if:~~

- ~~(i) The relevant lot has an area of at least 2ha that is within the Low Impact Industry Area or Medium Impact Industry Area, excluding any area identified within the Constrained Land Area; and~~
- ~~(ii) The proposed development has a maximum Gross Floor Area (GFA) of 10% of the lot area that is within the Low Impact Industry Area or Medium Impact Industry Area, excluding any area identified within the Constrained Land Area; and~~
- ~~(iii) The proposed development has a maximum impervious area of 60% of the lot area that is within the Low Impact Industry Area or Medium Impact Industry Area, excluding any area identified within the Constrained Land Area;~~

~~Note: To remove any doubt, impervious area is the cumulative total of all roofed area (whether GFA or not), hard landscaping and hardstand.¹~~

- ~~(f) Under each subheading except 'Impact Assessment', for Transport Depot and Warehouse list the following Assessment benchmarks and requirements for accepted development:~~
 - ~~(i) Low Impact Industry Zone Code;~~
 - ~~(ii) Industry Uses Code;~~
 - ~~(iii) Environmental Standards Code;~~
 - ~~(iv) Integrated Water Cycle Management Code;~~
 - ~~(v) Landscaping Code;~~
 - ~~(vi) Transport, Access and Parking Code;~~
 - ~~(vii) Works and Services Code;~~
 - ~~(viii) Airport Environs Overlay Code;~~
 - ~~(ix) Variation Approval MCUI/2018/2226 – Traffic Impact Assessment – Overall Strategy;~~
 - ~~(x) Variation Approval MCUI/2018/2226 – Stormwater Management Plan – Overall Strategy;~~
 - ~~(xi) Variation Approval MCUI/2018/2226 – Wastewater Infrastructure Supply – Overall Strategy;~~
 - ~~(xii) Variation Approval MCUI/2018/2226 – Water Supply – Overall Strategy;~~
- ~~(g) Under the subheading 'Impact Assessment', add the following Assessment benchmarks and note in addition to 'The planning scheme':~~
 - ~~(i) Variation Approval MCUI/2018/2226 – Traffic Impact Assessment – Overall Strategy;~~
 - ~~(ii) Variation Approval MCUI/2018/2226 – Stormwater Management Plan – Overall Strategy;~~

~~(iii) Variation Approval MGUI/2018/2226 Wastewater Infrastructure Supply – Overall Strategy;~~

~~(iv) Variation Approval MGUI/2018/2226 Water Supply – Overall Strategy;~~

~~Note: Impact Assessable development in the Variation Approval Area is assessed as if it were identified in the Emerging Community Zone of the Toowoomba Regional Planning Scheme 2012 Version 19.;~~

~~(h) Delete any unused subheadings and cells;~~

~~17.2 Material Change of Use Table 1.2 Medium Impact Industry Area:~~

~~(a) Delete all Uses and all associated text under Categories of development and assessment and assessment benchmarks;~~

~~(b) Insert the Uses ‘Transport Depot’ and ‘Warehouse’;~~

~~(c) For Transport Depot and Warehouse, under the subheading Accepted development subject to requirements, insert the text: ‘If the reuse of an existing approved development and there is no increase in Gross Floor Area and no increase in impervious area’;~~

~~(d) For Transport Depot and Warehouse, under the subheading Code assessment, insert the text:~~

~~If:~~

~~(i) not meeting the description listed in the categories of development and assessment column for accepted development subject to requirements; or~~

~~(ii) meeting the description listed in the categories of development and assessment column for accepted development subject to requirements and not complying with one or more required acceptable outcomes in the assessment benchmarks identified for accepted development subject to requirements;~~

~~Or if:~~

~~Within the land area identified as Lot 32 and Easement B on SP304226 (Reserved Survey Plan), and:~~

~~(i) The lot has an area of exactly 2ha; and~~

~~(ii) The proposed development has a maximum Gross Floor Area (GFA) 20% of the lot area.; and~~

~~(iii) The proposed development has a maximum impervious area of 80% of the lot area;~~

~~Or if:~~

~~Not within the land area identified as Lot 32 and Easement B on SP304226 (Reserved Survey Plan), and:~~

- ~~(i) — The relevant lot has an area of at least 2ha within the Low Impact Industry Area or Medium Impact Industry Area, excluding any area identified within the Constrained Land Area; and~~
- ~~(ii) — The proposed development has a maximum Gross Floor Area (GFA) of 10% of the lot area that is within the Low Impact Industry Area or Medium Impact Industry Area, excluding any area identified within the Constrained Land Area; and~~
- ~~(iii) — The proposed development has a maximum impervious area of 60% of the lot area that is within the Low Impact Industry Area or Medium Impact Industry Area, excluding any area identified within the Constrained Land Area; and~~

~~Note: — To remove any doubt, impervious area is the cumulative total of all roofed area (whether GFA or not), hard landscaping and hardstand.';~~

- ~~(e) — Under each subheading except 'Impact Assessment', for Transport Depot and Warehouse list the following Assessment benchmarks:~~
 - ~~(i) — Low Impact Industry Zone Code;~~
 - ~~(ii) — Industry Uses Code;~~
 - ~~(iii) — Environmental Standards Code;~~
 - ~~(iv) — Integrated Water Cycle Management Code;~~
 - ~~(v) — Landscaping Code;~~
 - ~~(vi) — Transport, Access and Parking Code;~~
 - ~~(vii) — Works and Services Code;~~
 - ~~(viii) — Airport Environs Overlay Code;~~
 - ~~(ix) — Where not within the land area identified as Lot 32 and Easement B on SP304226 (Reserved Survey Plan):~~
 - ~~(1) — Variation Approval MCUI/2018/2226 — Traffic Impact Assessment — Overall Strategy;~~
 - ~~(2) — Variation Approval MCUI/2018/2226 — Stormwater Management Plan — Overall Strategy;~~
 - ~~(3) — Variation Approval MCUI/2018/2226 — Wastewater Infrastructure Supply — Overall Strategy;~~
 - ~~(4) — Variation Approval MCUI/2018/2226 — Water Supply — Overall Strategy;~~
- ~~(f) — Under the subheading 'Impact Assessment', add the following Assessment benchmarks and note in addition to 'The planning scheme':~~
 - ~~(i) — Variation Approval MCUI/2018/2226 — Traffic Impact Assessment — Overall Strategy;~~

~~(ii) Variation Approval MCUI/2018/2226 Stormwater Management Plan – Overall Strategy;~~

~~(iii) Variation Approval MCUI/2018/2226 Wastewater Infrastructure Supply – Overall Strategy;~~

~~(iv) Variation Approval MCUI/2018/2226 Water Supply – Overall Strategy;~~

~~*Note: Impact Assessable development in the Variation Approval Area is assessed as if it were identified in the Emerging Community Zone of the Toowoomba Regional Planning Scheme 2012 Version 19.;*~~

~~(g) Delete any unused subheadings and cells;~~

~~17.3 Reconfiguring a Lot Table 2.1 Reconfiguring a Lot within the Preliminary Approval Area:~~

~~(a) Delete all text under the subheading Accepted development subject to requirements and delete the subheading;~~

~~(b) Delete all text in the third row under the subheading Code assessment;~~

~~(c) Under the subheading ‘Code assessment’ for ‘Categories of development and assessment’, add the text: ‘Where land is proposed and conditioned to be dedicated to Council or to a utility provider approved by Council.’;~~

~~(d) Under the first subheading ‘Code assessment’, list the following Assessment benchmarks for all Code assessable Reconfiguring a Lot except ‘Subdivision of one lot into two lots (and associated operational work) if code assessment is required under schedule 10 of the Regulation’:~~

~~(i) Low Impact Industry Zone Code where within the Low Impact Industry Area;~~

~~(ii) Medium Impact Industry Zone Code where within the Medium Impact Industry Area;~~

~~(iii) Reconfiguring a Lot Code;~~

~~(iv) Airport Environs Overlay Code;~~

~~(v) Bushfire Hazard Overlay Code where within the Constrained Land Area;~~

~~(vi) Environmental Significance Overlay Code where within the Constrained Land Area;~~

~~(vii) Landslide Hazard Overlay Code where within the Constrained Land Area;~~

~~(xiii) Variation Approval MCUI/2018/2226 Traffic Impact Assessment – Overall Strategy;~~

~~(ix) Variation Approval MCUI/2018/2226 Stormwater Management Plan – Overall Strategy;~~

- ~~(x) Variation Approval MCUI/2018/2226 Wastewater Infrastructure Supply – Overall Strategy;~~
- ~~(xi) Variation Approval MCUI/2018/2226 Water Supply – Overall Strategy;~~
- ~~(e) Rename the second subheading ‘Code assessment’ (above text stating ‘Any other reconfiguring a lot not listed in this table’), from ‘Code assessment’ to ‘Impact assessment’;~~
- ~~(f) Under all subheadings for Impact assessment, add the following Assessment benchmarks and note in addition to ‘The planning scheme’:
 - ~~(i) Variation Approval MCUI/2018/2226 Traffic Impact Assessment – Overall Strategy;~~
 - ~~(ii) Variation Approval MCUI/2018/2226 Stormwater Management Plan – Overall Strategy;~~
 - ~~(iii) Variation Approval MCUI/2018/2226 Wastewater Infrastructure Supply – Overall Strategy;~~
 - ~~(iv) Variation Approval MCUI/2018/2226 Water Supply – Overall Strategy;~~~~

~~*Note: Impact Assessable development in the Variation Approval Area is assessed as if it were identified in the Emerging Community Zone of the Toowoomba Regional Planning Scheme 2012 Version 19.;*~~

- ~~(g) Delete any unused subheadings and cells;~~

~~17.4 Table 3.1 - Assessment benchmarks for overlays:~~

- ~~(a) Delete all text under the heading ‘Table 3.1 – Assessment benchmarks for overlays’;~~
- ~~(b) Insert the text ‘Code Assessable Development is assessed against the overlays identified as Assessment benchmarks in Table 1.1 Low Impact Industry Area, Table 1.2 Medium Impact Industry Area, Table 1.3 Constrained Land Area, and Table 2.1 Reconfiguring a Lot within the Preliminary Approval Area.’;~~
- ~~(c) Insert the text ‘All Impact Assessable Development is assessed against the Assessment benchmark the Airport Environs Overlay Code.’;~~
- ~~(d) Insert the text ‘All Impact Assessable Development within the Constrained Land Area is assessed against the Assessment benchmarks the Bushfire Hazard Overlay Code, the Environmental Significance Overlay Code and the Landslide Hazard Overlay Code.’;~~
- ~~(e) Delete any unused cells.~~

- 18. ~~The Documents to be amended must incorporate only the amendments listed within this Variation Approval and must be resubmitted to the Manager, Development Services for endorsement and be endorsed by the Manager, prior to the lodgement of a development application pursuant to this Variation Approval.~~

REQUIRED DOCUMENT

19. ~~The following document is required to be prepared and submitted for endorsement. The endorsed document will become an Approved Document subject to the conditions of this Variation Approval and the description below:~~

~~Document No: Unnumbered~~

~~Description: Variation Approval Categories of Assessment and Development Table 1.3
Constrained Land Area~~

~~Amendments: Not applicable~~

20. ~~Provide a document titled 'Variation Approval Categories of Assessment and Development Table 1.3 Constrained Land Area' in the same format as amended Tables 1.1 Low Impact Industry Area and Table 1.2 Medium Impact Industry Area and as follows:~~

~~20.1 Material Change of Use Table 1.3 Constrained Land Area:~~

- ~~(a) Create a heading 'Use' and under that heading provide the text: 'Development that is or includes a Material Change of Use for Utility Installation for stormwater infrastructure.';~~
- ~~(b) Create a heading 'Categories of assessment and development' and under that heading create a subheading 'Code assessment'. Identify the use referred to in (a) above as Code assessable development;~~
- ~~(c) Create a heading 'Assessment benchmarks for assessable development' and under that heading create a subheading 'Code assessment'. Identify the following Assessment Benchmarks for the use referred to in (a) above:
 - ~~(i) Airport Environs Overlay Code;~~
 - ~~(ii) Bushfire Hazard Overlay Code;~~
 - ~~(iii) Environmental Significance Overlay Code;~~
 - ~~(iv) Landslide Hazard Overlay Code;~~
 - ~~(v) Limited Development (Constrained Land) Code~~
 - ~~(vi) Environmental Standards Code;~~
 - ~~(vii) Integrated Water Cycle Management Code;~~
 - ~~(viii) Landscaping Code;~~
 - ~~(ix) Works and Services Code;~~
 - ~~(x) Variation Approval MCUI/2018/2226 Traffic Impact Assessment – Overall Strategy;~~
 - ~~(xi) Variation Approval MCUI/2018/2226 Stormwater Management Plan – Overall Strategy;~~
 - ~~(xii) Variation Approval MCUI/2018/2226 Wastewater Infrastructure Supply – Overall Strategy;~~
 - ~~(xiii) Variation Approval MCUI/2018/2226 Water Supply – Overall Strategy;~~~~

- ~~(d) Under the heading 'Use' provide the text: 'All other uses, whether defined or undefined';~~
- ~~(e) Under the heading 'Categories of assessment and development' create a subheading 'Impact assessment'. Identify the use referred to in (d) above as Impact assessable development;~~

- ~~(f) Under the heading 'Assessment benchmarks for assessable development' and the subheading 'Impact assessment', identify the following Assessment benchmarks and note for the Use referred to in (d) above:
 - ~~(i) The Planning Scheme;~~
 - ~~(ii) Variation Approval MCUI/2018/2226 Traffic Impact Assessment – Overall Strategy;~~
 - ~~(iii) Variation Approval MCUI/2018/2226 Stormwater Management Plan – Overall Strategy;~~
 - ~~(iv) Variation Approval MCUI/2018/2226 Wastewater Infrastructure Supply – Overall Strategy;~~
 - ~~(v) Variation Approval MCUI/2018/2226 Water Supply – Overall Strategy.~~~~

~~**Note:** Impact Assessable development in the Variation Approval Area is assessed as if it were identified in the Emerging Community Zone of the Toowoomba Regional Planning Scheme 2012 Version 19.~~

21. ~~The Documents to be submitted must be submitted to the Manager, Development Services for endorsement and be endorsed by the Manager, prior to the lodgement of a development application pursuant to this Variation Approval.~~

CURRENCY PERIOD

22. This Variation Approval has a currency period until 16 February 2031, after which it will lapse to the extent development has not been completed. ~~of five (5) years from the date this Variation Approval starts to have effect.~~

DEVELOPMENT REQUIREMENTS

23. All development made assessable pursuant to this Variation Approval is assessed against the Assessment Benchmarks identified in Variation Approval categories of assessment and Development Tables 1.1, 1.2, 1.3, 2.1 and 3.1 despite any text within the Assessment Benchmark stating or implying that the Assessment Benchmark does not apply.

Note: For example, where identified as an Assessment Benchmark for this Variation Approval, Toowoomba Regional Planning Scheme 2012 Version 19 Low Impact Industry Zone Code 6.5.1.1 Application applies despite stating:

"This code applies to development:-

- (1) within the Low impact industry Zone as identified on the zoning maps contained within Schedule 2 (Mapping); and*
- (2) identified as requiring assessment against the Low Impact Industry Zone Code by the tables of assessment in Part 5 (Tables of assessment)."*

ENGINEERING

OVERALL STRATEGIES

23A. The following Overall Strategies have been endorsed by Council and are included as assessment benchmarks within this Variation Approval:

23.A.1 Stormwater Management Plan – Overall Strategy;

23.A.2 Wastewater Infrastructure Supply – Overall Strategy; and

23.A.3 Water Supply – Overall Strategy.

24. The following Overall Strategies, ~~as specified~~, must be provided to and endorsed by Council prior to the lodgement of a development application pursuant to this Variation Approval. **Once endorsed, the Overall Strategy will be included as an assessment benchmark within this Variation Approval:**

24.1 Traffic Impact Assessment – Overall Strategy.;

~~24.2 Stormwater Management Plan – Overall Strategy;~~

~~24.3 Wastewater Infrastructure Supply – Overall Strategy; and~~

~~24.4 Water Supply – Overall Strategy.~~

TRAFFIC IMPACT ASSESSMENT – OVERALL STRATEGY

25. The Traffic Impact Assessment – Overall Strategy must be prepared by a Registered Professional Engineer Queensland - Civil (RPEQ) in accordance with the requirements of the *Toowoomba Regional Planning Scheme 2012 Version 19, Schedule 6 Planning Scheme Policies (PSP), SC6.2 PSP No. 2 – Engineering Standards – Roads and Drainage Infrastructure* and its referenced guidelines, which includes, but is not limited to, the following:

25.1 A review of existing traffic conditions including current traffic volumes, historical traffic growth rates, accident history (particularly if it is a, 'black spot' location), the existing road geometry and any relevant current traffic and/or transport planning studies;

25.2 The volume and type of vehicles that will be generated by the development, the distribution of the traffic on the existing and proposed road network, car parking requirements and access requirements to and from the Variation Approval Area;

25.3 Concept plan/s, drawn to scale, including cross sections showing details of any works necessary to mitigate the impact of the traffic from the development such as traffic calming, traffic signals, roundabouts, minor intersection controls such as stop or give way signs, road widening and similar treatments;

25.4 Nominated industrial vehicle routes in a road hierarchy that do not pass established residential development before joining the State Controlled Road network. Nominally, vehicle routes should return vehicles to Carrington Road using Robson Hursley Road, Rielly Street or Hillman Street;

25.5 Any land resumption requirements for any proposed works, by the applicant, Council, or Main Roads, are to be clearly identified on the concept plan/s;

25.6 Consideration must be given to the requirements of alternative modes of transport such as pedestrian movements, cyclists, public transport and special needs group;

- 26.7 The scope of the report should extend through the adjoining road network where development generated traffic continuously exceeds five per cent (5%) of the existing traffic;
- 25.8 Provision for a future road link with a minimum ~~26m (Industrial Collector)~~ 24m (Industrial Local Access) wide reserve ~~wide~~ between Rielly Street and Robson Hursley Road. The preferred alignment will be along the ridgeline within Lot 32 SP304211 including an extension south of Rielly Street. The land must not be encumbered by permanent structures, services such as pump stations, services easements or operational uses; and
- 25.9 Preliminary road network layout plans and a road hierarchy plan for the likely development potential of the land subject of this Variation Approval and how the proposed road network interfaces with the existing road network.

STORMWATER MANAGEMENT PLAN – OVERALL STRATEGY

26. ~~The Stormwater Management Plan – Overall Strategy must be prepared by a Registered Professional Engineer Queensland – Civil (RPEQ) in accordance with the relevant standards in the Toowoomba Regional Planning Scheme 2012 Version 19 Schedule 6 Planning Scheme Policies (PSP), SC6.2 PSP No. 2 – Engineering Standards – Roads and Drainage Infrastructure and its referenced guidelines, and State Planning Policy 2017, demonstrating:~~

~~26.1 That stormwater is conveyed to a lawful point of discharge;~~

~~26.2 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 an ARI of 100 years must be considered in accordance with the requirements of the Queensland Urban Drainage Manual (QUDM);~~

~~26.3 No increase in flood levels external to the subject land;~~

~~26.4 No increase in duration of inundation external to the subject land that could cause loss or damage;~~

~~26.5 All land adjoining the development can be protected from ponding or nuisance from stormwater resulting from the development for the life of the development;~~

~~26.6 Appropriate inspection and maintenance of stormwater quality control infrastructure in accordance with a program; and~~

~~26.7 The achievement of Water Sensitive Urban Design objectives listed in PSP No. 2 and State Planning Policy 2017.~~

WASTEWATER INFRASTRUCTURE SUPPLY REPORT – OVERALL STRATEGY

27. ~~The Wastewater Infrastructure Plan – Overall Strategy must be prepared by a Registered Professional Engineer Queensland – Civil (RPEQ) in accordance with the relevant standards in the Toowoomba Regional Planning Scheme 2012 Version 19 Schedule 6 Planning Scheme Policies (PSP), SC6.3 PSP No 3 – Engineering Standards – Water and Waste Water Infrastructure demonstrating:~~

~~27.1 Proposed connection points;~~

~~27.2 How Lot 32 on SP304226 (Reserved Survey Plan) will be serviced by reticulated sewer;~~

- ~~27.3 Wastewater Infrastructure main sizes and modelling results for all stages of the development including any augmentations needed external to the development; and~~
- ~~27.4 A full conceptual sewer design and detail identifying how the proposed lots will be sewered. The information should include, but not necessarily be limited to:~~
- ~~(a) How to ensure access to maintain the service will be achieved on lots that have buildings constructed for the full or near full width of the lots;~~
 - ~~(b) The location and sizing of Easements in Gross to ensure that proposed development can be serviced without compromising future reticulated sewer connections;~~
 - ~~(c) Where possible, locate services within existing or future road reserves,
 - ~~• Having regard to topography; and~~
 - ~~• Having regard to service corridors for Council and other utility services and the prescribed minimum clearances between services;~~~~
 - ~~(d) The point of connection to the existing downstream sewers, which is to be agreed with Council; and~~
 - ~~(e) The strategy must be generally in accordance with the Greater Western Toowoomba Sewerage Strategy Study and notably works in the 2031 planning horizon required to service the development including, but not limited to, the delivery of schedule items WWFGS10061, WWFGS10042 WWFGS10043, WWFSPS10022 & WWFPM10014;~~
- ~~27.5 When Council reticulated sewer is made available adjacent to the Variation Approval Area in Robson Hursley Road or Rielly Street, development approved pursuant to this Variation Approval must have:~~
- ~~(a) Sewer constructed through the development site to Council standards and at the horizontal and vertical alignment agreed by Council;~~
 - ~~(b) All fittings and fixtures connected to Council reticulated sewer;~~
 - ~~(c) All onsite effluent systems decommissioned; and~~
 - ~~(d) All works completed at no cost to Council.~~

~~WATER SUPPLY – OVERALL STRATEGY~~

- ~~28. The Water Supply Infrastructure Overall Strategy must be prepared by a Registered Professional Engineer Queensland – Civil (RPEQ) in accordance with the relevant standards in the Toowoomba Regional Planning Scheme 2012 Version 19 Schedule 6 Planning Scheme Policies (PSP), SC6.3 – Engineering Standards – Water and Waste Water Infrastructure demonstrating:~~
- ~~28.1 Fire Flows based on the DNRM/DERM Guidelines, Chapters 5/6 – Network Modelling and in accordance with 'Flow Provision – General Urban Category' (Section 5.7.6) for commercial/Industrial buildings (30L/s for a 4 hour duration with required residual pressures). To this end, pressure and flow tests will be required to determine performances for the existing water supply mains adjacent to the development. The tests must be undertaken by Council at no cost to Council;~~

~~28.2 The sizing of water mains as determined by Council to ensure performance will be achieved; and~~

~~28.3 Interconnection with the existing water supply reticulation network.~~

EFFLUENT DISPOSAL AND SEWER INFRASTRUCTURE

29. Where not connected to, or not proposed to be connected to, Council reticulated sewer, development application pursuant to this Variation Approval must demonstrate the provision of an onsite effluent system of sufficient capacity to service the development in accordance with the Plumbing and Drainage standards relevant at the time of the development application.
30. When Council reticulated sewer is made available adjacent to the Variation Approval Area in Robson Hursley Road or Rielly Street, development approved pursuant to this Variation Approval must have:
 - 30.1 Sewer constructed through the development site to Council standards and at the horizontal and vertical alignment agreed by Council;
 - 30.2 All fittings and fixtures connected to Council reticulated sewer;
 - 30.3 All onsite effluent systems decommissioned; and
 - 30.4 All works completed ~~to~~ **must** comply with **the endorsed Wastewater Infrastructure Supply Report – Overall Strategy and Conditions-27 and** 30 at no cost to Council.

B. ADVICES:

Nil.

C. ATTACHMENTS:

- Approved Development Plans
- Approved Documents
- Appeal provisions pursuant to the *Planning Act 2016*.

Chapter 6, Part 1 of the Planning Act 2016 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the appellant); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The appeal period is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for an appeal relating to the Plumbing and Drainage Act 2018—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the Plumbing and Drainage Act 2018, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the Plumbing and Drainage Act 2018—5 business days after the notice is given; or
 - (iii) otherwise—20 business days after the day the notice is given; or
 - (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note— See the P&E Court Act for the court's power to extend the appeal period.
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to—
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and

- (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
- (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
- (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
- (f) for an appeal to the P&E Court—the chief executive; and
- (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.

(4) The service period is—

- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
 - (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
 - (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
 - (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2) schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—

decision includes—

 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.