

Our Reference: MCUI/2023/3647/A
CS Portal Reference: N/A
Contact Officer: Alanna Walker
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Amended Decision Notice
CHANGE TO A DEVELOPMENT APPROVAL
Planning Act 2016 Section 83

Acciona M&E Pty Ltd
C/- NGH Consulting/Fyfe
T3, Level 7, 348 Edward Street
BRISBANE QLD 4000

Email: Julie.giguere@fyfe.com.au

1 July 2026

Dear Sir/Madam

Development Approval:	Change Application for Material Change of Use - Impact - Undefined Use
Location:	83 Kowitz Road, AUBIGNY QLD 4401
Property Description:	Lot 4 SP112548, Emt A SP112548
Relevant Planning Scheme:	<i>Toowoomba Regional Planning Scheme 2012</i>

I refer to your application received on 27 April 2026 for a change to the development approval for Material Change of Use - Impact - Undefined Use approved on 4 January 2024.

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

On the 24 June 2026, the change application was approved as per the attached Schedule. The changes are considered to be consistent with the relevant assessment benchmarks, with exception to the proposed changes to Condition 55.

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



Sophie Spencer
Lead Senior Planner, Planning Branch

SCHEDULE 1

DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF USE - IMPACT

APPLICATION NUMBER:	MCUI/2023/3647/A
APPLICANT:	Acciona M&E Pty Ltd
LOCATION:	83 Kowitz Road, AUBIGNY QLD 4401
PROPERTY DESCRIPTION:	Lot 4 SP112548, Emt A SP112548
APPROVED USE:	Undefined Use
ZONING / PRECINCT:	Rural Zone / 100ha min Precinct

A. ASSESSMENT MANAGER'S CONDITIONS:

PLANNING

APPROVED USE

1. This Development Approval is for a Material Change of Use for an Undefined Use comprising Battery Energy Storage System having a maximum storage capacity of 100 Megawatt (MW)/200 MW hour (MWh), generally as shown on the Approved Plans listed in this Development Approval.

SITE REHABILITATION

2. When the approved use ceases, all buildings and structures must be removed, and works must commence immediately to rehabilitate the development site to allow future rural purposes.

CARRY OUT & MAINTAIN DEVELOPMENT

3. 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 are not varied by this Development Approval.
4. Unless otherwise stated, all conditions must be complied with prior to the commencement of use and thereafter.
5. 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.
6. 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

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

Plan No: Figure 1-2
Description: Project Site Context, prepared by NGH and undated
Amendments: Nil

Plan No: JA11242-000-EE-DWG-001 Revision 4
Description: Concept Design Drawing BESS Layout, prepared by NGH and undated
Amendments: Nil

~~**Plan No:** 23087 Revision C
Description: Tangkam BESS Landscape Concept Plan, prepared by CUSP and dated 2/8/23
Amendments: Amended to include a notation that the conditions of this Development Approval only require the vegetation buffer east of the development site.~~

Plan No: Nil, Revision A – 30% Concept Design
Description: Tangkam BESS Landscaping Plan, prepared by ECI Design and dated 20 April 2026
Amendments: Nil

Plan No: Figure 4.6
Description: Swept Path of Oversize Vehicle At the Kearney Road / Brennan Road Intersection, excerpt from Traffic Impact Assessment, prepared by Rytenaskild Traffic Engineering, and dated 25 August 2023
Amendments: Nil

Plan No: Figure 4.7
Description: Swept Path of Oversize Vehicle At the Kowitz Road / Site Access Intersection, excerpt from Traffic Impact Assessment, prepared by Rytenaskild Traffic Engineering, and dated 25 August 2023
Amendments: Nil

APPROVED DOCUMENTS

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

Document: ID MAC231878-01RP1 V5
Description: Noise Assessment, prepared by Muller Acoustic Consulting and dated 27/09/2023
Amendments: Nil

Document: Construction Protocol – Sunday Works
Description: Construction Protocol – Sunday Works for TANGKAM BESS, prepared by Acciona Mechanical & Electrical and received 27 April 2026
Amendments: Nil

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

9. Prepare and submit applications to Council and obtain a Development Permit for Operational Work for the following:
- 9.1 Roadwork;
 - 9.2 Bulk Earthwork (if required); and
 - 9.3 Stormwater Infrastructure.

AVAILABILITY OF APPROVED DOCUMENTATION DURING WORKS

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

COMMENCEMENT OF USE

11. Submit to Council a Notice of Intention to Commence the Approved Use. The notice must:
 - 11.1 Be submitted to the Manager, Planning within a minimum of ten (10) business days prior to commencement of the approved use;
 - 11.2 Nominate the day the approved use is intended to commence; and
 - 11.3 Include evidence (i.e. copies of decision notice(s), photographic proof, and statement(s) of compliance with the conditions of this approval from suitably qualified persons) which demonstrates that all conditions of this approval have been complied with.

WORKS

ENGINEER'S CERTIFICATION AND SUPERVISION OF WORKS

12. Plans and specifications for all works associated with car parking, vehicular access, roadwork, stormwater, or any other works required on Council infrastructure, must be prepared and certified by a Registered Professional Engineer Queensland - Civil (RPEQ).
13. A RPEQ must submit to Council a copy of the:
 - 13.1 Design Certificate prior to commencement of the works; and
 - 13.2 Construction Supervision Certificate upon completion of the works certifying that works are in accordance with the approved plans and specifications.
14. 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.
15. 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

16. 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. The design and the construction of the works must be certified by a RPEQ – Civil.
17. As part of a Development Application for a Development Permit for Operational Work submit to Council for approval, a Detailed Stormwater Management Plan prepared by a Registered Professional Engineer Queensland - Civil (RPEQ) in accordance with the relevant standards in *Planning Scheme Policy No. 2 - Engineering Standards – Roads and Drainage Infrastructure* (PSP No.2) demonstrating the following:
 - 17.1 Stormwater is conveyed to a lawful point of discharge in accordance with the stormwater discharge conditions of this Development Approval;

- 17.2 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;
- 17.3 No increase in flood levels external to the subject land; and
- 17.4 No increase in duration of inundation external to the subject land that could cause loss or damage.

STORMWATER DISCHARGE

- 18. Stormwater is permitted to be discharged within the subject land, a minimum of 3 metres clear of any building foundations and any adjoining property boundaries.
- 19. 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.
- 20. Stormwater must be dispersed as sheet flow.
- 21. 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*.

BULK EARTHWORKS

- 22. Where earthworks are not assessed as part of a Development Application for a Development Permit for Building Work, prior to the commencement of any earthworks on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and be approved by Council.

AIR QUALITY IMPACT MITIGATION

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

CONSTRUCTION WASTE MANAGEMENT & STORAGE

- 25. 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*.
- 26. 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*.
- 27. Fires are not to be lit to dispose of demolition or construction waste.

28. 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:
- 28.1 Elsewhere within this Development Approval;
 - 28.2 In accordance with an associated Development Permit for Operational Work;
 - 28.3 In association with and in accordance with an Environmental Authority issued under the *Environmental Protection Act 1994*;
 - 28.4 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
 - 28.5 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.
29. Demolition, excavation and construction waste (including night soil) must not be placed or stored within the road reserve at any time.

CONSTRUCTION NOISE IMPACT MITIGATION

30. Building work (as per the definition of the Environmental Protection Act 1994) that creates audible noise must be confined to the hours of 6:30 am and 6:30 pm Monday to Saturday (excluding Public Holidays), **and Sunday provided compliance with the Approved Document Construction Protocol – Sunday Works**, unless otherwise approved by Council in an endorsed Construction Environmental Management Plan.
31. Construction activities must occur in accordance with Section 7.1 of the Approved Noise Impact Assessment listed in this Development Approval.

EROSION & SEDIMENT CONTROL

32. 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.
33. 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.
34. 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.
35. All disturbed areas must be mulched or turfed as soon as possible during construction.
36. 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, where applicable the ensuing 'on-maintenance' period.

DAMAGE TO SERVICES & ASSETS

37. Protect Council and public utility services and assets during construction of the development.
38. 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:
 - 38.1 Where the damage would cause a hazard to pedestrian or vehicle safety or interrupts a service to the community, immediately; or
 - 38.2 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.
39. 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.
40. 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

41. 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. It must be in accordance with the Approved Plans listed in this Development Approval and must be maintained for this purpose for the life of the approval.
42. 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).
43. All reasonable and practicable measures must be undertaken to prevent treated wastewater and effluent from overflowing or seeping onto adjoining properties.

WATER SUPPLY

44. The development must be provided with a rainwater tank of capacity at least 45,000 litres for potable and firefighting purposes.

TRANSPORT, VEHICULAR ACCESS & PARKING

ROADWORKS (EXTERNAL TO DEVELOPMENT)

45. Prior to ~~any site works and the~~ construction phase, existing roads (Kowitz Road, Kearney Road and Brennan Road) must be widened to facilitate the turn-movement of Over-size Over-mass (OSOM) vehicles generally in accordance with Approved Plans - Figures 4.6 and 4.7 listed in this Development Approval.

Advice Note: This condition permits site works, such as earthworks and its associated vehicles, prior to road widening.

46. After the completion of construction phase and prior to the commencement of the use, the widened road must be reinstated as follows:

Street: Kearney Road

Classification: Regional Arterial

Construction Standard: reinstatement of minimum 7.0m pavement width

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

47. The Kowitz Road/ Kearney Road intersection must be truncated by 6m with three chords of equal length for the south-west corner of the intersection.
48. The design and construction of road must comply with *Planning Scheme Policy No. 2 - Engineering Standards - Roads and Drainage Infrastructure* (PSP No.2) and must include in particular:
- 48.1 Table drain works.
49. 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.
50. All street/road surfacing must be in accordance with the pavement construction standards in PSP No. 2.
51. Verge widths, street reserve widths, intersection treatment, and provision of speed control devices must comply with Council's requirements in PSP No. 2.
52. 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.

PROVISION OF VEHICULAR ACCESS

53. The vehicle access from the subject land to Kowitz Road must be sealed to the property boundary. The access must be designed by a Registered Professional Engineer Queensland (RPEQ) – Civil and must include the provision of adequate access width and flares to suit the proposed entry and exit manoeuvres. Such works must be constructed specifically as required below:
- 53.1 The vehicle access must be located as shown on the Approved Plans listed within this Development Approval;
- 53.2 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)*;
- 53.3 Suitable safety measures, including warning signage, must be installed to improve driver awareness of pedestrians and enhance pedestrian safety;
- 53.4 The vehicle access (crossing of the verge) must align neatly on both sides with the pedestrian footpath and verge with a maximum cross fall of 2.5%;
- 53.5 The vehicle access (crossing of the verge) must be located a minimum of one (1) metre clear of existing power poles, streetlights or any signage;

- 53.6 The relocation of all existing services must be clear of the access that will serve the subject land;
- 53.7 The relevant service authorities must be contacted and their requirements complied with; and
- 53.8 The vehicle access (crossing of the verge) must include suitable tapers and flares to accommodate the required turning paths of a B-double Service Vehicle.

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

ON-SITE CAR PARKING, SERVICE BAYS & MANOEUVRING

- 54. The premises must be provided with a total of two (2) on-site car parking spaces, together with standing and manoeuvring for a B-double service vehicle. Car parking and manoeuvring areas must be:
 - 54.1 Provided with a compacted gravel surface and be line marked or otherwise delineated to the minimum dimensions detailed in the *Toowoomba Regional Planning Scheme 2012 and Australian Standard AS2890 - Parking Facilities*. Carparking spaces are to be clearly identified with the use of both line marking and pavement markers (marking dots);
 - 54.2 Designed and constructed in accordance with the requirements of AS2890;
 - 54.3 Accessible and available to ~~the general public and~~ staff during approved hours of operation;
 - 54.4 Provided with signage and pavement markings that indicate the location of parking areas and the proposed flow of traffic through the subject land;
 - 54.5 Maintained as originally constructed and kept and used exclusively for vehicle parking and manoeuvring; and
 - 54.6 Designed to enable all vehicles to enter and leave the subject land in a forward gear.

ENVIRONMENT & WASTE

ACOUSTIC AMENITY - NOISE LIMITS

- 55. Noise from all activity associated with the use of the subject land must not exceed the levels specified in **Table 1** when measured at any receptor.

Table 1 - Noise Limits

Compliance period	Noise Limits $L_{Aeq\ adj,T}$
Day (7am-6pm)	42
Evening (6pm-10pm)	42
Night (10pm-7am)	37

*** = Adjusted A-weighted equivalent continuous sound pressure level** - Using time-weighting 'Fast Response', the constant equivalent of the instantaneous levels of existing environment plus noise of activity under consideration that would result in the same total sound energy being produced during the time period T , where T is measured for a period no less than 15 minutes, when the activity is causing a steady state noise, and no less than 1 hour when the activity is causing an intermittent noise, unaffected by extraneous noise and adjusted for tonality and impulsiveness.

^=Adjusted A-weighted sound pressure level - Obtained by using time-weighting 'Fast Response' and arithmetically averaging the visual maximum levels of the noise of activity under investigation, considering tonality and impulsiveness during the time period T , where T is measured for a period no less than 15 minutes.

56. Where considered warranted by Council and when requested in writing to do so, a noise investigation must be undertaken to investigate a complaint of noise nuisance. In such instances, a suitably qualified person must monitor, interpret and record all parameters that are required to be monitored in order to determine whether or not the Noise Emission Limits listed within this Development Approval have been exceeded. The results of the investigation must be provided to Council within 28 days of the request or a longer period if specified in any such request. Measurement of noise emissions (adjusted for tonality and impulse) must be generally in accordance with the most recent version of *Australian Standard AS1055.1 Acoustics - Description and measurement of environmental noise - General procedures*.

AIR QUALITY & AMENITY - AIR RELEASE LIMITS

57. 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 receptor place must not be released to the atmosphere.
58. Where considered warranted by Council and when requested in writing to do so, an air quality investigation must be undertaken to investigate a complaint of air pollution, odour or dust nuisance. In such circumstances, a qualified person must monitor, interpret and record all parameters that are required to be monitored in order to determine whether or not the Air Release Limits listed within this Development Approval have been exceeded. The results of the investigation must be provided to Council within 28 days of the request or a longer period if specified in any such request.

AIR QUALITY & AMENITY - DUST SUPPRESSION TREATMENTS

59. Where a gravel below 16 millimetres in diameter is utilised for the surface of the gravel parking and loading area as shown on the Approved Plans:
- 59.1 Parking and loading areas must be first treated with a dust suppressant product (such as PetroTac) in accordance with the manufacturer's specifications; and
- 59.2 Records documenting maintenance inspections and dust suppressant application history details must be maintained and made available for inspection at any time upon request by Council.

OUTDOOR LIGHTING IMPACT MITIGATION

- 60. Outdoor lighting associated with the use must be designed, sited, and installed to comply with the relevant parameters of *Australian Standard AS4282-2019 Control of the obtrusive effects of outdoor lighting*.
- 61. All flood lighting must be of a type that gives no upward component of light when mounted horizontally (i.e. a full cut off luminaire).
- 62. Certification must be submitted to Council from a suitably qualified person who certifies that all outdoor lighting devices comply with the requirements of this Development Approval.
- 63. Where considered warranted by Council and when requested in writing to do so, a lighting impact investigation must be undertaken to investigate a complaint of light nuisance. In such circumstances, a suitably qualified person must monitor, interpret and record all parameters that are required to be monitored in order to determine whether or not the lighting levels listed within this Development Approval have been exceeded. The results of the investigation must be provided to Council within 28 days of the request or a longer period if specified in any such request.

STORMWATER QUALITY

- 64. Contaminants or contaminated water must not be directly or indirectly released from the subject land or to the ground or groundwater at the subject land at any time except:
 - 64.1 Following treatment using an appropriate stormwater quality improvement device (SQID) as uncontaminated overland stormwater flow;
 - 64.2 Following treatment using an appropriate stormwater quality improvement device (SQID) as uncontaminated stormwater to the stormwater system; and
 - 64.3 Contaminants released to the wastewater system under and in accordance with a trade waste permit issued by Council under the *Water Supply (Safety and Reliability) Act 2008*.

WASTE MANAGEMENT (GENERAL)

- 65. All waste generated on the subject land must be managed in accordance with the waste management hierarchy as detailed in the *Waste Reduction and Recycling Act 2011*.

WASTE MANAGEMENT (BIN PROVISION & STORAGE)

- 66. Refuse storage facilities must be provided generally in accordance with the Approved Plans listed within this Development Approval and the following:
 - 66.1 The size, mix and capacity of bins provided must be sufficient to accommodate the type and level of waste likely to be generated from the development having regard to the frequency of disposal or collection;
 - 66.2 Provision of a constructed bulk bin store with an impervious hardstand base for the permanent storage location and service collection of all bins, having minimum dimensions which exceed the combined size of bins by at least 300mm at the rear and both sides and 600mm at the front; and
 - 66.3 Bins must be kept in a clean state and in good repair and fitted with tight-fitting lid assemblies designed to prevent ingress of pests and water.

WASTE MANAGEMENT (REMOVAL)

67. Unless otherwise endorsed by Council in a waste management plan, arrangements for waste removal are provided in accordance with the following requirements:
- 67.1 Disposal of waste generated must be undertaken in accordance with the *Environmental Protection Regulation 2019*;
 - 67.2 Collection by a refuse vehicle from within the site only, and not from the kerbside;
 - 67.3 General waste must be collected and removed at periods not exceeding seven days;
 - 67.4 Bins must be stored at their place of permanent storage other than times ahead of or during waste removal;
 - 67.5 Waste removal must not occur outside the hours of 6:00 am to 6:00 pm; and
 - 67.6 The waste collection method must ensure that waste is adequately managed to prevent escape of contamination.

STORAGE OF LIQUID CHEMICALS

68. All liquid chemicals (including flammable liquids, agricultural and veterinary chemicals, waste oil, acid and lube oil) must be stored within dedicated impervious secondary containment stores, structures or devices and in a manner that complies with *Australian Standards AS1940 - The storage and handling of flammable and combustible liquids* and *AS 2507 - The storage and Handling of Agricultural and Veterinary Chemicals*.

LANDSCAPING

LANDSCAPING WORKS

69. The development must be landscaped in accordance with the Approved Plans listed in this Development Approval in a manner that:
- 69.1 Provides screen planting along the eastern boundary of the development as shown on the Approved Plans, capable of reaching 10 metres in height at maturity;
 - 69.2 Utilises plant species which are characteristic of the local area and provides seasonal variation, colour and texture; and
 - 69.3 Where planting areas are intended to serve a stormwater function, soils and plant species are suited to the purpose.
70. All landscape works must be established by a suitably qualified person and maintained in accordance with the conditions of this Development Approval for the life of the development, and in a manner that ensures healthy, sustained and vigorous plant growth. All plant material must be allowed to grow to full form and be replaced when its life expectancy is reached.

B. ADVICES:

GENERAL ADVICE

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.

DEFENCE AVIATION AREA REGULATIONS AND DECLARATIONS, 2018

- 7) Should the premises, or any part of the premises, be located within a 15km buffer of the Oakey Army Aviation Base known as the Defence Aviation Area (DAA), a separate approval is required from the Department of Defence in accordance with Part 11A of the *Defence Regulations, 2016* before any building works or uses commence. Further information on DAA and links to the declaration and map for Army Aviation Centre, Oakey can be found at <http://www.defence.gov.au/id/AviationAreas.asp>.

EXCAVATION & FILLING

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

ENVIRONMENTAL HARM

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

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

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

WATER POLLUTION

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

ABORIGINAL CULTURAL HERITAGE ACT 2003

- 11) 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

- 12) 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.

SUITABLY QUALIFIED PERSON

- 13) For the purpose of preparing a Landscape Plan, a suitably qualified person is considered to be a Registered Landscape Architect or Landscape Designer with a minimum of 5 years current experience in the field of landscape design.

C. ATTACHMENTS:

- Concurrence Agency Conditions Schedule 2
- Advice Agency Responses Schedule 3
- Affected Entity Response Schedule 4
- Approved Development Plans
- Approved Documents
- Appeal provisions pursuant to the *Planning Act 2016*.

SCHEDULE 2

CONCURRENCE AGENCY (CONDITIONS AND COMMENTS)

**DEPARTMENT OF STATE DEVELOPMENT, INFRASTRUCTURE, LOCAL GOVERNMENT AND
PLANNING**



SARA reference: 2309-36726 SRA
Council reference: MCUI/2023/3647
Your reference: 230172

###Secondary1###

Chief Executive Officer
Toowoomba Regional Council
development@tr.qld.gov.au

Attention: Vivian Lun

Dear Ms Lun

SARA referral agency response—83 Kowitz Road, Aubigny

(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 14 September 2023.

Response

Outcome:	Referral agency response – with conditions
Date of response:	23 October 2023
Conditions:	The conditions in Attachment 1 must be attached to any development approval
Advice:	Advice to the applicant is in Attachment 2
Reasons:	The reasons for the referral agency response are in Attachment 3

Development details

Description:	Material change of use – Impact – Undefined Use (Battery Energy Storage System)
SARA role:	Referral agency
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 (10.9.4.2.4.1) – Material change of use of premises within 25m of a state transport corridor (Planning Regulation 2017)
SARA reference:	2309-36726 SRA
Assessment manager:	Toowoomba Regional Council
Street address:	83 Kowitz Road, Aubigny
Real property description:	Lot 4 on SP112548

Applicant name: Tangkam BESS Pty Ltd
c/- Kate Peel – NGH Pty Ltd

Applicant contact details: T3, Level 7, 348 Edward Street
Brisbane QLD 4000
qldprojects@nghconsulting.com.au

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

Representations

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

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

For further information please contact Alice Davis, Principal Planning Officer, on (07) 5644 3223 or via email ToowoombaSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Paul Gleeson
Acting Manager

cc Tangkam BESS Pty Ltd c/- NGH Pty Ltd, qldprojects@nghconsulting.com.au

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

Attachment 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)

No.	Conditions	Condition timing
Material change of use – Undefined Use (Battery Energy Storage System)		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 (10.9.4.2.4.1) – Material change of use of premises within 25m of a state transport corridor—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads (DTMR) to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition:		
1.	(a) Road works comprising of the following must be provided: • Basic right turn (BAR) treatment to cater for Type 1 road train vehicles and the widening of the intersection to cater for the swept path of over sized over mass (OSOM) vehicles must be provided at the Brennan Road and Oakey Pittsworth Road intersection. • Widening of the intersection to cater for the swept path of OSOM vehicles at the Warrego Highway and Oakey Pittsworth Road intersection. (b) The road works must be designed and constructed in accordance with DTMR Road Planning and Design Manual and Manual of Uniform Traffic Control Devices and any other technical standards referenced therein.	Prior to the commencement of use.

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> , its regulation or the State Development Assessment Provisions (SDAP) version 3.0. If a word remains undefined it has its ordinary meaning.
2.	<u>Heavy Vehicle Permits</u> The applicant is advised that any oversized or over dimensioned vehicles accessing the site via an unapproved route (i.e. local roads that are not designated road train routes) will require separate approval through the National Heavy Vehicle Regulator (NHVR). Operators can request for assessment of roads that are not currently approved for road train access by applying to the NHVR. Vehicles must not operate on requested roads until they appear on the relevant maps and/or approved road lists. It is recommended that the applicant contact the NHVR for further information regarding this matter.
3.	<u>Road works approval</u> Under section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from DTMR to carry out road works on a state-controlled road. Please contact the DTMR (Toowoomba Office) to make an application for road works approval. This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). The road works approval process takes time – please DTMR as soon as possible to ensure that gaining approval does not delay construction. Further modifications and inclusions to the plans of development are likely to be required for detailed designs to comply with DTMR standards at the roadworks application stage. Detailed designs may require, but should not limited to, necessary lane widening for provision of cycle lanes, lengthening of turn lanes, installation of lighting, signage and line marking, pavements, utilities and services, and roadsides and roadside furniture.

Attachment 3—Reasons for referral agency response

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

The reasons for the SARA's decision are:

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

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

Material used in the assessment of the application:

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

Attachment 4—Representations about a referral agency response provisions

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Development Assessment Rules—Representations about a referral agency response

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

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

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

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

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

Part 7: Miscellaneous

30 Representations about a referral agency response

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

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

SCHEDULE 3

ADVICE AGENCY (COMMENTS)

POWERLINK

&

ERGON ENERGY

6 October 2023



Our Ref: DA5426
MSLink8398

NGH Consulting
T3, Level 7
348 Edward Street
BRISBANE QLD 4000

**TOOWOOMBA
REGIONAL COUNCIL**

Toowoomba Regional Council
PO Box 3021
TOOWOOMBA QLD 4350

Attention: Kate Peel
Email: kate.p@nghconsulting.com.au

Attention: Katrina Christensen
Email: development@tr.qld.gov.au
Application: MCUI/2023/3647

Dear Ms Peel

Referral Agency Response (Advice)

(Given under section 9.2 of the Development Assessment Rules)

Transmission Infrastructure Impacted	
Transmission Corridor	Oakey PS – Tangkam (110kV) Transmission Line Adjoining Tangkam Substation (Lot 8 on SP112548)
Easement ID	Easement A on SP112548 Dealing No. 702742138
Location Details	
Street address	83 Kowitz Road, AUBIGNY QLD 4401
Real property description	Lot 4 on SP112548
Local government area	Toowoomba Regional Council
Application Details	
Proposed development:	Material Change of Use – Impact – Undefined Use (Battery Energy Storage System)
Approval sought	Development Permit

We refer to the above referenced development application which has been referred to Powerlink Queensland in accordance with Section 54 of the *Planning Act 2016*.

In accordance with its jurisdiction under Schedule 10 Part 9 Division 2 of the *Planning Regulation 2017*, Powerlink Queensland is a **Referral Agency (Advice)** for the above development application.

Specifically, the application has been triggered for assessment by Powerlink Queensland because:

1. For **material change of use** – all of part of the premises are within 100m of a transmission substation site (Table 2 1a)
2. For **material change of use** – all or part of the premises are subject to a transmission entity easement which is part of the transmission supply network (Table 2 1b)

33 Harold Street, Virginia
PO Box 1193, Virginia, Queensland 4014, Australia
Telephone: (07) 3860 2111 Facsimile: (07) 3860 2100
www.powerlink.com.au

Powerlink Queensland is the registered business name of the
Queensland Electricity Transmission Corporation Limited
ABN 82 078 849 233

PLANS AND REPORTS ASSESSED

The following plans and reports have been reviewed by Powerlink Queensland and form the basis of our assessment. Any variation to these plans and reports may require amendment of our advice.

Table 1: Plans and Reports upon which the assessment is based

Drawing / Report Title	Prepared by	Dated	Reference No.	Version / Issue
Tangkam Substation BESS	NGH	24/08/2023	230172	

Powerlink Queensland, acting as a Referral Agency (Advice) under the Planning Regulation 2017 provides its response to the application as attached (**Attachment 1**).

Please treat this response as a properly made submission for the purposes of Powerlink being an eligible advice agency in accordance with the *Planning Act 2016*.

For further information please contact our Property Services Team via email property@powerlink.com.au who will be pleased to assist.

Yours sincerely



for: Narelle Titman

MANAGER PROPERTY

ATTACHMENT 1 – REFERRAL AGENCY (ADVICE) RESPONSE

Powerlink Queensland **supports** this application subject to the inclusion of the following conditions in the Assessment Manager's Decision Notice.

No.	Condition	Timing	Reason
1	The development must be carried out generally in accordance with the reviewed plans detailed in Table 1.	At all times.	To ensure that the development is carried out generally in accordance with the plans of development submitted with the application.
2	The statutory clearances set out in the <i>Electrical Safety Regulation 2013</i> must be maintained during construction and operation. No encroachment within the statutory clearances is permitted.	At all times.	To ensure that the purpose of the <i>Electrical Safety Act 2002</i> is achieved and electrical safety requirements are met.
3	Compliance with the terms and conditions of the easement dealing no. shown in the heading of this letter.	At all times.	To ensure that the existing rights contained in the registered easement dealings are maintained.
4	Compliance with the generic requirements in respect to proposed works in the vicinity of Powerlink Queensland infrastructure as detailed in the enclosed Annexure "A" and "B".	At all times.	To ensure that the purpose of the <i>Electrical Safety Act 2002</i> is achieved and electrical safety requirements are met. To ensure the integrity of the easement is maintained.
5.	Access over the Powerlink easement will require an access license agreement attachment to a Form 18 General Consent, to be signed by the landholder. ACTION This should be completed in collaboration with Powerlink within 3 months of the approval date of this letter.	At all times.	To ensure that the purpose of the <i>Electrical Safety Act 2002</i> is achieved and electrical safety requirements are met. To ensure the integrity of the easement is maintained.

Advice to Council and the Applicant

- Should any doubt exist in maintaining the prescribed clearance to electrical infrastructure the applicant is obliged under the *Electrical Safety Act 2002* to seek advice from Powerlink.
- This response does not constitute an approval to commence any works within the easement. Prior written approval is required from Powerlink Queensland before any work is undertaken within the easement areas. All works on easement (including but not limited to earthworks, drainage and detention basins; road construction; underground and overhead service installation) require detailed submissions, assessments and consent (or otherwise) by Powerlink.
- Operational works approval will be required for any works planned on easement, ESR min. clearances must be maintained at all times. This can be done through the lodgement of a co-use application.
- Applicant has confirmed that PQ land and/or easement is not required for any materials lay down/storage, temp site offices etc. at time of this application. If this changes, a separate co-use application is required.
- In order for Powerlink to maintain and operate a safe and reliable supply of electricity, we require unrestricted 24-hour access to our corridors and infrastructure.

We will require practical access (typically by 4WD vehicle – but to standard no less than existing) to the Powerlink structures.

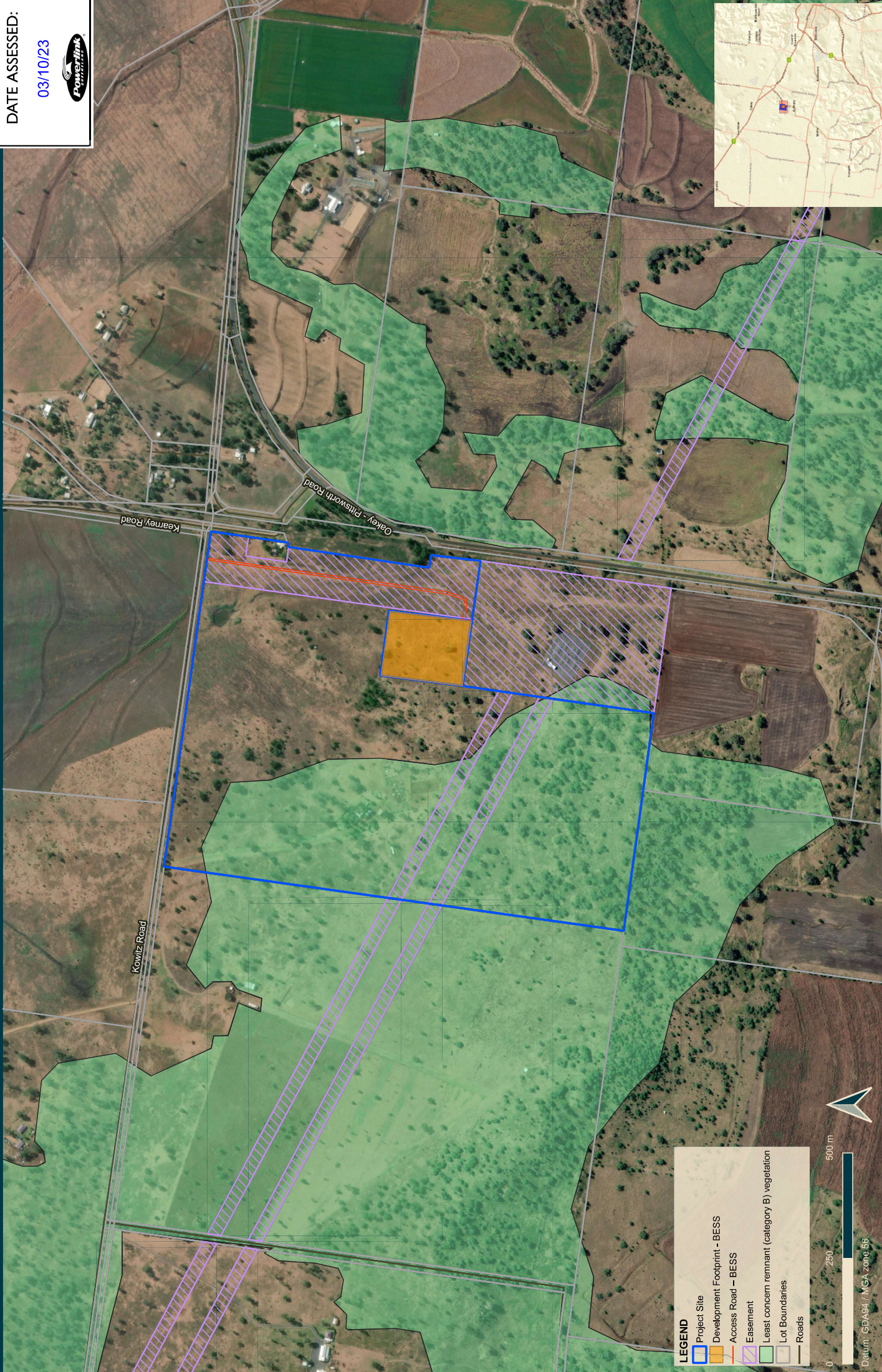
If it is envisaged that there will be any interference or alteration to our current access arrangements prior, during or after the completion of your works, we require that the applicant contacts our Works Control Manager Easements (Mr Ehren Wittmer – ph 0418 233 916) to formalise unrestricted 24-hour access arrangements.

6. Compliance with the Electrical Safety Act 2002 including any Code of Practice under the Act and the Electrical Safety Regulation 2013 including any safety exclusion zones defined in the Regulation.

In respect of this application, the exclusion zone for untrained persons and for operating plant operated by untrained persons is **three (3) metres** from the **110,000-volt** wires and exposed electrical parts.

If works have the potential to come within the prescribed clearance to the conductors and electrical infrastructure, then the applicant must seek advice from Powerlink by completing the attached Application for Safety Advice – Form and submitting to property@powerlink.com.au

ATTACHMENT 2 – ASSESSED PLANS



ANNEXURE A – GENERIC REQUIREMENTS

The conditions contained in this Annexure have been compiled to assist persons (the applicant) intending to undertake work within the vicinity of high-voltage electrical installations and infrastructure owned or operated by Powerlink. The conditions are supplementary to the provisions of the Electrical Safety Act 2002, Electrical Safety Regulation 2013 and the Terms and Conditions of Registered Easements and other forms of Occupational Agreements hereinafter collectively referred to as the “Easement”. Where any inconsistency exists between this Annexure and the Easement, the Easement shall take precedence.

1. POWERLINK INFRASTRUCTURE

You may not do any act or thing which jeopardises the foundations, ground anchorages, supports, towers or poles, including (without limitation) inundate or place, excavate or remove any soil, sand or gravel within a distance of twenty (20) metres surrounding the base of any tower, pole, foundation, ground anchorage or support.

2. STRUCTURES

No structures should be placed within twenty (20) metres of any part of a tower or structure foundation or within 5m of the conductor shadow area. Any structures on the easement require prior written consent from Powerlink.

3. EXCLUSION ZONES

Exclusion zones for operating plant are defined in Schedule 2 of the Electrical Safety Regulation 2013 for Untrained Persons. All Powerlink infrastructure should be regarded as “electrically live” and therefore potentially dangerous at all times.

In particular your attention is drawn to Schedule 2 of the Electrical Safety Regulation 2013 which defines exclusion zones for untrained persons in charge of operating plant or equipment in the vicinity of electrical facilities. If any doubt exists in meeting the prescribed clearance distances from the conductors, the applicant is obliged under this Act to seek advice from Powerlink.

4. ACCESS AND EGRESS

Powerlink shall at all times retain the right to unobstructed access to and egress from its infrastructure. Typically, access shall be by 4WD vehicle.

5. APPROVALS (ADDITIONAL)

Powerlink's consent to the proposal does not relieve the applicant from obtaining statutory, landowner or shire/local authority approvals.

6. MACHINERY

All mechanical equipment proposed for use within the easement must not infringe the exclusion zones prescribed in Schedule 2 of the Electrical Safety Regulation 2013. All operators of machinery, plant or equipment within the easement must be made aware of the presence of live high-voltage overhead wires. It is recommended that all persons entering the Easement be advised of the presence of the conductors as part of on site workplace safety inductions. The use of warning signs is also recommended.

ANNEXURE A – GENERIC REQUIREMENTS

7. EASEMENTS

All terms and conditions of the easement are to be observed. Note that the easement takes precedence over all subsequent registered easement documents. Copies of the easement together with the plan of the Easement can be purchased from the Department of Environment & Resource Management.

8. EXPENDITURE AND COST RECOVERY

Should Powerlink incur costs as a result of the applicant's proposal, all costs shall be recovered from the applicant.

Where Powerlink expects such costs to be in excess of \$10 000.00, advanced payments may be requested.

9. EXPLOSIVES

Blasting within the vicinity (500 metres) of Powerlink infrastructure must comply with AS 2187. Proposed blasting within 100 metres of Powerlink infrastructure must be referred to Powerlink for a detailed assessment.

10. BURNING OFF OR THE LIGHTING OF FIRES

We strongly recommend that fires not be lit or permitted to burn within the transmission line corridor and in the vicinity of any electrical infrastructure placed on the land. Due to safety risks Powerlink's written approval should be sought.

11. GROUND LEVEL VARIATIONS

Overhead Conductors

Changes in ground level must not reduce statutory ground to conductor clearance distances as prescribed by the Electrical Safety Act 2002 and the Electrical Safety Regulation 2013.

Underground Cables

Any change to the ground level above installed underground cable is not permitted without express written agreement of Powerlink.

12. VEGETATION

Vegetation planted within an easement must not exceed 3.5 metres in height when fully matured. Powerlink reserves the right to remove vegetation to ensure the safe operation of the transmission line and, where necessary, to maintain access to infrastructure.

13. INDEMNITY

Any use of the Easement by the applicant in a way which is not permitted under the easement and which is not strictly in accordance with Powerlink's prior written approval is an unauthorised use. Powerlink is not liable for personal injury or death or for property loss or damage resulting from unauthorized use. If other parties make damage claims against Powerlink as a result of unauthorized use then Powerlink reserves the right to recover those damages from the applicant.

ANNEXURE A – GENERIC REQUIREMENTS

14. INTERFERENCE

The applicant's attention is drawn to s.230 of the Electricity Act 1994 (the "Act"), which provides that a person must not wilfully, and unlawfully interfere with an electricity entity's works. "Works" are defined in s.12 (1) of the Act. The maximum penalty for breach of s.230 of the Act is a fine equal to 40 penalty units or up to 6 months imprisonment.

15. REMEDIAL ACTION

Should remedial action be necessary by Powerlink as a result of the proposal, the applicant will be liable for all costs incurred.

16. OWNERS USE OF LAND

The owner may use the easement land for any lawful purpose consistent with the terms of the registered easement; the conditions contained herein, the Electrical Safety Act 2002 and the Electrical Safety Regulation 2013.

17. ELECTRIC AND MAGNETIC FIELDS

Electric and Magnetic Fields (EMF) occur everywhere electricity is used (e.g. in homes and offices) as well as where electricity is transported (electricity networks).

Powerlink recognises that there is community interest about Electric and Magnetic Fields. We rely on expert advice on this matter from recognised health authorities in Australia and around the world. In Australia, the Federal Government agency charged with responsibility for regulation of EMFs is the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA). ARPANSA's *Fact Sheet – Magnetic and Electric Fields from Power Lines*, concludes:

"On balance, the scientific evidence does not indicate that exposure to 50Hz EMF's found around the home, the office or near powerlines is a hazard to human health."

Whilst there is no scientifically proven causal link between EMF and human health, Powerlink nevertheless follows an approach of "*prudent avoidance*" in the design and siting of new powerlines. This includes seeking to locate new powerline easements away from houses, schools and other buildings, where it is practical to do so and the added cost is modest.

The level of EMF decreases rapidly with distance from the source. EMF readings at the edge of a typical Powerlink easement are generally similar to those encountered by people in their daily activities at home or at work. And in the case of most Powerlink lines, at about 100 metres from the line, the EMF level is so small that it cannot be measured.

Powerlink is a member of the ENA's EMF Committee that monitors and compiles up-to-date information about EMF on behalf of all electricity network businesses in Australia. This includes subscribing to an international monitoring service that keeps the industry informed about any new developments regarding EMF such as new research studies, literature and research reviews, publications, and conferences.

We encourage community members with an interest in EMF to visit ARPANSA's website: www.arpansa.gov.au Information on EMF is also available on the ENA's website: www.ena.asn.au

ANNEXURE B

SPECIFIC CONDITIONS APPLICABLE TO CONTROLLED ACTIVITIES (OVERHEAD AND UNDERGROUND TRANSMISSION EASEMENTS)

B.10 MINING, UNDERMINING, QUARRYING ACTIVITIES, EARTHWORKS, SUBSTANTIAL EXCAVATIONS, DAM CONSTRUCTION OR CHANGE OF GROUND CONTOURS

All applications are to be subject to individual detailed assessment including:

- The required statutory ground clearances are maintained at all times.
- The subsoil stability and surface drainage in the vicinity of structures not being adversely affected.
- Excessive quantities of dust are not generated.
- An easily accessible working area of a minimum of 20 metres from any face of a tower, is maintained at all times.
- There is no resulting interference with access eg. dam water levels.

B.17 DUST

- Excessive quantities of dust shall not be generated.
- In the event where the generation of dust is likely, appropriate mitigation controls such as the use of a water truck should be considered.

B.18 CULTURAL HERITAGE

- In the event of a Cultural Heritage survey being carried out, Powerlink requires that information relating to the discovery of Cultural heritage material during survey or construction and any subsequent action taken or recommended to taken, be disclosed to Powerlink.

B.19 DECLARED PESTS

- All vehicles and equipment shall be free of declared pests, weed seed, and mud before entry to, and egress from, Powerlink transmission corridors and sites.



420 Flinders Street, Townsville QLD 4810
PO Box 1090, Townsville QLD 4810
ergon.com.au

16 October 2023

Toowoomba Regional Council
PO Box 3021
Toowoomba QLD 4350

Attention: Katrina Christensen
Via email: development@tr.qld.gov.au

RECEIVED
16/10/2023
TOOWOOMBA
REGIONAL COUNCIL

Cc Tangkam BESS Pty Ltd
c/- NGH Pty Ltd
T3, Level 7, 348 Edward Street
Brisbane QLD 4000
Attention: Kate Peel
Via email: kate.p@nghconsulting.com.au

Dear Sir/Madam,

Referral Agency Response – Development Permit for a Material Change of Use (Battery Energy Storage System) at 83 Kowitz Road, Aubigny (Lot 4 on SP112548)

Council Ref: MCUI/2023/3647
Applicant Ref: 230172
Our Ref: 14470363-14563225

We refer to the abovementioned Development Application, which has been referred to Ergon Energy pursuant to section 54 of the *Planning Act 2016*.

In accordance with Schedule 10, Part 9, Division 2 of the *Planning Regulation 2017*, the application has been assessed against the purposes of the *Electricity Act 1994* and *Electrical Safety Act 2002*. This notice is provided in accordance with section 56 of the *Planning Act 2016*.

Should the Assessment Manager decide to approve the proposed Material Change of Use, Ergon advises the following in relation to the development:

1. The development is to be carried out in accordance with the plans identified below. Any changes to these plans should be resubmitted to Ergon for further review and comment.

Have you seen our fact sheets?

See the 'considerations when developing around electricity infrastructure' section of our website
www.ergon.com.au/referralagency

Approved Plans			
Title	Plan Number	Rev.	Date
Tangkam BESS: Material Change of Use Plan	-	-	13 September 2023 (received)
General Arrangement	JA11242-000-EE-DWG-001	4	19 July 2023

2. The conditions of any easements in favour of Ergon must be maintained at all times.
3. The Applicant/Developer is to continue to engage with Ergon with respect to any underground electrical or fibre optic cabling within the substation site.
4. Any future works in the vicinity of Ergon assets are to be carried out in accordance with the *Electricity Entity Requirements: Working Near Overhead and Underground Electric Lines*. This guideline can be accessed via the following link: <https://www.ergon.com.au/network/safety/working-near-powerlines/safety-advice>

Note to Applicant:

The Applicant/Developer is advised that this correspondence does not constitute approval for connection to Ergon's distribution network. Ergon understands that the proposed grid connection for the BESS is via Powerlink's network. The Applicant is responsible for obtaining the appropriate connection agreements and referral agency response from Powerlink, as a referral agency to the development application.

Should you require further information regarding this matter, feel free to contact the undersigned on 0455 403 399 or email townplanning@ergon.com.au.

Yours faithfully,



Benjamin Freese
Town Planner

Have you seen our fact sheets?

See the 'considerations when developing around electricity infrastructure' section of our website www.ergon.com.au/referralagency

SCHEDULE 4

AFFECTED ENTITY RESPONSE (COMMENTS)

POWERLINK



Our Ref: DA5426.1
MSLink/s: 8398
Council Ref: MCUI/2023/3647, 2309-36726 SRA

1 June 2026

Toowoomba Regional Council
PO Box 3021
TOOWOOMBA QLD 4350

Attention: Alanna Walker
Via Email: development@tr.qld.gov.au

ACCIONA M&E Pty Ltd
C/ NGH Consulting/Fyfe
T3, Level 7, 348 Edward Street
BRISBANE QLD 4000

Attention: Julie Giguere
Via Email: Julie.giguere@fyfe.com.au

Dear Alanna & Julie,

Minor Change Application – Affected Entity Response

(Given under section 80(4)(a) of the *Planning Act 2016*)

Transmission Infrastructure Impacted	
Transmission Corridor	Oakey PS Tangkam (110kV) Transmission Line Corridor & Middle Ridge Dalby Southern Line
Easement ID	Easement A on SP112548 – Dealing No. 702742138, Easement C & D on AP9138 – Dealing No. 602044581
Location Details	
Street address	83 Kowitz Road Aubigny
Real property description	Lot 4 on SP112548
Local government area	Toowoomba Regional Council
Existing Approval Details	
Approved Development	Material Change of Use – Impact – Undefined Use
Approval Type	Development Permit
Proposed Minor Change Application Details	
Details of change/s sought	Minor change to conditions 7,30, 45, 54.3, 55.

We refer to the above minor change application which has been referred to Powerlink Queensland as an affected entity in accordance with section 80(1) of the *Planning Act 2016*.

PLANS AND REPORTS ASSESSED

The following plans and reports have been reviewed by Powerlink Queensland and form the basis of our assessment. Any variation to these plans and reports may require amendment of our advice.

Table 1: Plans and Reports upon which the assessment is based

Drawing / Report Title	Prepared by	Dated	Reference No.	Version / Issue
Tangkam Substation BESS Figure 1-2 Project Site Context	NGH	-	-	-
Tangkam BESS ECI Design BESS Landscaping Plan	Beyond Electrical Engineering	20/04/2026	-	A

We have reviewed the changes to the development application outlined in the change application and advise that we have **no objection** to the change application. Powerlink Queensland supports the minor change application subject to the conditions provided in Powerlink response DA5426 to the application 06 October 2023 being imposed by the Assessment Manager.

Powerlink Queensland **supports** the minor change application subject to the following conditions being imposed by the responsible entity:

No.	Condition	Timing	Reason
1	The development must be carried out generally in accordance with the reviewed plans detailed in Table 1 .	At all times.	To ensure that the development is carried out generally in accordance with the plans of development submitted with the application.
2	The statutory clearances set out in the <i>Electrical Safety Regulation 2013</i> must be maintained during construction and operation. No encroachment within the statutory clearances is permitted.	At all times.	To ensure that the purpose of the <i>Electrical Safety Act 2002</i> is achieved, and electrical safety requirements are met.
3	Compliance with the terms and conditions of the easement dealing no. shown in the heading of this letter.	At all times.	To ensure that the existing rights contained in the registered easement dealings are maintained.
4	Compliance with the generic requirements in respect to proposed works in the vicinity of Powerlink Queensland infrastructure as detailed in the enclosed Annexure "A" and "B".	At all times.	To ensure that the purpose of the <i>Electrical Safety Act 2002</i> is achieved, and electrical safety requirements are met. To ensure the integrity of the easement is maintained.

Advice to Council and the Applicant

1. Should any doubt exist in maintaining the prescribed clearance to electrical infrastructure the applicant is obliged under the *Electrical Safety Act 2002* to seek advice from Powerlink.
2. This response does not constitute an approval to commence any works within the easement. Prior written approval is required from Powerlink Queensland before any work is undertaken within the easement areas. All works on easement (including but not limited to earthworks, drainage and detention basins; road construction; underground and overhead service installation) require detailed submissions, assessments and consent (or otherwise) by Powerlink. If referral of a formal Development Application – Operational Works is not applicable, please complete a Co-Use Form, available at <https://www.powerlink.com.au/co-use-form>, to lodge your submission.
3. In order for Powerlink to maintain and operate a safe and reliable supply of electricity, we require unrestricted 24-hour access to our corridors and infrastructure.

We will require practical access (typically by 4WD vehicle – but to standard no less than existing) to the Powerlink structures.

If it is envisaged that there will be any interference or alteration to our current access arrangements prior, during or after the completion of your works, we require that the applicant contacts our Easement Maintenance Service Provider (Works Control Manager Easements – Mr Ehren Wittmer – Ph: 0418 233 916) to formalise unrestricted 24-hour access arrangements.

4. Compliance with the *Electrical Safety Act 2002* including any Code of Practice under the Act and the *Electrical Safety Regulation 2013* including any safety exclusion zones defined in the Regulation.

In respect of this application, the exclusion zone for untrained persons and for operating plant operated by untrained persons is **three (3) metres** from the **110,000-volt** wires and exposed electrical parts.

If works have the potential to come within the prescribed clearance to the conductors and electrical infrastructure, then the applicant must seek advice from Powerlink by completing the attached Application for Safety Advice – Form and submitting to property@powerlink.com.au

Any further works should be in accordance with Powerlink Queensland's general conditions and guidelines when considering works either on a Powerlink Queensland easement or in the vicinity of Powerlink Queensland assets.

For further information please contact the Property Management Team on (07) 3898 4090 or via email property@powerlink.com.au who will be pleased to assist.

Yours sincerely,

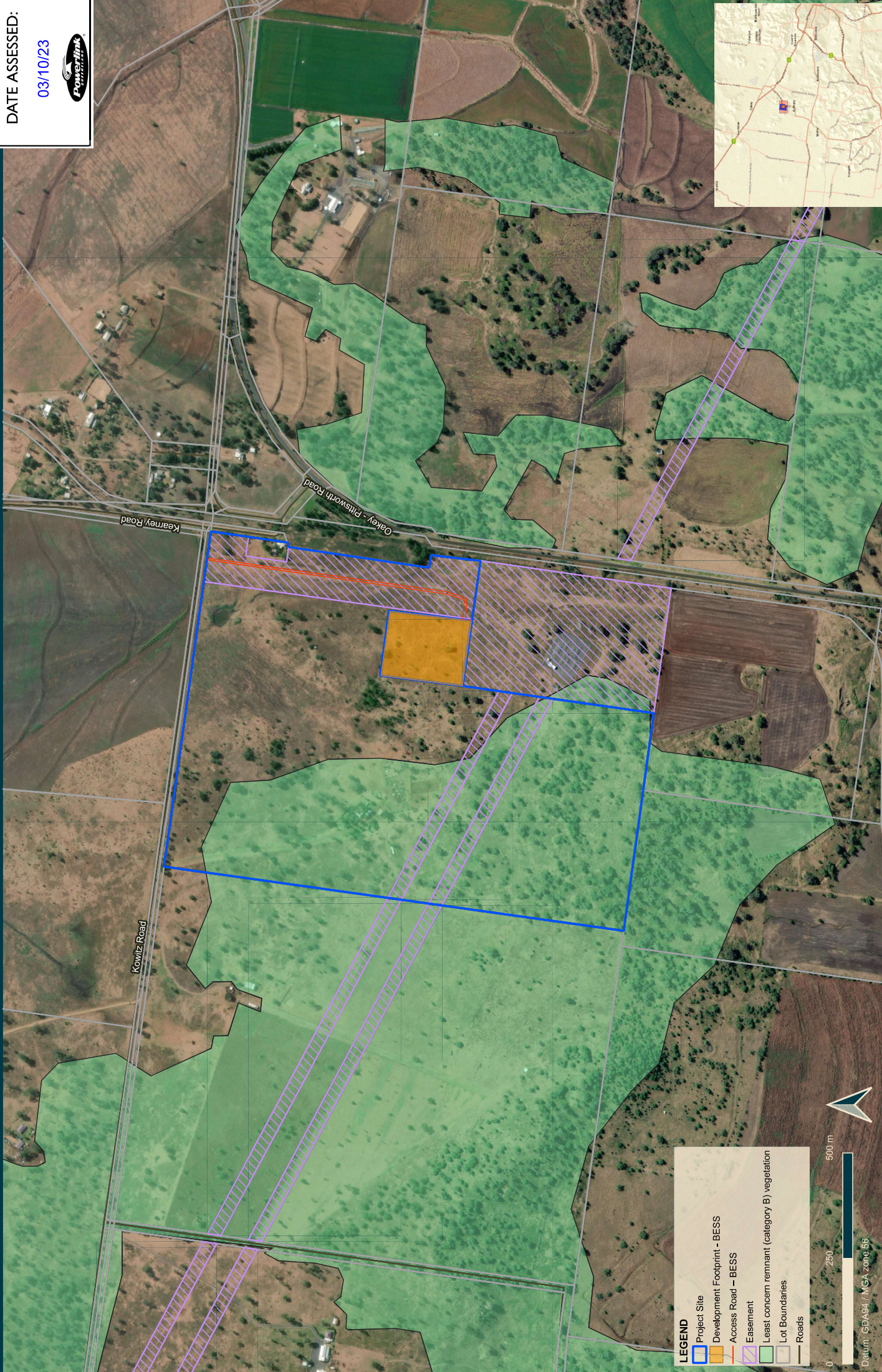


for:

Laura Donaldson

Property Management Team Leader

ATTACHMENT 2 – ASSESSED PLANS



LEGEND

- Project Site
- Development Footprint - BESS
- Access Road - BESS
- Easement
- Least concern remnant (category B) vegetation
- Lot Boundaries
- Roads



Datum: GDA94 / MGA zone 56

ANNEXURE A – GENERIC REQUIREMENTS

The conditions contained in this Annexure have been compiled to assist persons (the applicant) intending to undertake work within the vicinity of high-voltage electrical installations and infrastructure owned or operated by Powerlink. The conditions are supplementary to the provisions of the Electrical Safety Act 2002, Electrical Safety Regulation 2013 and the Terms and Conditions of Registered Easements and other forms of Occupational Agreements hereinafter collectively referred to as the “Easement”. Where any inconsistency exists between this Annexure and the Easement, the Easement shall take precedence.

1. POWERLINK INFRASTRUCTURE

You may not do any act or thing which jeopardises the foundations, ground anchorages, supports, towers or poles, including (without limitation) inundate or place, excavate or remove any soil, sand or gravel within a distance of twenty (20) metres surrounding the base of any tower, pole, foundation, ground anchorage or support.

2. STRUCTURES

No structures should be placed within twenty (20) metres of any part of a tower or structure foundation or within 5m of the conductor shadow area. Any structures on the easement require prior written consent from Powerlink.

3. EXCLUSION ZONES

Exclusion zones for operating plant are defined in Schedule 2 of the Electrical Safety Regulation 2013 for Untrained Persons. All Powerlink infrastructure should be regarded as “electrically live” and therefore potentially dangerous at all times.

In particular your attention is drawn to Schedule 2 of the *Electrical Safety Regulation 2013* which defines exclusion zones for untrained persons in charge of operating plant or equipment in the vicinity of electrical facilities. If any doubt exists in meeting the prescribed clearance distances from the conductors, the applicant is obliged under this Act to seek advice from Powerlink.

4. ACCESS AND EGRESS

Powerlink shall at all times retain the right to unobstructed access to and egress from its infrastructure. Typically, access shall be by 4WD vehicle.

5. APPROVALS (ADDITIONAL)

Powerlink's consent to the proposal does not relieve the applicant from obtaining statutory, landowner or shire/local authority approvals.

6. MACHINERY

All mechanical equipment proposed for use within the easement must not infringe the exclusion zones prescribed in Schedule 2 of the Electrical Safety Regulation 2013. All operators of machinery, plant or equipment within the easement must be made aware of the presence of live high-voltage overhead wires. It is recommended that all persons entering the Easement be advised of the presence of the conductors as part of on site workplace safety inductions. The use of warning signs is also recommended.

7. EASEMENTS

All terms and conditions of the easement are to be observed. Note that the easement takes precedence over all subsequent registered easement documents. Copies of the easement together with the plan of the Easement can be purchased from the Department of Environment & Resource Management.

8. EXPENDITURE AND COST RECOVERY

Should Powerlink incur costs as a result of the applicant's proposal, all costs shall be recovered from the applicant.

Where Powerlink expects such costs to be in excess of \$10 000.00, advanced payments may be requested.

9. EXPLOSIVES

Blasting within the vicinity (500 metres) of Powerlink infrastructure must comply with AS 2187. Proposed blasting within 100 metres of Powerlink infrastructure must be referred to Powerlink for a detailed assessment.

10. BURNING OFF OR THE LIGHTING OF FIRES

We strongly recommend that fires not be lit or permitted to burn within the transmission line corridor and in the vicinity of any electrical infrastructure placed on the land. Due to safety risks Powerlink's written approval should be sought.

11. GROUND LEVEL VARIATIONS**Overhead Conductors**

Changes in ground level must not reduce statutory ground to conductor clearance distances as prescribed by the Electrical Safety Act 2002 and the Electrical Safety Regulation 2013.

Underground Cables

Any change to the ground level above installed underground cable is not permitted without express written agreement of Powerlink.

12. VEGETATION

Vegetation planted within an easement must not exceed 3.5 metres in height when fully matured. Powerlink reserves the right to remove vegetation to ensure the safe operation of the transmission line and, where necessary, to maintain access to infrastructure.

13. INDEMNITY

Any use of the Easement by the applicant in a way which is not permitted under the easement and which is not strictly in accordance with Powerlink's prior written approval is an unauthorised use. Powerlink is not liable for personal injury or death or for property loss or damage resulting from unauthorized use. If other parties make damage claims against Powerlink as a result of unauthorized use then Powerlink reserves the right to recover those damages from the applicant.

14. INTERFERENCE

The applicant's attention is drawn to s.230 of the Electricity Act 1994 (the "Act"), which provides that a person must not wilfully, and unlawfully interfere with an electricity entity's works. "Works" are defined in s.12 (1) of the Act. The maximum penalty for breach of s.230 of the Act is a fine equal to 40 penalty units or up to 6 months imprisonment.

15. REMEDIAL ACTION

Should remedial action be necessary by Powerlink as a result of the proposal, the applicant will be liable for all costs incurred.

16. OWNERS USE OF LAND

The owner may use the easement land for any lawful purpose consistent with the terms of the registered easement; the conditions contained herein, the *Electrical Safety Act 2002* and the *Electrical Safety Regulation 2013*.

17. ELECTRIC AND MAGNETIC FIELDS

Electric and Magnetic Fields (EMF) occur everywhere electricity is used (e.g. in homes and offices) as well as where electricity is transported (electricity networks).

Powerlink recognises that there is community interest about Electric and Magnetic Fields. We rely on expert advice on this matter from recognised health authorities in Australia and around the world. In Australia, the Federal Government agency charged with responsibility for regulation of EMFs is the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA). ARPANSA's *Fact Sheet – Magnetic and Electric Fields from Power Lines*, concludes:

"On balance, the scientific evidence does not indicate that exposure to 50Hz EMF's found around the home, the office or near powerlines is a hazard to human health."

Whilst there is no scientifically proven causal link between EMF and human health, Powerlink nevertheless follows an approach of "*prudent avoidance*" in the design and siting of new powerlines. This includes seeking to locate new powerline easements away from houses, schools and other buildings, where it is practical to do so and the added cost is modest.

The level of EMF decreases rapidly with distance from the source. EMF readings at the edge of a typical Powerlink easement are generally similar to those encountered by people in their daily activities at home or at work. And in the case of most Powerlink lines, at about 100 metres from the line, the EMF level is so small that it cannot be measured.

Powerlink is a member of the ENA's EMF Committee that monitors and compiles up-to-date information about EMF on behalf of all electricity network businesses in Australia. This includes subscribing to an international monitoring service that keeps the industry informed about any new developments regarding EMF such as new research studies, literature and research reviews, publications, and conferences.

We encourage community members with an interest in EMF to visit ARPANSA's website: www.arpansa.gov.au Information on EMF is also available on the ENA's website: www.ena.asn.au

ATTACHMENT 4

ANNEXURE B

SPECIFIC CONDITIONS APPLICABLE TO CONTROLLED ACTIVITIES (OVERHEAD AND UNDERGROUND TRANSMISSION EASEMENTS)

B.10 MINING, UNDERMINING, QUARRYING ACTIVITIES, EARTHWORKS, SUBSTANTIAL EXCAVATIONS, DAM CONSTRUCTION OR CHANGE OF GROUND CONTOURS

All applications are to be subject to individual detailed assessment including:

- The required statutory ground clearances are maintained at all times.
- The subsoil stability and surface drainage in the vicinity of structures not being adversely affected.
- Excessive quantities of dust are not generated.
- An easily accessible working area of a minimum of 20 metres from any face of a tower, is maintained at all times.
- There is no resulting interference with access eg. dam water levels.

B.17 DUST

- Excessive quantities of dust shall not be generated.
- In the event where the generation of dust is likely, appropriate mitigation controls such as the use of a water truck should be considered.

B.18 CULTURAL HERITAGE

- In the event of a Cultural Heritage survey being carried out, Powerlink requires that information relating to the discovery of Cultural heritage material during survey or construction and any subsequent action taken or recommended to taken, be disclosed to Powerlink.

B.19 DECLARED PESTS

- All vehicles and equipment shall be free of declared pests, weed seed, and mud before entry to, and egress from, Powerlink transmission corridors and sites.

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.