

ATTACHMENT 2

Existing Approval (MCUI/2021/7376)

Issued by:

Toowoomba Regional Council

Our Reference: MCUI/2021/7376
CS Portal Reference: N/A
Officer: Richard Green
Contact: (07) 4688 6710
Email: development@tr.qld.gov.au

Development Application Decision Notice
APPROVAL
Planning Act 2016 Section 63

Concrete Developments Farm Pty Ltd
C/- Property Projects Australia
PO Box 3686
TOOWOOMBA QLD 4350

Email: james@propertyprojectsaustralia.com.au

25 May 2022

Dear Sir/Madam

Location: 118 O'Mara Road, WELLCAMP QLD 4350
Property Description: Lot 19 SP268924 and Emt A SP268936
Relevant Planning Scheme: Toowoomba Regional Planning Scheme 2012

The Development Application for a Preliminary Approval for a Material Change of Use – Impact – Variation Request to Vary the Effect of the Planning Scheme, for the abovementioned property has been assessed and approved in full with Conditions. It is considered that the approved development generally complies with the relevant assessment benchmarks or can be conditioned to comply. The decision was made on 19 May 2022. The following provides all the relevant details:

Details of Approval

Preliminary Approval for a Material Change of Use – Impact – Variation Request to Vary the Effect of the Planning Scheme

Referral Agencies

Concurrence Agencies Name & Address: Department of State Development, Infrastructure,
Local Government and Planning
PO Box 825
TOOWOOMBA QLD 4350

Advice Agencies Name & Address: N/A

Conditions and Advices

Assessment Manager's Conditions: As per attached Schedule 1

Concurrence Agency Conditions: As per attached Schedule 2

Further Development Permits Required

- Not Applicable

Further Plans/Documents for Endorsement

The following documents/plans require Endorsement:

- Not Applicable

Variation Approval

A variation approval under Section 61 of the *Planning Act 2016* has been granted and the assessment manager has approved a variation to the local planning instrument: *Toowoomba Regional Planning Scheme 2012* (Version 26). Any development resulting from this approval will be assessed in accordance with this variation approval.

Submissions

There were no properly made submissions for this application.

Rights of Appeal

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

The *Planning Act 2016* is available on the Office of the Queensland Parliamentary Counsel website via:

<https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2016-025>.

Yours faithfully



Krys den Hertog
Acting Principal Planner, Development Services

SCHEDULE 1

PRELIMINARY APPROVAL FOR A VARIATION APPROVAL – IMPACT

APPLICATION NUMBER:	MCUI/2021/7376
APPLICANT:	Concrete Developments Farm Pty Ltd
LOCATION:	118 O'Mara Road, WELLCAMP QLD 4350
PROPERTY DESCRIPTION:	Lot 19 SP268924 and Emt A SP268936
APPROVED USE:	Preliminary Approval for a Material Change of Use - Impact - Variation Request to Vary the Effect of the Planning Scheme
ZONING / PRECINCT:	Local Centre Zone, Medium Impact Industry Zone, Open Space Zone / Commercial Centre Precinct, General Industry Precinct, and Transport and Warehousing Precinct, Conservation Precinct

A. ASSESSMENT MANAGER'S CONDITIONS:

VARIATION APPROVAL AREA

- The Variation Approval Area is the area identified within Lot 19 SP268924, as shown on the following plans:

Plan No: 1829-SK030

Description: Commercial Zone Allocation, prepared by FKG Group, dated 10 December 2021 and received by Council 16 December 2021.

Amendments: Nil

Plan No: 21/218PP30, Revision A

Description: Metes and Bounds Plan, prepared by Byrne Surveyors, dated 7 February 2022 and received by Council 4 April 2022.

Amendments: Nil

PARAMETRES OF APPROVAL

- This Development Approval varies the effect of the *Toowoomba Regional Planning Scheme 2012* for the Variation Approval Area pursuant to Section 43(7) of the *Planning Act 2016* by:

- Adopting the levels of assessment and applicable codes for land within the 'Proposed Commercial Zone Allocation' area (as shown on approved plans referenced 1829-SK030 and 21/218PP30 listed within Condition 1 of this Preliminary Approval) as follows:

- 2.1.1 Zone: Local Centre Zone, No Precinct (*Toowoomba Regional Planning Scheme 2012 - Version 26*); and

- 2.1.2 Local Plan: Charlton Wellcamp Enterprise Area Local Area Plan – Commercial Centre Precinct (*Toowoomba Regional Planning Scheme 2012 - Version 26*); and

2.2 Adopting the levels of assessment and applicable codes for land within the 'Existing Commercial Zone Allocation' area (as shown on approved plan referenced 1829-SK030 listed within Condition 1 of this Preliminary Approval) as follows:

2.2.1 Zone: Medium Impact Industry Zone, No Precinct (*Toowoomba Regional Planning Scheme 2012 - Version 26*); and

2.2.2 Local Plan: Charlton Wellcamp Enterprise Area Local Area Plan – General Industry Precinct, and Transport and Warehousing Precinct (*Toowoomba Regional Planning Scheme 2012 - Version 26*).

Note: This Preliminary Approval does not vary the effect of any Overlay.

3. The category of development and assessment for future Development Applications within the Variation Approval Area must be in accordance with the category of development and assessment specified within the *Toowoomba Regional Planning Scheme 2012 - Version 26*.
4. Where this Development Approval is “silent” on a particular issue, the provisions contained in the *Toowoomba Regional Planning Scheme 2012 - Version 26* will take effect.
5. The Codes and Policies applicable to development within the Variation Approval Area are the *Toowoomba Regional Planning Scheme 2012 - Version 26* Codes and Policies, unless otherwise specified in this Development Approval.

CURRENCY PERIOD

6. This Variation Approval has a currency period of five (5) years from the date this Development Approval starts to have effect.

WASTEWATER INFRASTRUCTURE (GENERAL)

7. A Wastewater Infrastructure Plan - Overall Strategy must be prepared by a Registered Professional Engineer Queensland - Civil (RPEQ) in accordance with the relevant standards in *Planning Scheme Policy No. 3 - Engineering Standards - Water and Wastewater Infrastructure* (PSP No.3) and must be submitted to Council for approval with any subsequent application, demonstrating the following:
 - 7.1 Proposed connection point(s);
 - 7.2 Wastewater infrastructure main sizes and modelling results for all stages of the proposed development, noting that the model is also to identify any necessary augmentations required to be made to the external wastewater infrastructure; and
 - 7.3 A detailed conceptual wastewater infrastructure design identifying how the proposed development will be connected to Council's existing infrastructure. The information should include, but not necessarily be limited to:
 - 7.3.1 How access to maintain the service will be achieved, on lots that have or may have buildings constructed for the full or near full width of the lots;
 - 7.3.2 Where possible, locate services within existing or future road reserves,
 - (i) reliant to a great degree on topography; and
 - (ii) the service corridors for Council and other utility services with the prescribed minimum clearances between the services;

- 7.3.3 The point of connection to the existing downstream sewers is to be agreed with Council; and
- 7.3.4 A strategy generally in accordance with the Greater Western Toowoomba Sewerage Strategy Study.

WATER SUPPLY

- 8. A Water Supply Infrastructure - Overall Strategy must be prepared by a Registered Professional Engineer Queensland - Civil (RPEQ) in accordance with the relevant standards in *Planning Scheme Policy No. 3 - Engineering Standards - Water and Wastewater Infrastructure* (PSP No.3) and must be submitted to Council for approval with any subsequent application, demonstrating the following:
 - 8.1 Fire Flows - Due to the increased risk associated with industrial development, the provision of network capacity to fight fires must be based on DNRM/DERM Guidelines, Chapters 5/6 - Network Modelling, and fire flow provision must be made 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;
 - 8.2 The sizing of water mains will be determined by Council to ensure performance will be achieved; and
 - 8.3 Interconnection with the existing water supply reticulation will be required.

B. ATTACHMENTS:

- Concurrence Agency Conditions Schedule 2
- Approved Development Plans
- 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: 2201-26771 SRA
Council reference: MCUI/2021/7376

9 February 2022

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

Attention: Richard Green



Dear Richard

SARA response—118 O'mara Road, Wellcamp

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

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 12 January 2022.

Response

Outcome:	Referral agency response - No requirements:	
	- Under section 56(1)(a) of the <i>Planning Act 2016</i>, SARA advises it has no requirements relating to the preliminary approval for a material change of use. - Under section 56(2)(a) of the <i>Planning Act 2016</i>, SARA advises it has not requirements relating to the variation request.	
Date of response:	9 February 2022	
Advice:	Advice to the applicant is in Attachment 1 .	
Reasons:	The reasons for the referral agency response are in Attachment 2 .	

Development details

Description:	Preliminary approval that includes a variation request	Material change of use for Variation Request to Vary the Effect of the Planning Scheme
SARA role:	Referral Agency.	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 1, Table 1, Item 1 (10.9.4.1.1.1) Development impacting on state transport infrastructure (Planning Regulation 2017)	

SARA reference: 2201-26771 SRA
Assessment Manager: Toowoomba Regional Council
Street address: 118 O'mara Road, Wellcamp
Real property description: Lot 19 on SP268924
Applicant name: Concrete Developments Farm Pty Ltd
C/- Property Projects Australia
Applicant contact details: 216 Herries Street
Toowoomba QLD 4350
info@propertyprojectsaustralia.com.au

Representations

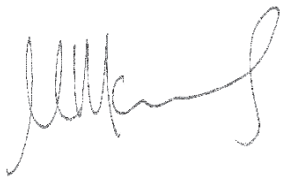
An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s. 30 Development Assessment Rules)

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

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

For further information please contact Brittany Hughes, A/Senior Planning Officer, on 07 4616 7332 or via email ToowoombaSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Ursula McInnes
Planning Manager

cc Concrete Developments Farm Pty Ltd, info@propertyprojectsaustralia.com.au

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

Attachment 1—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) (v2.6). If a word remains undefined it has its ordinary meaning.

Attachment 2—Reasons for referral agency response

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

The reasons for SARA's decision are:

The development complies with *State code 6: Protection of state transport infrastructure* of the SDAP. Specifically, the development:

- does not create a safety hazard for users of a state-controlled road
- does not compromise the structural integrity of state-controlled roads, road transport infrastructure or road works
- does not result in a worsening of the physical condition or operating performance of state-controlled roads and the surrounding road network
- does not compromise the state's ability to construct, or significantly increase the cost to construct state-controlled roads and future state-controlled roads
- does not compromise the state's ability to maintain and operate state-controlled roads, or significantly increase the cost to maintain and operate state-controlled roads
- does not create a safety hazard for users of a state-controlled road

Material used in the assessment of the application:

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

Attachment 3—Representations about a referral agency response

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Development Assessment Rules—Representations about a referral agency response (concurrency)

The following provisions are those set out in sections 28 and 30 of the *Development Assessment Rules*¹ regarding **representations about a referral agency response (concurrency)**.

Part 6: Changes to the application and referral agency responses and Part 7: Miscellaneous

28 Concurrency 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.

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.

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

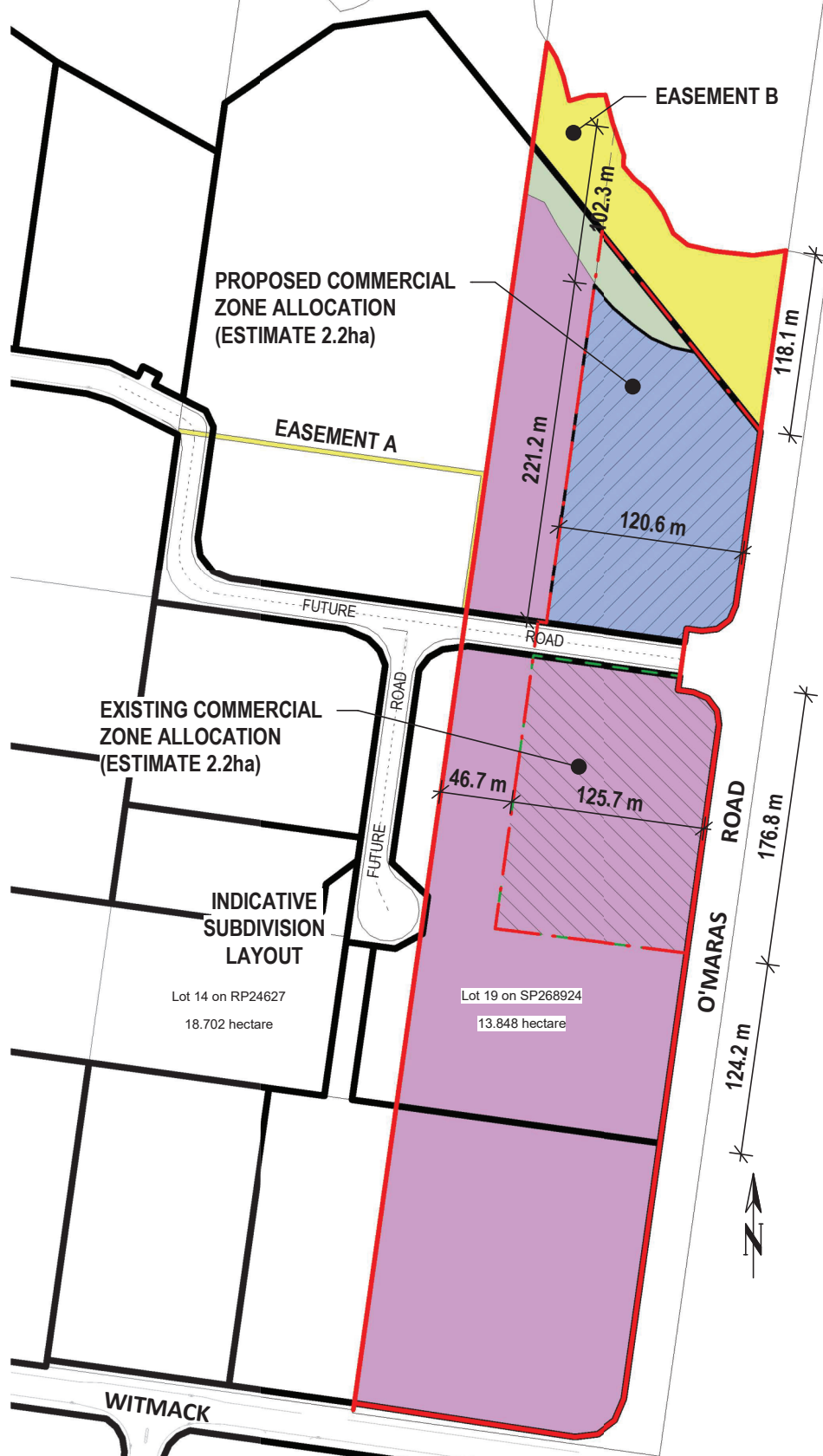
- (1) Subject to this chapter, section 316(2) schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision 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.



TOOWOOMBA REGIONAL COUNCIL

APPROVED PLAN

referred to in Council's Decision Notice dated

25 May 2022

This plan is subject to conditions of Approval Number

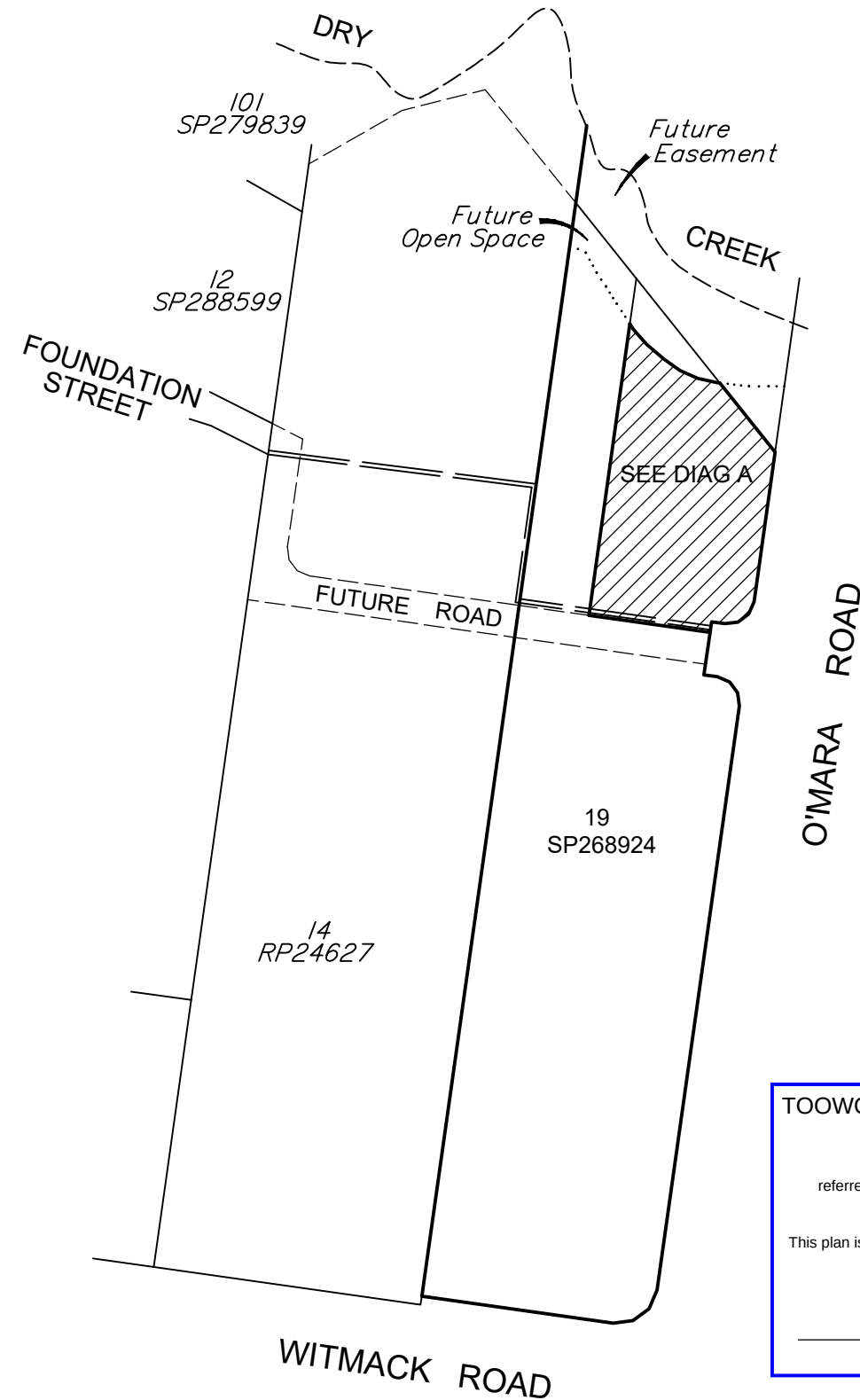
MCUI/2021/7376

Assessment Manager

LEGEND

- EASEMENT**
- PROPOSED LOCAL CENTRE ZONE - COMMERCIAL CENTRE PRECINCT**
- MEDIUM IMPACT INDUSTRY - GENERAL INDUSTRY PRECINCT**
- EXISTING LOCAL CENTRE ZONE**
- SITE AREA (Existing Lot 19 on SP268924)**
- VARIATION APPROVAL AREA**
- OPEN SPACE ZONE**

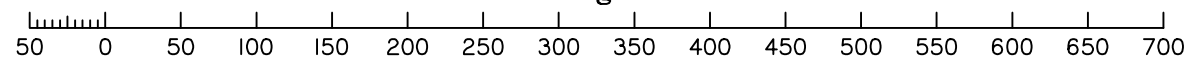
LOCALITY PLAN



TOOWOOMBA REGIONAL COUNCIL
APPROVED PLAN
referred to in Council's Decision Notice dated
25 May 2022
This plan is subject to conditions of Approval Number
MCUI/2021/7376

Assessment Manager

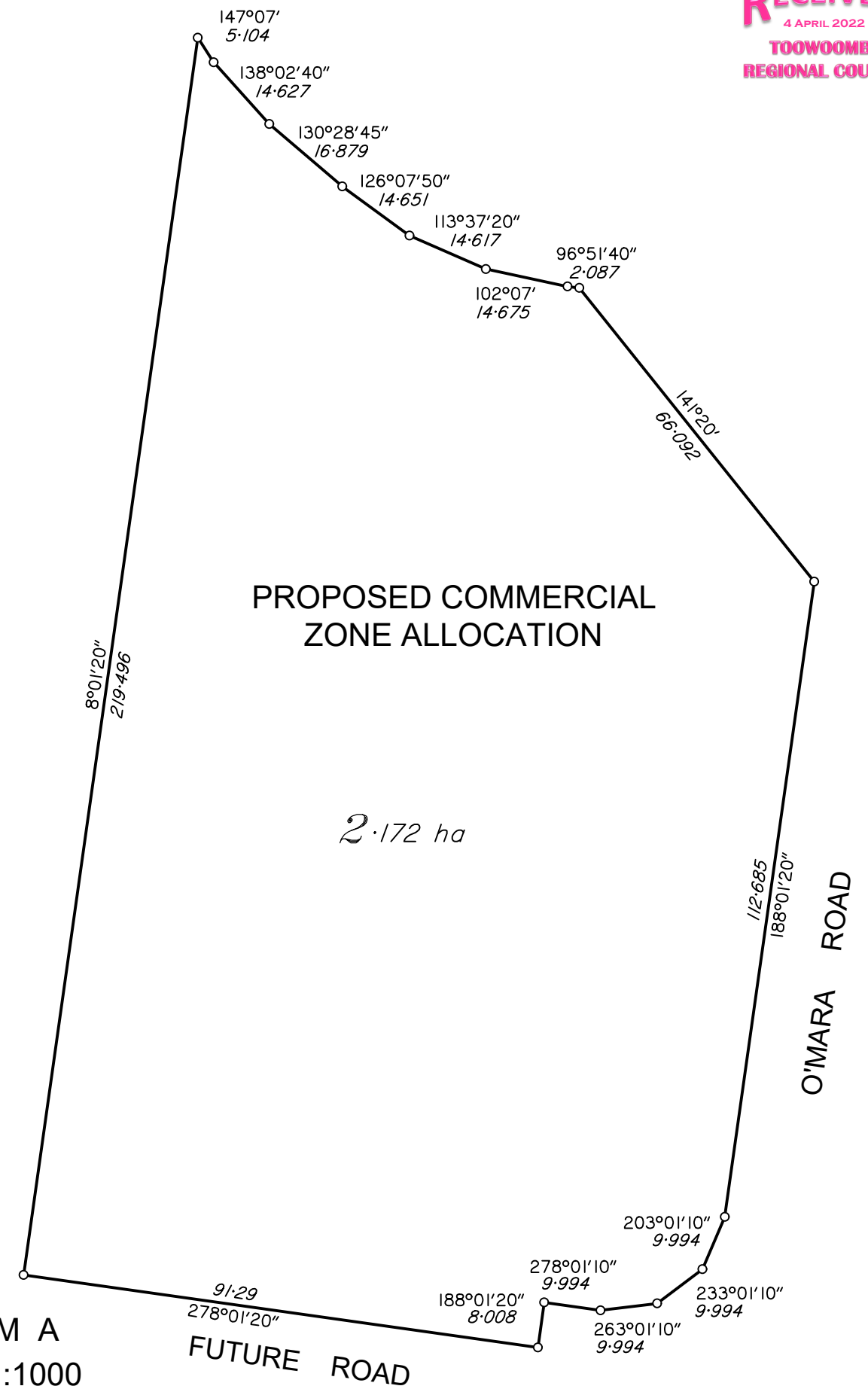
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PROPOSED COMMERCIAL ZONE ALLOCATION

2.172 ha

DIAGRAM A
SCALE 1:1000



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This document may only be used by Byrne Surveyor's client (and any other person who Byrne Surveyors has agreed can use this document) for the purpose for which it was intended and must not be used by any other person or for any other purpose. Intellectual rights remain with BYRNE SURVEYORS PTY LTD.					P 07 4632 1688 E mail@byrnesurveyors.com.au 218 Herries Street, Toowoomba Q PO Box 861, Toowoomba Q 4350 www.byrnesurveyors.com.au					Drawn	GTC	Surveyor	N/A	Site Address	O'MARA ROAD
										Check	GTC	Survey Data	AUTOCAD	RPD	LOT 19 on SP268924
										Locality	CHARLTON	Local Authority	TOOWOOMBA REGION	Title	METES & BOUNDS
															Dwg No 21/218PP30
															Rev A