

## **SCHEDULE 2**

### **Statement of Reasons**

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

SITE DETAILS	
Site Address	99-117 Hayden Street East, KEARNEYS SPRING QLD 4350
Real Property Description	Lot 12 SP187254, Emt B RP216771
Site Area	9.683 ha
Owner	Wagners Properties Pty Ltd

PROPOSED DEVELOPMENT	
Name of Applicant	Wagner Corporation Pty Ltd
Type of Application	Preliminary Approval for a Material Change of Use and Reconfiguring a Lot including Variation Request
Proposed Development	Material Change of Use and Reconfiguring a Lot
Level of Assessment	Impact Assessment
Submissions Received	Objection: Two (2)
	Support: None
Decision	Approval
Decision Date	28 April 2022

ASSESSMENT MATTERS		
Assessment benchmarks	<p>The proposed development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> <li>• Schedules 9 and 10 of the Planning Regulation 2017 (as relevant);</li> <li>• State Planning Policy July 2017;</li> <li>• South-east Queensland Regional Plan</li> <li>• Darling Downs Regional Plan;</li> <li>• The Local Government Infrastructure Plan; and</li> <li>• Toowoomba Regional Planning Scheme 2012 (Version 26) <ul style="list-style-type: none"> <li>○ Strategic Framework</li> <li>○ Low-medium Density Residential Zone Code</li> <li>○ Reconfiguring a Lot Code</li> <li>○ Environmental Significance Overlay Code</li> <li>○ Airport Environs Overlay Code</li> <li>○ Works and Services Code</li> </ul> </li> </ul>	
Relevant matters	There were no relevant matters.	
Matters raised in submissions	<b>Issue</b>	<b>How matter was dealt with</b>
	Encroachment of development into native fauna habitat (kangaroos)	<p>The purpose of the Variation Request is to extend the land use rights and assessment provisions of the Low-medium Density Residential Zone (Urban Residential Precinct) over that part of the subject land currently identified in the Open Space Zone, being an area of 8,484m<sup>2</sup>. This will ensure consistency with the remainder of the site which is identified within the Low-medium Density Residential Zone.</p> <p>The site is partly affected by the State mapped Koala Habitat Area. The part of the site currently in the Open Space Zone, proposed to be varied under the development application, is outside of the Koala Habitat Area and the existing vegetated area. Given this, it is considered that</p>

		<p>the proposed variation would not give rise to development interfering with koala habitat.</p> <p>Council's mapping of Environmental Significance Overlay - Areas of Ecological Significance also approximately aligns with the existing vegetated area, and it is noted the subject land is located outside of these areas. A review of the historic zoning has identified the Open Space Zoning is not related to vegetation or habitat protection, but to reference future stormwater infrastructure.</p> <p>The proposal subject to this Development Application has been assessed against the Strategic Framework of the <i>Toowoomba Regional Planning Scheme 2012</i> and considered does not compromise the intent of the Strategic Framework, and does not obstruct the assessment of future Development Applications in relation to mapped environmental areas. Furthermore, it is noted the cleared section of the site has been historically disturbed by previous farming practices.</p>
	<p>Site history including land contamination (former abattoir)</p>	<p>The submitter provided local insight into the history of the site.</p> <p>The subject Development Application does not authorise development to occur, and the purpose of the application is to correct a historic zoning which is no longer required.</p> <p>However, addressing any potential land contamination will be relevant in future Development Applications for example seeking a residential subdivision. At that time, this matter must be addressed to ensure the health and wellbeing of future and existing nearby residents.</p>
	<p>Construction impacts</p>	<p>The subject Development Application does not authorise development to occur. Future Development Applications will be required for any subdivision of the site, at which time standard conditions would be imposed regarding construction practices to minimise impacts, such as dust and noise, on nearby properties.</p>
<p><b>Reasons for decision</b></p>	<p>The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exception listed below.</p>	
	<p><b>Assessment benchmark</b></p> <p>Strategic Framework - Settlement Pattern</p>	<p><b>Reasons for the approval despite non-compliance with benchmark</b></p> <p>Council's Strategic Land Use Team advises the Open Space Zoned land is presumed to be dedicated for a future stormwater detention basin. Under the superseded <i>Toowoomba City Planning Scheme 2003</i>, one of the reasons for designating land as Open Space was for water detention. Stormwater detention is likely needed in this general location, however it would be suitable for the applicant's engineers along with Council to determine the best location based on a detailed site investigation.</p> <p>It is likely the Open Space Zone is not linked to</p>

		<p>the currently mapped koala habitat, given it does not cover the southern portion of the land where the koala habitat vegetation is located.</p> <p>Having regard to the above, it is considered the Variation Request is consistent with this Theme.</p>
	<p>Strategic Framework – Infrastructure and Services</p>	<p>Council's Strategic Land Use Team advised the purpose of the historic Open Space Zoning was likely to identify a future stormwater detention basin. The identification of this land in the Open Space Zone is not required for this purpose, as future Development Applications will be required to provide the stormwater detention basin regardless.</p> <p>It is considered the Variation Request does not compromise this Theme, particularly the variation will not obstruct the planning, design and provision of water infrastructure in new development.</p>

For further details on the assessment of this development application, please see the Delegated Report available for public viewing on the Toowoomba Regional Council Planning and Development Online website at: <http://www.tr.qld.gov.au/payments-self-service-laws/web-apps/pdonline/8892-planning-and-development-online>. When accessing Council's website please use the following Application Number: MCUI/2021/6070.