

Our Reference: MCUI/2004/3562/A  
Contact Officer: Peter Swan  
Contact: (07) 4688 6468  
Email: [development@tr.qld.gov.au](mailto:development@tr.qld.gov.au)

**Decision Notice**  
**CHANGE TO A DEVELOPMENT APPROVAL**  
*Planning Act 2016 Section 83*

Broad Water Downs Pty Ltd  
C/- Stafford Adamson Pty Ltd  
PO Box 7120  
TOOWOOMBA SOUTH QLD 4350

cc: [Rod.Davis@staffadam.com.au](mailto:Rod.Davis@staffadam.com.au)

17 September 2018

Dear Sir/Madam

**Development Approval:** Change Application (other change) for Material Change of Use - Impact – Intensive Animal Industry (4920 Standard Cattle Unit Feedlot)

**Location:** Lots 312 and 356 ML1095 2072 Millmerran-Leyburn Road, TUMMAVILLE QLD 4357

**Property Description:** Lots 312 and 356 ML1095

**Relevant Planning Scheme:** *Toowoomba Regional Planning Scheme 2012*

I refer to your application received on 2 May 2018 for a change to the development approval for Material Change of Use - Impact approved on 12 September 2018.

On the 12 September 2018, the change application was approved as per the attached Schedule. All deletions are identified by strikethrough of text and all additions are identified by **bolded** text.

#### Details of Approval

Development Permit – Material Change of Use - Impact – Intensive Animal Industry (4920 Standard Cattle Unit Feedlot)

#### Referral Agencies

Referral Agency Name & Address: Department of State Development, Manufacturing, Infrastructure and Planning  
PO Box 825  
TOOWOOMBA QLD 4350

#### Conditions and Advices

Assessment Manager's Conditions: As per attached Schedule 1

Referral Agency Conditions: As per attached Schedule 2

**Further Development Permits Required**

- Development Permit for Building Work
- Development Permit for Plumbing and Drainage Work

**Submissions**

There was one (1) properly made submission for this application.

**Rights of Appeal**

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

Yours faithfully



Matthew Coleman  
Principal Planner, Development Services

## SCHEDULE 1

### DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF USE - IMPACT

<b>APPLICATION NUMBER:</b>	MCUI/2004/3562/A
<b>APPLICANT:</b>	Broad Water Downs Pty Ltd
<b>LOCATION:</b>	Lots 312 and 356 ML1095 2072 Millmerran-Leyburn Road, TUMMAVILLE QLD 4357
<b>PROPERTY DESCRIPTION:</b>	Lots 312 and 356 ML1095
<b>APPROVED USE:</b>	Material Change of Use - Impact – Intensive Animal Industry (4920 Standard Cattle Unit Feedlot)
<b>ZONING:</b>	Lot 312 - Rural Zone – 200ha. Precinct, Lot 356 – Rural Zone – 100ha. Precinct

#### A. ASSESSMENT MANAGER'S CONDITIONS:

##### PLANNING

##### APPROVED USE

1. This Development Approval is for a material change of use for an Intensive Animal Industry – 4,920 SCU Cattle Feedlot.
- 4 2. ~~That~~ The applicant **must** obtain all other necessary approvals and permits prior to the commencement of any works which may be required of it under any Acts, Regulations or By-laws and further, ~~that it~~ **must** comply with the provisions of all relevant Acts, Regulations and By-laws and the provisions of the Town Planning Schedule for the purpose required in the zone in which the land is situated.
- 2 3. ~~That~~ The permit shall lapse at the expiration of four years unless the development has been substantially commenced to the satisfaction of Council.

**Note:** *In approving this Change Application Council also confirms that it considers the use has substantially commenced.*

- 3 4. An authorised person within the meaning of that term as contained in the *Local Government Act 1993* **2009 (as superseded)**, as amended, may enter upon the land the subject of this approval for the purpose of ascertaining whether the conditions of this approval have been or are being complied with or to inspect work carried out under the terms of this approval at any time between the hours of 5:00am and 10:00pm on any day during the period of the approval.
- 4 5. ~~That~~ The applicant **must comply** ~~complies~~ at all times with the conditions set by the ~~Department of Primary Industries, as a concurrence~~ **any referral agency to this application.**

##### APPROVED PLANS

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

**Plan No:** G7-116-125-02, Revision B  
**Description:** Development Layout, prepared by Stafford Adamson and dated 27 April 2018  
**Amendments:** Nil

**Plan No:** G7-116-100-08, Revision B  
**Description:** Site Layout Proposed Reconfiguration, prepared by Stafford Adamson and dated 27 April 2018  
**Amendments:** Nil

**Plan No:** G7-116-60-10, Revision B  
**Description:** Cattle Handling Facility Processing Building Floor Plan, prepared by Stafford Adamson and dated 27 April 2018  
**Amendments:** Nil

**Plan No:** G7-116-60-11, Revision B  
**Description:** Cattle Handling Facility Processing Building Elevations, prepared by Stafford Adamson and dated 27 April 2018  
**Amendments:** Nil

**Plan No:** G7-116-60-12, Revision B  
**Description:** Cattle Handling Facility Processing Building Elevations, prepared by Stafford Adamson and dated 27 April 2018  
**Amendments:** Nil

**Plan No:** G7-116-70-13, Revision B  
**Description:** Weighbridge Plan and Elevation Details, prepared by Stafford Adamson and dated 27 April 2018  
**Amendments:** Nil

**Plan No:** G7-116-70-14, Revision B  
**Description:** Weighbridge Office Floor Plan and Elevation Details, prepared by Stafford Adamson and dated 27 April 2018  
**Amendments:** Nil

## **ENVIRONMENT & WASTE**

### **ACOUSTIC AMENITY - NOISE LIMITS**

7. Noise from activity associated with the use of the site must not exceed the Acoustic Quality Objectives listed in the *Environment Protection (Noise) Policy 2008* when measured at any sensitive receptor.
8. 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*.

### **ACOUSTIC AMENITY - MECHANICAL PLANT**

9. All regulated devices as defined by the *Environmental Protection Act 1994* must be installed, operated and maintained to comply with the noise limits as specified within the *Environmental Protection Act 1994*.

#### **AIR QUALITY & AMENITY - AIR RELEASE LIMITS**

10. 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 2008* as measured at any sensitive receptor place must not be released to the atmosphere.

#### **AIR QUALITY & AMENITY - DUST SUPPRESSION TREATMENTS**

11. All laydown areas and internal access tracks within the site must be covered with coarse gravel graded at between 16 - 32 millimetres, a medium gravel graded at between 8 - 16 millimetres or a fine gravel graded at 4 - 8 millimetres in diameter to create a gravel hardstand.
12. Where a medium or fine gravel is utilised for surface coverage, hardstand areas must be first treated prior to the commencement of use and then on an as needed basis thereafter, with a dust suppressant product (such as PetroTac) in accordance with the manufacturers specifications.
13. Where a dust suppressant is utilised, records documenting maintenance inspections and application history details must be maintained and made available for inspection at any time upon request by Council.

#### **OUTDOOR LIGHTING IMPACT MITIGATION**

14. Outdoor lighting associated with the use must be designed, sited, and installed to comply with the relevant parameters of *Australian Standard AS4282-1997 Control of the obtrusive effects of outdoor lighting*.

#### **COMPLAINTS MANAGEMENT**

15. A complaints management procedure for the approved use must be prepared and submitted to Council for endorsement. The complaints management procedure must include the following:
  - 15.1 A contact person with whom complaints can be lodged;
  - 15.2 A clearly defined procedure for responding to and investigating complaints; and
  - 15.3 A notification protocol to all complainants of the outcome of complaint investigations.
16. A record of all complaints and investigation results including corrective actions must be maintained and made available for inspection at any time upon request by Council.

#### **STORMWATER QUALITY**

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

#### **WASTE MANAGEMENT**

18. All waste generated on site must be managed in accordance with the waste management hierarchy as detailed in the *Waste Reduction and Recycling Act 2011*.

## LANDSCAPING

### LANDSCAPING WORKS

19. The development must be landscaped in accordance with the conditions of this Development Approval and the requirements listed in the Landscape Code contained within the *Toowoomba Regional Planning Scheme* in a manner that:
- 19.1 Maximises the retention of existing site vegetation which contributes to the site character; and
  - 19.2 Utilises plant species which are characteristic of the local area and provides seasonal variation, colour and texture.
20. The development site must be landscaped and landscaping maintained in accordance with the new Landscaping Works shown on the Approved Plans listed within this Development Approval and the following:
- 20.1 All trees must be supplied in 45 litre or larger containers;
  - 20.2 All other plant material must be supplied in 200mm or larger containers;
  - 20.3 Garden areas must be cultivated to minimum 450mm depth and be clear of any rubbish, rocks or building rubble;
  - 20.4 All planting beds and individual trees must be mulched with minimum 100mm depth organic mulch;
  - 20.5 Large scale canopy trees must be planted in those locations new trees are shown on the Approved Plans. All trees must be capable of reaching a minimum height of 10m at maturity;
  - 20.6 All plant and tree material must be allowed to grow to full form and be replaced when its life expectancy is reached; and
  - 20.7 Control of all weeds species listed in the following standards and legislation:
    - i) Declared plants under the *Land Protection (Pest and Stock Route Management) Act 2002* and subordinate regulation.

## GENERAL ADVICES

### 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) Any works impacting outside the property boundary will require a permit under Subordinate Local Law 1.15 (Carrying Out Works on a Road or Interfering with a Road or its Operation) 2011. Please contact Council's Road Operations Branch through our Customer Service Centre on 131 872. The application can be found on Council's website at [www.tr.qld.gov.au](http://www.tr.qld.gov.au)<<http://www.tr.qld.gov.au>>.
- 4) The development has only been assessed in accordance with the provisions of the *Toowoomba Regional Planning Scheme*. No assessment has been made in respect of the provisions of the *Building Code of Australia* and/or the *Queensland Development Code*.

#### WASTE WATER TREATMENT & DISPOSAL SYSTEM

- 5) The establishment of a waste water treatment and disposal system for the subject land requires a Compliance Permit to be obtained from Council under the *Plumbing and Drainage Act 2002*. The system must be designed in accordance with the *Queensland Plumbing and Wastewater Code* (Department of State Development and Infrastructure & Planning, 2007) and the *Australian & New Zealand Standard AS/NZS1547 On-site domestic wastewater management*.

Please contact Council's Plumbing and Drainage team via the Customer Service Centre for further information in respect of a Compliance Permit. Where a development exceeds the accommodation or use of 21 or more equivalent persons an Environmental Authority from the Department of Environment and Science will also be required.

#### EQUITABLE ACCESS & FACILITIES

- 6) The plans for the proposed building work have NOT been assessed for compliance with the requirements of the *National Construction Code - Building Code of Australia (Volume 1)* as they relate to people with disabilities.

In addition to the requirements of the National Construction Code as they relate to people with disabilities, one or more of the following may impact on the proposed building work:

- 6.1 The *Disability Discrimination Act 1992 (Cth)*;
- 6.2 The *Anti-Discrimination Act 1991 (Qld)*; and
- 6.3 The *Disability (Access to Premises - Buildings) Standards*.

#### ENVIRONMENTAL HARM

- 7) 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, waste water, 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.

- 8) This Development Approval does not infer or give approval to the owners or occupiers of the subject land to disturb or remove street trees. A separate Street Tree Disturbance or Removal Approval is required where a street tree is expected to be disturbed or removed. Please contact Council's Parks and Recreation Branch via Council's Customer Service Centre for further information in respect of street trees.

#### **WATER POLLUTION**

- 9) 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.

#### **FIRE ANTS**

- 10) The State of Queensland has been declared a quarantine area for the Red Imported Fire Ant. Should this approval involve the movement of restricted items from areas of known infestation the provisions of the *Plant Protection Act 1989* apply, compliance with statutory provisions must be achieved.

#### **ADVERTISING SIGNS**

- 11) Placing an advertising device on premises is accepted development where complying with the assessment benchmarks that form the requirements for accepted development in the Advertising Devices Code in the *Toowoomba Regional Planning Scheme*. A separate Operational Works approval will be required for any Advertising Devices not complying with the assessment benchmarks that form the requirements for accepted development in the Advertising Devices Code.

#### **SUITABLY QUALIFIED PERSON**

- 12) 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 3 years current experience in the field of landscape design.

**SCHEDULE 2**

**REFERRAL AGENCY (CONDITIONS AND COMMENTS)**

**DEPARTMENT OF STATE DEVELOPMENT, MANUFACTURING, INFRASTRUCTURE AND  
PLANNING**

**RECEIVED**  
20/6/2018  
**TOOWOOMBA**  
**REGIONAL COUNCIL**



Department of  
**State Development,  
Manufacturing,  
Infrastructure and Planning**

Our reference: 1805-5391 SRA  
Your reference: MCUI/2004/3562/A

20 June 2018

The Chief Executive Officer  
Toowoomba Regional Council  
PO Box 3021  
TOOWOOMBA Qld 4350  
Via email: [development@tr.qld.gov.au](mailto:development@tr.qld.gov.au)

Attention: Peter Swan

Dear Peter

**Referral agency response—with conditions**

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

The development application described below was properly referred to the Department of State Development, Manufacturing, Infrastructure and Planning (the department) on 23 May 2018.

**Applicant details**

Applicant name:	Broad Water Downs Pty Ltd
Applicant contact details:	PO Box 8127 Toowoomba QLD 4350 <a href="mailto:rod.davis@staffadam.com.au">rod.davis@staffadam.com.au</a>

**Location details**

Street address:	2072 Millmerran Leyburn Road, Tummaville QLD 4357
Real property description:	Lot 312 & 356 on ML1095
Local government area:	Toowoomba Regional Council

**Application details**

Development permit	Material change of use for a request a change approval – material change of use intensive animal industry (cattle feedlot). Proposed change to approved layout and location of controlled drainage area and associated infrastructure including outdoor production pens, drainage system, sedimentation basin and holding pond. Proposed new infrastructure including cattle handling facility, weighbridge and internal roads. No changes to approved number of standard cattle units.
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## Referral triggers

The development application was referred to the department under the following provisions of the Planning Regulation 2017:

- 10.5.4.2.1 Environmentally relevant activities (ERA) (only if ERA has not been devolved to a local government)
- 10.9.4.1.1.1 Infrastructure - state transport infrastructure
- 10.9.4.2.4.1 State transport corridors and future State transport corridors

## Conditions

Under section 56(1)(b)(i) of the *Planning Act 2016* (the Act), the conditions set out in Attachment 1 must be attached to any development approval.

## Reasons for decision to impose conditions

The department must provide reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

## Approved plans and specifications

The department requires that the plans and specifications set out below and enclosed must be attached to any development approval.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
<b>Aspect of development: Material change of use</b>				
DEVELOPMENT COMPLEX CONTROLLED DRAINAGE AREA PLAN	Stafford Adamson	12 June 2018,	G7-116-150-04,	C
DEVELOPMENT COMPLEX STORMWATER DRAINAGE PLAN	Stafford Adamson	12 June 2018	G7-116-150-B1	C

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

For further information please contact Maria Johnson, Senior Planning Officer, on 46167307 or via email [ToowoombaSARA@dsmip.qld.gov.au](mailto:ToowoombaSARA@dsmip.qld.gov.au) who will be pleased to assist.

Yours sincerely



Andrew Foley  
Manager

cc Broad Water Downs Pty Ltd, [rod.davis@staffadam.com.au](mailto:rod.davis@staffadam.com.au)

enc Attachment 1—Conditions to be imposed  
Attachment 2—Reasons for decision to impose conditions  
Approved plans and specifications

**Attachment 1—Conditions to be imposed**

No.	Conditions	Condition timing
<b>Material change of use</b>		
10.5.4.2.1—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Agriculture and Fisheries 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.	<p>The development must be carried out generally in accordance with the following plans:</p> <ul style="list-style-type: none"> <li>• DEVELOPMENT COMPLEX CONTROLLED DRAINAGE AREA PLAN, prepared by Stafford Adamson, 12 June 2018, Drawing Number: G7-116-150-04, Revision C.</li> <li>• DEVELOPMENT COMPLEX STORMWATER DRAINAGE PLAN, prepared by Stafford Adamson, 12 June 2018, Drawing Number: G7-116-150-B1, Revision C.</li> </ul>	At all times.

## **Attachment 2—Reasons for decision to impose conditions**

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The reasons for this decision is:

- To ensure the development is carried out generally in accordance with the plans of development submitted with the application.

**Department of State Development, Manufacturing, Infrastructure and Planning**

**Statement of reasons for application 1805-5391 SRA**

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

Departmental role: Referral agency

**Applicant details**

Applicant name: Broad Water Downs Pty Ltd  
Applicant contact details: PO Box 8127  
Toowoomba QLD 4350  
rod.davis@staffadam.com.au

**Location details**

Street address: 2072 Millmerran Leyburn Road, Tummaville QLD 4357  
Real property description: Lots 312 & 356 on ML1095  
Local government area: Toowoomba Regional Council

**Development details**

Development permit Material change of use for a request a change approval – material change of use intensive animal industry (cattle feedlot). Proposed change to approved layout and location of controlled drainage area and associated infrastructure including outdoor production pens, drainage system, sedimentation basin and holding pond. Proposed new infrastructure including cattle handling facility, weighbridge and internal roads. No changes to approved number of standard cattle units.

**Assessment matters**

Aspect of development requiring code assessment	Applicable codes
1. Material change of use	State Development Assessment Provisions (SDAP) – state code 1 & 22.

**Reasons for the department's decision is to ensure:**

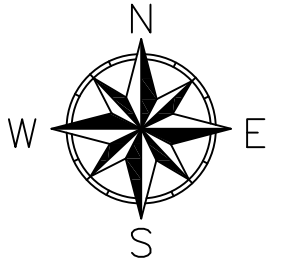
- The development is carried out generally in accordance with the plans of development submitted with the application.

**Decision:**

- Proposed material change of use is for change of approval for intensive animal industry (cattle feedlot).
- Decision issued 20 June 2018.

**Relevant Material:**

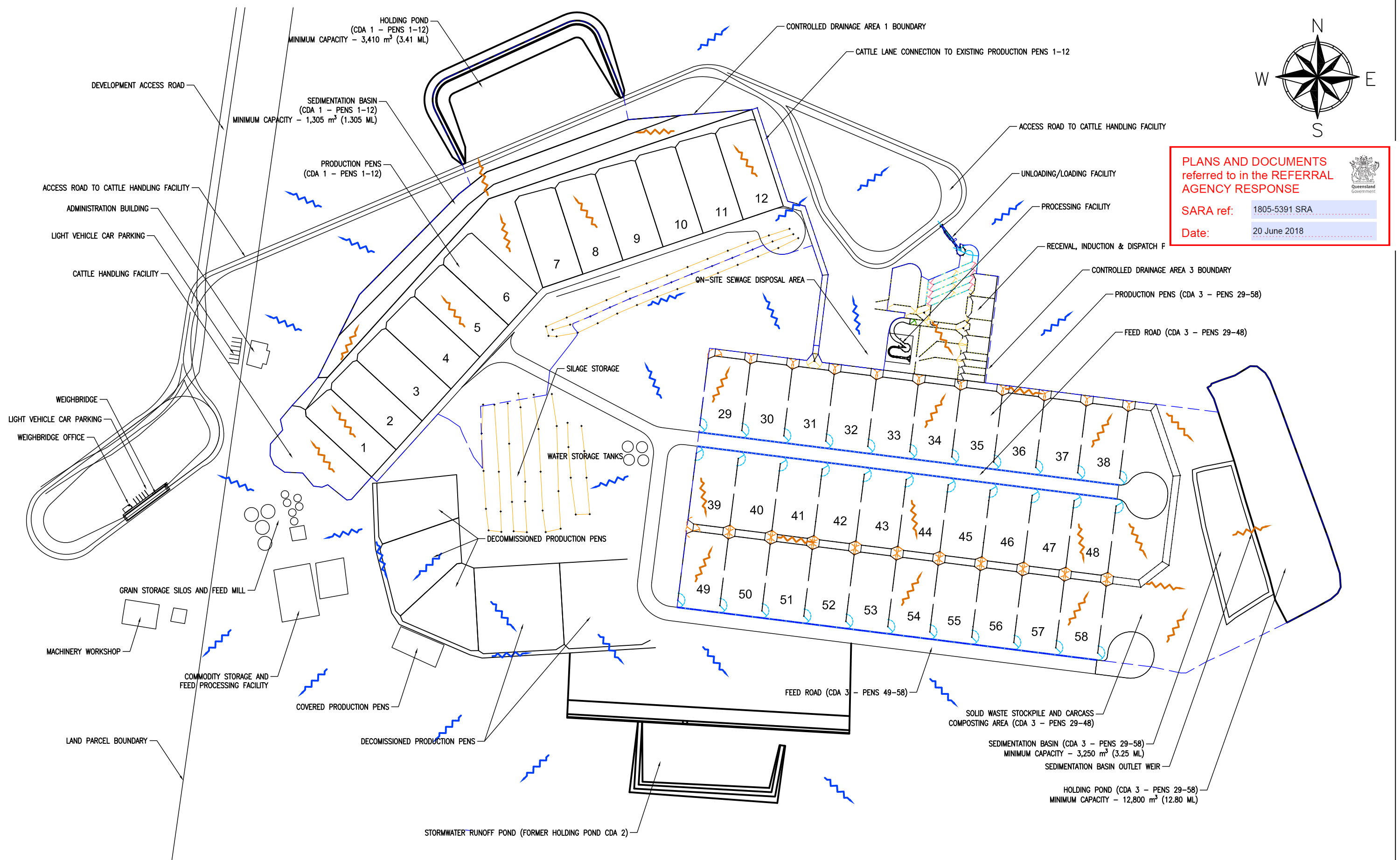
- Development application.
- SDAP published by Department of State Development, Manufacturing, Infrastructure and Planning.
- Technical agency response.
- Planning Regulation 2017.
- Development Assessment Rules 2017.
- *Planning Act 2016*.



**PLANS AND DOCUMENTS**  
referred to in the REFERRAL  
AGENCY RESPONSE

SARA ref: 1805-5391 SRA

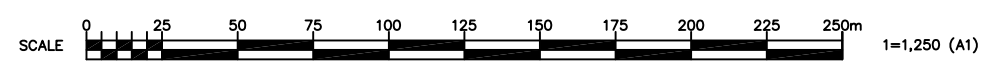
Date: 20 June 2018



**LEGEND**

'CLEAN' STORMWATER FLOW DIRECTION

'DIRTY' STORMWATER FLOW DIRECTION



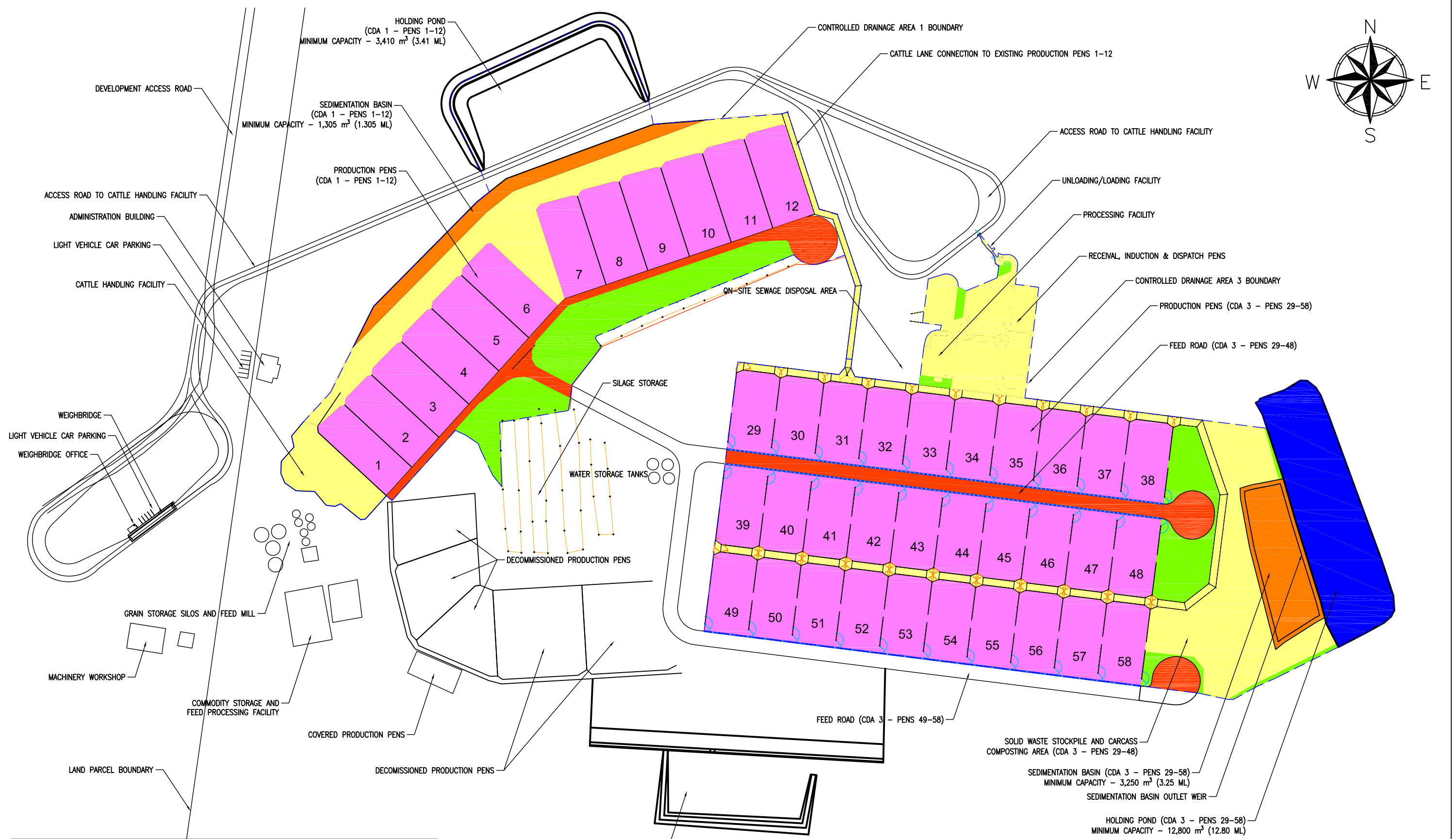
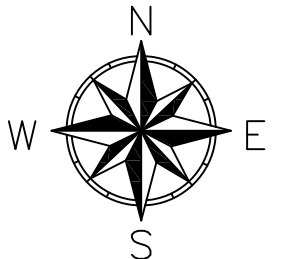
RJD	12/6/18	VOLUME OF SEDIMENTATION BASIN/HOLDING POND ADDED	C
RJD	27/4/18	FOR SUBMISSION WITH APPLICATION TO TRC	B
RJD	12/3/18	ISSUE TO CLIENT	A
APPD.	DATE	DETAILS	ISS.
	12/06/18	APPROVED: RJD	
	DRAWN: RJD	CHECKED: RJD	
	SCALES: 1:1,250 (A1) 1:2,500 (A3)		

**STAFFORD ADAMSON**  
PROJECT MANAGERS & CONSULTING ENGINEERS

PO BOX 7120  
TOOWOOMBA SOUTH QLD 4350

Phone: (07) 4639 6600  
Email: staffadam@staffadam.com.au

PROJECT: MACQUARIE DOWNS FEEDLOT CSWMP	
TITLE: DEVELOPMENT COMPLEX STORMWATER DRAINAGE PLAN	
DRAWING No. G7-116-150-B1	REVISION C



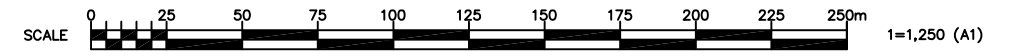
CATCHMENT AREAS		
IDENTIFIER	CATCHMENT	DESCRIPTION
	PEN	PRODUCTION PENS/HOSPITAL PENS/HOLDING PENS
	HARD	ROADS
	HARD	CATTLE LANES/CATCH DRAIN/CATTLE HANDLING FACILITIES/SOLID WASTE STOCKPILE AND CARCASS COMPOSTING AREA
	HARD	SEDIMENTATION BASIN
	SOFT	GRASSED AREAS
	POND	HOLDING POND

STORMWATER RUNOFF POND (FORMER HOLDING POND CDA 2)

**PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE**

SARA ref: 1805-5391 SRA

Date: 20 June 2018



RJD	12/6/18	VOLUME OF SEDIMENTATION BASIN/HOLDING POND ADDED	C
RJD	27/4/18	FOR SUBMISSION WITH APPLICATION TO TRC	B
RJD	12/3/18	ISSUE TO CLIENT	A
APPD.	DATE	DETAILS	ISS.
	DATE: 27/04/18	APPROVED: RJD	
	DRAWN: RJD	CHECKED: RJD	
	SCALES: 1:1,250 (A1) 1:2,500 (A3)		

**STAFFORD ADAMSON**  
PROJECT MANAGERS & CONSULTING ENGINEERS

PO BOX 7120  
TOOWOOMBA SOUTH QLD 4350

Phone: (07) 4639 6600  
Email: staffadam@staffadam.com.au

PROJECT: MACQUARIE DOWNS FEEDLOT CSWMP	
TITLE: DEVELOPMENT COMPLEX CONTROLLED DRAINAGE AREA PLAN	
DRAWING No. G7-116-150-04	REVISION C

**List of Submitters:-**

Brenton Hall  
"Jasper"  
1130 Leslie Bridge Road  
Pittsworth QLD 4356

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

### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
  - (a) matters that may be appealed to—
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) the person—
    - (i) who may appeal a matter (the appellant); and
    - (ii) who is a respondent in an appeal of the matter; and
    - (iii) who is a co-respondent in an appeal of the matter; and
    - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The appeal period is—
  - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
  - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
  - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
  - (f) for 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, table 1, item 1—each principal submitter for the development application; and
  - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
  - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); 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 by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

### 231 Other appeals

- (1) Subject to this chapter, 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 a 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.