



Item

21 December 2021

Item Number:

File Number:

Part:

K1

PLANNING

Portfolio:

Planning & Development Services

Subject:

Request for Elliott Heads Local Area Plan

Report Author:

Michael Ellery, Group Manager Development

Authorised by:

Stephen Johnston, Chief Executive Officer

Link to Corporate Plan:

Our infrastructure and development - 2.3 Sustainable development - 2.3.1 Develop, implement and administer strategies and plans underpinned by the principles of sustainable development.

Background:

By correspondence dated 13 October 2021, InsiteSJC made a request on behalf of South Beach Elliott Heads Pty Ltd (the developer of South Beach Estate) that Council prepare a Planning Scheme Policy for land included in the Emerging Community zone at Elliott Heads. This request is included at Attachment 3.

Following approval of Stage 1 of the South Beach development (formerly Elliott Heads Estate) in July 2020 (ref 521.2019.129.1) the developer has arrived at a view that the current approvals, including the underlying preliminary approval (ref 322.2007.51238.1) and supporting infrastructure agreement (IA) approved/executed in August 2013, impose obligations on the developer that make the development cost prohibitive. The developer has made representations to Council in this regard.

It is clear the current approvals and IA require a significant investment in infrastructure, including in the early stages of development, with any return on investment unlikely to be fully realised until later in the development.

This is unsurprising given the significant scale of the development and its location – the small coastal township of Elliott Heads currently lacks the necessary infrastructure to support new development, particularly a development of this scale.

Table 1 compares the size and scale of the South Beach development with the existing township.

Table 1 – Comparison of scale of Elliott Heads township versus South Beach development

	Elliott Heads (existing township)	South Beach development (excl existing township)
Area	104 ha	234 ha
Number of Residential Lots/ Dwellings	580	3073
Population	895	7317

The current preliminary approval and IA are effectively a package. The IA protects Council and the community from the costs associated with servicing a large-scale, out-of-sequence development at Elliott Heads. It is considered that any significant changes to the IA and/or current approvals to address development feasibility would undermine these current protections and remove some of the benefits the development would deliver to the broader Elliott Heads township (as pointed to in Council's reasons for approving the preliminary approval).

Based on the advice of InsiteSJC, if the development of the Emerging Communities zoned land at Elliott Heads remains reliant on the current approvals and IA, then the South Beach development is unlikely to proceed and the land will likely continue to be farmed for sugar cane and/or other crops.

It is noted that the whole of the South Beach development is located outside of the Priority Infrastructure Area (PIA), meaning that the subject land is not prioritised for urban development before 2031. Indeed, the planning scheme projections (and plans for trunk infrastructure) indicate that most of the subject land is not planned/expected to be developed until 2036-2041 at the earliest.

Given the current real estate market and development activity along the coast (including new residential subdivision at the northern end of Elliott Heads), there appears to be some grounds to facilitate further development in the area consistent with, but earlier than anticipated by, the planning scheme.

A 'fresh start' would allow Council, the developer and the Elliott Heads community to set more realistic expectations about the extent and nature of the development to be carried out (including staging/sequencing of development), and how this new development will integrate with the existing township. This would also provide a better understanding of the costs for all parties, with a more balanced setting of infrastructure provisions.

To support this the developer proposes the following approach –

1. Council make a Planning Scheme Policy for Elliott Heads, based on the indicative/preliminary masterplan and 'Planning Scheme Policy for the Elliott Heads Masterplan Area' prepared by InsiteSJC on behalf of South Beach Elliott Heads Estate Pty Ltd (refer Attachment 2). The making of the PSP (and any subsequent amendment to the planning scheme) is intended to provide the basis for approval of future stages of the South Beach development.

2. Subject to assessment (including appropriate consideration of infrastructure servicing requirements) Council consider support for:
- (a) Stage 1a of the South Beach development for approx 33 lots in the vicinity of the Moore Street, Welch Street and Dorflers Road, generally as per the development application recently submitted with Council (ref 521.2021.253.1). This application is proposed to be assessed against the current Planning Scheme, not subject to the current preliminary approval/variation approval and infrastructure agreement discussed above (and summarised at Attachment 1).
 - (b) Further stages of the development for up to a total of approx 133 lots (including Stage 1a), but potentially up to approx 170 lots, in the vicinity of the Moore Street, Welch Street and Dorflers Road, generally as per the concept plan submitted with the recent development application discussed at (a) above.

In addressing this request, specifically Item 1 above (re further local area planning for Elliott Heads), the following options and alternative approaches are included for Council's consideration.

(i) Council undertake local area planning for Elliott Heads

While the developer has provided a preliminary/indicative 'masterplan' as the basis of a new planning scheme policy and/or planning scheme amendment, concerns are raised that this masterplan lacks the rigour of a typical local area planning exercise and does not address key issues, eg –

- (a) the planning does not appear to resolve current issues associated with the timing, delivery and cost of infrastructure, and development sequencing, currently impacting development feasibility;
- (b) no supporting information has been provided to understand how/where and more importantly, why the masterplan differs from the preliminary approval (including how the changes address issues at (a) above);
- (c) no supporting information has been provided to demonstrate how the masterplan complies with and achieves the outcomes sought under the Planning Scheme (particularly the Strategic Framework, Emerging Community Zone Code and Central Coastal Urban Growth Area Local Plan Code), and/or explain and justify any departure/non-compliance where appropriate;
- (d) there has been limited or no engagement with asset owners and other stakeholders, including the Elliott Heads community.

By undertaking this planning itself, Council could ensure that these issues can be addressed and deliver the planning outcomes it believes are most appropriate. However, for reasons explained below it is considered that such work could not reasonably commence before the 2023/24 financial year.

(ii) Council defer further local area planning for Elliott Heads

Council could defer more detailed planning for Elliott Heads as part of a future planning scheme amendment or preparation of a new Planning Scheme. This would be on the basis that Emerging community land at Elliott Heads is mostly sequenced for development beyond the life of the current Planning Scheme (ie beyond 2036). This approach would acknowledge that further urban

development at Elliott Heads requires significant investment in infrastructure and that it would be more sustainable for Council to focus development in areas with existing infrastructure or where costs of providing necessary trunk infrastructure were lower.

(iii) Developer responsible for further planning

The current planning scheme (including the existing Central Coastal Urban Growth Area Local Plan and LGIP) provide sufficient guidance for the developer to undertake further planning as part of any current/future development applications. Under this approach, the developer would be responsible for further detailed land use and infrastructure planning for the area, demonstrating consistency with the Planning Scheme and the LGIP, or justifying any alternative/different outcomes where appropriate.

This detailed planning would ideally be formalised through a new development application for preliminary approval, including a variation request, for all or part of the site, and would be similar to the approach taken for Headlands where most land is held by the one owner (most land in the Emerging community zone at Elliott Heads is owned by J Manera).

In assessing the above options, the officers recommend option 1 for the following reasons:

- Council, as the planning authority for Elliott Heads, is best placed to engage with all relevant stakeholders and ensure a more wholistic, balanced outcome;
- The current increase in economic activity warrants earlier planning for this area than envisaged at the time the planning scheme and LGIP were drafted;
- Once completed, Council can give the local area planning statutory force through a local planning instrument under the *Planning Act 2016*. Which instrument to use and the timing of implementation can also be determined by Council at the appropriate time.

Noting the above reasons in support of Council undertaking this planning work, it is noted that the current strategic planning program is already substantially committed for the immediate future. Similarly, the infrastructure planners within Water Services and Engineering Services are heavily engaged in a number of resource intensive projects. Noting this, it is considered that the earliest time that a genuine commencement of the project could be made is the 2023/24 financial year.

Associated Person/Organization:

Not Applicable

Consultation:

Council was consulted about this matter on 6 December 2021.

Chief Legal Officer's Comments:

There are no legal issues associated with undertaking the local area planning. Should Council seek to amend its planning scheme to incorporate any outcomes, then the process mandated under the Minister's Guidelines and Rules will need to be followed.

Policy Implications:

Local area planning may result in amendments to Council's Planning Scheme or other local planning instruments. Any such amendments would need to be consistent with the State Planning Policy unless otherwise approved by the Planning Minister.

Financial and Resource Implications:

It is envisaged that the land use planning components, community consultation and preparation of any statutory documents can be undertaken using existing resources within the Development Group. Further engagement of consultants may be required in relation to infrastructure matters, any such requirement would form part of future budget submissions to Council for consideration.

Risk Management Implications:

There appears to be no risk management implications.

Human Rights:

There appears to be no human rights implications.

Indigenous Land Use Agreement (ILUA) Implications:

There appears to be no ILUA implications.

Attachments:

- ↓1 Currently Preliminary Approval
- ↓2 Infrastructure Agreement
- ↓3 Request from InsiteSJC

Recommendation:

That InsiteSJC be advised that Council agrees to undertake local area planning for Elliott Heads, commencing in the 2023/2024 financial year.



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22 August 2013

Elliott Heads Estate Pty Ltd
c/- Randall Barrington Town Planning P/L
PO Box 8054
BARGARA QLD 4670

Attn: Randall Barrington

**Development Application Decision Notice
(Part Approval/Part Refusal)**

Integrated Planning Act 1997 Section 3.5.15

Dear Mr Barrington

RE: – Development Applications:

- 322.2007.51238.1 Preliminary Approval for Material Change of Use for a Master Planned Community (including, low, medium and high density urban residential development, commercial development, and community land uses) including a component overriding the Planning Scheme under section 3.1.6 of the *Integrated Planning Act 1997*;
- 322.2007.51019.1 (Development Permit for Material Change of Use for Public Utility Undertaking – Sewerage Treatment Plant); and
- 322.2007.51020.1 (Development Permit for Material Change of Use for Public Utility Undertaking – Water Treatment Plant)

over land situated at Atkinsons Road, Shine Street, Welch Street, Saunders Street, Rule Street, Moore Street, Elliott Heads Road, Raines Road, Breusch Road, Dorflers Road, Harts Road, ELLIOTT HEADS; described as Lots:

Lot: 77 CK: 495	Lot: 91 CK: 495	Lot: 17 RP: 7354	Lot: 6 RP: 89911
Lot: 78 CK: 495	Lot: 97 CK: 495	Lot: 18 RP: 7354	Lot: 7 RP: 89911
Lot: 79 CK: 495	Lot: 135 CK: 767	Lot: 2 RP: 7355	Lot: 25 RP: 89911
Lot: 80 CK: 495	Lot: 89 CK: 1443	Lot: 2 RP: 49524	Lot: 1 RP: 113567
Lot: 81 CK: 495	Lot: 90 CK: 1443	Lot: 1 RP: 50368	Lot: 1 RP: 152664
Lot: 82 CK: 495	Lot: 26 EH: 1875	Lot: 2 RP: 50368	Lot: 5 RP: 806935
Lot: 85 CK: 495	Lot: 8 RP: 7353	Lot: 1 RP: 50372	Lot: 88 CK: 495
Lot: 86 CK: 495	Lot: 9 RP: 7353	Lot: 2 RP: 50372	Lot: 16 RP: 7353
Lot: 87 CK: 495	Lot: 10 RP: 7353	Lot: 1 RP: 53148	Lot: 10 SP: 220665
Lot: 1 RP: 74477	Lot: 6 SP: 182631	Lot: 5 SP: 182631	(formerly described as Lot: 3 RP: 214907)

– Burnett Shire Planning Scheme 2006

I refer to the above-described development application/s, received by Council on 13 June 2007 and 29 June 2007. These applications have been assessed by Council and determined under delegation at the Planning Committee Meeting held on the 19 August 2013.

1. Details of Approval

- Preliminary Approval for Material Change of Use for a Master Planned Community (including, low, medium and high density urban residential development, commercial development, and community land uses), generally in accordance with Approved Plans No. MP-05(G) and MP-06(B), including a component overriding the Planning Scheme under section 3.1.6 of the *Integrated Planning Act 1997*, representing an approval of Development Application No. 322.2007.51238.1 subject to conditions.

2. Details of Refusal/s

- Development Permit for Material Change of Use for Public Utility Undertaking – Sewerage Treatment, depicted on Drawing No.7214/28/001 (Sewerage Treatment Plant) representing Development Application No. 322.2007.51019.1 is REFUSED.
- Development Permit for Material Change of Use for Public Utility Undertaking Water Treatment, depicted on Drawing No.7214/28/003 (Water Treatment Plant) and representing Development Application No. 322.2007.51020.1 is REFUSED.

Grounds of refusal –

- 1) The development proposal in Development Application No. 322.2007.51019.1 provides for infrastructure servicing (sewerage treatment) which does not accord with Council's regional sewerage network strategy and the Elliott Heads Estate Infrastructure Agreement;
- 2) The development in Development Application No. 322.2007.51021.1 provides for infrastructure servicing (water treatment) which does not accord with Council's planned and programmed water reticulation strategy and the Elliott Heads Estate Infrastructure Agreement.

3. Referral Agencies

3.1 Development Application No. 322.2007.51238.1:

Concurrence Agencies:

- Environmental Protection Agency (now Department of Environment and Heritage Protection) – Contaminated Land;
- Department of Natural Resources and Water (now Department of Natural Resources and Mines) – Vegetation Management;

Our Reference: 322.2007.51238.1; 322.2007.51019.1; 322.2007.51020.1
Your Reference: BSC104
Contact Person: Mr Richard Jenner

- Queensland Transport (now Department of Transport and Main Roads) – Public Passenger Transport and Railways.

Advice Agencies:

- Department of Natural Resources and Water (now Department of Natural Resources and Mines) – Acid Sulfate Soils;
- Department of Primary Industries and Fisheries (now Department of Agriculture, Fisheries and Forestry) – Fish Habitat Area;
- Department of Local Government Sport and Recreation (now Department of State Development, Infrastructure and Planning) – Preliminary Approval (section 3.1.6 of the *Integrated Planning Act 1997*); and
- Environmental Protection Agency (now Department of Environment and Heritage Protection) – Marine Park and Wetland.

Third Party Advice:

- Department of Housing;
- Department of Communities (now Department of Communities, Child Safety and Disability Services);
- Department of Emergency Services (now Department of Community Safety);
- Queensland Police Service;
- Queensland Health;
- Queensland Education (now Department of Education, Training and Employment);
- Department of Natural Resources and Water (now Department of Natural Resources and Mines) – Service Provision (Water);
- Telstra;
- Power Link (Electricity); and
- Ergon (Electricity).

3.2 Development Application No. 322.2007.51019.1:

Concurrence Agency:

- Environmental Protection Agency (now Department of Environment and Heritage Protection) – Environmentally Relevant Activity (ERA 15(e));
- Environmental Protection Agency (now Department of Environment and Heritage Protection) – Contaminated Land; and
- Department of Main Roads (now Department of Transport and Main Roads).

Third Party Advice:

- o Department of Natural Resources and Water (now Department of Natural Resources and Mines) – Agricultural Land Matters (GQAL).

3.3 Development Application No. 322.2007.51020.1:

Concurrence Agency:

- o Environmental Protection Agency (now Department of Environment and Heritage Protection) – Environmentally Relevant Activity (ERA 16); and
- o Environmental Protection Agency (now Department of Environment and Heritage Protection) – Contaminated Land;

Third Party Advice:

- o Department of Natural Resources and Water (now Department of Natural Resources and Mines) – Agricultural Land Matters (GQAL); and
- o Department of Main Roads (now Department of Transport and Main Roads).

4. Approved Plans

4.1 The following documents as amended in accordance with this Preliminary Approval are the Approved Plans:

Plan/Document Number	Plan/Document Name	Prepared By	Date
MP-05(G) as amended in red to include Stage 18 in the Community Zone	Elliott Heads Estate Zoning Plan	ML Design	22 October 2008
MP-06(B) as amended in red to include Stage 18 in the Community Zone	Elliott Heads Estate Zoning Plan - Staging	ML Design	22 October 2008

4.2 Plans MP-05(G) and MP-06(B) are to be amended to provide for the land in Stage 18 identified on Plan MP-06(B) to be included in the Community Zone.

5. Assessment Manager's Conditions and Advices

Assessment Manager's Conditions: As per attached Schedule 1.

Assessment Manager's Advices: As per attached Schedule 2.

6. Referral Agency's Response

- 6.1 Development Application No. 322.2007.51238.1 seeking Preliminary Approval overriding the Planning Scheme under section 3.1.6 of the *Integrated Planning Act 1997* for a Master Planned Residential Community. Responses were provided by the following Agencies:

Concurrence Agencies:

- o Environmental Protection Agency (now Department of Environment and Heritage Protection) – Contaminated Land - response received on 9 December 2008;
- o Department of Natural Resources and Water (now Department of Natural Resources and Mines) – Vegetation Management - response received on 24 December 2008;
- o Department of Main Roads (now Department of Transport and Main Roads) response received on 5 April 2012; and
- o Queensland Transport (now Department of Transport and Main Roads) – Public Passenger Transport and Railways - response received on 10 October 2007.

Advice Agencies:

- o Department of Natural Resources and Water (now Department of Natural Resources and Mines) – Acid Sulfate Soils - response received on 24 December 2008;
- o Department of Primary Industries and Fisheries (now Department of Agriculture, Fisheries and Forestry) – Fish Habitat Area - response received on 27 November 2008;
- o Department of Local Government Sport and Recreation (now Department of State Development, Infrastructure and Planning) – Preliminary Approval (section 3.1.6 of the *Integrated Planning Act 1997*) - response received on 11 September 2007; and
- o Environmental Protection Agency (now Department of Environment and Heritage Protection) – Marine Park and Wetland - response received on 28 September 2007.

Third Party Advice:

- o Department of Emergency Services (now Department of Community Safety) - response received on 6 August 2007;
- o Queensland Police Service - response received on 8 August 2007;
- o Queensland Health - response received on 13 August 2007;
- o Queensland Education (now Department of Education, Training and Employment) - response received on 6 September 2007;
- o Department of Natural Resources and Water (now Department of Natural Resources and Mines) – Service Provision (Water) - response received on 24 December 2008 ; and

- o Power Link (Electricity) - response received on 26 July 2007.

6.2 Development Application No. 322.2007.51019.1 seeking approval for a Material Change of Use for Public Utility Undertaking – Sewerage Treatment Plant. Responses were provided by the following Agencies:

Concurrence Agency:

- o Environmental Protection Agency (now Department of Environment and Heritage Protection) – Environmentally Relevant Activity (ERA 15(e)). Permit issued by decision dated 14 April 2008;
- o Environmental Protection Agency (now Department of Environment and Heritage Protection) – Contaminated Land - response received on 27 February 2008; and
- o Department of Main Roads (now Department of Transport and Main Roads) - response received on 25 January 2008.

Third Party Advice:

- o Department of Natural Resources and Water (now Department of Natural Resources and Mines) – Agricultural Land Matters (GQAL) - response received on 20 July 2007.

6.3 Development Application No. 322.2007.51020.1 seeking an approval for a Material Change of Use for Public Utility Undertaking – Water Treatment Plant. Responses were provided by the following Agencies:

Concurrence Agency:

- o Environmental Protection Agency (now Department of Environment and Heritage Protection) – Environmentally Relevant Activity (ERA 16) - response received on 6 September 2007; and
- o Environmental Protection Agency (now Department of Environment and Heritage Protection) – Contaminated Land - response received on 27 February 2008.

Third Party Advice:

- o Department of Natural Resources and Water (now Department of Natural Resources and Mines) – Agricultural Land Matters (GQAL) – 20 July 2007; and
- o Department of Main Roads (now Department of Transport and Main Roads) - response received 19 July 2007.

7. Conflicts with Laws and Policies and Reasons for the Decision Despite the Conflict

The Assessment Manager considers this decision conflicts with the following Planning Provisions:-

The decision (approval component) conflicts with the following codes, planning instrument, local planning instrument, State Planning Policy or Priority Infrastructure Plan.	Reason for the decision, including a statement about the sufficient grounds to justify the decision despite the conflict.
<p>Wide Bay Burnett Regional Plan 2031; Burnett Shire Planning Scheme 2006; State Planning Policy 1/92.</p>	<p>(a) <i>The eastern part of the development site has been located in the Urban Areas designation of the Wide Bay Burnett Regional Plan 2031;</i></p> <p>(b) <i>the proposed development site is well positioned adjoining the existing urban township of Elliott Heads;</i></p> <p>(c) <i>appropriate standards of infrastructure (including reticulated water and sewerage supply) can be conditioned to be provided to service the development;</i></p> <p>(d) <i>provision of a higher standard of urban infrastructure to this locality in association with the development is likely to provide future opportunities for existing resident/landowners to more readily access new urban infrastructure;</i></p> <p>(e) <i>the proposed development provides for residential and commercial development not currently provided for in the locality and is considered to provide an economic benefit to the community;</i></p> <p>(f) <i>noting the date the original application was submitted to (the former Burnett Shire) Council (2007) and noting the advanced status of preparation of the Council's new Bundaberg Regional Council Planning Scheme, it is considered that the current Planning Policy designations of the land have</i></p>

	<i>been taken over by events, and do not represent Council's current thinking on the preferred dominant land use for this area.</i>
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8. Preliminary approval affecting the planning scheme (section 3.5.15(g) of IPA)

A Preliminary Approval to which section 3.1.6 of the *Integrated Planning Act 1997* applies is given and the assessment manager has approved a variation to the local planning instrument, being the Burnett Shire Planning Scheme 2006.

The Preliminary Approval varies the effect of the Burnett Shire Planning Scheme 2006 in the following way:

8.1 Development of the land is:

- (a) exempt development, self-assessable development and assessable development as stated in the following assessment tables of the Burnett Shire Planning Scheme 2006 as varied by this Preliminary Approval:
 - (i) Table 3.1 Assessment table—making a material change of use of premises—Business Zone (Coastal Towns Planning Area);
 - (ii) Table 3.2 Assessment table—making a material change of use of premises—Community Zone (Coastal Towns Planning Area);
 - (iii) Table 3.4 Assessment table—making a material change of use of premises – Urban Residential Zone (Coastal Towns Planning Area);
 - (iv) Table 3.5 Assessment table—development other than making a material change of use (Coastal Towns Planning Area);
- (b) for self-assessable development and code assessable development, to be assessed against the Applicable Codes identified in the assessment tables of the Burnett Shire Planning Scheme 2006 stated in paragraph (a) as varied by this Preliminary Approval;
- (c) for impact assessable development, to be assessed against all relevant provisions of the Burnett Shire Planning Scheme 2006 as varied by this Preliminary Approval.

8.2 The planning areas, zones, precincts and overlay areas identified on the Scheme Maps of the Burnett Shire Planning Scheme 2006 are

varied such that the land the subject of this Preliminary Approval is only included in the following:

- (a) the Coastal Towns Planning Area;
- (b) the zones and precincts identified on Approved Plan No. MP-05(G).

To avoid doubt, no overlays apply to the land the subject of this Preliminary Approval.

8.3 The following assessment tables of the Burnett Shire Planning Scheme 2006 are varied as follows:

- (a) Table 3.1 Assessment table—making a material change of use of premises—Business Zone (Coastal Towns Planning Area):
 - (i) replace the row for Higher-density Housing with the following:

<i>Assessment table—making a material change of use of premises—Business Zone (CTPA)</i>								
Col 1	Column 2	Col 3	Column 4					
Type of development	Qualifications	Code	Applicable codes					
Use			Coastal Towns Planning Area	Business Zone	Development Infrastructure & Works	Landscaping	Vehicle Parking and Access	Other
Higher-density Housing	If the maximum building height is not more than 9 metres from natural ground level to the ceiling of the topmost habitable room	Code	✓	✓	✓	✓	✓	Higher-density Housing Code
	Otherwise	Impact						

- (b) Table 3.4 Assessment table—making a material change of use of premises—Urban Residential Zone (Coastal Towns Planning Area):
 - (i) replace the row for Home-based Business with the following:

Assessment table—making a material change of use of premises—Urban Residential Zone (CTPA)

Col 1	Column 2	Col 3	Column 4					
Type of development	Qualifications		Applicable codes					
Use			Coastal Towns Planning Area	Urban Residential Zone	Development Infrastructure & Works	Landscaping	Vehicle Parking and Access	Other
Home-based Business		Self						Home-based Business Code (acceptable solutions only)
	if the Home-based Business Code acceptable solutions is not complied with	Code		✓				Home-based Business Code

(ii) replace the row for Higher-density Housing with the following:

Assessment table—making a material change of use of premises—Urban Residential Zone (CTPA)

Col 1	Column 2	Col 3	Column 4					
Type of development	Qualifications		Applicable codes					
Use			Coastal Towns Planning Area	Urban Residential Zone	Development Infrastructure & Works	Landscaping	Vehicle Parking and Access	Other
Higher-density Housing	<i>If located in the Medium Density Residential Precinct, where</i> Aged Persons Accommodation and the proposed maximum building height is not more than that specified in Table 3.19 of the Burnett	Code	✓	✓	✓	✓	✓	Higher Density Housing Code

Shire Planning Scheme 2006								
Otherwise	Impact							
<i>If located in HDR1 of the High Density Residential Precinct, where</i>								
Multiple Dwelling and the proposed maximum building height from natural ground level is not more than 9 metres to the ceiling of the topmost habitable room	Code	✓	✓	✓	✓	✓		Higher Density Housing Code
Otherwise	Impact							
<i>If located in HDR2 of the High Density Residential Precinct, where</i>								
Resort Hotel and the proposed maximum building height from natural ground level is not more than 6 metres to the ceiling of the topmost habitable room	Code	✓	✓	✓	✓	✓		Higher Density Housing Code
Otherwise	Impact							

(c) Table 3.5 Assessment table—development other than making a material change of use (Coastal Towns Planning Area):

(i) replace the row for Reconfiguring a lot with the following:

<i>Assessment table—development other than making a material change of use of premises—CTPA</i>			
Column 1 Type of development	Column 2 Qualifications (if any)	Column 3 Assessment category	Column 4 Applicable codes
Reconfiguring a lot		Code	Coastal Towns Planning Area Code Development and Infrastructure Works Code Reconfiguring a Lot Code

			Either the— Business Zone Code if in the Business Zone; or Community Zone Code if in the Community Zone; or Urban Residential Zone Code if in the Urban Residential Zone
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8.4 The following assessment criteria of the Burnett Shire Planning Scheme 2006 are varied:

- (a) Schedule 5—Minimum Lot Areas, Frontage and Average Width:
(i) replace all rows under the heading Urban Residential Zone in the Coastal Towns Planning Area with the following:

Zone / Precinct	Minimum Area (m ²)	Minimum Frontage (m)	Minimum Average Width (m)
COASTAL TOWNS PLANNING AREA			
URBAN RESIDENTIAL ZONE			
Mixed Lot Residential Precinct	360	12 (for lots with rear lane access) 15 (for lots without rear lane access)	12
Other	600	20 ⁽¹⁾	18

¹ Recommended reading; DLGP publication "Smart Houses For Small Sites – Guidelines For Designers"

9. Further Development Permits Required

The following development permits are necessary to allow the development to be carried out:-

- Material Change of Use;
- Reconfiguration of a Lot;
- Operational Works;
- Building Works; and
- Plumbing and Drainage Works.

10. Submissions

Development Applications 322.2007.51238.1, 322.2007.51019.1 and 322.2007.51020.1 were advertised in accordance with the requirements of the *Integrated Planning Act 1997* (IPA):

- 10.1 In respect of Development Application 322.2007.51238.1 there were 58 properly made submissions about the application. In accordance with section 3.5.15(2)(j) of the IPA, the name and address of the principal submitter for each properly made submission are as follows:-

Name of Principal Submitter	Address
Robert Terkelsen	44 Kensington Street, Norville QLD 4670
Russell Gollshewsky	12 Esplanade, Elliott Heads QLD 4670
J Lacy & K Taylor	14 Yarabah Crescent, Shailer Park QLD 4128
Jennifer Spence	11 Corolla Street, Elliott Heads QLD 4670
Gwen Capell	2 Lihs Street, Elliott Heads QLD 4670
M Christensen	52 Esplanade, Elliott Heads QLD 4670
Larry Grove	36 Welch Street, Elliott Heads QLD 4670
A Hall	38 Welch Street, Elliott Heads QLD 4670
Ruth Mansfield	36 Welch Street, Elliott Heads QLD 4670
Margaret Law	28 Esplanade, Elliott Heads QLD 4670
Stephan Cheng	2 Esplanade, Elliott Heads QLD 4670
Tracy Hall	4 Ocean View Place, Elliott Head QLD 4670
Christine Wynne	6 Bathurst Street, Elliott Heads QLD 4670
Julie & Graeme Eales	427 Walli Mtn Road, Kenilworth QLD 4574
Lance & Jean Kelly	15 Knudsen Street, Elliott Heads QLD 4670
Marion Rooney	20 Esplanade, Elliott Heads QLD 4670
Peter Head	20 Esplanade, Elliott Heads QLD 4670
Melanie Busato	62 Bathurst Street, Elliott Heads QLD 4670
Adrienne & Ken Forrest	86 Welch Street, Elliott Heads QLD 4670
Wildlife Preservation Society QLD	PO Box 1215, Bundaberg QLD 4670
Marianne Cremin	18 Esplanade, Elliott Heads QLD 4670
Lawrence Cremin	18 Esplanade, Elliott Heads QLD 4670
Leanne Lassig	683 Elliott Head Road, Bundaberg QLD 4670
Burnett Mary Regional Group	PO Box 501, Bundaberg QLD 4670
Ann Jarman	10 Cossart Crescent, Bargara QLD 4670
May Broadway	6 Emperor Drive, Elliott Heads QLD 4670
Wide Bay Burnett Conservation Council	25 Ellena Street, Maryborough QLD 4670
F & J Stevens	8 Emperor Drive, Elliott Heads QLD 4670
Barry & Yvonne Bainbridge	45 Blue Water Drive, Elliott Heads QLD 4670
Bill Murray	13 Bathurst Street, Elliott Heads QLD 4670
Judith Bell	924 Branyan Drive, Branyan QLD 4670
Arlene Delaney	78 Esplanade, Elliott Heads QLD 4670
Alan Gill	5 Hargraves Street, Elliott Heads QLD 4670
Steven McNamee	9 Toppers Drive, Coral Cove QLD 4670
Barry & Samantha Waterworth	10 Corona Court, Elliott Heads QLD 4670
Ray & Coral Spiers	12 Sea Esplanade, Elliott Heads QLD 4670
Karen Shelly	8 Bellbird Court, Buderim QLD 4556
J & S Lembcke	9 Corolla Street, Elliott Heads QLD 4670
Marie Anderson	38 Hunter Street, Bundaberg QLD 4670
Kylie Turrall & Digby Logan	19 Bathurst Street, Elliott Heads QLD 4670
Margaret Phillips	27 Bathurst Street, Elliott Heads QLD 4670

Name of Principal Submitter	Address
Shirley & Gordon O'Neill	12 Karen Street, Cleveland QLD 4163
Anthea Bell	17 Knudsen Street, Elliott Heads QLD 4670
Kay Stevans	138 Esplanade, Elliott Heads QLD 4670
Jane & Chris Sidy	21 Bathurst Street, Elliott Heads QLD 4670
Rita Sinnott	316 Lovers Walk, Bundaberg QLD 4670
Michelle & Brad Andrews	28 Bathurst Street, Elliott Heads QLD 4670
S Andrews	28 Bathurst Street, Elliott Heads QLD 4670
S Norman	29 Bathurst Street, Elliott Heads QLD 4670
Cindy Hyland	70 Bathurst Street, Elliott Heads QLD 4670
D & I Home	2 Sea Esplanade, Elliott Heads QLD 4670
T Whitmoore	169 Innes Park Road, Elliott Heads QLD 4670
D Knott	44 Welch Street, Elliott Heads QLD 4670
L Shepherd	1484 Elliott Heads Road, Elliott Heads QLD 4670
P Shepherd	1484 Elliott Heads Road, Elliott Heads QLD 4670
G Shepherd	1484 Elliott Heads Road, Elliott Heads QLD 4670
John Manera	35 Shine Street, Elliott Heads QLD 4670
T Manera	35 Shine Street, Elliott Heads QLD 4670

- 10.2 In respect of Development Application 322.2007.51019.1 there were 21 properly made submissions about the application. In accordance with section 3.5.15(2)(j) of the IPA, the name and address of the principal submitter for each properly made submission are as follows:-

Name of Principal Submitter	Address
Samantha Taylor	Site No 35, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
Wayne Grimes	Site No 24, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
O Remely	c/- Bundaberg East Post Office, Bundaberg QLD 4670
Nathan Dunning	Site No 18, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
Karen McSween	Site No 65, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
Christopher Birt	Site No 4, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
Warren Maurer	Site No 37, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
Allan Johnston	Site No 26, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
Jamie Chambers	Site No 31, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
Simone Henderson	Site No 7, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
G Larcombe	Site No 30, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
Billy-Joe Tomlinson	Site No 23, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
K Lewins	Site No 14, Farmways Caravan Park, Three Chain

Name of Principal Submitter	Address
Blair Dale	Road, Calavos QLD 467
Ken Shierlaw	Site No 18, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
Maggie McCawn	Site No 6, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
C Long	Site No 29, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
C Killpatrick	Site No 20, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
May & Noel Broadway	Site No 38, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
Christine Wynne	6 Emperor Drive, Elliott Heads QLD 4670
M Rooney & P Head	6 Bathurst Street, Elliott Heads QLD 4670
	20 Esplanade, Elliott Heads QLD 4670

- 10.3 In respect of Development Application 322.2007.51020.1 there were 5 properly made submissions about the application. In accordance with section 3.5.15(2)(j) of the IPA, the name and address of the principal submitter for each properly made submission are as follows:-

Name of Principal Submitter	Address
Marion Rooney & Peter Head	20 Esplanade, Elliott Heads QLD 4670
Russell Gollshewsky	12 Esplanade, Elliott Heads QLD 4670
Laurie & Marianne Cremin	18 Esplanade, Elliott Heads QLD 4670
W Murray	13 Bathurst Street, Elliott Heads QLD 4670
May & Noel Broadway	6 Emperor Drive, Elliott Heads QLD 4670

11. Rights of Appeal

Attached is an extract from the *Integrated Planning Act 1997* which details your appeal rights regarding this decision.

Yours faithfully



Peter Byrne
Chief Executive Officer

Enclosures: Concurrence Agency's Response;
Extract from the *Integrated Planning Act 1997*.

cc. For Information Purposes
Environmental Protection Agency
(now Department of Environment and Heritage Protection)

Administration Officer
Permit and Licence management
Implementation and Support Unit
GRP Box 2454
Brisbane QLD 4001

Department of Main Roads & Department of Transport
(now Department of Transport and Main Roads)
Wide Bay/Burnett Region (Bundaberg)
Locked Bag 486
BUNDABERG QLD 4670

Department of Primary Industries and Fisheries
(now Department of Agriculture, Fisheries and Forestry)
Southern Fisheries Centre
PO Box 5083
SCMC NAMBOUR QLD 4560

Department of Local Government Sport and Recreation *(now Department of State
Development, Infrastructure and Planning)*
Wide Bay Burnett Regional Office
PO box 979
BUNDABERG QLD 4670

Department of Natural Resources and Water *(now Department of Natural
Resources and Mines)*
Administration Officer
Permit and Licence management
Implementation and Support Unit
GRP Box 2454
Brisbane QLD 4001

**Schedule 1
Assessment Manager's Conditions**

**Preliminary Approval for Material Change of Use – Impact
Assessment**

Development Conditions

Approval (General)

1. Development is to be undertaken generally in accordance with Approved Plan MP-05(G) and the following development parameters for the zones and precincts:

Zone and Precincts	Development Parameters
Urban Residential Zone – <i>Mixed Lot Residential Precinct</i>	<p>Comprising predominantly Low Density Residential land uses at an average development density of between 12 - 20 dwellings/hectare.</p> <p><u>Intent:</u> development within this precinct is to provide for low density housing types, primarily in the form of dwelling houses and dual occupancies that promote variety in housing size and choice. In the Mixed Lot Residential Precinct detached housing on freehold lots is predominantly located on lots having land areas between 360m² and 600m².</p>
Urban Residential Zone – <i>Medium Density Residential Precinct</i>	<p>Comprising predominantly Medium Density Residential land uses at an average development density of between 20 - 50 dwellings/hectare.</p> <p><u>Intent:</u> development within this precinct is to provide for a mix of medium density dwelling types that are well located and have convenient access to employment opportunities, community facilities, transport networks and services. The Medium Density Residential Precinct provides for retirement living up to two (2) storeys in height.</p>
Urban Residential Zone – <i>High Density Residential Precinct</i>	<p>Comprising predominantly High Density Residential land uses at an average development density of 50 - 100 dwellings/hectare.</p> <p><u>Intent:</u> development within this precinct is to provide for high density residential uses for permanent residents and visitors in close proximity to Local and Neighbourhood Centres, supported by community uses and a range of retail, commercial and entertainment needs to service the needs of both visitors and surrounding residents. The High Density Residential Precinct provides opportunities for multiple dwellings up to</p>

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Zone and Precincts	Development Parameters
	three (3) storeys in height and resort hotel development up to two (2) storeys in height.
Business Zone	<p>Comprising a variety of business uses and mixed use (residential and commercial) development and including a Mixed Use – Town Centre and Village Centre.</p> <p><u>Intent:</u> development within this precinct is to provide for:</p> <ul style="list-style-type: none"> a) A Local Centre (Town Centre) – providing for a limited range of land uses and activities to meet the local retail, business and community needs of a coastal township; b) A Neighbourhood Centre (Village Centre) – providing for a small range of land uses and activities to support the basic convenience needs of the local neighbourhood; c) Within the Town Centre and the Village Centre, the clustering of leisure-based retailing, convenience shopping, professional offices, entertainment, community uses and residential development of different forms and densities, with a focus on enriching the cultural and social life of the community; d) Within the Town Centre and the Village Centre, higher density forms of contemporary residential development, including mixed use buildings, provides permanent or visitor accommodation with a maximum building height of three (3) storeys.
Community Zone	<p>Comprising land areas for a wide variety of public or community purposes including infrastructure, community purposes, educational purposes, stormwater/drainage management, public open space areas, sport and recreation areas.</p> <p><u>Intent:</u> development within this precinct is to provide for community related activities and facilities whether under public or private ownership, to ensure that residents and visitors have convenient access to a wide range of community activities, facilities, open space, and recreation attractions and experiences that service the social, educational, health, and</p>

Zone and Precincts	Development Parameters
	cultural needs of the community. The Community Zone is to provide opportunity for stormwater quality enhancement through water sensitive urban design and co-location of other infrastructure.

2. Dual occupancy development may occur on urban residential lots not less than 800m² in land area.
3. Any future development for business uses, business activities and/or resort hotel uses must provide convenient cycle parking and end of trip facilities in compliance with QDC section 4.1 and AS 2890.3:1993 – Bicycle Parking Facilities.

When Approval Lapses if Development Started but not Completed

4. In accordance with section 3.5.21A of the *Integrated Planning Act 1997*, this Preliminary Approval to the extent it relates to development not completed will lapse twenty (20) years from the day the first plan of subdivision for the development the subject of this Preliminary Approval is registered.

Development Controls – Future Applications

5. Any future development application, seeking a Development Permit for Material Change of Use or for 'Other Development' (Building Work, Operational Work, and Reconfiguration of a Lot), for development generally in accordance with the Approved Plans (as referenced in the Decision Notice) must demonstrate compliance with the following:
 - the conditions of this Preliminary Approval;
 - the master plan of development required by condition 6 of this Preliminary Approval as approved by Council;
 - the conceptual master plan for landscaping works required by condition 7 of this Preliminary Approval as approved by Council;
 - the management plan for public open space required by condition 9 of this Preliminary Approval as approved by Council;
 - the water supply master plan required by condition 12 of this Preliminary Approval as approved by Council;
 - the sewerage supply master plan required by condition 13 of this Preliminary Approval as approved by Council;
 - the stormwater management plan required by condition 14 of this Preliminary Approval as approved by Council;
 - the road master plan required by condition 20 of this Preliminary Approval as approved by Council; and
 - the cultural heritage management plan required by condition 23 of this Preliminary Approval as approved by Council.

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6. A master plan of development must be submitted to and approved by Council as part of the first development application seeking a development permit for Material Change of Use and/or Reconfiguration of a Lot. The master plan of development must incorporate the following:
 - 6.1. Amendments directed by the Conditions of this Preliminary Approval;
 - 6.2. The zoning of the development land generally in accordance with the Approved Plan No. MP-05(G) as amended;
 - 6.3. An indicative staging plan of subdivision nominating the Stages of development within the zones and precincts which is to provide for development Stages to commence from the southern extent of the development area, adjoining existing urban areas of Elliott Heads township and progress generally in a northern and/or westerly direction generally in accordance with Approved Plan No. MP-06(B) as amended;
 - 6.4. The other plans required by Conditions 7, 9, 12, 13, 14 and 20.

When approved, the master plan will be an approved plan for this approval for the purposes of section 4 of this decision notice.

Landscaping

7. A conceptual master plan for landscaping works for the land must be submitted to and approved by the Council as part of the first development application seeking a development permit for Material Change of Use and/or Reconfiguration of a Lot. The conceptual master plan for landscaping works must be generally in accordance with the Elliott Heads Estate Infrastructure Agreement and the Landscape Strategy in Appendix 1 of the Elliott Heads Structure Plan dated June 2007 prepared by Anembo Consultants (Reference 4533-01-A) noting the requirements of the Conditions of this Preliminary Approval in respect of Stage 18 being included in the Community Zone and the restriction on urban lakes. At a minimum, the conceptual master plan for landscaping works must include the following:
 - 7.1. Proposed street planting within the road network referencing the Streetscapes section on page 73 of the Landscape Strategy in Appendix 1 of the Elliott Heads Structure Plan dated June 2007 prepared by Anembo Consultants (Reference 4533-01-A);
 - 7.2. Proposed estate entry statements and embellishments;
 - 7.3. Proposed signage treatments for development entry points;
 - 7.4. Proposed treatment of Agricultural Buffer areas (as required);
 - 7.5. Proposed treatment of drainage and detention areas.
8. All landscaping works must be undertaken generally in accordance with the conceptual master Plan for landscaping works. Detailed landscaping plan/s must be submitted as part of all subsequent Development Applications for a Development Permit for Material Change of Use and/or Reconfiguration of a Lot for each Stage of development demonstrating how proposed landscaping works comply with the conceptual master plan for landscaping works.

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Public Open Space

9. A management plan for public open space must be submitted to and approved by the Council as part of the first development application seeking a development permit for Material Change of Use and/or Reconfiguration of a Lot. The management plan for public open space must be generally in accordance with the Elliott Heads Estate Infrastructure Agreement and the Landscape Strategy in Appendix 1 of the Elliott Heads Structure Plan dated June 2007 prepared by Anembo Consultants (Reference 4533-01-A) noting the requirements of the Conditions of this Preliminary Approval in respect of Stage 18 being included in the Community Zone and the restriction on urban lakes. At a minimum the management plan for public open space must include the following:
 - 9.1. Dedication of open space areas, drainage areas and designated public open space area/s associated with the development of the land, generally in accordance with the Elliott Heads Estate Infrastructure Agreement;
 - 9.2. Proposed landscaping treatments and embellishments for dedicated open space or community use areas;
 - 9.3. Design detail and location of pedestrian/cycle pathways (minimum 2 metres width) generally in accordance with the Elliott Heads Estate Infrastructure Agreement; and
 - 9.4. Staging of approved embellishment works.
10. Dedication of the balance of public open space areas and provision of landscaping and embellishment works must be completed in accordance with the approved conceptual master plan for landscaping works and approved management plan for public open space, at the time that the Stage in which the open space is located is developed.

Agricultural Buffer

11. For each future development application seeking a development permit for a material change of use or reconfiguring a lot for residential purposes where adjoining land used or zoned for agricultural purposes the developer must provide as part of the application a strategy for the provision of an agricultural buffer that demonstrates compliance with:
 - (a) for a material change of use, SO.134 of the Rural Planning Area Code of the Burnett Shire Planning Scheme 2006 (or an equivalent provision provided for in a subsequent planning instrument); and
 - (b) for reconfiguring a lot, SO.394 of the Reconfiguring a Lot Code of the Burnett Shire Planning Scheme 2006 (or an equivalent provision provided for in a subsequent planning instrument).

Water Infrastructure

12. A water supply master plan for the development must be submitted to and approved by the Council as part of the first development application seeking a development

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permit for Material Change of Use or Reconfiguring a Lot. The water supply master plan must utilise the following terms of reference:

- 12.1. The Developer must at its expense provide for the reticulation of potable water to each and every lot into which the land is proposed to be subdivided or used, by supplying within the land all necessary materials and works including structures and equipment, and performing all necessary works to service those lots; and
- 12.2. The Developer must provide for the external trunk infrastructure to service those lots and/or uses in accordance with the Elliott Heads Estate Infrastructure Agreement.

Sewerage Infrastructure

13. A sewerage supply master plan for the development must be submitted to and approved by the Council as part of the first development application seeking a development permit for Material Change of Use and/or Reconfiguration of a Lot. The sewerage supply master plan submitted to Council for approval must utilise the following terms of reference:
 - 13.1. The Developer must at its expense provide for the reticulation of sewerage to each and every lot into which the land is proposed to be subdivided or used, by supplying within the land all necessary materials and works including structures and equipment, and performing all necessary works to service those lots; and
 - 13.2. The Developer must provide for the external trunk infrastructure to service those lots and/or uses in accordance with the Elliott Heads Estate Infrastructure Agreement.

Stormwater

14. An updated site specific stormwater management plan for the development must be submitted to and approved by the Council as part of the first development application seeking a development permit for Material Change of Use and/or Reconfiguration of a Lot. The stormwater management plan must be prepared by a suitably qualified practicing registered professional engineer of Queensland and must address the following:
 - 14.1. The establishment of Lawful Points of Discharge both internal and external to the development area;
 - 14.2. The plan must also address stormwater quality improvement which could include devices (SQID) and measures to remove pollutants, including sediment, nutrients, metals and trash in accordance with the State Planning Policy for Healthy Waterways (2009) and the former Burnett Shire Council PSP 5: Stormwater Management Planning Scheme Policy;
 - 14.3. The plan must form the basis of the site based stormwater management plans for each Stage of development; and
 - 14.4. Such other issues contained in, but not limited to, this Preliminary Approval.

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15. Stormwater drainage internal to the development site must be designed and constructed to convey the existing upstream flows and in accordance with the requirements of the Queensland Urban Drainage Manual and the Bundaberg Regional Council, being a piped system with a minimum capacity as required in the Development Works Planning Scheme Policy for the Burnett Shire Planning Scheme, with overland flowpaths to be provided for a capacity of Q100 ARI less piped flow.
16. The Developer must not block any drainage paths through or into the development without providing stormwater drainage infrastructure and concordant easements. The easements must be a minimum 3.0 metres wide, or such greater width as is required to contain the Q100 ARI overland stormwater flow, and provided in favour of the Bundaberg Regional Council where the stormwater infrastructure and overland flows traverse the subject land from upstream lots. Such easements must extend from property boundary to property boundary. Easement documentation is to be acceptable to the Bundaberg Regional Council and be prepared at no cost to the Bundaberg Regional Council.
17. Detention storage is required to be provided to cater for increased stormwater runoff as a result of this development other than where stormwater is discharged to the Elliott River from within the development area. Stormwater discharge from the subject land is to be limited to pre-development generated peak levels up to and including Q100 ARI flows via the provision of onsite detention storage. The detention storage must be visually integrated into the surrounding landscape and designed with a high level of visual amenity.
18. The Developer must not provide new urban Lakes or ponds as an option for storage or as a component of water quality treatments. The existing farming water storage dam in Stage 3 on Approved Plan MP-06(B):
 - 18.1. must not be used for retention storage; and
 - 18.2. may continue to be used for farming purposes until it is ultimately removed as part of the development of the land.
19. Lawful points of discharge must be established for development of a Stage with a catchment discharging to the west of Elliott Heads Road before the approval of the first development application seeking a development permit for Material Change of Use and/or Reconfiguration of a Lot for the affected Stage. Lawful points of discharge must be inclusive of the stormwater systems on the following lots:
 - 19.1. Lot 8 in RP 807697 and Lot 2 on RP 194416 (immediately South of the Harts Road and Elliott Heads Road intersection);
 - 19.2. Lot 71 on CK 1358 (immediately North of Harts Road and Elliott Heads Road intersection);
 - 19.3. Lot 140 on CK 817 (immediately north of Lot 71); and
 - 19.4. Such other allotments that might be affected by the development and require a lawful point of discharge.

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Roadworks

20. A road master plan for the development must be submitted to and approved by the Council as part of the first development application seeking a development permit for Material Change of Use and/or Reconfiguration of a Lot. The road master plan submitted for approval by Council must document the revised road network and works to be constructed, their concordant Stages, and must utilise, but not necessarily be limited to, the following terms of reference:
 - 20.1. provision of external road upgrades within the local government area must be in accordance with the Elliott Heads Estate Infrastructure Agreement;
 - 20.2. provision of internal roads to be generally consistent with the Elliott Heads Estate Infrastructure Agreement; and
 - 20.3. provision of indicative intersection designs;
21. Roads must be designed and constructed only to the standards included in the Burnett Shire Planning Scheme – Development Works Planning Scheme Policy.

Telecommunications

22. Telecommunication conduits (ducts) and pits, including trenching and design, must be provided to service the development in accordance with 'Fibre-Ready' standards or the NBN Co Installing Pit and Conduit Infrastructure - Guidelines for Developers provided to the satisfaction of the Manager Sustainable Development.

Cultural Heritage Management Plan

23. The first development application seeking a development permit for Material Change of Use and/or Reconfiguration of a Lot must be accompanied by a detailed cultural heritage management plan prepared in accordance with the requirements of the *Aboriginal Cultural Heritage Act 2003*, and influenced by the commentary of the submitted Archaeological Investigation (prepared by Everick Heritage Consultants Pty Ltd, dated August 2005), detailing strategies to avoid known heritage sites on the subject land, contingency strategies should cultural heritage sites be discovered during operational activities, and a consultation regime with relevant indigenous groups and State Government Agencies, as applicable. All future development applications seeking a development permit over the subject land will be required to demonstrate compliance with the approved cultural heritage management plan.

End of Schedule 1

Schedule 2 Assessment Manager's Advices

General

- (A) This Preliminary Approval is granted pursuant to Section 3.1.6 of the *Integrated Planning Act 1997* and varies the effect of the Burnett Shire Planning Scheme 2006, to the extent provided for in the related Decision Notice attached to this approval and in accordance with approved plans of development. This approval does not authorise assessable development to occur in the absence of an effective development permit.
- (B) Any subsequent development application made over the land to which this Preliminary Approval applies must comply with the terms of the Elliott Heads Estate Infrastructure Agreement 2013.
- (C) The conditions of this Preliminary Approval prevail over any applicable Planning Scheme Code for the development to the extent of any inconsistency.

Stormwater

- (D) Please note that the surface of each Lot must be shaped to drain directly to either a Road or Drainage Reserve, as no inter-allotment drainage will be permitted, unless it can be demonstrated that Lot filling, shaping, retaining walls or other methods are not physically able to be constructed. Should inter-allotment drainage be accepted for use by Council, inter-allotment drainage (with inlet pits in each allotment if underground drainage) of sufficient capacity to convey up to Q100 ARI, flows or lesser ARI as directed by the Manager Sustainable Development, is to be designed and constructed in accordance with the Queensland Urban Drainage Manual to cater for the stormwater from upstream lots. The drainage specifics is to be determined at the Operational Works Stage.

Electrical

- (E) Please note that underground electricity is required to each Lot of any proposed Lot Reconfiguration. Arrangements for electricity supply and overhead street lighting to the development must be made by liaison for installation of the required works and entering into an agreement with the local Energy Provider.
- (F) To control the obtrusive effects of outdoor lighting on nesting sea turtles in this coastal location, all street lighting, park lighting and outdoor lighting will be required to be low pressure sodium vapour lighting fitted with hoods or fully screened and directed away from the foreshore such that no source light is visible from the coastal zone.

End of Schedule 2

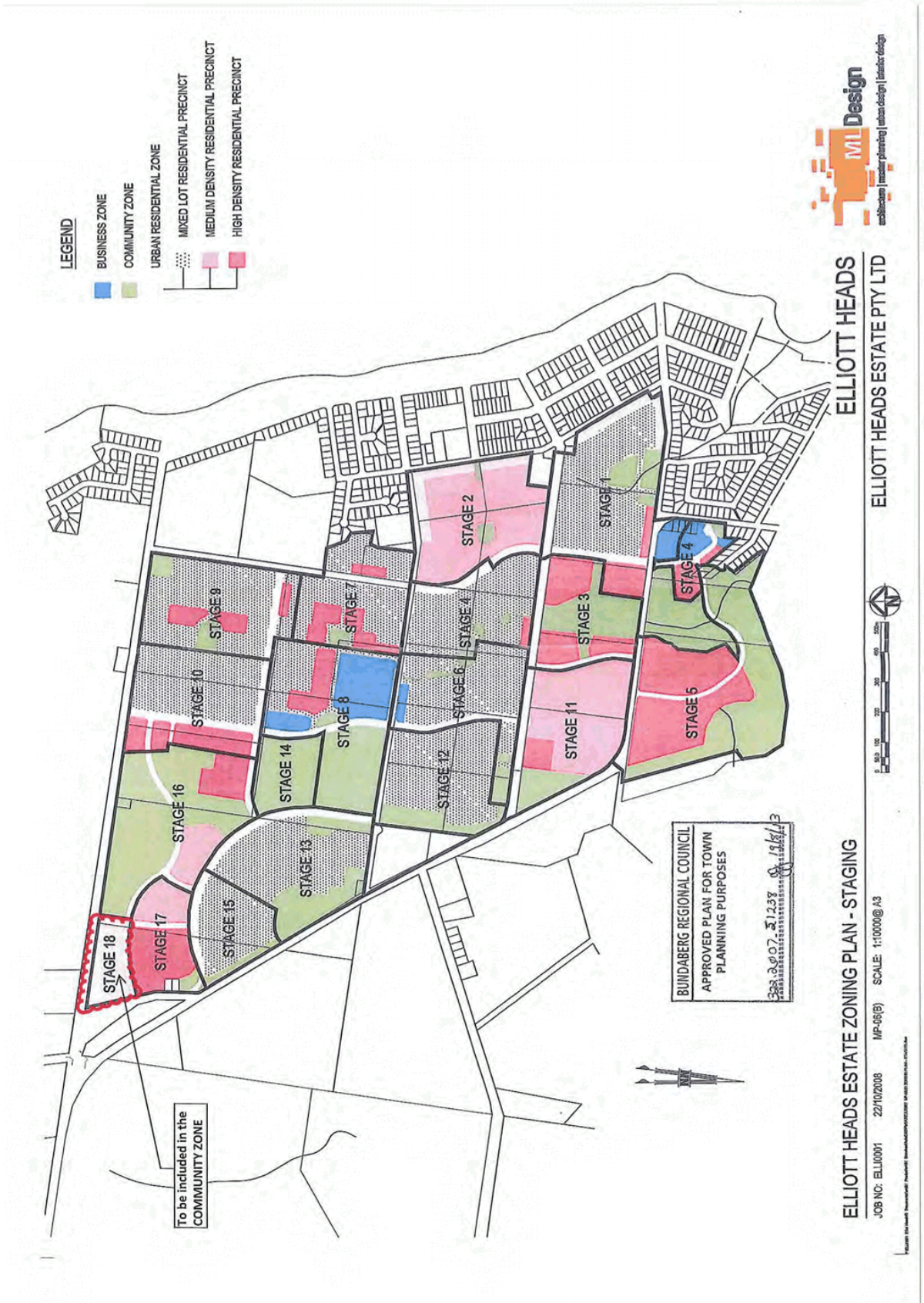
INTEGRATED PLANNING ACT 1997

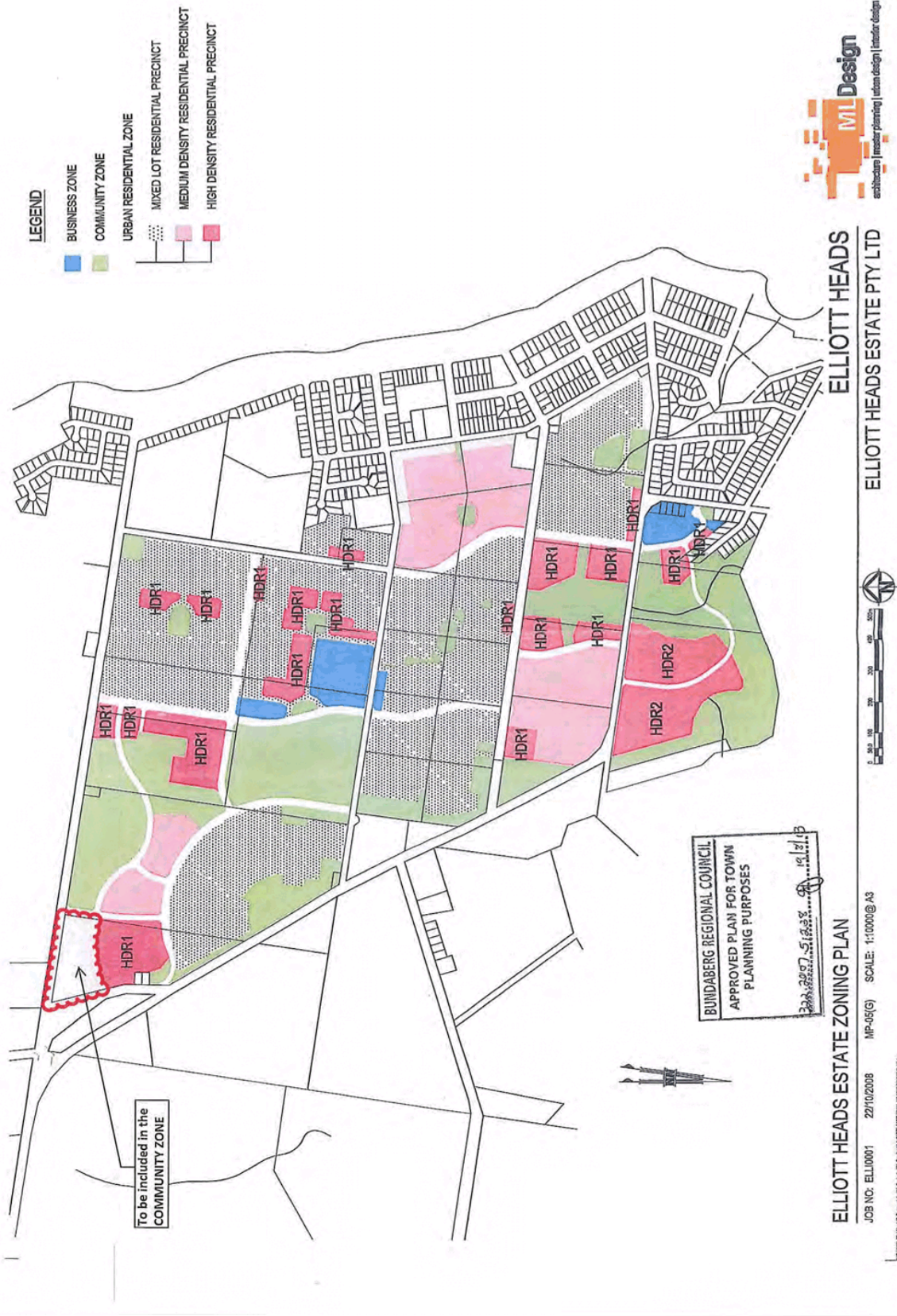
Appeals by Applicants

4.1.27

- (1) An applicant for a development application may appeal to the court against any of the following –
- (a) the refusal, or the refusal in part, of a development application;
 - (b) a matter stated in a development approval, including any condition applying to the development and the identification of a code under section 3.1.6;⁸⁴
 - (c) the decision to give a preliminary approval when a development permit was applied for;
 - (d) the length of a currency period;
 - (e) a deemed refusal.
- (2) An appeal under subsection (1)(a) to (d) must be started within 20 business days (the **applicant's appeal period**) after the day the decision notice or negotiated decision notice is given to the applicant.
- (3) An appeal under subsection (1)(e) may be started at any time after the last day a decision on the matter should have been made.

84 - Section 3.1.6 (Preliminary approval may override local planning instrument)





Our Reference: RAA 54
 Enquiries: Jodie Smith
 Phone: 323 71770
 Address: PO Box 15031, City East Qld 4002
 Email Address: jodie.smith@dlgprs.qld.gov.au



**Queensland
 Government**

Department of
**Local Government, Planning,
 Sport and Recreation**

Statutory Planning – Southern Region

6 September 2007

Mr Wayne Phillips
 Director - Planning and Development
 Burnett Shire Council
 Locked Bag 1
 BARGARA QLD 4670

SHIRE OF BURNETT			
Reply	Reply Due	Scanned:	
Info	<input checked="" type="checkbox"/> Reply by Ph:	/ /	
Amend to Info	Reply by Fax:	/ /	
Amend to Reply	Reply by E-Mail	/ /	
RECEIVED 11 SEP 2007			
FILE: Z-2007123-800	PT: J	REG NO: 07/03307	
FILE:	PT:	REG NO:	
AO: Riley, M		CC:	
COMMENTS:			

Dear Mr Phillips

RE: ADVICE AGENCY REFERRAL ASSESSMENT

I refer to the referral of 23 July 2007, regarding a development application for the following proposal:

Applicant: Elliott Heads Estate Pty Ltd

Proposed Development: Development Application for:
 • Preliminary Approval (s3.1.6) overriding the planning scheme, Material Change of Use

Referral Trigger: (Integrated Planning Act 1997)
 Section 3.1.6 - preliminary approval overriding the planning scheme

Location: Atkinsons, Elliott Heads, Raines, Breusch and Dorflers Roads; and Shine, Welch, Saunders, Rule and Moore Streets, Elliott Heads described as Lots 77-82, 85-88, 91 & 97 on CK495, Lot 135 on CK767, Lots 89-90 on CK1443, Lot 26 on EH1875, Lots 8-10 & 16 on RP7353, Lots 17-18 on RP7354, Lot 2 on RP7355, Lot 2 on RP49524, Lots 1-2 on RP50368, Lots 1-2 on RP50372, Lot 1 on RP53148, Lot 1 on RP74477, Lots 6-7 & 25 on RP89911, Lot 1 on RP113567, Lot 1 on RP152664, Lot 3 on RP214907 and Lot 5 on RP806935

Assessment Manager: Burnett Shire Council

Council Reference No: Z-2007123-800



The application has been examined and, based upon the information supplied, the following advice is provided:

The Proposal

The proposal relates to a Preliminary Approval for a Material Change of Use overriding the planning scheme under section 3.1.6 of the *Integrated Planning Act 1997* (IPA) for a master planned community on 238.39 hectares of land in the Rural Zone.

The proposal comprises town and village centres, commercial services, tourist resort, 3,073 residential dwellings, school, community use, nursing home, public open space, roads and water management areas to accommodate a residential population of 7,317 people and a working population of 2,072 people.

The land is to be developed in 17 stages over a period of 20 years. The applicant is therefore seeking to extend the currency period for any approval to 20 years.

Advice Agency Assessment

Conflicts with Burnett Shire Planning Scheme

The section 3.1.6 preliminary approval provisions of the IPA are not intended to be used to circumvent an inconsistency between proposed development and the planning scheme in an ad hoc and unplanned manner. A preliminary approval overriding the scheme must still demonstrate compliance with the planning scheme.

An assessment manager must not, under s.3.5.14A 2(b) of the IPA, approve development that compromises the achievement of the Desired Environmental Outcomes (DEOs) of the planning scheme area or conflicts with the planning scheme unless there are sufficient grounds to justify the decision despite the conflict.

Desired Environmental Outcomes

The applicant has failed to adequately demonstrate that the proposal complies with the DEOs of the Burnett Shire Planning Scheme. Of particular relevance to the proposal are the DEOs relating to settlement pattern, infrastructure, community well-being, landscape and cultural heritage and economic development as set out in Part 2 – DEOs of the Planning Scheme.

The settlement pattern DEOs of the Burnett Shire Planning Scheme specifically state:

"2.2 (1) Settlement pattern comprising discrete coastal and hinterland towns, proximate to either Bundaberg or the local government area's towns in nominated locations."

"2.2 (2) The remainder of the local government area accommodates large rural lots."

"2.2 (6) A sufficient supply of land suitable for urban development is available in locations that do not place the community at an unacceptable risk from natural hazards and do not prejudice economically or environmentally significant resources."

The proposal is located predominantly in the Rural Zone in the Rural Planning Area outside of the area nominated for urban expansion in conflict with these DEOs.

Other DEOs relate to:

- protecting existing and planned infrastructure from future development such that any land development does not prejudice its safety, efficiency or cost;
- residential subdivision is to occur where community infrastructure is most efficiently provided;
- rural landscape values including farmland and remnant vegetation and coastal zone values are protected;
- in the Rural Planning Area, good quality agricultural land (GQAL) is conserved for agricultural production, unless an overriding community need exists; and
- in Coastal towns, discrete nodes of economic activity provide employment opportunities.

The scale of the proposal will result in Elliott Heads no longer being a small coastal town with discrete economic areas but becoming a significant urban area. The proposal provides for a potential residential population of between 7,000 and 10,000 people (it is noted that the population figures vary within different reports in the applicant's proposal). This is a highly significant increase given the estimated residential population for the whole of the Burnett Shire in 2006 was 27,745 people (PIFU, August 2007). This would significantly alter the balance of zones in the Shire and represents a substantial departure from the current policy intent of the Planning Scheme.

The land proposed to be developed is identified as GQAL. The development of this land for urban purposes will result in a loss of GQAL in contravention of DEO 2.7(2) *"unless there is an overriding community need and no other site is available for the particular purpose."* The applicant does not supply sufficient evidence of overriding community need for the proposal on the site such that conservation of the land is no longer warranted.

The proposal is anticipated to generate an additional demand for 8,070 square metres of retail floor space and 3,840 square metres of commercial floor space (Economic Assessment for the Elliott Heads Development, AEC group, 2007). The provision of commercial floor space of this size is equivalent to a regional centre and directly conflicts with the economic development DEOs 2.7 (2) and 2.7 (3) by providing for development on GQAL land outside the designated Coastal Towns Planning Area. The extent of the departure from the Planning Scheme completely undermines the existing policy direction.

The proposal would threaten the rural landscape values and coastal zone values of the locality by removing substantial areas of rural land and significantly altering the character of the area in contravention of DEO 2.5 (1).

The proposal for a master planned community on the site will compromise the achievement of the DEOs of the Burnett Shire Planning Scheme.

Rural Planning Area and Rural Zone

The site is located in the Rural Zone of the Rural Planning Area of the Burnett Shire Planning Scheme.

The Planning report submitted with the application fails to address the Rural Planning Area Code or Rural Zone Code which apply to the land.

The Overall Outcomes of the Rural Planning Area Code state:

"4.3.3 (2) (a) The rural landscape of farms interspersed with the natural environment is maintained and contributes to the attractiveness of the local government area,..."

This outcome is supported by the Overall Outcomes of the Rural Zone Code which state:

"4.6.3 (2) (a) Productive and potentially productive agricultural land is protected and preserved for sustainable production."

"4.6.3 (2) (b) The rural character of the area is maintained."

"4.6.3 (2) (c) Residential uses are primarily associated with rural production."

"4.6.3 (2) (f) Uses other than those referred to above are located in the Rural zone only where-

- (i) the development provides a significant and direct community benefit; and*
- (ii) no other location is suitable and available having regard to the activity's specific locational requirements, land area requirements or likely off-site impacts."*

The proposal for a master planned community on the site will compromise the Overall Outcomes for both the Rural Planning Area and Rural Zone Codes by establishing non-rural activities on the land resulting in the loss of rural land and significantly altering the rural character of the locality. The applicant has failed to adequately demonstrate that the proposal is needed in the public interest and cannot be provided on existing, suitably zoned land within the Shire.

Conflict with the Wide Bay Burnett Regional Plan 2007-2026

The preferred settlement pattern of the Wide Bay Burnett (WVB) Regional Plan 2007-2026 includes the site within the Preferred Intensive Agriculture designation.

The Regional Plan states:

"Land based agriculture capitalises on the region's natural assets and the resourcefulness of primary producers and processors to serve expanding local, domestic and international markets; with regional employment and economic returns as outcomes. Urban development pressure on agricultural land and rising community expectations regarding management of off-site impacts from all land uses highlight the need for protection of this resource and maintenance of its productive capacity through sustainable land management practices".

Policy principle 1.2.1 is to identify and protect land suitable for agricultural production, outside of areas of biodiversity significance through planning measures.

The regional settlement pattern strategy aims to help balance economic, social, environmental, infrastructure and human services needs and provide a blueprint for the future provision of community services to the time horizon of 2026. In particular, the strategy (Section 3.1):

- identifies developable land to accommodate projected future population growth to 2026;
- develops a regional infrastructure plan to ensure the timely and cost effective provision of infrastructure and community services;
- develops sound urban planning principles that support a compact well serviced and efficient urban form; and
- integrates land use, transport and economic activities.

Development in the region is to be coordinated so that existing infrastructure and services are used efficiently and effectively and new infrastructure and services is planned and supplied in an orderly and efficient manner (Policy 3.3.1).

The Regional Plan also recognises rural areas and the communities they support play an important contribution to the economy and character of the region (Section 5).

The development of a master planned residential estate on the site is contrary to the regional settlement pattern and the orderly provision of infrastructure and services under the Wide Bay Burnett Regional Plan. It also has the potential to erode the landscape, character, community, environmental and economic values of the site as sought to be retained in the WBB Regional Plan.

Insufficient Planning Grounds

Justification for the proposal to override the planning scheme appears to be based upon four key planning grounds:

1. The Planning Scheme does not provide for the potential for population growth in the Shire especially when having an 8 year planning horizon.
2. The land surrounding Elliott Heads is no longer suitable for agricultural production due to poor water supply.
3. The Elliott Heads area is an appropriate location to accommodate predicted population growth.
4. There will be community benefits to Elliott Heads residents as a result of the proposal.
5. Wide Bay Burnett Regional Plan recognises that greenfield master planned communities can offer sustainable benefits to communities where in appropriate locations.

1. Planning Scheme - Population growth predictions

The applicant (KPMG "Burnett Residential Demand Study") claims that population growth in the coastal "sea-change" area of the Burnett coast will be greater than forecast by the Department (upon which the Planning Scheme is based). This will result in a potential shortfall of residential land in the Shire by 2021 of between 3,800 and 5,000 lots based upon various projection models.

Response

The assumptions made in determining these population projections can be refuted and are not those currently accepted by the Department. The population growth predictions used as a basis for planning within the Burnett Shire are soundly based and are supported by the Department. The recently completed broad hectare study for Burnett Shire indicates the Shire has sufficient land to accommodate estimated population growth for the next nine years. On this basis the proposal is at best a premature development given that there is no need for the proposal within this timeframe.

Further, even if the KPMG figures were accepted, there remains no justification to accept that this additional growth should occur on the proposed land without consideration of the Shire wide and regional planning implications of locating a significant urban population on rural land in contravention of the Planning Scheme and Wide Bay Burnett Regional Plan.

The applicant (Section 3.1.3.4, Economic Assessment for the Elliott Heads Development, AEC group, 2007) suggests a further driver of population growth in Burnett Shire may be 'water refugees' seeking to escape water restrictions in SEQ. This argument is simplistic in its application and, among other things, fails to recognise the temporary and geographically shifting nature of climatic conditions.

The proposal represents an ad hoc and premature development which if approved would substantially alter the balance of zones and create inefficiencies in the provision of physical and social infrastructure for the entire Shire and the Region.

2. Unsuitable for Agricultural use

The loss of GQAL is justified by the applicant based on the lack of sufficient quantity and suitable quality of water to the land such that agriculture in this area is no longer economically viable. The groundwater supply is becoming increasingly saline and sufficient surface water supplies are not available and unlikely to become available at a reasonable cost to producers (Landloch Pty Ltd, 2007).

Response

It is recommended that the Council seek third party advice from the Department of Natural Resources, Mines and Water to determine the veracity of these claims. Particularly as the Wide Bay Burnett Regional Plan identifies the area as preferred for intensive agriculture.

It appears that the claims made by the applicant most clearly establish that the current use of the land for cane farming is no longer considered economically viable by the current land holder. The supply of suitable water to the site is subject to change over time as is the potential viability of the land. It is with this variability in mind that *The Planning Guidelines: The Identification of Good Quality Agricultural Land* sets out Agricultural land classes from Class A to Class D which acknowledges varying levels of agricultural use (refer to Table 1 below). The applicant has not satisfactorily established that the land is not GQAL.

TABLE 1. AGRICULTURAL LAND CLASSES

CLASS	DESCRIPTION
Class A	Crop land - Land that is suitable for current and potential crops with limitations to production which range from none to moderate levels.
Class B	Limited crop land - Land that is marginal for current and potential crops due to severe limitations; and suitable for pastures. Engineering and/or agronomic improvements may be required before the land is considered suitable for cropping.
Class C	Pasture land - Land that is suitable only for improved or native pastures due to limitations which preclude continuous cultivation for crop production; but some areas may tolerate a short period of ground disturbance for pasture establishment.
Class D	Non-agricultural land - Land not suitable for agricultural uses due to extreme limitations. This may be undisturbed land with significant habitat, conservation and/or catchment values or land that may be unsuitable because of very steep slopes, shallow soils, rock outcrop or poor drainage.

The primary policy principle of *State Planning Policy 1/92 Development and Conservation of Agricultural Land* is that:

- "1. *Good quality agricultural land has a special importance and should not be built on unless there is an overriding need for the development in terms of public benefit and no other site suitable for the particular purpose exists.*"

"The applicant has not demonstrated an "overriding need" for the development given that there remains a significant supply of urban land to meet the requirements of the Shire for the next 7 – 12 years (Broad heclare Study, PIFU, August 2007).

Notwithstanding the potential lack of suitability for agriculture, this does not justify the use of the land for urban purposes in conflict with the Planning Scheme. The applicant has not demonstrated an "overriding community need". The most appropriate use for the land should be in accordance with the Planning Scheme and Regional Plan.

3. Elliott Heads suitability

The applicant's justification for the proposal states the proposal reinforces Elliott Heads as a discrete coastal township. The development is to be on land which does not have any physical, environmental or servicing constraints to development (p 9-10 Town Planning Report). The expansion of the township is supported by the KPMG "Burnett Residential Demand Study" which states there will be a land supply deficit of 3,800 to 5,000 dwellings in the Shire by 2021.

Response

Should this proposal proceed Elliott Heads Township will become an urban area at a scale equivalent to a Regional Centre (cities and large rural towns with a population of 7,000 or greater) in accordance with the WBB Regional Plan which is the largest type of regional centre for the WBB area. This is much larger than the township envisaged by the Planning Scheme.

A significant constraint to development in this locality is the lack of suitable water and sewerage infrastructure which is not anticipated to be provided in this locality under the existing Planning Scheme infrastructure provisions. The applicant proposes to provide a water treatment plant on nearby land to support the proposed development and is part of a separate application. Given the significant reliance of the proposal upon approval for the provision of infrastructure, the potential significant environmental impacts of the water treatment proposal must also be resolved prior to any approval of this master planning proposal. The proposal clearly constitutes out-of-sequence development that would compromise the orderly provision of infrastructure.

The land is zoned Rural and included within the Rural Planning Area of the Planning Scheme and in the WBB Regional Plan 2007-2026 is designated as Preferred Intensive Agriculture. The planning intentions for this area are clearly based on the continued agricultural use of the land.

4. Economic and Community Benefits

The economic and community benefits of the proposal put forward by the applicant (p 43 Town Planning Report and AEC group, Economic Assessment for the Elliott Heads Development, 2007) are that the proposal will:

- generate employment opportunities;
- generate additional demand for commercial and retail services to the extent that such services will then be provided to the township;
- provide improved infrastructure services to Elliott Heads being reticulated sewerage;
- provide additional social infrastructure being a child care centre, nursing home and community hall;
- improve bus services to Elliott Heads;

- provide affordable housing to Elliott Heads; and
- improve mobile phone coverage to Elliott Heads.

Response

Regional economic development is a product of a variety of factors, one of which is population growth. One of the purposes of a planning scheme is to estimate likely population growth and ensure an adequate amount of land is available for residential development, to ensure economic development is not hindered through an under or oversupply of housing. The recently completed broad hectare study for Burnett Shire indicates the Shire has sufficient land to accommodate estimated population growth for the next nine years. The applicant (AEC group, Economic Assessment for the Elliott Heads Development, 2007) appears to infer the proposed residential development in and of itself will generate population growth, and thus economic development. The basis of this argument is not accepted.

In regard to the broad economic benefits of the proposal, it is accepted that a significant number of construction jobs will be generated during construction. The degree to which ongoing employment will be realised is dependent on the market demand for the development, which in part is determined by likely population growth in the Shire. Construction employment is likely to be a consequence of any large development proposal and is not considered appropriate justification for the development.

The Economic Assessment report infers that demand for services and facilities, whether publicly or privately funded, will increase because of the development and the provision of such services can therefore be considered to be a positive outcome for the community. This line of reasoning is considered flawed as any development is capable of delivering some benefits to the community. The pertinent issue is whether the development is needed for the community's benefit. The demonstration of sufficient grounds should outline how the benefits derived from the proposal differ from any other large development proposal and are overriding in the public interest.

The applicant does not adequately demonstrate that there is an existing community need for social services (child care centre, community hall, nursing home) which are not currently being met by existing services in the locality. It appears that the need for these services is generated by the proposal itself. Furthermore, whilst these services may not currently be available within the Elliott Heads Township, the applicant has not established that these services are not within acceptable travel distances having regard to the reasonable expectations of residents.

Similarly, the need for reticulated sewerage is primarily generated by the proposal itself as the Elliott Heads township currently relies upon existing on-site effluent disposal methods.

Decisions regarding the upgrade and expansion of publicly funded community services and infrastructure are primarily a matter for government agencies. In their decision making processes State agencies have regard to local government planning schemes. Developments which are inconsistent with planning schemes have the potential to impact negatively on the orderly provision of State funded facilities.

The applicant has no control over the provision of mobile phone services and bus services to the locality and cannot be certain that such benefits will automatically follow from the development proposed.

Section 5 of the Economic Assessment report suggests the proposal will improve housing affordability. Housing affordability is a function of a variety of micro and macro economic forces. The degree to which housing affordability will be impacted by the proposal is not

quantified in any meaningful way. The proposal does not contain any concrete mechanism to ensure housing will be affordable or targeted to low-income households in need of such housing. Therefore the proposal is largely indistinguishable from any other residential development proposal in relation to its ability to positively impact on housing affordability by increasing supply.

In its review of factors influencing population growth, section 3.1.3.3 of the Economic Assessment report suggests houses in Burnett Shire, with a median price of \$288,000 are more affordable than those in SEQ, with a median price of \$350,000. Affordability is a product of income and price and therefore while houses in Burnett Shire are cheaper than those in Brisbane any claim regarding their relative affordability needs to be balanced by reference to average incomes. This analysis is not presented in the report.

The applicant fails to adequately acknowledge that there may be significant adverse social consequences such as:

- Permanent and irreversible loss of lifestyle as the area shifts from a quiet coastal settlement to a significant urban area;
- Changes to existing levels of amenity due to increases in noise and traffic etc;
- Closure of existing businesses due to competition from proposed commercial and tourist orientated uses leading to existing residents being further removed from convenience services; and
- Potential loss of agricultural production and the flow on effect to existing support businesses in the region.

5. Wide Bay Burnett Regional Plan

The WBB Regional Plan states one of the policy actions of the plan is to "*Ensure sufficient flexibility exists within planning and development assessment processes to allow for the consideration of unanticipated development proposals that could provide significant sustainable benefits to their communities and/or region.*" (s3.1.1 (i) p.46)

The applicant contends the WBB Regional Plan is supportive of the proposal because the proposal is in an appropriate location and offers sustainable benefits to the community (Town Planning Report, p 37).

Response

As previously discussed the site is located on land significantly constrained by its agricultural values and lack of any available infrastructure to service the proposal. Further, the proposal provides few real benefits to the existing residents of Elliott Heads or to the region. There are significant potential disadvantages in that premature development of land for residential use may lead to urban blight and poor provision of services to new residents as the lag time between establishment of residential land and supporting infrastructure increases.

IDAS Workability

Section 3.1.6 of the IPA is relevant where an application applies for a preliminary approval to establish in effect a unique scheme for the development of a site and part of the application states the way in which the applicant seeks the preliminary approval to vary the effect of any local planning instrument. This type of preliminary approval may:

- establish the level of assessment for subsequent development on the site. Utilising this provision the level for assessment (e.g. impact assessment) that would otherwise be required for the subsequent development may be altered (e.g. to code assessment);
- identify the codes against which the subsequent development would be assessed.

The language and operation of the preliminary approval must be in accordance with Chapter 3 (IDAS) of the IPA.

Section 3.1.6 of the IPA does not provide that the definitions of the Planning Scheme can be overridden. Accordingly, the master plan should include a statement that definitions are as per the IPA Planning Scheme.

Any further development arising from the approval should be assessed against the preliminary approval, if granted, and all other relevant provisions of the planning scheme that are not overridden.

Level of Assessment

The structure and format of the proposed level of assessments should be consistent with the Assessment Tables in the IPA Planning Scheme.

Where an application proposes an alternative level of assessment for a development the assessment manager must consider the suitability of the proposed level of assessment when compared to existing assessment across the planning scheme. The assessment manager must also have regard to a submitter's right to appeal future development in accordance with s. 3.5.5A 2(c) of IPA.

The urban uses proposed are generally impact assessable in the Planning Scheme. Sufficient justification and detail has not been provided to reduce the proposed levels of assessment from impact to code assessment in the Master Plan. Reasonable community expectations for development are established in the Planning Scheme. The overlay maps in the IPA planning scheme include levels of assessment. Care must be taken in allowing the proposal to override the assessment levels of these codes. The effect of physical constraints needs to be considered in devising the levels of assessment in the Master Plan.

Any approval must establish clear limits on the scale as well as the nature of the uses proposed. The qualifications in the level of assessment need to be further extended to encompass residential densities and floorspace for retail and commercial uses, above which development would be impact assessable. The level of assessment should not be inconsistent with and duplicate the Queensland Development Code.

Assessment Criteria

The application must be self contained in terms of identifying all relevant assessment criteria (i.e. codes) which Council will use to assess future development proposals against. Any newly proposed codes should not result in unnecessary duplication with the IPA planning scheme. If existing suitable codes exist these should be used in preference to new codes. Only exceptions to the codes should be noted rather than the duplication of entire codes.

Recommendation

The assessment manager is recommended to refuse the development application on the grounds the proposal:

- is contrary to the regional settlement pattern, principles and policies of the Wide Bay Burnett Regional Plan 2007-2026;
- is contrary to the Overall Outcomes for both the Rural Planning Area and Rural Zone Codes of the Planning Scheme;

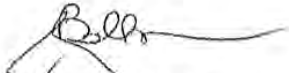
- compromises the DEOs of the Planning Scheme with respect to settlement pattern, infrastructure, community well-being, landscape and cultural heritage and economic development;
- is contrary to orderly, efficient and consolidated urban growth and infrastructure provision in Burnett Shire and the Wide Bay Burnett Region;
- is premature and not supported by demonstrated planning need;
- will adversely impact on the rural economy, landscape, character, community and environmental values of the locality, Burnett Shire and the region;
- will adversely impact on preferred urban growth patterns and infrastructure and service provision within designated towns, villages and urban communities;
- has not been adequately justified by sufficient grounds despite its conflict with the Planning Scheme and Regional Plan;
- represents the overdevelopment of the site; and
- requires amendment to ensure that the proposal meets IDAS workability standards.

Planning schemes are agreements between the community, the local government and the State government and have undergone a rigorous preparation process under the IPA. As such they cannot be lightly put aside without good and proper reason. Decisions which step outside planning schemes and which cannot be justified, only serve to undermine community confidence in and the integrity of the planning scheme. Accordingly, Burnett Shire Council must be satisfied that there are sufficient and relevant planning grounds to justify the proposal despite the conflict with the planning scheme.

According to section 3.3.19 (3) (b) of the IPA this response is to be treated as a properly made submission.

If you have any queries in relation to this matter, please contact Andrew Woodhouse, Statutory Planning Branch of the Department on telephone number 323 80344.

Yours sincerely



GRAEME BOLTON
Director
Statutory Planning

CC to: Elliott Heads Estate Pty Ltd
C/- Mr Randall Barrington
Randall Barrington Town Planning Pty Ltd
PO Box 8054
BARGARA QLD 4670



Queensland Health

Enquiries to: Neil Payne
 Telephone: 3131 6516
 Facsimile: 3131 6522
 File Ref: 0230-0016-001

Mr W Phillips
 Director Planning and Development
 Burnett Shire Council
 Locked Bag 1
 Bargara Qld 4670

Attention: Ms Michelle Riley

Dear Ms Riley

SHIRE OF BURNETT			
Reply	Reply Due	Scanned:	
Info	✓ Reply by Ph:		///
Amend to info	Reply by Fax:		///
Amend to Reply	Reply by E-Mail:		///
RECEIVED 13 AUG 2007			
FILE: 2-2007123-800	REF: 1	REQ NO: 07/03008	
FILE:	TY:	REQ NO:	
AO: RILEY		CC:	
COMMENTS:			

Re: Development Application for Preliminary Approval overriding the Planning Scheme under S3.1.6 of IPA – Elliott Heads Estate, Elliott Heads

I refer to correspondence from the Director of Planning and Development, Burnett Shire Council, dated 18 July 2007, requesting comments in relation to the above Development Application.

Queensland Health advises that the Department has no property interests within or adjacent to the proposed development and has no plans at this time to develop a facility at Elliott Heads.

However, the Environmental Health Unit, Queensland Health has provided this Branch with information addressing various aspects of the abovementioned Development Application.

Attached are comments provided by the Acting Senior Environmental Health Adviser, Environmental Health Policy & Research Section, Environmental Health Unit. Also the Acting Director Environmental Health, Wide Bay Population Health Unit has advised that he had no concerns with this specific application, from an environmental health perspective, in that it is limited to extending the existing urban area of Elliott Heads upon adjoining land that he considers suitable for that purpose.

He further advised that in his opinion, the establishment of a built environment in the area and as proposed will not at all negatively impact upon the natural environment or the health of existing or future residents and visitors, although it may require some additional attention by the Environmental Health Unit and the Burnett Shire Council, such as public education regarding the use of rainwater tanks and community monitoring.

Office
 Queensland Health
 Capital Works and Asset Management
 Branch
 Building 2, Lobby 4, Level 1
 153 Campbell Street, Herston, Q 4006

Postal
 GPO Box 48, Brisbane, Q 4001

Phone
 3131 6516

Fax
 3131 6522



D099702

The Acting Director Environmental Health, Wide Bay Population Health Unit also provided the following comments in relation to the Development Application:

- “This application includes several references, without detail, to the proposed construction of a water treatment plant and a sewage treatment plant on a neighbouring parcel of land, which are intended to service the extended Elliott Heads community, as well as existing and proposed urban developments in nearby Coral Cove and Innes Park.

Michelle Riley, Planning and Development Officer with the Burnett Shire Council told me today that the application for approval of the water and sewage treatment plant was not subject of this specific application by Elliott Heads Estates, but that the developer would most likely submit a separate application, if and only if Council gave its approval in support of this application.

Whilst the information exchange and planning process between the developer and Council, in connection with these treatment facilities, appears to be well advanced, I cannot now provide a comment, in regard to the viability and health impact of constructing and operating these facilities.

- The use of recycled, treated waste water/sewage effluent is also referenced in some documents supporting this particular application, but again, no detail is included, as this proposal too, depends upon the construction of the water and sewage treatment plants, which may be conditional to approval of this specific application.”

Should you require any additional information or clarification with respect to this matter, please contact Neil Payne on telephone 31316516.

Yours sincerely



Neil Payne
Senior Planning Officer Tenure
Planning & Development Unit
Capital Works & Asset Management Branch
08709907

**DEVELOPMENT APPLICATION - ELLIOTT HEADS ESTATE
QUEENSLAND HEALTH ENVIRONMENTAL HEALTH UNIT**

Item	Section (Document/ section and page number)	Interest/ Comment & Legislative/ Policy Basis	State Agency Suggested Solution / Outcomes Sought
1.	Ecological Assessment Report	<p>Impacts of mosquitoes and biting midge – It is acknowledged that the report has identified areas adjacent to the proposed development site as breeding grounds for mosquitos and biting midge and the likely impacts given the proposed increased population.</p> <p>It also acknowledged that the report has identified the limited ability for the local government authority to implement control programs due to the environmental values of the Elliott River.</p> <p>Not withstanding, Council has an obligation to meet its public health responsibilities and should ensure that any proposed activities do not cause a public health risk.</p> <p>It is also noted that the legislative responsibilities of Council are cited with reference to the "Health Regulation 1996". This aspect of the Regulation has been repealed and is now captured by the Public Health Act 2005 and subordinate legislation.</p>	<p>The Queensland Health "Guidelines to minimise mosquito and biting midge problems in new development areas" might be referenced to assist in understanding and mitigating their impacts. This might be referenced throughout the plan.</p> <p>Refer to the <i>Public Health Act 2005</i> and <i>Public Health Regulation 2005</i> for obligations in relation to public health risks.</p>
2.	Stormwater Management Plan	A variety of stormwater management techniques have been identified. Given the established predisposition of the area as a mosquito and biting midge breeding area, consideration should be given to ensure that any management technique employed does not exacerbate the current problem.	As above.
3.	Town Planning Report – SO20 (pg21)	The proposed town & village centre and the businesses contained therein will have the potential to emit nuisances such as noise and light. These may affect the amenity of residents adjacent to these centres.	If the development progresses, consideration will need to be given to remove or minimise impacts from noise and light emissions. For example design and construct lighting amenities (eg. car park lighting) and location of certain businesses likely to be the source of noise emissions (eg. taverns, night clubs) away from residential areas.
4.	Town Planning Report – 8.3 (pg43)	The new resident population will require a secure potable water supply. This is particularly for those aspects of the development that cater to high risk groups	Careful planning should be undertaken at all stages of the development to ensure that the supply of potable

Item	Section [Document/ section and page number]	Interest/ Comment & Legislative/ Policy Basis	State Agency Suggested Solution / Outcomes Sought
		<p>such as nursing homes and child care centres. The allusion is made that provision of a water treatment plant (WTP) will secure water supply. While the WTP will secure the quality of potable water for residents, the supply of water will still be dependant on the availability of water to the area.</p> <p>Much has been made in the associated documentation of the inability of the area to continue to sustain agriculture due to groundwater salinity problems and the inability of water providers to meet water allocations. Reference has been made to the ability of the Paradise Dam to meet predicted water needs. Currently the Paradise Dam is at approximately 15% capacity, is unable to meet current water needs and has other issues that are beyond the scope of this response.</p>	<p>water meets the demands of the increased population including during peak tourist seasons. The increased exposure and amenity of the area is likely to attract a greater number of visitors over time, placing a greater strain on water resources and associated infrastructure.</p> <p>Further measures must be implemented to ensure water quality standards recommended in Australian Drinking Water Guidelines 2004 are met.</p>



Department of Primary Industries and Fisheries

Reference: 06-00483 / NAM/140/006 (63)

25 November 2008

Mr Alaister Macrae
Cardno (Qld) Pty Ltd
Suite 13-17 Commercial Centre
Isle of Capri Q 4217

COPY

Dear Mr Macrae

Development application for a master planned community at Elliot Heads – response to information request

I refer to your letter, dated 27 October 2008, requesting advice from the Department of Primary Industries and Fisheries (DPI&F) with regard to the above. DPI&F has assessed the information supplied and provides the following comments:

Fisheries Issues

Please be advised that the basis of DPI&F's comments lies within the jurisdiction of the Fisheries Act 1994, and that a site inspection was not undertaken for the purposes of these comments.

DPI&F does not object to the development of a master planned community at the proposed location adjoining the declared Elliot River Fish Habitat Area (FHA) (Management A), but does have some concerns with aspects of the proposal. Specifically, Departmental policies do not support:

- the inclusion of areas of tidal land or marine plants in waterway or wetland buffers; or
- the inclusion of stormwater management infrastructure in waterway or wetland buffers.

The original submitted information stated that there would be approximately 48 hectares of public open space, including a portion to be located along the south west site boundary adjacent to the FHA as a buffer area. This proposed buffer would include areas of tidal land and marine plants. It is also noted that this buffer would contain public use infrastructure such as pathways, cycleways and picnic areas, potentially reducing the effectiveness of the zone as a riparian buffer.

Mission Vision
Profitable primary industries for Queensland
Maximise the economic potential of Queensland primary industries on a sustainable basis

BUNDABERG REGIONAL COUNCIL

RETENTION	70 yrs
DOCUMENT NO	081001604

RECEIVED/SENT 27 NOV 2008

FILE NO	622001.07237.001
ACTION OFFICER	W Phillips

81-85 Howard Street
PO Box 5165 Sunshine Coast Mall
Centre Nambour
Queensland 4560 Australia
Call Centre 13 25 23
Website www.dpi.qld.gov.au
ABN 78 342 684 030

It is unclear if the proposed buffer zone would also contain components of the proposed stormwater treatment infrastructure. Appendix 2 of the Information Request Response includes ML Design drawing 'Land Use Structure Plan, Elliot Heads, Elliot Heads Estate Pty Ltd' dated 22/10/08, which shows two water management areas within the open space buffer in close proximity to tidal lands, one of which includes tidal land (PP24). A cross-reference of previously submitted information indicates that no waterbodies or retention basins associated with stormwater treatment would be located in the buffer area, however, the recently submitted information states that some stormwater treatment areas are also proposed in areas adjacent to the FHA.

DPI&F considers a buffer between development activities and tidal lands to be an important management tool, assisting in the protection and management of adjacent aquatic features by reducing bordering effects and providing filters for run off, etc. DPI&F Policy Guideline FHG003 (Fish Habitat Buffer Zones) supports the retention of a minimum buffer width of 100m (incorporating natural vegetation and other buffer elements) set back between development and tidal aquatic features, including marine plants, especially if adjacent to a declared fish habitat area. This generic buffer width is considered a 'starting point' from which site specific requirements can be negotiated. It is appreciated that the final buffer determination by the relevant agencies will consider the type of proposal, the capacity for impacts, environmental characteristics, biodiversity values, etc.

It is noted that the proposal includes a water main to be located within the declared Elliot River FHA. DPI&F Policy FHMOP 002 (Management of declared Fish Habitat Areas) states that the depth of a declared FHA for management purposes is 2 metres measured vertically beneath the substratum of the area. Provided the water main is wholly directionally drilled below this depth, it will not be within the FHA and no approval from DPI&F for operational works in a fish habitat area will be required. DPI&F policy does not support such infrastructure being located within fish habitat areas (Management A).

DPI&F management and policies associated with the declared Elliot River FHA do not allow for permanent disturbances for private purposes within the declared area. This would include operational works such as erosion protection, boat ramps, pontoons, etc.

It should also be noted that under Section 3.3.2A of the *Integrated Planning Act 1997*, any proposal to disturb marine plants associated with this development would require lodgement of an operational works application at or before the MCU stage.

Should the current application be approved, DPI&F requests that Council includes conditions of approval to ensure the inclusion of a buffer to tidal lands and marine plants of a width appropriate to adequately protect the adjacent declared FHA and any other tidal areas. The buffer should not include any tidal lands, marine plants or stormwater infrastructure, and any other disturbances in the buffer area (eg. for community infrastructure) should be kept to an absolute minimum.

Agricultural Issues

DPI&F offers no support for the use of Good Quality Agricultural Land (GQAL) for urban development in a rural zone. DPI&F acknowledges the subject land has current issues with water availability however this situation may change in the future.

No information has been provided to DPI&F regarding the use of water from the proposed waste water treatment plant to be built near the site. In lieu of any information to the contrary, DPI&F suggests this may be an alternative source of water to supplement bore water for irrigation use.

DPI&F acknowledges that the inclusion of suitable buffers to separate the proposed residential development from existing agricultural operations may ameliorate conflict arising from incompatible land uses, however the same may be said for the current land use activities. This would allow current and future agricultural practices to continue without impact to nearby existing residential areas.

It should be noted that the Department of Natural Resources and Water (DNRW) is the lead agency for GQAL issues and DPI&F will support that department's advice on this issue.

Biosecurity Issues

DPI&F notes that two Class 3 weed species (Lantana and Cats claw creeper) have been identified on the site. DPI&F recommends that should the development be approved, any Environmental Management Plans prepared for the site includes a pest species management plan to reduce spread of existing weeds and pests, and the introduction of others.

If you require any further information regarding this matter, in the first instance, please contact Mathew Johnston on telephone 07 5430 4917, or email mathew.johnston@dpi.qld.gov.au.

Yours sincerely



For
David Loch
A/Regional Director (South East)

CC Dan Mayer, Manager, Planning and Assessment (South), Department of Primary Industries and Fisheries, Southern Fisheries Centre, PO Box 76, DECEPTION BAY QLD 4508;
Wayne Phillips, Director, Planning and Development, Bundaberg Regional Council, PO Box 3130
190 Bourbong Street, BUNDABERG QLD 4670.



04 SEP 2007

Department of
Education and the Arts

Mr Wayne Phillips
Director Planning and Development
Burnett Shire council
Locked Bag 1
BARGARA QLD 4670

Dear Mr Phillips

Thank you for your letter dated 18 July 2007 seeking third party advice under S 3.2.7 of the *Integrated Planning Act 1997* concerning the development application known as Elliott Heads Estate, Elliott Heads, Burnett Shire.

It is noted that S3.2.7 allows the assessment manager to seek advice, at any stage of the application, from third parties. The Elliott Heads Estate proposal is in its early stages. The Department envisages further dealings with the application as it progresses through the mechanisms attendant upon applications that seek to override the planning scheme.

At this point in time the Department's response is that it would not endorse the indication on such a document that the Elliott Heads State School is to be relocated. Please ensure that any public exposure that is given to this document does not reflect this and that any references in the plan or accompanying documents to relocating the school are deleted.

Should you wish to discuss this matter further, you can contact Mr Jim Wiedman, Principal Advisor Facilities Planning, on telephone (07) 323 70224.

Thank you for bringing this matter to my attention.

Yours sincerely

Jason Furner
Jason Furner
Chief Facilities Officer
Strategic Facilities Branch

Ref: 07/97523

SHIRE OF BURNETT			
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FILE: 2-2007123-800	PT: 2	REG NO: 07/03266	
AO: Riley, M		CC:	
COMMENTS:			



D100669

Strategic Facilities Branch
Floor 14 Education House
30 Mary Street Brisbane 4000
PO Box 15033 City East
Queensland 4002 Australia
Telephone +61 7 3235 4176
Facsimile +61 7 3235 4367
Website www.education.qld.gov.au
ABN 76 337 613 647



5 October 2007

Queensland Transport

Chief Executive Officer
Burnett Shire Council Locked Bag 1
BARGARA QLD 4670

SHIRE OF BURNETT			
Reply	Reply Date	Scanned:	
Info	✓ Reply by Fax	///	
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FILE: Z-2007123-800	PT: 2/	REG NO: 07/03580	
FILE:	PT:	REG NO:	
AO: M. Riley		CC:	
COMMENTS:			

Attention: Michelle Riley

Dear Michelle

Concurrence Agency Response—Integrated Planning Act 1997 (IPA) s3.3.16
Queensland Transport Ref: 1039

Application for: Preliminary Approval over-riding the Planning Scheme under s3.1.6 of IPA for a Masterplanned Community
Atkinson road, Shine Street, Welsh Street, Saunders Street, Rule Street, Moore Street, Elliot Heads Road, Raines Road, Breusch Road, Dorflers Road Elliot Heads
Lot 77 CK: 495 to Lot 82 CK: 495, Lot 85 CK: 495 to Lot 88 CK: 495, Lot 91 CK: 495, Lot 97 CK: 495, Lot 135 CK: 767, Lot 89 CK: 1443 to Lot 90 CK: 1443, Lot 26 EH: 1875, Lot 8 RP: 7353 to Lot 10 RP: 7353, Lot 16 RP: 7353, Lot 17 RP: 7354 to Lot 18 RP: 7354, Lot 2 RP: 7355, Lot 2 RP: 49524, Lot 1 RP: 50368 to Lot 2 RP: 50368, Lot 1 RP: 50372 to Lot 2 RP: 50372, Lot 1 RP: 53148, Lot 1 RP: 74477, Lot 6 RP: 89911 to Lot 7 RP: 89911, Lot 25 RP: 89911, Lot 1 RP: 113567, Lot 1 RP: 152664, Lot 3 RP: 214907
Lot 5 RP: 806935
Burnett Shire Council
Application Ref: Z-2007123-800

I refer to the application from Randall Barrington Town Planning P/L received by this department on 24 August 2007 seeking approval for the above proposal, as indicated on the plans listed in the table below.

Integrated Transport Planning
Transport Planning
Floor 12 Cromwell House
200 Mary Street Brisbane Queensland 4000
GPO Box 213 Brisbane Queensland 4001
ABN 13 200 330 520

Our ref 890/BRIS-1039 P24346
Your ref
Enquiries Tina Hlghet (Planner)
Telephone +61 7 3117 5505
Facsimile +61 7 3117 5554
Website www.transport.qld.gov.au
Email tina.l.hlghet@transport.qld.gov.au

Advice:

Potential Bus stops location and details

QT recommends that further discussions are held between QT, Main Roads and Burnett Shire Council to ensure that potential future public transport services, and proposed infrastructure do not prejudice the function of the State Controlled Road. This will also apply to bus interchanges and taxi drop of facilities that should be integrated into the design of the proposed town centre and urban village.

Notwithstanding the details submitted within the *Public Transport Network Plan (Elliot Structure Plan Volume)*, the location of bus stops and details of the public transport interchanges will be subject to discussions with QT and the service providers Stewart & Sons.

Attachment 1

Queensland Transport Concurrence Agency Conditions and Statement of Reasons BRIS-1039

<p>Prior to sealing of the plan of survey</p>	<p>Public Transport Accessibility 1. Roads designated as a bus routes within the submitted <i>Public Transport Network Plan</i> Ref MP-06(A) included within the applicant's <i>Structure Plan Volume 2, June 2007 prepared by ML Designs</i> shall be designed and constructed generally in accordance with development standards outlined in the <i>Transport Planning and Coordination Regulation 2005</i>, Schedule 1, Part 2.</p>		<p>s8A of the <i>Transport and Planning Coordination Act 1994</i></p>	<p>It is anticipated that the proposed development will create a demand for public transport services. As it is envisaged that public transport may be extended to service the site in the future, it is essential that the road network is designed to allow buses to safely and efficiently run throughout the development.</p>
<p>Prior to sealing of the plan of survey</p>	<p>Pedestrian and Cyclist Connectivity 2. Pedestrian and Cyclist pathways shall be designed and constructed generally in accordance with, the <i>Section 4.0 Pedestrian and Cycle Network and the Pedestrian circulation plan</i> included with the applicant's <i>Structure Plan Volume 2</i>. All pedestrian and cyclist paths shall comply with <i>Austroroads Parts 13 and 14</i> respectively.</p>		<p>s8A of the <i>Transport and Planning Coordination Act 1994</i></p>	<p>The layout of the development should allow for direct, safe and convenient connections through the site to enable pedestrians and cyclists to access proposed public transport infrastructure.</p>


Plan/Document/ Name	Plan Date	Drawn By:
<i>Elliott Heads Estate Structure Plan - Design Report and Landscape Strategy: Volume 2</i>	June 2007	<i>ML Design Pty Ltd</i>

An assessment of the proposed development on Queensland Transport's (QT) jurisdiction, namely the increased integration between land use and transport (s8A of the *Transport Planning and Coordination Act 1994*) has been completed.

It is advised that the proposal is supported with conditions of development as identified on the attached Statement of Reasons. These conditions must be included in any development permit issued for this proposal.

A copy of this letter and the Statement of Reasons has been sent to the applicant.

Yours sincerely



Helen Kerr

A/Principal Advisor



QUEENSLAND POLICE SERVICE

Property and Facilities Branch
 200 Roma Street, Brisbane Q 4000
 GPO Box 1440, Brisbane, Q 4001

TELEPHONE (07) 3364 3702 FACSIMILE (07) 3364 4673



3 August 2007

Mr Wayne Phillips
 Director Planning and Development
 Burnett Shire Council
 Locked Bag 1
 BARGARA QLD 4670

Dear Mr Phillips

COMMENTS REGARDING DEVELOPMENT - ELLIOTT HEADS ESTATE

Thank you for your correspondence of 18 July 2007 seeking Queensland Police Service input in relation to the development application package prepared by the Burnett Shire Council.

As requested, the Queensland Police Service has reviewed the draft report however as the planning scheme has minimal impact upon the operations of the Service no additional comment regarding the suitability of the draft is provided.

The Service appreciates your invitation to peruse the IPA Planning Scheme at key stages throughout the planning process and I would take this opportunity to thank you for your consideration.

Yours faithfully

S G SPANNER
Program Manager (Property Services)
PROPERTY AND FACILITIES BRANCH
 H:\Property Services\Town Planning\Burnett Shire Elliott Heads.doc

SHIRE OF BURNETT		
Reply	Reply Due	Searched
Info	✓ Reply by 11/8	/ /
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FILE: 2-2007123-800	PT: 1	REQNO: 0710296
FILE:	PT:	REQNO:
NO: M Roney		CC:
COMMENTS:		



QUEENSLAND POLICE SERVICE

Southern Regional Office (Brisbane)
 GPO Box 2771 BRISBANE QLD 4001
 Phone: (07) 3225 1827 Fax: (07) 3247 3278
 www.epa.qld.gov.au ABN:87221158786



Notice of concurrence agency response Sections 3.3.16 and 3.3.18 *Integrated Planning Act 1997*

This notice is issued by the administering authority pursuant to sections 3.3.16 and 3.3.18 of the *Integrated Planning Act 1997*, to advise you of a decision or action.

Enquiries to: Allen Johns
 Telephone: (07) 3224 5099
 Your reference: Z-2007123-800
 Our reference: Appl'n: Burnett/09/07 Part 1 File No.: BNE33539

CC: Mr Randall Barrington
 Randall Barrington Town Planning
 PO Box 8054
 BARGARA 4670

Bundaberg Regional Council
 PO Box 3130
 BUNDABERG QLD 4670

Attention: Mr Wayne Phillips

Re: Application (No. Z-2007123-800) for development approval for assessable development to be carried out at Atkinsons Road, Shine Street, Welch Street, Saunders Street, Rule Street, Moore Street, Elliott Heads Road, Raines Road, Breusch Road, Dorflers Road, ELLIOTT HEADS (L77-82, 85-88, 91,97 CK495

L135 CK767
 L89, 90 CK1443
 L26 EH1875, Lots 8-10, 16 RP7353
 L17,18 RP7354
 L2 RP7355
 L2 RP49524
 L1, 2 RP50368
 L1, 2 RP50372
 L1 RP53148
 L1 RP7447
 L6, 7, 25 RP89911
 L1 RP113567
 L1RP152664
 L3 RP214907
 L5 RP806935).

BUNDABERG REGIONAL COUNCIL	
RETENTION	20 years
DOCUMENT NO	08/004791
RECEIVED/SENT	- 9 DEC 2008

FILE NO	2007-2007-051233-001
ACTION OFFICER	W Phillips



Pursuant to the following items of Table 2 Schedule 2 of the *Integrated Planning Regulation 1998*, the Environmental Protection Agency (EPA) – Contaminated Land Unit (CLU) is a concurrence agency for the development application:

Item 22, Table 2 of Schedule 2 of the *Integrated Planning Regulation 1998*

The EPA-CLU, acting as a concurrence agency under the *Integrated Planning Act 1997*, provides its response to the application detailed above as attached.

It would be appreciated if Council could provide a signed hard copy of the final development approval issued by Council (which includes the Agency's concurrence conditions).

The EPA-CLU has not provided a notification to native title parties for this application. The State's Native Title Work Procedures indicate that responsibility for assessment of native title

issues for an IDAS application rest with the Assessment Manager. It is recommended that you undertake an assessment using your own guidelines to determine if a native title notification is required for this application.

Should you require any further information please do not hesitate to contact the above officer on the telephone number provided .

.....
Signed  Date 

**Delegate of Administering Authority
Environmental Protection Act 1994.**

Council Application Number:	Z-2007123-800
EPA Application Number:	Burnett/09/07 Part 1

Concurrence agency response Sections 3.3.16 and 3.3.18 *Integrated Planning Act 1997*

Applicant:	Randall Barrington Town Planning Elliott Heads Estate Pty Ltd
Council Application Number:	Z-2007123-800
EPA Application Number:	Burnett/09/07 Part 1
Date application received by EPA:	30/08/2007
Relevant Laws and Policies:	<i>Environmental Protection Act 1994</i>
Jurisdiction:	Chapter 7, Part 8 <i>Environmental Protection Act 1994</i>

Development Description:

Material Change of Use - Master planned residential community comprising residential development at different densities including retirement village, medium density housing, dual occupancy, conventional and small lot housing; resort; village and town centres incorporating

where:

- the existing use of the land is, or if the land is vacant land with no existing use the most recent use of the land was, for a notifiable activity under the *Environmental Protection Act 1994*.
- the proposed use of the land is for child care, educational, recreational, residential or similar purposes and the existing use of the land is, or if the land is vacant land with no existing use the most recent use of the land was, for an industrial activity.
- the land is on the Environmental Management Register or Contaminated Land Register under the *Environmental Protection Act 1994*.**
- the land is wholly or partly within an area for which an Area Management Advice for industrial activity or natural mineralisation has been issued and the proposed use of the land is for child care, educational, recreational, residential or similar purposes.
- the land is wholly or partly in an area for which an Area Management Advice for unexploded ordnance has been issued.

at the following place(s):

Atkinsons Road, Shine Street, Welch Street, Saunders Street, Rule Street, Moore Street, Elliott Heads Road, Raines Road, Breusch Road, Dorflers Road, ELLIOTT HEADS
(L77-82, 85-88, 91,97 CK495
L135 CK767
L89, 90 CK1443
L26 EH1875, Lots 8-10, 16 RP7353
L17,18 RP7354
L2 RP7355
L2 RP49524
L1, 2 RP50368
L1, 2 RP50372
L1 RP53148

Page 3 of 5

Council Application Number:	Z-2007123-800
EPA Application Number:	Bumel/09/07 Part 1

L1 RP7447
 L6, 7, 25 RP89911
 L1 RP113567
 L1RP152664
 L3 RP214907
 L5 RP806935)

Response to Development Application

The Environmental Protection Agency, acting as a concurrence agency under the *Integrated Planning Act 1997*, provides its response to the application detailed above.

The concurrence agency response is that

- conditions must attach to any development approval
- any approval must be for part only of the development
- any approval must be a preliminary approval only**
- there are no concurrence agency requirements
- the application must be refused

Conditions of the development approval

1. Sufficient information provided in accordance with the *Environmental Protection Act 1994* and the *Draft Guidelines for the Assessment and Management of Contaminated Land in Queensland* (DEH, 1998) specifying that the land is suitable for the intended use or enabling a statement of suitability with a Site Management Plan (SMP).
2. The information requested under clause 1 above must be reviewed and consented to by the Third Party Reviewer (TPR) before submitting to the EPA.
3. **Third Party Reviewer.** A Third Party Reviewer (TPR) must be appointed under the EPA's *Terms of Reference - Use of a Third Party Reviewer for Assessment and Management of Site Contamination dated 15 Feb 2008* (TOR).
4. A TPR acceptable to the EPA must be engaged at all times until draft Site Management Plans, acceptable to the EPA are submitted or the subject land has been removed from the Environmental Management Register.

Additional comments or advice about the application

The Draft Guidelines for the Assessment and Management of Contaminated Land in Queensland may be obtained from the Environmental Protection Agency's internet site at www.epa.qld.gov.au, or by contacting the EPA's Contaminated Land Unit. Please ensure that the appropriate statutory fee [as of the 1 July 2008 \$1048.00 per lot listed on the Environmental Management Register] is included with this application for the assessment of the site investigation and / or validation reports.

Under section 371 (1) of the Environmental Protection Act, if the owner or occupier of land becomes aware a notifiable activity is being carried out on the land, the owner or occupier must, within 22 business days after becoming aware the activity is being carried out, give notice under the subsection to the administering authority in the approved form.

Council Application Number:	Z-2007123-800
EPA Application Number:	BumelW09/07 Part 1

Reasons for inclusion of development conditions or refusal

In accordance with section 3.3.18 of the *Integrated Planning Act 1997* and section 27B of the *Acts Interpretation Act 1954*, a concurrence response must include reasons for a refusal or for the inclusion of development conditions.

The Environmental Protection Agency is recognised as a concurrence agency under the *Integrated Planning Regulation 1998* for the protection of the environment by the management of contaminated land. The Environmental Protection Agency concurrence agency conditions for this proposed development that are contained within this response are required to prevent or mitigate any potential risk to human health or the environment from possible hazardous contaminants present on the site.

Additional information for applicants

This concurrence response pursuant to Chapter 7, Part 8 of the *Environmental Protection Act 1994* applies only to contaminated land issues and does not remove the need to obtain any further approval for this development which may be required by this or other legislation, State and/or Commonwealth. Applicants are advised to check with all relevant statutory authorities for such approvals as may be required.

~ End of Concurrence Agency Response ~

Enquiries Maria Zann
 Telephone (07) 4121 1855
 Your reference 130.2007.1238.J
 Our reference 316197 MBH1185-10 2007/2158

28 September 2007

Wayne Phillips
 Planning and Development
 Burnett Shire Council
 Locked Bag 1
 BARGARA QLD 4670

Dear Sir,

Advice re Development Application involving land bounded by Atkinsons Road, Shine Street, Welch Road, Moore Street and Elliott Heads Road, Burnett Shire

Please treat this response as a properly made submission

The Environmental Protection Agency acknowledges receipt of a request to provide advice for a development application in accordance with schedule 2 of the *Integrated Planning Act 1997*. This information relates to the following proposal:

Applicant: Elliott Heads Estates Pty Ltd
Activity description: MCU for a master planned residential community
Referral Triggers: Sch 2, Table 2, Item 38 (Applications and referrals relating to wetlands)
Description of subject land: Land bounded by Atkinsons Rd, Shine St, Welch Rd, Moore St & Elliott Heads Rd being lots: 3RP214907, 1RP50372, 5RP806935, 80CK495, 97CK495, 2RP7355, 2RP49524, 87CK495, 81CK495, 1RP113567, 1RP53148, 86CK495, 25RP89911, 90CK1443, 78CK495, 1RP152664, 26EH1875, 91CK495, 88CK495, 77CK495, 2RP50372, 2RP50368, 89CK1443, 79CK495, 85CK495, 1RP50368, 82CK495, 3RP214907, 5RP806935, 80CK495, 10RP7353, 97CK495, 87CK495, 1RP74477, 81CK495, 18RP7354, 86CK495, 25RP89911, 16RP7353, 78CK495, 1RP152664, 135CK767, 26EH1875, 91CK495, 88CK495, 77CK495, 82CK495, 17RP7354, 9RP7353, 79CK495, 85CK495, 7RP89911, 8RP7353 and 6RP89911

EPA issued an information request to the above applicants on 13 September 2007 as a Concurrence Agency in respect of contaminated land issues. The Agency has now reviewed the information provided in respect of referral triggers under Schedule 2 of the *Integrated Planning Regulation 1998* (*viz.* within 100m of a wetland and within 100m of conservation estate) and, as an Advice Agency, recommends the application be refused.

Page 1 of 6

Enquiries: Maria Zann
 Cnr Alice and Lennox Sts Maryborough
 Queensland 4650 Australia
 PO Box 101 Maryborough
 Queensland 4650 Australia
 Telephone (07) 4121 1855
 Facsimile (07) 4121 1650
 Website www.env.qld.gov.au
 ARN 07 221 158 786

Statement of Reasons

The *Integrated Planning Act 1997* requires that State Planning Policies be considered in the assessment of development applications. The SCMP has the effect of a State Planning Policy. The proposed development has been assessed as being inconsistent with the SCMP, specifically the following policies:

Policy 2.1.2 Settlement Pattern and Design

The nature and size of the proposed development (as set out in the Elliott Heads Structure Plan) is inconsistent with Policy 2.1.2 of the SCMP which requires: *to the extent practicable, the coast is conserved in its natural or non-urban state outside of existing urban areas and urban growth is managed to protect coastal resources and their values by minimising adverse impacts...growth of urban settlements should not occur on or within erosion prone areas, significant coastal wetlands, riparian areas, sites containing important coastal resources of economic, social, cultural and ecological value, or areas identified as having or the potential to have unacceptable risk from coastal hazards.*

Whilst the proposal adjoins the existing township Elliott Heads the site has not been identified as an area for future urban development in any local or regional plan (statutory or non-statutory). The proposed development (as set out in the Elliott Heads Structure Plan) seeks to accommodate a population of 7317 residents – three times the size of the existing township. This scale of development is unwarranted in this location and will increase the likelihood of linear strip development along the Burnett coast, which is incompatible with Policy 2.1.2 of the SCMP which seeks to promote/maintain coastal development in discrete nodes.

Policies 2.4.1 Water quality management 2.4.2 Wastewater discharges to coastal waters

Stormwater discharges from a proposed township of ~7000 people are likely to adversely impact on groundwater resources and surface water quality of adjacent coastal wetlands unless best practice stormwater management practices are implemented. A drainage plan is not provided in the stormwater management plan so it is not possible to assess whether water sensitive urban design is adequately employed. Note that lakes (as referred to in the SMP p. 19) typically exhibit a trend towards decline in ecological health and increasing maintenance costs. Drawdown, flushing of lakes and time of water residence, presence and type of vegetation and alignment with prevailing winds all contribute to lake health. No strategy to address these issues is presented in the application.

To be consistent with the *Environmental Protection Policy (water)* the proposed development needs to demonstrate retention of existing water quality in High Ecological Value (HEV) waterways such as Woongarra coast coral reef (scheduled under *EPP (water)*) and the Elliott River estuary (draft HEV area identified in the public consultation process associated with the development of a Burnett North Water Quality Improvement Plan (see Attachment 1).

The following acceptable solutions would need to be demonstrated before the proposed development could be deemed to meet SCMP water quality policy requirements:

- 1) best practise urban stormwater management incorporating water sensitive urban design is planned for construction and post-construction development phases (refer to *EPA Best Practice Environmental Management – Urban Stormwater 2007.*);
- 2) wetland buffers sufficient to filter contaminants surface water runoff contaminants are incorporated in the development design (buffer setbacks should not be less than those prescribed in the *Regional Vegetation Management Code for Southeast Queensland Bioregion* issued 20/11/06 i.e. 200 metres in the case of *significant coastal wetlands*);
- 3) acceptable accredited site erosion and sediment control plans are developed and implemented,

Development of this size and scale requires an adequate sewerage treatment plant, proposed for Elliott Heads but not currently approved. Disposal of treated wastewater in such a plant will need to demonstrate compliance with Policy 2.4.2 Wastewater discharges to coastal waters in the SCMP, notably: *'For coastal waters where nutrients have been identified as a problem, sewage treatment works are designed and managed to enable appropriate nutrient removal ... into coastal waters – by 2010'*.

Policies 2.8.1 Areas of State Significance (Natural Resources) and 2.8.2 Coastal Wetlands

The size and scale of the proposed development is likely to adversely impact an adjacent *significant coastal wetland* as defined by the SCMP¹. This *significant coastal wetland* extends from Elliott River to Theodolite Creek (in the south) and northward along the Woongarra coast to the mouth of the Burnett River (in the north). This wetland is part of a Marine Conservation Zone declared under the Great Sandy Marine Park Zoning Plan.

Significant coastal wetlands are Areas of State Significance (Natural Resources) under the SCMP, where Policies 2.8.1 and 2.8.2 both apply. Policy 2.8.1 of the SCMP specifies: *'land*

¹ Wetlands associated with the proposed development site satisfy the following criteria for *significant coastal wetlands* as defined by the SCMP:

(c)(i) *a good example of a wetland type occurring within a bioregion in Queensland*

- all palustrine wetlands on the proposed development area were identified as natural wetlands under the Queensland wetlands mapping program; estuarine wetlands adjacent the site are 'Highly protected areas' under the Great Sandy Marine Park Zoning Plan and part of a Fish Habitat Area 'A'.

(ii) *plays an important ecological or hydrological role in the natural functioning of a major wetland system*

- palustrine wetlands on the proposed development play an important role in maintaining water quality and hydrology of the High Ecological Waters of the Elliott River estuary; shorebird roost/ nesting sites and coral reef at Dr Mays Island and Woongarra.

(iii) *important as a habitat for animal taxa at a vulnerable stage in their life cycles, or provides a refuge when adverse conditions such as drought prevail*

- 200m from the boundary of the property is a shorebird roost mapped by the Queensland Wader Study Group; the Elliott River contains three other significant shorebird roosts and important fish nurseries.

allocation for uses and activities adjacent to 'areas of state significance (natural resources)' is to be compatible with the maintenance of the area's values.' Policy 2.8.2 of the SCMP specifies: *'further loss or degradation of coastal wetlands (including land within 100 metres of a coastal wetland) is to be avoided and impacts on coastal wetlands prevented, minimised or mitigated (in order of preference).'*

The application fails to demonstrate the proposed development will not result in adverse impacts to AOSS (NR) or that it is of net benefit to the state as a whole.

Policy 2.8.3 Biodiversity

The proposed development is inconsistent with Policy 2.8.3 of the SCMP which specifies: *'biodiversity on the coast is to be safeguarded through conserving and appropriately managing the diverse range of habitats including coral reefs, seagrass, ...saltflats, ... coastal wetlands and riparian vegetation..'*

Significant wildlife habitats are located immediately adjacent to the proposed development site. This includes extensive areas of intertidal flats which are important habitat for resident and migratory shorebirds (including the Little Tern *Sterna albifrons* and Eastern Curlew *Numenius madagascariensis*). Elliot River estuary, itself, has extensive shallow marine waters important as seagrass and fish breeding habitat. The estuary is directly linked to the Woongarra fringing coral reef community protected as part of the Great Sandy Marine Park.

Proposed development is likely to adversely impact biodiversity values of state significance, both directly and indirectly, as a result of increased human and domestic animal local populations, spread of exotic weeds and pests, diminished water quality etc. This includes potential for adverse impacts on scheduled wildlife species such as the Hawksbill Turtle *Eretmochelys imbricate* and Loggerhead Turtle *Carretta Caretta*.

Policy 2.8.3 requires *'retention of and appropriate management of riparian vegetation along waterways of sufficient width to provide for a self-sustainable linked network'*. Riparian vegetation adjoining wetlands is not of sufficient width to protect the values of the significant wildlife habitats described above, nor does the proposed network of parklands provide sufficient natural riparian vegetation to act as a protective self-sustainable linked network.

SUMMARY

1. The size and scale of the proposed development presented in the Elliott Heads Structure Plan is inappropriate and is outside the projected urban needs of the Burnett Shire;
2. The proponent has not demonstrated that the proposed development is consistent with various policies contained in the SCMP (as detailed above);
3. On this basis it is recommended that the application be refused.

If you have any inquiries regarding this response please contact either Ms Maria Zann or myself by telephoning (07) 4121 1855

Yours sincerely

Stephen Barry
A/Planning Manager
Wide Bay Burnett

C/c Randall Barrington
Principal
Randall Barrington Town Planning Pty Ltd



Our Ref: P131732
Your Ref: Z-2007123-800

Strategic Policy and
Executive Services

Department of
Emergency Services

1 August 2007

Mr Wayne Phillips
Director Planning and Development
Burnett Shire Council
Locked Bag 1
BARGARA QLD 4670

Dear Mr Phillips

Thank you for your letter dated 18 July 2007, regarding the development application for Preliminary Approval Overriding the Planning Scheme under S3.1.6 of IPA for the Elliott Heads Estate Development.

Department of Emergency Services (DES) officers have reviewed the application regarding compliance with State Planning Policy 1/03 (SPP 1/03) and other emergency services provision issues.

DES judges the development to be compliant with SPP 1/03 and requires no further information regarding the development application.

Should further information be required, please do not hesitate to contact Mr Gavin McCullagh, A/Senior Policy Officer, on telephone number (07) 3247 8782, who will be pleased to assist. Should any operational consultation be required, contact information is attached for the three regional operational agencies within DES.

Yours sincerely

Richard Williams
Director

for

SHIRE OF BURNETT		
Reply	Reply Date	Scanned
Info	<input checked="" type="checkbox"/> Ready by File	1/1
Amend to Info	Ready by Fax	1/1
Amend to Reply	Ready by E-Mail	1/1
RECEIVED 06 AUG 2007		
FILE: Z-2007123-800	CC: 1	REQ NO: 07/02941
FILE:	REQ NO:	
AD: M. Riley	CC:	
COMMENTS:		

Strategic Policy Unit

Emergency Services Complex
Cnr Kedron Park Road and Park Road
Kedron Queensland 4031

GPO Box 1425 Brisbane
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Creating a safer Queensland

North Coast Regional Contacts

Queensland Fire and Rescue Service
Assistant Commissioner
Telephone Number (07) 4190 4815

Queensland Ambulance Service
Assistant Commissioner
Telephone Number (07) 5420 9999

Emergency Management Queensland
Regional Director
Telephone Number (07) 5436 4212



18 April 2012

Mr Peter Byrne
 Chief Executive Officer
 Bundaberg Regional Council
 PO Box 3130
 Bundaberg Qld 4670



Attention Mr Richard Jenner

Dear Mr Byrne

Bundaberg Regional Council: Elliott Heads Road
Applicant: Elliott Heads Estate Pty Ltd
Proposal: Preliminary approval to override the Planning Scheme – Master
Planned Estate
Access location: 172 at 14.176L

Under section 658 of the *Sustainable Planning Act 2009* (SPA) Elliott Heads Estate Pty Ltd and the State of Queensland (represented by the Department of Transport and Main Roads) have entered into an agreement that constitutes an infrastructure agreement under section 660 of the SPA.

This infrastructure agreement has arisen as a result of the development application proposed by Elliott Heads Estate Pty Ltd for a preliminary approval to override the planning scheme.

The department has recently issued a concurrence agency response for the proposal dated 4 April 2012, a copy of which has previously been provided to Council. The infrastructure agreement that has been made is referred to in Condition 11 of the department's response.

In accordance with section 662 of the *Sustainable Planning Act 2009* please find enclosed a copy of the Infrastructure Agreement for your attention.

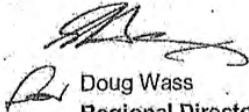
Department of Transport and Main Roads
 Bundaberg Office - Wide Bay/Burnett Region
 21-23 Quay Street, Bundaberg Qld 4670
 Locked Bag 486 Bundaberg Queensland 4670
 ABN 39 407 690 291
 NPP_SL41_GNL
 I:\ALM_Letters\Drafts\2012\4_Apr\172_14.176L_EH Estate_GNL.doc

Our ref 500/84(1) P21290 P22089
 Your ref 130.2007.1238.1
 Enquiries Adam Fryer
 Telephone 07 4154 0200
 Facsimile 07 4152 3878
 Website www.tmr.qld.gov.au
 Email: bundaberg.office@tmr.qld.gov.au

- 2 -

If you have any queries, or wish to discuss this matter further, please contact Adam Fryer,
Senior Advisor Strategic Planning on 4154 0200.

Yours sincerely



Doug Wass
Regional Director (Wide Bay/Burnett)

Encl

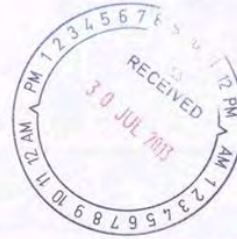
(1) Infrastructure Agreement for Transport Infrastructure Contributions for Elliott Heads Development Elliott Heads Road

CONNOR  O'MEARA
solicitors

Our Ref: Michael Connor:1300715

29 July 2013

Mr Michael Ellery
Group Manager Development
Bundaberg Regional Council
PO Box 3130
BUNDABERG 4670
EXPRESS POST



URGENT

Dear Michael

Elliott Heads Estate Infrastructure Agreement 2013

Please find enclosed the following:

1. a letter from Herbert Geer dated 29 July 2013 hand delivered to our office today; and
2. the Elliott Heads Estate Infrastructure Agreement 2013, in triplicate, executed by the developer and land owner.

Yours faithfully

CONNOR O'MEARA

Encls.

"Liability limited by a scheme approved under professional standards legislation"

12mom.4

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herbertgeer

Your Ref: Michael Connor: 1300715
Our Ref: IWR:JKB:1353657
Supervisor: Ian Wright - Partner
Writer: Jamon Phelan-Badgery - Lawyer
Email: jkb@herbertgeer.com.au

D 07 3853 8885
F 07 3853 8800

29 July 2013

BY DELIVERY

29 JUL 2013

2:40 pm

Mr Michael Connor
Connor O'Meara Solicitors
Level 5, 370 Queen Street
PO Box 2239
BRISBANE QLD 4001

Dear Sir

Elliott Heads Estate Infrastructure Agreement

We **attach** copies of the Elliott Heads Infrastructure Agreement 2013 (**Infrastructure Agreement**) which have been signed by our client and the respective landowners.

We note that the Council in negotiating the Infrastructure Agreement has required the following:

- that infrastructure charges be calculated in accordance with the applicable infrastructure charging instrument at the relevant time of development;
- that the identification of trunk infrastructure and the application of offsets for the provision of trunk infrastructure be based on the Council's current infrastructure planning instruments with the effect that land and work contributions for significant water distribution pipes and water reservoirs, land and work contributions for parkland, and land contributions for local government community facilities are not offsettable against the infrastructure charges to be calculated in accordance with the applicable infrastructure charging instruments at the relevant time.

We also note that the State government has recently released a Discussion Paper on the Review of Queensland's Infrastructure Planning and Charging Framework which identifies reform options including the following:

- the ability for local governments to adopt planned charges which are greater than capped charges;
- the ability for applicants to seek offsets against infrastructure charges for infrastructure not identified in an applicable infrastructure planning instrument which either meets minimum standard specifications to be identified in a ministerial guideline but which otherwise satisfies a 'trunk function' test (referred to as deemed trunk infrastructure).

We are instructed that given that Elliott Heads Estate Pty Ltd has agreed to pay infrastructure charges on the basis of an applicable infrastructure charging instrument at the relevant time, which would include higher planned charges, Elliott Heads Estate Pty Ltd may seek the Council's agreement to vary the Infrastructure Agreement to provide for offsets for deemed trunk infrastructure should the current legislation be amended to provide an applicant with the ability to seek an offset against infrastructure charges for deemed trunk infrastructure or to otherwise take account of any changes to the applicable infrastructure planning and charging framework.

Brisbane Sydney Melbourne

Level 26, 240 Queen Street
Brisbane QLD 4000
GPO Box 380 Brisbane QLD 4001
Australia
DX 175 Brisbane

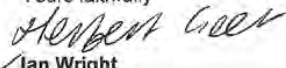
Telephone: +617 3853 8888
Facsimile: +617 3853 8800
www.herbertgeer.com.au
ABN 21 228 101 686

Bris_Docs 1353657 8112014 v1

HERBERT GEER**2****29 JULY 2013**

Notwithstanding the abovementioned matters our client is grateful for the Council's facilitation of the finalisation of the Infrastructure Agreement and is anxious to ensure the development application for preliminary approval is considered by the Council at the ordinary meeting scheduled on 13 August 2013.

Yours faithfully

for 
Ian Wright

Partner

HERBERT GEER LAWYERS

Planning Government Infrastructure and Environment

Winner – Law Firm of the Year – ALB Law Awards 2011 and 2012

Bris Docs 1353657 8112014 v1

Infrastructure Agreement

Sustainable Planning Act 2009

Bundaberg Regional Council
Council

Elliott Heads Estate Pty Ltd ACN 116 512 568
Proponent

John Joseph Manera, Teresa Lina Alice Manera, John Joseph Manera Jnr, Kim Maree Manera, Darryl Robert Raines as Executor of the Estate of Dennis Allan Raines, Stephen John Raines as Executor of the Estate of Dennis Allan Raines, Gordon Shepherd and Patricia Mary Shepherd
Owner

Elliott Heads Estate Infrastructure Agreement 2013

REGISTERED POST - SENDER TO KEEP
496424780015

herbertgeer

GPO Box 380 BRISBANE QLD 4001
Reference 7876667v11
Contact: Ian Wright | Partner
Planning Government
Infrastructure and Environment
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Part 1 Preliminary

1. Introduction

1.1 Short title

This document may be referred to by the name stated in **schedule 1**.

1.2 Deed

This document is a deed which comprises the following:

- (a) **Part 1** which recites the following:
 - (i) the date of this document;
 - (ii) the names of the parties to this document;
 - (iii) the purpose for which the parties have entered into this document;
- (b) **Part 2** which witnesses the terms agreed upon by the parties;
- (c) **Part 3** which provides for the execution of this document by the parties.

1.3 Date

This document is made on the date when the last party executes this document.

1.4 Parties

This document is made between the parties in **schedule 1**.

1.5 Recitals

This document has been entered into for the following purposes:

- (a) the Development Land is included in the Rural Zone of the Rural Planning Area and the Urban Residential Zone of the Coastal Towns Planning Area in the *Burnett Shire Planning Scheme 2006*;
- (b) the Proponent made the Prescribed Application to the Council;
- (c) the Development Land is to be the subject of the Proposed Development;
- (d) the Proposed Development of the Development Land requires the provision of infrastructure;
- (e) the Council is of the opinion that:
 - (i) the Council's plans for trunk infrastructure do not envisage the Development Land's development for urban purposes;
 - (ii) but for the provision of infrastructure in accordance with this document, the Approval of the Prescribed Application would significantly prejudice the safety, operational efficiency and cost of existing and planned infrastructure;

- (f) the Development Obligations require infrastructure to be provided before or as part of the Proposed Development to address the adverse impact of any Approval of the Prescribed Application on trunk infrastructure;
- (g) the Council, the Proponent and the Owner have agreed that in the event that a Prescribed Approval Application takes effect:
 - (i) the Developer will carry out and perform, pay or provide the Infrastructure Contributions for which the Developer is responsible;
 - (ii) the Council will carry out and perform or provide the Infrastructure Contributions for which the Council is responsible;
 - (iii) the Owner consents to the obligations under the Agreement attaching to the Land such that the obligations are binding on the Owner and the Owner's successors in title.
- (h) the parties have decided to enter into this document to record the terms of their agreement.

Part 2 Terms agreed by the parties

2. Interpretation

2.1 Definitions

In this document, unless the context or subject matter otherwise indicates or requires a word which is capitalised has the following meaning:

Application means an application for an Approval.

Approval means a consent, permit, licence, certificate, authorisation, registration, membership, allocation or approval under a law and includes a development approval and an Approval of a master plan.

Authority means a government, semi-government, local government, statutory, public, ministerial, civil, administrative, fiscal or judicial body or other entity or body with relevant power or authority.

Business Day has the meaning in the *Acts Interpretation Act 1954* (Qld).

Calendar Day means from one midnight to the following one.

Claim means an allegation, debt, cause of action, liability claim, proceeding, suit or demand of any nature at law or otherwise, whether present or future, fixed or unascertained, actual or contingent.

Commencement Date means the date on which this document commences as stated in **clause 1.3**.

Completion means the stage in the provision of a matter by a Proponent when the Council is satisfied that the matter is complete other than for a minor omission and a minor defect which:

- (a) is not essential;

- (b) does not prevent the matter from being reasonably capable of being used for its intended purpose;
- (c) the Council determines the Proponent has a reasonable basis for not promptly rectifying; and
- (d) the rectification of which will not prejudice the convenient use of the matter.

Completion Security means a security or part of a security provided to the Council to secure the Completion of the performance and fulfilment of a Development Obligation to enable the following:

- (a) the Approval of a Plan of Subdivision under the Planning Act;
- (b) the start of a use of premises under the Planning Act.

Example - A Completion Security may be provided to secure the Completion of a Work Contribution to enable the Approval of a Plan of Subdivision.

Council means the Local Government in **schedule 1**.

CPI means the Consumer Price: All Groups Index for Brisbane, published by the Australian Bureau of Statistics or if that index is no longer published, then an index which in the reasonable opinion of the Proponent is a similar index.

Developable Lot means the following:

- (a) a lot comprising the Development Land at the Commencement Date;
- (b) a lot forming part of the Development Land which is not a Developed Lot.

Developed Lot means a lot forming part of the Development Land which:

- (a) has been created pursuant to the Prescribed Approval; and
- (b) has an area no greater than 800m²; and
- (c) if larger than 800m², has a development permit for a material change of use or building work and the size of the lot is necessary to accommodate the material change of use or building work.

Development Entitlements means the entitlements for the development of the Development Land in the following:

- (a) a planning instrument stated in **schedule 3** and any changes to the planning instrument made under the Planning Act;
- (b) a Prescribed Approval, a related approval under the Planning Act to the Prescribed Approval and any changes to the Prescribed Approval or related approval under the Planning Act.

Development Land means the land stated in **schedule 1**.

Development Obligation means an obligation under this document to be performed and fulfilled by a party.

Dispute Notice means a Notice given under **clause 11.1**.

Expert means an expert appointed under **clause 11.3**.

Financial Contribution means the provision of a monetary sum for infrastructure.

Force Majeure means an event:

- (a) being a Commonwealth or State government decree, an act of God, industrial disturbance, act of public enemy, war, international blockade, public riot, lightning, flood, earthquake, fire, storm or other physical or material restraint;
- (b) which is not within the reasonable control of the party claiming Force Majeure; and
- (c) which could not have been prevented by that party exercising a standard of knowledge, foresight, care and diligence consistent with that of a prudent and competent person under the circumstances.

GST has the meaning in the GST Act.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Infrastructure Offset means the actual cost of an Infrastructure Contribution which may be offset against a Financial Contribution under **clause 8**.

Infrastructure Charging Instrument means a law or statutory instrument for the levying of a charge for infrastructure.

Infrastructure Contribution means a contribution for infrastructure which may be in the form of the following:

- (a) a Financial Contribution;
- (b) a Land Contribution;
- (c) a Work Contribution;
- (d) a Mixed Contribution.

Land Contribution means the provision of land including an easement for infrastructure.

Local Government has the meaning in the Local Government Act.

Local Government Act means the *Local Government Act 2009* (Qld).

Maintenance Period means the period during which a Work Contribution is to be maintained by a Proponent which:

- (a) commences when the Council is satisfied the Work Contribution has reached Completion; and
- (b) ends at the expiry of the following:
 - (i) 12 months or such other period stated in an Approval or this document (**Prescribed Period**);
 - (ii) if any part of the Work Contribution requires the rectification of a defect during the Prescribed Period (**Defective Part**), a further Prescribed Period in relation only to the Defective Part of the Work Contribution from the date when the rectification has been performed and fulfilled to the satisfaction of the Council.

Mixed Contribution means a contribution for infrastructure involving a combination of two or more of the following:

- (a) a Financial Contribution;

- (b) a Land Contribution;
- (c) a Work Contribution.

Notice means a document to be given by a party or a person under this document.

Owner means for land the following:

- (a) the person for the time being entitled to receive the rent for the land;
- (b) the person who would be entitled to receive the rent for the land if the land were let to a tenant at a rent.

Performance Security means a security provided to the Council under **clause 7.1** to secure the performance and fulfilment of a Development Obligation.

Plan of Subdivision means a plan however called for reconfiguring of a lot, which under a law requires the Approval in whatever form, of a Local Government before it can be registered or otherwise recorded under that law.

Example - A Plan of Subdivision is commonly referred to as the survey plan.

Planning Act means the *Sustainable Planning Act 2009* (Qld).

PPI means the publication entitled 6427.0 Producer Price Indexes, Australia, Table 17 Output of the Construction industries, subdivision and class index numbers, Series ID: A2333727L, described as 3101 Road bridge construction Queensland published by the Australian Bureau of Statistics or if that index is no longer published, then an index which in the Council's reasonable opinion is a similar index.

Prescribed Application means the Application stated in **schedule 3** and includes a document submitted for the Application before the determination of the Application.

Prescribed Approval means the following:

- (a) an Approval for the Prescribed Application given by the Council, and if applicable, as changed by a court under **clause 5.4**;
- (b) an Approval in **schedule 3**.

Prescribed Cost means the amount expressed in dollars of the cost for the provision of a Work Contribution as determined under **clause 8.2(b) to 8.2(d)**.

Prescribed Approval Conditions means the conditions for an Approval of the Prescribed Application, if any, in **schedule 3**.

Prescribed Sewerage Infrastructure means the Infrastructure Contributions for sewerage infrastructure identified in the Infrastructure Contributions Schedule in **schedule 2**.

Proponent means the proponent for the Development Land in **schedule 1**.

Proposed Development means the development of the Development Land provided for in the Development Entitlements.

Work Contract means a contract for the provision of a Work Contribution.

Work Contribution means the provision of work for infrastructure.

2.2 Undefined word

If a word is not defined in this document, unless the context or subject matter otherwise indicates or requires, the word is to have a meaning given to it by the following:

- (a) the Planning Act;
- (b) a relevant local planning instrument if the word is not defined in the Planning Act;
- (c) the Macquarie Dictionary if the word is not defined in the Planning Act or a relevant local planning instrument.

2.3 References

In this document unless the context or subject matter otherwise indicates or requires:

- (a) a reference to a document, includes a consolidation, amendment, notation, supplement, replacement or variation of the document;
- (b) a reference to a law or a provision of a law, includes the following:
 - (i) the law and the common law including the principles of equity of the Commonwealth, a State or a Territory;
 - (ii) a statutory instrument made or in effect under the law or the provision;
 - (iii) a consolidation, amendment, extension, re-enactment or replacement of the law or the provision;
- (c) a reference to a word in:
 - (i) the singular includes the plural; and
 - (ii) the plural includes the singular;
- (d) a reference to the word dollar or \$, is a reference to a dollar of Australian currency and an amount payable is payable in Australian dollars;
- (e) a reference to writing, includes a mode of representing or reproducing a word in tangible and permanently visible form and includes a facsimile transmission;
- (f) a reference to the word includes, or to an example or particularisation of a clause, does not limit the meaning of a word to which the clause relates to a matter of a similar kind;
- (g) a reference to a word which is defined in this document, includes another part of speech or grammatical form of the word which is to have a corresponding meaning;
- (h) a reference to a party made up of more than one person, is a reference to all of those persons separately so that:
 - (i) an obligation of a party binds them jointly and each of them individually; and

- (ii) a right of a party benefits them jointly and each of them individually;
- (i) a reference to a day is a Calendar Day;
- (j) a reference to a date on or by which an act is to be done is to be taken to be the next Business Day if:
 - (i) the date is not a Business Day; or
 - (ii) the act is done after 5.00pm on the day by which the act is to be done;
- (k) a reference to a period of time which is to be calculated by regard to a day or an event, is to exclude the day or the day of the event;
- (l) a reference to the word land, includes the following:
 - (i) an interest or estate in, on, over or under the land;
 - (ii) the airspace above the surface of the land and an estate or interest in the land;
 - (iii) the subsoil of the land and an estate or interest in the subsoil;
 - (iv) a part or parts of the land;
 - (v) an estate or interest created for any of the above matters;
- (m) a reference to the word sell, includes transfer, dispose of and alienate but excludes a mortgage, licence, grant of an easement and a lease other than a lease for a term including an option exceeding 5 years;
- (n) a reference to a successor in title of land, includes the following:
 - (i) a person deriving title to the land through or under the Owner of the land;
 - (ii) a mortgagee which takes possession of the land;
- (o) a reference to a point is a reference to a point stated in a drawing;
- (p) a reference to a drawing is a reference to a drawing in **schedule 4**;
- (q) a reference to the address of a party is a reference to the physical or postal address of that party stated in **schedule 1** or as changed under this document, as indicated by the context or subject matter.

3. Infrastructure agreement

3.1 Infrastructure agreement under the Planning Act

This document constitutes an infrastructure agreement under the Planning Act.

3.2 Application of the infrastructure agreement

This document applies to all development comprising the Proposed Development of the Development Land.

3.3 Relationship to an Owner

- (a) A Development Obligation attaches to the Development Land and is binding on the Owner of the Development Land and the Owner's successor in title of the Development Land under the Planning Act.
- (b) A Development Obligation is not affected by a change in the ownership of the Development Land or a part of the Development Land other than as expressly provided in **clause 7.1**.

3.4 Relationship to an Approval

If a Development Obligation is inconsistent with an Approval for the Development Land, the Development Obligation is to prevail to the extent of the inconsistency.

3.5 Relationship to a planning instrument

The performance and fulfilment of a Development Obligation does not depend on a Development Entitlement which may be affected by a change to a planning instrument.

3.6 Relationship to an Infrastructure Charging Instrument

- (a) This document is not intended to limit the nature or type of an Infrastructure Charging Instrument which an Authority may lawfully make for the development of the Development Land.
- (b) If a Development Obligation is inconsistent with an Infrastructure Charging Instrument, the Development Obligation is to prevail to the extent of the inconsistency.

4. Operation of the infrastructure agreement

4.1 Commencement of the infrastructure agreement

This document is to be of no effect until the Commencement Date.

4.2 Termination of the infrastructure agreement

- (a) A party may give to each other party a Notice which states that it proposes to terminate this document if one of the following events has occurred:
 - (i) the Development Entitlements:
 - (A) do not take effect under the Planning Act; or
 - (B) cease to have effect under the Planning Act;
 - (ii) the parties agree as follows:
 - (A) that the performance and fulfilment of this document has been frustrated by an event outside of the control of the parties;
 - (B) to terminate this document.
- (b) A party may at a date, which is 30 Calendar Days after the giving of the Notice under **paragraph (a)**, give to each other party a Notice which states that the document is terminated.

4.3 Reliance on matters in the infrastructure agreement

Except to the extent required by law, the Council is not to seek to use the existence of this document or any matter agreed in this document as a basis for refusing the Prescribed Application or contending for the refusal of the Prescribed Application on appeal.

5. Development Entitlements

5.1 Application of this clause

This clause applies if a Prescribed Application is stated in **schedule 3**.

5.2 Consideration of the Prescribed Application

The Council is to decide the Prescribed Application in a manner which is as timely as is reasonably practicable.

5.3 Claim in respect of an Approval for the Prescribed Application

A Proponent is not to make a Claim against the Council, other than as a respondent to a Claim made by another person, if the Council gives an Approval subject to the Prescribed Approval Conditions for the Prescribed Application.

5.4 Change of the Approval for the Prescribed Application

If the parties or an Authority propose to change the Approval for the Prescribed Application given by the Council the parties are to in a manner which is as timely as is reasonably practicable:

- (a) confer with a view to reaching an agreement as to the effect, if any, the proposed change may have on a Development Entitlement and a Development Obligation;
- (b) if the parties agree that a Development Entitlement or Development Obligation may be affected by the proposed change, use their best endeavours to review the Development Obligation, negotiate in good faith and change this document to put the parties in as near as practical a position as they would have been had it not been for the proposed change, having regard to the intent of the parties in entering into this document as stated in **clause 1.5**;
- (c) invoke the dispute resolution process under **clause 10** if an agreement cannot be reached for a matter in **paragraphs (a) and (b)**;
- (d) use their reasonable endeavours to ensure that the proposed change is not made under the Planning Act until **paragraphs (a) to (c)** are performed and fulfilled.

6. Development Obligations

6.1 Development Obligations schedule

The parties are to comply with the special conditions and the other Development Obligations in **schedule 2**:

- (a) from the later of the following:

- (i) the Commencement Date;
- (ii) the date the Development Entitlements take effect; and
- (b) at the subsequent times stated in **schedule 2**.

6.2 Action to give effect to an Infrastructure Contribution

A Proponent is to take the following action for an Infrastructure Contribution of the Proponent:

- (a) consult regularly with the Council;
- (b) comply as soon as is reasonably practicable with a Notice given by the Council to the Proponent which states that the Proponent is to provide reasonable or relevant information to the Council for the following:
 - (i) the Proposed Development of the Development Land;
 - (ii) a Development Obligation;
 - (iii) to allow the Council to determine that a Development Obligation has been performed and fulfilled;
- (c) by not later than each anniversary of the Commencement Date, give to the Council a Notice which states the Proponent's performance and fulfilment of its obligations under this document.

7. Performance Security

7.1 Provision of a Performance Security

A Proponent is to provide to the Council the Performance Security in **schedule 1**.

7.2 Form of a Performance Security

A Proponent is to provide to the Council a Performance Security which is in the following form:

- (a) money;
- (b) a banker's undertaking which satisfies the following:
 - (i) is in favour of the Council or an entity stated in a Notice given by the Council;
 - (ii) is given by a financial institution consented to by the Council;
 - (iii) the Council may claim a payment on demand without reference to the Proponent and despite an objection, direction or Claim by the Proponent to the contrary;
 - (iv) the financial institution may make a payment on demand without reference to the Proponent and despite an objection, direction or Claim by the Proponent to the contrary;
 - (v) is unlimited in time;
 - (vi) is irrevocable;
 - (vii) is otherwise unconditional;

(viii) is in a form and substance to the Council's satisfaction;

(c) another form of surety consented to in a resolution of the Council.

7.3 Reduction of a Performance Security

(a) A Proponent may give to the Council a Notice which states that the Council is requested to reduce the amount of a Performance Security on the basis that a Development Obligation to which the Performance Security relates has been performed and fulfilled.

(b) The Council is to give to the Proponent a Notice which states that the amount of a Performance Security may be reduced if the Council is satisfied of the following:

(i) the Development Obligation has been partly performed and fulfilled;

(ii) the amount of the reduced Performance Security is at least an amount estimated by the Council to be 1.5 times the value of that part of the Development Obligation yet to be performed and fulfilled.

7.4 Release of a Performance Security

(a) A Proponent may give to the Council a Notice which states that the Council is requested to release and return to the Proponent a Performance Security, if the Proponent has performed and fulfilled the Development Obligation to which the Performance Security relates.

(b) The Council is to, within 30 Calendar Days of the receipt of a Notice under **paragraph (a)**, give to the Proponent a Notice which states whether the Council is satisfied that the Proponent has performed and fulfilled the Development Obligation to which the Performance Security relates.

(c) The Council is to release and return the Performance Security to a Proponent within 30 Calendar Days of the Council giving to the Proponent a Notice under **paragraph (b)** stating that the Council is satisfied that the Proponent has performed and fulfilled the Development Obligations to which the Performance Security relates.

7.5 Interest earned on a Performance Security

The interest earned on a Performance Security which consists of money is to belong to the Council.

8. Infrastructure Offset

8.1 Application of an Infrastructure Offset

A Proponent is entitled to an Infrastructure Offset for an Infrastructure Contribution if:

(a) the Council has identified that an Infrastructure Offset is to apply to the Infrastructure Contribution in **schedule 2**; and

(b) either:

- (i) the Proponent has performed and fulfilled the Infrastructure Contribution in accordance with this document and a relevant Approval; or
- (ii) the Maintenance Period for the Infrastructure Contribution has commenced; and
- (c) the Council has determined the Infrastructure Offset for the Infrastructure Contribution which in the case of:
 - (i) a Financial Contribution, is to occur prior to the payment of the monetary sum to the Council;
 - (ii) a Land Contribution, is to occur prior to the Approval of the Plan of Subdivision for the land;
 - (iii) a Work Contribution, is to occur prior to the commencement of the Maintenance Period for the Work Contribution; and
 - (iv) a Mixed Contribution, is to occur prior to the later of the times stated in paragraphs (i) to (iii) which apply to the Mixed Contribution; and
- (d) the Proponent has accrued the Infrastructure Offset which occurs at the time the relevant event in paragraph (c) occurs.

8.2 Calculation of an Infrastructure Offset

- (a) The Infrastructure Offset for an Infrastructure Contribution identified in schedule 2, which is:
 - (i) a Land Contribution, is the site value of the land determined under the *Land Valuation Act 2010*;
 - (ii) a Work Contribution, is the Prescribed Cost determined under paragraphs (b) and (c);
 - (iii) a Mixed Contribution, is to be determined under paragraphs (i) and (ii) which apply to the respective components of the Mixed Contribution.
- (b) The Prescribed Cost of a Work Contribution is the cost for the design and construction of the work including the following:
 - (i) the cost of planning and designing the work;
 - (ii) the cost of survey and site investigation for the work;
 - (iii) a cost under a Work Contract;
 - (iv) reasonable supervision, co-ordination, project management and regulatory fees for the work;
 - (v) a portable long service leave payment for a Work Contract;
 - (vi) an insurance premium for the Work Contribution;
 - (vii) the inspection fee of the Council for the commencement and end of the Maintenance Period for the work;
 - (viii) the cost of an Approval for the work.

- (c) The Prescribed Cost of a Work Contribution does not include the following:
- (i) a cost of carrying out temporary infrastructure or other infrastructure not forming part of the ultimate configuration of the infrastructure;
 - (ii) a cost of the decommissioning, removal and rehabilitation of temporary infrastructure or other infrastructure not forming part of the ultimate configuration of the infrastructure;
 - (iii) a part of the Work Contribution provided by the Council or a person other than a Proponent;
 - (iv) a cost to the extent that GST is payable and an input tax credit can be claimed by a Proponent;
 - (v) a cost stated in **schedule 2** as not included in an Infrastructure Offset;
 - (vi) a cost attributable directly or indirectly to the failure of a party to perform and fulfil an Approval, this document or a document provided for under this document other than to the extent the failure is the result of a failure by the Council to perform and fulfil this document or the document provided for under this document;
 - (vii) a cost caused or contributed to by a Proponent's negligent or wilful act or omission.
- (d) The Council is to determine the Prescribed Cost of a Work Contribution as follows:
- (i) a Proponent is to undertake a tender process for the Work Contribution;
 - (ii) a Proponent is to comply with the Proponent's obligations for the provision of the Work Contribution under **schedule 2**;
 - (iii) a Proponent is to give to the Council a Notice which states the following:
 - (A) a tender process has been conducted;
 - (B) the tenders received;
 - (C) the Proponent's preferred tenderer;
 - (D) the Proponent's reason for the preferred tenderer;
 - (E) the terms of the Work Contract;
 - (F) a plan for each infrastructure network clearly showing the extent of the Work Contribution for which the Infrastructure Offset is sought;
 - (G) the Proponent's calculation of the Prescribed Cost;
 - (iv) the Council is to determine the Prescribed Cost acting reasonably having regard to the matters in **paragraphs (i) to (iii)**;

- (v) the Council after determining the Prescribed Cost is to give to the Proponent a Notice which states the following:
 - (A) the Council's calculation of the Prescribed Cost for the Work Contribution;
 - (B) the reason for any difference from the Proponent's calculation of the Prescribed Cost for the Work Contribution.
- (e) A Proponent is to comply with a Notice given by the Council to the Proponent within 21 Business Days of the date the Notice under **paragraph (d)(iii)** is received by the Council which states that the Proponent is to provide to the Council a document to enable the Council to determine the value of an Infrastructure Offset including without limitation the following:
 - (i) details in respect of a Work Contract;
 - (ii) a plan for each infrastructure network clearly showing the scope of the Infrastructure Contribution for which the Infrastructure Offset is sought.

8.3 Set off against a Financial Contribution

- (a) A Proponent may set off an Infrastructure Offset against a Financial Contribution which is for development comprising the Proposed Development.
- (b) If a Proponent requires a set off, the Proponent is to give to the Council a Notice which states the following:
 - (i) the Infrastructure Contribution to which an Infrastructure Offset applies;
 - (ii) that the Infrastructure Offset is applicable to the Infrastructure Contribution under **clause 8.1**;
 - (iii) the calculation of the Infrastructure Offset under **clause 8.2**;
 - (iv) the Financial Contribution against which the Infrastructure Offset is to be set off;
 - (v) that the Infrastructure Offset and the Financial Contribution against which the Infrastructure Offset is to be set off relate to the same infrastructure network;
 - (vi) the calculation of the amount of the set off.
- (c) The Council is to, within 14 Calendar Days of the receipt of a Notice under **paragraph (b)**, give to the Proponent a Notice which states the following:
 - (i) whether or not the Proponent is entitled to the set off under this document;
 - (ii) if the Notice states that the Proponent is entitled to the set off, the value of the set off;

- (iii) if the Notice states that the Proponent is not entitled to the set off, the reason for the Council's decision.

8.4 Limitations on an Infrastructure Offset

- (a) An Infrastructure Offset is only to be used and applied in the manner stated in this document.
- (b) The Council cannot be required to redeem by cash payment an accrued Infrastructure Offset.
- (c) An Infrastructure Offset does not apply to the Prescribed Cost of Prescribed Sewerage Infrastructure under special condition 1 in **schedule 2**.
- (d) An Infrastructure Offset which may be accrued is to be:
 - (i) calculated and recorded in dollars; and
 - (ii) indexed in accordance with the PPI from the date it is accrued to the date that the Infrastructure Offset is set off against a Financial Contribution under **clause 8.3**.
- (e) An Infrastructure Offset may not be used for or applied to land other than the Development Land.
- (f) An Infrastructure Offset may not be used for or applied to development of the Development Land not comprising the Proposed Development.

8.5 Infrastructure Offset register

- (a) The Council is to keep a register for the purpose of keeping a true and accurate account of the accrual and set off of an Infrastructure Offset.
- (b) The Council is to comply with a Notice given by a Proponent to the Council which states the following:
 - (i) the Proponent wishes to inspect a register kept under **paragraph (a)**;
 - (ii) the Proponent wishes to purchase upon the payment of the charge specified by the Council a copy of an extract from a register kept under **paragraph (a)**.
- (c) A Proponent is to comply with a Notice given by the Council to the Proponent which states that the Proponent is to provide reasonable or relevant information for the purpose of enabling the Council to keep the register under **paragraph (a)**.

9. Novation of document upon sale

9.1 Reconfiguring of the Development Land

- (a) If the Development Land is subject to a reconfiguring of a lot to create a Developed Lot, then a Development Obligation no longer:
 - (i) remains attached to the Developed Lot; and
 - (ii) binds the Owner of the Developed Lot.

- (b) If the Development Land is subject to a reconfiguring of a lot to create a Developable Lot, then a Development Obligation:
 - (i) remains attached to the Developable Lot; and
 - (ii) binds the Owner of the Developable Lot.

9.2 Dealing with the Development Land

The Proponent is not to sell a Developable Lot prior to the performance and fulfilment of the Proponent's obligations under this document except subject to the condition that the purchaser is to enter into a deed of novation of this document with each other party, on terms reasonably acceptable to each other party, whereby the purchaser becomes contractually bound to each other party to perform and fulfil the provisions of this document or such of them as remain unperformed or unfulfilled by the Proponent at the time of the sale.

10. Right of access

10.1 Access to land of a Proponent

- (a) A Proponent is to, upon the receipt of a Notice given by the Council to the Proponent which states that access is requested to land of which the Proponent is the Owner or which is under the control of the Proponent, permit the Council to have access to the land for the following:
 - (i) examining, inspecting, testing and monitoring the following:
 - (i) the state and condition of the land or vegetation or waters on the land;
 - (ii) a Land Contribution;
 - (iii) a Work Contribution;
 - (iv) the site of a Work Contribution on the Development Land or on other land;
- (c) determining whether a Development Obligation has been performed and fulfilled;
- (d) making good a breach of a Development Obligation;
- (e) the performance and fulfilment of an obligation;
- (f) the exercise by the Council of a right.

10.2 Access to land of the Council

- (a) The Council is to, upon the receipt of a Notice given by a Proponent to the Council which states that access is requested to land of which the Council is the Owner or which is under the control of the Council, permit the Proponent to have access to the land for the following:
 - (i) the performance and fulfilment of a Development Obligation;
 - (ii) the exercise by the Proponent of a right.

10.3 Exercise of a right of access

- (a) A right of access includes the following:

- (i) a right to bring machinery, equipment and materials onto the relevant land;
 - (ii) a right to effect and install work which is required and authorised to be performed and fulfilled.
- (b) A party exercising a right of access is:
- (i) to exercise reasonable care so as not to cause damage or injury to property or a person;
 - (ii) taken to be an invitee of the Owner and the occupier of the relevant land; and
 - (iii) to promptly rectify any damage caused to property.

11. Dispute resolution generally

11.1 Dispute

If there is a dispute between the parties, a party may give a Dispute Notice referring the dispute for determination by the Expert.

11.2 Notice as bar

The giving of a Dispute Notice operates as a complete and unconditional bar and waiver to the commencement of a proceeding or any litigation in respect of a dispute until after the actions in this **clause 11** have been taken and followed.

11.3 Identity of expert

If within 14 Calendar Days from the giving of a Dispute Notice the parties are not able to agree on the identity of the Expert, the Expert is to be appointed at the request of any party by the President for the time being of the Queensland Law Society Incorporated.

11.4 Experience and expertise

The Expert is to be a qualified civil engineer with extensive experience in dispute resolution and construction practices.

11.5 Non arbitrator

The Expert is to determine the procedure to be adopted to determine the dispute and is to act as an expert and not as an arbitrator.

11.6 Submissions

- (a) A party may make a submission to the Expert in respect of the dispute within 14 Calendar Days after the appointment of the Expert.
- (b) A party making a submission to the Expert in respect of the dispute is to give a copy of the submission to each other party within 7 Calendar Days after the submission is given to the Expert.
- (c) The Expert is to take account of any submission received in respect of the dispute under **paragraph 11.6(a)**.

11.7 Costs

The parties are to pay the Expert's costs (including the cost of engaging and consulting advisers) equally.

11.8 Co-operation

- (a) The parties are to at all times do all things which the Expert requires of them in respect of the Expert's determination of the dispute and are to co-operate and assist the Expert in every reasonable way.
- (b) A party is not to wilfully do or cause to be done any act to delay or prevent the determination of the dispute by the Expert.

11.9 Determination

The Expert's determination:

- (a) is to be made within 14 Calendar Days after the earlier of:
 - (i) each party has made a submission to the Expert in respect of the dispute;
 - (ii) the expiry of the time for a party to make a submission to the Expert in respect of the dispute;
- (b) is to be given in writing as soon as possible;
- (c) is to contain the reasons for the making of the determination;
- (d) is final and binding on the parties.

12. Force Majeure**12.1 Notice of Force Majeure**

If a party is unable by reason of Force Majeure to perform and fulfil an obligation, the party is to, as soon as is reasonably practicable after the Force Majeure, give to each other party a Notice which states the following:

- (a) that Force Majeure is in existence;
- (b) full particulars of the Force Majeure.

12.2 Suspension of an obligation

An obligation of a party so far as it is affected by Force Majeure is suspended during the following:

- (a) the continuance of Force Majeure;
- (b) a further period which is reasonable in the circumstances.

12.3 Removal or amelioration of Force Majeure

The party giving a Notice of Force Majeure is to, as soon as is reasonably practicable, use its best endeavours to remove the Force Majeure or ameliorate its effect.

12.4 Dispute resolution process to apply

If the parties are unable to agree on the existence of a party's Force Majeure or the period during which an obligation is suspended during the continuance of Force Majeure the dispute is to be resolved under clause 11

13. Time**13.1 Time of the essence**

Time is, in all cases, of the essence.

13.2 Extension of time

The parties may agree to extend a time stated in this document by giving to each other a Notice which states the extended time.

14. Counterparts**14.1 Document may consist of counterparts**

This document may consist of a number of counterparts, each of which when executed shall be an original and all the counterparts together shall constitute one and the same instrument.

14.2 Exchange of a counterpart

A party who has executed a counterpart of this document may exchange that counterpart with another party by faxing it or emailing it to the other party and, if that other party requests it, promptly delivering that executed counterpart by hand or post to the other party. However, the validity of this document is not affected if the party who has faxed or emailed the counterpart delays in delivering or does not deliver it by hand or by post.

15. Further action**15.1 Action to give effect to this document**

A party is to do at its cost everything reasonably necessary to effect, perfect or complete this document and a transaction incidental to this document.

15.2 Further action if a clause is invalid, illegal or unenforceable

The parties are to use their best endeavours including the preparation, negotiation and execution of a further document to ensure that the object of a clause or part of a clause which is held by a court to be invalid, illegal or unenforceable is substantially achieved.

16. Severance**16.1 Removal from this document**

A clause or part of a clause which is held by a court to be invalid, illegal or unenforceable is to be treated as removed from this document.

16.2 Effect of removal on this document

The remaining clauses are not affected by:

- (a) the invalidity, illegality or unenforceability of a clause or part of a clause; or
- (b) the removal of a clause or part of a clause from this document.

16.3 Further action on removal

The parties are to use their best endeavours to satisfy the intent of this document as stated in clause 1.5, for a clause or part of a clause which is held by a court to be invalid, illegal or unenforceable, to the extent that it is possible having regard to the relevant court judgment.

17. Notice

17.1 Form of a Notice

- (a) A Notice given by a party is to be:
 - (i) in writing;
 - (ii) signed by the party; and
 - (iii) marked for the attention of the relevant person.
- (b) A party receiving a Notice is not obliged to enquire as to the authority of the person signing the Notice.

17.2 Giving of a Notice

- (a) A party may give to any other party a Notice by sending the Notice in one of the following ways:
 - (i) delivering the Notice to the other party at the physical address of the party;
 - (ii) sending the Notice to the other party by electronic mail;
 - (iii) posting the Notice by prepaid post to the other party at the postal address of the party;
 - (iv) faxing the Notice to the other party at its facsimile number.
- (b) A Notice is to be treated as given in the following circumstances:
 - (i) if it is delivered, when it is left at the physical address of the other party;
 - (ii) if it is sent by electronic mail and no electronic error notification is received by the sender, the date and time the electronic mail indicates it was sent;
 - (iii) if it is sent by post, 3 Calendar Days after it is posted or 7 Calendar Days after it is posted if sent to or from a place outside Australia;
 - (iv) if it is sent by facsimile, as soon as the sender receives from the sender's facsimile machine a report of an error-free transmission to the correct facsimile number.

17.3 Change of the details of a party

A party may change the address, facsimile number and the person to whose attention a Notice is to be brought by giving to each other party a Notice which states the following:

- (a) the changed details;
- (b) that the change is to take effect from a date which is at least 7 Calendar Days after the Notice is given to each other party.

18. Further agreement**18.1 Agreement to change**

- (a) The parties may at any time agree to change, review or replace this document.
- (b) The parties may agree the circumstances and the manner in which a change, review or replacement of this document is to be conducted.

18.2 Form of the change

A change, review or replacement of this document only has effect if the change:

- (a) is in the form of a deed executed by the parties; and
- (b) complies with the Planning Act and any other relevant law.

18.3 Further agreement

- (a) The parties may at any time enter into an agreement or arrangement for a matter the subject of this document that the parties consider is necessary or desirable in order to give effect to this document.
- (b) An agreement or arrangement entered into under **paragraph (a)** is not to be inconsistent with this document.

19. Costs and outlays**19.1 Each party pay its own costs**

Each party must pay its own costs and outlays connected with the negotiation, preparation and execution of this document.

20. Governing law and jurisdiction**20.1 Queensland law to apply**

This document is governed by the laws which apply in the State of Queensland.

20.2 Queensland courts to have jurisdiction

- (a) The parties irrevocably and unconditionally submit to the exclusive jurisdiction of the courts of the State of Queensland and a court which has jurisdiction to hear an appeal from those courts.

- (b) The parties are not to object and waive their right to object to the following:
- (i) a legal proceeding brought in those courts;
 - (ii) the exercise of the jurisdiction by those courts on any basis;
 - (iii) the exercise or non-exercise of a right, including for the actual or contemplated enforcement or preservation of a right, waiver, release, indemnity, discharge or charge under this document.

21. Indexation

21.1 Application of this clause

This clause applies to an amount stated or calculated under this document other than an amount which is stated not to be indexed.

21.2 Indexation of an amount

An amount is to be indexed in accordance with the following formula:

$$IA = A \times \frac{\text{Index Number (Later Period)}}{\text{Index Number (Base Period)}}$$

where:

IA is the indexed amount.

A is the amount to be indexed.

Index Number is the number in the index stated in **schedule 1**.

Base Period is the period stated in **schedule 1**.

Later Period is the period stated in **schedule 1**.

22. GST

22.1 Construction of this clause

In this **clause 22**:

- (a) a word has the meaning in the GST Act; and
- (b) a reference to GST payable and an input tax credit entitlement include the GST payable by, and the input tax credit entitlement of, the representative member for a GST group of which the entity is a member.

22.2 Payment of GST

- (a) If a party or an entity through which that party acts (**Supplier**) is liable to pay GST on a supply made under or in connection with this document, the recipient is to pay to the Supplier an amount equal to the GST payable by the Supplier.
- (b) The recipient is to pay the amount stated in **paragraph (a)** in addition to and at the same time that the consideration for the supply is to be provided under this document.

- (c) The Supplier is to deliver a tax invoice or an adjustment note to the recipient before the Supplier is entitled to the payment of the amount stated in **paragraph (a)**.
- (d) The recipient may withhold the payment of the amount stated in **paragraph (a)** until the Supplier provides a tax invoice or an adjustment note, as appropriate.
- (e) If an adjustment event arises in respect of a taxable supply made by a Supplier under this document, the amount payable by the recipient is to be recalculated to reflect the adjustment event and a payment is to be made by the recipient to the Supplier or by the Supplier to the recipient as the case requires.
- (f) The parties are to do all things including producing a tax invoice and other documents which may be necessary or desirable to enable or help the other party to claim an input tax credit, set-off, rebate or refund for an amount of GST for a supply under this document.

22.3 Reimbursable cost

If a party is required to pay for a cost of another party (**Reimbursable Cost**), the amount to be paid is the amount of the Reimbursable Cost net of an input tax credit or reduced input tax credit to which the other party is entitled for the Reimbursable Cost.

22.4 Indemnified cost

If a party has the benefit of an indemnity for a cost (**Indemnified Cost**), the indemnity is for the Indemnified Cost net of an input tax credit or reduced input tax credit to which that party is entitled for the Indemnified Cost.

22.5 Stated amount

An amount stated in this document is exclusive of GST unless otherwise expressly stated.

22.6 No merger on termination

Clause 22 does not merge on the termination of this document and continues to have effect until each party gives to each other party a Notice waiving the benefit of the clause.

Schedule 1 Reference schedule

Items in the schedule	Description of the items in the schedule
1	Short title
2	Parties
3	Development Land
4	Owner of the Development Land
5	Performance Security
6	Indexation

Elliott Heads Estate Infrastructure Agreement 2013

1. Short title

Elliott Heads Estate Infrastructure Agreement 2013

2. Parties

Column 1 Name	Column 2 Address	Column 3 Facsimile number	Column 4 Person to whose attention a Notice is to be brought
Council			
Bundaberg Regional Council	PO Box 3130, Bundaberg QLD 4670	(07) 4150 5410	Chief Legal Counsel
Proponent			
Elliott Heads Estate Pty Ltd ACN 116 512 568	PO Box 7739, Gold Coast MC QLD 9726	(07) 5528 3515	Director
Owner			
John Joseph Manera	Shine Street, Elliott Heads	Not applicable	John Joseph Manera
Teresa Lina Alice Manera	Shine Street, Elliott Heads	Not applicable	Teresa Lina Alice Manera
John Joseph Manera Jnr	Shine Street, Elliott Heads	Not applicable	John Joseph Manera Jnr
Kim Maree Manera	Shine Street, Elliott Heads	Not applicable	Kim Maree Manera
Darryl Robert Raines as Executor of the Estate of Dennis Allan Raines	17 Stanton Cook Street, Burnett Heads	Not applicable	Darryl Robert Raines as Executor of the Estate of Dennis Allan Raines
Stephen John Raines as Executor of the Estate of Dennis Allan Raines	726 Ford Road, Burbank	Not applicable	Stephen John Raines as Executor of the Estate of Dennis Allan Raines
Gordon Shepherd	1484 Elliott Heads Rd, Elliott Heads	Not applicable	Gordon Shepherd
Patricia Mary Shepherd	1484 Elliott Heads Rd, Elliott Heads	Not applicable	Patricia Mary Shepherd

3. Development Land

Column 1 Registered Owner	Column 2 Real Property Description	Column 3 Area	Column 4 Address
Stephen John Raines and Darryl Robert Raines as Personal Representatives under instrument 714520751	Lot 1 on RP152664	245ha approximately	Land located at Atkinsons Road, Shine Street, Welch Street, Saunders Street, Rule Street, Moore Street, Elliott Heads Road, Raines Road, Breusch Road and Dorflers Road, Elliott Heads, Queensland.
Stephen John Raines and Darryl Robert Raines as Personal Representatives under instrument 714520751	Lot 5 on RP806935		
John Joseph Manera Jnr	Lot 10 on SP220665		
John Joseph Manera Jnr	Lot 89 on CK1443 Lot 90 on CK1443		
John Joseph Manera Jnr	Lot 91 on CK495		
John Joseph Manera Jnr Kim Maree Manera	Lot 1 on RP113567		
John Joseph Manera	Lot 2 on RP7355		
John Joseph Manera	Lot 1 on RP50372		
John Joseph Manera	Lot 1 on RP53148		
John Joseph Manera	Lot 26 on EH1875		

Elliott Heads Estate Infrastructure Agreement 2013

Column 1 Registered Owner	Column 2 Real Property Description	Column 3 Area	Column 4 Address
John Joseph Manera	Lot 1 on RP50368 Lot 2 on RP50372		
John Joseph Manera	Lot 2 on RP50368		
John Joseph Manera	Lot 1 on RP74477		
John Joseph Manera	Lot 135 on CK767		
John Joseph Manera	Lot 85 on CK495 Lot 86 on CK495		
John Joseph Manera	Lot 79 on CK495 Lot 80 on CK495 Lot 81 on CK495 Lot 82 on CK495		
John Joseph Manera Teresa Lina Alice Manera	Lot 8 on RP7353 Lot 9 on RP7353 Lot 10 on RP7353 Lot 16 on RP7353 Lot 17 on RP7354 Lot 18 on RP7354 Lot 6 on RP89911 Lot 7 on RP89911 Lot 25 on RP89911		
John Joseph Manera Teresa Lina Alice Manera	Lot 97 on CK495		
John Joseph Manera Teresa Lina Alice Manera	Lot 2 on RP49524		
Gordon Shepherd Patricia Mary Shepherd	Lot 77 on CK495		
Gordon Shepherd Patricia Mary Shepherd	Lot 78 on CK495		
Gordon Shepherd Patricia Mary Shepherd	Lot 87 on CK495		
Gordon Shepherd Patricia Mary Shepherd	Lot 88 on CK495		

Note: see clause 2.1, definition of Development Land

4. Owner of the Development Land

Column 1 Name	Column 2 Owner's consent under the Planning Act
John Joseph Manera, Teresa Lina Alice Manera, John Joseph Manera Jnr, Kim Maree Manera, Darryl Robert Raines as Executor of the Estate of Dennis Allan Raines, Stephen John Raines as Executor of the Estate of Dennis Allan Raines, Gordon Shepherd, Patricia Mary Shepherd	The Owner consents to the Development Obligations of the Proponent attaching to the Development Land under the Planning Act.

Note: see section 663 (When infrastructure agreement binds successors in title) of the Planning Act

5. Performance Security

Column 1 Development Obligation to be secured	Column 2 Performance Security (\$)	Column 3 Calculation of the Performance Security	Column 4 Timing of Provision	Column 5 Party receiving Performance Security
The Prescribed Sewerage Infrastructure.	\$4m	Estimate of the Prescribed Cost of the Prescribed Sewerage Infrastructure agreed by the	Prior to the Approval of a Plan of Subdivision or the commencement of a use for the Proposed Development.	Council

Elliott Heads Estate Infrastructure Agreement 2013

Column 1 Development Obligation to be secured	Column 2 Performance Security (\$)	Column 3 Calculation of the Performance Security	Column 4 Timing of Provision	Column 5 Party receiving Performance Security
		parties.		
The Work Contributions in items 1.1.3 and 1.2.3 of the Infrastructure Contributions Schedule.	An initial amount of \$100,000 at the time specified in column 4, which is increased on the anniversary of the time specified in column 4 to the following amount: (a) \$150,000 on the 1 year anniversary; (b) \$225,000 on the 2 year anniversary; (c) \$337,000 on the 3 year anniversary; (d) \$566,000 on the 4 year anniversary.	Estimate of the cost of the Work Contributions in items 1.1.3 and 1.2.3 of the Infrastructure Contributions Schedule and increases agreed by the parties.	For the initial amount, prior to the Approval of a Plan of Subdivision or commencement of a use for the Proposed Development of the Development Land in a sewerage catchment to be serviced by pump station SPS-EH4 or SPS-EH5 which subject to annual adjustments specified in column 2.	Council

6. Indexation

Column 1 Index	Column 2 Base period	Column 3 Later period
1. Performance Security		
PPI	Commencement Date	The relevant period in accordance with this document.
2. Another amount in this document		
CPI	Commencement Date	The relevant period in accordance with this document.

Note: see clause 21

Schedule 2

Development Obligations schedule

1. Special conditions

Column 1 Table Number	Column 2 Special condition (clause 6.1)
1	<p>Financial Contribution</p> <p>(a) The Proponent is not required to provide to the Council, for the Proposed Development, a Financial Contribution for infrastructure to be paid and calculated under an applicable Infrastructure Charging Instrument other than in accordance with this special condition.</p> <p>(b) The Council is to determine the following:</p> <p>(i) the Prescribed Financial Contribution, being:</p> <p>(A) the amount of the Financial Contribution which would have otherwise been paid under an applicable Infrastructure Charging Instrument, but for paragraph (a); and</p> <p>(B) the amount in paragraph (b)(i)(A) indexed in accordance with the PPI from the date the Financial Contribution would have otherwise been paid but for paragraph (a) to the date the Council gives to the Proponent a Notice under paragraph (d)(ii);</p> <p>(ii) the Prescribed Cost of the Prescribed Sewerage Infrastructure, being:</p> <p>(A) the amount of the Prescribed Cost of the Prescribed Sewerage Infrastructure under clause 8.2(b) and (c); and</p> <p>(B) the amount in paragraph (b)(ii)(A) indexed in accordance with the PPI from the date of the commencement of the Maintenance Period for the Prescribed Sewerage Infrastructure to the date the Council gives to the Proponent a Notice under paragraph (d)(ii).</p> <p>(c) The Proponent is to:</p> <p>(i) undertake a tender process for the Prescribed Sewerage Infrastructure;</p> <p>(ii) comply with the Proponent's obligations for the provision of the Prescribed Sewerage Infrastructure under the Infrastructure Contributions Schedule;</p> <p>(iii) within 21 days of the commencement of the Maintenance Period for the Prescribed Sewerage Infrastructure, give to the Council a Notice which states the following:</p> <p>(A) a tender process has been conducted;</p> <p>(B) the tenders received;</p> <p>(C) the Proponent's preferred tenderer;</p> <p>(D) the Proponent's reason for the preferred tenderer;</p> <p>(E) the terms of the Work Contract;</p> <p>(F) a plan clearly showing the extent of the Prescribed Sewerage Infrastructure;</p> <p>(G) the Proponent's calculation of the Prescribed Cost of the Prescribed Sewerage Infrastructure and the Prescribed Financial Contribution;</p> <p>(H) the Proponent's calculation of the amount by which the</p>

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	<p>Prescribed Cost of the Prescribed Sewerage Infrastructure exceeds, equals, or is less than, the Prescribed Financial Contribution.</p> <p>(d) The Council is to, as soon as is reasonably practicable after the receipt of a Notice under paragraph (c)(iii):</p> <ul style="list-style-type: none"> (i) determine the Prescribed Financial Contribution and the Prescribed Cost of the Prescribed Sewerage Infrastructure, acting reasonably having regard to the matters in paragraph (c); (ii) after determining the matters in paragraph (d)(i), give to the Proponent a Notice which states the following: <ul style="list-style-type: none"> (A) the Council's calculation of the Prescribed Cost of the Prescribed Sewerage Infrastructure and the Prescribed Financial Contribution; (B) the reason for any difference from the Proponent's calculation of the Prescribed Sewerage Infrastructure and the Prescribed Financial Contribution. <p>(e) If the Notice under paragraph (d)(ii) states that the Prescribed Financial Contribution is greater than the Prescribed Cost of the Prescribed Sewerage Infrastructure, the Proponent is to:</p> <ul style="list-style-type: none"> (i) within 90 Calendar Days of the receipt of the Notice under paragraph (d)(ii), pay to the Council the difference between the Prescribed Financial Contribution and the Prescribed Cost of the Prescribed Sewerage Infrastructure; and (ii) for the balance of the Proposed Development, provide to the Council a Financial Contribution for infrastructure to be paid and calculated under an applicable Infrastructure Charging Instrument. <p>(f) If the Notice under paragraph (d)(ii) states that the Prescribed Financial Contribution is equal to or less than the Prescribed Cost of the Prescribed Sewerage Infrastructure, the Proponent is not required to provide to the Council, for the balance of Proposed Development, a Financial Contribution for infrastructure to be paid and calculated under an applicable Infrastructure Charging Instrument until the Prescribed Financial Contribution exceeds the Prescribed Cost of the Prescribed Sewerage Infrastructure.</p>
2	<p>Tankering Management Plan</p> <p>(a) In this document, unless the context or subject matter otherwise indicates or requires, a word which is capitalised has the meaning assigned to it in this special condition.</p> <p>Legislative Requirements means all laws, local laws, by-laws, licences, permits, directions, standards and all other legal requirements that from time to time are applicable to the subject matter of the special conditions.</p> <p>Relevant Sewerage Infrastructure means a Work Contribution in item 1.1.1 or 1.2.1 of the Infrastructure Contributions Schedule from which Tankering is to occur under the Work Contributions in items 1.1.3 and 1.2.3 of the Infrastructure Contributions Schedule respectively, including all other works and facilities necessary to collect and store Sewage from the Proposed Development.</p> <p>Sewage has the meaning in the <i>Water Supply (Safety and Reliability) Act 2008</i>.</p> <p>Tankering means the removal of Sewage by carting.</p> <p>Tankering Management Plan means the tankering management plan</p>

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	<p>approved by the Council under paragraph (d).</p> <p>(b) The Proponent is to, when carrying out the Work Contributions in items 1.1.3 and 1.2.3 of the Infrastructure Contributions Schedule:</p> <p>(i) dispose of Sewage from the Relevant Sewerage Infrastructure by Tankering it in accordance with:</p> <p>(A) this special condition and items 1.1.3 and 1.2.3 of the Infrastructure Contributions Schedule;</p> <p>(B) the Tankering Management Plan; and</p> <p>(C) any applicable Legislative Requirements; and</p> <p>(ii) meet all costs associated with the implementation of the Tankering Management Plan including:</p> <p>(A) any Claim or expenses associated with the Tankering other than costs related to the Council's Work Contributions in items 1.1.4, 1.2.4 and 1.5.1 of the Infrastructure Contributions Schedule; and</p> <p>(B) any overflow incidents from the Relevant Sewerage Infrastructure or upstream sewer.</p> <p>(c) The Proponent is to, prior to the commencement of Tankering, obtain from any relevant Approval Authority a licence, permit or consent applicable to collection, Tankering and discharge of Sewage.</p> <p>(d) The Proponent is to, prior to the commencement of Tankering, promptly take all necessary steps to obtain an Approval from the Council for a Tankering Management Plan which is to identify and address the following:</p> <p>(i) details of the Tankering;</p> <p>(ii) matters to be included in any contract with a licensed contractor for the carrying out of the Tankering;</p> <p>(iii) a Tankering schedule for projected Sewage loads;</p> <p>(iv) the design and storage capacity of the collection point and response times;</p> <p>(v) the frequency of Tankering for the anticipated development of the catchment to be serviced by the Relevant Sewerage Infrastructure from which Tankering is to occur;</p> <p>(vi) specification of the collection point and discharge point between which the Tankering is to occur;</p> <p>(vii) monitoring, warning systems and reporting of the Tankering;</p> <p>(viii) environmental safeguards;</p> <p>(ix) odour emission control measures;</p> <p>(x) emergency procedures.</p> <p>(e) The Council agrees to not unreasonably withhold or delay an Approval stated in paragraphs (c) and (d).</p>
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2. Infrastructure Contributions Schedule

Column 1 Table number	Column 2 Infrastructure network (clause 6.1)
1	Urban water cycle management infrastructure network - sewerage infrastructure
2	Urban water cycle management infrastructure network - water supply infrastructure
3	Transport infrastructure network
4	Public parks infrastructure network and local community facilities infrastructure network

1. Urban water cycle management infrastructure - sewerage infrastructure

Column 1 Item	Column 2 Infrastructure contribution	Column 3 Specification of the infrastructure contribution	Column 4 Timing of the infrastructure contribution	Column 5 Party responsible for the infrastructure contribution	Column 6 Other requirements
1.1	Sewer pump station SPS-EH4 at Point C as indicatively identified on Drawing 2				
1.1.1	Work Contribution for sewerage infrastructure for pump station SPS-EH4.	<p>The Work Contribution is to comprise the provision of a wet well for pump station SPS-EH4:</p> <ul style="list-style-type: none"> (a) with a capacity of 150ET; (b) with a wet well volume sufficient to serve the fully developed catchment intended to be serviced by the pump station and having regard to the capacity of the rising main required by items 1.4.1 and 1.4.2; (c) with provision for a total installed pump capacity sufficient to serve the fully developed catchment intended to be serviced by the pump station and having regard to the capacity of the rising main required by items 1.4.1 and 1.4.2; and (d) which is constructed in a manner to allow the servicing of the existing Elliott Heads township. 	Prior to the Approval of a Plan of Subdivision or the commencement of a use for the Proposed Development of the Development Land in the sewerage catchment serviced by pump station SPS-EH4.	Proponent	The Infrastructure Contribution is part of the Prescribed Sewerage Infrastructure to which special condition 1 applies.

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Column 1 Item	Column 2 Infrastructure contribution	Column 3 Specification of the infrastructure contribution	Column 4 Timing of the infrastructure contribution	Column 5 Party responsible for the infrastructure contribution	Column 6 Other requirements
1.1.2	Land Contribution for sewerage infrastructure for pump station SPS-EH4.	The Land Contribution is to comprise the provision of land necessary for pump station SPS-EH4.	At the time of the provision of the Infrastructure Contribution in item 1.1.1.	Proponent	The Infrastructure Contribution is part of the Prescribed Sewerage Infrastructure to which special condition 1 applies.
1.1.3	Work Contribution for sewerage infrastructure for the tankering of sewage from pump station SPS-EH4 to the Council's sewage treatment plant at Alexandra Street, Bargara or Rubyanna if a plant at Rubyanna has been commissioned.	The Work Contribution is to comprise the tankering of sewage from pump station SPS-EH4 to a Council sewage treatment plant in accordance with the Tankering Management Plan.	From the time of the provision of the Infrastructure Contribution in item 1.1.1 to the time of the provision of the Infrastructure Contribution in item 1.4.1.	Proponent	The Infrastructure Contribution is not subject to an Infrastructure Offset.
1.1.4	Work Contribution for sewerage infrastructure for the reception of sewage from pump station SPS-EH4 at the Council's sewage treatment plant at Alexandra Street, Bargara or Rubyanna if a plant at Rubyanna has been commissioned.	The Work Contribution is to comprise the reception of sewage from pump station SPS-EH4 at no cost to the Proponent at the Council's sewage treatment plant at Alexandra Street, Bargara or Rubyanna if a plant at Rubyanna has been commissioned.	From the time of the provision of the Infrastructure Contribution in item 1.1.1 to the time of the provision of the Infrastructure Contribution in item 1.4.1.	Council	Not applicable.

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Column 1 Item	Column 2 Infrastructure contribution	Column 3 Specification of the infrastructure contribution	Column 4 Timing of the infrastructure contribution	Column 5 Party responsible for the infrastructure contribution	Column 6 Other requirements
1.1.5	Work Contribution for sewerage infrastructure for pump station SPS-EH4.	The Work Contribution is to comprise the provision of pumps for pump station SPS-EH4 with a total installed capacity of sufficient to serve the fully developed catchment intended to be serviced by the pump station and having regard to the capacity of the rising main required by items 1.4.1 and 1.4.2.	At the time of the provision of the Infrastructure Contribution in item 1.4.1.	Proponent	The Infrastructure Contribution is part of the Prescribed Sewerage Infrastructure to which special condition 1 applies.

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Column 1 Item	Column 2 Infrastructure contribution	Column 3 Specification of the infrastructure contribution	Column 4 Timing of the infrastructure contribution	Column 5 Party responsible for the infrastructure contribution	Column 6 Other requirements
1.2	Sewer pump station SPS-EH5 at Point D as indicatively identified on Drawing 2				
1.2.1	Work Contribution for sewerage infrastructure for pump station SPS-EH5.	The Work Contribution is to comprise the provision of a wet well for pump station SPS-EH5 with: (a) a capacity of 130ET; (b) a wet well volume sufficient to serve the fully developed catchment intended to be serviced by the pump station and having regard to the capacity of the rising main required by items 1.4.1 and 1.4.2; and (c) provision for a total installed pump capacity sufficient to serve the fully developed catchment intended to be serviced by the pump station and having regard to the capacity of the rising main required by items 1.4.1 and 1.4.2.	Prior to the Approval of a Plan of Subdivision or the commencement of a use for the Proposed Development in the sewerage catchment serviced by pump station SPS-EH5.	Proponent	The Infrastructure Contribution is subject to an Infrastructure Offset.
1.2.2	Land Contribution for sewerage infrastructure for pump station SPS-EH5.	The Land Contribution is to comprise the provision of land necessary for pump station SPS-EH5.	At the time of the provision of the Infrastructure Contribution in item 1.2.1.	Proponent	The Infrastructure Contribution is subject to an Infrastructure Offset.

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Column 1 Item	Column 2 Infrastructure contribution	Column 3 Specification of the infrastructure contribution	Column 4 Timing of the infrastructure contribution	Column 5 Party responsible for the infrastructure contribution	Column 6 Other requirements
1.2.3	Work Contribution for sewerage infrastructure for the tankering of sewage from pump station SPS-EH5 to the Council's sewage treatment plant at Alexandra Street, Bargara or Rubyanna if it has been commissioned.	The Work Contribution is to comprise the tankering of sewage from pump station SPS-EH5 to a Council sewage treatment plant in accordance with the Tankering Management Plan.	From the time of the provision of the Infrastructure Contribution in item 1.2.1 to the time of the provision of the Infrastructure Contribution in item 1.4.1.	Proponent	The Infrastructure Contribution is not subject to an Infrastructure Offset.
1.2.4	Work Contribution for sewerage infrastructure for the reception of sewage from pump station SPS-EH5 at the Council's sewage treatment plant at Alexandra Street, Bargara or Rubyanna if a plant at Rubyanna has been commissioned.	The Work Contribution is to comprise the reception of sewage from pump station SPS-EH5 at no cost to the Proponent at the Council's sewage treatment plant at Alexandra Street, Bargara or Rubyanna if a plant at Rubyanna has been commissioned.	From the time of the provision of the Infrastructure Contribution in item 1.2.1 to the time of the provision of the Infrastructure Contribution in item 1.4.1.	Council	Not applicable.
1.2.5	Work Contribution for sewerage infrastructure for pump station SPS-EH5.	The Work Contribution is to comprise the provision of pumps for pump station SPS-EH5 with a total installed capacity sufficient to serve the fully developed catchment intended to be serviced by the pump station and having regard to the capacity of the rising main required by items 1.4.1 and 1.4.2.	At the time of the provision of the Infrastructure Contribution in item 1.4.1.	Proponent	The Infrastructure Contribution is subject to an Infrastructure Offset.

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Column 1 Item	Column 2 Infrastructure contribution	Column 3 Specification of the infrastructure contribution	Column 4 Timing of the infrastructure contribution	Column 5 Party responsible for the infrastructure contribution	Column 6 Other requirements
1.2.6	Work Contribution for a rising main from pump station SPS-EH5 to either the rising main at Point E as indicatively identified on Drawing 2 or to pump station SPS-EH6 at Point F as indicatively identified on Drawing 2.	The Work Contribution is to comprise the provision of a sewerage rising main with a diameter of 150mm.	At the time of the provision of the Infrastructure Contribution in item 1.4.1.	Proponent	The Infrastructure Contribution is not subject to an Infrastructure Offset.
1.3	Sewer pump station SPS-EH6 at Point F as indicatively identified on Drawing 2				
1.3.1	Work Contribution for sewerage infrastructure for pump station SPS-EH6.	The Work Contribution is to comprise: (a) the provision of a sewer pump station with: (i) a capacity of 2146ET; (ii) pumps with a total installed capacity of sufficient to serve the fully developed catchment intended to be serviced by the pump station and having regard to the capacity of the rising main required by items 1.4.1 and 1.4.2; and (b) the connection of the pump station to the rising main in item 1.2.6.	Prior to the Approval of a Plan of Subdivision or the commencement of a use for the Proposed Development in the sewerage catchment serviced by pump station SPS-EH6.	Proponent	The Infrastructure Contribution is subject to an Infrastructure Offset.

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Column 1 Item	Column 2 Infrastructure contribution	Column 3 Specification of the infrastructure contribution	Column 4 Timing of the infrastructure contribution	Column 5 Party responsible for the infrastructure contribution	Column 6 Other requirements
1.3.2	Land Contribution for sewerage infrastructure for pump station SPS-EH6.	The Land Contribution is to comprise the provision of land necessary for pump station SPS-EH6.	At the time of the provision of the Infrastructure Contribution in item 1.3.1.	Proponent	The Infrastructure Contribution is subject to an Infrastructure Offset.
1.4	Sewer mains to and from Point G on Drawing 2				
1.4.1	Work Contribution for sewerage infrastructure for a rising main from pump station SPS-EH4 to Point G on Drawing 2.	The Work Contribution is to comprise the provision of a rising main with a diameter of 200mm.	Prior to the Approval of a Plan of Subdivision or the commencement of a use for the Proposed Development that: <ul style="list-style-type: none"> (a) exceeds 150ET in the sewerage catchments serviced by pump stations SPS-EH4 and SPS-EH5; or (b) exceeds total inflows of sewage to SPS-EH4 of 55,000 litres per day; or (c) is 5 years after the Approval of a Plan of Subdivision or the commencement of a use for the Proposed Development of the Development Land; or whichever is the earlier.	Proponent	The Infrastructure Contribution is part of the Prescribed Sewerage Infrastructure to which special condition 1 applies.

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Column 1 Item	Column 2 Infrastructure contribution	Column 3 Specification of the infrastructure contribution	Column 4 Timing of the infrastructure contribution	Column 5 Party responsible for the infrastructure contribution	Column 6 Other requirements
1.4.2	Work Contribution for sewerage infrastructure for a rising main from Point G on Drawing 2 to the discharge manhole at the corner of Rifle Range Road and Back Windermere Road at Point I on Drawing 2.	The Work Contribution is to comprise the provision of a rising main with a diameter of 200mm.	Prior to the Approval of a Plan of Subdivision or the commencement of a use for the Proposed Development that: (a) exceeds 150ET in the sewerage catchment serviced by pump station SPS-EH4; or (b) exceeds total inflows of sewage to SPS-EH4 of 55,000 litres per day; or (c) is 5 years after the Approval of a Plan of Subdivision or the commencement of a use for the Proposed Development of the Development Land; or whichever is the earlier.	Proponent	The Infrastructure Contribution is part of the Prescribed Sewerage Infrastructure to which special condition 1 applies.
1.4.3	Work Contribution for sewerage infrastructure to secure the land necessary for the provision of the Infrastructure Contributions in items 1.4.1 and 1.4.2.	The Work Contribution is to comprise all work necessary to secure the granting of an easement or the acquisition of land necessary for the provision of the Infrastructure Contributions in items 1.4.1 and 1.4.2.	Prior to the time of the provision of the Infrastructure Contributions in items 1.4.1 and 1.4.2.	Council	Not applicable.

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Column 1 Item	Column 2 Infrastructure contribution	Column 3 Specification of the infrastructure contribution	Column 4 Timing of the infrastructure contribution	Column 5 Party responsible for the infrastructure contribution	Column 6 Other requirements
1.4.4	Work Contribution for sewerage infrastructure for a duplicate rising main from pump station SPS-EH6 to Point G.	The Work Contribution is to comprise: (a) the provision of a rising main with a diameter of 375mm; and (b) the connection of the rising main to pump station SPS-EH6.	Prior to the Approval of a Plan of Subdivision or the commencement of a use for the Proposed Development the demands of which would exceed the capacity of the Infrastructure Contribution in item 1.4.1.	Proponent	The Infrastructure Contribution is subject to an Infrastructure Offset.
1.5	Sewerage service				
1.5.1	Infrastructure Contribution for the provision of a sewerage service for the Proposed Development.	The Infrastructure Contribution is to comprise the provision of a sewerage service for the Proposed Development.	From the time of the provision of the Infrastructure Contributions in items 1.1.1 and 1.4.1 to the Completion of the Proposed Development.	Council	Not applicable.

2. Urban water cycle management infrastructure - water supply infrastructure

Column 1 Item	Column 2 Infrastructure contribution	Column 3 Specification of the infrastructure contribution	Column 4 Timing of the infrastructure contribution	Column 5 Party responsible for the infrastructure contribution	Column 6 Other requirements
2.1	Water supply connection				
2.1.1	Work Contribution for water supply infrastructure for a connection to an existing water main.	The Work Contribution is to comprise the provision of work for the connection of the Proposed Development to an existing water main in the Elliott Heads township.	Prior to the earlier of the Approval of a Plan of Subdivision or the commencement of a use for the Proposed Development.	Proponent	The Infrastructure Contribution is not subject to an Infrastructure Offset.
2.2	Water main from Point A to Point B as indicatively identified on Drawing 3				
2.2.1	Work Contribution for water supply infrastructure for a water main.	The Work Contribution is to comprise the provision of a water main with a diameter of 300mm.	Prior to the earlier of the Approval of a Plan of Subdivision or the commencement of a use for the Proposed Development that exceeds 150ET.	Proponent	The Infrastructure Contribution is not subject to an Infrastructure Offset.
2.3	Water main from Point B to Point C as indicatively identified on Drawing 3				
2.3.1	Work Contribution for water supply infrastructure for a water main.	The Work Contribution is to comprise the provision of a water main with a diameter of 375mm.	Prior to the earlier of the Approval of a Plan of Subdivision or the commencement of a use for the Proposed Development that exceeds 150ET.	Proponent	The Infrastructure Contribution is not subject to an Infrastructure Offset.

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Column 1 Item	Column 2 Infrastructure contribution	Column 3 Specification of the infrastructure contribution	Column 4 Timing of the infrastructure contribution	Column 5 Party responsible for the infrastructure contribution	Column 6 Other requirements
2.4	Water supply storage infrastructure				
2.4.1	Land Contribution and Work Contribution for water supply storage infrastructure in the Development Land, in the location indicatively identified for a Reservoir on Drawing 3, to service the Proposed Development unless the Council states in a Notice given to the Proponent that the Infrastructure Contribution is not required.	The Infrastructure Contribution is to comprise the provision of land and work for a water supply reservoir with a capacity of 3 megalitres.	Prior to the earlier of the Approval of a Plan of Subdivision or the commencement of a use for the Proposed Development that exceeds 1500ET.	Proponent	The Infrastructure Contribution is not subject to an Infrastructure Offset.
2.5	Water service				
2.5.1	Infrastructure Contribution for the provision of a water service for the Proposed Development.	The Infrastructure Contribution is to comprise the provision of a water service for the Proposed Development.	From the time of the provision of the Infrastructure Contributions in item 2.2.1 to the Completion of the Proposed Development.	Council	Not applicable

3. Transport infrastructure network

Column 1 Item	Column 2 Infrastructure contribution	Column 3 Specification of the infrastructure contribution	Column 4 Timing of the infrastructure contribution	Column 5 Party responsible for the infrastructure contribution	Column 6 Other requirements
3.1	Trunk road transport infrastructure				
3.1.1	Land Contribution and Work Contribution for trunk road transport infrastructure and associated on road pedestrian paths and bikeways infrastructure indicatively identified on Drawing 4 for the upgrade of Breusch Road.	The Infrastructure Contribution is to comprise the provision of land and work for trunk road transport infrastructure including on road trunk pedestrian paths in accordance with Austroads and the Planning Scheme for Burnett Shire Development Works Planning Scheme Policy dated 31 May 2006.	Prior to the earlier of the Approval of a Plan of Subdivision or the commencement of a use for the Proposed Development that exceeds 750ET.	Proponent	The Infrastructure Contribution is subject to an Infrastructure Offset.
3.1.2	Land Contribution and Work Contribution for trunk road transport infrastructure and associated on road pedestrian paths and bikeways infrastructure indicatively identified on Drawing 4 for the upgrade of Atkinsons Road.	The Infrastructure Contribution is to comprise the provision of land and work for trunk road transport infrastructure including on road trunk pedestrian paths and bikeways in accordance with Austroads and the Planning Scheme for Burnett Shire Development Works Planning Scheme Policy dated 31 May 2006.	Prior to the earlier of the Approval of a Plan of Subdivision or the commencement of a use for the Proposed Development that exceeds 1501ET.	Proponent	The Infrastructure Contribution is subject to an Infrastructure Offset.

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Column 1 Item	Column 2 Infrastructure contribution	Column 3 Specification of the infrastructure contribution	Column 4 Timing of the infrastructure contribution	Column 5 Party responsible for the infrastructure contribution	Column 6 Other requirements
3.2	Non trunk off road pedestrian paths and bikeways infrastructure indicatively identified on Drawing 5				
3.2.1	Land Contribution and Work Contribution for non-trunk off road pedestrian paths and bikeways infrastructure as indicatively identified on Drawing 5.	The Infrastructure Contribution is to comprise the provision of non-trunk off road pedestrian paths and bikeways infrastructure in the Development Land in accordance with the applicable standards set out in <i>Section 6 (Design Criteria for pedestrian paths)</i> and <i>Section 7 (Path design criteria for bicycles)</i> and <i>Appendix A (Application of envelopes to determine the widths of paths)</i> of the <i>Guide to Road Design - Part 6A: Pedestrian and Cyclist Paths</i> dated October 2009 by Austroads Inc.	In accordance with the timing specified in an Approval for that part of the Proposed Development in which the pedestrian paths and bikeways infrastructure is situated.	Proponent	The Infrastructure Contribution is not subject to an Infrastructure Offset.

4. Public parks infrastructure network and local community facilities infrastructure network

Column 1 Item	Column 2 Infrastructure contribution	Column 3 Specification of the infrastructure contribution	Column 4 Timing of the infrastructure contribution	Column 5 Party responsible for the infrastructure contribution	Column 6 Other requirements
4.1	Recreation park				
4.1.1	Land Contribution and Work Contribution for trunk public parks infrastructure for Recreation GS1 indicatively identified on Drawing 6.	The Infrastructure Contribution is to comprise the provision of: (a) land in accordance with the table on Drawing 6; and (b) work for embellishments for Recreation GS1 in accordance with the standards for Parking and Facilities for Neighbourhood (Sporting) parks in Table 8.20 of the <i>Burnett Shire Planning Scheme (31 May 2006)</i> .	Prior to the later of the following: (a) the Approval of a Plan of Subdivision or the commencement of a use for the Proposed Development that exceeds 1500 residential lots in the Development Land; (b) the timing specified in an Approval for that part of the Proposed Development in which the Recreation Park is situated.	Proponent	The Infrastructure Contribution is not subject to an Infrastructure Offset.
4.2	Local neighbourhood parks				
4.2.1	Land Contribution and Work Contribution for trunk public parks infrastructure for Local	The Infrastructure Contribution is to comprise the provision of: (a) land in accordance with the	In accordance with the timing specified in an Approval for that part of	Proponent	The Infrastructure Contribution is not subject to an

Elliott Heads Estate Infrastructure Agreement 2013

Column 1 Item	Column 2 Infrastructure contribution	Column 3 Specification of the infrastructure contribution	Column 4 Timing of the infrastructure contribution	Column 5 Party responsible for the infrastructure contribution	Column 6 Other requirements
	neighbourhood parks indicatively identified on Drawing 6.	(b) table on Drawing 6; and work for embellishments for Local neighbourhood parks in accordance with the standards for Parking and Facilities for Local Urban (Active Informal) parks in Table 8.20 of the <i>Burnett Shire Planning Scheme (31 May 2006)</i> .	the Proposed Development to be serviced by the applicable Local neighbourhood park.		Infrastructure Offset.
4.3	Public parks infrastructure generally				
4.3.1	Land Contribution for trunk public parks infrastructure for Public Open Space indicatively identified on Drawing 6.	The Land Contribution is to comprise the provision of land for Public Open Space.	In accordance with the timing specified in an Approval for that part of the Proposed Development to be serviced by the applicable Public Open Space.	Proponent	The Infrastructure Contribution is not subject to an Infrastructure Offset.
4.4	Community land infrastructure				
4.4.1	Land Contribution for trunk community land for Community Purpose 1 PP2 indicatively identified on Drawing 6.	The Land Contribution is to comprise the provision of land necessary for Community Purpose 1 PP2 in accordance with the table in Drawing 6.	Prior to the earlier of the Approval of a Plan of Subdivision or the commencement of a use for development in the Mixed Use - Town Centre Precinct.	Proponent	The Infrastructure Contribution is not subject to an Infrastructure Offset.

Schedule 3

Development Entitlements schedule

Column 1 Items in the schedule	Column 2 Description of the items in the schedule
Planning instrument	
1	<i>Burnett Shire Planning Scheme 2006</i> the effect of which would be varied if the Prescribed Approval takes effect.
Approval	
2	Prescribed Application - Development Application 322.2007.51238.1 - Preliminary Approval for Material Change of Use and other Development for urban land uses (Including low, medium and high density urban residential development, commercial development, and community land uses) including a component overriding the Planning Scheme under section 3.1.6 of the <i>Integrated Planning Act 1997</i> .
3	Prescribed Approval Conditions – The conditions which may be imposed for the Prescribed Application if the Council determines to approve the Prescribed Application are included in this schedule 3 .
4	Prescribed Approval – See clause 5 .



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22 August 2013

Elliott Heads Estate Pty Ltd
c/- Randall Barrington Town Planning P/L
PO Box 8054
BARGARA QLD 4670

Attn: Randall Barrington

**Development Application Decision Notice
(Part Approval/Part Refusal)**

Integrated Planning Act 1997 Section 3.5.15

Dear Mr Barrington

RE: – Development Applications:

- [322.2007.51238.1](#) Preliminary Approval for Material Change of Use for a Master Planned Community (including, low, medium and high density urban residential development, commercial development, and community land uses) including a component overriding the Planning Scheme under section 3.1.6 of the *Integrated Planning Act 1997*;
- [322.2007.51019.1](#) (Development Permit for Material Change of Use for Public Utility Undertaking – Sewerage Treatment Plant); and
- [322.2007.51020.1](#) (Development Permit for Material Change of Use for Public Utility Undertaking – Water Treatment Plant)

over land situated at Atkinsons Road, Shine Street, Welch Street, Saunders Street, Rule Street, Moore Street, Elliott Heads Road, Raines Road, Breusch Road, Dorflers Road, Harts Road, ELLIOTT HEADS; described as Lots:

Lot: 77 CK: 495	Lot: 91 CK: 495	Lot: 17 RP: 7354	Lot: 6 RP: 89911
Lot: 78 CK: 495	Lot: 97 CK: 495	Lot: 18 RP: 7354	Lot: 7 RP: 89911
Lot: 79 CK: 495	Lot: 135 CK: 767	Lot: 2 RP: 7355	Lot: 25 RP: 89911
Lot: 80 CK: 495	Lot: 89 CK: 1443	Lot: 2 RP: 49524	Lot: 1 RP: 113567
Lot: 81 CK: 495	Lot: 90 CK: 1443	Lot: 1 RP: 50368	Lot: 1 RP: 152664
Lot: 82 CK: 495	Lot: 26 EH: 1875	Lot: 2 RP: 50368	Lot: 5 RP: 806935
Lot: 85 CK: 495	Lot: 8 RP: 7353	Lot: 1 RP: 50372	Lot: 88 CK: 495
Lot: 86 CK: 495	Lot: 9 RP: 7353	Lot: 2 RP: 50372	Lot: 16 RP: 7353
Lot: 87 CK: 495	Lot: 10 RP: 7353	Lot: 1 RP: 53148	Lot: 10 SP: 220665
Lot: 1 RP: 74477	Lot: 6 SP: 182631	Lot: 5 SP: 182631	(formerly described as Lot: 3 RP: 214907)

– Burnett Shire Planning Scheme 2006

I refer to the above-described development application/s, received by Council on 13 June 2007 and 29 June 2007. These applications have been assessed by Council and determined under delegation at the Planning Committee Meeting held on the 19 August 2013.

1. Details of Approval

- Preliminary Approval for Material Change of Use for a Master Planned Community (including, low, medium and high density urban residential development, commercial development, and community land uses), generally in accordance with Approved Plans No. MP-05(G) and MP-06(B), including a component overriding the Planning Scheme under section 3.1.6 of the *Integrated Planning Act 1997*, representing an approval of Development Application No. 322.2007.51238.1 subject to conditions.

2. Details of Refusal/s

- Development Permit for Material Change of Use for Public Utility Undertaking – Sewerage Treatment, depicted on Drawing No.7214/28/001 (Sewerage Treatment Plant) representing Development Application No. 322.2007.51019.1 is REFUSED.
- Development Permit for Material Change of Use for Public Utility Undertaking Water Treatment, depicted on Drawing No.7214/28/003 (Water Treatment Plant) and representing Development Application No. 322.2007.51020.1 is REFUSED.

Grounds of refusal –

- 1) The development proposal in Development Application No. 322.2007.51019.1 provides for infrastructure servicing (sewerage treatment) which does not accord with Council's regional sewerage network strategy and the Elliott Heads Estate Infrastructure Agreement;
- 2) The development in Development Application No. 322.2007.51021.1 provides for infrastructure servicing (water treatment) which does not accord with Council's planned and programmed water reticulation strategy and the Elliott Heads Estate Infrastructure Agreement.

3. Referral Agencies

3.1 Development Application No. 322.2007.51238.1:

Concurrence Agencies:

- Environmental Protection Agency (now Department of Environment and Heritage Protection) – Contaminated Land;
- Department of Natural Resources and Water (now Department of Natural Resources and Mines) – Vegetation Management;

Our Reference: 322.2007.51238.1; 322.2007.51019.1; 322.2007.51020.1
Your Reference: BSC104
Contact Person: Mr Richard Jenner

- Queensland Transport (now Department of Transport and Main Roads) – Public Passenger Transport and Railways.

Advice Agencies:

- Department of Natural Resources and Water (now Department of Natural Resources and Mines) – Acid Sulfate Soils;
- Department of Primary Industries and Fisheries (now Department of Agriculture, Fisheries and Forestry) – Fish Habitat Area;
- Department of Local Government Sport and Recreation (now Department of State Development, Infrastructure and Planning) – Preliminary Approval (section 3.1.6 of the *Integrated Planning Act 1997*); and
- Environmental Protection Agency (now Department of Environment and Heritage Protection) – Marine Park and Wetland.

Third Party Advice:

- Department of Housing;
- Department of Communities (now Department of Communities, Child Safety and Disability Services);
- Department of Emergency Services (now Department of Community Safety);
- Queensland Police Service;
- Queensland Health;
- Queensland Education (now Department of Education, Training and Employment);
- Department of Natural Resources and Water (now Department of Natural Resources and Mines) – Service Provision (Water);
- Telstra;
- Power Link (Electricity); and
- Ergon (Electricity).

3.2 Development Application No. 322.2007.51019.1:

Concurrence Agency:

- Environmental Protection Agency (now Department of Environment and Heritage Protection) – Environmentally Relevant Activity (ERA 15(e));
- Environmental Protection Agency (now Department of Environment and Heritage Protection) – Contaminated Land; and
- Department of Main Roads (now Department of Transport and Main Roads).

Third Party Advice:

- Department of Natural Resources and Water (now Department of Natural Resources and Mines) – Agricultural Land Matters (GQAL).

3.3 Development Application No. 322.2007.51020.1:

Concurrence Agency:

- Environmental Protection Agency (now Department of Environment and Heritage Protection) – Environmentally Relevant Activity (ERA 16); and
- Environmental Protection Agency (now Department of Environment and Heritage Protection) – Contaminated Land;

Third Party Advice:

- Department of Natural Resources and Water (now Department of Natural Resources and Mines) – Agricultural Land Matters (GQAL); and
- Department of Main Roads (now Department of Transport and Main Roads).

4. Approved Plans

4.1 The following documents as amended in accordance with this Preliminary Approval are the Approved Plans:

Plan/Document Number	Plan/Document Name	Prepared By	Date
MP-05(G) as amended in red to include Stage 18 in the Community Zone	Elliott Heads Estate Zoning Plan	ML Design	22 October 2008
MP-06(B) as amended in red to include Stage 18 in the Community Zone	Elliott Heads Estate Zoning Plan - Staging	ML Design	22 October 2008

4.2 Plans MP-05(G) and MP-06(B) are to be amended to provide for the land in Stage 18 identified on Plan MP-06(B) to be included in the Community Zone.

5. Assessment Manager's Conditions and Advices

Assessment Manager's Conditions: As per attached Schedule 1.

Assessment Manager's Advices: As per attached Schedule 2.

6. Referral Agency's Response

6.1 Development Application No. 322.2007.51238.1 seeking Preliminary Approval overriding the Planning Scheme under section 3.1.6 of the *Integrated Planning Act 1997* for a Master Planned Residential Community. Responses were provided by the following Agencies:

Concurrence Agencies:

- o Environmental Protection Agency (now Department of Environment and Heritage Protection) – Contaminated Land - response received on 9 December 2008;
- o Department of Natural Resources and Water (now Department of Natural Resources and Mines) – Vegetation Management - response received on 24 December 2008;
- o Department of Main Roads (now Department of Transport and Main Roads) response received on 5 April 2012; and
- o Queensland Transport (now Department of Transport and Main Roads) – Public Passenger Transport and Railways - response received on 10 October 2007.

Advice Agencies:

- o Department of Natural Resources and Water (now Department of Natural Resources and Mines) – Acid Sulfate Soils - response received on 24 December 2008;
- o Department of Primary Industries and Fisheries (now Department of Agriculture, Fisheries and Forestry) – Fish Habitat Area - response received on 27 November 2008;
- o Department of Local Government Sport and Recreation (now Department of State Development, Infrastructure and Planning) – Preliminary Approval (section 3.1.6 of the *Integrated Planning Act 1997*) - response received on 11 September 2007; and
- o Environmental Protection Agency (now Department of Environment and Heritage Protection) – Marine Park and Wetland - response received on 28 September 2007.

Third Party Advice:

- o Department of Emergency Services (now Department of Community Safety) - response received on 6 August 2007;
- o Queensland Police Service - response received on 8 August 2007;
- o Queensland Health - response received on 13 August 2007;
- o Queensland Education (now Department of Education, Training and Employment) - response received on 6 September 2007;
- o Department of Natural Resources and Water (now Department of Natural Resources and Mines) – Service Provision (Water) - response received on 24 December 2008 ; and

- Power Link (Electricity) - response received on 26 July 2007.

6.2 Development Application No. 322.2007.51019.1 seeking approval for a Material Change of Use for Public Utility Undertaking – Sewerage Treatment Plant. Responses were provided by the following Agencies:

Concurrence Agency:

- Environmental Protection Agency (now Department of Environment and Heritage Protection) – Environmentally Relevant Activity (ERA 15(e)). Permit issued by decision dated 14 April 2008;
- Environmental Protection Agency (now Department of Environment and Heritage Protection) – Contaminated Land - response received on 27 February 2008; and
- Department of Main Roads (now Department of Transport and Main Roads) - response received on 25 January 2008.

Third Party Advice:

- Department of Natural Resources and Water (now Department of Natural Resources and Mines) – Agricultural Land Matters (GQAL) - response received on 20 July 2007.

6.3 Development Application No. 322.2007.51020.1 seeking an approval for a Material Change of Use for Public Utility Undertaking – Water Treatment Plant. Responses were provided by the following Agencies:

Concurrence Agency:

- Environmental Protection Agency (now Department of Environment and Heritage Protection) – Environmentally Relevant Activity (ERA 16) - response received on 6 September 2007; and
- Environmental Protection Agency (now Department of Environment and Heritage Protection) – Contaminated Land - response received on 27 February 2008.

Third Party Advice:

- Department of Natural Resources and Water (now Department of Natural Resources and Mines) – Agricultural Land Matters (GQAL) – 20 July 2007; and
- Department of Main Roads (now Department of Transport and Main Roads) - response received 19 July 2007.

7. Conflicts with Laws and Policies and Reasons for the Decision Despite the Conflict

The Assessment Manager considers this decision conflicts with the following Planning Provisions:-

The decision (approval component) conflicts with the following codes, planning instrument, local planning instrument, State Planning Policy or Priority Infrastructure Plan.	Reason for the decision, including a statement about the sufficient grounds to justify the decision despite the conflict.
<p>Wide Bay Burnett Regional Plan 2031; Burnett Shire Planning Scheme 2006; State Planning Policy 1/92.</p>	<p>(a) <i>The eastern part of the development site has been located in the Urban Areas designation of the Wide Bay Burnett Regional Plan 2031;</i></p> <p>(b) <i>the proposed development site is well positioned adjoining the existing urban township of Elliott Heads;</i></p> <p>(c) <i>appropriate standards of infrastructure (including reticulated water and sewerage supply) can be conditioned to be provided to service the development;</i></p> <p>(d) <i>provision of a higher standard of urban infrastructure to this locality in association with the development is likely to provide future opportunities for existing resident/landowners to more readily access new urban infrastructure;</i></p> <p>(e) <i>the proposed development provides for residential and commercial development not currently provided for in the locality and is considered to provide an economic benefit to the community;</i></p> <p>(f) <i>noting the date the original application was submitted to (the former Burnett Shire) Council (2007) and noting the advanced status of preparation of the Council's new Bundaberg Regional Council Planning Scheme, it is considered that the current Planning Policy designations of the land have</i></p>

	<i>been taken over by events, and do not represent Council's current thinking on the preferred dominant land use for this area.</i>
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8. Preliminary approval affecting the planning scheme (section 3.5.15(g) of IPA)

A Preliminary Approval to which section 3.1.6 of the *Integrated Planning Act 1997* applies is given and the assessment manager has approved a variation to the local planning instrument, being the Burnett Shire Planning Scheme 2006.

The Preliminary Approval varies the effect of the Burnett Shire Planning Scheme 2006 in the following way:

8.1 Development of the land is:

- (a) exempt development, self-assessable development and assessable development as stated in the following assessment tables of the Burnett Shire Planning Scheme 2006 as varied by this Preliminary Approval:
 - (i) Table 3.1 Assessment table—making a material change of use of premises—Business Zone (Coastal Towns Planning Area);
 - (ii) Table 3.2 Assessment table—making a material change of use of premises—Community Zone (Coastal Towns Planning Area);
 - (iii) Table 3.4 Assessment table—making a material change of use of premises – Urban Residential Zone (Coastal Towns Planning Area);
 - (iv) Table 3.5 Assessment table—development other than making a material change of use (Coastal Towns Planning Area);
- (b) for self-assessable development and code assessable development, to be assessed against the Applicable Codes identified in the assessment tables of the Burnett Shire Planning Scheme 2006 stated in paragraph (a) as varied by this Preliminary Approval;
- (c) for impact assessable development, to be assessed against all relevant provisions of the Burnett Shire Planning Scheme 2006 as varied by this Preliminary Approval.

8.2 The planning areas, zones, precincts and overlay areas identified on the Scheme Maps of the Burnett Shire Planning Scheme 2006 are

varied such that the land the subject of this Preliminary Approval is only included in the following:

- (a) the Coastal Towns Planning Area;
- (b) the zones and precincts identified on Approved Plan No. MP-05(G).

To avoid doubt, no overlays apply to the land the subject of this Preliminary Approval.

8.3 The following assessment tables of the Burnett Shire Planning Scheme 2006 are varied as follows:

- (a) Table 3.1 Assessment table—making a material change of use of premises—Business Zone (Coastal Towns Planning Area):
 - (i) replace the row for Higher-density Housing with the following:

<i>Assessment table—making a material change of use of premises—Business Zone (CTPA)</i>								
Col 1	Column 2	Col 3	Column 4					
Type of development	Qualifications		Applicable codes					
Use			Coastal Towns Planning Area	Business Zone	Development Infrastructure & Works	Landscaping	Vehicle Parking and Access	Other
Higher-density Housing	If the maximum building height is not more than 9 metres from natural ground level to the ceiling of the topmost habitable room	Code	✓	✓	✓	✓	✓	Higher-density Housing Code
	Otherwise	Impact						

- (b) Table 3.4 Assessment table—making a material change of use of premises—Urban Residential Zone (Coastal Towns Planning Area):
 - (i) replace the row for Home-based Business with the following:

Assessment table—making a material change of use of premises—Urban Residential Zone (CTPA)								
Col 1	Column 2	Col 3	Column 4					
Type of development			Applicable codes					
Use	Qualifications		Coastal Towns Planning Area	Urban Residential Zone	Development Infrastructure & Works	Landscaping	Vehicle Parking and Access	Other
Home-based Business		Self						Home-based Business Code (acceptable solutions only)
	if the Home-based Business Code acceptable solutions is not complied with	Code		✓				Home-based Business Code

- (ii) replace the row for Higher-density Housing with the following:

Assessment table—making a material change of use of premises—Urban Residential Zone (CTPA)								
Col 1	Column 2	Col 3	Column 4					
Type of development			Applicable codes					
Use	Qualifications		Coastal Towns Planning Area	Urban Residential Zone	Development Infrastructure & Works	Landscaping	Vehicle Parking and Access	Other
Higher-density Housing	<i>If located in the Medium Density Residential Precinct, where</i> Aged Persons Accommodation and the proposed maximum building height is not more than that specified in Table 3.19 of the Burnett	Code	✓	✓	✓	✓	✓	Higher Density Housing Code

Shire Planning Scheme 2006								
Otherwise	Impact							
<i>If located in HDR1 of the High Density Residential Precinct, where</i>								
Multiple Dwelling and the proposed maximum building height from natural ground level is not more than 9 metres to the ceiling of the topmost habitable room	Code	✓	✓	✓	✓	✓		Higher Density Housing Code
Otherwise	Impact							
<i>If located in HDR2 of the High Density Residential Precinct, where</i>								
Resort Hotel and the proposed maximum building height from natural ground level is not more than 6 metres to the ceiling of the topmost habitable room	Code	✓	✓	✓	✓	✓		Higher Density Housing Code
Otherwise	Impact							

(c) Table 3.5 Assessment table—development other than making a material change of use (Coastal Towns Planning Area):

(i) replace the row for Reconfiguring a lot with the following:

<i>Assessment table—development other than making a material change of use of premises—CTPA</i>			
Column 1 Type of development	Column 2 Qualifications (if any)	Column 3 Assessment category	Column 4 Applicable codes
Reconfiguring a lot		Code	Coastal Towns Planning Area Code Development and Infrastructure Works Code Reconfiguring a Lot Code

			Either the– Business Zone Code if in the Business Zone; or Community Zone Code if in the Community Zone; or Urban Residential Zone Code if in the Urban Residential Zone
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8.4 The following assessment criteria of the Burnett Shire Planning Scheme 2006 are varied:

- (a) Schedule 5–Minimum Lot Areas, Frontage and Average Width:
- (i) replace all rows under the heading Urban Residential Zone in the Coastal Towns Planning Area with the following:

Zone / Precinct	Minimum Area (m ²)	Minimum Frontage (m)	Minimum Average Width (m)
COASTAL TOWNS PLANNING AREA			
URBAN RESIDENTIAL ZONE			
Mixed Lot Residential Precinct	360	12 (for lots with rear lane access) 15 (for lots without rear lane access)	12
Other	600	20 ⁽¹⁾	18

¹ Recommended reading; DLGP publication "Smart Houses For Small Sites – Guidelines For Designers"

9. Further Development Permits Required

The following development permits are necessary to allow the development to be carried out:-

- Material Change of Use;
- Reconfiguration of a Lot;
- Operational Works;
- Building Works; and
- Plumbing and Drainage Works.

10. Submissions

Development Applications 322.2007.51238.1, 322.2007.51019.1 and 322.2007.51020.1 were advertised in accordance with the requirements of the *Integrated Planning Act 1997* (IPA):

- 10.1 In respect of Development Application 322.2007.51238.1 there were 58 properly made submissions about the application. In accordance with section 3.5.15(2)(j) of the IPA, the name and address of the principal submitter for each properly made submission are as follows:-

Name of Principal Submitter	Address
Robert Terkelsen	44 Kensington Street, Norville QLD 4670
Russell Gollshewsky	12 Esplanade, Elliott Heads QLD 4670
J Lacy & K Taylor	14 Yarabah Crescent, Shailer Park QLD 4128
Jennifer Spence	11 Corolla Street, Elliott Heads QLD 4670
Gwen Capell	2 Lihs Street, Elliott Heads QLD 4670
M Christensen	52 Esplanade, Elliott Heads QLD 4670
Larry Grove	36 Welch Street, Elliott Heads QLD 4670
A Hall	38 Welch Street, Elliott Heads QLD 4670
Ruth Mansfield	36 Welch Street, Elliott Heads QLD 4670
Margaret Law	28 Esplanade, Elliott Heads QLD 4670
Stephan Cheng	2 Esplanade, Elliott Heads QLD 4670
Tracy Hall	4 Ocean View Place, Elliott Head QLD 4670
Christine Wynne	6 Bathurst Street, Elliott Heads QLD 4670
Julie & Graeme Eales	427 Walli Mtn Road, Kenilworth QLD 4574
Lance & Jean Kelly	15 Knudsen Street, Elliott Heads QLD 4670
Marion Rooney	20 Esplanade, Elliott Heads QLD 4670
Peter Head	20 Esplanade, Elliott Heads QLD 4670
Melanie Busato	62 Bathurst Street, Elliott Heads QLD 4670
Adrienne & Ken Forrest	86 Welch Street, Elliott Heads QLD 4670
Wildlife Preservation Society QLD	PO Box 1215, Bundaberg QLD 4670
Marianne Cremin	18 Esplanade, Elliott Heads QLD 4670
Lawrence Cremin	18 Esplanade, Elliott Heads QLD 4670
Leanne Lassig	683 Elliott Head Road, Bundaberg QLD 4670
Burnett Mary Regional Group	PO Box 501, Bundaberg QLD 4670
Ann Jarman	10 Cossart Crescent, Bargara QLD 4670
May Broadway	6 Emperor Drive, Elliott Heads QLD 4670
Wide Bay Burnett Conservation Council	25 Ellena Street, Maryborough QLD 4670
F & J Stevens	8 Emperor Drive, Elliott Heads QLD 4670
Barry & Yvonne Bainbridge	45 Blue Water Drive, Elliott Heads QLD 4670
Bill Murray	13 Bathurst Street, Elliott Heads QLD 4670
Judith Bell	924 Branyan Drive, Branyan QLD 4670
Arlene Delaney	78 Esplanade, Elliott Heads QLD 4670
Alan Gill	5 Hargraves Street, Elliott Heads QLD 4670
Steven McNamee	9 Toppers Drive, Coral Cove QLD 4670
Barry & Samantha Waterworth	10 Corona Court, Elliott Heads QLD 4670
Ray & Coral Spiers	12 Sea Esplanade, Elliott Heads QLD 4670
Karen Shelly	8 Bellbird Court, Buderim QLD 4556
J & S Lembcke	9 Corolla Street, Elliott Heads QLD 4670
Marie Anderson	38 Hunter Street, Bundaberg QLD 4670
Kylie Turrall & Digby Logan	19 Bathurst Street, Elliott Heads QLD 4670
Margaret Phillips	27 Bathurst Street, Elliott Heads QLD 4670

Name of Principal Submitter	Address
Shirley & Gordon O'Neill	12 Karen Street, Cleveland QLD 4163
Anthea Bell	17 Knudsen Street, Elliott Heads QLD 4670
Kay Stevans	138 Esplanade, Elliott Heads QLD 4670
Jane & Chris Sidy	21 Bathurst Street, Elliott Heads QLD 4670
Rita Sinnott	316 Lovers Walk, Bundaberg QLD 4670
Michelle & Brad Andrews	28 Bathurst Street, Elliott Heads QLD 4670
S Andrews	28 Bathurst Street, Elliott Heads QLD 4670
S Norman	29 Bathurst Street, Elliott Heads QLD 4670
Cindy Hyland	70 Bathurst Street, Elliott Heads QLD 4670
D & I Home	2 Sea Esplanade, Elliott Heads QLD 4670
T Whitmoore	169 Innes Park Road, Elliott Heads QLD 4670
D Knott	44 Welch Street, Elliott Heads QLD 4670
L Shepherd	1484 Elliott Heads Road, Elliott Heads QLD 4670
P Shepherd	1484 Elliott Heads Road, Elliott Heads QLD 4670
G Shepherd	1484 Elliott Heads Road, Elliott Heads QLD 4670
John Manera	35 Shine Street, Elliott Heads QLD 4670
T Manera	35 Shine Street, Elliott Heads QLD 4670

10.2 In respect of Development Application 322.2007.51019.1 there were 21 properly made submissions about the application. In accordance with section 3.5.15(2)(j) of the IPA, the name and address of the principal submitter for each properly made submission are as follows:-

Name of Principal Submitter	Address
Samantha Taylor	Site No 35, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
Wayne Grimes	Site No 24, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
O Remely	c/- Bundaberg East Post Office, Bundaberg QLD 4670
Nathan Dunning	Site No 18, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
Karen McSween	Site No 65, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
Christopher Birt	Site No 4, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
Warren Maurer	Site No 37, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
Allan Johnston	Site No 26, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
Jamie Chambers	Site No 31, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
Simone Henderson	Site No 7, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
G Larcombe	Site No 30, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
Billy-Joe Tomlinson	Site No 23, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
K Lewins	Site No 14, Farmways Caravan Park, Three Chain

Name of Principal Submitter	Address
Blair Dale	Road, Calavos QLD 467 Site No 18, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
Ken Shierlaw	Site No 6, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
Maggie McCawn	Site No 29, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
C Long	Site No 20, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
C Killpatrick	Site No 38, Farmways Caravan Park, Three Chain Road, Calavos QLD 467
May & Noel Braodway	6 Emperor Drive, Elliott Heads QLD 4670
Christine Wynne	6 Bathurst Street, Elliott Heads QLD 4670
M Rooney & P Head	20 Esplanade, Elliott Heads QLD 4670

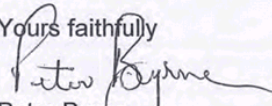
- 10.3 In respect of Development Application 322.2007.51020.1 there were 5 properly made submissions about the application. In accordance with section 3.5.15(2)(j) of the IPA, the name and address of the principal submitter for each properly made submission are as follows:-

Name of Principal Submitter	Address
Marion Rooney & Peter Head	20 Esplanade, Elliott Heads QLD 4670
Russell Gollshewsky	12 Esplanade, Elliott Heads QLD 4670
Laurie & Marianne Cremin	18 Esplanade, Elliott Heads QLD 4670
W Murray	13 Bathurst Street, Elliott Heads QLD 4670
May & Noel Broadway	6 Emperor Drive, Elliott Heads QLD 4670

11. Rights of Appeal

Attached is an extract from the *Integrated Planning Act 1997* which details your appeal rights regarding this decision.

Yours faithfully


Peter Byrne
Chief Executive Officer

Enclosures: Concurrence Agency's Response;
Extract from the *Integrated Planning Act 1997*.

cc. For Information Purposes
Environmental Protection Agency
(now Department of Environment and Heritage Protection)

Administration Officer
Permit and Licence management
Implementation and Support Unit
GRP Box 2454
Brisbane QLD 4001

Department of Main Roads & Department of Transport
(now Department of Transport and Main Roads)
Wide Bay/Burnett Region (Bundaberg)
Locked Bag 486
BUNDABERG QLD 4670

Department of Primary Industries and Fisheries
(now Department of Agriculture, Fisheries and Forestry)
Southern Fisheries Centre
PO Box 5083
SCMC NAMBOUR QLD 4560

Department of Local Government Sport and Recreation *(now Department of State
Development, Infrastructure and Planning)*
Wide Bay Burnett Regional Office
PO box 979
BUNDABERG QLD 4670

Department of Natural Resources and Water *(now Department of Natural
Resources and Mines)*
Administration Officer
Permit and Licence management
Implementation and Support Unit
GRP Box 2454
Brisbane QLD 4001

Schedule 1 Assessment Manager's Conditions

Preliminary Approval for Material Change of Use – Impact Assessment

Development Conditions

Approval (General)

1. Development is to be undertaken generally in accordance with Approved Plan MP-05(G) and the following development parameters for the zones and precincts:

Zone and Precincts	Development Parameters
Urban Residential Zone – <i>Mixed Lot Residential Precinct</i>	<p>Comprising predominantly Low Density Residential land uses at an average development density of between 12 - 20 dwellings/hectare.</p> <p><u>Intent:</u> development within this precinct is to provide for low density housing types, primarily in the form of dwelling houses and dual occupancies that promote variety in housing size and choice. In the Mixed Lot Residential Precinct detached housing on freehold lots is predominantly located on lots having land areas between 360m² and 600m².</p>
Urban Residential Zone – <i>Medium Density Residential Precinct</i>	<p>Comprising predominantly Medium Density Residential land uses at an average development density of between 20 - 50 dwellings/hectare.</p> <p><u>Intent:</u> development within this precinct is to provide for a mix of medium density dwelling types that are well located and have convenient access to employment opportunities, community facilities, transport networks and services. The Medium Density Residential Precinct provides for retirement living up to two (2) storeys in height.</p>
Urban Residential Zone – <i>High Density Residential Precinct</i>	<p>Comprising predominantly High Density Residential land uses at an average development density of 50 - 100 dwellings/hectare.</p> <p><u>Intent:</u> development within this precinct is to provide for high density residential uses for permanent residents and visitors in close proximity to Local and Neighbourhood Centres, supported by community uses and a range of retail, commercial and entertainment needs to service the needs of both visitors and surrounding residents. The High Density Residential Precinct provides opportunities for multiple dwellings up to</p>

- ii -

Zone and Precincts	Development Parameters
	three (3) storeys in height and resort hotel development up to two (2) storeys in height.
Business Zone	<p>Comprising a variety of business uses and mixed use (residential and commercial) development and including a Mixed Use – Town Centre and Village Centre.</p> <p><u>Intent:</u> development within this precinct is to provide for:</p> <ul style="list-style-type: none"> a) A Local Centre (Town Centre) – providing for a limited range of land uses and activities to meet the local retail, business and community needs of a coastal township; b) A Neighbourhood Centre (Village Centre) – providing for a small range of land uses and activities to support the basic convenience needs of the local neighbourhood; c) Within the Town Centre and the Village Centre, the clustering of leisure-based retailing, convenience shopping, professional offices, entertainment, community uses and residential development of different forms and densities, with a focus on enriching the cultural and social life of the community; d) Within the Town Centre and the Village Centre, higher density forms of contemporary residential development, including mixed use buildings, provides permanent or visitor accommodation with a maximum building height of three (3) storeys.
Community Zone	<p>Comprising land areas for a wide variety of public or community purposes including infrastructure, community purposes, educational purposes, stormwater/drainage management, public open space areas, sport and recreation areas.</p> <p><u>Intent:</u> development within this precinct is to provide for community related activities and facilities whether under public or private ownership, to ensure that residents and visitors have convenient access to a wide range of community activities, facilities, open space, and recreation attractions and experiences that service the social, educational, health, and</p>

– iii –

Zone and Precincts	Development Parameters
	cultural needs of the community. The Community Zone is to provide opportunity for stormwater quality enhancement through water sensitive urban design and co-location of other infrastructure.

2. Dual occupancy development may occur on urban residential lots not less than 800m² in land area.
3. Any future development for business uses, business activities and/or resort hotel uses must provide convenient cycle parking and end of trip facilities in compliance with QDC section 4.1 and AS 2890.3:1993 – Bicycle Parking Facilities.

When Approval Lapses if Development Started but not Completed

4. In accordance with section 3.5.21A of the *Integrated Planning Act 1997*, this Preliminary Approval to the extent it relates to development not completed will lapse twenty (20) years from the day the first plan of subdivision for the development the subject of this Preliminary Approval is registered.

Development Controls – Future Applications

5. Any future development application, seeking a Development Permit for Material Change of Use or for 'Other Development' (Building Work, Operational Work, and Reconfiguration of a Lot), for development generally in accordance with the Approved Plans (as referenced in the Decision Notice) must demonstrate compliance with the following:
 - the conditions of this Preliminary Approval;
 - the master plan of development required by condition 6 of this Preliminary Approval as approved by Council;
 - the conceptual master plan for landscaping works required by condition 7 of this Preliminary Approval as approved by Council;
 - the management plan for public open space required by condition 9 of this Preliminary Approval as approved by Council;
 - the water supply master plan required by condition 12 of this Preliminary Approval as approved by Council;
 - the sewerage supply master plan required by condition 13 of this Preliminary Approval as approved by Council;
 - the stormwater management plan required by condition 14 of this Preliminary Approval as approved by Council;
 - the road master plan required by condition 20 of this Preliminary Approval as approved by Council; and
 - the cultural heritage management plan required by condition 23 of this Preliminary Approval as approved by Council.

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6. A master plan of development must be submitted to and approved by Council as part of the first development application seeking a development permit for Material Change of Use and/or Reconfiguration of a Lot. The master plan of development must incorporate the following:
 - 6.1. Amendments directed by the Conditions of this Preliminary Approval;
 - 6.2. The zoning of the development land generally in accordance with the Approved Plan No. MP-05(G) as amended;
 - 6.3. An indicative staging plan of subdivision nominating the Stages of development within the zones and precincts which is to provide for development Stages to commence from the southern extent of the development area, adjoining existing urban areas of Elliott Heads township and progress generally in a northern and/or westerly direction generally in accordance with Approved Plan No. MP-06(B) as amended;
 - 6.4. The other plans required by Conditions 7, 9, 12, 13, 14 and 20.

When approved, the master plan will be an approved plan for this approval for the purposes of section 4 of this decision notice.

Landscaping

7. A conceptual master plan for landscaping works for the land must be submitted to and approved by the Council as part of the first development application seeking a development permit for Material Change of Use and/or Reconfiguration of a Lot. The conceptual master plan for landscaping works must be generally in accordance with the Elliott Heads Estate Infrastructure Agreement and the Landscape Strategy in Appendix 1 of the Elliott Heads Structure Plan dated June 2007 prepared by Anembo Consultants (Reference 4533-01-A) noting the requirements of the Conditions of this Preliminary Approval in respect of Stage 18 being included in the Community Zone and the restriction on urban lakes. At a minimum, the conceptual master plan for landscaping works must include the following:
 - 7.1. Proposed street planting within the road network referencing the Streetscapes section on page 73 of the Landscape Strategy in Appendix 1 of the Elliott Heads Structure Plan dated June 2007 prepared by Anembo Consultants (Reference 4533-01-A);
 - 7.2. Proposed estate entry statements and embellishments;
 - 7.3. Proposed signage treatments for development entry points;
 - 7.4. Proposed treatment of Agricultural Buffer areas (as required);
 - 7.5. Proposed treatment of drainage and detention areas.
8. All landscaping works must be undertaken generally in accordance with the conceptual master Plan for landscaping works. Detailed landscaping plan/s must be submitted as part of all subsequent Development Applications for a Development Permit for Material Change of Use and/or Reconfiguration of a Lot for each Stage of development demonstrating how proposed landscaping works comply with the conceptual master plan for landscaping works.

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Public Open Space

9. A management plan for public open space must be submitted to and approved by the Council as part of the first development application seeking a development permit for Material Change of Use and/or Reconfiguration of a Lot. The management plan for public open space must be generally in accordance with the Elliott Heads Estate Infrastructure Agreement and the Landscape Strategy in Appendix 1 of the Elliott Heads Structure Plan dated June 2007 prepared by Anembo Consultants (Reference 4533-01-A) noting the requirements of the Conditions of this Preliminary Approval in respect of Stage 18 being included in the Community Zone and the restriction on urban lakes. At a minimum the management plan for public open space must include the following:
 - 9.1. Dedication of open space areas, drainage areas and designated public open space area/s associated with the development of the land, generally in accordance with the Elliott Heads Estate Infrastructure Agreement;
 - 9.2. Proposed landscaping treatments and embellishments for dedicated open space or community use areas;
 - 9.3. Design detail and location of pedestrian/cycle pathways (minimum 2 metres width) generally in accordance with the Elliott Heads Estate Infrastructure Agreement; and
 - 9.4. Staging of approved embellishment works.
10. Dedication of the balance of public open space areas and provision of landscaping and embellishment works must be completed in accordance with the approved conceptual master plan for landscaping works and approved management plan for public open space, at the time that the Stage in which the open space is located is developed.

Agricultural Buffer

11. For each future development application seeking a development permit for a material change of use or reconfiguring a lot for residential purposes where adjoining land used or zoned for agricultural purposes the developer must provide as part of the application a strategy for the provision of an agricultural buffer that demonstrates compliance with:
 - (a) for a material change of use, SO.134 of the Rural Planning Area Code of the Burnett Shire Planning Scheme 2006 (or an equivalent provision provided for in a subsequent planning instrument); and
 - (b) for reconfiguring a lot, SO.394 of the Reconfiguring a Lot Code of the Burnett Shire Planning Scheme 2006 (or an equivalent provision provided for in a subsequent planning instrument).

Water Infrastructure

12. A water supply master plan for the development must be submitted to and approved by the Council as part of the first development application seeking a development

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permit for Material Change of Use or Reconfiguring a Lot. The water supply master plan must utilise the following terms of reference:

- 12.1. The Developer must at its expense provide for the reticulation of potable water to each and every lot into which the land is proposed to be subdivided or used, by supplying within the land all necessary materials and works including structures and equipment, and performing all necessary works to service those lots; and
- 12.2. The Developer must provide for the external trunk infrastructure to service those lots and/or uses in accordance with the Elliott Heads Estate Infrastructure Agreement.

Sewerage Infrastructure

13. A sewerage supply master plan for the development must be submitted to and approved by the Council as part of the first development application seeking a development permit for Material Change of Use and/or Reconfiguration of a Lot. The sewerage supply master plan submitted to Council for approval must utilise the following terms of reference:
 - 13.1. The Developer must at its expense provide for the reticulation of sewerage to each and every lot into which the land is proposed to be subdivided or used, by supplying within the land all necessary materials and works including structures and equipment, and performing all necessary works to service those lots; and
 - 13.2. The Developer must provide for the external trunk infrastructure to service those lots and/or uses in accordance with the Elliott Heads Estate Infrastructure Agreement.

Stormwater

14. An updated site specific stormwater management plan for the development must be submitted to and approved by the Council as part of the first development application seeking a development permit for Material Change of Use and/or Reconfiguration of a Lot. The stormwater management plan must be prepared by a suitably qualified practicing registered professional engineer of Queensland and must address the following:
 - 14.1. The establishment of Lawful Points of Discharge both internal and external to the development area;
 - 14.2. The plan must also address stormwater quality improvement which could include devices (SQID) and measures to remove pollutants, including sediment, nutrients, metals and trash in accordance with the State Planning Policy for Healthy Waterways (2009) and the former Burnett Shire Council PSP 5: Stormwater Management Planning Scheme Policy;
 - 14.3. The plan must form the basis of the site based stormwater management plans for each Stage of development; and
 - 14.4. Such other issues contained in, but not limited to, this Preliminary Approval.

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15. Stormwater drainage internal to the development site must be designed and constructed to convey the existing upstream flows and in accordance with the requirements of the Queensland Urban Drainage Manual and the Bundaberg Regional Council, being a piped system with a minimum capacity as required in the Development Works Planning Scheme Policy for the Burnett Shire Planning Scheme, with overland flowpaths to be provided for a capacity of Q100 ARI less piped flow.
16. The Developer must not block any drainage paths through or into the development without providing stormwater drainage infrastructure and concordant easements. The easements must be a minimum 3.0 metres wide, or such greater width as is required to contain the Q100 ARI overland stormwater flow, and provided in favour of the Bundaberg Regional Council where the stormwater infrastructure and overland flows traverse the subject land from upstream lots. Such easements must extend from property boundary to property boundary. Easement documentation is to be acceptable to the Bundaberg Regional Council and be prepared at no cost to the Bundaberg Regional Council.
17. Detention storage is required to be provided to cater for increased stormwater runoff as a result of this development other than where stormwater is discharged to the Elliott River from within the development area. Stormwater discharge from the subject land is to be limited to pre-development generated peak levels up to and including Q100 ARI flows via the provision of onsite detention storage. The detention storage must be visually integrated into the surrounding landscape and designed with a high level of visual amenity.
18. The Developer must not provide new urban Lakes or ponds as an option for storage or as a component of water quality treatments. The existing farming water storage dam in Stage 3 on Approved Plan MP-06(B):
 - 18.1. must not be used for retention storage; and
 - 18.2. may continue to be used for farming purposes until it is ultimately removed as part of the development of the land.
19. Lawful points of discharge must be established for development of a Stage with a catchment discharging to the west of Elliott Heads Road before the approval of the first development application seeking a development permit for Material Change of Use and/or Reconfiguration of a Lot for the affected Stage. Lawful points of discharge must be inclusive of the stormwater systems on the following lots:
 - 19.1. Lot 8 in RP 807697 and Lot 2 on RP 194416 (immediately South of the Harts Road and Elliott Heads Road intersection);
 - 19.2. Lot 71 on CK 1356 (immediately North of Harts Road and Elliott Heads Road intersection);
 - 19.3. Lot 140 on CK 817 (immediately north of Lot 71); and
 - 19.4. Such other allotments that might be affected by the development and require a lawful point of discharge.

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Roadworks

20. A road master plan for the development must be submitted to and approved by the Council as part of the first development application seeking a development permit for Material Change of Use and/or Reconfiguration of a Lot. The road master plan submitted for approval by Council must document the revised road network and works to be constructed, their concordant Stages, and must utilise, but not necessarily be limited to, the following terms of reference:
 - 20.1. provision of external road upgrades within the local government area must be in accordance with the Elliott Heads Estate Infrastructure Agreement;
 - 20.2. provision of internal roads to be generally consistent with the Elliott Heads Estate Infrastructure Agreement; and
 - 20.3. provision of indicative intersection designs;
21. Roads must be designed and constructed only to the standards included in the Burnett Shire Planning Scheme – Development Works Planning Scheme Policy.

Telecommunications

22. Telecommunication conduits (ducts) and pits, including trenching and design, must be provided to service the development in accordance with 'Fibre-Ready' standards or the NBN Co Installing Pit and Conduit Infrastructure - Guidelines for Developers provided to the satisfaction of the Manager Sustainable Development.

Cultural Heritage Management Plan

23. The first development application seeking a development permit for Material Change of Use and/or Reconfiguration of a Lot must be accompanied by a detailed cultural heritage management plan prepared in accordance with the requirements of the *Aboriginal Cultural Heritage Act 2003*, and influenced by the commentary of the submitted Archaeological Investigation (prepared by Everick Heritage Consultants Pty Ltd, dated August 2005), detailing strategies to avoid known heritage sites on the subject land, contingency strategies should cultural heritage sites be discovered during operational activities, and a consultation regime with relevant indigenous groups and State Government Agencies, as applicable. All future development applications seeking a development permit over the subject land will be required to demonstrate compliance with the approved cultural heritage management plan.

End of Schedule 1

Schedule 2 Assessment Manager's Advices

General

- (A) This Preliminary Approval is granted pursuant to Section 3.1.6 of the *Integrated Planning Act 1997* and varies the effect of the Burnett Shire Planning Scheme 2006, to the extent provided for in the related Decision Notice attached to this approval and in accordance with approved plans of development. This approval does not authorise assessable development to occur in the absence of an effective development permit.
- (B) Any subsequent development application made over the land to which this Preliminary Approval applies must comply with the terms of the Elliott Heads Estate Infrastructure Agreement 2013.
- (C) The conditions of this Preliminary Approval prevail over any applicable Planning Scheme Code for the development to the extent of any inconsistency.

Stormwater

- (D) Please note that the surface of each Lot must be shaped to drain directly to either a Road or Drainage Reserve, as no inter-allotment drainage will be permitted, unless it can be demonstrated that Lot filling, shaping, retaining walls or other methods are not physically able to be constructed. Should inter-allotment drainage be accepted for use by Council, inter-allotment drainage (with inlet pits in each allotment if underground drainage) of sufficient capacity to convey up to Q100 ARI, flows or lesser ARI as directed by the Manager Sustainable Development, is to be designed and constructed in accordance with the Queensland Urban Drainage Manual to cater for the stormwater from upstream lots. The drainage specifics is to be determined at the Operational Works Stage.

Electrical

- (E) Please note that underground electricity is required to each Lot of any proposed Lot Reconfiguration. Arrangements for electricity supply and overhead street lighting to the development must be made by liaison for installation of the required works and entering into an agreement with the local Energy Provider.
- (F) To control the obtrusive effects of outdoor lighting on nesting sea turtles in this coastal location, all street lighting, park lighting and outdoor lighting will be required to be low pressure sodium vapour lighting fitted with hoods or fully screened and directed away from the foreshore such that no source light is visible from the coastal zone.

End of Schedule 2

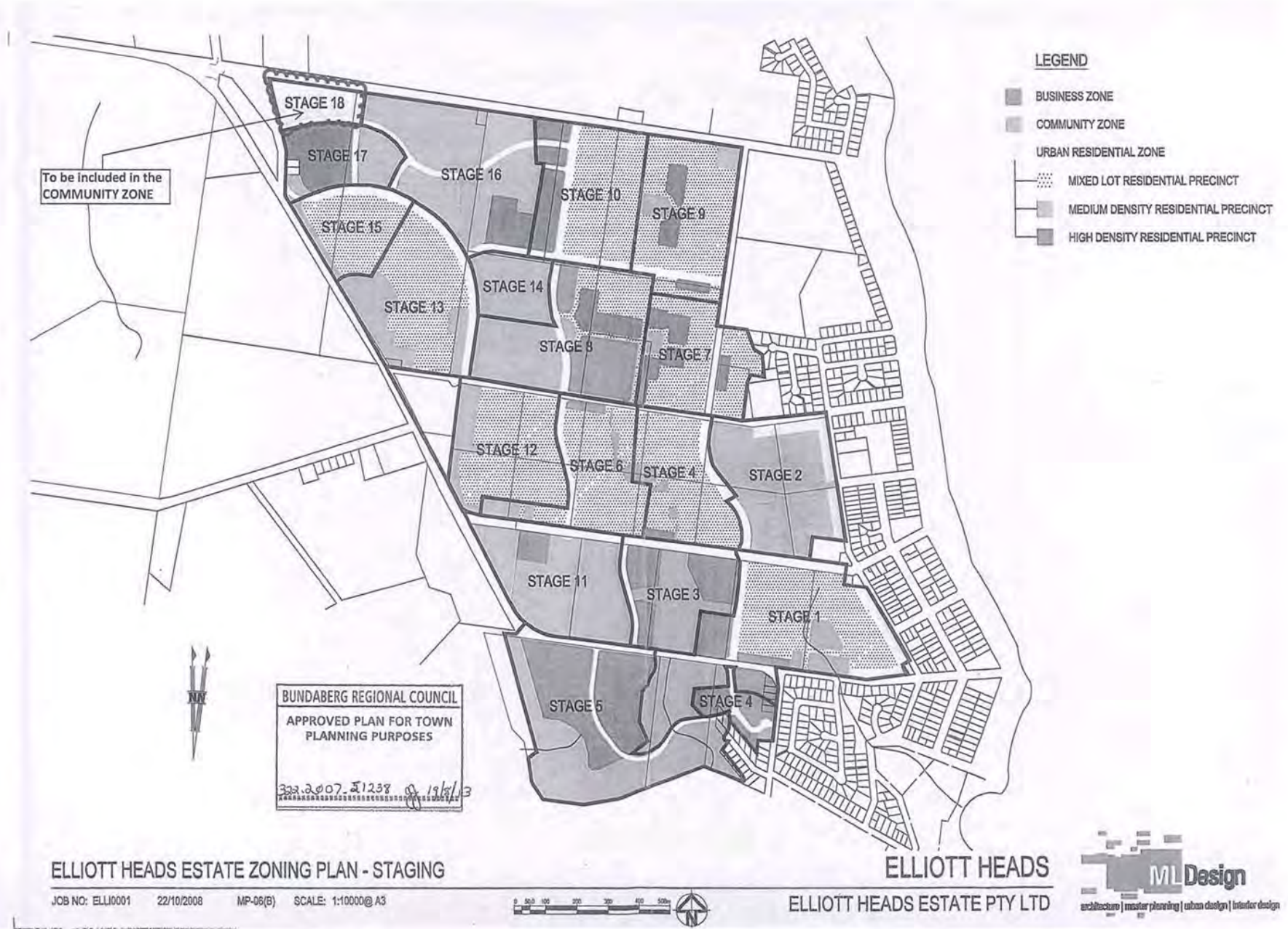
INTEGRATED PLANNING ACT 1997

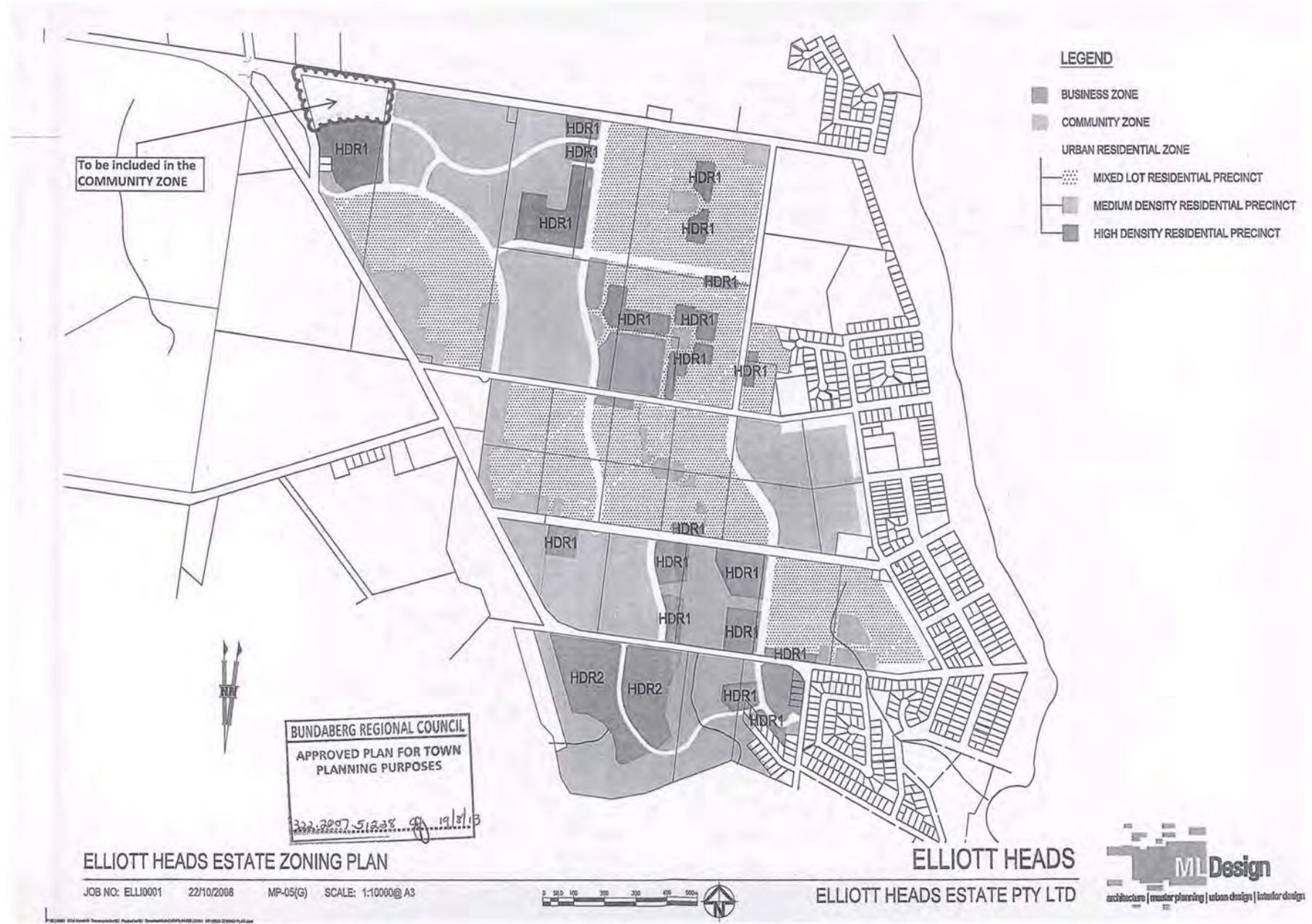
Appeals by Applicants

4.1.27

- (1) An applicant for a development application may appeal to the court against any of the following –
- (a) the refusal, or the refusal in part, of a development application;
 - (b) a matter stated in a development approval, including any condition applying to the development and the identification of a code under section 3.1.6;⁸⁴
 - (c) the decision to give a preliminary approval when a development permit was applied for;
 - (d) the length of a currency period;
 - (e) a deemed refusal.
- (2) An appeal under subsection (1)(a) to (d) must be started within 20 business days (the *applicant's appeal period*) after the day the decision notice or negotiated decision notice is given to the applicant.
- (3) An appeal under subsection (1)(e) may be started at any time after the last day a decision on the matter should have been made.

84 - Section 3.1.6 (Preliminary approval may override local planning instrument)





Our Reference: RAA 54
 Enquiries: Jodie Smith
 Phone: 323 71770
 Address: PO Box 15031, City East Qld 4002
 Email Address: jodie.smith@dlgpsr.qld.gov.au



Department of
 Local Government, Planning,
 Sport and Recreation

Statutory Planning – Southern Region

6 September 2007

Mr Wayne Phillips
 Director - Planning and Development
 Burnett Shire Council
 Locked Bag 1
 BARGARA QLD 4670

SHIRE OF BURNETT			
Reply	Reply Due	Scanned:	
Info	<input checked="" type="checkbox"/> Reply by Ph:	/ /	
Amend to Info	Reply by Fax:	/ /	
Amend to Reply	Reply by E-Mail	/ /	
RECEIVED		11 SEP 2007	
FILE: Z-2007123-800	PT: 2	REG NO: 07/03307	
FILE:	PT:	REG NO:	
AO: Riley.M		CC:	
COMMENTS:			

Dear Mr Phillips

RE: ADVICE AGENCY REFERRAL ASSESSMENT

I refer to the referral of 23 July 2007, regarding a development application for the following proposal:

Applicant: Elliott Heads Estate Pty Ltd

Proposed Development: Development Application for:

- Preliminary Approval (s3.1.6) overriding the planning scheme, Material Change of Use

Referral Trigger: (Integrated Planning Act 1997)
 Section 3.1.6 - preliminary approval overriding the planning scheme

Location: Atkinsons, Elliott Heads, Raines, Breusch and Dorflers Roads; and Shine, Welch, Saunders, Rule and Moore Streets, Elliott Heads described as Lots 77-82, 85-88, 91 & 97 on CK495, Lot 135 on CK767, Lots 89-90 on CK1443, Lot 26 on EH1875, Lots 8-10 & 16 on RP7353, Lots 17-18 on RP7354, Lot 2 on RP7355, Lot 2 on RP49524, Lots 1-2 on RP50368, Lots 1-2 on RP50372, Lot 1 on RP53148, Lot 1 on RP74477, Lots 6-7 & 25 on RP89911, Lot 1 on RP113567, Lot 1 on RP152664, Lot 3 on RP214907 and Lot 5 on RP806935

Assessment Manager: Burnett Shire Council

Council Reference No: Z-2007123-800



D100895

The application has been examined and, based upon the information supplied, the following advice is provided:

The Proposal

The proposal relates to a Preliminary Approval for a Material Change of Use overriding the planning scheme under section 3.1.6 of the *Integrated Planning Act 1997* (IPA) for a master planned community on 238.39 hectares of land in the Rural Zone.

The proposal comprises town and village centres, commercial services, tourist resort, 3,073 residential dwellings, school, community use, nursing home, public open space, roads and water management areas to accommodate a residential population of 7,317 people and a working population of 2,072 people.

The land is to be developed in 17 stages over a period of 20 years. The applicant is therefore seeking to extend the currency period for any approval to 20 years.

Advice Agency Assessment

Conflicts with Burnett Shire Planning Scheme

The section 3.1.6 preliminary approval provisions of the IPA are not intended to be used to circumvent an inconsistency between proposed development and the planning scheme in an ad hoc and unplanned manner. A preliminary approval overriding the scheme must still demonstrate compliance with the planning scheme.

An assessment manager must not, under s.3.5.14A 2(b) of the IPA, approve development that compromises the achievement of the Desired Environmental Outcomes (DEOs) of the planning scheme area or conflicts with the planning scheme unless there are sufficient grounds to justify the decision despite the conflict.

Desired Environmental Outcomes

The applicant has failed to adequately demonstrate that the proposal complies with the DEOs of the Burnett Shire Planning Scheme. Of particular relevance to the proposal are the DEOs relating to settlement pattern, infrastructure, community well-being, landscape and cultural heritage and economic development as set out in Part 2 – DEOs of the Planning Scheme.

The settlement pattern DEOs of the Burnett Shire Planning Scheme specifically state:

"2.2 (1) Settlement pattern comprising discrete coastal and hinterland towns, proximate to either Bundaberg or the local government area's towns in nominated locations."

"2.2 (2) The remainder of the local government area accommodates large rural lots."

"2.2 (6) A sufficient supply of land suitable for urban development is available in locations that do not place the community at an unacceptable risk from natural hazards and do not prejudice economically or environmentally significant resources."

The proposal is located predominantly in the Rural Zone in the Rural Planning Area outside of the area nominated for urban expansion in conflict with these DEOs.

Other DEOs relate to:

- protecting existing and planned infrastructure from future development such that any land development does not prejudice its safety, efficiency or cost;
- residential subdivision is to occur where community infrastructure is most efficiently provided;
- rural landscape values including farmland and remnant vegetation and coastal zone values are protected;
- in the Rural Planning Area, good quality agricultural land (GQAL) is conserved for agricultural production, unless an overriding community need exists; and
- in Coastal towns, discrete nodes of economic activity provide employment opportunities.

The scale of the proposal will result in Elliott Heads no longer being a small coastal town with discrete economic areas but becoming a significant urban area. The proposal provides for a potential residential population of between 7,000 and 10,000 people (it is noted that the population figures vary within different reports in the applicant's proposal). This is a highly significant increase given the estimated residential population for the whole of the Burnett Shire in 2006 was 27,745 people (PIFU, August 2007). This would significantly alter the balance of zones in the Shire and represents a substantial departure from the current policy intent of the Planning Scheme.

The land proposed to be developed is identified as GQAL. The development of this land for urban purposes will result in a loss of GQAL in contravention of DEO 2.7(2) *"unless there is an overriding community need and no other site is available for the particular purpose."* The applicant does not supply sufficient evidence of overriding community need for the proposal on the site such that conservation of the land is no longer warranted.

The proposal is anticipated to generate an additional demand for 8,070 square metres of retail floor space and 3,840 square metres of commercial floor space (Economic Assessment for the Elliott Heads Development, AEC group, 2007). The provision of commercial floor space of this size is equivalent to a regional centre and directly conflicts with the economic development DEOs 2.7 (2) and 2.7 (3) by providing for development on GQAL land outside the designated Coastal Towns Planning Area. The extent of the departure from the Planning Scheme completely undermines the existing policy direction.

The proposal would threaten the rural landscape values and coastal zone values of the locality by removing substantial areas of rural land and significantly altering the character of the area in contravention of DEO 2.5 (1).

The proposal for a master planned community on the site will compromise the achievement of the DEOs of the Burnett Shire Planning Scheme.

Rural Planning Area and Rural Zone

The site is located in the Rural Zone of the Rural Planning Area of the Burnett Shire Planning Scheme.

The Planning report submitted with the application fails to address the Rural Planning Area Code or Rural Zone Code which apply to the land.

The Overall Outcomes of the Rural Planning Area Code state:

"4.3.3 (2) (a) The rural landscape of farms interspersed with the natural environment is maintained and contributes to the attractiveness of the local government area,..."

This outcome is supported by the Overall Outcomes of the Rural Zone Code which state:

"4.6.3 (2) (a) Productive and potentially productive agricultural land is protected and preserved for sustainable production."

"4.6.3 (2) (b) The rural character of the area is maintained."

"4.6.3 (2) (c) Residential uses are primarily associated with rural production."

"4.6.3 (2) (f) Uses other than those referred to above are located in the Rural zone only where-

- (i) the development provides a significant and direct community benefit; and*
- (ii) no other location is suitable and available having regard to the activity's specific locational requirements, land area requirements or likely off-site impacts."*

The proposal for a master planned community on the site will compromise the Overall Outcomes for both the Rural Planning Area and Rural Zone Codes by establishing non-rural activities on the land resulting in the loss of rural land and significantly altering the rural character of the locality. The applicant has failed to adequately demonstrate that the proposal is needed in the public interest and cannot be provided on existing, suitably zoned land within the Shire.

Conflict with the Wide Bay Burnett Regional Plan 2007-2026

The preferred settlement pattern of the Wide Bay Burnett (WVB) Regional Plan 2007-2026 includes the site within the Preferred Intensive Agriculture designation.

The Regional Plan states:

"Land based agriculture capitalises on the region's natural assets and the resourcefulness of primary producers and processors to serve expanding local, domestic and international markets; with regional employment and economic returns as outcomes. Urban development pressure on agricultural land and rising community expectations regarding management of off-site impacts from all land uses highlight the need for protection of this resource and maintenance of its productive capacity through sustainable land management practices".

Policy principle 1.2.1 is to identify and protect land suitable for agricultural production, outside of areas of biodiversity significance through planning measures.

The regional settlement pattern strategy aims to help balance economic, social, environmental, infrastructure and human services needs and provide a blueprint for the future provision of community services to the time horizon of 2026. In particular, the strategy (Section 3.1):

- identifies developable land to accommodate projected future population growth to 2026;
- develops a regional infrastructure plan to ensure the timely and cost effective provision of infrastructure and community services;
- develops sound urban planning principles that support a compact well serviced and efficient urban form; and
- integrates land use, transport and economic activities.

Development in the region is to be coordinated so that existing infrastructure and services are used efficiently and effectively and new infrastructure and services is planned and supplied in an orderly and efficient manner (Policy 3.3.1).

The Regional Plan also recognises rural areas and the communities they support play an important contribution to the economy and character of the region (Section 5).

The development of a master planned residential estate on the site is contrary to the regional settlement pattern and the orderly provision of infrastructure and services under the Wide Bay Burnett Regional Plan. It also has the potential to erode the landscape, character, community, environmental and economic values of the site as sought to be retained in the WBB Regional Plan.

Insufficient Planning Grounds

Justification for the proposal to override the planning scheme appears to be based upon four key planning grounds:

1. The Planning Scheme does not provide for the potential for population growth in the Shire especially when having an 8 year planning horizon.
2. The land surrounding Elliott Heads is no longer suitable for agricultural production due to poor water supply.
3. The Elliott Heads area is an appropriate location to accommodate predicted population growth.
4. There will be community benefits to Elliott Heads residents as a result of the proposal.
5. Wide Bay Burnett Regional Plan recognises that greenfield master planned communities can offer sustainable benefits to communities where in appropriate locations.

1. Planning Scheme - Population growth predictions

The applicant (KPMG "Burnett Residential Demand Study") claims that population growth in the coastal "sea-change" area of the Burnett coast will be greater than forecast by the Department (upon which the Planning Scheme is based). This will result in a potential shortfall of residential land in the Shire by 2021 of between 3,800 and 5,000 lots based upon various projection models.

Response

The assumptions made in determining these population projections can be refuted and are not those currently accepted by the Department. The population growth predictions used as a basis for planning within the Burnett Shire are soundly based and are supported by the Department. The recently completed broad hectare study for Burnett Shire indicates the Shire has sufficient land to accommodate estimated population growth for the next nine years. On this basis the proposal is at best a premature development given that there is no need for the proposal within this timeframe.

Further, even if the KPMG figures were accepted, there remains no justification to accept that this additional growth should occur on the proposed land without consideration of the Shire wide and regional planning implications of locating a significant urban population on rural land in contravention of the Planning Scheme and Wide Bay Burnett Regional Plan.

The applicant (Section 3.1.3.4, Economic Assessment for the Elliott Heads Development, AEC group, 2007) suggests a further driver of population growth in Burnett Shire may be 'water refugees' seeking to escape water restrictions in SEQ. This argument is simplistic in its application and, among other things, fails to recognise the temporary and geographically shifting nature of climatic conditions.

The proposal represents an ad hoc and premature development which if approved would substantially alter the balance of zones and create inefficiencies in the provision of physical and social infrastructure for the entire Shire and the Region.

2. Unsuitable for Agricultural use

The loss of GQAL is justified by the applicant based on the lack of sufficient quantity and suitable quality of water to the land such that agriculture in this area is no longer economically viable. The groundwater supply is becoming increasingly saline and sufficient surface water supplies are not available and unlikely to become available at a reasonable cost to producers (Landloch Pty Ltd, 2007).

Response

It is recommended that the Council seek third party advice from the Department of Natural Resources, Mines and Water to determine the veracity of these claims. Particularly as the Wide Bay Burnett Regional Plan identifies the area as preferred for intensive agriculture.

It appears that the claims made by the applicant most clearly establish that the current use of the land for cane farming is no longer considered economically viable by the current land holder. The supply of suitable water to the site is subject to change over time as is the potential viability of the land. It is with this variability in mind that *The Planning Guidelines: The identification of Good Quality Agricultural Land* sets out Agricultural land classes from Class A to Class D which acknowledges varying levels of agricultural use (refer to Table 1 below). The applicant has not satisfactorily established that the land is not GQAL.

TABLE 1. AGRICULTURAL LAND CLASSES

CLASS	DESCRIPTION
Class A	Crop land - Land that is suitable for current and potential crops with limitations to production which range from none to moderate levels.
Class B	Limited crop land - Land that is marginal for current and potential crops due to severe limitations; and suitable for pastures. Engineering and/or agronomic improvements may be required before the land is considered suitable for cropping.
Class C	Pasture land - Land that is suitable only for improved or native pastures due to limitations which preclude continuous cultivation for crop production; but some areas may tolerate a short period of ground disturbance for pasture establishment.
Class D	Non-agricultural land - Land not suitable for agricultural uses due to extreme limitations. This may be undisturbed land with significant habitat, conservation and/or catchment values or land that may be unsuitable because of very steep slopes, shallow soils, rock outcrop or poor drainage.

The primary policy principle of *State Planning Policy 1/92 Development and Conservation of Agricultural Land* is that:

- "1. *Good quality agricultural land has a special importance and should not be built on unless there is an overriding need for the development in terms of public benefit and no other site suitable for the particular purpose exists.*"

The applicant has not demonstrated an "overriding need" for the development given that there remains a significant supply of urban land to meet the requirements of the Shire for the next 7 – 12 years (Broad hectare Study, PIFU, August 2007).

Notwithstanding the potential lack of suitability for agriculture, this does not justify the use of the land for urban purposes in conflict with the Planning Scheme. The applicant has not demonstrated an "overriding community need". The most appropriate use for the land should be in accordance with the Planning Scheme and Regional Plan.

3. Elliott Heads suitability

The applicant's justification for the proposal states the proposal reinforces Elliott Heads as a discrete coastal township. The development is to be on land which does not have any physical, environmental or servicing constraints to development (p 9-10 Town Planning Report). The expansion of the township is supported by the KPMG "Burnett Residential Demand Study" which states there will be a land supply deficit of 3,800 to 5,000 dwellings in the Shire by 2021.

Response

Should this proposal proceed Elliott Heads Township will become an urban area at a scale equivalent to a Regional Centre (cities and large rural towns with a population of 7,000 or greater) in accordance with the WBB Regional Plan which is the largest type of regional centre for the WBB area. This is much larger than the township envisaged by the Planning Scheme.

A significant constraint to development in this locality is the lack of suitable water and sewerage infrastructure which is not anticipated to be provided in this locality under the existing Planning Scheme infrastructure provisions. The applicant proposes to provide a water treatment plant on nearby land to support the proposed development and is part of a separate application. Given the significant reliance of the proposal upon approval for the provision of infrastructure, the potential significant environmental impacts of the water treatment proposal must also be resolved prior to any approval of this master planning proposal. The proposal clearly constitutes out-of-sequence development that would compromise the orderly provision of infrastructure.

The land is zoned Rural and included within the Rural Planning Area of the Planning Scheme and in the WBB Regional Plan 2007-2026 is designated as Preferred Intensive Agriculture. The planning intentions for this area are clearly based on the continued agricultural use of the land.

4. Economic and Community Benefits

The economic and community benefits of the proposal put forward by the applicant (p 43 Town Planning Report and AEC group, Economic Assessment for the Elliott Heads Development, 2007) are that the proposal will:

- generate employment opportunities;
- generate additional demand for commercial and retail services to the extent that such services will then be provided to the township;
- provide improved infrastructure services to Elliott Heads being reticulated sewerage;
- provide additional social infrastructure being a child care centre, nursing home and community hall;
- improve bus services to Elliott Heads;

- provide affordable housing to Elliott Heads; and
- improve mobile phone coverage to Elliott Heads.

Response

Regional economic development is a product of a variety of factors, one of which is population growth. One of the purposes of a planning scheme is to estimate likely population growth and ensure an adequate amount of land is available for residential development, to ensure economic development is not hindered through an under or oversupply of housing. The recently completed broad hectare study for Burnett Shire indicates the Shire has sufficient land to accommodate estimated population growth for the next nine years. The applicant (AEC group, Economic Assessment for the Elliott Heads Development, 2007) appears to infer the proposed residential development in and of itself will generate population growth, and thus economic development. The basis of this argument is not accepted.

In regard to the broad economic benefits of the proposal, it is accepted that a significant number of construction jobs will be generated during construction. The degree to which ongoing employment will be realised is dependent on the market demand for the development, which in part is determined by likely population growth in the Shire. Construction employment is likely to be a consequence of any large development proposal and is not considered appropriate justification for the development.

The Economic Assessment report infers that demand for services and facilities, whether publicly or privately funded, will increase because of the development and the provision of such services can therefore be considered to be a positive outcome for the community. This line of reasoning is considered flawed as any development is capable of delivering some benefits to the community. The pertinent issue is whether the development is needed for the community's benefit. The demonstration of sufficient grounds should outline how the benefits derived from the proposal differ from any other large development proposal and are overriding in the public interest.

The applicant does not adequately demonstrate that there is an existing community need for social services (child care centre, community hall, nursing home) which are not currently being met by existing services in the locality. It appears that the need for these services is generated by the proposal itself. Furthermore, whilst these services may not currently be available within the Elliott Heads Township, the applicant has not established that these services are not within acceptable travel distances having regard to the reasonable expectations of residents.

Similarly, the need for reticulated sewerage is primarily generated by the proposal itself as the Elliott Heads township currently relies upon existing on-site effluent disposal methods.

Decisions regarding the upgrade and expansion of publicly funded community services and infrastructure are primarily a matter for government agencies. In their decision making processes State agencies have regard to local government planning schemes. Developments which are inconsistent with planning schemes have the potential to impact negatively on the orderly provision of State funded facilities.

The applicant has no control over the provision of mobile phone services and bus services to the locality and cannot be certain that such benefits will automatically follow from the development proposed.

Section 5 of the Economic Assessment report suggests the proposal will improve housing affordability. Housing affordability is a function of a variety of micro and macro economic forces. The degree to which housing affordability will be impacted by the proposal is not

quantified in any meaningful way. The proposal does not contain any concrete mechanism to ensure housing will be affordable or targeted to low-income households in need of such housing. Therefore the proposal is largely indistinguishable from any other residential development proposal in relation to its ability to positively impact on housing affordability by increasing supply.

In its review of factors influencing population growth, section 3.1.3.3 of the Economic Assessment report suggests houses in Burnett Shire, with a median price of \$288,000 are more affordable than those in SEQ, with a median price of \$350,000. Affordability is a product of income and price and therefore while houses in Burnett Shire are cheaper than those in Brisbane any claim regarding their relative affordability needs to be balanced by reference to average incomes. This analysis is not presented in the report.

The applicant fails to adequately acknowledge that there may be significant adverse social consequences such as:

- Permanent and irreversible loss of lifestyle as the area shifts from a quiet coastal settlement to a significant urban area;
- Changes to existing levels of amenity due to increases in noise and traffic etc;
- Closure of existing businesses due to competition from proposed commercial and tourist orientated uses leading to existing residents being further removed from convenience services; and
- Potential loss of agricultural production and the flow on effect to existing support businesses in the region.

5. Wide Bay Burnett Regional Plan

The WBB Regional Plan states one of the policy actions of the plan is to "*Ensure sufficient flexibility exists within planning and development assessment processes to allow for the consideration of unanticipated development proposals that could provide significant sustainable benefits to their communities and/or region.*" (s3.1.1 (i) p.46)

The applicant contends the WBB Regional Plan is supportive of the proposal because the proposal is in an appropriate location and offers sustainable benefits to the community (Town Planning Report, p 37).

Response

As previously discussed the site is located on land significantly constrained by its agricultural values and lack of any available infrastructure to service the proposal. Further, the proposal provides few real benefits to the existing residents of Elliott Heads or to the region. There are significant potential disadvantages in that premature development of land for residential use may lead to urban blight and poor provision of services to new residents as the lag time between establishment of residential land and supporting infrastructure increases.

IDAS Workability

Section 3.1.6 of the IPA is relevant where an application applies for a preliminary approval to establish in effect a unique scheme for the development of a site and part of the application states the way in which the applicant seeks the preliminary approval to vary the effect of any local planning instrument. This type of preliminary approval may:

- establish the level of assessment for subsequent development on the site. Utilising this provision the level for assessment (e.g. impact assessment) that would otherwise be required for the subsequent development may be altered (e.g. to code assessment);
- identify the codes against which the subsequent development would be assessed.

The language and operation of the preliminary approval must be in accordance with Chapter 3 (IDAS) of the IPA.

Section 3.1.6 of the IPA does not provide that the definitions of the Planning Scheme can be overridden. Accordingly, the master plan should include a statement that definitions are as per the IPA Planning Scheme.

Any further development arising from the approval should be assessed against the preliminary approval, if granted, and all other relevant provisions of the planning scheme that are not overridden.

Level of Assessment

The structure and format of the proposed level of assessments should be consistent with the Assessment Tables in the IPA Planning Scheme.

Where an application proposes an alternative level of assessment for a development the assessment manager must consider the suitability of the proposed level of assessment when compared to existing assessment across the planning scheme. The assessment manager must also have regard to a submitter's right to appeal future development in accordance with s. 3.5.5A 2(c) of IPA.

The urban uses proposed are generally impact assessable in the Planning Scheme. Sufficient justification and detail has not been provided to reduce the proposed levels of assessment from impact to code assessment in the Master Plan. Reasonable community expectations for development are established in the Planning Scheme. The overlay maps in the IPA planning scheme include levels of assessment. Care must be taken in allowing the proposal to override the assessment levels of these codes. The effect of physical constraints needs to be considered in devising the levels of assessment in the Master Plan.

Any approval must establish clear limits on the scale as well as the nature of the uses proposed. The qualifications in the level of assessment need to be further extended to encompass residential densities and floorspace for retail and commercial uses, above which development would be impact assessable. The level of assessment should not be inconsistent with and duplicate the Queensland Development Code.

Assessment Criteria

The application must be self contained in terms of identifying all relevant assessment criteria (i.e. codes) which Council will use to assess future development proposals against. Any newly proposed codes should not result in unnecessary duplication with the IPA planning scheme. If existing suitable codes exist these should be used in preference to new codes. Only exceptions to the codes should be noted rather than the duplication of entire codes.

Recommendation

The assessment manager is recommended to refuse the development application on the grounds the proposal:

- is contrary to the regional settlement pattern, principles and policies of the Wide Bay Burnett Regional Plan 2007-2026;
- is contrary to the Overall Outcomes for both the Rural Planning Area and Rural Zone Codes of the Planning Scheme;

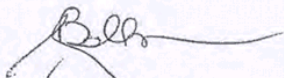
- compromises the DEOs of the Planning Scheme with respect to settlement pattern, infrastructure, community well-being, landscape and cultural heritage and economic development;
- is contrary to orderly, efficient and consolidated urban growth and infrastructure provision in Burnett Shire and the Wide Bay Burnett Region;
- is premature and not supported by demonstrated planning need;
- will adversely impact on the rural economy, landscape, character, community and environmental values of the locality, Burnett Shire and the region;
- will adversely impact on preferred urban growth patterns and infrastructure and service provision within designated towns, villages and urban communities;
- has not been adequately justified by sufficient grounds despite its conflict with the Planning Scheme and Regional Plan;
- represents the overdevelopment of the site; and
- requires amendment to ensure that the proposal meets IDAS workability standards.

Planning schemes are agreements between the community, the local government and the State government and have undergone a rigorous preparation process under the IPA. As such they cannot be lightly put aside without good and proper reason. Decisions which step outside planning schemes and which cannot be justified, only serve to undermine community confidence in and the integrity of the planning scheme. Accordingly, Burnett Shire Council must be satisfied that there are sufficient and relevant planning grounds to justify the proposal despite the conflict with the planning scheme.

According to section 3.3.19 (3) (b) of the IPA this response is to be treated as a properly made submission.

If you have any queries in relation to this matter, please contact Andrew Woodhouse, Statutory Planning Branch of the Department on telephone number 323 80344.

Yours sincerely



GRAEME BOLTON
Director
Statutory Planning

CC to: Elliott Heads Estate Pty Ltd
C/- Mr Randall Barrington
Randall Barrington Town Planning Pty Ltd
PO Box 8054
BARGARA QLD 4670

Advisory Notes:

- (1) All sanitary plumbing and drainage work is to be carried out in accordance with the "Plumbing and Drainage Act 2002";
- (2) The soil classification for this site has been assessed as Type "H". All plumbing and drainage works constructed on this site must comply with the requirements of AS2870-1996 (Clause 5.5.3, 5.5.4 and 6.6);
- (3) A Form 8, Notice of Compliance, On Site Sewerage Work, is required from the Designer and Installer of the On Site Sewerage Facility at completion of work and before a Compliance Certificate is issued from Council;
- (4) A copy of the Commissioning report and the regular service reports are to be forwarded to Council;
- (5) Council has noted that Enviro Water Design has carried out the design of the effluent disposal system. This application was approved based solely on the information provided in the design and associated plans. It has not been assessed for its suitability for the purpose and Council will not accept responsibility for the design;
- (6) The designer has indicated a W.W.T.P. Advanced (Taylex) System as the approved method for effluent treatment. Your attention is drawn to the approved plans and design conditions attached to this approval. The land application area must be installed in accordance with the approved plans. Any alteration to this design must be obtained in writing from the designer and a copy forwarded to Council prior to the work commencing;
- (7) The On Site Sewerage Facility is required to be serviced at intervals as stated by the manufacturer's specifications and the conditions of the Chief Executive Approval. All servicing is to be carried out by Accredited Licensed person/s. The Effluent Land Application areas are also to be inspected at regular intervals and maintained if necessary;
- (8) The owner of the property is responsible in keeping the On Site Sewerage Facility and the plumbing and drainage installation in working order;

Attachment One: Appeals Against Council Decisions

If you are dissatisfied with the decision of the Council to impose the above conditions on the Compliance Permit, you are entitled to appeal to the Building and Development Dispute Resolution Committees. Legal representation is not permitted.

An appeal against this notice must be lodged within 20 business days after the day you receive this notice. If you appeal is not lodged within this timeframe, no further action can be taken by the Committees in relation to Council's decision.

Building and Development Dispute Resolution Committees

Telephone: +61 7 3237 0403

Fax: +61 7 3237 1248

Email: registrar@dip.qld.gov.au

Location: Level 5, 63 George Street, Brisbane, Queensland

Postal address: GPO Box 2457, City East, Queensland 4001

Web: <http://www.dip.qld.gov.au/dispute-resolution/index.php>

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**Queensland
Government**

Queensland Health

Enquiries to: Neil Payne
Telephone: 3131 6516
Facsimile: 3131 6522
File Ref: 0230-0016-001

Mr W Phillips
Director Planning and Development
Burnett Shire Council
Locked Bag 1
Bargara Qld 4670

Attention: Ms Michelle Riley

Dear Ms Riley

SHIRE OF BURNETT			
Reply	Reply Due	Scanned:	
Info	Reply by Pb:	/ /	
Amend to info	Reply by Fax:	/ /	
Amend to Reply	Reply by E-Mail:	/ /	
RECEIVED 13 AUG 2007			
FILE: 2-2007123-800	PT: 1	REQ NO: 07/03008	
FILE:	PT:	REQ NO:	
AO: Riley		CC:	
COMMENTS:			

Re: Development Application for Preliminary Approval overriding the Planning Scheme under S3.1.6 of IPA – Elliott Heads Estate, Elliott Heads

I refer to correspondence from the Director of Planning and Development, Burnett Shire Council, dated 18 July 2007, requesting comments in relation to the above Development Application.

Queensland Health advises that the Department has no property interests within or adjacent to the proposed development and has no plans at this time to develop a facility at Elliott Heads.

However, the Environmental Health Unit, Queensland Health has provided this Branch with information addressing various aspects of the abovementioned Development Application.

Attached are comments provided by the Acting Senior Environmental Health Adviser, Environmental Health Policy & Research Section, Environmental Health Unit. Also the Acting Director Environmental Health, Wide Bay Population Health Unit has advised that he had no concerns with this specific application, from an environmental health perspective, in that it is limited to extending the existing urban area of Elliott Heads upon adjoining land that he considers suitable for that purpose.

He further advised that in his opinion, the establishment of a built environment in the area and as proposed will not at all negatively impact upon the natural environment or the health of existing or future residents and visitors, although it may require some additional attention by the Environmental Health Unit and the Burnett Shire Council, such as public education regarding the use of rainwater tanks and community monitoring.

Office
Queensland Health
Capital Works and Asset Management
Branch
Building 2, Lobby 4, Level 1
153 Campbell Street, Herston, Q 4006

Postal
GPO Box 48, Brisbane, Q 4001

Phone
3131 6516

Fax
3131 6522



D099702

The Acting Director Environmental Health, Wide Bay Population Health Unit also provided the following comments in relation to the Development Application:

- “This application includes several references, without detail, to the proposed construction of a water treatment plant and a sewage treatment plant on a neighbouring parcel of land, which are intended to service the extended Elliott Heads community, as well as existing and proposed urban developments in nearby Coral Cove and Innes Park.


Michelle Riley, Planning and Development Officer with the Burnett Shire Council told me today that the application for approval of the water and sewage treatment plant was not subject of this specific application by Elliott Heads Estates, but that the developer would most likely submit a separate application, if and only if Council gave its approval in support of this application.

Whilst the information exchange and planning process between the developer and Council, in connection with these treatment facilities, appears to be well advanced, I cannot now provide a comment, in regard to the viability and health impact of constructing and operating these facilities.

- The use of recycled, treated waste water/sewage effluent is also referenced in some documents supporting this particular application, but again, no detail is included, as this proposal too, depends upon the construction of the water and sewage treatment plants, which may be conditional to approval of this specific application.”

Should you require any additional information or clarification with respect to this matter, please contact Neil Payne on telephone 31316516.

Yours sincerely



Neil Payne
Senior Planning Officer Tenure
Planning & Development Unit
Capital Works & Asset Management Branch
08708907

**DEVELOPMENT APPLICATION - ELLIOTT HEADS ESTATE
QUEENSLAND HEALTH ENVIRONMENTAL HEALTH UNIT**

Item	Section [Document/ section and page number]	Interest/ Comment & Legislative/ Policy Basis	State Agency Suggested Solution / Outcomes Sought
1.	Ecological Assessment Report	<p>Impacts of mosquitoes and biting midge – It is acknowledged that the report has identified areas adjacent to the proposed development site as breeding grounds for mosquitos and biting midge and the likely impacts given the proposed increased population.</p> <p>It also acknowledged that the report has identified the limited ability for the local government authority to implement control programs due to the environmental values of the Elliott River.</p> <p>Notwithstanding, Council has an obligation to meet its public health responsibilities and should ensure that any proposed activities do not cause a public health risk.</p> <p>It is also noted that the legislative responsibilities of Council are cited with reference to the "Health Regulation 1996". This aspect of the Regulation has been repealed and is now captured by the Public Health Act 2005 and subordinate legislation.</p>	<p>The Queensland Health "Guidelines to minimise mosquito and biting midge problems in new development areas" might be referenced to assist in understanding and mitigating their impacts. This might be referenced throughout the plan.</p> <p>Refer to the <i>Public Health Act 2005</i> and <i>Public Health Regulation 2005</i> for obligations in relation to public health risks</p>
2.	Stormwater Management Plan	A variety of stormwater management techniques have been identified. Given the established predisposition of the area as a mosquito and biting midge breeding area, consideration should be given to ensure that any management technique employed does not exacerbate the current problem.	As above.
3.	Town Planning Report – SO20 (pg21)	The proposed town & village centre and the businesses contained therein will have the potential to emit nuisances such as noise and light. These may affect the amenity of residents adjacent to these centres.	If the development progresses, consideration will need to be given to remove or minimise impacts from noise and light emissions. For example design and construct lighting amenities (eg. car park lighting) and location of certain businesses likely to be the source of noise emissions (eg. taverns, night clubs) away from residential areas.
4.	Town Planning Report – 8.3 (pg43)	The new resident population will require a secure potable water supply. This is particularly for those aspects of the development that cater to high risk groups	Careful planning should be undertaken at all stages of the development to ensure that the supply of potable

Item	Section [Document/ section and page number]	Interest/ Comment & Legislative/ Policy Basis	State Agency Suggested Solution / Outcomes Sought
		<p>such as nursing homes and child care centres. The allusion is made that provision of a water treatment plant (WTP) will secure water supply. While the WTP will secure the quality of potable water for residents, the supply of water will still be dependant on the availability of water to the area.</p> <p>Much has been made in the associated documentation of the inability of the area to continue to sustain agriculture due to groundwater salinity problems and the inability of water providers to meet water allocations. Reference has been made to the ability of the Paradise Dam to meet predicted water needs. Currently the Paradise Dam is at approximately 15% capacity, is unable to meet current water needs and has other issues that are beyond the scope of this response.</p>	<p>water meets the demands of the increased population including during peak tourist seasons. The increased exposure and amenity of the area is likely to attract a greater number of visitors over time, placing a greater strain on water resources and associated infrastructure.</p> <p>Further measures must be implemented to ensure water quality standards recommended in Australian Drinking Water Guidelines 2004 are met.</p>



Queensland Government

Department of Primary Industries and Fisheries

Reference: 08-00483 / NAM/140/006 (83)

25 November 2008

Mr Alaister Macrae
Cardno (Qld) Pty Ltd
Suite 13-17 Commercial Centre
Isle of Capri Q 4217

COPY

Dear Mr Macrae

Development application for a master planned community at Elliot Heads – response to information request

I refer to your letter, dated 27 October 2008, requesting advice from the Department of Primary Industries and Fisheries (DPI&F) with regard to the above. DPI&F has assessed the information supplied and provides the following comments:

Fisheries Issues

Please be advised that the basis of DPI&F's comments lies within the jurisdiction of the Fisheries Act 1994, and that a site inspection was not undertaken for the purposes of these comments.

DPI&F does not object to the development of a master planned community at the proposed location adjoining the declared Elliot River Fish Habitat Area (FHA) (Management A), but does have some concerns with aspects of the proposal. Specifically, Departmental policies do not support:

- the inclusion of areas of tidal land or marine plants in waterway or wetland buffers; or
- the inclusion of stormwater management infrastructure in waterway or wetland buffers.

The original submitted information stated that there would be approximately 48 hectares of public open space, including a portion to be located along the south west site boundary adjacent to the FHA as a buffer area. This proposed buffer would include areas of tidal land and marine plants. It is also noted that this buffer would contain public use infrastructure such as pathways, cycleways and picnic areas, potentially reducing the effectiveness of the zone as a riparian buffer.

Mission Vision
Profitable primary industries for Queensland
Maximise the economic potential of Queensland primary industries on a sustainable basis

BUNDABERG REGIONAL COUNCIL

RETENTION	10 yrs
DOCUMENT NO	081004601

RECEIVED/SENT 27 NOV 2008

FILE NO	222001.051237.001
ACTION OFFICER	W Phillips

91-95 Howard Street
PO Box 5165 Sunshine Coast Mail
Centre Nambour
Queensland 4560 Australia
Call Centre 13 25 23
Website www.dpi.qld.gov.au
ABN 78 342 684 030

It is unclear if the proposed buffer zone would also contain components of the proposed stormwater treatment infrastructure. Appendix 2 of the Information Request Response includes ML Design drawing 'Land Use Structure Plan, Elliot Heads, Elliot Heads Estate Pty Ltd' dated 22/10/08, which shows two water management areas within the open space buffer in close proximity to tidal lands, one of which includes tidal land (PP24). A cross-reference of previously submitted information indicates that no waterbodies or retention basins associated with stormwater treatment would be located in the buffer area, however, the recently submitted information states that some stormwater treatment areas are also proposed in areas adjacent to the FHA.

DPI&F considers a buffer between development activities and tidal lands to be an important management tool, assisting in the protection and management of adjacent aquatic features by reducing bordering effects and providing filters for run off, etc. DPI&F Policy Guideline FHG003 (Fish Habitat Buffer Zones) supports the retention of a minimum buffer width of 100m (incorporating natural vegetation and other buffer elements) set back between development and tidal aquatic features, including marine plants, especially if adjacent to a declared fish habitat area. This generic buffer width is considered a 'starting point' from which site specific requirements can be negotiated. It is appreciated that the final buffer determination by the relevant agencies will consider the type of proposal, the capacity for impacts, environmental characteristics, biodiversity values, etc.

It is noted that the proposal includes a water main to be located within the declared Elliot River FHA. DPI&F Policy FHMOP 002 (Management of declared Fish Habitat Areas) states that the depth of a declared FHA for management purposes is 2 metres measured vertically beneath the substratum of the area. Provided the water main is wholly directionally drilled below this depth, it will not be within the FHA and no approval from DPI&F for operational works in a fish habitat area will be required. DPI&F policy does not support such infrastructure being located within fish habitat areas (Management A).

DPI&F management and policies associated with the declared Elliot River FHA do not allow for permanent disturbances for private purposes within the declared area. This would include operational works such as erosion protection, boat ramps, pontoons, etc.

It should also be noted that under Section 3.3.2A of the *Integrated Planning Act 1997*, any proposal to disturb marine plants associated with this development would require lodgement of an operational works application at or before the MCU stage.

Should the current application be approved, DPI&F requests that Council includes conditions of approval to ensure the inclusion of a buffer to tidal lands and marine plants of a width appropriate to adequately protect the adjacent declared FHA and any other tidal areas. The buffer should not include any tidal lands, marine plants or stormwater infrastructure, and any other disturbances in the buffer area (eg. for community infrastructure) should be kept to an absolute minimum.

Agricultural Issues

DPI&F offers no support for the use of Good Quality Agricultural Land (GOAL) for urban development in a rural zone. DPI&F acknowledges the subject land has current issues with water availability however this situation may change in the future.

No information has been provided to DPI&F regarding the use of water from the proposed waste water treatment plant to be built near the site. In lieu of any information to the contrary, DPI&F suggests this may be an alternative source of water to supplement bore water for irrigation use.

DPI&F acknowledges that the inclusion of suitable buffers to separate the proposed residential development from existing agricultural operations may ameliorate conflict arising from incompatible land uses, however the same may be said for the current land use activities. This would allow current and future agricultural practices to continue without impact to nearby existing residential areas.

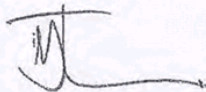
It should be noted that the Department of Natural Resources and Water (DNRW) is the lead agency for GQAL issues and DPI&F will support that department's advice on this issue.

Biosecurity Issues

DPI&F notes that two Class 3 weed species (Lantana and Cats claw creeper) have been identified on the site. DPI&F recommends that should the development be approved, any Environmental Management Plans prepared for the site includes a pest species management plan to reduce spread of existing weeds and pests, and the introduction of others.

If you require any further information regarding this matter, in the first instance, please contact Mathew Johnston on telephone 07 5430 4917, or email mathew.johnston@dpi.qld.gov.au.

Yours sincerely



For
David Loch
A/Regional Director (South East)

CC Dan Mayer, Manager, Planning and Assessment (South), Department of Primary Industries and Fisheries, Southern Fisheries Centre, PO Box 76, DECEPTION BAY QLD 4508;
Wayne Phillips, Director, Planning and Development, Bundaberg Regional Council, PO Box 3130
190 Bourbong Street, BUNDABERG QLD 4670.



04 SEP 2007

Department of Education and the Arts

Mr Wayne Phillips
Director Planning and Development
Burnett Shire council
Locked Bag 1
BARGARA QLD 4670

Dear Mr Phillips

Thank you for your letter dated 18 July 2007 seeking third party advice under S 3.2.7 of the Integrated Planning Act 1997 concerning the development application known as Elliott Heads Estate, Elliott Heads, Burnett Shire.

It is noted that S3.2.7 allows the assessment manager to seek advice, at any stage of the application, from third parties. The Elliott Heads Estate proposal is in its early stages. The Department envisages further dealings with the application as it progresses through the mechanisms attendant upon applications that seek to override the planning scheme.

At this point in time the Department's response is that it would not endorse the indication on such a document that the Elliott Heads State School is to be relocated. Please ensure that any public exposure that is given to this document does not reflect this and that any references in the plan or accompanying documents to relocating the school are deleted.

Should you wish to discuss this matter further, you can contact Mr Jim Wiedman, Principal Advisor Facilities Planning, on telephone (07) 323 70224.

Thank you for bringing this matter to my attention.

Yours sincerely

Handwritten signature of Jason Furner
Jason Furner
Chief Facilities Officer
Strategic Facilities Branch

Ref: 07/97523

SHIRE OF BURNETT
Reply, Info, Amend to Info, Amend to Reply, Reply Due, Reply by Ph, Reply by Fax, Reply by E-Mail, Scanned, RECEIVED 06 SEP 2007, FILE: 2-2007/23-800, REG NO: 07/03266, AO: Riley, M, COMMENTS: cm



Strategic Facilities Branch
Floor 14 Education House
30 Mary Street Brisbane 4000
PO Box 15033 City East
Queensland 4002 Australia
Telephone +61 7 3235 4176
Facsimile +61 7 3235 4367
Website www.education.qld.gov.au
ABN 76 337 613 647



Queensland
Government

5 October 2007

Queensland Transport

Chief Executive Officer
Burnett Shire Council Locked Bag 1
BARGARA QLD 4670

SHIRE OF BURNETT		
Reply	Reply Due:	Scanned:
Info	Reply by Fax: / /	/ /
Amend to Info	Reply by Fax: / /	/ /
Amend to Reply	Reply by E-Mail: / /	/ /
RECEIVED 10 OCT 2007		
FILE: Z-2007123-800	PT: 21	REG NO: 07/03580
FILE:	PT:	REG NO:
AO: M. Riley		CC:
COMMENTS:		

Attention: Michelle Riley

Dear Michelle

Concurrence Agency Response—Integrated Planning Act 1997 (IPA) s3.3.16
Queensland Transport Ref: 1039

Application for: Preliminary Approval over-riding the Planning Scheme under s3.1.6 of IPA for a Masterplanned Community
Atkinson road, Shine Street, Welsh Street, Saunders Street, Rule Street, Moore Street, Elliot Heads Road, Raines Road, Breusch Road, Dorflers Road
Elliot Heads
Lot 77 CK: 495 to Lot 82 CK: 495, Lot 85 CK: 495 to Lot 88 CK: 495, Lot 91 CK: 495, Lot 97 CK: 495, Lot 135 CK: 767, Lot 89 CK: 1443 to Lot 90 CK: 1443, Lot 26 EH: 1875, Lot 8 RP: 7353 to Lot 10 RP: 7353, Lot 16 RP: 7353, Lot 17 RP: 7354 to Lot 18 RP: 7354, Lot 2 RP: 7355, Lot 2 RP: 49524, Lot 1 RP: 50368 to Lot 2 RP: 50368, Lot 1 RP: 50372 to Lot 2 RP: 50372, Lot 1 RP: 53148, Lot 1 RP: 74477, Lot 6 RP: 89911 to Lot 7 RP: 89911, Lot 25 RP: 89911, Lot 1 RP: 113567, Lot 1 RP: 152664, Lot 3 RP: 214907
Lot 5 RP: 806935
Burnett Shire Council
Application Ref: Z-2007123-800

I refer to the application from Randall Barrington Town Planning P/L received by this department on 24 August 2007 seeking approval for the above proposal, as indicated on the plans listed in the table below.

Integrated Transport Planning
Transport Planning
Floor 12 Cromwell House
200 Mary Street Brisbane Queensland 4000
GPO Box 213 Brisbane Queensland 4001
ABN 13 200 330 520

Our ref 890/BRIS-1039 P24346
Your ref
Enquiries Tina Hight (Planner)
Telephone +61 7 3117 5505
Facsimile +61 7 3117 5554
Website www.transport.qld.gov.au
Email tina.l.hight@transport.qld.gov.au

Advice:**Potential Bus stops location and details**

QT recommends that further discussions are held between QT, Main Roads and Burnett Shire Council to ensure that potential future public transport services, and proposed infrastructure do not prejudice the function of the State Controlled Road. This will also apply to bus interchanges and taxi drop off facilities that should be integrated into the design of the proposed town centre and urban village.

Notwithstanding the details submitted within the *Public Transport Network Plan (Elliot Structure Plan Volume)*, the location of bus stops and details of the public transport interchanges will be subject to discussions with QT and the service providers Stewart & Sons.

Attachment 1

Queensland Transport Concurrence Agency Conditions and Statement of Reasons BRIS-1039

Prior to sealing of the plan of survey	<p>Public Transport Accessibility</p> <p>1. Roads designated as a bus routes within the submitted <i>Public Transport Network Plan Ref MP-06(A)</i> included within the applicant's <i>Structure Plan Volume 2, June 2007 prepared by ML Designs</i> shall be designed and constructed generally in accordance with development standards outlined in the <i>Transport Planning and Coordination Regulation 2005, Schedule 1, Part 2.</i></p>		s8A of the <i>Transport Planning and Coordination Act 1994</i>	It is anticipated that the proposed development will create a demand for public transport services. As it is envisaged that public transport may be extended to service the site in the future, it is essential that the road network is designed to allow buses to safely and efficiently run throughout the development.
Prior to sealing of the plan of survey	<p>Pedestrian and Cyclist Connectivity</p> <p>2. Pedestrian and Cyclist pathways shall be designed and constructed generally in accordance with, the <i>Section 4.0 Pedestrian and Cycle Network and the Pedestrian circulation plan</i> included with the applicant's <i>Structure Plan Volume 2</i>. All pedestrian and cyclist paths shall comply with <i>Austroads Parts 13 and 14</i> respectively.</p>		s8A of the <i>Transport Planning and Coordination Act 1994</i>	The layout of the development should allow for direct, safe and convenient connections through the site to enable pedestrians and cyclists to access proposed public transport infrastructure.

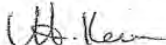
Plan/Document/ Name	Plan Date	Drawn By:
<i>Elliott Heads Estate Structure Plan - Design Report and Landscape Strategy: Volume 2</i>	June 2007	<i>ML Design Pty Ltd</i>

An assessment of the proposed development on Queensland Transport's (QT) jurisdiction, namely the increased integration between land use and transport (s8A of the *Transport Planning and Coordination Act 1994*) has been completed.

It is advised that the proposal is supported with conditions of development as identified on the attached Statement of Reasons. These conditions must be included in any development permit issued for this proposal.

A copy of this letter and the Statement of Reasons has been sent to the applicant.

Yours sincerely



Helen Kerr
A/Principal Advisor



QUEENSLAND POLICE SERVICE

Property and Facilities Branch
200 Roma Street, Brisbane Q 4000
GPO Box 1440, Brisbane, Q 4001

TELEPHONE (07) 3364 3702 FACSIMILE (07) 3364 4673



3 August 2007

Mr Wayne Phillips
Director Planning and Development
Burnett Shire Council
Locked Bag 1
BARGARA QLD 4670

Dear Mr Phillips

COMMENTS REGARDING DEVELOPMENT - ELLIOTT HEADS ESTATE

Thank you for your correspondence of 18 July 2007 seeking Queensland Police Service input in relation to the development application package prepared by the Burnett Shire Council.

As requested, the Queensland Police Service has reviewed the draft report however as the planning scheme has minimal impact upon the operations of the Service no additional comment regarding the suitability of the draft is provided.

The Service appreciates your invitation to peruse the IPA Planning Scheme at key stages throughout the planning process and I would take this opportunity to thank you for your consideration.

Yours faithfully

S G SPANNER
Program Manager (Property Services)
PROPERTY AND FACILITIES BRANCH
H:\Property Services\Town Planning\Burnett Shire Elliott Heads.doc

SHIRE OF BURNETT		
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FILE:	PT:	REGNO:
CCO: M Kney		CC:
COMMENTS:		



QUEENSLAND POLICE SERVICE

Southern Regional Office (Brisbane)
 GPO Box 2771 BRISBANE QLD 4001
 Phone: (07) 3225 1827 Fax: (07) 3247 3278
 www.epa.qld.gov.au ABN:87221158786



Notice of concurrence agency response

Sections 3.3.16 and 3.3.18 *Integrated Planning Act 1997*

This notice is issued by the administering authority pursuant to sections 3.3.16 and 3.3.18 of the *Integrated Planning Act 1997*, to advise you of a decision or action.

Enquiries to: Allen Johns
 Telephone: (07) 3224 5099
 Your reference: Z-2007123-800
 Our reference: Appl'n: Burnett/09/07 Part 1 File No.: BNE33539

CC: Mr Randall Barrington
 Randall Barrington Town Planning
 PO Box 8054
 BARGARA 4670

Bundaberg Regional Council
 PO Box 3130
 BUNDABERG QLD 4670

Attention: Mr Wayne Phillips

Re: Application (No. Z-2007123-800) for development approval for assessable development to be carried out at Atkinsons Road, Shine Street, Welch Street, Saunders Street, Rule Street, Moore Street, Elliott Heads Road, Raines Road, Breusch Road, Dorflers Road, ELLIOTT HEADS (L77-82, 85-88, 91,97 CK495

L135 CK767
 L89, 90 CK1443
 L26 EH1875, Lots 8-10, 16 RP7353
 L17,18 RP7354
 L2 RP7355
 L2 RP49524
 L1, 2 RP50368
 L1, 2 RP50372
 L1 RP53148
 L1 RP7447
 L6, 7, 25 RP89911
 L1 RP113567
 L1RP152664
 L3 RP214907
 L5 RP806935).

BUNDABERG REGIONAL COUNCIL	
RETENTION	20 years
DOCUMENT NO	081004761

RECEIVED/SENT - 9 DEC 2008

FILE NO	2007-051238-001
ACTION OFFICER	W Phillips



Pursuant to the following items of Table 2 Schedule 2 of the *Integrated Planning Regulation 1998*, the Environmental Protection Agency (EPA) – Contaminated Land Unit (CLU) is a concurrence agency for the development application:

Item 22, Table 2 of Schedule 2 of the *Integrated Planning Regulation 1998*

The EPA-CLU, acting as a concurrence agency under the *Integrated Planning Act 1997*, provides its response to the application detailed above as attached.

It would be appreciated if Council could provide a signed hard copy of the final development approval issued by Council (which includes the Agency's concurrence conditions).

The EPA-CLU has not provided a notification to native title parties for this application. The State's Native Title Work Procedures indicate that responsibility for assessment of native title

issues for an IDAS application rest with the Assessment Manager. It is recommended that you undertake an assessment using your own guidelines to determine if a native title notification is required for this application.

Should you require any further information please do not hesitate to contact the above officer on the telephone number provided .

...............
Signed Date

**Delegate of Administering Authority
Environmental Protection Act 1994.**

Council Application Number:	Z-2007123-800
EPA Application Number:	Burnett/09/07 Part 1

Concurrence agency response Sections 3.3.16 and 3.3.18 *Integrated Planning Act 1997*

Applicant:	Randall Barrington Town Planning Elliott Heads Estate Pty Ltd
Council Application Number:	Z-2007123-800
EPA Application Number:	Burnett/09/07 Part 1
Date application received by EPA:	30/08/2007
Relevant Laws and Policies:	<i>Environmental Protection Act 1994</i>
Jurisdiction:	Chapter 7, Part 8 <i>Environmental Protection Act 1994</i>

Development Description:

Material Change of Use - Master planned residential community comprising residential development at different densities including retirement village, medium density housing, dual occupancy, conventional and small lot housing; resort; village and town centres incorporating

where:

- the existing use of the land is, or if the land is vacant land with no existing use the most recent use of the land was, for a notifiable activity under the *Environmental Protection Act 1994*.
- the proposed use of the land is for child care, educational, recreational, residential or similar purposes and the existing use of the land is, or if the land is vacant land with no existing use the most recent use of the land was, for an industrial activity.
- the land is on the Environmental Management Register or Contaminated Land Register under the *Environmental Protection Act 1994*.**
- the land is wholly or partly within an area for which an Area Management Advice for industrial activity or natural mineralisation has been issued and the proposed use of the land is for child care, educational, recreational, residential or similar purposes.
- the land is wholly or partly in an area for which an Area Management Advice for unexploded ordnance has been issued.

at the following place(s):

Atkinsons Road, Shine Street, Welch Street, Saunders Street, Rule Street, Moore Street, Elliott Heads Road, Raines Road, Breusch Road, Dorflers Road, ELLIOTT HEADS
(L77-82, 85-88, 91,97 CK495
L135 CK767
L89, 90 CK1443
L26 EH1875, Lots 8-10, 16 RP7353
L17,18 RP7354
L2 RP7355
L2 RP49524
L1, 2 RP50368
L1, 2 RP50372
L1 RP53148

Council Application Number:	Z-2007123-800
EPA Application Number:	Burnett/09/07 Part 1

L1 RP7447
 L6, 7, 25 RP89911
 L1 RP113567
 L1RP152664
 L3 RP214907
 L5 RP806935)

Response to Development Application

The Environmental Protection Agency, acting as a concurrence agency under the *Integrated Planning Act 1997*, provides its response to the application detailed above.

The concurrence agency response is that

- conditions must attach to any development approval
- any approval must be for part only of the development
- any approval must be a preliminary approval only**
- there are no concurrence agency requirements
- the application must be refused

Conditions of the development approval

1. Sufficient information provided in accordance with the *Environmental Protection Act 1994* and the *Draft Guidelines for the Assessment and Management of Contaminated Land in Queensland* (DEH, 1998) specifying that the land is suitable for the intended use or enabling a statement of suitability with a Site Management Plan (SMP).
2. The information requested under clause 1 above must be reviewed and consented to by the Third Party Reviewer (TPR) before submitting to the EPA.
3. **Third Party Reviewer.** A Third Party Reviewer (TPR) must be appointed under the EPA's *Terms of Reference - Use of a Third Party Reviewer for Assessment and Management of Site Contamination dated 15 Feb 2008* (TOR).
4. A TPR acceptable to the EPA must be engaged at all times until draft Site Management Plans, acceptable to the EPA are submitted or the subject land has been removed from the Environmental Management Register.

Additional comments or advice about the application

The Draft Guidelines for the Assessment and Management of Contaminated Land in Queensland may be obtained from the Environmental Protection Agency's internet site at www.epa.qld.gov.au, or by contacting the EPA's Contaminated Land Unit. Please ensure that the appropriate statutory fee [as of the 1 July 2008 \$1048.00 per lot listed on the Environmental Management Register] is included with this application for the assessment of the site investigation and / or validation reports.

Under section 371 (1) of the Environmental Protection Act, If the owner or occupier of land becomes aware a notifiable activity is being carried out on the land, the owner or occupier must, within 22 business days after becoming aware the activity is being carried out, give notice under the subsection to the administering authority in the approved form.

Council Application Number:	Z-2007123-800
EPA Application Number:	Burnet/09/07 Part 1

Reasons for inclusion of development conditions or refusal

In accordance with section 3.3.18 of the *Integrated Planning Act 1997* and section 27B of the *Acts Interpretation Act 1954*, a concurrence response must include reasons for a refusal or for the inclusion of development conditions.

The Environmental Protection Agency is recognised as a concurrence agency under the *Integrated Planning Regulation 1998* for the protection of the environment by the management of contaminated land. The Environmental Protection Agency concurrence agency conditions for this proposed development that are contained within this response are required to prevent or mitigate any potential risk to human health or the environment from possible hazardous contaminants present on the site.

Additional information for applicants

This concurrence response pursuant to Chapter 7, Part 8 of the *Environmental Protection Act 1994* applies only to contaminated land issues and does not remove the need to obtain any further approval for this development which may be required by this or other legislation, State and/or Commonwealth. Applicants are advised to check with all relevant statutory authorities for such approvals as may be required.

~ End of Concurrence Agency Response ~

Enquiries Maria Zann
 Telephone (07) 4121 1855
 Your reference 130.2007.1238.1
 Our reference 316197 MBH185-10 2007/2158

28 September 2007

Wayne Phillips
 Planning and Development
 Burnett Shire Council
 Locked Bag 1
 BARGARA QLD 4670

Dear Sir,

Advice re Development Application involving land bounded by Atkinsons Road, Shine Street, Welch Road, Moore Street and Elliott Heads Road, Burnett Shire

Please treat this response as a properly made submission

The Environmental Protection Agency acknowledges receipt of a request to provide advice for a development application in accordance with schedule 2 of the *Integrated Planning Act 1997*. This information relates to the following proposal:

Applicant: Elliott Heads Estates Pty Ltd
Activity description: MCU for a master planned residential community
Referral Triggers: Sch 2, Table 2, Item 38 (Applications and referrals relating to wetlands)
Description of subject land: Land bounded by Atkinsons Rd, Shine St, Welch Rd, Moore St & Elliott Heads Rd being lots: 3RP214907, 1RP50372, 5RP806935, 80CK495, 97CK495, 2RP7355, 2RP49524, 87CK495, 81CK495, 1RP113567, 1RP53148, 86CK495, 25RP89911, 90CK1443, 78CK495, 1RP152664, 26EH1875, 91CK495, 88CK495, 77CK495, 2RP50372, 2RP50368, 89CK1443, 79CK495, 85CK495, 1RP50368, 82CK495, 3RP214907, 5RP806935, 80CK495, 10RP7353, 97CK495, 87CK495, 1RP74477, 81CK495, 18RP7354, 86CK495, 25RP89911, 16RP7353, 78CK495, 1RP152664, 135CK767, 26EH1875, 91CK495, 88CK495, 77CK495, 82CK495, 17RP7354, 9RP7353, 79CK495, 85CK495, 7RP89911, 8RP7353 and 6RP89911

EPA issued an information request to the above applicants on 13 September 2007 as a Concurrence Agency in respect of contaminated land issues. The Agency has now reviewed the information provided in respect of referral triggers under Schedule 2 of the *Integrated Planning Regulation 1998* (*viz.* within 100m of a wetland and within 100m of conservation estate) and, as an Advice Agency, recommends the application be refused.

Page 1 of 6

Enquiries: Maria Zann
 Cnr Alice and Lennox Sts Maryborough
 Queensland 4650 Australia
 PO Box 101 Maryborough
 Queensland 4650 Australia
 Telephone 07) 4121 1855
 Facsimile 07) 4121 1650
 Website www.env.qld.gov.au
 ARN 87 221 158 788

Statement of Reasons

The *Integrated Planning Act 1997* requires that State Planning Policies be considered in the assessment of development applications. The SCMP has the effect of a State Planning Policy. The proposed development has been assessed as being inconsistent with the SCMP, specifically the following policies:

Policy 2.1.2 Settlement Pattern and Design

The nature and size of the proposed development (as set out in the Elliott Heads Structure Plan) is inconsistent with Policy 2.1.2 of the SCMP which requires: *to the extent practicable, the coast is conserved in its natural or non-urban state outside of existing urban areas and urban growth is managed to protect coastal resources and their values by minimising adverse impacts...growth of urban settlements should not occur on or within erosion prone areas, significant coastal wetlands, riparian areas, sites containing important coastal resources of economic, social, cultural and ecological value, or areas identified as having or the potential to have unacceptable risk from coastal hazards.*

Whilst the proposal adjoins the existing township Elliott Heads the site has not been identified as an area for future urban development in any local or regional plan (statutory or non-statutory). The proposed development (as set out in the Elliott Heads Structure Plan) seeks to accommodate a population of 7317 residents – three times the size of the existing township. This scale of development is unwarranted in this location and will increase the likelihood of linear strip development along the Burnett coast, which is incompatible with Policy 2.1.2 of the SCMP which seeks to promote/maintain coastal development in discrete nodes.

Policies 2.4.1 Water quality management 2.4.2 Wastewater discharges to coastal waters

Stormwater discharges from a proposed township of ~7000 people are likely to adversely impact on groundwater resources and surface water quality of adjacent coastal wetlands unless best practice stormwater management practices are implemented. A drainage plan is not provided in the stormwater management plan so it is not possible to assess whether water sensitive urban design is adequately employed. Note that lakes (as referred to in the SMP p. 19) typically exhibit a trend towards decline in ecological health and increasing maintenance costs. Drawdown, flushing of lakes and time of water residence, presence and type of vegetation and alignment with prevailing winds all contribute to lake health. No strategy to address these issues is presented in the application.

To be consistent with the *Environmental Protection Policy (water)* the proposed development needs to demonstrate retention of existing water quality in High Ecological Value (HEV) waterways such as Woongarra coast coral reef (scheduled under *EPP (water)*) and the Elliott River estuary (draft HEV area identified in the public consultation process associated with the development of a Burnett North Water Quality Improvement Plan (see Attachment 1).

The following acceptable solutions would need to be demonstrated before the proposed development could be deemed to meet SCMP water quality policy requirements:

- 1) best practise urban stormwater management incorporating water sensitive urban design is planned for construction and post-construction development phases (refer to *EPA Best Practice Environmental Management – Urban Stormwater 2007.*);
- 2) wetland buffers sufficient to filter contaminants surface water runoff contaminants are incorporated in the development design (buffer setbacks should not be less than those prescribed in the *Regional Vegetation Management Code for Southeast Queensland Bioregion* issued 20/11/06 i.e. 200 metres in the case of *significant coastal wetlands*);
- 3) acceptable accredited site erosion and sediment control plans are developed and implemented,

Development of this size and scale requires an adequate sewerage treatment plant, proposed for Elliott Heads but not currently approved. Disposal of treated wastewater in such a plant will need to demonstrate compliance with Policy 2.4.2 Wastewater discharges to coastal waters in the SCMP, notably: '*For coastal waters where nutrients have been identified as a problem, sewage treatment works are designed and managed to enable appropriate nutrient removal ... into coastal waters – by 2010*'.

Policies 2.8.1 Areas of State Significance (Natural Resources) and 2.8.2 Coastal Wetlands

The size and scale of the proposed development is likely to adversely impact an adjacent *significant coastal wetland* as defined by the SCMP¹. This *significant coastal wetland* extends from Elliott River to Theodolite Creek (in the south) and northward along the Woongarra coast to the mouth of the Burnett River (in the north). This wetland is part of a Marine Conservation Zone declared under the Great Sandy Marine Park Zoning Plan.

Significant coastal wetlands are Areas of State Significance (Natural Resources) under the SCMP, where Policies 2.8.1 and 2.8.2 both apply. Policy 2.8.1 of the SCMP specifies: '*land*

¹ Wetlands associated with the proposed development site satisfy the following criteria for *significant coastal wetlands* as defined by the SCMP:

(c)(i) a good example of a wetland type occurring within a bioregion in Queensland

- all palustrine wetlands on the proposed development area were identified as natural wetlands under the Queensland wetlands mapping program; estuarine wetlands adjacent the site are 'Highly protected areas' under the Great Sandy Marine Park Zoning Plan and part of a Fish Habitat Area 'A'.
- (ii) plays an important ecological or hydrological role in the natural functioning of a major wetland system
- palustrine wetlands on the proposed development play an important role in maintaining water quality and hydrology of the High Ecological Waters of the Elliott River estuary; shorebird roost/ nesting sites and coral reef at Dr Mays Island and Woongarra.
- iii) important as a habitat for animal taxa at a vulnerable stage in their life cycles, or provides a refuge when adverse conditions such as drought prevail
- 200m from the boundary of the property is a shorebird roost mapped by the Queensland Wader Study Group; the Elliott River contains three other significant shorebird roosts and important fish nurseries.

allocation for uses and activities adjacent to 'areas of state significance (natural resources)' is to be compatible with the maintenance of the area's values.' Policy 2.8.2 of the SCMP specifies: *'further loss or degradation of coastal wetlands (including land within 100 metres of a coastal wetland) is to be avoided and impacts on coastal wetlands prevented, minimised or mitigated (in order of preference).'*

The application fails to demonstrate the proposed development will not result in adverse impacts to AOSS (NR) or that it is of net benefit to the state as a whole.

Policy 2.8.3 Biodiversity

The proposed development is inconsistent with Policy 2.8.3 of the SCMP which specifies: *'biodiversity on the coast is to be safeguarded through conserving and appropriately managing the diverse range of habitats including coral reefs, seagrass, ... saltflats, ... coastal wetlands and riparian vegetation..'*

Significant wildlife habitats are located immediately adjacent to the proposed development site. This includes extensive areas of intertidal flats which are important habitat for resident and migratory shorebirds (including the Little Tern *Sterna albifrons* and Eastern Curlew *Numenius madagascariensis*). Elliot River estuary, itself, has extensive shallow marine waters important as seagrass and fish breeding habitat. The estuary is directly linked to the Woongarra fringing coral reef community protected as part of the Great Sandy Marine Park.

Proposed development is likely to adversely impact biodiversity values of state significance, both directly and indirectly, as a result of increased human and domestic animal local populations, spread of exotic weeds and pests, diminished water quality etc. This includes potential for adverse impacts on scheduled wildlife species such as the Hawksbill Turtle *Eretmochelys imbricate* and Loggerhead Turtle *Carretta Caretta*.

Policy 2.8.3 requires *'retention of and appropriate management of riparian vegetation along waterways of sufficient width to provide for a self-sustainable linked network'*. Riparian vegetation adjoining wetlands is not of sufficient width to protect the values of the significant wildlife habitats described above, nor does the proposed network of parklands provide sufficient natural riparian vegetation to act as a protective self-sustainable linked network.

SUMMARY

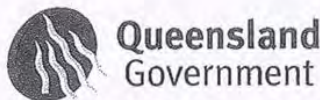
1. The size and scale of the proposed development presented in the Elliott Heads Structure Plan is inappropriate and is outside the projected urban needs of the Burnett Shire;
2. The proponent has not demonstrated that the proposed development is consistent with various policies contained in the SCMP (as detailed above);
3. On this basis it is recommended that the application be refused.

If you have any inquiries regarding this response please contact either Ms Maria Zann or myself by telephoning (07) 4121 1855

Yours sincerely

Stephen Barry
A/Planning Manager
Wide Bay Burnett

C/c Randall Barrington
Principal
Randall Barrington Town Planning Pty Ltd



Our Ref: P131732
Your Ref: Z-2007123-800

**Strategic Policy and
Executive Services**

Department of
Emergency Services

1 August 2007

Mr Wayne Phillips
Director Planning and Development
Burnett Shire Council
Locked Bag 1
BARGARA QLD 4670

Dear Mr Phillips

Thank you for your letter dated 18 July 2007, regarding the development application for Preliminary Approval Overriding the Planning Scheme under S3.1.6 of IPA for the Elliott Heads Estate Development.

Department of Emergency Services (DES) officers have reviewed the application regarding compliance with State Planning Policy 1/03 (SPP 1/03) and other emergency services provision issues.

DES judges the development to be compliant with SPP 1/03 and requires no further information regarding the development application.

Should further information be required, please do not hesitate to contact Mr Gavin McCullagh, A/Senior Policy Officer, on telephone number (07) 3247 8782, who will be pleased to assist. Should any operational consultation be required, contact information is attached for the three regional operational agencies within DES.

Yours sincerely

Richard Williams
Director

for

SHIRE OF BURNETT			
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COMMENTS:			

Strategic Policy Unit

Emergency Services Complex
Cnr Kedron Park Road and Park Road
Kedron Queensland 4031

GPO Box 1425 Brisbane
Queensland 4001 Australia

Telephone +61 7 3247 8787
Facsimile +61 7 3247 8798
Website www.emergency.qld.gov.au

ABN 11 577 654 890

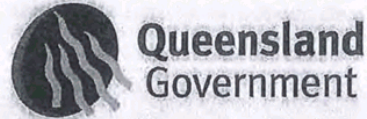
Creating a safer Queensland

North Coast Regional Contacts

Queensland Fire and Rescue Service
Assistant Commissioner
Telephone Number (07) 4190 4815

Queensland Ambulance Service
Assistant Commissioner
Telephone Number (07) 5420 9999

Emergency Management Queensland
Regional Director
Telephone Number (07) 5436 4212



18 April 2012

Mr Peter Byrne
 Chief Executive Officer
 Bundaberg Regional Council
 PO Box 3130
 Bundaberg Qld 4670



Attention Mr Richard Jenner

Dear Mr Byrne

Bundaberg Regional Council: Elliott Heads Road
Applicant: Elliott Heads Estate Pty Ltd
**Proposal: Preliminary approval to override the Planning Scheme – Master
 Planned Estate**
Access location: 172 at 14.176L

Under section 658 of the *Sustainable Planning Act 2009* (SPA) Elliott Heads Estate Pty Ltd and the State of Queensland (represented by the Department of Transport and Main Roads) have entered into an agreement that constitutes an infrastructure agreement under section 660 of the SPA.

This infrastructure agreement has arisen as a result of the development application proposed by Elliott Heads Estate Pty Ltd for a preliminary approval to override the planning scheme.

The department has recently issued a concurrence agency response for the proposal dated 4 April 2012, a copy of which has previously been provided to Council. The infrastructure agreement that has been made is referred to in Condition 11 of the department's response.

In accordance with section 662 of the *Sustainable Planning Act 2009* please find enclosed a copy of the Infrastructure Agreement for your attention.

Department of Transport and Main Roads
 Bundaberg Office - Wide Bay/Burriett Region
 21-23 Quay Street, Bundaberg Qld 4670
 Locked Bag 486 Bundaberg Queensland 4670
 ABN 39 407 690 291
 NPP_SL41_GNL
 \\WA1M1\letters\Drafts\2012\4_Apr\172_14.176L\EH\Estate\GNL.doc


Our ref 500/84(1) P21290 P22089
 Your ref 130.2007.1238.1
 Enquiries Adam Fryer
 Telephone 07 4154 0200
 Facsimile 07 4152 3878
 Website www.tmr.qld.gov.au
 Email: bundaberg.office@tmr.qld.gov.au

- 2 -

If you have any queries or wish to discuss this matter further, please contact Adam Fryer,
Senior Advisor Strategic Planning on 4154 0200.

Yours sincerely



 Doug Wass
Regional Director (Wide Bay/Burnett)

Encl

- (1) Infrastructure Agreement for Transport Infrastructure Contributions for Elliott Heads Development Elliott Heads Road

Infrastructure Agreement

for

Transport Infrastructure Contributions

for

Elliott Heads Development
Elliott Heads Road

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THIS DEED OF AGREEMENT is made this ^X THIRD day of APRIL 2012

BETWEEN:

ELLIOTT HEADS ESTATES PTY LTD ACN 116 512 568
of Level 8, Waterfront Place, 1 Eagle Street, Brisbane in the State
of Queensland.

("the Developer")

AND:

STATE OF QUEENSLAND (acting through the Department of
Transport and Main Roads) ABN 57 836 727 711 of 23 Quay
Street, Bundaberg in the State of Queensland

("the State")

AND:

**JOHN JOSEPH MANERA, TERESA LINA ALICE
MANERA, JOHN JOSEPH MANERA JNR and KIM
MAREE MANERA** all of Shine Street, Elliott Heads, in the
State of Queensland

DARRYL ROBERT RAINES of 17 Stanton Cook Street,
Burnett Heads in the State of Queensland and **STEPHEN JOHN
RAINES** of 726 Ford Road, Burbank in the State of Queensland
**AS EXECUTORS OF THE ESTATE OF DENNIS ALLAN
RAINES**

GORDON SHEPHERD and PATRICIA MARY SHEPHERD
of 1484 Elliott Heads Rd, Elliott Heads in the State of
Queensland

(collectively referred to as "the Owners")

RECITALS

- A. The Developer proposes, subject to obtaining the Development Approval, to develop land located in Elliott Heads, Burnett Shire, Queensland comprising lots as detailed in Schedule 1 ("the Land").
- B. On 29 June 2007 the Developer applied to the Council for Preliminary Approval Overriding the Planning Scheme under s 3.1.6 of the *Integrated Planning Act 1997* for the development of a new master planned community located at the Land ("the Development Application").
- C. The Owners are the owners of the Land which is the subject of the Development Application consent to the terms of this Agreement attaching to the land pursuant to the provisions of section 663(1) of the Sustainable Planning Act 2009 and have become parties to this Agreement for this purpose.

- D. The Council issued an Acknowledgement Notice and an amended Acknowledgement Notice dated 16 August 2007. The Council's reference for the application is 322.2007.00051238.001.
- E. The former Department of Main Roads, now the Department of Transport and Main Roads, was identified as a Concurrence Agency for the purposes of the Development Application.
- F. The Developer has lodged various amendments to the proposed master community plan and may in the future further amend, reconfigure or sub-stage the plan or the proposed Stages or Sub-Stages of the Development. The Development's current form is represented by the Plans in Schedules 2 and 3.
- G. The Development will have an impact on the State controlled roads in the vicinity of and leading to the Land which will impose increased costs on the State in relation to maintaining the State controlled road infrastructure networks.
- H. To take account of and compensate the State for the increased costs of maintaining the State controlled road network the Developer agrees to paying the Transport Infrastructure Contribution and complying with the terms of this Agreement.
- D. The parties wish to record the terms of their agreement.

NOW THE PARTIES AGREE AS FOLLOWS -

1. Interpretation

- 1.1 In this Agreement unless the context otherwise requires or the contrary intention appears, the following terms will have the meanings assigned to them -

"Act" means the *Sustainable Planning Act 2009*.

"Agreement" means this document and all schedules to this document.

"Business Day" means a day (other than a Saturday, Sunday or a public holiday) on which banks are open for business in Queensland.

"Council" means the former Burnett Shire Council and its successor in title, pursuant to the merger of the two councils under the *Local Government (Reform Implementation) Act 2007*, the Bundaberg Regional Council.

"Court" means the Planning and Environment Court Queensland.

"Date of this Agreement" means the date referred to in clause 16.1.

"Developer" means Elliott Heads Estates Pty Ltd ACN 116 512 568.

"Developer's Obligations" means the obligations specified in clause 3.

"Development" means any development which receives development approval pursuant to the application specified in Recital B.

"Development Application" means the application specified in Recital B.

“Development Approval” means the development approval in relation to the Development issued by the Council which has taken effect under the Act and includes any—

- (a) change to that document made by the Court as a result of any appeal to that Court;
- (b) amendment to that document or the document specified in paragraph (a) made pursuant to the Act or the IPA.

“GST” has the same meaning as in GST Law.

“GST Law” includes A New Tax System (Goods and Services Tax) Act 1999 (Cth), order, ruling or regulation which imposes or purports to impose or otherwise deals with the administration or imposition of GST on a supply of goods or services in Australia.

“Indexation Review Date” means each year commencing on the first anniversary of the grant of the original Development Approval (not including variations).

“IPA” means the *Integrated Planning Act 1997*.

“Land” means the land specified in Recital A.

“QRBCPI” means, for an Indexation Review Date, the percentage increase in the Road and Bridge Construction Queensland Index maintained by the Australian Bureau of Statistics (or the index officially substituted for it) for the period from the end of the last quarter before the last Indexation Review Date to the end of the last quarter before the applicable Indexation Review Date.

“Review Date” means the date on which the terms of this Agreement are to be reviewed pursuant to clause 4.

“Stage” means any part of the Development identified as a stage in Schedule 3 or in any superseding staging plan prepared in relation to the Development.

“State” means the State of Queensland acting through the Department of Transport and Main Roads.

“Sub-Stage” means any combination of Stages, lots, units or dwellings including a single lot, unit or dwelling in relation to which an application for a development approval is sought collectively or in the case of a single lot, unit or dwelling, individually, for the purposes identified in clause 3.8 of this Agreement.

“Super Lots” means a number of lots sold as a package to another developer.

“Transport Infrastructure Contributions” means the contributions specified in clause 3.2.

- 1.2 A reference to a person includes a reference to corporations and other entities recognised by law.

- 1.3 In this Agreement, the Table of Contents has been inserted for convenience of reference only and is not intended to be part of, or to affect the meaning or interpretation of any of the terms and conditions of this Agreement.
- 1.4 A reference to a statute, regulation, ordinance or local law will be deemed to extend to all statutes, regulations, ordinances or local laws amending, consolidating or replacing them.
- 1.5 In this Agreement, the headings to the clauses have been inserted for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of any of the terms and conditions of this Agreement.
- 1.6 The singular includes the plural and vice versa.
- 1.7 Words importing one gender will include a reference to all other genders.
- 1.8 A covenant or agreement on the part of two or more persons will be deemed to bind them jointly and severally.
- 1.9 A reference to a clause, schedule or attachment is a reference to a clause, schedule or attachment to this Agreement and includes any amendments to them made in accordance with this Agreement.
- 1.10 Where under or pursuant to this Agreement the day on or by which any act, matter or thing is to be done is not a Business Day, such an act, matter or thing may be done on the next Business Day.
- 1.11 In the case of any inconsistency between the Schedules and a clause contained in this Agreement, the provisions of the clause will prevail to the extent of any inconsistency.
- 2. Infrastructure Agreement**
- 2.1 The parties intend that—
- (a) this Agreement which is entered into under section 658 of the Act, will constitute an infrastructure agreement under section 660 of the Act; and
- (b) the Developer's Obligations which are development obligations as defined by section 663(4) of the Act, will attach to the Land and be binding on the parties to this Agreement and their successors in title in accordance with section 663 of the Act.
- 2.2 The Owners consent to the Developer's Obligations, to the extent those obligations remain outstanding, attaching to the Land and being binding on their successors in title.
- 2.3 The State will provide a copy of this Agreement to the Council in accordance with section 662 of the Act.
- 2.4 If the Developer is in dispute with Council regarding a portion of the Council's infrastructure charges levied to account for the impact of the Development ("Council Charges") including any amount which is attributable to the impact of

the Development on State controlled roads, then subject to the Developer establishing that there is duplication between the Council Charges and the Transport Infrastructure Contributions paid under this Agreement then the State will use its best endeavours to assist the Developer in its discussions with Council.

- 2.5 If it can be proven to the reasonable satisfaction of the State that-
- (a) there is duplication between the Council Charges and the Transport Infrastructure Contributions paid under this Agreement; and
 - (b) the Developer has used its best endeavours to negotiate with Council to reduce the Council Charges to account for the duplication,

then the State will credit the Developer that part of the Transport Infrastructure Contributions otherwise levied as part of the Council Charges.

- 2.6 The State agrees in relation to the Development which is the subject of this Agreement, not to require the Owners or the Developer to perform any work, contribute by way of cash payment, transfer land or dedicate land as road in respect of the State controlled road infrastructure network, except as expressly provided for in this Agreement.

3. The Developer's Obligations

- 3.1 The Developer must pay the Transport Infrastructure Contributions to the State in accordance with this clause 3.
- 3.2 The Transport Infrastructure Contributions payable shall be calculated as follows-
- (a) \$6,409 per Single Residential Lot, excluding single lots designated as a Lifestyle dwelling which shall be charged at the Lifestyle unit or dwelling rate under clause 3.2(c);
 - (b) \$3,845 per unit or dwelling on Medium/High Density Lots; and
 - (c) \$2,536 per unit or dwelling defined as a Lifestyle unit or dwelling under clause 3.3(c) of this Agreement.
- 3.3 For the purposes of clause 3.2-
- (a) "Single Residential Lot" means a lot for a single detached dwelling or a dual occupancy/duplex dwelling
 - (b) "Medium/High Density Lot" means any residential lot which provides for 2 or more units or dwellings on a single lot, group or community title excluding any unit or dwelling which is a "Lifestyle unit or dwelling"
 - (c) "Lifestyle unit or dwelling" means a unit or dwelling which is the subject of development approval upon the condition that occupation of that unit or dwelling will be restricted to those aged 50 years or older.
- 3.4 A Transport Infrastructure Contribution will not be payable for balance parcels in any Stage or Sub-Stage or in respect of lots designated for the purpose of

facilitating the development of Medium/High Density Lots or "Lifestyle units or dwellings" that are to be the subject of further development approvals at sometime in the future.

- 3.5 The parties acknowledge that the number of Single Residential Lots, Medium/High Density Lots and their related units or dwellings and Lifestyle units or dwellings has not yet been finally determined. The Developer warrants that the configuration of the Development, in the proportions as set out in Schedules 2 and 3 is current only as at the Date of this Agreement.
- 3.6 On each occasion, before the Developer lodges a survey plan in relation to the Development with the Council for approval, the Developer must provide a copy of the survey plan to the State.
- 3.7 If the Developer provides a copy of a survey plan to the State under clause 3.6 which shows a different allocation of land uses for any specific Stage, Sub-Stage or for the Development as a whole, than that identified on Schedules 2 and 3, the Developer agrees that it must pay the Transport Infrastructure Contribution according to the actual type of units, dwellings and lots submitted for approval to the Council based upon the definitions in clause 3.3 of this Agreement.
- 3.8 The Transport Infrastructure Contributions are to be paid to the State—
- (a) in relation to Single Residential Lots, prior to submitting a plan of survey for endorsement by the Council for the lots being developed; and
 - (b) in relation to Medium/High Density Lots or Lifestyle units or dwellings, prior to submitting an application for building work for the units or dwellings to be constructed.
- 3.9 The Transport Infrastructure Contributions to be paid under this Agreement shall be increased on each Indexation Review Date in accordance with the QRBCPI. The parties agree that it is intended that the Transport Infrastructure Contribution payable by the Developer under this Agreement will increase annually in accordance with the QRBCPI from the date of the Development Approval.
- 3.10 If a Transport Infrastructure Contribution has been paid in respect of a Single Residential Lot, a unit or dwelling on a Medium/High Density Lot, or Lifestyle unit or dwelling then:
- (a) the Developer's Obligations in respect of that specific lot, unit or dwelling will be discharged;
 - (b) that specific Single Residential Lot or that specific part of the Land on which the unit or dwelling is to be constructed is released from the Developer's Obligations; and
 - (c) the Developer's Obligations are no longer binding on the owner and successors in title of that specific Single Residential Lot or that specific part of the Land on which the unit or dwelling is to be constructed.

4. Review

- 4.1 The amount of the Transport Infrastructure Contributions payable under clause 3 and the structure in relation to which such payments are made (in terms of the definition of the items under clause 3.3) in respect of which Transport Infrastructure Contributions are payable, shall, except when otherwise agreed in writing pursuant to clause 13, be reviewed by the State and the Developer every 5 years from the Date this Agreement.
- 4.2 The review process shall, in the case of each review, be commenced at least 3 months prior to the 5 year anniversary date and shall be concluded by the 5 year anniversary date from the Date of this Agreement.
- 4.3 The purpose of the review process will be to reassess, on the basis of any changed circumstances or changes in the design or configuration of the Development, the amount of the Transport Infrastructure Contribution fairly and reasonably required to properly compensate the State in relation to any increased costs incurred or likely to be incurred as a result of the impact of traffic generated by the Development on the State controlled roads network. Only the amount payable and not the requirement to make Transport Infrastructure Contributions will be open to review as part of the review process.
- 4.4 Reviews shall continue to be undertaken for so long as this Agreement remains in force under the terms of clause 6.
- 4.5 If pursuant to the review by the State and the Developer a revised structure or amounts for payment of the Transport Infrastructure Contributions are agreed then this Agreement shall be varied in accordance with that agreement.
- 4.6 If on conclusion of a review under this clause, agreement is not reached as to the structure or amount to be payable in relation to Transport Infrastructure Contributions, then the matter may be referred to expert determination under the terms of clause 10.
- 4.7 In the event that neither party refers the matter to expert determination then the amounts payable in relation to Transport Infrastructure Contributions under this Agreement will remain unchanged and continue to be payable on the basis of the structure and at the rates set out in this Agreement or under the terms of the latest agreement reached pursuant to a review under this clause.

5. GST

The Developer and the State acknowledge that the Transport Infrastructure Contributions are intended to be exempt from GST and that all moneys contributed by the Developer as part of the Developer's Obligations are a developer contribution exempt from GST pursuant to section 82 of the GST Law.

6. Term of Agreement

- 6.1 This Agreement terminates if the Development Approval does not take effect or ceases to have effect under the Act.

6.2 This Agreement remains in force until all of the Land has been developed in accordance with the Development Approval.

7. Notices

7.1 Notices under this Agreement may be delivered by hand, by registered mail, or by facsimile to the addresses specified in clause 7.4, or any substitute address as may have been notified in writing by the relevant addressee from time to time.

7.2 Notice will be deemed to be given –

- (a) 2 Business Days after deposit in the mail with postage prepaid;
- (b) when delivered by hand; or
- (c) if sent by facsimile transmission, upon an apparently successful transmission being noted by the sender's facsimile machine prior to close of business at 5.00pm. Facsimile transmissions received after 5.00pm will be deemed to be received at the start of the next working day.

7.3 Notices may be given by or to a party's solicitor by any of the means specified in clause 7.2 to the solicitor's business address or facsimile number.

7.4 The address for each party is –

The Developer

Address: C/- Herbert Geer
Level 10,
175 Eagle Street,
Brisbane
QLD 4000

Postal Address: PO Box 7339
Gold Coast MC QLD 9726

Attention: Director, Stan La Vin
Telephone: (07) 5528 3515
Facsimile: (07) 5528 3515.

The State

Address: Bundaberg Main Roads Building
23 Quay Street
BUNDABERG QLD 4670

Postal Address: Locked Bag 486
BUNDABERG QLD 4670

Attention: Regional Director
Telephone: (07) 4154 0296
Facsimile: (07) 4152 3878

The Owners

Name: John Joseph Manera, Teresa Lina Alice Manera, John Joseph Manera Jnr and Kim Maree Manera

Address: c/o Payne Butler Lang
Solicitors
2 Targo Street,
Bundaberg,
QLD 4670

Telephone: 07 4132 8900

Facsimile: 07 4152 2383

Name: Darryl Robert Raines and Stephen John Raines as
Executors of the Estate of Dennis Allan Raines,
Gordon Shepherd and Patricia Mary Shepherd

Address: c/o Finemore Walters & Story,
Solicitors
51 Woongarra Street,
Bundaberg
QLD 4670

Telephone: 07 4152 1022

Facsimile: 07 4152 0193

- 7.5 Each party to the Agreement and any successors in title of the Land as may become bound by the Development Obligations pursuant to the provisions of section 663 of the Act, shall, as soon as practicable after becoming bound or after any change of address, notify the other party of the details of the new address and contact details.

8. **Governing Law**

This Agreement will be governed by and construed according to the law of the State of Queensland and the parties agree to submit to the jurisdiction of the Courts of the State of Queensland.

9. **Construction**

The parties have both been involved in and have received their own legal advice in relation to the drafting of this Deed and it must not be construed to the disadvantage of the State on the basis that the State put forward the Agreement or any documents forming part of the Agreement.

10. Expert Determination

- 10.1 If an agreement is not reached between the parties pursuant to a review under clause 44, either party to this Agreement ("the Referring Party") may, at any time after the Review Date, give notice ("the Notice") in writing to the other party of its intention to refer the review to expert determination.
- 10.2 The parties shall attempt to agree on the appointment of an expert within 7 days of service of the Notice. Failing such agreement, the President or Chairman for the time being of the Institute of Arbitrators and Mediators Australia ("IAMA") shall appoint an expert to act under the terms of this Agreement.
- 10.3 The expert shall undertake an independent review of the structure and amount of the Transport Infrastructure Contribution to be paid under this Agreement and shall reach a decision within 30 days of referral. The expert may extend the 30 day period by up to 14 days, with the consent of the Referring Party.
- 10.4 The procedure for the expert determination shall be governed by the expert determination Rules of IAMA for the time being in force. The expert shall act fairly and impartially in determining the structure and amount to be paid in respect of the Transport Infrastructure Contribution.
- 10.5 The determination of the expert as to the structure and amount of the Transport Infrastructure Contributions to be paid after the Review Date shall be binding on the parties.
- 10.6 The parties shall be jointly liable in respect of the fees and expenses of the expert. Each party shall in any event pay an equal proportion of those fees and expenses. In the event that one party should pay more than half of the expert's fees and expenses, that party shall be entitled to recover the balance from the other party.
- 10.7 The expert shall not be liable for anything done or omitted to be done in the discharge or purported discharge of his functions as expert, unless the act or omission is negligent or in bad faith. Such immunity shall extend to any employee or agent of the expert.

11. Good Faith

In relation to the review to be carried out under clause 4 or where this Agreement provides for an action to be done, or the existence of a condition to be established, based on the judgement, determination or opinion of a party, the party participating in such review or required to form the judgement, determination or opinion must-

- (a) act in good faith;
- (b) act without discrimination;
- (c) not act arbitrarily or capriciously;
- (d) not base its judgement, determination or opinion on trivial, irrelevant or immaterial factors; and

- (e) not unreasonably refuse to participate in or otherwise obstruct or hinder the review process.

12. Waiver

No rights or requirements under this Agreement will be deemed to be waived except by written notice signed by each party. A waiver by either party will not prejudice that party's rights in respect of any subsequent breach of this Agreement by the other party. Any failure by either party to enforce any clause of this Agreement or any forbearance, delay or indulgence granted by either party to the other will not be construed as a waiver of rights under this Agreement.

13. Variation

Except as provided for in clause 4.5, this Agreement may not be varied at any time except by a written agreement executed by both parties.

14. Costs

Each party must pay its own costs of and incidental to the negotiation, preparation and execution of this Agreement and to any review undertaken pursuant to clause 4 of this Agreement.

15. Assignment

- 15.1 The Developer may assign all or part of its rights, interests and obligations under this Agreement with the prior written consent of the State.
- 15.2 The State will not unreasonably withhold consent to an assignment, but may impose reasonable conditions which are not limited to those in clause 15.3.
- 15.3 The State will require an assignee to enter into a deed of covenant in a form reasonably required by the State under which the assignee agrees to be bound by this Agreement to perform and observe the Developer's Obligations and covenants under this Agreement (including those which may be due but which remain outstanding or unfulfilled) in whole or in part having regard to the nature of the assignment.
- 15.4 When the requirements of this clause 15 have been satisfied, the Developer will be released from any further liability for performing or observing the Developer's Obligations and other covenants in relation to all or part of its obligations (as applicable) under this Agreement.
- 15.5 It is reasonable for the State to withhold its consent to an assignment if there is an unremedied breach of this Agreement by the Developer.
- 15.6 The parties acknowledge that the Developer may wish to assign its obligations under this Agreement proportionately to purchasers of the Super Lots. The State agrees to act reasonably when asked for its consent to an assignment of a proportion of the Developer's Obligations under this Agreement to a purchaser of a Super Lot.

- 15.7 The Developer acknowledges that purchasers of Super Lots will be required to comply with clause 15.3 and agrees to ensure that any contract of sale for a Super Lot, in which it is intended that the purchaser of the Super Lot will be an assignee under this Agreement, requires that both parties (the Developer and the purchaser) comply with clause 15.3 prior to completion of that contract of sale.

16. Execution

- 16.1 The parties agree that if this Agreement is not executed by all the parties on the same date, this Agreement will commence on and from the later of the dates of execution.
- 16.2 The parties will execute copies of this Agreement with each party retaining an original copy.

17. Entire Agreement

This Agreement constitutes the entire agreement between the parties. Any prior arrangements, agreements, warranties, representations or undertakings are superseded.

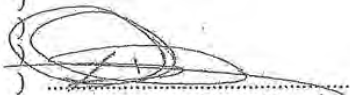
Executed as a Deed on the dates appearing below.

SIGNED SEALED and DELIVERED for and)
on behalf of THE STATE OF QUEENSLAND)

this 14th day of April 2012)

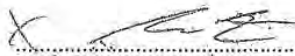
by Douglas James)
(full name)

Regional Director (Wide Bay Burnett))
(designation)


(signature)

who is a duly authorised officer

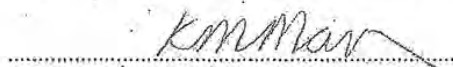
in the presence of:


(signature of witness)

ADAM SEYMOUR FRYER)
(print name of witness)

Executed by ELLIOTT HEADS ESTATES)
PTY LTD ACN 116.512 568)

this 28th day of March 2012)
in accordance with section 127 of the)
Corporations Act 2001 by or in the presence of:)


(signature of witness)

KIM MANERA)
(print name of witness)


28/3/12 (signature)
Signature of Director/Secretary
Frederic Staal CAU,
(print)
Name of Director/Secretary

SIGNED SEALED and DELIVERED by)
JOHN JOSEPH MANERA)

this 28th day of March 2012 in the)
presence of:)

[Handwritten signature]
.....
(signature of witness)

Frederick Edward Latta
.....
(print name of witness)

John Manera
.....
(signature)

Signature of John Joseph Manera Sr

SIGNED SEALED and DELIVERED by)
TERESA LINA ALICE MANERA)

this 28th day of March 2012 in the)
presence of:)

[Handwritten signature]
.....
(signature of witness)

Frederick Edward Latta
.....
(print name of witness)

T. Manera
.....
(signature)

Signature of Teresa Lina Alice Manera

SIGNED SEALED and DELIVERED by)
JOHN JOSEPH MANERA JNR)

this 28th day of March 2012 in the)
presence of:)

[Handwritten signature]
.....
(signature of witness)

Frederick Edward Latta
.....
(print name of witness)

JJ Manera
.....
(signature)

Signature of John Joseph Manera Jr

SIGNED SEALED and DELIVERED by KIM MAREE MANERA)

this 28th day of March 2012 in the presence of:)

Stan Lakin
.....
(signature of witness)

Frederick STAN LAKIN
.....
(print name of witness)

Kim Manera
.....
(signature)
Signature of Kim Maree Manera

SIGNED SEALED and DELIVERED by DARRYL ROBERT RAINES AS EXECUTOR OF THE ESTATE OF DENNIS ALLAN RAINES)

this 28th day of March 2012 in the presence of:)

Stan Lakin
.....
(signature of witness)

Frederick STAN LAKIN
.....
(print name of witness)

D. R. Raines
.....
(signature)
Signature of Darryl Robert Raines

SIGNED SEALED and DELIVERED by STEPHEN JOHN RAINES AS EXECUTOR OF THE ESTATE OF DENNIS ALLAN RAINES)

this 29th day of March 2012 in the presence of:)

Stan Lakin
.....
(signature of witness)

Frederick STAN LAKIN
.....
(print name of witness)

S. J. Raines
.....
(signature)
Signature of Stephen John Raines

SIGNED SEALED and DELIVERED by)
GORDON SHEPHERD)

this 28th day of March 2012 in the)
presence of)

[Handwritten signature])
.....)
(signature of witness))

FREDERICK STAN LADWIN)
.....)
(print name of witness))

[Handwritten signature])
.....)
(signature))
Signature of Gordon Shepherd)

SIGNED SEALED and DELIVERED by)
PATRICIA MARY SHEPHERD)

this 28th day of March 2012 in the)
presence of)

[Handwritten signature])
.....)
(signature of witness))

FREDERICK STAN LADWIN)
.....)
(print name of witness))

[Handwritten signature])
.....)
(signature))
Signature of Patricia Mary Shepherd)

SCHEDULE 1

Land

Land located at Atkinsons Road, Shine Street, Welch Street, Saunders Street, Rule Street, Moore Street, Elliott Heads Road, Raines Road, Breusch Road and Dorflers Road in Elliott Heads in Burnett Shire, Queensland and encompassing the following Lots:

Lot: 77 on CK495	Lot: 135 on CK767	Lot: 1 on RP50368
Lot: 78 on CK495	Lot: 89 on CK1443	Lot: 2 on RP50368
Lot: 79 on CK495	Lot: 90 on CK1443	Lot: 1 on RP50372
Lot: 80 on CK495	Lot: 26 on EH1875	Lot: 2 on RP50372
Lot: 81 on CK495	Lot: 8 on RP7353	Lot: 1 on RP53148
Lot: 82 on CK495	Lot: 9 on RP7353	Lot: 1 on RP74477
Lot: 85 on CK495	Lot: 10 on RP7353	Lot: 6 on RP89911
Lot: 86 on CK495	Lot: 16 on RP7353	Lot: 7 on RP89911
Lot: 87 on CK495	Lot: 17 on RP7354	Lot: 25 on RP89911
Lot: 88 on CK495	Lot: 18 on RP7354	Lot: 1 on RP113567
Lot: 91 on CK495	Lot: 2 on RP7355	Lot: 1 on RP152664
Lot: 97 on CK495	Lot: 2 on RP49524	Lot: 10 on SP220665
		Lot: 5 on RP806935

SCHEDULE 2

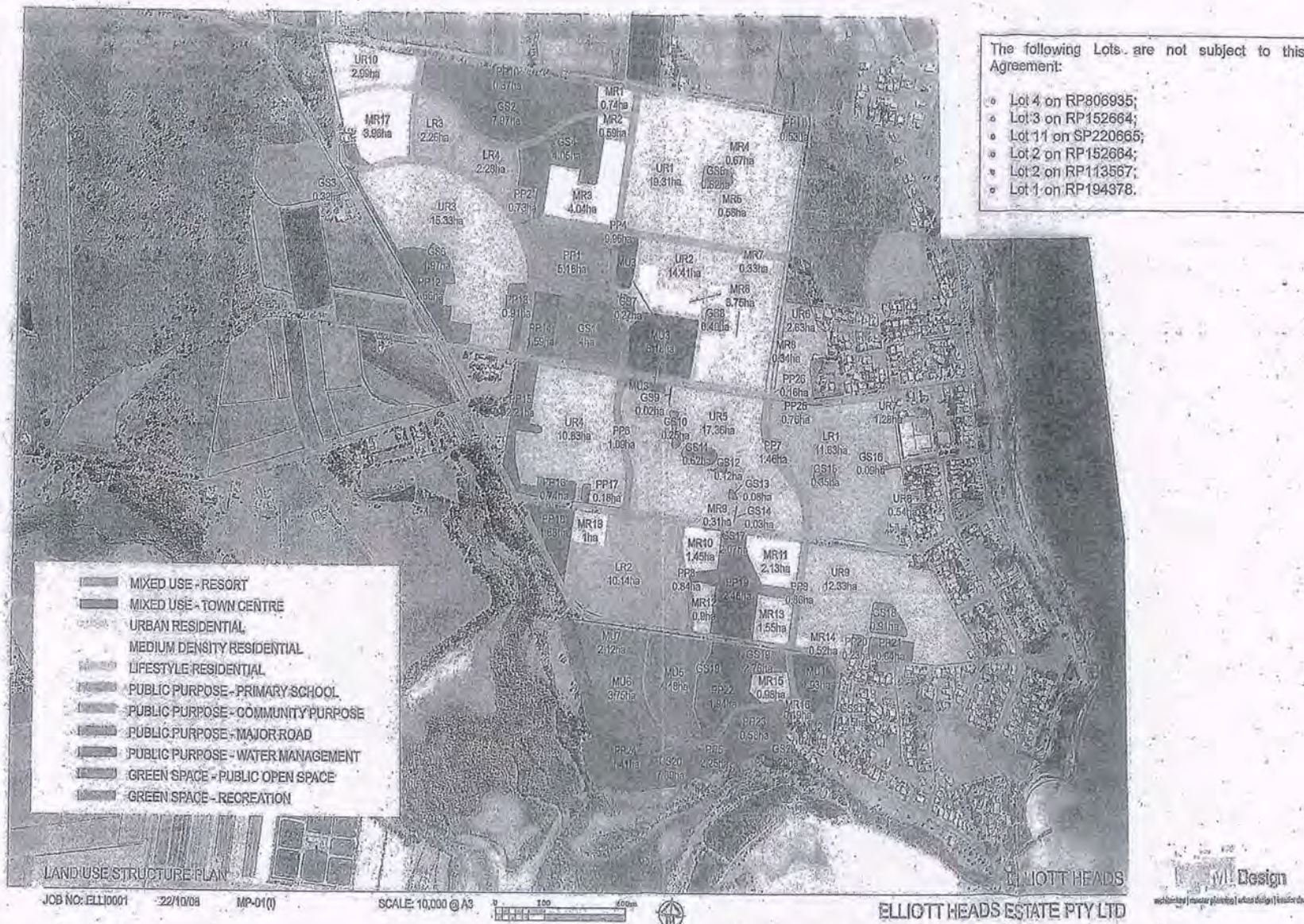
Land Use Structure Plan MP-01(1) dated 22 October 2008 Plan

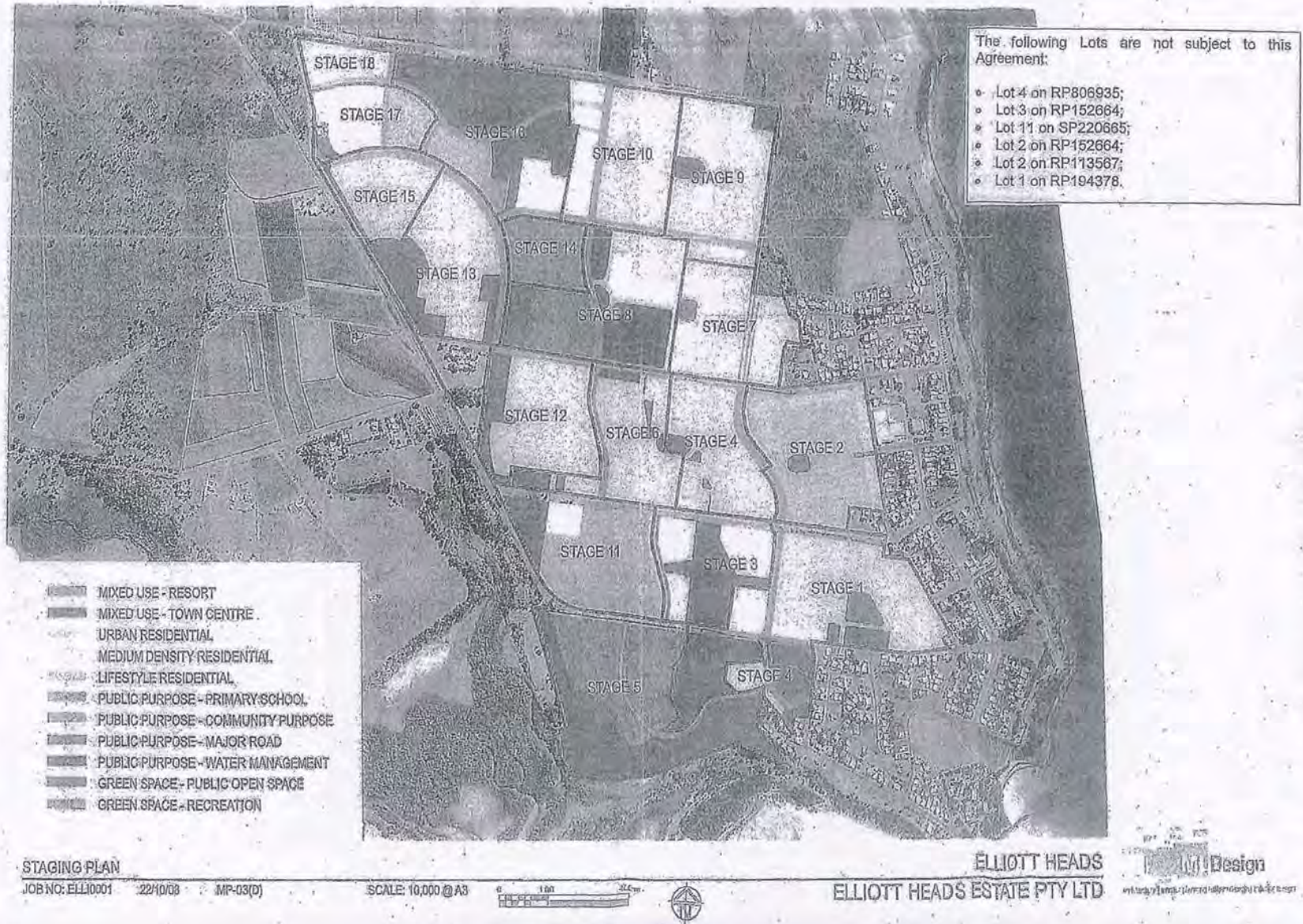
SCHEDULE 3

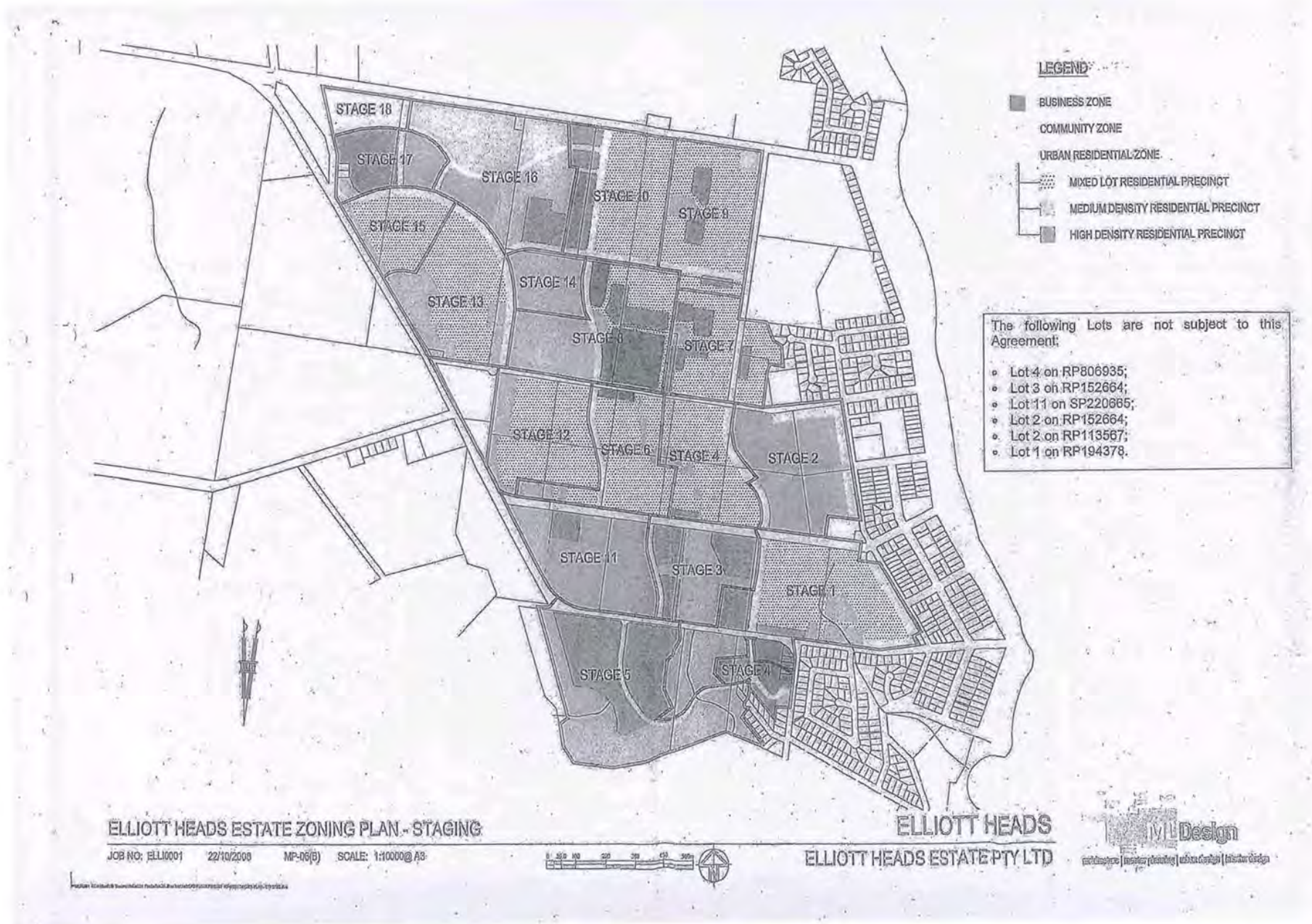
Staging Plan MP-03(D) dated 22 October 2008

and

Zoning Plan MP-06(B) dated 22 October 2008 Plan









Queensland
Government

130.2007.1238.1

4 April 2012

Mr Peter Byrne
Chief Executive Officer
Bundaberg Regional Council
PO Box 3130
Bundaberg Qld 4670

Attention Mr Richard Jenner



Dear Mr Byrne

CONCURRENCE AGENCY RESPONSE – CONDITIONS

Bundaberg Regional Council: Elliott Heads Road
Applicant: Elliott Heads Estate Pty Ltd C/- Randall Barrington Town Planning
Proposal: Preliminary approval to override the planning scheme – master planned estate
Access location: 172 at 14.176L

Reference is made to the referral agency material for the development application described above which was received by the former Department of Main Roads under section 3.3.3 of the *Integrated Planning Act 1997* (IPA) on 24 August 2007.

An assessment of the proposed development has been undertaken against the purposes of the *Transport Infrastructure Act 1994* for state-controlled roads.

Please note that Transport and Main Roads (the department) is now responsible for all assessment matters previously administered by the former Departments of Main Roads and Queensland Transport. In this regard reference is made to the Concurrence Agency Response issued by the former Queensland Transport Department for the proposal dated 5 October 2007.

Based on this jurisdiction, the department provides this concurrence agency response including the attached conditions and statement of reasons under Section 3.3.16 & 3.3.18 of the IPA.

The department advises the assessment manager that it requires conditions to attach to any development approval for the application. The department would also like to provide advice about the application to the assessment manager under Section 3.3.18 of the IPA.

Department of Transport and Main Roads
Bundaberg Office - Wide Bay/Burnett Region
21-23 Quay Street, Bundaberg Qld 4670
Locked Bag 486 Bundaberg Queensland 4670
ABN 39 407 690 291
CMO_RARCA_SL22
I:\ALM_Letters\2012\14_Apr\172_14.176L Elliott Hds Estate RARCA.doc

Our ref 500/84(1) P9684 P21290
Your ref 130.2007.1238.1
Enquiries Adam Fryer
Telephone 07 4154 0200
Facsimile 07 4152 3878
Website www.tmr.qld.gov.au
Email: bundaberg.office@tmr.qld.gov.au

- 2 -

Under Section 3.5.11 of the IPA, the assessment manager must therefore attach this response, including the enclosed Department of Transport and Main Roads Concurrence Agency Conditions and Statement of Reasons, to any approval for the application.

The department may change its concurrence agency response in accordance with Section 3.3.17 of the IPA.

The department must be provided with a copy of the assessment manager's decision notice regarding the application within five (5) business days after the day the decision is made in accordance with Section 3.5.15 of the IPA.

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

If you have any questions or wish to seek clarification about any of the details in this response, please contact Adam Fryer on (07) 4154 0200.

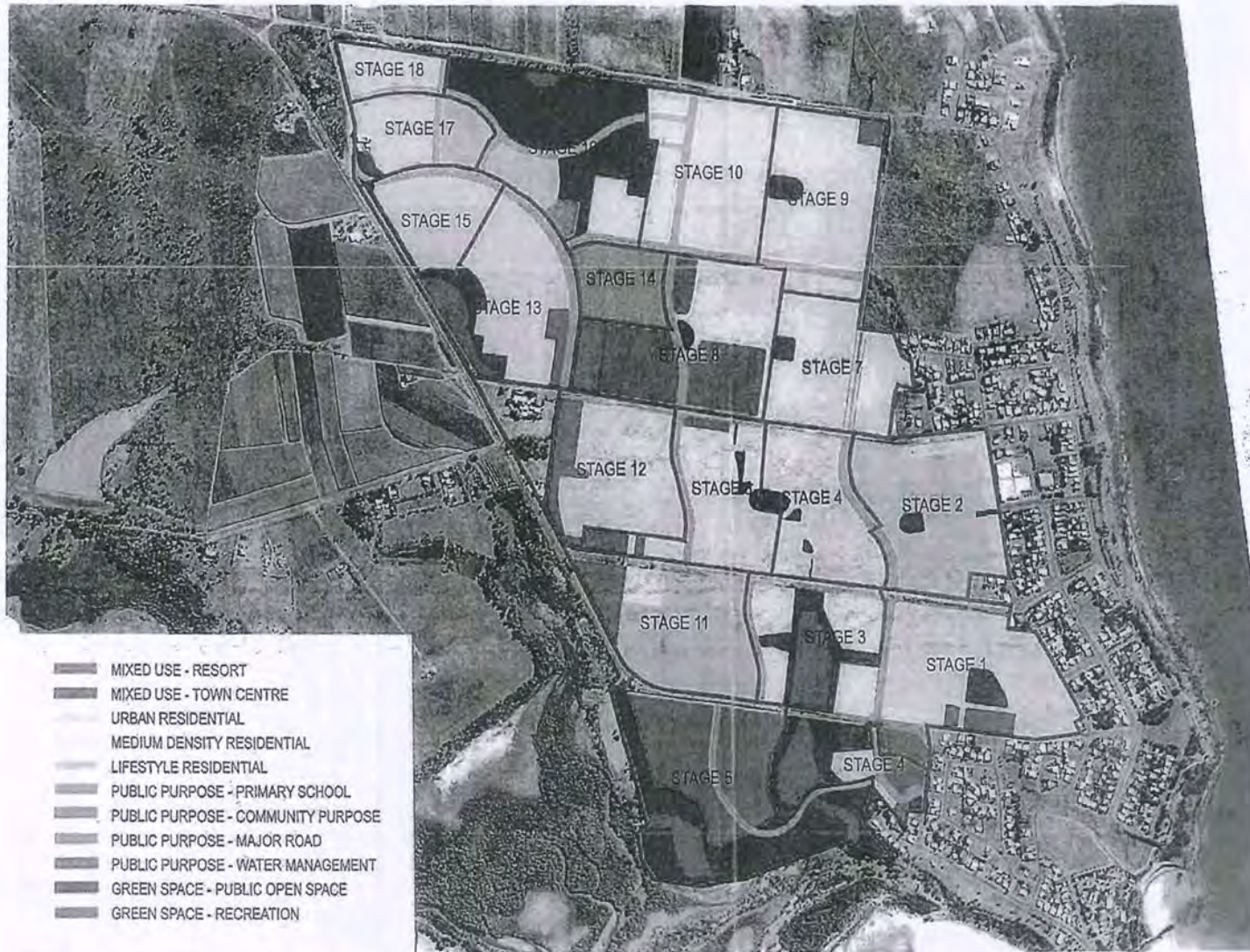
Yours sincerely



Doug Wass
Regional Director (Wide Bay/Burnett)

Encl

- (1) ML Design Drawing No. MP-03(D) "Staging Plan" dated 22 October 2008;
- (2) Department of Transport and Main Roads Agency Conditions and Statement of Reasons;
- (3) Form CMO-SC004 – (Standard Conditions - Design of Private Road Works Within State-controlled Road Boundaries);
- (4) Form CMO-SC005 (Standard Conditions – Construction of Private Roadworks).



STAGING PLAN

JOB NO: ELLI0001 22/10/08 MP-03(D)

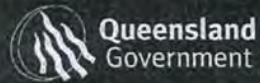
SCALE: 10,000 @ A3



ELLIOTT HEADS

ELLIOTT HEADS ESTATE PTY LTD





**Department of Transport and Main Roads
Concurrence Agency Conditions and Statement of Reasons**

Bundaberg Regional Council: Elliott Heads Road

Applicant: Elliott Heads Estate Pty Ltd

Proposal: Material change of use – Preliminary Approval Overriding the Planning Scheme under s3.1.6 of IPA for a Master Planned Community

Subject land: Lots 77, 78, 79, 80, 81, 82, 85, 86, 87, 88, 91 & 97 on CK495, Lot 135 on CK767, Lots 89 & 90 on CK1443, Lot 26 on EH1875, Lots 8, 9, 10 & 16 on RP7353, Lots 17 & 18 on RP7354, Lot 2 on RP7355, Lot 2 on RP49524, Lots 1 & 2 on RP50368, Lots 1 & 2 on RP50372, Lot 1 on RP53148, Lot 1 on RP74477, Lots 6, 7 & 25 on RP89911, Lot 1 on RP113567, Lot 1 on RP152664, Lot 10 on SP220665 (formerly described as part of Lot 3 RP 214907) and Lot 5 on RP806935

Situated at: Atkinsons Road, Shine Street, Welch Street, Saunders Street, Rule Street, Moore Street, Elliott Heads Road, Raines Road, Breusch Road & Dorflers Road, Elliott Heads

Access location: 172 at 14.176L

Date: 4 April 2012

TMR Ref: 500/84(1) P21290

No.	Conditions of Development	Timing	Jurisdiction and Reasons
<i>Material Change of Use – Preliminary Approval Overriding the Planning Scheme under s3.1.6 of IPA for a Master Planned Community</i>			
1	<p>Direct vehicular access to Elliott Heads Road is not permitted for any development on land to which the preliminary approval applies.</p> <p>Access to all development within the area to which the preliminary approval applies shall be via existing local roads, subject to the following exception;</p> <p>Vehicle access to Elliott Heads Road will be permitted from land subject to Stages 1, 3,11,5, and 4 from the proposed new roads, as</p>	At all times.	<p>Purposes of the <i>Transport Infrastructure Act 1994</i>.</p> <p>Elliott Heads Road is a limited access road.</p> <p>Transport and Main Roads (the department) policy is to rationalise and reduce the number of accesses to the state-controlled road by combining accesses or limiting access to a local road (where possible).</p>

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No.	Conditions of Development	Timing	Jurisdiction and Reasons
	<p>generally shown on the plan of development, ML Design Drawing No. MP-03(D) "Staging Plan" (for Elliott Heads Estate Pty Ltd) dated 22 October 2008 subject to the following:</p> <ul style="list-style-type: none"> a) The location of the new roads and the resulting intersections is to be determined as part of detailed planning subject to the relevant stage of development; and b) For any new intersection created with the State Controlled Road, the priority at the intersection is given to vehicles travelling on the State Controlled Road; and c) The proposed new roads and resulting intersections comply with the Department of Transport and Main Roads' Standard Specifications, Standard Drawings and Interim Guide to Road Planning and Design Practice current at the time of design. Where no Department of Transport and Main Roads standard is available the Australian Standards or similar shall be utilised at the discretion of the department. 		

No.	Conditions of Development	Timing	Jurisdiction and Reasons
2	For any development in the areas shown as Stages 1, 3, 4, and 5 on ML Design Drawing No. MP-03(D) "Staging Plan" dated 22 October 2008 construct the Elliott Heads Road/Moore Street intersection to an urban type BAR/BAL standard in accordance with Transport and Main Roads' Interim Guide to Road Planning and Design Practice.	Prior to submitting a plan of survey to Council for endorsement for any reconfiguring of a lot or combination of lots; Or Prior to commencement of the use for any Material Change of Use.	Purposes of the <i>Transport Infrastructure Act 1994</i> . Transport and Main Roads must ensure that the safety and efficiency of the state-controlled road network is not impacted by the development.
3	For any development in the areas shown as Stages 3, 4, 6, 11 and 12 on ML Design Drawing No. MP-03(D) "Staging Plan" dated 22 October 2008 construct the Elliott Heads Road/Dorflers Road intersection to a rural type BAR/BAL standard in accordance with Transport and Main Roads' Interim Guide to Road Planning and Design Practice.	Prior to submitting a plan of survey to Council for endorsement for any reconfiguring of a lot or combination of lots; Or Prior to commencement of the use for any Material Change of Use.	Purposes of the <i>Transport Infrastructure Act 1994</i> . Transport and Main Roads must ensure that the safety and efficiency of the state-controlled road network is not impacted by the development.

No.	Conditions of Development	Timing	Jurisdiction and Reasons
4	For any development in the areas shown as Stages 1, 2, 3, 4, 6, 7, 8 and 13 on ML Design Drawing No. MP-03(D) "Staging Plan" dated 22 October 2008 construct the Elliott Heads Road/Breusch Road intersection to a rural type BAR/BAL standard in accordance with Transport and Main Roads' Interim Guide to Road Planning and Design Practice.	Prior to submitting a plan of survey to Council for endorsement for any reconfiguring of a lot or combination of lots; Or Prior to commencement of the use for any Material Change of Use.	Purposes of the <i>Transport Infrastructure Act 1994</i> . Transport and Main Roads must ensure that the safety and efficiency of the state-controlled road network is not impacted by the development.
5	For any development in the areas shown as Stages 9, 10, 15, 16, 17 and 18 on ML Design Drawing No. MP-03(D) "Staging Plan" dated 22 October 2008 construct the Elliott Heads Road/Atkinsons Road intersection to a rural type BAR/BAL standard in accordance with Transport and Main Roads' Interim Guide to Road Planning and Design Practice.	Prior to submitting a plan of survey to Council for endorsement for any reconfiguring of a lot or combination of lots; Or Prior to commencement of the use for any Material Change of Use.	Purposes of the <i>Transport Infrastructure Act 1994</i> . Transport and Main Roads must ensure that the safety and efficiency of the state-controlled road network is not impacted by the development.
6	Construct the Elliott Heads Road/Moore Street intersection to an urban type roundabout in accordance with Transport and Main Roads' Interim Guide to Road Planning and Design Practice. Where the Interim Guide is	Prior to submitting a plan of survey to Council for endorsement for the 301 st lot.	Purposes of the <i>Transport Infrastructure Act 1994</i> . Information submitted in the applicant's traffic report "Elliott Heads Estate Summary of Traffic Impacts Generated by Elliott Heads Estate" prepared by Brian Lister dated September 2011

No.	Conditions of Development	Timing	Jurisdiction and Reasons
	superseded the intersection shall be constructed in accordance with the equivalent standard applicable at that time to cater for traffic generated by the development.		identifies that an upgrade of the standard of the intersection is warranted to cater for traffic generated by the development.
7	Construct the Elliott Heads Road/Breusch Road intersection to a CHR/CHL standard in accordance with Transport and Main Roads' Interim Guide to Road Planning and Design Practice. Where the Interim Guide is superseded the intersection shall be constructed in accordance with the equivalent standard applicable at that time to cater for traffic generated by the development.	Prior to submitting a plan of survey to Council for endorsement for the 751 st lot.	Purposes of the <i>Transport Infrastructure Act 1994</i> . Information submitted in the applicant's traffic report "Elliott Heads Estate Summary of Traffic Impacts Generated by Elliott Heads Estate" prepared by Brian Lister dated September 2011 identifies that an upgrade of the standard of the intersection is warranted to cater for traffic generated by the development.
8	Construct the Elliott Heads Road/Dorfiers Road intersection to a CHR/CHL standard in accordance with Transport and Main Roads' Interim Guide to Road Planning and Design Practice. Where the Interim Guide is superseded the intersection shall be constructed in accordance with the equivalent standard applicable at that time to cater for traffic generated by the development.	Prior to submitting a plan of survey to Council for endorsement for the 751 st lot.	Purposes of the <i>Transport Infrastructure Act 1994</i> . Information submitted in the applicant's traffic report "Elliott Heads Estate Summary of Traffic Impacts Generated by Elliott Heads Estate" prepared by Brian Lister dated September 2011 identifies that an upgrade of the standard of the intersection is warranted to cater for traffic generated by the development.
9	Construct the Elliott Heads Road/Atkinsons Road intersection to a CHR/CHL standard in accordance with Transport and Main Roads' Interim Guide to Road Planning and Design	Prior to submitting a plan of survey to Council for endorsement for the 751 st lot.	Purposes of the <i>Transport Infrastructure Act 1994</i> . Information submitted in the applicant's traffic report "Elliott Heads Estate Summary of Traffic Impacts Generated by Elliott

No.	Conditions of Development	Timing	Jurisdiction and Reasons
	Practice. Where the Interim Guide is superseded the intersection shall be constructed in accordance with the equivalent standard applicable at that time to cater for traffic generated by the development.		Heads Estate" prepared by Brian Lister dated September 2011 identifies that an upgrade of the standard of the intersection is warranted to cater for traffic generated by the development.
10	<p>a) Submit a road impact assessment prepared in accordance with the Guidelines for Assessment of the Road Impacts of Development that identifies the standard of intersection required to cater for traffic at the Elliott Heads Road/Atkinsons Road intersection.</p> <p>b) Construct the Elliot Heads Road/Atkinsons Road intersection in accordance with:</p> <ul style="list-style-type: none"> i) The standard identified in the approved road impact assessment required under condition 10a); and ii) Transport and Main Roads' Interim Guide to Road Planning and Design Practice or superseding standard applicable at the time. 	Prior to submitting a plan of survey to Council for endorsement for the 1501 st lot.	<p>Purposes of the <i>Transport Infrastructure Act 1994</i>.</p> <p>Information submitted in the applicant's traffic report "Elliott Heads Estate Summary of Traffic Impacts Generated by Elliott Heads Estate" prepared by Brian Lister dated September 2011 identifies that to cater for traffic generated by the development a further upgrade at the Elliott Heads Road/Atkinsons Road intersection will be warranted.</p>
11	Comply with the Infrastructure Agreement between Elliott Heads Estate Pty Ltd and the State of Queensland (Department of Transport and Main Roads) executed on 3 April 2012.	At all times	<p>Purposes of the Transport Infrastructure Act 1994.</p> <p>The Infrastructure Agreement is required as a result of the proposed development to ensure the safety and efficiency of the state-controlled road network.</p>

No.	Conditions of Development	Timing	Jurisdiction and Reasons
12	<p>Submit to the Department of Transport and Main Roads for approval a detailed design for each of the intersection works within the state-controlled road required under conditions 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10. The design shall be prepared in accordance with the following (or equivalent standards at that time):</p> <ul style="list-style-type: none"> a) Transport and Main Roads' Interim Guide to Road Planning and Design Practice b) Manual of Uniform Traffic Control Devices; c) The attached Transport and Main Roads' Standard Conditions – Design of Private Road Works Within State-controlled Road Boundaries (Form CMO-SC004); d) AS/NZ1158 - Lighting for Roads and Public Spaces; e) Any other relevant Transport and Main Roads standards and specifications and Australian Standards applicable at the time. f) All final detailed designs shall be certified by a Registered Professional Engineer of Queensland (RPEQ). g) If requested by Transport and Main Roads, a safety audit for the detailed 	<p>Prior to any construction within the state-controlled road</p>	<p>Purposes of the Transport Infrastructure Act 1994.</p> <p>Transport and Main Roads must ensure that the safety and efficiency of the state-controlled road network is not impacted by the development.</p>

No.	Conditions of Development	Timing	Jurisdiction and Reasons
	design shall be provided by a Registered Safety Auditor, in accordance with the Austroads publication <i>Road Safety Audit</i> (2 nd Edition).		
13	<p>a) Unless otherwise approved by the Regional Director (Wide Bay-Burnett Region) submit to Transport and Main Roads for approval a road traffic noise report for each noise sensitive development that is code or impact assessable in the area to which the preliminary approval applies that abuts and/or is within 100m of Elliott Heads Road. The report shall:</p> <ol style="list-style-type: none"> i) Be prepared by a suitably qualified acoustic consultant; ii) Be prepared in accordance with Transport and Main Roads' Environmental Emissions Policy (<i>Policy Position Statement - Development on Land Affected by Environmental Emissions from Transport and Transport Infrastructure</i>) dated 31 March 2011 iii) State the assumed pad levels used in the calculations; iv) Allow for 10 years traffic growth from 	<p>For Condition 13a): -</p> <ul style="list-style-type: none"> • For Reconfiguration of a Lot – Prior to obtaining a development permit for the lot reconfiguration; • For Material Change of Use – Prior to obtaining a development permit for the Material Change of Use; • For Building work where MP4.4 of the Building Code does not apply to the building – prior to obtaining a final certificate for the buildings. <p>For Conditions 13b), c) and d): -</p> <ul style="list-style-type: none"> • For Reconfiguration of a Lot – Prior to submitting a plan of survey to Council for endorsement; 	<p>Purposes of the <i>Transport Infrastructure Act 1994</i>.</p> <p>Development within the preliminary approval area will create noise sensitive uses adjacent to an existing state-controlled road. Transport and Main Roads must ensure that the development can achieve the relevant criteria in the Environmental Emissions Policy (<i>Policy Position Statement - Development on Land Affected by Environmental Emissions from Transport and Transport Infrastructure</i>) dated 31 March 2011.</p> <p>The Environmental Emissions Policy defines noise sensitive uses for the purpose of this condition.</p> <p>The department must ensure that any traffic noise amelioration measures are identified and implemented at appropriate stages in the development and construction process.</p>

No.	Conditions of Development	Timing	Jurisdiction and Reasons
	<p>the assumed completion date of the noise sensitive use;</p> <p>v) Demonstrate that the relevant noise level objectives can be achieved by the development at the commencement date and the design horizon; and</p> <p>vi) Specify any measures that will be taken to meet the noise level objective/s.</p> <p><i>Note: Noise sensitive uses identified in the preliminary approval include, but are not limited to, residential subdivision, residential dwellings of all types, Medical Centre, Aged Care Facilities and Educational Establishments.</i></p> <p>b) With respect to condition 13a), construct required noise amelioration measures (e.g. noise barriers, architectural treatment of buildings) identified in the approved road traffic noise report. All noise barriers shall be constructed in accordance with Transport and Main Roads standards applicable at the time.</p> <p>c) Where noise barriers are required submit to Transport and Main Roads for approval a detailed design of the proposed noise</p>	<ul style="list-style-type: none"> • For Material Change of Use – Prior to commencement of the use; and • obtaining a development permit for the lot reconfiguration; • For Building work where MP4.4 of the Building Code does not apply to the building – prior to obtaining a final certificate for the buildings. 	

No.	Conditions of Development	Timing	Jurisdiction and Reasons
	<p>barrier prepared by a Registered Professional Engineer of Queensland (RPEQ). The design shall be prepared in accordance with Transport and Main Roads standards applicable at the time.</p> <p>d) With respect to conditions 13a), b) & c) provide certification by a Registered Professional Engineer of Queensland (RPEQ) skilled in acoustic design that the required works have been completed.</p>		
14	<p>Post-development flows to, across or along the State-controlled road network shall not worsen the predevelopment flows calculated during an ARI-100 storm event.</p>	At all times	<p>Purposes of the <i>Transport Infrastructure Act 1994</i>.</p> <p><u>Advice</u> To determine compliance with this condition Transport and Main Roads may require that information be submitted with subsequent applications for development permits to demonstrate that the development will not worsen the flood immunity of Elliot Heads Road. This may also require review of detail design for drainage in order to consider the impact to Elliot Heads Road, safety of road users, any road widening and acoustic barriers. As such any design for stormwater infrastructure will need to demonstrate that these matters have been considered in the overall stormwater management strategy for the preliminary approval area. You are encouraged to consult with the department in this regard.</p>

Advice

Separate approval from Transport and Main Road under section 33 of the Transport Infrastructure Act 1994 is required for any works in Elliott Heads Road. This approval must be obtained prior to commencement of any works. It is advised to contact the Department of Transport and Main Roads to discuss this requirement well in advance of any planned works in a State-controlled road.

All works shall be constructed in accordance with the attached Form CMO-SC005 (*Standard Conditions – Construction of Private Roadworks*) or superseding requirement current at that time.

- Note: - Prior to undertaking any construction works within the state-controlled road, the client for the works shall make written application to the department for construction approval.
- No works shall commence in the state-controlled road until an *Approval to Commence Work* notice is issued.
 - The department may require a bond (e.g. cheque or bank guarantee in favour of Transport and Main Roads) to the value of one third of the estimated final cost of the works, prior to an *Approval to Commence Work* notice being issued.
- The bond will be refunded when the department accepts the works Off Maintenance.

The client for any works in a State-controlled road required by, or as a result of these conditions is responsible for all costs incurred in relocating services and/or dealing with issues relating to services associated with any of the works (e.g. Telstra, Ergon).

Standard Conditions - Design of Private Roadworks within State-controlled Road Boundaries

1 Definitions

- 1.1 The *Works* are the roadworks required as a consequence of a development application or Transport and Main Roads (the department) making a decision about access.
- 1.2 The *Client* is the person or company responsible for the works. The department is NOT the client.
- 1.3 The *Designer* is the person or company engaged by the client to design the works.
- 1.4 The *Registered Professional Engineer of Queensland* (RPEQ) is the person nominated by the client to certify the design.

2 Workplace health and safety

These conditions do not absolve the client and/or designer of their obligations under the provisions of the *Workplace Health and Safety Act 1995*.

3 The client

The client shall: -

- Be responsible for funding the design (including surveying, geotechnical testing amendments to the design and As Constructed plans).
- Be responsible for funding the works.
- If applicable, obtain approvals from other government departments, service authorities or the local government. Any conflicting requirements imposed by other authorities are to be brought to the attention of the department promptly.
- Submit RPEQ certified drawings, specifications and associated documentation to the department for approval.
- Allow 15 business days for the department to review the design, specifications and associated documentation. Failure to provide adequate information may result in delays to approvals or rejection of the design.
- Obtain written consent from the owner/occupier/operator of any adjacent properties (including the operator of cane railways, service installations or other ancillary works or encroachments), whether of a temporary or permanent nature, regarding the relocation, removal or other proposed measures associated with the works.
- If required, have a Registered Safety Auditor conduct a safety audit in accordance with Austroads' *Guide to Road Safety Part 6*.
- Be responsible for ensuring the works comply with all relevant State and Federal Acts pertaining to environmental and cultural heritage management.

4 The designer

The designer shall: -

- Design the works in accordance with the department's referral agency's response or Section 62 Decision, which ever is applicable. The department can provide a copy of the relevant response.
- Have an RPEQ certify the design. Where the design does not conform to the department's requirements, provide full details and reasons for the non-compliance/variation.
- Unless otherwise agreed to by the department, provide a pavement design based on a 20 year design life and the department's *Pavement Design Manual* (2009). The pavement design shall include:
 - Subgrade CBR test results and design subgrade CBR
 - Traffic data adopted (AADT, % growth, % CV's)
 - Design calculations
 - Full details of the existing pavement (depth, strength, type, suitability for re-use)
 - Recommended pavement design configuration including layer depths and types (min total pavement depth to be used shall be no less than existing)
 - Proposed surface treatment, including seal design

The pavement design may be subject to review during construction.

- Provide a road drainage design in accordance with the department's *Road Drainage Manual*. Unless otherwise agreed to by the department, the drainage design shall include:
 - Hydraulic calculations to support the recommended drainage design. If necessary, the calculations shall include an assessment of the impact on the existing drainage.
 - Cross drainage calculations including documentation and certification that any proposed increased in upstream afflux levels will not adversely affect properties or property improvements.
 - Stormwater drainage calculations including demonstration that all criteria for roadway flow path widths are met.
 - Aquaplaning calculations including demonstration that all criteria for surface water film depths are met.

5 The design

The design shall: -

5.1 General

- Comply with the department's *Drafting and Design Presentation Standards* (e.g. format, presentation and plan sequence) and are presented at a scale appropriate to the level of detail which needs to be conveyed.
- Unless exempted by the department, provide for pedestrians and cyclists.
- Include sufficient survey detail to allow accurate assessment of the proposal. As a minimum the survey should:-
 - Extend along the centreline a minimum 100m beyond the proposed works
 - Extend along any side road a minimum 50m beyond the proposed works

- For cross section purposes, extend 10m from proposed construction batter points or to the road boundary, whichever is less.
- Include proposed signs and pavement markings that are fixed to a control line so they can be accurately located.
- Tie to existing surveys or cadastral boundaries and some prominent nearby physical object (e.g. a Bench Mark, culvert or junction).
- Integrate proposed pavement markings with existing pavement markings. Proposed pavement markings shall be in accordance with the Manual of Uniform Traffic Control Devices.
- Include contract and works specifications documents, schedule of works and an estimate of cost of construction.

5.2 Drainage

- Include any proposed drainage likely to affect the existing state-controlled road drainage system, including dimensions (size, class and length) and invert levels (inlet and outlet). Unless approved otherwise by the department, the following recurrence intervals shall be adopted for drainage design:-
 - Cross drainage - National Highway 100 year, elsewhere 50 year
 - Pavement surface drainage - 10 year

5.3 Environment

- If required, include a detailed environmental impact assessment for potential and actual environmental impacts. The department's Road Project Environmental Processes Manual may provide guidance regarding this matter.

5.4 Electrical/overhead lighting

- If required, include intersection and route lighting (including isolux plots) in accordance with *Australian Standard AS1158* and Chapter 17 (Lighting) of the *Road Planning & Design Manual*. The lighting design and electrical layout design shall be certified by an RPEQ (Electrical).

5.5 Traffic signals

- If new or modified traffic signals are required, the design shall; -
 - Provide for pedestrians, including pram ramps and tactile tiles, where appropriate
 - Provide for connection to the department's Traffic Management System, STREAMS
 - Include proposed phasing

5.6 Extended Design Domain

- Extended Design Domain shall not be adopted without acceptance by the department.

6 Reference documents

- *Interim Guide to Road Planning & Design Practice (May 2010)*
- *Road Planning and Design Manual (RPDM)*

Wide Bay/Burnett Region
Bundaberg Office
Corridor Management & Operations



- *Austrroads Publications*
- *Austrroads guides to pavement technology*
- *Pavement Design Manual*
- *Road Drainage Manual*
- *AS1158 - Lighting for Roads and Public Spaces*
- *Standard Specifications Roads*
- *Standard Specifications ITS and Electrical Technology*
- *Drafting and Design Presentation Standards (DDPS)*
- *Standard Drawings Roads Manual*
- *Manual of Uniform Traffic Control Devices (MUTCD)*
- *Traffic and Road Use Management Manual (TRUM)*
- *Road Project Environmental Processes Manual*
- *Australian Standards*

7 Currency of reference documents

For departmental approval purposes the latest editions, including any amendments, will be used. Departmental reference documents can be accessed via the *Technical Standards and Publications* tab on the website at www.tmr.qld.gov.au

8 Acceptance of design and documents

When the department is satisfied that the design and documents comply with the specified conditions it will issue a Notification of Acceptance of Project Documents.

Acceptance of the design and associated documentation by the department does not authorise any person to commence work on a state-controlled road.

9 Correspondence

For applications in Bundaberg, Fraser Coast and North Burnett Regional Councils, forward correspondence to:-

Regional Director (Wide Bay/Burnett Region)
Transport and Main Roads
Locked Bag 486
Bundaberg Qld 4670

For applications in Gympie and South Burnett Regional Councils, forward correspondence to:-

District Director (Gympie)
Transport and Main Roads
P O Box 183
Gympie Qld 4570

Standard Conditions – Construction of Private Roadwork

1 Definitions

- 1.1 The **Client** is the person or company who commissions the works. Transport and Main Roads is NOT the client.
- 1.2 The **Project Manager** is the person or company appointed by the client to plan and manage the works on their behalf (e.g. liaise with designer, principal contractor, RPEQ, Transport and Main Roads (the department) and the local government about issues that arise during construction).

Generally, the department will require a project manager for major works.
- 1.3 The **Designer** is the person/entity that designed the works in accordance with Form CMO-SC004 (*Standard Conditions – Design of Private Roadworks within State-controlled road Boundaries*)
- 1.4 The **Registered Professional Engineer of Queensland (RPEQ)** is the person nominated by the client to issue a Certificate of Completion for the works.
- 1.5 The **Principal Contractor** is the person or company nominated by the client to construct the works.
- 1.6 **Major Works** involve construction of an intersection, auxiliary lanes, widened shoulders, new road or road upgrade.
- 1.7 **Minor Works** generally involve construction of a private access. They do not involve construction of an intersection, auxiliary lanes, widened shoulders, new road or road upgrade.
- 1.8 **Final inspection** is the inspection undertaken by a Transport and Main Roads inspector after the principal contractor advises the department that the works are completed.
- 1.9 **Notice of Practical Completion** is the notice that Transport and Main Roads issues when it deems the works to be satisfactorily completed.

2 General

- 2.1 These standard conditions do not absolve the client, designer, project manager and principal contractor of their obligations regarding workplace safety, including the *Workplace Health and Safety Act 1995*, *Workplace Health and Safety Regulations 2008*, *Traffic Management for Construction or Maintenance Work Code of Practice 2008* and *Manual of Uniform Traffic Control Devices*.
- 2.2 An approval to commence work shall not be interpreted as approval by any other government department, local government or service authority.
- 2.3 Unless agreed to in writing, the department will not contribute toward the cost of the works.
- 2.4 The works shall not commence until the department issues a written notice or permit for the works. Such written notice or permit is not transferable to another person or company.

2.5 The *Aboriginal Cultural Heritage Act 2003* (which is administered by the Department of Environment and Resource Management - DERM) establishes a 'Duty of Care' for a person or entity wishing to conduct an activity that may impact on Indigenous cultural heritage.

A copy of the Duty of Care Guidelines or information about responsibilities relating to the Act can be obtained by contacting DERM on 3238 3838.

Penalty provisions apply for failing to fulfil the Cultural Heritage 'Duty of Care'.

3 The client

The client shall: -

3.1 Make written application for construction approval. The application shall: -

- Include an estimated cost of the works;
- Nominate a project manager for major works;
- Nominate an RPEQ for major works;
- Nominate a principal contractor for acceptance.

Include a Form 34 (Notice of Appointment of Principal Contractor) if the estimated cost of works is greater than \$80,000; and

- Include a security bond for major works. A security bond may be required for minor works.

3.2 Obtain from the relevant authority any additional approvals required as a consequence of the works.

3.3 Indemnify the department during construction and maintenance.

3.4 Provide evidence they have public liability insurance for a minimum \$10M for minor works and \$20M for major works.

3.5 Be responsible for funding all costs associated with the works, including costs associated with other approvals and/or costs incurred in relocating, repairing and/or dealing with issues relating to services associated with the works (e.g. Telstra, Ergon).

3.6 Be responsible for funding the repair of any existing road infrastructure damaged during the works.

3.7 If required, notify the public about the works to the department's satisfaction (e.g. radio, newspaper, doorknock, pamphlet drop and/or variable message signs).

3.8 If requested by the department, arrange for a Registered Safety Auditor to conduct a safety audit in accordance with the Austroads *Road Safety Audit Part 6*.

3.9 Be responsible for maintaining the works, including rectifying all faults and/or defects for the period specified in Table 1.

The On Maintenance period may be extended for any faults and/or defects rectified while the works are on maintenance.

Type of construction works	Maintenance period
Minor works	Unlimited
Major works	12 months *

Table No. 1

* The maintenance period is calculated from the date the department deems the works to be satisfactorily completed

4 The project manager

The project manager shall: -

- 4.1 Plan and manage the works on behalf of the client.
- 4.2 Liaise with the designer, principal contractor, RPEQ, the department, local government, other government departments and service authorities about issues that arise during construction.

5 The principal contractor

The principal contractor shall:-

- 5.1 Be responsible for constructing the works in accordance with the approved plans, documentation and specifications (including the department's Standard Specifications Roads, Standard Specifications ITS and Electrical Technology and Standard Drawings Roads).
- 5.2 Supply a Construction Workplace Safety Plan that is deemed suitable by the department. The Construction Workplace Safety Plan must address, but may not be limited to, the issues outlined in Table No. 2.

Item	Minor Works	Major Works
Construction safety plan	Mandatory	Mandatory
Site-specific safety plan. A site-specific safety plan may be required for any sub-contractors	Mandatory	Mandatory
Traffic Guidance Scheme (signage plan)	Mandatory	Mandatory
M994 (erection and removal of temporary regulatory signs)	Mandatory if there is a speed reduction or changes to existing regulatory signage	Mandatory if there is a speed reduction or changes to existing regulatory signage
Risk Assessment	May be required	Likely will be required
Traffic Management Plan	Unlikely to be required	Mandatory
Environmental Management Plan	Unlikely to be required	May be required

Table No. 2

- 5.3 Unless otherwise agreed to by the department, be responsible for the pre-start meeting, including: -
- Arrange a time and place for the meeting.
 - Ensure all relevant persons attend.
 - Appoint a chairperson.
 - Record minutes forward a copy to relevant attendees.
 - Comply with any decisions made at the meeting.
- 5.4 At the completion of the works, and prior to the department attending a final inspection, submit the following to the department: -
- 5.4.1 Written advice that the works are finished.
 - 5.4.2 Signage records for the duration of the work.
 - 5.4.3 The M994(s) completed by the Nominated Traffic Officer.
 - 5.4.4 Any documents identified in the Construction Safety Plan as needing to be submitted at the completion of the works.
 - 5.4.5 If applicable, a Certificate of Completion signed and dated by the RPEQ.
 - 5.4.6 If applicable, As Constructed plans, including a survey model.

6 Electrical works

All electrical works shall be carried out by a contractor approved by Transport and Main Roads.

7 Registered Professional Engineer of Queensland

At the completion of the works, all drawings are to be RPEQ certified 'As Constructed', even if there are no variations, and the RPEQ shall certify that the works have been constructed in accordance with the approved plans and specifications.

8 Correspondence

For applications in Bundaberg, Fraser Coast and North Burnett Regional Councils, forward correspondence to:-

Regional Director (Wide Bay/Burnett Region)
Transport and Main Roads
Locked Bag 486
Bundaberg Qld 4670

For applications in Gympie and South Burnett Regional Councils, forward correspondence to:-

District Director (Gympie)
Transport and Main Roads
P O Box 183
Gympie Qld. 4570



Queensland
Government

Assessment Manager Ref: Z-2007123-800
Applicant Reference: BSC104
NRW Reference: IC0707BDB0020 BUR 98 01

Department of
Natural Resources and Water

23 December 2008

Chief Executive Officer
Bundaberg Regional Council
PO Box 3130
Bundaberg Qld 4670

Attention: Planning & Development Unit

Dear Sir/Madam

**APPLICATION FOR MATERIAL CHANGE OF USE - PRELIMINARY APPROVAL
OVERRIDING THE PLANNING SCHEME (MASTER PLANNED COMMUNITY), ELLIOTT
HEADS - BUNDABERG REGIONAL COUNCIL - REFERRAL AGENCY RESPONSE**

The Chief Executive of the Department of Natural Resources and Water (NRW) advises that the Referral Agency Response for the above mentioned application, prepared pursuant to section 3.3.16 of the *Integrated Planning Act 1997* (IPA), is enclosed. A copy of the Referral Agency Response has been sent to the applicant.

NRW looks forward to receiving a copy of the Decision Notice for the application in due course.

Should you have any questions, please contact Scott Johnson on 07 4131 5839, quoting reference number IC0707BDB0020.

Yours sincerely

G. Flatley
Manager (Planning & Development)
Wide Bay Burnett - South East Region
Authorised Delegate

BUNDABERG REGIONAL COUNCIL

RETENTION	20 yrs
DOCUMENT NO	nr1005051

RECEIVED/SENT 24 DEC 2008

FILE NO	322,2007-051238,001
ACTION OFFICER	Tenner

Encl.

Bundaberg Regional Council



D132353

Department of Natural Resources and Water
PO Box 1167
16-32 Enterprise Street
Bundaberg Qld 4670
Telephone: 07 4131 5888
Facsimile: 07 4131 5823
Website: www.nrw.qld.gov.au
ABN 83 705 537 586

Department of Natural Resources and Water (NRW) Referral Agency Response

section 3.3.16 Integrated Planning Act 1997

Application Information

Applicant's name:	Elliott Heads Estate Pty Ltd
Property description:	89 & 90 CK1443; 77, 78, 79, 80, 81, 82, 85, 86, 87, 88, 91 & 97 CK495; 135 CK767; 26 EH1875; 1 RP113567; 1 RP152664; 3 RP214907, 2 RP49524; 1 & 2 RP50368; 1 & 2 RP50372; 1 RP53148; 8, 9, 10 & 16 RP7353; 17 & 18 RP7354; 2 RP7355; 1 RP74477; 5 RP806935; 6, 7 & 25 RP89911
Development Type:	Material Change of Use
Assessment Manager & Reference:	Bundaberg Regional Council, Z-2007123-800
Date application properly referred to NRW:	25 July 2007
Departmental Reference:	IC0707BDB0020

CONCURRENCE AGENCY MATTERS


Vegetation Management

The Chief Executive of the Department of Natural Resources and Water directs that the following conditions must be imposed on any approval given by the Assessment Manager:

- 1.1. No clearing as a result of the Material Change of Use shall occur within Area A¹ identified on Referral Agency Response Plan (RARP) 2007/007625
- 1.2. No infrastructure as a result of the Material Change of Use shall be located within Area A¹ identified on Referral Agency Response Plan (RARP) 2007/007625
- 1.3. No infrastructure, other than fences, sewerage lines, pedestrian pathways and roads as a result of the Material Change of Use, shall be located within Area B¹ on Referral Agency Response Plan (RARP) 2007/007625

In accordance with section 3.3.18(8) of the *Integrated Planning Act 1997* a Statement of Reasons is enclosed.

Referral Agency Response Plan (RARP) 2007/007625 is attached to, and forms part of, this Referral Agency Response.


 Delegate of the
 Chief Executive
 Date 23 Dec 08

ADVICE AGENCY MATTERS

The Chief Executive of the Department of Natural Resources and Water provides the following advice to the Assessment Manager on matters relating to State Planning Policy 2/02 – *Planning and Managing Development Involving Acid Sulfate Soils* (SPP 2/02):

Acid Sulfate Soils

The application suggests that the proposed development may involve excavation and/or filling on land at or below 5m AHD, including for proposed major roads that traverse alluvial areas. Based on this information, SPP 2/02 requires the applicant to conduct investigations to identify the presence of Acid Sulfate Soil (ASS) consistent with SPP 2/02 and associated documents¹ and, if required, to provide an ASS Management Plan. NRW requested this information from the applicant in written correspondence dated 28 August 2007.

The period prescribed within the IPA for the provision of this Referral Agency Response is about to expire and NRW has yet to receive adequate supporting information from the applicant relating to the identification and management of ASS. As section 5.3 of SPP2/02 requires an Assessment Manager to confirm whether ASS is present within the area to be disturbed by the proposed development, NRW suggests that the Assessment Manager may wish to defer any decision on the application until an ASS investigation report and, if required, an ASS Management Plan is submitted and assessed. This will provide an opportunity for NRW to give the Assessment Manager appropriate technical advice regarding the ability of the proposal to meet Development Outcome 1 enunciated within SPP 2/02.

THIRD PARTY MATTERS

The Chief Executive of the Department of Natural Resources and Water provides the following advice to assist the Assessment Manager to fully consider the application:

Ground Water

NRW notes that the applicant has indicated that aquifer injection may need to be undertaken from as early as 2017 to manage excess wastewater derived from the proposed development. In this sense, we note that no information has been provided by the applicant to demonstrate the sustainability of this aspect of the proposal, including:

- the characteristics of the local aquifer to accept recharge water including any potential damage to the integrity of the aquifer (eg, clogging of pore spaces);
- any potential impacts on water quality ;
- any potential impacts on land resources (eg, increased salinity from rising water tables);
- potential impacts on other groundwater users; and
- potential impacts on groundwater dependant ecosystems.

As it is likely that Council will assess the sustainability of all water-related aspects of the proposed development in the consideration of the current application, we suggest

¹ SPP 2/02 and the SPP 2/02 Guideline are available from www.ipa.qld.gov.au/codes/codespolicies.asp. The associated technical documents are available from <http://www.nrw.qld.gov.au/land/ass/products.html>.

that Council may wish to seek further clarification on the foregoing. If relevant, NRW would be prepared to provide Council with specialist technical comment on any supplementary material provided by the applicant to address any proposal to recharge the aquifer with wastewater.

Water Supply

In relation to matters associated with the provision of water, the applicant has indicated that the Bundaberg Regional Council is one of several potential water infrastructure providers and that the preferred provider is to be the subject of future investigations. In this sense, NRW advises that there are requirements for the provider of a water service to be registered as a 'Service Provider' under the *Water Supply (Safety & Reliability) Act 2008*.

Water Re-use

NRW further notes that the water supply strategy for the proposed development incorporates water re-use including the installation of recycled water infrastructure. We are currently examining this aspect of the proposal in relation to any requirements under the *Water Supply (Safety & Reliability) Act 2008* and will provide Council with any advice in January 2009.

Good Quality Agricultural Land

NRW notes that a *Good Quality Agricultural Land Suitability Report* and more recently, the *Elliott Heads Estate Request for Information* report, have been provided to address the requirements of *State Planning Policy 1/92 – Development and the Conservation of Agricultural Land (SPP 1/92)*. We are continuing to review these reports and expect to provide specialist technical comment to Council in relation to aspects of SPP 1/92 in January 2009.

Aboriginal Cultural Heritage Act 2003

The Department of Natural Resources and Water also takes this opportunity to advise the Assessment Manager of the responsibilities of applicants under the *Aboriginal Cultural Heritage Act 2003*. The Assessment Manager may wish to include this information as an Advisory Note on the Decision Notice issued for the application.

Under section 23 of the *Aboriginal Cultural Heritage Act 2003* a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are \$750,000 for a corporation and \$75,000 for an individual.

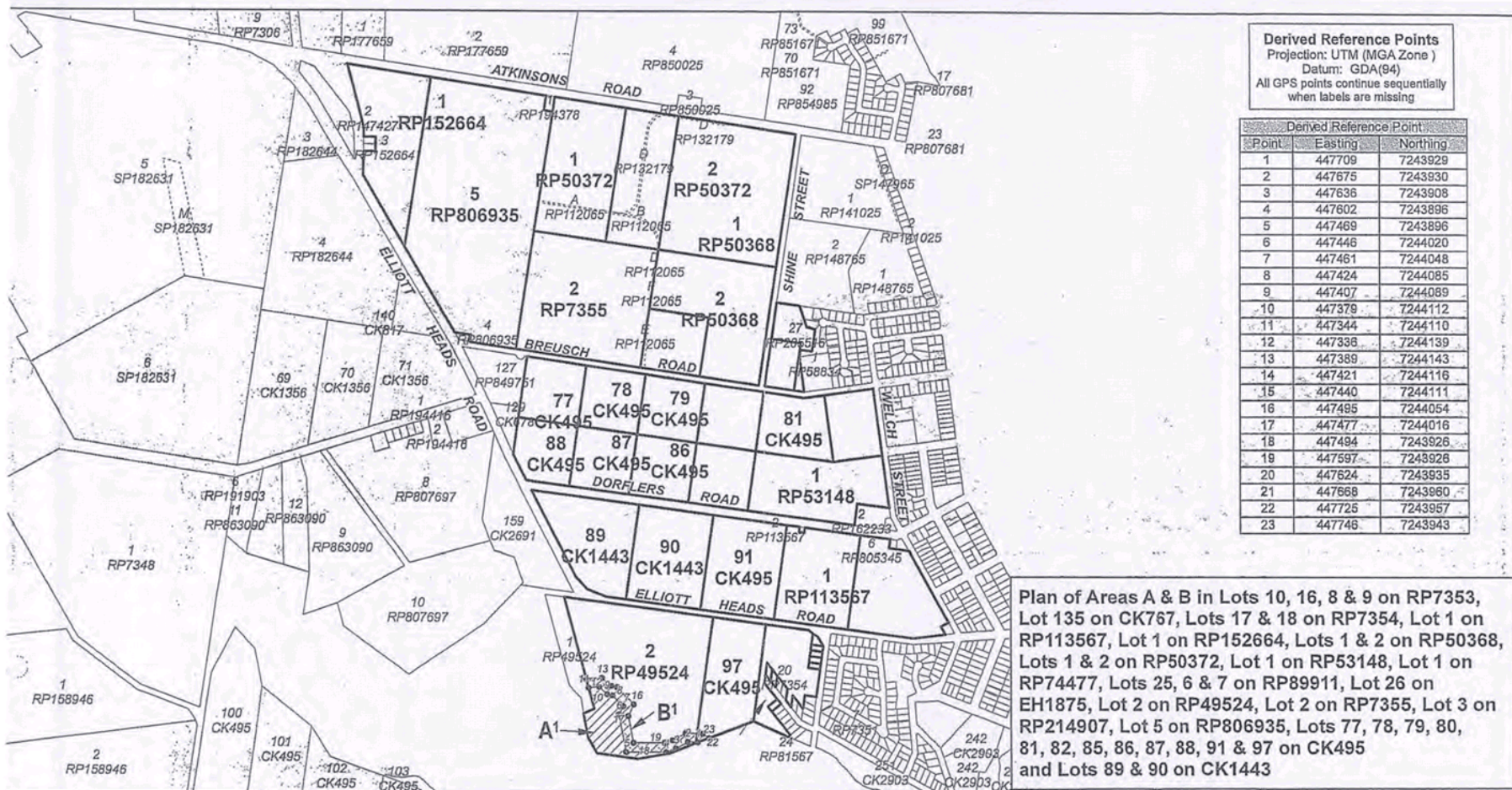
Applicants will comply with the duty of care in relation to Aboriginal cultural heritage if they are acting in accordance with cultural heritage duty of care guidelines gazetted under the *Aboriginal Cultural Heritage Act 2003*, available on the NRW website, or in accordance with an agreement with the Aboriginal party for the area or a cultural heritage management plan approved under part 7 of the *Aboriginal Cultural Heritage Act 2003*.

Further information can be obtained by contacting the department's Cultural Heritage Coordination Unit on (07) 3238 3838 or on the NRW website www.nrw.qld.gov.au/cultural_heritage.


G. Flatley
Manager (Planning & Development)
Wide Bay Burnett – South East Region
Authorised Delegate

23 December 2008

Att.



1:12500 @ A3 size
 200 0 200 400 600 800 1,000 m
 Projection: UTM (MGA Zone 56) Datum: GDA94
 Note: Derived Reference Points are provided to assist in the location of the Referral Agency Response boundaries. Responsibility for locating these boundaries lies solely with the landholder and delegated contractor(s).
 The property boundaries shown on this plan are APPROXIMATE ONLY. They are NOT an accurate representation of the legal boundaries.
 Note: This plan must be read in conjunction with the Referral Agency Response IC0707BDB0020

- LEGEND**
- Derived Reference Points
 - Subject Lot(s)
 - ▨ Area A - Specific Conditions Apply - See Referral Agency Response IC0707BDB0020 for details.
 - ▩ Area B - Specific Conditions Apply - See Referral Agency Response IC0707BDB0020 for details.

Referral Agency Response (Vegetation) Plan

Calvin...
 Delegate of the Chief Executive
 Date 23 Dec 08

Trackjob No. IC0707BDB0020

CENTRE: BUNDABERG LOCALITY OF ELLIOTT HEADS **REGION: SOUTH EAST LOCAL GOVT: BUNDABERG**

Map Reference: 9348 Compiled from: DCDB, PVMP & VMO Notes
 File Reference: BUN/022179 Prepared by: GDW Date: 18 November 2008

RARP
2007/007625
 Sheet 1 of 1

eLVAS Case No:	2007/007625
File Ref. No:	BUN/022179
Trackjob No:	IC0707BDB0020

Schedule 1

Statement of Reasons Referral Agency Response Application for Material Change of Use Elliot Heads Estate Pty Ltd

The following Statement of Reasons is provided pursuant to s. 3.3.18(8) of the *Integrated Planning Act 1997*

Introduction

1. The Department of Natural Resources and Water (NRW) received an application from Elliott Heads Estate Pty Ltd on 25 July 2007.
2. The application is for a MCU (Concurrence-Multiple Issue) on Lots 89,90 CK1443 & 77,78,79,80,81,82,85,86,87,88,91,97 CK495 & 135 CK767 & 26 EH1875 & 1 RP113567 & 1 RP152664 & 3 RP214907 & 2 RP49524 & 1,2 RP50368 & 1,2 RP50372 & 1 RP53148 & 10,16,8,9 RP7353 & 17,18 RP7354 & 2 RP7355 & 1 RP74477 & 5 RP806935 & 25,6,7 RP89911 - Bundaberg Regional Council.
3. An Information Request was sent by registered post to the applicant on the 28 August 2007.
4. The applicant responded to the Information Request on the 28 October 2008.
5. The Delegate determined the Referral Agency Response on 16 December 2008.

Evidence

1. Application received 25 July 2007
 - a) Completed IDAS Form 1 Parts "A", "D" and "J"
2. *Integrated Planning Act 1997 & Integrated Planning Regulation 1998 (Schedule 2)*
3. *Vegetation Management Act 1999*
4. Department of Natural Resources and Water *Concurrence Agency Policy for Material Change of Use* 20 November 2006
5. *State Planning Policy (SPP) 1/03 – Mitigating the Adverse Impacts of Flood, Bushfire, and Landslide*
6. Natural Resources (IPA) Delegation (No. 1) 2008
7. Aerial Photography 9348 Bundaberg Frame 194, Run 18, 9 July 2004, approximate scale 1:25 000
8. Internal current titles search 27 July 2007
9. Information Request sent by registered post to the applicant on the 28 August 2007
10. Response to Information Request from applicant received 28 October 2008
11. Certified Regional Ecosystem Mapping version 5.0 as amended 28 October 2008
12. Shapefiles derived by GIS (ArcMap™ Version 9.3 ESRI 1999-2007) of the application area

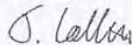
13. Burnett Shire Council Planning Scheme 2006

Findings of fact

1. The application is for a Material Change of Use (Master Planned Residential Community) on freehold land.
2. The Lots are currently zoned rural.
3. Regional Ecosystem Mapping indicates Lots 1, 2 RP49524 and 97 CK495 contain *Not of Concern* Regional Ecosystems and non remnant vegetation, with all other lots containing non remnant vegetation.
4. No clearing of remnant vegetation will be undertaken as part of this application.
5. The application was assessed against Criteria Table A of the *Concurrence Agency Policy for Material Change of Use* 20 November 2006.
6. The application meets the Performance Requirements in the *Concurrence Agency Policy for Material Change of Use* 20 November 2006.

Reasons

1. The application meets the *Concurrence Agency Policy for Material Change of Use* 20 November 2006 as it meets Performance Requirements in Criteria Table A of this Policy.
2. The purpose of the *Vegetation Management Act 1999* is to regulate the clearing of vegetation in a way that (among other outcomes) conserves remnant *Endangered* Regional Ecosystems, remnant *Of Concern* Regional Ecosystems and remnant *Not of Concern* Regional Ecosystems.
3. The *Concurrence Agency Policy for Material Change of Use* 20 November 2006 achieves the purpose of the *Vegetation Management Act 1999*.
4. To ensure that a decision regarding the application is consistent with the purpose of the *Vegetation Management Act 1999*, it is required that the above conditions be included



James Collins
Acting Senior Vegetation Management Officer (VM1)
Bundaberg

16 December 2008



Queensland
Government

Assessment Manager Ref: Z-2007123-800
Applicant Reference: BSC104
NRW Reference: IC0707BDB0020_BUR 98'01

Department of
Natural Resources and Water

23 December 2008

Chief Executive Officer
Bundaberg Regional Council
PO Box 3130
Bundaberg Qld 4670

Attention: Planning & Development Unit

Dear Sir/Madam

**APPLICATION FOR MATERIAL CHANGE OF USE - PRELIMINARY APPROVAL
OVERRIDING THE PLANNING SCHEME (MASTER PLANNED COMMUNITY), ELLIOTT
HEADS – BUNDABERG REGIONAL COUNCIL - REFERRAL AGENCY RESPONSE**

The Chief Executive of the Department of Natural Resources and Water (NRW) advises that the Referral Agency Response for the above mentioned application, prepared pursuant to section 3.3.16 of the *Integrated Planning Act 1997* (IPA), is enclosed. A copy of the Referral Agency Response has been sent to the applicant.

NRW looks forward to receiving a copy of the Decision Notice for the application in due course.

Should you have any questions, please contact Scott Johnson on 07 4131 5839, quoting reference number IC0707BDB0020.

Yours sincerely

G. Flatley
Manager (Planning & Development)
Wide Bay Burnett – South East Region
Authorised Delegate

BUNDABERG REGIONAL COUNCIL

RETENTION	20 yrs
DOCUMENT NO	nr/1005051

RECEIVED/SENT 24 DEC 2008

FILE NO	322,2007-051238.001
ACTION OFFICER	tenner

Encl.



Bundaberg Regional Council

D132353

Department of Natural Resources and Water
PO Box 1167
16-32 Enterprise Street
Bundaberg Qld 4670
Telephone: 07 4131 5888
Facsimile: 07 4131 5823
Website: www.nrw.qld.gov.au
ABN 83 705 537 586

Department of Natural Resources and Water (NRW) Referral Agency Response

section 3.3.16 Integrated Planning Act 1997

Application Information

Applicant's name:	Elliott Heads Estate Pty Ltd
Property description:	89 & 90 CK1443; 77, 78, 79, 80, 81, 82, 85, 86, 87, 88, 91 & 97 CK495; 135 CK767; 26 EH1875; 1 RP113567; 1 RP152664; 3 RP214907, 2 RP49524; 1 & 2 RP50368; 1 & 2 RP50372; 1 RP53148; 8, 9, 10 & 16 RP7353; 17 & 18 RP7354; 2 RP7355; 1 RP74477; 5 RP806935; 6, 7 & 25 RP89911
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Assessment Manager & Reference:	Bundaberg Regional Council, Z-2007123-800
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Departmental Reference:	IC0707BDB0020

CONCURRENCE AGENCY MATTERS

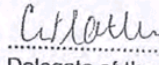
Vegetation Management

The Chief Executive of the Department of Natural Resources and Water directs that the following conditions must be imposed on any approval given by the Assessment Manager:

- 1.1. No clearing as a result of the Material Change of Use shall occur within Area A¹ identified on Referral Agency Response Plan (RARP) 2007/007625
- 1.2. No infrastructure as a result of the Material Change of Use shall be located within Area A¹ identified on Referral Agency Response Plan (RARP) 2007/007625
- 1.3. No infrastructure, other than fences, sewerage lines, pedestrian pathways and roads as a result of the Material Change of Use, shall be located within Area B¹ on Referral Agency Response Plan (RARP) 2007/007625

In accordance with section 3.3.18(8) of the *Integrated Planning Act 1997* a Statement of Reasons is enclosed.

Referral Agency Response Plan (RARP) 2007/007625 is attached to, and forms part of, this Referral Agency Response.


 Delegate of the
 Chief Executive RMZ
 Date 23 Dec 08

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THIRD PARTY MATTERS

The Chief Executive of the Department of Natural Resources and Water provides the following advice to assist the Assessment Manager to fully consider the application:

Ground Water

NRW notes that the applicant has indicated that aquifer injection may need to be undertaken from as early as 2017 to manage excess wastewater derived from the proposed development. In this sense, we note that no information has been provided by the applicant to demonstrate the sustainability of this aspect of the proposal, including:

- the characteristics of the local aquifer to accept recharge water including any potential damage to the integrity of the aquifer (eg, clogging of pore spaces);
- any potential impacts on water quality ;
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As it is likely that Council will assess the sustainability of all water-related aspects of the proposed development in the consideration of the current application, we suggest

¹ SPP 2/02 and the SPP 2/02 Guideline are available from www.ipa.qld.gov.au/codes/codespolicies.asp. The associated technical documents are available from <http://www.nrw.qld.gov.au/land/ass/products.html>.

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NRW notes that a *Good Quality Agricultural Land Suitability Report* and more recently, the *Elliott Heads Estate Request for Information* report, have been provided to address the requirements of *State Planning Policy 1/92 – Development and the Conservation of Agricultural Land* (SPP 1/92). We are continuing to review these reports and expect to provide specialist technical comment to Council in relation to aspects of SPP 1/92 in January 2009.

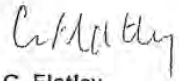
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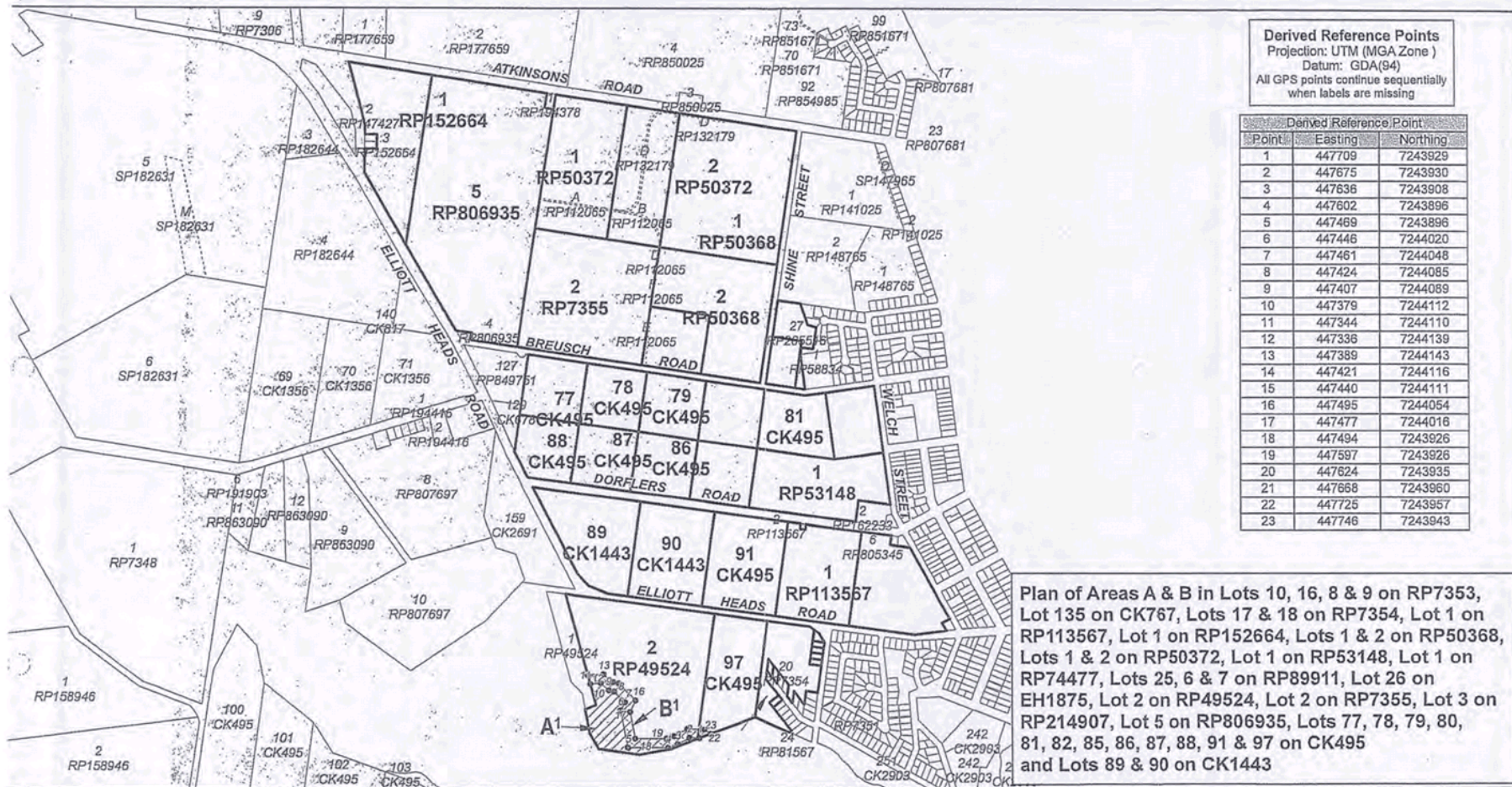
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G. Flatley
Manager (Planning & Development)
Wide Bay Burnett – South East Region
Authorised Delegate

23 December 2008

Att.



Derived Reference Points
 Projection: UTM (MGA Zone)
 Datum: GDA(94)
 All GPS points continue sequentially
 when labels are missing

Point	Easting	Northing
1	447709	7243929
2	447675	7243930
3	447636	7243908
4	447602	7243896
5	447469	7243896
6	447446	7244020
7	447461	7244048
8	447424	7244085
9	447407	7244089
10	447379	7244112
11	447344	7244110
12	447336	7244139
13	447389	7244143
14	447421	7244116
15	447440	7244111
16	447495	7244054
17	447477	7244016
18	447494	7243926
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20	447624	7243935
21	447668	7243960
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23	447746	7243943

Plan of Areas A & B in Lots 10, 16, 8 & 9 on RP7353, Lot 135 on CK767, Lots 17 & 18 on RP7354, Lot 1 on RP113567, Lot 1 on RP152664, Lots 1 & 2 on RP50368, Lots 1 & 2 on RP50372, Lot 1 on RP53148, Lot 1 on RP74477, Lots 25, 6 & 7 on RP89911, Lot 26 on EH1875, Lot 2 on RP49524, Lot 2 on RP7355, Lot 3 on RP214907, Lot 5 on RP806935, Lots 77, 78, 79, 80, 81, 82, 85, 86, 87, 88, 91 & 97 on CK495 and Lots 89 & 90 on CK1443

<p>1:12500 @ A3 size</p> <p>Projection: UTM (MGA Zone 56) Datum: GDA94</p> <p>Note: Derived Reference Points are provided to assist in the location of the Referral Agency Response boundaries. Responsibility for locating these boundaries lies solely with the landholder and delegated contractor(s).</p> <p>The property boundaries shown on this plan are APPROXIMATE ONLY. They are NOT an accurate representation of the legal boundaries.</p> <p>Note: This plan must be read in conjunction with the Referral Agency Response IC0707BDB0020</p>	<p>LEGEND</p> <ul style="list-style-type: none"> • Derived Reference Points □ Subject Lot(s) ▨ Area A - Specific Conditions Apply - See Referral Agency Response IC0707BDB0020 for details. ▩ Area B - Specific Conditions Apply - See Referral Agency Response IC0707BDB0020 for details. 	<p>Referral Agency Response (Vegetation) Plan</p> <p><i>Colleen</i> Delegate of the Chief Executive Date 23 Dec 08</p> <p style="text-align: right;">Trackjob No. IC0707BDB0020</p>	<p>Queensland Government Natural Resources and Water</p>
<p>CENTRE: BUNDABERG LOCALITY OF ELLIOTT HEADS</p> <p>Map Reference: 9348 File Reference: BUN022179</p>		<p>REGION: SOUTH EAST LOCAL GOVT: BUNDABERG</p> <p>Compiled from: DCDB, PVMP & VMO Notes Prepared by: GDW Date: 18 November 2008</p>	
<p>RARP 2007/007625 Sheet 1 of 1</p>			

eLVAS Case No:	2007/007625
File Ref. No:	BUN/022179
Trackjob No:	IC0707BDB0020

Schedule 1

Statement of Reasons Referral Agency Response Application for Material Change of Use Elliot Heads Estate Pty Ltd

The following Statement of Reasons is provided pursuant to s. 3.3.18(8) of the *Integrated Planning Act 1997*

Introduction

1. The Department of Natural Resources and Water (NRW) received an application from Elliott Heads Estate Pty Ltd on 25 July 2007.
2. The application is for a MCU (Concurrence-Multiple Issue) on Lots 89,90 CK1443 & 77,78,79,80,81,82,85,86,87,88,91,97 CK495 & 135 CK767 & 26 EH1875 & 1 RP113567 & 1 RP152664 & 3 RP214907 & 2 RP49524 & 1,2 RP50368 & 1,2 RP50372 & 1 RP53148 & 10,16,8,9 RP7353 & 17,18 RP7354 & 2 RP7355 & 1 RP74477 & 5 RP806935 & 25,6,7 RP89911 - Bundaberg Regional Council.
3. An Information Request was sent by registered post to the applicant on the 28 August 2007.
4. The applicant responded to the Information Request on the 28 October 2008.
5. The Delegate determined the Referral Agency Response on 16 December 2008.

Evidence

1. Application received 25 July 2007
 - a) Completed IDAS Form 1 Parts "A", "D" and "J"
2. *Integrated Planning Act 1997 & Integrated Planning Regulation 1998 (Schedule 2)*
3. *Vegetation Management Act 1999*
4. Department of Natural Resources and Water *Concurrence Agency Policy for Material Change of Use* 20 November 2006
5. *State Planning Policy (SPP) 1/03 – Mitigating the Adverse Impacts of Flood, Bushfire, and Landslide*
6. Natural Resources (IPA) Delegation (No. 1) 2008
7. Aerial Photography 9348 Bundaberg Frame 194, Run 18, 9 July 2004, approximate scale 1:25 000
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12. Shapefiles derived by GIS (ArcMap™ Version 9.3 ESRI 1999-2007) of the application area

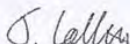
13. Burnett Shire Council Planning Scheme 2006

Findings of fact

1. The application is for a Material Change of Use (Master Planned Residential Community) on freehold land.
2. The Lots are currently zoned rural.
3. Regional Ecosystem Mapping indicates Lots 1, 2 RP49524 and 97 CK495 contain *Not of Concern* Regional Ecosystems and non remnant vegetation, with all other lots containing non remnant vegetation.
4. No clearing of remnant vegetation will be undertaken as part of this application.
5. The application was assessed against Criteria Table A of the *Concurrence Agency Policy for Material Change of Use* 20 November 2006.
6. The application meets the Performance Requirements in the *Concurrence Agency Policy for Material Change of Use* 20 November 2006.

Reasons

1. The application meets the *Concurrence Agency Policy for Material Change of Use* 20 November 2006 as it meets Performance Requirements in Criteria Table A of this Policy.
2. The purpose of the *Vegetation Management Act 1999* is to regulate the clearing of vegetation in a way that (among other outcomes) conserves remnant *Endangered* Regional Ecosystems, remnant *Of Concern* Regional Ecosystems and remnant *Not of Concern* Regional Ecosystems.
3. The *Concurrence Agency Policy for Material Change of Use* 20 November 2006 achieves the purpose of the *Vegetation Management Act 1999*.
4. To ensure that a decision regarding the application is consistent with the purpose of the *Vegetation Management Act 1999*, it is required that the above conditions be included



James Collins
Acting Senior Vegetation Management Officer (VM1)
Bundaberg

16 December 2008

23/12/2008 14:19

61-7-41315823

NRM&E

PAGE 01/09

Natural Resources and Water
Managing Queensland's natural resources
... for today and tomorrow



Fax

To: Chief Executive Officer Fax: 07 4150 5410
 Bundaberg Regional Council

Attention: Planning & Development Unit

Reference: Z-2007123-800

From: Jan Murray
 Planning & Development

Phone: 07 4131 5737 Fax: 07 4131 5823

Email: janice.murray@nrw.qld.gov.au

Date: 23 December 2008 Pages 9
 (inc. cover):

Attached is Referral Agency Response for Material Change of Use – Preliminary Approval overriding the Planning Scheme (Master Planned Community) – Elliott Heads.
 Original Referral Agency Response has been sent Registered Post.

Regards,

Jan
 Jan Murray
 Administration Officer (Planning & Development)
 Wide Bay Burnett – South East Region

BUNDABERG REGIONAL COUNCIL

RETENTION	20 yrs
DOCUMENT NO	081005046
RECEIVED/SENT	23 DEC 2008
FILE NO	322-2007-051238-001
ACTION OFFICER	R Jenner

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Queensland the Smart State



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**Queensland
Government**

Assessment Manager Ref: Z-2007123-800
Applicant Reference: BSC104
NRW Reference: IC0707BDB0020_BUR 98 01

Department of
Natural Resources and Water

23 December 2008

Chief Executive Officer
Bundaberg Regional Council
PO Box 3130
Bundaberg Qld 4670

Attention: Planning & Development Unit

Dear Sir/Madam

**APPLICATION FOR MATERIAL CHANGE OF USE - PRELIMINARY APPROVAL
OVERRIDING THE PLANNING SCHEME (MASTER PLANNED COMMUNITY), ELLIOTT
HEADS - BUNDABERG REGIONAL COUNCIL - REFERRAL AGENCY RESPONSE**

The Chief Executive of the Department of Natural Resources and Water (NRW) advises that the Referral Agency Response for the above mentioned application, prepared pursuant to section 3.3.16 of the *Integrated Planning Act 1997* (IPA), is enclosed. A copy of the Referral Agency Response has been sent to the applicant.

NRW looks forward to receiving a copy of the Decision Notice for the application in due course.

Should you have any questions, please contact Scott Johnson on 07 4131 5839, quoting reference number IC0707BDB0020.

Yours sincerely

A handwritten signature in black ink, appearing to read 'G. Flatley'.

G. Flatley
Manager (Planning & Development)
Wide Bay Burnett - South East Region
Authorised Delegate

Encl.

Department of Natural Resources and Water
PO Box 1167
16-32 Enterprise Street
Bundaberg Qld 4670
Telephone: 07 4131 5888
Facsimile: 07 4131 5823
Website: www.nrw.qld.gov.au
ABN 83 705 537 586

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Department of Natural Resources and Water (NRW)
Referral Agency Response

section 3.3.16 Integrated Planning Act 1997

Application Information

Applicant's name:	Elliott Heads Estate Pty Ltd
Property description:	89 & 90 CK1443; 77, 78, 79, 80, 81, 82, 85, 86, 87, 88, 91 & 97 CK495; 135 CK767; 26 EH1875; 1 RP113567; 1 RP152664; 3 RP214907, 2 RP49524; 1 & 2 RP50368; 1 & 2 RP50372; 1 RP53148; 8, 9, 10 & 16 RP7353; 17 & 18 RP7354; 2 RP7355; 1 RP74477; 5 RP806935; 6, 7 & 25 RP89911
Development Type:	Material Change of Use
Assessment Manager & Reference:	Bundaberg Regional Council, Z-2007123-800
Date application properly referred to NRW:	25 July 2007
Departmental Reference:	IC0707BDB0020

CONCURRENCE AGENCY MATTERS

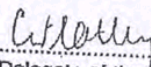
Vegetation Management

The Chief Executive of the Department of Natural Resources and Water directs that the following conditions must be imposed on any approval given by the Assessment Manager:

- 1.1. No clearing as a result of the Material Change of Use shall occur within Area A¹ identified on Referral Agency Response Plan (RARP) 2007/007625
- 1.2. No infrastructure as a result of the Material Change of Use shall be located within Area A¹ identified on Referral Agency Response Plan (RARP) 2007/007625
- 1.3. No infrastructure, other than fences, sewerage lines, pedestrian pathways and roads as a result of the Material Change of Use, shall be located within Area B¹ on Referral Agency Response Plan (RARP) 2007/007625

In accordance with section 3.3.18(8) of the *Integrated Planning Act 1997* a Statement of Reasons is enclosed.

Referral Agency Response Plan (RARP) 2007/007625 is attached to, and forms part of, this Referral Agency Response.


 Delegate of the
 Chief Executive RM2
 Date 23 Dec 08

23/12/2008 14:19 61-7-41315823

NRM&E

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ADVICE AGENCY MATTERS

The Chief Executive of the Department of Natural Resources and Water provides the following advice to the Assessment Manager on matters relating to State Planning Policy 2/02 – *Planning and Managing Development Involving Acid Sulfate Soils* (SPP 2/02):

Acid Sulfate Soils

The application suggests that the proposed development may involve excavation and/or filling on land at or below 5m AHD, including for proposed major roads that traverse alluvial areas. Based on this information, SPP 2/02 requires the applicant to conduct investigations to identify the presence of Acid Sulfate Soil (ASS) consistent with SPP 2/02 and associated documents¹ and, if required, to provide an ASS Management Plan. NRW requested this information from the applicant in written correspondence dated 28 August 2007.

The period prescribed within the IPA for the provision of this Referral Agency Response is about to expire and NRW has yet to receive adequate supporting information from the applicant relating to the identification and management of ASS. As section 5.3 of SPP2/02 requires an Assessment Manager to confirm whether ASS is present within the area to be disturbed by the proposed development, NRW suggests that the Assessment Manager may wish to defer any decision on the application until an ASS investigation report and, if required, an ASS Management Plan is submitted and assessed. This will provide an opportunity for NRW to give the Assessment Manager appropriate technical advice regarding the ability of the proposal to meet Development Outcome 1 enunciated within SPP 2/02.

THIRD PARTY MATTERS

The Chief Executive of the Department of Natural Resources and Water provides the following advice to assist the Assessment Manager to fully consider the application:

Ground Water

NRW notes that the applicant has indicated that aquifer injection may need to be undertaken from as early as 2017 to manage excess wastewater derived from the proposed development. In this sense, we note that no information has been provided by the applicant to demonstrate the sustainability of this aspect of the proposal, including:

- the characteristics of the local aquifer to accept recharge water including any potential damage to the integrity of the aquifer (eg, clogging of pore spaces);
- any potential impacts on water quality;
- any potential impacts on land resources (eg, increased salinity from rising water tables);
- potential impacts on other groundwater users; and
- potential impacts on groundwater dependant ecosystems.

As it is likely that Council will assess the sustainability of all water-related aspects of the proposed development in the consideration of the current application, we suggest

¹ SPP 2/02 and the SPP 2/02 Guideline are available from www.ipa.qld.gov.au/codes/codespolicies.asp.
The associated technical documents are available from <http://www.nrw.qld.gov.au/land/ass/products.html>.

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that Council may wish to seek further clarification on the foregoing. If relevant, NRW would be prepared to provide Council with specialist technical comment on any supplementary material provided by the applicant to address any proposal to recharge the aquifer with wastewater.

Water Supply

In relation to matters associated with the provision of water, the applicant has indicated that the Bundaberg Regional Council is one of several potential water infrastructure providers and that the preferred provider is to be the subject of future investigations. In this sense, NRW advises that there are requirements for the provider of a water service to be registered as a 'Service Provider' under the *Water Supply (Safety & Reliability) Act 2008*.

Water Re-use

NRW further notes that the water supply strategy for the proposed development incorporates water re-use including the installation of recycled water infrastructure. We are currently examining this aspect of the proposal in relation to any requirements under the *Water Supply (Safety & Reliability) Act 2008* and will provide Council with any advice in January 2009.

Good Quality Agricultural Land

NRW notes that a *Good Quality Agricultural Land Suitability Report* and more recently, the *Elliott Heads Estate Request for Information* report, have been provided to address the requirements of *State Planning Policy 1/92 – Development and the Conservation of Agricultural Land (SPP 1/92)*. We are continuing to review these reports and expect to provide specialist technical comment to Council in relation to aspects of SPP 1/92 in January 2009.

Aboriginal Cultural Heritage Act 2003

The Department of Natural Resources and Water also takes this opportunity to advise the Assessment Manager of the responsibilities of applicants under the *Aboriginal Cultural Heritage Act 2003*. The Assessment Manager may wish to include this information as an Advisory Note on the Decision Notice issued for the application.

Under section 23 of the *Aboriginal Cultural Heritage Act 2003* a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are \$750,000 for a corporation and \$75,000 for an individual.

Applicants will comply with the duty of care in relation to Aboriginal cultural heritage if they are acting in accordance with cultural heritage duty of care guidelines gazetted under the *Aboriginal Cultural Heritage Act 2003*, available on the NRW website, or in accordance with an agreement with the Aboriginal party for the area or a cultural heritage management plan approved under part 7 of the *Aboriginal Cultural Heritage Act 2003*.

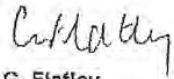
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PAGE 06/09

Further information can be obtained by contacting the department's Cultural Heritage Coordination Unit on (07) 3238 3838 or on the NRW website www.nrw.qld.gov.au/cultural_heritage.



G. Flatley
Manager (Planning & Development)
Wide Bay Burnett – South East Region
Authorised Delegate

23 December 2008

Att.

23/12/2008 14:19

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NRM&E

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eLVAS Case No:	2007/007625
File Ref. No:	BUN/022179
Trackjob No:	IC0707BDB0020

Schedule 1

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NRM&E

PAGE 08/09

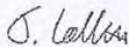
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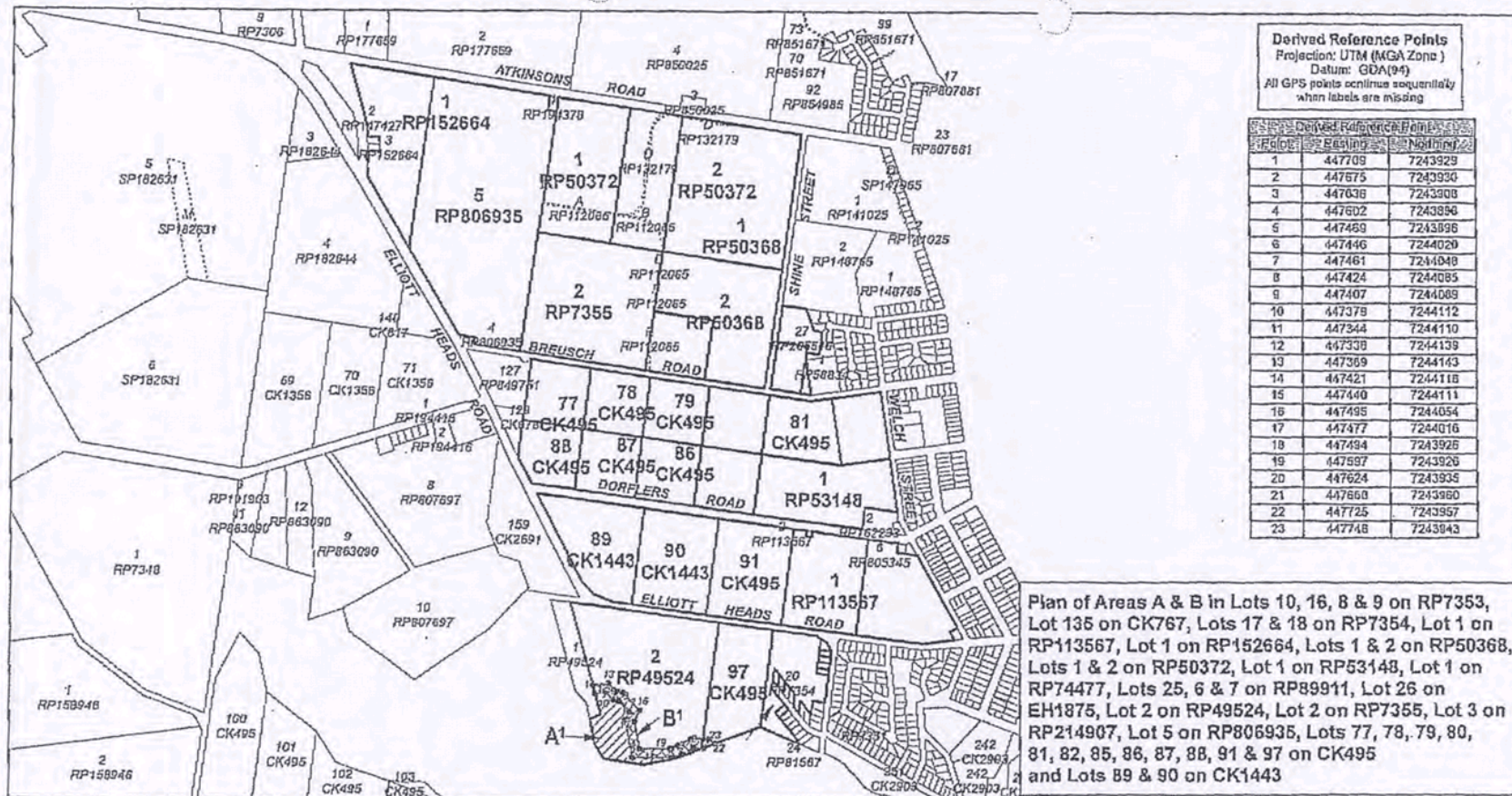
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Bundaberg

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 Datum: GDA(94)
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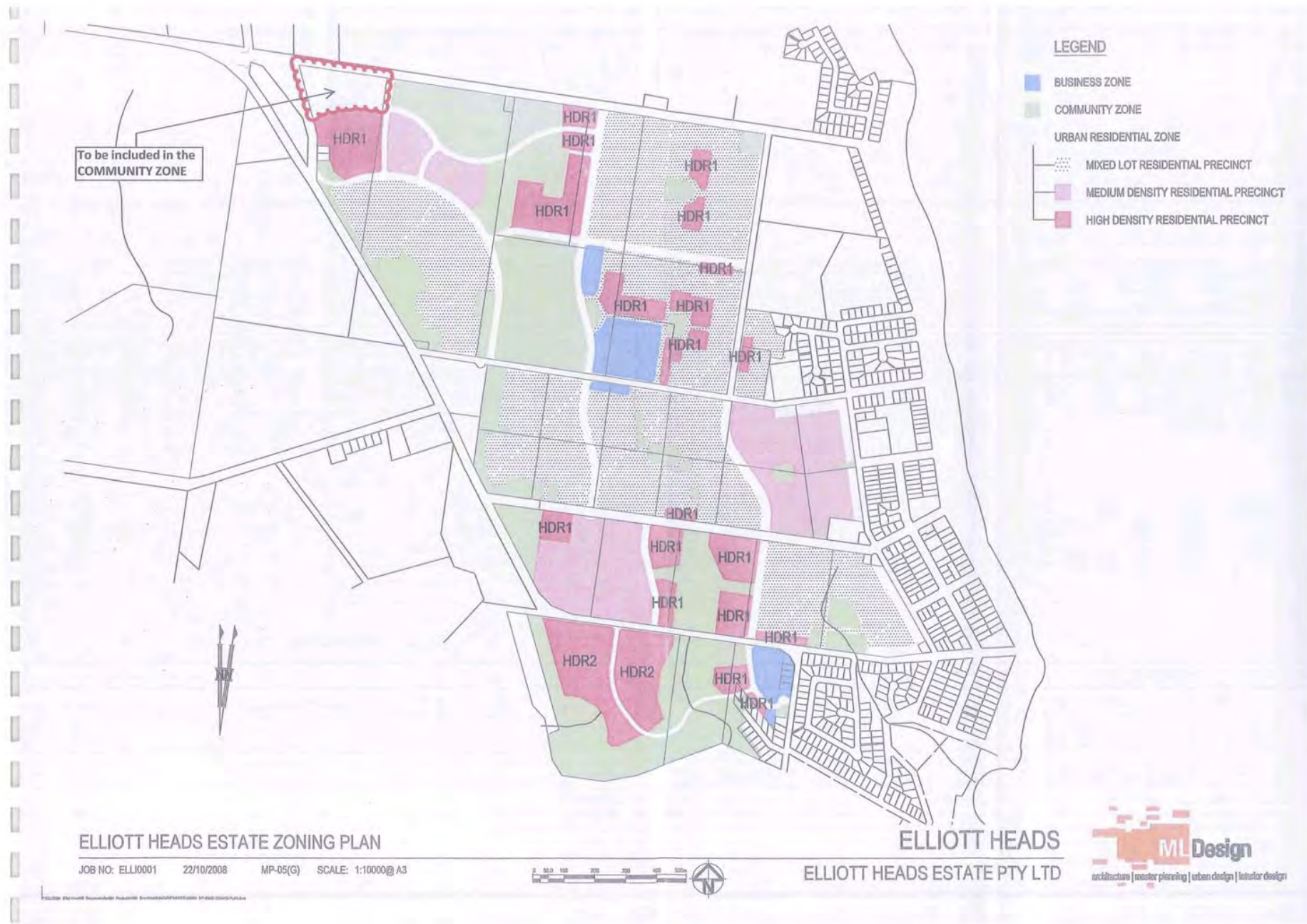
LEGEND
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 □ Subject Lot(s)
 ▨ Area A - Specific Conditions Apply - See Referral Agency Response IC0707BDB0020 for details.
 ▩ Area B - Specific Conditions Apply - See Referral Agency Response IC0707BDB0020 for details.

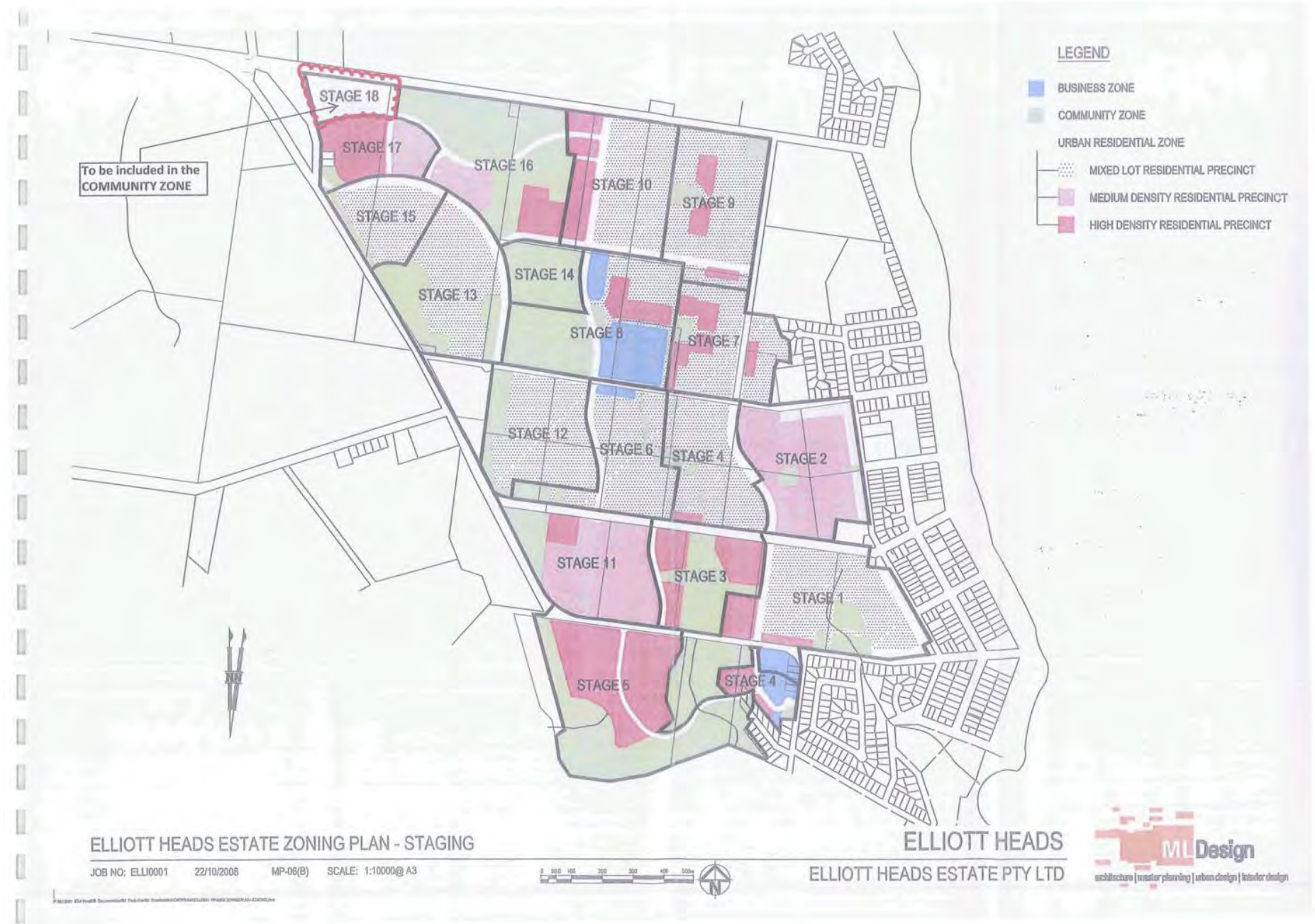
Referral Agency Response (Vegetation) Plan
 Trackjob No. IC0707BDB0020
 CENTRE: BUNDABERG LOCALITY OF ELLIOTT HEADS REGION: SOUTH EAST LOCAL GOV: BUNDABERG
 Map Reference: 9348 Compiled from: DCOB, PVMP & VMD Notes
 File Reference: BUN022179 Prepared by: GDV Date: 18 November 2009

Queensland Government
 Natural Resources and Water

RARP
 2007/007625
 Sheet 1 of 1

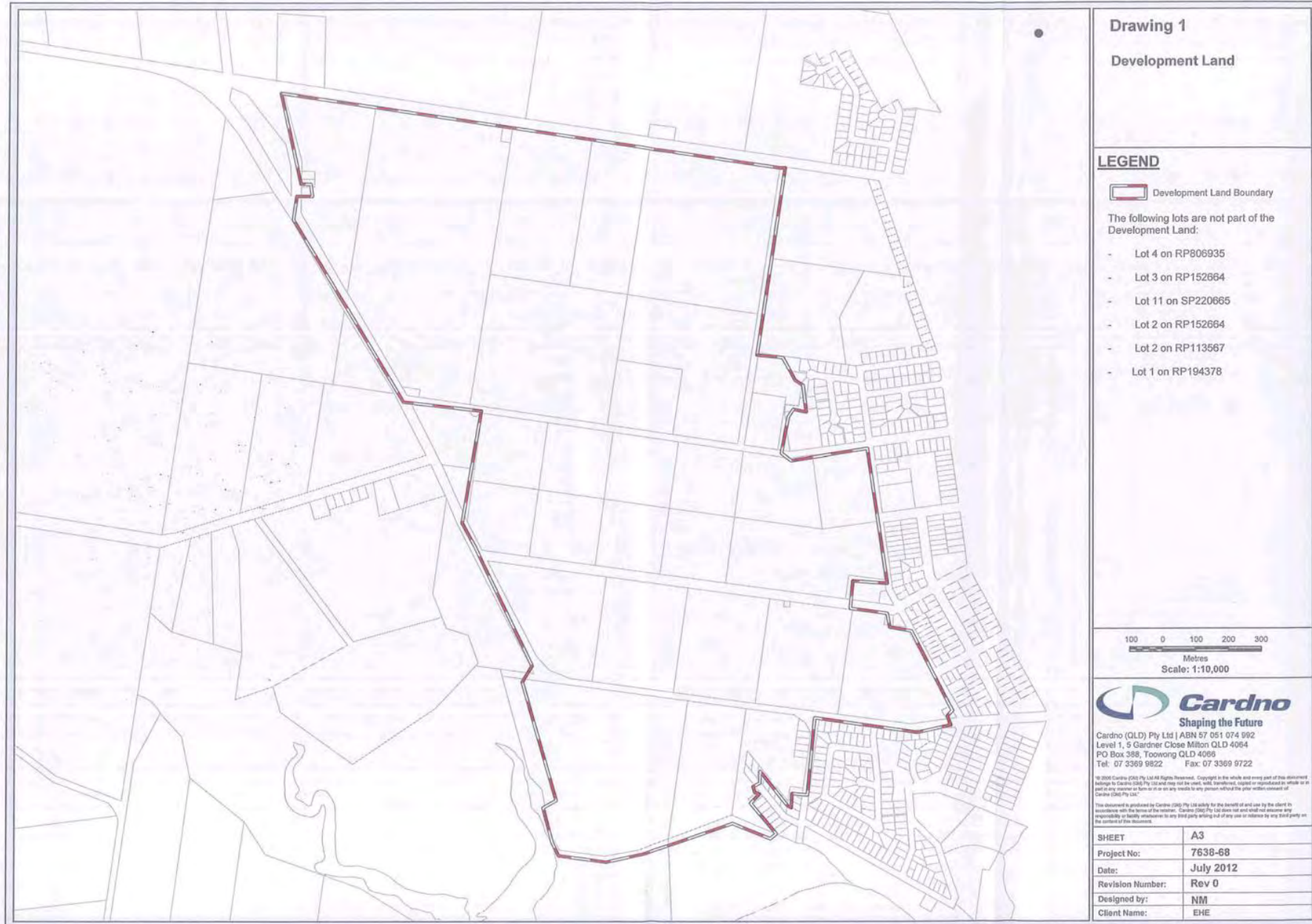
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Schedule 4 Drawings schedule

Items in the schedule	Description of the items in the schedule
1	Development Land
2	Sewerage infrastructure
3	Water supply infrastructure
4	Road transport infrastructure
5	Pedestrian paths and bikeways infrastructure
6	Public parks and land for community facilities infrastructure







Drawing 3

Water supply infrastructure

LEGEND

Development Land Boundary

Existing Water Mains

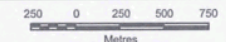
- 50
- 100
- 150
- 200
- 225
- 250
- 300
- 375

New Water Mains

- 300mm dia.
- 375mm dia.

Reservoir

Drawing Points



Metres

Scale: 1:25,000



Cardno

Shaping the Future

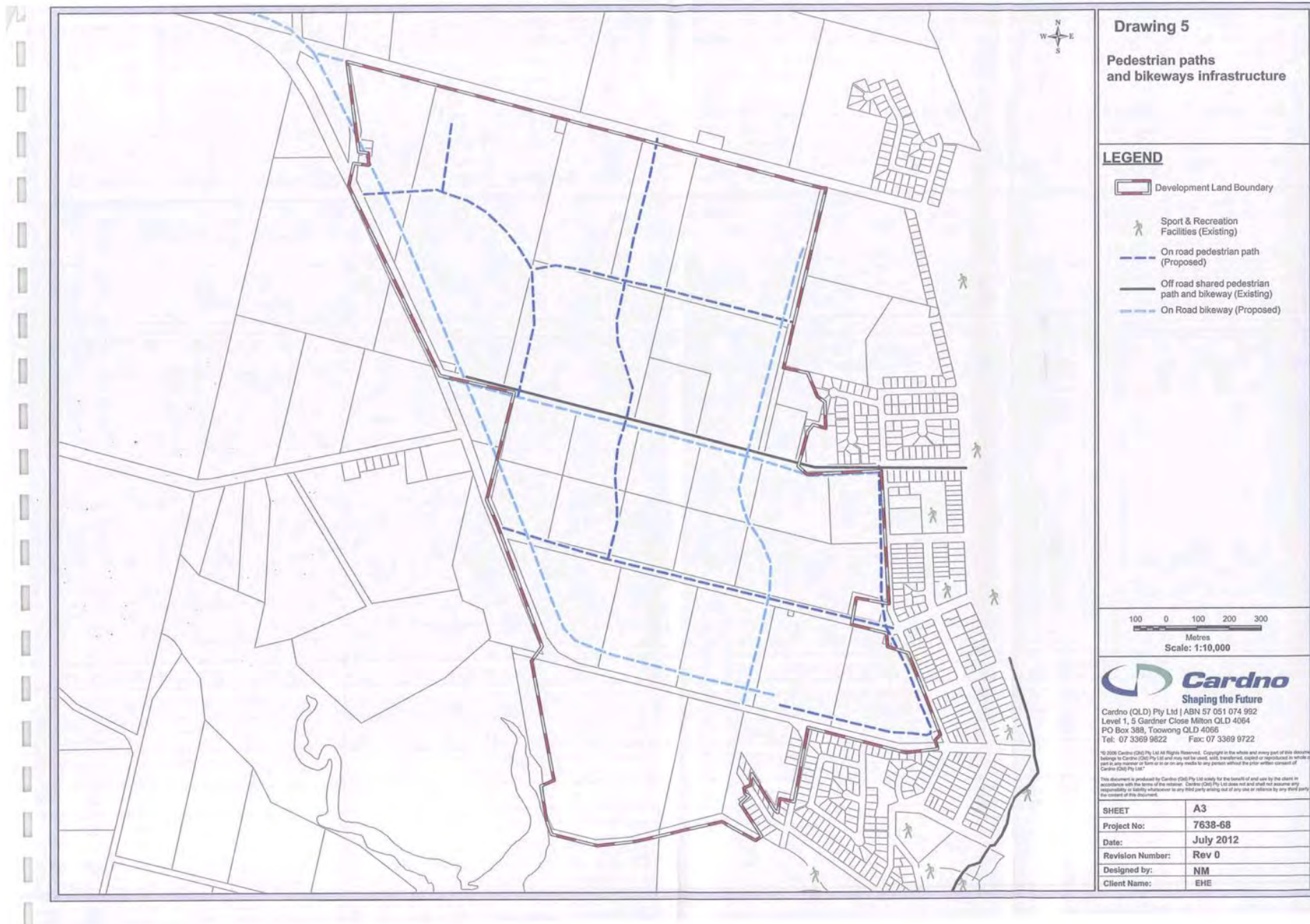
Cardno (QLD) Pty Ltd | ABN 67 051 074 992
 Level 1, 5 Gardner Close Milton QLD 4064
 PO Box 388, Toowoong QLD 4066
 Tel: 07 3369 9822 Fax: 07 3369 9722

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SHEET	A3
Project No:	7638-68
Date:	July 2012
Revision Number:	Rev 1
Designed by:	NM
Client Name:	EHE







Part 3 Execution by the parties

Executed as a deed

Council

Signed Sealed and Delivered on behalf of the Bundaberg Regional Council by the Mayor on the _____ day of _____ 2013 under the resolution of the Local Government passed on the 13th day of August 2013 *Chief Executive Officer*

Peter Byrne Mayor Chief Executive Officer *W Saunders* Witness

PETER BYRNE Name of Mayor (print) *Chief Executive Officer* HENRY SAUNDERS Name of Witness (print)

Proponent

Executed by Elliott Heads Estate Pty Ltd ACN 116 512 568 in accordance with section 127 of the Corporations Act 2001 on the 22nd day of July 2013

Stacy Goh Director/Company Secretary *See next page* Director

FREDERICK STAN LA VIE Name of Director/Company Secretary (print) Name of Director (print)

Owner

Signed Sealed and Delivered by John Joseph Manera on the 21st day of July 2013

John Manera Signature

ROBYN BRONNE Name of Witness (print) *R. Bronne* Signature of Witness

Elliott Heads Estate Infrastructure Agreement 2013

Part 3 Execution by the parties

Executed as a deed

Council

Signed Sealed and Delivered on behalf of the Bundaberg Regional Council by the Mayor on the _____ day of _____ 2013 under the resolution of the Local Government passed on the _____ day of _____ 2013

Mayor

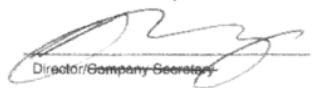
Witness

Name of Mayor (print)

Name of Witness (print)

Proponent

Executed by Elliott Heads Estate Pty Ltd ACN 116 512 568 in accordance with section 127 of the Corporations Act 2001 on the 22nd day of July 2013



Director/Company Secretary

ALLAN RONALD LAING

Director

Name of Director/Company Secretary (print)

Name of Director (print)

Owner

Signed Sealed and Delivered by John Joseph Manera on the _____ day of _____ 2013

Signature

Name of Witness (print)

Signature of Witness

Elliott Heads Estate Infrastructure Agreement 2013

Signed Sealed and Delivered by Teresa Lina Alice Manera on the 22nd day of July 2013

[Signature]
Signature

ROBYN BROWNE
Name of Witness (print)

[Signature]
Signature of Witness

Signed Sealed and Delivered by John Joseph Manera Jr on the 21st day of July 2013

[Signature]
Signature

THOMAS ALFRED DENNIS
Name of Witness (print)

[Signature]
Signature of Witness

Signed Sealed and Delivered by Kim Maree Manera on the 21st day of JULY 2013

[Signature]
Signature

THOMAS ALFRED DENNIS
Name of Witness (print)

[Signature]
Signature of Witness

Signed Sealed and Delivered by Darryl Robert Raines as Executor of the Estate of Dennis Allan Raines on the 21st day of JULY 2013

[Signature]
Signature

JESSIE NORMA RAINES
Name of Witness (print)

[Signature]
Signature of Witness

Signed Sealed and Delivered by Stephen John Raines as Executor of the Estate of Dennis Allan Raines on the 22nd day of JULY 2013

[Signature]
Signature

Kay Raines
Name of Witness (print)

[Signature]
Signature of Witness

Elliott Heads Estate Infrastructure Agreement 2013

Signed Sealed and Delivered by
Gordon Shepherd on the 21st
day of July 2013

L. Shepherd
Signature

LEANNE SHEPHERD
Name of Witness (print)

L. Shepherd
Signature of Witness

Signed Sealed and Delivered by
Patricia Mary Shepherd on the
21st day of JULY 2013

P.M. Shepherd
Signature

LEANNE SHEPHERD
Name of Witness (print)

L. Shepherd
Signature of Witness



Our ref: GC21-343-501

13 October 2021

The Chief Executive Officer
Bundaberg Regional Council
PO Box 3130
BUNDABERG QLD 4670

Attention: Mr Michael Ellery, Group Manager Development

Dear Michael

Planning Scheme Policy – Emerging Community zoned land, Elliott Heads

This consultancy represents the South Beach development at Elliott Heads (formerly known as Elliott Heads Estate). Although the land is included in the Emerging Community zone of the Bundaberg Regional Council Planning Scheme 2015, it has the benefit of a current Preliminary Approval pursuant to section 3.1.6 of the Integrated Planning Act 1997 for material change of use for a Master Planned Community (including low, medium and high density urban residential development, commercial development and community land uses).

The Preliminary Approval is supported by an Infrastructure Agreement. The Infrastructure Agreement imposes obligations upon the developer which make it cost prohibitive to activate the Preliminary Approval.

Our client anticipates shortly making an impact assessment lot reconfiguration development application for approximately thirty (30) urban residential lots over Lot 10 SP220665 (cnr Moore Street and Welch Street, Elliott Heads). It is our client's intention that this development will represent Stage 1 of a multi-stage, mixed use development of its substantial land holdings in Elliott Heads.

Assessment of the development application will introduce the Emerging Community Zone Code.

An overall outcome of the Emerging Community Zone Code is that development is *'undertaken in accordance with a plan of development that appropriately addresses the matters identified in the performance outcomes of the code and any applicable local plan code at Part 7 (Local plans) and which may be implemented via a preliminary approval pursuant to section 49 of the Act that includes a variation approval'* (s6.2.15.2(c)).

Performance Outcome PO1 of the Code states that *'(w)here applicable, development occurs in accordance with any local area planning undertaken by the Council, as specified in a local plan code'*.

Creative Thinking Responsible Solutions

P (07) 4151 6677 A 67 Barolin Street, Bundaberg P PO Box 1688, Bundaberg, 4670 E admin@insitesjc.com.au ABN 62 329 746 562
Bundaberg • Hervey Bay • Gympie • Sunshine Coast insitesjc.com.au

Council has taken the view that these provisions obstruct it from approving a development application beyond the first stage unless-

- (1) The development is authorized by an approval that varies the Planning Scheme; or
- (2) The development is consistent with local area planning undertaken by Council.

Council has foreshadowed a willingness to entertain introducing a Planning Scheme Policy (PSP) as a precursor to developing a local plan for the land presently included in the Emerging Community zone at Elliott Heads. The PSP would be an interim measure that addressed the aforementioned requirements of the Emerging Community Zone Code and formed the foundation to a subsequent amendment of the Planning Scheme.

Consistent with both Council's and our client's desire to work collaboratively to achieve the best land use and infrastructure planning outcomes for the Elliott Heads township, InsiteSJC and Engineers Plus were engaged by South Beach Elliott Heads Pty Ltd to prepare a preliminary Planning Scheme Policy for Elliott Heads for Council's consideration. This preliminary work is attached and comprises-

- (1) Text titled 'SC6.7 Planning Scheme Policy for Elliott Heads Masterplan Area'
- (2) An Overall Land Use Masterplan
- (3) Infrastructure Masterplans.

With the benefit of this foundational work, our client requests that Council embark upon the production of a PSP for Elliott Heads as soon as possible. The need for Council's immediate attention to this matter is to ensure its consideration of future stages of the *en globo* South Beach development are not frustrated by the absence of guiding land use and infrastructure master plans.

We trust Council sees merit in our preliminary work toward achieving a Planning Scheme Policy for Elliott Heads. Please contact the writer on 0428 527 044 if you have any questions or if we can be of further assistance in the production of the enabling Policy.

Yours sincerely,
InsiteSJC



Randall Barrington
Principal Project Coordinator

Enc.
Preliminary Planning Scheme Policy for Elliott Heads

SC6.7 Planning Scheme Policy for the Elliott Heads Masterplan Area

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Figure 1 - SC6.7.1 Land that the masterplan applies

This planning scheme policy, while published as a discrete document, forms part of the suite of planning scheme policies that the planning scheme incorporates in Schedule 6. The Guidance for the Minister's Guidelines and Rules – July 2017 explains that a PSP "...is a planning instrument used in a local planning scheme that supports both the planning and development policies for all or part of the local government area."

SC6.7 Planning Scheme Policy for the Elliott Heads Masterplan Area

SC6.7.1 Purpose

The purpose of this planning scheme policy is to provide-

1. Guidance for development of land located in the Emerging Community zone within the Bundaberg Regional Council Planning Scheme Area of Elliott Heads;
2. Alternative outcomes acceptable to Council that satisfy the overall outcomes of the Central Coastal Urban Growth Area Code;
3. Alternative outcomes acceptable to Council that satisfy the Desired standards of service nominated within Part 4 – Local Government Infrastructure Plan of the Bundaberg Regional Council Planning Scheme.

SC6.7.2 Application

The planning scheme policy applies to assessable development on land between Atkinsons Road, Shine Street, Welch Street, Moore Street, Saunders Road, Elliott River, Elliott Heads Road, Raines Road, Elliott Heads. The outcomes nominated within the plan are alternative outcomes to those outcomes nominated within the **Central coastal urban growth area plan code** and **Local Government Infrastructure Plan** and achieve the Overall outcomes and the Desired standards of service required by those parts of the planning scheme.

Map 1 – Overall Land Use Masterplan provides an overall plan for the land use elements nominated within this masterplan. Maps 2 through to 6 provide location and alignment information for individual infrastructure elements required by this masterplan. To comply with the masterplan, development is to comply with each element nominated.

SC6.7.3 How to read this policy

This masterplan provides strategic recommendations for the future development of land the subject of the plan. It identifies policy statements and environmental outcomes in relation to the pattern of settlement and land use, movement networks, stormwater, water, sewerage and open space networks.

SC6.7.4 Land to which this masterplan applies

This masterplan-

1. Applies to land shown in **Figure 1-SC6.7.1 Land that the masterplan applies**;
2. Area comprises approximately 241.4 hectares of land;
3. Area is identified within the Emerging Community zone and within the Central coastal urban growth area local plan of the planning scheme.

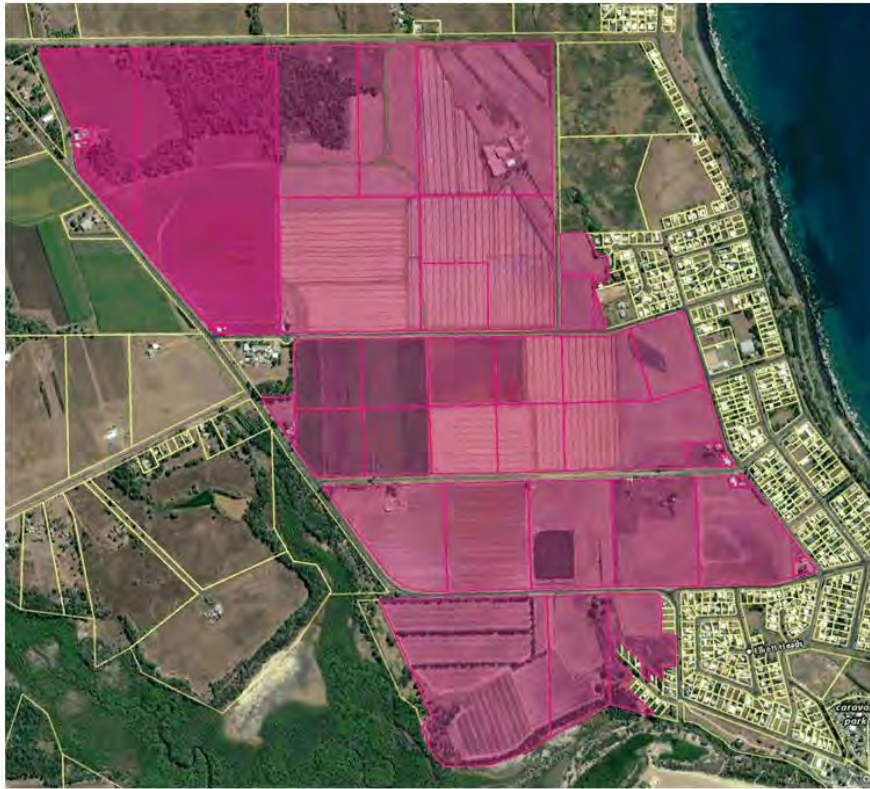


Figure 1 - SC6.7.1 Land that the masterplan applies

SC6.7.5 Background and context

While the Central coastal urban growth area local plan provides useful but high-level direction and structure for the Masterplan area, land development pressure and infrastructure delivery challenges within this locality require a more detailed plan to be prepared to ensure an integrated approach to land use and infrastructure planning.

SC6.7.6 Overall outcome

Development within the masterplan area conforms to a pattern of settlement and land use that is generally in accordance with the land use elements identified in **Map 1 – Overall Land Use Masterplan** attached at Appendix A.

SC6.7.7 Strategic outcomes

The strategic outcomes for the masterplan area are-

- (1) locate urban density housing so that it does not conflict with areas of rural production, whether continuing rural production within the masterplan area or external to it;
- (2) development seamlessly integrates with the existing Elliott Heads township;
- (3) medium-density housing, as an alternative residential form to conventional dwelling houses, is located in logical, accessible and well-serviced locations;
- (4) different forms of medium-density housing occur within the masterplan area to reflect co-location of complementary land uses and to meet different market segments;
- (5) commercial precincts are located to service the expanding township of Elliott Heads, nearby rural and urban areas and be accessible to passing trade;
- (6) consolidation of an educational precinct with the juxtaposition of the existing Elliott Heads Public School with a site for a private education provider;
- (7) provide an open space network that responds to the active recreation needs of residents, protects environmental values and contributes to the management of stormwater flows;
- (8) provide a cohesive, cost-effective and integrated infrastructure network that contributes to creating a sense of community and delivers acceptable service delivery outcomes for the Elliott Heads township;
- (9) create a sense of community through a rich tapestry of complementary and inter-dependent land uses.

SC6.7.8 Recommended land uses

SC6.7.8.1 Low density residential

The low density residential areas as depicted in **Map 1—Overall Land Use Master Plan** make up most of the masterplan area.

Future development of the low density residential area is to achieve the following outcomes:-

- (1) development is predominantly for detached dwellings and dual occupancies;
- (2) development for residential purposes other than a dwelling house or a dual occupancy occur in the low density residential area only where they are of a nature, scale and intensity that is consistent with the low density character of the locality and has good access to public and active transport, employment, community facilities and public open space;
- (3) the minimum lot size is 600m², enabling a density of up to 15 dwellings per hectare, subject however to site-specific characteristics and constraints;
- (4) lots smaller than 600m² may be appropriate, particularly when fronting open space or park, when co-located with complementary uses such as schools and shopping centre or when integrated into a reconfiguring development project providing a mixture of lot sizes where the overall built outcomes have been considered;
- (5) development is connected to urban services in a logical and efficient manner;
- (6) the general pattern of streets and lot boundaries is grid-like, parallel or perpendicular to the current cadastre and road network to maximise opportunity for neighbourhood connectivity and achieve an efficient use of land;
- (7) where located along Elliott Heads Road, adequate buffering to rural land on the western side of Elliott Heads Road is provided and access to any new lots is internal to the estate.

SC6.7.8.2 Medium density residential

The medium density residential areas as depicted in **Map 1—Overall Land Use Masterplan** will provide alternative housing choices in locations that exhibit advantages for higher population densities.

Future development of the medium density residential area is to achieve the following outcomes:-

- (1) development provides for a range and mix of medium density residential dwelling choices and forms with a low rise (up to three storeys) built form;

Bundaberg Regional Council

- (2) development demonstrates a high standard of design that makes a positive contribution to the streetscape, provides a high level of residential amenity and is compatible with the intended residential character of the area;
- (3) residential density can be up to 50 equivalent dwellings per hectare;
- (4) medium density residential development is located to take advantage of existing or planned commercial, community or recreational land uses;
- (5) development is connected to all urban services in a logical and efficient manner;
- (6) appropriate land uses include multiple dwellings, integrated small-lot housing, retirement facility (including development under the *Manufactured Homes (Residential Parks) Act 2003*), residential care facility, tourist resort (where located between Elliott Heads Road and the Elliott River) and resort complex.

SC6.7.8.3 Business

The District Centre and Local Centre areas as depicted in **Map 1—Overall Land Use Masterplan** will provide a mix of retail, commercial, health care and community functions for Elliott Heads and surrounding urban and rural districts. The centres are developed as well-designed, safe and visually attractive business, community and employment centres, predominantly in a low-rise building format, where significant off-site impacts are avoided.

District Centre

The District Centre provides a range of business activities that serve a geographical area that extends beyond Elliott Heads. With frontage to Elliott Heads Road, the centre is highly accessible and enjoys a visual presence in the urban physiognomy.

Future development in the District Centre achieves the following outcomes-

- (1) development provides a range of retail, health care, commercial, indoor sport and recreation and community activities that create an active, mixed use environment;
- (2) development ensures that the relationship between uses and the public realm is enhanced with the centre addressing the street network;
- (3) development services the day to day and weekly shopping needs of the surrounding coastal and rural localities;
- (4) development for business activities is of a scale and intensity that is consistent with the intended role of a district centre;
- (5) development provides for efficient and effective transport networks that maximise accessibility within and to the centre;
- (6) safe vehicle access to the site is provided from Dorflers Road with appropriate separation distance from the Elliott Heads Road intersection.

Local Centre

The Local Centre provides activities that support the local community, including the adjoining tourist resort (but does not include a full-line supermarket). Future development is to achieve the following outcomes-

- (1) development provides for a range of complementary activities not found in the District Centre. Land uses could include a tavern, community uses, emergency services;
- (2) being located on a gateway site, the Local Centre is well designed with an attractive built form, predominantly in the form of low-rise buildings, that makes a positive contribution to the streetscape;
- (3) the built form adopts architectural vernacular that reflects a village atmosphere;
- (4) vehicle access is designed to promote safe ingress/egress and to enable businesses to activate the street;
- (5) development is connected to all urban services in a logical and efficient manner.

No direct access to additional dwellings will be permitted from Elliott Heads Road.

SC6.7.9.2 Pedestrian and cycle pathway network

The pedestrian and cycle pathway network is developed consistent with the layout shown in **Map 3— Pedestrian and Cycle Pathway Network** attached at Appendix B. The active transport network reflects the trunk collector road and collector street grid pattern. The pedestrian and cycle pathway network achieves the following outcomes:-

- (1) safe and convenient pedestrian connectivity throughout the master plan area;
- (2) pedestrian connectivity with the existing Elliott Heads township, particularly to the linear foreshore park and Elliott River areas;
- (3) pedestrian connectivity between residential areas and destinations eg commercial districts, community district, open space areas;
- (4) a network that responds to the Queensland climate with appropriate shade planting;
- (5) a network that reflects the design characteristics prescribed in Schedule 6.3 Planning Scheme Policy for Development Works.

SC6.7.10 Stormwater network

The stormwater areas shown in Map 4—Stormwater Network attached at Appendix B are used primarily for stormwater detention and bio-retention purposes. Stormwater areas are strategically located to deliver a number of community outcomes.

Future development of the stormwater areas achieves the following outcomes:-

- (1) stormwater detention and polishing as required for the developed areas in the master plan in accordance with Schedule 6.3 Planning Scheme Policy for Development Works;
- (2) the basis for the design of stormwater drainage is the Queensland Urban Drainage Manual.
- (3) the drainage network does not adversely affect upstream or downstream drainage systems;
- (4) where located adjacent to designated Open Space areas, an integrated green space that can be utilised for active recreation purposes (but not including infrastructure embellishments);
- (5) where located near educational facilities, designed in a manner that would enable its adoption in a school environmental curriculum;
- (6) where located adjacent to the Local Centre, designed in a manner that would enable its use as an outdoor area for concerts associated with a tavern.

SC6.7.11 Water network

Elliott Heads is currently supplied by a combination of distribution and reticulation mains. Water supply will ultimately be reinforced by an additional distribution main from the Kalkie water scheme which is required in order to maintain Council's water supply service standards.

The water network is developed generally in accordance with the layout shown in **Map 5 - Water Network** attached at Appendix B. The water network achieves the following outcomes-

- (1) hydraulic capacity and service reliability meets or exceeds Council's delivery standards;
- (2) water pressure meets or exceeds fire flow requirements;
- (3) the network is developed in a sequenced, cost-effective manner;
- (4) the network reflects the design characteristics prescribed in Schedule 6.3 Planning Scheme Policy for Development Works.

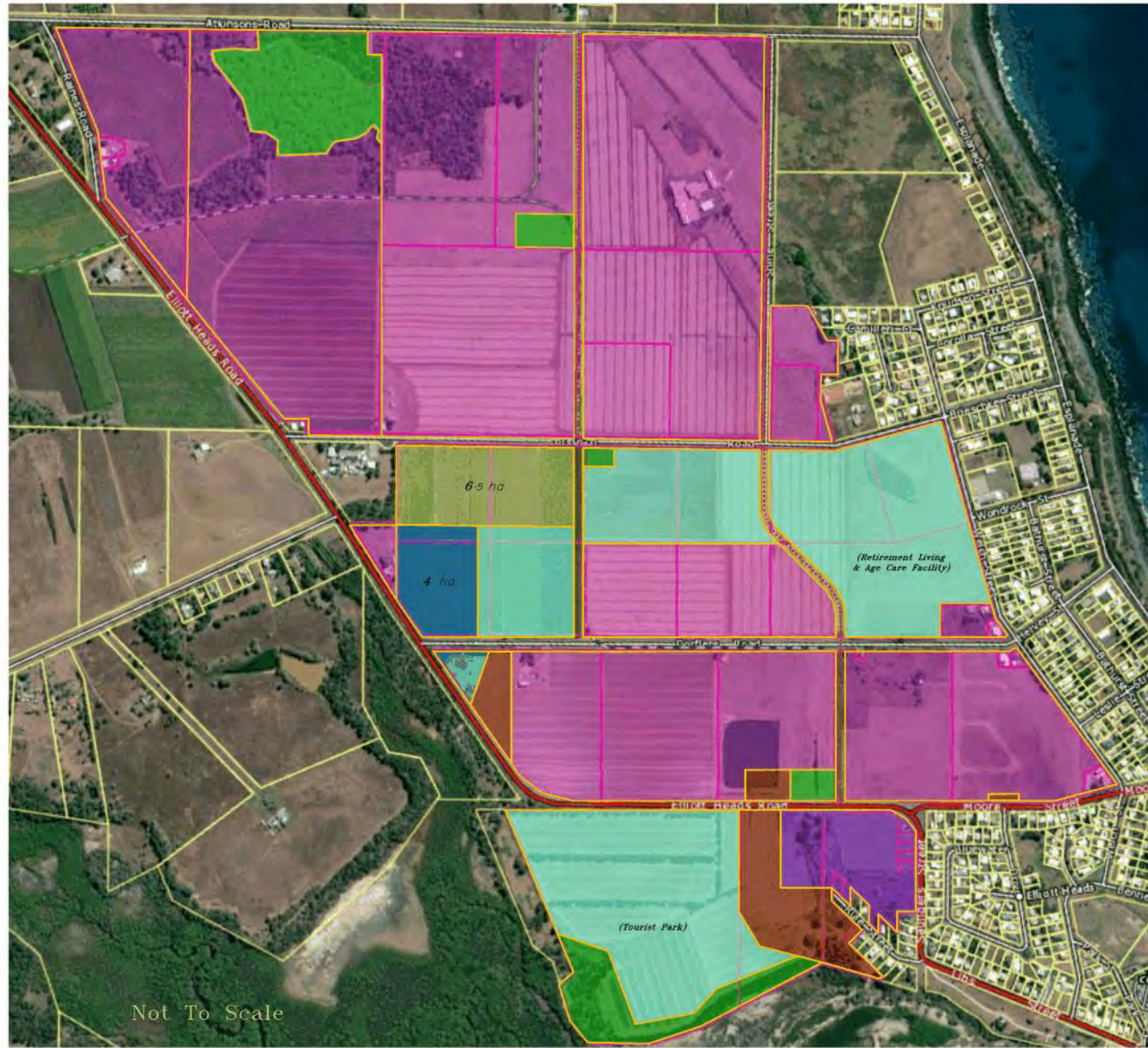
SC6.7.12 Sewerage network

Elliott Heads sewerage network adopts a conventional gravity and pumping system in accordance with the WBBROC Design and Construction Code. The sewerage collection and transportation network employs a series of pump stations that discharge into Council's sewerage system to the north.

APPENDIX A - OVERALL LAND USE MASTERPLAN

MAP 1 – OVERALL LAND USE MASTER PLAN

Land Use Master Plan SOUTH-BEACH



- Low Density Residential
- Medium Density Residential
- Open Space
- Community Facilities/
Educational Establishments
- District Centre
- Local Centre
- S/W

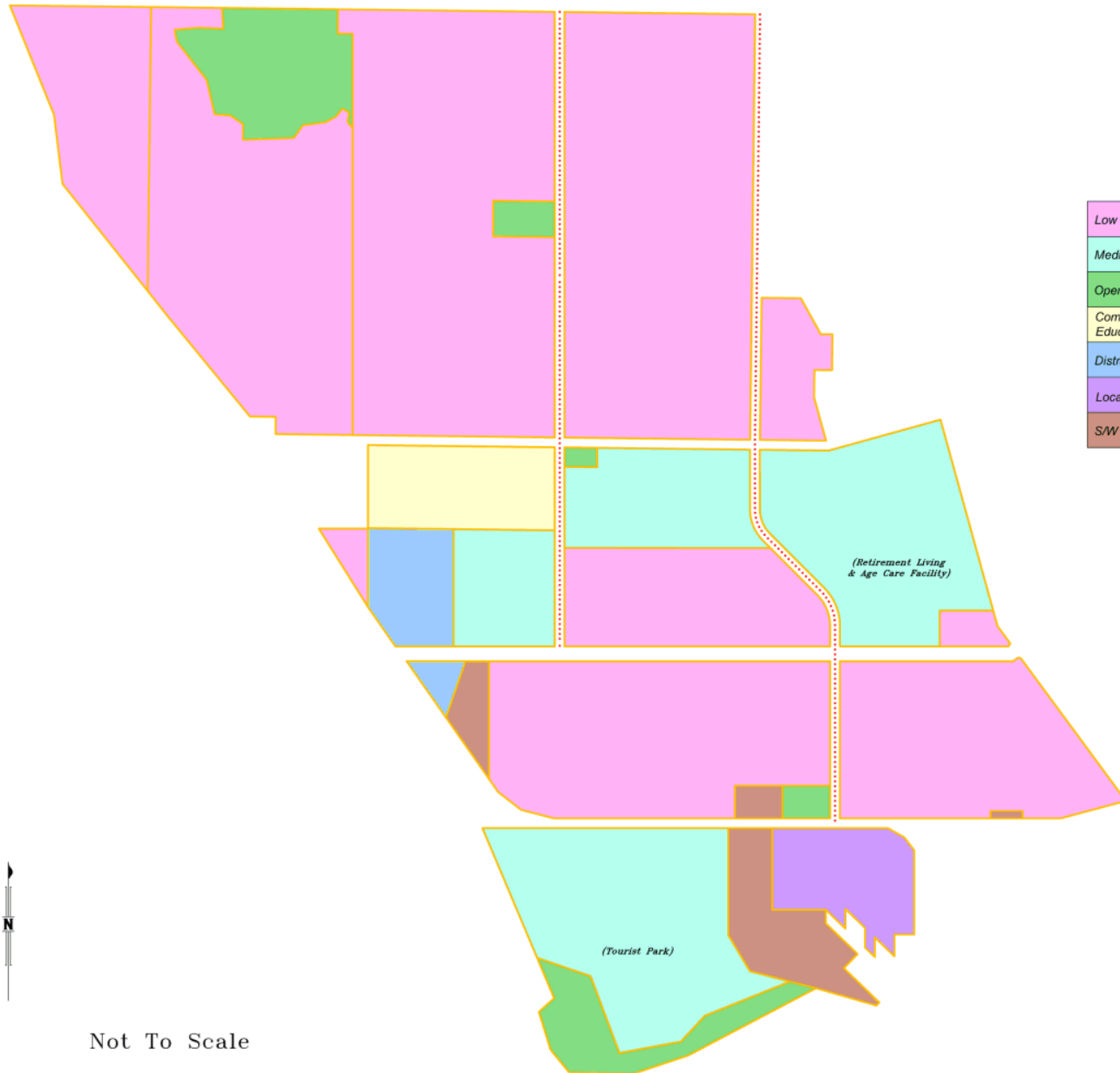
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DATE 03/08/21	DATE 03/08/21	-LUMP 4	

Sheet 2 of 2

Land Use Master Plan

SOUTH-BEACH

Low Density Residential	155.9 ha
Medium Density Residential	44.4 ha
Open Space	13.4 ha
Community Facilities/ Educational Establishments	6.5 ha
District Centre	4.7 ha
Local Centre	5.6 ha
SW	7.0 ha

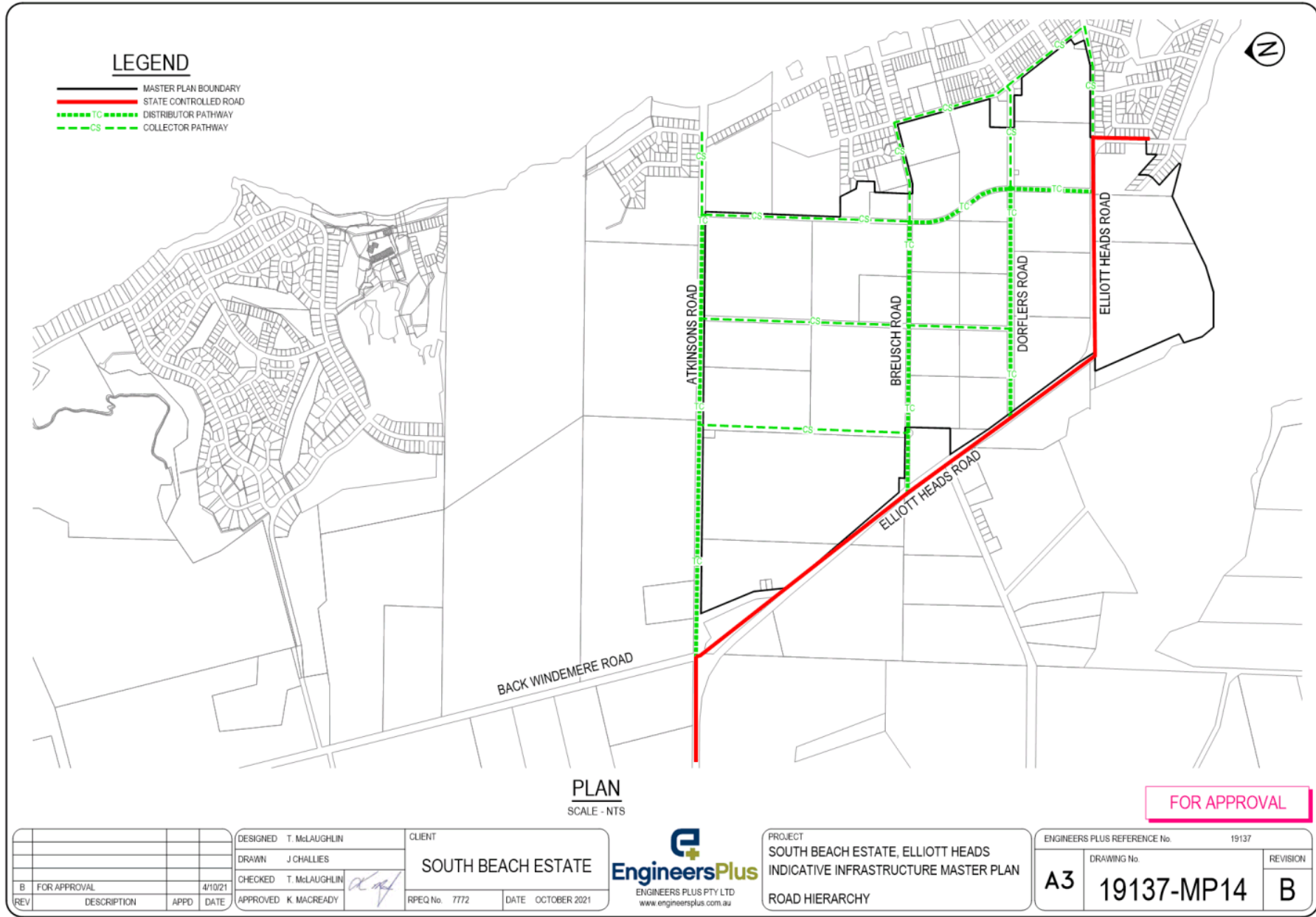


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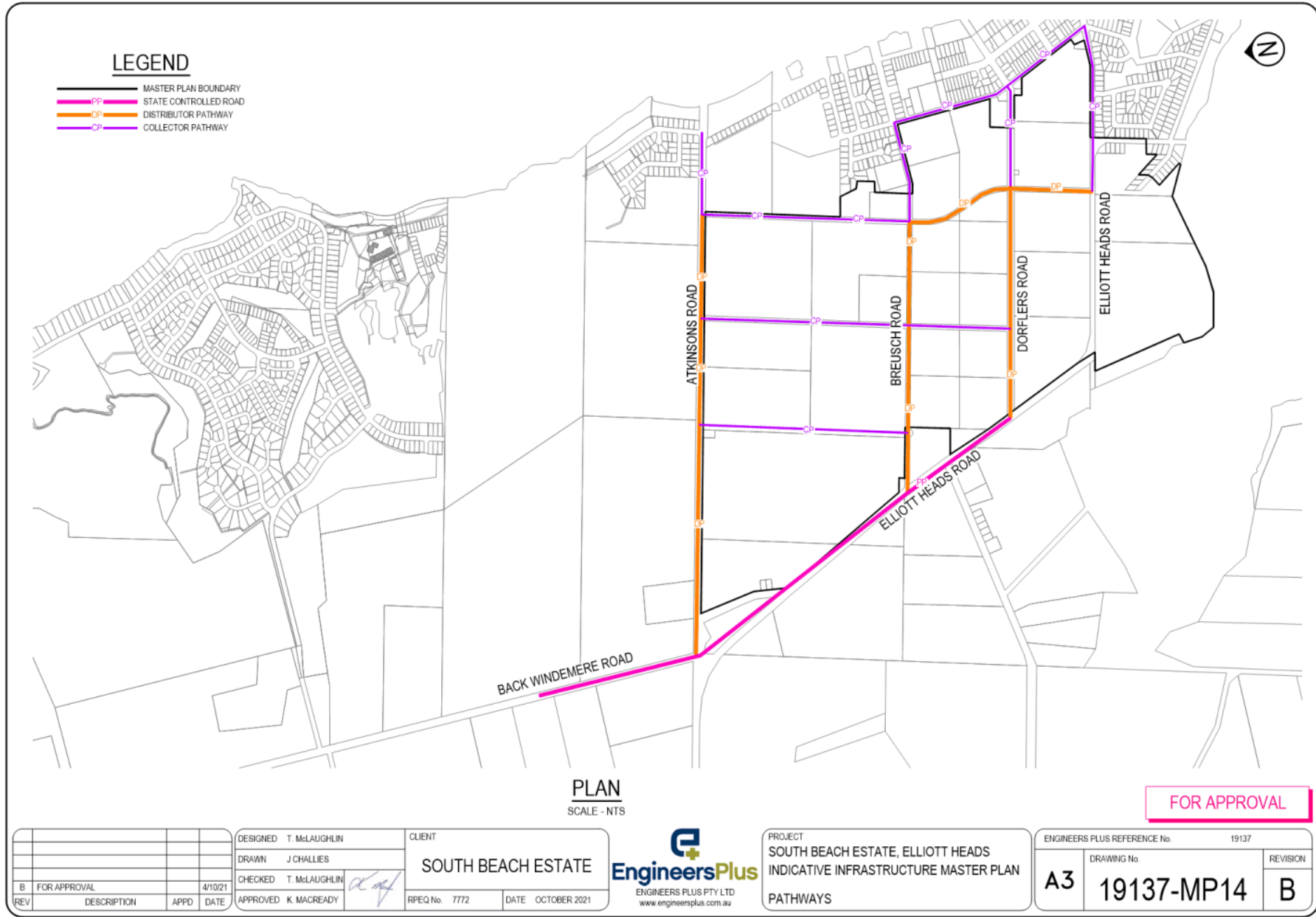
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APPENDIX B - INFRASTRUCTURE MASTERPLANS

MAP 2 - ROAD NETWORKS



MAP 3 - PEDESTRIAN AND CYCLE PATHWAY NETWORK



REV	DESCRIPTION	APPD	DATE
B	FOR APPROVAL		4/10/21

DESIGNED T. McLAUGHLIN	CLIENT
DRAWN J CHALLIES	SOUTH BEACH ESTATE
CHECKED T. McLAUGHLIN	
APPROVED K. MACREADY	

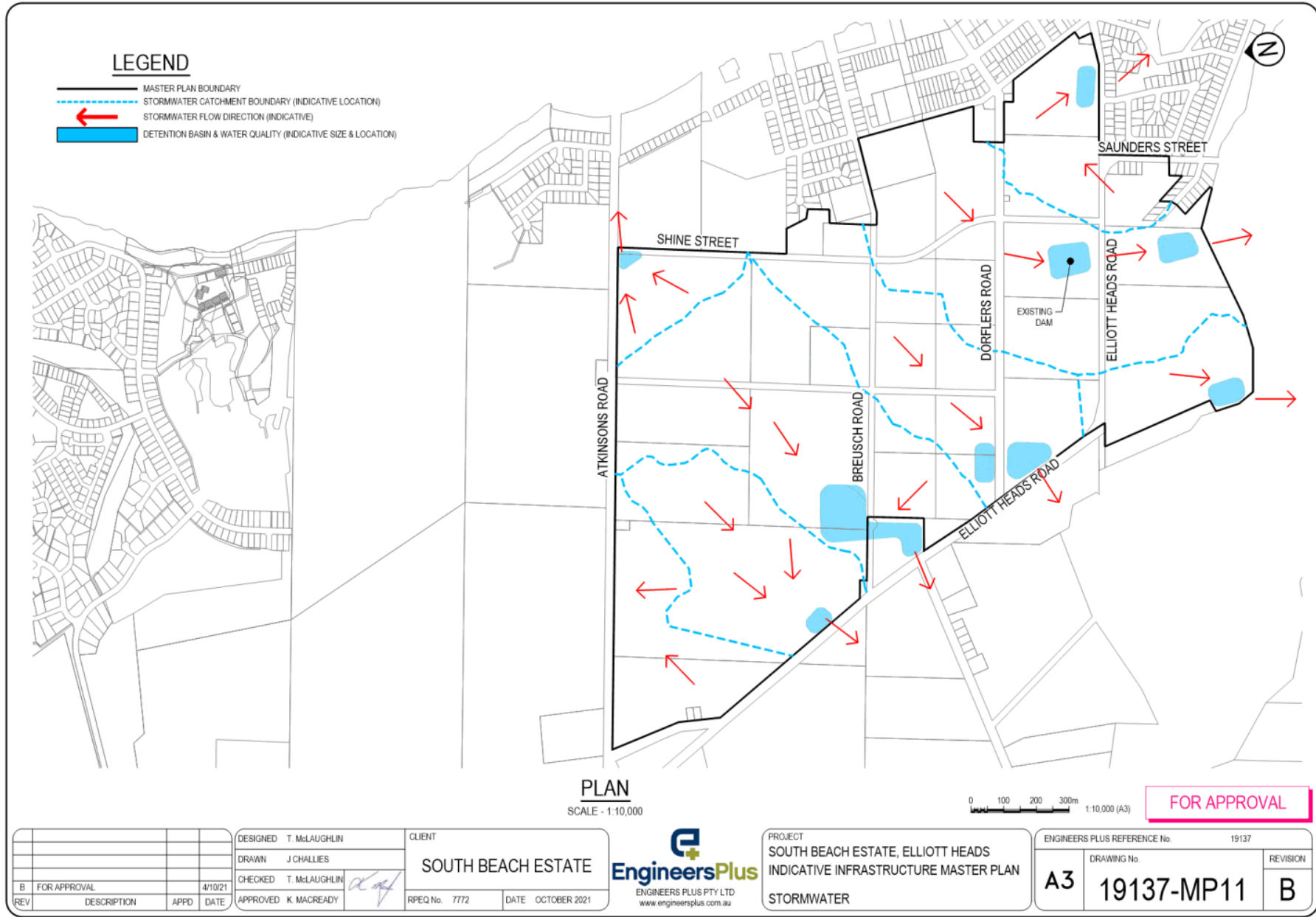
RPEQ No. 7772	DATE OCTOBER 2021
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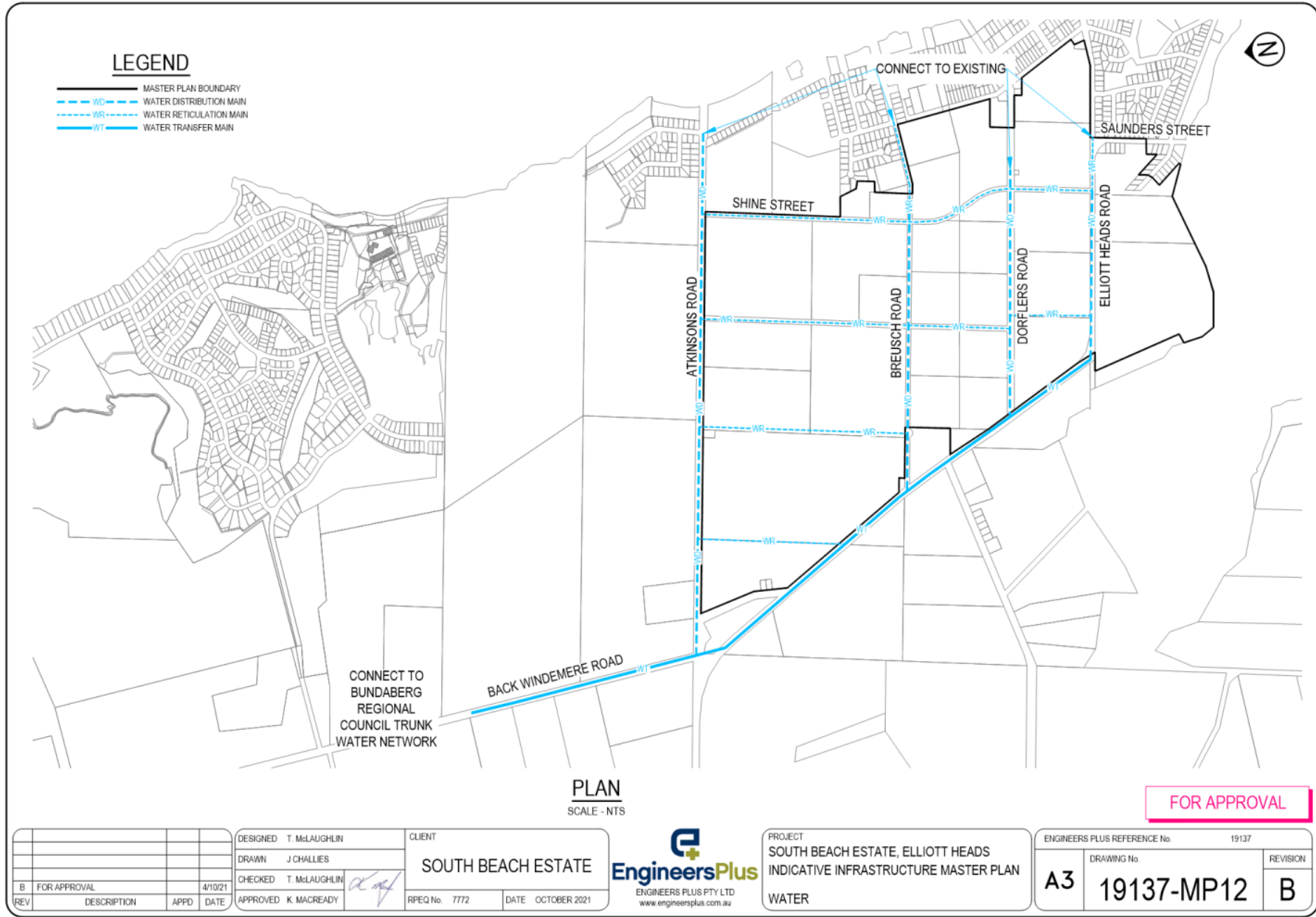
PROJECT	SOUTH BEACH ESTATE, ELLIOTT HEADS
INDICATIVE INFRASTRUCTURE MASTER PLAN	
PATHWAYS	

ENGINEERS PLUS REFERENCE No.	19137
DRAWING No.	REVISION
A3	19137-MP14
	B

MAP 4 - STORMWATER NETWORK



MAP 5 - WATER NETWORK



PLAN
SCALE - NTS

FOR APPROVAL

REV	DESCRIPTION	APPD	DATE
B	FOR APPROVAL		4/10/21

DESIGNED T. McLAUGHLIN	CLIENT
DRAWN J CHALLIES	SOUTH BEACH ESTATE
CHECKED T. McLAUGHLIN	
APPROVED K. MACREADY	

RPEQ No. 7772	DATE OCTOBER 2021
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PROJECT	SOUTH BEACH ESTATE, ELLIOTT HEADS
INDICATIVE INFRASTRUCTURE MASTER PLAN	
WATER	

ENGINEERS PLUS REFERENCE No.	19137
DRAWING No.	REVISION
A3	19137-MP12
	B

MAP 6 - SEWERAGE NETWORK

