

MISS FIONA MACLEOD

Our Ref: FM:MM

Doc: 529469

20 August 2020

SMK QLD Pty Ltd
C/- Tom Jobling
PO Box 422
GOONDIWINDI QLD 4390

Via email: tom@smkqld.com.au

Attention: Tom Jobling

Dear Tom

Decision notice approval

(Given under section 63(2) of the *Planning Act 2016*)

The development application described below was properly made to the Balonne Shire Council on 13 July 2020.

Applicant details

Applicant name: SMK QLD Pty Ltd
Tom Jobling

Applicant contact details: PO Box 422
GOONDIWINDI QLD 4390
Email: tom@smkqld.com.au

Application details

Application number: RL 105

Approval sought: Development Permit

Details of proposed development: Development application for Reconfiguration of a Lot – Boundary Realignment (2 into 2 Lots)

Location details

Street address: Gunnindaddy Road, Mungindi QLD 2406
Real property description: Lot 28 on BLM54 and Lot 29 on BLM73

Decision

Date of decision: 20 August 2020
Decision details: Approved in full with conditions. These conditions are set out in Attachment 1 and are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

Details of the approval

This application is not taken to have been approved (a deemed approval) under section 64(5) of the *Planning Act 2016*.

	<i>Planning Regulation 2017</i> reference	Development Permit	Preliminary Approval
Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - reconfiguration of a lot	N/A	<input checked="" type="checkbox"/>	

Conditions

This approval is subject to the conditions in Attachment 1.

Further development permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- Survey Plan approval

Properly made submissions

Not applicable—No part of the application required public notification.

Referral agencies for the application

Not applicable—No part of the application required referral.

Rights of appeal

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

A copy of the relevant appeal provisions are attached.

Currency period for the approval

For Reconfiguring a Lot - This approval lapses if a plan for the reconfiguration that, under the *Land Title Act 1994*, is required to be given to a local government for approval is not given within 4 years.

Approved plans and specifications

Copies of the following plans, specifications and/or drawings are enclosed.

Drawing/report title:	Prepared by:	Date:	Reference no:	Version/issue:
Proposal Plan to accompany RCOL Planning Application for Lot 28 on BLM54 & Lot 29 on BLM73	SMK Consultants Pty Ltd	3/07/20	220060-1	
Proposal Plan to accompany RCOL Planning Application for Lot 28 on BLM54 & Lot 29 on BLM73 – Arial View	SMK Consultants Pty Ltd	3/07/20	220060-1	

For further information please contact Fiona Macleod, Planning and Development Officer, on 4620 8888 or via email fiona.macleod@balonne.qld.gov.au who will be pleased to assist.

Yours sincerely



Matthew Magin
Chief Executive Officer

Enc: Attachment 1—Assessment Manager Conditions of Approval (Balonne Shire Council)
Attachment 2—Appeal provisions
Attachment 3—Statement of Reasons
Attachment 4—Approved plans and specifications

ATTACHMENT 1 – ASSESSMENT MANAGER CONDITIONS OF APPROVAL (BALONNE SHIRE COUNCIL)

Preamble

- i. The relevant planning scheme for this development is *Balonne Shire Planning Scheme 2019*. All references to the 'Planning Scheme' and 'Planning Scheme Schedules' within these conditions refer to the above Planning Scheme.
- ii. The land use rating category may change upon commencement of any new approved use on the site. Council's current Revenue Statement, which includes the minimum general rate levy for the approved use/s, can be viewed on the Council Website: <https://www.balonne.qld.gov.au/council/rates>.
- iii. A development permit for a Material Change of Use will be required for any activity or development on the approved lot(s) that does not comply with the accepted development criteria in the *Balonne Shire Planning Scheme 2019*.
- iv. The registered proprietor is responsible for gaining the approvals of any other Authorities having jurisdiction over any part of the works required to facilitate the approved development.
- v. New development on any of the approved lots must be provided with an adequate supply of electricity. In the event that an adequate supply of electricity cannot be achieved through efficient design and alternative energy technologies, a connection to the reticulated electricity network must be made available. Prospective purchasers and/or developers of the newly created lot/s are encouraged to contact the relevant electricity provider to determine the availability and costs associated with connecting to the reticulated network.
- vi. This approval lapses if a plan for the reconfiguration is not given to the Council within four (4) years of the approval taking effect.
- vii. The plan for the reconfiguration must be duly signed by the registered proprietor of the land and the surveyor, and submitted to Council for approval in a form acceptable to Council within the relevant period.

Unless otherwise stated all conditions shall be completed prior to the Council endorsing the relevant plan of survey.

All persons involved in the development, operation or use of the site have an obligation to take all reasonable and practical measures to prevent or minimise any biosecurity risk under the *Biosecurity Act 2014*.

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

environmental nuisance. In this regard, persons and entities involved in the operation of the approved development are to adhere to their 'general environmental duty' to minimise the risk of causing environmental harm to adjoining premises.

- ix. It is the responsibility of the developer to obtain all necessary permits and submit all necessary plans to the relevant authorities that are associated with the approved development, including any permits/approvals required by any State Agencies.
- x. Reticulated sewerage is unavailable to the development site. A development permit for plumbing and drainage works must be obtained from Council for any onsite sewerage system provided on the proposed lots.
- xi. In completing an assessment of the proposed development, Council has relied on the information submitted in support of the development application as true and correct. Any change to the approved plans and documents may require a new or changed development approval. Council should be contacted for advice in the event of any potential change in circumstances.

Approved development

1. The approved development is for a Reconfiguration of a Lot – Boundary Realignment (Two Lots into Two Lots) as shown on the approved plan.
2. The applicant shall contact Council to arrange a development compliance inspection prior to the endorsement of the survey plan.
3. Complete and maintain the approved development in accordance with:
 - (a) the development approval documents; and
 - (b) those parts of the approved development that have been specified in detail by the Council unless the Council agrees in writing that those parts will be adequately complied with by amended specifications.

General

4. The approved development is to be carried out generally in accordance with following approved plans and documents, as amended, and subject to the approval conditions. Where there is any conflict between the approval conditions and the details shown on the approved plans, the approval conditions prevail.

Drawing/report title:	Prepared by:	Date:	Reference no:	Version/issue:
Proposal Plan to accompany RCOL Planning Application	SMK Consultants Pty Ltd	3/07/20	220060-1	

for Lot 28 on BLM54 & Lot 29 on BLM73				
Proposal Plan to accompany RCOL Planning Application for Lot 28 on BLM54 & Lot 29 on BLM73 – Arial View	SMK Consultants Pty Ltd	3/07/20	220060-1	

5. All works required to facilitate the development must be designed and constructed in accordance with:
 - (a) the development approval conditions;
 - (b) any relevant provisions of the applicable planning scheme;
 - (c) Council's standard designs for such work where such designs exist;
 - (d) any relevant Australian Standard that applies to that type of work; and
 - (e) any alternative specifications that Council has agreed to in writing and which the developer must ensure do not conflict with any requirements imposed by any applicable laws and standards.
6. All civil and related work is to be designed and supervised by Registered Professional Engineers of Queensland (RPEQ-Civil) who are competent in the construction of the works.
7. Existing buildings, structures, infrastructure and services located on the development site are not to encroach on proposed allotment boundaries.

Provision of Services

8. Each lot is to have a water supply adequate for the intended use.
9. All services installation, including onsite sewerage and water connections, must comply with:
 - (a) the development approval conditions;
 - (b) the relevant service provider's requirements and specifications;
 - (c) any relevant provisions in the planning scheme for the area;
 - (d) Council's standard designs for such work where such designs exist;
 - (e) any relevant Australian Standard that applies to that type of work; and
 - (f) any alternative specifications that the Council has agreed to in writing and which the developer must ensure do not conflict with any requirements imposed by any applicable laws and standards.

10. Any conflicts associated with proposed and existing services are to be forwarded by the developer to the appropriate controlling authority for approval of any proposed changes.
11. Infrastructure and services required in connection with the establishment of the approved development must be provided at no cost to Council.

Access & Roads

12. The landowner is responsible for the construction and maintenance of crossovers from the road carriageway to the property boundary and all internal vehicle access ways, and for obtaining any approvals that may be required and for complying with the applicable designs and standards.

Repair Damaged Infrastructure

13. Council and public utility services, infrastructure and assets must be located and protected at all times. Any damage to existing roads and infrastructure that is attributable to the development of the site must be immediately rectified in accordance with the asset owners' requirements and specifications and to the satisfaction of the asset owners' representative/s, and at no cost to Council.

No Cost to Council

14. All costs associated with the approved development are to be met by the developer, including costs of survey, easement preparation and registration, document lodgement, plan sealing and land transfers, unless there is specific agreement by other parties, including the Council, to meeting those costs.

Latest versions

15. Where another condition refers to a specific published standard, manual or guideline, including specifications, drawings, provisions and criteria within those documents, that condition shall be deemed as referring to the latest versions of those publications that are available at the time the first operational works or compliance approval is lodged with the assessment manager or approval agency for those types of works to be performed or approved, unless a regulation or law requires otherwise.

Rates and charges

16. All rates and charges of any description and all arrears of such rates and charges, together with interest outstanding thereon, on the land, due to Council, shall be paid prior to the Council endorsing the plan of survey.

ATTACHMENT 2 – PLANNING ACT EXTRACT APPEAL RIGHTS

Chapter 6 Dispute resolution Part 1 Appeal rights

228 Appeals to tribunal or P&E Court

(1) Schedule 1 states—

- (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
- (b) the person—
 - (i) who may appeal a matter (the **appellant**); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.

(2) An appellant may start an appeal within the appeal period.

(3) The **appeal period** is—

- (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
- (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
- (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

(4) Each respondent and co-respondent for an appeal may be heard in the appeal.

(5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.

- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
- (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

229 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
- (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to—
- (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under
 - (d) schedule 1, table 1, item 1—each principal submitter for
 - (e) the development application; and
 - (f) for an appeal about a change application under
 - (g) schedule 1, table 1, item 2—each principal submitter for
 - (h) the change application; and
 - (i) each person who may elect to become a co-respondent
 - (j) for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (k) for an appeal to the P&E Court—the chief executive; and
 - (l) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The **service period** is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.

- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

230 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The Judicial Review Act 1991, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the Judicial Review Act 1991 in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.

- (4) In this section—

decision includes—

- (a) conduct engaged in for the purpose of making a decision; and
- (b) other conduct that relates to the making of a decision; and
- (c) the making of a decision or the failure to make a decision; and
- (d) a purported decision; and
- (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the Judicial Review Act 1991 or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

231 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

ATTACHMENT 3 — STATEMENT OF REASONS

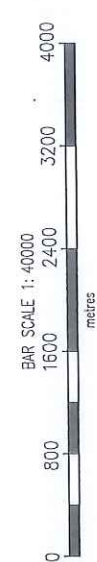
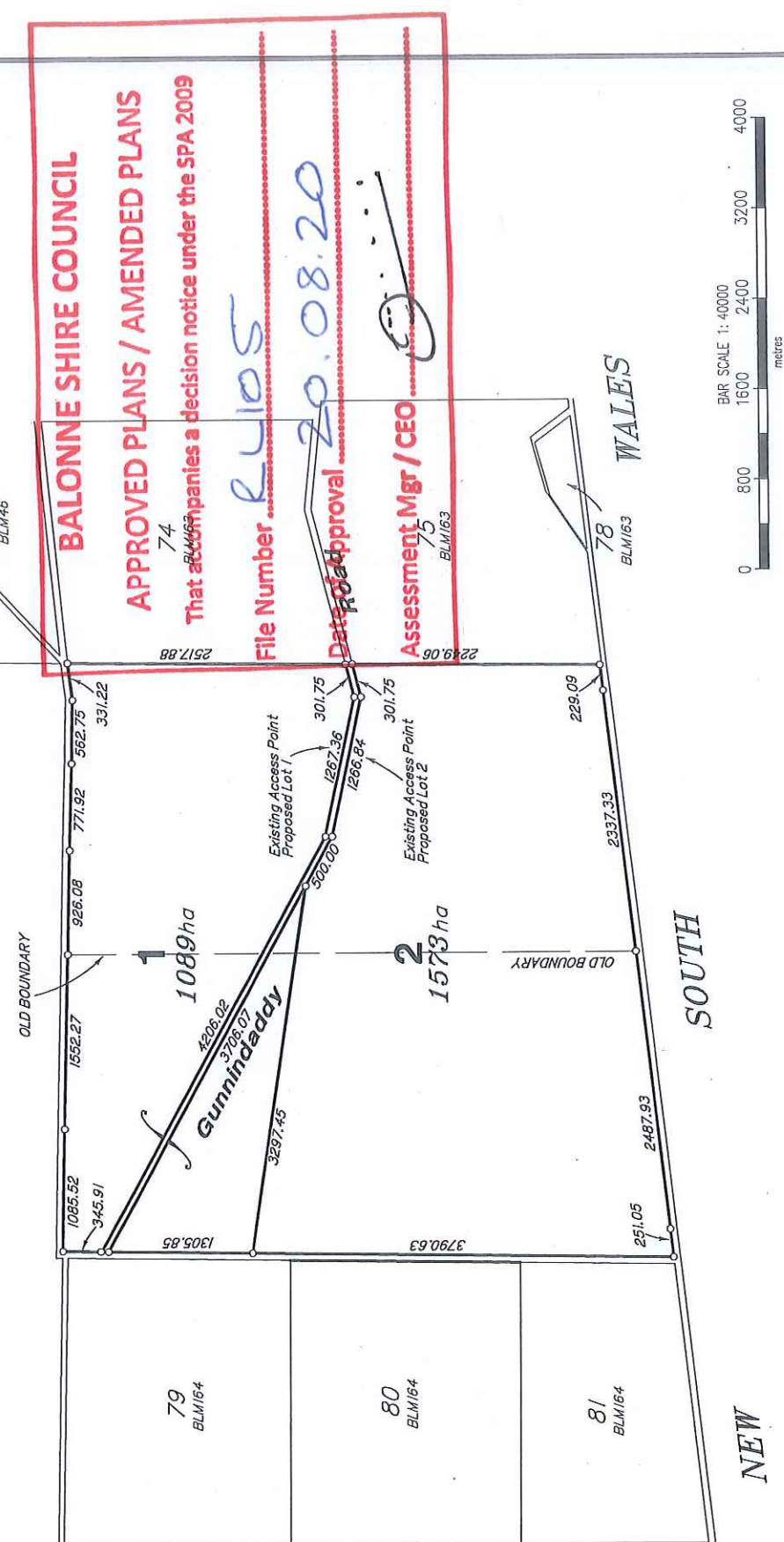
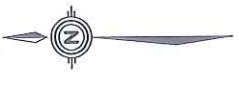
The following information is provided in accordance with section 63 of the *Planning Act 2016*.

Description of Development	The proposed development is for Reconfiguring a Lot – “Boundary Realignment” (2 into 2 Lots)
Assessment benchmarks	<p>The proposed development was assessed against the following Assessment benchmarks:</p> <ul style="list-style-type: none"> • Maranoa-Balonne Regional Plan; • <i>Darling Downs Regional Plan</i>; • <i>State Planning Policy</i>; and • <i>Balonne Shire Planning Scheme 2019</i> • Part 3 Strategic Framework • Part 4 Local Government Infrastructure Plan • Part 5 Tables of assessment • Part 7 Development Codes <ul style="list-style-type: none"> ▪ Part 7.4.2 Reconfiguration of a lot code ▪ Part 7.4.3 Flood hazard overlay code
Relevant matters	The relevant matters are the Assessment benchmarks.
Matters raised in submissions	Not Applicable.
Reasons for decision	The development was assessed against all of the Assessment benchmarks listed above and complies with all of these Assessment benchmarks or has otherwise been conditioned to achieve compliance.

ATTACHMENT 4 — APPROVED PLANS AND SPECIFICATIONS

Note:

This plan was prepared for SOUTH BUNARBA AGRICULTURE as a proposed subdivision to accompany a subdivision application to the BALONNE SHIRE Council and should not be used for any other purpose. The dimensions, areas and total number of lots shown herein are subject to field survey and also to the requirements of Council and any other relevant legislation. In particular, no reliance should be placed on this plan for any financial dealings involving the land. This note is an integral part of this plan.



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SMK
 CONSULTANTS PTY. LTD.

PROPOSAL PLAN TO ACCOMPANY
 RCOL PLANNING APPLICATION FOR
 LOT 28 ON BLM54 & LOT 29 ON BLM73

220060
 SCALE: 1:50000
 A3
 Drawn T.J.J. 3/07/20 Checked

220060-1

Note:

This plan was prepared for SOUTH BUNARBA AGRICULTURE as a proposed subdivision to accompany a subdivision application to the BALONNE SHIRE Council and should not be used for any other purpose. The dimensions, areas and total number of lots shown hereon are subject to field survey and also to the requirements of Council and any other relevant legislation. In particular, no reliance should be placed on this plan for any financial dealings involving the land. This note is an integral part of this plan.



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SMK
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PROPOSAL PLAN TO ACCOMPANY
 RCOL PLANNING APPLICATION FOR
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