



Department of Infrastructure,  
Local Government and Planning

Our reference: SPD-0116-024320  
Council reference: D/23-2015

18 February 2016

Aurizon Operations Pty Ltd C/- RPS  
PO Box 456  
Brisbane QLD 4000  
[Andrew.batts@aurizon.com.au](mailto:Andrew.batts@aurizon.com.au)

Dear Sir/Madam,

**Changed concurrence agency response (responsible entity)**

23 Boundary Road, Parkhurst (Lot 1 RP601877, Lot 1 RP606318, Lot 1 RP601695 & Lot 3 RP601963)  
(Given under section 376 of the *Sustainable Planning Act 2009*)

The Department of Infrastructure, Local Government and Planning received representations under section 369 of the *Sustainable Planning Act 2009* on 29 January 2016 for the original decision described below.

**Applicant details**

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Applicant name: Aurizon Operations Pty Ltd  
Applicant contact details: C/- RPS  
PO Box 456  
Brisbane QLD 4000

**Site details**

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Street address: 23 Boundary Road, Parkhurst  
Lot on plan: Lot 1 RP601877, Lot 1 RP606318, Lot 1 RP601695 & Lot 3 RP601963  
Local government area: Rockhampton Regional Council

## Application details

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Proposed development: Permissible change to a preliminary approval for Material Change of Use for a Transport Terminal (Intermodal Facility), including ancillary rail operations and future Medium and High Impact Industry uses

## Nature of the changes

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The nature of the changes agreed to are:

1. Updated plan, which includes the following annotation:  
 “PROPOSED CONNECTION TO NORTH COAST LINE IS NOT APPROVED AS PART OF CURRENT APPLICATION (COUNCIL REF: D/23-2015) AND ANY PROPOSED FUTURE CONNECTION IS SUBJECT TO RAILWAY MANAGER’S (QUEENSLAND RAILS’S APPROVAL)”

## Original concurrence agency response

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Date of original concurrence agency response: 4 June 2015

Original concurrence agency response details: Recommended for approval subject to conditions

## Rights of appeal

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The rights of applicants to appeal to the Planning and Environment Court against decisions about a development application are set out in chapter 7, part 1, division 8 of the *Sustainable Planning Act 2009*. For particular applications, there may also be a right to appeal to the Building and Development Dispute Resolution Committee (see chapter 7, part 2 of the Act).

Copies of the relevant appeal provisions are attached.

## Native title considerations

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A native title assessment was completed for this application in accordance with the *Native Title Act 1993* (Cth). It was determined that there would be no effect on native title, and consequently procedural rights were not required. Further consideration of native title is not required, and a decision can therefore be issued under the *Sustainable Planning Act 2009*.

## Amended approved plans and specifications

Copies of the following amended approved plans and specifications are attached:

Drawing/Report Title	Prepared by	Date	Reference no.	Version/Issue
<b>Aspect of development: Permissible change to a preliminary approval for Material Change of Use for a Transport Terminal (Intermodal Facility), including ancillary rail operations and future Medium and High Impact Industry uses.</b>				
Parkhurst Master Plan	Aurizon	03/15	AUR-C-0644-0001	Issue 5
Parkhurst Master Plan	Aurizon	12/15	AUR-C-0644-0001	Issue 8

For further information please contact Carl Porter, Senior Planning Officer on (07) 4924 2918 or via email at [RockhamptonSARA@dilgp.qld.gov.au](mailto:RockhamptonSARA@dilgp.qld.gov.au) who will be pleased to assist.

Yours sincerely,



Anthony Walsh  
A/Manager (Planning)  
Fitzroy and Central

enc: Attachment 1 - Changed concurrence agency conditions  
Attachment 2 - Further advice  
Attachment 3 - Approved plans and specifications  
Attachment 4 - SPA appeal provisions

cc: [enquiries@rrc.qld.gov.au](mailto:enquiries@rrc.qld.gov.au)

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 Council reference: D/23-2015

### Attachment 1 - Changed concurrence agency conditions

No.	Conditions of development approval	Condition timing
<b>Aspect of development: Permissible change to a preliminary approval for material change of use for a Transport Terminal (Intermodal Facility), including ancillary rail operations and future Medium and High Impact Industry uses</b>		
<i>Railways</i> - Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i> , the chief executive administering the Act nominates the Director-General of the Department of Transport and Main Roads to be the assessing authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	<p><del>The development must be carried out generally in accordance with the following plans as amended by the Department of Transport and Main Roads in red and dated 7 May 2015:</del></p> <p><del>Parkhurst Master Plan, prepared by Aurizon, dated 03/15, Drawing No. AUR-C-0644-0001, Issue 5.</del></p> <p><b>The development must be carried out generally in accordance with the following plan:</b></p> <ul style="list-style-type: none"> <li><b>Parkhurst Master Plan, prepared by Aurizon, dated 12/15, Drawing No. AUR-C-0644-0001, Issue 8.</b></li> </ul> <p><b>(Condition amended 18 February 2016)</b></p>	<p>Prior to the commencement of use and to be maintained at all times.</p>

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## Attachment 2 - Further advice

General advice	
Ref.	Railways
1.	<p><b>Memorandum of Understanding for Railway Level Crossings</b></p> <p>Future industrial development on the site will result in increased vehicle movements, including heavy vehicles, over railway level crossings, in particular the Boundary Road crossing of the North Coast Line adjacent to the south-west corner of the site.</p> <p><i>As per the Memorandum of Understanding between the Local Government Association of Queensland and Queensland Rail and the Department of Transport and Main Roads with respect to the Management and Funding Responsibility for Level Crossing Safety, the local government is responsible for any safety upgrades to a level crossing if the change in risk to the level crossing is due to changes in nearby land uses which have been authorised by local government.</i></p> <p>Rockhampton Regional Council should continue to monitor the level of safety risk and number of reported level crossing issues as further development in the area is approved. Consideration should also be given to implementing improved control and safety measures, as required.</p>
2.	<p><b>Access</b></p> <p>Direct access will not be permitted between the future state-controlled road (ring road) and the subject site at any location.</p>
Further development permits, compliance permits or compliance certificates	
Ref.	Railways
3.	<p><b>Stormwater</b></p> <p>The proposed development will increase the impervious area of the site and therefore peak discharge and alter existing drainage patterns. When submitting subsequent development applications for a development permit for a material change of use, reconfiguring a lot or operational works, the applicant is requested to provide a Stormwater Management Plan for the overall development (water quantity and quality) which assesses the potential stormwater impacts on the railway as a result of the development and recommends appropriate mitigation measures.</p> <p>The Stormwater Management Plan must:</p> <ul style="list-style-type: none"> <li>(a) be certified by a Registered Professional Engineer of Queensland;</li> <li>(b) be prepared in accordance with 18.2 – Stormwater and Drainage Impacts on State Transport Infrastructure State Code of the State Development Assessment Provisions (available at: <a href="http://www.dsdip.qld.gov.au/development-applications/sdap.html">http://www.dsdip.qld.gov.au/development-applications/sdap.html</a>) and the <i>Guide for Development in a Railway Environment</i> (available at <a href="http://www.tmr.qld.gov.au/Business-industry/Technical-standards-publications.aspx">http://www.tmr.qld.gov.au/Business-industry/Technical-standards-publications.aspx</a>) and with consideration given to the Queensland Urban Drainage Manual (available at <a href="https://www.dews.qld.gov.au/water-supply-regulations/urban-drainage">https://www.dews.qld.gov.au/water-supply-regulations/urban-drainage</a>).</li> <li>(c) demonstrate that the management of stormwater (quantity and quality) post development can achieve a no worsening impact (on the pre-development condition) for all flood and stormwater events that exist prior to development and up to a 1% Annual Exceedance Probability (AEP) (equivalent to 1/100 year Average Recurrence Interval (ARI)). Stormwater management for the proposed development must ensure no worsening or actionable nuisance to the railway, including rail transport</li> </ul>

	<p>infrastructure, caused by peak discharges, flood levels, frequency/duration of flooding, flow velocities, water quality, sedimentation and scour effects.</p> <p>(d) ensure the following are addressed, where applicable:</p> <ul style="list-style-type: none"> <li>• all relevant legal points of discharge for the development site are identified. No new discharge points for stormwater will be permitted on the railway;</li> <li>• overland flow paths are identified and hydraulic conveyance is maintained on the site as part of the proposed development;</li> <li>• flood storage capacity is maintained on the site as part of the proposed development;</li> <li>• the adverse impacts from sheet flow on the railway are prevented;</li> <li>• the proposed development does not cause a concentration of stormwater (including floodwater) flows discharging on the railway during construction or thereafter;</li> <li>• retaining structures, filling/excavation, landscaping, construction activities or any other works to the land have been designed to include provision for drainage so as not to adversely impact on the railway;</li> <li>• the proposed development does not impede or interfere with any drainage, stormwater or floodwater flows from the railway;</li> <li>• stormwater or floodwater flows have been designed to maintain the structural integrity of the rail transport infrastructure;</li> <li>• existing stormwater drainage infrastructure on the railway is not interfered with or damaged by the proposed development such as through concentrated flows, surcharging, scour or deposition;</li> <li>• the quality of stormwater discharging onto the railway is not reduced through erosion and sedimentation.</li> </ul> <p>(e) include details of the mitigation measures proposed to address any potential stormwater impacts (including flooding impacts) of the proposed development.</p> <p>Further guidance on what information needs to be supplied can be obtained from the Department of Transport and Main Roads' <i>State Development Assessment Provisions (SDAP) Supporting Information – Stormwater and Drainage</i> available at <a href="http://www.tmr.qld.gov.au/Community-and-environment/Planning-and-development/Planning-and-development-assessment-under-SPA/Assessable-development.aspx">http://www.tmr.qld.gov.au/Community-and-environment/Planning-and-development/Planning-and-development-assessment-under-SPA/Assessable-development.aspx</a>.</p>
4.	<p><b>Excavation, Retaining and Ground Disturbances</b></p> <p>The proposed development of the site will involve earthworks adjacent to and within a railway (North Coast Line) to establish a Transport Terminal (intermodal facility) including two rail sidings proposed to connect to the North Coast Line. These works have the potential to adversely impact on the safety and operational integrity of the railway.</p> <p>When submitting subsequent development applications for a development permit for a material change of use, reconfiguring a lot or operational works, further information should be provided clarifying the extent and nature of any proposed earthworks in proximity to the railway. This should demonstrate how the proposed development will comply with PO7 and PO9 of Module 18.1 – Filling, Excavation and Structures State Code of the State Development Assessment Provisions (available at: <a href="http://www.dsdp.qld.gov.au/development-applications/sdap.html">http://www.dsdp.qld.gov.au/development-applications/sdap.html</a>) and subsequently, Parts A.15 and B.12 – Excavation, Retaining and Ground Disturbance of the Guide for Development in a Railway Environment (available at: <a href="http://www.tmr.qld.gov.au/Business-industry/Technical-standards-publications.aspx">http://www.tmr.qld.gov.au/Business-industry/Technical-standards-publications.aspx</a>).</p> <p>In particular, the applicant is requested to provide proposal plans, including cross sections/elevations, and any required supporting technical details clearing showing:</p> <ul style="list-style-type: none"> <li>• the location and extent of proposed excavation and filling (earthworks), including likely volumes of cut and fill in proximity to the railway. The minimum setbacks of all earthworks from the railway should be accurately depicted on a proposal plan;</li> <li>• the maximum depth of any excavation and maximum height of any proposed filling and the gradient and height of any proposed batters adjacent to or within the railway;</li> <li>• the maximum height and intended form/design of any proposed retaining walls or structures adjacent to or within the railway;</li> </ul>

	<ul style="list-style-type: none"> <li>• where proposed excavations, filling/backfilling or retaining works will be greater than 1m in depth or height abutting or within the railway, RPEQ certified drawings should be provided demonstrating that the works will not de-stabilise rail transport infrastructure or the land supporting this infrastructure; and</li> <li>• demonstrate that any retaining structures, excavations, filling/backfilling, batter treatments, stormwater management measures and other works will not adversely impact the railway.</li> </ul> <p>Scaled cross sections and elevations should clearly show the interface with the railway as a result of any proposed earthworks. The difference between existing site levels and finished/design levels should be clearly shown.</p> <p>Further guidance on what information needs to be supplied can be obtained via the Department of Transport and Main Roads' State Development Assessment Provisions (SDAP) Supporting Information – Filling and Excavation at <a href="http://www.tmr.qld.gov.au/Community-and-environment/Planning-and-development/Planning-and-development-assessment-under-SPA/Assessable-development.aspx">http://www.tmr.qld.gov.au/Community-and-environment/Planning-and-development/Planning-and-development-assessment-under-SPA/Assessable-development.aspx</a>.</p>
5.	<p><b>Railway Level Crossings</b></p> <p>Railway level crossings could be adversely impacted on by development generated traffic. In particular, a railway level crossing is located adjacent to the site on Boundary Road which is likely to be impacted by development generated traffic.</p> <p>When submitting subsequent development applications for a development permit for a material change of use or reconfiguring a lot, the applicant is recommended to provide sufficient information demonstrating how the development will comply with PO1 of Module 19.2 – Transport Infrastructure and Network Design State Code of the State Development Assessment Provisions (available at: <a href="http://www.dsdp.qld.gov.au/development-applications/sdap.html">http://www.dsdp.qld.gov.au/development-applications/sdap.html</a>). In particular, traffic information certified by a Registered Professional Engineer of Queensland (RPEQ) will be required addressing the following:</p> <ul style="list-style-type: none"> <li>• the expected traffic distribution on the road network as a result of the proposed development;</li> <li>• identification of railway level crossing/s likely to be impacted on by development generated traffic;</li> <li>• the expected timeframe for the delivery/completion of the proposed development including the commencement of construction, each stage and the ultimate development;</li> <li>• existing traffic flows (expressed as vehicles per day) over the impacted railway level crossing/s, including daily (peak hour) fluctuations, and number and percentage of heavy vehicles;</li> <li>• the expected background traffic growth (expressed as vehicles per day) over the impacted railway level crossing/s, including the number and percentage of heavy vehicles. This should include background traffic growth to a ten year design horizon from the anticipated commencement of each development stage;</li> <li>• the expected development generated traffic (expressed as vehicles per day), including daily fluctuations (peak hour) and percentage of heavy vehicles, that will pass over the impacted railway level crossing/s at construction and from the commencement of each stage to a ten year design horizon;</li> <li>• the maximum size and type of vehicle (including length, width, height and weight) anticipated over the railway level crossing/s as a result of the development during construction and at the commencement of each development stage;</li> <li>• demonstrate how the development generated traffic will not worsen vehicular queuing (short stacking) issues over the impacted railway level crossing/s;</li> <li>• confirmation of sight distances on each side of the impacted railway level crossing/s.</li> </ul>

6.	<p><b>Dangerous Goods</b></p> <p>When submitting subsequent development applications for a development permit for a material change of use, the applicant is recommended to provide sufficient information demonstrating how the development will comply with PO5 of Module 18.1 – Filling, Excavation and Structures State Code of the State Development Assessment Provisions (available at: <a href="http://www.dsdip.qld.gov.au/development-applications/sdap.html">http://www.dsdip.qld.gov.au/development-applications/sdap.html</a>).</p> <p>If dangerous goods are involved, details should be provided demonstrating how the proposed development will be designed and constructed to minimise the impacts of a fire, explosion, spill, gas emission or dangerous goods incident on the railway.</p> <p>In particular, where the development involves dangerous goods above the thresholds listed in Table 5.2 of the <i>State Planning Policy Guideline: State Interest – Emissions and Hazardous Activities, Guidance on Development Involving Hazardous Chemicals</i>, the applicant should provide a RPEQ certified risk assessment in accordance with Part A1 – Dangerous Goods and Fire Safety and Attachment 1 of the Guide for Development in a Railway Environment and demonstrate how measures will be incorporated into the development design to minimise the identified risks. This should address the following risks, amongst other identified risks:</p> <ul style="list-style-type: none"> <li>• minimising or controlling the outbreak of fire;</li> <li>• controlling smoke and/or gas release dispersion;</li> <li>• minimising heat build-up in structures;</li> <li>• limiting the possibility of structural components being blast damaged;</li> <li>• providing stability or contingency measures in the proposed development;</li> <li>• providing safe emergency access and egress to and from the railway; and</li> <li>• ensuring effective containment and clean-up of dangerous goods incidents.</li> </ul> <p>Further guidance can be obtained from the <i>Guide for Development in a Railway Environment</i>, which is available at: <a href="http://www.tmr.qld.gov.au/Business-industry/Technical-standards-publications.aspx">http://www.tmr.qld.gov.au/Business-industry/Technical-standards-publications.aspx</a>.</p>
7.	<p><b>Proposed Rail Siding</b></p> <p>When submitting subsequent development applications for a development permit for a material change of use, reconfiguring a lot or operational works, the applicant is requested to provide written evidence (as part of the referral material) that the proposed rail sidings connecting to the North Coast Line will be able to be achieved. This evidence should include the railway manager's (Queensland Rail's) written consent or agreement to access the rail corridor land in the form of an in-principle approval for the rail siding. In particular, the applicant is requested to provide written evidence demonstrating that the proposed rail siding design, configuration and use is supported by Queensland Rail. The proposed rail siding will need to ensure the safety and operational integrity of the North Coast Line both during construction and its on-going operation.</p> <p>All relevant agreements and/or approvals for the rail siding should be obtained from the railway manager (please contact the Queensland Rail Property Team on (07) 3072 1068 or at <a href="mailto:qrpropertywayleaves@qr.com.au">qrpropertywayleaves@qr.com.au</a>) prior to the detailed design phase for the project should the proposal be approved in principle. The applicant would be responsible for obtaining these agreements and/or approvals.</p>
8.	<p><b>Works in a Railway</b></p> <p>The proposed rail siding includes works on and connections to the North Coast Line railway.</p> <p>Pursuant to section 255 of the <i>Transport Infrastructure Act 1994</i>, the railway manager's written approval is required to carry out works in or on a railway corridor or otherwise interfere with the railway or its operations.</p> <p>Please contact Queensland Rail's Property Team on (07) 3072 1068 or at <a href="mailto:qrpropertywayleaves@qr.com.au">qrpropertywayleaves@qr.com.au</a> in relation to this matter.</p>



9.	<p><b>Owner's consent</b></p> <p>Any subsequent development applications for a development permit involving works on and connections to the North Coast Line will rely on rail corridor land held or administered by the Department of Transport and Main Roads, namely Lot 2 on RP601877, Lot 2 on RP601963, Lot 2 on RP601695 and/or Lot 2 on RP601891.</p> <p>Section 263(1)(c) of the <i>Sustainable Planning Act 2009</i> (SPA) provides that owner's consent is required for work on rail corridor land as defined under the <i>Transport Infrastructure Act 1994</i>. Therefore land owner's consent should be obtained from the Department of Transport and Main Roads in accordance with section 260(1)(e) of the SPA.</p> <p>An application for owner's consent should be made to <a href="mailto:partick.z.leys@tmr.qld.gov.au">partick.z.leys@tmr.qld.gov.au</a> or by telephone on (07) 3066 7430. Further information on obtaining owner's consent from the Department of Transport and Main Roads is available at: <a href="http://www.tmr.qld.gov.au/Community-and-environment/Planning-and-development/Planning-and-development-assessment-under-SPA/Assessable-development/Owners-consent-dept-land/Owners-consent-rail-corridor-land.aspx">http://www.tmr.qld.gov.au/Community-and-environment/Planning-and-development/Planning-and-development-assessment-under-SPA/Assessable-development/Owners-consent-dept-land/Owners-consent-rail-corridor-land.aspx</a>.</p>
10.	<p><b>State-controlled road</b></p> <p>All future associated application for a development permit will require a Road Impact Assessment including an engineering assessment report and traffic impact report that outlines the impact on the state-controlled road network.</p>

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Council reference: D/23-2015

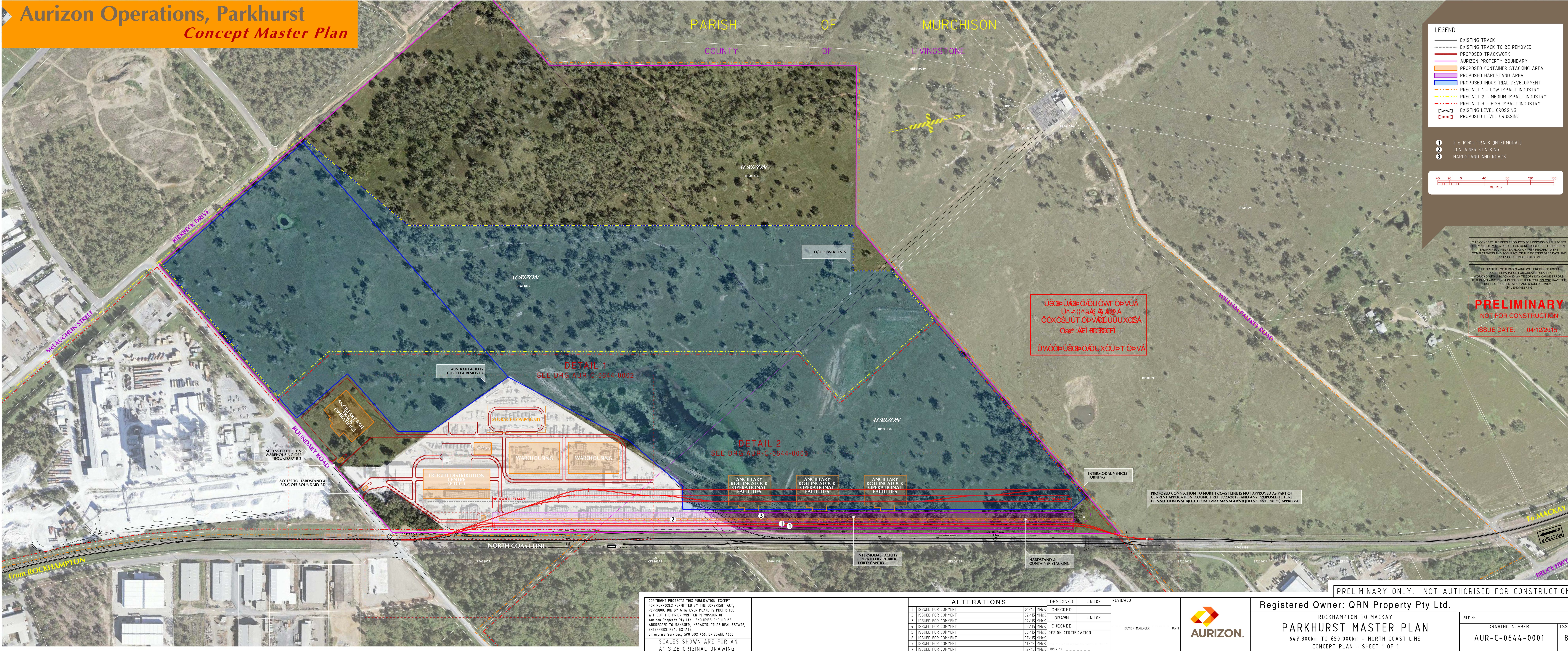
### **Attachment 3 - Amended plans and specifications**

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Aurizon Operations, Parkhurst  
Concept Master Plan



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SCALES SHOWN ARE FOR AN A1 SIZE ORIGINAL DRAWING

ALTERATIONS			DESIGNED	J.NILON	REVIEWED
1	ISSUED FOR COMMENT	01/15	MMCK	CHECKED	
2	ISSUED FOR COMMENT	02/15	MMCK	DRAWN	J.NILON
3	ISSUED FOR COMMENT	02/15	MMCK	CHECKED	
4	ISSUED FOR COMMENT	02/15	MMCK	CHECKED	
5	ISSUED FOR COMMENT	03/15	MMCK	DESIGN CERTIFICATION	
6	ISSUED FOR COMMENT	07/15	MMCK		
7	ISSUED FOR COMMENT	11/15	MMCK		
7	ISSUED FOR COMMENT	12/15	MMCK	SPEC No.	



Registered Owner: QRN Property Pty Ltd.

ROCKHAMPTON TO MACKAY  
**PARKHURST MASTER PLAN**  
647.300km TO 650.000km - NORTH COAST LINE  
CONCEPT PLAN - SHEET 1 OF 1

FILE No.	DRAWING NUMBER	ISSUE
	AUR-C-0644-0001	8



Our reference: SPD-0116-024320  
 Council reference: D/23-2015

## Attachment 4 - SPA Appeal Provisions

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### ***Sustainable Planning Act 2009—Representation and appeal provisions***

The following relevant appeal provisions are provided in accordance with s336(a) of the *Sustainable Planning Act 2009*.

<b>Chapter 6 Integrated development assessment system (IDAS)</b>
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#### **Part 8 Dealing with decision notices and approvals**

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##### **Division 1 Changing decision notices and approvals during applicant's appeal period**

##### **360 Application of div 1**

This division applies only during the applicant's appeal period.

##### **361 Applicant may make representations about decision**

- (1) The applicant may make written representations to the assessment manager about—
  - (a) a matter stated in the decision notice, other than a refusal or a matter about which a concurrence agency told the assessment manager under section 287(1) or (5); or
  - (b) the standard conditions applying to a deemed approval.
- (2) However, the applicant can not make representations under subsection (1)(a) about a condition attached to an approval under the direction of the Minister.

##### **362 Assessment manager to consider representations**

The assessment manager must consider any representations made to the assessment manager under section 361.

##### **363 Decision about representations**

- (1) If the assessment manager agrees with any of the representations about a decision notice or a deemed approval, the assessment manager must give a new decision notice (the ***negotiated decision notice***) to—
  - (a) the applicant; and
  - (b) each principal submitter; and
  - (c) each referral agency; and
  - (d) if the assessment manager is not the local government and the development is in a local government area—the local government.
- (2) Before the assessment manager agrees to a change under this section, the assessment manager must consider the matters the assessment manager was required to consider in assessing the application, to the extent the matters are relevant.
- (3) Only 1 negotiated decision notice may be given.
- (4) The negotiated decision notice—
  - (a) must be given within 5 business days after the day the assessment manager agrees with the representations; and
  - (b) must comply with section 335; and
  - (c) must state the nature of the changes; and
  - (d) replaces—
    - (i) the decision notice previously given; or
    - (ii) if a decision notice was not previously given and the negotiated decision notice relates to a deemed approval—the standard conditions applying to the deemed approval.
- (5) If the assessment manager does not agree with any of the representations, the assessment manager must, within 5 business days after the day the assessment manager decides not to

agree with any of the representations, give written notice to the applicant stating the decision about the representations.

### **364 Giving new notice about charges for infrastructure**

- (1) This section applies if the development approved by the negotiated decision notice is different from the development approved in the decision notice or deemed approval in a way that affects the amount of an infrastructure charge, regulated infrastructure charge or adopted infrastructure charge.
- (2) The local government may give the applicant a new infrastructure charges notice under section 633, regulated infrastructure charges notice under section 643 or adopted infrastructure charges notice under section 648F to replace the original notice.

### **366 Applicant may suspend applicant's appeal period**

- (1) If the applicant needs more time to make the representations, the applicant may, by written notice given to the assessment manager, suspend the applicant's appeal period.
- (2) The applicant may act under subsection (1) only once.
- (3) If the representations are not made within 20 business days after the day written notice was given to the assessment manager, the balance of the applicant's appeal period restarts.
- (4) If the representations are made within 20 business days after the day written notice was given to the assessment manager—
  - (a) if the applicant gives the assessment manager a notice withdrawing the notice under subsection (1)—the balance of the applicant's appeal period restarts the day after the assessment manager receives the notice of withdrawal; or
  - (b) if the assessment manager gives the applicant a notice under section 363(5)—the balance of the applicant's appeal period restarts the day after the applicant receives the notice; or
  - (c) if the assessment manager gives the applicant a negotiated decision notice—the applicant's appeal.

## **Chapter 7 Appeals, offences and enforcement**

### **Part 1 Planning and Environment Court**

#### **Division 8 Appeals to court relating to development applications and approvals**

##### **461 Appeals by applicants**

- (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 the development application;
  - (b) any condition of a development approval, another matter stated in a development approval and the identification or inclusion of a code under section 242;
  - (c) the decision to give a preliminary approval when a development permit was applied for;
  - (d) the length of a period mentioned in section 341;
  - (e) a deemed refusal of the development application.
- (2) An appeal under subsection (1)(a), (b), (c) or (d) must be started within 20 business days (the **applicant's appeal period**) after—
  - (a) if a decision notice or negotiated decision notice is given—the day the decision notice or negotiated decision notice is given to the applicant; or
  - (b) otherwise—the day a decision notice was required to be 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.

##### **462 Appeals by submitters—general**

- (1) A submitter for a development application may appeal to the court only against—
  - (a) the part of the approval relating to the assessment manager's decision about any part of the application requiring impact assessment under section 314; or
  - (b) the part of the approval relating to the assessment manager's decision under section 327.

- (2) To the extent an appeal may be made under subsection (1), the appeal may be against 1 or more of the following—
  - (a) the giving of a development approval;
  - (b) any provision of the approval including—
    - (i) a condition of, or lack of condition for, the approval; or
    - (ii) the length of a period mentioned in section 341 for the approval.
- (3) However, a submitter may not appeal if the submitter—
  - (a) withdraws the submission before the application is decided; or
  - (b) has given the assessment manager a notice under section 339(1)(b)(ii).
- (4) The appeal must be started within 20 business days (the **submitter's appeal period**) after the decision notice or negotiated decision notice is given to the submitter.

#### **463 Additional and extended appeal rights for submitters for particular development applications**

- (1) This section applies to a development application to which chapter 9, part 7 applies.
- (2) A submitter of a properly made submission for the application may appeal to the court about a referral agency's response made by a concurrence agency for the application.
- (3) However, the submitter may only appeal against a referral agency's response to the extent it relates to—
  - (a) development for an aquacultural ERA; or
  - (b) development that is—
    - (i) a material change of use of premises for aquaculture; or
    - (ii) operational work that is the removal, damage or destruction of a marine plant.
- (3) Despite section 462(1), the submitter may appeal against the following matters for the application even if the matters relate to code assessment—
  - (a) a decision about a matter mentioned in section 462(2) if it is a decision of the chief executive;
  - (b) a referral agency's response mentioned in subsection (2).

#### **464 Appeals by advice agency submitters**

- (1) Subsection (2) applies if an advice agency, in its response for an application, told the assessment manager to treat the response as a properly made submission.
- (2) The advice agency may, within the limits of its jurisdiction, appeal to the court about—
  - (a) any part of the approval relating to the assessment manager's decision about any part of the application requiring impact assessment under section 314; or
  - (b) any part of the approval relating to the assessment manager's decision under section 327.
- (3) The appeal must be started within 20 business days after the day the decision notice or negotiated decision notice is given to the advice agency as a submitter.
- (4) However, if the advice agency has given the assessment manager a notice under section 339(1)(b)(ii), the advice agency may not appeal the decision.

#### **465 Appeals about decisions relating to extensions for approvals**

- (1) For a development approval given for a development application, a person to whom a notice is given under section 389, other than a notice for a decision under section 386(2), may appeal to the court against the decision in the notice.
- (2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.
- (3) Also, a person who has made a request under section 383 may appeal to the court against a deemed refusal of the request.
- (4) An appeal under subsection (3) may be started at any time after the last day the decision on the matter should have been made.

#### **466 Appeals about decisions relating to permissible changes**

- (1) For a development approval given for a development application, the following persons may appeal to the court against a decision on a request to make a permissible change to the approval—
  - (a) if the responsible entity for making the change is the assessment manager for the application—
    - (i) the person who made the request; or

- (ii) an entity that gave a notice under section 373 or a pre-request response notice about the request;
  - (b) if the responsible entity for making the change is a concurrence agency for the application—the person who made the request.
- (2) The appeal must be started within 20 business days after the day the person is given notice of the decision on the request under section 376.
- (3) Also, a person who has made a request under section 369 may appeal to the court against a deemed refusal of the request.
- (4) An appeal under subsection (3) may be started at any time after the last day the decision on the matter should have been made.

#### **467 Appeals about changing or cancelling conditions imposed by assessment manager or concurrence agency**

- (1) A person to whom a notice under section 378(9)(b) giving a decision to change or cancel a condition of a development approval has been given may appeal to the court against the decision in the notice.
- (2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.

### **Division 11 Making and appeal to Court**

#### **481 How appeals to the court are started**

- (1) An appeal is started by lodging written notice of appeal with the registrar of the court.
- (2) The notice of appeal must state the grounds of the appeal.
- (3) The person starting the appeal must also comply with the rules of the court applying to the appeal.
- (4) However, the court may hear and decide an appeal even if the person has not complied with subsection (3).

#### **482 Notice of appeal to other parties—development applications and approvals**

- (1) An appellant under division 8 must give written notice of the appeal to—
  - (a) if the appellant is an applicant—
    - (i) the chief executive; and
    - (ii) the assessment manager; and
    - (iii) any concurrence agency; and
    - (iv) any principal submitter whose submission has not been withdrawn; and
    - (v) any advice agency treated as a submitter whose submission has not been withdrawn; or
  - (b) if the appellant is a submitter or an advice agency whose response to the development application is treated as a submission for an appeal—
    - (i) the chief executive; and
    - (ii) the assessment manager; and
    - (iii) any referral agency; and
    - (iv) the applicant; or
  - (c) if the appellant is a person to whom a notice mentioned in section 465(1) has been given—
    - (i) the chief executive; and
    - (ii) the assessment manager for the development application to which the notice relates; and
    - (iii) any entity that was a concurrence agency for the development application to which the notice relates; and
    - (iv) the person who made the request under section 383 to which the notice relates, if the person is not the appellant; or
  - (d) if the appellant is a person mentioned in section 466(1)—
    - (i) the chief executive; and
    - (ii) the responsible entity for making the change to which the appeal relates; and
    - (iii) the person who made the request to which the appeal relates under section 369, if the person is not the appellant; and

- (iv) if the responsible entity is the assessment manager—any entity that was a concurrence agency for the development application to which the notice of the decision on the request relates; or
  - (e) if the appellant is a person to whom a notice mentioned in section 467 has been given—the entity that gave the notice.
- (2) The notice must be given within—
  - (a) if the appellant is a submitter or advice agency whose response to the development application is treated as a submission for an appeal—2 business days after the appeal is started; or
  - (b) otherwise—10 business days after the appeal is started.
- (3) The notice must state—
  - (a) the grounds of the appeal; and
  - (b) if the person given the notice is not the respondent or a co-respondent under section 485—that the person may, within 10 business days after the notice is given, elect to become a co-respondent to the appeal by filing in the court a notice of election in the approved form.

#### **485 Respondent and co-respondents for appeals under div 8**

- (1) Subsections (2) to (8) apply for appeals under sections 461 to 464.
- (2) The assessment manager is the respondent for the appeal.
- (3) If the appeal is started by a submitter, the applicant is a co-respondent for the appeal.
- (4) Any submitter may elect to become a co-respondent for the appeal.
- (5) If the appeal is about a concurrence agency's response, the concurrence agency is a co-respondent for the appeal.
- (6) If the appeal is only about a concurrence agency's response, the assessment manager may apply to the court to withdraw from the appeal.
- (7) The respondent and any co-respondents for an appeal are entitled to be heard in the appeal as a party to the appeal.
- (8) A person to whom a notice of appeal is required to be given under section 482 and who is not the respondent or a co-respondent for the appeal may elect to be a co-respondent.
- (9) For an appeal under section 465—
  - (a) the assessment manager is the respondent; and
  - (b) if the appeal is started by a concurrence agency that gave the assessment manager a notice under section 385—the person asking for the extension the subject of the appeal is a co-respondent; and
  - (c) any other person given notice of the appeal may elect to become a co-respondent.
- (10) For an appeal under section 466—
  - (a) the responsible entity for making the change to which the appeal relates is the respondent; and
  - (b) if the responsible entity is the assessment manager—
    - (i) if the appeal is started by a person who gave a notice under section 373 or a pre-request response notice—the person who made the request for the change is a co-respondent; and
    - (ii) any other person given notice of the appeal may elect to become a co-respondent.
- (11) For an appeal under section 467, the respondent is the entity given notice of the appeal.

#### **488 How an entity may elect to be a co-respondent**

An entity that is entitled to elect to be a co-respondent to an appeal may do so, within 10 business days after notice of the appeal is given to the entity, by following the rules of court for the election.

#### **490 Lodging appeal stops particular actions**

- (1) If an appeal, other than an appeal under section 465, 466 or 467, is started under division 8, the development must not be started until the appeal is decided or withdrawn.
- (2) If an appeal is about a condition imposed on a compliance permit, the development must not be started until the appeal is decided or withdrawn.
- (3) Despite subsections (1) and (2), if the court is satisfied the outcome of the appeal would not be affected if the development or part of the development is started before the appeal is decided, the court may allow the development or part of the development to start before the appeal is decided.