

# Decision Notice

## Planning Act 2016

1<sup>st</sup> May, 2020

Burdekin Shire Council  
C/- Milford Planning  
PO Box 5463  
Townsville QLD 4810

Attention: Matteo Sandona

Dear Matteo,

I refer to your application and advise that Development Application No. RAL19/0034 was assessed and approved in full subject to conditions. The decision was made by the assessment manager and decided at a full ordinary meeting of council on the date below.

Details of decision are as follows:

### Application Details

<b>Application Number:</b>	RAL19/0034
<b>Street Address:</b>	31-87 Craig and 23-25 McCathie Street, Ayr QLD 4807
<b>Real Property Description:</b>	Lot 1 on RP733033, Lot 12 on SP123414 and Lot 16 on RP745329
<b>Planning Scheme</b>	Burdekin Shire IPA Planning Scheme 2011

### Decision Details

<b>Type of Decision:</b>	Approval with conditions
<b>Type of Approval:</b>	Preliminary Approval for Material Change of Use – Variation Request to facilitate the Ayr Industrial Estate Expansion  Development Permit for Reconfiguring a Lot (3 lots into 48 lots)
<b>Date of Decision:</b>	28 <sup>th</sup> April, 2020

### Currency Period of Approval

The currency period for this development approval is 6 years for the Preliminary Approval for Material Change of Use and 4 years for the Development Permit for Reconfiguring a Lot, respectively. This starts the day that this development approval takes effect. (Refer to section 85 “Lapsing of approval at end of currency period” of the *Planning Act 2016*.)

Please note that in terms of the Planning Act, the currency period can only be extended if the request is received before the approval lapses (see section 85 “Lapsing of approval at end of currency period”).

## Infrastructure

Where conditions relate to the provision of infrastructure, these are non-trunk infrastructure conditions unless specifically nominated as a “**necessary infrastructure condition**” for the provision of trunk infrastructure as defined under chapter 4 of the *Planning Act 2016*.

## Assessment Manager Conditions

### General

- 1.1 All rates and charges (including regulated infrastructure charges) in arrears in respect of the land the subject of the application are paid in full prior to the commencement of the proposed use or notation of the plan of subdivision, whichever comes first.

### Plan of Development

- 2.1 This preliminary approval and development permit apply only to the structure plan area shown on 'Schedule 1 – Structure Plan Area Ayr Industrial Estate Expansion Plan of Development', Plan Reference M1519–SK–01, Revision N/A, prepared by Milford Planning, dated 2 December 2019.
- 2.2 Development occurs in accordance with the 'Ayr Industrial Estate Expansion Plan of Development', Document Reference M1519, Revision 3, prepared by Milford Planning, dated 20 April 2020. This includes the following:
  - (a) Purpose and overall outcomes;
  - (b) Levels of assessment; and
  - (c) Ayr Industrial Estate Expansion Development Code.
- 2.3 The effect of the *Burdekin Shire IPA Planning Scheme 2011* is varied only to the extent included in the 'Ayr Industrial Estate Expansion Plan of Development', Document Reference M1519, Revision 3, prepared by Milford Planning, dated 20 April 2020.
- 2.4 The 'Ayr Industrial Estate Expansion Plan of Development', Document Reference M1519, Revision 3, prepared by Milford Planning, dated 20 April 2020 prevails to the extent of any inconsistency with the *Burdekin Shire IPA Planning Scheme 2011*.
- 2.5 The 'Ayr Industrial Estate Expansion Plan of Development', Document Reference M1519, Revision 3, prepared by Milford Planning, dated 20 April 2020 does not vary the effect of overlays or the category of assessment for building work and operational work in the *Burdekin Shire IPA Planning Scheme 2011*.
- 2.6 The balance of Lot 1 on RP733033 not within the 'Schedule 1 – Structure Plan Area Ayr Industrial Estate Expansion Plan of Development', Plan Reference M1519–SK–01, Revision N/A, prepared by Milford Planning, dated 2 December 2019, and adjacent to the Bruce Highway, is to be used as a drainage easement only.

### Approved Plans

- 3.1 The approved development must be carried out and maintained generally in accordance with the drawings/documents identified in the below table:



Document	Plan Ref, Rev.	Prepared by	Date
Schedule 1 – Structure Plan Area Ayr Industrial Estate Expansion Plan of Development	M1519–SK–01, Revision N/A	Milford Planning	02/12/2019
Ayr Industrial Estate Expansion Stage Development Detailed Layout Plan	M–1178–9, Revision A	Burdekin Shire Council	13/02/2020
Ayr Industrial Estate Expansion Stage Development Stage Blocks	M–1178–6, Revision A	Burdekin Shire Council	13/02/2020
Ayr Industrial Estate Expansion Stage Development Stage Road and Drainage Network	M–1178–7, Revision A	Burdekin Shire Council	13/02/2020
Ayr Industrial Estate Expansion Stage Development Stage Sewerage and Water Network	M–1178–8, Revision A	Burdekin Shire Council	13/02/2020
Ayr Industrial Estate Expansion Plan of Development	M1519, Revision 3	Milford Planning	20/04/2020
Ayr Industrial Estate Planning Stormwater Management Plan (as amended in red)	4220949, Revision A	GHD	01/08/2019
Ayr Industrial Estate Traffic Impact Assessment	4220434, Revision 0	GHD	01/05/2018
Stage 1A Traffic Impact Assessment Memorandum	4220434-MEM Revision B	GHD	06/02/2019
Ayr Industrial Estate Stage 1A Access Intersection Capacity Sensitivity Analysis Memorandum	4220434-MEM-B	GHD	22/11/2019

Except where modified by the conditions of approval and any approval issued thereunder; and

- (a) Any approval issued under this approval; and
- (b) Any development permit for operational works relating to the reconfiguring of a lot.

- 3.2 Where a discrepancy or conflict exists between the written condition(s) of the approval and the approved plans, the requirements of the written condition(s) will prevail.
- 3.3 The proposed development must comply with all planning scheme requirements as applying at the date of this approval, except as otherwise specified by any condition.
- 3.4 The proposed development and all associated infrastructure is delivered to each lot generally in accordance with the three (3) stages identified on the 'Ayr Industrial Estate Expansion Stage Development Stage Blocks', Plan Reference M–1178–6, Revision A, prepared by Burdekin Shire Council, dated 13 February 2020.



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**Infrastructure – General**

- 4.1 Any damage which is caused to council's infrastructure as a result of the proposed development must be repaired immediately.
- 4.2 The developer must, at its own cost, undertake all necessary alterations to public utility mains and services as are rendered necessary by carrying out any required external works or other works associated with the approved development.
- 4.3 The location of services (e.g. water, stormwater, sewerage, waste, drainage, electricity, telecommunications) must minimise the risk of adverse environmental or amenity impacts within or external to the site.

**Stormwater**

- 5.1 A lawful point of stormwater discharge is achieved to the drainage easement locations identified on 'Ayr Industrial Estate Expansion Stage Development Stage Road and Drainage Network', Plan Reference M-1178-7, Revision A, prepared by Burdekin Shire Council, dated 13 February 2020.
- 5.2 All lots are to achieve a 0.25% minimum site grade in accordance with the 'Ayr Industrial Estate Planning Stormwater Management Plan' (as amended in red), Document Reference 4220949, Revision A, prepared by GHD, dated 1 August 2019.
- 5.3 The minor drainage shall consist of an underground system capable of conveying 50% AEP flows from the development and any external catchments currently flowing onto the land being developed in accordance with the 'Ayr Industrial Estate Planning Stormwater Management Plan' (as amended in red), Document Reference 4220949, Revision A, prepared by GHD, dated 1 August 2019.
- 5.4 The major drainage system shall consist of overland flow paths or suitably sized underground drainage capable of discharging 1% AEP flows from the development under normal circumstances and any external catchments currently flowing onto the land being developed in accordance with the 'Ayr Industrial Estate Planning Stormwater Management Plan' (as amended in red), Document Reference 4220949, Revision A, prepared by GHD, dated 1 August 2019.
- 5.5 The proposed drainage shall ensure that there is no worsening to upstream and downstream catchments.
- 5.6 The approved development and use(s) must not interfere with the natural flow of stormwater in the locality or cause ponding or concentration of stormwater on adjoining land or roads.
- 5.7 All stormwater calculations and detailed design shall be certified by a Registered Professional Engineer of Queensland and included as part of the operational works application.
- 5.8 Any pipe and surface grading during construction is undertaken under the direct supervision of a Registered Professional Engineer of Queensland to ensure construction grade control and minimise the potential for ponding in accordance with the 'Ayr Industrial Estate Planning Stormwater Management Plan', Document Reference 4220949, Revision A, prepared by GHD, dated 1 August 2019.
- 5.9 Drainage reserves and easements shall be provided as required by the stormwater design. The developer must, at its own cost, grant and register all such easements on the title document.
- 5.10 On-going maintenance associated with existing open stormwater drains and any proposed changes to these drains as a result of this application, shall be the responsibility of the developer for a period of twelve (12) months or up until the developer achieves off-maintenance.
- 5.11 Any future activities involving water-borne pollutants include bunds to all sealed impervious surfaces with receptors for spills and are linked to an on-site drainage treatment system.



- 5.12 Any external catchments discharging to the premises must be accepted and accommodated within the development's stormwater drainage system.
- 5.13 Stormwater networks are to be designed in accordance with the current standards of the Queensland Urban Drainage Manual (QUDM) and Australian Rainfall and Runoff (AR&R).

#### **Drainage Easements**

- 6.1 Stormwater drains, where required, are to be constructed in accordance with the following design specifications:
  - (a) Open drains incorporated in the minor drainage system shall be located within drainage easements; and
  - (b) No drain invert is to be constructed lower than the existing standing water level.
- 6.2 Overland flow paths designed as part of the major drainage system shall be constructed within drainage easements to be dedicated to council.
- 6.3 Piped drains traversing allotments shall be located within drainage easements.
- 6.4 Construct drainage to be fully contained within drainage easements.
- 6.5 Temporary drainage constructed during the staging of the project shall be within easements. These easements may be relinquished at the completion of any future stages in the development which renders the easement unnecessary for the transportation of stormwater.
- 6.6 Solid, continual length fencing is not provided along the rear boundary of lots 1-11. These lots retain a relationship to open space within Lot 16 on RP745329.

#### **Lot and Road Levels**

- 7.1 All new lots are to have finished levels above the 1% AEP flood level in accordance with the 'Ayr Industrial Estate Planning Stormwater Management Plan' (as amended in red), Document Reference 4220949, Revision A, prepared by GHD, dated 1 August 2019.
- 7.2 The new access road over Lot 16 on RP7453229, Road E, has a finished level above the 2% AEP flood level in accordance with relevant council standards.

#### **Erosion and Sediment Control**

- 8.1 The development documents and implements erosion and sedimentation controls in a Construction Management Plan. These controls:
  - (a) Avoid extensive earthworks on slopes greater than 15% (1:5);
  - (b) Minimise disturbance on slopes greater than 10% (1:10);
  - (c) Maintain natural flow paths for surface drainage;
  - (d) Incorporate sediment traps to prevent the movement of sediment off-site;
  - (e) Avoid long-term stockpiling of soil; and
  - (f) Identify the progressive rehabilitation of disturbed areas.
- 8.2 The stormwater and water management systems include erosion and sediment control measures to maintain or improve the environmental values of surface and ground water during and after construction.
- 8.3 There must be no release of soil, sand, mud or other sediments and contaminants to roads during construction or future use of the site to which this approval relates. All material transported to and from the site must be covered to prevent dust and spillage.

## Access and Roadworks

- 9.1 The applicant is to dedicate the road reserve area identified along the Bruce Highway frontage in 'Ayr Industrial Estate Expansion Stage Development Detailed Layout Plan', Plan Reference M-1178-9, Revision A, prepared by Burdekin Shire Council, dated 13 February 2020, to the Department of Transport and Main Roads.
- 9.2 Access to the Ayr Industrial Estate Expansion is provided via a new road extension from McCathie Street. An unsignalised intersection is provided where Road E meets McCathie Street.
- 9.3 The developer must construct sealed roads along all road frontages to each property in accordance with the following and the 'Ayr Industrial Estate Traffic Impact Assessment', Document Reference 4220434, Revision 0, prepared by GHD, dated 1 May 2018:
  - (a) The proposed roads shall be 14m wide kerb-to-kerb;
  - (b) Provide stand-up kerbing and channelling on both sides of the road with a distance of 14m between the kerbs and a minimum 4m wide footpaths on each side;
  - (c) Provide gravel pavement for the full width between kerbing and channelling and 40mm minimum thickness asphaltic concrete surface;
  - (d) Pavement markings and signage shall be provided in accordance with the Department of Transport and Main Roads' Manual of Uniform Traffic Control Devices; and
  - (e) Achieve a 2% minimum crossfall.
- 9.4 Gravel pavements shall be designed in accordance with the Queensland Transport Pavement Design Manual and relevant Department of Transport and Main Roads' standard specifications.
- 9.5 An application for street names must be submitted to and approved by council prior to the approval of Operational Works. Approved street names must be shown on all engineering drawings submitted with the operational works application.
- 9.6 Street nameplates must be erected at each intersection indicating the name of each street and the street numbers. The signs shall be in accordance with council standard street nameplates and be erected in accordance with the Department of Transport and Main Roads' Manual of Uniform Traffic Control Devices.
- 9.7 Corner truncations are provided at the following intersections shown on the 'Ayr Industrial Estate Expansion Stage Development Detailed Layout Plan', Plan Reference M-1178-9, Revision A, prepared by Burdekin Shire Council, dated 13 February 2020:
  - (a) Road A and Road B;
  - (b) Road B and Road C;
  - (c) Road C and Road D;
  - (d) Road D and Road A;
  - (e) Road A and Road E; and
  - (f) Road E and McCathie Street (at the corner with Lot 12 on SP123414 and Lot 73 on SP102302).
- 9.8 Corner truncations are a minimum 5.5m x 3 equal chords, except at the corner of Road E and Lot 12 on SP123414 and Road E and Lot 73 on SP102302, which are single chords in accordance with relevant council standards.
- 9.9 Corner truncations are kept clear of development and other obstructions such as fences, drainage and landscaping.
- 9.10 The existing perimeter fence around the sewage pump station on Lot 73 on SP102302 maintains access between the pump station and Road E for pedestrians.
- 9.11 Provide a bitumen turnaround at the end of Road B and Road C when stages 1A and 1B are delivered. The turnaround shall have a minimum radius of 15m and be contained within the road reserve or easements. The dedicated road reserve or easement shall extend to a point 5m



beyond the end of the turnaround. The construction of the turnaround is to be in accordance with council design guidelines.

- 9.12 All road reserves ensure minimum sight distances and turning radii meet safety standards.
- 9.13 Any road signs are installed in accordance with the Department of Transport and Main Roads' Design Guide for Roadside Signs and SD1452.
- 9.14 The road network is designed and constructed in accordance with the Austroads' *Guide to Traffic Engineering Practice Manuals*, *Guide to Traffic Management* and *Guide to Road Design* standards and the current edition of the Department of Transport and Main Roads' *Road Planning and Design Manual*.
- 9.15 Development achieves no net worsening to the Bruce Highway/Bird Street/Jones Street intersection in accordance with the 'Stage 1A Traffic Impact Assessment Memorandum', Document Reference 42204340-MEM, Revision B, prepared by GHD, dated 6 February 2019.

### **Operational Works**

- 10.1 Where operational works are required to be carried out, the developer must, within the timeframe required by the *Planning Act 2016* and prior to the commencement of any work, lodge with council an application for a development permit for operational works. As part of such an application, the developer must submit:
  - (a) Detailed and complete engineering drawings and specifications of the proposed works prepared by a civil engineer, who is both registered under the *Professional Engineer's Act 2002* and is a current Registered Professional Engineer of Queensland (RPEQ); and
  - (b) Certificate from the engineer who prepared the drawings stating that the design and specifications have been prepared in accordance with these conditions, relevant council codes and planning scheme policies and the relevant Australian Standard codes of practice.
- 10.2 No work commences prior to issue of a development permit for operational works.
- 10.3 Review background traffic trends and the operation of the Bruce Highway/Bird Street/Jones Street intersection and sections of the Bruce Highway south of Bird Street and south of Ayr prior to the commencement of future stages of development in accordance with the 'Ayr Industrial Estate Traffic Impact Assessment', Document Reference 4220434, Revision 0, prepared by GHD, dated 1 May 2018.

### **Street and Other Lighting**

- 11.1 Provide street lighting along all new streets in accordance with AS 1158.3.11 – Road Lighting (Lighting Category P4). The consent of council's Chief Executive Officer will need to be gained before the final designs are adopted.
- 11.2 Street lighting is serviced by underground electricity service mains.

### **Sewerage Supply Works – Internal**

- 12.1 The development must be serviced by council's reticulated sewerage system. The developer shall bear the costs associated with such connections including any alterations or upgrades to council's existing infrastructure to accommodate the proposed development. In particular:
  - (a) Each lot must be provided with a single property service to be connected directly and separately to council's sewer prior to signing the survey plan.
- 12.2 Sewerage supply networks are to be designed in accordance with the current Water Services Association of Australia (WSAA) standards.

## Water Supply Works – Internal

- 13.1 The development must be connected to council's reticulated water supply. The water connection must be provided at a location approved by council and at the full cost of the developer. Each of the proposed lots shall have separate water services:
- (a) A water network analysis, prepared by an appropriately qualified and experienced Registered Professional Engineer of Queensland (RPEQ), must be provided to council for approval as part of the development permit for operational works; and
  - (b) The water network analysis must demonstrate that for the entire development, a minimum pressure of 22m is available at the most disadvantaged allotment frontage/meter location upon completion of the stage, and detail stages at which trunk components of the network should be implemented.
- 13.2 Water supply networks are to be designed in accordance with the current Department of Natural Resources, Mines and Energy Planning Guidelines for Water Supply and Sewerage and relevant Water Services Association of Australia (WSAA) standards.

## Electricity and Telecommunications Supply

- 14.1 The developer must, prior to the release of the plan of survey, submit a letter from Ergon Energy (or other suitable entity) stating that satisfactory arrangements have been made with it for the provision of an underground electricity supply to the expansion area and must provide at the developer's cost:
- (a) A reticulated electricity supply to each lot in accordance with the requirements of the electricity service provider.
- 14.2 The developer must install electrical and telecommunications infrastructure to the satisfaction of the electricity and telecommunications service provider/s prior to the approval of the plan of survey.

## Compaction Standards

- 15.1 Where fill is incorporated on allotments, details of compaction standards obtained are to be provided to council. Such standards are to comply with the minimum standard for building construction.

## As-Constructed Plans

- 16.1 Prior to the release of the plan of survey, the developer shall provide council with a complete set of as-constructed plans for all works and an electronic copy which is to be compatible with council's system at the relevant time. Such plans are to be certified by a Registered Professional Engineer of Queensland.

## Referral Agencies

The referral agencies applicable to this application are:

Referral Status	Referral Agency and Address	Referral Trigger	Response
Concurrence	Department of State Development, Manufacturing, Infrastructure and Planning  NQ SARA PO Box 1732 Townsville QLD 4810	Schedule 10, Part 9, Division 4, Subdivision 1, Table 1, Item 1 – Infrastructure – State transport infrastructure generally  Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item	The agency provided its response on 24 <sup>th</sup> December, 2019 (Reference



	Email: <a href="mailto:Townsville.NQRO@dsmip.qld.gov.au">Townsville.NQRO@dsmip.qld.gov.au</a>	1 – Reconfiguring a lot near a State transport corridor  Schedule 10, Part 9, Division 4, Subdivision 2, Table 3, Item 1 – Reconfiguring a lot near a State controlled road intersection  Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 – Material change of use near a State transport corridor	No. 1912-14512 SRA).  A copy of the response is attached.
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## Approved Plans

The following plans are approved plans for the development, as stated in condition 3.1:

### Approved Plans

Plan No.	Rev.	Plan Name	Date
M1519-SK-01	N/A	<i>Schedule 1 – Structure Plan Area Ayr Industrial Estate Expansion Plan of Development</i> , prepared by Milford Planning	02/12/2019
M-1178-9	Revision A	<i>Ayr Industrial Estate Expansion Stage Development Detailed Layout Plan</i> , prepared by Burdekin Shire Council	13/02/2020
M-1178-6	Revision A	<i>Ayr Industrial Estate Expansion Stage Development Stage Blocks</i> , prepared by Burdekin Shire Council	13/02/2020
M-1178-7	Revision A	<i>Ayr Industrial Estate Expansion Stage Development Stage Road and Drainage Network</i> , prepared by Burdekin Shire Council	13/02/2020
M-1178-8	Revision A	<i>Ayr Industrial Estate Expansion Stage Development Stage Sewerage and Water Network</i> , prepared by Burdekin Shire Council	13/02/2020
M1519	Revision 3	<i>Ayr Industrial Estate Expansion Plan of Development</i> , prepared by Milford Planning	20/04/2020
4220949	Revision A	<i>Ayr Industrial Estate Planning Stormwater Management Plan</i> (as amended in red), prepared by GHD	01/08/2019
4220434	Revision 0	<i>Ayr Industrial Estate Traffic Impact Assessment</i> , prepared by GHD	01/05/2018
4220434-MEM	Revision B	<i>Stage 1A Traffic Impact Assessment Memorandum</i> , prepared by GHD	06/02/2019
4220434-MEM-B	Revision B	<i>Ayr Industrial Estate Stage 1A Access Intersection Capacity Sensitivity Analysis Memorandum</i> , prepared by GHD	22/11/2019

## Referenced Documents

The documents identified above are referenced in the assessment manager conditions.

## Advisory Notes

The following notes are included for guidance and information purposes only and do not form part of the assessment manager conditions:

**ADVICE (Note: These are not conditions)**



- **Concurrence Agency Conditions**  
*The Department of State Development, Manufacturing, Infrastructure and Planning (NQ SARA) as a concurrence agency has imposed the conditions contained in the correspondence dated 24 December 2019.*
- **Earthworks**  
*If the development of the subject property requires soil to be imported or exported, the developer must identify the allotments which would be used for borrowing or filling and must obtain council approval for such works in addition to engineering approval for the development, including consideration of acid sulfate soil and preventing its release. The developer must also obtain council approval for the route of transport and the period and time of transport during the construction phase of the development.*
- **Environmental Considerations**  
**E.P.A. Requirements**  
*Construction must comply with the Environmental Protection Act, Policies and Guidelines, as amended from time-to-time, to prevent or minimise environmental harm and nuisance.*

### Property Notes

Not Applicable.

### Variation Approval

A Preliminary Approval for a Variation Request under the *Planning Act 2016* has been granted. The level of assessment and applicable codes for any development approval resulting from this preliminary approval are identified in the approved document, *Ayr Industrial Estate Expansion Plan of Development*, Document Reference M1519, Revision 3, prepared by Milford Planning, dated 20 April 2020.

### Further Development Permits Required

- Development Permit for Operational Work (for all subsequent infrastructure and site works)

### Submissions

There was one (1) properly made submission about the application. In accordance with the *Planning Act 2016*, the name, residential or business address, and electronic address of the principal submitter for each properly made submission is provided and attached.

Ms. Olive Breadsell  
PO Box 1322  
Ayr QLD 4807  
Email: [olivebreadsell@bigpond.com](mailto:olivebreadsell@bigpond.com)

### Rights of Appeal

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

During the appeal period, you, as the applicant, may suspend your appeal period and make written representations to council about the conditions contained within the development approval. If council agrees (or agrees in part) with the representations, a "negotiated decision notice" will be issued. Only one "negotiated decision notice" may be given. Taking this step will defer your appeal period, which will commence again from the start the day after you receive a "negotiated decision notice".



**Assessment Manager  
Signature:**

  
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Date:

Enc: Referral Agency Response  
Approved Plans/Documents  
Appeal Rights  
Statement of Reasons  
cc NQ SARA

# Appeal Rights

*Planning Act 2016 & The Planning Regulation 2017*

## Chapter 6 Dispute resolution

### Part 1 Appeal rights

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

- (1) Schedule 1 of the *Planning Act 2016* 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.

(Refer to Schedule 1 of the Planning Act 2016)

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

*Note –*

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

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt. It is declared that an appeal against an infrastructure charges notice must not be about-
  - (a) the adopted charge itself; or
  - (b) for a decision about an offset or refund-
    - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
    - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

#### 230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that-
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to –
  - (a) the respondent for the appeal; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, table 1, item 1 – each principal submitter for the development application; and
  - (d) for an appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
  - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
  - (f) for an appeal to the P&E Court – the chief executive; and



- (g) for an appeal to a tribunal under another Act – any other person who the registrar considers appropriate.  
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 has started;  
or
  - (b) otherwise – 10 business days after the appeal is started.
- (4) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (5) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

#### 231 Non-appealable decisions and matters

- (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 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.

#### 232 Rules of the P&E Court

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

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## Statement of Reasons

*Planning Act 2016 & The Planning Regulation 2017*

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This notice is prepared in accordance with s63(5) and s83(7) of the *Planning Act 2016* to inform the public about a decision that has been made in relation to a development application. The purpose of the notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:

- the relevant parts of the planning scheme and assessment benchmarks against which the application was assessed; and
- any other information, documents or other material council was either required to, or able to, consider in its assessment.

All terms used in this notice have the meanings given them in the *Planning Act 2016*.

### Assessment Benchmarks

The following assessment benchmarks applied to the proposed development:

- Strategic Framework and Desired Environmental Outcomes
- Village zone code
- Reconfiguring a lot code

### REASONS FOR THE DECISION

Following an assessment of the development application against the assessment benchmarks above, it was determined the proposed development be approved for the following reasons:

- Compliance is achieved with the higher-order provisions of the current planning scheme, including the strategic framework and desired environmental outcomes, as well as the Reconfiguring a lot code.
- The plan of development reflects the categories of assessment and assessment benchmarks for the Industry zone under the draft *Burdekin Shire Council Planning Scheme*. This reflects current industry land requirements for the shire.
- Development is a logical expansion of the adjoining Ayr Industrial Estate in a location that avoids the state wetland area to the north.
- Council has undertaken a strategic industrial land analysis that identified the existing estate is approaching capacity. Limited vacant land is available and development approvals in place will absorb residual supply over time.
- Industrial land assessment informing the new *North Queensland Regional Plan 2020* has identified a need for significantly more industrial land by 2026 that is suitably located and sized and connected to infrastructure and resources. The development provides a 'strategic reserve' of industrial land to respond to existing and emerging industry investment.
- The locational attributes of the subject site are optimal for future industrial development and are not achieved elsewhere. It has good access to road and rail; is close to existing industry, serviced by infrastructure, separated from sensitive land uses and readily developable; and avoids natural hazard and environmental areas.
- Development does not prejudice the use of existing Industry zone land, which is adaptable and can be replaced by industrial uses over time as demand arises.
- Traffic and stormwater assessments have demonstrated that the development will not adversely impact on the state-controlled road intersection or the drainage system. The application has been conditioned accordingly to ensure compliance.



## MATTERS RAISED IN SUBMISSIONS

Issue	How matter was dealt with
<p><b>Level of conflict</b> <i>The proposed development conflicts with the planning scheme. Conflict has been identified with the following parts of the scheme:</i></p> <ul style="list-style-type: none"> <li>• Purpose of IPA, being the purpose of the scheme</li> <li>• Strategic framework and its focus on sustainable growth</li> <li>• Desired Environmental Outcomes: <ul style="list-style-type: none"> <li>- 3(a) regarding a sustainable economic base</li> <li>- 3(a)(vi) regarding industrial areas being free from encroaching incompatible land uses</li> <li>- 3(a)(vii) regarding expansion of industry into industry investigation areas</li> </ul> </li> </ul>	<p><b>Response</b> The development proposal is consistent with the purpose of the (now superseded) <i>Integrated Planning Act 1997</i>.</p> <p>The proposed development has been assessed against the strategic framework and desired environmental outcomes of the current planning scheme. Compliance with these higher-order provisions, as raised in the submission, has been achieved because:</p> <ul style="list-style-type: none"> <li>• Efficient use is made of land serviced by urban infrastructure.</li> <li>• Development avoids water resources, including the state wetland area to the north.</li> <li>• No environmental effects are created by the development in terms of adverse stormwater, flooding or traffic impacts.</li> <li>• It is a logical expansion of the existing industrial estate to support future industrial development in addition to existing industrial land supply in the region.</li> <li>• Development diversifies industrial enterprise opportunities and economic activity in the shire.</li> <li>• Land has suitable locational characteristics, being close to road and rail, within the urban centre of Ayr and separated from sensitive land uses.</li> <li>• The site is unconstrained by natural hazards (e.g. flooding) and is not classified as Good Quality Agricultural Land).</li> </ul>
<p><b>Sufficient grounds</b> <i>The applicant has not established sufficient grounds to approve the development application despite the conflicts.</i></p>	<p><b>Response</b> The proposal has some conflicts with the Village zone code under the current planning scheme. However, there are relevant grounds to overcome these conflicts, which include the following:</p> <ul style="list-style-type: none"> <li>• A strategic analysis of industrial land across the shire has demonstrated the need for appropriately located and sized land for industrial uses. It also requires a 'strategic reserve' of land for major investment opportunities and large users of industrial land.</li> <li>• Expansion of the estate in the manner intended by the Ayr Industrial Estate Masterplan is constrained by a state wetland area to the north.</li> <li>• Development approvals in place in the existing estate will be taken up over time and a longer-term supply is required.</li> <li>• Limited suitable industrial zone land supply is available elsewhere due to lot size, infrastructure availability, earthworks required, flooding and other constraints, and existing development approvals already in place on industry zone land.</li> </ul>
<p><b>Purpose of the Act</b> <i>The proposed development is contrary to the purpose of the Planning Act 2016.</i></p>	<p><b>Response</b> The development proposal is consistent with the purpose of the <i>Planning Act 2016</i>.</p>



<p>A statutory planning scheme amendment process would more appropriately achieve the purpose of the Act because it is subject to a state interest review process and applies a more rigorous assessment in the public interest.</p>	<p>A variation request is a relevant mechanism available to applicants under section 61 of the Act. These applications are subject to a level of rigour reasonably expected of applications under impact assessment.</p> <p>The variation request is consistent with assessment benchmarks in the draft planning scheme, which is currently undergoing a formal statutory plan-making process in accordance with section 18 of the Act. This will soon be subject to public consultation.</p>
<p><b>Need</b> <i>The applicant has not established an overriding need for the development in the public interest despite the conflicts.</i></p> <p>No information about economic need or land use supply and demand has been provided. The application lacks evidence to explain why existing supply is unsuitable and that this is the best option in the public interest.</p>	<p><b>Response</b> An industrial land study was prepared to inform the draft planning scheme and reflect the most up-to-date circumstances regarding regional industrial land supply. This study provides robust evidence to demonstrate need for additional industrial land as the existing Ayr Industrial Estate approaches capacity (currently 75% take up) and to ensure longer-term supply.</p> <p>The <i>North Queensland Regional Plan 2020</i> reports that the supply of well-located and suitably sized industrial land in the region is limited in the region. Industrial land assessments relied on in the regional plan nominate an additional 1,200ha of industrial land is required across the region by 2026.</p> <p>Suitable locations for industry are those that are serviced by energy and water, close to infrastructure corridors and benefit from intermodal links to key destinations. The subject site is an appropriate location in this respect.</p>
<p><b>Location</b> <i>The development is not located in an area planned for industrial land uses and will result in out of sequence development and unplanned/unmanaged infrastructure upgrades.</i></p> <p>The development is in “proximity to infrastructure that comes with the Village/Residential zoning...outcompeting industrial landowners with existing active subdivision approvals and undermining landowners...”</p>	<p><b>Response</b> The subject site demonstrates the following characteristics suitable for future industrial development:</p> <ul style="list-style-type: none"> <li>• It represents a logical expansion of the current Ayr Industrial Estate.</li> <li>• It is close to major, intermodal transport routes (Bruce Highway and North Coast Rail Line).</li> <li>• It is serviced by infrastructure networks.</li> <li>• The site is level and easily developable.</li> <li>• The site is well separated from adjacent sensitive land uses by vacant land.</li> <li>• Development avoids natural hazards and environmental areas.</li> </ul> <p>The proposal will not prejudice the development of other suitably located, sized and serviced industrial land in the shire and existing approval rights over such land will not change. As these development approvals are taken up over time, additional supply of industrial land will be needed in the long-term.</p>
<p><b>Supply</b> <i>There is ample land already available to accommodate the demand for industrial land uses in Ayr and in the immediate locality of the subject site.</i></p>	<p><b>Response</b> Council’s analysis of industrial land use and lot size across the shire revealed that the existing Ayr Industrial Estate is approaching capacity. The industrial land study and draft planning scheme is required to ensure an available long-term supply or ‘reserve’ of industrial land, using an accepted benchmark of 50 years. With</p>



<p><i>The creation of additional industrial land supply will result in adverse impacts on other industrial landowners.</i></p>	<p>the inclusion of the subject site, this is currently available in Burdekin under a range of demand forecast scenarios.</p> <p>The industrial land study found that existing industrial zone land can easily convert and respond quickly to industrial uses over time as demand arises. Therefore, the development will not adversely impact existing industrial landowners whose land is appropriately located and serviced and meets development requirements.</p>
<p><b>Community expectations</b> <i>The proposed variation to the planning scheme is contrary to community expectation for land use and development on the subject premises and in the Village zone.</i></p>	<p><b>Response</b> The development is a logical expansion of the existing Ayr Industrial Estate to the immediate south-east. Through the variation request process, an extended statutory timeframe is provided for the community to comment on the proposed development and make submissions.</p> <p>The current planning scheme is outdated, and industrial land circumstances have changed since its adoption. A draft planning scheme is currently being progressed under the <i>Planning Act 2016</i> to reflect the shire's strategic industrial land requirements over the next 25 years as well as community expectations.</p> <p>The Village zone designation for this site does not reflect current circumstances in that it is provided with all essential services, convenience functions and infrastructure within 1km of the urban centre of Ayr and is not required to service surrounding rural land (as is the purpose of the Village zone).</p>
<p><b>Further considerations</b> <i>There are multiple options available to a local government to incentivise landowners to contribute to the supply of industrial land from within existing zoned land stocks.</i> For example:</p> <ul style="list-style-type: none"> <li>• Purchase existing zoned land</li> <li>• Joint venture arrangements</li> <li>• Convert investigation sub-areas</li> <li>• Offset infrastructure charges or development costs</li> <li>• Fast-track development approvals</li> </ul>	<p><b>Response</b> These options are acknowledged; however, are not relevant planning issues that can be considered in the assessment process. They are strategic policy 'levers' and site acquisition and delivery models that may be pursued outside the development assessment process. The development will not preclude existing approvals from being carried out, or new development occurring on industry zone land, which has suitable characteristics.</p>



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

SARA reference: 1912-14512 SRA  
 Council reference: RAL19/0034  
 Applicant reference: M1519

24 December 2019

Chief Executive Officer  
 Burdekin Shire Council  
 PO Box 974  
 AYR Qld 4807  
[enquiries@burdekin.qld.gov.au](mailto:enquiries@burdekin.qld.gov.au)

Attention: Shane Great

Dear Shane

## **SARA response—Ayr Industrial Estate Expansion at 23-25 Mccathie Street and 31-87 Craig Street, Ayr**

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the Department of State Development, Manufacturing, Infrastructure and Planning on 5 December 2019.

### **Response**

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Outcome:	Referral agency response – with conditions.
Date of response:	24 December 2019
Conditions:	The conditions in <b>Attachment 1</b> must be attached to any development approval.
Reasons:	The reasons for the referral agency response are in <b>Attachment 2</b> .

### **Development details**

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Description:	Development permit	Reconfiguring a lot (3 Lots into 48 Lots)
	Preliminary approval	Material change of use (Variation Request to facilitate Ayr Industrial Estate Expansion)
SARA role:	Referral Agency.	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 1, Table 1, Item 1-	



(Planning Regulation 2017) - Infrastructure – State transport infrastructure generally

Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1- (Planning Regulation 2017) – Reconfiguring a lot near a State transport corridor

Schedule 10, Part 9, Division 4, Subdivision 2, Table 3, Item 1- (Planning Regulation 2017) – Reconfiguring a lot near a State controlled road intersection.

Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1- (Planning Regulation 2017) – Material change of use near a State transport corridor

SARA reference: 1912-14512 SRA  
Assessment Manager: Burdekin Shire Council  
Street address: 23-25 Mccathie Street and 31-87 Craig Street, Ayr  
Real property description: Lot 12 on SP123414, Lot 16 on RP745329 and Lot 1 on RP733033  
Applicant name: Burdekin Shire Council  
Applicant contact details: PO Box 5463  
TOWNSVILLE CITY QLD 4810  
[info@milfordplanning.com.au](mailto:info@milfordplanning.com.au)

## Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules) Copies of the relevant provisions are in **Attachment 3**.

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

For further information please contact John Irving, Principal Planning Officer, on 47583421 or via email [NQSARA@dsdmip.qld.gov.au](mailto:NQSARA@dsdmip.qld.gov.au) who will be pleased to assist.

Yours sincerely



Graeme Kenna  
Manager (Planning)

cc Burdekin Shire Council, [info@milfordplanning.com.au](mailto:info@milfordplanning.com.au)  
enc Attachment 1 - Referral agency conditions  
Attachment 2 - Reasons for referral agency response  
Attachment 3 - Representations provisions

## Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application)

No.	Conditions	Condition timing
<b>Development Permit—Reconfiguring a lot</b>		
10.9.4.1.1.1—State transport infrastructure generally, 10.9.4.2.1.1—Reconfiguring a lot near a State transport corridor and 10.9.4.2.3.1—Reconfiguring a lot near a State-controlled road intersection—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport & Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	Direct access is not permitted between the Bruce Highway and the subject site.	At all times.
2.	<p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.</p> <p>(b) Any works on the land must not:</p> <ul style="list-style-type: none"> <li>(i) create any new discharge points for stormwater runoff onto the state-controlled road corridor;</li> <li>(ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road corridor;</li> <li>(iii) surcharge any existing culvert or drain on the state-controlled road corridor;</li> <li>(iv) reduce the quality of stormwater discharge onto the state-controlled road.</li> </ul> <p>(c) Register Professional Engineer of Queensland certification with supporting documentation must be provided to <a href="mailto:North.Queensland.IDAS@tmr.qld.gov.au">North.Queensland.IDAS@tmr.qld.gov.au</a> within the Department of Transport and Main Roads, confirming that the development has been designed and constructed in accordance with parts (a) and (b) of this condition.</p>	<p>(a) and (b) At all times.</p> <p>(c) Prior to submitting the Plan of Survey to the local government for approval.</p>
<b>Preliminary Approval—Material change of use</b>		
10.9.4.1.1.1—State transport infrastructure generally and 10.9.4.2.4.1—Material change of use near a State transport corridor—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport & Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	Direct access is not permitted between the Bruce Highway and the subject site.	At all times.
2.	<p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.</p> <p>(b) Any works on the land must not:</p> <ul style="list-style-type: none"> <li>(i) create any new discharge points for stormwater runoff onto the state-controlled road corridor;</li> <li>(ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road corridor;</li> <li>(iii) surcharge any existing culvert or drain on the state-controlled road corridor;</li> </ul>	<p>(a) and (b) At all times.</p> <p>(c) Prior to commencement of use</p>



	<p>(iv) reduce the quality of stormwater discharge onto the state-controlled road.</p> <p>(c) Register Professional Engineer of Queensland certification with supporting documentation must be provided to <a href="mailto:North.Queensland.IDAS@tmr.qld.gov.au">North.Queensland.IDAS@tmr.qld.gov.au</a> within the Department of Transport and Main Roads, confirming that the development has been designed and constructed in accordance with parts (a) and (b) of this condition.</p>	
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## Attachment 2—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

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### The reasons for the department's decision are:

The development complies with State code 1: Development in a State-controlled road environment, State code 6: Protection of State transport infrastructure of the State Development Assessment Provisions (SDAP). Specifically, the development:

- does not create a safety hazard for users of a state-controlled road
- does not compromise the structural integrity of state-controlled roads, road transport infrastructure or road works
- does not result in a worsening of the physical condition or operating performance of state-controlled roads and the surrounding road network
- does not compromise the state's ability to construct, or significantly increase the cost to construct state-controlled roads and future state-controlled roads
- does not compromise the state's ability to maintain and operate state-controlled roads, or significantly increase the cost to maintain and operate state-controlled roads

### Material used in the assessment of the application:

- The development application material and submitted plans
- Planning Act 2016
- Planning Regulation 2017
- The State Development Assessment Provisions (version 2.5), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system.



## **Attachment 3—Change representation provisions**

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## Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules<sup>1</sup> regarding **representations about a referral agency response**

### Part 6: Changes to the application and referral agency responses

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#### 28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
  - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
  - (c) the applicant has given written agreement to the change to the referral agency response.<sup>2</sup>
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
  - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

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<sup>1</sup> Pursuant to Section 68 of the *Planning Act 2016*

<sup>2</sup> In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.



## **Part 7: Miscellaneous**

### **30 Representations about a referral agency response**

30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.<sup>3</sup>

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<sup>3</sup> An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.