Cloncurry Shire Council

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Our ref: DI&E:LT - TP05/23

27 March 2023

Woodham Petroleum Pty Ltd C/- Damien Mackay (Town Planner) TfA Project Group PO Box 2339 FORTITUDE VALLEY QLD 4006 Email: Damien.mackay@tfa.com.au

Dear Damien

DECISION NOTICE - DEVELOPMENT APPLICATION FOR A DEVELOPMENT PERMIT FOR A MATERIAL CHANGE OF USE - SERVICE STATION (UNMANNED FUEL DEPOT), AT 14-16 FRED MCKAY ROAD (LOT 10 & 11 ON SP248018), CLONCURRY.

(Given under section 63 of the Planning Act 2016)

The development application described below was properly made to the Cloncurry Shire Council 21 March 2023.

Applicant details

Applicant name:

Woodham Petroleum Pty Ltd

C/- Damien Mackay

Applicant contact details:

PO Box 2339

FORTITUDE VALLEY QLD 4006

Application details

Application number:

TP05/23

Approval sought:

Development Permit

Nature of development proposed:

Material Change of Use

Description of the development proposed: Service Station (Unmanned Fuel Depot)

Category of assessment:

Code Assessment

Location details

Street address:

14-16 Fred McKay Road, Cloncurry

Real property description:

Lots 10 & 11 on SP248018

Local government area:

Cloncurry Shire

Decision

Date of decision:

21 March 2023

RESOLUTION 21.2023

Moved:

Cr Nathan Keyes

Seconded:

Cr Greg Campbell

That Development Application TP05/23 for a Material Change of Use – for a Service Station (Unmanned Fuel Depot) at 14–16 Fred McKay Road, also known as (Lot 10 & 11 on SP248018), Cloncurry, be approved subject to conditions as set out in Attachment 2.

In Favour:

Cr Greg Campbell, Cr Sam Daniels, Cr Vicky Campbell, Cr Nathan Keyes, Cr Janessa Bidgood

Against:

None

Ineligible:

None

CARRIED

Details of the approval

Development permit:

Material Change of Use -Service Station (Unmanned Fuel

Depot)

Conditions

This approval is subject to the conditions in Attachment 1.

Properly made submissions

There were no properly made submissions for this application.

Rights of appeal

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

A copy of the relevant appeal provision is attached.

Currency period for the approval

This development approval will lapse unless substantially started at the end of the period set out in section 85 of *Planning Act 2016* which is 6 years after this approval starts to take effect.

Approved plans and specifications

Table 1 Supporting documentation/reports

Title	Plan Number	Rev no	Date	Prepared by
Proposed Site Plan	22430-D01	A1	22.02.2023	TfA Project Group
Proposed Site Layout – Vehicle Paths	22430-D02	A1	22.02.2023	TfA Project Group
Proposed Site Plan	22430-D03	A1	22.02.2023	TfA Project Group
Canopy	GES-Canopy-00		08.08.2017	GES (Global Engineering Solutions

Should you have any questions or concerns in respect of this matter please contact, Council's Senior Town Planner, Larinda Turrell, at this office.

Yours faithfully

Philip Keirle Chief Executive Officer

Enc:

Attachment 1— Extract on appeal rights
Attachment 2— Conditions of the approval
Attachment 3 – Statement of Reasons

Attachment 4 - Approved Proposed Plan

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

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

Note-

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

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.

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

230 Notice of appeal

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

(4) The service period is—

- if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
- (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision;
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.

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

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

232 Rules of the P&E Court

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

ATTACHMENT 2 - CONDITIONS OF APPROVAL

NATURE OF DECISION

A Cloncurry Shire Council issues a development permit for Development application - Reference TP05/23. Application for Material Change of Use and Operational Works – Service Station (Unmanned Fuel Depot) under the *Planning Act 2016*.

GENERAL

1. Site Layout

(a) The development must generally comply with the Approved Proposal Plan and Service Station Design Plans as referenced in the table below, which forms part of this application, except as otherwise specified by any condition of this approval.

- Report/Plan/Drawing/Num	ber Pam/Dogument Name	Date ''
22430-D01	Proposed Site Plan	22.02.2023
22430-D02	Proposed Site Layout – Vehicle Paths	22.02.2023
22430-D03	Proposed Site Plan	22.02.2023
GES-Canopy-00	Canopy	08.08.2017

2. Compliance with conditions

- (a) All conditions must be complied with prior to the commencement of use on the subject site, unless specified in an individual condition.
- (b) The conditions of this development approval are to be read in conjunction with the approved plans / documents at all times. Where a conflict occurs between the conditions of this approval and the approved plans / documents, the conditions of this development approval shall prevail.

3. Service Station

- (a) The Service Station will be limited to the refueling of vehicles and fuel delivery.
- (b) The Service Station will operate 24 (twenty-four) hours a day, seven (7) days a week.
- (c) The Service Station is to be monitored on a weekly basis by a suitably qualified person/s appropriately trained to complete an inspection of the facility including the storage tank.
- (d) The facility will be linked via computerized system to the developer's head office that is capable of sending an alert at all times should there be any loss of fuel not dispensed as part of the refueling station. Appropriate fail-safe mechanisms are installed in the event of the alert system failing.
- (e) Appropriate bunding is installed to contain any fuel spillages.

4. Advertising Devices

Advertising devices must comply with section 8.3.1 – Advertising device code.

5. Driveway access

Prior to the commencement of the use:

- (a) The permitted road access points for the development are to be designed in accordance with *Austroads Guide to Road Design Part 4: Intersections and Crossings General* and be certified by an RPEQ to ensure that the access is acceptable for the design vehicle with the largest turning circle to enter and exit the site in a forward gear.
- (b) Sealed crossovers from the property boundary to the existing road pavement in Sir Hudson Fysh Drive will be constructed in accordance with IPWEAQ standards as an extension from the road pavement with a heavy duty concrete invert in accordance with the dimensions and grades to be detailed and signed off by an RPEQ and submitted to Council for its approval.

6. Internal Access and Car Parking

- (a) The car parking areas are to be constructed of a durable, suitable material, such as compacted hard stand gravel (minimum depth of 150mm), in accordance with Council's Standard Drawings.
- (b) No private or heavy vehicles are permitted to park; undertake reversing or like manoeuvres or loading activities within the public road reserve.
- (c) All areas where vehicles are driven are to be maintained to an appropriate standard to the satisfaction of Council. A program of regular inspection and maintenance is to be undertaken by the applicant / site operator.
- (d) On site access will be restricted to the highest design vehicle with such vehicles being capable of entering and exiting the site in forward gear at all times.
- (e) The proposed development will ensure that there is no conflict on site between the movement of the design vehicle with the largest turning circle and other vehicles utilised by customers/staff to the site.
- (f) Access and internal manoeuvring is provided for in accordance with AS1428 Design for access and mobility and AS1742.1 Manual of Uniform Traffic Control Devices.

7. Water Supply

- (a) The proposed development is to be connected to Council's reticulated water supply network in accordance with the requirements of the *Plumbing and Drainage Act 2002* prior to the commencement of use.
- (b) Connection to Council's reticulated water system, including any necessary upgrade or augmentation, is to be carried out at the applicant's/developer's expense.
- (c) Works on water supply infrastructure must be in accordance with the standards stated in Planning Scheme Policy 3 Operational Works and Services.

8. Electricity and Telecommunications Supply

The development must provide connection to the reticulated electricity and telecommunications network so as to achieve compliance with the relevant regulatory authority and will also achieve compliance with SC6.4.4 of the Planning Scheme.

9. Stormwater Drainage

- (a) Stormwater discharging from the site is to be directed to a lawful point of discharge.
- (b) Stormwater collection, quality and quantity measures for the development is to be implemented in accordance with PSP3 Operational Works and Services.
- (c) Overland flow paths on the site must not be altered in a way that inhibits or alters the characteristics of existing overland flows on other properties or that creates an increase in flood damage on other properties.
- (d) Stormwater and any on-site wastewater systems proposed should not result in the contamination of groundwater flows.

10. Noise Management

The noise emissions from the premises are to be contained and managed to levels that will not give rise to unacceptable effect on adjoining or nearby sensitive land uses.

11. Dust Management

During operation of the approved use the operator must put in place adequate mitigation measures for the suppression of dust, so as not to cause a nuisance to neighbouring properties.

12. Environmental management plan

- (a) An environmental management plan is to be prepared by a suitably experienced person and submitted to Council. The EMP is to address and document the prevention of risk of any accidental spillage(s), bunded containment to mitigate potential environment harm and emergency management responses.
- (b) The development is to comply with the requirements of the Flammable and combustible liquids legislation.

13. Lighting

Any outdoor lighting is to be designed, installed and maintained in accordance with the requirement of AS4282-1997 "Control of the Obtrusive Effects of Outdoor lighting" and must also comply with the requirements of the Civil Aviation Safety Authority guideline Chapter 12—Aerodrome lighting, 1.2 Lighting in the vicinity of an aerodrome.

14. Landscaping

- (a) Landscape planting is to be provided on site adjacent to the vehicular entry and exit points as feature statements and be suitably integrated with any advertising devices (signage).
- (b) Planting is at the following minimum densities:
 - i. large trees, 8m centres;
 - ii. small trees, 3m centres,
 - iii. shrubs, 1.5m centres; and
 - iv. ground cover, 0.5-1m centres.
- (c) A detailed landscape plan is to be provided to Council for its approval, with the landscape works to be completed prior to the commencement of the use.

ADVICE - Please note that these are not conditions

- A. The Applicant is responsible for securing all necessary approvals, permits and tenure, providing statutory notifications and complying with all relevant laws. Nothing in this development approval alleviates the need for the Applicant to comply with all relevant Local, State and Commonwealth laws and to ensure appropriate tenure arrangements have been made where the use of/reliance upon land other than that owned by the Applicant is involved. Without limiting this obligation, the Applicant is responsible for:
 - (a) Obtaining all other/further necessary approvals, licences, permits, resource entitlements etc by whatever name called (this may include further development approvals under the "Sustainable Planning Act 2009" and the planning scheme) required by law before the development the subject of this approval can be lawfully commenced and to carry out the activity for its duration;
 - (b) Providing any notifications required by law (by way of example only, to notify the administering authority pursuant to the "Environmental Protection Act 1994" of environmental harm being caused/threatened by the activity, and upon becoming aware the premises is being used for a 'notifiable activity');
 - (c) Securing tenure/permission from the relevant owner to use private or public land not owned by the Applicant (including for access required by conditions of approval); and
 - (d) Ensuring the correct siting of structures on the land. An identification survey demonstrating correct siting and setbacks of structures may be requested of the Applicant to ensure compliance with this decision notice and applicable codes.

B. Indigenous Cultural Heritage Legislation and Duty of Care Requirement

The "Aboriginal Cultural Heritage Act 200" (ACHA) establishes a duty of care to take all reasonable and practicable measures to ensure any activity does not harm Aboriginal cultural heritage. This duty of care:

- (a) Is not negated by the issuing of this development approval;
- (b) Applies on all land and water, including freehold land;
- (c) Lies with the person or entity conducting an activity; and
- (d) If breached, is subject to criminal offence penalties.

Those proposing an activity involving surface disturbance beyond that which has already occurred at the proposed site must observe this duty of care. Details of how to fulfil this duty of care are outlined in the duty of care guidelines gazetted with the ACHA. The Applicant should contact NRW's Cultural Heritage Coordination Unit on (07) 3238 3838 for further information on the responsibilities of developers under the ACHA.

C. Limitation of Approval

The Council and its officers make no representations and provide no warranties as to the accuracy of the information contained in the development application including its supporting material provided to it by the Applicant.

The Council and its officers rely upon the applicant concerning the accuracy and completeness of the application and its supporting material and accepts the development application and supporting material as constituting a representation by the applicant as to its accuracy and completeness.

D. Further Permits

Further permit for Building works only in the case of undertaking building works assessable under Building Act and Building Regulations.

ATTACHMENT 3 – STATEMENT OF REASONS

STATEMENT OF REASONS - TP05/23

NOTICE ABOUT DECISION - STATEMENT OF REASONS

The following information is provided in accordance with section 63(5) of the Planning Act 2016

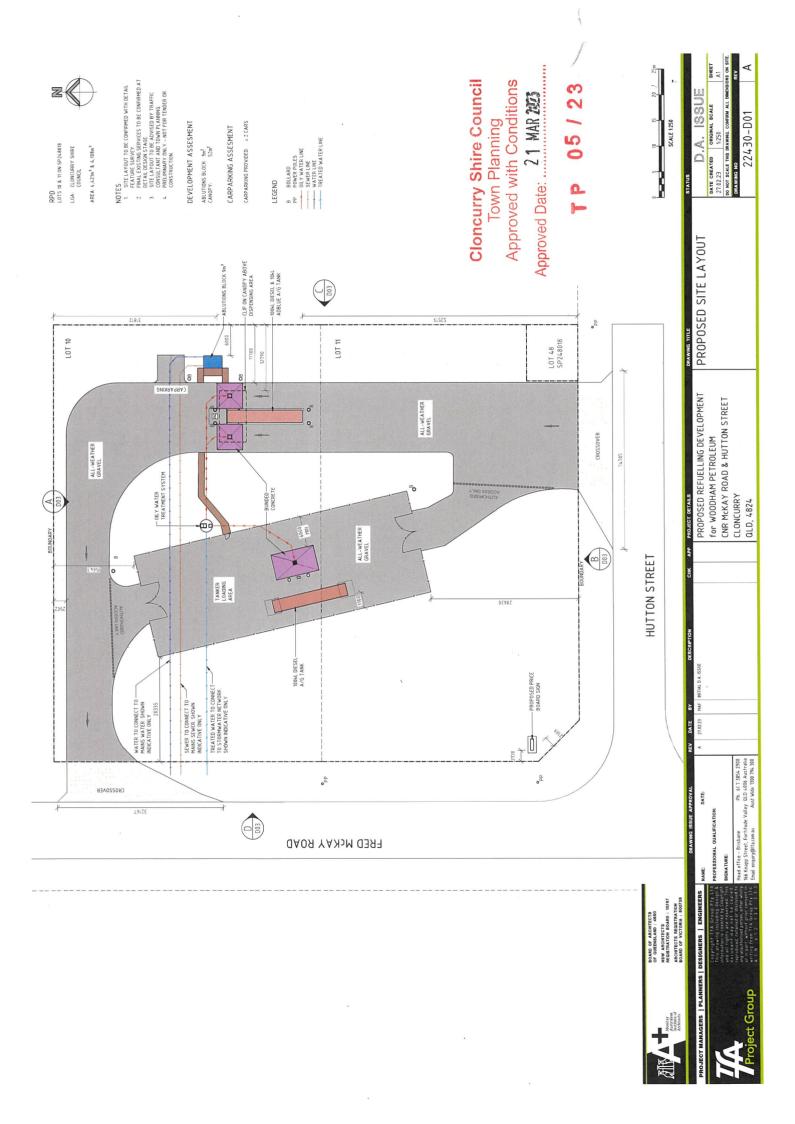
Details of the Development

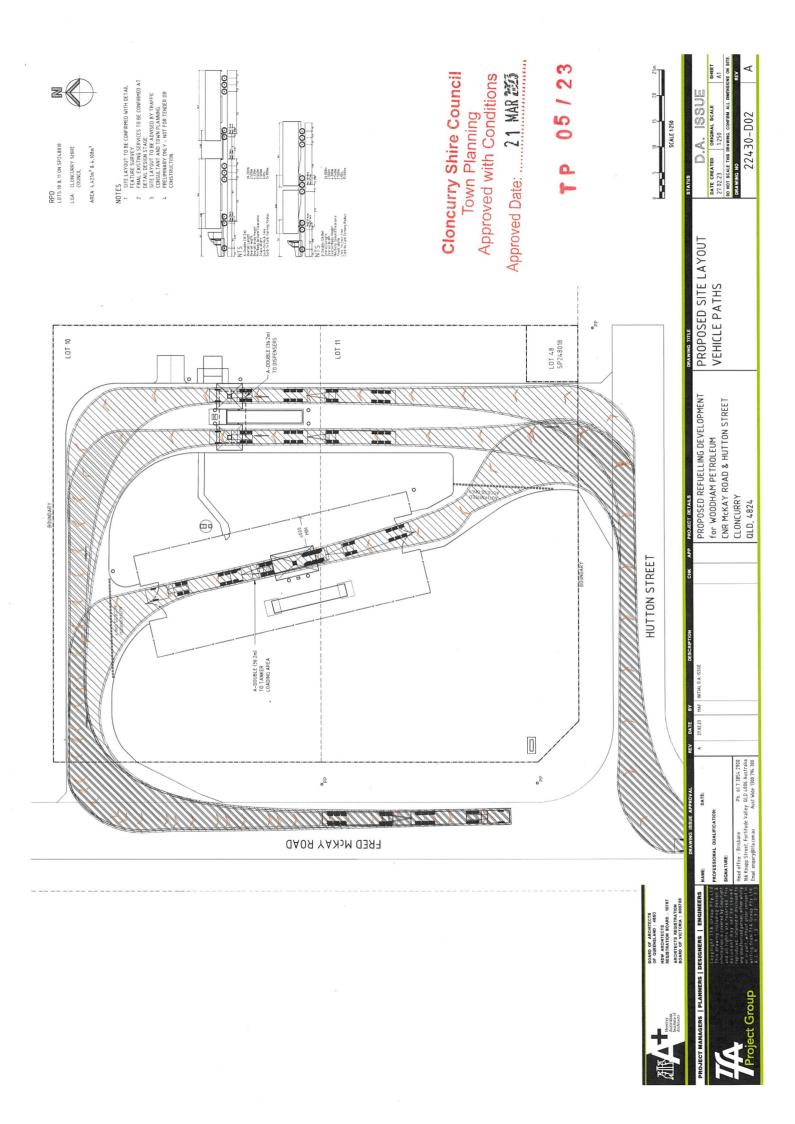
Material Change of Use (MCU) for a Service Station (Unmanned Fuel Depot) at 14–16 Fred McKay Road, also known as (Lot 10 & 11 on SP248018), Cloncurry.

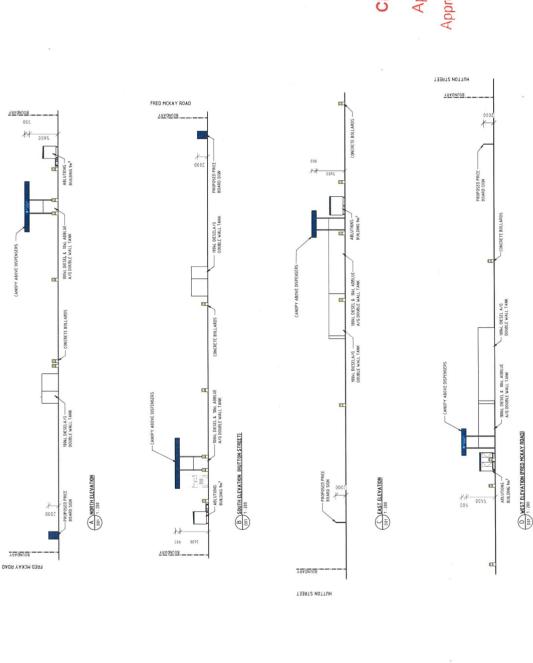
On 21 March 2023, the above development application was approved in full, with conditions.

Reason for the decision

The development application has demonstrated compliance with all the relevant benchmarks of the purpose of the Medium impact zone of the *Cloncurry Shire Planning Scheme 2016* as prescribed by the *Planning Regulation 2017*.







NOTES

1 PRELIMINARY ONLY - NOT FOR TENDER OR CONSTRUCTION
2 ALL ARTWORK & COLOURS TO BE CONFIRMED
AT DETAIL DESIGN STAGE.

RPD L0TS 10 & 11 ON SP248018 LGA: CLONCURRY SHIRE COUNCIL AREA: 4,421m2 & 4,108m2 Cloncurry Shire Council Town Planning Approved with Conditions

Approved Date: 21 MAR 225

TP 05/23

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D.A. ISSUE

ROVAL	REV	DATE	BY		DESCRIPTION	CHK AP	PRC PRC	CHK APP PROJECT DETAILS	DRAWING TITLE	STATUS	STATE STATE STATE
ATE:	<	27.02.23	MAF	INITIAL D.A. ISSUE			Ы	PROPOSED REFUELLING DEVELOPMENT	PROPOSED SITE LAYOUT). 	D.A. ISSUE
							fo	for WOODHAM PETROLEUM		DATE CREATED ORIGINAL SCALE	ORIGINAL SCALE
							Ó	CNR McKAY ROAD & HUTTON STREET		DO NOT SCALE THIS DE	DO NOT SCALE THIS DRAWING, CONFIRM ALL DIM
Ph. 617 3854 2900							J	LONCURRY		DRAWING NO	A Sandan Sandar
OLD 4006 Australia							ਰ	QLD, 4824		224	22430-D03

BOARD OF ARCHITECTS OF QUEENSLAND: 4650 NSW ARCHITECTS REGISTRATION BOARD: 10787

