

5. THE APPROVED PLANS

The approved development must be completed and maintained generally in accordance with the approved drawings and documents:

<u>Plan / Document Name</u>	<u>Plan / Document Reference</u>	<u>Dated</u>
Figure 1 – Indicative Project Area	Figure 1	29 th June 2018
Clearing & Excavation Layout Plan	Drawing No. 91603592-KPSP04.01 DWG-2061	29 th June 2018
Embankment Layout Plan	Drawing No. 91603592-KPSP04.03 DWG-2061	29 th June 2018
Embankment	Drawing No. 91603592-KPSP04.03 DWG-2062	29 th June 2018
Embankment	Drawing No. 91603592-KPSP04.03 DWG-2063	29 th June 2018
Embankment Longitudinal Section	Drawing No. 91603592-KPSP04.03 DWG-2064	29 th June 2018
Embankment Longitudinal Section	Drawing No. 91603592-KPSP04.03 DWG-2065	29 th June 2018
Embankment Spillway	Drawing No. 91603592-KPSP04.03 DWG-2066	29 th June 2018
General Arrangement	Drawing No. 377551-KST-FS-DWG-130	29 th June 2018
General Arrangement	Drawing No. 377551-KST-FS-DWG-700	29 th June 2018
General Arrangement	Drawing No. 377551-KST-FS-DWG-711	29 th June 2018

6. CURRENCY PERIOD FOR THE APPROVAL (S.85)

The standard relevant periods stated in section 85 of *Planning Act 2016* apply to each aspect of development in this approval, if not stated in the conditions of approval attached.¹

¹ S.85

Lapsing of approval at end of currency period

(1) A part of a development approval lapses at the end of the following period (the currency period)—

(a) for any part of the development approval relating to a material change of use—if the first change of use does not happen within—

(i) the period stated for that part of the approval; or

(ii) if no period is stated—6 years after the approval starts to have effect;

(b) for any part of the development approval relating to reconfiguring a lot—if a plan for the reconfiguration that, under the Land Title Act, is required to be given to a local government for approval is not given to the local government within—

(i) the period stated for that part of the approval; or

(ii) if no period is stated—4 years after the approval starts to have effect;

(c) for any other part of the development approval—if the development does not substantially start within—

(i) the period stated for that part of the approval; or

(ii) if no period is stated—2 years after the approval starts to take effect.

(2) If part of a development approval lapses, any monetary security given for that part of the approval must be released.

7. STATEMENT OF REASONS

Description of the development	The proposed development is for a Material Change of Use (Code Assessment) for Community Infrastructure (Hydro Storage Facility) and Associated Ancillary Infrastructure assessable against a Planning Scheme
Assessment Benchmarks	The proposed development was assessed against the following assessment benchmarks: ☐ Rural Zone ☐ General Development Code ☐ Community Infrastructure Zone Code ☐ Good Quality Agricultural Land Overlay Code ☐ Bushfire Management Overlay Code (Medium Bushfire Hazard)
Reasons for decision (list non-compliance items and how they were resolved)	The development was assessed against all of the assessment benchmarks listed above and complies with all of these.

8. RIGHTS OF APPEAL

The rights of an applicant to appeal to a tribunal or the Planning and Environment Court against a decision 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*).

Appeal by an applicant

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

An applicant may also have a right to appeal to the Development tribunal. For more information, see schedule 1 of the *Planning Act 2016*.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 229 of the *Planning Act 2016*.

Attachment 2 is an extract from the *Planning Act 2016* that sets down the applicant's appeal rights and the appeal rights of a submitter.

9. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect:

- From the time the decision notice is given – if there is no submitter and the applicant does not appeal the decision to the court.

Or

- When the submitter's appeal period ends – if there is a submitter and the applicant does not appeal the decision to the court.

Or

- Subject to the decision of the court, when the appeal is finally decided – if an appeal is made to the court.

This approval will lapse unless substantially commenced within the above stated relevant periods (refer to sections 85 of *Planning Act 2016* for further details).

Etheridge Shire Council
Assessment Manager



CHIEF EXECUTIVE OFFICER

Attachment 1 – Conditions of the approval

Part 1 – Conditions imposed by the assessment manager [Note: where a condition is imposed about infrastructure under Chapter 4 of the *Planning Act 2016*, the relevant provision of the Act under which this condition was imposed must be specified.]

Part 2 – Conditions imposed by the referral agencies

Attachment 2—Extract on appeal rights



Attachment 1 – Part 1

Etheridge Shire Council Conditions

PLANNING ACT 2016

1. ADMINISTRATION

- 1.1 The Developer and his employee, agent, contractor or invitee is responsible for ensuring compliance with the conditions of this development approval.
- 1.2 Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions, works, or requirements of this development approval must be undertaken and completed:
 - 1.3.1 to Council's satisfaction;
 - 1.3.2 at no cost to Council.
- 1.4 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
 - 1.4.1 Building Works
 - 1.4.2 Plumbing & Drainage Works
- 1.5 The development shall be undertaken substantially in accordance with the approved drawings and/or documents and in accordance with the specifications, facts and circumstances as set out in the application submitted to Council.
- 1.6 The conditions of the Development Permit must be affected prior to Commencement of Use, except where specified otherwise in these conditions of approval.
- 1.7 The developer shall be responsible for securing a permanent and ongoing water supply for the development.
- 1.8 The Applicant shall liaise with and comply with any requirements that the Civil Aviation Safety Authority (CASA) may require in relation to this development. The Applicant shall provide council copies of any agreements and/or conditions which CASA determine necessary for this development.

2. TIME AND EFFECT

- 2.1 The Development Approval shall lapse six (6) years after the date the Development Approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

3. APPROVED PLANS AND DOCUMENTS

- 3.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by any condition of this development approval:

<u>Plan / Document Name</u>	<u>Plan / Document Reference</u>	<u>Dated</u>
Figure 1 – Indicative Project Area	Figure 1	29 th June 2018
Clearing & Excavation Layout Plan	Drawing No. 91603592-KPSP04.01 DWG-2061	29 th June 2018
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<u>Plan / Document Name</u>	<u>Plan / Document Reference</u>	<u>Dated</u>
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General Arrangement	Drawing No. 377551-KST-FS-DWG-711	29 th June 2018

- 3.2 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for approval by Council.

4. WASTE MANAGEMENT

- 4.1 Construction Waste² generated during the construction of the Project will be required to be transported to Townsville or to an alternative landfill site outside of the Etheridge Shire area that has the capacity to meet the volume of Construction Waste which is in line with the Applicants Development Report, page 17, Clause 5.2.2.5.
- 4.2 The Applicant will be required to transport and dispose of all Commercial Waste³ from the Development Site as a result of the activities generated from this Development to an alternative Landfill Site outside of the Etheridge Shire area that has the capacity to meet the volume of Commercial Waste (i.e. Townsville) as the Waste Facility (landfill) located in the Township of Einasleigh does not have the capacity to meet the estimated increase in volume of Commercial Waste that is to be generated during the construction phase of this development and furthermore Councils current ERA Permit (EPR00239313) has limitations on Council as to the amount of the yearly volume of waste that can be disposed of within Council's four (4) licenced Landfill Facilities.

5. BUSHFIRE MANAGEMENT

- 5.1 The Applicant shall ensure the Hydro Storage Facility infrastructure will be designed and constructed to ensure that it is not susceptible to damage from bushfire.
- 5.2 A Bushfire Management Plan will be prepared in accordance with Part E (4) of State Planning Policy (July 2017) - Assessment Benchmarks – natural hazards, risk and resilience to the satisfaction of Council's Delegated officer.
- 5.3 The approved use shall comply with the requirements of the Bushfire Management Plan at all times.
- 5.4 The Applicant shall ensure that the development can be accessed by the Rural Fire Service & Emergency Management Personnel in the event of bushfire, to the satisfaction of that organisation

6. SERVICES

- 6.1 The Applicant shall be responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.

7. ROADS – INTERNAL (ACCESS ROADS ON PRIVATE PROPERTY)

- 7.1 The Applicant shall ensure where practicable access and movement within the site/s shall be sited during the period of construction and for the life of the project. The design shall minimize cut and fill, road drainage and soil erosion and interference with natural drainage lines. Care should also be taken to minimise impacts on visual and landscape values and environmentally sensitive areas with final design to the satisfaction of Council's delegated officer.

² "Construction waste" means any substance, matter or thing which is generated as a result of construction work and abandoned whether or not it has been processed or stockpiled before being abandoned.

³ Commercial waste consists of waste from premises used mainly for the purposes of a trade or business or for the purpose of sport, recreation, education or entertainment, but excluding household, agricultural or industrial waste.

8. ROADS – EXTERNAL (GILBERTON ROAD)

- 8.1 The Developer is to enter into a Road Use Deed of Agreement with Council whereby the Road Use Deed Agreement outlines the agreed activities pertaining to Road and Bridge Assessment requirements under Section 3 of the Agreement; Upgrades or Repairs to Roads and Bridges contained under Section 4 of the Agreement and Road Improvement Works as outlined under Section 5 of the Agreement.
- 8.2 The Road Use Deed Agreement may need to reviewed and or amended by Council (Assessment Manager) in the event that the Developer lodges any future Development Applications pertaining to the development and construction works associated with future Stages of the Kidston Renewable Energy Hub Project.

9. DECOMMISSIONING OF THE SITE

- 9.1 Prior to the commencement of decommissioning, the Applicant will provide a Decommissioning and Rehabilitation Plan to Council for approval.



Attachment 1 – Part 2

Referral Agencies Conditions

PLANNING ACT 2016



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

Our reference: 1807-6382 SRA
Your reference: DA2018-002

22 August 2018

The Chief Executive Officer
Etheridge Shire Council
PO Box 12
Georgetown Qld 4871
info@etheridge.qld.gov.au

Attention: Mr Norman Garsden

Dear Norman

Referral agency response—with conditions

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

The development application described below was properly referred to the Department of State Development, Manufacturing, Infrastructure and Planning on 19 July 2018.

Referral triggers

The development application was referred to the department under the following provisions of the Planning Regulation 2017:

- 10.19.3.3.1.1 Water-related development - referable dams
- 10.3.4.3.1 Clearing native vegetation

Response

Date of response:	23 August 2018
Response details:	Referral agency response with conditions
Development details:	Development Permit for a Material change of use for Pumped storage hydro facility and operational work for native vegetation clearing
Conditions:	The conditions set out in Attachment 1 must be attached to any development approval

Location details

Real property description: 1SP289310; 66SP287774

Development Assessment Advisory
Team
Level 13, 1 William Street
PO Box 15009, Brisbane East QLD 4002

Local government area: Etheridge Shire Council

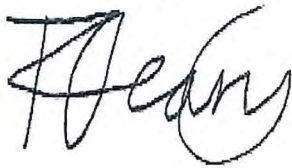
Applicant details

Applicant name: Genex Power Limited
Applicant contact details: PO Box 5423
Townsville QLD 4810
frances.mahlouzarides@aecom.com

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

For further information please contact Danielle Harris, Principal Planner, on 34527654 or via email DAAT@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Tim O'Leary
Manager

cc Genex Power Limited - frances.mahlouzarides@aecom.com
enc Attachment 1—Referral agency conditions
Attachment 2—Statement of reasons
Attachment 3—Approved plans

Attachment 1—Referral agency conditions

No.	Conditions	Condition timing
Material Change of Use for a Pumped Storage Hydro Facility		
Referrable dams—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Natural Resources, Mines and Energy 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.	(a) Report all incidents and failures (as defined in the <i>Queensland Dam Safety Management Guidelines</i> prepared by the Department of Natural Resources and Mines, dated February 2002) associated with the dam to the Dam Safety Regulator via damsafety@dnrme.qld.gov.au. (b) Provide a report on the incident or failure, including any remedial action taken, to the Dam Safety Regulator via damsafety@dnrme.qld.gov.au.	a) Within forty-eight (48) hours of becoming aware of the incident or failure b) Within one (1) month of the incident or failure occurring
2.	Provide a comprehensive Design Report for the dam prepared in accordance with the <i>Queensland Dam Safety Management Guidelines</i> prepared by the Department of Natural Resources and Mines, dated February 2002 to the Dam Safety Regulator via damsafety@dnrme.qld.gov.au. The Design Report must be prepared by a Registered Professional Engineer of Queensland (RPEQ) and include: i. adopted design criteria ii. foundation properties and treatment iii. construction material sources and properties iv. structural capacity of principal elements v. spillway adequacy vi. outlet works, vii. surveillance requirements viii. construction specification including construction drawings.	Forty (40) days prior to the commencement of construction
3.	(a) Provide written notice to the Dam Safety Regulator via damsafety@dnrme.qld.gov.au advising of the completion of the construction of the dam. (b) Provide "As Constructed" documentation to the Dam Safety Regulator via damsafety@dnrme.qld.gov.au. The "As Constructed" documentation must include: i. a record of any decisions to adapt the nominated design to suit actual field conditions ii. 'as constructed' drawings indicating the actual lines, levels and dimensions to which the structure is built iii. a description of the construction process iv. systematically compiled and comprehensive photographs of the construction v. foundation surface mapping of rock defects vi. a summary of material test results vii. a summary of construction inspection reports viii. a certification by a RPEQ that the works have been	a) Within seven (7) business days of the completion of the works b) Within three (3) months of the completion of works

	constructed in accordance with relevant engineering standards.	
4.	(a) Prepare a Data Book in accordance with the <i>Queensland Dam Safety Management Guidelines</i> prepared by the Department of Natural Resources and Mines, dated February 2002. The Data Book must include all information as required in the Queensland Dam Safety Management Guidelines in particular: i. all pertinent records and history relating to the dam ii. documentation of investigation, design, construction, operation, maintenance, surveillance, monitoring measurements and any remedial action taken during construction and subsequent operation of the dam. (b) Provide a written notification to the Dam Safety Regulator via damsafety@dnrme.qld.gov.au, confirming the Data Book has been reviewed by the dam owner and, if necessary, updated to incorporate any new dam safety information developed since the previous review.	a) Within three months (3) months of the completion of construction of the works b) By the 1st July each year following the completion of the works
5.	(a) Prepare an Operations and Maintenance Manual for the dam. The Operations and Maintenance Manual must be prepared in accordance with the <i>Queensland Dam Safety Management Guidelines</i> prepared by the Department of Natural Resources and Mines, dated February 2002. (b) Implement the Operations and Maintenance Manual prepared in accordance with part (a) of this condition. (c) Review and update where required the Operations and Maintenance Manual prepared in accordance with part (a) of this condition.	a) within sixty (60) business days of the completion of construction of the works b) at all times c) By the 1st July each year following the completion of the works
6.	(a) Carry out a Comprehensive Inspection of the dam in accordance with the <i>Queensland Dam Safety Management Guidelines</i>. (b) Advise the Dam Safety Regulator via damsafety@dnrme.qld.gov.au of the Comprehensive Inspection occurring and if required allow the Dam Safety Regulator to observe any or all procedures involved in the inspection process. (c) Submit a copy of the report detailing the findings of the Comprehensive Inspection to the Dam Safety Regulator via damsafety@dnrme.qld.gov.au.	a) by the 1st July of the year following completion of works and then every five (5) years b) at least five (5) business days prior to the date of the comprehensive inspection c) within sixty (60) business days after completion of the inspection.
7.	(a) Carry out a Safety Review of the dam in accordance with the <i>Queensland Dam Safety Management Guidelines</i>. The Safety Review must be done under the supervision of a Registered Professional Engineer of Queensland (RPEQ). (b) Provide a copy of a report detailing the findings of this Safety Review to the Dam Safety Regulator via damsafety@dnrme.qld.gov.au.	a) Within twenty (20) years of the initial comprehensive inspection and every twenty (20) years thereafter b) Within sixty (60) business days after completion of the review.

8.	(a) Prepare a Decommissioning Plan for the dam in accordance with the <i>Queensland Dam Safety Management Guidelines</i>, prepared by the Department of Natural Resources and Mines, dated February 2002. (b) Provide a copy of the Decommissioning Plan to the Dam Safety Regulator via damsafety@dnrme.qld.gov.au.	Prior to decommissioning occurring
Operational Work for Native Vegetation Clearing		
Native vegetation clearing—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Natural Resources, Mines and Energy 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):		
9.	The clearing of vegetation under this development approval is limited to the areas identified as Area A (A1-A3) as shown on attached Technical Agency Response (Vegetation) Plan TARP 1807-6382 SRA, Sheet 1 of 1, dated 16 August 2018.	At all times
10.	Clearing within any watercourse or drainage feature, or within 50 metres of the defining bank of any watercourse or drainage feature must: a) not exceed 20 metres in width b) not occur within five metres of the defining bank, unless clearing is required into or across the watercourse or drainage feature.	At all times
11.	Any person(s) engaged or employed to carry out the clearing of vegetation under this development approval must be provided with a full copy of this development approval and must be made aware of the full extent of clearing authorised by this development approval.	Prior to clearing

Attachment 2—Statement of Reasons



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

Department of State Development, Manufacturing, Infrastructure and Planning

Statement of reasons for application 1807-6382 SRA

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

Departmental role: Referral agency

Response

Date of response: 23 August 2018

Response details: Referral agency response with conditions

Development details: Development Permit for a Material change of use for Pumped storage hydro facility and operational work for vegetation clearing

Conditions: The conditions set out in Attachment 1 must be attached to any development approval

Location details

Real property description: 1SP289310; 66SP287774

Local government area: Etheridge Shire Council

Applicant details

Applicant name: Genex Power Limited

Applicant contact details: PO Box 5423
 Townsville QLD 4810
 frances.mahlouzarides@aecom.com

Assessment matters

Aspect of development requiring code assessment	Applicable codes
1. Material change of use for Pumped storage hydro facility	State Code 20: Referable dams
2. Operational work for vegetation clearing	State Code 16: Native vegetation clearing

Reasons for the department's decision

The reasons for the decision are:

- the proposal complies with the applicable performance outcomes of State Code 20: Referable dams
- the proposal will be designed and constructed in accordance with appropriated dam engineering practices and standards

- the proposal is appropriate for the site conditions where the dam is located
- the proposal complies with the performance outcomes of State Code 16: Native vegetation clearing
- the project footprint avoids and minimises impacts on native vegetation

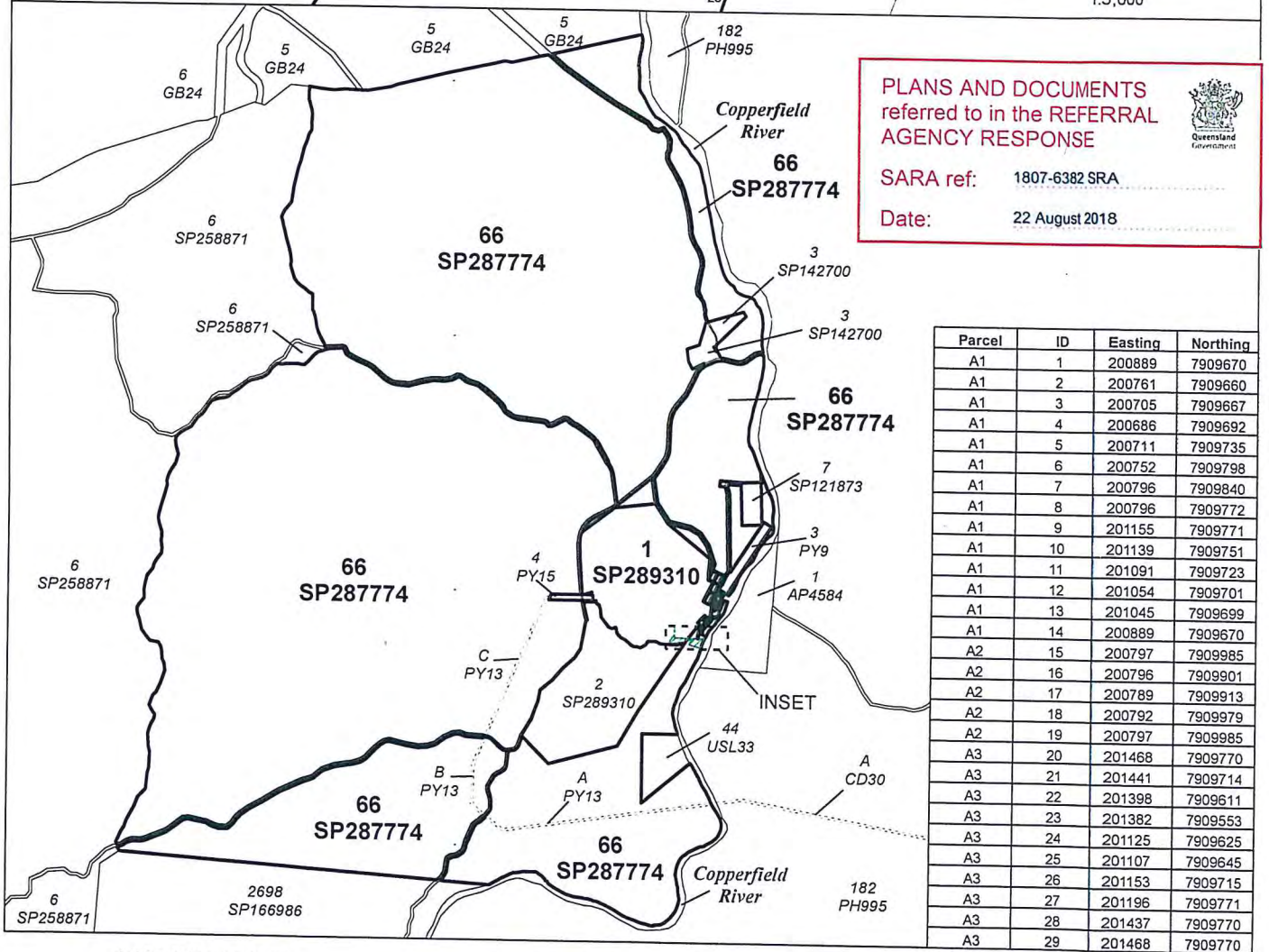
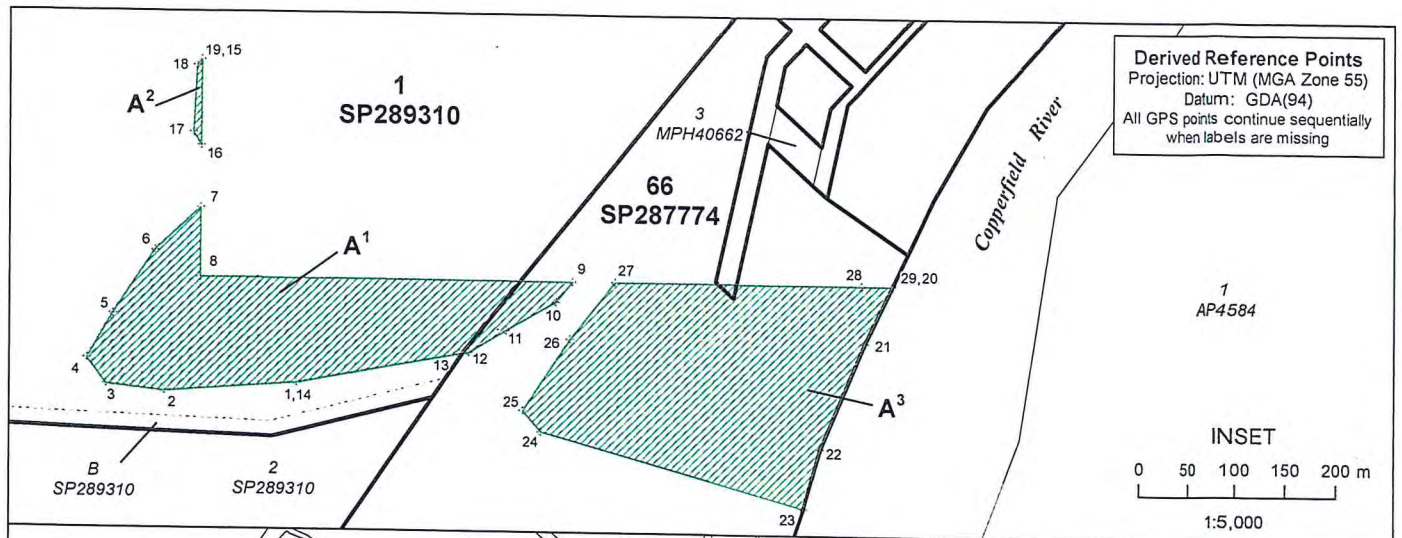
Response

Nature of Approval	Nature of Response	Date of Response
Development permit	Referral agency response – with conditions	22 August 2018

Relevant material

- State Development Assessment Provisions, published by the Department of State Development, Manufacturing, Infrastructure and Planning
- *Planning Act 2016*
- *Planning Regulation 2017*
- *DA Rules*
- Common application material

Attachment 3—Approved Plans



Note: Derived Reference Points are provided to assist in the location of the Technical Agency Response boundaries. Responsibility for locating these boundaries lies solely with the landholder and delegated contractor(s).

The property boundaries shown on this plan are APPROXIMATE ONLY. They are NOT an accurate representation of the legal boundaries.

LEGEND		Technical Agency Response (Vegetation) Plan		CENTRE: MAREEBA LOCALITY OF EINASLEIGH		
✦	Derived Reference Points for GPS	Plan of Area A (Parts A ¹ - A ³) in Lot 1 on SP289310 and Lot 66 on SP287774		REGION: NORTH LOCAL GOVT: ETHERIDGE SHIRE		
□	Subject Lot(s)			Map Reference: 7660,7760		
▨	Area A (Parts A ¹ - A ³)			Compiled from: DCDB, PVMP & VMO Notes		
			Elvas Case. 2018/004727		TARP 1807-6382 SRA Sheet 1 of 1	
			File Reference: eDOCS - 082/0003090		Prepared by: PJB - J5462 Date: 16 August 2018	



420 Flinders Street, Townsville QLD 4810
PO Box 1090, Townsville QLD 4810
ergon.com.au

23 August 2018

Etheridge Shire Council
info@etheridge.qld.gov.au

Attention: David Munro

cc Genex Power Limited
c/- Aecom
Frances.Mahlouzarides@aecom.com

Attention: Frances Mahlouzarides

Dear David,

Development Application – Material Change of Use for Community Infrastructure (Kidston Pumped Storage hydro) located at Gilberton Road, Einasleigh, described as L66 on SP258871 and L66 on SP287796.

Council Ref: DA2018-002

Our Ref: HBD6300439

We refer to the above reference Development Application which has been referred to Ergon Energy in accordance with the *Planning Act 2016*.

In accordance with Schedule 10, Part 9, Division 2 of the *Planning Regulation 2017*, the application has been assessed against the purposes of the *Electricity Act 1994* and *Electrical Safety Act 2002*. The below response is provided in accordance with section 56(1) of the *Planning Act 2016*.

Connection of the proposed infrastructure to Ergon Energy's network is subject to negotiation. The negotiations are commercial and technical in nature and are not considered to be critically relevant for Council's assessment or decision regarding the proposed Material Change of Use.

This correspondence does not constitute approval for connection.

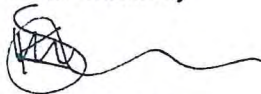
Ergon Energy has no objection to the proposed development, subject to the following conditions being applied to any approval:

1. Development is carried out generally in accordance with the plans and reports provided as part of the application.

2. The water inlet pipe shown on the indicative project area plan (Figure 1) is not approved, as it is shown within the substation area. It is understood this is indicative only the pipe will run along the substation boundary.
3. GENEX will be required to protect or relocate our assets entering and exiting the Kidston Zone Substation during construction of the pipeline.
4. All easement condition must be maintained.
5. Access to our infrastructure must be available at all times.
6. Any proposed earth works do not result in an increase in ponding or run off to stormwater onto existing electricity infrastructure.
7. Should changes to Ergon Energy infrastructure be proposed or required as part of the development, those changes are made with Ergon Energy's consent and at the developer/owners expense.

Should you require any further information on the above matter, please contact the undersigned on (07) 3664 4815.

Yours faithfully

A handwritten signature in black ink, appearing to be 'K. Sellers', with a long horizontal flourish extending to the right.

Kirsten Sellers
Senior Town Planner



Attachment 2 – Part 1

Appeal Rights

PLANNING ACT 2016

The following is an extract from the *Planning Act 2016* (Chapter 6)

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;
 - (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 231 Other appeals 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.
- (4) The *service period* is—
 - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.
- (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.

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 rules of the P&E Court.



Attachment 2 – Part 2

Appeal Rights

PLANNING ACT 2016

Schedule 1 Appeals Section 229

1. Appeal rights and parties to appeals

(1) Table 1 states the matters that may be appealed to—

- (a) the P&E court; or
- (b) a tribunal.

(2) However, table 1 applies to a tribunal only if the matter involves—

- (a) the refusal, or deemed refusal of a development application, for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
- (b) a provision of a development approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
- (c) if a development permit was applied for—the decision to give a preliminary approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
- (d) a development condition if—
 - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
 - (ii) the building is, or is proposed to be, not more than 3 storeys; and
 - (iii) the proposed development is for not more than 60 sole-occupancy units; or
- (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
- (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
- (g) a matter under this Act, to the extent the matter relates to the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
- (h) a decision to give an enforcement notice—
 - (i) in relation to a matter under paragraphs (a) to (g); or
 - (ii) under the Plumbing and Drainage Act; or
- (i) an infrastructure charges notice; or
- (j) the refusal, or deemed refusal, of a conversion application; or
- (l) a matter prescribed by regulation.

(3) Also, table 1 does not apply to a tribunal if the matter involves—

- (a) for a matter in subsection (2)(a) to (d)—
 - (i) a development approval for which the development application required impact assessment; and
 - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
- (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.

(4) Table 2 states the matters that may be appealed only to the P&E Court.

(5) Table 3 states the matters that may be appealed only to the tribunal.

(6) In each table—

- (a) column 1 states the appellant in the appeal; and
- (b) column 2 states the respondent in the appeal; and
- (c) column 3 states the co-respondent (if any) in the appeal; and
- (d) column 4 states the co-respondents by election (if any) in the appeal.

(7) If the chief executive receives a notice of appeal under section 230 (3)(f), the chief executive may elect to be a co-respondent in the appeal.



Attachment 3 – Part 1

Development Plans

PLANNING ACT 2016
