



Decision Notice Approval (amended)

Planning Act Form 5 (version 1.1 effective 22 June 2018) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s83 and s86 Planning Act 2016, and Section 3.5.15 of the Integrated Planning Act 1997

Application number:	D-R/242-2009	Contact:	Bevan Koelmeyer
Notice Date:	6 October 2021	Contact Number:	1300 22 55 77

APPLICANT DETAILS

Name:	Woolworths Food Group		
Postal address:	C/- Planning Initiatives PO Box 1774 NEW FARM QLD 4005		
Phone no:	(07) 3666 0766	Mobile no:	N/A
Email:	liam@planning-initiatives.com		

I acknowledge receipt of the above change application on 23 July 2021 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for a Material Change of Use for a Retail/Commercial Complex (two stage shopping centre)

PROPERTY DESCRIPTION

Street address:	1-19 McLaughlin Street and Lot 1 McLaughlin Street, Gracemere
Real property description:	Lot 1 on SP247119 and Lot 2 on SP247119

OWNER DETAILS

Name:	Gracemere Shoppingworld Pty Ltd
Postal address:	C/- McConaghy Group, GPO Box 5265, BRISBANE QLD 4001
Dear Woolworths Food Group	
I advise that, on 28 September 2021 the above change application was:	
<input checked="" type="checkbox"/> approved in full with conditions* (refer to the conditions contained in Attachment 1)	
*Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.	

CHANGES TO CONDITIONS

The conditions which have been changed or cancelled are as follows:

1)	Item 6	changed	26 May 2020
2)	Condition 1.1	changed	28 September 2021
3)	Condition 3.3	changed	28 September 2021
4)	Condition 3.6	added	28 September 2021
5)	Condition 3.7	added	28 September 2021

6)	Condition 9.6	added	28 September 2021
7)	Condition 14.1	changed	5 December 2011
8)	Condition 14.8	changed	6 May 2016
9)	Condition 14.8	changed	26 May 2020
10)	Condition 15.2	changed	5 December 2011
11)	Condition 15.4	changed	5 December 2011
12)	Condition 15.5	changed	5 December 2011
13)	Condition 15.6	changed	5 December 2011
14)	Condition 16.2	changed	5 December 2011
15)	Condition 16.3	changed	5 December 2011
16)	Condition 16.4	changed	28 September 2021
17)	Condition 24.1	deleted	26 May 2020
18)	Condition 27	deleted	5 December 2011
19)	Condition 28	deleted	5 December 2011
20)	Condition 29	deleted	5 December 2011
21)	Condition 30	deleted	5 December 2011
22)	Condition 31	deleted	5 December 2011
23)	Condition 32	deleted	5 December 2011
24)	Condition 33	deleted	5 December 2011
25)	Condition 34	deleted	5 December 2011
26)	Condition 35	deleted	5 December 2011
27)	Condition 36	deleted	5 December 2011
28)	Condition 37	deleted	5 December 2011
29)	Condition 38	deleted	5 December 2011
30)	Condition 39	deleted	5 December 2011
31)	Advisory Note 9	new	26 May 2020

1. DETAILS OF THE APPROVAL

	Development Permit	Preliminary Approval
Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material Change of use	<input checked="" type="checkbox"/>	<input type="checkbox"/>

2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

3. FURTHER DEVELOPMENT PERMITS REQUIRED

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

Type of development permit required	Subject of the required development permit
Operational Works	<i>Road Works</i> <i>Access and Parking Works</i> <i>Sewer Works</i> <i>Water Works</i> <i>Stormwater Works</i> <i>Roof and Allotment Drainage Works</i> <i>Site Works; and</i> <i>Landscaping Works</i>
Building Works	
Plumbing and Drainage Works	

4. REFERRAL AGENCIES

The following Referral Agencies were activated by this application.

For an application involving	Name of agency	Status	Address
MATERIAL CHANGE OF USE			
On land contiguous to a State-controlled road	Department of Infrastructure, Local Government and Planning (previously known as Department of Transport and Main Roads)	Concurrence	Online: https://prod2.dev-assess.qld.gov.au/suite Postal: PO Box 113 Rockhampton Qld 4700
For those purposes listed in schedules 13C or 13D of the <i>Integrated Planning Regulation 1998</i> and exceeding the thresholds given in the schedules	Department of Infrastructure, Local Government and Planning (previously known as Department of Transport and Main Roads)	Concurrence	Online: : https://prod2.dev-assess.qld.gov.au/suite Postal: PO Box 113 Rockhampton Qld 4700

5. THE APPROVED PLANS

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

Plan/Document Name	Plan Number	Dated
Masterplan – Stage 1 Supermarket DA	7282 DA101 Rev. P10	August 2008
Elevations	7282A DA20 Rev. A	7 July 2011
Control Plan - EComm	WA200	20 August 2021

Pick Up Department – Sheet 2	WA384	23 June 2021
Drive Thru/Direct to Boot	20GCT0278-01	17 August 2021
Swept Path Analysis Drive Thru/Pick-Up Bay	20GCT0278-02	17 August 2021
Swept Path Analysis Commercial Vehicle Bay	20GCT0278-03	17 August 2021

6. CURRENCY PERIOD FOR THE APPROVAL (s.85 of the Planning Act)

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.

7. STATEMENT OF REASONS

Description of the development	Minor Change to Development Permit D-R/242-2009 for a Material Change of Use for a Retail/Commercial Complex (two-stage shopping centre)
Reasons for Decision	Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity.
Assessment Benchmarks	The proposed development was assessed against the following assessment benchmarks of the <i>Fitzroy Planning Scheme 2005</i> : <ul style="list-style-type: none"> • Town Zone Code; • Development Standards Code; • Commercial Development Code; and • Economic Resources Overlays Code - Aircraft Affected Areas Overlay.
Compliance with assessment benchmarks	The minor change application was assessed against all of the assessment benchmarks listed above and wholly complies without exception.
Relevant Matters	As a relevant matter, the subject minor change application has been considered against the provisions of the current <i>Rockhampton Region Planning Scheme 2015</i> (version 2.2) given the time that has passed since the original development approval was granted. The application complies with the assessment benchmarks of this Planning Scheme and, where necessary, specific conditions have been included to achieve compliance with these requirements, such as: <ul style="list-style-type: none"> • Condition 3.7 to ensure the proposed pick-up facility is designed and constructed in accordance with the current Australian Standards in accordance with the Access, Parking and Transport Code; and • Condition 9.6 to ensure that the new and modified garden beds are designed and constructed in accordance with the Landscape Code.
Matters prescribed by regulation	<ul style="list-style-type: none"> • The <i>Fitzroy Planning Scheme 2005</i>; and • The common material, being the material submitted with the application.

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.

10. ORIGINAL DECISION ASSESSMENT MANAGER

Name: Cecil Barnard <u>OPERATIONS MANAGER</u> <u>DEVELOPMENT ASSESSMENT</u>	Date: 17 August 2010
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11. ASSESSMENT MANAGER

Name: Tarnya Fitzgibbon <u>COORDINATOR</u> <u>DEVELOPMENT ASSESSMENT</u>	Signature: 	Date: 6 October 2021
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C/C Department of State Development, Manufacturing, Infrastructure and Planning- RockhamptonSARA@dsdilgp.qld.gov.au

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 required by the referral agency response

Attachment 2—Extract on appeal rights

STAGE ONE – SUPERMARKET, JUNIOR DISCOUNT DEPARTMENT STORE, SPECIALITY SHOPS AND KIOSKS

1.0 ADMINISTRATION

1.1 The approved development must be completed and maintained generally in accordance with the following approved drawings and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan Number</u>	<u>Dated</u>
Masterplan – Stage 1 Supermarket DA	7282 DA101 Rev. P10	August 2008
Elevations	7282A DA20 Rev. A	7 July 2011
Control Plan - EComm	WA200	20 August 2021
Pick Up Department – Sheet 2	WA384	23 June 2021
Drive Thru/Direct to Boot	20GCT0278-01	17 August 2021
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Swept Path Analysis Commercial Vehicle Bay	20GCT0278-03	17 August 2021

1.2 Where there is any conflict between conditions of this decision notice and details shown on the approved plans, the conditions of approval must prevail.

1.3 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 of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.

1.4 The Developer is responsible for ensuring compliance with this Approval and the Conditions of the Approval by an employee, agent, contractor or invitee of the Developer.

1.5 All conditions, works, and requirements of this approval for this Stage must be satisfied, undertaken and completed to the satisfaction of Council prior to the commencement of use.

1.6 The following further development permits are required prior to the commencement of any works on the site:

1.6.1 Operational Works:

- i) Road Works;
- ii) Access and Parking;
- iii) Sewerage Works;
- iv) Water Works;
- v) Stormwater Works;
- vi) Roof and Allotment Drainage;
- vii) Site Works; and
- viii) Landscaping.

1.6.2 Plumbing and Drainage Works; and

1.6.3 Building Works.

- 1.7 All Develop *Roof and Allotment Drainage Works* ment Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 1.8 This approval for stage one is valid for a period of four (4) years from the day the approval takes effect. If the use has not commenced in accordance with the approved conditions within four (4) years the approval will lapse.
- 1.9 Any outstanding rates, charges or expenses levied by the Council over the subject land must be paid prior to the issue of a Development Permit for Building Works.
- 1.10 The maintenance of all works constructed under this approval, or any subsequent Development Permit for Operational Works, must remain the sole responsibility of the developer until such time as all works are accepted 'off maintenance' by Council.
- 1.11 'As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be approved prior to the issue of a Development Permit for Building Works.

2.0 ROAD WORKS

- 2.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any works on the site.
- 2.2 All road works and associated stormwater drainage system works must be designed generally in accordance with the Capricorn Municipal Development Guidelines (including standard drawings) and the endorsed plans (refer to Condition 1.1).
- 2.3 The engineering design of all new roads and associated stormwater drainage systems, both internal and external to the site, submitted as part of any application for a Development Permit for Operational Works (Road Works) must be prepared and certified by a registered professional engineer.
- 2.4 All road widenings, intersection alignments, associated kerb and channel and drainage works along O'Shanesy Street for stage one, must be designed and constructed along the frontage as indicated on the endorsed plans (refer to Condition 1.1). O'Shanesy Street must be reconstructed to separate the school set down and parking area from traffic accessing and passing the shopping centre site.
- 2.5 Design and construct all necessary connections with the existing road network including intersections generally in accordance with the Capricorn Municipal Development Guidelines (including standard drawings) and the endorsed plans (refer to Condition 1.1).
- 2.6 A dual use pathway, 2.0 metres wide, must be constructed along the full frontage of the site for McLaughlin and O'Shanesy Streets, relevant to stage one in accordance with the Capricorn Municipal Development Guidelines (including standard drawings) and the endorsed plans (refer to condition 1.1). Details of the footpath must be provided with any application for a Development Permit for Operational Works (road works).
- 2.7 A dual use pathway, 2.0 metres wide, must be constructed, in conjunction with stage one, from the development site to connect with the existing footpath fronting the Gracemere State Primary School in accordance with the Capricorn Municipal Development Guidelines (including standard drawings) and the endorsed plans (refer to condition 1.1). Details of the footpath must be provided with any application for a Development Permit for Operational Works (road works) for this stage of the development
- 2.8 Road signage and pavement markings must be installed in accordance with the Manual of Uniform Traffic Control Devices.
- 2.9 All new roads and intersections, and any modifications to existing roads or intersections, must be provided with road and public space lighting in accordance with the Australian Standard AS1158 suite of standards.

2.10 All areas of any existing or proposed road reserve disturbed as a consequence of road works, or any other works, must be suitably shaped, top soiled, turfed or hydromulched, or similarly treated, and maintained to the satisfaction of Council.

2.11 The owner must ensure that any damage to infrastructure including public pathways, kerb and channel and the like caused as a result of the development is repaired or reinstated to the standard required for similar new works.

3.0 ACCESS AND PARKING

3.1 A Development Permit for Operational Works (access and parking) must be obtained prior to the commencement of any works on the site.

3.2 All parking and access areas must be paved or sealed to the satisfaction of Council. Design and construction must be in accordance with the Capricorn Municipal Development Guidelines (including standard drawings), Australian Standard AS2890, Australian Standard AS1428 and the provisions of a Development Permit for Operational Works (access and parking). The layout must be generally in accordance with the endorsed plans (refer to condition 1.1).

3.3 285 parking spaces and six (6) motorcycle spaces must be provided on site generally in accordance with the endorsed plans (refer to condition 1.1), for this stage of the development.

3.4 All stormwater runoff from parking and access areas must be collected and drained to a lawful point of discharge.

3.5 A bus setdown area, including weather shelter must be designed and constructed at stage one of the development in accordance with the Public Transport Infrastructure Manual June 2007. The bus setdown area must be located adjacent to the specialty shops. Details of the bus setdown area must be provided with any application for a Development Permit for Operational Works (access and parking) for this stage of the development.

3.6 Handrails must be provided in accordance with the approved plan 'Drive Thru/Direct to Boot' (refer to condition 1.1) and adequate clearances between the handrails and parking aisle must be provided to accommodate pedestrian, and associated shopping trolley passage.

3.7 All vehicle operations associated with the development must be directed by suitable directional, informative, regulatory or warning signs in accordance with *Australian Standard AS1742.1 "Manual of uniform traffic control devices"* and *Australian Standard AS2890.1 "Parking facilities – Off-street car parking"*.

4.0 SEWERAGE WORKS

4.1 A Development Permit for Operational Works (sewerage works) must be obtained prior to the commencement of any works on the site.

4.2 The development must be connected to Council's reticulated sewerage network in accordance with the provisions of the *Water Act* and *Plumbing and Drainage Act*.

4.3 Any construction works proposed in the vicinity of Council's existing sewerage infrastructure must not adversely affect the integrity of the infrastructure.

4.4 A Trade Waste Permit must be obtained prior to the issue of a Development Permit for Building Works.

4.5 Should any proposed sewer connection points be located within trafficable areas, the jump-up must be raised to the finish surface level and provided with a brass cover.

4.6 All sanitary drainage works must be in accordance with regulated work under the *Plumbing and Drainage Act*.

5.0 WATER WORKS

5.1 A Development Permit for Operational Works (water works) must be obtained prior to the commencement of any works on the site.

- 5.2 The development must be connected to Council's reticulated water supply network in accordance with the provisions of the *Water Act* and *Plumbing and Drainage Act*. The connection must be located at a point nominated by Council.
- 5.3 The development must be provided with a master water meter at the property boundary and sub meters for each sole occupancy premises.
- 5.4 Water storage tanks and pumps must be located on site to provide adequate fire-fighting flows for the development.
- 5.5 Any construction works proposed in the vicinity of Council's existing water infrastructure must not adversely affect the integrity of the infrastructure.
- 5.6 All plumbing works must be in accordance with regulated work under the *Plumbing and Drainage Act*.

6.0 STORMWATER WORKS

- 6.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any works on the site.
- 6.2 All stormwater drainage works must be designed and constructed in accordance with the Queensland Urban Drainage Manual and the Capricorn Municipal Design Guidelines, and sound Engineering practice.
- 6.3 All stormwater runoff from the subject site, and roofwater and water from paved surfaces, must be collected within the site and directed to a lawful point of discharge, in accordance with Council requirements, the Queensland Urban Drainage Manual and the Capricorn Municipal Design Guidelines. Design and construction must be in accordance with a Development Permit for Operational Works (stormwater works).
- 6.4 The application for a Development Permit for Operational Works (stormwater) must be accompanied by:
 - 6.4.1 detailed assessment of total flows leaving the site and pipe sizing in accordance with the Capricorn Municipal Design Guidelines;
 - 6.4.2 details of any retention or detention proposed on site, including Q100 surface levels for any detained flows including overflow relief capacity and sizing;
 - 6.4.3 details of the capacity of the down-stream underground stormwater system and how it is able to handle the additional proposed development runoff.
- 6.5 Any filling or changes to the site proposed as part of any Development Permit for Operational Works must not adversely impact on any adjoining or downstream land, drainage systems, or any Council infrastructure
- 6.6 Drainage easements must cater for the 100 year Average Recurrence Interval rainfall event. Provide drainage easements, free of cost and compensation in Council's favour, over any drainage works on the land should such be required.

7.0 SITE WORKS

- 7.1 A Development Permit for Operational Works (Site Works) must be obtained prior to the commencement of any works on the site.
- 7.2 Any application for a Development Permit for Operational Works (Site Works) must be accompanied by an earthworks plan which clearly identifies the following:
 - 7.2.1 the location of cut and/or fill;
 - 7.2.2 the type of fill to be used and the manner in which it is to be compacted;
 - 7.2.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;
 - 7.2.4 details of any proposed access routes to the site which are intended to be used to transport fill to or from the site; and

- 7.2.5 the maintenance of access roads to and from the site so that they are free of all cut and/or fill material and cleaned as necessary.
- 7.3 Any vegetation cleared from the site must not be burnt either on-site or off-site, and within sixty (60) days of clearing the cleared vegetation must be either:
- 7.3.1 mulched on-site and utilised on the subject land for landscaping purposes, in accordance with the landscaping plan approved by Council; or
- 7.3.2 removed for disposal at a location approved by Council.
- 7.4 Filling work must not be undertaken on land with slopes greater than twenty-five (25) percent.
- 7.5 All structural filling must be in accordance with Australian Standard AS3798. Engineering drawings/specification must clearly indicate the location and depth of proposed filling. A testing strategy must be submitted as part of any application for a Development Permit for Operational Works (Site Works). Testing requirements must be generally in accordance with Section 8 of Australian Standard 3798.
- 7.6 All engineering drawings for Operational Works must be signed and certified by a registered professional engineer as being in accordance with all relevant Australian Standards, statutory requirements and sound engineering principles. A registered professional engineer must supervise the works on behalf of the Applicant. A certificate of construction compliance must be submitted by a registered professional engineer verifying that all works have been carried out in accordance with Council approved drawings, approval conditions and specification.
- 7.7 A registered professional engineer must issue to Council signed "as-constructed" plans and a certificate verifying that the information contained within the drawings is true and accurate. These plans must be neatly presented in printed hard copy form and free from errors, omissions, mark ups, and/or hand written alterations/notes. Levels in the as-constructed plans must be based upon a minimum fourth-order Permanent Survey Mark.
- 7.8 Any application for a Development Permit for Operational Works (Site Works) must be accompanied by:
- 7.8.1 reasonable investigations to determine the presence and extent of any existing filled ground on the subject land (site investigations must assess the degree of compaction and composition of any existing filled ground and an assessment of the adequacy of existing filled ground including the extent of any remedial works required); and
- 7.8.2 reasonable investigations and reasonable testing to ensure the subject land is free of contamination in accordance with the requirements of the *Contaminated Land Act 1991*.
- 8.0 BUILDING
- 8.1 All external elements, such as air conditioners, must be adequately screened from public view, to Council's satisfaction. Noise from any external elements, such as air conditioners, must not exceed 5dB(A) above the background ambient noise level, measured at the boundaries of the subject site.
- 8.2 All lift motor rooms, plant and service facilities must be totally enclosed or screened using materials consistent with those elsewhere in the building. Noise from any lift motor room must not exceed 5dB(A) above the background ambient noise level, measured at the boundaries of the subject site.
- 8.3 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the site and shielded so as not to cause glare or other nuisance to nearby residents and motorists. Night lighting must be designed, constructed and operated in accordance with 'Australian Standard AS4282 – Control of the obtrusive effects of outdoor lighting'.

- 8.4 Any reflective material must have a level of light reflectivity of no more than twenty (20) percent and a level of heat transmission of not less than twenty (20) percent.
- 8.5 All shop front glazing must be clear and untinted and must not be obscured by blinds, curtains or the like.
- 8.6 Prior to occupation of the building, submit to Council a certificate from a licenced surveyor to demonstrate the completed building does not exceed twelve (12) metres above natural ground level, in accordance with the approved plans.
- 9.0 LANDSCAPING
- 9.1 A Development Permit for Operational Works (landscaping) must be obtained prior to the commencement of any works on the site.
- 9.2 The landscape plan must include, but is not limited to, the following:
- 9.2.1 A plan documenting the "Extent of Works" and supporting documentation which includes:
- i) location and name of existing trees, including those to be retained (the location of the trees shall be overlaid or be easily compared with the proposed development design);
 - ii) the extent of soft and hard landscape proposed;
 - iii) important spot levels and/or contours. The levels of the trees to be retained shall be provided in relation to the finished levels of the proposed buildings and works;
 - iv) underground and overhead services;
 - v) typical details of critical design elements (eg stabilisation of batters, retaining walls, podium/balcony planters, trees in car park areas, fences);
 - vi) details of landscape structures including areas of deep planting; and
 - vii) specification notes on mulching and soil preparation.
- 9.2.2 A "Planting Plan" and supporting documentation which includes:
- (i) trees, shrubs and groundcovers to all areas to be landscaped;
 - (ii) position and canopy spread of all trees and shrubs; and
 - (iii) the extent and type of works (i.e. paving, fences, garden bed edging etc). All plants shall be located within an edged garden.
- 9.3 All landscaping work associated with this stage of the development must be completed prior to the commencement of use.
- 9.4 The landscaped areas must be subject to an ongoing maintenance and replanting programme.
- 9.5 The landscape plan must include a minimum 2.5 metre wide landscaped buffer along the McLaughlin Street and O'Shanesy Street frontages of stage one.
- 9.6 As per the approved plan 'Control Plan – eComm' (refer to condition 1.1), landscaping in this area must be established within both the 'modified existing garden bed(s)' and the 'new garden bed' as follows:
- 9.6.1 Designed in accordance with the Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy;
- 9.6.2 Plant species utilised must be selected from sources in the Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy and must include at least fifty (50) per cent locally native species; and
- 9.6.3 Must include groundcovers at a density rate of between 0.5 metres to one (1) metre.

10.0 ELECTRICITY AND TELECOMMUNICATION

- 10.1 The use must not commence unless and until each tenancy has been provided with live electricity and telecommunication connections in accordance with the requirements of the relevant authority.
- 10.2 Provide street lighting and public space lighting in accordance with the relevant Australian Standards.

11.0 CONTRIBUTIONS/COSTS

- 11.1 Contributions must be paid to Council prior to the issue of a Development Permit for Building Works.

The contributions must be paid in accordance with the Council Policy rates at the date of payment. The following table sets out the contributions required to be paid:

<u>Policy</u>	<u>Contribution</u>	<u>Current Total*</u>
LPP1/96	Water Supply Headworks	\$12,823.45
LPP1/96	Sewerage Headworks	\$8,922.80
	Stormwater Drainage	\$12,507.00 ⁺

*Council reserves the right to review same in accordance with the policies and rates and charges current at the time of payment. The applicant will be required to pay for 52.66 Equivalent Persons (EP) at the rates current at the time of payment.

⁺ At the time of payment this amount will be increased by the Road and Construction Index for Queensland with the December 2008 quarter being the base.

- 11.2 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the developer.
- 11.3 'As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the commence of the use or the release of the Building Format Plan, whichever occurs the sooner. This information must be provided in accordance with the Manual for Submission of Digital As Constructed Information.

12.0 ENVIRONMENTAL

- 12.1 Any application for a Development Permit for Operational Works or Development Permit for Building Works must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:

- i) water quality and drainage;
- ii) erosion and silt/sedimentation management;
- iii) acid sulphate soils;
- iv) fauna management;
- v) vegetation management and clearing;
- vi) top soil management;
- vii) interim drainage plan during construction;
- viii) construction programme;
- ix) geotechnical issues;
- x) weed control;
- xi) bushfire management;
- xii) emergency vehicle access;

- xiii) noise and dust suppression; and
 - xiv) waste management.
- 12.2 Any application for a Development Permit for Operational Works or Development Permit for Building Works must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:
- i) objectives;
 - ii) site location / topography;
 - iii) vegetation;
 - iv) site drainage;
 - v) soils;
 - vi) erosion susceptibility;
 - vii) erosion risk;
 - viii) concept;
 - ix) design; and
 - x) implementation, for the construction and post construction phases of work.

The erosion and sediment control plan must incorporate detailed plans, control measures, monitoring programmes and maintenance procedures to ensure appropriate development and management practices within and adjacent to the site.

- 12.3 The Environmental Management Plan and the Erosion and Sediment Control Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.
- 12.4 No works can commence on the site unless and until an Environmental Management Plan and an Erosion and Sediment Control Plan has been approved by Council as part of Development Permit for Operational Works.

13.0 OPERATING PROCEDURES

- 13.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in McLaughlin Street, O'Shanesy Street or the Capricorn Highway.
- 13.2 All waste storage areas must be surrounded by a fence/screen, at least 1.8 metres in height, that obstructs from view the contents of the bin compound by any member of the public from any public place.
- 13.3 All waste containers must be:
- 13.3.1 stored within the bin enclosure area;
 - 13.3.2 securely covered at all times; and
 - 13.3.3 maintained in a clean condition and in good repair.

STAGE TWO – SUPERMARKET 2, JUNIOR DISCOUNT DEPARTMENT STORE, DISCOUNT DEPARTMENT STORE, SPECIALTY SHOPS AND KIOSKS

14.0 ADMINISTRATION

- 14.1 The approved development must be completed and maintained generally in accordance with the following approved drawings and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan Number</u>	<u>Dated</u>
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Site Plan – Stage 2	7282A DA10 Rev. G	July 2011
Site Plan – Stage 2 Basement Carparking	7282A DA12 Rev. E	July 2011
Elevations	7282A DA20 Rev. A	7 July 2011

- 14.2 Where there is any conflict between conditions of this decision notice and details shown on the approved plans, the conditions of approval must prevail.
- 14.3 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 of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 14.4 The Developer is responsible for ensuring compliance with this Approval and the Conditions of the Approval by an employee, agent, contractor or invitee of the Developer.
- 14.5 All conditions, works, and requirements of this approval for this Stage must be satisfied, undertaken and completed to the satisfaction of Council prior to the commencement of use.
- 14.6 The following further development permits are required prior to the commencement of any works on the site:
- 14.6.1 Operational Works:
- i) Road Works;
 - ii) Access and Parking;
 - iii) Sewerage Works;
 - iv) Water Works;
 - v) Stormwater Works;
 - vi) Roof and Allotment Drainage;
 - vii) Site Works; and
 - viii) Landscaping.
- 14.6.2 Plumbing and Drainage Works; and
- 14.6.3 Building Works.
- 14.7 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 14.8 This approval for stage two is valid for a period of 14 years from the day the approval takes effect. If the use has not commenced in accordance with the approved conditions by 17 August 2024, the approval will lapse.
- 14.9 Any outstanding rates, charges or expenses levied by the Council over the subject land must be paid prior to the issue of a Development Permit for Building Works.
- 14.10 The maintenance of all works constructed under this approval, or any subsequent Development Permit for Operational Works, must remain the sole responsibility of the developer until such time as all works are accepted ‘off maintenance’ by Council.
- 14.11 ‘As constructed’ information pertaining to assets to be handed over to Council and those which may have an impact on Council’s existing and future assets must be approved prior to the issue of a Development Permit for Building Works.
- 15.0 ROAD WORKS
- 15.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any works on the site.

- 15.2 All road works and associated stormwater drainage system works must be designed generally in accordance with the Capricorn Municipal Development Guidelines (including standard drawings) and the endorsed plans (refer to Condition 14.1).
- 15.3 The engineering design of all new roads and associated stormwater drainage systems, both internal and external to the site, submitted as part of any application for a Development Permit for Operational Works (Road Works) must be prepared and certified by a registered professional engineer.
- 15.4 All road widenings, intersection alignments, associated kerb and channel and drainage works along O'Shanesy Street for stage two, must be designed and constructed along the frontage as indicated on the endorsed plans (refer to Condition 14.1). O'Shanesy Street must be reconstructed to separate the school set down and parking area from traffic accessing and passing the shopping centre site.
- 15.5 Design and construct all necessary connections with the existing road network including intersections generally in accordance with the Capricorn Municipal Development Guidelines (including standard drawings) and the endorsed plans (refer to Condition 14.1).
- 15.6 A dual use pathway, 2.0 metres wide, must be constructed along the full frontage of the site for O'Shanesy Street, relevant to stage two in accordance with the Capricorn Municipal Development Guidelines (including standard drawings) and the endorsed plans (refer to condition 14.1). Details of the footpath must be provided with any application for a Development Permit for Operational Works (road works).
- 15.7 Road signage and pavement markings must be installed in accordance with the Manual of Uniform Traffic Control Devices.
- 15.8 All new roads and intersections, and any modifications to existing roads or intersections, must be provided with road and public space lighting in accordance with the Australian Standard AS1158 suite of standards.
- 15.9 All areas of any existing or proposed road reserve disturbed as a consequence of road works, or any other works, must be suitably shaped, topsoiled, turfed or hydromulched, or similarly treated, and maintained to the satisfaction of Council.
- 15.10 The owner must ensure that any damage to infrastructure including public pathways, kerb and channel and the like caused as a result of the development is repaired or reinstated to the standard required for similar new works.
- 16.0 ACCESS AND PARKING
- 16.1 A Development Permit for Operational Works (access and parking) must be obtained prior to the commencement of any works on the site.
- 16.2 All parking and access areas must be paved or sealed to the satisfaction of Council. Design and construction must be in accordance with the Capricorn Municipal Development Guidelines (including standard drawings), Australian Standard AS2890, Australian Standard AS1428 and the provisions of a Development Permit for Operational Works (access and parking). The layout must be generally in accordance with the endorsed plans (refer to condition 14.1).
- 16.3 585 parking spaces and three (3) motorcycle spaces must be provided on site generally in accordance with the endorsed plans (refer to condition 14.1), for this stage of the development.
- 16.4 The total parking provision for the whole development must be 870 parking spaces and nine (9) motorcycle spaces. The total parking provision must be constructed prior to the commencement of stage two of the development.
- 16.5 All stormwater runoff from parking and access areas must be collected and drained to a lawful point of discharge.
- 17.0 SEWERAGE WORKS

- 17.1 A Development Permit for Operational Works (sewerage works) must be obtained prior to the commencement of any works on the site.
- 17.2 The development must be connected to Council's reticulated sewerage network in accordance with the provisions of the *Water Act* and *Plumbing and Drainage Act*.
- 17.3 Any construction works proposed in the vicinity of Council's existing sewerage infrastructure must not adversely affect the integrity of the infrastructure.
- 17.4 A Trade Waste Permit must be obtained prior to the issue of a Development Permit for Building Works.
- 17.5 Should any proposed sewer connection points be located within trafficable areas, the jump-up must be raised to the finish surface level and provided with a brass cover.
- 17.6 All sanitary drainage works must be in accordance with regulated work under the *Plumbing and Drainage Act*.
- 18.0 WATER WORKS
- 18.1 A Development Permit for Operational Works (water works) must be obtained prior to the commencement of any works on the site.
- 18.2 The development must be connected to Council's reticulated water supply network in accordance with the provisions of the *Water Act* and *Plumbing and Drainage Act*. The connection must be located at a point nominated by Council.
- 18.3 The development must be provided with a master water meter at the property boundary and sub meters for each sole occupancy premises.
- 18.4 Water storage tanks and pumps must be located on site to provide adequate fire-fighting flows for the development.
- 18.5 Any construction works proposed in the vicinity of Council's existing water infrastructure must not adversely affect the integrity of the infrastructure.
- 18.6 All plumbing works must be in accordance with regulated work under the *Plumbing and Drainage Act*.
- 19.0 STORMWATER WORKS
- 19.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any works on the site.
- 19.2 All stormwater drainage works must be designed and constructed in accordance with the Queensland Urban Drainage Manual and the Capricorn Municipal Design Guidelines, and sound Engineering practice.
- 19.3 All stormwater runoff from the subject site, and roofwater and water from paved surfaces, must be collected within the site and directed to a lawful point of discharge, in accordance with Council requirements, the Queensland Urban Drainage Manual and the Capricorn Municipal Design Guidelines. Design and construction must be in accordance with a Development Permit for Operational Works (stormwater works).
- 19.4 The application for a Development Permit for Operational Works (stormwater) must be accompanied by:
 - 19.4.1 detailed assessment of total flows leaving the site and pipe sizing in accordance with the Capricorn Municipal Design Guidelines;
 - 19.4.2 details of any retention or detention proposed on site, including Q100 surface levels for any detained flows including overflow relief capacity and sizing;
 - 19.4.3 details of the capacity of the down-stream underground stormwater system and how it is able to handle the additional proposed development runoff.

- 19.5 Any filling or changes to the site proposed as part of any Development Permit for Operational Works must not adversely impact on any adjoining or downstream land, drainage systems, or any Council infrastructure.
- 19.6 Drainage easements must cater for the 100 year Average Recurrence Interval rainfall event. Provide drainage easements, free of cost and compensation in Council's favour, over any drainage works on the land should such be required.
- 20.0 SITE WORKS
- 20.1 A Development Permit for Operational Works (Site Works) must be obtained prior to the commencement of any works on the site.
- 20.2 Any application for a Development Permit for Operational Works (Site Works) must be accompanied by an earthworks plan which clearly identifies the following:
- 20.2.1 the location of cut and/or fill;
 - 20.2.2 the type of fill to be used and the manner in which it is to be compacted;
 - 20.2.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;
 - 20.2.4 details of any proposed access routes to the site which are intended to be used to transport fill to or from the site; and
 - 20.2.5 the maintenance of access roads to and from the site so that they are free of all cut and/or fill material and cleaned as necessary.
- 20.3 Any vegetation cleared from the site must not be burnt either on-site or off-site, and within sixty (60) days of clearing the cleared vegetation must be either:
- 20.3.1 mulched on-site and utilised on the subject land for landscaping purposes, in accordance with the landscaping plan approved by Council; or
 - 20.3.2 removed for disposal at a location approved by Council.
- 20.4 Filling work must not be undertaken on land with slopes greater than twenty-five (25) percent.
- 20.5 All structural filling must be in accordance with Australian Standard AS3798. Engineering drawings/specification must clearly indicate the location and depth of proposed filling. A testing strategy must be submitted as part of any application for a Development Permit for Operational Works (Site Works). Testing requirements must be generally in accordance with Section 8 of Australian Standard 3798.
- 20.6 All engineering drawings for Operational Works must be signed and certified by a registered professional engineer as being in accordance with all relevant Australian Standards, statutory requirements and sound engineering principles. A registered professional engineer must supervise the works on behalf of the Applicant. A certificate of construction compliance must be submitted by a registered professional engineer verifying that all works have been carried out in accordance with Council approved drawings, approval conditions and specification.
- 20.7 A registered professional engineer must issue to Council signed "as-constructed" plans and a certificate verifying that the information contained within the drawings is true and accurate. These plans must be neatly presented in printed hard copy form and free from errors, omissions, mark ups, and/or hand written alterations/notes. Levels in the as-constructed plans must be based upon a minimum fourth-order Permanent Survey Mark.
- 20.8 Any application for a Development Permit for Operational Works (Site Works) must be accompanied by:
- 20.8.1 reasonable investigations to determine the presence and extent of any existing filled ground on the subject land (site investigations must assess the degree of compaction and composition of any existing filled ground and an assessment of the adequacy of existing filled ground including the extent of any remedial works required); and

20.8.2 reasonable investigations and reasonable testing to ensure the subject land is free of contamination in accordance with the requirements of the *Contaminated Land Act 1991*.

21.0 BUILDING

- 21.1 All external elements, such as air conditioners, must be adequately screened from public view, to Council's satisfaction. Noise from any external elements, such as air conditioners, must not exceed 5dB(A) above the background ambient noise level, measured at the boundaries of the subject site.
- 21.2 All lift motor rooms, plant and service facilities must be totally enclosed or screened using materials consistent with those elsewhere in the building. Noise from any lift motor room must not exceed 5dB(A) above the background ambient noise level, measured at the boundaries of the subject site.
- 21.3 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the site and shielded so as not to cause glare or other nuisance to nearby residents and motorists. Night lighting must be designed, constructed and operated in accordance with '*Australian Standard AS4282 – Control of the obtrusive effects of outdoor lighting*'.
- 21.4 Any reflective material must have a level of light reflectivity of no more than twenty (20) percent and a level of heat transmission of not less than twenty (20) percent.
- 21.5 All shop front glazing must be clear and untinted and must not be obscured by blinds, curtains or the like.
- 21.6 Prior to occupation of the building, submit to Council a certificate from a licenced surveyor to demonstrate the completed building does not exceed twelve (12) metres above natural ground level, in accordance with the approved plans.

22.0 LANDSCAPING

- 22.1 A Development Permit for Operational Works (landscaping) must be obtained prior to the commencement of any works on the site.
- 22.2 The landscape plan must include, but is not limited to, the following:
- 22.2.1 A plan documenting the "Extent of Works" and supporting documentation which includes:
- i) location and name of existing trees, including those to be retained (the location of the trees shall be overlaid or be easily compared with the proposed development design);
 - ii) the extent of soft and hard landscape proposed;
 - iii) important spot levels and/or contours. The levels of the trees to be retained shall be provided in relation to the finished levels of the proposed buildings and works;
 - iv) underground and overhead services;
 - v) typical details of critical design elements (eg stabilisation of batters, retaining walls, podium/balcony planters, trees in car park areas, fences);
 - vi) details of landscape structures including areas of deep planting; and
 - vii) specification notes on mulching and soil preparation.
- 22.2.2 A "Planting Plan" and supporting documentation which includes:
- i) trees, shrubs and groundcovers to all areas to be landscaped;
 - ii) position and canopy spread of all trees and shrubs;
 - iii) the extent and type of works (i.e. paving, fences, garden bed edging etc). All plants shall be located within an edged garden; and

- iv) a plant schedule with the botanic and common names, total plant numbers and pot sizes at the time of planting.
- 22.3 All landscaping work associated with this stage of the development must be completed prior to the commencement of use.
- 22.4 The landscaped areas must be subject to an ongoing maintenance and replanting programme.
- 22.5 The landscape plan must include a minimum 2.5 metre wide landscaped buffer along the McLaughlin Street and O'Shanesy Street frontages of stage two.
- 23.0 ELECTRICITY AND TELECOMMUNICATION
- 23.1 Provide underground electricity and telecommunication connections to the proposed development to the requirements of the relevant authority.
- 23.2 The use must not commence unless and until each tenancy has been provided with live electricity and telecommunication connections in accordance with the requirements of the relevant authority.
- 23.3 Provide street lighting and public space lighting in accordance with the relevant Australian Standards.
- 24.0 CONTRIBUTIONS/COSTS
- 24.1 Deleted.
- 24.2 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the developer.
- 24.3 'As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the commence of the use or the release of the Building Format Plan, whichever occurs the sooner. This information must be provided in accordance with the Manual for Submission of Digital As Constructed Information.
- 25.0 ENVIRONMENTAL
- 25.1 Any application for a Development Permit for Operational Works or Development Permit for Building Works must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:
- i) water quality and drainage;
 - ii) erosion and silt/sedimentation management;
 - iii) acid sulphate soils;
 - iv) fauna management;
 - v) vegetation management and clearing;
 - vi) top soil management;
 - vii) interim drainage plan during construction;
 - viii) construction programme;
 - ix) geotechnical issues;
 - x) weed control;
 - xi) bushfire management;
 - xii) emergency vehicle access;
 - xiii) noise and dust suppression; and
 - xiv) waste management.

- 25.2 Any application for a Development Permit for Operational Works or Development Permit for Building Works must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:
- i) objectives;
 - ii) site location / topography;
 - iii) vegetation;
 - iv) site drainage;
 - v) soils;
 - vi) erosion susceptibility;
 - vii) erosion risk;
 - viii) concept;
 - ix) design; and
 - x) implementation, for the construction and post construction phases of work.

The erosion and sediment control plan must incorporate detailed plans, control measures, monitoring programmes and maintenance procedures to ensure appropriate development and management practices within and adjacent to the site.

- 25.3 The Environmental Management Plan and the Erosion and Sediment Control Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.

- 25.4 No works can commence on the site unless and until an Environmental Management Plan and an Erosion and Sediment Control Plan has been approved by Council as part of Development Permit for Operational Works.

26.0 OPERATING PROCEDURES

- 26.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in McLaughlin Street, O'Shanesy Street or the Capricorn Highway.

- 26.2 All waste storage areas must be surrounded by a fence/screen, at least 1.8 metres in height, that obstructs from view the contents of the bin compound by any member of the public from any public place.

- 26.3 All waste containers must be:

26.3.1 stored within the bin enclosure area;

26.3.2 securely covered at all times; and

26.3.3 maintained in a clean condition and in good repair.

ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage Act, 2003

It is advised that under Section 23 of the Aboriginal Cultural Heritage Act 2003, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal Cultural Heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal Cultural Heritage legislation. The information on Aboriginal Cultural Heritage is available on the Department of Natural Resources, Mines and Water's website www.nrm.qld.gov.au/cultural_heritage/index.html.

NOTE 2. Asbestos Removal

Any demolition and/or removal works involving asbestos materials must be undertaken in accordance with the requirements of the Workplace Health and Safety legislation.

NOTE 3. Dust Control

It is the developer's responsibility to ensure compliance with Part 2A - Environmental Nuisance of the Environmental Protection Regulation 1998 which prohibits unlawful environmental nuisance caused by dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks and construction.

NOTE 4. Sedimentation Control

It is the developer's responsibility to ensure compliance with Section 32 of the Environmental Protection (Water) Policy 1997 to prevent soil erosion and contamination of the stormwater drainage system and waterways.

NOTE 5. Noise During Construction And Noise In General

It is the developer's responsibility to ensure compliance with Section 6S General Emission Criteria and Section 6T Noise Emission Criteria of the Environmental Protection Regulation 1998.

NOTE 6. General Safety Of Public During Construction

It is the principal contractor's responsibility to ensure compliance with Section 31 of the Workplace Health and Safety Act 1995. Section 31(1)(c) states that the principal contractor is obliged on a construction workplace to ensure that work activities at the workplace are safe and without risk of injury or illness to members of the public at or near the workplace.

It is the responsibility of the person in control of the workplace to ensure compliance with Section 30 of the Workplace Health and Safety Act 1995. Section 30(1)(c) states that the person in control of the workplace is obliged to ensure there is appropriate, safe access to and from the workplace for persons other than the person's workers.

NOTE 7. Gracemere Water Supply and Sewerage Planning

Reports Reference should be made to the current Gracemere Water Supply and Sewerage Planning Reports, including any addendum reports, when determining the servicing requirements of this development. All works identified within these reports required for the servicing of this development shall be designed and constructed at the developer's expense.

NOTE 8. Signage

Advertising on the site shall be in accordance with the requirements set out in Fitzroy Shire Council (Control of Signs) Local Law No. 9.

NOTE 9. Amended Infrastructure Charges Notice

This application is subject to infrastructure charges in accordance with Council policies. The charges are presented on an Amended Infrastructure Charges Notice.



Attachment 1 – Part 2
Referral Agency Conditions –
Department of Infrastructure, Local Government
and Planning

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

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

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) 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 Other appeals

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

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

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

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.

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—
 - (i) the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
 - (ii) the Plumbing and Drainage Act, part 4 or 5; or
 - (h) a decision to give an enforcement notice in relation to a matter under paragraphs (a) to (g); or
 - (i) a decision to give an infrastructure charges notice; or
 - (j) the refusal, or deemed refusal, of a conversion application; or
 - (k) a matter that, under another Act, may be appealed to the tribunal; 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.

Table 1
Appeals to the P&E Court and, for certain matters, to a tribunal

1. Development applications An appeal may be made against— (a) the refusal of all or part of the development application; or (b) the deemed refusal of the development application; or (c) a provision of the development approval; or (d) if a development permit was applied for—the decision to give a preliminary approval.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral	1 A concurrence agency that is not a co-respondent 2 If a chosen Assessment

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
		response—the concurrence agency	manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application
<p>2. Change applications An appeal may be made against— (a) a responsible entity's decision for a change application, other than a decision made by the P&E court; or (b) a deemed refusal of a change application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 The applicant 2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice	The responsible entity	If an affected entity starts the appeal—the applicant	1 A concurrence agency for the development application 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 A private certifier for the development application 4 Any eligible advice agency for the change application 5 Any eligible submitter for the change application
<p>3. Extension applications An appeal may be made against— (a) the assessment manager's decision about an extension application; or (b) a deemed refusal of an extension application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 1 The applicant 2 For a matter other than a deemed refusal of an extension application – a concurrence agency, other than the chief executive, for the application	The assessment manager	If a concurrence agency starts the appeal – the applicant	If a chosen assessment manager is the respondent – the prescribed assessment manager
<p>4. Infrastructure charges notices An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds a) The notice involved an error relating to – (i) The application of the relevant adopted charge; or Examples of errors in applying an adopted charge – • The incorrect application of gross floor area for a non-residential development • Applying an incorrect 'use category', under a regulation, to the development (i) The working out of extra demands, for section 120; or (ii) An offset or refund; or b) The was no decision about an offset or refund; or c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or d) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p>			

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the Infrastructure charges notice	The local government that gave the infrastructure charges notice	-	-
5. Conversion applications An appeal may be made against— (a) the refusal of a conversion application; or (b) a deemed refusal of a conversion application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The local government to which the conversion application was made	-	-
6. Enforcement notices An appeal may be made against the decision to give an enforcement notice.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the enforcement notice	The enforcement authority	-	If the enforcement authority is not the local government for the premises in relation to which the offence is alleged to have happened—the local government

Table 2 Appeals to the P&E Court only			
1. Appeals from tribunal An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of— (a) an error or mistake in law on the part of the tribunal; or (b) jurisdictional error.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A party to the proceedings for the decision	The other party to the proceedings for the decision	-	-
2. Eligible submitter appeals An appeal may be made against the decision to give a development approval, or an approval for a change application, to the extent that the decision relates to— (a) any part of the development application for the development approval that required impact assessment; or (b) a variation request.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 For a development application—an eligible submitter for the development	1 For a development application—the assessment manager	1 The applicant 2 If the appeal is about a concurrence agency's referral	Another eligible submitter for the application

Table 2			
Appeals to the P&E Court only			
application 2 For a change application—an eligible submitter for the change application	2 For a change application—the responsible entity	response—the concurrence agency	
<p>3. Eligible submitter and eligible advice agency appeals</p> <p>An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to—</p> <p>(a) any part of the development application or the change application, for the development approval, that required impact assessment; or</p> <p>(b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 For a development application—an eligible submitter for the development application</p> <p>2 For a change application—an eligible submitter for the change application</p> <p>3 An eligible advice agency for the development application or change application</p>	<p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p>	<p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency's referral response—the concurrence agency</p>	Another eligible submitter for the application
<p>4. Compensation claims</p> <p>An appeal may be made against—</p> <p>(a) a decision under section 32 about a compensation claim; or</p> <p>(b) a decision under section 265 about a claim for compensation; or</p> <p>(c) a deemed refusal of a claim under paragraph (a) or (b).</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person dissatisfied with the decision	The local government to which the claim was made	-	-
<p>5. Registered premises</p> <p>An appeal may be made against a decision of the Minister under chapter 7, part 4.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 A person given a decision notice about the decision</p> <p>2 If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the</p>	The Minister	-	If an owner or occupier starts the appeal – the owner of the registered premises

Table 2 Appeals to the P&E Court only			
affected area for the registered premises who is dissatisfied with the decision			
<p>6. Local laws</p> <p>An appeal may be made against a decision of a local government, or conditions applied, under a local law about—</p> <p>(a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or</p> <p>(b) the erection of a building or other structure.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who— (a) applied for the decision; and (b) is dissatisfied with the decision or conditions.	The local government	-	-

Table 3 Appeals to the tribunal only			
<p>1. Building advisory agency appeals</p> <p>An appeal may be made against giving a development approval for building work to the extent the building work required code assessment against the building assessment provisions.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A building advisory agency for the development application related to the approval	The assessment manager	The applicant	1 A concurrence agency for the development application related to the approval 2 A private certifier for the development application related to the approval
<p>3. Certain decisions under the Building Act and the Plumbing and Drainage Act</p> <p>An appeal may be made against a decision under—</p> <p>(a) the Building Act, other than a decision made by the Queensland Building and Construction Commission; or</p> <p>(b) the Plumbing and Drainage Act, part 4 or 5.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who received, or was entitled to receive, notice of the decision	The person who made the decision	-	-
<p>4. Local government failure to decide application under the Building Act</p> <p>An appeal may be made against a local government's failure to decide an application under the Building Act within the period required under that Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who was entitled to receive, notice of the decision	The local government to which the application was made	-	-