



Decision Notice Approval (negotiated)

Planning Act Form 2 (version 1.1 effective 22 June 2018) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s76 Planning Act 2016

Application number:	D/117-2017	Contact:	Thomas Gardiner
Notice Date:	12 September 2018	Contact Number:	1300 22 55 77

APPLICANT DETAILS

Name:	Stockland Development Pty Ltd C/o RPS		
Postal address:			
Phone no:	Mobile no:	Email:	

I acknowledge receipt of the above application on 22 September 2017 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Reconfiguring a Lot (one lot into 126 lots) (121 residential lots, 2 management lots, 1 active open space lot, 1 linear open space lot and 1 balance lot)

PROPERTY DESCRIPTION

Street address:	23-27 William Palfrey Road, 923-947 Yaamba Road and 985-1005 Yaamba Road, Parkhurst
Real property description:	Lot 5 on SP238731, Lot 22 and Lot 23 on SP134380, Lot 49 on SP129857 and Lot 41 on SP226571, Parish of Murchison

OWNER DETAILS

Name:	Stockland Development Pty Ltd
Postal address:	
Dear Stockland Development Pty Ltd C/o RPS	
I advise that, on 10 September 2018 the above development 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 5	Changed	10 September 2018
2)	Condition 2.1	Changed	10 September 2018

1. DETAILS OF THE APPROVAL

The following approvals are given:

	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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Reconfiguring a lot	<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 Works</i> <i>Sewerage Works</i> <i>Water Works</i> <i>Stormwater Works</i> <i>Inter-allotment Drainage Works</i> <i>Site Works</i>

4. REFERRAL AGENCIES

The following Referral Agencies were activated by this application.

For an application involving	Name of agency	Status	Address
STATE TRANSPORT INFRASTRUCTURE (Generally)			
<i>Schedule 10, Part 9, Division 4, Subdivision 1, Table 1 – Aspect of development stated in schedule 20</i>			
Development application for an aspect of development stated in schedule 20 that is assessable development under a local categorising instrument or section 21, if— (a) the development is for a purpose stated in schedule 20, column 1 for the aspect; and (b) the development meets or exceeds the threshold— (i) for development in local government area 1—stated in schedule 20, column 2 for the purpose; or (ii) for development in local government area 2—stated in schedule 20, column 3 for the purpose; and (c) for development in local government area 1—the development is not for an accommodation activity or an office at premises wholly or partly in the excluded area	Department of Transport and Main Roads	Concurrence	Department of State Development, Manufacturing, Infrastructure and Planning (Previously known as the Department of Infrastructure, Local Government and Planning) Online: www.dsdmip.qld.gov.au Postal: PO Box 113 Rockhampton Qld 4700

<p>However, if the development is for a combination of purposes stated in the same item of schedule 20, the threshold is for the combination of purposes and not for each individual purpose.</p>			
<p>STATE TRANSPORT INFRASTRUCTURE (State transport corridors and future State transport corridors)</p>			
<p><i>Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 – Reconfiguring a lot near a State transport corridor</i></p>			
<p>Development application for reconfiguring a lot that is assessable development under section 21, if—</p> <p>(a) all or part of the premises are within 25m of a State transport corridor; and</p> <p>(b) 1 or more of the following apply—</p> <p>(i) the total number of lots is increased;</p> <p>(ii) the total number of lots adjacent to the State transport corridor is increased;</p> <p>(iii) there is a new or changed access between the premises and the State transport corridor;</p> <p>(iv) an easement is created adjacent to a railway as defined under the Transport Infrastructure Act, schedule 6; and</p> <p>(c) the reconfiguration does not relate to government supported transport infrastructure</p>	<p>Department of Transport and Main Roads</p>	<p>Concurrence</p>	<p>Department of State Development, Manufacturing, Infrastructure and Planning</p> <p>(Previously known as the Department of Infrastructure, Local Government and Planning)</p> <p>Online: www.dsdmip.qld.gov.au</p> <p>Postal: PO Box 113 Rockhampton Qld 4700</p>
<p><i>Schedule 10, Part 9, Division 4, Subdivision 2, Table 3 – Reconfiguring a lot near a State-controlled road intersection</i></p>			
<p>Development application for reconfiguring a lot that is assessable development under section 21, if—</p> <p>(a) all or part of the premises are—</p> <p>(i) adjacent to a road (the relevant road) that intersects with a State-controlled road; and</p> <p>(ii) within 100m of the intersection; and</p> <p>(b) 1 or more of the following apply—</p> <p>(i) the total number of lots is increased;</p> <p>(ii) the total number of lots adjacent to the relevant road is increased;</p> <p>(iii) there is a new or changed access between the premises and the relevant road; and</p> <p>(c) the reconfiguration does not relate to government supported transport infrastructure</p>	<p>Department of Transport and Main Roads</p>	<p>Concurrence</p>	<p>Department of State Development, Manufacturing, Infrastructure and Planning</p> <p>(Previously known as the Department of Infrastructure, Local Government and Planning)</p> <p>Online: www.dsdmip.qld.gov.au</p> <p>Postal: PO Box 113 Rockhampton Qld 4700</p>

ELECTRICITY INFRASTRUCTURE

Schedule 10, Part 9, Division 1, Division 2, Table 1 – Reconfiguring a lot subject to an easement or near a substation site

<p>Development application for reconfiguring a lot that is assessable under section 21, if—</p> <p>(a) all or part of the lot is subject to an easement—</p> <p>(i) for the benefit of a distribution entity, or transmission entity, under the Electricity Act; and</p> <p>(ii) for a transmission grid or supply network; or</p> <p>(b) part of the lot is within 100m of a substation site.</p>	<p>The Chief Executive of the distribution entity or transmission entity (eg, <i>Energex, Ergon, Powerlink</i>, etc)</p>	<p>Advice Agency</p>	<p>Principal Town Planner Ergon Energy PO Box 264 Fortitude Valley QLD 4006</p>
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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>
Proposed Subdivision Stages 1-3 Allotment Layout	109116-90, Revision K	21 May 2018
Residential Setbacks Plan	109116-112	11 September 2017
Indicative Staging Plan	109116-113a	February 2018
Balance Lot Plan	109116-86, Revision K	21 May 2018
Urban Arterial	109116-84e Road Cross-Sections	23 April 2018
Driveway	109116-84e Road Cross-Sections	15 January 2018
Access Place	109116-84e Road Cross-Sections	15 January 2018
Access Street	109116-84e Road Cross-Sections	15 January 2018
Minor Collector (Type 1)	109116-84e Road Cross-Sections	15 January 2018
Minor Collector (Type 2 Main Street)	109116-84e Road Cross-Sections	15 January 2018
Minor Collector (Type 3 Park)	109116-84e Road Cross-Sections	15 January 2018
Linear Open Space Cross-Section	109116-83m	19 February 2018
Water & Wastewater Network Investigation	17-002720-WER01, Revision D	11 April 2018
Ellida Stormwater Quality Management Plan	Final 04	25 October 2013
QR Linear Open Space Cross-Section	109116-114	5 January 2018
Landscape Master Plan Report	109116-4_DA_LMP [B]	20 February 2018

<u>Plan/Document Name</u>	<u>Plan/Document Reference</u>	<u>Dated</u>
Noise Amenity Assessment – Stages 1 to 3 – ‘Ellida’ – Parkhurst North	11-007, Version 2	31 October 2013
Revised Noise Amenity Assessment	L04618/BH/11-007	27 February 2018
Rehabilitation Management Plan	PR109116-3, Version 4	22 September 2017

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

The standard relevant periods stated in section 85 of *Planning Act 20016* 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	The proposed development is for a Reconfiguring a Lot - (one lot into 124 lots, two management lots, park and balance lot) - Ellida Estate
Reasons for Decision	<ol style="list-style-type: none"> 1) The proposal is consistent with the intent of the zone as it will provide a location for a future range and mix of dwelling types at low-medium densities. 2) As a greenfield site, the proposal will be developed in a manner that makes efficient use of the land as intended within the zone and Strategic Framework designation as a New Urban Area which seeks to encourage the development of a diversity of residential types. 3) The proposed settlement pattern is expected to meet the region’s changing demographic needs by creating opportunities for affordable living close to services and facilities, stimulate centres and community focal points, and assist in making the most efficient use of infrastructure. 4) The proposed use does not compromise the strategic framework in the <i>Rockhampton Region Planning Scheme 2015</i>. 5) 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. 6) The proposed development does not compromise the relevant State Planning Policy.
Assessment Benchmarks	<p>The proposed development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> • Low-medium density residential zone code; • Access, parking and transport code; • Bushfire hazard overlay code; • Filling and excavation code; • Landscape code; • Reconfiguring a lot code; • Steep land overlay code; • Stormwater management code; and • Water and sewer code.

Matters prescribed by regulation	(i) The <i>State Planning Policy – Part E</i> ; (ii) The <i>Central Queensland Regional Plan</i> ; (iii) The <i>Rockhampton Region Planning Scheme 2015</i> ; and (iv) The common material, being the material submitted with the application.
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8. APPEAL RIGHTS

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. ASSESSMENT MANAGER

Name: Tarnya Fitzgibbon COORDINATOR DEVELOPMENT ASSESSMENT	Signature:	Date: 12 September 2018
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C/C Department of State Development, Manufacturing, Infrastructure and Planning - RockhamptonSARA@dsmip.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



Attachment 1 – Part 1 Rockhampton Regional Council Conditions

Planning Act 2016

1.0 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 of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 1.4 All conditions, works, or requirements of this approval must be undertaken and completed prior to the issue of the Survey Plan Approval Certificate, unless otherwise stated.
- 1.5 Infrastructure requirements of this development approval must be contributed to the relevant authorities, where applicable, at no cost to Council, prior to the issue of the Survey Plan Approval Certificate, unless otherwise stated.
- 1.6 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
- 1.6.1 Operational Works:
- (i) Road Works;
 - (ii) Access Works;
 - (iii) Sewerage Works;
 - (iv) Water Works;
 - (v) Stormwater Works;
 - (vi) Inter-allotment Drainage Works; and
 - (vii) Site Works.
- 1.7 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.
- 1.8 All engineering drawings/specifications, design and construction works must be in accordance with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.

2.0 APPROVED PLANS AND DOCUMENTS

- 2.1 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>
Proposed Subdivision Stages 1-3 Allotment Layout	109116-90, Revision K	21 May 2018
Residential Setbacks Plan	109116-112	11 September 2017
Indicative Staging Plan	109116-113a	February 2018

<u>Plan/Document Name</u>	<u>Plan/Document Reference</u>	<u>Dated</u>
Balance Lot Plan	109116-86, Revision K	21 May 2018
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Access Place	109116-84e Road Cross-Sections	15 January 2018
Access Street	109116-84e Road Cross-Sections	15 January 2018
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Minor Collector (Type 2 Main Street)	109116-84e Road Cross-Sections	15 January 2018
Minor Collector (Type 3 Park)	109116-84e Road Cross-Sections	15 January 2018
Linear Open Space Cross-Section	109116-83m	19 February 2018
Water & Wastewater Network Investigation	17-002720-WER01, Revision D	11 April 2018
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Revised Noise Amenity Assessment	L04618/BH/11-007	27 February 2018
Rehabilitation Management Plan	PR109116-3, Version 4	22 September 2017

Note: Flood Investigation & Concept Stormwater Quantity Management Plan is not an approved document. Updated report with Tuflow model for pre and post scenarios are to be provided at Operational Works stage.

Stormwater Quality Management Plan for Stage 1 – 3 report was submitted as part of previous development application D/36-2013.

Note: The Traffic Impact Assessment (TIA)(report number 620.11920-RO7, dated 5 September 2017) is not an approved document. The TIA is to only be used as a reference document in conjunction with reading the approved documents listed in Condition 2.1.

2.2 Where there is any conflict between the conditions of this development approval and the details shown on the approved plans and documents, the conditions of this development approval must prevail.

2.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for approval by Council prior to the submission of an application for a Development Permit for Operational Works.

3.0 STAGED DEVELOPMENT

3.1 This approval is for a development to be undertaken in nine (9) discrete stages, generally in accordance with the approved proposal plan (refer to condition 2.1).

3.2 Stage 3 must be completed prior to any other stage. All other stages are not required to be undertaken in any chronological order.

3.3 Lot 5001 (District Park) and Lot 5002 (Linear Open Space) will develop as its own independent stage. The creation of the District Park is to be undertaken in the following discrete stages, namely:

3.3.1 Stage L1 (located on Lot 5001) and Stage L6 (noise mound located on Lot 5002) must be constructed and completed at the conclusion of Stages 1 to 3 (refer to conditions 2.1 and 3.1).

Note: Stages L2 to L5 are not required to be constructed as part of this proposal. These stages will be created in conjunction with future development applications as the overall Ellida Estate Masterplan is developed and until the District Park is complete.

3.4 The area of land designated as Open Space (Lot 5001) must be embellished and dedicated to Council as 'fee-simple'.

3.4.1 Land and embellishments must be undertaken generally in accordance with Council's desired standards of service and in accordance with the RPS Landscape Master Plan Report (refer to Condition 2.1) which are considered to meet the requirements under the Local Government Infrastructure Plan identified as PCL513 and PCL514. This necessary trunk infrastructure is conditioned under section 128 of the *Planning Act 2016*.

3.5 Unless otherwise expressly stated, the conditions must be read as being applicable to all stages.

4.0 ROAD WORKS

4.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any road works required by this development approval.

4.2 All road works must be designed and constructed in accordance with the approved plans (refer to Condition 2.1), *Capricorn Municipal Development Guidelines*, relevant *Australian Standards* and *Austroroads Guidelines* and the provisions of a Development Permit for Operational Works (road works).

4.3 Any application for a Development Permit for Operational Works (road works) must demonstrate that all new roads and road reserves included in the application connect with existing constructed road(s) at the time of making the application.

4.4 The Developer must construct the trunk internal connection road identified as T-99 in Council's Local Government Infrastructure Plan (LGIP) from the westernmost extents of the Olive Street / Bruce Highway intersection as shown on Calibre Drawing SK01 – General Arrangement Plan for the Olive Street 4 Way Signalised Intersection Concept, to the westernmost extents of Stage 3 as identified in the Proposed Subdivision Plan by RPS Group (refer to condition 2.1). This necessary trunk infrastructure is conditioned under section 128 of the *Planning Act 2016*.

Note: Calibre Drawing SK01 – General Arrangement Plan for the Olive Street 4 Way Signalised Intersection Concept has not been approved by Council and forms part of the Referral Agency conditions (refer to Attachment 1).

- 4.5 The design and construction of all terminating roads must include a temporary turning area, which complies with the relevant performance and technical criteria, and facilitates suitable turning movements for a refuse collection vehicle.
- 4.6 Roads that are intended to act as bus routes must be constructed to a minimum "*Major Urban Collector*" standard.
- 4.7 All pathways intended to be 'shared pathways' must be a minimum of 2.5 metres wide.
- 4.8 A concrete pathway, with a minimum width of 1.2 metres, must be constructed for the full length of all roads classified as *Urban Collector* standard and above.
- 4.9 All pathways and access ramps must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*. All pathways located within a road reserve or Public use land must be provided with public space lighting in accordance with *Australian Standard AS1158 "Lighting for roads and public spaces"*.
- 4.10 All pathways must incorporate kerb ramps at all road crossing points.
- 4.11 Traffic signs and pavement markings must be provided in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*. Where necessary, existing traffic signs and pavement markings must be modified in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*.
- 4.12 Any application for a Development Permit for Operational Works (road works) must include details of the Council approved road names for all new roads.
- 4.13 Retaining structures and their foundations must be wholly contained within private allotments and not be constructed as Council-owned infrastructure.
- 4.14 Any proposed retaining structure/retaining wall (irrespective of height) within a road reserve must be separately and specifically certified by a Registered Professional Engineer of Queensland and must be approved as part of a Development Permit for Operational Works (road works).
- 5.0 **ACCESS WORKS**
- 5.1 A Development Permit for Operational Works (access works) must be obtained prior to the commencement of any access works required by this development approval.
- 5.2 All access works must be designed and constructed in accordance with the approved plans (refer to Condition 2.1), *Capricorn Municipal Development Guidelines*, and the provisions of a Development Permit for Operational Works (access works).
- 5.3 To facilitate public access to the Bruce Highway from areas to the west of the subject site once the existing William Palfrey Road / Bruce Highway intersection closes, the applicant must establish a temporary easement from William Palfrey Road through the undeveloped portion of site to link with the new internal road network constructed as part of Stages 1-3. This easement must remain in place until the internal road connects with Edenbrook Drive. The temporary roadway within this easement must be constructed to a sealed standard to prevent any dust nuisance where it is located within one hundred (100) metres of an existing dwelling or proposed lot that forms part of Stages 1 – 3 of the subject development.
- 5.4 Unimpeded access must be available from William Palfrey Road to Lots 1 and 2 on SP281965 at all times. The Developer must construct a connection between the existing access for these lots and the construction access for the subject development. As a minimum, this connection must be constructed to a similar standard to that of the existing access.
- 6.0 **SEWERAGE WORKS**
- 6.1 A Development Permit for Operational Works (sewerage works) must be obtained prior to the commencement of any sewerage works required by this development approval.
- 6.2 All sewerage works must be designed and constructed in accordance with the approved plans (refer to Condition 2.1), *Capricorn Municipal Development Guidelines*, *Water Supply*

(Safety and Reliability) Act 2008, Plumbing and Drainage Act 2002 and the provisions of a Development Permit for Operational Works (sewerage works).

- 6.3 All lots within the development must be connected to Council's reticulated sewerage network. Each lot must be provided with its own separate sewerage connection point, located wholly within its respective property boundary.
- 6.4 Sewerage infrastructure must be provided to the upstream development boundary for each stage for connectivity in accordance with the approved plans (refer to condition 2.1).
- 6.5 Any proposed sewerage access chambers located within a park or reserve, or below a ten per cent (10%) Annual exceedance probability level must be provided with bolt down lids.
- 6.6 Easements must be provided over all sewerage infrastructure located within private property. The easement location(s) and width(s) must be in accordance with the requirements of the *Capricorn Municipal Development Guidelines*.
- 6.7 225 millimetre diameter and 150 millimetre diameter Gravity Sewerage Mains must be constructed in accordance with the approved plans (refer to condition 2.1) to service the proposed development. This non-trunk infrastructure is conditioned under section 145 of the *Planning Act 2016*.
- 6.8 The trunk Sewerage Pump Station (SPS) SEW-100 as identified in Council's Local Government Infrastructure Plans (LGIP) must be constructed in accordance with the approved plans (refer to condition 2.1). The sewerage pump station is to cater for the ultimate demand loading of eastern catchment of the subject site only. This necessary trunk infrastructure is conditioned under section 128 of the *Planning Act 2016*.
- 6.9 A freehold Lot must be provided to Council for the proposed sewerage pump station in accordance with the *Capricorn Municipal Development Guidelines*.
- 6.10 The trunk sewerage rising main SEW-101 as identified in the Council's LGIP must be constructed from the proposed SPS discharging into the trunk gravity infrastructure within Mason Avenue in accordance with the approved plans (refer to condition 2.1). The sewerage rising main must be 150 millimetre diameter and will cater for the eastern catchment of the development site only. This necessary trunk infrastructure is conditioned under section 128 of the *Planning Act 2016*.

Note: The sewerage strategy identified in Council's LGIP has been reviewed and amended such that the western catchment of the development site will no longer be pumped to SEW-100. Therefore the sizing of the trunk infrastructure has been reviewed.

- 6.11 Please provide Department of Transport and Main Road's (DTMR) approval and Queensland Railway's (QR) approval to construct the proposed 150 millimetre diameter sewerage Rising Main within their respective lands/road corridor prior to issuing an Operational Works (sewerage works) approval.

7.0 WATER WORKS

- 7.1 A Development Permit for Operational Works (water works) must be obtained prior to the commencement of any water works required by this development approval.
- 7.2 All water works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act 2008, Plumbing and Drainage Act 2002* and the provisions of a Development Permit for Operational Works (water works).
- 7.3 All lots within the development must be connected to Council's reticulated water network.
- 7.4 Water infrastructure must be provided to the upstream development boundary for each lot for connectivity in accordance with the approved plans (refer to condition 2.1).
- 7.5 Easements must be provided over all water infrastructure located within private property. The easement location(s) and width(s) must be in accordance with the requirements of the *Capricorn Municipal Development Guidelines*.

- 7.6 200 millimetre diameter, 150 millimetre diameter and 100 millimetre diameter Water Mains must be constructed in accordance with the approved plans (refer to Condition 2.1) to service the proposed development. This non-trunk infrastructure is conditioned under section 145 of the *Planning Act 2016*.
- 7.7 The trunk 450 millimetre diameter Water Main WAT-45 as identified in Council's LGIP must be constructed for the full frontage of Stages 1 to 3 Plan 'Water Infrastructure Strategy 17-002720-GIS001 Issue A Dated 23 March 2018' and connected to the existing 600 millimetre diameter Trunk Water Main at the Olive Street/Yaamba Road intersection in accordance with the approved plans (refer to condition 2.1). This necessary trunk infrastructure is conditioned under section 128 of the *Planning Act 2016*.
- 7.8 Provide Department of Transport and Main Road's (DTMR) approval and Queensland Railway's (QR) approval to construct the proposed 450 millimetre diameter Water Main within their respective lands/road corridor prior to issuing an Operational Works (water works) approval.
- 7.9 New water connections for the existing Lots (Lots 1 and 2 SP281965) must be provided and the existing water service easement and services must be removed.

Note: A new water service easement may be required within existing Lot 1 SP281965 to service Lot 2 SP281965.

8.0 STORMWATER WORKS

- 8.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works required by this development approval.
- 8.2 All stormwater drainage works must be designed and constructed in accordance with the approved plans (refer to Condition 2.1), *Queensland Urban Drainage Manual*, *Capricorn Municipal Development Guidelines*, sound engineering practice and the provisions of a Development Permit for Operational Works (stormwater works).
- 8.3 All stormwater must drain to a lawful point of discharge and must not adversely affect surrounding land or infrastructure in comparison to the pre-development conditions, including but not limited to blocking, altering or diverting existing stormwater runoff patterns or having the potential to cause damage to other infrastructure.
- 8.4 Each allotment must be designed so as to be flood free in a one percent (1%) Annual Exceedance Probability defined flood event and self-draining.
- 8.5 The development must ensure non-worsening to the extent that an actionable nuisance could result, for a range of design rainfall events up to and including a one percent (1%) Annual Exceedance Probability defined flood / storm event, in accordance with the provisions of the *Queensland Urban Drainage Manual*.
- 8.6 All land dedicated as a major overland flow path must be capable of accommodating a one per cent (1%) Annual Exceedance Probability defined flood event. Additionally, the dedicated land must contain all earthworks and batters, including appropriate freeboard. The access and maintenance provisions for the major overland flow path must be in accordance with the *Queensland Urban Drainage Manual*.
- 8.7 Any application for a Development Permit for Operational Works (stormwater works) must be accompanied by a management and maintenance plan for the proposed bio-retention basin and wetland.
- 8.8 Easements must be provided over all land assessed to be within a one percent (1%) Annual Exceedance Probability defined storm event, inundation area and over all land required to accommodate the flows associated with the subject development.
- 8.9 All proposed culverts / cross drainage structures and inlet pits must be designed and constructed considering appropriate blockage factor and allowable velocity depth product(s) to ensure public safety in accordance with the requirements of the *Queensland Urban Drainage Manual*.

- 8.10 Detailed design of cross drainage structures and inlet pits must include all required safety measures and facilities to ensure the safety of the public in accordance with the requirements of the *Queensland Urban Drainage Manual*.
- 8.11 Any application for a Development Permit for Operational Works (stormwater works) must be accompanied by an updated Flood Investigation and Concept Stormwater Quantity Management Plan, prepared and certified by a Registered Professional Engineer of Queensland that as a minimum includes:
- 8.11.1 identification of drainage catchment and drainage sub-catchment areas for the pre-development and post-development scenarios including a suitably scaled catchment plan showing the aforementioned catchment details and lawful point(s) of discharge that comply with the requirements of the *Queensland Urban Drainage Manual*;
 - 8.11.2 an assessment of the peak discharges for 63% Annual Exceedance Probability, minor and major (1% Annual Exceedance Probability) defined flood event for the pre-development and post-development scenarios;
 - 8.11.3 details of any proposed on-site detention/retention systems and associated outlet systems required to mitigate the impacts of the proposed development on downstream lands and existing upstream and downstream drainage systems;
 - 8.11.4 demonstration of how major design storm flows are conveyed through the subject development (Point 5) to a lawful point of discharge (Ramsay Creek) in accordance with the *Queensland Urban Drainage Manual* and the *Capricorn Municipal Development Guidelines*;
 - 8.11.5 identification of the area of land inundated as a consequence of the minor and major design storm events in the catchment for both the pre-development and post-development scenarios;
 - 8.11.6 flood modelling is to be undertaken in an appropriately two (2) dimensional model flood model to Council's satisfaction;
Note: Council has developed a two (2) dimensional TUFLOW model for the catchment which can be utilised upon entering into Council's data share agreement and payment of the applicable fee.
 - 8.11.7 the peak water surface elevation (PWSE), extent, depth and velocity for both the pre-development and post-development scenarios along with comparison maps;
 - 8.11.8 electronic copy of the model (containing five folders) / results / check files and all details of the modelling assumptions to support water quantity management strategy;
 - 8.11.9 the pre and post development flow at Point 5 for all storm events up to and including a one per cent (1%) Annual exceedance probability defined storm event;
 - 8.11.10 the pre development flow from the existing cross drainage structure under the railway for all storm events up to and including a one per cent (1%) Annual exceedance probability defined storm event;
 - 8.11.11 how the Stormwater Quantity Management Plan considers the quality devices (wetland and bio-basins) as proposed in the Stormwater Quality Management Plan report dated October 2013 prepared by DesignFlow;
 - 8.11.12 waterway stability management at Point 5 with detailed engineering plans;
 - 8.11.13 cross section details of the proposed channel at appropriate intervals to demonstrate that the channel can accommodate a one per cent (1%) Annual exceedance probability defined post development flow including appropriate free board;
 - 8.11.14 sizing of the culvert structures crossing proposed Road 1 considering an appropriate blockage factor and appropriate freeboard during a one per cent (1%)

Annual Exceedance Probability defined storm event. Alternatively, overtopping of the culvert is acceptable if it complies with condition 8.9.

9.0 INTER-ALLOTMENT DRAINAGE WORKS

- 9.1 A Development Permit for Operational Works (inter-allotment drainage works) must be obtained prior to the commencement of any drainage works required by this development approval.
- 9.2 All inter-allotment drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Queensland Urban Drainage Manual, Capricorn Municipal Development Guidelines*, sound engineering practice and the provisions of a Development Permit for Operational Works (inter-allotment drainage works).
- 9.3 Inter-allotment drainage, must be designed and constructed in accordance with the *Queensland Urban Drainage Manual* and must be provided to any lot where it cannot be satisfactorily demonstrated that roof and allotment runoff associated with development on that lot, could not reasonably be directed to the frontage kerb and channel or alternative lawful point of discharge.
- 9.4 Inter-allotment drainage systems and overland flow paths must be wholly contained within an easement, with a minimum width of three (3) metres. Easement documents must accompany the plan for endorsement by Council prior to the issue of the Survey Plan Approval Certificate.

10.0 SITE WORKS

- 10.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works on the development site.
- 10.2 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks plan that clearly identifies the following:
- 10.2.1 the location of cut and/or fill;
 - 10.2.2 the type of fill to be used and the manner in which it is to be compacted;
 - 10.2.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;
 - 10.2.4 details of any proposed access routes that are intended to be used to transport fill to or from the development site; and
 - 10.2.5 the maintenance of access roads to and from the development site so that they are free of all cut and/or fill material and cleaned as necessary.
- 10.3 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"*.
- 10.4 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to surrounding land or infrastructure.
- 10.5 Any retaining structures above one (1) metre in height that are not incidental works to a Development Permit for Building Works, must not be constructed unless separately and specifically certified by a Registered Professional Engineer of Queensland and must be approved as part of a Development Permit for Operational Works (site works).
- 10.6 Any retaining structures close to or crossing sewerage infrastructure must comply with *Queensland Development Code, Mandatory Part 1.4 'Building over or near relevant infrastructure.'* The structure must be self-supporting and no additional load must be applied to Council's sewerage infrastructure.
- 10.7 Any vegetation cleared or removed must be:
- (i) mulched on-site and utilised on-site for landscaping purposes, in accordance with the landscaping plan approved by Council; or
 - (ii) removed for disposal at a location approved by Council;
- within sixty (60) days of clearing. Any vegetation removed must not be burnt.

- 10.8 Details of vegetation proposed to be cleared must be provided as part of the Environmental Management Plan.
- 10.9 Large trees must not be planted within one (1) metre of the centreline of any sewerage infrastructure; small shrubs and groundcover are acceptable.
- 10.10 All site works must be undertaken to ensure that there is:
- 10.10.1 no increase in upstream or downstream flood levels for all levels of immunity up to a one per cent (1%) Annual exceedance probability defined flood event;
 - 10.10.2 no increase in velocity profiles, for which no remedy exists to prevent erosion and/or scouring. In the event that modelling shows non-compliance with the above, works must be undertaken within the system to satisfy the above criteria for development; and
 - 10.10.3 a lawful point of discharge to which the approved works drain during the construction phase.
- 11.0 LANDSCAPING WORKS
- 11.1 All landscaping must be established generally in accordance with the approved plans (refer to condition 2.1). The landscaping must be constructed and/or established prior to the issue of the Survey Plan Approval Certificate and the landscape areas must predominantly contain plant species that are locally native to the Central Queensland region due to their low water dependency.
- 11.2 All landscaping works must be generally in accordance with the approved plans (refer to condition 2.1) and must include, but not be limited to, the following:
- 11.2.1 A plan documenting the “Extent of Works” and supporting documentation that includes:
 - (i) location and name of existing trees, including those to be retained (the location of the trees must 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 must 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 (stabilisation of batters, retaining walls)
 - (vi) details of landscape structures including areas of deep planting; and
 - (vii) specification notes on mulching and soil preparation.
 - 11.2.2 A “Planting Plan” and supporting documentation that includes:
 - (i) landscape areas predominantly containing plant species that are locally native to the Central Queensland region due to their low water dependency;
 - (ii) trees, shrubs and groundcovers to all areas to be landscaped;
 - (iii) position and canopy spread of all trees and shrubs;
 - (iv) the extent and type of works (including but not limited to paving, fences and garden bed edging). Edging must be provided for all garden beds; and
 - (v) a plant schedule with the botanic and common names, total plant numbers and pot sizes at the time of planting.
 - 11.2.3 The plan documenting the “Extent of Works” and the “Planting Plan” referenced in conditions 11.2.1 and 11.2.2 respectively, must be submitted to Council prior to the commencement of any landscaping works outlined in condition 11.1.
- 11.3 Large trees must not be planted within one (1) metre of the centreline of any sewerage and/or water infrastructure; small shrubs and groundcover are acceptable.

- 11.4 Landscaping, or any part thereof, upon reaching full maturity, must not:
- 11.4.1 obstruct sight visibility zones as defined in the *Austrroads 'Guide to Traffic Engineering Practice'* series of publications;
 - 11.4.2 adversely affect any road lighting or public space lighting; and
 - 11.4.3 adversely affect any Council infrastructure, or public utility plant.
- 11.5 The landscaped areas must be subject to:
- 11.5.1 a watering and maintenance plan during the establishment moment; and
 - 11.5.2 an ongoing maintenance and replanting programme.
- 12.0 ELECTRICITY
- 12.1 Underground electricity services must be provided to each lot within the development in accordance with the future approved Operational Works Plans and the standards and requirements of the relevant service provider.
- 12.2 Evidence from the relevant service provider that an agreement is in place to provide electricity to the relevant stage within an appropriate timeframe that ensures electricity will be “live” prior to the commencement of the use (i.e. prior to any resident moving into a completed dwelling must be provided to Council, prior to the issue of the Survey Plan Approval Certificate).
- 13.0 TELECOMMUNICATIONS
- 13.1 Underground telecommunications services must be provided to each lot in accordance with the future approved Operational Works Plans and the standards and requirements of the relevant service provider. Unless otherwise stipulated by telecommunications legislation at the time of installation, this includes all necessary pits and pipes, and conduits that provide a connection to the telecommunications network.
- 13.2 Evidence of acceptance of the works from the relevant service provider must be provided to Council, prior to the issue of the Survey Plan Approval Certificate.
- Note: The *Telecommunications Act 1997* (Cth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required.
- Note: For telecommunications services, written evidence must be in the form of either a “Telecommunications Infrastructure Provisioning Confirmation” where such services are provided by Telstra or a “Notice of Practical Completion” where such services are provided by the NBN.
- 14.0 ASSET MANAGEMENT
- 14.1 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 undertaken and completed at no cost to Council.
- 14.2 Any damage to existing stormwater, water supply and sewerage infrastructure, kerb and channel, pathway or roadway (including removal of concrete slurry from public land and Council infrastructure), that occurs while any works are being carried out in association with this development approval must be repaired at full cost to the developer. This includes the reinstatement of any existing traffic signs or pavement markings that may have been removed or damaged.
- 14.3 ‘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 commencement of the use. This information must be provided in accordance with the *Asset Design and As Constructed Manual (ADAC)*.
- 15.0 ENVIRONMENTAL
- 15.1 Any application for a Development Permit for Operational Works must be accompanied by a detailed Environmental Management Plan that addresses, but is not limited to, the following:

- (i) water quality and drainage;
 - (ii) erosion and silt/sedimentation management;
 - (iii) acid sulfate 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.
- 15.2 Any application for a Development Permit for Operational Works must be accompanied by an Erosion and Sediment Control Plan that addresses, but is not limited to, the following:
- (i) objectives;
 - (ii) site location and 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.
- 15.3 The Environmental Management Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.
- 15.4 The Erosion Control and Stormwater Control Management Plan prepared by a Registered Professional Engineer of Queensland in accordance with the *Capricorn Municipal Design Guidelines*, must be implemented, monitored and maintained for the duration of the works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped). The plan must be available on-site for inspection by Council Officers whilst all works are being carried out.
- 16.0 OPERATING PROCEDURES
- 16.1 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 on any road adjacent to where construction is occurring.
- 17.0 ENVIRONMENTAL HEALTH
- 17.1 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the development 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"*.
- 17.2 Noise emitted from the activity must not cause an environmental nuisance.

- 17.3 Operations on the site must have no significant impact on the amenity of adjoining premises or the surrounding area due to the emission of light, noise or dust.
- 17.4 All noise mitigation methods as described in “Response to Rockhampton Regional Council Information Request Noise Issues – Proposed Stages 1 to 3 Reconfiguration of Lot – ‘Ellida’, Parkhurst North” (ref. L04618/BH/11-007), prepared by MWA Environmental, dated 27 February 2018 and the “Noise Amenity Assessment, Stage 1 & 3 ‘Ellida’, Parkhurst North”, prepared by MWA Environmental, dated 31 October 2013 are to be implemented at the time of development (refer to condition 2.1).

18.0 INFRASTRUCTURE COSTS

- 18.1 Pursuant to Chapter 4, Part 2 of the *Planning Act 2016*, the Developer may enter into an Infrastructure Agreement with Council, which specifies the development obligations relating to infrastructure for future development of the site. The Infrastructure Agreement must incorporate (but not be limited to) the following principles:

- 18.1.1 infrastructure works to be undertaken for road, water, sewerage, and open space networks;
- 18.1.2 logical and orderly staging of works including applicable yield triggers requiring the ‘bring forward’ of certain works; and
- 18.1.3 an agreed cost of infrastructure constructed and provided by the Developer to be offset against charges due to be paid.

The agreement must be prepared and finalised by Council’s solicitors at no cost to Council (including the payment of any State tax) and must be executed by the Developer. The agreed repayment date must be negotiated between Council and the Developer as part of the Infrastructure Agreement process.

ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

It is advised that under section 23 of the *Aboriginal Cultural Heritage Act*, 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 Aboriginal and Torres Strait Islander and Multicultural Partnerships website www.datsip.qld.gov.au.

NOTE 2. General Environmental Duty

General environmental duty under the *Environmental Protection Act 1994* prohibits unlawful environmental nuisance caused by noise, aerosols, particles, dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks, construction and operation.

NOTE 3. Traffic Impact Assessment

The Developer will be required to submit an updated Traffic Impact Assessment for all stages of the development upon application for the 1,000th lot.

NOTE 4. Traffic Impact Assessment (reference document)

The Traffic Impact Assessment (TIA) (report number 620.11920-RO7, dated 5 September 2017) is not an approved document. The TIA must only be used as a reference document to be read in conjunction with the approved plans listed under Condition 2.1.

NOTE 5. General Safety Of Public During Construction

The *Work Health and Safety Act* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.

NOTE 6. Infrastructure Charges Notice

This application is subject to infrastructure contributions in accordance with Council policies. The ICN will be issued as soon as practicable in the circumstances, in accordance with section 119(3) of the *Planning Act 2016*.



Attachment 1 – Part 2
Referral Agency Conditions - Department of
State Development, Manufacturing,
Infrastructure 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 response—the concurrence agency	1 A concurrence agency that is not a co-respondent 2 If a chosen Assessment manager is the respondent—the prescribed assessment

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

			<p>manager</p> <p>3 Any eligible advice agency for the application</p> <p>4 Any eligible submitter for the application</p>
<p>2. Change applications</p> <p>An appeal may be made against—</p> <p>(a) a responsible entity’s decision for a change application, other than a decision made by the P&E court; or</p> <p>(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)
<p>1 The applicant</p> <p>2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice</p>	<p>The responsible entity</p>	<p>If an affected entity starts the appeal—the applicant</p>	<p>1 A concurrence agency for the development application</p> <p>2 If a chosen assessment manager is the respondent—the prescribed assessment manager</p> <p>3 A private certifier for the development application</p> <p>4 Any eligible advice agency for the change application</p> <p>5 Any eligible submitter for the change application</p>
<p>3. Extension applications</p> <p>An appeal may be made against—</p> <p>(a) the assessment manager’s decision about an extension application; or</p> <p>(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)
<p>1 1 The applicant</p> <p>2 For a matter other than a deemed refusal of an extension application – a concurrence agency, other than the chief executive, for the application</p>	<p>The assessment manager</p>	<p>If a concurrence agency starts the appeal – the applicant</p>	<p>If a chosen assessment manager is the respondent – the prescribed assessment manager</p>
<p>4. Infrastructure charges notices</p> <p>An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds</p> <p>a) The notice involved an error relating to –</p> <p>(i) The application of the relevant adopted charge; or</p> <p>Examples of errors in applying an adopted charge –</p> <ul style="list-style-type: none"> • The incorrect application of gross floor area for a non-residential development • Applying an incorrect ‘use category’, under a regulation, to the development <ul style="list-style-type: none"> (i) The working out of extra demands, for section 120; or (ii) An offset or refund; or <p>b) The was no decision about an offset or refund; or</p> <p>c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or</p> <p>d) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
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 application 2 For a change application—an eligible submitter for	1 For a development application—the assessment manager 2 For a change application—the responsible entity	1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application

**Table 2
Appeals to the P&E Court only**

the change application			
<p>3. Eligible submitter and eligible advice agency appeals 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— (a) any part of the development application or the change application, for the development approval, that required impact assessment; or (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)
1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for the change application 3 An eligible advice agency for the development application or change application	1 For a development application—the assessment manager 2 For a change application—the responsible entity	1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application
<p>4. Compensation claims An appeal may be made against— (a) a decision under section 32 about a compensation claim; or (b) a decision under section 265 about a claim for compensation; or (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 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)
1 A person given a decision notice about the decision 2 If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the affected area for the registered premises who is dissatisfied with the decision	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			
<p>6. Local laws 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 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 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 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	-	-