



Decision Notice Approval

Planning Act Form 1 (version 1.2 effective 7 February 2020) made under section 282 of the Planning Act 2016 for a decision notice (approval) under section 63(2) of the Planning Act 2016

Application number:	D/129-2021	Contact:	Kathy McDonald
Notice Date:	18 January 2022	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	The Roman Catholic Trust Corp For The Diocese		
Postal address:	For Catholic Education		
Phone no:	Mobile no:	Email:	

I acknowledge receipt of the above application on 24 September 2021 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for a Material Change of Use for a Childcare Centre

PROPERTY DESCRIPTION

Street address:	19 Ward Street and 52 Henry Street, The Range
Real property description:	Lot 2 on RP604966 and Lot 3 on RP603066, Parish of Rockhampton

OWNER DETAILS

Name:	The Roman Catholic Trust Corp For The Diocese
Postal address:	
Dear The Roman Catholic Trust Corp For The Diocese	
I advise that, on 12 January 2022 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.	

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use	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>Stormwater Works</i> <i>Site Works</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	Role of Agency	Contact Details
QUEENSLAND HERITAGE PLACE			
<i>Schedule 10, Part 8, Division 2, Subdivision 3, Table 2 - Assessable development under s15(2)</i>			
Development application for assessable development under section 15(2), unless the chief executive is the prescribed assessment manager for the application	The chief executive of the department in which the <i>Planning Act 2016</i> is administered: State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department)	Concurrence	<u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City <u>Online lodgement using MyDAS2:</u> https://prod2.dev-assess.qld.gov.au/suite/ <u>Email:</u> RockhamptonSARA@dsgi.qd.gov.au <u>Postal:</u> 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:

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/Issue</u>
Existing Overall Site Plan	Tony Madden Architects	14 October 2021	SK-101	P3

Existing Site Plan	Tony Madden Architects	14 October 2021	SK-102	P3
Proposed Site Plan	Tony Madden Architects	14 October 2021	SK-103	P3
Proposed Floor Plan	Tony Madden Architects	14 October 2021	SK-301	P3
Proposed Roof Plan	Tony Madden Architects	14 October 2021	SK-302	P3
Proposed Long Term Carpark Plan	Tony Madden Architects	14 October 2021	SK-303	P3
Street Elevations	Tony Madden Architects	14 October 2021	SK-401	P3
Proposed Building Elevations	Tony Madden Architects	14 October 2021	SK-402	P3
Traffic and Stormwater Technical Letter	Janes and Stewart Structures	20 December 2021	21162	Nil

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

The standard currency 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	The proposed development is for a Material Change of Use for a Childcare Centre
Reasons for Decision	<p>a) 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; and</p> <p>b) On balance, the application should be approved because the circumstances favour Council exercising its discretion to approve the application even though the development does not comply with an aspect of the assessment benchmarks.</p>
Assessment Benchmarks	<p>The proposed development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> • Low Density Residential Zone Code; • Heritage Overlay Code; • Access, Parking And Transport Code; • Landscape Code; • Stormwater Management Code; • Waste Management Code; and • Water and Sewer Code.
Compliance with assessment	The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exceptions listed below.

benchmarks	Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
	Low Density Residential Zone Code	<p>PO13</p> <p>The proposal does not comply with Acceptable Outcomes 13.1 (f), 13.3 or 13.4 (b).</p> <p>The existing storage shed does not comply with Acceptable Outcome 13.1 (f) as it is over 9 metres in length. The storage shed has a total length of approximately 11.8 metres and is setback 3 metres from the western side boundary. This setback is considered to meet Queensland Development Code (QDC) setback requirements for a shed. Furthermore there will be a 1.8 metre high fence and 2 metre landscaping within the setback along the western boundary providing a privacy screen and noise buffer for the neighbouring residence.</p> <p>The exterior wall along the western boundary does not comply with 13.3 as it is over twelve (12) metres in length. The proposed rear wall of the Child Care Centre is approximately 20 metres in length and has a setback of 3 metres along the western side boundary. The external wall is not viewable from Ward Street or Henry Street and similarly the 1.8 metre high fence and 2 metre landscaping will extend along the entire western boundary providing a privacy screen and noise buffer for the neighbouring residence.</p> <p>The non-compliance with 13.4 (b) is in regards to a portion of the fence along Henry street frontage that will be 1.8 metres in height with less than fifty (50) per cent transparency. This is seen as a necessity to provide security and privacy for the children whilst in the outdoor play area and is not anticipated to affect the amenity of the surrounding residential area.</p> <p>Despite these non-compliances the proposal is of an appropriate scale and size with suitable design and is considered to achieve the performance outcome.</p> <p>PO17</p> <p>The proposal does not comply with Acceptable Outcome 17.1 as the development will gain access from an urban access road.</p> <p>Whilst the proposed Child Care Centre (kindergarten) is located on the corner of Ward Street (minor urban collector) and Henry Street (urban access road), the development will gain access from Henry Street as the safest point of entry. The use of the urban access road is not anticipated to significantly alter traffic conditions along Henry Street or the surrounding road network given the mix of non-residential uses in the surrounding area. Furthermore the additional off-street parking provided is sufficient to service the level of traffic generated by the development.</p>

		Therefore the proposal is considered to achieve the performance outcome.
Matters prescribed by regulation	<ul style="list-style-type: none"> • The <i>Rockhampton Region Planning Scheme 2015</i> (version 2.2); and • The common material, being the material submitted with the application. 	

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*. 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 out 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: 18 January 2022
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C/C State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department) - RockhamptonSARA@dsdilgp.qd.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

1.0 ADMINISTRATION

- 1.1 The Developer and their employee, agent, contractor or invitee is responsible for ensuring compliance with the conditions of this development approval.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions, works, or requirements of this development approval must be undertaken, completed, and be accompanied by a Compliance Certificate for any operational works required by this development approval:
- 1.3.1 to Council’s satisfaction;
 - 1.3.2 at no cost to Council; and
 - 1.3.3 prior to the commencement of the use,
- unless otherwise stated.
- 1.4 Infrastructure requirements of this development approval must be contributed to the relevant authorities, where applicable, at no cost to Council, prior to the commencement of the use, unless otherwise stated.
- 1.5 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
- 1.5.1 Operational Works:
 - (i) Road Works;
 - (ii) Access and Parking Works;
 - (iii) Stormwater Works;
 - (iv) Site Works; and
 - (v) Landscaping Works.
 - 1.5.2 Plumbing and Drainage Works; and
 - 1.5.3 Building Works:
 - (i) Demolition Works; and
 - (ii) Building Works.
- 1.6 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.
- 1.7 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.
- 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.
- 1.9 Lot 2 on RP604966 and Lot 3 on RP603066 must be amalgamated and registered as one lot prior to the commencement of the use.

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>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/Issue</u>
Existing Overall Site Plan	Tony Madden Architects	14 October 2021	SK-101	P3
Existing Site Plan	Tony Madden Architects	14 October 2021	SK-102	P3
Proposed Site Plan	Tony Madden Architects	14 October 2021	SK-103	P3
Proposed Floor Plan	Tony Madden Architects	14 October 2021	SK-301	P3
Proposed Roof Plan	Tony Madden Architects	14 October 2021	SK-302	P3
Proposed Long Term Carpark Plan	Tony Madden Architects	14 October 2021	SK-303	P3
Street Elevations	Tony Madden Architects	14 October 2021	SK-401	P3
Proposed Building Elevations	Tony Madden Architects	14 October 2021	SK-402	P3
Traffic and Stormwater Technical Letter	Janes and Stewart Structures	20 December 2021	21162	Nil

- 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 ROAD WORKS

- 3.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any road works required by this development approval.
- 3.2 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 *Austrroads Guidelines* and the provisions of a Development Permit for Operational Works (road works).
- 3.3 A concrete pathway, with a minimum width of 1.5 metres, must be constructed on the development side of Henry Street for the full frontage of the development site.
- 3.4 Existing on-street car-parking spaces on the development side of the Henry Street must be re-adjusted to suit the proposed access driveways and must be line-marked in accordance with the approved Site Plan (refer to condition 2.1) and in accordance with the *Australian*

Standard AS2890 "Parking facilities" and the provisions of a Development Permit for Operational Works (access and parking works).

- 3.5 All pathways and access ramps must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*.
- 3.6 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"*.
- 3.7 All pathways must incorporate kerb ramps at all road crossing points.
- 3.8 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*.

4.0 ACCESS AND PARKING WORKS

- 4.1 A Development Permit for Operational Works (access and parking works) must be obtained prior to the commencement of any access and parking works on the development site.
- 4.2 All access and parking works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, *Australian Standard AS2890 "Parking facilities"* and the provisions of a Development Permit for Operational Works (access and parking works).
- 4.3 All car parking and access areas must be sealed to Council's satisfaction. Design and construction must be in accordance with the provisions of a Development Permit for Operational Works (access and parking works).
- 4.4 The existing two access driveways to the development from Henry Street must be closed.
- 4.5 Two new access driveways to the development must be provided at Henry Street.
- 4.6 Any redundant vehicular crossovers must be replaced by Council standard kerb and channel.
- 4.7 All vehicles must ingress and egress the development in a forward gear.
- 4.8 A minimum of ten (10) car-parking spaces must be provided on-site for the proposed kindergarten Short Term Parking Area.
- 4.9 A minimum of twenty five (25) car-parking spaces must be provided on-site for the proposed kindergarten Long Term Parking Area.
- 4.10 Universal access parking spaces must be provided on-site in accordance with *Australian Standard AS2890.6 "Parking facilities - Off-street parking for people with disabilities"*.
- 4.11 Parking spaces must be line-marked in accordance with the approved Site Plan (refer to condition 2.1) and in accordance with the *Australian Standard AS2890 "Parking facilities"* and the provisions of a Development Permit for Operational Works (access and parking works).
- 4.12 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"*.
- 4.13 Road signage and pavement markings must be installed in accordance with *Australian Standard AS1742.1 "Manual of uniform traffic control devices"*.

5.0 SEWERAGE WORKS

- 5.1 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*, and *Plumbing and Drainage Act 2018*.

- 5.2 The development must be connected to Council's reticulated sewerage network.
- 5.3 Existing sewerage connection point (jump-up) from the 150mm diameter sewerage main 24 metres downstream from the sewerage access chamber 485169 must be used if suitable, to service the proposed development. This non-trunk infrastructure is conditioned under section 145 of the *Planning Act 2016*.
- Should the sewerage connection point (jump-up) not be suitable to service the proposed development a new sewerage connection point (jump-up) must be provided from existing 150 millimetre diameter sewerage main located within the site at 1.5 metre alignment from the Henry Street property boundary to service the development and the redundant sewerage connection point (jump-up) must be sealed-off by Fitzroy River Water (FRW) under a Private Works Quotes. This non-trunk infrastructure is conditioned under section 145 of the *Planning Act 2016*.
- 5.4 The sewerage connection point (jump-up) associated with the existing dwelling house on Lot 3 on RP603066 must be disconnected and sealed-off by Fitzroy River Water (FRW) under a Private Works Quotes.
- 5.5 Sewer connections located within trafficable areas must be raised or lowered to suit the finished surface levels and must be provided with heavy duty trafficable lids.
- 5.6 If required, sewerage trade waste permits must be obtained for the discharge of any non-domestic waste into Council's reticulated sewerage network. Arrestor traps must be provided where commercial or non-domestic waste is proposed to be discharged into the sewer system.
- 6.0 WATER WORKS
- 6.1 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*, and *Plumbing and Drainage Act 2018*.
- 6.2 The development must be connected to Council's reticulated water network.
- 6.3 The existing water connection point for Lot 2 on RP604966 must be retained, and upgraded if necessary, to service the development. An hydraulic engineer or other suitably qualified person must determine the size of connection required. The existing water connection point for Lot 3 on RP603066 must be disconnected by Fitzroy River Water (FRW) under Private Works Quotes. This non-trunk infrastructure is conditioned under section 145 of the *Planning Act 2016*.
- 6.4 Adequate domestic and fire-fighting protection must be provided to the development, and must be certified by a hydraulic engineer or other suitably qualified person.
- 6.5 Water meter boxes located within trafficable areas must be raised or lowered to suit the finished surface levels and must be provided with heavy duty trafficable lids.
- 7.0 PLUMBING AND DRAINAGE WORKS
- 7.1 A Development Permit for Plumbing and Drainage Works must be obtained for the removal and/or demolition of any existing structures and proposed structures on the development site.
- 7.2 All internal plumbing and sanitary drainage 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 2018*, Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.
- 7.3 Alteration, disconnection or relocation of internal plumbing and sanitary drainage works associated with the existing building must be in accordance with regulated work under the *Plumbing and Drainage Act 2018* and Council's Plumbing and Drainage Policies.

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 demonstrated 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 The development must not increase peak stormwater runoff for a selected range of storm events up to and including a one per cent (1%) Annual exceedance probability storm event, for the post-development conditions.

9.0 ROOF AND ALLOTMENT DRAINAGE WORKS

- 9.1 All roof and 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*, and sound engineering practice.
- 9.2 All roof and allotment runoff from the development must be directed to a lawful point of discharge and must not restrict, impair or change the natural flow of runoff water or cause a nuisance to surrounding land or infrastructure.

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 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.
 - 10.4 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).
 - 10.5 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.
- ## 11.0 BUILDING WORKS
- 11.1 A Development Permit for Building Works must be obtained prior to the commencement of any building works on the site.

- 11.2 The existing dwelling house located on Lot 3 on RP603066 must be demolished and a Development Permit for Building Works (demolition) must be obtained prior to the commencement of demolition works on the development site.
- 11.3 All external elements, such as air conditioners and associated equipment, must be adequately screened from public view, to Council's satisfaction.
- 11.4 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"*.
- 11.5 Access to and use of the land the subject of this application must comply with the provisions of the *Disability Discrimination Act 1992* and/or the *Anti-Discrimination Act 1991*. If either of those statutes require the provision of access or facilities in a way that is inconsistent with this development approval, those facilities must be provided.
- 11.6 A minimum 1.8 metre high screen fence must be erected between the subject development site and adjacent residential properties south and west of the development.
- 12.0 LANDSCAPING WORKS
- 12.1 A Development Permit for Operational Works (landscaping works) must be obtained prior to the commencement of any landscaping works required by this development approval.
- 12.2 A Landscaping Plan must be submitted with any application for a Development Permit for Operational Works (landscaping works). The landscaping plans must be designed in accordance with the requirements of *Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy*.
- 12.3 Planting types used within the landscaping areas (refer to condition 2.1) must include either trees, shrubs or groundcovers, or any combination of these plantings types.
- 12.4 Plant species must not include undesirable species identified in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*.
- 12.5 At least fifty (50) per cent of all new plantings within the landscaping areas (refer to condition 2.1) must be locally native species with low water dependency.
- 12.6 Street tree planting must be carried out in accordance with the requirements of *Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy*.
- 12.7 Street trees must be located such that when mature, they do not impact on street lighting, future driveway locations or other infrastructure in accordance with the *Capricorn Municipal Development Guidelines*.
- 12.8 Street trees and landscaping must not impact on vehicle site distances in accordance with *Australian Standard AS2890 – Parking Facilities*, or unduly restrict visibility to pedestrians in verge areas.
- 12.9 Shade trees must comply with the following requirements:
- 12.9.1 Be planted clear of services and utilities;
 - 12.9.2 Not obstruct pedestrian or bicycle traffic; and
 - 12.9.3 Comply with crime prevention through environmental design principles.
- 12.10 Shade trees within car parking areas are to be provided.
- 12.11 Each shade tree(s) has a clean trunk with a minimum height of two (2) metres and must be provided within the car park at the following rates:
- 12.11.1 One (1) tree per six (6) car parks.

- 12.12 Landscape buffers (refer to condition 2.1) are to be planted in accordance with the layouts in outlined in *Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy* (refer to section SC6012.14.1).
- 12.13 The landscaped areas must be subject to:
- 12.13.1 a watering and maintenance plan during the establishment moment; and
 - 12.13.2 an ongoing maintenance and replanting programme.
- 13.0 ELECTRICITY
- 13.1 Electricity services must be provided to the development in accordance with the standards and requirements of the relevant service provider.
- 14.0 TELECOMMUNICATIONS
- 14.1 Telecommunications services must be provided to the development in accordance with the standards and requirements of the relevant service provider.
- 15.0 ASSET MANAGEMENT
- 15.1 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.
- 15.2 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.
- 15.3 '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)*.
- 16.0 ENVIRONMENTAL HEALTH
- 16.1 Noise emitted from the activity must not cause an environmental nuisance.
- 16.2 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.
- 16.3 When requested by Council, noise monitoring must be undertaken and recorded within three (3) months, to investigate any genuine complaint of nuisance caused by noise. The monitoring data, an analysis of the data and a report, including noise mitigation measures, must be provided to Council within fourteen (14) days of the completion of the investigation. Council may require any noise mitigation measures identified in the assessment to be implemented within appropriate timeframes. Noise measurements must be compared with the acoustic quality objectives specified in the most recent edition of the *Environmental Protection (Noise) Policy 2019*.
- 16.4 Air-conditioner units must be located so as not to cause a noise nuisance and maintained in proper working order at all times. Installation is to be as per manufacturer's instructions to ensure the efficiency of the equipment.
- 17.0 OPERATING PROCEDURES
- 17.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the development site. Storage of materials or parking of construction machinery or contractors' vehicles must not occur within Henry Street or Ward Street.
- 17.2 The hours of operations for the development site must be limited to:

- (i) 0700 hours to 2200 hours on Monday to Friday, and with no operations on Saturdays, Sundays or Public Holidays.
- 17.3 Waste storage areas must be provided and maintained in accordance with the *Environmental Protection Regulation 2019* and must be:
- 17.3.1 concealed from public view such that the contents of the waste storage area are not visible from any public place;
 - 17.3.2 located within the existing storage shed so as not to cause a nuisance to neighbouring properties; and
 - 17.3.3 kept in a clean and tidy condition

ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

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 Aboriginal and Torres Strait Islander Partnerships website www.dsdsatsip.qld.gov.au

NOTE 1. Asbestos Removal

Any demolition and/or removal works involving asbestos materials must be undertaken in accordance with the requirements of the *Work Health and Safety Act 2011* and *Public Health Act 2005*.

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 development site during all stages of the development including earthworks, construction and operation.

NOTE 3. Licensable Activities

Should an activity licensable by Rockhampton Regional Council be proposed for the premises, Council’s Environment and Public Health Unit should be consulted to determine whether any approvals are required. Such activities may include ‘food preparation, serving on site ‘only. Approval for such activities is required before ‘fitout’ and operation.

NOTE 4. General Safety Of Public During Construction

The *Work Health and Safety Act 2011* 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 5. Infrastructure Charges Notice

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



Attachment 1 – Part 2
Referral Agency Conditions – State
Development, Infrastructure, Local
Government and Planning (State
Assessment and Referral Agency
Department) *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—
- matters that may be appealed to—
 - either a tribunal or the P&E Court; or
 - only a tribunal; or
 - only the P&E Court; and
 - the person—
 - who may appeal a matter (the **appellant**); and
 - who is a respondent in an appeal of the matter; and
 - who is a co-respondent in an appeal of the matter; and
 - 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—
- for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency or
 - for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - 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
 - for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - 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
 - 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—
- the adopted charge itself; or
 - for a decision about an offset or refund—
 - the establishment cost of trunk infrastructure identified in a LGIP; or
 - the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - is in the approved form; and
 - succinctly states the grounds of the appeal.
- The notice of appeal must be accompanied by the required fee.
- 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—

- the respondent for the appeal; and
 - each co-respondent for the appeal; and
 - for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
 - for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - 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
 - for an appeal to the P&E Court—the chief executive; and
 - for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The **service period** is—
- if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - 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

- 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.
- The Judicial Review Act 1991, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- 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.
- In this section— **decision** includes—
 - conduct engaged in for the purpose of making a decision; and
 - other conduct that relates to the making of a decision; and
 - the making of a decision or the failure to make a decision; and
 - a purported decision; and
 - a deemed refusal.

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

- is final and conclusive; and
- 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
- 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

- A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- 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— <ol style="list-style-type: none"> (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	1 A concurrence agency that is not a co-respondent

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
		agency's referral response—the concurrence agency	2 If a chosen Assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application
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.			
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
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.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
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

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
<p>4. Infrastructure charges notices 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)
The person given the Infrastructure charges notice	The local government that gave the infrastructure charges notice	-	-
<p>5. Conversion applications An appeal may be made against—</p> <p>(a) the refusal of a conversion application; or</p> <p>(b) a deemed refusal of a conversion application.</p>			
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	-	-
<p>6. Enforcement notices An appeal may be made against the decision to give an enforcement notice.</p>			
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			
<p>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—</p> <p>(a) an error or mistake in law on the part of the tribunal; or</p> <p>(b) jurisdictional error.</p>			
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	-	-

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

<p>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.</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	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>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</p>			

Table 2 Appeals to the P&E Court only			
An appeal may be made against a decision of the Minister under chapter 7, part 4.			
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
6. Local laws An appeal may be made against a decision of a local government, or conditions applied, under a local law about— (a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or (b) the erection of a building or other structure.			
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			
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.			
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
3. Certain decisions under the Building Act and the Plumbing and Drainage Act An appeal may be made against a decision under— (a) the Building Act, other than a decision made by the Queensland Building and Construction Commission; or (b) the Plumbing and Drainage Act, part 4 or 5.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)

Table 3			
Appeals to the tribunal only			
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	-	-