



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/131-2021	Contact:	Aidan Murray
Notice Date:	22 December 2021	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	Gracemere Centre Pty Ltd (As Trustee) Gracemere Centre Trust		
Postal address:	C/- Gideon Town Planning		
Phone no:	Mobile no:	Email:	

I acknowledge receipt of the above application on 30 September 2021 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for a Material Change of Use for a Service Station and Operational Works for an Advertising Device

PROPERTY DESCRIPTION

Street address:	16-18 Lawrie Street, Gracemere
Real property description:	Lots 9 and 10 on RP611674

OWNER DETAILS

Name:	S M Buchholz and D C Hall
Postal address:	
Dear Gracemere Centre Pty Ltd (As Trustee) Gracemere Centre Trust	
I advise that, on 20 December 2021 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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval	<input checked="" type="checkbox"/>	<input type="checkbox"/>
- Material change of use		
- Operational work		

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>Parking Works</i> <i>Stormwater Works</i> <i>Roof and Allotment Drainage 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
STATE TRANSPORT INFRASTRUCTURE (State Transport Corridors and Future State Transport Corridors)			
<i>Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 – Material change of use of premises near a State transport corridor or that is a future State transport corridor</i>			
Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorising instrument, if all or part of the premises— (a) are within 25m of a State transport corridor; or (b) are a future State transport corridor; or (c) are— (i) adjacent to a road that intersects with a State-controlled road; and (ii) within 100m of the intersection	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@ds.dilgp.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>
Proposed Site Plan	inTOTUM	11 October 2021	2021046-DA-A100	D
Vehicle Site Plan – 19m	inTOTUM	11 October 2021	2021046-DA-A120	B

AV Trucks				
Proposed C-Store Layout	inTOTUM	28 September 2021	2021046-DA-A200	A
Proposed Canopy Floor Plan	inTOTUM	11 October 2021	2021046-DA-A210	B
Proposed Building Elevations Sheet 1 of 2	inTOTUM	28 September 2021	2021046-DA-A300	B
Proposed Building Elevations Sheet 2 of 2	inTOTUM	28 September 2021	2021046-DA-A301	A
Proposed Canopy Elevations Sheet 1 of 2	inTOTUM	11 November 2021	2021046-DA-A310	B
Proposed Canopy Elevations Sheet 2 of 2	inTOTUM	11 November 2021	2021046-DA-A311	B
UPSS Notes, Legend, and Schedules	inTOTUM	28 September 2021	2021046-DA-F001	A
UPSS Vehicle Path Site Plan – 19m AV Tanker	inTOTUM	11 November 2021	2021046-DA-F150	B
UPSS Vehicle Path Site Plan – 19m B-Double Tanker	inTOTUM	11 November 2021	2021046-DA-F151	B
Landscape Site Plan	inTOTUM	9 November 2021	2021046-DA-L100	B
Environmental Noise Assessment Proposed Service Station	RoadPro Acoustics	21 October 2021	Report 1334R1-R0	Revision 0
Traffic Impact Assessment	McMurtrie Consulting Engineers	24 September 2021	0272122	B
Stormwater Management Plan	McMurtrie Consulting Engineers	27 September 2021	027-21-22	A
Stormwater Management Plan Post Development Layout	McMurtrie Consulting Engineers	27 September 2021	027-21-21-SMP-02	A
Signage Site Plan	inTOTUM	11 November 2021	2021046-DA-S100	B
Signage Details	inTOTUM	28 September 2021	2021046-DA-S400	A

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

In accordance with section 85 of *Planning Act 2016*, a particular part of this development approval lapses six (6) years after the approval takes effect:

- For the approved material change of use (service station) – if the first change of use does not occur; and
- For the approved operational works (advertising device), if the development does not substantially start.

7. STATEMENT OF REASONS

Description of the development	The proposed development is for Material Change of Use for Service Station and Operational Works for an Advertising Device (freestanding sign)	
Reasons for Decision	Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity.	
Assessment Benchmarks	<p>The proposed development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> • District Centre Zone Code; • Access, Parking And Transport Code; • Landscape Code; • Stormwater Management Code; • Waste Management Code; and • Water and Sewer Code. 	
Compliance with assessment benchmarks	The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exceptions listed below.	
	Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
	District Centre Zone Code PO3	<p>The proposal does not comply with Acceptable Outcome AO3.1.1 and Performance Outcome PO3 in that while the convenience store is built to the boundary, no awnings over the footpath are provided in accordance with Figure 6.3.3.3.1b — Gracemere district centre concept plan (accepted subject to requirements and assessable elements).</p> <p>Notably, there are no awnings from any adjoining properties over the street/footpath to coordinate with. Instead, the proposal incorporates an articulated façade that engages with and is compatible with the existing streetscape along Lawrie Street and in relation to the nearby properties. Council sewerage infrastructure is located in the road reserve along the street frontage for Lawrie Street, which could be affected by the planting of large shade trees.</p> <p>Despite this, the proposal is still considered to achieve the overall outcomes in the zone code as they relate to the Gracemere District Centre. Specifically, the proposed development allows for and does not compromise pedestrian movement along Lawrie Street and provides some streetscape elements. A 1.8 metre wide pathway is required along the full frontage of the site within the road reserve and landscaping along the site's frontage and a convenience retail store that provides direct access for pedestrians from Lawrie Street.</p>
District Centre Zone	The proposal does not comply with Acceptable	

	<p>Code PO4</p>	<p>Outcome AO4.1.1 and Figure 6.3.3.3.1b — Gracemere district centre concept plan (accepted subject to requirements and assessable elements). While the convenience store building is built to the road frontage, no awning is provided over the street frontage.</p> <p>The development does not comply with Acceptable Outcome AO4.3 in that car parking is provided in front of the primary entrance to the convenience store While some parking spaces (primarily spaces 7 and 8 as shown in the approved plans) have the potential to impose on the street frontage, the parking spaces are notably screened and softened by a landscaping buffer within the frontage to Lawrie Street.</p> <p>However, by their nature service stations are car-orientated rather than pedestrian-orientated and therefore often provide limited design elements to activate a street. As a compromise, the proposed retail building is to be built to the boundary of Lawrie Street and designed to provide articulation in the wall that fronts Lawrie Street, thereby breaking down the façade into finer scaled components, improving amenity for pedestrians using the footpath and avoiding the presentation of a blank wall to the public realm. On balance the proposal is considered to comply with PO4.</p>
	<p>District Centre Zone Code PO8</p>	<p>The proposal does not comply with Acceptable Outcome AO8.4 as the landscaped buffer has a width of 1.5m rather than the prescribed minimum width of two (2) metres.</p> <p>Despite this, the proposed landscape design contains dense landscape planting to provide sufficient screening along the property boundaries. The planting schedule includes species with a mature heights of up to 10m and widths of up to 4m to ensure the privacy and amenity of adjoining residential dwellings. The environmental noise assessment report submitted by the applicant supports the proposal and adopted acoustic treatments as a reasonable alternative solution that provides appropriate noise and visual buffers to minimise potential adverse impacts on nearby residential uses to the north and east of the subject site, thereby complying with PO8.</p>
	<p>District Centre Zone Code PO9</p>	<p>The proposal does not comply with Acceptable Outcome AO9.1 as it is located on a site that adjoins a residential zone while proposing to operate 24 hours a day rather than only between the hours of 06:00 and 22:00.</p> <p>The environmental noise assessment report details night time vehicle counts and expected movements along Lawrie street, including for trucks and heavy vehicles. The low frequency of heavy vehicle</p>

		<p>movements suggests there would also be a low number of heavy vehicles refuelling during this same period and therefore minimal noise and amenity impacts are expected on nearby residences. The report also states that acoustic barriers designed for heavy vehicles (4.5m high) as 'excessively conservative'. Between the combination of offsets/setbacks of parking areas and fuel bowsers, a 1.8m acoustic fence and vegetation screening, it is possible for potential noise and amenity impacts to adjoining residential dwellings to be effectively mitigated and Acoustic Quality Objectives be achieved.</p> <p>Conditions have been included to the above effect to ensure noise impacts are mitigated, while also allowing for additional or alternative measures to be enforced by Council should any complaints be received and it be established the development represents a nuisance for nearby residents. Therefore, the proposal is considered to comply with PO9.</p>
	<p>District Centre Zone Code PO24</p>	<p>The development does not comply with Acceptable Outcome AO24.1 and Figure 6.3.3.3.2c — Gracemere district centre concept plan (assessable elements). The proposal does not seek to provide additional street trees on Lawrie Street.</p> <p>However, landscaping is to be implemented along the Lawrie Street road frontage to enhance and maintain the visual streetscape amenity for pedestrians. Therefore the proposal is considered to comply with PO24.</p>
	<p>Access, Parking and Transport Code PO14</p>	<p>The proposal does not comply with Acceptable Outcome AO14.2, which prescribes that no direct property access is gained to a highway, main road, urban arterial or sub arterial road as defined in SC6.15 — Road infrastructure and hierarchy planning scheme policy other than via a service road or a joint access arrangement with other sites.</p> <p>Lawrie Street is a state-controlled road and represents the only road frontage for the subject site. The development application was assessed by the Department of Transport and Main Roads as part of the concurrence agency referral. The concurrence agency provided a referral agency response with conditions. Given this it is taken the proposed development will not adversely impact on the safety, operation or function of the road network and complies with PO14.</p>
	<p>Landscape Code PO11</p>	<p>The proposal does not comply with Acceptable Outcome AO11.1. The car parking spaces adjoining the proposed shop building are not provided with shade trees (minimum height 2 metres or otherwise).</p> <p>However, this is not considered to be a significant issue or conflict as vehicles using these spaces will only be parked for short periods of time to use the</p>

		<p>convenience store. The two car parking spaces in the northern portion of the site are located next the air and water refill point. Subsequently, it is not expected that vehicles would be parked here for any significant period of time either. Landscaping is provided around the northern parking spaces and at the road frontage between all parking spaces and Lawrie Street to reduce visual appearance and maintain CPTED principles (Crime Prevention Through Environmental Design).</p>
	<p>Advertising Devices Code PO1</p>	<p>The proposed freestanding sign (pylon sign) does not comply with Acceptable Outcome AO1.2 and Table 9.3.2.3.2 of the advertising devices code. Specifically, the proposed sign exceeds the prescribed maximum sign area (36m²) for the district centre zone by 4m². Notably, the proposed sign is double-sided, with a 20m² sign area on each side for a total sign area of 40m². The physical dimensions of the sign are 8m tall and 2.5m wide and equivalent in three dimensional space to a 20m² single-sided sign.</p> <p>Additionally, the proposed freestanding sign has some conflicts with the prescribed built form parameters:</p> <ul style="list-style-type: none"> • At a height of 8 metres with a sign face height of approximately 7.33 metres, the sign exceeds the prescribed maximum sign face height of 5 metres but is consistent with the prescribed maximum total height of 10 metres from ground level. • the sign is set back from any property boundary by a minimum of three (3) metres or half the height of the sign, whichever is the greater; and • the sign is supported on single or multiple pylons to avoid unsightly back bracing. <p>The advertising device achieves Performance Outcome PO1 in the following ways:</p> <ul style="list-style-type: none"> • It is not considered to have an adverse impact on visual amenity of the streetscape and local area. • It is integrated with the overall design of the premises. • It does not visually dominate the premises and streetscape when compared to the remaining development on the site (e.g. the awning over fuel bowsers) and surrounding area (e.g. service station on the western side of Lawrie Street). • It does not impede vehicle or pedestrian movements or reduce safety levels (the sign will require building certification).

		<ul style="list-style-type: none"> • It will be constructed of durable and weather resistant materials. • It does not resemble traffic or road signs. • Represents relevant and reasonable advertising directly related to the primary purpose of the service station land use.
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 <u>COORDINATOR</u> <u>DEVELOPMENT ASSESSMENT</u>	Signature:	Date: 22 December 2021
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C/C State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department) - RockhamptonSARA@dcdilqp.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

MATERIAL CHANGE OF USE – SERVICE STATION

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 letter of compliance 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) Parking Works;
 - (ii) Stormwater Works;
 - (iii) Roof and Allotment Drainage;
 - (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 9 on RP611674 and Lot 10 on RP611674 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>
Proposed Site Plan	inTOTUM	11 October 2021	2021046-DA-A100	D
Vehicle Site Plan – 19m AV Trucks	inTOTUM	11 October 2021	2021046-DA-A120	B
Proposed C-Store Layout	inTOTUM	28 September 2021	2021046-DA-A200	A
Proposed Canopy Floor Plan	inTOTUM	11 October 2021	2021046-DA-A210	B
Proposed Building Elevations Sheet 1 of 2	inTOTUM	28 September 2021	2021046-DA-A300	B
Proposed Building Elevations Sheet 2 of 2	inTOTUM	28 September 2021	2021046-DA-A301	A
Proposed Canopy Elevations Sheet 1 of 2	inTOTUM	11 November 2021	2021046-DA-A310	B
Proposed Canopy Elevations Sheet 2 of 2	inTOTUM	11 November 2021	2021046-DA-A311	B
UPSS Notes, Legend, and Schedules	inTOTUM	28 September 2021	2021046-DA-F001	A
UPSS Vehicle Path Site Plan – 19m AV Tanker	inTOTUM	11 November 2021	2021046-DA-F150	B
UPSS Vehicle Path Site Plan – 19m B-Double Tanker	inTOTUM	11 November 2021	2021046-DA-F151	B
Landscape Site Plan	inTOTUM	9 November 2021	2021046-DA-L100	B
Environmental Noise Assessment Proposed Service Station	RoadPro Acoustics	21 October 2021	Report 1334R1-R0	Revision 0
Traffic Impact Assessment	McMurtrie Consulting Engineers	24 September 2021	0272122	B

Stormwater Management Plan	McMurtrie Consulting Engineers	27 September 2021	027-21-22	A
Stormwater Management Plan Post Development Layout	McMurtrie Consulting Engineers	27 September 2021	027-21-21-SMP-02	A

- 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 PARKING WORKS
- 3.1 A Development Permit for Operational Works (parking works) must be obtained prior to the commencement of any parking works on the development site.
- 3.2 All 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 (parking works).
- 3.3 All parking and vehicle manoeuvring areas must be paved or sealed to Council's satisfaction. Design and construction must be in accordance with the provisions of a Development Permit for Operational Works (parking works).
- 3.4 The existing two driveway accesses to the development site must be closed and replaced by Council standard kerb and channel.
- 3.5 All vehicles must ingress and egress the development in a forward gear.
- 3.6 Adequate sight distances must be provided for all ingress and egress movements at the access driveways in accordance with *Australian Standard AS2890.2 "Parking facilities - Off street commercial vehicle facilities"*.
- 3.7 A minimum of nine (9) parking spaces must be provided on-site, including one (1) universal access parking space.
- 3.8 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"*.
- 3.9 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).
- 3.10 Any application for a Development Permit for Operational Works (parking works) must be accompanied by detailed and scaled plans, which demonstrate the turning movements/swept paths of the largest vehicle to access the development site including refuse collection vehicles.
- 3.11 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"*.
- 3.12 Road signage and pavement markings must be installed in accordance with *Australian Standard AS1742.1 "Manual of uniform traffic control devices"*.

- 3.13 All vehicle operation areas must be illuminated in accordance with the requirements of *Australian Standard AS1158 "Lighting for roads and public spaces"*.
- 3.14 All internal pedestrian pathways must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*.
- 4.0 PLUMBING AND DRAINAGE WORKS
- 4.1 A Development Permit for Plumbing and Drainage Works must be obtained for the removal and/or demolition of any existing structure on the development site.
- 4.2 All internal plumbing and 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.
- 4.3 The development must be connected to Council's reticulated sewerage and water networks.
- 4.4 The existing sewerage connection point for Lot 9 on RP611674 must be disconnected.
- 4.5 The existing sewerage connection point for Lot 10 on RP611674 must be retained, and upgraded if necessary, to service the development.
- 4.6 The existing water connection point for Lot 10 on RP611674 must be disconnected.
- 4.7 The existing water connection point for Lot 9 on RP611674 must be retained, and upgraded if necessary, to service the development. A hydraulic engineer or other suitably qualified person must determine the size of connection required.
- 4.8 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.
- 4.9 Sewer connections and 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.
- 4.10 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.
- 4.11 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.
- 5.0 STORMWATER WORKS
- 5.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works required by this development approval.
- 5.2 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)..
- 5.3 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.
- 5.4 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.

- 5.5 Any application for a Development Permit for Operational Works (stormwater works) must be accompanied by a MUSIC electronic modelling files to demonstrate that the proposed development complies with *State Planning Policy 2017* requirements.
- 5.6 All proprietary stormwater quality treatment devices must be routinely checked, serviced and cleaned in accordance with the manufacturer's recommendations. Records of all maintenance activities undertaken must be kept and made available to Council upon request. Where replacement cartridges or other necessary components for the system become unavailable, an alternative system approved by Council, is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. All maintenance of the proprietary stormwater quality treatment devices must be the responsibility of the property owner.
- 6.0 ROOF AND ALLOTMENT DRAINAGE WORKS
- 6.1 A Development Permit for Operational Works (roof and allotment drainage works) must be obtained prior to the commencement of any drainage works on the development site.
- 6.2 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*, sound engineering practice and the provisions of a Development Permit for Operational Works (roof and allotment drainage works).
- 6.3 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.
- 7.0 SITE WORKS
- 7.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works on the development site.
- 7.2 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks plan that clearly identifies the following:
- 7.2.1 the location of cut and/or fill;
 - 7.2.2 the type of fill to be used and the manner in which it is to be compacted;
 - 7.2.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;
 - 7.2.4 details of any proposed access routes that are intended to be used to transport fill to or from the development site; and
 - 7.2.5 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.
- 7.3 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"*.
- 7.4 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.
- 7.5 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).
- 8.0 BUILDING WORKS
- 8.1 The existing dwelling / structures on the subject land 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.

- 8.2 A Development Permit for Building Works must be obtained prior to the commencement of any building works for construction on the site.
- 8.3 All external elements, such as air conditioners and associated equipment, must be adequately screened from public view, to Council's satisfaction.
- 8.4 The development must comply with *Queensland Development Code, Mandatory Part 1.4 "Building over or near relevant infrastructure."* Any required permit associated with the Building Over/Adjacent to Local Government Sewerage Infrastructure Policy must be obtained prior to the issue of a Development Permit for Building Works.
- 8.5 Adequate setback must be maintained between existing sewerage infrastructure and the proposed main identification sign (pylon sign) to comply with *Queensland Development Code, Mandatory Part 1.4 "Building over or near relevant infrastructure"* requirements.
- 8.6 Impervious paved waste storage area/s must be provided in accordance with the approved plans (refer to condition 2.1) and the *Environmental Protection Regulation 2019* and must be:
- 8.6.1 designed and located so as not to cause a nuisance to neighbouring properties;
 - 8.6.2 surrounded by at least a 1.8 metre high screen fence that obstructs from view the contents of the waste storage area by any member of the public from any public place;
 - 8.6.3 of a sufficient size to accommodate commercial type bins that will be serviced by a commercial contractor plus clearances around the bins for manoeuvring and cleaning;
 - 8.6.4 setback a minimum of two (2) metres from any road frontage; and
 - 8.6.5 provided with a suitable hosecock and hoses at the refuse container area, and washdown must be drained to the sewer and fitted with an approved stormwater diversion valve arrangement in accordance with the Sewerage Trade Waste provisions and the *Plumbing and Drainage Act 2018*.
- As an alternative to a washdown facility, a fully contained commercial bin cleaning service is acceptable provided no wastewater is discharged from the site to the sewer.
- 8.7 A minimum 1.8 metre high acoustic screen fence must be erected in accordance with the approved plans (refer to Condition 2.1) between the subject development site and adjacent properties to the development to ensure their privacy, amenity and security. The fence must be constructed of materials and finishes that are aesthetically pleasing as determined by Council and commensurate with the surrounding area.
- 9.0 LANDSCAPING
- 9.1 A Development Permit for Operational Works (landscaping works) must be obtained prior to the commencement of any landscaping works required by this development approval.
- 9.2 All landscaping must be constructed and/or established, in accordance with the requirements of the Development Permit for Operational Works (landscaping works), prior to the commencement of the use.
- 9.3 Any application for a Development Permit for Operational Works (landscaping works) must be generally in accordance with the approved plans (refer to condition 2.1) and must include, but is not limited to, the following:
- 9.3.1 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, podium/balcony planters, trees in car park areas, fences);
- (vi) details of landscape structures including areas of deep planting; and
- (vii) specification notes on mulching and soil preparation.

9.3.2 A “Planting Plan” and supporting documentation that includes:

- (i) landscaped areas predominantly containing plant species that have 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;
- (v) a plant schedule with the botanic and common names, total plant numbers and pot sizes at the time of planting; and
- (vi) mature screen planting to the northern and eastern boundaries.

9.4 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.

9.5 Landscaping, or any part thereof, upon reaching full maturity, must not:

- (i) obstruct sight visibility zones as defined in the *Austrroads ‘Guide to Traffic Engineering Practice’* series of publications;
- (ii) adversely affect any road lighting or public space lighting; or
- (iii) adversely affect any Council infrastructure, or public utility plant.

9.6 The landscaped areas must be subject to:

9.6.1 a watering and maintenance plan during the establishment moment; and

9.6.2 an ongoing maintenance and replanting programme.

10.0 ELECTRICITY

10.1 Underground electricity services must be provided in accordance with the standards and requirements of the relevant service provider.

11.0 TELECOMMUNICATIONS

11.1 Underground telecommunications services must be provided to the development in accordance with the standards and requirements of the relevant service provider.

12.0 ASSET MANAGEMENT

12.1 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.

12.2 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.

12.3 ‘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)*.

13.0 ENVIRONMENTAL AND PUBLIC HEALTH

- 13.1 An 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:
- 13.1.1 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); and
 - 13.1.2 available on-site for inspection by Council Officers whilst all works are being carried out.
- 13.2 An Environmental Management Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.
- 13.3 An incidents register must be kept at the premises and it must record any incidents including but not limited to any:
- 13.3.1 fire at the premises;
 - 13.3.2 release of contaminants not in accordance with the development approval conditions; and
 - 13.3.3 noise complaints
- 13.4 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"*.
- 13.5 Noise emitted from the activity must not cause an environmental nuisance.
- 13.6 Operations on the development site must have no significant impact as determined by Council on the amenity of adjoining premises or the surrounding area due to the emission of light, noise or dust.
- 13.7 When requested by Council, noise, dust, light or odour monitoring must be undertaken and recorded within three (3) months, to investigate any genuine complaint of nuisance caused by noise, dust, light or odour. The monitoring data, an analysis of the data and a report, including mitigation measures, must be provided to Council within fourteen (14) days of the completion of the investigation. Council may require any mitigation measures identified in the assessment to be implemented within appropriate timeframes. For noise nuisance, noise measurements must be compared with the acoustic quality objectives specified in the most recent edition of the *Environmental Protection (Noise) Policy 2019*.
- 13.8 Noise mitigation measures as per report titled 'Enviro Noise Assessment Proposed Service Station, 16-18 Lawrie Street, Gracemere by Road Pro Acoustics, Report 1334R1-R0, 21 October 2021 are to be implemented.
- 13.9 Odour and visible contaminants, including but not limited to dust, fume, smoke, aerosols, overspray or particulates, must not be released to the environment in a manner that will or may cause environmental nuisance or harm unless such release is authorised by Council.
- 13.10 Plant and equipment must be maintained in proper working order at all times, in accordance with the manufacturer's directions to ensure the efficiency of the equipment.
- 13.11 Soil/silt must be prevented from being moved off the site by stormwater by such practicable means as may be necessary.
- 13.12 All chemicals and/or environmentally hazardous liquids must be contained within a covered, bunded storage area that has a volume of at least that of the largest container in the bund plus twenty-five per cent (25%) of the total storage capacity.

- 13.13 An appropriate spill kit must be kept on-site for neutralising or decontaminating spills. The spill kit must be clearly identifiable, maintained regularly and stored in a central location that is easily accessible to employees. Staff must be adequately trained in the use of these materials. The spill kit may consist of:
- 13.13.1 a bin with a tight-fitting lid, partially filled with non-combustible absorbent material such as vermiculite;
 - 13.13.2 a broom, shovel, face shield, chemically-resistant boots and gloves; and
 - 13.13.3 waste bags and ties.
- 13.14 Any spillage of environmentally hazardous liquids or other materials must be cleaned up as quickly as practicable. Any spillage of waste and/or contaminants must not be hosed or swept to any stormwater drainage system, roadside gutter or waters.
- 13.15 Regulated waste and any other waste must not be released to the environment, stored, transferred or disposed of in such a manner that it will or may cause environmental harm or nuisance. This includes any waste being burnt or incinerated at the premises.
- 13.16 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 manufacturers' instructions to ensure the efficiency of the equipment.
- 13.17 Any external plant equipment (air conditioner units, air-compressors) will have to be located and screened appropriately so as not to impact negatively on the amenity of the surrounding residential properties.
- 13.18 All fuel dispensing areas must be drained to a holding tank or the sewer through a trade waste approved oil interceptor/separation system.
- 14.0 OPERATING PROCEDURES
- 14.1 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 Lawrie Street, Ranger Street and Arthur Street.
- 14.2 The service station use is permitted to operate 24 hours a day, 7 days a week including Sundays and Public Holidays
- 14.3 The loading and/or unloading of delivery vehicles and waste collection vehicles is limited between the hours of 0700 and 1900 Monday to Saturday and between the hours of 0800 and 1500 on Sundays. No heavy vehicles (service vehicles) may enter the development site outside these times to wait for unloading/loading.
- 14.4 Articulated Vehicles (up to 19m in length or smaller) may be used to supply and remove goods or services to / from the development.
- 14.5 All waste must be stored within a waste storage area (for example, general waste, recyclable waste, pallets, empty drums etcetera) in accordance with the approved plans (refer to condition 2.1). The owner of the land must ensure that:
- 14.5.1 the area is kept in a clean and tidy condition;
 - 14.5.2 fences and screens are maintained;
 - 14.5.3 no waste material is stored external to the waste storage area/s; and
 - 14.5.4 the area is maintained in accordance with *Environmental Protection Regulation 2019*.

OPERATIONAL WORKS – ADVERTISING DEVICE

1.0 ADMINISTRATION

- 1.1 The Developer is responsible for ensuring compliance with the Conditions of the approval by an employee, agent, contractor or invitee of the Developer.
- 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 of the Council 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 The following further development permits are required prior to the commencement of any works on the site:
 - 1.4.1 Building Works.
- 1.5 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.

2.0 APPROVED PLANS AND DOCUMENTS

- 2.1 The approved advertising device must be completed and maintained generally in accordance with the approved drawings and documents, except where amended by the conditions of this permit.

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version /Issue</u>
Signage Site Plan	inTOTUM	11 November 2021	2021046-DA-S100	B
Signage Details	inTOTUM	28 September 2021	2021046-DA-S400	A

- 2.2 A set of the above approved plans are returned to you as the Consultant. The Consultant is to supply one (1) Approved set to the contractor to be retained on site at all times during construction.
- 2.3 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.
- 2.4 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for endorsement by Council prior to the submission of a Development Application for Building Works.

3.0 OPERATING PROCEDURE

- 3.1 All advertising devices must only display or advertise a matter associated with the primary purpose for which the premises are used, or the purpose stated in this approval.
- 3.2 All text and images displayed on the approved advertising device:
 - 3.2.1 must be static;
 - 3.2.2 must not imitate a traffic control device, move contrary to any traffic control device or include traffic instructions (for example ‘stop’); and
 - 3.2.3 must not involve moving parts or flashing lights.
- 3.3 Any lighting devices associated with the advertising device, such as sensory lighting, must be positioned on the site and shielded so as not to cause glare or other nuisance to nearby residents or motorists. Night lighting must be designed, constructed and operated in

accordance with 'Australian Standard AS4282 – Control of the obtrusive effects of outdoor lighting' and 'Civil Aviation Safety Authority (CASA) Guidelines: Lighting in the vicinity of aerodromes: Advice to lighting designers'.

4.0 LUMINANCE

4.1 Luminance levels of the advertising device must not exceed the applicable levels listed in Table 2 below.

*Table 2: Luminance levels for Advertising Devices
(Source: OMA)*

Lighting Condition	Zone 1	Zone 2	Zone 3
Full Sun on Sign face	Maximum Output	Maximum Output	Maximum Output
Day Time Luminance	6000-7000 cd/m2	6000-7000 cd/m2	6000-7000 cd/m2
Morning/Evening/Twilight/inclement weather	1000 cd/m2	700 cd/m2	600 cd/m2
Night Time	500 cd/m2	350 cd/m2	300 cd/m2

Note:

- Zone 1 very high ambient off street lighting i.e. central city locations
- Zone 2 high to medium off street ambient lighting
- Zone 3 low levels of off street ambient lighting, i.e. most residential areas, rural areas.

5.0 ASSET MANAGEMENT

5.1 Any damage to, or alterations necessary, to electricity, telephone, water mains, sewerage mains, stormwater drains, and/or public utility installations resulting from the development or in connection with the development, must be undertaken immediately, at no cost to Council, and completed within the following timeframes:

- 5.1.1 where damage causes a hazard to pedestrian/traffic safety or interrupts a community service, immediately; or
- 5.1.2 as soon as reasonably possible as agreed with Council.

6.0 ADVERTISING DEVICE CONSTRUCTION AND MAINTENANCE

- 6.1 Council reserves the right for uninterrupted access to the site at all times during construction.
- 6.2 All Construction work and other associated activities are permitted only between 0630 hours and 1800 hours Monday to Saturday. No work is permitted on Sundays or public holidays. All requirements of the *Environmental Protection Act 1994* and the *Environmental Protection Regulation 2019* must be observed at all times.
- 6.3 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site.
- 6.4 Any proposed works within the vicinity (or zone of influence) of existing Council infrastructure will not adversely affect the integrity of the infrastructure. Any restoration works required on existing Council infrastructure as a result of proposed works will be at the developer's expense.

- 6.5 All conduits, wiring, switches or other control apparatus installed on an Advertising Device must be concealed from general view, with control apparatus secured in a manner to prevent unauthorised entry and display setting tampering.
- 6.6 All electrical services and systems must comply with *Australian and New Zealand Standard AS/NZS 3000:2007* – “Electrical Installations”.
- 6.7 All advertising devices must be maintained at all times on the premises by the owner of the premises to the same standard as it was when it was installed,
- All advertising devices must be maintained in a safe, clean, condition that does not adversely impact the visual amenity

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 and Partnerships website www.dsdatsip.qld.gov.au.

NOTE 2. 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 3. 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 4. Licensable Activities

Should an activity licensable by Rockhampton Regional Council be proposed for the development site, Council’s Environment and Public Health Unit must be consulted to determine whether any approvals are required. Such activities may include food preparation, storage of dangerous goods or environmentally relevant activities. Approval for such activities is required before ‘fit out’ and operation.

NOTE 5. Duty to Notify of Environmental Harm

If a person becomes aware that serious or material environmental harm is caused or threatened by an activity or an associated activity, that person has a duty to notify Rockhampton Regional Council.

NOTE 6. 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 7. Infrastructure Charges Notice

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

NOTE 8. Rating Category

Please note, a Material Change of Use approval may result in an adjustment to a property's rating category, particularly in residential and rural zones. Please contact Council's Rates Department should you require further information.

NOTE 9. Changes to Approved Plans

Any proposed minor amendments to the approved stamped plans during the works may be considered as generally in accordance at Council's discretion and require Council's approval. The stamped amended plans and a covering letter will be forwarded to the applicant. Where a generally in accordance determination is not applicable or approved by Council, a change application will be required to amend the approval.



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

- (1) 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.
- (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—

- 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

- (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—
- 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

- (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**

<p>1. Development applications An appeal may be made against—</p> <ul 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
<p>2. Change applications An appeal may be made against— (a) a responsible entity's decision for a change application, other than a decision made by the P&E court; or (b) a deemed refusal of a change application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 The applicant 2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice	The responsible entity	If an affected entity starts the appeal—the applicant	1 A concurrence agency for the development application 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 A private certifier for the development application 4 Any eligible advice agency for the change application 5 Any eligible submitter for the change application
<p>3. Extension applications An appeal may be made against— (a) the assessment manager's decision about an extension application; or (b) a deemed refusal of an extension application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 1 The applicant 2 For a matter other than a deemed refusal of an extension application – a concurrence agency, other than the chief executive, for the application	The assessment manager	If a concurrence agency starts the appeal – the applicant	If a chosen assessment manager is the respondent – the prescribed assessment manager

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 <p>(i) The working out of extra demands, for section 120; or</p> <p>(ii) An offset or refund; or</p> <p>b) There 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)
<p>1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for the change application</p>	<p>1 For a development application—the assessment manager 2 For a change application—the responsible entity</p>	<p>1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</p>
<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)
<p>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</p>	<p>1 For a development application—the assessment manager 2 For a change application—the responsible entity</p>	<p>1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</p>
<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)
<p>A person dissatisfied with the decision</p>	<p>The local government to which the claim was made</p>	<p>-</p>	<p>-</p>
<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	-	-