



Decision Notice Approval (amended)

Planning Act Form 5 (version 1.1 effective 22 June 2018) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s83 and s87 Planning Act 2016, and Section 334 of the Sustainable Planning Act 2009

Application number:	D/159-2013	Contact:	Aidan Murray
Notice Date:	22 March 2023	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	Gracemere Springs 2 Pty Ltd		
Postal address:	C/- Capricorn Survey Group (CQ) Pty Ltd PO BOX 1391 ROCKHAMPTON QLD 4700		
Phone no:	07 4927 5199	Mobile no:	Email: reception@csgcq.com.au

I acknowledge receipt of the above change application on change received and confirm the following:

DEVELOPMENT APPROVAL

Preliminary Approval varying the effect of the Planning Scheme for Material Change of Use for Residential Purposes and Development Permit for Reconfiguring a Lot (two lots into 122 lots) - Gracemere Springs Estate Stages 1-5 (Lot 1 on RP848973)

PROPERTY DESCRIPTION

Street address:	104 Washpool Road, Gracemere
Real property description:	Lot 1 on RP848973, Parish of Gracemere

OWNER DETAILS

Name:	Gracemere Springs Pty Ltd
Postal address:	PO BOX 208, SURFERS PARADISE QLD 4217
Dear Gracemere Springs 2 Pty Ltd	
I advise that, on 14 March 2023 the above change application was:	
<input checked="" type="checkbox"/> approved in full with conditions* (refer to the conditions contained in Attachment 1)	
*Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.	

CHANGES TO CONDITIONS

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

1)	Condition 1	Changed	14 March 2023
2)	Condition 1.1.9	Changed	8 August 2014
3)	Condition 5.1	Changed	8 August 2014
4)	Condition 7.4	Changed	14 March 2023
5)	Condition 7.5	Changed	14 March 2023

6)	Condition 8.1	Changed	8 August 2014
7)	Condition 9.1	Changed	8 August 2014
8)	Condition 9.2	Changed	8 August 2014
9)	Condition 9.4	Deleted	14 March 2023
10)	Condition 9.5	Changed	8 August 2014
11)	Condition 9.6	New	8 August 2014
12)	Condition 9.6	Changed	14 March 2023
13)	Condition 10.5	Changed	8 August 2014
14)	Condition 10.5	Changed	14 March 2023
15)	Condition 10.6	Changed	8 August 2014
16)	Condition 10.6	Deleted	14 March 2023
17)	Condition 10.7	Deleted	8 August 2014
18)	Condition 10.11	Changed	8 August 2014
19)	Condition 10.15	Changed	8 August 2014
20)	Condition 10.21	Deleted	14 March 2023
21)	Condition 10.22	Deleted	14 March 2023
22)	Condition 10.23	Deleted	14 March 2023
23)	Condition 10.24	Deleted	14 March 2023
24)	Condition 10.25	Deleted	14 March 2023
25)	Condition 10.26	Changed	8 August 2014
26)	Condition 11.4	Deleted	8 August 2014
27)	Condition 11.5	Changed	8 August 2014
28)	Condition 12.5	Changed	14 March 2023
29)	Condition 12.6	Deleted	14 March 2023
30)	Condition 13.4	Deleted	14 March 2023
31)	Condition 13.5	Changed	8 August 2014
32)	Condition 13.5	Changed	14 March 2023
33)	Condition 13.7	Deleted	14 March 2023
34)	Condition 14.14	New	8 August 2014
35)	Condition 14.14	Changed	14 March 2023
36)	Condition 14.15	New	8 August 2014
37)	Condition 14.15	Deleted	14 March 2023
38)	Condition 14.16	New	8 August 2014
39)	Condition 17.5	Changed	14 March 2023
40)	Condition 17.6	Changed	14 March 2023
41)	Condition 18.2	Changed	14 March 2023

42)	Condition 19.3	Changed	14 March 2023
43)	Advisory Notes 1,2 and 3	Changed	14 March 2023

1. DETAILS OF THE APPROVAL

	Development Permit	Preliminary Approval
Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material Change of use - Reconfiguring a lot	☒	☒

2. GROUNDS OF JUSTIFICATION OF APPROVAL DESPITE CONFLICT WITH THE PLANNING SCHEME:

The grounds for approving the application, despite the conflict with the planning scheme, are:

1)	The surrounding character and amenity supports the scale of development proposed and it is considered a logical progression of the residential development on individual lots in the locality.
2)	The site is able to connect to services and infrastructure to provide an appropriate level of service consistent with the intended use and surrounding locality.
3)	Residential development within Gracemere has exceeded the expectations of the <i>Fitzroy Planning Scheme 2005</i> , resulting in most of the zoned land being developed. This proposal represents the fair and orderly expansion of Gracemere
4)	The site and the adjoining rural properties are not of a sufficient size or agricultural land quality to support intensive agricultural uses, therefore the proposed development will not impinge on existing economic values of any natural resources.
5)	Assessment of the development demonstrates that the Planning Scheme's Desired Environmental Outcomes will not be compromised.
6)	Assessment of the development against the relevant planning scheme codes 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.
7)	The proposed development does not conflict with relevant State Planning Policies.

3. PRELIMINARY APPROVAL OVERRIDING THE PLANNING SCHEME

A preliminary approval under section 242 of the *Sustainable Planning Act 2009* has been granted. As such any development resulting from this approval will be in accordance with the Master Plan Development Document referenced in the conditions of approval.

4. CONDITIONS

This approval is subject to the conditions in Attachment 1.

5. FURTHER DEVELOPMENT PERMITS REQUIRED

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

Type of development permit required	Subject of the required development permit
Operational Works	<i>Road Works</i> <i>Access Works</i>

	<i>Sewer Works</i> <i>Water Works</i> <i>Stormwater Works</i> <i>Inter-allotment Drainage Works</i> <i>Site Works</i> <i>Landscaping Works</i>
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6. SUBMISSIONS

Properly made submissions were /were not made in relation to the application.

There was one properly made submission received from the following submitter(s);

Name of principal submitter	Residential or business address
1. M G Hunt	34 Reigal Drive, Gracemere QLD 4702

7. REFERRAL AGENCIES

The following Referral Agencies were activated by this application.

Referrals - Development made assessable under a planning scheme, temporary local planning instrument, preliminary approval to which section 242 of the *Sustainable Planning Act* applies or State planning regulatory provisions

	For an application involving	Name of agency	Status	Address
DEVELOPMENT IMPACTING ON A STATE-CONTROLLED ROAD				
2	An aspect of development identified in schedule 9 that— (a) is for a purpose mentioned in schedule 9, column 1; and (b) meets or exceeds the threshold— (i) for development in LGA population 1—mentioned in schedule 9, column 2 for the purpose; or (ii) for development in LGA population 2—mentioned in schedule 9, column 3 for the purpose. However, if the development is for a combination of purposes mentioned in the same item of schedule 9, the threshold is for the combination of purposes and not for each purpose individually.	Department of Transport and Main Roads	Concurrence	Fitzroy Region Rockhampton Office PO Box 5096 Red Hill Rockhampton Qld 4702

8. THE APPROVED PLANS

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

Plan/Document Name	Plan/Document Reference	Dated
Gracemere Springs Local Plan	Revision A	July 2013
Intermediate 1 into 2 Lot Reconfiguration	Planning Report- Gracemere	April 2013

<u>Plan/Document Name</u>	<u>Plan/Document Reference</u>	<u>Dated</u>
	Springs 2, R130103 Revision C	
Lot Reconfiguration 1 Lot into 2 lots + Access Easement	5843-08-ROL Revision D Sheet no. 1 of 3	18 July 2014
Lot Reconfiguration Stages 1 - 5 (122 Lots)	5843-08-ROL Revision D Sheet no. 2 of 3	18 July 2014
Lot Reconfiguration Stages 1 - 5 (122 Lots)	5843-08-ROL Revision D Sheet no. 3 of 3	18 July 2014
Engineering Infrastructure Report Gracemere Springs Estate 2 – 104 Washpool Road, Gracemere	R13018 Issue A	15 April 2013
Traffic Impact Assessment – Gracemere Springs 1 & 2	R12166 and R13018 Issue A	July 2013
Ultimate Road Hierarchy Plan	R13018	Undated
Stormwater Quantity Management Plan and Flood Investigation	B13021.W-01A Issue A	15 April 2013
Stormwater Quality Management Report	R13018 Issue A	12 April 2013
Q100 – Inundation Channel Plan	R12166 (Response to the Information Request)	Undated
Weir section A-A	R12166 (Response to the Information Request)	Undated
Inundation Cross Sections 1	R12166 (Response to the Information Request)	Undated
Inundation Cross Sections 2	R12166 (Response to the Information Request)	Undated
Inundation Cross Sections 3	R12166 (Response to the Information Request)	Undated
Sewer Layout Plan	R12166 - Sewer	Undated
Water Supply Network Analysis Report (104 Washpool Road, Gracemere)	1335/1358	12 July 2013

9. CURRENCY PERIOD FOR THE APPROVAL

The currency period for all development identified in this Approval lapses on 16 May 2025 (the lapse date).

Preliminary Approval for Material Change of Use:

The Preliminary Approval for Material Change of Use for residential purposes lapses if the first change of use does not happen by 16 May 2025.

Development Permit for Reconfiguring a Lot:

The Development Permit for Reconfiguring a Lot lapses if a plan for the reconfiguration that, under the Land Title Act, is required to be given to a local government for approval is not given to the local government by 16 May 2025.

Note: the currency period does not include extensions provided by the Covid-19 Applicable Event under the *Planning Act 2016*.

10. RIGHTS OF APPEAL

The rights of an applicant to appeal to a tribunal or the Planning and Environment Court against a decision about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

Appeal by an applicant

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

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

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

Appeal by a submitter

A submitter for a development application may appeal to the Planning and Environment Court against:

- any part of the development application for the development approval that required impact assessment
- a variation request.

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

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

11. 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.

12. ORIGINAL DECISION ASSESSMENT MANAGER

Name: Tarnya Fitzgibbon <u>COORDINATOR</u> <u>DEVELOPMENT ASSESSMENT</u>	Date: 8 August 2014
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13. ASSESSMENT MANAGER

Name: Amanda O'Mara <u>COORDINATOR</u> <u>DEVELOPMENT</u> <u>ASSESSMENT</u>	Signature: 	Date: 22 March 2023
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Attachment 1 – Conditions of the approval

Part 1 – Conditions imposed by the assessment manager

Part 2 – Conditions required by the referral agency response

Attachment 2—Extract on appeal rights

1.0 DEFINITIONS AND INTERPRETATION

1.1 In this approval:

- 1.1.1 **Applicant** means Gracemere Springs 2 Pty Ltd being the applicant for the application for preliminary approval with respect to the Subject Land.
- 1.1.2 **Approval** means the approval of the Application by the Council on 26 November 2013.
- 1.1.3 **Application** means the Application made by the Applicant to Council dated 24 April 2013 over the Subject Land for Preliminary Approval varying the effect of Council's Planning Scheme and Reconfiguring a Lot (one lot into one hundred and twenty-two lots).
- 1.1.4 **Conditions** mean the conditions of this approval including any attachment referred to in these conditions.
- 1.1.5 **Council** means Rockhampton Regional Council. Where 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.
- 1.1.6 **Developer** means the Gracemere Springs 2 Pty Ltd or the registered proprietor and any occupier of the Subject Land.
- 1.1.7 **Infrastructure** means infrastructure reasonably required to service the proposed development including roads (internal, external and access), parks, open space and conservation areas, water and sewerage services, stormwater, drainage and community facilities.
- 1.1.8 **Sustainable Planning Act 2009** means the *Sustainable Planning Act 2009* as amended from time to time.
- 1.1.9 **Subject Land** means Lot 1 on RP848973, Parish of Gracemere, situated at 104 Washpool Road, Gracemere, having a total area of 40.16 hectares.
- 1.1.10 **Planning Scheme** means *Fitzroy Shire Planning Scheme 2005* as amended from time to time, or any other subsequent replaced planning scheme.
- 1.1.11 **Preamble** means an introduction which provides guidance and background to a condition. While a preamble does not form part of the condition it can be used for the purpose of understanding and interpreting a condition.
- 1.1.12 **Master Plan Development Document** means the Gracemere Springs Local Plan which includes the assessment table, definitions and development codes being a plan of the proposed development for a material change of use which affects Council's Planning Scheme with respect to the subject land which in particular:
- (i) states what development is:
 - (a) Assessable Development (requiring code or impact assessment); or
 - (b) Self-assessable Development; or
 - (c) Exempt Development; and
 - (ii) Identifies codes for the development.

2.0 ADMINISTRATION

- 2.1 The Developer is responsible for ensuring compliance with this approval and the Conditions of the approval by an employee, agent, contractor or invitee of the Developer.
- 2.2 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 2.3 Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.

3.0 APPROVED PLANS AND DOCUMENTS

3.1 This is a preliminary approval for a Material Change of Use to affect Council's Planning Scheme under Section 242 of the *Sustainable Planning Act 2009* for a Residential development, on the subject land, generally in accordance with the following plans and documents, except where amended by the Conditions of this permit:

Plan/Document Name	Plan/Document Reference	Dated
Gracemere Springs Local Plan	Revision A	July 2013

4.0 PLANNING FRAMEWORK

Preamble - It is intended that the Developer prepare a comprehensive Master Plan Development Document for the Subject Land prior to making an application to Council for a development permit over the Subject Land for a Material Change of Use, Reconfiguration of a Lot, Operational Works or Building Works.

The Master Plan Development Document will be an independent document which is the sole reference for the determination of any application over the Subject Land for a Material Change of Use or a Reconfiguration of a Lot in accordance with this approval. The subject land must be developed generally in accordance with the Master Plan Development Document.

4.1 Prior to making the first application for a development permit over the Subject Land or any part, the Developer must submit to the Council for its approval a consolidated Master Plan Development Document. The Master Plan Development Document must provide:

4.1.1 a full copy of all of the applicable definitions (use and general) as they currently appear in the planning scheme to be utilised in the Council's assessment of subsequent development applications;

4.1.2 a table of assessment categories and assessment criteria which states what development is:

- (i) Assessable Development (requiring or Impact Assessment); or
- (ii) Self-assessable Development; or
- (iii) Exempt Development; and
- (iv) identifies codes for the development.

4.1.3 a full copy of the use and development codes (with the modifications proposed by this Application and subsequent Approval) to be utilised in the Council's assessment of subsequent development applications.

4.2 To remove any doubt:

4.2.1 any development on the Subject Land which is not identified in the Master Plan Development Document must be:

- (i) if it is a Material Change of Use – impact assessable (pursuant to the Level of Assessment Table in the Master Plan Development Document); or
- (ii) for all other forms of development – subject to the level of assessment established in the Planning Scheme; and

4.2.2 any development on the Subject Land which is identified in the Master Plan Development Document and which conflicts with the purpose of the applicable codes or conditions of this Approval, must be:

- (i) if it is a Material Change of Use – impact assessable; or
- (ii) for all other forms of development – subject to the level of assessment established in the Planning Scheme.

4.3 The subject land must be developed generally in accordance with the Master Plan Development Document (subject to amendments as conditioned) and approved plans and reports (refer to condition 3.1).

5.0 RELEVANT PERIOD

5.1 The standard relevant periods stated in section 341 of Sustainable Planning Act 2009 apply to each aspect of development in this approval, unless otherwise stated in the approved Gracemere Springs Local Plan.

6.0 ASSET MANAGEMENT

6.1 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 at full cost to the Developer.

6.2 Any damage to existing kerb and channel, pathway or roadway (including removal of concrete slurry from public land, pathway, roads, kerb and channel and stormwater gullies and drainage lines) which may occur during any works carried out in association with the approved development must be repaired. This must include the reinstatement of the existing traffic signs and pavement markings which may have been removed.

6.3 '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 Manual for Submission of Digital As Constructed Information.

PART B – RECONFIGURING A LOT (ONE LOT INTO 122 LOTS)

7.0 ADMINISTRATION

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

7.2 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.

7.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.

7.4 All conditions, works, or requirements of this approval must be undertaken and completed prior to the issue of the Survey Plan Approval Certificate, unless otherwise stated.

7.5 Where applicable, infrastructure requirements of this approval must be contributed to the relevant authorities, at no cost to Council prior to the issue of the Survey Plan Approval Certificate, unless otherwise stated.

7.6 The following further Development Permits must be obtained prior to the commencement of any works associated with its purposes:

7.6.1 Operational Works:

- (i) Road Works;
- (ii) Access Works;
- (iii) Sewerage Works;
- (iv) Water Works;
- (v) Stormwater Works;
- (vi) Inter-allotment Drainage Works;
- (vii) Site Works; and
- (viii) Landscaping Works.

7.7 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.

7.8 All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant Australian Standards and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.

8.0 APPROVED PLANS AND DOCUMENTS

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

Plan/Document Name	Plan/Document Reference	Dated
Gracemere Springs Local Plan	Revision A	July 2013
Intermediate 1 into 2 Lot Reconfiguration	Planning Report- Gracemere Springs 2, R130103 Revision C	April 2013
Lot Reconfiguration 1 Lot into 2 lots + Access Easement	5843-08-ROL Revision D Sheet no. 1 of 3	18 July 2014
Lot Reconfiguration Stages 1 - 5 (122 Lots)	5843-08-ROL Revision D Sheet no. 2 of 3	18 July 2014
Lot Reconfiguration Stages 1 - 5 (122 Lots)	5843-08-ROL Revision D Sheet no. 3 of 3	18 July 2014
Engineering Infrastructure Report Gracemere Springs Estate 2 – 104 Washpool Road, Gracemere	R13018 Issue A	15 April 2013
Traffic Impact Assessment – Gracemere Springs 1 & 2	R12166 and R13018 Issue A	July 2013
Ultimate Road Hierarchy Plan	R13018	Undated
Stormwater Quantity Management Plan and Flood Investigation	B13021.W-01A Issue A	15 April 2013
Stormwater Quality Management Report	R13018 Issue A	12 April 2013
Q100 – Inundation Channel Plan	R12166 (Response to the Information Request)	Undated
Weir section A-A	R12166 (Response to the Information Request)	Undated
Inundation Cross Sections 1	R12166 (Response to the Information Request)	Undated
Inundation Cross Sections 2	R12166 (Response to the Information Request)	Undated
Inundation Cross Sections 3	R12166 (Response to the Information Request)	Undated
Sewer Layout Plan	R12166 - Sewer	Undated
Water Supply Network Analysis Report (104 Washpool Road, Gracemere)	1335/1358	12 July 2013

8.2 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.

8.3 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 a Development Application for Operational Works.

9.0 STAGED DEVELOPMENT

9.1 This approval is for a development to be undertaken in six discrete stages, namely:

9.1.1 Lot 500, Lot 501 and Access Easement (Stage A);

9.1.2 Lot 1 to Lot 19 (Stage One – nineteen lots and public use land);

9.1.3 Lot 20 to Lot 45 (Stage Two – twenty-six lots);

- 9.1.4 Lot 46 to Lot 65 (Stage Three – twenty lots);
9.1.5 Lot 66 to Lot 99 (Stage Four – thirty-four lots); and
9.1.6 Lot 100 to Lot 122 (Stage Five – twenty-three lots).
in accordance with the approved plans (refer to condition 8.1).

9.2 Stage One must be constructed first.

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

9.4 Deleted.

9.5 The “Public Use Land” must be dedicated as “Public Use Land” on the Survey Plan for Stage One.

9.6 Stage A must be connected to electricity and telecommunication connections prior to the issue of the Survey Plan Approval Certificate. Evidence must be provided of a certificate of supply with the relevant service providers to provide each lot with live electricity and telecommunication connections, in accordance with the requirements of the relevant authorities prior to the issue of the Survey Plan Approval Certificate. No other conditions apply to Stage A.

10.0 ROAD WORKS

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

10.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 8.1), *Capricorn Municipal Development Guidelines*, relevant Australian Standards and the provisions of a Development Permit for Operational Works (road works).

10.3 Any application for a Development Permit for Operational Works (road works) must demonstrate that all new roads and road reserves connect with existing constructed road(s) and road reserve(s).

10.4 All proposed roads, including any extensions to the existing roads, and associated stormwater systems must be designed and constructed in accordance with *Capricorn Municipal Development Guidelines*.

10.5 At Stage One, the Developer must construct Washpool Road, identified as T-93 and T-105 in Council’s Local Government Infrastructure Plan (LGIP) from the intersection of Cherryfield Road to the eastern boundary of Lot 1 on RP848973. This necessary trunk infrastructure is conditioned under section 128 of the *Planning Act 2016*.

Note: The Developer may, as an alternative to the requirement of condition(s) 10.5, enter into an Infrastructure Agreement with Council, which specifies the development obligations relating to infrastructure for future development of the site. The Infrastructure Agreement should incorporate (but not be limited to) the following principles:

- the Developer must construct road infrastructure necessary to service the development and connectivity to existing road network systems; and
- the agreed cost of road infrastructure constructed and provided by the Developer must be credited against contributions due to be paid.
- The agreement must be prepared and finalised by Council’s solicitors at no cost to Council (including the payment of any State tax) and must be executed by the Developer. The agreed repayment date must be negotiated between Council and the Developer as part of the Infrastructure Agreement process.

10.6 Deleted

10.7 Proposed Road S, including associated stormwater systems, must be designed and constructed to Major Urban collector standards.

10.8 The pavement width(s) of the relevant roads must be transitioned to the continuing pavements to the satisfaction of Council and/or in accordance with *Capricorn Municipal Development Guidelines*.

10.9 All new cul-de-sac roads shown on the approved plans (refer to condition 8.1) including associated stormwater drainage systems, must be designed and constructed in accordance with the requirements for a road classification of “Access Place” as prescribed by the *Capricorn Municipal Development Guidelines*.

- 10.10 The design and construction of all temporary terminating roads must include a temporary turning area which complies with the relevant performance and technical criteria and facilitates suitable turning movements for a Council refuse collection vehicle. The temporary sealed turning area must permit the unimpeded development of the adjacent allotments. This may require extensions to the road pavement, to the road reserves and/or provision of easements on the extensions of these roads.
- 10.11 Any application for Operational Works (road works) must be accompanied by a detailed layout plan (geometric design) of the Washpool Road and Proposed Road S intersection.
- 10.12 Any application for Operational Works (road works) must demonstrate that sight distance(s) at all relevant intersections, including horizontal and vertical curves, are in accordance with relevant Australian Standards, for the proposed speed environments.
- 10.13 Truncations must be applied to all corner allotments.
- 10.14 Roadways which are intended to act as bus routes must be constructed to a minimum "Minor Collector" standard.
- 10.15 Bus set-down area(s), including all weather shelter(s) must be designed and constructed in accordance with the Public Transport Infrastructure Manual. Details of the bus set-down area(s) must be provided with any application for a Development Permit for Operational Works (road works).
- 10.16 All pathways must incorporate kerb ramps at all road crossing points, where applicable.
- 10.17 Retaining walls/batters must be wholly contained within the proposed private allotments and not be constructed as Council-owned infrastructure.
- 10.18 All pathways and access ramps must be designed and constructed in accordance with *Capricorn Municipal Development Guidelines*. 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*".
- 10.19 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*.
- 10.20 Any application for a Development Permit for Operational Works (road works) must include details of the Council approved road names for all new roads.
- 10.21 Deleted.
- 10.22 Deleted
- 10.23 Deleted
- 10.24 Deleted
- 10.25 Deleted
- 11.0 ACCESS WORKS
- 11.1 A Development Permit for Operational Works (access works) must be obtained prior to the commencement of any access works on the site.
- 11.2 All access works must be designed and constructed in accordance with the approved plans (refer to condition 8.1), *Capricorn Municipal Development Guidelines*, and the provisions of a Development Permit for Operational Works (access works).
- 11.3 A twenty metre access easement must be provided over proposed Lot 500, in favour of balance Lot 501 prior to the commencement of any works on site.
- 11.3.1 The access easement must follow the existing track.
- 11.4 Accesses must be designed and constructed for proposed Lot 100, Lot 101 and Lot 102.
- 11.5 Access to all corner allotments must be obtained only via the lower order road classified in accordance with the traffic carrying capacity.
- 12.0 SEWERAGE WORKS
- 12.1 A Development Permit for Operational Works (sewerage works) must be obtained prior to the commencement of any sewerage works on the site.

- 12.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 8.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act, Plumbing and Drainage Act* and the provisions of a Development Permit for Operational Works (sewerage works).
- 12.3 All lots within the development must be connected to Council's reticulated sewerage network.
- 12.4 Easements must be provided over all sewerage infrastructure located within private property. The easement location(s) and width(s) must be in accordance with the requirements of the *Capricorn Municipal Development Guidelines*.
- 12.5 At Stage One, the Developer must construct a 225 millimetre diameter gravity sewer, identified as SEW-109 in Council's Local Government Infrastructure Plan (LGIP) along the western and northern boundary of Lot 1 on RP848973. This necessary trunk infrastructure is conditioned under section 128 of the *Planning Act 2016*.

Note: The Developer may as an alternative to the requirement(s) of condition(s) 12.5 enter into an Infrastructure Agreement with Council, which specifies the development obligations relating to infrastructure for future development of the site. The Infrastructure Agreement should incorporate (but not be limited to) the following principles:

- the Developer must construct the sewerage infrastructure necessary in accordance with condition 12.5 to service the development and provide connectivity to the development boundary adjoining Lot 3 on SP119672, Lot 2 on SP119672 and Lot 2 on RP848973; and
- the agreed cost of sewerage infrastructure constructed and provided by the Developer must be credited against contributions due to be paid.
- The agreement must be prepared and finalised by Council's solicitors at no cost to Council (including the payment of any State tax) and must be executed by the Developer. The agreed repayment date must be negotiated between Council and the Developer as part of the Infrastructure Agreement process.

12.6 Deleted.

12.7 Easements must be provided over all sewerage infrastructure located within private property. The easement location(s) and width(s) must be in accordance with the requirements of the *Capricorn Municipal Development Guidelines*.

13.0 WATER WORKS

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

13.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 8.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act, Plumbing and Drainage Act*, and the provisions of a Development Permit for Operational Works (water works).

13.3 All lots within the development must be connected to Council's reticulated water network.

13.4 Deleted.

13.5 At Stage One, the Developer must construct a 200 millimetre diameter water main, identified as WAT-75 in Council's Local Government Infrastructure Plan (LGIP) along the Washpool Road reserve to the eastern boundary of Lot 1 on RP848973 from the Washpool Road / Cherryfield Road intersection in accordance with the approved plans. This necessary trunk infrastructure is conditioned under section 128 of the *Planning Act 2016*.

Note: The Developer may as an alternative to the requirement(s) of condition(s) 13.5 enter into an Infrastructure Agreement with Council, which specifies the development obligations relating to infrastructure for future development of the site. The Infrastructure Agreement should incorporate (but not be limited to) the following principles:

- the Developer must construct the water supply infrastructure necessary to service the development and provide connectivity to the development boundary adjoining Lot 3 on SP119672, Lot 2 on SP119672 and Lot 2 on RP848973; and
- the agreed cost of water supply infrastructure constructed and provided by the Developer must be credited against contributions due to be paid.

- The agreement must be prepared and finalised by Council's solicitors at no cost to Council (including the payment of any State tax) and must be executed by the Developer. The agreed repayment date must be negotiated between Council and the Developer as part of the Infrastructure Agreement process.
- 13.6 All water main sizes, alignments and layouts must be in accordance with the *Water Supply Network Analysis Report* (104 Washpool Road, Gracemere) dated 12 July 2013 and must be finalised at the Operational Works (sewerage works) Application Stage.
- 13.7 Deleted.
- 14.0 STORMWATER WORKS
- 14.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works on the site.
- 14.2 All stormwater drainage works must be designed and constructed in accordance with the approved plans (refer to condition 8.1), *Queensland Urban Drainage Manual*, *Capricorn Municipal Development Guidelines*, *State Planning Policy 4/10 – Healthy Waters Guidelines*, sound engineering practice and the provisions of a Development Permit for Operational Works (stormwater works).
- 14.3 All stormwater must drain to a demonstrated lawful point of discharge and must not adversely affect adjoining land or infrastructure by way of blocking, altering or diverting existing stormwater runoff patterns or have the potential to cause damage to other infrastructure.
- 14.4 Any application for Operational Works (stormwater works) must identify all areas of the proposed development, and all other land (which may include land not under the control of the developer), which needs to be dedicated to, or encumbered in favour of Council or another statutory authority, in order to provide a lawful point of discharge for the proposed development. The areas identified must satisfy the requirements of the *Queensland Urban Drainage Manual*.
- 14.5 Drainage easement(s) must be dedicated in favour of Council (at no cost to Council) to provide drainage corridors suitable for the conveyance of peak stormwater flows through the subject land during a 100 year Average Recurrence Interval rainfall event.
- 14.6 All land proposed and dedicated as major overland flow paths (Q100) must be able to contain all earthworks and batters and include a freeboard to the adjacent lots and access and maintenance provisions consistent with the *Queensland Urban Drainage Manual*.
- 14.7 Each allotment must be designed so as to be flood free and self-draining.
- 14.8 Minor drainage systems located within Washpool Road, including proposed swale drains, must discharge the flows to a demonstrated lawful point of discharge without causing actionable nuisance.
- 14.9 A detention system, sufficient to attenuate the peak discharge from the site to ensure no worsening for a range of design rainfall events up to and including the 100 year Average Recurrence Interval event, must be designed and constructed in accordance with the provisions of the *Queensland Urban Drainage Manual*.
- 14.10 Detailed design of proposed detention basin and any cross drainage structures must include all required safety measures and facilities to ensure the safety of the public in accordance with *Queensland Urban Drainage Manual*.
- 14.11 All proposed culverts/cross drainage structures must be designed and constructed assuming a fifty per centum blockage factor, and maximum flow depth over the cross drainage structure must be limited to 200 millimetres (maximum) demonstrating allowable velocity, depth product(s), to ensure public safety.
- 14.12 Potential pollutants in stormwater runoff must be managed and discharged from the site in accordance with *State Planning Policy 4/10 – Healthy Waters*.
- 14.13 Any application for a Development Permit for Operational Works (stormwater works) must:
- 14.13.1 identify the possibilities of consolidating the proposed bio retention areas into one or two specific areas which can be easily maintained;
 - 14.13.2 include detailed engineering plans with details of any new drainage systems, or the amendment and upgrading of exiting drainage systems to implement the proposed drainage strategy; and

14.13.3 be accompanied by a management and maintenance plan for the proposed detention basin/retention systems.

14.14 At Stage One, the Developer must construct stormwater drainage infrastructure, identified as a portion of D-28 in Council's Local Government Infrastructure Plan (LGIP) to accommodate the 1% Annual Exceedance Probability (AEP) flows from the north-western boundary to the north-eastern boundary. This necessary trunk infrastructure is conditioned under section 128 of the *Planning Act 2016*.

Note: The Developer may as an alternative to the requirement(s) of condition(s) 14.14 enter into an Infrastructure Agreement with Council, which specifies the development obligations relating to infrastructure for future development of the site. The Infrastructure Agreement must incorporate (but not be limited to) the following principles:

- the Developer must construct the drainage infrastructure necessary to service the development and connectivity to existing drainage paths; and
- the agreed cost of drainage infrastructure constructed and provided by the Developer must be credited against contributions due to be paid.
- The agreement must be prepared and finalised by Council's solicitors at no cost to Council (including the payment of any State tax) and must be executed by the Developer. The agreed repayment date must be negotiated between Council and the Developer as part of the Infrastructure Agreement process.

14.15 Deleted.

14.16 The proposed stormwater detention and water quality treatment devices for the development of Lot 4 on SP119672 does not need to be constructed as part of this approval however the land area for the required stormwater detention and water quality treatment devices must be provided for in the public use land or drainage easement in Stage One of this approval. As part of the approval for operational works (stormwater) for Stage One it must be demonstrated that the integration of the systems for both lots can be seamlessly achieved.

15.0 INTER-ALLOTMENT DRAINAGE WORKS

15.1 A Development Permit for Operational Works (inter-allotment drainage works) must be obtained prior to the commencement of any drainage works on the site.

15.2 Inter-allotment drainage, must be designed and constructed in accordance with the *Queensland Urban Drainage Manual* and must be provided to any lot where it cannot be satisfactorily demonstrated that roof water drainage associated with building construction on that lot, could reasonably be directed to the frontage kerb and channel or alternative lawful point of discharge.

Note: the swale drainage systems for inter-allotment drainage are not approved.

15.3 Inter-allotment drainage systems and overland flow paths must be designed and constructed in accordance with the *Queensland Urban Drainage Manual*.

15.4 Inter-allotment drainage systems and overland flow paths must be wholly contained within a Council easement, with a minimum width of three (3) metres.

16.0 SITE WORKS

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

16.2 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks' plan which clearly identifies the following:

16.2.1 the location of cut and/or fill;

16.2.2 the type of fill to be used and the manner in which it is to be compacted;

16.2.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;

16.2.4 details of any proposed access routes to the site which are intended to be used to transport fill to or from the site; and

16.2.5 the maintenance of access roads to and from the site so that they are free of all cut and/or fill material and cleaned as necessary.

- 16.3 All earthworks must be undertaken in accordance with Australian Standard AS3798 “*Guidelines on Earthworks for Commercial and Residential Developments*”.
- 16.4 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 adjoining properties or infrastructure.
- 16.5 The structural design of all retaining walls above one (1) metre in height must be separately and specifically certified by a Registered Professional Engineer of Queensland as part of any application for operational works for such a structure. A Registered Professional Engineer of Queensland must, on completion of the works, certify that all works are compliant with the approved design.
- 16.6 A detailed inspection and as constructed record must be provided to Council by the consultant Registered Professional Engineer of Queensland prior to acceptance of the works. The consultant must include in the certification confirmation that the foundation ground conditions nominated in the design were inspected and achieved during construction.
- 16.7 The detailed inspection and As Constructed record must demonstrate to Council that the wall construction work was closely monitored throughout construction by the Registered Professional Engineer of Queensland, including the achieved foundation ground conditions.
- 16.8 The approved design and/or the construction of the retaining walls must not be modified or altered without Council’s prior written approval.
- 16.9 All site works must be undertaken to ensure that there is:
- 16.9.1 no increase in upstream or downstream flood levels for all levels of immunity up to Q100;
 - 16.9.2 no increase in velocity profiles, for which no remedy exists to prevent erosion and/or scouring. In the event that modelling shows non-compliance with the above, works must be undertaken within the system to satisfy the above criteria for development; and
 - 16.9.3 a lawful point of discharge to which the developed flows from the land drain. Easements will be required over any other land to accommodate the flows.
- 17.0 LANDSCAPING WORKS
- 17.1 A Development Permit for Operational Works (Landscaping Works) must be obtained prior to the commencement of any works on the site.
- 17.2 Any application for a Development Permit for Operational Works (Landscaping Works) must be generally in accordance with the approved plans (refer to condition 8.1) and must include, but is not limited to, the following:
- 17.2.1 A plan documenting the “Extent of Works” and supporting documentation which includes:
 - (i) location and name of existing trees, including those to be retained (the location of the trees shall be overlaid or be easily compared with the proposed development design);
 - (ii) the extent of soft and hard landscape proposed;
 - (iii) important spot levels and/or contours. The levels of the trees to be retained shall be provided in relation to the finished levels of the proposed buildings and works;
 - (iv) underground and overhead services;
 - (v) typical details of critical design elements (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.
 - 17.2.2 A “Planting Plan” and supporting documentation which includes:
 - (i) trees, shrubs and groundcovers to all areas to be landscaped;
 - (ii) position and canopy spread of all trees and shrubs;
 - (iii) the extent and type of works (paving, fences, garden bed edging etc). All plants shall be located within an edged garden; and

- (iv) a plant schedule with the botanic and common names, total plant numbers and pot sizes at the time of planting.

17.3 The landscaped areas must be subject to an ongoing maintenance and replanting programme (if necessary).

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

17.4.1 obstruct sight visibility zones as defined in the Austroads 'Guide to Traffic Engineering Practice' series of publications;

17.4.2 adversely affect any road lighting or public space lighting; or

17.4.3 adversely affect any Council infrastructure, or public utility plant.

17.5 The approved landscape plans must be augmented with additional planting located between and around the buildings. The additional planting must be designed to specifically reduce the perceived scale of the buildings and must include advanced plant stock, to create an immediate effect.

17.6 A solid fence, with a minimum height of 1.8 metres, must be constructed along the eastern boundaries of Lot 2 and 3 on SP119672, prior to the issue of the Survey Plan Approval Certificate for Stage Five. The fence must ensure privacy and security to the adjoining residential properties. The fence must be constructed of materials and finishes that are aesthetically pleasing and commensurate with the surrounding residential area. The timing of the construction must be consistent with the proposed staging arrangements.

18.0 ELECTRICITY AND TELECOMMUNICATIONS

18.1 Underground electricity and telecommunication connections must be provided to the proposed development to the standards of the relevant authorities.

18.2 Evidence must be provided of a certificate of supply with the relevant service providers to provide each lot with live electricity and telecommunication connections, in accordance with the requirements of the relevant authorities prior to the issue of the Survey Plan Approval Certificate

19.0 ASSET MANAGEMENT

19.1 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 at full cost to the Developer.

19.2 Any damage to existing kerb and channel, pathway or roadway (including removal of concrete slurry from public land, pathway, roads, kerb and channel and stormwater gullies and drainage lines) which may occur during any works carried out in association with the approved development must be repaired. This must include the reinstatement of the existing traffic signs and pavement markings which may have been removed.

19.3 '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 issue of the Survey Plan Approval Certificate. This information must be provided in accordance with the Manual for Submission of Digital As Constructed Information.

20.0 ENVIRONMENTAL

20.1 Any application for a Development Permit for Operational Works must be accompanied by a detailed Environmental Management Plan, which addresses, but is not limited to, the following matters:

- (i) water quality and drainage;
- (ii) erosion and silt/sedimentation management;
- (iii) acid sulphate soils;
- (iv) fauna management;
- (v) vegetation management and clearing;
- (vi) top soil management;
- (vii) interim drainage plan during construction;
- (viii) construction programme;
- (ix) geotechnical issues;

- (x) weed control;
 - (xi) bushfire management;
 - (xii) emergency vehicle access;
 - (xiii) noise and dust suppression; and
 - (xiv) waste management.
- 20.2 Any application for a Development Permit for Operational Works must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:
- (i) objectives;
 - (ii) site location / topography;
 - (iii) vegetation;
 - (iv) site drainage;
 - (v) soils;
 - (vi) erosion susceptibility;
 - (vii) erosion risk;
 - (viii) concept;
 - (ix) design; and
 - (x) implementation, for the construction and post construction phases of work.
- 20.3 The Environmental Management Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.
- 20.4 The Erosion Control and Stormwater Control Management Plan must be implemented and maintained on-site for the duration of the works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped). The prepared Erosion Control and Stormwater Control Management Plan must be available on-site for inspection by Council Officers during those works.
- 21.0 OPERATING PROCEDURES
- 21.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in Washpool Road.
- 22.0 INFRASTRUCTURE COSTS
- 22.1 The development is located completely outside the priority infrastructure area. As per section 650 of the *Sustainable Planning Act 2009* Council requires additional trunk infrastructure costs. As the development is adjacent to and will be serviced to the desired standard of service for charge area 1, as outlined in the Adopted Infrastructure Charges Resolution No. 2, the calculation of the establishment cost of trunk infrastructure for charge area 1 applies. An additional charge of \$14,000 per lot is required and is payable to Council prior to the issue of the Survey Plan Approval Certificate for each stage.

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 Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships website <https://www.dsdsatsip.qld.gov.au>

NOTE 2. General Environmental Duty

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

NOTE 3. 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 4. Adopted Infrastructure Charges Notice

This application is subject to infrastructure contributions in accordance with Council policies. The contributions are presented on an Adopted Infrastructure Charges Notice which has been supplied with this decision notice.



**Attachment 1 – Part 2
Concurrence Agency Conditions – Department of Transport and
Main Roads**

SUSTAINABLE PLANNING ACT 2009

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

Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the **appellant**); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
 - (2) An appellant may start an appeal within the appeal period.
 - (3) The **appeal period** is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.
- Note—
See the P&E Court Act for the court's power to extend the appeal period.
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
 - (5) If an appeal is only about a referral agency's response, the assessment manager may apply

to the tribunal or P&E Court to withdraw from the appeal.

- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to—
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The **service period** is—
 - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within

10 business days after the notice of appeal is given to the person.

231 Other appeals

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

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

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

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

Schedule 1

Appeals

section 229

1 Appeal rights and parties to appeals

- (1) Table 1 states the matters that may be appealed to—(a) the P&E court; or (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
 - (a) the refusal, or deemed refusal of a development application, for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (b) a provision of a development approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (c) if a development permit was applied for—the decision to give a preliminary approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (d) a development condition if—
 - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
 - (ii) the building is, or is proposed to be, not more than 3 storeys; and
 - (iii) the proposed development is for not more than 60 sole-occupancy units; or
 - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
 - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
 - (g) a matter under this Act, to the extent the matter relates to—
 - (i) the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
 - (ii) the Plumbing and Drainage Act, part 4 or 5; or
 - (h) a decision to give an enforcement notice in relation to a matter under paragraphs (a) to (g); or
 - (i) a decision to give an infrastructure charges notice; or
 - (j) the refusal, or deemed refusal, of a conversion application; or
 - (k) a matter that, under another Act, may be appealed to the tribunal; or
 - (l) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
 - (a) for a matter in subsection (2)(a) to (d)—
 - (i) a development approval for which the development application required impact assessment; and
 - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
 - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.
- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
 - (a) column 1 states the appellant in the appeal; and
 - (b) column 2 states the respondent in the appeal; and
 - (c) column 3 states the co-respondent (if any) in the appeal; and
 - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.

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

<p>1. Development applications An appeal may be made against—</p> <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

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

(d) if a development permit was applied for—the decision to give a preliminary approval.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	<ol style="list-style-type: none"> 1 A concurrence agency that is not a co-respondent 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—</p> <p>(a) a responsible entity's decision for a change application, other than a decision made by the P&E court; or</p> <p>(b) a deemed refusal of a change application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<ol style="list-style-type: none"> 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	<ol style="list-style-type: none"> 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—</p> <p>(a) the assessment manager's decision about an extension application; or</p> <p>(b) a deemed refusal of an extension application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<ol style="list-style-type: none"> 1 The applicant 2 For a matter other than a deemed refusal of an extension application – a concurrence agency, other than the chief executive, for the application 	The assessment manager	If a concurrence agency starts the appeal – the applicant	If a chosen assessment manager is the respondent – the prescribed assessment manager
<p>4. Infrastructure charges notices An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds</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 			

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

<ul style="list-style-type: none"> • 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 b) The was no decision about an offset or refund; or c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or d) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount. 			
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> <ul style="list-style-type: none"> (a) the refusal of a conversion application; or (b) a deemed refusal of a conversion application. 			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The local government to which the conversion application was made	-	-
<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> <ul style="list-style-type: none"> (a) an error or mistake in law on the part of the tribunal; or (b) jurisdictional error. 			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A party to the proceedings for the decision	The other party to the proceedings for the decision	-	-
<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—</p> <ul style="list-style-type: none"> (a) any part of the development application for the development approval that required impact assessment; or (b) a variation request. 			
Column 1	Column 2	Column 3	Column 4

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

Appellant	Respondent	Co-respondent (if any)	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 An appeal may be made against a decision of the Minister under chapter 7, part 4.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 A person given a decision notice about the decision 2 If the decision is to	The Minister	-	If an owner or occupier starts the appeal – the owner of the registered premises

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

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			
<p>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.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who— (a) applied for the decision; and (b) is dissatisfied with the decision or conditions.	The local government	-	-

**Table 3
Appeals to the tribunal only**

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

Table 3			
Appeals to the tribunal only			
		(if any)	(if any)
A person who was entitled to receive, notice of the decision	The local government to which the application was made	-	-

ATTACHMENTS



APPROVED PLANS



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REFERRAL AGENCY



Referral Agency.pdf