



## Decision Notice Approval (amended)

Planning Act Form 2 (version 1.1 effective 22 June 2018) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s81 Planning Act 2016, and Section 3.5.15 of the Integrated Planning Act 1997

Application number:	D/1849-2009	Contact:	Bevan Koelmeyer
Notice Date:	14 December 2018	Contact Number:	1300 22 55 77

### APPLICANT DETAILS

Name:	Gary Paul Agius and Jodi Lee Agius		
Postal address:	C/- Reel Planning		
Phone no:	Mobile no:	Email:	

I acknowledge receipt of the above application on 17 December 2009 and confirm the following:

### DEVELOPMENT APPROVAL

**Development Permit for a Material Change of Use for a Vehicle Depot**

### PROPERTY DESCRIPTION

Street address:	330 Leichhardt Street, Parkhurst
Real property description:	Lot 26 on RP603512, Parish of Murchison

### OWNER DETAILS

Name:	G P Agius and J L Agius
Postal address:	
<b>Dear Gary Paul Agius and Jodi Lee Agius</b>	
I advise that, on <b>16 June 2010</b> the above development application was:	
<input checked="" type="checkbox"/> approved in full with conditions* (refer to the conditions contained in <b>Attachment 1</b> )	
*Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.	

### CHANGES TO CONDITIONS

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

1)	Item 3	Changed	12 December 2018
2)	Item 7	Changed	12 December 2018
3)	Condition 1.1	Changed	12 December 2018
4)	Condition 1.8	Changed	12 December 2018
5)	Condition 2.3	Changed	12 December 2018
6)	Condition 2.5	Deleted	12 December 2018
7)	Condition 3.2	Changed	12 December 2018

8)	Condition 4.3	Deleted	12 December 2018
9)	Condition 5.1	Deleted	12 December 2018
10)	Condition 5.2	Deleted	12 December 2018
11)	Condition 5.3	Changed	12 December 2018
12)	Condition 7.6	Deleted	12 December 2018
13)	Condition 7.7	Changed	12 December 2018
14)	Condition 14.2	New	12 December 2018

**1. DETAILS OF THE APPROVAL**

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material Change of use	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

**2. CONDITIONS**

This approval is subject to the conditions in Attachment 1.

**3. FURTHER DEVELOPMENT PERMITS REQUIRED**

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

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

**4. SUPERSEDED PLANNING SCHEME** NO

**5. REFERRAL AGENCIES** NIL

**6. SUBMISSIONS** N/A

**7. THE APPROVED PLANS**

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

<u>Plan/Document Name</u>	<u>Plan Number</u>	<u>Dated</u>
Site Plan	090214-01, Rev G	30 October 2018
Landscaping Plan	090214-02, Rev F	30 October 2018
Floor Plan	090214-03, Rev E	29 October 2018

<u>Plan/Document Name</u>	<u>Plan Number</u>	<u>Dated</u>
Elevations	090214-04, Rev B	29 October 2018
Office Floor Plans	090214-05, Rev F	30 October 2018
Office Elevations and Floor Framing Plan	090214-06, Rev C	30 October 2018
Site Plan (Schematic Drainage Layout)	090214-01, Rev 03	12 December 2018

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

The standard relevant periods stated in section 85 of *Planning Act 2016* apply to each aspect of development in this approval, if not stated in the conditions of approval attached.

#### 9. STATEMENT OF REASONS

<b>Description of the development</b>	The proposed development is for a Minor Change to Development Permit D/1849-2009 for a Material Change of Use for a Vehicle Depot
<b>Reasons for Decision</b>	<ol style="list-style-type: none"> <li>1. Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity; and</li> <li>2. The proposed development does not compromise the relevant State Planning Policy.</li> </ol>
<b>Assessment Benchmarks</b>	<p>The proposed development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> <li>• Low impact industry zone code;</li> <li>• Access, parking and transport code;</li> <li>• Landscape code;</li> <li>• Stormwater management code;</li> <li>• Waste management code;</li> <li>• Water and sewer code; and</li> <li>• Flood hazard overlay code.</li> </ul>
<b>Matters prescribed by regulation</b>	<ol style="list-style-type: none"> <li>a) The <i>State Planning Policy – Part E</i>;</li> <li>b) The <i>Central Queensland Regional Plan</i>;</li> <li>c) The <i>Rockhampton City Plan 2005</i>;</li> <li>d) The <i>Rockhampton Region Planning Scheme 2015</i>; and</li> <li>e) The common material, being the material submitted with the application.</li> </ol>

#### 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*.

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: <b>Cecil Barnard</b> <b><u>OPERATIONS MANAGER – DEVELOPMENT AND ASSESSMENT</u></b>	Date: 16 June 2010
---	--------------------

#### 13. ASSESSMENT MANAGER

Name: <b>Tarnya Fitzgibbon</b> <b><u>COORDINATOR</u></b> <b><u>DEVELOPMENT ASSESSMENT</u></b>	Signature:	Date: 14 December 2018
---	------------	------------------------

#### 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.]

#### Attachment 2—Extract on appeal rights

1.0 ADMINISTRATION

1.1 The approved use and development 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>Plan Number</u>	<u>Dated</u>
Site Plan	090214-01 Rev G	30 October 2018
Landscaping Plan	090214-02 Rev F	30 October 2018
Floor Plan	090214-03 Rev E	29 October 2018
Elevations	090214-04 Rev B	29 October 2018
Office Floor Plans	090214-05 Rev F	30 October 2018
Office Elevations and Floor Framing Plan	090214-06, Rev C	30 October 2018
Site Plan (Schematic Drainage Layout)	090214-01, Rev 03	12 December 2018

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

1.3 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.

1.4 Any reference in these conditions to a ‘registered professional engineer’ means a person registered as a registered professional engineer under the Professional Engineers Act 2002.

1.5 Any reference in these conditions to publications must be considered as the publication current as at the date of this approval, unless noted otherwise.

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

1.7 All conditions, works, or requirements of this approval must be undertaken and completed to the satisfaction of Council.

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

1.8.1 Operational Works:

- (i) Road Works;
- (ii) Access and Parking;
- (iii) Stormwater Works;
- (iv) Site Works; and
- (v) Landscaping.

1.8.2 Plumbing and Drainage Works; and

### 1.8.3 Building Works.

- 1.9 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.
- 1.10 Any outstanding rates, charges or expenses levied by the Council over the subject land must be paid prior to the issue of a Development Permit for Building Works.

## 2.0 ROAD WORKS

- 2.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any works on the site.
- 2.2 All road works and associated drainage must be designed and constructed generally in accordance with the Capricorn Municipal Development Guidelines (CMDG), (including standard drawings).
- 2.3 The new road widening, being an Industrial Access Street on the eastern side of Leichhardt Street, fronting the site, and associated drainage works must be designed and constructed in accordance with the Capricorn Municipal Development Guidelines (CMDG).
- 2.4 Leichhardt Street:- Construct pavement widening, concrete kerb and channel and associated drainage work to the full property frontage. The kerb and channel is to be aligned 6.5 metres from the centre line of the road reserve in accordance with Capricorn Municipal Development Guidelines (CMDG), Standard Drawing SD-R-015 (Type Cross Section Industrial Access), unless any existing kerb and channel in Leichhardt Street is on a different alignment and /or power pole locations preclude the required alignment. The existing kerb and channel alignment will become the preferred alignment.
- 2.5 Deleted.

## 3.0 ACCESS AND PARKING

- 3.1 A Development Permit for Operational Works (access and parking) must be obtained prior to the commencement of any works on the site.
- 3.2 All parking, access and associated manoeuvring areas (with the exception of the public access and parking areas at the front of the site) may be comprised of a "dust free" treatment. In this instance, a proposed surface treatment of compacted road base is considered acceptable.
- 3.3 Seven (7) car parking spaces must be provided on site.
- 3.4 All stormwater from the access and parking areas must be drained to the kerb and channel or an alternative lawful point of discharge, in accordance with Council's requirements.
- 3.5 All redundant vehicular crossing(s) must be removed and replaced with Council's standard kerb and channel in accordance with the Capricorn Municipal Development Guidelines (CMDG) drawing SD-R-041, prior to the commencement of use. Details of the works must be submitted as part of any application for a Development Permit for Operational Works (access and parking).
- 3.6 All frontage works damaged as a result of the development must be repaired or replaced, to Council's satisfaction, prior to the commencement of the use. All works must be at no cost to Council.

## 4.0 SEWERAGE WORKS

- 4.1 The connection to the reticulated sewerage to the development site is required in accordance with the Water Supply (Safety & Reliability) Act 2008 and the sewerage networks analysis dated 6 March 2009. The proposed sewerage reticulation works, including connections to the existing system, must be carried out in accordance with the Capricorn Municipal Development Guidelines (CMDG).

- 4.2 A new sewerage connection must be provided for the proposed development from the existing sewerage access chamber. The new sewerage connection must be located a minimum of two (2) metres clear of any proposed structure.
- 4.3 Deleted.
- 4.4 The finished access chamber surface must be at a sufficient level to avoid ponding of stormwater above the top of the chamber. A heavy duty cast iron lid must be provided in the trafficable areas.
- 4.5 Large trees must not be planted within one (1) metre of the centreline of any sewerage infrastructure. Small shrubs and groundcover are acceptable.
- 4.6 Sewerage Trade Waste permit is required where any non-domestic waste is proposed to be discharged to Council's reticulation. Arrestor traps are required for wastewater from commercial or non-domestic sources.
- 5.0 WATER WORKS
- 5.1 Deleted.
- 5.2 Deleted.
- 5.3 The development must be connected to Council's reticulated water supply network. This must be a combined fire and domestic metered connection located at a point nominated by Council, in accordance with the Water Supply (Safety and Reliability) Act 2008 and the Plumbing and Drainage Act 2002.
- 6.0 PLUMBING AND DRAINAGE WORKS
- 6.1 Construction of internal sanitary drainage works must be in accordance with regulated work under the Plumbing and Drainage Act 2002.
- 6.2 Construction of internal plumbing works must be in accordance with regulated work under the Plumbing and Drainage Act 2002.
- 6.3 A trade waste permit will be required where any non domestic waste is proposed to be discharged to the sewerage reticulation.
- 6.4 Arrestor traps must be provided for in the sanitary drainage system where commercial or non-domestic sewerage wastes are proposed into Council reticulation.
- 6.5 Installation of private sewage pumping station as part of internal sanitary drainage to serve the low areas of the site as presented in the Rufus Design Group Drawing Number 090214-01 Revision 02 dated 12th March 2010.
- 7.0 STORMWATER WORKS
- 7.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any works on the site.
- 7.2 All stormwater from the site must be captured and directed to a lawful point of discharge to the complete satisfaction of Council. The lawful point of discharge for the site must be the newly constructed kerb and channel in Leichhardt and the existing stormwater inlet within the site.
- 7.3 Any application for a Development Permit for Operational Works (stormwater works) must be accompanied by a stormwater drainage strategy, prepared by a suitably qualified Registered Professional Engineer of Queensland, which as a minimum:
- 7.3.1 demonstrates the method of drainage, lawful points of discharge and the effect of the development on the existing drainage and other allotments in the area;
  - 7.3.2 includes a check of both the minor (Q2) drainage as well as the major (Q100) drainage; and
  - 7.3.3 demonstrates that any discharge to the existing road reserves is in accordance with the requirements of the Queensland Urban Design Guidelines.

- 7.4 The lawful point of discharge for the site must be the newly constructed kerb and channel in Leichhardt and the existing stormwater inlet within the site.
- 7.5 The applicant must integrate stormwater quality improvement techniques into a revised drainage strategy for the site. Details of the proposed water quality measures must be submitted with the Operational Works application. The methods used must satisfy Performance Criteria P3 of the Water Quality and Quantity Code and also Performance Criteria P20 of the Industrial Use Code located in the Rockhampton City Plan 2005.
- 7.6 Deleted.
- 7.7 Notwithstanding previous advice about a 1% AEP Fitzroy River flood level for the site, a re-examination of the available data has determined that a 1% AEP flood level of 11.1 metres Australian Height Datum (AHD) is applicable to the site. All finished floor levels for habitable buildings must be constructed above 11.1 metres AHD. Furthermore, the applicant must prepare a flood contingency plan to be implemented during times of flooding occurring from the Fitzroy River.
- 8.0 SITE WORKS
- 8.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any works on the site.
- 8.2 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks' plan which clearly identifies the following:
- (i) the location of cut and/or fill;
  - (ii) the type of fill to be used and the manner in which it is to be compacted;
  - (iii) the quantum of fill to be deposited or removed and finished cut and/or fill levels;
  - (iv) details of any proposed access routes to the site which are intended to be used to transport fill to or from the site; and
  - (v) 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.
- 8.3 Any vegetation cleared or removed must be:
- (i) mulched on-site and utilised on-site for landscaping purposes, in accordance with the landscaping plan approved by Council; or
  - (ii) removed for disposal at a location approved by Council; and
  - (iii) within sixty (60) days of clearing, any vegetation removed must not be burnt.
- 8.4 All structural filling must be in accordance with AS 3798-1996 (Guidelines on earthworks for commercial and residential developments). Engineering drawings/specification must clearly indicate the location and depth of proposed filling. A testing strategy must be submitted as part of any application for a Development Permit for Operational Works (site works). Testing requirements must be generally in accordance with Section 8 of AS 3798 - 1996.
- 8.5 All engineering drawings for Operational Works must be signed and certified by a Registered Professional Engineer of Queensland as being in accordance with all relevant Australian Standards, statutory requirements and sound engineering principles. A suitably qualified, Registered Professional Engineer of Queensland must supervise the works on the applicant's behalf. A certificate of construction compliance must be submitted by a Registered Professional Engineer of Queensland verifying that all works have been carried out in accordance with Council approved drawings, approval conditions and specification.
- 8.6 All works must be supervised by a suitably qualified and Registered Professional Engineer of Queensland, who must issue to Council a certificate as to the satisfactory completion of the work.
- 8.7 A Registered Professional Engineer of Queensland must issue to Council signed "as-constructed" plans and a certificate verifying that the information contained within the



drawings is true and accurate. These plans must be neatly presented in printed hard copy form and free from errors, omissions, mark ups, and/or hand written alterations/notes. Levels in the as-constructed plans must be based upon a minimum fourth order Permanent Survey Mark.

8.8 Any application for a Development Permit for Operational Works (site works) must be accompanied by:

- (i) reasonable investigations to determine the presence and extent of any existing filled ground on the subject land (site investigations must assess the degree of compaction and composition of any existing filled ground and an assessment of the adequacy of existing filled ground including the extent of any remedial works required); and
- (ii) reasonable investigations and reasonable testing to ensure the subject land is free of contamination in accordance with the requirements of the *Contaminated Land Act 1991*.

8.9 The satisfactory performance, repairs and maintenance of all assets, infrastructure and its components, constructed, installed and/or purchased by the developer must remain the sole responsibility of the developer during the maintenance period. The developer is required to take all reasonable steps to ensure that the works are not damaged and/or vandalised prior to the works being accepted 'off maintenance' by Council.

#### 9.0 BUILDING

9.1 All external elements, such as air conditioners, must be adequately screened from public view, to Council's satisfaction. Noise from any external elements, such as air conditioners, must not exceed 5dB(A) above the background ambient noise level, measured at the boundaries of the subject site

9.2 All proposed structures must be located a minimum of two (2) metres clear of Council's sewerage reticulation in accordance with Council's Building Over / adjacent to Local Government Sewer Policy.

9.3 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the site and shielded so as not to cause glare or other nuisance to nearby residents and motorists. Night lighting must be designed, constructed and operated in accordance with '*Australian Standard AS4282 – Control of the obtrusive effects of outdoor lighting*'.

9.4 The owner of the land is to ensure that the waste bin storage area is:

- 9.4.1 Surrounded by at least a 1.8 metre high fence that obstructs from view the contents of the bin storage area by any member of the public from any public place;
- 9.4.2 Of a minimum size to accommodate two (2) by three (3) cubic metres commercial type waste bins.
- 9.4.3 Kept in clean and tidy condition; and
- 9.4.4 Must not be located within three (3) metres from a road frontage or five (5) metres of a property boundary adjoining residential land use.

#### 10.0 LANDSCAPING

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

10.2 Any application for a Development Permit for Operational Works (landscaping) must be in accordance with the Landscape Code and Planning Policy Number under the Rockhampton City Plan. The landscape plan must include, but is not limited to, the following:

10.2.1 A plan documenting the “Extent of Works” and supporting documentation which includes:

- (i) Outline of the proposed structure;
- (ii) Existing trees;
- (iii) Trees to be removed;
- (iv) Location of proposed planter boxes, landscape beds and vertical landscaping;
- (v) Proposed planting (including quantity, species, spacing between each plant, expected height at the time of planting and the expected mature height);
- (vi) Proposed earth mounding; and
- (vii) Paths and paving (location and materials).

10.2.2 The landscaping of the carpark spaces must include shade trees every five (5) metres. Shade trees must be in compliance with Planning Policy No. 6 – Planting Species under the Rockhampton City Plan, and be implemented to the satisfaction of Council.

10.3 The landscaped areas must be subject to an ongoing maintenance and replanting programme.

#### 11.0 ELECTRICITY AND TELECOMMUNICATIONS

11.1 Provide electricity and telecommunication connections to the proposed development to the requirements of the relevant authority.

#### 12.0 CONTRIBUTIONS/COSTS

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

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

<u>Policy</u>	<u>Contribution</u>	<u>Current Total*</u>
PSP11	Water Supply Headworks	\$1,767.00
PSP11	Sewerage Headworks	\$2,357.00

\* The sums of money quoted will remain firm for a period of twelve (12) months, after which time, Council reserves the right to review same in accordance with the policies and rates and charges current at the time of payment.

12.2 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the developer.

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.

#### 13.0 ENVIRONMENTAL

13.1 Any application for a Development Permit for Operational Works or a Development Permit for Building 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) vegetation management and clearing;

- (iv) top soil management;
  - (v) interim drainage plan during construction;
  - (vi) construction programme;
  - (vii) weed control;
  - (viii) noise and dust suppression; and
  - (ix) waste management.
- 13.2 Any application for a Development Permit for Operational Works or Development Permit for Building Works must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:
- (i) objectives;
  - (ii) site location / topography;
  - (iii) vegetation;
  - (iv) site drainage;
  - (v) soils;
  - (vi) erosion susceptibility;
  - (vii) erosion risk;
  - (viii) concept;
  - (ix) design; and
  - (x) implementation, for the construction and post construction phases of work.
- The erosion and sediment control plan must incorporate detailed plans, control measures, monitoring programmes and maintenance procedures to ensure appropriate development and management practices within and adjacent to the site.
- 13.3 The Environmental Management Plan and the Erosion and Sediment Control Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.
- 13.4 No works can commence on the site unless and until an Environmental Management Plan and an Erosion and Sediment Control Plan has been approved by Council as part of Development Permit for Operational Works.
- 13.5 The use must not cause environmental nuisance and all reasonable measures must be taken to minimise noise and dust creation.
- 13.6 Dust and sediment must not be removed from the site by vehicles in a way that causes environmental nuisance. In this respect a sprinkler system must be installed, maintained and used when required for suppression of dust.
- 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 site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in any Streets.
- 14.2 All surface treatments must be constructed and maintained in a manner that causes no significant impact to the amenity of adjoining premises or the surrounding area, resulting from the emission of dust or the discharge of sediment laden water.
- In the event that Council receives complaints regarding the amenity of the surrounding properties, Council will investigate. Where Council determines that the surface does not perform adequately, or the amenity impacts cannot be mitigated, the area(s) must be sealed to Council's satisfaction.

## NOTES

### NOTE 1. Aboriginal Cultural Heritage Act, 2003

It is advised that under Section 23 of the Aboriginal Cultural Heritage Act 2003, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal Cultural Heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal Cultural Heritage legislation. The information on Aboriginal Cultural Heritage is available on the Department of Environment and Resource Management website: [http://www.derm.qld.gov.au/cultural\\_heritage/index.html](http://www.derm.qld.gov.au/cultural_heritage/index.html)

### NOTE 2. Asbestos Removal

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

### NOTE 3. Dust Control

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

### NOTE 4. Sedimentation Control

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

### NOTE 5. Noise During Construction And Noise In General

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

### NOTE 6. General Safety Of Public During Construction

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

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

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

### Appeal rights

#### 229 Appeals to tribunal or P&E Court

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

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

#### 230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to—
  - (a) the respondent for the appeal; and

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

#### 231 Other appeals

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

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

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

#### 232 Rules of the P&E Court

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

## Schedule 1

### Appeals section 229

#### 1 Appeal rights and parties to appeals

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

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

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

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

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

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



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

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

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