



## Decision Notice Approval (amended)

Planning Act Form 5 (version 1.2 effective 7 February 2020) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s83 Planning Act 2016, and Section 334 of the Sustainable Planning Act 2009 (original approval)

Application number:	<b>D/252-2011</b>	Contact:	Aidan Murray
Notice Date:	18 January 2022	Contact Number:	07 4936 8099

### APPLICANT DETAILS

Name:	<b>Crab Investments No. 3 Pty Ltd</b>		
Postal address:			
Phone no:	Mobile no:	Email:	

I acknowledge receipt of the above change application on 8 December 2021 and confirm the following:

### DEVELOPMENT APPROVAL

**Development Permit for Reconfiguring a Lot (one lot into thirty-one lots) - Cascade Gardens Stages 2A and 2B**

### PROPERTY DESCRIPTION

Street address:	770 Norman Roads and 1 Nagle Drive, Norman Gardens
Real property description:	Lot 102 on SP316282, Lot 101 on SP316282 and Lot SP316282

### OWNER DETAILS

Name:	Bushflower Pty Ltd Tte
Postal address:	
<b>Dear Crab Investments No. 3 Pty Ltd</b>	
I advise that, on 11 January 2022 the above change 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)	Condition 1.9	changed	5 November 2013
2)	Condition 1.9	changed	25 August 2017
3)	Condition 2.1	changed	5 November 2013
4)	Condition 2.1	changed	25 August 2017
5)	Condition 2.1	changed	11 January 2022
6)	Condition 3.1	changed	5 November 2013

7)	Condition 3.1	changed	25 August 2017
8)	Condition 4.1	changed	5 November 2013
9)	Condition 4.1	changed	25 August 2017
10)	Condition 4.3	changed	25 August 2017
11)	Condition 4.3	changed	11 January 2022
12)	Condition 4.4	deleted	25 August 2017
13)	Condition 4.5	changed	5 November 2013
14)	Condition 4.5	changed	25 August 2017
15)	Condition 4.6	changed	5 November 2013
16)	Condition 4.7	new	25 August 2017
17)	Condition 4.7	changed	11 January 2022
18)	Condition 4.8	new	25 August 2017
19)	Condition 5.0	deleted	25 August 2017
20)	Condition 5.1	changed	5 November 2013
21)	Condition 5.1	deleted	25 August 2017
22)	Condition 5.2	deleted	25 August 2017
23)	Condition 5.3	deleted	25 August 2017
24)	Condition 5.4	deleted	25 August 2017
25)	Condition 6.4.3	changed	5 November 2013
26)	Condition 6.4.3	changed	25 August 2017
27)	Condition 6.5	changed	5 November 2013
28)	Condition 6.5	deleted	25 August 2017
29)	Condition 6.9	new	25 August 2017
30)	Condition 6.9	changed	11 January 2022
31)	Condition 8.1	changed	5 November 2013
32)	Condition 8.1	changed	25 August 2017
33)	Condition 9.1	changed	5 November 2013
34)	Condition 9.1	changed	25 August 2017
35)	Condition 10.1	changed	5 November 2013
36)	Condition 10.1	changed	25 August 2017
37)	Condition 10.4	changed	5 November 2013
38)	Condition 10.4.2	deleted	25 August 2017
39)	Condition 11.1	changed	5 November 2013
40)	Condition 11.1	deleted	25 August 2017
41)	Condition 12.1	changed	5 November 2013
42)	Condition 12.1	changed	25 August 2017

43)	Condition 12.2	changed	25 August 2017
44)	Item 7 Decision Notice	changed	5 November 2013

### 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 - Reconfiguring a lot	<input checked="" type="checkbox"/>	<input type="checkbox"/>

### 2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

### 3. FURTHER DEVELOPMENT PERMITS REQUIRED

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

Type of development permit required	Subject of the required development permit
Operational Works	<i>Road Works</i> <i>Access Works</i> <i>Sewerage Works</i> <i>Water Works</i> <i>Stormwater Works</i> <i>Inter-allotment Drainage</i> <i>Site Works</i> <i>Landscaping Works</i>

### 4. REFERRAL AGENCIES

NIL

### 5. THE APPROVED PLANS

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

Plan/Document Name	Plan Number	Dated
Proposal Plan	17110-MP-01 Revision I – Sheet 1 of 2	03 December 2021
Master Plan	17110-MP-01 Revision I – Sheet 2 of 2	Undated (received by Council on 03 December 2021)
Future Landscape Opportunities of Estate	110901.20	Undated
Landscape Master Plan	110901.00	Undated
Acoustic Report Recommendations (page 15)	2011039 R04 Norman Road, Norman Gardens RTN ENV.	10 August 2011
Stormwater Drainage Layout Plan	11-018-DA Sheet 10 of 15	Undated

Plan/Document Name	Plan Number	Dated
Sewerage Reticulation layout Plan	11-018-DA Sheet 11 of 15	Undated

## 6. 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.

## 7. STATEMENT OF REASONS

<b>Description of the development</b>	The proposed development is for Reconfiguring a Lot (one lot into thirty-one lots) - Cascade Gardens Stages 2A and 2B	
<b>Reasons for Decision</b>	a) Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity.	
<b>Assessment Benchmarks</b>	<p>The proposed development was assessed against the following assessment benchmarks of the <i>Rockhampton City Plan 2005</i>:</p> <ul style="list-style-type: none"> <li>• Reconfiguring a Lot Code</li> <li>• Norman Road Residential Area Code</li> <li>• Parking and Access Code</li> <li>• Crime Prevention Through Environmental Design Code</li> <li>• Landscaping Code</li> </ul>	
<b>Compliance with assessment benchmarks</b>	The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exceptions listed below.	
	<b>Assessment Benchmark</b>	<b>Reasons for the approval despite non-compliance with benchmark</b>
	Norman Road Residential Area Code Performance Criteria P5	The development complies with Performance Criteria P5. Council land at Lot 1, 2 and 4 on SP197254 for the purposes of parkland in accordance with the area intent. It is not directly on the corner of Nagle Drive and Norman Road although is considered an appropriate size and location to accommodate a district playground.
Reconfiguring a Lot Code Performance Criteria P9	The development complies with Performance Criteria P9 and the minimum lot size and dimensions provided for within the code. The provision of a nine (9) metre by fifteen (15) metre building envelope is achievable although the smallest lot proposed is 364 square metres. The minimum lot size provided for by this code is 300 square metres in the Norman Road Residential Area. Any future development on the proposed lots would need to be considerate of the lot size and setbacks under the <i>Queensland Development Code</i> (assessable against any Building Works permit).	

	<p>Crime Prevention Through Environmental Design Code</p> <p>Performance Criteria P12</p>	<p>The development complies with Performance Criteria P12. The applicant indicated that a 1.8 metre high acoustic fence would be constructed along part of the western boundary abutting lots proposed for residential purposes to minimise the impact of noise generated by traffic on Norman Road on future dwellings. A 2.4 metre high acoustic fence will be constructed along the south western internal boundary between the proposed residential lots and the proposed future commercial lot. The development has been conditioned to ensure the fence is constructed in accordance with the recommendations of the submitted Acoustic Report.</p>
<p><b>Relevant matters</b></p>	<p>The change application was assessed against the following relevant matters:</p> <ul style="list-style-type: none"> <li>• the information the applicant included with the application;</li> <li>• all matters the responsible entity would or may assess against or have regard to, if the change application were a development application; and</li> <li>• another matter that the responsible entity considers relevant (including any statutory instrument, or other document, that was in effect when the development application for the development approval was properly made).</li> </ul>	

## 8. 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.

## 9. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect:

- From the time the decision notice is given – if there is no submitter and the applicant does not appeal the decision to the court.

Or

- When the submitter's appeal period ends – if there is a submitter and the applicant does not appeal the decision to the court.

Or

- Subject to the decision of the court, when the appeal is finally decided – if an appeal is made to the court.

## 10. ORIGINAL DECISION ASSESSMENT MANAGER

Name: <b>Petrus Barry</b> <b><u>ACTING OPERATIONS MANAGER</u></b> <b><u>DEVELOPMENT ASSESSMENT</u></b>	Date: 27 March 2012
--	---------------------

**11. ASSESSMENT MANAGER**

Name: <b>Tarnya Fitzgibbon</b> <b><u>COORDINATOR</u></b> <b><u>DEVELOPMENT ASSESSMENT</u></b>	Signature:	Date: 18 January 2022
---	------------	-----------------------

**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**



---

## Attachment 1 – Part 1

### Rockhampton Regional Council Conditions

---

*Planning Act 2016*

---

#### 1.0 ADMINISTRATION

- 1.1 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.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 1.4 All conditions, works, or requirements of this approval must be undertaken and completed prior to the issue of the Compliance Certificate for the Survey Plan, unless otherwise stated.
- 1.5 All infrastructure requirements of this approval must be contributed to the relevant authorities, at no cost to Council prior, to the issue of the Compliance Certificate for the Survey Plan, unless otherwise stated.
- 1.6 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
  - 1.6.1 Operational Works:
    - (i) Road Works;
    - (ii) Access Works
    - (iii) Sewerage Works;
    - (iv) Water Works;
    - (v) Stormwater Works;
    - (vi) Inter-allotment Drainage;
    - (vii) Site Works; and
    - (viii) Landscaping Works.
- 1.7 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.
- 1.8 All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant Australian Standards and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.
- 1.9 Proposed Lot 1001 as indicated on the approved plans (refer to condition 2.1) must be transferred to Council as freehold land in trust for drainage purposes prior to the issue of the Compliance Certificate for the Survey Plan for Stage 2B.

#### 2.0 APPROVED PLANS AND DOCUMENTS

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

<u>Plan/Document Name</u>	<u>Plan/ Reference</u>	<u>Dated</u>
Proposal Plan	17110-MP-01 Revision I – Sheet 1 of 2	03 December 2021
Master Plan	17110-MP-01 Revision I – Sheet 2 of 2	Undated (received by Council on 03 December 2021)
Future Landscape Opportunities of Estate	110901.20	Undated
Landscape Master Plan	110901.00	Undated
Acoustic Report Recommendations (page 15)	2011039 R04 Norman Road, Norman Gardens RTN ENV.	10 August 2011
Stormwater Drainage Layout Plan	11-018-DA Sheet 10 of 15	Undated
Sewerage Reticulation layout Plan	11-018-DA Sheet 11 of 15	Undated

2.2 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.

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

### 3.0 STAGED DEVELOPMENT

3.1 This approval is for a development to be undertaken in two (2) discrete stages, namely:

3.1.1 Lot 203 and Lot 101 (Stage 2A)

3.1.2 Lot 12 to Lot 39, Lot 41 and Lot 1001 (Stage 2B)

in accordance with the approved plans (refer to condition 2.1).

3.2 The stages are required to be undertaken in chronological order.

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

### 4.0 ROAD WORKS

4.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any roadworks in Stage 2A or 2B.

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

4.3 A concrete pathway must be constructed for the full length of the internal road network as shown on Drawing 17110-MP-01 Revision I dated 03 December 2021, to Council's standards and satisfaction, prior to endorsement of the Survey Plan for Stage 2B.

4.4 Deleted.

4.5 The intersection of Norman Road and Nagle Drive must be upgraded to a suitably configured signalised standard, prior to the issue of the Compliance Certificate for the



Survey Plan for Stage 2B. The intersection must be constructed in accordance with the following:

- 4.5.1 The signalised intersection must comply with the 'Road Planning and Design Manual', and the 'Guide to Traffic Engineering Practice'. The 'Road Planning and Design Manual' must take precedence if there is any inconsistency between the two publications.
- 4.5.2 The configuration of the signalised intersection must provide for all traffic movements at the ten year post-completion of development design horizon such that a minimum level of service of 'C' is provided for the intersection.
- 4.5.3 The configuration of the signalised intersection must include, without limitation:
  - (i) pedestrian movement phases across the southern leg of Norman Road, and across Nagle Drive;
  - (ii) on-road bicycle lanes, a minimum width of two (2) metres, in both directions (carriageways) on Norman Road;
  - (iii) a centrally-located, raised, reinforced concrete median, with a width of five (5) metres, in Norman Road, except where a protected right-turn lane is provided, in which case the width of the median must be reduced to a minimum residual width of two (2) metres in order to provide for a three (3) metres wide protected right-turn lane;
  - (iv) two (2) exclusive through movement lanes in Norman Road on the northbound approach to the intersection of Nagle Drive and Norman Road. The minimum length of each of these lanes must be 130 metres, excluding any required diverge taper. The minimum length of these lanes in Norman Road on the departure side of the intersection must be 150 metres. The minimum width of these lanes must be 3.5 metres;
  - (v) one (1) exclusive protected right-turn lane from Norman Road into Nagle Drive. The minimum width of this lane must be three (3) metres, and the minimum length of this lane must be 100 metres, excluding the required diverge taper length. The right-turn lane must not reduce the capacity of the through movement lanes on Norman Road;
  - (vi) one (1) exclusive through movement lane in Norman Road on the southbound approach to the intersection of Nagle Drive and Norman Road which continues through the intersection. The minimum width of this lane must be 3.5 metres;
  - (vii) one (1) shared through/left-turn movement lane in Norman Road on the southbound approach to the intersection of Nagle Drive and Norman Road. The minimum length of this lane must be 150 metres, excluding the required diverge taper length. The minimum length of this lane in Norman Road on the departure side of the intersection must be 150 metres. The minimum width of this lane must be 3.5 metres;
  - (viii) one (1) exclusive left turn lane in Nagle Drive on the approach to the intersection of Nagle Drive and Norman Road. The minimum width of this lane must be 3.5 metres;
  - (ix) one (1) exclusive protected right-turn lane from Nagle Drive into Norman Road. The minimum width of this lane must be three (3) metres, and the minimum length of this lane must be thirty-five (35) metres, excluding the required diverge taper length; and
  - (x) a centrally-located, raised, reinforced concrete median, with a width of five (5) metres, in Nagle Drive, except where a protected right-turn lane is provided, in which case the width of the median must be reduced to a minimum residual width of two (2) metres in order to provide for a three (3) metres wide protected right-turn lane.

- 4.5.4 Category V3 road lighting must be provided in accordance with Australian and New Zealand Standard AS/NZS1158, and extended as necessary to comply with all other specified requirements in the Australian Standard AS1158 suite of standards.
- 4.5.5 The geometric design of all through-road elements on Norman Road must be based on a minimum design speed of sixty (60) kilometres per hour.
- 4.5.6 Road signage and pavement markings must be installed in accordance with the Manual of Uniform Traffic Control Devices.
- 4.6 The Developer may as an alternative to the requirement of condition 4.5 enter into an Infrastructure Agreement with Council, which specifies the development obligations relating to infrastructure for future development of the site. The Infrastructure Agreement must incorporate (but not be limited to) the following principles:
  - 4.6.1 the Developer must construct road infrastructure necessary to service the development and connectivity to existing road network systems; and
  - 4.6.2 the agreed cost of road headworks infrastructure constructed and provided by the Developer must be credited against headworks 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 (Stage 2A only).

- 4.7 The new road reserve connecting to Springfield Drive must be a minimum of eighteen (18) metres wide in accordance with Vision Surveys Proposal Plan 17110-MP-01 Revision 1 dated 03 December 2021.
- 4.8 The connecting road within the reserve between Lot 3 on SP231050 and the proposed Open Space reserve must be designed and constructed to Access Street standard, with kerb and channel, pedestrian pathways and drainage infrastructure.
- 5.0 Deleted.
- 5.1 Deleted.
- 5.2 Deleted.
- 5.3 Deleted.
- 5.4 Deleted.

## 6.0 SEWERAGE WORKS

- 6.1 A Development Permit for Operational Works (sewerage works) must be obtained prior to the commencement of any sewerage works on the site.
- 6.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act, Plumbing and Drainage Act* and the provisions of a Development Permit for Operational Works (sewerage works).
- 6.3 Sewerage layout and sizing must be consistent with the findings of a completed Sewerage Network Analysis report to be provided by Fitzroy River Water.
- 6.4 The proposed development must be connected to Council's reticulated sewerage network.
  - 6.4.1 Each of the proposed lots must be provided with its own separate sewer connection point, located wholly within its respective property boundaries.
  - 6.4.2 Installation of gravity sewer mains and manholes must discharge to the existing sewer manhole located within Lot 2 on SP231050 in accordance with the approved plans (refer to condition 2.1) and the conditions of approval.

- 6.4.3 Proposed Lot 203 must as part of the operational works for Stage 2A, be serviced via a gravity connection to Council's reticulated sewerage network.
- 6.5 Deleted.
- 6.6 Easements must be provided over all sewerage infrastructure located within private property. The easement location(s) and width(s) must be in accordance with the requirements of the *Capricorn Municipal Development Guidelines*.
- 6.7 Should any sewerage access chambers be located within a trafficable area, the access chamber must be raised or lowered to suit the finished surface level. 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 cover must be provided in the trafficable area.
- 6.8 All sanitary drainage works must be completed in accordance with regulated work under the *Plumbing and Drainage Act*.
- 6.9 The alignment of Easement J on SP252937 must be amended to reflect the proposed new sewer alignment as shown on Vision Surveys Proposal Plan 17110-MP-01 Revision I dated 03 December 2021 at the time of Survey Plan sealing for Stage 2B.
- 7.0 WATER WORKS
- 7.1 A Development Permit for Operational Works (water works) must be obtained prior to the commencement of any water works on the site.
- 7.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, *Water Supply (Safety and Reliability) Act*, *Plumbing and Drainage Act* and the provisions of a Development Permit for Operational Works (water works).
- 7.3 The proposed development must be connected to Council's reticulated water supply network. Each of the proposed Lots must be provided with its own separate water connection point, located wholly within its respective property boundaries.
- 8.0 STORMWATER WORKS
- 8.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any works in Stage 2A or 2B.
- 8.2 All stormwater drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Queensland Urban Drainage Manual*, *Capricorn Municipal Development Guidelines*, sound engineering practice and the provisions of a Development Permit for Operational Works (stormwater works).
- 8.3 All stormwater must drain to a demonstrated lawful point of discharge and must not adversely affect 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.
- 8.4 Any application for a Development Permit for Operational Works (stormwater works) must include an assessment of how the development meets the water quality objectives of the *State Planning Policy 4/10 – Healthy Waters*.
- 8.5 The proposed development must achieve no increase in peak stormwater runoff for a selected range of storm events up to and including the one in one hundred year storm event (100 year Average Recurrence Interval) for the post development condition.
- 8.6 Easements must be provided over any other land required to accommodate the flows associated with the subject development.
- 8.7 Each allotment must be designed so as to be flood free in a one in one hundred year flood event (100 year Average Recurrence Interval).
- 8.8 Easements must be provided over all land assessed to be below the one in one hundred year flood event (100 year Average Recurrence Interval) inundation area.

## 9.0 INTER-ALLOTMENT DRAINAGE WORKS

- 9.1 A Development Permit for Operational Works (inter-allotment drainage works) must be obtained prior to the commencement of any works in Stage 2A or 2B.
- 9.2 All inter-allotment drainage must be in accordance with the requirements of the *Queensland Urban Drainage Manual* and the *Capricorn Municipal Development Guidelines*.
- 9.3 All inter-allotment drainage must be discharged such that it does not restrict, impair or change the natural flow of runoff water or cause a nuisance to adjoining properties or infrastructure.
- 9.4 Inter-allotment drainage systems and overland flow paths must be wholly contained within a Council easement, with a minimum width of three (3) metres.

## 10.0 SITE WORKS

- 10.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any works in Stage 2A or 2B.
- 10.2 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.
- 10.3 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;
- within sixty (60) days of clearing. Any vegetation removed must not be burnt.
- 10.4 The Developer may as an alternative to the requirement to pay contributions in accordance with Planning Scheme Policy 5 – Open Space Infrastructure Contributions, enter into an Infrastructure Agreement with Council, which specifies the development obligations relating to infrastructure for future development. The Infrastructure Agreement must incorporate (but not be limited to) the following principles:
- 10.4.1 the Developer must undertake earthworks over Lots 1, 2 and 4 on SP197254 for the purposes of parkland in accordance with the approved plan titled *Landscape Master Plan* (refer to condition 2.1) as part of Stage 2A;
  - 10.4.2 deleted.
  - 10.4.3 the agreed cost of open space infrastructure constructed and provided by the Developer as part of Stage 2A must be credited against open space headworks 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.

## 11.0 BUILDING WORKS

- 11.1 Deleted.
- 11.2 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'.

## 12.0 LANDSCAPING WORKS

12.1 A Development Permit for Operational Works (landscaping works) must be obtained prior to the commencement of any works on site in Stage 2A or 2B.

12.2 Any application for a Development Permit for Operational Works (landscaping works) within the subject allotment must be generally in accordance with plan titled Future Landscape Opportunities of Estate and reference number 110901.20 (refer to condition 2.1). The landscape plan must include, but is not limited to, the following:

12.2.1 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 (i.e. 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.

12.3 Large trees must not be planted within one (1) metre of the centreline of any sewerage infrastructure. Small shrubs and groundcover are acceptable.

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

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

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

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

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

12.6 The Developer may as an alternative to the payment of contributions in accordance with the Adopted Infrastructure Charges Notice, 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:

- (i) the developer must construct pathways to service the development and connectivity to existing open space network systems; and
- (ii) the agreed cost of works 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.

## 13.0 ELECTRICITY AND TELECOMMUNICATIONS

13.1 Provide underground electricity and telecommunication connections to the proposed development to the requirements of the relevant authorities.

13.2 Evidence must be provided of a non-refundable contract 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 Compliance Certificate for the Survey Plan.

13.3 Provide street lighting and public space lighting in accordance with the relevant Australian Standards.

14.0 ASSET MANAGEMENT

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

14.2 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.

14.3 'As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the issue of the Compliance Certificate for the Survey Plan. This information must be provided in accordance with the Manual for Submission of Digital As Constructed Information.

15.0 ENVIRONMENTAL

15.1 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) 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.

15.2 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) 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.

15.3 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.

15.4 No works can commence on the site unless and until an Environmental Management Plan and an Erosion and Sediment Control Plan have been approved by Council as part of Development Permit for Operational Works.

16.0 OPERATING PROCEDURES

16.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in Norman Road, Nagle Drive or Springfield Drive.

ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

It is advised that under section 23 of the *Aboriginal Cultural Heritage Act*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal Cultural Heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal Cultural Heritage legislation. The information on Aboriginal Cultural Heritage is available on the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships website [www.dsdsatsip.qld.gov.au](http://www.dsdsatsip.qld.gov.au)

NOTE 2. Asbestos Removal

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

NOTE 3. General Environmental Duty

General environmental duty under the *Environmental Protection Act* 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 4. General Safety Of Public During Construction

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

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

### Appeal rights

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

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

#### Note—

See the P&E Court Act for the court's power to extend the appeal period.

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

#### 230 Notice of appeal

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

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

#### 231 Other appeals

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

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

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

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

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



## Schedule 1

### Appeals section 229

#### 1 Appeal rights and parties to appeals

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

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

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

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

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

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

<b>Table 2 Appeals to the P&amp;E Court only</b>			
the change application			
<p><b>3. Eligible submitter and eligible advice agency appeals</b>            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><b>4. Compensation claims</b>            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><b>5. Registered premises</b>            An appeal may be made against a decision of the Minister under chapter 7, part 4.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 A person given a decision notice about the decision 2 If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the affected area for the registered premises who is dissatisfied with the decision	The Minister	-	If an owner or occupier starts the appeal – the owner of the registered premises

<b>Table 2 Appeals to the P&amp;E Court only</b>			
<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	-	-

<b>Table 3 Appeals to the tribunal only</b>			
<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 (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	-	-