Decision Notice Approval

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 s63(2) Planning Act 2016

Application number:	**D/28-2019**	Contact:	Philip Benfield
Notice Date:	28 August 2019	Contact Number:	1300 22 55 77

APPLICANT DETAILS

Name:	**Trico Developments Pty Ltd**	
Postal address:		
Phone no:	Mobile no:	Email:

I acknowledge receipt of the above application on 08 April 2019 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Operational Works for Road Works, Stormwater Works and Earthworks

PROPERTY DESCRIPTION

Street address:	16-18 Chappell Street, Kawana
Real property description:	Lots 72 and 73 on RP603516, Parish of Murchison

OWNER DETAILS

Name:	Trico Developments Pty Ltd Tte
Postal address:	

Dear Trico Developments Pty Ltd

I advise that, on **27 August 2019** the above development application was:

☒ approved in full with conditions* (refer to the conditions contained in **Attachment 1**)

***Note:** The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.

1. DETAILS OF THE APPROVAL

	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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Operational work	☒	☐

2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

3. REFERRAL AGENCIES **NIL**

4. THE APPROVED PLANS

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

Plan/Document Name	Prepared by	Date	Reference No.	Version /Issue
Cover Sheet	Calibre	Aug 2019	000	B
General Notes	Calibre	2 August 2019	001	B
Type. Sections And Misc. Details	Calibre	2 August 2019	002	B
Existing Site Plan	Calibre	2 August 2019	003	B
Proposed Site Plan	Calibre	2 August 2019	004	B
Earthwork Plan Sheet 1 of 2	Calibre	2 August 2019	100	B
Earthwork Plan Sheet 2 of 2	Calibre	2 August 2019	101	B
Roadworks Plan Sheet 1 of 2	Calibre	2 August 2019	200	B
Roadworks Plan Sheet 2 of 2	Calibre	2 August 2019	201	B
Concrete Slab Layout Plan	Calibre	2 August 2019	202	B
Concrete Notes Plan	Calibre	2 August 2019	203	B
Drainage Detail Plan	Calibre	2 August 2019	300	B
Erosion And Sediment Control Plan	Calibre	2 August 2019	400	B
Vehicle Turnpath Plan	Calibre	2 August 2019	500	B
Stormwater management Plan	Calibre Professional Services Pty Ltd	2 August 2019	18-002994	4

Endorsement of any plans approved by Rockhampton Regional Council:

1. is only an endorsement that the drawing/s appear/s to be suitable for the purposes of construction and use;
2. is not an endorsement that the drawing/s is/are free of errors or omissions, nor when works are carried out pursuant to the drawing/s that they will be free from errors or omissions or will comply with or satisfy any other requirement or purpose;
3. does not connote any assumption of risk by Rockhampton Regional Council or by any approving or assessing officers of Rockhampton Regional Council; and
4. any changes to the above drawings during or prior to construction must be approved by Rockhampton Regional Council in writing prior to undertaking construction. Rockhampton Regional Council will not accept any changed works which are not reflected through a design change process. No design changes or alterations to plans may be undertaken at the "as constructed" stage.

Responsibility for the drawing/s and any errors or omissions in it or consequent defects arising from it remain with the author of the drawing and the signing Registered Professional Engineering of Queensland.

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

Pursuant to section 85 of *Planning Act 2016,* the Development Permit lapses at the expiration of two (2) years after the date of issue of this approval.

6. APPEAL RIGHTS

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

Appeal by an applicant

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

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

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

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

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

7. 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.

8. ASSESSMENT MANAGER

Name:	**Philip Benfield** **OPERATIONAL WORKS ADMINISTRATOR**	Signature:	Date:	28 August 2019

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 Decision Notice.

Plan/Document Name	Prepared by	Date	Reference No.	Version /Issue
Cover Sheet	Calibre	Aug 2019	000	B
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Type. Sections And Misc. Details	Calibre	2 August 2019	002	B
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Stormwater management Plan	Calibre Professional Services Pty Ltd	2 August 2019	18-002994	4

1.2 A set of the above approved plans are returned to you as the Applicant. The Applicant is to supply one (1) approved set to the contractor to be retained on site at all times during construction.

1.3 Where there is any conflict between the conditions of the Decision Notice and the details shown on the approved plans and documents, the conditions of this Decision Notice must prevail.

1.4 Where the conditions required the above plans or documents to be amended, the revised document(s) must be approved by Council, prior to any pre-start meeting for the works on the site.

1.5 If after the issue of this Decision Notice, any errors, omissions or insufficient details are noted on the approved plans, such deficiencies must be corrected prior to construction, or if noted during construction, approval obtained from Council's Engineer to correct any error or omission, Council reserves the right to withhold approval of construction until such remedies are complete.

1.6 A Pre-Start meeting must be held, prior to the commencement of any work or construction, between any or all of the Site Superintendent / Consulting Engineer / Principle Contractor and Council in accordance with *CMDG Section CP1.08 – Notice to Commence Works* and *CP1.09 – Prestart Meeting.*

NOTE: Prestart Meetings are conducted with a minimum of five (5) business days' notice being given to Council.

The following information must be presented prior or at the meeting:

1.6.1 A copy of the Contractor's Public Liability Insurance Policy for a minimum of twenty (20) million dollars indemnifying Council against all claims resulting from the construction works of this Development;

1.6.2 Evidence of payment of QLeave (when applicable);

1.6.3 A Traffic Guidance Scheme for the works authorised by this development permit, with site access clearly identified.

1.7 Under Part 1 Clause 1.6 of the *Manual of Uniform Traffic Control Devices Queensland, and AS 1742.3-2009,* Council delegates the Principal Contractor the responsibility for the placing of all regulatory signs, as outlined in the above documents.

1.8 All civil/engineering works must be supervised and inspected by a ***RPEQ*** who is experienced in all aspects of civil construction. All works must comply with the *CMDG* and / or other relevant standards and policies as conditioned in the Decision Notice.

1.9 Council reserves the right for uninterrupted access to the site at all times, starting with the Pre-Start Meeting to the completion of the work or issuance of the Compliance Letter.

1.10 All Construction works and other associated activities are permitted only between 0630 hours and 1800 hours Monday to Saturday. No work is permitted on Sundays or public holidays. All requirements of the *Environmental Protection Act* and *Environmental Protection Regulations* must be observed at all times.

1.11 Any proposed works within the vicinity (or zone of influence) of existing Council infrastructure / public utilities will not adversely affect the integrity of the infrastructure. Any restoration works required on existing Council infrastructure as a result of proposed works will be at the developer's expense.

1.12 The developer/contractor must be present for the final inspection at the completion of works, to be undertaken prior to the use commencing or the endorsement of the Survey Plan.

1.13 Any proposed changes to the approved stamped plans during the works will be generally considered minor amendments and require Council's approval. The stamped amended plans and a covering letter will be forwarded to the applicant *(CMDG – CP1.11)*.

2.0 CONSTRUCTION SECURITY BOND

2.1 Prior to any construction works commencing the developer/contractor is to lodge a security bond *(CMDG - Construction Procedures CP1.07)* of **$2000.00** (two thousand dollars) being up to five (5) % of the estimated cost of the works as provided with the application. The bond will be returned when the Council accepts the works 'On Defects' or the final inspection has been approved. The bond is required for non-compliance with the conditions of the approval that may include, but not limited to:- (delete/add as appropriate)

Protection of on-street works from damage by contractors, sub-contractors and suppliers.

Repairs to on-street works resulting from damage caused by contractors, subcontractors and suppliers.

Protection and repair of existing Council services (i.e. sewerage connections, water connections etc.).

Inadequate Erosion Control and Stormwater Management during construction.

Inadequate provision for traffic control.

Urgent action required by Council to resolve unsafe construction or emergency repairs required to protect persons and/or property from consequential damages.

Provision of 'As Constructed' data.

DEFECTS LIABILITY BOND

2.2 A refundable Defects Liability Bond in accordance with the *CMDG Construction Procedures CP1.19*, must be paid to Council prior to the acceptance of the works 'On Defects'. A schedule of actual construction costs (infrastructure only to be contributed to Council) must be submitted prior to Council's acceptance of the bond. The minimum Defects Bond accepted is one (1) thousand dollars ($1,000.00).

2.3 Unless otherwise specified, the minimum Defects Maintenance Period is twelve (12) months, excepting bio detention/retention basins/swales will be 24 months.

3.0 INSPECTION REQUIREMENTS

3.1 Joint inspections with any of the Site Superintendent / Consulting Engineer / Contractor and Rockhampton Regional Council Works Inspector / Engineer are required. A minimum of twenty four (24) hours' notice is required. Council's minimum inspection programme is as follows, however this does not preclude the requirement for further inspections if deemed appropriate by Council Engineers.

Site Works			
3.1.1	earthworks	C213/visual	pre-start/completion
3.1.2	topsoil	C273/visual	completion of works
Concrete Works			
3.1.3	concrete	C271/visual	pre pour / surface finish
Stormwater			
3.1.4	pipes	C220/visual	prior to backfill
3.1.5	ret/det structures	visual	progress/completion
Defects / Maintenance Liability			
3.1.6	on / off defects	visual	completion of works

NOTE: This does not preclude the requirement for further inspections if deemed appropriate by Council Engineers.

4.0 ROADWORKS

4.1 A maximum grade of two and a half percent (2.5%) will be maintained from the back of the kerb for a minimum distance of three (3) metres towards the lot boundaries.*(CMDG)*

4.2 The concrete pathway must be a minimum width of 1.2 metres wide, constructed for the full frontage of the site, in accordance with *CMDG*.

5.0 ACCESS AND PARKING

5.1 Vehicle access and parking will be designed and constructed to comply with the relevant *RRPS Codes, CMDG, and AS/NZS 2890*.

5.2 All existing driveways must be upgraded to meet the requirements of the *CMDG*.

6.0 STORMWATER

6.1 All stormwater management systems must be designed and constructed to comply with the relevant requirements of *QUDM, CMDG, SPP, WbD, and the approved plans (refer to Condition 1.1).*

7.0 DETENTION/RETENTION SYSTEMS/BASINS AND STORMWATER CHANNELS

7.1 The design, construction and maintenance of the detention/bio-retention system/basin, channel/swale is to comply with any relevant and related requirements of QUDM, CMDG, WbD, and the approved plans (refer to Condition 1.1)

8.0 EROSION AND SEDIMENTATION CONTROL

8.1 The developer/contractor will ensure that erosion and sedimentation controls are implemented, monitored, and maintained at all times in accordance with the *CMDG*, and the approved plan/s until all approved construction on the site has been completed. If the development is staged all erosion sediment controls are to be monitored and maintained until the completion of the development.

8.2 All stormwater runoff from the site during and after the site works is completed, is to comply with the *SPP. Appendix 2*, *Table A and B*, to avoid or minimise adverse impacts on stormwater quality.

8.3 The developer/contractor will ensure that during construction all sedimentation controls and swale drains are maintained to ensure compliance with the *CMDG and SPP Appendix 2*, *Table A*, to avoid or minimise adverse impacts on stormwater quality.

8.4 The developer/contractor will check erosion and sediment control measures at the start and end of each day of construction adjacent to any disturbed surfaces.

8.5 If required, the erosion and sedimentation controls measures are to be amended/upgraded by the developer/contractor as directed by the Council's Engineer, within an agreed timeframe.

9.0 SITEWORKS

9.1 Typical car park spaces, road and pedestrian line markings, traffic, pedestrian, disabled signage must comply with *AS2890* and be line marked and/or displayed accordingly.

9.2 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to adjoining properties or infrastructure.

9.3 All earthworks must be undertaken in accordance with *AS3798 "Guidelines on Earthworks for Commercial and Residential Developments"*.

9.4 All earthworks quality control and testing will be in accordance with *AS1289.5.1.1.*

9.5 A water truck is required onsite at all times to suppress dust while earthworks are being undertaken.

9.6 The developer/contractor will ensure all construction related vehicles do not at any time restrict property access within Chappell Street.

9.7 The developer/contractor will ensure all earth moving equipment is parked and stored at all times within the site.

9.8 The developer/contractor will ensure/maintain that roads used for movement of construction materials remain clear of mud and debris at all times.

9.9 The developer/contractor will ensure/maintain that the Chappell Street site frontage including kerb, channels and roads, remain clear of debris, mud and building materials at all times.

10.0 RETAINING STRUCTURES

10.1 All retaining walls and their associated footings must be sited within the proposed lot and/or site boundaries.

10.2 All retaining structures over one (1) metre high must incorporate an approved subsoil drainage systems discharging to a legal point of discharge. The design and construction must be certified by an ***RPEQ***.

11.0 MINOR CONCRETE WORKS

(Being materials, formwork, construction methods, placement, quality etc. associated with the works the subject of this approval.)

11.1 All minor concrete works must be designed and constructed to comply with the relevant requirements of CMDG and the approved plans.

12.0 VEGETATION MANAGEMENT

12.1 Prior to commencement of any works, trees marked for removal must be mulched and all mulch stockpiled on site or removed from site and stored at an approved location. All the vegetative material including shrubs, weeds, grass etc. must be removed from site and deposited at an approved location such as the Council Landfill. **Burning off is not permitted.**

12.2 All vegetation which cannot be mulched on site for use on this development or an approved place of use, must be disposed of at a suitable place of disposal. **Burning is not permitted.**

13.0 UTILITY SERVICES

13.1 The developer/contractor is responsible for all costs associated with the supply and installation of any road lighting or public space lighting in accordance with *AS1158*.

13.2 All works with three (3) metres of a gas main require a spotter.

13.3 All service locations must be confirmed by “pot holing.”

14.0 WORKS “ON DEFECTS” ACCEPTANCE PROCEDURE

1) The "On Defects Works Acceptance " inspection requires attendance by:
   a) the Consulting Engineer of the project
   b) the Contractor
   c) the Council’s nominated representative.
2) It is the responsibility of the Contractor and the Consulting Engineer to ensure the necessary requirements of the works are to an acceptable standard (as defined in approved design and construction documentation prior to the conduct of an "Works Acceptance” inspection.
3) With respect to the Erosion Control and Stormwater Management Measures, the Contractor's Erosion Control and Stormwater Management Strategy is to include the Maintenance period and shall include the following:
   a) Plan to monitor the erosion prevention and sediment control measures following rainfall;
   b) Follow-up repair work where necessary;
   c) Removal of temporary structures such as sediment traps when vegetation has re-established to an acceptable level;

d) Mulch and replant areas where revegetation has not been successful.

4) The general requirements to be met prior to Council's" On Defects" inspection of the works are as follows:

a) the site is clean, tidy (including mowing of grass to ensure that infrastructure can be located), free of rubbish, rocks, sticks, unauthorised stockpiles, etc;

b) allotment earthworks and site grading to be free draining and in accordance with the approved design;

c) relevant Erosion Control and Stormwater measure are in place;

d) integrity of environmentally significant areas is maintained;

e) Defects Liability Bond lodged.

5) The Consulting Engineer is responsible for confirming that the approved works have been completed and the above listed items are in accordance with the approved drawings, Council's technical specifications and accepted engineering and landscaping practice prior to requesting a "On Defects" inspection. Failure to do so may result in cancellation of the inspection and/or the incurring of a reinspection fee.

6) Further to the above, and prior to the "On Defects" inspection, the Consulting Engineer shall be responsible for the completion of the "Works Acceptance" Inspection Checklist as appropriate to the works being constructed. http://www.cmdg.com.au/Guidelines/Constuction%20&%20Approval%20Procedures/Construction%20Procedures/Works%20acceptance%20inspection%20checklist.DOC

7) The completed checklist shall be presented to the relevant Council Officer at the "On Defects" inspection. Council Officer will not undertake a detailed check of all items raised in the checklist, but will examine some aspects of the works on an audit basis. The original of the completed checklist shall be retained with the records for the project upon completion of the works.

15.0 AS CONSTRUCTED REQUIREMENTS

Digital "As Constructed" plans in the prescribed digital formats must be submitted to Council and approved prior to the works being accepted for the "On Defects/Liability Period". The "As Constructed" data will only be approved after the final site inspection has been passed by Council. Refer to Council's website http://www.rockhamptonregion.qld.gov.au/PlanningBuilding/Development-Applications/Lodging-a-Development-Application/As-Constructed-Submissions as to how to submit the data and then email to enquiries@rrc.qld.gov.au with a cover note detailing the Development Application No., legal description of the land, address, estate/subdivision name and stage, consultants name and contact details.

Any works that involve the alteration of ground surface levels (cut/fill) require spot heights and any digital elevation models and/or line work in digital AutoCAD format over the affected lots/site (refer As Constructed Data Guidelines – 5.6).

Compliance/Certifications *(CMDG – CP1.21)*

Council requires that the "As Constructed" documentation be supported by appropriate certifications in accordance with the following requirements.

a) All surface "As Constructed" infrastructure (i.e. sewer manholes, kerb etc.) must be surveyed in relation to property boundary's by a Licensed Surveyor upon completion of the project. Other "As Constructed" infrastructure which is constructed before the completion of the project (i.e. sewer jump ups, water reticulation bends etc.) can be surveyed by the contractor. The certification must note that the "As Constructed" survey data represents the true and accurate location of the relevant construction element presented in the data, relative to all appropriate survey datum's (i.e. the exact location in space of each construction element/entity). An RPEQ's certification must accompany the "As Constructed" submission to Council. The RPEQ's certification may qualify

where information has been supplied by a contractor for covered up works (e.g. sewer jump up locations).

b) Council accepts the submission of "As Constructed" information for the location of House Connection Branches documented by the Contractor during the construction phase. This enables the Contractor to expedite the backfilling of these fixtures and will minimise "open excavations" awaiting final survey. This information shall be documented on the "As Constructed" Sewerage Plan and shall reference the Contractor's field notes used to document the "As Constructed" information.

c) All "As Constructed" works must also be certified by the Consulting Engineer responsible for design of the works. The certification must note that the design intent and function of the proposed works have not been compromised by the constructed works. To this extent, the Consulting Engineer will be responsible for checking the "As Constructed" details so that the tolerances for construction are within specified limits.

d) It is recognised that in some circumstances, the tolerances for construction are exceeded. In these instances, the Engineer will be responsible for performing confirmation design calculations to ensure that the original design intent and function are not compromised.

e) Further, should the "As Constructed" details indicate a change to the design intent or function of the works, revised design calculations shall be provided by the Consulting Engineer to indicate the acceptability of the proposed change relative to Council's requirements. Council's approval of the change is required prior to the formal acceptance of the works.

f) The Consulting Engineer shall be responsible for the completion of the "Statement of Compliance - As Constructed works", which satisfies the requirements for Certification.

By submitting the "As Constructed" information to Council, the Consultant grants Council a royalty-free, perpetual, non-exclusive, non-cancellable, non-transferable licence to:

a) use, reproduce, adapt, modify, commercially exploit and communicate the Intellectual Property (including by development and distribution of a Derivative Product); and

b) sublicense Council's right to use, reproduce, adapt, modify, commercially exploit and communicate the Intellectual Property, subject to the terms of this Licence.

Interpretation of the above intellectual property condition will be subject to the following definitions:

"Intellectual Property" in relation to the "As Constructed" information, includes all copyright, and all right in relation to registered and unregistered trademarks (including service marks), registered designs and confidential information (including trade secrets and know-how), and all other right resulting from intellectual activity in the industrial, scientific, literary or artistic fields; and

"Derivative Product" means a distinct product in which the Intellectual Property is altered, abridged or supplemented, and/or which incorporates additional functionality.

16.0 DOCUMENTATION

16.1 All engineering drawings for operational works must be signed and certified by a Registered Professional Engineer Queensland as being in accordance with all relevant Australian Standards, statutory requirements and sound engineering principles. The works must be supervised on the Applicant's behalf by a suitably qualified Registered Professional Engineer Queensland. All designs, specifications and management plans must be certified, by a suitably qualified professional identifying the certifier's full name and accreditation/registration number, as complying with all relevant Codes and Standards.

For the purpose of this statement, a 'suitably qualified professional' is a person with a tertiary qualification and professional affiliation in the field of engineering or science relevant to the design, specifications and/or management plan and who has at least two

years' experience in management in that field. Where the design, specifications and/or management plans involve different fields, a certification is required from a suitably qualified professional for each separate field.

16.2 An Engineer's Certificate of Construction and As Constructed Certification must be signed and 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 specifications.

17.0 ON DEFECTS PERIOD

17.1 Operational Works approvals requiring 'As Constructed Data' that is associated with a Reconfiguring a Lot approval will go 'On Defects' (provided the On Defects acceptance inspection has passed), at the date of the endorsement of the Survey Plan.

17.2 Operational Works approvals requiring 'As Constructed Data' associated with a Material Change of Use approval will go 'On Defects' (provided the On Defects acceptance inspection has passed), at the date of Council's acceptance of the Engineers' Construction Certificate and 'As Constructed' Certification, and payment of the Defects Bond.

17.3 The satisfactory performance, repairs, insurance and maintenance of all contributed 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/contactor must 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.

18.0 WORKS "OFF DEFECTS" ACCEPTANCE PROCEDURE

The "Final Acceptance" inspections will generally confirm the matters raised in the "Final Acceptance" Inspection checklist and any other matters outstanding relevant to the works. The Checklist is to be completed by the Consulting Engineer prior to the conduct of the "Final Acceptance" Inspection. Refer Table CP1.27.1 for CCTV requirements prior to "Final Acceptance".

GENERAL REQUIREMENTS:

1) During the Defects Liability Period, it is the responsibility of the Developer to:
   a) Rectify any works found to be defective or found to exhibit faults attributed to the design of the works and/or the performance of the construction activities in terms of quality and conformance with the design and specifications.
   b) Remove eroded material from the road surface and stormwater systems where this is attributed to failure of the erosion control measures.
   c) Continue watering turf until it is fully established.
   d) Maintain landscape plantings until they are mature.
2) During the Defects Liability Period it is Councils responsibility to;
   a) Clean out gross pollutant traps.
   b) Repair third party damage to infrastructure (e.g. damage to street signs, damage to asphalt surfacing).
3) Upon Council's notification of a defect it must be rectified within a timeframe specified by Council. Council reserves the right to rectify a defect in certain circumstances at the Developers cost.
4) Council reserves the right to require extension of the Defects Liability Period and retain all (or a portion of) a Defects Liability Bond for a portion of the works if:
   a) Significant rectification or replacement work is carried out; or
   b) If acceptable performance of works during the defects liability period has not been demonstrated.
5) Once the Defects Liability Period has elapsed a "Final Acceptance" inspection is to be arranged with Council.

6) The "Final Acceptance" inspection is to be attended by:

   a) Council's nominee

   b) the Consulting Engineer for the project

   c) the Contractor

7) The Consulting Engineer for the works shall be responsible for ensuring that Council's requirements for acceptance of the works are satisfied prior to requesting a Final Acceptance inspection.

8) Council's requirements for acceptance of the works comprise the following:-

   a) No outstanding payments are due to Council or other Authorities from the development.

   b) Completion of the "Final Acceptance" Inspection Checklist.

   c) Satisfactory "Final Acceptance" Inspection by relevant Council Officers.

9) Following a satisfactory Final Acceptance inspection, the Consulting Engineer shall submit a written request to Council for Final Acceptance of the works and release of the Defects Liability Bond. Council will, upon confirmation that no outstanding payments arising from the development are due to Council, confirm acceptance of the works, and arrange for the release of the Defects Liability Bond.

ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

It is advised that under section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal cultural heritage legislation. The information on Aboriginal cultural heritage is available on the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs website www.datsima.qld.gov.au

NOTE 2. Environmental Protection Act 1994

General Environmental Duty – Sec.319

A person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm (**the *general environmental duty***).

In deciding the measures required to be taken, regard must be had to, for example—

(a) the nature of the harm or potential harm; and
(b) the sensitivity of the receiving environment; and
(c) the current state of technical knowledge for the activity; and
(d) the likelihood of successful application of the different measures that might be taken; and
(e) the financial implications of the different measures as they would relate to the type of activity.

NOTE 3. General Safety Of Public During Construction

The *Work Health and Safety Act 2011* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.

NOTE 4. Water

In accordance with the *Water Supply (Safety and Reliability) Act 2008*, it is an offence to interfere with a service provider and Fitzroy River Water is the department responsible for water and sewerage services. Fitzroy River Water can provide cost estimates for any water and sewerage works if required.

NOTE 5. The *CMDG Construction Specifications* must be used for the construction works.

NOTE 6. Please contact Rockhampton Regional Council's Plumbing Compliance section to organise a Plumbing and Drainage permit for any alterations to the private plumbing pipework.

Attachment 2 - Appeal Rights

PLANNING ACT 2016

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

Appeal rights

229 Appeals to tribunal or P&E Court

(1) Schedule 1 states—

(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 concurrence agency	1 A concurrence agency that is not a co-respondent 2 If a chosen Assessment manager is the respondent—the prescribed assessment

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
			manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application
2. Change applications An appeal may be made against— (a) a responsible entity's decision for a change application, other than a decision made by the P&E court; or (b) a deemed refusal of a change application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 The applicant 2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice	The responsible entity	If an affected entity starts the appeal—the applicant	1 A concurrence agency for the development application 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 A private certifier for the development application 4 Any eligible advice agency for the change application 5 Any eligible submitter for the change application
3. Extension applications An appeal may be made against— (a) the assessment manager's decision about an extension application; or (b) a deemed refusal of an extension application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 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
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 – • The incorrect application of gross floor area for a non-residential development • Applying an incorrect 'use category', under a regulation, to the development (i) The working out of extra demands, for section 120; or (ii) An offset or refund; or b) The was no decision about an offset or refund; or c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or d) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)

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

Table 2 Appeals to the P&E Court only			
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 application 2 For a change application—an eligible submitter for the change	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

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

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

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

ATTACHMENTS

APPROVED PLANS

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