



Decision Notice Approval (amended)

Planning Act Form 2 (version 1.1 effective 22 June 2018) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s87 of the Planning Act 2016, and Section 334 of the Sustainable Planning Act 2009

Application number:	D/299-2014	Contact:	Brandon Diplock
Notice Date:	30 May 2019	Contact Number:	1300 22 55 77

APPLICANT DETAILS

Name:	The Presbyterian Church of Queensland		
Postal address:	C/- Adams & Sparkes Town Planning & Development		
Phone no:	Mobile no:	Email:	

I acknowledge receipt of the above application on 17 May 2019 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for a Material Change of Use for Aged Care Accommodation

PROPERTY DESCRIPTION

Street address:	20 Withers Street, Kawana
Real property description:	Lot 101 on SP267888, Parish of Murchison

OWNER DETAILS

Name:	Presbyterian Church Of Qld-Dept For Social Mission
Postal address:	
Dear The Presbyterian Church Of Queensland	
I advise that, on 29 May 2019 the above development application was:	
<input checked="" type="checkbox"/> approved in full with conditions* (refer to the conditions contained in Attachment 1)	
*Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.	

CHANGES TO CONDITIONS

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

1)	Item 6	Changed	29 May 2019
2)	Condition 2.1	Changed	2 June 2015
3)	Condition 3	New	2 June 2015
4)	Section 7	Changed	2 June 2015

1. DETAILS OF THE APPROVAL

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material Change of use	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

2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

3. FURTHER DEVELOPMENT PERMITS REQUIRED

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

Type of development permit required	Subject of the required development permit
Operational Works	<i>Access and Parking Works; Stormwater Works; Site Works; Landscaping Works; and Roof and Allotment Drainage.</i>
Building Works	<i>Demolition Works; and Building Works</i>
Plumbing and Drainage Works	

4. REFERRAL AGENCIES

The following Referral Agencies were activated by this application.

DEVELOPMENT IMPACTING ON A STATE-CONTROLLED ROAD				
2	An aspect of development identified in schedule 9 that— (a) is for a purpose mentioned in schedule 9, column 1; and (b) meets or exceeds the threshold— (i) for development in LGA population 1—mentioned in schedule 9, column 2 for the purpose; or (ii) for development in LGA population 2—mentioned in schedule 9, column 3 for the purpose. However, if the development is for a combination of purposes mentioned in the same item of schedule 9, the threshold is for the combination of purposes and not for each purpose individually.	Department of Infrastructure, Local Government and Planning	Concurrence Agency	Online: www.dilgp.qld.gov.au/MyDAS Postal: PO Box 113 Rockhampton Qld 4700

5. THE APPROVED PLANS

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

<u>Plan/Document Name</u>	<u>Plan/Document Number</u>	<u>Dated</u>
Existing Site Plan	SD011	28 January 2015
Proposed Site Plan	SD001	4 December 2014
80 Bed RAC Facility Proposed Floor Plan	SD002	3 December 2014
80 Bed RAC Facility 3D Views, West Elevation	SD003	3 December 2014
44 Bed Special Care Facility Ground Floor Plan	SD006	3 December 2014
44 Bed Special Care Facility Upper Floor Plan	SD007	3 December 2014
44 Bed Special Care Facility Elevations	SD008	3 December 2014
Staging Plan	SD 012	18 May 2015
Landscape Architecture Intent	7531 L1	27 November 2014
Landscape Site Plan	7531 L2	27 November 2014
Landscape Concept Plan	7531 L3	27 November 2014
Landscape Concept Plan	7531 L4	27 November 2014
Landscape Concept Plan	7531 L5	27 November 2014
Landscape Sections AA BB	7531 L6	27 November 2014
Plant Palette - Trees	7531 L7	27 November 2014
Plant Palette – Shrubs and Feature Species	7531 L8	27 November 2014
Plant Palette – Ground Covers	7531 L9	27 November 2014

6. CURRENCY PERIOD FOR THE APPROVAL

The currency period will expire on 2 June 2021.

7. STATEMENT OF REASONS

Description of the development	The proposed development is for a Material Change of Use for Aged Care Accommodation (extension to currency period)
Reasons for Decision	<p>a) The proposed Aged Care Accommodation, subject to the extension of the currency period, will remain consistent with the intent of the Low Density Residential Zone;</p> <p>b) The proposal does not compromise the strategic framework in the <i>Rockhampton Region Planning Scheme 2015</i>;</p> <p>c) Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity; and</p>

	d) The proposed development does not compromise the relevant State Planning Policy.
Assessment Benchmarks	The proposed development was assessed against the following assessment benchmarks: <ul style="list-style-type: none"> • Low Density Residential Zone Code
Matters prescribed by regulation	<ul style="list-style-type: none"> • The <i>State Planning Policy – Part E</i>; • The <i>Central Queensland Regional Plan</i>; • The <i>Rockhampton Region Planning Scheme 2015</i>; and • The common material, being the material submitted with the application.

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: Tarnya Fitzgibbon MANAGER DEVELOPMENT AND BUILDING	Date: 3 June 2015
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11. ASSESSMENT MANAGER

Name: Tarnya Fitzgibbon COORDINATOR DEVELOPMENT ASSESSMENT	Signature:	Date: 30 May 2019
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Attachment 1 – Conditions of the approval

Part 1 – Conditions imposed by the assessment manager *[Note: where a condition is imposed about infrastructure under Chapter 4 of the Planning Act 2016, the relevant provision of the Act under which this condition was imposed must be specified.]*

Part 2 – Conditions required by the referral agency response

Attachment 2—Extract on appeal rights

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 commencement of the use, unless otherwise stated.
- 1.5 Where applicable, infrastructure requirements of this approval must be contributed to the relevant authorities, at no cost to Council prior to the commencement of the use, 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) Access and Parking Works;
 - (ii) Stormwater Works;
 - (iii) Roof and Allotment Drainage Works;
 - (iv) Site Works; and
 - (v) Landscaping Works.
 - 1.6.2 Plumbing and Drainage Works; and
 - 1.6.3 Building Works.
 - (i) Demolition Works; and
 - (ii) Building Works.
- 1.7 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 1.8 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.
- 1.9 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.
- 2.0 APPROVED PLANS AND DOCUMENTS
- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan/Document Number</u>	<u>Dated</u>
Existing Site Plan	SD011	28 January 2015
Proposed Site Plan	SD001	4 December 2014
80 Bed RAC Facility Proposed Floor Plan	SD002	3 December 2014
80 Bed RAC Facility 3D Views, West Elevation	SD003	3 December 2014
44 Bed Special Care Facility Ground Floor Plan	SD006	3 December 2014
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Plant Palette – Shrubs and Feature Species	7531 L8	27 November 2014
Plant Palette – Ground Covers	7531 L9	27 November 2014

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

3.1.1 Forty-four (44) bed Specialist Care Facility, forty-two (42) new parking spaces, Kitchen and Laundry (Stage One); and

3.1.2 Eighty (80) bed Residential Care Facility, ten (10) parking spaces, Maintenance Shed and Storage and Activities hall (Stage Two),

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

Stage One must be completed prior to Stage Two.

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

4.0 ROAD WORKS

- 4.1 Dedicate as road a three cord truncation to the corner of Farm Street and Withers Street in accordance with the requirements of the *Capricorn Municipal Development Guidelines*.

5.0 ACCESS AND PARKING WORKS

- 5.1 A Development Permit for Operational Works (access and parking works) must be obtained prior to the commencement of any access and parking works on the site.
- 5.2 All works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, *Australian Standard AS2890 "Parking Facilities"* and the provisions of a Development Permit for Operational Works (access and parking works).
- 5.3 All parking spaces, access driveway(s), and vehicular manoeuvring areas associated with this proposed development must be concrete paved or asphalted.
- 5.4 Any redundant vehicular crossovers and driveways must be removed to Council's satisfaction and replaced by Council standard kerb and channel.
- 5.5 The existing access to the development from Alexandra Street must be upgraded to comply with *Capricorn Municipal Development Guidelines*.

6.0 SEWERAGE WORKS

- 6.1 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*, and the *Plumbing and Drainage Act*.
- 6.2 The development must be connected to Council's reticulated sewerage network.
- 6.3 The existing on-site sewerage main (from Sewer Manhole 5526 to Sewer Manhole 5521) must be made redundant in order to facilitate internal private sewerage connections, once the external house drainage on the north-eastern corner has been redirected to the satisfaction of Council.
- 6.4 The existing sewerage connection point(s) must be retained and upgraded, if necessary, to service the development.
- 6.5 The finished sewerage access chamber surface must be at a sufficient level to avoid ponding of stormwater above the top of the chamber. A heavy duty trafficable lid must be provided in the trafficable area.
- 6.6 Sewer connections located within trafficable areas must be raised or lowered to suit the finished surface levels and must be provided with trafficable lids.

7.0 WATER WORKS

- 7.1 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* and the *Plumbing and Drainage Act*.
- 7.2 The development must be connected to Council's reticulated water network.
- 7.3 The existing water connection point(s) must be retained and upgraded, if necessary, to service the development.
- 7.4 Water meter boxes located within trafficable areas must be raised or lowered to suit the finished surface level and must be provided with heavy duty trafficable lids.
- 7.5 Adequate domestic and fire fighting protection must be provided to the development and must be certified by a hydraulic engineer or other suitably qualified person.

8.0 PLUMBING AND DRAINAGE WORKS

- 8.1 All internal plumbing and sanitary drainage works must be in accordance with regulated work under the *Plumbing and Drainage Act*.

- 8.2 Disconnection, alteration or relocation of internal plumbing pipe works and sanitary drainage works associated with the existing buildings and external house drainage (refer to condition 6.3), must be in accordance with regulated work under the *Plumbing and Drainage Act*.
- 8.3 Internal Plumbing and Sanitary Drainage of existing buildings must be contained within the lot it serves.
- 8.4 Sewerage/Amended Sewerage trade waste permits must be obtained for the discharge of any non-domestic waste into Council's sewerage reticulation. Arrestor traps must be provided where commercial or non-domestic waste water is proposed to be discharged into the system.
- 9.0 STORMWATER WORKS
- 9.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works on the site.
- 9.2 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).
- 9.3 All stormwater must drain to a demonstrated lawful point of discharge and must not adversely affect adjoining land or infrastructure in comparison to the pre-development condition by way of blocking, altering or diverting existing stormwater runoff patterns or have the potential to cause damage to other infrastructure.
- 9.4 The Operational Works (stormwater works) application must include an assessment of how the development meets the stormwater management design objectives in the *State Planning Policy 2014*.
- 9.5 The proposed development must not increase 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.
- 9.6 Easements must be provided over all land assessed to be within the one in one hundred year rainfall event (100 year Average Recurrence Interval) inundation area.
- 9.7 The detailed design of the detention basins must include all required safety measures and facilities (for example child proof fences) to ensure the safety of the public and/or tenants (in particular young children). A management plan for the proposed detention basin system must be submitted as part of any application for a Development Permit for Operational Works (stormwater works).
- 10.0 ROOF AND ALLOTMENT DRAINAGE WORKS
- 10.1 A Development Permit for Operational Works (roof and allotment drainage works) must be obtained prior to the commencement of any drainage works on the site.
- 10.2 All roof and allotment drainage must be in accordance with the requirements of the *Queensland Urban Drainage Manual* and the *Capricorn Municipal Development Guidelines*.
- 10.3 All roof and 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.
- 11.0 SITE WORKS
- 11.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works.
- 11.2 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks' plan which clearly identifies the following:
 - 11.2.1 the location of cut and/or fill;

- 11.2.2 the type of fill to be used and the manner in which it is to be compacted;
 - 11.2.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;
 - 11.2.4 details of any proposed access routes to the site which are intended to be used to transport fill to or from the site; and
 - 11.2.5 the maintenance of access roads to and from the site so that they are free of all cut and/or fill material and cleaned as necessary.
- 11.3 All earthworks must be undertaken in accordance with *Australian Standards, AS3798 "Guidelines on Earthworks for Commercial and Residential Developments"*.
- 11.4 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to adjoining properties or infrastructure.
- 11.5 The structural design of all retaining walls above one (1) metre in height must be separately and specifically certified by a Registered Professional Engineer of Queensland as part of the Operational Works submission. A Registered Professional Engineer of Queensland must on completion certify that all works are compliant with the approved design.
- 11.6 All site works must be undertaken to ensure that there is:
- 11.6.1 no increase in upstream or downstream flood levels for all levels of immunity up to Q100;
 - 11.6.2 no increase in velocity profiles, for which no remedy exists to prevent erosion and/or scouring. In the event that modelling shows non-compliance with the above, works must be undertaken within the system to satisfy the above criteria for development; and
 - 11.6.3 a lawful point of discharge to which the developed flows from the land drain. Easements will be required over any other land to accommodate the flows.
- 12.0 **BUILDING WORKS**
- 12.1 The existing cottages and building/s in the development area on the subject land must be demolished prior to the commencement of the use and a Development Permit for Building Works (demolition) must be obtained prior to the commencement of demolition works on the site.
- 12.2 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"*.
- 12.3 A minimum 1.8 metre high acoustic screen fence must be provided along the Alexandra Street frontage of the development site.
- 12.4 Impervious paved waste storage area/s must be provided in accordance with the *Environmental Protection Regulation 2008* and must be:
- 12.4.1 designed and located so as not to cause a nuisance to neighbouring properties;
 - 12.4.2 aesthetically screened from any road frontage or adjoining property; and
 - 12.4.3 surrounded by at least a 1.8 metre high screen fence that obstructs from view the contents of the waste storage area by any member of the public from any public place;
- 13.0 **LANDSCAPING WORKS**
- 13.1 A Development Permit for Operational Works (landscaping works) must be obtained prior to the commencement of any landscaping works on the site.

- 13.2 All landscaping must be constructed and/or established, in accordance with the requirements of the Development Permit for Operational Works (landscaping works), prior to the commencement of the use.
- 13.3 Any application for a Development Permit for Operational Works (landscaping works) must be generally in accordance with the approved plans (refer to condition 2.1) and must include, but is not limited to, the following:
- 13.3.1 A plan documenting the “Extent of Works” and supporting documentation that includes:
- (i) location and name of existing trees, including those to be retained (the location of the trees must be overlaid or be easily compared with the proposed development design);
 - (ii) the extent of soft and hard landscape proposed;
 - (iii) important spot levels and/or contours. The levels of the trees to be retained must be provided in relation to the finished levels of the proposed buildings and works;
 - (iv) underground and overhead services;
 - (v) typical details of critical design elements (stabilisation of batters, retaining walls, trees in car park areas, fences);
 - (vi) details of landscape structures including areas of deep planting; and
 - (vii) specification notes on mulching and soil preparation.
- 13.3.2 A “Planting Plan” and supporting documentation that includes:
- (i) landscape areas predominantly containing plant species that are locally native to the Central Queensland region due to their low water dependency;
 - (ii) trees, shrubs and groundcovers to all areas to be landscaped;
 - (iii) position and canopy spread of all trees and shrubs;
 - (iv) the extent and type of works (inclusive but not limited to paving, fences and garden bed edging). All plants must be located within an edged garden; and
 - (v) a plant schedule with the botanic and common names, total plant numbers and pot sizes at the time of planting.
- 13.4 Large trees must not be planted within one (1) metre of the centreline of any sewerage infrastructure; small shrubs and groundcover are acceptable.
- 13.5 Landscaping, or any part thereof, upon reaching full maturity, must not:
- (i) obstruct sight visibility zones as defined in the *Austrroads ‘Guide to Traffic Engineering Practice’* series of publications;
 - (ii) adversely affect any road lighting or public space lighting; or
 - (iii) adversely affect any Council infrastructure, or public utility plant.
- The landscaped areas must be subject to an ongoing maintenance and replanting programme.
- 13.6 The private open space of each unit must be screened to Council’s satisfaction with mature vegetation to prevent viewing of the private open space from a public space and adjoining properties.
- 14.0 ELECTRICITY AND TELECOMMUNICATIONS
- 14.1 Underground electricity and telecommunication connections must be provided to the proposed development to the standards of the relevant authorities.
- 14.2 Evidence must be provided of a Telecommunications Infrastructure Provisioning Confirmation and Certificate of Electricity Supply with the relevant service providers to

provide the use with telecommunication and live electricity connections, in accordance with the requirements of the relevant authorities prior to the commencement of the use.

15.0 ASSET MANAGEMENT

15.1 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.

15.2 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.

16.0 ENVIRONMENTAL

16.1 When requested by Council, noise monitoring must be undertaken and recorded within three (3) months, to investigate any genuine complaint of nuisance caused by noise. The monitoring data, an analysis of the data and a report, including noise mitigation measures, must be provided to Council within fourteen (14) days of the completion of the investigation. Council may require any noise mitigation measures identified in the assessment to be implemented within appropriate timeframes. Noise measurements must be compared with the acoustic quality objectives specified in the most recent edition of the *Environmental Protection (Noise) Policy*.

17.0 OPERATING PROCEDURES

17.1 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 Alexandra Street, Farm Street or Withers Street.

17.2 All waste storage areas must be:

17.2.1 kept in a clean and tidy condition; and

17.2.2 maintained in accordance with Environmental Protection Regulation 2008.

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. Asbestos Removal

Any demolition and/or removal works involving asbestos materials must be undertaken in accordance with the requirements of the *Work Health and Safety Act 2011* and *Public Health Act 2005*.

NOTE 3. General Environmental Duty

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

NOTE 4. Licensable Activities

Should an activity licensable by Rockhampton Regional Council be proposed for the premises, Council's Environment and Public Health Unit should be consulted to determine whether any approvals are required. Such activities may include storage of flammable and combustible liquid and environmentally relevant activities such as motor vehicle workshop operations. Approval for such activities is required before 'fitout' and operation.

NOTE 5. 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 6. Infrastructure Charges Notice

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



**Attachment 1 – Part 2
Referral Agency Conditions –
Department of Infrastructure, Local Government
and Planning**

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

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

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

Table 2			
Appeals to the P&E Court only			
<p>1. Appeals from tribunal An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of— (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

Table 2 Appeals to the P&E Court only			
the change application			
<p>3. Eligible submitter and eligible advice agency appeals An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to—</p> <p>(a) any part of the development application or the change application, for the development approval, that required impact assessment; or</p> <p>(b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 For a development application—an eligible submitter for the development application</p> <p>2 For a change application—an eligible submitter for the change application</p> <p>3 An eligible advice agency for the development application or change application</p>	<p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p>	<p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency's referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</p>
<p>4. Compensation claims An appeal may be made against—</p> <p>(a) a decision under section 32 about a compensation claim; or</p> <p>(b) a decision under section 265 about a claim for compensation; or</p> <p>(c) a deemed refusal of a claim under paragraph (a) or (b).</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person dissatisfied with the decision	The local government to which the claim was made	-	-
<p>5. Registered premises An appeal may be made against a decision of the Minister under chapter 7, part 4.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 A person given a decision notice about the decision</p> <p>2 If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the affected area for the registered premises who is dissatisfied with the decision</p>	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			
<p>6. Local laws An appeal may be made against a decision of a local government, or conditions applied, under a local law about— (a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or (b) the erection of a building or other structure.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who— (a) applied for the decision; and (b) is dissatisfied with the decision or conditions.	The local government	-	-

Table 3 Appeals to the tribunal only			
<p>1. Building advisory agency appeals An appeal may be made against giving a development approval for building work to the extent the building work required code assessment against the building assessment provisions.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A building advisory agency for the development application related to the approval	The assessment manager	The applicant	<p>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>
<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	-	-