



# Decision Notice Approval

Planning Act Form 1 (version 1.2 effective 7 February 2020) made under section 282 of the Planning Act 2016 for a decision notice (approval) under section 63(2) of the Planning Act 2016

Application number:	D/45-2020	Contact:	Thomas Gardiner
Notice Date:	18 August 2020	Contact Number:	1300 22 55 77

## APPLICANT DETAILS

Name:	Lake Fox Properties Pty Ltd		
Postal address:			
Phone no:	Mobile no:	Email:	

I acknowledge receipt of the above application on 22 April 2020 and confirm the following:

## DEVELOPMENT APPROVAL

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

## PROPERTY DESCRIPTION

Street address:	162 Middle Road, Gracemere
Real property description:	Lot 102 on RP604012 Parish of Gracemere

## OWNER DETAILS

Name:	Lake Fox Properties Pty Ltd
Postal address:	
<b>Dear Lake Fox Properties Pty Ltd</b>	
I advise that, on 11 August 2020 the above development application was:	
<input checked="" type="checkbox"/> approved in full with conditions* (refer to the conditions contained in <b>Attachment 1</b> )	
*Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.	

## 1. DETAILS OF THE APPROVAL

The following approvals are given:

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use	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

## 2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

## 3. FURTHER DEVELOPMENT PERMITS REQUIRED

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

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

## 4. REFERRAL AGENCIES

Nil

The following Referral Agencies were activated by this application.

## 5. THE APPROVED PLANS

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

Drawing/report title	Prepared by	Date	Reference number	Rev
Stormwater Management Plan	McMurtrie Consulting Engineers	25 June 2020	032-19-20	B
Stormwater Management – Detention Basin	McMurtrie Consulting Engineers	25 November 2019	0321820-9001	A
Site Plan	Design & Architecture	22 July 2020	SK-002	9
Building Layout	The Shed Company	19 December 2019	1912003-1	
Swept Paths	McMurtrie Consulting Engineers			

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

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

## 7. STATEMENT OF REASONS

<b>Description of the development</b>	The proposed development is for a Material Change of Use for a Transport Depot
<b>Reasons for Decision</b>	a) The subject site appropriately accommodates the proposed use as it is a large site that is not in direct proximity to sensitive land uses; b) The proposed use does not compromise the strategic framework in the <i>Rockhampton Region Planning Scheme 2015</i> ; c) Assessment of the development against the relevant zone purpose,

	<p>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;</p> <p>d) The proposed development does not compromise the relevant State Planning Policy; and</p> <p>e) On balance, the application should be approved because the circumstances favour Council exercising its discretion to approve the application even though the development does not comply with an aspect of the assessment benchmarks.</p>									
<p><b>Assessment Benchmarks</b></p>	<p>The proposed development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> <li>• Medium Impact Industry Zone;</li> <li>• Flood Hazard Overlay Code;</li> <li>• Access, Parking and Transport Code;</li> <li>• Landscape Code;</li> <li>• Stormwater Management Code;</li> <li>• Waste Management Code; and</li> <li>• Water and Sewer Code.</li> </ul>									
<p><b>Compliance with assessment benchmarks</b></p>	<p>The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exceptions listed below.</p> <table border="1" data-bbox="561 1060 1409 1940"> <thead> <tr> <th data-bbox="561 1060 863 1150"> <p><b>Assessment Benchmark</b></p> </th> <th data-bbox="863 1060 1409 1150"> <p><b>Reasons for the approval despite non-compliance with benchmark</b></p> </th> </tr> </thead> <tbody> <tr> <td data-bbox="561 1150 863 1409"> <p>Medium Impact Industry Zone Code (PO3)</p> </td> <td data-bbox="863 1150 1409 1409"> <p>The proposed shed is designed to contribute towards a high standard of amenity and reflects the operational needs of the proposed Transport Depot. The ancillary office, which is attached to the shed, is also oriented towards the Douglas Street road frontage, ensuring that the development contributes towards an attractive streetscape.</p> </td> </tr> <tr> <td data-bbox="561 1409 863 1730"> <p>(PO7)</p> </td> <td data-bbox="863 1409 1409 1730"> <p>While no landscaping is proposed, the site is located in an existing industrial area and the proposed built form is consistent with the existing development pattern surrounding the site, particularly along Douglas Street. Further, the proposed development involves the construction of a single shed, which does not require landscape elements to screen the intensity of the proposed built form, given its small-scale nature.</p> </td> </tr> <tr> <td data-bbox="561 1730 863 1940"> <p>Access, Parking and Transport Code (PO5)</p> </td> <td data-bbox="863 1730 1409 1940"> <p>The area of the site is approximately 2.7 hectares. The applicant has indicated that there will be a maximum of two (2) on-site, full-time staff associated with the proposed use. It is considered that there is sufficient space on-site, accounting for the proposed office and shed, for parking and vehicle manoeuvring.</p> </td> </tr> </tbody> </table>		<p><b>Assessment Benchmark</b></p>	<p><b>Reasons for the approval despite non-compliance with benchmark</b></p>	<p>Medium Impact Industry Zone Code (PO3)</p>	<p>The proposed shed is designed to contribute towards a high standard of amenity and reflects the operational needs of the proposed Transport Depot. The ancillary office, which is attached to the shed, is also oriented towards the Douglas Street road frontage, ensuring that the development contributes towards an attractive streetscape.</p>	<p>(PO7)</p>	<p>While no landscaping is proposed, the site is located in an existing industrial area and the proposed built form is consistent with the existing development pattern surrounding the site, particularly along Douglas Street. Further, the proposed development involves the construction of a single shed, which does not require landscape elements to screen the intensity of the proposed built form, given its small-scale nature.</p>	<p>Access, Parking and Transport Code (PO5)</p>	<p>The area of the site is approximately 2.7 hectares. The applicant has indicated that there will be a maximum of two (2) on-site, full-time staff associated with the proposed use. It is considered that there is sufficient space on-site, accounting for the proposed office and shed, for parking and vehicle manoeuvring.</p>
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<p>Medium Impact Industry Zone Code (PO3)</p>	<p>The proposed shed is designed to contribute towards a high standard of amenity and reflects the operational needs of the proposed Transport Depot. The ancillary office, which is attached to the shed, is also oriented towards the Douglas Street road frontage, ensuring that the development contributes towards an attractive streetscape.</p>									
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<p>Access, Parking and Transport Code (PO5)</p>	<p>The area of the site is approximately 2.7 hectares. The applicant has indicated that there will be a maximum of two (2) on-site, full-time staff associated with the proposed use. It is considered that there is sufficient space on-site, accounting for the proposed office and shed, for parking and vehicle manoeuvring.</p>									

		The proposed development will also involve a maximum of fifteen (15) heavy vehicle movements per day. It has been demonstrated that there is sufficient space on-site for the parking of these vehicles, and also their manoeuvring within the site. Therefore, there is not expected to be any on-street car parking to occur on Douglas Street which would adversely affect the safety or functionality of this road network.
	Landscape Code (PO1)	While no landscaping is proposed, the site is located in an existing industrial area and the proposed built form is consistent with the existing development pattern surrounding the site, particularly along Douglas Street. Further, the proposed development involves the construction of a single shed, which does not require landscape elements to screen the intensity of the proposed built form, given its small-scale nature.
	Water and Sewer Code (PO3)	An on-site septic system in lieu of connecting to Council's reticulated waste water system was proposed as an alternative solution. As the proposed use will not accommodate permanent staff on a regular basis, Council has conditioned that an on-site septic system be installed which is considered an appropriate compromise given the proposed on-site arrangements and nature of the proposed use.
<b>Matters prescribed by regulation</b>	(i) <i>The State Planning Policy – Part E;</i> (ii) <i>The Central Queensland Regional Plan;</i> (iii) <i>The Rockhampton Region Planning Scheme 2015; and</i> (iv) The common material, being the material submitted with the application.	

## 8. 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.

**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. ASSESSMENT MANAGER**

Name: <b>Tarnya Fitzgibbon</b> <b>COORDINATOR</b> <b>DEVELOPMENT ASSESSMENT</b>	Signature:	Date: 18 August 2020
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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.]

**Attachment 2—Extract on appeal rights**



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## Attachment 1 – Part 1

### Rockhampton Regional Council Conditions

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Planning Act 2016

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- 1.0 ADMINISTRATION
- 1.1 The Developer and their employee, agent, contractor or invitee is responsible for ensuring compliance with the conditions of this development approval.
- 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 may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions, works, or requirements of this development approval must be undertaken, completed, and be accompanied by a Compliance Certificate for any operational works required by this development approval:
- 1.3.1 to Council’s satisfaction;
  - 1.3.2 at no cost to Council; and
  - 1.3.3 prior to the commencement of the use,
- unless otherwise stated.
- 1.4 Infrastructure requirements of this development approval must be contributed to the relevant authorities, where applicable, at no cost to Council, prior to the commencement of the use, unless otherwise stated.
- 1.5 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
- 1.5.1 Operational Works:
    - (i) Road Works;
    - (ii) Access and Parking Works;
    - (iii) Water Works (if required – refer Condition 6.3)
    - (iv) Sewerage Works;
    - (v) Stormwater Works;
    - (vi) Roof and Allotment Drainage;
    - (vii) Site Works
  - 1.5.2 Plumbing and Drainage Works; and
  - 1.5.3 Building Works.
- 1.6 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.
- 1.7 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.
- 1.8 All engineering drawings/specifications, design and construction works must be in accordance 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 any condition of this development approval:

Drawing/report title	Prepared by	Date	Reference number	Rev
Stormwater Management Plan	McMurtrie Consulting Engineers	25 June 2020	032-19-20	B
Stormwater Management – Detention Basin	McMurtrie Consulting Engineers	25 November 2019	0321820-9001	A
Site Plan	Design & Architecture	22 July 2020	SK-002	9
Building Layout	The Shed Company	19 December 2019	1912003-1	
Swept Paths	McMurtrie Consulting Engineers			

- 2.2 Where there is any conflict between the conditions of this development approval and the details shown on the approved plans and documents, the conditions of this development approval must prevail.

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

### 3.0 ROAD WORKS

- 3.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any road works required by this development approval.

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

- 3.3 The southern side of Douglas Street must be widened for the full frontage of the site to an Industrial Access standard, including kerb and channel and drainage. The alignment of the new kerb and channel must be consistent with that of the new section of kerb and channel at the Macquarie Street end of Douglas Street. If the egress movements of a B-double / Road Train cannot be accommodated within the sealed area of the roadway, it will be necessary to provide localised widening on the northern side of Douglas Street to accommodate these turn movements.

### 4.0 ACCESS AND PARKING WORKS

- 4.1 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 development site.

- 4.2 All access and parking 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).

- 4.3 All access, parking and vehicle manoeuvring areas must be constructed and surface treated in accordance with the approved site plan (refer to condition 2.1). All surface treatments must be constructed, operated and maintained in a manner so that there is no significant impact on the amenity of adjoining premises or the surrounding area being caused due to the emission of dust or resulting in sediment laden water.

- 4.4 Two (2) new accesses to the development must be provided in accordance with the approved plans (refer Condition 2.1).
- 4.5 All vehicles must ingress and egress the development in a forward gear.
- 4.6 B-double and Road Train (RT1) egress from the site must be limited to 'right out' only.
- 4.7 Adequate sight distances must be provided for all ingress and egress movements at the access driveways in accordance with *Australian Standard AS2890.2 "Parking facilities - Off street commercial vehicle facilities"*.
- 4.8 All vehicle operations associated with the development must be directed by suitable directional, informative, regulatory or warning signs in accordance with *Australian Standard AS1742.1 "Manual of uniform traffic control devices"* and *Australian Standard AS2890.1 "Parking facilities – Off-street car parking"*.

#### 5.0 SEWERAGE WORKS

- 5.1 A Development Permit for Operational Works (sewerage works) must be obtained prior to the commencement of any sewerage works on the development site.
- 5.2 All sewerage works must be designed and constructed in accordance with the *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act 2008, Plumbing and Drainage Act 2002* and the provisions of a Development Permit for Operational Works (sewerage works).
- 5.3 The development must be connected to Council's reticulated sewerage network within 24 months from the commencement of use.

#### 6.0 PLUMBING AND DRAINAGE WORKS

- 6.1 A Development Permit for Plumbing and Drainage Works must be obtained for the removal and/or demolition of any existing structure on the development site.
- 6.2 All internal plumbing and drainage 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 2008, Plumbing and Drainage Act 2018*, Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.
- 6.3 The development must be connected to Council's reticulated water network. Should it be necessary to extend the reticulated Council network to facilitate this, an Operational Works application (water works) will be required for these works.
- 6.4 A new water connection point must be provided. An hydraulic engineer or other suitably qualified person must determine the size of connection required.
- 6.5 Adequate domestic and fire fighting protection must be provided to the development, and must be certified by an hydraulic engineer or other suitably qualified person.
- 6.6 Water meter boxes located within trafficable areas must be raised or lowered to suit the finished surface levels and must be provided with heavy duty trafficable lids.
- 6.7 A temporary ablution block and above ground tank is permitted however the development must be connected to Council's reticulated sewerage network within 24 months from the commencement of use.

#### 7.0 STORMWATER WORKS

- 7.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works required by this development approval.
- 7.2 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).



- 7.3 All stormwater must drain to a demonstrated lawful point of discharge and must not adversely affect surrounding land or infrastructure in comparison to the pre-development conditions, including but not limited to blocking, altering, concentrating or diverting existing stormwater runoff patterns or having the potential to cause damage to other infrastructure.
- 7.4 The development must not increase peak stormwater runoff for a selected range of storm events up to and including a one per cent (1%) Annual exceedance probability storm event, for the post-development conditions.
- 7.5 Any application for a Development Permit for Operational Works (stormwater works) must be accompanied by engineering plans with details of any new drainage systems including retention systems, inlet and outlet structures, or the amendment and upgrading of existing drainage systems to implement the proposed drainage strategy.
- 7.6 The detention basin/bio basin as identified on the approved plans (refer to condition 2.1) must be landscaped in accordance with Council's requirements. Any application for a Development Permit for Operational Works (stormwater works) must be accompanied by detailed plans and specifications for the detention basin, and the design must:
- 7.6.1 be suitable to the climate and incorporate predominately native species;
  - 7.6.2 maximise areas suitable for on-site infiltration of stormwater;
  - 7.6.3 incorporate shade trees; and
  - 7.6.4 demonstrate that all areas apart from garden beds are fully turfed or hydromulched.

The detailed design of the detention basin/s as identified on the approved plans (refer to condition 2.1), must ensure the safety of the public and/or tenants and where applicable include all required safety measures and facilities (for example, child proof fences). A maintenance plan for the proposed detention basin system must be submitted as part of any application for a Development Permit for Operational Works (stormwater works).

## 8.0 ROOF AND ALLOTMENT DRAINAGE WORKS

- 8.1 A Development Permit for Operational Works (roof and allotment drainage works) must be obtained prior to the commencement of any drainage works on the development site.
- 8.2 All roof and allotment 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 (roof and allotment drainage works).
- 8.3 All roof and allotment runoff from the development must be directed to a lawful point of discharge and must not restrict, impair or change the natural flow of runoff water or cause a nuisance to surrounding land or infrastructure.
- 8.4 The development must not increase peak stormwater runoff for a selected range of storm events up to and including a one per cent (1%) Annual exceedance probability storm event, for the post-development conditions.

## 9.0 SITE WORKS

- 9.1 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"*.
- 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 surrounding land or infrastructure.
- 9.3 All site works must be undertaken to ensure that there is:
- 9.3.1 no increase in upstream or downstream flood levels for all levels of immunity up to a one per cent (1%) Annual exceedance probability flood event;

- 9.3.2 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
- 9.3.3 a lawful point of discharge to which the approved works drain during construction phase.

Easements will be required over any other land to accommodate the flows.

## 10.0 BUILDING WORKS

- 10.1 Structures must not be located within the on-site sewerage treatment and disposal area or conflict with the separation distances, in accordance with the *Queensland Plumbing and Wastewater Code*.
- 10.2 All electrical and telecommunication services and utilities connected to the property, including electrical outlets, must be designed and installed at such a height that they are a minimum of 500 millimetres above a one per cent (1%) Annual exceedance probability flood level.

## 11.0 ELECTRICITY

- 11.1 Electricity services must be provided to the development in accordance with the standards and requirements of the relevant service provider.

## 12.0 TELECOMMUNICATIONS

- 12.1 Telecommunications services must be provided to the development in accordance with the standards and requirements of the relevant service provider. Unless otherwise stipulated by telecommunications legislation at the time of installation, this includes all necessary pits and pipes, and conduits that provide a connection to the telecommunications network.
- 12.2 The conduits, pipes and cables required by this condition are located on private land and therefore ownership of the conduits, etc. will be with the owner of the land or a carrier that uses the conduit to carry its cables.
- 12.3 The Telecommunications Act 1997 (Commonwealth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required.
- 12.4 Evidence (see below) of acceptance of the works from the relevant service provider must be provided to Council, prior to the commencement of the use :-

**NBN** a 'Certificate of Practical Completion",

**Telstra** a-"Telecommunications Agreement/Provisioning Letter",

**A Licenced Carrier** under the Telecommunications Act 1997- (*signed documentation from a Registered Professional Engineer Queensland -electrical engineer.*)

## 13.0 ASSET MANAGEMENT

- 13.1 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 undertaken and completed at no cost to Council.
- 13.2 Any damage to existing stormwater, water supply and sewerage infrastructure, kerb and channel, pathway or roadway (including removal of concrete slurry from public land and Council infrastructure), that occurs while any works are being carried out in association with this development approval must be repaired at full cost to the developer. This includes the reinstatement of any existing traffic signs or pavement markings that may have been removed or damaged.
- 13.3 'As Constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the commencement of the use. This information must be provided in accordance with the *Asset Design and As Constructed Manual (ADAC)*.

#### 14.0 ENVIRONMENTAL

14.1 Any application for a Development Permit for Operational Works must be accompanied by an Erosion and Sediment Control Plan that addresses, but is not limited to, the following:

- (i) objectives;
- (ii) site location and topography;
- (iii) vegetation;
- (iv) site drainage;
- (v) soils;
- (vi) erosion susceptibility;
- (vii) erosion risk;
- (viii) concept;
- (ix) design; and
- (x) implementation,

for the construction and post-construction phases of work.

14.2 An Erosion Control and Stormwater Control Management Plan prepared by a Registered Professional Engineer of Queensland in accordance with the *Capricorn Municipal Design Guidelines*, must be implemented, monitored and maintained for the duration of the development works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped). The plan must be available on-site for inspection by Council Officers whilst all works are being carried out.

#### 15.0 ENVIRONMENTAL HEALTH

15.1 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the development 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"*.

15.2 Noise emitted from the activity must not cause an environmental nuisance.

15.3 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 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*.

15.4 An incidents register must be kept at the premises and it must record any incidents including but not limited to:

15.4.1 any fire at the premises; and

15.4.2 any release of contaminants not in accordance with the development approval conditions.

15.5 Odour and visible contaminants, including but not limited to dust, fume, smoke, aerosols, overspray or particulates, must not be released to the environment in a manner that will or may cause environmental nuisance or harm unless such release is authorised by Council.

15.6 An appropriate spill kit must be kept on-site for neutralising or decontaminating spills. The spill kit must be clearly identifiable, maintained regularly and stored in a central location that is easily accessible to employees. Staff must be adequately trained in the use of these materials. The spill kit may consist of:

- 15.6.1 a bin with a tight-fitting lid, partially filled with non-combustible absorbent material such as vermiculite;
  - 15.6.2 a broom, shovel, face shield, chemically-resistant boots and gloves; and
  - 15.6.3 waste bags and ties.
- 15.7 Any spillage of environmentally hazardous liquids or other materials must be cleaned up as quickly as practicable. Any spillage of waste and/or contaminants must not be hosed or swept to any stormwater drainage system, roadside gutter or waters.
- 15.8 Regulated waste and any other waste must not be released to the environment, stored, transferred or disposed of in such a manner that it will or may cause environmental harm or nuisance. This includes any waste being burnt or incinerated at the premises.
- 15.9 All traceable regulated waste must be removed from the premises by a licensed regulated waste transporter.
- 15.10 Where regulated waste is removed from the premises, records must be maintained for a period of five (5) years, and include the following:
- 15.10.1 the date, quantity and type of waste removed;
  - 15.10.2 a copy of any licensed waste transport vehicle docket;
  - 15.10.3 the name of the licensed regulated waste removalist and/or disposal operator; and
  - 15.10.4 the intended treatment and/or disposal destination of the waste.
- These records must be available for inspection by Council when requested.

#### 16.0 OPERATING PROCEDURES

- 16.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the development site. Storage of materials or parking of construction machinery or contractors' vehicles must not occur within Douglas Street.
- 16.2 Where un-sealed surface treatments are utilised in access, parking and vehicle manoeuvring areas, contaminants such as oils or chemicals must not be released onto the surface treatment.
- 16.3 All unsealed parking and manoeuvring areas must be operated and maintained in a manner so that there is no significant impact on the amenity of adjoining premises or the surrounding area being caused due to the emission of dust or resulting in sediment laden water.
- Note: If the amenity impacts cannot be mitigated, the area must be sealed to Council's satisfaction.
- 16.4 No washing of plant equipment and vehicles is permitted on the development site unless an approved washdown bay is built to prevent contamination of land and the stormwater system.

#### 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 Partnerships website [www.datsip.qld.gov.au](http://www.datsip.qld.gov.au).

##### NOTE 2. General Environmental Duty

General environmental duty under the *Environmental Protection Act 1994* prohibits unlawful environmental nuisance caused by noise, aerosols, particles, dust, ash,

fumes, light, odour or smoke beyond the boundaries of the development site during all stages of the development including earthworks, construction and operation.

NOTE 3. Licensable Activities

Should an activity licensable by Rockhampton Regional Council be proposed for the development site, Council's Environment and Public Health Unit must be consulted to determine whether any approvals are required. Such activities may include food preparation, storage of dangerous goods or environmentally relevant activities. Approval for such activities is required before 'fit out' and operation.

NOTE 4. 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 5. Property Note (Connection to reticulated sewerage network)

A temporary ablution block and above ground tank is permitted however the development must be connected to Council's reticulated sewerage network within 24 months from the commencement of use.

NOTE 6. Works in Road Reserve Permit

It is advised that a Works in Road Reserve Permit (including a fee for the vehicle crossover and compliant with Standard *Capricorn Municipal Development Guidelines, Standard Drawings*) may be accepted in place of the application for a Development Permit for Operational Works (access works).

NOTE 7. Infrastructure Charges Notice

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

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.

<b>Table 1</b>			
<b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
1. Development applications An appeal may be made against— <ol style="list-style-type: none"> <li>(a) the refusal of all or part of the development application; or</li> <li>(b) the deemed refusal of the development application; or</li> <li>(c) a provision of the development approval; or</li> <li>(d) if a development permit was applied for—the decision to give a preliminary approval.</li> </ol>			
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	1 A concurrence agency that is not a co-respondent

<b>Table 1</b>			
<b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
		agency's referral response—the concurrence agency	2 If a chosen Assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application
<b>2. Change applications</b> 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
<b>3. Extension applications</b> 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 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



<b>Table 1</b>			
<b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
<p><b>4. Infrastructure charges notices</b>            An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds</p> <p>a) The notice involved an error relating to –</p> <p>(i) The application of the relevant adopted charge; or</p> <p>Examples of errors in applying an adopted charge –</p> <ul style="list-style-type: none"> <li>• The incorrect application of gross floor area for a non-residential development</li> <li>• Applying an incorrect ‘use category’, under a regulation, to the development</li> </ul> <p>(i) The working out of extra demands, for section 120; or</p> <p>(ii) An offset or refund; or</p> <p>b) There was no decision about an offset or refund; or</p> <p>c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or</p> <p>d) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the Infrastructure charges notice	The local government that gave the infrastructure charges notice	-	-
<p><b>5. Conversion applications</b>            An appeal may be made against—</p> <p>(a) the refusal of a conversion application; or</p> <p>(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><b>6. Enforcement notices</b>            An appeal may be made against the decision to give an enforcement notice.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the enforcement notice	The enforcement authority	-	If the enforcement authority is not the local government for the premises in relation to which the offence is alleged to have happened—the local government

<b>Table 2</b>			
<b>Appeals to the P&amp;E Court only</b>			
<p><b>1. Appeals from tribunal</b>            An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of—</p> <p>(a) an error or mistake in law on the part of the tribunal; or</p> <p>(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	-	-

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

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

<b>Table 2 Appeals to the P&amp;E Court only</b>			
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
<b>6. Local laws</b> 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	-	-

<b>Table 3 Appeals to the tribunal only</b>			
<b>1. Building advisory agency appeals</b> 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
<b>3. Certain decisions under the Building Act and the Plumbing and Drainage Act</b> 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)

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