



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/69-2022	Contact:	Kathy McDonald
Notice Date:	7 July 2022	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	Edenbrook Land Pty Ltd		
Postal address:			
Phone no:	Mobile no:	Email:	

I acknowledge receipt of the above application on 25 May 2022 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Reconfiguring a Lot (one lot into forty-six lots, plus 1 public use lot and balance lot) Edenbrook Estate - Precinct 2 - Stages 1A to 1D

PROPERTY DESCRIPTION

Street address:	Lot 253 Edenbrook Drive, Parkhurst
Real property description:	Lot 255 on SP325466, Parish of Murchison

OWNER DETAILS

Name:	Edenbrook Land Pty Ltd
Postal address:	
Dear Edenbrook Land Pty Ltd	
I advise that, on 30 June 2022 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.	

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Reconfiguring a lot	<input checked="" type="checkbox"/>	<input type="checkbox"/>

2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

3. FURTHER DEVELOPMENT PERMITS REQUIRED

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

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

4. REFERRAL AGENCIES

NIL

5. THE APPROVED PLANS

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

Plan/Document Name	Prepared by	Date	Reference No.	Version/ Issue
Reconfiguration Plan Stage 1	Capricorn Survey Group CQ	23 June 2022	8066-01-ROL	D
Allotment Layout & Staging	Hartecs Group	May 2022	PRJ-0131-ROL2	3
Q100 Inundation Area	Hartecs Group	May 2022	PRJ-0131-ROL12	3
Indicative Service & Road Layout stage 1	Hartecs Group	May 2022	PRJ-0131-ROL6	3
Stormwater Management Quality (Indicative)	Hartecs Group	May 2022	PRJ-0131-ROL13	3
Report on Geotechnical Stability Assessment	Douglas Partners	9 May 2022	213255.00	A

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

Description of the development	Reconfiguring a Lot (one lot into forty-six lots, plus 1 public use lot and balance lot) Edenbrook Estate - Precinct 2 - Stages 1A to 1D
Reasons for Decision	a) Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity; b) The proposed development does not compromise the relevant <i>State Planning Policy</i> or <i>Central Queensland Regional Plan</i> ; and c) On balance, the application should be approved because the

	<p>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>	
Assessment Benchmarks	<p>The development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> • D-R/76-2005 Preliminary Approval for a Material Change of Use (Residential and Mix Use Development Overriding the Planning Scheme); • <i>City of Rockhampton Town Planning Scheme 2005</i>: <ul style="list-style-type: none"> ○ Reconfiguring a Lot Code; <ul style="list-style-type: none"> - Landscape Secondary Code; - Flood Prone Land Secondary Code; and - Edenbrook Parking and Access Secondary Code; ○ Filling and Excavation Code; ○ External Works and Servicing Code; ○ Water Quality and Water Quantity Code; and • <i>Planning Regulation 2017</i>, Schedule 12A. 	
Compliance with assessment benchmarks	<p>The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exception listed below.</p>	
	Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
	<p>Reconfiguration of a Lot Code under the Rockhampton City Plan 2005</p>	<p>PC9</p> <p>The proposal does not comply with Acceptable Solution 9.1, which states lots are to have a minimum area of 10 hectares and minimum dimensions of 150 metre frontage and depth as per Appendix 3 and 4 contained in this code.</p> <p>The reason for this conflict is because Preliminary Approval D-R/76-2005 applies the Reconfiguring a Lot Code from the Rockhampton City Plan 2005 for future development applications for Reconfiguring a Lot but did not change the underlying zoning of the land. However, a condition in the Preliminary Approval specifies preferred minimum areas for lots, which the proposed development does comply with.</p> <p>The proposed residential lot sizes of 735 square metres to 1422 square metres are consistent with the minimum lot size contained in the Preliminary Approval for the Traditional Residential Precinct.</p> <p>Therefore, the proposal is considered to achieve compliance with the performance criteria.</p>
Matters prescribed by regulation	<ul style="list-style-type: none"> • <i>City of Rockhampton Town Planning Scheme 2005</i>; • <i>State Planning Policy 2017</i>; • <i>Central Queensland Regional Plan 2013</i>; • <i>Planning Regulation 2017</i>, Schedule 12A; and • 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: Amanda O'Mara <u>ACTING COORDINATOR</u> <u>DEVELOPMENT ASSESSMENT</u>	Signature:	Date: 7 July 2022
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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

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 issue of the Survey Plan Approval Certificate, 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 issue of the Survey Plan Approval Certificate, 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) Sewerage Works;
 - (iii) Water Works;
 - (iv) Stormwater Works;
 - (v) Inter-allotment Drainage Works;
 - (vi) Landscaping Works; and
 - (vii) Site Works.
- 1.6 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.
- 1.7 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.
- 1.8 Street numbering for the development must be in accordance with *Australian/New Zealand Standard for Rural and Urban Addressing (AS4819:2011)*. Council will allocate street numbering to the development in accordance with this standard at the time of issuing the Survey Plan Approval Certificate.
- 1.9 All development conditions contained in this development approval about *Infrastructure* under Chapter 4 of the *Planning Act 2016* (the Act), should be read as being non-trunk infrastructure conditioned under section 145 of the Act, unless otherwise stated.

- 1.10 The currency period for Stages 1A, 1B, 1C and 1D is four (4) years from the date this approval takes effect.

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:

Plan/Document Name	Prepared by	Date	Reference No.	Version/ Issue
Reconfiguration Plan Stage 1	Capricorn Survey Group CQ	23 June 2022	8066-01-ROL	D
Allotment Layout & Staging	Hartecs Group	May 2022	PRJ-0131-ROL2	3
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Report on Geotechnical Stability Assessment	Douglas Partners	9 May 2022	213255.00	A

- 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.

3.0 STAGED DEVELOPMENT

- 3.1 This development approval is for a development to be undertaken in four (4) discrete stages, namely:

3.1.1 Lots 401 to Lot 403, Lot 416 and Lot 446 (Stage 1A);

3.1.2 Lots 404 to Lot 415 (Stage 1B);

3.1.3 Lots 417 to Lot 428, Lot 444, Lot 445 and Lot 980 (Stage 1C); and

3.1.4 Lots 429 to Lot 443 (Stage 1D).

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

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

- 3.3 The "Public Use Land" (Lot 980) must be transferred to Council ownership, at no cost to Council, as 'fee-simple' on trust for the purpose of 'Drainage' on the Survey Plan for Stage 1C respectively.

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

4.0 ROAD WORKS

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

- 4.2 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 Austroads Guidelines and the provisions of a Development Permit for Operational Works (road works).

- 4.3 Any application for a Development Permit for Operational Works (road works) must demonstrate that all new roads and road reserves included in the application connect with existing constructed road(s) at the time of making the application.
- 4.4 All new roads shown on the approved plans (refer to condition 2.1), must comply with the requirements for road classification of “*Minor Urban Collector*”, “*Access Street*” or an “*Access Place*” as a minimum in accordance with the *Capricorn Municipal Development Guidelines*.
- 4.5 The design and construction of all the terminating roads must include a temporary turning area, which complies with the relevant performance and technical criteria and facilitates suitable turning movements for a refuse collection vehicle.
- 4.6 Construct a roundabout at the intersection of Tranquil Terrace, Willowdale Drive and Aquila Drive in accordance with the requirements of the *Capricorn Municipal Development Guidelines*, *Austroads Guidelines* and the *Main Roads Planning and Design Manual*.
- 4.7 A concrete pathway, with a minimum width of 1.5 metres, must be constructed along Aquila Drive as per shown on the approved plans (refer to condition 2.1).
- 4.8 All pathways and access ramps must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*. All pathways located within a road reserve or Public use land must be provided with public space lighting in accordance with *Australian Standard AS1158 "Lighting for roads and public spaces"*.
- 4.9 All pathways must incorporate kerb ramps at all road crossing points.
- 4.10 Traffic signs and pavement markings must be provided in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*. Where necessary, existing traffic signs and pavement markings must be modified in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*.
- 4.11 Retaining structures and their foundations must be wholly contained within private allotments and not be constructed as Council-owned infrastructure.
- 4.12 Any application for a Development Permit for Operational Works (road works) must include details of the Council approved road names for all new roads.
- 4.13 All vehicular access to and from proposed Lot 401 and Lots 444 to 446 (inclusive) must be obtained via the proposed new internal roads only. Direct vehicular access to Edenbrook Drive is prohibited. A property note to this effect will be entered against Lot 401 and Lots 444 to 446 (inclusive).

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 required by this development approval.
- 5.2 All sewerage 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* and the provisions of a Development Permit for Operational Works (sewerage works).
- 5.3 All lots within the development must be connected to Council's reticulated sewerage network. Each lot must be provided with its own separate sewerage connection point, located wholly within its respective property boundary.
- 5.4 Sewerage infrastructure must be provided to the upstream development boundary for connectivity.
- 5.5 A 300 millimetre diameter sewerage main must be constructed along the proposed drainage channel, in accordance with the approved plans (refer to condition 2.1).

5.6 Any proposed sewerage access chambers located within public use land or reserve, or below a ten per cent (10%) Annual exceedance probability level must be provided with bolt down lids.

5.7 Easements must be provided over all sewerage infrastructure located within private property. The easement location(s) and width(s) must be in accordance with the requirements of the *Capricorn Municipal Development Guidelines*.

6.0 WATER WORKS

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

6.2 All water 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* and the provisions of a Development Permit for Operational Works (water works).

6.3 All lots within the development must be connected to Council's reticulated water network. Each lot must be provided with its own separate water connection point, located wholly within its respective property boundary.

6.4 Water infrastructure must be provided to the development boundaries for connectivity.

6.5 Easements must be provided over all water infrastructure located within private property. The easement location(s) and width(s) must be in accordance with the requirements of the *Capricorn Municipal Development Guidelines*.

6.6 All proposed reticulated water network mains must be interconnected to eliminate dead ends. Looped mains are permitted in cul-de-sac.

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 or diverting existing stormwater runoff patterns or having the potential to cause damage to other infrastructure.

7.4 Stormwater infrastructure must be provided to the development boundaries for connectivity where required.

7.5 Each residential lot must be designed so as to be flood free in a one per cent (1%) Annual exceedance probability defined flood event.

7.6 Easements must be provided over all land assessed to be within a one per cent (1%) Annual exceedance probability defined flood event, inundation area.

7.7 Any application for a Development Permit for Operational Works (stormwater works) must be accompanied by a detailed Stormwater Management Plan, prepared and certified by a Registered Professional Engineer of Queensland. The Stormwater Management Plan must clearly demonstrate that:

7.7.1 all content of the stormwater management plan is in accordance with the *Queensland Urban Drainage Manual, Capricorn Municipal Development Guidelines*, stormwater management design objectives in *State Planning Policy 2017*, and sound engineering practice;

- 7.7.2 the potential pollutants in stormwater discharged from the development site are managed in accordance with current water quality best industry practices and in accordance with *State Planning Policy 2017*;
 - 7.7.3 the stormwater management plan is accompanied by full calculations; including electronic modelling files from industry standard modelling software, (including both electronic model files and results files) and all details of the modelling assumptions to support both the proposed water quantity and quality management strategy; and
 - 7.7.4 it includes detailed engineering plans with details of any new drainage systems, or the amendment and upgrading of existing drainage systems to implement the proposed drainage strategy.
- 7.8 Drainage channel must be constructed along the eastern boundary of the development site, adjacent to Mclaughlin Street in accordance with the approved plan (refer condition 2.1).
 - 7.9 The proposed drainage channel must be adequately lined (side slope and base) to ensure the stability.
 - 7.10 Detailed design of the proposed channel and any cross-drainage structures must include all required safety measures and facilities to ensure the safety of the public in accordance with the *Queensland Urban Drainage Manual*.
 - 7.11 Any application for a Development Permit for Operational Works (stormwater works) must demonstrate that the proposed drainage channel will efficiently flow during minor storm event(s). Appropriate maintenance access must be provided for mowing or debris removal.
- 8.0 INTER-ALLOTMENT DRAINAGE WORKS
- 8.1 A Development Permit for Operational Works (inter-allotment drainage works) must be obtained prior to the commencement of any drainage works required by this development approval.
 - 8.2 All inter-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 (inter-allotment drainage works).
 - 8.3 Inter-allotment drainage, must be designed and constructed in accordance with the *Queensland Urban Drainage Manual* and must be provided to any lot where it cannot be satisfactorily demonstrated that roof and allotment runoff associated with development on that lot, could not reasonably be directed to the frontage kerb and channel or alternative lawful point of discharge.
 - 8.4 Inter-allotment drainage systems and overland flow paths must be wholly contained within an easement and be in accordance with the minimum widths prescribed in the *Capricorn Municipal Design Guidelines*. Easement documents must accompany the Survey Plan for endorsement by Council, prior to the issue of the Survey Plan Approval Certificate.
- 9.0 SITE WORKS
- 9.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works on the development site.
 - 9.2 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks plan that clearly identifies the following:
 - 9.2.1 the location of cut and/or fill;
 - 9.2.2 the type of fill to be used and the manner in which it is to be compacted;
 - 9.2.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;
 - 9.2.4 details of any proposed access routes that are intended to be used to transport fill to or from the development site; and

- 9.2.5 the maintenance of access roads to and from the development site so that they are free of all cut and/or fill material and cleaned as necessary.
- 9.3 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"*.
- 9.4 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 surrounding land or infrastructure.
- 9.5 Retaining structures above one (1) metre in height that are not incidental works to a Development Permit for Building Works, must not be constructed unless separately and specifically certified by a Registered Professional Engineer of Queensland and must be approved as part of a Development Permit for Operational Works (site works).
- 9.6 Retaining structures close to or crossing sewerage infrastructure must comply with *Queensland Development Code, Mandatory Part 1.4 "Building over or near relevant infrastructure."* The structure must be self-supporting, and no additional load must be applied to Council's sewerage infrastructure.
- 10.0 LANDSCAPING WORKS
- 10.1 A Development Permit for Operational Works (landscaping works) must be obtained prior to the commencement of any landscaping works required by this development approval.
- 10.2 All landscaping must be constructed and/or established, in accordance with the requirements of the Development Permit for Operational Works (landscaping works).
- 10.3 Landscaping must be designed in accordance with the requirements of *Australian Standard AS 1428 parts 1, 2, 3 and 4 — Design for access and mobility*.
- 10.4 A minimum of one (1) street tree must be planted per lot.
- 10.5 Street tree planting must be carried out in accordance with the requirements of *Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy*.
- 10.6 At least fifty (50) per cent of all new plantings must be locally native species with low water dependency and must comply with the following requirements:
- 10.6.1 Plant species are chosen from sources recommended in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*; and
- 10.6.2 Plant species must not include undesirable species identified in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*.
- 10.7 Street trees and landscaping must not impact on vehicle site distances in accordance with *Australian Standard AS2890 – Parking Facilities*, or unduly restrict visibility to pedestrians in verge areas.
- 10.8 Street trees must be located such that, upon reaching full maturity, must not:
- (i) obstruct sight visibility zones as defined in the *Austroroads '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 in accordance with the *Capricorn Municipal Development Guidelines*.
- 10.9 Any Road Corridor landscaping must comply with the requirements of *Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy*.
- 10.10 Landscaping hardworks must comply with the requirements of *Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy*.
- 10.11 Entry statements to the development must comply with the requirements of *Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy*.

- 10.12 All street gardens, including roundabouts and medians, must be provided with an automatic irrigation system and comply with the requirements of *Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy*.
- 10.13 Any Irrigation systems must comply with the requirements of *Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy*.
- 10.14 Large trees must not be planted within one (1) metre of the centreline of any sewerage infrastructure; small shrubs and groundcover are acceptable.
- 10.15 A minimum two (2) metre high solid acoustic screen fence must be erected along the common boundary of the site and any residential properties adjoining Edenbrook Drive (Lots 401, 444-446). The fence must be constructed of materials and finishes that are aesthetically pleasing and commensurate with the surrounding residential area.
- 10.16 A vegetated landscape buffer within the road reserve is provided along the acoustic screen fence and common boundary of the subject development site and any residential properties adjoining Edenbrook Drive for a minimum width of two (2) metres.
- 10.17 The vegetated landscape buffer is to be planted in accordance with the layouts outlined in *Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy* (refer to section SC6.12.14.1).
- 10.18 All landscaped areas must be subject to:
- 10.18.1 a watering and maintenance plan during the establishment phase; and
 - 10.18.2 an ongoing maintenance and replanting programme, establishment phase.
- 11.0 GEOTECHNICAL
- 11.1 All construction works including cut and fill of the development site must be undertaken in accordance with the recommendations of the *Geotechnical Stability Assessment Report* (refer to condition 2.1).
- 11.2 Slope stability must be managed as follows:
- 11.2.1 all engineering drawings/specifications and designs must be in accordance with the requirements of relevant *Australian Standards* and must be approved by a Registered Professional Engineer of Queensland;
 - 11.2.2 site inspections must be undertaken by a Registered Professional Engineer of Queensland to confirm the design; and
 - 11.2.3 full engineering certification must be undertaken by a Registered Professional Engineer of Queensland.
- 12.0 STREET LIGHTING
- 12.1 The developer is responsible for all costs associated with the supply and installation of any road lighting or public space lighting in accordance with *Australian Standard AS1158 'Lighting for roads and public spaces'*.
- 12.2 A suitably qualified Electrical Engineering Consultant shall liaise with Council for the approval of street lighting design. The Consultant must appear on Ergon Energy's list of Public Lighting Designers and be a Registered Professional Engineer of Queensland.
- 13.0 ELECTRICITY
- 13.1 Underground electricity services to each lot must be provided in accordance with approved Operational Works Plans and the standards and requirements of the relevant service provider.
- 13.2 A *Certificate of Electricity Supply* from the relevant service provider must be provided to Council, prior to the issue of the Survey Plan Approval Certificate.
- Note: The applicant can enter into a *Negotiated Connection Establishment Contract* with the Supplier for the provisioning of electrical services and/or street lighting. Provided the

Applicant has undertaken all the conditions of the contract, including providing performance security, the Supplier will issue a *Certificate of Electricity Supply*.

14.0 TELECOMMUNICATIONS

14.1 Provide Fibre-Ready pit and pipe telecommunications infrastructure to each lot within the development in accordance with the Australian Government '*Telecommunications infrastructure in new developments*' policy.

14.2 Evidence (see below) of acceptance of the works from the relevant service provider must be provided to Council, prior to the issue of the Survey Plan Approval Certificate e.g. This will be a letter from either :-

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.*)

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 undertaken and completed at no cost to Council.

15.2 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.

15.3 'As Constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the issue of the Survey Plan Approval Certificate. This information must be provided in accordance with the Asset Design and As Constructed Manual (ADAC).

16.0 ENVIRONMENTAL

16.1 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.

16.2 The 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 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.

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 development site. Storage of materials, or parking of construction machinery or contractors' vehicles must not occur within Edenbrook Drive.

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 Partnerships website www.dsdsatsip.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. General Safety Of Public During Construction

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

NOTE 4. Property Note (Access)

All vehicular access to and from proposed Lot 401 and Lots 444 to 446 (inclusive) must be via the proposed new internal roads only. Direct vehicular access to Edenbrook Drive is prohibited.

NOTE 5. Landscaping

No landscaping works beyond that contemplated by this development approval or subsequent approvals are to be undertaken unless approved by Council.

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.

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— <ol style="list-style-type: none"> (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	1 A concurrence agency that is not a co-respondent

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
		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
2. Change applications An appeal may be made against— (a) a responsible entity's decision for a change application, other than a decision made by the P&E court; or (b) a deemed refusal of a change application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 The applicant 2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice	The responsible entity	If an affected entity starts the appeal—the applicant	1 A concurrence agency for the development application 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 A private certifier for the development application 4 Any eligible advice agency for the change application 5 Any eligible submitter for the change application
3. Extension applications An appeal may be made against— (a) the assessment manager's decision about an extension application; or (b) a deemed refusal of an extension application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 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

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
<p>4. Infrastructure charges notices 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"> • The incorrect application of gross floor area for a non-residential development • Applying an incorrect ‘use category’, under a regulation, to the development <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>5. Conversion applications 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>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—</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>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 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>3. Eligible submitter and eligible advice agency appeals An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to— (a) any part of the development application or the change application, for the development approval, that required impact assessment; or (b) a variation request.</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>4. Compensation claims An appeal may be made against— (a) a decision under section 32 about a compensation claim; or (b) a decision under section 265 about a claim for compensation; or (c) a deemed refusal of a claim under paragraph (a) or (b).</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person dissatisfied with the decision	The local government to which the claim was made	-	-
<p>5. Registered premises</p>			

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

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

Table 3			
Appeals to the tribunal only			
A person who received, or was entitled to receive, notice of the decision	The person who made the decision	-	-
<p>4. Local government failure to decide application under the Building Act</p> <p>An appeal may be made against a local government's failure to decide an application under the Building Act within the period required under that Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who was entitled to receive, notice of the decision	The local government to which the application was made	-	-