



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/109-2022	Contact:	Kathy McDonald
Notice Date:	27 February 2023	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	Kelsall Pty Ltd		
Postal address:	C/- Adams + Sparkes Town Planning PO BOX 1000 BUDDINA QLD 4575		
Phone no:	07 5231 3200	Mobile no:	Email: admin@astpd.com.au

I acknowledge receipt of the above application on 8 August 2022 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Material Change of Use for Medium Impact Industry and Operational Works for Stormwater, Roof and Allotment Drainage, Access and Parking, Earthworks, Landscaping & Advertising Devices (three (3) freestanding signs and six (6) wall signs)

PROPERTY DESCRIPTION

Street address:	2 Barton Court, Parkhurst
Real property description:	Lot 5 on SP326319, Parish of Murchison

Dear Kelsall Pty Ltd

I advise that, on 17 February 2023, the above development application was: approved in full with conditions* (refer to the conditions contained in **Attachment 1**)

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

1. DETAILS OF THE APPROVAL

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use - Operational work	<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
Building Works	
Plumbing and Drainage Works	

4. REFERRAL AGENCIES

The following Referral Agencies were activated by this application.

For an application involving	Name of agency	Role of Agency	Contact Details
STATE TRANSPORT INFRASTRUCTURE (State Transport Corridors and Future State Transport Corridors)			
<i>Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 – Material change of use of premises near a State transport corridor or that is a future State transport corridor</i>			
Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorising instrument, if all or part of the premises— (a) are within 25m of a State transport corridor; or (b) are a future State transport corridor; or (c) are— (i) adjacent to a road that intersects with a State-controlled road; and (ii) within 100m of the intersection	The chief executive of the department in which the <i>Planning Act 2016</i> is administered: State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department)	Concurrence	<u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City <u>Online lodgement using MyDAS2:</u> https://prod2.dev-assess.qld.gov.au/suite/ <u>Email:</u> RockhamptonSARA@ds.dilgp.qld.gov.au <u>Postal:</u> PO Box 113 Rockhampton Qld 4700
<i>Schedule 10, Part 9, Division 4, Subdivision 2, Table 5 – Operational work on premises near a State transport corridor</i>			
Development application for operational work, if— (a) all or part of the premises are within 25m of a State transport corridor; and (b) the work— (i) relates to access to a State transport corridor; or (ii) involves extracting, excavating or filling more than 50m ³ ; or (iii) involves the redirection or intensification of site stormwater from the premises, through a pipe or culvert with a cross-sectional area of more than 625cm ² , to a State transport corridor; and (c) the work does not relate to— (i) a material change of use stated in table 4, item 1, column 2, paragraph (a) or (c);	The chief executive of the department in which the <i>Planning Act 2016</i> is administered: State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department)	Concurrence	<u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City <u>Online lodgement using MyDAS2:</u> https://prod2.dev-assess.qld.gov.au/suite/ <u>Email:</u> RockhamptonSARA@ds.dilgp.qld.gov.au <u>Postal:</u> PO Box 113 Rockhampton Qld 4700

or (ii) reconfiguring a lot stated in table 1, item 1, column 2 or table 3, item 1, column 2; or (iii) government supported transport infrastructure			
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5. THE APPROVED PLANS

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

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/ Issue</u>
Cover Sheet / General Notes	MN Architects	14 July 2022	707 SD 1.00	A
Site Plan	MN Architects	26 July 2022	707 SD 1.01	A
Floor Plan – Lower Level	MN Architects	14 July 2022	707 SD 2.01	A
Floor Plan – Upper Level	MN Architects	14 July 2022	707 SD 2.02	A
Roof Plan	MN Architects	14 July 2022	707 SD 2.03	A
Elevations 1	MN Architects	14 July 2022	707 SD 2.04	A
Elevations 2	MN Architects	14 July 2022	707 SD 2.05	A
Sections	MN Architects	14 July 2022	707 SD 2.06	A
Landscape Plans – Drawings 1 to 6	Andrew Gold Landscape Architecture	22 August 2022	22.188	A
Engineering Infrastructure Report	Premise	01 February 2023	MIS-1045/R01	D
Traffic Engineering Assessment	PTT Traffic & Transport Engineering	August 2022	22-701	A
Civil Works Layout	Premise	08 February 2023	MIS-1045 C001	6
Driveway Crossover Details	Premise	10 October 2022	MIS-1045 C002	3

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

The development approval lapses at the end of the following periods:

- (a) For any part of the development approval relating to a material change of use – if the change of use does not happen within six (6) years after the approval starts to have effect, if not stated otherwise in the conditions of approval attached; and
- (b) For any other part of the development approval – if the development does not substantially start within six (6) years after the approval starts to have effect, if not stated otherwise in the conditions of approval attached.

7. STATEMENT OF REASONS

Description of the development	Material Change of Use for Medium Impact Industry and Operational Works for Stormwater, Roof and Allotment Drainage, Access and Parking, Earthworks, Landscaping & Advertising Devices (three (3) freestanding signs and six (6) wall signs)	
Reasons for Decision	<p>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; and</p> <p>b) 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>	
Assessment Benchmarks	<p>The development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> • High Impact Industry Zone Code; • Access, Parking and Transport Code; • Landscape Code; • Stormwater Management Code; • Waste Management Code; • Water and Sewer Code; • Filling and Excavation Code; and • Advertising Devices Code. 	
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 exceptions listed below.</p>	
	Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
	High Impact Industry Zone Code	<p>PO4 and PO21</p> <p>The proposal does not comply with Acceptable Outcomes 4.1 or 21.2 (d) and (e) as dense landscaping is not proposed at the nominated width along all boundaries of the site.</p> <p>The site is unable to provide a 'deep rooted' and 'three tier' landscape buffer along the Yaamba Road (service road) frontage due to the presence of an existing five (5) metre sewer easement along the full length of the boundary.</p> <p>Despite this, the proposed development is not anticipated to impact on the amenity of the nearby residential zone or existing sensitive land uses by way of noise, dust, lighting, hours of operation or unsightly activities because:</p> <ul style="list-style-type: none"> • Majority of commercial operational areas associated with the proposed development are undertaken indoors and outdoors areas are appropriately setback six (6) metres from all boundaries; • The hours of operation are consistent with the

		<p>zone; 7am until 7pm Monday to Saturday and limited office and sales activities only on Sundays; and</p> <ul style="list-style-type: none"> • Whilst the development is industrial in nature, the ancillary office space and sales area is sited with two (2) pedestrian entries orientated towards the street frontages (Barton Court and Yaamba road (service road)). Complemented by approximately 1,379 square metres of landscaping along both road frontages and internal to the site surrounding the building, this will assist in softening and breaking up the perceived bulk and scale of the development and is considered to provide a positive contribution to the amenity and character of the area. <p>Therefore, the proposal is considered to comply with Performance Outcome 4 (PO4) and Performance Outcome 21 (PO21).</p>
	Advertising Devices Code	<p>PO1</p> <p>The proposal does not comply with the following sections of the sign specific outcomes for a Freestanding Sign:</p> <ul style="list-style-type: none"> • Requires a minimum separation distance of 100 metres from any other freestanding sign located on the premise; and • Requires only one (1) freestanding sign (double or single sided) be located on any one (1) premise. <p>The development will comprise of three (3) freestanding illuminated double sided pylon signs spaced evenly along the 100 metre eastern boundary, Yaamba road (service road) frontage.</p> <p>Despite the quantity of freestanding signs located at the premise and not achieving the prescribed separation distance of 100 metres apart, it is not anticipated that the proposed signs will detract from the amenity of the area, nor will they impede vehicle or pedestrian movements or visually dominate the premises.</p> <ul style="list-style-type: none"> • The location is along the eastern boundary, Yaamba road (service road) frontage, away from the main entrance; • The signs will integrate with the landscaping along the eastern boundary; • Each sign is of an appropriate scale and size with the largest being 6.5 metres tall and 2.4 metres wide; and • Each freestanding sign does not resemble a traffic or road sign as the purpose is to advertise the commercial use and brands on the subject site. <p>The advertising devices are therefore considered to comply with performance outcome 1 (PO1).</p>

Matters prescribed by regulation	<ul style="list-style-type: none"> • The <i>Rockhampton Region Planning Scheme 2015</i> (version 2.2); and • The common material, being the material submitted with the application.
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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 COORDINATOR DEVELOPMENT ASSESSMENT	Signature: 	Date: 27 February 2023
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C/C State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department) - RockhamptonSARA@dasilgp.qld.gov.au

Attachment 1 – Conditions of the approval

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

Part 2 – Conditions required by the referral agency response

Attachment 2—Extract on appeal rights



Attachment 1 – Part 1

Rockhampton Regional Council Conditions

Planning Act 2016

MATERIAL CHANGE IN USE CONDITIONS

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 Plumbing and Drainage Works; and
 - 1.5.2 Building Works:
- 1.6 All Development Permits for 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:

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/Issue</u>
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Engineering Infrastructure Report	Premise	01 February 2023	MIS-1045/R01	D
Traffic Engineering Assessment	PTT Traffic & Transport Engineering	August 2022	22-701	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 ACCESS AND PARKING WORKS

3.1 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).

3.2 All access, parking and vehicle manoeuvring areas must be paved or sealed to Council’s satisfaction. Design and construction must be in accordance with the provisions of a Development Permit for Operational Works (access and parking works).

3.3 All vehicles must ingress and egress the development in a forward gear.

3.4 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”*.

3.5 A minimum of twenty-five (25) car parking spaces including one (1) Persons with Disability (PWD) space and ten (10) heavy rigid vehicle (HRV) parking bays must be provided on-site.

3.6 Universal access parking spaces must be provided on-site in accordance with *Australian Standard AS2890.6 “Parking facilities - Off-street parking for people with disabilities”*.

3.7 Parking spaces must be line-marked in accordance with the approved Site Plan (refer to condition 2.1) and in accordance with the *Australian Standard AS2890 “Parking facilities”*

and the provisions of a Development Permit for Operational Works (access and parking works).

- 3.8 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"*.
- 3.9 Road signage and pavement markings must be installed in accordance with *Australian Standard AS1742.1 "Manual of uniform traffic control devices"*.
- 3.10 All vehicle operation areas must be illuminated in accordance with the requirements of *Australian Standard AS1158 "Lighting for roads and public spaces"*.
- 3.11 All internal pedestrian pathways must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*.

4.0 PLUMBING AND DRAINAGE WORKS

- 4.1 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.
- 4.2 The development must be connected to Council's reticulated sewerage and water networks.
- 4.3 The existing sewerage and water connection point(s) must be retained, and upgraded if necessary, to service the development.
- 4.4 Adequate domestic and firefighting protection must be provided to the development, and must be certified by an hydraulic engineer or other suitably qualified person.
- 4.5 Sewer connection(s) and 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.
- 4.6 The finished sewerage access chamber surface must be at a sufficient level to avoid ponding of stormwater above the top of the chamber.
- 4.7 Sewerage trade waste permits must be obtained for the discharge of any non-domestic waste into Council's reticulated sewerage network. Arrestor traps must be provided where commercial or non-domestic waste is proposed to be discharged into the sewer system.

5.0 STORMWATER WORKS

- 5.1 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).
- 5.2 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.
- 5.3 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.

6.0 ROOF AND ALLOTMENT DRAINAGE WORKS

- 6.1 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*, and sound engineering practice and the

provisions of a Development Permit for Operational Works (roof and allotment drainage works).

- 6.2 The installation of gross pollutant traps must be in accordance with relevant *Australian Standards* and all maintenance of the proposed gross pollutant traps must be the responsibility of the property owner or body corporate (if applicable).
- 6.3 Gross pollutant traps are to be provided in accordance with the approved plans (refer to condition 2.1) at all pits on stormwater line 4 and 5.

7.0 SITE WORKS

- 7.1 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"*.
- 7.2 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.
- 7.3 Large trees must not be planted within one (1) metre of the centreline of any sewerage and/or water infrastructure; small shrubs and groundcover are acceptable.

8.0 BUILDING WORKS

- 8.1 A Development Permit for Building Works assessable under the Building Assessment Provisions must be obtained prior to the commencement of any building works on the site.
- 8.2 All external elements, such as air conditioners and associated equipment, must be adequately screened from public view to Council's satisfaction.
- 8.3 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"*.
- 8.4 The development site must be fenced in accordance with the approved plans (refer to condition 2.1) to ensure privacy and security to nearby residential properties. The fence must be constructed of materials and finishes that are aesthetically pleasing and commensurate with the surrounding residential area.
- 8.5 Impervious paved waste storage areas must be provided in accordance with the approved plans (refer to condition 2.1) and the *Environmental Protection Regulation 2019* and must be:
 - 8.5.1 designed and located so as not to cause a nuisance to neighbouring properties;
 - 8.5.2 surrounded by at least a 1.8 metre high screen fence that obstructs from view the contents of the waste storage area by any member of the public from any public place;
 - 8.5.3 of a sufficient size to accommodate commercial type bins that will be serviced by a commercial contractor plus clearances around the bins for manoeuvring and cleaning;
 - 8.5.4 setback a minimum of two (2) metres from any road frontage; and
 - 8.5.5 provided with a suitable hosecock and hoses at the refuse container area, and washdown must be drained to the sewer and fitted with an approved stormwater diversion valve arrangement in accordance with the Sewerage Trade Waste provisions and the *Plumbing and Drainage Act 2018*.

As an alternative to a washdown facility, a fully contained commercial bin cleaning service is acceptable provided no wastewater is discharged from the site to the sewer.

- 8.6 The finished floor level of the building (workshop and office) must be set at a minimum RL 25.50 metres Australian Height Datum (AHD).
- 9.0 LANDSCAPING WORKS
- 9.1 Landscaping must be constructed and/or established prior to the commencement of the use in all areas shown on the approved plans (refer to condition 2.1).
- 9.2 Landscaping must be designed in accordance with the requirements of *Australian Standard AS 1428 — Design for access and mobility*.
- 9.3 At least fifty (50) per cent of all new plantings within the landscaping areas (refer to condition 2.1) must be locally native species with low water dependency and must comply with the following requirements:
- 9.3.1 Plant species are chosen from sources recommended in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*; and
- 9.3.2 Plant species must not include undesirable species identified in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*.
- 9.4 Shade trees must comply with the following requirements:
- 9.4.1 Be planted clear of services and utilities;
- 9.4.2 Be planted clear of park furniture and embellishments;
- 9.4.3 Not obstruct pedestrian or bicycle traffic; and
- 9.4.4 Comply with crime prevention through environmental design principles.
- 9.5 Shade trees within the staff and visitor car parking areas are to be provided in accordance with the approved plans (refer to condition 2.1) and planted within a deep natural ground/structured soil garden bed/island/bay and protected by wheel stops or bollards as required.
- 9.6 Each shade tree has a clean trunk with a minimum height of two (2) metres and must be provided within the staff and visitor car parking areas at the following rates:
- 9.6.1 One (1) tree per three (3) car parks; and
- 9.6.2 Each shade tree is provided with a minimum planting area of 1.2 square metres with a minimum topsoil depth of 0.8 metres.
- 9.7 Large trees must not be planted within one (1) metre of the centreline of any sewerage and/or water infrastructure; small shrubs and groundcover are acceptable.
- 9.8 Landscaping, or any part thereof, 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.
- 9.9 The landscaped areas must be subject to:
- 9.9.1 a watering and maintenance plan during the establishment moment; and
- 9.9.2 an ongoing maintenance and replanting programme.
- 10.0 ELECTRICITY
- 10.1 Underground electricity services must be provided in accordance with the standards and requirements of the relevant service provider.
- 11.0 TELECOMMUNICATIONS
- 11.1 Telecommunications services must be provided to the development in accordance with the standards and requirements of the relevant service provider.

12.0 ASSET MANAGEMENT

- 12.1 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.
- 12.2 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.
- 12.3 '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)*.

13.0 ENVIRONMENTAL

- 13.1 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:
- 13.1.1 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); and
- 13.1.2 available on-site for inspection by Council Officers whilst all works are being carried out.

14.0 ENVIRONMENTAL HEALTH

- 14.1 Operations on the development site must have no significant impact as determined by Council on the amenity of adjoining premises or the surrounding area due to the emission of light, noise, odour or dust.
- 14.2 Stormwater must be prevented from entering contaminated work areas. Any stormwater which may enter into a contaminated area must not be drained to the stormwater drainage system.
- 14.3 No contaminants are permitted to be released to land or water, including soil, silt, oils, detergents, etcetera. Any wash-down areas used for the maintenance or cleaning of equipment (including vehicles) must be appropriately bunded and drained to the sewer network in accordance with a trade waste permit.
- 14.4 All chemicals and/or environmentally hazardous liquids must be contained within a covered, bunded storage area that has a volume of at least that of the largest container in the bund plus twenty-five percent (25%) of the total storage capacity.
- 14.5 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:
- 14.5.1 a bin with a tight-fitting lid, partially filled with non-combustible absorbent material such as vermiculite;
- 14.5.2 a broom, shovel, face shield, chemically-resistant boots and gloves; and
- 14.5.3 waste bags and ties.
- 14.6 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.

15.0 MOTOR VEHICLE WORKSHOP OPERATIONS

- 15.1 The workshop must have an impervious floor that is adequately bunded and drains to a holding tank or the sewer through an approved oil interceptor/separation system.
- 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 Barton Court or Southern Service Road.
- 16.2 The hours of operations for the development site must be limited to:
- (i) 0700 hours to 1900 hours on Monday to Saturday
- Additional hours of operation for the Office and Sales activities must be limited to:
- (i) 0700 hours to 1200 hours on Sunday
- with no operations on Public Holidays.
- 16.3 All waste must be stored within a waste storage area (for example, general waste, recyclable waste, pallets, empty drums etcetera) in accordance with the approved plans (refer to condition 2.1). The owner of the land must ensure that:
- 16.3.1 the area is kept in a clean and tidy condition;
- 16.3.2 fences and screens are maintained;
- 16.3.3 no waste material is stored external to the waste storage areas;
- 16.3.4 all wash down of refuse containers takes place in the washdown facility; and
- 16.3.5 the area is maintained in accordance with *Environmental Protection Regulation 2019*.
- 16.4 Cleaning of plant equipment and vehicles must only be carried out within an approved washdown bay, (refer to condition 2.1) where wastewater can be suitably managed so as not to cause contaminants to release into waterways or overland flow paths.

OPERATIONAL WORKS - ADVERTISING DEVICE CONDITIONS

Table 1: Abbreviations/terms used in the Conditions

<u>Abbreviation / Term</u>	<u>Meaning</u>
Ambient light sensor	Measures the surrounding ambient light
Animation	A simulation of movement created by displaying a series of pictures or frames either digitally or otherwise.
AS/NZS	Australian and New Zealand Standard
Cd	Candela – a unit of luminous intensity
Dwell time	The length of time an image displays on the screen.
Luminance	Brightness (intensity of light) leaving the display, which is measured in Candela per square metre.
OMA	Outdoor Media Authority Digital Guideline

RPEQ	Registered Professional Engineer of Queensland
Video	A recording or the streaming of moving visual images captured by or using a video camera or similar device.

1.0 ADMINISTRATION

- 1.1 The Developer is responsible for ensuring compliance with the Conditions of the approval by an employee, agent, contractor or invitee of the Developer.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 1.4 The following further development permits are required prior to the commencement of any works on the site:
- 1.4.1 Building Works.
- 1.5 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.

2.0 APPROVED PLANS AND DOCUMENTS

- 2.1 The approved advertising device must be completed and maintained generally in accordance with the approved drawings and documents, except where amended by the conditions of this permit.

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/Issue</u>
Site Plan	MN Architects	26 July 2022	707 SD 1.01	A
Elevations 1	MN Architects	14 July 2022	707 SD 2.04	A
Pylon Signage Details	MN Architects	03 August 2022	707 SD 3.01	A

- 2.2 A set of the above approved plans are returned to you as the Consultant. The Consultant is to supply one (1) Approved set to the contractor to be retained on site at all times during construction.
- 2.3 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.

3.0 OPERATING PROCEDURE

- 3.1 All advertising devices must only display or advertise a matter associated with the primary purpose for which the premises are used, or the purpose stated in this approval.
- 3.2 All text and images displayed on the approved advertising device:
- 3.2.1 must be static;
- 3.2.2 must not imitate a traffic control device, move contrary to any traffic control device or include traffic instructions (for example ‘stop’); and
- 3.2.3 must not involve moving parts or flashing lights.

- 3.3 Any lighting devices associated with the advertising device, such as sensory lighting, must be positioned on the site and shielded so as not to cause glare or other nuisance to nearby residents or motorists. Night lighting must be designed, constructed and operated in accordance with 'Australian Standard AS4282 – Control of the obtrusive effects of outdoor lighting' and 'Civil Aviation Safety Authority (CASA) Guidelines: Lighting in the vicinity of aerodromes: Advice to lighting designers'.

4.0 LUMINANCE

- 4.1 Luminance levels of the advertising device must not exceed the applicable levels listed in Table 2 below.

**Table 2: Luminance levels for Advertising Devices
(Source: OMA)**

Lighting Condition	Zone 1	Zone 2	Zone 3
Full Sun on Sign face	Maximum Output	Maximum Output	Maximum Output
Day Time Luminance	6000-7000 cd/m ²	6000-7000 cd/m ²	6000-7000 cd/m ²
Morning/Evening/Twilight/inclement weather	1000 cd/m ²	700 cd/m ²	600 cd/m ²
Night Time	500 cd/m ²	350 cd/m ²	300 cd/m ²

Note:

- Zone 1 very high ambient off street lighting i.e. central city locations
 Zone 2 high to medium off street ambient lighting
 Zone 3 low levels of off street ambient lighting, i.e. most residential areas, rural areas.

5.0 ASSET MANAGEMENT

- 5.1 Any damage to, or alterations necessary, to electricity, telephone, water mains, sewerage mains, stormwater drains, and/or public utility installations resulting from the development or in connection with the development, must be undertaken immediately, at no cost to Council, and completed within the following timeframes:

- 5.1.1 where damage causes a hazard to pedestrian/traffic safety or interrupts a community service, immediately; or
 5.1.2 as soon as reasonably possible as agreed with Council.

6.0 ADVERTISING DEVICE CONSTRUCTION AND MAINTENANCE

- 6.1 Council reserves the right for uninterrupted access to the site at all times during construction.
- 6.2 All Construction work and other associated activities are permitted only between 0630 hours and 1800 hours Monday to Saturday. No work is permitted on Sundays or public holidays. All requirements of the *Environmental Protection Act 1994* and the *Environmental Protection Regulation 2019* must be observed at all times.
- 6.3 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site.
- 6.4 Any proposed works within the vicinity (or zone of influence) of existing Council infrastructure will not adversely affect the integrity of the infrastructure. Any restoration

works required on existing Council infrastructure as a result of proposed works will be at the developer's expense.

- 6.5 All conduits, wiring, switches or other control apparatus installed on an Advertising Device must be concealed from general view, with control apparatus secured in a manner to prevent unauthorised entry and display setting tampering.
- 6.6 All electrical services and systems must comply with *Australian and New Zealand Standard AS/NZS 3000:2007* – “Electrical Installations”.
- 6.7 All advertising devices must be maintained at all times on the premises by the owner of the premises to the same standard as it was when it was installed, and be maintained in a safe, clean condition that does not adversely impact the visual amenity of the site.

OPERATIONAL WORKS CONDITIONS

1.0 ADMINISTRATION

- 1.1 The approved use and development must be completed and maintained generally in accordance with the approved drawings and documents, except where amended by the conditions of this Decision Notice.

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/Issue</u>
Site Plan	MN Architects	26 July 2022	707 SD 1.01	A
Civil Works Layout	Premise	08 February 2023	MIS-1045 C001	6
Driveway Crossover Details	Premise	10 October 2022	MIS-1045 C002	3

- 1.2 The Applicant is to supply one (1) set of the approved plans to the contractor to be retained on site at all times during construction.
- 1.3 Where there is any conflict between the conditions of approval and the details shown on the approved plans and documents, the conditions of this approval must prevail.
- 1.4 Where the conditions required the above plans or documents to be amended, the revised document(s) must be approved by Council, prior to any Pre-Start meeting for the works on the site.
- 1.5 If after the issue of this Decision Notice, any errors, omissions or insufficient details are noted on the approved plans, such deficiencies must be corrected prior to construction, or if noted during construction, approval obtained from Council to correct any error or omission. Council reserves the right to withhold approval of construction until such remedies are complete.
- 1.6 A Pre-Start meeting must be held, prior to the commencement of any work or construction, between any or all of the Site Superintendent / Consulting Engineer / Principal Contractor and Council in accordance with *CMDG Section CP1.08 – Notice to Commence Works* and *CP1.09 – Prestart Meeting*.

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

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

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

- 1.6.2 A Traffic Guidance Scheme for the works authorised by this development permit, with site access clearly identified.
- 1.6.3 Other items to be discussed (refer *CMDG Section CP1.09*):
- a) Notification requirements for nearby residents – Residents to be identified will be identified at the pre start meeting;
 - b) introduction of the Council's representative(s), Consulting Engineers(s), Contractor(s) and any other relevant parties i.e. Geotechnical Engineers (if required);
 - c) review of relevant conditions of development approval;
 - d) review of Council's construction requirements;
 - e) review of the Contractor's Erosion Control and Stormwater Management Strategy;
 - f) site access conditions;
 - g) any other relevant Acts;
 - h) provision of Construction Security Bond (if required);
 - i) Traffic Management Plan.
- 1.7 Under Part 1 Clause 1.6 of the *Manual of Uniform Traffic Control Devices Queensland, and AS 1742.3-2009*, Council delegates the Principal Contractor the responsibility for the placing of all regulatory signs, as outlined in the above documents.
- 1.8 All civil/engineering works must be supervised and inspected by a RPEQ who is experienced in all aspects of civil construction. All works must comply with the CMDG and other relevant standards and policies as conditioned in this Decision Notice.
- 1.9 Council reserves the right for uninterrupted access to the site at all times, starting with the Pre-Start Meeting to the completion of the work or issuance of the Compliance Letter.
- 1.10 All Construction works and other associated activities are permitted only between 0630 hours and 1800 hours Monday to Saturday. No work is permitted on Sundays or public holidays. All requirements of the *Environmental Protection Act* and *Environmental Protection Regulations* must be observed at all times, unless otherwise approved by Council in writing.
- 1.11 Any proposed works within the vicinity (or zone of influence) of existing Council infrastructure or public utilities will not adversely affect the integrity of the infrastructure. Any restoration works required on existing Council infrastructure as a result of proposed works will be at the Developer's expense.
- 1.12 The Developer must be present for the final inspection at the completion of works, to be undertaken prior to the use commencing or the endorsement of the Survey Plan.
- 2.0 CONSTRUCTION SECURITY BOND
- 2.1 Prior to any construction works commencing the Developer is to lodge a security bond of **\$1,500.00** as agreed pursuant to section 67 of the *Planning Act 2016*. The bond will be returned when the Council accepts the works as On Defects or are completed in accordance with the conditions of the approval. The bond is required for any non-compliance with the conditions of the approval that may include, but not limited to:-
- 2.1.1 Protection of on-street works from damage by contractors, sub-contractors and suppliers.
 - 2.1.2 Repairs to on-street works resulting from damage caused by contractors, subcontractors and suppliers.
 - 2.1.3 Protection and repair of existing Council services (i.e. sewerage connections, water connections etc.).
 - 2.1.4 Inadequate Erosion Control and Stormwater Management during construction.
 - 2.1.5 Inadequate provision for traffic control.

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

2.1.7 Provision of As Constructed data.

3.0 DEFECTS LIABILITY BOND

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

3.2 Unless otherwise specified, the minimum Defects Maintenance Period is twelve (12) months, except for bio detention or retention basins or swales will be 24 months.

4.0 INSPECTION REQUIREMENTS

4.1 Joint inspections with any of the Site Superintendent / Consulting Engineer / Contractor and Rockhampton Regional Council Works Inspector / Engineer are required. A minimum of twenty-four (24) hours' notice is required. Council's minimum inspection programme is as follows:

Site Works

4.1.1	earthworks	C213/visual	pre-start/completion
4.1.2	topsoil	C273/visual	completion of works

Concrete Works

4.1.3	concrete	C271/visual	pre-pour/surface finish
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Stormwater

4.1.4	pipes	C220/visual	prior to backfill
4.1.5	box culverts	C222/visual	prior to backfill

Defects / Maintenance Liability

4.1.6	on / off defects	visual	completion of works
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4.2 The inspection programme in condition 4.1 does not preclude the requirement for further inspections if deemed appropriate by Council Engineers.

5.0 ACCESS AND PARKING

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

6.0 STORMWATER

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

7.0 EROSION AND SEDIMENTATION CONTROL

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

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

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

- 7.4 The Developer will check erosion and sediment control measures at the start and end of each day of construction adjacent to any disturbed surfaces.
- 7.5 If required, the erosion and sedimentation control measures are to be amended or upgraded by the Developer as directed by the Council, within an agreed timeframe.
- 8.0 SITWORKS
- 8.1 Typical car park spaces, road and pedestrian line markings, traffic, pedestrian, disabled signage must comply with AS2890 and be line marked and displayed accordingly.
- 8.2 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to adjoining properties or infrastructure.
- 8.3 All earthworks must be undertaken in accordance with AS3798 *“Guidelines on Earthworks for Commercial and Residential Developments”*.
- 8.4 All earthworks quality control and testing will be in accordance with AS1289.5.1.1.
- 8.5 A water truck must be onsite to ensure that dust is appropriately suppressed such that it is not creating a nuisance to surrounding properties while earthworks are being undertaken.
- 8.6 The Developer will ensure all construction related vehicles do not at any time restrict property access within Barton Court or the Yaamba Road Service Road.
- 8.7 The Developer will ensure all earth moving equipment is parked and stored at all times within the site.
- 8.8 The Developer will ensure roads used for movement of construction materials remain clear of mud and debris at all times.
- 8.9 The Developer will ensure that Barton Court and the Yaamba Road Service Road site frontage including kerb, channels and roads, remain clear of debris, mud and building materials at all times.
- 9.0 MINOR CONCRETE WORKS
- 9.1 Minor concrete works are materials, formwork, construction methods, placement, quality etc. associated with the works the subject of this approval.
- 9.2 All minor concrete works must be designed and constructed to comply with the relevant requirements of CMDG and the approved plans.
- 10.0 UTILITY SERVICES
- 10.1 All service locations must be confirmed by “pot holing.”
- 11.0 LANDSCAPING / STREETSCAPING
- 11.1 All landscaping and streetscaping must comply with relevant requirements of the RRPS-Landscape Code and Planning Scheme Policy SC6.12 and CMDG, and as conditioned or denoted on the approved plans.
- 12.0 WORKS ON DEFECTS ACCEPTANCE PROCEDURE
- 12.1 The On Defects Works Acceptance inspection requires attendance by:
- 12.1.1 the Consulting Engineer of the project
- 12.1.2 the Contractor
- 12.1.3 Council’s nominated representative.
- 12.2 It is the responsibility of the Developer and the Consulting Engineer to ensure the necessary requirements of the works are to an acceptable standard (as defined in approved design and construction documentation) prior to the conduct of an “Works Acceptance” inspection.

- 12.3 With respect to the Erosion Control and Stormwater Management Measures, the Contractor's Erosion Control and Stormwater Management Strategy is to include the Maintenance period and shall include the following:
- 12.3.1 Plan to monitor the erosion prevention and sediment control measures following rainfall;
 - 12.3.2 Follow-up repair work where necessary;
 - 12.3.3 Removal of temporary structures such as sediment traps when vegetation has re-established to an acceptable level;
 - 12.3.4 Mulch and replant areas where revegetation has not been successful.
- 12.4 The general requirements to be met prior to Council's On Defects inspection of the works are as follows:
- 12.4.1 the site is clean, tidy (including mowing of grass to ensure that infrastructure can be located), free of rubbish, rocks, sticks, unauthorised stockpiles, etc;
 - 12.4.2 allotment earthworks and site grading to be free draining and in accordance with the approved design;
 - 12.4.3 relevant Erosion Control and Stormwater measure are in place;
 - 12.4.4 integrity of environmentally significant areas is maintained;
 - 12.4.5 Defects Liability Bond lodged.
- 12.5 The Consulting Engineer is responsible for confirming that the approved works have been completed and the above listed items are in accordance with the approved drawings, Council's technical specifications and accepted engineering and landscaping practice prior to requesting an On Defects inspection. Failure to do so may result in cancellation of the inspection and incur a reinspection fee.
- 12.6 Further to the above, and prior to the On Defects inspection, the Consulting Engineer shall be responsible for the completion of the "Works Acceptance" Inspection Checklist as appropriate to the works being constructed.
<http://www.cmdg.com.au/Guidelines/Constuction%20&%20Approval%20Procedures/Constuction%20Procedures/Works%20acceptance%20inspection%20checklist.DOC>
- 12.7 The completed checklist shall be presented to the relevant Council Officer at the On Defects inspection. The Council Officer will not undertake a detailed check of all items raised in the checklist, but will examine some aspects of the works on an audit basis. The original of the completed checklist shall be retained with the records for the project upon completion of the works.
- 13.0 AS CONSTRUCTED REQUIREMENTS
- 13.1 Digital As Constructed plans in the prescribed digital formats must be submitted to Council and approved prior to the works being accepted for the On Defects Liability Period. The As Constructed data will only be approved after the final site inspection has been passed by Council. Refer to Council's website <http://www.rockhamptonregion.qld.gov.au/PlanningBuilding/Development-Applications/Lodging-a-Development-Application/As-Constructed-Submissions> as to how to submit the data and then email to enquiries@rrc.qld.gov.au with a cover note detailing the Development Application No., legal description of the land, address, estate/subdivision name and stage, Consultant's name and contact details.
- 13.2 Any works that involve the alteration of ground surface levels (cut or fill) require spot heights and any digital elevation models or line work in digital AutoCAD format over the affected lots must be in accordance with As Constructed Data Guidelines – 5.6.

13.3 Compliance/Certifications (CMDG – CP1.21)

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

- 1) All surface As Constructed infrastructure (i.e. sewer manholes, kerb etc.) must be surveyed in relation to property boundaries by a Registered Surveyor upon completion of the project. Other As Constructed infrastructure which is constructed before the completion of the project (i.e. sewer jump ups, water reticulation bends etc.) can be surveyed by the Developer. The certification must note that the As Constructed survey data represents the true and accurate location of the relevant construction element presented in the data, relative to all appropriate survey datums (i.e. the exact location in space of each construction element or entity). An RPEQ's certification must accompany the As Constructed submission to Council. The RPEQ's certification may qualify where information has been supplied by a contractor for covered up works (e.g. sewer jump up locations).
- 2) Council accepts the submission of As Constructed information for the location of House Connection Branches documented by the Contractor during the construction phase. This enables the Developer to expedite the backfilling of these fixtures and will minimise "open excavations" awaiting final survey. This information shall be documented on the As Constructed Sewerage Plan and shall reference the Contractor's field notes used to document the As Constructed information.
- 3) All As Constructed works must also be certified by the Consulting Engineer responsible for design of the works. The certification must note that the design intent and function of the proposed works have not been compromised by the constructed works. To this extent, the Consulting Engineer will be responsible for checking the As Constructed details so that the tolerances for construction are within specified limits.
- 4) It is recognised that in some circumstances, the tolerances for construction are exceeded. In these instances, the Consulting Engineer will be responsible for performing confirmation design calculations to ensure that the original design intent and function are not compromised.
- 5) If the As Constructed details indicate a change to the design intent or function of the works, revised design calculations shall be provided by the Consulting Engineer to indicate the acceptability of the proposed change relative to Council's requirements. Council's approval of the change is required prior to the formal acceptance of the works.
- 6) The Consulting Engineer shall be responsible for the completion of the "Statement of Compliance - As Constructed works", which satisfies the requirements for Certification.

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

- 1) use, reproduce, adapt, modify, commercially exploit and communicate the Intellectual Property (including by development and distribution of a Derivative Product); and
- 2) sublicense Council's right to use, reproduce, adapt, modify, commercially exploit and communicate the Intellectual Property, subject to the terms of this Licence.

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

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

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

14.0 DOCUMENTATION

- 14.1 All engineering drawings for operational works must be signed and certified by a RPEQ as being in accordance with all relevant Australian Standards, statutory requirements and sound engineering principles. The works must be supervised on the Developer’s behalf by a suitably qualified RPEQ. All designs, specifications and management plans must be certified, by a suitably qualified professional identifying the certifier’s full name and accreditation/registration number, as complying with all relevant Codes and Standards.
- 14.2 For the purpose of this statement, a ‘suitably qualified professional’ is a person with a tertiary qualification and professional affiliation in the field of engineering or science relevant to the design, specifications or management plan and who has at least two years’ experience in management in that field. Where the design, specifications or management plans involve different fields, a certification is required from a suitably qualified professional for each separate field.
- 14.3 An Engineer’s Certificate of Construction and As Constructed Certification must be signed and submitted by a RPEQ verifying that all works have been carried out in accordance with Council approved drawings, approval conditions and specifications.

15.0 ON DEFECTS PERIOD

- 15.1 Operational Works approvals requiring As Constructed Data associated with a MCU approval will go On Defects (provided the On Defects acceptance inspection has passed), at the date of Council’s acceptance of the Engineers’ Construction Certificate and As Constructed Certification, and payment of the Defects Bond.
- 15.2 The satisfactory performance, repairs, insurance and maintenance of all contributed assets, infrastructure and its components, constructed, installed and purchased by the Developer must remain the sole responsibility of the Developer during the maintenance period. The developer must take all reasonable steps to ensure that the works are not damaged or vandalised prior to the works being accepted off maintenance by Council.

16.0 WORKS OFF DEFECTS ACCEPTANCE PROCEDURE

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

GENERAL REQUIREMENTS:

- 1) During the Defects Liability Period, it is the responsibility of the Developer to:
 - a) Rectify any works found to be defective or found to exhibit faults attributed to the design of the works or the performance of the construction activities in terms of quality and conformance with the design and specifications.
 - b) Remove eroded material from the road surface and stormwater systems where this is attributed to failure of the erosion control measures.
 - c) Continue watering turf until it is fully established.
 - d) Maintain landscape plantings until they are mature.
- 2) During the Defects Liability Period it is Council’s responsibility to:
 - a) Clean out gross pollutant traps.
 - b) Repair third party damage to infrastructure (e.g. damage to street signs, damage to asphalt surfacing).

- 3) Upon Council's notification of a defect it must be rectified within a timeframe specified by Council. Council reserves the right to rectify a defect in certain circumstances at the Developer's cost.
- 4) Council reserves the right to require extension of the Defects Liability Period and retain all (or a portion of) a Defects Liability Bond for a portion of the works if:
 - a) Significant rectification or replacement work is carried out; or
 - b) If acceptable performance of works during the defects liability period has not been demonstrated.
- 5) Once the Defects Liability Period has elapsed a Final Acceptance inspection is to be arranged with Council.
- 6) The Final Acceptance inspection is to be attended by:
 - a) Council's nominee
 - b) the Consulting Engineer for the project
 - c) the Contractor
- 7) The Consulting Engineer for the works shall be responsible for ensuring that Council's requirements for acceptance of the works are satisfied prior to requesting a Final Acceptance inspection.
- 8) Council's requirements for acceptance of the works comprise the following:
 - a) No outstanding payments are due to Council or other Authorities for the development.
 - b) Completion of the Final Acceptance Inspection Checklist.
 - c) Satisfactory Final Acceptance Inspection by relevant Council Officers.
- 9) Following a satisfactory Final Acceptance inspection, the Consulting Engineer shall submit a written request to Council for Final Acceptance of the works and release of the Defects Liability Bond. Council will, upon confirmation that no outstanding payments arising from the development are due to Council, confirm acceptance of the works, and arrange for the release of the Defects Liability Bond.

ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

It is advised that under section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal cultural heritage legislation. The information on Aboriginal cultural heritage is available on the Department of Seniors, Disability Services and 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. Duty to Notify of Environmental Harm

If a person becomes aware that serious or material environmental harm is caused or threatened the by an activity or an associated activity, that person has a duty to notify Rockhampton Regional Council.

NOTE 5. Building Works

A Building Works Permit is required for the development in accordance with the *Building Act 1975*.

NOTE 6. Water

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

NOTE 7. Please contact Rockhampton Regional Council's Plumbing Compliance section to organise a Plumbing and Drainage permit for any new or alteration to the private plumbing pipework.

NOTE 8. The CMDG Construction Specifications must be used for the construction works.

NOTE 9. Infrastructure Charges Notice

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



Attachment 1 – Part 2
Referral Agency Conditions – State
Development, Infrastructure, Local
Government and Planning (State
Assessment and Referral Agency
Department) *Planning Act 2016*

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

Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the **appellant**); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
 - (2) An appellant may start an appeal within the appeal period.
 - (3) The **appeal period** is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.
- Note—
See the P&E Court Act for the court's power to extend the appeal period.
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
 - (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
 - (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

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

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

231 Other appeals

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

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

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

232 Rules of the P&E Court

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

Schedule 1

Appeals section 229

1 Appeal rights and parties to appeals

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

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

<p>1. Development applications An appeal may be made against—</p> <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) The was no decision about an offset or refund; or</p> <p>c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or</p> <p>d) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (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 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	-	-