



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/75-2023	Contact:	Aidan Murray
Notice Date:	23 November 2023	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	Development Holdings Pty Ltd		
Postal address:	C/- Property Projects Australia Pty Ltd PO Box 1264 NEW FARM QLD 4005		
Phone no:	07 3254 1566	Mobile no: -	Email: oliver@propertyprojectsaustralia.com.au franciso@propertyprojectsaustralia.com.au

I acknowledge receipt of the above application on 3 June 2023 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Material Change of Use for Service Station and Food and Drink Outlet and Reconfiguring a Lot (one lot into two lots) and two Access Easements

PROPERTY DESCRIPTION

Street address:	765 Capricorn Highway, Gracemere
Real property description:	Lot 73 on LN569, Parish of Gracemere

Dear Development Holdings Pty Ltd

I advise that, on 16 November 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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use - 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>Access and Parking Works</i> <i>Sewerage Works</i> <i>Stormwater Works</i> <i>Roof and Allotment Drainage Works</i> <i>Site Works; and</i> <i>Advertising Device</i>
Building Works	<i>Demolition Works; and</i> <i>Building Works</i>
Plumbing and Drainage Works	

4. SUBMISSIONS

Properly made submissions were not made in relation to the application.

5. 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 (Generally)			
<i>Schedule 10, Part 9, Division 4, Subdivision 1, Table 1 – Aspect of development stated in schedule 20</i>			
Development application for an aspect of development stated in schedule 20 that is assessable development under a local categorising instrument or section 21, if— (a) the development is for a purpose stated in schedule 20, column 1 for the aspect; and (b) the development meets or exceeds the threshold— (i) for development in local government area 1—stated in schedule 20, column 2 for the purpose; or (ii) for development in local government area 2—stated in schedule 20, column 3 for the purpose; and (c) for development in local government area 1—the development is not for an accommodation activity or an office at premises wholly or partly in the excluded area However, if the development is for a combination of purposes stated in the same item of schedule 20, the threshold is for the combination of purposes and not for each individual purpose.	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@dsdi.lgp.qld.gov.au <u>Postal:</u> PO Box 113 Rockhampton Qld 4700

STATE TRANSPORT INFRASTRUCTURE (State Transport Corridors and Future State Transport Corridors)			
<i>Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 – Reconfiguring a lot near a State transport corridor</i>			
<p>Development application for reconfiguring a lot that is assessable development under section 21, if—</p> <p>(a) all or part of the premises are within 25m of a State transport corridor; and</p> <p>(b) 1 or more of the following apply—</p> <p>(i) the total number of lots is increased;</p> <p>(ii) the total number of lots adjacent to the State transport corridor is increased;</p> <p>(iii) there is a new or changed access between the premises and the State transport corridor;</p> <p>(iv) an easement is created adjacent to a railway as defined under the Transport Infrastructure Act, schedule 6; and</p> <p>(c) the reconfiguration does not relate to government supported transport infrastructure</p>	<p>The chief executive of the department in which the <i>Planning Act 2016</i> is administered:</p> <p>State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department)</p>	Concurrence	<p><u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City</p> <p><u>Online lodgement using MyDAS2:</u> https://prod2.dev-assess.qld.gov.au/suite/</p> <p><u>Email:</u> RockhamptonSARA@ds.dilgp.qld.gov.au</p> <p><u>Postal:</u> PO Box 113 Rockhampton QLD 4700</p>
<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>			
<p>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—</p> <p>(a) are within 25m of a State transport corridor; or</p> <p>(b) are a future State transport corridor; or</p> <p>(c) are—</p> <p>(i) adjacent to a road that intersects with a State-controlled road; and</p> <p>(ii) within 100m of the intersection</p>	<p>The chief executive of the department in which the <i>Planning Act 2016</i> is administered:</p> <p>State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department)</p>	Concurrence	<p><u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City</p> <p><u>Online lodgement using MyDAS2:</u> https://prod2.dev-assess.qld.gov.au/suite/</p> <p><u>Email:</u> RockhamptonSARA@ds.dilgp.qld.gov.au</p> <p><u>Postal:</u> PO Box 113 Rockhampton QLD 4700</p>

6. 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>
Proposed Subdivision Plan	Verve Building Design Co.	2 November 2023	22065-DA07	B
Preliminary Services Layout Plan	vT Consulting	9 August 2023	22368-P300	C

	Engineers			
Existing Site Plan	Verve Building Design Co	30 May 2023	22065-DA01	A
Overall Site Plan	Verve Building Design Co	1 November 2023	22065-DA02	B
Development Site Plan	Verve Building Design Co	1 November 2023	22065-DA03	B
Floor Plan	Verve Building Design Co	30 May 2023	22065-DA04	A
Landscape Concept Plan	Agla	29 May 2023	1	C
Proposed Planting Schedule	Agla	29 May 2023	2	C
Proposed Planting Schedule	Agla	29 May 2023	3	C
Building Elevations & Perspectives	Verve Building Design Co	30 May 2023	22065-DA05	A
Building Elevations & Perspectives	Verve Building Design Co	30 May 2023	22065-DA06	A
Engineering Report & Stormwater Management Plan	vT Consulting Engineers	9 August 2023	22368-P100	C
Vehicle Manoeuvring Internal B-Double Swept Path Analysis	TTM Consulting Pty Ltd	31 May 2023	22BRT0852-02	A
Vehicle Manoeuvring Internal Bowser Access and Queuing	TTM Consulting Pty Ltd	31 May 2023	22BRT0852-03	A
Vehicle Manoeuvring Internal A-Double Swept Path Analysis	TTM Consulting Pty Ltd	10 August 2023	22BRT0852-04	A

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

Material Change of Use:

In accordance with section 85(1)(a)(ii) of the *Planning Act 2016*, the development approval lapses if the first 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.

Reconfiguring a Lot:

In accordance with section 85(1)(b)(ii) of the *Planning Act 2016*, the development approval lapses if a plan for the reconfiguration that, under the Land Title Act, is required to be given to a local government for approval is not given to the local government within four (4) years after the approval starts to have effect, if not stated otherwise in the conditions of approval attached.

8. STATEMENT OF REASONS

Description of the development
Material Change of Use for Service Station and Food and Drink Outlet and Reconfiguring a Lot for Subdivision (one lot into two lots) and two Access Easements
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; and
- 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.

Assessment Benchmarks

The development was assessed against the following assessment benchmarks:

- Strategic Framework;
- Local Government Infrastructure Plan;
- Low Impact Industry Zone Code;
- Flood Hazard Overlay Code;
- Access, Parking and Transport Code;
- Filling and Excavation Code;
- Landscape Code;
- Reconfiguring a Lot Code;
- Stormwater Management Code;
- Waste Management Code; and
- Water and Sewer Code.

Compliance with assessment benchmarks

The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exceptions listed below.

Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
Low Impact Industry Zone Code PO15	<p>The proposed development is not compliant with one part of Performance Outcome (PO) 15, specifically item (b) which states a requirement for <i>“the provision of a separate pedestrian entry to the site and main building from any vehicular entry points and manoeuvring areas”</i>.</p> <p>The development does not provide separate pedestrian entry to the site for the public space. However, the nature and primary purpose of the proposed use is for a service station for refuelling vehicles and the site location means that the frontage and access to the site is from the Capricorn Highway (a state-controlled road). Given these factors in context of the development and its location, a need for pedestrian access from the Capricorn Highway is unnecessary and could result in unintended safety risks to pedestrians interacting with highway traffic. Pedestrian entry to the main building is easily identifiable and accessible from parking areas with safe walkable pathways that are adequately illuminated and free of visual obstruction.</p> <p>Overall, the minor conflict with item (b) is inconsequential to the operational aspects of the development and does not compromise the safety and security of people using the site based on the above-mentioned context. On balance, the development achieves the intent of the performance outcome and is consistent with purpose and overall outcomes of the Low Impact Industry Zone.</p>

Flood Hazard Overlay Code	Version 4.4 of the <i>Rockhampton Region Planning Scheme 2015</i> (the Planning Scheme) commenced on 25 October 2023. This version of the Planning Scheme contains an amended Flood Hazard Overlay and associated mapping that results in the subject site no longer being affected by Planning Area 2 for Local Catchment Flood (formerly described as Creek Catchment Flood) and the proposed development would no longer be assessable against the Local Catchment Flooding (Formerly described as Creek Catchment Flooding) which triggered assessment under version 2.2 of the Planning Scheme. Therefore, when giving regard to the most recent version of the Planning Scheme, assessment against the Flood Hazard Overlay Code is not relevant as it would no longer be required if the application had been submitted after 25 October 2023. The application takes into consideration the updated mapping and will achieve minimum floor levels which are compatible with the Defined Flood Event (DFE).
Relevant Matters	
The proposed development was assessed against the following relevant matters: <ul style="list-style-type: none"> Version 4.4 of the <i>Rockhampton Region Planning Scheme 2015</i> (the Planning Scheme) commenced on 25 October 2023. As a result, the development application would no longer be assessable against the Flood Hazard Overlay Code were it submitted after 25 October 2023. 	
Matters raised in submissions	
The proposal was the subject of public notification between 24 July 2023 and 11 August 2023, in accordance with the requirements of the <i>Planning Act 2016</i> and the Development Assessment Rules, and no submissions were received.	
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. 	

9. 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.

10. 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.

11. ASSESSMENT MANAGER

Name: **Amanda O'Mara**
COORDINATOR
DEVELOPMENT ASSESSMENT

Signature:



Date: 23 November 2023

C/C State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department) - RockhamptonSARA@dsdilgp.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

PART A – RECONFIGURING A LOT

1.0 ADMINISTRATION

- 1.1 The owner, the owner's successors in title, and any occupier of the premises 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 must be undertaken and completed:
 - 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 Plumbing and Drainage 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 Easement documents must accompany the Survey Plan for endorsement by Council, which demonstrate unrestricted access over Lot 1 to Lot 2. Easement documents must be provided prior to the issue of the Survey Plan Approval Certificate.
- 1.9 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.
- 1.10 All development conditions contained in this development approval about infrastructure under Chapter 4 of the *Planning Act 2016* should be read as being non-trunk infrastructure conditioned under section 145 of the *Planning Act 2016*, unless otherwise stated.

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
Proposed Subdivision Plan	Verve Building Design Co.	2 November 2023	22065-DA07	B
Preliminary Services	vT Consulting	9 August 2023	22368-P300	C

Layout Plan	Engineers			
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- 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 WORKS

- 3.1 Access easements must be registered over proposed Lot 1 in accordance with the approved plans (see condition 2.1), in favour of Lot 2 to allow access to Lot 2 to be provided.

4.0 PLUMBING AND DRAINAGE WORKS

- 4.1 A Development Permit for Plumbing and Drainage Works must be obtained for the removal and/or demolition of any existing structures on the development site.
- 4.2 The development must be connected to Council's reticulated sewerage and water networks.
- 4.3 New water connection points must be provided to the development for proposed Lot 1 and 2 from the existing water infrastructure fronting the development site. A hydraulic engineer or other suitably qualified person must determine the size of connection required.
- 4.4 The existing sewerage connection located within proposed Lot 1 must be retained to service Lot 1.
- 4.5 A new sewerage connection point must be provided for proposed Lot 2 from the existing reticulated sewerage network.
- 4.6 Any redundant water and sewerage connection points must be disconnected.
- 4.7 Internal Plumbing and Sanitary Drainage of existing buildings that are remaining must be contained within the lot it serves.
- 4.8 Alteration, disconnection or relocation of internal plumbing and sanitary drainage works associated with the existing buildings must be in accordance with regulated work under the *Plumbing and Drainage Act 2018* and Council's Plumbing and Drainage Policies.

5.0 ROOF AND ALLOTMENT DRAINAGE WORKS

- 5.1 A private drainage easement with a minimum width of 5.7 metres must be provided over the land required to accommodate the flows associated with the subject development through proposed Lot 2. The easement must be registered in favour of Lot 1. Easement documents must accompany the Survey Plan for endorsement by Council, prior to the issue of the Survey Plan Approval Certificate.

6.0 ELECTRICITY

- 6.1 Electricity services must be provided to each lot in accordance with the standards and requirements of the relevant service provider.

7.0 TELECOMMUNICATIONS

- 7.1 Telecommunications services must be provided to each lot in accordance with the standards and requirements of the relevant service provider. Unless otherwise stipulated by telecommunications legislation at the time of installation, this includes all necessary pits, pipes and conduits that provide a connection to the telecommunications network.

8.0 ASSET MANAGEMENT

- 8.1 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.
- 8.2 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.

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. Asbestos Removal

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

NOTE 3. General Environmental Duty

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

NOTE 4. General Safety Of Public During Construction

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

NOTE 5. Infrastructure Charges Notice

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

PART B – MATERIAL CHANGE OF USE

1.0 ADMINISTRATION

1.1 The owner, the owner’s successors in title, and any occupier of the premises 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 certificate of compliance for any operational works required by this development approval:

1.3.1 to Council’s satisfaction;

1.3.2 at no cost to Council; and

1.3.3 prior to the commencement of the use,
unless otherwise stated.

1.4 Infrastructure requirements of this development approval must be contributed to the relevant authorities, where applicable, at no cost to Council, prior to the commencement of the use, unless otherwise stated.

1.5 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:

1.5.1 Operational Works:

1.5.2 Access and Parking Works;

(i) Sewerage Works;

(ii) Stormwater Works;

(iii) Roof and Allotment Drainage;

(iv) Site Works; and

(v) Advertising device.

- 1.5.3 Plumbing and Drainage Works; and
- 1.5.4 Building Works.
- (i) Demolition Works; and
- (ii) Building Works.
- 1.6 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 1.7 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.
- 1.8 All engineering drawings/specifications, design and construction works must be in accordance with the requirements of the relevant Australian Standards and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.
- 1.9 All development conditions contained in this development approval about infrastructure under Chapter 4 of the *Planning Act 2016* should be read as being non-trunk infrastructure conditioned under section 145 of the *Planning Act 2016*, unless otherwise stated.
- 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>
Existing Site Plan	Verve Building Design Co	30 May 2023	22065-DA01	A
Overall Site Plan	Verve Building Design Co	1 November 2023	22065-DA02	B
Development Site Plan	Verve Building Design Co	1 November 2023	22065-DA03	B
Floor Plan	Verve Building Design Co	30 May 2023	22065-DA04	A
Landscape Concept Plan	Agla	29 May 2023	1	C
Proposed Planting Schedule	Agla	29 May 2023	2	C
Proposed Planting Schedule	Agla	29 May 2023	3	C
Building Elevations & Perspectives	Verve Building Design Co	30 May 2023	22065-DA05	A
Building Elevations & Perspectives	Verve Building Design Co	30 May 2023	22065-DA06	A
Engineering Report & Stormwater Management Plan	vT Consulting Engineers	9 August 2023	22368-P100	C
Vehicle Manoeuvring Internal B-Double Swept Path Analysis	TTM Consulting Pty Ltd	31 May 2023	22BRT0852-02	A

Vehicle Manoeuvring Internal Bowser Access and Queuing	TTM Consulting Pty Ltd	31 May 2023	22BRT0852-03	A
Vehicle Manoeuvring Internal A-Double Swept Path Analysis	TTM Consulting Pty Ltd	10 August 2023	22BRT0852-04	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 A Development Permit for Operational Works (access and parking works) must be obtained prior to the commencement of any access and parking works on the development site.
- 3.2 All access and parking works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, *Australian Standard AS2890 "Parking facilities"* and the provisions of a Development Permit for Operational Works (access and parking works).
- 3.3 All car parking and access 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).
- 3.4 All vehicles must ingress and egress the development in a forward gear.
- 3.5 A minimum of 23 parking spaces including 19 car parking spaces (including at least one parking space accessible for people with disabilities) and four heavy vehicle parking spaces 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 Any application for a Development Permit for Operational Works (access and parking works) must be accompanied by detailed and scaled plans, which demonstrate the turning movements/swept paths of the largest vehicle to access the development site including refuse collection vehicles.
- 3.9 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".
- 3.10 Road signage and pavement markings must be installed in accordance with Australian Standard AS1742.1 "Manual of uniform traffic control devices".
- 3.11 All vehicle operation areas must be illuminated in accordance with the requirements of Australian Standard AS1158 "Lighting for roads and public spaces".
- 3.12 All internal pedestrian pathways must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*.
- 3.13 Bicycle parking facilities must be provided in accordance with SC6.4 — Bicycle network planning scheme policy. The bicycle parking facilities must be located at basement or ground floor level and encourage casual surveillance.
- 3.14 End-of-trip facilities must be provided in accordance with the *Queensland Development Code, Mandatory Part 4.1 "Sustainable buildings, End of trip facilities"*.

4.0 SEWERAGE WORKS

- 4.1 A Development Permit for Operational Works (sewerage works) must be obtained prior to the commencement of any sewerage works on the development site.
- 4.2 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).

- 4.3 The development must be connected to Council's reticulated sewerage network.
- 4.4 Diversion of the existing 150 millimetre diameter Gravity Sewer Main within proposed Lot 1 must be constructed in accordance with the approved plans (refer to condition 2.1). This non-trunk infrastructure is conditioned under section 145 of the Planning Act 2016. The redundant sewer main is to be removed.
- 4.5 A new sewerage connection point for Lot 5 on SP108697 must be provided at the proposed new manhole on the eastern side of Lot 1. Internal sanitary drainage for Lot 5 is to be reconnected to the new connection point.
- 4.6 A new sewerage connection point must be provided for proposed Lot 1.
- 4.7 Any redundant sewerage connection point(s) must be disconnected.
- 4.8 The finished sewerage access chamber surface must be at a sufficient level to avoid ponding of stormwater above the top of the chamber. A heavy duty trafficable lid must be provided in the trafficable area.
- 4.9 Sewer connections located within trafficable areas must be raised or lowered to suit the finished surface levels and must be provided with heavy duty trafficable lids.
- 4.10 Amended sewerage/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 PLUMBING AND DRAINAGE WORKS

- 5.1 A Development Permit for Plumbing and Drainage Works must be obtained prior to the construction of new structures on the development site.
- 5.2 All internal plumbing and drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act 2008, Plumbing and Drainage Act 2018*, Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.
- 5.3 The development must be connected to Council's reticulated water network.
- 5.4 Adequate domestic and firefighting protection must be provided to the development and must be certified by a hydraulic engineer or other suitably qualified person.
- 5.5 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.
- 5.6 Alteration, disconnection or relocation of internal plumbing and sanitary drainage works associated with the existing building must be in accordance with regulated work under the *Plumbing and Drainage Act 2018* and Council's Plumbing and Drainage Policies.

6.0 STORMWATER WORKS

- 6.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works required by this development approval.
- 6.2 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).
- 6.3 All stormwater discharge must be lawful 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.
- 6.4 The development must not increase peak stormwater runoff for a selected range of storm events up to and including a one per cent (1%) Annual exceedance probability storm event, for the post-development conditions.
- 6.5 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).

- 6.6 Any application for a Development Permit for Operational Works (stormwater works) must be accompanied by engineering plans with details of any new drainage systems including retention systems, inlet and outlet structures, or the amendment and upgrading of existing drainage systems to implement the proposed drainage strategy.
- 6.7 Proposed drainage channels must be able to accommodate the one per cent (1%) Annual exceedance probability flood event plus have appropriate freeboard in accordance with the Queensland Urban Drainage Manual (QUDM).
- 7.0 ROOF AND ALLOTMENT DRAINAGE WORKS
- 7.1 A Development Permit for Operational Works (roof and allotment drainage works) must be obtained prior to the commencement of any drainage works on the development site.
- 7.2 All roof and allotment drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), Queensland Urban Drainage Manual, Capricorn Municipal Development Guidelines, sound engineering practice and the provisions of a Development Permit for Operational Works (roof and allotment drainage works).
- 7.3 All roof and allotment runoff from the development must be directed to a lawful point of discharge and must not restrict, impair or change the natural flow of runoff water or cause a nuisance to surrounding land or infrastructure in comparison to the pre-development conditions.
- 8.0 SITE WORKS
- 8.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works on the development site.
- 8.2 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks plan that clearly identifies the following:
- 8.2.1 the location of cut and/or fill;
 - 8.2.2 the type of fill to be used and the manner in which it is to be compacted;
 - 8.2.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;
 - 8.2.4 details of any proposed access routes that are intended to be used to transport fill to or from the development site; and
 - 8.2.5 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.
- 8.3 All earthworks must be undertaken in accordance with Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments".
- 8.4 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.
- 8.5 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).
- 8.6 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.
- 8.7 All site works must be undertaken to ensure that there is:
- 8.7.1 no increase in upstream or downstream flood levels for all levels of immunity up to a one per cent (1%) Annual exceedance probability flood event;
 - 8.7.2 no increase in velocity profiles, for which no remedy exists to prevent erosion and/or scouring. In the event that modelling shows non-compliance with the above, works must be undertaken within the system to satisfy the above criteria for development; and
 - 8.7.3 a lawful point of discharge to which the approved works drain during construction phase.
- Easements will be required over any other land to accommodate the flows.
- 9.0 BUILDING WORKS

- 9.1 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.
- 9.2 A Development Permit for Building Works must be obtained for the removal and/or demolition of any existing structure on the development site.
- 9.3 All external elements, such as air conditioners and associated equipment, must be adequately screened from public view to Council's satisfaction.
- 9.4 Access to and use of the land the subject of this application must comply with the provisions of the Anti-Discrimination Act 1991. If this statute requires the provision of access or facilities in a way that is inconsistent with this development approval, those facilities must be provided.
- 9.5 Impervious paved waste storage area/s must be provided in accordance with the approved plans (refer to condition 2.1) and the Environmental Protection Regulation 2019 and must be:
- 9.5.1 designed and located so as not to cause a nuisance to neighbouring properties;
 - 9.5.2 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;
 - 9.5.3 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;
 - 9.5.4 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.

- 9.6 The design of the western wall for the proposed retail building must be modified to achieve one of the following outcomes:
- (a) The western wall must be articulated so it does not exceed a length of fifteen (15) metres without a change in plane of at least 0.75 metre depth;
 - (b) The western wall painted with at least two colours, each of which covers at least ten (10) per cent of total exterior wall area; or
 - (c) The western wall must be covered with at least two (2) different types of cladding material, each of which covers at least ten (10) per cent of total exterior wall area.

10.0 LANDSCAPING WORKS

- 10.1 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).
- 10.2 Landscaping must be designed in accordance with the requirements of *Australian Standard AS 1428 — Design for access and mobility*.
- 10.3 Planting types used within the landscaping areas (refer to condition 2.1) must include either trees, shrubs or groundcovers, or any combination of these planting types. These plantings must be established and maintained generally at the following density rates:
- 10.3.1 trees at five (5) metre intervals;
 - 10.3.2 shrubs at two (2) metre intervals; and
 - 10.3.3 groundcovers at one (1) metre intervals.
- 10.4 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:
- 10.4.1 Plant species are chosen from sources recommended in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*; and
 - 10.4.2 Plant species must not include undesirable species identified in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*.
- 10.5 Shade trees must comply with the following requirements:
- 10.5.1 Be planted clear of services and utilities;

- 10.5.2 Be planted clear of park furniture and embellishments;
- 10.5.3 Not obstruct pedestrian or bicycle traffic; and
- 10.5.4 Comply with crime prevention through environmental design principles.
- 10.6 Shade trees within car parking areas are to be provided and planted within a deep natural ground/structured soil garden bed/island/bay and are protected by wheel stops or bollards as required.
- 10.7 Shade trees shown on the Concept Plan (refer to condition 2.1) must be retained and maintained.
- 10.8 Each shade tree must have a clean trunk with a minimum height of two (2) metres and must be provided within the car park (except for heavy vehicles) at the following rates:
 - 10.8.1 In single sided, angle or parallel bays – One (1) tree per three (3) car parks; and
 - 10.8.2 In double sided, angle or parallel bays – One (1) tree per six (6) car parks.
 - 10.8.3 Each shade tree is provided with a minimum planting area of 1.2 square metres with a minimum topsoil depth of 0.8 metres.
- 10.9 Root control barriers must be installed where invasive roots may cause damage to car parking areas, pedestrian paths and road carriageways.
- 10.10 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.
- 10.11 Landscaping, or any part thereof, upon reaching full maturity, must not:
 - 10.11.1 obstruct sight visibility zones as defined in the Austroads 'Guide to Traffic Engineering Practice' series of publications;
 - 10.11.2 adversely affect any road lighting or public space lighting; or
 - 10.11.3 adversely affect any Council infrastructure, or public utility plant.
- 10.12 The approved landscape plans must be augmented with additional planting located between and around the buildings. The additional planting must be designed to specifically reduce the perceived scale of the buildings and must include advanced plant stock, to create an immediate effect.
- 10.13 The landscaped areas must be subject to:
 - 10.13.1 a watering and maintenance plan during the establishment moment; and
 - 10.13.2 an ongoing maintenance and replanting programme.
- 11.0 ELECTRICITY
- 11.1 Electricity services must be provided to the development in accordance with the standards and requirements of the relevant service provider.
- 12.0 TELECOMMUNICATIONS
- 12.1 Telecommunications services must be provided to the development in accordance with the standards and requirements of the relevant service provider. Unless otherwise stipulated by telecommunications legislation at the time of installation, this includes all necessary pits, pipes and conduits that provide a connection to the telecommunications network.
- 13.0 ASSET MANAGEMENT
- 13.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be undertaken and completed at no cost to Council.
- 13.2 Any damage to existing stormwater, water supply and sewerage infrastructure, kerb and channel, pathway or roadway (including removal of concrete slurry from public land and Council infrastructure), that occurs while any works are being carried out in association with this development approval must be repaired at full cost to the developer. This includes the reinstatement of any existing traffic signs or pavement markings that may have been removed or damaged.
- 13.3 'As Constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the commencement of the use. This information must be provided in accordance with the Asset Design and As Constructed Manual (ADAC).

14.0 ENVIRONMENTAL

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

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

for the construction and post-construction phases of work.

14.2 The Erosion and Sediment Control Plan prepared by a Registered Professional Engineer of Queensland in accordance with the *Capricorn Municipal Design Guidelines*, must be:

14.2.1 implemented, monitored and maintained for the duration of the development works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped); and

14.2.2 available on-site for inspection by Council Officers whilst all works are being carried out.

15.0 ENVIRONMENTAL AND PUBLIC HEALTH

15.1 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the development site and shielded so as not to cause glare or other nuisance to nearby residents and motorists. Night lighting must be designed, constructed and operated in accordance with Australian Standard AS4282 "Control of the obtrusive effects of outdoor lighting".

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

15.3 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.

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

15.5 Plant and equipment must be maintained in proper working order at all times, in accordance with the manufacturer's directions to ensure the efficiency of the equipment.

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

15.6.1 fire at the premises; and

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

15.7 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 reticulated sewerage network in accordance with a trade waste permit.

15.8 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 per cent (25%) of the total storage capacity.

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

- 15.9.1 a bin with a tight-fitting lid, partially filled with non-combustible absorbent material such as vermiculite;
 - 15.9.2 a broom, shovel, face shield, chemically-resistant boots and gloves; and
 - 15.9.3 waste bags and ties.
 - 15.10 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.
 - 15.11 All fuel dispensing areas must be drained to the approved Stormwater Treatment Device (SPEL Puraceptor P.040.C1.2C or an approved equivalent product). Contaminants within the stormwater treatment device must be removed and disposed of as regulated waste. Water that has passed through the treatment device may be deposited in the stormwater system.
- Advisory Note:** A minor change application will be required to the Material Change of Use if the approved Stormwater Treatment Device changes at the Operational Works stage.
- 15.12 The proposed Stormwater Treatment Device must be maintained to the manufacturer's instruction.
 - 15.13 A Manufacturers Maintenance Instruction Manual must be located on site at all times for inspection by Council officers.
 - 15.14 All proprietary stormwater quality treatment devices must be routinely checked, serviced and cleaned in accordance with the manufacturer's recommendations. Records of all maintenance activities undertaken must be kept and made available to Council upon request. Where replacement cartridges or other necessary components for the system become unavailable, an alternative system approved by Council, is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. All maintenance of the proprietary stormwater quality treatment devices must be the responsibility of the property owner.
 - 15.15 All traceable regulated waste must be removed from the premises by a licensed regulated waste transporter.
 - 15.16 Where regulated waste is removed from the premises, records must be maintained for a period of five (5) years, and include the following:
 - 15.16.1 the date, quantity and type of waste removed;
 - 15.16.2 a copy of any licensed waste transport vehicle dockets;
 - 15.16.3 the name of the licensed regulated waste removalist and/or disposal operator; and
 - 15.16.4 the intended treatment and/or disposal destination of the waste.
 - 15.17 These records must be available for inspection by Council when requested.
- 16.0 OPERATING PROCEDURES
- 16.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the development site.
 - 16.2 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:
 - 16.2.1 the area is kept in a clean and tidy condition;
 - 16.2.2 fences and screens are maintained;
 - 16.2.3 no waste material is stored external to the waste storage area/s;
 - 16.2.4 contaminants/washdown does not discharge into water courses, drainage lines or onto adjoining properties; and
 - 16.2.5 the area is maintained in accordance with Environmental Protection Regulation 2019.
 - 16.3 Commercial waste bins must be provided on-site within the 'Bin' store area shown on the approved plans and be collected by a private contractor. No kerbside collection or collection within the road reserve is permitted.

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. Asbestos Removal

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

NOTE 3. General Environmental Duty

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

NOTE 4. Licensable Activities

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

NOTE 5. Duty to Notify of Environmental Harm

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

NOTE 6. 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 7. Infrastructure Charges Notice

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

NOTE 8. Rating Category

Please note, a Material Change of Use approval may result in an adjustment to a property’s rating category. Please contact Council’s Rates Department should you require further information.

NOTE 9. Advertising Devices

A Development Application for Operational Works (Advertising device/s) must be submitted for approval by Council for the proposed signage if required under the Council Planning Scheme.



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

Table 2 Appeals to the P&E Court only			
1. Appeals from tribunal An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of— (a) an error or mistake in law on the part of the tribunal; or (b) jurisdictional error.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A party to the proceedings for the decision	The other party to the proceedings for the decision	-	-

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

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



ATTACHMENTS (for office use only)

APPROVED PLANS AND OR REFERRAL AGENCY CONDITIONS

APPROVED PLANS



D75-2023 -
Approved Plans.pdf

REFERRAL AGENCY CONDITIONS



D75-2023 - Referral
Agency Conditions.pdf