



# 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/121-2023	Contact:	Lana Groves
Notice Date:	20 December 2023	Contact Number:	07 4936 8099

## APPLICANT DETAILS

Name:	Big Dog Support Services Pty Ltd		
Postal address:	C/- Gideon Town Planning PO BOX 450 ROCKHAMPTON CITY QLD 4700		
Phone no:	07 4806 6959	Email:	info@gideontownplanning.com.au

I acknowledge receipt of the above application on 6 September 2023 and confirm the following:

## DEVELOPMENT APPROVAL

**Development Permit for Material Change of Use for a Community Care Centre**

## PROPERTY DESCRIPTION

Street address:	103-109 High Street, Berserker
Real property description:	Lot 1 on SP172935, Parish of Archer

### Dear Big Dog Support Services

I advise that, on 12 December 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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval	<input checked="" type="checkbox"/>	<input type="checkbox"/>
- Material change of use		

## 2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

## 3. FURTHER DEVELOPMENT PERMITS REQUIRED

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

Type of development permit required	Subject of the required development permit
Operational Works	<i>Road Works</i> <i>Access and Parking Works</i>
Plumbing and Drainage Works	

**4. REFERRAL AGENCIES**

**NIL**

**5. THE APPROVED PLANS**

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

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version / Issue</u>
Proposed Site Plan	Design + Architecture	11 October 2023	SK-002 / GG-L	3

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

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.

**7. STATEMENT OF REASONS**

<b>Description of the development</b>
Material Change of Use for Community Care Centre
<b>Reasons for Decision</b>
<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>
<b>Assessment Benchmarks</b>
<p>The development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> <li>• Local Government Infrastructure Plan;</li> <li>• Low Density Residential Zone Code;</li> <li>• Access, Parking and Transport Code;</li> <li>• Landscape Code;</li> <li>• Stormwater Management Code;</li> <li>• Waste Management Code;</li> <li>• Water and Sewer Code; and</li> <li>• Airport Environs Overlay Code.</li> </ul>
<b>Compliance with assessment benchmarks</b>
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 Density Residential Zone Code	<p><b>PO16</b></p> <p>The proposed development does not wholly comply with Performance Outcome (PO) 16 (e), which outlines that the use provides a convenience function and does not compromise the role and function of existing centres.</p> <p>The proposed community centre does not provide a convenience function to service the local neighbourhood. The development will provide a service to the wider community, specifically, support services for persons with disabilities, which will not compromise the role of existing town centres.</p> <p>Therefore, it is considered that the proposed development achieves the purpose of the Residential Zone, as the proposed development will not detract from the role and function of existing centres.</p>
	<p><b>PO17</b></p> <p>The proposed development does not wholly comply with Acceptable Outcome (AO) 17.1, which stipulates that development for a non-residential use is located only on a road classified minor urban collector or higher, and access to the development is not from an urban access road or rural access road.</p> <p>Access provided to the proposed on-site carparking, and the pick-up and drop-off point will be via Eldon Street, identified as an urban access street.</p> <p>Despite the non-compliance, access to the on-site carparking from Eldon Street will provide primarily for the 10 -12 staff members that are employed by the Community Care Facility. It is anticipated that the pick-up and drop-off point will be used for the 10-15 visitors proposed via the centre's courtesy bus.</p> <p>On this basis, the proposed development is considered to comply with Performance Outcome (PO) 17 as the capacity of Eldon Street to accommodate for the level of traffic generated by the development is sufficient, with the development not anticipated to place any more significant demands on the road network than generated by the previous development over the site.</p>
Access, Parking and Transport Code	<p><b>PO1</b></p> <p>The proposed development does not wholly comply with Acceptable Outcome (AO) 1.1 (a), which requires that access driveways are not located within twenty-five metres of a signalised road intersection.</p> <p>The access driveway to the designated pick-up and drop-off zone is located approximately thirteen (13) metres from the signalised intersection of Eldon Street and High Street.</p> <p>The non-compliance with AO1.1 (a) can be justified as the proposed development will only marginally increase the traffic generated from the proposed development based on the expected staff and visitor numbers and is not anticipated to generate traffic beyond the capacity of the road.</p> <p>On this basis, the proposed development is taken to comply with Performance Outcome (PO) 1 as the adjoining street systems have the capacity to accommodate for the additional traffic, based on the anticipated volume, frequency and types of vehicle traffic generated by the development.</p>
	<p><b>PO7</b></p> <p>The proposed development does not wholly comply with Performance Outcome (PO) 7 as the site has more than (1) road frontage and will gain access from the lower order road of Eldon Street and introduce traffic to the street, which is in the residential zone.</p>

	<p>The proposed development is consistent with the purpose of the zone as it is anticipated that the development will not generate traffic that is beyond the capacity of the road network, or likely to generate more traffic than the previous use, ensuring that parking and access facilities provided are sufficient to meet the demand likely to be generated by the development.</p> <p><b>PO12</b></p> <p>The proposed development does not comply with Acceptable Outcome (AO) 12.2, which requires that a road or street does not connect with another road or street that is more than two (2) levels higher or lower in the road hierarchy. Eldon Street is an urban access street, connecting to the urban sub-arterial road of High Street, which is three (3) levels higher in the road hierarchy.</p> <p>Despite the conflict with Acceptable Outcome (AO) 12.2, the proposed development is for the provision of disability services to the wider community and will be restricted to clients, staff and visitors using or working within the facility. While no traffic generation rate is currently available for a Community Centre Use, it has been determined that High Street can still accommodate for an increase in traffic of thirty-five percent.</p> <p>On this basis, the proposed development is taken to comply with Performance Outcome (PO) 12 as it is considered that the proposed Community Care Centre is located on a road that is considered appropriate for the nature of traffic generated by the development.</p> <p><b>PO14</b></p> <p>The proposed development does not comply with Acceptable Outcome (AO) 14.2 as direct property access is gained to the sub-arterial road of High Street.</p> <p>The non-compliance can be justified as the most recent traffic data demonstrates that High Street has the capacity to accommodate for a thirty five percent (35) increase to current traffic, equating to an additional 3469 traffic movements per day.</p> <p>Therefore, the proposed development is considered to comply with Performance Outcome (PO) 14 as it is anticipated that the development will have a negligible increase to the traffic rates and will not create any further impacts on the safety, operation, or function of the road network system.</p>
Landscape Code	<p><b>PO1</b></p> <p>The development does not comply with Acceptable Outcome (AO) 1.1 as no landscaping is proposed.</p> <p>The proposed development will be operating on a previously developed commercial site and will preserve the established gardens along the southern property boundary adjoining High Street, and the western property boundary adjoining Eldon Street. The established landscaping provides a pleasant visual scape, softening the built form when viewed from the street, and complements the existing building.</p> <p>On this basis, the proposed development is considered to comply with Performance Outcome (PO) 1.</p> <p><b>PO2</b></p> <p>The proposed development does not comply with Performance Outcome (PO) 2, as no shade tree planting is proposed, and no acceptable outcome is nominated.</p> <p>As the proposed development is utilising an existing developed commercial site and maintaining existing landscaping, it is not considered necessary for shade trees to be provided. Further to this, there are existing landscaped areas adjoining the building which provide a mature landscape, while shade trees have been conditioned in the car parking area.</p> <p>On this basis, the proposed development is taken to comply with the purpose of</p>

	<p>the landscape code as significant on-site vegetation in retained, enhancing the character of the urban area.</p> <p><b>PO3</b></p> <p>The proposed development does not comply with Acceptable Outcome (AO) 3.1 to 3.4 as no landscaping is proposed and no assessment has been provided regarding the on-site stormwater harvesting.</p> <p>Despite the non-compliance, there is a nominal increase in the impervious area to the site resulting from the proposed carparking, with all existing landscaping on-site to be retained.</p> <p>Therefore, the non-compliance is considered to be a low-level conflict as the proposed development still permits the efficient development of the land for its intended purposes.</p> <p><b>PO6</b></p> <p>The proposed development does not comply with Acceptable Outcome (AO) 6.1 to 6.5 and 6.7 as the applicant has not proposed any landscaping or provided a landscape concept plan.</p> <p>Despite the non-compliance, the proposed development is occupying an existing commercial site that will be utilising and preserving the established gardens along the north-western property boundary adjoining Eldon Street; the southern property boundary adjoining High Street; and the southwest corner of the site, at the junction of Eldon Street and High Street.</p> <p>The established landscaping is considered to compliment the proposed community care building and provides a pleasant visual scape, softening the built form of the building when viewed from Eldon and High Streets. Further to this, the non-compliances are considered to be low-level conflicts. On this basis, the proposed development is considered to comply with the Performance Outcome (PO) 6.</p>
<b>Matters prescribed by regulation</b>	
<ul style="list-style-type: none"> <li>• The <i>Rockhampton Region Planning Scheme 2015</i> (version 4.4); and</li> <li>• The common material, being the material submitted with the application.</li> </ul>	

## 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: Brendan Standen  
**ACTING COORDINATOR**  
**DEVELOPMENT ASSESSMENT**

Signature:



Date: 20 December 2023

### Attachment 1 – Conditions of the approval

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

### Attachment 2—Extract on appeal rights

## Attachment 1 – Part 1

### Rockhampton Regional Council Conditions

*Planning Act 2016*

#### 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:
    - (i) Road Works;
    - (ii) Access and Parking Works; and
  - 1.5.2 Plumbing and Drainage Works (if required).
- 1.6 All Development Permits for Operational Works and Plumbing and Drainage Works (if required) 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>
Proposed Site Plan	Design + Architecture	11 October 2023	SK-002 / GG-L	3

- 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 ROAD WORKS

- 3.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any road works on for the development site.
- 3.2 All road works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, relevant *Australian Standards* and the provisions of a Development Permit for Operational Works (road works).
- 3.3 A concrete pathway, with a minimum width of two (2) metres, must be constructed on the northern side of High Street for the full frontage of the development site.

### 4.0 ACCESS AND PARKING WORKS

- 4.1 A Development Permit for Operational Works (access and parking works) must be obtained prior to the commencement of any access and parking works on the development site.
- 4.2 All access and parking works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, *Australian Standard AS2890 "Parking facilities"* and the provisions of a Development Permit for Operational Works (access and parking works).
- 4.3 All access, car parking and vehicle manoeuvring areas must be concrete paved or sealed to Council's satisfaction.
- 4.4 Any redundant vehicular crossovers must be replaced by Council standard kerb and channel.
- 4.5 All vehicles must ingress and egress the development in a forward gear.
- 4.6 A minimum of twenty-three (23) parking spaces must be provided on-site. This includes one (1) universal access parking space.
- 4.7 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"*.
- 4.8 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).
- 4.9 All internal pedestrian pathways must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*.

### 5.0 PLUMBING AND DRAINAGE WORKS

- 5.1 A Development Permit for Plumbing and Drainage Works must be obtained for the removal and/or demolition of any existing structure on the development site.
- 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 remain connected to Council's reticulated sewerage and water networks.
- 5.4 The existing sewerage and water connection point(s) must be retained, and upgraded if necessary, to service the development.
- 5.5 Adequate domestic and fire-fighting protection must be provided to the development, and must be certified by an hydraulic engineer or other suitably qualified person.
- 5.6 Sewer connections 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.
- 5.7 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.
- 5.8 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.
- 5.9 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.



## 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.
- 6.2 All stormwater runoff (roof, allotment and proposed car parking area) 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 an actionable nuisance or worsening to surrounding land or infrastructure.

## 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.

## 8.0 BUILDING WORKS

- 8.1 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:

- 8.1.1 designed and located so as not to cause a nuisance to neighbouring properties;
- 8.1.2 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;
- 8.1.3 of a sufficient size to accommodate residential bins and clearances around the bins for manoeuvring and cleaning;

Note: should the residential type bins not be adequate for the development; commercial type bins must be required and must be serviced by a commercial contractor.

- 8.1.4 setback a minimum of two (2) metres from any road frontage; and
- 8.1.5 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*.

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

- 8.2 A solid 1.8 metre high screen fence is to be provided along all side and rear property boundaries.

## 9.0 ELECTRICITY

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

## 10.0 TELECOMMUNICATIONS

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

## 11.0 ASSET MANAGEMENT

- 11.1 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.
- 11.2 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.

## 12.0 ENVIRONMENTAL

- 12.1 An Erosion Control and Stormwater Control Management Plan prepared and certified by suitably qualified person (Certified Professional in Erosion and Sediment Control or a Registered Professional Engineer of Queensland) in accordance with the *State Planning Policy 2017* and *Capricorn Municipal Design Guidelines* requirements, must be:
  - 12.1.1 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
  - 12.1.2 available on-site for inspection by Council Officers whilst all works are being carried out.
- 13.0 OPERATING PROCEDURES
- 13.1 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 Hight Street or Eldon Street.
- 13.2 The hours of operations for the Community Care Centre use must be limited to:
  - (i) 0700 hours to 2200 hours.
- 13.3 All waste storage areas must be:
  - 13.3.1 kept in a clean and tidy condition; and
  - 13.3.2 maintained in accordance with *Environmental Protection Regulation 2019*.
- 14.0 LANDSCAPING
- 13.4 Shade trees within the car parking area 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.
- 13.5 Each shade tree(s) has/have a clean trunk with a minimum height of two (2) metres and must be provided within the car park at the following rates:
  - 13.5.1 One (1) tree per three (3) car parks; and
  - 13.5.2 Each shade tree is provided with a minimum planting area of 1.2 square metres with a minimum topsoil depth of 0.8 metres.
- 13.6 Shade trees must be retained and maintained.
- 13.7 Root control barriers must be installed where invasive roots may cause damage to car parking areas, pedestrian paths and road carriageways.
- 13.8 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.
- 13.9 Shade trees must comply with the following requirements:
  - 13.9.1 Be planted clear of services and utilities;
  - 13.9.2 Be planted clear of park furniture and embellishments;
  - 13.9.3 Not obstruct pedestrian or bicycle traffic; and
  - 13.9.4 Comply with crime prevention through environmental design principles.
- 13.10 Landscaping, or any part thereof, upon reaching full maturity, must not:
  - 13.10.1 Obstruct sight visibility zones as defined in the Austroads 'Guide to Traffic Engineering Practice' series of publications;
  - 13.10.2 Adversely affect any road lighting or public space lighting; or adversely affect any Council infrastructure, or public utility plant
- 13.11 A landscaping buffer must be provided with a minimum planting area of one (1) metre in width for the full length of the common side and rear property boundaries between the carpark and the adjoining residential lots, and consist of:
  - 13.11.1 A minimum of two (2) shade or rounded canopy trees for every five (5) linear metres or part thereof of the length of the landscape buffer;
  - 13.11.2 A minimum of two (2) shrubs for every three (3) linear metres or part thereof of the length of the landscaped buffer;

## 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](http://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.

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

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

<b>Table 1</b> <b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
<b>4. Infrastructure charges notices</b> 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"> <li>The incorrect application of gross floor area for a non-residential development</li> <li>Applying an incorrect ‘use category’, under a regulation, to the development <ul style="list-style-type: none"> <li>(i) The working out of extra demands, for section 120; or</li> <li>(ii) An offset or refund; or</li> </ul> </li> </ul> 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	-	-
<b>5. Conversion applications</b> 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	-	-
<b>6. Enforcement notices</b> 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

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

<b>Table 2</b> <b>Appeals to the P&amp;E Court only</b>			
<b>2. Eligible submitter appeals</b> An appeal may be made against the decision to give a development approval, or an approval for a change application, to the extent that the decision relates to— (a) any part of the development application for the development approval that required impact assessment; or (b) a variation request.			
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
<b>3. Eligible submitter and eligible advice agency appeals</b> An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to— (a) any part of the development application or the change application, for the development approval, that required impact assessment; or (b) a variation request.			
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
<b>4. Compensation claims</b> An appeal may be made against— (a) a decision under section 32 about a compensation claim; or (b) a decision under section 265 about a claim for compensation; or (c) a deemed refusal of a claim under paragraph (a) or (b).			
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	-	-
<b>5. Registered premises</b>			



<b>Table 2</b> <b>Appeals to the P&amp;E Court only</b>			
An appeal may be made against a decision of the Minister under chapter 7, part 4.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 A person given a decision notice about the decision 2 If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the affected area for the registered premises who is dissatisfied with the decision	The Minister	-	If an owner or occupier starts the appeal – the owner of the registered premises
<b>6. Local laws</b> An appeal may be made against a decision of a local government, or conditions applied, under a local law about— (a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or (b) the erection of a building or other structure.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who— (a) applied for the decision; and (b) is dissatisfied with the decision or conditions.	The local government	-	-

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

<b>Table 3</b> <b>Appeals to the tribunal only</b>			
A person who received, or was entitled to receive, notice of the decision	The person who made the decision	-	-
<b>4. Local government failure to decide application under the Building Act</b> 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	-	-