



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/123-2023	Contact:	Kathy McDonald
Notice Date:	15 December 2023	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	Amplitel Pty Ltd		
Postal address:	C/- Ben McDonnell PO BOX 430 TOOWONG QLD 4068		
Mobile no:	0409 152 657	Email:	Ben.mcdonnell@bmmgroup.com.au

I acknowledge receipt of the above application on 14 September 2023 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Material Change of Use for Telecommunications Facility

PROPERTY DESCRIPTION

Street address:	45-49 George Street, Rockhampton City
Real property description:	Lot 8 on RP801164, Parish of Rockhampton

Dear Amplitel Pty Ltd,

I advise that, on **11 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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use	<input checked="" type="checkbox"/>	<input type="checkbox"/>

2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

3. FURTHER DEVELOPMENT PERMITS REQUIRED

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

Type of development permit required	Subject of the required development permit
Operational Works	Road Works Access Works
Building Works	

4. SUBMISSIONS

Properly made submissions **were** ☐/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 (State Transport Corridors and Future State Transport Corridors)			
<i>Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 – Material change of use of premises near a State transport corridor or that is a future State transport corridor</i>			
Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorising instrument, if all or part of the premises— (a) are within 25m of a State transport corridor; or (b) are a future State transport corridor; or (c) are— (i) adjacent to a road that intersects with a State-controlled road; and (ii) within 100m of the intersection	The chief executive of the department in which the <i>Planning Act 2016</i> is administered: State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department)	Concurrence	<u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City <u>Online lodgement using MyDAS2:</u> https://prod2.dev-assess.qld.gov.au/suite/ <u>Email:</u> RockhamptonSARA@dSDLGP.qld.gov.au <u>Postal:</u> PO Box 113 Rockhampton Qld 4700

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>
Site Access & Locality Plan	BMM Group	31 August 2023	QLD006151-S1	2
Site Layout	BMM Group	31 August 2023	QLD006151-S1-1	2
South East Elevation	BMM Group	31 August 2023	QLD006151-S3	2

7. 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.

8. STATEMENT OF REASONS

Description of the development	
Material Change of Use for Telecommunications Facility	
Reasons for Decision	
<p>a) Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity; and</p> <p>b) On balance, the application should be approved because the circumstances favour Council exercising its discretion to approve the application even though the development does not comply with an aspect of the assessment benchmarks.</p>	
Assessment Benchmarks	
<p>The development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> • Local Government Infrastructure Plan; • Strategic Framework; • Specialised Centre Zone Code; • Telecommunications Facilities and Utilities Code; • Airport Environs Overlay Code; • Access, Parking and Transport Code; • Landscape Code; • Stormwater Management Code; • Waste Management Code; and • Water and Sewer Code. 	
Compliance with assessment benchmarks	
<p>The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exceptions listed below.</p>	
Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
Specialised Centre Zone Code	<p>Performance Outcome (PO) 2</p> <p>The proposed development conflicts with Acceptable Outcome (AO) 2.1 as the proposed height of the telecommunications facility is 26.3 metres above ground level, which exceeds the maximum height limit of three (3) storeys and twelve (12) metres for the zone.</p> <p>Despite the height of the proposed development exceeding the height limit by 14.3 metres, it is unlikely to adversely impact on the urban form for the following reasons:</p> <ul style="list-style-type: none"> • The tower is not expected to cause significant overshadowing or overlooking of residential areas. The monopole design is relatively narrow (compared to a normal building typically contemplated in a centre zone) and any overshadowing at a single property is likely to be brief; • In the context of existing vertical infrastructure in the area (Browne Park Lights – approximately 32 metres above ground level) the tower

	<p>is less than/or of a similar height and scale; and</p> <ul style="list-style-type: none"> • Telecommunication towers are integral parts of a community's infrastructure network and are now a normal part of an urban landscape. <p>Notwithstanding, it is acknowledged the tower will be visually prominent and therefore conflicts with aspects of PO2. In the instance any conflicts are identified with PO2, regard to relevant matters relating to a planning need are considered to outweigh those conflicts.</p> <p>Performance Outcome (PO) 5</p> <p>The proposed development conflicts with Acceptable Outcome (AO) 5.1 because a 1.5 metre wide landscape strip along the site's full frontage cannot be achieved.</p> <p>The sites frontage is encumbered by a section of the Bruce Highway (State Controlled Road), a safety fence and two (2) pedestrian pathways that provide access from George Street to Albert Street.</p> <p>These encumbrances would generally be located within a road reserve., Approximately 100 square metres is to be used as a road reserve. Meaning by default no land use located on the subject site would be capable of achieving AO5.1.</p> <p>Despite this, the proposal will include a three (3)metre wide landscape strip surrounding the tower's entire compound lease area (excluding access) to soften the visual impacts of the proposed facility at ground level and to those walking or driving past.</p> <p>This outcome is considered to achieve the overarching Performance Outcome (PO) 5.</p> <p>Performance Outcome (PO) 26</p> <p>The proposed development conflicts with Performance Outcome (PO) 26 as no street trees are proposed along the street frontage and no acceptable outcome is nominated. Reference is made to the response to PO5, which identifies a portion of the site's frontage functions as road reserve.</p> <p>As the subject site is located on a corner lot, for road safety and sighting, no structures are to be located within a nine (9) metre x nine (9) metre truncation at the corner of the two (2) road frontages. This would also apply to street trees. Meaning by default no land use located on the subject site would be capable of achieving PO26.</p> <p>In the instance any conflicts are identified with PO26, regard to relevant matters relating to a planning need are considered to outweigh those conflicts.</p> <p>Performance Outcome (PO) 27</p> <p>The proposed development conflicts with Performance Outcome (PO) 27 as no landscaping is proposed on the street frontage and no acceptable outcome is nominated. Reference is made to the response to PO5.</p>
<p>Telecommunications Facilities and Utilities Code</p>	<p>Performance Outcome (PO) 2</p> <p>The proposed development conflicts with Acceptable Outcome (AO) 2.1 as the tower will be a freestanding structure (that is, not attached to a building) and the height will exceed the height limit prescribed by the Airport Environs Overlay, being 20 metres.</p> <p>The proposed development has been designed and sited to minimise its visual impact on the surrounding area as much as practical, while still being able to provide a suitable level of service. Specifically:</p>

	<ul style="list-style-type: none"> • The tower has been sited in a centre zone, within proximity to existing vertical infrastructure of a similar height and scale; and • Will be finished with neutral, low contrast colours. <p>Notwithstanding, it is acknowledged the tower will be visually prominent and therefore conflicts with aspects of PO2. In the instance any conflicts are identified with PO2, regard to relevant matters relating to a planning need are considered to outweigh those conflicts.</p> <hr/> <p>Performance Outcome (PO) 4</p> <p>The proposed development conflicts with Acceptable Outcome (AO) 4.1 as the tower's location on the subject site is unable to achieve the minimum property boundary setback of 15 metres where the height of the structure is between twenty (20) metres and thirty (30) metres.</p> <p>The width of the property is approximately 20 metres and therefore is not wide enough to achieve the setback requirements set out in AO4.1. The compound area for the tower is proposed to be located approximately 27 metres from George Street (front boundary), 12 metres from Campbell Lane (rear boundary), 11 metres from Albert Street (left side boundary/second front boundary) and 5.5 metres from the adjoining vacant lot (right side boundary).</p> <p>The proposed setbacks are considered a reasonable outcome to provide separation from the neighbouring property and road reserve frontages given the dimensions of the lot. The three (3) metre wide landscaping will ensure the development is less visually obtrusive at ground level and to those walking or driving past.</p> <p>Notwithstanding, given the height of the structure it will be prominent from neighbouring properties and road frontages. In the instance any conflicts are identified with PO4, regard to relevant matters relating to a planning need are considered to outweigh those conflicts.</p> <hr/> <p>Performance Outcome (PO) 7</p> <p>The proposed development conflicts with Acceptable Outcome (AO) 7.1 as it does not achieve the minimum 150 metre setback from a dual occupancy, dwelling house or multiple dwelling. The nearest detached dwelling to the proposed facility is approximately 10 metres to the south fronting George Street and 50 metres to the east fronting Campbell Street.</p> <p>The telecommunications facility will be visible from existing residential premises and other sensitive receiving environments, as identified by non-compliance with other assessment benchmarks.</p> <p>Despite the above, the proposal is considered to comply with PO7. It is not anticipated to adversely impact on the health or safety of nearby residents. As part of the development application the Applicant submitted an Environmental EME Report, which provides a summary of levels of radiofrequency (RF) EME. RF EME levels were calculated using methodology developed by the Australian Radiation Protection and Nuclear Safety Agency (ARPANSA). The maximum EME level calculated for the proposed development at this location is 9.69% out of 100% of the public exposure limit that is deemed safe.</p> <hr/> <p>Performance Outcome (PO) 11</p> <p>The proposed development conflicts with Acceptable Outcome (AO) 11.1 as a 2.4 metre high security fence is proposed around the compound rather than a 1.5 metre high fence along all boundaries of land identified for the telecommunication use.</p> <p>As identified in the response to PO5 and PO26 of the Specialised Centre Zone Code, the property's frontage is used as road reserve. Therefore, the</p>
--	--

	<p>development is unable to achieve the requirement set out in AO11.1.</p> <p>Despite this, the proposed 2.4 metre high-security fence around the compound lease area will prevent unauthorised access to the facility. Access will be gained via a gate from Campbell Lane for ease of maintenance and landscaping around the perimeter of the fenced area will ensure the amenity and characteristics of the surrounding area is not adversely affected.</p> <p>Therefore, the development is considered to achieve the overarching Performance Outcome (PO) 11.</p>
Airport Environs Overlay Code	<p>Performance Outcome (PO) 1</p> <p>The proposed development does not comply with Acceptable Outcome (AO) 1.1 as the development involves a structure penetrating the airports operational airspace as identified on Airport Environs Overlay Mapping (20 metres).</p> <p>Civil Aviation Safety Authority (CASA) were contacted for comments and have provided the following advice in relation to the development: -</p> <p><i>The data shows the Obstacle Limitation Surface (OLS) known as the Inner Horizontal Surface at 53.5 metres Australian Height Datum (AHD) for the Rockhampton Airport. The proposed structures height of 26.3 metres AHD will not penetrate any obstacle limitation surface for the aerodrome. As such, CASA have no objection to the proposal.</i></p> <p>Therefore, there no obstruction of operational airspace and the development is considered to achieve the overarching Performance Outcome (PO) 1.</p>
Relevant Matters	
<p>The proposed development was assessed against the following relevant matters:</p> <ul style="list-style-type: none"> • Telecommunication facilities are considered critical pieces of community infrastructure, similar to reticulated water and sewerage. • There is a growing demand and need for new telecommunications facilities as mobile usage continues to trend upward nationally. • Without new telecommunication facilities, similar to the one being proposed, users may experience difficulty connecting to the mobile network or experience call dropouts. • Improved coverage will benefit users within the area to access reliable telecommunications, which is critical in emergency situations such as extreme weather, bushfires, flooding or serious trauma incidents. 	
Matters raised in submissions	
<p>The proposal was the subject of public notification between 16 October and 6 November 2023, in accordance with the requirements of the <i>Planning Act 2016</i> and the Development Assessment Rules, and no submissions were received.</p>	
Matters prescribed by regulation	
<ul style="list-style-type: none"> • The <i>Rockhampton Region Planning Scheme 2015</i> (version 2.2); and • The common material, being the material submitted with the application. 	

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*.

Appeal by an eligible submitter

An eligible submitter for a development application may appeal to the Planning and Environment Court against the decision to approve the application, to the extent the decision relates to:

- any part of the development application that required impact assessment
- a variation request.

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: Brendan Standen <u>ACTNG COORDINATOR</u> <u>DEVELOPMENT ASSESSMENT</u>	Signature: 	Date: 15 December 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

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 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 Works;
 - 1.5.2 Building Works
- 1.6 All Development Permits for Operational 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>
Site Access & Locality Plan	BMM Group	31 August 2023	QLD006151-S1	2
Site Layout	BMM Group	31 August 2023	QLD006151-S1-1	2

South East Elevation	BMM Group	31 August 2023	QLD006151-S3	2
----------------------	-----------	----------------	--------------	---

- 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 required by this development approval.
- 3.2 All road works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, relevant *Australian Standards* and *Austroroads Guidelines* and the provisions of a Development Permit for Operational Works (road works).
- 3.3 Campbell Lane must be upgraded for the full frontage of the development site to match the existing construction to the north of the development site. Kerb and channel must be included.
- 3.4 A pre-construction dilapidation report regarding the condition of Campbell Lane from Cambridge Street to the end of the road, must be provided with any application for Operational Works for the subject development site. No works can commence on the development site until this report has been approved by Council.
- 3.5 Upon the completion of construction works, Council will undertake a post-construction dilapidation report regarding the condition of Campbell Lane. Any damage requiring repairs or reinstatement works must be undertaken and completed at no cost to Council.

4.0 ACCESS WORKS

- 4.1 A Development Permit for Operational Works (access works) must be obtained prior to the commencement of any access works on the development site.
- 4.2 All access 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 works).
- 4.3 A new access to the development must be provided from Campbell Lane.

5.0 SITE WORKS

- 5.1 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.

6.0 BUILDING WORKS

- 6.1 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.
- 6.2 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".
- 6.3 A minimum 2.4 metre high security fence must be erected around the compound lease area of the development.

7.0 LANDSCAPING WORKS

- 7.1 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).
- 7.2 A minimum three (3) metre wide landscaped buffer is provided around the compound lease area of the development (refer to condition 2.1).
- 7.3 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:
- 7.3.1 trees at five (5) metre intervals;
- 7.3.2 shrubs at two (2) metre intervals; and

- 7.3.3 groundcovers at one (1) metre intervals.
- 7.4 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:
 - 7.4.1 Plant species are chosen from sources recommended in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*; and
 - 7.4.2 Plant species must not include undesirable species identified in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*.
- 7.5 Landscaping, or any part thereof, upon reaching full maturity, must not:
 - 7.5.1 obstruct sight visibility zones as defined in the Austroads 'Guide to Traffic Engineering Practice' series of publications;
 - 7.5.2 adversely affect any road lighting or public space lighting; or
 - 7.5.3 adversely affect any Council infrastructure, or public utility plant.
- 7.6 The landscaped areas must be subject to:
 - 7.6.1 a watering and maintenance plan during the establishment moment; and
 - 7.6.2 an ongoing maintenance and replanting programme.
- 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.
- 9.0 ENVIRONMENTAL
- 9.1 An Erosion Control and Stormwater Control Management Plan prepared by a Registered Professional Engineer of Queensland in accordance with the Capricorn Municipal Design Guidelines, must be implemented, monitored and maintained for the duration of the development works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped). The plan must be available on-site for inspection by Council Officers whilst all works are being carried out.
- 10.0 OPERATING PROCEDURES
- 10.1 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 Campbell Lane.
- 10.2 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.
- 10.3 Where un-sealed surface treatments are utilised in access, parking and vehicle manoeuvring areas, contaminants such as oils or chemicals must not be released onto the surface treatment.
- 10.4 All surface treatments must be operated and maintained in a manner so that there is no significant impact as determined by Council on the amenity of adjoining premises or the surrounding area being caused due to the emission of dust or resulting in sediment laden water.
- 10.5 The owner of the land must ensure that:
 - 10.5.1 the area is kept in a clean and tidy condition;
 - 10.5.2 fences and screens are maintained;
 - 10.5.3 no waste material is stored external to the waste storage area/s;
 - 10.5.4 the area is maintained in accordance with *Environmental Protection Regulation 2019*.

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 1. 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 2. 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 2. Property Note (Access)

All vehicular access to and from the development must be via Campbell Lane only. Direct vehicular access to George Street is prohibited.

NOTE 3. Infrastructure Charges Notice

Council has resolved not to issue an Infrastructure Charges Notice for this development as the development is for a Minor Use and does not have access to Council's reticulated infrastructure services and will not result in an increased demand on Council's infrastructure networks.

NOTE 4. 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.



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	-	-