



Decision Notice Approval (negotiated)

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 s76 Planning Act 2016

Application number:	D/155-2025	Contact:	Sophie Muggeridge
Notice Date:	19 May 2026	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	North Queensland Hotel Investments Pty Ltd		
Postal address:	C/- Capricorn Survey Group PO BOX 1391 ROCKHAMPTON CITY QLD 4700		
Phone no:	07 4927 5199	Mobile no:	0407 581 850
Email:	reception@csgcq.com.au		

I acknowledge receipt of the above application on 8 October 2025 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Material Change of Use for a Hotel (ancillary carpark)

PROPERTY DESCRIPTION

Street address:	138 Denham Street, Allenstown and 146-148 West Street, Allenstown
Real property description:	Lot 100 on SP300289, Lot 3 on RP604831 and Lot 3 on RP600326

Dear North Queensland Hotel Investments Pty Ltd

I advise that, on **14 May 2026** 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.

CHANGES TO CONDITIONS

The conditions which have been changed or cancelled are as follows:

1)	Condition 8.6	Deleted	14 May 2026
2)	Condition 8.7	Deleted	14 May 2026
3)	Condition 10.1	Deleted	14 May 2026

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use	☒	☐

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> <i>Site Works</i> <i>Landscaping Works</i>
Building Works	<i>Demolition Works</i>

4. SUBMISSIONS

Properly made submissions **were** made in relation to the application.

There were 1 properly made submissions received from the following submitter(s);

Name of principal submitter	Residential or business address	Electronic address (if provided)
Ailsa McInnernessy	144 West Street, Allentown	N/A

5. REFERRAL AGENCIES - NIL

6. THE APPROVED PLANS

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

Plan / Document Name	Prepared by	Date	Reference No.	Version / Issue
West Street Carpark – Site Plan – Satellite Imagery	Redridge Engineering Group	August 2025	2502-W1	C
West Street Carpark – Site Plan – Layout Details	Redridge Engineering Group	August 2025	2502-W2	C
West Street Carpark – Vehicle Turning Paths	Redridge Engineering Group	August 2025	2502-W3	C
West Street Carpark – Pre-Construction ESC Plan	Redridge Engineering Group	August 2025	2502-W4	C
Existing Surface Contours 50mm interval	Redridge Engineering Group	-	-	-

Concept Stormwater Flow Paths – Finished Surface Contours 50mm interval	Redridge Engineering Group	-	-	-
Noise Impact Assessment Proposed Carpark	Alpha Acoustics	27 November 2025	1	-

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

The standard relevant periods stated in section 85 of *Planning Act 20016* apply to each aspect of development in this approval, if not stated in the conditions of approval attached.

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 Hotel (Ancillary carpark)	
Reasons for Decision	
a) Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity; and b) On balance, the application should be approved because the circumstances favour Council exercising its discretion to approve the application even though the development does not comply with an aspect of the assessment benchmarks.	
Assessment Benchmarks	
The development was assessed against the following assessment benchmarks: • Local Government Infrastructure Plan; • Strategic Framework; • Low Medium Density Residential Zone Code; • Access, Parking and Transport Code; • Landscape Code; • Stormwater Management Code; • Waste Management Code; and • Water and Sewer Code.	
Compliance with assessment benchmarks	
The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exceptions listed below.	
Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
Low Medium Density Residential Zone	6.2.2.2 Purpose (2), (c) The proposed development may conflict with the following Overall Outcomes of the Low Medium Density Residential Zone Code Purpose:

	(c) non-residential uses only occur within the zone where they: (i) do not compromise the residential character and existing amenity of the surrounding area; (ii) are small-scale and consistent with the surrounding urban form; (iii) primarily function to service the needs of the immediate local residential community; (iv) do not detract from the role and function of centres; (v) do not result in the expansion of a centre zone; and (vi) have direct access to higher order roads (minor urban collector or higher) This proposed hotel extension (ancillary carpark) is located on West Street which is a lower order road (Urban access street) and the hotel may service the wider community. Despite this, the proposed development can comply with the remaining Overall Outcomes (i), (ii), (iv) and (v) for a non-residential development because: • The ancillary carpark is appropriately designed with suitable mitigation measures to ensure amenity in the surrounding area is maintained. This includes mature screen vegetation to be provided for the full extent of common boundaries shared with a residential land use. • The development has dual access to both West Street and Denham Street which is a higher order road that has sufficient capacity to safely accommodate traffic generated by the subject development. • The proposed carpark improves and increases the current onsite parking arrangements for the existing hotel development and reduces the number of on street parking spaces currently utilised by the development; and • The development does not result in the expansion of a centre zone as it is contained wholly within the Low Medium Density Residential Zone, with no changes to the onsite operations of the hotel as a result of the ancillary carpark. • The proposal does not detract from the role and function of a centre as there is no increase in the scale or intensity of the current business operations of the existing hotel. The proposed development can also comply with the overall outcomes of the Strategic Framework, specifically 3.3.10.1 Specific Outcomes (5) which states: 5. Development provides for land uses consistent with the zone outcomes, densities and urban form which supports walkable, self-contained communities that: a. provide choice of housing types and contributes to “affordable living” by including smaller and inexpensive options close to centres; b. reduce vehicle-based trip making and travel costs; c. provide access to employment, retail and commercial services, recreational opportunities and community facilities; and d. protect residential amenity commensurate with its location. The subject site is an established hotel that provides a local service, employment, economic and recreational services to the surrounding community. The additional on-site parking would reduce overflow parking in surrounding streets and therefore assist in maintaining residential amenity. Therefore, on balance the proposed development is considered to comply with the overall purpose of the zone and is not anticipated to compromise the Strategic Framework of the <i>Rockhampton Region Planning Scheme 2015</i>. Performance Outcome (PO) 13 The proposed development may conflict with PO 13 and no acceptable outcome is nominated.
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	PO 13 relates to Non-residential development located in the Low Medium Density Residential Zone. <i>Please refer to the response to the development's conflicts with Purpose (2), (c) above.</i> The development is considered to comply with PO 13 and on balance the overall purpose of the Low Medium Density Residential Zone Code.
	Performance Outcome (PO) 14 The proposed development does not comply in part with Acceptable Outcome (AO) 14.1 because one (1) of the proposed developments access points is located on an urban access street where AO14.1 requires access to a higher order road. Despite this, the developments alternative solution can achieve the requirements of PO 14, because: • Vehicles have the ability to manoeuvre through all vehicle parking facilities including available access from Denham Street, classified as a Major Urban Collector; and • The increase in vehicle parking spaces onsite will assist in removing on street parking, contributing to maintaining a functional road network and accommodating the level of traffic generated by the development. Therefore, the proposed development is taken to comply with PO 14.
	Performance Outcome (PO) 21 The proposed development does not comply with Acceptable Outcome (AO) 21.1 because the hours of operation for the site and associated parking spaces are between the hours of 10:00 to 24:00 where AO21.1 requires non residential land uses operate between the hours of 07:00 and 22:00. Despite this, the developments alternative solution can achieve the requirements of PO 21, because: • The additional carpark does not result in an increase in hours of operation for the existing hotel. • Mitigation noise measures have been conditioned that reflect the recommendations of the approved Noise Impact Assessment; and • Additional conditions have been imposed to ensure light, dust or odour does not become an environmental nuisance along with noise monitoring if noise complaints are received. It is considered that the development's design and Council imposed conditions apply preventative measures to significantly minimise amenity impacts to the surrounding area and nearby sensitive receptors. Therefore, the proposed development is taken to comply with PO 21.
	Performance Outcome (PO) 24 The proposed development does not comply with Acceptable Outcome (AO) 24.1 because 72 square metres of landscaping is proposed where AO24.1 requires a minimum landscaped area of 10 per cent of the total site area (109 square metres). Despite this, the development's alternative solution can achieve the requirements of PO 24, because: • Due to the small-scale nature of the car park, additional landscaping within parking areas is not considered practical as it would affect the safety and efficiency of access, parking and manoeuvring throughout the carpark; and • Sufficient landscaping has been proposed along the common property boundaries which assists in screening the development from adjoining

	residential land uses and creates an attractive environment that is consistent with the local character of the area. Therefore, the proposed development is taken to comply with PO 24.
Landscape Code	Performance Outcome (PO) 11 The proposed development does not comply with Acceptable Outcome (AO) 11.1 because no shade trees are proposed within the parking areas where AO11.1 requires shade trees to be located in parallel bays, one (1) tree per six (6) car parks. Despite this, the developments alternative solution can achieve the requirements of PO 11 because, the proposed carpark is considered small scale, with appropriate landscaping provided along all property boundaries that is consistent with that sought by the Acceptable Outcomes of the Landscape Code. The landscaping areas are anticipated to reduce the visual appearance of the development's car park and internal access areas. Therefore, the proposed development is taken to comply with PO 11.
Relevant Matters	
The proposed development was not assessed against any relevant matters outside of the matters prescribed by regulation.	
Matters raised in submissions	
The proposal was the subject of public notification between 22 January 2026 and 13 February 2026, in accordance with the requirements of the Planning Act 2016 and the Development Assessment Rules, and one submission was received.	
Submitter Concerns	Response
Privacy and Safety Submitter raised concerns regarding the privacy and personal safety of adjoining residential properties.	Conditions have been imposed for a 1.8 metre solid screen fence to be constructed along all property boundaries that adjoin a residential land use. This will assist in providing safety, security and privacy to the adjoining owners and reduce light nuisance. Additionally, the applicant has proposed one (1) metre wide landscaping buffer along all property boundaries adjoining a residential land use and this buffer has been conditioned to include screen planting with a minimum height of two (2) metres to further improve safety, security and privacy.
Matters prescribed by regulation	
• The Rockhampton Region Planning Scheme 2015 (version 5). • Central Queensland Regional Plan 2013. • Development Permit D/125-2017 – Material Change of Use for Hotel (Extension); and • The common material, being the material submitted with the application.	

9. HUMAN RIGHTS ACT

The relevant provisions of the *Human Rights Act 2019* have been considered as part of the decision making process for this development permit.

10. 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*. For particular applications, 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 down the applicant's appeal rights and the appeal rights of a submitter.

11. 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.

12. ASSESSMENT MANAGER

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

Signature:



Date: 19 May 2026

Attachment 1 – Conditions of the approval

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

Attachment 2—Extract on appeal rights

1.0 ADMINISTRATION

- 1.1 The 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 Compliance Certificate for any operational works required by this development approval:
 - 1.3.1 to Council's satisfaction;
 - 1.3.2 at no cost to Council; and
 - 1.3.3 prior to the commencement of the use,
unless otherwise stated.
 - 1.4 Infrastructure requirements of this development approval must be contributed to the relevant authorities, where applicable, at no cost to Council, prior to the commencement of the use, unless otherwise stated.
 - 1.5 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
 - 1.5.1 Operational Works:
 - (i) Road Works;
 - (ii) Access and Parking Works;
 - (iii) Site Works; and
 - (iv) Landscaping Works.
 - 1.5.2 Building Works:
 - (i) Demolition Works.
 - 1.6 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.
 - 1.7 All engineering drawings/specifications, design and construction works must be in accordance with the requirements of the relevant Australian Standards and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.
 - 1.8 Lot 3 on RP604831, Lot 3 on RP600326 and Lot 100 on SP300289 must be amalgamated and registered as one lot prior to the commencement of the use.
 - 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>
West Street Carpark – Site Plan – Satellite Imagery	Redridge Engineering Group	August 2025	2502-W1	C
West Street Carpark – Site Plan – Layout Details	Redridge Engineering Group	August 2025	2502-W2	C
West Street Carpark – Vehicle Turning Paths	Redridge Engineering Group	August 2025	2502-W3	C
West Street Carpark – Pre- Construction ESC Plan	Redridge Engineering Group	August 2025	2502-W4	C
Existing Surface Contours 50mm interval	Redridge Engineering Group	-	-	-
Concept Stormwater Flow Paths – Finished Surface Contours 50mm interval	Redridge Engineering Group	-	-	-
Noise Impact Assessment Proposed Carpark	Alpha Acoustics	27 November 2025	1	-

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

3.3 Existing refuge island at West Street must be re-configured to suit the new access driveway for the proposed development.

3.4 Two (2) new on-street car parking spaces must be provided in accordance with the approved plans (refer to condition 2.1) and lined marked as per *Capricorn Municipal Development Guidelines* standards.

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

4.4 The existing access to Lot 3 on RP604831 must be closed. Any redundant vehicular crossovers must be replaced by Council standard kerb and channel.

- 4.5 The existing access from West Street to the development (Lot 3 on RP600326) must be upgraded to comply with the requirements of the *Capricorn Municipal Development Guidelines*.
- 4.6 All vehicles must ingress and egress the development in a forward gear.
- 4.7 Adequate sight distances must be provided for all ingress and egress movements at the access driveways in accordance with *Australian Standard AS2890.2 "Parking facilities - Off street commercial vehicle facilities"*.
- 4.8 Accessible parking spaces must be provided on-site where required by the National Construction Code and designed in accordance with *Australian Standard AS2890.6 "Parking facilities - Off-street parking for people with disabilities"*.
- 4.9 Parking spaces must be line-marked generally 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).
- 4.10 Any application for a Development Permit for Operational Works (access and parking works) must be accompanied by detailed and scaled plans, which demonstrate the turning movements/swept paths of the largest vehicle to access the development site.
- 4.11 All vehicle operations associated with the development must be directed by suitable directional, informative, regulatory or warning signs in accordance with *Australian Standard AS1742.1 "Manual of uniform traffic control devices"* and *Australian Standard AS2890.1 "Parking facilities – Off-street car parking"*.
- 4.12 Road signage and pavement markings must be installed in accordance with *Australian Standard AS1742.1 "Manual of uniform traffic control devices"*.
- 4.13 All vehicle operation areas must be illuminated in accordance with the requirements of *Australian Standard AS1158 "Lighting for roads and public spaces"*.
- 4.14 All internal pedestrian pathways must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*.
- 4.15 No more than one (1) pedestrian linkage must be provided along the West Street frontage from the carparking facility to the external pedestrian pathway.
- 5.0 STORMWATER WORKS
- 5.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works required by this development approval.
- 5.2 All stormwater drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1) subject to ensuring compliance and any alterations required by the *Environmental Protection Act 1992*, *Queensland Urban Drainage Manual*, *Capricorn Municipal Development Guidelines*, sound engineering practice and the provisions of a Development Permit for Operational Works (stormwater works).
- 5.3 All stormwater must drain to a demonstrated lawful point of discharge and must not adversely affect surrounding land or infrastructure in comparison to the pre-development conditions, including but not limited to blocking, altering or diverting existing stormwater runoff patterns or having the potential to cause damage to other infrastructure.
- 6.0 SITE WORKS
- 6.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works on the development site.
- 6.2 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks plan that clearly identifies the following:
- 6.2.1 the location of cut and/or fill;
 - 6.2.2 the type of fill to be used and the manner in which it is to be compacted;
 - 6.2.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;
 - 6.2.4 details of any proposed access routes that are intended to be used to transport fill to or from the development site; and
 - 6.2.5 the maintenance of access roads to and from the development site so that they are free of all cut and/or fill material and cleaned as necessary.

- 6.3 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to surrounding land or infrastructure.

7.0 BUILDING WORKS

- 7.1 The existing dwellings on the subject land must be demolished and a Development Permit for Building Works (demolition) must be obtained prior to the commencement of any demolition works on the development site.

Note: The existing water service connections and sewerage service connections for Lot 3 on RP604831 and Lot 3 on RP600326 must be removed under a private works quote.

- 7.2 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"*.

8.0 INTERNAL LANDSCAPING WORKS

- 8.1 Internal 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).

- 8.2 Landscaping must be provided with a minimum planting area of one (1) metre in width for the full length of all common property boundaries that adjoin a residential land use.

- 8.3 Mature screen vegetation must be provided within the landscaping areas (refer to condition 8.2) for the full extent of the common boundaries that adjoin a residential land use. Plant species used must achieve a minimum height of 2.5 metres within two (2) years of planting.

- 8.4 Large trees must not be planted within one (1) metre of the centreline of any sewerage and/or water infrastructure; small shrubs and groundcover are acceptable.

- 8.5 Landscaping must be designed in accordance with the requirements of *Australian Standard AS 1428 — Design for access and mobility*.

- 8.6 DELETED

- 8.7 DELETED

- 8.8 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:

8.8.1 Plant species are chosen from sources recommended in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*; and

8.8.2 Plant species must not include undesirable species identified in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*.

- 8.9 The landscaped areas must be subject to:

8.9.1 a watering and maintenance plan during the establishment moment; and

8.9.2 an ongoing maintenance and replanting programme.

9.0 EXTERNAL LANDSCAPING WORKS

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

- 9.2 A Landscaping Planting Plan must be submitted with the first application for a Development Permit for Operational Works. External 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), the plan must include, but is not limited to, the following:

9.2.1 a plant schedule with the botanic and common names, total plant numbers and pot sizes at the time of planting.

Note: The removal of two (2) Royal Palms for the new crossover are approved at the cost of the developer.

Note: The proposed landscaping shown in the road reserve verge is not approved.

- 9.3 Two (2) street trees must be provided within the centre refuge islands at 125 West Street and 127 West Street (Lot 2 and 3 on RP602535).

- 9.4 The street trees required by condition 9.3 must be the following species and planted between one (1) and 1.2 metres from the edge of the kerb:
- 9.4.1 Xanthostemon chrysanthus - Golden penda of 45 litre bag size – 125 West Street (Lot 2 on RP602535)
 - 9.4.2 Tabebuia palmeri – Pink trumpet tree of 45 litre bag size – 127 West Street (Lot 3 on RP602535)
- 9.5 Landscaping, or any part thereof, upon reaching full maturity, must not:
- 9.5.1 obstruct sight visibility zones as defined in the Austroads 'Guide to Traffic Engineering Practice' series of publications;
 - 9.5.2 adversely affect any road lighting or public space lighting; or
 - 9.5.3 adversely affect any Council infrastructure, or public utility plant.
- 9.6 Street trees must be maintained by the owner / developer until established and subject to:
- 9.6.1 a watering and maintenance plan during the establishment moment; and
 - 9.6.2 an ongoing maintenance and replanting programme.
- Note: Street trees become the property of Council. Council reserves all rights to trim or remove street trees as per our requirements and in accordance with the current Street Tree Policy.
- 10.0 STREET LIGHTING
- 10.1 DELETED
- 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.
- 11.3 'As Constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the commencement of the use. This information must be provided in accordance with the *Asset Design and As Constructed Manual (ADAC)*.
- 12.0 ENVIRONMENTAL HEALTH
- 12.1 Noise emitted from the activity must not cause an environmental nuisance.
- 12.2 Operations on the site must have no significant impact on the amenity of adjoining premises or the surrounding area due to the emission of light, noise or dust.
- 12.3 When requested by Council, nuisance monitoring must be undertaken and recorded within three (3) months, to investigate any genuine complaint of nuisance caused by noise, light or dust. An analysis of the monitoring data and a report, including nuisance mitigation measures, must be provided to Council within fourteen (14) days of the completion of the investigation. Council will require any noise mitigation measures identified in the assessment to be implemented within appropriate timeframes. Noise measurements must be compared with the acoustic quality objectives specified in the most recent edition of the *Environmental Protection (Noise) Policy 2019*.
- 12.4 The development must be undertaken in accordance with the recommendations of section 7 of the approved Noise Impact Assessment Report (refer to condition 2.1).
- 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 West Street.

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 Women, Aboriginal and Torres Strait Islander Partnerships and Multiculturalism website <https://www.dwatsipm.qld.gov.au/>

NOTE 2. Asbestos Removal

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

NOTE 3. General Environmental Duty

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

NOTE 4. General Safety of Public During Construction

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

NOTE 5. Rating Category

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

NOTE 6. Infrastructure Charges Notice

Council has resolved not to issue an Infrastructure Charges Notice for this development because the new infrastructure charges arising from the development are less than or equal to the credits applicable for the new development.

NOTE 7. Landscaping

Council approval must be obtained prior to the removal of or interference with street trees located on Council land.

NOTE 8. Advertising Devices

Any Advertising device associated with or attached to the development must be carried out in accordance with Council’s Planning Scheme.

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 agency's referral response—the concurrence agency	1 A concurrence agency that is not a co-respondent 2 If a chosen Assessment manager is the respondent—

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
			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
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 – - The incorrect application of gross floor area for a non-residential development - Applying an incorrect 'use category', under a regulation, to the development (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)

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

Table 2 Appeals to the P&E Court only			
the change 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 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

Table 2 Appeals to the P&E Court only			
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)
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	-	-