



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/173-2024	Contact:	Kathy McDonald
Notice Date:	5 January 2026	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	Melissa Amy O'Brien		
Postal address:	C/- GSPC PO BOX 379 GRACEMERE QLD 4702		
Phone no:	07 4927 5199	Mobile no:	0407 581 850
Email:	admin@gspc.com.au		

I acknowledge receipt of the above application on 22 November 2024 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Material Change of Use for a Dwelling House

PROPERTY DESCRIPTION

Street address:	3A Pilbeam Drive, Frenchville
Real property description:	Lot 3 on RP608120

Dear Melissa Amy O'Brien
I advise that, on 19 December 2025 the above development application was:
<input checked="" type="checkbox"/> 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 2.1	changed	19 December 2025
2)	Condition 6.6	changed	19 December 2025

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use	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

4. SUBMISSIONS

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

There were 3 properly made submissions received from the following submitter(s);

Name of principal submitter	Residential or business address	Electronic address (if provided)
1. Casey Green	449-451 Frenchville Road, Frenchville	Casey.Green@aurizon.com.au
2. Michaela Green	449-451 Frenchville Road, Frenchville	Casey.Green@aurizon.com.au
3. Gerard Cullinane	453 Frenchville Road, Frenchville	gstar1898@gmail.com

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:

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/ Issue</u>
Site Plan	Designtek	11 July 2025	A-01	2
Floor Plan	Designtek	19 November 2024	A-02	-
Elevations	Designtek	19 November 2024	A-04	-
Detail and Level survey over Part of Lot 3 on RP608120	GSPC	4 June 2025	251373-01 Sheet 1 of 2	-
Access Bridge (Locality Plan)	Tapsell Consulting Engineers Pty Ltd	10 May 2025	0824-98 sheet 1 of 2	A
Access Bridge (Section 20 & 21)	Tapsell Consulting Engineers Pty Ltd	10 May 2025	0824-98 sheet 2 of 2	A
Flood Hazard Assessment	Dileigh Consulting	30 May 2025	D25.66_Ltr01	1
Site Classification	CQ Soil Test	4 April 2024	CQ25076	A

Wastewater Design	CQ Soil Test	29 August 2024	CQ26219	A
Bushfire Hazard Assessment	MAX bushfire protection	21 May 2025	B5211	2.0
Ecological Assessment Report	T1 Ecology	8 June 2025	Lot 3 RP608120	0
Bushfire Technical Advice (Water Supply for Fire-fighting Purposes)	MAX bushfire protection	17 October 2025	B5211	-

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 a Dwelling House
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; • Environmental Management and Conservation Zone Code; • Access, Parking and Transport Code; • Landscape Code; • Stormwater Management Code; • Waste Management Code; • Water and Sewer Code; • Biodiversity Areas Overlay Code; • Bushfire Hazard Overlay Code; and • Flood Hazard Overlay 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
Strategic Framework	<p>3.3 Settlement Pattern</p> <p>3.3.1 Strategic Outcomes (1) and (18); and</p> <p>3.3.3 Element – Nature conservation, open space and natural corridor or link</p> <p>The proposed development conflicts with Strategic Outcomes (1) and (18) and the Specific Outcomes of Element - Nature conservation, open space and natural corridor or link designation because the development is for a Dwelling House which is considered to be urban development within the Environmental Management and Conservation Zone.</p> <p>Despite this, Specific Outcomes (3), (4) and (5) of the Element consider urban development when:</p> <ul style="list-style-type: none"> • It does not encroach into undeveloped natural places. • Is sensitive to adjoining natural features; and • The development does not intrude on the ecological or scenic values. <p>While the establishment of a Dwelling House is not consistent within these locations, the surrounding area to the north (Frenchville Road) of the subject site is located in the Urban Area designation where the proposed development will gain access to the subject site. The subject site is also bound by two (2) existing Dwelling Houses on either side and is not considered to be encroaching into an undeveloped place.</p> <p>The Ecological Assessment Report submitted for the subject site indicated that the majority of the site was cleared and the only remnant vegetation remaining was restricted to the creek on the northern boundary. Remnant vegetation was also discovered on the southern boundary on the steep slope between the lot and the road (Pilbeam Drive) but not on the subject site.</p> <p>The report also confirms that the Regional Ecosystem (RE) mapping as observed during the field inspection to be incorrect, and that the extent of remnant vegetation is less than what is mapped and the RE of the remnant vegetation is also incorrect. Furthermore, the report also confirms there were no <i>Cycas ophiolitica</i> located on the lot and the subject site does not meet the habitat requirements for the <i>Denisonia maculata</i> species and therefore no suitable habitat is present. Consequently, the lot does not contain any Matters of State Environmental Significance.</p> <p>Therefore, the proposed development is not anticipated to compromise the Strategic Framework of the <i>Rockhampton Region Planning Scheme 2015</i>.</p>
Environmental Management and Conservation Zone Code Purpose	<p>6.5.1.2 Purpose (2), (d)</p> <p>The proposed development conflicts with the following Overall Outcomes of the Environmental Management and Conservation Zone Code Purpose:</p> <p>(d) which states “the scenic values and landscape character of the Mount Archer National Park are protected from negative impacts of development”.</p> <p>The proposed Dwelling House is located in area considered to be the foothills of Mount Archer National Park.</p> <p>Despite this, the proposed development can comply with the purpose of the zone because overall outcome (b) also states:</p> <p>(b) areas within the zone remain undeveloped except for small-scale facilities that support conservation, small-scale rural living, low impact nature based recreational, or eco-tourism uses and essential infrastructure where they are:</p>

	<ul style="list-style-type: none"> i. compatible with maintaining environmental values; ii. located to avoid natural hazard constraints and do not expose property or people to an unacceptable level of risk; and iii. located to avoid visual impacts from public viewing places. <p>In response to the above, the Dwelling House maintains environmental values as stipulated in the Ecological Assessment Report. <i>Refer to response as part of Strategic Framework assessment above.</i></p> <p>The Dwelling House has been designed to avoid the natural hazard constraints of slope stability and bushfire protection as recommended in the Bushfire Assessment report and Site Classification report. The recommendations ensure the development does not result in an unacceptable risk to people and property; and</p> <p>The location of the proposed Dwelling House will not create any visual impacts from scenic public viewer places as it adjoins two (2) dwelling houses on either side and an established residential zone to the north. Further, there is a 25 metre dense road reserve to the south (Pilbeam Drive) that assists in providing a natural buffer.</p> <p>Therefore, the proposed development is taken to comply, on balance with the purpose of the Environmental Management and Conservation Zone Code.</p>
<p>Environmental Management and Conservation Zone Code</p>	<p>Performance Outcome (PO) 2</p> <p>The proposed development conflicts with Acceptable Outcome (AO) 2.1.2 (a) because the subject site is not five (5) hectares or above.</p> <p>Despite this, the development can achieve compliance with the overall requirements of PO 2, because:</p> <ul style="list-style-type: none"> • The subject lot size of 5,549 square metres is a sufficient land area to accommodate a residential use; • It is anticipated that the Development will not create unsustainable impacts on the natural values of the land as per the Ecological Assessment Report; • The location of the proposed Dwelling House will not create any visual impacts from scenic public viewer places as it adjoins an established residential zone to the north and has a 25 metre dense road reserve to the south (Pilbeam Drive); • The Dwelling House has been designed so that landscaping values are protected with minimal clearing. Slope stability and bushfire protection as recommended in the Bushfire Assessment report and Site Classification report will ensure the development does not result in an unacceptable risk to people and property; and • The Dwelling House can be practically accessed by a standard 2wd light vehicle via Frenchville Road, from a newly constructed access and bridge crossing with flood immunity and is able to connect to adequate infrastructure and services such as reticulated water, on-site sewer, electricity and telecommunication services. <p>Therefore, the proposed development is taken to comply, on balance with the Acceptable Outcomes and complies with the overall PO 2.</p>
<p>Bushfire Hazard Overlay Code</p>	<p>Performance Outcome (PO) 4</p> <p>The proposed development conflicts with Acceptable Outcome (AO) 4.1 because the Bushfire Hazard Assessment Report achieves a bushfire attack level of 29 rather than 12.5 as stipulated in AO4.1.</p> <p>The recommendations outlined within the report have been conditioned as part of the approval and ensures that the exposure of people and property to unacceptable bushfire hazard risks has not increased. The proposed development is appropriately designed and sited and meets all necessary requirements to</p>

	mitigate bushfire risk. It is considered that the development is compatible with the level of risk associated with the bushfire hazard and therefore, the proposed development is taken to comply with PO 4.
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 24 July 2025 and 15 August 2025, in accordance with the requirements of the Planning Act 2016 and the Development Assessment Rules, and three (3) properly made submissions were received.	
Submitter Concerns	Response
Access Submitters raised concerns regarding the access arrangements for the area and requested the proposed new bridge across Frenchman's Creek also facilitate the access for adjoining property at 470 Frenchville Road.	It is acknowledged that all submitters are in support of the proposed development. However, the adjoining property located at 470 Frenchville Road, Frenchville, described as Lot 5 on RP608120 is under separate ownership and not the subject of this application. Access arrangements in the form of an Access Easement on the subject site to benefit the adjoining landowner 470 Frenchville Road, Frenchville would need to be done separately and agreed upon and completed by the land owners via a Reconfiguring a Lot development application for an Access Easement.
Matters prescribed by regulation	
<ul style="list-style-type: none"> • The Rockhampton Region Planning Scheme 2015 (version 4.4). • Central Queensland Regional Plan 2013; 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*. 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.

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: Aidan Murray <u>ACTING PRINCIPAL PLANNING OFFICER</u>	Signature: 	Date: 5 January 2026
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Attachment 1 – Conditions of the approval

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

Attachment 2—Extract on appeal rights



Attachment 1 – Part 1 Rockhampton Regional Council Conditions

Planning Act 2016

1.0 ADMINISTRATION

- 1.1 The owner, the owner’s successors in title, and any occupier of the premises is responsible for ensuring compliance with the conditions of this development approval.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions, works, or requirements of this development approval must be undertaken, completed, and be accompanied by a 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 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
 - 1.4.1 Operational Works:
 - (i) Access Works;
 - 1.4.2 Plumbing and Drainage Works; and
 - 1.4.3 Building Works.
- 1.5 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 1.6 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 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 Plan	Designtek	11 July 2025	A-01	2
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Lot 3 on RP608120				
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Ecological Assessment Report	T1 Ecology	8 June 2025	Lot 3 RP608120	0
Bushfire Technical Advice (Water Supply for Fire-fighting Purposes)	MAX bushfire protection	17 October 2025	B5211	-

2.2 Where there is any conflict between the conditions of this development approval and the details shown on the approved plans and documents, the conditions of this development approval must prevail.

3.0 ACCESS WORKS

3.1 A Development Permit for Operational Works (access works) must be obtained prior to the commencement of any access works on the development site.

3.2 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).

3.3 Any application for a Development Permit for Operational Works (access works) must be accompanied by the Access Bridge crossing report over Frenchman's Creek, prepared and certified by a Registered Professional Engineer of Queensland that as a minimum includes:

3.3.1 The crossing over Frenchman's Creek must have immunity, during a one percent (1%) Annual Exceedance Probability defined flood event.

3.3.2 The design must take into consideration the possibility of blockage due to vegetation and other debris as well as any afflux created by the structure itself; and

3.3.3 No actionable nuisance or worsening to surrounding land or infrastructure.

Note: To ensure compliance with the above condition 3.3.3 it may be necessary to increase the span length of the bridge across Frenchman's Creek, and consequently decrease the works proposed within the inundation extents.

Note: The report must be accompanied by full calculations including electronic model files and results files from industry standard modelling software and all details of the modelling assumptions. Culvert crossing will not be supported.

3.4 All vehicular access to and from the development must be via Frenchville Road only. Direct vehicular access to Pilbeam Drive is prohibited.

3.5 The proposed access driveway must be designed and constructed in accordance with the approved Bushfire Management Plan (condition 2.1). The recommendations include:

3.5.1 Does not exceed an average gradient of 12.5%;

- 3.5.2 Turning areas for fire-fighting appliances are constructed in accordance with the *Queensland Fire and Emergency Services; Fire Hydrant and Vehicle Access Guidelines*;
- 3.5.3 Passing bays must be constructed/available that are 20 metre long by three (3) metres wide, with a minimum trafficable width of seven (7) meters at the passing bay. Turning intervals or passing bays must be located every 200 metres with a maximum grade of five (5) per cent;
- 3.5.4 Reversing bays for firefighting appliances must be constructed/available that are six (6) metres wide and 8.5 metres deep to any gates; and
- 3.5.5 The access driveway must be constructed as a compacted driveway to ensure all weather surfaces.

4.0 PLUMBING AND DRAINAGE WORKS

- 4.1 A Development Permit for Plumbing and Drainage Works must be obtained for the proposed dwelling structure on the development site.
- 4.2 All internal plumbing and drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act 2008, Plumbing and Drainage Act 2018*, Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.
- 4.3 Adequate domestic and firefighting protection must be provided to the development and must be certified by a hydraulic engineer or other suitably qualified person. Refer to Condition 6.6.

Note: The existing special water service connection has no provision for firefighting or guaranteed minimum supply flow or pressure.

- 4.4 On-site sewerage treatment and disposal must be provided in accordance with the *Queensland Plumbing and Wastewater Code* and Council's Plumbing and Drainage Policies and in accordance with the Wastewater Design Report (refer to condition 2.1). The on-site sewerage treatment and disposal area must not be located within the existing water course or conflict with the separation distance as detailed with the Queensland Plumbing and Wastewater Code.
- 4.5 All sanitary drainage works must comply with *Australian Plumbing and Drainage Standard AS3500 Part 2 section 3 and 4* for flood affected areas.

5.0 ROOF AND ALLOTMENT DRAINAGE 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 Structures must not be located within the on-site sewerage treatment and disposal area or conflict with the separation distances, in accordance with the Queensland Plumbing and Wastewater Code.
- 6.3 All retaining structures above one (1) metre in height must require a building approval. Structural engineering plans are to be prepared and endorsed by a Registered Professional Engineer of Queensland (Structural Engineer) for all structural components of the retaining wall.

Note: The proposed swimming pool must also be included into this building permit.

- 6.4 All footings associated with the dwelling structure must be designed in accordance with the recommendations of the approved Site Classification report (refer to condition 2.1). Any recommendations in the approved Bushfire Hazard report (refer to condition 2.1) must also be considered.
- 6.5 The Dwelling House must be constructed in accordance with *Australian Standard AS3959 "Construction of buildings in bushfire-prone areas"* and the approved Bushfire Hazard Assessment report (refer to condition 2.1). The following recommendations are:
 - 6.5.1 An asset protection zone must be designed and be established and managed;
 - 6.5.2 Construction of building to meet BAL-29 construction requirements of *AS3959:2018*;
 - 6.5.3 Provision of water and service to be in accordance with the requirements, refer to Condition 6.6; and

- 6.5.4 The location of the proposed dwelling maximizes the use of existing cleared and open space while minimizing the clearing of native vegetation and its impact on the environment.
- 6.6 On-site water supply for fire-fighting purposes must be provided and may include the provision of a swimming pool or water storage tanks or a combination of each. Water storage must be provided within ten (10) metres of the building or structure and may be located underground or above ground. The water storage must have:
- 6.6.1 a take-off connection from the building to the water storage which is at a level that provides on-site water storage of not less than 20,000 litres at any one time;
 - 6.6.2 a hardstand area allowing heavy rigid fire appliance access within six (6) metres of the water storage;
 - 6.6.3 above ground water storage must be constructed from non-combustible materials, such as steel or concrete; and
 - 6.6.4 fire brigade tank fittings consisting of:
 - 6.6.4.1 for above ground - fifty (50) millimetre ball valve and male camlock coupling; and
 - 6.6.4.2 for above ground water pipe fittings that are metal; or
 - 6.6.4.3 for underground, an access hole of 200-millimetre diameter (minimum) to allow access for suction lines.
- 6.7 The development must be undertaken in accordance with the recommendations in the approved Ecological Assessment Report (refer to condition 2.1).
- 7.0 SITE WORKS
- 7.1 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"* and undertaken in accordance with the recommendations of the approved Site Classification Report (refer to condition 2.1).
- 7.2 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to surrounding land or infrastructure.
- 8.0 ELECTRICITY
- 8.1 Electricity services must be provided to the development in accordance with the standards and requirements of the relevant service provider.
- 9.0 TELECOMMUNICATIONS
- 9.1 Telecommunications services must be provided to the development in accordance with the standards and requirements of the relevant service provider.
- 10.0 ASSET MANAGEMENT
- 10.1 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.
- 10.2 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.
- 11.0 OPERATING PROCEDURES
- 11.1 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 Frenchville Road

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.tatsipca.qld.gov.au>

NOTE 2. General Environmental Duty

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

NOTE 3. General Safety of Public During Construction

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

NOTE 4. Bushfire Prone Areas

Any future buildings in a bushfire prone area are required to be constructed in accordance with any bushfire management plan approved as part of this development permit and with AS3959 – *Construction of buildings in bushfire prone areas* and/or the National Association of Steel-Framed Housing Standard: Steel framed construction in bushfire areas. Regard should also be had to the *Bushfire Resilient Building Guide for Queensland Homes* published by the Queensland Government and CSIRO.

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 or interference with street trees located on council land.

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—the prescribed assessment

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

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	-	-
<p>5. Conversion applications</p> <p>An appeal may be made against—</p> <p>(a) the refusal of a conversion application; or</p> <p>(b) a deemed refusal of a conversion application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The local government to which the conversion application was made	-	-
<p>6. Enforcement notices</p> <p>An appeal may be made against the decision to give an enforcement notice.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the enforcement notice	The enforcement authority	-	If the enforcement authority is not the local government for the premises in relation to which the offence is alleged to have happened—the local government

Table 2 Appeals to the P&E Court only			
<p>1. Appeals from tribunal</p> <p>An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of—</p> <p>(a) an error or mistake in law on the part of the tribunal; or</p> <p>(b) jurisdictional error.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A party to the proceedings for the decision	The other party to the proceedings for the decision	-	-
<p>2. Eligible submitter appeals</p> <p>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—</p> <p>(a) any part of the development application for the development approval that required impact assessment; or</p> <p>(b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for	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			
<p>3. Eligible submitter and eligible advice agency appeals An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to— (a) any part of the development application or the change application, for the development approval, that required impact assessment; or (b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for the change application 3 An eligible advice agency for the development application or change application	1 For a development application—the assessment manager 2 For a change application—the responsible entity	1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application
<p>4. Compensation claims An appeal may be made against— (a) a decision under section 32 about a compensation claim; or (b) a decision under section 265 about a claim for compensation; or (c) a deemed refusal of a claim under paragraph (a) or (b).</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person dissatisfied with the decision	The local government to which the claim was made	-	-
<p>5. Registered premises An appeal may be made against a decision of the Minister under chapter 7, part 4.</p>			
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			
<p>6. Local laws</p> <p>An appeal may be made against a decision of a local government, or conditions applied, under a local law about—</p> <p>(a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or</p> <p>(b) the erection of a building or other structure.</p>			
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			
<p>1. Building advisory agency appeals</p> <p>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.</p>			
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
<p>3. Certain decisions under the Building Act and the Plumbing and Drainage Act</p> <p>An appeal may be made against a decision under—</p> <p>(a) the Building Act, other than a decision made by the Queensland Building and Construction Commission; or</p> <p>(b) the Plumbing and Drainage Act, part 4 or 5.</p>			
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	-	-
<p>4. Local government failure to decide application under the Building Act</p> <p>An appeal may be made against a local government's failure to decide an application under the Building Act within the period required under that Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who was entitled to receive, notice of the decision	The local government to which the application was made	-	-