



Decision Notice Approval (amended)

Planning Act Form 5 (version 1.1 effective 22 June 2018) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s83 and s86 Planning Act 2016, and Section 3.5.15 of the Integrated Planning Act 1997

Application number:	D/230-2009	Contact:	Kathy McDonald
Notice Date:	11 February 2020	Contact Number:	1300 22 55 77

APPLICANT DETAILS

Name:	Czislowski Holdings Pty Ltd		
Postal address:	C/- Capricorn Survey Group (CQ) Pty Ltd		
Phone no:	Mobile no:	Email:	

I acknowledge receipt of the above change application on 9 January 2020 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Reconfiguring a Lot (two lots into twenty-one lots)

PROPERTY DESCRIPTION

Street address:	119 Douglas Street, Gracemere
Real property description:	Lot 5 and Lot 6 on SP223829, Parish of Gracemere

OWNER DETAILS

Name:	Czislowski Holdings Pty Ltd
Postal address:	
Dear Czislowski Holdings Pty Ltd	
I advise that, on 5 February 2020 the above change 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)	Item 4	changed	18 April 2016
2)	Item 6	changed	18 April 2016
3)	Item 7	changed	5 February 2020
4)	Item 7	changed	18 April 2016
5)	Condition 1.1	changed	18 April 2016
6)	Condition 1.9	changed	18 April 2016

7)	Condition 1.9	changed	5 February 2020
8)	Condition 1.12	changed	18 April 2016
9)	Condition 1.12	changed	5 February 2020
10)	Condition 2.12	changed	18 April 2016
11)	Condition 3.1	changed	18 April 2016
12)	Condition 3.2	deleted	18 April 2016
13)	Condition 6.10	changed	18 April 2016
14)	Condition 6.14 (inclusive)	new	5 February 2020
15)	Condition 10.1	deleted	5 February 2020
16)	Condition 10.1	changed	18 April 2016
17)	Note 7	new	5 February 2020

1. DETAILS OF THE APPROVAL

	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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Reconfiguring a lot	<input checked="" type="checkbox"/>	<input type="checkbox"/>

2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

3. FURTHER DEVELOPMENT PERMITS REQUIRED

<i>Type of development permit required</i>	<i>Subject of the required development permit</i>
Operational Works	Road Works Sewerage Works Water Works Site Works Landscaping Works

4. SUBMISSIONS

Properly made submissions were received from:

1)	Paul Dilley, 100 Capricorn Street, Gracemere, Qld 4702
2)	Earl Chapman, Director of Business and Investment, Rescom Industrial Holdings Pty Ltd, PO Box 4957, Robina Town Centre, Qld 4230

5. REFERRAL AGENCIES

The following Referral Agencies were activated by this application.

	For an application involving	Name of agency	Status	Address
RECONFIGURING A LOT				
	On land <u>not</u> contiguous to a State-controlled road , for a purpose exceeding the	Department of Infrastructure, Local Government and	Concurrence	Department of Infrastructure, Local Government and Planning

	For an application involving	Name of agency	Status	Address
	thresholds set in schedule 5 of the <i>Integrated Planning Regulation 1998</i>	Planning (Previously known as Department of Transport and Main Roads)		Online: www.dilqp.qld.gov.au/MyDAS Postal: PO Box 113 Rockhampton Qld 4700

6. THE APPROVED PLANS

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

Plan/Document Name	Plan Number	Dated
Stage One Plan, Sheet 1 of 2	4663A-PRO Revision D	1 March 2016
Stages Three to Five Plan, Sheet 2 of 2	4663A-PRO Revision D	1 March 2016
Flood Study	R1039-06	27 November 2009

7. CURRENCY PERIOD FOR THE APPROVAL (s.87 of the Planning Act)

The relevant period for this Development Permit expires on 20 December 2024.

8. STATEMENT OF REASONS

Description of the development	The proposed development is for a Minor Change and Extension to the Currency Period to Development Permit D-R/230-2009 for Reconfiguring a lot (two lots into twenty-one lots)
Assessment Benchmarks	The proposed development was assessed against the following assessment benchmarks: <ul style="list-style-type: none"> • Low Impact Industry Zone Code; • Medium Impact Industry Zone Code; • Access, Parking and Transport Code; • Filling and Excavation Code; • Landscape Code; • Reconfiguring a Lot Code; • Stormwater Management Code; and • Water and Sewer Code.
Reasons for Decision	<p>a) The proposed change is considered minor and will not compromise the strategic framework in the Rockhampton Region Planning Scheme 2015;</p> <p>b) 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;</p> <p>c) The proposed development does not compromise the relevant State Planning Policy.</p>

9. RIGHTS OF APPEAL

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 a submitter

A submitter for a development application may appeal to the Planning and Environment Court against:

- any part of the development application for the development approval 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. ORIGINAL DECISION ASSESSMENT MANAGER

Name: Adriaan Stander SENIOR PLANNING OFFICER	Date: 31 August 2010
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12. ASSESSMENT MANAGER

Name: Amanda O'Mara ACTING COORDINATOR DEVELOPMENT ASSESSMENT	Signature:	Date: 11 February 2020
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C/C Department of State Development, Manufacturing, Infrastructure and Planning- RockhamptonSARA@dsdmip.qld.gov.au

Attachment 1 – Conditions of the approval

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

Part 2 – Conditions required by the referral agency response

Attachment 2—Extract on appeal rights

1.0 ADMINISTRATION

- 1.1 The approved use and development must be completed and maintained generally in accordance with the approved drawings and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan Number</u>	<u>Dated</u>
Stage One Plan, Sheet 1 of 2	4663A-PRO Revision D	1 March 2016
Stages Three to Five Plan, Sheet 2 of 2	4663A-PRO Revision D	1 March 2016
Flood Study	R1039-06	27 November 2009

- 1.2 Where there is any conflict between conditions of this decision notice and details shown on the approved plans, the conditions of approval must prevail.
- 1.3 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 of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.4 The Developer is responsible for ensuring compliance with this Approval and the Conditions of the Approval by an employee, agent, contractor or invitee of the Developer.
- 1.5 All conditions, works, or requirements of this approval must be undertaken and completed to the satisfaction of Council prior to the release of the Final Survey Plan for the respective stage.
- 1.6 The following further Development Permits are required prior to the commencement of any works on the site:
- 1.6.1 Operational Works:
- (i) Road Works;
 - (ii) Sewerage Works;
 - (iii) Water Works;
 - (iv) Site Works; and
 - (v) Landscaping.
- 1.7 All Development Permits for Operational Works must be obtained prior to the release of the Final Survey Plan, for the respective stage.
- 1.8 Any outstanding rates, charges or expenses levied by the Council over the subject land must be paid to the release of the Final Survey Plan.
- 1.9 This approval is for a development to be undertaken in four (4) discrete stages, namely:
- (i) Stage 1 consisting of two administrative allotments, being Lot 41 and Lot 42, plus drainage reserve (land to be dedicated to Council in trust for drainage purposes);
 - (ii) Deleted.
 - (iii) Stage 3 consisting of four allotments being Lots 12 to 15;
 - (iv) Stage 4 consisting of nine allotments being Lots 16 to 20 and Lots 28 to 31; and
 - (v) Stage 5 consisting of seven allotments being Lots 21 to 27.

in accordance with endorsed plans (refer to Condition 1.1). Stage 1, including the dedication of drainage reserve, (land to be dedicated to Council in trust for drainage purposes) must be undertaken prior to any other stage. Stage 3 must be completed prior to Stage 4 and Stage 5.

- 1.10 Unless otherwise expressly stated, the conditions must be read as being applicable to all stages
- 1.11 Any reference in these conditions to publications must be considered as the publication current as at the date of this approval, unless noted otherwise.
- 1.12 All the land dedicated as a major overland flow path (excluding road flow) must be capable of accommodating a one percent (1%) Annual Exceedance Probability defined flood / storm event. These lands must be transferred to Council ownership as a freehold title, at no cost to Council.

2.0 ROAD WORKS

- 2.1 A Development Permit for Operational Works (Road Works) must be obtained prior to the commencement of any works on the site.
- 2.2 All road works and associated stormwater drainage system works must be designed generally in accordance with Design Guidelines D1 (Geometric Road Design) and Design Guideline D5 (Stormwater Drainage Design), which form part of the Capricorn Municipal Development Guidelines, unless noted otherwise in these conditions.
- 2.3 The engineering design of all new roads and associated stormwater drainage systems, both internal and external to the site, submitted as part of any application for a Development Permit for Operational Works (Road Works) must be prepared and certified by a registered professional engineer.
- 2.4 All new roads shown on the approved plans (refer to condition 1.1), except the proposed cul-de-sac roads, must comply with all requirements for a road classification of 'Industrial Access' in accordance with the Capricorn Municipal Development Guidelines.
- 2.5 All new cul-de-sac roads shown on the approved plans (refer condition 1.1) must have a minimum width of twelve (12) metres and provide for turning of all vehicles up to a B-double vehicle (Austroads94, Class 10 vehicle) with all other requirements for a road classification of 'Industrial Access' in accordance with the Capricorn Municipal Development Guidelines. The design and construction of all terminating roads, including those constructed as part of any Stage of the development, must include a permanent turning area which complies with the performance and technical criteria as described earlier in this condition.
- 2.6 All new roads and intersections, and any modifications to existing roads or intersections, must be provided with road and public space lighting in accordance with Australian Standard AS1158.
- 2.7 All areas of any existing or proposed road reserve disturbed as a consequence of road works, or any other works, must be suitably shaped, topsoiled, turfed or hydromulched, or similarly treated, and maintained to the satisfaction of Council.
- 2.8 All intersections must be designed to handle and control a 1 in 100 year rainfall event so any overland flow paths and overland flows are not discharged directly into properties without the use of easements.

STAGE 1

- 2.9 A 1.2 metre wide footpath must be constructed along the full frontage of Capricorn Street and Middle Road. Details of the footpath must be submitted with the Operational Works application for Stage 1 and completed prior to the release of the Final Survey Plan for Stage 1.
- 2.10 Stage 1 of the development must entail Middle Road works, including road widening, associated kerb and channel, and drainage works constructed along the full frontage of the Public Use Land (drainage reserve) and Lot 41, prior to the release of the Final Survey Plan

for Stage 1. The final nominal width of Middle Road must be twelve (12) metres. The works are to provide alignment of the existing unnamed tributary, existing floodway and Public Use Land (drainage reserve) to ensure no worsening effects of flooding upstream of this section of Middle Road. Such works may necessitate replacement of the floodway at a higher level and / or additional piped drainage under the floodway.

- 2.11 The truncation on Lot 1 in Stage 1 must be approximately fourteen (14) metres along the chord or ten (10) metres along the boundaries.

STAGE 1

- 2.12 Stage 1 of the development must entail Middle Road and Capricorn Street works, including road widening, associated kerb and channel, intersection works, and drainage works constructed along the full frontage of the development on Middle Road and Capricorn Street prior to the release of the Final Survey Plan for Stage 1. These works must also include the construction of piped drainage, sufficient to take stormwater from the development under the existing floodway in Capricorn Street.

2.12.1 The developer must be responsible for the cost of all the piped drainage and road widening for the reconstruction of this floodway. Council must contribute to the cost of the necessary reconstruction of the existing Capricorn Street floodway, excluding piped drainage. The final width of Capricorn Street must be thirteen (13) metres as for a road classification of 'Industrial Access' in accordance with the Capricorn Municipal Development Guidelines. Widening shall only be required along the frontage of the development.

2.12.2 The centreline of Capricorn Street along the front of the development must align with the centreline of the constructed industrial section on the western side of Gracemere Creek.

2.12.3 Capricorn Street works, including road widening, associated kerb and channel, and drainage works must be constructed along the full frontage of Lot 2 on RP610518 (64 Capricorn Street, Gracemere) by the developer as part of Stage 1. The cost of such works will be borne by Council, with the agreed cost to be determined prior to the construction of Stage 1.

STAGE 3:

- 2.13 Stage 3 of the development must entail Capricorn Street works, including road widening, associated kerb and channel, intersection works, and drainage works must be constructed along the full frontage of the development on Capricorn Street prior to the release of the Final Survey Plan for Stage Three.

2.13.1 The final width of Capricorn Street must be thirteen (13) metres as for a road classification of 'Industrial Access' in accordance with the Capricorn Municipal Development Guidelines. Widening shall only be required along the frontage of the development

2.13.2 The centreline of Capricorn Street along the front of the development must align with the centreline of the constructed industrial section on the western side of Gracemere Creek.

3.0 ACCESS

- 3.1 Access to each lot must be from the internal roads of the development except for Lot 41 which must gain access from Middle Road. Direct vehicle access to Capricorn Street is prohibited. A property note to this effect will be entered against proposed Lots 12 and 41.

3.2 Deleted.

4.0 SEWERAGE WORKS

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

- 4.2 The proposed development must connect to Council's reticulated sewerage network in accordance with the *Water Supply (Safety and Reliability) Act 2008*.
- 4.3 In accordance with the *Water Supply (Safety and Reliability) Act 2008* each lot must be provided with its own separate connection point.
- 4.4 All proposed water supply works must comply with the Capricorn Municipal Development Guidelines.
- 5.0 WATER WORKS
- 5.1 A Development Permit for Operational Works (Water Works) must be obtained prior to the commencement of any works on the site.
- 5.2 The proposed development must connect to Council's reticulated water supply network in accordance with the *Water Supply (Safety and Reliability) Act 2008*.
- 5.3 In accordance with the *Water Supply (Safety and Reliability) Act 2008* each lot must be provided with its own direct and separate connection.
- 5.4 All proposed water supply works must comply with the *Capricorn Municipal Development Guidelines*.
- 6.0 STORMWATER WORKS
- 6.1 A Development Permit for Operational Works (Stormwater Works) must be obtained prior to the commencement of any works on the site.
- 6.2 Each allotment must be designed to be self-draining and must be connected to Council's stormwater drainage system to the complete satisfaction of Council.
- 6.3 All stormwater drainage systems must be designed and constructed in accordance with the *Queensland Urban Drainage Manual*, and the *Capricorn Municipal Design Guidelines*. Stormwater drainage works must be designed to cater for a 10 year Average Recurrence Interval storm event and unobstructed overland flow paths to cater for a 100 year Average Recurrence Interval storm event.
- 6.4 An inter-allotment drainage system must be provided to any lot where roof water drainage, associated with building construction on that lot, could not reasonably be piped to the frontage kerb and channel.
- 6.5 Any proposed inter-allotment drainage system must be contained within an easement, with a minimum width of three (3) metres, granted in favour of Council. Easement documentation must be submitted with the Survey Plan for the respective stage.
- 6.6 All inter-allotment drainage systems must be designed and constructed in accordance with the *Queensland Urban Drainage Manual*.
- 6.7 Any filling or changes to the site proposed as part of any Development Permit for Operational Works must not adversely impact on any adjoining or downstream land, drainage systems, or any Council infrastructure.
- 6.8 Any temporary stormwater outlets, and any stormwater discharge from uncompleted works, must drain to a Lawful Point of Discharge which for this development is considered to be Gracemere Creek or the unnamed tributary crossing the Middle Road and Capricorn Street frontages.
- 6.9 The excavation works required as a result of the Flood Study (refer to condition 1.1) must be completed prior to the release of the Final Survey Plan for Stage 1. This excavation work includes such works in Lot 5 on SP223829, previously part of Lot 2 on RP615695 and Lot 80 on RP604012.
- 6.10 The filling works required as a result of the Flood Study (refer to condition 1.1) must be completed prior to the release of the Final Survey Plan for Stage 1. This filling work is only in Lot 5 on SP223829, previously part of Lot 2 on RP615695 and Lot 80 on RP604012. Filling works in Lot 6 on SP223829 (previously Lot 2 on RP615695 and part of Lot 80 on RP604012) are not required until Stage 3 to Stage 5.

- 6.11 Any Development Permit for Operational Works (Stormwater Works) for Stage 1, must include clarification of the calculations in the flood study (refer condition 1.1) to include residential area not previously included or deemed to be negligible contributors to the catchment area of the unnamed tributary to confirm the results of the flood study.
- 6.12 Any Development Permit for Operational Works (Stormwater Works) for Stage 1, must include clarification that the improved channel capacity within the development site will not require additional culverts across Capricorn Street from the storage area west of the boundary of Lots 12 to 19, to compensate for the unchanged channel capacity downstream of the site.
- 6.13 Any Development Permit for Operational Works (Stormwater Works) for Stage 1, must include confirmation that the cross-sections used in the Flood Study (refer condition 1.1) considered the unauthorised filling of Lot 27 on SP206668, and not the original Gracemere Creek profile.
- 6.14 Any application for a Development Permit for Operational Works (stormwater works) must be accompanied by an updated Flood Study / Stormwater Management Plan, prepared and certified by a Registered Professional Engineer of Queensland that as a minimum includes:
- 6.14.1 identification of drainage catchment and drainage sub-catchment areas for the pre-development and post-development scenarios including a suitably scaled catchment plan showing the aforementioned catchment details and lawful point(s) of discharge that comply with the requirements of the *Queensland Urban Drainage Manual*;
 - 6.14.2 an assessment of the peak discharges for 63% Annual Exceedance Probability, minor and major (1% Annual Exceedance Probability) defined flood event for the pre-development and post-development scenarios;
 - 6.14.3 details of any proposed on-site detention/retention systems and associated outlet systems required to mitigate the impacts of the proposed development on downstream lands and existing upstream and downstream drainage systems;
 - 6.14.4 demonstration of how major design storm flows are conveyed through the subject development to a lawful point of discharge in accordance with the *Queensland Urban Drainage Manual* and the *Capricorn Municipal Development Guidelines*;
 - 6.14.5 identification of the area of land inundated as a consequence of the minor and major design storm events in the catchment for both the pre-development and post-development scenarios;
 - 6.14.6 flood modelling is to be undertaken in an appropriately two (2) dimensional flood model to Council's satisfaction;
Note: Council has developed a two (2) dimensional TUFLOW model for the catchment which can be utilised upon entering into Council's data share agreement and payment of the applicable fee.
 - 6.14.7 the peak water surface elevation (PWSE), extent, depth and velocity for both the pre-development and post-development scenarios along with comparison maps;
 - 6.14.8 electronic copy of the model (containing five folders) / results / check files and all details of the modelling assumptions to support water quantity management strategy;
 - 6.14.9 the pre and post development flow for all storm events up to and including a one per cent (1%) Annual exceedance probability defined storm event;
 - 6.14.10 the potential pollutants in stormwater discharged from the development site are managed in accordance with current water quality best industry practices and in accordance with *State Planning Policy 2017*;

6.14.11 includes detailed engineering plans with details of any new drainage systems, or the amendment and upgrading of existing drainage systems to implement the proposed drainage strategy; and

6.14.12 all the stormwater works are to be undertaken as imposed in conditions 6.9, 6.10, 6.11, 6.12 and 6.13.

7.0 SITE WORKS

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

7.2 Any application for a Development Permit for Operational Works (Site Works) must be accompanied by an earthworks' plan which clearly identifies the following:

- (i) the location of cut and/or fill;
- (ii) the type of fill to be used and the manner in which it is to be compacted;
- (iii) the quantum of fill to be deposited or removed and finished cut and/or fill levels;
- (iv) details of any proposed access routes to the site which are intended to be used to transport fill to or from the site; and
- (v) the maintenance of access roads to and from the site so that they are free of all cut and/or fill material and cleaned as necessary.

7.3 Any vegetation cleared or removed must be:

- (i) mulched on-site and utilised on-site for landscaping purposes, in accordance with the landscaping plan approved by Council; or
- (ii) removed for disposal at a location approved by Council;

within sixty (60) days of clearing. Any vegetation removed must not be burnt.

7.4 All finished surface levels for all allotments, excluding Public Use Land, must be such that freeboard above the 100 year Average Recurrence Interval rainfall event is provided in accordance with the provisions of the Queensland Urban Drainage Manual. Any application for a Development Permit for Operational Works (Site Works) must demonstrate that this condition is satisfied.

8.0 LANDSCAPING

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

8.2 Any application for a Development Permit for Operational Works (Landscaping) must be accompanied by a Landscaping Plan prepared by a suitably qualified person in accordance with the Development Standards – Reconfiguring a Lot Code.

The landscaping plan must contain, but not be limited to, the following information:

- (i) Existing trees;
- (ii) Trees to be removed;
- (iii) Proposed planting (including quantity, species, spacings between each plant, expected height at the time of planting and the expected mature height);
- (iv) Proposed earth mounding;
- (v) Paths and paving (location and materials); and
- (vi) The method of planting and the proposed maintenance program.

8.3 Landscaping, or any part thereof, upon reaching full maturity, must not:

- (i) obstruct sight visibility zones as defined in the Austroads 'Guide to Traffic Engineering Practice' series of publications; or
- (ii) adversely affect any road lighting or public space lighting; or

(iii) adversely affect any Council infrastructure, or public utility plant.

8.4 All landscaped areas must be undertaken in accordance with a Development Permit for Operational Works (Landscaping) and completed prior to the release of the Final Survey Plan for each Stage of the development.

8.5 A post and rail fence suitable for preventing vehicular movement, or other suitable barrier to the satisfaction of Council, must be constructed along common and road boundaries of all allotments adjoining Public Use Land. The fence, including provision for access for Council maintenance vehicles, must be constructed, at no cost to Council, prior to the release of the Final Survey Plan for Stage One.

8.6 All Public Use Land must be hydromulched, or similarly treated to the satisfaction of Council, prior to the release of the Final Survey Plan for Stage One.

9.0 ELECTRICITY AND TELECOMMUNICATIONS

9.1 Provide underground electricity, gas and telecommunication connections to the proposed development to the requirements of the relevant authority.

9.2 The Final Survey Plan will not be released until evidence is provided of a non-refundable contract with the relevant service providers to provide each lot with live electricity and telecommunication connections, in accordance with the requirements of the relevant authority and the *Capricorn Municipal Development Guidelines*.

9.3 Road and public space lighting must be provided to all roads, intersections and public spaces in accordance with the *Australian Standard AS1158* suite of standards, prior to the release of the Final Survey Plan for each Stage of the development.

10.0 CONTRIBUTIONS/COSTS

10.1 Deleted.

10.2 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 at full cost to the developer.

10.3 '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 release of the Final Survey Plan.

11.0 ENVIRONMENTAL

11.1 Any application for a Development Permit for Operational Works must be accompanied by a detailed Environmental Management Plan, which addresses, but is not limited to, the following matters:

- (i) water quality and drainage;
- (ii) erosion and silt/sedimentation management;
- (iii) acid sulphate soils;
- (iv) fauna management;
- (v) vegetation management and clearing;
- (vi) top soil management;
- (vii) interim drainage plan during construction;
- (viii) construction programme;
- (ix) geotechnical issues;
- (x) weed control;
- (xi) bushfire management;
- (xii) emergency vehicle access;
- (xiii) noise and dust suppression; and
- (xiv) waste management.

- 11.2 Any application for a Development Permit for Operational Works must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:
- (i) objectives;
 - (ii) site location / topography;
 - (iii) vegetation;
 - (iv) site drainage;
 - (v) soils;
 - (vi) erosion susceptibility;
 - (vii) erosion risk;
 - (viii) concept;
 - (ix) design; and
 - (x) implementation, for the construction and post construction phases of work.

The erosion and sediment control plan must incorporate detailed plans, control measures, monitoring programmes and maintenance procedures to ensure appropriate development and management practices within and adjacent to the site.

- 11.3 The Environmental Management Plan and the Erosion and Sediment Control Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.
- 11.4 No works can commence on the site unless and until an Environmental Management Plan and an Erosion and Sediment Control Plan has been approved by Council as part of Development Permit for Operational Works.

12.0 OPERATING PROCEDURES

- 12.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted Capricorn Street or Middle Road.

NOTES

NOTE 1. Aboriginal Cultural Heritage Act, 2003

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 Environment and Resource Management's website

http://www.derm.qld.gov.au/cultural_heritage/index.html

NOTE 2. Dust Control

It is the developer's responsibility to ensure compliance with Part 2A - Environmental Nuisance of the Environmental Protection Regulation 1998 which prohibits unlawful environmental nuisance caused by dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks and construction.

NOTE 3. Sedimentation Control

It is the developer's responsibility to ensure compliance with Section 32 of the Environmental Protection (Water) Policy 1997 to prevent soil erosion and contamination of the stormwater drainage system and waterways.

NOTE 4. Noise During Construction And Noise In General

It is the developer's responsibility to ensure compliance with Section 6S General Emission Criteria and Section 6T Noise Emission Criteria of the Environmental Protection Regulation 1998.

NOTE 5. General Safety Of Public During Construction

It is the principal contractor's responsibility to ensure compliance with Section 31 of the Workplace Health and Safety Act 1995. Section 31(1)(c) states that the principal contractor is obliged on a construction workplace to ensure that work activities at the workplace are safe and without risk of injury or illness to members of the public at or near the workplace.

It is the responsibility of the person in control of the workplace to ensure compliance with Section 30 of the Workplace Health and Safety Act 1995. Section 30(1)(c) states that the person in control of the workplace is obliged to ensure there is appropriate, safe access to and from the workplace for persons other than the person's workers.

NOTE 6. Water and Sewerage Infrastructure.

Any construction works proposed in the vicinity of Council's existing water supply and/or sewerage infrastructure must not adversely affect the integrity of the infrastructure.

In accordance with the Water Supply (Safety & Reliability) Act 2008, it is an offence to interfere with a service provider's infrastructure. Rockhampton Regional Council is the service provider and FRW is the business unit responsible for water supply and sewerage services. FRW can provide private works quotations for any water supply and sewerage works if requested.

NOTE 7. Infrastructure Charges Notice

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



Attachment 1 – Part 2
Referral Agency Conditions –
Department of Infrastructure, Local Government
and Planning

PLANNING ACT 2016

The following is an extract from the *Planning Act 2016*
(Chapter 6)

Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the **appellant**); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—
See the P&E Court Act for the court's power to extend the appeal period.
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to—
 - (a) the respondent for the appeal; and

- (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The **service period** is—
 - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
 - (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection
 - (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The Judicial Review Act 1991, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the Judicial Review Act 1991 in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section— **decision** includes—
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the Judicial Review Act 1991 or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

Schedule 1

Appeals section 229

1 Appeal rights and parties to appeals

- (1) Table 1 states the matters that may be appealed to—(a) the P&E court; or (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
 - (a) the refusal, or deemed refusal of a development application, for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (b) a provision of a development approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (c) if a development permit was applied for—the decision to give a preliminary approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (d) a development condition if—
 - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
 - (ii) the building is, or is proposed to be, not more than 3 storeys; and
 - (iii) the proposed development is for not more than 60 sole-occupancy units; or
 - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
 - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
 - (g) a matter under this Act, to the extent the matter relates to—
 - (i) the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
 - (ii) the Plumbing and Drainage Act, part 4 or 5; or
 - (h) a decision to give an enforcement notice in relation to a matter under paragraphs (a) to (g); or
 - (i) a decision to give an infrastructure charges notice; or
 - (j) the refusal, or deemed refusal, of a conversion application; or
 - (k) a matter that, under another Act, may be appealed to the tribunal; or
 - (l) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
 - (a) for a matter in subsection (2)(a) to (d)—
 - (i) a development approval for which the development application required impact assessment; and
 - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
 - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.
- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
 - (a) column 1 states the appellant in the appeal; and
 - (b) column 2 states the respondent in the appeal; and
 - (c) column 3 states the co-respondent (if any) in the appeal; and
 - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.

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

1. Development applications An appeal may be made against— (a) the refusal of all or part of the development application; or (b) the deemed refusal of the development application; or (c) a provision of the development approval; or (d) if a development permit was applied for—the decision to give a preliminary approval.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral	1 A concurrence agency that is not a co-respondent 2 If a chosen Assessment

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
		response—the concurrence agency	manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application
<p>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.</p>			
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
<p>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.</p>			
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
<p>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 </p> <p>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.</p>			

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the Infrastructure charges notice	The local government that gave the infrastructure charges notice	-	-
5. Conversion applications An appeal may be made against— (a) the refusal of a conversion application; or (b) a deemed refusal of a conversion application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The local government to which the conversion application was made	-	-
6. Enforcement notices An appeal may be made against the decision to give an enforcement notice.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the enforcement notice	The enforcement authority	-	If the enforcement authority is not the local government for the premises in relation to which the offence is alleged to have happened—the local government

Table 2 Appeals to the P&E Court only			
1. Appeals from tribunal An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of— (a) an error or mistake in law on the part of the tribunal; or (b) jurisdictional error.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A party to the proceedings for the decision	The other party to the proceedings for the decision	-	-
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	1 For a development application—the assessment manager	1 The applicant 2 If the appeal is about a concurrence agency's referral	Another eligible submitter for the application

Table 2			
Appeals to the P&E Court only			
application 2 For a change application—an eligible submitter for the change application	2 For a change application—the responsible entity	response—the concurrence agency	
<p>3. Eligible submitter and eligible advice agency appeals</p> <p>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—</p> <p>(a) any part of the development application or the change 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)
<p>1 For a development application—an eligible submitter for the development application</p> <p>2 For a change application—an eligible submitter for the change application</p> <p>3 An eligible advice agency for the development application or change application</p>	<p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p>	<p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency's referral response—the concurrence agency</p>	Another eligible submitter for the application
<p>4. Compensation claims</p> <p>An appeal may be made against—</p> <p>(a) a decision under section 32 about a compensation claim; or</p> <p>(b) a decision under section 265 about a claim for compensation; or</p> <p>(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</p> <p>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)
<p>1 A person given a decision notice about the decision</p> <p>2 If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the</p>	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			
affected area for the registered premises who is dissatisfied with the decision			
<p>6. Local laws 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 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 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 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	-	-