



Decision Notice Approval (amended)

Planning Act Form 2 (version 1.1 effective 22 June 2018) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s81 of the Planning Act 2016, and Section 334 of the Sustainable Planning Act 2009

| | | | |
|---------------------|-------------------|-----------------|-----------------|
| Application number: | D/33-2017 | Contact: | Brandon Diplock |
| Notice Date: | 27 September 2018 | Contact Number: | 1300 22 55 77 |

APPLICANT DETAILS

| | | | |
|-----------------|--|--------|--|
| Name: | Edenbrook Land Pty Ltd | | |
| Postal address: | C/- Capricorn Survey Group (CQ) Pty Ltd | | |
| Phone no: | Mobile no: | Email: | |

I acknowledge receipt of the above application on 8 September 2018 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Reconfiguring a Lot (one lot into fourteen lots) stages 8A and 8B

PROPERTY DESCRIPTION

| | |
|----------------------------|---|
| Street address: | 79 Belmont Road and Lot 253 Edenbrook Drive, Parkhurst |
| Real property description: | Lot 67 on RP860897 and Lot 253 on SP300241 (previously known as Lot 253 on SP241210), Parish of Murchison |

OWNER DETAILS

| | |
|--|------------------------|
| Name: | Edenbrook Land Pty Ltd |
| Postal address: | |
| Dear Edenbrook Land Pty Ltd | |
| I advise that, on 26 September 2018 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 March 2018 |
| 2) | Condition 2.1 | Changed | 26 September 2018 |
| 3) | Condition 3.1 | Changed | 19 March 2018 |
| 4) | Condition 5.4 | Changed | 19 March 2018 |
| 5) | Condition 7.10 | New | 19 March 2018 |
| 6) | Item 5 | Changed | 19 March 2018 |

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| Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Reconfiguring a lot | 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

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

| Type of development permit required | Subject of the required development permit |
|--|---|
| Operational Works | <i>Road Works</i> <i>Sewerage Works</i> <i>Water Works</i> <i>Stormwater Works</i> <i>Site Works</i> <i>Inter-allotment Drainage Works</i> |

4. REFERRAL AGENCIES

NIL

5. THE APPROVED PLANS

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

| <u>Plan/Document Name</u> | <u>Plan/Document Reference</u> | <u>Dated</u> |
|--|--------------------------------|------------------|
| Property Description | 1096-ROL1 Rev 3 | 5 September 2018 |
| Concept Landscaping Plan | 1096-ROL6 Rev 3 | 5 September 2018 |
| Building Setback Details | 1096-ROL7 Rev 3 | 5 September 2018 |
| Staging Details and Pathway Strategy | 1096-ROL5 Rev 3 | 5 September 2018 |
| Preliminary Infrastructure Details | 1096-ROL3 Rev 3 | 5 September 2018 |
| Proposal Plan | 1096-ROL2 Rev 3 | 5 September 2018 |
| Stormwater Management – Water Quality | 1096-ROL4 Rev 3 | 5 September 2018 |
| Downstream Flood Impacts -Catchment Plan | 1097-FM01 Issue 2 | 1 December 2017 |
| Downstream Flood Impacts – Adjoining Existing Development Stormwater Drainage | 1097-FM02 Issue 1 | 1 December 2017 |
| Downstream Flood Impacts – 1 in 100 year Flood Mapping Pre Edenbrook Stage 7 and 8 | 1097-FM03 Issue 2 | 1 December 2017 |

| <u>Plan/Document Name</u> | <u>Plan/Document Reference</u> | <u>Dated</u> |
|---|--------------------------------|-----------------|
| Downstream Flood Impacts – 1 in 100 year Flood Mapping Post Edenbrook Stage 7 and 8 | 1097-FM04 Issue 2 | 1 December 2017 |
| Downstream Flood Impacts – Edenbrook Stages 7 & 8 Stormwater Drainage Connection | 1097-FM05 Issue 2 | 1 December 2017 |

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

The standard relevant periods stated in section 85 of *Planning Act 2016* apply to each aspect of development in this approval, if not stated in the conditions of approval attached.

7. STATEMENT OF REASONS

| | |
|---|---|
| Description of the development | The proposed development is for Reconfiguring a Lot (one lot into fourteen lots) for stages 8A, 8B and 8C. |
| Reasons for Decision | <p>a) The proposed change does not compromise the achievements of the Desired Environmental Outcomes in the <i>Rockhampton City Plan 2005 (superseded)</i>; and</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> |
| Assessment Benchmarks | <p>The proposed development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> • Edenbrook Residential Area (Traditional Residential) • Conservational Residential Precinct • Reconfiguring a Lot Code |
| Matters prescribed by regulation | <ul style="list-style-type: none"> • The <i>State Planning Policy – Part E</i>; • The <i>Central Queensland Regional Plan</i>; • The <i>Rockhampton City Plan 2005</i>. • The common material, being the material submitted with the application. |

8. 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*.

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.

9. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect:

- From the time the decision notice is given – if there is no submitter and the applicant does not appeal the decision to the court.

Or

- When the submitter's appeal period ends – if there is a submitter and the applicant does not appeal the decision to the court.

Or

- Subject to the decision of the court, when the appeal is finally decided – if an appeal is made to the court.

10. ORIGINAL DECISION ASSESSMENT MANAGER

| | |
|---|-----------------------|
| Name: Tarnya Fitzgibbon COORDINATOR DEVELOPMENT ASSESSMENT | Date: 23 January 2018 |
|---|-----------------------|

11. ASSESSMENT MANAGER

| | | |
|---|------------|-------------------------|
| Name: Tarnya Fitzgibbon COORDINATOR DEVELOPMENT ASSESSMENT | Signature: | Date: 27 September 2018 |
|---|------------|-------------------------|

Attachment 1 – Conditions of the approval

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

Attachment 2—Extract on appeal rights

1.0 ADMINISTRATION

1.1 The Developer and his employee, agent, contractor or invitee 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 issue of the Compliance Certificate for the Survey Plan,
unless otherwise stated.

1.4 Infrastructure requirements of this development approval must be contributed to the relevant authorities, where applicable, at no cost to Council, prior to the issue of the Compliance Certificate for the Survey Plan, unless otherwise stated.

1.5 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:

1.5.1 Operational Works:

(i) Road Works;

(ii) Sewerage Works;

(iii) Water Works;

(iv) Stormwater Works;

(v) Inter-allotment Drainage Works; and

(vi) Site 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.

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>Plan/Document Reference</u> | <u>Dated</u> |
|---|--------------------------------|------------------|
| Property Description | 1096-ROL1 Rev 3 | 5 September 2018 |
| Concept Landscaping Plan | 1096-ROL6 Rev 3 | 5 September 2018 |
| Building Setback Details | 1096-ROL7 Rev 3 | 5 September 2018 |
| Staging Details and Pathway Strategy | 1096-ROL5 Rev 3 | 5 September 2018 |
| Preliminary Infrastructure Details | 1096-ROL3 Rev 3 | 5 September 2018 |
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| Downstream Flood Impacts – 1 in 100 year Flood Mapping Post Edenbrook Stage 7 and 8 | 1097-FM04 Issue 2 | 1 December 2017 |
| Downstream Flood Impacts – Edenbrook Stages 7 & 8 Stormwater Drainage Connection | 1097-FM05 Issue 2 | 1 December 2017 |

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.

2.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for approval by Council prior to the submission of an application for a Development Permit for Operational Works.

3.0 STAGED DEVELOPMENT

3.1 This development approval is for a development to be undertaken in three (3) discrete stages, namely:

3.1.1 Lot 67, Lot 253 and drainage easement (Stage 8A);

3.1.2 Lots 113, 114, 118, 119 and Lots 126 - 128 (Stage 8B);

3.1.3 Lots 120 to 125 (Stage 8C).

in accordance with the approved plans (refer to condition 2.1).

Stages must be completed in chronological order. Unless otherwise expressly stated, the conditions must be read as being applicable to all stages.

4.0 ROAD WORKS

- 4.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any road works required by this development approval.
- 4.2 All road works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, and relevant *Australian Standards* and *Austroroads Guidelines* and the provisions of a Development Permit for Operational Works (road works).
- 4.3 Any application for a Development Permit for Operational Works (road works) must demonstrate that all new roads and road reserves included in the application connect with existing constructed road(s) at the time of making the application.
- 4.4 The design and construction of all terminating roads must include a temporary turning area, which complies with the relevant performance and technical criteria, and facilitates suitable turning movements for a refuse collection vehicle.
- 4.5 A concrete pathway, with a minimum width of 1.2 metres, must be constructed on the southern side of Ridgewood Terrace in accordance with the approved plans.
- 4.6 All pathways and access ramps must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*. All pathways located within a road reserve or public use land must be provided with public space lighting in accordance with *Australian Standard AS1158 "Lighting for roads and public spaces"*.
- 4.7 All pathways must incorporate kerb ramps at all road crossing points.
- 4.8 Traffic signs and pavement markings must be provided in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*. Where necessary, existing traffic signs and pavement markings must be modified in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*.

5.0 SEWERAGE WORKS

- 5.1 A Development Permit for Operational Works (sewerage works) must be obtained prior to the commencement of any sewerage works required by this development approval.
- 5.2 All sewerage 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 2002* and the provisions of a Development Permit for Operational Works (sewerage works).
- 5.3 All lots within the development must be connected to Council's reticulated sewerage network. Each lot must be provided with its own separate sewerage connection point, located wholly within its respective property boundary.
- 5.4 Sewerage works for Stage 5 development (D/27-2017) must be completed prior to the commencement of any sewerage construction works for stages 8A, 8B and 8C.
- 5.5 Sewerage infrastructure must be provided to the upstream development boundary for connectivity.
- 5.6 The finished sewerage access chamber surface must be at a sufficient level to avoid ponding of stormwater above the top of the chamber.
- 5.7 Easements must be provided over all sewerage infrastructure located within private property. The easement location(s) and width(s) must be in accordance with the requirements of the *Capricorn Municipal Development Guidelines*.
- 5.8 Large trees must not be planted within one (1) metre of the centreline of any sewerage infrastructure; small shrubs and groundcover are acceptable.

6.0 WATER WORKS

- 6.1 A Development Permit for Operational Works (water works) must be obtained prior to the commencement of any water works required by this development approval.
- 6.2 All water 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 2002* and the provisions of a Development Permit for Operational Works (water works).
- 6.3 All lots within the development must be connected to Council's reticulated water network. Each lot must be provided with its own separate water connection point located wholly within its respective property boundary.
- 6.4 Water infrastructure must be provided to the development boundaries for connectivity.
- 6.5 All proposed reticulated water network mains must be interconnected to eliminate dead ends. Looped mains are permitted in cul-de-sacs.

7.0 STORMWATER WORKS

- 7.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works required by this development approval.
- 7.2 All stormwater drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Queensland Urban Drainage Manual, Capricorn Municipal Development Guidelines*, sound engineering practice and the provisions of a Development Permit for Operational Works (stormwater works).
- 7.3 All stormwater must drain to a demonstrated lawful point of discharge and must not adversely affect surrounding land or infrastructure in comparison to the pre-development conditions, including but not limited to blocking, altering or diverting existing stormwater runoff patterns or having the potential to cause damage to other infrastructure.
- 7.4 The proprietary stormwater quality device proposed at the outfall must be sized and upgraded as necessary to meet the reduction targets outlined in the State Planning Policy with respect to Total Suspended Solids (TSS). Details of this device and amended reduction performance evaluation outputs must be provided with the Operational Works application.
- 7.5 The Developer must pipe the eighteen percent Average Exceedance Probability (18% AEP) flows from the subject development through existing drainage Easement B as shown on Drawing 1097-FM05 Issue 2 dated 01/12/2017. Details of this pipework and how it outlets to the existing culvert must be provided with the Operational Works application.
- 7.6 The Developer must provide a signed agreement from the owners of Lot 67 RP860897 stipulating that they agree to the change in catchment conditions or the effects of any outfall from the subject development through or into Easement B. This agreement must be provided with the Operational Works application.
- 7.7 Any application for a Development Permit for Operational Works (stormwater works) must be accompanied by Drainage Strategy, prepared and certified by a Registered Professional Engineer of Queensland, which demonstrates how the major 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*.
- 7.8 Easements must be provided over land required to accommodate the flows associated with the subject development.
- 7.9 Easements must be provided over all land assessed to be within a one per cent (1%) Annual exceedance probability defined flood event, inundation area.
- 7.10 An easement for the purposes of drainage within Lot 67 on RP860897 must be created as part of Stage 8A. Easement documents must accompany the Survey Plan for endorsement by Council, prior to the issue of the Compliance Certificate for the Survey Plan.

8.0 INTER-ALLOTMENT DRAINAGE WORKS

- 8.1 A Development Permit for Operational Works (inter-allotment drainage works) must be obtained prior to the commencement of any drainage works required by this development approval.
- 8.2 All inter-allotment drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Queensland Urban Drainage Manual*, *Capricorn Municipal Development Guidelines*, sound engineering practice and the provisions of a Development Permit for Operational Works (inter-allotment drainage works).
- 8.3 Inter-allotment drainage, must be designed and constructed in accordance with the *Queensland Urban Drainage Manual* and must be provided to any lot where it cannot be satisfactorily demonstrated that roof and allotment runoff associated with development on that lot, could not reasonably be directed to the frontage kerb and channel or alternative lawful point of discharge.
- 8.4 Inter-allotment drainage systems and overland flow paths must be wholly contained within a Council easement, and be in accordance with the minimum widths prescribed in the *Capricorn Municipal Design Guidelines*. Easement documents must accompany the Survey Plan for endorsement by Council, prior to the issue of the Survey Plan Approval Certificate.

9.0 SITE WORKS

- 9.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works on the development site.
- 9.2 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks plan that clearly identifies the following:
 - 9.2.1 the location of cut and/or fill;
 - 9.2.2 the type of fill to be used and the manner in which it is to be compacted;
 - 9.2.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;
 - 9.2.4 details of any proposed access routes that are intended to be used to transport fill to or from the development site; and
 - 9.2.5 the maintenance of access roads to and from the development site so that they are free of all cut and/or fill material and cleaned as necessary.
- 9.3 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"*.
- 9.4 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.
- 9.5 Retaining structures above one (1) metre in height that are not incidental works to a Development Permit for Building Works, must not be constructed unless separately and specifically certified by a Registered Professional Engineer of Queensland and must be approved as part of a Development Permit for Operational Works (site works).
- 9.6 Retaining structures close to or crossing sewerage infrastructure must comply with *Queensland Development Code, Mandatory Part 1.4 'Building over or near relevant infrastructure.'* The structure must be self-supporting and no additional load must be applied to Council's sewerage infrastructure.
- 9.7 All site works must be undertaken to ensure that there is:
 - 9.7.1 no increase in upstream or downstream flood levels for all levels of immunity up to a one per cent (1%) Annual exceedance probability defined flood event;
 - 9.7.2 no increase in velocity profiles, for which no remedy exists to prevent erosion and/or scouring. In the event that modelling shows non-compliance with the

above, works must be undertaken within the system to satisfy the above criteria for development; and

- 9.7.3 a lawful point of discharge to which the approved works drain during the construction phase.

Easements will be required over any other land to accommodate the flows.

10.0 ELECTRICITY

- 10.1 Underground electricity services must be provided to each lot in accordance with the approved Operational Works Plans and the standards and requirements of the relevant service provider.
- 10.2 Evidence of acceptance of the works from the relevant service provider must be provided to Council, prior to the issue of the Compliance Certificate for the Survey Plan.

11.0 TELECOMMUNICATIONS

- 11.1 Underground telecommunications services must be provided to each lot in accordance with the approved Operational Works Plans and the standards and requirements of the relevant service provider. Unless otherwise stipulated by telecommunications legislation at the time of installation, this includes all necessary pits and pipes, and conduits that provide a connection to the telecommunications network.
- 11.2 Evidence of acceptance of the works from the relevant service provider must be provided to Council, prior to the issue of the Survey Plan Approval Certificate.

12.0 ASSET MANAGEMENT

- 12.1 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.
- 12.2 Any damage to existing stormwater, water supply and sewerage infrastructure, kerb and channel, pathway or roadway (including removal of concrete slurry from public land and Council infrastructure), that occurs while any works are being carried out in association with this development approval must be repaired at full cost to the developer. This includes the reinstatement of any existing traffic signs or pavement markings that may have been removed or damaged.
- 12.3 '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 issue of the Compliance Certificate for the Survey Plan. This information must be provided in accordance with the Asset Design and As Constructed Manual (ADAC).

13.0 ENVIRONMENTAL

- 13.1 Any application for a Development Permit for Operational Works must be accompanied by an Erosion and Sediment Control Plan that addresses, but is not limited to, the following:
- (i) objectives;
 - (ii) site location and 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.
- 13.2 The Erosion Control and Stormwater Control Management Plan prepared by a Registered Professional Engineer of Queensland in accordance with the *Capricorn Municipal Design Guidelines*, must be implemented, monitored and maintained for the duration of the works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped). The plan must be available on-site for inspection by Council Officers whilst all works are being carried out.
- 13.3 All dead and damaged timber must be removed from the Residential Area during construction of the subdivision and prior to the issue of the Compliance Certificate for the Survey Plan.
- 14.0 OPERATING PROCEDURES
- 14.1 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 Belmont 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 Aboriginal and Torres Strait Islander and Partnerships website www.datsip.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. Infrastructure Charges Notice

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

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

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- (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.

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- (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 | 1 A concurrence agency that is not a co-respondent 2 If a chosen Assessment manager is the respondent— |

| Table 1 | | | |
|--|------------------------|---|---|
| Appeals to the P&E Court and, for certain matters, to a tribunal | | | |
| | | concurrency agency | 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 concurrency 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 concurrency agency, other than the chief executive, for the application | The assessment manager | If a concurrency 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 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> | | | |
| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent | Column 4 Co-respondent by election |

| Table 1 | | | |
|--|---|---------------------------------------|---|
| Appeals to the P&E Court and, for certain matters, to a tribunal | | | |
| | | (if any) | (if any) |
| The person given the Infrastructure charges notice | The local government that gave the infrastructure charges notice | - | - |
| <p>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.</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 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 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.</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 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.</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—</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> | <p>Another eligible submitter for the application</p> |
| <p>4. Compensation claims 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 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 affected area for the registered premises who is dissatisfied with the decision</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 | | | |
|--|------------------------|---------------------------------------|---|
| <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 | <p>1 A concurrence agency for the development application related to the approval</p> <p>2 A private certifier for the development application related to the approval</p> |
| <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 | - | - |