



# Decision Notice Approval (negotiated)

Planning Act Form 1 (version 1.2 effective 7 February 2020) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s76 Planning Act 2016

Application number:	D/39-2024	Contact:	Aidan Murray
Notice Date:	30 September 2025	Contact Number:	07 4936 8099

## APPLICANT DETAILS

Name:	A B Hart and D T Hart		
Postal address:	C/- Gideon Town Planning PO BOX 450 ROCKHAMPTON CITY QLD 4700		
Phone no:	07 4806 6959	Mobile no:	Email: info@gideontownplanning.com.au

I acknowledge receipt of the above application on 10 April 2024 and confirm the following:

## DEVELOPMENT APPROVAL

<b>Development Permit for a Material Change of Use for a Dwelling House (Building Location Envelope)</b>
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## PROPERTY DESCRIPTION

Street address:	Lot 503 Nagle Drive, Norman Gardens
Real property description:	Lot 503 on SP266441

<b>Dear A B Hart and D T Hart</b>
I advise that, on <b>25 September 2025</b> the above development application was:
<input checked="" type="checkbox"/> approved in full with conditions* (refer to the conditions contained in <b>Attachment 1</b> )
*Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.

## CHANGES TO CONDITIONS

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

1)	Condition 8.1	changed	25 September 2025
2)	Condition 11.2	changed	25 September 2025
3)	Condition 11.3	changed	25 September 2025

## 1. DETAILS OF THE APPROVAL

The following approvals are given:

	<b>Development Permit</b>	<b>Preliminary Approval</b>
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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use	<input checked="" type="checkbox"/>	<input type="checkbox"/>
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**2. CONDITIONS**

This approval is subject to the conditions in Attachment 1.

**3. FURTHER DEVELOPMENT PERMITS REQUIRED**

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

Type of development permit required	Subject of the required development permit
Operational Works	<i>Road Works</i> <i>Access Works</i> <i>Sewerage Works</i> <i>Water Works</i> <i>Site Works</i>
Building Works	
Plumbing and Drainage Works	

**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>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version</u>
Location Plan	Gideon Town Planning	10 June 2024	GG-N	4
Proposed Site Plan	Gideon Town Planning	10 June 2024	GG-N	4
Bushfire Hazard Assessment & Management Plan	Denley Environmental	4 July 2022	40987	2
Assessment & Mitigation of Impacts to MES	Denley Environmental	7 July 2022	40987	2
Existing Site Plan	Contour Consulting	July 2023	21-011/SK02	A
Earthworks Plan - 1	Contour Consulting	July 2023	21-11/SK03	A
Earthworks Plan - 2	Contour Consulting	July 2023	21-011/SK4	A
Roadworks Plan – 1	Contour Consulting	July 2023	21-011/SK05	A
Roadworks Plan - 2	Contour Consulting	July 2023	21-011/SK06	A
Roadworks Long Section – 1	Contour Consulting	July 2023	21-011/SK07	A

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

In accordance with section 85(1)(a)(ii) of the *Planning Act 2016*, the development approval lapses if the first change of use does not happen within six (6) years after the approval starts to have effect, if not stated otherwise in the conditions of approval attached.

**7. STATEMENT OF REASONS**

<b>Description of the development</b>	
Material Change of Use for a Dwelling House (Building Location Envelope)	
<b>Reasons for Decision</b>	
<p>a) Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity; and</p> <p>b) On balance, the application should be approved because the circumstances favour Council exercising its discretion to approve the application even though the development does not comply with an aspect of the assessment benchmarks.</p>	
<b>Assessment Benchmarks</b>	
<p>The development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> <li>• Local Government Infrastructure Plan;</li> <li>• Strategic Framework;</li> <li>• Environmental Management and Conservation Zone Code;</li> <li>• Access, Parking and Transport Code;</li> <li>• Landscape Code;</li> <li>• Stormwater Management Code;</li> <li>• Waste Management Code;</li> <li>• Water and Sewer Code;</li> <li>• Biodiversity Overlay Code;</li> <li>• Bushfire Hazard Overlay Code;</li> <li>• Flood Hazard Overlay Code;</li> <li>• Steep Land Overlay Code;</li> <li>• Flood Hazard Overlay Code; and</li> <li>• Steep Land Overlay Code.</li> </ul>	
<b>Compliance with assessment benchmarks</b>	
The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exceptions listed below.	
<b>Assessment Benchmark</b>	<b>Reasons for the approval despite non-compliance with benchmark</b>
Environmental Management and Conversation Zone Code	<p><b>PO2</b></p> <p>The proposed development does not comply with Acceptable Outcome (AO) 2.1.2 (e) as the Building Location Envelopes (BLEs) are located within mapped areas of high and very high bushfire hazard. Further justification is also provided to demonstrate compliance with AO (c) and (d), relating to avoiding impacts on matters of local and State environmental significance (MLES and MSES) and visual amenity from public viewer places.</p> <p>The development application was supported by a Bushfire Hazard Assessment and Management Plan (BHMP) prepared by a suitably qualified person. The BHMP provides recommendations in relation to construction</p>

standards, asset protection zones, driveways and tracks, fire trails, water supply for firefighting purposes, landscaping and purchaser/resident education and awareness programs. Conditions of approval have been included requiring the recommendations to be implemented to ensure people and property are not subject to unacceptable levels of risk from bushfire hazard.

Therefore, the proposed development is taken to comply with Performance Outcome (PO)2 and Overall Outcome (2)(b)(ii).

The development application was supported by 'Assessment and Mitigation of Impacts to MES' report, prepared by a suitably qualified person. The report identified the proposed BLEs and vehicle access are located within a part of the site that is already impacted by significant historical clearing, invasive weeds and historical fires. The report concludes that there will not be direct effects on surrounding essential habitat, regional ecosystems, the second order stream, protected plants or habitat connectivity and wildlife corridors. Conditions have been included requiring an approved weed management plan to be implemented within and around the development area.

Therefore, the proposed development is taken to comply with AO2.1.2 (c).

The proposed BLEs are located at the base of the Berserker Foothills at the interface of the low density residential and environmental management and conservation zones. Future domestic development within the BLEs is not expected to have adverse amenity impacts because:

- The vastness of the Berserker Foothills and Mount Archer National Park means there is a high visual absorption capacity in the context of the domestic development (dwelling and domestic outbuildings);
- The primary BLE is located between 60 and 65 metres Australian Height Datum (AHD), which is generally along the same contour as approximately 11 existing lots within Crestwood Estate, and a lower elevation than existing low density residential development to the south;
- Conditions have been imposed to ensure future development within the BLEs integrate with the natural features and characteristics of the site to minimise effects on the environment and landscape; and
- There is limited to no potential for future development to occur into the Berserker Foothills that could incrementally degrade visual amenity because the lots are maintained in large sizes and are zoned Environmental Management and Conservation.

Therefore, the proposed development is taken to comply with AO2.1.2 (d).

**PO5**

The proposed development does not comply with Acceptable Outcome (AO) 5.1 because it involves clearing of vegetation.

Despite this, the development avoids impacts on flora and fauna habitats and movement corridors because the area of the site where the development is proposed has been heavily modified by historical clearing, fires and invasive weeds. A report prepared by an ecologist demonstrates the value of existing flora where development is proposed is low.

Therefore, the proposed development is taken to comply with Performance Outcome (PO) 5.

<p><b>Biodiversity Overlay Code</b></p>	<p><b>PO2</b></p> <p>The proposed development does not comply with aspects of Performance Outcome (PO) 2 because it does not propose the rehabilitation of land, and conditions have not been imposed requiring this.</p> <p>Despite this, the 'Assessment and Mitigation of Impacts to MES' report submitted with the development application confirms the value of flora within the development area is low and at the edge of existing clearing (adjoining a low density residential area). The report states higher value should be placed on managing essential habitat and 'of concern' regional ecosystems through the development and implementation of an adequate weed management strategy and fire management strategy for each regional ecosystem. Conditions have been imposed to this effect.</p> <p>The development does not compromise biodiversity corridors and wildlife habitats, seeks to maintain vegetation that is in patches of greatest size and does not impact riparian vegetation in and adjacent to watercourses because:</p> <ul style="list-style-type: none"> <li>• The proposed development is located in an area that has been subject to historical clearing and fires, and contains predominantly exotic grasses and weeds;</li> <li>• The proposed development is located in the very north-western corner of the site, which adjoins an established low density residential area to the west and future low density residential area to the north; and</li> <li>• Avoids access over a waterway (via Diploma Street or Wittenberg Way) and existing vegetation immediately adjoining the waterway.</li> </ul> <p>Therefore, the proposed development is taken to comply with Performance Outcome (PO) 2.</p>
	<p><b>PO12</b></p> <p>The proposed development does not comply with Acceptable Outcome (AO) 12.1 because matters of State and local environmental significance have not been conditioned to be incorporated into a statutory covenant registered under the Land Title Act.</p> <p>Despite this, matters of State and local environmental significance are protected and preserved through the underlying zoning, biodiversity overlay and regulated vegetation mapping. Specifically, any clearing associated with a further material change of use will require assessment against the Biodiversity Overlay Code under the Planning Scheme, and development approval may also be required by the State for clearing regulated vegetation.</p> <p>These separate mechanisms for regulating vegetation clearing beyond that approved associated with the establishment of the dwelling house ensures the effective conservation and protection of environmentally significant matters. Therefore, the proposal is taken to comply with Performance Outcome (PO) 12.</p>
<p><b>Bushfire Hazard Overlay Code</b></p>	<p><b>PO4</b></p> <p>The proposed development does not comply with Acceptable Outcome (AO) 4.1 because the Bushfire Hazard Assessment and Management Plan, and the recommendations attached to it, achieve a Bushfire Attack Level (BAL) of 19 rather than 12.5.</p> <p>Despite this, BAL 19 is only considered moderate risk, while requiring a smaller Asset Protection Zone (APZ) than BAL12.5. Consequently, a higher BAL, while still being assessed as being an acceptable level of risk to people and property by a suitably qualified person, ensures there is less clearing occurring within the Environmental Management and Conservation</p>

	Zone. Therefore, the proposed development is taken to comply with Performance Outcome (PO) 4.
<b>Relevant Matters</b>	
The proposed development was not assessed against any relevant matters outside of the matters prescribed by regulation.	
<b>Matters raised in submissions</b>	
The proposal was the subject of public notification between 9 September and 27 September 2024, in accordance with the requirements of the <i>Planning Act 2016</i> and the Development Assessment Rules, and no submissions were received.	
<b>Matters prescribed by regulation</b>	
<ul style="list-style-type: none"> <li>• The <i>Rockhampton Region Planning Scheme 2015</i> (version 4.4); and</li> <li>• <i>Central Queensland Regional Plan 2013</i>;</li> <li>• Any development approval for, and any lawful use of, the premises or adjacent premises; and</li> <li>• The common material, being the material submitted with the application.</li> </ul>	

## 8. APPEAL RIGHTS

The rights of an applicant to appeal to a tribunal or the Planning and Environment Court against a decision about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

### Appeal by an applicant

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

An applicant may also have a right to appeal to the Development tribunal. For more information, see schedule 1 of the *Planning Act 2016*.

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. ASSESSMENT MANAGER**

Name: <b>Amanda O'Mara</b> <b><u>COORDINATOR</u></b> <b><u>DEVELOPMENT ASSESSMENT</u></b>	Signature: 	Date: 30 September 2025
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**Attachment 1 – Conditions of the approval**

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

**Attachment 2—Extract on appeal rights**



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# Attachment 1 – Part 1

## Rockhampton Regional Council Conditions

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Planning Act 2016

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### 1.0 ADMINISTRATION

- 1.1 The owner, the owner’s successors in title, and any occupier of the premises is responsible for ensuring compliance with the conditions of this development approval.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power, or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions, works, or requirements of this development approval must be undertaken, completed, and be accompanied by a certificate of compliance for any operational works required by this development approval:
- 1.3.1 to Council’s satisfaction.
  - 1.3.2 at no cost to Council; and
  - 1.3.3 prior to the commencement of the use issue of the Certificate of Classification for the Building Works,
- unless otherwise stated.
- 1.4 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
- 1.4.1 Operational Works:
    - (i) Road Works;
    - (ii) Access Works;
    - (iii) Sewerage Works;
    - (iv) Water Works; and
    - (v) Site Works.
  - 1.4.2 Plumbing and Drainage Works; and
  - 1.4.3 Building Works.
- 1.5 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 1.6 All works must be designed, constructed, and maintained in accordance with the relevant Council policies, guidelines, and standards, unless otherwise stated.
- 1.7 All engineering drawings/specifications, design and construction works must be in accordance with the requirements of the relevant Australian Standards and must be approved, supervised, and certified by a Registered Professional Engineer of Queensland.

### 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 were amended by any condition of this development approval:

<u>Plan / Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version</u>
Location Plan	Gideon Town Planning	10 June 2024	GG-N	4
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Roadworks Plan - 2	Contour Consulting	July 2023	21-011/SK06	A
Roadworks Long Section – 1	Contour Consulting	July 2023	21-011/SK07	A

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

### 3.0 ACCESS WORKS

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

3.2 All access works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, and *Australian Standard AS2890 "Parking facilities"* and the provisions of a Development Permit for Operational Works (access works).

3.3 Vehicle access is not permitted via Diploma Street, Wittenberg Way or Skyline Drive.

3.4 **Advice note:** Access may be obtained via Jim Goldston Avenue (extended) once Stage 8 of Crestwood Estate is developed. Alternatively, an access easement may be registered over Lot 901 on SP325485A, subject to separate development approval.

3.5 Any application for a Development Permit for Operational Works (access works) must be accompanied by a Cross Drainage Structure report, prepared, and certified by a *Registered Professional Engineer of Queensland* that as a minimum includes:

3.5.1 one percent (1%) Annual Exceedance Probability flow and flow path assessment.

3.5.2 Hydraulic calculations; and

3.5.3 Structural Design.

3.6 The cross-drainage structure must have immunity (and appropriate freeboard) during a one percent (1%) Annual Exceedance Probability defined storm event. Alternatively, overtopping of the cross-drainage structure is acceptable if it complies with condition 3.7.

3.7 The cross-drainage structure must be designed and constructed considering appropriate blockage factor and allowable velocity depth product(s) to ensure safety in accordance with *Queensland Urban Drainage Manual requirements*.

### 4.0 PLUMBING AND DRAINAGE WORKS

4.1 All internal plumbing and drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, *Water Supply (Safety and Reliability) Act 2008*, *Plumbing and Drainage Act 2018*, and Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.

4.2 The development must:

4.2.1 be connected to Council's reticulated sewerage network. The existing sewerage connection point(s) must be retained and upgraded, if necessary, to service the development; or

- 4.2.2 on-site sewerage treatment and disposal must be provided in accordance with the *Queensland Plumbing and Wastewater Code* and Council's Plumbing and Drainage Policies; and
- 4.2.3 a Site Evaluation Report in accordance with the *Queensland Plumbing and Wastewater Code* for on-site sewerage must be submitted with the Plumbing and Drainage application for the dwelling. The Site Evaluation Report must be undertaken by a qualified person in accordance with the code.
- 4.3 Adequate on-site water storage for domestic and firefighting purposes must be provided for proposed development (at building stage) in accordance with the requirements of the approved Bushfire Hazard Assessment and Management Plan (refer condition 2.1). The firefighting protection must be certified by hydraulic consultant. The water storage must be easily accessible having regard to pedestrian and vehicular access.

**Advice note:** *The development may be connected to Council's reticulated water network via "Special Water Supply Arrangement". A new water connection point may be provided to the development from water supply infrastructure located within the Wittenberg Way.*

**Advice note:** *a dedicated on-site water storage for firefighting is required in accordance with section 7 of the approved Bushfire Hazard Assessment and Management Plan irrespective of whether the development is connected to the reticulated water network (refer condition 2.1 and 12.1).*

## 5.0 ROOF AND ALLOTMENT DRAINAGE WORKS

- 5.1 A Development Permit for Operational Works (roof and allotment drainage works) must be obtained prior to the commencement of any drainage works on the development site.
- 5.2 All roof and 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*, and sound engineering practice and the provisions of a Development Permit for Operational Works (roof and allotment drainage works).
- 5.3 All roof and allotment runoff from the development must be directed to a lawful point of discharge and must not restrict, impair, or change the natural flow of runoff water or cause a nuisance to surrounding land or infrastructure.

## 6.0 SITE WORKS

- 6.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works on the development site.
- 6.2 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks plan that clearly identifies the following:
- 6.2.1 the location of cut and/or fill.
  - 6.2.2 the type of fill to be used and the way it is to be compacted.
  - 6.2.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels.
  - 6.2.4 details of any proposed access routes that are intended to be used to transport fill to or from the development site; and
  - 6.2.5 the maintenance of access roads to and from the development site so that they are free of all cuts and/or fill material and cleaned as necessary.
- 6.3 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"*.
- 6.4 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.
- 6.5 All retaining structures above one (1) metre in height requires separate building approval and certification by a Registered *Professional Engineer of Queensland*.
- 6.6 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.

## 7.0 BUILDING WORKS

- 7.1 A Development Permit for Building Works assessable under the Building Assessment Provisions must be obtained prior to the commencement of any building works on the site.
- 7.2 The height of buildings and structures within the approved Building Location Envelope must not exceed two (2) storeys and 8.5 metres above ground level.
- 7.3 External walls and roof finishes do not include highly reflective surfaces or bright or high contrast colours including whites, yellows and reds.
- 7.4 Fences, entry structures, retaining walls and elevated swimming pools are painted in muted colours to blend in with the natural landscape.
- 8.0 ELECTRICITY
- 8.1 Electricity services must be provided in accordance with approved Operational Works Plans and the standards and requirements of the relevant service provider.
- 9.0 TELECOMMUNICATIONS
- 9.1 Telecommunications services must be provided to the development in accordance with the standards and requirements of the relevant service provider.
- 10.0 ASSET MANAGEMENT
- 10.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be undertaken and completed at no cost to Council.
- 10.2 Any damage to existing stormwater, water supply and sewerage infrastructure, kerb and channel, pathway, or roadway (including removal of concrete slurry from public land and Council infrastructure), that occurs while any works are being carried out in association with this development approval must be repaired at full cost to the developer. This includes the reinstatement of any existing traffic signs or pavement markings that may have been removed or damaged.
- 11.0 ENVIRONMENTAL
- 11.1 An Erosion Control and Stormwater Control Management Plan prepared and certified by suitably qualified person (*Certified Professional in Erosion and Sediment Control or a Registered Professional Engineer of Queensland*), with appropriate knowledge and experience in erosion and sediment control design and implementation, in accordance with the *State Planning Policy 2017, International Erosion Control Association Best Practice Guidelines* and *Capricorn Municipal Design Guidelines* requirements, must be:
- 11.1.1 implemented, monitored, and maintained for the duration of the development works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydro mulched, concreted, landscaped) and
- 11.1.2 available on-site for inspection by Council Officers whilst all works are being carried out.
- 11.2 Prior to the issue of a Development Permit for Building Work, submit to and have approved by Council a Weed Management Strategy for the approved building envelope and bushfire separation area. The strategy must be prepared by a suitably qualified person, for areas of Essential Habitat, Of Concern Regional Ecosystem and habitat for *Cycas Ophiolitica*, in accordance with the requirements of approved *Assessment & Mitigation of Impacts to MSES* (refer condition 2.1).
- 11.3 Prior to the issue of a Development Permit for Building Work, submit to and have approved by Council a Fire Management Strategy for conservation purposes for the approved building envelope and bushfire separation area. The strategy must be prepared by a suitably qualified person, for each regional ecosystem on the lot, as recommended by the Queensland Herbarium (2021).
- 11.4 Implement the recommendations of the approved Weed Management Strategy and Fire Management Strategy.
- 11.5 Prior to vegetation clearing, the clearing area must be surveyed by a suitably experienced and licensed Spotter Catcher to inspect the area for the presence or evidence of native fauna.
- 11.6 Where fauna is present or there is evidence that fauna is likely to be present, a mitigation strategy on nest/fauna management must be prepared to provide methodology to the clearing contractors that ensure native fauna are not injured or killed in the process of clearing.
- 12.0 BUSHFIRE

- 12.1 Implement the recommendations of the approved Bushfire Hazard Assessment and Management Plan (refer condition 2.1), unless otherwise varied by the conditions of this development approval.
- 12.2 The Dwelling House must be constructed in accordance with *Australian Standard AS3959 "Construction of buildings in bushfire-prone areas"*.
- 12.3 A Fire Safety Plan and Emergency Evacuation Plan prepared by a suitably qualified person must be submitted to Council prior to the issue of the Development Permit for Building Works.

**Advice note:** Council is not required to approve the Fire Safety Plan and Emergency Evacuation Plan. Council does not accept any liability for loss of or damage to property, or injury, or loss of life as a result of any person using or relying on the Fire Safety Plan and Emergency Evacuation Plan or failing to use the Fire Safety Plan and Emergency Evacuation Plan during a bushfire event.

- 12.4 It is the responsibility of the owner or occupier of the land to implement the Fire Safety Plan and Emergency Evacuation Plan during a bushfire event or if there is a risk of bushfire near the land.
- 12.5 Development, including within 'Proposed Building Location Envelope B', must not compromise the function of the existing fire trail(s).

**Advice note:** Refer to section 6.2 of the approved Bushfire Hazard Assessment and Management Plan (refer condition 2.1) for access trail standards.

### 13.0 OPERATING PROCEDURES

- 13.1 All construction materials, waste skips, machinery and contractors' vehicles must be located and stored or park within the development site. Storage of materials or parking of construction machinery or contractors' vehicles must not occur within Jim Goldston Ave or Nagle Drive.
- 13.2 All waste storage area must be:
- 13.2.1 Kept in a clean and tidy condition; and
  - 13.2.2 Maintained in accordance with *Environmental Protection Regulation 2019*.

### ADVISORY NOTES

#### NOTE 1. Aboriginal Cultural Heritage

It is advised that under section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal cultural heritage legislation. The information on Aboriginal cultural heritage is available on the Department of Seniors, Disability Services and Aboriginal and Torres Strait Islander Partnerships website [www.dsdsatsip.qld.gov.au](http://www.dsdsatsip.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. 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.

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**

<p>1. Development applications An appeal may be made against—</p> <ul style="list-style-type: none"> <li>(a) the refusal of all or part of the development application; or</li> <li>(b) the deemed refusal of the development application; or</li> <li>(c) a provision of the development approval; or</li> <li>(d) if a development permit was applied for—the decision to give a preliminary approval.</li> </ul>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	1 A concurrence agency that is not a co-respondent 2 If a chosen Assessment manager is the respondent—the prescribed assessment

<b>Table 1</b> <b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
			manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application
<b>2. Change applications</b> An appeal may be made against— (a) a responsible entity’s decision for a change application, other than a decision made by the P&E court; or (b) a deemed refusal of a change application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 The applicant 2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice	The responsible entity	If an affected entity starts the appeal—the applicant	1 A concurrence agency for the development application 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 A private certifier for the development application 4 Any eligible advice agency for the change application 5 Any eligible submitter for the change application
<b>3. Extension applications</b> An appeal may be made against— (a) the assessment manager’s decision about an extension application; or (b) a deemed refusal of an extension application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 The applicant 2 For a matter other than a deemed refusal of an extension application – a concurrence agency, other than the chief executive, for the application	The assessment manager	If a concurrence agency starts the appeal – the applicant	If a chosen assessment manager is the respondent – the prescribed assessment manager
<b>4. Infrastructure charges notices</b> 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"> <li>• The incorrect application of gross floor area for a non-residential development</li> <li>• Applying an incorrect ‘use category’, under a regulation, to the development               <ul style="list-style-type: none"> <li>(i) The working out of extra demands, for section 120; or</li> <li>(ii) An offset or refund; or</li> </ul> </li> </ul> b) The was no decision about an offset or refund; or c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or d) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)

<b>Table 1 Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
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

<b>Table 2 Appeals to the P&amp;E Court only</b>			
<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

<b>Table 2 Appeals to the P&amp;E Court only</b>			
the change application			
<p><b>3. Eligible submitter and eligible advice agency appeals</b>            An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to—            (a) any part of the development application or the change application, for the development approval, that required impact assessment; or            (b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for the change application 3 An eligible advice agency for the development application or change application	1 For a development application—the assessment manager 2 For a change application—the responsible entity	1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application
<p><b>4. Compensation claims</b>            An appeal may be made against—            (a) a decision under section 32 about a compensation claim; or            (b) a decision under section 265 about a claim for compensation; or            (c) a deemed refusal of a claim under paragraph (a) or (b).</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person dissatisfied with the decision	The local government to which the claim was made	-	-
<p><b>5. Registered premises</b>            An appeal may be made against a decision of the Minister under chapter 7, part 4.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 A person given a decision notice about the decision 2 If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the affected area for the registered premises who is dissatisfied with the decision	The Minister	-	If an owner or occupier starts the appeal – the owner of the registered premises

<b>Table 2 Appeals to the P&amp;E Court only</b>			
<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	-	-

<b>Table 3 Appeals to the tribunal only</b>			
<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	-	-