



Decision Notice Approval

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 section 63(2) of the Planning Act 2016

| | | | |
|---------------------|---------------|-----------------|----------------|
| Application number: | D/6-2023 | Contact: | Kathy McDonald |
| Notice Date: | 28 April 2023 | Contact Number: | 07 4936 8099 |

APPLICANT DETAILS

| | | | |
|-----------------|---|------------|--------------|
| Name: | Roman Catholic Trust Corporation for the Diocese of Rockhampton for Catholic Education, Diocese of Rockhampton | | |
| Postal address: | PO Box 4499 MACKAY QLD 4740 | | |
| Phone no: | N/A | Mobile no: | 0409 341 010 |
| Email: | justinpeel@bigpond.com | | |

I acknowledge receipt of the above application on 24 January 2023 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Material Change of Use for an Educational Establishment (extension to existing Educational Establishment)

PROPERTY DESCRIPTION

| | |
|----------------------------|--|
| Street address: | 186 West Street, Allenstown |
| Real property description: | Lot 104 on SP260367, Parish of Rockhampton |

Dear Roman Catholic Trust Corporation for the Diocese of Rockhampton for Catholic Education, Diocese of Rockhampton

I advise that, on 20 April 2023 the above development application was:

☒ approved in full with conditions* (refer to the conditions contained in **Attachment 1**)

*Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.

1. DETAILS OF THE APPROVAL

The following approvals are given:

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| Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use |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

2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

3. FURTHER DEVELOPMENT PERMITS REQUIRED

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

| Type of development permit required | Subject of the required development permit |
|-------------------------------------|---|
| Operational Works | Road Works; Sewerage Works; and Roof and Allotment Drainage Works |
| Building Works | |
| Plumbing and Drainage Works | |

4. REFERRAL AGENCIES

The following Referral Agencies were activated by this application.

| For an application involving | Name of agency | Role of Agency | Contact Details |
|--|---|----------------|---|
| INFRASTRUCTURE-RELATED REFERRALS (Electricity Infrastructure) | | | |
| <i>Schedule 10, Part 9, Division 2, Table 2 – Material change of use of premises near a substation site or subject to an easement</i> | | | |
| Development application for a material change of use that is assessable development under a local categorising instrument and does not relate to reconfiguring a lot, if— (a) all or part of the premises are within 100m of a substation site; or (b) both of the following apply— (i) all or part of the premises are subject to an easement for the benefit of a distribution entity, or transmission entity, under the Electricity Act; (ii) the easement is for a transmission grid or supply network | The chief executive of the distribution entity or transmission entity: Ergon Energy | Advice | <u>Postal:</u> Ergon Energy (Town Planning) PO Box 1090 Townsville Qld <u>Email:</u> townplanning@ergon.com.au |
| INFRASTRUCTURE-RELATED REFERRALS (Oil and Gas Infrastructure) | | | |
| Schedule 10, Part 9, Division 3, Table 2 – Material change of use of premises subject to a pipeline easement | | | |
| Development application for a material change of use that is assessable development under a local categorising instrument and does not relate to reconfiguring a lot, if— (a) all or part of the premises are subject to an easement for the benefit of the holder of a pipeline licence under the Petroleum and Gas Act; and (b) the easement is for the construction or operation of the pipeline that is the subject of the pipeline licence; and (c) all or part of a structure or work that is the natural and ordinary consequence of the use is, or will be, on the easement | If the holder of the licence is not an individual—the chief executive, however described, of the holder If the holder of the licence is an individual—the individual | Advice | ***This will need to reflect the details of the 'resource authority holder'*** Use the following link to obtain details: https://www.business.qld.gov.au/industries/mining-energy-water/resources/landholders/searches |

| STATE TRANSPORT INFRASTRUCTURE (State Transport Corridors and Future State Transport Corridors) | | | |
|---|--|-------------|---|
| <i>Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 – Material change of use of premises near a State transport corridor or that is a future State transport corridor</i> | | | |
| Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorising instrument, if all or part of the premises— (a) are within 25m of a State transport corridor; or (b) are a future State transport corridor; or (c) are— (i) adjacent to a road that intersects with a State-controlled road; and (ii) within 100m of the intersection | The chief executive of the department in which the <i>Planning Act 2016</i> is administered: State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department) | Concurrence | <u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City <u>Online lodgement using MyDAS2:</u> https://prod2.dev-assess.qld.gov.au/suite/ <u>Email:</u> RockhamptonSARA@ds.dilgp.qld.gov.au <u>Postal:</u> PO Box 113 Rockhampton Qld 4700 |

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/ Issue</u> |
|---|------------------------|-----------------|----------------------|-----------------------|
| Existing Overall Site Plan – Ground Level | Tony Madden Architects | 20 January 2023 | MCU-01 | P2 |
| Proposed Overall Site Plan – Ground Level | Tony Madden Architects | 20 January 2023 | MCU-02 | P2 |
| Proposed Overall Site Plan – First Floor | Tony Madden Architects | 20 January 2023 | MCU-03 | P2 |
| Street Elevations | Tony Madden Architects | 20 January 2023 | MCU-04 | P2 |
| Proposed Ground Floor Plan | Tony Madden Architects | 18 January 2023 | MCU-10 | P2 |
| Proposed Level 1 Floor Plan | Tony Madden Architects | 18 January 2023 | MCU-11 | P2 |
| Proposed Roof Plan | Tony Madden Architects | 18 January 2023 | MCU-12 | P2 |
| Proposed Elevations | Tony Madden Architects | 18 January 2023 | MCU-13 | P2 |
| Proposed Elevations | Tony Madden Architects | 18 January 2023 | MCU-14 | P2 |

| <u>Plan/Document Name</u> | <u>Prepared by</u> | <u>Date</u> | <u>Reference No.</u> | <u>Version/ Issue</u> |
|---|--|------------------|----------------------|---------------------------|
| Technical letter – Sewer Reticulation and Stormwater Management | Janes and Stewart Structural + Civil Consultants | 10 January 2023 | 23001LETTM01 | - |
| Technical letter – Flood hazard Overlay Code Assessment | Janes and Stewart Structural + Civil Consultants | 27 February 2023 | 23001LETTM02 | - |

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

| | | |
|--|---|--|
| Description of the development | Material Change of Use for an Educational Establishment (extension to existing Educational Establishment) | |
| Reasons for Decision | <p>a) Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity; and</p> <p>b) On balance, the application should be approved because the circumstances favour Council exercising its discretion to approve the application even though the development does not comply with an aspect of the assessment benchmarks.</p> | |
| Assessment Benchmarks | <p>The development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> • Community Facilities Zone Code; • Heritage Place Overlay Code; • Access, Parking and Transport Code; • Landscape Code; • Stormwater Management Code; • Waste Management Code; and • Water and Sewer Code. | |
| Compliance with assessment benchmarks | The development was assessed against all the assessment benchmarks listed above and complies with all of these with the exception listed below. | |
| | Assessment Benchmark | Reasons for the approval despite non-compliance with benchmark |
| | Community Facilities Zone Code | <p>PO1</p> <p>Acceptable Outcome 1.1 (a) prescribes that the maximum height of new buildings does not exceed 8.5 metres above ground level.</p> <p>A design 'step' in building height will result in a portion of the new building's roofline to be constructed at a maximum height of 10 metres above ground level.</p> |

| | | |
|---|--|--|
| | | <p>Despite this, the 10 metre high section of building is located on the north eastern side, inward facing to the school. The remainder of the building has a maximum building height of 8 metres (to roof peak) and is located on the south west side being the common boundary with the sensitive land use along William Street.</p> <p>The proposed building is appropriately setback 3 metres from the common boundary that will assist in reducing the overshadowing and no openings are proposed on the south west side of the building, which removes the opportunity to overlook into the adjoining residential use.</p> <p>Furthermore, the 'step' in design provides a transition in building heights and reduces the bulk and scale of the building. The proposed heights are proportionate with the heights of the existing buildings located on the subject site and incorporate appropriate setbacks, design features and an active street front to assist in maintaining the amenity of the surrounding residential zone.</p> <p>Therefore, the development is considered to achieve the performance outcome.</p> |
| Matters prescribed by regulation | <ul style="list-style-type: none"> • The <i>Rockhampton Region Planning Scheme 2015</i> (version 2.2); and • The common material, being the material submitted with the application. | |

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*. 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 out 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: Amanda O'Mara COORDINATOR <u>DEVELOPMENT ASSESSMENT</u> | Signature:  | Date: 28 April 2023 |
|--|---|---------------------|

C/C State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department) - RockhamptonSARA@dsdilgp.qld.gov.au

Attachment 1 – Conditions of the approval

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

Part 2 – Conditions required by the referral agency response

Attachment 2—Extract on appeal rights

1.0 ADMINISTRATION

- 1.1 The owner, the owners successors in title, and any occupier of the premise 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 Certificate of Classification for the Building Works, 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 Certificate of Classification for the Building Works, 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) Roof and Allotment Drainage;
 - 1.5.2 Plumbing and Drainage Works; and
 - 1.5.3 Building Works:
 - (i) Building Works.
- 1.6 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.
- 1.7 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.
- 1.8 All engineering drawings/specifications, design and construction works must be in accordance with the requirements of the relevant Australian Standards and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.
- 1.9 All development conditions contained in this development approval about infrastructure under Chapter 4 of the Planning Act 2016 should be read as being non-trunk infrastructure conditioned under section 145 of the Planning Act 2016, unless otherwise stated.

2.0 APPROVED PLANS AND DOCUMENTS

- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by any condition of this development approval:

| <u>Plan/Document Name</u> | <u>Prepared by</u> | <u>Date</u> | <u>Reference No.</u> | <u>Version /Issue</u> |
|---|--|------------------|----------------------|-----------------------|
| Existing Overall Site Plan – Ground Level | Tony Madden Architects | 20 January 2023 | MCU-01 | P2 |
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| Street Elevations | Tony Madden Architects | 20 January 2023 | MCU-04 | P2 |
| Proposed Ground Floor Plan | Tony Madden Architects | 18 January 2023 | MCU-10 | P2 |
| Proposed Level 1 Floor Plan | Tony Madden Architects | 18 January 2023 | MCU-11 | P2 |
| Proposed Roof Plan | Tony Madden Architects | 18 January 2023 | MCU-12 | P2 |
| Proposed Elevations | Tony Madden Architects | 18 January 2023 | MCU-13 | P2 |
| Proposed Elevations | Tony Madden Architects | 18 January 2023 | MCU-14 | P2 |
| Technical letter – Sewer Reticulation and Stormwater Management | Janes and Stewart Structural + Civil Consultants | 10 January 2023 | 23001LETTM01 | - |
| Technical letter – Flood hazard Overlay Code Assessment | Janes and Stewart Structural + Civil Consultants | 27 February 2023 | 23001LETTM02 | - |

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

3.0 ROAD WORKS

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

3.2 All road works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), Capricorn Municipal Development Guidelines, relevant Australian Standards and Austroads Guidelines and the provisions of a Development Permit for Operational Works (road works).

4.0 ACCESS WORKS

- 4.1 Any redundant vehicular crossovers must be replaced by Council standard kerb and channel.
- 4.2 All internal pedestrian pathways must be designed and constructed in accordance with Australian Standard AS1428 "Design for access and mobility".
- 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 on the development site.
- 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 2018 and the provisions of a Development Permit for Operational Works (sewerage works).
- 5.3 The existing dwelling on Lot 3 RP601128 must remain connected to Council's sewerage network at all times during the relocation of the existing sewer main under the proposed building footprint. Details of how this will be achieved must be provided with the Operational Works application.
- 5.4 Any proposed sewerage access chamber located within a park or reserve, or below a ten per cent (10%) Annual exceedance probability flood level, must be provided with bolt down lids.
- 5.5 The finished sewerage access chamber or lamphole surface must be at a sufficient level to avoid ponding of stormwater above the top of the chamber. A heavy duty trafficable lid must be provided in the trafficable area.
- 5.6 Sewer connections located within trafficable areas must be raised or lowered to suit the finished surface levels and must be provided with heavy duty trafficable lids.
- 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 All works must be undertaken in accordance with Queensland Development Code, Mandatory Part 1.4 "Building over or near relevant infrastructure."
- 6.0 PLUMBING AND DRAINAGE WORKS
- 6.1 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, Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.
- 6.2 The development must be connected to Council's reticulated sewerage and water networks.
- 6.3 The existing sewerage and water connection point(s) must be retained, and upgraded if necessary, to service the development.
- 6.4 Adequate domestic and fire fighting protection must be provided to the development, and must be certified by an hydraulic engineer or other suitably qualified person.
- 6.5 Alteration, disconnection or relocation of internal plumbing and sanitary drainage works associated with the existing building must be in accordance with regulated work under the Plumbing and Drainage Act 2018 and Council's Plumbing and Drainage Policies.
- 6.6 All sanitary drainage works must comply with Australian Plumbing and Drainage Standard AS3500 Part 2 section 3 and 4 for flood affected areas.
- 7.0 ROOF AND ALLOTMENT DRAINAGE WORKS
- 7.1 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.

- 7.2 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, sound engineering practice and the provisions of a Development Permit for Operational Works (roof and allotment drainage works).
- 7.3 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.
- 8.0 BUILDING WORKS
- 8.1 All external elements, such as air conditioners, pool and spa pumps and associated equipment, must be adequately screened from public view, to Council's satisfaction.
- 8.2 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the development site and shielded so as not to cause glare or other nuisance to nearby residents and motorists. Night lighting must be designed, constructed and operated in accordance with Australian Standard AS4282 "Control of the obtrusive effects of outdoor lighting".
- 8.3 All windows facing the adjoining residential properties must be properly glazed or screened to not intrude on the privacy of residents.
- 8.4 A minimum 1.8 metre high solid screen fence must be erected and retained between the subject site and adjacent residential property to the south west of the development (Lot 3 on RP601128).
- 9.0 LANDSCAPING WORKS
- 9.1 Landscaping must be constructed and/or established prior to the commencement of the use in all areas shown on the approved plans (refer to condition 2.1).
- 9.2 Landscaping must be provided with a minimum planting area of one (1) metre in width for the full length of the William Street road frontage (excluding vehicle and pedestrian access ways).
- 9.3 Landscaping must be provided with a minimum planting area of three (3) metres in width for the full length of the common side boundary, adjacent the residential property to the south west of the development (Lot 3 on RP601128).
- 9.3.1 Planting types used within this landscaping area (refer to condition 2.1) must include either trees, shrubs or groundcovers, or any combination of these planting types. These plantings must be established and maintained generally at the following density rates:
- 9.3.1.1 trees at five (5) metre intervals;
- 9.3.1.2 shrubs at two (2) metre intervals; and
- 9.3.1.3 groundcovers at one (1) metre intervals.
- 9.4 At least fifty (50) per cent of all new plantings within the landscaping areas (refer to condition 2.1) must be locally native species with low water dependency and must comply with the following requirements:
- 9.4.1 Plant species are chosen from sources recommended in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*; and
- 9.4.2 Plant species must not include undesirable species identified in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*.
- 9.5 Large trees must not be planted within one (1) metre of the centreline of any sewerage and/or water infrastructure; small shrubs and groundcover are acceptable.
- 9.6 The landscaped areas must be subject to:
- 9.6.1 a watering and maintenance plan during the establishment moment; and

9.6.2 an ongoing maintenance and replanting programme.

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.
- 10.3 'As Constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the commencement of the use. This information must be provided in accordance with the Asset Design and As Constructed Manual (ADAC).

11.0 ENVIRONMENTAL

- 11.1 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) site drainage;
- (iv) soils;
- (v) erosion susceptibility;
- (vi) erosion risk;
- (vii) concept;
- (viii) design; and
- (ix) implementation,

for the construction and post-construction phases of work.

12.0 OPERATING PROCEDURES

- 12.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the development site. Storage of materials or parking of construction machinery or contractors' vehicles must not occur within William Street, Talford Street, Derby Street or Hay Street.
- 12.2 Operations on the development site must have no significant impact as determined by Council on the amenity of adjoining premises or the surrounding area due to the emission of light, noise, odour or dust.
- 12.3 The hours of operations for the development site must be limited to:
- (i) 0600 hours to 2200 hours on Monday to Saturday, and with no operations on Sundays or Public Holidays.
- 12.4 Access to, and use of, the loading area must be limited to between 0800 and 1700 hours, Monday to Friday (inclusive) only. Access to, and use of, the loading dock area must not occur on Saturday or Sunday or any public holiday.
- 12.5 All waste storage areas must be:
- 12.5.1 kept in a clean and tidy condition; and
 - 12.5.2 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

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. Works in Road Reserve Permit

It is advised that a Works in Road Reserve Permit (including a fee for the vehicle crossover and compliant with Standard *Capricorn Municipal Development Guidelines, Standard Drawings*) may be accepted in place of the application for a Development Permit for Operational Works (Roadworks).

NOTE 5. Building Works

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.

NOTE 6. Landscaping

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

NOTE 7. Infrastructure Charges Notice

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

NOTE 8. Flood Management

The site, including the proposed development area, is mapped under the Draft Rockhampton Region Planning Scheme 2015 (v4.0) as being affected by the Flood Hazard Overlay. This flood mapping is yet to come into effect. This advice is provided for your own reference, and it is recommended a Flood Search be obtained from Council to understand the flooding type and characteristics affecting the site.



Attachment 1 – Part 2
Referral Agency Conditions – State
Development, Infrastructure, Local
Government and Planning (State
Assessment and Referral Agency
Department) *Planning Act 2016*

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

Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the **appellant**); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
 - (2) An appellant may start an appeal within the appeal period.
 - (3) The **appeal period** is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.
- Note—
See the P&E Court Act for the court's power to extend the appeal period.
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
 - (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
 - (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

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

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

231 Other appeals

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

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

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

232 Rules of the P&E Court

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

Schedule 1

Appeals section 229

1 Appeal rights and parties to appeals

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

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

| 1. Development applications An appeal may be made against— <ol style="list-style-type: none"> (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 | 1 A concurrence agency that is not a co-respondent |

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

| Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal | | | |
|---|---|---------------------------------------|---|
| 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 (i) The working out of extra demands, for section 120; or (ii) An offset or refund; or b) The was no decision about an offset or refund; or c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or d) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount. | | | |
| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |
| The person given the Infrastructure charges notice | The local government that gave the infrastructure charges notice | - | - |
| 5. Conversion applications An appeal may be made against— (a) the refusal of a conversion application; or (b) a deemed refusal of a conversion application. | | | |
| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |
| The applicant | The local government to which the conversion application was made | - | - |
| 6. Enforcement notices An appeal may be made against the decision to give an enforcement notice. | | | |
| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |
| The person given the enforcement notice | The enforcement authority | - | If the enforcement authority is not the local government for the premises in relation to which the offence is alleged to have happened—the local government |

| Table 2 Appeals to the P&E Court only | | | |
|--|---|---------------------------------------|---|
| 1. Appeals from tribunal An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of— (a) an error or mistake in law on the part of the tribunal; or (b) jurisdictional error. | | | |
| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |
| A party to the proceedings for the decision | The other party to the proceedings for the decision | - | - |

Table 2
Appeals to the P&E Court only

2. Eligible submitter appeals

An appeal may be made against the decision to give a development approval, or an approval for a change application, to the extent that the decision relates to—

- (a) any part of the development application for the development approval that required impact assessment; or
- (b) a variation request.

| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |
|--|---|---|---|
| 1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for the 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 |

3. Eligible submitter and eligible advice agency appeals

An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to—

- (a) any part of the development application or the change application, for the development approval, that required impact assessment; or
- (b) a variation request.

| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |
|---|---|---|---|
| 1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for the change application 3 An eligible advice agency for the development application or change application | 1 For a development application—the assessment manager 2 For a change application—the responsible entity | 1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency | Another eligible submitter for the application |

4. Compensation claims

An appeal may be made against—

- (a) a decision under section 32 about a compensation claim; or
- (b) a decision under section 265 about a claim for compensation; or
- (c) a deemed refusal of a claim under paragraph (a) or (b).

| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |
|---|--|---------------------------------------|---|
| A person dissatisfied with the decision | The local government to which the claim was made | - | - |

5. Registered premises

| Table 2 Appeals to the P&E Court only | | | |
|---|------------------------|---------------------------------------|--|
| An appeal may be made against a decision of the Minister under chapter 7, part 4. | | | |
| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |
| 1 A person given a decision notice about the decision 2 If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the affected area for the registered premises who is dissatisfied with the decision | The Minister | - | If an owner or occupier starts the appeal – the owner of the registered premises |
| 6. Local laws An appeal may be made against a decision of a local government, or conditions applied, under a local law about— (a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or (b) the erection of a building or other structure. | | | |
| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |
| A person who— (a) applied for the decision; and (b) is dissatisfied with the decision or conditions. | The local government | - | - |

| Table 3 Appeals to the tribunal only | | | |
|---|------------------------|---------------------------------------|---|
| 1. Building advisory agency appeals An appeal may be made against giving a development approval for building work to the extent the building work required code assessment against the building assessment provisions. | | | |
| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |
| A building advisory agency for the development application related to the approval | The assessment manager | The applicant | 1 A concurrence agency for the development application related to the approval 2 A private certifier for the development application related to the approval |
| 3. Certain decisions under the Building Act and the Plumbing and Drainage Act An appeal may be made against a decision under— (a) the Building Act, other than a decision made by the Queensland Building and Construction Commission; or (b) the Plumbing and Drainage Act, part 4 or 5. | | | |
| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |

| Table 3 Appeals to the tribunal only | | | |
|--|--|---------------------------------------|---|
| A person who received, or was entitled to receive, notice of the decision | The person who made the decision | - | - |
| 4. Local government failure to decide application under the Building Act An appeal may be made against a local government's failure to decide an application under the Building Act within the period required under that Act. | | | |
| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |
| A person who was entitled to receive, notice of the decision | The local government to which the application was made | - | - |