



Decision Notice Approval (amended)

Planning Act Form 5 (version 1.2 effective 7 February 2020) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s83 Planning Act 2016

Application number:	D/79-2017	Contact:	Aidan Murray
Notice Date:	16 June 2023	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	Hopkins Brothers Group Pty Ltd		
Postal address:	C/- Groundwork Plus PO BOX 1779 MILTON QLD 4064		
Phone no:	Mobile no:	0429 735 447	Email: mbenham@groundwork.com.au

I acknowledge receipt of the above change application on 18 February 2022 and confirm the following:

DEVELOPMENT APPROVAL

'Other Change' to Development Permit for a Material Change of Use for Extractive Industry, Medium Impact Industry and a Warehouse

PROPERTY DESCRIPTION

Street address:	59793 Bruce Highway, Midgee & 129 Gavial-Gracemere Road & Lot 725 Bruce Highway, Bouldercombe
Real property description:	Lot 2 on RP888747, Lot 1 on SP247721, Lot 931 on LIV40265, Lot 2 on SP247721 & Lot 725 on RP888747,

Dear Hopkins Brothers Group Pty Ltd

I advise that, on **8 June 2023** the above change 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.

CHANGES TO CONDITIONS

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

1)	Item 7	Changed	08 June 2023
2)	Condition 2.1	Changed	08 June 2023
3)	Condition 3.1	Deleted	08 June 2023
4)	Condition 3.2	Deleted	08 June 2023
5)	Condition 3.3	Deleted	08 June 2023

6)	Condition 3.4	Deleted	08 June 2023
7)	Condition 6.1	Changed	08 June 2023
8)	Condition 8.1	New	08 June 2023
9)	Condition 8.2	New	08 June 2023
10)	Condition 8.3	New	08 June 2023
11)	Condition 9.1	New	08 June 2023
12)	Condition 9.2	New	08 June 2023
13)	Condition 9.3	New	08 June 2023
14)	Condition 9.4	New	08 June 2023
15)	Condition 9.5	New	08 June 2023

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use	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

4. SUBMISSIONS

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

5. REFERRAL AGENCIES

The following Referral Agencies were activated by this application.

For an application involving	Name of agency	Role of Agency	Contact Details
CLEARING NATIVE VEGETATION			
<i>Schedule 10, Part 3, Division 4, Table 3 - Material change of use that is assessable development under a local categorising instrument</i>			
Development application for a material change of use that is assessable development under a local categorising instrument and relates to a lot that is 5ha	The chief executive of the department in	Concurrence	<u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City

<p>or larger, if—</p> <p>(a) the application—</p> <p>(i) is for a preliminary approval that includes a variation request; and</p> <p>(ii) relates to a lot that contains native vegetation shown on the regulated vegetation management map as a category A area or category B area; and</p> <p>(iii) is for a material change of use, other than a non-referable material change of use; or</p> <p>(b) the application is not stated in paragraph (a) and all of the following apply—</p> <p>(i) the material change of use does not involve prescribed clearing;</p> <p>(ii) accepted operational work may be carried out because of the material change of use, or the material change of use involves operational work that is assessable development under section 5;</p> <p>(iii) the accepted operational work or assessable operational work includes development other than the clearing of regulated regrowth vegetation on freehold land, indigenous land, or land the subject of a lease given under the Land Act for agriculture or grazing purposes</p>	<p>which the <i>Planning Act 2016</i> is administered:</p> <p>State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department)</p>		<p><u>Online lodgement using MyDAS2:</u></p> <p>https://prod2.dev-assess.qld.gov.au/suite/</p> <p><u>Email:</u></p> <p>RockhamptonSARA@dsd ilgp.qd.gov.au</p> <p><u>Postal:</u></p> <p>PO Box 113</p> <p>Rockhampton Qld 4700</p>
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ENVIRONMENTALLY RELEVANT ACTIVITIES

Schedule 10, Part 5, Division 4, Table 2 - Non-devolved environmentally relevant activities

<p>Development application for a material change of use that is assessable development under section 8, if—</p> <p>(a) the environmentally relevant activity the subject of the application has not been devolved to a local government under the Environmental Protection Regulation; and</p> <p>(b) the chief executive is not the prescribed assessment manager for the application</p>	<p>The chief executive of the department in which the <i>Planning Act 2016</i> is administered:</p> <p>State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department)</p>	Concurrence	<p><u>In person:</u></p> <p>Level 2, 209 Bolsover Street, Rockhampton City</p> <p><u>Online lodgement using MyDAS2:</u></p> <p>https://prod2.dev-assess.qld.gov.au/suite/</p> <p><u>Email:</u></p> <p>RockhamptonSARA@dsd ilgp.qd.gov.au</p> <p><u>Postal:</u></p> <p>PO Box 113</p> <p>Rockhampton Qld 4700</p>
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STATE TRANSPORT INFRASTRUCTURE (Generally)

Schedule 10, Part 9, Division 4, Subdivision 1, Table 1 – Aspect of development stated in schedule 20

<p>Development application for an aspect of development stated in schedule 20 that is assessable development under a local categorising instrument or section 21, if—</p> <p>(a) the development is for a purpose</p>	<p>The chief executive of the department in which the <i>Planning Act 2016</i> is administered:</p> <p>State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department)</p>	Concurrence	<p><u>In person:</u></p> <p>Level 2, 209 Bolsover Street, Rockhampton City</p> <p><u>Online lodgement using MyDAS2:</u></p> <p>https://prod2.dev-assess.qld.gov.au/suite/</p> <p><u>Email:</u></p> <p>RockhamptonSARA@dsd ilgp.qd.gov.au</p> <p><u>Postal:</u></p> <p>PO Box 113</p> <p>Rockhampton Qld 4700</p>
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<p>stated in schedule 20, column 1 for the aspect; and</p> <p>(b) the development meets or exceeds the threshold—</p> <p>(i) for development in local government area 1—stated in schedule 20, column 2 for the purpose; or</p> <p>(ii) for development in local government area 2—stated in schedule 20, column 3 for the purpose; and</p> <p>(c) for development in local government area 1—the development is not for an accommodation activity or an office at premises wholly or partly in the excluded area</p> <p>However, if the development is for a combination of purposes stated in the same item of schedule 20, the threshold is for the combination of purposes and not for each individual purpose.</p>	<p><i>Act 2016</i> is administered:</p> <p>State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department)</p>		<p>https://prod2.dev-assess.qld.gov.au/suite/</p> <p><u>Email:</u> RockhamptonSARA@dsg.ilgp.qd.gov.au</p> <p><u>Postal:</u> PO Box 113 Rockhampton Qld 4700</p>
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STATE TRANSPORT INFRASTRUCTURE (State Transport Corridors and Future State Transport Corridors)

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

<p>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—</p> <p>(a) are within 25m of a State transport corridor; or</p> <p>(b) are a future State transport corridor; or</p> <p>(c) are—</p> <p>(i) adjacent to a road that intersects with a State-controlled road; and</p> <p>(ii) within 100m of the intersection</p>	<p>The chief executive of the department in which the <i>Planning Act 2016</i> is administered:</p> <p>State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department)</p>	Concurrence	<p><u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City</p> <p><u>Online lodgement using MyDAS2:</u> https://prod2.dev-assess.qld.gov.au/suite/</p> <p><u>Email:</u> RockhamptonSARA@dsg.ilgp.qd.gov.au</p> <p><u>Postal:</u> PO Box 113 Rockhampton Qld 4700</p>
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6. THE APPROVED PLANS

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

<u>Plan / Document Name</u>	<u>Plan / Document Reference</u>	<u>Version / Issue</u>	<u>Dated</u>
Site Plan	GG-003 SP-002	Rev 2	29 June 2017
Site Layout Plan – Quarry Footprint Extension	2607.DRG.013	-	17 February 2022
Attachment 1 - TTPlus Response	10569	-	5 December 2022

<u>Plan / Document Name</u>	<u>Plan / Document Reference</u>	<u>Version / Issue</u>	<u>Dated</u>
Detailed Stormwater & Contaminated Water Management Plan	File No: K3626-0006		3 July 2017
Technical Memorandum Re: Midgee Quarry Expansion – 59793 Bruce Highway, Midgee – Storage Pad	File No: K3626-0008		7 September 2017
Permanent – Sediment and Erosion Control Plan	K3626-SE003	Issue A	29 September 2017
Permanent – Sediment and Erosion Control Details	K3626-SE004	Issue A	29 September 2017
Midgee Quarry – Stormwater Management Plan	2607.800.001	Issue 1	7 February 2022
Midgee Quarry – Site Based Management Plan	2607_610_001	Issue 1	17 February 2022

7. 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.

8. STATEMENT OF REASONS

Description of the development	Material Change of Use for Extractive Industry, Medium Impact Industry and Warehouse
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"> • Strategic Framework; • Rural Zone Code; • Extractive Industry Code; • Acid Sulfate Soils Overlay Code; • Airport Environs Overlay Code; • Biodiversity Overlay Code; • Bushfire Hazard Overlay Code; • Flood Hazard Overlay Code; • Steep Land Overlay Code; • Access, Parking And Transport Code;

	<ul style="list-style-type: none"> • Landscape Code; • Stormwater Management Code; • Waste Management Code; and • Water and Sewer Code.
Compliance with assessment benchmarks	The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exceptions listed below.
Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
Rural Zone Code PO14	<p>The proposal does not comply with part (a) of Performance Outcome (PO) 14, which states that “Development that does not involve rural uses is located on the least productive parts of a site and not on land identified on the agricultural land classification (ALC) overlay maps.” Proposed Pit one (1) and a small portion of proposed Pit two (2) are located on land identified as ALC. It is noted that proposed Pit two (2) is an extension of the existing operation on the subject site.</p> <p>The proposal is for the quarry footprint to be developed progressively based on operational needs. Agricultural activities will continue to occur across the site in areas which are not subject to quarry activities. The proposal also accounts for progressive rehabilitation over the quarry lifecycle to ensure affected areas are returned to a safe, stable and self-draining state to support a return to agricultural activities. Rehabilitation of the site is managed under the Environmental Authority (EA) approval which regulates Environmentally Relevant Activities (ERA) for extracting and screening quarry material on the site.</p> <p>Based on these factors, the development does not alienate or impact on the long-term productive agricultural capacity of the subject site. Therefore, the development is considered compatible with the purpose and overall outcomes of the Rural Zone.</p>
Extractive Industry Code PO1	<p>The proposed development conflicts with Acceptable Outcome (AO) 1.1, which requires that an extractive industry operation involving blasting be located at least 1,000 metres (m) (separation distance) from the nearest sensitive land use. The operation maintains compliant separation distance to sensitive land uses in the north, south and west. However, there is an existing sensitive land use that is located within the prescribed separation distance, being a tourist park (Kangaroo Country Caravan Park) located on an adjoining property to the east.</p> <p>There is an existing storage area in the eastern part of the site that will continue to be the closest operational area to the adjoining relocatable home park. Bunds have been constructed around this storage area and small vegetation buffer maintained, mitigating potential impacts to the park. The internal haulage road also runs to the north of the relocatable home park. To mitigate potential dust impacts, the sealing of the internal haul road has been conditioned in accordance with production thresholds based on air quality assessment recommendations.</p> <p>The proposed expansion of Pit two (2) will result in the extraction pit being located approximately 570 metres from the relocatable home park. The pit will be screened from view from the relocatable home park by natural topography (hills and ridgeline) and retained natural vegetation. The applicant acknowledged that site establishment works (i.e. stripping and overburden removal of the top bench) may be visible from the east for short periods of time. Material provided suggests that once site establishment works are complete, the operation will return to being unnoticed in the landscape. Overall, any changes to the visual amenity off-site should be negligible or manageable due to distance, wide field of view, variation in landscape detail (i.e. colours, textures etc) and low speed of internal traffic.</p> <p>The following factors and measures are considered relevant to the consideration</p>

	<p>of amenity for sensitive land uses, including the adjoining relocatable home park:</p> <ul style="list-style-type: none"> Operational hours have been conditioned on this development approval that limit reasonable time for blasting activities to only occur Monday to Friday, 9am-3pm. Amenity factors such as noise and vibration of been assessed and addressed as compliant within the submitted Environmental Report prepared by Groundwork Plus. Prevention and mitigation of environmental nuisance is regulated and conditioned through the associated Environmental Authority (EA) approval managed by the Department of Environment and Science (DES). <p>On the overall balance of assessment, the extractive industry is considered to be appropriately separated from sensitive land uses and any potential visual and noise impacts can be appropriately mitigated, thereby achieving compliance with Performance Outcome (PO) 1 of the Extractive Industry Code.</p>
<p>Extractive Industry Code</p> <p>PO3</p>	<p>The proposed development does not comply with Acceptable Outcomes (AO) 3.2 and 3.3, which are detailed below:</p> <ul style="list-style-type: none"> AO3.2 – Extraction, crushing, screening, loading, operation of plant equipment, ancillary activities and haulage are limited to Monday to Saturday between the hours of 06:00 and 18:00. AO3.3 – Operations do not occur on Sunday or public holidays. <p>Noise, vibration and air quality assessments detailed within the submitted technical reports (included in approved plans and documents under Condition 2.1) provide evidence that extractive industry activities can occur 24 hours a day, 7 days a week, without exceeding the relevant environmental and amenity criteria. Blasting operations are the primary source for potential noise impacts and have been conditioned to only occur Monday to Friday between the hours of 9am and 3pm, complying with Acceptable Outcome (AO) 3.1.</p> <p>These factors will be managed appropriately subject to approved site management measures. Conditions have also been applied to reduce potential amenity impacts, including a requirement to seal staged sections of the existing internal haul road in accordance with recommended thresholds. Furthermore, prevention and mitigation of environmental nuisance is addressed within the Environmental Authority (EA) approval regulated by the Department of Environment and Science (DES).</p> <p>On the overall balance of assessment, the operation of the extractive industry can appropriately ensure that noise impacts are minimised on the surrounding area through effective site management measures and relevant conditions on both the Development Approval (DA) and Environmental Authority (EA) approval. The proposal is therefore considered compliant with Performance Outcome (PO) 3 of the Extractive Industry Code.</p>
<p>Extractive Industry Code</p> <p>PO5</p>	<p>The development does not comply with Acceptable Outcome (AO) 5.1 which prescribes that Security fencing is provided for the full length of the perimeter of the site and around extractive industry stockpiles and operations.</p> <p>The site is currently fenced, limiting unauthorised access to the site although it is acknowledged that this fencing is not heavy-duty security fencing as would typically be seen in industrial areas. An existing security gate is provided at the vehicle access point to the Bruce Highway. Given the site location, remoteness and large perimeter of the site, heavy duty security fencing around the site boundaries would be prohibitively unreasonable.</p> <p>On the balance of assessment, the existing fencing is considered suitable and will not compromise public safety, thereby achieving compliance with Performance Outcome (PO) 5.</p>
<p>Access, Parking and Transport Code</p>	<p>Acceptable Outcome (AO6.1) requires that parking spaces, access and manoeuvring facilities, loading facilities and connections to the transport network are sealed and designed in accordance with Australian Standard AS2890. No</p>

PO6	changes to the existing parking servicing facilities are proposed that have not been specifically designed with AS2890 in mind. Due to the location and separation from adjoining properties and uses minimal impact is expected. Conditions for sealing of the internal haul road have been applied to the development in line with the recommendations of the air quality assessment undertaken by a suitably qualified environmental expert. The proposal is considered sufficient to meet user requirements and therefore consistent with Performance Outcome (PO) 6.
Bushfire Hazard Overlay Code PO2	The site is located within the Rural Zone where reticulated water supply is not available. The development conflicts with AO2.1.2 which prescribes that a water tank be provided within ten (10) metres of a building or structure. The applicant has instead provided a Bushfire Management Plan detailing risk control strategies. Water for firefighting purposes will be sourced through a combination of water trucks and water from pit sumps / sediment basins if required during a bushfire event. The alternative solutions provide adequate and accessible water supply for firefighting purposes in an emergency thereby achieving PO2.
Bushfire Hazard Overlay Code PO3	The development does not comply with AO3.1 as the Extractive Industry use requires the storage of hazardous materials (fuel) on-site. The applicant has prepared a Bushfire Management Plan, which forms part of the approved Site Based Management Plan. Fuel storage is to be located away from vegetation and office areas and aboveground fuel tanks are to be separated from each other. Firefighting equipment and appropriate signage will also be located nearby in relevant areas. These measures ensure that public safety and the environment will not be adversely affected by the impacts of bushfire on hazardous materials, thereby complying with Performance Outcome (PO) 3.
Matters raised in submissions	No Submissions were received in relation to the development during public notification.
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.

9. RIGHTS OF APPEAL

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

Appeal by an applicant

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

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

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

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 229 of the *Planning Act 2016*.

Attachment 2 is an extract from the *Planning Act 2016* that sets down the applicant's appeal rights and the appeal rights of a submitter.

10. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect:

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

Or

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


Or

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

11. ORIGINAL DECISION ASSESSMENT MANAGER

Name: Tarnya Fitzgibbon <u>COORDINATOR</u> <u>DEVELOPMENT ASSESSMENT</u>	Date: 16 November 2018
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12. ASSESSMENT MANAGER

Name: Amanda O'Mara <u>COORDINATOR</u> <u>DEVELOPMENT ASSESSMENT</u>	Signature: 	Date: 16 June 2023
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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 Developer and his employee, agent, contractor or invitee is responsible for ensuring compliance with the conditions of this development approval.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions, works, or requirements of this development approval must be undertaken, completed, and be accompanied by a Compliance Certificate for any operational works required by this development approval:
- (i) to Council’s satisfaction;
 - (ii) at no cost to Council; and
 - (iii) prior to the commencement of the use;
- 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 commencement of the use, 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.
- 1.6 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.
- 1.7 All engineering drawings/specifications, design and construction works must be in accordance with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.

2.0 APPROVED PLANS AND DOCUMENTS

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

<u>Plan / Document Name</u>	<u>Plan / Document Reference</u>	<u>Version / Issue</u>	<u>Dated</u>
Site Plan	GG-003 SP-002	Rev 2	29 June 2017
Site Layout Plan – Quarry Footprint Extension	2607.DRG.013	-	17 February 2022
Attachment 1 - TTPlus Response	10569	-	5 December 2022
Detailed Stormwater & Contaminated Water Management Plan	File No: K3626-0006	-	3 July 2017

<u>Plan / Document Name</u>	<u>Plan / Document Reference</u>	<u>Version / Issue</u>	<u>Dated</u>
Technical Memorandum Re: Midgee Quarry Expansion – 59793 Bruce Highway, Midgee – Storage Pad	File No: K3626-0008	-	7 September 2017
Permanent – Sediment and Erosion Control Plan	K3626-SE003	Issue A	29 September 2017
Permanent – Sediment and Erosion Control Details	K3626-SE004	Issue A	29 September 2017
Midgee Quarry – Stormwater Management Plan	2607.800.001	Issue 1	7 February 2022
Midgee Quarry – Site Based Management Plan	2607_610_001	Issue 1	17 February 2022

- 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 SITE WORKS

3.1 Deleted.

3.2 Deleted.

3.3 Deleted.

3.4 Deleted.

3.5 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 adjoining properties or infrastructure.

3.6 The area downstream of the spillway overflow of the sediment basin for the storage pad must be monitored so that scouring of the downstream watercourse is prevented. If the design width of five (5) metres for the spillway concentrates flows into the watercourse cause scouring, the spillway must be widened as required to control any downstream scouring.

4.0 ASSET MANAGEMENT

4.1 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.

4.2 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.

5.0 ENVIRONMENTAL

5.1 An Erosion Control and Stormwater Control Management Plan prepared by a Registered Professional Engineer of Queensland in accordance with the *Capricorn Municipal Design Guidelines*, must be implemented, monitored and maintained for the duration of the development site operating under this approval, and until rehabilitation of the site is completed including restoring to a safe, stable landform, functionally resembling the surrounding area. The plan must be available on-site for inspection by Council Officers whilst site is operating as an extractive industry.

6.0 OPERATING PROCEDURES

6.1 The hours for the development site must be limited to:

- (i) Extractive activities, other than blasting, can occur 24 hours a day, 7 days per week where undertaken in accordance with the Site Based Management Plan (refer to Condition 2.1).
- (ii) Blasting is limited to 9am to 3pm, Monday to Friday. No blasting will occur on Saturdays, Sundays or public holidays.

6.2 No washing of plant equipment and vehicles is permitted on the development site unless an approved washdown bay is built to prevent contamination of land and the stormwater system.

6.3 Cleaning of plant equipment and vehicles must be carried out in an area where wastewater can be suitably managed so as not to cause contaminants to release into waterways or overland flow paths.

7.0 ENVIRONMENTAL HEALTH

7.1 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"*.

7.2 Noise emitted from the activity must not cause an environmental nuisance.

7.3 Operations on the site must have no significant impact on the amenity of adjoining premises or the surrounding area due to the emission of light, noise, odour or dust.

8.0 INTERNAL ACCESS WORKS

8.1 The internal haul road, between the eastern boundary of Lot 2 on RP888747 and for a length of 200 metres, must be sealed to Council's satisfaction prior to quarry production rates exceeding 700,000 tonnes per annum (tpa).

8.2 The full length of the internal haul road to the pit entrance (other than works already required by Condition 8.1) must be appropriately sealed whenever the following occurs first;

- (i) when the quarry production reaches 1.2 million tpa without the asphalt plant operating; or
- (ii) when the quarry production reaches 500,000 tpa with the asphalt plant operating at maximum daily capacity; or
- (iii) when the quarry production reaches 800,000 tpa and the asphalt plant is operating at 50% capacity.

8.3 The applicant must notify Council on completion of the sealing works that are required to be undertaken in accordance with Conditions 8.1 and 8.2 of this development permit.

9.0 ROAD WORKS

9.1 A Development Permit for Operational Works (Road Works) must be obtained prior to the commencement of any road works / access works within the unnamed / unformed road reserve between Pit 1 and Pit 2.

Note: Works in Road Reserve Permit may be accepted in place of the application for a Development Permit for Operational Works (Road Works).

9.2 All works within the unnamed / unformed road reserve must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, relevant *Australian Standards* and the provisions of a Development Permit for Operational Works (Road Works).

9.3 Any application for a Development Permit for Operational Works (Road Works) must be accompanied by engineering plans with details of the works required within the unnamed / unformed road reserve.

9.4 Trucks Crossing Signs (W5-22) must be installed either side of the internal access road where it crosses the unnamed / unformed road reserve between Pit 1 and Pit 2.

- 9.5 All vehicular access to and from the development must be via Bruce Highway only. No direct access is allowed to Gavial Gracemere Road via the unnamed / unformed road reserve.

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 and Partnerships website www.dsdatsip.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. Licensable Activities

Should an activity licensable by Rockhampton Regional Council be proposed for the development site, Council's Environment and Public Health Unit must be consulted to determine whether any approvals are required. Such activities may include food preparation, storage of dangerous goods or environmentally relevant activities. Approval for such activities is required before 'fit out' and operation.

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.

NOTE 5. Duty to Notify of Environmental Harm

If a person becomes aware that serious or material environmental harm is caused or threatened by an activity or an associated activity, that person has a duty to notify Rockhampton Regional Council.

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) a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

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

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

231 Other appeals

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

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

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

232 Rules of the P&E Court

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

Schedule 1

Appeals

section 229

1 Appeal rights and parties to appeals

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

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

1. Development applications An appeal may be made against— (a) the refusal of all or part of the development application; or (b) the deemed refusal of the development application; or (c) a provision of the development approval; or (d) if a development permit was applied for—the decision to give a preliminary approval.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence	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 The applicant 2 For a matter other than a deemed refusal of an extension application – a concurrence agency, other than the chief executive, for the application	The assessment manager	If a concurrence agency starts the appeal – the applicant	If a chosen assessment manager is the respondent – the prescribed assessment manager
4. Infrastructure charges notices An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds a) The notice involved an error relating to – (i) The application of the relevant adopted charge; or Examples of errors in applying an adopted charge – <ul style="list-style-type: none"> The incorrect application of gross floor area for a non-residential development Applying an incorrect 'use category', under a regulation, to the development <ul style="list-style-type: none"> (i) The working out of extra demands, for section 120; or (ii) An offset or refund; or b) There 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			

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
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	-	-
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	Column 4 Co-respondent by election

Table 2 Appeals to the P&E Court only			
		(if any)	(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 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	The Minister	-	If an owner or occupier starts the appeal – the owner of the registered premises

Table 2 Appeals to the P&E Court only			
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			
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)
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	Column 4 Co-respondent by election

Table 3 Appeals to the tribunal only			
		(if any)	(if any)
A person who was entitled to receive, notice of the decision	The local government to which the application was made	-	-