



Decision Notice Approval (amended)

Planning Act Form 5 (version 1.1 effective 22 June 2018) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s83 Planning Act 2016, and Section 334 of the Sustainable Planning Act 2009

Application number:	D/366-2010	Contact:	Sophie Muggeridge
Notice Date:	28 June 2024	Contact Number:	1300 22 55 77

APPLICANT DETAILS

Name:	Burger Urge C/- Wolter Consulting Group Pty Ltd		
Postal address:	Level 2, 1 Breakfast Creek Road NEWSTEAD QLD 4006		
Phone no:	07 3666 5200	Mobile no:	Email: smachin@wolterconsulting.com.au

I acknowledge receipt of the above change application on 18 April 2024 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Material Change of Use for a Major Shopping Outlet and Operational Works for Advertising Sign (two Pylon Signs and eleven Flush Wall Signs)

PROPERTY DESCRIPTION

Street address:	139-145 Derby Street, Allenstown
Real property description:	Lot 202 on SP247233

OWNER DETAILS

Name:	Perpetual Limited
Postal address:	Level 13, 1 Martin Place SYDNEY NSW 2000

Dear Burger Urge C/- Wolter Consulting Group Pty Ltd

I advise that, on 25 June 2024 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)	Condition 1.1	Changed	25 June 2024
2)	Condition 3.4	Changed	25 June 2024
3)	Condition 8.2	Changed	16 December 2015
4)	Condition 14.1	Changed	28 May 2013

1. DETAILS OF THE APPROVAL

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material Change of use -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

2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

3. FURTHER DEVELOPMENT PERMITS REQUIRED

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

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

4. REFERRAL AGENCIES

NIL

5. THE APPROVED PLANS

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

Plan/Document Name	Plan Number	Dated
Mall Layout Plan	DA01 Issue 10	23 March 2011
Elevations	DA03 Issue 8	23 March 2011
External Works 1 of 2 (Car Parking Layout North)	DA05 Issue 10	23 March 2011
External Works 2 of 2 (Car Parking Layout South)	DA06 Issue 10	11 July 2011
Signage and External Works	DA07 Issue 10	23 March 2011
Overall Proposed Site Plan	DA09 Issue 6	11 July 2011
Existing Basement Carparking Layout	DA10 Issue 4	11 July 2011
Perspectives (new bin enclosure)	A100 Revision A	27 October 2015
Site Locality Plan (new bin enclosure)	A101 Revision A	27 October 2015
Floor Plans (new bin enclosure)	A200 Revision A	27 October 2015
Elevations (new bin enclosure)	A201 Revision A	27 October 2015
Construction Details (new bin enclosure)	A300 Revision A	27 October 2015
Detail plans – Carpark	WD-4.00 P4	8 March 2024

Plan/Document Name	Plan Number	Dated
Detail Elevations – Carpark	WD-4.01 P4	8 March 2024
Detail Elevations – Carpark	WD-4.02 P4	8 March 2024
External Elevation Signage	A703 Revision F	8 April 2013
Parapet Lightbox Sign	A706 Revision D	14 March 2013

6. THE RELEVANT PERIOD

The standard relevant periods stated in section 341 of *Sustainable Planning Act 2009* apply to each aspect of development in this approval, if not stated in the conditions of approval attached.

7. STATEMENT OF REASONS

Description of the development	
Material Change of Use for Major Shopping Outlet and Operational Works for Advertising Sign (two Pylon Signs and eleven Flush Wall Signs)	
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"> • Allentown District Centre Precinct; • Activity Centres Code; • Signage Code; • Parking and Access Code; • Crime Prevention Through Environmental Design Code; • Flood Prone Land Code; • External Works and Servicing Code; and • Landscape 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 exception listed below.	
Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
Parking and Access Code	<p>Performance Criteria 6</p> <p>The proposed development does not comply with Acceptable Solution 6.1 because 368 vehicle parking spaces will be provided for the development, where Acceptable Solution 6.1 requires a total of 376 vehicle parking spaces as per the parking rate of 4.62 per 100 square metres of Ground Floor Area, as determined</p>

	<p>by Council at the time of the original assessment.</p> <p>The minor change does not introduce any new non-compliances as the development currently has 371 vehicle parking spaces which is five (5) less than the required amount.</p> <p>The minor change reduces the vehicle parking spaces by a further three (3) spaces to accommodate an extension to a Food and Drink Outlet (Burger Urge) and provide an outdoor dining area.</p> <p>A shortfall of eight (8) vehicle parking spaces will not have a detrimental impact on the overall function of the centre and its ongoing operations and 368 vehicle parking spaces will sufficiently service the existing development.</p> <p>Therefore, the development is taken to comply with Performance Criteria 6.</p>
Relevant Matters	
The proposed development was not assessed against any relevant matters outside of the matters prescribed by regulation.	
Matters prescribed by regulation	
<ul style="list-style-type: none"> • The Rockhampton City Plan 2005; • Central Queensland Regional Plan 2013; • The common material, being the material submitted with the application. 	

8. RIGHTS OF APPEAL

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

Appeal by an applicant

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

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

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

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

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

9. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect:

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

Or

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


Or

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

10. ORIGINAL DECISION ASSESSMENT MANAGER

Name: Erin McCabe <u>ACTING OPERATIONS MANAGER</u> <u>DEVELOPMENT ASSESSMENT</u>	Date: 29 July 2011
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11. ASSESSMENT MANAGER

Name: Amanda O'Mara <u>COORDINATOR</u> <u>DEVELOPMENT ASSESSMENT</u>	Signature: 	Date: 28 June 2024
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Attachment 1 – Conditions of the approval

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

Attachment 2—Extract on appeal rights

PART A – MATERIAL CHANGE OF USE

1.0 ADMINISTRATION

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

Plan/Document Name	Plan Number	Dated
Mall Layout Plan	DA01 Issue 10	23 March 2011
Elevations	DA03 Issue 8	23 March 2011
External Works 1 of 2 (Car Parking Layout North)	DA05 Issue 10	23 March 2011
External Works 2 of 2 (Car Parking Layout South)	DA06 Issue 10	11 July 2011
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Detail Elevations – Carpark	WD-4.01 P4	8 March 2024
Detail Elevations – Carpark	WD-4.02 P4	8 March 2024

1.2 Where there is any conflict between conditions of this decision notice and details shown on the approved plans, the conditions of approval must prevail.

1.3 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.

1.4 The Developer is responsible for ensuring compliance with this Approval and the Conditions of the Approval by an employee, agent, contractor or invitee of the Developer.

1.5 All conditions, works, or requirements of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council, prior to the commencement of use.

1.6 The following further development permits are required prior to the commencement of any works on the site:

1.6.1 Operational Works:

(i) Road Works;

- (ii) Access and Parking Works;
- (iii) Sewerage Works;
- (iv) Stormwater Works;
- (v) Site Works; and
- (vi) Landscaping Works.

1.6.2 Plumbing and Drainage Works; and

1.6.3 Building Works.

- 1.7 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.
- 1.8 Lot 100 on SP174137, Lot 25 on RP603298, Lot 26 on RP603298, Lot 15 on RP603296, Lot 16 on RP603296, Lot 17 on RP603295 and Lot 18 on RP603295 must be amalgamated into one title prior to the commencement of any works on the site.

2.0 ROAD WORKS

- 2.1 A Development Permit for Operational Works (Road Works) must be obtained prior to the commencement of any works on the site.
- 2.2 All works must be designed and constructed in accordance with *Australian Standards AS1428 Design for Access and Mobility*, *Capricorn Municipal Development Guidelines*, and the provisions of Development Permit for Operational Works (Road Works).
- 2.3 The remaining lengths of the pedestrian pathway must be designed and constructed along the Canning Street and Caroline Street frontages of the development site to match with the existing pathways (type and width).
- 2.4 Appropriate road treatments, signage, and design must be used to enable road users to identify that the closed part of the Canning Street operates as a private road.
- 2.5 Any application for a Development Permit for Operational Works (Road Works) must demonstrate the provision of a minimum seventeen (17) on-street parking spaces along Canning Street (both sides) between Caroline Street and Grant Street. Relocation of the on-street taxi rank, to the off-street location as required by condition 3.7, is also required.

3.0 ACCESS AND PARKING WORKS

- 3.1 A Development Permit for Operational Works (Access and Parking Works) must be obtained prior to the commencement of any works on the site.
- 3.2 All works must be designed and constructed in accordance with *Capricorn Municipal Development Guidelines*, relevant parts of the *Australian Standards AS2890* and the provisions of the Development Permit for Operational works (Access and Parking Works). The layout must be generally in accordance with the endorsed plans (refer to condition 1.1).
- 3.3 All the proposed vehicle manoeuvring areas, including but not limited to car parking spaces, entry and exit areas, must be asphalted or concrete paved appropriately to the satisfaction of Council.
- 3.4 A minimum of 113 additional off-street parking spaces must be provided and the full operation of the proposed shopping centre must have a total of 368 off-street parking spaces.
- 3.5 A minimum of thirty (30) off-street parking spaces, designated as staff parking, must be provided at the 'at grade' southern car park along Canning Street and Caroline Street. This parking area must be suitably line marked and signed as staff parking.
- 3.6 Bicycle parking and end-of-trip facilities must be provided in accordance with the *Queensland Development Code 4.1 Sustainable Buildings End of Trip Facilities*.

- 3.7 An off-street taxi rank must be located internal to the site adjacent to the main entry to the centre.
- 3.8 Any application for a Development Permit for Operational Works (Access and Parking Works) must be accompanied by:
- 3.8.1 detailed designs of the proposed entry and exit area located at the south leg of the Canning and Derby Street roundabout in accordance with relevant Australian Standards (the area indicated as "HOLD", refer to condition 1.1). Any such design must incorporate the pedestrian pathway along the Derby Street frontage;
 - 3.8.2 detailed and scaled plans which demonstrate the intended manoeuvrings of the design vehicles within the proposed south leg of the Canning and Derby Street roundabout, in accordance with relevant Australian Standards;
 - 3.8.3 a Loading Dock Management Plan;
 - 3.8.4 details which demonstrate how the increase in the ninety-five (95) percent Back Of Queue from forty-nine (49) metres to seventy-seven (77) metres at Upper Dawson Road / Canning Street will be managed without causing adverse impacts on the existing traffic conditions; and
 - 3.8.5 details which demonstrate how the proposed taxi rank will meet the minimum existing demands. Any additional demand resulting from the proposed extension must be provided to the satisfaction of Council.
- 3.9 The northern access to the basement parking area must be constructed and line marked as a dual ingress and egress.
- 3.10 The eastern access to the basement parking area must be constructed and line marked as an ingress only.
- 3.11 The proposed pedestrian crossing located on the north-eastern side of the car park fronting Derby Street must be extended to the full width of the parking aisle.
- 3.12 All vehicle operations associated with the development must be directed by suitable directional, informative, regulatory or warning signs in accordance with *Australian Standard AS1742.1-Manual of Uniform Traffic Control Devices*.
- 3.13 All vehicle operation areas and public spaces must be illuminated appropriately in accordance with the requirements of *Australian Standards AS1158 and AS4282 (Environmental Nuisance)*.
- 4.0 SEWERAGE WORKS
- 4.1 A Development Permit for Operational Works (Sewerage Works) must be obtained for the proposed sewerage relocated works.
- 4.2 The existing 225 millimetre diameter sewerage main must be relocated to achieve a two (2) metre separation from any buildings. (Note that this means the proposed building over / adjacent to the existing trunk sewerage main which traverses the property from east to west, is NOT APPROVED).
- 4.3 The existing sewerage connection point must be retained for the proposed development.
- 4.4 All works must be designed and constructed in accordance with the *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act and Plumbing and Drainage Act*.
- 4.5 The proposed development must be connected to Council's reticulated sewerage system in accordance with the *Water Supply (Safety and Reliability) Act*.
- 4.6 An amended sewerage trade waste permit must be obtained for the discharge of any additional non-domestic waste into Council's sewerage reticulation. Arrestor traps must

- be provided for tenancies which discharge commercial or non-domestic sewerage wastes.
- 4.7 A registered easement must be provided over the existing and proposed sewerage infrastructure located within private property. The location and width of the easement must be in accordance with the *Capricorn Municipal Development Guidelines*.
 - 4.8 The finished sewerage access chamber surface must be at a sufficient level to avoid ponding of stormwater above the top of the chamber. A heavy duty cast iron cover must be provided in the trafficable area.
 - 4.9 All sanitary drainage works must be in accordance with regulated work under the *Plumbing and Drainage Act* and Council's Plumbing and Drainage Policies.
 - 4.10 Any alteration or relocation of internal sanitary drainage works of the existing building must be in accordance with regulated work under the *Plumbing and Drainage Act*.
 - 4.11 Arrestor traps are required to be installed in accordance with the *Queensland Plumbing and Drainage Act*.
- 5.0 WATER WORKS
- 5.1 The proposed development must be connected to Council's reticulated water supply system via the existing connection point. Any upgrade must be a combined fire and domestic metered connection and any water main extension, at the developer's expense, in accordance with the *Water Supply (Safety and Reliability) Act* and the *Plumbing and Drainage Act*.
 - 5.2 All works must be designed and constructed in accordance with the *Capricorn Municipal Development Guidelines*, *Water Supply (Safety and Reliability) Act* and the *Plumbing and Drainage Act*.
 - 5.3 The proposed development must be connected to the development site via a master water meter at the property boundary and sub meters for each sole commercial premise in accordance with *Water Supply (Safety and Reliability) Act* and Council's Sub metering Policy.
 - 5.4 The existing 100 millimetre water main located within the Canning Street road reserve, must be decommissioned between Derby Street and Grant Street prior to any building work on-site.
 - 5.5 All plumbing works must be in accordance with regulated work under the *Plumbing and Drainage Act* and Council's Plumbing and Drainage Policies.
 - 5.6 Any alteration or relocation of internal plumbing works of the existing building must be in accordance with regulated work under the *Plumbing and Drainage Act*.
- 6.0 STORMWATER WORKS
- 6.1 A Development Permit for Operational Works (Stormwater Works) must be obtained prior to the commencement of any works on the site.
 - 6.2 All stormwater drainage works must be designed and constructed in accordance with the *Queensland Urban Drainage Manual*, *Capricorn Municipal Development Guidelines*, sound engineering practice and the provisions of Development Permit for Operational Works (Stormwater Works). The layout must be generally in accordance with the endorsed plans (refer to condition 1.1).
 - 6.3 All stormwater must drain to a demonstrated lawful point of discharge and must not adversely affect adjoining land or infrastructure by way of blocking, altering or diverting existing stormwater runoff patterns or have the potential to cause damage to other infrastructure items.
 - 6.4 The application for Development Permit for Operational Works (Stormwater Works) must:

- 6.4.1 include a detailed hydraulic calculations which demonstrate the post development peak discharge from the proposed development site for all events up to and including Average Recurrence Interval (ARI) 100 year event is less than or equal to the pre development peak discharge. A stormwater drainage plan must be provided which demonstrates the methods of detaining and discharging both piped roof water and surface run off to a lawful point of discharge. The plans must incorporate an adequately sized stormwater detention tank;
 - 6.4.2 provide detailed designs of the proposed re-alignment of the stormwater pipe located within the Canning Street closure area and demonstrate the adequacy of the pipe capacity to accommodate the roof water runoff from the building extension and overflow from any stormwater detention tank; and
 - 6.4.3 demonstrate how the development meets the water quality objectives of the *Queensland Water Quality Guidelines*, and *Water Quality and Water Quantity Code of the Rockhampton City Plan 2005*.
- 6.5 The finished floor level of the proposed development/extension must be above Q100 peak flood level in accordance with relevant Australian Standards.

7.0 SITE WORKS

- 7.1 A Development Permit for Operational Works (Site Works) must be obtained prior to the commencement of any works on the site.
- 7.2 Any application for a Development Permit for Operational Works (Site Works) must be accompanied by an earthworks' plan which clearly identifies the following:
- (i) the location of cut and/or fill;
 - (ii) the type of fill to be used and the manner in which it is to be compacted;
 - (iii) the quantum of fill to be deposited or removed and finished cut and/or fill levels;
 - (iv) details of any proposed access routes to the site which are intended to be used to transport fill to or from the site; and
 - (v) the maintenance of access roads to and from the site so that they are free of all cut and/or fill material and cleaned as necessary.
- 7.3 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.
- 7.4 Any vegetation cleared or removed must be:
- (i) mulched on-site and utilised on-site for landscaping purposes, in accordance with the landscaping plan approved by Council; or
 - (ii) removed for disposal at a location approved by Council;
- within sixty (60) days of clearing. Any vegetation removed must not be burnt.

8.0 BUILDING WORKS

- 8.1 All external elements, such as air conditioners, must be adequately screened from public view, to Council's satisfaction. Noise from any external elements, such as air conditioners, must not exceed five (5) decibels (A) above the background ambient noise level, measured at the boundaries of the subject site.
- 8.2 Impervious paved and drained washdown areas to accommodate all refuse containers must be provided. The areas must be aesthetically screened from any road frontage or adjoining property and must be set back a minimum of two (2) metres from any road frontage. A suitable hosecock (with backflow prevention) and hoses must be provided at the refuse container area, and washdown must be drained to the sewer and fitted

with an approved stormwater diversion valve arrangement, in accordance with a Plumbing and Drainage Permit and Sewerage Trade Waste Permit.

OR

As an alternative to a washdown facility, a fully contained commercial bin cleaning service is acceptable provided no wastewater is discharged from the site to the sewer.

- 8.3 All lift motor rooms, plant and service facilities must be totally enclosed or screened using materials consistent with those elsewhere in the building. Noise from any lift motor room must not exceed five (5) decibels (A) above the background ambient noise level, measured at the boundaries of the subject site.
- 8.4 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the 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*'. Lighting from the subject site must not exceed eight (8) lux at 1.5 metres from the boundary of the subject site.
- 8.5 A minimum two (2) metre horizontal clearance must be maintained between any existing access chamber or connection point and any proposed structure in accordance with *Council's Building Over Adjacent to Local Government Sewer Infrastructure Policy*.
- 8.6 The wall facing Grant Street must be softened with the inclusion of some architectural features, so that it does not merely present as a blank façade. Note: The proposed landscape buffer (600 to 1,000 millimetres in width) does not constitute a softening of this blank façade and is not acceptable. The architectural features must be distinct and must create visual interest in the streetscape.
- 8.7 The architectural treatment must be approved by Council prior to the issue of a Development Permit for Building Works.

9.0 LANDSCAPING WORKS

- 9.1 A Development Permit for Operational Works (Landscaping Works) must be obtained prior to the commencement of any works on the site.
- 9.2 Any application for a Development Permit for Operational Works (Landscaping Works) must be in accordance with the endorsed plans (refer to condition 1.1). The landscape plan must include, but is not limited to, the following:

9.2.1 A plan documenting the "Extent of Works" and supporting documentation which includes:

- (i) location and name of existing trees, including those to be retained (the location of the trees shall be overlaid or be easily compared with the proposed development design);
- (ii) the extent of soft and hard landscape proposed;
- (iii) important spot levels and/or contours. The levels of the trees to be retained shall be provided in relation to the finished levels of the proposed buildings and works;
- (iv) underground and overhead services;
- (v) typical details of critical design elements (eg stabilisation of batters, retaining walls, trees in car park areas, fences);
- (vi) details of landscape structures including areas of deep planting; and
- (vii) specification notes on mulching and soil preparation.

9.2.2 A "Planting Plan" and supporting documentation which includes:

- (i) trees, shrubs and groundcovers to all areas to be landscaped;
 - (ii) position and canopy spread of all trees and shrubs;
 - (iii) the extent and type of works (i.e. paving, fences, garden bed edging etc). All plants shall be located within an edged garden; and
 - (iv) a plant schedule with the botanic and common names, total plant numbers and pot sizes at the time of planting.
- 9.3 All landscaping must be constructed and or established, in accordance with the requirements of the Development Permit for Operational Works (Landscaping Works), prior to the commencement of the use.
- 9.4 The landscaped areas must be subject to an ongoing maintenance and replanting programme (if necessary).
- 9.5 A solid fence, with a height of 1.8 metres, must be constructed along the north eastern boundary between the subject site and adjacent residential properties.
- 9.6 Landscaping, or any part thereof, upon reaching full maturity, must not:
- 9.6.1 Obstruct sight visibility zones as defined in the Austroads 'Guide to Traffic Engineering Practice' series of publications; or
 - 9.6.2 Adversely affect any road lighting or public space lighting; or
 - 9.6.3 Adversely affect any Council infrastructure, or public utility plant.
- 10.0 ELECTRICITY AND TELECOMMUNICATIONS
- 10.1 Underground electricity and telecommunication connections must be provided to the proposed development to the requirements of the relevant authority.
- 10.2 The use must not commence unless and until each tenancy has been provided with live electricity and telecommunication connections in accordance with the requirements of the relevant authority.
- 11.0 ASSET MANAGEMENT
- 11.1 Any alteration necessary to electricity, telephone, and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the Developer.
- 11.2 Any damage to existing roadway (including removal of concrete slurry from public land, pathway, roads, kerb and channel and stormwater gullies and drainage lines) which may occur during any works carried out in association with the approved development must be repaired. This must include the reinstatement of the existing traffic signs and pavement markings which may have been removed.
- 11.3 'As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the issue of the Compliance Certificate for the Survey Plan. This information must be provided in accordance with the Manual for Submission of Digital As Constructed Information.
- 12.0 ENVIRONMENTAL
- 12.1 Any application for a Development Permit for Operational Works or a Development Permit for Building Works must be accompanied by a detailed Environmental Management Plan, which addresses, but is not limited to, the following matters:
- (i) water quality and drainage;
 - (ii) erosion and silt/sedimentation management;
 - (iii) acid sulphate soils;
 - (iv) fauna management;

- (v) vegetation management and clearing;
 - (vi) top soil management;
 - (vii) interim drainage plan during construction;
 - (viii) construction programme;
 - (ix) geotechnical issues;
 - (x) weed control;
 - (xi) bushfire management;
 - (xii) emergency vehicle access;
 - (xiii) noise and dust suppression; and
 - (xiv) waste management.
- 12.2 Any application for a Development Permit for Operational Works or Development Permit for Building Works must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:
- (i) objectives;
 - (ii) site location / topography;
 - (iii) vegetation;
 - (iv) site drainage;
 - (v) soils;
 - (vi) erosion susceptibility;
 - (vii) erosion risk;
 - (viii) concept;
 - (ix) design; and
 - (x) implementation, for the construction and post construction phases of work.
- 12.3 The erosion and sediment control plan must incorporate detailed plans, control measures, monitoring programmes and maintenance procedures to ensure appropriate development and management practices within and adjacent to the site.
- 12.4 The Environmental Management Plan and the Erosion and Sediment Control Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.
- 12.5 No works can commence on the site unless and until an Environmental Management Plan and an Erosion and Sediment Control Plan has been approved by Council as part of Development Permit for Operational Works.
- 12.6 An Erosion Control and Stormwater Control Management Plan for the site must be prepared in accordance with the Healthy Waterways document, *“Controlling Stormwater Pollution on Your Building Site”, 2006 (or later version)* and the *Capricorn Municipal Development Guidelines*.
- 12.7 The Erosion Control and Stormwater Control Management Plan must be implemented and maintained on-site for the duration of the works, and until all exposed soil areas are permanently stabilised. The prepared Erosion Control and Stormwater Control Management Plan must be available on-site for inspection by Council Officers during those works.
- 13.0 OPERATING PROCEDURES
- 13.1 All construction materials, waste, waste skips, machinery and contractors’ vehicles must be located and stored or parked within the site. No storage of materials, parking

of construction machinery or contractors' vehicles will be permitted Upper Dawson Road, Derby Street, Caroline Street, Canning Street and Grant Street.

- 13.2 All shop front glazing must be clear and untinted and must not be obscured by blinds, curtains or the like.
- 13.3 All waste containers must be:
 - 13.3.1 stored within the bin enclosure area;
 - 13.3.2 securely covered at all times;
 - 13.3.3 maintained in a clean condition and in good repair;
 - 13.3.4 surrounded by fence/screen, with a minimum height of 1.8 metres, that obstructs from view the contents of the bin compound by any member of the public from any public place; and
 - 13.3.5 of a minimum size to accommodate all waste generated from the premise.
- 13.4 Access to, and use of, the loading dock 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.
- 13.5 The loading dock area must not be used by large refrigerated vehicle. The use of the loading dock by small refrigerated vehicles must be limited to a maximum of five trips per week.

PART B - OPERATIONAL WORKS

14.0 ADMINISTRATION

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

<u>Plan/Document Name</u>	<u>Plan Number</u>	<u>Dated</u>
Elevations	DA03 Issue 8	23 March 2011
Signage and External Works	DA07 Issue 10	23 March 2011
External Elevation Signage	A703 Revision F	8 April 2013
Parapet Lightbox Sign	A706 Revision D	14 March 2013

- 14.2 Where there is any conflict between conditions of this decision notice and details shown on the approved plans, the conditions of approval must prevail.
- 14.3 Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 14.4 The Developer is responsible for ensuring compliance with this Approval and the Conditions of the Approval by an employee, agent, contractor or invitee of the Developer.
- 14.5 All conditions, works, or requirements of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council, prior to the commencement of use.
- 14.6 The following further development permits are required prior to the commencement of any works on the site:
 - 14.6.1 Building Works.

15.0 BUILDING WORKS

- 15.1 Design and construction details of all signs must be certified by a Registered Professional Engineer of Queensland, which must be submitted with any application for a Development Permit for Building Works.
- 15.2 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the 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'.

16.0 CONTRIBUTIONS/COSTS

- 16.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, pathways, kerb and channel, and/or public utility installations resulting from the development or in connection with the development, must be at full cost to the developer.

NOTES

NOTE 1. *Aboriginal Cultural Heritage Act, 2003*

It is advised that under Section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal Cultural Heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal Cultural Heritage legislation. The information on Aboriginal Cultural Heritage is available on the Department of Environment and Resource Management's website

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

NOTE 2. Asbestos Removal

Any demolition and/or removal works involving asbestos materials must be undertaken in accordance with the requirements of the Workplace Health and Safety legislation.

NOTE 3. Dust Control

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

NOTE 4. Sedimentation Control

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

NOTE 5. Noise During Construction and Noise In General

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

NOTE 6. General Safety of Public During Construction

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

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

NOTE 7. Adopted Infrastructure Charges Notice

This application is subject to infrastructure contributions in accordance with Council policies. The contributions are presented on an Adopted Infrastructure Charge Notice which has been supplied with this decision notice.

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

Appeal rights

229 Appeals to tribunal or P&E Court

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

230 Notice of appeal

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

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

231 Other appeals

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

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

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

232 Rules of the P&E Court

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

Schedule 1

Appeals section 229

1 Appeal rights and parties to appeals

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

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

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

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
		concurrency agency	the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application
<p>2. Change applications</p> <p>An appeal may be made against—</p> <p>(a) a responsible entity's decision for a change application, other than a decision made by the P&E court; or</p> <p>(b) a deemed refusal of a change application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 The applicant 2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice	The responsible entity	If an affected entity starts the appeal—the applicant	1 A concurrency agency for the development application 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 A private certifier for the development application 4 Any eligible advice agency for the change application 5 Any eligible submitter for the change application
<p>3. Extension applications</p> <p>An appeal may be made against—</p> <p>(a) the assessment manager's decision about an extension application; or</p> <p>(b) a deemed refusal of an extension application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 1 The applicant 2 For a matter other than a deemed refusal of an extension application – a concurrency agency, other than the chief executive, for the application	The assessment manager	If a concurrency agency starts the appeal – the applicant	If a chosen assessment manager is the respondent – the prescribed assessment manager
<p>4. Infrastructure charges notices</p> <p>An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds</p> <p>a) The notice involved an error relating to –</p> <p>(i) The application of the relevant adopted charge; or</p> <p>Examples of errors in applying an adopted charge –</p> <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 <p>(i) The working out of extra demands, for section 120; or</p> <p>(ii) An offset or refund; or</p> <p>b) The was no decision about an offset or refund; or</p> <p>c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or</p> <p>d) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent	Column 4 Co-respondent by election

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

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

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

Table 2 Appeals to the P&E Court only			
<p>6. Local laws An appeal may be made against a decision of a local government, or conditions applied, under a local law about—</p> <p>(a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or</p> <p>(b) the erection of a building or other structure.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who— (a) applied for the decision; and (b) is dissatisfied with the decision or conditions.	The local government	-	-

Table 3 Appeals to the tribunal only			
<p>1. Building advisory agency appeals An appeal may be made against giving a development approval for building work to the extent the building work required code assessment against the building assessment provisions.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A building advisory agency for the development application related to the approval	The assessment manager	The applicant	<p>1 A concurrence agency for the development application related to the approval</p> <p>2 A private certifier for the development application related to the approval</p>
<p>3. Certain decisions under the Building Act and the Plumbing and Drainage Act An appeal may be made against a decision under—</p> <p>(a) the Building Act, other than a decision made by the Queensland Building and Construction Commission; or</p> <p>(b) the Plumbing and Drainage Act, part 4 or 5.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who received, or was entitled to receive, notice of the decision	The person who made the decision	-	-
<p>4. Local government failure to decide application under the Building Act An appeal may be made against a local government's failure to decide an application under the Building Act within the period required under that Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who was entitled to receive, notice of the decision	The local government to which the application was made	-	-