



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 (change application Planning Act 2016)

Application number:	D/74-2021	Contact:	Sophie Muggeridge
Notice Date:	10 June 2024	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	M D Hickey		
Postal address:	C/- Rufus Design Group Pty Ltd – Dale Webb PO BOX 5134 RED HILL ROCKHAMPTON QLD 4701		
Phone no:	07 4928 8011	Mobile no:	N/A
Email:	mailbox@rufusdesigngroup.com		

I acknowledge receipt of the above change application on 28 September 2023 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for a Material Change of Use for a Dwelling House

PROPERTY DESCRIPTION

Street address:	229 German Street, Norman Gardens
Real property description:	Lot 35 on SP285391

Dear M D Hickey,

I advise that, on **28 May 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 2.1	Changed	28 May 2024
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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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use	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	<i>Access and Parking Works</i> <i>Water Works</i> <i>Roof and Allotment Drainage Works</i>
Building Works	
Plumbing and Drainage Works	

4. SUBMISSIONS

Properly made submissions were made in relation to the application.

There were two (2) properly made submissions received from the following submitter(s);

Name of principal submitter	Residential or business address	Electronic address (if provided)
1. Anthony Grieve	237 German Street, Norman Gardens	lynntony@westnet.com.au
2. Peter Moore	10 Selwyn Court, Norman Gardens	zpjmoorez@gmail.com

5. REFERRAL AGENCIES

NIL

6. THE APPROVED PLANS

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

Plan / Document Name	Prepared by	Date	Reference No.	Version / Issue
Slope Stability Assessment and Report	Construction Sciences	18 May 2017	2128E.P.531	-
Assessment of Impacts to MES	Denley Environmental Ecology & Environment	17 May 2021	40942	V1
Bushfire Hazard Assessment & Management Plan	Denley Environmental Ecology & Environment	5 April 2021	40942	1
Amendments to Bushfire Management Plan over Lot 35SP285391	Denley Environment Ecology & Environment	27 September 2023	40942	
Site Plan Overall & 3D Views	Rufus Design Group	21 September 2023	230602-02	
Site Features Plan	Rufus Design Group	21 September 2023	230602-03	
Site Plan – Asset Protection Zone & Landscape Plan	Rufus Design Group	21 September 2023	230602-04	

Floor Plan	Rufus Design Group	21 September 2023	230602-05	
Elevations	Rufus Design Group	21 September 2023	230602-06	

7. CURRENCY PERIOD FOR THE APPROVAL (s.85 of the Planning Act) (change application)

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	The proposed development is for a Material Change of Use for a Dwelling House	
Reasons for Decision	<p>a) The development is not anticipated to be detrimental to the conservation of German Street Park and Mount Archer National Park areas which are recognised as key, regionally significant environmental assets;</p> <p>b) Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and scenic amenity; and</p> <p>c) 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 proposed development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> • Strategic Framework; • Environmental Management and Conservation Zone Code; • Biodiversity Overlay Code; • Bushfire Hazard Overlay Code; • Steep Land Overlay Code; • Landscaping Code; • Access, Parking And Transport Code; • Filling and Excavation 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
	Environmental Management and Conservation Zone Code	<p>PO1</p> <p>The proposal does not comply with Performance Outcome 1 as the Dwelling House is not associated with a use that supports visitation to the land, recreation, conservation or eco-tourism purposes, and no acceptable outcomes are nominated.</p>

		<p>Despite this, The relatively small area of the lot, 4,645 square metres limits the potential for land uses associated with conservation purposes. Furthermore, investigations conducted on and around the site revealed there were no significant natural features identified including waterways, wetlands, threatened habitats or vegetation.; and</p> <p>The Dwelling House is located with a significant separation distance from the German Street Park and Mount Archer National Park which provides an effective natural buffer to mitigate any potential negative impacts from the development to these regionally significant environmental areas.</p> <p>Therefore, the proposal generally complies with the overall outcomes of the Zone Code.</p>
		<p>PO2</p> <p>The proposal does not comply with acceptable outcome 2.1.2 (a) as the subject lot size is less than the prescribed five (5) hectares.</p> <p>Despite this, the subject lot size of 4,645 square metres is a sufficient land area to accommodate a residential use;</p> <p>It is anticipated that the Development will not create unsustainable impacts on the natural values of the land. Furthermore, the location of the proposed Dwelling House will not create anymore visual impacts from scenic public viewer places as it adjoins an established residential zone;</p> <p>The Dwelling House has been designed so that landscaping values are protected with minimal clearing; and slope stability and bushfire protection will ensure the development does not result in an unacceptable risk to people and property; and</p> <p>The Dwelling House can be practically accessed by a standard 2wd light vehicle and is able to connect to adequate infrastructure and services such as reticulated water, sewer, electricity and telecommunication services.</p> <p>Therefore, the proposal is considered to achieve the Performance Outcomes.</p>
		<p>PO5</p> <p>The proposal does not comply with acceptable outcome 5.1 as the development does involve clearing of vegetation.</p> <p>While the mapping indicates there may be Matters of State Environmental Significance within the subject site, investigations were conducted on and around the site which revealed there were no threatened fauna, flora or ecosystems identified. Furthermore; the Dwelling House has been sited in the best location and will be developed in a sustainable way which includes minimal clearing to the site with the vegetation on the eastern portion proposed to be retained in order to avoid impacts on flora and fauna habitat movement and</p>

		<p>corridors.</p> <p>Therefore, the proposal is considered to achieve the Performance Outcomes.</p>
Relevant Matters	<p>The proposed development was assessed against the following relevant matters:</p> <p>In light of changed circumstances the approvals over the site suggest the intention is to extend urban develop onto, and adjacent the subject site, and should be located in the Low Density Residential Zone.</p> <ul style="list-style-type: none"> • Reconfiguring a Lot (one lot into thirty seven lots) (Stages 1A, 1B, 2 and 3) is for the creation of thirty seven (37) residential lots located along German Street, including the subject site (Stage 1A) and to the east extending Sunset Drive. • Reconfiguring a Lot (one lot into two lots) is for the subdivision of a further two (2) lot residential development located within the subject site. 	
Matters raised in submissions	Issue	How matter was dealt with
	<p>Concerns were raised with respect to a fire access track that exists within the property and allows fire vehicles access for firefighting purposes and planned burning operations.</p>	<p>In response to concerns raised with respect to bushfire safety, the applicant is not responsible for providing access to the fire tracks that exist through and to the rear of the site. Other access points exist via Sunset Drive and Woodford Way that can be utilised by fire vehicles for firefighting purposes and planned burning operations. Furthermore, in case of an emergency fire fighting vehicles can gain access to the subject site via German Street with a turning area proposed at the end of the access handle located in Lot 35 on SP285391.</p> <p>An Asset Protection Zone (APZ) required to achieve the desired Bushfire Attack Level has been established, limiting vegetation clearing outside the APZ, except where required for bushfire mitigation and as recommended by the Bushfire Hazard Assessment and Management Plan assessed as part of this application.</p>
	<p>Concerns were raised with respect to design, responsibility and management of the existing Easement A located in 237 German Street (Lot 200 on SP285391) for the purpose of (stormwater) drainage in favour of 229 German Street (Lot 35 on SP285391).</p>	<p>The storm water drain was specifically created to accommodate stormwater runoff from 229 German Street (Lot 35 on SP285391) as part of Stage 1A of Development Approval D-R/705-2008 - (one lot into thirty seven lots) (Stages 1A, 1B, 2 and 3)</p> <p>A gravity fed system will be utilised via Easement A located in Lot 200 on SP285391 and the lawful point of discharge will be via the kerb and channel along German Street as per condition 6.4 imposed as part of this approval, and capable of accommodating stormwater runoff from the proposed dwelling. The design of the drainage system will be confirmed via Operational Works required by this development approval. All works will be the responsibility of the owner/developer as per condition 6.5 imposed as part of this approval.</p>

		<p>Once the drainage system is constructed to a lawful point of discharge it will become Council's responsibility. The requirements of stormwater management for the existing Development Permit D-R/705-2008 - (one lot into thirty seven lots) (Stages 1A, 1B, 2 and 3) located on 229-237 German Street, Norman Gardens, described as Lot 35 and Lot 200 on SP285391 are as per the approved plans and conditions of that approval.</p>
	<p>A suggestion was raised in regards to the construction of a footpath and kerb and channel connecting to the existing infrastructure further along German Street. The infrastructure should be of a sufficient width to allow two (2) prams to easily pass one another.</p>	<p>The Access, parking and transport code requires the existing infrastructure fronting the proposed development be upgraded in accordance with SC6.15 — Road infrastructure and hierarchy planning scheme policy and Capricorn Municipal Development Guidelines (CMDG).</p> <p>The subject site is a rear lot and has a very narrow frontage (five (5) metres) along German Street, to accommodate for the existing crossover driveway. The proposed dwelling will utilise the existing crossover which will maintain the current streetscape requirements. Taking the suggestion into consideration and the requirements of the road infrastructure and hierarchy planning scheme policy along with CMDG requirements, it would be unreasonable to request the applicant to provide an extension of the footpath and kerb and channel along German Street.</p>
<p>Matters prescribed by regulation</p>	<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*.

Appeal by an eligible submitter

An eligible submitter for a development application may appeal to the Planning and Environment Court against the decision to approve the application, to the extent the decision relates to:

- any part of the development application that required impact assessment
- a variation request.

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: 21 December 2021
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12. ASSESSMENT MANAGER

Name: Amanda O'Mara <u>COORDINATOR</u> <u>DEVELOPMENT ASSESSMENT</u>	Signature: 	Date: 10 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

1.0 ADMINISTRATION

- 1.1 The Developer and their employee, agent, contractor or invitee is responsible for ensuring compliance with the conditions of this development approval.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions, works, or requirements of this development approval must be undertaken, completed, and be accompanied by a Compliance Certificate for any operational works required by this development approval:
- 1.3.1 to Council’s satisfaction;
 - 1.3.2 at no cost to Council; and
 - 1.3.3 prior to the 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) Access Works;
 - (ii) Water Works; and
 - (iii) Roof and Allotment Drainage
 - 1.5.2 Plumbing and Drainage Works; and
 - 1.5.3 Building Works
- 1.6 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 1.7 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.
- 1.8 All engineering drawings/specifications, design and construction works must be in accordance with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.

2.0 APPROVED PLANS AND DOCUMENTS

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

<u>Plan / Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version / Issue</u>
Slope Stability Assessment and Report	Construction Sciences	18 May 2017	2128E.P.531	-
Assessment of	Denley Environmental	17 May 2021	40942	V1

Impacts to MES	Ecology & Environment			
Bushfire Hazard Assessment & Management Plan	Denley Environmental Ecology & Environment	5 April 2021	40942	1
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Floor Plan	Rufus Design Group	21 September 2023	230602-05	
Elevations	Rufus Design Group	21 September 2023	230602-06	

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

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

3.0 ACCESS WORKS

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

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

3.3 The access driveway to the proposed fire truck turning area must be designed and constructed in accordance with the approved plans and Bushfire Hazard Assessment & Management Plan (refer to condition 2.1).

3.4 The existing access from German Street to the development must comply with the requirements of the *Capricorn Municipal Development Guidelines*.

3.5 All vehicles must ingress and egress the development in a forward gear.

3.6 Any application for a Development Permit for Operational Works (access works) must be accompanied by detailed and scaled plans, which demonstrate the turning movements/swept paths of an eight (8) tonne fire fighting vehicle.

4.0 WATER WORKS

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

4.2 All water works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, *Water Supply (Safety and Reliability) Act 2008*, *Plumbing and Drainage Act 2018* and the provisions of a Development Permit for Operational Works (water works).

4.3 The development must be connected to Council's reticulated water network for domestic use.

4.4 The development must be connected to Council's reticulated water network for fire fighting purposes with the extension of a 100 millimetre diameter water main and within the access handle to the

proposed turnaround area with a fire hydrant located at the end of the line. This non-trunk infrastructure is conditioned under section 145 of the *Planning Act 2016*.

As an alternative to reticulated water supply for fire fighting purposes, on-site water supply may be provided and will include the provision of water storage tanks in accordance with Council requirements and the recommendations of the approved Bushfire Hazard Assessment & Management Plan (refer to condition 2.1), and must be certified by a hydraulic engineer or other suitably qualified person. Operational Works (water works) will not be required if this alternative option is undertaken.

- 4.5 If connecting to Council's reticulated water supply for fire fighting purposes, then the existing water connection point at German Street must be disconnected and a new water connection point must be provided in the proposed turnaround area. This non-trunk infrastructure is conditioned under section 145 of the *Planning Act 2016*.

Note: If on-site water is to be utilised for fire fighting purposes then the existing water connection point must be retained and upgraded, if necessary, to service the development.

- 4.6 Easements must be provided over all water infrastructure located within private property. The easement location(s) and width(s) must be in accordance with the requirements of the *Capricorn Municipal Development Guidelines*.

5.0 PLUMBING AND DRAINAGE WORKS

- 5.1 A Development Permit for Plumbing and Drainage Works must be obtained for the construction of any proposed structures on the development site.

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

- 5.3 The development must be connected to Council's reticulated sewerage network.

- 5.4 The existing sewerage connection point must be retained, and upgraded if necessary, to service the development.

- 5.5 Sewer connections and water meter boxes located within trafficable areas must be raised or lowered to suit the finished surface levels and must be provided with heavy duty trafficable lids.

6.0 ROOF AND ALLOTMENT DRAINAGE WORKS

- 6.1 A Development Permit for Operational Works (roof and allotment drainage works) must be obtained prior to the commencement of any drainage works on the development site.

- 6.2 All roof and allotment drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Queensland Urban Drainage Manual*, *Capricorn Municipal Development Guidelines*, sound engineering practice and the provisions of a Development Permit for Operational Works (roof and allotment drainage works).

- 6.3 All roof and allotment runoff from the development must be directed to a lawful point of discharge and must not restrict, impair or change the natural flow of runoff water or cause a nuisance to surrounding land or infrastructure.

- 6.4 Any roof and allotment drainage infrastructure contained within the existing drainage easement must outlet within the road reserve of German Street and directed away from the road. Adequate protection must be constructed to protect the verge and German Street and to return the concentrated flows to sheet flow.

- 6.5 All maintenance of the proposed roof and allotment drainage infrastructure located within neighbouring allotment (237 German Street, Norman Gardens, Lot 200 on SP285391), contained within the existing drainage easement (Easement A on SP285391), must be the responsibility of the property owner / developer at no cost to Council.

- 6.6 Any application for a Development Permit for Operational Works (roof and allotment drainage works) must be accompanied by evidence of written consent from the adjoining property (237 German Street, Norman Gardens, Lot 200 on SP285391) for the implementation of proposed roof and allotment drainage strategy.

7.0 SITE WORKS

- 7.1 Cut and fill of the subject allotment must be undertaken in accordance with the recommendations of the *Slope Stability Assessment and Report* (refer to condition 2.1).

- 7.2 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"*.
- 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 surrounding land or infrastructure.
- 7.4 All retaining structures above one (1) metre in height requires separate building approval and certification by a Registered Professional Engineer of Queensland.
- 7.5 Retaining structures and their foundations must be wholly contained within Lot 35 on SP285391. Any vegetation cleared or removed must be:
- (i) mulched on-site and utilised on-site for landscaping purposes to Council's satisfaction, or in accordance with the approved landscaping plan; 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 A Development Permit for Building Works must be obtained for the proposed construction of any structures on the development site.
- 8.2 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the development site and shielded so as not to cause glare or other nuisance to nearby residents and motorists. Night lighting must be designed, constructed and operated in accordance with *Australian Standard AS4282 "Control of the obtrusive effects of outdoor lighting"*
- 8.3 The Dwelling must be constructed in accordance with *Australian Standard AS3959 "Construction of buildings in bushfire-prone areas"* and the approved Bushfire Hazard Assessment & Management Plan (refer to condition 2.1).
- 8.4 Finishing's for the proposed dwelling house are to be of natural low contrast colours and of non-reflective materials and textures.
- 9.0 LANDSCAPING WORKS
- 9.1 Landscaping must be constructed and/or established prior to the commencement of the use in all areas shown on the approved plans (refer to condition 2.1).
- 9.2 At least fifty (50) per cent of all new plantings within the landscaping areas (refer to condition 2.1) must be locally native species with low water dependency.
- 9.3 Plant species must not include undesirable species identified in Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy.
- 9.4 Vegetation clearing outside the Asset Protection Zone (APZ) is limited, except where required for bushfire mitigation and in accordance with the approved plans (refer to condition 2.1) as recommended by the Bushfire Hazard Assessment & Management Plan.
- 9.5 The landscaped areas must be subject to:
- 9.5.1 a watering and maintenance plan during the establishment moment; and
 - 9.5.2 an ongoing maintenance and replanting programme.
- 10.0 GEOTECHNICAL
- 10.1 All construction works must be designed and completed in accordance with the recommendations in the Slope Stability Assessment and Report (refer to condition 2.1).
- 10.2 Slope stability must be managed as follows:
- 10.2.1 all engineering drawings/specifications and designs must be in accordance with the requirements of relevant *Australian Standards* and must be approved by a Registered Professional Engineer of Queensland;
 - 10.2.2 site inspections must be undertaken by a Registered Professional Engineer of Queensland to confirm the design; and
 - 10.2.3 full engineering certification must be undertaken by a Registered Professional Engineer of Queensland.
- 11.0 ELECTRICITY

11.1 Electricity services must be provided to the development in accordance with the standards and requirements of the relevant service provider.

12.0 TELECOMMUNICATIONS

12.1 Telecommunications services must be provided to the development in accordance with the standards and requirements of the relevant service provider, unless otherwise stipulated by telecommunications legislation at the time of installation. This includes all necessary pits, pipes and conduits that provide a connection to the telecommunications network.

Note: The Telecommunications Act 1997 (Commonwealth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required.

13.0 ASSET MANAGEMENT

13.1 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.

13.2 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.

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

14.0 ENVIRONMENTAL

14.1 Any application for a Development Permit for Operational Works must be accompanied by a detailed Environmental Management Plan that addresses, but is not limited to, the following:

- (i) water quality and drainage;
- (ii) erosion and silt/sedimentation management;
- (iii) fauna management;
- (iv) vegetation management and clearing;
- (v) top soil management;
- (vi) interim drainage plan during construction;
- (vii) construction programme;
- (viii) geotechnical issues;
- (ix) weed control;
- (x) bushfire management;
- (xi) emergency vehicle access;
- (xii) noise and dust suppression; and
- (xiii) waste management.

14.2 An Erosion Control and Stormwater Control Management Plan in accordance with the *Capricorn Municipal Design Guidelines*, must be implemented, monitored and maintained for the duration of the development works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, or landscaped). The plan must be available on-site for inspection by Council Officers whilst all works are being carried out.

14.3 The development must be undertaken in accordance with the recommendations in the approved Bushfire Hazard Assessment & Management Plan (refer to condition 2.1).

15.0 OPERATING PROCEDURES

15.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the development site. Storage of materials or parking of construction machinery or contractors' vehicles must not occur within German Street.

ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

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

NOTE 2. General Environmental Duty

General environmental duty under the *Environmental Protection Act 1994* prohibits unlawful environmental nuisance caused by noise, aerosols, particles, dust, ash, fumes, light, odour or smoke beyond the boundaries of the development site during all stages of the development including earthworks, construction and operation.

NOTE 3. General Safety Of Public During Construction

The *Work Health and Safety Act 2011* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.

NOTE 4. Infrastructure Charges Notice

Council has resolved not to issue an Infrastructure Charges Notice for this development because the new infrastructure charges arising from the development are less than or equal to the credits applicable for the new development.

NOTE 5. Property Note (Slope Stability)

All future structures within the subject allotment must be constructed in accordance with the recommendations of the *Slope Stability Assessment Report* (refer to condition 2.1).

NOTE 6. Property Note (Bushfire Hazard)

All future buildings, structures and the property generally with respect to the bushfire hazard must be done in accordance with: *Australian Standard AS3959 “Construction of buildings in bushfire-prone areas”* and *“Bushfire Hazard Assessment & Management Plan”* (refer to condition 2.1).

NOTE 7. Retention of vegetation

The development site is mapped by the Department of Environment and Heritage Protection as containing Matters of State Environmental Significance. The *Vegetation Management Act 1999* has requirements with regard to the clearing of vegetation. Information on Vegetation Management is available at: <https://www.qld.gov.au/environment/land/management/vegetation>

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	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) The was no decision about an offset or refund; or c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or d) The amount of the charge is so unreasonable that no reasonable relevant local government could have			

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
<p>3. Eligible submitter and eligible advice agency appeals</p> <p>An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to—</p> <p>(a) any part of the development application or the change application, for the development approval, that required impact assessment; or</p> <p>(b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
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</p> <p>An appeal may be made against—</p> <p>(a) a decision under section 32 about a compensation claim; or</p> <p>(b) a decision under section 265 about a claim for compensation; or</p> <p>(c) a deemed refusal of a claim under paragraph (a) or (b).</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person dissatisfied with the decision	The local government to which the claim was made	-	-
<p>5. Registered premises</p> <p>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	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			
<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	1 A concurrence agency for the development application related to the approval 2 A private certifier for the development application related to the approval
<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	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	-	-