



Rockhampton Office
232 Bolsover St, Rockhampton

Gracemere Office
1 Ranger St, Gracemere

Mount Morgan Office
32 Hall St, Mount Morgan

10 December 2024

Our reference: D/103-2024
Enquiries: Michelle Mackay
Telephone: 07 4936 8099
Email: DevelopmentAdvice@rrc.qld.gov.au

Dileigh Consulting Engineers Pty Ltd
47 Normanby Street
YEPPOON QLD 4703

Dear Sir/Madam

DECISION NOTICE APPROVAL - OPERATIONAL WORKS APPLICATION D/103-2024 - ROAD WORK, STORMWATER, ROOF AND ALLOTMENT DRAINAGE WORK, EARTHWORKS, PARKING WORKS, AND LANDSCAPING - 11-13 HEMPENSTALL STREET, KAWANA - LOT 1 ON SP201368

The above development application was approved by Council on 3 December 2024.

This approval must be carried out in accordance with the conditions contained in Attachment 1 of the Decision Notice. In addition to this approval you are required to undertake the following actions before commencing any work or construction associated with this approval on the site:

- Contact the Development Advice Centre to arrange a Pre-Start Meeting. A minimum of five (5) business days' notice must be given to Council (*refer to Condition 1.6*).
- Where the conditions require plans to be amended or submitted, the documents must be received and approved by Council prior to the Pre-Start Meeting occurring (*refer to Condition 1.4*).
- Provision of a Performance Security Bond (*refer to Conditions 2.1 and 2.2*).

Included in Attachment 2 is an extract from the *Planning Act 2016* that sets out the applicant's appeal rights.

The obligations in the decision notice that apply to the developer also apply to the contractors.

Should you have any enquiries regarding the above, please contact the Development Advice Centre on 07 4936 8099.

Yours faithfully

Amanda O'Mara
Coordinator Development Assessment
Planning and Regulatory Services



Decision Notice Approval

Planning Act Form 1 (version 1.2 effective 7 February 2020) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s63(2) Planning Act 2016

Application number:	D/103-2024	Contact:	Michelle Mackay
Notice Date:	10 December 2024	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	Dileigh Consulting Engineers Pty Ltd		
Postal address:	47 Normanby Street YEPPOON QLD 4703		
Phone no:	07 4911 2553	Mobile no:	Email: reception@dileigh.com.au

I acknowledge receipt of the above application on 8 August 2024 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Operational Works for Road Work, Stormwater, Roof and Allotment Drainage Work, Earthworks, Parking Works, and Landscaping

PROPERTY DESCRIPTION

Street address:	11-13 Hempenstall Street, Kawana
Real property description:	Lot 1 on SP201368

Dear Dileigh Consulting Engineers Pty Ltd

I advise that, on 3 December 2024 the above development application was:

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

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

1. DETAILS OF THE APPROVAL

	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 - 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

NIL

4. REFERRAL AGENCIES

NIL

5. THE APPROVED PLANS

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

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/ Issue</u>
Title Page	Dileigh Consulting Engineers		D24.054-C00	A
Existing Features & Services	Dileigh Consulting Engineers	27 June 2024	D24.054-C01	C
Proposed Layout	Dileigh Consulting Engineers	18 October 2024	D24.054-C02	E
Setout Plan	Dileigh Consulting Engineers	10 September 2024	D24.054-C03	D
Site Long Sections 1 & 2	Dileigh Consulting Engineers	27 June 2024	D24.054-C04	C
Site Cross Sections Control Line 1 Sheet 1 of 2	Dileigh Consulting Engineers	27 June 2024	D24.054-C05	C
Site Cross Sections Control Line 1 Sheet 2 of 2	Dileigh Consulting Engineers	27 June 2024	D24.054-C06	C
Earthworks Plan	Dileigh Consulting Engineers	27 June 2024	D24.054-C07	C
Access and Parking	Dileigh Consulting Engineers	12 November 2024	D24.054-C08	E
Concrete Pavement Joint Layout Plan	Dileigh Consulting Engineers	27 June 2024	D24.054-C09	C
Masonry Details	Dileigh Consulting Engineers	25 September 2024	D24.054-C10	E
Stormwater Layout Plan	Dileigh Consulting Engineers	18 October 2024	D24.054-C11	F
Stormwater Longitudinal Sections	Dileigh Consulting Engineers	25 September 2024	D24.054-C12	C
Erosion Sediment Control Plan	Dileigh Consulting Engineers	18 October 2024	D24.054-C13	D
Erosion Control Notes	Dileigh Consulting Engineers	27 June 2024	D24.054-C14	C
Stormwater Management Report	Dileigh Consulting Engineers	25 September 2024	D24.054-RP01	C

Endorsement of any plans approved by Rockhampton Regional Council:

1. is only an endorsement that the drawing/s appear/s to be suitable for the purposes of construction and use;
2. is not an endorsement that the drawing/s is/are free of errors or omissions, nor when works are carried out pursuant to the drawing/s that they will be free from errors or omissions or will comply with or satisfy any other requirement or purpose;
3. does not connote any assumption of risk by Rockhampton Regional Council or by any approving or assessing officers of Rockhampton Regional Council; and
4. any changes to the above drawings during or prior to construction must be approved by Rockhampton Regional Council in writing prior to undertaking construction. Rockhampton Regional Council will not accept any changed works which are not reflected through a design change process. No design changes or alterations to plans may be undertaken at the "as constructed" stage.

Responsibility for the drawing/s and any errors or omissions in it or consequent defects arising from it remain with the author of the drawing and the signing Registered Professional Engineering of Queensland.

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

In accordance with section 85(1)(c)(ii) of the Planning Act 2016, the development approval lapses if the development does not substantially start within two (2) years after the approval starts to have effect, if not stated otherwise in the conditions of approval attached.

7. APPEAL RIGHTS

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

Appeal by an applicant

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

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

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

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

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

8. 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.

9. ASSESSMENT MANAGER

Name: Amanda O'Mara COORDINATOR DEVELOPMENT ASSESSMENT	Signature: 	Date: 10 December 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

Abbreviations used in the Conditions

ARR-Australian Rainfall & Runoff

AR-AustRoads

AS/NZ*-Australian/New Zealand Standard

BCC-Brisbane City Council (Infrastructure Installation and Construction Requirements Manual)

CMDG-Capricorn Municipal Development Guidelines

DTMR-Department of Transport and Main Roads

EPA-Environmental Protection Act

FRW-Fitzroy River Water

Healthy Waterways-Waterways by Design (WbD)

MCU-Material Change of Use

MUTCD-Manual for Uniform Traffic Control Devices

QUDM-Queensland Urban Drainage Manual

QWQ-Queensland Water Quality Guidelines

ROL-Reconfiguration of a Lot

RPEQ-Registered Professional Engineer of Queensland

RRPS-Rockhampton Region Planning Scheme 2015

SPP-State Planning Policy 2017

WSUD-Water Sensitive Urban Design

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 Decision Notice.

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/ Issue</u>
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Stormwater Management Report	Dileigh Consulting Engineers	25 September 2024	D24.054-RP01	C

- 1.2 The Applicant is to supply one (1) set of the approved plans to the contractor to be retained on site at all times during construction.
- 1.3 Where there is any conflict between the conditions of approval and the details shown on the approved plans and documents, the conditions of this approval must prevail.
- 1.4 Where the conditions required the above plans or documents to be amended, the revised document(s) must be approved by Council, prior to any Pre-Start meeting for the works on the site.

- 1.5 If after the issue of this Decision Notice, any errors, omissions or insufficient details are noted on the approved plans, such deficiencies must be corrected prior to construction, or if noted during construction, approval obtained from Council to correct any error or omission. Council reserves the right to withhold approval of construction until such remedies are complete.
- 1.6 A Pre-Start meeting must be held, prior to the commencement of any work or construction, between any or all of the Site Superintendent / Consulting Engineer / Principal Contractor and Council in accordance with *CMDG Section CP1.08 – Notice to Commence Works* and *CP1.09 – Prestart Meeting*.

NOTE: Prestart Meetings are conducted with a minimum of five (5) business days' notice being given to Council.

The following information must be presented prior or at the meeting:

- 1.6.1 A copy of the Contractor's Public Liability Insurance Policy for a minimum of twenty (20) million dollars indemnifying Council against all claims resulting from the construction works of this Development;
- 1.6.2 A Traffic Guidance Scheme for the works authorised by this development permit, with site access clearly identified.
- 1.6.3 Other items to be discussed (refer *CMDG Section CP1.09*):
 - a) Notification requirements for nearby residents – Residents to be identified will be identified at the pre start meeting;
 - b) introduction of the Council's representative(s), Consulting Engineers(s), Contractor(s) and any other relevant parties i.e. Geotechnical Engineers (if required);
 - c) review of relevant conditions of development approval;
 - d) review of Council's construction requirements;
 - e) review of the Contractor's Erosion Control and Stormwater Management Strategy;
 - f) inspection and identification of parks and environmentally significant areas and/or trees for preservation;
 - g) site access conditions;
 - h) any other relevant Acts;
 - i) provision of Construction Security Bond (if required);
 - j) Traffic Management Plan.
- 1.7 Under Part 1 Clause 1.6 of the *Manual of Uniform Traffic Control Devices Queensland, and AS 1742.3-2009*, Council delegates the Principal Contractor the responsibility for the placing of all regulatory signs, as outlined in the above documents.
- 1.8 All civil/engineering works must be supervised and inspected by a RPEQ who is experienced in all aspects of civil construction. All works must comply with the CMDG and other relevant standards and policies as conditioned in this Decision Notice.
- 1.9 Council reserves the right for uninterrupted access to the site at all times, starting with the Pre-Start Meeting to the completion of the work or issuance of the Compliance Letter.
- 1.10 All Construction works and other associated activities are permitted only between 0630 hours and 1800 hours Monday to Saturday. No work is permitted on Sundays or public holidays. All requirements of the *Environmental Protection Act* and *Environmental Protection Regulations* must be observed at all times, unless otherwise approved by Council in writing.
- 1.11 Any proposed works within the vicinity (or zone of influence) of existing Council infrastructure or public utilities will not adversely affect the integrity of the infrastructure. Any restoration works required on existing Council infrastructure as a result of proposed works will be at the Developer's expense.
- 1.12 The Developer must be present for the final inspection at the completion of works, to be undertaken prior to the use commencing or the endorsement of the Survey Plan.

2.0 PERFORMANCE SECURITY BOND

2.1 Prior to any construction works commencing the Developer is to lodge a security bond of **\$2500.00** as agreed pursuant to section 67 of the *Planning Act 2016*. The bond will be returned when the Council accepts the works as On Defects or are completed in accordance with the conditions of the approval. The bond is required for any non-compliance with the conditions of the approval that may include, but not limited to:-

2.1.1 Protection of on-street works from damage by contractors, sub-contractors and suppliers.

2.1.2 Repairs to on-street works resulting from damage caused by contractors, subcontractors and suppliers.

2.1.3 Protection and repair of existing Council services (i.e. sewerage connections, water connections etc.).

2.1.4 Inadequate Erosion Control and Stormwater Management during construction.

2.1.5 Inadequate provision for traffic control.

2.1.6 Urgent action required by Council to resolve unsafe construction or emergency repairs required to protect persons and/or property from consequential damages.

2.1.7 Provision of As Constructed data.

3.0 DEFECTS LIABILITY BOND

3.1 A refundable Defects Liability Bond in accordance with the *CMDG Construction Procedures CP1.19*, must be paid to Council prior to the acceptance of the works On Defects. A schedule of actual construction costs (infrastructure only to be contributed to Council) must be submitted prior to Council's acceptance of the bond. The minimum Defects Liability Bond accepted is one (1) thousand dollars (\$1,000.00).

3.2 Unless otherwise specified, the minimum Defects Maintenance Period is twelve (12) months, except for bio detention or retention basins or swales will be 24 months.

4.0 INSPECTION REQUIREMENTS

4.1 Joint inspections with any of the Site Superintendent / Consulting Engineer / Contractor and Rockhampton Regional Council Works Inspector / Engineer are required. A minimum of twenty four (24) hours' notice is required. Council's minimum inspection programme is as follows:

Site Works

4.1.1	earthworks	C213/visual	pre-start/completion
4.1.2	topsoil	C273/visual	completion of works

Concrete Works

4.1.3	concrete	C271/visual	pre pour/surface finish
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Erosion and Sediment Control

4.1.4	ESC measures works	visual	progress/completion of ECS
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Parks

4.1.5	Parks	visual	progress/completion
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Defects / Maintenance Liability

4.1.6	on / off defects	visual	completion of works
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4.2 The inspection programme in condition 4.1 does not preclude the requirement for further inspections if deemed appropriate by Council Engineers.

5.0 ROADWORKS

5.1 A maximum grade of two and a half percent (2.5%) will be maintained from the back of the kerb for a minimum distance of three (3) metres towards the lot boundaries. (*CMDG*)

5.2 The concrete pathway must be a minimum width of 1.5 metres wide, constructed for the full frontage of the site, in accordance with *CMDG*.

6.0 ACCESS AND PARKING

6.1 Vehicle access and parking will be designed and constructed to comply with the relevant RRPS Codes, *CMDG*, and *AS/NZS 2890*.

6.2 All redundant driveway crossovers must be removed and reinstated with kerb and channel to match existing kerb profile.

6.3 All existing driveways must be upgraded to meet the requirements of the *CMDG*.

7.0 STORMWATER

7.1 All stormwater management systems must be designed and constructed to comply with the relevant requirements of *QUDM*, *CMDG*, *SPP*, *WbD*, and the approved plans (refer to Condition 1.1).

8.0 DETENTION/RETENTION SYSTEMS/BASINS AND STORMWATER CHANNELS

8.1 The design, construction and maintenance of the detention/bio-retention system or basin, channel or swale is to comply with any relevant and related requirements of *QUDM*, *CMDG*, *WbD*, and the approved plans (refer to Condition 1.1)

8.2 Correct hydraulic function is critical for sustainable bio retention systems and any changes, however minor, must be certified by the *RPEQ* and approved by Council.

8.3 All detention and retention basins and stormwater channel batters will be a maximum of one (1) in six (6) in accordance with *QUDM*.

9.0 EROSION AND SEDIMENTATION CONTROL

9.1 The Developer will ensure that erosion and sedimentation controls are implemented, monitored, and maintained at all times in accordance with the *CMDG*, and the approved plan/s until all approved construction on the site has been completed. If the development is staged all erosion sediment controls are to be monitored and maintained until the completion of the development.

9.2 All stormwater runoff from the site during and after the site works are completed, is to comply with the *SPP*. Appendix 2, Table A and B, to avoid or minimise adverse impacts on stormwater quality.

9.3 The Developer will ensure that during construction all sedimentation controls and swale drains are maintained to ensure compliance with the *CMDG* and *SPP* Appendix 2, Table A, to avoid or minimise adverse impacts on stormwater quality.

9.4 The Developer will check erosion and sediment control measures at the start and end of each day of construction adjacent to any disturbed surfaces.

9.5 If required, the erosion and sedimentation control measures are to be amended or upgraded by the Developer as directed by the Council, within an agreed timeframe.

10.0 SITWORKS

10.1 Typical car park spaces, road and pedestrian line markings, traffic, pedestrian, disabled signage must comply with *AS2890* and be line marked and displayed accordingly.

10.2 Pedestrian movements must be indicated on engineering plans to be used for construction and facilities constructed in such a way that promotes intended movements.

10.3 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.

10.4 All earthworks must be undertaken in accordance with *AS3798 "Guidelines on Earthworks for Commercial and Residential Developments"*.

10.5 All earthworks quality control and testing will be in accordance with *AS1289.5.1.1*.

- 10.6 A water truck must be onsite to ensure that dust is appropriately suppressed such that it is not creating a nuisance to surrounding properties while earthworks are being undertaken.
- 10.7 The Developer will ensure all construction related vehicles do not at any time restrict property access within Hempenstall Street.
- 10.8 The Developer will ensure all earth moving equipment is parked and stored at all times within the site.
- 10.9 The Developer will ensure roads used for movement of construction materials remain clear of mud and debris at all times.
- 10.10 The Developer will ensure the Hempenstall Street site frontage including kerb, channels and roads, remain clear of debris, mud and building materials at all times.

11.0 RETAINING STRUCTURES

- 11.1 All retaining walls and their associated footings must be sited within the proposed lot or site boundaries.
- 11.2 All retaining structures over one (1) metre high must incorporate an approved subsoil drainage systems discharging to a legal point of discharge. The design and construction must be certified by an RPEQ.
- 11.3 A Development Permit for Building Work assessable under the Building Assessment Provisions must be obtained for any retaining structure over (1) metre in height, prior to the commencement of any Building Work.

12.0 MINOR CONCRETE WORKS

- 12.1 Minor concrete works are materials, formwork, construction methods, placement, quality etc. associated with the works the subject of this approval.
- 12.2 All minor concrete works must be designed and constructed to comply with the relevant requirements of CMDG and the approved plans.

13.0 VEGETATION MANAGEMENT

- 13.1 Prior to commencement of any works, trees marked for removal must be mulched and all mulch stockpiled on site or removed from site and stored at an approved location. All the vegetative material including shrubs, weeds, grass etc. must be removed from site and deposited at an approved location such as the Council Landfill. Burning off is not permitted.
- 13.2 All vegetation which cannot be mulched on site for use on this development or an approved place of use, must be disposed of at a suitable place of disposal. Burning is not permitted.

14.0 UTILITY SERVICES

- 14.1 All works within three (3) metres of a gas main require a spotter.
- 14.2 All service locations must be confirmed by "pot holing."

15.0 LANDSCAPING / STREETSCAPING

- 15.1 All landscaping and streetscaping must comply with relevant requirements of the RRPS-Landscape Code and Planning Scheme Policy SC6.12 and CMDG, and as conditioned or denoted on the approved plans.
- 15.2 Location and species of proposed street tree specified on the plans is confirmed.

16.0 WORKS ON DEFECTS ACCEPTANCE PROCEDURE

- 16.1 The On Defects Works Acceptance inspection requires attendance by:
 - 16.1.1 the Consulting Engineer of the project
 - 16.1.2 the Contractor; and
 - 16.1.3 Council's nominated representative.
- 16.2 It is the responsibility of the Developer and the Consulting Engineer to ensure the necessary requirements of the works are to an acceptable standard (as defined in

- approved design and construction documentation) prior to the conduct of an "Works Acceptance" inspection.
- 16.3 With respect to the Erosion Control and Stormwater Management Measures, the Contractor's Erosion Control and Stormwater Management Strategy is to include the Maintenance period and shall include the following:
- 16.3.1 Plan to monitor the erosion prevention and sediment control measures following rainfall;
 - 16.3.2 Follow-up repair work where necessary;
 - 16.3.3 Removal of temporary structures such as sediment traps when vegetation has re-established to an acceptable level;
 - 16.3.4 Mulch and replant areas where revegetation has not been successful.
- 16.4 The general requirements to be met prior to Council's On Defects inspection of the works are as follows:
- 16.4.1 the site is clean, tidy (including mowing of grass to ensure that infrastructure can be located), free of rubbish, rocks, sticks, unauthorised stockpiles, etc;
 - 16.4.2 allotment earthworks and site grading to be free draining and in accordance with the approved design;
 - 16.4.3 relevant Erosion Control and Stormwater measure are in place;
 - 16.4.4 integrity of environmentally significant areas is maintained;
 - 16.4.5 Defects Liability Bond lodged.
- 16.5 The Consulting Engineer is responsible for confirming that the approved works have been completed and the above listed items are in accordance with the approved drawings, Council's technical specifications and accepted engineering and landscaping practice prior to requesting an On Defects inspection. Failure to do so may result in cancellation of the inspection and incur a reinspection fee.
- 16.6 Further to the above, and prior to the On Defects inspection, the Consulting Engineer shall be responsible for the completion of the "Works Acceptance" Inspection Checklist as appropriate to the works being constructed. <https://www.cmdg.com.au/construction-approval-procedures>
- 16.7 The completed checklist shall be presented to the relevant Council Officer at the On Defects inspection. The Council Officer will not undertake a detailed check of all items raised in the checklist, but will examine some aspects of the works on an audit basis. The original of the completed checklist shall be retained with the records for the project upon completion of the works.

17.0 AS CONSTRUCTED REQUIREMENTS

- 17.1 Digital As Constructed plans in the prescribed digital formats must be submitted to Council and approved prior to the works being accepted for the On Defects Liability Period. The As Constructed data will only be approved after the final site inspection has been passed by Council. Refer to Council's website <http://www.rockhamptonregion.qld.gov.au/PlanningBuilding/Development-Applications/Lodging-a-Development-Application/As-Constructed-Submissions> as to how to submit the data and then email to enquiries@rrc.qld.gov.au with a cover note detailing the Development Application No., legal description of the land, address, estate/subdivision name and stage, Consultant's name and contact details.
- 17.2 Any works that involve the alteration of ground surface levels (cut or fill) require spot heights and any digital elevation models or line work in digital AutoCAD format over the affected lots must be in accordance with As Constructed Data Guidelines – 5.6.
- 17.3 Compliance/Certifications (CMDG – CP1.21)
- Council requires that the As Constructed documentation be supported by appropriate certifications in accordance with the following requirements:

- 1) All surface As Constructed infrastructure (i.e. sewer manholes, kerb etc.) must be surveyed in relation to property boundaries by a Registered Surveyor upon completion of the project. Other As Constructed infrastructure which is constructed before the completion of the project (i.e. sewer jump ups, water reticulation bends etc.) can be surveyed by the Developer. The certification must note that the As Constructed survey data represents the true and accurate location of the relevant construction element presented in the data, relative to all appropriate survey datums (i.e. the exact location in space of each construction element or entity). An RPEQ's certification must accompany the As Constructed submission to Council. The RPEQ's certification may qualify where information has been supplied by a contractor for covered up works (e.g. sewer jump up locations).
 - 2) Council accepts the submission of As Constructed information for the location of House Connection Branches documented by the Contractor during the construction phase. This enables the Developer to expedite the backfilling of these fixtures and will minimise "open excavations" awaiting final survey. This information shall be documented on the As Constructed Sewerage Plan and shall reference the Contractor's field notes used to document the As Constructed information.
 - 3) All As Constructed works must also be certified by the Consulting Engineer responsible for design of the works. The certification must note that the design intent and function of the proposed works have not been compromised by the constructed works. To this extent, the Consulting Engineer will be responsible for checking the As Constructed details so that the tolerances for construction are within specified limits.
 - 4) It is recognised that in some circumstances, the tolerances for construction are exceeded. In these instances, the Consulting Engineer will be responsible for performing confirmation design calculations to ensure that the original design intent and function are not compromised.
 - 5) If the As Constructed details indicate a change to the design intent or function of the works, revised design calculations shall be provided by the Consulting Engineer to indicate the acceptability of the proposed change relative to Council's requirements. Council's approval of the change is required prior to the formal acceptance of the works.
 - 6) The Consulting Engineer shall be responsible for the completion of the "Statement of Compliance - As Constructed works", which satisfies the requirements for Certification.
- 17.4 By submitting the As Constructed information to Council, the Consultant grants Council a royalty-free, perpetual, non-exclusive, non-cancellable, non-transferable licence to:
- 1) use, reproduce, adapt, modify, commercially exploit and communicate the Intellectual Property (including by development and distribution of a Derivative Product); and
 - 2) sublicense Council's right to use, reproduce, adapt, modify, commercially exploit and communicate the Intellectual Property, subject to the terms of this Licence.

Interpretation of the above intellectual property condition will be subject to the following definitions:

"Intellectual Property" in relation to the As Constructed information, includes all copyright, and all rights in relation to registered and unregistered trademarks (including service marks), registered designs and confidential information (including trade secrets and know-how), and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields; and

"Derivative Product" means a distinct product in which the Intellectual Property is altered, abridged or supplemented or which incorporates additional functionality.

18.0 DOCUMENTATION

- 18.1 All engineering drawings for operational works must be signed and certified by a RPEQ as being in accordance with all relevant Australian Standards, statutory requirements and

sound engineering principles. The works must be supervised on the Developer's behalf by a suitably qualified RPEQ. All designs, specifications and management plans must be certified, by a suitably qualified professional identifying the certifier's full name and accreditation/registration number, as complying with all relevant Codes and Standards.

- 18.2 For the purpose of this statement, a 'suitably qualified professional' is a person with a tertiary qualification and professional affiliation in the field of engineering or science relevant to the design, specifications or management plan and who has at least two years' experience in management in that field. Where the design, specifications or management plans involve different fields, a certification is required from a suitably qualified professional for each separate field.
- 18.3 An Engineer's Certificate of Construction and As Constructed Certification must be signed and submitted by a RPEQ verifying that all works have been carried out in accordance with Council approved drawings, approval conditions and specifications.

19.0 ON DEFECTS PERIOD

- 19.1 Operational Works approvals requiring As Constructed Data associated with a MCU approval will go On Defects (provided the On Defects acceptance inspection has passed), at the date of Council's acceptance of the Engineers' Construction Certificate and As Constructed Certification, and payment of the Defects Bond.
- 19.2 The satisfactory performance, repairs, insurance and maintenance of all contributed assets, infrastructure and its components, constructed, installed and purchased by the Developer must remain the sole responsibility of the Developer during the maintenance period. The developer must take all reasonable steps to ensure that the works are not damaged or vandalised prior to the works being accepted off maintenance by Council.

20.0 WORKS OFF DEFECTS ACCEPTANCE PROCEDURE

The Final Acceptance inspections will generally confirm the matters raised in the Final Acceptance Inspection checklist and any other matters outstanding relevant to the works. The Checklist is to be completed by the Consulting Engineer prior to conducting the Final Acceptance Inspection. Refer to Table CP1.27.1 for CCTV requirements prior to Final Acceptance.

GENERAL REQUIREMENTS:

- 1) During the Defects Liability Period, it is the responsibility of the Developer to:
 - a) Rectify any works found to be defective or found to exhibit faults attributed to the design of the works or the performance of the construction activities in terms of quality and conformance with the design and specifications.
 - b) Remove eroded material from the road surface and stormwater systems where this is attributed to failure of the erosion control measures.
 - c) Continue watering turf until it is fully established.
 - d) Maintain landscape plantings until they are mature.
- 2) During the Defects Liability Period it is Council's responsibility to:
 - a) Clean out gross pollutant traps.
 - b) Repair third party damage to infrastructure (e.g. damage to street signs, damage to asphalt surfacing).
- 3) Upon Council's notification of a defect it must be rectified within a timeframe specified by Council. Council reserves the right to rectify a defect in certain circumstances at the Developer's cost.
- 4) Council reserves the right to require extension of the Defects Liability Period and retain all (or a portion of) a Defects Liability Bond for a portion of the works if:
 - a) Significant rectification or replacement work is carried out; or
 - b) If acceptable performance of works during the defects liability period has not been demonstrated.

- 5) Once the Defects Liability Period has elapsed a Final Acceptance inspection is to be arranged with Council.
- 6) The Final Acceptance inspection is to be attended by:
 - a) Council's nominee
 - b) the Consulting Engineer for the project
 - c) the Contractor
- 7) The Consulting Engineer for the works shall be responsible for ensuring that Council's requirements for acceptance of the works are satisfied prior to requesting a Final Acceptance inspection.
- 8) Council's requirements for acceptance of the works comprise the following:
 - a) No outstanding payments are due to Council or other Authorities for the development.
 - b) Completion of the Final Acceptance Inspection Checklist.
 - c) Satisfactory Final Acceptance Inspection by relevant Council Officers.
- 9) Following a satisfactory Final Acceptance inspection, the Consulting Engineer shall submit a written request to Council for Final Acceptance of the works and release of the Defects Liability Bond. Council will, upon confirmation that no outstanding payments arising from the development are due to Council, confirm acceptance of the works, and arrange for the release of the Defects Liability Bond.

ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

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

NOTE 2. General Environmental Duty

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

NOTE 3. General Safety Of Public During Construction

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

NOTE 4. Construction Specifications

The CMDG Construction Specifications must be used for the construction works.

NOTE 5. Landscaping

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

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 concurrence agency	1 A concurrence agency that is not a co-respondent 2 If a chosen Assessment manager is the respondent—the prescribed assessment

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

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