



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/133-2023	Contact:	Aidan Murray
Notice Date:	25 July 2024	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	Maas Group Properties Ellida Pty Ltd				
Postal address:	C/- Capricorn Survey Group (CQ) Pty Ltd PO BOX 1391 ROCKHAMPTON QLD 4700				
Phone no:	07 4927 5199	Mobile no:	0407 581 850	Email:	reception@csgcq.com.au

I acknowledge receipt of the above change application on 29 May 2024 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Reconfiguring a Lot for a Subdivision (Ellida Estate Stage 2 - Two (2) Lots into 48 Lots and Balance)

PROPERTY DESCRIPTION

Street address:	23-27 William Palfrey Road, Parkhurst
Real property description:	Lots 37 and 38 on SP341088

Dear Maas Group Properties Ellida Pty Ltd,

I advise that, on 17 July 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)	Item 5	Changed	17 July 2024
2)	Condition 1.10	Deleted	17 July 2024
3)	Condition 2.1	Changed	17 July 2024
4)	Condition 3.1	Deleted	17 July 2024
5)	Condition 3.2	Deleted	17 July 2024
6)	Condition 3.3	Deleted	17 July 2024

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Reconfiguring a lot	<input checked="" type="checkbox"/>	<input type="checkbox"/>

2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

3. FURTHER DEVELOPMENT PERMITS REQUIRED

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

Type of development permit required	Subject of the required development permit
Operational Works	<i>Road Works</i> <i>Sewerage Works</i> <i>Water Works</i> <i>Stormwater Works</i> <i>Inter-Allotment Drainage Works</i> <i>Site Works</i>

4. SUBMISSIONS

NIL

5. REFERRAL AGENCIES

The following Referral Agencies were activated by this application.

For an application involving	Name of agency	Role of Agency	Contact Details
INFRASTRUCTURE-RELATED REFERRALS (Electricity Infrastructure)			
<i>Schedule 10, Part 9, Division 2, Table 1 – Reconfiguring a lot subject to an easement or near a substation site</i>			
Development application for reconfiguring a lot that is assessable development under section 21, if— (a) all or part of the lot is subject to an easement— (i) for the benefit of a distribution entity, or transmission entity, under the Electricity Act; and (ii) for a transmission grid or supply network; or (b) part of the lot is within 100m of a substation site	The chief executive of the distribution entity or transmission entity: Ergon Energy	Advice	Postal: Ergon Energy (Town Planning) PO Box 1090 Townsville Qld Email: townplanning@ergon.com.au

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
Reconfiguration Plan Stage 2 (48 Residential Lots + Balance)	Capricorn Survey Group (CQ)	23 May 2024	8666-WP02-ROL	E
Stormwater Management Plan and Hydraulic Impact Assessment	Premise	8 February 2024	MPG0001 / R04	B
* Preliminary Road Hierarchy	Premise	8 February 2024	MPG-0001 / SKC001	C
Preliminary Stormwater Drainage	Premise	8 February 2024	MPG-0001 / SKC002	C
Preliminary Water & Electrical Reticulation	Premise	8 February 2024	MPG-0001 / SKC003	C
Preliminary Sewer Reticulation	Premise	8 February 2024	MPG-0001 / SKC004	C
Preliminary Stage Desing	Premise	8 February 2024	MPG-0001 / SKC005	C
Ellida West, Parkhurst – Slope Assessment	Macquarie Geotech	29 January 2024	G23920	01

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

In accordance with section 85(1)(b)(ii) of the *Planning Act 2016*, the development approval lapses if a plan for the reconfiguration that, under the Land Title Act, is required to be given to a local government for approval is not given to the local government within four (4) 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
Reconfiguring a Lot for a Subdivision (Ellida Estate Stage 2 – Two (2) Lots into 48 Lots and Balance)
Reasons for Decision
<p>a) Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity; and</p> <p>b) On balance, the application should be approved because the circumstances favour Council exercising its discretion to approve the application even though the development does not comply with an aspect of the assessment benchmarks.</p>
Assessment Benchmarks
<p>The development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> • <i>Planning Regulation 2017</i>, Schedule 12A • Local Government Infrastructure Plan; • Low Density Residential Zone Code; • Access, Parking and Transport Code; • Landscape Code;

- Stormwater Management Code;
- Water and Sewer Code;
- Filling and Excavation Code;
- Reconfiguring a Lot Code;
- Biodiversity Areas Overlay Code;
- Bushfire Hazard Overlay Code;
- Flood Hazard Overlay Code; and
- Steep Land Overlay Code.

Compliance with assessment benchmarks

The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exception(s) listed below.

Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
<p>Reconfiguring a Lot Code</p>	<p>PO6</p> <p>The proposed development does not comply with Acceptable Outcome (AO) 6.1 because two (2) street blocks exceed 200 metres.</p> <p>Despite this, the proposed street blocks are rectilinear and arranged to provide an efficient neighbourhood pattern that supports walking and cycling. In addition, the two (2) street blocks only exceed the 200 metres by approximately 19 metres and 23 metres, respectively.</p> <p>Therefore, the proposed development is taken to comply with Performance Outcome (PO) 06.</p> <p>PO09</p> <p>The proposed development does not comply with Acceptable Outcome (AO) 9.1 because 20 per cent of the proposed lots for the development are not smaller than 450 metres.</p> <p>Despite this, the reconfiguration provides a range and mix of lot sizes from between 480 to 930 square metres to facilitate a range of housing choices.</p> <p>Therefore, the proposed development is taken to comply with Performance Outcome (PO) 09.</p> <p>PO28</p> <p>The proposed development does not comply with Acceptable Outcome (AO) 28.1 because open space or a local park is not being provided for this stage.</p> <p>Despite this a structure plan for the overall development has been provided and in future stages open space / local parks will be incorporated ensuring adequate and conveniently located open space and local parkland will be available for the community.</p> <p>The non-compliance with AO28.1 and corresponding Performance Outcome is considered a low-level conflict which will be addressed in future stages.</p>
<p><i>Planning Regulation 2017, Schedule 12A</i></p>	<p>Schedule 12A (8)</p> <p>The proposed development does not comply with Schedule 12A (8) because the reconfiguration does not provide a park within 400 metres of the proposed new lots.</p> <p>Despite this a structure plan for the overall development has been provided and in future stages parks will be incorporated ensuring adequate and conveniently located parks will be available for the community.</p> <p>The non-compliance with Schedule 12A (8) is considered a low-level conflict which</p>

	will be addressed in future stages.
Relevant Matters	
Not applicable to an assessable development application subject to code assessment.	
Matters prescribed by regulation	
<ul style="list-style-type: none"> • The <i>Rockhampton Region Planning Scheme 2015</i> (version 2.2); • The common material, being the material submitted with the application. 	

9. RIGHTS OF APPEAL

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

Appeal by an applicant

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

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

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

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

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

10. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect:

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

Or

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


Or

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

11. ORIGINAL DECISION ASSESSMENT MANAGER

Name: Amanda O'Mara COORDINATOR DEVELOPMENT ASSESSMENT	Date: 8 April 2024
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12. ASSESSMENT MANAGER

Name: Amanda O'Mara COORDINATOR DEVELOPMENT ASSESSMENT	Signature: 	Date: 25 July 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.]

Part 2 – Conditions required by the referral agency response

Attachment 2—Extract on appeal rights

1.0 ADMINISTRATION

- 1.1 The owner, the owner's successors in title, and any occupier of the premises 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 with condition notice for any operational works required by this development approval:
- 1.3.1 to Council's satisfaction;
 - 1.3.2 at no cost to Council; and
 - 1.3.3 prior to the issue of the Survey Plan Approval Certificate, unless otherwise stated.
- 1.4 Infrastructure requirements of this development approval must be contributed to the relevant authorities, where applicable, at no cost to Council, prior to the issue of the Survey Plan Approval Certificate, unless otherwise stated.
- 1.5 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
- 1.5.1 Operational Works:
 - (i) Road Works;
 - (ii) Sewerage Works;
 - (iii) Water Works;
 - (iv) Stormwater Works;
 - (v) Inter-allotment Drainage Works; and
 - (vi) Site Works.
- 1.6 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.
- 1.7 All engineering drawings/specifications, design and construction works must be in accordance with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.
- 1.8 Street numbering for the development must be in accordance with *Australian/New Zealand Standard for Rural and Urban Addressing (AS4819:2011)*. Council will allocate street numbering to the development in accordance with this standard at the time of issuing the Survey Plan Approval Certificate.
- 1.9 All development conditions contained in this development approval about infrastructure under Chapter 4 of the *Planning Act 2016* should be read as being non-trunk infrastructure conditioned under section 145 of the *Planning Act 2016*, unless otherwise stated.
- 1.10 Deleted
- 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 were amended by any condition of this development approval:

Plan / Document Name	Prepared by	Date	Reference No.	Version / Issue
Reconfiguration Plan Stage 2 (48 Residential Lots + Balance)	Capricorn Survey Group (CQ)	23 May 2024	8666-WP02-ROL	E
Stormwater Management Plan and Hydraulic Impact Assessment	Premise	8 February 2024	MPG0001 / R04	B
* Preliminary Road Hierarchy	Premise	8 February 2024	MPG-0001 / SKC001	C
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Preliminary Water & Electrical Reticulation	Premise	8 February 2024	MPG-0001 / SKC003	C
Preliminary Sewer Reticulation	Premise	8 February 2024	MPG-0001 / SKC004	C
Preliminary Stage Desing	Premise	8 February 2024	MPG-0001 / SKC005	C
Ellida West, Parkhurst – Slope Assessment	Macquarie Geotech	29 January 2024	G23920	01

* Three leg intersection will not be approved at the crossing of Mclaughlin Street and Road 1.

Note: Five (5) meter wide concrete median as indicated on Collector Streets Typical Sections drawing, MPG-0001, SCK001 Rev A dated 07/02/2024 for Major Urban Collector will not be approved as part of the trunk works. Any costs associated with roadworks proposed above the standard specified in the Capricorn Municipal Development Guidelines for a Major Urban Collector will be borne by the developer.

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

3.0 STAGED DEVELOPMENT

3.1 Deleted

3.2 Deleted

3.3 Deleted

4.0 ROAD WORKS

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

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

4.3 Any application for a Development Permit for Operational Works (road works) must show that all proposed new roads and road reserves included in the application connect with existing constructed road(s) at the time of making the application and have adequate space for public utilities to be constructed and maintained.

4.4 Road 3, Road 4, Road 5, Road 6, Road 7 and Road 8 must be designed and constructed to “Access Street” standard, with kerb and channel, pedestrian pathways, lighting and drainage infrastructure. This non-trunk infrastructure is conditioned under section 145 of the *Planning Act 2016*.

4.5 All pathways and access ramps must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*. All pathways located within a road reserve or

public use land must be provided with public space lighting in accordance with *Australian Standard AS1158 "Lighting for roads and public spaces"*.

- 4.6 All pathways must incorporate kerb ramps and landing at all road crossing points.
- 4.7 Traffic signs and pavement markings must be provided in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*. Where necessary, existing traffic signs and pavement markings must be modified in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*.
- 4.8 Any application for a Development Permit for Operational Works (road works) must include details of the Council approved road names for all new roads.
- 4.9 Retaining structures and their foundations must be wholly contained within private allotments and not be constructed as Council-owned infrastructure.
- 4.10 Truncations must be applied to all corner allotments.

5.0 SEWERAGE WORKS

- 5.1 A Development Permit for Operational Works (sewerage works) must be obtained prior to the commencement of any sewerage works required by this development approval.
- 5.2 All sewerage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act 2008, Plumbing and Drainage Act 2018* and the provisions of a Development Permit for Operational Works (sewerage works).
- 5.3 All lots within the development must be connected to Council's reticulated sewerage network. Each lot must be provided with its own separate sewerage connection point, located wholly within its respective property boundary.
- 5.4 Easements must be provided over all sewerage infrastructure located within private property. The easement location(s) and width(s) must be in accordance with the requirements of the *Capricorn Municipal Development Guidelines*.
- 5.5 Any retaining walls close to or crossing sewerage infrastructure must comply with *Council's Building Over / Adjacent to Local Government Sewer Policy*. The structure must be self-supporting, and no additional load must be applied to Council's sewerage infrastructure.

6.0 WATER WORKS

- 6.1 A Development Permit for Operational Works (water works) must be obtained prior to the commencement of any water works required by this development approval.
- 6.2 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).
- 6.3 All lots within the development must be connected to Council's reticulated water supply network. Each lot must be provided with its own water connection point, located wholly within its respective property boundary.
- 6.4 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*.
- 6.5 All proposed reticulated water network mains must be interconnected to eliminate dead ends. Looped mains are permitted in cul-de-sac.

7.0 STORMWATER WORKS

- 7.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works required by this development approval.
- 7.2 All stormwater 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 (stormwater works).
- 7.3 All stormwater must drain to a lawful point of discharge and must not adversely affect surrounding land or infrastructure in comparison to the pre-development conditions, including but not limited to

- blocking, altering or diverting existing stormwater runoff patterns or having the potential to cause damage to other infrastructure.
- 7.4 The development must not increase peak stormwater runoff for a selected range of storm events up to and including a one per cent (1%) Annual exceedance probability defined flood event, for the post-development conditions.
- 7.5 Each allotment must be designed so as to be flood free in a one per cent (1%) Annual exceedance probability defined flood event.
- 7.6 The proposed bio-basin(s) must be designed with pre-treatment to limit the amount of coarse sediment reaching the filter media. An appropriate pre-treatment method must be implemented i.e. sediment forebays or inlet ponds.
- 7.7 Detailed design of the proposed detention / bio basin(s) and any cross-drainage structures must include all required safety measures and facilities to ensure the safety of the public in accordance with the *Queensland Urban Drainage Manual*.
- 7.8 Any application for a Development Permit for Operational Works (stormwater works) must be accompanied by detailed plans and specifications for the detention / bio basin(s), and the design must:
- 7.8.1 be suitable to the climate and incorporate predominately native species that require low dependency on water;
- 7.8.2 maximise areas suitable for on-site infiltration of stormwater;
- 7.8.3 demonstrate that all areas apart from garden beds are fully turfed or hydromulched;
- 7.8.4 provide maintenance plan.
- 8.0 INTER-ALLOTMENT DRAINAGE WORKS
- 8.1 A Development Permit for Operational Works (inter-allotment drainage works) must be obtained prior to the commencement of any drainage works required by this development approval.
- 8.2 All inter-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 (inter-allotment drainage works).
- 8.3 Inter-allotment drainage systems and overland flow paths must be designed and constructed in accordance with the *Queensland Urban Drainage Manual*.
- 8.4 Inter-allotment drainage must be provided to any lot where it cannot be satisfactorily demonstrated that roof and allotment runoff associated with future building on that lot, could not reasonably be directed to the frontage kerb and channel or alternative lawful point of discharge.
- 8.5 Inter-allotment drainage systems and overland flow paths must be wholly contained within a Council easement and be in accordance with the minimum widths prescribed in the *Capricorn Municipal Design Guidelines*. Easement documents must accompany the Survey Plan for endorsement by Council, prior to the issue of the Survey Plan Approval Certificate.
- 9.0 SITE WORKS
- 9.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works on the development site.
- 9.2 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks plan that clearly identifies the following:
- 9.2.1 the location of cut and/or fill;
- 9.2.2 the type of fill to be used and the manner in which it is to be compacted;
- 9.2.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;
- 9.2.4 details of any proposed access routes that are intended to be used to transport fill to or from the development site; and
- 9.2.5 the maintenance of access roads to and from the development site so that they are free of all cut and/or fill material and cleaned as necessary.
- 9.3 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"*.

- 9.4 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.
- 9.5 All retaining structures above one (1) metre in height must be required a separate building approval and certified by a *Registered Professional Engineer of Queensland*.
- 9.6 Details of vegetation proposed to be cleared must be provided as part of the Environmental Management Plan.
- 9.7 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.
- 9.8 All site works must be undertaken to ensure that there is:
- 9.8.1 no increase in upstream or downstream flood levels for all levels of immunity up to a one per cent (1%) Annual exceedance probability defined flood event;
 - 9.8.2 no increase in velocity profiles, for which no remedy exists to prevent erosion and/or scouring. In the event that modelling shows non-compliance with the above, works must be undertaken within the system to satisfy the above criteria for development; and
 - 9.8.3 a lawful point of discharge to which the approved works drain during the construction phase.
- 10.0 LANDSCAPING WORKS
- 10.1 A Development Permit for Operational Works (landscaping works) must be obtained prior to the commencement of any landscaping works required by this development approval.
- 10.2 A Landscaping Plan / Landscaping Works must be submitted with the first application for a Development Permit for Operational Works for the development.
- 10.3 Landscaping must be designed in accordance with the requirements of *Australian Standard AS 1428 parts 1, 2, 3 and 4 — Design for access and mobility*.
- 10.4 A minimum of one (1) street tree must be planted per 15 metres on each side of a new road.
- 10.5 Street tree planting must be carried out in accordance with the requirements of *Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy*.
- 10.6 All street trees must be one or a combination of the following species:
- 10.6.1 *Buckinghamia celcissma* – Ivory Curl
 - 10.6.2 *Corymbia ptychocarpa* –Swamp Bloodwood
 - 10.6.3 *Cupaniopsis anacardioides* – Tuckeroo
 - 10.6.4 *Cupaniopsis parvisolia* – Small Leaf Tuckeroo
 - 10.6.5 *Harpullia pendula* – Tulip wood
 - 10.6.6 *Melicope elleryana*- Pink Flowering Euodia
 - 10.6.7 *Syzygium leuhmanii*- Small Leafed Lilly Pilly
 - 10.6.8 *Waterhousia floribunda* – Weeping Lilly Pilly
 - 10.6.9 *Xanthostemon chrysanthus* – Golden Penda
- 10.7 Street trees and landscaping must not impact on vehicle site distances in accordance with *Australian Standard AS2890 – Parking Facilities*, or unduly restrict visibility to pedestrians in verge areas.
- 10.8 Street trees must be located such that, upon reaching full maturity, must not:
- (i) obstruct sight visibility zones as defined in the *Austroroads 'Guide to Traffic Engineering Practice'* series of publications;
 - (ii) adversely affect any road lighting or public space lighting; or
 - (iii) adversely affect any Council infrastructure, or public utility plant in accordance with the *Capricorn Municipal Development Guidelines*.

- 10.9 Any Road Corridor landscaping must comply with the requirements of *Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy*.
- 10.10 Landscaping hardworks must comply with the requirements of *Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy*.
- 10.11 Large trees must not be planted within one (1) metre of the centreline of any sewerage or water infrastructure; small shrubs and groundcover are acceptable.
- 10.12 A minimum two (2) metre high solid acoustic screen fence must be erected along the common boundary of the site and any residential properties adjoining McLaughlin Street. The fence must be constructed of materials and finishes that are aesthetically pleasing and commensurate with the surrounding residential area.
- 10.13 A vegetated landscape buffer within the road reserve is provided along the acoustic screen fence and common boundary of the subject development site and any residential properties adjoining McLaughlin Street for a minimum width of two (2) metres.
- 10.14 The vegetated landscape buffer is to be planted in accordance with the layouts outlined in *Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy* (refer to section SC6.12.14.1).
- 10.15 All landscaped areas must be subject to:
- 10.15.1 a watering and maintenance plan during the establishment phase; and
 - 10.15.2 an ongoing maintenance and replanting programme, establishment phase.
- 11.0 GEOTECHNICAL
- 11.1 All construction works must be designed and completed in accordance with the recommendations in the Ellida West, Parkhurst – Slope Assessment report (refer to condition 2.1).
- 11.2 Cut and fill of the subject development must be undertaken in accordance with the recommendations of the Ellida West, Parkhurst – Slope Assessment report (refer to condition 2.1).
- 11.3 Slope stability must be managed as follows:
- 11.3.1 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;
 - 11.3.2 site inspections must be undertaken by a Registered Professional Engineer of Queensland to confirm the design; and
 - 11.3.3 full engineering certification must be undertaken by a Registered Professional Engineer of Queensland.
- 12.0 STREET LIGHTING
- 12.1 The developer is responsible for all costs associated with the supply and installation of any road lighting or public space lighting in accordance with *Australian Standard AS1158 'Lighting for roads and public spaces'*.
- 12.2 A suitably qualified Electrical Engineering Consultant shall liaise with Council for the approval of street lighting design. The Consultant must appear on Ergon Energy's list of Public Lighting Designers and be a Registered Professional Engineer of Queensland.
- 13.0 ELECTRICITY
- 13.1 Underground electricity services to each lot must be provided in accordance with approved Operational Works Plans and the standards and requirements of the relevant service provider.
- 14.0 TELECOMMUNICATIONS
- 14.1 Provide Fibre-Ready pit and pipe telecommunications infrastructure to each lot within the development in accordance with the Australian Government '*Telecommunications infrastructure in new developments*' policy.
- 14.2 Telecommunications services must be provided to each lot 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 and pipes, and conduits that provide a connection to the telecommunications network.
- 15.0 ASSET MANAGEMENT

- 15.1 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.
- 15.2 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.
- 15.3 'As Constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the issue of the Survey Plan Approval Certificate. This information must be provided in accordance with the Asset Design and As Constructed Manual (ADAC).
- 16.0 ENVIRONMENTAL
- 16.1 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) acid sulfate soils;
 - (iv) fauna management;
 - (v) vegetation management and clearing;
 - (vi) top soil management;
 - (vii) interim drainage plan during construction;
 - (viii) construction programme;
 - (ix) geotechnical issues;
 - (x) weed control;
 - (xi) bushfire management;
 - (xii) emergency vehicle access;
 - (xiii) noise and dust suppression; and
 - (xiv) waste management.
- 16.2 Any application for a Development Permit for Operational Works must be accompanied by an Erosion and Sediment Control Plan that addresses, but is not limited to, the following:
- (i) objectives;
 - (ii) site location and topography
 - (iii) vegetation;
 - (iv) site drainage;
 - (v) soils;
 - (vi) erosion susceptibility;
 - (vii) erosion risk;
 - (viii) concept;
 - (ix) design; and
 - (x) implementation,
- for the construction and post-construction phases of work.
- 16.3 The Environmental Management Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.
- 16.4 The Erosion Control and Stormwater Control Management Plan prepared by a suitably qualified person (Registered Professional Engineer of Queensland or Certified Professional in Erosion and Sediment Control) in accordance with the *Capricorn Municipal Design Guidelines*, must be:

16.4.1 implemented, monitored and maintained for the duration of the works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped);

16.4.2 available on-site for inspection by Council Officers whilst all works are being carried

17.0 OPERATING PROCEDURES

17.1 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 McLaughlin 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 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. Infrastructure Charges Notice

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

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

Appeal rights

229 Appeals to tribunal or P&E Court

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

230 Notice of appeal

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

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

231 Other appeals

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

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

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

232 Rules of the P&E Court

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

Schedule 1

Appeals section 229

1 Appeal rights and parties to appeals

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

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
1. Development applications An appeal may be made against— (a) the refusal of all or part of the development application; or (b) the deemed refusal of the development application; or (c) a provision of the development approval; or (d) if a development permit was applied for—the decision to give a preliminary approval.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence	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</p> <p>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</p> <p>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</p> <p>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</p> <p>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	-	-