



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/138-2020	Contact:	Kathy McDonald
Notice Date:	20 August 2024	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	Multicap Limited		
Postal address:	C/- Gideon Town Planning PO BOX 450 ROCKHAMPTON QLD 4700		
Phone no:	N/A	Mobile no:	0402 066 532
Email:	info@gideontownplanning.com.au		

I acknowledge receipt of the above change application on 13 May 2024 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for a Material Change of Use for a Residential Care Facility

PROPERTY DESCRIPTION

Street address:	76 Jardine Street, West Rockhampton
Real property description:	Lot 59 on RP848298

Dear Multicap Limited,

I advise that, on 13 August 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 6	Changed	22 November 2022
2)	Item 6	Changed	13 August 2024
3)	Changed 1.5.1	Deleted	13 August 2024
4)	Condition 2.1	Changed	22 November 2022
5)	Condition 2.1	Changed	13 August 2024
6)	Condition 3.1	Changed	22 November 2022
7)	Condition 3.1	Changed	13 August 2024

8)	Condition 3.2	Changed	22 November 2022
9)	Condition 3.2	Changed	13 August 2024
10)	Condition 5.4	Changed	13 August 2024
11)	Condition 5.7	Changed	13 August 2024
12)	Condition 6.1	Deleted	13 August 2024
13)	Condition 6.2	Changed	13 August 2024
14)	Condition 6.4	Deleted	13 August 2024
15)	Condition 9.9	New	13 August 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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use	<input checked="" type="checkbox"/>	<input type="checkbox"/>

2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

3. FURTHER DEVELOPMENT PERMITS REQUIRED

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

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

4. SUBMISSIONS

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

There was one (1) properly made submissions received from the following submitter(s);

Name of principal submitter	Residential or business address	Electronic address (if provided)
Leanne Smith	13 Pearson Street, West Rockhampton	Leanne.smith@corrections.qld.gov.au

5. REFERRAL AGENCIES - NIL

6. THE APPROVED PLANS

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

<u>Drawing/report title</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference number</u>	<u>Rev</u>
Stage 1A- Floor Plan and Elevation 2 Bed Robust Villa + OOA	Thomson Adsett	21 June 2024	A-10-22	C8
Stage 1B- Floor Plan and Elevation 2 x 1 Bed Fully Accessible-+ OOA	Thomson Adsett	19 April 2024	MCU 002	4
Stage 1B- Floor Plan and Elevation 2 x 2 Bed Duplex with OOA	Thomson Adsett	19 April 2024	MCU 006	3
Stage 1A- Floor Plan and Elevation 2 Bed Robust Villa + OOA	Thomson Adsett	6 October 2022	MCU 003	2
Stage 1A– Proposed Floor Plan 2 Bed High Physical Villa +OOA	Thomson Adsett	6 October 2022	MCU 004	3
Stage 2 - Floor Plan and Elevation Short Term Accommodation + Admin	Thomson Adsett	9 February 2021	MCU 005	2
Stage 2 - Floor Plan and Elevation 2 x 2 Bed Duplex with OOA	Thomson Adsett	9 February 2021	MCU 006	2
Flood Impact Assessment and Stormwater Management Plan	McMurtrie Consulting Engineers	8 February 2021	J20065	R1V2
Technical Memorandum – 76 Jardine Street, West Rockhampton Stage 1A Flooding and Stormwater	McMurtrie Consulting Engineers	12 October 2022	J20065	-
Technical Memorandum	McMurtrie Consulting Engineers	2 May 2024	045-19-20	-

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

In accordance with section 85(1)(a)(ii) of the *Planning Act 2016*, the development approval lapses if the first change of use does not happen within six (6) years after the approval starts to have effect, if not stated otherwise in the conditions of approval attached.

8. STATEMENT OF REASONS

Description of the development	Material Change of Use for a Residential Care Facility
Reasons for Decision	<p>a) The development is a low-rise residential care facility which is situated in proximity to parks and major community facilities;</p> <p>b) Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity; and</p> <p>c) On balance, the application should be approved because the circumstances favour Council exercising its discretion to approve the application even though the</p>

	development does not comply with an aspect of the assessment benchmarks.	
Assessment Benchmarks	<p>The proposed development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> • Low Density Residential Zone Code; • Access, Parking and Transport Code; • Landscape Code; • Stormwater Management Code; • Waste Management Code; and • Water and Sewer Code. 	
Compliance with assessment benchmarks	The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exception listed below.	
	Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
	Low Density Residential Zone Code	<p>PO18</p> <p>The proposed development is not located within 200 metres of a park, major hospital or public transport route. This does not comply with Acceptable Outcome 18.1.</p> <p>The site is located in proximity to a park and a major hospital. Capelec Park is located approximately 480 metres to the west of the site, while the Rockhampton Base Hospital is located approximately 400 metres to the east. It is considered that the proposed development is located within a reasonable distance of these activity nodes and is therefore appropriate for development on the site.</p> <p>As such, the proposed development is considered to comply with this Performance Outcome.</p>
Matters raised in submissions	Issue	How matter was dealt with
	Stormwater management and localised flooding	<p>Both submissions identified concerns with regard to increased stormwater run-off onto adjoining residential properties on Pearson Street. There are concerns that the development of the subject site will alter the existing stormwater channel, causing a worsenment to the surrounding residential properties.</p> <p>The site is partially subject to flood inundation and is situated in the Wandal and West Rockhampton Local Catchment Area. A Flood Impact Assessment was provided in response to Council's information request. This report demonstrated that the proposed development would not cause any actionable increase in stormwater or flooding impacts external to the site, including adjacent properties. The existing overland flowpath within the site will be modified to accommodate all catchment flow and stormwater from the development site.</p>
	Access related issues to properties on Pearson Street	<p>Both submissions identified concerns that the proposed development would affect access to the rear of properties located on Pearson Street, which adjoin the subject site. The submissions stated that these properties have enjoyed unrestricted access to the rear of their properties, through the subject site via an "easement". The proposed development will forfeit this previously unrestricted access.</p> <p>The subject site (Lot 59 on RP848298) does not contain any formal easement for access purposes for any adjoining properties on Pearson or Bradford Streets. Any vehicular access to these properties, through the subject site, would have been unlawful as</p>

	<p>it was not via a registered easement. Formal access to these adjoining properties is from Pearson and Bradford Streets. Establishing a formal access arrangement through the north of the subject site is also considered impractical given the existing overland flow path and localised flooding over this portion of the site.</p> <p>Further, the issue relating to loss of an implied access to the rear of these properties is not considered a relevant matter in the assessment of the current development application.</p>
<p>Matters prescribed by regulation</p>	<ul style="list-style-type: none"> • The <i>Rockhampton Region Planning Scheme 2015</i> (version 2.1); and • The common material, being the material submitted with the application.

9. RIGHTS OF APPEAL

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

Appeal by an applicant

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

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

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

Appeal by an eligible submitter

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

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

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

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

10. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect:

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

Or

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

Or

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

11. ORIGINAL DECISION ASSESSMENT MANAGER

Name: **Amanda O'Mara**
COORDINATOR
DEVELOPMENT ASSESSMENT

Date: 28 November 2022

12. ASSESSMENT MANAGER

Name: **Amanda O'Mara**
COORDINATOR
DEVELOPMENT ASSESSMENT

Signature:



Date: 20 August 2024

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



Attachment 1 – Part 1 Rockhampton Regional Council Conditions

Planning Act 2016

1.0 ADMINISTRATION

- 1.1 The Developer and their employee, agent, contractor or invitee is responsible for ensuring compliance with the conditions of this development approval.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions, works, or requirements of this development approval must be undertaken, completed, and be accompanied by a Compliance Certificate for any operational works required by this development approval:
- 1.3.1 to Council’s satisfaction;
 - 1.3.2 at no cost to Council; and
 - 1.3.3 prior to the commencement of the use,
unless otherwise stated.
- 1.4 Infrastructure requirements of this development approval must be contributed to the relevant authorities, where applicable, at no cost to Council, prior to the commencement of the use, unless otherwise stated.
- 1.5 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
- 1.5.1 Operational Works:
 - (i) Road Works;
 - (ii) Access and Parking Works;
 - (iii) DELETED;
 - (iv) Stormwater Works;
 - (v) Roof and Allotment Drainage;
 - (vi) Site Works;
 - 1.5.2 Plumbing and Drainage Works; and
 - 1.5.3 Building Works.
- 1.6 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 1.7 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.
- 1.8 All engineering drawings/specifications, design and construction works must be in accordance with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.
- 2.0 APPROVED PLANS AND DOCUMENTS
- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by any condition of this development approval:

Drawing/report title	Prepared by	Date	Reference number	Rev
Stage 1A- Floor Plan and	Thomson Adsett	21 June 2024	A-10-22	C8

Drawing/report title	Prepared by	Date	Reference number	Rev
Elevation 2 Bed Robust Villa + OOA				
Stage 1B- Floor Plan and Elevation 2 x 1 Bed Fully Accessible-+ OOA	Thomson Adsett	19 April 2024	MCU 002	4
Stage 1B- Floor Plan and Elevation 2 x 2 Bed Duplex with OOA	Thomson Adsett	19 April 2024	MCU 006	3
Stage 1A- Floor Plan and Elevation 2 Bed Robust Villa + OOA	Thomson Adsett	6 October 2022	MCU 003	2
Stage 1A– Proposed Floor Plan 2 Bed High Physical Villa +OOA	Thomson Adsett	6 October 2022	MCU 004	3
Stage 2 - Floor Plan and Elevation Short Term Accommodation + Admin	Thomson Adsett	9 February 2021	MCU 005	2
Stage 2 - Floor Plan and Elevation 2 x 2 Bed Duplex with OOA	Thomson Adsett	9 February 2021	MCU 006	2
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Technical Memorandum	McMurtrie Consulting Engineers	2 May 2024	045-19-20	-

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

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

3.0 STAGED DEVELOPMENT

3.1 This development approval is for a development to be undertaken in four (4) discrete stages, namely:

3.1.1 Stage One A (1A) and Stage One B (1B);

3.1.2 Stage Two (2); and

3.1.3 Stage Three (3),

in accordance with the approved plan (refer to condition 2.1).

The stages are required to be undertaken in chronological order.

- 3.2 Stage One A (1A) must be completed within six (6) years from the date this approval takes effect. Stage One B (1B) and Stage Two (2) and Stage Three (3) must be completed within 12 years from the date this approval takes effect.
- 3.3 Unless otherwise expressly stated, the conditions must be read as being applicable to all stages.
- 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 *Austroroads Guidelines* and the provisions of a Development Permit for Operational Works (road works).
- 4.3 Jardine Street must be widened where required for the full frontage of the development site to match the existing kerb and channel alignment. Kerb and channel, pedestrian pathways and drainage infrastructure must be included.
- 4.4 All pathways and access ramps must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*.
- 4.5 All pathways must incorporate kerb ramps at all road crossing points.
- 4.6 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*.
- 5.0 ACCESS AND PARKING WORKS
- 5.1 A Development Permit for Operational Works (access and parking works) must be obtained prior to the commencement of any access and parking works on the development site.
- 5.2 All access and parking works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, *Australian Standard AS2890 "Parking facilities"* and the provisions of a Development Permit for Operational Works (access and parking works).
- 5.3 All car parking and access areas must be sealed to Council's satisfaction. Design and construction must be in accordance with the provisions of a Development Permit for Operational Works (access and parking works).
- 5.4 A new access to the development must be provided at Jardine Street.
Note: Proposed Stage 3 Temporary Site Access Option 1 is not approved.
- 5.5 All vehicles must ingress and egress the development in a forward gear.
- 5.6 Adequate sight distances must be provided for all ingress and egress movements at the access driveways in accordance with *Australian Standard AS2890.2 "Parking facilities - Off street commercial vehicle facilities"*.
- 5.7 A minimum of twenty-five (25) parking spaces must be provided on-site. This includes sixteen (16) covered car parking spaces and nine (9) visitor's parking spaces.
- 5.8 Universal access parking spaces must be provided on-site in accordance with *Australian Standard AS2890.6 "Parking facilities - Off-street parking for people with disabilities"*.
- 5.9 Parking spaces must be line-marked in accordance with the approved Site Plan (refer to condition 2.1) and in accordance with the *Australian Standard AS2890 "Parking facilities"* and the provisions of a Development Permit for Operational Works (access and parking works).
- 5.10 All vehicle operations associated with the development must be directed by suitable directional, informative, regulatory or warning signs in accordance with *Australian Standard AS1742.1 "Manual of uniform traffic control devices"* and *Australian Standard AS2890.1 "Parking facilities – Off-street car parking"*.
- 5.11 Road signage and pavement markings must be installed in accordance with *Australian Standard AS1742.1 "Manual of uniform traffic control devices"*.
- 5.12 All vehicle operation areas must be illuminated in accordance with the requirements of *Australian Standard AS1158 "Lighting for roads and public spaces"*.

- 5.13 All internal pedestrian pathways must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*.
- 6.0 SEWERAGE WORKS
- 6.1 DELETED
- 6.2 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* and the *Plumbing and Drainage Act 2018*.
- 6.3 The development must be connected to Council's reticulated sewerage network.
- 6.4 DELETED
- 6.5 Any proposed sewerage access chamber located within a park or reserve, or below a ten per cent (10%) Annual exceedance probability flood level, must be provided with bolt down lids.
- 6.6 The finished sewerage access chamber surface must be at a sufficient level to avoid ponding of stormwater above the top of the chamber. A heavy duty trafficable lid must be provided in the trafficable area.
- 6.7 Sewer connections located within trafficable areas must be raised or lowered to suit the finished surface levels and must be provided with heavy duty trafficable lids.
- 6.8 All works must be undertaken in accordance with *Queensland Development Code, Mandatory Part 1.4 "Building over or near relevant infrastructure."*
- 6.9 The development must comply with Council's Building Over/Adjacent to Local Government Sewerage Infrastructure Policy. Any permit associated with the Building Over/Adjacent to Local Government Sewerage Infrastructure Policy must be obtained prior to the issue of a Development Permit for Building Works.
- 6.10 Large trees must not be planted within one (1) metre of the centreline of any sewerage and/or water infrastructure; small shrubs and groundcover are acceptable.
- 7.0 WATER WORKS
- 7.1 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*, and *Plumbing and Drainage Act 2018*.
- 7.2 The development must be connected to Council's reticulated water network.
- 7.3 Adequate domestic and firefighting protection must be provided to the development, and must be certified by an hydraulic engineer or other suitably qualified person.
- 7.4 Water meter boxes located within trafficable areas must be raised or lowered to suit the finished surface levels and must be provided with heavy duty trafficable lids.
- 7.5 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*.
- 8.0 PLUMBING AND DRAINAGE WORKS
- 8.1 A Development Permit for Plumbing and Drainage Works must be obtained for the proposed structure on the development site.
- 8.2 All internal plumbing and drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act 2008, Plumbing and Drainage Act 2018*, Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.
- 9.0 STORMWATER WORKS
- 9.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works required by this development approval.
- 9.2 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).
- 9.3 All stormwater must drain to a demonstrated 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.
- 9.4 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 storm event, for the post-development conditions.
- 9.5 The installation of gross pollutant traps must be in accordance with relevant *Australian Standards* and all maintenance of the proposed gross pollutant traps must be the responsibility of the property owner or body corporate (if applicable).
- 9.6 Any application for a Development Permit for Operational Works (stormwater works) must be accompanied by engineering plans with details of any new drainage systems including retention systems, inlet and outlet structures, or the amendment and upgrading of existing drainage systems to implement the proposed drainage strategy.
- 9.7 Adequate scour protection measures must be provided for the proposed stormwater channel and all stormwater outlets.
- 9.8 The bio basin as identified on the approved plans (refer to condition 2.1) must be landscaped in accordance with Council's requirements. Any application for a Development Permit for Operational Works (stormwater works) must be accompanied by detailed plans and specifications for the proposed bio basin and the design must:
- 9.8.1 be suitable to the climate and incorporate predominately native species;
 - 9.8.2 maximise areas suitable for on-site infiltration of stormwater;
 - 9.8.3 incorporate shade trees; and
 - 9.8.4 demonstrate that all areas apart from garden beds are fully turfed or hydromulched.
- 9.9 Any application for a Development Permit for Operational Works (stormwater works) must be accompanied by a new Stormwater Management Plan and Flood Impact Assessment, prepared and certified by a Registered Professional Engineer of Queensland that as a minimum includes:
- 9.9.1 details of the detention volume required for the development;
 - 9.9.2 water surface elevation / level maps for pre and post development;
 - 9.9.3 water quality electronic modelling (MUSIC) files;
 - 9.9.4 flood assessment electronic modelling files;
- Note: The modelling files are to be provided in the format as, BC DBase, Check, Model, Results and Run. A log (read me) file should be included to understand how, and which files have been modified.
- 9.9.5 demonstration that any proposed bio-basin(s) is immune to a eighteen percent (18%) Annual Exceedance Probability defined flood event; and
 - 9.9.6 all land proposed as major overland flow paths must include appropriate freeboard, access and maintenance provisions consistent with the Queensland Urban Drainage Manual'.
- 10.0 ROOF AND ALLOTMENT DRAINAGE WORKS
- 10.1 A Development Permit for Operational Works (roof and allotment drainage works) must be obtained prior to the commencement of any drainage works on the development site.
- 10.2 All roof and allotment drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Queensland Urban Drainage Manual, Capricorn Municipal Development Guidelines*, sound engineering practice and the provisions of a Development Permit for Operational Works (roof and allotment drainage works).
- 10.3 All roof and allotment runoff from the development must be directed to a lawful point of discharge and must not restrict, impair or change the natural flow of runoff water or cause a nuisance to surrounding land or infrastructure.
- 10.4 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 storm event, for the post-development conditions.
- 11.0 SITE WORKS
- 11.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works on the development site.

- 11.2 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks plan that clearly identifies the following:
- 11.2.1 the location of cut and/or fill;
 - 11.2.2 the type of fill to be used and the manner in which it is to be compacted;
 - 11.2.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;
 - 11.2.4 details of any proposed access routes that are intended to be used to transport fill to or from the development site; and
 - 11.2.5 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.
- 11.3 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"*.
- 11.4 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.
- 11.5 If required, any retaining structures above one (1) metre in height that are not incidental works to a Development Permit for Building Works, must not be constructed unless separately and specifically certified by a Registered Professional Engineer of Queensland and must be approved as part of a Development Permit for Operational Works (site works).
- 11.6 If required, any retaining structures close to or crossing sewerage infrastructure must comply with *Queensland Development Code, Mandatory Part 1.4 "Building over or near relevant infrastructure."* The structure must be self-supporting and no additional load must be applied to Council's sewerage infrastructure.
- 12.0 **BUILDING WORKS**
- 12.1 A Development Permit for Building Works must be obtained for the proposed structures on the development site.
- 12.2 Impervious paved waste storage areas must be provided in accordance with the approved plans (refer to condition 2.1) and the *Environmental Protection Regulation 2019* and must be:
- 12.2.1 designed and located so as not to cause a nuisance to neighbouring properties;
 - 12.2.2 screened so as not to be visible from a public space;
 - 12.2.3 if required, provided with a suitable hosecock and hoses at the refuse container area, and washdown must be drained to the sewer and fitted with an approved stormwater diversion valve arrangement in accordance with the Sewerage Trade Waste provisions and the *Plumbing and Drainage Act 2018*.
- As an alternative to a washdown facility, a fully contained commercial bin cleaning service is acceptable provided no wastewater is discharged from the site to the sewer.
- 12.3 The finished floor level for habitable areas (refer to condition 2.1) must be a minimum of 500 millimetres above a one per cent (1%) Annual exceedance probability flood inundation level.
- 12.4 All non-habitable areas subjected to flood inundation during a one per cent (1%) Annual exceedance probability flood event, must be designed and constructed using suitable flood resilient materials.
- 12.5 All electrical and telecommunication services and utilities connected to the property, including electrical outlets, must be designed and installed at such a height that they are a minimum of 500 millimetres above a one per cent (1%) Annual exceedance probability flood level.
- 13.0 **LANDSCAPING WORKS**
- 13.1 All landscaping must be established generally in accordance with the approved plans (refer to condition 2.1). The landscaping must be constructed and/or established prior to the commencement of the use and the landscaped areas must predominantly contain plant species that have low water dependency.
- 14.0 **ELECTRICITY**
- 14.1 Electricity services must be provided to the development in accordance with the standards and requirements of the relevant service provider.
- 15.0 **TELECOMMUNICATIONS**

- 15.1 Telecommunications services must be provided to the development in accordance with the standards and requirements of the relevant service provider.
- 16.0 ASSET MANAGEMENT
- 16.1 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.
- 16.2 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.
- ion 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.
- 16.3 'As Constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the commencement of the use. This information must be provided in accordance with the *Asset Design and As Constructed Manual (ADAC)*.
- 17.0 ENVIRONMENTAL HEALTH
- 17.1 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the development site and shielded so as not to cause glare or other nuisance to nearby residents and motorists. Night lighting must be designed, constructed and operated in accordance with *Australian Standard AS4282 "Control of the obtrusive effects of outdoor lighting"*.
- 17.2 Noise emitted from the activity must not cause an environmental nuisance.
- 17.3 Operations on the site must have no significant impact on the amenity of adjoining premises or the surrounding area due to the emission of light, noise or dust.
- 18.0 OPERATING PROCEDURES
- 18.1 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 Jardine Street.

ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

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

NOTE 5. Building Works

Council will be a referral agency for the Building Works Permit where the development does not comply with the Queensland Development Code. This Development Permit does not constitute a referral agency response from Council for the Building Works Permit in relation to building envelopes and setbacks.

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 (if any)	Column 4 Co-respondent by election (if any)

Table 2 Appeals to the P&E Court only			
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 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 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 An appeal may be made against a decision of the Minister under chapter 7, part 4.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 A person given a decision notice about the decision 2 If the decision is to register premises or	The Minister	-	If an owner or occupier starts the appeal – the owner of the registered premises

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

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

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