



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/141-2020	Contact:	Sophie Muggeridge
Notice Date:	5 March 2025	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	Mark Henry Thomas and Bianca Jo Thomas		
Postal address:	77 Annie Drive, CAWARRAL QLD 4702		
Phone no:	N/A	Mobile no:	0488 074 728
Email:	eis@activ8.net.au		

I acknowledge receipt of the above change application on 9 October 2024 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for a Material Change of Use for an Extractive Industry and Operational Works for Roadworks, Stormwater and Access Works and Waterway Barrier Works

PROPERTY DESCRIPTION

Street address:	802 Thirsty Creek Road, Gogango
Real property description:	Lot 21 on PN81

Dear Mark Henry Thomas and Bianca Jo Thomas

I advise that, on 25 February 2025 the above change application was:

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

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

CHANGES TO CONDITIONS

The conditions which have been changed or cancelled are as follows:

1)	Condition 2.1	Changed	25 February 2025
2)	Condition 3.7	Changed	25 February 2025
3)	Condition 12.5	New	25 February 2025
4)	Condition 12.6	New	25 February 2025

1. DETAILS OF THE APPROVAL

The following approvals are given:

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use -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

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
ENVIRONMENTALLY RELEVANT ACTIVITIES			
<i>Schedule 10, Part 5, Division 4, Table 2 - Non-devolved environmentally relevant activities</i>			
Development application for a material change of use that is assessable development under section 8, if— (a) the environmentally relevant activity the subject of the application has not been devolved to a local government under the Environmental Protection Regulation; and (b) the chief executive is not the prescribed assessment manager for the application	The chief executive of the department in which the <i>Planning Act 2016</i> is administered: Department of Housing, Local Government, Planning and Public Works (State Assessment and Referral Agency Department)	Concurrence	<u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City <u>Online lodgement using MyDAS2:</u> https://prod2.dev-assess.qld.gov.au/suite/ <u>Email:</u> RockhamptonSARA@dsg.ilgp.qld.gov.au <u>Postal:</u> PO Box 113 Rockhampton Qld 4700
FISHERIES (Waterway Barrier Works)			
<i>Schedule 10, Part 6, Division 4, Subdivision 3, Table 1 - Assessable development under s12</i>			
Development application for operational work that is assessable development under section 12, unless the chief executive is the prescribed assessment manager for the application	The chief executive of the department in which the <i>Planning Act 2016</i> is administered: Department of	Concurrence	<u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City <u>Online lodgement using MyDAS2:</u> https://prod2.dev-

	Housing, Local Government, Planning and Public Works (State Assessment and Referral Agency Department)		assess.qld.gov.au/suite/ <u>Email:</u> RockhamptonSARA@dsg.ilgp.qld.gov.au <u>Postal:</u> PO Box 113 Rockhampton Qld 4700
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STATE TRANSPORT INFRASTRUCTURE (Generally)

Schedule 10, Part 9, Division 4, Subdivision 1, Table 1 – Aspect of development stated in schedule 20

<p>Development application for an aspect of development stated in schedule 20 that is assessable development under a local categorising instrument or section 21, if—</p> <p>(a) the development is for a purpose stated in schedule 20, column 1 for the aspect; and</p> <p>(b) the development meets or exceeds the threshold—</p> <p>(i) for development in local government area 1—stated in schedule 20, column 2 for the purpose; or</p> <p>(ii) for development in local government area 2—stated in schedule 20, column 3 for the purpose; and</p> <p>(c) for development in local government area 1—the development is not for an accommodation activity or an office at premises wholly or partly in the excluded area</p> <p>However, if the development is for a combination of purposes stated in the same item of schedule 20, the threshold is for the combination of purposes and not for each individual purpose.</p>	<p>The chief executive of the department in which the <i>Planning Act 2016</i> is administered:</p> <p>Department of Housing, Local Government, Planning and Public Works (State Assessment and Referral Agency Department)</p>	Concurrence	<p><u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City</p> <p><u>Online lodgement using MyDAS2:</u> https://prod2.dev-assess.qld.gov.au/suite/</p> <p><u>Email:</u> RockhamptonSARA@dsg.ilgp.qld.gov.au</p> <p><u>Postal:</u> PO Box 113 Rockhampton Qld 4700</p>
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6. THE APPROVED PLANS

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

Material Change of Use:

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Revision /Issue</u>
Extraction & Processing Area	-	16 December 2020	TPH/Thi/App20002	-
Site Plan	-	17 December 2020	TPH/Thi/App20005	-
Vegetated Buffer Zone	-	16 December 2020	TPH/Thi/App20004	-
Detailed Site Plan	-	17 December 2020	TPH/Thi/App20008	-
Preliminary Access Intersection Layout and	McMurtrie Consulting Engineers	15 February 2021	0732021-9001	A

Swept Path				
Stormwater Management Plan	McMurtrie Consulting Engineers	February 2021	J21005	R1V1
Pre-Construction Condition Survey – Georeferenced Video	AUSDILAPS	30 November 2020	AD3537C	-
Technical Memorandum	McMurtrie Consulting Engineers	4 November 2024	R015-25-25	-
Thirsty Creek Quarry Haulage Route	Extractive Industry Solutions	4 October 2024	TPH/THI/App24001	

Operational Works:

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/ Issue</u>
Cover Sheet & Locality Plan Drawing Schedule	Moloney & Sons	12 April 2021	CE21025-001-CO	A
General Details Plan	Moloney & Sons	12 April 2021	CE21025-101-GD	A
Alignment Control	Moloney & Sons	12 April 2021	CE21025-201-AL	A
General Arrangement	Moloney & Sons	12 April 2021	CE21025-301-GA	A
General Arrangement Swept Path	Moloney & Sons	12 April 2021	CE21025-302-GA	A
Longitudinal Sections	Moloney & Sons	12 April 2021	CE21025-401-LS	A
Cross Sections Sheet 1 of 4	Moloney & Sons	12 April 2021	CE21025-501-XS	A
Cross Sections Sheet 2 of 4	Moloney & Sons	12 April 2021	CE21025-502-XS	A
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Cross Sections Sheet 4 of 4	Moloney & Sons	12 April 2021	CE21025-504-XS	A
Drainage Plans	Moloney & Sons	12 April 2021	CE21025-701-DR	A
Cover Sheet & Locality Plan Drawing Schedule	Moloney & Sons	12 April 2021	CE21025.2-001-CO	A
General Details Plan	Moloney & Sons	12 April 2021	CE21025.2-101-GD	A
General Arrangement	Moloney & Sons	12 April 2021	CE21025.2-201-CO	A

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

The development approval lapses at the end of the following periods:

- (a) For any part of the development approval relating to a material change of use – if the 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; and
- (b) For any other part of the development approval – if the development does not substantially start 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 an Extractive Industry and Operational Works for Roadworks, Stormwater and Access Works and Waterway Barrier Works	
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"> • Local Government Infrastructure Plan; • Strategic Framework • Rural Zone Code; • Extractive Industry Code; • Biodiversity Overlay Code; • Bushfire Hazard Overlay Code; • Access, Parking And Transport Code; • Filling and Excavation Code; • Stormwater Management Code; and • Water and Sewer Code. 	
Compliance with assessment benchmarks	
The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exceptions listed below.	
Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
Extractive Industry Code	<p>PO1</p> <p>The proposal does not comply with the separation distance of 1,000 metres stated in A01.1 as the activities at the site will involve blasting. However, the blast patterns will be designed to fire away from the closest sensitive land use which is located approximately 730 metres to the southeast of the site. All blasting will be monitored in accordance with the Department of Environment and Science's <i>Noise and Vibration from Blasting Guideline</i> and Australian Standard AS2187.</p> <p>Therefore, the proposed separation distance will be sufficient to minimise visual and noise impacts on surrounding sensitive land uses.</p>
	<p>PO4</p> <p>The internal roads will not be sealed, therefore the proposal does not meet AO4.1, however dust mitigation procedures such as watering will be applied to the road during haulage operations.</p>

	Therefore, the proposal will not impact upon adjoining properties.
Relevant Matters	
The proposed development was not assessed against any relevant matters outside of the matters prescribed by regulation.	
Matters raised in submissions	
The proposal was the subject of public notification between 11th December 2024 and 8th January 2025, in accordance with the requirements of the Planning Act 2016 and the Development Assessment Rules, and no submissions were received.	
Matters prescribed by regulation	
<ul style="list-style-type: none"> • The Rockhampton Region Planning Scheme 2015 (version 4.4); • Central Queensland Regional Plan 2013; 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*.

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

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

10. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect:

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

Or

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

Or

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

11. ORIGINAL DECISION ASSESSMENT MANAGER

Name: Tarnya Fitzgibbon COORDINATOR DEVELOPMENT ASSESSMENT	Date: 17 May 2021
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12. ASSESSMENT MANAGER

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

Signature:



Date: 5 March 2025

C/C State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department) - RockhamptonSARA@dsdilgp.qld.gov.au

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

Part A – Material Change of Use

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; and
 - (iii) Stormwater 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:

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version /Issue</u>
Extraction & Processing Area	-	16 December 2020	TPH/Thi/App20002	-
Site Plan	-	17 December 2020	TPH/Thi/App20005	-

Vegetated Buffer Zone	-	16 December 2020	TPH/Thi/App20004	-
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Technical Memorandum	McMurtrie Consulting Engineers	4 November 2024	R015-25-25	-
Thirsty Creek Quarry Haulage Route	Extractive Industry Solutions	4 October 2024	TPH/THI/App24001	

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 ROAD WORKS

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

3.2 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).

3.3 The existing section of Thirsty Creek Road that adjoins the access to the development must be sealed in accordance with the approved plans (refer condition 2.1).

3.4 Right-in traffic movements from Thirsty Creek Road to the development site must be via suitably designed Basic Right-turn Treatment (BAR) for the intended design vehicle (truck and dog combination) in accordance with the approved plans (refer condition 2.1).

Note: Sufficient pavement width must be provided for the through traffic to pass a vehicle (truck and dog combination) waiting to turn right.

3.5 The section of Thirsty Creek Road between the proposed Quarry and the Rookwood Weir Site must be reinstated to Council's satisfaction after the completion of the Rookwood Weir project. The dilapidation report must be used as a reference for any rehabilitation works required.

3.6 The dilapidation report must be updated and provided to Council at the pre-start meeting for the Operational Works.

Note: It is noted that the relevant section of Thirsty Creek Road has recently been sealed by Council and this has been completed post the submission of the current dilapidation report.

3.7 A Road Maintenance levy must be paid for Council Controlled Roads on a six-monthly basis for the duration of the activity, calculated by the owner / operator of the development. Details are to be provided to council every six months, which includes the tonnage hauled from the site over the preceding six-month period and the calculation of the levy payable. The calculation must be based on the below rate for each site and increased by Consumer Price Index (CPI) as appropriate. The amount shown below is relevant for the December 2024 value and will be calculated in future years adjusted each year by the CPI (All Group Brisbane).

Note: The levy must be paid six monthly for the haulage of quarry materials on council's road network. The applicant/developer will be responsible for providing the total haulage tonnage at the end of each financial year. Subsequently, council will determine the levy amount payable and provide an invoice accordingly.

Site / Tonnes	Rate
Capricorn Highway (40,000 tonnes)	\$0.29 per tonne
Rookwood Weir Site (10,000 tonnes)	\$0.19 per tonne

Note: CPI of December 2024 – 140.2

4.0 ACCESS AND PARKING WORKS

- 4.1 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.
- 4.2 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* and the provisions of a Development Permit for Operational Works (access and parking works).
- 4.3 All access (driveway within the road reserve) areas must be sealed to Council's satisfaction.
- 4.4 The access from Thirsty Creek Road to the development must comply with the requirements of the *Capricorn Municipal Development Guidelines*.
- 4.5 All vehicular access to and from the development must be via Thirsty Creek Road only.
- 4.6 All vehicles must ingress and egress the development in a forward gear.
- 4.7 The existing access to the development must be closed.

5.0 PLUMBING AND DRAINAGE WORKS

- 5.1 All internal plumbing and drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, *Water Supply (Safety and Reliability) Act 2008*, *Plumbing and Drainage Act 2018*, Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.
- 5.2 On-site water supply for domestic and fire-fighting purposes must be provided and may include the provision of a bore, dams, water storage tanks or a combination of each. The water storage must be easily accessible having regard to pedestrian and vehicular access.

Note: Fire-fighting protection, if required, and must be certified by an hydraulic engineer or other suitably qualified person.

6.0 STORMWATER WORKS

- 6.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works required by this development approval.
- 6.2 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).
- 6.3 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.
- 6.4 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.
- 6.5 The potential pollutants in stormwater discharged from the development site must be managed in accordance with current water quality best industry practices and in accordance with *State Planning Policy 2017*.

7.0 ROOF AND ALLOTMENT DRAINAGE WORKS

- 7.1 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* and sound engineering practice.
- 7.2 All roof and allotment runoff from the development must be directed such that it must not restrict, impair or change the natural flow of runoff water or cause a nuisance or worsening to surrounding land or infrastructure.

8.0 SITE WORKS

- 8.1 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"*.
- 8.2 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.
- 8.3 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.

9.0 ASSET MANAGEMENT

- 9.1 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.
- 9.2 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.
- 9.3 '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 *Manual for Submission of Digital As Constructed Information*.

10.0 ENVIRONMENTAL

- 10.1 The Erosion Control and Stormwater Control Management Plan prepared by a Registered Professional Engineer of Queensland in accordance with the *Capricorn Municipal Design Guidelines*, must be designed and constructed and must be:
- 10.1.1 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); and
 - 10.1.2 available on-site for inspection by Council Officers whilst all works are being carried out.

11.0 ENVIRONMENTAL HEALTH

- 11.1 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".
- 11.2 Noise emitted from the activity must not cause an environmental nuisance.
- 11.3 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, odour or dust.

12.0 OPERATING PROCEDURES

- 12.1 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 Thirsty Creek Road.

- 12.2 Waste storage area/s 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; and
 - 12.2.2 of a sufficient size to accommodate commercial type bins that will be serviced by a commercial contractor.
- 12.3 All waste must be stored within a waste storage area (for example, general waste, recyclable waste, pallets, empty drums etcetera) in accordance with the approved plans (refer to condition 2.1). The owner of the land must ensure that:
- 12.3.1 the area is kept in a clean and tidy condition;
 - 12.3.2 fences and screens are maintained;
 - 12.3.3 contaminants/washdown does not discharge into water courses, drainage lines or onto adjoining properties; and
 - 12.3.4 the area is maintained in accordance with *Environmental Protection Regulation 2019*.
- 12.4 The hours of operations (extraction, ancillary activities and haulage) for the development site are limited to:
- 12.4.1 Monday to Saturday between the hours of 06:00 and 18:00,
with no operations on Sundays or Public Holidays.
- 12.5 The maximum quarry material tonnage that can be transported on Council controlled road network is 50,000 tonnes per annum.
- 12.6 The maximum quarry material that can be produced must not exceed 120,000 tonnes per annum.

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.

Part B - Operational Works

ARR-Australian Rainfall & Runoff

AR-AustRoads

AS/NZ*-Australian/New Zealand Standard

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

CMDG-Capricorn Municipal Development Guidelines

Developer – can include Developer’s contractor

DTMR-Department of Transport and Main Roads

EPA-Environmental Protection Act

FRW-Fitzroy River Water

Healthy Waterways-Waterways by Design (WbD)

MCU-Material Change of Use

MUTCD-Manual for Uniform Traffic Control Devices

QUDM-Queensland Urban Drainage Manual

QWQ-Queensland Water Quality Guidelines

RPEQ-Registered Professional Engineer of Queensland

RRPS-Rockhampton Region Planning Scheme 2015

SPP-State Planning Policy 2017

WSUD-Water Sensitive Urban Design

1.0 **ADMINISTRATION**

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

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Cross Sections Sheet 4 of 4	Moloney & Sons	12 April 2021	CE21025-504-XS	A
Drainage Plans	Moloney & Sons	12 April 2021	CE21025-701-DR	A
Cover Sheet & Locality Plan Drawing Schedule	Moloney & Sons	12 April 2021	CE21025.2-001-CO	A
General Details Plan	Moloney & Sons	12 April 2021	CE21025.2-101-GD	A
General Arrangement	Moloney & Sons	12 April 2021	CE21025.2-201-CO	A

- 1.2 The Applicant is to supply one (1) set of the approved plans to the contractor to be retained on site at all times during construction.
- 1.3 Where there is any conflict between the conditions of the Decision Notice and the details shown on the approved plans and documents, the conditions of this Decision Notice must prevail.
- 1.4 Where the conditions required the above plans or documents to be amended, the revised document(s) must be approved by Council, prior to any pre-start meeting for the works on the site.
- 1.5 If after the issue of this Decision Notice, any errors, omissions or insufficient details are noted on the approved plans, such deficiencies must be corrected prior to construction, or if noted during construction, approval obtained from Council's Engineer to correct any error or omission, Council reserves the right to withhold approval of construction until such remedies are complete.
- 1.6 A Pre-Start meeting must be held, prior to the commencement of any work or construction, between any or all of the Site Superintendent / Consulting Engineer / Principal Contractor and Council in accordance with *CMDG Section CP1.08 – Notice to Commence Works* and *CP1.09 – Prestart Meeting*.

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

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

- 1.6.1 A copy of the Contractor's Public Liability Insurance Policy for a minimum of twenty (20) million dollars indemnifying Council against all claims resulting from the construction works of this Development;
- 1.6.2 A programme of works, demonstrating all major activities and milestones;
- 1.6.3 An ITP (Inspection Test Plan) for confirmation and approval (*CMDG Section CP1.15 and Annexure CP1.C*);
- 1.6.4 A Traffic Guidance Scheme for the works authorised by this development permit, with site access clearly identified.
- 1.6.5 Other items to be discussed (refer *CMDG Section CP1.09*):
- a) Notification requirements for nearby residents (Residents advice letter – See proforma) – Residents to be identified will be identified at the pre start meeting;
 - b) introduction of the Council's representative(s), Consulting Engineers(s), Contractor(s) and any other relevant parties i.e. Geotechnical Engineers (if required);
 - c) review of relevant conditions of development approval;
 - d) review of Council's construction requirements;
 - e) review of the Contractor's Erosion Control and Stormwater Management Strategy;
 - f) site access conditions;
 - g) identification of areas to be left undisturbed;
 - h) any other relevant Acts;
 - i) provision of Construction Security Bond (if required);
 - j) Traffic Management Plan.

- 1.7 Under Part 1 Clause 1.6 of the *Manual of Uniform Traffic Control Devices Queensland, and AS 1742.3-2009*, Council delegates the Principal Contractor the responsibility for the placing of all regulatory signs, as outlined in the above documents.
- 1.8 All civil/engineering works must be supervised and inspected by a **RPEQ** who is experienced in all aspects of civil construction. All works must comply with the *CMDG* and / or other relevant standards and policies as conditioned in the Decision Notice.
- 1.9 All landscaping works must be supervised by a suitably qualified Landscaper. All works must comply to the *RRPS* and / or other relevant standards and policies as conditioned in the Decision Notice.
- 1.10 Council reserves the right for uninterrupted access to the site at all times, starting with the Pre-Start Meeting to the completion of the work or issuance of the Compliance Letter.
- 1.11 All Construction works and other associated activities are permitted only between 0630 hours and 1800 hours Monday to Saturday. No work is permitted on Sundays or public holidays. All requirements of the *Environmental Protection Act* and *Environmental Protection Regulations* must be observed at all times.
- 1.12 Any proposed works within the vicinity (or zone of influence) of existing Council infrastructure / public utilities will not adversely affect the integrity of the infrastructure. Any restoration works required on existing Council infrastructure as a result of proposed works will be at the developer's expense.
- 1.13 The developer must be present for the final inspection at the completion of works, to be undertaken prior to the use commencing or the endorsement of the Survey Plan.
- 1.14 Any proposed minor amendments to the approved stamped plans during the works will be generally considered minor amendments and require Council's approval. The stamped amended plans and a covering letter will be forwarded to the applicant (*CMDG – CP1.11*).

2.0 **DEFECTS LIABILITY BOND**

- 2.1 A refundable Defects Liability Bond in accordance with the *CMDG Construction Procedures CP1.19*, must be paid to Council prior to the acceptance of the works On Defects. A schedule of actual construction costs (infrastructure only to be contributed to Council) must be submitted prior to Council's acceptance of the bond. The minimum Defects Liability Bond accepted is one (1) thousand dollars (\$1,000.00).
- 2.2 Unless otherwise specified, the minimum Defects Maintenance Period is twelve (12) months, excepting bio detention/retention basins/swales will be 24 months.

3.0 **INSPECTION REQUIREMENTS**

- 3.1 Joint inspections with any of the Site Superintendent / Consulting Engineer / Contractor and Rockhampton Regional Council Works Inspector / Engineer are required. A minimum of twenty four (24) hours' notice is required. Council's minimum inspection programme is as follows, however this does not preclude the requirement for further inspections if deemed appropriate by Council Engineers.

Roads

- | | | | |
|-------|----------|-----------------|--------------------|
| 3.1.1 | subgrade | C242/proof-roll | completion of trim |
| 3.1.2 | sub-base | C242/proof-roll | completion of trim |
| 3.1.3 | base | C242/proof-roll | completion of trim |
| 3.1.4 | asphalt | C245/visual | preprime spray |

Concrete Works (if required)

- | | | | |
|-------|----------|-------------|---------------------------|
| 3.1.5 | concrete | C271/visual | pre pour / surface finish |
|-------|----------|-------------|---------------------------|

Stormwater

- | | | | |
|-------|--------------------|-------------|---------------------|
| 3.1.6 | pipes | C220/visual | prior to backfill |
| 3.1.7 | box culverts | C222/visual | prior to backfill |
| 3.1.8 | ret/det structures | visual | progress/completion |
| 3.1.9 | subsoil | C230/visual | prior to backfill |

Overland Flow Paths

- | | | | |
|--------|--------------------|--------|---------------------|
| 3.1.10 | channels, easement | visual | progress/completion |
|--------|--------------------|--------|---------------------|

Defects / Maintenance Liability

- | | | | |
|--------|------------------|--------|---------------------|
| 3.1.11 | on / off defects | visual | completion of works |
|--------|------------------|--------|---------------------|

NOTE: This does not preclude the requirement for further inspections if deemed appropriate by Council Engineers.

4.0 **ROADWORKS**

- 4.1 Right-in traffic movements from Thirsty Creek Road to the development site must be via suitably designed Basic Right-turn Treatment (BAR) for the intended design vehicle (truck and dog combination) in accordance with the approved plans (refer condition 2.1).

Note: Sufficient pavement width must be provided for the through traffic to pass a vehicle (truck and dog combination) waiting to turn right.

5.0 **ACCESS AND PARKING**

- 5.1 Vehicle access and parking will be designed and constructed to comply with the relevant *RRPS Codes, CMDG and AS/NZS 2890*.
- 5.2 All redundant driveway crossovers must be removed.

6.0 **STORMWATER**

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

7.0 **SEDIMENT BASIN AND STORMWATER CHANNELS**

- 7.1 The design, construction and maintenance of the sediment basin, channel/swale is to comply with any relevant and related requirements of *QUDM, CMDG, WbD, and the approved plans (refer to Condition 1.1)*
- 7.2 All the element of drainage system i.e. sediment basin, channel / swale etc must be maintained ensuring the future functioning of the system will be sustainable and ensure compliance with the *CMDG and SPP Appendix 2, Table A*, to avoid or minimise adverse impacts on stormwater quality.
- 7.3 The developer will ensure that erosion and sedimentation controls are implemented, monitored, and maintained at all times in accordance with the *CMDG*, and the approved plan/s until all approved construction on the site has been completed. If the development is staged all erosion sediment controls are to be monitored and maintained until the completion of the development.
- 7.4 All stormwater runoff from the site during and after the site works is completed, is to comply with the *SPP. Appendix 2, Table A and B*, to avoid or minimise adverse impacts on stormwater quality.
- 7.5 The developer will check erosion and sediment control measures at the start and end of each day of construction adjacent to any disturbed surfaces.
- 7.6 If required, the erosion and sedimentation controls measures are to be amended/upgraded by the developer as directed by the Council's Engineer, within an agreed timeframe.

8.0 **SITWORKS**

- 8.1 Typical car park spaces, road and pedestrian line markings, traffic, pedestrian, disabled signage must comply with *AS2890* and be line marked and/or displayed accordingly.
- 8.2 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to adjoining properties or infrastructure.
- 8.3 All earthworks must be undertaken in accordance with *AS3798 "Guidelines on Earthworks for Commercial and Residential Developments"*.
- 8.4 All earthworks quality control and testing will be in accordance with *AS1289.5.1.1*.
- 8.5 A water truck is required onsite at all times to suppress dust while earthworks are being undertaken.
- 8.6 Provide a traffic management plan that outlines the road haulage routes with applicable load limits for material being transported to/from the site including control measures for spillage etc. The traffic management plan is to be submitted to Council for approval five (5) days prior to the pre-start meeting.
- 8.7 The developer will ensure all construction related vehicles do not at any time restrict property access within Thirsty Creek Road.
- 8.8 The developer will ensure all earth moving equipment is parked and stored at all times within the site.

8.9 The developer will ensure/maintain that roads used for movement of construction materials remain clear of mud and debris at all times.

8.10 The developer will ensure/maintain that the Thirsty Creek Road site frontage including roads, remain clear of debris, mud and building materials at all times.

9.0 **MINOR CONCRETE WORKS**

(Being materials, formwork, construction methods, placement, quality etc. associated with the works the subject of this approval.)

9.1 All minor concrete works must be designed and constructed to comply with the relevant requirements of CMDG and the approved plans.

10.0 **VEGETATION MANAGEMENT**

10.1 Prior to commencement of any works, trees marked for removal must be mulched and all mulch stockpiled on site or removed from site and stored at an approved location. All the vegetative material including shrubs, weeds, grass etc. must be removed from site and deposited at an approved location such as the Council Landfill. **Burning off is not permitted.**

10.2 All vegetation which cannot be mulched on site for use on this development or an approved place of use, must be disposed of at a suitable place of disposal. **Burning is not permitted.**

11.0 **WORKS ON DEFECTS ACCEPTANCE PROCEDURE**

- 1) The On Defects Works Acceptance inspection requires attendance by:
 - a) the Consulting Engineer of the project
 - b) the Contractor
 - c) Council's nominated representative.
- 2) It is the responsibility of the Contractor and the Consulting Engineer to ensure the necessary requirements of the works are to an acceptable standard (as defined in approved design and construction documentation prior to the conduct of an "Works Acceptance" inspection.
- 3) With respect to the Erosion Control and Stormwater Management Measures, the Contractor's Erosion Control and Stormwater Management Strategy is to include the Maintenance period and shall include the following:
 - a) Plan to monitor the erosion prevention and sediment control measures following rainfall;
 - b) Follow-up repair work where necessary;
 - c) Removal of temporary structures such as sediment traps when vegetation has re-established to an acceptable level;
 - d) Mulch and replant areas where revegetation has not been successful.
- 4) The general requirements to be met prior to Council's On Defects inspection of the works are as follows:
 - a) the site is clean, tidy (including mowing of grass to ensure that infrastructure can be located), free of rubbish, rocks, sticks, unauthorised stockpiles, etc;
 - b) relevant Erosion Control and Stormwater measure are in place;
 - c) integrity of environmentally significant areas is maintained;
 - d) Defects Liability Bond lodged.
- 5) The Consulting Engineer is responsible for confirming that the approved works have been completed and the above listed items are in accordance with the approved drawings, Council's technical specifications and accepted engineering and landscaping practice prior to requesting an On Defects inspection. Failure to do so may result in cancellation of the inspection and/or the incurring of a reinspection fee.
- 6) Further to the above, and prior to the On Defects inspection, the Consulting Engineer shall be responsible for the completion of the "Works Acceptance" Inspection Checklist as appropriate to the works being constructed.
<http://www.cmdg.com.au/Guidelines/Constuction%20%20Approval%20Procedures/Construction%20Procedures/Works%20acceptance%20inspection%20checklist.DOC>
- 7) The completed checklist shall be presented to the relevant Council Officer at the On Defects inspection. Council Officer will not undertake a detailed check of all items raised in the

checklist, but will examine some aspects of the works on an audit basis. The original of the completed checklist shall be retained with the records for the project upon completion of the works.

12.0 **AS CONSTRUCTED REQUIREMENTS**

Digital As Constructed plans in the prescribed digital formats must be submitted to Council and approved prior to the works being accepted for the On Defects/Liability Period. The As Constructed data will only be approved after the final site inspection has been passed by Council. Refer to Council's website <http://www.rockhamptonregion.qld.gov.au/PlanningBuilding/Development-Applications/Lodging-a-Development-Application/As-Constructed-Submissions> as to how to submit the data and then email to enquiries@rrc.qld.gov.au with a cover note detailing the Development Application No., legal description of the land, address, estate/subdivision name and stage, consultants name and contact details.

Any works that involve the alteration of ground surface levels (cut/fill) require spot heights and any digital elevation models and/or line work in digital AutoCAD format over the affected lots/site (refer As Constructed Data Guidelines – 5.6).

Compliance/Certifications (CMDG – CP1.21)

Council requires that the As Constructed documentation be supported by appropriate certifications in accordance with the following requirements.

- a) All surface As Constructed infrastructure (i.e. sewer manholes, kerb, drainage infrastructure etc.) must be surveyed in relation to property boundary's by a Registered Surveyor upon completion of the project. The certification must note that the As Constructed survey data represents the true and accurate location of the relevant construction element presented in the data, relative to all appropriate survey datum's (i.e. the exact location in space of each construction element/entity). An RPEQ's certification must accompany the As Constructed submission to Council. The RPEQ's certification may qualify where information has been supplied by a contractor for covered up works (e.g. sewer jump up locations).
- b) All As Constructed works must also be certified by the Consulting Engineer responsible for design of the works. The certification must note that the design intent and function of the proposed works have not been compromised by the constructed works. To this extent, the Consulting Engineer will be responsible for checking the As Constructed details so that the tolerances for construction are within specified limits.
- c) It is recognised that in some circumstances, the tolerances for construction are exceeded. In these instances, the Engineer will be responsible for performing confirmation design calculations to ensure that the original design intent and function are not compromised.
- d) Further, should the As Constructed details indicate a change to the design intent or function of the works, revised design calculations shall be provided by the Consulting Engineer to indicate the acceptability of the proposed change relative to Council's requirements. Council's approval of the change is required prior to the formal acceptance of the works.
- e) The Consulting Engineer shall be responsible for the completion of the "Statement of Compliance - As Constructed works", which satisfies the requirements for Certification.

By submitting the As Constructed information to Council, the Consultant grants Council a royalty-free, perpetual, non-exclusive, non-cancellable, non-transferable licence to:

- a) use, reproduce, adapt, modify, commercially exploit and communicate the Intellectual Property (including by development and distribution of a Derivative Product); and
- b) sublicense Council's right to use, reproduce, adapt, modify, commercially exploit and communicate the Intellectual Property, subject to the terms of this Licence.

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

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

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

13.0 **DOCUMENTATION**

13.1 All engineering drawings for operational works must be signed and certified by a Registered Professional Engineer Queensland as being in accordance with all relevant Australian Standards, statutory requirements and sound engineering principles. The works must be supervised on the Applicant's behalf by a suitably qualified Registered Professional Engineer of Queensland. All designs, specifications and management plans must be certified, by a suitably qualified professional identifying the certifier's full name and accreditation/registration number, as complying with all relevant Codes and Standards.

For the purpose of this statement, a 'suitably qualified professional' is a person with a tertiary qualification and professional affiliation in the field of engineering or science relevant to the design, specifications and/or management plan and who has at least two years' experience in management in that field. Where the design, specifications and/or management plans involve different fields, a certification is required from a suitably qualified professional for each separate field.

13.2 An Engineer's Certificate of Construction and As Constructed Certification must be signed and submitted by a Registered Professional Engineer of Queensland verifying that all works have been carried out in accordance with Council approved drawings, approval conditions and specifications.

14.0 **ON DEFECTS PERIOD**

14.1 Operational Works approvals requiring As Constructed Data associated with a Material Change of Use approval will go On Defects (provided the On Defects acceptance inspection has passed), at the date of Council's acceptance of the Engineers' Construction Certificate and As Constructed Certification, and payment of the Defects Bond.

14.2 The satisfactory performance, repairs, insurance and maintenance of all contributed assets, infrastructure and its components, constructed, installed and/or purchased by the developer must remain the sole responsibility of the developer during the maintenance period. The developer must take all reasonable steps to ensure that the works are not damaged and/or vandalised prior to the works being accepted off maintenance by Council.

15.0 **WORKS OFF DEFECTS ACCEPTANCE PROCEDURE**

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

GENERAL REQUIREMENTS:

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

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

ADVISORY NOTES

NOTE 4. 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 5. Environmental Protection Act 1994

General Environmental Duty – Sec.319

A person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm (**the general environmental duty**).

In deciding the measures required to be taken, regard must be had to, for example—

- (a) the nature of the harm or potential harm; and
- (b) the sensitivity of the receiving environment; and
- (c) the current state of technical knowledge for the activity; and
- (d) the likelihood of successful application of the different measures that might be taken; and
- (e) the financial implications of the different measures as they would relate to the type of activity.

NOTE 6. 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.

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—
- matters that may be appealed to—
 - either a tribunal or the P&E Court; or
 - only a tribunal; or
 - only the P&E Court; and
 - the person—
 - who may appeal a matter (the **appellant**); and
 - who is a respondent in an appeal of the matter; and
 - who is a co-respondent in an appeal of the matter; and
 - 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—
- for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency or
 - for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - 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
 - for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - 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
 - 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—
- the adopted charge itself; or
 - for a decision about an offset or refund—
 - the establishment cost of trunk infrastructure identified in a LGIP; or
 - the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - is in the approved form; and
 - succinctly states the grounds of the appeal.
- The notice of appeal must be accompanied by the required fee.
- 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—

- the respondent for the appeal; and
 - each co-respondent for the appeal; and
 - for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
 - for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - 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
 - for an appeal to the P&E Court—the chief executive; and
 - for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The **service period** is—
- if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - 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

- 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.
- The Judicial Review Act 1991, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- 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.
- In this section— **decision** includes—
 - conduct engaged in for the purpose of making a decision; and
 - other conduct that relates to the making of a decision; and
 - the making of a decision or the failure to make a decision; and
 - a purported decision; and
 - a deemed refusal.

- non-appealable**, for a decision or matter, means the decision or matter—
- is final and conclusive; and
 - 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
 - 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

- A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- 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

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
1. Development applications An appeal may be made against— (a) the refusal of all or part of the development application; or (b) the deemed refusal of the development application; or (c) a provision of the development approval; or (d) if a development permit was applied for—the decision to give a preliminary approval.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence	1 A concurrence agency that is not a co-respondent

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
		agency's referral response—the concurrence agency	2 If a chosen Assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application
2. Change applications An appeal may be made against— (a) a responsible entity's decision for a change application, other than a decision made by the P&E court; or (b) a deemed refusal of a change application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 The applicant 2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice	The responsible entity	If an affected entity starts the appeal—the applicant	1 A concurrence agency for the development application 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 A private certifier for the development application 4 Any eligible advice agency for the change application 5 Any eligible submitter for the change application
3. Extension applications An appeal may be made against— (a) the assessment manager's decision about an extension application; or (b) a deemed refusal of an extension application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 The applicant 2 For a matter other than a deemed refusal of an extension application – a concurrence agency, other than the chief executive, for the application	The assessment manager	If a concurrence agency starts the appeal – the applicant	If a chosen assessment manager is the respondent – the prescribed assessment manager
4. Infrastructure charges notices An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds a) The notice involved an error relating to – (i) The application of the relevant adopted charge; or Examples of errors in applying an adopted charge – <ul style="list-style-type: none"> • The incorrect application of gross floor area for a non-residential development • Applying an incorrect 'use category', under a regulation, to the development <ul style="list-style-type: none"> (i) The working out of extra demands, for section 120; or (ii) An offset or refund; or b) The was no decision about an offset or refund; or c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or d) The amount of the charge is so unreasonable that no reasonable relevant local government could have			

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

Table 2 Appeals to the P&E Court only			
1. Appeals from tribunal An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of— (a) an error or mistake in law on the part of the tribunal; or (b) jurisdictional error.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A party to the proceedings for the decision	The other party to the proceedings for the decision	-	-
2. Eligible submitter appeals An appeal may be made against the decision to give a development approval, or an approval for a change application, to the extent that the decision relates to— (a) any part of the development application for the development approval that required impact assessment; or (b) a variation request.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent	Column 4 Co-respondent by election

Table 2 Appeals to the P&E Court only			
		(if any)	(if any)
1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for the change application	1 For a development application—the assessment manager 2 For a change application—the responsible entity	1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application
<p>3. Eligible submitter and eligible advice agency appeals</p> <p>An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to—</p> <p>(a) any part of the development application or the change application, for the development approval, that required impact assessment; or</p> <p>(b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for the change application 3 An eligible advice agency for the development application or change application	1 For a development application—the assessment manager 2 For a change application—the responsible entity	1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application
<p>4. Compensation claims</p> <p>An appeal may be made against—</p> <p>(a) a decision under section 32 about a compensation claim; or</p> <p>(b) a decision under section 265 about a claim for compensation; or</p> <p>(c) a deemed refusal of a claim under paragraph (a) or (b).</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person dissatisfied with the decision	The local government to which the claim was made	-	-
<p>5. Registered premises</p> <p>An appeal may be made against a decision of the Minister under chapter 7, part 4.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 A person given a decision notice about the decision 2 If the decision is to register premises or	The Minister	-	If an owner or occupier starts the appeal – the owner of the registered premises

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

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

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