



Decision Notice Approval

Planning Act Form 1 (version 1.2 effective 7 February 2020) made under section 282 of the Planning Act 2016 for a decision notice (approval) under section 63(2) of the Planning Act 2016

Application number:	D/141-2022	Contact:	Aidan Murray
Notice Date:	30 July 2024	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	McKay Ventures Pty Ltd		
Postal address:	C/- GSPC PO BOX 379 GRACEMERE QLD 4702		
Phone no:	07 4922 7033	Mobile no:	N/A
Email:	admin@gspc.com.au		

I acknowledge receipt of the above application on 19 October 2022 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Material Change of Use for a Service Station, Food and Drink Outlet, Tourist Park, Short Term Accommodation and Caretaker's Accommodation

PROPERTY DESCRIPTION

Street address:	900-904 Yaamba Road, Parkhurst
Real property description:	Lot 2 on RP603056

Dear McKay Ventures Pty Ltd,

I advise that, on 23 July 2024 above development application was:

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

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

1. DETAILS OF THE APPROVAL

The following approvals are given:

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use	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

2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

3. FURTHER DEVELOPMENT PERMITS REQUIRED

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

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

4. SUBMISSIONS

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

5. REFERRAL AGENCIES

The following Referral Agencies were activated by this application.

For an application involving	Name of agency	Role of Agency	Contact Details
STATE TRANSPORT INFRASTRUCTURE (Generally)			
<i>Schedule 10, Part 9, Division 4, Subdivision 1, Table 1 – Aspect of development stated in schedule 20</i>			
<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>State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department)</p>	<p>Concurrence</p>	<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@ds.dilgp.qld.gov.au</p> <p><u>Postal:</u> PO Box 113 Rockhampton Qld 4700</p>

STATE TRANSPORT INFRASTRUCTURE (State Transport Corridors and Future State Transport Corridors)			
<i>Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 – Material change of use of premises near a State transport corridor or that is a future State transport corridor</i>			
Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorising instrument, if all or part of the premises— (a) are within 25m of a State transport corridor; or (b) are a future State transport corridor; or (c) are— (i) adjacent to a road that intersects with a State-controlled road; and (ii) within 100m of the intersection	The chief executive of the department in which the <i>Planning Act 2016</i> is administered: State Development, Infrastructure, Local Government and Planning (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@ds.dilgp.qld.gov.au <u>Postal:</u> PO Box 113 Rockhampton Qld 4700

6. THE APPROVED PLANS

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

<u>Plan / Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version / Issue</u>
Cover Page	TRG Architects	1 February 2024	TP100	P3
Existing Conditions & Site Context Plan	TRG Architects	1 February 2024	TP200	P3
Site Master Plan & Proposed Demolition Plan	TRG Architects	1 February 2024	TP201	P3
Staging Plan	TRG Architects	1 February 2024	TP202	P2
Proposed Floor Plans Fuel Station & QSR	TRG Architects	1 February 2024	TP300	P4
Proposed Floor Plans Family Accommodation	TRG Architects	1 February 2024	TP301	P3
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Proposed Floor Plans Ablutions & L'dry Services	TRG Architects	1 February 2024	TP303	P2
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Proposed Elevations Family Accommodation	TRG Architects	1 February 2024	TP402	P2
Proposed Motel Elevations	TRG Architects	1 February 2024	TP403	P2
Proposed Standard Cabin Elevations	TRG Architects	1 February 2024	TP404	P2

Proposed Ensuite Cabin Elevations	TRG Architects	1 February 2024	TP405	P2
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Fence Elevations	TRG Architects	1 February 2024	TP409	P1
Finishes Schedule	TRG Architects	24 November 2022	TP600	P2
Landscape Concept Plan	Faulkner & Chapman Landscape Design	19 April 2023	Sheets 1 to 4	-
Flood Impact Assessment & Stormwater Management Plan	McMurtrie Consulting Engineers	8 March 2023	073-21-22	R1V2
Traffic Impact Assessment	McMurtrie Consulting Engineers	6 March 2023	073-21-22	2
Technical Memorandum	McMurtrie Consulting Engineers	19 December 2023	073-21-22	
Environmental Noise Assessment Service Station Redevelopment and Upgrade	RoadPro Accoustics	12 January 2023	1371R1-R1	Rev 1
Waste Management Plan	GSPC	15 March 2023	211165	-
Response to Further Advice	Hazkem Pty Ltd	27 February 2024	-	Rev 1

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

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 Service Station, Food and Drink Outlet, Tourist Park, Short Term Accommodation and Caretaker's Accommodation
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;

- Low Density Residential Zone Code;
- Access, Parking and Transport Code;
- Landscape Code;
- Stormwater Management Code;
- Waste Management Code;
- 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
<p>Low Density Residential Zone Code</p> <p>Performance Outcome (PO) 7</p> <p>Performance Outcome (PO) 8</p> <p>Purpose (2) (d)</p>	<p>The proposed development does not comply with Acceptable Outcome (AO) 7.1 which prescribes that short-term accommodation uses are carried out in an existing dwelling, nor does it comply with Performance Outcome (PO) 7 which states that short-term accommodation is established only in existing dwellings which maintain the appearance of an ordinary dwelling in the zone.</p> <p>Furthermore, the proposed development also conflicts with both AO 8.1, prescribing that the total number of persons does not exceed five (5) at any one time, and PO8 stating short-term accommodation is of a small, domestic scale that accommodates a small number of people for very short periods.</p> <p>Where the application conflicts with the above Assessment Benchmarks, assessment is undertaken against the purpose and overall outcomes of the Low Density Residential Zone, which establishes that short-term accommodation only occurs where it:</p> <ul style="list-style-type: none"> (i) is established in an existing dwelling; (ii) does not adversely impact on the amenity of the surrounding residential area; (iii) maintains the appearance of an ordinary dwelling that is consistent with the intentions of the zone; and (iv) is limited in scale and duration. <p>The proposed short-term accommodation (and tourist park) conflicts with some of the above overall outcomes as the proposal is not located in an established dwelling, does not maintain the appearance of an ordinary dwelling and is not limited in scale. In this instance, it is acknowledged the proposal does not introduce a new short-term accommodation / tourist park land use but rather redevelopment and expansion of the existing activities operating on the site. Consideration is given to the Strategic Framework and relevant matters as detailed below.</p> <p>To the extent that conflicts are identified with the assessment benchmarks, purpose and overall outcomes of the zone code, assessment against the Strategic Framework and regards to relevant matters is considered to outweigh those conflicts.</p>
<p>Low Density Residential Zone Code</p> <p>Performance Outcome (PO) 13</p>	<p>The proposed development does not comply with part (a) of Performance Outcome (PO) 13 which states that development should be located and designed so that buildings and structures make provision for an appropriate scale and size that reflects the purpose of the Low Density Residential Zone.</p> <p>To the extent of this conflict with the assessment benchmarks, consideration is undertaken against the purpose and overall outcomes of the zone code as well as the Strategic Framework. Regards to relevant matters is considered to outweigh those conflicts and have been addressed in the relevant section/s of the</p>

	Statement of Reasons.
<p>Low Density Residential Zone Code</p> <p>Performance Outcome (PO) 16</p> <p>Purpose (2) (e)</p>	<p>The proposed development does not comply with Performance Outcome (PO) 16 which states that non-residential development may locate in the low density residential zone when the use can demonstrate the following:</p> <ul style="list-style-type: none"> (a) it services the day-to-day needs of residents of the local neighbourhood or is a community or emergency facility that primarily services the needs of the local neighbourhood; (b) it does not compromise the residential character and existing amenity of the surrounding area in relation to lighting, noise, dust and odour; (c) is small in scale; (d) is consistent with the surrounding built form and streetscape; (e) the use provides only a convenience function and does not compromise the role and function of existing centres; (f) does not adjoin an existing centre zone; (g) located in proximity to public transport facilities and public transport routes; and (h) minimises impacts on local amenity and the local street network. <p>The development is considered non-compliant with (a), (c) and (e) with further assessment and consideration required in relation to (b), (d) and (h). In addition to the assessment benchmarks of PO16 above, the purpose and overall outcomes of the Low Density Residential Zone further establishes that non-residential uses only occur where they:</p> <ul style="list-style-type: none"> (i) do not compromise the residential character and existing amenity of the surrounding area; (ii) are small-scale and consistent with the surrounding urban form; (iii) primarily function to service the needs of the immediate local residential community; (iv) do not detract from the role and function of centres; (v) do not result in the expansion of a centre zone; and (vi) have direct access to higher order roads (minor urban collector or higher) and are in proximity to public transport. <p>The proposed service station and fast food outlet do not achieve all of the above overall outcomes. The development is considered non-compliant with overall outcomes (ii) and (iii) while (i), (iv) and (v) required further assessment and consideration.</p> <p>The applicant provided an economic needs assessment which addresses the suitability of the development on the subject site in light of the above performance outcomes and overall outcomes addressing the actual and potential non-compliances.</p> <p>To the extent of the conflicts identified with the assessment benchmarks, purpose and overall outcomes of the zone code, assessment against the Strategic Framework and regards to relevant matters is considered to outweigh those conflicts.</p>
<p>Low Density Residential Zone Code</p> <p>Performance Outcome (PO) 21</p>	<p>The proposed development does not comply with Acceptable Outcome (AO) 21.1, as the proposal seeks to establish 24/7 operations for the service station and food and drink outlet, whereas AO 7.1 limits non-residential land uses to operating between the hours of 7am to 10pm only.</p> <p>The corresponding Performance Outcome (PO) 21 requires that the development minimises adverse impacts on the amenity of adjoining land uses and the surrounding area. The application material included an Environmental Noise Assessment investigating the potential amenity impact of the proposed</p>

	<p>development on the surrounding area. As a result of that noise assessment, acoustic barriers were recommended to be constructed within certain parts of the development site to mitigate noise, particularly in relation to mobile refrigerated units on truck trailers and heavy vehicles. The findings of the noise assessment concluded that with the installation of the recommended acoustic barriers, the development can achieve the relevant Acoustic Quality Objectives for daytime, evening and nighttime periods.</p> <p>Therefore, the proposed development is taken to comply with Performance Outcome (PO) 21 when supported by the approved plans and relevant conditions to ensure the Acoustic Quality Objectives are achieved.</p>
<p>Low Density Residential Zone Code</p> <p>Performance Outcome (PO) 25</p> <p>Landscape Code</p> <p>Performance Outcome (PO) 1</p>	<p>Acceptable Outcome (AO) 1.1 of the Landscape Code prescribes that landscaping is provided in accordance with the requirements of the relevant zone code. In this case, the proposed development does not comply with Acceptable Outcome (AO) 25.1 Low Density Residential Zone Code, which requires that landscaping retains existing, significant trees with a height exceeding four (4) metres, or a trunk diameter of fifty (50) centimetres (whichever is lesser) except where nominated as an undesirable species. The proposal seeks to remove some significant trees on-site where necessary to facilitate the development but will retain other significant trees where possible. A Landscape Concept Plan was provided, and conditions imposed which establish the landscaping requirements for the development and ensure that the amenity of the site and surrounding area is maintained.</p> <p>The Landscape Concept Plan ensures compliance with Performance Outcome (PO) 1 of the Landscape Code in that the landscaping is professionally designed and provides a suitably sized area to:</p> <ul style="list-style-type: none"> (a) create an attractive visual addition to a building or place; (b) soften the built form; (c) provide a space for on-site recreation; and (d) enable landscaping to establish and thrive under the local conditions. <p>Therefore, the proposed development is taken to comply with PO1 of the Landscape Code as well as the intent of PO25 of the Low Density Residential Zone Code despite the conflict with the related AO25.1. Any non-compliance is considered a low-level conflict given the approval of the Landscape Concept Plan and supporting conditions imposed to ensure an effective overall landscape planning and design is achieved.</p>
<p>Access, Parking and Transport Code</p> <p>Performance Outcome (PO) 7</p>	<p>The proposed development does not comply with Performance Outcome (PO) 7 which states that sites with more than one (1) road frontage (excluding laneways) gain access only from the lower order road, except where it will introduce traffic generated by a non-residential use into a street that is in a residential zone.</p> <p>The site is located in the Low Density Residential Zone and includes non-residential uses; however the site already has constructed vehicle accesses to Yaamba Road (Highway) and Norman Road (currently constructed to Urban Access standard with future planning for Major Urban Collector). Both road accesses are pre-existing and will be upgraded to the relevant standards for the applicable road network hierarchy. The traffic generated by the development is not unreasonable and will have minimal impact on roads classified as a highway and major urban collector respectively.</p> <p>The non-compliances with PO 7 is considered a low-level conflict and on balance the proposed development complies with the majority of assessment benchmarks for the Access, Parking and Transport Code.</p>
<p>Access, Parking and Transport Code</p> <p>Performance Outcome (PO) 14</p>	<p>The proposed development does not comply with Acceptable Outcome (AO) 14.2, which prescribes that no direct property access is gained to a highway other than via a service road or a joint access arrangement with other sites.</p> <p>The development site already benefits from a constructed vehicle access to Yaamba Road (classified as highway in the road network hierarchy). The</p>

	<p>application, including the proposed upgrades to the vehicle access, has been assessed and conditioned accordingly by the State Assessment Referral Agency (SARA) and Department of Transport and Main Roads (DTMR) through a concurrence referral.</p> <p>Being that the existing access pre-dates the application, will be upgraded to the relevant standards and has been assessed by DTMR as the relevant road manager, the proposal is taken to not impact on the safety, operation or function of the road network. Therefore, the proposed development is taken to comply with Performance Outcome (PO) 14.</p>
<p>Strategic Framework</p> <p>3.3 Settlement pattern</p> <p>3.3.8. Element – Urban and new urban</p>	<p>The site is located within the urban designation under the Strategic Framework and the proposed development presents some conflicts with some aspects of the Strategic Framework. This notably includes the following specific outcomes (S3.3.8.1) relating to the settlement pattern theme for the urban and new urban designation:</p> <p><i>(1) Urban and new urban areas are characterised by walkability between housing and activity nodes, such as a park, shop or bus stop. They offer a choice of housing types, including dwelling houses, semi-detached or dual occupancy housing, row or terrace houses, some multiple dwellings (in accordance with specific outcome (6) below) and small scale live/work buildings (i.e. home-based businesses). While dwelling houses are the most common use, many dwelling houses are on a range of smaller lots.</i></p> <p><i>(8) Urban and new urban areas (excluding neighbourhood centres) contain existing land uses that provide for a localised service function such as small-scale food and drink outlets, community uses and services. These land uses can continue; however, the expansion of these uses or the establishment of new uses must function to service the needs of the immediate local residential community, not conflict with sensitive land use(s), not compromise the role and function of designated centres and be consistent with the relevant zone code.</i></p> <p><i>(9) No expansion of existing centres or industrial areas will occur into residential zoned areas (unless otherwise identified within the planning scheme). This will:</i></p> <ul style="list-style-type: none"> <i>(a) maintain the viability and sustainability of existing centres and industrial areas;</i> <i>(b) provide certainty to the owners and occupants;</i> <i>(c) encourage the reinvestment and redevelopment of existing centres and industrial areas; and</i> <i>(d) prevent the spread of ‘ribbon’ development along state-controlled road and major roads.</i> <p>These specific outcomes identify that the area provides primarily for residential activities and non-residential activities when they provide a localised service function for the immediate local residential community.</p> <p>While the specific outcomes are focused on the above, they do not preclude non-residential uses occurring within the urban and new urban designation, rather that residential uses prevail. The proposal is for the redevelopment of an existing service station, short-term accommodation (motel) and tourist park (caravan park). What is taken to be a ‘localised service function’ in this instance is considered to go beyond the immediate bounds of Parkhurst. The reason being that the site is located on a State-controlled highway which provides for linear development that is generally highway-focused and servicing transient customers. Notwithstanding this, it is acknowledged that it may only service a relatively small portion of the immediate local community.</p> <p>The proposal expands on and redevelops the existing motel and caravan park activities that have previously been established on the site with lawful existing use rights. Despite the low density residential zoning, it is acknowledged that the site already contains non-residential land uses being a service station, tourist park/caravan park and motel units. The site is also located in a busy, high traffic area directly adjoining Yaamba Road, being a major highway and state-controlled</p>

road. There are also a number of other non-residential land uses in the immediate local area, including both established and approved developments.

The development provides a convenience function for road users of Yaamba Road (Bruce Highway). The proposal will provide refueling and rest facilities including for heavy vehicles north of the Rockhampton Ring Road's (RRR) intersection with Yaamba Road.

The application material addresses the Strategic Framework and is supported by an economic needs assessment prepared by a qualified economist in accordance with the *Economic impact assessment planning scheme policy (SC6.9)* adopted under Council's planning scheme. The economic needs assessment further reinforces the unique characteristics and implications of the site with regard to its geographic location in relation to Yaamba Road and the Northern intersection/entrance to the Rockhampton Ring Road.

Council officers are satisfied that potential impacts of the development can be mitigated with appropriate conditions to ensure there are no adverse offsite impacts to the residential character and amenity of the surrounding area. Specifically, this is achieved through acoustic barriers, landscaping, siting, layout and building design for the activities and is supported by an Environmental Noise Assessment.

Despite conflict with some aspects of the Strategic Framework, the development does not comprise the overall strategic intent for the Parkhurst area under the planning scheme and regard to relevant matters is considered to outweigh those conflicts.

Relevant Matters

The proposed development was assessed against the following relevant matters:

- The land uses for service station, tourist park and short-term accommodation are pre-existing on the subject site and the proposed development is for continuation, redevelopment and expansion of those existing uses or otherwise introduces a supporting/complementary land use activity, that being the food and drink outlet with drive through facility.
- An economic needs assessment demonstrates that the development fulfils a growing need for fuel retail and after-hours convenience retail within the Parkhurst / North Rockhampton catchment. The economic needs assessment identifies an undersupply and increased demand for these activities north of the Rockhampton Ring Road.
- The economic needs assessment also identifies an undersupply of drive-through fast food retail within the Parkhurst / North Rockhampton catchment. Market assessment further highlights increasing demand for this activity within the catchment.
- Despite the zoning, the subject site is uniquely located and highly accessible for local residents, the wider community and passing traffic, particularly in relation to Yaamba Road, the Bruce Highway and the Rockhampton Ring Road.
- The expansion of the proposed facility would have limited impacts on the settlement pattern, centres hierarchy and competitor facilities.
- Rockhampton Region Planning Scheme 2015 (version 4.4) came into effect on 25 October 2023, after the application had been lodged. Version 4.4 of the Planning Scheme contains amendments to the Flood Hazard Overlay as a result of updated flood modelling which affects the subject site. Council officers have given consideration to the Flood Hazard Overlay Code and updated flood modelling as part of the assessment of the application.

Matters raised in submissions

The proposal was the subject of public notification between 27 April 2023 and 19 May 2023, in accordance with the requirements of the *Planning Act 2016* and the *Development Assessment Rules* and no properly made submissions were received.

Matters prescribed by regulation

- The Rockhampton Region Planning Scheme 2015 (version 2.2);
- Central Queensland Regional Plan 2013; and
- The common material, being the material submitted with the application.

9. APPEAL RIGHTS

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

Appeal by an applicant

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

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

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

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

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

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. ASSESSMENT MANAGER

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

Signature:



Date: 30 July 2024

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

1.0 ADMINISTRATION

- 1.1 The owner, the owner's successors in title, and any occupier of the premises is responsible for ensuring compliance with the conditions of this development approval.
- 1.2 Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions, works, or requirements of this development approval must be undertaken, completed, and be accompanied by a letter of compliance for any operational works required by this development approval:
- 1.3.1 to Council's satisfaction;
 - 1.3.2 at no cost to Council; and
 - 1.3.3 prior to the commencement of the use,
- unless otherwise stated.
- 1.4 Infrastructure requirements of this development approval must be contributed to the relevant authorities, where applicable, at no cost to Council, prior to the commencement of the use, unless otherwise stated.
- 1.5 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
- 1.5.1 Operational Works:
 - (i) Access and Parking Works;
 - (ii) Stormwater Works;
 - (iii) Roof and Allotment Drainage;
 - (iv) Site Works;
 - (v) Advertising Device.
 - 1.5.2 Plumbing and Drainage Works; and
 - 1.5.3 Building Works:
 - (i) Demolition Works; and
 - (ii) 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>
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Fence Elevations	TRG Architects	1 February 2024	TP409	P1
Finishes Schedule	TRG Architects	24 November 2022	TP600	P2
Landscape Concept Plan	Faulkner & Chapman Landscape Design	19 April 2023	Sheets 1 to 4	-
Flood Impact Assessment & Stormwater Management Plan	McMurtrie Consulting Engineers	8 March 2023	073-21-22	R1V2
Traffic Impact Assessment	McMurtrie Consulting	6 March 2023	073-21-22	2

	Engineers			
Technical Memorandum	McMurtrie Consulting Engineers	19 December 2023	073-21-22	
Environmental Noise Assessment Service Station Redevelopment and Upgrade	RoadPro Accoustics	12 January 2023	1371R1-R1	Rev 1
Waste Management Plan	GSPC	15 March 2023	211165	-
Response to Further Advice	Hazkem Pty Ltd	27 February 2024	-	Rev 1

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

3.0 STAGED DEVELOPMENT

3.1 This development approval is for a development to be undertaken in two (2) discrete stages, namely:

3.1.1 Service Station and Food and Drink Outlet (Stage One); and

3.1.2 Tourist Park, Short Term Accommodation and Caretaker's Accommodation (Stage Two).

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

The stages are not required to be undertaken in any chronological order.

3.2 Unless otherwise expressly stated, the conditions must be read as being applicable to all stages.

3.3 The currency period for Stage One and Stage Two is six (6) years from the date this approval takes effect.

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*, *Australian Standard AS2890 "Parking facilities"* and the provisions of a Development Permit for Operational Works (access and parking works).

4.3 All car parking and access areas must be paved or 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).

4.4 No heavy vehicle access or egress is permitted to or from Norman Road. Appropriate signage must be provided at the access / egress location accordingly.

4.5 The existing access from Norman Road to the development must be upgraded to comply with the requirements of the *Capricorn Municipal Development Guidelines*.

4.6 A basic left turn treatment must be investigated at the access off Norman Road and a turn warrants assessment. Relevant commentary must be provided as part of the required application for Operational Works (access and parking works).

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

4.8 For Stage 1, a minimum of 32 car parking spaces and six (6) heavy vehicle parking spaces must be provided on-site. In addition to the parking requirements, the drive through facility must be capable of supporting on-site queuing for at least ten (10) vehicles.

4.9 For Stage 2, a minimum of 84 parking spaces must be provided on-site, broken down as follows:

4.9.1 Tourist Park – 28 car parking spaces for the cabins (one (1) per cabin) and 34 car parking spaces for the powered caravan sites (one (1) per site);

4.9.2 Short Term Accommodation – 12 car parking spaces for guests (one per unit);

- 4.9.3 Caretaker's Accommodation/Manager's Residence – one (1) car parking space; and
- 4.9.4 A minimum of nine (9) car parking spaces for non-resident staff and visitors to the site.
- 4.10 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"*.
- 4.11 Parking spaces must be line-marked in accordance with the approved plans (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).
- 4.12 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"*.
- 4.13 Road signage and pavement markings must be installed in accordance with *Australian Standard AS1742.1 "Manual of uniform traffic control devices"*.
- 4.14 All vehicle operation areas must be illuminated in accordance with the requirements of *Australian Standard AS1158 "Lighting for roads and public spaces"*.
- 4.15 All internal pedestrian pathways must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*.
- 4.16 For Stage One, bicycle parking facilities must be provided in accordance with *SC6.4 — Bicycle network planning scheme policy* and must encourage casual surveillance.
- 5.0 PLUMBING AND DRAINAGE WORKS
- 5.1 A Development Permit for Plumbing and Drainage Works must be obtained for the removal and/or demolition of any existing structure on the development site.
- 5.2 All internal plumbing and drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act 2008, Plumbing and Drainage Act 2018*, Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.
- 5.3 The development must be connected to Council's reticulated sewerage and water networks.
- 5.4 The existing sewerage and water connection point(s) must be retained, and upgraded, if necessary, to service the development.
- 5.5 Adequate domestic and firefighting protection must be provided to the development and must be certified by a hydraulic engineer or other suitably qualified person.
- 5.6 Sewer connections and water meter boxes located within trafficable areas must be raised or lowered to suit the finished surface levels and must be provided with heavy duty trafficable lids.
- 5.7 All sanitary drainage works must comply with *Australian Plumbing and Drainage Standard AS3500 Part 2 section 3 and 4* for flood affected areas.
- 5.8 A four (4) metre wide easement must be provided over the 300 millimetre trunk sewerage infrastructure traversing the site. The sewer infrastructure must be centrally located within the easement.
- 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 (AEP) storm event, for the post-development conditions.
- 6.5 Easements must be provided over any other land required to accommodate the flows associated with the subject development.
- 6.6 Easements must be provided over all land assessed to be within the inundation area in a one per cent (1%) Annual exceedance probability flood event.
- 6.7 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.
- 6.8 The bio-detention 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 bio-detention basin and the design must:
 - 6.8.1 be suitable to the climate and incorporate predominately native species;
 - 6.8.2 maximise areas suitable for on-site infiltration of stormwater;
 - 6.8.3 incorporate shade trees; and
 - 6.8.4 demonstrate that all areas apart from garden beds are fully turfed or hydromulched.

The detailed design of the bio-detention basin/s as identified on the approved plans (refer to condition 2.1), must ensure the safety of the public and/or tenants and where applicable include all required safety measures and facilities (for example, child proof fences). A maintenance plan for the proposed bio-detention basin system must be submitted as part of any application for a Development Permit for Operational Works (stormwater works).

- 6.9 A major drainage channel must be designed and constructed traversing the site north south in accordance with Council's Local Government Infrastructure Plan (LGIP) and Schedule of Works. This necessary trunk infrastructure has been identified as D-1 in the Local Government Infrastructure Plan and is conditioned under section 128 of the *Planning Act 2016*.
- 6.10 A revised Flood Impact Assessment must be submitted with the Operational Works application. The revised modelling must include a relocated central channel twelve (12) metres to the east and identify any impacts external to the development site for a range of flood events up to and including the one (1) per cent annual exceedance probability (AEP) event.

7.0 ROOF AND ALLOTMENT DRAINAGE WORKS

- 7.1 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.
- 7.2 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).
- 7.3 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.

8.0 SITE WORKS

- 8.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works on the development site.
- 8.2 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks plan that clearly identifies the following:
 - 8.2.1 the location of cut and/or fill;
 - 8.2.2 the type of fill to be used and the manner in which it is to be compacted;
 - 8.2.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;

- 8.2.4 details of any proposed access routes that are intended to be used to transport fill to or from the development site; and
- 8.2.5 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.
- 8.3 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"*.
- 8.4 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.
- 8.5 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.
- 9.0 **BUILDING WORKS**
- 9.1 A Development Permit for Building Works assessable under the Building Assessment Provisions must be obtained prior to the commencement of any building works on the site.
- 9.2 The existing structures on the subject land must be demolished and a Development Permit for Building Works (demolition) must be obtained prior to the commencement of demolition works on the development site.
- 9.3 All external elements, such as air conditioners, pool and spa pumps and associated equipment, must be adequately screened from public view to Council's satisfaction.
- 9.4 Any building plant must be screened from view of the street by one or more of the following:
- 9.4.1 a solid screen fence, or
- 9.4.2 a roof design feature; or
- 9.4.3 a wall; or
- 9.4.4 dense vegetation; or
- 9.4.5 be located within, underneath or central to the building so as to not be visible from the street.
- 9.5 Noise mitigation measures must be implemented in accordance with the recommendations in the report titled "Environmental Noise Assessment Service Station Redevelopment and Upgrade" (refer to condition 2.1).
- 9.6 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"*.
- 9.7 Access to and use of the land the subject of this application must comply with the provisions of the *Disability Discrimination Act 1992* and/or the *Anti-Discrimination Act 1991*. If either of the statutes require the provision of access or facilities in a way that is inconsistent with this development approval, those facilities must be provided.
- 9.8 Impervious paved 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:
- 9.8.1 designed and located so as not to cause a nuisance to neighbouring properties;
- 9.8.2 concealed from public view such that the contents of the waste storage area are not visible from any public place;
- 9.8.3 of a sufficient size to accommodate commercial type bins that will be serviced by a commercial contractor plus clearances around the bins for manoeuvring and cleaning; and
- 9.8.4 provided with a suitable hosecock and hoses at the refuse container area, and washdown must be drained to the approved stormwater treatment device (refer to condition 2.1).
- 9.9 Acoustic screen fencing must be erected along the common boundary of the subject development site and any adjoining residential properties in accordance with the approved plans and the recommendations included in the report titled "Environmental Noise Assessment Service Station Redevelopment and Upgrade" (refer to condition 2.1).

- 9.10 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 (AEP) flood inundation level.
- 9.11 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.
- 9.12 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 (AEP) flood level.
- 9.13 A Development Permit for Operational Works (advertising device) must be submitted to Council for approval of signage (e.g. pylon sign); other than those that are accepted development under Council's Planning Scheme.
- 10.0 LANDSCAPING WORKS
- 10.1 Landscaping must be constructed and/or established prior to the commencement of the use.
- 10.2 Landscaping must be designed in accordance with the requirements of *Australian Standard AS 1428 — Design for access and mobility*.
- 10.3 Planting types used within the landscaping areas must include either trees, shrubs or groundcovers, or any combination of these planting types. These plantings must be established and maintained generally at the following density rates:
- 10.3.1 trees at five (5) metre intervals;
- 10.3.2 shrubs at two (2) metre intervals; and
- 10.3.3 groundcovers at one (1) metre intervals.
- 10.4 At least fifty (50) per cent of all new plantings within the landscaping areas (refer to condition 2.1) must be locally native species with low water dependency and must comply with the following requirements:
- 10.4.1 Plant species are chosen from sources recommended in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*; and
- 10.5 Plant species must not include undesirable species identified in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*.
- 10.6 Shade trees must comply with the following requirements:
- 10.6.1 Be planted clear of services and utilities;
- 10.6.2 Be planted clear of park furniture and embellishments;
- 10.6.3 Not obstruct pedestrian or bicycle traffic; and
- 10.6.4 Comply with crime prevention through environmental design principles.
- 10.7 Shade trees within car parking areas are to be provided and planted within a deep natural ground/structured soil garden bed/island/bay and are protected by wheel stops or bollards as required.
- 10.8 Shade trees shown on the Landscape Concept Plan (refer to condition 2.1) must be installed, retained and maintained.
- 10.9 Each shade tree must have a clean trunk with a minimum height of two (2) metres and must be provided within the car park areas at the following rates:
- 10.9.1 In single sided, angle or parallel bays – One (1) tree per three (3) car parks; and
- 10.9.2 In double sided, angle or parallel bays – One (1) tree per six (6) car parks; and
- 10.9.3 Each shade tree is provided with a minimum planting area of 1.2 square metres with a minimum topsoil depth of 0.8 metres.
- 10.10 Root control barriers must be installed where invasive roots may cause damage to car parking areas, pedestrian paths and road carriageways.
- 10.11 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.
- 10.12 Landscaping, or any part thereof, upon reaching full maturity, must not:

- 10.12.1 obstruct sight visibility zones as defined in the Austroads 'Guide to Traffic Engineering Practice' series of publications;
 - 10.12.2 adversely affect any road lighting or public space lighting; or
 - 10.12.3 adversely affect any Council infrastructure, or public utility plant.
- 10.13 The landscaped areas must be subject to:
- 10.13.1 a watering and maintenance plan during the establishment moment; and
 - 10.13.2 an ongoing maintenance and replanting programme.
- 10.14 Landscaping must be provided with a minimum planting area of three (3) metres in width for the full length of all common side boundaries.
- 10.15 Landscaping is provided along the Norman Road frontage for a minimum width of two (2) metres.
- 10.16 A vegetated landscape buffer, created through a 'three tier' planting approach, at least four (4) metres in width (measured perpendicular to the property boundary), must be provided along the front boundary of Yaamba Road (except where a driveway exists or is proposed) and consist of:
- 10.16.1 a minimum of two (2) shade or rounded canopy trees for every five (5) linear metres or part thereof of the length of the landscape buffer;
 - 10.16.2 a minimum of two (2) shrubs for every three (3) linear metres or part thereof of the length of the landscaped buffer;
 - 10.16.3 a minimum of two (2) ground covers for every two (2) linear metres or part thereof of the length of the landscaped buffer; and
 - 10.16.4 a one (1) metre high earth mound for the length of the common property boundary excluding access points and driveways.
- 10.17 Submit to Council for approval, prior to submission of a development application for Operational Works, an amended Landscape Concept Plan that demonstrates compliance with the conditions of this approval and is consistent with the site layout as shown on the approved plans, specifically the Site Master Plan and the Staging Plan (refer to condition 2.1).
- 10.18 Submit to Council for approval, prior to submission of a Building Application, amended Building Elevation and Perspectives Plans that show elevation plans for the proposed acoustic barrier fence with at least three (3) variations in textures, materials and colours for the full extent of the acoustic barrier fence (exterior to the service station).
- Note: Treatments on the external-facing side of acoustic barrier fencing along a shared common boundary must be capable of being maintenance free.
- 10.19 The proposed three (3) metre high section of acoustic fencing along the northern boundary adjacent to the service station building and food and drink outlet as shown in the approved plans (refer to condition 2.1) must be extended further west towards Yaamba Road to align parallel with western end of the fuel canopy for light vehicles.
- 11.0 ELECTRICITY
- 11.1 Electricity services must be provided to the development in accordance with the standards and requirements of the relevant service provider.
- 12.0 TELECOMMUNICATIONS
- 12.1 Telecommunications services must be provided to the development in accordance with the standards and requirements of the relevant service provider.
- 13.0 ASSET MANAGEMENT
- 13.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be undertaken and completed at no cost to Council.
- 13.2 Any damage to existing stormwater, water supply and sewerage infrastructure, kerb and channel, pathway or roadway (including removal of concrete slurry from public land and Council infrastructure), that occurs while any works are being carried out in association with this development approval must be repaired at full cost to the developer. This includes the reinstatement of any existing traffic signs or pavement markings that may have been removed or damaged.

- 13.3 'As Constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the commencement of the use. This information must be provided in accordance with the *Asset Design and As Constructed Manual (ADAC)*.
- 14.0 ENVIRONMENTAL
- 14.1 Any application for a Development Permit for Operational Works must be accompanied by an Erosion and Sediment Control Plan that addresses, but is not limited to, the following:
- (i) objectives;
 - (ii) site location and topography;
 - (iii) vegetation;
 - (iv) site drainage;
 - (v) soils;
 - (vi) erosion susceptibility;
 - (vii) erosion risk;
 - (viii) concept;
 - (ix) design; and
 - (x) implementation,
- for the construction and post-construction phases of work.
- 14.2 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 implemented, monitored and maintained for the duration of the development works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped). The plan must be available on-site for inspection by Council Officers whilst all works are being carried out.
- 15.0 ENVIRONMENTAL HEALTH
- 15.1 All fuel dispensing areas must be drained to the approved stormwater treatment device (refer to condition 2.1). Contaminants within the stormwater treatment device must be removed and disposed of as regulated waste. Water that has passed through the treatment device may be deposited in the stormwater system.
- 15.2 The approved stormwater treatment device must be maintained to the manufacturer's instruction as per the approved plans and documents.
- 15.3 A Manufacturers Maintenance Instruction Manual must be located on site at all times for inspection by Council Officers.
- 15.4 Noise emitted from the activity must not cause an environmental nuisance.
- 15.5 When requested by Council, noise monitoring must be undertaken and recorded within three (3) months, to investigate any genuine complaint of nuisance caused by noise. The monitoring data, an analysis of the data and a report, including noise mitigation measures, must be provided Council within fourteen (14) days of the completion of the investigation. Council may require any noise mitigation measures identified in the assessment to be implemented within appropriate timeframes. Noise measurements must be compared with the acoustic quality objectives specified in the most recent edition of the *Environmental Protection (Noise) Policy*.
- 15.6 An appropriate spill kit must be kept on-site for neutralising or decontaminating spills. The spill kit must be clearly identifiable, maintained regularly and stored in a central location that is easily accessible to employees. Staff must be adequately trained in the use of these materials. The spill kit may consist of:
- 15.6.1 a bin with a tight-fitting lid, partially filled with non-combustible absorbent material such as vermiculite;
 - 15.6.2 a broom, shovel, face shield, chemically-resistant boots and gloves; and
 - 15.6.3 waste bags and ties.

- 15.7 Any spillage of environmentally hazardous liquids or other materials must be cleaned up as quickly as practicable. Any spillage of waste and/or contaminants must not be hosed or swept to any stormwater drainage system, roadside gutter or waters.
- 15.8 Regulated waste and any other waste must not be released to the environment, stored, transferred or disposed of in such a manner that it will or may cause environmental harm or nuisance. This includes any waste being burnt or incinerated at the premises.
- 15.9 All traceable regulated waste must be removed from the premises by a licensed regulated waste transporter.
- 15.10 Where regulated waste is removed from the premises, records must be maintained for a period of five (5) years, and include the following:
- 15.10.1 the date, quantity and type of waste removed;
 - 15.10.2 a copy of any licensed waste transport vehicle docket;
 - 15.10.3 the name of the licensed regulated waste removalist and/or disposal operator; and
 - 15.10.4 the intended treatment and/or disposal destination of the waste.
- These records must be available for inspection by Council when requested.
- 16.0 OPERATING PROCEDURES
- 16.1 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 Yaamba Road or Norman Road.
- 16.2 Operations on the development site must have no significant impact as determined by Council on the amenity of adjoining premises or the surrounding area due to the emission of light, noise, odour or dust.
- 16.3 All waste storage areas must be:
- 16.3.1 kept in a clean and tidy condition; and
 - 16.3.2 maintained in accordance with *Environmental Protection Regulation 2019*.
- 16.4 For Stage One, commercial waste bins must be provided on-site within the 'shared refuse and receiving area' as shown on the approved plans (refer to condition 2.1).
- 16.5 For Stage Two, commercial waste bins must be provided on-site in suitable locations that are compliant with condition 9.8 of this approval.
- 16.6 For Stages One and Two, all commercial waste bins must be collected by a private contractor. No kerbside collection or collection within the road reserve is permitted.

ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

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

NOTE 2. Asbestos Removal

Any demolition and/or removal works involving asbestos materials must be undertaken in accordance with the requirements of the *Work Health and Safety Act 2011* and *Public Health Act 2005*.

NOTE 3. 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 4. Duty to Notify of Environmental Harm

If a person becomes aware that serious or material environmental harm is caused or threatened the by an activity or an associated activity, that person has a duty to notify Rockhampton Regional Council.

NOTE 5. Licensable Activities

Should an activity licensable by Rockhampton Regional Council be proposed for the development site, Council's Environment and Public Health Unit must be consulted to determine whether any approvals are required. Such activities may include food preparation, storage of dangerous goods or environmentally relevant activities. Approval for such activities is required before 'fit out' and operation.

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.

NOTE 7. 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 8. Rating Category

Please note, a Material Change of Use approval may result in an adjustment to a property's rating category. Please contact Council's Rates Department should you require further information.



Attachment 1 – Part 2
Referral Agency Conditions – State
Development, Infrastructure, Local
Government and Planning (State
Assessment and Referral Agency
Department) *Planning Act 2016*

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**

<p>1. Development applications An appeal may be made against—</p> <ol style="list-style-type: none"> (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

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

<p>4. Infrastructure charges notices An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds</p> <p>a) The notice involved an error relating to –</p> <p>(i) The application of the relevant adopted charge; or</p> <p>Examples of errors in applying an adopted charge –</p> <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 <p>(i) The working out of extra demands, for section 120; or</p> <p>(ii) An offset or refund; or</p> <p>b) The was no decision about an offset or refund; or</p> <p>c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or</p> <p>d) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p>			
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	-	-
<p>5. Conversion applications An appeal may be made against—</p> <p>(a) the refusal of a conversion application; or</p> <p>(b) a deemed refusal of a conversion application.</p>			
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	-	-
<p>6. Enforcement notices An appeal may be made against the decision to give an enforcement notice.</p>			
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**

<p>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—</p> <p>(a) an error or mistake in law on the part of the tribunal; or</p> <p>(b) jurisdictional error.</p>			
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	-	-

**Table 2
Appeals to the P&E Court only**

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

**Table 2
Appeals to the P&E Court only**

An appeal may be made against a decision of the Minister under chapter 7, part 4.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 A person given a decision notice about the decision 2 If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the affected area for the registered premises who is dissatisfied with the decision	The Minister	-	If an owner or occupier starts the appeal – the owner of the registered premises
6. Local laws An appeal may be made against a decision of a local government, or conditions applied, under a local law about— (a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or (b) the erection of a building or other structure.			
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**

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.			
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
3. Certain decisions under the Building Act and the Plumbing and Drainage Act An appeal may be made against a decision under— (a) the Building Act, other than a decision made by the Queensland Building and Construction Commission; or (b) the Plumbing and Drainage Act, part 4 or 5.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)

Table 3			
Appeals to the tribunal only			
A person who received, or was entitled to receive, notice of the decision	The person who made the decision	-	-
<p>4. Local government failure to decide application under the Building Act An appeal may be made against a local government's failure to decide an application under the Building Act within the period required under that Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who was entitled to receive, notice of the decision	The local government to which the application was made	-	-



ATTACHMENTS (for office use only)

APPROVED PLANS AND OR REFERRAL AGENCY CONDITIONS

APPROVED PLANS



D141-2022 -
Approved Plans 1.pc



D141-2022 -
Approved Plans 2.pc

REFERRAL AGENCY CONDITIONS



D141-2022 -
Referral Agency Res