



Decision Notice Approval (negotiated)

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 s76 Planning Act 2016

Application number:	D/147-2023	Contact:	Sophie Muggeridge
Notice Date:	10 June 2024	Contact Number:	07 4936 8099

APPLICANT DETAILS

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

I acknowledge receipt of the above application on 30 October 2023 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for a Material Change of Use for Outdoor Sales

PROPERTY DESCRIPTION

Street address:	26-28 Derby Street, Rockhampton City
Real property description:	Lot 10 on RP904597

Dear C, J and A Thomasson,

I advise that, on **28 May 2024** the above development application was:

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

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

CHANGES TO CONDITIONS

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

1) Condition 2.1	changed	28 May 2024
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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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use	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	Road Works
Building Works	
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 (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>
Material Change of Use Warehouse building	Capricorn Survey Group CQ	20 March 2024	9130-01-MCU	B

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

The standard relevant periods stated in section 85 of *Planning Act 20016* apply to each aspect of development in this approval, if not stated in the conditions of approval attached.

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 Outdoor Sales	
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"> • Strategic Framework; • Principal Centre Zone Code; • Access, Parking and Transport Code; • Landscape Code; • Stormwater Management Code; • Waste Management Code; and • Water and Sewer Code. 	
Compliance with assessment benchmarks	
The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exceptions listed below.	
Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
Strategic Framework	<p>Settlement Pattern: 3.3.10 Element – Urban infill and intensification</p> <p>The proposed development presents conflicts with aspects of the Strategic Framework. Specifically, outcomes (1), (3) and (4) relating to the settlement pattern theme for urban infill and intensification identifying existing areas within the region’s urban footprint where increased residential densities are desirable to promote compact neighbourhoods.</p> <p>While the specific outcomes are predominately focused on residential uses, they do not exclude non-residential uses occurring within the urban infill and intensification designation, rather that residential uses prevail. The proposed development seeks to formalise the commercial use for Outdoor Sales that was previously established on the premises and does comply on balance with the remaining Strategic Framework Themes because:</p> <ul style="list-style-type: none"> • The development will not compromise the natural environment as the subject site is not affected by natural hazards, complying with <i>3.4 Natural</i>

	<p><i>environment and hazards theme;</i></p> <ul style="list-style-type: none"> • The development is for an Outdoor Sales use within the Principal Centre Zone which promotes a range of complementary land uses to support the immediate community, complying with <i>3.5 Community identity and diversity theme;</i> • The development is accessible and located off a Major and Minor Urban Collector Road, connected to the existing transport network and a bus stop 50 metres east of the subject site, complying with <i>3.6 Access and mobility theme;</i> • The development is connected to existing infrastructure and services, complying with <i>3.7 Infrastructure and services theme;</i> and • The development will formalise and expand an existing business which provides employment opportunities, complying with <i>3.8 Natural resources and economic development theme.</i> <p>Therefore, the proposed development is taken to comply on balance with the Strategic Framework.</p>
<p>Principal Centre Zone Purpose</p>	<p>The proposed development presents conflicts with aspects of the overall outcomes for the Denison Street Precinct which are additional to the overall outcomes of the Principal Centre Zone and take precedence in the event of a conflict.</p> <p>The Denison Street Precinct is where industrial uses (limited to service industry and low impact industry uses) and large format retail uses that support the Core Precinct are generally located.</p> <p>Despite this, the proposal to formalise a commercial bulky goods use (Outdoor Sales) within this precinct will not compromise the centre hierarchy because:</p> <ul style="list-style-type: none"> • The developments existing and proposed built form and design remains consistent with the existing or desired character outlined in the zone; • The development maintains a co-location of activities to promote choice for users and competition between businesses within the Principal Centre Zone and sub-precincts; • The development is consistent with aspects of the surrounding precinct, which is characterised by a combination of industrial, commercial and residential; and • Is an efficient use of existing infrastructure. <p>Despite conflicts with the Denison Street Precinct, the development is not anticipated to detract from the role and function of the Principal Centre Zone and regard to relevant matters is considered to outweigh these conflicts.</p>
<p>Principal Centre Zone Code</p>	<p>Performance Outcome (PO)15</p> <p>The proposed development conflicts with Acceptable Outcome (AO) 15.3 because car parking is not located onsite, where AO15.3 requires car parking to be located to the side or rear of buildings and not located along the street frontage.</p> <p>The development provides for three (3) informal car parking spaces on-site for staff and customers located to the rear of the site and the remaining shortfall of parking is provided in off-site parking bays along the street frontage for customers.</p> <p>Despite the non-compliance, the proposed development is designed to create a pedestrian oriented street frontage and avoids large expanses of walls because:</p> <ul style="list-style-type: none"> • A pedestrian network has been conditioned to be constructed for the full Derby Street frontage of the development site to connect to the existing network; • The built form of the existing structure (sales office) is oriented towards the Denison Street frontage and the proposed structure, oriented internal

	<p>to the site has been conditioned to include landscaping along the north-western side (Denison Street) to avoid large expanses of blank walls.</p> <p>Therefore, the proposed development is taken to comply with PO 15.</p> <p>Performance Outcome (PO) 34</p> <p>The proposed development conflicts with PO 34 as landscaping is not provided nor conditioned along the full frontage of the development site and no acceptable outcome is nominated.</p> <p>Given the nature of the use (Outdoor Sales for used cars) and in the context of the proposed development being existing with majority of the site already impervious, the non-compliance is considered a low-level conflict.</p> <p>Despite this, all existing landscaping will be retained, and additional landscaping has been conditioned along the north-western boundary for the full length of the proposed structure to maintain the amenity of the Principal Centre Zone.</p> <p>Performance Outcome (PO) 39</p> <p>The proposed development conflicts with PO 39 because the establishment of a commercial bulky goods use is not contemplated within the Denison Street Precinct.</p> <p>A response to the relevant provisions for the purpose of the Principal Centre Zone relating to this conflict is provided above.</p> <p>Despite conflicts with the Denison Street Precinct, the development is not anticipated to detract from the role and function of the Principal Centre Zone and regard to relevant matters is considered to outweigh these conflicts.</p>
<p>Access, Parking and Transport Code</p>	<p>Performance Outcome (PO) 5</p> <p>The proposed development conflicts with Acceptable Outcome (AO) 5.1 because no formalised vehicle parking spaces are proposed onsite, with all customer parking located off-site, where AO5.1.1 requires eight (8) onsite parking spaces.</p> <p>Despite the non compliance, it has been conditioned that three (3) vehicle parking spaces are provided on site for staff and customers to utilise. The shortfall of parking is considered reasonable due to the small scale nature of the development with sufficient off street parking provided along Derby Street to meet the demand generated by the development.</p> <p>Therefore, the proposed development is taken to comply with PO5.</p>
<p>Relevant Matters</p>	
<p>The proposed development was assessed against the following relevant matters:</p> <ul style="list-style-type: none"> - There is an established mixed land use pattern in proximity to the site with a combination of industrial, commercial and residential uses. - The use (Outdoor Sales for used cars) is small scale in comparison with other approved car sales yards also located within the Denison Street Precinct (i.e. DC Motors and Ian Weigh Toyota). - The proposal is to formalise an existing use on the subject site that has been operating since 2017. The subject site borders the Principal Centre Settlement Pattern of the Strategic Framework and is consistent with the specific outcomes of this element. Although established unlawfully, the use since has not impacted the Principal Centre or Precincts. - The Rockhampton Region Commercial Centres Study published in 2021 confirms that the Principal Centre is Rockhampton's central business district with the highest concentration of commercial, office, lifestyle, retail and entertainment and that current uses should be retained to avoid unnecessary vacancy rates. 	
<p>Matters raised in submissions</p>	
<p>The proposal was the subject of public notification between 11 December 2023 and 19 January 2024, in</p>	

accordance with the requirements of the Planning Act 2016 and the Development Assessment Rules, and no submissions were received.

Matters prescribed by regulation

- The Rockhampton Region Planning Scheme 2015 (version 4.4); and
- Central Queensland Regional Plan 2013;
- 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*. 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. ASSESSMENT MANAGER

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

Signature:



Date: 10 June 2024

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



Attachment 1 – Part 1 Rockhampton Regional Council Conditions

Planning Act 2016

1.0 ADMINISTRATION

- 1.1 The owner, the owner's successors in title, and any occupier of the premises is responsible for ensuring compliance with the conditions of this development approval.
- 1.2 Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions, works, or requirements of this development approval must be undertaken, completed, and be accompanied by a Compliance 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 or issue of the Certificate of Classification for the Building Works,
- 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;
 - 1.5.2 Plumbing and Drainage Works; and
 - 1.5.3 Building Works:
- 1.6 Development Permits for 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.
- 1.9 All development conditions contained in this development approval about infrastructure under Chapter 4 of the *Planning Act 2016* should be read as being non-trunk infrastructure conditioned under section 145 of the *Planning Act 2016*, unless otherwise stated.

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>
Material Change of Use Warehouse building	Capricorn Survey Group CQ	20 March 2024	9130-01-MCU	B

- 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 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 A concrete pedestrian pathway, with a minimum width of 1.5 metres, must be constructed for the full Derby Street frontage of the development site.
- 3.3 All pathways and access ramps must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*.
- 4.0 PARKING WORKS
- 4.1 A minimum of three (3) carparks are to be provided on-site for staff and customers.
- 4.2 All parking works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines* and *Australian Standard AS2890 "Parking facilities"*.
- 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* and Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.
- 5.2 The development must be connected to Council's reticulated sewerage and water networks.
- 5.3 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.
- 5.4 The finished sewerage access chamber surface must be at a sufficient level to avoid ponding of stormwater above the top of the chamber. A heavy-duty trafficable lid must be provided in the trafficable area.
- 5.5 Sewerage trade waste permits must be obtained for the discharge of any non-domestic waste into Council's reticulated sewerage network. Arrestor traps must be provided where commercial or non-domestic waste is proposed to be discharged into the sewer system.
- 5.6 The existing combined line must be re-aligned to achieve adequate setback from the proposed industrial shed. The section of redundant combined line infrastructure must be removed from the site.
- 6.0 ROOF AND ALLOTMENT DRAINAGE WORKS
- 6.1 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.
- 6.2 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.
- 7.0 SITE WORKS
- 7.1 All earthworks (if any) must be undertaken in accordance with Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments".
- 7.2 Site works (if any) 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.
- 8.0 BUILDING WORKS
- 8.1 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.
- 8.2 All building works for Class 2 to Class 9 buildings must be undertaken in accordance with *Queensland Development Code, Mandatory Part 1.4 "Building over or near relevant infrastructure."*

- 8.3 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"*.
- 8.4 Any building plant must be screened from view of the street by one or more of the following:
- 8.4.1 a solid screen fence, or
 - 8.4.2 a roof design feature; or
 - 8.4.3 a wall; or
 - 8.4.4 dense vegetation; or
 - 8.4.5 be located within, underneath or central to the building so as to not be visible from the street.
- 8.5 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:
- 8.5.1 designed and located so as not to cause a nuisance to neighbouring properties;
 - 8.5.2 surrounded by at least a 1.8 metre high screen fence that obstructs from view the contents of the waste storage area by any member of the public from any public place;
 - 8.5.3 of a sufficient size to accommodate bins plus clearances around the bins for manoeuvring and cleaning;
 - 8.5.4 setback a minimum of two (2) metres from any road frontage; and
 - 8.5.5 provided with a suitable hosecock and hoses at the refuse container area, and washdown must be drained to the sewer in accordance with the Sewerage Trade Waste provisions and the *Plumbing and Drainage Act 2018*.
- As an alternative to a washdown facility, a fully contained commercial bin cleaning service is acceptable provided no wastewater is discharged from the site to the sewer.

9.0 LANDSCAPING

- 9.1 Landscaping must be constructed and/or established prior to the commencement of the use in all areas shown on the approved plans (refer to condition 2.1), except as varied by these conditions.
- 9.2 Existing landscaping within the site must be retained.
- 9.3 Landscaping must be provided with a minimum planting area of one (1) metre in width along the north-western side (Denison Street) for the full length of the proposed shed and prior to the commencement of the use.
- 9.4 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:
- 9.4.1 trees at five (5) metre intervals;
 - 9.4.2 shrubs at two (2) metre intervals; and
 - 9.4.3 groundcovers at one (1) metre intervals.
- 9.5 At least fifty (50) per cent of all new plantings within the landscaping areas must be locally native species with low water dependency and must comply with the following requirements:
- 9.5.1 Plant species are chosen from sources recommended in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*; and
 - 9.5.2 Plant species must not include undesirable species identified in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*.
- 9.6 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.
- 9.7 The landscaped areas must be subject to:
- 9.7.1 a watering and maintenance plan during the establishment moment; and
 - 9.7.2 an ongoing maintenance and replanting programme.

10.0 ELECTRICITY

10.1 Electricity services must be provided to the development in accordance with the standards and requirements of the relevant service provider.

11.0 TELECOMMUNICATIONS

11.1 Telecommunications services must be provided to the development in accordance with the standards and requirements of the relevant service provider.

12.0 ASSET MANAGEMENT

12.1 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.

12.2 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.

13.0 ENVIRONMENTAL

13.1 The Erosion Control and Stormwater Control Management Plan prepared and certified by suitably qualified person (Certified Professional in Erosion and Sediment Control or a Registered Professional Engineer of Queensland) in accordance with the *State Planning Policy 2017* and *Capricorn Municipal Design Guidelines requirements*, must be:

13.1.1 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

13.1.2 available on-site for inspection by Council Officers whilst all works are being carried out.

14.0 ENVIRONMENTAL HEALTH

14.1 Noise emitted from the activity must not cause an environmental nuisance.

14.2 No contaminants are permitted to be released to land or water, including soil, silt, oils, detergents, etcetera. Any wash-down areas used for the maintenance or cleaning of equipment (including vehicles) must be appropriately bunded and drained to the sewer network in accordance with a trade waste permit.

15.0 OPERATING PROCEDURES

15.1 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 Denison Street, or Derby Street.

15.2 Operations on the development site must have no significant impact on the amenity of adjoining premises or the surrounding area due to the emission of light, noise or dust.

15.3 When Council receives dust complaints, Council will conduct nuisance monitoring, to investigate any genuine complaint of nuisance caused by dust. If the complaints are genuine, the entire car sales area including parking spaces and vehicle manoeuvring areas must be concrete paved or sealed to Council's satisfaction for prevention of dust generation.

15.4 All waste storage areas must be:

15.4.1 kept in a clean and tidy condition; and

15.4.2 maintained in accordance with *Environmental Protection Regulation 2019*.

ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

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

Disability Services and Aboriginal and Torres Strait Islander Partnerships website
www.dsdsatsip.qld.gov.au

NOTE 2. General Environmental Duty

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

NOTE 3. General Safety Of Public During Construction

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

NOTE 4. 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.

NOTE 5. Advertising Devices

A Development application for Operational Works (Advertising device) is required to be submitted for approval by Council for any existing or proposed signage; other than those that are exempt or accepted development under Council's Planning Scheme.



**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			
1. Development applications An appeal may be made against— (a) the refusal of all or part of the development application; or (b) the deemed refusal of the development application; or (c) a provision of the development approval; or (d) if a development permit was applied for—the decision to give a preliminary approval.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	1 A concurrence agency that is not a co-respondent 2 If a chosen Assessment manager is the respondent—the prescribed assessment

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

			<p>manager</p> <p>3 Any eligible advice agency for the application</p> <p>4 Any eligible submitter for the application</p>
<p>2. Change applications</p> <p>An appeal may be made against—</p> <p>(a) a responsible entity’s decision for a change application, other than a decision made by the P&E court; or</p> <p>(b) a deemed refusal of a change application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 The applicant</p> <p>2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice</p>	<p>The responsible entity</p>	<p>If an affected entity starts the appeal—the applicant</p>	<p>1 A concurrence agency for the development application</p> <p>2 If a chosen assessment manager is the respondent—the prescribed assessment manager</p> <p>3 A private certifier for the development application</p> <p>4 Any eligible advice agency for the change application</p> <p>5 Any eligible submitter for the change application</p>
<p>3. Extension applications</p> <p>An appeal may be made against—</p> <p>(a) the assessment manager’s decision about an extension application; or</p> <p>(b) a deemed refusal of an extension application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 1 The applicant</p> <p>2 For a matter other than a deemed refusal of an extension application – a concurrence agency, other than the chief executive, for the application</p>	<p>The assessment manager</p>	<p>If a concurrence agency starts the appeal – the applicant</p>	<p>If a chosen assessment manager is the respondent – the prescribed assessment manager</p>
<p>4. Infrastructure charges notices</p> <p>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 <ul style="list-style-type: none"> (i) The working out of extra demands, for section 120; or (ii) An offset or refund; or <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)

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

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

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

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

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

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