



Decision Notice Approval (amended)

Planning Act Form 5 (version 1.2 effective 7 February 2020) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s83 (change application) Planning Act 2016

Application number:	D/155-2022	Contact:	Kathy McDonald
Notice Date:	18 March 2025	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	SPG Developments (Manager) Pty Ltd		
Postal address:	C/- The Development Directive Pty Ltd 884 Logan Road HOLLAND PARK WEST QLD 4121		
Phone no:	N/A	Mobile no:	0422 162 300
Email:	davor@developmentdirective.com.au		

I acknowledge receipt of the above change application on 28 January 2025 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for a Material Change of Use for Showrooms (six (6) tenancies) and Operational Works for Advertising Devices (two freestanding signs and five wall signs)

PROPERTY DESCRIPTION

Street address:	337-341 Yaamba Road, Park Avenue
Real property description:	Lot 24 on SP191047

Dear SPG Developments (Manager) Pty Ltd,

I advise that, on 14 March 2025 the above change application was:

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

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

CHANGES TO CONDITIONS

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

1)	Condition 2.1	Changed	20 May 2024
2)	Condition 2.1	Changed	14 March 2025
3)	Condition 3.7	Changed	20 May 2024
4)	Condition 3.8	Changed	14 March 2025
5)	Condition 6.4	Deleted	20 May 2024
6)	Condition 7.7	Deleted	20 May 2024
7)	Condition 7.8	Deleted	20 May 2024

8)	Condition 7.9	Deleted	20 May 2024
9)	Condition 10.2	Changed	20 May 2024
10)	Condition 10.3	Changed	20 May 2024
11)	Condition 10.5	Changed	20 May 2024
12)	Condition 11.2	Changed	20 May 2024
13)	Condition 15.5	Changed	20 May 2024
14)	Condition 15.6	Deleted	20 May 2024
15)	Condition 15.8	Deleted	20 May 2024
16)	Condition 15.9	Deleted	20 May 2024
17)	Condition 15.10	Deleted	20 May 2024
18)	Condition 16.6	New	20 May 2024

1. DETAILS OF THE APPROVAL

The following approvals are given:

	Development Permit	Preliminary Approval
Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use - Operational work	<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>Sewerage Works</i> <i>Stormwater Works</i> <i>Site Works</i> <i>Roof and Allotment Drainage Works</i>
Building Works	
Plumbing and Drainage Works	

4. 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>	Concurrence	<p><u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City</p> <p><u>Online lodgement using MyDAS2:</u> https://prod2.dev-assess.qld.gov.au/suite/</p> <p><u>Email:</u> RockhamptonSARA@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>			
<p>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—</p> <p>(a) are within 25m of a State transport corridor; or</p> <p>(b) are a future State transport corridor; or</p> <p>(c) are—</p> <p>(i) adjacent to a road that intersects with a State-controlled road; and</p> <p>(ii) within 100m of the intersection</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>	Concurrence	<p><u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City</p> <p><u>Online lodgement using MyDAS2:</u> https://prod2.dev-assess.qld.gov.au/suite/</p> <p><u>Email:</u> RockhamptonSARA@ds.dilgp.qld.gov.au</p> <p><u>Postal:</u> PO Box 113 Rockhampton Qld 4700</p>

5. THE APPROVED PLANS

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

Material Change of Use:

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/ Issue</u>
Cover Sheet, Sheet List and Locality Plan	Leffler Simes Architects	22 January 2025	DA001	E
Existing Condition Plan	Leffler Simes Architects	22 January 2025	DA015	D
Site Plan	Leffler Simes Architects	22 January 2025	DA020	E
Overall Roof Plan	Leffler Simes Architects	22 January 2025	DA110	E
Anaconda Ground Floor Plan	Leffler Simes Architects	22 January 2025	DA100	D
Ground Floor Plan - Large Format Retail (LFR) 3-5	Leffler Simes Architects	22 January 2025	DA101	E
Ground Floor Plan - Large Format Retail (LFR)-1-2	Leffler Simes Architects	22 January 2025	DA102	C
Elevations - Anaconda	Leffler Simes Architects	22 January 2025	DA150	D
Elevations - LFR - Sheet 1	Leffler Simes Architects	22 January 2025	DA151	E
Elevations - LFR - Sheet 2	Leffler Simes Architects	22 January 2025	DA152	C
Sections - Sheet 1	Leffler Simes Architect	22 January 2025	DA160	E
Sections - Sheet 2	Leffler Simes Architect	22 January 2025	DA161	C
Shadow Diagrams - Sheet 1	Leffler Simes Architect	22 January 2025	DA200	E
Shadow Diagrams – Sheet 2	Leffler Simes Architect	22 January 2025	DA201	E
Streetscape Elevation	Leffler Simes Architect	22 January 2025	DA300	E
Landscape Concept Design Report	02LA	22 February 2024	634_SD_LR001	F
Traffic Impact Assessment Report	Traffic Transport Plus	9 February 2024	20240209_10653_TIA	1
Civil Engineering Report: Site Based Stormwater Management Plan	Northrop	5 February 2024	BN221936	C
Waste Management Plan	SALT	16 February 2024	23129W	F02
Noise Impact Assessment	SLR	February 2024	620.31183.00000-R01	V4.0

Operational Works:

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/ Issue</u>
Site Plan	Leffler Simes Architects	22 January 2025	DA020	E
Pylon Signage	Leffler Simes Architects	22 January 2025	DA400	D
Signage Detail	Leffler Simes Architects	22 January 2025	DA401	D

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/ Issue</u>
Artist Impressions – Sheet 1	Leffler Simes Architects	22 January 2025	DA500	E
Artist Impressions – Sheet 2	Leffler Simes Architects	22 January 2025	DA501	E

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

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

- (a) For any part of the development approval relating to a material change of use – if the change of use does not happen within six (6) years after the approval starts to have effect, if not stated otherwise in the conditions of approval attached; and
- (b) For any other part of the development approval – if the development does not substantially start within six (6) years after the approval starts to have effect, if not stated otherwise in the conditions of approval attached.

7. STATEMENT OF REASONS

Description of the development	
Development Permit for a Material Change of Use for Showrooms (six (6) tenancies) and Operational Works for Advertising Devices (two freestanding signs and five wall signs)	
Reasons for Decision	
<ol style="list-style-type: none"> 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 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. 	
Assessment Benchmarks	
<p>The development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> • Local Government Infrastructure Plan; • Specialised Centre Zone Code; • Airport Environs Overlay Code; • Access, Parking and Transport Code; • Landscape Code; • Stormwater Management Code; • Waste Management Code; • Water and Sewer Code; and • Advertising Devices 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

Specialised Centre Zone Code	<p>Performance Outcome (PO) 9</p> <p>The proposed development does not comply with Acceptable Outcome (AO) 9.1 as the proposal does not provide a minimum 1.5 metre wide landscape buffer along the full frontage of the site (state controlled road).</p> <p>The site fronts two (2) State-Controlled Roads, Moores Creek Road and Yaamba Road. A minimum one (1) metre wide landscape buffer will be provided along both street frontages, with additional landscaping proposed in the north eastern corner of the site fronting Yaamba Road. A large road reserve, approximately 13.5 metres exists along Moores Creek Road with a pedestrian path for the full length of the site. This, in combination with the one (1) metre landscaping and existing established street trees along Moores Creek Road is considered sufficient to enhance the streetscape along both State-Controlled road frontages and assist in softening the developments built form.</p> <p>Therefore, the development is considered to achieve the overarching performance outcome.</p> <p>Performance Outcome (PO) 11</p> <p>The development does not comply with Acceptable Outcome (AO) 11.2 and 11.3 as the proposal does not include a three (3) metre wide landscape buffer along the north boundary, nor do Showroom tenancies 1, 2, 3, 4 or 5 meet the required three (3) metre setback from the north boundary adjoining a residential zone.</p> <p>Despite this, a 2.1 to 2.8 metre high acoustic fence will be provided along the length of the northern and southwest boundaries where the built form is otherwise not providing an acoustic barrier.</p> <p>Landscaping at a width of three (3) metres is also proposed within the western end buffer of the boundary with screening vegetation proposed which is anticipated to mature at a height of three (3) to four (4) metres, providing a green canopy above the acoustic fencing.</p> <p>Where the five (5) medium showroom tenancies are proposed, a design 'step' in building height will result in a portion of the roofline to be constructed at a maximum height of 3.2 metres. The remainder of the building will have a maximum building height of 6.2 metres (to roof peak) and is proportionate with the heights of existing buildings located in the same zone. The 'step' in building design will provide a transition in height and assist in reducing the overshadowing and bulk and scale of the buildings when viewed from the adjoining residents.</p> <p>The preventative measures proposed will reduce the amenity and visual impacts and provide privacy to the adjoining residential zone. Therefore, the development is considered to achieve the performance outcome.</p>
Landscape Code	<p>Performance Outcome (PO) 1</p> <p>The development does not comply with Acceptable Outcome 1.1 as the landscaping proposed is not fully in accordance with the requirements of the Specialised Zone Code.</p> <p>A response to the relevant provisions of the zone code relating to landscaping is provided above.</p> <p>Performance Outcome (PO) 7</p> <p>The development does not comply with Acceptable Outcome 7.1 as no street trees are proposed or conditioned by Council.</p> <p>The site fronts two (2) State-Controlled Roads, Moores Creek Road and Yaamba Road in which local Council has no authority to condition street trees located within the Department of Transport and Main Roads road reserve.</p> <p>An Advisory Note stating the following has been included in this approval:</p> <p><i>It is Council's preference that the existing street trees located within the Department of Transport and Main Roads road reserve along Moores Creek Road, that are not affected by the proposed left turn slip lane are retained, and where possible a re-planting plan is established to replace those that were</i></p>

	<p><i>removed during the constructure phase.</i></p> <p>Performance Outcome (PO) 10</p> <p>The development does not comply with Acceptable Outcome 10.2 as the proposal does not include a three (3) metre landscape buffer along the acoustic fencing (north boundary only).</p> <p>Further to the response outlined in Acceptable Outcome 11.2 of the Specialised Zone Code, the 2.8 metre high acoustic barrier proposed on the northern boundary is designed to soften the visual impacts of the built-to-boundary siting of the five (5) medium showroom tenancies and provide privacy and acoustic relief from the development's operations.</p> <p>The siting of the buildings makes it impractical for a three (3) metre wide vegetated buffer to be provided along the fence line. However, the landscaping proposed (as outlined above under AO11.2) at a width of three (3) metres will provide a green canopy above the acoustic fencing along the western boundary minimising the bulk and scale of the structure and reduce the amenity and visual impacts to the adjoining residential zone.</p> <p>Therefore, the development is considered to achieve the performance outcome.</p>
Advertising Devices Code	<p>Performance Outcome (PO) 1</p> <p>The development does not comply with Acceptable Outcome 1.2 as it does not wholly meet the sign specific outcomes for a Freestanding sign.</p> <p>The location of the Freestanding Pylon signs do not achieve the prescribed separation distances or property boundary setback for a Freestanding sign located in a Centre Zone.</p> <p>Despite this, the freestanding signs will be approximately 160 metres apart with a sign face area of 15.9 square metres each and are not anticipated to impede on vehicle or pedestrian movements as they do not resemble road or traffic signs and will only display or advertise a matter associated with the primary use of the premises and tenancies on site.</p> <p>Furthermore, no visual impacts or visual clutter are expected. Although located along a major road corridor, the closest freestanding sign located in the same northbound direction of travel is 320 metres to the south.</p> <p>Therefore, the signage is considered to comply with the purpose of the Advertising Devices Code.</p>
	<p>Performance Outcome (PO) 1 (continued)</p> <p>The development does not comply with Acceptable Outcome 1.2 as it does not wholly meet the sign specific outcomes for a Wall Sign.</p> <p>Three (3) of the five (5) Wall signs exceed the maximum size of 20 square metres. Anaconda sign 1 – 53.3 square metres, Anaconda sign 2 – 25.7 square metres and Anaconda sign 3 – 58.2 square metres. Despite this, each of the three (3) Wall signs are for identifying purposes only and are not anticipated to result in the proliferation of unnecessary advertising.</p> <p>Each Wall Sign will be integrated with the design of the new built form and will be painted. Therefore, will not project more than 0.2 metres from the wall or project above the eaves of the walls nor beyond the property boundary.</p> <p>Therefore, the signage is considered to achieve the overarching performance outcome.</p>
Relevant Matters	
Not applicable to an assessable development application subject to code assessment.	
Matters prescribed by regulation	
<ul style="list-style-type: none"> The Rockhampton Region Planning Scheme 2015 (version 4.4); and 	

- The common material, being the material submitted with the application.

8. RIGHTS OF APPEAL

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

Appeal by an applicant

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

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

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

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

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

9. 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.

10. ORIGINAL DECISION ASSESSMENT MANAGER

Name: Amanda O'Mara COORDINATOR DEVELOPMENT ASSESSMENT	Date: 27 May 2024
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11. ASSESSMENT MANAGER

Name: Amanda O'Mara COORDINATOR DEVELOPMENT ASSESSMENT	Signature: 	Date: 18 March 2025
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C/C State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department) - RockhamptonSARA@dSDLGP.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

MATERIAL CHANGE OF USE

1.0 ADMINISTRATION

1.2 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.

1.3 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.

1.4 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:

1.4.1 to Council's satisfaction;

1.4.2 at no cost to Council; and

1.4.3 prior to the commencement of the use,

unless otherwise stated.

1.5 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.

1.6 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:

1.6.1 Operational Works:

(i) Access and Parking Works;

(ii) Sewerage Works;

(iii) Stormwater Works;

(iv) Roof and Allotment Drainage;

(v) Site Works;

1.6.2 Plumbing and Drainage Works; and

1.6.3 Building Works:

1.7 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.

1.8 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.

1.9 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.

1.10 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

2.2 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>
Cover Sheet, Sheet List and Locality Plan	Leffler Simes Architects	22 January 2025	DA001	E
Existing Condition Plan	Leffler Simes Architects	22 January 2025	DA015	D
Site Plan	Leffler Simes Architects	22 January 2025	DA020	E
Overall Roof Plan	Leffler Simes Architects	22 January 2025	DA110	E
Anaconda Ground Floor Plan	Leffler Simes Architects	22 January 2025	DA100	D
Ground Floor Plan - Large Format Retail (LFR) 3-5	Leffler Simes Architects	22 January 2025	DA101	E
Ground Floor Plan - Large Format Retail (LFR)-1-2	Leffler Simes Architects	22 January 2025	DA102	C
Elevations - Anaconda	Leffler Simes Architects	22 January 2025	DA150	D
Elevations - LFR - Sheet 1	Leffler Simes Architects	22 January 2025	DA151	E
Elevations - LFR - Sheet 2	Leffler Simes Architects	22 January 2025	DA152	C
Sections - Sheet 1	Leffler Simes Architect	22 January 2025	DA160	E
Sections - Sheet 2	Leffler Simes Architect	22 January 2025	DA161	C
Shadow Diagrams - Sheet 1	Leffler Simes Architect	22 January 2025	DA200	E
Shadow Diagrams – Sheet 2	Leffler Simes Architect	22 January 2025	DA201	E
Streetscape Elevation	Leffler Simes Architect	22 January 2025	DA300	E
Landscape Concept Design Report	02LA	22 February 2024	634_SD_LR001	F
Traffic Impact Assessment Report	Traffic Transport Plus	9 February 2024	20240209_10653_TIA	1
Civil Engineering Report: Site Based Stormwater Management Plan	Northrop	5 February 2024	BN221936	C
Waste Management Plan	SALT	16 February 2024	23129W	F02
Noise Impact Assessment	SLR	February 2024	620.31183.00000-R01	V4.0

- 2.3 Where there is any conflict between the conditions of this development approval and the details shown on the approved plans and documents, the conditions of this development approval must prevail.
- 2.4 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for approval by Council prior to the submission of an application for a Development Permit for Operational Works.
- 3.0 ACCESS AND PARKING WORKS
- 3.2 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.
- 3.3 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).
- 3.4 All access, car parking and vehicle manoeuvring areas must be sealed to Council's satisfaction. Design and construction must be in accordance with the provisions of a Development Permit for Operational Works (access and parking works).
- 3.5 A new access to the development must be provided from Moores Creek Road (Bruce Highway) close to the western property boundary in accordance with the approved plans (refer to condition 2.1).
- 3.6 All vehicles must ingress and egress the development in a forward gear.
- 3.7 No through vehicular access between the existing spotlight development carpark and the new carpark for the proposed development is permitted.
- 3.8 A minimum of 236 parking spaces including six (6) PWD car parking spaces must be provided on-site. Twenty (20) bicycle parking spaces must also be provided on-site in accordance with the recommendations of the Traffic Impact Assessment Report and approved plans (refer to condition 2.1).
- 3.9 Adequate sight distances must be provided for all ingress and egress movements at the access driveways in accordance with *Australian Standard AS2890.2 "Parking facilities - Off street commercial vehicle facilities"*.
- 3.10 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"*.
- 3.11 Parking spaces must be line-marked in accordance with the approved Site Plan (refer to condition 2.1) and in accordance with the *Australian Standard AS2890 "Parking facilities"* and the provisions of a Development Permit for Operational Works (access and parking works).
- 3.12 Any application for a Development Permit for Operational Works (access and parking works) must be accompanied by detailed and scaled plans, which demonstrate the turning movements/swept paths of the largest vehicle to access the development site including refuse collection vehicles.
- 3.13 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"*.
- 3.14 Road signage and pavement markings must be installed in accordance with *Australian Standard AS1742.1 "Manual of uniform traffic control devices"*.
- 3.15 All vehicle operation areas must be illuminated in accordance with the requirements of *Australian Standard AS1158 "Lighting for roads and public spaces"*.
- 3.16 All internal pedestrian pathways must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*.
- 3.17 Bicycle parking facilities must be provided in accordance with *AUSTROADS Guide to Traffic Engineering Practice, Part 14 – Bicycles*. The bicycle parking facilities must be located at basement or ground floor level and encourage casual surveillance.
- 4.0 SEWERAGE WORKS
- 4.2 A Development Permit for Operational Works (sewerage works) must be obtained prior to the commencement of any sewerage works on the development site.

- 4.3 All sewerage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act 2008, Plumbing and Drainage Act 2018* and the provisions of a Development Permit for Operational Works (sewerage works).
- 4.4 The development must be connected to Council's reticulated sewerage network.
- 4.5 A 150-millimetre diameter gravity sewerage main must be constructed from the existing sewerage access chamber located within the Moores Creek Road reserve in accordance with the approved plans (refer to condition 2.1) to service the development. This non-trunk infrastructure is conditioned under section 145 of the *Planning Act 2016*.
- 4.6 The finished sewerage access chamber surfaces must be raised or lowered to 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.
- 4.7 Sewer connections located within trafficable areas must be raised or lowered to suit the finished surface levels and must be provided with heavy duty trafficable lids.

5.0 WATER WORKS

- 5.2 All water works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act 2008* and *Plumbing and Drainage Act 2018*.
- 5.3 The development must be connected to Council's reticulated water network.
- 5.4 The development must be connected to Council's reticulated water network via a single water service connection from the existing 150 millimetre diameter water main located within western verge of the Yaamba Road (Bruce Highway) reserve. A hydraulic engineer or other suitably qualified person must determine the size of connection required. This live water works must be completed under private works quote by Fitzroy River Water (FRW).

Note: No water supply service connection is approved from the existing 450 millimetre diameter trunk water main located southern side of the Moores Creek Road.

- 5.5 The development must be provided with a master meter at the development site boundary and sub-meters for each sole occupancy building in accordance with the *Queensland Plumbing and Drainage Code* and Council's Sub-metering Policy.
- 5.6 Adequate domestic and firefighting protection must be provided to the whole development with combination of internal private water mains, pillar hydrants, water tanks and booster pumps etc. The firefighting requirements for the proposed development must be designed by a suitably qualified (RPEQ) Hydraulic Engineer.
- 5.7 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.

6.0 PLUMBING AND DRAINAGE WORKS

- 6.2 A Development Permit for Plumbing and Drainage Works must be obtained prior to commencement of any Plumbing and Drainage works for the proposed development.
- 6.3 All internal plumbing and sanitary 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.
- 6.4 Proposed development may be serviced by two sewerage service connections points (jump-ups) and any new service connection point (jump-up) to an existing sewerage main must be provided under private works quote by FRW.

6.5 DELETED

7.0 STORMWATER WORKS

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

Note: Site Based Stormwater Management Plan must be updated to reflect new impervious area of the development.

- 7.3 All stormwater drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1) subject to ensuring compliance and any alterations required by the *Environmental Protection Act 1992, Queensland Urban Drainage Manual, Capricorn Municipal*

Development Guidelines, and sound engineering practice and the provisions of a Development Permit for Operational Works (stormwater works).

- 7.4 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.
- 7.5 The widths of the existing stormwater easements A & B (Easement A & B on SP191047) must be maintained with suitable profiles over easements to discharge stormwater from the adjacent northern property.
- 7.6 The development must not increase peak stormwater runoff for a selected range of storm events up to and including a one per cent (1%) Annual exceedance probability storm event, for the post-development conditions.
- 7.7 All proprietary stormwater quality treatment devices must be routinely checked, serviced and cleaned in accordance with the manufacturer's recommendations. Records of all maintenance activities undertaken must be kept and made available to Council upon request. Where replacement cartridges or other necessary components for the system become unavailable, an alternative system approved by Council, is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. All maintenance cost must be borne by the site owner/operator.
- 7.8 DELETED
- 7.9 DELETED
- 7.10 DELETED
- 7.11 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.
- 8.0 ROOF AND ALLOTMENT DRAINAGE WORKS
- 8.2 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.
- 8.3 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).
- 8.4 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.
- 9.0 SITE WORKS
- 9.2 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works on the development site.
- 9.3 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks plan that clearly identifies the following:
 - 9.3.1 the location of cut and/or fill;
 - 9.3.2 the type of fill to be used and the manner in which it is to be compacted;
 - 9.3.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;
 - 9.3.4 details of any proposed access routes that are intended to be used to transport fill to or from the development site; and
 - 9.3.5 the maintenance of access roads to and from the development site so that they are free of all cut and/or fill material and cleaned as necessary.
- 9.4 Any proposed filling within the existing stormwater easement B (Easement B on SP191047) must not restrict, impair or change the natural flow of runoff water within the stormwater easement, or cause a nuisance or worsening to adjoining properties or infrastructure.
- 9.5 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"*.

- 9.6 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to surrounding land or infrastructure.
- 9.7 Retaining structures above one (1) metre in height that are not incidental works to a Development Permit for Building Works, must not be constructed unless separately and specifically certified by a Registered Professional Engineer of Queensland and must be approved as part of a Development Permit for Operational Works (site works).
- 9.8 All site works must be undertaken to ensure that there is:
- 9.8.1 A lawful point of discharge to which the approved works drain during construction phase. Easements will be required over any other land to accommodate the flows.
- 10.0 **BUILDING WORKS**
- 10.2 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.
- 10.3 A 2.1 to 2.8 metre high solid acoustic fence must be provided for the full extent of the west common boundary with Lots 11 to 13 on RP608913 and north common boundary with lot 25 on SP191047 (where the built form is otherwise not providing an acoustic barrier).
- 10.3.1 The acoustic fence must be provided with 'flood flaps' at the stormwater discharge locations from the northern adjacent property Lot 25 on SP191047.
- Note:** Proposed 'Flood-flaps' must not restrict, impair or change the natural flow of runoff water from adjoining properties or cause a nuisance or worsening to adjoining properties or infrastructure.
- 10.4 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."*
- 10.5 Impervious paved waste storage areas must be provided in accordance with the approved plans (refer to condition 2.1) and the *Environmental Protection Regulation 2019* and must be:
- 10.5.1 designed and located so as not to cause a nuisance to neighbouring properties;
- 10.5.2 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;
- 10.5.3 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;
- 10.5.4 provided with a suitable hosecock and hoses at the refuse container area, and washdown must be drained to the sewer and fitted with an approved stormwater diversion valve arrangement in accordance with the Sewerage Trade Waste provisions and the *Plumbing and Drainage Act 2018*.
- As an alternative to a washdown facility, a fully contained commercial bin cleaning service is acceptable provided no wastewater is discharged from the site to the sewer.
- 10.6 Any building plant must be screened from view of the street by one or more of the following:
- 10.6.1 a solid screen fence, or
- 10.6.2 a roof design feature; or
- 10.6.3 a wall; or
- 10.6.4 dense vegetation; or
- 10.6.5 be located within, underneath or central to the building so as to not be visible from the street.
- 11.0 **LANDSCAPING WORKS**
- 11.2 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.
- 11.3 39 Shade trees must be provided within the on-site car parking areas at a ratio of one (1) tree per six (6) car parks or part thereof, and in accordance with the approved plans (refer to condition 2.1).
- 11.4 Shade trees must:
- 11.4.1 Be planted within a deep natural ground/structured soil garden bed/island/bay and protected by wheel stops or bollards as required;

- 11.4.2 Be provided with a minimum planting area of 1.2 square metres with a minimum topsoil depth of 0.8 metres; and
- 11.4.3 Have a clean trunk with a minimum height of two (2) metres.
- 11.5 Columnar tree planting for the full extent of the common boundary with Lots 11 to 13 on RP608913 must be provided. Plant species used must have achieved a minimum height of four (4) metres within two (2) years of planting and be located outside the drainage easement.
- 11.6 Planting types used within the landscaping areas (refer to condition 2.1) 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:
 - 11.6.1 trees at five (5) metre intervals;
 - 11.6.2 shrubs at two (2) metre intervals; and
 - 11.6.3 groundcovers at one (1) metre intervals.
- 11.7 Landscaping must be designed in accordance with the requirements of *Australian Standard AS 1428 — Design for access and mobility*.
- 11.8 Root control barriers must be installed where invasive roots may cause damage to car parking areas, pedestrian paths and road carriageways.
- 11.9 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.
- 11.10 Landscaping, or any part thereof, upon reaching full maturity, must not:
 - 11.10.1 obstruct sight visibility zones as defined in the Austroads 'Guide to Traffic Engineering Practice' series of publications;
 - 11.10.2 adversely affect any road lighting or public space lighting; or
 - 11.10.3 adversely affect any Council infrastructure, or public utility plant.
- 11.11 The landscaped areas must be subject to:
 - 11.11.1 a watering and maintenance plan during the establishment moment; and
 - 11.11.2 an ongoing maintenance and replanting programme.
- 11.12 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:
 - 11.12.1 Plant species are chosen from sources recommended in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*; and
 - 11.12.2 Plant species must not include undesirable species identified in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*.
- 12.0 ELECTRICITY
- 12.2 Electricity services must be provided to the development in accordance with the standards and requirements of the relevant service provider.
- 13.0 TELECOMMUNICATIONS
- 13.2 Telecommunications services must be provided to the development in accordance with the standards and requirements of the relevant service provider. Unless otherwise stipulated by telecommunications legislation at the time of installation, this includes all necessary pits and pipes, and conduits that provide a connection to the telecommunications network.
- 14.0 ASSET MANAGEMENT
- 14.2 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.
- 14.3 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.

- 14.4 '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)*.
- 15.0 ENVIRONMENTAL HEALTH
- 15.2 The recommendations contained in section 8 of the approved Noise Impact Assessment must be implemented at all times, unless varied by conditions.
- 15.3 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"*.
- 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 The loading and/or unloading of delivery and waste collection vehicles is limited between the hours of 0700 and 2200 Monday to Saturday and between the hours of 0800 and 1500 on Sundays. No heavy vehicles must enter the site outside these times to wait for unloading/loading.
- 15.7 DELETED
- 15.8 Plant and equipment must be maintained in proper working order at all times, in accordance with the manufacturer's directions to ensure the efficiency of the equipment.
- 15.9 DELETED
- 15.10 DELETED
- 15.11 DELETED
- 16.0 OPERATING PROCEDURES
- 16.2 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 Moores Creek Road and Yaamba Road.
- 16.3 No B-Double vehicles are permitted to enter onto the development site.
- 16.4 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.
- 16.5 All waste storage areas must be:
- 16.5.1 kept in a clean and tidy condition; and
- 16.5.2 maintained in accordance with *Environmental Protection Regulation 2019*.
- 16.6 The hours of operations for the development site must be limited to:
- 16.7 0700 hours to 2200

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. Streetscape / Road Reserve

It is Council's preference that the existing street trees located within the Department of Transport and Main Roads road reserve along Moores Creek Road, that are not affected by the proposed left turn slip lane are retained, and where possible a re-planting plan is established to replace those that were removed during the construction phase.

NOTE 5. Infrastructure Charges Notice

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

OPERATIONAL WORKS

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 of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions of this approval must be undertaken and completed to the satisfaction of Council, at no cost to Council.
- 1.4 The following further development permits are required prior to the commencement of any works on the site:
 - 1.4.1 Building Works.
- 1.5 Unless otherwise stated, all works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards.

2.0 APPROVED PLANS AND DOCUMENTS

- 2.1 The approved advertising device must be completed and maintained generally in accordance with the approved drawings and documents, except where amended by the conditions of this permit.

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/ Issue</u>
Site Plan	Leffler Simes Architects	22 January 2025	DA020	E
Pylon Signage	Leffler Simes Architects	22 January 2025	DA400	D
Signage Detail	Leffler Simes Architects	22 January 2025	DA401	D
Artist Impressions – Sheet 1	Leffler Simes Architects	22 January 2025	DA500	E
Artist Impressions – Sheet 2	Leffler Simes Architects	22 January 2025	DA501	E

- 2.2 A set of the above approved plans are returned to you as the Consultant. The Consultant is to supply one (1) Approved set to the contractor to be retained on site at all times during construction.

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

3.0 OPERATING PROCEDURE

3.1 All advertising devices must only display or advertise a matter associated with the primary purpose for which the premises are used, or the purpose stated in this approval.

3.2 All text and images displayed on the approved advertising device:

3.2.1 must be static;

3.2.2 must not imitate a traffic control device, move contrary to any traffic control device or include traffic instructions (for example 'stop'); and

3.2.3 must not involve moving parts or flashing lights.

3.3 Any lighting devices associated with the advertising device, such as sensory lighting, must be positioned on the site and shielded so as not to cause glare or other nuisance to nearby residents or motorists. Night lighting must be designed, constructed and operated in accordance with '*Australian Standard AS4282 – Control of the obtrusive effects of outdoor lighting*' and '*Civil Aviation Safety Authority (CASA) Guidelines: Lighting in the vicinity of aerodromes: Advice to lighting designers*'.

4.0 BUILDING WORKS

4.1 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.

5.0 ASSET MANAGEMENT

5.1 Any damage to, or alterations necessary, to electricity, telephone, water mains, sewerage mains, stormwater drains, and/or public utility installations resulting from the development or in connection with the development, must be undertaken immediately, at no cost to Council, and completed within the following timeframes:

5.1.1 where damage causes a hazard to pedestrian/traffic safety or interrupts a community service, immediately; or

5.1.2 as soon as reasonably possible as agreed with Council.

6.0 LUMINANCE

6.1 Luminance levels of the advertising device must not exceed the applicable levels listed in Table 2 below.

Table 2: Luminance levels for Advertising Devices

Lighting Condition	Zone 1	Zone 2	Zone 3
Full Sun on Sign face	Maximum Output	Maximum Output	Maximum Output
Day Time Luminance	6000-7000 cd/m ²	6000-7000 cd/m ²	6000-7000 cd/m ²
Morning/Evening/Twilight/inclement weather	1000 cd/m ²	700 cd/m ²	600 cd/m ²
Night Time	500 cd/m ²	350 cd/m ²	300 cd/m ²

Note:

Zone 1 very high ambient off street lighting i.e. central city locations

Zone 2 high to medium off street ambient lighting

Zone 3 low levels of off street ambient lighting, i.e. most residential areas, rural areas.

7.0 ADVERTISING DEVICE CONSTRUCTION AND MAINTENANCE

7.1 Council reserves the right for uninterrupted access to the site at all times during construction.

7.2 All Construction work and other associated activities are permitted only between 0630 hours and 1800 hours Monday to Saturday. No work is permitted on Sundays or public holidays. All

requirements of the *Environmental Protection Act 1994* and the *Environmental Protection Regulation 2019* must be observed at all times, unless otherwise approved by Council in writing.

- 7.3 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site.
- 7.4 Any proposed works within the vicinity (or zone of influence) of existing Council infrastructure will not adversely affect the integrity of the infrastructure. Any restoration works required on existing Council infrastructure as a result of proposed works will be at the developer's expense.
- 7.5 The freestanding signs must be designed and certified by a Registered Professional Engineer of Queensland and constructed in accordance with the requirements of the Queensland Development Code and the Building Code of Australia.
- 7.6 All conduits, wiring, switches or other control apparatus installed on an Advertising Device must be concealed from general view, with control apparatus secured in a manner to prevent unauthorised entry and display setting tampering.
- 7.7 All electrical services and systems must comply with *Australian and New Zealand Standard AS/NZS 3000:2007* – "Electrical Installations".
- 7.8 All advertising devices must be maintained at all times on the premises by the owner of the premises to the same standard as it was when it was installed, and be maintained in a safe, clean, condition that does not adversely impact the visual amenity.

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.

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

Appeal rights

229 Appeals to tribunal or P&E Court

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

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
- is in the approved form; and
 - succinctly states the grounds of the appeal.
- (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—

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

231 Other appeals

- (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—
- conduct engaged in for the purpose of making a decision; and
 - other conduct that relates to the making of a decision; and
 - the making of a decision or the failure to make a decision; and
 - a purported decision; and
 - a deemed refusal.

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

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

232 Rules of the P&E Court

- (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

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

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

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

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

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

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

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

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