



# Decision Notice Approval

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

Application number:	D/178-2023	Contact:	Lana Groves
Notice Date:	29 May 2024	Contact Number:	07 4936 8099

## APPLICANT DETAILS

Name:	Bill Barber Design and Drafting		
Postal address:	PO BOX 706 AITKENVALE QLD 4814		
Phone no:	Mobile no: 0418 759 019	Email: bill.barber@bigpond.com	

I acknowledge receipt of the above application on 12 December 2023 and confirm the following:

## DEVELOPMENT APPROVAL

Development Permit for a Material Change of Use for a Warehouse

## PROPERTY DESCRIPTION

Street address:	14 Barton Court, Parkhurst
Real property description:	Lot 9 on SP326319

Dear Bill Barber Design and Drafting

I advise that, on 22 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.

## 1. DETAILS OF THE APPROVAL

The following approvals are given:

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use	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

## 2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

## 3. FURTHER DEVELOPMENT PERMITS REQUIRED

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

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

#### 4. REFERRAL AGENCIES

The following Referral Agencies were activated by this application.

<b>STATE TRANSPORT INFRASTRUCTURE (State Transport Corridors and Future State Transport Corridors)</b>			
<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> <a href="https://prod2.dev-assess.qld.gov.au/suite/">https://prod2.dev-assess.qld.gov.au/suite/</a> <u>Email:</u> RockhamptonSARA@ds.dilgp.qld.gov.au <u>Postal:</u> PO Box 113 Rockhampton Qld 4700

#### 5. 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>
Site Plan	Bill Barber Design & Drafting	22 January 2024	BL4821SKG/01D	D
Site Plan	Bill Barber Design & Drafting	20 November 2023	BL4821SKG/02B	B
Existing Services Plan Surfaces Plan	Bill Barber Design & Drafting	22 January 2024	BL4821SKG/03D	D
Shed Floor Plan	Bill Barber Design	18 January 2023	BL4821SKG/04C	C

	& Drafting			
Office Floor Plan	Bill Barber Design & Drafting	18 January 2024	BL4821SKG/05C	C
Northern and Southern Elevations	Bill Barber Design & Drafting	18 January 2024	BL4821SKG/06C	C
Western and Eastern Elevations	Bill Barber Design & Drafting	18 January 2024	BL4821SKG/07C	C
Stormwater Management Layout Plan - Existing	Steve Mckenzie Consultant Engineer Pty Ltd	6 March 2024	C06.1	C
Stormwater Management Layout Plan – Developed	Steve Mckenzie Consultant Engineer Pty Ltd	8 April 2024	C06.2	D
Stormwater Management Layout And Details Plan	Steve Mckenzie Consultant Engineer Pty Ltd	8 April 2024	C06.3	D
Landscape Works Legend, Specification Notes and Details	Madden Landscape Architects Pty Ltd	29 February 2024	LA-WD-02-A	A
Landscape Works, Planting Plans, Schedules and Specification	Madden Landscape Architects Pty Ltd	29 February 2024	LA-WD-03-A	A
Landscape Works, Site Plan and Surface Finishes Plan	Madden Landscape Architects Pty Ltd	29 February 2024	LA-WD-01-A	A

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

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

## 7. STATEMENT OF REASONS

<b>Description of the development</b>
Material Change of Use for a Warehouse
<b>Reasons for Decision</b>
<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>
<b>Assessment Benchmarks</b>
The development was assessed against the following assessment benchmarks:

<ul style="list-style-type: none"> <li>• Local Government Infrastructure Plan;</li> <li>• High Impact Industry Zone Code;</li> <li>• Access, Parking and Transport Code;</li> <li>• Landscape Code;</li> <li>• Stormwater Management Code;</li> <li>• Waste Management Code;</li> <li>• Water and Sewer Code; and</li> <li>• Steep Land Overlay Code.</li> </ul>	
<p><b>Compliance with assessment benchmarks</b></p>	
<p>The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exceptions listed below.</p>	
Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
High Impact Industry Zone	<p><b>Performance Outcome (PO) 11</b></p> <p>The proposed development does not wholly comply with PO 11 (b), and no Acceptable Outcome is nominated. PO 11 stipulates a provision of a separate pedestrian entry to the site and main building from a vehicle entry point be provided. The proposed development does not have a sperate pedestrian entry to the site.</p> <p>Despite this, the development is for a warehouse involving large freight vehicles i.e. semi-trailers and B-Doubles entering, exiting, and manoeuvring around the site. It is not considered necessary in this instance, based on the needs of the development, that a separate pedestrian entry be provided, and would likely increase the risk and safety to pedestrian.</p> <p>On this basis, the non-compliance is considered to be a low-level conflict with the assessment benchmark and the development meets the overall purpose of the High Impact Industry Zone and Parkhurst Precinct.</p>
Access, Parking and Transport Code	<p><b>Performance Outcome (PO) 1</b></p> <p>The proposed development does not comply with Acceptable Outcome (AO) 1.1 (c) which stipulates that access driveways are not located within one (1) metre of a storm water gully or pit. The developments entry driveways are located within one (1) metre of a stormwater pit on Barton Court.</p> <p>Despite the non-compliance, both access driveways to the proposed development have been conditioned to comply with <i>Capricorn Municipal Development Guidelines</i>, ensuring the design and operation will not conflict with Councils stormwater infrastructure.</p> <p>Therefore, the proposed development is taken to comply with PO 1.</p>
Landscape Code	<p><b>Performance Outcome (PO) 2</b></p> <p>The proposed development does not satisfy the requirements of PO 2 and no acceptable outcome is nominated. PO 2 stipulates that shade trees are to be provided it the landscaped areas. The development does not propose shade trees in all the landscaping areas.</p> <p>Based on the business operations of the proposed development, it is considered that shade trees will interfere with site lines of transport/freight vehicles when entering, existing and manoeuvring within the site. Further to this, in lieu of shade trees, adequate areas for landscaping will be provided which include:</p> <ul style="list-style-type: none"> <li>• Two (2) street trees in the in Barton Court Road reserve and a three three</li> </ul>

	<p>(3) by four (4) metre wide landscaped area fronting Barton Court Road will assist in enhancing the Barton Court Road streetscape.</p> <ul style="list-style-type: none"> <li>• A landscape area of approximately 16.625 square metres adjacent to the main entrance/office building will integrate with the built form.</li> <li>• Four (4) shade trees will provided in the carparking area on the north-west property boundary.</li> </ul> <p>On this basis, the proposed development is taken to comply with the overall purpose of the Landscape code.</p>
	<p><b>Performance Outcome (PO) 11</b></p> <p>The proposed development does not comply with Acceptable Outcome (AO) 11.1 as shade trees have not been provided in the car parking area adjacent the eastern property boundary.</p> <p>Despite the non-compliance, the carparking area will be provided with a fixed covered awning/roof 152.28 square metres in area, providing shade and protection to vehicles. Furthermore, four (4) shade trees in the car parking area adjoining the western property boundary, two (2) street trees within the road reserve, and 394 square metres of landscaping within the site are proposed.</p> <p>Therefore, on balance, the development is considered to comply with PO 11 as the proposed landscaping is sufficient to provide shade, reduce hard surfaces and aids in glare reduction.</p>
<b>Steep Land Overlay Code</b>	<p><b>Performance Outcome (PO) 1 and 4</b></p> <p>The proposed development does not comply with Performance Outcome (PO) 1 and 4 as the building will be located on steep land twenty-five percent (25%) and over, and no site-specific geotechnical report has been provided by the applicant.</p> <p>Despite the non-compliance, the site plan provided by the applicant (drawing BL4821SKG/02B) demonstrates contours of 23.25 AHD in the southwest to 24.50 AHD to the northeast of the site, sloping from the northeast corner downhill to the south-west corner, representing an overall gradient of less than one (1) percent over the site.</p> <p>On this basis, the non-compliance is considered a low-level conflict with the assessment benchmarks and contrary to the Steep Land Overlay, the development is not located within steep land twenty-five percent (25%) and over.</p>
<b>Relevant Matters</b>	
Not applicable to an assessable development application subject to code assessment.	
<b>Matters prescribed by regulation</b>	
<ul style="list-style-type: none"> <li>• The Rockhampton Region Planning Scheme 2015 (version 4.4);</li> <li>• The common material, being the material submitted with the application.</li> </ul>	

## 8. APPEAL RIGHTS

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

### Appeal by an applicant

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

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

- a deemed refusal of the development application.

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

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

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

## 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. ASSESSMENT MANAGER

Name: <b>Amanda O'Mara</b> <b>COORDINATOR</b> <b>DEVELOPMENT ASSESSMENT</b>	Signature: 	Date: 29 May 2024
---	---	-------------------

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

### Attachment 1 – Conditions of the approval

**Part 1 – Conditions imposed by the assessment manager** [Note: where a condition is imposed about infrastructure under Chapter 4 of the *Planning Act 2016*, the relevant provision of the Act under which this condition was imposed must be specified.]

**Part 2 – Conditions required by the referral agency response**

**Attachment 2—Extract on appeal rights**

1.0 ADMINISTRATION

1.1 The owner, the owner's successors in title, and any occupier of the premises is responsible for ensuring compliance with the conditions of this development approval.

1.2 Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.

1.3 All conditions, works, or requirements of this development approval <prompt and subsequent change/s to the original development approval> must be undertaken, completed, and be accompanied by a Compliance Certificate for any operational works required by this development approval:

1.3.1 to Council's satisfaction;

1.3.2 at no cost to Council; and

1.3.3 prior to the commencement of the use,

unless otherwise stated.

1.4 Infrastructure requirements of this development approval must be contributed to the relevant authorities, where applicable, at no cost to Council, prior to the commencement of the use, unless otherwise stated.

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

1.5.1 Operational Works:

(i) Access and Parking Works;

(ii) Stormwater Works;

(iii) Roof and Allotment Drainage;

(iv) Site Works; and

(v) Landscaping.

1.5.2 Plumbing and Drainage Works; and

1.5.3 Building Works:

1.6 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.

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

1.8 All engineering drawings/specifications, design and construction works must be in accordance with the requirements of the relevant Australian Standards and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.

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>
Site Plan	Bill Barber Design & Drafting	22 January 2024	BL4821SKG/01D	D
Site Plan	Bill Barber Design & Drafting	22 January 2024	BL4821SKG/02B	B
Existing Services Plan Surfaces Plan	Bill Barber Design & Drafting	22 January 2024	BL4821SKG/03D	D
Shed Floor Plan	Bill Barber Design & Drafting	18 January 2023	BL4821SKG/04C	C
Office Floor Plan	Bill Barber Design & Drafting	18 January 2024	BL4821SKG/05C	C
Northern and Southern Elevations	Bill Barber Design & Drafting	18 January 2024	BL4821SKG/06C	C
Western and Eastern Elevations	Bill Barber Design & Drafting	18 January 2024	BL4821SKG/07C	C
Stormwater Management Layout Plan - Existing	Steve Mckenzie Consultant Engineer Pty Ltd	6 March 2024	C06.1	C
Stormwater Management Layout Plan – Developed	Steve Mckenzie Consultant Engineer Pty Ltd	8 April 2024	C06.2	D
Stormwater Management Layout And Details Plan	Steve Mckenzie Consultant Engineer Pty Ltd	08 April 2024	C06.3	D
Landscape Works Legend, Specification Notes and Details	Madden Landscape Architects Pty Ltd	29 February 2024	LA-WD-02-A	A
Landscape Works, Planting Plans, Schedules and Specification	Madden Landscape Architects Pty Ltd	29 February 2024	LA-WD-03-A	A
Landscape Works, Site Plan and Surface Finishes Plan	Madden Landscape Architects Pty Ltd	29 February 2024	LA-WD-01-A	A



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 ACCESS AND PARKING WORKS

3.1 A Development Permit for Operational Works (access and parking works) must be obtained prior to the commencement of any access and parking works on the development site.

3.2 All access and parking works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), Capricorn Municipal Development Guidelines, Australian Standard AS2890 "Parking facilities" and the provisions of a Development Permit for Operational Works (access and parking works).

3.3 All access, 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).

3.4 Two new accesses to the development must be provided at Barton Court, one for 'Entry Only' and other one for 'Exit Only'.

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

3.6 Adequate sight distances must be provided for all ingress and egress movements at the access driveways in accordance with Australian Standard AS2890.2 "Parking facilities - Off street commercial vehicle facilities".

3.7 A minimum of twenty (20) parking spaces must be provided on-site. This includes nine (9) covered car parking spaces and eleven (11) uncovered parking spaces.

3.8 Universal access parking spaces must be provided on-site in accordance with Australian Standard AS2890.6 "Parking facilities - Off-street parking for people with disabilities".

3.9 Parking spaces must be line-marked in accordance with the approved Site Plan (refer to condition 2.1) and in accordance with the Australian Standard AS2890 "Parking facilities" and the provisions of a Development Permit for Operational Works (access and parking works).

3.10 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.

3.11 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".

3.12 All vehicle operation areas must be illuminated in accordance with the requirements of Australian Standard AS1158 "Lighting for roads and public spaces".

3.13 Any internal pedestrian pathways must be designed and constructed in accordance with Australian Standard AS1428 "Design for access and mobility".

### 4.0 PLUMBING AND DRAINAGE WORKS

4.1 A Development Permit for Plumbing and Drainage Works must be obtained for the removal and/or demolition of any existing structure on the development site.

4.2 All internal plumbing and drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act 2008, Plumbing and Drainage Act 2018, Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.

4.3 The development must be connected to Council's reticulated sewerage and water networks.

- 4.4 The existing sewerage and water connection point(s) must be retained, and upgraded, if necessary, to service the development.
- 4.5 Adequate domestic and firefighting protection must be provided to the development and must be certified by a hydraulic engineer or other suitably qualified person.
- 4.6 Sewer connections and water meter boxes located within trafficable areas must be raised or lowered to suit the finished surface levels and must be provided with heavy duty trafficable lids.
- 4.7 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.

#### 5.0 STORMWATER WORKS

- 5.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works required by this development approval.
- 5.2 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, sound engineering practice and the provisions of a Development Permit for Operational Works (stormwater works).
- 5.3 All stormwater must drain to a demonstrated lawful point of discharge and must not adversely affect surrounding land or infrastructure in comparison to the pre-development conditions, including but not limited to blocking, altering or diverting existing stormwater runoff patterns or having the potential to cause damage to other infrastructure.
- 5.4 The installation of gross pollutant traps must be in accordance with relevant Australian Standards and all maintenance of the proposed gross pollutant traps must be the responsibility of the property owner or body corporate (if applicable).
- 5.5 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.
- 5.6 Any application for a Development Permit for Operational Works (stormwater works) must be accompanied by engineering plans with details of any new drainage systems including retention systems, inlet and outlet structures, or the amendment and upgrading of existing drainage systems to implement the proposed drainage strategy.

#### 6.0 ROOF AND ALLOTMENT DRAINAGE WORKS

- 6.1 A Development Permit for Operational Works (roof and allotment drainage works) must be obtained prior to the commencement of any drainage works on the development site.
- 6.2 All roof and allotment drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), Queensland Urban Drainage Manual, Capricorn Municipal Development Guidelines, sound engineering practice and the provisions of a Development Permit for Operational Works (roof and allotment drainage works).
- 6.3 All roof and allotment runoff from the development must be directed to a lawful point of discharge and must not restrict, impair or change the natural flow of runoff water or cause a nuisance to surrounding land or infrastructure.

#### 7.0 SITE WORKS

- 7.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works on the development site.

- 7.2 Any application for a Development Permit for Operational Works (site works) must be accompanied by an earthworks plan that clearly identifies the following:
- 7.2.1 the location of cut and/or fill;
  - 7.2.2 the type of fill to be used and the manner in which it is to be compacted;
  - 7.2.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;
  - 7.2.4 details of any proposed access routes that are intended to be used to transport fill to or from the development site; and
  - 7.2.5 the maintenance of access roads to and from the development site so that they are free of all cut and/or fill material and cleaned as necessary.
- 7.3 All earthworks must be undertaken in accordance with Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments".
- 7.4 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to surrounding land or infrastructure.
- 8.0 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 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:
- 8.2.1 designed and located so as not to cause a nuisance to neighbouring properties;
  - 8.2.2 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;
  - 8.2.3 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;
  - 8.2.4 provided with a suitable hosecock and hoses at the refuse container area, and washdown must be drained to the sewer and fitted with approved stormwater diversion valve arrangement in accordance with the Sewerage Trade Waste provisions and the *Plumbing and Drainage Act 2018*.
- 8.3 A minimum 1.8 metre high screen/security fence must be erected between the subject development site and adjacent properties of the development.
- 8.4 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"*.
- 8.5 Any building plant must be screened from view of the street by one or more of the following:
- 8.5.1 a solid screen fence, or
  - 8.5.2 a roof design feature; or
  - 8.5.3 a wall; or
  - 8.5.4 dense vegetation; or
  - 8.5.5 be located within, underneath or central to the building so as to not be visible from the street.
- 9.0 LANDSCAPING WORKS

- 9.1 A Development Permit for Operational Works (Landscaping) must be obtained prior to the commencement of any landscaping within Council road reserve.
- 9.2 Landscaping must be established prior to the commencement of the use in all areas shown on the approved plans (refer to condition 2.1).
- 9.3 Two (2) street trees are to be provided within the road reserve of Lot 9 on SP326319 fronting Barton Court in accordance with the Landscape Plan.
- 9.4 The street trees must:
  - 9.4.1 Be planted between one (1) and 1.2 metres from the edge of the kerb;
  - 9.4.2 Be at least five (5) metres apart; and
  - 9.4.3 Must be maintained by the owner / developer until established.
- Note:** Street trees become the property of Council. Council reserves all rights to trim or remove street trees as per our requirements and in accordance with the current Street Tree Policy.
- 9.5 Street tree planting must be carried out in accordance with the requirements of Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy.
- 9.6 Street trees must be located such that when mature, they do not impact on street lighting, future driveway locations or other infrastructure in accordance with the *Capricorn Municipal Development Guidelines*.
- 9.7 Street trees and landscaping must not impact on vehicle site distances in accordance with Australian Standard AS2890 – Parking Facilities, or unduly restrict visibility to pedestrians in verge areas.
- 9.8 Shade trees shown on the Landscape Concept Plan (refer to condition 2.1) must be retained and maintained.
- 9.9 Shade trees located in the carparking areas shown on the approved plans must be located entirely outside of the easement and wholly within Lot 9 on SP326319.
- 9.10 Each shade tree is provided with a minimum planting area of 1.2 square metres with a minimum topsoil depth of 0.8 metres.
- 9.11 Each shade tree(s) has/have a clean trunk with a minimum height of two (2) metres and must be provided within the car park at the following rates:
  - 9.11.1 In single sided, angle or parallel bays – One (1) tree per three (3) car parks in the carparking on the western property boundary; and
  - 9.11.2 Each shade tree is provided with a minimum planting area of 1.2 square metres with a minimum topsoil depth of 0.8 metres.
- 9.12 Root control barriers must be installed where invasive roots may cause damage to car parking areas, pedestrian paths and road carriageways.
- 9.13 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.
- 9.14 The landscaped areas must be subject to:
  - 9.14.1 a watering and maintenance plan during the establishment moment; and
  - 9.14.2 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 HEALTH
- 13.1 Noise emitted from the activity must not cause an environmental nuisance.
- 13.2 Operations on the site must have no significant impact on the amenity of adjoining premises or the surrounding area due to the emission of light, noise or dust.
- 13.3 Stormwater must be prevented from entering contaminated work areas. Any stormwater which may enter into a contaminated area must not be drained to the stormwater drainage system.
- 13.4 No contaminants are permitted to be released to land or water, including soil, silt, oils, detergents, etc. 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.
- 13.5 All chemicals and/or environmentally hazardous liquids must be contained within a covered, bunded storage area that has a volume of at least that of the largest container in the bund plus twenty-five percent (25%) of the total storage capacity.
- 13.6 An appropriate spill kit must be kept on-site for neutralising or decontaminating spills. The spill kit must be clearly identifiable, maintained regularly and stored in a central location that is easily accessible to employees. Staff must be adequately trained in the use of these materials. The spill kit may consist of:
- 14.0 OPERATING PROCEDURES
- 14.1 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 Barton Court.
- 14.2 No kerbside collection is permitted for waste bins. All waste must be stored and collected within the site.
- 14.3 All waste storage areas must be:
- 14.3.1 kept in a clean and tidy condition; and
  - 14.3.2 maintained in accordance with *Environmental Protection Regulation 2019*.
  - 14.3.3 a bin with a tight-fitting lid, partially filled with non-combustible absorbent material such as vermiculite;
  - 14.3.4 a broom, shovel, face shield, chemically-resistant boots and gloves; and
  - 14.3.5 waste bags and ties.
- 14.4 No washing of plant equipment and vehicles is permitted on the development site unless within an approved washdown bay, to prevent contamination of land and the stormwater system.

- 14.5 Any spillage of environmentally hazardous liquids or other materials must be cleaned up as quickly as practicable. Any spillage of waste and/or contaminants must not be hosed or swept to any stormwater drainage system, roadside gutter or waters.

#### 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](http://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. Infrastructure Charges Notice

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

NOTE 5. 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 6. Advertising Devices

Any Advertising device associated with or attached to the development must be carried out in accordance with the applicable Advertising Devices Code in the Council Planning Scheme.

NOTE 7. Duty to Notify of Environmental Harm

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



---

**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.

<b>Table 1</b>			
<b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
1. Development applications An appeal may be made against— <ol style="list-style-type: none"> <li>(a) the refusal of all or part of the development application; or</li> <li>(b) the deemed refusal of the development application; or</li> <li>(c) a provision of the development approval; or</li> <li>(d) if a development permit was applied for—the decision to give a preliminary approval.</li> </ol>			
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

<b>Table 1</b>			
<b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
		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
<b>2. Change applications</b> 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
<b>3. Extension applications</b> 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 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

<b>Table 1</b>			
<b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
<p><b>4. Infrastructure charges notices</b>            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"> <li>• The incorrect application of gross floor area for a non-residential development</li> <li>• Applying an incorrect ‘use category’, under a regulation, to the development</li> </ul> <p>(i) The working out of extra demands, for section 120; or</p> <p>(ii) An offset or refund; or</p> <p>b) There was no decision about an offset or refund; or</p> <p>c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or</p> <p>d) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the Infrastructure charges notice	The local government that gave the infrastructure charges notice	-	-
<p><b>5. Conversion applications</b>            An appeal may be made against—</p> <p>(a) the refusal of a conversion application; or</p> <p>(b) a deemed refusal of a conversion application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The local government to which the conversion application was made	-	-
<p><b>6. Enforcement notices</b>            An appeal may be made against the decision to give an enforcement notice.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the enforcement notice	The enforcement authority	-	If the enforcement authority is not the local government for the premises in relation to which the offence is alleged to have happened—the local government

<b>Table 2</b>			
<b>Appeals to the P&amp;E Court only</b>			
<p><b>1. Appeals from tribunal</b>            An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of—</p> <p>(a) an error or mistake in law on the part of the tribunal; or</p> <p>(b) jurisdictional error.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A party to the proceedings for the decision	The other party to the proceedings for the decision	-	-

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

<p><b>2. Eligible submitter appeals</b> An appeal may be made against the decision to give a development approval, or an approval for a change application, to the extent that the decision relates to— (a) any part of the development application for the development approval that required impact assessment; or (b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
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><b>3. Eligible submitter and eligible advice agency appeals</b> 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><b>4. Compensation claims</b> 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><b>5. Registered premises</b></p>			

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

<b>Table 3 Appeals to the tribunal only</b>			
<b>1. Building advisory agency appeals</b> An appeal may be made against giving a development approval for building work to the extent the building work required code assessment against the building assessment provisions.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A building advisory agency for the development application related to the approval	The assessment manager	The applicant	1 A concurrence agency for the development application related to the approval 2 A private certifier for the development application related to the approval
<b>3. Certain decisions under the Building Act and the Plumbing and Drainage Act</b> An appeal may be made against a decision under— (a) the Building Act, other than a decision made by the Queensland Building and Construction Commission; or (b) the Plumbing and Drainage Act, part 4 or 5.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)

<b>Table 3</b>			
<b>Appeals to the tribunal only</b>			
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	-	-