



# 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/242-2009	Contact:	Kathy McDonald
Notice Date:	22 July 2024	Contact Number:	07 4936 8099

## APPLICANT DETAILS

Name:	Gracemere Shoppingworld Pty Ltd		
Postal address:	C/- Urbis Pty Ltd Level 32 300 George Street BRISBANE QLD 4000		
Phone no:	07 3007 3800	Mobile no:	N/A
		Email:	<a href="mailto:mboyd@urbis.com.au">mboyd@urbis.com.au</a> <a href="mailto:mceccato@urbis.com.au">mceccato@urbis.com.au</a>

I acknowledge receipt of the above change application on 1 December 2023 and confirm the following:

## DEVELOPMENT APPROVAL

**'Other Change' to Development Permit for a Material Change of Use for a Retail/Commercial Complex (two stage shopping centre)**

## PROPERTY DESCRIPTION

Street address:	1-19 McLaughlin Street and 22-32 O'Shanesy Street, Gracemere
Real property description:	Lot 2 on SP247119, Lot 3 on R2647, Lot 1 on RP616842 and Lot 1 on RP616843

**Dear** Gracemere Shoppingworld Pty Ltd,

I advise that, on 12 July 2024 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)	Item 6	Changed	26 May 2020
2)	Condition 1.1	Changed	28 September 2021
3)	Condition 3.3	Changed	28 September 2021
4)	Condition 3.6	New	28 September 2021

5)	Condition 3.7	New	28 September 2021
6)	Condition 9.6	New	28 September 2021
7)	Condition 14.1	Changed	5 December 2011
8)	Condition 14.1	Changed	12 July 2024
9)	Conditions 14.4 to 14.6	Changed	12 July 2024
10)	Condition 14.8	Changed	6 May 2016
11)	Condition 14.8	Changed	26 May 2020
12)	Conditions 14.8 to 14.11	Deleted	12 July 2024
13)	Conditions 14.12 to 14.16	New	12 July 2024
14)	Condition 15.2	Changed	5 December 2011
15)	Condition 15.2	Changed	12 July 2024
16)	Condition 15.4	Changed	5 December 2011
17)	Condition 15.4	Changed	12 July 2024
18)	Condition 15.5	Changed	5 December 2011
19)	Condition 15.5	Deleted	12 July 2024
20)	Condition 15.6	Changed	5 December 2011
21)	Conditions 15.6 to 15.8	Changed	12 July 2024
22)	Condition 15.10	Deleted	12 July 2024
23)	Conditions 15.11 to 15.14	New	12 July 2024
24)	Condition 16.2	Changed	5 December 2011
25)	Condition 16.2	Changed	12 July 2024
26)	Condition 16.3	Changed	5 December 2011
27)	Condition 16.4	Changed	28 September 2021
28)	Conditions 16.3 and 16.4	Changed	12 July 2024
29)	Condition 16.5	Deleted	12 July 2024
30)	Condition 16.6	Changed	12 July 2024
31)	Conditions 16.7 to 16.19	New	12 July 2024
32)	Conditions 17.1 to 17.6	Deleted	12 July 2024
33)	Conditions 18.1 to 18.6	Deleted	12 July 2024
34)	Conditions 19.2 to 19.4	Changed	12 July 2024
35)	Condition 19.6	Deleted	12 July 2024

36)	Conditions 19.7 to 19.12	New	12 July 2024
37)	Conditions 20.3 and 20.4	Deleted	12 July 2024
38)	Conditions 20.5 and 20.6	Changed	12 July 2024
39)	Condition 20.7	Deleted	12 July 2024
40)	Conditions 20.9 to 20.13	New	12 July 2024
41)	Condition 21.4 to 21.6	Deleted	12 July 2024
42)	Conditions 21.7 to 21.10	New	12 July 2024
43)	Conditions 22.2, 22.3 to 22.5	Changed	12 July 2024
44)	Conditions 22.6 to 22.17	New	12 July 2024
45)	Condition 23.1	Changed	12 July 2024
46)	Condition 23.3	Changed	12 July 2024
47)	Conditions 23.4 to 23.5	New	12 July 2024
48)	Condition 24.0	Changed	12 July 2024
49)	Condition 24.1	Deleted	26 May 2020
50)	Conditions 24.2 and 24.3	Changed	12 July 2024
51)	Condition 25.5	New	12 July 2024
52)	Condition 26.2	Changed	12 July 2024
53)	Condition 26.3	Deleted	12 July 2024
54)	Condition 27	Deleted	5 December 2011
55)	Conditions 27.0 to 27.10	New	12 July 2024
56)	Condition 28	Deleted	5 December 2011
57)	Conditions 28.0 to 28.3	New	12 July 2024
58)	Condition 29	Deleted	5 December 2011
59)	Condition 30	Deleted	5 December 2011
60)	Condition 31	Deleted	5 December 2011
61)	Condition 32	Deleted	5 December 2011
62)	Condition 33	Deleted	5 December 2011
63)	Condition 34	Deleted	5 December 2011
64)	Condition 35	Deleted	5 December 2011
65)	Condition 36	Deleted	5 December 2011
66)	Condition 37	Deleted	5 December 2011

67)	Condition 38	Deleted	5 December 2011
68)	Condition 39	Deleted	5 December 2011

### 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>Road Works</i> <i>Access and Parking Works</i> <i>Sewerage Works</i> <i>Water Works</i> <i>Stormwater Works</i> <i>Site Works</i> <i>Landscaping Works</i> <i>Roof and Allotment Drainage Works</i>
Building Works	<i>Demolition Works; and</i> <i>Building Works</i>
Plumbing and Drainage Works	

### 4. SUBMISSIONS

NIL

### 5. REFERRAL AGENCIES

The following Referral Agencies were activated by this application.

For an application involving	Name of agency	Role of Agency	Contact Details
<b>INFRASTRUCTURE-RELATED REFERRALS (Electricity Infrastructure)</b>			
<i>Schedule 10, Part 9, Division 2, Table 2 – Material change of use of premises near a substation site or subject to an easement</i>			
Development application for a material change of use that is assessable development under a local categorising instrument and does not relate to reconfiguring a lot, if— (a) all or part of the premises are within	The chief executive of the distribution entity or transmission entity:	Advice	<u>Postal:</u> Ergon Energy (Town Planning) PO Box 1090 Townsville Qld

<p>100m of a substation site; or</p> <p>(b) both of the following apply—</p> <p>(i) all or part of the premises are subject to an easement for the benefit of a distribution entity, or transmission entity, under the Electricity Act;</p> <p>(ii) the easement is for a transmission grid or supply network</p>	<p>Ergon Energy</p>		<p><u>Email:</u></p> <p><a href="mailto:townplanning@ergon.com.au">townplanning@ergon.com.au</a></p>
<p><b>STATE TRANSPORT INFRASTRUCTURE (Generally)</b></p>			
<p><i>Schedule 10, Part 9, Division 4, Subdivision 1, Table 1 – Aspect of development stated in schedule 20</i></p>			
<p>Development application for an aspect of development stated in schedule 20 that is assessable development under a local categorising instrument or section 21, if—</p> <p>(a) the development is for a purpose stated in schedule 20, column 1 for the aspect; and</p> <p>(b) the development meets or exceeds the threshold—</p> <p>(i) for development in local government area 1—stated in schedule 20, column 2 for the purpose; or</p> <p>(ii) for development in local government area 2—stated in schedule 20, column 3 for the purpose; and</p> <p>(c) for development in local government area 1—the development is not for an accommodation activity or an office at premises wholly or partly in the excluded area</p> <p>However, if the development is for a combination of purposes stated in the same item of schedule 20, the threshold is for the combination of purposes and not for each individual purpose.</p>	<p>The chief executive of the department in which the <i>Planning Act 2016</i> is administered:</p> <p>State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department)</p>	<p>Concurrence</p>	<p><u>In person:</u></p> <p>Level 2, 209 Bolsover Street, Rockhampton City</p> <p><u>Online lodgement using MyDAS2:</u></p> <p><a href="https://prod2.dev-assess.qld.gov.au/suite/">https://prod2.dev-assess.qld.gov.au/suite/</a></p> <p><u>Email:</u></p> <p><a href="mailto:RockhamptonSARA@dsgi.qld.gov.au">RockhamptonSARA@dsgi.qld.gov.au</a></p> <p><u>Postal:</u></p> <p>PO Box 113</p> <p>Rockhampton Qld 4700</p>

<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> <a href="mailto:RockhamptonSARA@dsg.ilgp.qld.gov.au">RockhamptonSARA@dsg.ilgp.qld.gov.au</a> <u>Postal:</u> PO Box 113 Rockhampton Qld 4700

## 6. THE APPROVED PLANS

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

### Stage One – Supermarket, Junior Discount Department Store, Speciality Shops and Kiosks

<u>Plan/Document Name</u>	<u>Plan Number</u>	<u>Dated</u>
Masterplan – Stage 1 Supermarket DA	7282 DA101 Rev. P10	August 2008
Elevations	7282A DA20 Rev. A	7 July 2011
Control Plan - EComm	WA200	20 August 2021
Pick Up Department – Sheet 2	WA384	23 June 2021
Drive Thru/Direct to Boot	20GCT0278-01	17 August 2021
Swept Path Analysis Drive Thru/Pick-Up Bay	20GCT0278-02	17 August 2021
Swept Path Analysis Commercial Vehicle Bay	20GCT0278-03	17 August 2021

### Stage Two – Discount Department Store, Supermarket, and Specialty Shops

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version /Issue</u>
Site Plan – Retail Level	McConaghy Group	12 April 2024	DA3-100	13
Site Plan – Undercroft Level	McConaghy Group	12 April 2024	DA3-110	12

Site Elevations	McConaghy Group	10 November 2023	DA3-200	1
Development Summary	McConaghy Group	10 November 2023	DA3-500	1
Perspectives	McConaghy Group	10 November 2023	DA3-900	1
Perspectives	McConaghy Group	10 November 2023	DA3-901	1
Perspectives	McConaghy Group	10 November 2023	DA3-902	1
Perspectives	McConaghy Group	10 November 2023	DA3-903	1
Transport Engineering Report*	ttn	29 November 2023	-	1
Response to Council IR	Tonkin	12 March 2024	-	-
Engineering Services Report	Tonkin	18 April 2024	230943	D
Response to Council IR	ttn	24 April 2024	-	-
Landscape Concept Report	URBIS	27 October 2024	-	A

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

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

#### 8. STATEMENT OF REASONS

<b>Description of the development</b>
'Other Change' to Material Change of Use for Retail/Commercial Complex (two stage shopping centre)
<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>
<p>The development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> <li>• Local Government Infrastructure Plan;</li> <li>• District Centre Zone Code;</li> <li>• Access, Parking and Transport Code;</li> </ul>

- Landscape Code;
- Stormwater Management Code;
- Waste Management Code;
- Water and Sewer Code;
- Acid Sulfate Soils Overlay Code;
- Flood Hazard Overlay Code; and
- Steep Land Overlay 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.

<b>Assessment Benchmark</b>	<b>Reasons for the approval despite non-compliance with benchmark</b>
<p><b>District Centre Zone Code</b></p>	<p><b>Performance Outcome (PO) 4</b></p> <p>The development does not comply with Acceptable Outcomes (AO) 4.1, 4.2 and 4.3 as the proposed design does not comply with Figure 6.3.3.3.1b — Gracemere district centre concept plan (accepted subject to requirements and assessable elements).</p> <p>4.1.1 shows the Gracemere District Centre Concept Plan shows part of the development, namely Lot 3 on R2647, Lot 1 on RP616842 and Lot 1 on RP616843 requiring buildings to be built to the road frontage. 4.2 and 4.3 require ground floor walls fronting the street to not exceed 15 metres and carparking is to be provided to the side or rear of buildings.</p> <p>Despite this, the proposed development can achieve the Performance Outcome because:</p> <ul style="list-style-type: none"> <li>• A concrete pathway has been conditioned along O’Shanesy Street, for the full frontage of the development site incorporating the included lots. This will promote a pedestrian street frontage; and</li> <li>• Design elements including a ‘step’ in building height and roof form, variations in plan shape and vertical articulation will avoid large expanses of blank walls oriented to the street and will break down the developments façade into components including outdoor dining, public spaces and separate entry points.</li> </ul> <p>Therefore, the proposed development is taken to comply with Performance Outcome (PO) 4.</p>
<p><b>Access, Parking and Transport Code</b></p>	<p>The development does not comply with Acceptable Outcome (AO) 5.1 as the on-site car parking is not provided at the rates set out in Table 9.3.1.3.2 of the Access, Parking and Transport Code.</p> <p>This shortfall is not expected to have a detrimental impact on the overall function of the centre and its ongoing operations. 1,135 vehicle parking spaces for the overall site will sufficiently meet the demand likely to be generated by the development.</p> <p>Furthermore, parking demand spot surveys were conducted for the centre parking (excluding parking for the fast food outlets and service station) and confirmed that the adopted parking supply rate (4.04 spaces per 100 square metres of gross lease area) would remain above peak parking demand and is therefore considered appropriate.</p> <p>Therefore, the development is taken to comply with Performance Outcome 6.</p>

**Relevant Matters**



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); and</li> <li>• The common material, being the material submitted with the application.</li> </ul>

**9. RIGHTS OF APPEAL**

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

Appeal by an applicant

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

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

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

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

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

**10. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT**

This development approval takes effect:

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

Or

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

Or

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

**11. ORIGINAL DECISION ASSESSMENT MANAGER**

Name: <b>Tarnya Fitzgibbon</b> <b>COORDINATOR</b> <b>DEVELOPMENT ASSESSMENT</b>	Date: 22 April 2022
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**12. ASSESSMENT MANAGER**

Name: <b>Amanda O’Mara</b> <b>COORDINATOR</b> <b>DEVELOPMENT ASSESSMENT</b>	Signature: 	Date: 22 July 2024
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C/C State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department) - [RockhamptonSARA@dSDLGP.qld.gov.au](mailto: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**

**STAGE ONE – SUPERMARKET, JUNIOR DISCOUNT DEPARTMENT STORE, SPECIALITY SHOPS AND KIOSKS**

1.0 ADMINISTRATION

1.1 The approved development must be completed and maintained generally in accordance with the following approved drawings and documents, except where amended by the conditions of this permit:

<u>Plan/Document Name</u>	<u>Plan Number</u>	<u>Dated</u>
Masterplan – Stage 1 Supermarket DA	7282 DA101 Rev. P10	August 2008
Elevations	7282A DA20 Rev. A	7 July 2011
Control Plan - EComm	WA200	20 August 2021
Pick Up Department – Sheet 2	WA384	23 June 2021
Drive Thru/Direct to Boot	20GCT0278-01	17 August 2021
Swept Path Analysis Drive Thru/Pick-Up Bay	20GCT0278-02	17 August 2021
Swept Path Analysis Commercial Vehicle Bay	20GCT0278-03	17 August 2021

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

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 of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.

1.4 The Developer is responsible for ensuring compliance with this Approval and the Conditions of the Approval by an employee, agent, contractor or invitee of the Developer.

1.5 All conditions, works, and requirements of this approval for this Stage must be satisfied, undertaken and completed to the satisfaction of Council prior to the commencement of use.

1.6 The following further development permits are required prior to the commencement of any works on the site:

1.6.1 Operational Works:

- i) Road Works;
- ii) Access and Parking;
- iii) Sewerage Works;
- iv) Water Works;
- v) Stormwater Works;

- vi) Roof and Allotment Drainage;
- vii) Site Works; and
- viii) Landscaping.

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 This approval for stage one is valid for a period of four (4) years from the day the approval takes effect. If the use has not commenced in accordance with the approved conditions within four (4) years the approval will lapse.
- 1.9 Any outstanding rates, charges or expenses levied by the Council over the subject land must be paid prior to the issue of a Development Permit for Building Works.
- 1.10 The maintenance of all works constructed under this approval, or any subsequent Development Permit for Operational Works, must remain the sole responsibility of the developer until such time as all works are accepted 'off maintenance' by Council.
- 1.11 '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 approved prior to the issue of a Development Permit for Building Works.

## 2.0 ROAD WORKS

- 2.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any works on the site.
- 2.2 All road works and associated stormwater drainage system works must be designed generally in accordance with the Capricorn Municipal Development Guidelines (including standard drawings) and the endorsed plans (refer to Condition 1.1).
- 2.3 The engineering design of all new roads and associated stormwater drainage systems, both internal and external to the site, submitted as part of any application for a Development Permit for Operational Works (Road Works) must be prepared and certified by a registered professional engineer.
- 2.4 All road widenings, intersection alignments, associated kerb and channel and drainage works along O'Shanesy Street for stage one, must be designed and constructed along the frontage as indicated on the endorsed plans (refer to Condition 1.1). O'Shanesy Street must be reconstructed to separate the school set down and parking area from traffic accessing and passing the shopping centre site.
- 2.5 Design and construct all necessary connections with the existing road network including intersections generally in accordance with the Capricorn Municipal Development Guidelines (including standard drawings) and the endorsed plans (refer to Condition 1.1).
- 2.6 A dual use pathway, 2.0 metres wide, must be constructed along the full frontage of the site for McLaughlin and O'Shanesy Streets, relevant to stage one in accordance with the Capricorn Municipal Development Guidelines (including standard drawings) and the endorsed plans (refer to condition 1.1). Details of the footpath must be provided with any application for a Development Permit for Operational Works (road works).
- 2.7 A dual use pathway, 2.0 metres wide, must be constructed, in conjunction with stage one, from the development site to connect with the existing footpath fronting the Gracemere State Primary School in accordance with the Capricorn Municipal Development Guidelines (including standard drawings) and the endorsed plans (refer to condition 1.1). Details of the footpath must be provided with any application for a Development Permit for Operational Works (road works) for this stage of the development
- 2.8 Road signage and pavement markings must be installed in accordance with the Manual of Uniform Traffic Control Devices.

- 2.9 All new roads and intersections, and any modifications to existing roads or intersections, must be provided with road and public space lighting in accordance with the Australian Standard AS1158 suite of standards.
- 2.10 All areas of any existing or proposed road reserve disturbed as a consequence of road works, or any other works, must be suitably shaped, top soiled, turfed or hydromulched, or similarly treated, and maintained to the satisfaction of Council.
- 2.11 The owner must ensure that any damage to infrastructure including public pathways, kerb and channel and the like caused as a result of the development is repaired or reinstated to the standard required for similar new works.
- 3.0 ACCESS AND PARKING
- 3.1 A Development Permit for Operational Works (access and parking) must be obtained prior to the commencement of any works on the site.
- 3.2 All parking and access areas must be paved or sealed to the satisfaction of Council. Design and construction must be in accordance with the Capricorn Municipal Development Guidelines (including standard drawings), Australian Standard AS2890, Australian Standard AS1428 and the provisions of a Development Permit for Operational Works (access and parking). The layout must be generally in accordance with the endorsed plans (refer to condition 1.1).
- 3.3 285 parking spaces and six (6) motorcycle spaces must be provided on site generally in accordance with the endorsed plans (refer to condition 1.1), for this stage of the development.
- 3.4 All stormwater runoff from parking and access areas must be collected and drained to a lawful point of discharge.
- 3.5 A bus setdown area, including weather shelter must be designed and constructed at stage one of the development in accordance with the Public Transport Infrastructure Manual June 2007. The bus setdown area must be located adjacent to the specialty shops. Details of the bus setdown area must be provided with any application for a Development Permit for Operational Works (access and parking) for this stage of the development.
- 3.6 Handrails must be provided in accordance with the approved plan 'Drive Thru/Direct to Boot' (refer to condition 1.1) and adequate clearances between the handrails and parking aisle must be provided to accommodate pedestrian, and associated shopping trolley passage.
- 3.7 All vehicle operations associated with the development must be directed by suitable directional, informative, regulatory or warning signs in accordance with *Australian Standard AS1742.1 "Manual of uniform traffic control devices"* and *Australian Standard AS2890.1 "Parking facilities – Off-street car parking"*.
- 4.0 SEWERAGE WORKS
- 4.1 A Development Permit for Operational Works (sewerage works) must be obtained prior to the commencement of any works on the site.
- 4.2 The development must be connected to Council's reticulated sewerage network in accordance with the provisions of the *Water Act* and *Plumbing and Drainage Act*.
- 4.3 Any construction works proposed in the vicinity of Council's existing sewerage infrastructure must not adversely affect the integrity of the infrastructure.
- 4.4 A Trade Waste Permit must be obtained prior to the issue of a Development Permit for Building Works.
- 4.5 Should any proposed sewer connection points be located within trafficable areas, the jump-up must be raised to the finish surface level and provided with a brass cover.
- 4.6 All sanitary drainage works must be in accordance with regulated work under the *Plumbing and Drainage Act*.
- 5.0 WATER WORKS

- 5.1 A Development Permit for Operational Works (water works) must be obtained prior to the commencement of any works on the site.
- 5.2 The development must be connected to Council's reticulated water supply network in accordance with the provisions of the *Water Act* and *Plumbing and Drainage Act*. The connection must be located at a point nominated by Council.
- 5.3 The development must be provided with a master water meter at the property boundary and sub meters for each sole occupancy premises.
- 5.4 Water storage tanks and pumps must be located on site to provide adequate fire-fighting flows for the development.
- 5.5 Any construction works proposed in the vicinity of Council's existing water infrastructure must not adversely affect the integrity of the infrastructure.
- 5.6 All plumbing works must be in accordance with regulated work under the *Plumbing and Drainage Act*.

## 6.0 STORMWATER WORKS

- 6.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any works on the site.
- 6.2 All stormwater drainage works must be designed and constructed in accordance with the Queensland Urban Drainage Manual and the Capricorn Municipal Design Guidelines, and sound Engineering practice.
- 6.3 All stormwater runoff from the subject site, and roofwater and water from paved surfaces, must be collected within the site and directed to a lawful point of discharge, in accordance with Council requirements, the Queensland Urban Drainage Manual and the Capricorn Municipal Design Guidelines. Design and construction must be in accordance with a Development Permit for Operational Works (stormwater works).
- 6.4 The application for a Development Permit for Operational Works (stormwater) must be accompanied by:
  - 6.4.1 detailed assessment of total flows leaving the site and pipe sizing in accordance with the Capricorn Municipal Design Guidelines;
  - 6.4.2 details of any retention or detention proposed on site, including Q100 surface levels for any detained flows including overflow relief capacity and sizing;
  - 6.4.3 details of the capacity of the down-stream underground stormwater system and how it is able to handle the additional proposed development runoff.
- 6.5 Any filling or changes to the site proposed as part of any Development Permit for Operational Works must not adversely impact on any adjoining or downstream land, drainage systems, or any Council infrastructure
- 6.6 Drainage easements must cater for the 100 year Average Recurrence Interval rainfall event. Provide drainage easements, free of cost and compensation in Council's favour, over any drainage works on the land should such be required.

## 7.0 SITE WORKS

- 7.1 A Development Permit for Operational Works (Site Works) must be obtained prior to the commencement of any works on the site.
- 7.2 Any application for a Development Permit for Operational Works (Site Works) must be accompanied by an earthworks plan which 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 to the site which are intended to be used to transport fill to or from the site; and

- 7.2.5 the maintenance of access roads to and from the site so that they are free of all cut and/or fill material and cleaned as necessary.
- 7.3 Any vegetation cleared from the site must not be burnt either on-site or off-site, and within sixty (60) days of clearing the cleared vegetation must be either:
- 7.3.1 mulched on-site and utilised on the subject land for landscaping purposes, in accordance with the landscaping plan approved by Council; or
- 7.3.2 removed for disposal at a location approved by Council.
- 7.4 Filling work must not be undertaken on land with slopes greater than twenty-five (25) percent.
- 7.5 All structural filling must be in accordance with Australian Standard AS3798. Engineering drawings/specification must clearly indicate the location and depth of proposed filling. A testing strategy must be submitted as part of any application for a Development Permit for Operational Works (Site Works). Testing requirements must be generally in accordance with Section 8 of Australian Standard 3798.
- 7.6 All engineering drawings for Operational Works must be signed and certified by a registered professional engineer as being in accordance with all relevant Australian Standards, statutory requirements and sound engineering principles. A registered professional engineer must supervise the works on behalf of the Applicant. A certificate of construction compliance must be submitted by a registered professional engineer verifying that all works have been carried out in accordance with Council approved drawings, approval conditions and specification.
- 7.7 A registered professional engineer must issue to Council signed "as-constructed" plans and a certificate verifying that the information contained within the drawings is true and accurate. These plans must be neatly presented in printed hard copy form and free from errors, omissions, mark ups, and/or hand written alterations/notes. Levels in the as-constructed plans must be based upon a minimum fourth-order Permanent Survey Mark.
- 7.8 Any application for a Development Permit for Operational Works (Site Works) must be accompanied by:
- 7.8.1 reasonable investigations to determine the presence and extent of any existing filled ground on the subject land (site investigations must assess the degree of compaction and composition of any existing filled ground and an assessment of the adequacy of existing filled ground including the extent of any remedial works required); and
- 7.8.2 reasonable investigations and reasonable testing to ensure the subject land is free of contamination in accordance with the requirements of the *Contaminated Land Act 1991*.
- 8.0 **BUILDING**
- 8.1 All external elements, such as air conditioners, must be adequately screened from public view, to Council's satisfaction. Noise from any external elements, such as air conditioners, must not exceed 5dB(A) above the background ambient noise level, measured at the boundaries of the subject site.
- 8.2 All lift motor rooms, plant and service facilities must be totally enclosed or screened using materials consistent with those elsewhere in the building. Noise from any lift motor room must not exceed 5dB(A) above the background ambient noise level, measured at the boundaries of the subject site.
- 8.3 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the site and shielded so as not to cause glare or other nuisance to nearby residents and motorists. Night lighting must be designed, constructed and operated in accordance with '*Australian Standard AS4282 – Control of the obtrusive effects of outdoor lighting*'.

- 8.4 Any reflective material must have a level of light reflectivity of no more than twenty (20) percent and a level of heat transmission of not less than twenty (20) percent.
- 8.5 All shop front glazing must be clear and untinted and must not be obscured by blinds, curtains or the like.
- 8.6 Prior to occupation of the building, submit to Council a certificate from a licenced surveyor to demonstrate the completed building does not exceed twelve (12) metres above natural ground level, in accordance with the approved plans.
- 9.0 LANDSCAPING
- 9.1 A Development Permit for Operational Works (landscaping) must be obtained prior to the commencement of any works on the site.
- 9.2 The landscape plan must include, but is not limited to, the following:
- 9.2.1 A plan documenting the “Extent of Works” and supporting documentation which includes:
- i) location and name of existing trees, including those to be retained (the location of the trees shall be overlaid or be easily compared with the proposed development design);
  - ii) the extent of soft and hard landscape proposed;
  - iii) important spot levels and/or contours. The levels of the trees to be retained shall be provided in relation to the finished levels of the proposed buildings and works;
  - iv) underground and overhead services;
  - v) typical details of critical design elements (eg stabilisation of batters, retaining walls, podium/balcony planters, trees in car park areas, fences);
  - vi) details of landscape structures including areas of deep planting; and
  - vii) specification notes on mulching and soil preparation.
- 9.2.2 A “Planting Plan” and supporting documentation which includes:
- (i) trees, shrubs and groundcovers to all areas to be landscaped;
  - (ii) position and canopy spread of all trees and shrubs; and
  - (iii) the extent and type of works (i.e. paving, fences, garden bed edging etc). All plants shall be located within an edged garden.
- 9.3 All landscaping work associated with this stage of the development must be completed prior to the commencement of use.
- 9.4 The landscaped areas must be subject to an ongoing maintenance and replanting programme.
- 9.5 The landscape plan must include a minimum 2.5 metre wide landscaped buffer along the McLaughlin Street and O’Shanesy Street frontages of stage one.
- 9.6 As per the approved plan ‘Control Plan – eComm’ (refer to condition 1.1), landscaping in this area must be established within both the ‘modified existing garden bed(s)’ and the ‘new garden bed’ as follows:
- 9.6.1 Designed in accordance with the *Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy*;
- 9.6.2. Plant species utilised must be selected from sources in the *Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy* and must include at least fifty (50) per cent locally native species; and
- 9.6.2 Must include groundcovers at a density rate of between 0.5 metres to one (1) metre.
- 10.0 ELECTRICITY AND TELECOMMUNICATION



- 10.1 The use must not commence unless and until each tenancy has been provided with live electricity and telecommunication connections in accordance with the requirements of the relevant authority.
- 10.2 Provide street lighting and public space lighting in accordance with the relevant Australian Standards.

#### 11.0 CONTRIBUTIONS/COSTS

- 11.1 Contributions must be paid to Council prior to the issue of a Development Permit for Building Works.

The contributions must be paid in accordance with the Council Policy rates at the date of payment. The following table sets out the contributions required to be paid:

<u>Policy</u>	<u>Contribution</u>	<u>Current Total*</u>
LPP1/96	Water Supply Headworks	\$12,823.45
LPP1/96	Sewerage Headworks	\$8,922.80
	Stormwater Drainage	\$12,507.00 <sup>+</sup>

\*Council reserves the right to review same in accordance with the policies and rates and charges current at the time of payment. The applicant will be required to pay for 52.66 Equivalent Persons (EP) at the rates current at the time of payment.

<sup>+</sup> At the time of payment this amount will be increased by the Road and Construction Index for Queensland with the December 2008 quarter being the base.

- 11.2 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 at full cost to the developer.
- 11.3 'As constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the commence of the use or the release of the Building Format Plan, whichever occurs the sooner. This information must be provided in accordance with the Manual for Submission of Digital As Constructed Information.

#### 12.0 ENVIRONMENTAL

- 12.1 Any application for a Development Permit for Operational Works or Development Permit for Building Works must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:

- i) water quality and drainage;
- ii) erosion and silt/sedimentation management;
- iii) acid sulphate soils;
- iv) fauna management;
- v) vegetation management and clearing;
- vi) top soil management;
- vii) interim drainage plan during construction;
- viii) construction programme;
- ix) geotechnical issues;
- x) weed control;
- xi) bushfire management;
- xii) emergency vehicle access;
- xiii) noise and dust suppression; and
- xiv) waste management.

- 12.2 Any application for a Development Permit for Operational Works or Development Permit for Building Works must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:
- i) objectives;
  - ii) site location / topography;
  - iii) vegetation;
  - iv) site drainage;
  - v) soils;
  - vi) erosion susceptibility;
  - vii) erosion risk;
  - viii) concept;
  - ix) design; and
  - x) implementation, for the construction and post construction phases of work.

The erosion and sediment control plan must incorporate detailed plans, control measures, monitoring programmes and maintenance procedures to ensure appropriate development and management practices within and adjacent to the site.

12.3 The Environmental Management Plan and the Erosion and Sediment Control Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.

12.4 No works can commence on the site unless and until an Environmental Management Plan and an Erosion and Sediment Control Plan has been approved by Council as part of Development Permit for Operational Works.

### 13.0 OPERATING PROCEDURES

13.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in McLaughlin Street, O'Shanesy Street or the Capricorn Highway.

13.2 All waste storage areas must be surrounded by a fence/screen, at least 1.8 metres in height, that obstructs from view the contents of the bin compound by any member of the public from any public place.

13.3 All waste containers must be:

13.3.1 stored within the bin enclosure area;

13.3.2 securely covered at all times; and

13.3.3 maintained in a clean condition and in good repair.

## **STAGE TWO – DISCOUNT DEPARTMENT STORE, SUPERMARKET AND SPECIALTY SHOPS**

### 14.0 ADMINISTRATION

14.1 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 – Retail Level	McConaghy Group	12 April 2024	DA3-100	13
Site Plan – Undercroft	McConaghy	12 April 2024	DA3-110	12

Level	Group			
Site Elevations	McConaghy Group	10 November 2023	DA3-200	1
Development Summary	McConaghy Group	10 November 2023	DA3-500	1
Perspectives	McConaghy Group	10 November 2023	DA3-900	1
Perspectives	McConaghy Group	10 November 2023	DA3-901	1
Perspectives	McConaghy Group	10 November 2023	DA3-902	1
Perspectives	McConaghy Group	10 November 2023	DA3-903	1
Transport Engineering Report*	ttm	29 November 2023	-	1
Response to Council IR	Tonkin	12 March 2024	-	-
Engineering Services Report	Tonkin	18 April 2024	230943	D
Response to Council IR	ttm	24 April 2024	-	-
Landscape Concept Report	URBIS	27 October 2024	-	A

Note: \*for updated plans please refer to response to council IR.

- 14.2 Where there is any conflict between conditions of this decision notice and details shown on the approved plans, the conditions of approval must prevail.
- 14.3 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 of the Council may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 14.4 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.
- 14.5 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:
- 14.5.1 to Council’s satisfaction;
- 14.5.2 at no cost to Council; and
- 14.5.3 prior to the commencement of the use,
- unless otherwise stated.
- 14.6 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
- 14.6.1 Operational Works:
- (i) Road Works;

- (ii) Access and Parking Works;
- (iii) Stormwater Works;
- (iv) Roof and Allotment Drainage; and
- (v) Site Works;

14.6.2 Plumbing and Drainage Works; and

14.6.3 Building Works:

- (i) Demolition Works; and
- (ii) Building Works.

14.7 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.

14.8 DELETED

14.9 DELETED

14.10 DELETED

14.11 DELETED

14.12 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.

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

14.14 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.

14.15 Lot 2 on SP247119, Lot 3 on R2647, Lot 1 on RP616842 and Lot 1 on RP616843 must be amalgamated and registered as one lot prior to the commencement of the use.

14.16 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.

## 15.0 ROAD WORKS

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

15.2 All road works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, relevant *Australian Standards and Austroads Guidelines* and the provisions of a Development Permit for Operational Works (road works).

15.3 The engineering design of all new roads and associated stormwater drainage systems, both internal and external to the site, submitted as part of any application for a Development Permit for Operational Works (Road Works) must be prepared and certified by a registered professional engineer.

15.4 O'Shanesy Street must be upgraded for the full frontage of the development site (including Lot 1 on RP616843) to match the existing construction to the intersection of McLaughlin Street and O'Shanesy Street. The construction must extend from the existing kerb and channel, fronting the development site, on O'Shanesy Street. Kerb and channel, drainage infrastructure, lighting and on-road (marked) bicycle lane must be included.

Note: O'Shanesy Street surface and subsurface drainage design must be provided at Operation Works (road works) stage for the upgrade.

15.5 DELETED

- 15.6 A concrete pathway must be provided along O'Shanesy Street, for the full frontage of the development site including Lot 1 on RP616843. The construction must extend from the existing pathway fronting the development, on O'Shanesy Street.
- 15.7 Traffic signs and pavement markings must be provided in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*. Where necessary, pavement markings must be modified in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*.
- 15.8 All new roads, intersections and pathways located within a road reserve or public use land must be provided with public space lighting in accordance with *Australian Standard AS1158 "Lighting for roads and public spaces"*.
- 15.9 All areas of any existing or proposed road reserve disturbed as a consequence of road works, or any other works, must be suitably shaped, topsoiled, turfed or hydromulched, or similarly treated, and maintained to the satisfaction of Council.
- 15.10 DELETED
- 15.11 Construction of a roundabout at the intersection of Pierce Street and O'Shanesy Street must be in accordance with the requirements of the *Capricorn Municipal Development Guidelines*, *Austrroads Guidelines* and the *Department of Transport and Main Roads - Road Planning and Design Manual*.
- 15.12 A bus set-down area, including an all-weather shelter must be designed and constructed in accordance with the *Public Transport Infrastructure Manual*. The bus set-down area must be located within the O'Shanesy Street, adjacent to the proposed roundabout and in accordance with the approved plans (refer to condition 2.1). Details of the bus set-down area must be provided with any application for a Development Permit for Operational Works (road works).
- 15.13 All pathways and access ramps must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*.
- 15.14 All pathways must incorporate kerb ramps at all road crossing points.
- 16.0 ACCESS AND PARKING
- 16.1 A Development Permit for Operational Works (access and parking) must be obtained prior to the commencement of any works on the site.
- 16.2 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).
- 16.3 513 parking spaces must be provided on site generally in accordance with the endorsed plans (refer to condition 14.1), for this stage of the development.
- 16.4 The total parking provision for the whole development must be 824 parking spaces and six (6) motorcycle spaces. The total parking provision must be constructed prior to the commencement of stage two of the development.
- 16.5 DELETED
- 16.6 The existing access to the development from O'Shanesy Street located at the western end must be closed.
- 16.7 All access, parking and vehicle manoeuvring areas must be paved or sealed to Council's satisfaction. Design and construction must be in accordance with the provisions of a Development Permit for Operational Works (access and parking works).
- 16.8 A new access to the development must be provided in accordance with the approved plans (refer to condition 2.1).
- 16.9 Any redundant vehicular crossovers must be replaced by Council standard kerb and channel.

- 16.10 All vehicles must ingress and egress the development in a forward gear.
- 16.11 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"*.
- 16.12 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"* and *Building Code of Australia – Volume One (1)*.
- 16.13 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).
- 16.14 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.
- 16.15 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"*.
- 16.16 Road signage and pavement markings must be installed in accordance with *Australian Standard AS1742.1 "Manual of uniform traffic control devices"*.
- 16.17 All vehicle operation areas must be illuminated in accordance with the requirements of *Australian Standard AS1158 "Lighting for roads and public spaces"*.
- 16.18 All internal pedestrian pathways must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*.
- 16.19 Bicycle parking facilities must be designed 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.

#### 17.0 SEWERAGE WORKS

- 17.1 DELETED
- 17.2 DELETED
- 17.3 DELETED
- 17.4 DELETED
- 17.5 DELETED
- 17.6 DELETED

#### 18.0 WATER WORKS

- 18.1 DELETED
- 18.2 DELETED
- 18.3 DELETED
- 18.4 DELETED
- 18.5 DELETED
- 18.6 DELETED

#### 19.0 STORMWATER WORKS

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

- 19.2 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).
- 19.3 All stormwater must drain to a 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 actionable nuisance or worsening to other infrastructure.
- 19.4 Any application for a Development Permit for Operational Works (stormwater works) must be accompanied by a Flood Statement, prepared and certified by a Registered Professional Engineer of Queensland that as a minimum includes:
- 19.4.1 details of the assessed flood characteristics at the site and how the proposed development will impact upon and be impacted upon by a Defined Flood Event with recommendations included outlining how these impacts will be reduced or mitigated.
- 19.5 Any filling or changes to the site proposed as part of any Development Permit for Operational Works must not adversely impact on any adjoining or downstream land, drainage systems, or any Council infrastructure.
- 19.6 DELETED
- 19.7 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.
- 19.8 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).
- 19.9 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.
- 19.10 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.
- 19.11 All new field inlets / pits must be fitted with gross pollutant traps in accordance with approved plans (refer to condition 2.1).
- 19.12 All new field inlets / pits located within trafficable area must be installed with heavy-duty trafficable lid (Class D).
- 20.0 SITE WORKS
- 20.1 A Development Permit for Operational Works (Site Works) must be obtained prior to the commencement of any works on the site.
- 20.2 Any application for a Development Permit for Operational Works (Site Works) must be accompanied by an earthworks plan which clearly identifies the following:
- 20.2.1 the location of cut and/or fill;
- 20.2.2 the type of fill to be used and the manner in which it is to be compacted;
- 20.2.3 the quantum of fill to be deposited or removed and finished cut and/or fill levels;
- 20.2.4 details of any proposed access routes to the site which are intended to be used to transport fill to or from the site; and

- 20.2.5 the maintenance of access roads to and from the site so that they are free of all cut and/or fill material and cleaned as necessary.
- 20.3 DELETED
- 20.4 DELETED
- 20.5 Slope stability must be managed as follows:
- 20.5.1 all engineering drawings/specifications and designs must be in accordance with the requirements of the relevant *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"* and must be approved by a Registered Professional Engineer of Queensland;
- 20.5.2 site inspections must be undertaken by a Registered Professional Engineer of Queensland to confirm the design; and
- 20.5.3 full engineering certification must be undertaken by a Registered Professional Engineer of Queensland.
- 20.6 Any application for a Development Permit for Operational Works (site works) must be accompanied by a Geotechnical Report prepared by a Registered Professional Engineer of Queensland experienced in geotechnical investigations. No works can commence on the development site until this report has been approved by the Council.
- 20.7 DELETED
- 20.8 Any application for a Development Permit for Operational Works (Site Works) must be accompanied by:
- 20.8.1 reasonable investigations to determine the presence and extent of any existing filled ground on the subject land (site investigations must assess the degree of compaction and composition of any existing filled ground and an assessment of the adequacy of existing filled ground including the extent of any remedial works required); and
- 20.8.2 reasonable investigations and reasonable testing to ensure the subject land is free of contamination in accordance with the requirements of the *Contaminated Land Act 1991*.
- 20.9 All earthworks must be undertaken in accordance with Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments".
- 20.10 Any application for a Development Permit for Operational Works (site works) must be accompanied by a preliminary site investigation into acid sulfate soils. If preliminary testing indicates that acid sulfate soils are present in the areas to be excavated or filled, a more detailed acid sulfate soil investigation must be completed, and an appropriate management plan submitted to Council as part of any application for a Development Permit for Operational Works (site works). The detailed investigation and associated management plan must be carried out in accordance with the Queensland Acid Sulfate Soil Technical Manual and State Planning Policy 2017.
- 20.11 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 an actionable nuisance or worsening to surrounding land or infrastructure.
- 20.12 All retaining structures above one (1) metre in height requires a separate building approval and certification by a *Registered Professional Engineer of Queensland*.
- 20.13 Retaining structures close to or crossing sewerage infrastructure must comply with *Queensland Development Code, Mandatory Part 1.4 "Building over or near relevant infrastructure."* The structure must be self-supporting, and no additional load must be applied to Council's sewerage infrastructure.
- 21.0 BUILDING
- 21.1 All external elements, such as air conditioners, must be adequately screened from public view, to Council's satisfaction. Noise from any external elements, such as air conditioners,



must not exceed 5dB(A) above the background ambient noise level, measured at the boundaries of the subject site.

- 21.2 All lift motor rooms, plant and service facilities must be totally enclosed or screened using materials consistent with those elsewhere in the building. Noise from any lift motor room must not exceed 5dB(A) above the background ambient noise level, measured at the boundaries of the subject site.
- 21.3 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the 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*'.
- 21.4 DELETED
- 21.5 DELETED
- 21.6 DELETED
- 21.7 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.
- 21.8 The existing dwelling / structure on Lot 1 on RP616842 must be demolished and a Development Permit for Building Works (demolition) must be obtained prior to the commencement of demolition works on the Lot 1 on RP616842.
- 21.9 All building works must be undertaken in accordance with *Queensland Development Code, Mandatory Part 1.4 "Building over or near relevant infrastructure."*
- 21.10 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:
- 21.10.1 designed and located so as not to cause a nuisance to neighbouring properties;
  - 21.10.2 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;
  - 21.10.3 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;
  - 21.10.4 setback a minimum of two (2) metres from any road frontage; and
  - 21.10.5 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*.

Note: 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.

## 22.0 LANDSCAPING

- 22.1 A Development Permit for Operational Works (landscaping) must be obtained prior to the commencement of any works on the site.
- 22.2 Planting types used within the landscaping areas excluding the future development site (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:
- 22.2.1 trees at five (5) metre intervals;
  - 22.2.2 shrubs at two (2) metre intervals; and
  - 22.2.3 groundcovers at one (1) metre intervals.

- 22.3 All landscaping work associated with this stage of the development must be completed prior to the commencement of use in all areas shown on the approved plans (refer to condition 2.1).
- 22.4 The landscaped areas must be subject to:
- 22.4.1 a watering and maintenance plan during the establishment moment; and
- 22.4.2 an ongoing maintenance and replanting programme.
- 22.5 Landscaping must be designed in accordance with the requirements of *Australian Standard AS 1428 — Design for access and mobility*.
- 22.6 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:
- 22.6.1 Plant species are chosen from sources recommended in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*; and
- 22.6.2 Plant species must not include undesirable species identified in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*.
- 22.7 Shade trees must comply with the following requirements:
- 22.7.1 Be planted clear of services and utilities;
- 22.7.2 Be planted clear of park furniture and embellishments;
- 22.7.3 Not obstruct pedestrian or bicycle traffic; and
- 22.7.4 Comply with crime prevention through environmental design principles.
- 22.8 Root control barriers must be installed where invasive roots may cause damage to car parking areas, pedestrian paths and road carriageways.
- 22.9 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.
- 22.10 Landscaping, or any part thereof, upon reaching full maturity, must not:
- 22.10.1 obstruct sight visibility zones as defined in the Austroads 'Guide to Traffic Engineering Practice' series of publications;
- 22.10.2 adversely affect any road lighting or public space lighting; or
- 22.10.3 adversely affect any Council infrastructure, or public utility plant.
- 22.11 Street trees must be provided along O'Shanesy Street and the newly constructed pathway and:
- 22.11.1 Be planted between one (1) and 1.2 metres from the edge of the kerb;
- 22.11.2 Be at least five (5) metres apart; and
- 22.11.3 Be at least six (6) metres from the corner of the kerb at street intersections.
- 22.12 Street trees 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.
- 22.13 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.
- 22.14 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*.
- 22.15 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.

- 22.16 Roundabout landscaping must be provided and include an automatic irrigation system and comply with the requirements of *Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy*.
- 22.17 Any Irrigation systems must comply with the requirements of *Planning Scheme Policy SC6.12 - Landscape Design and Street Trees Planning Scheme Policy*.
- 23.0 ELECTRICITY AND TELECOMMUNICATION
- 23.1 Underground electricity services must be provided in accordance with approved Operational Works Plans and the standards and requirements of the relevant service provider.
- 23.2 The use must not commence unless and until each tenancy has been provided with live electricity and telecommunication connections in accordance with the requirements of the relevant authority.
- 23.3 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.
- 23.4 The developer is responsible for all costs associated with the supply and installation of any road lighting or public space lighting in accordance with *Australian Standard AS1158 'Lighting for roads and public spaces'*.
- 23.5 A suitably qualified Electrical Engineering Consultant shall liaise with Council for the approval of street lighting design. The Consultant must appear on Ergon Energy's list of Public Lighting Designers and be a *Registered Professional Engineer of Queensland*.
- 24.0 ASSET MANAGEMENT
- 24.1 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.
- 24.2 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.
- 24.3 'As Constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the commencement of the use. This information must be provided in accordance with the Asset Design and As Constructed Manual (ADAC).
- 25.0 ENVIRONMENTAL
- 25.1 Any application for a Development Permit for Operational Works or Development Permit for Building Works must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:
- i) water quality and drainage;
  - ii) erosion and silt/sedimentation management;
  - iii) acid sulphate soils;
  - iv) fauna management;
  - v) vegetation management and clearing;
  - vi) top soil management;
  - vii) interim drainage plan during construction;
  - viii) construction programme;

- ix) geotechnical issues;
- x) weed control;
- xi) bushfire management;
- xii) emergency vehicle access;
- xiii) noise and dust suppression; and
- xiv) waste management.

25.2 Any application for a Development Permit for Operational Works or Development Permit for Building Works must be accompanied by an Erosion and Sediment Control Plan which addresses, but is not limited to, the following:

- i) objectives;
- ii) site location / topography;
- iii) vegetation;
- iv) site drainage;
- v) soils;
- vi) erosion susceptibility;
- vii) erosion risk;
- viii) concept;
- ix) design; and
- x) implementation, for the construction and post construction phases of work.

The erosion and sediment control plan must incorporate detailed plans, control measures, monitoring programmes and maintenance procedures to ensure appropriate development and management practices within and adjacent to the site.

25.3 The Environmental Management Plan and the Erosion and Sediment Control Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.

25.4 No works can commence on the site unless and until an Environmental Management Plan and an Erosion and Sediment Control Plan has been approved by Council as part of Development Permit for Operational Works.

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

25.5.1 implemented, monitored and maintained for the duration of the development works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped); and

25.5.2 The plan must be available on-site for inspection by Council Officers whilst all works are being carried out.

## 26.0 OPERATING PROCEDURES

26.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractors' vehicles will be permitted in McLaughlin Street, O'Shanesy Street or the Capricorn Highway.

26.2 All waste must be stored within a waste storage area (for example, general waste, recyclable waste, pallets, empty drums etcetera) in accordance with the approved plans (refer to condition 2.1). The owner of the land must ensure that:

26.2.1 the area is kept in a clean and tidy condition;

- 26.2.2 fences and screens are maintained;
- 26.2.3 no waste material is stored external to the waste storage area/s;
- 26.2.4 all wash down of refuse containers takes place in the existing washdown facility;
- 26.2.5 the area is maintained in accordance with *Environmental Protection Regulation 2019*.

26.3 DELETED

#### 27.0 PLUMBING AND DRAINAGE WORKS

- 27.1 All internal plumbing and drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act 2008, Plumbing and Drainage Act 2018*, Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.
- 27.2 The development must be connected to Council's reticulated sewerage and water networks.
- 27.3 The existing water connection point for Lot 1 on RP616842 and Lot 3 on R2647 must be disconnected.
- 27.4 The existing sewerage connection point for Lot 1 on RP616842 must be upgraded to service the proposed development.
- 27.5 The existing sewerage and water connection point(s) that service the existing shopping centre, located within Lot 2 on SP247119, must be retained, and upgraded if necessary, to service the development.
- 27.6 Adequate domestic and fire-fighting protection must be provided to the development, and must be certified by an hydraulic engineer or other suitably qualified person.
- 27.7 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.
- 27.8 Alteration, disconnection or relocation of internal plumbing and sanitary drainage works associated with the existing building must be in accordance with regulated work under the *Plumbing and Drainage Act 2018* and Council's Plumbing and Drainage Policies.
- 27.9 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.
- 27.10 The finished sewerage access chamber surface must be at a sufficient level to avoid ponding of stormwater above the top of the chamber. A heavy-duty trafficable lid must be provided in the trafficable area.

#### 28.0 ROOF AND ALLOTMENT DRAINAGE WORKS

- 28.1 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.
- 28.2 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).
- 28.3 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 an actionable nuisance or worsening to surrounding land or infrastructure.

## 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. Asbestos Removal

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

### NOTE 3. Dust Control

It is the developer’s responsibility to ensure compliance with Part 2A - Environmental Nuisance of the Environmental Protection Regulation 1998 which prohibits unlawful environmental nuisance caused by dust, ash, fumes, light, odour or smoke beyond the boundaries of the property during all stages of the development including earthworks and construction.

### NOTE 4. Sedimentation Control

It is the developer’s responsibility to ensure compliance with Section 32 of the Environmental Protection (Water) Policy 1997 to prevent soil erosion and contamination of the stormwater drainage system and waterways.

### NOTE 5. Noise During Construction and Noise In General

It is the developer’s responsibility to ensure compliance with Section 6S General Emission Criteria and Section 6T Noise Emission Criteria of the Environmental Protection Regulation 1998.

### NOTE 6. 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 7. 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 8. Advertising Devices

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

### NOTE 9. 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 10. Licensable Activities

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

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—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.

#### 230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to—

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

#### 231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The Judicial Review Act 1991, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the Judicial Review Act 1991 in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section— **decision** includes—
  - (a) conduct engaged in for the purpose of making a decision; and
  - (b) other conduct that relates to the making of a decision; and
  - (c) the making of a decision or the failure to make a decision; and
  - (d) a purported decision; and
  - (e) a deemed refusal.

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

#### 232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

**Schedule 1**

**Appeals section 229**

**1 Appeal rights and parties to appeals**

- (1) Table 1 states the matters that may be appealed to—(a) the P&E court; or (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
- (a) the refusal, or deemed refusal of a development application, for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (b) a provision of a development approval for—
    - (i) a material change of use for a classified building; or
  - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
    - (c) if a development permit was applied for—the decision to give a preliminary approval for—
      - (i) a material change of use for a classified building; or
      - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (d) a development condition if—
    - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
    - (ii) the building is, or is proposed to be, not more than 3 storeys; and
    - (iii) the proposed development is for not more than 60 sole-occupancy units; or
  - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
  - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
  - (g) a matter under this Act, to the extent the matter relates to—
    - (i) the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
    - (ii) the Plumbing and Drainage Act, part 4 or 5; or
  - (h) a decision to give an enforcement notice in relation to a matter under paragraphs (a) to (g); or
  - (i) a decision to give an infrastructure charges notice; or
  - (j) the refusal, or deemed refusal, of a conversion application; or
  - (k) a matter that, under another Act, may be appealed to the tribunal; or
  - (l) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
- (a) for a matter in subsection (2)(a) to (d)—
    - (i) a development approval for which the development application required impact assessment; and
    - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
  - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.
- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
- (a) column 1 states the appellant in the appeal; and
  - (b) column 2 states the respondent in the appeal; and
  - (c) column 3 states the co-respondent (if any) in the appeal; and
  - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.

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

<p>1. Development applications An appeal may be made against—</p> <ul 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> </ul>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence	1 A concurrence agency that is not a co-respondent



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

		agency's referral response—the concurrence agency	2 If a chosen Assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application
<p>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&amp;E court; or (b) a deemed refusal of a change application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
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
<p>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.</p>			
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
<p>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"> <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 <ul style="list-style-type: none"> <li>(i) The working out of extra demands, for section 120; or</li> <li>(ii) An offset or refund; or</li> </ul> </li> </ul> 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</p>			

<b>Table 1</b> <b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
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

<b>Table 2</b> <b>Appeals to the P&amp;E Court only</b>			
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

<b>Table 2 Appeals to the P&amp;E Court only</b>			
		(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

<b>Table 2 Appeals to the P&amp;E Court only</b>			
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><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—</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	-	-

<b>Table 3 Appeals to the tribunal only</b>			
<p><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.</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><b>3. Certain decisions under the Building Act and the Plumbing and Drainage Act</b>            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><b>4. Local government failure to decide application under the Building Act</b>            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

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



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## ATTACHMENTS (for office use only)

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### Plans and Referral Agency Response

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#### APPROVED PLANS

##### STAGE ONE



D242-2009 -  
Approved Plans (Sta

##### STAGE TWO



D242-2009 - Stage  
Two Approved Plans

#### REFERRAL AGENCY CONDITIONS STAGE ONE



D242-2009 - Stage  
one Referral Condi

#### REFERRAL AGENCY CONDITIONS STAGE TWO



D242-2009 -  
Referral Agency Res



D242-2009 -  
Referral Agency Res