



Decision Notice Approval

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

Application number:	D/36-2024	Contact:	Brendan Standen
Notice Date:	15 November 2024	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	VP Medical Services Pty Ltd		
Postal address:	C/- Gideon Town Planning PO BOX 450 ROCKHAMPTON CITY QLD 4700		
Phone no:	07 4806 6959	Mobile no:	N/A
Email:	info@gideontownplanning.com.au		

I acknowledge receipt of the above application on 28 March 2024 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for a Material Change of Use for a Childcare Centre

PROPERTY DESCRIPTION

Street address:	3 O'Shanesy Street, Gracemere
Real property description:	Lot 1 on RP602231

Dear VP Medical Services Pty Ltd

I advise that, on 8 November 2024 the above development application was:

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

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

1. DETAILS OF THE APPROVAL

The following approvals are given:

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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use	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

2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

3. FURTHER DEVELOPMENT PERMITS REQUIRED

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

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

4. REFERRAL AGENCIES - NIL

5. THE APPROVED PLANS

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

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/ Issue</u>
Site Plan	Dezignelements	9 October 2024	S-03	P4
Proposed Floor Plan	Dezignelements	9 October 2024	S-05	P4
Elevations	Dezignelements	9 October 2024	S-06	P4
Proposed Landscaping Plan	Designlements	9 October 2024	S-04	P4
Stormwater Management Plan	McMurtie Consulting Engineers	6 August 2024	R014-24-25	A
Traffic Impact Assessment	McMurtie Consulting Engineers	11 September 2024	R014-24-25	A

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

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

7. STATEMENT OF REASONS

Description of the development
Material Change of Use for a Childcare Centre
Reasons for Decision
<p>a) Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity; and</p> <p>b) On balance, the application should be approved because the circumstances favour Council exercising its discretion to approve the application even though the development does not comply</p>

with an aspect of the assessment benchmarks.

Assessment Benchmarks

The development was assessed against the following assessment benchmarks:

- Local Government Infrastructure Plan;
- Low-medium Density Residential Zone;
- Access, Parking and Transport Code;
- Landscape Code;
- Stormwater Management Code;
- Waste Management Code; and
- Water and Sewer Code.

Compliance with assessment benchmarks

The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exceptions listed below.

Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
Low-medium Density Residential Zone Code	<p>PO10</p> <p>The proposed development does not comply with Acceptable Outcome (AO) 10.1(d) because the proposed shed in the south-western corner of the site is approximately 900 millimetres from the western side boundary, rather than 1.5 metres.</p> <p>The proposed shed is 24 square metres (6m x 4m) and has been conditioned to not have a maximum height exceeding 4.5 metres above ground level and, as such, is consistent in scale with a single storey domestic residential outbuilding. The shed is located approximately 15 metres from rear boundary of the site, adjoining the backyard of the western adjoining dwelling house. Therefore, despite the reduced setback, the shed is of an appropriate scale and size for the zone and does not restrict access to natural light and ventilation on adjoining land.</p> <p>Therefore, the proposed development is taken to comply with Performance Outcome (PO) 10.</p> <p>PO21</p> <p>The proposed development does not comply with Acceptable Outcome AO21.1 because the hours of operation are 06:00 to 18:00, rather than 07:00 to 22:00.</p> <p>Despite this, the intensity of activity between 06:00 and 07:00 is expected to be minimal, a 1.8 metre high fence has been conditioned along all common boundaries with a residential activity, and the development is located in an area with reduced residential amenity because of the non-residential land uses.</p> <p>The Applicant has confirmed other daycare operators typically experience less than ten (10) per cent of children dropped off between 6:00 and 07:00, with low staffing number requirements to accommodate the small number of children.</p> <p>Therefore, the proposed development is taken to comply with Performance Outcome (PO)21.</p> <p>PO25</p> <p>The proposed development does not comply with Acceptable Outcome (AO) 25.1 or Performance Outcome (PO) 25 because an existing significant tree located toward the southern boundary will be removed to facilitate the on-site car parking area.</p>

	<p>Despite this, the proposed development includes and has been conditioned to provide street tree planting within the O'Shanesy Street road reserve, along the O'Shanesy Street frontage (within the site) and within the car parking area located within the southern portion of the site. The removal of one (1) tree and planting of approximately 25 more (of varying heights) is not considered to compromise the overall outcomes for the Zone Code.</p> <p>Therefore, despite the conflict with the AO and PO, these are considered low level conflicts and compliance with the overall outcomes can still be achieved.</p>
Landscape Code	<p>PO6</p> <p>The proposed development does not comply with Acceptable Outcome (AO) 6.6 because the existing vegetation on the site will be removed to facilitate the childcare centre.</p> <p>Despite this, landscaping has been conditioned to be provided in accordance with the approved 'Proposed Landscaping Plan'. The landscaping plan shows large shade trees (e.g. Tuckeroo), medium trees (e.g., Lilly Pilly and Magenta Cherry), and low bushes, shrubs and ground cover around the development. The implementation of the landscaping plan will result in more trees and shrubs on-site compared to the pre-developed scenario.</p> <p>Therefore, the proposed development is taken to comply with Performance Outcome (PO) 6.</p>
Relevant Matters	
Not applicable to an assessable development application subject to code assessment.	
Matters prescribed by regulation	
<ul style="list-style-type: none"> • The Rockhampton Region Planning Scheme 2015 (version 4.4); and • The common material, being the material submitted with the application. 	

8. APPEAL RIGHTS

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

Appeal by an applicant

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

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

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

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

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

9. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect:

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


Or

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

Or

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

10. ASSESSMENT MANAGER

Name: Amanda O'Mara <u>COORDINATOR</u> <u>DEVELOPMENT ASSESSMENT</u>	Signature: 	Date: 15 November 2024
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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.]

Attachment 2—Extract on appeal rights



Attachment 1 – Part 1

Rockhampton Regional Council Conditions

Planning Act 2016

1.0 ADMINISTRATION

- 1.1 The owner, the owner's successors in title, and any occupier of the premises is responsible for ensuring compliance with the conditions of this development approval.
 - 1.2 Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power, or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
 - 1.3 All conditions, works, or requirements of this development approval must be undertaken, completed, and be accompanied by a certificate of compliance for any operational works required by this development approval:
 - 1.3.1 to Council's satisfaction.
 - 1.3.2 at no cost to Council; and
 - 1.3.3 prior to the commencement of the use and issue of the Certificate of Classification for the Building Worksunless otherwise stated.
 - 1.4 Infrastructure requirements of this development approval must be contributed to the relevant authorities, where applicable, at no cost to Council, prior to the commencement of the use, issue of the Certificate of Classification for the Building Works unless otherwise stated.
 - 1.5 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
 - 1.5.1 Operational Works:
 - (i) Landscaping Works.
 - (ii) Road Works.
 - (iii) Access and Parking Works.
 - (iv) Stormwater Works.
 - (v) Site Works.
 - 1.5.2 Plumbing and Drainage Works; and
 - 1.5.3 Building Works:
 - (i) Building Works.
 - 1.6 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
 - 1.7 All works must be designed, constructed, and maintained in accordance with the relevant Council policies, guidelines, and standards, unless otherwise stated.
 - 1.8 All engineering drawings/specifications, design and construction works must be in accordance with the requirements of the relevant Australian Standards and must be approved, supervised, and certified by a Registered Professional Engineer of Queensland.
- #### 2.0 APPROVED PLANS AND DOCUMENTS
- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except were 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	Dezignelements	9 October 2024	S-03	P4
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2.2 Where there is any conflict between the conditions of this development approval and the details shown on the approved plans and documents, the conditions of this development must prevail.

3.0 ROAD WORKS

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

3.2 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 the provisions of a Development Permit for Operational Works (road works).

3.3 Pierce Street must be upgraded to a Local Access standard for the full frontage of Lot 1 on RP602231, with half road construction along the development side. Kerb and channel and drainage infrastructure must be included.

3.4 All new road works must connect with existing constructed road(s) and smooth transition must be provided between these two sections.

3.5 A concrete pathway, with a minimum width of 1.5 metres, must be constructed on the western side of Pierce Street for the full frontage of the development site.

3.6 All pathways and access ramps must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*.

3.7 All pathways must incorporate kerb ramps at all road crossing points.

3.8 Traffic signs (if required) and pavement markings must be provided in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*. Where necessary, existing traffic signs and pavement markings must be modified in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*.

4.0 ACCESS AND PARKING WORKS

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

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

4.3 A new access to the development must be provided at Pierce Street.

4.4 All access parking and vehicular manoeuvring areas associated with the proposed development must be sealed to Council's satisfaction.

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

- 4.6 Parking spaces must be line-marked as shown in the 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).
- 4.7 Any application for a Development Permit for Operational Works (access and parking works) must be accompanied by revised detailed and scaled plans, which demonstrate the turning movements/swept paths of the largest vehicle to access the development site including refuse collection vehicles. Encroachment onto the car parking spaces will not be supported.
- 4.8 All internal pedestrian pathways must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*.
- 4.9 Signs and pavement markings must be provided on the approach and departure sides of the access to allow safe ingress and egress movements and must be in accordance with the *Manual of Uniform Traffic Control Devices – Queensland*.
- 4.10 All vehicles must ingress and egress the development in a forward gear.
- 4.11 A minimum of forty-one (41) parking spaces must be provided on-site. This includes twenty (20) staff parking spaces, twenty (20) spaces for children/visitor and one (1) space for persons with disabilities (PWD).
- 5.0 PLUMBING AND DRAINAGE WORKS
- 5.1 A Development Permit for Plumbing and Drainage Works must be obtained for the proposed development.
- 5.2 All internal plumbing and drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act 2008, Plumbing and Drainage Act 2018*, and Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.
- 5.3 The development must be connected to Council's reticulated sewerage and water networks.
- 5.4 The existing sewerage connection point must be retained, and upgraded, if necessary, to service the development.
- 5.5 A new water connection point must be provided to the development. A hydraulic engineer or other suitably qualified person must determine the size of connection required.
- 5.6 Adequate domestic and firefighting protection must be provided to the development and must be certified by a hydraulic engineer or other suitably qualified person.
- 5.7 Water meter box located within trafficable areas must be raised or lowered to suit the finished surface levels and must be provided with heavy duty trafficable lids.
- 5.8 Sewerage trade waste permits must be obtained for the discharge of any nondomestic waste into Council's sewerage reticulation network. Arrestor traps must be provided where commercial or non-domestic waste is proposed to be discharged into the sewer system.
- 6.0 STORMWATER WORKS
- 6.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works required by this development approval.
- 6.2 All stormwater drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1) subject to ensuring compliance and any alterations required by the *Environmental Protection Act 1992, Queensland Urban Drainage Manual, Capricorn Municipal Development Guidelines*, and sound engineering practice and the provisions of a Development Permit for Operational Works (stormwater works).
- 6.3 All stormwaters must drain to a demonstrated lawful point of discharge and must not adversely affect surrounding land or infrastructure in comparison to the pre-development conditions, including but not limited to blocking, altering, or diverting existing stormwater runoff patterns or having the potential to cause damage to other infrastructure.
- 6.4 The development must not increase peak stormwater runoff for a selected range of storm events up to and including a one per cent (1%) Annual exceedance probability storm event, for the post-development conditions.

6.5 The installation of Bio-retention basin must be in accordance with relevant Australian Standards and all maintenance of the proposed Bio-retention basin must be the responsibility of the property owner or body corporate.

6.6 Adequate safety measures must be provided around the proposed Bio-retention basin and must comply with the requirement of *Queensland Urban Drainage Manual*.

7.0 ROOF AND ALLOTMENT DRAINAGE WORKS

7.1 All roof and allotment drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Queensland Urban Drainage Manual*, *Capricorn Municipal Development Guidelines*, sound engineering practice the provisions of a Development Permit for Operational Works (roof and allotment drainage works).

7.2 All roof and allotment runoff from the development must be directed to a lawful point of discharge and must not restrict, impair, or change the natural flow of runoff water or cause a nuisance to surrounding land or infrastructure.

8.0 SITE WORKS

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

8.2 Any application for the Development Permit for Operation works (site Work) must be accompanied by an earthworks plan that clearly identifies the following:

8.2.1 The location of cut and/or fill;

8.2.2 The type of fill to be used and the manner in which it is to be compacted.

8.2.3 The quantum of fill to be deposited or removed and finished cut and/or fill levels.

8.2.4 Details of any proposed access routes that are intended to be used to transport fill to or from the development site; and

8.2.5 the maintenance of access roads to and from the development site so that they are free of all cuts and/or fill material and cleaned as necessary.

8.3 All building for must be undertaken in accordance with Australian Standard AS3798 "*Guidelines on earthworks for commercial and residential developments*".

8.4 Site works must be constructed such that they do not, at any time, in any way restrict, impair, or change the natural flow of runoff, or cause an actionable nuisance or worsening to surrounding land or infrastructure.

9.0 BUILDING WORKS

9.1 A Development Permit for Building Works assessable under the Building Assessment Provisions must be obtained prior to the commencement of any building works on the site.

9.2 Construct a 1.8 metre high solid screen fence along the side and rear boundaries, except the road boundaries.

Advice Note: *This condition does not restrict the construction of fences along road boundaries, only that as a minimum fencing in accordance with condition 9.2 must be provided along side and rear boundaries.*

10.0 LANDSCAPING WORKS

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

10.2 A Landscaping Plan must be submitted with the first application for a Development Permit for Operational Works. Landscaping must be constructed and/or established prior to the commencement of the use in all areas shown on the approved plans (refer to condition 2.1).

10.3 Any application for a Development Permit for Operational Works (landscaping works) must be generally in accordance with the approved plans (refer to condition 2.1) and must include, but is not limited to, the following:

10.3.1 A plan documenting the "Extent of Works" and supporting documentation that includes:

- (i) location and name of existing trees, including those to be retained (the location of the trees must 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 must 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 (stabilisation of batters, retaining walls)
 - (vi) details of landscape structures including areas of deep planting; and
 - (vii) specification notes on mulching and soil preparation.
- 10.3.2 A "Planting Plan" and supporting documentation that includes:
- (i) landscaped areas predominantly containing plant species that have low water dependency;
 - (ii) trees, shrubs and groundcovers to all areas to be landscaped;
 - (iii) position and canopy spread of all trees and shrubs;
 - (iv) the extent and type of works (including but not limited to paving, fences and garden bed edging). Edging must be provided for all garden beds; and
 - (v) a plant schedule with the botanic and common names, total plant numbers and pot sizes at the time of planting.
- 10.4 Landscaping must be designed in accordance with the requirements of *Australian Standard AS 1428 — Design for access and mobility*.
- 10.5 The street trees shown in the approved plans (refer to condition 2.1) must be one or a combination of the following species:
- 10.5.1 *Buckinghamia celcissma* – Ivory Curl
 - 10.5.2 *Corymbia ptychocarpa* –Swamp Bloodwood
 - 10.5.3 *Cupaniopsis anacardioides* – Tuckeroo
 - 10.5.4 *Cupaniopsis parvisolia* – Small Leaf Tuckeroo
 - 10.5.5 *Harpullia pendula* – Tulip wood
 - 10.5.6 *Melicope elleryana*- Pink Flowering Euodia
 - 10.5.7 *Syzygium leuhmanii*- Small Leafed Lilly Pilly
 - 10.5.8 *Waterhousia floribunda* – Weeping Lilly Pilly
 - 10.5.9 *Xanthostemon chrysanthus* – Golden Penda
- 10.6 The street trees must:
- 10.6.1 Be at least three (3) metres from a driveway;
 - 10.6.2 Be at least five (5) metres apart; and
 - 10.6.3 Be at least six (6) metres from the corner of the kerb at street intersections.
- 10.7 Street trees must be maintained by the owner / developer until established.
- Advice 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.*
- 10.8 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.
- 10.9 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*.
- 10.10 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.
- 10.11 Shade trees must comply with the following requirements:
- 10.11.1 Be planted clear of services and utilities;

- 10.11.2 Be planted clear of park furniture and embellishments;
- 10.11.3 Not obstruct pedestrian or bicycle traffic; and
- 10.11.4 Comply with crime prevention through environmental design principles.
- 10.12 Shade trees within car parking areas are to be provided and planted within a deep natural ground/structured soil garden bed/island/bay and are protected by wheel stops or bollards as required.
- 10.13 Shade trees shown on the approved plans (refer to condition 2.1) must be retained and maintained.
- 10.14 Each shade tree must have a clean trunk with a minimum height of two (2) metres and must be provided within the car park at the following rates:
 - 10.14.1 In single sided, angle or parallel bays – One (1) tree per three (3) car parks; and
 - 10.14.2 In double sided, angle or parallel bays – One (1) tree per six (6) car parks.
 - 10.14.3 Each shade tree is provided with a minimum planting area of 1.2 square metres with a minimum topsoil depth of 0.8 metres.
- 10.15 Root control barriers must be installed where invasive roots may cause damage to car parking areas, pedestrian paths and road carriageways.
- 10.16 Large trees must not be planted within one (1) metre of the centreline of any sewerage and/or water infrastructure; small shrubs and groundcover are acceptable.
- 10.17 Landscaping, or any part thereof, upon reaching full maturity, must not:
 - 10.17.1 Obstruct sight visibility zones as defined in the Austroads 'Guide to Traffic Engineering Practice' series of publications;
 - 10.17.2 Adversely affect any road lighting or public space lighting; or
 - 10.17.3 Adversely affect any Council infrastructure, or public utility plant.
- 11.0 ELECTRICITY
- 11.1 Electricity service must be provided to the development in accordance with the standard and requirements of the relevant service provider.
- 11.2 Evidence that the development is provided with electricity services from the relevant service provider must be provided to council, prior to the commencement of the use.
- 12.0 TELECOMMUNICATIONS
- 12.1 Telecommunications services must be provided to the development in accordance with the standards and requirements of the relevant service provider.
- 13.0 ASSET MANAGEMENT
- 13.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be undertaken and completed at no cost to Council.
- 13.2 Any damage to existing stormwater, water supply and sewerage infrastructure, kerb and channel, pathway, or roadway (including removal of concrete slurry from public land and Council infrastructure), that occurs while any works are being carried out in association with this development approval must be repaired at full cost to the developer. This includes the reinstatement of any existing traffic signs or pavement markings that may have been removed or damaged.
- 13.3 'As Constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the commencement of the use. This information must be provided in accordance with the Manual for Submission of Digital as Constructed Information.
- 14.0 ENVIRONMENTAL
- 14.1 The Erosion Control and Stormwater Control Management Plan prepared and certified by suitably qualified person (Certified Professional in Erosion and Sediment Control or a Registered Professional Engineer of Queensland), with appropriate knowledge and experience in erosion and sediment control design and implementation, in accordance with the *State Planning Policy 2017*, *International Erosion Control Association Best Practice Guidelines* and *Capricorn Municipal Design Guidelines* requirements, must be:

- 14.1.1 implemented, monitored, and maintained for the duration of the works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydro mulched, concreted, landscaped); and
- 14.1.2 available on-site for inspection by Council Officers whilst all works are being carried out.
- 14.2 The Environmental Management Plan approved as part of a Development Permit for Operational Works must be part of the contract documentation for the development works.
- 15.0 OPERATING PROCEDURE
- 15.1 All construction materials, waste skips, machinery and contractors' vehicles must be located and stored or park within the development site. Storage of materials or parking of construction machinery or contractors' vehicles must not occur within O'Shanesy Street or Pierce Street.
- 15.2 Hours of operation are limited to 06:00 to 22:00.
- 15.3 The maximum number of children permitted on-site at any given time (as part of the childcare centre use) is limited to 146.
- 15.4 All waste storage area must be:
 - 15.4.1 Kept in a clean and tidy condition; and
 - 15.4.2 Maintained in accordance with *Environmental Protection Regulation 2019*.
- 15.5 Impervious paved waste storage area/s must be provided in accordance with the approved plans (refer to condition 2.1) and the *Environmental Protection Regulation 2019* and must be:
 - 15.10.1 designed and located so as not to cause a nuisance to neighbouring properties.
 - 15.10.2 aesthetically screened from any road frontage or adjoining property.
 - 15.10.3 concealed from public view such that the contents of the waste storage area are not visible from any public place.
 - 15.10.4 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.
 - 15.10.5 Provided with a washdown facility which include a suitable hosecock and hoses at the refuse container area. Washdown must be drained to the sewer and fitted with an approved stormwater diversion valve arrangement in accordance with the Sewerage Trade waste provision and the plumbing and *Drainage Act 2002*.

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.

ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

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

NOTE 2. General Environmental Duty

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

NOTE 3. General Safety of Public During Construction

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

NOTE 4. Infrastructure Charges Notice

Council has resolved not to issue an Infrastructure Charges Notice for this development because the new infrastructure charges arising from the development are less than or equal to the credits applicable for the new development.

NOTE 5. Rating Category

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

NOTE 6. Licensable Activities

Should an activity licensable by Rockhampton Regional Council be proposed for the premises, Council's Environment and Public Health Unit should be consulted to determine whether any approvals, such as a Food Business Licence are required. Approval for such activities is required before 'fitout' 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 or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—
See the P&E Court Act for the court's power to extend the appeal period.
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

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

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

231 Other appeals

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

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

232 Rules of the P&E Court

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

Schedule 1

Appeals section 229

1 Appeal rights and parties to appeals

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

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

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
		agency's referral response—the concurrence agency	2 If a chosen Assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application
2. Change applications An appeal may be made against— (a) a responsible entity's decision for a change application, other than a decision made by the P&E court; or (b) a deemed refusal of a change application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 The applicant 2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice	The responsible entity	If an affected entity starts the appeal—the applicant	1 A concurrence agency for the development application 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 A private certifier for the development application 4 Any eligible advice agency for the change application 5 Any eligible submitter for the change application
3. Extension applications An appeal may be made against— (a) the assessment manager's decision about an extension application; or (b) a deemed refusal of an extension application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 The applicant 2 For a matter other than a deemed refusal of an extension application – a concurrence agency, other than the chief executive, for the application	The assessment manager	If a concurrence agency starts the appeal – the applicant	If a chosen assessment manager is the respondent – the prescribed assessment manager

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
<p>4. Infrastructure charges notices An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds</p> <p>a) The notice involved an error relating to –</p> <p>(i) The application of the relevant adopted charge; or</p> <p>Examples of errors in applying an adopted charge –</p> <ul style="list-style-type: none"> • The incorrect application of gross floor area for a non-residential development • Applying an incorrect ‘use category’, under a regulation, to the development <p>(i) The working out of extra demands, for section 120; or</p> <p>(ii) An offset or refund; or</p> <p>b) There was no decision about an offset or refund; or</p> <p>c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or</p> <p>d) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the Infrastructure charges notice	The local government that gave the infrastructure charges notice	-	-
<p>5. Conversion applications An appeal may be made against—</p> <p>(a) the refusal of a conversion application; or</p> <p>(b) a deemed refusal of a conversion application.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The local government to which the conversion application was made	-	-
<p>6. Enforcement notices An appeal may be made against the decision to give an enforcement notice.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the enforcement notice	The enforcement authority	-	If the enforcement authority is not the local government for the premises in relation to which the offence is alleged to have happened—the local government

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

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

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

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

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