



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/5-2024	Contact:	Kathy McDonald
Notice Date:	3 September 2024	Contact Number:	07 4936 8099

APPLICANT DETAILS

Name:	JJ Kerr's Appliances Pty Ltd				
Postal address:	C/- Capricorn Survey Group (CQ) PO BOX 1391 ROCKHAMPTON QLD 4700				
Phone no:	07 4927 5199	Mobile no:	0407 581 850	Email:	reception@csqcq.com.au

I acknowledge receipt of the above application on 22 January 2024 and confirm the following:

DEVELOPMENT APPROVAL

Development Permit for Material Change of Use for Low Impact Industry

PROPERTY DESCRIPTION

Street address:	59 Lucas Street, Berserker
Real property description:	Lot 131 and 132 on RP601289

Dear JJ Kerr's Appliances Pty Ltd

I advise that, on 27 August 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Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - Material change of use	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>Sewerage Works</i> <i>Stormwater Works</i> <i>Roof and Allotment Drainage Works</i>
Building Works	<i>Demolition Works</i> <i>Building Works</i>
Plumbing and Drainage Works	

4. SUBMISSIONS

Properly made submissions were not made in relation to the application.

5. REFERRAL AGENCIES

The following Referral Agencies were activated by this application.

For an application involving	Name of agency	Role of Agency	Contact Details
STATE TRANSPORT INFRASTRUCTURE (State Transport Corridors and Future State Transport Corridors)			
<i>Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 – Material change of use of premises near a State transport corridor or that is a future State transport corridor</i>			
Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorising instrument, if all or part of the premises— (a) are within 25m of a State transport corridor; or (b) are a future State transport corridor; or (c) are— (i) adjacent to a road that intersects with a State-controlled road; and (ii) within 100m of the intersection	The chief executive of the department in which the <i>Planning Act 2016</i> is administered: State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department)	Concurrence	<u>In person:</u> Level 2, 209 Bolsover Street, Rockhampton City <u>Online lodgement using MyDAS2:</u> https://prod2.dev-assess.qld.gov.au/suite/ <u>Email:</u> RockhamptonSARA@dsgi.lgp.qld.gov.au <u>Postal:</u> PO Box 113 Rockhampton Qld 4700

6. THE APPROVED PLANS

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

<u>Plan/Document Name</u>	<u>Prepared by</u>	<u>Date</u>	<u>Reference No.</u>	<u>Version/Issue</u>
3D View	Dezignelements	29 April 2024	23_252 / S-01	-
3D View	Dezignelements	29 April 2024	23_252 / S-02	-

3D View	Dezignelements	29 April 2024	23_252 / S-03	-
Site Plan	Dezignelements	29 April 2024	23_252 / S-04	-
Proposed Floor Plan	Dezignelements	29 April 2024	23_252 / S-05	-
Elevations	Dezignelements	29 April 2024	23_252 / S-06	-
Elevations	Dezignelements	29 April 2024	23_252 / S-07	-
Stormwater Management Plan	Hartecs Group	26 March 2024	PRJ-0437	1

7. 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.

8. STATEMENT OF REASONS

Description of the development
Material Change of Use for a Low Impact Industry
Reasons for Decision
<p>a) Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity; and</p> <p>b) On balance, the application should be approved because the circumstances favour Council exercising its discretion to approve the application even though the development does not comply with an aspect of the assessment benchmarks.</p>
Assessment Benchmarks
<p>The development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> • Local Government Infrastructure Plan; • Strategic Framework; • Specialised Centre Zone Code; • Low-Medium Density Residential Zone Code; • Low Impact Industry Zone Code; • Access, Parking and Transport Code; • Landscape Code; • Stormwater Management Code; • Waste Management Code; • Water and Sewer Code; and • Airport Environs 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.

Assessment Benchmark	Reasons for the approval despite non-compliance with benchmark
<p>Low-Medium Density Residential Zone Purpose and Strategic Framework</p>	<p>6.2.2.2 Purpose of the Low-Medium Density Residential Zone</p> <p>The proposed development conflicts with aspects of the overall outcomes specified under (2) (c) of the zones purpose. The overall outcomes specify provisions for a non-residential use located within the Low-Medium Density Residential Zone.</p> <p>Specifically, the conflict is with (iii) which stipulates that the primary function of the development is to service the needs of the immediate local residential community and (v) which stipulates that the development does not result in the expansion of a centre zone.</p> <p>3.3 Settlement Pattern – 3.3.12 Element – Specialised Centres</p> <p>3.3.12.1 Specific Outcome (4) of the Strategic Framework specifies that further expansion of centres into adjacent residential zones and outside the designated centre areas (including ribbon development along roads) will not occur.</p> <p>Whilst the development is located in the Low-Medium Density Residential Zone it is also located in the Specialised Centres designation under the scheme's strategic framework mapping. This being considered, the mapping suggests the subject site is planned for centre development and is not an expansion of the centre zone.</p> <p>Furthermore, the development is not considered to worsen the 'ribbon effect' as adjoining development to the east and south of the subject site is already established further along within the Low Medium Density Residential Zone and Lucas Street.</p> <p>Likewise, whilst the development is not purpose built, it is not considered to compromise the role and function of designated centres as a Low Impact Industry use is contemplated within the Specialised Centre Zone. Is small in scale, has an active street front and does not involve a significant increase in Ground Floor Area.</p> <p>Therefore, the proposal demonstrates that the development will not compromise the Rockhampton Region Planning Scheme 2015 Strategic Framework outcomes.</p>
<p>Specialised Centre Zone Code</p>	<p>Performance Outcome (PO) 36</p> <p>The proposed development conflicts with Performance Outcome (PO) 36 and no Acceptable Outcome (AO) is nominated. PO 36 states that industrial uses do not occur in the mixed use sub-precinct.</p> <p>Whilst the subject site is not directly located within the mixed use sub-precinct it does border it.</p> <p>Industrial uses are contemplated within the Specialised Centre Zone, generally concentrated in the outdoor sales and sub-precinct and contemplated elsewhere where they can demonstrate that no adverse amenity impacts will occur as a result of the development due to the proximity to surrounding residential areas.</p> <p>The applicable overall outcomes for the mixed use sub-precinct state that non-residential development provides:</p> <ul style="list-style-type: none"> - suitable buffering to the residential zones located east and west of Musgrave Street; - business-to-business uses are located on lower order side roads connecting with Musgrave Street; and - all uses incorporate a high level of design and pedestrian amenity and

	<p>contribute to the creation of an attractive link between the major centre zone.</p> <p>The development can demonstrate appropriate buffers to existing sensitive land uses (20 metres away) with appropriate landscaping and a minimum 1.8 metre high solid screen fence conditioned to be erected surrounding the development site;</p> <p>The development site is located on Lucas Street being a lower order side road connected to Musgrave Street; and</p> <p>Provides appropriate pedestrian amenity with the extension of the footpath to integrate with existing commercial and industrial adjoining developments contributing to the linkage of Lucas Street to Musgrave Street.</p> <p>Therefore, the proposal can demonstrate compliance with the overall outcomes of the mixed use sub-precinct and purpose of the Specialised Centre Zone.</p>
<p>Low-Medium Density Residential Zone Code</p>	<p>Performance Outcome (PO) 10</p> <p>The proposed development conflicts with Acceptable Outcome (AO) 10.1 (d) and (e) because:</p> <p>(d) requires the side boundary setbacks to be two (2) metres for a wall up to 7.5 metres high, where the proposed setback along the right side boundary is 208 millimetres.</p> <p>(e) requires the rear boundary setback to be four (4) metres, where the proposed setback is three (3) metres; and</p> <p>The proposed development does not comply with Acceptable Outcome (AO) 10.3 because the maximum length of any exterior wall is fifteen (15) metres, where the proposed length of the wall along the right side boundary is 23.5 metres.</p> <p>Despite this, the development is designed to make provisions for landscaping, integration with the streetscape and privacy and noise attenuation to ensure no adverse impacts on the urban form of the surrounding low-medium density residential area.</p> <p>This is achieved by increasing the road boundary setback to include landscaping along the front boundary and both left and right side boundaries. Extension of the footpath to integrate with existing commercial and industrial adjoining developments and on-site carparking to avoid increased parking along Lucas Street.</p> <p>Conditions have been imposed to ensure the exterior wall fronting east includes articulation so that it does not exceed a length of fifteen (15) metres without a change in plane to minimise the expanse of blank walls facing the street.</p> <p>Furthermore, the reduced setbacks are considered low-level conflicts as the adjoining property is of a similar land use (motor vehicle workshop) and the building height and scale is consistent with the zone.</p> <p>Therefore, the proposed development is taken to comply with Performance Outcome (PO) 10.</p> <p>Performance Outcome (PO) 13</p> <p>The proposed development does not comply with Performance Outcome (PO) 13 (a) and (g) and no Acceptable Outcome is nominated.</p> <p>(a) specifies that non-residential development services the day-to-day needs of residents of the local neighbourhood; and</p> <p>(g) specifies that non-residential development does not adjoin an existing commercial centre zone, where the subject site is adjoining the Specialised Centre Zone.</p> <p>Despite this, the development does comply with the remainder of the Performance Outcomes (c), (d), (e), (f), (h) and (i) of PO13:</p> <p>(c) and (e) - The development can demonstrate that it will not compromise the</p>

	<p>residential character and existing amenity of the surrounding area as the built form height and scale of the development complies with the built form provisions for a new building within the zone and is consistent with the surrounding area. In addition, the adjoining property is of a similar land use (motor vehicle workshop) and built form.</p> <p>(d) - The development can demonstrate that it is small in scale as the limited site area, layout, ground floor area and land use applied for indicate the capabilities of the site are constrained to that of a small scale development.</p> <p>(f) - Whilst the development is not purpose built, it is not considered to compromise the role and function of designated centres as a Low Impact Industry use is contemplated within the Specialised Centre Zone.</p> <p>(h) – The development site is in proximity to public transport with a bus stop located 130 metres away along Musgrave Street; and</p> <p>(i) – The development is not anticipated to compromise the local street network as outlined in the response to PO14.</p> <p>Therefore, on balance the proposed development complies with PO13.</p> <p>Refer to above response to 6.2.2.2 Purpose of the Low-Medium Density Residential Zone for non-compliances with (a) and (g).</p>
	<p>Performance Outcome (PO) 14</p> <p>The proposed development conflicts with Acceptable Outcome (AO) 14.1 because the development is located on Lucas Street which is identified as an Urban Access Street, whereby 14.1 specifies that a development for a non-residential use is located only on a road classified as a minor urban collector or higher.</p> <p>Despite this, the Lucas Street carriage width is approximately 11 metres and combined with the road reserve width, is approximately 20 metres. With this road geometry and in accordance with the Capricorn Municipal Development Guidelines (CMDG), Lucas Street can be classified as a Minor Urban Collector.</p> <p>Furthermore, in accordance with Road Planning and Design Manual, for Light Industrial uses the daily traffic generation rate is nine (9) per 100 square metres of Ground Floor Area (GFA). The proposed development has a total GFA of 330 square metres so, will generate a maximum of 30 vehicles per day. This is not considered a major increase to Lucas Street which can accommodate 3000 vehicles per day.</p> <p>Therefore, the proposed development is taken to comply with PO 14.</p>
	<p>Performance Outcomes (PO) 24.3</p> <p>The proposed development partly conflicts with Acceptable Outcome (AO) 24.3 because a minimum four (4) metre width landscape buffer for the full length of the rear boundary is not proposed.</p> <p>Despite this, the development proposes an alternative outcome that will enhance the appearance and create an attractive environment that is consistent with the surrounding streetscape because:</p> <ul style="list-style-type: none"> - The development does comply with the minimum landscaped area of 10 per cent with approximately 80 square metres of landscaping proposed and condensed to the front of the development site to enhance the street appearance. - Extension of the footpath to integrate with existing commercial and industrial adjoining developments will improve the public street along Lucas Street. - A minimum 1.8 metre high solid screen fence has been conditioned to be erected between the subject development site and adjacent rear residential property to appropriately screen the development from the adjoining sensitive land uses; and - The Alternative rear boundary setback of three (3) metres is considered

	<p>appropriate as the closest dwelling to the rear is an additional 20 metres from the rear common boundary of the development.</p> <p>Therefore, the proposed development is taken to comply with Performance Outcome (PO) 24.</p>
Low Impact Industry Zone Code	<p>Performance Outcomes (PO) 7.1</p> <p>The proposed development partly conflicts with Acceptable Outcome (AO) 7.1 because a minimum two (2) metre width landscaping is not provided for the full length of the road frontage.</p> <p>An alternative outcome has been proposed with the development providing a 1.166 metre Landscape strip along the road frontage.</p> <p>As stated in the response to PO24.3 of the Low-Medium Density Residential Zone Code, the development does comply with the minimum landscaped area of 10 per cent with approximately 80 square metres of landscaping proposed and condensed to the front of the development site to enhance the street appearance.</p> <p>Therefore, the development is considered to make a positive contribution to the streetscape and is taken to comply with Performance Outcome (PO) 7.</p>
Relevant Matters	
<p>The proposed development was assessed against the following relevant matters:</p> <p>The development is not considered to further expand into the adjacent residential zone due to the approved development TPC/2382-1900 for a Service Industry (Sales and Service of Automotive Parts) which is an established land use on the adjoining property located further along Lucas Street within the Low-Medium Density Residential Zone.</p>	
Matters raised in submissions	
<p>The proposal was the subject of public notification between 20 May 2024 and 12 June 2024, in accordance with the requirements of the Planning Act 2016 and the Development Assessment Rules, and no submissions were received.</p>	
Matters prescribed by regulation	
<ul style="list-style-type: none"> • The Rockhampton Region Planning Scheme 2015 (version 4.4); • Central Queensland Regional Plan 2013; and • The common material, being the material submitted with the application. 	

9. APPEAL RIGHTS

The rights of an applicant to appeal to a tribunal or the Planning and Environment Court against a decision about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. 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.

10. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect:

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


Or

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

Or

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

11. ASSESSMENT MANAGER

Name: Amanda O'Mara COORDINATOR DEVELOPMENT ASSESSMENT	Signature: 	Date: 3 September 2024
---	---	------------------------

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

Attachment 1 – Conditions of the approval

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

Part 2 – Conditions required by the referral agency response

Attachment 2—Extract on appeal rights

1.0 ADMINISTRATION

- 1.1 The owner, the owner's successors in title, and any occupier of the premises is responsible for ensuring compliance with the conditions of this development approval.
- 1.2 Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions, works, or requirements of this development approval must be undertaken, completed, and be accompanied by a Compliance Certificate for any operational works required by this development approval:
- 1.3.1 to Council's satisfaction;
 - 1.3.2 at no cost to Council; and
 - 1.3.3 prior to the commencement of the use,
unless otherwise stated.
- 1.4 Infrastructure requirements of this development approval must be contributed to the relevant authorities, where applicable, at no cost to Council, prior to the commencement of the use, unless otherwise stated.
- 1.5 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
- 1.5.1 Operational Works:
 - (i) Road Works;
 - (ii) Access and Parking Works;
 - (iii) Sewerage Works;
 - (iv) Stormwater Works;
 - (v) Roof and Allotment Drainage;
 - 1.5.2 Plumbing and Drainage Works; and
 - 1.5.3 Building Works:
 - (i) Demolition Works; and
 - (ii) Building Works.
- 1.6 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 1.7 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.
- 1.8 All engineering drawings/specifications, design and construction works must be in accordance with the requirements of the relevant Australian Standards and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.
- 1.9 Lot 131 on RP601289 and Lot 132 on RP601289 must be amalgamated and registered as one lot prior to the commencement of the use.

1.10 All development conditions contained in this development approval about infrastructure under Chapter 4 of the *Planning Act 2016* should be read as being non-trunk infrastructure conditioned under section 145 of the *Planning Act 2016*, unless otherwise stated.

2.0 APPROVED PLANS AND DOCUMENTS

2.1 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>
3D View	Dezignelements	29 April 2024	23_252 / S-01	-
3D View	Dezignelements	29 April 2024	23_252 / S-02	-
3D View	Dezignelements	29 April 2024	23_252 / S-03	-
Site Plan	Dezignelements	29 April 2024	23_252 / S-04	-
Proposed Floor Plan	Dezignelements	29 April 2024	23_252 / S-05	-
Elevations	Dezignelements	29 April 2024	23_252 / S-06	-
Elevations	Dezignelements	29 April 2024	23_252 / S-07	-
Stormwater Management Plan	Hartecs Group	26 March 2024	PRJ-0437	1

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

3.0 ROAD WORKS

3.1 A Development Permit for Operational Works (road works) must be obtained prior to the commencement of any road works 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 A concrete pathway must be provided along Lucas Street, for the full frontage of the development site. The construction must extend and connect from the existing adjacent concrete pathways on Lucas Street.

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 All access, parking and vehicle manoeuvring areas must be paved or sealed to Council's satisfaction.

- 4.4 The existing access to the development located at south-eastern corner must be removed.
- 4.5 A new access to the development must be provided from Lucas Street.
- 4.6 Any redundant vehicular crossovers must be replaced by Council standard kerb and channel.
- 4.7 All vehicles must ingress and egress the development in a forward gear.
- 4.8 A minimum of one (1) metre setback must be provided from the access driveway to any street signage, power poles, streetlights, access chambers, stormwater gully pits or other Council asset.
- 4.9 A minimum of four (4) parking spaces must be provided on-site.
- 4.10 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).
- 4.11 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 (Medium Rigid Vehicle – 8.8 metres) to access the development site including refuse collection vehicles.
- 4.12 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"*.
- 4.13 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"*.
- 4.14 Medium Rigid Vehicles (8.8 metres in length) or smaller vehicles must be used to supply and remove goods or services to and from the proposed development.
Note: Large Vehicles other than Medium Rigid Vehicles (8.8 metres in length) are restricted to the development site.

5.0 SEWERAGE WORKS

- 5.1 A Development Permit for Operational Works (sewerage works) must be obtained prior to the commencement of any sewerage works on the development site.
- 5.2 All sewerage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act 2008, Plumbing and Drainage Act 2018* and the provisions of a Development Permit for Operational Works (sewerage works).
- 5.3 The development must be connected to Council's reticulated sewerage network.
- 5.4 The existing combined line located within the development site must be upgraded to standard sewerage infrastructure (150 millimetre sewerage main) and terminated at the access chamber on the eastern boundary of Lot 131 on RP601289.
Note: The upgrade must be from the existing access chamber located within the neighbouring allotment (Lot 137 on SP259322).
- 5.5 Owners consent must be obtained from adjoining property owners (Lot 130 RP601289 and Lot 137 on SP259322) prior to the commencement of any sewerage works required by this development approval.
- 5.6 The existing sewerage connection point(s) must be disconnected, and a new connection point must be provided to the development site from sewerage infrastructure to be constructed in accordance with condition 5.4.
Note: the new sewerage connection point must be located a minimum of one (1) metre clear of the proposed structure.

- 5.7 The upgraded sewerage infrastructure (sewerage main and access chamber) must be located a minimum of two (2) metres clear of the proposed structure.
- 5.8 The sewerage service to the existing building located within the neighbouring allotment (Lots 129 - 130 on SP601289) must be maintained throughout the development.
- 5.9 The finished sewerage access chamber surface must be at a sufficient level to avoid ponding of stormwater above the top of the chamber. A heavy-duty trafficable lid must be provided in the trafficable area.
- 5.10 Sewer connections located within trafficable areas must be raised or lowered to suit the finished surface levels and must be provided with heavy duty trafficable lids.
- 5.11 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.
- 6.0 PLUMBING AND DRAINAGE WORKS
- 6.1 A Development Permit for Plumbing and Drainage Works must be obtained for the removal and/or demolition of any existing structure on the development site.
- 6.2 All internal plumbing and drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines, Water Supply (Safety and Reliability) Act 2008, Plumbing and Drainage Act 2018*, Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.
- 6.3 The development must be connected to Council's reticulated water networks.
- 6.4 The existing water connection point(s) must be retained, and upgraded if necessary, to service the development.
- 6.5 A fire hydrant must be installed on the existing water infrastructure located within the Lucas Street, fronting the development site.
- 7.0 STORMWATER WORKS
- 7.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works on the development site.
- 7.2 All stormwater 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 (stormwater works).
- 7.3 All stormwater (roof and allotment runoff) must drain to a lawful point of discharge and must not adversely affect surrounding land or infrastructure in comparison to the pre-development condition, including but not limited to blocking, altering or diverting existing stormwater runoff patterns or having the potential to cause damage to other infrastructure.
- 7.4 The development must not increase peak stormwater runoff for a selected range of storm events up to and including a one percent (1%) Annual Exceedance Probability defined storm event, for the post development condition.
- 8.0 ROOF AND ALLOTMENT DRAINAGE WORKS
- 8.1 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.
- 8.2 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).
- 8.3 All the roof drainage pipes (downpipes) from the proposed structure must be connected to a rainwater tank which is used as the detention system.

- 8.4 All the roof drainage system (downpipes and gutters) for the proposed building / shed must be designed to accommodate the one percent (1%) Annual Exceedance Probability defined storm event flow.
- 9.0 SITE WORKS
- 9.1 All earthworks must be undertaken in accordance with Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments".
- 9.2 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to surrounding land or infrastructure.
- 10.0 BUILDING WORKS
- 10.1 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.
- 10.2 The existing dwelling on the subject land must be demolished and a Development Permit for Building Works (demolition) must be obtained prior to the commencement of demolition works on the development site.
- 10.3 All building works for Class 2 to Class 9 buildings must be undertaken in accordance with "Queensland Development Code, Mandatory Part 1.4 for building over or near relevant infrastructure".
- 10.4 Any building plant must be screened from view of the street by one or more of the following:
- 10.4.1 a solid screen fence, or
 - 10.4.2 a roof design feature; or
 - 10.4.3 a wall; or
 - 10.4.4 dense vegetation; or
 - 10.4.5 be located within or behind the building so as to not be visible from the street.
- 10.5 The external wall of the structure fronting east must be:
- 10.5.1 articulated so that it does not exceed a length of fifteen (15) metres without a change in plane of at least 0.75 metre depth; or
 - 10.5.2 painted with at least two colours, each of which covers at least ten (10) per cent of total exterior wall area; or
 - 10.5.3 covered with at least two (2) different types of cladding material, each of which covers at least ten (10) per cent of total exterior wall area.
- 10.6 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the development site and shielded so as not to cause glare or other nuisance to nearby residents and motorists. Night lighting must be designed, constructed and operated in accordance with *Australian Standard AS4282 "Control of the obtrusive effects of outdoor lighting"*.
- 10.7 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:
- 10.7.1 designed and located so as not to cause a nuisance to neighbouring properties;
 - 10.7.2 surrounded by at least a 1.8 metre high screen fence that obstructs from view the contents of the waste storage area by any member of the public from any public place;
 - 10.7.3 of a sufficient size to accommodate commercial type bins that will be serviced by a commercial contractor plus clearances around the bins for manoeuvring and cleaning;

- 10.7.4 setback a minimum of two (2) metres from any road frontage; and
- 10.7.5 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.

- 10.8 A minimum 1.8 metre high solid screen fence must be erected between the subject development site and adjacent rear residential property of the development. The fence must be constructed of materials and finishes that are aesthetically pleasing and commensurate with the surrounding residential area.
- 10.9 A minimum 1.8 metre high screen fence must be erected between the subject development site and adjacent properties to the east and west of the development.

11.0 LANDSCAPING WORKS

- 11.1 Landscaping must be constructed and/or established prior to the commencement of the use in all areas shown on the approved plans (refer to condition 2.1).
- 11.2 Landscaping must be designed in accordance with the requirements of *Australian Standard AS 1428 — Design for access and mobility*.
- 11.3 Planting types used within the landscaping areas (refer to condition 2.1) must include either trees, shrubs or groundcovers, or any combination of these planting types. These plantings must be established and maintained generally at the following density rates:
 - 11.3.1 trees at five (5) metre intervals;
 - 11.3.2 shrubs at two (2) metre intervals; and
 - 11.3.3 groundcovers at one (1) metre intervals.
- 11.4 At least fifty (50) per cent of all new plantings within the landscaping areas (refer to condition 2.1) must be locally native species with low water dependency and must comply with the following requirements:
 - 11.4.1 Plant species are chosen from sources recommended in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*; and
 - 11.4.2 Plant species must not include undesirable species identified in *Planning Scheme Policy SC6.12 – Landscape Design and Street Trees Planning Scheme Policy*.
- 11.5 One (1) shade tree within the car parking area is to be provided and planted within a deep natural ground/structured soil garden bed/island/bay and protected by wheel stops or bollards as required.
- 11.6 The shade tree must have a clean trunk with a minimum height of two (2) metres.
- 11.7 Large trees must not be planted within one (1) metre of the centreline of any sewerage and/or water infrastructure; small shrubs and groundcover are acceptable.
- 11.8 Landscaping, or any part thereof, upon reaching full maturity, must not:
 - 11.8.1 obstruct sight visibility zones as defined in the Austroads 'Guide to Traffic Engineering Practice' series of publications;
 - 11.8.2 adversely affect any road lighting or public space lighting; or
 - 11.8.3 adversely affect any Council infrastructure, or public utility plant.
- 11.9 The landscaped areas must be subject to:
 - 11.9.1 a watering and maintenance plan during the establishment moment; and
 - 11.9.2 an ongoing maintenance and replanting programme.

- 11.10 Council approval must be obtained prior to the removal of or interference with the existing street tree located on Council land, fronting the development site.
- 12.0 ELECTRICITY
- 12.1 Underground electricity services must be provided in accordance with the standards and requirements of the relevant service provider. Alternatively overhead electricity service connection may be approved where:
- 12.1.1 overhead electricity reticulation is established;
 - 12.1.2 no new poles within the road reserve are required to service the development;
 - 12.1.3 overhead service connection does not cross a road; and
 - 12.1.4 overhead service connection does not cross the development site (a premises), other than the premises being serviced.
- 13.0 TELECOMMUNICATIONS
- 13.1 Telecommunications services must be provided to the development in accordance with the standards and requirements of the relevant service provider.
- 14.0 ASSET MANAGEMENT
- 14.1 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.
- 14.2 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.
- 14.3 '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).
- 15.0 ENVIRONMENTAL
- 15.1 An 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 *Capricorn Municipal Design Guidelines* and *State Planning Policy 2017* must be:
- 15.1.1 implemented, monitored and maintained for the duration of the works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped); and
 - 15.1.2 available on-site for inspection by Council Officers whilst all works are being carried out.
- 16.0 OPERATING PROCEDURES
- 16.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the development site. Storage of materials or parking of construction machinery or contractors' vehicles must not occur within Lucas Street.
- 16.2 Operations on the development site must have no significant impact as determined by Council on the amenity of adjoining premises or the surrounding area due to the emission of light, noise, odour or dust.
- 16.3 When requested by Council, noise monitoring must be undertaken and recorded within three (3) months, to investigate any genuine complaint of nuisance as determined by Council caused by noise. The monitoring data, an analysis of the data and a report,

including noise mitigation measures, must be provided to Council within fourteen (14) days of the completion of the investigation. Council may require any noise mitigation measures identified in the assessment to be implemented within appropriate timeframes. Noise measurements must be compared with the acoustic quality objectives specified in the most recent edition of the *Environmental Protection (Noise) Policy 2019*.

- 16.4 Regulated waste and any other waste must not be released to the environment, stored, transferred or disposed of in such a manner that it will or may cause environmental harm or nuisance. This includes any waste being burnt or incinerated at the premises.
- 16.5 All traceable regulated waste must be removed from the premises by a licensed regulated waste transporter.
- 16.6 Where regulated waste is removed from the premises, records must be maintained for a period of five (5) years, and include the following:
- 16.6.1 the date, quantity and type of waste removed;
 - 16.6.2 a copy of any licensed waste transport vehicle docket;
 - 16.6.3 the name of the licensed regulated waste removalist and/or disposal operator; and
 - 16.6.4 the intended treatment and/or disposal destination of the waste.
- These records must be available for inspection by Council when requested.
- 16.7 No metal surface coating will be permitted other than the following:
- 16.7.1 Brushed finishes achieved by a hand brush with bristles; and/or
 - 16.7.2 Using hand held aerosol cans where the can and spray device forms one disposable unit and the can holds less than one (1) litre of product.
- 16.8 The workshop must have an impervious floor that is adequately bunded and drains to a holding tank or the sewer through an approved oil interceptor/separation system.
- 16.9 No washing of plant equipment and vehicles is permitted on the development site unless an approved washdown bay is built to prevent contamination of land and the stormwater system.
- 16.10 The hours of operations for the development site must be limited to:
- (i) 0700 hours to 2200 hours.
- 16.11 The loading and/or unloading of waste collection vehicles must be limited to be outside of the standard business operating hours.
- 16.12 All waste storage areas must be:
- 16.12.1 kept in a clean and tidy condition; and
 - 16.12.2 maintained in accordance with *Environmental Protection Regulation 2019*.

ADVISORY NOTES

NOTE 1. Aboriginal Cultural Heritage

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

NOTE 2. 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. 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 4. 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 5. 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, storage of dangerous goods or environmentally relevant activities. Approval for such activities is required before 'fit out' and operation.

NOTE 6. 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 7. 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 8. Advertising Devices

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



Attachment 1 – Part 2
Referral Agency Conditions – State
Development, Infrastructure, Local
Government and Planning (State
Assessment and Referral Agency
Department) *Planning Act 2016*

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

Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the **appellant**); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

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

230 Notice of appeal

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

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

231 Other appeals

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

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

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

232 Rules of the P&E Court

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

Schedule 1

Appeals section 229

1 Appeal rights and parties to appeals

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

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
1. Development applications An appeal may be made against— <ol style="list-style-type: none"> (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**

2. Eligible submitter appeals

An appeal may be made against the decision to give a development approval, or an approval for a change application, to the extent that the decision relates to—

- (a) any part of the development application for the development approval that required impact assessment; or
- (b) a variation request.

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for 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

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.

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

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).

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	-	-

5. Registered premises

**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	-	-