



SHIRE OF MURWEH

MORVEN - CHARLEVILLE - AUGATHELLA

Address all communications to the chief executive officer.

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www.murweh.qld.gov.au

12 December 2019

Steve Mizen

SKM:/: BA: 7370

The CEO
Murweh Shire Council
PO Box 63
CHARLEVILLE QLD 4470

Dear Sir

**RE: DECISION NOTICE - MATERIAL CHANGE OF USE & OPERATIONAL WORKS
LIVESTOCK HANDLING FACILITY
WARREGO HIGHWAY MORVEN LOT 101-104 M23210 & LOT 21 SP129867**

Murweh Shire Council has the pleasure of enclosing a Decision Notice material change of use and operational works (livestock handling facility) for the lots described above.

If there is any aspect of the decision notice that you are unclear of, or you wish to discuss anything in relation to this Development Application, please contact Murweh Shire Council or Steve Mizen on 0488 253 393.

Yours faithfully

**MR NEIL POLGLASE
CHIEF EXECUTIVE OFFICER**

Decision Notice
APPROVAL
Planning Act 2016 s 63

Our Ref: 7370

12/12/19

The CEO
Murweh Shire Council
P O Box 63
CHARLEVILLE Q 4470

Dear Sir

Development Approval – Material Change of Use & Operational Works

Applicant: Murweh Shire Council
Owner: Murweh Shire Council
Property Address: Warrego Highway, Morven Q 4468
RPD: Lot 101 – 104 M23210 & Lot 21 SP 129867
Proposal: Livestock Handling Facility

I wish to advise that the above described application was approved by Murweh Shire Council on 12/12/19 subject to conditions.

Conditions

The conditions of this approval are attached. The conditions indicate whether they were imposed by the Assessment Manager (Murweh Shire Council) or a Concurrence Agency.

Currency Period

Unless otherwise stated in the conditions of approval, the standard currency period stated in section 85 of *Planning Act 2016* applies to each aspect of development in this approval. The approval will lapse at the end of the currency period.

Related Development Approvals and Other Approvals

A Development Permit must be obtained for the following works associated with this development, prior to the development being carried out:

- Building works
- Plumbing & Drainage works

Submitters

The application was advertised as required under the *Planning Act 2016*. No submissions were received.

Referral Agencies

The following referral agency applies to this application:

- State Assessment and Referral Agency
Department of State Development, Manufacturing, Infrastructure & Planning
P O Box 825, Toowoomba Q 4350

Statement of Reasons

In accordance with section 63(5) of the *Planning Act 2016*, Council provides the following reasons for this decision:

Assessment Benchmark

The proposed development was assessed against the following benchmark

- The Murweh Shire Council Planning Scheme 2015

Relevant Matters

- Township Zone Code

The assessment benchmarks have been complied with or suitable conditions imposed.

State Interests

These have been addressed via the State Assessment and Referral Agencies. Their decision is attached.

The Operational Works component (taking or interfering with water overland flow) was approved by the State Development, Manufacturing and Infrastructure on 8 August, 2018.

Appeals Rights

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. Attached is an extract from the *Planning Act 2016* which details your appeal rights regarding this decision

Commencement of Approval

This approval takes effect in accordance with section 71 of the *Planning Act 2016*.

The development approval does not have effect until the submitter's appeal period ends. To hasten the commencement of the submitter's appeal period, the applicant can notify Council in writing that they do not intend to request a negotiated decision or appeal the decision.

Yours faithfully



**MR NEIL POLGLASE
ASSESSMENT MANAGER**

Attach: Attachment 1: Changed Referral Agency Conditions
Attachment 2: Advice to the Applicant
Attachment 3: Approved Plans
Attachment 4: Murweh Shire Council's Conditions of Approval
Appeal provisions (extracts from *Planning Act 2016*)

Attachment 1 – Changed Referral Agency Conditions

1808-6627 SRA

Attachment 1—Changed referral agency conditions

(Under section 58(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the plans and specifications referenced below are found at Attachment 5)

No.	Conditions	Condition timing
Material change of use		
10.9.4.2.4 1 – Material change of use of premises near a state transport corridor—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
1.	<p>The development must be undertaken generally in accordance with the Concept Rail Siding Layout Plan, prepared by Premise, dated 05/11/2019, sheet number A9D1, revision 2, as amended in red, in particular,</p> <ul style="list-style-type: none"> • the position of the dispatch unit and loading race must allow for a wagon storage length of 675m, a turnout of 65m in length and a clearance of 65m between the turnout and the signal start. 	At all times.
2.	<p><u>(a) Any excavation, filling/backfilling/compaction, retaining structures, batters, stormwater management measures and other works involving ground disturbance must not destabilise the railway corridor or the land supporting this infrastructure, or cause similar adverse impacts.</u></p> <p><u>(b) The embankment walls of the effluent pond shown on the Bulk Earthworks Plan, prepared by Premise, dated 05/11/2019, sheet number A101, revision 2 must minimise the risk of failure or similar incident impacting on the railway corridor such as by ensuring sufficient structural stability and a sufficient factor of slope safety.</u></p> <p><u>(c) Registered Professional Engineer of Queensland (RPEQ) certification with supporting documentation must be provided to the Program Delivery and Operations Unit, Downs South West Region (Downs.South.West.IDAS@tmr.qld.gov.au) within the Department of Transport and Main Roads, confirming that the development has been constructed in accordance with parts (a) and (b) of this condition.</u></p>	<p>(a) <u>At all times</u></p> <p>(b) <u>At all times</u></p> <p>(c) <u>Prior to the commencement of use</u></p>
3.	<p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the railway corridor.</p> <p>(b) Any works on the land must not:</p> <ol style="list-style-type: none"> i. create any new discharge points for stormwater runoff onto the railway corridor; ii. interfere with and/or cause damage to the existing stormwater drainage on the railway corridor; 	<p>(a) At all times</p> <p>(b) At all times</p> <p>(c) Prior to the commencement of use.</p>

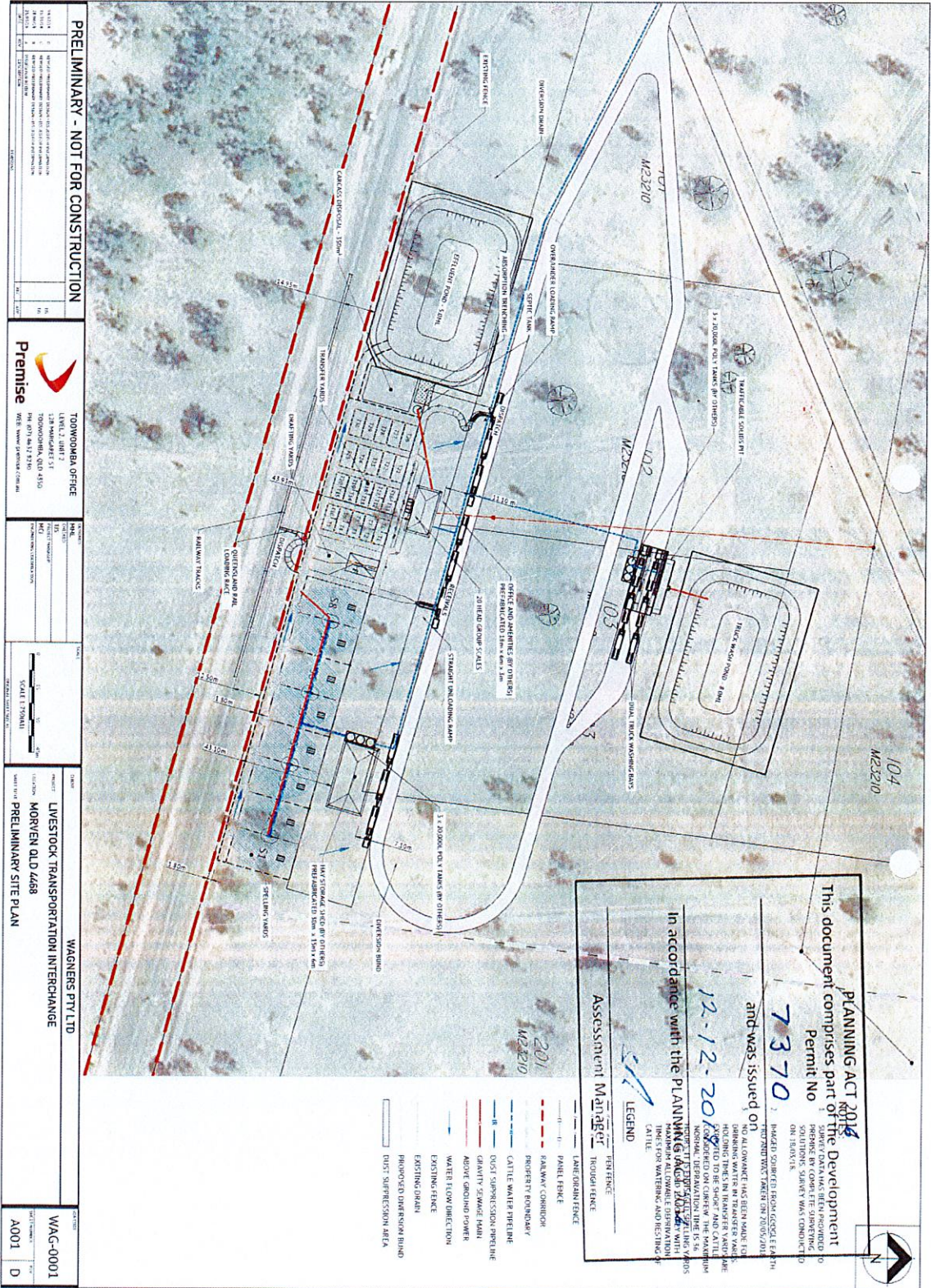
	<p>iii. surcharge any existing culvert or drain on the railway corridor.</p> <p>iv. reduce the quality of stormwater discharge onto the railway corridor.</p> <p>(c) RPEQ certification with supporting documentation must be provided to Program Delivery and Operations Unit, Downs South West Region (Downs.South.West.IDAS@tmr.qld.gov.au) within the Department of Transport and Main Roads, confirming that the development has been constructed in accordance with parts (a) and (b) of this condition.</p>	
4.	<p>(a) The capacity and design of the 'irrigation area', 'effluent pond' and 'truckwash pond' shown on the Overall Layout Plan, prepared by Premise, dated 05/11/2019, sheet number A002, revision 2, as amended in red, must ensure a no worsening impact to the railway corridor from water seepage, discharge, overflow or similar adverse impacts.</p> <p>(b) RPEQ certification with supporting documentation must be provided to Program Delivery and Operations Unit, Downs South West Region (Downs.South.West.IDAS@tmr.qld.gov.au) within the Department of Transport and Main Roads, confirming that the development has been constructed in accordance with part (a) of this condition.</p>	<p>(a) At all times</p> <p>(b) Prior to the commencement of use.</p>
5.	Fencing must be provided along the site boundary with the railway corridor, with the exception of the rail siding connection to the railway, in accordance with Queensland Rail Drawing Number 2549, Issue B – Standard Rural Fences – Fencing with Steel Posts.	Prior to the commencement of use and to be maintained at all times.
6.	The existing occupational stock crossing ID: 06767 must be closed and the railway corridor boundary reinstated in accordance with Queensland Rail Drawing Number 2623, Standard Level Crossings – Removal of Private and Public Level Crossings and Queensland Rail Drawing Number 2549, Issue B – Standard Rural Fences – Fencing with Steel Posts.	Prior to the commencement of use and to be maintained at all times.

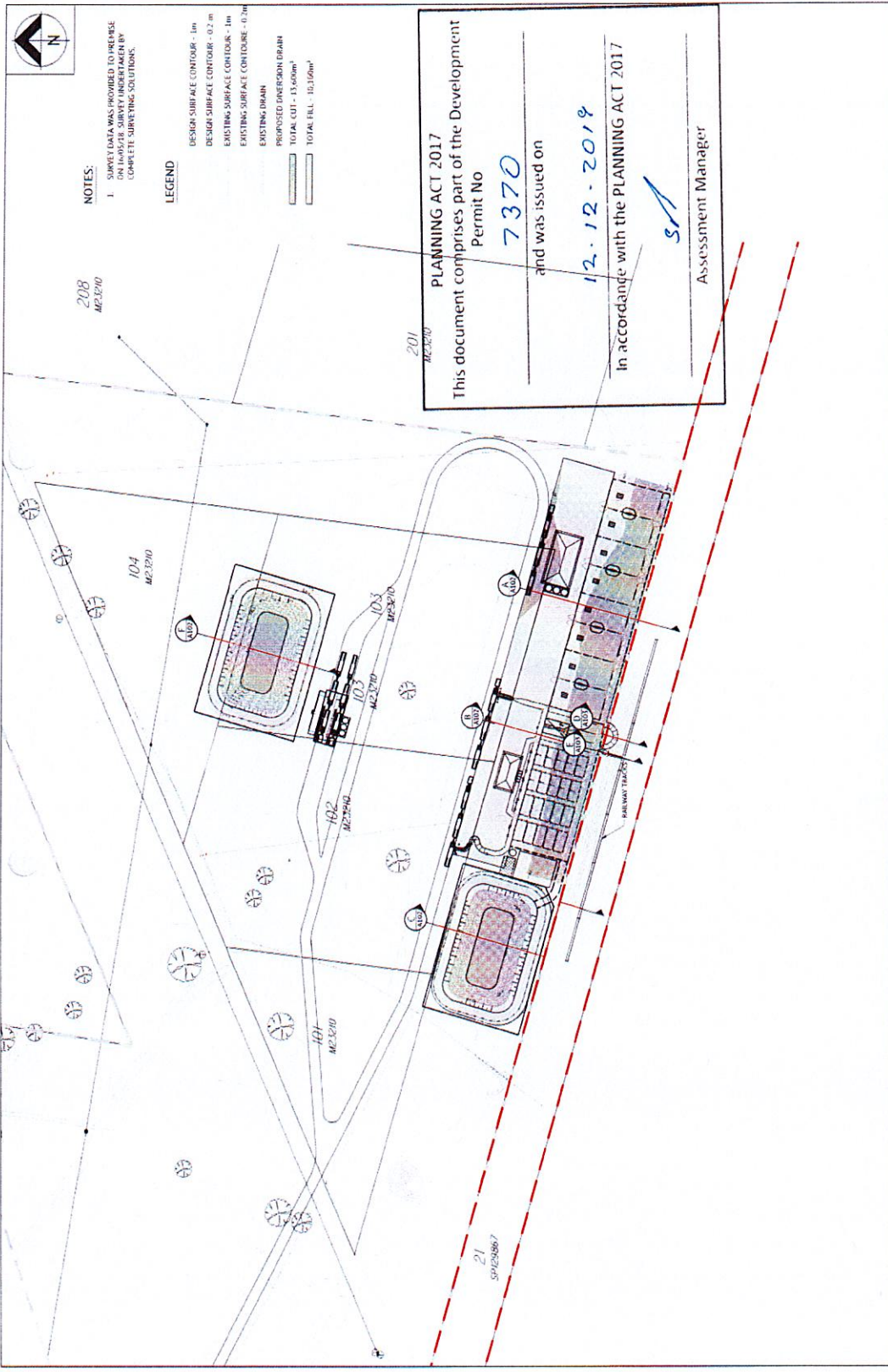
Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) version 2.3. If a word remains undefined it has its ordinary meaning.
2.	<p>Railway Level Crossings</p> <p>The proposed livestock handling facility on the site will result in increased vehicle movements, including heavy vehicles, over railway level crossings of the Western Line, such as the Warrego Highway.</p> <p><i>As per the Memorandum of Understanding between the Local Government Association of Queensland and Queensland Rail and the Department of Transport and Main Roads with respect to the Management and Funding Responsibility for Level Crossing Safety, the local government is responsible for any safety upgrades to a level crossing if the change in risk to the level crossing is due to changes in nearby land uses which have been authorised by local government.</i></p> <p>Murweh Shire Council should continue to monitor the level of safety risk and number of reported level crossing issues as further development in area is approved. Consideration should also be given to implementing improved control and safety measures, as required.</p>
3.	<p>Works in a railway corridor</p> <p>Pursuant to section 255 of the <i>Transport Infrastructure Act 1994</i>, written approval from the railway manager (Queensland Rail) is required to carry out works in or on a railway corridor or otherwise interfere with the railway or its operations.</p> <p><i>(a) New livestock handling facility</i></p> <p>The applicant is required to obtain the following agreements/approvals, amongst others, from Queensland Rail in relation to the proposed livestock handling facility and proposed rail siding within the railway corridor (on Lot 21 on SP129867):</p> <ul style="list-style-type: none"> • Design Services Agreement; • Rail Infrastructure Construction Deed; • Rail Connection Agreement; • Access Agreement & Train Operations Deed; • Transfer Facilities Licence (TFL); • Relevant approvals for works associated with the development such as the installation of boundary fencing, cattle loading ramp, earthworks, service connections, stormwater drainage works and the like. <p><i>(b) Closure of Occupational Crossing (ID: 06767)</i></p> <p>The applicant is responsible for obtaining the relevant approvals from Murweh Shire Council and Queensland Rail in relation to the closure of occupational stock crossing ID: 06767 and any associated works.</p> <p>Please be advised that this concurrence agency response does not constitute an approval under section 255 of the <i>Transport Infrastructure Act 1994</i> and that such approvals need to be separately obtained from the relevant railway manager.</p> <p>The applicant should contact the Queensland Rail property team at</p>

	developmentenquiries@qr.com.au or (07) 3072 2213 in relation to obtaining the necessary approvals.
4.	<p>Registration of a private siding Under section 83 of the <i>Rail Safety National Law (Queensland)</i>, a private siding must be registered if the owner wishes for it to be connected to an accredited railway.</p> <p>The applicant should contact the Office of the National Rail Safety Regulator to enter into preliminary discussions on the process associated with registration of their rail infrastructure at operations@onrsr.com.au or telephone (08) 8406 1500.</p>
5.	<p>Over dimensional road loads (Queensland Rail) Under the <i>Transport Infrastructure (Rail) Regulation 2006</i> permission from the Railway Manager (Queensland Rail) is required to take overdimensional road loads across Queensland Rail infrastructure (e.g. railway level crossings and rail bridges). Further information can be obtained from Queensland Rail's website at: http://www.queenslandrail.com.au/forbusiness/overdimensionalloads</p>
6.	<p>Road access works approval Under sections 62 and 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads to carry out road works that are road access works (including driveways) on a state-controlled road. Please contact the Department of Transport and Main Roads to make an application for road works approval. This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a RPEQ. Please contact the Department of Transport and Main Roads on (07) 4639 0777 (or email downsswr.office@tmr.qld.gov.au) as soon as possible to ensure that gaining approval does not delay construction.</p>

Attachment 3 - Approved Drawings





NOTES:

1. SURVEY DATA WAS PROVIDED TO PREMISE DESIGNER AND WAS CHECKED BY COMPLETE SURVEYING SOLUTIONS.

LEGEND:

- DESIGN SURFACE CONTOUR - 1m
- DESIGN SURFACE CONTOUR - 0.2 m
- EXISTING SURFACE CONTOUR - 1m
- EXISTING SURFACE CONTOUR - 0.2m
- EXISTING DRAIN
- PROPOSED DIVERSION DRAIN
- TOTAL CUT - 15,400m³
- TOTAL FILL - 10,100m³

PLANNING ACT 2017
 This document comprises part of the Development Permit No 7370
 and was issued on 12.12.2018
 in accordance with the PLANNING ACT 2017

SA
 Assessment Manager

PRELIMINARY - NOT FOR CONSTRUCTION		TOOWOODABA OFFICE LEVEL 2, UNIT 7 100 WOODWARD ST TOOWOODABA QLD 4330 PH: (07) 4632 3300 WWW.PREMISE.COM.AU		Premise	
DATE: 12.12.2018	SCALE: 1:1000 (A1)	PROJECT: LIVESTOCK TRANSPORTATION INTERCHANGE CLIENT: MORVEN QLD 4488 DESIGNER: WAGNERS PTY LTD DRAWING NO: PRELIMINARY BULK EARTHWORKS PLAN		PROJECT NO: WAG-0001 DRAWING NO: A101 C	

Attachment 4 Part 1– Conditions Imposed by Assessment Manager

Preamble

- The relevant planning scheme for this development is the *Murweh Planning Scheme 2015*. All references to the “Planning Scheme” and “Planning Scheme Schedules” within these conditions refer to the above Planning Scheme.

General

- Complete and maintain the approved development as follows: (i) in accordance with development approval documents and (ii) strictly in accordance with those parts of the approved development that have been specified in detail by the Council unless the Council agrees in writing that those parts will be adequately complied with by amended specifications.
- All services installation, including onsite sewerage, water, electricity and telecommunications connections to the respective networks, must comply with:
 - a/ the development approval conditions;
 - b/ the relevant service providers requirements and specifications;
 - c/ any relevant provisions in the planning scheme for the area;
 - d/ Council’s standard designs for such work where such designs exist;
 - e/ any relevant Australian Standard that applies to that type of work; and
 - f/ any alternative specifications that the Council has agreed to in writing and which the developer must ensure do not conflict with any requirements imposed by any applicable laws and standards.
- Any conflicts associated with proposed and existing services shall be forwarded by the developer to the appropriate controlling authority for approval for any proposed changes.

Avoiding Nuisance

- During the establishment of the approved development, no nuisance is to be caused to adjoining properties and occupiers by way of smoke, dust, rubbish, contaminant, stormwater discharge or siltation at any time, including non-working hours.

Repair Damaged Infrastructure

- The developer is responsible for locating and protecting any Council and public utility services, infrastructure and assets. Any damage to existing infrastructure (kerb, road pavement, existing underground assets, etc) shall be immediately rectified in accordance with the asset owners’ requirements and specifications and to the satisfaction of the asset owners’ representatives.
- Any civil engineering and related work shall be designed and supervised by Registered Professional Engineers of Queensland (RPEQ) who are competent in the construction of the works.

Stormwater and Drainage

- Post-development stormwater runoff flows, the characteristics of which include volume, concentration and velocities, from the development site, are not to exceed pre-development stormwater runoff flows to adjoining properties.
- Stormwater must not be allowed to pond on the property being developed during the development process and after the development has been completed unless the type and size of ponding has been agreed in writing by the Council or as a specific development approval condition.
- There must be no increases in any silt loads or contaminants in any overland flow from the property being developed during the development process and after the development has been completed.

Erosion

- If there is a possibility of erosion or silt or other materials being washed off the property being developed during the development process, the developer must document and implement a management plan in accordance with the CMDG Design Guidelines – D7, to prevent this from occurring.
- Any construction works on site are to undertaken in accordance with the Soil Erosion and Sediment Control Engineering Guidelines for Queensland Construction sites (IE Aust – or later versions).
- The developer shall immediately clean up and satisfactorily remove any deposited construction material or silt runoff from the development site.

Access & Roads

- The developer/landowner is responsible for the construction and maintenance of all internal vehicle access ways and crossovers from the road carriageway to the property boundary, and for obtaining any approvals that may be required and for complying with the applicable designs and standards.

No Cost to Council

- All costs associated with the approved development are to be met by the developer, including costs of survey, easement preparation and registration, document lodgement, plan sealing and land transfers, unless there is specific agreement by other parties, including the Council, to meeting those costs.

Latest Versions

- Where another condition refers to a specific published standard, manual or guideline, including specifications, drawings, provisions and criteria within those documents, that condition shall be deemed as referring to the latest versions of those publications that are publicly available at the time the first operational works or compliance approval is lodged with the assessment manager or approved agency for those types of works to be performed or approved, unless a regulation or law requires otherwise.

RIGHTS OF APPEAL

If you are dissatisfied with any condition of this approval you may, within twenty (20) business days, make representation to the assessment manager about the condition/s of this approval or appeal to the Building and Development Tribunal in accordance with the Planning Act 2016.

EXTRACT FROM THE PLANNING ACT 2016

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).

(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