

Our Reference: MCUI/2023/5258/A  
CS Portal Reference: N/A  
Contact Officer: Richard Green  
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**Decision Notice**  
**CHANGE TO A DEVELOPMENT APPROVAL**  
*Planning Act 2016 Section 83*

LG Resorts No 2 Pty Ltd  
C/- Innovative Planning Solutions  
PO Box 1043  
MAROOCHYDORE QLD 4558

Email: [info@ipsptyltd.com.au](mailto:info@ipsptyltd.com.au)

21 May 2026

Dear Sir/Madam

**Development Approval:** **Material Change of Use – Impact – Retirement Facility**  
**Location:** **420-462 Hermitage Road and McCleverty Court, COTSWOLD HILLS QLD 4350**  
**Property Description:** **Lot 1 SP339842, Emt B SP247500, Emt A SP339842, Emt G SP349902, Lot 2 SP339842, Emt C SP339842, Emt D SP339842 and Emt E SP339845 and Emt F SP339845**  
**Relevant Planning Scheme:** ***Toowoomba Regional Planning Scheme 2012***

I refer to your application received on 18 November 2025 for a change to the development approval for Material Change of Use – Impact – Retirement Facility approved on 23 April 2024.

The change application was assessed against the relevant assessment benchmarks as identified in the *Toowoomba Regional Planning Scheme 2012* for the development.

On the 20 May 2026, the change application was approved as per the attached Schedule. The changes are considered to be consistent with the relevant assessment benchmarks.

All deletions are identified by **bolded** strikethrough of text and all additions are identified by **bolded** text.

**Rights of Appeal**

Attached is an extract from the *Planning Act 2016* which details your appeal rights regarding this decision.

Yours faithfully



Matthew Coleman  
Principal Planner, Planning Branch



# TOOWOOMBA REGIONAL COUNCIL

A.B.N. 997 8830 5360

## SCHEDULE 1

### DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF USE – IMPACT

<b>APPLICATION NUMBER:</b>	MCUI/2023/5258/A
<b>APPLICANT:</b>	LG Resorts No 2 Pty Ltd
<b>LOCATION:</b>	420-462 Hermitage Road, and McCleverty Court, COTSWOLD HILLS QLD 4350
<b>PROPERTY DESCRIPTION:</b>	Lot 1 SP339842, Emt B SP247500, Emt A SP339842, Emt G SP349902, Lot 2 SP339842, Emt C SP339842, Emt D SP339842 and Emt E SP339845 and Emt F SP339845
<b>APPROVED USE:</b>	Retirement Facility (Change Application)
<b>ZONING / PRECINCT:</b>	Emerging Community / No Precinct

#### A. ASSESSMENT MANAGER'S CONDITIONS:

##### PLANNING

##### APPROVED USE

- This Development Approval is for a Material Change of Use for Retirement Facility comprising:
  - ~~266~~ **294** Dwelling Units of 2 and 3 bedroom configuration; **and**
  - ~~1.2~~ **1.32** ~~Manager Residence (3 or more bedroom dwelling); and~~
  - 1.32** Clubhouse and facilities.
- This Development Approval does not imply or comprise an approval for any uses other than that listed in Condition 1.

##### CARRY OUT & MAINTAIN DEVELOPMENT

- The development must comply with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they are not varied by this Development Approval.
- Unless otherwise stated, all conditions must be complied with prior to the commencement of use and thereafter.
- Complete all building work associated with this Development Approval, including work required by any of the conditions of this Development Approval prior to the commencement of use. Such building work is to be carried out generally in accordance with the Approved Plans and Documents and, where the building work is assessable development, in accordance with a Building Works approval.
- The development must be maintained in accordance with the Approved and Amended Plans and Documents subject to or modified by any conditions of this Development Approval.

## APPROVED PLANS

7. The development must be carried out generally in accordance with the Approved Plans listed below, subject to the conditions of this Development Approval and the amendments listed below:

**Plan No:** BP1415/03.01, Issue L

**Description:** Master Plan, prepared by ~~Jared Poole Design~~ Virage Architects and dated ~~2 February 2024~~ 11 February 2026.

**Amendments:** Plan to be amended in accordance with the following ~~As noted in RED on the Approved Plan:~~

- ~~One (1) additional car parking space to be provided next to the 'Dog Run'~~ A minimum 2.0m wide landscape strip along the frontage to Nugent Pinch Road and Hermitage Road, with the exception of any pedestrian or vehicle access. The minimum 2.0m wide landscape strip is required to be included within the common open space areas, not within individual lot areas;
- Provide land dedication for road reserve purposes at the northern end of McCleverty Court to facilitate a cul-de-sac head in accordance with Condition 83A of this Development Approval;
- Include bin pads for lots 1, 2, 6, 7, 32, 131, 132, 142, 143, 246, 247, 279, 280 and 285; and
- Provision of house designs (site plan, floor plans and elevations) for lots 141 and 292.

**Plan No:** ~~BP1415/03.02~~ BP1415/03.01-1, Issue A

**Description:** Plotting Plan, prepared by ~~Jared Poole Design~~ Virage Architects and dated ~~2 February 2024~~ 11 February 2026.

**Amendments:** Plan to be amended in accordance with the following ~~As noted in RED on the Approved Plan:~~

- ~~One (1) additional car parking space to be provided next to the 'Dog Run'~~ A minimum 2.0m wide landscape strip along the frontage to Nugent Pinch Road and Hermitage Road, with the exception of any pedestrian or vehicle access. The minimum 2.0m wide landscape strip is required to be included within the common open space areas, not within individual lot areas; and
- Provide land dedication for road reserve purposes at the northern end of McCleverty Court to facilitate a cul-de-sac head in accordance with Condition 83A of this Development Approval.

**Plan No:** BP1415/03.02

**Description:** Construction Staging Plan, prepared by Virage Architects and undated.

**Amendments:** Plan to be amended in accordance with the following:

- A minimum 2.0m wide landscape strip along the frontage to Nugent Pinch Road and Hermitage Road, with the exception of any pedestrian or vehicle access. The minimum 2.0m wide landscape strip is required to be included within the common open space areas, not within individual lot areas; and
- Provide land dedication for road reserve purposes at the northern end of McCleverty Court to facilitate a cul-de-sac head in accordance with Condition 83A of this Development Approval.

**Plan No:** BP1415/03.03, ~~Issue A~~  
**Description:** Carparking Plan, prepared by ~~Jared Poole Design Virage Architects~~ and ~~dated 2 February 2024~~ undated.  
**Amendments:** Plan to be amended in accordance with the following ~~As noted in RED on the Approved Plan:~~  

- A minimum 2.0m wide landscape strip along the frontage to Nugent Pinch Road and Hermitage Road, with the exception of any pedestrian or vehicle access. The minimum 2.0m wide landscape strip is required to be included within the common open space areas, not within individual lot areas; and
- ~~One (1) additional car parking space to be provided next to the 'Dog Run'~~ The number of spaces in central parking bay corrected from 5 to 6; and
- Provide land dedication for road reserve purposes at the northern end of McCleverty Court to facilitate a cul-de-sac head in accordance with Condition 83A of this Development Approval.

~~**Plan No:** BP1415/03.04, Issue A  
**Description:** Carparking Plan, prepared by Jared Poole Design and dated 2 February 2024.  
**Amendments:** As noted in RED on the Approved Plan:  

- One (1) additional car parking space to be provided next to the 'Dog Run'.~~

**Plan No:** BP1415/03.05, ~~Issue A~~  
**Description:** Refuse Vehicle Side Lift Clearance, prepared by ~~Jared Poole Design Virage Architects~~ and ~~dated 2 February 2024~~ undated.  
**Amendments:** Nil.

**Plan No:** BP1415/04.01, Issue ~~D~~ A  
**Description:** Clubhouse - Ground Floor Plan, prepared by ~~Jared Poole Design Virage Architects~~ and dated ~~20 October 2023~~ 18 September 2025.  
**Amendments:** Nil.

**Plan No:** BP1415/04.02, Issue A  
**Description:** Clubhouse - Elevations, prepared by ~~Jared Poole Design Virage Architects~~ and ~~undated~~ dated 18 September 2025.  
**Amendments:** Nil.

**Plan No:** BP1415/04.03, Issue A  
**Description:** Clubhouse - Elevations, prepared by ~~Jared Poole Design Virage Architects~~ and ~~undated~~ dated 18 September 2025.  
**Amendments:** Nil.

**Plan No:** BP1415/05.01, Issue A  
**Description:** ~~Summer House Sports Pavilion~~ - Ground Floor Plan, prepared by ~~Jared Poole Design Virage Architects~~ and dated 23 October 2023.  
**Amendments:** Nil.

**Plan No:** BP1415/05.02  
**Description:** ~~Summer House Sports Pavilion~~ - Elevations, prepared by ~~Jared Poole Design Virage Architects~~ and undated.  
**Amendments:** Nil.

**Plan No:** BP1415/05.03  
**Description:** ~~Summer House Sports Pavilion~~ - Elevations, prepared by ~~Jared Poole Design Virage Architects~~ and undated.  
**Amendments:** Nil.

**Plan No:** BP1415/06.01, Issue A  
**Description:** ~~Managers Unit Floor Plans Workshops - Floor Plan and Elevations, prepared by Jared Poole Design Virage Architects and undated~~ dated 18 September 2025.

**Amendments:** Nil.

~~**Plan No:** BP1415/06.02  
**Description:** Managers Unit Elevations, prepared by Jared Poole Design and undated.  
**Amendments:** Nil.~~

**Plan No:** BP1415/07.01  
**Description:** Typical House - Type 1 Standard, prepared by ~~Jared Poole Design Virage Architects~~ and undated.

**Amendments:** Nil.

**Plan No:** BP1415/07.02  
**Description:** Typical House - Type 2 Standard, prepared by ~~Jared Poole Design Virage Architects~~ and undated.

**Amendments:** Nil.

**Plan No:** BP1415/07.03  
**Description:** Typical House - Type 3 Corner, prepared by ~~Jared Poole Design Virage Architects~~ and undated.

**Amendments:** Nil.

**Plan No:** BP1415/07.04  
**Description:** Typical House - Type 4 Corner, prepared by ~~Jared Poole Design Virage Architects~~ and undated.

**Amendments:** Nil.

**Plan No:** BP1415/07.05, Issue A  
**Description:** Typical House - Type 5 (Layout - F1), prepared by ~~Jared Poole Design Virage Architects~~ and dated 2 February 2024.

**Amendments:** Nil.

~~**Plan No:** BP1415/07.06, Issue A  
**Description:** Typical House - Type 5 (F1), prepared by Jared Poole Design and dated 2 February 2024.  
**Amendments:** Nil.~~

~~**Plan No:** BP1415/07.07, Issue A  
**Description:** Typical House - Type 5 (Layout - F2), prepared by Jared Poole Design and dated 2 February 2024.  
**Amendments:** Nil.~~

~~**Plan No:** BP1415/07.08, Issue A  
**Description:** Typical House - Type 5 (F2), prepared by Jared Poole Design and dated 2 February 2024.  
**Amendments:** Nil.~~

~~**Plan No:** BP1415/07.09, Issue A  
**Description:** Typical House - Type 5 (Layout - F3), prepared by Jared Poole Design and dated 2 February 2024.  
**Amendments:** Nil.~~

~~Plan No: BP1415/07.10, Issue A  
Description: Typical House Type 5 (F3), prepared by Jared Poole Design and dated 2 February 2024.  
Amendments: Nil.~~

~~Plan No: BP1415/07.11, Issue A  
Description: Typical House Type 6 (Layout F1), prepared by Jared Poole Design and dated 2 February 2024.  
Amendments: Nil.~~

~~Plan No: BP1415/07.12, Issue A  
Description: Typical House Type 6 (F1), prepared by Jared Poole Design and dated 2 February 2024.  
Amendments: Nil.~~

~~Plan No: BP1415/07.13, Issue A  
Description: Typical House Type 6 (Layout F2), prepared by Jared Poole Design and dated 2 February 2024.  
Amendments: Nil.~~

~~Plan No: BP1415/07.14, Issue A  
Description: Typical House Type 6 (F2), prepared by Jared Poole Design and dated 2 February 2024.  
Amendments: Nil.~~

~~Plan No: BP1415/07.15, Issue A  
Description: Typical House Type 6 (Layout F3), prepared by Jared Poole Design and dated 2 February 2024.  
Amendments: Nil.~~

~~Plan No: BP1415/07.17, Issue A  
Description: Typical House Type 6 (F3), prepared by Jared Poole Design and dated 2 February 2024.  
Amendments: Nil.~~

~~Plan No: 23-427-002  
Description: RCV Swept Paths, prepared by PTT Traffic and Transport Engineering and dated 19 October 2023.  
Amendments: Nil.~~

~~Plan No: 23-427-003  
Description: RCV Swept Paths, prepared by PTT Traffic and Transport Engineering and dated 19 October 2023.  
Amendments: Nil.~~

~~Plan No: 23-427-004  
Description: RCV Swept Paths, prepared by PTT Traffic and Transport Engineering and dated 19 October 2023.  
Amendments: Nil.~~

***Note: The conditions of this Development Approval (landscaping setbacks and earthworks/retaining wall requirements) may require changes to proposed lot dimensions and areas. Impacted lots must provide amended dwelling designs (site layout, floor plans and elevations) to be submitted for approval.***

- 7A. Plans to be amended must only incorporate the amendment(s) listed within this Development Approval and must be resubmitted to Council for approval prior to the issue of any Development Permit for Operational Work, Building Work or Development Permit for Plumbing and Drainage Work, or prior to commencement of use, whichever occurs first.

#### APPROVED DOCUMENTS

8. The development must be carried out generally in accordance with the Approved Documents listed below, subject to the conditions of this Development Approval and the amendments listed below:

**Document:** J002572, Version 1

**Description:** Ecological Assessment Report, prepared by Range Environmental and dated 22 September 2025.

**Amendments:** Document to be amended in accordance with the following:

- Clarity must be provided regarding trees marked for removal and trees to be retained in accordance with Condition 119A of this Development Approval.

**Document:** 2024041, Revision ~~R01B~~ R01D

**Description:** Acoustic Report, prepared by Acoustic Works and dated ~~15 March 2024~~ 9 October 2025.

**Amendments:** Nil ~~This report is to be read in conjunction with Approved Document 2024041 L01B 420-462 Hermitage Road Cotswold Hills RTN ENV RFI.~~

~~**Document:** 2024041 L01B 420-462 Hermitage Road Cotswold Hills RTN ENV RFI~~

~~**Description:** Information Request Response Letter, prepared by Acoustic Works and dated 15 March 2024.~~

~~**Amendments:** Nil~~

**Document:** ~~5664~~ 707997, Revision C

**Description:** Operational Waste Management Plan, prepared by Elephants Foot Consulting and dated ~~28 February 2024~~ 13 November 2025.

**Amendments:** Nil Document to be amended in accordance with the following:

- Include the Site Master Plan including bin pad locations for lots 1, 2, 6, 7, 32, 131, 132, 142, 143, 246, 247, 279, 280 and 285;
- Include the Refuse Collection Plan; and
- Include the Refuse Vehicle Side Lift Clearance drawing.

- 8A. Documents to be amended must only incorporate the amendments listed within this Development Approval and must be resubmitted to Council for approval prior to the issue of a Development Permit for Operational Work (Bulk Earthworks).

#### COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS (OPERATIONAL WORKS)

9. Prepare and submit applications to Council and obtain Operational Works approval for the following:

9.1 Stormwater Infrastructure;

9.2 Bulk Earthworks and Retaining Walls;

9.3 Wastewater Infrastructure ~~Roadworks (including Footpath Works); and~~

9.4 **Water Infrastructure** ~~Vehicular Access;~~

9.5 **Roadworks (including Footpath Works); and**

**9.6 Vehicular Access.**

**COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS (FOR ENDORSEMENT)**

10. Prepare and submit the following documents in accordance with the conditions of this Development Approval and obtain Council's endorsement:

10.1 Erosion and Sediment Control Plan;

*Note: The Erosion and Sediment Control Plan must be submitted in conjunction with any operational works application for the development.*

10.2 Construction Environmental Management Plan; and

*Note: The Construction Environmental Management Plan must be submitted in conjunction with any operational works application for the development.*

10.3 Landscape Plan.

**STAGED DEVELOPMENT**

**10A. Staging of the development is to occur in accordance with the staging indicated on the Approved Plans subject to and modified by any conditions of this Development Approval.**

**10B. Stages must be completed in sequential order (i.e. Stage 1 must be completed before Stage 2) as identified on the Approved Plans, or may be combined and constructed at one time, subject to all conditions applicable to the relevant stages being complied with.**

**10C. The development must be carried out in accordance with those conditions applicable to one or more of the stages of development as follows:**

**10C.1 Conditions Applicable to all Stages of Development:**

**1-12, 15B-75, 77-82, 91-94, 97-115, 117-119D.**

**10C.2 Additional Conditions Applicable to Stage 1A of Development:**

**12A, 12B, 13, 14, 15, 15A, 76, 83, 84-90, 95, 96 and 116.**

**10C.3 Additional Conditions Applicable to Stage 1B, 2, 3 and 4 of Development:**

**Nil.**

**10C.4 Additional Conditions Applicable to Stage 5 of Development:**

**13A, 14, 15, 83A, 84-88, 95, 96 and 116.**

**COMPLETION PERIOD**

11. In accordance with Section 88(1) of the *Planning Act 2016*, this Development Approval lapses, to the extent the development is not completed, if all changes of use approved under this Development Approval have not happened within ten (10) years of the Development Approval starting to have effect.

## **AVAILABILITY OF APPROVED DOCUMENTATION DURING WORKS**

12. A legible copy of the Approved and Amended Plans and Approved and Amended Documents bearing Council's approved stamp and this Development Approval must be available on the subject land and available for inspection at all times during construction and earthworks.

## **DEDICATIONS, AGREEMENTS & CONTRIBUTIONS**

### **AMALGAMATION OF LOTS**

- 12A. The subject land must be amalgamated to form a single allotment.
- 12B. The Plan of Survey for amalgamation must be registered, and proof of registration provided to Council.

### **DEDICATION OF LAND**

13. The 6m x 3 chord truncation on the north-eastern corner of the Nugent Pinch Road and Hermitage Road as identified on the approved plans must be dedicated as road reserve in accordance with the requirements of the Department of **Natural Resources and Mines, Manufacturing and Regional and Rural Development**.

*Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.*

- 13A. The land area located at end of the McCleverty Court identified as cul-de-sac head on the Approved Plans must be dedicated as road reserve in accordance with the requirements of the Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development

*Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.*

14. The transfer of land dedicated to Council must be at no cost to Council. All transfer documentation is to be prepared and submitted to Council, at no cost to Council.
15. All land dedicated for road reserve must not be encumbered by permanent structures, services such as pump stations, services easements or similar operational uses, unless otherwise approved by the conditions of this Development Approval.

### **EASEMENTS**

- 15A. An easement for stormwater drainage purposes must be registered in favour of Council against the title of all lots associated with the proposed development. The minimum easement width is to be determined through the Operational Works approval for stormwater infrastructure and must be sufficient to accommodate the full Q100 stormwater flow widths associated with stormwater discharge from McCleverty Court to the lawful point of discharge.
- 15B. Where the Grantee is Council or a service authority, the easement documentation must be in accordance with the Grantee's standard easement terms and documents or any other terms and conditions as deemed necessary to fulfil the purpose of the easement.
- 15C. Easement documentation must be prepared and submitted to Council, at no cost to Council, for endorsement where Council is the Grantee or review against conditions of approval otherwise.
- 15D. Unless consistent with the terms of the easement and authorised under this Development Approval, any permanent works or structures must be kept clear of any existing or proposed easements on the subject land.

***Note:*** Council will not take or purchase land in accordance with Section 263 of the Planning Act 2016 in order to allow the construction of drainage infrastructure on adjoining land to facilitate the development.

- 15E. Where the terms of any existing easement(s) registered against the title of all lots associated with the proposed development conflict with conditions of this development approval (e.g. landscaping strip(s), retaining walls, etc.), the easement(s) must be relinquished, relocated or varied to allow for the condition(s) to be satisfied.

## **DEVELOPMENT CONSTRAINTS**

### **AIRPORT ENVIRONS**

16. All food and/or waste holding areas and receptacles must be contained and covered.
17. Roofs of buildings must be a non-reflective colour or material.
18. Any outdoor lighting, including street lighting must comply with the requirements of Chapter 9 of the *CASA Manual of Standards Part 139 – Aerodromes*.

## **WORKS**

### **ENGINEER'S CERTIFICATION AND SUPERVISION OF WORKS**

19. Plans and specifications for all works associated with car parking, vehicular access, stormwater drainage, earthworks, roadworks, footpath works, retaining walls, or any other works required on Council infrastructure, must be prepared and certified by a Registered Professional Engineer Queensland – Civil (RPEQ).
20. A RPEQ must submit to Council a copy of the:
- 20.1 Design Certificate prior to commencement of the works; and
- 20.2 Construction Supervision Certificate upon completion of the works certifying that works are in accordance with the approved plans and specifications.
21. Any works that have been certified by an RPEQ must be carried out under the supervision of an RPEQ with all executed works being detailed on a Construction Supervision Certificate.
22. Where any condition refers to, or requires, an Engineer to perform a task or function, the Engineer must hold professional indemnity insurance to the value of \$2,000,000. A Certificate of Currency must be submitted to Council with any Design Certificate or Construction Supervision Certificate.

### **STORMWATER DRAINAGE**

23. All stormwater infrastructure necessary to convey run-off from roof and developed surface areas, and any run-off onto the subject land from adjacent areas, must be provided in accordance with a Development Application for a Development Permit for Operational Work.

***Note:*** This condition is imposed pursuant to Section 145 of the Planning Act 2016.

24. Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and be approved by Council for the internal and any external stormwater infrastructure. The design and the construction of the works must be certified by a RPEQ – Civil.

25. As part of a Development Application for a Development Permit for Operational Work submit to Council for approval, a Detailed Stormwater Management Plan prepared by a Registered Professional Engineer Queensland – Civil (RPEQ) in accordance with the relevant standards in *Planning Scheme Policy No. 2 – Engineering Standards – Roads and Drainage Infrastructure* (PSP No.2) and *State Planning Policy July 2017* demonstrating the following:
- 25.1 Stormwater is conveyed to a lawful point of discharge in accordance with the stormwater discharge conditions of this Development Approval;
  - 25.2 No increase in peak flow rates downstream from the subject land for storm events as nominated in PSP 6.2 Table SC6.2.7. Major events exceeding ARI of 100 years must be considered in accordance with the requirements of the *Queensland Urban Drainage Manual*;
  - 25.3 No increase in flood levels external to the subject land;
  - 25.4 No increase in duration of inundation external to the subject land that could cause loss or damage;
  - 25.5 Appropriate inspection and maintenance of stormwater quality control infrastructure in accordance with a program; and
  - 25.6 The achievement of Water Sensitive Urban Design objectives listed in PSP No. 2 and *State Planning Policy July 2017*.

#### **STORMWATER DISCHARGE**

26. Stormwater from the new roofed and sealed areas must be picked up and discharged by way of sealed underground pipe in accordance with an operational work approval.
- Note:* This condition is imposed pursuant to Section 145 of the Planning Act 2016.
27. Design and construction of all internal stormwater drainage works must comply with applicable section of *Australian and New Zealand Standard AS/NZS 3500 – Plumbing and Drainage Code* and the *Queensland Urban Drainage Manual*.

#### **STORMWATER – CONVEYANCE OF STORMWATER VIA DRAINAGE EASEMENT**

- 27A. Drainage easements must be registered over all drainage structures and concentrated flow paths on private land, including on adjoining land where required to connect to a lawful point of discharge, in accordance with the relevant requirements in *Planning Scheme Policy No. 2 – Engineering Standards – Roads and Drainage Infrastructure*.**

#### **BULK EARTHWORKS**

28. Where earthworks are not assessed as part of a Development Application for a Development Permit for Building Work, prior to the commencement of any earthworks on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and be approved by Council.

## AIR QUALITY IMPACT MITIGATION

29. Odours or airborne contaminants which are noxious or offensive to public amenity or safety, likely to cause environmental harm or environmental nuisance or exceed the *Air Quality Objectives* listed in the *Environmental Protection (Air) Policy 2019* as measured at any sensitive place or commercial place must not be released to the atmosphere during building and operational work.
30. All reasonable and feasible avoidance and mitigation measures are employed so that dust emissions generated during building works do not exceed the following levels when measured at any sensitive place or commercial place:
- 30.1 Dust deposition of 133 milligrams per square metre per day, averaged over 1 month, when monitored in accordance with the most recent version of *Australian Standard AS3580.10.1 Methods for sampling and analysis of ambient air – Determination of particulate matter – Deposited matter – Gravimetric method*.

## VIBRATION IMPACT

31. Construction activities and equipment that produce vibrations must not impact upon the amenity of adjacent commercial and residential receptors or cause impacts to the structural integrity of the existing buildings/improvements, including foundations, on surrounding properties.
32. Where considered warranted by Council and when requested in writing to do so, a vibration impact investigation must be undertaken to determine extent of any impacts. In such circumstances, a suitably qualified person must monitor, interpret and record all parameters in order to determine whether or not vibration impacts are below those stated in Table 1. The results of the investigation must be provided to Council within 14 days of the request or a longer period if specified in any such request.

**Table 1 - Human comfort vibration limits to minimise nuisance**

Building	Work Period	Resultant PPV (mm/s)	
		Lower Limit	Upper Limit
Dwellings	Standard Hours	1.0	2.0
	Non-standard hours – evening (6pm to 10pm)	0.3	1.0
	Non-standard hours – night (10pm to 7am)		
Medical / health buildings (wards, surgeries, operating theatres, consulting rooms)	All	0.3	1.0
Educational facilities (rooms designed for teaching purposes)	While in use		
Court of Law (Court Rooms)			
Court of Law (Court reporting and transcription areas, Judges' chambers)			
Community Buildings (libraries, places of worship)	While in use	1.0	2.0
Commercial (offices) and retail areas			

Source: Table 3.3.1.1(a) of TMR Transport Noise Management Code of Practice Volume 2 – Construction Noise and Vibration (Code of Practice – Construction)

## **CONSTRUCTION WASTE MANAGEMENT & STORAGE**

33. Waste generated during demolition, excavation and construction must be managed in accordance with the waste management hierarchy as detailed in the *Waste Reduction and Recycling Act 2011*.
34. The on-site storage and disposal of demolition, excavation and construction waste (including the storage and disposal of night soil) must comply with the *Environmental Protection Regulation 2019*.
35. Fires are not to be lit to dispose of demolition or construction waste.
36. No demolition, excavation or construction waste is to be used as fill or buried on-site (with the exception of cut material recycled from the subject land and used on the subject land), or be used as fill or buried elsewhere, unless otherwise permitted:
  - 36.1 Elsewhere within this Development Approval;
  - 36.2 In accordance with an associated Development Permit for Operational Work;
  - 36.3 In association with and in accordance with an Environmental Authority issued under the *Environmental Protection Act 1994*;
  - 36.4 In accordance with either a general or specific approval of a resource for beneficial use (otherwise known as a beneficial use approval) issued under the *Waste Reduction and Recycling Act 2011*; or
  - 36.5 In accordance with a written approval issued by Council under the *Environmental Protection Regulation 2019* relating to the depositing or disposal of general waste from a premises not serviced by Council.
37. Demolition, excavation and construction waste (including night soil) must not be placed or stored within the road reserve at any time.

## **CONSTRUCTION NOISE IMPACT MITIGATION**

38. Building work (as per the definition of the *Environmental Protection Act 1994*) that creates audible noise must be confined to the hours of 6:30 AM and 6:30 PM Monday to Saturday (excluding Public Holidays) unless otherwise approved by Council in an endorsed Construction Environmental Management Plan.

## **EROSION & SEDIMENT CONTROL**

39. Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by the action of wind or running water must be stored clear of drainage paths and not within the road reserve at any time.
40. Measures such as sediment fences, earth berms, temporary drainage, temporary sediment basins, dewatering or stormwater filtering devices to prevent eroded material, sediment or sediment laden water from being transported to adjoining properties, roads or stormwater drainage systems must be provided.
41. Where erosion and sediment control measures have been damaged, fail or are inadequate and erosion or the release of sediment or sediment laden stormwater has occurred from the subject land or associated works, any resultant property or environmental damage or interference caused must be repaired or cleaned up within 24 hours or upon the direction of Council, at no cost to the affected parties.

42. All disturbed areas must be mulched or turfed as soon as possible during construction.
43. Measures such as vehicle baths, wash-down and construction matting together with dust suppressants and wraps, exposed ground and stockpile sprinkling must be put in place if and as required to minimise site vehicles tracking sediment onto adjoining streets during the course of the construction period, and to prevent dust nuisance during construction and, where applicable the ensuing 'on-maintenance' period.

#### **EROSION & SEDIMENT CONTROL PLAN**

44. An Erosion and Sediment Control Plan must be prepared by a Certified Professional for Erosion and Sediment Control and submitted to Council for endorsement prior to construction commencing. This document is to include:
  - 44.1 Site analysis of soils, slopes, wind and rainfall;
  - 44.2 Plans showing the diversion of clean offsite water around the development and direction of site dirty water to retention dams or sedimentation ponds;
  - 44.3 Clearly defined water quality release parameters from retention ponds;
  - 44.4 Calculations for the appropriate sizing of retention or sedimentation ponds such that water quality release parameters can be met;
  - 44.5 Overflow and release points for new or existing structures with suitable erosion control measures and devices that limit scouring and transport of sediment; and
  - 44.6 Clearly defined erosion and sediment control measures suitable for the soil type, wind and rainfall characteristics found on site throughout all stages of development.
45. The Erosion and Sediment Control Plan must receive endorsement by Council prior to commencement of site works and any pre-start meeting for operational works.
46. The Erosion and Sediment Control Plan must address both the internal works for the development and any associated external works.
47. The endorsed Erosion and Sediment Control Plan must be implemented and, maintained where necessary to maintain compliance with the requirements of this Development Approval.

#### **CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN**

48. Prior to commencement of site works and any pre-start meeting for operational works, submit to Council for endorsement a Construction Environmental Management Plan prepared by a qualified person that at a minimum includes the following:
  - 48.1 Location of the site, including physical address, lot on plan and relevant scaled maps;
  - 48.2 Description of the site including infrastructure and features on or near the site and those areas requiring protection or avoidance;
  - 48.3 Contact details and responsibilities for site representatives;

- 48.4 Description of construction activities to be conducted on site:
- Location of construction areas and adjacent operational / residential areas;
  - Construction staff and vehicle numbers;
  - Construction hours;
  - Amenities; and
  - When relevant, prohibited activities and prohibited areas where no work should be permitted;
- 48.5 Site Plans clearly showing where proposed activities will occur, including sensitive receptors and areas where impacts on the environment may occur; and
- 48.6 Strategies to manage the following environmental impacts;
- Air quality and dust management;
  - Noise and vibration management;
  - Stormwater quality management;
  - Erosion and sediment control;
  - Waste management, storage and collection; and
  - Complaint management procedures.
49. The Construction Environmental Management Plan must receive endorsement by Council prior to commencement of site works and any pre-start meeting for operational works.
50. The Construction Environmental Management Plan must address both the internal works for the development and any associated external works.
51. The endorsed Construction Environmental Management Plan must be implemented and, maintained where necessary to maintain compliance with the requirements of this Development Approval.

#### **DAMAGE TO SERVICES & ASSETS**

52. Protect Council and public utility services and assets during construction of the development.
53. Any damage caused to existing services and assets as a result of the development works must be repaired at no cost to the asset owner in accordance with the following timing:
- 53.1 Where the damage would cause a hazard to pedestrian or vehicle safety or interrupts a service to the community, immediately; or
- 53.2 Where otherwise, as soon as reasonably possible, but no later than completion of the works associated with the development or prior to the commencement of use, whichever is the earlier.
54. Any repair work which includes alteration to the alignment or the level of existing services and assets must first be referred to the relevant service authority for approval.
55. Construction, alterations and any repairs to Council infrastructure is undertaken in accordance with Council's relevant policies and requirements at no cost to Council.

*Note: Council must be notified of any damage to water and sewer immediately on Ph: 131 872.*

#### **WASTEWATER INFRASTRUCTURE (GENERAL)**

56. The development must be connected to Council's existing wastewater reticulation system. **The internal wastewater system of the development must connect to a new manhole located at the north-eastern property boundary which must be connected to with** the existing sewer manhole located at the corner of Hermitage Road and Nugent Punch Road at no cost to Council.

*Note:* This condition is imposed pursuant to Section 145 of the Planning Act 2016.

- 56A. The design and construction of the wastewater works must be in accordance with Council's *Wastewater Infrastructure Policy 2.04*.

***Note:*** An application for Operational Works approval may be required to be lodged.

57. Any compensation or costs associated with obtaining agreement from owners or trustees of properties affected by the construction of the works must be at no cost to Council.

58. ~~Any connection to or modification of Council's live wastewater infrastructure must be undertaken by Council. A Private Works Quotation must be requested from Council, payment made for the works, and the works completed by Council.~~

~~***Note:*** Please note any new connection or reconnection to a Council wastewater system requires a Form 1 Plumbing approval prior to house drainage being installed.~~

~~***Note:*** To arrange for a private works quotation for the required works contact Council's Water and Wastewater Department on Ph: 131 872.~~

59. If the development cannot be compliantly drained to the existing wastewater connection point but can be drained to the existing wastewater system, a new connection point must be installed. The new location must be as determined and agreed by Council's Coordinator Plumbing and Drainage and Council's Coordinator Water and Sewer Maintenance.

60. ~~All works requiring alteration or extension of infrastructure to be undertaken by Council must be completed under a private works agreement with Council and at no cost to Council. A Private Works Quotation must be requested from Council, payment made for the works, and the works completed by Council.~~ Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and be approved by Council for wastewater works in accordance with the approved plans and documents of this Development Approval.

## WATER SUPPLY

61. The development must be connected to Council's reticulated water supply in accordance with Council's *Water Infrastructure Policy 2.03* at no cost to Council. **The connection point must be from an extension of the existing DN150 water main along Nugent-Pinch Road to Hermitage Road for the full frontage of the subject allotment.**

*Note:* This condition is imposed pursuant to Section 145 of the Planning Act 2016.

***Note:*** Only one (1) water connection is permitted from Council's water supply network to service the development. The size of any new service connection is to be determined during Plumbing approval.

62. All water main fittings, services and meters must be located 1m clear of the proposed driveway footpath crossover. Any relocation of fittings clear of driveways must be undertaken by Council.

63. Any works on Council's 'live' water supply must be carried out by Council. A Private Works Quotation must be requested from Council, payment made for the works, and the works completed by Council.

***Note:*** For a private works quotation for the required works Council's Water and Wastewater Department can be contacted on Ph: 131 872. Subject to payment of the quotation, a suitable time for this work to be carried out must be agreed with Council.

64. The development's internal firefighting system must be designed and constructed in accordance with Council's *Water Infrastructure Policy 2.03* and relevant Australian Standards at no cost to Council. If the internal firefighting system is proposed to connect to Council's reticulation system, confirm compliant performance in Council's existing system prior to requesting any fire service connections. All pressure and flow tests within Council infrastructure must be undertaken by Council at no cost to Council.
65. Where the development requires higher fire flows than listed in Council's Water Infrastructure Policy 2.03 for the relevant land zone, the Council water reticulation network must be upgraded, or fire break tanks must be provided at no cost to Council.
- 65A. Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and be approved by Council for external water supply works in accordance with the approved plans and documents of this Development Approval.**

## TELECOMMUNICATION

66. Install telecommunications infrastructure to service the development which complies with the following:
- 66.1 The requirements of *the Telecommunications Act 1997 (Cth)*;
- 66.2 For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
- 66.3 For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line is located underground.
67. Unless otherwise stipulated by telecommunications legislation at the time of installation, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.
68. Provide to Council written evidence from all relevant service providers that the telecommunications infrastructure is installed in accordance with telecommunication conditions of this Development Approval and all applicable legislation at the time of installation.

*Note: The Telecommunications Act 1997 (Cth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required. For further information visit [www.infrastructure.gov.au/tind](http://www.infrastructure.gov.au/tind).*

*Note: For telecommunication services, written evidence must be in the form of either a "Telecommunications Infrastructure Provisioning Confirmation" where such services are provided by Telstra, or a "Notice of Practical Completion", "Confirmation of Payment" or "Post Execution of Development" letter where such services are provided by NBN Co.*

## ELECTRICITY

69. An electricity supply must be made available to service the development. This supply must be in accordance with the relevant standards of the electricity distributor.

## AMENITY & OPERATION OF USE

### VISUAL AMENITY

70. Any graffiti on buildings, structures or fences on the subject land visible from public viewing locations must be removed within 24 hours or upon direction by Council.

71. Any graffiti deterrent building design elements and surface treatments are to be maintained at all times.
72. All buildings, structures and fences as well as the subject land must be maintained in a clean and tidy manner at all times.
73. All fixed mechanical plant must be contained within the building/s or visually screened to all street frontages, public viewing locations and adjoining premises.
74. Open storage areas, loading areas, and other unsightly areas, must be screened from view from all street frontages and public places.

## **FENCING & WALLS**

75. Any existing fence or wall not meeting the requirements of this Development Approval must be removed and replaced with a fence or wall that meets the requirements of this Development Approval. Where fencing is adjacent public spaces (e.g. road reserves, drainage reserves, open space areas, etc.) the following will apply:
  - 75.1 Unless otherwise approved and erected for the purpose of private open space fencing, must not exceed a maximum height of 1.2m if solid or 1.8m where any part above 1.2m is at least 50% transparent; **and**
  - 75.2 Selected materials, colours or textures to be utilised to provide visual interest and visual breaks in the appearance of the fence or wall; **and**
  - 75.3 Any retaining walls adjoining the Nugent Pinch Road and Hermitage Road boundary must not exceed a maximum height of 1.0m. Any further retaining walls and fencing must be setback from Nugent Pinch Road and Hermitage Road boundary to allow for a minimum 2.0m wide landscape strip.**
76. A minimum 1.8m high solid screen fence, which may be a 'butt-jointed' timber paling fence, must be erected along the full length of the southern and western boundaries of the development site area, **except for the emergency vehicle access to McCleverty Court.**
77. Unless otherwise specified elsewhere within this Development Approval, the required height of a fence or wall is measured from the highest adjacent finished ground level.
78. Where there is a change in level between adjoining properties at the boundary that exceeds 1m, the overall total height of any combination of fence and wall must not exceed 3m from the lowest adjacent finished ground level.
79. Fences and walls must be maintained in a good state of repair to ensure that their intended function (i.e. privacy, security, safety, acoustic, livestock, pest exclusion etc.) is maintained.
80. All costs associated with meeting the fencing requirements listed within this Development Approval must be borne by the developer.

## **STREET IDENTIFICATION**

81. The street number of the premises must be clearly identifiable and located in a prominent position near the site entry.

## **SAFETY, SECURITY & PUBLICLY ACCESSIBLE FACILITIES**

82. Safety and security lighting must be provided to the following areas of the site:
  - 82.1 All entries and exits of buildings;

82.2 All pathways linking car parking areas to the entrances and exits of buildings; and

82.3 Throughout car parking areas.

## TRANSPORT, VEHICULAR ACCESS & PARKING

### ROADWORKS (EXTERNAL TO DEVELOPMENT)

83. Existing road must be constructed or widened for the full frontage of the subject site, as follows:

**Street:** Nugent Pinch Road

**Classification:** Sub Arterial

**Construction Standard:** Constructed and widened to achieve a 9.0m pavement where there is existing kerb and channeling on the eastern side of Nugent Pinch Road. Where the existing pavement is gravel a 6m sealed pavement is required to be provided with the kerb and channel alignment along the development frontage aligned to the ultimate 9.0m pavement width. The Nugent Pinch Road construction is to be extended to the Hermitage Road intersection in line with Austroads guidelines.

*Note:* This condition is imposed pursuant to Section 145 of the Planning Act 2016.

*Note:* The Roma to Brisbane pipeline (petroleum/natural gas line) is located within northern verge of Hermitage Road. Any infrastructure or works proposed with 3 metres of the gas transmission pipeline must receive a third party works authorisation from APA.

83A. Existing road must be constructed as follows:

**Street:** McCleverty Court

**Classification:** Local Access

**Construction Standard:** Cul-de-sac standard with a minimum head radius of 10m and the approach radius of 20m and minimum verge width of 5.0m

*Note:* This condition is imposed pursuant to Section 145 of the Planning Act 2016.

84. The design and construction of the road must comply with *Planning Scheme Policy No. 2 – Engineering Standards – Roads and Drainage Infrastructure* (PSP No.2) and must include in particular:

84.1 Concrete kerbing and channelling;

84.2 Temporary asphalt kerbing to tapers;

84.3 Line marking;

84.4 Underground stormwater drainage;

84.5 Table drain works (where required);

84.6 Relocation of utility and Council services;

84.7 Street lighting;

84.8 Footpath works; and

- 84.9 Street trees.
85. Any pavement widening must join neatly to the existing pavement so that there are no specific irregularities in line or level resulting at or adjacent to the join for the length of the construction. Where necessary the existing pavement must be brought to a satisfactory standard in accordance with PSP No. 2 to allow for the above.
86. All street/road surfacing must be in accordance with the pavement construction standards in PSP No. 2.
87. Verge widths, street reserve widths, intersection treatment, provision of parking and speed control devices must comply with Council's requirements in PSP No. 2.
88. Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and be approved by Council for the road works.

#### **EXTERNAL PEDESTRIAN & CYCLE PATHS**

89. The following works must be constructed in accordance with *Planning Scheme Policy No. 2 – Engineering Standards – Roads and Drainage Infrastructure (PSP No.2)* and any current pedestrian and cycleway plans:
- 89.1 A 1.5m wide concrete pedestrian path for the Nugent Pinch Road development frontage;
- 89.2 Provision must be made for wheelchair and pram access at all kerb crossings associated with pathways, in accordance with *IPWEA Standard Drawing RS-090 – Ramped Pedestrian Crossings*;
- 89.3 The required work includes any surface earthworks, grinding or saw cutting to ensure the footpath finishes flush with all existing service covers and the like, or alternatively these services are raised or altered, so as not to create a pedestrian safety hazard; and
- 89.4 Any concrete footpath or cycleway must comply with SEQ RS-065. Where necessary, reprofiling of the verge area must be undertaken to enable the construction of concrete pathways with a maximum cross fall of 2.5%.
- Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.*
90. Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and be approved by Council for the footpath in accordance with the approved plans and documents of this Development Approval.

#### **ROADWORKS SIGNAGE AND PEDESTRIAN SAFETY**

91. All works carried out on or near roadways must be adequately signed in accordance with the *Manual for Uniform Traffic Control Devices – Part 3, Works on Roads*.
- Note: Road or lane closures require approval from Council's Principal Engineer Road Operations, and all conditions of that approval complied with during construction of the works.*
92. Safe pedestrian access along Council's footpaths must be maintained at all times.
- Note: Should access to footpaths need to be restricted, a separate 'Temporary road or footpath closure' must be obtained from Council's Principal Engineer Road Operations, prior to the commencement of the works.*

## REMOVAL OR MODIFICATION OF COUNCIL TRAFFIC SIGNS OR PARKING BAYS

93. Obtain the written approval of Council's Coordinator Traffic Management for any works involving the removal or modification of existing Council traffic signs or parking bays prior to the works commencing. Where approved by Council such works are to be undertaken at no cost to Council.
94. The installation or modification of any street signs or line marking must be in accordance with the *Manual of Uniform Traffic Control Device (MUTCD)*.

## PROVISION OF VEHICULAR ACCESS

95. The vehicle accesses from the subject land to Nugent Pinch Road **and McCleverty Court** must be sealed from the kerb and channel to the property boundary. The access must be designed by a Registered Professional Engineer Queensland (RPEQ) – Civil and must include the provision of adequate access width and flares to suit the proposed entry and exit manoeuvres. Such works must be constructed generally in accordance with any requirements identified in this Development Approval, or as specifically required below:
  - 95.1 The vehicle accesses must be located as shown on the Approved Plans listed within this Development Approval;
  - 95.2 The vehicle accesses (crossing the verge) must be constructed generally in accordance with the Institute of Public Works Engineering Australasia *Drawing RS-051 Heavy Duty Vehicle Crossing*, and in accordance with *Australian Standard AS 2890 – Parking Facilities (Part 1 and as relevant Part 2)*;
  - 95.3 Suitable safety measures, including warning signage, must be installed to improve driver awareness of pedestrians and enhance pedestrian safety. Warning signage must be provided near the entries, exits, and exit ramps to warn motorists of pedestrian movement;
  - 95.4 The vehicle accesses (crossing of the verge) must align neatly on both sides with the pedestrian footpath and verge with a maximum cross fall of 2.5%. Where there is an existing pedestrian path, the existing footpath in the vicinity of the driveway must be saw cut, removed and replaced by the driveway crossover. The driveway is to be graded at not steeper than 2.5% for the width of the footpath;
  - 95.5 The vehicle accesses (crossing of the verge) must be located a minimum of one (1) metre clear of existing power poles, streetlights or any signage;
  - 95.6 The relocation of all existing services must be clear of the access that will serve the subject land;
  - 95.7 The relevant service authorities must be contacted and their requirements complied with; and
  - 95.8 The vehicle accesses (crossing of the verge) must include suitable tapers and flares to accommodate the required turning paths of a Heavy Rigid Vehicle (HRV).

*Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.*
96. Unless otherwise approved, the final design and layout of the vehicle access, or any modification of existing property access, must be in accordance with the accepted development assessment benchmarks in the Works and Services Code in the *Toowoomba Regional Planning Scheme 2012* prior to any construction works within the road reserve.

## PROPERTY ACCESS

97. Direct access to Hermitage Road is not permitted from the development at any time.
- 97A. Direct access to McCleverty is not permitted from the development except for emergency access purposes. The entry must be gated with internal signage/line marking to be provided advising residents that the access is for emergency access only.**

## ON-SITE CAR PARKING, SERVICE BAYS & MANOEUVRING

98. The premises must be provided with a minimum of ~~267~~ **294** on-site car parking spaces for residents (minimum one (1) space per dwelling) and a minimum ~~54~~ **59** visitor car parking spaces (minimum one (1) space for every five (5) dwellings), inclusive of four (4) PWD car parking spaces, together with standing and manoeuvring for a minimum of one (1) Heavy Rigid Vehicle (HRV). Car parking and manoeuvring areas must be:
- 98.1 Constructed generally as shown on the Approved Plans listed within this Development Approval;
- 98.2 Provided with a sealed surface and be line marked or otherwise delineated to the minimum dimensions detailed in the *Toowoomba Regional Planning Scheme 2012* and *Australian Standard AS2890 – Parking Facilities*;
- 98.3 Designed and constructed in accordance with the requirements of AS2890;
- 98.4 Designed to ensure disabled car parking spaces are located in close proximity to a primary building entrance (community facilities) and meet the requirements of AS2890.1 Clause 2.4.5 (1.3m high bollards), AS1428.1 and AS2890.6:2009;
- 98.5 Accessible and available to the general public and staff during approved hours of operation;
- 98.6 Provided with signage and pavement markings that indicate the location of parking areas and the proposed flow of traffic through the subject land;
- 98.7 Maintained as originally constructed and kept and used exclusively for vehicle parking and manoeuvring; and
- 98.8 Designed to enable all vehicles to enter and leave the subject land in a forward gear.

## ENVIRONMENT & WASTE

### ACOUSTIC AMENITY – GENERAL

99. Unless otherwise approved in writing by Council, the use of the Dog Run, Tennis Courts and Lawn Bowls areas identified within the Approved Plans must not occur outside the hours of 7:00 AM to 10:00 PM.

The requirements of this condition must be included in the Community Management Statement for any body corporate for the subject land.

100. Service vehicle movements associated with the approved use (including loading and unloading) must occur only between the hours of 7:00 AM to 10:00 PM.

Note: Service vehicles do not include waste collection vehicles or activities.

101. Drainage grating over trafficable areas must be well secured and maintained to prevent rattling.

102. Driveway areas are to be finished with a surface which prevent tyre squeal. An uncoated surface is acceptable.
103. Acoustic measures and treatments must be incorporated into the development in accordance with Section 9 of the approved Acoustic Report listed within this Development Approval.

**ACOUSTIC AMENITY - NOISE LIMITS**

104. Cumulative noise from activities associated with the communal areas within the site (Clubhouse, **Summer House Sports Pavilion**, Dog Run, Tennis Court and Lawn Bowls) must not exceed the levels specified in **Table 2** when measured at the façade of any sensitive receptor.

**Table 2 - Noise Limits**

	Noise level measured in dB(A)	
	Variable noise assessment criteria $L_{Aeq\ adj, T}^*$	Continuous noise assessment criteria $L_{Aeq\ adj, T}^{\wedge}$
Day (7am-6pm)	42	37
Evening (6pm-10pm)	41	36
Night (10pm-7am)	37	32
Sleep Disturbance	45 dB(A) $L_{Amax}$ internal noise limits	

\*= **Adjusted A-weighted equivalent continuous sound pressure level** - Using time-weighting 'Fast Response', the constant equivalent of the instantaneous levels of existing environment plus noise of activity under consideration that would result in the same total sound energy being produced during the time period *T*, where *T* is measured for a period no less than 15 minutes, when the activity is causing a steady state noise, and no less than 1 hour when the activity is causing an intermittent noise, unaffected by extraneous noise and adjusted for tonality and impulsiveness.

^= **Adjusted A-weighted sound pressure level** - Obtained by using time-weighting 'Fast Response' and arithmetically averaging the visual maximum levels of the noise of activity under investigation, considering tonality and impulsiveness during the time period *T*, where *T* is measured for a period no less than 15 minutes.

105. Where considered warranted by Council and when requested in writing to do so, a noise investigation must be undertaken to investigate a complaint of noise nuisance. In such instances, a suitably qualified person must monitor, interpret and record all parameters that are required to be monitored in order to determine whether or not the Noise Emission Limits listed within this Development Approval have been exceeded. The results of the investigation must be provided to Council within 28 days of the request or a longer period if specified in any such request. Measurement of noise emissions (adjusted for tonality and impulse) must be generally in accordance with the most recent version of *Australian Standard AS1055.1 Acoustics – Description and measurement of environmental noise – General procedures*.

**ACOUSTIC AMENITY - MECHANICAL PLANT**

106. All “refrigeration equipment”, “pumps”, “regulated devices”, and “air conditioning equipment” as defined by *the Environmental Protection Act 1994* must be designed, installed, operated and maintained to comply with the noise standards as specified within the *Environmental Protection Act 1994*.

**AIR QUALITY & AMENITY - AIR RELEASE LIMITS**

107. Odours or airborne contaminants which are noxious or offensive to public amenity or safety, likely to cause environmental harm or environmental nuisance or exceed the Air Quality Objectives listed in the *Environmental Protection (Air) Policy 2019* as measured at any sensitive receptor place must not be released to the atmosphere.

108. Where considered warranted by Council and when requested in writing to do so, an air quality investigation must be undertaken to investigate a complaint of air pollution, odour or dust nuisance. In such circumstances, a qualified person must monitor, interpret and record all parameters that are required to be monitored in order to determine whether or not the Air Release Limits listed within this Development Approval have been exceeded. The results of the investigation must be provided to Council within 28 days of the request or a longer period if specified in any such request.

#### **AIR QUALITY & AMENITY - KITCHEN EXHAUST**

109. Kitchen exhaust points ~~within the Clubhouse and Summer House for the development~~ must be located and operated in accordance with *Australian Standard AS1668.2-2012 The use of ventilation and air-conditioning in buildings* (specifically Section 5.10 – Air Discharges).
110. Odour control measures such as, but not limited to, carbon adsorbers, electrostatic precipitators, high-energy wet scrubbers or flameless catalytic oxidisers are to be installed on any exhaust point such that no odour nuisance is experienced by any sensitive receptor.

#### **OUTDOOR LIGHTING IMPACT MITIGATION**

111. Outdoor lighting associated with the use must be designed, sited, and installed to comply with the relevant parameters of *Australian Standard AS4282-2019 Control of the obtrusive effects of outdoor lighting*.
112. All flood lighting must be of a type that gives no upward component of light when mounted horizontally (i.e. a full cut off luminaire).
113. Where considered warranted by Council and when requested in writing to do so, a lighting impact investigation must be undertaken to investigate a complaint of light nuisance. In such circumstances, a suitably qualified person must monitor, interpret and record all parameters that are required to be monitored in order to determine whether or not the lighting levels listed within this Development Approval have been exceeded. The results of the investigation must be provided to Council within 28 days of the request or a longer period if specified in any such request.

#### **WASTE MANAGEMENT (GENERAL)**

114. All waste generated on the subject land must be managed in accordance with the waste management hierarchy as detailed in the *Waste Reduction and Recycling Act 2011*.
115. Waste generated by the development must be managed, stored and removed from the subject land in accordance with the Operational Waste Management Plan listed within this Development Approval **(as amended)**, ~~with the addition of the following:~~

~~**115.1 Accessibility for a Refuse Collection Vehicle must be provided in accordance with the Approved Plans listed within the Development Approval.**~~

#### **LANDSCAPE & ECOLOGY**

##### **PROVISION OF STREET TREES**

116. Unless otherwise agreed by Council, plant and maintain for a period of 12 months, street trees within the road reserve as follows:
- 116.1 A minimum of one (1) street tree every 15m along the full length of the Nugent Pinch Road frontage of the development (western road verge), capable of reaching 12.0m height at maturity. A minimum 2.5m planting space clear of services and other infrastructure is to be provided for street tree planting on Nugent Pinch Road; **and**

**116.2 A minimum of two (2) street trees within the verge of the McCleverty Court cul-de-sac. The location of the street trees is to be approved by Council in the landscape plan.**

*Note: An increase in the number and/or variation to the location of street trees may be agreed by Council or varied in an approved landscape plan.*

117. The selection and planting of any street tree, including any street tree required to replace a removed street tree, must be in accordance with the requirements of *Planning Scheme Policy No.8 – Street Trees, Planning Scheme Policy No. 2 – Engineering Standards – Roads and Drainage Infrastructure, the Toowoomba Regional Council Street Tree Master Plan*, and the approved Landscape Plan.

## LANDSCAPING WORKS

118. Prior to the commencement of any works on site or the issue of a Building Works approval (whichever occurs first) submit to Council for endorsement, a Landscape Plan prepared by a qualified person prepared generally in accordance with the landscaping shown on the Approved Plans listed within this Development Approval that details in particular:

118.1 The species to be planted and their location;

118.2 The number and container size of plants;

118.3 The typical planting detail including preparation, backfill, staking and mulching;

118.4 Internal dimensions of all planting areas;

118.5 Location, height and finish of fencing fronting public land (including street frontages) and external site boundaries. All fencing must be constructed with durable materials and articulated through the use of various materials, textures and colours;

118.6 Designate variation in pavement colours and/or materials to define safe pedestrian movement areas;

118.7 Where street tree(s) are proposed or required as a condition of this Development Approval, the Landscape Plan must include the following additional information:

(i) Location and species of the proposed or required street tree(s);

(ii) Typical cross section through each street typology indicating clearance of street trees from underground services, kerbs and footpaths in accordance with PSP No.2 Engineering Standards; and

(iii) A planting schedule indicating the number of each species type;

*Note: Street trees must be supplied in 45L containers or as otherwise specified.*

118.8 Location and dimensions of any communal bin stores requiring vegetative screening;

118.9 An irrigation system or watering points must be provided to all planting areas;

118.10 A minimum 3.0m wide landscape strip, comprising screen plantings, along the southern and western boundaries **uncompromised by infrastructure or structures (e.g. drainage, retaining walls, etc.). The minimum 3.0m wide landscape strip is required to be included within the common open space areas and not within individual lot areas, unless otherwise approved by Council in accordance with Condition 123 of this development approval;**

- 118.11 A minimum ~~3.0~~ **2.0m** wide landscape strip along the frontage to Nugent Pinch Road and Hermitage Road, with the exception of any pedestrian or vehicle access, **and uncompromised by infrastructure of services. Any retaining walls adjoining the Nugent Pinch Road and Hermitage Road boundary must not exceed a maximum height of 1.0m or encroach into the minimum 2.0m wide planting zone. The minimum 2.0m wide landscape strip is required to be included within the common open space areas and not within individual lot areas;** and
- 118.12 North point, scale and drawing number.
119. All landscape works must be established by a qualified person and maintained in accordance with the conditions of this Development Approval for the life of the development, and in a manner that ensures healthy, sustained and vigorous plant growth. All plant material must be allowed to grow to full form and be refurbished when its life expectancy is reached.

#### **REMOVAL OF EXISTING VEGETATION**

- 119A. Prior to clearing commencing, submit to Council for Endorsement an updated tree retention plan as per Figure 11 and Appendix E of the Ecological Assessment Report listed within this Development Approval, that clearly identifies all trees to be retained or removed.**
- 119B. The trees identified for retention as per Condition 119A must be maintained in good health for the life of the development.**
- 119C. Clearing, including felling, pushing, lopping and grubbing of existing trees and vegetation not identified for retention must be undertaken by a suitably qualified person and must include:**
- 119C.1 Stump grinding to below finished surface level;**
  - 119C.2 Rectification to the finished surface levels and materials;**
  - 119C.3 No damage to other vegetation for retention;**
  - 119C.4 Legal disposal of all removed vegetation and debris; and**
  - 119C.5 Conclude with the area being stabilised against erosion and rehabilitated.**

#### **FAUNA MANAGEMENT DURING REMOVAL OF EXISTING VEGETATION**

- 119D. Engage a licensed Fauna Spotter Catcher (qualified by the relevant Queensland State Government Authority) to manage fauna prior and during clearing to:**
- 119D.1 Ensure works are carried out in accordance with Figure 11 and Section 7 and 7.1 of the approved Ecological Assessment Report listed within the Development Approval and the *Nature Conservation Act 1992*;**
  - 119D.2 Undertake pre-clearing inspections including fauna relocation and removal or blocking of all vacant hollows;**
  - 119D.3 Ensure clearing works avoids nesting times of animals and birds;**
  - 119D.4 Co-ordinate staging and sequence of clearing with fauna protection;**
  - 119D.5 Protect and recover fauna during clearing operations (not previously removed); and**

119D.6 Manage the translocation of animals and recovery procedures in accordance with relevant legislation.

## **EASEMENTS**

120. ~~Unless removing or re-locating Easements E and F SP339845 in accordance with Condition 122 or amending the approved plans in accordance with Condition 123 of this Development Approval, the terms of existing Easements E and F SP339845 must be amended to allow for the provision of landscaping strips in accordance with Condition 118.10 of this Development Approval. The amendments to the easements must be registered with the Titles Office prior to the commencement of any works associated with this Development Approval.~~
121. ~~Amended easement documentation required in accordance with Condition 120 must be prepared and submitted to Council, at no cost to Council, for endorsement prior to registration with the Titles Office.~~
122. ~~Unless amending the terms of Easements E and F SP339845 in accordance with Condition 120 or amending the approved plans in accordance with Condition 123 of the development approval, Easements E and F SP339845 must be removed or re-located in a manner that does not conflict with the conditions of this Development Approval prior to commencement of any works associated with this Development Approval.~~

~~**Note:** The owner of the Lot 2 SP339842 will be required to consent to the change to the easements required by Conditions 120 and 122. These conditions cannot be taken to compel the owner of adjoining land to consent to the works or easements.~~

123. ~~Unless changing or removing or re-locating Easements E and F SP339845 in accordance with Conditions 120 and 122 of this Development Approval, the approved plans must be amended to provide landscaping strips of 3m wide, comprising screen plantings along the eastern side of Easement F SP339845 and along the northern side of Easement E SP339845. Any plans to be amended must only incorporate the amendments listed within this Development Approval and must be resubmitted to Council for approval prior to the issue of any Development Permit for Operational Work, Building Work or Development Permit for Plumbing and Drainage Work, or prior to commencement of use, or prior to Council's approval of the Plan of Subdivision, whichever occurs first.~~

## **B. ADVICES:**

### **GENERAL ADVICES**

### **INFRASTRUCTURE CHARGES**

- 1) Infrastructure charges are now levied by way of an Infrastructure Charges Notice, issued pursuant to Section 119 of the *Planning Act 2016*.

### **OTHER LAWS & REQUIREMENTS**

- 2) This Development Approval relates to development requiring approval under the *Planning Act 2016* only. It is the approval holder's responsibility to obtain any other necessary approvals, licenses or permits required under State and Federal legislation or Council local law, prior to carrying out the development. Information with respect to other Council approvals, licenses or permits may be found on the Toowoomba Regional Council website. For information about State and Federal requirements please consult with these agencies directly.

- 3) Any works impacting outside the property boundary will require a permit under Subordinate Local Law 1.15 (Carrying Out Works on a Road or Interfering with a Road or its Operation) 2011. Please contact Council's Road Operations Branch through our Customer Service Centre on 131 872. The application can be found on Council's website at [www.tr.qld.gov.au](http://www.tr.qld.gov.au).
- 4) The development has only been assessed in accordance with the provisions of the *Toowoomba Regional Planning Scheme*. No assessment has been made in respect of the provisions of the *Building Code of Australia* and/or the *Queensland Development Code*.

#### **WHEN APPROVAL STARTS TO HAVE EFFECT**

- 5) This Development Approval starts to have effect in accordance with the provisions of Section 71 of the *Planning Act 2016*.

#### **WHEN APPROVAL LAPSES**

- 6) This Development Approval will lapse in accordance with the provisions contained in Sections 85 and 88 of the *Planning Act 2016*, unless otherwise stated elsewhere within this Development Approval.

#### **CLEARING OF PROTECTED PLANTS**

- 7) In accordance with *Nature Conservation (Wildlife Management) Regulation 2006* you must check the flora survey trigger map, prior to the clearing of any native plants found on the subject land to determine if a flora survey must be undertaken and if a clearing permit for clearing endangered, vulnerable and near threatened plants ('EVNT plants') and their supporting habitat is required.

Under the Regulation, if a flora survey identifies that EVNT plants are not present or can be avoided by 100m, the clearing activity may be exempt from a permit, however an exempt clearing notification form must be submitted to the Department of Environment and Science. In an area other than a high risk area, a clearing permit is only required where a person is, or becomes, aware that EVNT plants are present, though a range of exemptions do apply. Clearing of least concern plants is generally exempt from requiring a clearing permit. For further information associated with the clearing of protected plants and to obtain flora survey trigger map for your site please refer to the Departmental website.

#### **EXCAVATION & FILLING**

- 8) The *Toowoomba Regional Planning Scheme* (TRPS) declares excavation and filling activity involving less than 50m<sup>3</sup> of material and excavation and filling activity to a depth or height lower than one (1) metre to be accepted development. Any combination of excavation or filling where 50m<sup>3</sup> or more of fill is deposited on, or 50m<sup>3</sup> or more of excavated material is removed from the premises and excavation or filling is not associated with 'Building Work' as defined under the *Planning Act 2016*, must obtain an Operational Works approval from Council before commencing site works.

#### **EQUITABLE ACCESS & FACILITIES**

- 9) The plans for the proposed building work have NOT been assessed for compliance with the requirements of the *National Construction Code – Building Code of Australia (Volume 1)* as they relate to people with disabilities.

In addition to the requirements of the National Construction Code as they relate to people with disabilities, one or more of the following may impact on the proposed building work:

- 9.1 The *Disability Discrimination Act 1992* (Cth);
- 9.2 The *Anti-Discrimination Act 1991* (Qld); and

9.3 The *Disability (Access to Premises – Buildings) Standards*.

## ENVIRONMENTAL HARM

- 10) The *Environmental Protection Act 1994* states that a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm.

Environmental harm includes environmental nuisance. In this regard persons and entities involved in the civil, earthworks, construction and operational phases of this development are to adhere to their 'general environmental duty' to minimise the risk of causing environmental harm. Environmental harm is defined by the Act as any adverse effect, or potential adverse effect whether temporary or permanent and of whatever magnitude, duration or frequency on an environmental value and includes environmental nuisance.

Therefore, no person should cause any interference with the environment or amenity of the area by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit, sediment, oil or otherwise, or cause hazards likely in the opinion of the Administering Authority to cause undue disturbance or annoyance to persons or affect property not connected with the use.

## BUILDINGS

- 11) The proposed development has only been assessed in accordance with the provisions of the *Toowoomba Regional Planning Scheme 2012*. No assessment has been made in respect of the provisions of the *Building Code of Australia* and/or *Queensland Development Code*.

## TRADE WASTE APPROVAL

- 12) This Development Approval does not infer or give approval to the owners or occupiers of the subject land to discharge trade waste into Council's sewerage infrastructure. The *Water Supply (Safety & Reliability) Act 2008* requires Council to approve all trade waste discharges to its sewerage system in accordance with Council's *Trade Waste Policy* and *Trade Waste Plan*. The Plan may be downloaded from Council's web site.
- 13) A person intending to discharge trade waste to sewer must obtain Trade Waste Approval prior to commencing the discharge and must comply with the terms and conditions of the *Trade Waste Plan*. The Applicant must contact Council's Trade Waste Services on telephone 131 872 to obtain advice about pre-treatment requirements and compliance matters before Building and Plumbing plans are submitted for approval.

## ENVIRONMENT PROTECTION & BIODIVERSITY CONSERVATION ACT 1999

- 14) An additional approval from the Commonwealth Government under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) may be required in relation to the approved development. The *Environment Protection and Biodiversity Conservation Act 1999* relates to actions that may have a significant impact on matters of national environmental significance (NES) or the environment generally if on Commonwealth land. These matters of NES include nationally listed threatened and migratory species, Ramsar wetlands, World Heritage, Commonwealth marine and nuclear actions.

The EPBC Act provides that a person must not take an action that has, will have or is likely to have a significant impact on matters of NES, without the approval of the Commonwealth Environment Minister. Such actions should be referred to the Minister for a decision on whether or not approval is required under the *Environment Protection and Biodiversity Conservation Act 1999*.

Contact the Australian Government Department of the Environment and Energy on 1800 803 772 to discuss any obligations under the EPBC Act.

### **WATER POLLUTION**

- 15) In accordance with the *Environmental Protection Act 1994*, all sand, silt, mud, paint, cement, concrete, construction material and demolition material, and other such waste material must not be deposited or placed where it could reasonably be expected to travel into a roadside gutter, stormwater drain or watercourse. On the spot fines apply for such offences.

### **FIRE ANTS**

- 16) The State of Queensland has been declared a quarantine area for the Red Imported Fire Ant. Should this approval involve the movement of restricted items from areas of known infestation the provisions of the *Plant Protection Act 1989* apply, compliance with statutory provisions must be achieved.

### **ADVERTISING SIGNS**

- 17) Placing an advertising device on premises is accepted development where complying with the assessment benchmarks that form the requirements for accepted development in the Advertising Devices Code in the *Toowoomba Regional Planning Scheme*. A separate Operational Works approval will be required for any Advertising Devices not complying with the assessment benchmarks that form the requirements for accepted development in the Advertising Devices Code.

### **BUILDING APPROVAL REQUIRED FOR CERTAIN FENCES & RETAINING WALLS**

- 18) A Development Approval for Building Works is required for the following:
- 18.1 Fences where:
- The fence is part of a pool fence; or
  - The fence is over 2m in height (from natural ground level); or
  - The fence is attached to a retaining wall and the combined mean height is over 2.4m in height from natural ground level;
- 18.2 Retaining walls where:
- The wall is retaining fill having a height greater than 1m in height above the wall's natural ground surface; or
  - The wall is located within 1.5m of a building or another retaining wall; or
  - There is a load or surcharge imposed above the retaining wall (i.e. driveway, batter, building or the like); and
- 18.3 Retaining walls and/or fences are sited within 1.5m of a property boundary line and the combined height of the structures exceeds 2m (including where the retaining wall is less than 1m).
- 19) A siting discretion may be required from Council where a fence is proposed to be built atop the retaining wall and the combined height of the structure exceeds 2 m above natural ground level.

### **QUALIFIED PERSON**

- 20) For the purpose of preparing a Landscape Plan, a qualified person is considered to be a Registered Landscape Architect or Landscape Designer with a minimum of three (3) years current experience in the field of landscape design.

**C. ATTACHMENTS:**

- Concurrence Agency Conditions Schedule 2
- Advice Agency Conditions Schedule 3
- Third Party Advice Schedule 4
- Approved Development Plans
- Amended Plans (To be submitted for Approval)
- Approved Documents
- Amended Documents (To be submitted for Approval)
- Appeal provisions pursuant to the *Planning Act 2016*.

**SCHEDULE 2**

**CONCURRENCE AGENCY (CONDITIONS AND COMMENTS)**

**DEPARTMENT OF STATE DEVELOPMENT, INFRASTRUCTURE AND PLANNING**



Our reference: 2512-49621 SRA  
 Your reference: MCUI/2023/5258/A

17 December 2025

The Chief Executive Officer  
 Toowoomba Regional Council  
 PO Box 3021  
 TOOWOOMBA QLD 4350  
 development@tr.qld.gov.au

Attention: Richard Green

Dear Mr Green

## SARA referral agency response—420-462 Hermitage Road and McCleverty Court, Cotswold Hills

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application (change application) described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 2 December 2025.

### Response

Outcome:	Referral agency response – with conditions
Date of response:	17 December 2025
Conditions:	The conditions in <b>Attachment 1</b> must be attached to any development approval
Advice:	Advice to the applicant is in <b>Attachment 2</b>
Reasons:	The reasons for the referral agency response are in <b>Attachment 3</b>

### Development details

Description:	Development permit	Change Application (Other Change) – Material Change of Use – Impact – Retirement Facility
SARA role:	Referral agency	
SARA trigger:	Schedule 10, part 9, division 4, subdivision 1, table 1, item 1 (Planning Regulation 2017)	

Development impacting on state transport infrastructure

Schedule 10, part 9, division 4, subdivision 2, table 4, item 1 (Planning Regulation 2017)

Development near State transport corridors or future State transport corridors

SARA reference: 2512-49621 SRA

Assessment manager: Toowoomba Regional Council

Street address: 420-462 Hermitage Road and McCleverty Court, Cotswold Hills

Real property description: Lots 1 & 2 on SP339842

Applicant name: Living Gems Developments C/- Innovative Planning Solutions

Applicant contact details: PO Box 1043  
Maroochydore QLD 4558  
info@ipsptyltd.com.au

*Human Rights Act 2019* considerations: A consideration of the 23 fundamental human rights protected under the *Human Right Act 2019* has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.

## Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (section 30 of the Development Assessment Rules). Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Geoff Broadbent, Principal Planner, on (07) 4616 7302 or via email ToowoombaSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Paul Gleeson  
A/Manager

enc Attachment 1 - Referral agency conditions  
Attachment 2 - Advice to the applicant  
Attachment 3 - Reasons for referral agency response  
Attachment 4 - Representations about a referral agency response provisions

cc Living Gems Developments C/- Innovative Planning Solutions, info@ipsptyltd.com.au

## Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application).

No.	Conditions	Condition timing
<b>Development permit – Material Change of Use for a Retirement Facility</b>		
<p>Schedule 10, part 9, division 4, subdivision 1, table 1, item 1 (Planning Regulation 2017) - Development impacting state transport infrastructure; and Schedule 10, part 9, division 4, subdivision 2, table 4, item 1 (Planning Regulation 2017) - Development 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 condition(s):</p>		
1.	Any excavation, filling/backfilling/compaction, retaining structures and other works involving ground disturbance must not encroach or de-stabilise the state-controlled road or cause similar adverse impacts.	For the duration of the works
2.	<p>(a) Stormwater management of the development must not cause worsening to the operating performance of the state controlled road, such that any works on the land must not:</p> <ul style="list-style-type: none"> <li>(i) create any new discharge points for stormwater runoff onto the state controlled road</li> <li>(ii) concentrate or increase the velocity of flows to the state controlled road</li> <li>(iii) interfere with and/or cause damage to the existing stormwater drainage on the state controlled road</li> <li>(iv) surcharge any existing culvert or drain on the state controlled road</li> <li>(v) reduce the quality of stormwater discharge onto the state controlled road</li> <li>(vi) impede or interfere with any overland flow or hydraulic conveyance from the state controlled road</li> <li>(vii) reduce the floodplain immunity of the state controlled road.</li> </ul> <p>(b) Submit RPEQ certification to the Department of Transport and Main Roads Downs South West District at Downs.South.West.IDAS@tmr.qld.gov.au, confirming that the development has been designed in accordance with part (a) of this condition.</p>	<p>(a) At all times.</p> <p>(b) Prior to obtaining development approval for operational work or building work, whichever occurs first</p>

## Attachment 2—Advice to the applicant

<b>General advice</b>	
1.	<p>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 3.3). If a word remains undefined it has its ordinary meaning.</p>
2.	<p>The proposed development is located in proximity to the Toowoomba bypass and may be subject to noise emissions from vehicular traffic. While the Toowoomba bypass has not yet been designated as a transport noise corridor, you are encouraged to still consider the impact of noise emissions and ensuring the development provides noise mitigation measures to mitigate against noise emissions where required.</p> <p><b>Transport noise corridor</b></p> <p>Mandatory Part (MP) 4.4 of the Queensland Development Code (QDC) commenced on 1 September 2010 and applies to building work for the construction or renovation of a residential building in a designated transport noise corridor. MP4.4 seeks to ensure that the habitable rooms of Class 1, 2, 3 and 4 buildings located in a transport noise corridor are designed and constructed to reduce transport noise.</p> <p>Transport noise corridor means land designated under Chapter 8B of the <i>Building Act 1975</i> as a transport noise corridor. Information about transport noise corridors is available at state and local government offices. A free online search tool can be used to find out whether a property is located in a designated transport noise corridor.</p> <p>This tool is available at the Department of State Development, Infrastructure and Planning website: <a href="http://www.dsdip.qld.gov.au/about-planning/spp-mapping-online-system.html">http://www.dsdip.qld.gov.au/about-planning/spp-mapping-online-system.html</a> and allows searches on a registered lot number and/or property address to determine whether and how the QDC applies to the land.</p>
3.	<p><b>Queensland waterways for waterway barrier works</b></p> <p>There are two mapped low risk waterways mapped over the subject site. Please be aware that any barrier limiting fish stock access and movement along a waterway is considered waterway barrier works under the <i>Fisheries Act 1994</i>. If future works are required that constitute waterway barrier works, the works must comply with accepted development requirements or a development application under the <i>Planning Act 2016</i> needs to be lodged.</p> <p>Further information on waterway barrier works and fisheries development is available online from the Department of Agriculture and Fisheries at <a href="http://www.daf.qld.gov.au/businesspriorities/fisheries/habitats/fisheries-development">www.daf.qld.gov.au/businesspriorities/fisheries/habitats/fisheries-development</a>.</p>

## Attachment 3—Reasons for referral agency response

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### The reasons for this decision are:

- The development complies with the assessment benchmarks of State code 1 of SDAP in that the development:
  - o does not increase the likelihood or frequency of accidents, fatalities or serious injury for users of a state-controlled road
  - o does not adversely impact the structural integrity or physical condition of state-controlled roads, road transport infrastructure, public passenger transport infrastructure or active transport infrastructure
  - o does not adversely impact the function and efficiency of state-controlled roads or future state-controlled roads
  - o does not adversely impact the state's ability to plan, construct, maintain, upgrade or operate state-controlled roads, future state-controlled roads or road transport infrastructure
  - o does not significantly increase the cost to the state to plan, construct, upgrade or maintain state-controlled roads, future state-controlled roads or road transport infrastructure
  - o maintains access to public passenger transport infrastructure or active transport infrastructure
  - o does not adversely impact the state's ability to operate public passenger services on state-controlled roads
  - o protects community amenity from significant adverse impacts of environmental emissions generated by road transport infrastructure or vehicles using state-controlled roads.
  
- The development complies with the assessment benchmarks of State code 6 of SDAP in that the development:
  - o does not compromise existing safe and direct access to public passenger transport infrastructure, including access by cycling and walking
  - o does not create a safety hazard for users of a state-controlled road
  - o does not result in a worsening of the physical condition or operating performance of state-controlled roads and the surrounding road network
  - o does not compromise the state's ability to construct, or significantly increase the cost to construct state-controlled roads and future state-controlled roads does not compromise the state's ability to maintain and operate state-controlled roads, or significantly increase the cost to maintain and operate state-controlled roads.

### Evidence or other material on which the findings were based

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (version 3.3), as published by SARA
- the Development Assessment Rules
- SARA DA Mapping system
- section 58 of the *Human Rights Act 2019*.

## **Attachment 4—Representations about a referral agency response provisions**

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# Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules<sup>1</sup> regarding **representations about a referral agency response**

## Part 6: Changes to the application and referral agency responses

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### 28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
  - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
  - (c) the applicant has given written agreement to the change to the referral agency response.<sup>2</sup>
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
  - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

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<sup>1</sup> Pursuant to Section 68 of the *Planning Act 2016*

<sup>2</sup> In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

## **Part 7: Miscellaneous**

### **30 Representations about a referral agency response**

30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.<sup>3</sup>

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<sup>3</sup> An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

**SCHEDULE 3**

**ADVICE AGENCY (CONDITIONS AND COMMENTS)**

**ERGON ENERGY**



420 Flinders Street, Townsville QLD 4810  
PO Box 1090, Townsville QLD 4810  
[ergon.com.au](http://ergon.com.au)

10 April 2026

**RECEIVED**  
10/04/2026  
**TOOWOOMBA**  
**REGIONAL COUNCIL**

Chief Executive Officer  
Toowoomba Regional Council

Attention: *Richard Green*  
Via email: [development@tr.qld.gov.au](mailto:development@tr.qld.gov.au)

cc LG Resorts No 2 Pty Ltd  
c/- Innovative Planning Solutions  
Attention: *Curtis McMillan and James Brownsworth*  
Via email: [info@ipsptyltd.com.au](mailto:info@ipsptyltd.com.au)

Dear Sir/Madam,

**Ergon Advice Agency Response – Change (other) to Material Change of Use for Retirement Facility located at 420-462 Hermitage Road and McCleverty Court, Cotswold Hills formally described as Lot 1 on SP339842 and Lot 2 on SP339842**

**Council Ref: MCUI/2023/5258/A**

**Applicant Ref: #449Z**

**Our Ref: ECM 39672631 - 39683004**

This Referral Agency response is given under section 56 of the *Planning Act 2016*.

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**Response**

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Outcome	Approved in full - subject to conditions
Referral assessment capacity	Advice
Matters referral assessment made against (S55(2))	The purpose of the <i>Electricity Act 1994</i> and <i>Electricity Safety Act 2002</i>
Reasons for decision (S56(7)(b))	The works do not conflict with: <ul style="list-style-type: none"><li>the objectives set out within Part 2, Section 3 of the <i>Electricity Act 1994</i></li></ul>

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**Have you seen our fact sheets?**

See the 'considerations when developing around electricity infrastructure' section of our website [www.ergon.com.au/referralagency](http://www.ergon.com.au/referralagency)

- the purpose of the *Electricity Safety Act 2002* as set out within Part 1 Division 2 Section 4 & 5.

The works do not adversely impact on the safe, efficient, and economically viable operation of the supply network.

<b>Development Details</b>	
Applicant	LG Resorts No 2 Pty Ltd c/- Innovative Planning Solutions
Assessment Manager	Toowoomba Regional Council
Council Application No.	MCUI/2023/5258/A
Street Address	420-462 Hermitage Road and McCleverty Court, Cotswold Hills
RPD	1SP339842 and 2SP339842
Development Type	Change (other) to Material Change of Use for Retirement Facility
Referral Trigger	<input checked="" type="checkbox"/> Schedule 10, Part 9, Division 2, Table 2, Item 1 (10.9.2.2.1) – Material Change of use of premises subject to an easement for the benefit of a distribution entity under the Electricity Act and the easement is for a supply network
Impacted Electrical Infrastructure	Easement G on SP349902

Ergon provides the following response to the application in accordance with Section 56(1) of the *Planning Act 2016*:

Component of Development	Advice Agency direction
MCU	<input checked="" type="checkbox"/> S56(1)(b)(i) – approval subject to stated development conditions

In accordance with Section 56(1) should the Assessment Manager decide to approve the proposed Development Application, as an Advice Agency, Ergon requires that the assessment manager impose the below conditions. These conditions have been imposed in response to the matters prescribed under Section 55 (2) of the *Planning Act 2016*.

<b>Table 1</b>			
<b>Plans forming part of this Approval</b>			
<i>Title</i>	<i>Plan No.</i>	<i>Issue</i>	<i>Date</i>
<i>Master Plan</i>	<i>BP1415/03.01</i>	<i>L</i>	<i>11 February 2026</i>

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See the 'considerations when developing around electricity infrastructure' section of our website [www.ergon.com.au/referralagency](http://www.ergon.com.au/referralagency)

<b>Table 2</b>			
<b>Condition</b>		<b>Timing</b>	<b>Purpose/Reason</b>
1	<p>Carry out the approved development generally in accordance with the approved plans and documents outlined within Table 1 of this approval and the following:</p> <ul style="list-style-type: none"> <li>▪ The specifications, facts and circumstances as set out in the development application submitted to Ergon; and</li> <li>▪ Where a discrepancy or conflict exists between the written conditions of the approval and the approved plans, the requirements of the written conditions prevail</li> </ul>	At all times	To ensure the development is carried out generally in accordance with the plans of development submitted within the application
2	Any alterations to the plans and document(s) identified within Table 1 of this response are to be resubmitted to Ergon for comment	At all times	To ensure the development is carried out generally in accordance with the plans of development submitted within the application
3	The applicant / developer will need to enter into a new connection application. The existing Easement G on SP349902 may need to be abolished/ altered, subject to confirmation of the final padmount location	Prior to commencement of works	To ensure the safe and efficient operation of the supply network
4	No buildings or structures are to be located within the final Ergon easement location	At all times	To ensure the safe and efficient operation of the supply network

**General Advice:**

- Compliance with the *Electrical Safety Act 2002*, including any Code of Practice under the Act and the *Electrical Safety Regulation 2013* including any safety exclusion zones defined in the Regulation is mandatory

**Have you seen our fact sheets?**

See the 'considerations when developing around electricity infrastructure' section of our website [www.ergon.com.au/referralagency](http://www.ergon.com.au/referralagency)

Should any doubt exist in maintaining the prescribed clearance to the overhead conductors and electrical infrastructure then the applicant is obliged under the Act to seek advice from Ergon.

- Any costs incurred by Ergon as a result of the works on the easement are to be met by the property Developer / owner.
- This response does not constitute an approval to commence any works within the easement. Consent to commence works relevant to the conditions of the easement is required. All works on easement (including but not limited to earthworks, drainage and detention basins, road construction, underground and overhead services installation) require detailed submissions, assessment, and consent (or otherwise) by Ergon.
- All works proposed to be undertaken in close proximity to overhead or underground electrical lines are to be undertaken in accordance with Ergon's Works Practice Manual WP1323. This document refers to various standards, guidelines, calculations, legal requirements, technical details, and other information relevant to working near high voltage infrastructure. A copy of WP1323 can be found online via Ergon's document library ([Document library | Ergon](#)).

Should you require any further information on the above matter, please contact Tammara Scott on 0492 137 878 or via email at [townplanning@ergon.com.au](mailto:townplanning@ergon.com.au).

Yours faithfully,



Tammara Scott  
**Town Planner**

**Have you seen our fact sheets?**

See the 'considerations when developing around electricity infrastructure' section of our website [www.ergon.com.au/referralagency](http://www.ergon.com.au/referralagency)

**SCHEDULE 4**

**THIRD PARTY AGENCY**

**APA GROUP (APA)**



14 January 2026

APA Reference: 509061

Your Reference: MCUC/2023/5258



Curtis McMillan  
Innovative Planning Solutions

EMAIL OUT: [curtis@ipsptyltd.com.au](mailto:curtis@ipsptyltd.com.au)

Dear Curtis,

**RE: Change application (Other Change) – Material change of use – Retirement Facility at 420-462 Hermitage Road, Cotswold Hills - MCUC/2023/5258**

Thank you for your referral in relation to the proposed change application (Other Change) – Material change of use – Retirement Facility at 420-462 Hermitage Road, Cotswold Hills - MCUC/2023/5258.

APA Group (APA) is a leading Australian owned and operated energy infrastructure business with a \$22 billion portfolio of assets, delivering essential energy services across all of Australia. Our focus is on providing safe, reliable, affordable, and low emissions energy to Australian communities. Our investments are also critical to supporting Australian jobs, manufacturing and industry. APA is a trusted owner and operator of a range of energy infrastructure – from renewable energy, to electricity interconnectors and transmission, through to gas generation plants and transmission pipelines.

APT Petroleum Pipelines Pty Ltd (APA) has two (2) pipelines located adjacent to the subject site within Hermitage Road Reserve (see Table 1 for details):

**Table 1: Transmission gas pipelines in the area of consideration**

Pipeline	Pipeline Licence	Easement Width (m)	Diameter (mm)	Measurement Length m)
Roma to Brisbane Pipeline	2	N/A	250	200
Roma to Brisbane Looping	2	N/A	400	395

**Note:** Measurement Length is applied to either side of the pipeline.

**APA's Role**

As a Licensee under the Petroleum and Gas (Production and Safety) Act 2004 (QLD), APA is required to operate High Pressure Gas Transmission Pipelines (**HPGTP**) in a manner that minimises environmental impacts and protects the public and property from health and safety risks. Once a HPGTP is in place, APA is required to constantly monitor both the pipeline easement and also a broader area within which we are required to consider land use changes and development and to assess what such changes means to the risk profile of the HPGTP.

APA has a number of responsibilities and duties to perform under a complex framework of legislation, standards and controls across Federal, State and Local Government.



In particular, our HPGTPs are required to be operated in accordance with Australian Standard 2885 (Pipelines – Gas and Liquid Petroleum) (AS2885). In discharging our regulatory responsibilities, APA is required to monitor what is happening around its assets including land use change and development. This allows APA to ensure it remains in a position to comply with applicable operational and safety standards and legislation whilst meeting community expectations on energy supply.

### **Pipeline Risk Profile and the Measurement Length**

In managing HPGTP's and considering land use changes, APA must focus on that area geographically defined by AS2885 as the Measurement Length (**ML**). The ML area is the heat radiation zone associated with a full-bore pipeline rupture. APA is mandated to consider community safety in the ML due to the high consequences of pipeline rupture to life, property and the economy.

The ML is determined by taking account of a number of factors including the design criteria of the pipe (driven by the environment within which it was designed for at the time of construction) and the Maximum Allowable Operating Pressure (MAOP) of the pipe. APA must consider any changes of land uses within the ML area to determine the effect of a new use on the risk profile of the pipeline.

For reference, the ML of the Roma to Brisbane & Roma to Brisbane looping Pipeline is 200 & 395 metres. Note that the ML is a radial dimension, and therefore applies to both sides of the pipe.

### **Sensitive Uses**

APA seeks to limit sensitive uses from establishing within the ML so as to retain a high level of compliance with applicable safety standards. AS2885 defines a sensitive use as one which may increase the consequences of failure due to its use by members of the community who may be unable to protect themselves from the consequences of a pipeline failure.

To this end, APA's preferred position is that all land uses listed below be located outside of the ML:

- Aged Care Facilities.
- Retirement villages.
- Child care / family day care centres.
- Cinema based entertainment facility.
- Schools or other educational establishments
- Prisons / corrective institutions.
- Hospitals.
- Place of assembly or worship.
- Service station.
- Higher density residential uses.
- Other uses, as determined by the relevant decision maker, as substantially used by community members unable to protect themselves from the consequences of pipeline failure.

## Safety Management Study

AS2885 requires a Safety Management Study (**SMS**) to be undertaken whenever the land use classification of land within the ML changes. It is APA's assessment that the proposal will change the land use classification of this section of the pipeline and therefore an SMS must be undertaken prior to the development commencing.

The purpose of an SMS is to assess the risk associated with a change in land use, including both construction risks and ongoing land use risks. The SMS will also develop appropriate controls to reduce risks to 'as low as reasonably practicable' (**ALARP**).

The cost of undertaking an SMS is to be borne by the proponent as the 'agent of change'. APA has developed a list of preferred SMS facilitators. This ensures facilitators are both independent and satisfactorily qualified to undertake this assessment. This list is available from APA on request.

## Pipeline Corridor Management

To ensure compliance with the safety requirements of AS2885, APA needs to ensure its assets are managed to an appropriate standard. This includes:

- Ensuring the pipeline is maintained free of inappropriate vegetation and structures.
- Place warning signs at various mandated points along the pipeline route, including any change in property description/boundaries.
- Maintain a constant line of sight between warning signs.
- Undertake physical patrols and inspections of the easement.

APA will not accept outcomes that do not enable us to achieve our safety responsibilities to the surrounding community.

## Comments

On the basis of the information provided, APA does not object to the proposal subject to the following conditions being included within any approval issued for the proposal:

### 1. Safety Management Study

Prior to making any applications for operational works and prior to development commencing, a Safety Management Study (SMS) must be undertaken and any recommendations/actions must be implemented to the satisfaction of APA. All costs associated with implementing recommendations/actions are to be borne by the applicant. All subsequent applications and work must comply with the recommendations of the SMS.

### 2. Third Party Works Authorisation

Prior to the commencement of any works within 3 metres of the gas transmission pipeline required as a consequence of this development including new road construction, pavement, stormwater, pipelines, cables, or any other improvement on or under the land, the proponent must seek a third party works authorisation from APA. Works within 3 metres of the gas transmission pipeline must comply with any conditions attached to a third party works approval.

### 3. Services

The design of any infrastructure mains and reticulation shall be designed to minimise encroachment on the gas transmission pipeline (either crossing or within three metres). Any such encroachments will require the approval of APA. The assessment manager will seek the view of APA in considering any operational works applications required for services.

### 4. Pipeline Delineation On Plans

Site plans must have the pipeline location in the road reserve of Ritchie Road clearly identified. The pipeline must also be clearly labelled as '*high pressure gas pipeline*'.

### 5. Plan Sealing

Prior to sealing the plan of subdivision, Council must seek confirmation from APA that the applicant has complied with all the conditions imposed by APA. If the subdivision is staged, this condition only applies to those stages including works and which are relevant to APA's conditions.

#### Notes

- **If you are planning on undertaking any physical works on property containing or proximate to a pipeline, or are seeking details on the physical location of a pipeline, please contact Before You Dig Australia on 1100, or APA directly on [apaci@apa.com.au](mailto:apaci@apa.com.au)**

For any further enquiries relating to this correspondence, please feel free to contact myself on 0425 070 212 or the Urban Planning team at [planningqld@apa.com.au](mailto:planningqld@apa.com.au).

Yours faithfully,



**Zijad Bajrektarevic**  
**Urban Planner**  
**Operations, Engineering & Technical Solutions.**  
**APA Group**

## Chapter 6, Part 1 of the Planning Act 2016 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 an appeal relating to the Plumbing and Drainage Act 2018—
    - (i) for an appeal against an enforcement notice given because of a belief mentioned in the Plumbing and Drainage Act 2018, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
    - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the Plumbing and Drainage Act 2018—5 business days after the notice is given; or
    - (iii) otherwise—20 business days after the day the notice is given; or
  - (g) 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, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
- (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
- (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; 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 to an appeal by filing a notice of election in the approved form—
    - (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
    - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
  - (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

### 231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2) 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, any tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any 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.