



ENQUIRIES: Ali Davey
PHONE: (07) 4044 3014
FILE REF: **8/8/1617** (7024900)
REFERENCE: 2022/11614

19 August 2022

Energy Queensland
PO Box 1461
BRISBANE QLD 4001

By Email: Maddison.Low@energyq.com.au

Dear Maddison,

NEGOTIATED DECISION NOTICE UNDER S83 PLANNING ACT 2016

Development application:	8/8/1617
Property Address:	32-38 Hartley Street, Cairns City
Property Description:	Lot 2 on RP738082
Application proposal:	Material Change of Use (Research and Technology Industry)

With reference to the abovementioned Development Application, please find attached the relevant Decision Notice, which was determined under Instrument of Delegation on 18 August 2022.

The notice includes extracts from the Act with respect to making representations about conditions, negotiated decisions, suspension of the appeal period, and lodging an Appeal.

Should you have any enquires in relation to this Decision Notice, please contact Ali Davey of Council's Development Assessment Team on telephone number (07) 4044 3014.

Yours faithfully

Ali Davey
Planning Officer – Development Assessment

Att.



www.cairns.qld.gov.au
council@cairns.qld.gov.au



PO Box 359, Cairns Q 4870
119-145 Spence St, Cairns Q 4870



Ph: 1300 69 22 47
24 hours / 7 days



Decision Notice

APPLICANT DETAILS

Energy Queensland
PO Box 1461
BRISBANE QLD 4001

ADDRESS

32-38 Hartley Street
CAIRNS CITY QLD 4870

REAL PROPERTY DESCRIPTION

Lot 2 on RP738082

PROPOSAL

Negotiated Decision Request for Material Change of Use (Research and Technology Industry)

DECISION

Approved in full subject to conditions (refer to approval package below).

DECISION DATE

This Negotiated Decision Notice dated 19 August 2022 replaces the Decision Notice dated 8 July 2022

TYPE

Material Change of Use (Development Permit)

PLANNING INSTRUMENT

CairnsPlan 2016 v3

REFERRAL AGENCIES

Ergon Energy
PO Box 264
FORTITUDE VALLEY QLD 4006
townplanning@ergon.com.au

SUBMISSIONS

There were no submissions for this application.

FURTHER DEVELOPMENT PERMITS REQUIRED

Development Permit for Building Works
Development Permit for Plumbing Works
Development Permit for Operational Work



PART A – MATERIAL CHANGE OF USE

APPROVED PLAN(S) & DOCUMENT(S)

The term ‘approved plan(s) and document(s)’ or other similar expressions means:

Drawing or Document	Reference	Date
Site Plan & 3D Perspectives	Dwg No. 453A-SD-SK01 Issue P11	February 2022
Floor Plan <u>Floor Plan - Proposed</u>	Dwg No. 453A-SD-SK02 Issue P12 <u>Dwg. No. 453A-SD-SK-02</u> <u>Issue P16</u>	24 June 2022 <u>February 2022</u>
Elevations	Dwg No. 453A-SD-SK-03 Issue P10	February 2022
Landscape Concept Plan	Drawing Number L1.01 Revision 02	3 March 2022

ASSESSMENT MANAGER CONDITIONS

Currency Period

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

Carry Out the Approved Development

2. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
 - a. The specifications, facts and circumstances as set out in the application submitted to Council, including recommendations and findings confirmed within technical reports; and
 - b. The following conditions of approval and the requirements of Council's Planning Scheme and the *FNQROC Development Manual*.

Except where modified by these conditions of approval.

Timing of Effect

3. The conditions of the Development Permit must be satisfied prior to Commencement of Use, except where specified otherwise in these conditions of approval.

Notice of Intention to Commence Use

4. Prior to the Commencement of Use at the premises, written notice must be given to Council that the development fully complies with this Development Approval Package.

Return the attached “*Notice of Intention to Commence Use*” form prior to the use

commencing (attached at Appendix 2).

Access & Car Parking

5. Access to the land is limited to the existing driveway and crossover to Sheridan Street. No additional crossover is permitted.
6. The amount of vehicle parking must be as per the approved plans, being two (2) spaces.

The car parking layout must comply with *AS2890.1:2004 – Parking facilities – Off-street car parking* and be constructed in accordance with Austroads and good engineering design including the following:

- a. All parking, driveway and vehicular manoeuvring areas must be imperviously sealed, drained and line marked;
 - b. Provision for the loading/unloading of vehicles wholly on-site;
 - c. Sufficient manoeuvring space on-site for vehicles to turn around so that all vehicles, including service vehicles, can enter and exit in a forward direction.
7. Any redundant crossovers are to be removed and replaced with kerb and channel. Existing kerb and channel to the frontage of the land must be checked to ensure it is fit for purpose. Any sections showing ponding, significant cracking etc. shall be deemed as not fit for purpose and must be replaced.

Footpaths

8. Construct new footpaths for the full length of the new building along the Sheridan Street and Hartley Street property frontages as shown on the approved plans and in accordance with *FNQROC Development Manual Standard Drawing S1035D*.

The new section of footpath must match neatly to the existing footpath in relation to alignment and grade.

Note: This condition is imposed in accordance with s.145 of the Planning Act 2016.

Water Supply Internal

9. Undertake the following water supply and sewerage works internal to the subject land:
 - a. The development must be serviced by a single internal water made clear of any buildings or structures.

The above works must be designed and constructed in accordance with the *FNQROC Development Manual*.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to Commencement of Use.

Landscaping

10. Landscaping must be installed in accordance with the approved Landscaping Concept Plan. The applicant must submit a list of proposed species for endorsement prior to the commencement of any works. If at any stage it is considered necessary to vary the work, endorsement must be sought in writing from Council. The landscaping must be provided in accordance with the following requirements:
 - a. A permanent irrigation system must be installed and operational to ensure supplementary watering to the internal landscaping;
 - b. Planting densities must ensure the areas demonstrated for landscaping achieve vegetation cover at species maturity;
 - c. *Plumeria pudica* must be spaced to provide a landscape buffer along the North Eastern Boundary;
 - d. Ground covers must be set back from the property boundary to ensure they do not encroach within the Council land at maturity;
 - e. Garden beds must be mulched to ensure a minimum 75mm depth;
 - f. Advanced tree stock must be staked with 3 x hardwood stakes and hessian ties;
 - g. Trees nominated to be retained must be retained and protected in accordance with the Australian Standard *AS4970 Protection of trees on development sites*.

At the time of the landscaping completion, Council must be advised in writing to request an inspection and to commence a 13-week establishment period. Landscaping must be established prior to the commencement of use and maintained by the property owner in accordance with the endorsed plans at all times.

Street Numbering & Signage

11. Provide clear and legible signage incorporating the street number and company logo for the benefit of the public. Signage and numbering must be installed on the premises prior to the Commencement of Use.

Note: Separate approval for signage may be required under Council's Local Laws.

Boundary Fencing

12. Screen fencing on the road frontages must be established in accordance with the location and design as shown on the approved plans.

Awning Design

13. The awning over the Sheridan Street and Hartley Street frontages must be cantilevered and be designed and constructed to maintain the safety, amenity and comfort of pedestrians.

Details of the proposed materials and construction method must be submitted for approval by Council prior to the issue of a Development Permit for Building Works.

Note: A separate Local Laws Road Permit may be required.

Minimum Floor Levels

14. All floor levels and electrical fixtures must be a minimum of 300mm above the 1% AEP flood immunity level of 2.7 metres AHD.

Storage of Hazardous Materials and Chemicals

15. Storage of hazardous materials and chemicals must be located a minimum of 300mm above the 1% AEP defined inundation event level of 2.7m AHD.

External Lighting

16. External lighting must be installed in accordance with *AS/NZS 4282:2019 – Control of the obtrusive effects of outdoor lighting*. The installation of external lighting must be certified by a suitably qualified person in accordance with the Australian Standard.
17. Outdoor lighting and associated structures must not exceed 450 candela or consist of straight parallel lines of lighting 500m to 1000m long; flare plumes; upward shining lights; flashing lights; laser lights, sodium light; or reflective surfaces.
18. All lighting over publicly accessible pathways covered by permanent awnings must be in accordance with *AS/NZS 1158:3.1:2020 – Lighting for roads and public spaces*, Part 3.1: Pedestrian area (Category P) lighting – Performance and Design requirements.

Construction Management Plan

19. A Construction Management Plan must be submitted in conjunction with a Development Application for Operational Works associated with the development. The Construction Management Plan must address all activities/operations associated with construction including:
 - a. Hours of construction;
 - b. Location(s) of construction access;
 - c. Parking of vehicles (including construction site employees and delivery vehicles);
 - d. Traffic management and control (including loading and unloading);
 - e. On-site dust and noise management so as to not cause a nuisance to the amenity of the surrounding area;

- f. Tree protection management;
- g. Location and details of construction signage including any signage that is to be illuminated.

Storage of Goods, Equipment, Packaging Material or Machinery

- 20. Goods, equipment, packaging material or machinery must not be stored or left exposed outside the building so as to be visible from any public road or thoroughfare or adjoining residential use.

Air-conditioning, Plant and Machinery Screens

- 21. Air-conditioning, plant and machinery units located above ground level and visible from external properties and the street at the frontages of the land must be screened from view with appropriate materials or landscaping.

Concentration of Stormwater

- 22. The development must not create ponding nuisances and/or a concentration of stormwater flows to adjoining properties.

Lawful Point of Discharge

- 23. All stormwater from the land must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties downstream from the development in accordance with the *Queensland Urban Drainage Manual, Fourth Edition (2017)*.

Damage to Infrastructure

- 24. In the event that any part of Council's existing infrastructure or land is damaged as a result of construction activities occurring on the land, including but not limited to; mobilisation of heavy construction equipment, stripping and grubbing, notify Council immediately of the affected infrastructure or land and have it repaired, replaced or reinstated at no cost to Council.

PART B - INFRASTRUCTURE CHARGES

- 1. That an Infrastructure Charges Notice be given for the development.

FURTHER ADVICE

Planning Laws

1. Information relating to the *Planning Act 2016* (Qld), *Planning Regulation 2017* (Qld) and *Development Assessment Rules* is located on the Queensland Government's website – <https://planning.statedevelopment.qld.gov.au>.

Definitions

2. All terms used in this development approval have those definitions as defined under the *Planning Act 2016* (Qld) and *Planning Regulation 2017* (Qld), Queensland Development Code and CairnsPlan 2016.

To the extent of any inconsistency, the order of precedence of the above instruments is as follows:

- a. *Planning Act 2016* (Qld);
- b. *Planning Regulation 2017* (Qld);
- c. Queensland Development Code;
- d. CairnsPlan 2016.

FNQROC Regional Development Manual

3. Access to *FNQROC Regional Development Manual*, Local Laws, CairnsPlan 2016 and other referenced planning scheme policies are located on Council's website – www.cairns.qld.gov.au.

Infrastructure Charges Notice

4. A charge levied for the supply of trunk infrastructure is payable to Council towards the provision of trunk infrastructure in accordance with the Infrastructure Charges Notice, a copy of which is attached for reference purposes only.

The original Infrastructure Charges Notice has been calculated according to Council's Infrastructure Charges Resolution.

Please note that this Decision Notice and the Infrastructure Charges Notice are stand-alone documents. The *Planning Act 2016* (Qld) confers rights to make representations and appeal in relation to a Decision Notice and an Infrastructure Charges Notice separately.

The amount in the Infrastructure Charges Notice is subject to index adjustments and may be different at the time of payment. Please contact the Development Assessment Team at Council for review of the charge amount prior to payment.

The time when payment is due is contained in the Infrastructure Charges Notice.

Cyclone Watch Site Management

5. All building site managers must take all action necessary to ensure building materials and/or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council Officers, prior to commencement of works.

Future Compliance

6. This approval does not negate the requirement for compliance of any future use with CairnsPlan 2016 or any future in force planning schemes, all other relevant Local Laws, including a Road Corridor Permit and other statutory requirements.

Further Approvals Required to Carry Out the Development

7. The following further approvals are required prior to carrying out the development in accordance with the approved plans and drawings:
 - Development Permit for Operational Works;
 - Development Permit for Buildings Works;
 - Development Permit for Plumbing Works;
 - Road Permit (long term temporary road closure).

Smart Water Meters

8. Council will be implementing “smart” water meters during the currency period of this development. The Plumbing contractor must confirm with Council, at the time of making a Development Application for Plumbing Works, what the type of water meter should be installed.

LAND USE DEFINITIONS*

In accordance with CairnsPlan 2016 the approved land use of Research and Technology Industry is defined as*:

“Research and technology industry means the use of premises for an innovative or emerging industry that involves designing and researching, assembling, manufacturing, maintaining, storing or testing machinery or equipment.”

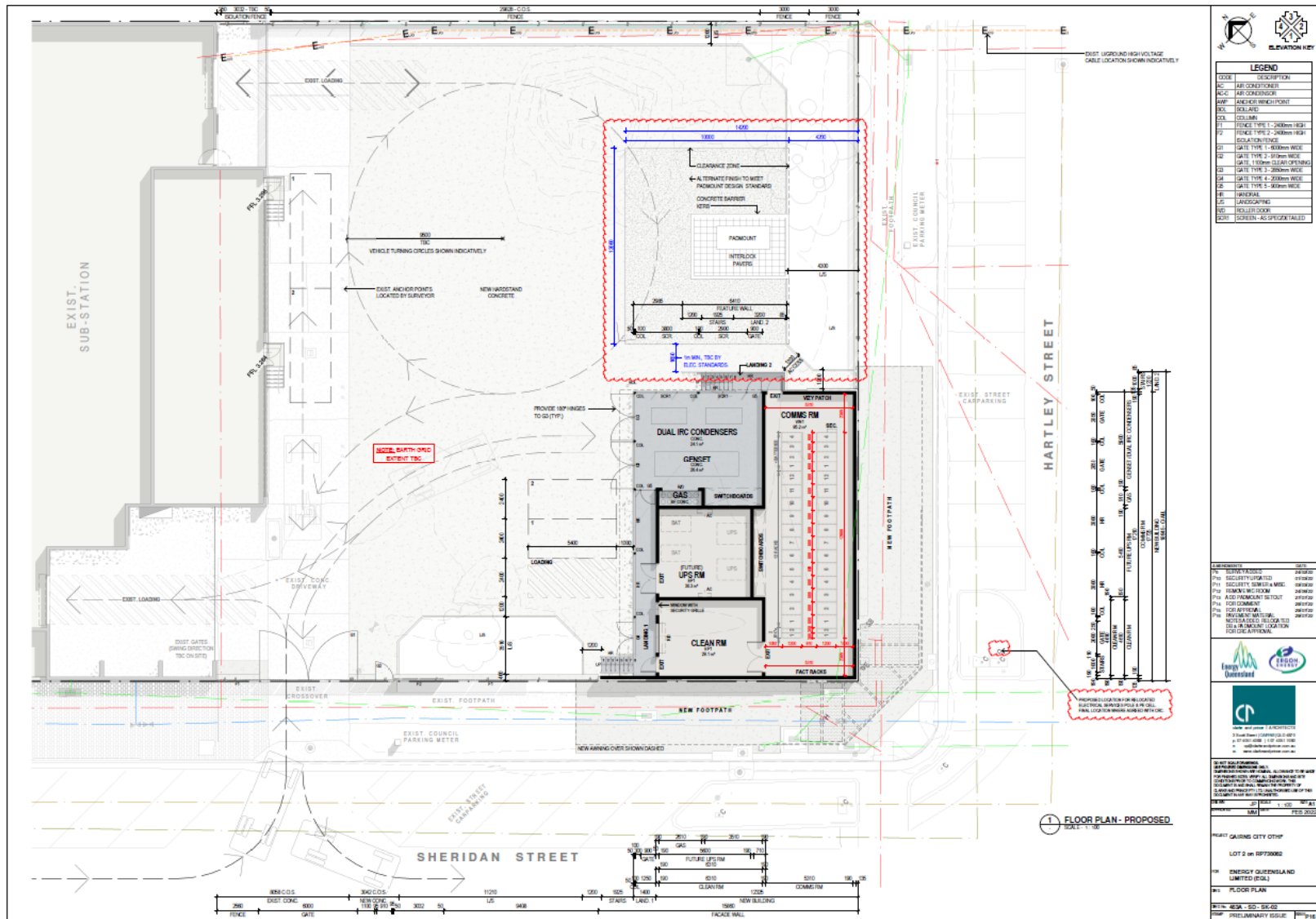
*This definition is provided for convenience only. This Development Permit is limited to the specifications, facts and circumstances as set out in the application submitted to Council and is subject to the abovementioned conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

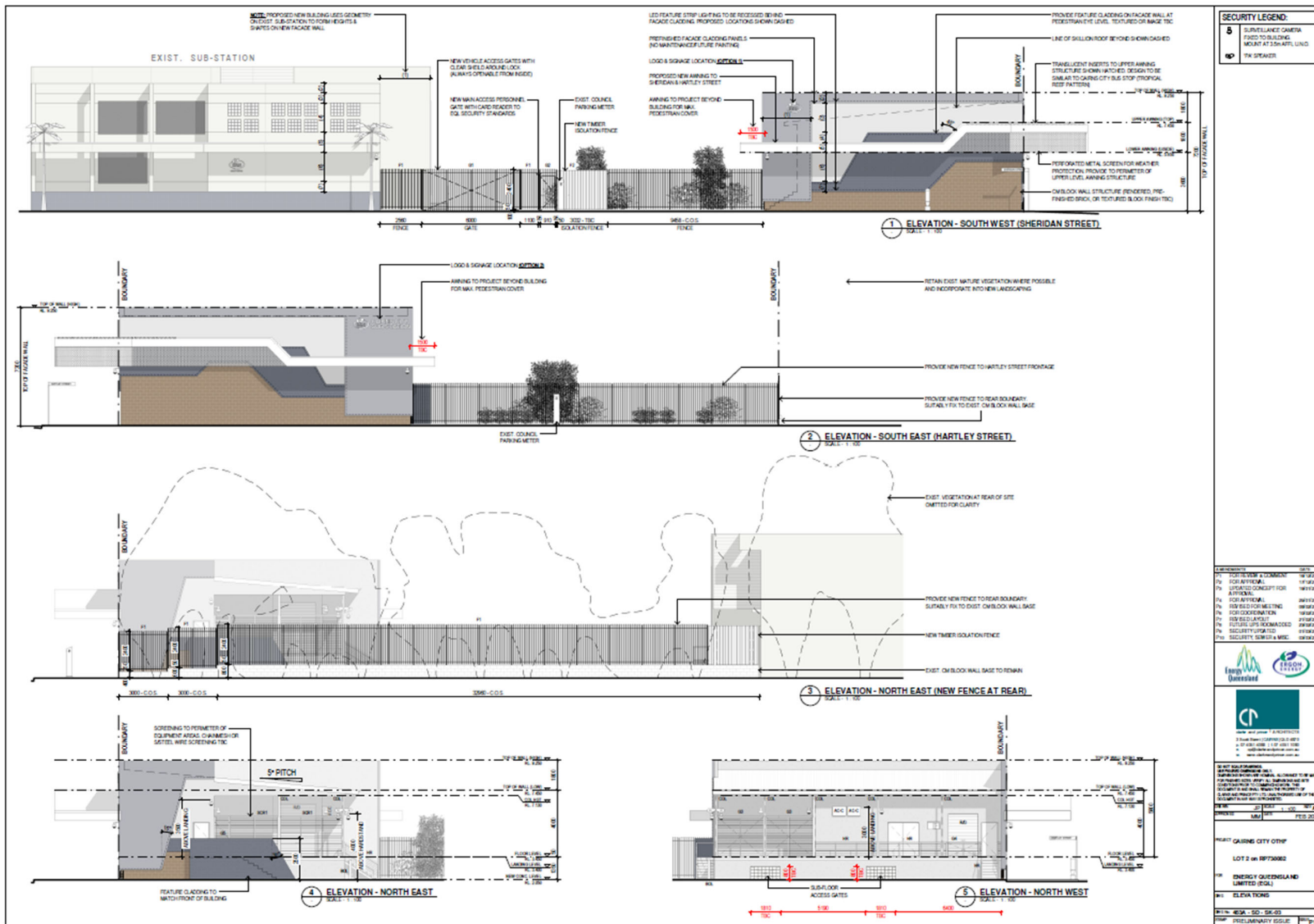
APPEAL RIGHTS

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

A copy of the relevant appeal provisions are attached as Appendix 4.

END OF DECISION NOTICE





APPENDIX 2: NOTICE OF INTENTION TO COMMENCE USE



Notice of Intention to Commence Use

DEVELOPMENT PERMIT

Planning Act 2016

Development Permit	8/8/1617
Date of Approval	18 August 2022
Approved Use	Material Change of Use (Research and Technology Industry)
Location	32-38 Hartley Street, Cairns City
Property Description	Lot 2 on RP738082

I/we are hereby notifying Cairns Regional Council of my/our intention to commence the approved use outlined above

on _____ (insert date).

I have read the conditions of the Decision Notice issued and believe that all the applicable conditions have been complied with.

Applicant:

Address:

Contact Phone:

Signature of Applicant/Owner:

Date:

APPENDIX 3: REFERRAL AGENCY CONDITIONS & REQUIREMENTS



420 Flinders Street, Townsville QLD 4810
PO Box 1090, Townsville QLD 4810
ergon.com.au

24 February 2022

Energy Queensland
C/- Maddison Low
PO Box 1461
Brisbane QLD 4001

Attention: Maddison Low
Via email: Maddison.Low@energyq.com.au

Dear Maddison,

Pre-Application Referral Agency Response – Development Permit for a Material Change of Use for a Research and Technology Industry (Operational Telecommunications Hosting Facility) at 32-38 Hartley Street, Cairns City described as Lot 2 on RP738082

**Applicant Ref: N/A
Our Ref: HBD 7596218**

We refer to the abovementioned proposed Development Application material which has been provided to Ergon Energy for pre-application assessment.

In accordance with Schedule 10, Part 9, Division 2 of the *Planning Regulation 2017*, the proposed application has been assessed against the purposes of the *Electricity Act 1994* and *Electrical Safety Act 2002*. This notice is provided in accordance with sections 56 and 57 of the *Planning Act 2016*.

As an Advice agency to the application, Ergon has no requirements in relation to the proposed Material Change of Use for a Research and Technology Industry (Operational Telecommunications Hosting Facility).

Pursuant to section 54(4) of the *Planning Act 2016*, the Applicant is not required to refer to Ergon a future Development Application for the proposed development, providing the Development Application is:

- a) the same, or no substantially different from the proposed Development Application detailed in this notice; and
- b) made to the Assessment Manager within six months of the date of this notice.

Should you require further information regarding this matter, feel free to contact the undersigned on 0455 403 399 or email townplanning@ergon.com.au.

Have you seen our fact sheets?

See the 'considerations when developing around electricity infrastructure' section of our website
www.ergon.com.au/referralagency

Ergon Energy Corporation Limited ABN 50 087 646 062

Yours faithfully,

A handwritten signature in black ink, appearing to read 'B. Freese', written in a cursive style.

Benjamin Freese
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

Ergon Energy Corporation Limited ABN 50 087 646 062

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Chapter 6 Dispute resolution

Part 1 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.

Statement of Reasons

The following information is provided in accordance with Section 63 of the *Planning Act 2016*.

Development application:	8/8/1617
Property Address:	32-38 Hartley Street, Cairns City
Property Description:	Lot 2 on RP738082
Application proposal:	Material Change of Use (Research and Technology Industry)
Approved:	Under Instrument of Delegation
Approved on:	18 August 2022
Planning Scheme:	CairnsPlan 2016 v3

REASONS FOR DECISION

The reasons for this decision are:

1. The proposed development has been assessed in accordance with the provisions of the CairnsPlan 2016 v3 and is considered to comply with the Overall Outcomes and Performance Outcomes of the applicable codes.
2. In assessing the proposed development, conditions have been imposed to ensure compliance with the assessment benchmarks of the CairnsPlan 2016 v3.
3. The proposed Research and Technology Industry generally complies with the intent of the Principal Centre Zone Code and Cairns City Centre Local Plan Code in that it provides a use that supports the energy needs of the local government area.
4. The proposed Research and Technology Industry will achieve flood immunity in accordance with the Flood and Inundation Hazards Overlay Code. A condition has been imposed requiring that hazardous materials and chemicals are stored and/or located above the defined inundation event level.



ASSESSMENT BENCHMARKS

The proposed development was assessed against the following assessment benchmarks:

State Planning Instruments	
Far North Queensland Regional Plan (FNQRP) 2009-2031	The subject site is within the Urban Footprint Area. The Regional Plan has been appropriately integrated and reflected through CairnsPlan 2016.
State Planning Policy (SPP)	The State Planning Policy (SPP) contains the State Interest Policies and Assessment Benchmarks which are applicable to the development. The CairnsPlan 2016 advances the SPP except for erosion prone areas and coastal management district and therefore all the State interests have been appropriately reflected in CairnsPlan 2016.

CairnsPlan 2016 v3

The proposed development was assessed against the following assessment benchmarks of CairnsPlan 2016.

Strategic Framework

Strategic Framework	
Element	Assessment
3.3.2 Element – centres and centre activities	The intent of the Principal Centre Zone is to provide for a wide variety of uses that reinforce the Cairns City Centre as the core of the Cairns Urban area and to service the local government area. While the development is not one that is anticipated within the zone, the OTHF is important to the operation of the local power network and supports the wider local government area by allowing Ergon Energy to digitally and remotely manage the power grid in Cairns. The development is appropriately co-located with an existing substation on the site. The development will include an awning over the footpath on the road frontages and the footpaths are also proposed to be upgraded which will ensure pedestrian connectivity and comfort.
3.3.9 Element – built form, design and city image	The development is one that requires specific design outcomes to ensure the internal equipment is protected and able to operate properly. As such, the building design does not incorporate a lot of tropical design outcomes such as an open floor plan that takes advantage of cross-ventilation and views. However, the applicant has considered the design of other buildings within the Cairns City area and used them to inform the design of the proposed building with a focus on the external appearance. The proposal includes an upgrade to the footpaths to both road frontages, installation of new landscaping to both road frontages, retention of existing mature vegetation on the site where possible, installation of an awning over the footpath, feature cladding and patterned inserts to the exterior and varying colours and textures of materials and trims of the building. It is considered that the façade of the building proposes appropriate design features and treatments to provide articulation and relief.

3.4.6 – Element – natural hazards	The development is located in an area affected by flood and inundation hazards. The floor level of the building is above the inundation event level including freeboard. The general public are not permitted to access the site due to the nature of the uses occurring on the site. The application material states that the site does not have staff working on-site every day and only requires visits roughly once a month. Given this and in conjunction with meeting the minimum floor levels, the development minimises exposure of people and property to unacceptable risk from flooding and storm tide inundation.
3.6.2 – Element - energy	The development directly supports the energy needs of the region by providing a digital and remotely controllable telecommunications facility. The development intends to consolidate management of the region's power network and provide improved reliability. The OTHF will control and manage the electricity network, minimise outages and provide efficient power distribution to communities throughout the Cairns Region. The building will also have a backup power supply (diesel generator) to ensure operations are able to continue through a power failure.

CairnsPlan 2016 v3	
Principal Centre Zone Code	Complies with Performance Outcomes. The intent of the Principal Centre Zone is to provide for a wide variety of uses that reinforce the Cairns City Centre as the core of the Cairns Urban area and to service the local government area. While the development is not one that is anticipated within the zone, the OTHF is important to the operation of the local power network and supports the wider local government area by allowing Ergon Energy to digitally and remotely manage the power grid in Cairns. The development is appropriately co-located with an existing substation on the site. The development will be housed in a new building on the southern corner of the site. The building will house a server room and associated equipment and requires insulation to protect the equipment from heat and space around the servers for airflow/cooling purposes which limits the ability for tropical design features to be incorporated into the building (i.e. open floor plan, ventilation/cross-ventilation, views) but the design does include some external tropical features and design elements to improve the appearance of the building including awnings over the footpath, landscaping, feature cladding and patterned inserts. The site currently contains some mature vegetation along the Hartley Street and Sheridan Street frontages. Much of this will be removed to accommodate the new building, however, the applicant proposes to retain and incorporate vegetation where possible. New landscaping is proposed along both street frontages where not inhibited by the building and will result in a landscaping cover of approximately 156m² (6% approx.). The footpaths to the frontage of the site will be upgraded which will improve the streets appearance and improve pedestrian connectivity.

Cairns City Centre Local Plan Code	Complies with Performance Outcomes. The development will be located on a site that contains an existing substation. Both the proposed and existing use of the site support the energy network for the Cairns region and it is considered the uses would be appropriately co-located on the subject site. The use of the site for electricity infrastructure is not one that is anticipated within the city centre, however, it would support anticipated uses (i.e. high density residential, offices, shops, food and drink etc.) within the city by ensuring there is reliable electricity infrastructure. As previously discussed, the development is one that requires specific design outcomes to ensure the internal equipment is protected and able to operate properly. As such, the building design does not incorporate a lot of tropical design outcomes such as an open floor plan that takes advantage of cross-ventilation and views. However, the applicant has considered the design of other buildings within the Cairns City area and used them to inform the design of the proposed building with a focus on the external appearance. The proposal includes an upgrade to the footpaths to both road frontages, installation of new landscaping to both road frontages, retention of existing mature vegetation on the site where possible, installation of an awning over the footpath, feature cladding and patterned inserts to the exterior and varying colours and textures of materials and trims of the building. It is considered that the façade of the building proposes appropriate design features and treatments to provide articulation and relief. The site has sufficient size and dimensions to accommodate the proposed use and existing substation, landscaping, and parking and manoeuvring areas. The height of the building is below the obstacle limitation surface identified on the Airport Environs Overlay Map. The height of the building is less than 9 metres and two-storeys so 0 metres setbacks to the road frontages are proposed in accordance with the code. Given the nature of the use and existing substation on the property, public access is restricted. Despite this, the applicant proposes to upgrade the footpaths and install an awning along both road frontages of the site which will improve pedestrian connectivity and comfort. Fencing is proposed along the boundaries to restrict access to the site. Due to the inclusion of the site within the Flood and Inundation Hazards Overlay, the floor level of the building is required to be raised to meet minimum floor level requirements. As such, stairs are required to access the building, however, they have been concealed from public view by being located to the rear of and/or internally to the building. The development will include Ergon signage on the frontage to assist the public in identifying the building. Access to the site will be via the existing driveway. Two (2) new parking spaces and a loading bay are proposed beside the driveway and in front of the new building. Landscaping and fencing will screen and soften these areas.
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Acid Sulfate Soils Overlay Code	Complies. The development does not propose any excavation or filling.
Airport Environs Overlay Code	Complies. The proposed development will not impact on the safety and efficiency of operations at the Cairns Airport and associated aviation facilities.
Flood and Inundation Hazards Overlay Code	Complies & Conditioned to Comply. The code requires that development is designed to provide immunity to the defined inundation event plus a freeboard of 300mm. The flood event level over the site is approximately 2.7 metres AHD and the floor level of the building is proposed to be 3.45 metres AHD. Due to the flood level requirements, stairs are required to access the building. Stairs have been provided to the rear of and/or internally to the building and are not visible from public places. The development will require a backup diesel generator and this is proposed to be stored above the inundation event. A condition requiring hazardous materials and chemicals to be above the inundation event has been included. The general public are not permitted to access the site due to the nature of the use. The application material states that the site does not have staff working on-site every day and only requires visits roughly once a month. Given this and in conjunction with meeting the minimum floor levels, the development minimises exposure of people and property to unacceptable risk from flooding and storm tide inundation. No filling is proposed on the site so on-site flood storage capacity should not be reduced. Plans showing stormwater management have been included with the application. The development proposes to direct discharge to the kerb inlet pit along Sheridan Street.
Transport Network Overlay Code	Complies. The development will gain access from the existing access on Sheridan Street and upgrades are proposed to the footpaths on both road frontages of the site. The development requires that staff attend the site roughly once a month only and public access is prohibited thus any traffic increases to and from the site will be negligible. The development will not impact on a safe, efficient transport network.
Environmental Performance Code	Conditioned to Comply. The use will operate outside of daylight hours and external lighting is proposed for security purposes. Lighting is conditioned to be provided in accordance with the relevant Australian Standard. The development will not create odour, noise or airborne particles and emissions.

	The development does not require staff be on-site every day and it is estimated staff will visit approximately once a month. Staff are expected to remove any waste from the site thus bulk bins and waste collections are not required for the development. The development will operate at all hours and days, will mostly be unmanned and is wholly contained within the proposed building which does not contain openings. The development is not anticipated to generate noise, odour or airborne particles and emissions. The site is mostly surrounded by commercial type uses (i.e. offices, convention centre etc.) thus the operation of the development will not impact on any nearby sensitive land uses. Plans showing stormwater management have been included with the application. The development proposes to direct discharge to the kerb inlet pit along Sheridan Street. A diesel generator is required on-site as a backup in case of power failure. A condition has been included requiring hazardous materials and chemicals are stored above the defined inundation event level and are appropriately managed so that impacts to surrounding uses, communities and individuals are managed, avoided and/or mitigated.
Excavation and Filling Code	Complies. The development does not propose any excavation or filling.
Infrastructure Works Code	Conditioned to Comply. The site has existing water, sewer, stormwater, electricity and telecommunications connections. A condition has been included requiring that the site is serviced by a single internal water and sewer connection. The footpath along both road frontages is proposed to be upgraded. Conditions have been included with requirements for construction standard, connection to existing footpaths etc. Plans showing stormwater management have been included with the application. The development proposes to direct discharge to the kerb inlet pit along Sheridan Street. A condition for a construction management plan and rectification of damage to infrastructure has been included.
Landscaping Code	Complies with Performance Outcomes & Conditioned to Comply. Refer below discussion of non-compliances.
Parking and Access Code	Complies & Conditioned to Comply. The development proposes two (2) parking spaces in accordance with the requirements of the code. No accessible or bicycle parking spaces are required or proposed. The development will be accessed via the existing access on Sheridan Street. The parking area also includes a loading bay and service vehicles will be wholly contained within the site for loading/unloading.

	Conditions have been included requiring that the car park is constructed in accordance with the relevant Australian Standard and manoeuvring areas are provided. The footpath is also conditioned to be constructed in accordance with the relevant standards.
Vegetation Management Code	Complies with Performance Outcomes. Refer below discussion of non-compliances.

REASONS FOR APPROVAL DESPITE NON-COMPLIANCE WITH ASSESSMENT BENCHMARKS

The proposed development complies with the applicable criteria of the above mentioned codes with the exception of the non-compliance addressed below:

Assessment Benchmark	
Landscaping Code	
Performance Outcome	Assessment
PO1 <i>Development provides landscaping that contributes to and creates a high quality landscape character for the site, street and local areas of the region by:</i> <i>(a) promoting the region's character as a tropical environment;</i> <i>(b) softening the built form of development;</i> <i>(c) enhancing the appearance of the development from within and outside the development and makes a positive contribution to the streetscape;</i> <i>(d) screening the view of buildings, structures, open storage areas, service equipment, machinery plant and the like from public places, residences and other sensitive development;</i> <i>(e) where necessary, ensuring the privacy of habitable rooms and private outdoor recreation areas;</i> <i>(f) contributing to a comfortable living environment and improved energy efficiency, by providing shade to reduce glare and heat absorption and re-radiation from buildings, parking areas and other hard surfaces;</i> <i>(g) ensuring private outdoor recreation space is useable;</i> <i>(h) providing long term soil erosion protection;</i> <i>(i) providing a safe environment;</i> <i>(j) integrating existing vegetation and other natural features of the premises into the development;</i> <i>(k) not adversely affecting vehicular and pedestrian sightlines and road safety.</i>	The code requires that a minimum of 10% of the site is landscaped. The applicant proposes to landscape 6% of the site. The site currently contains some mature vegetation along the Hartley Street and Sheridan Street frontages. Much of this will be removed to accommodate the new building, however, the applicant proposes to retain and incorporate vegetation where possible. New landscaping is proposed along both street frontages where not inhibited by the building. The proposed landscaping will soften the built form and enhance the appearance of the development from public places. Additionally, the landscaping will screen the carparking areas from view from Sheridan Street. Conditions have been included requiring that: - Machinery and plant are screened by use of appropriate materials or landscaping; - Landscaped areas have suitable irrigation and maintenance measures in place; - Plants are selected in accordance with the landscaping plans provided with the application.

Assessment Benchmark	
Vegetation Management Code	
Performance Outcome	Assessment
PO1 <i>Vegetation is protected to ensure that:</i> <i>(a) the character and amenity of the local area is maintained;</i> <i>(b) vegetation damage does not result in fragmentation of habitats;</i> <i>(c) vegetation damage is undertaken in a sustainable manner;</i> <i>(d) the regions biodiversity and ecological values are maintained and protected;</i> <i>(e) vegetation of historical, cultural and/or visual significance is retained;</i> <i>(f) vegetation is retained for erosion prevention and slope stabilisation.</i>	The development will require the removal of some of the mature vegetation on the lot that is along the road frontages to accommodate the new building. The applicant proposes new landscaping (with native species where possible) to approximately 6% of the site to ensure the character and amenity of the area is maintained. Existing mature vegetation will be retained and incorporated into the new landscaping design where possible. The site does not contain vegetation whose removal would fragment wildlife habitat, is of biodiversity, ecological, historical or cultural value. The site is generally flat and the removal of vegetation will not result in slope instability. Damaged vegetation is proposed to be disposed of at an approved site.