



Development Tribunal – Decision Notice

Planning Act 2016, section 255

Appeal number:	24-048
Appellant:	Motolake Pty Ltd
Respondent (Assessment manager):	Gladstone Regional Council (Council)
Site address:	10 Ocean Drive, Seventeen Seventy in the State of Queensland and described as Lot 5 on S85613 (subject site)

Appeal

Rehearing of an appeal under section 229 and Item 1(d) of Table 1 of Schedule 1 of the *Planning Act 2016* (**Planning Act**) against the decision of the Council to give a preliminary approval when a development permit was applied for, being for a material change of use made assessable by the *Our Place Our Plan Gladstone Regional Council Planning Scheme 2015, version 2* (**Planning Scheme**) for a dwelling house.

Date and time of hearing:	1.00pm, 2 December 2024
Place of hearing:	Gladstone Regional Council Chambers, Agnes Water
Tribunal:	Samantha Hall – Chair Linda Tait – Member Suzanne Bosanquet - Member
Present:	Appellant Allan Bougoure for Motolake Pty Ltd – Appellant Roberta McInturff for Motolake Pty Ltd - Appellant Stephen Enders – Director, Zone Planning Group Shaunté Farrington – Senior Town Planner, Zone Planning Group Respondent Helen Robertson – Manager Development Services, Council Tegan McDonald – Principal Planning Lead, Council Nicholas Cooper – Senior Planning Officer, Council (attending via Teams link)

Decision:

The Development Tribunal (Tribunal), in accordance with section 254(2)(c) of the Planning Act **replaces** the decision of the Council to give the Appellant a preliminary approval for a material change of use for a dwelling house with a decision to give the Appellant a development permit

for a material change of use for a dwelling house subject to the conditions set out in Attachment 1 of this Decision Notice.

Background

Appeal background

1. This was a rehearing of an appeal brought under section 229 and Item 1, Table 1 of Schedule 1 of the Planning Act against the decision of the Council to give a preliminary approval when a development permit was applied for.
2. The appeal was heard by the Tribunal on 23 October 2023 and the decision of the Tribunal dated 2 February 2024 was to allow the appeal and give a development permit (**Earlier Tribunal Decision**).
3. An appeal to the Planning and Environment Court against the Earlier Tribunal Decision was commenced on 1 March 2024 under section 229 and Item 1, Table 2 of Schedule 1 of the Planning Act.
4. The Planning and Environment Court delivered its judgement in the appeal on 29 August 2024 which found that the Tribunal had made errors in law and ordered that the appeal to the Tribunal be remitted to the Development Tribunal to be determined afresh according to law.

The subject site

5. The appeal relates to the proposed construction of a dwelling house on vacant land at 10 Ocean Drive, Seventeen Seventy, more formally known as Lot 5 on S85613 (the **subject site**).
6. The subject site has an area of 637m² and is largely cleared. The surrounding area comprises established dwelling houses and vacant lots. The subject site slopes from the rear of the lot down to the road frontage and has an outlook across to the FV Dianne Memorial located in the Joseph Banks Conservation Park. The subject site is included in a pocket of lots that comprise the most north-eastern available residential land on the headland before reaching the park.
7. The subject site is located within the Gladstone Regional Council local government area and has access to all necessary services.
8. The subject site is located within the Character Residential Zone of the *Our Place Our Plan Gladstone Regional Council Planning Scheme 2015* (version 2) (**Planning Scheme**).

The proposed development

9. On or about 10 February 2023, the Appellant lodged a development application for a material change of use – dwelling house with the Council pursuant to the Planning Scheme (**development application**).
10. The dwelling house proposed in the development application was three storeys, including 3 bedrooms, 2 bathrooms, living, dining, kitchen and a deck with outdoor living areas. A triple car garage and an office with an ensuite was proposed at the front of the dwelling facing Ocean Street and overlooking the ocean. The plans lodged with the development application illustrate that the overall building height is less than 8.5m above ground level (**proposed development**).
11. Section 5.3.3(1) of the Planning Scheme relevantly states that “*Accepted development does not require a development approval and is not subject to assessment benchmarks*”. It goes

on to state that certain requirements may apply to some types of development for it to be accepted development.

12. Table 5.5.4 – Character residential zone of the Planning Scheme identifies that the category for assessment for a development application for a material change of use for a Dwelling House in the Character Residential Zone is *accepted development subject to requirements* (self-assessment).
13. This means that if the proposed development complied with the relevant accepted development acceptable outcomes, identified in Table 5.5.4 as being those of the Character residential zone code of the Planning Scheme (**CRZ Code**), then the proposed development would be accepted development. However, the proposed development did not comply with all the accepted development acceptable outcomes in the CRZ Code.
14. Section 5.3.3.2 of the Planning Scheme states that “*Accepted development that does not comply with one or more of the nominated acceptable outcomes in the relevant parts of the applicable code(s) becomes code assessable development, unless otherwise specified.*”
15. Accordingly, as the development application did not comply with several of the acceptable outcomes in the CRZ Code, the development application triggered code assessment.
16. On or about 2 February 2023, the Council issued an information request to the Appellant seeking further information with respect to the built form, including a request for the provision of a site survey plan and information about the driveway, landscaping and the effects of the proposed development on the neighbouring property.
17. The Appellant provided a response to the information request on 27 March 2023, however, on 30 March 2023, the Council advised the Appellant that the Council was not satisfied with the response to the information request. On 14 April 2023, the Appellant asked the Council to assess and decide the development application.
18. On 8 May 2023, the Council issued a decision notice granting a preliminary approval for the proposed development subject to conditions (**decision notice**). The reasons given by the Council for giving a preliminary approval rather than a development permit are set out in the decision notice as follows:
 1. *“The application is compliant with Steep Land Overlay Code and the Flood Hazard Overlay Code.*
 2. *The development is not compliant with the Character Zone Code. The proposal is non-compliant with PO2, PO7, PO8 and PO10, overall outcomes 2b, 2d, 2h and the zone purpose statement 1 a, b and c. The non-compliance matters require holistic design changes in order to comply with the zone requirements therefore a preliminary approval with conditions is provided.”*
19. The decision goes on to identify reasons for approval despite non-compliance with benchmarks being:

“The approval is limited to a preliminary approval subject to conditions to ensure future development complies with the Character Zone Code. The preliminary approval provides the applicant an opportunity to consider design modifications to comply with the code if they choose to submit compliant plans to Council for further consideration. The extent of noncompliance matters does not warrant a development permit to be issued.”
20. On or about 5 June 2023, the Appellant’s representative, Zone Planning Group (**Zone**), suspended the Appellant’s appeal period pursuant to section 75(2) of the Planning Act to allow the Appellant time to prepare written representations about the decision notice. The

correspondence identified that Zone Planning Group had calculated the suspension would have effect until 3 July 2023.

21. There was no further material provided by the parties to identify whether the Appellant made any written representations. The Council's online Development Application Tracking portal does not identify that any written representations were made.

The original appeal

22. The Appellant filed a Notice of Appeal (Form 10) with the Tribunal's Registrar on 10 July 2023.

23. The Appellant's Form 10 identified the Appellant's grounds of appeal as being contained within an accompanying submission prepared by Zone dated 10 July 2023 (**Zone submission**) which can be summarised as follows:

- (a) The Appellant considered that a development permit should have been given;
- (b) The proposed development was compliant with the purpose of the CRZ Code for the following reasons:
 - (i) The established character of the area includes single to three storey dwelling houses and ancillary structures on developed lots;
 - (ii) The proposed dwelling house was designed to nestle within the subject site to ensure compliance with the height requirements and consistency with the surrounding built form;
 - (iii) The neighbouring uphill properties sit higher than the proposed development and higher than surrounding established dwellings along Ocean Drive;
 - (iv) The proposed development would reflect the surrounding established built form, being of a similar scale and to be comprised of similar materials and finishes;
- (c) The proposed development was compliant with the overall outcomes of the CRZ Code for the following reasons:
 - (i) Overall Outcome 2(b):
 - 1. a dwelling house was a consistent land use;
 - 2. designed with a high degree of articulation and variation in the built form;
 - 3. landscaping was proposed to screen the dwelling;
 - 4. no impact from the dwelling to neighbours' views and no negative visual impacts due to stepped design;
 - 5. consistent with other approvals in the area that are similar or a greater built form scale;
 - 6. designed and sited to respond to the site conditions and minimise disturbance;
 - 7. reflected the prevailing neighbourhood character;
 - (ii) Overall Outcomes 2(d) and (h):

1. the proposed development was designed to respond to the site topography and minimise prominence when viewed from surrounding sites;
 2. proposed earthworks do not propose significant cut and retaining walls with cut areas only encompassing the building envelope;
 3. the proposed earthworks are in keeping with the prevailing built form character of the neighbourhood;
 4. without the cut, the height and setback of a dwelling would require additional stepping up the hill and a greater residential scale as a result.
24. The Tribunal originally constituted to hear the appeal, being appeal number 23-038, replaced the decision of the Council with the Earlier Tribunal Decision, which approved the proposed development and gave a development permit subject to conditions.
25. The Earlier Tribunal Decision was appealed to the Planning and Environment Court, which remitted the appeal back to the Development Tribunal on 29 August 2024 to be determined afresh according to law, having found that the Tribunal erred in law in its consideration of revised plans that had been placed before it as part of the appeal.

The current appeal

26. A new Tribunal was established to hear the matter on 24 October 2024.
27. A hearing was held at the Council chambers on 2 December 2024, following an inspection of the subject site by the new Tribunal.

Jurisdiction

28. Schedule 1 of the Planning Act states the matters that may be appealed to a tribunal.¹
29. Section 1(1) of Schedule 1 of the Planning Act provides that Table 1 states the matters that may be appealed to a tribunal. However, pursuant to section 1(2) of Schedule 1 of the Planning Act, Table 1 only applies to a tribunal if the matter involves one of a list of matters set out in paragraphs (a) to (g) of sub-section (2).
30. Section 1(2)(c) of Schedule 1 of the Planning Act relevantly provides:
- “if a development permit was applied for – the decision to give a preliminary approval for –*
- (i) *a material change of use for a classified building; or*
- (ii) *...”.*
31. A “classified building” is defined in Schedule 2 of the Planning Act to mean a building classified under the Building Code² as a class 1 building. A class 1 building under the Building Code is a residential dwelling and includes a dwelling house.
32. As this appeal is about the Council’s decision to give a preliminary approval for the proposed development when a development permit for a dwelling house was applied for, the Tribunal has jurisdiction to hear the appeal.
33. Accordingly, the Tribunal is satisfied that it has the jurisdiction to hear this appeal.

¹ Section 229(1)(a) of the Planning Act.

² Section 12 of the Building Act provides a definition of the Building Code of Australia, which refers to the NCC.

Decision framework

34. The decision notice the subject of this appeal was issued by the Council on or about 8 May 2023.
35. The Appellant filed a Form 10 – Appeal Notice on or about 10 July 2023.
36. Pursuant to section 229(3)(h) of the Planning Act, the Appellant’s appeal period ran for 20 business days from 8 May 2023 until 5 June 2023. However, by correspondence dated 5 June 2023, the Appellant suspended the Appellant’s appeal period pursuant to section 75 of the Planning Act for the purpose of making representations to the Council about the decision notice. That suspension was to have effect until 3 July 2023.
37. The Tribunal has been advised by the Tribunal’s Registry that the Registry understood the last day of the appeal period was 3 July 2023. Given the Form 10 – Appeal Notice was filed with the Tribunal’s Registry on or about 10 July 2023, after the end of the appeal period, the Tribunal’s Registry referred the Appeal Notice to the Chief Executive pursuant to section 243 of the Planning Act.
38. On or about 29 September 2023, the authorised delegate of the Chief Executive decided to excuse the noncompliance with section 229(3)(h) of the Planning Act with respect to the Form 10 – Appeal Notice being filed outside of the appeal period.
39. The appeal is a Planning Act appeal, commenced after 3 July 2017 under section 229 of the Planning Act. As such, the appeal is to be heard and determined under the Planning Act.
40. This is an appeal by the Appellant who must establish that the appeal should be upheld.³
41. Importantly to this appeal, the Planning Act clearly identifies that the Tribunal is required to hear and decide the appeal by way of a reconsideration of the evidence that was before the Council which decided to give the decision notice the subject of this appeal.⁴
42. However, in addition, the Planning Act provides the Tribunal with broad powers to inform itself in the way it considers appropriate when conducting a tribunal proceeding and it may seek the views of any person⁵.
43. The Tribunal may (but need not) consider other evidence presented by a party with leave of the Tribunal⁶.
44. In response to a request by the Appellant, the Tribunal, by way of an email dated 19 November 2024, made orders permitting the parties to each provide a written submission to the Tribunal prior to the hearing (**Orders**).
45. Pursuant to the Orders, the Appellant provided written submissions by email dated 25 November 2024 and the Council provided written submissions by email dated 29 November 2024.
46. The Tribunal grants the Appellant and the Council leave to present their written submissions provided on 25 November 2024 and 29 November 2024 respectively.
47. Paragraph 17 of the Appellant’s written submissions referred to a post hearing submission by Zone (inclusive of the attachments) dated 1 December 2023 (which was submitted to the Tribunal in the original appeal). By email dated 28 November 2024 to the Appellant, the Tribunal’s Registrar requested a copy of the post hearing submission dated 1 December

³ Section 253(2) of the Planning Act.

⁴ Section 253(4) of the Planning Act.

⁵ Section 249 of the Planning Act.

⁶ Section 253(5)(a) of the Planning Act.

2023. The Appellant provided the post hearing submission to the Tribunal by email dated 28 November 2024.

48. During the hearing of the appeal, the Council referred to the Council Officer's Report dated 8 May 2023, which assessed the development application prior to the Council making its decision (**Council Officer's Report**). The Tribunal asked the Council to provide a copy of the Council Officer's Report, which the Council did by way of email to the Tribunal's Registry after the hearing on 2 December 2024.
49. The Tribunal is required to decide the appeal in one of the following ways set out in section 254(2) of the Planning Act:
- (a) *confirming the decision; or*
 - (b) *changing the decision; or*
 - (c) *replacing the decision with another decision; or*
 - (d) *setting the decision aside and ordering the person who made the decision to remake the decision by a stated time...".*

Material considered

50. The material considered in arriving at this decision comprises:
- (a) 'Form 10 – Appeal Notice', grounds for appeal and all correspondence and materials accompanying the appeal lodged with the Development Tribunals Registrar on or about 3 July 2023;
 - (b) Plans submitted by the Appellant as part of the development application as follows:

Drawing Number	Issue	Description	Author	Date
A.03.2	C	Context Plans: Site	Daisy Barber Building Design	31/10/22
A.04.2	C	Floor Plans: Basement	Daisy Barber Building Design	31/10/22
A.04.3	C	Floor Plans: Ground Floor	Daisy Barber Building Design	31/10/22
A.04.4	C	Floor Plans: First Floor	Daisy Barber Building Design	31/10/22
A.04.9	C	Roof Plan	Daisy Barber Building Design	31/10/22
A.06.3	C	Elevations: North	Daisy Barber Building Design	31/10/22
A.06.4	C	Elevations: East	Daisy Barber Building Design	31/10/22
A.06.5	C	Elevations: South	Daisy Barber Building Design	31/10/22
A.06.6	C	Elevations: West	Daisy Barber Building Design	31/10/22
A.07.3	C	Sections: South-North	Daisy Barber Building Design	31/10/22
A.07.4	C	Sections: North-South	Daisy Barber Building Design	31/10/22

A.07.5	C	Sections: South-North	Daisy Barber Building Design	31/10/22
A.07.6	C	Sections: North-South	Daisy Barber Building Design	31/10/22
A.07.7	C	Sections: West-East	Daisy Barber Building Design	31/10/22
A.07.8	C	Sections: East-West	Daisy Barber Building Design	31/10/22
A.07.9	C	Sections Walkway/Pool Fence	Daisy Barber Building Design	31/10/22
A.07.10	C	Section: Pool / Pool Fence	Daisy Barber Building Design	31/10/22
A10.1	C	Door Schedule	Daisy Barber Building Design	31/10/22
A11.1	C	Materials and Finishes	Daisy Barber Building Design	31/10/22
CQ20761	A	Landslide Risk Assessment Slope Stability Analysis and AS2870 Site Classification report	CQ Soil Testing	31/03/22

- (c) The Appellant's written submissions provided by email dated 25 November 2024;
- (d) The post hearing submission by Zone (inclusive of the attachments) dated 1 December 2023 which was submitted to the Tribunal in the original appeal and provided by the Appellant to the Tribunal by email dated 28 November 2024;
- (e) The Council's written submissions provided by email dated 29 November 2024;
- (f) Oral submissions made at the hearing by the Appellant, the Appellant's representatives and the Council;
- (g) The Council Officer's Report dated 8 May 2023 which was provided by the Council to the Tribunal by email dated 2 December 2024 (**Council Officer's Report**);
- (h) Development Tribunal – decision notice in appeal 23-038 dated 2 February 2024;
- (i) Decision of Judge Kefford DCJ of the Planning and Environment Court in *Gladstone Regional Council v Motolake Pty Ltd* [2024] QPEC 41 made on 29 August 2024 (**Motolake Decision**);
- (j) Draft conditions of approval provided by the Council to the Tribunal by email dated 20 January 2025 (**Council's draft conditions**);
- (k) *Gladstone Regional Council Planning Scheme 2015 Version 2* (**Planning Scheme**);
- (l) *Building Act 1975* (**Building Act**);
- (m) *National Construction Code* (**NCC**);
- (n) *Planning Act 2016* (**Planning Act**);
- (o) *Planning Regulation 2017* (**PR**).

Findings of fact

51. The development application sought a development permit for a material change of use for a dwelling house pursuant to the Planning Scheme.

52. The decision notice given by the Council to the Appellant instead granted a preliminary approval for a material change of use for a dwelling house subject to conditions.
53. The decision notice stated that the assessment benchmarks in the Planning Scheme applying to the development were:
- (a) CRZ Code;
 - (b) Flood Hazard Overlay Code; and
 - (c) Steep Land Overlay Code.
54. In the reasons given for the Council's decision, the Council acknowledged that the development application was compliant with the Steep Land Overlay Code and the Flood Hazard Overlay Code but that it was not compliant with the CRZ Code.
55. The provisions of the CRZ Code that the Council stated the proposed development did not comply with were:
- (a) the Zone Purpose Statement in section 6.2.4.2(1) a, b and c;
 - (b) Overall Outcomes in section 6.2.4.2(2) b, d and h; and
 - (c) Performance Outcomes PO2, PO7, PO8 and PO10.
56. The reasons went on to state that *"the non-compliance matters require holistic design changes in order to comply with the zone requirements therefore a preliminary approval with conditions is provided."*
57. The decision notice goes on to state:
- "The approval is limited to a preliminary approval subject to conditions to ensure future development complies with the Character Zone Code. The preliminary approval provides the applicant an opportunity to consider design modifications to comply with the code if they choose to submit compliant plans to Council for further consideration. The extent of noncompliance matters does not warrant a development permit to be issued."*
58. Pursuant to section 253(4) of the Planning Act, the focus of this Tribunal is to assess the proposed development as illustrated on the plans originally assessed by the Council which formed part of the development application, against the relevant assessment benchmarks in the CRZ Code. The relevant assessment benchmarks are those identified in the decision notice, being specifically, Performance Outcomes PO2, PO7, PO8 and PO10, Overall Outcomes in section 6.2.4.2(2) b, d and h and the Zone Purpose Statement in section 6.2.4.2(1) a, b and c.
59. This is consistent with the Motolake Decision, in which Her Honour Judge Kefford identified that in the Earlier Tribunal Decision, the Tribunal undertook an assessment against the applicable assessment benchmarks *"as though the development application that was to be assessed was one that was amended by Motolake Pty Ltd's post-hearing submission to the Development Tribunal dated 1 December 2023."*⁷
60. Judge Kefford goes on to state that *"Although the Development Tribunal was permitted to consider revised plans when determining, for example, whether compliance with the*

⁷ Gladstone Regional Council v Motolake Pty Ltd [2024] QPEC 41 at [3].

assessment benchmarks could be achieved by imposition of conditions, it nevertheless was obliged to assess the development application as made to the Council.”⁸

61. Judge Kefford also warned that a tribunal must respect the limitation imposed by the Planning Act that a tribunal can only make a minor change, within the meaning of the Planning Act, to a development application⁹ and observed that the Tribunal had not taken that approach when considering the revised plans placed before it.

Reasons for the decision

Character Residential Zone Code

62. As discussed earlier in this Decision Notice, pursuant to section 5.3.3(1) of the Planning Scheme, accepted development does not require a development approval and is not subject to assessment benchmarks. A planning scheme may identify that certain requirements need to be met for a development to be accepted development.
63. However, if a proposed development does not comply with one or more of the relevant acceptable outcomes required for accepted development, it will become code assessable development pursuant to section 5.3.3(2) of the Planning Scheme.
64. In this appeal, the development application did not comply with several of the nominated acceptable outcomes in the CRZ Code and therefore, the development application triggered code assessment.
65. That code assessment was to be carried out against the relevant performance outcomes for those acceptable outcomes that were not complied with or were not capable of being complied with.¹⁰ In this appeal, those relevant Performance Outcomes were PO2, PO7, PO8 and PO10 of the Planning Scheme.
66. The Tribunal notes that the conditions imposed by the Council upon the preliminary approval that it gave for the proposed development, reflected the relevant acceptable outcomes in the CRZ Code. For example:
- (a) Acceptable Outcome AO2.1 states that “Building height does not ... exceed 8.5m and 2 storeys”. Whereas, condition 2 states “*Building Height does not exceed 8.5m (above natural ground level) and 2 storeys in accordance with the planning scheme definitions and requirements.*”
 - (b) Acceptable Outcome AO2.2 states that “*The floor level of the upper most habitable level is no greater than 5.1m above ground level at any point.*” Similarly, condition 3 states “*The floor level of the upper most habitable level is no greater than 5.1m above natural ground level at any point.*”
 - (c) Acceptable Outcome AO2.3 states that “*The floor of the first habitable level including decks and verandahs is no greater than 3m above ground level at any point.*” Whereas, condition 4 states “*The floor of the first habitable level including decks and verandahs is no greater than 3m above natural ground level at any point.*”
67. In the hearing, the Council advised that this approach was taken to provide a measurable outcome for any revised plans to be assessed against, should the Appellant seek a development approval for the proposed development.
68. The Tribunal finds this approach by the Council somewhat puzzling however, because if the proposed development was compliant with all acceptable outcomes in the CRZ Code,

⁸ Ibid [4].

⁹ Planning Act 2016 s 254(3); *Gladstone Regional Council v Motolake Pty Ltd* [2024] QPEC 41 at [5].

¹⁰ Section 5.3.3(4)(b) of the Planning Scheme.

including those reflected in the conditions of the preliminary approval, it would have been accepted development and a development permit would not have been required.

69. In triggering the need for a code assessable development permit, the proposed development was entitled to be assessed against the performance outcomes for those acceptable outcomes with which it did not comply. The acceptable outcomes are one way of demonstrating compliance with the performance outcomes but a performance based planning system, such as that in Queensland, allows for alternate ways of complying with performance outcomes than those specified in the corresponding acceptable outcomes. This includes complying with the code (the assessment benchmark) by complying with the purpose and overall outcomes directly or via compliance with the performance outcomes or the acceptable outcomes as stated in section 5.3.3(4)(c) of the Planning Scheme.
70. The conditions of the preliminary approval therefore do not seem to have considered any alternative methods for achieving the requirements of the relevant performance outcomes.

Performance Outcome PO2

71. PO2 of the CRZ Code relevantly states that buildings are:

- a. low rise*
- b. low density*
- c. of a size and scale that ensures the built form does not dominate natural landscape values; and*
- d. designed and located so as not to adversely impact on the coastal and visual character of the area."*

PO2(a)

72. "Low rise" is not defined in Schedule 1 (Definitions) of the Planning Scheme. However, the acceptable outcome AO2.1 refers to 8.5m and 2 storeys. This suggests the Planning Scheme's intent for what might be considered low rise. At the hearing, the Appellant and the Council made representations about which parts of the proposed dwelling comprised more than 2 storeys as it stepped down the hill. However, the relevant assessment benchmark, PO2(a), does not require the proposed development to have the appearance of 2 storeys as viewed externally.
73. The Tribunal finds that while 2 storeys is identified as a maximum height in AO2.1, a storey itself is not limited in scale. Therefore, the measurable determinant of scale offered in AO2.1 is 8.5m.
74. The Tribunal is satisfied that the approved drawing titled Elevations: West, A.06.6 Rev C dated 31/10/2022, shows that the proposed dwelling is less than 8.5m above ground level and thus is within the scale contemplated in AO2.1. Accordingly, the Tribunal is satisfied that the proposed development complies with PO2(a) of the Planning Scheme.

PO2(b)

75. It was agreed by the parties at the hearing, that the proposed development, being a single dwelling house, was low density and complied with PO2(b) of the Planning Scheme.

PO2(c)

76. The subject site is vacant and therefore limited in terms of natural values. The criteria used to determine that a building does "not dominate natural landscape values" is "size and scale" (as opposed to colour, architectural detail, or other). Because PO2(a) nominates low rise,

and the Tribunal is satisfied that the proposed development complies in that regard, the Tribunal is consequently satisfied that the proposed building is of a size and scale that does not dominate natural landscape values, thus complying with PO2(c) of the Planning Scheme.

77. Building bulk, measured by reference to setbacks, is the other measure of size and scale of a dwelling within a lot. The proposed dwelling complies with the acceptable outcomes in the CRZ Code for setbacks except for the side setback (west) which is less than the minimum of 4m required by AO3.2 of the Planning Scheme. However, the decision notice did not refer to setbacks nor to Performance Outcome PO3. The Council Officer's Report addresses PO3 and identifies the Council was satisfied that the proposed setbacks would not have a detrimental impact on residential amenity as they exceeded the Queensland Development Code setback provisions and still allowed for landscaping to screen the dwelling. Consequently, the conditions in the decision notice and the Council's written submissions to the Tribunal refer to the number of storeys.
78. In the hearing, the Council specifically mentioned the sightlines to the proposed development as viewed from the FV Dianne Memorial north of the subject site. The Tribunal drove to the FV Dianne Memorial and noted that while the north facing dwellings along Ocean Drive were visible when looking south from the memorial, the memorial structure itself was orientated with seating facing out to sea. Having viewed the sightlines back to the proposed development from the memorial and the park, the Tribunal concurs with the following expressed in the Zone submission, *"this strip of residential blocks sit at approximately 32-35m AHD, with Banks Drive and Tupia Street positioned between 35-55m AHD; much higher than the subject site. The topography along the eastern ridgeline will result in built form protruding above the proposed Dwelling House at the subject site and surrounding established dwellings along Ocean Drive."*
79. The Tribunal therefore finds that the proposed dwelling is not of a size or scale that would dominate the natural landscape values, thereby complying with PO2(c) of the Planning Scheme.

PO2(d)

80. Similar considerations apply as to an assessment of PO2(c) with respect to the siting of the proposed development on the subject site and the relevant setbacks.
81. With regard to the criteria that the proposed building be designed and located so as to not "adversely impact on the coastal and visual character of the area", the Council's representations at the hearing and in its submissions were to emphasise the natural character of the area rather than the built context of the area. By contrast, the Appellant's representations at the hearing and in the Zone submission, included that the subject site was one of the last remaining vacant lots within a residential pocket on the headland and that the area was otherwise characterised by built form, including that higher up the hill. Residential buildings in the area included use of brick, render and glazing with the predominant common factor being the inclusion of shading via eaves, overhangs and verandas. The existing housing stock has no architectural or aesthetic merit and provides a modest level of shelter and comfort that is rudimentary in articulation and form.
82. It is evident from the approved Elevation plans and Sections, that eaves, overhangs and verandas have been integrated into the proposed building design on all but the area above the garage. As a result, the front of the pool / upper edge of the garage would be visually prominent with little articulation. As this is the lowest part of the building and most forward to the street, this section does appear to be visually dominant.
83. Condition 5 of the preliminary approval requires eaves be provided of 0.6m from the wall. The Tribunal finds that the inclusion of a 0.6m cantilevered awning above the garage for the full width of the frontage of the building would reflect the character of the area, with reference

to climatic responsive design, and existing built form character in the area. It would also cast shadows over the lower part of the building, contribute to a human scale response at the ground plane and contribute to compliance with PO2(d) of the Planning Scheme.

84. The Tribunal considers that the provision of an awning as a condition of a development approval would bring the proposed development into compliance with PO2(d) of the Planning Scheme.
85. The Tribunal considers such a condition would be a minor change as anticipated in section 254(3) of the Planning Act.

Performance Outcome PO7

86. PO7 of the CRZ Code relevant states that driveways, cross overs and car parking areas:

- a. do not dominate the streetscape*
- b. are located to minimise the removal of mature trees, and*
- c. constructed from permeable materials where possible to maintain natural drainage flows and maximise stormwater infiltration on-site."*

PO7(a)

87. The plan titled "Context Plans: Site" Ref A.03.2 Rev C dated 31/10/2022 illustrates a 3.5m wide crossover leading to a paved parking area comprising 59.75m² of the frontage of the subject site, being the majority of the area in front of the proposed dwelling with the exception of stairs and a shower. A masonry retaining wall is shown across 7.67m of the frontage, to the right of the driveway. Except for the cross over area, landscaping is shown and described as *"soil soakaway bed with vegetation selected for privacy at street level, shown illustratively only, planting species to be native to locality"*.
88. With reference to PO7, the driveway and crossover comply. They are the standard sized driveway and crossover required to service a residential lot. The key matter of concern is the car parking area.
89. Condition 6 of the preliminary approval states that *"Driveways, crossovers and carparking areas are to be finished with a permeable surface and not located within 4m of the side boundaries."* This condition is reflective of Acceptable Outcome AO7.1.
90. During the hearing, the Appellant was amenable to adjusting the parking area and landscaping to mitigate the visual impact of the parking area. The Council expressed concern that the local plant species were low in height and would not screen the area sufficiently to minimise dominance.
91. As the Council conditioned a minimum 4m setback from the side boundaries of the parking area, and the Appellant was amenable to adjusting the size of the area, the Tribunal finds that this outcome is acceptable to achieve partial compliance with PO7(a).
92. Regarding landscaping and the impact on the streetscape, the verge has a steep slope which is unsuitable to accommodate pedestrian movement. LGIP mapping in the Planning Scheme does not identify any intended active transport path works in the vicinity of the subject site. Landscaping in the subject site, at the top of the verge, would be capable of shielding the car parking area from view, particularly in light of the intended planting density for privacy. Furthermore, Ocean Drive is a low order circuit road rather than a thoroughfare. If traffic were to travel Ocean Drive with the intent of looking out to the ocean views, people would be looking away from the house.

93. The Tribunal finds that through the imposition of conditions regarding the setback of the carparking area from the side and front boundaries and the accommodation of landscaping, the proposed development can comply with PO7(a).

PO7(b)

94. The proposed development complies as the subject site does not contain any mature trees.

PO7(c)

95. The proposed development can comply with PO7(c), which requires construction of driveways, crossovers and carparking from permeable materials where possible to maintain natural drainage flows and maximise stormwater infiltration.
96. The Council Officer's Report focused on the areas of landscaping to the parking area when applying PO7 of the Planning Scheme to the proposed development. The Tribunal has already decided to impose a condition specifying the landscaping treatment to that area.
97. In this way, the Tribunal is satisfied the proposed development can be conditioned to comply with PO7.

Performance Outcome PO8

98. PO8 of the CRZ Code states that development and landscaping:

- a. enhances visual amenity and screen buildings from streets, walkways and other public places*
- b. integrates with the natural features*
- c. minimises earthworks and the use of retaining walls, and*
- d. complements the low density sub-tropical character of the area."*

PO8(a)

99. Conditions 7, 8 and 9 of the preliminary approval relate to landscaping, earthworks and retaining walls. At the hearing, the Appellant was amenable to the provision of landscaping. While PO8(a) includes the word "screen", both parties agreed at the hearing that the purpose of PO8(a) was not to entirely hide the house, but to soften the visual impact on the streetscape.
100. The Tribunal is satisfied that appropriate landscaping to satisfy PO8(a) can be the subject of a condition of approval.

PO8(b) and (c)

101. The key area of disagreement between the Appellant and the Council with regard to PO8 was the quantity and impact of earthworks and retaining for the proposed development.
102. The roofline of the proposed development has been designed to slope down the hill. However, the building itself, including water tanks and services, is designed to be set into the hill. While the house construction would necessitate earthworks, the walls of the house which are proposed to be set into the hill, do not of themselves comprise "retaining walls". However, additional earthworks and retaining are proposed in the rear and front of the house, to create a flat yard area, parking and landscaped area respectively.
103. Regarding PO8(b), the building roofline will be near parallel to the natural ground level. The building is also designed to be nestled into the hill and to integrate with the natural features of the surrounding locality.

104. The drawings include a materials and finishes palette that proposes colours and materials for both internal and external aspects of the proposed dwelling. Finish Type CL01 that is nominated on the drawings for external walls, is to be a stone cladding or heavily textured render that is of similar tones and colours to the exposed rock and natural geology of the adjacent exposed cliff faces. This aims to achieve a darker earthy base to contrast and articulate the light coloured finish identified in Finish Type CL02 for the storey above this solid base. The garage doors are to be a dark tone and colour as indicated on Drawing No. A10.1.
105. Based on the cumulated effect of the proposed development being nestled into the hill and utilising colours and materials that are designed to integrate with the surrounding locality, the Tribunal is satisfied that the proposed development complies with PO8(b).
106. PO8(c) requires development and landscaping to minimise earthworks and the use of retaining walls. The Tribunal notes that the assessment benchmark does not say “avoid”, it says “minimise”.
107. The Council gave evidence at the hearing that the proposed development should touch the ground lightly.
108. Diagram 6.2.4.3.1 – Character dwelling house of the CRZ Code is referenced in Acceptable Outcomes AO2.1, AO2.2 and AO2.3 to provide a depiction of height and floor levels for a character dwelling house in the CRZ Zone, however, this diagram is not referenced in AO8.3, nor in PO8(c), with respect to excavation and fill. As this diagram is not referenced in the acceptable outcomes or performance outcome, a development can demonstrate compliance with the acceptable outcomes or performance outcome without reflecting this diagram.
109. The proposed development does not seek to cut the subject site so that the entirety of the site is level. Rather, the proposed development is a bespoke house design that steps down the hill. Again, noting that the performance outcome does not require earthworks to be avoided, just minimised, the Tribunal finds that the design of the proposed dwelling does minimise earthworks, thereby complying with PO8(c).

PO8(d)

110. The proposed development complements the low density sub-tropical character of the area with the proposed design incorporating eaves and front facing balconies that provide deep shade, similar to existing built form in the immediate area.
111. The selection, hierarchical placement and layering of the proposed cladding materials articulates the overall form, visually reducing overall bulk and scale, whilst achieving a lightweight form above.
112. The proposed materials and form are not out of place and are in keeping with the context of the surrounding built form and natural environment geological features.
113. For these reasons, the Tribunal finds that the proposed development complies with PO8(d).

Performance Outcome PO10

114. PO10 of the CRZ Code states that development responds sensitively to on-site and surrounding topography, drainage patterns, utility services, access, vegetation and adjoining land use, such that:

- a. any hazards to people or property are avoided*
- b. native plants are retained within the lot or premises and adjoining road reserve*

- c. *any earthworks are minimised*
- d. *the retention of natural drainage systems is maximised*
- e. *the retention of existing vegetation is maximised*
- f. *damage or disruption to sewerage, stormwater and water infrastructure is avoided, and*
- g. *there is adequate buffering, screening or separation to adjoining development.”*

115. There are no acceptable outcomes nominated for PO10.
116. In its verbal evidence at the hearing and in the Council’s written submissions, the Council identified that the proposed development did not comply with PO10 by quoting it.
117. The nature of the proposed development as a dwelling house and on the assumption that it would be lawfully constructed, satisfies PO10(a) with respect to hazards.
118. Given that the subject site has sparse vegetation, PO10(b) and (e) would not be relevant.
119. PO10(c) largely repeats the requirements of PO8(c) with respect to minimising earthworks and has accordingly been addressed above.
120. No evidence was provided to the Tribunal by the parties with respect to any negative impact the proposed development may have on the natural drainage of the subject site as raised by PO8(d). Further, there were no specific conditions imposed on the preliminary approval in that regard.
121. Condition 10 of the preliminary approval conditions requires development to be located a minimum of 1.5 metres from the existing stormwater infrastructure. If the proposed development does encroach within 1.5 metres of the infrastructure a RPEQ certificate is to be provided to demonstrate compliance with the Planning Scheme requirements in that regard. The Tribunal considers that to be a reasonable requirement of the Council.
122. Accordingly, subject to the imposition of a condition with respect to the siting of the proposed development near to the existing stormwater infrastructure on the subject site, the Tribunal is satisfied that the proposed development complies with PO10 of the Planning Scheme.

Compliance with Character Residential Zone Code

123. Having reviewed the facts and circumstances, including written and verbal evidence, the Tribunal finds that the proposed development can be conditioned to comply with the relevant Performance Outcomes PO2, PO7, PO8 and PO10 of the CRZ Code, with such conditions requiring:
- (a) Provision of a 0.6m cantilevered awning above the garage for the full width of the frontage of the building, to be constructed of quality materials that match the proposed dwelling;
 - (b) a change to the parking area to achieve a minimum setback of 4m from the side boundary and retaining the setbacks from the front boundary shown in the plans to accommodate landscaping;
 - (c) construction of the driveway, crossover and car parking area to use permeable materials as conditioned in the preliminary approval, unless otherwise agreed in writing by the Council. The Tribunal has included an allowance for agreement between the Council and the Appellant for the provision of an alternative solution for non-permeable paving to allow for engineering requirements;

- (d) the provision of appropriate landscaping to enhance visual amenity and screen lower aspects of the building from the street;
- (e) a requirement that the proposed development be located an appropriate distance from existing stormwater infrastructure, unless the Appellant can demonstrate that the works have been designed to comply with the Planning Scheme's requirements for building over or adjacent to Council infrastructure.

124. Section 5.3.3(4)(c) of the Planning Scheme states that for code assessable development that complies with:

- "i. the purpose and overall outcomes of the code complies with the code*
- ii. the performance or acceptable outcomes complies with the purpose and overall outcomes of the code."*

125. As the Tribunal is satisfied that the proposed development complies with the relevant performance outcomes, then pursuant to section 5.3.3(4)(c)(ii) of the Planning Scheme, the proposed development also complies with the purpose and overall outcomes. On this basis, the Tribunal is not required to consider overall outcomes 2b, 2d, 2h and the zone purpose statement 1 a, b and c.

126. Accordingly, the Tribunal finds that subject to the imposition of the conditions identified above, the proposed development complies with the CRZ Code.

Can the impacts of the proposed development be lawfully conditioned?

127. The Tribunal has identified matters that should be the subject of conditions to ensure the proposed development complies with the relevant performance outcomes of the CRZ Code.

128. The Tribunal identifies those conditions as being the following:

- (a) *provide a cantilevered awning above the garage that extends along the frontage of the building and protrudes a minimum of 0.6m from the garage wall to be constructed of quality materials that match the proposed dwelling;*
- (b) *Unless otherwise agreed in writing by the Council, driveways, crossovers and carparking areas are to be finished with a permeable surface and not be located within 4m of the side boundaries;*
- (c) *Landscape screening planting is to be provided and maintained between the car parking area and the front boundary. Landscaping is to achieve the following:*
 - (i) *minimum dimensions of 1m x 7m;*
 - (ii) *be capable of growing to 3m tall as measured from finished ground level;*
 - (iii) *Be comprised of endemic species suitable to provide screening and shade; and*
- (d) *To enhance the visual appearance of the development and integrate with the natural features, areas of the site that are visible to the public and adjoining land are to be landscaped with a mix of shrubs and ground covers, including but not limited to native species.*

129. In preparation for a decision that approves the proposed development, the Tribunal, by way of email from the Tribunal's Registrar to the Council dated 17 January 2025 asked the Council to provide a set of conditions that it would ordinarily impose upon a development approval for a material change of use for a dwelling house. The Council provided a set of conditions in response by way of email dated 20 January 2025.

130. The Tribunal has considered those conditions and added the conditions that it has prepared which reflect the Tribunal's decision in this Decision Notice. The full set of conditions is included in **Attachment 1 – Conditions of Approval**.
131. Pursuant to section 254(3) of the Planning Act, a tribunal must not make a change, other than a minor change, to a development application. The abovementioned conditions prepared by the Tribunal do not comprise substantially different development and are minor changes.
132. When considering the definition of "minor change" in Schedule 2 of the Planning Act and the criteria for determining whether development might be a "substantially different development" in Schedule 1: Substantially Different Development of the DA Rules, the changes conditioned by the Tribunal are a minor change for the following reasons:
- (a) The changes do not result in substantially different development because:
 - (i) the changes do not involve a new use or a new parcel of land;
 - (ii) the adjustment of the built form does not result in a dramatic change in terms of scale, bulk or appearance;
 - (iii) the development can operate as intended, that is as a residential dwelling, without increasing traffic flow or introducing other new impacts, or removing incentives;
 - (iv) the changes will not impact on infrastructure provision as this is a single dwelling on one lot; and
 - (b) The changes will not cause the inclusion of prohibited development, new referral triggers or public notification.
133. Through the imposition of the identified conditions, the Tribunal is satisfied that the proposed development complies with the relevant assessment benchmarks in the CRZ Code.

Samantha Hall
Development Tribunal Chair
Date: 11 February 2025

Appeal rights

Schedule 1, table 2(1) of the *Planning Act 2016* provides that an appeal may be made against a decision of a Tribunal to the Planning and Environment Court, other than a decision under section 252, on the ground of -

- (a) an error or mistake in law on the part of the Tribunal; or
- (b) jurisdictional error.

The appeal must be started within 20 business days after the day notice of the Tribunal decision is given to the party.

The following link outlines the steps required to lodge an appeal with the Court.

<http://www.courts.qld.gov.au/courts/planning-and-environment-court/going-to-planning-and-environment-court/starting-proceedings-in-the-court>

Enquiries

All correspondence should be addressed to:

The Registrar of Development Tribunals
Department of Housing and Public Works
GPO Box 2457
Brisbane Qld 4001

Telephone (07) 1800 804 833

Email: registrar@epw.qld.gov.au

Attachment 1 – Conditions of Approval

1. Development is to be undertaken generally in accordance with the following plans and reports, except where to satisfy conditions of this approval.

Drawing Number	Issue	Description	Author	Date
A.03.2	C	Context Plans: Site	Daisy Barber Building Design	31/10/22
A.04.2	C	Floor Plans: Basement	Daisy Barber Building Design	31/10/22
A.04.3	C	Floor Plans: Ground Floor	Daisy Barber Building Design	31/10/22
A.04.4	C	Floor Plans: First Floor	Daisy Barber Building Design	31/10/22
A.04.9	C	Roof Plan	Daisy Barber Building Design	31/10/22
A.06.3	C	Elevations: North	Daisy Barber Building Design	31/10/22
A.06.4	C	Elevations: East	Daisy Barber Building Design	31/10/22
A.06.5	C	Elevations: South	Daisy Barber Building Design	31/10/22
A.06.6	C	Elevations: West	Daisy Barber Building Design	31/10/22
A.07.3	C	Sections: South-North	Daisy Barber Building Design	31/10/22
A.07.4	C	Sections: North-South	Daisy Barber Building Design	31/10/22
A.07.5	C	Sections: South-North	Daisy Barber Building Design	31/10/22
A.07.6	C	Sections: North-South	Daisy Barber Building Design	31/10/22
A.07.7	C	Sections: West-East	Daisy Barber Building Design	31/10/22
A.07.8	C	Sections: East-West	Daisy Barber Building Design	31/10/22
A.07.9	C	Sections Walkway/Pool Fence	Daisy Barber Building Design	31/10/22
A.07.10	C	Section: Pool / Pool Fence	Daisy Barber Building Design	31/10/22
A10.1	C	Door Schedule	Daisy Barber Building Design	31/10/22
A11.1	C	Materials and Finishes	Daisy Barber Building Design	31/10/22
CQ20761	A	Landslide Risk Assessment Slope Stability Analysis and AS2870 Site Classification report	CQ Soil Testing	31/03/22

Special Conditions

2. Provide a cantilevered awning above the garage that extends along the frontage of the building and protrudes a minimum of 0.6m from the garage wall to be constructed of quality materials that match the proposed dwelling.
3. Building Height does not exceed 8.5m (above natural ground level).
4. Eaves are to be a minimum of 0.6m from the wall and provided in accordance with the approved plans.
5. Unless otherwise agreed in writing by the Council, driveways, crossovers and carparking areas are to be finished with a permeable surface and not be located within 4m of the side boundaries.
6. Prior to commencement of the use, a Landscaping plan is to be prepared by a suitably qualified person, and is to incorporate the following:
 - a) Landscape screening planting is to be provided and maintained between the car parking area and the front boundary. Landscaping is to achieve the following:
 - i. minimum dimensions 1m x 7m;

- ii. be capable of growing to 3m tall as measured from finished ground level;
 - iii. be comprised of endemic species suitable to provide screening and shade.
 - b) To enhance the visual appearance of the development and integrate with the natural features, areas of the site that are visible to the public and adjoining land is to be landscaped with a mix of shrubs and ground covers, including but not limited to native species.
 - c) Provide planting and landscape elements along boundaries and edges that screens service, utility and parking areas.
 - d) Uncovered external paved or hard landscaped areas not used for car parking are limited to 36m².
 - e) Any proposed front fences are a maximum height of 1.5m, 50% transparent, made of open timber or metal construction, and do not impede existing overland flow paths.
7. Where not within the building footprint, excavation and fill is limited to a maximum cut of 1m below natural ground level, and maximum fill of 1 meter above natural ground level.
 8. Development is to be located a minimum of 1.5 metres from the existing stormwater infrastructure on site. Should the development encroach within 1.5m of the infrastructure the applicant is required to submit a Design Certification (Form 15) from an RPEQ engineer that includes the following wording as per Council's BOS policy: As a RPEQ I certify that these works have been designed to comply with the requirements of the current version of Council's Building Over or Adjacent to Council Infrastructure Policy and will not have a detrimental effect on the integrity of Council Infrastructure.
 9. Except where constructed of natural stone, any retaining walls which are visible from the road reserve, must receive a surface treatment such as rendering or cladding to maintain the visual amenity of the streetscape. The treatments must complement with the colour palette of the dwelling.
 10. At all times, the Applicant is required to avoid or minimise soil erosion during construction and after building works.
 11. As part of Building Works, the Applicant is to ensure glass surfaces provide an anti-reflective cover to prevent reflection or glare.

Steep Land

12. Development must be carried out in accordance with approved Landslide Risk Assessment Slope Stability Analysis and AS2870 Site Classification report prepared by CQ Soil Testing, job number CQ20761 and issue date 31/03/22.

Building, Plumbing and Drainage Works

13. The Applicant is required to obtain a Development Permit and Building Final for Building Works in accordance with the *Planning Act 2016*. Construction is to comply with the *Building Act 1975*, the National Construction Code and the requirements of other relevant authorities.

14. The Applicant is required to obtain a Development Permit for Plumbing and Drainage Works and Plumbing and Drainage Final in accordance with the *Planning Act 2016*. Construction is to comply with the *Plumbing and Drainage Act 2018* and the requirements of other relevant authorities.
15. As part of Building Works, all outdoor lighting is to comply with Australian Standard AS4282 – Control of the Obtrusive Effects of Outdoor Lighting.
16. Prior to the commencement of the use, all lighting at ground level and associated with illuminating ground level areas must be focused downwards and be provided with hoods, shades or other permanent devices to direct illumination downwards and not allow upward lighting to adversely affect the residential uses on this site and the adjoining sites.
17. Prior to building work proceeding beyond the first floor level, certification is received from a Cadastral Surveyor that the first floor level is in accordance with the approved plans.
18. Prior to building work final a form 16 is provided, that includes certification from a Cadastral Surveyor that the finished roof height does not exceed 8.5m above Natural Ground Level in accordance with the approved plans,
19. As part of Building Works, a mailbox is to be located a maximum of 6m from the front property boundary. The mailbox is to be easily identifiable for emergency services from the frontage of the site.

Water Infrastructure

20. Prior to the commencement of the use, a water service connection is to be provided from Council's water supply infrastructure to the front property boundary. The location and size of the water service (and any associated fire service) is to be determined in consultation with Council.
21. Prior to the commencement of the use, connections to Council's live water reticulation network must be carried out by Council. The cost of these works is to be borne by the Applicant.

Advisory Note: Council's Application for Water Service is found at <http://www.gladstone.qld.gov.au/forms>.

Sewerage Infrastructure

22. Prior to the commencement of the use, connections to Council's live sewerage network must be carried out by Council. The cost of these works is to be borne by the Applicant.

Advisory Note: Council's Application for Sewer is found at <http://www.gladstone.qld.gov.au/forms>.

Stormwater Infrastructure

23. All stormwater runoff must be piped from roofed areas and discharged to a kerb and channel drainage system in a Council controlled road, or an approved inter allotment stormwater drainage system, in accordance with Queensland Urban Drainage Manual 2017.

Transportation Services

24. Prior to the commencement of the use, car parking must be constructed wholly on-site and contained within the property boundaries at the required rate of two (2) spaces.

25. Prior to the construction of any works within Council's road reserve, the Applicant shall obtain a Works on a Council Road Approval in conformity with Council's Subordinate Local Law No. 1.15.

Advisory Note: Council's Local Law No. 1.15 - Application to Construct (and maintain) a Driveway (vehicle crossover) is found at <http://www.gladstone.qld.gov.au/forms>.

Lawful Commencement

26. Prior to the commencement of this use, the Applicant is to request a Compliance Inspection be undertaken by Council to confirm that all conditions of this Development Permit are considered compliant.
27. Upon receipt of confirmation from Council that all conditions of this Development Permit are considered compliant, the Applicant is to notify Council within 20 business days that this approved use has lawfully commenced.

END OF CONDITIONS

Advice to Applicant:

Council provides a certification service for any Building Certification requirements.

An Adopted Infrastructure Charge Notice in relation to the infrastructure charges applicable to this development will be provided separately.