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Please address all correspondence to The Chief Executive Officer

Contact Officer: Shaunte Farrington Our Ref: DA/29/2018

19 November 2018

Calliope Junior Rugby League Club Incorporated C/- Sarah Camilleri Zone Planning Group PO Box 5332 GLADSTONE QLD 4680

Dear Madam

# NEGOTIATED NOTICE OF DECISION PLANNING ACT 2016 S76

DA/29/2018 - MATERIAL CHANGE OF USE - CODE INDOOR SPORT AND RECREATION (NETBALL COURT) LOT 158 CTN 1533, EAST STOWE ARCHER STREET, CALLIOPE QLD 4680 LOT 158 CTN 1533, EAST STOWE

Reference is made to the above Development Application and to your request to make representations in relation to certain matters within Council's Notice of Decision dated 9 October 2018.

I wish to advise that your request was assessed under Delegated Authority on 19 November 2018 where it was decided to agree to the representations in part as set out in the following Negotiated Notice of Decision. The Negotiated Notice of Decision replaces the Notice of Decision previously issued and dated 9 October 2018.

Should you have any questions or require further clarification in relation to any matters raised in the Decision Notice, please do not hesitate to contact Council's Planning Officer Shaunte Farrington on (07) 4970 0700.

Yours faithfully

H A ROBERTSON

MANAGER DEVELOPMENT SERVICES



# NEGOTIATED NOTICE OF DECISION - DA/29/2018 PLANNING ACT 2016 S76

Application:	Material Change of Use - Code - Indoor Sport and Recreation (Netball Court)
Applicant Name & Address:	Calliope Junior Rugby League Club
	Incorporated
	C/- Sarah Camilleri
	Zone Planning Group
	PO Box 5332
•	GLADSTONE QLD 4680
Owner:	The State of Queensland
Subject Land:	Lot 158 CTN 1533, East Stowe Archer
-	Street, CALLIOPE QLD 4680
Location:	Lot 158 CTN 1533, East Stowe
Zoning:	Sport and Recreation Zone
Site Area:	12.9 hectares
Submissions Received:	N/A
Application Received:	16 August 2018
Planning Scheme:	Our Place Our Plan Gladstone Regional
	Council Planning Scheme Version 2

You are advised that your application was Approved in Part Negotiated. The conditions relevant to this approval are attached. These conditions are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

# 1. DETAILS OF THE APPROVAL

		Development Permit	Preliminary Approval
•	<b>Material change of use</b> made assessable by the planning scheme	✓	x

# 2. NATURE OF CHANGES

The nature of the changes are:

Condition 3 to 5, 13 and 17 – Amended

# 3. BENCHMARKS APPLIED TO THE DEVELOPMENT

The following is a description of the assessment benchmarks applying to the development:

Benchmarks Applying to the Development	Benchmark Reference	
State Planning Policy July 2017	State Interest – Natural Hazards, Risk and Resilience	
Our Place Our Plan Gladstone	Airport Environs Overlay Code;	
Regional Council Planning	Biodiversity Overlay Code;	
Scheme Version 2	Bushfire Hazard Overlay Code;	
	Flood Hazard Overlay Code;	
	Regional Infrastructure Overlay Code;	
	Sport and Recreation Zone Code;	
	Development Design Code; and	
	Landscaping Code.	

# 4. CURRENCY PERIOD FOR THE APPROVAL

The currency periods stated in section 85 of the *Planning Act 2016* apply to each aspect of development in this approval, as outlined below unless otherwise conditioned within this approval:-

✓ Material Change of Use - 6 years

# 5. APPROVED PLANS

The approved plans and/or documents for this development approval are listed in the following table:

Drawing Number	Revision	Description	Author	Date
-	С	Proposed Floor Plan	Gladstone Drafting	27.07.2018
-	С	Offices & Amenities Detail Plan	Gladstone Drafting	27.07.2018
-	С	Elevations 1	Gladstone Drafting	27.07.2018
-	С	Elevations 2	Gladstone Drafting	27.07.2018
-	E	Site Plan	Gladstone Drafting	7.09.2018
-	E	Detail Site Plan	Gladstone Drafting	7.09.2018
GD1159-C02	E	Civil Design	Gladstone Drafting	7.09.2018
GD1159-C03	В	3D View	Gladstone Drafting	27.07.2018
GD1159-C04	Α	Site Section 1	Gladstone Drafting	27.07.2018
GD1159-C05	А	Site Section 2	Gladstone Drafting	27.07.2018
GD1159-C010	Α	Cut/Fill Diagram	Gladstone Drafting	27.07.2018

# 6. OTHER NECESSARY DEVELOPMENT PERMITS

Listed below are other development permits that are necessary to allow the development to be carried out:-

- 1. Operational Works
- 2. Building Works
- 3. Plumbing & Drainage Works

# 7. NOTICE OF REASONS

The following provides the Notice of Reasons under section 63(5) of the *Planning Act 2016:* 

# **Description of the development:**

The approved development is for a Material Change of Use of premises for an Indoor Sport Recreation (Netball Court) (Staged).

## **Assessment Benchmarks:**

Benchmarks applying to the development	Benchmark reference	
State Planning Policy July 2017	State Interest - Natural Hazards, Risk and Resilience	
Our Place Our Plan Gladstone Regional Council Planning	<ul><li>Airport Environs Overlay Code;</li><li>Biodiversity Overlay Code;</li></ul>	
Scheme Version 2	<ul><li>Bushfire Hazard Overlay Code;</li><li>Flood Hazard Overlay Code;</li></ul>	
	<ul> <li>Regional Infrastructure Overlay Code;</li> <li>Sport and Recreation Zone Code;</li> </ul>	
	<ul><li>Development Design Code; and</li><li>Landscaping Code.</li></ul>	

# **Reasons for the Assessment Managers Decision:**

- 1. The Application was properly made in accordance with the *Planning Act 2016* and the Development Assessment Rules; and
- 2. The Application is deemed compliant with the relevant benchmarks of the *State Planning Policy 2017* and the *Our Place Our Plan Gladstone Regional Council Planning Scheme Version 2*.

# Reasons for Approval despite any Non-compliance with certain Benchmarks:

Benchmark reference	Reasons for the approval despite non- compliance with benchmark	
Flood Hazard Overlay Code -	Compliance with Flood Hazard Overlay Code -	
Table 8.2.7.3.1 – Acceptable	Table 8.2.7.3.1 - Performance Outcome 1 via a	
Outcome 1.	Condition.	
Flood Hazard Overlay Code -	Compliance with Flood Hazard Overlay Code -	
Table 8.2.7.3.1 – Acceptable	Table 8.2.7.3.1 – Acceptable Outcome 3 via a	
Outcome 3.	Condition.	
Flood Hazard Overlay Code -	Compliance with Flood Hazard Overlay Code -	
Table 8.2.7.3.1 – Acceptable	Table 8.2.7.3.1 – Acceptable Outcome 6.2, 7.1 and	
Outcome 6.2, 7.1 and 7.2.	7.2 via a Condition.	
Flood Hazard Overlay Code -	Compliance with Flood Hazard Overlay Code -	
Table 8.2.7.3.1 – Performance	Table 8.2.7.3.1 – Performance Outcome 8 via a	
Outcome 8.	Condition.	
Sport and Recreation Zone Code –	Compliance with Sport and Recreation Zone Code –	
Table 6.2.8.3.1 – Acceptable	Table 6.2.8.3.1 – Performance Outcome 2.	
Outcome 2.2.		
Sport and Recreation Zone Code –	Compliance with Sport and Recreation Zone Code –	
Table 6.2.8.3.1 – Acceptable	Table 6.2.8.3.1 – Acceptable Outcome 3.2 via a	
Outcome 3.2.	Condition.	
Sport and Recreation Zone Code –	Compliance with Sport and Recreation Zone Code –	
Table 6.2.8.3.1 – Acceptable	Table 6.2.8.3.1 – Performance Outcome 3.	
Outcome 3.3.		
Sport and Recreation Zone Code	Compliance with Sport and Recreation Zone	

Benchmark reference	Reasons for the approval despite non- compliance with benchmark
- Table 6.2.8.3.1 - Acceptable Outcome 5.	Code – Table 6.2.8.3.1 – Performance Outcome 5 via a Condition.
Development Design Code – Table 9.3.2.3.1 – Acceptable Outcome 5.1 and 5.2.	Compliance with Development Design Code – Table 9.3.2.3.1 – Acceptable Outcome 5.1 and 5.2 via a Condition.
Development Design Code – Table 9.3.2.3.1 – Acceptable Outcome 6.	Compliance with Development Design Code – Table 9.3.2.3.1 – Acceptable Outcome 6 via a Condition.
Development Design Code – Table 9.3.2.3.1 – Acceptable Outcome 8.1 and 8.3.	Compliance with Development Design Code – Table 9.3.2.3.1 – Acceptable Outcome 8.1 and 8.3 via a Condition.
Development Design Code – Table 9.3.2.3.1 – Acceptable Outcome 9.	Compliance with Development Design Code – Table 9.3.2.3.1 – Performance Outcome 9 via a Condition.
Development Design Code – Table 9.3.2.3.1 – Acceptable Outcome 12.	Compliance with Development Design Code – Table 9.3.2.3.1 – Acceptable Outcome 12 via a Condition.
Development Design Code – Table 9.3.2.3.1 – Acceptable Outcome 13.	Compliance with Sport and Recreation Zone Code – Table 6.2.8.3.1 – Purpose A.
Development Design Code – Table 9.3.2.3.1 – Acceptable Outcome 18.	Compliance with Development Design Code – Table 9.3.2.3.1 – Acceptable Outcome 18 via a Condition.
Development Design Code – Table 9.3.2.3.1 – Acceptable Outcome 21.	Compliance with Development Design Code – Table 9.3.2.3.1 – Acceptable Outcome 21 via a Condition.
Landscaping Code – Table 9.3.5.3.1 – Acceptable Outcome 2.1 and 2.2.	Compliance with Development Design Code – Table 9.3.2.3.1 – Performance Outcome 2 via a Condition.
Landscaping Code – Table 9.3.5.3.1 – Acceptable Outcome 3.1 and 3.2.	Compliance with Development Design Code – Table 9.3.2.3.1 – Performance Outcome 3.
Landscaping Code – Table 9.3.5.3.1 – Acceptable Outcome 5.1 and 5.2.	Compliance with Development Design Code – Table 9.3.2.3.1 – Performance Outcome 5 via a Condition.
Landscaping Code – Table 9.3.5.3.1 – Acceptable Outcome 7.1 and 7.2.	Compliance with Development Design Code – Table 9.3.2.3.1 – Acceptable Outcome 7.1 and 7.2 via a Condition.
Landscaping Code – Table 9.3.5.3.1 – Performance Outcome 13.	Compliance with Development Design Code – Table 9.3.2.3.1 – Performance Outcome 13 via a Condition.

Relevant Matters under Section 45(5)(b) of the Act that the Development was Assessed Against:

N/A

Matters raised in Submissions and Councils response in dealing with these matters:

Nil.

# Matters prescribed by a Regulation:

N/A

## 8. REFERRAL AGENCIES

The referral agencies applicable to this application are:-

Powerlink Queensland – Reference number DA3048 (MSLink108351)
 Referral agency response dated 13 September 2018

## 9. APPEAL RIGHTS

Schedule 1 of the *Planning Act 2016* details your appeal rights and the appeal rights of any submitters regarding this decision.

### 10. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect:-

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

### OR

- If there is a submitter and the applicant does not appeal the decision, the earlier date of either:
  - When the submitter's appeal ends; or
  - o The day the last submitter gives the assessment manager written notice that the submitter will not be appealing the decision.

### OR

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

This approval will lapse if:-

- for a material change of use, the first change of use under the approval does not start within the relevant period stated in section 3 of this Notice of Decision;
- for a reconfiguration, a plan for the reconfiguration is not given to the local government within the relevant period stated in section 3 of this Notice of Decision;
- for a development approval other than a material change of use or reconfiguration, the development does not substantially start within the relevant period stated in section 3 of this Notice of Decision.

Should you wish to discuss this matter further, please contact Council's Planning Officer Shaunte Farrington on (07) 4970 0700.

Yours faithfully

MANAGER DEVELOPMENT SERVICES

Attached:

Conditions **Appeal Rights** 

Approved Plans Referral Agency Responses



# **ASSESSMENT MANAGER CONDITIONS - DA/29/2018**

# **Approved Documentation**

1. Development is to be carried out generally in accordance with the submitted application including the following plans and supporting documentation except where amendments are required to satisfy the conditions of this approval:

Drawing Number	Revision	Description	Author	Date
-0 4 00 20	С	Proposed Floor Plan	Gladstone Drafting	27.07.2018
-	С	Offices & Amenities Detail Plan	Gladstone Drafting	27.07.2018
-	С	Elevations 1	Gladstone Drafting	27.07.2018
_	С	Elevations 2	Gladstone Drafting	27.07.2018
-	E	Site Plan	Gladstone Drafting	7.09.2018
_	E	Detail Site Plan	Gladstone Drafting	7.09.2018
GD1159-C02	Ε .	Civil Design	Gladstone Drafting	7.09.2018
GD1159-C03	В	3D View	Gladstone Drafting	27.07.2018
GD1159-C04	Α	Site Section 1	Gladstone Drafting	27.07.2018
GD1159-C05	Α	Site Section 2	Gladstone Drafting	27.07.2018
GD1159-C010	А	Cut/Fill Diagram	Gladstone Drafting	27.07.2018

## **Special Conditions**

- 2. The Indoor Sport and Recreation facility is not to be used by a separate commercial business/or operator outside of the endorsed lease agreement for the life of this approval.
- 3. Upon commencement of the use, the development is restricted to operating hours of 7am to 10pm on Sunday to Thursday and 7am to 12am on Friday to Saturday.
- 4. As part of the first Development Permit for Operational Works, the Applicant is to submit a revised Car Parking Layout that includes the following:
  - a. A minimum of 26 formalised car parking spaces are to be provided onsite, including designated disabled car parking spaces.
  - b. The sealed spaces and all vehicle movement areas are to be constructed, line marked, provided with wheel stops and maintained in accordance with the Engineering Design Planning Scheme Policy under the Our Place Our Plan Gladstone Regional Council Planning Scheme and AS2890.1.

- c. All car parking aisles are to terminate with a turnaround facility to avoid blind isles.
- d. A minimum of 57 overflow car parking spaces are to be provided onsite area within the subject site to accommodate the required car parking for the Indoor Sport and Recreation Use.
- e. Swept path diagrams demonstrating the largest vehicle accessing the site can safely and efficiently manoeuvre throughout the site.

# Flood Hazard

- 5. As part of any Development Application for Operational Works, the Applicant must demonstrate that the development does not result in flood level flow velocity or flood duration upstream, downstream or adjacent properties. This is to be achieved through the submission of a Flood Hazard and Stormwater Assessment and Mitigation Report to for approval by Council. The Report is to be in accordance with Schedule 6.3 Flood Hazard Planning Scheme Policy of the Our Place Our Plan Gladstone Regional Council Planning Scheme. Alternatively, the Applicant is to demonstrate earthworks within the flood hazard area, achieves balance cut and fill to maintain flood storage onsite.
- 6. Prior to the commencement of the use, a Flood Hazard Emergency Management Plan (FEMP) must be submitted to Council for approval as part of any Development Permit for Operational Works. The FEMP is to:
  - a. Be prepared by a suitably qualified person experienced in the area of flood management;
  - b. Incorporate the findings of the Stormwater Flood Hazard Assessment noted as part of Condition 6;
  - c. Be provided for the leased site;
  - d. Provide an evacuation and emergency plan in the event of a flood event;
  - e. Identify an alternative evacuation route in order to achieve an acceptable level of flood risk:
  - f. Identify areas of cut and fill which alters the behaviour of flood hazard;
  - g. Identify of the location and severity of all flood risks including creeks, waterways and floodplains; and
  - h. Be implemented by the Applicant for the life of the approval

# **Operational Works**

- 7. A Development Permit for Operational Works must be obtained from Council prior to the commencement of construction. The Development Application for Operational Works is to include the following:
  - a. Earthworks (including retaining walls);
  - b. Carparking;
  - c. Stormwater Management (quantity, quality, flood and drainage control);
  - d. Landscaping, environmental protection and associated works.
- 8. Development Applications for Operational Works shall be designed and constructed in accordance with Australian Standards, the Engineering Design Planning Scheme Policy under the Our Place Our Plan Gladstone Regional Council Planning Scheme or any other applicable standards at the time of lodgement. Prior to the commencement of the use, all Operational Works conditioned by this approval must be accepted "on maintenance" by Council.

Advisory Note: The Capricorn Municipal Development Guidelines within the Engineering Design Planning Scheme Policy is the current document for preparing any Development Application for Operational Works which is found at <a href="http://www.cmdg.com.au/index.htm">http://www.cmdg.com.au/index.htm</a>.

# **Building, Plumbing and Drainage Works**

- 9. The Applicant is required to obtain a Development Permit and Building Final for Building Works in accordance with the *Planning Act 2016* for the removal of the existing structure within the development footprint. The removal of the structure is to occur prior to any Building Works for the approved Development.
- 10. 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.
- 11. 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 2002* and the requirements of other relevant authorities.
- 12. Prior to the commencement of the use, all plant and equipment (including air conditioners, exhaust fans and the like) are to be housed, screened and located so that these do not cause environmental nuisance or harm to residential uses in the surrounding area.
- 13. Prior to the commencement of the use, the Applicant is to submit details of the proposed colour scheme, materials and finishes for all external areas of the building to Council for approval prior to the issue of a Development Permit for Building Works.
- 14. As part of Building Works, all outdoor lighting is to comply with Australian Standard AS4282 Control of the Obtrusive Effects of Outdoor Lighting.
- 15. 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 the sites.
- 16. As part of Building Works, the location of the proposed buildings shall comply with Council Policy P-2015/36 Building over or Adjacent to Council Infrastructure.

# Stormwater Infrastructure

17. As part of the first Development Application for Operational Works, the Applicant is to submit for approval by Council a Site Based Stormwater Management Plan. The Site Based Stormwater Management Plan must address stormwater quantity and be in accordance with the Engineering Design Planning Scheme Policy under the Our Place Our Plan Gladstone Regional Council Planning Scheme, the State Planning Policy – July 2017 and the Queensland Urban Design Drainage. The Site Based Stormwater Management Plan must be certified by a Registered Professional Engineer of Queensland experienced in this type of work.

# **Transportation Services**

- 18. Prior to the commencement of the use, a total of 4 bicycle spaces are to be constructed onsite within 30m walking distance to the entry of the use. All bicycle spaces are to be constructed in accordance with AS2890.3 (2015).
- 19. Prior to the commencement of the use, any damage to the driveway crossing and kerb and channel shall be repaired at the owner's expense and to Council's Standard Drawing Urban Commercial/Industrial Driveway.
  - Advisory Note: Council's standard drawing is located within the Capricorn Municipal Development Guidelines Drawings and Specifications at http://www.cmdq.com.au/index.htm.
- 20. Prior to the commencement of the use, all grassed footpath areas disturbed by the development are to be top dressed and turfed following completion of construction activity.
- 21. Prior to the commencement of the use, any manholes located on the proposed driveway are to be covered with Class D Covers to AS 3996, and are to be maintained at finished surface levels and remain accessible at all times.
- 22. Prior the commencement of the use, shade street trees are to be constructed within the designated vehicle parking area at a rate of 1 tree per 6 vehicle parking spaces in accordance with Table 9.3.4.3.2 Plant Species List of the Landscaping Code of the Our Place Our Plan Gladstone Regional Council Planning Scheme and the Capricorn Municipal Development Guidelines Landscaping C273 Construction Specification.

# **Retaining Walls**

23. As part of Operational Works, any new 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 the proposed colour pallet of the proposed building.

# Landscaping

- 24. As part of the first Development Application for Operational Works, a full Landscaping Plan is to be provided in accordance with Table 9.3.4.3.2 Plant Species List of the Landscaping Code of the Our Place Our Plan Gladstone Regional Council Planning Scheme and the Capricorn Municipal Development Guidelines Landscaping C273 Construction Specification. The full Landscaping Plan is to be completed by a suitably qualified professional.
- 25. Prior to commencement of the use, all landscaping areas are to be constructed with an appropriate irrigation system. Details of the irrigation system are to be provided as part of the full Landscaping Plan.
- 26. Prior to the commencement of the use, construction of a 1.8m high screen fence to common boundaries of 64 and 65 Sutherland Street, Calliope, the details of which are to be submitted with any Development Application for Building Works.

Prior to the commencement of the use, the Applicant is to provide owners consent from 64 and 65 Sutherland Street, Calliope that states they do not agree to the construction of a 1.8m high screen fence along their common boundary with Lot 158 CTN 1533.

# **Waste Management**

- 27. As part of any Development Application for Operational Works, a Waste Management Plan is to be submitted and approved by Council. The Waste Management Plan is to be in accordance with the Waste Management Planning Scheme Policy of the Our Place Our Plan Gladstone Regional Council Planning Scheme.
- 28. Prior to the commencement of the use, the waste storage area/s are to be sufficient in size to house all waste collection containers including recycling waste containers. The waste storage area/s must be suitably enclosed and imperviously paved, with a hose cock and hose fitted in close proximity to the enclosure to ensure the area can be easily and effectively cleaned.
- 29. Prior to the commencement of the use, open storage areas shall be adequately screened so as not to detract from the visual amenity of the area. One way of achieving compliance with this condition is as follows:
  - a. Outdoor storage areas are situated in locations not visible from the street; and
  - b. A 1.8m solid screen fence is located around storage areas.

#### Lawful Commencement

- 30. 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.
- 31. 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 has been provided separately. Council's Infrastructure Charges Incentive Policy may be applicable to this development. Please see the full Policy on Council's website.

If Applicable, the Applicant may require a Food Business Licence application and a Food Design Application. If required, these applications are to be submitted to Council for approval in accordance with the Food Act 2006.

Planning Act 2016 Chapter 6 Dispute resolution

[s 229]

- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.
- (3) In this section—

conduct means an act or omission.

### representative means-

- (a) of a corporation—an executive officer, employee or agent of the corporation; or
- (b) of an individual—an employee or agent of the individual.

state of mind, of a person, includes the person's-

- (a) knowledge, intention, opinion, belief or purpose; and
- (b) reasons for the intention, opinion, belief or purpose.

# 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

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

#### Note-

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

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.

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- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
  - (a) the adopted charge itself; or
  - (b) for a decision about an offset or refund—
    - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
    - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

## 230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
  - (a) the respondent for the appeal; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
  - (d) for an appeal about a change application under schedule
     1, table 1, item 2—each principal submitter for the change application; and
  - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph
     (c) or (d); and

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# Schedule 1 Appeals

section 229

# 1 Appeal rights and parties to appeals

- (1) Table 1 states the matters that may be appealed to-
  - (a) the P&E court; or
  - (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
  - (a) the refusal, or deemed refusal of a development application, for—
    - a material change of use for a classified building;
       or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (b) a provision of a development approval for-
    - a material change of use for a classified building;
       or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (c) if a development permit was applied for—the decision to give a preliminary approval for—
    - a material change of use for a classified building;
       or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (d) a development condition if—
    - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and

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- (ii) the building is, or is proposed to be, not more than 3 storeys; and
- (iii) the proposed development is for not more than 60 sole-occupancy units; or
- (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
- a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
- (g) a matter under this Act, to the extent the matter relates to the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
- (h) a decision to give an enforcement notice
  - in relation to a matter under paragraphs (a) to (g); or
  - (ii) under the Plumbing and Drainage Act; or
- (i) an infrastructure charges notice; or
- (j) the refusal, or deemed refusal, of a conversion application; or
- (1) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
  - (a) for a matter in subsection (2)(a) to (d)—
    - (i) a development approval for which the development application required impact assessment; and
    - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
  - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.

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- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table-
  - (a) column 1 states the appellant in the appeal; and
  - (b) column 2 states the respondent in the appeal; and
  - (c) column 3 states the co-respondent (if any) in the appeal;
  - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.
- (8) In this section—

  storey see the Building Code, part A1.1.

# Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal

1. Development applications

For a development application other than an excluded application, an appeal may be made against—

- (a) the refusal of all or part of the development application; or
- (b) the deemed refusal of the development application; or
- (c) a provision of the development approval; or
- (d) if a development permit was applied for—the decision to give a preliminary approval.

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# Planning Act 2016

# Schedule 1

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal				
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if	
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	any)  1 A concurrence agency that is not a co-respondent  2 If a chosen assessment manager is the respondent—the prescribed assessment manager  3 Any eligible	
			advice agency for the application  Any eligible submitter for the application	

2. Change applications

For a change application other than an excluded application, an appeal may be made against—

- (a) the responsible entity's decision on the change application; or
- (b) a deemed refusal of the change application.

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Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal				
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent	Column 4 Co-respondent	
	•	(if any)	by election (if	
The applicant If the responsible entity is the	The responsible entity	If an affected entity starts the appeal— the applicant	l A concurrence agency for the development application	
assessment manager—an affected entity that gave a pre-request notice or response notice			2 If a chosen assessment manager is the respondent—the prescribed assessment manager	
			3 A private certifier for the development application	
			4 Any eligible advice agency for the change application	
			5 Any eligible submitter for the change application	

3. Extension applications

For an extension application other than an extension application called in by the Minister, an appeal may be made against—

- (a) the assessment manager's decision on the extension application; or
- (b) a deemed refusal of the extension application.

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## Planning Act 2016

### Schedule 1

	Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal				
Column 1 Appellant		Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)	
1 2	The applicant For a matter other than a deemed refusal of an extension application—a concurrence agency, other than the chief executive, for the application	The assessment manager	If a concurrence agency starts the appeal—the applicant	If a chosen assessment manager is the respondent— the prescribed assessment manager	

#### 4. Infrastructure charges notices

An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds----

- (a) the notice involved an error relating to-
  - (i) the application of the relevant adopted charge; or

Examples of errors in applying an adopted charge-

- · the incorrect application of gross floor area for a non-residential development
- applying an incorrect 'use category', under a regulation, to the development
- (ii) the working out of extra demand, for section 120; or
- (iii) an offset or refund; or
- (b) there was no decision about an offset or refund; or
- (c) if the infrastructure charges notice states a refund will be given—the timing for giving the refund; or
- (d) for an appeal to the P&E Court—the amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.

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Appeals to	the P&E Court and	ble 1 , for certain matte	ers, to a tribunal
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the infrastructure charges notice	The local government that gave the infrastructure charges notice		
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The local government to which the conversion application was made	articles.	
5. Enforcement notice An appeal may be ma	es de against the decision	to give an enforcem	ent notice,
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
he person given the nforcement notice	The enforcement authority		If the enforcement authority is not the local government for the premises in relation to which the offence is alleged to have happened—the local government

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#### Planning Act 2016

### Schedule 1

# Table 2 Appeals to the P&E Court only

## 1. Appeals from tribunal

An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of—

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

Column 1	Column 2	Column 3	Column 4
Appellant	Respondent	Co-respondent	Co-respondent
		(if any)	by election (if any)
A party to the proceedings for the decision	The other party to the proceedings for the decision		_

### 2. Eligible submitter appeals

For a development application or change application other than an excluded application, an appeal may be made against the decision to approve the application, to the extent the decision relates to—

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

Column 1	Column 2	Column 3	Column 4
Appellant	Respondent	Co-respondent (if any)	Co-respondent by election (if any)
1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for the change application	1 For a development application—the assessment manager 2 For a change application—the responsible entity	1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application

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# Table 2 Appeals to the P&E Court only

3. Eligible submitter and eligible advice agency appeals

For a development application or change application other than an excluded application, an appeal may be made against a provision of the development approval, or a failure to include a provision in the development approval, to the extent the matter relates to—

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

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
development application—an eligible submitter for the development application  For a change application—an eligible submitter for the change application  An eligible advice agency for the development application or change application	Por a development application—the assessment manager For a change application—the responsible entity	1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application

# 4. Compensation claims

An appeal may be made against—

- (a) a decision under section 32 about a compensation claim; or
- (b) a decision under section 265 about a claim for compensation; or
- (c) a decmed refusal of a claim under paragraph (a) or (b).

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### Planning Act 2016

#### Schedule 1

		ble 2 P&E Court only	
Column 1 Appellant	Column 2 Column 3 Respondent (if any)		Column 4 Co-respondent by election (if any)
A person dissatisfied with the decision	The local government to which the claim was made	-	-
5. Registered premise An appeal may be ma	s de against a decision c	of the Minister under c	hapter 7, part 4.
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person given a decision notice about the decision  If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the affected area for the registered premises who is dissatisfied with the decision	The Minister		If an owner or occupier starts the appeal—the owner of the registered premises

## 6. Local laws

An appeal may be made against a decision of a local government, or conditions applied, under a local law about—

- (a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or
- (b) the erection of a building or other structure.

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### Schedule 1

Table 2 Appeals to the P&E Court only				
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)	
A person who—  (a) applied for the decision; and  (b) is dissatisfied with the decision or conditions.	The local government		-	

# Table 3 Appeals to a tribunal only

1. Building advisory agency appeals

An appeal may be made against giving a development approval for building work to the extent the building work required code assessment against the building assessment provisions.

Column I Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A building advisory agency for the development application related to the approval	The assessment manager	The applicant	1 A concurrence agency for the development application related to the approval
			2 A private certifier for the development application related to the approval

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# Planning Act 2016

# Schedule 1

		rable 3 o a tribunal only	
2. Inspection of build	ling work		
An appeal may be may the inspection of built under the Building A	ding work that is the	n of a building certific subject of a building	er or referral agency abou development approval
Column 1	Column 2	Column 3	Column 4
Appellant	Respondent	Co-respondent	Co-respondent
		(if any)	by election (if
			any)
The applicant for the development approval	The person who made the decision	_	_
Building and Con was given or requ (b) a decision under t	istruction Commission aired to be given und the Plumbing and Dra	on, if an information of er that Act; or	ade by the Queensland notice about the decision i, if an information notice that Act.
Column 1	Column 2	Column 3	Column 4
Appellant	Respondent	Co-respondent	Co-respondent
- 1		(if any)	by election (if
			any)
	The person who made the decision	_	_
. Local government fa	allure to decide annli	action under the Duil	

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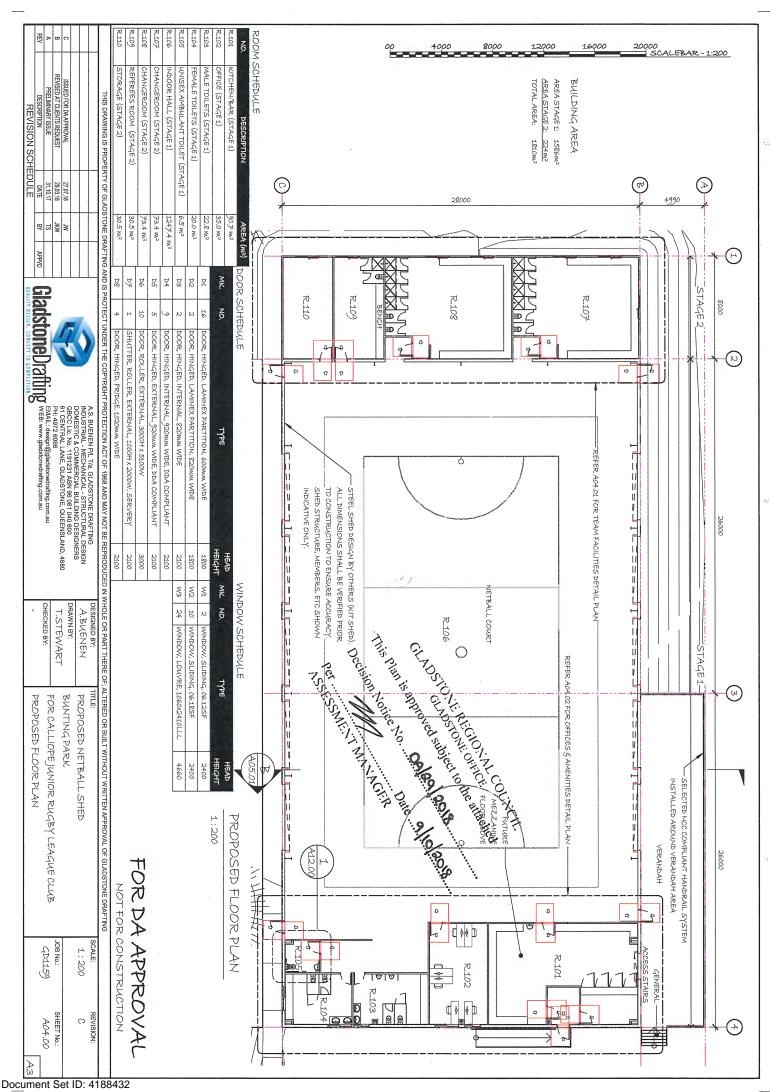
# Planning Act 2016

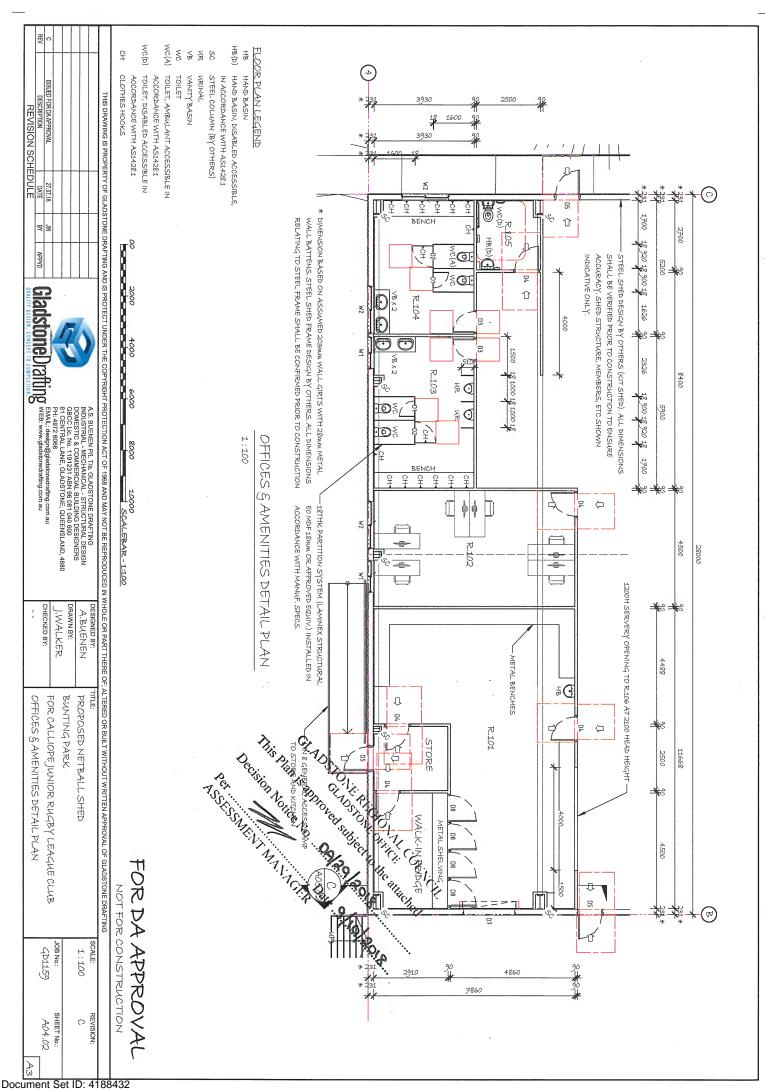
# Schedule 1

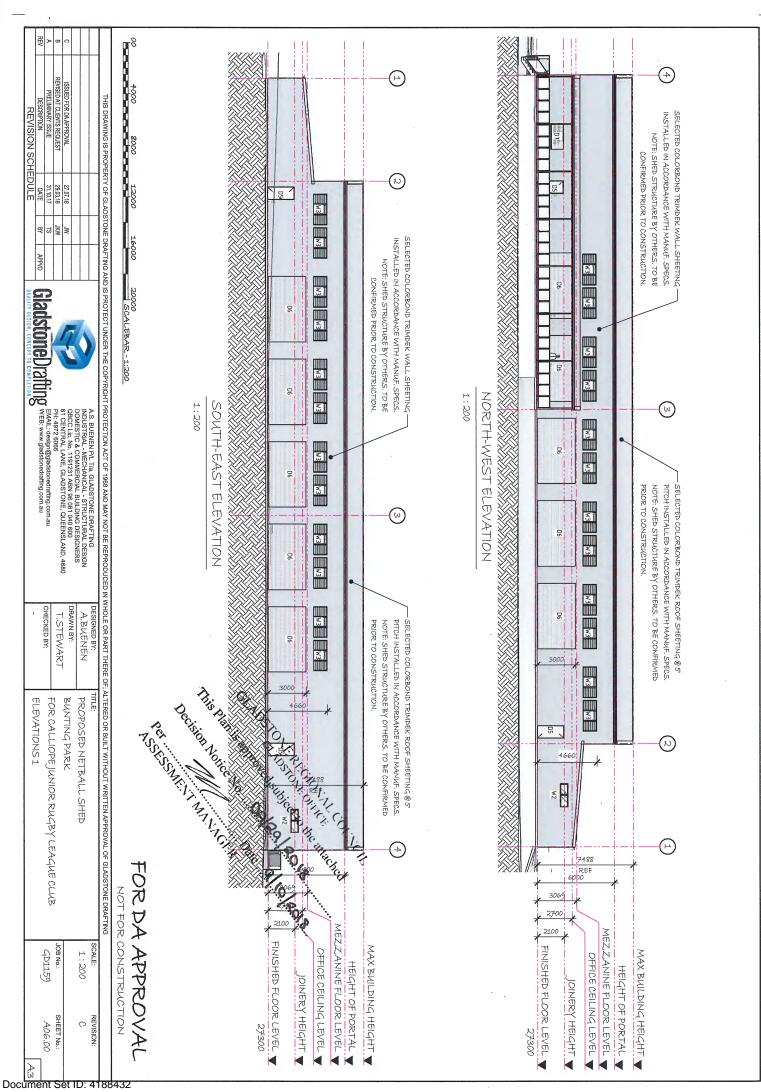
Table 3 Appeals to a tribunal only			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if
A person who was entitled to receive notice of the decision	The local government to which the application was made	_	_

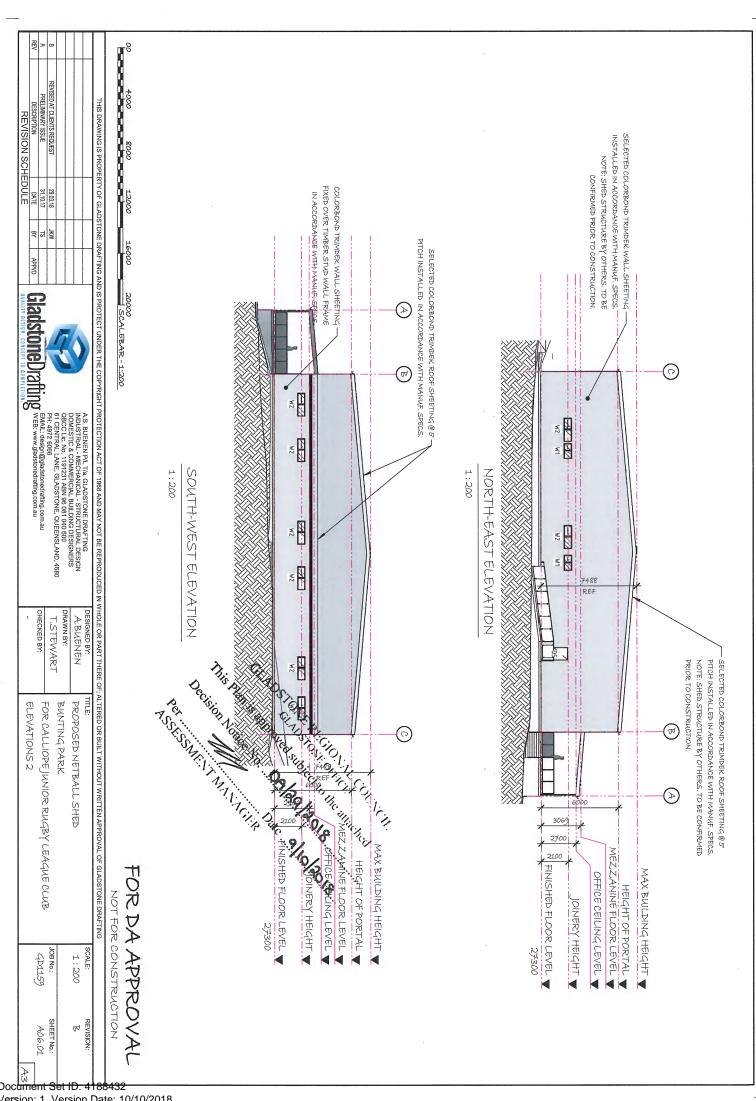
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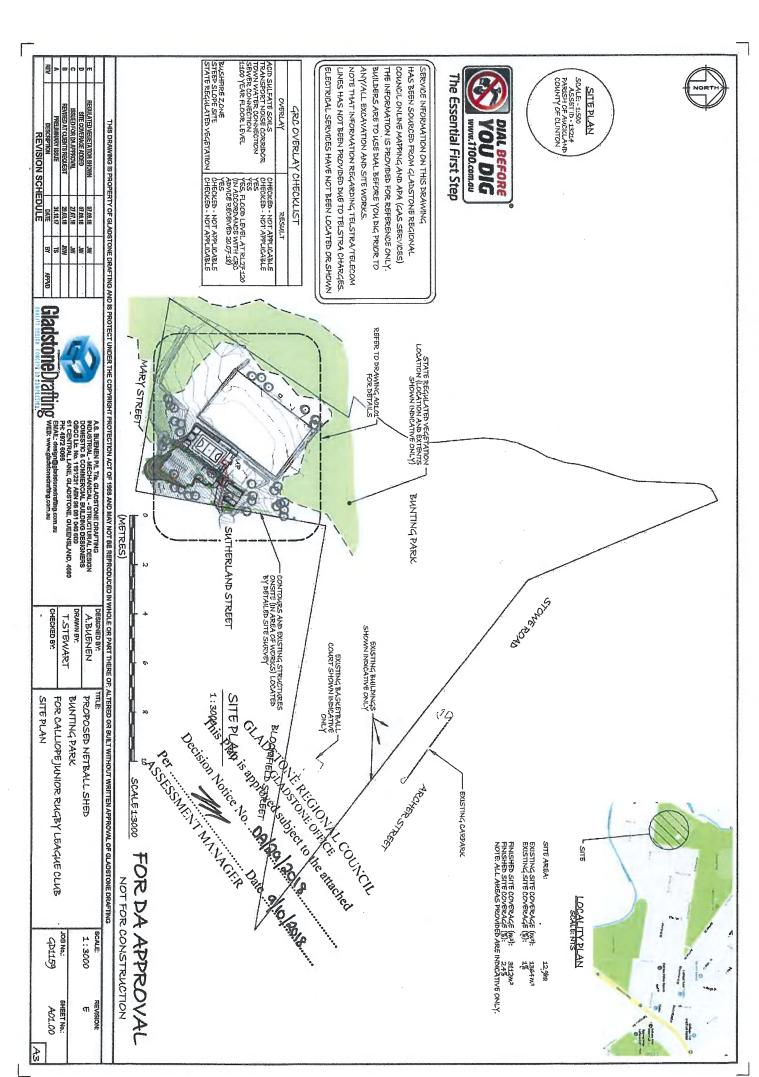
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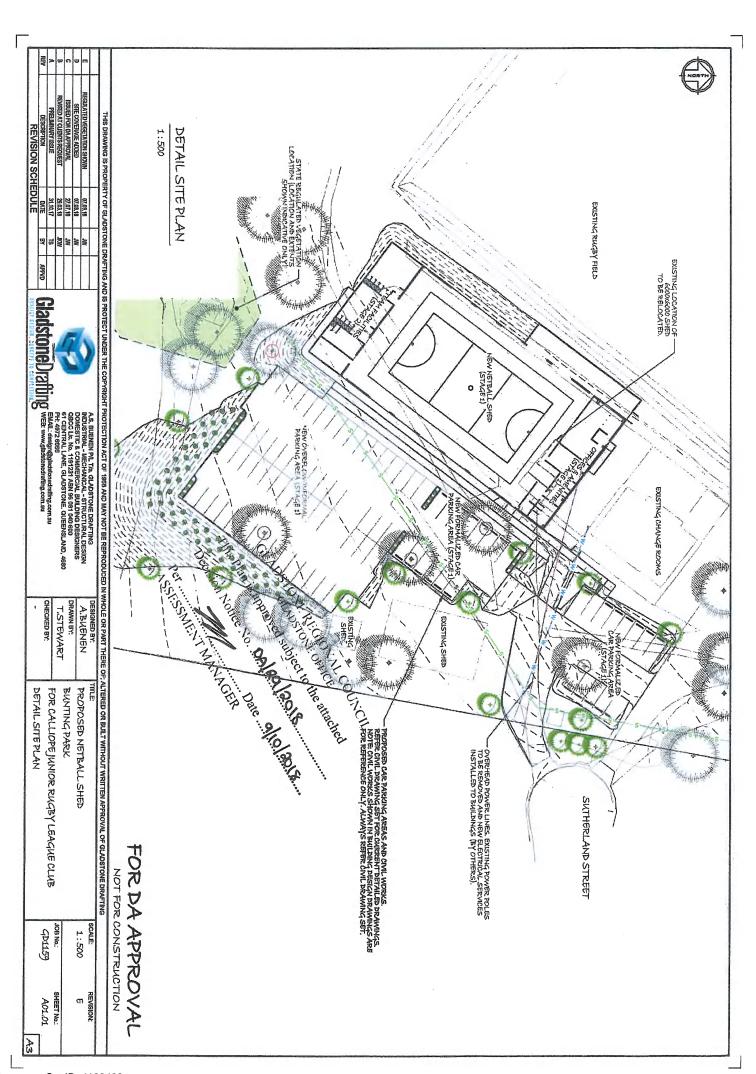






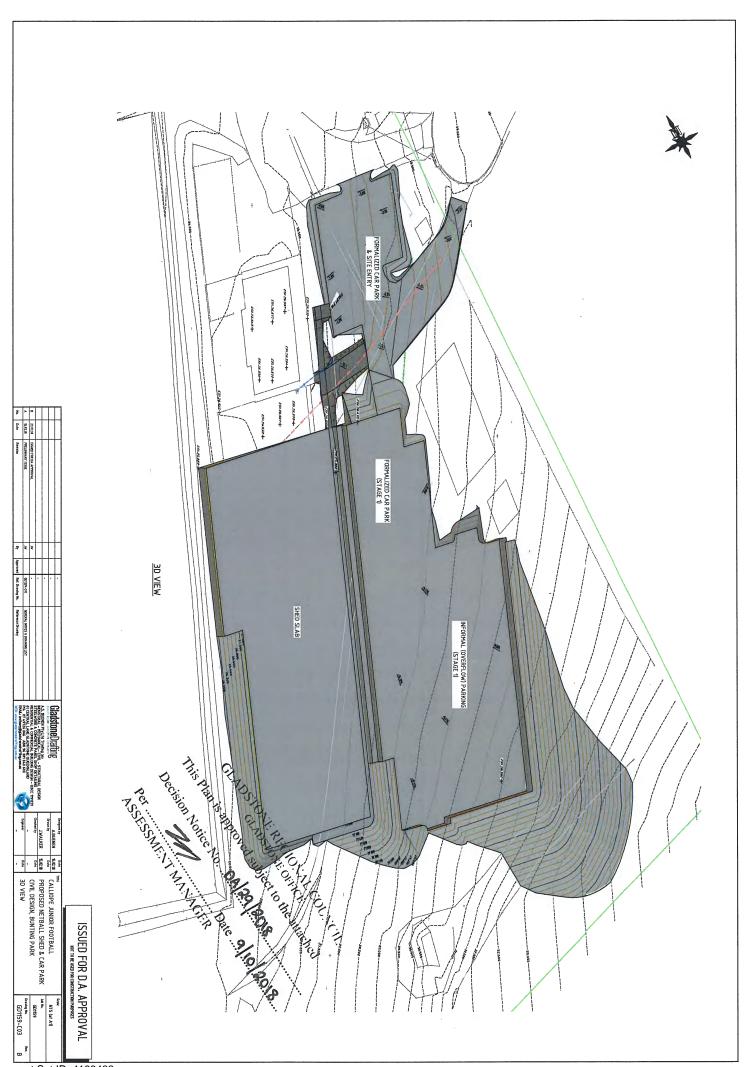




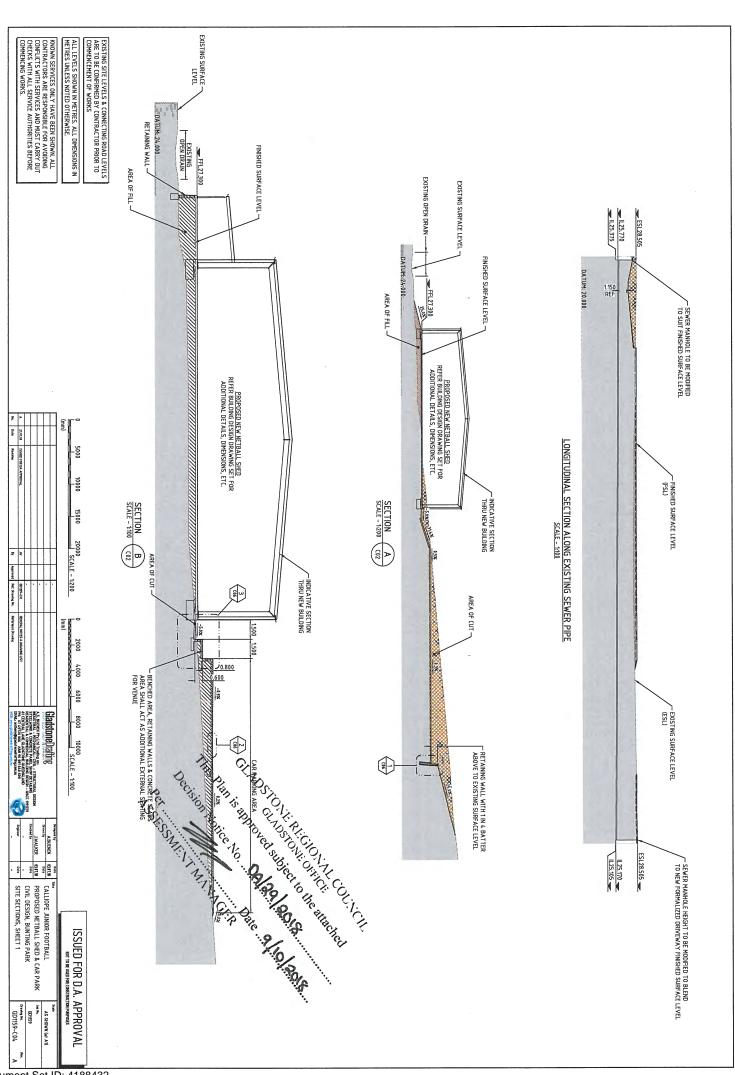


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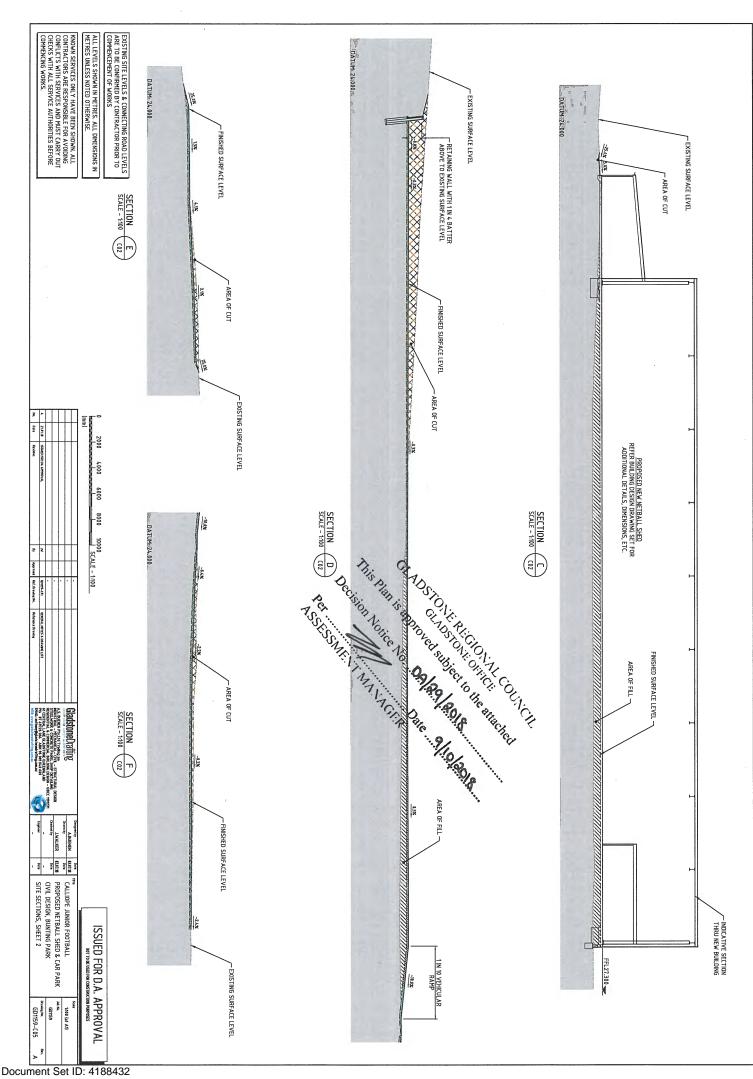


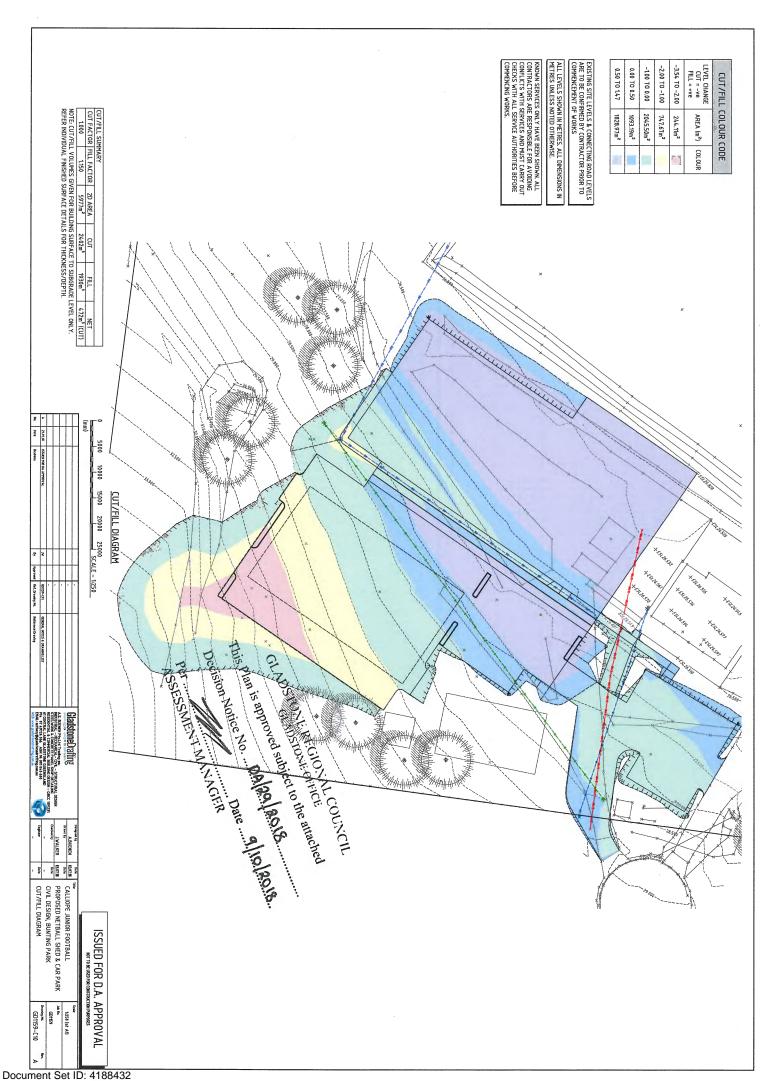


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13 September 2018

Calliope Junior Rugby League
Club Incorporated
C/- Zone Planning Group

PO Box 5332

GLADSTONE QLD 4680

Via Email: scamilleri@zoneplanning.com.au

Attention: Sarah Camilleri

Gladstone Regional Council PO Box 29 GLADSTONE QLD 4680

Our Ref: DA3048 (MSLink108351)

Via Email: info@gladstone.qld.gov.au

Attention: Shaunte Farrington Council Ref: DA/29/2018

Dear Sir/Madam

## **Referral Agency Response**

(Given under section 9.2 of the Development Assessment Rules)

•	Transmission Infrastructure Impacted				
<b>Transmission Corridor</b> Callide A - Gladstone South 132kV Transmission Line Co					
Easement ID	N/A				
	Location Details				
Street address	East Stowe Calliope				
Real property description	Lot 158 on CTN1533				
Local government area	Gladstone Regional Council				
	Application Details				
Proposed development:	Material Change of Use				
Approval sought	Development Permit				

We refer to the above referenced development application which has been referred to Powerlink Queensland in accordance with Section 54 of the *Planning Act 2016*.

In accordance with its jurisdiction under Schedule 10 Part 9 Division 2 of the *Planning Regulation 2017*, Powerlink Queensland is a **Referral Agency (Advice)** for the above development application.

Specifically, the application has been triggered for assessment by Powerlink Queensland because:

1. For **material change of use** – all or part of the premises are subject to a transmission entity corridor which is part of the transmission supply network (Table 2 1b).

33 Harold Street, Virginia PO Box 1193, Virginia, Queensland 4014, Australia Telephone: (07) 3860 2111 Facsimile: (07) 3860 2100

Website: www.powerlink.com.au

## **PLANS AND REPORTS ASSESSED**

The following report (inclusive of plans) has been reviewed by Powerlink Queensland and form the basis of our assessment.

Any variation to these reports and plans may require amendment of our advice.

Table 1: Plans upon which the assessment is based

Drawing / Report Title	Prepared by	Dated	Reference No.	Version / Issue
Development Application Submission	Zone Planning Group	August 2018	Z18084	N/A

Powerlink Queensland, acting as a Referral Agency (Advice) under the *Planning Regulation 2017* offers no comment in respect of this application. We reserve the right to review our response in the event that there is any amendment or change to the application.

For further information please contact Bernie Darch Property Services Advisor, on (07) 3866 1313 or via email <a href="mailto:property@powerlink.com.au">property@powerlink.com.au</a> who will be pleased to assist.

Yours sincerely

Marandon Kingwill

**MANAGER PROPERTY**