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Community, Planning & Environment

28 August 2019

John Breen, Project Engineer - Development
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File Ref: OPW19/0018
Our Ref: JOHNB

Topcon Builders Pty Ltd
PO Box 842
MANUNDA QLD 4870

Dear Sir/Madam

Decision Notice ***Planning Act 2016 s63***

I refer to your application and advise that on 28 August 2019 under Council's delegated authority, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No:	OPW19/0018
Street Address:	2-14 Nye Street ATHERTON QLD 4883
Real Property Description:	Lot 8 RP 711206
Planning Scheme:	Tablelands Regional Council 2016 (v3)

DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit to construct a concrete footpath along the property frontage of Nye St.
Date of Decision:	28 August 2019
Deemed Approval (s64):	Not applicable

CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is 2 years starting the day that this development approval takes effect. (Refer to Section 85 "Lapsing of approval at end of currency period" of the *Planning Act 2016*.)

ASSESSMENT MANAGER CONDITIONS

General

- 1) All operational works must be designed and constructed in accordance with the procedures as set out in the FNQROC Development Manual.
- 2) Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, and subject to any alterations:
 - found necessary by the Council's Delegated Officer during construction of the development because of particular engineering requirements;
 - to ensure the works comply in all respects with the requirements and procedures of the FNQROC Development Manual and good engineering practice;
 - to ensure compliance with the following conditions of approval.
- 3) Council's examination of the documents should not be taken to mean that the documents have been checked in detail and Council takes no responsibility for their accuracy. If during construction, inadequacies of the design are discovered, it is the responsibility of the Principal Consulting Engineer to rectify the inadequacy and resubmit amended plans to Council for approval. If required, rectify the works accordingly.

Pre-Start Meeting and Construction Monitoring Fee

- 4) A Pre-Start Meeting is to be held on site prior to the commencement of work conforming to the requirements of Clauses CP1.07, CP1.08 and CP1.09 of the FNQROC Development Manual. Prior to the meeting the prescribed Construction Monitoring Fee as set out in Council's Schedule of Fees must be paid. Please contact Council's Delegated Officer, John Breen, on 40892357 to arrange this meeting.

Inspections

- 5) Inspections are to be carried out as detailed in the FNQROC Manual unless advised otherwise at the Pre-Start meeting.

Construction Security Bond and Defects Liability Bond

- 6) In addition to Clauses CP1.06 and CP1.20 of the FNQROC Development Manual; the Construction Security Bond and Defects Liability Bond must be lodged with Council prior to the pre-start meeting. The bond can be either cash or an unconditional Bank Guarantee with no termination date.
- 7) During the 12 months Defects Liability period, it is the responsibility of the developer to rectify any works found to be defective due to design faults and or found to exhibit faults attributed to the performance of the construction activities in terms of quality and conformance with design and specifications. The Bond will be returned on satisfactory correction of any defective work and after expiration of the maintenance period. Failure to comply with a Council issued instruction to correct defective work may result in the call up of the Bond to have the work completed.

Hours of Work

- 8) Work involving the operation of construction plant and equipment of any description, must only be carried out on site during the following times:
 - a. 7.00am to 6.00pm, Monday to Friday;
 - b. 7.00am to 1.00pm Saturdays;

- c. No work is permitted on Sundays or Public Holidays.

No variation to the above working hours is allowed unless otherwise agreed in writing by Council.

Transportation of Soil

- 9) All soil transported to or from the site must be covered to prevent dust or spillage during transport. If soil is tracked or spilt onto the road pavement from works on the subject land, it must be removed no later than at the end of each working day. Sediment must not enter Council's stormwater drainage network.

Control of Dust

- 10) The contractor must implement all appropriate measures to ensure that the adjoining residents and businesses are not inconvenienced by dust generated from the site.

Traffic Management

- 11) Appropriate traffic management is to be implemented as required during the construction of the works.

REFERRAL AGENCIES

Not Applicable.

APPROVED PLANS

The following plans are Approved plans for the development:

Approved Plans

Plan No.	Rev.	Plan Name	Date
PDR-SMECdrawing #19029-504(A)		<i>External Works Upgrade</i> , prepared by SMEC	15/7/2019.

VARIATION APPROVAL

Not Applicable.

OR

A Variation Approval under the Planning Act 2016 has been granted. The level of assessment and applicable codes for any development approval resulting from this approval are identified in [the approval] and/or [the approved documents and/or plans] and/or [the conditions].

FURTHER DEVELOPMENT PERMITS REQUIRED

Not Applicable.

OTHER APPROVAL/S REQUIRED FROM ASSESSMENT MANAGER (COUNCIL)

- Nil

SUBMISSIONS

Not Applicable.

OTHER DETAILS

If you wish to obtain more information about Council's decision please contact the abovementioned officer.

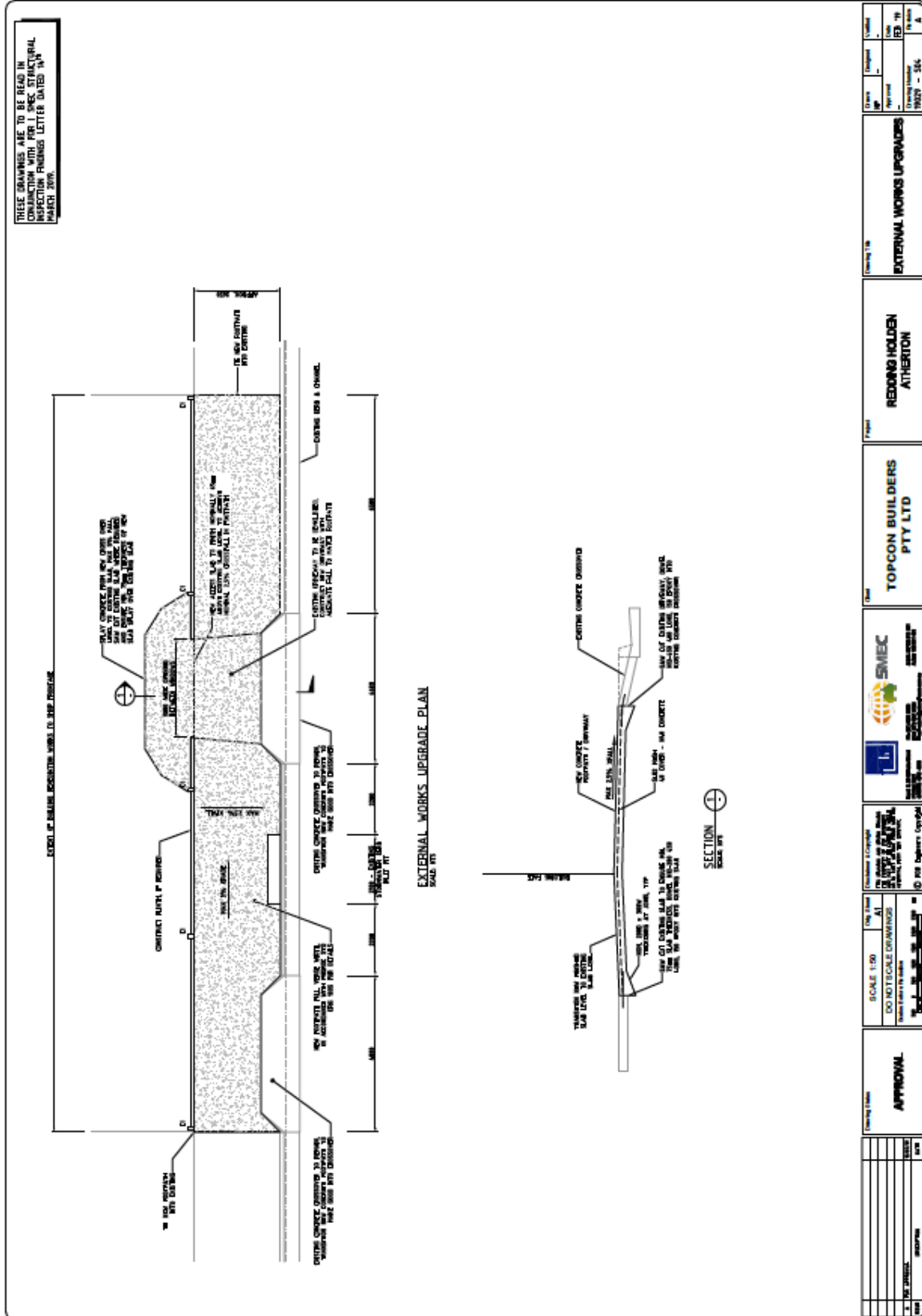
Yours faithfully

TUDOR TANASE
MANAGER PLANNING & REGULATORY SERVICES

Attachments:

1. Approved Plans/documents
2. Appeal Rights

Attachment 1 – Approved Plans/Documents



Attachment 2 - Appeal Rights

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 of the *Planning Act 2016* states –
 - (a) Matters that may be appealed to –
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) The person-
 - (i) who may appeal a matter (**the appellant**); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.

(Refer to Schedule 1 of the *Planning Act 2016*)

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

Note –

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

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt. It is declared that an appeal against an infrastructure charges notice must not be about-
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund-
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that-
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to –
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, table 1, item 1 – each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (f) for an appeal to the P&E Court – the chief executive; and
 - (g) for an appeal to a tribunal under another Act – any other person who the registrar considers appropriate.
- (4) The **service period** is –
 - (a) if a submitter or advice agency started the appeal in the P&E Court – 2 business days after the appeal has started; or
 - (b) otherwise – 10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section –

decision includes-

 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter-

 - (a) is final and conclusive; and
 - (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with the rules of the P&E Court.