



TORRES SHIRE COUNCIL

*To lead, provide & facilitate a sustainable,
safe & culturally vibrant community*

P O Box 171
THURSDAY ISLAND 4875

Telephone (07) 4069 1336
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Our Reference: IDAS 16/02

16 June 2021

Nevgold Pty Ltd
C/- P R Planning
PO Box 597
Bungalow QLD 4870
Email: admin@prplanning.com.au

Dear Peter,

Extension to Currency Period *Given under section 87 of the Planning Act 2016*

I refer to your request dated 12 May 2021 to extend the currency period for an existing approval. On 15 June 2021, Torres Shire Council decided your request.

APPLICATION DETAILS

Application No:	IDAS 16/02
Development Description:	Multiple Dwelling Units - 12 Townhouses
Street Address:	Millman Hill, Thursday Island
Real Property Description:	Lot 6 on SP219771
Planning Scheme:	<i>Torres Shire Planning Scheme 2007 (Version Amendment 1 – 19 January 2016)</i>

TYPE OF DEVELOPMENT

The currency period extension relates to the following type of approval:

Development Permit for Material Change of Use (Multiple Dwelling Units – 12 Townhouses)

CURRENCY PERIOD OF APPROVAL

The currency period for this development approval will now end on 29 December 2023.

RIGHTS OF APPEAL

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

For further information, please contact Torres Shire Council on (07) 4069 1336.

Yours faithfully

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

Dalassa Yorkston
Chief Executive Officer

Enc. **Attachment 1** – Extract of Appeal Provisions (Chapter 6, Part 1 and Schedule 1 of
The *Planning Act 2016*)

Attachment 2 – Appeal Rights Planning Act 2016

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—
 - (i) 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—
 - (i) 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—
 - (i) 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
 - (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
 - (f) 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—
 - (i) the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
 - (ii) the Plumbing and Drainage Act, part 4 or 5; or
 - (h) a decision to give an enforcement notice in relation to a matter under paragraphs (a) to (g); or
 - (i) a decision to give an infrastructure charges notice; or
 - (j) the refusal, or deemed refusal, of a conversion application; or
 - (k) a matter that, under another Act, may be appealed to the tribunal; or
 - (l) 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.
- (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; and
 - (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.

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
1. Development applications 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.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence	1 A concurrence agency that is not a co-respondent

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
		agency's referral response—the concurrence agency	2 If a chosen Assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application
2. Change applications An appeal may be made against— (a) a responsible entity's decision for a change application, other than a decision made by the P&E court; or (b) a deemed refusal of a change application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 The applicant 2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice	The responsible entity	If an affected entity starts the appeal—the applicant	1 A concurrence agency for the development application 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 An appeal may be made against— (a) the assessment manager's decision about an extension application; or (b) a deemed refusal of an extension application.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 The applicant 2 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

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
<p>4. Infrastructure charges notices An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds</p> <p>a) The notice involved an error relating to –</p> <p>(i) The application of the relevant adopted charge; or</p> <p>Examples of errors in applying an adopted charge –</p> <ul style="list-style-type: none"> • The incorrect application of gross floor area for a non-residential development • Applying an incorrect 'use category', under a regulation, to the development <p>(i) The working out of extra demands, for section 120; or</p> <p>(ii) An offset or refund; or</p> <p>b) There was no decision about an offset or refund; or</p> <p>c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or</p> <p>d) The amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p>			
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	-	-
<p>5. Conversion applications An appeal may be made against—</p> <p>(a) the refusal of a conversion application; or</p> <p>(b) a deemed refusal of a conversion application.</p>			
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	-	-
<p>6. Enforcement notices An appeal may be made against the decision to give an enforcement notice.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The person given the enforcement 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

Table 2			
Appeals to the P&E Court only			
<p>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—</p> <p>(a) an error or mistake in law on the part of the tribunal; or</p> <p>(b) jurisdictional error.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A party to the proceedings for the decision	The other party to the proceedings for the decision	-	-

**Table 2
Appeals to the P&E Court only**

<p>2. Eligible submitter appeals An appeal may be made against the decision to give a development approval, or an approval for a change application, to the extent that the decision relates to— (a) any part of the development application for the development approval that required impact assessment; or (b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 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
<p>3. Eligible submitter and eligible advice agency appeals An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to— (a) any part of the development application or the change application, for the development approval, that required impact assessment; or (b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 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 3 An eligible advice agency for the development application or 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
<p>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 deemed refusal of a claim under paragraph (a) or (b).</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-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	-	-
<p>5. Registered premises</p>			

Table 2 Appeals to the P&E Court only			
An appeal may be made against a decision of the Minister under chapter 7, part 4.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 A person given a decision notice about the decision 2 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.			
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 the 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 1 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
3. Certain decisions under the Building Act and the Plumbing and Drainage Act An appeal may be made against a decision under— (a) the Building Act, other than a decision made by the Queensland Building and Construction Commission; or (b) the Plumbing and Drainage Act, part 4 or 5.			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)

Table 3 Appeals to the tribunal only			
A person who received, or was entitled to receive, notice of the decision	The person who made the decision	-	-
<p>4. Local government failure to decide application under the Building Act</p> <p>An appeal may be made against a local government's failure to decide an application under the Building Act within the period required under that Act.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
A person who was entitled to receive, notice of the decision	The local government to which the application was made	-	-

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0407 167 779
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12 May 2021

The CEO
Torres Shire Council
Box 171
THURSDAY ISLAND 4875

Attn Joseph Sabatino joseph.sabatino@torres.qld.gov.au

**Re Extension to Currency Period - Proposed Multiple Dwelling – Milman Hill
IDAS16/02**

I refer to Council's decision notice dated 29 June 2017 and received in this office on 1 July 2017 and the subsequent response to the request for a Negotiated Decision Notice.

The Applicant, Nevgold Pty Ltd (also the owner) requests the Currency period for this Development Permit be extended by 4 years.

I am informed that the Directors of Nevgold are currently in negotiations with Council to resolve a number of long outstanding issues and misunderstandings that have adversely impacted the larger project and the relationship with Council. Should resolution be achieved the completion of the unit project will become less complicated and more efficient.

The unit project can be stand alone as access and all services are already available to the site and the approval is for the use of part of Lot 6 therefore independent of the other approvals on the site. It is clearly more practical to do it in conjunction with the other development proposed but not necessary.

Even so the currency period needs to be extended as it is near its end.

Nevgold intends to commence the unit project in the foreseeable future as it has identified a need for accommodation for all sectors of the community. It is also their view that availability and cost of accommodation for local residents is impacted by the relatively large proportion of itinerant and short-term workers brought to the area by Government and contractors etc. These workers (or their employers) can often pay more for housing than locals so keeping the supply of housing high is an important way of facilitating affordable supply for locals.

Various, mainly Government, employers have approached Nevgold to provide accommodation on the site from time to time. It is considered that the location and amenity, including the spectacular views afforded from the site would assist attracting suitable skilled workers to the area.


The proponent seeks a 4-year extension out of an abundance of caution rather than an expectation that the project will take that long to bring to fruition.

Of marginal interest is, had the application been lodged in 2017 the currency period would have been six years and this request for extension may not have been necessary.

Nevgold will pay the fee direct to Council. It is understood Nevgold is on the Council's invoicing system.

My client looks forward to Council's favourable decision

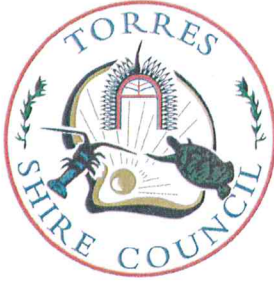
Yours faithfully

A handwritten signature in black ink, appearing to read 'Peter Robinson', with a long horizontal flourish extending to the right.

PETER ROBINSON

Principal Planner

TORRES SHIRE COUNCIL



P O Box 171
THURSDAY ISLAND 4875

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Email: admin@torres.qld.gov.au
ABN: 34 108 162 398

29 June 2017

Our Ref: IDAS 16/02
Enquire to: Diana Russell
Telephone: (07) 3103 9111

Nevgold Pty Ltd
C/- PR Planning
PO Box 2133
CAIRNS Qld 4870

Attention: Peter Robinson

Decision Notice

Sustainable Planning Act 2009 Sections 334 and 335

Proposal: Material Change of Use
(Multiple Dwelling Units – 12 townhouses)

Application No.: IDAS 16/02

Address: Milman Hill, Thursday Island

Property Description: Lot 6 on SP219771

Decision Date: 28 June 2017

Dear Peter

I wish to advise that on 28 June 2017 the above development application was –

- Approved in full;
OR
 Approved in part;
OR
 Approved in full with conditions. The conditions relevant to this approval are included below. These conditions are clearly identified to indicate whether the assessment manager or concurrence agency imposed them;
OR
 Approved in part for the following, with conditions.

1. Details of the approval

The following type of approval has been issued –

	Development Permit	Preliminary Approval
Material Change of Use	<input checked="" type="checkbox"/>	<input type="checkbox"/>

2. The currency period

Refer to section 341 of the *Sustainable Planning Act 2009* (When approval lapses if development not started)

- For material change of use — 4 years starting the day the approval takes effect.

3. The approved plans

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

Plan Description	Reference	Date
Site Plan & Elevations	A-01 Issue D	February 2017
Floor Plan	A-02 Issue C	February 2016

4. Referral Agencies

The application did not require referral to any referral agencies.

5. Other necessary Development Permits

Listed below are other Development Permits that are necessary to allow the development to be carried out –

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

6. Submissions

The application was publicly notified between 19 December 2016 and 30 January 2017. No submissions were received.

7. Conflict with a relevant instrument and reasons for the decision despite the conflict

The Assessment Manager does not consider that the Assessment Manager's decision conflicts with a relevant instrument.

8. Appeal rights

Attached is an extract from the *Sustainable Planning Act 2009* which details your appeal rights regarding this decision.

Applicants may also have a right to appeal to the Building and Development Dispute Resolution Committee. For more details, see the *Sustainable Planning Act 2009*, Chapter 7, Part 2.

ASSESSMENT MANAGER:

TORRES SHIRE COUNCIL

ASSESSMENT MANAGER CONDITIONS

<u>PLANNING</u>	<u>TIMING FOR COMPLIANCE</u>									
<p>1. The Plans of Development, as noted below are approved subject to any alterations. The applicant/owner must at all times during development of the land carry out the development and construction of any building thereon and conduct the approved use generally in accordance with:</p> <ol style="list-style-type: none"> a. The plans, specifications, facts and circumstances as set out in the application submitted to Council; b. To ensure that the development complies in all respects with the following conditions of approval and the requirements of Council's Planning Scheme; and c. Any alterations found necessary by Council at the time of examination of Engineering Plans or during construction of the development because of particular engineering requirements. <p>Except for any variation required to comply with these conditions of approval.</p>	<p>To be completed prior to commencement of use and to be maintained at all times.</p>									
<p>Approved Plans</p> <p>2. The approved Plans of Development are as follows:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: left;">Plan Description</th> <th style="text-align: left;">Reference</th> <th style="text-align: left;">Date</th> </tr> </thead> <tbody> <tr> <td>Site Plan & Elevations</td> <td>A-01 Issue D</td> <td>February 2017</td> </tr> <tr> <td>Floor Plan</td> <td>A-02 Issue C</td> <td>February 2016</td> </tr> </tbody> </table>	Plan Description	Reference	Date	Site Plan & Elevations	A-01 Issue D	February 2017	Floor Plan	A-02 Issue C	February 2016	<p>Prior to commencement of use and to be maintained at all times.</p>
Plan Description	Reference	Date								
Site Plan & Elevations	A-01 Issue D	February 2017								
Floor Plan	A-02 Issue C	February 2016								
<p>3. Amended plans must be prepared and submitted to Council demonstrating that the development (including building areas, car park and manoeuvring areas, earthworks and landscaping) is located entirely outside of Easements A & H on SP219771. Alternatively demonstrate to Council that there is no conflict between the terms of the easements and the proposed development.</p>	<p>To be completed prior to the issuing of a Development Permit for Building Works.</p>									
<p>4. Amended plans must be prepared and submitted to Council demonstrating that a communal open space area is available for residents.</p>	<p>To be completed prior to the issuing of a Development Permit for Building Works.</p>									
<p>Built Form and Amenity</p>										
<p>5. The applicant/owner must submit a plan detailing the construction materials and colours specific to the external appearance of the development for Compliance Assessment. The plan will be assessed against Council's Policies and Guidelines.</p>	<p>To be completed prior to the issuing of a Development Permit for Building Works.</p>									
<p>6. The development and construction of any building must, unless Council otherwise agrees, comply with the minimum set back distances in accordance with the Building Code of Australia and/or the Queensland Development Code including the provision of fire rated walls where necessary.</p>	<p>To be completed prior to commencement of use and to be maintained at all times.</p>									
<p>7. The applicant is to submit an acoustic report prepared by a suitably qualified professional demonstrating that the proposed units will be unaffected by the nearby wind turbines. Any recommendations of the aforementioned report must be incorporated into the building design.</p>	<p>To be completed prior to the issuing of a Development Permit for Building Works.</p>									
<p>Landscaping Plan</p>										
<p>8. The applicant/owner must submit a plan detailing the proposed landscaping works for Compliance Assessment against Council's Policies and Guidelines.</p> <p>The landscaping plan must detail:</p>	<p>Prior to the construction of the landscape works.</p>									

<u>PLANNING</u>	<u>TIMING FOR COMPLIANCE</u>
<ul style="list-style-type: none"> a. Location of plantings for the site; b. Types of species to be used; c. Methods of irrigation and maintenance; d. A 3m landscape buffer between the building and the internal road. <p>Landscaped areas adjoining the parking area must be protected from vehicle encroachment by a 150mm high vertical concrete kerb or similar obstruction.</p>	
9. All landscaping works must be installed and maintained in accordance with the endorsed plan.	Prior to commencement of use and to be maintained at all times.
Bushfire Maintenance	
10. Firebreaks from hazardous vegetation (of 1.5 times the predominant mature canopy tree height or 10 m, whichever is the greater) must be maintained by the owners at all times and flammable material must not be allowed to build up around the buildings so as not to create a fire hazard.	Prior to commencement of Use and to be maintained at all times.
Environmental	
11. The applicant/owner shall be responsible for the complete removal and destruction of any noxious weed or plants existing on that part of the land the subject of the Development Permit.	To be completed prior to commencement of use and to be maintained at all times.
12. Machinery and construction and landscape materials brought from the mainland or from the Torres Strait Protected Zone must comply with the General Biosecurity Obligation (GBO) which requires that all persons who deal with biosecurity matter or a carrier, if they know or ought reasonably to know that it poses a biosecurity risk, to take all reasonable and practical measures to prevent or minimise the risk.	Prior to commencement of use and to be maintained at all times.
Electricity	
13. The applicant/owner must submit satisfactory evidence from Ergon Energy that: <ul style="list-style-type: none"> a. Electricity is available to the approved development; or b. An agreement has been made between the landowner and Ergon Energy to supply electricity to the proposed development. 	Prior to the issuing of a Development Permit for Building Works.
Telecommunications	
14. The applicant/owner must submit satisfactory evidence from telecommunications authorities that: <ul style="list-style-type: none"> a. Telecommunication services are available to the approved development; or b. An agreement has been made between the landowner and a telecommunication provider to supply telecommunications services to the proposed development. 	Prior to the issuing of a Development Permit for Building Works.
Noise and Lighting	
15. All potential noise sources including refuse collection areas and air conditioners shall be installed and located in a manner which prevents noise nuisance beyond the subject site in accordance with the nuisance provisions of the <i>Environmental Protection Regulation 1998</i> .	To be completed prior to commencement of use and to be maintained at all times.
16. Ensure external lighting does not create a light nuisance inside the adjacent dwellings.	To be completed prior to commencement of use and to be maintained at all times.
Costs	
17. All recoverable unpaid rates, charges and expenses pertaining to the subject land are to be paid in full.	To be completed prior to commencement of use and to be maintained at all times.
Advertising	
18. Any advertising on the site must comply with the requirements of the Advertising Code in the Torres Shire Planning Scheme 2007. Details of advertising must be submitted to allow for compliance assessment against Council's Policies and Guidelines.	Prior to the issuing of a Development Permit for Building Works.

ENGINEERING	TIMING FOR COMPLIANCE
Engineering Certification	
19. A Registered Professional Engineer of Queensland shall certify engineering drawings and specifications for all engineering works, which shall be submitted in conjunction with an application for a Development Permit for Building Works and/or Operational Works.	Prior to the issuing of a Development Permit for Building Works.
Internal Driveway	
20. Construction of internal driveways is to be to the requirements of Council's development standards as referenced in the TSC Planning Scheme. Engineering drawings must be submitted with an Operational Works application.	Prior to the issuing of a Development Permit for Building Works.
Vehicle Parking	
21. The development must provide fifteen (15) onsite covered parking spaces for residents and guests. Spaces must comply with Australian Standard AS2890.1 2004 Parking Facilities – Off Street Car Parking.	To be completed prior to commencement of use and to be maintained at all times.
22. The parking must be constructed in accordance with Council's Development Standards. In particular, all parking, driveway and vehicular manoeuvring areas must be imperviously sealed with a concrete, concrete pavers or bitumen finish, drained and line marked.	To be completed prior to commencement of use and to be maintained at all times.
Water Supply and Sewerage Works	
23. The applicant/owner must carry out water supply and sewerage works to connect the proposed development to Council's existing water supply and sewerage network to the satisfaction of Council's Delegated Officer. Detailed plans must be submitted with an application for Operational Works.	Prior to the issuing of a Development Permit for Operational Works.
24. All works must be carried out in accordance with the approved plans.	To be completed prior to commencement of use and to be maintained at all times.
Public Utilities	
25. Any damage caused to any public utility during the course of construction shall be repaired to ensure it conforms to the Council's Policies and Guidelines relevant to the infrastructure subject to damage.	To be completed prior to commencement of use and to be maintained at all times.
26. Any alteration of any public utility or other facilities necessitated by the development of the land or associated construction works external to the site shall be at no cost to Council.	To be completed prior to commencement of use and to be maintained at all times.
Construction Management Plan	
27. A construction management plan outlining the proposed works, access and transport methods must be provided to the satisfaction of Council.	Prior to the issuing of a Development Permit for Building Works.
Stormwater	
28. The Applicant shall undertake a local drainage study, prepared by an appropriately experienced RPEQ, to determine the drainage impacts on downstream properties and the mitigation measures required to minimise such impacts. In particular, the study must address the following: i. Confirm the proposed discharge point in the natural gully located to the west of the subject site is a legal point of discharge. ii. Identify any requirement for drainage easements. iii. Information on the proposed works and any impacts proposed at the drainage outlet from the proposed development. iv. Confirm the primary and secondary flow paths for the 2, 10, 50 and 100 year ARI flood events, post development. Confirm that the existing discharge network downstream of the proposed discharge location has sufficient capacity to accommodate the post	This report is to be submitted to Council and approved prior to the issuing of a Development Permit for Building Works.

ENGINEERING	TIMING FOR COMPLIANCE
development flows and results in no net worsening on downstream properties.	
29. All stormwater within or entering the site shall be controlled in such a manner so that it does not cause any public health or safety concerns and/or damage or loss to property and building for subject site or downstream of the subject site.	To be completed prior to commencement of use and to be maintained at all times.
30. Stormwater design shall accord to the design and construction standards set down in FNQROC Manual and those of QUDM.	Prior to the issuing of a Development Permit for Operational Works.
31. Detailed stormwater design plans must be submitted with an application for Operational Works.	Prior to the issuing of a Development Permit for Operational Works.
32. All surface water from the driveway and vehicle parking area is to be collected by drains and discharged via underground pipes to lawful point of discharge. The system is to be designed to prevent surface water being directed across the footpath in the road reserve and neighbouring properties.	To be completed prior to commencement of use and to be maintained at all times.
Lawful Point of Discharge	
33. The applicant/owner must ensure that the flow of all external stormwater from the property is directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development, all to the requirements and satisfaction of Council's Policies and Guidelines.	Prior to the issuing of a Development Permit for Building Works.
OR	
34. Submit to Council, written agreement from the owners of downstream properties for the discharge of stormwater from the site through the affected properties to a lawful point of discharge.	Prior to the issuing of a Development Permit for Building Works.
Erosion and Sediment Control	
35. The applicant/owner shall prevent erosion and sediment export from leaving the site. Site control measures such as silt fencing, controlled gravel access to the site and controlled disposal of waste, may be necessary.	During Operational and Building Works and then to be maintained at all times.
36. Plans detailing the methods of controlling erosion and sediment are to be submitted to Council for a Development Approval in accordance with Council's Policies and Guidelines.	Prior to the issuing of a Development Permit for Building Works.
Excavation and Filling	
37. Approval of this development application in no way reflects or suggests any acceptance of the unapproved earthworks carried out on the site prior to lodgement of this development approval. Remediation works will be the subject of a separate operational works application. The applicant/owner must submit detailed plans for excavation and filling on the site in association with an application for Operational Works.	Prior to the issuing of a Development Permit for Building Works.
38. All uncontrolled fill must be removed from the site in accordance with the recommendations of the Geotechnical Foundation and Stability Report (Job No: 116-19043) prepared by Soil Surveys and dated January 2017.	Prior to the issuing of a Development Permit for Building Works.
39. Engineered fill shall be placed and compacted in accordance with the FNQROC Development Manual, the Applicant's geotechnical report and relevant Australian Standards. The applicant shall provide certification by an appropriately experienced RPEQ engineer that fill material has been selected, placed and compacted in accordance with these requirements.	Prior to the issuing of a Development Permit for Building Works.
Operational Works	
40. An Operational Works Approval is required for the internal driveway, earthworks, drainage works and water and sewer works associated with the development. Such works must be completed to the satisfaction of the Director of Engineering and Infrastructure Services prior to Commencement of Use. Where plans are required, three (3) A1 size copies of the plans and one (1) copy at A3 size must be submitted to Council. The plans must detail: i. The design of the earthworks batters, excavations and embankments in accordance with the applicant's geotechnical	Prior to the issuing of a Development Permit for Building Works.

ENGINEERING	TIMING FOR COMPLIANCE
<p>report and the FNQROC Development Manual.</p> <p>ii. The proposed drainage infrastructure including underground drainage, open channels and flow paths.</p> <p>iii. The driveway and carpark layout design in accordance with the FNQROC Development Manual and relevant Australian Standards.</p> <p>iv. All submitted material must be prepared and authorised by an appropriately qualified RPEQ engineer</p>	
Refuse Storage	
41. The applicant/owner must provide a refuse bin enclosure in suitably screened, imperviously paved area large enough for storage of refuse containers. The refuse bin enclosure must be roofed, bunded and fitted with a bucket trap. An external cold-water tap is to be provided for the facility.	To be completed prior to commencement of use and to be maintained at all times.
Water Saving	
42. All toilet devices in the approved development must be fitted with dual flush cisterns and hand basins fitted with flow control valves or similar water control devices to generally restrict flow to 9 litres of water per minute.	To be completed prior to commencement of use and to be maintained at all times.
43. All kitchen and bathrooms fittings in the approved development must comply with the AAA Water Conservation System as defined by the AS/NZS 6400 (Water Efficient Products – Rating and Labelling 2003) and AS/NZS 3500 (National Plumbing and Drainage Standard Part 1.2). All tap ware shall not exceed a maximum flow of 9 litres of water per minute. Dishwashers are excluded from this requirement.	To be completed prior to commencement of use and to be maintained at all times.
Costs	
44. The applicant/owner shall be responsible for meeting all costs associated with the works required by this approval, together with the costs of any alterations to public utilities and services required by such works and with the connection of the development to such utilities and services. All works required shall be completed to the satisfaction of Council's Policies and Guidelines.	To be completed prior to the commencement of use, unless otherwise specified by conditions of this approval or by a resolution of Council.

ADVICE
1. This approval, granted under the provisions of the Sustainable Planning Act 2009, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 341 of the Sustainable Planning Act 2009.
2. The following further Development Permits must be obtained, where required: <ol style="list-style-type: none"> a. Development Permit for Operational Works b. Development Permit for Building Works c. Development Permit for Plumbing Works.
3. The applicant/owner must contribute in accordance with Council's Charges Resolution (No.1) 2015 as required under Section 635 of the Sustainable Planning Act 2009. Charges are to be paid in accordance with the Infrastructure Charges Notice (ICN) issued concurrently with the Development Permit. Charges may be subject to escalation in accordance with the resolution and SPA. Payment is required prior to the commencement of use.
4. No building materials or the like are to be stored on the footpath unless an appropriate approval from Council is obtained, including the payment of associated fees.
5. All building works are to be carried out in accordance with the requirements of the Building Code of Australia.
6. All building site managers must take all action necessary to ensure building materials and/or machinery on construction sites are secured immediately following the first potential cyclone warning and that relevant emergency telephone contacts are provided to Council Officers, prior to Commencement of Works.
7. Pursuant to the <i>Building and Construction Industry (Portable Long Service Leave) Act 1991</i> , if the cost of Operational Works exceeds \$80,000, then a portable long service levy is required to be paid. In accordance with Section 77 (1) of the Act, Council is required to sight the approved form issued by the Building and Construction Industry (Portable Long Service Leave) Authority that confirms that the requirements of the Act have been satisfied.

ADVICE

8. In accordance with the *Environmental Protection Regulation 2008*, work involving machinery of any description shall only be carried out on site from:
- 6.30am to 6.30pm, Monday to Saturday;
 - With no work on Sundays, Public Holidays and whilst a funeral or tombstone opening is being held in the vicinity of the activity.

A maximum penalty of \$1,500.00 applies to an offence under these provisions.

9. In accordance with the *Environmental Protection (Water) Policy 2009*, all sand, silt, mud, paint, cement, concrete, builders waste or rubbish shall not be permitted to enter or be placed where it could reasonably be expected to more into a roadside gutter, stormwater drain or watercourse. On the spot fines apply for such offences.

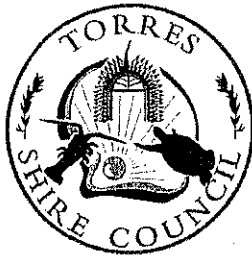
10. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements. Any provisions contained in this approval relating to the enforcement of any of the conditions shall be in addition to all other rights, powers and privileges that the Council may possess or obtain, and nothing contained in these conditions shall be construed so as to prejudice, affect or otherwise derogate or limit these rights, powers and privileges of the Council.

11. Infrastructure Charges Notice: Pursuant to the Sustainable Planning Act 2009 and the State Planning Regulatory Provision (adopted charges) an Infrastructure Charges Notice relates to this development permit and accompanies this notice.

For information relating to the Sustainable Planning Act 2009 log on to
<https://www.dilgp.qld.gov.au/planning/planning-framework/legislation.html>



Dalassa Yorkston
Chief Executive Officer



TORRES SHIRE COUNCIL

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THURSDAY ISLAND 4875

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Email: admin@torres.qld.gov.au
ABN: 34 108 162 398

20 September 2017

Our Ref: IDAS 16/02
Enquire to: Diana Russell
Telephone: (07) 3103 9111

Nevgold Pty Ltd
C/- PR Planning
PO Box 2133
CAIRNS Qld 4870

Attention: Peter Robinson

Request for Negotiated Decision Notice - Refusal Sustainable Planning Act 2009 Section 363

Proposal: Material Change of Use
(Multiple Dwelling Units – 12 townhouses)

Application No.: IDAS 16/02

Address: Milman Hill, Thursday Island

Property Description: Lot 6 on SP219771

Decision Date: 28 June 2017

Dear Peter

I wish to advise that Council decided on 19 September 2017 to refuse the request by Nevgold Pty Ltd for a negotiated decision notice for the above development and that all conditions are to remain unchanged. The reasons are as follows:

Condition 7: Council requires an acoustic report that provides evidence of the noise levels and if the noise is above 40dB(A) recommendations on how this will be managed in the design of the townhouses to meet the requirements.

Condition 13: Part a) of the condition provides for the scenario where electricity is available.

Condition 20: The internal driveways refer to the site shown on the plans.

Condition 23: The townhouses must be connected to Council's water and sewer networks. The condition requires plans to be submitted to ensure they meet Council requirements.

Condition 28: The illegal earthworks have changed the levels on the site for the proposed townhouses and the replacement of the fill will require a new assessment of drainage impacts.

Condition 37: The earthworks were completed illegally and Council has not received an operational works application to ensure earthworks are completed to the required standards.

Condition 38: Council officers and consultant engineer have reviewed the report and agree with the recommendation that the uncontrolled fill be replaced. The earthworks are illegal and an operational works application has not been received.

Condition 39: The earthworks were completed illegally and the uncontrolled fill must be replaced to ensure it meets appropriate engineering standards as certified by an RPEQ engineer.

Condition 40: New evidence or reports about the earthworks can be submitted to Council for assessment with the operational works application.

The appeal period re-starts the day after you receive this notice. The *Planning Act 2016* applies to appeals commenced after 3 July 2017.

Should you have any questions about this matter please contact Diana Russell, Regulatory Manager, on 3103 9111 or by email diana.russell@torres.qld.gov.au

Yours sincerely



Dalassa Yorkston
Chief Executive Officer