Decision Notice

Planning Act 2016

Address all communications to
The Chief Executive Officer

PO Box 974, Ayr Qld 4807
T (07) 4783 9800
E planning@burdekin.qld.gov.au
www.burdekin.qld.gov.au

Enquiries to: Planning and Development
Our Reference: MCU26/0013
Your Reference: N/A

3 October 2026

Nrgize Fitness
14 Coronation Street
AR QLD 4807
Via email: *nrgizefitness@outlook.com*

Attention: Andrea Piotto

Dear Andrea,

Development Application: MCU26/0013

Decision Notice – Development Permit for Material Change of Use for Fitness Studio (Indoor Sport and Recreation) on land located at 152b Queen Street, Ayr (Lot 1 on RP725422)

I refer to your development application made on behalf of Nrgize Fitness, seeking a Development Permit for Material Change of Use for Fitness Studio (Indoor Sport and Recreation), on land as described above.

Your development application was assessed by relevant officers and Council approved the proposed development on **28 October 2026**, subject to reasonable and relevant conditions. Council's Decision Notice is **enclosed**.

This notice outlines the development's conditions of approval, currency period, approved plans, and includes relevant extracts from the *Planning Act 2016*. These extracts contain information relating to the making of representations regarding conditions, the suspension of the appeal period, negotiated decisions, and the lodgement of an appeal, should you wish to do so.

Yours sincerely,

James Stewart
Director Infrastructure, Planning and Environmental Services

Encl: **Attachment A – Conditions of Approval**
Attachment B – Approved Documentation

Decision Notice

Section 63 of the Planning Act 2016

Application Details

This Decision Notice relates to the below Development Application:

Application Number:	MCU26/0013
Applicant Details:	Nrgize Fitness 14 Coronation Street AR QLD 4807 Via email: *nrgizefitness@outlook.com*
Owner Details:	Andrea Piotto
Street Address:	152b Queen Street, Ayr
Real Property Description:	Lot 1 on RP725422
Proposal:	Material Change of Use
Planning Scheme:	*Burdekin Shire Planning Scheme 2022*
Level of Assessment:	Code

Decision Details

The information below outlines the specifics of any approval or refusal issued by the Assessment Manager resulting from development assessment as per the provision of the *Planning Act 2016*.

Type of Decision:	Approval with conditions
Date of Decision:	28 October 2026
Decision Type:	Development Permit
Deemed Approval:	The Development Permit is not a deemed approval under Section 64 of the *Planning Act 2016*
Submissions:	Nil received

Conditions of Approval

The Conditions of Approval are set out in **Attachment A** of this Decision Notice.

Approved Plans and Documents

The approved development must be completed and maintained generally in accordance with the approved plans and documents, except as amended by the conditions of this permit. The approved plans are included in **Attachment B** of this Decision Notice.

Referral Agencies

Not applicable.

Further Approvals Required

As listed in the Advice section of the Conditions of Approval at **Attachment A**.

Infrastructure Charges

The proposal is not a development type that triggers infrastructure charges to be applied, as per Council's Charges Resolution.

Rights of Appeal

The rights of an Applicant to appeal to the Planning and Environment Court against a decision about a Development Application are set out in Chapter 6, Part 1 of the *Planning Act 2016*. There may also be the right to make an application for a declaration by Tribunal (refer Chapter 6, Part 2 of the *Planning Act 2016*).

An Applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

The timeframes for starting an appeal in the Planning and Environment Court are set out in Section 229 of the *Planning Act 2016*. A copy of the relevant appeal provisions from the *Planning Act 2016* is **enclosed**.

Approval Currency Period

Pursuant to Section 85 of the *Planning Act 2016*, the Material Change of Use component of the Development Approval will lapse six (6) years after the approval starts to have effect, unless otherwise conditioned. The currency period can only be extended if the request is received before the approval lapses.

Notice About Decision – Statement of Reasons

This notice is prepared in accordance with Section 63(5) of the *Planning Act 2016* to inform the public about a decision that has been made in relation to a development application. The purpose of the notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:

- the relevant parts of the planning scheme and assessment benchmarks against which the application was assessed; and
- any other information, documents or material Council was either required, or able, to consider in its assessment.

All terms used in this notice have the meanings given them in the *Planning Act 2016*.

Assessment Benchmarks

The following assessment benchmarks applied to the proposed development:

- Centre Zone Code
- Development Works Code

Compliance with Assessment Benchmarks and Reasons for the Decision

The proposed development was assessed against all assessment benchmarks listed above and complies with the exception of the following listed. Reasons for approval despite non-compliance are listed below.

Assessment Benchmarks	Reason for approval despite non-compliance with Assessment Benchmark
Centre Zone Code	
Site Layout	
PO1 Buildings have a height, scale and alignment consistent with the streetscape character, and create a safe, continuous and comfortable pedestrian environment at the street front. **AO1.4** Car parking is provided to the side or the rear of the building but is not provided between the building and the street.	Conditioned to comply with P01 Does not comply in full with PO1. Car parking can be provided on the site via the existing access arrangements. Formalisation of additional on-site parking is not proposed by the applicant. While the Planning Scheme requires parking to be provided for the proposed Indoor Sport and Recreation use, strict compliance is not considered necessary in this instance. The site is located within the established Ayr town centre and is serviced by ample on-street parking within Queen Street and the surrounding road network. The proposed Small Fitness Studio is relatively small in scale and is not expected to generate significant parking demand. Given the availability of public parking infrastructure, the town centre location and the nature of the proposed use, on-street parking is considered sufficient to service the development.

Council exercises its discretion to approve the application even though the development may not strictly comply with an aspect of the assessment benchmarks, as the proposed development complies, or can be conditioned to comply with the outcomes sought by the relevant parts of the planning scheme/Strategic Framework and the intent of the relevant codes that apply including the Centre Zone Code and Development Works Code.

Appeal Rights

Planning Act 2016 and 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 a decision of the Minister, under chapter 7, part 4, to amend the registration of premises to include additional land in the affected area for the premises—20 business days after the day a notice is published under section 269A(2)(a); or
  (e) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
  (f) 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
  (g) for an appeal relating to the *Plumbing and Drainage Act 2018*—
    a. for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
    b. for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
    c. for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
    d. otherwise—20 business days after the day the notice is given; or
  (h) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

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

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

230 Notice of appeal

(1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that-
  (a) is in the approved form; and
  (b) succinctly states the grounds of the appeal.
(2) The notice of appeal must be accompanied by the required fee.
(3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to –
  (a) the respondent for the appeal; and
  (b) each co-respondent for the appeal; and

(c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
(d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
(e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
(f) for an appeal to the P&E Court – the chief executive; and
(g) for an appeal to a tribunal under another Act – any other person who the registrar considers appropriate.

(4) The *service period* is –
(a) if a submitter or advice agency started the appeal in the P&E Court – 2 business days after the appeal 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 to an appeal by filing a notice of election in the approved form—
a. if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
b. otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.

(7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

(1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.

(2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.

(3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.

(4) In this section –
decision includes-
(a) conduct engaged in for the purpose of making a decision; and
(b) other conduct that relates to the making of a decision; and
(c) the making of a decision or failure to make a decision; and
(d) a purported decision; and
(e) a deemed refusal.
non-appealable, for a decision or matter, means the decision or matter-
(a) is final and conclusive; and
(b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the Judicial Review Act 1991 or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
(c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

(1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.

(2) However, the P&E Court may hear and decide an appeal even if the person has not complied with the rules of the P&E Court.

Attachment A – Assessment Manager Conditions of Approval

Condition	Reason	Timing
1. General and Administration		
<u>Compliance with Conditions</u> 1.1 The applicant (and any contractor, agent, employee or invitee of the applicant) is responsible for carrying out the approved development and ensuring compliance with this development approval, the conditions of the approval and the relevant requirements in accordance with: 1.1.1 The specifications, facts and circumstances as set out in the application submitted to Council, including recommendations and findings confirmed within the relevant technical reports. 1.1.2 The development must comply in full with all conditions of this approval, and is to be designed, constructed and maintained in accordance with relevant Planning Scheme requirements, Council policies, guidelines and standards (except as otherwise specified by any condition) and all other relevant legislative requirements to Council's satisfaction, and best industry practice. 1.2 Where a discrepancy or conflict exists between the written condition(s) of the approval and the approved plans, the requirements of the written condition(s) of the development approval will prevail. 1.3 Where these conditions refer to 'Council' in relation to requiring Council to approve or be satisfied, the role of the Council may be fulfilled in whole or in part by an officer acting under appropriate delegation. <u>Notice of Intention to Commence the Use</u> 1.4 Prior to the commencement of the use on the land the subject of the application, written notice must be given to Council that the use (development and/or works) fully complies with the decision notice issued in respect of the use. <u>Works – Applicant's Responsibility/Expense</u> 1.5 The cost of all works associated with the development and construction of the development including services, facilities and/or public utility alterations required, are met by the applicant at no cost to the Council. 1.6 The applicant must repair any damage to existing infrastructure (e.g. kerb and channel, footpath or roadway) that may occur during any works undertaken as part of the development. Any damage that is deemed to create a hazard to the community must be repaired immediately.		At all times.

Condition	Reason	Timing
1.7 Any required relocation and/or alteration to a public service or facility installation must be carried out at no cost to Council. Infrastructure Conditions 1.8 All development conditions contained in this development approval relating to infrastructure under Chapter 4 of the *Planning Act 2016 (the Act)*, should be read as being non-trunk infrastructure conditioned under section 145 of the Act, unless otherwise stated.		
2. Approved Plans & Documents – Required Plans		
Approved Plans and Documents 2.1 The proposed development must be completed, comply with and maintained generally in accordance with the drawings/ documents identified below, except as otherwise specified and/or amended by any condition of this approval. 2.2 The development must be constructed in the position and at the levels identified on the approved plans or as stipulated by a condition of this approval, noting that all boundary setback measurements are taken from the real property boundary and not from such things as road bitumen or fence lines. 2.3 Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval must prevail.	The development must comply with all planning scheme requirements as approved and conditioned by this development permit.	At all times.

Approved Plans

Drawing Title	Drawing/Revision	Date
Drawing: MCU26/0013 A – 152B Queen Street Ayr Extent of Indoor Sport and Recreation (Small Fitness Studio)	A	12/10/2026

Condition	Reason	Timing
3. Notice of Intention to Commence the Use		
A minimum two (2) weeks prior to the commencement of the use on the land subject to this application, written notice must be given to Council that the use (development and/or works) fully complies with the decision notice issued in respect of the use.		
4. Nature and Extent of Approved Use		
4.1 This approval provides for development comprising: ***'Indoor Sport and Recreation'*** *means the use of premises for a leisure, sport or recreation activity conducted wholly or mainly indoors.* Specifically, the approved use is to remain in accordance with the scale and intensity provided in the development application and as set out on the approved proposal plans listed in the table forming part of Condition 2 and Condition 5. 4.2 No other operations and/or activities are allowed other than those approved by this permit.	The development must comply with all planning scheme requirements including definitions, nature and extent as approved and conditioned by this development permit.	At all times.
5. Nuisance and off-site impacts		
<u>Environmental Management and Avoiding Nuisance</u> 5.1 Noise from the approved Indoor Sport and Recreation (Small Fitness Studio) must not cause environmental nuisance to any sensitive receptor. In accordance with the Environmental Protection Act 1994, any emission of noise from activities on site must ensure that the emissions are consistent with the Environmental Protection (Noise) Policy 2019. 5.2 Emissions or other air pollutants, including odours, must not extend beyond the site and cause an environmental nuisance. In accordance with the Environmental Protection Act 1994, any emission of dust from activities on site must ensure that the emissions are consistent with the Environmental Protection (Air) Policy 2008.	To ensure that the operation of the activity does not cause undue disturbance to any person or activity because of light emitted or noise, vibration, odour, dust or other emissions. To protect the amenity of adjoining residential uses and assist with noise attenuation.	At all times.

Condition	Reason	Timing
5.3 External lighting must be installed in accordance with AS/NZS 4282:2019 – Control of the obtrusive effects of outdoor lighting. The installation of external lighting must be certified by a suitably qualified person in accordance with the Australian Standard. 5.4 Airconditioning units are not to exceed a sound power level of Lw 66 dB(A).		
6. Infrastructure and Servicing		
Water Supply 6.1 The Development must remain connected to Council's reticulated water supply. 6.2 Any alterations required to Council's water reticulation network are to be completed at the applicant's full cost with no cost to Council. **Sewerage Supply** 6.3 The Development must remain connected to Council's reticulated sewerage. 6.4 Any alterations required to Council's sewerage network are to be completed at the applicant's full cost with no cost to Council. **Stormwater** 6.5 The approved development and use(s) must not interfere with the natural flow of stormwater in the locality in such a manner as to cause ponding or concentration of stormwater on adjoining land or roads. 6.6 Any external catchments discharging to the premises must be accepted and accommodated within the development's stormwater drainage system. **Electricity and Communications**	To ensure the development is appropriately serviced in accordance with relevant code/s and policy direction.	At all times unless otherwise stated.

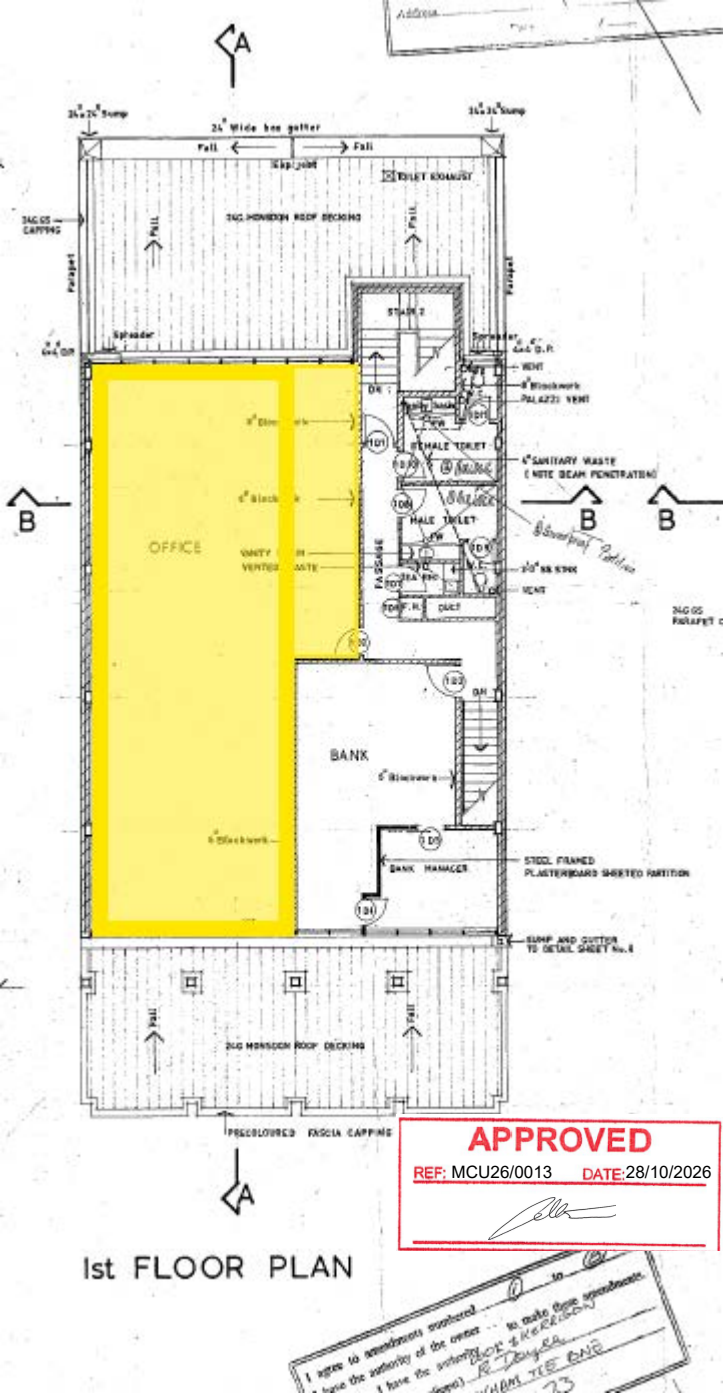
Condition	Reason	Timing
6.7 Provide electricity and telecommunications connection to the proposed development to the requirements of the relevant authority.		
7. Amenity and Safety		
Visual Treatment of Plant and Equipment 7.1 The applicant must ensure all plant and equipment (inclusive of air conditioning units, compressors, generators, ducting, ventilation and the like) is: i. appropriately screened and ventilated from view from any dedicated road or adjoining residential premises. **Refuse Facilities and Waste Management** 7.2 Refuse facilities and waste management must be provided to the satisfaction of Council, in accordance with *Local Law No. 8 (Waste Management) 2018* and the *Environmental Protection Regulation 2019* to ensure sufficient waste management storage capacity is provided on-site to adequately cater for the demand generated by the use of the premises. 7.3 Waste storage area/s are to be sufficient in size to house all waste collection containers including recycling waste containers. 7.4 Waste storage areas shall be not visible from the street-front and suitably screened. 7.5 Waste removal must only occur between the hours of 7am and 7pm to avoid the potential for noise impacts on neighbouring properties at night. **Signage** 7.6 Any signage to be associated with the use must be designed to the satisfaction of and approved by Council.	To soften the visual impact of the development from the street and adjoining land and to ensure that the development does not cause undue disturbance to any person or activity because of noise, vibration, odour, dust or other emissions.	At all times.

Condition	Reason	Timing
7.7 To maintain amenity for the adjoining residential properties, no illumination of any signage proposed is to occur unless otherwise approved by Council. **Storage** 7.8 Goods, equipment, packaging material or machinery must not be stored or left exposed outside the building so as to be visible from any public road or thoroughfare. 7.9 Where storage of chemicals is required, a bunded area with a non-porous base is to be provided. 7.10 Any storage on-site is required to be screened from view from all roads and adjacent properties.		

Advice	
1.	**Infrastructure Charges** No infrastructure charges are applicable.
2.	**Compliance with Conditions** Inspections will be required to be undertaken by Council to determine compliance with conditions that are not subject to a further approval. Any other uses proposed on this lot that are not defined as “Indoor Sport and Recreation” and/or separately defined in Council’s Planning Scheme will require a separate development application and permit as per the planning scheme requirements and all relevant legislation.
3.	**Further Approvals Required** a) Plumbing and Drainage Works - A compliance permit to carry out plumbing and drainage works must be obtained prior to the commencement of plumbing and drainage works, should they be required. b) Building Works - A development permit for building works to carry out building works is required, prior to works commencing on site. c) Change of Classification - A change of classification will be required prior to the commencement of the use on site.

Advice	
4.	**Equitable Access and Facilities** The plans for the proposed building work have NOT been assessed for compliance with the requirements of the *National Construction Code - Building Code of Australia (Volume 1)* as they relate to people with disabilities. Your attention is also directed to the fact that in addition to the requirements of the National Construction Code as they relate to people with disabilities, one or more of the following may impact on the proposed building work: a) the *Disability Discrimination Act 1992 (Commonwealth)* b) the *Anti-Discrimination Act 1991 (Queensland)* c) the *Disability (Access to Premises – Buildings) Standards.*
5.	**Construction**
5.1	Commencement Council must be notified in writing two (2) weeks prior to the proposed construction commencement date via planning@burdekin.qld.gov.au
5.2	Environmental Nuisance Ensure compliance with the Environmental Protection Act 1994. The Act states that a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm. Environmental harm includes environmental nuisance. In this regard persons and entities, involved in the civil, earthworks, and construction phases of this development, are to adhere to their "general environmental duty" to minimise the risk of causing environmental harm.
5.3	General Safety of Public During Construction It is the project manager's responsibility to ensure compliance with the *Work Health and Safety Act 2011*. It states that the project manager is obliged to ensure construction work is planned and managed in a way that prevents or minimises risks to the health and safety of members of the public at or near the workplace during construction work. It is the principal contractor's responsibility to ensure compliance with the *Work Health and Safety Act 2011*. It states that the principal contractor is obliged on a construction workplace to ensure that work activities at the workplace prevent or minimise risks to the health and safety of the public at or near the workplace during the work. It is the responsibility of the person in control of the workplace to ensure compliance with the *Work Health and Safety Act 2011*. It states that the person in control of the workplace is obliged to ensure there is appropriate, safe access to and from the workplace for persons other than the person's workers.

Advice	
5.4	Building Work Noise The hours of audible noise associated with construction and building work on-site must be limited to between the hours of: ▪ 6.30 a.m. to 6.30 p.m. Monday to Saturday; with ▪ No work on Sundays or Public Holidays.
5.5	Storage of Materials and Machinery All construction materials, waste, waste skips, machinery and contractor's vehicles must be located and stored or parked within the site. No storage of materials, parking of construction machinery or contractor's vehicles will be permitted outside the site, on road reserves or adjoining land unless written permission from the owner of that land and Council is provided.
6.	**Aboriginal and Cultural Heritage**
6.1	If any item of cultural heritage is identified during site works, all work must cease, and the relevant state agency must be notified. Work can resume only after state agency clearance is obtained.
6.2	The applicant is reminded of their obligations under the *Aboriginal Cultural Heritage Act 2003* and the *Torres Strait Islander Cultural Heritage Act 2003*. Further information and databases are available from the Department of Aboriginal and Torres Strait Islander Partnerships at: www.datsip.qld.gov.au


A
24" Wide box gutter
Fall
Fall
Exp. joint
TOILET EXHAUST
24G MONSOON ROOF DECKING
24G GS CAPPING
Parapet
Fall
Parapet
STAIR 2
Sprinkler
Sprinkler
4" Blockwork
VENT
4" Blockwork
Pol. 6221 VENT
DN
FEMALE TOILET
4" SANITARY WASTE
(NITE BEAM PENETRATION)
MALE TOILET
OFFICE
VANITY
VENTED
PASSAGE
DUCT
DUCT
VENT
BANK
4" Blockwork
4" Blockwork
BANK MANAGER
STEEL FRAMED
PLASTERBOARD SHEETED PARTITION
SUMP AND GUTTER
TO DETAIL SHEET No. 6
24G MONSOON ROOF DECKING
PRECOLOURED FASCIA CAPPING
A
B
B
B
APPROVED
REF: MCU26/0013 DATE: 28/10/2026
1st FLOOR PLAN