

IN THE PLANNING AND ENVIRONMENT COURT **HELD AT: MAROOCHYDORE**

No 13 of 2021

Between:

PETER ROBINSON

Appellant

And:

GLADSTONE REGIONAL COUNCIL

(IN ITS CAPACITY AS ASSESSMENT MANAGER)

Respondent

And:

GLADSTONE REGIONAL COUNCIL

(IN ITS CAPACITY AS DEVELOPMENT PROPONENT)

Co-respondent

JUDGMENT

Before:

His Honour Judge Cash QC

Date of Hearing: 4 April 2022

Date of Order:

4 April 2022

This matter having come on for hearing in respect of an appeal against the decision of the Respondent to approve the Co-Respondent's development application for a development permit for a Material Change of Use (Parking Station) in respect of land located at 5 Agnes Street, Agnes Water and described as Lot 8 on CP910294.

IT IS ORDERED, WITH THE CONSENT OF THE PARTIES, THAT:

- 1 the Appeal be allowed;
- 2 the development application be approved subject to the conditions attached hereto and marked Annexure A; and
- 3 there be no order as to costs.



Filed on behalf of the Co-Respondent Form PEC-7

Planning Act 2016 65870502v1

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Version 1

July 2017

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Registrar

Approved Plans

 Development is to be carried out generally in accordance with the following plans and supporting documentation

Drawing Number	Revision	Description	Author	Date
R2020043-SK- 0004	1	Site Plan	Cardno	_
Attachment D – Tree Removal Plan		Attachment to the Statement of Evidence – Terrestrial Ecology of Justin Watson		14/10/21
20066-S001	В	Electrical Service – Lighting Design	Anderson Consulting Engineers	03/21

except where amendments are required to satisfy the conditions of this approval including the following detailed design parameters:

- a. The alignment and number of car parking spaces may decrease as a result of detailed design considerations with a maximum provision of 73 car parking spaces;
- b. Must incorporate the three (3) trees marked for retention and the native vegetation in the area outlined in green in Attachment D – Tree Removal Plan;
- The footprint of the sealed carpark area depicted in R2020043-SK-004 shall not increase as a result of detailed design phase;
- d. The removal of the proposed detention tanks within the footprint of the carpark area; and
- e. The erection and maintenance of a 1.8m high acoustic barrier along part of the northeast boundary of the site and Lot 3 on RP614962 constructed from suitable materials to achieve a minimum surface density of 12.5 kg/m².

Special Conditions

- As part of the first Development Application for Operational Works, the Applicant is required to submit for approval:
 - a. A revised Landscaping Plan addressing the following requirements:
 - i. the existing vegetation to be retained in accordance with condition 1(b);
 - location of a mixture of shade trees at the rate of 1 tree per 6 car spaces within the car park (including some planting in clusters and some single trees interspersed throughout the carpark area);

- iii. additional native evergreen, including a mix of screening and flowering trees, located at the rear of the site;
- iv. Provision of a minimum of two (2) pedestrian seating street furniture, suitably located at the extents of the frontage of the site;
- v. Provision of a public drinking water fountain between the driveway location and the eastern boundary;
- vi. Nominate suitable locations/surfaces for the provision of public art; and
- b. Provision of planting to screen the acoustic barrier provided in accordance with condition 1(e), which may require increasing the width of the garden bed. A detailed fixed lighting design assessment report which provides lighting design to achieve compliance with the requirements of AS/NZS 4282:2019 "Control of the Obtrusive Effects of Outdoor Lighting;"
- c. A Carpark Operation Management Plan that addresses the following requirements:
 - i. Hours of operation;
 - ii. Prevention of overnight parking and camping;
 - iii. Appropriate signage of flood risk on site, restriction on overnight camping, and hours of operation;
 - iv. Incorporate the requirements of any flood emergency management plan required by this approval;
 - v. Scheduled maintenance activities;
 - vi. Provision of lockable closure of facility;
 - vii. Security/surveillance provision; and
 - viii. Proposed signage and contact information for users.

Environmental Management

- 3. As part of the first Development Application for an Operational Works permit, the Applicant is to provide an Environmental Management Plan to Council for approval. The Environmental Management Plan shall address an improved ecological outcome during construction via the following requirements:
 - a. Vegetation Management
 - Tree removal limited to the seven (7) trees identified in Attachment D Tree
 Removal Plan;
 - ii. Clearly identify trees for removal vs retention;
 - iii. Placement of hollow logs within the area marked in green in Attachment D Tree Removal Plan to foster a habitat for local wildlife;

- iv. Subject to the requirements of the *Biosecurity Act 2014* (Qld), works must not occur within the area outlined in green on Attachment D Tree Removal Plan:
- v. Install tree and vegetation protection fencing for areas/trees to be retained;
- vi. Protection measures to be in place prior to any vegetation clearing or construction works; and
- vii. Construction/site induction to ensure understanding of the area outlined in green on Attachment D Tree Removal Plan.

b. Fauna Management

- i. Fauna spotter/ecologist to inspect trees prior to clearing;
- ii. Tree clearing to be conducted in sensitive manner;
- iii. Fauna spotter/ecologist to be on site during vegetation clearing;
- iv. A tree hollow to be created within Tree No. 8 as depicted on Attachment D –
 Tree Removal Plan by the removal of the lower hanging branch under the direction of an arborist; and
- v. Install pool fencing or the like at the north-eastern corner of the car park to restrict pedestrian access but allow fauna movement.

c. Landscaping and Rehabilitation

- Details of water quality measures proposed in relationship with the Stormwater Management Plan;
- ii. Weed control along the interface with the pond on the subject land; and
- iii. Dense planting with suitable native species along the interface with the pond, including a diverse mix of species which will provide food and shelter for local wildlife which shall be maintained in perpetuity.
- 3A. The construction of the development is to be implemented in accordance with the Environmental Management Plan, subject to any conditions of an Operational Works permit.

3B. The vegetation which:

- (i) exists onsite, that is to be retained under this approval; and
- (ii) is to be planted on site, as required by the revised Landscaping Plan and Environmental Management Plan,

must be maintained in perpetuity.

Operational Works

4. An Operational Works application prepared by a suitably qualified RPEQ must be submitted for approval by Council prior to the commencement of construction. The

Development Application package for Operational Works Permit is to include the following:

- a. Earthworks (including retaining walls);
- b. Erosion and Sediment Control measures;
- c. Road works (including driveway, signage and footpaths);
- d. Stormwater Management (quantity, quality, flood and drainage control), including consideration of gross pollutant management; and
- e. Landscaping, environmental protection, acoustic and lighting and security measures.
- 5. 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 https://www.cmdg.com.au/index.htm.

Geotechnical

- 5A. As part of the first Development Application for an Operational Works permit, the Applicant is to submit a Geotechnical Investigation report certified by a suitably qualified person*, that includes the following minimum requirements:
 - Accurately identify the extent and volume of unsuitable material required to be excavated as part of the works;
 - b. Geotechnical dewatering requirements, and expected groundwater flowrates, including but not limited to the impact of the proposed works on the movement of groundwater through the site and potential for worsening of groundwater conditions either upstream or downstream of the site; and
 - c. The possibility of the existing parking areas being historic uncontrolled fill, specifically addressing any engineering implications associated with on-going settlement of either the uncontrolled fill or the underlying strata; and
 - d. Any investigations as required to inform the Acid Sulfate Soil Investigation and Management Plan referred to below.
- 5B. The development will be designed in accordance with the Geotechnical Investigation Report prepared in accordance with condition 5A.

Water Infrastructure

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

Advisory Note: Council's Application for Water Service is found at hiip://www.gladstone.gld.gov.au/forms.

Stormwater Infrastructure

- 8. As part of the first Development Application for an Operational Works permit, the Applicant is to submit for approval by Council an amended Site Based Stormwater Management Plan (SWMP). The SWMP must address both stormwater quantity and quality and is to demonstrate how the pollutant load reduction targets contained in Table B of Appendix 2 of the State Planning Policy 2017 will be achieved for the site. The SWMP is to additionally provide for management of gross pollutant loads from external and internal sources. The SWMP must be certified by a suitably qualified person*.

 * (Refer to Advisory Notes)
- 9. As part of the first Development Application for Operational Works, the Applicant is to provide amended stormwater modelling that identifies all required upgrades upstream of the proposed development. The amended stormwater modelling should demonstrate that the proposed stormwater infrastructure through the development is compatible with any potential future upgrades required upstream of the development.
- 9A. As part of the first Development Application for an Operational Works permit, the Applicant is to submit an updated stormwater drainage design which correctly incorporates the tailwater level associated with the downstream hydraulic control and includes all measures described in the SWMP provided in accordance with condition 8, for approval by Council.

Acid Sulfate Soils

10. As part of the first Development Application for an Operational Works permit, the Applicant must submit an Acid Sulfate Soils Investigation and Management Plan to Council for approval, prepared in accordance with the Queensland Acid Sulfate Soil

Technical Manual and certified by a suitably qualified person*, and is to include the following minimum requirements:

- a. Accurately reflect the extent of the works and other relevant findings of the Geotechnical Investigation Report prepared in accordance with condition 5A;
- b. Determine whether the proposed works will expose/disturb Acid Sulfate Soils;
- c. Detail the measures to be undertaken during construction to achieve compliance with the applicable standards;
- d. Include additional soil and groundwater investigations necessary to accurately characterise the site soils and existing groundwater quality and specifically comply with the requirements of the appropriate standard current at the time of the application (as a minimum, at least 2 additional boreholes are to be located in the North of the construction footprint below the 2.5mAHD contour);
- e. Include details of management measures for the treatment of acid sulfate soils excavated at the site, including location and size of treatment pads, liming rates, and verification testing requirements.
 - * (Refer to Advisory Notes)

10B. The construction of the development is to be implemented in accordance with the Acid Sulfate Soils Investigation and Management Plan, subject to any conditions of an Operational Works permit.

Erosion and Sediment Control

- 10C. As part of the first Development Application for an Operational Works permit, the Applicant is to submit an amended Erosion and Sediment Control Plan (ESCP) which is certified by a suitably qualified person* and prepared in accordance with Best Practice Erosion and Sediment Control (International Erosion Control Association, 2008), demonstrates compliance with the construction-phase stormwater management design objectives of Table A of Appendix 2 of the State Planning Policy 2017, and which accurately considers and incorporates:
 - a. The extent of external catchments which discharge through the site. The size of each catchment and the requisite sizing of any flow diversion should be addressed, as well as proposed sequencing of works to allow each stormwater drainage line to be constructed off-line;
 - b. The degree of removal and replacement of unsuitable material, and how this will be staged in relation to other works;

- Dewatering activities required to facilitate earthworks given the high groundwater present at parts of the site and need for removal of unsuitable material prior to filling;
- d. Feasibility of proposed sediment basins, given site topography, soils and groundwater levels; and
- e. Integration of ASS management requirements (see condition 10A and 10B), including treatment of excavated soils and extracted groundwater.
- * (Refer to Advisory Notes)
- 10D. The ESCP provided in accordance with condition 10a is to be prepared taking into account the findings of the Geotechnical Investigation report required by condition 5a.
- 10E. The development is to be designed, constructed and operated in accordance with the ESCP prepared in accordance with these conditions and as approved by Council in the operational works application.

Flooding

- 10F. As part of the first Development Application for an Operational Works permit, the Applicant is to submit a Flood Impact Assessment, certified by a suitably qualified person*, which includes the following minimum requirements:
 - a. Is conducted for the 1%AEP (2100) as well as the 1%AEP, 5%AEP, 10%AEP, 20%AEP and 50%AEP flood events;
 - Provides flood hazard mapping consistent with the flood hazard categories defined in Australian Institute for Disaster Resilience Guideline 7-3 – Flood Hazard;
 - c. Provides an existing case scenario that reflects conditions which currently occur on site and within the catchment, including any significant inlet and underground pipe capacity of the existing drainage network;
 - d. Provides for 'developed' and 'mitigated' scenarios that only encompass those changes which are proposed to occur as part of this development application;
 - Accounts for loss of floodplain storage as well changes in conveyance and demonstrates that unacceptable changes in flooding characteristics as a result of the development will not occur off-site for all flood events analysed;
 - f. Demonstrates a level of flood immunity and flood hazard for the development, which achieves a flood hazard rating of category H1 or lower in the 1%AEP (2100) event. Where this level of flood immunity and hazard is not achievable without causing unacceptable off-site flood impacts, then as an alternative a

Flood Emergency Management Plan is to be prepared which is to demonstrate how the flood risk is able to be managed to reduce the risk to acceptable or tolerable levels.

* (Refer to Advisory Notes)

10G. The development is to be designed, constructed and operated in accordance with the Flood Impact Assessment provided in accordance with condition 10F and as approved by Council in the operational works application prepared in accordance with these conditions.

Transportation Services

- 11. As part of the Operational Works permit, car parking spaces are to be constructed on site generally in accordance with the approved plans (as amended) and include the provision of parking for people with a disability. These spaces and all vehicle movement areas are to be constructed, sealed, 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.
- 12. As part of the Operational Works permit, signage and/or line marking is to be provided within the carpark to delineate traffic flow and access/egress through the site.
- 13. Prior to the commencement of the use, any damage to the concrete footpath, 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 Capricom Municipal Development Guidelines Drawings and Specifications at https://www.cmdg.com.au/index.htm.
- 14. Prior to the commencement of use, a 2m wide concrete footpath the full extent of the frontage of the site is to be constructed in accordance with Council's Standard Drawing Concrete Pathway/Bikeway Details.
 - Advisory Note: Council's standard drawing is located within Capricorn Municipal Development Guidelines at https://www.cmdg.com.au/index.htm.
- 15. 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.
- 16. 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.

17. Prior to the commencement of the use, a minimum 8m wide Type C1 Commercial Driveway is to be constructed in accordance with Council's Standard Drawing Urban Commercial/Industrial Driveway (CMDG-R-042A).

Advisory Note: Council's standard drawing is located within the Capricorn Municipal Development Guidelines - Drawings and Specifications at hiip://www.cmdg.com.au/index.htm.

Landscaping

- 18. The landscaping species within the Landscaping Plan are to be in accordance with Table 9.3.5.3.2 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.
- 19. Prior to commencement of the use, all landscaping areas are to be constructed with an appropriate irrigation system.

Noise, Air Quality and Lighting Amenity

19A. The development is to be designed and constructed in accordance with the Noise, Air Quality and Lighting Amenity Statement of Evidence prepared by MWA Environmental, dated 14 October 2021 and the *Environmental Protection (Noise) Policy 2019* and the *Environmental Protection (Air) Policy 2019*, although the acoustic barrier fence will be located in accordance in Condition 1e.

Lawful Commencement

- 20. 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.
- 21. 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.

Advisory Notes

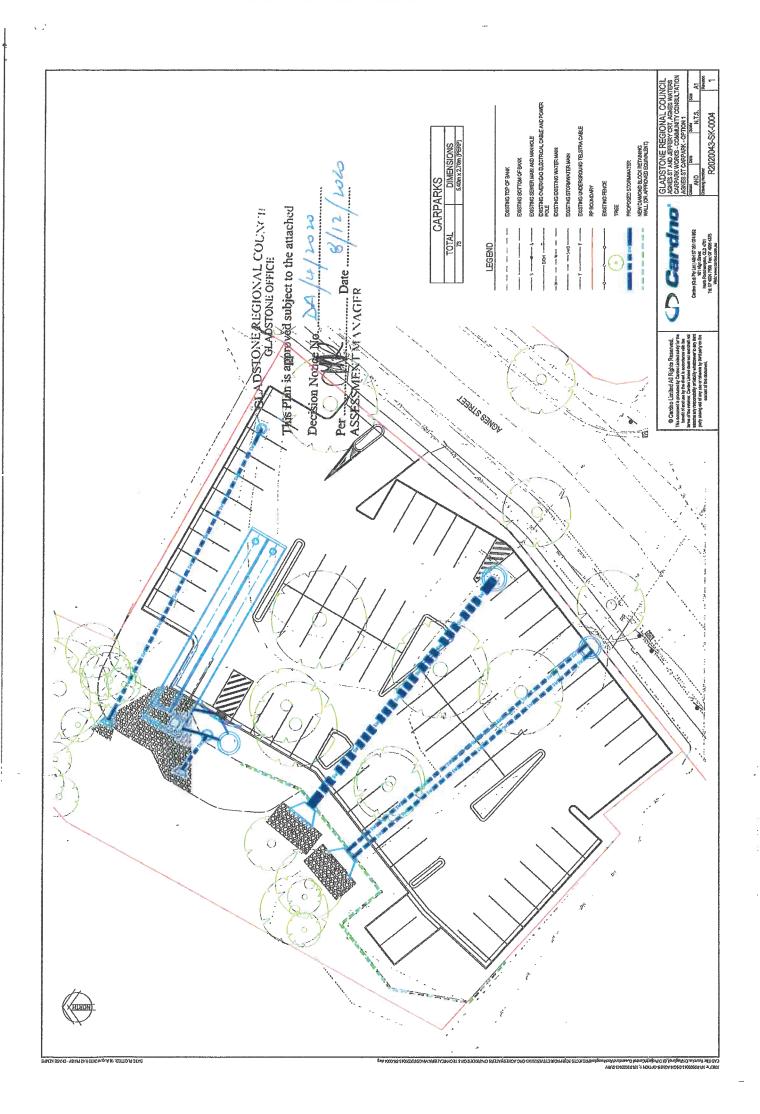
Suitably Qualified Person

A *suitably qualified person* is considered to be a Registered Professional Engineer of Queensland with a minimum of 5 years' experience in the relevant field of expertise.

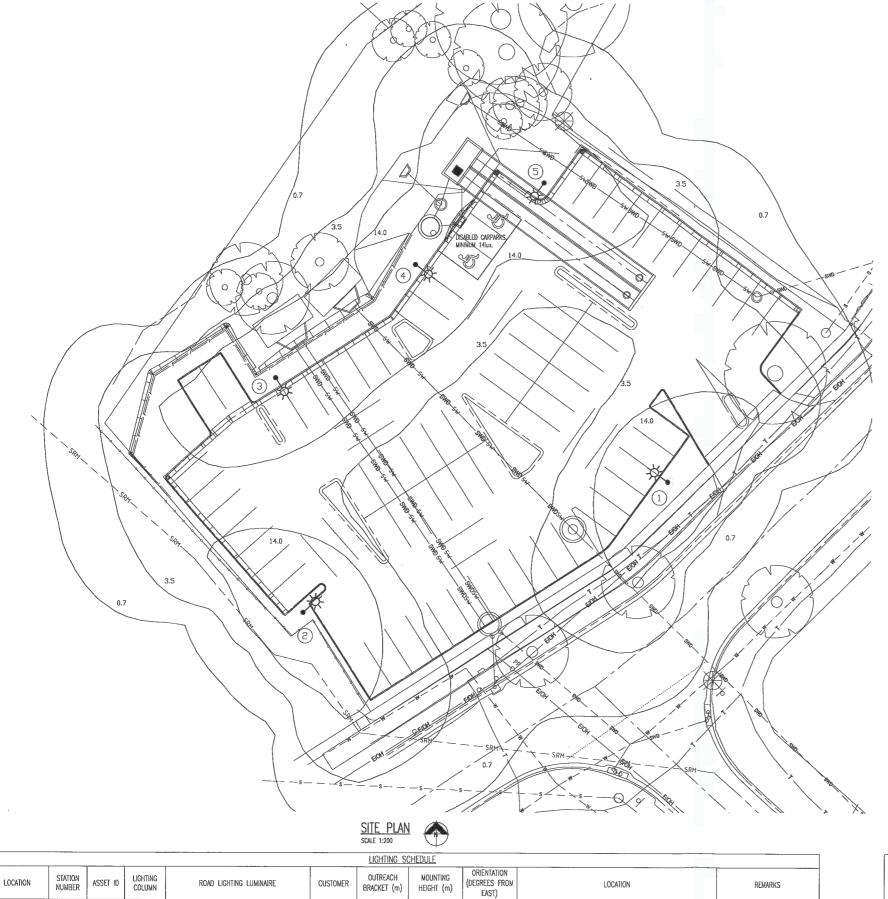
END OF CONDITIONS

Advice to Applicant:

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.







NEW GREEN FROG SYSTEMS OFS 400 SOLAR STREET LIGHT 75W AT

NEW GREEN FROG SYSTEMS GFS 400 SOLAR STREET LIGHT 75W A

NEW GREEN FROG SYSTEMS GES 400 SOLAR STREET LIGHT 75W AT

NEW GREEN FROG SYSTEMS GPS 400 SOLAR STREET LIGHT 75W AT O' UPCAST. T3 (STANDARD) OPTIC.

UPCAST, T3 (STANDARD) OPTIC

O' UPCAST. T3 (STANDARD) OPTIC

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303

X CO-ORD 388850.85; Y CO-ORD 7322020.53. USE CO-ORDINATES AS A GUIDE ONLY.

X CD-ORD 388810.96; Y CO-ORD 7322006.25. USE CO-ORDINATES AS A GUIDE ONLY.

X CO-ORD 388807.87; Y CO-ORD 7322031.80. USE CO-ORDINATES AS A GUIDE CHLY.

X CO-ORD 388823.15; Y CO-ORD 7322044.17. USE CO-ORDINATES AS A CUIDE ONLY.

X CO-ORD 388837.22; Y CO-ORD 7322053.07. USE CO-ORDINATES AS A GUIDE ONLY.

LGT183288

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LGT1B3293

∮ FOUNDATION DETAILS TO BE CONFIRMED BY POLE MANUFACTURER TO SUIT SOIL AND LOCATION (WIND REGION ETC.).
∮ POLES SHALL HAVE DUAL-COAT MARINE PAINT SYSTEM WITH 7 YEAR GUARANTEE IN COASTAL LOCATION.

3

9.0m BPM

9.0m BPM

9.0m BPM

9.0m BPM

CONTROL REQUIREMENTS

LUMINAIRES AND SYSTEM SHALL BE COMPLETE WITH CONFIGURABLE TIMER SETTINGS FOR ON/OFF. INITIALLY SET TO SWITCH OFF AT 11.00pm.

NOTE:

3000'K. PROVIDE BACK SPILL SHEED. COORDINATE WITH GREEN FROG SYSTEM

3000°K, PROVIDE BACK SPILL SHIELD, COORDINATE WITH DREEN FROG SYSTEMS.

3000°K. PROVIDE BACK SPILL SHIELD. COORDINATE WITH GREEN FROG SYSTEM

LIAISE WITH COUNCIL TO ENSURE SIGNAGE IS PROVIDED TO ADVISE PUBLIC OF CARPARK LIGHTING TURN OFF TIME. (-)

NEW SOLAR LED CARPARK LLIMINAIRE, OUTREACH AND POLE

STATION NUMBER

LEGEND OF SYMBOLS NOT TO SCALE

FOR APPROVAL

CERTIFICATE OF COMPLIANCE Lighting Category (AS/NZS 1158.3.1 2020 Table 2.5 & 3.7) PC3 & PCD.

AGNES STREET AGNES WATER CARPARK

Luminaire/Lamp Details

Luminaire Identification = Green Frog Systems GFS 400 Solar Street Light, Type 3 optic. 3000°K.

Luminaire Wattage = 75W

IP Rating = IP65

Initial Lamp Flux = 14.025klms

Lamp Flux used for Design = 10.519klms

Lighting Ownership = Rate 3 Owned and maintained by Council

LIGHTING Average Minimum Maximum Up CATEGORY (Eh) (Lx) (Eph) (Lx) EMax/Eav

Mointenance Factor: The maintenance factor is as follows:

(1) IP Roting GFS 400 SOLAR = IP65 Optical Chamber

0.7

8.0

3.72

3.5

PC3 11.79 0.74

Computer Program Details:

Nome of Computer Program = Lighting Reality PRO V2.1

Source of Program = Lighting Reality Limited

Compliance = Complies with the requirements of AS/NZS 1158

Spacing = Varies

(2) Cleoning Interval = 48 months
Pollution Category = Medium
Luminaire Maintenance Factor = 0.84
Lamp depreciation = 0.89
Total maintenance factor = 0.75

Schedule of Maintenance: This lighting design is based on the following maintenance schedule:

Schedule of Maintenance: Inis lighting design is based on the following maintenance schedule:

(1) Bluk luminaire maintenance corried out at 48 months intervals. At this time the following shall also occur.

All optical surfaces, both internal and external, of the luminaire shall be cleaned if applicable.

All gaskets shall be checked for deterioration and replaced where necessary.

Damaged/weathered visors shall be replaced. All accessible screws, nuts etc. shall be checked for tightness.

• A visual check shall be made of the electrical components and wiring for signs of overheating.

If required, the luminaire shall be realigned/adjusted to the design specification.

design specification.

(2) It is recommended that inspection patrols provide spot luminaire replacements or rectification such that the maximum level of luminaire outages at any one time is not greater than 5% of the luminaire population e.g.. Service availability should be at least 95%.

(3) Where luminaires are replaced the new luminaire shall be of an equivalent type such that the integrity of the road lighting design is maintained. (4) All failed luminoires to be fixed or replaced within 2 weeks.
 (5) A failed lighting circuit has to be rectified within 24hrs.

Designed: JOHN MCBRYDE

ANDERSON CONSULTING ENGINEERS

GRANT ANDERSON

Certified:

RPFO Number: 4383

RPEQ 4383

Installation Arrangement/ Geometry

Mounting Height (H) = 8.8m

Upcast = 0'

PC3

Illuminance Criteria

REQUIRED

ACHIEVED

Maintenance Details:

GENERAL NOTES:

© Copyright, Anderson Consulting Engineers Pty. Ltd. Do not scale from this drawing. Take measurements on site prior to commencing work.

PROVIDE AND AFFIX STAINLESS STEEL ASSET ID LABELS AND FASTENERS TO GRC REQUIREMENTS.
LANSE WITH GRC.
PROVIDE FORM 16 FOR INSTALLATION ON

COMPLETION.

20/04/21 B ASSET ID ADDED.



ANDERSON CONSULTING ENGINEERS

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AGNES STREET & JEFFREY COURT

AGNES WATER. CAR PARK. SOLAR LIGHTING.

ELECTRICAL SERVICES LIGHTING DESIGN.

20066-S001

GA 1-200 CG JPM MARCH 2021

B