



# Decision Notice Approval (amended)

Planning Act Form 5 (version 1.2 effective 7 February 2020) made under Section 282 of the Planning Act 2016 for a decision notice (approval) under s83 Planning Act 2016

|                     |                 |                 |              |
|---------------------|-----------------|-----------------|--------------|
| Application number: | D/118-2020      | Contact:        | Aidan Murray |
| Notice Date:        | 18 October 2023 | Contact Number: | 07 4936 8099 |

## APPLICANT DETAILS

|                 |   |
|-----------------|---|
| Name:           | <b>Kage Development No 2 Pty Ltd</b>  |
| Postal address: | <b>C/- Urbis Pty Ltd<br/>Level 32, 300 George Street<br/>BRISBANE CITY QLD 4000</b> |
| Email:          | yhumphrey@urbis.com.au; and rgreene@urbis.com.au                                    |

I acknowledge receipt of the above change application on 11 September 2023 and confirm the following:

## DEVELOPMENT APPROVAL

|  |
|--|
| <b>Development Permit for Material Change of Use for a Child Care Centre</b> |
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## PROPERTY DESCRIPTION

|                            |  |
|----------------------------|--|
| Street address:            | 906-910 Yaamba Road, Parkhurst         |
| Real property description: | Lot 2 on RP864537, Parish of Murchison |

**Dear** Kage Development No 2 Pty Ltd

I advise that, on 11 October 2023 the above change application was:

☒ approved in full with conditions\* (refer to the conditions contained in **Attachment 1**)

\*Note: The conditions show which conditions have been imposed by the assessment manager and which conditions have been imposed by a referral agency.

## CHANGES TO CONDITIONS

The conditions which have been changed or cancelled are as follows:

|    |                |         |                 |
|----|----------------|---------|-----------------|
| 1) | Condition 2.1  | Changed | 23 April 2021   |
| 2) | Condition 11.1 | Changed | 11 October 2023 |

## 1. DETAILS OF THE APPROVAL

The following approvals are given:

|  | Development Permit                  | Preliminary Approval     |
|--|-------------------------------------|--------------------------|
| Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

|                          |  |  |
|--------------------------|--|--|
| - Material change of use |  |  |
|--------------------------|--|--|

## 2. CONDITIONS

This approval is subject to the conditions in Attachment 1.

## 3. FURTHER DEVELOPMENT PERMITS REQUIRED

Please be advised that the following development permits are required to be obtained before the development can be carried out:

| Type of development permit required | Subject of the required development permit  |
|-------------------------------------|---|
| Operational Works                   | <i>Access and Parking Works</i><br><i>Stormwater Works</i><br><i>Site Works</i><br><i>Roof and Allotment Drainage Works</i> |
| Building Works                      |   |
| Plumbing and Drainage Works         |   |

## 4. REFERRAL AGENCIES

The following Referral Agencies were activated by this application.

| For an application involving  | Name of agency  | Role of Agency | Contact Details  |
|---|---|----------------|--|
| <b>STATE TRANSPORT INFRASTRUCTURE (State Transport Corridors and Future State Transport Corridors)</b>  |   |                |  |
| <i>Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 – Material change of use of premises near a State transport corridor or that is a future State transport corridor</i>  |   |                |  |
| Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorising instrument, if all or part of the premises—<br>(a) are within 25m of a State transport corridor; or<br>(b) are a future State transport corridor; or<br>(c) are—<br>(i) adjacent to a road that intersects with a State-controlled road; and<br>(ii) within 100m of the intersection | The chief executive of the department in which the <i>Planning Act 2016</i> is administered:<br><br>Queensland Treasury (State Assessment and Referral Agency Department) | Concurrence    | <u>In person:</u><br>Level 2, 209 Bolsover Street, Rockhampton City<br><u>Online lodgement using MyDAS2:</u><br><a href="https://prod2.dev-assess.qld.gov.au/suite/">https://prod2.dev-assess.qld.gov.au/suite/</a><br><u>Email:</u><br>RockhamptonSARA@dsmip.qld.gov.au<br><u>Postal:</u><br>PO Box 113<br>Rockhampton Qld 4700 |

## 5. THE APPROVED PLANS

The approved development must be completed and maintained generally in accordance with the approved drawings and documents:

| Drawing/report title         | Prepared by        | Date            | Reference number | Rev |
|------------------------------|--------------------|-----------------|------------------|-----|
| Site Plan – Stage 01 & 02    | Jardine Architects | 23 March 2021   | 20685 / DD02     | C   |
| Floor Plan – Stage 01        | Jardine Architects | 12 October 2020 | 20685 / DD03     | B   |
| Floor Plan – Stage 02 Design | Jardine Architects | 23 March 2021   | 20685 / DD09     | C   |

|  |                            |                  |                    |    |
|--|----------------------------|------------------|--------------------|----|
| Development                                    |                            |                  |                    |    |
| Landscape Intent – Stage 01 Design Development | Jardine Architects         | 12 October 2020  | 20685 / DD08       | B  |
| Landscape Intent – Stage 02 Design Development | Jardine Architects         | 12 October 2020  | 20685 / DD14       | B  |
| North & East Elevations Stage 01               | Jardine Architects         | 12 October 2020  | 20685 / DD04       | B  |
| South & West Elevation / Section – Stage 01    | Jardine Architects         | 12 October 2020  | 20685 / DD05       | B  |
| North & East Elevations Stage 02               | Jardine Architects         | 23 March 2021    | 20685 / DD10       | C  |
| South & East Elevations / Section – Stage 02   | Jardine Architects         | 23 March 2021    | 20685 / DD11       | C  |
| Waste Management Plan                          | Zone Planning Group        | 6 October 2020   | -                  | -  |
| Engineering Services Report                    | Pinnacle Engineering Group | 15 October 2020  | PEG0721            | 04 |
| Traffic Impact Assessment                      | Access Traffic Consulting  | 10 December 2020 | ZON0120-002        | C  |
| Traffic Review                                 | Access Traffic Consulting  | 26 March 2021    | ZON0120-002/L01-21 | -  |
| Site Based Stormwater Management Plan          | Pinnacle Engineering Group | 15 October 2020  | PEG0721            | 04 |
| Response to Council information request        | Pinnacle Engineering Group | 1 December 2020  | PEG0721_L001       | -  |

## 6. CURRENCY PERIOD FOR THE APPROVAL (s.85 of the Planning Act)

In accordance with section 85(1)(a)(ii) of the *Planning Act 2016*, the development approval lapses if the first change of use does not happen within six (6) years after the approval starts to have effect, if not stated otherwise in the conditions of approval attached.

## 7. STATEMENT OF REASONS

|                                       |  |
|---------------------------------------|--|
| <b>Description of the development</b> | Material Change of Use for a Child Care Centre   |
| <b>Reasons for Decision</b>           | <p>a) The proposed Child Care Centre will not compromise the character and amenity of the surrounding area;</p> <p>b) The proposed Child Care Centre will primarily service the needs of the immediate local residential community;</p> <p>c) Assessment of the development against the relevant zone purpose, planning scheme codes and planning scheme policies demonstrates that the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity; and</p> <p>d) On balance, the application should be approved because the</p> |

|  |  |   |
|--|--|---|
|  | <p>circumstances favour Council exercising its discretion to approve the application even though the development does not comply with an aspect of the assessment benchmarks.</p>  |   |
| <b>Assessment Benchmarks</b>                 | <p>The proposed development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> <li>• Low Density Residential Zone Code;</li> <li>• Access, Parking And Transport Code;</li> <li>• Landscape Code;</li> <li>• Stormwater Management Code;</li> <li>• Waste Management Code; and</li> <li>• Water and Sewer Code.</li> </ul> |   |
| <b>Compliance with assessment benchmarks</b> | <p>The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exceptions listed below.</p>   |   |
|  | <b>Assessment Benchmark</b>  | <b>Reasons for the approval despite non-compliance with benchmark</b>   |
|  | Low Density Residential Zone Code  | <p><b>PO13</b></p> <p>The proposed development is not orientated towards to the Mason Avenue road frontage, and the western exterior wall of the Stage 1 building exceeds 12 metres. These conflict with Acceptable Outcomes 13.2 and 13.3 respectively.</p> <p>Despite this non-compliance, the proposed development does orient itself appropriately towards the Yaamba Road frontage. The site layout also facilitates appropriate landscaping treatments which softens the built form to adjoining residences. It is also considered that the site layout ensures that adjoining residential properties do not lose access to natural light or ventilation, or cause adverse impacts to privacy and noise attenuation.</p> <p>As such, the proposed development is considered to comply with this Performance Outcome.</p> <p><b>PO14</b></p> <p>The proposed car park is not located behind the front building setback, where orientated towards Mason Avenue. This conflicts with Acceptable Outcome 14.1.</p> <p>Despite this, the car parking area is sufficiently buffered by a landscaping treatment which will screen the car park from Mason Avenue. Subsequently, the car parking space is not considered to be visually dominant from the Mason Avenue road frontage.</p> <p>As such, the proposed development is considered to comply with this Performance Outcome.</p> |

|   |  |   |
|---|--|---|
|   |  | <p>PO21</p> <p>The proposed development will operate from 06:30. This conflicts with Acceptable Outcome 21.1.</p> <p>The extended operating hours (mornings) for the proposed Child Care Centre are not expected to compromise the residential character and amenity of the surrounding area, in particular adjoining residences.</p> <p>As such, the proposed development is considered to comply with this Performance Outcome.</p> |
| <b>Matters prescribed by regulation</b> | <ul style="list-style-type: none"> <li>• The <i>Rockhampton Region Planning Scheme 2015</i> (version 2.1); and</li> <li>• The common material, being the material submitted with the application.</li> </ul> |   |

## 8. RIGHTS OF APPEAL

The rights of an applicant to appeal to a tribunal or 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*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

### Appeal by an applicant

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.

An applicant may also have a right to appeal to the Development tribunal. For more information, see schedule 1 of the *Planning Act 2016*.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 229 of the *Planning Act 2016*.

**Attachment 2** is an extract from the *Planning Act 2016* that sets down the applicant's appeal rights and the appeal rights of a submitter.

## 9. WHEN THE DEVELOPMENT APPROVAL TAKES EFFECT

This development approval takes effect:

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

Or

- When the submitter's appeal period ends – if there is a submitter and the applicant does not appeal the decision to the court.


Or

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

## 10. ORIGINAL DECISION ASSESSMENT MANAGER

|   |                     |
|---|---------------------|
| Name: <b>Tarnya Fitzgibbon</b><br><b>COORDINATOR</b><br><b>DEVELOPMENT ASSESSMENT</b> | Date: 28 April 2021 |
|---|---------------------|

## 11. ASSESSMENT MANAGER

|       |   |            |  |       |                 |
|-------|---|------------|--|-------|-----------------|
| Name: | <b>Amanda O'Mara</b><br><b><u>COORDINATOR</u></b><br><b><u>DEVELOPMENT ASSESSMENT</u></b> | Signature: |  | Date: | 18 October 2023 |
|-------|---|------------|--|-------|-----------------|

C/C State Development, Infrastructure, Local Government and Planning (State Assessment and Referral Agency Department) - [RockhamptonSARA@dsdilgp.qld.gov.au](mailto:RockhamptonSARA@dsdilgp.qld.gov.au)

### **Attachment 1 – Conditions of the approval**

**Part 1 – Conditions imposed by the assessment manager** *[Note: where a condition is imposed about infrastructure under Chapter 4 of the Planning Act 2016, the relevant provision of the Act under which this condition was imposed must be specified.]*

**Part 2 – Conditions required by the referral agency response**

### **Attachment 2—Extract on appeal rights**

### 1.0 ADMINISTRATION

- 1.1 The Developer and their employee, agent, contractor or invitee is responsible for ensuring compliance with the conditions of this development approval.
- 1.2 Where these Conditions refer to “Council” in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
- 1.3 All conditions, works, or requirements of this development approval must be undertaken, completed, and be accompanied by a Compliance Certificate for any operational works required by this development approval:
- 1.3.1 to Council’s satisfaction;
  - 1.3.2 at no cost to Council; and
  - 1.3.3 prior to the commencement of the use,
- unless otherwise stated.
- 1.4 Infrastructure requirements of this development approval must be contributed to the relevant authorities, where applicable, at no cost to Council, prior to the commencement of the use, unless otherwise stated.
- 1.5 The following further Development Permits must be obtained prior to the commencement of any works associated with their purposes:
- 1.5.1 Operational Works:
    - (i) Access and Parking Works;
    - (ii) Stormwater Works;
    - (iii) Roof and Allotment Drainage Works; and
    - (iv) Site Works;
  - 1.5.2 Plumbing and Drainage Works; and
  - 1.5.3 Building Works.
- 1.6 All Development Permits for Operational Works and Plumbing and Drainage Works must be obtained prior to the issue of a Development Permit for Building Works.
- 1.7 All works must be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards, unless otherwise stated.
- 1.8 All engineering drawings/specifications, design and construction works must be in accordance with the requirements of the relevant *Australian Standards* and must be approved, supervised and certified by a Registered Professional Engineer of Queensland.

### 2.0 APPROVED PLANS AND DOCUMENTS

- 2.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by any condition of this development approval:

| Drawing/report title      | Prepared by        | Date            | Reference number | Rev |
|---------------------------|--------------------|-----------------|------------------|-----|
| Site Plan – Stage 01 & 02 | Jardine Architects | 23 March 2021   | 20685 / DD02     | C   |
| Floor Plan – Stage 01     | Jardine Architects | 12 October 2020 | 20685 / DD03     | B   |
| Floor Plan – Stage 02     | Jardine Architects | 23 March 2021   | 20685 / DD09     | C   |

|  |                            |                  |                    |    |
|--|----------------------------|------------------|--------------------|----|
| Design Development                             |                            |                  |                    |    |
| Landscape Intent – Stage 01 Design Development | Jardine Architects         | 12 October 2020  | 20685 / DD08       | B  |
| Landscape Intent – Stage 02 Design Development | Jardine Architects         | 12 October 2020  | 20685 / DD14       | B  |
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| South & West Elevation / Section – Stage 01    | Jardine Architects         | 12 October 2020  | 20685 / DD05       | B  |
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| Response to Council information request        | Pinnacle Engineering Group | 1 December 2020  | PEG0721_L001       | -  |

- 2.2 Where there is any conflict between the conditions of this development approval and the details shown on the approved plans and documents, the conditions of this development approval must prevail.
- 2.3 Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for approval by Council prior to the submission of an application for a Development Permit for Operational Works.
- 3.0 STAGED DEVELOPMENT
- 3.1 This development approval is for a development to be undertaken in two (2) discrete stages, namely:
- 3.1.1 Stage One; and
- 3.1.2 Stage Two.
- in accordance with the approved plan (refer to condition 2.1).
- 3.2 Unless otherwise expressly stated, the conditions must be read as being applicable to all stages.



#### 4.0 ACCESS AND PARKING WORKS

- 4.1 A Development Permit for Operational Works (access and parking works) must be obtained prior to the commencement of any access and parking works on the development site.
- 4.2 All access and parking works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, *Australian Standard AS2890 "Parking facilities"* and the provisions of a Development Permit for Operational Works (access and parking works).
- 4.3 All car parking spaces and vehicular manoeuvring areas associated with the proposed development must be concrete paved or asphalt sealed.
- 4.4 The new access from Mason Avenue to the development must be constructed to comply with the requirements of the *Capricorn Municipal Development Guidelines*.
- 4.5 All vehicular access to and from the development must be via Mason Avenue only.
- 4.6 Any redundant vehicular crossovers must be replaced by Council standard kerb and channel.
- 4.7 All vehicles must ingress and egress the development in a forward gear.
- 4.8 Adequate sight distances must be provided for all ingress and egress movements at the access driveways in accordance with *Australian Standard AS2890.2 "Parking facilities - Off street commercial vehicle facilities"*.
- 4.9 A minimum of thirty-six (36) parking spaces must be provided on-site for Stage 1 development in accordance with the approved plan (refer to condition 2.1).
- 4.10 A minimum of twelve (12) parking spaces must be provided on-site for Stage 2 development in accordance with the approved plan (refer to condition 2.1). Tandem car parking spaces must be clearly marked as 'staff only'.
- 4.11 Universal access parking spaces must be provided on-site in accordance with *Australian Standard AS2890.6 "Parking facilities - Off-street parking for people with disabilities"*.
- 4.12 Parking spaces must be line-marked in accordance with the approved Site Plan (refer to condition 2.1) and in accordance with the *Australian Standard AS2890 "Parking facilities"* and the provisions of a Development Permit for Operational Works (access and parking works).
- 4.13 Any application for a Development Permit for Operational Works (access and parking works) must be accompanied by detailed and scaled plans, which demonstrate the turning movements/swept paths of the largest vehicle to access the development site including refuse collection vehicles.
- 4.14 All vehicle operations associated with the development must be directed by suitable directional, informative, regulatory or warning signs in accordance with *Australian Standard AS1742.1 "Manual of uniform traffic control devices"* and *Australian Standard AS2890.1 "Parking facilities – Off-street car parking"*.
- 4.15 All internal pedestrian pathways must be designed and constructed in accordance with *Australian Standard AS1428 "Design for access and mobility"*.

#### 5.0 PLUMBING AND DRAINAGE WORKS

- 5.1 All internal plumbing and drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Capricorn Municipal Development Guidelines*, *Water Supply (Safety and Reliability) Act 2008*, *Plumbing and Drainage Act 2018*, Council's Plumbing and Drainage Policies and the provisions of a Development Permit for Plumbing and Drainage Works.
- 5.2 The development must be connected to Council's reticulated sewerage and water networks.
- 5.3 A new water connection point must be provided to the development from the existing water supply infrastructure located within the southern side of Mason Avenue. A hydraulic engineer or other suitably qualified person must determine the size of connection required.
- 5.4 A new sewerage connection point must be provided to the development from the existing sewerage infrastructure (access chamber) located within neighbouring allotment (Lot 5 on RP866014), adjacent to the eastern boundary.

Note: Written consent from the owner of Lot 5 on RP866014 is required to allow connection works to be carried out. Owner's consent must be provided with the submission of Private Works Quote.

- 5.5 Adequate domestic and fire-fighting protection must be provided to the development, and must be certified by a hydraulic engineer or other suitably qualified person.

- 5.6 Sewer connections and water meter boxes located within trafficable areas must be raised or lowered to suit the finished surface levels and must be provided with heavy duty trafficable lids.
- 5.7 Sewerage trade waste permits must be obtained for the discharge of any non-domestic waste into Council's reticulated sewerage network. Arrestor traps must be provided where commercial or non-domestic waste is proposed to be discharged into the sewer system.
- 5.8 Existing fire hydrant located within the road reserve of Mason Avenue that conflict with proposed access driveway must be relocated. A minimum of one (1) metre horizontal separation distance between access driveway and fire hydrant must be achieved.
- 6.0 STORMWATER WORKS
- 6.1 A Development Permit for Operational Works (stormwater works) must be obtained prior to the commencement of any stormwater works required by this development approval.
- 6.2 All stormwater drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Queensland Urban Drainage Manual*, *Capricorn Municipal Development Guidelines*, sound engineering practice and the provisions of a Development Permit for Operational Works (stormwater works).
- 6.3 All stormwater must drain to a lawful point of discharge and must not adversely affect surrounding land or infrastructure in comparison to the pre-development conditions, including but not limited to blocking, altering or diverting existing stormwater runoff patterns or having the potential to cause damage to other infrastructure.
- 6.4 The development must not increase peak stormwater runoff for a selected range of storm events up to and including a one per cent (1%) Annual exceedance probability storm event, for the post-development conditions.
- 6.5 All stormwater works must be constructed in accordance with the approved Site Based Stormwater Management Plan (refer to condition 2.1).
- 6.6 All maintenance of the proposed stormwater infrastructure located within the neighbouring allotment (4 Hotham Close, Parkhurst, Lot 3 on RP866014), contained within the existing drainage easement, must be the responsibility of the developer at no cost to Council.
- 6.7 The installation of a bio-retention basin and detention basin must be in accordance with relevant *Australian Standards* and the approved Site Based Stormwater Management Plan (refer to condition 2.1).
- 6.8 All maintenance of the bio-retention systems, sediment basin / forebay and other elements of the approved stormwater strategy must be the responsibility of the property owner / developer at no cost to Council.
- 6.9 All Stormwater quality treatment devices must be routinely checked, serviced and cleaned in accordance with the manufacturer's recommendations. Records of all maintenance activities undertaken must be kept and made available to Council upon request. Where replacement cartridges or other necessary components for the system become unavailable, an alternative system approved by Council, is required to be retrofitted into the development to achieve an equivalent pollutant reduction outcome. All maintenance cost must be borne by the site owner / operator.
- 6.10 Any application for a Development Permit for Operational Works (stormwater works) must be accompanied by evidence of written consent from the adjoining property (4 Hotham Close, Parkhurst, Lot 3 on RP866014) for the implementation of the proposed stormwater strategy.
- 7.0 ROOF AND ALLOTMENT DRAINAGE WORKS
- 7.1 All roof and allotment drainage works must be designed and constructed in accordance with the approved plans (refer to condition 2.1), *Queensland Urban Drainage Manual*, *Capricorn Municipal Development Guidelines* and sound engineering practice.
- 7.2 All roof and allotment runoff from the development must be directed to a lawful point of discharge and must not restrict, impair or change the natural flow of runoff water or cause a nuisance to surrounding land or infrastructure.
- 8.0 SITE WORKS
- 8.1 A Development Permit for Operational Works (site works) must be obtained prior to the commencement of any site works on the development site.
- 8.2 All earthworks must be undertaken in accordance with *Australian Standard AS3798 "Guidelines on earthworks for commercial and residential developments"*.

- 8.3 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to surrounding land or infrastructure.
- 8.4 Retaining structures above one (1) metre in height that are not incidental works to a Development Permit for Building Works, must not be constructed unless separately and specifically certified by a Registered Professional Engineer of Queensland and must be approved as part of a Development Permit for Operational Works (site works).
- 9.0 BUILDING WORKS
- 9.1 Impervious paved waste storage area/s must be provided in accordance with the approved plans (refer to condition 2.1) and the *Environmental Protection Regulation 2008* and must be:
- 9.1.1 designed and located so as not to cause a nuisance to neighbouring properties;
  - 9.1.2 surrounded by at least a 1.8 metre high screen fence that obstructs from view the contents of the waste storage area by any member of the public from any public place;
  - 9.1.3 of a sufficient size to accommodate commercial type bins that will be serviced by a commercial contractor plus clearances around the bins for manoeuvring and cleaning;
  - 9.1.4 setback a minimum of two (2) metres from any road frontage; and
  - 9.1.5 provided with a suitable hosecock and hoses at the refuse container area, and washdown must be drained to the sewer and fitted with an approved stormwater diversion valve arrangement in accordance with the Sewerage Trade Waste provisions and the *Plumbing and Drainage Act 2018*.
- As an alternative to a washdown facility, a fully contained commercial bin cleaning service is acceptable provided no wastewater is discharged from the site to the sewer.
- 10.0 LANDSCAPING WORKS
- 10.1 All landscaping must be established generally in accordance with the approved plans (refer to condition 2.1). The landscaping must be constructed and/or established prior to the commencement of the use and the landscaped areas must predominantly contain plant species that have low water dependency.
- 11.0 ELECTRICITY
- 11.1 Electricity services must be provided in accordance with approved Operational Works Plans and the standards and requirements of the relevant service provider.
- 12.0 TELECOMMUNICATIONS
- 12.1 Telecommunications services must be provided to the development in accordance with the standards and requirements of the relevant service provider. Unless otherwise stipulated by telecommunications legislation at the time of installation, this includes all necessary pits and pipes, and conduits that provide a connection to the telecommunications network.
- 13.0 ASSET MANAGEMENT
- 13.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be undertaken and completed at no cost to Council.
- 13.2 Any damage to existing stormwater, water supply and sewerage infrastructure, kerb and channel, pathway or roadway (including removal of concrete slurry from public land and Council infrastructure), that occurs while any works are being carried out in association with this development approval must be repaired at full cost to the developer. This includes the reinstatement of any existing traffic signs or pavement markings that may have been removed or damaged.
- 13.3 'As Constructed' information pertaining to assets to be handed over to Council and those which may have an impact on Council's existing and future assets must be provided prior to the commencement of the use. This information must be provided in accordance with the *Asset Design and As Constructed Manual (ADAC)*.
- 14.0 ENVIRONMENTAL
- 14.1 An Erosion and Sediment Control Plan prepared by a Registered Professional Engineer of Queensland in accordance with the *Capricorn Municipal Design Guidelines*, must be:

14.1.1 implemented, monitored and maintained for the duration of the works, and until all exposed soil areas are permanently stabilised (for example, turfed, hydromulched, concreted, landscaped); and

14.1.2 available on-site for inspection by Council Officers whilst all works are being carried out.

## 15.0 ENVIRONMENTAL HEALTH

15.1 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the development site and shielded so as not to cause glare or other nuisance to nearby residents and motorists. Night lighting must be designed, constructed and operated in accordance with *Australian Standard AS4282 "Control of the obtrusive effects of outdoor lighting"*.

15.2 Noise emitted from the activity must not cause an environmental nuisance.

15.3 Operations on the site must have no significant impact on the amenity of adjoining premises or the surrounding area due to the emission of light, noise or dust.

## 16.0 OPERATING PROCEDURES

16.1 All construction materials, waste, waste skips, machinery and contractors' vehicles must be located and stored or parked within the development site. Storage of materials or parking of construction machinery or contractors' vehicles must not occur within Mason Avenue, Hotham Close and Yaamba Road.

16.2 The hours of operations for the Child Care Centre must be limited to:

16.2.1 0630 hours to 1830 hours on Monday to Friday, with no operations on Saturday, Sundays or Public Holidays.

16.3 The loading and/or unloading of delivery and waste collection vehicles must be outside of Child Care Centre operating hours.

16.4 All waste storage areas must be:

16.4.1 kept in a clean and tidy condition;

16.4.2 fences and screens are maintained; and

16.4.3 maintained in accordance with *Environmental Protection Regulation 2019*.

## ADVISORY NOTES

### NOTE 1. Aboriginal Cultural Heritage

It is advised that under section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal cultural heritage legislation. The information on Aboriginal cultural heritage is available on the Department of Aboriginal and Torres Strait Islander and Partnerships website [www.datsip.qld.gov.au](http://www.datsip.qld.gov.au).

### NOTE 2. Asbestos Removal

Any demolition and/or removal works involving asbestos materials must be undertaken in accordance with the requirements of the *Work Health and Safety Act 2011* and *Public Health Act 2005*.

### NOTE 3. General Environmental Duty

General environmental duty under the *Environmental Protection Act 1994* prohibits unlawful environmental nuisance caused by noise, aerosols, particles, dust, ash, fumes, light, odour or smoke beyond the boundaries of the development site during all stages of the development including earthworks, construction and operation.

### NOTE 4. Licensable Activities

Should an activity licensable by Rockhampton Regional Council be proposed for the development site, Council's Environment and Public Health Unit must be consulted to determine whether any approvals are required. Such activities may include food preparation, storage of dangerous goods or environmentally relevant activities. Approval for such activities is required before 'fit out' and operation.

NOTE 5. General Safety Of Public During Construction

The *Work Health and Safety Act 2011* and *Manual of Uniform Traffic Control Devices* must be complied with in carrying out any construction works, and to ensure safe traffic control and safe public access in respect of works being constructed on a road.

NOTE 6. Infrastructure Charges Notice

This application is subject to infrastructure charges in accordance with Council policies. The charges are presented on an Infrastructure Charges Notice.

The following is an extract from the *Planning Act 2016* (Chapter 6)

### Appeal rights

#### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
    - (a) matters that may be appealed to—
      - (i) either a tribunal or the P&E Court; or
      - (ii) only a tribunal; or
      - (iii) only the P&E Court; and
    - (b) the person—
      - (i) who may appeal a matter (the **appellant**); and
      - (ii) who is a respondent in an appeal of the matter; and
      - (iii) who is a co-respondent in an appeal of the matter; and
      - (iv) who may elect to be a co-respondent in an appeal of the matter.
  - (2) An appellant may start an appeal within the appeal period.
  - (3) The **appeal period** is—
    - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency or
    - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
    - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
    - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
    - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
    - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.
- Note—**  
See the P&E Court Act for the court's power to extend the appeal period.
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
  - (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
  - (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
    - (a) the adopted charge itself; or
    - (b) for a decision about an offset or refund—
      - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
      - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

#### 230 Notice of appeal

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

- (a) the respondent for the appeal; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
  - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
  - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
  - (f) for an appeal to the P&E Court—the chief executive; and
  - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The **service period** is—
    - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is 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) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

#### 231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The Judicial Review Act 1991, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the Judicial Review Act 1991 in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section— **decision** includes—
  - (a) conduct engaged in for the purpose of making a decision; and
  - (b) other conduct that relates to the making of a decision; and
  - (c) the making of a decision or the failure to make a decision; and
  - (d) a purported decision; and
  - (e) a deemed refusal.

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

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

#### 232 Rules of the P&E Court

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

## 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<br>An appeal may be made against—<br>(a) the refusal of all or part of the development application; or<br>(b) the deemed refusal of the development application; or<br>(c) a provision of the development approval; or<br>(d) if a development permit was applied for—the decision to give a preliminary approval. |                        |                                       |  |
|--|------------------------|---------------------------------------|--|
| Column 1<br>Appellant  | Column 2<br>Respondent | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent by election<br>(if any)  |
| The applicant  | The assessment manager | If the appeal is about a concurrence  | 1 A concurrence agency that is not a co-respondent |

| <b>Table 1</b><br><b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>   |                        |   |   |
|---|------------------------|---|---|
|   |                        | agency's referral response—the concurrence agency         | 2 If a chosen Assessment manager is the respondent—the prescribed assessment manager<br>3 Any eligible advice agency for the application<br>4 Any eligible submitter for the application  |
| <b>2. Change applications</b><br>An appeal may be made against—<br>(a) a responsible entity's decision for a change application, other than a decision made by the P&E court; or<br>(b) a deemed refusal of a change application.   |                        |   |   |
| Column 1<br>Appellant   | Column 2<br>Respondent | Column 3<br>Co-respondent<br>(if any)                     | Column 4<br>Co-respondent by election<br>(if any)   |
| 1 The applicant<br>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<br>2 If a chosen assessment manager is the respondent—the prescribed assessment manager<br>3 A private certifier for the development application<br>4 Any eligible advice agency for the change application<br>5 Any eligible submitter for the change application |
| <b>3. Extension applications</b><br>An appeal may be made against—<br>(a) the assessment manager's decision about an extension application; or<br>(b) a deemed refusal of an extension application.   |                        |   |   |
| Column 1<br>Appellant   | Column 2<br>Respondent | Column 3<br>Co-respondent<br>(if any)                     | Column 4<br>Co-respondent by election<br>(if any)   |
| 1 The applicant<br>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  |
| <b>4. Infrastructure charges notices</b><br>An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds<br>a) The notice involved an error relating to –<br>(i) The application of the relevant adopted charge; or<br>Examples of errors in applying an adopted charge – <ul style="list-style-type: none"> <li>The incorrect application of gross floor area for a non-residential development</li> <li>Applying an incorrect 'use category', under a regulation, to the development               <ul style="list-style-type: none"> <li>(i) The working out of extra demands, for section 120; or</li> <li>(ii) An offset or refund; or</li> </ul> </li> </ul> b) There was no decision about an offset or refund; or<br>c) If the infrastructure charges notice states a refund will be given – the timing for giving the refund; or<br>d) The amount of the charge is so unreasonable that no reasonable relevant local government could have |                        |   |   |



| <b>Table 1</b><br><b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>   |   |                                       |   |
|---|---|---------------------------------------|---|
| imposed the amount.   |   |                                       |   |
| Column 1<br>Appellant   | Column 2<br>Respondent  | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent by election<br>(if any)   |
| The person given the Infrastructure charges notice  | The local government that gave the infrastructure charges notice  | -                                     | -   |
| <b>5. Conversion applications</b><br>An appeal may be made against—<br>(a) the refusal of a conversion application; or<br>(b) a deemed refusal of a conversion application. |   |                                       |   |
| Column 1<br>Appellant   | Column 2<br>Respondent  | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent by election<br>(if any)   |
| The applicant   | The local government to which the conversion application was made | -                                     | -   |
| <b>6. Enforcement notices</b><br>An appeal may be made against the decision to give an enforcement notice.  |   |                                       |   |
| Column 1<br>Appellant   | Column 2<br>Respondent  | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent by election<br>(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 |

| <b>Table 2</b><br><b>Appeals to the P&amp;E Court only</b>  |   |                                       |   |
|---|---|---------------------------------------|---|
| <b>1. Appeals from tribunal</b><br>An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of—<br>(a) an error or mistake in law on the part of the tribunal; or<br>(b) jurisdictional error.  |   |                                       |   |
| Column 1<br>Appellant   | Column 2<br>Respondent                              | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent by election<br>(if any) |
| A party to the proceedings for the decision   | The other party to the proceedings for the decision | -                                     | -   |
| <b>2. Eligible submitter appeals</b><br>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—<br>(a) any part of the development application for the development approval that required impact assessment; or<br>(b) a variation request. |   |                                       |   |
| Column 1<br>Appellant   | Column 2<br>Respondent                              | Column 3<br>Co-respondent             | Column 4<br>Co-respondent by election             |

| <b>Table 2</b><br><b>Appeals to the P&amp;E Court only</b>  |   |   |  |
|---|---|---|--|
|   |   | (if any)  | (if any)   |
| 1 For a development application—an eligible submitter for the development application<br>2 For a change application—an eligible submitter for the change application  | 1 For a development application—the assessment manager<br>2 For a change application—the responsible entity | 1 The applicant<br>2 If the appeal is about a concurrence agency's referral response—the concurrence agency | Another eligible submitter for the application                                   |
| <b>3. Eligible submitter and eligible advice agency appeals</b><br>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—<br>(a) any part of the development application or the change application, for the development approval, that required impact assessment; or<br>(b) a variation request. |   |   |  |
| Column 1<br>Appellant   | Column 2<br>Respondent  | Column 3<br>Co-respondent<br>(if any)   | Column 4<br>Co-respondent by election<br>(if any)                                |
| 1 For a development application—an eligible submitter for the development application<br>2 For a change application—an eligible submitter for the change application<br>3 An eligible advice agency for the development application or change application   | 1 For a development application—the assessment manager<br>2 For a change application—the responsible entity | 1 The applicant<br>2 If the appeal is about a concurrence agency's referral response—the concurrence agency | Another eligible submitter for the application                                   |
| <b>4. Compensation claims</b><br>An appeal may be made against—<br>(a) a decision under section 32 about a compensation claim; or<br>(b) a decision under section 265 about a claim for compensation; or<br>(c) a deemed refusal of a claim under paragraph (a) or (b).   |   |   |  |
| Column 1<br>Appellant   | Column 2<br>Respondent  | Column 3<br>Co-respondent<br>(if any)   | Column 4<br>Co-respondent by election<br>(if any)                                |
| A person dissatisfied with the decision   | The local government to which the claim was made  | -   | -  |
| <b>5. Registered premises</b><br>An appeal may be made against a decision of the Minister under chapter 7, part 4.  |   |   |  |
| Column 1<br>Appellant   | Column 2<br>Respondent  | Column 3<br>Co-respondent<br>(if any)   | Column 4<br>Co-respondent by election<br>(if any)                                |
| 1 A person given a decision notice about the decision<br>2 If the decision is to register premises or   | The Minister  | -   | If an owner or occupier starts the appeal – the owner of the registered premises |

| <b>Table 2</b><br><b>Appeals to the P&amp;E Court only</b>  |                        |                                       |   |
|---|------------------------|---------------------------------------|---|
| 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  |                        |                                       |   |
| <b>6. Local laws</b><br>An appeal may be made against a decision of a local government, or conditions applied, under a local law about—<br>(a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or<br>(b) the erection of a building or other structure. |                        |                                       |   |
| Column 1<br>Appellant   | Column 2<br>Respondent | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent by election<br>(if any) |
| A person who—<br>(a) applied for the decision; and<br>(b) is dissatisfied with the decision or conditions.  | The local government   | -                                     | -   |

| <b>Table 3</b><br><b>Appeals to the tribunal only</b>   |                                  |                                       |   |
|---|----------------------------------|---------------------------------------|---|
| <b>1. Building advisory agency appeals</b><br>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<br>Appellant   | Column 2<br>Respondent           | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent by election<br>(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<br>2 A private certifier for the development application related to the approval |
| <b>3. Certain decisions under the Building Act and the Plumbing and Drainage Act</b><br>An appeal may be made against a decision under—<br>(a) the Building Act, other than a decision made by the Queensland Building and Construction Commission; or<br>(b) the Plumbing and Drainage Act, part 4 or 5. |                                  |                                       |   |
| Column 1<br>Appellant   | Column 2<br>Respondent           | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent by election<br>(if any)   |
| A person who received, or was entitled to receive, notice of the decision   | The person who made the decision | -                                     | -   |
| <b>4. Local government failure to decide application under the Building Act</b><br>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.  |                                  |                                       |   |
| Column 1<br>Appellant   | Column 2<br>Respondent           | Column 3<br>Co-respondent             | Column 4<br>Co-respondent by election   |

| <b>Table 3</b><br><b>Appeals to the tribunal only</b>        |  |          |          |
|--|--|----------|----------|
|  |  | (if any) | (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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## ATTACHMENTS (for office use only)

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Plans and Referral Agency Response

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### APPROVED PLANS



D118-2020 -  
Approved Plans Ame

### REFERRAL AGENCY CONDITIONS



D118-2020 -  
Referral Agency Con