



SARA reference: 2111-26160 SRA
Council reference: D/157-2021
Applicant reference: 2021-Berserker

7 April 2022

Chief Executive Officer
Rockhampton Regional Council
PO Box 1860
Rockhampton Qld 4700
enquiries@rrc.qld.gov.au

Attention: Sophie Muggeridge

Dear Sir/Madam

SARA response—28 Kirkellen Street, Berserker; 32 Kirkellen Street, Berserker; 30 Kirkellen Street, Berserker

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 13 December 2021.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	7 April 2022
Conditions:	The conditions in Attachment 1 must be attached to any development approval.
Advice:	Advice to the applicant is in Attachment 2 .
Reasons:	The reasons for the referral agency response are in Attachment 3 .

Development details

Description:	Development permit	Material change of use for a childcare centre
SARA role:	Referral Agency.	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 (Planning Regulation 2017)	

Development application for a material change of use within 25m of a state-controlled road

SARA reference: 2111-26160 SRA

Assessment Manager: Rockhampton Regional Council

Street address: 28 Kirkellen Street, Berserker; 32 Kirkellen Street, Berserker; 30 Kirkellen Street, Berserker

Real property description: 12RP600705; 5RP606198; 6RP606198

Applicant name: Rosalind Corp Pty Ltd C/ - Imagine Childcare

Applicant contact details: 26 Coorabin Court
Tallebudgera QLD 4228
Imunro@imagineelc.com.au

State-controlled road access permit: This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved
- Reference: TMR21-034987
- Date: 7 April 2022

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at FitzroyDistrict@tmr.qld.gov.au

Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules) Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Jacklyn Neyenhuis, Planning Officer, on 4924 2907 or via email RockhamptonSARA@dsdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Anthony Walsh
Manager Planning

cc Rosalind Corp Pty Ltd C/ - Imagine Childcare, Imunro@imagineelc.com.au

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations provisions
Attachment 5 - Approved plans and specifications

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the plans and specifications referenced below are found at Attachment 5)

No.	Conditions	Condition timing
Material change of use		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 (Planning Regulation 2017)—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	<p>(a) Noise attenuation measures to achieve the following noise criteria must be provided:</p> <ul style="list-style-type: none"> • ≤35 dB(A) Leq (1 hour) (maximum hour during opening hours) at all indoor education areas and indoor play areas. <p>(b) RPEQ certification must be provided to Fitzroy District Corridor Management (Central.Queensland.IDAS@tmr.qld.gov.au) within the Department of Transport and Main Roads', confirming that the development has been designed and constructed in accordance with part (a).</p>	<p>(a) Prior to commencement of use and to be maintained at all times.</p> <p>(b) Prior to commencement of use</p>
2.	<p>(a) The road access location is to be located generally in accordance with SITE PLAN, prepared by Australian project management services, dated 26/10/2021, dwg rev 21089_DA-100_B.</p> <p>(b) Road access works comprising property access, (at the road access location) must be provided generally in accordance with Capricorn Municipal Development Guidelines dated 12/2016 reference CMDG-R-042 and revision F. In particular:</p> <ul style="list-style-type: none"> • The access must have a width of 6m. <p>(c) The road access works must be designed and constructed in accordance with Road Planning and Design Manual 2nd Edition.</p>	<p>(a) At all times</p> <p>(b) and (c): Prior to the commencement of use</p>
3.	<p>(a) The existing vehicular property access located between Lot 5 on RP606198 and 196 Rockhampton – Yeppoon Road must be permanently closed and removed.</p> <p>(b) The kerb and channel between the pavement edge and the property boundary must be reinstated consistent with the existing kerb and channel at no cost to the Department of Transport and Main Roads'.</p>	<p>(a) and (b): Prior to the commencement of use</p>
4.	The development must be carried out generally in accordance with sections 2.2, 2.5 and 3.2 of the SITE BASED STORMWATER MANAGEMENT PLAN prepared by PINNACLE ENGINEERING GROUP dated 6-October-2021, project number PEG0884 and revision 02.	At all times
5.	The advertising sign(s) must be designed and constructed in accordance with the requirements of the Department of Transport and Main Roads' Roadside Advertising Manual, Edition 3, dated September 2019.	Prior to the commencement of use and to be maintained at all times.

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) [v2.6]. If a word remains undefined it has its ordinary meaning.
2.	<p>Under section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads to carry out road works on a state-controlled road. Please contact the Department of Transport and Main Roads' at FitzroyDistrict@tmr.qld.gov.au to make an application for road works approval. This approval must be obtained prior to commencing any works on the state-controlled road reserve.</p> <p>The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the Department of Transport and Main Roads' as soon as possible to ensure that gaining approval does not delay construction.</p>

Attachment 3—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

The reasons for the SARA's decision are:

- The proposed development is a material change of use for a child-care centre.
- Appropriate stormwater management will minimise impacts and worsening to the state-controlled road.
- Access arrangements demonstrates negligible impacts on the state-controlled road (being Queen Elizabeth Drive) with conditions imposed to ensure adherence to standards.
- Compliance with noise criteria via noise attenuation measures is required.
- The proposed development complies with the requirements of the State Development Assessment Provisions of State code 1 subject to the implementation of conditions.

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version [2.6])
- The Development Assessment Rules
- SARA DA Mapping system

Attachment 4—Change representation provisions

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Attachment 5—Approved plans and specifications

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Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules¹ regarding **representations about a referral agency response**

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

Part 7: Miscellaneous

30 Representations about a referral agency response

30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

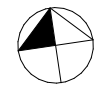


AREA SCHEDULE	
SITE COVER:	36.10%
SITE COVER:	903 m ²
SITE AREA:	2503 m ²
GBA	
CHILDCARE:	
GROUND LEVEL	693.1 m ²
OUTDOOR STORE:	
VERANDAHS:	18 m ²
SERVICES COURTYARD:	116.23 m ²
AREA PER PLACE:	
BUILD + O.STORE: (711.1m ²)	7.5 m ²
BUILD + O.STORE + VERANDAH: (827.3m ²)	8.8 m ²
PLAY AREAS:	
GROUND LEVEL	
(INC. VERANDAHS)	778.3m ²
CARPARK:	721m ²
POPULATION:	
CHILDREN:	94
FULL TIME STAFF:	15
CAR PARKING REQUIRED:	
1 PER 6 PLACES + 1 PER FTE	31
CAR PARKING PROVIDED:	
(INCLUDES 1 DISABLED)	27

PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE

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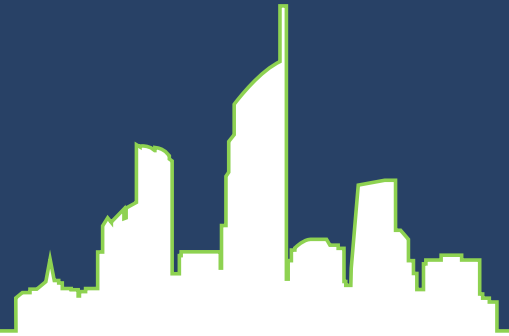
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DA ISSUE
NOT FOR CONSTRUCTION

26/10/2021
SITE PLAN





SITE BASED STORMWATER MANAGEMENT PLAN

PROPOSED CHILDCARE CENTRE DEVELOPMENT
28-32 Kirkellen Street, Berserker QLD

ROSALIND CORPORATE PTY LTD

OCTOBER 2021

REVISION 02

Amended in red by SARA on
7 April 2022

PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE



SARA ref: 2111-26160 SRA

Date: 7 April 2022

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In accordance with the requirements of the *Queensland Professional Engineers Act 2002*, this document was prepared under the supervision of, reviewed and approved by the following experienced Registered Professional Engineer of Queensland (RPEQ).



.....
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2 Stormwater Quantity Assessment

2.1 Hydrologic Objectives

The hydrologic objectives for the site were established in accordance with the RRC Planning Scheme and QUDM. These objectives include but are not limited to:

- The proposed development shall ensure that all stormwater drainage is directed to the Lawful Point of Discharge in accordance with QUDM;
- Minor Drainage System Design for 10% AEP (Q_{10}) storm event;
- Major Drainage System Design for 1% AEP (Q_{100}) storm event;
- No adverse impact on adjoining upstream or downstream properties; and
- No increase in post-development flows, up to and including the 1% AEP (Q_{100}) storm event.

2.2 Lawful Point of Discharge

The Lawful Point of Discharge for the subject site is taken as the existing stormwater infrastructure within the Kirkellen Street road reserve to the north of the subject site.

2.3 Stormwater Quantity Analysis

The analysis of the surface water runoff from the site was performed using the non-linear program XP-Rafts.

2.3.1 Temporal Patterns

The design rainfall Intensity Frequency Duration (IFD) data for the storm events up to and including the 1% AEP storm event was derived based on the RRC Planning Scheme and the AR&R.

The design IFD data for the catchment is summarised Figure 2.1 below.

The temporal patterns utilised by the XP-Rafts analysis were derived in accordance with Australian Rainfall and Runoff (AR&R), 2016 edition.

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2.5 Post Development Stormwater Mitigation Strategy

The following strategy is proposed to mitigate the post-development stormwater discharge to the site's pre-development discharge rates.

- Attenuation of post-development storm discharge from the site through the use of a detention tank located within the northeast corner of the site, beneath the proposed carpark;
- Discharge the minor 10% AEP (Q_{10}) stormwater runoff to the Lawful Point of Discharge via a piped stormwater network;
- Discharge the major 1% AEP (up to Q_{100}) stormwater runoff to the Lawful Point of Discharge via a piped stormwater network and overland flow;
- Direct all stormwater runoff from the roof, carpark and ground catchments to the proposed detention tank via an internal stormwater reticulation networks and overland sheet flow prior to discharge to the Lawful Point of Discharge; and
- Generally, maintain the existing drainage regimes and drainage discharge locations.

2.5.1 Detention Tank Design

Table 2.4 details the proposed detention tank characteristics with Table 2.5 detailing the tank storage/height relationship adopted for the XP-rafts analysis.

Table 2.4: Detention Tank Characteristics

Design Parameter	Details
Tank Outlets	Low-flow Outlet = 2 x 0.2m diameter orifice outlets Low-flow Outlet Level = at base of tank High-flow Weir = 1.0m wide x 0.1m high High-flow Outlet Level = 0.7m above base of tank
Geometry	Detention Base Area = 70m ² Volume of 56m ³ at 0.8m deep above base of tank
Modelling Summary	10% AEP (Q_{10}) Peak Outflow = 0.079m ³ /s 10% AEP (Q_{10}) Peak Stage = 0.325m 1% AEP (Q_{100}) Peak Outflow = 0.111m ³ /s 1% AEP (Q_{100}) Peak Stage = 0.771m

Table 2.5: Tank Height/Storage Relationship

Tank Height (m)	Tank Storage (m ³)	Tank Height (m)	Tank Storage (m ³)
0	0	0.5	35.0
0.1	7.0	0.6	42.0
0.2	14.0	0.7	47.0
0.3	21.0	0.8	54.0
0.4	28.0	-	-

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2.5.2 Post-development Case - Mitigated

Table 2.6 details the attenuation of the site total peak discharge via the proposed detention tank located within the northeast corner of the site beneath the proposed carpark.

Table 2.6: Post-development Scenario

Storm Event	Site Total (Discharge to Kirkellen Street existing stormwater network)		Difference (%)	Difference (m³/s)
	Pre (m³/s)	Post (m³/s)		
10% AEP (Q ₁₀)	0.083	0.079	-4.82%	-0.004
5% AEP (Q ₂₀)	0.101	0.088	-12.87%	-0.013
2% AEP (Q ₅₀)	0.122	0.101	-17.21%	-0.021
1% AEP (Q ₁₀₀)	0.140	0.111	-20.71%	-0.029

The results presented demonstrate that the proposed detention tank successfully attenuates the post-development site discharge to the pre-developed rates.

~~2.6 External Catchment Conveyance Strategy~~

~~As documented in Section 1.2.5, an external catchment upstream of the subject site has been identified. Based on the location of kerb adapters of properties within the upstream catchment, roofwater runoff will discharge to the road reserve. It is proposed to convey the residual ground catchment of the external catchment to the Lawful Point of Discharge location by constructing swale drains and a stormwater network as required.~~

~~Refer to the stormwater management layout plan within Appendix E for details.~~

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7 April 2022

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3 Stormwater Quality Assessment

3.1 Water Quality Objectives

This water quality analysis for the subject site was undertaken in accordance with the requirements of the RRC Planning Scheme, Healthy Waterways WSUD Technical Design Guidelines for South East Queensland – Version 1 and the Queensland State Planning Policy, July 2017.

The pollutant types and the associated Load Reduction Objectives (LRO) that will be evaluated are as follows:

Table 3.1: LRO Summary

Pollutant Types	Site Water Quality Objective
Total Suspended Solids (TSS)	85% reduction
Total Phosphorous (TP)	60% reduction
Total Nitrogen (TN)	45% reduction
Gross Pollutants (GP)	90% reduction

3.2 Proposed Treatment Strategy

In order to meet the above water quality objectives, a treatment train has been proposed for the proposed development which comprises of a number of individually designed proprietary Ocean Protect treatment devices that collectively contribute to the achievement of the water quality objectives.

3.3 Proposed Treatment Measures

The following water quality treatment measures are proposed for this development.

3.3.1 Ocean Protect Water Quality Treatment Products

The OceanGuard effectively acts as a gross pollutant trap, and is typically located within inlet pits or immediately preceding an inflow pipe into a rainwater or detention tank receiving surface runoff. The system uses a mesh and grated system to capture 'large' pollutants prior to further nutrient and fine particle treatment.

The StormFilter cartridge system is a passive, flow-through stormwater filtration system which consists of a number of filter cartridges containing a variety of filter media. The system works based on the incoming hydraulic grade forcing water up and into the cartridge system which traps and slowly releases the runoff, containing pollutants within the filter. Clean water is then discharged out of the system and into downstream infrastructure.

Figure 3.1 below illustrates a typical filter Ocean Protect StormFilter OceanGuard treatment train configuration. Additional information on Ocean Protect treatment devices is included in Appendix G.

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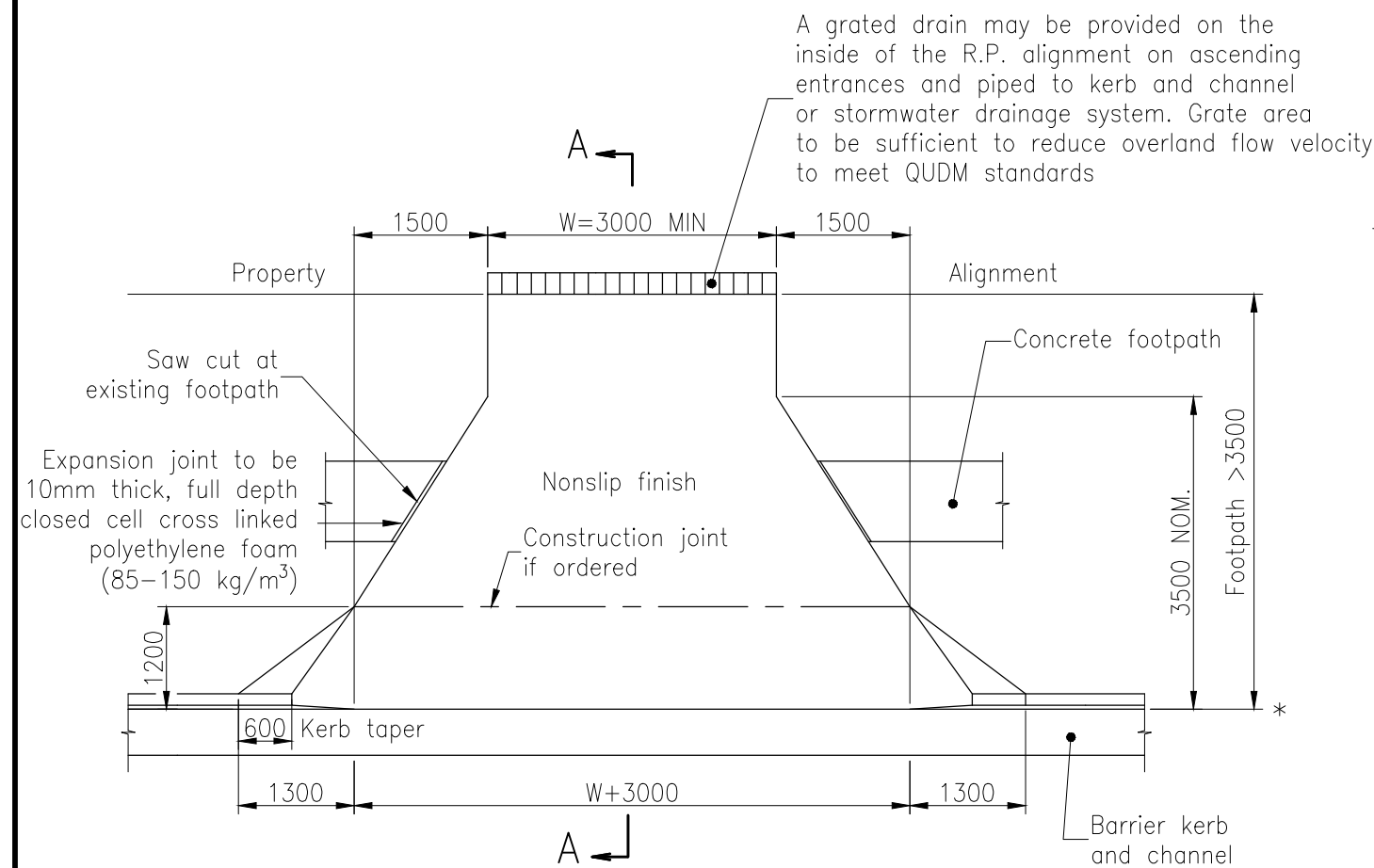
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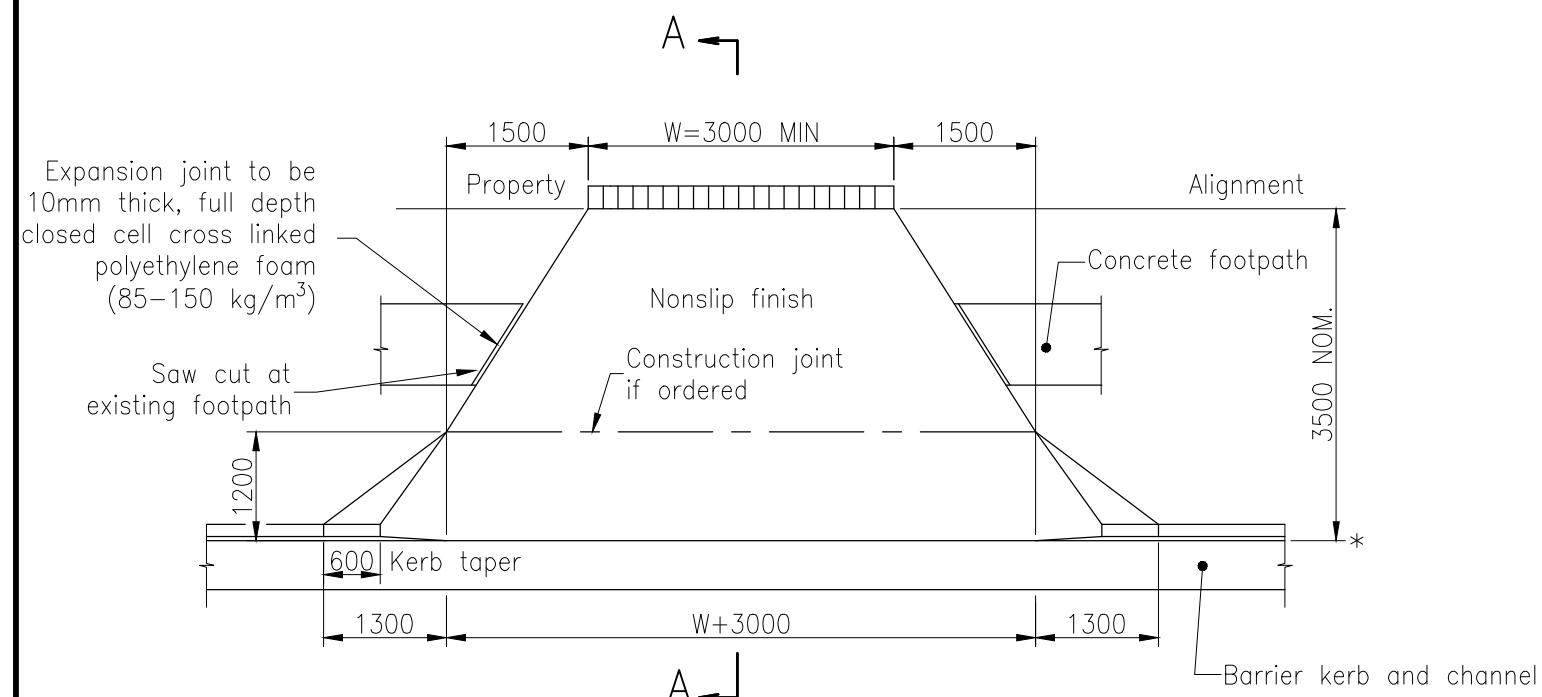


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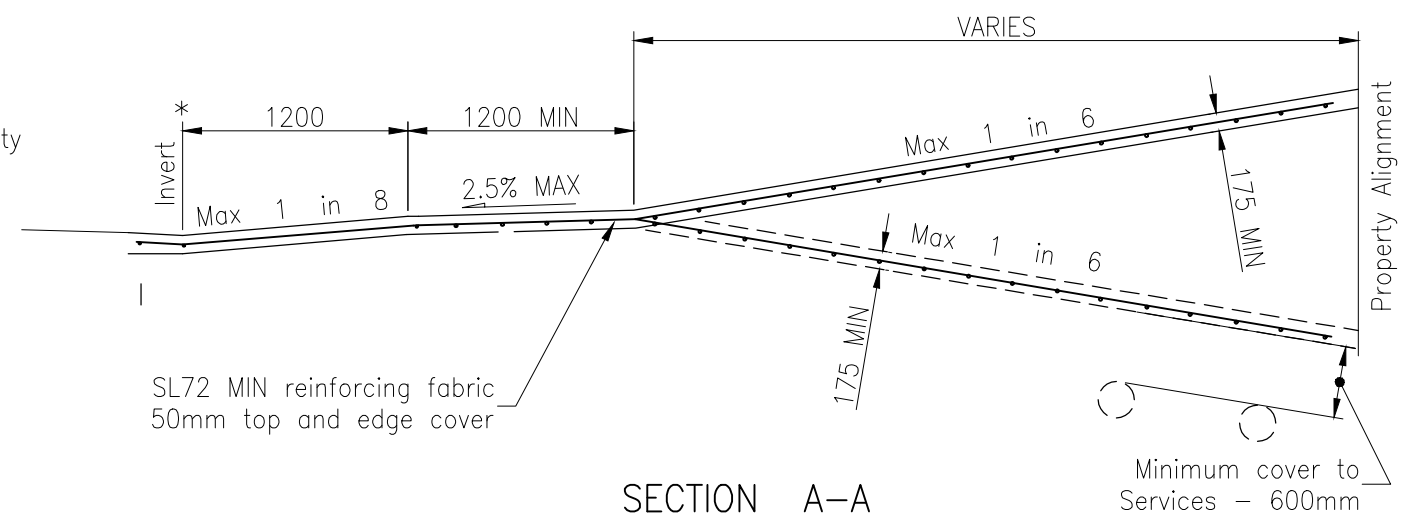


PLAN – WIDE FOOTPATHS
SCALE 1 : 40



PLAN – 3.5m FOOTPATH
SCALE 1 : 40

ADDED REGARDING
GRATED DRAIN GRATE
AREA



LEGEND:

* NOM. kerb line.

NOTES:

1. The owner of the property served by the driveway shall be responsible for all maintenance associated with the driveway.
2. Concrete N32 in accordance with AS 1379 and AS 3600.
3. Reinforcing fabric to AS 4671. Lap fabric 250mm.
4. Depths of concrete and reinforcing steel shown are the minimum requirements for good foundation conditions, and average traffic loading. Where this does not apply, depths of concrete and reinforcing shall be increased to suit specific conditions. Council accepts no responsibility for the structural adequacy of the design and it is recommended that engineering advice be sought where higher commercial vehicle loadings are expected.
5. Reprofile adjacent footpath to match driveway. Footpath earthworks adjoining concrete must be well compacted.
6. Existing footpath profile to be maintained where possible.
7. Compaction for subgrade 95% Standard to AS 1289.5.1.1.
8. Where subgrade is less than CBR 5 excavate and provide imported material to satisfaction of independent Engineering authority.
9. Driveways to be constructed from concrete only.
10. Approval of location, feature finishes and levels must be obtained from Local Authority prior to excavation.
11. Engineering advice should be sought where it is proposed to modify the footpath profile by excavation or filling to ensure drainage problems do not result and existing services are not affected.
12. Where new concrete work abuts existing concrete work, 12dia dowels (500mm length) at 300mm centres (500mm allowable at invert of kerb and channel) to be installed to prevent differential movement.
13. All dimensions in millimetres.

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APPLICABILITY TABLE

	BSC	CHRC	GRC	IRC	LSC	MRC	RRC
Applicable	Yes	Yes	No	Yes	Yes	Yes	Yes
Applicable DWG	CMDG-R-042A						

REVISIONS	DATE
F IRC ADDED	12/2016
E APPLICABLE DRAWING ADDED	04/2016
D GRC AND LSC ADDED	09/2014
C MRC ADDED/AMENDMENT TO DRIVEWAY GRADE	07/2011
B NOTE ADDED REGARDING GRATED DRAIN GRATE AREA	12/2010
A POST AMALGAMATION REVISION	01/2010

DISCLAIMER.
The authors and sponsoring organisations shall have no liability or responsibility to the user or any other person or entity with respect to any liability, loss or damage caused or alleged to be caused, directly or indirectly, by the adoption and use of these Standard Drawings including, but not limited to, any interruption of service, loss of business or anticipatory profits, of consequential damages resulting from the use of these Standard Drawings. Persons must not rely on these Standard Drawings as the equivalent of, or a substitute for, project-specific design and assessment by an appropriately qualified professional.

Capricorn Municipal Development Guidelines

Incorporating:
Banana Shire Council (BSC) Livingstone Shire Council (LSC)
Central Highlands Regional Council (CHRC) Maranoa Regional Council (MRC)
Gladstone Regional Council (GRC) Rockhampton Regional Council (RRC)
Isaac Regional Council (IRC)

**TYPE A – TWO WAY ACCESS
COMMERCIAL DRIVEWAY SLAB**

ROADS
STANDARD DRAWING CMDG-R-042
REV. A B C D E F

Our ref TMR21-034987
Your ref
Enquiries Jason Giddy



Department of
Transport and Main Roads

7 April 2022

Rosalind Corp Pty Ltd
c/- Imagine Childcare 26 Coorabin Court
Tallebudgera QLD 4305

Decision Notice – Permitted Road Access Location **(s62(1) Transport Infrastructure Act 1994)**

This is not an authorisation to commence work on a state-controlled road¹

Development application reference number D/157-2021, lodged with Rockhampton Regional Council involves constructing or changing a vehicular access between Lot 12RP600705, 5RP606198, 6RP606198, the land the subject of the application, and 196 Rockhampton – Yeppoon Road (a state-controlled road).

In accordance with section 62A(2) of the *Transport Infrastructure Act 1994* (TIA), this development application is also taken to be an application for a decision under section 62(1) of TIA.

Application Details

Address of Property 32 Kirkellen Street, Berserker QLD 4701
Real Property Description 12RP600705, 5RP606198, 6RP606198
Aspect/s of Development Material Change of Use for Childcare Centre
Operational Works for Advertising Devices

Decision (given under section 67 of TIA)

It has been decided to approve the application, subject to the following conditions:

No.	Conditions of Approval	Condition Timing
1	The permitted road access location is to be located in accordance with the plan titled 'Site Plan', prepared by Australian Project Management Services, dated 16 October 2021 reference 21089_DA-100_B. <ul style="list-style-type: none">Note: the TMR chainage is 1.968km (LHS) (lat: -23.369037; long; 150.520617).	At all times.
2	Road access works comprising driveway crossover must be provided at the permitted access location, generally in accordance with Capricorn Municipal Development Guidelines 'Type A – Two Way Access Commercial Driveway Slab', ref. CMDG-R-042, dated December 2016, rev. F. In particular, the access must have a width of 6m.	Prior to commencement of use.

¹ Please refer to the further approvals required under the heading 'Further approvals'

No.	Conditions of Approval	Condition Timing
3	<p>(a) The existing vehicular property access located between Lot 5 on RP606198 and Road 196 Rockhampton – Yeppoon Road (also known as Queen Elizabeth Drive) must be permanently closed and removed.</p> <p>(b) The kerb and channel and footpath must be reinstated. The Road Planning and Design Manual 2nd Edition or Capricorn Municipal Development Guidelines may apply (whichever is consistent with existing infrastructure will apply).</p>	Prior to commencement of use.
4	"No Stopping" signs (R5-35 (L)(R)) and a painted yellow line marking between the intersection of the Edwin Street / Queen Elizabeth Drive and the existing bus stop must be provided in accordance with the requirements of the Manual of Uniform Traffic Control Devices (MUTCD).	Prior to commencement of use.
5	Direct access is prohibited between 196 Rockhampton - Yeppoon Road at any other location other than the permitted road access location described in Condition 1.	At all times.
6	The road access is to be constructed and maintained at no cost to the department in accordance with section 64(a) & (b) of the <i>Transport Infrastructure Act 1994</i> .	At all times.
7	The road access to the subject land can accommodate use by vehicles up to a 10.24m (Refuse Collection Vehicle).	At all times.
8	All vehicles entering or exiting the property via the permitted access must travel in a forward direction only.	At all times.
9	Reasonable steps must be taken to ensure the permitted access location is used by others in accordance with these conditions.	At all times.

Reasons for the decision

The reasons for this decision are as follows:

- a) To maintain the safety and efficiency of the State-controlled road.

Please refer to **Attachment A** for the findings on material questions of fact and the evidence or other material on which those findings were based.

Information about the Decision required to be given under section 67(2) of TIA

1. There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
2. In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for information.

Further information about the decision

1. In accordance with section 67(7) of TIA, this decision notice:
 - a) starts to have effect when the development approval has effect; and
 - b) stops having effect if the development approval lapses or is cancelled; and
 - c) replaces any earlier decision made under section 62(1) in relation to the land.
2. In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply for a review of this decision only within 28 days after notice of the decision was given under the TIA. A copy of the review provisions under TIA and TPCA are attached in **Attachment C** for information.
3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

Further approvals

The Department of Transport and Main Roads also provides the following information in relation to this approval:

1. Road Access Works Approval Required – Written approval is required from the department to carry out road works that are road access works (including driveways) on a state-controlled road in accordance with section 33 of the TIA. This approval must be obtained prior to commencing any works on the state-controlled road. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the department to make an application.
2. Further advice:
 - a) Please note that TMR reserves the right to restrict or prohibit parking in front of the site should it be necessary to do so for safety or operational reasons.

If further information about this approval or any other related query is required, Mr Jason Giddy, A/ Senior Town Planner should be contacted by email at FitzroyDistrict@tmr.qld.gov.au or on (07) 4931 1686.

Yours sincerely



Anton DeKlerk
Principal Town Planner

Attachments: Attachment A - Decision evidence and findings
Attachment B - Section 70 of TIA
Attachment C - Appeal Provisions
Attachment D - Permitted Road Access Location Plan

Attachment E - Capricorn Municipal Development Guidelines 'Type A – Two Way
Access Commercial Driveway Slab', ref. CMDG-R-042 dated
December 2016, rev.F

Attachment A

Decision Evidence and Findings

Findings on material questions of fact:

1. The development application is a Material Change of Use (MCU) application for a Childcare Centre and an Operational Works application for Advertising Devices. The MCU is referred to the department under the provisions of the *Planning Act 2016*.
2. The application included a new access location to the state-controlled road (known as Queen Elizabeth Drive), in accordance with section 62A of the *Transport Infrastructure Act 1994* (TIA), a new or changed access associated with a planning application is taken to be an application for a permitted access location under section 62 of the TIA.
3. The department undertook an assessment of the proposed access location in accordance with the TIA and the *Transport and Main Roads Vehicular Access Policy* (VAP).
4. The VAP requires under Principle 2, Strategy 2 that access to the State-controlled road be obtained off local roads where *feasible*. Whilst from a traffic engineering perspective, access could be obtained off the local road (Kirkellen Street), reasons were provided at section 3.2.1 of the amended Traffic Impact Assessment and an associated cover letter at Appendix F as to why an access to the local road is not considered feasible in the context of the development. The VAP does not direct, define, or otherwise constrain what can be considered in the scope of the term 'feasible'. The stated issues do not result in an access from the local road being unfeasible.
5. The Traffic Impact Assessment and Cover Letter outlined that other uses of comparable traffic generation have been approved historically on the same road.
6. The Traffic Impact Assessment concluded that the proposed access to the State-controlled road would not compromise the functional intent of, or worsen safety on, the State-controlled road.
7. Principle 2 of the VAP is concerned with ensuring vehicular accesses to the State-controlled road do not compromise the function of the road, in particular the through-traffic carrying capacity of the road. The submitted Traffic Impact Assessment has demonstrated the proposed access location will not compromise the function of the road. Therefore, irrespective of whether the originally proposed access to the local road is deemed feasible or not feasible, the proposed access to the State-controlled road is considered to be broadly compliant with the intent of the VAP.

Evidence or other material on which findings were based:

1. *Transport Infrastructure Act 1994*
2. *Planning Act 2016*
3. *TMR Vehicular Access Policy*
4. *Traffic Impact Assessment, compiled by Access Traffic Consulting, dated 15 March 2022, ref. ROS0121-001, rev. B*

Attachment B

Section 70 of TIA

Transport Infrastructure Act 1994

Chapter 6 Road transport infrastructure

Part 5 Management of State-controlled roads

70 Offences about road access locations and road access works, relating to decisions under s 62(1)

- (1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.
- (2) A person to whom this section applies must not—
 - (a) obtain access between the land and the State-controlled road other than at a location at which access is permitted under the decision; or
 - (b) obtain access using road access works to which the decision applies, if the works do not comply with the decision and the noncompliance was within the person's control; or
 - (c) obtain any other access between the land and the road contrary to the decision; or
 - (d) use a road access location or road access works contrary to the decision; or
 - (e) contravene a condition stated in the decision; or
 - (f) permit another person to do a thing mentioned in paragraphs (a) to (e); or
 - (g) fail to remove road access works in accordance with the decision.

Maximum penalty—200 penalty units.

- (3) However, subsection (2)(g) does not apply to a person who is bound by the decision because of section 68.

Attachment C
Appeal Provisions

Transport Infrastructure Act 1994
Chapter 16 General provisions

485 Internal review of decisions

- (1) A person whose interests are affected by a decision described in schedule 3 (the *original decision*) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
 - (a) applies to the review; and
 - (b) provides—
 - (i) for the procedure for applying for the review and the way it is to be carried out; and
 - (ii) that the person may apply to QCAT to have the original decision stayed.

485B Appeals against decisions

- (1) This section applies in relation to an original decision if a court (the appeal court) is stated in schedule 3 for the decision.
- (2) If the reviewed decision is not the decision sought by the applicant for the review, the applicant may appeal against the reviewed decision to the appeal court.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
 - (a) applies to the appeal; and
 - (b) provides—
 - (i) for the procedure for the appeal and the way it is to be disposed of; and
 - (ii) that the person may apply to the appeal court to have the original decision stayed.
- (4) Subsection (5) applies if—
 - (a) a person appeals to the Planning and Environment Court against a decision under section 62(1) on a planning application that is taken, under section 62A(2), to also be an application for a decision under section 62(1); and

(b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.

(5) The court may order—

(a) the appeals to be heard together or 1 immediately after the other; or

(b) 1 appeal to be stayed until the other is decided.

(6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.

(7) In this section—

original decision means a decision described in schedule 3.

reviewed decision means the chief executive's decision on a review under section 485.

31 Applying for review

- (1) A person may apply for a review of an original decision only within 28 days after notice of the original decision was given to the person under the transport Act.
- (2) However, if—
 - (a) the notice did not state the reasons for the original decision; and
 - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)the person may apply within 28 days after the person is given the statement of the reasons.
- (3) In addition, the chief executive may extend the period for applying.
- (4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

32 Stay of operation of original decision

- (1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the relevant entity.
- (2) The relevant entity may stay the original decision to secure the effectiveness of the review and any later appeal to or review by the relevant entity.
- (3) In setting the time for hearing the application, the relevant entity must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the relevant entity with it on the chief executive at least 2 business days before the hearing.
- (6) The stay—
 - (a) may be given on conditions the relevant entity considers appropriate; and
 - (b) operates for the period specified by the relevant entity; and
 - (c) may be revoked or amended by the relevant entity.
- (7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period the relevant entity allows the applicant to enable the applicant to appeal against the decision or apply for a review of the decision as provided under the QCAT Act.

(8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.

(9) In this section—

relevant entity means—

(a) if the reviewed decision may be reviewed by QCAT—QCAT; or

(b) if the reviewed decision may be appealed to the appeal court—the appeal court.

35 Time for making appeals

(1) A person may appeal against a reviewed decision only within—

(a) if a decision notice is given to the person—28 days after the notice was given to the person; or

(b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

(2) However, if—

(a) the decision notice did not state the reasons for the decision; and

(b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

the person may apply within 28 days after the person is given a statement of the reasons.

(3) Also, the appeal court may extend the period for appealing.