

REPORT TITLE	Assessment of Change Application for Material Change of Use – Impact – Child Care Centre located at 267 Taylor Street, WILSONTON QLD 4350
AUTHOR	Planning Officer (Alice Ssu-Chieh Pai)
Application No.	MCUI/2023/1544/C

PURPOSE OF REPORT

To consider a change application regarding a development approval for Material Change of Use – Impact – Child Care Centre located at 267 Taylor Street, WILSONTON QLD 4350.

EXECUTIVE SUMMARY

This report considers a change a change application regarding a development approval for Material Change of Use – Impact –Child Care Centre located at 267 Taylor Street, Wilsonton.

The history of the approval is as following:

MCUI/2023/1544: On the 26 October 2023 Council issued an approval for a Material Change of Use for Child Care Centre

MCUI/2023/1544/A: On the 14 November 2023 Council issued a Negotiated Decision removing the requirement for a Sewerage Easement.

MCUI/2023/1544/B: On 15 May 2025 Council issued an Approval for an Other Change to the development permit to increase the scale and intensity of the Childcare Centre.

The subject minor change application (MCUI/2023/1544/C) was lodged on the 15 January 2026 and seeks to increase the number of Full Time Equivalent (FTE) staff on-site from 16 to 21. An increase in the number of on-site carparking spaces is also proposed from 31 to 33 to support the increase in FTE numbers. An updated floor plan has also been submitted to reflect minor internal amendments, that is considered to be generally consistent with the current approval.

The proposed change is considered to constitute a ‘minor change’ under Section 81 of the *Planning Act 2016*. The proposed changes are considered to generally comply with the existing approval, *Toowoomba Regional Planning Scheme 2012 (Version 28)*, the required tests for a minor change under the *Planning Act 2016* and all other relevant considerations. The application is recommended to be approved subject to amended conditions as outlined in this report.

RECOMMENDATION

APPROVED – Change Application regarding Development Approval MCUI/2023/1544/C for Material Change of Use – Impact – Child Care Centre, pursuant to the provisions of Section 81 of the *Planning Act 2016* and subject to the amendments listed below.

ASSESSMENT MANAGER CONDITIONS

PLANNING

APPROVED USE

1. This Development Apporoval is for a Material Change of Use for Child Care Centre (557.65m² 767.68m² GFA) and is subject to the following limitations:
 - 1.1 Maximum of ~~80~~ 104 children; and
 - 1.2 Maximum of 44 ~~16~~ 21 Full Time Equivalent (FTE) staff.

Note: These maximums are imposed primarily to ensure the development complies with assessment benchmarks for on-site car parking.

CARRY OUT & MAINTAIN DEVELOPMENT

2. The development must comply with the provisions of Council's Local Laws, Planning Scheme policies, Planning Scheme and Planning Scheme Codes to the extent they are not varied by this Development Approval.
3. Unless otherwise stated, all conditions must be complied with prior to the commencement of the use and thereafter.
4. Complete all building work associated with this Development Approval, including work required by any of the conditions of this Development Approval prior to the commencement of the use. Such building work is to be carried out generally in accordance with the approved Plans and Documents and, where the building work is assessable development, in accordance with a current Building Works approval.
5. The development must be maintained generally in accordance with the Approved Plans subject to or modified by any conditions of this Development Approval.

APPROVED PLANS

6. The development must be carried out generally in accordance with the Approved Plans listed below, subject to conditions of this Development Approval:

Plan No: 2221-DA01, Rev. ~~F K M~~

Description: Development Site Plan, prepared by Green Lion Design dated ~~16 October 2023~~ **24 January 2025** ~~14 January 2026~~ and received by Council ~~18 October 2023~~ **24 January 2025** ~~15 January 2026~~

Amendments: ~~Plan to be resubmitted to include the following amendments:~~

~~Provision of 31 Parking spaces as outlined in Condition 98 of this Development Approval. Nil~~

~~Plan No:~~ ~~2221-DA02, Rev. D~~

~~Description:~~ ~~Site Plan, prepared by Green Lion Design dated 1 August 2023 and received by Council 5 September 2023~~

~~Amendments:~~ Nil

Plan No: 2221-DA03, Rev. ~~G E F~~

Description: Floor Plan, prepared by Green Lion Design dated ~~25 August 2023~~ **8 January 2025** ~~14 January 2026~~ and received by Council ~~5 September 2023~~ **8 January 2025** ~~15 January 2026~~

Amendments: Nil

Plan No: 2221-DA06, Rev. D

Description: Elevations, prepared by Green Lion Design dated 8 January 2025 and received by Council 8 January 2025

Amendments: Nil

Plan No: 2221-DA07, Rev. D

Description: Elevation, prepared by Green Lion Design dated 8 January 2025 and received by Council 8 January 2025.

- 6A. ~~Plans to be amended must only incorporate the amendments listed within this Development Approval and must be resubmitted to Council for approval prior to the issue of any Development Permit for Operational Work, Building Work or Plumbing and Drainage Work and prior to the submission of an Environmental Noise Impact Assessment or Landscape Plan for endorsement.~~

APPROVED DOCUMENT

7. The development must be carried out generally in accordance with the Approved Document listed below, subject to the conditions of this Development Approval:

- Document:** Report R230419R1, Revision 1.
Description: Noise Impact Assessment, prepared by Rodney Stevens Acoustics dated 5 September 2023 and received by Council 5 September 2023
Amendments: Report to be amended and submitted to include the amended layout and capacity of the development as required by Condition 104A.

- 7A. Documents to be amended must only incorporate the amendments listed within this Development Approval and must be resubmitted to Council for approval prior to the issue of any Development Permit for Operational Work, Building Work or Development Permit for Plumbing and Drainage Work, or prior to commencement of use, whichever occurs first.

COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS (OPERATIONAL WORK)

8. Prepare and submit applications to Council and obtain a Development Permit for Operational Work for the following:
- 8.1 ~~Driveway Access~~;
 - 8.2 Bulk Earthwork (if required);
 - 8.3 ~~Sewer Infrastructure~~; and
 - 8.4 Stormwater Infrastructure.

COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS (FOR ENDORSEMENT)

9. Prepare and submit the following documents in accordance with the conditions of this Development Approval and obtain Council's endorsement:
- 9.1 Landscape Plan; and
 - 9.2 Parking Management Plan demonstrating Tandem parking will work with daily operation requirements and ensure compliance with the Early Childhood Services National Regulations (ECSNR).
- 9A. Documents to be endorsed must be submitted to Council for approval prior to the issue of any Development Permit for Operational Work, Building Work or Development Permit for Plumbing and Drainage Work, or prior to commencement of use, or prior to Council's approval of the Plan of Subdivision, whichever occurs first.

AVAILABILITY OF APPROVED DOCUMENTATION DURING WORKS

10. A legible copy of the Development Approval, including the Approved and Amended Plans and Documents bearing Council's approved stamp must be available on the subject land for inspection at all times during earthworks and construction.

COMMENCEMENT OF USE

11. Submit to Council a Notice of Intention to Commence the Approved Use. The notice must:
- 11.1 Be submitted to the Manager, Development Services within a minimum of ten (10) business days prior to commencement of the approved use;
 - 11.2 Nominate the day the approved use is intended to commence; and
 - 11.3 Include evidence (i.e. copies of decision notice(s), photographic proof, and statement(s) of compliance with the conditions of this approval from suitably qualified persons) which demonstrates that all conditions of this approval have been complied with.

DEDICATIONS, AGREEMENTS & CONTRIBUTIONS

EASEMENTS

- ~~12. An easement for sewerage infrastructure purposes must be registered in favour of Lot 1 RP118586 against the title of Lot 58 RP17614 and Lot 59 RP17614 which permits the installation, access and maintenance of sewerage infrastructure. The minimum width of the easement must be determined as part of an operational works Development Permit and must be registered with the Titles Office prior to the commencement of use any works associated with this Development Approval.~~
- ~~13. Where the Grantee is Council or a service authority, the easement documentation must be in accordance with the Grantee's standard easement terms and documents or any other terms and conditions as deemed necessary to fulfil the purpose of the easement.~~
- ~~14. Easement documentation must be prepared and submitted to Council, at no cost to Council, for endorsement where Council is the Grantee or review against conditions of approval otherwise.~~
- ~~15. Unless consistent with the terms of the easement and authorised under this Development Approval, any permanent works or structures must be kept clear of any existing or proposed easements on the subject land.~~

~~*Note: Council will not take or purchase land in accordance with section 263 of the Planning Act 2016 in order to allow the construction of drainage infrastructure on adjoining land to facilitate the development.*~~

~~*Note: The owner of the Lot 1 RP118586 will be required to consent to the works and easements required by this condition. This condition cannot be taken to compel the owner of adjoining land to consent to the works or easements.*~~

DEVELOPMENT CONSTRAINTS

AIRPORT ENVIRONS

16. Any cleared vegetation must be mulched or removed from the subject land and not burnt on-site.
17. All food and/or waste holding areas and receptacles must be contained and covered.
18. Roofs of buildings must be a non-reflective colour or material.
19. Any outdoor lighting, including street lighting must comply with the requirements of Chapter 9 of the *CASA Manual of Standards Part 139 – Aerodromes*.

REMOVAL OF EXISTING BUILDINGS & STRUCTURES

20. Unless otherwise approved in writing by Council all existing buildings and structures on the subject site must be removed prior to the commencement of the use.

WORKS

ENGINEER'S CERTIFICATION AND SUPERVISION OF WORKS

21. Plans and specifications for all works associated with car parking, stormwater drainage and earthworks, or any other works required on Council infrastructure, must be prepared and certified by a Registered Professional Engineer Queensland - Civil (RPEQ).
22. A RPEQ must submit to Council a copy of the:
- 22.1 Design Certificate prior to commencement of the works; and
- 22.2 Construction Supervision Certificate upon completion of the works certifying that works are in accordance with the approved plans and specifications.
23. Any works that have been certified by an RPEQ must be carried out under the supervision of an RPEQ with all executed works being detailed on a Construction Supervision Certificate.

24. Where any condition refers to or requires an Engineer to perform a task or function, the Engineer must hold professional indemnity insurance to the value of \$2,000,000. A Certificate of Currency must be submitted to Council with any Design Certificate or Construction Supervision Certificate.

STORMWATER DRAINAGE

25. All land adjoining the development must be protected from ponding or nuisance from stormwater resulting from the development for the life of the development.
26. Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and be approved by Council for the internal and external stormwater infrastructure. The design and the construction of the works must be certified by a RPEQ – Civil, including the submission of a Detailed Stormwater Management Plan in accordance with the relevant standards in *Planning Scheme Policy No. 2 - Engineering Standards – Roads and Drainage Infrastructure* (PSP No.2) and *State Planning Policy 2017* demonstrating the following:
- 26.1 Stormwater is conveyed to a lawful point of discharge in accordance with the stormwater discharge conditions of this Development Approval;
- 26.2 No increase in peak flow rates downstream from the subject land for storm events as nominated in PSP 6.2 Table SC6.2.7. Major events exceeding ARI of 100 years must be considered in accordance with the requirements of the Queensland Urban Drainage Manual;
- 26.3 No increase in flood levels external to the subject land;
- 26.4 No increase in duration of inundation external to the subject land that could cause loss or damage;
- 26.5 Appropriate inspection and maintenance of stormwater quality control infrastructure in accordance with a program; and
- 26.6 The achievement of Water Sensitive Urban Design objectives listed in PSP No. 2 and *State Planning Policy 2017*.
27. All stormwater infrastructure necessary to convey run-off from roof and developed surface areas, and any run-off onto the subject land from adjacent areas, must be provided in accordance with a Development Permit for Operational Work.

Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.

STORMWATER DISCHARGE

28. Stormwater from the new roofed and sealed areas must be picked up and discharged by way of sealed underground pipe to the street channel. The works must be constructed in accordance with the current version of the Institute of Public Works Engineering Australasia standard drawing titled *Kerb and Channel Residential Drainage Connections*, drawing number RS-081.

Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.

29. Design and construction of all internal, and external, stormwater drainage works must comply with the relevant sections of *Planning Scheme Policy No. 2 - Engineering Standards - Roads and Drainage Infrastructure* (PSP No.2), each applicable section of *Australian and New Zealand Standard AS/NZS 3500 - Plumbing and Drainage Code* and the *Queensland Urban Drainage Manual*.
30. Outlets to the street channel must be limited to a maximum discharge of 50 litres per second at any one point of discharge, and where practical, spread across the street frontage so as not to concentrate the discharge to any one location.

31. Where works for stormwater infrastructure are not operational work approved for the Community Titles Scheme, prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and approved by Council

BULK EARTHWORKS

32. Where earthworks are not assessed as part of a Development Application for a Development Permit for Building Work, prior to the commencement of any earthworks on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and be approved by Council.

AIR QUALITY IMPACT MITIGATION

33. Odours or airborne contaminants which are noxious or offensive to public amenity or safety, likely to cause environmental harm or environmental nuisance or exceed the *Air Quality Objectives* listed in the *Environmental Protection (Air) Policy 2019* as measured at any sensitive place or commercial place must not be released to the atmosphere during building work and throughout the life of this development.
34. All reasonable and feasible avoidance and mitigation measures are employed so that dust emissions generated during building works do not exceed the following levels when measured at any sensitive place or commercial place:
- 34.1 Dust deposition of 133 milligrams per square metre per day, averaged over 1 month, when monitored in accordance with the most recent version of *Australian Standard AS3580.10.1 Methods for sampling and analysis of ambient air - Determination of particulate matter - Deposited matter - Gravimetric method*.

VIBRATION IMPACT

35. Construction activities and equipment that produce vibrations must not impact upon the amenity of commercial and residential receptors or cause impacts to the structural integrity of the existing buildings/improvements, including foundations, on surrounding properties.
36. Where considered warranted by Council and when requested in writing to do so, a vibration impact investigation must be undertaken to determine extent of any impacts. In such circumstances, a suitably qualified person must monitor, interpret and record all parameters in order to determine whether or not vibration impacts are below those stated in Table 1. The results of the investigation must be provided to Council within 14 days of the request or a longer period if specified in any such request.

Table 1 - Human comfort vibration limits to minimize nuisance

Building	Work Period	Resultant PPV (mm/s)	
		Lower Limit	Upper Limit
Dwellings	Standard Hours	1.0	2.0
	Non-standard hours – evening (6pm to 10pm)	0.3	1.0
	Non-standard hours – night (10pm to 7am)		
Medical / health buildings (wards, surgeries, operating theatres, consulting rooms)	All	0.3	1.0
Educational facilities (rooms designed for teaching purposes)	While in use		
Court of Law (Court Rooms)			
Court of Law (Court reporting and transcription areas, Judges' chambers)			
Community Buildings (libraries, places of worship)	While in use	1.0	2.0
Commercial (offices) and retail areas			

Source: Table 3.3.1.1(a) of TMR Transport Noise Management Code of Practice Volume 2 – Construction Noise and Vibration (Code of Practice – Construction)

CONSTRUCTION WASTE MANAGEMENT & STORAGE

37. Waste generated during demolition, excavation and construction must be managed in accordance with the waste management hierarchy as detailed in the *Waste Reduction and Recycling Act 2011*.
38. The on-site storage and disposal of demolition, excavation and construction waste (including the storage and disposal of night soil) must comply with the *Environmental Protection Regulation 2019*.
39. Fires are not to be lit to dispose of demolition or construction waste.
40. No demolition, excavation or construction waste is to be used as fill or buried on-site (with the exception of cut material recycled from the subject land and used on the subject land), or be used as fill or buried elsewhere, unless otherwise permitted:
 - 40.1 Elsewhere within this Development Approval;
 - 40.2 In accordance with an associated Operational Works approval;
 - 40.3 In association with and in accordance with an Environmental Authority issued under the *Environmental Protection Act 1994*; and either
 - 40.4 In accordance with either a general or specific approval of a resource for beneficial use (otherwise known as a beneficial use approval) issued under the *Waste Reduction and Recycling Act 2011*; or
 - 40.5 In accordance with a written approval issued by Council under the *Environmental Protection Regulation 2019* relating to the depositing or disposal of general waste from a premises not serviced by Council.
41. Demolition, excavation and construction waste (including night soil) must not be placed or stored within the road reserve at any time.

CONSTRUCTION NOISE IMPACT MITIGATION

42. Building work (as per the definition of the *Environmental Protection Act 1994*) that creates audible noise must be confined to the hours of 6:30am and 6:30pm Monday to Saturday (excluding Public Holidays) unless otherwise approved by Council in an endorsed Construction Environmental Management Plan.

EROSION & SEDIMENT CONTROL

43. Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by the action of wind or running water must be stored clear of drainage paths and not within the road reserve at any time.
44. Measures such as sediment fences, earth berms, temporary drainage, temporary sediment basins, dewatering or stormwater filtering devices to prevent eroded material, sediment or sediment laden water from being transported to adjoining properties, roads or stormwater drainage systems must be provided.
45. Where erosion and sediment control measures have been damaged, fail or are inadequate and erosion or the release of sediment or sediment laden stormwater has occurred from the subject land or associated works, any resultant property or environmental damage or interference caused must be repaired or cleaned up within 24 hours or upon the direction of Council, at no cost to the affected parties.
46. All disturbed areas must be mulched or turfed as soon as possible during construction.
47. Measures such as vehicle baths, wash-down and construction matting together with dust suppressants and wraps, exposed ground and stockpile sprinkling must be put in place to minimize

site vehicles tracking sediment onto adjoining streets during the course of the construction period, and to prevent dust nuisance during construction and, where applicable the ensuing 'on-maintenance' period.

CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN

48. Prior to commencement of site works and any pre-start meeting for operational works, submit to Council for endorsement a Construction Environmental Management Plan prepared by a qualified person that at a minimum includes the following:
 - 48.1 Location of the site, including physical address, lot on plan and relevant scaled maps;
 - 48.2 Description of the site including infrastructure and features on or near the site and those areas requiring protection or avoidance;
 - 48.3 Contact details and responsibilities for site representatives;
 - 48.4 Description of construction activities to be conducted on site;
 - (i) Location of construction areas and adjacent operational / residential areas;
 - (ii) Construction staff and vehicle numbers;
 - (iii) Construction hours;
 - (iv) Amenities; and
 - (v) When relevant, prohibited activities and prohibited areas where no work should be permitted.
 - 48.5 Site Plans clearly showing where proposed activities will occur, including sensitive receptors and areas where impacts on the environment may occur.
 - 48.6 Strategies to manage the following environmental impacts;
 - (i) Air quality and dust management;
 - (ii) Noise and vibration management;
 - (iii) Stormwater quality management;
 - (iv) Erosion and sediment control;
 - (v) Waste management, storage and collection; and
 - (vi) Complaint management procedures.
49. The Construction Environmental Management Plan must receive endorsement by Council prior to issue of any Development Permit for Building Work or Development Permit for Operational Work.
50. The Construction Environmental Management Plan must address both the internal works for the development and any associated external works.
51. The endorsed Construction Environmental Management Plan must be implemented and, maintained where necessary to maintain compliance with the requirements of this Development Approval.

DAMAGE TO SERVICES & ASSETS

52. Protect Council and public utility services and assets during construction of the development.
53. Any damage caused to existing services and assets as a result of the development works must be repaired at no cost to the asset owner in accordance with the following timing:
 - 53.1 Where the damage would cause a hazard to pedestrian or vehicle safety or interrupts a service to the community, immediately; or
 - 53.2 Where otherwise, as soon as reasonably possible, but no later than completion of the works associated with the development or prior to the commencement of use, whichever is the earlier.
54. Any repair work which includes alteration to the alignment or the level of existing services and assets must first be referred to the relevant service authority for approval.

55. Construction, alterations and any repairs to Council infrastructure is undertaken in accordance with Council's relevant policies and requirements at no cost to Council.

Note: Council must be notified of any damage to water and sewer immediately on Ph: 131 872.

SERVICES & UTILITIES

WASTEWATER INFRASTRUCTURE (GENERAL)

56. ~~The existing sewer which traverses through the subject property must be re-routed clear of the development in accordance with Council Waste Water Infrastructure Policy 2.04 at no cost to Council.~~

57. ~~Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and be approved by Council for the wastewater reticulation work in accordance with the approved plans and documents of this Development Approval.~~

58. The development must be connected to Council's existing wastewater reticulation system in accordance with Council Waste Water Infrastructure Policy 2.04 at no cost to Council

Note: This condition is imposed pursuant to Section 128 OR 145 of the Planning Act 2016.

59. Any compensation or costs associated with obtaining agreement from owners or trustees of properties affected by the construction of the works must be at no cost to Council.

60. Any connection to or modification of Council's live wastewater infrastructure must be undertaken by Council. A Private Works Quotation must be requested from Council, payment made for the works, and the works completed by Council.

Note: Please note any new connection or reconnection to a Council wastewater system requires a Form 1 Plumbing approval prior to house drainage being installed.

Note: To arrange for a private works quotation for the required works contact Council's Water & Wastewater Department on Ph 131 872.

61. Maintenance Holes (MH) are to be fully protected during the full construction period of the development. Protection must include spanning slabs or beams and matting to ensure direct loads from all heavy plant during construction are not transmitted onto the MH structure.

62. Any alterations or adjustments required to wastewater maintenance holes to comply with the finished levels for the development must be carried out by Council. A Private Works Quotation must be requested from Council, payment made for the works, and the works completed by Council; and

63. ~~Structural protection for Council's wastewater infrastructure and clearance around maintenance holes must be incorporated for all designs in accordance with the Queensland Development Code, Mandatory Policy 1.4 - Building Over or Near Relevant Infrastructure.~~

~~*Note: A Development Application for a Development Permit for Building Work will require referral to Council as a Concurrence Agency under the Planning Regulation 2017. RPEQ certified design plans for the structural protection for the wastewater system must be submitted to Council for approval as part of a Building Over or Near Water/Sewer/Stormwater Services application prior to the commencement of works for the development.*~~

WASTEWATER INFRASTRUCTURE (APPROVAL OF LAND OWNER)

64. ~~Where it is necessary for any proposed wastewater infrastructure to be constructed through land not part of the development, obtain the written approval of the owner of that land and provide evidence of such written approval to Council as part of any Development Application for a Development Permit for Operational Work to Council for the works or prior to any request for Council to prepare a quotation for works.~~

WATER SUPPLY

65. The existing water service connection must be disconnected, and meter recovered by Council at no cost to Council
66. The development must be connected to Council's reticulated water supply in accordance with Council's *Water Infrastructure Policy 2.03* at no cost to Council.

Note: This condition is imposed pursuant to Section 128 OR 145 of the Planning Act 2016.

67. All water main fittings, services and meters must be located 1m clear of the proposed driveway footpath crossover. Any relocation of fittings clear of driveways must be undertaken by Council.
68. Any works on Council's 'live' water supply must be carried out by Council. A Private Works Quotation must be requested from Council, payment made for the works, and the works completed by Council.
69. Development's internal firefighting system must be designed and constructed in accordance with Council's *Water Infrastructure Policy 2.03* and relevant Australian Standards at no cost to Council. If the internal firefighting system is proposed to connect to Council's reticulation system, confirm the compliant performance in existing Council system prior to requesting any fire service connections. All pressure and flow tests within Council infrastructure must be undertaken by Council at no cost to Council.

TELECOMMUNICATION

70. Install telecommunications infrastructure to service the development which complies with the following:
 - 70.1 The requirements of the *Telecommunications Act 1997* (Cth);
 - 70.2 For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
 - 70.3 For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line is located underground.
71. Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.
72. Provide to Council written evidence from all relevant service providers that the telecommunications infrastructure is installed in accordance with the conditions of this Development Approval and all applicable legislation at the time of construction.

Note: The Telecommunications Act 1997 (Cth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required. For further information visit www.infrastructure.gov.au/tind.

Note: For telecommunication services, written evidence must be in the form of either a "Telecommunications Infrastructure Provisioning Confirmation" where such services are provided by Telstra, or a "Notice of Practical Completion", "Confirmation of Payment" or "Post Execution of Development" Letter where such services are provided by NBN Co.

ELECTRICITY

73. An electricity supply must be made available to service the development. This supply must be in accordance with the relevant standards of the electricity distributor.

AMENITY & OPERATION OF USE

VISUAL AMENITY

74. Any graffiti deterrent building design elements and surface treatments are to be maintained at all times.
75. All buildings, structures and fences as well as the subject land must be maintained in a clean and tidy manner at all times.
76. All fixed mechanical plant must be contained within the building or visually screened to all street frontages, public viewing locations and adjoining premises.
77. Open storage areas, loading areas, bin storage areas and other unsightly areas, must be screened from view from all street frontages and public places.

FENCING & WALLS (GENERAL)

78. Any existing fence or wall not meeting the requirements of this Development Approval must be removed and replaced with a fence or wall that meets the requirements of this Development Approval.
79. Unless otherwise approved in writing by Council, boundary fences or walls must not be erected in a parallel arrangement with any existing fence or wall erected along the same boundary. The existing fence or wall is to be completely removed and replaced.
80. Unless otherwise specified elsewhere within this Development Approval, the required height of a fence or wall is measured from the highest adjacent finished ground level.
81. Where there is a change in level between adjoining properties at the boundary that exceeds 1m, the overall total height of any combination of fence and wall must not exceed 3m from the lowest adjacent finished ground level.

FENCING & WALLS - INTERFACE TO PUBLIC REALM

82. Fences and walls provided adjacent to public places (streets, laneways, public walkways and open space areas) must be constructed generally in accordance with the Approved Plans listed within this Development Approval and in particular must:
 - 82.1 Unless otherwise approved and erected for the purpose of acoustic attenuation, not exceed a maximum height of:
 - i) 2m where at least 50% of the fence or wall is transparent; or
 - ii) 1.2m otherwise.
 - 82.2 Unless approved and erected for the purposes of security fencing, not exceed a 15m in length without articulation or detailing such as panel inserts, recessed planter beds, and changes in material, colours or textures to provide visual interest and visual breaks in the appearance of the fence or wall.
 - 82.3 Maintain Safe Intersection Sight Distance (SISD) in accordance with the requirements of Austroads most recent version of its *Guide to Road Design Part 4A: Unsignalised and Signalised Intersections (AGRD04A-09)*.
83. Any fence provided (to meet the requirements of this Development Approval) that functions as a security fence (i.e. designed to prevent trespassing or theft) must be located behind and screened by landscaping.

STREET IDENTIFICATION

84. The street number of the building must be clearly identifiable and located in a prominent position near the site entry, either on the kerb or a letterbox, or viewable from the site entry and located by signage on buildings or the subject land.

LETTERBOX

85. A post box must be provided in accordance with the requirements of Australia Post.

ACCESS FOR PEOPLE WITH DISABILITIES

86. Access must be provided for people with disabilities in accordance with *Australian Standard AS1428.1: Design for Access and Mobility* by means of an unimpeded continuous path of travel from any adjacent roadway, adjoining public open space and from any disabled access car parking bay, to all parts of the development that are normally open to the public.

SAFETY, SECURITY & PUBLICLY ACCESSIBLE FACILITIES

87. The development must be designed and constructed to enhance community safety by ensuring:
- 87.1 Vandal proof fittings, fixtures and materials which are hardy and not easily removable are used in the construction and finishing of the development; and
 - 87.2 Ground level windows use toughened glass, screens or other protective measures to deter unlawful entry to the development.
88. The development and hard landscaping must not comprise of highly reflective materials that create slippery or otherwise hazardous conditions.
89. Safety and security lighting must be provided to the following areas of the subject land:
- 89.1 All entries and exits of buildings;
 - 89.2 All pathways linking car parking areas to the entrances and exits of buildings; and
 - 89.3 Throughout car parking areas.
90. Safety and security lighting must be designed, sited, and installed in accordance with *Australian Standard AS 1158.3.1 - Road Lighting - Pedestrian Area (Category P) Lighting - Performance and Installation Design Requirements*.
- Note: All lighting provided for safety and security purposes must also consider its impact on surrounding land uses and in accordance with the Outdoor Lighting Impact Mitigation Conditions must be designed, sited, installed and tested to comply with Australian Standard AS4282-2019 Control of the obtrusive effects of outdoor lighting*
91. Pedestrian routes between car parking areas and buildings must be clearly signed and marked.
92. The allocation of car parking spaces between employees and visitors as applicable, must be distinctly identified and adequately sign-posted to clearly direct vehicular traffic to these respective areas.
93. Parking spaces must be available for use by employees and visitors during the approved hours of operation for the business.

TRANSPORT, VEHICULAR ACCESS & PARKING

ROADWORKS SIGNAGE AND PEDESTRIAN SAFETY

94. All works carried out on or near roadways must be adequately signed in accordance with the *Manual for Uniform Traffic Control Devices – Part 3, Works on Roads*.
- Note: Road or lane closures require approval from Council's Principal Engineer Road Operations, and all conditions of that approval complied with during construction of the works.*
95. Safe pedestrian access along Council's footpaths must be maintained at all times.

Note: Should access to footpaths need to be restricted, a separate 'Temporary road or footpath closure' must be obtained from Council's Principal Engineer Road Operations, prior to the commencement of the works.

PROVISION OF VEHICULAR ACCESS

96. ~~The vehicle access from the subject land to Taylor Street must be sealed from the kerb and channel to the property boundary. The access must be designed by a Registered Professional Engineer Queensland (RPEQ) – Civil and must include the provision of adequate access width and flares to suit the proposed entry and exit manoeuvres. Such works must be constructed generally in accordance with any requirements as specifically required below:~~

~~96.1 The vehicle access must be located as shown on the Approved Plans listed within this Development Approval;~~

~~96.2 The vehicle access (crossing the verge) must be constructed generally in accordance with the Institute of Public Works Engineering Australasia Drawings RS-049 Residential Driveways Plan 1 of 2 and RS-050 Residential Driveways Plan 2 of 2, and in accordance with Australian Standard AS 2890 – Parking Facilities (Part 1 and as relevant Part 2);~~

~~96.4 The vehicle access (crossing of the verge) must align neatly on both sides with the pedestrian footpath and verge with a maximum cross fall of 2.5%;~~

~~96.5 The vehicle access (crossing of the verge) must be located a minimum of one (1) metre clear of existing power poles, streetlights or any signage;~~

~~96.6 The relocation of all existing services must be clear of the access that will serve the subject land; and~~

~~96.7 The relevant service authorities must be contacted and their requirements complied with.~~

~~*Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.*~~

REMOVAL OF UNNECESSARY VEHICLE ACCESSES

97. Remove the existing redundant vehicle accesses in Taylor Street adjacent to the subject land. The works must include, but are not limited to the following:

97.1 Removal of the existing vehicle accesses and reinstatement of the concrete kerb to match the existing concrete kerb; and

97.2 Reinstatement of the footpath and turfing to match the required footpath profile.

Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.

ON-SITE CAR PARKING, SERVICE BAYS & MANOEUVRING

98. The premises must be provided with a minimum of ~~twenty-three (23)~~ **thirty-one (31) 33** on-site car parking spaces, including ~~seven (7)~~ **sixteen (16) 21** staff parking spaces and one (1) PWDSW parking space. Car parking and manoeuvring areas must be:

98.1 Constructed generally as shown on the Approved Plans listed within this Development Approval;

98.2 Provided with a sealed surface and be line marked or otherwise delineated to the minimum dimensions detailed in the *Toowoomba Regional Planning Scheme 2012 and Australian Standard AS2890 - Parking Facilities*;

98.3 Designed and constructed in accordance with the requirements of AS2890;

98.4 Designed to ensure disabled car parking spaces are located in close proximity to a primary building entrance and meet the requirements of AS2890.1 Clause 2.4.5 (1.3m high bollards), AS1428.1 and AS2890.6:2009;

- 98.5 Accessible and available to the general public and staff during approved hours of operation;
- 98.6 Provided with signage and pavement markings that indicate the location of parking areas and the proposed flow of traffic through the subject land; and
- 98.7 Maintained as originally constructed and kept and used exclusively for vehicle parking and manoeuvring; and
- 98.8 Designed to enable all vehicles to enter and leave the subject land in a forward gear.

ENVIRONMENT & WASTE

ACOUSTIC AMENITY - GENERAL

- 99. Unless otherwise approved in writing by Council, the approved use must not operate outside the hours of:
 - 99.1 6:30AM to 6:30PM Monday to Friday
- 100. The use must not operate on public holidays.
- 101. Service vehicle movements (including loading and unloading) associated with the approved use must not occur outside the hours of:
 - 101.1 7:00AM to 6:00PM Monday to Friday
- 102. Drainage grating over trafficable areas must be well secured and maintained to prevent rattling.
- 103. Driveway areas are to be finished with a surface that prevents tyre squeal. An uncoated surface is acceptable.
- 104. The approved use must be carried out in accordance with ~~Section 6~~ of the recommendations of the amended Noise Impact Assessment listed within this Development Approval, with the addition of the following:
 - 104.1A The Noise Impact Assessment must be amended to reflect the approved capacity of the Childcare Centre listed in Condition 1 and the Approved Plans listed in Condition 6. As required, updated recommendations on noise mitigation, including acoustic barrier configurations must be provided to demonstrate compliance can be achieved with the noise limit criteria listed in Table 2; and
 - 104.1 All mechanical plant installed external to the building fabric is acoustically shielded to ensure compliance with the continuous noise limit criteria in Table 4-1 and Conditions 107-108 of this Development Approval.

ACOUSTIC AMENITY - NOISE LIMITS

- 105. Noise from activity associated with the use of the subject land must not exceed the levels specified in Table 2 when measured at any receptor.

Table 2 - Noise Limits

	Noise level measured in dB(A)	
	Variable noise assessment criteria $L_{Aeq,adj,T}$	Continuous noise assessment criteria $L_{Aeq,adj,T}$
Night / Early Morning (6:30am -7am)	48	45
Day (7am-6pm)	52	47
Evening (6pm-6:30pm)	41	38

Sleep Disturbance	45 dB(A) L_{Amax} internal noise limits
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* = **Adjusted A-weighted equivalent continuous sound pressure level** - Using time-weighting 'Fast Response', the constant equivalent of the instantaneous levels of existing environment plus noise of activity under consideration that would result in the same total sound energy being produced during the time period T , where T is measured for a period no less than 15 minutes, when the activity is causing a steady state noise, and no less than 1 hour when the activity is causing an intermittent noise, unaffected by extraneous noise and adjusted for tonality and impulsiveness.

^=**Adjusted A-weighted sound pressure level** - Obtained by using time-weighting 'Fast Response' and arithmetically averaging the visual maximum levels of the noise of activity under investigation, considering tonality and impulsiveness during the time period T , where T is measured for a period no less than 15 minutes.

106. Where considered warranted by Council and when requested in writing to do so, a noise investigation must be undertaken to investigate a complaint of noise nuisance. In such instances, a suitably qualified person must monitor, interpret and record all parameters that are required to be monitored in order to determine whether or not the Noise Emission Limits listed within this Development Approval have been exceeded. The results of the investigation must be provided to Council within 28 days of the request or a longer period if specified in any such request. Measurement of noise emissions (adjusted for tonality and impulse) must be generally in accordance with the most recent version of *Australian Standard AS1055.1 Acoustics - Description and measurement of environmental noise - General procedures*.

Note: Before investigation by the operator is required, Council completes its own consultation and preliminary investigation to confirm if a complaint is valid.

ACOUSTIC AMENITY - MECHANICAL PLANT

107. All "refrigeration equipment", "pumps", "regulated devices", and "air conditioning equipment" as defined by *the Environmental Protection Act 1994* must be designed, installed, operated and maintained to comply with the noise standards as specified within the *Environmental Protection Act 1994*.
108. Any fixed mechanical plant that causes either tonal (L_{eq}) sound (e.g. from basement car-park exhaust, air conditioning unit or pool filtration unit), or impulse (L_{max}) sound, must be enclosed, shielded or positioned to achieve a nil increase in the background noise (L_{90}) level defined in Table 4-1 of the Approved Document - Noise Impact Assessment listed within this Development Approval when measured at any sensitive place or commercial place.

ACOUSTIC AMENITY - ACOUSTIC BARRIERS

109. Acoustic barriers must be constructed in accordance with the recommendations of the amended Noise Impact Assessment listed within this Development Approval and in accordance with the following requirements:
- 109.1 The barriers must be erected within the subject land, in accordance with ~~Figure 6-1~~ of the recommendations of the amended approved Noise Impact Assessment report listed within this Development Approval.
- 109.2 Erected to the heights nominated in ~~Figure 6-1~~ the recommendations of the amended approved Noise Impact Assessment, measured from the highest adjacent finished ground level where the barrier does not comprise of, or include, an earthen mound;
- 109.3 Where the combined height of the barriers and any retaining wall or mound is greater than 2m in height, a Building Work approval is to be sought prior to commencement of construction;
- 109.4 The barrier must be constructed using materials such as lapped timber fencing, FC sheet, masonry, plywood, glass, acrylic glass, or a combination of to achieve a minimum surface density of 10 kg/m²; and
- 109.5 The barrier must have no gaps (i.e. is solid) including between partitions, between partitions and posts and between partitions and the finished ground level.

110. Certification must be submitted to Council from a suitably qualified person who certifies that the acoustic barriers have been constructed in accordance with the acoustic barrier conditions of this Development Approval.

ACOUSTIC AMENITY - EXTERNAL BUILDING TREATMENT

111. Certification must be submitted to Council from a suitably qualified person which certifies that buildings subject to shell treatment have been constructed in accordance with Section 6.2 of the Approved Document - Noise Impact Assessment listed within this Development Approval.

ACOUSTIC AMENITY - CERTIFICATION MEASUREMENT

112. Within six (6) months following commencement of use or upon direction from Council, submit to Council the following:
- 112.1 Certification from a suitably qualified person which verifies that operational noise (variable and continuous noise sources) emitted from the use of the development complies with the noise limits as specified in Condition 72 of this Development Approval; or
 - 112.2 Should the measured operational noise emissions exceed the noise limits listed within this Development Approval, submit to Council for endorsement, an amended Noise Impact Assessment Report demonstrating how the noise limits will be achieved with additional acoustic measures and treatment. If required, this amended Noise Impact Assessment Report must be provided within six (6) months after the commencement of the approved use; and
 - 112.3 Within three (3) months of endorsement of the amended Noise Impact Assessment Report by Council, any additional or altered acoustic measures and treatment required to remedy compliance must be implemented.

AIR QUALITY & AMENITY - AIR RELEASE LIMITS

113. Odours or airborne contaminants which are noxious or offensive to public amenity or safety, likely to cause environmental harm or environmental nuisance or exceed the Air Quality Objectives listed in the *Environmental Protection (Air) Policy 2019* as measured at any sensitive receptor place must not be released to the atmosphere.

AIR QUALITY & AMENITY - AIR RELEASE LIMITS (DUST)

114. All reasonable and feasible avoidance and mitigation measures are employed so that dust emissions generated from activity associated with the use of the subject land do not exceed the following levels when measured at any sensitive place or commercial place:
- 114.1 Dust deposition of 133 milligrams per square metre per day averaged over 1 month, when monitored in accordance with the most recent version of *Australian Standard AS3580.10.1: Methods for sampling and analysis of ambient air - Determination of particulate matter - Deposited matter - Gravimetric method*.
115. Where considered warranted by Council and when requested in writing to do so, an air quality investigation must be undertaken to investigate a complaint of air pollution, odour or dust nuisance. In such circumstances, a qualified person must monitor, interpret and record all parameters that are required to be monitored in order to determine whether or not the Air Release Limits listed within this Development Approval have been exceeded. The results of the investigation must be provided to Council within 28 days of the request or a longer period if specified in any such request.

Note: Before investigation by the operator is required, Council completes its own consultation and preliminary investigation to confirm if a complaint is valid.

AIR QUALITY & AMENITY - KITCHEN EXHAUST

116. Kitchen exhaust points for the development must be located and operated in accordance with *Australian Standard AS1668.2-2012 The use of ventilation and air-conditioning in buildings* (specifically *Section 5.10 – Air Discharges*).
117. Odour control measures such as, but not limited to, carbon adsorbers, electrostatic precipitators, high-energy wet scrubbers or flameless catalytic oxidisers are to be installed on any exhaust point such that no odour nuisance is experienced by any sensitive receptor.

OUTDOOR LIGHTING IMPACT MITIGATION

118. Outdoor lighting associated with the use must be designed, sited, and installed to comply with the relevant parameters of *Australian Standard AS4282-2019 Control of the obtrusive effects of outdoor lighting*.
119. All flood lighting must be of a type that gives no upward component of light when mounted horizontally (i.e. a full cut off luminaire).
120. Where considered warranted by Council and when requested in writing to do so, a lighting impact investigation must be undertaken to investigate a complaint of light nuisance. In such circumstances, a suitably qualified person must monitor, interpret and record all parameters that are required to be monitored in order to determine whether or not the lighting levels listed within this Development Approval have been exceeded. The results of the investigation must be provided to Council within 28 days of the request or a longer period if specified in any such request.

Note: Before investigation by the operator is required, Council completes its own consultation and preliminary investigation to confirm if a complaint is valid.

WASTE MANAGEMENT (GENERAL)

121. All waste generated on the subject land must be managed in accordance with the waste management hierarchy as detailed in the *Waste Reduction and Recycling Act 2011*.

WASTE MANAGEMENT (BIN PROVISION & STORAGE)

122. Refuse storage facilities must be provided generally in accordance with the Approved Plans listed within this Development Approval and the following:
 - 122.1 The size, mix and capacity of bins provided must be sufficient to accommodate the type and level of waste likely to be generated from the development having regard to the frequency of disposal or collection;
 - 122.2 Provision of a constructed communal bin store with an impervious hardstand base for the permanent storage location of all wheelie bins, each having minimum dimensions of 1m² per bin, located no closer than 2m to any fresh air intake of a habitable room;
 - 122.3 Refuse storage facilities must be screened from public vantage points with a minimum 1.5m high built enclosure or solid screen fencing;
 - 122.4 Provision of a grassed area, or an impervious area that drains to sewer, for washing of bins immediately adjacent to the permanent storage location that is not for recreational use or pedestrian linkage with an area at least twice the size of the bin store and with a hosecock within the vicinity; and
 - 122.5 Bins must be kept in a clean state and in good repair and fitted with tight-fitting lid assemblies designed to prevent ingress of pests and water.

WASTE MANAGEMENT (REMOVAL)

123. Unless otherwise endorsed by Council in a waste management plan, arrangements for waste removal are provided in accordance with the following requirements:
 - 123.1 Collection by a refuse vehicle from the kerbside;

- 123.2 Provision of a level area at the kerbside within the Lot listed within this Development Approval for the temporary storage of wheelie bins on collection days having minimum dimensions of 1m² (1,000mm x 1,000mm) per wheelie bin;
- 123.3 General waste must be collected and removed at periods not exceeding seven days;
- 123.4 Bins must be stored at their place of permanent storage other than times ahead of or during waste removal; and
- 123.5 The waste collection method must ensure that waste is adequately managed to prevent escape of contamination.

LANDSCAPING

REMOVAL OF EXISTING STREET TREES

- 124. The removal or modification (including any disturbance of the root system within the drip line) of a street tree must not be undertaken unless otherwise approved in writing by Council and in accordance with any conditions of this Development Approval.

PROTECTION OF STREET TREES

- 125. Street trees affected by works within the 'Precautionary Area', must be protected for the duration of construction. All works must be carried out in accordance with the relevant standards in *Planning Scheme Policy No.8 - Street Trees* and must include in particular:
 - 125.1 A Project Arborist (a person whom holds a minimum qualification of AQF Level 5 in Arboriculture), is to be engaged and be present onsite for supervising all construction activities proposed to occur within the Tree Protection Zone (TPZ) as determined by Australian Standards AS4970-2009 Protection of Trees on Development Sites, for the existing street tree fronting the site;
 - 125.2 Establishment of a work exclusion area around the street tree to be retained prior to commencement of construction to avoid damage and soil compaction from plant and machinery;
 - 125.3 Provision of one weeks' notice to Council of any excavation works affecting the 'Precautionary Area' of a street tree so that a Council Arborist may be present during excavation works;
 - 125.4 Hydro-vacuum excavation under very low water pressure, is to be utilized to excavate along the edge of the proposed driveway closest to the subject tree;
 - 125.5 During excavation works, where roots greater than 50mm diameter are uncovered that need to be severed, obtaining approval from a Council Arborist to sever the root, and if granted, to do so with a cutting device and not a ripping device;
 - 125.6 Removal of the existing driveway crossover is to be undertaken under strict supervision of the Project Arborist and utilise excavation methods to preserve tree roots;
 - 125.7 The Project Arborist is to provide certification at the completion of works, that the works undertaken within the TPZ of the existing street tree, has not resulted in harm to the subject tree; and
 - 125.8 Maintenance of street tree protection until works are completed or accepted on-maintenance.

LANDSCAPE PLAN

- 126. Prior to the commencement of any works on site or the issue of a Development Permit for Operational Work or Building Work (whichever occurs first), submit to Council for endorsement, a Landscape Plan prepared by a suitably qualified person prepared generally in accordance with *Toowoomba Regional Council's Landscape Work Information Sheet 006* and the conditions of this

Development Approval, including the landscaping shown on all Approved Plans listed in this Development Approval, that details in particular:

- 126.1 A Planting Plan and Schedule;
 - 126.2 The typical planting detail including preparation, backfill, staking and mulching;
 - 126.3 Internal dimensions of all planting areas;
 - 126.4 Location, height and finish of fencing fronting public land (including street frontages);
 - 126.5 Location and species of existing site vegetation to be removed and/or retained in accordance with this Development Approval, including adjacent street trees to be retained and/or removed;
 - 126.6 Construction details of proposed surfaces, surface level changes and structures;
 - 126.7 Location and dimensions of any communal bin stores requiring vegetative screening;
 - 126.8 North point, scale, title and drawing number; and
 - 126.9 Vegetated screening of the acoustic barriers in accordance with the conditions of this Development Approval.
127. The Landscape Plan must receive endorsement by Council prior to lodgement of any Development Application for a Development Permit for Operational Work or issue of any Development Permit for Building Work.

LANDSCAPING WORKS

128. The development must be landscaped in accordance with the conditions of this Development Approval and the requirements listed in the Landscape Code contained within the *Toowoomba Regional Planning Scheme 2012* in a manner that:
- 128.1 Maximises the retention of existing site vegetation which contributes to the site character;
 - 128.2 Maintains or increases tree canopy cover;
 - 128.1 Maximises the extent of new site vegetation to define boundaries, create shade and contribute to the site character;
 - 128.2 Provides screen planting along eastern boundary capable of reaching in a minimum of 2m height in keeping with the fence height and a minimum of 1.5m wide landscape strip along northern, eastern and western boundaries;
 - 128.4 Designates variation in pavement colours and/or materials to define safe pedestrian movement areas;
 - 128.5 Utilises plant species which are characteristic of the local area and provides seasonal variation, colour and texture;
 - 128.6 Provides irrigation to all planted areas; and
 - 128.7 Provide a high degree of shade (minimum of 25% canopy cover at maturity) over car park area and associated internal roadways.
 - 128.9 Sight lines at pedestrian and vehicle entrance points must be maintained through the use of trees with a clean trunk to 1.8m height and shrubs to a maximum height of 0.75m.
129. All landscape works must be established by a suitably qualified person and maintained in accordance with the conditions of this Development Approval for the life of the development, and in a manner that ensures healthy, sustained and vigorous plant growth. All plant material must be allowed to grow to full form and be replaced when its life expectancy is reached.

GENERAL ADVICES

RESUBMISSION OF PLANS REQUIRING AMENDMENT

- 1) The conditions of this Development Approval require resubmission of plans to Council with amendments. Please address the amended plans to Council's Development Services Branch with the Reference No. MCUI/2023/1544/B and send to development@tr.qld.gov.au.

RESUBMISSION OF DOCUMENTS REQUIRING AMENDMENT

- 2) The conditions of this Development Approval require resubmission of documents to Council with amendments. Please address the amended documents to Council's Development Services Branch with the Reference No. MCUI/2023/1544/B and send to development@tr.qld.gov.au.

SUBMISSION OF PLANS FOR ENDORSEMENT

- 3) The conditions of this Development Approval require submission of plans to Council for endorsement. Please address the plans for endorsement to Council's Development Services Branch with the Reference No. MCUI/2023/1544/B and send to development@tr.qld.gov.au.

INFRASTRUCTURE CHARGES

- 4) Infrastructure charges are levied by way of an Infrastructure Charges Notice, issued pursuant to Section 119 of the *Planning Act 2016*.

OTHER LAWS & REQUIREMENTS

- 5) This Development Approval relates to development requiring approval under the *Planning Act 2016* only. It is the approval holder's responsibility to obtain any other necessary approvals, licenses or permits required under State and Federal legislation or Council local law, prior to carrying out the development. Information with respect to other Council approvals, licenses or permits may be found on the Toowoomba Regional Council website. For information about State and Federal requirements please consult with these agencies directly.
- 6) Carrying out works on a road or interfering with the road or its operation will require a permit under *Subordinate Local Law No. 1.15 (2020)*. The application form can be found on Council's website at www.tr.qld.gov.au. For further information contact the Road Operations Branch through Council's Customer Service Centre on 131 872.
- 7) The development has only been assessed in accordance with the provisions of the *Toowoomba Regional Planning Scheme 2012*. No assessment has been made in respect of the provisions of the *Building Code of Australia* and/or the *Queensland Development Code*.

WHEN APPROVAL STARTS TO HAVE EFFECT

- 8) This Development Approval starts to have effect in accordance with the provisions of Section 71 of the *Planning Act 2016*.

WHEN APPROVAL LAPSES

- 9) This Development Approval will lapse in accordance with the provisions contained in Sections 85 and 88 of the *Planning Act 2016*, unless otherwise stated elsewhere within this Development Approval.

EXCAVATION & FILLING

- 10) The *Toowoomba Regional Planning Scheme 2012* (TRPS) declares excavation and filling activity involving less than 50m³ of material and excavation and filling activity to a depth or height lower than 1m to be accepted development. Any combination of excavation or filling where 50m³ or more of fill is deposited on, or 50m³ or more of excavated material is removed from the premises and excavation or filling is not associated with 'Building Work' as defined under the *Planning Act 2016*, must obtain an Operational Work approval from Council before commencing site works.

ENVIRONMENTAL HARM

- 11) The *Environmental Protection Act 1994* (EP Act) states that a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm.

Environmental harm includes environmental nuisance. In this regard persons and entities involved in the civil, earthworks, construction and operational phases of this development are to adhere to their 'general environmental duty' to minimise the risk of causing environmental harm. Environmental harm is defined by the EP Act as any adverse effect, or potential adverse effect (whether temporary or permanent and of whatever magnitude, duration or frequency) on an environmental value, and includes environmental nuisance.

Therefore, no person should cause any interference with the environment or amenity of the area by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit, sediment, oil or otherwise, or cause hazards likely in the opinion of the Administering Authority to cause undue disturbance or annoyance to persons or affect property not connected with the use.

WATER POLLUTION

- 12) In accordance with the *Environmental Protection Act 1994*, all sand, silt, mud, paint, cement, concrete, construction material and demolition material, and other such waste material must not be deposited or placed where it could reasonably be expected to travel into a roadside gutter, stormwater drain or watercourse. On the spot fines apply for such offences.

FIRE ANTS

- 13) The State of Queensland has been declared a quarantine area for the Red Imported Fire Ant. Should this approval involve the movement of restricted items from areas of known infestation the provisions of the *Biosecurity Act 2014* apply, compliance with statutory provisions must be achieved.

ADVERTISING SIGNS

- 14) Placing an advertising device on premises is accepted development where complying with the assessment benchmarks that form the requirements for accepted development in the Advertising Devices Code in the *Toowoomba Regional Planning Scheme 2012*. A separate Operational Work approval will be required for any Advertising Devices not complying with the assessment benchmarks that form the requirements for accepted development in the Advertising Devices Code.

DEMOLITION OF BUILDING

- 15) Any structures located on the subject land that are to be removed require the obtaining of any necessary building approvals, and certification by a Building Certifier that the resulting setbacks and/or fire rating of any remaining buildings comply with the Standard Building Regulations.

BUILDING APPROVAL REQUIRED FOR CERTAIN FENCES & RETAINING WALLS

- 16) A Development Approval for Building Work is required for the following:
- 16.1 Fences where:
- The fence is part of a pool fence; or
 - The fence is over 2m in height (from natural ground level); or
 - The fence is attached to a retaining wall and the combined mean height is over 2.4m in height from natural ground level;
- 16.2 Retaining walls where:
- The wall is retaining fill having a height greater than 1m in height above the wall's natural ground surface; or
 - The wall is located within 1.5m of a building or another retaining wall; or

- There is a load or surcharge imposed above the retaining wall (i.e. driveway, batter, building or the like); and
- 16.3 Retaining walls and/or fences are sited within 1.5m of a property boundary line and the combined height of the structures exceeds 2m (including where the retaining wall is less than 1m).

BUILDING OVER, OR NEAR, COUNCIL INFRASTRUCTURE

- 17) Any construction carried out near or over existing Council services should be in accordance with Council's adopted Policy (*Queensland Development Code NMP 1.4 – Excavation and Piling Near Sewers, Stormwater Drains and Water Mains*) and Council's Planning Scheme Policy SC6.3 PSP No. 3– *Water and Wastewater Infrastructure*. A Concurrence Agency referral of the Building Work Application to Council's Water and Wastewater Services Branch may be required.

SUITABLY QUALIFIED PERSON

- 18) For the purpose of preparing a Landscape Plan, a suitably qualified person is considered to be a Registered Landscape Architect or Landscape Designer with a minimum of 5 years current experience in the field of landscape design.

REASONS FOR RECOMMENDATION

The change application has been assessed with regard to the applicable assessment framework as identified within this report. The proposed changes are considered to be generally acceptable. It is therefore recommended that the development approval be changed as identified above.

The attached Statement of Reasons is not required to be amended.

DELEGATE'S DECISION:

I have reviewed the report for this application in accordance with the Relevant Instruments, Statutory and Non-Statutory Provisions and in accordance with Council's process and procedures. I agree with the responsible officer's recommendation that the request be Approved subject to the Conditions contained in the recommendation. I exercise delegation in accordance with the delegations adopted by the Toowoomba Regional Council.



Emily Hinchliffe
Lead Senior Planner, Planning Branch

Decision Date: 20 February 2026

BACKGROUND

SITE DETAILS				
Site Address	267 Taylor Street, WILSONTON QLD 4350			
Real Property Description	Lot 1 RP118586			
Site Area	3,468 m ²			
Owner	Cenaphora Investment Pty Ltd			
SITE CHARACTERISTICS				
Current Land Use	Vacant Land			
Site Frontage/s	~286m road frontage to Taylor Street			
Road/s	Order of Road	Width of Road Reserve	Width of Pavement	Road Material
Taylor Street	Sub-Arterial	30m	20.5m	Bitumen
Easements	Nil			
Existing Structures	The subject site is vacant land with some vegetation located on the north-western corner of the Site.			
Infrastructure	The subject site has available connection to all urban infrastructure including water supply and sewerage. Council's sewer main traverse through the middle of the property from east to west.			
Topography	Slight fall from south to north.			
Street Trees	One (1)			
Other Features	Nil			
PLANNING SCHEME SITE DATA				
Current Planning Scheme	<i>Toowoomba Regional Planning Scheme 2012 (Version 28)</i>			Adopted: 28/11/2022
Zone	Low-medium Density Residential Zone			
Precinct	Urban Residential Precinct			
Overlays	Airport Environs Overlay - 3km Wildlife Hazard Buffer Zones - Lighting Area Buffer (6km)			
Infrastructure Charges Resolution	Charges Resolution No. 7			Adopted: 19/08/2025
SURROUNDS:				
Direction	Land Use	Zone/Precinct		
North	Residential	Low-medium Density Residential / Urban Residential		
East	Residential	Low-medium Density Residential / Urban Residential		
South	Residential	Low-medium Density Residential / Urban Residential		
West	Short-term Accommodation	Low-medium Density Residential / Urban Residential		
Other Features	Wyalla Plaza is approx. 120m away			
APPLICATION HISTORY				
Application No.	Description	Decision Date	Decision	
MCUC/2019/2295	Development Permit for Material Change of Use - Short Term Accommodation	1 October 2019	Approved	
MCUC/2019/2295/A	Request for Negotiated ICN for Material Change of Use - Short Term Accommodation	12 December 2019	Approved	
MCUC/2019/2295/B	Request to Change Approval for Development Permit for Material Change	14 April 2020	Approved	

	of Use - Short Term Accommodation and Caretakers Accommodation		
RAL/2023/3773	Development Permit for Reconfiguring a Lot - Boundary Realignment 3 into 3 Lots	9 November 2023	Approved
MCUI/2023/1544	Development Permit for Material Change of Use – Impact – Child Care Centre	26 October 2023	Approved
MCUI/2023/1544/A	Request for Negotiated Decision for Material Change of Use – Impact – Child Care Centre	13 November 2023	Approved
MCUI/2023/1544/B	Change Application (Other Change) to Development Permit for Material Change of Use – Impact – Child Care Centre	13 November 2023	Approved
Other	No further relevant details.		

APPROVED DEVELOPMENT	
Type of Approval	Development Permit for a Material Change of Use
Approved Development	Childcare Centre
Variations Sought	Not applicable
Level of Assessment	Impact
Gross Floor Area	767.68m ²
Impervious Area	2,754m ²
Car Parking Spaces	Thirty-one (31)
Service Vehicle Provision	Nil
Submissions Received	Objection: Nil
	Support: Nil
Decision Notice Issued	26 October 2023

CHANGE APPLICATION	
Applicant Name	Cenaphora Investments Pty Ltd
Type of Application	Change Application
Type of Change	Minor Change
Public Notification	Not required for a Minor Change.
Application Received	15 January 2026

CONSULTATION UNDERTAKEN

Internal Referrals

Internal Referral Partner	Referral / Response
Development Engineering and Plumbing	Reviewed the application and provided amended draft conditions.
Water and Waste	Reviewed the application and have no requirements.
Parks	Reviewed the application and have no requirements.
Infrastructure Charges Unit	Reviewed the application and confirmed that no amended Infrastructure Charges Notice is required.

Public Notification

MCUI/2023/1544 – Original Application – Material change of Use – Impact – Child Care Centre

Public notification was carried out for the original application. No submissions were received.

MCUI/2023/1544/B: Change Application (Other Change) – Material change of Use – Impact – Child Care Centre

Public notification was carried out for the change application. No submissions were received.

ISSUES, RISKS AND RESPONSES – ASSESSMENT

Assessment Framework

Section 81 of the *Planning Act 2016* establishes the following parameters in relation to the assessment of change applications for minor changes:

- (2) *In assessing the change application, the responsible entity must consider—*
 - (a) *the information the applicant included with the application; and*
 - (b) *if the responsible entity is the assessment manager—any properly made submissions about the development application or another change application that was approved; and*
 - (c) *any pre-request response notice or response notice given in relation to the change application; and*
 - (d) *if the responsible entity is, under section 78A(3), the Minister—all matters the Minister would or may assess against or have regard to, if the change application were a development application called in by the Minister; and*
 - (da) *if paragraph (d) does not apply—all matters the responsible entity would or may assess against or have regard to, if the change application were a development application; and*
 - (e) *another matter that the responsible entity considers relevant.*
- (3) *Subsections (4) and (5) apply if the responsible entity must, in assessing the change application under subsection (2)(d) or (da), consider—*
 - (a) *a statutory instrument; or*
 - (b) *another document applied, adopted or incorporated (with or without changes) in a statutory instrument.*
- (4) *The responsible entity must consider the statutory instrument, or other document, as in effect when the development application for the development approval was properly made.*
- (5) *However, the responsible entity may give the weight the responsible entity considers is appropriate, in the circumstances, to—*
 - (a) *the statutory instrument or other document as in effect when the change application was made; or*
 - (b) *if the statutory instrument or other document is amended or replaced after the change application is made but before it is decided—the amended or replacement instrument or document; or*
 - (c) *another statutory instrument—*
 - (i) *that comes into effect after the change application is made but before it is decided; and*
 - (ii) *that the responsible entity would have been required to consider if the instrument had been in effect when the development application for the development approval was properly made.*

Assessment of Proposed Changes – Change to Conditions of the Development Approval

Changes to the conditions of approval have been proposed by the applicant. The following table identifies the relevant condition of approval, the applicant's proposed changes, any relevant representations made by the applicant, the officer's assessment of the proposed amendments and any recommend amendments to the condition.

Assessment of Proposed Changes – Change to Conditions of the Development Approval

No.	Original Condition	Proposed Amended Condition	Relevant Representation	Officer's Assessment	Condition to be Recommended
1	<p>This Development Apporoval is for a Material Change of Use for Child Care Centre (557.65m²—767.68m² GFA) and is subject to the following limitations:</p> <p>1.1 Maximum of 80 104 children; and</p> <p>1.2 Maximum of 44 16 Full Time Equivalent (FTE) staff.</p> <p><i>Note: These maximums are imposed primarily to ensure the development complies with assessment benchmarks for on-site car parking.</i></p>	<p><i>This development Approval is for a Material Change of Use for Childcare Centre (764m²) and is subject to the following limitations:</i></p> <p><i>1.1 Maximum 104 Children; and</i></p> <p><i>1.2 Maximum of 46—48 21 Full time Equivalent (FTE) Staff.</i></p>	<p><i>We have recalculated the number of full time equivalent staff to be 18 based on the current Staff to Child ratios.</i></p> <p><i>This recalculation then changes the number of carparks for staff required. We have increased the carpark calculation to be:</i></p> <p><i>Total 33 spaces</i> <i>Staff 18 staff</i> <i>Visitors 15 parent</i></p> <p><i>We have amended the development site plan to reflect this increase.</i></p> <p>... Proposed change to the application dated 9 February 2026</p> <p><i>Staff Number</i> <i>Our tenant has recalculated their staff numbers to 21 and the Early Childhood Regulation of the Department of Education would like to the EFT staff at 20 staff.</i></p>	<p>The proposed change involves an increase in the total number of Full Time Equivalent (FTE) staff from 16 to 21, together with a corresponding increase in the provision of on-site car parking.</p> <p>This proposed amendment has been assessed and is considered to remain consistent with the existing development approval and all relevant assessment benchmarks (refer to the "Officer's Assessment" provided for condition 98 below for further details).</p> <p>Accordingly, it is recommended that the conditions of approval be amended to reflect this change.</p>	<p>This Development Apporoval is for a Material Change of Use for Child Care Centre (557.65m² 767.68m² GFA) and is subject to the following limitations:</p> <p>1.1 Maximum of 80 104 children; and</p> <p>1.2 Maximum of 44 16 21 Full Time Equivalent (FTE) staff.</p> <p><i>Note: These maximums are imposed primarily to ensure the development complies with assessment benchmarks for on-site car parking.</i></p>
6	<p>The development must be carried out generally in accordance with the Approved Plans listed below, subject to conditions of this Development Approval:</p> <p>Plan No: 2221-DA01, Rev.-F K Description: Development Site Plan, prepared by Green Lion Design dated 16 October 2023 24 January 2025 and received by Council 18 October 2023 24 January 2025</p> <p>Amendments: Plan to be resubmitted to include the following amendments: Provision of 31 Parking spaces as outlined in Condition 98 of this Development Approval.</p> <p>Plan No: 2221-DA02, Rev. D Description: Site Plan, prepared by Green Lion Design dated 1 August 2023 and received by Council 5 September 2023 Amendments: Nil</p> <p>Plan No: 2221-DA03, Rev.-G E Description: Floor Plan, prepared by</p>	<p>Plan No: 2221-DA03, Rev. F Description: Floor Plan, prepared by Green Lion Design dated 14 January 2026 Amendments: Nil</p> <p>Plan No: 2221-DA04, Rev. F Description: Parking Plan, prepared by Green Lion Design dated 14 January 2026 Amendments: Nil</p>	<p><i>Based on negotiations with Early Childhood Regulation – Department of Education the floor plan has changed. The building footprint and GFA remain unchanged.</i></p>	<p>Refer to the "Officer's Assessment" provided for Conditions 1 and 98. The site plan has been amended accordingly to reflect the proposed increase in on-site car parking provision.</p> <p>The submitted floor plan shows minor amendments to the internal layout; however it is considered that the GFA and building footprint remains generally consistent with the existing approval.</p> <p>Accordingly, it is recommended that the approved plans be updated to incorporate the proposed amendments.</p>	<p>The development must be carried out generally in accordance with the Approved Plans listed below, subject to conditions of this Development Approval:</p> <p>Plan No: 2221-DA01, Rev.-F K M Description: Development Site Plan, prepared by Green Lion Design dated 16 October 2023 24 January 2025 14 January 2026 and received by Council 18 October 2023 24 January 2025 15 January 2026</p> <p>Amendments: Plan to be resubmitted to include the following amendments: Provision of 31 Parking spaces as outlined in Condition 98 of this Development Approval. Nil</p> <p>Plan No: 2221-DA02, Rev. D Description: Site Plan, prepared by Green Lion Design dated 1 August 2023 and received by Council 5 September 2023 Amendments: Nil</p> <p>Plan No: 2221-DA03, Rev.-G E F Description: Floor Plan, prepared by Green Lion Design dated 25 August 2023 8 January 2025 14 January 2026 and received by Council 5 September 2023 8 January 2025</p>

	<p>Green Lion Design dated 25 August 2023 8 January 2025 and received by Council 5 September 2023 8 January 2025</p> <p>Amendments: Nil</p> <p>Plan No: 2221-DA06, Rev. D Description: Elevations, prepared by Green Lion Design dated 8 January 2025 and received by Council 8 January 2025</p> <p>Amendments: Nil</p> <p>Plan No: 2221-DA07, Rev. D Description: Elevation, prepared by Green Lion Design dated 8 January 2025 and received by Council 8 January 2025.</p>				<p>15 January 2026</p> <p>Amendments: Nil</p> <p>Plan No: 2221-DA06, Rev. D Description: Elevations, prepared by Green Lion Design dated 8 January 2025 and received by Council 8 January 2025</p> <p>Amendments: Nil</p> <p>Plan No: 2221-DA07, Rev. D Description: Elevation, prepared by Green Lion Design dated 8 January 2025 and received by Council 8 January 2025.</p>
6A	<p>Plans to be amended must only incorporate the amendments listed within this Development Approval and must be resubmitted to Council for approval prior to the issue of any Development Permit for Operational Work, Building Work or Plumbing and Drainage Work and prior to the submission of an Environmental Noise Impact Assessment or Landscape Plan for endorsement.</p>	-	-	<p>As the plans previously required to be amended have now been updated to incorporate the increased car parking provision, it is recommended that the condition 6A be removed, as no further plan amendments are required.</p>	<p>Plans to be amended must only incorporate the amendments listed within this Development Approval and must be resubmitted to Council for approval prior to the issue of any Development Permit for Operational Work, Building Work or Plumbing and Drainage Work and prior to the submission of an Environmental Noise Impact Assessment or Landscape Plan for endorsement.</p>
98	<p>The premises must be provided with a minimum of twenty-three (23) thirty-one (31) on-site car parking spaces, including seven (7) sixteen (16) staff parking spaces and one (1) PWDSW parking space. Car parking and manoeuvring areas must be:</p> <p>98.1 Constructed generally as shown on the Approved Plans listed within this Development Approval;</p> <p>98.2 Provided with a sealed surface and be line marked or otherwise delineated to the minimum dimensions detailed in the <i>Toowoomba Regional Planning Scheme 2012 and Australian Standard AS2890 - Parking Facilities</i>;</p> <p>98.3 Designed and constructed in accordance with the requirements of AS2890;</p> <p>98.4 Designed to ensure disabled car parking spaces are located in close proximity to a primary building entrance and meet the requirements of AS2890.1 Clause 2.4.5 (1.3m high bollards), AS1428.1 and AS2890.6:2009;</p>		<p>Staff Number</p> <p><i>Our tenant has recalculated their staff numbers to 21 and the Early Childhood Regulation of the Department of Education would like to the EFT staff at 20 staff.</i></p> <p><i>We are proposing to provide 33 carparks in our change application:</i></p> <p><i>Staff Carparks 18</i> <i>Parent 15</i></p> <p>Additional Evidence</p> <p><i>In support of the changed staff numbers we provide the following information on the number of carparks required:</i></p> <p>1. <i>Property Projects Australia.</i></p> <p><i>PPA advise that based on multiple evidence and court cased the established student carpark ration is 3.4.</i></p> <p><i>104 places / 3.4 = 30.58 carparks.</i></p> <p>2. <i>Burchills Traffic Report.</i></p>	<p>The proposed increase in Full Time Equivalent (FTE) staff results in a corresponding increase in the development's car parking requirement. Under the <i>Transport, Access and Parking Code</i>, the car parking rate applicable to a Childcare Centre is one (1) space per seven (7) children enrolled, plus one (1) space per FTE staff member (Acceptable Outcome AO_{2.2}). On this basis, the development would require 36 car parking spaces.</p> <p>A Technical Memorandum has been submitted in support of the proposed provision of 33 on-site car parking spaces. The memorandum includes an analysis of parking demand generated by a range of childcare centres in Brisbane and concludes that an appropriate parking demand rate is 1 space per 4.5 children.</p> <p>This information was reviewed by Council's Development Engineer, who identified concerns regarding the differing public transport availability and modal share between Brisbane and Toowoomba. As such, the parking demand observed in Brisbane may not</p>	<p>The premises must be provided with a minimum of twenty-three (23) thirty-one (31) 33 on-site car parking spaces, including seven (7) sixteen (16) staff parking spaces and one (1) PWDSW parking space. Car parking and manoeuvring areas must be:</p> <p>98.1 Constructed generally as shown on the Approved Plans listed within this Development Approval;</p> <p>98.2 Provided with a sealed surface and be line marked or otherwise delineated to the minimum dimensions detailed in the <i>Toowoomba Regional Planning Scheme 2012 and Australian Standard AS2890 - Parking Facilities</i>;</p> <p>98.3 Designed and constructed in accordance with the requirements of AS2890;</p> <p>98.4 Designed to ensure disabled car parking spaces are located in close proximity to a primary building entrance and meet the requirements of AS2890.1 Clause 2.4.5 (1.3m high bollards), AS1428.1 and AS2890.6:2009;</p> <p>98.5 Accessible and available to the general public and staff during approved hours of operation;</p>

	<p>98.5 Accessible and available to the general public and staff during approved hours of operation;</p> <p>98.6 Provided with signage and pavement markings that indicate the location of parking areas and the proposed flow of traffic through the subject land; and</p> <p>98.7 Maintained as originally constructed and kept and used exclusively for vehicle parking and manoeuvring; and</p> <p>98.8 Designed to enable all vehicles to enter and leave the subject land in a forward gear.</p>		<p><i>We have sought a traffic report from Burchills Engineers and provide a copy attached.</i></p> <p><i>The Traffic Report has cited research and evidence that states the required Carpark Ration id 4.6.</i></p> <p><i>104 places / 4.6 = 24 carparks</i></p>	<p>directly translate to the Toowoomba context.</p> <p>However, the proposed parking rate of 1 space per 3.4 children, as advanced in the applicant's planning report, is considered acceptable and is consistent with findings of expert traffic advice in support of several relevant Appeals which identified that on-site car parking for a Child Care Centre be provided at a rate between 1 space per 3.52 children and 1 space per 3.66 children.</p> <p>The proposed increase in on-site car parking to a total of 33 spaces (including one PWD-compliant space) achieves provision of 1 space per 3.1 children, which aligns with these findings. It is therefore considered that the proposed changes comply with Performance Outcome PO₂ of the Transport, Access and Parking Code.</p> <p>It is recommended that the condition be amended to reflect the revised car parking provision.</p>	<p>98.6 Provided with signage and pavement markings that indicate the location of parking areas and the proposed flow of traffic through the subject land; and</p> <p>98.7 Maintained as originally constructed and kept and used exclusively for vehicle parking and manoeuvring; and</p> <p>98.8 Designed to enable all vehicles to enter and leave the subject land in a forward gear.</p>
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FINANCIAL / RESOURCE IMPLICATIONS

There is no financial or resource implication associated with this decision.

Human Rights Act 2019 CONSIDERATIONS

The *Human Rights Act 2019* provides that it is unlawful for a public agency to act or make a decision in a way that is not compatible with human rights, or to fail to give proper consideration to a human right. This necessitates understanding the human rights that are protected. When making decisions or taking actions, consideration needs to be given to how that may impact on a person's human rights. Where there is a restriction on a person's human rights the restriction must be no greater than is justifiable to protect the rights of others or the community at large.

In assessing this application consideration has been given to the following section/s of the *Human Rights Act 2019*:

Section 15 – Recognition and equality before the law
 Section 21 – Freedom of expression
 Section 24 – Property rights
 Section 25 – Privacy and reputation

It is the opinion of the decision maker that no human rights have been limited.

CONCLUSION

The change application has been assessed with regard to the applicable assessment framework as identified within this report. The proposed changes are considered to be generally acceptable. It is therefore recommended that the development approval be changed as identified above.

The attached Statement of Reasons (refer to Schedule 2) has been amended as required in relation to the approved changes

ATTACHMENT/S

Attachment	1	of	5	Aerial Image of Site
Attachment	2	of	5	Zoning Map
Attachment	3	of	5	Current Approved Plan (MCUI/2023/1544/B)
Attachment	4	of	5	Proposed Plan
Attachment	5	of	5	Proposed Floor Plan

SCHEDULES

Schedule 1 Concurrence Agency Response

ATTACHMENTS

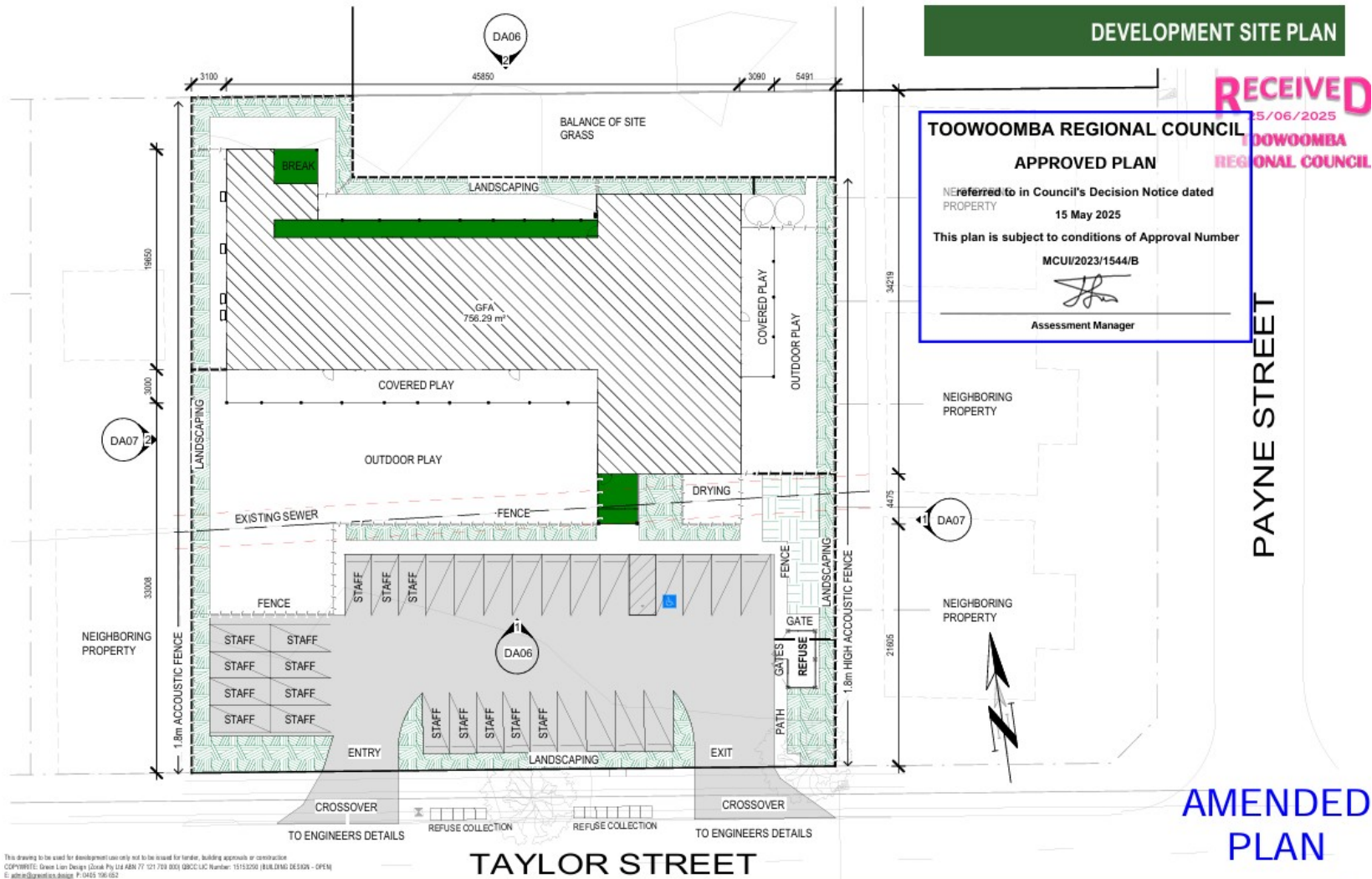
Attachment 1 Aerial Image of Site



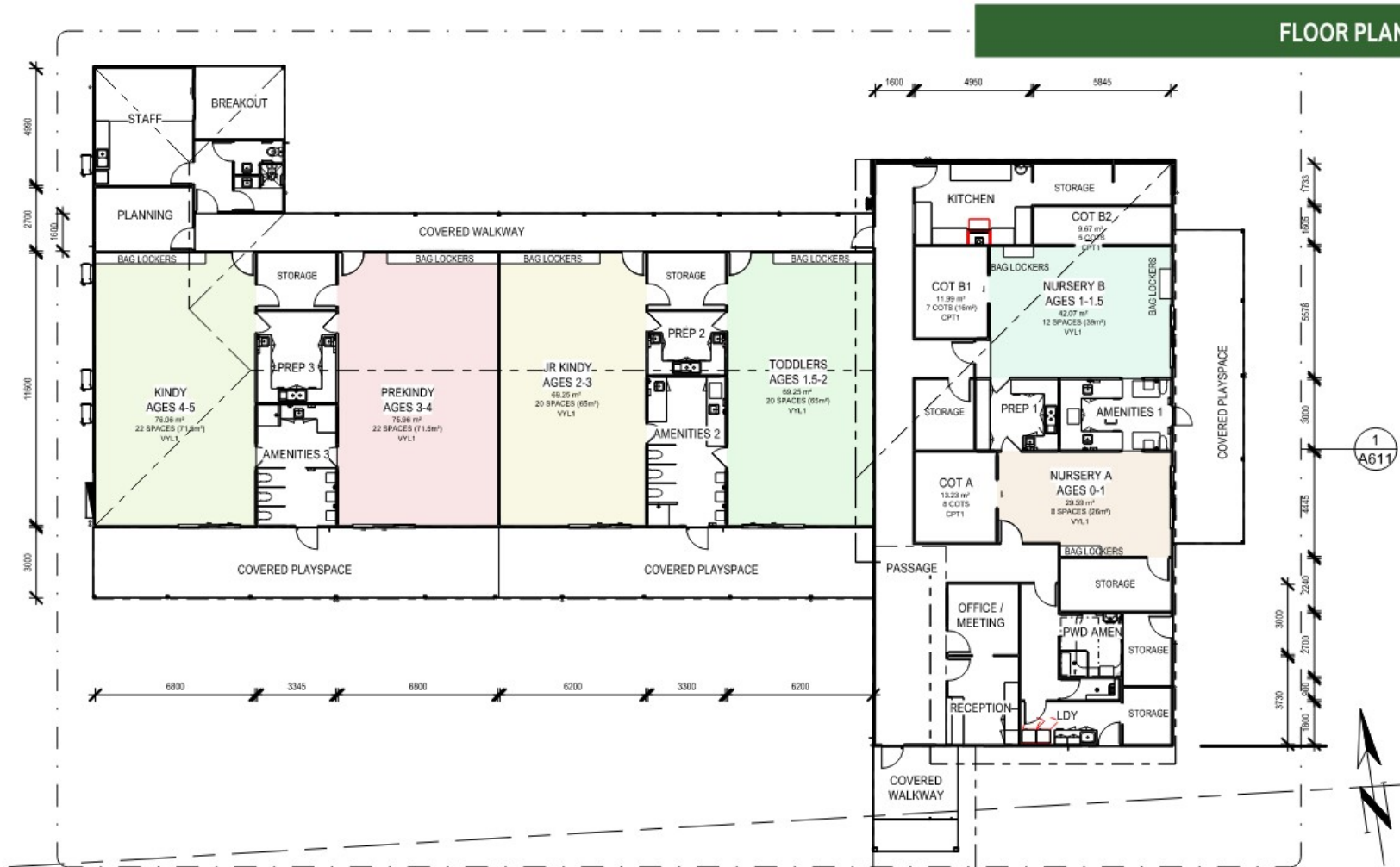
Attachment 2 Zoning Map



Attachment 3 Current Approved Plan (MCUI/2023/1544/B)



Attachment 5 Proposed Floor Plan



This drawing is to be used for development use only and is to be issued for tender, to allow approvals or construction.
COPYRIGHT: Green Lion Design (Cook Pty Ltd ABN 77 121 739 000) QBCC LIC Number: 11113255 (BUILDING DESIGN - OTHER)

SCHEDULE 1

Concurrence Agency Response



Our reference: 2411-43303 SRA
Your reference: MCUI/2023/1544/B

20 February 2025

The Chief Executive Officer
Toowoomba Regional Council
PO Box 3021
TOOWOOMBA Qld 4350
development@tr.qld.gov.au

Attention: Rumpa Sarkar

RECEIVED
20/02/2025
TOOWOOMBA
REGIONAL COUNCIL

Dear Rumpa

Changed SARA response—267 Taylor Street, Wilsonton

(Given under section 28 of the Development Assessment Rules)

The change application described below was properly referred to the State Assessment and Referral Agency (SARA) under section 82 of the *Planning Act 2016* on 3 February 2016.

Response

Outcome:	Referral agency response – Approval subject to conditions
Date of response:	20 February 2025
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	Change Application (Other Change) - Material Change of Use – Child Care Centre
SARA role:	Referral agency	
SARA trigger:	Schedule 10, part 9, division 4, subdivision 2, table 4, item 1 (Planning Regulation 2017)	

Development near a state transport corridor

SARA reference: 2411-43303 SRA

Assessment manager: Toowoomba Regional Council

Street address: 267 Taylor Street, Wilsonton

Real property description: Lot 1 on RP118586

Applicant name: Cenaphora Investments Pty Ltd C/- Dallas Hunter

Applicant contact details: 5/4 Mylne St
TOOWOOMBA QLD 4350
dallashunter@gmail.com

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: TMR23-039336
- Date: 12 February 2025

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

Human Rights Act 2019 considerations: Consideration of the *Human Rights Act 2019* sections 15 to 35 has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.

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 Brittany Hughes, Senior Planning Officer, on (07) 4616 7332 or via email ToowoombaSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Paul Gleeson
A/Manager

cc Cenaphora Investments Pty Ltd, dallashunter@gmail.com

enc Attachment 1—Changed referral agency conditions
Attachment 2—Changed reasons for decision

Attachment 3—Changed advice

Attachment 4—Representations about a referral agency response provisions

Attachment 5—Approved plans and specifications

Attachment 1—Changed conditions

No.	Conditions	Condition timing
Development permit for a Material Change of Use for a Child Care Centre		
Schedule 10, part 9, division 4, subdivision 2, table 4, item 1 (Planning Regulation 2017) – Development near a state transport corridor —The chief executive administering the Planning Act 2016 nominates the Director-General of the 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 conditions:		
1.	<p>Any excavation, filling/backfilling/compaction, retaining structures and other works involving ground disturbance must not:</p> <p>(i) encroach or de-stabilise the state-controlled road including all transport infrastructure, or the land supporting this infrastructure or cause similar adverse impacts.</p>	At all times.
2.	<p>Noise attenuation for the development must be provided generally in accordance with the following sections of the Noise Impact Assessment prepared by Rodney Stevens Acoustics dated 5 September 2023, reference R230419R1, Revision 1 as amended in red by SARA on 11 October 2023:</p> <p>(i) Section 6.1— Outdoor Play Areas & Carpark and Acoustic Barrier Details</p> <p>(ii) Section 6.2— Building Construction Systems.</p> <p>(a) Provide a noise barrier to the specified heights and in the location shown on the Development Site Plan prepared by GLD dated 08/01/25 reference 2221-DA01 [H] (as amended in red by SARA).</p> <p>(b) Design the noise barrier generally in accordance with:</p> <p>i. <u>the Department of Transport and Main Roads' Road Traffic Noise Management Code of Practice, Chapter 5' Specifications MRS15 and MRTS15; and</u></p> <p>ii. <u>Standard Drawings Road Manual, Part 13, Drawing No SD1606, SD1607, SD1608 (whichever is applicable to the type of noise barrier being constructed).</u></p> <p>(c) RPEQ certification must be provided to <u>Downs.South.West.IDAS@tmr.qld.gov.au</u> within the Department of Transport and Main Roads confirming that the development has been constructed in accordance with parts (a) and (b) of this condition.</p>	Prior to the commencement of use and to be maintained at all times.
3.	<p>Stormwater management of the development must not cause worsening to the operating performance of the state-controlled road, such that any works on the land must not:</p> <p>(i) create any new discharge points for stormwater runoff</p>	At all times.

	<p>onto the state-controlled road</p> <p>(ii) concentrate or increase the velocity of flows to state-controlled road</p> <p>(iii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road</p> <p>(iv) surcharge any existing culvert or drain on the state-controlled road</p> <p>(v) reduce the quality of stormwater discharge onto the state-controlled road.</p>	
4.	<p>(a) The road access location is to be located generally in accordance with the Site Plan, prepared by Green Lion Design, dated 1 August 2023 reference 2221-DA01 [D] as amended by SARA in red on 11 October 2023.</p> <p>(b) Road access works comprising a driveway crossover, (at the road access location) must be provided generally in accordance with the dimensions shown on the Site Plan, prepared by Green Lion Design, dated 1 August 2023 reference 2221-DA01 [D] as amended in red by SARA on 11 October 2023.</p> <p>(c) The road access works must be designed and constructed in accordance with Toowoomba Regional Council's driveway crossover standards and the Department of Transport and Main Roads' Road Planning & Design Manual.</p> <p><u>(a) Road access is to be located generally in accordance with the Development Site Plan, prepared by Green Lion Design, dated 08/01/25, reference 2221-DA01 [H] (as amended in red).</u></p> <p><u>(b) Provide road access works comprising two sealed driveway crossovers, (at the road access locations referred to in part (a) of this condition) generally in accordance with the dimensions shown on the Parking Plan, prepared by Green Lion Design, dated 08/01/25, reference 2221-DA04 [D] (as amended in red)</u></p> <p><u>(c) Design and construct the road access works, referred to in part (b) of this condition, in accordance with Toowoomba Regional Council's driveway crossover standards and the Department of Transport and Main Roads' Road Planning & Design Manual.</u></p>	<p>(a) At all times</p> <p>(b) and (c): Prior to the commencement of use.</p>
5.	<p>(a) The existing vehicular property access located between Lot 1 on RP118586, and Taylor Street must be permanently closed and removed.</p> <p>(b) The kerb and channelling between the pavement edge and the</p>	<p>(a) and (b): Prior to the commencement of use.</p>

	property boundary must be reinstated in accordance with Toowoomba Regional Council standards at no cost to the Department of Transport and Main Roads'.	
6.	<p><u>Install directional signage and/or line marking on the driveway crossovers, in accordance with the Department of Transport and Main Roads' Queensland Manual of Uniform Traffic Control Devices, indicating:</u></p> <ul style="list-style-type: none"> • <u>the western access is restricted to entry only movements</u> • <u>the eastern access is restricted to exit only movements</u> 	<u>Prior to the commencement of use.</u>

Attachment 2—Reasons for referral agency response

The reasons for SARA's recommendation are:

The development complies with State code 1: Development in a state-controlled road environment of the SDAP version 3.1, subject to conditions. Specifically, the development:

- does not increase the likelihood or frequency of accidents, fatalities, or serious injury for users of a state-controlled road
- does not adversely impact the structural integrity or physical condition of state-controlled roads, road transport infrastructure, public passenger transport infrastructure or active transport infrastructure
- does not adversely impact the function efficiency of state-controlled roads or future state-controlled roads
- does not adversely impact the state's ability to plan, construct, maintain, upgrade or operate state-controlled roads, future state-controlled roads or road transport infrastructure
- does not significantly increase the cost to plan, construct, upgrade or maintain state-controlled roads, future state-controlled roads or road transport infrastructure
- protects community amenity from significant adverse impacts of environmental emissions generated by road transport infrastructure or vehicles using state-controlled road.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (v3.1) as published by SARA
- the Development Assessment Rules
- SARA DA Mapping system
- *Human Rights Act 2019*

Attachment 3—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) (v3.1). If a word remains undefined it has its ordinary meaning.
2.	<p>Road access works approval: Under sections 62 and 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads (DTMR) to carry out road works that are road access works (including driveways) on a state-controlled road. Please contact DTMR on (07) 4639 0828 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). The road access works approval process takes time – please contact DTMR as soon as possible to ensure that gaining approval does not delay construction.</p> <p>The applicant should note that reference to the approved plans imply conceptual approval only. Further modifications and inclusions are likely to be required in order for submitted detailed designs to comply with TMR standards at the roadworks application (s33 TIA) stage. In particular, detailed designs may require, but should not be limited to, necessary lane widening for provision of cycle lanes, lengthening of turn lanes, installation of lighting, signage and line marking, pavements, utilities and services, and roadsides and roadside furniture.</p>

Attachment 4—Representations about a referral agency response

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Attachment 5—Documents referenced in conditions

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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

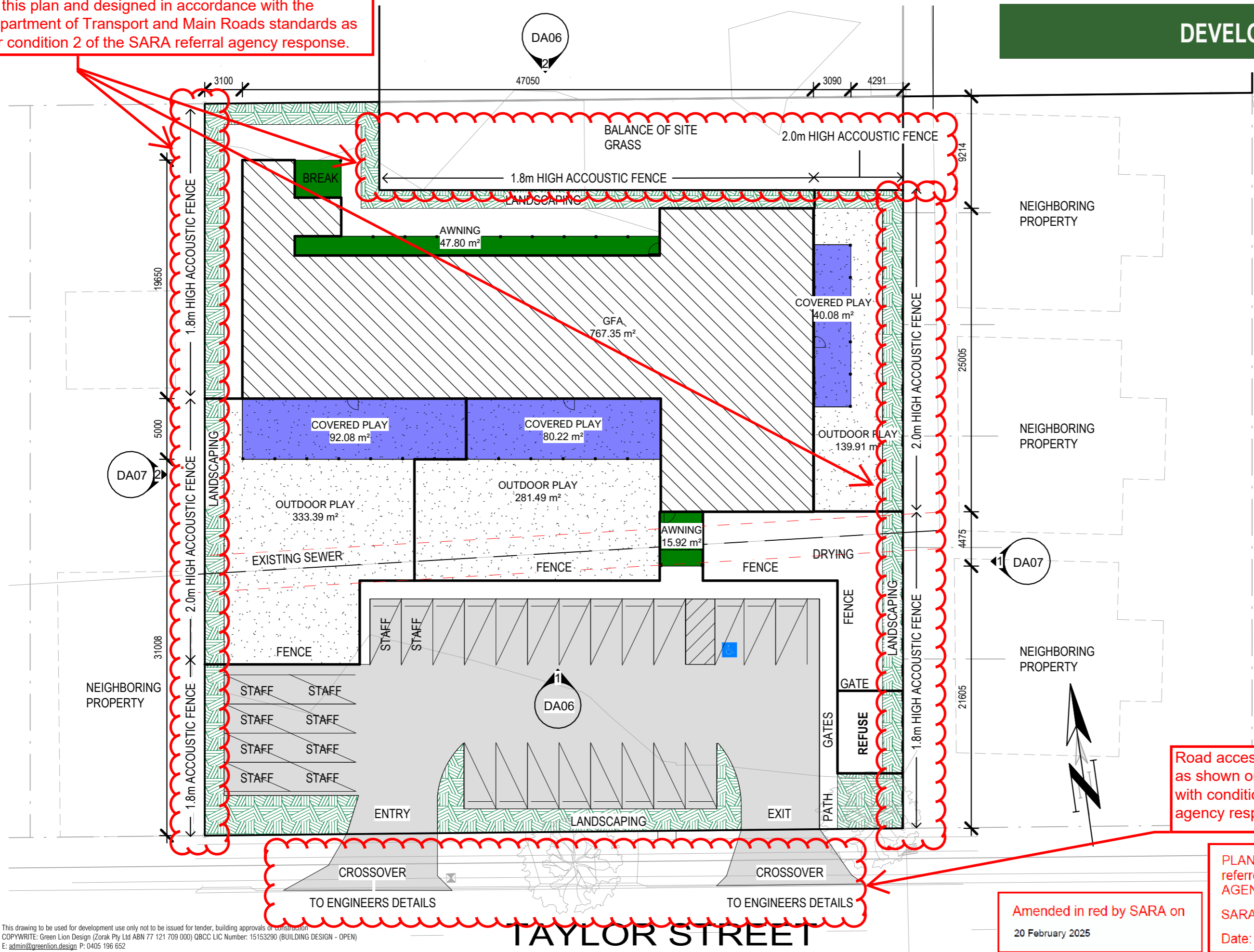
30 Representations about a referral agency response

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.

PAYNE STREET

Noise barriers must be provided to the heights specified on this plan and designed in accordance with the Department of Transport and Main Roads standards as per condition 2 of the SARA referral agency response.



Road access is to be generally located as shown on this plan, in accordance with condition 4 of the SARA referral agency response.

Amended in red by SARA on
20 February 2025

PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE
SARA ref: 2411-43303 SRA
Date: 20 February 2025

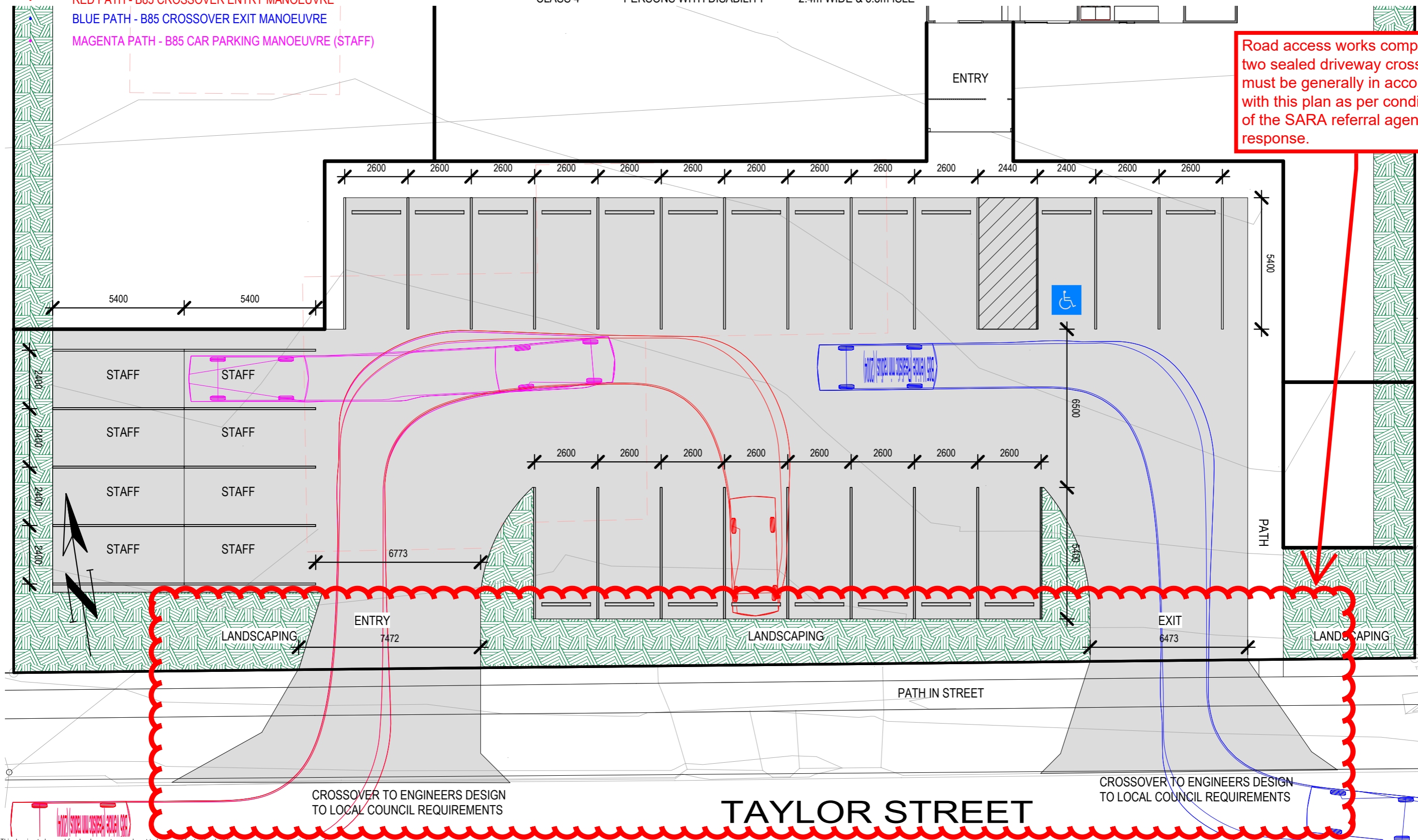
This drawing to be used for development use only not to be issued for tender, building approvals or construction
COPYWRITE: Green Lion Design (Zorak Pty Ltd ABN 77 121 709 000) QBCC LIC Number: 15153290 (BUILDING DESIGN - OPEN)
E: admin@greenlion.design P: 0405 196 652

PARKING PLAN

- ALL TURNING PATHS GENERATED WITH AUTODESK VEHICLE TRACKING SOFTWARE USING THE AS2890.1 B85 TURNING TEMPLATE
- ALL SPACES MEET THE MINIMUM REQUIRED WIDTH BY THE AUSTRALIAN STANDARD - ISLE WIDTH IS IN EXCESS OF THE AUSTRALIAN STANDARDS
- **RED PATH - B85 CROSSOVER ENTRY MANOEUVRE**
- **BLUE PATH - B85 CROSSOVER EXIT MANOEUVRE**
- **MAGENTA PATH - B85 CAR PARKING MANOEUVRE (STAFF)**

CAR PARKING CLASSIFICATION

USER CLASS	CLASS DESCRIPTION	
CLASS 1	EMPLOYEE PARKING	2.4m WIDE & 6.2m ISLE
CLASS 3	SHORT TERM PARKING	2.6m WIDE & 5.8m ISLE
CLASS 4	PERSONS WITH DISABILITY	2.4m WIDE & 5.8m ISLE



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Amended in red by SARA on
 20 February 2025

PLANS AND DOCUMENTS
 referred to in the REFERRAL
 AGENCY RESPONSE

SARA ref: 2411-43303 SRA
 Date: 20 February 2025



Our ref TMR25-044753
Your ref 2411-43303 SRA
Enquiries Scott McDonald



12 February 2025

Department of
Transport and Main Roads

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 MCUI/2023/1544/B, lodged with Toowoomba Regional Council involves constructing or changing a vehicular access between Lot 1RP118586, the land the subject of the application, and Taylor Street (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.

Applicant Details

Name and address Mr Dallas Hunter
5/4 Mylne St
Toowoomba QLD 4350

Application Details

Address of Property 267 Taylor Street, Wilsonton QLD 4350
Real Property Description 1RP118586
Aspect/s of Development Development Permit for Material Change of Use for Child Care Centre

Decision (given under section 67 of TIA)

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

- (a) The road access locations are to be located generally in accordance with the Development Site Plan prepared by Green Lion Design dated 08/01/25 reference 2221-DA01 [H].
- (b) The largest design vehicle permitted to use the accesses is restricted to Service Vehicles (HRV).

Reasons for the decision

The reasons for this decision are as follows:

- (a) To ensure the access location and design standard maintain the safety, efficiency and operational capacity of the state-controlled road network.

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

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.

If further information about this approval or any other related query is required, Mr Scott McDonald, Town Planner should be contacted by email at Scott.A.McDonald@tmr.qld.gov.au or on (07) 4639 0737.

Yours sincerely

A handwritten signature in black ink, appearing to read 'J. McGuire', with a large, stylized flourish at the end.

Jason McGuire
Senior Town Planner

Attachments: Attachment A – Decision evidence and findings
Attachment B - Section 70 of TIA
Attachment C - Appeal Provisions

Attachment A

Decision Evidence and Findings

Evidence or other material on which findings were based:

- Development application material submitted in support of Toowoomba Regional Council development application MCUI/2023/1544/B
- State Development Assessment Provisions – Assessment Code 1 (Development in a state controlled road environment)
- Department of Transport and Main Roads' *Road Planning and Design Manual, 2nd Edition*
- *Planning Act (2016)*
- *Planning Regulations (2017)*
- *Transport Infrastructure Act (1997)*

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.