

Our Reference: MCUI/2021/3730
Officer: Shokhida Safarova
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**Development Application Decision Notice
APPROVAL**

Planning Act 2016 Section 63

Catherine Mary Young and Peter Harley Young
54 Taylor Street
NEWTOWN QLD 4350

Email: rices@bigpond.com

12 October 2021

Dear Sir/Madam

Location: 228A Campbell Street, NEWTOWN QLD 4350
Property Description: Lot 1 RP74665
Relevant Planning Scheme: *Toowoomba Regional Planning Scheme 2012*

The Development Application for Material Change of Use - Impact - Short term accommodation, for the abovementioned property has been assessed and approved in full with Conditions. It is considered that the approved development generally complies with the relevant assessment benchmarks or can be conditioned to comply. The decision was made on 5 October 2021. The following provides all the relevant details:

Details of Approval

Development Permit – Material Change of Use - Impact - Short term accommodation

Referral Agencies

Concurrence Agencies Name & Address: N/A

Advice Agencies Name & Address: N/A

Conditions and Advices

Assessment Manager's Conditions: As per attached Schedule 1

Further Development Permits Required

- Nil

Further Plans/Documents for Endorsement

- Nil

Submissions

Number of properly made submissions: 2
(see attached list of names and addresses)

Rights of Appeal

Attached is an extract from the *Planning Act 2016* which details your appeal rights regarding this decision.

The *Planning Act 2016* is available on the Office of the Queensland Parliamentary Counsel website via:

<https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2016-025>.

Yours faithfully



Rodney O'Brien
Senior Planner, Development Services



TOOWOOMBA REGIONAL COUNCIL

A.B.N. 997 8830 5360

SCHEDULE 1

DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF USE - IMPACT

APPLICATION NUMBER:	MCUI/2021/3730
APPLICANT:	Catherine Mary Young and Peter Harley Young
LOCATION:	228A Campbell Street, NEWTOWN QLD 4350
PROPERTY DESCRIPTION:	Lot 1 RP74665
APPROVED USE:	Short-term Accommodation (166m ² GFA)
ZONING / PRECINCT:	Low Density Residential / General

A. ASSESSMENT MANAGER'S CONDITIONS:

APPROVED USE

- This Development Approval is for a material change of use for Short-term Accommodation, subject to the following requirements:
 - Rooms cannot be let individually; and
 - The premises must not accommodate more than six (6) persons at a time.
- This Development Approval does not imply or comprise an approval for any uses other than that listed in Condition 1.

CARRY OUT & MAINTAIN DEVELOPMENT

- 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.
- Unless otherwise stated, all conditions must be complied with prior to the commencement of use and thereafter.
- 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 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.
- The development must be maintained generally in accordance with the Approved Plans and Documents subject to or modified by any conditions of this Development Approval.

APPROVED PLANS

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

Plan No: N/A
Description: Site Plan and Floor Plan, prepared by the Applicant and received by Council on 5 July 2021
Amendments: Nil

APPROVED DOCUMENT

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

Document: N/A

Description: Noise Complaints Management Procedure, prepared by Applicant and received 30 September 2021

Amendments: Nil

AVAILABILITY OF APPROVED DOCUMENTATION DURING WORKS

9. 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

10. Submit to Council a Notice of Intention to Commence the Approved Use. The notice must:
- 10.1 Be submitted to the Manager, Development Services within a minimum of ten (10) business days prior to commencement of the approved use;
 - 10.2 Nominate the day the approved use is intended to commence; and
 - 10.3 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.

WORKS

STORMWATER DRAINAGE

11. All land adjoining the development must be protected from ponding or nuisance from stormwater resulting from the development for the life of the development.

DAMAGE TO SERVICES & ASSETS

12. 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:
- 12.1 Where the damage would cause a hazard to pedestrian or vehicle safety or interrupts a service to the community, immediately; or
 - 12.2 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.
13. 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.
14. 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 131 872.

TRANSPORT, VEHICULAR ACCESS & PARKING

ON-SITE CAR PARKING, SERVICE BAYS & MANOEUVRING

15. The premises must be provided with at least two (2) on-site car parking space. Car parking and maneuvering areas must be maintained generally as shown on the Approved Plans listed within this Development Approval.

AMENITY & OPERATION OF USE

16. All buildings, structures and fences as well as the subject land must be maintained in a clean and tidy manner at all times.
17. All fixed mechanical plant must be contained within the building or visually screened to all street frontages, public viewing locations and adjoining premises.
18. Open storage areas, loading areas, bin storage areas and other unsightly areas, must be screened from view from all street frontages and public places.

ENVIRONMENT & WASTE

ACOUSTIC AMENITY – NOISE LIMITS

19. Noise from activity associated with the use of the subject land must not exceed the Acoustic Quality Objectives listed in the *Environment Protection (Noise) Policy 2008* when measured at any sensitive receptor.
20. 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*.

ACOUSTIC AMENITY – MECHANICAL PLANT

21. 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*.
22. Any fixed mechanical plant that causes either tonal (L_{eq}) sound (e.g. from basement car-park or kitchen exhaust, air conditioning unit or pool filtration unit), or impulse (L_{max}) sound, must be enclosed, shielded or positioned to ensure that noise emissions do not exceed the following noise limits when measured at any sensitive place or commercial place:
 - 22.1 Before 7.00AM, if it makes a noise of more than 3dB(A) above the background noise level (L_{90}); or
 - 22.2 From 7.00AM to 10.00PM, if it makes a noise of more than 5dB(A) above the background noise level (L_{90}); or
 - 22.3 After 10.00PM, if it makes a noise of more than 3dB(A) above the background noise level (L_{90}).

ACOUSTIC AMENITY - COMPLAINTS MANAGEMENT

23. The endorsed Noise Complaints Management Procedure listed within this Decision Notice must be implemented, maintained and modified where necessary to maintain compliance with the requirements of this Development Approval at all times.
24. A record of all noise complaints and investigation results including corrective actions must be maintained and made available for inspection at any time upon request by Council.

OUTDOOR LIGHTING IMPACT MITIGATION

25. Outdoor lighting associated with the use must be designed, sited, and installed to comply with the relevant parameters of *Australian Standard AS4282-1997 Control of the obtrusive effects of outdoor lighting*.
26. 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.

AIR QUALITY & AMENITY - AIR RELEASE LIMITS

27. 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.
28. 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.

WASTE MANAGEMENT (BIN PROVISION & STORAGE)

29. Refuse storage facilities must be provided generally in accordance with the Approved Plans listed within this Development Approval and the following:
 - 29.1 Provision of 1 x 240L wheelie bin for general waste and 1 x 240L wheelie bin for recyclable waste for development;
 - 29.2 Provision of a hardstand impervious area within the curtilage of the premises for the permanent storage location of wheelie bins, having minimum dimensions of 0.36 m² (600mm x 600mm) per wheelie bin and located no closer than 2m to any fresh air intake of a habitable room;
 - 29.3 Refuse storage facilities must be screened from public vantage points with a minimum 1.5m high built enclosure or solid screen fencing; and
 - 29.4 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)

30. Unless otherwise endorsed by Council in a waste management plan, arrangements for waste removal are provided in accordance with the following requirements:
- 30.1 Provision of a level area at the kerbside for the temporary storage of wheelie bins on collection days having minimum dimensions of 1m² (1,000mm x 1,000mm) per wheelie bin;
 - 30.2 General waste must be collected and removed at periods not exceeding seven days; and
 - 30.3 Bins must be stored at their place of permanent storage other than times ahead of or during waste removal.

B. ADVICES:

GENERAL ADVICE

INFRASTRUCTURE CHARGES

- 1) Infrastructure charges are now levied by way of an infrastructure charges notice, issued pursuant to section 119 of the *Planning Act 2016*.

OTHER LAWS & REQUIREMENTS

- 2) 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.
- 3) Any works impacting outside the property boundary will require a permit under Subordinate Local Law 1.15 (Carrying Out Works on a Road or Interfering with a Road or its Operation) 2011. Please contact Council's Road Operations Branch through our Customer Service Centre on 131 872. The application can be found on Council's website at www.tr.qld.gov.au <<http://www.tr.qld.gov.au> .
- 4) The development has only been assessed in accordance with the provisions of the *Toowoomba Regional Planning Scheme*. 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

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

WHEN APPROVAL LAPSES

- 6) 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.

WHEN APPROVAL STARTS TO HAVE EFFECT

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

STREET TREE DISTURBANCE & REMOVAL APPROVAL

- 8) This Development Approval does not infer or give approval to the owners or occupiers of the subject land to disturb or remove street trees. A separate Street Tree Disturbance or Removal Approval is required where a street tree is expected to be disturbed or removed. Please contact Council's Parks and Recreation Branch via Council's Customer Service Centre for further information in respect of street trees.

FIRE ANTS

- 9) 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 *Plant Protection Act 1989* apply, compliance with statutory provisions must be achieved.

C. ATTACHMENTS:

- List of Submitters
- Approved Development Plans
- Approved Documents
- Appeal provisions pursuant to the *Planning Act 2016*.

List of Submitters:-

David Walter Hickson and Jacoba Louise Peereboom
228 Campbell Street
NEWTOWN QLD 4350

James Vincent Watt and Alma Bibi Watt
228B Campbell Street
NEWTOWN QLD 4350

Chapter 6, Part 1 of the Planning Act 2016 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the **appellant**); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
 - (iii) otherwise—20 business days after the day the notice is given; or
 - (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

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

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

230 Notice of appeal

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

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

(4) The **service period** is—

- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
 - (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
 - (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
 - (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2) schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—**decision** includes—
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.

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

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

232 Rules of the P&E Court

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