

Our Reference: MCUI/2024/291
CS Portal Reference: N/A
Officer: James Collie
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Development Application Decision Notice
APPROVAL
Planning Act 2016 Section 63

Kellie Maree Weston and Jason Ronald Weston
C/- Revolution Town Planning (Peter Swan)
PO Box 1978
TOOWOOMBA CITY QLD 4350

Email: peter@revolutiontp.com.au

9 August 2024

Dear Sir

Location: 4 Wonderley Street, MOUNT LOFTY QLD 4350
Property Description: Lot 14 RP17782
Relevant Planning Scheme: *Toowoomba Regional Planning Scheme 2012*

The Development Application for Material Change of Use – Impact – Multiple Dwelling 3x3 Bedroom Units, 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 8 August 2024. The following provides all the relevant details:

Details of Approval

Development Permit – Material Change of Use – Impact – Multiple Dwelling 3x3 Bedroom Units

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

Concurrence Agency Conditions: N/A

Currency Period

In accordance with section 85(1)(a)(ii) of the *Planning Act 2016* (Qld), this Development Approval lapses, to the extent the development is not completed, if the first material change of use under this Development Approval has not happened within six (6) years of this Development Approval starting to have effect.

Further Development Permits Required

- Building Work
- Plumbing and Drainage Work
- Operational Work

Further Document for Endorsement

The following document requires Endorsement:

- Arborist's Report

Submissions

Number of properly made submissions: 2


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



Krys den Hertog
Principal Planner, Planning Branch



TOOWOOMBA REGIONAL COUNCIL

A.B.N. 997 8830 5360

SCHEDULE 1

DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF USE – IMPACT

| | |
|------------------------------|---|
| APPLICATION NUMBER: | MCUI/2024/291 |
| APPLICANT: | Kellie Maree and Jason Ronald Weston C/- Revolution Town Planning |
| LOCATION: | 4 Wonderley Street, MOUNT LOFTY QLD 4350 |
| PROPERTY DESCRIPTION: | Lot 14 RP17782 |
| APPROVED USE: | Multiple Dwelling 3x3 Bedroom Units |
| ZONING / PRECINCT: | Low Density Residential / General |

A. ASSESSMENT MANAGER'S CONDITIONS:

PLANNING

APPROVED USE

1. This Development Approval is for a Material Change of Use for a Multiple Dwelling (Three (3) x Three (3) bedroom units).

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 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 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 Work approval.
5. The development must be maintained generally in accordance with the Approved and Amended Plans and Documents 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 the conditions of this Development Approval:

Plan No: 23.003, issue WD 1

Description: Site Plan, sheet 1 of 7 prepared by Big House Little House and dated 18 December 2023

Amendments: Nil

Plan No: 23.003, issue WD 1
Description: Ground Floor Plan, sheet 2 of 7 prepared by Big House Little House and dated 18 December 2023
Amendments: Nil

Plan No: 23.003, issue WD 1
Description: First Floor Plan, sheet 3 of 7 prepared by Big House Little House and dated 18 December 2023
Amendments: Nil

Plan No: 23.003, issue WD 1
Description: South Elevation, sheet 4 of 7 prepared by Big House Little House and dated 18 December 2023
Amendments: Nil

Plan No: 23.003, issue WD 1
Description: North Elevation, sheet 5 of 7 prepared by Big House Little House and dated 18 December 2023
Amendments: Nil

Plan No: 23.003, issue WD 1
Description: East Elevation, sheet 6 of 7 prepared by Big House Little House and dated 18 December 2023
Amendments: Nil

Plan No: 23.003, issue WD 1
Description: West Elevation, sheet 7 of 7 prepared by Big House Little House and dated 18 December 2023
Amendments: Nil

Plan No: LP-001, issue A
Description: Landscape Plan prepared by Super Natural Landscapes and dated 7 February 2024
Amendments: Nil

Plan No: LP-001, issue A
Description: Plant Schedule prepared by Super Natural Landscapes and dated 7 February 2024
Amendments: Nil

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

7. Prepare and submit applications to Council and obtain a Development Permit for Operational Work for the following:
 - 7.1 Stormwater Infrastructure;
 - 7.2 Driveway Crossover; and
 - 7.3 Earthworks.

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

8. Prepare and submit the following documents in accordance with the conditions of this Development Approval and obtain Council's endorsement:
 - 8.1 Arborist's Report.

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.

WORKS

ENGINEER'S CERTIFICATION AND SUPERVISION OF WORKS

10. Plans and specifications for all works associated with vehicular access, stormwater, earthworks, or any other works required on Council infrastructure, must be prepared and certified by a Registered Professional Engineer Queensland - Civil (RPEQ).
11. A RPEQ must submit to Council a copy of the:
 - 11.1 Design Certificate prior to commencement of the works; and
 - 11.2 Construction Supervision Certificate upon completion of the works certifying that works are in accordance with the approved plans and specifications.
12. 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.
13. 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

14. 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.
15. 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 any external stormwater infrastructure. The design and the construction of the works must be certified by a RPEQ – Civil.
16. All land adjoining the development must be protected from ponding or nuisance from stormwater resulting from the development for the life of the development.

STORMWATER DISCHARGE

17. 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.

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.

18. 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.

19. Design and construction of all internal stormwater drainage works must comply with applicable section of *Australian and New Zealand Standard AS/NZS 3500 - Plumbing and Drainage Code* and the *Queensland Urban Drainage Manual*.

BULK EARTHWORKS

20. Where assessable 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

21. 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 and operational work.
22. 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:
 - 22.1 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*.

CONSTRUCTION WASTE MANAGEMENT & STORAGE

23. 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*.
24. 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*.
25. Fires are not to be lit to dispose of demolition or construction waste.
26. 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:
 - 26.1 Elsewhere within this Development Approval;
 - 26.2 In accordance with an associated Development Permit for Operational Work;
 - 26.3 In association with and in accordance with an Environmental Authority issued under the *Environmental Protection Act 1994*;
 - 26.4 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
 - 26.5 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.

27. Demolition, excavation and construction waste (including night soil) must not be placed or stored within the road reserve at any time.

EROSION & SEDIMENT CONTROL

28. 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.
29. 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.
30. 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.
31. All disturbed areas must be mulched or turfed as soon as possible during construction.

DAMAGE TO SERVICES & ASSETS

32. Protect Council and public utility services and assets during construction of the development.
33. 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:
- 33.1 Where the damage would cause a hazard to pedestrian or vehicle safety or interrupts a service to the community, immediately; or
- 33.2 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.
34. 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.
35. 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

BUILDING OVER OR NEAR COUNCIL SERVICES & ASSETS

36. Any construction carried out near, or over existing Council services must be in accordance with the *Queensland Development Code QDC MP1.4 - Building Over or Near Relevant Infrastructure*, be carried out at no cost to Council and in accordance with the following requirements:
- 36.1 Any Council wastewater infrastructure that passes through the subject land must be relined following removal of any existing structures, but prior to the commencement of any new building works on the subject land.

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

- 36.2 All drainage connection points must be located or relocated a minimum distance of one metre (1.0m) clear of the proposed structure(s);
- 36.3 Any works on Council's existing 'live' wastewater infrastructure 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.
- 36.4 Council wastewater and any inter-allotment stormwater drainage is to be located accurately prior to the commencement of building works and all piers or foundations for all new structures positioned in accordance with the *Queensland Development Code QDC MP1.4 - Building Over or Near Relevant Infrastructure*;
- 36.5 Where it is proposed to build over or near an existing Council infrastructure, structural protection must be provided in accordance with relevant Council Policies and a design certified by a Registered Professional Engineer of Queensland (RPEQ) must be submitted to and be approved by Council prior to commencement of the works.
- 36.6 Any alterations or adjustments required to wastewater or stormwater 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
- 36.7 A minimum of 900mm of cover is to be maintained to the top of the Council's wastewater upon completion of the development.

WASTEWATER INFRASTRUCTURE (GENERAL)

- 37. The development must be connected to Council's existing wastewater reticulation system at no cost to Council.

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

- 38. 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.
- 39. 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: 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.

- 40. All wastewater house drainage connection points located in driveways will require the vertical shaft to be capped with a heavy duty, trafficable system finished flush with the finished surface level of the driveway.
- 41. 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.

42. If the development cannot be compliantly drained to the existing wastewater connection point but can be drained to the existing wastewater system, a new connection point must be installed. The new location must be as determined and agreed by Council's Coordinator Plumbing and Drainage and Council's Coordinator Water and Sewer Maintenance.

WATER SUPPLY

43. 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 145 of the Planning Act 2016.

44. All water main fittings, services and meters must be located 1m clear of the proposed driveway crossover. Any relocation of fittings clear of driveways must be undertaken by Council.
45. 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.
46. Each individual residence must be provided with a separate system for the metering of water consumption in accordance with Council's *Water Infrastructure Policy 2.03 Sub metering Guidelines and Specifications*.

TELECOMMUNICATION

47. Install telecommunications infrastructure to service the development which complies with the following:
- 47.1 The requirements of the *Telecommunications Act 1997 (Cth)*;
- 47.2 For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
- 47.3 For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line is located underground.
48. 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.
49. 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

50. 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

PROTECTION OF PRIVACY

51. Ensure privacy is protected by obscuring direct views into the habitable room windows or private open space areas of nearby accommodation activities. The upper level windows located on the northern building faces of Units 1, 2 and 3 and the eastern building face of Unit 3 must either:
- 51.1 Have a minimum window sill height of 1.5 metres above floor level; or
 - 51.2 Be fitted with translucent glazing below 1.5 metres above floor level; or
 - 51.3 Be fitted with a fixed external privacy screen of no more than 50 % transparency.
52. Any clothes drying facilities must not be visible from the street or other public viewing locations.

FENCING & WALLS (GENERAL)

53. 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.
54. 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.
55. 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.
56. 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.
57. Side boundary fences must taper on an angle from the front building line of Unit 1 to the front boundary to a maximum height of 1.2m or to the height of the highest existing or approved fences adjoining the front boundary.
58. Fences and walls must be maintained in a good state of repair to ensure that their intended function (i.e. privacy, security, safety, acoustic, livestock, pest exclusion etc.) is maintained.
59. All costs associated with meeting the fencing requirements listed within this Development Approval must be borne by the developer.
60. Unless there is an existing fence which meets this requirement, a minimum 1.8m high solid screen fence, which may be a 'butt-jointed' timber paling fence, must be erected along the full length of the northern, eastern and southern boundaries of the subject land except where the fence tapers in accordance with Condition 56.

FENCING & WALLS - INTERFACE TO PUBLIC REALM

61. Fences and walls provided adjacent to public places (streets, laneways, public walkways and public open space areas) must be constructed generally in accordance with the Approved Plans listed within this Development Approval.

FENCING & WALLS - PRIVATE OPEN SPACE

62. A 1.8m high solid screen fence or wall which contains no gaps with the exception of a maximum 50mm drainage gap at the bottom, must be provided between and around all private open space areas provided for the development, except for that part of the fence or wall adjacent to public places (streets, laneways, public walkways and public open space areas if approved by the conditions of this Development Approval).

STREET IDENTIFICATION

63. The street number of all buildings 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.
64. The unit number of each dwelling must be displayed on or adjacent to the entry to the unit, in such a way that they are clearly legible.

LETTERBOX

65. A private letterbox for each dwelling which complies with the requirements of Australia Post must be provided adjacent to the road frontage.

SATELLITE DISHES

66. A maximum of one (1) satellite dish per dwelling may be provided on the subject land. The diameter of any satellite dish must not exceed one (1) metre.

Note: The installation of a satellite dish with a diameter greater than 900mm is assessable development under the Building Regulation 2021 and requires an approval from a private building certifier.

TRANSPORT, VEHICULAR ACCESS & PARKING

ROADWORKS SIGNAGE AND PEDESTRIAN SAFETY

67. 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.

68. 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

69. The vehicle access from the subject land to Wonderley 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 as specifically required below:
- 69.1 The vehicle access must be located as shown on the Approved Plans listed within this Development Approval;
 - 69.2 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)*;
 - 69.3 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%;
 - 69.4 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;
 - 69.5 The relocation of all existing services must be clear of the access that will serve the subject land; and
 - 69.6 The relevant service authorities must be contacted and their requirements complied with.
70. 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 vehicle access. The design and the construction of the works must be certified by a RPEQ – Civil.

ON-SITE CAR PARKING, SERVICE BAYS & MANOEUVRING

71. The premises must be provided with a minimum of six (6) on-site car parking spaces. Car parking and manoeuvring areas must be:
- 71.1 Constructed generally as shown on the Approved Plans listed within this Development Approval;
 - 71.2 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*;
 - 71.3 Designed and constructed in accordance with the requirements of AS2890;
 - 71.4 Maintained as originally constructed and kept and used exclusively for vehicle parking and manoeuvring;
 - 71.5 Designed to enable all vehicles to enter and leave the subject land in a forward gear; and
 - 71.6 Designed to enable all vehicles to enter and leave the subject land in a forward gear.

ENVIRONMENT & WASTE

ACOUSTIC AMENITY - GENERAL

72. Drainage grating over trafficable areas must be well secured and maintained to prevent rattling.

73. Driveway areas are to be finished with a surface which prevent tyre squeal. An uncoated surface is acceptable.

OUTDOOR LIGHTING IMPACT MITIGATION

74. Outdoor lighting associated with the common areas of the site 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*.
75. All flood lighting associated with the common areas of the site must be of a type that gives no upward component of light when mounted horizontally (i.e. a full cut off luminaire).
76. 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.

WASTE MANAGEMENT (BIN PROVISION & STORAGE)

77. Refuse storage facilities must be provided generally in accordance with the Approved Plans listed within this Development Approval and the following:
- 77.1 Provision of 1 x 240L wheelie bin for general waste and 1 x 240L wheelie bin for recyclable waste for each dwelling.
 - 77.2 Provision of a hardstand impervious area within the curtilage of each dwelling for the permanent storage location of wheelie bins, having minimum dimensions of 0.36m² (600mm x 600mm) per wheelie bin and located no closer than 2m to any fresh air intake of a habitable room;
 - 77.3 Refuse storage facilities must be screened from public vantage points with a minimum 1.5m high built structure, enclosure or solid screen fencing;
 - 77.4 Wheelie bin carting routes must allow bins to be easily manoeuvred, devoid of steps and steep rises and not extend through any habitable room or other room of a building other than a garage; and
 - 77.5 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)

78. Unless otherwise endorsed by Council in a waste management plan, arrangements for waste removal are provided in accordance with the following requirements:
- 78.1 Collection by a refuse vehicle from the kerbside.
 - 78.2 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;
 - 78.3 General waste must be collected and removed at periods not exceeding seven days;
 - 78.4 Bins must be stored at their place of permanent storage other than times ahead of or during waste removal; and

- 78.5 The waste collection method must ensure that waste is adequately managed to prevent escape of contamination.

LANDSCAPING AND TREE PROTECTION

PROTECTION OF PRIVATE TREES

79. Prior to obtaining a development approval for Operational Work or Building Work for new structures (whichever occurs first), submit to Council for endorsement, and have endorsed, an Arborist's Report prepared by a suitably qualified person that, at minimum, includes the following for trees entirely or partly on adjoining private land:
- 79.1 Development Site address;
 - 79.2 Site address/es of adjoining site/s;
 - 79.3 Tree location/s of all trees (entirely or partly on adjoining private land) which may be adversely affected by development works;
 - 79.4 Inspection methodology (e.g. aerial inspection, visual tree assessment, other);
 - 79.5 Tree species, height, crown spread and trunk diameter;
 - 79.6 Tree health and structural condition;
 - 79.7 Details of the construction activities and their likely impact;
 - 79.8 Tree protection measures to ensure the health of tree/s to be retained; and
 - 79.9 Identification of trees (entirely or partly on adjoining private land) unable to be safely retained.
- Note: An application for Building Work being only for demolition may be obtained before complying with this condition.*
80. All works must be carried out in accordance with the Approved Arborist's Report listed within this Development Approval.

PROTECTION OF STREET TREES

81. 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:
- 81.1 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;
 - 81.2 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;
 - 81.3 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; and
 - 81.4 Maintenance of street tree protection until works are completed or accepted on-maintenance.

LANDSCAPE PLAN

82. The development site must be landscaped and maintained in accordance with works shown on the approved Landscape Plan listed within this Development Approval with the following specific requirements:
- 82.1 All trees must be supplied in the following minimum container sizes:
 - (a) 25 litre (minimum size 1.2m) for trees in private land; and
 - (b) 45 litre (minimum size 1.5m) or larger containers for trees in public land, including street trees;
 - 82.2 Root barrier devices must be installed where tree plantings are sited within two (2) metres of any services and or structures unless varied within the approved Landscape Plan. Barriers must be fit for purpose and installed in accordance with the manufacturer's specification;
 - 82.3 All other plant material must be supplied in 140mm or larger containers;
 - 82.4 Planting areas must be a friable, organic topsoil, cultivated to minimum 450mm depth and be clear of any rubbish, rocks or building rubble;
 - 82.5 All planting areas and individual trees must be mulched with minimum 100mm depth organic mulch;
 - 82.6 An irrigation system or watering points must be provided to all planting areas; and
 - 82.7 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.

LANDSCAPING WORKS

83. 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:
- 83.1 Maximises the retention of existing site vegetation which contributes to the site character;
 - 83.2 Maintains or increases tree canopy cover;
 - 83.3 Maximises the extent of new site vegetation to define boundaries, create shade and contribute to the site character;
 - 83.4 Designates variation in pavement colours and/or materials to define safe pedestrian movement areas;
 - 83.5 Utilises plant species which are characteristic of the local area and provides seasonal variation, colour and texture;
 - 83.6 Provides irrigation to all planted areas; and
 - 83.7 Where planting areas are intended to serve a stormwater function, sub soil drainage is installed and connected to the main system and soils and plant species are suited to the purpose.

84. 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.
85. Certification must be submitted to Council from a suitably qualified person who verifies that landscaping established complies with the requirements of this Development Approval.

B. ADVICES:

GENERAL ADVICE

SUBMISSION OF DOCUMENTS FOR ENDORSEMENT

- 1) The conditions of this Development Approval require submission of documents to Council for endorsement. Please address the documents for endorsement to Council's Planning Branch with the Reference No. MCUI/2024/291 and send to development@tr.qld.gov.au.

INFRASTRUCTURE CHARGES

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

OTHER LAWS & REQUIREMENTS

- 3) 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.
- 4) 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.
- 5) 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

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

WHEN APPROVAL LAPSES

- 7) 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

- 8) 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

- 9) 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.

STREET TREE DISTURBANCE & REMOVAL APPROVAL

- 10) 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 Services Branch via Council's Customer Service Centre for further information in respect of street trees.

WATER POLLUTION

- 11) 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

- 12) 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.

BUILDING APPROVAL REQUIRED FOR CERTAIN FENCES & RETAINING WALLS

- 13) A Development Approval for Building Work is required for the following:
- 13.1 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;
 - 13.2 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
 - 13.3 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

- 14) 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.

C. ATTACHMENTS:

- Approved Development Plans
- Appeal provisions pursuant to the *Planning Act 2016*.

List of Submitters:-

Benjamin Robert Strahley
910 Wondalli Kurumbul Road
KURUMBUL QLD 4388

Johanna Eduarda Theodora Van Klinken
2 Wonderley Street
MOUNT LOFTY 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) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
 - (iv) 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.