

REPORT TITLE	Extension Application for a Development Approval for a Material Change of Use – Impact – Food and Drink Outlet located at 10783 Warrego Highway, CHARLTON QLD 4350
AUTHOR	Planning Assistant (Alanna Walker)
Application No.	MCUI/2015/393/A

PURPOSE OF REPORT

To consider an Extension Application for Material Change of Use – Impact – Food and Drink Outlet located at 10783 Warrego Highway, CHARLTON QLD 4350

EXECUTIVE SUMMARY

The applicant submitted an extension application on 27 July 2026 to extend the currency period of the approved development at 10783 Warrego Highway, Charlton.

The original application for a combined Material Change of Use for a Food and Drink Outlet (MCUI/2015/393), and an Operational Works Application for a Pylon Sign (OWS/2015/394) was approved on 23 April 2015 under the *Sustainable Planning Act 2009* (SPA).

The applicant waived their appeal period on 28 April 2015. The submitter appeal period ended, and the approval took effect on 27 May 2015. The currency period for a Material Change of Use under SPA is 4 years from when the approval took effect. There were no further associated Extension, Operational Work, or Building Works applications associated with the Food and Drink Outlet and as such, the currency period for the application lapsed on 27 May 2019.

On 23 July 2026, an originating application (No. 2048 of 2026) was approved by the the Planning and Environmental Court to re-enlive the Material Change of Use for Food and Drink Outlet for 20 business days until 20 August 2026.

The applicant has requested an extension of the currency period for the Material Change of Use application until 2 June 2029.

The originally approved development was assessed against Version 6 of the *Toowoomba Regional Planning Scheme 2012* (the Planning Scheme). Under both Version 6 and the current Version 29 of the Planning Scheme, the development would be subject to Impact Assessment. Codes within the Planning Scheme that the approved development would be assessed against when compared to those it was originally assessed against, do not materially differ between Versions 6 and 29 of the planning scheme.

On balance, the development and existing conditions attached to the approval are considered appropriate and are generally consistent with the current Planning Scheme.

The proposed extension has been assessed with regard to the relevant matters as identified within this report and is considered to be acceptable. It is considered reasonable to extend the approved development for the requested length of time, until 2 June 2029.

RECOMMENDATION

APPROVED - Application No. MCUI/2015/393/A Extension Application for a Development Approval for a Material Change of Use – Impact – Food and Drink Outlet, pursuant to the provisions of Section 87 of the *Planning Act 2016*.

REASONS FOR RECOMMENDATION

The proposed extension has been assessed with regard to the relevant matters as identified within this report and is considered to be acceptable. It is considered reasonable to extend the approved development for the requested length of time, until 2 June 2029.

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 application be Approved subject to the reasons contained in the recommendation. I exercise delegation in accordance with the delegations adopted by the Toowoomba Regional Council.



James Leader
Lead Senior Planner, Planning Branch

Decision Date: 10 August 2026

BACKGROUND

SITE DETAILS				
Site Address	10783 Warrego Highway, CHARLTON QLD 4350			
Real Property Description	Lot 1 SP281378, Emt A SP281378, Emt B SP281378			
Site Area	33260m ²			
Owner	Bass Management Pty Ltd			
SITE CHARACTERISTICS				
Current Land Use	Service station and vacant Food and Drink Outlet (not commenced use)			
Site Frontage/s	Approximately 120m on Warrego Highway			
Road/s	Order of Road	Width of Road Reserve	Width of Pavement	Road Material
Warrego Highway	Highway (Federal road maintained by TMR)	48m	27m	Seal
Easements	Emt A SP281378 (Access Easement benefitting Lot 23 SP341553) Emt B SP281378 (Ergon Energy Easement)			
Existing Structures	Service station and vacant Food and Drink Outlet (not commenced use)			
Infrastructure	Site is serviced by Council's sewer and water infrastructure. Council's sewer main runs through the south-western corner of the site.			
Topography	Approximately 9 metres fall from the north-eastern to south-western corner of the site.			
Street Trees	Nil			
Other Features	Nothing to Note.			
PLANNING SCHEME SITE DATA				
Current Planning Scheme	Toowoomba Regional Planning Scheme 2012 (Version 29)			Adopted: 21 July 2026
Zone	Medium Impact Industry			
Precinct	Transport and Warehousing Precinct			
Overlays	Airport Environs Overlay - 8km Wildlife Hazard Buffer Zone - OLS Extent Environmental Significance Overlay - Areas of Ecological Significance Buffer			
Local Plan	Charlton Wellcamp Enterprise Area Local Plan Area			
Infrastructure Charges Resolution	Charges Resolution No. 7			Adopted: 19 Aug 2026
SURROUNDS:				
Direction	Land Use	Zone/Precinct		
North	Rural Holdings	Medium Impact Industry (Transport and Warehousing Precinct)		
East	Warehouse	Medium Impact Industry (Transport and Warehousing Precinct)		
South	Storage sheds	Medium Impact Industry (Transport and Warehousing Precinct)		
West	Industrial	Medium Impact Industry (Transport and Warehousing Precinct) Local Centre Zone (Commercial / Centre Precinct)		
Other Features	Nothing to note			

APPLICATION HISTORY			
Application No.	Description	Decision Date	Decision
MCUI/2015/393	Food and Drink Outlet and Advertising Device (Pylon Sign)	17 April 2015	Approved
RAL/2008/3454/C	One (1) into Twelve (12) Lot Subdivision	16 February 2015	Approved
MCUC/2015/377/A	Service Station and Advertising Devices (1x Pylon Sign)	16 June 2015	Approved

Other	No further relevant details.
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APPROVED DEVELOPMENT		
Type of Approval	Development Permit for a Material Change of Use	
Approved Development	Food and Drink Outlet and Advertising Device (Pylon Sign)	
Variations Approved	Not applicable	
Level of Assessment	Impact	
Gross Floor Area	202m ²	
Car Parking Spaces	Totally 62 car parking space shared with the service station	
Service Vehicle Provision	Required standing and manoeuvring for 1 service vehicle	
Original Submissions Received	Objection:	Three (3) properly made submissions and one (1) not properly made submission
	Support:	Nil
Currency Period Lapses	27 May 2019	
	Court Order of Originating Application (2048 of 2026) re-enlivens the application for 20 business days from 23 July 2026 until the 20 August 2026.	

APPLICATION DETAILS	
Name of Applicant	McDonald's Australia Limited
Type of Application	Extension Application
Requested Extension	Extension until 2 June 2029
Decision Making Period Ends	24 August 2026

CONSULTATION UNDERTAKEN

Referral Agency

The following referral agencies were applicable to the original application:

Referral Agency (Technical Agency)	Referral Role	Aspect of Development Requiring Referral	Response
State Assessment and Referral Agency (SARA)	Concurrence Agency	Schedule 7, Table 3, Item 1 under Sustainable Planning Regulation 2009; State Controlled Road. Any part of the land is within 25m of a State Controlled Road.	No objections to the proposed development subject to the imposition of conditions.

Internal Referrals

Internal Referral Partner	Referral / Response
Development Engineering and Plumbing	No requirements.
Infrastructure Charges Unit	Prepared an updated ICN.

Public Notification of Original Application

Public notification was undertaken for the original application in accordance with the requirements of Chapter 6 Part 4 of the *Sustainable Planning Act 2009*.

Three (3) properly made and one (1) not properly made submissions were received opposing the development.

A summary of the matters raised in the submission/s and the Council officer's assessment of the relevance of the matter to the extension application are outlined in the Table below:

Issue	Officer's Assessment
The development application is an impermissible "piecemeal" application and is accordingly misleading, defective and "not properly made".	The submitter makes reference to the piecemeal nature of the applications for the Food and Drink Outlet (MCUCI/2015/393) and the Service Station (MCUC/2015/377). It is noted that although lodged separately, the applications were lodged on the same day and have been assessed concurrently (subject to the limitations associated with the varying levels in assessment). This is evidenced by the planning reports being prepared at about the same time for consideration by the Development Assessment Panel on the same day. Within the material lodged for the Food and Drink Outlet, reference is also made to the Service Station application clearly identifying the extent of the proposed use and how it related to the overall development of the site. Given the above, it is considered that the community and the assessment manager had all information available when reviewing the application to fully consider the proposed development, including supporting material such as plans and technical reports. It is considered that the application is not piecemeal in nature and as such is considered to be properly made.
The proposed development is directly contrary to and at odds with the orderly and planned development of the surrounding locality.	The future orderly development of the locality was considered as part of Council's assessment of the Request to Change RAL/2008/3454/C which was approved by Council on 17 April 2015. It is acknowledged that under the revised Reconfigure a Lot (RAL) layout, no north-south road was provided along the eastern boundary of the subject land adjoining approved subdivision RAL/2006/12115/C (the Ford subdivision). Accordingly, the Ford subdivision will be required to provide the north-south road solely within its land as provided for under the conditions of that approval. It is noted the revised RAL layout responded to the future orderly development of the area by providing two (2) east-west road connections to the Ford subdivision with a connection back to the Warrego Highway via O'Mara Road.
Access arrangements foreshadowed as part of the proposed development are inconsistent with the provision of coordinated, safe and efficient access and traffic circulation arrangements in the locality. In particular, it is noted that the development is not going to contribute to the signalised intersection and will result in the loss of truck access and create landlocked blocks due to the potential closure of Wirth Road.	The development is located over proposed Lot 1 approved under RAL/2008/3454/C discussed above. As noted above, it is considered that the RAL has addressed the provision of coordinated, safe and efficient access and traffic circulation arrangements in the locality. In relation to the specific use, it is considered that adequate justification has been provided demonstrating such matters within the context of the site. It is noted that access requirements onto the Warrego Highway, including any proposed intersections are the jurisdiction of the DTMR. The subject application (Food and Drink Outlet), Service Station application (MCUC/2015/377) and the requests to change and extend the Reconfiguring a Lot approval (RAL/2008/3454/B&C) were all referred to DTMR for consideration (through SARA) who provided no objection to the development, including the access arrangements onto the Warrego Highway, subject to conditions. In addition to the above, it is noted that proposed use does not create any landlocked blocks within the Ford subdivision or any other land. As noted above, RAL/2008/3454/C provides two (2) road connections to the Ford subdivision connecting back to O'Mara Road and then to the Warrego Highway. The Ford subdivision has the ability to provide a road (if desired) within its own property, or could amend its layout to utilise the connections to O'Mara Road.
The proposed application has not been properly publicly notified in accordance with the	The submitter states that not all adjoining landowners were given notification in accordance with the requirements of SPA.

statutory public notification requirements of the Sustainable Planning Act 2009.	The applicant provided a Notice of Compliance on 25 March 2015 which included a lodgement receipt identifying name and address of all adjoining land owners and a registered post article ID number for each letter. In addition, the applicant has advised that no notices were returned to the sender. Accordingly, it is considered that public notification has been undertaken in accordance with the relevant provisions of SPA.
Operational works have been undertaken onsite without development approval and has raised the following concerns: - The works have inappropriately altered the natural drainage characteristics of the land; - The works will result in adverse flooding and stormwater management impacts on surrounding land; and - The works will have a detrimental effect on Dry Creek.	The applicant has advised they will seek approval from Council for any works (if applicable) that are not covered by the existing Operational Works approval (OW/2011/4769). It is noted that Council approved changes to the existing one (1) into twelve (12) lot subdivision (RAL/2008/3454/C) on the 17 April 2015 and is now in a position to consider a Request to Change the related Operational Works approval (OW/2010/4769/C) and a Request to Extend Period the related Operational Works approval (OW/2010/4769/B). It is understood that these requests will remedy any potential non-compliance with the existing Operational Works approval. It is also noted that the one (1) into twelve (12) lot subdivision approval (RAL/2008/3454/C) issued by Council on 17 April 2015 attached specific stormwater requirements to ensure that the development does not create any inappropriate or adverse impacts in terms of drainage and flooding on surrounding land and the site and also Dry Creek. These conditions will be implemented through the Operational Works approval mentioned above. Given the proposed use is not increasing the floor area of the building proposed under MCUC/2015/377, the proposed development will have little impact on the stormwater management of the site, with the exception on eight (8) additional car parks and a driveway to service the drive through component of the use which has been appropriately dealt with through conditions.

ISSUES, RISKS AND RESPONSES – ASSESSMENT

Section 87(1) of the *Planning Act 2016* establishes the following for the assessment of extension applications:

“When assessing an extension application, the assessment manager may consider any matter that the assessment manager considers relevant, even if the matter was not relevant to assessing the development application.”

The following table identifies the matters relevant to the assessment of the extension application, any comments made by the applicant and the relevant assessing comments made by the assessing officer:

Relevant Matter	Relevant Comments
Consistency with current local categorising instrument.	On 23 April 2015 a decision notice for the approval of The Development Application for Material Change of Use – Food and Drink Outlet was issued. It was considered that the approved development generally complied with the relevant assessment benchmarks or could be conditioned to comply with the requirements of the <i>Toowoomba Regional Planning Scheme 2012</i> (Version 6). The approved development was assessed against the <i>Toowoomba Regional Planning Scheme 2012</i> (Planning Scheme), Version 6. Under both Versions 6 and the current Version 29 of the Planning Scheme, the development would be subject to Impact Assessment, and referral to SARA required for access to the state-controlled road. Assessment provisions including the Medium Impact Industry Zone Code, Charlton Wellcamp Enterprise Area

	Local Plan Code, Airport Environs Overlay Code, Environmental Significance Overlay Code, and Strategic Framework of the Planning Scheme have not substantially changed since Version 6, such that the requirements of the current iteration of the planning scheme would not change the original decision. A summary of the most relevant changes to assessment benchmarks are detailed below, including an assessment of compliance or non-compliance with the current local categorising instrument: Zone, Precinct, and Local Plan intent– The subject site remains within the Medium Impact Industry Zone (Transport and Warehousing Precinct) and the Charlton Wellcamp Enterprise Area Local Plan Area. No significant or relevant changes have been made to these codes between Versions 6 and 29 of the Planning Scheme, and food and drink outlets are supported within the Medium Impact Industry Zone where it directly supports the surrounding industrial area. Overlays – The applicable overlays (Airport Environs Overlay and Environmental Significance Overlay) remain the same. Furthermore, with the Food and Drink Outlet already built, there will be limited changes in impacts as a result of overlays. Other Changes – There are some changes in the strategic framework between Versions 6 and 29 of the planning scheme, however these mostly relate to housing demand, and therefore do not relate to this proposal within the Medium Impact Industry Zone. Summary On balance, the development and existing conditions attached to the approval are considered appropriate and are generally consistent with the outcomes and requirements of the current Planning Scheme (Version 29). Where compliance with newly introduced Acceptable Outcomes cannot be demonstrated, compliance with corresponding Performance Outcomes has been determined. Infrastructure Charges The approved development was issued an Infrastructure Charges Notice levied under the Charges Resolution No. 2 (which took effect 1 July 2012). As this is inconsistent with the current Charges Resolution No. 7 (which took effect 19 August 2025), an updated Infrastructure Charges Notice (ICN) will be required.
Compatibility with existing surrounding development.	The Food and Drink Outlet is already constructed (attached to the approved and commenced Service Station use). Surrounding uses include industry and Warehouses and as such no land use conflicts are expected.

Referral agency conditions	The referral trigger to the SARA for the access to Warrego Highway, remains across both the <i>Sustainable Planning Regulation 2009</i> and <i>Planning Regulation 2017</i>. The only change is that a new Material Change of Use application would require referral to ergon as an advice agency for being on the same lot as their electricity infrastructure. This however is not considered to have any substantial impacts, because the associated buildings, crossovers, and impervious areas have already been constructed.
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FINANCIAL / RESOURCE IMPLICATIONS

Updated infrastructure charges will be applied in accordance with Council's *Charges Resolution No.7*.

LEGAL ISSUES

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 sections of the *Human Rights Act 2019*:

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 proposed extension has been assessed with regard to the relevant matters as identified within this report and is considered to be acceptable. It is considered reasonable to extend the approved development for the requested length of time, until 2 June 2029.

ATTACHMENT/S

Attachment	1	of	4	Aerial Imagery
Attachment	2	of	4	Zoning Map
Attachment	3	of	4	Overlay Map
Attachment	4	of	4	Proposed Development

SCHEDULES

Schedule 1 Referral Agency Response

ATTACHMENTS

Attachment 1 – Aerial Imagery



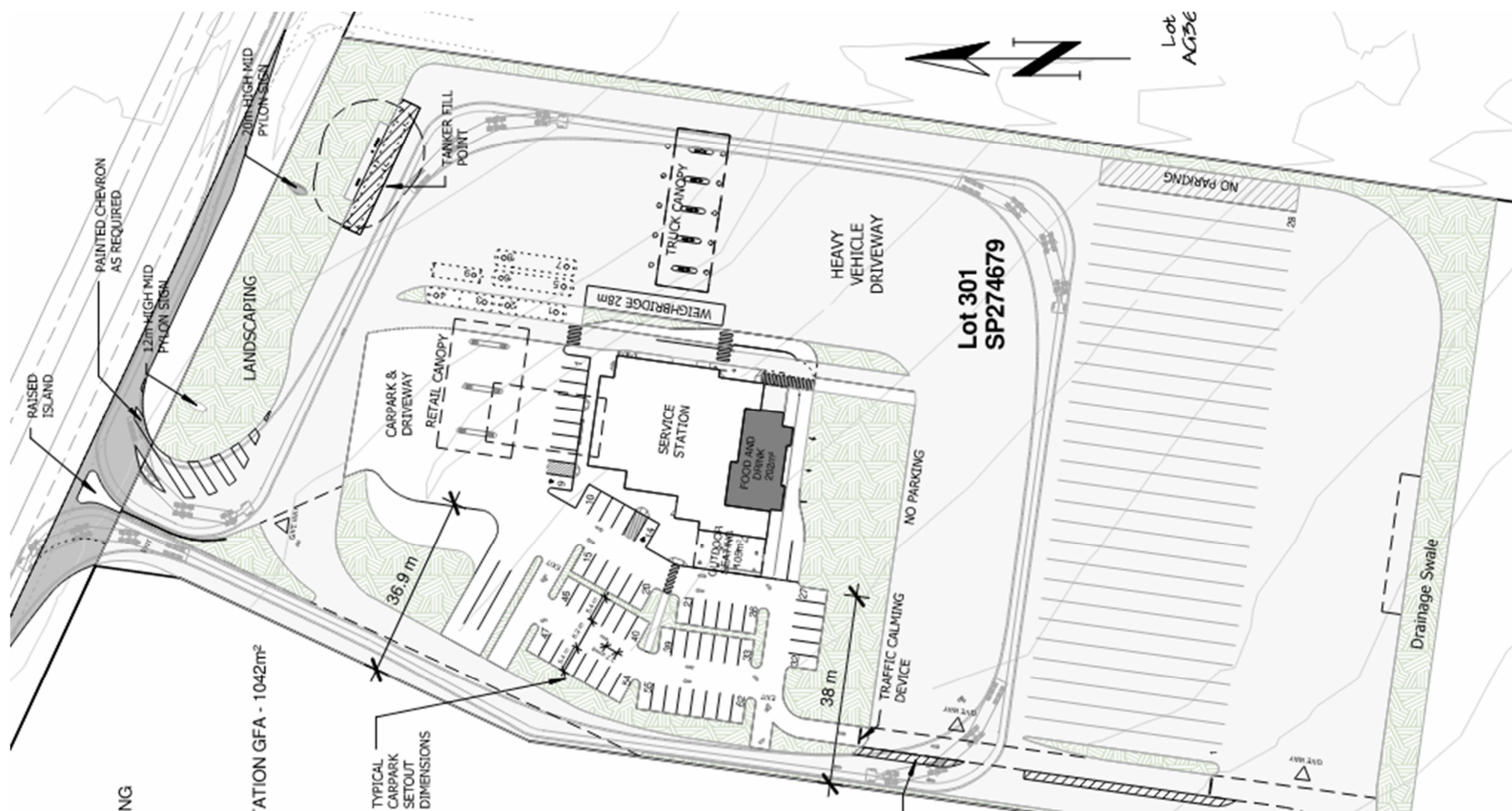
Attachment 2 – Zoning Map

Attachment 3 – Overlay Map

Areas of Ecological Significance.

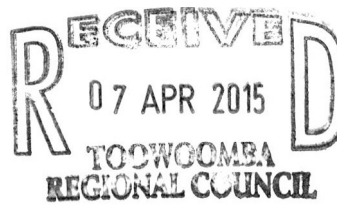
Areas of Ecological Significance Buffer Easements

Attachment 4 – Proposed Development



SCHEDULE 1

Referral Agency Response



Queensland
Government

Department of
**State Development,
Infrastructure and Planning**

Our reference: SDA-0215-018172

Your reference: MCUC/2015/393

1 April 2015

The Chief Executive Officer
Toowoomba Regional Council
PO Box 3021
TOOWOOMBA QLD 4350

TOOWOOMBA MAIL ROOM

07 APR 2015

Attention: Ms Nikki Morrison

Dear Nikki

Concurrence Agency Response—with conditions-Development Permit for a Material Change of Use (Food and Drink Outlet)

Warrego Highway Charlton QLD 4350

(Given under section 285 of the *Sustainable Planning Act 2009*)

The referral agency material for the development application described below was received by the Department of State Development, Infrastructure and Planning (DSDIP) under section 272 of the *Sustainable Planning Act 2009* on 9 February 2015.

Applicant details

Applicant name:	Witmack Industrial Pty Ltd
Applicant contact details:	C/ Property Projects Australia PO Box 3686 TOOWOOMBA QLD 4350

Site details

Street address:	Warrego Highway CHARLTON QLD 4350
Lot on plan:	Lot 207 on AG3720; Lot 202 on SP247509
Local government area:	Toowoomba Regional Council

Application details

Proposed development: Development Permit for a Material Change of Use (Food and Drink Outlet)

Referral triggers

The development application was referred to DSDIP under the following provisions of the *Sustainable Planning Regulation 2009*:

Referral trigger 7.3.1 Making a material change of use of premises if any part of the land -
(a) is within 25m of a State-controlled road or
(b) is future State-controlled road or
(c) abuts a road that intersects with a State-controlled road within 100m of the land

Conditions

Under section 287(1)(a) of the *Sustainable Planning Act 2009*, the conditions set out in Attachment 1 must be attached to any development approval.

Reasons for decision to impose conditions

Under section 289(1) of the *Sustainable Planning Act 2009*, DSDIP must set out the reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

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

For further information, please contact Ms Charmaine Aldridge, Principal Planning Officer on 4616 7305, or email charmaine.aldridge@dsdip.qld.gov.au who will be pleased to assist.

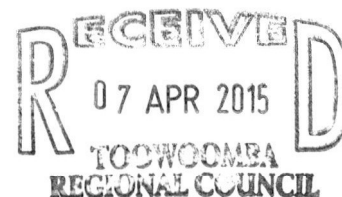
Yours sincerely



Andrew Foley
Manager Planning

cc: Witmack Industrial Pty Ltd
C/-Property Projects Australia
Attention: Mr James Juhasz
PO Box 3686
Toowoomba QLD 4350

enc: Attachment 1—Conditions to be imposed
Attachment 2—Reasons for decision to impose conditions

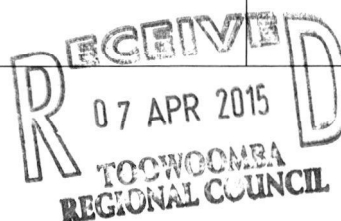


Our reference: SDA-0215-018172

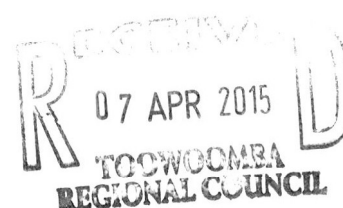
Your reference: MCUC/2015/393

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Development Permit for a Material Change of Use (Food and Drink Outlet)		
Pursuant to section 255D of the <i>Sustainable Planning Act 2009</i> , the chief executive administering the Act nominates the Director-General of the Department of Transport and Main Roads to be the assessing authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
In accordance with approved plans		
1.	The development must be carried out generally in accordance with the following plans: <i>Site Plan prepared by FKG Group (Issue C dated 29/01/15)</i> <i>Project No. 1410.001</i>	At all times
Location of the direct vehicular access to the state-controlled road (SCR)		
2.	The permitted road access location, for which approval under section 62 of the <i>Transport Infrastructure Act 1994</i> must be obtained, is to be located generally in accordance with: <i>Site Plan prepared by FKG Group (Issue C dated 29/01/15)</i> <i>Project No. 1410.001</i>	At all times
Stormwater and drainage impacts on the SCR		
3.	(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road. (b) Any works on the land must not: i. create any new discharge points for stormwater runoff onto the state-controlled road; ii. interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road; iii. surcharge any existing culvert or drain on the state-controlled road; iv. reduce the quality of stormwater discharge onto the state-controlled road.	(a) and (b) At all times
Internal and external manoeuvring associated with direct vehicular access to the SCR		
4.	All vehicles must enter and exit the subject site at the permitted road access location (for which approval under section 62 of the <i>Transport Infrastructure Act 1994</i> must be obtained) in a forward motion.	At all times
Design vehicle and traffic volume		
5.	Road access works comprising an AUL, and angled exit incorporating a suitable splitter island for which approval under section 33 of the <i>Transport Infrastructure Act 1994</i> must be obtained, at the permitted road access location must be provided generally in accordance with <i>Site Plan prepared by FKG Group (Issue C dated 29/01/15) Project No. 1410.001</i> .	Prior to the commencement of use and to be maintained at all times



No.	Conditions	Condition timing
	The road access works must be designed and constructed in accordance with DTMR's <i>Road Planning and Design Manual</i> (prepared by DTMR dated July 2013, Revision 2nd Edition) and the <i>Manual of Uniform Traffic Control Devices</i> (MUTCD) prepared by DTMR (dated 14 March 2014) Revision 2003 Edition (7th issue). Any shortfall in the required AUL length is to be certified as suitable by a Registered Professional Engineer of Queensland (RPEQ) Traffic Engineer.	



Our reference: SDA-0215-018172

Your reference: MCUC/2015/393

Attachment 2—Reasons for decision to impose conditions

The reasons for this decision are:

- To ensure the development is carried out generally in accordance with the plans of development submitted with the application;
- To ensure the road access location to the state-controlled road from the site does not compromise the safety and efficiency of the state-controlled road;
- To ensure that the impacts of stormwater events associated with the development are minimised and managed to avoid creating any adverse impacts on the state transport corridor;
- To ensure the turning movements of vehicles entering and exiting the premises via the road access maintains the safety and efficiency of the state-controlled road; and
- To ensure the design of any road access maintains the safety and efficiency of the state-controlled road.

