

# Decision Notice

## Planning Act 2016

3<sup>rd</sup> November, 2020.

Trustees of Edmund Rice Education Australia  
C/- Dillon Architects Pty Ltd  
PO box 294  
Townsville. QLD 4810  
Email: [general@dillonarchitects.com](mailto:general@dillonarchitects.com)

Dear Sir/Madam,

I refer to your application and advise that Development Application No. **MCU20/0009** was assessed and approved in full subject to conditions. The decision was made by the Assessment Manager on the date below.

Details of decision are as follows:

### Application Details

<b>Application Number:</b>	MCU20/0009
<b>Street Address:</b>	Part of 1-45 Cunningham Street, Ayr
<b>Real Property Description:</b>	Part of Lot 1 on GS95
<b>Planning Scheme</b>	Burdekin Shire IPA Planning Scheme

### Decision Details

<b>Type of Decision:</b>	Approval with conditions
<b>Type of Approval:</b>	Development Permit for Material Change of Use - Education Establishment
<b>Date of Decision:</b>	27 <sup>th</sup> October, 2020.

### Currency Period of Approval

The currency period for this development approval is 6 years starting the day that this development approval takes effect. (Refer to Section 85 "Lapsing of approval at end of currency period" of the *Planning Act 2016*.)

Please note that in terms of the Planning Act, the currency period can only be extended if the request is received before the approval lapses (see Section 85 "Lapsing of approval at end of currency period")

### Infrastructure

Not Applicable

## Assessment Manager Conditions

### General

1. The following student numbers are permitted on the proposed Educational Establishment.
  - No more than 45 students are to be enrolled.

### Approved Plans

2. (a) The development and conduct of the approved use of the premises, the carrying out and maintenance of any works on the premises and construction and maintenance of any building on the premises must be generally in accordance with the applications supporting material. Including all drawings/documents identified in the Table below, except where modified by the conditions of this Development Permit and any approval issued there under.

Document/Title	Plan No & Revision	Date
Cover Sheet	SK.00, Rev: A	12/08/2020
Part Site Plan – Existing Ground Floor Part Site Plan	MD.01, Rev: A	12/08/2020
Part Site Plan – Proposed Ground Floor Part Site Plan	SK.02, Rev: A	12/08/2020
Former Greyhound Building – Plan and Elevations (Demolition)	MD.03, Rev: A	12/08/2020
Proposed Block 'A' – Plan and Elevations	SK.04, Rev: A	12/08/2020

- (b) Where a discrepancy or conflict exists between the written condition(s) of the approval and the approved plans, the requirements of the written condition(s) will prevail.
- (c) The proposed development must comply with all Planning Scheme requirements as applying at the date of this approval, except as otherwise specified by any condition.

### Compliance with conditions

3. The proposed development must comply with all conditions of this development permit prior to the commencement of the use.

### Outstanding charges

4. All rates and charges (including regulated infrastructure charges), in arrears in respect of the land, subject of the application, are paid in full prior to the commencement of the proposed use.

### Notice of Intention to commence the use

5. Prior to the commencement of the use on the site, written notice must be given to Council that the use (development and/or works) fully complies with the decision notice issued in respect of the use.

### Public Utility Services/Damage

- 6.1 The developer must at its own cost undertake all necessary alterations to public utility mains and services as are rendered necessary by the carrying out of any required external works or other works associated with the approved development.
- 6.2 Any damage which is caused to Council's infrastructure as a result of the proposed development must be repaired immediately.



## Building Work

7. A development permit for Building Works is to be obtained before any building works are carried out on the premise.

## Access and Carparking

- 8.1 Parking space and layout must be designed in accordance with the provisions contained in the supporting material included in the plans submitted with the application by 'Dillon Architects'.
- 8.2 Access to the premises, car parking and manoeuvring areas must be constructed of a suitable dust suppressant material to the satisfaction of the Chief Executive Officer.

## Drainage/Stormwater

- 9.1 The approved development and use(s) must not interfere with the natural flow of stormwater in the locality in such a manner as to cause ponding or concentration of stormwater on adjoining land or roads.
- 9.2 Any external catchments discharging to the premises must be accepted and accommodated within the development's stormwater drainage system.

## Amenity – Screen Fencing

10. The existing fencing must be maintained along and within the property and boundaries. Any changes to the type and design of the existing fence must be submitted and approved by the Chief Executive Officer prior to any new screen fence being constructed.

## Environment and Health

- 11.1 No release of contaminants, including, but not limited to dust, fumes, odour or aerosols or emission of noise is to cause or be likely to cause an environmental nuisance beyond the boundaries of the premises to which this development permit relates.
- 11.2 Upon receipt of a complaint regarding the emission of dust, odour or other air or noise emission, the operator must within a reasonable period of time:
- take any actions necessary to resolve the complaint, and
  - implement abatement measures to minimise the emissions from the site.
- 11.3 There shall be no release of litter or contaminants from the site to any roadside, drain or waters.
- 11.4 All waste generated in carrying out the activity must be lawfully reused, recycled or removed to a facility that can lawfully accept the waste.

## Referral Agencies

Not Applicable.

## Approved Plans

Document/Title	Plan No & Revision	Date
Cover Sheet	SK.00, Rev: A	12/08/2020
Part Site Plan – Existing Ground Floor Part Site Plan	MD.01, Rev: A	12/08/2020
Part Site Plan – Proposed Ground Floor Part Site Plan	SK.02, Rev: A	12/08/2020
Former Greyhound Building – Plan and Elevations (Demolition)	MD.03, Rev: A	12/08/2020
Proposed Block 'A' – Plan and Elevations	SK.04, Rev: A	12/08/2020

### Referenced Documents

Not Applicable.

### Advisory Notes

*Waste and recycling services must be provided in accordance with Council's Waste Management Policy.*

### Property Notes

Not Applicable.

### Variation Approval

Not Applicable.

### Further Development Permits Required

Development Permit for Building and/or Plumbing works.

### Submissions

Not Applicable.

### Rights of Appeal

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

During the appeal period, you as the applicant may suspend your appeal period and make written representations to council about the conditions contained within the development approval. If council agrees or agrees in part with the representations, a "negotiated decision notice" will be issued. Only one "negotiated decision notice" may be given. Taking this step will defer your appeal period, which will commence again from the start the day after you receive a "negotiated decision notice".

**Assessment Manager  
Signature:**



Date 3<sup>rd</sup> November, 2020

Enc: Approved Plans/Documents  
Appeal Rights



# Appeal Rights

*Planning Act 2016 & The Planning Regulation 2017*

## Chapter 6 Dispute resolution

### Part 1 Appeal rights

#### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 of the *Planning Act 2016* 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.

(Refer to Schedule 1 of the Planning Act 2016)

- (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 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, table 1, item 1 – each principal submitter for the development application; and
  - (d) for an appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
  - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); 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 has 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 by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

#### 231 Other appeals

- (1) Subject to this chapter, 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 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, a tribunal or another entity; and
    - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a 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 the rules of the P&E Court.



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## Statement of Reasons

*Planning Act 2016 & The Planning Regulation 2017*

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This Notice is prepared in accordance with s63(5) and s83(7) of the Planning Act 2016 to inform the public about a decision that has been made in relation to a development application. The purpose of the Notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:

- the relevant parts of the Planning Scheme and Assessment Benchmarks against which the application was assessed; and
- any other information, documents or other material Council was either required to, or able to, consider in its assessment.

All terms used in this Notice have the meanings given them in the Planning Act 2016.

### **Assessment Benchmarks**

The following assessment benchmarks applied to the proposed development:

- Open Space & Recreation Zone Code
- Desired Environmental Outcomes

### **REASONS FOR THE DECISION**

Following an assessment of the development application against the assessment benchmarks listed above, it was determined the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity.