

Decision Notice

Planning Act 2016

26th November, 2020.

Attention: Reegan Cake
Dynamic Planning & Developments
PO Box 688
INGLEWOOD. WA 6932
Email: reegan.cake@dynamicplanning.net.au

Dear Sir,

I refer to your application and advise that Development Application No. **MCU20/0012** 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

Application Number:	MCU20/0012
Street Address:	203-207 Queen Street, Ayr
Real Property Description:	Lots 95 & 96 on A26512, Lot 97 on SP143869
Planning Scheme	Burdekin Shire Council

Decision Details

Type of Decision:	Approval With conditions
Type of Approval:	Development Permit Approval for Material Change of Use for Shop
Date of Decision:	25 th November, 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

Where conditions relate to the provision of infrastructure, these are non-trunk infrastructure conditions unless specifically nominated as a "**necessary infrastructure condition**" for the provision of trunk infrastructure as defined under Chapter 4 of the *Planning Act 2016*.

Assessment Manager Conditions

General

1. (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	Job No	Date
Site Plan	1179_30.10.2020dwg	30 th October, 2020
BCF Ayr	Retail V4	Received 15 th October, 2020
BCF Ayr Elevation	BCF-Ayr_ExternalSigns 1 of 2	23 rd September, 2020
BCF Ayr Elevation	BCF-Ayr_ExternalSigns 2 of 2	23 rd September, 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.
- 1.2 The activities associated with the use may operate only between the hours of 8.30a.m. to 5.30p.m. Monday to Friday and 8.30am to 5pm Saturday and Sunday.
- 1.3 All deliveries associated with the operation of the business must occur during these hours.

Compliance with conditions

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

Outstanding charges

3. 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

4. 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

- 5.1 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.
- 5.2 Any damage which is caused to Council's infrastructure as a result of the proposed development must be repaired immediately.

Building Work

6. A development permit for Building Works is to be obtained before any triggered assessable building works are carried out on the premises.

Access and Carparking

- 7.1 A grated trench drain is to be installed at the property boundary adjacent to the driveway access to catch stormwater before crossing the footpath. The stormwater is to be conveyed to the kerb, under the footpath, in suitable sized conduits as approved by Council.
- 7.2 Access to the premises, car parking and manoeuvring areas must be constructed in an all-weather low glare paving, exposed aggregate concrete or similar material to the satisfaction of the Chief Executive Officer.
- 7.3 The construction of any additional crossovers to give access to the land is to be the owner's responsibility and to the satisfaction of the Chief Executive Officer.
- 7.4 The existing concrete access must be reconstructed to enable unobstructed access for a B85 design vehicle in accordance with Australian Standard AS2890.1:2004.
- 7.5 The applicant is to provide Council with design plans showing how the new access incorporates the existing concrete footpath, including design and existing levels, and a cross-section prior to construction, for approval by the Chief Executive Officer.

Water Supply

8. The development must be connected to Council's reticulated water supply. The water connection must be provided at a location approved by council and at the full cost of the developer.

Sewerage Supply

9. The development must be serviced by the Council's reticulated sewerage system. The sewerage connection is to be provided at a location approved by Council. The developer shall bear the costs of design and construction associated with such connections including any alterations or upgrades to Council's existing infrastructure.

Amenity - Lighting

10. Any night and outdoor lighting must be designed, conducted and operated in accordance with 'AS 4282 – Control of the obtrusive effects of outdoor lighting'.

Drainage

- 11.1 Stormwater drainage from any new paved/sealed areas must be discharged under the footpath to kerb and channelling within the adjoining road reserves in accordance with AS3500.2.2003 or as otherwise required or agreed to in writing by the Chief Executive Officer.
- 11.2 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.
- 11.3 Any external catchments discharging to the premises must be accepted and accommodated within the development's stormwater drainage system.

Operational Works

12. Where operational works are required to be carried out as part of any development permit issued, the developer must, within the timeframes required by the Planning Act 2016 and prior to the commencement of any work, lodge with Council an application for a development permit for operational works. As part of such application, the developer must submit: -
 - (a) detailed and complete engineering drawings and specifications of the proposed works prepared by a civil engineer, who is both registered under the Professional Engineer's Act 2002 and is a current Registered Professional Engineer of Queensland; and

- (b) a certificate from the engineer who prepared the drawings stating that the design and specifications have been prepared in accordance with these conditions, relevant Council Codes and Planning Scheme Policies and the relevant Australian Standard Codes of Practice.

Amenity – Screen Fencing

13. The existing 1.8m high screen fence must be maintained along the property 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.

Landscaping and Screening

14. A landscaping plan shall be submitted and approved by the Chief Executive Officer. This plan must be prepared by a landscape architect or other suitably qualified and experienced person detailing the following;
- the location of existing and proposed plantings;
 - landscaping of the designated areas generally in accordance with the approved plans;
 - proposed fencing and screens, including rubbish bin enclosures;
 - location of public infrastructure;

Environment and Health

- 15.1 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.
- 15.2 There shall be no release of litter or contaminants from the site to any roadside, drain or waters.
- 15.3 All waste generated in carrying out the activity must be lawfully reused, recycled or removed to a facility that can lawfully accept the waste.
- 15.4 Oils, fuels, other liquids must be stored in a bunded area undercover or other location whereby any spillage will not discharge to the ground or any area subject to stormwater or stormwater runoff. Any bunding provided shall be constructed and sized in accordance with AS 1940- The storage and handling of flammable and combustible liquids.

Amenity - Noise

16. The activities subject to this development approval must be conducted in a manner to ensure that no noise deemed unreasonable by an authorised person and caused by the activity can be detected beyond the boundary of the site to which this development permit relates.

Referral Agencies

The referral agencies applicable to this application are:

Referral Status	Referral Agency and Address	Response
Concurrence	NQSARA, PO Box 5666, Townsville Q4810 Email: NQSARA@dsmip.qld.gov.au	The agency provided its response on 25 th November, 2020. (Ref.2010-19400 SRA). A copy of the response is attached.

Approved Plans

The following plans are Approved plans for the development:

Document/Title	Job No	Date
Site Plan	1179_30.10.2020dwg	30 th October, 2020
BCF Ayr	Retail V4	Received 15 th October, 2020
BCF Ayr Elevation	BCF-Ayr_ExternalSigns 1 of 2	23 rd September, 2020
BCF Ayr Elevation	BCF-Ayr_ExternalSigns 2 of 2	23 rd September, 2020

Referenced Documents

Not Applicable.

Advisory Notes

- The activity must be operated in accordance with Council's Waste Management Policy and the Environmental Protection (waste management) regulation 2000.*

Variation Approval

Not Applicable.

Further Development Permits Required

- Development Permit for Operational Work (Type)

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: 26th November, 2020.

Enc: Referral Agency Response
 Approved Plans/Documents
 Appeal Rights



Queensland Treasury

SARA reference: 2010-19400 SRA
Council reference: MCU20/0012,226
Applicant reference: 1179

24 November 2020

Chief Executive Officer
Burdekin Shire Council
PO Box 974
AYR Qld 4807
enquiries@burdekin.qld.gov.au

Attention: Mr Shane Great

Dear Shane

SARA response—Development permit for a material change of use for a shop at 203-207 Queen Street, Ayr

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency on 28 October 2020.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	24 November 2020
Conditions:	The conditions in Attachment 1 must be attached to any development approval.
Advice:	Advice to the applicant is in Attachment 2 .
Reasons:	The reasons for the referral agency response are in Attachment 3 .

Development details

Description:	Development permit	Material change of use for a shop
SARA role:	Referral Agency	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 – Material change of use of premises near a State transport corridor (Planning Regulation 2017)	

Development application for a material change of use within 25m of a state-controlled road

SARA reference: 2010-19400 SRA

Assessment Manager: Burdekin Shire Council

Street address: 203-207 Queen Street, Ayr

Real property description: 95A26512; 96A26512; 97SP143869

Applicant name: Dynamic Planning and Developments

Applicant contact details: PO Box 688
Inglewood QLD 6932
reegan.cake@dynamicplanning.net.au

State-controlled road access permit: This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved
- Reference: TMR20-031340
- Date: 23 November 2020

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

Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules) Copies of the relevant provisions are in **Attachment 4**.

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

For further information please contact Monica Pollock, Senior Planning Officer, on 4758 3471 or via email NQSARA@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Graeme Kenna
Manager (Planning)

cc Dynamic Planning and Developments, reegan.cake@dynamicplanning.net.au

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations provisions
Attachment 5 - Approved plans and specifications

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the plans and specifications referenced below are found at Attachment 5)

No.	Conditions	Condition timing
Material change of use		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	<p>(a) The road access location, is to be located generally in accordance with Site Plan, prepared by Dynamic Planning and Developments, dated 26 October 2020, reference 1179_26.10.2020, as amended in red.</p> <p>(b) Road access works comprising an 8.5m wide industrial/commercial driveway at the permitted road access location, with the removal of existing bollards and flagpole to ensure two way vehicle movements, must be provided generally in accordance with relevant council standards.</p>	<p>(a) At all times</p> <p>(b) Prior to the commencement of use.</p>
2.	Direct access is not permitted between Queen Street and the subject site at any location other than the permitted road access location.	At all times.

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) [v2.6]. If a word remains undefined it has its ordinary meaning.
Further development permits required	
2.	<p>Road access works approval</p> <p>Under Section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads to carry out access works and road works on a state-controlled road. Please contact the Department of Transport and Main Roads to make an application for road works approval via email North.Queensland.IDAS@tmr.qld.gov.au. This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).</p> <p>The road access works approval process takes time – please contact Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p>

Attachment 3—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

The reasons for the department's decision are:

- The development complies with State Code 1: Development in a state-controlled road environment. Specifically, the development:
 - o does not create a safety hazard for users of a state-controlled road
 - o does not compromise the structural integrity of state-controlled roads, road transport infrastructure or road works
 - o does not result in a worsening of the physical condition or operating performance of state-controlled roads and the surrounding road network
 - o does not compromise the state's ability to construct, or significantly increase the cost to construct state-controlled roads and future state-controlled roads
 - o does not compromise the state's ability to maintain and operate state-controlled roads, or significantly increase the cost to maintain and operate state-controlled roads
 - o does not compromise the structural integrity of public passenger transport infrastructure or compromise the operating performance of public passenger transport services

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version [2.6]), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system

Attachment 4—Change representation provisions

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Attachment 5—Approved plans and specifications

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From: No Reply
Sent: Tue, 24 Nov 2020 19:11:47 +1000
To: monica.pollock@dsdmip.qld.gov.au; RES: Mailbox - Email Registration
Cc: reegan.cake@dynamicplanning.net.au
Subject: 2010-19400 SRA application correspondence
Attachments: TIA - Application decision - s62A (PA) - Approval - 2010-19400 SRA.pdf, 2010-19400 SRA - Approved plan amended in red.pdf, GE83-N Representations about a referral agency response.pdf, 2010-19400 SRA RA6-N Response with conditions (1).pdf
Importance: Normal

Please find attached a notice regarding application [2010-19400 SRA](#).

If you require any further information in relation to the application, please contact the State Assessment and Referral Agency on the details provided in the notice.

This is a system-generated message. Do not respond to this email.

RA6-N



Email Id: RFLG-1120-0009-2174

Our ref TMR20-031340
Your ref 1179
Enquiries Helena Xu



Department of
Transport and Main Roads

23 November 2020

Decision Notice – Permitted Road Access Location **(s62(1) Transport Infrastructure Act 1994)**

This is not an authorisation to commence work on a state-controlled road¹

Development application reference number 2010-19400 SRA, lodged with Burdekin Shire Council involves constructing or changing a vehicular access between Lot 95A26512, 96A26512, 97SP143869, the land the subject of the application, and Queen Street (a state-controlled road).

In accordance with section 62A(2) of the *Transport Infrastructure Act 1994* (TIA), this development application is also taken to be an application for a decision under section 62(1) of TIA.

Applicant Details

Name and address Dynamic Planning and Developments
PO Box 688
Inglewood WA 6932

Application Details

Address of Property 203 Queen Street, Ayr QLD 4807
Real Property Description 95A26512, 96A26512, 97SP143869
Aspect/s of Development Development Permit for Material Change of Use for Shop

Decision (given under section 67 of TIA)

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

No.	Conditions of Approval	Condition Timing
1	The permitted road access location is to be located generally in accordance with Site Plan, prepared by Dynamic Planning and Developments, dated 26 October 2020, reference 1179_26.10.2020, as amended in red.	At all times.
2	Direct access is prohibited between Queen Street and Lots 95A26512, 96A26512, 97SP143869 at any other location other than the permitted road access location described in Condition 1.	At all times.
3	(a) The road access location, is to be located generally in accordance with Site Plan, prepared by Dynamic Planning and Developments, dated 26 October 2020, reference	(a) At all times. (b) Prior to the commencement

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

No.	Conditions of Approval	Condition Timing
	<p>1179_26.10.2020, as amended in red.</p> <p>(b) Road access works comprising of a 8.5m wide industrial/commercial driveway at the permitted road access location, with the removal of existing bollards and flag pole to ensure two way vehicle movements, must be provided generally in accordance with relevant Council standards.</p>	of use.

Reasons for the decision

The reasons for this decision are as follows:

- a) To ensure access to the state-controlled road from the proposed development does not compromise the safety and efficiency of the state-controlled road.
- b) To provide safe access for all vehicles associated with the proposed shop.

Please refer to **Attachment A** for the findings on material questions of fact and the evidence or other material on which those findings were based.

Information about the Decision required to be given under section 67(2) of TIA

1. There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
2. In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for information.

Further information about the decision

1. In accordance with section 67(7) of TIA, this decision notice:
 - a) starts to have effect when the development approval has effect; and
 - b) stops having effect if the development approval lapses or is cancelled; and
 - c) replaces any earlier decision made under section 62(1) in relation to the land.
2. In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply for a review of this decision only within 28 days after notice of the decision was given under the TIA. A copy of the review provisions under TIA and TPCA are attached in **Attachment C** for information.
3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

If further information about this approval or any other related query is required, Ms Helena Xu, Town Planner should be contacted by email at North.Queensland.IDAS@tmr.qld.gov.au or on (07) 4421 8838.

Yours sincerely

A handwritten signature in black ink, appearing to read 'L Brooks', written in a cursive style.

Lisa Brooks
Senior Town Planner

Attachments: Attachment A – Decision evidence and findings
Attachment B - Section 70 of TIA
Attachment C - Appeal Provisions
Attachment D - Permitted Road Access Location Plan

Attachment A

Decision Evidence and Findings

Findings on material questions of fact:

- The subject site has a sole frontage to Queen Street with an existing shared driveway between Lot 97 on SP143869 and Lot 96 on A26512.
- The proposed development will retain the existing driveway and will not create any new accesses to state-controlled road.
- The existing driveway is 8.5m in width and is considered appropriate for commercial purpose.
- A review of aerial imagery and DVR footage has identified the presence of bollards along the property boundary across the access location, a flag pole in the center of the property access location, and electricity infrastructure internal to the site approximately 12m from the property boundary.
- A review of this historical data has also shown that historically the access has not utilized the entire width of the 8.5m access. It appears that each property (lot 97 and lots 95 & 96) each utilized 4.5m of the shared access.
- The proposed use is expected generate more two-way vehicle movements as part of the retail store. Therefore, the property access must utilize the full 8.5m access to cater for the two-way movements.
- The accepted plan has been marked up to reinforce the requirement to utilize the entire 8.5m shared access, rather than sharing half of the access.
- TMR has no objection to the location and purpose of this driveway.

Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version/Issue
Site Plan	Dynamic Planning and Developments	26/10/2020	1179_26.10.2020	--
Planning application	Dynamic Planning and Developments	27/10/2020	1179	--

Attachment B
Section 70 of TIA

Transport Infrastructure Act 1994
Chapter 6 Road transport infrastructure
Part 5 Management of State-controlled roads

70 Offences about road access locations and road access works, relating to decisions under s 62(1)

- (1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.
- (2) A person to whom this section applies must not—
- (a) obtain access between the land and the State-controlled road other than at a location at which access is permitted under the decision; or
 - (b) obtain access using road access works to which the decision applies, if the works do not comply with the decision and the noncompliance was within the person's control; or
 - (c) obtain any other access between the land and the road contrary to the decision; or
 - (d) use a road access location or road access works contrary to the decision; or
 - (e) contravene a condition stated in the decision; or
 - (f) permit another person to do a thing mentioned in paragraphs (a) to (e); or
 - (g) fail to remove road access works in accordance with the decision.

Maximum penalty—200 penalty units.

- (3) However, subsection (2)(g) does not apply to a person who is bound by the decision because of section 68.

Attachment C
Appeal Provisions

Transport Infrastructure Act 1994
Chapter 16 General provisions

485 Internal review of decisions

- (1) A person whose interests are affected by a decision described in schedule 3 (the *original decision*) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
 - (a) applies to the review; and
 - (b) provides—
 - (i) for the procedure for applying for the review and the way it is to be carried out; and
 - (ii) that the person may apply to QCAT to have the original decision stayed.

485B Appeals against decisions

- (1) This section applies in relation to an original decision if a court (the appeal court) is stated in schedule 3 for the decision.
- (2) If the reviewed decision is not the decision sought by the applicant for the review, the applicant may appeal against the reviewed decision to the appeal court.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
 - (a) applies to the appeal; and
 - (b) provides—
 - (i) for the procedure for the appeal and the way it is to be disposed of; and
 - (ii) that the person may apply to the appeal court to have the original decision stayed.
- (4) Subsection (5) applies if—
 - (a) a person appeals to the Planning and Environment Court against a decision under section 62(1) on a planning application that is taken, under section 62A(2), to also be an application for a decision under section 62(1); and

(b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.

(5) The court may order—

(a) the appeals to be heard together or 1 immediately after the other; or

(b) 1 appeal to be stayed until the other is decided.

(6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.

(7) In this section—

original decision means a decision described in schedule 3.

reviewed decision means the chief executive's decision on a review under section 485.

31 Applying for review

- (1) A person may apply for a review of an original decision only within 28 days after notice of the original decision was given to the person under the transport Act.
- (2) However, if—
 - (a) the notice did not state the reasons for the original decision; and
 - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)the person may apply within 28 days after the person is given the statement of the reasons.
- (3) In addition, the chief executive may extend the period for applying.
- (4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

32 Stay of operation of original decision

- (1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the relevant entity.
- (2) The relevant entity may stay the original decision to secure the effectiveness of the review and any later appeal to or review by the relevant entity.
- (3) In setting the time for hearing the application, the relevant entity must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the relevant entity with it on the chief executive at least 2 business days before the hearing.
- (6) The stay—
 - (a) may be given on conditions the relevant entity considers appropriate; and
 - (b) operates for the period specified by the relevant entity; and
 - (c) may be revoked or amended by the relevant entity.
- (7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period the relevant entity allows the applicant to enable the applicant to appeal against the decision or apply for a review of the decision as provided under the QCAT Act.

(8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.

(9) In this section—

relevant entity means—

(a) if the reviewed decision may be reviewed by QCAT—QCAT; or

(b) if the reviewed decision may be appealed to the appeal court—the appeal court.

35 Time for making appeals

(1) A person may appeal against a reviewed decision only within—

(a) if a decision notice is given to the person—28 days after the notice was given to the person; or

(b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

(2) However, if—

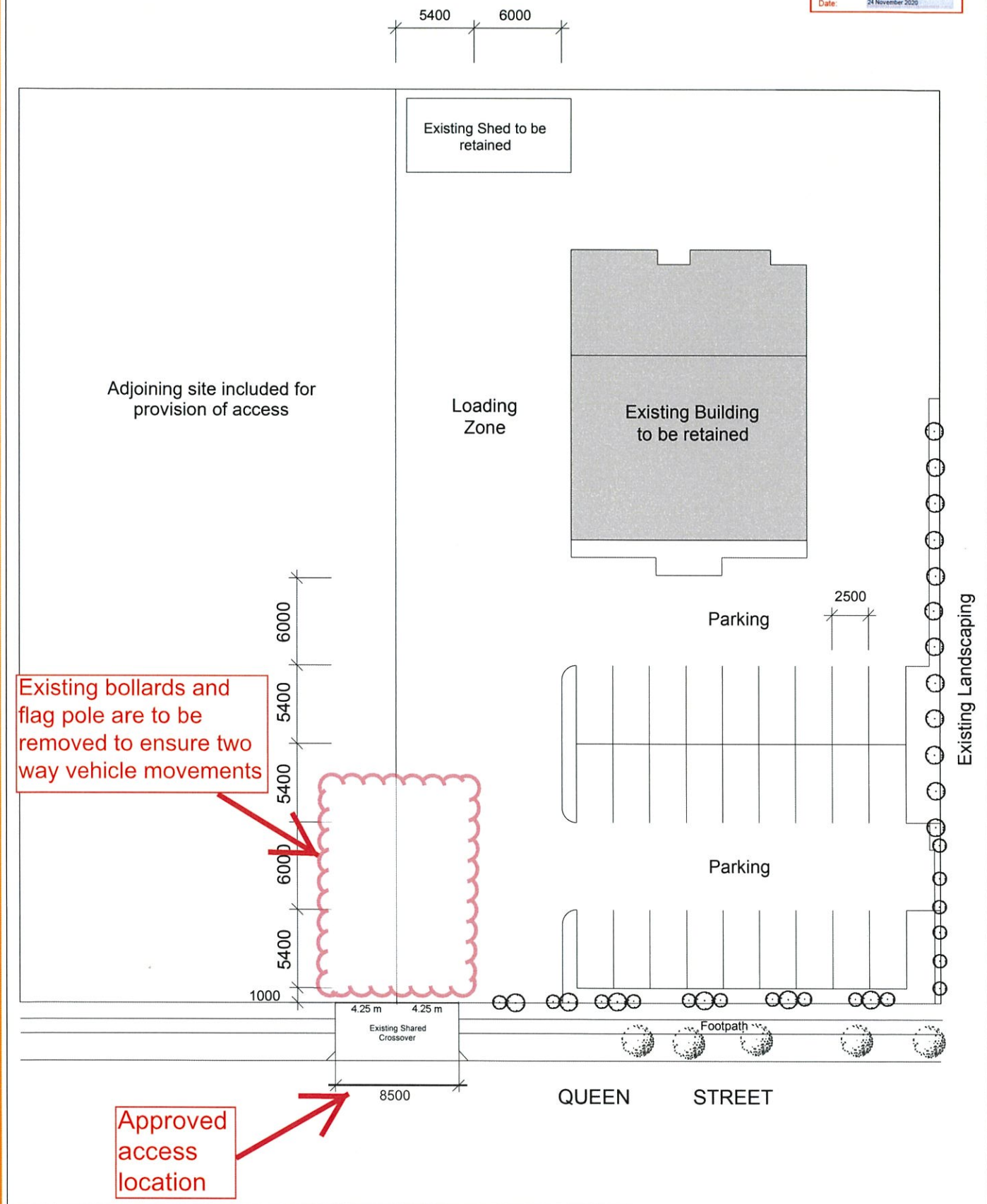
(a) the decision notice did not state the reasons for the decision; and

(b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

the person may apply within 28 days after the person is given a statement of the reasons.

(3) Also, the appeal court may extend the period for appealing.

Attachment D
Permitted Road Access Location Plan

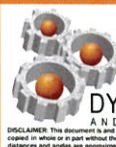


SITE PLAN
203-207 QUEEN STREET
AYR

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BURDEKIN DRAFTING SERVICE



SCALE: 1:250 @ A3
DATE: 26th OCTOBER 2020
FILE: 1179_26.10.2020.dwg
DRAW: - SB
CHECKED: -



e: admin@dynamicplanning.net.au
t: (08) 9275 4433
f: (08) 9275 4455
SUITE 15, 29 COLLIER ROAD
MORLEY WA 6062
ABN: 99 169 411 705

**DYNAMIC PLANNING
AND DEVELOPMENTS**

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Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules¹ regarding representations about a referral agency response

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

Part 7: Miscellaneous

30 Representations about a referral agency response

- 30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

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.

Statement of Reasons

Planning Act 2016 & The Planning Regulation 2017

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:

- Retail & Commercial Zone Code;
- Desired Environmental Outcomes

REASONS FOR THE DECISION

Following an assessment of the development application against all of the assessment benchmarks listed above, it was determined the proposed development:

Assessment of the development against the relevant zone purpose, planning scheme code and planning scheme policies demonstrates that 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.

- The development design is considered appropriate to allow effective use of the land in accordance with the provisions of the Planning Scheme;
- The proposed development will not cause significant adverse impacts on the surrounding built environment and infrastructure, or local character and amenity, if operated strictly in accordance with the applications supporting material and development conditions imposed;
- Urban Development and Infrastructure – the proposal will utilise the existing water and sewerage infrastructure, and integrate into the existing site and surround and surrounding area.