

28 September 2022

D R Murphy
C/- Urbicus Pty Ltd
via email: planning@urbicus.com.au

Attention: Mark Clayton

RE: – Development Application for Preliminary Approval for a Material Change of Use for a Neighbourhood Activity Centre including a Service Station, Food and Drink Outlet and Health Care Service including a Variation Request to vary Local Planning Instrument (Application of Neighbourhood Centre Zone Tables of Assessment and Assessment Benchmarks with alterations to the levels of assessment for Material Change of Use for Service station, Food and Drink Outlet and Health Care Service) at 231 Bargara Road Kalkie; land described as Lot 10 on SP220619;

Thank you for your Development Application for Preliminary Approval for a Material Change of Use for a Neighbourhood Activity Centre including a Service Station, Food and Drink Outlet and Health Care Service including a Variation Request to vary Local Planning Instrument (Application of Neighbourhood Centre Zone Tables of Assessment and Assessment Benchmarks with alterations to the levels of assessment for Material Change of Use for Service station, Food and Drink Outlet and Health Care Service) at 231 Bargara Road Kalkie; land described as Lot 10 on SP220619 lodged with Council on 26 November 2021.

Please find attached the Decision Notice for the above-mentioned development application.

Please quote Council's application number: 522.2021.288.1 in all subsequent correspondence relating to this development application. Should you require any clarification regarding this matter or wish to schedule a meeting, please contact Dean Catorall on telephone 1300 883 699.

Yours sincerely

Michael Ellery
Group Manager Development

cc. Department of State Development, Infrastructure, Local Government and Planning

ENCL.

- **DECISION NOTICE**
- **APPROVED PLANS**



Decision Notice — Approval (with conditions)

(Given under section 63 of the Planning Act 2016)

Thank you for your development application detailed below which was properly made on 26 November 2021. Please be aware that Bundaberg Regional Council has assessed your application and decided it as follows:

1. Applicant's details

Name: D R Murphy
Postal Address: C/- Urbicus Pty Ltd
Email: planning@urbicus.com.au
Phone No.: 0422 111 898

2. Location details

Street address: 231 Bargara Road KALKIE 4670
Real property description: Lot: 10 SP: 220619
Local government area: Bundaberg Regional Council

3. Details of the proposed development

Preliminary Approval for a Material Change of Use for a Neighbourhood Activity Centre including a Service Station, Food and Drink Outlet and Health Care Service including a Variation Request to vary Local Planning Instrument (Application of Neighbourhood Centre Zone Tables of Assessment and Assessment Benchmarks with alterations to the levels of assessment for Material Change of Use for Service station, Food and Drink Outlet and Health Care Service)

4. Decision

Decision details: Approved in part, with conditions, for the following;

- Preliminary Approval for a Material Change of Use for a Neighbourhood Activity Centre including a Service Station, Food and Drink Outlet and Health Care Service
- Variation Request to vary the Bundaberg Regional Council Planning Scheme to apply Table 5.4.8 (Neighbourhood Centre Zone) and to amend Tables 5.5.1 (Reconfiguring a Lot) and 5.6.1 (Building Work) of the Bundaberg Regional Council Planning Scheme 2015
- Part of the Variation Request which included the reduction of the level of assessment for a future development application for a Material Change of Use for Health Care Service from Impact Assessment to Code Assessment

These conditions are set out in Attachment 1 and are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

Refused, in part, for the following:

- Part of the Variation Request which included the reduction of the level of assessment for a future development application for a Material Change of Use for a Service Station and Food and Drink Outlet incorporating drive through facilities from Impact Assessment to Code Assessment

The following approvals are given:

	Planning Regulation 2017 reference	Development Permit	Preliminary Approval
Development assessable under the planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval		<input type="checkbox"/>	<input checked="" type="checkbox"/>

5. Approved plans and specifications

Copies of the following plans, specifications and/or drawings are enclosed.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Aspect of development:				
Concept Plan	77 Architecture	1/3/22 Amended by Council 5/8/202	A0818	5

6. Variation approval details

A preliminary approval which includes a variation approval is given and the assessment manager has approved a **variation to the local planning instrument(s)**:

- Bundaberg Regional Council Planning Scheme 2015.

The variations approved are:

Bundaberg Regional Council Planning Scheme 2015

Tables of Assessment for Material Change of Use

Replace Table 5.4.15 (Emerging Community Zone) with the following table:

Use	Categories of development and assessment	Assessment benchmarks for assessable development and requirements for accepted development					Applicable use code
		Neighbourhood centre zone code	Landscaping code	Nuisance code	Transport and parking code	Works, services and infrastructure code	
Residential activities							
Caretaker's accommodation	Code assessment						Caretaker's accommodation code
Dual occupancy	Code assessment if forming part of a mixed use building.	✓	✓	✓	✓	✓	Multi-unit residential uses code
Dwelling unit	Code assessment	✓	✓	✓	✓	✓	Multi-unit residential uses code
Home based business	Accepted if involving a home based child care service licensed under the <i>Child Care Act 2002</i> .	Not applicable					
	Accepted subject to requirements if not accepted.						Home based business code
Multiple dwelling	Code assessment if forming part of a mixed use building.	✓	✓	✓	✓	✓	Multi-unit residential uses code
Business activities							
Agricultural supplies store	Accepted subject to requirements if:- (a) within an existing commercial building; (b) the existing development footprint is not altered; and (c) located in a village.	AO1.3 and AO1.5 of Table 9.3.5.3.1 of the Transport and parking code					
	Code assessment if located in a village and not accepted subject to requirements.	✓	✓	✓	✓	✓	Business uses code
Food and drink outlet	Accepted subject to requirements if:- (a) within an existing commercial building; (b) the existing development footprint is not altered; and (c) not incorporating a drive through facility.	AO1.3 and AO1.5 of Table 9.3.5.3.1 of the Transport and parking code					
	Code assessment if not incorporating a drive through facility and not accepted subject to requirements.	✓	✓	✓	✓	✓	Business uses code

Use	Categories of development and assessment	Assessment benchmarks for assessable development and requirements for accepted development					
Office	Accepted subject to requirements if:- (a) within an existing commercial building; (b) the existing development footprint is not altered; and (c) having a GLA not exceeding 400m ² .	AO1.3 and AO1.5 of Table 9.3.5.3.1 of the Transport and parking code					
	Code assessment if having a GLA not exceeding 400m ² and not accepted subject to requirements.	✓	✓	✓	✓	✓	Business uses code
Sales office	Accepted subject to requirements						Sales office code
Shop	Accepted subject to requirements if:- (a) within an existing commercial building; (b) the existing development footprint is not altered; and (c) having a GLA not exceeding 400m ² .	AO1.3 and AO1.5 of Table 9.3.5.3.1 of the Transport and parking code					
	Code assessment if having a GLA not exceeding 400m ² and not accepted subject to requirements.	✓	✓	✓	✓	✓	Business uses code
Shopping centre	Accepted subject to requirements if:- (a) within an existing commercial building; (b) the existing development footprint is not altered; and (c) having a GLA not exceeding 2,500m ² for all shop tenancies and 400m ² for any single shop tenancy.	AO1.3 and AO1.5 of Table 9.3.5.3.1 of the Transport and parking code					
	Code assessment if having a GLA not exceeding 2,500m ² for all shop tenancies and 400m ² for any single shop tenancy and not accepted subject to requirements.	✓	✓	✓	✓	✓	Business uses code
Veterinary service	Accepted subject to requirements if within an existing commercial building and the existing development footprint is not altered.	AO1.3 and AO1.5 of Table 9.3.5.3.1 of the Transport and parking code					
	Code assessment if not accepted subject to requirements.	✓	✓	✓	✓	✓	Business uses code

Use	Categories of development and assessment	Assessment benchmarks for assessable development and requirements for accepted development						
Industry activities								
Service industry	Accepted subject to requirements if within an existing commercial building and the existing development footprint is not altered.	AO1.3 and AO1.5 of Table 9.3.5.3.1 of the Transport and parking code						
	Code assessment if not accepted subject to requirements.	<table border="1"> <tr> <td>✓</td> <td>✓</td> <td>✓</td> <td>✓</td> <td>✓</td> <td>Business uses code</td> </tr> </table>	✓	✓	✓	✓	✓	Business uses code
✓	✓	✓	✓	✓	Business uses code			
Community activities								
Child care centre	Code assessment	<table border="1"> <tr> <td>✓</td> <td>✓</td> <td>✓</td> <td>✓</td> <td>✓</td> <td>Child care centre code</td> </tr> </table>	✓	✓	✓	✓	✓	Child care centre code
✓	✓	✓	✓	✓	Child care centre code			
Community care centre	Code assessment	<table border="1"> <tr> <td>✓</td> <td>✓</td> <td>✓</td> <td>✓</td> <td>✓</td> <td>Community activities code</td> </tr> </table>	✓	✓	✓	✓	✓	Community activities code
✓	✓	✓	✓	✓	Community activities code			
Community use	Accepted if:- (a) within an existing commercial building and the existing development footprint is not altered; or (b) if undertaken by or on behalf of the Council on land owned or controlled by Council.	Not applicable						
	Code assessment if not accepted.	<table border="1"> <tr> <td>✓</td> <td>✓</td> <td>✓</td> <td>✓</td> <td>✓</td> <td>Community activities code</td> </tr> </table>	✓	✓	✓	✓	✓	Community activities code
✓	✓	✓	✓	✓	Community activities code			
Educational establishment	Accepted subject to requirements if within an existing commercial building and the existing development footprint is not altered.	AO1.3 and AO1.5 of Table 9.3.5.3.1 of the Transport and parking code						
	Code assessment if not accepted subject to requirements.	<table border="1"> <tr> <td>✓</td> <td>✓</td> <td>✓</td> <td>✓</td> <td>✓</td> <td>Business uses code</td> </tr> </table>	✓	✓	✓	✓	✓	Business uses code
✓	✓	✓	✓	✓	Business uses code			
Emergency services	Accepted subject to requirements if within an existing commercial building and the existing development footprint is not altered.	AO1.3 and AO1.5 of Table 9.3.5.3.1 of the Transport and parking code						
	Code assessment if not accepted subject to requirements.	<table border="1"> <tr> <td>✓</td> <td>✓</td> <td>✓</td> <td>✓</td> <td>✓</td> <td>Business uses code</td> </tr> </table>	✓	✓	✓	✓	✓	Business uses code
✓	✓	✓	✓	✓	Business uses code			
Health care service	Accepted subject to requirements if:- (a) within an existing commercial building; (b) the existing development footprint is not altered; and	AO1.3 and AO1.5 of Table 9.3.5.3.1 of the Transport and parking code						
	Code assessment if not accepted subject to requirements.	<table border="1"> <tr> <td>✓</td> <td>✓</td> <td>✓</td> <td>✓</td> <td>✓</td> <td>Business uses code</td> </tr> </table>	✓	✓	✓	✓	✓	Business uses code
✓	✓	✓	✓	✓	Business uses code			
Recreation activities								
Environment facility	Accepted	Not applicable						
Park	Accepted	Not applicable						
Other activities								
Utility installation	Accepted if a local utility.	Not applicable						
	Code assessment if not accepted.	<table border="1"> <tr> <td>✓</td> <td>✓</td> <td>✓</td> <td>✓</td> <td>✓</td> <td>Utility code</td> </tr> </table>	✓	✓	✓	✓	✓	Utility code
✓	✓	✓	✓	✓	Utility code			
Not specified								
Uses not specified and uses that do not meet the description in the categories of development and assessment column	Impact assessment	The planning scheme						

Table of Assessment for Reconfiguring a Lot

Replace Table 5.5.1 (Reconfiguring a Lot) with the following:

Categories of development and assessment		Assessment benchmarks for Zone assessable development and requirements for accepted development
Emerging Community Zone Code	Code assessment	<ul style="list-style-type: none"> • Kalkie-Ashfield local development area local plan code • Neighbourhood centre zone code • Reconfiguring a lot code • Landscaping code • Nuisance code • Transport and parking code • Works, services and infrastructure code

Table of Assessment for Building Works

Replace Table 5.6.1 (Building Work) with the following:

Categories of development and assessment		Assessment benchmarks for Zone assessable development and requirements for accepted development
Emerging Community Zone Code	Accepted unless otherwise prescribed in the Regulation.	Not applicable

7. Conditions

This approval is subject to the conditions in Schedule 1. These conditions are clearly identified to indicate whether the assessment manager or concurrence agency imposed them.

8. Further development permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- Material Change of Use
- All Building Work
- All Plumbing and Drainage Work
- All Operational Work

9. Properly made submissions

Properly made submissions were received from the following principal submitters:

Name of principal submitter	Residential or Business Address	Electronic Address
Frances Beyer	37 Balaam Drive, Kalkie	florence6@hotmail.de
Damian Painter	399 Montague Road, West End	stockwell@stockwells.com

Sandi Cooper	Cnr Bargara Road & Zielke Avenue, Bundaberg East	grantandsandi@gmail.com
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10. Referral agencies for the application

The referral agencies for this application are:

For an application involving	Name of referral agency	Advice agency or concurrence agency	Address
<p>State-controlled road</p> <p>Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1</p> <p><i>Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorising instrument, if all or part of the premises—</i></p> <p>(a) are within 25m of a State transport corridor; or</p> <p>(b) are a future State transport corridor; or</p> <p>(c) are—</p> <p>(i) adjacent to a road that intersects with a State-controlled road; and</p> <p>(ii) within 100m of the intersection</p>	Department of State Development, Manufacturing, Infrastructure and Planning	Concurrence Agency	<p>State Assessment and Referral Agency (SARA)</p> <p>E: WBBSARA@dilgp.qld.gov.au</p> <p>P: PO Box 979 Bundaberg Qld 4670</p>

11. Currency period for the approval

This development approval will lapse at the end of the period set out in section 85 of *Planning Act 2016*.

12. Agreements under Section 49(4)(b) or 66(2)(b) or (c) of the *Planning Act 2016*

There are no agreements about these matters.

13. Conditions about infrastructure

The following conditions about infrastructure have been imposed under Chapter 4 of the *Planning Act 2016*:

Condition/s	Provision under which the condition was imposed
Condition 11-17	Section 145 – Non-trunk Infrastructure
N/A	Section 128 – Trunk Infrastructure

14. Details of refusal in part

The Bundaberg Regional Council was not directed to refuse the application by a referral agency.

15. Reasons for refusal in part

Under section 63(2)(f)(ii) of the *Planning Act 2016*, the Bundaberg Regional Council must set out reasons for the decision to refuse the application.

The reasons for this refusal are:

- The development locates within an area nominated for a Neighbourhood Activity Centre by the Kalkie-Ashfield Local Development Area Local Plan Code.
- The development for a Service Station and Food and Drink Outlet incorporating a drive through function is inconsistent with the intent of a Neighbourhood Activity Centre by virtue of their functions, intended catchments and mode of transport required to be serviced by the development.
- If approved, the variation would remove the ability for interested parties to make a submission about a Service Station and Food and Drink Outlet incorporating drive through functions.

Findings on material questions of fact

- The subject site is located within the Emerging Community Zone and the Kalkie-Ashfield Local Development Area Local Plan of the Bundaberg Regional Council Planning Scheme 2015.
- The Kalkie-Ashfield Local Development Area Local Plan nominates the area, including the subject site, for a Neighbourhood Activity Centre.
- The land is currently vacant and unimproved by any existing lawful uses.
- The land locates adjacent to a State controlled road (Bargara Road) and locates nearby the existing residential community of Kalkie, the Kalkie State School and other, agricultural land to the north east.
- Bundaberg Regional Council, as the statutory Assessment Manager, undertook an assessment of the development application against the applicable assessment benchmarks identified by the Local categorising instrument and the *Planning Regulation 2017*.

Evidence or other material on which the findings were based

- The development application;
- The Bundaberg Regional council Planning Scheme 2015;
- The *Planning Act 2016*;
- The *Planning Regulation 2017*;
- State Planning Policy 2017.
- Third Party Advice from Department of Education dated 31 May 2022.

16. Rights of appeal

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see Chapter 6, Part 2 of the *Planning Act 2016*).

Appeal by an applicant

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

An applicant may also have a right to appeal to the Development tribunal. For more information, see Schedule 1 of the *Planning Act 2016*.

Appeal by a submitter

A submitter for a development application may appeal to the Planning and Environment Court against:

- any part of the development application for the development approval that required impact assessment
- a variation request.

The timeframes for starting an appeal in the Planning and Environment Court are set out in Section 229 of the *Planning Act 2016*.

Schedule 2 is an extract from the *Planning Act 2016* that sets down the applicant's appeal rights and the appeal rights of a submitter.

SCHEDULE 1 – CONDITIONS AND ADVICE

PART 1A – CONDITIONS IMPOSED BY THE ASSESSMENT MANAGER

NO.	CONDITION	TIMING
GENERAL		
1.	Comply with all conditions of this development approval and maintain compliance whilst the development continues.	At all times unless otherwise stated
2.	Where there is any conflict between the conditions of this Development approval and details shown on the Approved plans, the conditions prevail.	At all times
3.	The full cost of all work and any other requirements associated with this development must be met by the developer, unless specified in a particular condition or Infrastructure agreement.	At all times
EXTENT OF APPROVAL		
4.	The approval applies to the extent of the subject site identified on the approved plans as marked in yellow by Council.	At all times
DATE DEVELOPMENT MUST BE COMPLETED BY (LAPSING DATE)		
5.	All development related to this variation approval for development must be completed ten (10) years from the date of this approval. To the extent that any development under this approval is not completed within that time the approval will lapse pursuant to section 88(2)(a) of the <i>Planning Act 2016</i>	At all times
AMENITY		
AIR AND NOISE		
6.	<p>Submit and have approved by the Assessment Manager a Noise management plan which prescribes actions that are to be undertaken to mitigate noise and manage complaints.</p> <p>The Noise management plan must be prepared by a suitably qualified person and must include, but not be limited to, the following:</p> <ol style="list-style-type: none"> a. Identification of potential noise nuisances including type, nature, location, and source b. Identification of noise sensitive areas, such as nearby residential uses c. Control and abatement measures, and d. Complaint management processes. <p>The noise management plan must assess noise impacts at the property boundary of the site (as opposed to the sensitive</p>	As part of any future development application for Material Change of Use

NO.	CONDITION	TIMING
	land use itself) as well as any location on the subject site where a sensitive land use could reasonably be located.	
7.	<p>Submit and have approved by the Assessment Manager an Air quality plan which prescribes actions that are to be undertaken to mitigate odour and air quality impacts and manage complaints.</p> <p>The Air quality plan must be prepared by a suitably qualified person and must include, but not be limited to, the following:</p> <ol style="list-style-type: none"> Identification of potential air quality and odour sources including type, nature, location, and source Identification of air quality and odour sensitive areas, such as nearby residential uses Control and abatement measures, and Complaint management processes. <p>The Air quality plan must assess air quality and odour impacts at the property boundary of the site (as opposed to the sensitive land use itself) as well as any location on the subject site where a sensitive land use could reasonably be located.</p>	As part of any future development application for Material Change of Use
COVENANTS		
8.	<p>Register against the title a covenant for vegetation protection the part of Lot 10 on SP220619 nominated for the ecological corridor as identified on the approved plans lot of the development pursuant to Section 97A of the <i>Land Title Act 1994</i>. The covenant must be retained in perpetuity and the covenant documents and survey plan must be submitted to the Assessment Manager for review and endorsement prior to the lodgement with the State. The covenant document must:</p> <ol style="list-style-type: none"> incorporate the requirements of this Decision notice include Bundaberg Regional Council as Conventee. 	Prior to the commencement of the first use on the premises
ECOLOGICAL CORRIDOR		
9.	Development must occur in accordance with the "Assessment of Ecological Significance of Native Woody Vegetation within Lot 10 on SP220619 (231 Bargara Road, Kalkie)"	At all times
STORMWATER		
10.	<p>Carry out all stormwater drainage work in accordance with the Stormwater Management Plan and Flood Hazard Overlay Code Assessment Report dated 11 November 2021 except for the following:</p> <ol style="list-style-type: none"> Revise the catchment detailed in J7759 Figure 5 dated 	Prior to the commencement of the first use on the premises and

NO.	CONDITION	TIMING
	<p>22 September 2021 to be consistent with the Ness Creek catchment defined in Council's Bundaberg Citywide Overland Flow Path Study (2021) 1d/2d TUFLOW, Rain-on-grid as part of detailed design – the top of the catchment is nearer Telegraph Road that indicated</p> <p>b. Detailed design to refine the transition from flow path under easement to usable commercial land, potentially widening the flow path</p> <p>c. Detailed design to refine flow entry from Bargara Road to ensure non-worsening supported by detailed mapping of minor and major design storms</p> <p>d. Detailed design to refine flow exit into downstream land to ensure non-worsening supported by detailed mapping of minor and major design storms</p> <p>e. Demonstrate biodiversity overlay outcomes are achieved</p> <p>Provide cross-sections demonstrating appropriate transitions from neighbouring residential land through the stormwater flow path and into usable commercial land</p>	then to be maintained
ROADWORKS, ACCESS AND CAR PARKING		
11.	<p>Provide an updated Traffic Impact Assessment prepared in accordance with the requirements of Planning Scheme Policy 6.5 that considers the proposed final layout of the development. The design for the internal road network must include:</p> <p>i. A direct driveway connection between the new road to be dedicated on the northern portion of the site and Bargara Road</p> <p>ii. The new driveway to be constructed to a standard sufficient to cater for traffic anticipated by the Kalkie-Ashfield local area plan</p> <p>iii. The provision of an easement over the driveway to allow unrestricted vehicle and pedestrian movement.</p>	Prior to the commencement of the first use on the premises and then to be maintained

PART 1B – ADVICE NOTES

NO.	ADVICE	TIMING
INFRASTRUCTURE CHARGES		
1.	Infrastructure charges will apply to future development applications.	At all times
2.	<p>Development approval 522.2021.288.1 – Drainage reserves/easements</p> <p>The following notation applies to the land:</p> <p>All future purchasers of the subject land should note that the site adjoins a drainage reserve/easement area. Due to the limited development catchment serviced by these areas, Council's maintenance and management of these reserve areas may be limited.</p>	
3.	<p>Development approval 522.2021.288.1 – Water services</p> <p>The Developer will be required to provide a reticulated water supply service in accordance with the applicable Planning scheme codes and the Planning scheme policy for development works as part of any future development on the land for Material Change of Use.</p>	Prior to the commencement of the first use on the premises and then to be maintained
4.	<p>Development approval 522.2021.288.1 – Sewerage services</p> <p>The Developer will be required to provide a reticulated sewerage service in accordance with the applicable Planning scheme codes and Planning scheme policy for development works as part of any future development on the land for Material Change of Use.</p>	Prior to the commencement of the first use on the premises
5.	<p>Development approval 522.2021.288.1 – Land dedication</p> <p>The Developer will be required to dedicate land identified as road reserve to the State as any future development on the land for Material Change of Use</p>	Prior to the commencement of the first use on the premises
6.	<p>Development approval 522.2021.288.1 - Easements</p> <p>Any future development over the land for Material Change of Use will require the registration of drainage easements over the (modified) defined flood event and sewerage easements over any realigned sewerage main.</p>	Prior to the commencement of the first use on the premises

PART 2—CONCURRENCE AGENCY CONDITIONS

Department of State Development, Manufacturing, Infrastructure and Planning, by letter dated 29 April 2022 (copy letter attached for information).

SCHEDULE 2 – PA EXTRACT ON APPEAL RIGHTS

CHAPTER 6, PART 1 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 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 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 by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

SCHEDULE 1 APPEALS

1 Appeal rights and parties to appeals

- (1) Table 1 states the matters that may be appealed to—
- (a) the P&E court; or
 - (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
- (a) the refusal, or deemed refusal of a development application, for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (b) a provision of a development approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (c) if a development permit was applied for—the decision to give a preliminary approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (d) a development condition if—
 - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
 - (ii) the building is, or is proposed to be, not more than 3 storeys; and
 - (iii) the proposed development is for not more than 60 sole-occupancy units; or
 - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
 - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
 - (g) a matter under this Act, to the extent the matter relates to—
 - (i) the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
 - (ii) the Plumbing and Drainage Act, part 4 or 5; or

- (h) a decision to give an enforcement notice in relation to a matter under paragraphs (a) to (g); or
 - (i) a decision to give an infrastructure charges notice; or
 - (j) the refusal, or deemed refusal, of a conversion application; or
 - (k) a matter that, under another Act, may be appealed to the tribunal; or
 - (l) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
- (a) for a matter in subsection (2)(a) to (d)—
 - (i) a development approval for which the development application required impact assessment; and
 - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
 - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.
- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
- (a) column 1 states the appellant in the appeal; and
 - (b) column 2 states the respondent in the appeal; and
 - (c) column 3 states the co-respondent (if any) in the appeal; and
 - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.

Extract of Schedule 1 of the Planning Act 2016

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
1. Development applications An appeal may be made against— <ul style="list-style-type: none"> (a) the refusal of all or part of the development application; or (b) the deemed refusal of the development application; or (c) a provision of the development approval; or (d) if a development permit was applied for—the decision to give a preliminary approval. 			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	1 A concurrence agency that is not a co-respondent 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application

**Table 2
Appeals to the P&E Court only**

<p>2. Eligible submitter appeals</p> <p>An appeal may be made against the decision to give a development approval, or an approval for a change application, to the extent that the decision relates to—</p> <p>(a) any part of the development application for the development approval that required impact assessment; or</p> <p>(b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 For a development application—an eligible submitter for the development application</p> <p>2 For a change application—an eligible submitter for the change application</p>	<p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p>	<p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency's referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</p>
<p>3. Eligible submitter and eligible advice agency appeals</p> <p>An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to—</p> <p>(a) any part of the development application or the change application, for the development approval, that required impact assessment; or</p> <p>(b) a variation request.</p>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
<p>1 For a development application—an eligible submitter for the development application</p> <p>2 For a change application—an eligible submitter for the change application</p> <p>3 An eligible advice agency for the development application or change application</p>	<p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p>	<p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency's referral response—the concurrence agency</p>	<p>Another eligible submitter for the application</p>

Note:

Attached is a Rights of Appeal Waiver form (Schedule 3). Please complete and return this form if you are satisfied with the approval and agree to the conditions contained therein and you wish to waive the 20 day appeal period available under the *Planning Act 2016*

SCHEDULE 3 – RIGHT OF APPEAL WAIVER



Mail To: Bundaberg Regional Council
Email Address: development@bundaberg.qld.gov.au
Attention: Development Assessment

RE:

Council reference: 522.2021.288.1

Property Address: 231 Bargara Road KALKIE 4670; land described as Lot: 10 SP: 220619

This advice is to confirm that I/We have received the above approval and agree to the conditions contained therein. I/We hereby waiver My/Our appeal rights available under the *Planning Act 2016*.

Applicant's Name: _____

Signature: _____

Date: _____

CONCEPT PLAN

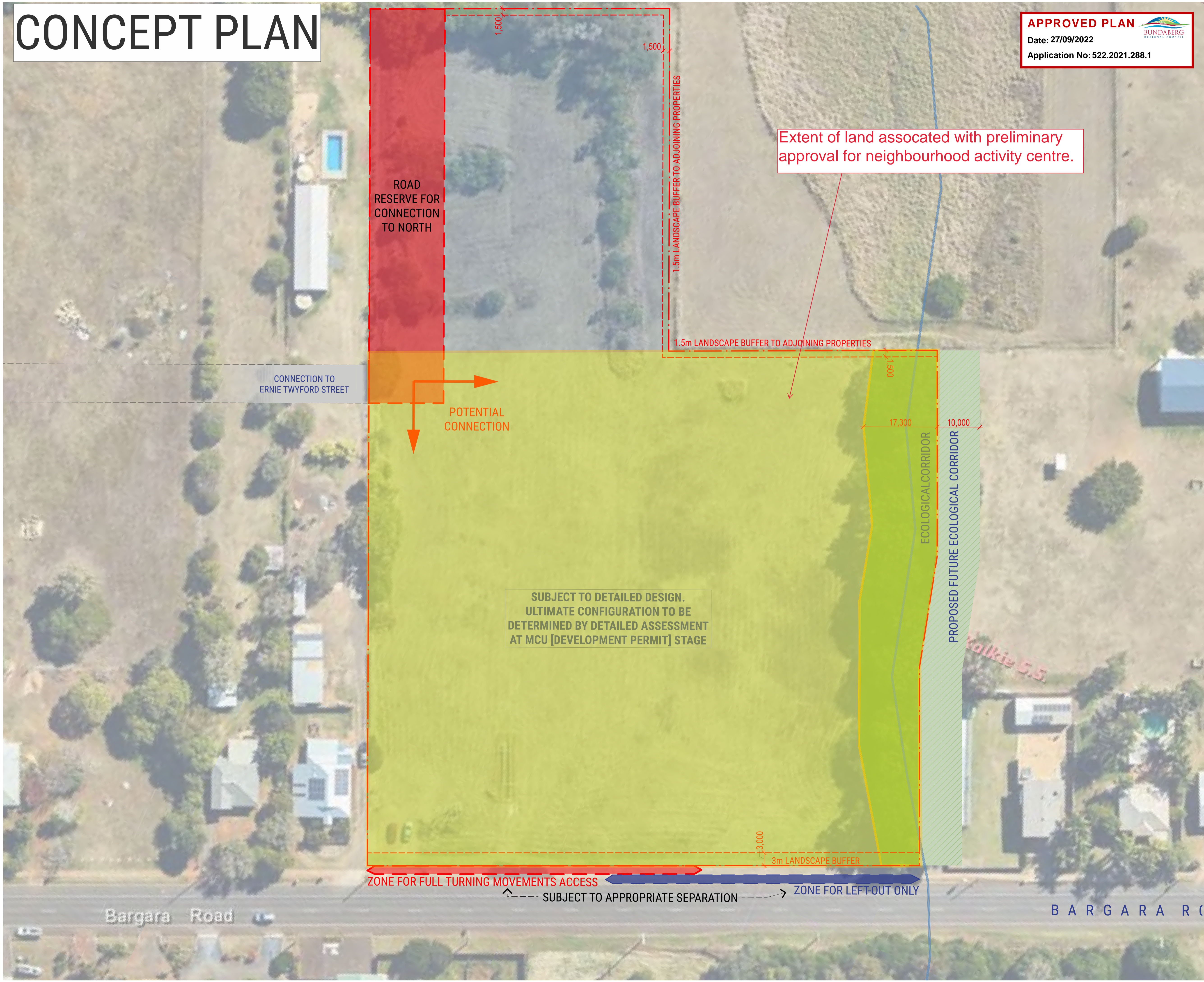
APPROVED PLAN
Date: 27/09/2022
Application No: 522.2021.288.1

REV	DATE	DESCRIPTION
01	27/9/21	PRELIMINARY DA ISSUE
02	29/9/21	MC MARK-UPS
03	13/10/21	CONSULTANT ISSUE
04	4/11/21	CONSULTANT ISSUE #2
05	1/3/22	CONSULTANT ISSUE

LEGENDS

NOTES

Amended by Bundaberg Regional Council 5/8/22



PROJECT NAME
KALKIE DEVELOPMENT

FOR	NUVUE
ADDRESS	231 BARGARA ROAD KALKIE QLD, 4670
PROJECT NUMBER	NUVU001
PHASE	DEVELOPMENT APPLICATION
STATUS	PRELIMINARY ONLY
SCALE	1:400 @ A1

PRINT DATE	1/3/22
DRAWING NAME	CONCEPT PLAN
DRAWING NUMBER	A0818
REVISION	05