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From: "BNC Planning Enquiries" <enquire@bncplanning.com.au>
Sent: Tue, 5 Nov 2024 10:50:44 +1000
To: "Development Assessment" <developmentassessment@townsville.qld.gov.au>
Cc: "Kaitlyn O'Malley" <kaitlyn.o'malley@townsville.qld.gov.au>
Subject: MCU24/0066 - 36-48 Kings Road, Hyde Park
Attachments: DAS s13 IR Response.pdf, HYDE PARK POD - DRAFT V2.docx

Please find attached correspondence relating to the above referenced development application.

Kind regards,



Office 7 / Ground Floor / 41 Denham Street TOWNSVILLE CITY QLD 4810
PO BOX 5493 TOWNSVILLE QLD 4810 T. (07) 4724 1763 E. enquire@bncplanning.com.au

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BNC Ref. DA064-24
TCC Ref. MCU24/0066
SARA Ref. 2408-41795 SRA

Date >> 5 November 2024

ASSESSMENT MANAGER
TOWNSVILLE CITY COUNCIL
PO BOX 1268
TOWNSVILLE QLD 4810

AND

STATE ASSESSMENT AND REFERRAL AGENCY
NORTH AND NORTH WEST REGIONAL OFFICE
PO BOX 5666
TOWNSVILLE QLD 4810

**RE: APPLICANT RESPONSE TO ASSESSMENT MANAGER & REFERRAL AGENCY INFORMATION REQUESTS
MATERIAL CHANGE OF USE DEVELOPMENT APPLICATION – VARIATION REQUEST TO OVERRIDE THE PLANNING
SCHEME MCU24/0066 (TCC REF.)
36-48 KINGS ROAD HYDE PARK QLD 4812**

BNC Planning acting on behalf of the applicant submit this combined response to the *information requests* issued by the Townsville City Council as assessment manager and the State Assessment and Referral Agency (SARA) as a referral agency, in accordance with the Development Assessment Rules. The assessment manager information request is dated 3 October 2024, and the SARA information request is dated 23 August 2024. The requests are associated with a material change of use for a variation request over the above referenced addressed.

The applicant has responded by providing all of the information requested or has provided a suitable alternative outcome. A detailed response to each item from the notice is provided below.

ASSESSMENT MANAGER – TOWNSVILLE CITY COUNCIL – INFORMATION REQUEST

Request Item 1 – Plan of Development

The applicant is requested to provide a Plan of Development for the Variation Request including a Table of Assessment and Precinct Provisions.

Applicant's response

The applicant provides the attached Plan of Development for the Variation Request, which includes a table of assessment and precinct provisions.

REFERRAL AGENCY - STATE ASSESSMENT AND REFERRAL AGENCY – INFORMATION REQUEST

Request Item 1 – Transport Impact Assessment

Issue:

The existing access points to Woolcock Street were not designed, assessed or approved to cater for traffic generated by additional centre zone uses. The existing access points onto Woolcock Street may be inadequate to deal with additional traffic generated by uses under an expanded Major Centre zone, thereby undermining the safety and operating conditions of Woolcock Street. The existing access points at King Street might also be inadequate to deal with the additional traffic generated by additional centre zone uses. Any increase in vehicles using the Woolcock/Kings Street intersection might impact the safe and efficient functioning of this intersection.

As future uses and their traffic generation can have an impact on the safety of the state-controlled road, its structural integrity and physical condition, as well as its operating performance, a Traffic Impact Assessment (TIA) considering the impact of the highest and best uses anticipated for the site is required.

Applicant's response

The reasoning behind requesting a Traffic Impact Assessment is to demonstrate that future uses of the site will not adversely impact on the safety of the state-controlled road, its structural integrity and physical condition, as well as its operating performance.

However, under the proposed Plan of Development, any concerning material change of use within the site to expand the Major centre zone would be code or impact assessable, as these new uses could not be located within existing buildings on site (as the area is predominantly undeveloped). With the future development being assessable, development applications on the site would be required to be referred to the State Assessment and Referral Agency, enabling the referral agency to assess the application and proposed development. This would provide an opportunity for the State Assessment and Referral Agency to request the application to provide a TIA tailored to the specific development. This is a better outcome than providing a TIA for the highest and best uses anticipated for the site, as the TIA currently being requested would be based on theoretical uses, and not specific uses being proposed.

In this way, the issue raised by the State Assessment and Referral Agency is resolved through the regular development assessment processes for future development.

The exception to this is the uses for a Park or Telecommunication facility, which are currently accepted development within the Medium density residential zone, and thus would not be referable regardless of the variation request.

Request Item 2 – Stormwater and Flood Management Report

Issue:

The portion of the subject site that is currently located within the Hyde Park medium density residential precinct of the Medium density residential zone is located within the Medium and High hazard area of the Townsville City Council Flood hazard overlay mapping. The development application material does not include any aspects of development and as such no information has been provided in relation to stormwater, overland flow, flooding, or drainage associated with future development. As this portion of the subject site is mostly undeveloped, any future development is foreseen to potentially result in a material worsening of stormwater and flooding impacts on the state-controlled road.

Applicant's response

As with the previous matter raised, the reasoning behind requesting a RPEQ certified stormwater management plan and flood impact assessment is to demonstrate that future uses of the site will not adversely impact on the material worsening of stormwater and flooding impacts on the state-controlled road.

Under the proposed Plan of Development, any concerning material change of use that involves building works would be assessable, whether code or impact assessable, as these new uses cannot be located within existing buildings on site. With the future development being assessable, development applications on the site would be required to be referred to the State

Assessment and Referral Agency, enabling the referral agency to assess the application. This would provide an opportunity for the State Assessment and Referral Agency to request the application to provide a RPEQ certified stormwater management plan and flood impact assessment tailored to the specific development.

This is a better outcome than providing a RPEQ certified stormwater management plan and flood impact assessment for the highest and best uses anticipated for the site, as the RPEQ certified stormwater management plan and flood impact assessment currently being request would be based on theoretical uses, and not specific uses being proposed.

In this way, the issue raised by the State Assessment and Referral Agency is resolved through the regular development assessment processes for future development.

The exception to this is the uses for a Park or Telecommunication facility, which are currently accepted development within the Medium density residential zone, and thus would not be referable regardless of the variation request.

REFERRAL AGENCY - STATE ASSESSMENT AND REFERRAL AGENCY – ADVICE

Advice Item 1 – Future intent, type of development, scale and traffic generation

Issue:

As this application is for a preliminary approval for a variation request, effectively overriding the planning scheme, limited information pertaining to potential future uses is provided and the applicant has deferred assessments to future applications. However, being a Major centre zone, it is highly likely that many of the uses to be established in the current Medium Density Residential zone portion of the subject site will become accepted development and will therefore not trigger referral to SARA in future. The impact of such uses under the Major centre zone were not previously assessed for the current Medium Density Residential zone portion of the subject site and there is the potential that future uses might include, for example, shopping centre expansion.

Advice Item 2 – Environmental emissions – Noise

Issue:

The proposed extension of the Major centre zone over the entire subject site will allow for accommodation activities and uses (such as childcare centre, educational establishment, and hospital) that are accepted development in the Major centre zone. Such uses will not be required to be referred to SARA at the time of development. The northern part of the subject site is located within the Category 2 and Category 3 noise level area ranging from 63 dB(A) to 68 dB(A) and 68 dB(A) to 73 dB(A). Noise impacts cannot currently be determined based on information provided in the development application.

Applicant's response

As with the requested items, SARA raises concerns over the lack of referral of new centre uses. However, of the development SARA explicitly raises as concerning (shopping centre, childcare centre, education establishment, and hospital) only an educational establishment can be accepted development under the proposed variation request within the updated Plan of Development. In the case for the educational establishment, the material change of use must occur within an existing building and not involve more than minor building work to be accepted development. In all other cases the material change of use would be assessable and referred to SARA.

In the case where an educational establishment would occur within an existing building, it would require a very specific building design and would typically require building works to fit an existing building for that purpose, where it had not been used as such before. Where these building works would occur, then the development would be assessable, and would therefore trigger referral to SARA. Where the appropriate building design requirements are already provided and the development would be accepted development, then the site is already suited for the development and there is no need for assessment or referral.

Summary

For clarity, this correspondence constitutes the applicant response to the information requests issued by the assessment manager and SARA under section 13 of the Development Assessment Rules.

I trust the additional common material included in this response provides sufficient information to allow the assessment of the development application to proceed. Should there be any issues, or should additional information be required, please contact me.

Kind regard,



Sai Santoso-Miller
Town Planner

Att.

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1.0 Introduction

1.1 Application

- 1) The Hyde Park Plan of Development (hereafter 'the Plan of Development') has been prepared as a framework for managing the future development of land currently described as LOT 1 ON RP742540, and also known as 36-48 KINGS ROAD, HYDE PARK QLD 4812, as shown on Map 1 – Structure Plan (hereafter 'the Structure Plan').

1.2 Purpose

- 1) The purpose of the Hyde Park Plan of Development is to provide a categorising instrument for managing development in the defined development area by:
 - a) identifying the development area;
 - b) identifying assessment categories for development being;
 - i) accepted development;
 - ii) accepted development subject to requirements; or
 - iii) assessable development; and
 - c) specifying the categories of assessment required for different types of assessable development; and
 - d) nominating a site-specific development code for assessing development.

1.3 Relationship with *Planning Act 2016*

- 1) The Plan of Development functions as a part of a Preliminary Approval which varies the effect of a local planning instrument for the structure plan area, pursuant to section 61 of the *Planning Act 2016* (the Act) by:
 - a) stating that the category of development and assessment and the corresponding assessment benchmarks for assessable development and accepted development in the structure plan area that are different to the category of development and assessment for development stated in a local planning instrument (hereafter 'the Townsville City Plan') applying to the structure plan area; and
 - b) identifying the assessment benchmarks applying to development in the structure plan area that:
 - i) are different to the assessment benchmarks in a local planning instrument applying to the structure plan area; and
 - ii) apply to development in the structure plan area differently to how the assessment benchmarks in a local planning instrument apply to development in the structure plan area.

1.4 General

- 1) The Plan of Development is comprised of -
 - a) Schedule A – Tables of assessment for the area identified within the Structure Plan ; and

- b) Schedule B – Hyde Park Development Code (including its Purpose, Overall outcomes, Performance outcomes and Acceptable outcomes).

1.5 Compliance with The Code

- 1) Development that complies with the applicable assessment benchmarks as identified within the Tables of assessment for the Precincts in which the development is located, complies with this code.
- 2) Where relevant Schedule 6 – Planning Scheme policies of the Townsville City Plan will be applied to determine the extent of compliance with any applicable code and/or applicable assessment benchmark in accordance with the Plan of Development.

1.6 Assessment Categories

- 1) The categories of assessment and assessment benchmarks are identified for development.
- 2) If an overlay applies to the premises, as outlined in the Townsville City Plan overlay maps in Schedule 2; refer to section 5.9 Categories of development and assessment – Overlays, to determine if the overlay further changes the category of development or assessment, with exception to the Flood hazard overlay as listed in Table 1.5 of the Plan of Development. Assessment for any overlays shown in the mapping is to be undertaken against the provisions of the Townsville City Plan.

Note: Where development is proposed on premises partly affected by an overlay, the category of development for assessment for the overlay only relates to the part of the premises affected by the overlay.

Accepted development subject to requirements, must comply with the requirements contained in the identified assessment benchmark(s) as identified in the 'assessment benchmarks for assessable development and requirements for accepted development' column. Development categorised in Schedule A as Accepted development subject to requirements, that does not comply with one or more of the requirements of an identified assessment benchmark, becomes code assessable development.

Impact assessable development will trigger assessment against the Townsville City Plan and the outcomes listed in Section 6 of the Plan of Development.

2.0 Interpretation

2.1 Definitions

- 1) The Use Definitions and Administrative Definitions listed in the Townsville City Plan are the relevant definitions for the Hyde Park Plan of Development.
- 2) Terms not defined in the Townsville City Plan have the meaning assigned to that term by the *Planning Act 2016* (the Act).
- 3) Terms not defined in the Townsville City Plan or the Act have their common meaning.

2.2 Categories of Assessment

- 1) In accordance with the Act, the categories of assessment relevant to this document are:
 - a) accepted development; and
 - b) assessable development.
- 2) The above categories of assessment include accepted development subject to requirements.

2.3 Determining Category of Assessment

- 1) The Hyde Park Plan of Development limits the applicability of overlays as nominated within the Townsville City Plan, as specified in the Hyde Park precinct Tables of Assessment at Schedule A.
- 2) The following rules apply to determining compliance with a code for accepted development subject to requirements:
 - a) development must comply with the identified acceptable outcomes of the applicable code/s;
 - b) where the acceptable outcomes are not achieved, the development becomes assessable development and requires code assessment; and
 - c) development that is made assessable pursuant to section 2.3(2)(b) must be assessed against the assessment benchmark(s) for the development application, limited to the subject matter of the acceptable development assessment benchmark(s) acceptable outcomes that were not complied with.
- 2) The following rules apply in determining compliance with a code for assessable development:
 - a) development complies with the code if it is consistent with the purpose of the code;
 - b) development which complies with the overall outcomes, complies with the purpose of the code;
 - c) development which complies with the performance or acceptable outcomes complies with the purpose and overall outcomes of the code.
- 3) Where development requiring impact assessment does not comply with the identified acceptable outcomes of the applicable code/s, development complies if it is consistent with the Strategic Framework of the Townsville City Plan.

Schedule A - Tables of assessment

Table of Assessment - Hyde Park centre-frame precinct		
Use	Category of development and assessment	Assessment benchmarks for assessable development and requirements for accepted development
Park	Accepted Development	
		No assessment benchmarks apply
Telecommunications facility	Accepted Development	
	If aerial cabling for broadband purposes	No assessment benchmarks apply
	Assessable development - Code assessment	
	Otherwise	Hyde Park Plan of Development - Hyde Park centre frame precinct code; and Townsville City Plan <input type="checkbox"/> Major centre zone code Healthy waters code <input type="checkbox"/> Landscape code <input type="checkbox"/> Transport impact, access and parking code <input type="checkbox"/> Works code
Caretaker's accommodation Community care centre Community use Club Dwelling unit Educational establishment Emergency services Function facility Indoor sport and recreation Market Multiple dwellings Place of worship Sales office Service station Veterinary services	Accepted Development	
	If in an existing building and not involving more than minor building work	No assessment benchmarks apply
	Assessable development - Code assessment	
	Otherwise	Hyde Park Plan of Development - Hyde Park centre frame precinct code; and Townsville City Plan <input type="checkbox"/> Major centre zone code Healthy waters code <input type="checkbox"/> Landscape code <input type="checkbox"/> Transport impact, access and parking code <input type="checkbox"/> Works code
Office	Assessable development - Code assessment	
	If the gross floor area does not exceed 6,000m ²	Hyde Park Plan of Development - Hyde Park centre frame precinct code; and Townsville City Plan <input type="checkbox"/> Major centre zone code Healthy waters code <input type="checkbox"/> Landscape code <input type="checkbox"/> Transport impact, access and parking code <input type="checkbox"/> Works code
Showroom Service industry	Accepted Development	
	If in an existing building and not involving more than minor building work	No assessment benchmarks apply
	If: a) not accepted development subject to requirements; and	Hyde Park Plan of Development - Hyde Park centre frame precinct code; and Townsville City Plan <input type="checkbox"/> Major centre zone code Healthy waters code

	<p>b) the gross floor area does not exceed 6,000m²;</p> <p>Editor's note—The gross floor area threshold is calculated for a new use or an extension to an existing use. It is not the cumulative total of the existing centre and the additional gross floor area forming part of the development application.</p>	<p><input type="checkbox"/> Landscape code</p> <p><input type="checkbox"/> Transport impact, access and parking code</p> <p><input type="checkbox"/> Works code</p>
Food and drink outlet	Accepted development subject to requirements	
	<p>If</p> <p>a) in an existing building and not involving more than minor building work; and</p> <p>b) not involving a drive through facility</p>	
	Assessable development - Code assessment	
	<p>If:</p> <p>a) not accepted development subject to requirements; and</p> <p>b) the gross floor area does not exceed 500m²</p> <p>Editor's note—The gross floor area threshold is calculated for a new use or an extension to an existing use. It is not the cumulative total of the existing centre and the additional gross floor area forming part of the development application.</p>	<p>Hyde Park Plan of Development - Hyde Park centre frame precinct code; and</p> <p>Townsville City Plan</p> <p><input type="checkbox"/> Major centre zone code</p> <p>Healthy waters code</p> <p><input type="checkbox"/> Landscape code</p> <p><input type="checkbox"/> Transport impact, access and parking code</p> <p><input type="checkbox"/> Works code</p>
Shop Shopping centre	Assessable development - Code assessment	
	<p>If the gross floor area does not exceed 2000m²</p> <p>Editor's note—The gross floor area threshold is calculated for a new use or an extension to an existing use. It is not the cumulative total of the existing centre and the additional gross floor area forming part of the development application.</p>	<p>Hyde Park Plan of Development - Hyde Park centre frame precinct code; and</p> <p>Townsville City Plan</p> <p><input type="checkbox"/> Major centre zone code</p> <p>Healthy waters code</p> <p><input type="checkbox"/> Landscape code</p> <p><input type="checkbox"/> Transport impact, access and parking code</p> <p><input type="checkbox"/> Works code</p>
Theatre	Accepted Development	
	<p>If in an existing building and not involving more than minor building work</p>	
	Assessable development - Code assessment	
	<p>Where only involving 5 screens</p>	<p>Hyde Park Plan of Development - Hyde Park centre frame precinct code; and</p> <p>Townsville City Plan</p> <p><input type="checkbox"/> Major centre zone code</p> <p>Healthy waters code</p> <p><input type="checkbox"/> Landscape code</p> <p><input type="checkbox"/> Transport impact, access and parking code</p> <p><input type="checkbox"/> Works code</p>
Health care services	Assessable development - Code assessment	
	<p>If the gross floor area does not exceed 2000m²</p> <p>Editor's note—The gross floor area threshold is calculated for a new use or an extension to an existing use. It is not the cumulative total of the existing centre and the additional gross floor area forming part of the development application.</p>	<p>Hyde Park Plan of Development - Hyde Park centre frame precinct code; and</p> <p>Townsville City Plan</p> <p><input type="checkbox"/> Major centre zone code</p> <p>Healthy waters code</p> <p><input type="checkbox"/> Landscape code</p> <p><input type="checkbox"/> Transport impact, access and parking code</p>

		<ul style="list-style-type: none"> ▫ Works code
Car wash	Assessable development - Code assessment	
		Hyde Park Plan of Development - Hyde Park centre frame precinct code; and Townsville City Plan <ul style="list-style-type: none"> ▫ Major centre zone code Healthy waters code ▫ Landscape code ▫ Transport impact, access and parking code ▫ Works code
Childcare centre	Assessable development - Code assessment	
		Hyde Park Plan of Development - Hyde Park centre frame precinct code; and Townsville City Plan <ul style="list-style-type: none"> ▫ Major centre zone code Healthy waters code ▫ Landscape code ▫ Transport impact, access and parking code ▫ Works code
Assessable development - Impact assessment		
Any other use not listed in this table. Any use listed in this table and not meeting the description listed in the categories of development and assessment column. Any other undefined use.		Hyde Park Plan of Development - Hyde Park centre frame precinct code and the planning scheme

Editor's note—The above categories of development and assessment apply unless otherwise prescribed in the Regulation.

Table 1.2 - Reconfiguring a lot

Reconfiguring a Lot		
	Category of development and assessment	Assessment benchmarks for assessable development and requirements for accepted development
Reconfiguring a lot	Assessable development - Code assessment	
	All	Hyde Park Plan of Development - Hyde Park centre frame precinct code; and Townsville City Plan <ul style="list-style-type: none"> ▫ Major centre zone code Healthy waters code ▫ Landscape code ▫ Transport impact, access and parking code ▫ Works code ▫ Reconfiguring a lot code
Assessable development - Code assessment		
Any other reconfiguring a lot not listed in this table, unless otherwise prescribed in the Regulation. Any reconfiguring a lot listed in this table and not meeting the description listed in the categories of development and assessment column		

Editor's note—The above categories of development and assessment apply unless otherwise prescribed the Regulation.

Hyde Park centre frame precinct code

3.1 Application

- 1) This code applies to development where the code is identified as applicable in the categories of development and assessment in Schedule A - table of assessment.

3.2 Purpose

The purpose of the Hyde Park centre frame precinct code is to provide for a mix of uses and activities that complement the Hyde Park major centre retail core by providing for a mix of uses including additional shopping, offices, community and residential uses that reinforce the Hyde Park centre's role as a mixed use activity centre.

The particular purpose of the code is to:

- a) The precinct complements the Hyde Park major centre with a mix of uses including additional shopping, offices, residential, administrative and health services, community, cultural and entertainment facilities that reinforces the Hyde Park major centres role as a mixed use activity centre.
- b) The scale of retail and office space does not adversely impact on the successful functioning and role of the Hyde Park Major Centre, other centres or the CBD. It does not contain a full line supermarket, discount department store or department store, however convenience shopping and a limited line supermarket is supported.
- c) Uses such as showrooms and outdoor sales may occur in the precinct, however, large scale retail outlets are not intended within the development area.
- d) Development is generally low-medium rise and designed and operated to minimise adverse impacts on the amenity of surrounding residential neighbourhood.
- e) Development avoids significant adverse effects on water quality and the natural environment.
- f) Development generally operates within daylight hours only.
- g) Residential components are accommodated in mixed use developments, with retail or commercial uses at the ground storey;
- h) Buildings have a strong relationship with their street frontage by contributing to streetscape improvements, passive surveillance, and creation of an identifiable major centre;
- i) The design of the precinct gives priority to improved accessibility to and within the broader major centre and to the principal centre (CBD) by walking, cycling and public transport, particularly along Woolcock Street.

Performance Outcome/Acceptable Outcomes	
For Assessable development	
Role and function	
PO1: Development is consistent with the intended role, scale and character of the precinct and does not compromise the intended role or successful	No acceptable outcome is nominated. Editor's note—Applicants should have regard to Economic impact assessment planning scheme

Performance Outcome/Acceptable Outcomes	
<p>functioning of the Hyde Park major centre, principal centre (CBD) or other major centres.</p> <p>The growth of retail and office floor space within the precinct is balanced and anticipated growth within its primary catchment and does not substantively impact on the trading of other centres for an extended period of time or unduly undermine the potential for another centre to expand into its intended role.</p>	<p>policy SC6.5 for guidance on how to demonstrate compliance with this performance outcome.</p>
<p>PO2:</p> <p>Full line supermarket and discount department store retail uses do not occur in this precinct.</p>	<p>No acceptable outcome is nominated.</p>