



SARA reference: 2311-37736 SRA
 Council reference: D/147-2023
 Applicant reference: 9130

18 December 2023

Chief Executive Officer
 Rockhampton Regional Council
 PO Box 1860
 Rockhampton QLD 4700
 enquiries@rrc.qld.gov.au

Dear Sir/Madam

SARA referral agency response—26-28 Derby Street, Rockhampton City

(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 (SARA) on 17 November 2023.

Response

Outcome:	Referral agency response – with conditions
Date of response:	18 December 2023
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 outdoor sales
SARA role:	Referral agency
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 (Planning Regulation 2017)

Development application for a material change of use within 25m of a

railway corridor

SARA reference: 2311-37736 SRA

Assessment manager: Rockhampton Regional Council

Street address: 26-28 Derby Street, Rockhampton City

Real property description: Lot 10 on RP904597

Applicant name: C, J and A Thomasson

Applicant contact details: c/- Capricorn Survey Group (CQ) Pty Ltd
PO Box 1391
Rockhampton QLD 4700
reception@csgcq.com.au

Human Rights Act 2019 considerations: Consideration of the 23 fundamental human rights protected under the *Human Rights Act 2019* has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.


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 Thomas Gardiner, Principal Planning Officer, on 0749242916 or via email RockhamptonSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Susan Kidd
Manager (Regional Assessment and Projects)

cc C, J and A Thomasson, reception@csgcq.com.au

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations about a referral agency response provisions

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 documents referenced below are found at Attachment 5)

No.	Conditions	Condition timing
Material change of use		
10.9.4.2.4.1 – Material change of use near a state transport corridor—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>Stormwater management of the development must not cause a worsening to the operating performance of the railway corridor, such that any works on the land must not:</p> <ul style="list-style-type: none"> (a) create any new discharge points for stormwater runoff onto the railway corridor. (b) concentrate or increase the velocity of flows to the railway corridor. (c) interfere with and/or cause damage to the existing stormwater drainage on the railway corridor. (d) surcharge any existing culvert or drain on the railway corridor. (e) reduce the quality of stormwater discharge onto the railway corridor. 	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) (version 3.0). If a word remains undefined it has its ordinary meaning.

Attachment 3—Reasons for referral agency response

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

The reasons for the SARA's decision are:

- The development is a material change of use for outdoor sales located at 26-28 Derby Street, Rockhampton City, described as Lot 10 on RP904597.
- The assessment benchmark which is relevant to SARA's assessment is State Development Assessment Provisions (SDAP) State code 2: Development in a railway environment.
- The development is considered to comply with the assessment benchmark subject to a condition which requires stormwater management of the development to not cause worsening to the operating performance of the railway corridor.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (version 3.0), as published by SARA
- the Development Assessment Rules
- SARA DA Mapping system
- section 58 of the *Human Rights Act 2019*

Attachment 4—Representations about a referral agency response provisions

(page left intentionally blank)

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.