NEGOTIATED DECISION REQUEST – COMBINED DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF USE (CAR WASH, FOOD AND DRINK OUTLET, LOW IMPACT INDUSTRY, OFFICE, SERVICE INDUSTRY, SERVICE STATION, SHOP, SHOPPING CENTRE AND SHOWROOM), OPERATIONAL WORKS (ADVERTISING DEVICE – ILLUMINATED AND PYLON), AND RECONFIGURING A LOT (2 LOTS INTO 4 LOTS AND ACCESS EASEMENT) – THOMSON ROAD, EDMONTON – DIVISION 1

Claire Anderson | 8/30/281 | #6160113

PROPOSAL: NEGOTIATED DECISION REQUEST – COMBINED DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF USE (CAR WASH, FOOD AND DRINK OUTLET, LOW IMPACT INDUSTRY, OFFICE, SERVICE INDUSTRY, SERVICE STATION, SHOP, SHOPPING CENTRE AND SHOWROOM), OPERATIONAL WORKS (ADVERTISING DEVICE – ILLUMINATED AND PYLON), AND RECONFIGURING A LOT (2 LOTS INTO 4 LOTS AND ACCESS EASEMENT)

LANDOWNER: SOUTHSIDE DEVELOPMENTS P/L (LOT 1) THE STATE OF QUEENSLAND (RAIL) (LOT 101)

APPLICANT: SOUTHSIDE DEVELOPMENTS PTY LTD C/- URBAN SYNC PO BOX 2970 CAIRNS QLD 4870

LOCATION OF SITE: THOMSON ROAD, EDMONTON QLD 4869

PROPERTY: LOT 1 ON RP905280 & LOT 101 ON RP905280

ZONE: MIXED USE ZONE PRECINCT 1 – COMMERCIAL (LOT 1) & SPECIAL PURPOSE (LOT 101)

LOCAL PLAN: EDMONTON INDUSTRY & BUSINESS LOCAL PLAN
<table>
<thead>
<tr>
<th><strong>PLANNING SCHEME:</strong></th>
<th>CAIRNSPLAN 2016 V1.2</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>REFERRAL AGENCIES:</strong></td>
<td>STATE ASSESSMENT AND REFERRAL AGENCY (DEPARTMENT OF TRANSPORT AND MAIN ROADS) – AS PART OF THE ORIGINAL DEVELOPMENT APPLICATION</td>
</tr>
<tr>
<td><strong>NUMBER OF SUBMITTERS:</strong></td>
<td>TWO (2) PROPERLY MADE SUBMISSIONS – AS PART OF THE ORIGINAL DEVELOPMENT APPLICATION</td>
</tr>
<tr>
<td><strong>STATUTORY ASSESSMENT DEADLINE:</strong></td>
<td>EXPIRED (7 AUGUST 2019)</td>
</tr>
<tr>
<td><strong>APPLICATION DATE:</strong></td>
<td>9 JULY 2019</td>
</tr>
<tr>
<td><strong>DIVISION:</strong></td>
<td>1</td>
</tr>
<tr>
<td><strong>APPENDIX:</strong></td>
<td>1. APPROVED PLAN(S) &amp; DOCUMENT(S)</td>
</tr>
</tbody>
</table>

**LOCALITY PLAN:**

![Locality Plan Image]
RECOMMENDATION:

That Council approves in part the Negotiated Decision Request to the Combined Development Permit for Material Change of Use (Car Wash, Food and Drink Outlet, Low Impact Industry, Office, Service Industry, Service Station, Shop, Shopping Centre and Showroom), Operational Works (Advertising Device – Illuminated and Pylon), and Reconfiguring a Lot (2 Lots into 4 Lots and Access Easement) over land described as Lot 1 on RP905280 and Lot 101 on RP905280, located at Thomson Road, Edmonton, subject to the following:

1. That the Approved Drawing(s) and/or Document(s) of Part A are amended as follows:

APPROVED DRAWING(S) AND / OR DOCUMENT(S)

The term ‘approved drawing(s) and / or document(s)’ or other similar expressions means:

<table>
<thead>
<tr>
<th>Drawing or Document</th>
<th>Reference</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staging Plan</td>
<td>Council Reference #6170916</td>
<td>Received by Council 29 August 2019</td>
</tr>
<tr>
<td>Site Plan Layout</td>
<td>Max Slade Designs, Drawing No. A100, Revision C, Council Reference #6046176</td>
<td>10 December 2018</td>
</tr>
<tr>
<td>General Arrangement &amp; Site Access</td>
<td>Civil Walker, Drawing No. 172-003-SK01, Revision 4, Council Reference #6009827</td>
<td>23 February 2019</td>
</tr>
<tr>
<td>Proposed Car Wash Layout Plan</td>
<td>TMC Building Design Group, Drawing No. 1 of 4, Issue B, Council Reference #6046176</td>
<td>February 2019 Received by Council 29 March 2019</td>
</tr>
<tr>
<td>Elevations</td>
<td>Max Slade Designs, Drawing No. A103, Revision B, Council Reference #6046176</td>
<td>10 December 2019</td>
</tr>
<tr>
<td>Proposed Car Wash Development</td>
<td>TMC Building Design Group, Drawing No. 2 of 4, Issue B, Council Reference #6046176</td>
<td>February 2019 Received by Council 29 March 2019</td>
</tr>
<tr>
<td>Proposed Car Wash Development</td>
<td>TMC Building Design Group, Drawing No. 3 of 4, Issue B, Council Reference #6046176</td>
<td>February 2019 Received by Council 29 March 2019</td>
</tr>
<tr>
<td>Drawing or Document</td>
<td>Reference</td>
<td>Date</td>
</tr>
<tr>
<td>---------------------</td>
<td>---------------------------------------------------------------------------</td>
<td>-------------------------------</td>
</tr>
<tr>
<td>Swept Path</td>
<td>TMC Building Design Group, Drawing No. 4 of 4, Issue B, Council Reference #6046176</td>
<td>Received by Council 29 March 2019</td>
</tr>
<tr>
<td>Landscaping Plan</td>
<td>TMC Building Design Group, Drawing No. L1 of 1, Issue B, Council Reference #6046176</td>
<td>Received by Council 29 March 2019</td>
</tr>
</tbody>
</table>

2. That Condition 3 – Timing and Effect of Part A be amended as follows:

Timing of Effect

3. The conditions of the Development Permit must be effected prior to Commencement of Use for each respective stage, except where specified otherwise in these conditions of approval.

3. That Condition 4 – Timing and Effect of Part A be amended as follows:

Timing and Effect

4. The Plan of Survey for Lots 1, 2 and 3 in accordance with Part C of this Decision Notice cannot be registered with the Department of Natural Resources, Mines and Energy prior to the issue of the Final Certificate or Commencement of Use, whichever occurs first until Council is provided with evidence that the works have ‘substantially commenced’ on all buildings and structures on Lot 2 and Lot 3 which are approved as Part A of this Decision Notice.

*Note: For the purposes of this approval, ‘substantially commenced’ means the Development Permit for Building Works has been issued and the works have commenced to the satisfaction of the Chief Executive Officer.*

4. That the following condition be included as Condition 5 of Part A:

Development Staging

5. The development (exclusive of Lot 4) is proposed to be undertaken in two (2) stages as detailed on the Approved Plans of development.
Any variation to the staging must be submitted to and endorsed by the Chief Executive Officer.

**Note: Lot 4 is to be transferred to the Department of Transport and Main Roads for ‘future transport purposes’ and therefore is able to be created at any time for this purpose.**

5. That Condition 11 – Water Supply and Sewerage Works Internal of Part A be amended as follows:

**Water Supply and Sewerage Works Internal**

11. Undertake the following water supply and sewerage works internal to the subject land:

   a. Provide a single internal sewer connection to each lot in accordance with the FNQROC Development Manual.

All the above works must be designed and constructed in accordance with the FNQROC Development Manual.

All works must be carried out in accordance with the Approved Plans, to the requirements and satisfaction of the Chief Executive Officer prior to Commencement of Use for each respective stage.

6. That Condition 12 – General External Works of Part A be amended as follows:

**General External Works**

12. The Applicant/Owner/Developer must undertake the following external works at no cost to Council:

   a. A channelised right turn into the site from Thomson Road must be provided in the location identified on the Approved Plans and Drawing No. 172-003-SK02 Issue 4, dated 23 February 2019 of Civil Walker Engineering Report, 172-003-001R, Revision C, dated February 2019 (Council Reference #6009827), and must be constructed in accordance with FNQROC Development Manual and the relevant Australian Standards.

   b. Provide two (2) new commercial crossovers and aprons at both Thomson Road and Pyne Street as detailed in the Approved Plans, and in accordance with FNQROC Development Manual Drawing S1015, Revision D. A copy of the Drawing is attached at Appendix 3.
c. Ensure the current footpath along the frontage of the site is fit for the purpose. If required, the footpath must be upgraded to a width of 2 metres in accordance with FNQROC Development Manual Standard Drawing 1035, Revision D. The new section of footpath must match neatly to the existing footpath at both extents in relation to alignment, width and grade. A copy of the Drawing is attached at Appendix 3.

d. The new kerb and channel along the frontage of the site is to be constructed in accordance with FNQROC Development Manual Standard Drawing 1000, Revision F. A copy of the Drawing is attached at Appendix 3.

e. The new pedestrian kerb ramp is to be constructed in accordance with FNQROC Development Manual Standard Drawing 1016, Revision C. A copy of the Drawing is attached at Appendix 3.

f. The end of bicycle lane on the northern side of Thomson Road as detailed in Drawing No. 172-003-SK02 Issue 4, dated 23 February 2019 of Civil Walker Engineering Report, 172-003-001R, Revision C, dated February 2019 (Council Reference #6009827), must be designed in accordance with the Manual of Uniform Traffic Control Devices (MUTCD) requirements, including line marking and signage.

g. To prevent water penetration into the pavement through joints between the existing pavement and pavement widening, a 50mm asphalt overlay in accordance with FNQROC Development Manual shall be provided over the full width of pavement, from the western boundary of the subject site to the eastern edge of the new access driveway. The required pavement widening and joints on Thomson Road must be constructed in accordance with the FNQROC Development Manual and relevant Australian Standards.

h. Repair any damage to existing kerb and channel, footway or roadway (including removal of concrete slurry from footways, roads, kerb and channel and stormwater gullies and drain lines) that may occur during and works carried out in association with the construction of the approved development.

Plans of the external works must be submitted as part of the first Development Application for Operational Works documentation for the development. The plans must be certified by a Registered Professional Engineer Queensland (RPEQ) and be in accordance with Austroads and the FNQROC Development Manual.
All works in the road reserve need to be properly separated from pedestrians and vehicles, with any diversions adequately signed and guarded. Particular attention must be given to providing safe passage for people with disabilities i.e. through the provision of temporary kerb ramps if necessary.

Such work must be constructed in accordance with the first Development Permit for Operational Works to the satisfaction of the Chief Executive Officer prior to Commencement of Use of Stage 1.

Note: The above works are not considered to be creditable or trunk related works in accordance with section 145 of the Planning Act 2016.

Note: The construction of the vehicular access from Thomson Road to the subject site must be in accordance with the Concurrence Agency Response issued by the Department of Transport and Main Roads, SDA-1903-10134 SRA (Council Reference #6092175).

7. That Condition 14 – Parking and Access of Part A be amended as follows:

Parking and Access

14. The amount of vehicle parking must be a minimum of thirty-five (35) car parking spaces. The car parking layout must comply with the Australian Standard AS2890.1 and AS2890.6 Parking Facilities – off-street car parking and be constructed in accordance with Austroads and good engineering design. In addition, all parking, driveway and vehicular manoeuvring areas must be imperviously sealed (unless otherwise approved), drained and line marked.

The car parking and manoeuvring areas must specifically incorporate the following:

a. Provision of space must be provided on site for vehicles to turn around so that all vehicles, including service vehicles, can enter and exit in a forward direction;

b. Loading/unloading areas as per the approved Plans of Development which are clear of internal circulation and appropriately line marked; and

c. The driveway at Thomson Road and Pyne Street which services the parking area must include a physical means of speed control at the entry and exit point.
The design is to be certified by an RPEQ that the car park manoeuvring provisions comply with Australian standards or where they deviate from Australian standards provide RPEQ certification that the provisions are suitable. The certified plan must be submitted for endorsement as part of the first Development Application for Operational Works.

Evidence must be submitted to Council prior to the issue of the first Development Permit for Operational Works that the development has responded to and incorporated the above requirements.

The parking and access must be constructed in accordance with the Development Permit for Operational Works prior to Commencement of Use for each respective stage.

8. That Condition 16 – Bicycle Parking of Part A be amended as follows:

Bicycle Parking

16. Provide secured, on-site bicycle parking in accordance with the requirements of Table 9.4.8.3.d of the Parking and Access Code of the Cairns Planning Scheme and the Approved Site Plan. The bicycle parking spaces must be provided and available for use at the time of Commencement of Use for each respective stage.

9. That Condition 17 – Acoustic Fence of Part A be amended as follows:

Acoustic Fence

17. A double-boarded screen fence of a minimum height of 2.0 metres, must be provided and/or retained along the southern, eastern and northern property boundaries as detailed in the Approved Plans. The fence must be designed to protect the amenity of adjoining residential uses and assist with noise attenuation to the broader residential areas to the north, south and east, to the satisfaction of the Chief Executive Officer. Details of the fence are to be included in the Landscape Plan prepared for the development as detailed in Condition 19, and must be constructed prior to Commencement of Use for Stage 1.

10. That Condition 18 – Plant and Equipment Screening of Part A be amended as follows:
Plant and Equipment Screening

18. Mechanical plant and equipment (e.g. air conditioning, plant and machinery units) must be designed, sited and acoustically attenuated to improve the appearance of the building and mitigate any impacts on the adjoining sensitive land use.

Such screening must be completed prior to the Commencement of Use for each respective stage.

11. That Condition 19 – Amended Landscaping Plan of Part A be amended as follows:

Amended Landscaping Plan

19. The submitted Landscaping Plan, prepared by TMC Building Design Group, Drawing No. 18-037 DA, Issue B, must be amended to:

a. Remove all landscaping from Lot 4 – Land for Future Transport Purposes;

b. Include details of all fencing (including Acoustic Fencing) as required by Condition 17;

c. Include all pedestrian Pathways, as detailed on the Approved Site Layout Plan, included at Appendix 1;

d. Include details for street trees at a maximum spacing of six (6) metres within the verge fronting Collinson Street and Pyne Street in accordance with the FNQROC Development Manual Cairns Regional Council Specific Drawing S4200B Verge Landscaping Guidelines and FNQROC D9.07 (6) Street Tree Planting. Contact Council’s Environmental Officer to discuss the proposed species for street tree planting in consideration of the local availability and power lines prior to submitting the landscaping plan for endorsement;

e. Detail specifications for street tree planting in accordance with FNQROC Development Manual Standard Drawing S4210 Street Tree Planting;
f. Include details for shade tree planting within and adjacent to all internal car park and manoeuvring areas, where possible. One Trees must be set in sufficient growing space is required for every 6-8 parking spaces that are not covered. Car park tree planting must be in accordance with the FNQROC Development Manual Cairns Regional Council Specific Drawing S4220 Car Park Tree Planting;

g. All trees must be nominated to be supplied in a minimum 300mm/25L container size, minimum 1.5 metres tall and formatively pruned with a clear trunk;

h. Detail specifications for any required reinstatement of grass within the verge with turf in accordance with the FNQROC Development Manual Landscaping D9.06 Verges and Specifications Turfing S8.04;

i. Provide a revised planting schedule that includes deep planting of the setback areas fronting the streetscape within species that ensures compliance with Council’s Crime Prevention Through Environmental Design Policy. Additional hardy low shrubs must be provided that can be maintained to a maximum height of 700mm or species that can ensure a clear trunk to a height of 2 metres; and

j. Include deep planting with dense screen planting within the setback areas along the southern side boundary fronting Collinson Street; and

kj. Include protection from parking areas, as required by Condition 20.

A copy of the amended Landscape Plan must be submitted to and endorsed by the Chief Executive Officer as part of the first Development Application for Operational Works.

The landscaping works must be completed prior to the Commencement of Use for each respective stage.

12. That Condition 24 – Drainage of Part A be amended as follows:

Drainage

24. Design and construct, at no cost to Council, all necessary stormwater management and drainage works (internal and external to the site) required to satisfactorily drain the subject land. The subject land must be drained to the satisfaction of the Chief Executive Officer, in particular:
a. Drainage infrastructure must be in accordance with the FNQROC Development Manual, where required; and

b. Detailed design drawings of the stormwater network required to service the subject site are to be provided to Council for approval. The detailed design must include detailed information on all stormwater treatment devices required to treat all stormwater run off from the subject site.

The above drainage measures must be submitted in conjunction with the first Development Application for Operational Works for the development. All works must be carried out in accordance with the Approved Plans, to the requirements and satisfaction of the Chief Executive Officer prior to the Commencement of Use for each respective stage.

Note: Infrastructure works required by this condition are considered to be non-trunk infrastructure for the purposes of Section 145 of the Planning Act 2016.

13. That Condition 26 – Electricity and Telecommunications of Part A be amended as follows:

Electricity and Telecommunications

26. Where Ergon Energy requires the installation of a substation to augment their network, a padmount type is to be incorporated within the development and positioned so that it does not detract from the appearance of the streetscape and must be clear of footpath areas.

If a transformer/generator is required, details of the transformer/generator positioning must be endorsed by the Chief Executive Officer prior to the issue of Development Permit for Building Works for each respective stage.

14. That Condition 31 – Refuse Storage of Part A be amended as follows:

Refuse Storage

31. The development must be designed to be serviced by bulk bins. Bulk bin enclosures must be provided in accordance with Council’s requirements. Brochures on Council’s requirements – ‘Requirements for Refuse Storage’ are available from Cairns Regional Council Water & Waste department.
Details must be shown on the plan of works and must be approved by the Chief Executive Officer prior to issue of a Development Permit for Building Works for each respective stage.

The bin enclosures must be constructed in accordance with the approved plans prior to the Commencement of Use for each respective stage.

15. That Condition 32 – Liquid Waste Disposal of Part A be amended as follows:

Liquid Waste Disposal

32. Trade waste discharge to sewer must meet the requirements of Cairns Water and Waste’s Trade Waste Environmental Management Plan (TWEMP). Detailed Hydraulic Plans must be provided accompanied by a report which demonstrates that the facility complies with the TWEMP and must be approved by Council prior to the issue of a Development Permit for Building Works for each respective stage. All measures for pre-treatment in accordance with the approved plans must be installed prior to Commencement of Use for each respective stage.

16. That Condition 33 – Damage to Infrastructure of Part A be amended as follows:

Damage to Infrastructure

33. In the event that any part of Council’s existing infrastructure is damaged as a result of construction activities occurring on the site, including but not limited to, mobilisation of heavy earthmoving equipment, stripping and grubbing, the Applicant/Owner/Developer must notify Council immediately of the affected infrastructure and have it repaired or replaced by Council, at the developer’s cost, prior to the Commencement of Use for each respective stage.

17. That Condition 34 – Demolish Structures of Part A be amended as follows:

Demolish Structures

34. All buildings and structures not associated with the approved development (including disused services and utilities) must be demolished and/or removed from the property prior to Commencement of Use for each respective stage.
18. That Condition 37 – Construction Management Plan of Part A be amended as follows:

Construction Management Plan

37. A Construction Management Plan must be submitted to, and endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Works or Development Permit for Operational Works, whichever occurs first for each respective stage. The Construction Management Plan must address all activities/operations associated with construction including, but not limited to:

a. Hours of construction;

b. Construction access;

c. Parking of vehicles (including construction site employees and delivery vehicles);

d. Traffic management and control (including loading and unloading);

e. Maintenance of safe pedestrian access across the site’s frontage (including access by persons with a disability);

f. Building and demolition waste storage and disposal;

g. On-site dust and noise management, so as to not cause a nuisance to the amenity of the surrounding area;

h. Tree protection management; and

i. Location and details of construction signage including any signage that is to be illuminated.

The endorsed Construction Management Plan must be complied with and a copy kept on site at all times during construction of the development. The Construction Management Plan must identify the need for and timing on obtaining any necessary permits required for any proposed temporary road closures.

19. That the Approved Drawing(s) and/or Document(s) of Part C be amended as follows:

APPROVED DRAWING(S) AND / OR DOCUMENT(S)

The term ‘approved drawing(s) and / or document(s)’ or other similar expressions means:
20. That Condition 3 – Timing and Effect of Part C be amended as follows:

Timing of Effect

3. The conditions of the Development Permit must be effected prior to Council Approval of the Plan of Survey for each respective stage, except where specified otherwise in these conditions of approval.

21. That Condition 4 – Timing and Effect of Part C be amended as follows:

Timing and Effect

4. Prior to Council approval of the Plan of Survey for Lots 1, 2 and 3, Council must be provided with evidence that the works have ‘substantially commenced’ on all buildings and structures approved as Part A of this Decision Notice.

   Note: For the purposes of this approval, ‘substantially commenced’ means the Development Permit for Building Works has been issued and the works have commenced to the satisfaction of the Chief Executive Officer.

22. That the following condition be included as Condition 5 of Part C:

Development Staging

5. The development (exclusive of Lot 4) is proposed to be undertaken in two (2) stages as detailed on the Approved Plans of development.

   Any variation to the staging must be submitted to and endorsed by the Chief Executive Officer.

   Note: Lot 4 is to be transferred to the Department of Transport and Main Roads for ‘future transport purposes’ and therefore is able to be created at any time for this purpose.
23. That Condition 5 – Water Supply and Sewerage Works Internal of Part C be amended as follows:

**Water Supply and Sewerage Works Internal**

5. Undertake the following water supply and sewerage works internal to the subject land:

a. Provide a single internal sewer connection to each lot in accordance with the FNQROC Development Manual.

All the above works must be designed and constructed in accordance with the FNQROC Development Manual.

A plan of the works must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works for each respective stage.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to Council’s approval of the Plan of Survey for Lots 1, 2 and 3.

24. That Condition 6 – Access and Parking Easement/s of Part C be amended as follows:

**Access and Parking Easement/s**

6. Create the following Easements to allow vehicle access, on-site manoeuvring and parking as generally shown on the Approved Plan of Development:

a. An Easement for access purposes over Lot 1, in favour of Lot 2 and Lot 3;

b. An Easement for access purposes over Lot 2, in favour of Lot 3; and

c. An Easement for access purposes over Lot 3, in favour of Lot 2.

A copy of the easement documents must be submitted to Council for approval by Council’s Solicitors at no cost to Council. The approved easement documents must be submitted at the same time as seeking Council approval of the Plan of Survey for each respective stage and must be lodged and registered with the Department of Natural Resources, Mines and Energy in conjunction with the Plan of Survey for Lots 1, 2 and 3.
25. That Condition 7 – Easement of Support of Part C be amended as follows:

7. Create a reciprocal Easement over the common wall between the Service Station and the Retail building as detailed on the Approved Plans.

A copy of the easement documents must be submitted to Council for approval by Council’s Solicitors at no cost to Council. The approved easement documents must be submitted at the same time as seeking Council approval of the Plan of Survey for Stage 2 and must be lodged and registered with the Department of Natural Resources, Mines and Energy in conjunction with the Plan of Survey for Lots 1, 2 and 3.

26. That Condition 8 – Existing Services of Part C be amended as follows:

Existing Services

8. Prior to Council approving the Plan of Survey for each respective stage, written confirmation of the location of existing services (including water connections, internal plumbing, electricity and telecommunications) for the land must be provided. In any instance where existing services are contained within another lot, the following applies, either

a. Relocate the services to comply with this requirement; or

b. Arrange registration of necessary easements over services located within another lot prior to, or in conjunction with, the lodgement of the Plan of Survey creating the lot.

27. That Condition 10 – Damage to Infrastructure of Part C be amended as follows:

Damage to Infrastructure

10. In the event that any part of Council’s existing infrastructure is damaged as a result of construction activities occurring on the site, including but not limited to, mobilisation of heavy earthmoving equipment, stripping and grubbing, the applicant/owner must notify Council immediately of the affected infrastructure and have it repaired or replaced by Council, at the Applicant/Owner/Developer’s cost, prior to Council approval of the Plan of Survey for each respective stage.

28. That Condition 11 – Electricity and Telecommunications of Part C be amended as follows:
Electricity and Telecommunications

12. Where Ergon Energy requires the installation of a substation to augment their network, a padmount type is to be incorporated within the development and positioned so that it does not detract from the appearance of the streetscape and must be clear of footpath areas.

If a transformer/generator is required, details of the transformer/generator positioning must be endorsed by the Chief Executive Officer prior to the issue of Development Permit for Building Works for each respective stage.

29. That any reference to Reconfiguring a Lot (2 Lots into 4 Lots and Access Easement) be amended to Reconfiguring a Lot (1 Lot into 4 Lots and Access Easement), to correct an administrative error.

30. That all other Conditions and Advice Notes of Development Permit 8/30/281, #6103202 remain unchanged and be renumbered accordingly.

EXECUTIVE SUMMARY

Council is in receipt of a Negotiated Decision Request in relation to the existing Combined Development Permit for Material Change of Use (Car Wash, Food and Drink Outlet, Low Impact Industry, Office, Service Industry, Service Station, Shop, Shopping Centre and Showroom), Operational Works (Advertising Device – Illuminated and Pylon), and Reconfiguring a Lot (2 Lots into 4 Lots and Access Easement) over land described as Lot 1 on RP905280 and Lot 101 on RP905280, located at Thomson Road, Edmonton. The Development Application was approved at the Council Ordinary Meeting on 12 June 2019, and was issued on 17 June 2019, Development Permit 8/30/218, #6103202.

The Development Permit provides for the establishment of the following:

- A Service Station, including a 250m$^2$ Gross Floor Area tenancy and eight (8) car fuelling stations;
- Retail (Shopping Centre), including a 720m$^2$ Gross Floor Area tenancy which will incorporate a range of possible land uses (Food and Drink Outlet, Industry – Low Impact Industry, Office, Service Industry, Shop, Showroom);
- A Car Wash, with a Gross Floor Area of 641.8m$^2$;
- Two (2) Pylon Signs directly associated with the site, which are to be Illuminated; and
- Reconfiguring a Lot (1 lots into 4 lots and Access Easement), including a portion of land to be transferred to the Department of Transport and Main Roads for ‘future transport purposes’.
The site has a combined total area of 7,137m², with Lot 1 being 5,959m² and Lot 101 being 1,178m², and is located on the corner of Thomson Road, Pyne Street and Collinson Street. Lot 1 on RP905280 (Lot 1) is owned by Southside Developments Pty Ltd (the Applicant), and Lot 101 on RP905280 (Lot 101) is owned by The State of Queensland (Rail).

On 9 July 2019, the Applicant submitted a Negotiated Decision Request in accordance with Section 75 of the Planning Act 2016. The request seeks amendments to the following conditions:

<table>
<thead>
<tr>
<th>Conditions to be Amended</th>
<th>Condition Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Part A: Material Change of Use</td>
<td></td>
</tr>
<tr>
<td>Condition 4</td>
<td>Timing of Effect</td>
</tr>
<tr>
<td>Condition 12</td>
<td>General External Works</td>
</tr>
<tr>
<td>Condition 17</td>
<td>Acoustic Fence</td>
</tr>
<tr>
<td>Condition 19</td>
<td>Amended Landscaping Plan</td>
</tr>
<tr>
<td>Condition 28</td>
<td>Street Lighting</td>
</tr>
<tr>
<td>Part C: Reconfiguring a Lot</td>
<td></td>
</tr>
<tr>
<td>Condition 4</td>
<td>Timing of Effect</td>
</tr>
</tbody>
</table>

In addition to the above representations, the Applicant has requested the ability for Council to approve the Survey Plan for Lot 1 separately to the Survey Plan for Lot 2 and Lot 3, and prior to works 'substantially commencing', as currently required by the conditions of approval.

Accordingly, a range of conditions within Part A – Material Change of Use and Part C – Reconfiguring a Lot have been amended to reflect the proposed staging of the development. In particular, the Approved Plan(s) and/or Document(s), Conditions 3, 4, 11, 12, 14, 16-19, 24, 26, 31-34 and 37 of Part A, and the Approved Plan(s) and/or Document(s), Conditions 3, 5-8, 10 and 12 of Part C have been amended to include staging provisions. Additionally, a Staging Condition has been included in both Part A and Part C of the Decision Notice, to reflect the staging of the development (exclusive of Lot 4).

Council Officers have considered the representations, as discussed below, and are recommending the changes be approved, in part.

**PLANNING ACT 2016**

The applicant has submitted a Negotiated Decision Notice Request in accordance with section 75 of the Planning Act 2016. In accordance with section 76 of the Planning Act 2016 the Assessment Manager must:

1. The assessment manager must assess the change representations against and having regard to the matters that must be considered when assessing a development application, to the extent those matters are relevant.
**APPLICANT’S REPRESENTATIONS**

On 9 July 2019, Urban Sync on behalf of the Applicant, submitted a Negotiated Decision Request in accordance with Section 75 of the *Planning Act 2016*.

The request seeks changes to a range of conditions, including timing of effect, general external works, acoustic fencing, landscaping, and street lighting. The following table identifies the conditions, and the Officers recommendation for same:

<table>
<thead>
<tr>
<th>Conditions to be Amended</th>
<th>Officer Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Part A: Material Change of Use</strong></td>
<td></td>
</tr>
<tr>
<td>Condition 4 - Timing of Effect</td>
<td>Amended in part.</td>
</tr>
<tr>
<td>Condition 12 - General External Works</td>
<td>Amended in part.</td>
</tr>
<tr>
<td>Condition 17 - Acoustic Fence</td>
<td>No amendment proposed. Condition to remain as currently approved.</td>
</tr>
<tr>
<td>Condition 19 - Amended Landscaping Plan</td>
<td>Amended in part.</td>
</tr>
<tr>
<td>Condition 28 - Street Lighting</td>
<td>No amendment proposed. Condition to remain as currently approved.</td>
</tr>
<tr>
<td><strong>Part C: Reconfiguring a Lot</strong></td>
<td></td>
</tr>
<tr>
<td>Condition 4 - Timing of Effect</td>
<td>Amended in part.</td>
</tr>
</tbody>
</table>

In addition to the above representations, the Applicant has requested the ability for Council to approve the Survey Plan for Lot 1 separately to the Survey Plan for Lot 2 and Lot 3, and prior to works ‘substantially commencing’, as currently required by the conditions of approval.

Each representation is identified below, followed by the Applicant’s justification for the representation and the Council Officer’s corresponding response.

**Development Staging**

As noted above, the Applicant has requested the ability for Council to approve the Survey Plan for Lot 1 separately to the Survey Plan for Lot 2 and Lot 3, and prior to works ‘substantially commencing’, as currently required by the conditions of approval.

A Staging Plan has been provided as part of the Negotiated Decision Request, which identified Lot 1 (Car Wash) as Stage 1, and Lot 2 (Service Station) and Lot 3 (Retail) as Stage 2. Lot 4 is not included in the Staging Plan as this lot is to be transferred to the Department of Transport and Main Roads for ‘future transport purposes’, and therefore does form part of the development of the site.

The request is sought on the basis that the Car Wash which is entirely located within Lot 1 can (and will) operate independently from the Retail and Service Station portion of the development, which is located over Lot 2 and Lot 3.
It is noted that the only shared arrangements between Lot 1 and the balance of the development is the entry to the site from Thomson Road. Accordingly, should Lot 1 be created prior to Lot 2 and Lot 3, the Access Easement as currently required by Condition 6 of Part C is required to be submitted. As part of the creation of Lot 2 and Lot 3, the Access Easement may need to be amended and resubmitted accordingly.

The Applicant has also identified that as the Service Station and Retail development on Lots 2 and 3 are integrated, the request does not seek to alter the timing of the creation of these lots, and accepts that these lots cannot be created until the works have 'substantially commenced' as per the current Condition 4 - Timing and Effect of Part A and Part C.

Officers have considered the representations and confirm that the representations are supported.

Accordingly, a range of conditions in Part A and Part C of the Decision Notice have been amended to reflect the request. In particular, the following conditions have been amended as per the recommendation:

Table 3: Conditions to be amended to reflect the staging of the development

<table>
<thead>
<tr>
<th>Conditions to be Amended</th>
<th>Officer Recommendation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Part A: Material Change of Use</strong></td>
<td></td>
</tr>
<tr>
<td>Approved Plan(s) and/or Document(s)</td>
<td>➢ Inclusion of a Staging Plan.</td>
</tr>
<tr>
<td>Condition 3 - Timing and Effect</td>
<td>➢ Requirement for works to be completed prior to Commencement of Use 'for each respective stage'.</td>
</tr>
<tr>
<td>Condition 11 - Water Supply and Sewerage Works Internal</td>
<td></td>
</tr>
<tr>
<td>Condition 16 - Bicycle Parking</td>
<td></td>
</tr>
<tr>
<td>Condition 18 - Plant and Equipment Screening</td>
<td></td>
</tr>
<tr>
<td>Condition 26 - Electricity and Telecommunications</td>
<td></td>
</tr>
<tr>
<td>Condition 33 – Damage to Infrastructure</td>
<td></td>
</tr>
<tr>
<td>Condition 34 – Demolish Structures</td>
<td></td>
</tr>
<tr>
<td>Condition 37 – Construction Management Plan</td>
<td></td>
</tr>
</tbody>
</table>
| Condition 4 - Timing and Effect | ➢ Removal of Lot 1  
➢ Amendment to wording which was in administrative error. |
| Condition 12 - General External Works | ➢ Requirement for works to be submitted with first Development Application for Operational Works;  
➢ Requirement for works to be completed prior to Commencement of Use for Stage 1. |
| Condition 17 - Acoustic Fence | ➢ Requirement for works to be completed prior to Commencement of Use for Stage 1. |
| Condition 14 – Parking and Access | ➢ Requirement for works to be submitted with first Development Application for Operational Works;  
➢ Requirement for works to be completed prior to Commencement of Use for each respective stage. |
| Condition 19 - Amended Landscaping Plan | |
| Condition 24 – Drainage | |
| Condition 31 - Refuse Storage | ➢ Requirement for plans to be submitted prior to the issue of a Development Permit for Building Works for each respective stage.  
➢ Requirement for works to be completed prior to Commencement of Use for each respective stage. |
| Condition 32 – Liquid Waste Disposal | |
Part C: Reconfiguring a Lot

<table>
<thead>
<tr>
<th>Approved Plan(s) and/or Document(s)</th>
<th>Inclusion of a Staging Plan.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Condition 3 - Timing and Effect</td>
<td>Requirement for works to be completed prior to Council Approval of the Plan of Survey for each respective stage.</td>
</tr>
<tr>
<td>Condition 8 – Existing Services</td>
<td>Requirement for works to be submitted with a Development Application for Operational Works for each respective stage;</td>
</tr>
<tr>
<td>Condition 10 – Damage to Infrastructure</td>
<td>Requirement for works to be completed prior to Council Approval of the Plan of Survey for each respective stage.</td>
</tr>
<tr>
<td>Condition 12 – Electricity and Telecommunications</td>
<td>Requirement for works to be completed prior to Council Approval of the Plan of Survey for each respective stage.</td>
</tr>
<tr>
<td>Condition 5 – Water Supply and Sewerage Works Internal</td>
<td>Requirement for works to be completed prior to Council Approval of the Plan of Survey for each respective stage;</td>
</tr>
<tr>
<td>Condition 6 – Access and Parking</td>
<td>Requirement for works to be completed prior to Council Approval of the Plan of Survey for Stage 2.</td>
</tr>
</tbody>
</table>
| Condition 7 – Easement of Support   | Removal of reference to ‘Lots 1, 2 and 3’.

In addition to the above, a Staging Condition has been included in both Part A and Part C of the Decision Notice, to reflect the staging of the development (exclusive of Lot 4).

**Part A: Material Change of Use**

**Condition 4 – Timing of Effect**

*Applicant’s Representation*

The Applicant has requested that the condition be amended as follows:

*Timing of Effect*

4. The Plan of Survey for Lots 4, 2 and 3 in accordance with Part C of this Decision Notice cannot be registered with the Department of Natural Resources, Mines and Energy until Council are provided with evidence that the works have ‘substantially commenced’ on the buildings and structures on Lots 2 and 3, prior to the issue of the Final Certificate of Commencement of Use, whichever occurs first. Lots 1 and 4 can be registered at any time and any registration of Lot 1 must occur in association with the creation of the required access easement.

Note: For the purposes of this approval, ‘substantially commenced’ means the Development Permit for Building Works has been issued and the works have commenced to the satisfaction of the Chief Executive Officer.
As noted above, the Applicant has requested the ability for Council to approve the Survey Plan for Lot 1 separately to the Survey Plan for Lot 2 and Lot 3, and prior to works ‘substantially commencing’, as currently required by the conditions of approval.

**Officer’s Comment**

Officers have considered the request and are supportive of the representations to stage the development, in accordance with the Staging Plan provided. Accordingly, Officers recommend that Condition 4 is amended, however the amendments do not specify within the condition that Lot 1 and Lot 4 can be created at any time, as this is further reflected in the changes required under the Development Staging component of the representations.

**Condition 12 – General External Works**

**Applicant’s Representation**

The Applicant has requested that the condition be amended as follows:

**General External Works**

12. The Applicant/Owner/Developer must undertake the following external works at no cost to Council:

   a. A channelised right turn into the site from Thomson Road must be provided in the location identified on the Approved Plans and Drawing No. 172-003-SK02 Issue 4, dated 23 February 2019 of Civil Walker Engineering Report, 172-003-001R, Revision C, dated February 2019 (Council Reference #6009827), and must be constructed in accordance with FNQROC Development Manual and the relevant Australian Standards.

   b. Provide two (2) new commercial crossovers and aprons at both Thomson Road and Pyne Street as detailed in the Approved Plans, and in accordance with FNQROC Development Manual Drawing S1015, Revision D. A copy of the Drawing is attached at Appendix 3.

   c. Ensure the current footpath along the frontage of the site is fit for the purpose. If required, the footpath must be upgraded to a width of 2 metres in accordance with FNQROC Development Manual Standard Drawing 1035, Revision D. The new section of footpath must match neatly to the existing footpath at both extents in relation to alignment, width and grade. A copy of the Drawing is attached at Appendix 3.

   d. The new kerb and channel along the frontage of the site is to be constructed in accordance with FNQROC Development Manual Standard Drawing 1000, Revision F. A copy of the Drawing is attached at Appendix 3.
e. The new pedestrian kerb ramp is to be constructed in accordance with FNQROC Development Manual Standard Drawing 1016, Revision C. A copy of the Drawing is attached at Appendix 3.

f. The end of bicycle lane on the northern side of Thomson Road as detailed in Drawing No. 172-003-SK02 Issue 4, dated 23 February 2019 of Civil Walker Engineering Report, 172-003-001R, Revision C, dated February 2019 (Council Reference #6009827), must be designed in accordance with the Manual of Uniform Traffic Control Devices (MUTCD) requirements, including line marking and signage.

g. To prevent water penetration into the pavement through joints between the existing pavement and pavement widening, a 50mm asphalt overlay in accordance with FNQROC Development Manual shall be provided over the full width of pavement, from the western boundary of the subject site to the eastern edge of the new access driveway.

h. Repair any damage to existing kerb and channel, footway or roadway (including removal of concrete slurry from footways, roads, kerb and channel and stormwater gullies and drain lines) that may occur during and works carried out in association with the construction of the approved development.

Plans of the external works must be submitted as part of the Operational Works documentation for the development. The plans must be certified by a Registered Professional Engineer Queensland (RPEQ) and be in accordance with Austroads and the FNQROC Development Manual.

All works in the road reserve need to be properly separated from pedestrians and vehicles, with any diversions adequately signed and guarded. Particular attention must be given to providing safe passage for people with disabilities i.e. through the provision of temporary kerb ramps if necessary.

Such work must be constructed in accordance with a Development Permit for Operational Works to the satisfaction of the Chief Executive Officer prior to Commencement of Use.

Note: The above works are not considered to be creditable or trunk related works in accordance with section 145 of the Planning Act 2016.

Note: The construction of the vehicular access from Thomson Road to the subject site must be in accordance with the Concurrence Agency Response issued by the Department of Transport and Main Roads, SDA-1903-10134 SRA (Council Reference #6092175).
The Negotiated Decision Request states that Condition 12g is *unreasonable as it is not reasonably required for the development to safely and suitably operate*. In particular, the Request states that *an appropriately constructed joint at the pavement widening interface will provide appropriate protection from moisture ingress into the pavement*. It is also noted that the joints will not be located in sag points and therefore surface water will not sit at joint locations.

**Officer’s Comment**

Officers have considered the representations and are supportive of the removal of the reference to a 50mm asphalt overlay from the western boundary of the subject site to the eastern edge of the new access driveway. However, removal of this condition in its entirety is not supported as the works are required to be undertaken in accordance with the relevant standards.

Accordingly, the condition has been amended to require pavement widening and joints on Thomson Road to be constructed in accordance with the FNQROC Development Manual and relevant Australian Standards.

In addition, Officers recommend that the condition be amended to require the plans of the works to be submitted with the first Development Application for Operational Works, and the works to be completed prior to Commencement of Use for Stage 1, reflective of the representations to stage the development.

**Condition 17 – Acoustic Fence**

**Applicant’s Representation**

The Applicant has requested that the condition be amended as follows:

*Acoustic Fence*

17. A double-boarded screen fence of a minimum height of 2.0 metres, must be provided and/or retained along the southern, eastern and northern property boundaries as detailed in the Approved Plans. The fence must be designed to protect the amenity of adjoining residential uses and assist with noise attenuation to the broader residential areas to the north, south and east, to the satisfaction of the Chief Executive Officer. Details of the fence are to be included in the Landscape Plan prepared for the development as detailed in Condition 19.

The Negotiated Decision Request identifies that the Approved Plans detail a 2 metre high overlapped timber fence adjacent to the southern, north-eastern and eastern property boundaries. Additionally, the Request states that *it is this type of fencing that the acoustic assessment in the planning report was based on*. Further, the Request states that the justification provided in the planning report demonstrates that a double boarded fence is not required to ensure suitable noise levels at the nearby surrounding sensitive receptors can be achieved. Accordingly, the Applicant is seeking the amendment to the condition to removal the reference to ‘double boarded’, as identified above.
**Officer’s Comment**

The site is located in close proximity to sensitive land uses, and therefore the development has the potential to impact on the adjoining residential development, particularly along Thomson Road and Collinson Street.

Officers advise it is crucial that light spill, noise and odour from the development is controlled as much as possible to avoid any potential adverse impacts on the amenity of adjoining properties. Providing a double boarded fence along the southern, north-eastern and eastern property boundaries (in the location identified on the approved plans) is considered to reduce headlights from vehicles on the subject site penetrating the adjacent residential allotments as much as possible, in addition to reducing the extent of noise extending beyond the site. Additionally, it is noted that reducing headlight penetration into adjoining residential allotments was the primary reason the fencing was proposed as part of the Development Application.

Officers consider the condition to be reasonable and relevant in ensuring impacts on adjoining properties is mitigated as much as possible, and therefore are not supportive of the amendment to the condition as requested. Accordingly, Officers recommend that Condition 17 – Acoustic Fence remain as currently approved, notwithstanding the amendment to require the fencing to be provided prior to Commencement of Use of Stage 1, reflective of the representations to stage the development.

**Condition 19 – Amended Landscaping**

**Applicant’s Representation**

The Applicant has requested that the condition be amended as follows:

**Amended Landscaping Plan**

19. The submitted Landscaping Plan, prepared by TMC Building Design Group, Drawing No. 18-037 DA, Issue B, must be amended to:

   a. Remove all landscaping from Lot 4 – Land for Future Transport Purposes;
   
   b. Include details of all fencing (including Acoustic Fencing) as required by Condition 17;
   
   c. Include all pedestrian Pathways, as detailed on the Approved Site Layout Plan, included at Appendix 1;
d. Include details for street trees at a maximum spacing of six (6) metres within
the verge fronting Collinson Street and Pyne Street in accordance with the
FNQROC Development Manual Cairns Regional Council Specific Drawing
S4200B Verge Landscaping Guidelines. Contact Council’s Environmental
Officer to discuss the proposed species for street tree planting in consideration
of the local availability and power lines prior to submitting the landscaping plan
for endorsement;

e. Detail specifications for street tree planting in accordance with FNQROC
Development Manual Standard Drawing S4210 Street Tree Planting;

f. Include details for shade tree planting within and adjacent to all internal car
park and manoeuvring areas where possible. One tree set in sufficient growing
space is required for every 6-8 parking spaces that are not covered. Car park
tree planting must be in accordance with the FNQROC Development Manual
Cairns Regional Council Specific Drawing S4220 Car Park Tree Planting;

g. All trees must be nominated to be supplied in a minimum 300mm/25L container
size, minimum 1.5 metres tall and formatively pruned with a clear trunk;

h. Detail specifications for any required reinstatement of grass within the verge
with turf in accordance with the FNQROC Development Manual Landscaping
D9.06 Verges and Specifications Turfing S8.04;

i. Provide a revised planting schedule that includes deep planting of the setback
areas fronting the streetscape within species that ensure compliance with
Council’s Crime Prevention Through Environmental Design Policy. Additional
hardy low shrubs must be provided that can be maintained to a maximum
height of 700mm or species that can ensure a clear trunk to a height of 2
metres;—

j. Include deep planting with dense screen planting within the setback areas
along the southern side boundary fronting Collinson Street; and

k. Include protection from parking areas, as required by Condition 20.

A copy of the amended Landscape Plan must be submitted to and endorsed by the
Chief Executive Officer as part of a Development Application for Operational Works.

Condition 19(d):

The Negotiated Decision Request recommends that Condition 19(d) be deleted in full as:
We consider this extent of street tree planting completely unreasonable given the trees will, due to the presence of the overhead powerlines, not provide any form of beneficial screening of the development. The development is also not proposing a height or built form over and above that which should have been anticipated on the site given its zoning. Should Council have wanted to protect the visual amenity of the adjacent residential uses, the site should not have been included in the Mixed-Use zone. We also are uncertain in relation to what Council is trying to screen the development from in Collinson Street given the two (2) adjacent residential dwellings do not front, nor are they orientated towards Collinson Street, nor can Collinson Street be viewed from the Bruce Highway.

The logic behind any such plantings is also questioned given the presence of a sewer main in Collinson Street, a water main in Pyne Street and overhead electricity and underground telecommunications infrastructure in both streets. The conditioned street tree planting could impact upon and/or require excessive maintenance to ensure there are no impacts on this infrastructure.

It is also noted that along Pyne Street only one street tree would be able to be placed due to the setback distance requirements with the Thompson Road intersection and the egress driveway pavement location from the car wash. This street tree would also create sight distance problems for vehicles traveling north to this intersection as well as potentially obscure visibility to the pedestrian path.

Condition 19(f):

The Negotiated Decision Request recommends that Condition 19(f) be amended as detailed above, for the following reasons:

Due to the car parking, sight distance and vehicle movement requirements for the site, the car parking positions have been designed to a minimum allowable safe distance. As a result, the current design does not allow for the planting of additional shade trees within the car park areas.

Large trees planted as per the Urban Street Tree Planting detail can cause problems with, at times, substantial pavement/kerb damage, root ingress problems in nearby pipes, blockage of stormwater pipes etc., while such plantings near buildings can contribute towards building foundation movement and failures, none of which are desirable. Hence, we are agreeable to including larger shade trees into the design where they can be accommodated without resulting in other undesirable impacts and welcome further discussion with Council on this matter.

Condition 19i and Condition 19j:

The Negotiated Decision Request recommends that Condition 19(i) and Condition 19(j) be deleted in full, for the following reasons:
Given the extent of existing infrastructure present along the site’s frontages, in addition to the amount of room provided in the setback areas fronting the streetscape, a requirement for deep planting would potentially cause adverse impacts upon these services and would not result in a favourable outcome.

Furthermore, as deep planting is only referenced in the Building Heights Overlay Code and the Cairns City Centre Local Plan, neither of which apply to this development, we would find it potentially unreasonable for Council to require this extent of planting on the site. The Applicant is open to discussions with Council regarding alternative landscaping treatments that seek to achieve Council’s desires, although that are more reasonable and can practically be installed without resulting in other undesirable impacts.

**Officer’s Comment**

**Condition 19(d):**

Officers advise that the inclusion of the land as Mixed-Use – Precinct 1 Commercial does not remove the requirement for any future development of the site to ensure that the potential impact on the amenity of the adjoining residential properties is mitigated as much as possible, and to the extent required by CairnsPlan 2016 v1.2. The provision of landscaping is considered to be an important part of ensuring amenity is maintained and where landscaping cannot be accommodated for within the property boundary, landscaping within the verge is often required.

The inclusion of street tree planting along the verge fronting Collinson Street and Pyne Street is not proposed as a screening tool, rather is to soften the built form of the development, regardless of the orientation of the Dwelling Houses directly opposite the site.

Officers advise that the reason for a maximum 6 metre spacing of street trees is because the species will need to be compact in height in consideration of overhead power lines, and therefore more trees will be required to achieve the desired softening of the wall.

Additionally, Officers acknowledge that the species will need to be carefully selected, located and planted in consideration of adjacent and underground services. On-street landscaping is to be designed and specified in accordance with the site constraints and prescribed FNQROC setbacks for planting. Root barrier is a requirement for protection of adjacent infrastructure and/or services, and if required measures for planting can be specified such as hydro excavation.

Accordingly, Officers consider that Condition 19(d) remains to be reasonable and relevant and therefore the request to remove the condition is not supported. However, Officers consider that the inclusion of the requirement to comply with FNQROC D9.07 (6) Street Tree Planting will ensure flexibility with regards to considering any constraints identified (i.e. services, infrastructure, sight lines etc).
Condition 19(f):

Officers have considered the Request and are supportive of the amendment of the condition to remove the requirement for trees to be planted every 6-8 parking spaces that are not covered. However, Officers advise that the requirement to comply with FNQROC Development Manual, S4220 Car Park Tree Planting remains reasonable and relevant for those trees that will be planted, and therefore has not been removed as part of the recommendation.

Condition 19(i) and Condition 19(j):

Officers acknowledge that deep planting is not achievable within the site and that shade trees will be included adjacent to car parking areas, where possible. Accordingly, Officers recommend that Condition 19(i) be amended to remove the requirement for deep planting, and Condition 19(j) be removed in its entirety.

However, with regards to Condition 19(i), the requirement for a planting schedule and locations for planting to ensure compliance with Council’s Crime Prevention Through Environmental Design Policy (CPTED) remains reasonable and relevant to the development. Additionally, Officers note that the Concept Landscaping Plan identifies species and their locations which are not compliant with CPTED. Accordingly, Officers advise that this component of the condition remain as currently approved.

In addition to the above amendments, Officers recommend that the condition be amended to require the submission of the Amended Landscape Plan as part of the first Development Application for Operational Works, and the approved landscaping works to be completed prior to Commencement of Use for each respective stage.

Condition 28 – Street Lighting

Applicant’s Representation

The Applicant has requested that the condition be amended as follows:

Street Lighting

28. All lighting installed upon the premises including car parking areas must be certified by Ergon Energy (or such other suitably qualified person). The vertical illumination at a distance of 1.5 metres outside the boundary of the subject land must not exceed eight (8) lux measured at any level upwards from ground level. All outdoor lighting must comply with the requirements of AS4282-1997 – Control of the Obtrusive Effects of Outdoor Lighting.

The Negotiated Decision Request states that given the need to comply with a maximum of eight (8) lux outside the boundaries of the site, we do not consider it reasonable or relevant to also need to comply with the requirements of AS4282-1997 as well. Accordingly, the Request seeks that the last sentence of the condition be deleted.
**Officer’s Comment**

Officers advise that the requirement to comply with AS4282-1997 is an Acceptable Outcome (AO1.3) of the Environmental Performance Code which was applicable to the assessment of the Development Application. Further, the corresponding Performance Outcome of the Code states that *lighting incorporated within development does not cause an adverse impact on the amenity of adjacent uses and nearby sensitive land uses.*

The site is located in close proximity to sensitive land uses, and therefore the development has the potential to impact on the adjoining residential development, particularly along Thomson Road and Collinson Street.

Officers advise it is crucial that light spill from the development is controlled as much as possible to avoid any potential adverse impacts on the amenity of adjoining properties, and therefore consider the condition to be reasonable and relevant in ensuring impacts on adjoining properties is mitigated as much as possible.

Accordingly, Officers are not supportive of the amendment to the condition as requested by the Applicant and recommend that Condition 28 – Street Lighting remain as currently approved.

**APPLICANT’S REPRESENTATIONS – PART C: RECONFIGURING A LOT**

**Condition 4 – Timing of Effect**

**Applicant’s Representation**

The Applicant has requested that the condition be amended as follows:

*Timing of Effect*

4. Prior to Council approval of the Plan of Survey for Lots 1, 2 and 3, Council must be provided with evidence that the works have ‘substantially commenced’ on all buildings and structures approved as Part A of this Decision Notice. Lot 1 and Lot 4 can be registered at any time and any registration of Lot 1 must occur in association with the creation of the required Access Easement.

*Note: For the purposes of this approval, ‘substantially commenced’ means the Development Permit for Building Works has been issued and the works have commenced to the satisfaction of the Chief Executive Officer.*

As noted above, the Applicant has requested the ability for Council to approve the Survey Plan for Lot 1 separately to the Survey Plan for Lot 2 and Lot 3, and prior to works ‘substantially commencing’, as currently required by the conditions of approval.
**Officer's Comment**

Officers have considered the request and are supportive of the representations to stage the development, in accordance with the Staging Plan provided. Accordingly, Officers recommend that Condition 4 is amended, however the amendments do not specify within the condition that Lot 1 and Lot 4 can be created at any time, as this is further reflected in the changes required under the Development Staging component of the representations.

Claire Anderson  
Planning Officer  
Action Officer

Peter Boyd  
Manager Strategic Planning & Approvals

Kelly Reaston  
General Manager Planning & Environment
APPENDIX 1: APPROVED PLAN(S) & DOCUMENT(S)

Stage 1

Stage 2

Lot 4
704 sq m

Emt C
1066 sq m

Lot 3
1824 sq m

Lot 2
1464 sq m

Emt B
1063 sq m

Lot 1
1968 sq m

Thomson Road

Bruce Highway

Future road
Allocation

Proposed Plan of Reconfiguration
Of Lots 1 - 3 Emt's A, B & C
Cancelling Lot 1 on RP 905280

1 Staging Plan
1:400

Collins Street

Agenda – Ordinary Meeting 11 September 2019 - #6165626
lot 4 - land for future transport purposes

lot 2

lot 3

lot 1
Agenda – Ordinary Meeting 11 September 2019 - #6165626
1 3D View 9