

30 June 2026

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Dear Dan

### **Development Application by Flynn Nune Development 6 Pty Ltd ATF Bahrs Scrub 2 Unit Trust at 31 Bahrs Scrub Road, Bahrs Scrub**

We refer to your request for advice regarding the proposed development application for a childcare centre at the above site.

## **Background**

1. You are assisting Flynn Nune Development 6 Pty Ltd ATF Bahrs Scrub 2 Unit Trust (**Applicant**) with a development application for a development permit for a material change of use for childcare centre (118 place) (**Development Application**).
2. The site is located at 31 Bahrs Scrub Road, Bahrs Scrub (**Site**) and is within the Emerging Community zone of the *Logan Planning Scheme 2015* (**Planning Scheme**).

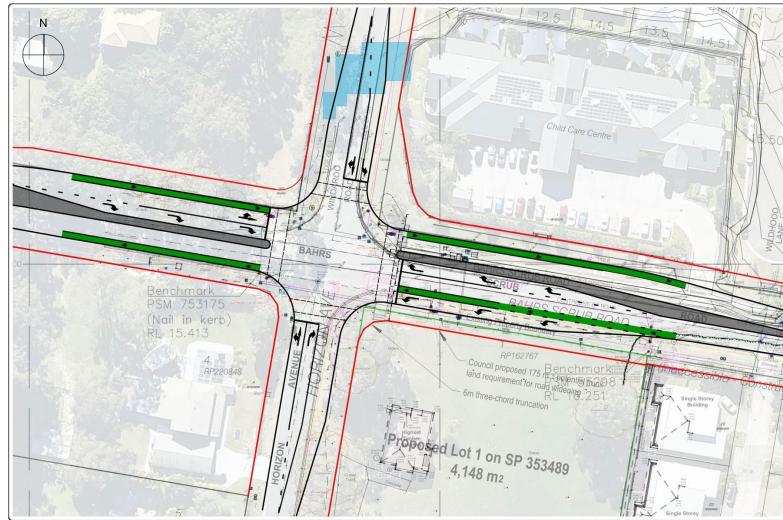
## **The Development Application Proposal**

3. The Development Application proposes a material change of use for a childcare centre, as shown in the proposed plan of development below. Relevantly, the Development Application:
  - (a) proposes 118 childcare placements;
  - (b) proposes an access driveway; and
  - (c) proposes 30 car parking bays.
4. The Site is located outside of Council's priority infrastructure area and has the following characteristics:
  - (a) frontage of 70.077m to Bahrs Scrub Road to the north;
  - (b) frontage of 139.05m to New Horizon Avenue to the west;
  - (c) currently improved by a dwelling house located towards the north-western corner of the site;
  - (d) an existing access driveway from Bahrs Scrub Road;
  - (e) there is a small outbuilding located centrally to the site;

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- (f) there is an existing sewer main along the Bahrs Scrub Road frontage of the Site;
  - (g) there are existing stormwater mains located adjacent to the north-eastern and north-western corners of the Site, in Bahrs Scrub Road; and
  - (h) water mains are located along the Bahrs Scrub Road and New Horizon Avenue frontages of the Site.
5. A preliminary bulk earthworks layout detailing the above infrastructure is included in **Annexure A**.
  6. Further, as part of the Development Application, a peer review of Council's future intersection upgrade has been conducted which confirms a land dedication of a 175m<sup>2</sup> is required for that upgrade. See below.



*Peer review functional layout of Council Roadworks Plan*

## Infrastructure

### Extra Payments Policy

7. The extra payment policy provisions of the Act are not relevant here.
8. For section 130 of the Planning Act to be engaged on these facts, the following elements would need to have been satisfied for Council to be able to impose a development condition requiring the payment of extra trunk infrastructure costs:
  - (a) development is for premises completely or partly outside the PIA;
  - (b) the development would impose extra trunk infrastructure costs on the local government after taking into account either, or both:
    - (i) levied charges for the development; or
    - (ii) trunk infrastructure provided, or to be provided, by the applicant under this part.
9. In our view:
  - (a) the proposed development is completely outside the PIA;
  - (b) the proposed development would not have imposed any extra costs on Council because trunk infrastructure is not proposed nor is it required to be constructed to facilitate the development; and
  - (c) in those circumstances, any reliance on section 130 of the Planning Act to compel the Applicant to include the trunk infrastructure into the Development Application would likely be unlawful (as none is required) and nor is any additional trunk infrastructure contribution required.
10. Relevantly, Council cannot decide to refuse the Development Application based on the extent of the land dedication or by having regard to Council's Extra Payment Policy. These are matters

for conditions and not matters for which an assessment manager can have regard to when assessing the merits of a development application.<sup>1</sup>

11. In simple terms, the application here satisfactorily utilises existing infrastructure and does not impose any additional trunk infrastructure burden on Council. In that circumstance, there is no need for an extra payment condition and such a condition could not be lawfully imposed.

### Land Dedication

12. To the extent Council may contend its concept plans for the Bahrs Scrub Road intersection upgrade are appropriate, the Applicant has obtained expert traffic advice<sup>2</sup> which says the plans:
- (a) are nearly 10 years old and have been prepared based on outdated traffic generation and demand assumptions;
  - (b) require outdated design concepts;
  - (c) propose an excessive amount of land to be dedicated to Council; and
  - (d) have never been formally adopted by Council.
13. Rather, the traffic engineering advice is that a land dedication of 2.4m along Bahrs Scrub Road will adequately accommodate any future intersection upgrade.
14. In our view, any dedication of land ought to be treated the same as the development which has been carried out at 32 Bahrs Scrub Road (opposite the Site). See below extract from the amended development conditions with respect to MCUI/27/2018/1/A.

**Land dedication – Specifically as road reserve (Frontage)**

- 6.2. Dedicate to the state the following land as road reserve:
- 6.2.1. Along the full frontage of the site to Bahrs Scrub Road generally in accordance with *Project No. KJP911, prepared by K.J.Packer, Dated ~~13/2/2019~~ 03/10/2019*, or as shown on the approved plan(s) of development, whichever is greater.
- 6.3. The development must be located outside any planned road widening to protect existing and planned infrastructure networks in accordance with Councils Planning Scheme Policy Part 9 Development codes, Table 9.4.3.3.1 – Infrastructure code accepted development and assessable development. *This condition is imposed under section 128 of the Planning Act 2016.*

*Extract from amended development conditions for MCUI/27/2018/1/A.*

15. In our view:
- (a) where the Applicant has provided material that supports a land dedication of 2.4m along Bahrs Scrub Road will adequately accommodate the future intersection upgrade, it follows that only 2.4m along Bahrs Scrub Road ought to be conditioned to be dedicated to Council;
  - (b) the inclusion of trunk infrastructure ought to be conditioned pursuant to section 128(2) of the Planning Act and offset against any infrastructure charges; and
  - (c) in the alternative, a land dedication is not imposed because it is not reasonably required now.

### Servicing Infrastructure

16. The Applicant as part of the Development Application has prepared the following which addresses the infrastructure required to service the proposal (**Infrastructure Plan**):
- (a) site based stormwater management plan;
  - (b) traffic impact assessment; and
  - (c) engineering services report.
17. The Infrastructure Plan involves the following:

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<sup>1</sup> *Planning Act 2016* (Qld) section 60

<sup>2</sup> 31 Bahrs Scrub Road, Bahrs Scrub – Traffic Impact Assessment, revision C, dated June 2026, prepared by PTT, pages 6 – 7.

- (a) for the delivery of **water** to the childcare centre, a connection is provided to the existing main within the Bahrs Scrub Road verge fronting the Site. The internal water reticulation network will connect to this water main;
  - (b) for the delivery of **sewer** to the childcare centre, a connection is provided to the existing 150mm diameter sewerage main via an upgrade to the existing property connection;
  - (c) an ultimate urban collector cross-section and upgrade to the Bahrs Scrub Road/ New Horizon Avenue/ Windaroo Road intersection;
  - (d) for **Stormwater Quality and Quantity**, the proposed development will treat and detain stormwater to a suitable extent prior to discharge to a lawful point of discharge.
18. In our view, Council ought to be satisfied the proposed development proposes appropriate infrastructure to service the development.
19. Importantly, none of this infrastructure would require upgrades to the existing trunk infrastructure network.

## Conclusion

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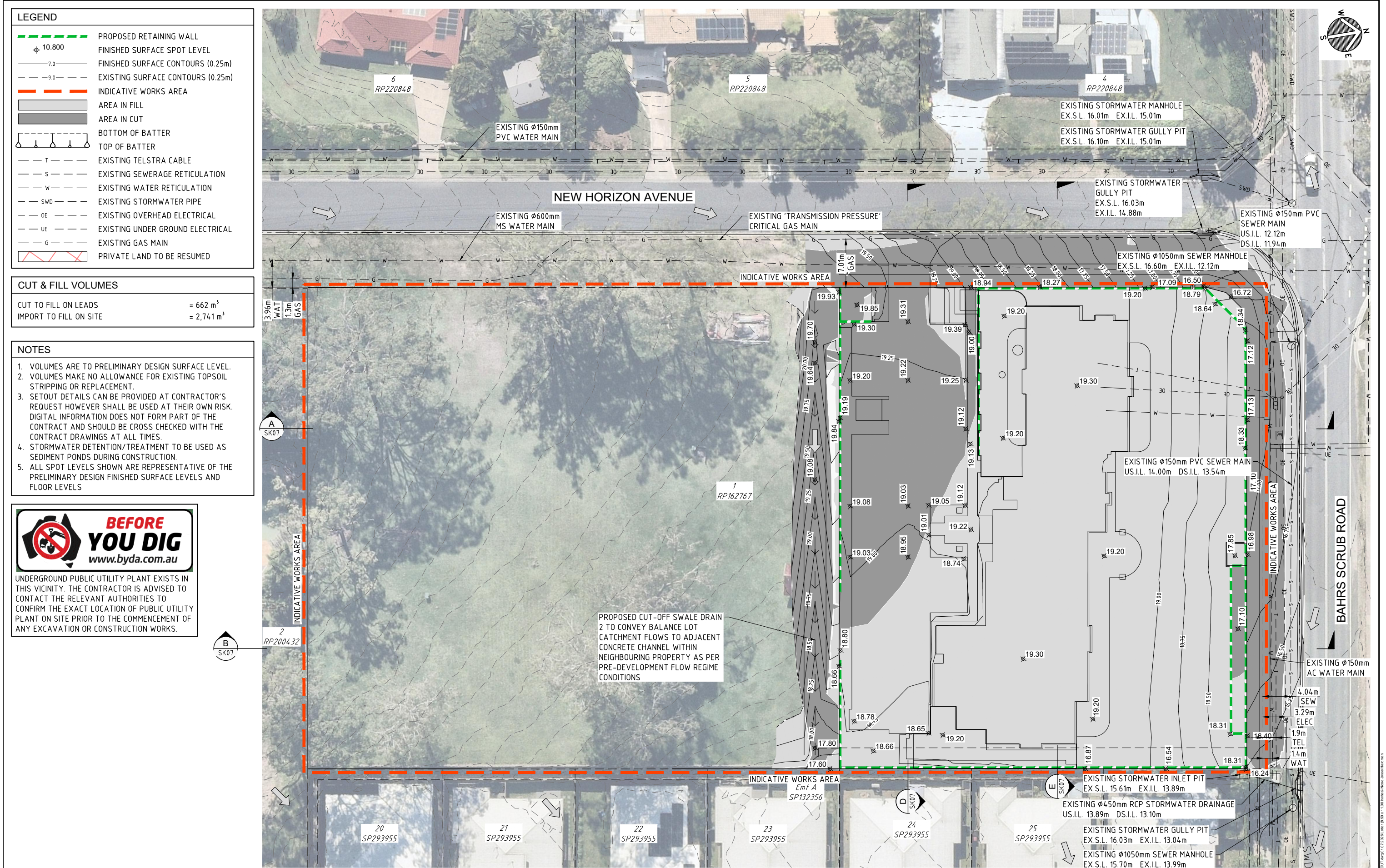
20. In conclusion:
- (a) the extra payment policy provisions are not relevant to this Development Application as there is no extra demand being placed on the trunk infrastructure system which would cause further trunk infrastructure costs to be incurred by Council;
  - (b) the orthodox approach should be to impose a condition that the 175m<sup>2</sup> of frontage is dedicated to Council as trunk infrastructure and offset against the infrastructure charges, consistent with the development at 32 Bahrs Scrub Road (opposite the Site);
  - (c) alternatively, a land dedication is not required as part of the Development Application because it is not reasonably required now (as the future intersection upgrade is not prejudiced by the proposal); and
  - (d) Council ought to be satisfied the proposed development proposes appropriate infrastructure to service the proposed development.

If you have any questions or require further information, please do not hesitate to contact Rayne Nelms +61 7 3228 0483 or [rneilms@millsosakley.com.au](mailto:rneilms@millsosakley.com.au).

Yours faithfully



**RAYNE NELMS**  
**PARTNER**



|                                                                                                                                                                                                                                                                                                                                                                                                                |     |                            |       |            |                                                                                                                                                                             |              |         |            |                                                                                        |                                                                                                                           |                                                         |  |
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|                                                                                                                                                                                                                                                                                                                                                                                                                | A   | ORIGINAL ISSUE             | J.H.  | 09.02.2026 | REVIEW                                                                                                                                                                      | A. CRESSWELL |         | 01.07.2026 |                                                                                        |                                                                                                                           |                                                         |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                | B   | MINOR REVISIONS            | M.G.  | 27.02.2026 | DESIGN                                                                                                                                                                      | J. HARDMAN   |         | 01.07.2026 |                                                                                        |                                                                                                                           |                                                         |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                | C   | LOT & LAYOUT REVISIONS     | M.G.  | 02.04.2026 | DRAWN                                                                                                                                                                       | M. GLASSON   |         | 01.07.2026 |                                                                                        |                                                                                                                           |                                                         |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                | D   | REVISION TO BUILDING LEVEL | C.R.  | 08.04.2026 | <div>SCALE</div> <div></div> <div>(SCALE ABOVE DENOTES ORIGINAL SHEET SIZE - A1)</div> |              |         |            |                                                                                        |                                                                                                                           |                                                         |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                | E   | REVISED BUILDING LEVEL     | J.H.  | 22.04.2026 |                                                                                                                                                                             |              |         |            |                                                                                        |                                                                                                                           |                                                         |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                | F   | GENERAL AMENDMENTS         | J.H.  | 30.06.2026 |                                                                                                                                                                             |              |         |            |                                                                                        |                                                                                                                           |                                                         |  |
|                                                                                                                                                                                                                                                                                                                                                                                                                | G   | GENERAL AMENDMENTS         | J.H.  | 01.07.2026 |                                                                                                                                                                             |              |         |            |                                                                                        |                                                                                                                           |                                                         |  |
| STATUS                                                                                                                                                                                                                                                                                                                                                                                                         |     | APPROVED                   |       |            |                                                                                                                                                                             | RPEQ No      |         |            |                                                                                        |                                                                                                                           |                                                         |  |
| PRELIMINARY<br>(NOT TO BE USED FOR CONSTRUCTION)                                                                                                                                                                                                                                                                                                                                                               |     | DRAWING NUMBER             |       |            |                                                                                                                                                                             | REVISION     |         |            |                                                                                        |                                                                                                                           |                                                         |  |
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