

08/05/2026

Prior BCC Ref: A006229389

ATP Ref: Minor Change Request – 224 Appleby Rd.pdf

The Chief Executive Officer
Brisbane City Council
Planning Services North
Lvl 1 / 266 George Street
Brisbane QLD 4001

Dear Sir / Madam,

RE: REQUEST FOR CHANGE (MINOR) IN ACCORDANCE WITH SECTION 81 OF THE PLANNING ACT 2016 FOR THE APPROVED CHILDCARE CENTRE AT 224 & 226 APPLEBY ROAD STAFFORD HEIGHTS.

This correspondence has been prepared in support of the change application (Minor Change), relating to the development approval for a Childcare Centre that was issued by Brisbane City Council on 22/12/2023 and subsequently amended as part of a Negotiated Decision on 04/03/2024 (Council Reference: A006229389).

The development approval relates to the land located at 224 & 226 Appleby Road Stafford Heights (Lots 399 & 400 on RP100247). The subject site is contained within the Low Density Residential Zone. Several overlays exist over the subject site, however none are materially relevant to this request to change the approval.

The approval granted by Brisbane City Council was for a Material Change of Use (Development Permit) and was subject to Impact Assessment. This approval has a relevant period until 03/06/2030.

The development approval authorises the construction of a two-storey building containing a childcare centre with up to 90 licenced places, with 18 car spaces provided within the parking area. The building has now been constructed and is in the final stages of being finalised with the Department of Education.

There were no referral agencies for the development application which gave rise to the development approval and there are no referral agencies for this change application.

This change application seeks to amend Condition 16 (Outdoor Play Area) of the development approval to allow the use of the outdoor play areas between the hours of 7:00am and 6:00pm. The condition currently reads:

“The outdoor play areas must be limited to a maximum of 7 hours for each child during the daytime period, in a single or multiple play sessions (7am to 6pm). The areas are not to be used in any other times.”

The basis for the requested amendment is set out below.

During preparation of the original Acoustic Report (prepared by Acoustic Works), the centre was assessed against both the Childcare Centre Code and the Community Facilities Code of Brisbane City Plan 2014. The 7-hour daily limitation on use of the outdoor play areas, as reflected in Condition 16 of the development approval, is a requirement that flows from the Community Facilities Code rather than the Childcare Centre Code.

It is noted that there are some acoustic requirements within the Community Facilities Code that conflict with the acoustic requirements of the Childcare Centre Code. As outlined by the note at the end of Section 5.2 of City Plan 2014, where a use forms part of an activity group and is also listed as an individual use in the same table or another table, the categories of development and assessment associated with the individual listing has primacy. As such, where conflicts exist between the Childcare Centre Code and the Community Facilities Code, the Childcare Centre Code takes precedence.

The proposed Childcare Centre is an individually listed use under City Plan 2014 and is assessable against the Childcare Centre Code. In this instance, PO10 of the Childcare Centre Code provides the specific assessment criteria for outdoor play areas and is inconsistent with the requirements of PO2 of the Community Facilities Code. Accordingly, PO10 is the relevant provision for determining the appropriate acoustic requirements for the development. On the basis of the corrected acoustic assessment, the 7-hour daily duration limitation is not a relevant requirement and the condition should instead regulate the hours during which the outdoor play areas may be used.

The updated Acoustic Report prepared by Acoustic Works confirms that use of the outdoor play areas during the daytime period can comply with the relevant assessment criteria, subject to the recommendations in that report. The proposed amendment maintains the 7:00am to 6:00pm daytime use period while removing the unnecessary 7-hour daily duration limitation.



For these reasons, amendment of Condition 16 is sought through this Change (Minor) application.

It is noted that to facilitate the proposed change, the following amendment to the previous approval package is required:

- Amend Condition 16 of the development approval to read as follows:

The outdoor play areas may be used between the hours of 7:00am and 6:00pm. The areas are not to be used at any other times.

No other amendments to the conditions of approval are required. No approved plans or supporting documents are proposed to be removed or substituted. The relevant parts of the acoustic report included with the approval have not been altered and can remain within the approval package; the updated Acoustic Report is provided in support of this request.

In assessing a Change (Minor) application, consideration must first be given to whether the change constitutes a minor change, as defined by the Planning Act 2016. Schedule 2 of the Planning Act 2016 outlines that:

a *minor change* means a change that –

...

(b) for a development approval—

- (i) would not result in substantially different development; and
- (ii) if a development application for the development, including the change, were made when the change application is made would not cause—
 - (A) the inclusion of prohibited development in the application; or
 - (B) referral to a referral agency, other than to the chief executive, if there were no referral agencies for the development application; or
 - (C) referral to extra referral agencies, other than to the chief executive; or
 - (D) a referral agency to assess the application against, or have regard to, matters prescribed by regulation under section 55(2), other than matters the referral agency must have assessed the application against, or have had regard to, when the application was made; or
 - (E) public notification if public notification was not required for the development application.

In determining *substantially different development*, reference is made to Schedule 1 of the Development Assessment Rules, which outlines that –

In determining whether the proposed change would result in substantially different development, the assessment manager or referral agency must



consider the individual circumstances of the development, in the context of the change proposed.

A change may be considered to result in a substantially different development if the proposed change:

- (a) involves a new use; or*
- (b) results in the application applying to a new parcel of land; or*
- (c) dramatically changes the built form in terms of scale, bulk and appearance; or*
- (d) changes the ability of the proposed development to operate as intended; or*
- (e) removes a component that is integral to the operation of the development; or*
- (f) significantly impacts on traffic flow and the transport network, such as increasing traffic to the site; or*
- (g) introduces new impacts or increase the severity of known impacts; or*
- (h) removes an incentive or offset component that would have balanced a negative impact of the development; or*
- (i) impacts on infrastructure provisions.*

Considering these points, the proposed change is not regarded as resulting in a substantially different development:

- The proposal remains for a Childcare Centre on the approved site. As the use is unchanged, Point (a) is not relevant.
- The proposal does not involve any new parcels of land. Therefore, Point (b) does not apply.
- The change does not alter the built form in any way. Accordingly, Point (c) is not triggered.
- The proposed change will not affect the operational capacity of the Childcare Centre. Point (d) is therefore not applicable.
- No integral components have been removed that would affect the function of the development. Point (e) does not apply.
- There are no changes that affect traffic flow or the transport network. No new or intensified impacts are introduced, and no incentive or offset mechanisms were part of the original approval. Infrastructure provisions remain unchanged. As such, Points (f) to (i) are not relevant considerations.

Given the above, the proposed change does not result in substantially different development and therefore satisfies the first test under the definition of a *minor change*.

Likewise, the remaining tests for a change to be considered minor are also achieved by this request:

- The proposed change would not result in prohibited development.



- It would not introduce any new referral agencies or require additional matters to be assessed by existing agencies.

Accordingly, subsections (A) to (D) are met.

It is noted that the original application was subject to Impact Assessment and was publicly notified at the appropriate stage during the assessment process. Therefore, (b)(ii)(E) is not a relevant consideration in determining whether the proposed change is a Minor Change.

All the criteria within the definition for a Minor Change, as outlined in Schedule 2 of the Planning Act 2016, are achieved by this request.

The assessment framework for a change (minor) application is set out in s81 of the Planning Act 2016. Subsection (2) of the provision states:

81 Assessing change applications for minor changes

...

- (2) *In assessing the change application, the responsible entity must consider:*
- (a) *the information the applicant included with the application; and*
 - (b) *if the responsible entity is the assessment manager— any properly made submissions about the development application or another change application that was approved; and*
 - (c) *any pre-request response notice or response notice given in relation to the change application; and*
 - (d) *if the responsible entity is, under section 78A(3), the Minister—all matters the Minister would or may assess against or have regard to, if the change application were a development application called in by the Minister; and*
 - (da) *if paragraph (d) does not apply—all matters the responsible entity would or may assess against or have regard to, if the change application were a development application; and*
 - (e) *another matter that the responsible entity considers relevant.*

The information the applicant has included with this application is the correspondence above, setting out the basis for the requested amendment to Condition 16.

It is acknowledged that 15 properly made submissions were received during public notification of the original application. The submissions raised concerns including traffic, parking, pedestrian safety, noise impacts, and amenity. The proposed amendment to Condition 16 does not affect compliance with the Childcare Centre Code, does not introduce new or intensified impacts and maintains compliance with the relevant acoustic requirements.

There has been no pre-request response notice or response notice given in relation to the change application.



The responsible entity is not the Minister.

The change requested is of no material consequence to Council's previous assessment. The proposed amendment to Condition 16 reflects the precedence rule in Section 5.2 of City Plan 2014, under which the Childcare Centre Code takes precedence over the Community Facilities Code where conflicts exist. The proposed change therefore maintains compliance with the relevant assessment benchmarks.

There are not thought to be any other matters relevant to this request, although I would be happy to discuss any additional matters deemed relevant by Council's assessment team.

This request suitably addresses the requirements for a Minor Change, as defined under the Development Assessment Rules and Planning Act 2016. The proposed change maintains the intent of the original assessment and approval and is considered to warrant approval by Brisbane City Council.

Please do not hesitate to contact me should you have any queries regarding this request.

Thank you for your attention in this matter. We look forward to receiving Council's advice regarding this minor change application.

Kind regards

ATOMIC TOWN PLANNING



**LAURIE BEVERLEY M. URB DEV., MPIA
PRINCIPAL TOWN PLANNER**

