

OUR REF: 5738

Council Ref: MCU201800656/PN163781/01/DA1

23 January 2019

The Chief Executive Officer
Gold Coast City Council
PO Box 5042
GOLD COAST MC QLD 9729

Via email: mail@goldcoast.qld.gov.au

Attention: Thalia Allsop

Dear Thalia,

**RE: REQUEST TO MAKE A MINOR CHANGE APPLICATION TO PRELIMINARY
APPROVAL FOR MAKING A MATERIAL CHANGE OF USE TO OVERRIDE THE
PLANNING SCHEME FOR INDUTRY USES
SECTION 78 OF PLANNING ACT 2016
COUNCIL REF: MCU201800656/PN163781/01/DA1**

**PROPERTY: 60 STAPYLTON JACOBS WELL ROAD, STAPYLTON & 1 YELLOWWOOD
ROAD, STAPYLTON (LOT 501 ON SP295994 & LOT 4 ON RP 6843)**

We act on behalf of the KS8 Pty Ltd, who seek a request to make a minor change application under s78 of the *Planning Act 2016 (PA)* for the above mentioned property.

We enclose the following:

- Planning Act 2016 Form 5 Change Application, **Attachment 1**;
- GCCC Change Application Form and Fee for Service approval, **Attachment 2**;
- Owners Consent, **Attachment 3**; and
- Decision Notice MCU201800656, **Attachment 4**.

As the application will be lodged electronically, the prescribed fee of **\$1,028.00** will be paid upon receiving Council's invoice.

Attached is Councils approval for a Fee for Service request (FFS/2019/2) dated 9 January 2019, refer **Attachment 2**. Recent discussions with Jack Collings, Technical Officer DART Team, has confirmed acceptance of this fee.

1.0 SITE DESCRIPTION

Table 1 - Site Summary	
Site Address	60 Stapylton Jacobs Well Road, Stapylton QLD 4207 1 Yellowwood Road, Stapylton QLD 4207
Real Property Description	Lot 501 on SP295994 Lot 4 on RP6843
Total Site Area	771,610m ²
Current Site Use	Industry
Local Authority	Gold Coast City Council
Zoning	60 Stapylton Jacobs Well Road, Stapylton, Low impact industry, Future low impact industry precinct, Medium impact industry, Future medium impact industry 31 Yellowwood Road, Stapylton Open Space

2.0 APPROVAL HISTORY

Table 2 - Approval History	
Approval Reference	Comment
MCU201100650 Dated: 6 May 2013	Preliminary Approval for Making a Material Change of Use (Impact Assessment) to Override The Planning Scheme for Industry Uses
MCU201601390 Dated: 1 November 2016	Request to Change an Existing Approval (Extended 3 May 2023)
MCU201701550 Dated: 23 November 2017	Change Application approval including amended suite of development conditions for MCU201100650
MCU201701550 Dated: 6 March 2018	Submission to satisfy conditions of approval (Landuse Classification and Staging Plan, and Generations Industrial Park Place Code)
MCU201800656 Dated 27 November 2018	Change application approval including amended suite of development conditions for MCU201100650

3.0 BACKGROUND

A Decision Notice was recently issued for a Change application approval to include an amended suite of development conditions for MCU201100650, for the Preliminary Approval for making a Material Change of Use to override the Planning Scheme for industry uses (Council Ref: MCU201800656) dated 27 November 2018).

A review of the approval conditions indicated that administrative errors were prevalent, and require amending to ensure there is no confusion in the future referencing to the Land Use Classification and Staging Plan, and to incorporate the approved Condition 70 into the consolidated set of conditions.

Reference to when batters proposed within the buffer area in Condition 15(f)(v) should reflect the Land Development Guidelines at 1V:2H, and not the stated 1V:3H, when the batter is within cut, and therefore, requested to be amended accordingly.

4.0 CHANGES REQUESTED UNDER SECTION 78 OF THE *PLANNING ACT 2016*

The Applicant proposes the conditions be amended as outlined below:

Table 3 Summary of Requested Condition Changes			
Condition No.	Condition Aspect	Requested Change	Justification
PART C 2(a)(ii)	Staged construction of development	Amend Condition	The Landuse Classification and Staging Plan referred to should refer to the plan date of 07 August 2018 , not 23/08/18.
Part C 9	Staged development	Amend Condition	The Landuse Classification and Staging Plan referred to should refer to the plan date of 07 August 2018 , not 23/08/18.
Part C 15(f)(v)	Detailed landscape plan to be submitted for approval relating to landscape buffers within Stage 1, 2 and 4	Amend Condition	The reference to when the batter is within cut is at 1V:3H, is not consistent with Council's Land Development Guidelines, and should be amended to reflect 1V:2H accordingly.
Part C 24(a)	Transfer of open space	Amend condition	The Landuse Classification and Staging Plan referred to should refer to the plan date of 07 August 2018 , not 23/08/18.
Part C 70	Relocation of active Wedge-tailed eagles nest within Precinct C	Insert Condition	Reference has been made to inclusion of an amended Condition 70, refer Page 16 of 38 Decision Notice, however, the condition has not been

			incorporated into the consolidated set of conditions.
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5.0 PLANNING ACT 2016 LEGISLATIVE AND STATUTORY CONSIDERATIONS

5.1 PLANNING ACT 2016 – MINOR CHANGE ASSESSMENT PROVISIONS

To assist the determination of this minor change application, detailed assessment of the requested changes has been undertaken against the assessment provisions as outlined within section 81 of the *Planning Act 2016* in which the responsible.

The outcome of this assessment is as follows:

81(3)(a) *must assess against, or have regard to, the matters that applied when the development application was made; and*

Comment: The original development application was considered under the 2003 Planning Scheme that identified the subject land as Future Business and Industry Precinct and Open Space Precinct of the Yatala Enterprise Local Area Plan

The Preliminary Approval allowed for making a Material of Change to override the Planning Scheme for Industry Uses.

This request does not alter the matters that applied when the development application was made.

81(3)(b) *may assess against, or have regard to, the matters that applied when the change application was made.*

Comment: A review of the approval conditions indicated that administrative errors were prevalent and require amendments to ensure there was no confusion in the future referencing to the Land Use Classification and Staging Plan, and incorporation of the approved Condition 70 in to the suite of conditions.

Reference to when batters are within cut should reflect the Land Development Guidelines at 1V:2H, and requested to be amended accordingly.

5.2 PLANNING ACT 2016 SCHEDULE 2 (DICTIONARY)

Chapter 1 Section 6 of the *PA* provides the Definitions and meanings of particular words used throughout the Act, and refers specifically to the Dictionary in Schedule 2.

Schedule 2 provides the definition of ‘minor change’:

- (a) for a development application; and
- (b) for a development approval.

For this particular application request, a minor change ‘for a development approval’ is relevant.

The definition assists in providing a guideline to the compliance within meaning of minor change, and is presented in the below table.

Table 4 Minor Change	
(b) for a development approval-	Comment/Compliance
(i) would not result in substantially different development; and	Complies The proposal does not result in substantially different development, as indicated in Table 5 below. It is the same land use, within the same development footprint and site area. As such, the proposal is seen as generally consistent with the original approval.
(ii) if a development application for a development including the change, were made when the change application is made would not cause – (A) the inclusion of prohibited development in the development; 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 officer; or (D) a referral agency to assess the application against, or have regard to, matters prescribed by a regulation under section 55(2), other than matters the referral agency must have assessed the application	Complies The proposed change would not result in prohibited development. Not Applicable Not Applicable Not Applicable

Table 4 Minor Change

(b) for a development approval-	Comment/Compliance
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.	Complies The development application has always required impact assessment.

Table 5 DA Rules Schedule 1 – Substantially different development

A change may be considered to result in a substantially different development if the proposed change:	
Test	Comment/Compliance
(a) involves a new use; or	Complies Proposal does not involve a new use or additional impacts above what was originally approved.
(b) results in the application applying to a new parcel of land; or	Complies The proposal is over the same parcel of land.
(c) dramatically changes the built form in terms of scale, bulk and appearance; or	Complies The proposal does not involve a dramatic change in built form in terms of scale, bulk and appearance.
(d) changes the ability of the proposed development to operate as intended; or	Complies The proposal does not change the ability of the land use to function or operate.
(e) removes a component that is integral to the operation of the development; or	Complies The proposal does not remove any integral component to the proposed development or operation of the development.
(f) significantly impacts on traffic flow and the transport network, such as increasing traffic to the site; or	Complies The proposal does not involve a change to the type and yield of development. Accordingly, the traffic generation potential and nature (scale, location etc) of traffic flows and impacts will be generally consistent with the already approved application.
(g) introduces new impacts or increase the severity of known impacts; or	Complies The proposal will not introduce or exacerbate any portion of the proposed development that already has been assessed as part of the approved application.
(h) removes an incentive or offset component that would have balanced	Complies

a negative impact of the development; or	The proposal does not remove any incentive or offset component in relation to the proposed development.
(i) impacts on infrastructure provisions.	Complies The proposal does not involve a change that would impact on the provision of planned infrastructure.

Given the above, we are of the position that the proposed changes generally comply with the relevant provisions under the *Planning Act 2016*.

6.0 CONCLUSION

Having consideration to the above compliance statement and attached information, it is considered that the proposed change to the conditions of approval are relatively minor in nature and are consistent with those that are generally envisaged under s78 of the *Planning Act 2018*.

If you require any further information or have any queries, please contact the undersigned.

Yours faithfully,

GASSMAN DEVELOPMENT PERSPECTIVES PTY LTD



Barry Craddock

Senior Town Planner

Attachment 1 - Planning Act 2016 Form 5 Change Application

Attachment 2 - GCCC Change Application Form and Fee for Service (FFS/2019/2)

Attachment 3 - Owners Consent

Attachment 4 - Decision Notice MCU201800656/PN163781/01/DA1

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