

Date: 1 December 2015
Contact: Madison Ruygrok
Location: City Development
Telephone: (07) 5582 8866
Our reference: PN184540/02/DA9
ROL201500416

Patricia Ann and William Arthur Hester
C/- Gassman Development Perspectives
PO Box 392
BEENLEIGH QLD 4207

Dear Sir/Madam

DECISION NOTICE TO APPLICANT

Application type **RISKSMA RT RECONFIGURATION OF A LOT (AMENDMENT TO LEASE BOUNDARY)**

Property description Lot 240 on W31320

Property location 82 Christensen Road, Staplyton

I wish to advise that on 1 December 2015 the above application was resolved as outlined in the enclosed document. The conditions indicate whether the assessment manager or a concurrence agency imposed them.

An extract from the [Sustainable Planning Act 2009](#), which details your appeal rights, is attached.

You are advised that no submissions were received in regard to this application.

If you do not appeal the decision, this decision notice is taken to be the development approval and has effect immediately.

Contacting us

Should you wish to clarify any issues contained in this letter, please do not hesitate to contact Planning Assessment area on (07) 5582 8866.

Yours faithfully

Roger Sharpe
Executive Coordinator Planning Assessment
For the Chief Executive Officer
Council of the City of Gold Coast

RECOMMENDATION

It is recommended the Council of the City of Gold Coast (Council) resolve:

Real property description	Lot 240 on W31320
Address of property	82 Christensen Road, Staplyton
Area of property	526,090m ²
Decision type	Development Permit for Reconfiguring a Lot (Amendment to Lease Boundary)
Further development permits	None
Further compliance permits	Plan Sealing
Compliance assessment required for documents or works	None

NATURE OF DECISION

- A** Under Delegated Authority the Manager of the City Development Branch approves the issue of a development permit for reconfiguring a lot for a Amendment to Lease Boundary, subject to the following conditions:

APPROVED DRAWINGS

1 Development to be generally in accordance with specified plans/drawings

The development must be carried out generally in accordance with the approved plans/drawings listed below, stamped and returned to the applicant with this decision notice.

Plan No.	Rev.	Title	Date	Prepared by
1292 P SAP	02	Site Analysis Plan	23/11/2015	Gassman Development Perspectives

The conditions of this approval are to be read in conjunction with the attached stamped approved plans/drawings. Where a conflict occurs between the conditions of this approval and the stamped approved plans/drawings, the conditions of this approval shall take precedence.

2 Decision notice and approved plans/drawings to be submitted with subsequent application A copy of this decision notice and accompanying stamped approved plans/drawings must be submitted with any building development application relating to or arising from this development approval.	Timing As indicated within the wording of the condition.
3 Decision notice and approved plans/drawings to be retained on site A copy of this decision notice and stamped approved plans/drawings must be retained on site at all times. This decision notice must be read in conjunction with the stamped approved plans to ensure consistency in construction, establishment and maintenance of approved works.	Timing At all times.
4 Compliance with Land Development Guidelines and operational work development permits	Timing

Unless otherwise specified in the conditions of this development permit, all works the subject of this approval must: - a Be designed, constructed and maintained in accordance with <i>Planning Scheme Policy 11 – Land Development Guidelines, Standard Specifications and Drawings</i>; - b In the case of assessable development, be approved by effective development permits for operational work prior to such works commencing, as this approval does not include approval of any operational work; and - c Where any Standard and/or Specification and/or Code and/or Document as referred to or referenced in the <i>Land Development Guidelines</i> has been replaced or superseded, then the later or new Standard and/or Specification and/or Code and/or Documents are to be used. To be clear, the latest edition of any Standard, Specification, Code or Document is to take precedence.	At all times.
WORKS OF COMPLIANCE	
5 Certification of compliance All works must be certified by a suitably qualified professional as complying with the approved plans. The applicant must submit the certification to Council. For this condition, a ‘suitably qualified professional’ is a person with tertiary qualification and professional affiliation in the field of engineering or science relevant to the works and/or management plan and who has at least two years experience in management in that field. Where the works and/or management plans involve different fields, a certification is required from a suitably qualified professional for each separate field.	Timing Prior to the earliest of compliance assessment of the subdivision plan, the commencement of the ‘On Maintenance’ period or the commencement of the use.
SUBDIVISION LEASE	
6 Terms of Lease Terms and conditions of any lease agreement are not to conflict with any conditions of Council’s permits and/or approvals pertaining to the overall site. Should any conflict arise then the conditions of Council’s permits/approval will prevail.	Timing At all times.
7 Copy of Lease A copy of the lease agreement shall be lodged with Council for Council’s records at the same time as the survey plan for the lease area is lodged for endorsement with Council.	Timing Prior to the sealing of survey plans.
8 Existing Permits All conditions of the existing development permit covering the whole of the site for the Shopping Centre and Fast Food Premises (MCU201300389 // PN PN327468/13/DA1) continue to apply to the lease area.	Timing At all times.

ALTERATIONS TO SERVICES, INFRASTRUCTURE AND/OR ROAD RESERVE

9 Connection to, alteration or realignment of Council infrastructure

- a The applicant must, in respect of any connection to, alteration or realignment of Council infrastructure, regardless of its location (i.e. within road/park reserve or private property), do the following:
- i Ensure that the proposed works comply with *Planning Scheme Policy 11 – Land Development Guidelines, Standard Specifications and Drawings*;
 - ii Apply for and obtain a development permit for operational work (works for infrastructure) for the proposed works;
 - iii Enter into a bond agreement to ensure damage is not caused to Council infrastructure and to secure the satisfactory completion of the ‘On Maintenance’ period; and
 - iv Submit ‘As Constructed’ data in accordance with *Planning Scheme Policy 11 – Land Development Guidelines, Standard Specifications and Drawings*.
- b The connection to, alteration or realignment, once approved, must be undertaken by the applicant, at no cost to Council, and be to the satisfaction of the Chief Executive Officer.

This condition is imposed in accordance with Section 665 of the Sustainable Planning Act (2009).

Information note:

Such connection to, alteration or realignment works may include but not limited to, fire hydrants, water service meters, sewer man hole covers, stormwater drainage infrastructure, reinstatement of disused driveway crossovers with kerb and channel, footpaths, road pavement, kerb and channel, kerb ramps, medians and traffic islands, road furniture, signage and linemarking.

Where such works will require the alteration, realignment or in any way impact on other public utility infrastructure (e.g. telecommunications, electricity, gas) the applicant must obtain the necessary approvals from the relevant public utility authority prior to works commencing.

Timing

Any connections, alterations or realignment must be completed prior to the commencement of the use of the premises, a request for compliance assessment of the subdivision plan or the issuing of a certificate of classification, whichever occurs first.

ADVISORY NOTES TO APPLICANT

B Rights of appeal

The applicant has a right of appeal to the Planning and Environment Court regarding this decision, pursuant to [section 461 of the Sustainable Planning Act 2009](#). A copy of that section is attached to the decision notice.

For particular material changes of use, an appeal can also be made to a Building and

Development Committee. Please refer to the prerequisites in [sections 519 and 522 of the Sustainable Planning Act 2009](#), attached to this decision notice, to determine whether you have appeal rights to a Building and Development Committee.

C Applicant responsibilities

The applicant is responsible for securing all necessary approvals and tenure, providing statutory notifications and complying with all relevant laws.

Nothing in this decision notice alleviates the need for the applicant to comply with all relevant local, State and Commonwealth laws and to ensure appropriate tenure arrangements have been made where the use of/reliance upon land other than that owned by the applicant is involved. Without limiting this obligation, the applicant is responsible for:

- a Obtaining all other/further necessary approvals, licences, permits, resource entitlements etc by whatever name called required by law before the development the subject of this approval can be lawfully commenced and to carry out the activity for its duration;
- b Providing any notifications required by law (by way of example only, to notify the administering authority pursuant to the *Environmental Protection Act 1994* of environmental harm being caused/threatened by the activity, and upon becoming aware the premises is being used for a 'notifiable activity');
- c Securing tenure/permission from the relevant owner to use private or public land not owned by the applicant (including for access required by conditions of approval);
- d Ensuring the correct siting of structures on the land. An identification survey demonstrating correct siting and setbacks of structures may be requested of the applicant to ensure compliance with this decision notice and applicable codes;
- e Providing Council with proof of payment of the Portable Long Service Leave building construction levy (or proof of appropriate exemption) where the value of the Operational Works exceeds \$150,000. Acceptable proof of payment is a Q.Leave – Notification and Payment Form approved by the Authority. Proof of payment must be provided before Council can issue a development permit for the Operational Works. This is a requirement of section 77(1) of the *Building and Construction Industry (Portable Long Service Leave) Act 1991*; and
- f Making payment of any outstanding Council rates and charges applicable to the development site prior to the lodgement of subdivision plans.

D Indigenous cultural heritage legislation and duty of care requirement

The *Aboriginal Cultural Heritage Act 2003* ('**AHCA**') is administered by the Department of Aboriginal and Torres Strait Islander and Multicultural Affairs (DATSIMA). The AHCA establishes a duty of care to take all reasonable and practicable measures to ensure any activity does not harm Aboriginal cultural heritage. This duty of care:

- a Is not negated by the issuing of this development approval;
- b Applies on all land and water, including freehold land;
- c Lies with the person or entity conducting an activity; and
- d If breached, is subject to criminal offence penalties.

Those proposing an activity involving surface disturbance beyond that which has already occurred at the proposed site must observe this duty of care.

Details of how to fulfil this duty of care are outlined in the duty of care guidelines gazetted with the AHCA.

The applicant should contact DATSIMA's Cultural Heritage Coordination Unit on (07) 3405 3050 for further information on the responsibilities of developers under the AHCA.

Sustainable Planning Act 2009

APPEAL RIGHTS FOR APPROVAL OR REFUSAL OF DEVELOPMENT APPLICATIONS FOR MATERIAL CHANGE OF USE, RECONFIGURATION OF A LOT OR OPERATIONAL WORKS APPLICATIONS.

461 Appeals by applicants

- (1) An applicant for a development application may appeal to the court against any of the following:
 - (a) the refusal, or the refusal in part, of the development application;
 - (b) any condition of a development approval, another matter stated in a development approval and the identification or inclusion of a code under section 242;
 - (c) the decision to give a preliminary approval when a development permit was applied for;
 - (d) the length of a period mentioned in section 341;
 - (e) a deemed refusal of the development application;
- (2) An appeal under subsection (1)(a), (b), (c) or (d) must be started within 20 business days (the applicant's appeal period) after:
 - (a) if a decision notice or negotiated decision notice is given - the day the decision notice or negotiated decision notice is given to the applicant;
 - (b) otherwise, the day a decision notice was required to be given to the applicant.
- (3) An appeal under subsection (1)(e) may be started at any time after the last day of a decision on the matter should have been made.