

OUR REF: 5941
YOUR REF: MCU201701650
MCU201800656 & MIN/2019/27 (Change Applications)
PN163781/01/DA1

19 December 2019

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

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

Dear Sir/Madam,

RE: REQUEST TO MAKE A MINOR CHANGE APPLICATION TO DEVELOPMENT APPLICATION FOR MATERIAL CHANGE OF USE – PRELIMINARY APPROVAL TO OVERRIDE THE PLANNING SCHEME FOR INDUSTRY USES

AT: 60 STAPYLTON JACOBS WELL ROAD, 82 CHRISTENSEN ROAD AND 31 YELLOWWOOD ROAD, STAPYLTON QLD 4207 (LOT 500 AND 501 ON SP295994 AND LOT 4 ON RP6843 (FORMALLY LOT 1 ON RP6882, LOT 240 ON W31320 & LOT 4 ON RP6843))

We act on behalf of the Frasers Property 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**;
- Decision Notice MIN/2019/27, **Attachment 4**;
- Amended M38 Industrial Estate Place Code, **Attachment 5**;
- Amended M38 Industrial Estate Landuse Classification and Staging Plan, **Attachment 6**;
- Amended Acoustic Report, **Attachment 7**; and
- Amended Landscape Intent Plan, **Attachment 8**.

As per the Fee For Service request FFS/2019/193, the agreed fee of **\$4,900.00** will be paid upon receiving Council's invoice.

1.0 SITE DESCRIPTION

Table 1 - Site Summary	
Site Address	60 Stapylton Jacobs Well Road, 82 Christensen Road and 31 Yellowwood Road, Stapylton Qld 4207
Real Property Description	Lot 500 on SP295994, Lot 501 on SP295994 and Lot 4 on RP6843 (Formally Lot 1 on RP6882, Lot 240 on W31320 & Lot 4 on RP6843)
Total Site Area	771,610m ²
Current Site Use	Industry
Local Authority	Council of the City of Gold Coast
Zoning	60 Stapylton Jacobs Well Road and 82 Christensen 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 (Land use 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
OPW201800486 27 November 2018	Development approval for Operational Work – Tree Works
OPW201800485 27 November 2018	Development approval for Operational Work – Change to Ground Level/Carparking

OPW201801219 12 December 2018	Development approval for Operational Work – Tree Works
OPW201801218 12 December 2018	Development approval for Operational Work – Change to Ground Level/Carparking
ROL/2018/79 1 March 2019	Development application approving Stage 1 ROL under the preliminary approval with supporting civil design and vegetation clearing.
MIN/2019/27 20 February 2019	Change application to the Preliminary Approval to amend staging and associated conditions.

3.0 BACKGROUND

Since approval of Stage 1 of the M38 industrial development, ownership of the subject site has changed to Frasers Property Group Pty Ltd (Frasers). Frasers intent to proceed with development of the subject site in accordance with the Preliminary Approval, however, seek to enact an alternative lot layout within Stage 1. As part of these changes, the extent of Stage 1 is proposed to be changed, and therefore, amendment of the associated preliminary approval requires amendment to ensure all related approvals are consistent.

By way of background, a subsequent minor change application will also be lodged over the approved Reconfiguring a Lot subdivision for proposed changes to the extent of Stage 1, Council reference ROL/2018/79.

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

The proposed changes are proposed to allow an alternate lot layout and road network to that already approved, in addition to minor amendments to the approved staging layout. The new layout will not change the location, extent or development provisions of any precinct. Notably, 24 hour operations are proposed within Precinct A. To ensure noise and amenity impacts are appropriately mitigated, a revised Acoustic Report has been provided that details appropriate mitigation measures, including a higher acoustic barrier along Precinct A's western boundary and building and design requirements.

Amendments to the Landscape Intent Plan have also been included to ensure consistency with the Acoustic Report recommendations and the most recently approved landscaping treatments within the development (referenced within Stage 1 approval, ROL/2018/79).

Based on the new lot layout, relevant supporting plans and information has been updated, including:

- M38 Industrial Estate Place Code;
- Amended M38 Industrial Estate Landuse Classification and Staging Plan;
- Amended Hester Land Stapylton Acoustic Report; and
- Amended Landscape Intent Plan.

The subject site has already been cleared in accordance with Operational Work approvals OPW201800486 and OPW201801219. As this part of works is complete for the proposed development, no changes are required or proposed to this aspect of the preliminary approval.

The Applicant proposes the conditions be amended as outlined below:

Table 3 Summary of Requested Condition Changes			
Condition No.	Condition Aspect	Requested Change	Justification
1	Approved plans / drawings / documents	Amend condition	Amend condition to reflect updated Place Code and Landuse Classification and Staging Plan date, drawing number and version.
2	Staged construction of development	Amend condition	Amend condition to reflect updated Landuse Classification and Staging Plan date, drawing number and version.
9	Staged development	Amend condition	Amend condition to reflect updated Landuse Classification and Staging Plan date, drawing number and version.
15 (c) (ii)	Western boundary fence and landscaping	Amend condition	Amended condition to reflect updated Landscape Intent Plan.
15 (e) (ii)	Western boundary fence	Amend condition	Amended condition to increase maximum fence height to 2.4m in accordance with amended Acoustic Report.
24	Transfer of open space	Amend condition	Amend condition to reflect updated Landuse Classification and Staging Plan date, drawing number and version.
30	Acoustic report	Amend condition	Amend condition to reflect updated Acoustic Report date, drawing number and version.
31	Acoustic report	Amend condition	Amend condition to reflect updated Acoustic Report date, drawing number and version as well as specific building/fencing design requirements.
32	Landscape buffer	Amend condition	Amend condition to reflect updated Landscape Intent Plan date, drawing number and version.
33	Certificate of Compliance	Amend condition	Amend condition to reflect updated Acoustic Report date, drawing number and version.
35	Hours of operation	Amend condition	Amend condition to allow 24 hour operation.
36	Delivery and collection activities	Amend condition	Amend condition to allow 24 hour operation.

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* (PA) 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: The preliminary approval under which the original development application was made is still in effect over the subject site. The proposed changes will maintain overall consistency with the existing preliminary approval, albeit minor alterations to the proposed development layout in response to current market conditions and industrial land product demand.

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 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 proposed change would not result in prohibited development. Not Applicable There were referral agencies triggered for the original development application. Complies No extra referral agencies will be triggered for referral. Complies No additional assessment matters are required to be assessed by a referral agency. Complies Public notification was required for the original development application.

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 parcels 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 will maintain consistency with that originally approved, and therefore, significantly different impacts to the transport network are not expected.
(g) introduces new impacts or increase the severity of known impacts; or	Complies The extent of this change will not introduce any new impacts, nor increase the severity of any known impacts.
(h) removes an incentive or offset component that would have balanced a negative impact of the development; or	Complies 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 PA.

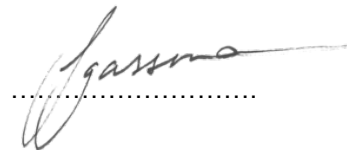
6.0 CONCLUSION

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 PA.

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

Yours faithfully,

GASSMAN DEVELOPMENT PERSPECTIVES PTY LTD

A handwritten signature in dark ink, appearing to read 'Gassman', is written over a horizontal dotted line.

FRASER GASSMAN

TOWN PLANNER

Enclosed:

- Attachment 1: Planning Act 2016 Form 5 Change Application
- Attachment 2: Council Change Application Form and Fee for Service approval
- Attachment 3: Owners Consent
- Attachment 4: Decision Notice ROL/2018/79
- Attachment 5: Amended M38 Industrial Estate Place Code, Attachment 5
- Attachment 6: Amended M38 Industrial Estate Landuse Classification and Staging Plan
- Attachment 7: Amended Hester Land Stapylton Acoustic Report
- Attachment 8: Amended Landscape Intent Plan