

DELEGATED ITEM **CITY DEVELOPMENT BRANCH**
REPORT ON MINOR CHANGE TO PRELIMINARY APPROVAL FOR MAKING A
MATERIAL CHANGE OF USE (IMPACT ASSESSMENT) TO OVERRIDE THE PLANNING
SCHEME FOR INDUSTRY USES AT 31 YELLOWOOD ROAD, 60 STAPYLTON JACOBS
WELL ROAD AND 82 CHRISTENSEN ROAD STAPYLTON
PN163781/01/DA1

Refer xxxx page attachment

1 APPLICATION SUMMARY

Application information			
Address	31 Yellowood Road, 60 Stapylton Jacobs Well Road and 82 Christensen Road, Stapylton		
Lot and plan	Lot 4 on RP6843 , Lot 1 on RP6882 and Lot 240 on W31320		
Site area	771, 610m ²		
Zone / Precinct	Low impact industry Zone (Future low impact industry precinct), Medium impact industry Zone (Future medium impact industry precinct) and High impact industry Zone		
Overlays	• Acid sulfate soils, • Bushfire hazard area • Koala habitat areas • Vegetation management • Local significant wetlands 100m buffer area • 100m transport route separation area • Flood assessment required • Industry interface area • Landslide hazard • Transport noise corridors • Property adjacent to State controlled road		
Approved development	Preliminary Approval for making a Material Change of Use to override the Planning Scheme for industry uses		
Date of development approval	26 February 2013		
Approval authority	Council		
Level of assessment	Impact Assessment		
Applicant and Applicant's consultancy team	KS8 Pty Ltd C/- Gassman Development Perspectives		
Land owner	W A & P A Hester		
Application sought	Minor Change application		
Proposed changes to the development approval	Minor change to amend the table of development in relation to the size of the lots (4,000m ² to 2,000m ²) to bring the approval in line with the City Plan.		
Proposed changes to the currency period	No change to the currency period is requested as part of this application.		
Proposed changes to conditions	Condition No.	Applicant Request	Recommendation
	B 2 a	Amend	Support

	C 1 a	Amend	Support
	69	Amend	Supported
Decision due date	23 November 2017		
Referral agency(s)	Not applicable to the minor change application. Referral agencies applicable to the original approval were: - Department of Natural Recourses and Mines; - Department of Transport and Main Roads; and - Department of State Development Infrastructure and Planning		
Officer's recommendation	Approve		
Approval Details			
Reference of originating development approval	MCU201100650		
Date of originating development approval decision notice	04 March 2013		
Reference of most recent change application	MCU201601390		
Date of most recent change application decision notice	01 November 2016		

2 PROPOSAL

Council is in receipt of an application for a minor change to a development approval/conditions in relation to a Preliminary Approval for making a Material Change of Use to override the Planning Scheme for Industry Uses at 31 Yellowwood Road, 60 Stapylton Jacobs Well Road and 82 Christensen Road, Stapylton.

The proposed minor change seeks to amend the approved Plan of Development relating to Reconfiguring a Lot for Precincts A and B. Currently the Plan of Development states lot sizes with an area less than 4,000m² are Impact assessable. The proposed amendment will reduce the 4,000m² minimum lot size requirement to a minimum of 2,000m² to align the Preliminary Approval with the City Plan.

A minor change is also proposed to amend the condition relating to compliance with the concurrence agency correspondence given at the time of the original approval, to allow concurrency agencies to amend their notices without the subsequent need to make a further minor change to council's approval.

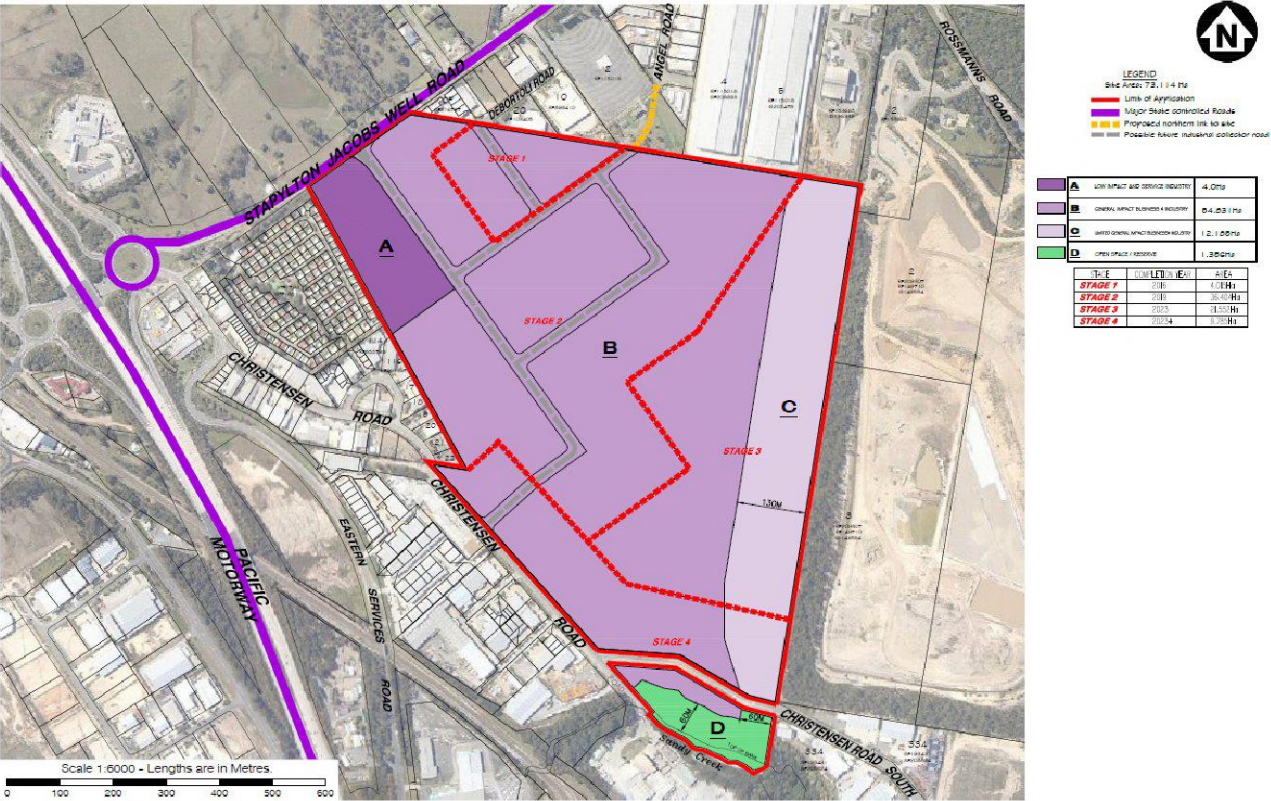
The application is assessed in accordance with the following Part 5 sections of the *Planning Act 2016*, in particular:

- Section 78 minor change to the development approval/conditions

The following condition(s) outcomes are outlined in the table and discussed in further detail in the planning assessment section of the report:

Condition No.	Summary of recommendation
Condition B 2 a	The applicant requests this condition be amended. Council agrees with the request to amend the condition.
Condition C 1 a	The applicant requests this condition be amended. Council agrees

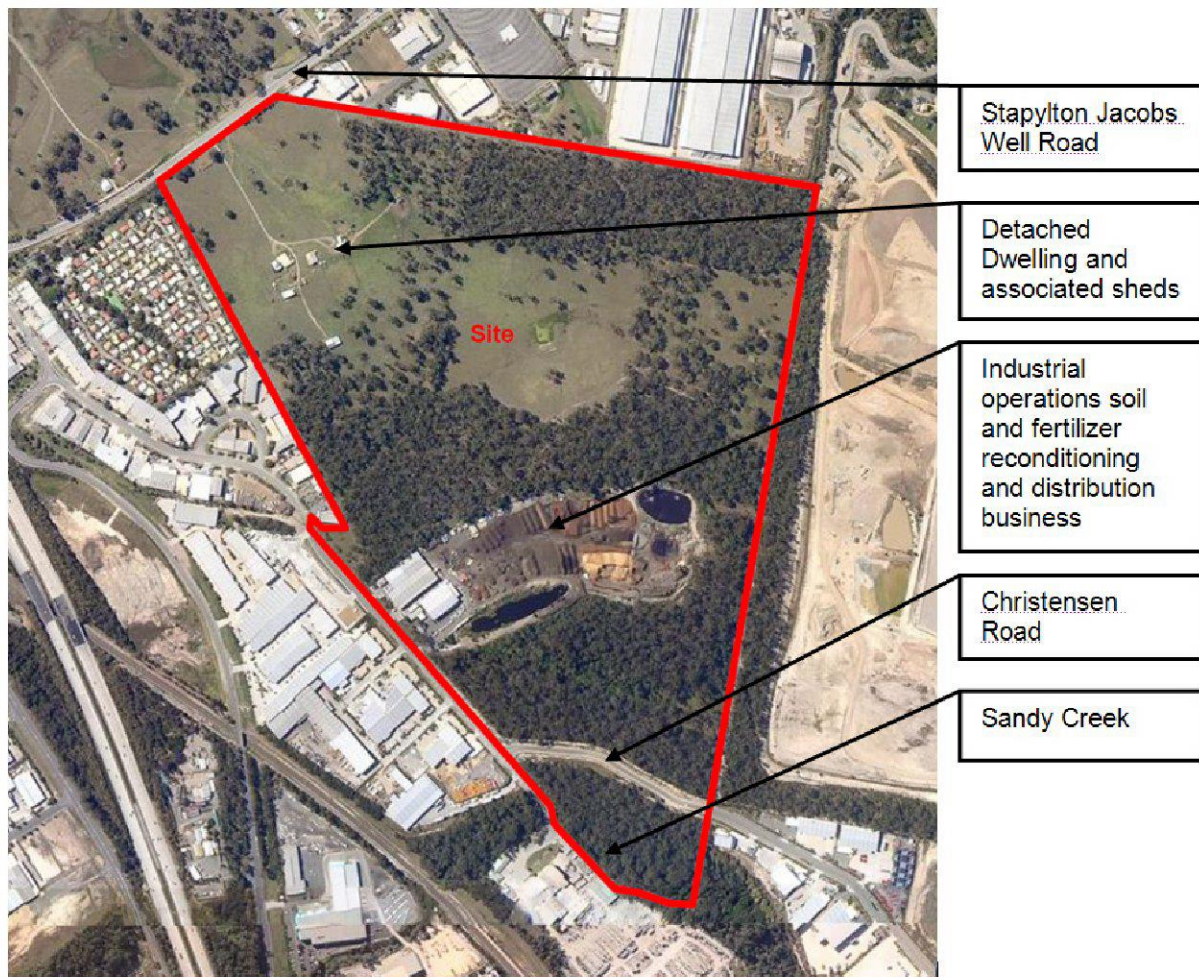
	with the request to amend the condition.
Condition 69	The applicant requests this condition be amended. Council concludes that this condition is to be deleted.



SITE DESCRIPTION AND SURROUNDING AREA

2.1 Characteristics of site

The subject sites are located approximately 0.5kms east of the M1 Motorway, with direct access from Stapylton Jacobs Well Road and Christensen Road. The subject site is currently used for residential purposes and for the Industrial operations of a soil and fertilizer reconditioning and distribution business. The subject site contains a Detached Dwelling and associated sheds, Industrial and Warehouse buildings, ancillary offices, mixing mounds and basins, which form part of the soil and fertiliser operations on site.



3 LEVEL OF ASSESSMENT

The original proposal would be Impact Assessable under the City Plan as it would be for a Variation Approval to vary the effect of the Planning Scheme.

4 OTHER DEVELOPMENT APPROVALS/EXISTING LAWFUL USES

On 26 February 2013, Council resolved to issue a preliminary approval for making a material change of use to override the Planning Scheme for Industry Uses on the subject sites. Following this the applicant lodged a Negotiated Decision request.

On 03 May 2013 a decision was made to issue a Negotiated Decision Notice in relation to conditions which require the development within Precinct C to occur once the remaining area of the Generations Industrial Park is exhausted.

On 01 November 2016 a six (6) year extension was granted, extending the relevant period until 03 May 2023.

5 PLANNING ASSESSMENT

5.1 Assessment against the Planning Act 2016 - minor change

Pursuant to section 78 of the *Planning Act 2016 (PA)*, a person may make a change (minor or other) application to change a development approval. For a minor change to the development approval. Schedule 2 of PA defines a 'minor change' for a development approval as a change that:

- (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 including 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 a 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 required for the development application."*

Having regard to the relevant PA provisions, the proposed change(s) are considered to be a minor change.

For a minor change, Schedule 1 of the DA Rules states that an assessment manager or responsible entity may determine that a change is a minor change that would not result in 'substantially different development' – for a change—

- "(a) made to a proposed development application the subject of a response given under section 57(3) of the Act and a properly made application;*
- (b) made to the development application in accordance with part 6;*
- (c) made to the development approval after the appeal period."*

Under Schedule 1 of DA Rules, Part 4 prescribes that a change may be considered to result in a substantially different development if the proposed change:

Substantially different development criteria	Officer's comments
involves a new use; or	The proposed changes do not result in a new land use with different or additional impacts.
results in the application applying to a new parcel of land; or	No new parcels of land are affected by the changes.
dramatically changes the built form in terms of scale, bulk and appearance; or	The proposed minor change is in relation to amending the size of lot that triggers impact assessment within the approved Plan of Development and thus is considered not to dramatically change the scale, bulk and appearance of the development.
changes the ability of the proposal to operate as intended (For example, reducing the size of a retail complex may reduce the capacity of the complex to service the intended catchment); or	The proposed minor change will not change the ability of the approved development to operate as originally intended.
removes a component that is integral to the operation of the development; or	The proposed changes do not remove any integral components of the development.
significantly impacts on traffic flow and the transport network, such as increasing traffic to the site; or	Although the change may increase the number of lots possible the proposed change to the size of the lots triggering impact assessment is not considered to significantly impact the traffic flow and transport network of the approved development as the amount of land available is not changing.
introduces new impacts or increase the severity of known impacts; or	The proposed change does not introduce any new impacts or increase the level of known impacts.
removes an incentive or offset component that would have balanced the negative impact of the development; or	The proposed change does not remove any incentive or offset component identified to balance identified impacts of the development.
impacts on infrastructure provisions.	The approval is for a preliminary approval

	which requires subsequent Reconfiguring a Lot approval/s. The proposed minor change will not have an impact on infrastructure provisions as this will be assessed in further detail at the time of the subsequent approval/s.
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With regard to the above assessment, against the substantially different development criteria, the proposed change is considered to comply with section 78 of the Planning Act 2016 and is thus considered to be a minor change.

6 Assessment of requested changes to development conditions

6.1 Condition amendments

- Condition B 2 a F: Reconfiguration of a Lot currently reads:

B Under Delegated Authority the Manager of the City Development Branch gives a new decision notice approving the issue of preliminary approval for material change of use to override the Planning Scheme for Industry Uses, subject to the following conditions:

2 The following variations to the effect of the planning scheme:

a Type of assessment

The following tables of development vary the effect of Section A/B/C/D/E/F/G of the Yatala Enterprise Area Local Area Plan Table of Development for determining the type of assessment for the approved material change of use and operational work relating to the approved material change of use:

F: RECONFIGURATION OF A LOT

Exempt	Self Assessable	Code Assessable	Impact Assessable
Precinct A and B (Low Impact and Service Industry and General Impact Business and Industry)			
		Results in no lots with an area less than 4,000m ² ; OR Entails only a Community Title Subdivision (including Standard Format Plan and/or Volumetric Lots), or a Volumetric Lot within a building, or a leasehold subdivision of an existing approved development	

The applicant requests that this condition be amended.

Applicant's representation

The proposal is to amend the existing condition 'Condition B 2 a Type of development', that refers to lot sizes in the Table of Development, Table F: Reconfiguring a Lot for Precinct A and B, with an area less than 4,000m² to be impact assessable.

The proposal is to amend the 4,000m² requirement, that 'result in no lots with an area less than 2,000m² to be code assessable and not impact assessable.

Officer's comment

It is considered that the above condition be amended.

Precincts A and B within the Preliminary Approval will be developed as Low Impact Industry and General Impact Business and Industry. Table 5.6.1: Reconfiguring a Lot within the City Plan depicts the minimum lot size for low impact industry as 1,000m² and Medium impact as 2,000m². It is considered that the proposed minor change to amend the minimum lot size from 4,000m² to 2,000m² is consistent with the City Plan and the intent of the approved development and will not have an adverse effect on or surrounding area.

Condition B 2 a F: Reconfiguration of a Lot is to be amended to read:

- B** Under Delegated Authority the Manager of the City Development Branch gives a new decision notice approving the issue of preliminary approval for material change of use to override the Planning Scheme for Industry Uses, subject to the following conditions:
- 2 The following variations to the effect of the planning scheme:**
- a Type of assessment
- The following tables of development vary the effect of Section A/B/C/D/E/F/G of the Yatala Enterprise Area Local Area Plan Table of Development for determining the type of assessment for the approved material change of use and operational work relating to the approved material change of use:

F: RECONFIGURATION OF A LOT

Exempt	Self Assessable	Code Assessable	Impact Assessable
Precinct A and B (Low Impact and Service Industry and General Impact Business and Industry)			
		Results in no lots with an area less than 2,000m ² ; OR Entails only a Community Title Subdivision (including Standard Format Plan and/or Volumetric Lots), or a Volumetric Lot within a building, or a leasehold subdivision of an existing approved	

		development	
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- Condition C 1 a currently reads:

C The conditions that attach to this preliminary approval are as follows:

APPROVED PLANS/DRAWINGS/documents

1 Amended plans/drawings/documents to be submitted

Amended plans/drawings must be submitted generally in accordance with:

Plan No.	Title	Date	Prepared by
5093 P 00 12A	Landuse Classification and Staging Plan	06/11/2012	Gassman Development Perspectives
N/A	Generations Industrial Park Place Code	November 2012	Gassman Development Perspectives

Showing the following amendments to the Landuse Classification and Staging Plan;

- i Demonstrate the provision of a reserve area 20metres wide for the length of the eastern property boundary. This area is to be labelled as 'Covenant Area' on the Landuse Classification and Staging Plan;
- ii Demonstrate the provision of a minimum ten (10) metre wide buffer for the length of the western property boundary of Precinct A and six (6) metres wide for the entire length of the subject site adjoining the Stapylton Jacobs Well Road frontage;
- iii Include a notation on the Landuse Classification and Staging Plan that states 'the landscaped buffer areas shall be established and maintained for the life of the development. No building works are to occur within the landscape buffer areas unless otherwise approved by the Chief Executive Officer;'
- iv Include a notation on the Landuse Classification and Staging Plan that states 'roadworks and land dedication associated with Road 1, Christensen Road, Eastern Service Road and Christensen Road South will be subject to the detailed design for Stage 4 of the development;'
- v Include a notation on the Landuse Classification and Staging Plan that states 'lot access on the southern side of Christensen Road South is subject to further evaluation and approval following the detailed design of roadworks in Stage 4 of the development;'
- vi Delete the reference to 'completion year;' and
- vii Include a notation on the plan that states 'development within Precinct C shall not occur until all other development within the remaining area of the Generations Industrial Park is exhausted.'

Showing the following amendments to the Generations Industrial Park Place Code:

- viii The inclusion of the words 'Any use, not listed in Table A Material Change of Use Table of Development, should be considered undesirable or inappropriate in the Precinct to which the Table of Development applies. Any Material Change of Use not individually listed in the relevant Table of Development will be treated as an Impact Assessable development';
- ix The inclusion of the words 'Development within Precinct C shall not occur until all other development within the remaining area of the Generations Industrial Park is exhausted';

- x The inclusion of the following within the Precinct A Place Code Intent statement of the Generations Industrial Park Place Code:
 - A 'Strict building and operational restrictions, including building design, building construction and hours of operation and delivery and collection activities, apply to development within Precinct A. The 10metre wide landscaped buffer to be established along the western property boundary of Precinct A shall be established to minimise the potential detrimental impacts of development within Precinct A on the adjoining residential development;'
- xi Deletion of the reference to Service Station from the Low Impact Industry definitions within the section 3.3 of the Generations Industrial Park Place Code;
- xii Deletion of the reference to 'Dangerous Goods' from the Low Impact Industry definitions within section 3.3 of the Generations Industrial Park Place Code;
- xiii The deletion of 'Family Accommodation' from the Table of Development as such a use is not considered appropriate;
- xiv The deletion of Detached Dwelling, Working from Home, Low Rise Commercial tourist Accommodation, Child Care Centres and Ecotourism Facility Specific Development Codes from the 'Relevant Code' tables listed in the Generations Industrial Park Place Code;
- xv Amend within section 6.3 Development Requirements, to include a new Acceptable Solution in association with PC4 that states that 'buildings shall be setback 50 metres from the adjoining property boundary of the Stapylton Landfill.' The 50 metres shall be inclusive of the vegetated buffer area adjoining the eastern property boundary;
- xvi Amend within section 6.3 Development Requirements, Acceptable Solution AS4.3 to replace the reference to dot-points with lettering;
- xvii Amend within section 6.3 Development Requirements, to include a new Acceptable Solution and associated Performance Criteria for Development that is self assessable, code assessable or impact assessable. The AS is to state 'For development located within Precinct C an Environmental Management Plan (EMP) has been prepared and approved by Council and the development complies with the requirements of the EMP. The EMP is to be prepared in accordance with the Planning Scheme Policy 10 – Guidelines for Preparing Management Plans and Plans of Development.' The associated PC is to state 'The environmental mitigation methods for the development as detailed within an Environmental Management Plan must take into account and seek to ameliorate any negative aspects of the existing amenity of the local area having regard, but not limited, to the impact of noise, hours of operation, visual amenity, odour, emissions and dust';
- xviii Amend within section 6.3 Development Requirements, Acceptable Solution AS21.6 of the Generations Code to reference a twenty (20) metre wide north-south buffer;
- xix Amend within section 6.3 Development Requirements, Acceptable Solution AS28 to state that the minimum area for subdivision within Precinct C is one (1) hectare;
- xx Amend within section 6.3 Development Requirements, to include an additional Acceptable Solution in relation to Performance Criteria PC28 to

state 'The number of allotments and tenancies located within Precinct C is minimised';

- xxi Amend within section 6.3 Development Requirements, Performance Criteria PC28 to include the statement 'The number of allotments within Precinct C is controlled to minimise the number of premises exposed to any environmental nuisance from the nearby landfill and associated heavy industrial uses';
- xxii Amend within section 6.3 Development Requirements, Performance Criteria PC43 to include reference to dust and vibration;
- xxiii Include within section 6.3 Development Requirements, for development that is self assessable, code assessable or impact assessable, under the heading of 'Refuse Facilities' a Performance Criteria that states 'Refuse facilities must be provided on site to service the needs of the development' and corresponding Acceptable Solutions that state as follows:
 - A 'Provision is made for the storage of refuse on site and access for the removal of refuse in accordance with 'Solid Waste Management Policy for New Developments;'
 - B 'The refuse storage area is not less than three metres to the frontage of the site and not less than 1.5 metres from any other site boundary;'
 - C 'The refuse storage area is enclosed on three sides, with a screen wall extending 0.2 metres above the height of the refuse receptacles; and
 - D 'The refuse storage area is effectively screened from view with landscaping.'
- xxiv Include within section 6.3 Development Requirements, for development that is self assessable, code assessable or impact assessable, an Acceptable Solution that states that 'the building design and construction of development within Precinct A shall be in accordance with the approved Acoustic Report prepared by TTM Group dated 20 April 2011 (reference: 34418 R03)' and a corresponding Performance Criteria that states that 'All buildings within Precinct A must be acoustically treated, to minimise nuisance to the adjoining and surrounding residential development;' and
- xxv Include within section 6.3 Development Requirements, for development that is self assessable, code assessable or impact assessable, an Acceptable Solution that states that 'the hours of operation and the delivery and collection activities for development within Precinct A are restricted to between 7:00am and 8:00pm Monday to Friday' or to the satisfaction of the Chief Executive Officer and a corresponding Performance Criteria that states that 'All activities within Precinct A must be undertaken within appropriate hours, to minimise nuisance to the adjoining and surrounding residential development'.

The applicant requests that this condition be amended to include an additional part (xxvi).

Applicant's representation

The condition be amended to include an additional condition that requires amendment to the Generations Industrial Park Place Code for section 6.3 Development Requirements, and section 4.1 Table of Development, accordingly, to reflect the wording 2,000m² for Precinct A and B.

Officer's comment

It is considered that the above condition be amended to include xxvi.

As stated it is considered that the proposed minor change to amend the minimum lot size from 4,000m² to 2,000m² is consistent with councils City Plan and the intent of the approved development and will not have an adverse effect on or surrounding area.

Condition C 1 a to be amended to read:

C The conditions that attach to this preliminary approval are as follows:

APPROVED PLANS/DRAWINGS/documents**1 Amended plans/drawings/documents to be submitted**

Amended plans/drawings must be submitted generally in accordance with:

Plan No.	Title	Date	Prepared by
5093 P 00 12A	Landuse Classification and Staging Plan	06/11/2012	Gassman Development Perspectives
N/A	Generations Industrial Park Place Code	November 2012	Gassman Development Perspectives

Showing the following amendments to the Landuse Classification and Staging Plan;

...

- xxvi. Amend within section 6.3 Development Requirements, Acceptable Solution AS28 to state that the minimum area for subdivision within Precinct A and B is 2,000m² in the Code Assessable and Impact Assessable column for Precinct A and B, and delete reference to 4,000m².

- Condition 69 currently reads:

REFERRAL AGENCY CONDITIONS**69 Concurrence agency conditions**

The applicant must comply with the conditions set out in the attached correspondence from the following concurrence agencies:

- a. Concurrence Agency – Department of Natural Resources and Mines – Referral Agency Reference 5093-10-BG/BJW, dated 14 August 2012; and
- b. Concurrence Agency – Department of Transport and Main Roads – Referral Agency Reference TMR11-000540, dated 22 November 2012.

The applicant requests that this condition be amended.

Applicant's representation

It is proposed to seek a minor amendment to the condition imposed by council for compliance with referral agencies that allows the conditions to be varied, if required by the agencies.

The amendment will allow for the agencies to vary their requirements/conditions without having the further need to require a further change application.

Officer's comment

It is considered that the above condition be deleted.

The Concurrence agency conditions form part of the decision notice and thus a condition stating the applicant must comply with the conditions set out in the correspondence from the concurrence agencies is considered to be unnecessary. Furthermore this condition is no longer imposed by City of Gold Coast and will it will not have an effect on the effectiveness of the approval.

Based on the above, an amended decision notice will be an attachment to the decision notice for this change application to update the relevant development conditions.

7 ASSESSMENT AGAINST SCHEDULE 10 OF THE REGULATION

The proposal does not trigger assessment against any assessment benchmarks in Schedule 10 (Development assessment) of the Planning Regulation 2017.

8 ASSESSMENT AGAINST STATE PLANNING POLICY

The City Plan appropriately reflects all aspects of the State Planning Policy apart from aspects relating to natural hazards, risk and resilience (coastal hazards).

The proposal does not trigger assessment against any assessment benchmarks relating to natural hazards, risk and resilience (coastal hazards).

9 ASSESSMENT AGAINST THE REGIONAL PLAN

The proposal is consistent with the goals, elements and strategies; and the Southern Sub-regional directions of the South East Queensland Regional Plan 2017 (ShapingSEQ).

10 DEVELOPMENT INFRASTRUCTURE (TRUNK)

Not applicable.

11 INFRASTRUCTURE CHARGES

The proposed minor change application relates to a Preliminary Approval. No infrastructure charges are applicable to the proposed.

12 REFERRALS

14.1 Internal referrals

This application has been assessed by internal referral officers who have provided comments. An overview of the recommended comments is provided in the table below:

Internal city expert	Comments and Conditions
Environmental Assessment	This change will not affect the area to be dedicated as public open space and future ROL applications will be required to be assessed subsequent to this change. As such environmental assessment provide no further comment or conditions of approval.
Gold Coast Water	Gold Coast Water and Waste's existing conditions will remain appropriate for the above development.
Open Space Assessment	This change will not affect the area to be dedicated as public open space and future ROL applications will be required to

	be assessed subsequent to this change.
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14.2 External referrals

There is no concurrence or advice agency(s) triggered by this development application.

15 PUBLIC NOTIFICATION

Not applicable - no part of the application required public notification.

16 CONCLUSION

Council is in receipt of a request for a minor change for the preliminary approval dated 26 February 2016 for making a Material Change of Use to override the planning scheme for industry uses at 31 Yellowwood Road, 60 Stapylton Jacobs Well Road and 82 Christensen Road, Stapylton.

After a detailed assessment of the request, it has been determined the Minor Change should be approved for the following reasons:

- The City Plan depicts a minimum lot size of 2,000m² for industrial lots, this minor change will bring the approval in line with the current City Plan;
- The concurrence agency conditions form part of the approval, there is no need to include a condition from council stating that the approval is to be carried out in accordance with the concurrency agency conditions.

17 NOTIFICATIONS

Not Applicable - Property notes will not be affected by this minor change.

18 RECOMMENDATION

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

- 1 That Under Delegated Authority the Manager of the City Development Branch approves the Minor change application for the development permit for a Preliminary approval for making a material change of use (impact assessment) to override the planning scheme for industry uses, in accordance with the Attachment entitled: Decision Notice Change Application Approval MCU 31 Yellowwood Road, 60 Stapylton Jacobs Well Road, Stapylton.**

Author:
Thalia Allsop
Planner
20 November 2017

Authorised by:
Mick Moran
Manager City Development
