

ITEM# REQUEST FOR AN EXTENSION TO THE RELEVANT PERIOD UNDER SECTION 383 OF THE SUSTAINABLE PLANNING ACT 2009 FOR A PRELIMINARY APPROVAL FOR MAKING A MATERIAL CHANGE OF USE TO OVERRIDE THE PLANNING SCHEME FOR INDUSTRY USES - LOT 4 ON RP6843, LOT 1 ON RP6882, LOT 240 ON W31320 - 82 CHRISTENSEN ROAD STAPYLTON, DIVISION 1
PN163781/01/DA1

Refer **insert number of pages** page attachment

1 OVERVIEW

Site address	31 Yellowood Road, 60 Staplyton Jacobs Well Road and 82 Christensen Road, Stapylton		
Application description	Request for an Extension to the Relevant Period under section 383 of the Sustainable Planning Act for Preliminary Approval for making a Material Change of Use (Impact Assessment) to override the Planning Scheme for Industry Uses		
Original approval	Preliminary Approval for making a Material Change of Use (Impact Assessment) to override the Planning Scheme for Industry Uses		
Proposed modifications to approved development	The applicant is requesting a six (6) year extension to the relevant period to extend the validity of the approval until 26 February 2023.		
Requested condition amendments	Condition no - theme	Applicants request	Officers recommendation
	N/A	The applicant has requested that an extra six (6) years be allowed in order to implement the preliminary approval.	Supported
Previous / Original approval details (for processing use)			
Original development application number		MCU2011650	
Date of originating development application approval		26 February 2013	
Most recent modified development application number		MCU201100650	
Approval date of most recent modified decision notice		3 May 2013 – Negotiated Decision	

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2 EXECUTIVE SUMMARY

On the 5 October 2016, Council of the City of Gold Coast (Council) received a request for an Extension to the Relevant Period under section 383 of the Sustainable Planning Act for Preliminary Approval for making a Material Change of Use (Impact Assessment) to override the Planning Scheme for Industry Uses.

Council Officers have considered the request to extend the relevant period and are satisfied that an extension of six (6) years will allow sufficient time for the development to progress. The underlying approval is not considered to be substantially different from that envisaged under the provisions of the City Plan.

3 APPLICATION INFORMATION

Real property description	Lot 4 on RP6843, Lot 1 on RP6882, Lot 240 on W31320
Applicant	Patricia & William Hester C/- Gassman Development Perspectives
Owner at time of lodgement	Patricia Ann Hester & William Arthur Hester & William Arthur Hester
Current owner	Patricia Ann Hester & William Arthur Hester & William Arthur Hester
Site area	771,610m ²
Date application received	5 October 2016
Date entered decision	5 October 2016
Zone	Low impact industry (Future low impact industry precinct), Medium impact industry (Future medium impact industry precinct) & High impact industry zone
State planning policies	Not applicable
Decision type	Request for an Extension to the Relevant Period under Section 383 of the Sustainable

Planning Act for Preliminary Approval for making a Material Change of Use to override the Planning Scheme for Industry Uses

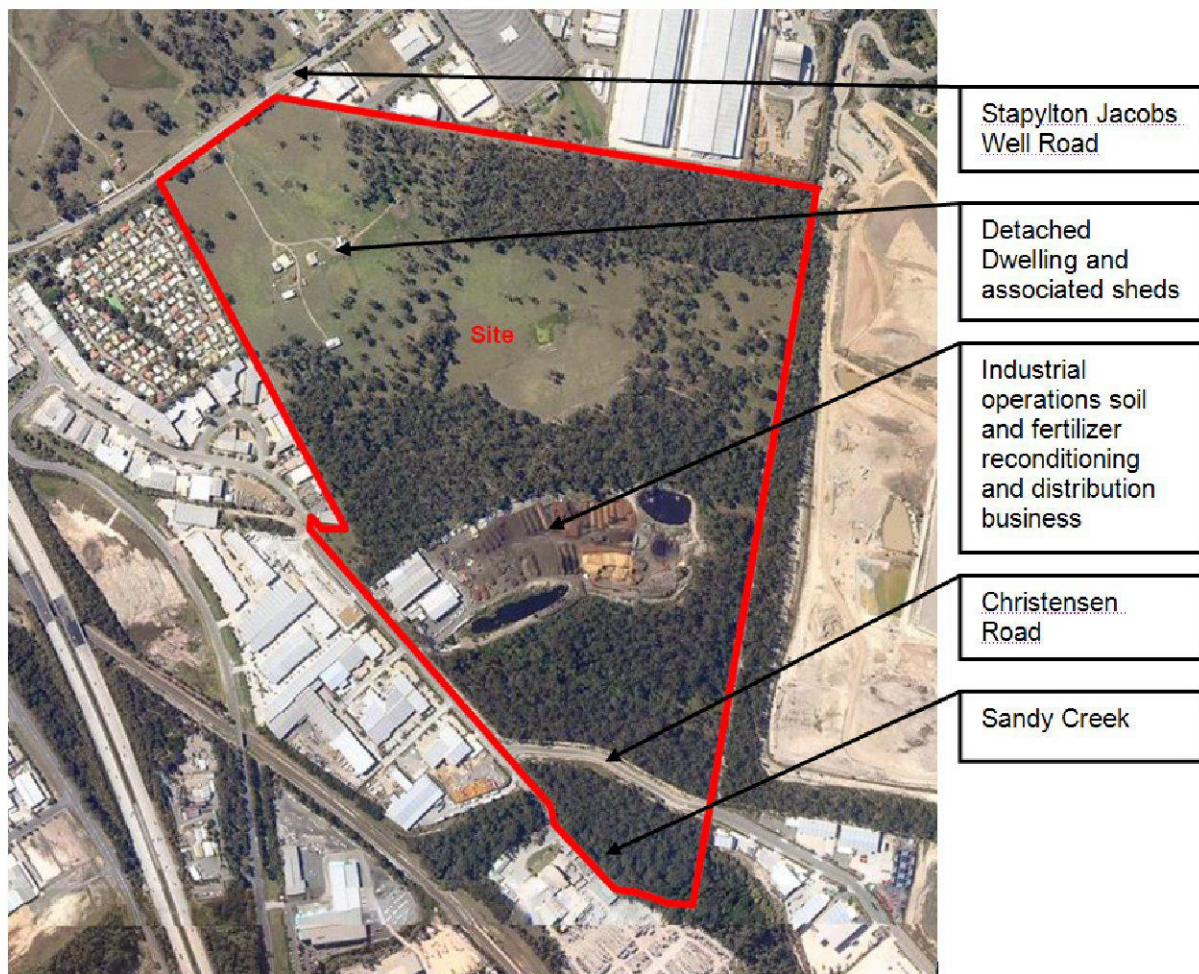
4 BACKGROUND

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 3 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.

5 SITE AND ENVIRONMENT

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.



6 PROPOSAL

On 5 October 2016, Council received a request to extend an existing development approval in accordance with:

- Section 383 of the Sustainable Planning Act 2009 to extend the relevant period.

The applicant is requesting a six (6) year extension to the relevant period, to extend the validity of the approval till 3 May 2023.

7 DEVELOPMENT ASSESSMENT

7.1 Permissible change – Sustainable Planning Act 2009

Pursuant to the *Sustainable Planning Act (SPA) 2009*, a person can request to change a development approval in accordance with section 369 of the SPA. The scope of section 369 is limited and only applies if a person wants to make a permissible change to the development approval. Section 367 of the *Sustainable Planning Act 2009* defines a 'Permissible change' as follows:

"permissible change, for a development approval, is a change to the approval that would not—

- a result in a substantially different development; or
- b if the application for the approval were remade including the change—
 - i require referral to additional concurrence agencies; or
 - ii for an approval for assessable development that previously did not require impact assessment—require impact assessment; or
- c for an approval for assessable development that previously required impact assessment—be likely, in the responsible entity's opinion, to cause a person to make a properly made submission objecting to the proposed change, if the circumstances allowed; or
- d cause development to which the approval relates to include any prohibited development."

Having regard to the relevant SPA provisions above, the proposed change is considered to be a permissible change for the following reasons:

In respect to Section 367(a) of the SPA and determining what constitutes a substantially different form of development, it is appropriate to have regard to the guidelines made by the Chief Executive under Section 760 of the SPA (Statutory Guidelines 06/09), as follows:

"Although it will depend on the individual circumstances of the development, the following list identifies changes that may result in a substantially different development and would, therefore, not be a minor change or permissible change under the SPA. This list is intended as a guide to assist assessment managers and applicants to determine whether a change will result in a substantially different development and is not intended to be exhaustive."

An assessment of instances whereby a proposed change may result in a substantially different development is included in the table below.

Assessment of changes against the <i>Sustainable Planning Act 2009</i>	
Substantially different development criteria	Comment
Involves a new use with different or additional impacts.	No new uses are proposed as part of this proposal.
Results in the application applying to a new parcel of land.	No new parcels of land are affected as part of this application.
Dramatically changes the built form in terms of scale, bulk and appearance.	No changes are proposed to the existing built form.
Changes the ability of the proposal to operate as	The proposed extension to relevant

intended. For example, reducing the size of a retail complex may reduce the capacity of the complex to service the intended catchment.	period does not affect the ability of the proposal to operate as intended.
Removes a component that is integral to the operation of the development.	No components are removed that are integral to the operation of the development.
Significantly impacts on traffic flow and the transport network, such as increasing traffic to the site.	The proposed change does not impact on traffic flow or the transport network.
Introduces new impacts or increases the severity of known impacts.	No new impacts are introduced as a result of the proposed changes.
Removes an incentive or offset component that would have balanced the negative impact of the development.	No incentive or offset components are removed that would have balanced the negative impact of the development.
Impacts on infrastructure provision from a location or demand.	There are no impacts on the infrastructure provisions as a result of the change.

- In respect to Section 367(b)(i) of the SPA, the proposed change does not trigger any new concurrence agencies/triggers referral to additional concurrence agencies.
- In respect to Section 367(b)(ii) of the SPA, the original development approval was subject to impact assessment, and as such section 367(b)(ii) of the SPA is not relevant.
- In respect to Section 367(c), the original application was an impact assessable application.
- In respect to Section 367(d), the proposed change does not include any prohibited development.

7.2 Assessment against City Plan

The subject sites fall under the following City Plan zones:

- 31 Yellowwood Road, Staplyton (L4 RP6843) – Open space
- 60 Staplyton-Jacobs Well Road, Staplyton L1 RP6882) – Low impact industry (Future low impact industry precinct)
- 82 Christensen Road, Staplyton (L240 W31320) - Medium impact industry (Future medium impact industry precinct) & High impact industry.

31 Yellowwood Road, Staplyton (L4 RP6843)

Whilst this site falls under the Open space zone it is noted that as part of the underlying approval the applicant had submitted that Lot 4 would be utilised for the earthworks associated with the development of lots 1 and 240. The earthworks on lot 4 are subject to future operational works applications. No industrial development is proposed over this lot.

60 Staplyton-Jacobs Well Road, Staplyton L1 RP6882)

The provisions of the future low impact industry precinct seeks to identify and protect land reserved for Low impact industry that currently lacks the adequate infrastructure. Industrial development is staged and designed to provide for appropriate infrastructure to meet Council's desired standard of service for industrial uses. Development out-of sequence with water/sewer infrastructure secures agreements from downstream land holders and bares the full cost of providing the necessary infrastructure to Council's standards. It is noted that the preliminary approval provides conditions in relation to water and sewerage infrastructure for the development.

In comparison to the development perimeter provisions of the approved “Generations Industrial Park” code, it is noted that the provisions carry a similar two storey height limit (15 under City Plan), no site coverage restrictions under the City Plan – 70% coverage restrictions under the “Generations Industrial Park” code. The site falls within the Precinct A – Low Impact and Service Industry and Precinct B – General Impact Business and Industry.

The intent statement of Precinct A states that land-uses promoted within this precinct are generally low impact industrial style uses responsive to the established nature responsive to the established nature of residential uses located nearby. Precinct B states that the majority of the land-uses promoted in this precinct which covers the bulk of the developed site, are consistent with those itemised within Precinct 1 land use designation of the Yatala Enterprise Area Local Area Plan.

82 Christensen Road, Staplyton (L240 W31320)

The bulk of the site falls within the Medium impact industry (Future medium impact industry precinct) and a small portion of the site across Christensen Road within the High impact industry zone. The purpose of the Future medium impact industry precinct is to identify and protect land reserves for Medium impact industry that currently lacks the adequate infrastructure.

Industrial development is staged and designed to provide for appropriate infrastructure to meet Council's desired standard of service for industrial uses. Interim land uses and subdivisions do not compromise the capacity of the precinct to develop intensively for medium impact industry activities.

In comparison to the development perimeter provisions of the approved “Generations Industrial Park” code, it is noted that the provisions carry a similar two storey height limit (15 under City Plan), no site coverage restrictions under the City Plan – 70% coverage restrictions under the “Generations Industrial Park” code. The site falls within the Precinct B – General Impact Business and Industry and Precinct C – Limited General Impact Business and Industry.

It is noted that the small portion of the site within the High impact industry zone is identified as being within the Open Space/ Reserve precinct of the proposed industrial park code.

8 AMENDMENTS TO THE APPROVED DEVELOPMENT

Condition amendments

It is noted that the underlying approval did not include a completion date condition thus the development is subject to the provisions of Section 341(1)(a) which provides a 4 years relevant period starting from the day the approval takes effect.

Applicants Justification

The applicant has stated that an extension to the four (4) years relevant period is sought as the current approval period for four years does not allow for the development timeframes envisioned, due to the significant scale of the project and economic climate.

Officer's comment

The development is considered to be consistent with the provisions of the current City Plan and the provisions of the applicable zones. As outlined above the future intent is to develop these lots for industrials which is reflected in the provisions of the underlying preliminary approval.

Council Officers consider there is a suitable level of community awareness of the development approval. Furthermore, the community's awareness of the development approval has not been affected as the original approval has been viewable online for the public to view at any time. Additionally in correspondence dated 13 October 2016, the

Department of Infrastructure and Planning advised that it had no objection for the relevant period being extended by a further six (6) years.

A review of the proposed development has determined that the development meets the above-mentioned criteria of the Sustainable Planning Act, to warrant consideration of the Request to Extend the Relevant Period.

8.1 Assessment of other aspects of the proposal

Not applicable

9 IDAS REFERRALS

9.1 Concurrence agencies

The proposed extension to the relevant period was referred to the Department of Infrastructure, Local Government and Planning as a concurrence agency. The department has considered the request to extend the relevant period and advises via correspondence dated 13 October 2016 that it has no objections to the extension to the relevant period.

10 CONSULTATION

10.1 Internal Referrals

Not Applicable.

11 ADOPTED CHARGE CALCULATIONS

Not Applicable

12 CONCLUSION

In relation to the request for an extension to the relevant period, Council Officers have considered the request and are satisfied that an extension until 3rd May 2023 is acceptable. Officers are satisfied that an extension of six (6) years will allow sufficient time for the development to progress.

13 NOTIFICATIONS

Not Applicable

14 RECOMMENDATION

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

Real property description	Lot 4 on RP6843, Lot 1 on RP6882, Lot 240 on W31320
Address of property	31 Yellowwood Road, 60 Staplyton Jacobs Well Road and 82 Christensen Road, Stapylton
Area of property	771,610m ²
Decision type	Extension to Relevant Period
Further development permits	Operational Works
Further compliance permits	Nil
Compliance assessment required for documents or works	Covenant Area Management Plan and Open Space Management Plan

REQUEST TO EXTEND RELEVANT PERIOD

Under Delegated Authority the Manager of the City Development Branch approves the extension to the relevant period for the development permit dated 3 May 2013 for Material

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

For section 341 of the *Sustainable Planning Act 2009*, the relevant period is extended by a further period of six (6) years. The period is extended till 3 May 2023.

Right of Appeal

A right of appeal to the Planning and Environment Court regarding this decision is available, pursuant to section 465 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 section 520 of the *Sustainable Planning Act 2009*, attached to this decision notice, to determine whether you have appeal rights to a Building and Development Committee.

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