

ITEM #
CITY DEVELOPMENT BRANCH
REPORT ON NEGOTIATED DECISION NOTICE FOR DEVELOPMENT PERMIT FOR
RECONFIGURING A LOT (1 INTO 38 LOTS AND ROAD), OPERATIONAL WORK (CHANGE TO
GROUND LEVEL) AND OPERATIONAL WORK (VEGETATION CLEARING FOR STAGE 1 OF M38
INDUSTRIAL ESTATE IN ACCORDANCE WITH THE PRELIMINARY APPROVAL FOR AMAKING A
MATERIAL CHANGE OF USE TO OVERRIDE THE PLANNING SCHEME AND THE M38
INDUSTRIAL ESTATE PLACE CODE AT 31 YELLOWWOOD ROAD, 60 STAPYLTON JACOBS WELL
ROAD AND 82 CHRISTENSEN ROAD, STAPYLTON QLD 4207
DIVISION 1
ROL/2018/79

1 APPLICATION SUMMARY

Application information	
Negotiated decision notice	
Address	31 Yellowwood 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	771,611m ² 40,470m ² (4.047ha) 205,050m ² (20.505ha) 526,091m ² (52.609ha)
Properly made date	28/02/2018
Originating and current Planning Scheme including version, domain/zone/precinct and constraints/overlays	Low impact service industry & General impact business & industry (M38 Industrial Estate Place Code) • Good Quality Agricultural Land (OM02-1) • Potential Bushfire Hazard Areas (OM10-1) • Natural Wetland and Waterways Areas (OM11-1) • Acid Sulphate Soil Hazards Areas (OM14-1) • Natural Hazard (Flood) Management Areas (OM17-5) • Conservation Strategy Plan (OM20-1) • Scenic Tourist Routes (OM22-1) • Extractive Resources (OM23-1) Low impact industry, Future low impact industry precinct (City Plan)
Originating approved development	Development Permit for Reconfiguring a lot (1 into 38 Industrial allotments, balance lot and road), Operational Work (Change to ground level) and Operational Work (Vegetation clearing) for Stage 1 of M38 Industrial Estate in accordance with the Preliminary Approval and the M38 Industrial Estate Place Code
Date of originating development approval	23/11/2018
Originating approval authority	Delegated authority
Level of assessment	Code assessable
Applicant and Applicant's consultancy team	KS8 Pty Ltd Sole Director: - Kevin Seymour C/- Gasman Development Perspectives Director: - Brian Gassman
Land owner	Mrs Patricia Ann Hester and William Arthur Hester
Decision due date	22/02/2019
Referral agencies	Not applicable for Negotiated Decision Original Application: Waterway barrier works

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	- Assessable development under s12 – Schedule 10, Part 6, Division 4, Subdivision 2, Table 1 State transport infrastructure - Operational work on premises near a State transport corridor – Schedule 10, Part 9, Division 4, Subdivision 2, Table 5 - Reconfiguring a lot near a State transport corridor – Schedule 10, Division 4, Subdivision 2, Table 1, Item 1 - Aspect of development stated in schedule 20 – Schedule 10, Part 9, Division 4 , Subdivision 1 , Table 1 Coastal management district - Assessable development under s28 – Schedule 10, Part 17, Division 3, Table 1
Officer's recommendation	Approval
Reference of most recent application	ROL201800079 (PN163781/23/DA2)
Date of most recent application decision notice	23/11/2018

2 PROPOSAL

The purpose of this report is to assess an application for Change representations (negotiate decision) for Reconfiguring a lot (1 into 38 Industrial allotments, balance lot and road), Operational Work (Change to ground level) and Operational Work (Vegetation clearing) for Stage 1 of M38 Industrial Estate in accordance with the Preliminary Approval and the M38 Industrial Estate Place Code at 31 Yellowwood Road, 60 Stapylton Jacobs Well Road and 82 Christensen Road, Stapylton.

The change representations (Negotiated Decision Notice) seeks to amend the conditions relating to the landscape batter grade in areas of cut, amended plan requirements, performance bond and the requirements for the wedge tail eagle nest relocation.

3 BACKGROUND

Approval reference and date	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 to extend the relevant period by six (6) years to 03 May 2023
MCU201701550 Dated: 23 November 2017	Minor change to Preliminary Approval amending the approved Plan of Development relating to Reconfiguring a Lot for Precincts A and B whereby the minimum lot size was reduced from 4,000m2 minimum lot size to 2,000m2 to align the Preliminary Approval with the City Plan.

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MCU201701550 Dated: 6 March 2018	Amended plans were submitted in accordance with conditions of approval and stamped approved by council INC(Landuse Classification and Staging Plan, and Generations Industrial Park Place Code)
MCU201800656 Dated: 22/11/2018	Minor change to Preliminary Approval amending the Landuse and Staging Plan and the M38 Industrial Estate Place Code and associated conditions as well as conditions relating to the Covenant area to the eastern boundary and buffer to the western boundary.
ROL/2018/79 Dated: 23/11/2018	Reconfiguration of a lot (Code assessment) 2 lots into 38 industrial lots, stormwater detention lot, new road and a balance lot), Operational works (Change to ground level) and Operational works (vegetation clearing).

4 PLANNING ASSESSMENT

Pursuant to section 75 of the Planning Act 2016 (PA), a person may make representations to the assessment manager, during the applicants appeal period for the development approval.

Section 76 of the PA states:

- (1) *The assessment manager must assess the change representations against and having regard to the matters that must be considered when assessing a development application, to the extent those matters are relevant.*

The applicant seeks changes to a number of development conditions as follows:

Cond No	Applicant request	Officer discussion/recommendation
PART A 3(a)	The Site Based Stormwater Management Plan referred to has incorporated the required amendments in Revision 3, as required, therefore no need to submit again.	The request to amend this condition is supported by Hydraulic Engineering. Required amendments have been provided and the Stormwater Management Plan is to be conditioned as an Approved Plan.
6	The flood storage Covenant and Survey Plan for Lot 4 on RP6843 (No.31 Yellowwood Road, Stapylton) has been executed by Council, and registered by the Department of Natural Resources, Mines and Energy, therefore, the condition is considered to be already acted upon and longer required.	The request to delete this condition is not supported by Hydraulic Engineering. It is understood that a flood storage covenant has already been achieved over the site as part of a previous Preliminary Approval. However, the current proposal relies on the flood storage created within this land. Therefore, the current approval requires the inclusion of relevant conditions for flood storage covenant which has already been achieved. Without this condition the covenant may be irrelevant and relinquished

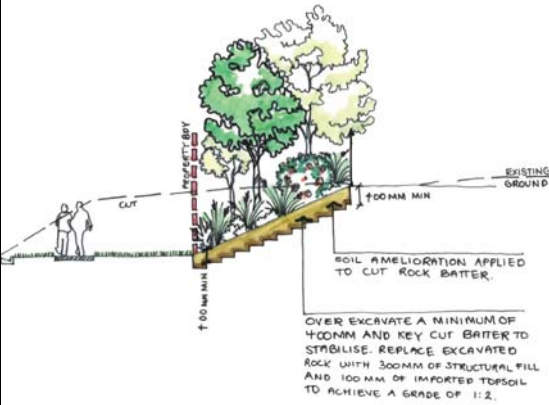
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		in future as there is no condition for flood storage covenant.
7	The flood storage Covenant and Survey Plan for Lot 4 on RP6843 (No.31 Yellowwood Road, Stapylton) has been executed by Council, and registered by the Department of Natural Resources, Mines and Energy, therefore, the condition is considered to be already acted upon and longer required.	The request to delete this condition is not supported by Hydraulic Engineering. It is understood that a flood storage covenant has already been achieved over the site as part of a previous Preliminary Approval. However, the current proposal relies on the flood storage created within this land. Therefore, the current approval requires the inclusion of relevant conditions for flood storage covenant which has already been achieved. Without this condition the covenant may be irrelevant and relinquished in future as there is no condition for flood storage covenant.
12(a), (iv) & (v)C	Condition be amended to incorporate reference to the Concept Buffer Plan and Sections adjoining the western boundary in the Table to identify all landscape plans referred to for ease of reference. This plan has been provided in Attachment 2. iv – Amend condition to not to apply to batters adjacent to Stapylton Jacobs Well Road due to geotechnical stability concerns, and should refer to 200mm top soil depth in this circumstance which would be acceptable. v C – Amend condition for batter requirement for Lot 241, that is within private land, to be at 1V:2H, that is consistent with Council's Land Development Guidelines, not 1V:3H.	The applicant provided Geotechnical certification of the batter treatment and measures required to promote plant growth and stabilisation to support the proposed 1V:2H batters. The request to amend this condition is supported to allow 1V:2H landscaped batters which h include over excavation for a minimum of 400mm with key cut batter to stabilise the surfaces for appropriate landscaping as illustrated in the diagram below. 
14(c) & (d)	c – Amend condition to incorporate correct policy reference 'Planning Scheme Policy 11 – Land Development Guidelines'. d – Delete condition as the 1500mm serves	The request to amend this condition is supported.

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	no screening purpose in this instance. Attachment 3 indicates that from Stapylton Jacobs Well Road there is approximately 30 metres of landscaping works associated with the stormwater basin, a maintenance road then batter, A 1500mm landscaping strip between the road and batter will have no impact on the visual screening from Stapylton Jacobs Well Road.	
PART B 3(a), (b) & (c)	a – Amend condition to provide for minor cut treatment to occur. This is to allow for the inclusion of top soil for landscaping purposes as required by Council, and to ensure that no nuisance flow is caused to the adjoining property. Request the condition be amended in part, as follows: - delete: no, cut treatment; and - insert: minor cut treatment to allow for top soil for landscaping purposes and reduce no nuisance flow to the adjoining property... within the first three metres.. Amend condition for batter requirement for Lot 241, that is within private land, to be at 1V:2H, that is consistent with Council's Land Development Guidelines, not 1V:3H. b – Amend condition for batter requirement for Lot 241, that is within private land, to be at 1V:2H, that is consistent with Council's Land Development Guidelines, not 1V:3H. c - Delete condition as the 1500mm serves no screening purpose in this instance. Attachment 3 – Landscape Intent Plans (page 6) indicates that from Stapylton Jacobs Well Road there is approximately 30 metres of landscaping works associated with the stormwater basin, a maintenance road then batter, A 1500mm landscaping strip between the road and batter will have no impact on the visual screening from Stapylton Jacobs Well Road. Request the condition be amended in part, as follows: - delete: no, cut treatment; and	The applicant provided Geotechnical certification of the batter treatment and measures required to promote plant growth and stabilisation to support the proposed 1V:2H batters. The request to amend this condition is supported to allow minor cut treatment to the top of the batter for top soil adjoining the residential properties and to allow 1V:2H landscaped batters which include over excavation for a minimum of 400mm with key cut batter to stabilise the surfaces for appropriate landscaping as illustrated in the diagram below.

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	- insert: minor cut treatment to allow for top soil for	
6	Amend condition to incorporate correct policy reference 'Planning Scheme Policy 11 – Land Development Guidelines' Amend Table to reference the Acid Sulfate Soils Report submitted with the Further Information Request as follows: Acid Sulphate Soils Investigation, dated July 2018 a – Delete condition accordingly as report already supplied.	The request to delete the amended plan requirement is supported by Environmental Assessment. This condition is to be amended to be an Approved Plans condition which lists the Acid Sulphate soil Report and Addendum letter provided by the applicant.
12	Delete condition as Council cannot lawfully issue or require an Operational Works application or issue approval for rectification of works.	The request to amend this condition is supported by Civil Engineering.
24	This current condition requires a bond of \$100,000 to be paid. The bond amount is considered reasonable providing that the wording below is accepted, that will provide clarity for the reasoning and purpose of the performance bond for Operational Works pertaining to sediment and erosion control. Amend condition read as follows: 24 Performance bond Provide security to Council in the form of an unconditional and irrevocable bank guarantee or cash in the amount of \$100,000.00 to secure the Performance Bond for sediment and erosion control purposes prior to the commencement of works. The Performance Bond will not be released until: (i) practical completion of the bulk earthworks associated with the development is achieved.	The request to amend this condition is supported by Civil Engineering.
PART C 6(ii), (iii) & (iv)	Conditions (ii), (iii) and (iv) are considered irrelevant as the Wedge Tail eagle chicks have now fledged, and recommend that these conditions be deleted accordingly.	The request to amend this condition is not supported by Environmental Assessment. Environmental planning find the conditions reasonable and relevant. Wedge tailed eagles have been utilising the sites for

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		numerous years and are entering breeding season. The condition is to remain unchanged.
10	The requirement to submit a pre-start meeting within 2 weeks prior is considered unreasonable and be amended in part, as follows: - delete: A minimum of 2 weeks prior to the prestart meeting; and - insert: <i>Submit prior the booking of a pre-start meeting.</i>	The request to amend this condition is supported by Environmental Assessment.

5 CONCLUSION

This report assessed a request Change representations (negotiate decision) for Reconfiguring a lot (1 into 38 Industrial allotments, balance lot and road), Operational Work (Change to ground level) and Operational Work (Vegetation clearing) for Stage 1 of M38 Industrial Estate in accordance with the Preliminary Approval and the M38 Industrial Estate Place Code at 31 Yellowwood Road, 60 Stapylton Jacobs Well Road and 82 Christensen Road, Stapylton.

The assessment of this request determined the Change representations (Negotiated decision) is acceptable and recommended for approval.

6 RECOMMENDATION

It is recommended that Council resolves as follows:

That Under Delegated Authority the Manager of the City Development Branch agrees with the Change representations (negotiated decision notice) for the development permit dated 23 November 2018 for reconfiguring a lot (1 into 38 Industrial allotments, balance lot and road), Operational Work (Change to ground level) and Operational Work (Vegetation clearing) for Stage 1 of M38 Industrial Estate in accordance with the Preliminary Approval and the M38 Industrial Estate Place Code in accordance with the Attachment entitled: Negotiated Decision Notice – approval 31 Yellowwood Road, 60 Stapylton Jacobs Well Road and 82 Christensen Road, Stapylton.

Author:

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13/02/2019

Authorised by:

Roger Sharpe
Executive Coordinator Planning Assessment