

Our reference: OPW/2023/675

Decision notice—approval (with conditions)

(Given under section 63(2) of the *Planning Act 2016*)

Date of decision notice: 10 July 2023

Applicant details

Applicant name: Hb Land Pty Ltd
Applicant contact details: PO Box 3469
AUSTRALIA FAIR QLD 4215

Application details

Application number: OPW/2023/675
Approval sought: Operational Works
Details of proposed development: Operational works for vegetation clearing

Location details

Street address: 79 Courtney Drive, Upper Coomera Qld 4209
Real property description: Lot 188 RP173728, Lot 189 RP173728, Lot 190 RP173728, Lot 191 RP173728, Lot 192 RP173728

Decision

Date of decision: 6 July 2023
Decision details: Under Delegated Authority, the supervisor of Environmental Assessment of the City Development Branch of Council has resolved to approve the development application in full with conditions.

Referral agency(s) for the application

Not applicable – no part of the application required referral.

Details of the approval

Development permit for operational work – vegetation clearing

Conditions

The conditions that have been imposed by Council, as Assessment manager, are enclosed. Properly made submissions were received. A list identifying the details of each principal submitter is attached.

Currency period for the approval (section 85 of the *Planning Act 2016*)

In accordance with section 85 of the *Planning Act 2016*, this approval has a currency period of two years.

Approved plans and drawings

Approved plans and drawings are attached and are identified in the conditions imposed by Council as the Assessment manager.

Appeal rights

Applicant	You have appeal rights in relation to this decision. An appeal may be made against, as applicable: • the refusal of part of the development application; or • a provision of the development approval; or • if a development permit was applied for, the decision to give a preliminary approval. An appeal must be started within 20 business days after this notice is given to you. An appeal may be made to the Planning and Environment Court or, for certain matters which are identified in section 1(2) of Schedule 1 of the <i>Planning Act 2016</i>, to a development tribunal. An appeal is started by lodging a notice of appeal with the registrar of the Planning and Environment Court or a development tribunal, as applicable. The notice of appeal must be in the approved form, succinctly state the grounds of the appeal and be accompanied by the required fee. An appellant to the Planning and Environment Court must give a copy of the notice of appeal, within 10 business days after the appeal is started, to the persons identified in section 230(3) of the <i>Planning Act 2016</i>. A person who is appealing to the Planning and Environment Court must comply with the rules of the court that apply to the appeal. An extract of Chapter 6, Part 1 and Schedule 1 of the <i>Planning Act 2016</i> is attached to this notice, which sets out further information about the appeal rights.
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For further information please contact Sophie Olsson-Pons, Environmental Planner on p: 07 5582 8866 or via email mail@goldcoast.qld.gov.au who will be pleased to assist.

AUTHORISED BY



Elyse Baker
Supervisor Environmental Assessment
For the Chief Executive Officer
Council of the City of Gold Coast

enc:
Conditions imposed by Council as Assessment manager

Attach:
Stamped approved plans and drawings

Conditions imposed by Council as the Responsible Entity

General																								
1	Timing a All conditions of this development approval must be complied with at no cost to Council at all times unless otherwise stated in another condition. b Where the timing in a condition is prior to commencement of the use and a Building Format Plan is lodged for approval, the timing in the condition changes from being prior to commencement of the use to being prior to the earlier of the commencement of the use and approval of the plan of subdivision. This timing requirement prevails despite any inconsistency with the timing requirement in another condition.																							
2	Approved drawings Undertake and maintain the development generally in accordance with the following drawings: <table><tr><th>Drawing Title</th><th>Author</th><th>Date</th><th>Drawing No.</th><th>Ver</th></tr><tr><td>Tree Location Plan</td><td>Biome Consulting</td><td>13/06/2023</td><td>VMP-01</td><td>-</td></tr><tr><td>Tree Clearing Plan – South</td><td>Biome Consulting</td><td>13/06/2023</td><td>VMP-02</td><td>-</td></tr><tr><td>Tree Clearing Plan – North</td><td>Biome Consulting</td><td>13/06/2023</td><td>VMP-03</td><td>-</td></tr></table> The conditions of this approval are to be read in conjunction with the attached stamped approved drawings. Where a conflict occurs between the conditions of this approval and the stamped approved drawings, the conditions of this approval shall take precedence.				Drawing Title	Author	Date	Drawing No.	Ver	Tree Location Plan	Biome Consulting	13/06/2023	VMP-01	-	Tree Clearing Plan – South	Biome Consulting	13/06/2023	VMP-02	-	Tree Clearing Plan – North	Biome Consulting	13/06/2023	VMP-03	-
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4	Scope of works – habitat trees Undertake the vegetation clearing in accordance with the following scope of works: <table><tr><th>Vegetation ID No.</th><th>Quantity and species</th><th>Approved works</th><th>Justification of works</th></tr><tr><td>Trees 1-3, 8-19, 28-37, 43, 48-52, 54-115.</td><td>22 - mixture of species</td><td>Total removal</td><td>To accommodate approved development</td></tr><tr><td>Trees 4-7, 20-27, 38-42, 44-47, 53.</td><td>93 - mixture of species</td><td>To be retained and not damaged</td><td>Outside area of works</td></tr></table> The conditions of this approval are to be read in conjunction with the attached stamped approved drawings. Where a conflict occurs between the conditions of this approval and the stamped approved drawings, the conditions of this approval shall take precedence.				Vegetation ID No.	Quantity and species	Approved works	Justification of works	Trees 1-3, 8-19, 28-37, 43, 48-52, 54-115.	22 - mixture of species	Total removal	To accommodate approved development	Trees 4-7, 20-27, 38-42, 44-47, 53.	93 - mixture of species	To be retained and not damaged	Outside area of works								
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Environmental and Landscaping																								
5	Tree pruning and work																							

	- a Topping, lopping, spur or spike climbing of any tree must not occur. - b Pruning may only occur in a manner consistent with the <i>Australian Standard AS4373 - 2007 – Pruning of Amenity Trees</i>. - c Undertake all other work on the trunk, foliage or root systems of the trees marked on the drawings listed below in a manner consistent with <i>Australian Standard AS4373 - 2007 - Pruning of Amenity Trees</i>.				
6	Root pruning and barriers - a Ensure root pruning utilises a high pressure, needle point water jet prior to insertion of proprietary root barriers. - b Ensure root barriers are installed to a minimum depth of 900mm along the side closest to the structure specified in the approved scope of works condition to prohibit or deter growth of roots towards the structure.				
7	No damage to retained vegetation Ensure all other existing vegetation is retained and not disturbed or damaged during implementation of the approved works.				
Construction Management					
8	Erosion and sediment control - a Undertake works generally in accordance with the Healthy waters code of the City Plan and include in particular: - i Sediment control structures e.g. sediment fence must be placed at the base of all materials imported on site to mitigate sediment run-off. - ii A perimeter bund and/or diversion drain must be constructed around the disturbed areas to prevent any outside clean stormwater from mixing with polluted/contaminated stormwater. - iii All polluted/contaminated water from the site, including dewatering discharge, must be treated to achieve the water quality objectives in Table 8.2.1 of the Queensland Water Quality Guidelines (DERM September 2009) prior to discharging from the site. - iv Inspections for erosion and sediment control measures are to occur in accordance with the compliance procedures in City Plan Policy SC6.11 – Land development guidelines, section 6.				
9	Pre-clearance report Submit a pre-clearance (fauna assessment) report for review 1 week prior to the pre-start meeting, generally in accordance with the Environmental significance overlay code and City Plan Policy SC6.8 – Environmental management plans and include: a Detailed pre-clearance survey by a DES approved Spotter Catcher undertaken no more than 2 weeks prior to commencement of works.				
10	Pre-start inspection Arrange a pre-start inspection prior to the commencement of works to complete the requirements identified in SC.6.11 City Plan Policy – Land development guidelines for the following: <table border="1" data-bbox="316 1702 1428 1957"> <thead> <tr> <th>Purpose</th><th>Council contact</th></tr> </thead> <tbody> <tr> <td> • Undertake a pre-clearing meeting onsite to discuss matters related to fauna management, tree protection fencing, and any other instructions or matters related to ensuring tree works are constructed accordingly. • Confirm that tree protection fencing has been implemented prior to commencement of works. </td><td> Environmental Assessment 07 55828866 </td></tr> </tbody> </table>	Purpose	Council contact	• Undertake a pre-clearing meeting onsite to discuss matters related to fauna management, tree protection fencing, and any other instructions or matters related to ensuring tree works are constructed accordingly. • Confirm that tree protection fencing has been implemented prior to commencement of works.	Environmental Assessment 07 55828866
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	Confirm that appropriate erosion and sediment control measures have been installed prior to commencement of works.																					
Copies of applicable material including this decision notice and stamped approved plans, drawings and reports are to be available for the meeting and kept on site during construction.																						
11	Supervision of works During construction of any works the following professionals must be appointed to supervise the below described actions: <table><tr><th colspan="2">Environmental Assessment</th></tr><tr><th>Expertise required of the suitably qualified professional</th><th>Actions to be overseen by the professional</th></tr><tr><td>Minimum AQF Level 3 Arborist</td><td>Implementation of all tree works</td></tr><tr><td>Minimum AQF Level 5 Arborist</td><td>Construction and fencing works within the Tree Protection Zone (TPZ) of subject trees to be retained</td></tr></table>		Environmental Assessment		Expertise required of the suitably qualified professional	Actions to be overseen by the professional	Minimum AQF Level 3 Arborist	Implementation of all tree works	Minimum AQF Level 5 Arborist	Construction and fencing works within the Tree Protection Zone (TPZ) of subject trees to be retained												
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12	Certification of works Provide Council with certificates prepared by qualified experts from the disciplines listed below, confirming as follows: <table><tr><th colspan="5">Environmental Assessment</th></tr><tr><th>Certified document</th><th>Certification date</th><th>Plan/ Drawing</th><th>Expert discipline</th><th>Requesting Council Section</th></tr><tr><td>Confirmation that work has been completed in accordance with the Vegetation Management Plan</td><td>At the end of the maintenance period and prior to plan sealing.</td><td>-</td><td>Suitably qualified professional</td><td>Environmental Planning, 5582 8866</td></tr></table> The certification is to confirm: i Work has been completed in accordance with the Rehabilitation Management Plan. <table><tr><th colspan="5">Environmental Assessment</th></tr></table>		Environmental Assessment					Certified document	Certification date	Plan/ Drawing	Expert discipline	Requesting Council Section	Confirmation that work has been completed in accordance with the Vegetation Management Plan	At the end of the maintenance period and prior to plan sealing.	-	Suitably qualified professional	Environmental Planning, 5582 8866	Environmental Assessment				
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	Confirmation that work has been completed in accordance with the Fauna Management Plan	At the end of the maintenance period and prior to plan sealing.	-	Suitably qualified professional	Environmental Planning, 5582 8866
	The certification is to confirm: i. Work has been completed in accordance with the Fauna Management Plan. ii. Ensure all nest boxes have been installed in accordance with the Fauna Management Plan				
13	Compliance with directions as a result of pre-start meeting/site inspections The applicant must comply with any directions given by Council officers as a result of the pre-start meeting and other site inspections in respect of measures to be employed on-site to minimise any adverse environmental impacts, including any directions as to sediment, erosion and dust control measures to be employed on-site.				
14	Availability of approved plans, drawings and reports Retain a copy of this decision notice and stamped approved plans, drawings and reports on site at all times during construction. Any contractors undertaking approved work (including tree removal or relocations) must be directly provided with a copy of these conditions and instructed as to the need to comply with them.				
Advice Notes					
A	Compliance with conditions Once this development approval takes effect, the conditions attach to the land and are applicable in perpetuity. It is a development offence to contravene a development approval, including any of its conditions.				
B	Indigenous cultural heritage legislation and duty of care requirement The <i>Aboriginal Cultural Heritage Act 2003</i> ('ACHA') is administered by the Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP). The ACHA 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 ACHA. The applicant should contact DATSIP's Cultural Heritage Coordination Unit on (07) 3405 3050 for further information on the responsibilities of developers under the ACHA.				
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: - 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. - Providing any notifications required by law (by way of example only, to notify the administering authority pursuant to the <i>Environment Protection Act 1994</i> of environmental harm being caused/threatened by the activity, and upon becoming aware the premises is being used for a 'notifiable activity'). - 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). - Ensuring existing survey marks, including cadastral marks at property corners, i.e pegs or cadastral reference marks in the road reserve (permanent surveys marks, buried iron pins, and various marks in concrete or bitumen structure) are not interfered with. A Consulting Cadastral Surveyor must be contacted if survey marks are disturbed or destroyed during any works in relation to this or related approvals, to investigate and determine if any further action is required. More information on interference with survey marks is available under Section 42 of the <i>Survey and Mapping Infrastructure Act 2003</i>. - 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. - Providing Council with proof of payment of the Portable Long Service Leave building construction levy (or proof of appropriate exemption) where the total value of the building and construction works exceeds \$150,000 (excluding GST). 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. - Making payment of any outstanding Council rates and charges applicable to the development site prior to the lodgement of subdivision plans. - Obtaining any necessary local government/state approvals where works require the installation of temporary ground anchoring into adjacent Road Reserves. Where ground anchoring is proposed into an adjacent private property, approval from the relevant property owners(s) is required.
D	Listing of Koala under EPBC Act Koala populations in South East Queensland are listed under the Environment Protection and Biodiversity Conservation Act 1999 (<i>EPBC Act</i>) as a matter of national significance. All necessary approvals must be obtained prior to any works commencing on the site.
E	Species Management Program Where an animal breeding place has been identified and activities will tamper with the breeding place in order to complete the scope of works, a Species Management Program (SMP) is required. Further advice is found on: https://environment.des.qld.gov.au/licences-permits/plants-animals/species-management-program/
F	Weeds, pest animals and ants Biosecurity Queensland of the Department of Agriculture and Fisheries leads the Government's efforts to prevent, respond to and recover from pests and diseases threatening agricultural prosperity, the environment, social amenity and human health. All landscape materials, including but not limited to, soils, mulch, grass, gravel, potted or ex-ground plants, pavers and timber used in landscape treatments must be free from weeds, pest animals and ants.

G	Fire ant control A significant portion of the Gold Coast is within Fire Ant Biosecurity zone 2 and must remain vigilant for the presence of fire ants. Under the Biosecurity Act 2014 individuals and organisations whose activities involve the movement or storage of fire ant carriers have a general biosecurity obligation to take all reasonable steps to ensure they do not spread fire ants. Movement of a fire ant carrier from within the fire ant biosecurity zone may need a biosecurity instrument permit. More information is available on the Department of Agriculture and Fisheries website www.daf.qld.gov.au/plants/weeds-pest-animals-ants/invasive-ants/fire-ants.
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