

1 APPLICATION SUMMARY

Application information	
Minor change to development approval	
Address	84-160 Christensen Road South, Stapylton
Lot and plan	Lot 334 on SP193431
Site area	251,820m ²
Properly made date	26 July 2023
Originating and current Planning Scheme including version, domain / zone / precinct and constraints / overlays	Originating Planning Scheme – City Plan 2016 (version 3) – High impact industry zone • Acid sulfate soils; • Airport environs; • Bushfire hazard; • Extractive resources; • Industry, community infrastructure and agriculture land interface area; • Landslide hazard; • Water catchments and dual reticulation; • Minimum lot size (4,000m²); and • Environmental significance overlay (Priority species, Vegetation management, and Wetland and waterways). Current Planning Scheme – City Plan 2016 (version 10) – High impact industry zone • Acid sulfate soils; • Airport environs; • Bushfire hazard; • Extractive resources; • Flood; • Industry, community infrastructure and agriculture land interface area; • Landslide hazard; • Water catchments and dual reticulation; • Minimum lot size (4,000m²); and • Environmental significance overlay (Priority species, Vegetation management, and Wetland and waterways).
Originating approved development	Development permit for Reconfiguration of a lot for a one into seventeen community title scheme lots subdivision (Council reference: ROL/2018/26).
Date of originating development approval	2 November 2018
Originating approval authority	Delegated authority
Applicant and Applicant's consultancy team	Burnside Developments Pty Ltd & Yellowstone Investments Pty Ltd – Applicant

REPORT ON MINOR CHANGE TO DEVELOPMENT APPROVAL FOR RECONFIGURING A LOT FOR A ONE INTO SEVENTEEN COMMUNITY TITLE SCHEME LOT SUBDIVISION AT 84-160 CHRISTENSEN ROAD SOUTH, STAPYLTON.
APPLICATION NUMBER MIN/2023/361

DIVISION NO. 1

	iPlan Town Planning Pty Ltd – Planning Consultant AJS Surveys – Surveyors
Owner details	Burnside Developments Pty Ltd & Yellowstone Investments Pty Ltd
Referral agencies	Not applicable
Decision due date	23 August 2023
Officer's recommendation	Approval

2 PROPOSAL

The purpose of this report is to assess an application for a change to a development approval under section 78 of the *Planning Act 2016* (PA) for a Reconfiguration of a lot for a one (1) into seventeen (17) community title scheme lot subdivision at 84 - 160 Christensen Road South, Staplyton.

The Applicant seeks Council's support for the proposed staging of the approved development into three (3) stages (in lieu of the two (2) stages originally approved) as follows:

- proposed stage 1 – Lot 100 with Area of 5.74ha;
- proposed stage 2 – Lots 10 to 17 with area of 7.69ha; and
- proposed stage 3 – Lots 1-9 with an area of 11.70ha.

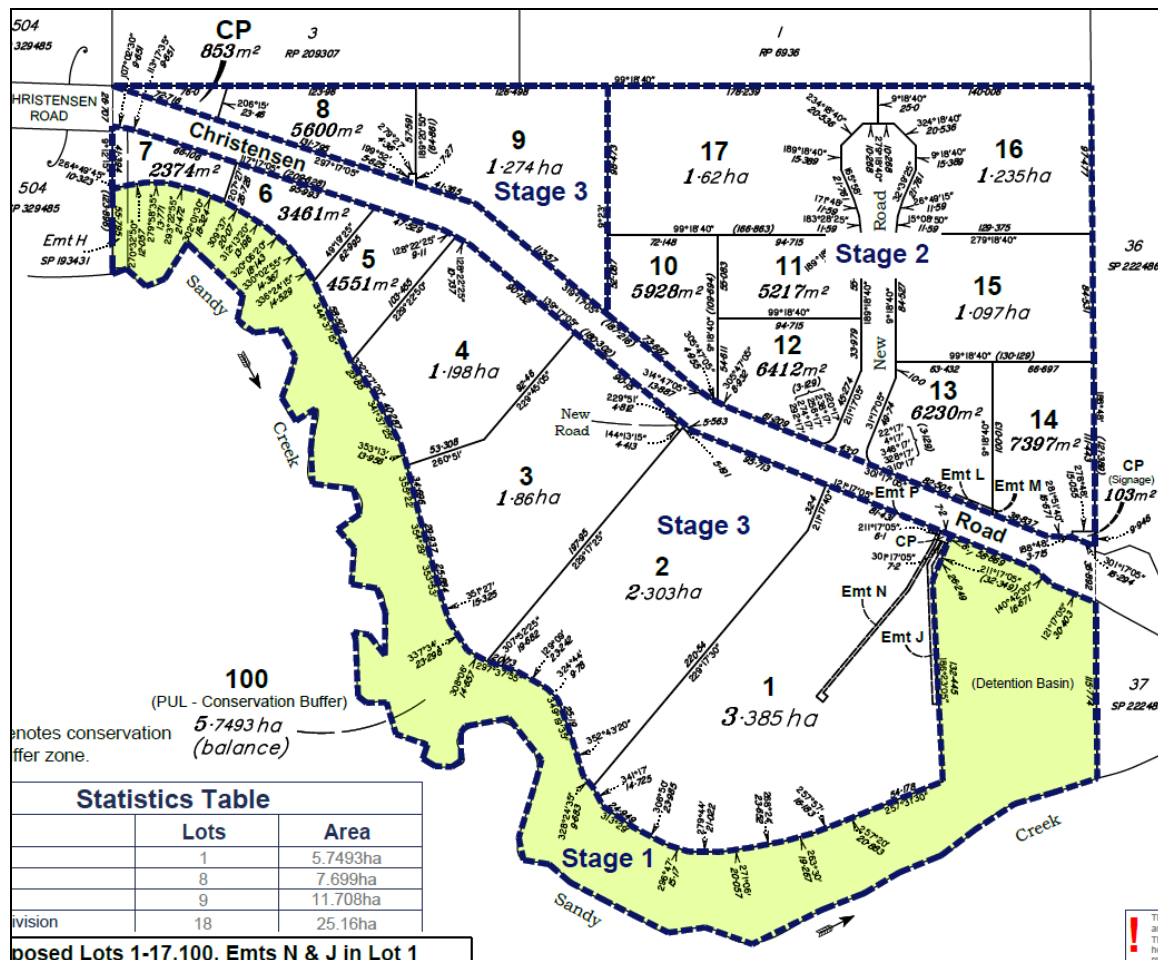


Figure 1: Staging Plan showing three (3) stages (Source: AJS Surveys)

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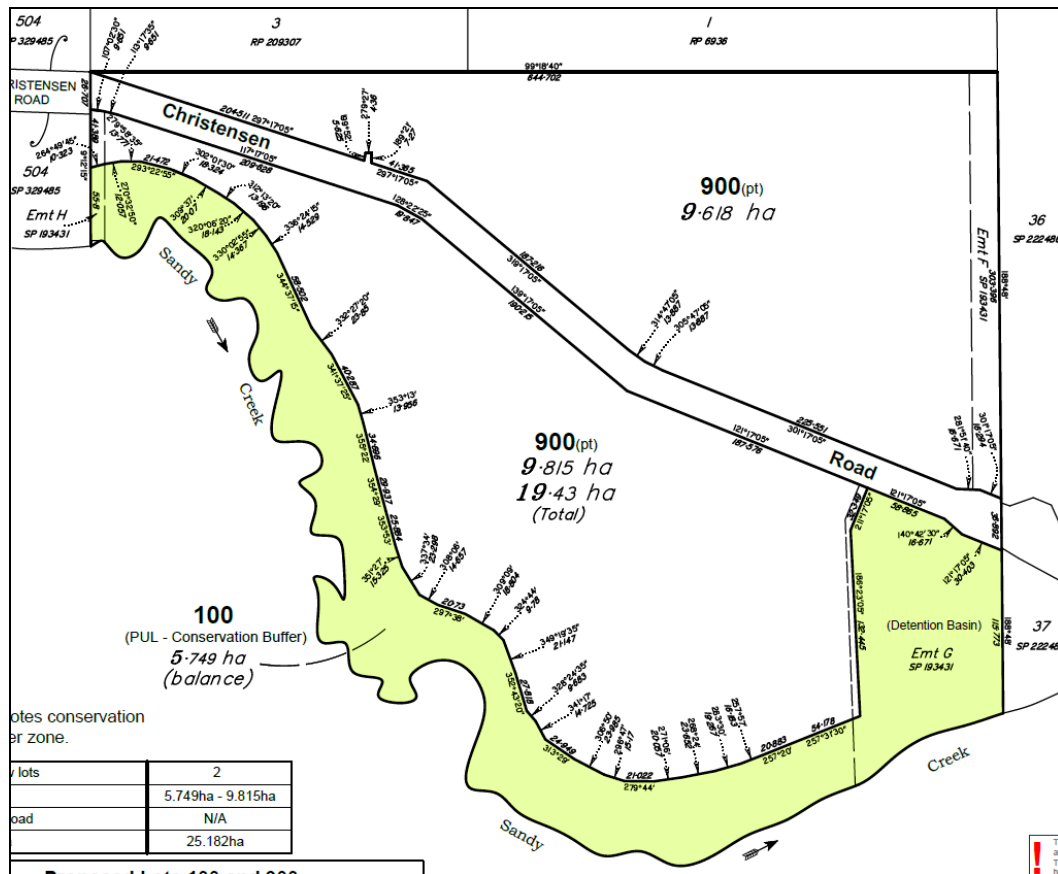


Figure 2: Plan of proposed Stage 1 (Source: AJS Surveys)

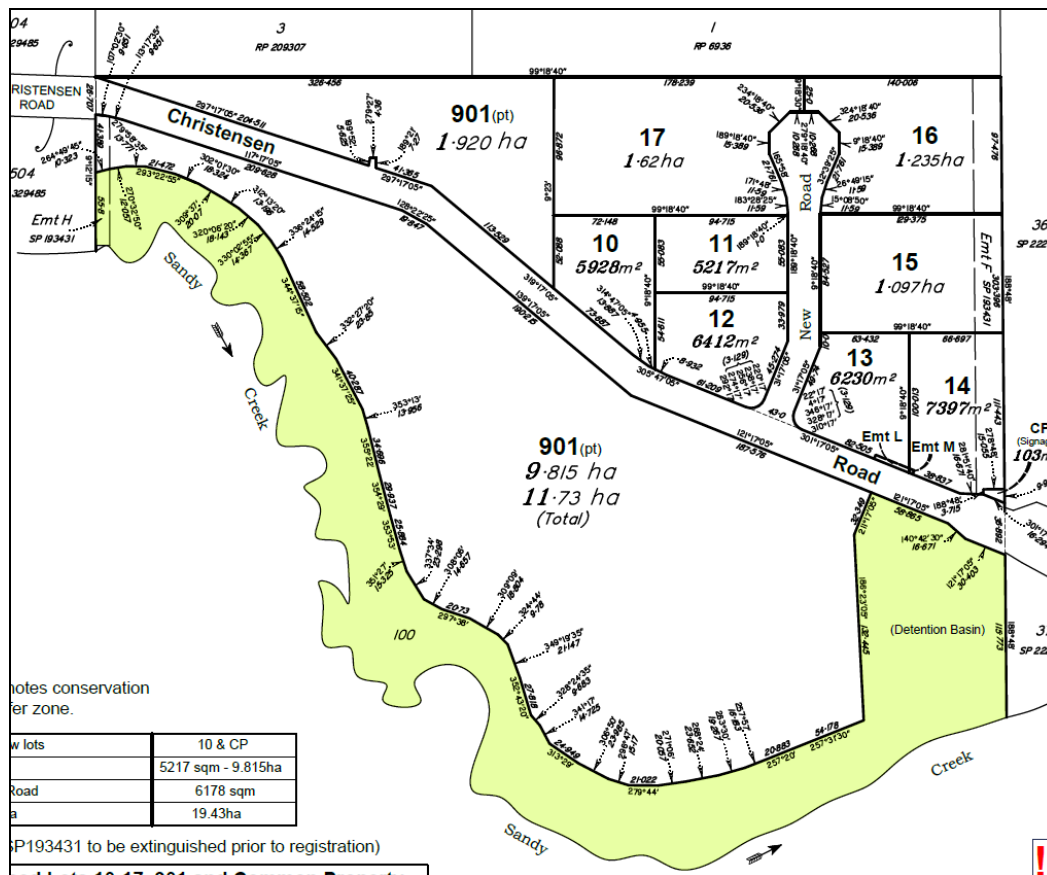


Figure 3: Plan of proposed Stage 2 (Source: AJS Surveys)

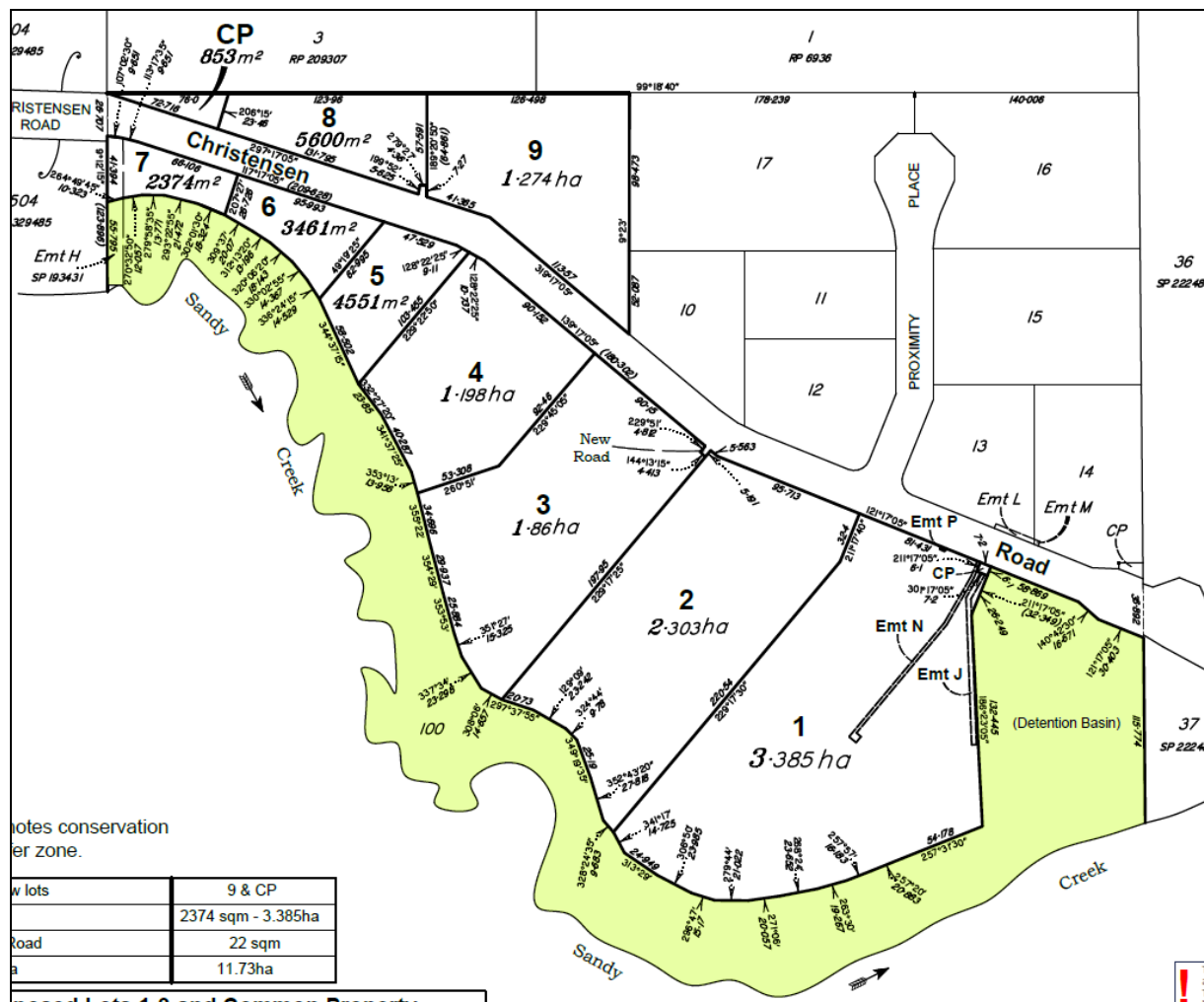


Figure 4: Plan of proposed Stage 3 (Source: AJS Surveys)

3 BACKGROUND

On 28 August 2018, under Delegated Authority, Council issued a Development permit for Reconfiguration of a lot for a one (1) into seventeen (17) community title scheme lot subdivision (Council reference: ROL/2018/26). On 2 November 2018, under Delegated Authority, Council issued an Amended decision Notice replacing the Decision Notice dated 23 August 2018. The approved plans showed two (2) stages. Stage 1 comprised of Lot 1 to Lot 9 in addition to Lot 100 (a Conservation buffer zone) and Lot 99 (a balance lot). Stage 2, which subdivides Lot 99 from Stage 1, comprised of the remaining eight (8) lots (i.e., Lots 10 to 17).

Since then, several associated Operational works and Environmental management plan applications have been approved over the subject site to facilitate the approved subdivision.

On 5 February 2021, under Delegated Authority, Council resolved to approve a minor change to lot boundaries and slight addition to approved common property area (Council reference: MIN/2022/494). The changes also removed the staging requirement.

4 PLANNING ASSESSMENT

Reference is made to Attachment No.1 – “Assessment criteria for minor change to development approval”, attached to this report. Assessment has been undertaken against these provisions and the proposed change is considered to be a minor change.

4.1 Summary of approved development and request

As noted above in the background section, on 2 November 2018, Council under Delegated Authority approved a Reconfiguring a lot (one (1) into seventeen (17) community title scheme lot subdivision (in 2 stages)) subject to conditions.

Currently the Applicant proposes to dedicate the Open space and stormwater detention basin as Stage 1 and also intends to separate the new vacant lots from the existing industrial tenancies. Stage 2 involves approving Lots 10-17. The civil works associated with the creation of Lots 10-17 have been accepted off maintenance by Council with several material change of use approvals already granted including on approved Lot 11. The final stage (Stage 3) involves approved Lots 1-9 which contains existing industrial premises with the majority of these tenancies established and operating prior to the original subdivision approval being granted by Council.

The Applicant seeks changes to the development conditions as follows:

Cond No.	Applicant request	Officer discussion / recommendation
2	Amended Drawings – The Applicant requests to amend this condition to reflect the updated drawings submitted.	The request to amend this condition is supported, further discussion below.
3	Community Management Statement – The Applicant requests to amend this condition to reflect the updated drawings submitted.	The request to amend this condition is supported, further discussion below.

The following changes to the development conditions are recommended by Officers as a consequence of the proposed changes:

Cond No.	Condition description	Officer discussion / recommendation
2A	Sequential staging – New condition stating that the staging of the subdivision must occur sequentially from Stage 1 through to Stage 3.	Officers recommend this condition be imposed to ensure that the staging is completed sequentially, with Stage 1 provided first. This condition ensures timing elements in other conditions are achieved in the appropriate order.
4	Requirement to register easement – This condition requires easements over Council infrastructure in certain stages.	Officers recommend this condition be amended to reflect the proposed staging.
7	Land transfer – This condition requires drainage and conservation land within Stage 1 to be transferred to Council.	Officers recommend this condition be amended to reflect the proposed staging and amended drawings.
11	Landscaping works within public open spaces – This condition requires landscaping within public areas such as road reserve.	Officers recommend this condition be amended to reflect the amended drawings.
13	New road – This condition requires a new road to be built within Stages 2	Officers recommend this condition be amended to reflect the proposed staging and amended

	and 3.	drawings.
16	Electrical reticulation – This condition requires new lots within proposed Stages 2 and 3 to be provided with a connection to the electrical reticulation system.	Officers recommend this condition be amended to reflect the proposed staging.
17	Telecommunications network – This condition requires new lots within proposed Stages 2 and 3 to be provided with a connection to the telecommunications network.	Officers recommend this condition be amended to reflect the proposed staging.
22	Sewer reticulation – This condition requires new lots within proposed Stages 2 and 3 to be provided with a connection to the sewer reticulation system.	Officers recommend this condition be amended to reflect the proposed staging.
25	Certification of works - Planning – This condition requires certain certifications to be obtained during the relevant proposed stage.	Officers recommend this condition be amended to reflect the proposed staging.

4.2 Further discussion

As identified above, further discussion is warranted for Conditions 2 and 3 as follows:

Condition 2 currently reads:

2

Approved drawings

Undertake and maintain the development generally in accordance with the following drawings:

Subdivision Engineering				
Drawing Title	Author	Date	Drawing No.	Ver
Subdivision Proposal Plan	AJS Surveys	17/07/2020	S0204-P7A	A

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.

Condition 3 currently reads:

3

Community Management Statement (CMS)

a. Proposed lots 1 - 17 and common property marked on the drawings listed below must be defined in the CMS as the scheme land :

Drawing Title	Author	Date	Drawing No.	Ver
Subdivision Proposal Plan	AJS Surveys	17/07/2020	S0204-P7A	A

b. Undertake the above prior to a request is made to Council to approve the plan of subdivision.

c. Submit, immediately after its creation, the first CMS (*signed by all relevant parties*) to Council for notation and verification of the above.

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d.	Should a new/amended CMS be created, a copy of the new/amended CMS must be provided to Council within 5 business days of its creation.
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The Applicant requests that these conditions be amended to reflect the proposed three stages.

Applicant's representation

'No changes are proposed to the constructed civil works including the stormwater detention basin, new road networks and services with the extent of changes limited to the proposed staging of the development as follows:

Development Summary		
Stage	Lot Number	Area
1	100	[See proposed survey plans]
2	10-17	
3	1-9	

The minor change application is intended to provide for the dedication of the open space and stormwater detention basin as well as separation of the new vacant lots from the existing industrial tenancies. The staging of Lots 1 to 17 is consistent with the original development granted by Council. It is important to note that the proposed staging accords with the relevant assessment benchmarks of the applicable Codes.'

Officer's comment

Council under Delegated Authority approved a Reconfiguring a lot (one (1) into seventeen (17) community title scheme lot subdivision) (Impact assessment) in two (2) stages subject to conditions. Public notification was required for the original application and no submissions were received. The Applicant now proposes to change the staging of the approved Reconfiguring a lot from two (2) stages into three (3) stages and dedicate the open space and stormwater detention basin as Stage 1. Noting that a previously approved minor change to the original approval removed all staging of the development.

A copy of the application was referred to Council's internals most specifically to Open Space and Landscaping Assessment for comments. Council's officers are supportive of the proposal subject to changes to condition 7 (land transfer) and condition 11 (landscaping works within public open spaces). Officers are also proposing additional consequential changes as a result of the proposed change, these are outlined in a table above. Therefore, the Applicant's request is deemed to be acceptable and recommended for approval.

It is considered that the abovementioned conditions be amended.

5 CONCLUSION

This report assessed a request for a minor change for development permit dated 2 November 2018 for Reconfiguration of a lot for a one (1) into seventeen (17) community title scheme lot subdivision at 84-160 Christensen Road, South, Stapylton.

The assessment of this request determined the Minor change is acceptable and recommended for approval for the following reasons:

- the Applicant's request will not result in a substantially different development;
- the proposal meets the Minor change definition and complies with section 78 of the *Planning Act 2016*;
- the proposal does not significantly impact on the intent of the approved Reconfiguring a lot;
- the staging of lots is consistent with the original approval; and
- the proposal will not result in adverse amenity impact on the surrounding areas.

6 RECOMMENDATION

It is recommended that Council resolves as follows:

That under Delegated Authority the Executive Coordinator Planning Assessment of the City Development Branch approves the Minor change application for the development permit dated 2 November 2018 for Reconfiguration of a lot for a one (1) into seventeen (17) community title scheme lot subdivision, in accordance with the Attachment entitled: Decision notice — change application approval including amended suite of development conditions for ROL201800026.

Author:

Shoaleh Mahdavi

Planner

September 2023

Authorised by:

Roger Sharpe

Executive Coordinator Planning Assessment

Attachment No. 1 – Assessment criteria for minor change to development approval

Review of the proposed change to the development approval has been undertaken against the:

- Definition of minor change contained within Schedule 2 of the *Planning Act 2016*.
- Schedule 1 of the Development Assessment Rules that identifies criteria for determining if a change would result in a substantially different development; and
- Section 81 of the *Planning Act 2016* that applies to assessing and deciding an application for minor change to a development approval.

Definition of minor change under Schedule 2 of the *Planning Act 2016*:

(b) for a development approval:

Minor change for a development approval	Officer comment
(i) would not result in substantially different development; and	The proposed changes do not result in a substantially different development, see below.
(ii) if a development application for the development, including the change, were made when the change application is made would not cause— (A) the inclusion of prohibited development in the application; or	The proposed changes do not involve the inclusion of prohibited development.
(B) referral to a referral agency, other than to the chief executive, if there were no referral agencies for the development application; or	The proposed changes do not require referral to any concurrence agencies that were not required as part of the original application.
(C) referral to extra referral agencies, other than to the chief executive; or	The proposed changes do not trigger any extra referral agencies.
(D) a referral agency, in assessing the application under section 55(2), to assess the application against, or have regard to, a matter, other than a matter the referral agency must have assessed the application against, or had regard to, when the application was made; or	The proposed changes do not involve a referral agency as the assessment manager.
(E) public notification if public notification was not required for the development application.	Not applicable as public notification is not required because of the change/s.

Development Assessment Rules - Schedule 1: Substantially different development

Substantially different development consideration	Officer comments
A change may be considered to result in a substantially different development if the proposed change:	
(a) involves a new use; or	No new land uses are proposed.
(b) results in the application applying to a new parcel of land; or	No new parcels of land are impacted by the change.

(c) dramatically changes the built form in terms of scale, bulk and appearance; or	The proposed changes will not result in any dramatic variations in built form.
(d) changes the ability of the proposed development to operate as intended; or	The proposed changes will have a negligible impact on the development's intended functionality.
(e) removes a component that is integral to the operation of the development; or	The proposed development does not remove a component that is integral to the operation of the development.
(f) significantly impacts on traffic flow and the transport network, such as increasing traffic to the site; or	There are no new traffic impacts introduced.
(g) introduces new impacts or increase the severity of known impacts; or	There are no new anticipated impacts associated with the proposed change introduced into the development.
(h) removes an incentive or offset component that would have balanced a negative impact of the development; or	No incentive or offset components are removed as a result of the change.
(i) impacts on infrastructure provisions.	The proposed changes do not impact on infrastructure provisions.

Section 81 of the *Planning Act 2016* applies to assessing an application for minor changes, in particular Subsection (2) (3) and (4) – matters the responsible entity must consider when assessing a minor change application.

Section 81 – Assessing change applications for minor changes	Officer comments
(1) In assessing the change application, the responsible entity must consider –	
(a) the information the applicant included with the application; and	The information submitted has been considered as part of the assessment of the minor change application.
(b) if the responsible entity is the assessment manager – any properly made submissions about the development application or another change application that was approved; and	No submissions were received to the original application.
(c) any pre-request response notice or response notice given in relation to the change application; and	Not applicable
(d) if the responsible entity is, under section 78A(3), the Minister – all matters the Minister would or may assess against or have regard to, if the change application were a development application called in by the Minister; and	Not applicable
(da) if paragraph (d) does not apply – all matters the responsible entity would or	The original application was assessed against the superseded City Plan 2016 (version 3). This

may assess against or have regard to if the change application were a development application; and	provision is requesting the responsible entity to assess the minor change component as if it was part of the original development application. Assessment against City Plan 2016 (version 3) revealed the proposed minor changes would still meet the intent of the relevant applicable codes.
(e) another matter that the responsible entity considers relevant.	There was no other relevant matter to consider.

Section 81 – Assessing change applications for minor changes	Officer comments
(2) Subsections (4) and (5) apply if the responsible entity must, in assessing the change application under subsection (2)(d) or (da) consider – (a) a statutory instrument; or (b) another document applied, adopted or incorporated (with or without changes) in a statutory instrument.	Noted
Section 81 – Assessing change applications for minor changes	Officer comments
(3) The responsible entity must consider the statutory instrument, or other document, as in effect when the development application for the development approval was properly made.	Noted and considered.
Section 81 – Assessing change applications for minor changes	Officer comments
(4) However, the responsible entity may give the weight the responsible entity considers is appropriate, in the circumstances to –	
(a) the statutory instrument or other document as in effect when the change application was made; or	Noted and not relevant
(b) if the statutory instrument or other document is amended or replaced after the change application is made but before it is decided – the amended or replacement instrument or document; or	Noted and not relevant
(c) another statutory instrument – (i) That comes into effect after the change application is made but before it is decided; and (ii) That the responsible entity would have been required to consider if the	Noted and not relevant

instrument had been in effect when the development application for the development approval was properly made.	
Section 81 – Assessing change applications for minor changes	Officer comments
Section 81A of the <i>Planning Act 2016</i> applies to deciding an application for minor changes, in particular Subsection (2) – deciding change applications for minor changes.	
(2) After assessing the change application under section 81, the responsible entity must decide to – (a) make the change, with or without imposing development conditions, or amending development conditions, in relation to the change; or (b) refuse to make the change.	Noted and actioned.