

1 APPLICATION SUMMARY

Application information		
Minor change to development approval		
Address	17 Courtney Drive, UPPER COOMERA QLD 4209	
Lot and plan	Lot 182 RP156422	
Site area	33,410m ²	
Properly made date	13 February 2024	
Originating and current Planning Scheme including version, domain / zone / precinct and constraints / overlays	<i>Originating:</i> City Plan Version 9 <u>Zone</u> Rural residential zone <u>Overlays</u> • Acid sulphate soils; • Airport environs overlay; • Bushfire hazard overlay; and • Environmental significance overlay.	<i>Current:</i> City Plan Version 11 <u>Zone</u> Emerging community, Upper Coomera precinct <u>Overlays</u> • Acid sulphate soils; • Airport environs overlay; • Bushfire hazard overlay; and • Environmental significance overlay.
Originating approved development	Development permit for Reconfiguring a lot for a one (1) into two (2) lot subdivision	
Date of originating development approval	18 April 2023	
Originating approval authority	Delegated authority	
Applicant and Applicant's consultancy team	Mo Chen and Ying Yuan – Applicant Elevate Development Solutions – Town Planning Trilogy – Survey and Subdivision Plan	
Owner details	Mo Chen and Ying Yuan	
Referral agencies	Not applicable	
Officer's recommendation	Approval, subject to conditions.	

2 PROPOSAL

The purpose of this report is to assess an application for a change (minor) to the development permit under Section 78 of the *Planning Act 2016* for an approved Development permit for a Reconfiguring a lot for a one (1) into two (2) lot subdivision at 17 Courtney Drive, Upper Coomera.

The proposed changes include the reconfiguration of the proposed lot boundaries and subsequently the approved building envelope location, access arrangement and lot sizes. These changes are summarised in the table below:

	Approved	Proposed	Change
Lot sizes	Lot 1: 18,090m ² (1.809ha) Lot 2: 15,310m ² (1.531ha)	Lot 1: 12,170m ² (1.217ha) Lot 2: 20,690m ² (2.069ha)	Lot 1: - 5,920m ² Lot 2: + 5,380m ²
Road access	Lot 1: Existing VXO to Courtney Dr Lot 2: New VXO to Courtney Dr	Lot 1: New VXO to Courtney Dr Lot 2: Existing VXO to Courtney Dr	The access to proposed Lot 2 is where the previous access for proposed Lot 1. New access is provided for Lot 1.
Frontage	Lot 1: 158m to Courtney Dr Lot 2: 129m to Baileys Mountain Rd and 113m to Courtney Dr	Lot 1: 98m to Courtney Dr Lot 2: 129m to Baileys Mountain Rd and 173m to Courtney Dr	Lot 1: - 60m Lot 2: + 60m to Courtney Dr

The approved and proposed subdivision plan is shown below:

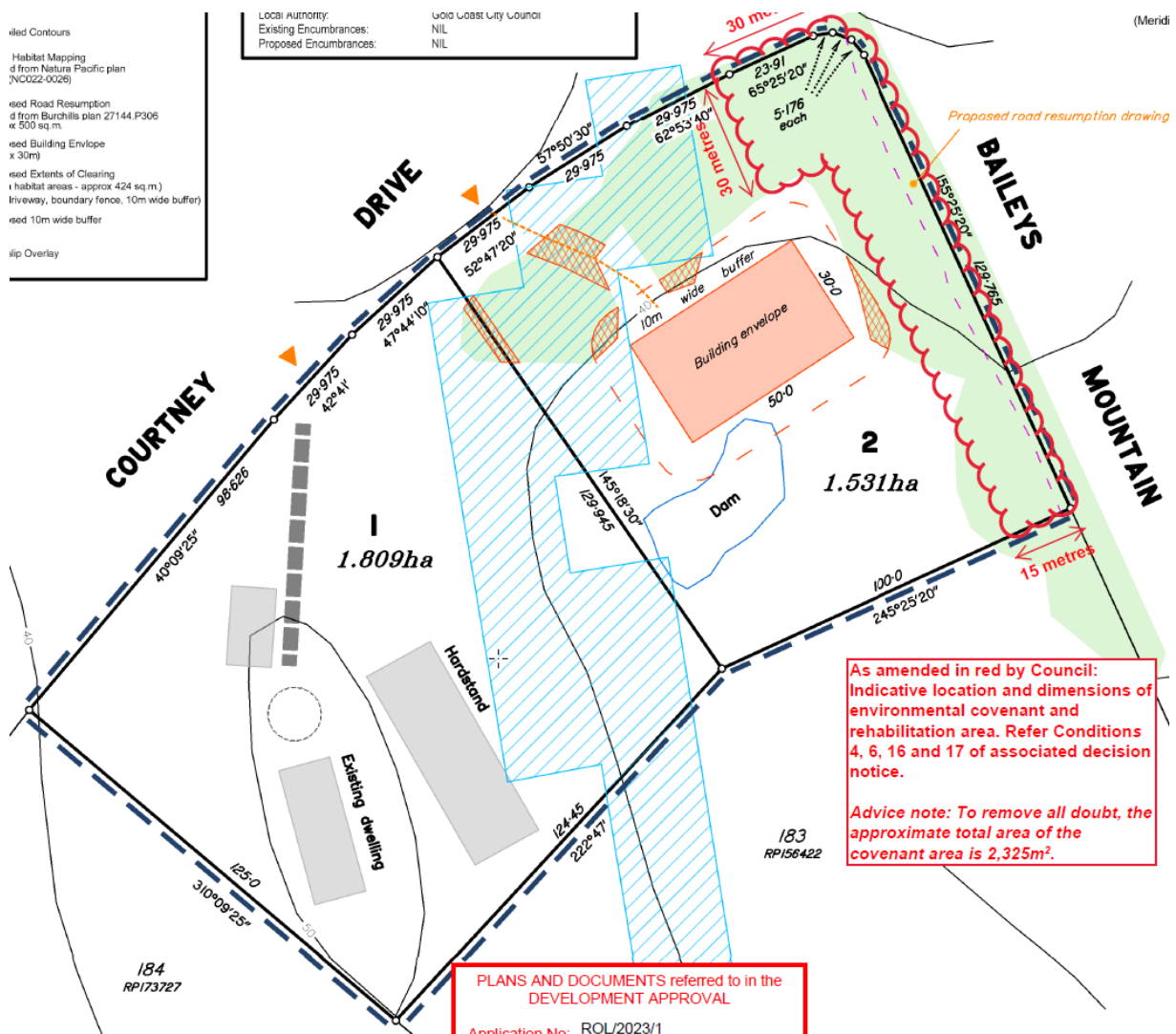


Figure 1: Approved subdivision plan (Source: Trilogy Survey Solutions)

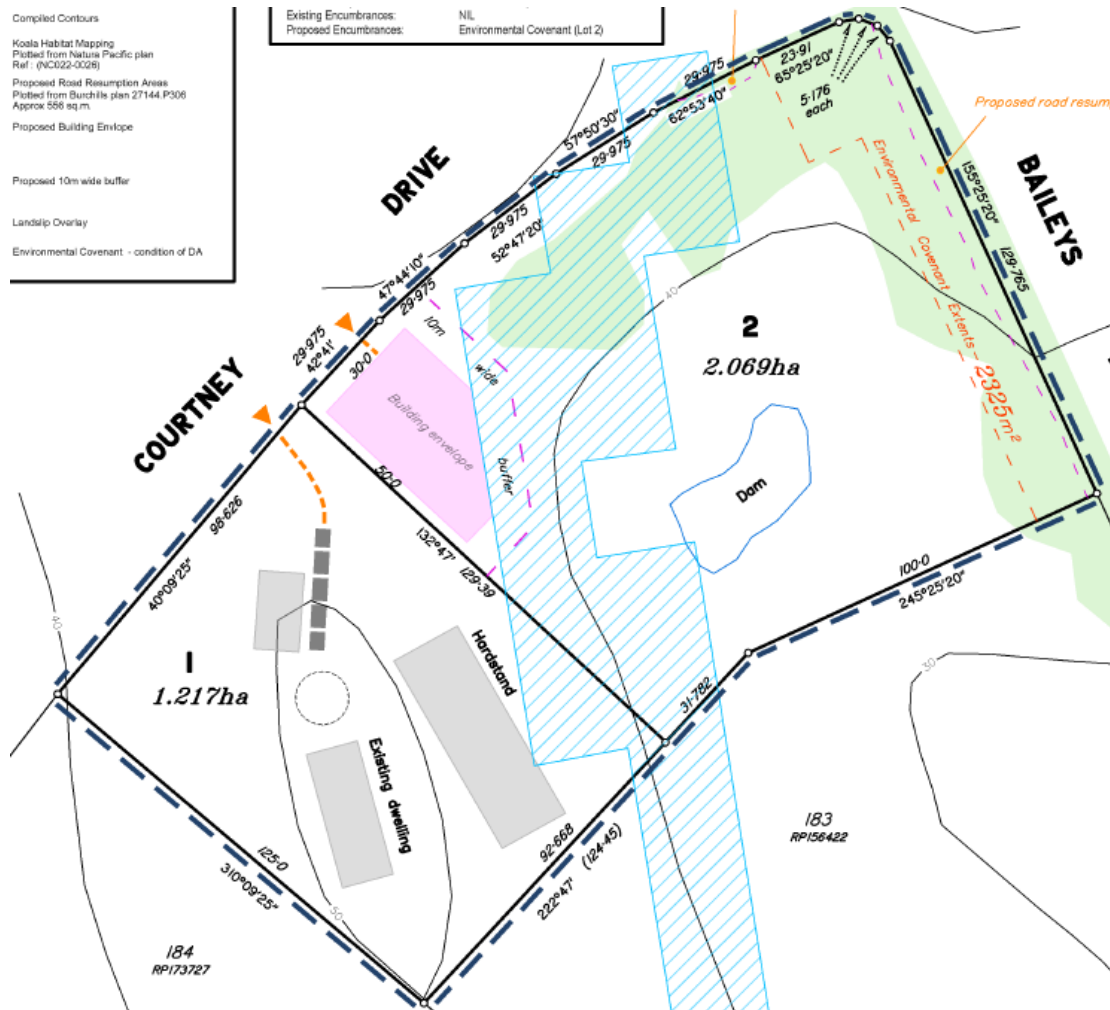


Figure 2: Proposed subdivision plan (Source: Trilogy Survey Solutions)

3 BACKGROUND

ROL/2023/1 – On 18 April 2023, under Delegated Authority, the Executive Coordinator of Planning Assessment resolved to issue a Development permit for a Reconfiguring a lot for one (1) into two (2) lot subdivision at 17 Courtney Drive, Upper Coomera.

Our City Our Plan (Major update 2 & 3) – On 4 July 2023 Our City Our Plan Major Update was adopted, and subsequently amended the zoning of the subject site from Rural residential to Emerging community (Courtney Drive precinct).

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(s) are considered to be a minor change.

4.1 Summary of approved development and request

The proposed changes include the reconfiguration of the proposed lot boundaries and subsequently the approved building envelope location, access arrangement and lot sizes. The amended proposal retains all conditioned environmental covenant and rehabilitation areas (2,325m²) and 500m² of land along the Baileys Mountain Road frontage to be dedicated for future road widening in accordance with City of Gold Coast plan titled Arterial Road – Baileys Mountain Road Upper Coomera Preliminary Design Land Acquisition Plan, drawing number: 277144.P306.

The applicant seeks changes to the development conditions as follows:

Cond No.	Applicant request	Officer discussion / recommendation
2	Approved drawings – The applicant requests this condition be amended to reflect the revised subdivision plan.	The request to amend this condition is supported. The subject site is considerable constrained, and a key assessment consideration was the siting of the building envelope to avoid or mitigate impacts associated with mapped site constraints (i.e., bushfire, landslide, environmental significance (waterway) and State mapped Koala Habitat). The amended building envelope location is outside of any mapped hazard areas, and is an improved outcome, having regard to Koala Habitat (now no removal is required to facilitate the development). The building envelope also maintains a 10m buffer to avoid as of right clearing of Koala Habitat area. The proposed lot sizes are still Code assessable in accordance with the Rural residential zone and Emerging community zone. The proposal does not result in the removal of any aspects which were integral to the assessment of the original proposal. The development maintains the conditioned environmental covenant and rehabilitation areas (2,325m²) and 500m² of land along the Baileys Mountain Road frontage to be dedicated for future road widening in accordance with City of Gold Coast plan titled Arterial Road – Baileys Mountain Road Upper Coomera Preliminary Design Land Acquisition Plan, drawing number: 277144.P306. No changes are required to the Infrastructure Charge notice. Ultimately, the amended proposal is consistent with the established and emerging character of the Courtney Drive area and provides a lot size and configuration which will facilitate future development of the site in accordance with the future planning direction for the area.
7	Building envelope Lot 2 – The applicant requests this condition be amended to reflect approved subdivision plan.	The request to amend this condition is supported.

5 CONCLUSION

This report assessed a request for a change (minor) under Section 78 of the *Planning Act 2016* to the development permit for an approved Reconfiguring a lot for a one (1) into two (2) lot subdivision at 17 Courtney Drive, Upper Coomera.

The assessment of this request determined the request to amend conditions to reflect the amended subdivision plan is acceptable and recommended for approval.

6 RECOMMENDATION

It is recommended that Council resolves as follows:

That under Delegated Authority the Manager Planning Assessment of the City Development Branch approves the Minor change application for the development permit dated 18 April 2023 for a Reconfiguring a lot for a one (1) into two (2) lot subdivision at 17 Courtney Drive, Upper Coomera in accordance with the Attachment entitled: Decision notice – change application approval.

Author:

Kyra Reid

Planner

April 2024

Authorised by:

Adam Brown

A/Manager 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	Complies - See response to Schedule 1 of the DA Rules 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	Complies - The proposal does not introduce 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	Not applicable. No part of the application requires referral.
(C) referral to extra referral agencies, other than to the chief executive; or	Not applicable. No part of the application requires referral.
(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	Not applicable. No part of the application requires referral.
(E) public notification if public notification was not required for the development application.	Not applicable.

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	N/A
(b) results in the application applying to a new parcel of land; or	Complies – The proposal remains on the same parcel of land.

(c) dramatically changes the built form in terms of scale, bulk and appearance; or	N/A – No built form is proposed.
(d) changes the ability of the proposed development to operate as intended; or	The proposal does not change the ability for the approved development to operate as intended.
(e) removes a component that is integral to the operation of the development; or	The proposal does not remove any components that are 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	The proposal will not significantly impact on traffic flow.
(g) introduces new impacts or increase the severity of known impacts; or	The proposal does not introduce new impacts that weren't already assessed in the original application.
(h) removes an incentive or offset component that would have balanced a negative impact of the development; or	The proposal does not remove any incentive or offset component that balanced negative impacts of the approved development.
(i) impacts on infrastructure provisions.	Council's asset custodians have confirmed that the proposal will 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 City Plan (Version 9). This provision is requesting the responsible entity to assess the

may assess against or have regard to if the change application were a development application; and	minor change component as if it was part of the original development application. Officers have reconsidered the proposal against the City Plan (Version 11) and revealed the proposed minor changes would still meet the intent of the relevant applicable codes.
(e) another matter that the responsible entity considers relevant.	Not applicable.

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.
(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.
(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 instrument had been in effect when	Not applicable.

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.