

Our ref: 11122

29 January 2025

Toowoomba Regional Council  
PO Box 3021  
Toowoomba QLD 4350

**RECEIVED**  
29/01/2025  
**TOOWOOMBA  
REGIONAL COUNCIL**

Via email: [development@tr.qld.gov.au](mailto:development@tr.qld.gov.au)

Dear Council,

**RE: CHANGE APPLICATION (MINOR CHANGE) - MCUI/2020/5051  
SECTION 81 OF THE PLANNING ACT 2016  
689 TOOWOOMBA CECIL PLAINS ROAD, WELLCAMP QUEENSLAND 4350**

We write to you on behalf of Marbig Pty Ltd ATF The Alkon Trust (the Applicant) in relation land at 689 Toowoomba Cecil Plains Road, Wellcamp QLD 4350, which is more particularly described as Lots 4 – 8 and Lots 20 – 24 A341, Lots 9 and 19 RP113281, Lot 279 AG3110 and Lot 280 AG3111 (the site). In accordance with Sections 78 & 81 of the *Planning Act 2016* (the Planning Act), the Applicant seeks to make a change to an existing development approval (Council Reference: MCUI/2020/5051) over the site. We have carried out an assessment of the proposed changes and believe they constitute a 'minor change' in accordance with Schedule 2 of the Planning Act.

This letter includes the following sections:

- Background;
- Proposed Minor Change;
- Amendments to Approval;
- Legislative Assessment; and
- Summary.

In support of our change application, the following documentation has been provided as attachments:

- **Attachment A** – DA Form 5, prepared by Saunders Havill Group Pty Ltd;
- **Attachment B** – Amended Gainsborough Lodge Variation Scheme Document, prepared by Saunders Havill Group Pty Ltd;

# 1. Background

On 3 March 2022, Toowoomba Regional Council approved a combined development application for a Preliminary Approval for a Material Change of Use including a Variation Request and Development Permit for Reconfiguring a lot – Ten (10) Lots into Fifty-six (56) Residential Lots plus Two (2) Balance lots (Council Reference: MCUI/2020/5051 & RAL/2020/5054) (the original approval).

As a part of this approval, Council approved the Gainsborough Lodge Variation Scheme Document (VSD) which set out the planning framework for future development on the site. Refer to **Figure 1** below for the approved Gainsborough Lodge Approval Area.



Figure 1: Approved Gainsborough Lodge Approval Area Plan

Since the original approval, there have been a number of approvals granted over the site, including:

- **RAL/2020/5054/A** – On 28 June 2022, Council approved a minor change application to the original approval which included changes to approved plans and amendments to the wording of a number of conditions including roadworks (internal and external), external pedestrian and cycle paths and landscaping works conditions.

- **RAL/2020/5054/B** – On 10 May 2024, Council approved a minor change application to the original approval which included amendments to the approved plans, and amendments to the working of a number of conditions including stormwater drainage and internal roadworks.
- **RAL/2022/4965** – On 14 September 2022, Council granted approval for a Development Permit involving a Reconfiguring a Lot for Two (2) Lots into 340 Residential Lots, Three (3) Balance Lots and One (1) Drainage Lot.

This minor change application relates to MCUI/2020/5051 from the original approval. The proposed changes are detailed further in the below sections.

## 2. Proposed Minor Change

The approved VSD specifies that development within the Gainsborough Lodge Low Density Residential Zone is to achieve a minimum lot size of 450m<sup>2</sup>, while the overall outcomes of the Gainsborough Lodge Low Density Residential Zone code specifies that lot reconfiguration is to achieve a minimum dwelling yield of 15 dwellings per hectare net.

Currently, the approved stages of Gainsborough Lodge (Stages 1 – 9) involve the creation of 396 lots over a net area of 42.2ha, with an overall dwelling yield of 9.2 dwellings per hectare net and an average lot size of 675m<sup>2</sup>, which has meant that the current development is not achieving intended housing targets for the area.

Given the current housing affordability issues being experienced within the LGA, it is intended to increase the overall dwelling yield of the development through the introduction of a new terrace-type product within the estate, which involves the creation of lots less than 450m<sup>2</sup>. The key reason for the proposed change is to improve the lot diversity and future housing options on the site and provide a more affordable housing product offering to the market. Refer to **Figure 2** below for a preliminary concept layout for Stage 3 showing the intent to create lots less than 450m<sup>2</sup>.

In order to achieve the above, it is proposed to amend the Gainsborough Lodge VSD document to change the minimum lot size within the Gainsborough Lodge Low Density Residential Zone from 450m<sup>2</sup> to 420m<sup>2</sup>. The intent of this change is to allow for future reconfiguration of a lot applications which include lots 420m<sup>2</sup> or greater in size to be code assessable. Where a future dwelling house is located on a lot less than 450m<sup>2</sup>, the level of assessment will remain as 'Accepted development subject to requirements' (as per the Gainsborough Lodge VSD document) and the Small Lot Housing Code (Version 24.0 of Toowoomba Planning Scheme) will be a relevant assessment benchmark. As we are now introducing lots less than 450m<sup>2</sup> into the proposed estate, we are also seeking a minor change to the Council's Small Lot Housing Code (referred to as the Gainsborough Lodge Small Lot Housing Code).

The subject site is quite steep in places and one of the ways to manage the slope (without excessive earthworks to provide a flat building pad) is through a split-level house design. This is one of the primary drivers for the creation of smaller terrace lots as shown in Figure 2 below.

In terms of the future house design for the proposed terrace lots, the intention is still for the primary car accommodation (garage) to be provided from the main local road, with a carport etc provided at the rear which will be accessible from the laneway. This is due to the slope of the lots in this area and maintaining access to the front and back of the lots as they are split by a 3m difference. Access to the front of the lots will be required to comply with the recently adopted liveable housing standards under the National Construction Code.

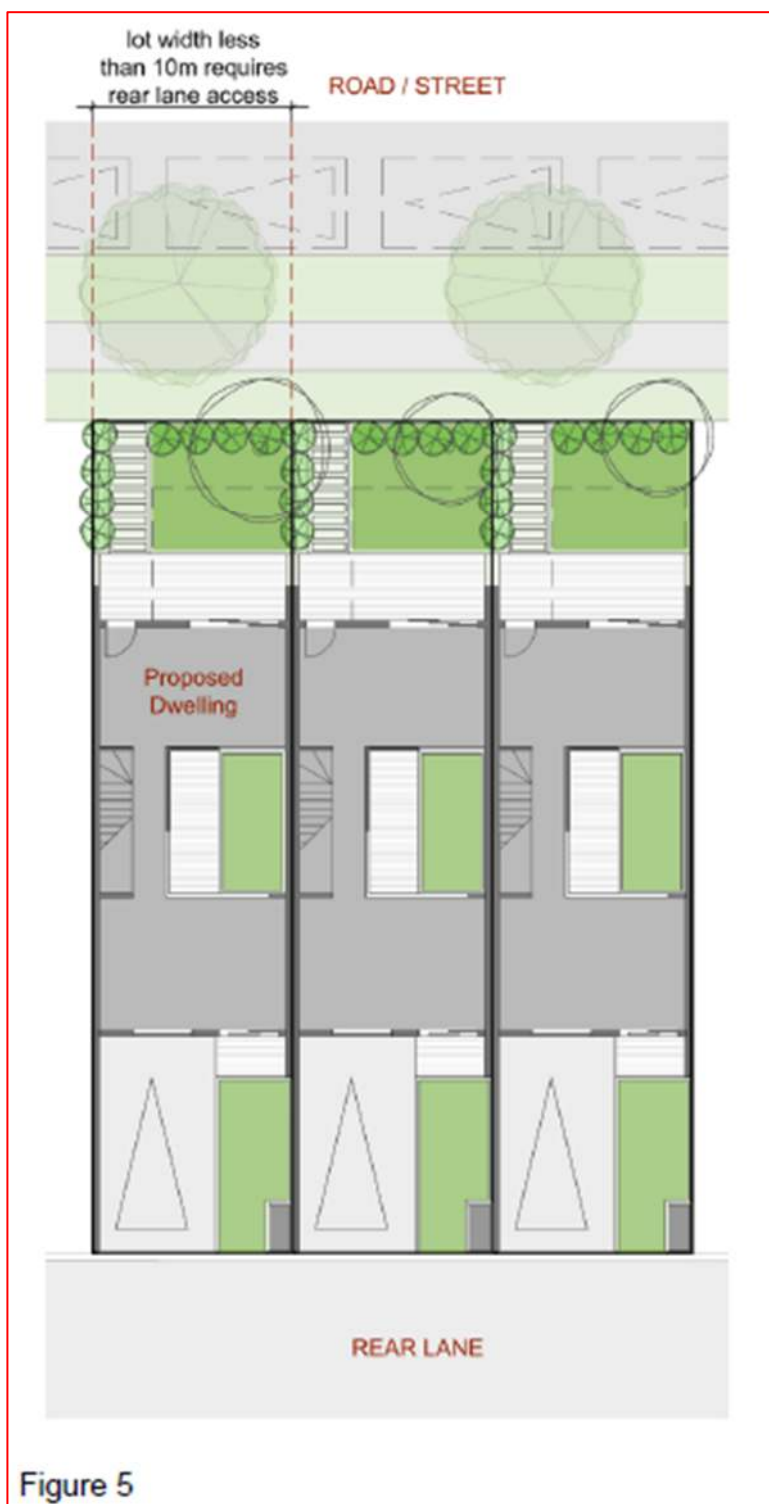
AO7.2 of the Small Lot Housing Code states that where lots are provided with rear lane access, vehicular access to the garage/carport is provided only via the rear lane. While we understand the intent of this - to ensure that garages, carports and driveways do not dominate the street frontage – the intention for the estate is to provide terrace-type lots with a frontage of 13m, which is sufficient to provide access/car parking from the primary road frontage (local road) without needing to provide vehicular access from the laneway.

Figure 5 of the Small Lot Housing Code indicates that a lot width less than 10m is to be provided with rear lane access. That being the case, we have suggested the following amendment to AO7.2 of the Small Lot Housing Code:

*AO<sub>7.2</sub> For lots with rear lane access:*

- (a) vehicular access to the garage/carport is provided only via the rear lane (where the lot width is 10m or less);*
- (b) where access is provided via the rear lane, the site layout must ensure a B85 vehicle (as defined in AS 2890.1:2004 Parking facilities - Off-street car parking) is able to enter a garage/ carport or visitor car park in a single manoeuvre and exit in a single manoeuvre without vehicle turning overhang impinging on walls, posts or landscaping areas).*

It is important to note that no changes are proposed to RAL/2020/5054/B or RAL/2022/4965 as part of this minor change application.



**Figure 5**

*Figure 2: Extract from the Small Lot Housing Code*

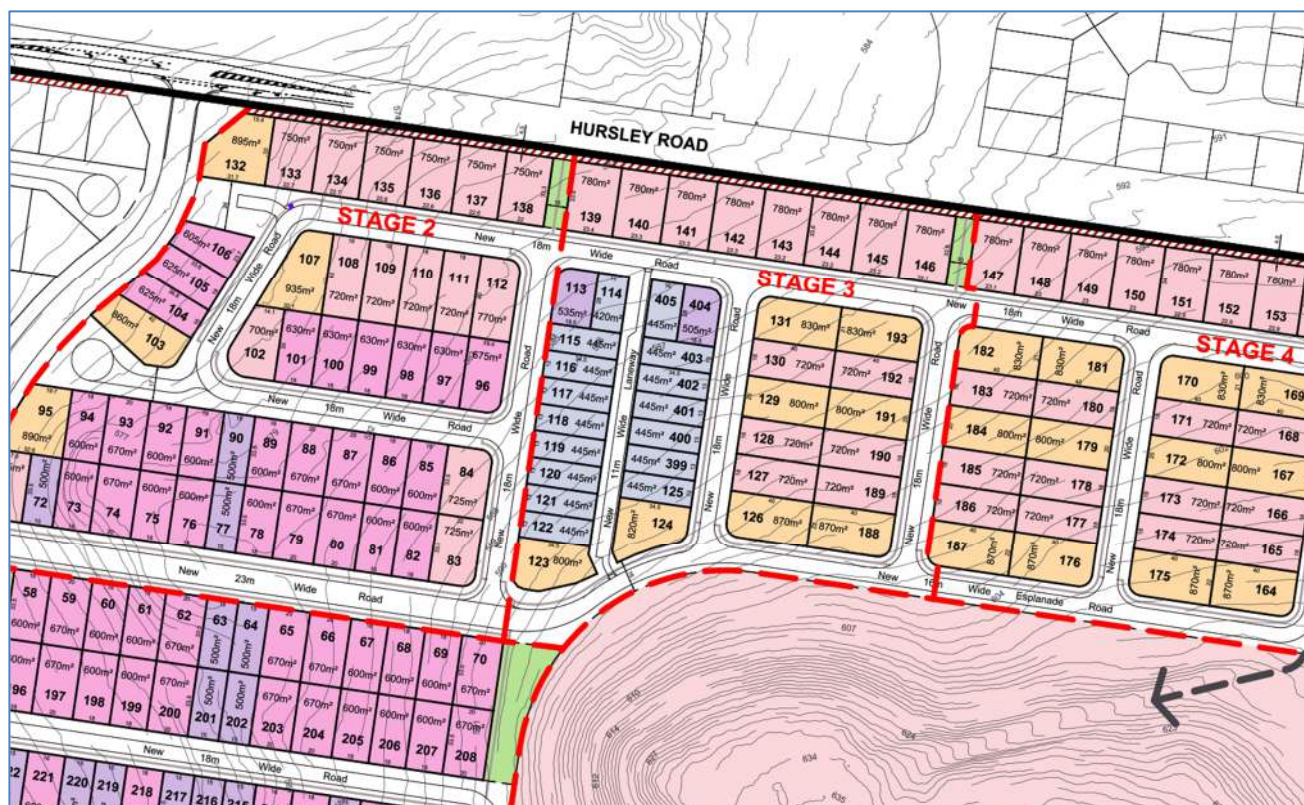


Figure 3: Except of preliminary concept layout for Stage 3

A list of the proposed changes to the VSD document is as follows:

- Table 4.2.1 – Change ‘Small Lot Housing Design Code’ to ‘Gainsborough Lodge Small Lot Housing Design Code’
- Table 4.3.2 – Minimum Lot Size
- Introduction of Table 5.3.2 - Gainsborough Lodge Small Lot Housing Code
  - Acceptable Outcome 7.2 – Amendment to outcome to nominate rear vehicular access for lots with a lot width of 10m or less.
- Table 5.3.8.2 – Reconfiguring a Lot Code - assessment benchmarks for assessable development
  - Acceptable Outcome 45.1 – Amendment to outcome to reference ‘420m<sup>2</sup>’ to remove the need for a Plan of Development to be submitted
  - Acceptable Outcome 48.1 – Change to acceptable outcome to allow for Eight (8) contiguous small lots along a street frontage.
- Table 5.3.8.3 – Lot Sizes and Dimensions

## 3. Amendments to Approval

### 3.1. Changes to Approved Documents

As a result of the change described above, an amended Gainsborough Lodge Variation Scheme Document (Version 4.1) has been prepared by Saunders Havill Group and is provided in **Attachment B**. As such, the

approved conditions package will need to be amended to substitute the new version of the variation scheme document.

## 4. Legislative Assessment

Schedule 2 of the *Planning Act 2016* establishes the criteria of a minor change to a development approval by way of its definition. To support this application, we have undertaken an assessment against each element of this criteria below:

| Minor Change  | Response   |
|---|--|
| <i>(b) for a development approval –</i>   |  |
| <i>(i) Would not result in substantially different development; and</i>   | Refer to table below.  |
| <i>If a development application for the development, including the change, were made when the change application is made would not cause--</i>  |  |
| <i>(A) the inclusion of prohibited development in the application; or</i>   | The proposed change does not result in the inclusion of prohibited development in the application. |
| <i>(B) referral to a referral agency, other than to the chief executive, if there were no referral agencies for the development application; or</i>   | The proposed change does not require referral to a referral agency.                                |
| <i>(C) referral to extra referral agencies, other than to the chief executive; or</i>   | The proposed change does not require referral to additional referral agencies.                     |
| <i>(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</i> | The proposed change does not require referral to additional referral agencies.                     |
| <i>(E) public notification if public notification was not required for the development application.</i>   | Not Applicable. Public Notification was required for the original application.                     |

Guidance as to what constitutes substantially different development is provided within Schedule 1 of the *Development Assessment Rules* (DA Rules). A response to each of these elements is in the criteria below:

| <b>Substantially different development:</b>  | <b>Response</b>   |
|--|---|
| <i>(a) Involves a new use; or</i>  | The proposed development does not involve a new use.  |
| <i>(b) Results in the application applying to a new parcel of land; or</i>   | The proposed change does not introduce a new parcel of land.  |
| <i>(c) Dramatically changes the built form in terms of scale, bulk and appearance; or</i>                              | The proposed change relates to minimum lot sizes and therefore, no built form is proposed. Accordingly, the proposed change will not dramatically change the built form in terms of scale, bulk and appearance. |
| <i>(d) Changes the ability of the proposed development to operate as intended; or</i>                                  | The proposed change does not change the ability of the proposed development to operate as intended.   |
| <i>(e) Removes a component that is integral to the operation of the development; or</i>                                | The proposed change does not remove a component that is integral to the operation of the development.   |
| <i>(f) Significantly impacts on traffic flow and the transport network, such as increasing traffic to the site; or</i> | The proposed change is not expected to result in significant impacts on traffic flow and the transport network.   |
| <i>(g) Introduces new impacts or increases the severity of known impacts; or</i>                                       | The proposed change does not introduce new impacts or increase the severity of known impacts.   |
| <i>(h) Removes an incentive or offset component that would have balanced a negative impact of the development; or</i>  | The proposed change does not remove an incentive of offset component.   |
| <i>(i) Impacts on infrastructure provisions.</i>   | The proposed change is not expected to cause impacts on infrastructure provisions.  |

## 4.1. Decision Matters Assessment

In addition, we have also carried out an assessment against section 81 of the *Planning Act 2016* which outlines the matters an assessment manager must assess against when deciding a minor change application below:

**(1) This section applies to a change application for a minor change to a development approval.**

**(2) When assessing the change application, the responsible entity must consider—**

**(a) the information the applicant included with the application; and**

Complies – This letter outlines and provides justification for the proposed change.

***(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***

Not applicable – no properly made submissions were made about the original development application or any subsequent change applications.

***(c) any pre-request response notice or response notice given in relation to the change application; and***

Not applicable – a pre-request response notice or response notice has not been required for this change application.

***(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 – the responsible entity is the Assessment Manager.

***(da) if paragraph (d) does not apply—all matters the responsible entity would or may assess against or have regard to, if the change application were a development application; and***

***(e) another matter that the responsible entity considers relevant.***

Complies – the proposed minor changes have been considered against the applicable version of the planning scheme and the Gainsborough Lodge Variation Scheme Document.

***(3) For subsection (2)(d) and (da), the responsible entity—***

***(a) must assess against, or have regard to, the matters that applied when the development application was made; and***

***(b) may assess against, or have regard to, the matters that applied when the change application was made.***

Complies – the proposed minor changes have been considered against the applicable version of the planning scheme and the Gainsborough Lodge Variation Scheme Document. Furthermore, the proposed change to

layout is considered to be better aligned with the planning scheme zoning, noting that development within the low density residential zone is expected to achieve a minimum dwelling yield of 15 dwellings per hectare net, which is not currently being achieved.

In summary, we believe that the proposed changes have adequately considered the matters within section 81 of the *Planning Act 2016*.

## 5. Summary

In summary, the proposed changes are considered to satisfy the minor change criteria, and we therefore request that Council amend the conditions as per the representation set out within this letter; and include reference to the attached proposed plans within the approval document.

Upon receipt of Council's assessment fee, we will coordinate payment at earliest opportunity.

Should you wish to discuss the above matters further, please do not hesitate to contact me on (07) 3251 9456 or at [liamwiley@saundershavill.com](mailto:liamwiley@saundershavill.com).

Yours sincerely

**Saunders Havill Group**

A handwritten signature in black ink, appearing to read 'Liam Wiley', written in a cursive style.

Liam Wiley

**Principal - Town Planning**