

Our Ref: 8325

Council Ref: RAL 2014/1795

13 June 2018

Attn: Chief Executive Officer
Toowoomba Regional Council
PO Box 3021
Toowoomba QLD 4350

RECEIVED
13/06/2018
**TOOWOOMBA
REGIONAL COUNCIL**

Dear Sir/ Madam,

RE: DEVELOPMENT APPROVAL FOR RECONFIGURING A LOT (2 INTO 44 LOTS) OVER LAND AT 14 WEALE STREET, MOUNT KYNOCH (LOT 100 ON SP157008) - EXTENSION APPLCIATION & REQUEST TO CHANGE APPROVAL (MINOR CHANGE)

We act on behalf of our Client, Varsity Property Pty Ltd Aft Varsity Development Unit Trust in relation to the above-mentioned development approval (Council Ref: RAL 2014/1795) and seek a combined request to Extend the Currency Period and Change The Development Approval (Minor Change) pursuant to section 81 & 86 of the *Planning Act (PA) 2016*.

In support of our request, please find attached:

- **Attachment A** – Copy of Development Approval RAL 2014/1795 & GIA Approval;
- **Attachment B** – TRC Extension Application Form & Form 1;
- **Attachment C** – Owners Consent & Certificate of Title; and
- **Attachment D** – Proposed Staging Plan prepared by Saunders Havill Group.

1.1. Existing Development Approval

A Reconfiguring a Lot (Development Permit) Approval for 2 lots into 44 lots over 4 stages was issued by Toowoomba Regional Council on the 26th of November 2014 (Council Reference: RAL/2014/1795). Stages 1, 2 and 4 of the approved development contain low density residential sized lots (minimum lot size of 500m²) and are located east of the natural ridge line running through the site. These lots will be serviced by the existing gravity fed sewer main from the adjoining residential development to the east. However, approved lots in Stage 3 located on the western side of the ridge maintain a rural residential character given that there was no ability, at the time of approval, to connect into Council's reticulated sewer system.

Council approved a Generally in Accordance (GIA) Request on 24th June 2016 to remove the southern road connection and undertake some minor changes to lot boundaries in Stage 2. A southern road connection

was made redundant following the resumption of the adjoining site (Lot 4 on SP194139) to facilitate the Second Range Crossing. The current approved plan of development is 8325 P 01 PP A, dated 9th June 2016, prepared by Saunders Havill Group. A copy of the original approval package and Council GIA Letter is provided in **Attachment A**.

1.2. Extension Application

The relevant period for the approval is four (4) years (until 26th November 2018) in accordance with Part B of the Decision Notice. We wish to seek an extension of the relevant period of the approval for an additional four (4) years to **26th November 2022**. The purpose of the extension is to allow for the development to proceed under the approval and to facilitate an integrated development outcome sought under the Change to Approval (Minor Change) enclosed herein and a future development application over the western portion of the site (refer to Pre-lodgement Minutes no. PREL/2018/793). As such, we confirm that it is the intent of our Client to proceed with the development permitted by the current approval, particularly in relation to reformed Stage 1 which is consistent with the community's expectations for development in the area.

In accordance with section 86 of the *Planning Act 2016*, this request is accompanied by the required form (**Attachment B**), required fee and owner's consent (**Attachment C**). In light of the above, we believe that an extension of 4 years is appropriate and will allow for our client to proceed with development under the approval.

1.3. Change to Approval (Minor Change)

Since the issue of the development approval, infrastructure upgrades have been carried out in conjunction with the Second Range Crossing works to extend a sewer main north and provide a connection to lots in Stage 3. Given the split zoning of the site under the current Toowoomba Regional Planning Scheme (version 18 – commenced 24 Nov 2017), a new development application will be required to further develop the lots grading west generally in accordance with the Low Density Residential Zone (500m² minimum lot). The consolidated development layout will involve a sixty-four (64) lot development scheme across the site.

A Minor Change to the Development Approval is therefore sought to align the stages of development of the approved development with the proposed development. The intent of the changes is to enable the Applicant to move forward with Stage 1 (26 lots) under the existing approval, whilst seeking an approval over the balance of the site. Consequently the approved development will be reduced from four (4) to three (3) Stages as shown in the amended Proposal Plan contained in **Attachment D**.

It is important to note that Lots in Stage 1 have remained unchanged from that currently approved and adjoin existing development for road access. As such, this request only seeks to change stage boundaries and does not involve any changes to the number of lots, size of lots or road layout.

In accordance with section 79 of the *Planning Act 2016*, this request is accompanied by the required form (**Attachment B**), required fee and owner's consent (**Attachment C**).

The proposed changes to the development approval are summarised in the table below:

Stage	Current no. of lots	Proposed no. of lots	Comment
1	5	26	Reformed stage 1 represents development that will remain unchanged. This includes the entry road from Cassidy Terrace, lots fronting the internal cul-de-sac road and six lots from Westview Drive.
2	7	12	Reformed stage 2 represents the 'part of lot' which will be subject to minor changes to facilitate the consolidated layout for low density residential development across the site.
3	7	6	Stage 3 remains generally the consistent and includes the part of site which grades to the west.
4	25	Nil	Stage removed.

Changes to Conditions

The following conditions of approval will need to be updated to reflect the amended Plans included at **Appendix D**.

Condition	Comment
<i>General</i>	Change all references to the approved use from Reconfiguring a Lot (2 lots into 44 lots) <u>4 Stages</u> to 3 Stages .
Condition 4 <i>The development must be carried out generally in accordance with the Approved Plan/s listed below...</i>	Amend condition to reference amended Proposal Plan 8325 P02 PP A, dated 19/03/2018 prepared by Saunders Havill Group.
Condition 5 <i>Approved documents</i>	Remove all reference to stages within the description of approved documents.
Condition 16 <i>Staging of the development must occur in accordance with the staging indicated on...</i>	Amend condition to reference amended Proposal Plan 8325 P02 PP A, dated 19/03/2018 prepared by Saunders Havill Group.
Condition 17 <i>Stages must be completed in sequential order (i.e. Stage 1 must be completed before Stage 2) as identified on...</i>	Amend condition to reference amended Proposal Plan 8325 P02 PP A, dated 19/03/2018 prepared by Saunders Havill Group.

Legislative Assessment (Minor Change)

We have carried out the following legislative assessment to support this application.

To support this request, we have undertaken an assessment against Subdivision 2, s78 of the *Planning Act 2016* which outlines what a 'minor change' is. An assessment of each element of this section has been provided below:

Minor change means a change that—

(b) for a development approval—

(i) would not result in substantially different development; and

We have undertaken an assessment against item 4 of *Schedule 1: Substantially Different Development* within the Development Assessment Rules, which outlines what ‘substantially different development’ is below:

Substantially Different Development Criteria	Assessment of Proposal Against Substantially Different Development Criteria
<i>Involves a new use</i>	The proposed change does not result in a new use.
<i>Results in the application applying to a new parcel of land</i>	The proposed change does not result in the approval applying to any new parcels of land.
<i>Dramatically changes the built form in terms of scale, bulk or appearance</i>	The proposed change will not dramatically change the future built form anticipated on lots in terms of scale, bulk or appearance.
<i>Changes the ability of the proposal to operate as intended</i>	The proposed change will not change the ability for the development to operate as intended.
<i>Removes a component that is integral to the operation of the development</i>	The proposed change does not remove a component that is integral to the operation of the development.
<i>Significantly impacts on traffic flow and the transport network, such as increasing traffic to the site</i>	The proposed change will not impact on traffic flow or the transport network.
<i>Introduces new impacts or increase the severity of known impacts</i>	The proposed change does not introduce new impacts or increases the severity of known impacts.
<i>Removes an incentive or offset component that would have balanced a negative impact of the development</i>	The proposed change does not remove an incentive or offset component.
<i>Impacts on infrastructure provisions</i>	The proposed change does not impact on infrastructure provisions.

In summary, we believe that the proposed changes do not constitute ‘substantially different development’ and are therefore a minor change in accordance with schedule 2 of the *Planning Act 2016*.

(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 change does not introduce any 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 original development application was referred to SARA.

(C) referral to extra referral agencies, other than to the chief executive; or

The proposed change does not trigger referral to new any referral agencies.

(D) a referral agency to assess the application against, or have regard to, matters prescribed by regulation under section 55(2), other than matters the referral agency must have assessed the application against, or have had regard to, when the application was made; or

The proposed change does not trigger any new or additional referrals under the regulation.

(E) public notification if public notification was not required for the development application.

The original development application was code assessable. The level of assessment would not change under the current planning scheme with the minimum lot size of 500m² being maintained over the part of the lot in the Low Density Residential Zone and minimum lot size of 4,000m² in the part of lot in the Rural Residential Zone.

In summary, we believe that the proposed changes constitute a minor change in accordance with schedule 2 of the *Planning Act 2016*. In addition, whilst the original application required referral to the SARA, in accordance with s80(2)(ii) of the *Planning Act 2016*, this request does not need to be provided to SARA as they are not the 'affected entity'.

We look forward to receiving Council's favourable decision in regards to these requests in due course. Should there be any clarification required in relation to this request, please contact me on (07) 3251 9474 or email: lauramessina@saundershavill.com or Michael Forwood on 3251 9470.

Yours faithfully

Saunders Havill Group



Laura Messina
Town Planner