

Our reference: MCU/2021/163

Your reference:

Decision notice — approval (with conditions)

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

Date of decision notice: 29 October 2021

Applicant details

Applicant name: Burleigh Heads Estate Pty Ltd
Applicant contact details: C/- Gassman Development Perspectives
PO BOX 392
BEENLEIGH QLD 4207

Application details

Application number: MCU/2021/163
Approval sought: Development permit for a material change of use
Details of proposed development: Material change of use (code assessment) to establish a Plan of Development for Dwelling houses.

Location details

Street address: Lot 117 Pacific Highway, BURLEIGH HEADS
Real property description: Lot 117 on SP316001
Lot 118 on SP316002

Decision

Date of decision: 25 October 2021
Decision details: Under Delegated Authority, the Executive Coordinator of the Planning Assessment section 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: Material change of use (code assessment) to establish a Plan of Development for Dwelling houses.

Conditions

The conditions that have been imposed by Council, as Assessment manager, are enclosed.

Further development permits

The following development permits are required to be obtained before the development can be carried out:

- Building work

Notwithstanding the above, other approvals/development permits may be required.

Properly made submissions

Not applicable—No part of the application required public notification.

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 six 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	<p>You have appeal rights in relation to this decision. An appeal may be made against, as applicable:</p> <ul style="list-style-type: none">• 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. <p>An appeal must be started within 20 business days after this notice is given to you.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p>
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For further information please contact Nathan Griffey, on p: 07 5582 8866 or via email mail@goldcoast.qld.gov.au who will be pleased to assist.

AUTHORISED BY

A handwritten signature in black ink, appearing to be 'AB' or similar initials, written in a stylized, cursive manner.

Adam Brown

Supervising Planner (South)

For the Chief Executive Officer

Council of the City of Gold Coast

enc:

Conditions imposed by Council as Assessment manager

Statement of reasons (given under section 63(4) of *Planning Act 2016*)

Attach:

Stamped approved plans and drawings

Documents required pursuant to section 43 of the *Planning Regulation 2017*

Appeal rights extracts

Conditions imposed by Council as the Assessment Manager

General																			
1	Timing a The use approved under this development permit cannot commence until MIN/2020/683 has achieved plan sealing and all infrastructure is accepted on maintenance by Council. b All conditions of this development approval must be complied with at no cost to Council at all times unless otherwise stated in another condition. c 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>Plan of Development</td><td>BDA</td><td>18/10/2021</td><td>SK01</td><td>M</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	Plan of Development	BDA	18/10/2021	SK01	M					
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3	Approved Plans Undertake and maintain the development generally in accordance with the following plans: <table><tr><th colspan="5">Bushfire Management</th></tr><tr><th>Plan Title</th><th>Author</th><th>Date</th><th>Plan Reference No.</th><th>Ver</th></tr><tr><td>Queensland Fire and Emergency Services (QFES) cover sheet including endorsed Bushfire Hazard Assessment & Management Plan for Burleigh Heads Estate Pty Ltd RFA21-004, prepared by Rob Friend & Associates Pty Ltd dated 8 March 2021</td><td>Tina Saren QFES Bushfire Planning and Assessment Officer Seconded to Council of the City of Gold Coast</td><td>26 March 2021</td><td>MIN/2020/683</td><td>-</td></tr></table>				Bushfire Management					Plan Title	Author	Date	Plan Reference No.	Ver	Queensland Fire and Emergency Services (QFES) cover sheet including endorsed Bushfire Hazard Assessment & Management Plan for Burleigh Heads Estate Pty Ltd RFA21-004, prepared by Rob Friend & Associates Pty Ltd dated 8 March 2021	Tina Saren QFES Bushfire Planning and Assessment Officer Seconded to Council of the City of Gold Coast	26 March 2021	MIN/2020/683	-
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Property																			
4	Restrictions regarding Council easements and infrastructure a No building work or deep landscaping is permitted over or within any Council public utility easement. b Ensure all proposed buildings, structures and footings are a minimum distance of 1.2 horizontal metres from Council infrastructure. c Ensure all proposed buildings, deep landscaping, structures and footings are a minimum 1 metre clear of the property sewer connection. d Ensure a minimum 2.4 metres unobstructed vertical clearance from the finished surface level above Council infrastructure. <i>Note: Requirements (a) through (d) may be relaxed through approval of a Referral Agency</i>																		

	<i>Assessment (RAA) and / or Build Over Sewer Easement (BOSE) application</i>
Amenity	
5	<p>Screening of visually offensive components</p> <p>Locate and screen the following components of the development so that they are not visible from any road to which the site has frontage, adjoining premises or otherwise on display from any public thoroughfare or vantage point:</p> <ul style="list-style-type: none"> a Refuse storage areas b Service equipment c Mechanical ventilation d Refrigeration units e Storage areas for machinery, materials, vehicles or the like.
Engineering	
6	<p>Rectification of Council's infrastructure</p> <ul style="list-style-type: none"> a Rectify any damage caused to Council infrastructure (including kerb, channelling, service pits, footpaths and water and sewer reticulation networks) prior to commencement of the use at no cost to Council. b Construct and maintain the rectified Council infrastructure at no cost to Council prior to commencement of the use.
7	<p>Existing infrastructure, structures and services</p> <p>Obtain an operational works approval (as necessary) for the removal/ relocation of existing infrastructure, structures and services identified on the drawings listed prior to a request is made to Council to approve the plan of subdivision/commencement of the use at no cost to Council and include in particular:</p> <ul style="list-style-type: none"> a Remove redundant vehicular crossing. b Remove any redundant stormwater kerb adaptors and disused service pits from the kerb and channel (including any associated pipework across the footpath).
8	<p>Driveways and vehicular crossings</p> <p>If required obtain an operational works approval for the design and construction of the driveway and vehicular crossing, prior to a request is made to Council to approve the plan of subdivision/commencement of the use at no cost to Council and include in particular:</p> <ul style="list-style-type: none"> a Construct and position to enable the maintenance of a public road and road verge, and not cause any obstruction to pedestrians or vehicular traffic. b Not cause damage to vehicles or road infrastructure. c Provide effective access between the road and the property. d Provide hydraulic capacity to allow stormwater flow towards the closest stormwater infrastructure.
Sewer and Water Works	
9	<p>Sewer connection</p> <p>Connect each proposed Lot to Council's sewer network utilizing the existing property connection serving the Lot, prior to commencement of the use at no cost to Council and include in particular:</p> <ul style="list-style-type: none"> a Be in accordance with the WSAA Gravity Sewerage Code of Australia – SEQ Service Providers Edition and the Water and Sewerage Connections Policy. b The size of the sewer property service connection must be in accordance with Section 5.5.4 of the WSAA Gravity Sewerage Code of Australia – SEQ Service Providers Edition c Where an inspection opening (IO) is to be located in a hardstand area, the inspection

	<p>opening shall be brought to surface and provided with a trafficable screwtrap lid.</p> <p>d Ensure all proposed buildings, deep landscaping, structures and footings are a minimum 1 metre clear of the property sewer connection.</p> <p>e Remove / seal / cap redundant sewer property services.</p> <p><i>Note:</i></p> <p><i>An “Application Work on the City’s infrastructure” form is required for the above works.</i></p>															
10	<p>Water connection</p> <p>Connect each proposed Lot to Council’s potable water supply network utilizing the existing property connection and water meter serving the Lot, prior to commencement of the use at no cost to Council and include in particular:</p> <p>a Be in accordance with the Water Supply Code of Australia – SEQ Service Providers Edition, and the Water and Sewerage Connections Policy.</p> <p>b The property service, water meter box and water meter must be provided at the boundary of the development site. A connection application is required for these works.</p> <p>c Remove redundant water meters / connections.</p> <p><i>Note:</i></p> <p><i>An “Application Work on the City’s infrastructure” form is required for the above works.</i></p>															
11	<p>Fire loading</p> <p>Fire loading must not exceed 15L/s for 4 hour duration.</p>															
Construction Management																
12	<p>Certification of works - Bushfire Management</p> <p>Provide Council with certificates prepared by qualified expert(s) from the discipline(s) listed below, confirming as follows:</p> <table><tr><th colspan="5">Bushfire Management</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>A compliance certification / statement</td><td>Prior to the issue of a Building Final</td><td>Queensland Fire and Emergency Services (QFES) cover sheet including endorsed Bushfire Hazard Assessment & Management Plan for Burleigh Heads Estate Pty Ltd RFA21-004, prepared by Rob Friend & Associates</td><td>A suitably qualified and experience bushfire management consultant</td><td>Bushfire Assessment</td></tr></table>	Bushfire Management					Certified document	Certification date	Plan/ Drawing	Expert discipline	Requesting Council Section	A compliance certification / statement	Prior to the issue of a Building Final	Queensland Fire and Emergency Services (QFES) cover sheet including endorsed Bushfire Hazard Assessment & Management Plan for Burleigh Heads Estate Pty Ltd RFA21-004, prepared by Rob Friend & Associates	A suitably qualified and experience bushfire management consultant	Bushfire Assessment
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			Pty Ltd dated 8 March 2021								
	<p>The certification is to confirm:</p> <p>Development is undertaken in accordance with the approved Bushfire Management Plan.</p> <p>The certification is to also confirm:</p> <ul style="list-style-type: none">i Specified Asset Protection / Radiation Zones are created and maintained between the building and the retained classified vegetation for Lots 1002, 1003 and 1 and is to be located wholly within the private lot boundaries.ii Non-flammable fencing is erected on Lots 1, 12-23, 39-41 and 57-61.										
13	<p>Availability of approved plans, drawings and reports</p> <p>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.</p>										
Plumbing and Drainage Act 2018											
14	<p>Plumbing and drainage works</p> <p>Obtain a permit for all plumbing and drainage work prior to any compliance assessable work commencing.</p> <p><i>Note:</i></p> <p><i>A permit for plumbing and drainage works does not approve the discharge of trade waste to Council's sewerage system. The generator of trade waste must complete an application for approval to discharge trade waste to Council's Sewerage System (available on Council's website).</i></p>										
Advice Notes											
A	<p>Development infrastructure</p> <p>Development infrastructure required to be provided in implementing this development approval is non-trunk development infrastructure unless otherwise stated in a condition of the approval.</p>										
B	<p>Further development permits / compliance permits</p> <p>Further development permits and/or compliance permits from Council are required to facilitate the development of the approved works identified in this decision notice. These include:</p> <table><tr><td>City Assets</td></tr><tr><td>- Operational works - vehicle access works</td></tr></table> <table><tr><td>Plumbing and Drainage</td></tr><tr><td>- Permit for plumbing and drainage work</td></tr></table> <table><tr><td>Water and Waste</td></tr><tr><td>- Application to work on the City's infrastructure</td></tr></table> <p>A copy of this decision notice and accompanying stamped drawings / plans must be submitted with any subsequent application identified above.</p> <p>Subsequent development applications (i.e.: Operational works) will be assessed in accordance with the City Plan Version at the time of lodgement (excluding instances where</p>					City Assets	- Operational works - vehicle access works	Plumbing and Drainage	- Permit for plumbing and drainage work	Water and Waste	- Application to work on the City's infrastructure
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	Variation / Preliminary approval exists).
C	<p>Compliance with conditions</p> <p>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.</p>
D	<p>Indigenous cultural heritage legislation and duty of care requirement</p> <p>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:</p> <ul style="list-style-type: none"> 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. <p>Those proposing an activity involving surface disturbance beyond that which has already occurred at the proposed site must observe this duty of care.</p> <p>Details of how to fulfil this duty of care are outlined in the duty of care guidelines gazetted with the ACHA.</p> <p>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.</p>
E	<p>Applicant responsibilities</p> <p>The applicant is responsible for securing all necessary approvals and tenure, providing statutory notifications and complying with all relevant laws.</p> <p>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:</p> <ul style="list-style-type: none"> a 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. b 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'). c 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). d 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>. e 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. f 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.

	<p>g Making payment of any outstanding Council rates and charges applicable to the development site prior to the lodgement of subdivision plans.</p> <p>h 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.</p>
F	<p>Access from/works in State-controlled road</p> <p>All access from and works within the State controlled road/reserve must not be carried out without approval from the Department of Transport and Main Roads.</p>
G	<p>Weeds, pest animals and ants</p> <p>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.</p> <p>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.</p>
H	<p>Fire ant control</p> <p>Northern suburbs of the Gold Coast are within Fire Ant Biosecurity zone 2 and must remain vigilant for the presence of fire ants. Under the <i>Biosecurity Act 2014</i> 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.</p>
I	<p>Gold Coast Airport approval of building and/or structure height</p> <p>Any building or structure (including construction crane or other temporary equipment) in the City extending to a height of 110 metres or more above ground level must be notified to Gold Coast Airport Pty Ltd.</p>
J	<p>Incorporation of Equitable Access at the Detailed Design Stage</p> <p>All public spaces and facilities within the development must provide equitable access, including continuous accessible paths of travel, in compliance with the <i>Commonwealth Disability Discrimination Act (1992)</i> and the Disability (Access to Premises – Buildings) Standards 2010.</p>
K	<p>Development infrastructure</p> <p>Development infrastructure required to be provided in implementing this development approval is non-trunk development infrastructure unless otherwise stated in a condition of the approval</p>
L	<p>Connections and disconnections</p> <p>Any connection / disconnection to the existing water and sewerage networks will be at the applicant's cost. Prior to the connection / disconnection taking place, the applicant must obtain written approval from Water and Waste.</p> <p>Refer to Water and Sewerage Connections Policy, available on Council's website http://www.cityofgoldcoast.com.au</p>
M	<p>Connections to, alteration or realignment of Council infrastructure</p> <p>Where development works require the connection to, alteration, removal or realignment of Council infrastructure or impact on other public utility infrastructure (e.g. telecommunications, electricity and gas), the applicant must obtain the necessary approvals from the relevant</p>

	<p>public utility authority prior to works commencing.</p> <p>Connection to, alteration, removal or realignment of Council infrastructure includes (but is not limited to) fire hydrants, water service meters, sewer maintenance hole covers, stormwater drainage infrastructure, reinstatement of maintenance hole covers, stormwater drainage infrastructure, crossovers, footpaths, road pavement, kerb and channel, kerb ramps, medians, traffic islands, road furniture, signage and line-marking.</p>
N	<p>Design, Constructability and Minor change applications</p> <p>The application has been approved based on the information provided by the consultant. Water and Waste are not liable for any design or constructability issues experienced on-site. All necessary steps must be taken prior to construction to validate the information in the designs, including locating services. Should any changes be required to the design to ensure it can be constructed in compliance with relevant engineering standards; a Minor Change application (Section 78 of the <i>Planning Act 2016</i>) must be submitted and approved by Council prior to lodging a request for a Pre-Start meeting.</p>
O	<p>Bushfire management</p> <p>A property notification will be applied to the lot / subsequent lots stating a bushfire management plan exists for the site and must be complied with at all times.</p>
P	<p>Connections to, alteration or realignment of Council infrastructure</p> <p>Where development works require the connection to, alteration, removal or realignment of Council infrastructure or impact on other public utility infrastructure (e.g. telecommunications, electricity and gas), the applicant must obtain the necessary approvals from the relevant public utility authority prior to works commencing.</p> <p>Connection to, alteration, removal or realignment of Council infrastructure includes (but is not limited to) fire hydrants, water service meters, sewer maintenance hole covers, stormwater drainage infrastructure, reinstatement of maintenance hole covers, stormwater drainage infrastructure, crossovers, footpaths, road pavement, kerb and channel, kerb ramps, medians, traffic islands, road furniture, signage and line-marking.</p>
Property Notifications	
A	<p>Bushfire management</p> <p>There are development approval conditions applicable in relation to bushfire management on this lot / subsequent lots. All property owner(s) must ensure compliance with these conditions. Refer to Council of the City of Gold Coast's Decision Notice MCU/2021/163 and MIN/2020/683. A copy of Council's Decision Notice is available for viewing on Council's website www.goldcoastcity.com.au/pdonline</p>

Statement of reasons (given under section 63(4) of the *Planning Act 2016*)

Details of proposed development	The proposed development is for a material change of use (code assessment) to establish a Plan of Development for Dwelling houses.					
Assessment benchmarks	<p>The following assessment benchmarks applied to the proposed development:</p> <ul style="list-style-type: none">• Rural residential zone code• Acid sulfate soils overlay code;• Airport environs overlay code;• Bushfire hazard overlay code;• Environmental significance overlay code;• Extractive resources overlay code;• Flood overlay code;• Industry, community infrastructure and agriculture land interface area overlay code;• Landslide hazard overlay code; and• Regional infrastructure overlay code.• General development provisions code					
Relevant matters	Not applicable – Code assessment					
Matters raised in submissions	Not applicable – Code assessment					
Reasons for decision	<p>An assessment of the development application was carried out against the assessment benchmarks listed above and was determined to comply. A summary of the main reasons for the decision are as follows:</p> <ul style="list-style-type: none">• The historic approval over the subject site affords allotment sizes that are inconsistent with the current zoning and a Dwelling house on the majority of the sites could not be established within a number of the built form outcomes within the Rural residential zone code;• Given the lot sizes are provided are more akin to lots within the Low density residential zone, the applicant has proposed a Plan of Development that, provides development parameters generally consistent with the Low density residential zone code and will provide a high quality built form outcome.					
Compliance with assessment benchmarks	<p>The proposed development did not comply with some of the assessment benchmarks listed above; however, despite this it was still approved for the reasons listed below.</p> <table><tr><th>Assessment benchmark</th><th>Reasons for the approval despite non-compliance with benchmark</th></tr><tr><td>Rural residential zone code</td><td>As the site is subject to a historic development approval and is able to be connected to sewer, the lot sizes provided in the approved development are not in</td></tr></table>		Assessment benchmark	Reasons for the approval despite non-compliance with benchmark	Rural residential zone code	As the site is subject to a historic development approval and is able to be connected to sewer, the lot sizes provided in the approved development are not in
Assessment benchmark	Reasons for the approval despite non-compliance with benchmark					
Rural residential zone code	As the site is subject to a historic development approval and is able to be connected to sewer, the lot sizes provided in the approved development are not in					

line with the intended lot sizes within the current zone. As such, in accordance with Section 60(2)(b) of the Planning Act 2016, officers have considered that the development should be approved on the basis that the approved lot sizes align more closely with lot sizes within the Low density residential zone and the built form outcomes provided are generally consistent with the outcomes in this zone.

Matters prescribed by a regulation

Not applicable