Enquiry Phone: Customer Service (07) 3412 5269
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9 September 2024

Ferrous Transport Pty Ltd
C/- B Planned and Surveyed Pty Ltd
PO Box 486
CARINA QLD 4152

Dear Sir/Madam

DECISION NOTICE - *PLANNING ACT 2016*
APPLICATION NUMBER MCUI/33/2023
PROPERTY ADDRESS 24-28 CAIRNS STREET, LOGANHOLME QLD 4129
PROPERTY DESCRIPTION LOT 31 RP 88336
APPLICATION DESCRIPTION

- **MATERIAL CHANGE OF USE - WAREHOUSE**

1. DECISION

The abovementioned development application seeking a Development Permit was assessed and **refused**.

The decision was made by Logan City Council as the Assessment Manager on **9 September 2024**. The reasons for refusal are listed in item 2 of this Decision Notice.

2. REASONS FOR REFUSAL

The application has been refused by the Assessment Manager and the reasons for refusal of the application by the Assessment Manager were:

1. The proposed development does not comply with the Flood hazard overlay code of the *Logan Planning Scheme 2015 (version 9) (TLPI No.1/2023)* in the following respects:

   (a) The proposed development does not comply with AO1, as the subject site is almost entirely located within the High risk flood area and the proposal does not provide development envelope area which is inclusive of the proposed structures that are proposed to be located within the High flood risk area.

   (b) The proposed development does not comply with PO1, as the majority of the proposed development is within the mapped High flood risk area. The use does not comply with 8.2.5.3.2 - Land use compatibility in a high flood risk area and will result in an increase in existing lawful building footprint at the site.

   (c) The proposed development does not comply with AO8, as the proposal seeks to establish buildings and structures within the mapped High flow area identified at the site.

(d) The proposed development does not comply with PO8, as buildings and structures are located proposed within the High flow area.

(e) The proposed development does not comply with AO10, as the proposal does not comply with the minimum flood planning levels identified in Table 8.2.5.3.3 - Minimum flood planning levels.

(f) The proposed development does not comply with PO10, as the buildings have not been designed to account for the potential risk of inundation during flood events through compliance with the flood planning levels identified in Table 8.2.5.3.3 - Minimum flood planning levels.

(g) The proposed development does not comply with AO19, as the proposed development does not have flood-free vehicle access to a road that is above the flood level during a defined flood event.

(h) The proposed development does not comply with PO19, as it does not have low flood hazard vehicle access to a low flood hazard road.

(i) The proposed development does not comply with AO21, as the site is located in a High flood risk area and the development proposes filling and excavation which exceeds a total volume of 20m^3 and a total area of 2,000m^2.

(j) The proposed development does not comply with PO21, as the development proposes filling and excavation in a High flood risk area which exceeds a total volume of 20m^3 and a total area of 2,000m^2.

(k) The proposed development does not comply with the following overall outcomes:

a. Overall outcome 8.2.5.2 (2)(a)(i)(D), as the proposed development, which is not an accommodation land use or vulnerable use, results in an increase to the existing lawful building footprint at the site.

b. Overall outcome 8.2.5.2 (2)(g), as the development proposes to locate buildings or structures in a High flow area.

c. Overall outcome 8.2.5.2 (2)(m)(ii) as the development does not provide, where not involving an accommodation land use or vulnerable land use, safe vehicle access to a low flood hazard road that supports safe and efficient self-evacuation.

(l) The proposed development does not comply with the following purposes of the Flood hazard overlay code (TLPI No.1/2023):

a. Overall outcome 1 (a), as the proposed development does not ensure that it avoids or minuses the exposure of people, property and infrastructure to tolerable level of flood risk.

b. Overall outcome 1(d), as the proposed development is unable to support safe, self-evacuation and can result in increases to emergency management burden responses or recovery burden.

c. Overall outcome 1(f), as the proposed development has not demonstrated that the flood risk to people, property, infrastructure and the environment is acceptable.

2. The proposed development does not comply with the following outcomes of the Strategic framework of the *Logan Planning Scheme 2015 (version 9) (TLPI No.1/2023):*

(a) Specific outcome 3.10.2.1 (1) – Element - Natural hazards and climate change adaptation, as the proposed development will not protect people and premises from or be resilient to natural hazards, taking into account the potential effects of climate change over time, having regard to (b) flooding.

(b) Specific outcome 3.10.2.1 (2) - Natural hazards and climate change adaptation, as the proposed development will be vulnerable to a natural hazard and has not been designed to be located outside of the natural hazard area and has not been designed to effectively mitigate the potential effects of the natural hazard for flooding.

(c) Specific outcome 3.10.2 (3)(a) as the development is not avoiding, or able to ensure that the exposure of people, property and infrastructure is reduced to a tolerable level of flood risk.

(d) Specific outcome 3.10.2 (3)(c) the proposed development does not maintain the natural functions of the floodplain for the storage and conveyance of flood waters and does not avoid potential adverse impacts to natural overland flow paths.

(e) Specific outcome 3.10.2 (3)(d) as the proposed development does not support safe self-evacuation and has the potential to increase emergency management responses or recovery burden.

(f) Specific outcome 3.10.2 (3)(f) as the proposed development results in an unacceptable flood risk to people, property, infrastructure and the environment.

(g) Specific outcome 3.10.2 (3)(h) as the proposed development does not avoid the exposure of people and property to isolation.

3. The proposed development does not comply with the Performance Outcomes within Part E of the 2017 State Planning Policy in the following respects:

(m) The proposed development does not comply with Performance Outcome (3), as the proposal is not able to avoid the natural hazard area associated with flooding, and the proposed development is not able to mitigate the risks to people and property to an acceptable or tolerable level.

(n) The proposed development does not comply with Performance Outcome (4), as the proposed development has the potential to hinder disaster management responses, due to the lack of low hazard flood free vehicle access to the site.

(o) The proposed development does not comply with Performance Outcome (5), as the proposed development has the potential to directly, indirectly and cumulatively cause damage at the subject site due to the location of building and structures within the mapped high flood risk area and high flow area at the site.

(p) The proposed development does not comply with Performance Outcome (7) as the proposal does not maintain and enhance natural processes or the protective function of landforms and vegetation that can mitigate risks associated with the natural hazard. Compensatory cut and fill including retaining walls and extensive earthworks are proposed to create a building and vehicular manoeuvring pad at the site and the cut and fill proposed exceeds the extent supported within the Flood hazard overlay code (TLPI No. 1/2023).

4. There are no other Relevant Matters for the purpose of Section 45(5)(b) of the *Planning Act 2016* which justify approval of the proposed development.

3. REFERRAL AGENCIES

There were no Referral Agencies applicable to this development application.

4. PROPERLY MADE SUBMISSIONS

There were no properly made submissions made during the public notification stage of the assessment of this application.

5. STATEMENT OF REASONS

Description of the development	The proposed development is for a Material Change of Use - Warehouse
Assessment benchmarks	The proposed development was assessed against the following assessment benchmarks: • Part 3 Strategic Framework, and; *Zone codes:* • 6.2.4 Environmental management and conservation zone code • 6.2.10 Mixed use zone code *Development codes:* • 9.4.2 Filling and excavation code • 9.4.3 Infrastructure code • 9.4.4 Landscape code • 9.4.5 Management of emissions and hazardous activities code • 9.4.7 Servicing, access and parking code Overlay codes: • 8.2.1 Acid sulfate soils overlay code • 8.2.2 Biodiversity areas overlay code • 8.2.3 Bushfire hazard overlay code • 8.2.5 Flood hazard overlay code • 8.2.8 Landslide hazard and steep slope area overlay code • 8.2.12 Waterway corridors and wetlands overlay code

Relevant matters	The proposed development was assessed against the following relevant matters:
	• The proposal is unable to comply with AO1/PO1, AO8/PO8, AO10/PO10, AO19/PO19 and AO21/PO21 of the Flood hazard overlay code under the *Logan Planning Scheme 2015 (version 9)* (TLPI No.1/2023). This results in further non-compliance with the Overall outcomes 2(A)(d), 2(g), 2(m)(ii) and Purpose of the code as the development is seeking to:
	  • increase building footprint within the High flood risk area which also do not meet the minimum building levels;
	  • locate buildings and structures within the High flow area; and
	  • provide unsafe vehicle access to a road that is not low flood hazard thereby not allowing for suitable self-evacuation.
	• The development does not comply with Natural hazard and Transport themes of the Strategic framework.

	• Council officers did not consider there be any other relevant matters in favour of supporting the non-compliances with the Planning Scheme.
Matters raised in submissions	Not applicable – No submissions received.
Matters prescribed by a regulation	Not applicable.

For further details on the assessment of this development application, please see the Delegated Report available for public viewing on the Logan City Council Planning and Development Online website at: http://pdonline.logan.qld.gov.au. When accessing Council's website please use the following Application Number: MCUI/33/2023

6. RIGHTS OF APPEAL

This Decision Notice may be appealed in accordance with the following sections of the *Planning Act 2016*:

- Chapter 6 (Dispute Resolution), Part 1 (Appeal Rights); and
- Schedule 1 (Appeals).

Appeals to the Planning and Environment Court
Information about how to proceed with an appeal to the Planning and Environment Court may be found on the Court's website: http://www.courts.qld.gov.au/courts/planning-and-environment-court

For further information about this application please contact the Assessment Manager Leah Bagnall on (07) 3412 5269 or via email to development@logan.qld.gov.au

Yours faithfully,

Tonnia Plail
Senior Planning Officer
Planning Assessment & Technical Services