Your Reference: J000163

Enquiry Phone: Customer Service (07) 3412 5269
Property Key: 223969
Document Number: 14215631/PARSONK:parsonk
File Number: 1164300-1

LOGAN CITY COUNCIL

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06 November 2020

VIC INVESTMENT MANAGEMENT GROUP (VIMG)
C/- Mecone
Level 23
127 Creek St
BRISBANE QLD 4000

Dear Sir/Madam

DECISION NOTICE - *PLANNING ACT 2016*
APPLICATION NUMBER MCUI/37/2019
PROPERTY ADDRESS 1677 BEENLEIGH ROAD, UNDERWOOD QLD 4119
PROPERTY DESCRIPTION LOT 8 RP 157306
APPLICATION DESCRIPTION

- **PRELIMINARY APPROVAL FOR MATERIAL CHANGE OF USE TO VARY THE EFFECT OF THE LOGAN PLANNING SCHEME 2015 (VARIATION REQUEST)**

1. DECISION

The abovementioned development application was assessed and **approved** subject to conditions. The decision was made by Logan City Council as the Assessment Manager on 28 October 2020 (Council Minute Number: 139/2020).

2. APPROVAL TYPE

Preliminary Approval (Variation Approval) under section 49 of the Act.

3. CONDITIONS OF APPROVAL - ASSESSMENT MANAGER

The Assessment Manager conditions are attached to this Decision Notice.

4. REFERRAL AGENCIES

The following were Referral Agencies applicable to this development application. If the Referral Agency has given conditions of approval or provided advice, it is listed below and is attached to this Decision Notice.

Department of State Development, Manufacturing, Infrastructure and Planning	Conditions imposed.

5. APPROVED VARIATIONS TO THE PLANNING SCHEME THAT WERE GIVEN IN A PRELIMINARY APPROVAL (VARIATION APPROVAL) UNDER SECTION 49 OF THE *PLANNING ACT 2016*

In accordance with section 63(2)(g) of the *Planning Act 2016,* this Preliminary Approval (Variation Approval) varies the effect of the planning scheme as follows:

- Condition 4.1. of the approval details the extent of all variations approved.

6. PROPERLY MADE SUBMISSIONS

The following are submitters who made properly made submissions about the development application during the public notification period**.**

CENTA PROPERTY GROUP	1/1293 Logan Rd, MOUNT GRAVATT QLD 4122
Wee Teck Yeo	8 Botanical Dr, UNDERWOOD QLD 4119
Angie Tan & Wik Shing Kenrick Fung	3 Botanical Dr, UNDERWOOD QLD 4119
Sam, Anne, Sharon, Kathy & Vicky Chow	22 Fairmont Cres, UNDERWOOD QLD 4119
Ka Wai Vicky Chow	22 Fairmont Cres, UNDERWOOD QLD 4119
SHUN PTY LTD (TRUSTEE)	Centre Management Office, Underwood Market Place, 3215 Logan Rd, UNDERWOOD QLD 4119 risunaus@hotmail.com
Rod Gray	2 The Crescent, UNDERWOOD QLD 4119
Beng Ong	10 The Enclave, UNDERWOOD QLD 4119
Eugene Bussenius	8 The Enclave, UNDERWOOD QLD 4119
Kim Bussenius	8 The Enclave, UNDERWOOD QLD 4119
Lisa Hayward	11 The Heights, UNDERWOOD QLD 4119

7. OTHER DEVELOPMENT PERMITS OR CERTIFICATES NECESSARY TO ALLOW THE DEVELOPMENT TO BE CARRIED OUT

Material Change of Use

Reconfiguring a Lot

Operational Works - Civil / Electrical / Earthworks / Water & Sewer Design

Building Works

Plumbing and Drainage Works

8. STATEMENT OF REASONS

Description of the development	The proposed development is for a Preliminary Approval for Material Change of Use to vary the effect of the Logan Planning Scheme 2015 (Variation Approval).	
Assessment benchmarks	The proposed development was assessed against the following assessment benchmarks: • 6.2.15 Specialised centre zone code • 6.2.7 Low-medium density residential zone code • 8.2.1 Acid sulfate soil overlay code • 8.2.8 Landslide hazard and steep slope area overlay code • 8.2.10 Strategic airport and environs overlay code • 9.3.4 Relocatable home park, Residential care facility and Retirement facility code • 9.4.3 Infrastructure code • 9.4.4 Landscape code • 9.4.7 Servicing, access and parking code • 9.4.6 Reconfiguring a lot code	
Relevant matters	Not applicable.	
Matters raised in submissions	**Issue**	**How matter was dealt with**
	Increase in traffic and congestion and increased safety risks associated with increased traffic.	The applicant has submitted a detailed traffic reporting for the proposed development which has been reviewed by Council's Development Engineering and Technical Services officers who have advised that the surrounding local road network is capable of safely and efficiently supporting the proposed development and an increase in traffic. The development site's main access to the local road network is via an existing signalised configuration and conditions have been recommended to require this intersection to be upgraded to mitigate any significant impacts of future development. Council has also conditioned that a second access to future development be provided.
	The building height, not enough details provided relating to built form and no consideration given to future design such as pedestrian linkage and interface with the	The applicant has provided concept plans which only seek to illustrate the proposed built form of the future development. The maximum building height over the site is 30 metres (approximately 8 storeys) or 8.5 metres (approximately 2 storeys) if within 15 metres of a lot in the Low-density residential zone. This is consistent with the

	adjoining site.	building height provisions permitted under the current planning scheme. No building concept plans will be approved as part of the proposed development, as detailed architectural plans will be required for further development applications over the subject site. A condition has been included that requires a pedestrian connection from the subject site through the adjoining site in order to facilitate and provide direct and safe access to existing public transport facilities.
	The development will create adverse amenity issues for adjoining properties e.g. privacy and shadowing.	The proposed building height is the same of that permitted under the current planning scheme. Open area will be provided as part of any future residential development over the subject site. It is anticipated that open space will be provided in a manner that creates a buffer between existing residents and future development of the site.
	Increased noise associated with construction and use and construction risks.	The application is for a variation request only and will not allow for any construction to occur. Applications for future land uses over the subject site would need to demonstrate compliance with Council's noise standards and the *Environmental Protection Act 1994* and would be conditioned accordingly.
	Boundary fencing	A condition has been imposed that would require fencing to be established on all shared property boundaries. The existing fence can be maintained subject to it being demonstrated it is in good condition and in consultation with the adjoining landowner/s.
	The outdoor recreation area is too small. The outdoor recreation area would encourages loitering and be unsafe.	The application is for a variation request only and no open space or park will be provided as part of this development. Applications for future land uses over the subject site would need to demonstrate compliance with Council's standards for the provision of private and communal open space, particularly as part of a residential development and would be conditioned accordingly.
	Integrity of existing retaining wall.	A condition has been imposed that would require a structural engineering study to be submitted to Council if existing retaining walls are proposed to be retained.
	Stormwater run-off	Conditions are recommended that would require the proposed development to ensure that there is

		no worsening of stormwater discharge on neighbouring properties in accordance with the Queensland code and Council's planning scheme.
	Surplus commercial tenancies and increased gross floor area for Shops	To ensure the development does not create another centre and remains small scale, it is recommended that future development for a Shop be limited to 200m^2 consistent with the Specialised centre zone under the planning scheme. Any future Shop use must be ancillary to the medical hub such as a pharmacy, florist and the like. A surplus of commercial tenancies is not anticipated, and conditions would not allow a Shopping Centre.
	Difficulty understanding what land uses and built form outcomes are being assessed and decided.	The proposed development is for a variation request, which seeks to vary the planning scheme to facilitate the following tThe applicant seeks in principle support for the following land uses and built form, subject to further. • Precinct 1 - Commercial, food & beverage, short-term accommodation, medical, retail (being a pharmacy); • Precinct 2 - Medium density residential in the form of apartments and townhouses; and • Precinct 3 - Retirement living and aged care – Up to 8 stories (30m) The applicant will need to obtain further Council permits and approvals where detailed architectural plans for land uses will be considered.
	A higher density is proposed in a low density suburb; A lower density is proposed; Increase in volume of people.	The subject site is located in the Specialised centre zone - Underwood business precinct of the Logan Planning Scheme 2015, where higher density residential land uses are anticipated, such as Multiple dwelling, Short-term accommodation and Retirement facility.
	Surrounding properties will lose their value.	When assessing Impact Assessable applications, the Planning Act 2016 allows other relevant matters to be considered however, this excludes a person's personal circumstances, financial or otherwise. An example of another relevant matter can include whether there is a planning need, the currency of planning schemes, and whether assessment benchmarks were based on material

		errors. Accordingly, the loss of property values is not relevant planning consideration and are not able to be considered under the Planning Act 2016.
	There will be an increase in crime and social issues.	Crime is managed by the State Government and not a Council matter. Crime is a matter for the Queensland Police Service.
Reasons for decision	The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exception(s) listed below.	
	Assessment benchmark	**Reasons for the approval despite non-compliance with benchmark**
	Specialised Centre Zone Code	*AO1/PO1* AO1 and PO1 of the Code states that a use in the Specialised centre is for uses identified in OO(3)(h)(i), including, but not limited to, Multiple Dwellings being Apartments. The proposed development seeks to vary the Planning Scheme to allow for Multiple Dwellings to be Townhouses and Apartments. Townhouses are proposed to be developed over Lot 2B of the masterplan for the proposed development and Apartments are proposed to be developed over Lot 2A of the masterplan for the proposed development. The request to vary the Planning Scheme to allow for Multiple Dwellings to be in Townhouse form does not comply with AO1 and PO1, nor the OO(3)(h)(i), and assessment against the Strategic Framework was undertaken. Further discussion is provided in the Strategic Framework section below. The proposed development also seeks to vary the Planning Scheme to allow for a Residential Care Facility to be a Code Assessable land use over the subject site. Section 6.2.15.2(3)(h)(i) does not anticipate a Residential Care Facility as a land use. As such the proposed land use required assessment against the Strategic Framework. Further discussion is provided in the Strategic Framework section below. *AO2/PO2* AO2 of the Code states that a Shop is not within 800 metres of another Shop. The proposed development seeks to vary the Planning Scheme to remove the requirement that a Shop must not be within 800m of another Shop. The applicant has also proposed to vary the Planning Scheme to include a requirement that requires a Shop to be ancillary to a Health Care Service land use.

		As the proposed changes to do not comply with AO2, an assessment against PO2 is required. PO2 states that a Shop is required to be is small scale and does not undermine the viability of a nearby centre. The proposal seeks to facilitate a Specialised Centre being a medical hub which is to comprise of a Health Care practice, supported only by Shops which are ancillary such as a Pharmacy and Florist. This has been included as a mandatory requirement. It is considered that a medical hub is consistent with the intent of the Underwood Business Precinct which is to provide for a Specialised Centre. The removal of the requirement for a Shop to provide an 800-metre separation distance from another Shop can be supported, on the basis of the abovementioned restrictions being applied to the development of a Shop.
	Low-Medium Density Residential Zone Code	*AO8/PO8* An assessment against the Low-Medium Density Residential Zone Code is undertaken as the applicant seeks to apply this as an assessment benchmark with some variations to regulate future town house development over Lot 2B of the masterplan for the proposed development. The applicant seeks to vary Acceptable Outcome (AO) 8 of the Code. AO8 states that a building, other than an existing lawful building, in the Townhouse precinct has a maximum building height of 8.5 metres. The applicant is proposing to amend AO8 to allow for a maximum building height of 12 metres, unless a building in located within 15 metres of a lot in a Low Density Residential Zone where the maximum building height must be 8.5 metres. As the proposed variation cannot achieve compliance with AO8 it requires assessment against PO8, which states that a building in the Townhouse precinct has a building height that is consistent with the intended character for the precinct, is responsive to the topography of the site and is compatible with the height of adjoining buildings. The proposed increase in building height for future Townhouse development is considered to comply with PO8 as the increased height will be more consistent with the current Specialised centre zone - Underwood Business Precinct under the planning scheme where a maximum building height of 30 metres is anticipated. Furthermore, the proposed building

		height increase will provide an appropriate transition across the site from the existing low density development on adjoining lots to the west through to the future development of Apartments within proposed Lot 2A of the masterplan over the development site.
	Reconfiguring a Lot Code	The applicant has proposed to amend Table 9.4.6.3.2, Column 6 of the Reconfiguring a Lot Code to remove the restriction on creating a rear lot in the Specialised Centre Zone. Despite rear lots not being anticipated in the Specialised Centre Zone, the proposed variation allows for lots to be created that are of a size, shape, dimension and density that are consistent with their intended use for commercial and multiple dwelling purposes and the intended character of the Specialised Centre Zone. Commercial and building format subdivisions typically include rear lots and are commonly used to formalise community management and title schemes arrangements. As such the proposed variation is supported and it is recommended that rear lots be permitted in the Specialised Centre Zone.
	Strategic Framework Residential theme, sections 3.4.1 and 3.4.2	*Residential care facility* Section 3.4.1 (3) of the Strategic Framework states that Logan has sufficient specialised residential accommodation to meet the needs of those people in the community that have special residential accommodation needs. The proposed variation seeks to allow a Residential Care Facility over the subject site, which is considered to meet the needs of those people in the community that require special residential accommodation. Section 3.4.4.1 (1) states that Residential Care Facilities are to provide or have good access to transport and community services and may be located throughout the urban footprint. The proposed variation seeks to allow a Residential Care Facility over the subject site which is located within the urban footprint. Furthermore, a Residential Care Facility would have good access to public transport, along Beenleigh Road and would be in proximity to community services, specifically Health Care Services to be development over the subject site as part of future Development Applications. *Multiple dwelling* Section 3.4.1 (1) of the strategic framework states that Logan has sufficient housing supply and a range of housing sizes, types and tenures

		to meet the needs of the community and create socially diverse neighbourhoods. The proposed development seeks to vary the Planning Scheme, specifically the Specialised Centre Zone Code OO6.2.15.2(3)(h)(i), to allow for Multiple Dwellings to be Townhouses and Apartments, in lieu of the required Apartment outcome. The proposed variation to allow for a Townhouse and Apartment outcome is considered to provide a range of housing sizes, types and tenures to meet the needs to the local community and will serve to create a socially diverse neighbourhood. Section 3.4.1 (2) states that residential density is of an intensity compatible with the local context, public transport provision and infrastructure capacity. The proposed variation seeks to allow for Multiple Dwellings being Townhouse and Apartments, in lieu of the required Apartment outcome for a portion of the site. The proposed variation will result in a lower density residential development over a portion of the site, with Townhouses to be constructed over proposed Lot 2B of the masterplan over the development site. The lower density development on the site will be located to provide a transition from existing low density development on adjoining lots to the west through to high density development, being Apartments, on the eastern portion of the subject site. Furthermore, the proposed development seeks to allow for an increased building height for Townhouses as discussed earlier, which would provide further compatibility with the intended building height under the current planning scheme. It is considered the built form provisions proposed for the Townhouses will ensure that the development is sympathetic to the existing built form and character of the area and the transition of building heights across the development site will ensure consistency with the existing Low density residential development located to the west of the subject site and the Centre development located to the east of the subject site. Section 3.4.2.1 (1) states that a range of dwelling types are provided to create diverse neighbourhoods with a range of household types and Section 3.4.2.1 (2) states that a variety of accommodation units including studio, one bedrooms units and two bedroom units are

		provided in centres and locations of good public transport accessibility to meet the needs to small and single person households. The proposed variation seeks to allow for Multiple Dwellings to be delivered as both Townhouses and Apartments, rather than just an Apartment outcome. The provision of both Townhouses and Apartments over the subject site will ensure that a diverse range of housing is provided over a site that is centrally located and has access to good public transport infrastructure. Furthermore, the variety in accommodation options will result in the creation of a diverse neighbourhood. Section 3.4.2.1 (3) states that affordable housing and adaptable housing is provided throughout Logan to meet community needs. The proposed variation to allow for Townhouses will provide for a variety of accommodation choices across the development site which caters to the needs of users of all ages and abilities, from Townhouses and Apartments to specialised aged care accommodation. Furthermore, all of the accommodation choices will be well located to community services to be developed over the subject site. Compliance with the residential theme has therefore been demonstrated.
	Strategic Framework Centres theme, section 3.5.1	Section 3.5.1 (1)(f) of the Strategic Framework states that Logan has a hierarchy and network of interrelated centres comprising specialised centres that complement principal centres, major centres and district centres. The subject site is located in the Specialised Centre Zone of the Planning Scheme, with the subject site directly adjoining a District Centre. The removal of the requirement for an 800-metre separation distance from another shop can be supported as an additional requirement has been included that only allows a shop to be developed on the subject site where it will be ancillary to a Health Care Service. The imposed restrictions and conditions will prevent a Supermarket or any other Shop-based use or Shopping Centre that would otherwise be likely to undermine the viability of the adjoining District Centre to be accommodated on the site. The maintenance of the 200m² GFA cap for a Shop under the Planning Scheme, and removal of the separation distance therefore will not undermine the viability of the nearby District Centre or Logan's Centres

		Hierarchy. Compliance with the centres theme has therefore been demonstrated.
	Strategic Framework Employment theme, section 3.6.2	Section 3.6.2.1 (1) of the Strategic Framework states that a wide range of employment-based uses are provided throughout Logan to promote employment growth and economic activity. The proposed development is located in the Specialised Centre Zone – Underwood Business Precinct of the Planning Scheme with the purpose of this zone and precinct to provide a specific range of principal centre activities or a specific function. The proposed variations to the planning scheme will not prevent or restrict the employment-based uses that are currently permitted to be developed over the site. Furthermore, the proposed development seeks to include Residential Aged Care Facility which would create an opportunity for an additional type of employment based used over the site. Compliance with the employment theme has therefore been demonstrated.
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: https://devet.loganhub.com.au When accessing Council's website please use the following Application Number: MCUI/37/2019

9. CURRENCY PERIOD

In accordance with section 88(2)(b) of the Planning Act 2016, this approval has a currency period of 10 years.

10. 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 Katie Parsons on (07) 3412 5269 or via email to development@logan.qld.gov.au

Yours faithfully,

Michelle McRoberts
Major Projects Co-ordinator
Strategy and Sustainability

Cc: Department of State Development, Manufacturing, Infrastructure and Planning