



SCENIC RIM REGIONAL COUNCIL

Planning & Development Committee

Agenda

Meeting to be held in the Council Chambers

82 Brisbane Street

Beaudesert

Tuesday, 19 June 2018

Commencing at the conclusion of the
Corporate & Community Services Committee Meeting

All correspondence to
Be addressed to the
Chief Executive Officer

Scenic Rim Regional Council
PO Box 25
BEAUDESERT QLD 4285
ABN: 45 596 234 931

Beaudesert Administration Centre P: 07 5540 5111 F: 07 5540 5103
Boonah Administration Centre P: 07 5463 3000 F: 07 5463 2650
mail@scenicrim.qld.gov.au
www.scenicrim.qld.gov.au

SCENIC RIM REGIONAL COUNCIL

PLANNING & DEVELOPMENT COMMITTEE

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PLANNING & DEVELOPMENT COMMITTEE

AGENDA

ATTENDANCE

Cr N J Waistell, Chair
Cr G R Christensen, Mayor
Cr R J Stanfield, Deputy Mayor
Cr N O'Carroll
Cr V A West
Cr M J Enright

APOLOGIES

Cr D A McInnes

DECLARATIONS OF INTEREST BY MEMBERS

Reception of Deputations by Appointment / Visitors

Nil

Please note: Agenda Items where Subject Headings are followed by [CLOSED] are to be discussed in closed session in accordance with Section 275(1) of the Local Government Regulation 2012.

Section 275(1) A local government or committee may resolve that a meeting be closed to the public if its councillors or members consider it necessary to close the meeting to discuss-

- (a) the appointment, dismissal or discipline of employees; or
- (b) industrial matters, affecting employees; or
- (c) the local government's budget; or
- (d) rating concessions; or
- (e) contracts proposed to be made by it; or
- (f) starting or defending legal proceedings involving it; or
- (g) any action to be taken by the local government under the Planning Act, including deciding applications made to it under that Act; or
- (h) other business for which public discussion would be likely to prejudice the interests of local government or someone else, or enable a person to gain financial advantage.

1. EXECUTIVE

Nil.

2. CHIEF FINANCE OFFICER

Nil.

3. REGIONAL SERVICES**3.1 RLBd17/005 Request for a Negotiated Decision Notice pursuant to section 361 of the Sustainable Planning Act 2009 to negotiate two conditions Prelate Investments Pty Ltd c/- Bennett & Bennett Pty Ltd Lot 1000 SP274350 L1001 SP274350****Executive Officer: Director Regional Services****Item Author: Manager Planning****File Reference: RLBd17/005**

Applicable Planning Scheme	<i>Beautesert Shire Planning Scheme 2007</i>
Applicant	Prelate Investments Pty Ltd c/- Bennett & Bennett Pty Ltd
Owner(s)	Prelate Investments Pty Ltd
Site Address	6605 Mt Lindesay Highway GLENEAGLE
Real Property Description	Lot 1000 SP 274350, Lot 1001 SP 274350
Site Area	49.47 ha
Relevant Zone and Precinct	Beautesert Township Zone – Residential
Proposal	A Request for a Negotiated Decision Notice pursuant to section 361 of the <i>Sustainable Planning Act 2009</i> to negotiate two conditions of the stated approval for RLBd17/005
Assessment Level	Code Assessment
Approval Type	Development Permit for Reconfiguration of a Lot
Date Application Deemed Accepted	30 May 2018

Purpose of Report

The purpose of this subject report is to provide the facts, circumstances and an assessment of a request for a Negotiated Decision Notice in respect of a Development Permit granted by Council on 3 April 2018 under application number RLBd17/005.

Risks

Strategic Risks

The following Level 1 and Level 2 (strategic) risks are relevant to the matters considered in this report:

- CF6 - Failure to comply with statutory obligations and responsibilities;
- CE2 - Failure to discharge regulatory responsibilities under legislation or local law;
- CE5 - Failure to ensure regulatory applications are managed, assessed and processed in accordance with legislative timeframes and protocols;
- PO2 - Political influence impacting on operational management of organisation.

Risk Assessment

Category	Consequence	Likelihood	Inherent Risk Rating	Treatment of risks	Residual Risk Rating
Environmental Impacts on environment as a result of development activity	Moderate	Unlikely	Medium	Environmental impacts considered and documented during assessment	Low
Legal Compliance and Liability Failure to ensure application is assessed in accordance with IDAS process	Minor	Possible	Medium	Documented assessment process	Low
Legal Compliance and Liability Opportunity for applicant or third party appeal against Council decision	Minor	Possible	Medium	Ensure reasonable and relevant test applicable to assessment processes Model Litigant processes followed in court cases Minimise opportunities for appeals	Low
Reputation Negative perception from community or development proponents	Minor	Unlikely	Low	Transparent reporting of assessment Communications	Low

Brief Summary

On 2 February 2016, Council issued a Development Permit for Reconfiguring a Lot by Subdivision (1 into 38 lots subdivision) on 6605 Mt Lindesay Highway, Gleneagle (Lot 1001 on SP274350). This approval has not been acted upon.

On 3 April 2018, Council issued a Development Permit for Reconfiguring a Lot by Subdivision (1 into 82 lots subdivision) on 6605 Mt Lindesay Highway, Gleneagle (Lots 1000 and 1001 on SP274350).

On 16 April 2018, the applicant lodged a request to suspend the appeal period for the application.

The applicant has made representations for a Negotiated Decision Notice pursuant to section 361 of the *Sustainable Planning Act 2009* in relation to the abovementioned Development Permit.

Proposal

The application seeks approval for the deletion of Condition 5 - Access During Construction of the Estate and the deletion / alteration of Condition 6 - Upgrading of Arbour Drive.

Applicant's request**Condition 5**

The applicant is seeking the alteration to deletion of Condition 5 - Access During Construction of the Estate. Condition 5 currently reads:

- 5. ACCESS DURING CONSTRUCTION OF THE ESTATE –** Access during the construction of any stage of the estate for any type of vehicles is not authorised from/ to Arbour Drive / Tullamore Way.

Applicant's relief sought

The applicant states:

"We request that Council remove Condition 5 on the basis that the access to construction of the initial stages of the development (stages 1 and 2) is provided from the proposed initial access to stages 1 and 2 being Arbour Drive. Further, it is unreasonable to expect that construction access be established from elsewhere off site as the lots to be constructed in the first instance now subject of this approval are proposed to have access from/to Arbour Drive and Tullamore Way."

Assessment

In responding to Council's Information Request, the applicant proposed "...it can also be conditioned that the estate's construction traffic be restricted to the existing access point off the Highway and excluded from Arbour Drive". This existing access point is located toward the northern side of the site's frontage to Mount Lindesay Highway and has been historically utilised by previous uses undertaken on the site namely the poultry farm.

Arbour Drive is an access street for an existing rural residential estate and allowing construction traffic to utilise this road would be an unreasonable imposition on the residents of this rural residential estate. The utilisation of Arbour Drive by construction vehicles will result in additional traffic hazards for residents, significant additional load on the pavement structure with subsequent accelerated deterioration and increased level of traffic noise. Of note, the traffic report provided by the applicant in support of this application and revised as part of the response to Council's Information Request was silent in respect of these aspects of development, let alone remedial actions. No traffic, noise or pavement impacts were considered in the said report.

In light of the above, Council officers are of the view that Arbour Drive must not be utilised for access during the construction phase of any of the stages of the approved residential estate. It is therefore recommended that Condition 5 - Access During Construction of the Estate of the Development Permit remains unaltered.

Condition 6

The applicant is seeking the alteration to deletion of Condition 6 - Upgrading of Arbour Drive. Condition 6 currently reads:

- 6. UPGRADING OF ARBOUR DRIVE** - The development must provide the design and construction of the upgrading works of Arbour Drive between the site to the intersection of Arbour Drive and Tullamore Way to an Access Street standard, in accordance with *Council's Design and Construction Manual*. These works are to be completed as part of the first stage / substage being developed.

Applicant's relief sought

The applicant claims:

"With reference to Council's Design and Construction Manual, we note that the manual does not indicate a threshold for lots which requires existing access to be upgraded to an 'Access Street' standard. On this basis it is unreasonable to require an upgrade to the intersection of Arbour Drive and Tullamore Way to an 'Access Street' standard.

The previous 2016 approval did not impose any conditions which required an upgrade to the intersection of Arbour Drive and Tullamore Way.

With reference to the current lot layout, we submit that Stages 1 and 2 (41 lots) of the proposed development will obtain access from Arbour Drive, while Stages 3 and 4 (41 lots) will obtain access from Mt Lindsay Highway.

Access of Stages 1 and 2 only from Arbour Drive results in a reduced yield of 41 lots accessing Arbour Drive, to a yield consistent with the 2016 approval (38 lots) which did not require an upgrade to Arbour Drive / Tullamore Way to the extent outlined in the current approval.

Subsequent to the above representations regarding Condition 6, we recommend that Council impose a new condition that access to/from Arbour Drive is provided initially for Stages 1 and 2 only, comprising 41 lots in total, and that all lots located within Stages 3 and 4 will not be sealed until such time as they have access provided via Mt Lindsay Highway."

Assessment

With the approved development, Arbour Drive is being required to fulfil a collection function for the new residential estate and given the increase in traffic movements the requirement to upgrade this road to an Access Street Standard is seen as reasonable given the proposed increase in traffic to Arbour Drive. The applicant's assertion to the thresholds of the Design and Construction Manual are not supported. The quotes to the previous approval for 38 lots are unfounded as the development assessed under the current application is significantly larger with 82 lots being approved.

It is also considered not appropriate to request the replacement of this condition with a footpath condition (the reader is referring to **Attachment 1** to see more details of the applicant's request in this regard).

Whilst Stages 1 and 2 of the current approval have a similar number of lots than the old approval, the latter did not propose additional stages, so the Arbour Drive issue was not assessed in respect of further stages. Although with the current request the applicant is suggesting to defer the sealing of lots on Stages 3 and 4 until access off Mt Lindesay Highway is provided, it is to be noted that lots belonging to these stages will still utilise Arbour Drive when access off the Highway is provided due to the connectivity this road will provide between adjoining estates.

In light of the above, Council officers are of the view that the upgrading works on Arbour Drive as imposed in the Development Permit are necessary to ameliorate the impacts of the approved development on the surrounding road network. It is therefore recommended that Condition 6 - Upgrading of Arbour Drive of the Development Permit remains unaltered.

Referral Agencies

Whilst a concurrence approval was provided by the Department of Transport and Main Roads due to the land's adjacency to a State Controlled Road, namely the Mt Lindesay Highway (Schedule 7, Table 2, Item 2 of the Sustainable Planning Regulation 2009), no approval is required for the present request.

Other Referrals

Nil.

Public Notification

The application was subject to Code Assessment and did not require public notification in accordance with the Sustainable *Planning Act 2009*.

Conclusion

Council is in receipt of a request for a permissible change pursuant to section 369 of the *Sustainable Planning act* to delete Condition 5 and amend Condition 6 of the Decision Notice (RLBd17/005) dated 3 April 2018. Based on this assessment, it is recommended that Council refuse the applicant's request.

Director's Recommendation

1. That Council resolve to refuse the applicant's request for a Negotiated Decision Notice:

Real Property Description: Lot 1000 SP274350, Lot 1001 SP274350
Address of property: 6605 Mt Lindesay Highway GLENEAGLE
Site area: 49.47 hectares
Proposal: A Request for a Negotiated Decision Notice pursuant to section 361 of the *Sustainable Planning Act 2009* to negotiate two conditions of the Development Approval for RLBd17/005.

2. No condition is being deleted or altered as a result of this assessment.
3. The conditions of approval of the Development Permit granted by Council on 3 April 2018 remain the same.
4. **Administrative Action:**

That a Negotiated Decision Notice - Refusal be issued in accordance with section 335 of the *Sustainable Planning Act 2009* to the Applicant and Referral agencies.

Attachments

1. Applicant's Request for Negotiated Decision Notice dated 14 May 2018 (deemed properly made on 30 May 2018).
2. Approved plan of development.
3. Locality map (undetermined scale).

Attachment 1 - Applicant's Request for Negotiated Decision Notice dated 14 May 2018

PO Box 5021
GCMC QLD 9726

P: (07) 5631 8000
E: mail@bennettandbennett.com.au
www.bennettandbennett.com.au



B+B Reference: 180359

Date: 14 May 2018

Scenic Rim Regional Council
PO Box 25
BEAUDESERT QLD 4285

Attn: Jairo Cadena
Sent Via Email: mail@scenicrim.qld.gov.au

**RE: REQUEST FOR A NEGOTIATED DECISION NOTICE – SPA s361(1)
6605 MT LINDESAY HIGHWAY, GLENEAGLE (SRRC REF: RLBd17/005)**

Dear Jairo,

We refer to the Scenic Rim Regional Council Decision Notice dated 3 April 2018 regarding the decision to approve the above development application decided by Council on 26 March 2018. Pursuant to section 361(1) of the *Sustainable Planning Act 2009* (SPA), we hereby advise that, on behalf of the applicant, Prelate Investments Pty Ltd, we herein make these written representations.

Upon review of these representations, the Applicant and their representatives would welcome any opportunity to meet with Council to discuss and reach agreement on resolving the matters identified.

PURPOSE OF REQUEST

The purpose of this request is to seek removal of Conditions 5 and 6 relating to the access of the development and impose a new condition as a result of the removal of Condition 6.

For ease of reference, the following representations follow the sequence of the approval conditions.

RECENT APPROVALS HISTORY

On 27 January 2016, a development approval was granted for Reconfiguring a Lot for 38 lots within Lot 1001 forming part of the larger approved masterplan area (SRRC Ref: RLBd15/007).

On 17 March 2017, a subsequent development application was lodged for further reconfiguring a lot resulting in an amended layout of 82 lots within Lot 1001 and 1000 forming part of the larger master plan area (SRRC Ref: RLBd17/005). The application was approved on 26 March 2018 and is the subject of this request.

The current approval was lodged as a result of the applicant establishing that the previous approval did not satisfy the current market demand for larger lots in the locality of around 1,000m². The previous 2016 approval created lots with an average area of around 800m².

PROPOSED CHANGES AND RECOMMENDATION

Condition 5 – Access During Construction of the Estate

Condition 5 of the approved development is as follows:

5. ACCESS DURING CONSTRUCTION OF THE ESTATE – Access during the construction of any stage of the estate for any type of vehicles is not authorized from/to Arbour Drive / Tullamore Way.

Condition 5 – SRRC Ref: RLBd17/005



Recommendation

We request that Council remove Condition 5 on the basis that the access to construction of the initial stages of the development (stages 1 and 2) is provided from the proposed initial access to stages 1 and 2, being Arbour Drive. Further, it is unreasonable to expect that construction access be established from elsewhere off site as the lots to be constructed in the first instance now subject of this approval are proposed to have access from/to Arbour Drive and Tullamore Way.

Refer to condition 6 comments below regarding proposed changes to lot construction and sealing program, and associated access to the surrounding road network.

Condition 6 – Upgrading of Arbour Drive

Condition 6 of the approved development is as follows:

6. UPGRADING OF ARBOUR DRIVE – The development must provide the design and construction of the upgrading works of Arbour Drive between the site to the intersection of Arbour Drive and Tullamore Way to an Access Street standard, in accordance with Council's Design and Construction Manual. These works are to be completed as part of the first stage / substage being developed.

Condition 6 – SRRC Ref: RLBd17/005

With reference to Council's Design and Construction Manual, we note that the manual does not indicate a threshold for lots which requires existing access to be upgraded to an 'Access Street' standard. On this basis, it is unreasonable to require an upgrade to the intersection of Arbour Drive and Tullamore Way to an 'Access Street' standard.

Further, and relevantly, with reference to the 2016 approval for 38 lots, Condition 16 of the approval is as follows:

16. FOOTPATH – The developer will be responsible for the construction of a pedestrian/cycleway path no less than 2.5 metres wide. The shared path will follow the alignment shown in the Pedestrian Cycleway Network for the Northern Beauresort Precinct, for the extent of Stage 1. The shared path must extend to the intersection of Tullamore Way and Arbour Drive. Footpath construction works outside of the proposed development site fronting the existing Arbour Drive to the Tullamore Way intersection will be subject to infrastructure credits. Within the development (Stage 1) infrastructure credits will only be available for the width over and above the standard 1.5 metres wide footpath. The design and construction of the works required by this condition are to meet the specifications of Council's Design and Construction Manual and Standard Drawing R-13. Detailed design is to be provided with the Operational Works application.

Condition 16 – SRRC Ref: RLBd15/007

We note that this condition of the previous approval only required construction of a pedestrian/cycleway path no less than 2.5 metres wide conditioning that 'The shared path must extend to the intersection of Tullamore Way and Arbour Drive' for the extent of Stage 1. The previous 2016 approval did not impose any conditions which required an upgrade to the intersection of Arbour Drive and Tullamore Way.

Reduction of Yield

With reference to the current lot layout, we submit that Stages 1 and 2 (41 lots) of the proposed development will obtain access from Arbour Drive, while Stages 3 and 4 (41 lots) will obtain access from Mt Lindsay Highway.

Access of Stages 1 and 2 only, from Arbour Drive results in a reduced yield of 41 lots accessing Arbour Drive, to a yield consistent with the 2016 approval (38 lots) which did not require an upgrade to Arbour Drive / Tullamore Way to the extent outlined in the current approval.



Recommendation

On the above grounds, we therefore request that Council remove Condition 6 requesting the upgrade of Arbour Drive and Tullamore Way, and insert a condition that reflects the appropriate footpath works upgrade for Arbour Drive and Tullamore Way as per condition 16 of the 2016 approval for 38 lots, as well as a new condition regarding programming of lot construction and plan sealing generally as follows:

New Condition

Subsequent to the above representations regarding Condition 6, we recommend that Council impose a new condition that access to/from Arbour Drive is provided initially for Stages 1 and 2 only, comprising 41 lots in total, and that all lots located within Stages 3 and 4 will not be sealed until such time as they have access provided via Mt Lindesay Highway.

Council may mark up in red the current approved plan to reflect this new condition if required.

Staging of Conditions

In addition to the proposed changes and new condition, in the interests of clarity for plan sealing, it may be prudent for Council to provide two (2) separate suites of conditions for the approval, one for Stages One and Two, and another for Stages Three and Four.

CONCLUSION

In conclusion, the above representations are made pursuant to SPA s361(1) in relation to Council's Decision Notice dated 3 April 2018. As part of ongoing discussions with Council, we welcome the opportunity to discuss the above if required.

We therefore trust that the above representations are sufficient for Council's consideration of the requested changes. However, should you require any further information or clarification, please do not hesitate to contact the writer on (07) 3839 7200 or via email at jmorwood@benettandbenett.com.au.

Kind regards,

John Morwood
Associate
Principal Town Planner

Enc: Attachment A – 2016 Development Approval RLBd15/007

www.bennettandbenett.com.au

[illegible]



3.2 Endorsement of Adopted Infrastructure Charges Resolution (Version no.9)**Executive Officer: Director Regional Services****Item Author: Manager Planning****File Reference: 19/03/004**

Executive Summary

The purpose of this report is to seek Council's endorsement of Adopted Infrastructure Charges Resolution (version no.9) and subsequently, replacement of the current Adopted Infrastructure Charges Resolution (version no.8). The Adopted Infrastructure Charges Resolution (version no.9) identifies the infrastructure charges payable for development within the Scenic Rim Regional Council area and is proposed to commence on 2 July 2018.

Previous Council Considerations / Resolutions

At the Ordinary Meeting held on 28 May 2018, Council resolved to adopt Adopted Infrastructure Charges Resolution (version no.8), which took effect on 20 June 2018.

REPORT

Section 112 '*Regulation prescribing charges*' of the *Planning Act 2016* has further clarified the maximum adopted charge and the automatic indexation of the prescribed amount which is reflected in the *Planning Regulation 2017*. Under the Act, the prescribed amount is the maximum adopted infrastructure charge at the start of the financial year that can be levied and indexed as per the percentage increase for each financial quarter under section 112(2) of the *Planning Act 2016*.

The prescribed amount is indexed by the three yearly moving average quarterly percentage increase in the Producer Price Index (PPI) and is set as the maximum adopted infrastructure charge at the start of the financial year.

The proposed Adopted Infrastructure Charges Resolution (version no.9) (included in **Attachment 1**) seeks to apply the maximum infrastructure charges permitted under the *Planning Act 2016* to new development in the local government area. There are also changes proposed relating to the process of automatic indexation of adopted charges in the Resolution to align with the *Planning Act 2016*. The proposed resolution will align with the Council and Queensland Urban Utilities (QUU) budgetary timeframes. The implications of applying the three yearly moving average quarterly percentage increase in PPI to the infrastructure charges value currently identified in the *Planning Regulation 2017* applicable to a three bedroom dwelling results in an increase in Council charges from \$14,167 to \$14,346.

To reinstate the timing of payment of infrastructure charges, a section is added in to the resolution which clearly defines when infrastructure charges are required to be paid for different types of development application.

A 'track changes' copy of the instrument has been included in **Attachment 1** to identify the amendments sought to the current Adopted Infrastructure Charges Resolution (version no.8).

Strategic Implications

Community Plan

Theme: Accessible and Serviced Region
Outcome: Infrastructure and services keep pace with growth and changing needs and are compatible with our environment.
Priority: Ensuring new infrastructure needed to support residents, visitors and a growing economy is provided in time and is funded by those who benefit most.

Corporate Plan / Operational Plan

The Adopted Infrastructure Charges Resolution (version no.9) contributes (in part) to the development of a planning vision and supporting planning instruments for the region, which promotes community aspirations and clearly articulates the unique qualities of our natural assets and the identity of our towns, villages and communities.

Budget Implications

The endorsement of Adopted Infrastructure Charges Resolution (version no.9) permits the infrastructure charges contained therein to be applied to new development in the region, which provides a significant source of funding towards the delivery of Council's trunk infrastructure network (for transport, stormwater and land for public open space and community facilities).

Legal / Statutory Implications

Adopted Infrastructure Charges Resolution (version no.9) is proposed to be made under sections 112 and 113 of the *Planning Act 2016*, with the maximum infrastructure charges permitted to be applied to development contained in Schedule 16 of the *Planning Regulation 2017 (dated 18 May 2018)* combined with the percentage increase for the financial quarters (being March 2017 to March 2018) from the last indexation of the maximum adopted charges.

Risks

Strategic Risks

The following Level 1 and Level 2 (strategic) risks are relevant to the matters considered in this report:

CF6 - Failure to comply with statutory obligations and responsibilities.

Risk Assessment

Category	Consequence	Likelihood	Inherent Risk Rating	Treatment of risks	Residual Risk Rating
Legal Compliance and Liability Failure to collect sufficient infrastructure charges to fund upgrades to Council's trunk infrastructure network triggered in part by the demand generated by development.	Moderate	Possible	Medium	Applying the maximum infrastructure charges permitted under the Planning Regulation will seek to minimise any funding gap of delivering the trunk infrastructure network.	Low

Conclusion

Council's endorsement of Adopted Infrastructure Charges Resolution (version no.9) included in **Attachment 1** is requested.

Adopted Infrastructure Charges Resolution (version no.9) will replace the current Adopted Infrastructure Charges Resolution (version no.8) and will apply the maximum infrastructure charges applicable to development in the region permitted under the *Planning Act 2016* and *Planning Regulation 2017*.

Consultation

Internal consultation was undertaken with Council's Planning Section, who is primarily responsible for implementing the infrastructure charges framework.

Queensland Urban Utilities were consulted on the proposed changes of Council's infrastructure charging regime to ensure that agreed proportional split was not exceeded by either entity and that the total charges did not exceed the maximum amount as stated in section 122 of the *Planning Act 2016*.

Director's Recommendation

That, in accordance with section 112 of the *Planning Act 2016*, Council adopt the Adopted Infrastructure Charges Resolution (version no.9) to levy infrastructure charges in the local government area of the Scenic Rim Regional Council effective from 2 July 2018.

Attachments

1. Adopted Infrastructure Charges Resolution (version no.9) July 2018 (attached separately).

4. INFRASTRUCTURE SERVICES

Nil.