

Your Ref: DA/46/2018
Date: 2nd April 2019

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PROPERTIES

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Chief Executive Officer
Gladstone Regional Council
PO Box 29
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Attention: Mr Nick Whittle

Dear Sir/Madam

RE: SUBMISSION TO DEVELOPMENT APPLICATION NUMBER DA/46/2018, MATERIAL CHANGE OF USE FOR A SERVICE STATION (250m2 GFA) AT 749 KIRKWOOD ROAD, KIRKWOOD ON PREMISES DESCRIBED AS LOT 1 SP294287

We refer to Gladstone Regional Council application number DA/46/2018, currently being assessed by Council, seeking a Material Change of Use (Service Station – 250m2 GFA) at 749 Kirkwood Road, Kirkwood on premises described as Lot 1 on SP294287.

The abovementioned application is currently undertaking public notification, and this submission is lodged on behalf of Kirkwood Rd Projects Pty Ltd, the registered owner of Lot 1 on SP211059.

In accordance with the *Planning Act 2016*, this submission is considered to be a properly made submission, as it is:

- In writing;
- Signed by Kirkwood Rd Projects Pty Ltd, the entity making the submission;
- Received by Gladstone Regional Council during the public notification period (i.e. prior to 12 April 2019);
- States the name and address of the entity making the submission;
- States the grounds of submission and the facts and circumstances relied on to support the grounds;
- States the postal and electronic address for service relating to the submission; and
- Made to the Assessment Manager (Gladstone Regional Council).

Grounds for Submission

Documentation lodged in support of the application states:

1 Specific Outcomes and Acceptable and Probable Solutions for the Summit Estate Planning Code

Table 5.3 – Neighbourhood Centre Precinct - Assessment criteria

Assessable Development		
Amenity		
PO23 Development minimises impacts on surrounding land and provides for an appropriate level of amenity within the centre, having regard to: (a) noise; (f) odour and emissions;	No acceptable outcome is nominated.	COMPLIES The proposed development will respond sensitively to surrounding land uses and will be developed in accordance with the overall Master Plan.
Effects of Development		
PO27 Development responds sensitively to on-site and surrounding topography, coastal foreshores, waterways, drainage patterns, utility services, access, vegetation and adjoining land use, such that: (a) any hazards to people or property are avoided;	No acceptable outcome is nominated	COMPLIES The proposed development will respond sensitively to on-site constraints in accordance with the overall Master Plan.

The western end of Lot 1 on SP211059 is proposed for residential lots and is located at the bottom of the gully downstream from the proposed service station site. However, there is no documentation to demonstrate how the proposed use satisfies the above Performance Outcomes of the Summit Estate Planning Code i.e. there is no acoustic or odour reports that demonstrate how the proposed use satisfies the Performance Outcomes.

Similarly, the responses to Table 9.3.2.3.1, Performance Outcomes PO 15 and PO 16 have not demonstrated that the proposed use satisfies the Performance Outcomes with the relevant reports.

Table 9.3.2.3.1—Accepted development subject to requirements and assessable development

Performance outcomes	Acceptable outcomes	Consultant's comment	Grounds relied upon
Acoustic and air quality			
<p>PO15</p> <p>Development minimises potential conflicts with, or impacts on, other uses having regard to odour, dust or other emissions.</p>	<p>AO15</p> <p>Development achieves the air quality design objectives set out in the <u>Environmental Protection (Air) Policy 2008, as amended.</u></p>	<p>Complies</p>	<p>The proposed development will achieve the air quality design criteria objectives in the Environmental Protection (Air) Policy 2008</p>
<p>PO16</p> <p>Development prevents or minimises the generation of any noise or vibration so that:</p> <p>a. nuisance is not caused to adjoining premises or other nearby sensitive land uses, and</p> <p>b. desired ambient noise levels in residential areas are not exceeded.</p>	<p>AO16</p> <p>Development achieves the noise generation levels set out in the <u>Environmental Protection (Noise) Policy 2008, as amended.</u></p> <p>Note—To achieve compliance, development is planned, designed and managed to ensure emissions from activities to achieve the appropriate acoustic objectives (measured at the receptor dB(A)).</p>	<p>Complies</p>	<p>The proposed development will achieve the air quality design criteria objectives in the Environmental Protection (Noise) Policy 2008</p>

Given the above, we respectfully suggest that the Council is unable to decide the application without the relevant reports which demonstrate that the proposed use achieves provision 1.d. of section 9.3.2.2 of the Planning Scheme which relates to the purpose of the development design code and states:

9.3.2.2 Purpose

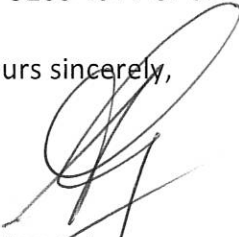
1. The purpose of the development design code is to:

- d. Ensure adverse impacts of development on the environment and the amenity of the locality are avoided.

Accordingly, Kirkwood Rd Projects Pty Ltd respectfully recommends that Council take this opportunity to ensure development outcomes do not create an unfair burden on adjoining development but result in a good long-term outcome for all future uses on both properties.

Should you wish to discuss the above in more detail please contact Chris Warren on 07 3263 4977 or chris@oxmarproperties.com.au

Yours sincerely,



Phil Murphy
Director
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