

13 August 2026

Chief Executive Officer
Brisbane City Council
GPO Box 1434
BRISBANE QLD 4001

Via Email: dalodgement@brisbane.qld.gov.au

Council Reference: A006291133

Dear Sir/Madam,

RE: Request for a 'Minor Change' under Section 81 of the Planning Act 2016 to a Development Approval – Development Permit for Material Change of Use (Warehouse) and Reconfiguration of a Lot (Boundary Realignment 2 into 2) at 64 and 68 Selhurst Street, Coopers Plains (Lots 2 and 3 on SP303903)

We write to Council (the responsible entity) on behalf of our client, Action Metal Recyclers Pty Ltd, with respect to the abovementioned Development Approval issued over 64 and 68 Selhurst Street, Coopers Plains (Lots 2 and 3 on SP303903).

The original approval was granted on 6 September 2019 for a Development Permit for Material Change of Use (Warehouse) and Reconfiguration of a Lot (Boundary Realignment - 2 into 2) (vide: A005203936). A Minor Change to that approval was subsequently issued on 24 August 2023 (vide: A006291133).

The Warehouse building authorised through the approval has been built. Work is now underway to progress the items required to complete the boundary realignment component. An issue has been identified regarding conditions that require the granting of an easement in favour of the Council, over land affected by, amongst other items, the 2% AEP for overland flow and the 1% AEP for creek / waterway flooding.

It is considered that the conditioned easement is not reasonably required in the circumstances, as discussed throughout this letter and as identified within the accompanying legal advice provided to our client by Hopgood Ganim Lawyers. In summary, the easement inappropriately burdens the land and potentially sterilises the land. At best, the easement provides unnecessary complexity, noting the overlays affecting the site mean future development is subject to a Development Approval and as

such can be considered on its merits by the Council. The site is subject to existing lawful uses which occur on the land which would be covered by the easement, and the easement brings in uncertainty with respect to future development. We further note an existing easement is in place to manage overland flow and is considered sufficient under the circumstances.

Whilst the condition imposed is not atypical, the condition is more suited to a fully developed site with a podium constructed over floodable areas or a site where there is clear delineation between developable areas and areas dedicated to flood storage or flood conveyance, rather than a site such as the subject site, where a flood risk approach has been imposed for an extended period of time with works lawfully occurring in areas subject to inundation.

Accordingly, the applicant requests a 'Minor Change' to the approval pursuant to Section 81 of the Planning Act 2016 ("The Act"), by way of the deletion of conditions 15 and 41, in accordance with Section 83 of the Act. The changed proposal suitably complies with the relevant assessment benchmarks having regard to the existing approval and provides for a more considered outcome that does not unduly prejudice existing and future activities on site.

This request for a Minor Change to a Development Approval is accompanied by Planning Act Form 5 – Change Application Form and legal advice, prepared by Hopgood Ganim Lawyers.

Upon receipt of Council's fee quote, payment of the relevant application fee shall be made.

This letter now sets out the changes proposed.

Site Details

The subject site is the land found at 64 and 68 Selhurst Street Coopers Plains, a two lot holding formally identified as Lots 2 and 3 on SP303903. The land holding is irregular in shape, comprising a total land area of 63,795m². The site is bounded by Selhurst Street, industrial properties, and Stable Swamp Creek.



Figure 1: Subject Development Site – Nearmaps (27 March 2026)

The site forms part of an established Industrial precinct which is identified as one of Brisbane’s Major Industry Areas, surrounding the identified Pacific National Freight Terminal and rail yard (south-east).



Figure 2: Brisbane City Council Zoning Context Map – Brisbane City Council (5 December 2025)

The land is identified as being subject to several Planning Scheme overlays. Of note and relevance to this submission is the Flood Overlay, with the land being burdened to various extents by the Brisbane River, Creek/Waterway, and Overland Flow Planning Areas (refer

Figures 3 to 5). The vast majority of the site is subject to the flood overlay mapping with the overlay covering 30,500sqm of the holding, leaving approximately 3,500sqm clear of the overlay.

The remaining overlays, all of which are listed below, are of limited relevance to this Minor Change request.

- Airport Environs Overlay
- Biodiversity Areas Overlay
- Community Purposes Network Overlay
- Critical Infrastructure and Movement Network Overlay
- Potential and Actual Acid Sulfate Soils Overlay
- Road Hierarchy Overlay
- Streetscape Hierarchy Overlay
- Transport Noise Corridor Overlay
- Waterway Corridors Overlay
- Wetlands Overlay

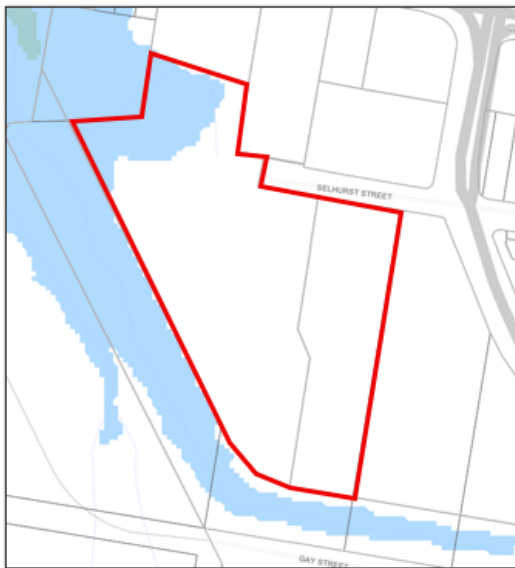


Figure 3 (left) and 4 (right) : Brisbane River flood planning area 5 sub-category & Creek/waterway flood planning area 1 to 4 sub-categories - Brisbane City Council (05 December 2026)



Figure 5: Overland flow flood planning area – Brisbane City Council (05 December 2026)

Application History

Whilst there is history of various approvals over the site, the approval that the Change at hand relates to is the only approval of note. The approval is for Material Change of Use and Reconfiguring of a Lot which was most recently modified via a Minor Change (s81) on 24 August 2023 (vide: A006291133). The application was assessed and approved under Version v16 of the Brisbane City Plan 2014 (effective 26 July 2019) and the Planning Act 2016.

Proposed Changes

These following sections set out the key changes to the approval.

Changes to Approved Drawings and Documents List

No change to any of the approved plans or specialist reports are proposed or required as part of the Change at hand.

Conditions to be Altered

It is requested that Conditions 15 (a) – (d) and 41 (a) – (d) of the approval be removed in their entirety from the subject approval.

The noteworthy extract of these conditions currently read as:

Grant the following easement(s):

- i) Easements for underground drainage, overland flow and access purposes as may be required, in favour of Brisbane City Council.*
- ii) Easements for underground drainage, open cut, overland flow and access purposes as may be required and/or that part of the site affected by the 1% AEP for Creek/waterway flooding or 2% AEP for overland flow flooding, in favour of Brisbane City Council.*

As noted above, Conditions 15 and 41 of the approval require that an easement be established for underground drainage, open cut, overland flow and access purposes for any part of the site which is affected by the 1% AEP for Creek/Waterway or 2% AEP for overland flow flooding. A review of the Councils available FloodWise Mapping shows that this would ultimately result in the vast majority of the site being burdened by an easement.

It is requested these conditions be removed given the substantial burden it will place on the land and the uncertainty such an outcome would produce. The site is currently mapped as being largely constrained by Brisbane River, Creek/Waterway, and Overland Flow Planning Areas and any future development which the landowner seeks to establish on the site will be subject to a development application. Resultingly, when these requests are made, they can be assessed by Council at that point to establish whether proposed works will have impact on the ability for flood waters to flow through and drain from the site. The registration of an easement of the nature conditioned undermines the performance basis of future development and the ability for such development to be considered on its merits.

We are of the view that an easement fails if it effectively deprives the servient owner of ordinary proprietorship or amounts to near exclusive possession of the land. In this instance the easement could be considered to serve to sterilise, dominate, or substantially deprive the servient owner of meaningful use of the land and as such exceeds the proper function of an easement. There are existing lawful uses occurring within the land to which the easement would be required, further complicate the situation.

At best, the easement creates an additional level of complexity when seeking to undertake works on site, with little if any benefit given the protections provided by the planning scheme.

We are of the view an easement of the nature conditioned is more suited to a site that is developed with a podium sitting above flood waters or a balance space for flood storage and conveyance, not broad flood impact over a functional industrial lot. Flood resilience is noted to be an important consideration however we do not believe there is any

underlying intent to restrict industrial activities from occurring on site, an outcome that is likely through the current conditioning.

A review of available mapping Queensland Globe Easement Mapping (Figure 6) and the Brisbane City Councils Development.i service shows that there are very few sites within the direct or wider locality which have easements for flood purposes burdening their land, especially to the extent which would be required as conditioned. It is further noted that the subject site is already burdened by an easement over the overland flow path within the northern extent of the land. This easement provides capability for access and maintenance whilst ensuring flows are not restricted (Figure 7). This existing easement is considered to reasonably achieve the intent with respect to the portion of the site to which water will regularly flow.

The establishment of a further easement in this case is determined to be unnecessary and unreasonable given the ability of Council to control development over the site.



Figure 6: Few nearby sites are burdened by a flood easement – QLD Globe



Figure 7: The site is currently burdened by a flood easement that gives Council right of access over the site – QLDGlobe

Changes to Infrastructure Charges

The proposal does not require a revised Infrastructure Charges Notice as it does not increase the number of lots proposed or the extent of gross floor area for any structures within the site.

Statutory Requirements

Minor Change

In accordance with Section 81(2) of the Planning Act 2016, Council must decide upon a request for a Minor Change to a development approval having regard to:

- (a) *the information the applicant included with the application; and*
- (b) *if the responsible entity is the assessment manager – any properly made submissions about the development application or another change application that was approved; and*
- (c) *any pre-request response notice or response notice given in relation to the change application; and*

- (d) *if the responsible entity is, under section 78A(3), the Minister—all matters the Minister would or may assess against or have regard to, if the change application were a development application called in by the Minister; and*
- (da) *if paragraph (d) does not apply— all matters the responsible entity would or may assess against or have regard to, if the change application were a development application; and*
- (e) *another matter that the responsible entity considers relevant.*

Further in accordance with Section 81(3) of the Planning Act, 2016, Council must in assessing the change application consider:

- (a) *a statutory instrument; or*
- (b) *another document applied, adopted or incorporated (with or without changes) in a statutory instrument.*

In accordance with the definitions in Schedule 2 of the Planning Act 2016, a Minor Change to a Development Approval is a change that:

- “(b)
- i. *Would not result in substantially different development; and*
 - ii. *If a development application for the development, including the change, were made when the change application is made would not cause—*
 - (A) *The inclusion of prohibited development in the application; or*
 - (B) *Referral to a referral agency, other than to the chief executive, if there were no referral agencies for the development application; or*
 - (C) *Referral to extra referral agencies, other than to the chief executive; or*
 - (D) *A Referral agency, in assessing the application under section 55(2), to assess the application against, or have regard to, a matter, other than matters the referral agency must have assessed the application against, or have had regard to, when the application was made; or*
 - (E) *Public notification if public notification was not required for the development application.”*

The proposal meets each aspect of the Minor Change definition as described below.

Substantially Different Development

The following is an assessment of the proposed change against the relevant components of Schedule 1 – Substantially Different Development of the Development Assessment Rules.

Element from the Guideline	Changed Proposal
Does not involve a new use.	Complies The proposal does not result in the inclusion of a new land use.
Does not result in the approval applying to a new parcel of land.	Complies No new land uses are to be included within the proposal.
Does not dramatically change the built form in terms of scale, bulk and appearance.	Complies The proposed change has no implication on the built form of any structures.
Does not change the ability of the proposal to operate as intended.	Complies The proposal does not change the ability of the proposed to operate as intended.
Does not remove a component that is integral to the operation of the development.	Complies The proposal is to remove conditions which will result in an easement over the vast majority of the site, not removal of a component that is integral to the operation of the development. The removal of this condition does not alter the manner in which the approval is intended to operate.
Does not significantly impact traffic flow and the transport network.	Complies This proposal has no impact on the traffic flow of the transport network.
Does not introduce new impacts or increase the severity of known impacts.	Complies The removal of conditions 15 and 41 of the approval does not result in an increase or decrease in severity to known site impacts.
Does not remove an incentive or offset component that would have balanced a negative impact of the development.	Complies The proposal does not remove an incentive or offset.
Does not impact on the infrastructure provisions.	Complies No impact on the provision of infrastructure.

Prohibited Development

The proposed development is not identified as being prohibited development.

Referral Agencies

The original application required referral to Department of State Development, Manufacturing Infrastructure and Planning. A review of the Planning Regulation 2017 confirms that the change proposed would not trigger referral to new referral agencies.

Level of Assessment

When initially approved, the development was subject to Impact Assessment. The proposed changes would not alter the formal level of assessment for this application.

Public Notification

The original development application was subject to Impact Assessment and would continue to be subject to Impact Assessment.

Submissions

Section 81(2)(b) of the Planning Act states that the responsible entity must consider '... any properly made submissions about the development application... that was approved'.

Council's Response Decision Notice confirms no submissions were received during the statutory notification period.

Changes to Planning Instruments

Pursuant to Section 81(4) of the Planning Act 2016, the Council 'must consider the statutory instrument, or other document, as in effect when the development application for the development approval was properly made.'

The development was approved under Version v16 of the Brisbane City Plan 2014 (effective 26 July 2019) and as demonstrated remains consistent with the relevant planning instruments.

Conclusion

We write in relation to proposed alterations to the approved Request to make Minor Change (s81) to Development Permit for Material Change of Use (Warehouse) and Reconfiguration of a Lot - Boundary Realignment (3 into 3) at 64 and 68 Selhurst Street, Coopers Plains (Lots 2 and 3 on SP303903).

It is requested that Conditions 15 and 41 of the approval, that require an easement be established for underground drainage, open cut, overland flow and access purposes for any part of the site which is affected by the 1% AEP for Creek/Waterway or 2% AEP for overland flow flooding, be removed. Any future development which the landowner seeks to establish on the site will be subject to a development application due to the existing flood overlay; furthermore an easement to manage overland currently exists.

We are of the opinion that the proposed alterations meet the criteria to constitute a Minor Change within the meaning of Schedule 2 of the Planning Act 2016. We therefore request that the change is assessed and decided pursuant to Section 83 of the Act.

Thank you for your consideration of this request. Should you require any further clarification or information, please don't hesitate to contact our office on (07) 3360 4200.

Yours faithfully

URBAN STRATEGIES PTY LTD



Blair McPherson
Town Planner