

10 April 2024

Attention: Chief Executive Officer
Brisbane City Council
GPO Box 1434
Brisbane Qld 4001

Dear Sir/Madam,

**RE: EXTENSION TO RELEVANT PERIOD (S86) AND MINOR CHANGE (S81) APPLICATION –
PRELIMINARY APPROVAL - MATERIAL CHANGE OF USE (MULTI-UNIT DWELLING, RESTAURANT
AND SHOP); AND
DEVELOPMENT PERMIT – MATERIAL CHAGNE OF USE (CENTRE ACTIVITIES)
44 IPSWICH ROAD AND 79 LOGAN ROAD WOOLLOONGABBA QLD 4102 (LOT 101 ON SP31186,
LOT 102 ON SP279457 AND LOT 24 ON SP184402)**

We act on behalf of 79 Logan Road Pty Ltd, the Applicant, in relation to the abovementioned Development Approval granted by Brisbane City Council on 27 June 2014 (Council Ref: A004591518). The approval included the following aspects of development:

- Preliminary Approval to carry out Building Works for Centre Activity;
- Development Permit for Material Change of Use Centre Activities (Multi Unit Dwelling (195 Units), Restaurant & Shop) Tower A1 (Stage 1);
- Preliminary Approval to override/Affect *Brisbane City Plan 2000*; and
- Development Permit for Material Change of Use Centre Activities (Multi Unit Dwelling (228 Units), Restaurant & Shop) Tower B1 (Stage 1).

Since the original approval, the current period of the Preliminary Approval to override the *Planning Scheme* was extended by 4 years to 27 June 2024 and the current period of the Development Permit for Tower B1 was extended by 2 years to 27 June 2022 (A005471298). With extensions notices provided throughout the Covid-19 pandemic, the currency periods are now as follows:

- Preliminary Approval to override the Planning Scheme – 27 June 2026;
- Development Permit for Tower B1 – 27 June 2024.

We now seek a further extension to the currency period for the approval pursuant to s86 of the *Planning Act 2016* for the Development Permit. It is requested to extend the relevant periods of both permits by 4 years, being:

- Preliminary Approval to override the Planning Scheme – **27 June 2030**;
- Development Permit for Tower B1 – **27 June 2028**.

Condition 123 of the decision package stipulates a prescribed period of 10 years, thus in conjunction with the extension request a minor change application is required in accordance with section 81 of the *Planning Act 2016* to change this condition to 14 years.

1.1. Development Application History

A004591518 - An extension Application was lodged on 23 February 2017, seeking an extension to the relevant period of 2 years to 27 June 2020. The application also sought an extension to the Preliminary Approval and changes to the Overall Site Plan. The application was approved on 28 April 2017, granting an extension of the Development Permit for Tower B1 on the Logan Road site by 2 years to 27 June 2020. The Preliminary Approval was also extended by 4 years to 27 June 2024.

A005471298 - A further extension request was approved on 14 July 2020 for the development permit only, granting an extension of the Tower B1 on the Logan Road site until 27 June 2022.

As described above, the Queensland Government granted further extensions to currency periods by a further 2 years as part of the Covid-19 pandemic response.

A006150645 – Application was made by JGL Projects Pty Ltd over 33 Jurgen Street (44 Ipswich Road), Woolloongabba being Lot 102 SP279457. This application is for a Development Permit for Material Change of Use (Food and Drink Outlet, Indoor Sport and Recreation, Multiple Dwelling, Office and Shop) and was not made under the current Preliminary Approval. The assessment of this application is ongoing.

A004765134 – On 20 June 2018 Council approved a service station at 28 Ipswich Road, Woolloongabba being Lot 101 SP311186. This application was not made under the current Preliminary Approval. The service station has been constructed and is currently operating.

A006340456 – On 18 August 2023 an application was made over 79 Logan Road, Woolloongabba being Lot 24 SP184402 for a Preliminary Approval to vary the effect of the Planning Scheme. The assessment of this application is ongoing, and once determined will supersede the current Preliminary Approval and Development Permit.

1.2. Proposed Extension

We wish to extend the relevant period under section 86 of the *Planning Act 2016* for the Development Permit for Tower B1 and Preliminary Approval for an additional **4 years**. The request is in part to maintain current development rights of the site while the current application (A006340456) is under assessment. Once this application has been approved, the current Preliminary Approval will fall away.

Other factors requiring an extension to the currency period has been the difficult market conditions related to the building sector. The Applicant remains committed to the future delivery of development of the site and despite the economic issues, the Applicant remains extremely confident that the project will be successful and a dynamic feature of the Woolloongabba area. However, at this time, it remains realistic that, and as a result of the extenuating circumstances and impending lapse date, an extension is sought to take into account current and future uncertainties.

The requested extension will provide certainty for the applicant as to the validity of the current approval in moving forward with the current application for a development outcome that may achieve current market expectations.

1.3. Change of Condition

Condition 123 of the approved conditions includes a prescribed period for Preliminary Approval being 10 years from when the Preliminary Approval takes effect. It is proposed to amend this condition to **14 years** in line with the requested extension of relevant period.

1.4. Legislative Assessment

We have carried out a legislative assessment to support this extension application. We note the following criteria applies for assessing an extension under section 87(1) of the *Planning Act 2016* –

'When assessing an extension application, the assessment manager may consider any matter that the assessment manager considers relevant, even if the matter was not relevant to assessing the development application'.

In response to the above we note that:

- The subject site is now contained within the Woolloongabba Priority Development Area (PDA). An Interim Land Use Plan is in effect however has identified the subject site within the Neighbourhood Transition Precinct. Section 3.8 of the Interim Land Use Plan states that the provisions of the *Brisbane City Plan 2014* apply and to not exceed the maximum building heights contained in the relevant assessment benchmarks. Therefore, the approval and its conditions are generally consistent with current laws and policies applying to the development;
- Uncertainty in the market due to construction costs and timeframes have hindered the development of the land. These matters are beyond the control of the Applicant and as such, the Applicant should not be unduly penalised because of them;
- The original application was impact assessable and therefore public notification was considered as part of the approval process;
- A total of one submission was received during public notification of the application. This submission was made by a local resident providing in principle support of the application. Given that only one submission was received and the submission was in support of the application, we do not believe that this proposed extension to the relevant period is likely to cause a person to make a submission objecting to the change; and
- As per the Concurrence Agency Response about the request to extend the relevant period dated 22 March 2017, the department had no objection to the last extension being approved. It is envisaged that there would be no objection from SARA to provide further time to enable the completion of this project in accordance with the current approvals.

We are of the view that this request satisfies the relevant assessment provisions and consider that the requested extensions are appropriate. The basis for the extension has been set out for council's consideration in the sections of the letter above. Most importantly, we believe that the legislative requirements for which Council must have regard to under of s87 of the *Planning Act 2016*, has been appropriately satisfied.

1.5. Minor Change

Schedule 2 of the *Planning Act 2016* establishes the criteria of a minor change to a development approval by way of its definition. The proposed amendment to Condition 123 meets this criteria and would not constitute substantially different development. Thus, section 81 of the *Planning Act 2016* is satisfied.

1.6. Excluded Premises

Per sections 79(1A) and 86(2A) the application must be accompanied by the written consent of the owner of the premises to the application where the applicant is not the owner (a) and the premises are not excluded premise (c).

Regarding (a), the applicant is 79 Logan Road Pty Ltd, who is also the owner of 79 Logan Road (Lot 24 SP184402). Lot 102 SP279457 and lot 101 SP31186 are under different ownership, however are considered excluded premises (c) given the application does not materially affect the premises:

- Lot 101 made application for a service station that recently began operating and will not undertake development under the current Preliminary Approval; and
- Lot 102 has a current application for centre activities that was not made under the current Preliminary Approval.

We look forward to the Council's earliest consideration of our request to extend the relevant period and minor change. Should you wish to discuss the above matters further, please do not hesitate to contact me on (07) 3251 9482 or email at andrewmclean@saundershavill.com.

Yours sincerely

Saunders Havill Group



Andrew McLean

Principal – Town Planning