

Town Planning Assessment

11 Thornton Street, Kangaroo Point

1. Introduction

This Town Planning Assessment accompanies a development application made by Brett Adams (**the Applicant**) over part of the land at 11 Thornton Street, Kangaroo Point (**the site**).

The Applicant proposes to provide for a broader land use flexibility within the ground level retail space of the existing building.

In order to undertake the proposed development, this development application seeks a Development Permit for a Material Change of Use for a Food and Drink Outlet, Shop, Office, Health Care Services and Indoor Sport and Recreation.

The development application is subject of assessment pursuant to the *Planning Act 2016 (Planning Act)*. The applicable planning scheme in this instance is the *Brisbane City Plan 2014 (Version 34.00/2025) (City Plan)*.

The proposal is assessable development pursuant to the Planning Act and the City Plan. In this instance, an Impact Assessable development application is required. Brisbane City Council is the assessment manager, and referral is not triggered to the State Assessment and Referral Agency.

This Town Planning Assessment provides an assessment of the proposed development having regard to the City Plan.

The Town Planning Assessment is supported by the following material:

- Brisbane City Council Code Assessment (**Appendix A**);
- Certificate of Title (**Appendix B**); and
- Proposal Plans (**Appendix C**).

2. Background

2.1 Site and Relevant Planning Designations

Table 1 provides a summary of the site and relevant planning designations.

Table 1 - Site Details and Planning Framework	
Site Details	
Address	Part of 11 Thornton Street, Kangaroo Point
RP Description	<ul style="list-style-type: none"> • Lot 15 on SP313541 (retail lot) • Part of Lot 0 on SP313541 (common property)
Site Area	The retail lot has an area of 94m ²
Owner	<ul style="list-style-type: none"> • Retail lot – Brett Martin Adams • Common property - Body Corporate For Thornton Kangaroo Point – Community Titles Scheme 56337 Refer to the Certificate of Title within Appendix B .
Easements	The site is neither burdened nor benefitted by an easement. Refer to the Certificate of Title within Appendix B .
Planning Framework	
Local Government	Brisbane City Council
Planning Scheme	<i>Brisbane City Plan 2014 – v35.00/2025</i>
Strategic Framework	Suburban Living Area

Zone	High Density Residential Zone (Up to 15 storeys)
Neighbourhood Plan	Kangaroo Point Peninsula Neighbourhood Plan (Thornton Street Precinct)
Overlays	<ul style="list-style-type: none"> • Airport environs overlay <ul style="list-style-type: none"> ○ OLS – Horizontal limitation surface boundary ○ PANS – Procedures for air navigation surfaces ○ BBS Zone – Distance from airport 8-13km • Bicycle Network Overlay <ul style="list-style-type: none"> ○ Primary Cycle Route • Community purposes network overlay • Critical infrastructure and movement network overlay <ul style="list-style-type: none"> ○ Critical assets sub-category ○ Critical infrastructure and movement planning area sub-category • Dwelling house character overlay • Heritage Overlay <ul style="list-style-type: none"> ○ Local heritage place sub-category • Potential and actual acid sulfate soils overlay <ul style="list-style-type: none"> ○ Potential and actual acid sulfate soils sub-category ○ Land above 5m AHD and below 20m AHD sub-category • Road hierarchy overlay <ul style="list-style-type: none"> ○ Neighbourhood road • Streetscape hierarchy overlay <ul style="list-style-type: none"> ○ Neighbourhood Street Major • Transport noise corridor overlay <ul style="list-style-type: none"> ○ Noise Category 2 sub-category <p>Note: The heritage overlay relates to the retained house within the development and does not apply to the retail lot.</p>
State Designations	<ul style="list-style-type: none"> • SEQ Regional Plan – Urban Footprint • Water Resources – Water resource planning area boundaries • Native Vegetation Clearing – Regulated vegetation management map Category X

2.2 Approval Background

The land at 11 Thornton Street is improved by a 15 storey multiple dwelling, comprising 14 residential apartments, the retention of the heritage dwelling (and repurposing as a residential apartment) and 94m² of retail space.

The development was subject of an approval granted by the Planning and Environment Court (No. 2962 of 2019) for a Development Permit for a Material Change of Use for Multiple Dwelling and Food and Drink Outlet and Preliminary Approval (s241 of SPA) for Carrying Out Building Work, including on the site of a Local Heritage Place, granted on 20 November 2019. The development outcome that relates to that approval has been constructed and occupied.

3. Proposed Development

The Applicant is making this development application to broaden the potential use of the existing retail space at 11 Thornton Street. The retail space is currently approved for a food and drink outlet use.

Since purchasing the retail space, the Applicant has sought to find a food and drink outlet occupant, however for a range of reasons they have not been successful in finding an occupant. Therefore, to create the opportunity for an occupied space, that engages with and positively contributes to Thornton Street, the Applicant is making this application to broaden the land uses that may occupy the space. The Applicant is seeking approval for Office, Shop, Health Care Service, and Indoor Sport and Recreation uses in addition to the already approved Food and Drink Outlet use.

The proposed land uses, consistent with the Food and Drink Outlet use, will support the local needs of the Thornton Street residential community, which continues to expand and grow with the opportunities created by the Kangaroo Point Peninsula Neighbourhood Plan (which was adopted after the approval of the development over the site) and the addition of the Kangaroo Point Bridge.

The Overall Outcomes for the Kangaroo Point Peninsula Neighbourhood Plan encourages the development of some non-residential uses within the Thornton Street Precinct that support the precinct's role as an established residential community

The Applicant does not propose to make any changes to the extent or design of the existing space.

4. Statutory Town Planning Framework

This Chapter of the Town Planning Assessment identifies the applicable components of the statutory town planning framework and provides an assessment against those components.

4.1 State Planning Framework

4.1.1 Planning Act 2016

The Planning Act is the statutory instrument for the State of Queensland under which, amongst other matters, development applications are assessed by local governments.

4.1.2 Decision Rules

This development proposal involves assessable development under the City Plan and requires an Impact Assessable development application to be made to the Assessment Manager, in this case Brisbane City Council.

Assessment benchmarks for Impact Assessment are described in Section 30 and Section 31 of the *Planning Regulation 2017 (Planning Regulation)*:

“(30)(1) For section 45(5)(a)(i) of the Act, the impact assessment must be carried out against the assessment benchmarks for the development stated in schedules 9 and 10.

(2) Also, if the prescribed assessment manager is the local government, the impact assessment must be carried out against the following assessment benchmarks—

(a) the assessment benchmarks stated in—

(i) the regional plan for a region; and

(ii) the State Planning Policy, part E, to the extent part E is not identified in the planning scheme as being appropriately integrated in the planning scheme; and

(iii) a temporary State planning policy applying to the premises;

(b) if the development is not in a local government area— any local planning instrument for a local government area that may be materially affected by the development;

(c) if the local government is an infrastructure provider— the local government’s LGIP.

(3) However, an assessment manager may, in assessing development requiring impact assessment, consider an assessment benchmark only to the extent the assessment benchmark is relevant to the development.”

“(31)(1) For section 45(5)(a)(ii) of the Act, the impact assessment must be carried out having regard to—

(a) the matters stated in schedules 9 and 10 for the development; and

(b) if the prescribed assessment manager is the chief executive—

(i) the strategic outcomes for the local government area stated in the planning scheme; and

(ii) the purpose statement stated in the planning scheme for the zone and any overlay applying to the premises under the planning scheme; and

(iii) the strategic intent and desired regional outcomes stated in the regional plan for a region; and

(iv) the State Planning Policy, parts C and D; and

(v) for premises designated by the Minister—the designation for the premises; and

(c) if the prescribed assessment manager is a person other than the chief executive or the local government—the planning scheme; and

(d) if the prescribed assessment manager is a person other than the chief executive—

(i) the regional plan for a region; and

(ii) the State Planning Policy, to the extent the State Planning Policy is not identified in the planning scheme as being appropriately integrated in the planning scheme; and

(iii) for designated premises—the designation for the premises; and

(e) any temporary State planning policy applying to the premises; and

(f) any development approval for, and any lawful use of, the premises or adjacent premises; and

(g) the common material.

At the time of the lodgement of the development application, the common material comprises the application material only. The application material includes an assessment of the proposed development against the relevant assessment benchmarks. Information arising from the Information Request stage and Public Notification stages will also form part of the common material to be assessed by the Assessment Manager.

4.1.3 Public Notification

Pursuant to Section 53 of the Planning Act, the notification stage of the development assessment process applies to an application if either of the following applies –

“(a) any part of the application requires impact assessment; or

(b) the application includes a variation request.”

As the development application requires Impact Assessment, public notification pursuant to the Planning Act is required in this instance.

4.1.4 State Planning Policy

The State Planning Policy was released on 3rd July 2017. It is a State planning instrument made under Chapter 2 Part 2, Section 10 of the Planning Act.

As prescribed in Section 26(2)(a)(ii) of the Planning Regulation, the State Planning Policy represents an assessment benchmark and the assessment manager must have regard to State Planning Policies if it is not identified as being appropriately reflected in the planning scheme.

Part 2 of the City Plan identifies the State Planning Policy (to the extent it is applicable) as being appropriately reflected in the City Plan, except for the following State interests.

- State interest – Natural hazards, risk and resilience – The bushfire prone area in the planning scheme does not reflect the State mapping layer.
- State interest – Strategic airports and aviation facilities – The building restricted area is not identified in the planning scheme.

The abovementioned State interests are not applicable to the site or the assessment of the development and therefore a separate assessment against the State Planning Policy is not applicable.

4.1.5 Referral Jurisdiction and State Development Assessment Provisions

Section 55(2) of the Planning Act states that:

“For any other referral agency, a regulation may prescribe the matters the referral agency–

(a) may, must or must only assess a development application against; and

(b) may, must, or must only have regard to for the assessment. “

Part 4, Section 22(1) of the Planning Regulation states that:

“Schedules 9 and 10 prescribe—

(a) for section 54(2)(a) of the Act, the referral agency for the development applications stated in the schedules; and

(b) for section 55(2) of the Act, the matters the referral agency—

(i) may or must assess the development application against; and

(ii) may or must assess the development application having regard to.”

The proposed development does not require referral to the State Assessment and Referral Agency and consequently the State Development Assessment Provisions do not apply.

4.1.6 South East Queensland Regional Plan

The South East Queensland Regional Plan 2023 (the **Regional Plan**) provides a sustainable growth management strategy for the region that articulates strategic direction and certainty that will accommodate an increase in population in South East Queensland.

As prescribed in Section 26(2)(a)(i) of the Planning Regulation, the regional plan represents an assessment benchmark and the assessment manager must have regard to regional plan, if it is not identified as being appropriately reflected in the planning scheme.

Section 2.2 of the City Plan identifies that the Regional Plan has been appropriately reflected in the City Plan.

4.2 Local Planning Framework

4.2.1 Brisbane City Plan 2014

The City Plan commenced on 30 June 2014 and is the relevant planning scheme for the assessment of development proposals within the City of Brisbane.

The City Plan version applicable at the time of this development application is v34.00/2025.

4.2.2 Category of Assessment

Table 2 sets out the applicable category of assessment triggers for the development.

Having regard to the category of assessment triggers identified below, a Material Change of Use for a Food and Drink Outlet, Shop, Office, Health Care Services and Indoor Sport and Recreation, will be subject to **Impact Assessment**.

The applicable neighbourhood plan and overlays do not alter the category of assessment identified under the category of assessment table for the zone.

Table 2 – Category of Assessment			
Zone	Application Triggers	Category of Assessment	Assessment Benchmarks
High Density Residential Zone	Material Change of Use (where not specifically listed in the categories of assessment table)	Impact Assessable	The Planning Scheme
Neighbourhood Plan			

Table 2 – Category of Assessment			
Kangaroo Point Peninsula Neighbourhood Plan	Material Change of use – if assessable development where not listed in this table	No Change	Kangaroo Point Peninsula Neighbourhood Plan Code
Overlays			
Airport Environs Overlay	Material Change of Use for other than a dwelling house in the Procedures for Air Navigation Services–Aircraft Operational Surfaces (PANS–OPS) sub-categories, if assessable development in the zone or neighbourhood plan	Code Assessable (category of assessment is not lowered)	Airport Environs Overlay Code—purpose, overall outcomes and outcomes in section A
Bicycle Network Overlay	Not Applicable	Not Applicable	Not Applicable
Community Purposes Network Overlay	Not Applicable	Not Applicable	Not Applicable
Critical Infrastructure and Movement Network Overlay	Not Applicable	Not Applicable	Not Applicable
Dwelling House Character Overlay	Not Applicable	Not Applicable	Not Applicable
Heritage Overlay	Not Applicable	Not Applicable	Not Applicable
Potential and Actual Acid Sulfate Soils Overlay	Not Applicable	Not Applicable	Not Applicable
Road Hierarchy Overlay	Not Applicable	Not Applicable	Not Applicable
Streetscape Hierarchy Overlay	Not Applicable	Not Applicable	Not Applicable
Transport Noise Corridor Overlay	Not Applicable	Not Applicable	Not Applicable

4.2.3 Strategic Framework

The subject site is identified in the Suburban Living Area of the Strategic Framework mapping for the CityShape theme and is included in the High Density Residential Zone. Overall Outcome (3)(a) of the High Density Residential Zone Code states ‘*development in the zone supports the implementations of the policy direction set in the Strategic framework in particular:*

- i. Theme 2: Brisbane’s outstanding lifestyle and Element 2.2 – Brisbane’s housing and accommodation choices;*
- ii. Theme 5: Brisbane’s CityShape, Element 5.3 – Brisbane’s Major Centres and Element 5.8 – Brisbane’s Growth Nodes on Selected Transport Corridors’.*

The proposal is consistent with the abovementioned themes and elements, having regard to the following:

- The proposed development broadens the land uses for the existing ground floor retail space and does not alter the residential component of the development. Therefore, the development still contributes to Brisbane’s dwelling needs (Theme 2, Element 2.2, Specific Outcome 1).
- The proposed development provides the opportunity for residents to have easy access to goods, services, community facilities to the site and the surrounding area. The proposed land use supports accessibility to a range of services (Theme 2, Strategic Outcome (h)).
- The proposed development provides the opportunity for a range of accessible services which meets the needs of local community (Theme 2, Element 2.4, Specific Outcome 1).

4.2.4 Zone

The City Plan includes the site within the High Density Residential (up to 15 storeys) Zone. The purpose of the High Density Residential Zone is:

“...provides for a range of well-designed, location-responsive, high density, medium to high rise multiple dwellings to predominate”.

The proposal is consistent with the Overall Outcomes of the High Density Residential Zone, as detailed in the compliance assessment against the zone code (**Appendix A**).

4.2.5 Neighbourhood Plan

Pursuant to the City Plan, the site is included within the Kangaroo Point Peninsula Neighbourhood Plan and more specifically the Thornton Street Precinct.

The Overall Outcomes for the Thornton Street Precinct include:

- a. *The Thornton Street precinct (Kangaroo Point peninsula neighbourhood plan/NPP-002) includes a mix of residential and community facility uses that support the precinct’s role as an established residential community, and a location for significant health services.*

An assessment against the Kangaroo Point Peninsula Neighbourhood Plan has been undertaken and provided in **Appendix A**.

4.2.6 Compliance Summary

The following sections comprise a summary of compliance against the assessment benchmarks of the applicable codes that apply to the proposed development.

4.2.6.1 High Density Residential Zone Code

The proposed development complies with all the applicable Overall Outcomes of the High Residential Zone Code, therefore also complying with the purpose of the Code.

A detailed response to the High Residential Zone Code is included within **Appendix A**.

4.2.6.2 Kangaroo Point Peninsula Neighbourhood Plan Code

The proposed development complies with the applicable Overall Outcomes and Acceptable Outcomes of the Kangaroo Point Peninsula Neighbourhood Plan Code. The development therefore complies with the purpose and overall outcomes of the code.

A detailed response to the Kangaroo Point Peninsula Neighbourhood Plan Code is included within **Appendix A**.

4.2.6.3 Small-scale Non-residential Uses Code

The proposed development complies with most of the applicable Acceptable Outcomes of the Small-scale Non-residential Uses Code. The proposed development offers alternative outcomes to **AO1** (site location), **AO16** (hours of operation) and **AO17** (conducted wholly within an enclosed building). The performance justification for these respective alternative outcomes can be found in the Small-scale Non-residential Uses Code is included within **Appendix A**. Further, compliance is balanced with the relevant matter that there is an approved non-residential space, which simply proposes alternative non-residential land uses to achieve the activation outcomes originally intended by the approved development and not achieved given the inability to occupy the retail tenancy to date.

A detailed response to the Small-scale Non-residential Uses Code is included within **Appendix A**.

4.2.6.4 Airport Environs Overlay Code

The proposed development complies with most of the applicable Acceptable Outcomes of the Airport Environs Overlay. The development therefore complies with the purpose and overall outcomes of the code.

A detailed response to the Airport Environs Overlay is included within **Appendix A**.

5. Summary

This report accompanies an application by Brett Adams seeking approval of a Development Permit for a Material Change of Use for a Food and Drink Outlet, Shop, Office, Health Care Services and Indoor Sport and Recreation in the High Density Residential Zone over part of the site at 11 Thornton Street, Kangaroo Point.

An assessment has been undertaken with regard to the proposed development in order to assess the application against the applicable assessment benchmarks, including relevant City Plan codes, used by Council to assess the proposed development.

The information provided in this proposal report (and accompanying material) demonstrates that the proposed development complies with all relevant and applicable provisions of the statutory town planning framework.

We therefore recommend that Council favourably consider the proposed development and approve the proposed development application, subject to reasonable and relevant conditions.