

REPORT TO BE TABLED IN THE LEGISLATIVE ASSEMBLY ABOUT MINISTER'S
DECISION ON A CALL IN OF A DEVELOPMENT APPLICATION UNDER THE
SUSTAINABLE PLANNING ACT 2009

DEVELOPMENT APPLICATION BY PDI (QLD) PTY LTD AT MAIN
STREET, ANDERSON STREET, HOLMAN STREET AND WHARF STREET,
(YUNGABA), KANGAROO POINT

CALLED IN BY THE FORMER DEPUTY PREMIER, MINISTER FOR
INFRASTRUCTURE AND PLANNING
THE HONOURABLE PAUL LUCAS MP,
ON 20 AUGUST 2008

AND

DECIDED BY THE FORMER DEPUTY PREMIER, MINISTER FOR
INFRASTRUCTURE AND PLANNING
THE HONOURABLE PAUL LUCAS MP,
ON 4 DECEMBER 2008

AND

CHANGED BY THE FORMER MINISTER FOR INFRASTRUCTURE AND
PLANNING,
THE HONOURABLE STIRLING HINCHLIFFE MP
ON 10 APRIL 2009

AND

CHANGED BY THE FORMER MINISTER FOR INFRASTRUCTURE AND
PLANNING,
THE HONOURABLE STIRLING HINCHLIFFE MP
ON 28 JULY 2009

AND

CHANGED BY THE FORMER DEPUTY PREMIER AND MINISTER FOR
STATE DEVELOPMENT, INFRASTRUCTURE AND PLANNING,
THE HONOURABLE JEFF SEENEY MP
ON 17 DECEMBER 2012

AND

CHANGED BY THE DEPUTY PREMIER, MINISTER FOR TRANSPORT,
MINISTER FOR INFRASTRUCTURE, LOCAL GOVERNMENT AND
PLANNING AND MINISTER FOR TRADE,
THE HONOURABLE JACKIE TRAD MP
ON 11 MARCH 2015

THIS REPORT HAS BEEN PREPARED PURSUANT TO
SECTION 432 OF THE *SUSTAINABLE PLANNING ACT 2009*

**REPORT ABOUT MINISTER'S DECISION ON A REQUEST TO CHANGE A
DEVELOPMENT APPROVAL
THAT WAS THE SUBJECT OF A CALL IN
UNDER THE *SUSTAINABLE PLANNING ACT 2009***

**DEVELOPMENT APPLICATION BY
PREMIUM CUSTODY SERVICES PTY LTD**

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REPORT ABOUT MINISTER'S DECISION ON A REQUEST TO CHANGE A DEVELOPMENT APPROVAL THAT WAS THE SUBJECT OF A CALL IN UNDER THE SUSTAINABLE PLANNING ACT 2009

1.0 PURPOSE

In accordance with section 432 of the *Sustainable Planning Act 2009* (SPA), if a development application is called in under section 425(1) of SPA, the Minister must, after deciding the development application, prepare a report about the Minister's decision and cause a copy of that report to be tabled in the Legislative Assembly within 14 sitting days after the decision is made.

This is a report about a decision I, Deputy-Premier, Minister for Transport, Minister for Infrastructure, Local Government and Planning and Minister for Trade, made on 11 March 2015 regarding a permissible change to a development application. The development application was called in on 20 August 2008 and decided on 4 December 2008. Subsequent permissible changes were approved on 10 April 2009, 28 July 2009 and 17 December 2012.

I am under no legal obligation to prepare a report to be tabled regarding this decision. However, having regard to the fact that it varies the development approval which has been previously tabled, I consider that it is appropriate to table it, notwithstanding the absence of any legal compulsion to do so.

2.0 ORIGINAL DEVELOPMENT APPLICATION

Applicant	Premium Custody Services Pty Ltd c/- Planning Initiatives Pty Ltd
Subject Site	Lots 1 and 822 on SP192737 (formerly Lot 1 on CP900757 (state registered heritage place), Lot 4 on RP52451, Lot 4 on RP52454, Lot 2 on RP53161, Lot 7 on RP885001, Lot 325 on SP138356, and Lot 103 on SP144639
Location	15 & 17 Anderson Street, 58A, 58B and 60 Holman Street, 102 Main Street, 12 Wharf Street, part of Anderson Street road reserve and part of Wharf Street road reserve, Kangaroo Point
Proposed Use	Development permit for material change of use (multi-unit dwelling, office, shop, community facilities, convention centre, car park, restaurant, display dwelling, estate sales office and education purposes) made assessable by the Brisbane City Plan 2000; Development permit for material change of use on contaminated land made assessable by items 5 and 6 (contaminated land management) of table 2 in part 1 of schedule 8 to the <i>Integrated Planning Act 1997</i> (IPA); Development permit for reconfiguring a lot volumetric

subdivision, standard format subdivision, and on land adjoining a heritage place all made assessable by the Brisbane City Plan 2000 (planning scheme);

Preliminary approval for building work on land adjoining a heritage place, associated with a material change of use, and demolition or removal of a heritage place;

Preliminary approval for operational work (filling and excavation) and land adjoining a heritage place;

Development permit for all aspects of development on a registered place as defined under the *Queensland Heritage Act 1992* (QHA) (material change of use, reconfiguring a lot, building work, operational work) made assessable by item 2 of table 5 in part 1 of schedule 8 to IPA; and

Preliminary approval to override the planning scheme under section 3.1.6 of IPA for operational work on a heritage place.

Application Type	Impact Assessment
Local Government Area	Brisbane City Council
Original Assessment Manager	Brisbane City Council
Original Assessment Manager's Decision	Approved, subject to conditions on 14 December 2007

3.0 MINISTERIAL CALL IN

On 20 August 2008, the then Deputy Premier and Minister for Infrastructure and Planning called in the second Yungaba development application. On 4 December 2008, the then Deputy Premier and Minister for Infrastructure and Planning issued a ministerial decision notice and approved the development application, subject to conditions. The report tabled in the Legislative Assembly about the decision is available from the Queensland Parliament Online Tabled Papers website (Ref. 5309T508).

4.0 REQUEST TO CHANGE DEVELOPMENT APPROVAL

First permissible change request

On 16 February 2009, the applicant requested a change to the Yungaba development approval (second Yungaba call in) under section 3.5.33 of IPA. The changes related to the protected Moreton Bay Fig tree which was significantly damaged in high winds in November 2008, and the relevant period for the development approval. Specifically, the first change request sought to:

- cancel conditions 1, 7, 12, 61, 115, 161, 211 and 227 or extending the time period for compliance to 2021. As a result, conditions 1, 7, 12, 61, 115, 161, 211 and 227 were cancelled as it was not considered in the public's interest to extend the period to 2021

- cancel conditions 6 and 112 and the related plan reference on the grounds that they were unnecessary. As a result, conditions 6 and 112 were cancelled. Condition 5 was amended and the related plan reference retained
- change condition 9 to clarify that 'I' related to the preliminary approval overriding the planning scheme to carry out operational work on a heritage place. As a result, an explanatory table was inserted
- change condition 23 to insert the missing subheadings. As a result, condition 23 was revised to ensure clarity
- change condition 26 to remove the requirement to obtain a natural assets local law approval to remove vegetation in the road reserve. As a result, condition 26 was changed and a new condition 26a added
- change condition 33(a) to clarify the timing for compliance. As a result, condition 33(a) was amended to ensure clarity
- change conditions 28(a) and 78(a) to remove requirements relating to the protected Moreton Bay Fig Tree, which was critically damaged by high winds in November 2008. As a result, conditions 28(a) and 78(a) revised, and requirement for replacement of a suitable species in a suitable location included
- change conditions 32 and 32(a) to remove the requirement to pay a landscape bond and the requirement for future monitoring of the health of the protected Moreton Bay Fig Tree. As a result, conditions 32 and 32(a) were amended by removing references to the protected Moreton Bay Fig Tree
- cancel condition 4 of the concurrence agency conditions due to inconsistency with the relevant periods stated in the then Minister's decision notice. As a result, condition 4 was cancelled
- change condition 8 of the concurrency agency conditions to specify a time period for compliance of 20 working days. As a result, condition 8 was amended to clarify the time period of 10 working days as 20 working days was considered excessive.

On 10 April 2009, the then Planning Minister decided to partially approve the change of approval as detailed above.

Second change request to second call in

On 23 June 2009, the applicant requested another change to the approval to the then Planning Minister. The changes were sought in relation to sub-staging stage 1 and 2, namely:

- the Riverwalk being stage 1A;
- the multi-cultural centre being stage 1B;
- the Promontory Building being stage 2A;
- Yungaba House being stage 2B;
- reconfiguring a lot stage 1 into stages 1A and 1B to accommodate the creation of a public thoroughfare easement over the proposed Riverwalk ahead of new titling required (volumetric subdivisions) in association with the approved Yungaba redevelopment;
- amendments to the approved plans were prepared to reflect the new staging and the proposed Riverwalk easement as an initial stage of the overall Yungaba redevelopment.

The applicant proposed further conditions to be amended by relocating them into one or more of the proposed new stages, and ensuring that each proposed staged had an applicable conditions package attached to it. The following changes were also proposed:

- condition 25 – the prohibition of external air conditioning units was proposed to be deleted on the basis that it was not relevant to non-residential development
- conditions 28 (a) and 78 (a) – a small leafed fig tree at the entrance to Yungaba was identified as dangerous and authorised to be removed by Brisbane City Council (council)
- condition 29 – an amendment was proposed to allow flexibility in relation to the location of the proposed Riverwalk, as agreed with council's delegate
- condition 31 (c) – consequential amendments to vary the obligation to retain existing trees, including the Moreton Bay fig tree (which was deleted from other conditions in the decision of 10 April 2009), and the small leafed fig
- a new condition (after condition 59) to provide for the sequencing of stages 1A and 1B. The change provided that conditions contained in stage 1A relating to the payment of monetary contributions and the landscape bond, streetscape works, construction of the Riverwalk and Public Open Space (including the provision of a public thoroughfare easement) provision of compensatory planting, relocation of sewer and stormwater infrastructure and the Wharf Street external works were to be complied with prior to commencement of the use of stage 1B unless otherwise specified in the conditions
- condition 94 – splitting the car parking requirements between stages 2A and 2B to increase the total number of car parking spaces from 109 in the existing condition to 111
- conditions 213 and 229 – deferring the requirement of an internal road/vehicular circulation path to service a proposed lot from, prior to sealing of stage 1, to prior to sealing of stage 3. Condition 229 also inserted a timing requirement so that the construction of the internal access road, refuse collection areas and car parking for one of the proposed lots within stage 2B of the material change of use component must take place prior to the Building Format Plan endorsement for Yungaba House.

On 28 July 2009, the then Planning Minister approved the change of approval as detailed above.

Third change request to second call in

On 8 October 2012, the applicant made another change of approval request to the then Planning Minister. The changes related to the staging of the development and the extension to the relevant period to 10 years from 4 December 2008 due to delays in construction as a result of the January 2011 floods and the current residential apartment market conditions.

On 3 December 2012, the then Planning Minister approved the change of approval, subject to conditions.

Fourth change request to second call in (current)

On 28 January 2015, the applicant made another change of approval request to the then Planning Minister. The request seeks to extend the trading hours of the kiosk from 7am-7pm to be 7am-10pm, 7 days a week. The purpose of the request is to meet the growing demand in the area.

A copy of the fourth permissible change request is **Annexure A** to this report.

5.0 RELEVANT ENTITIES RESPONSES

A copy of relevant entity responses for this permissible change request is **Annexure B** to this report.

6.0 DECISION NOTICE

A copy of the decision notice issued on 11 March 2015 which reflects the four permissible changes is **Annexure C** to this report.



JACKIE TRAD MP
DEPUTY PREMIER
Minister for Transport, Minister for Infrastructure,
Local Government and Planning and Minister for Trade