

NOTICE ABOUT DECISION ASSESSMENT REPORT (s63 Development Application)

SUBMISSION BY Mohammed Aslam

25 November 2019

SITE:

Address of Site:	25 FINCHLEY ST MILTON QLD 4064
Real Property Description:	L13 RP.18886
Area of Site:	415 m ²
Zone:	LOW IMPACT INDUSTRY ZONE
Name of Ward:	Paddington

APPLICATION:

Aspects of Development:	DA - PA - Material Change of Use – Development Permit
Description of Proposal:	Special Industry (Distillery) and Hotel
Applicant:	Lynette Anne Lee, Michael Lee C/- Planning Initiatives PO Box 1774 NEW FARM QLD 4005
Application Reference:	A005165084
Application Made Date:	11 April 2019

City Plan 2014

Zone:	LOW IMPACT INDUSTRY ZONE
Neighbourhood plan:	ITHACA DISTRICT NEIGHBOURHOOD PLAN
Neighbourhood plan precinct:	ITHACA DISTRICT NP - BREWERY PRECINCT
Neighbourhood plan sub-precinct	
Overlays:	AIRPORT ENVIRONS OVERLAY
Overlays:	POTENTIAL AND ACTUAL ACID SULFATE SOILS OVERLAY
Overlays:	CRITICAL INFRASTRUCTURE AND MOVEMENT NETWORK (CIMN) OVERLAY
Overlays:	COMMUNITY PURPOSES NETWORK OVERLAY
Overlays:	FLOOD OVERLAY
Overlays:	HERITAGE OVERLAY
Overlays:	INDUSTRIAL AMENITY OVERLAY
Overlays:	ROAD HIERARCHY OVERLAY
Overlays:	STREETSCAPE HIERARCHY OVERLAY
Overlay Categories:	AIRPORT ENVIRONS OVERLAY - BIRD AND BAT STRIKE ZONE SUB-CATEGORIES
Overlay Categories:	AIRPORT ENVIRONS OVERLAY - HORIZONTAL LIMITATION SURFACE BOUNDARY SUB-CATEGORY
Overlay Categories:	AIRPORT ENVIRONS OVERLAY - OBSTACLE LIMITATION SURFACES (OLS) SUB-CATEGORIES
Overlay Categories:	AIRPORT ENVIRONS OVERLAY - PROCEDURES AIR NAV SERVICES-AIRCRAFT OPS SURFACES SUB-CATEGORIES
Overlay Categories:	AIRPORT ENVIRONS OVERLAY - BBS SUB-CATEGORIES - DISTANCE FROM AIRPORT 8-13KM SUB-CATEGORY

Overlay Categories:	POTENTIAL AND ACTUAL ACID SULFATE SOILS OVERLAY - LAND ABOVE 5M AHD AND BELOW 20M AHD SUB-CATEGORY
Overlay Categories:	POTENTIAL AND ACTUAL ACID SULFATE SOILS OVERLAY- POTENTIAL AND ACTUAL ACID SULFATE SOILS SUB-CATEGORY
Overlay Categories:	CRITICAL INFRASTRUCTURE AND MOVEMENT NETWORK (CIMN) OVERLAY - CIMN PLANNING AREA SUB-CATEGORY
Overlay Categories:	FLOOD OVERLAY - BRISBANE RIVER FLOOD PLANNING AREA 3 SUB-CATEGORY
Overlay Categories:	FLOOD OVERLAY - BRISBANE RIVER FLOOD PLANNING AREA 4 SUB-CATEGORY
Overlay Categories:	FLOOD OVERLAY - BRISBANE RIVER FLOOD PLANNING AREA 5 SUB-CATEGORY
Overlay Categories:	HERITAGE OVERLAY - AREA ADJOINING HERITAGE SUB-CATEGORY
Overlay Categories:	INDUSTRIAL AMENITY OVERLAY - INDUSTRIAL AMENITY INVESTIGATION AREA SUB-CATEGORY

The Council received a development application under the *Planning Act 2016* as detailed above.

1. INTRODUCTION

1.1 BACKGROUND / HISTORY

The subject site is located at 25 Finchley Street Milton, described as Lot 13 RP18886 and have a land area of 415m². This site is occupied by an existing commercial building that is proposed to be used for Special Industry and Hotel.

The subject site is zoned Low impact industry zone and located within NPP-005 Brewery precinct of the Ithaca district neighbourhood plan. There are no relevant planning approvals over this site.

1.2 PROPOSAL

The proposal seeks a Development Permit for a Material Change of Use for a Special Industry (Whisky Distillery) & Hotel on land within an existing building on the site. The proposal is facilitated by the refurbishment of the existing commercial/industrial building to accommodate the proposed use. No new gross floor area is created as a result of this proposal. The refurbished building will have a total GFA of 463.7m², located over the two floors and the basement level.

The proposed Special Industry (Whisky Distillery) component occupies a total area of 294.3m² comprising of bonded storage in the basement level (97m²) and distillery area (13.5m²) and bonded storage (38.6m²) on the ground floor level and 145.2m² area on the upper level. It is anticipated that the whisky distillery will have an annum production of approximately 10,000 litres. The Hotel component comprises the total area of 169.4m² that is located over the ground and first floor levels. The offices spaces located on the upper level will be ancillary to the proposed use and not a separate use.

The existing vehicle crossover from Finchley Street will service this development proposal. Two vehicle car parking spaces are located at the front of the site with a single SRV Vehicle bay adjacent to the front entrance.

1.3 MATERIAL PROVIDED WITH THE APPLICATION

The following materials were provided and considered during the assessment of this application.

- applicant assessment report
- specialist assessment reports provided by the applicant
- information request
- information request response
- applications forms
- proposal plans

1.4 ZONING AND LAND USE IN THE LOCALITY

The subject site is zoned Low impact industry zone and located within NPP-005 Brewery precinct of the Ithaca district neighbourhood plan. The adjoining and surrounding sites are also zoned Low impact industry zone and contained commercial/industrial uses. The subject site adjoins a local heritage place being the XXXX Brewery and the sensitives uses are generally located approximately 150m from the subject site.

2. THE *Planning Act 2016*

The application has been assessed in accordance with the *Planning Act 2016* for impact assessment

3. ASSESSMENT BENCHMARKS AND COMPLIANCE

3.1 SEQ REGIONAL PLAN

The subject site is located within the Urban Footprint of the South East Queensland Regional Plan 2017. The proposed development is consistent with the regional land use intent and policies of the plan

3.2 STATE PLANNING POLICY

An assessment undertaken against the State planning policies and the proposed development is not inconsistent with the relevant requirements of this policy.

3.3 TEMPORARY LOCAL PLANNING INSTRUMENTS

There are no State planning policies relevant to the application

3.4 PLANNING SCHEME AND PLANNING SCHEME POLICIES

The following City Plan 2014 codes identified as assessment benchmark for this development proposal. The proposed development complies with the relevant assessment benchmarks except for the issues that have identified and discussed in the issues section of the report.

- Low Impact Industry Zone Code
- Ithaca District Neighbourhood Plan
- Centre and Mixed Use Code
- Industry Code
- Heritage Overlay Code
- Flood Overlay Code

The following reasons are given for approval despite non-compliance with components of the assessment benchmark:

Code	Reasons for the approval despite non-compliance with the assessment benchmark
Centre or Mixed Use Code	<p>Noise Hours of operation – Performance Outcome PO1</p> <p>The activities of the proposed development comprise of a hotel component and therefore the development is unlikely to comply with acceptable outcomes AO1.1(b) of this code. Additionally, the activities of the proposed development is not limited to 6am to pm and therefore the proposal does not comply with acceptable outcomes AO1.1((c) (iii)) of this code</p> <p>Although the proposal does not comply with above acceptable outcomes, it is considered that the proposal complies with Performance Outcome PO1 of this code on the basis that:</p> <ul style="list-style-type: none"> <input type="checkbox"/> the noise report by JT Environmental Engineers Consultant received of 12 December 2019 has demonstrated that the proposed activities would not detrimentally impact on the amenity of the adjoining residents because all the uses are located internally and the noises from this site would be further minimised through the built form of this building, i.e. core block filled building with no openings to north, west and southern facades. <p>The proposed development therefore complies with Performance Outcome PO1 of this code.</p>
Centre or Mixed Use Code	<p>Area & Minimum Frontage – Performance Outcome PO12</p> <p>The proposed development does not have the site area that is a minimum of 800m² and minimum frontage of 20m and therefore the development does not comply with acceptable outcomes AO12 of this code.</p> <p>Although the proposal does not comply with acceptable outcomes, it is considered that the proposal complies with Performance Outcome PO12 of this code on the basis that this is an existing development and the site has sufficient area and frontage width to:</p> <ul style="list-style-type: none"> <input type="checkbox"/> achieve convenient and safe vehicle and pedestrian access <input type="checkbox"/> minimise traffic hazard and inconvenience <input type="checkbox"/> achieve sufficient car parking and manoeuvring on site for short-term and long-term use by customers and service providers <input type="checkbox"/> accommodate adequate services areas to minimise adverse impacts on neighbours <input type="checkbox"/> minimise the proportion of frontage dedicated to driveways; and <input type="checkbox"/> allow room for useable open space to promote casual surveillance. <p>The proposed development therefore complies with Performance Outcome PO12 of this code.</p>

3.5 LOCAL GOVERNMENT INFRASTRUCTURE PLAN

There are no requirements for trunk infrastructure identified in the plan relevant to the application.
An infrastructure charges notice is attached.

4. MATTERS RAISED IN SUBMISSIONS

Public Notification was carried out and the Notice of Compliance was submitted. A summary of the submissions received is provided in the table below.

A summary of the comments received is provided in the table below.

The *Brisbane City Plan 2014* is a performance-based planning scheme where the applicant can either comply with the acceptable outcomes or put forward alternative solutions to address the performance outcomes for their proposal. Each application is assessed and decided based on its individual merits taking into consideration the provisions of the City Plan, site context and community feedback.

No. of submissions received:	1	Valid	1	Invalid
Nature of valid submissions:	1	Support	1	Object

Matters raised in submissions	How the matter was dealt with
Heussler Terrace and the surrounding streets are residential, and Finchley Street is an office/light industry business operating during 8.00am to 5.00pm	<p>The proposed Special Industry (Whisky Distillery) is the primary use of the site and is consistent with the intent of the Low impact industry zone code in that the development facilitates and maintains the long- term viability of industrial uses that is compatible with the adjacent residential uses. The hotel use is ancillary and will support the Special Industry (Whisky Distillery) use of the site. The proposed uses are located within the building that will minimise any noise impacts to the sensitive land uses located towards the north of the site.</p> <p>Additionally, the subject site is located within the NPP-005 Brewery precinct of the Ithaca district neighbourhood plan and the undertaking of the proposed activities is not inconsistent with the requirements of the Ithaca district neighbourhood plan and the City Plan 2014</p>
Noise and Operation hours (12.00pm to 3.00am seven days a week)	<p>The noise report by JT Environmental Engineers Consultant received of 12 December 2019 has demonstrated that the proposed activities would not detrimentally impact on the amenity of the adjoining residents because all the uses are located internally and the noises from this site would be further minimised through the built form of this building, i.e. core block filled building with no openings to north, west and southern facades. Additionally, the approved hotel use does not permit any ancillary accommodation use and the deliveries are limited to 7am to 6pm.</p>
Not appropriate to use XXXX brewery or Newstead brewery to support the current application	<p>The proposed Special Industry (Whisky Distillery) is the primary use of the site and is consistent with the intent of the Low impact industry zone code in that the development facilitates and maintains the long- term viability of industrial uses that is compatible with the adjacent residential uses. The hotel use is ancillary and will support the Special Industry (Whisky Distillery)</p>

	use of the site.
The XXXX brewery and Newstead brewery is located much further away from sensitive uses and do not have the same operating hours as the proposed use	The noise report by JT Environmental Engineers Consultant received of 12 December 2019 has demonstrated that the proposed activities would not detrimentally impact on the amenity of the adjoining residents because all the uses are located internally and the noises from this site would be further minimised through the built form of this building, i.e. core block filled building with no openings to north, west and southern facades. Additionally, the approved hotel use does not permit any ancillary accommodation use and the deliveries are limited to 7am to 6pm.
Insufficient local Consultation	<p>The applicant has submitted a notice of compliance confirming that the public notification was carried out in accordance with the requirements of the Planning Act 2016 and Part 4 of the Development Assessment Rules. A notice was posted to the frontage of the site for fifteen days, notices were given to adjoining owners and a notice published in the Westside News.</p> <p>The public notification process was in accordance with the act and the generally public had the opportunity to make submissions or objections.</p>

5. **MATTERS PRESCRIBED BY REGULATION**

There were no further matters prescribed by regulation.

6. **ADVICE FROM REFERRAL AGENCIES**

There were no referral agency requirements relevant to the proposal.

7. **STATEMENT OF REASONS FOR DECISION**

- ☐ The proposed use is appropriate for its location and will not negatively impact on the amenity of the local area or adjoining residents.
- ☐ The proposed development has a bulk, scale and form that is articulated and detailed to achieve a positive streetscape outcome.
- ☐ The proposed development would not isolate or negatively impact on the development potential or future amenity of an adjoining site.
- ☐ The proposed development is designed to avoid or minimise the release of harmful pollutants and protects the health and safety of occupants of sensitive uses
- ☐ The proposed development would mitigate flood risk through its location, design and operation whilst maintaining amenity
- ☐ The proposed development would not directly or cumulatively cause or increase adverse impacts on other properties from flooding

8. **RECOMMENDATION**

After considering the proposal, the relevant provisions of the *Planning Act 2016*, the assessment benchmarks and the submissions received, I recommend that:

1. the application be approved in accordance with the attached development approval package; and
2. an Infrastructure Charges Notice for Community Purposes, Stormwater and Transport be given.



Mohammed Aslam
Urban Planner
Planning Services City West
Phone: (07) 34037240
Email: mohammed.aslam@brisbane.qld.gov.au
Development Services
Brisbane City Council

DECISION BY DELEGATE OF COUNCIL

SUBMISSION BY Mohammed Aslam

25 November 2019

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Application Reference:	A005165084
Application Made Date:	11 April 2019

DECISION on development application

Having considered the application and assessment detailed above, I am satisfied that the application accords with the requirements of the *Planning Act 2016* where applicable and as such approve the application in accordance with the attached development approval package

And direct that:

1. the applicant be advised of the decision
2. the Infrastructure Charges Notice for Community Purposes, Stormwater and Transport be given
3. the Central SEQ Distributor-Retailer Authority be advised of the decision
4. the local Ward Councillor be advised of the decision
5. the submitters be notified of the decision at the expiration of the applicant's appeal period
6. the notice about the decision be published on the website.

Dated (insert Delegate decision date)

James Heading

Principal Urban Planner

Planning Services City West

As DELEGATE of Council