

# Determination

## Re: North Lakes Golf Course Proposed Redevelopment

1. The answer to the questions posed to the parties may be answered as follows:

Issue 1: Is the Mango Hill Infrastructure Development Control Plan is still in effect?

**Yes**

Issue 2: Does the Mango Hill Infrastructure Development Control Plan form part of the Moreton Bay Regional Planning Scheme 2016 v.4?

**Yes**

Issue 3: What is the meaning and relevance of the proposed development's status as "*prohibited development*" in the context of the Mango Hill Infrastructure Development Control Plan and any future development application to be made?

**The provisions of the Mango Hill Infrastructure Development Control Plan which provide that a Retirement Village is prohibited development on the land, are now taken to be an expression of policy that the use is "*inconsistent*" with the relevant planning document. It will no longer be prohibited development but an inconsistent use on the land pursuant to this planning document.**

Issue 4: What types of development applications can be made, and the relevant assessment benchmarks?

**First, an application for assessable development may be made, including a preliminary approval for a variation request to vary the effect of the Mango Hill Infrastructure Development Control Plan, pursuant to the *Planning Act 2016* (Qld) to facilitate the Proposed Development. There is no reason to think (as far as I am concerned) that any provision of the local planning instrument (such as the Development Control Plan) is excluded from the operation of the current planning legislation including s.61 of the *Planning Act*.**

**If an application for a preliminary approval for a variation request is made, the usual appeal rights found under the *Planning Act 2016* (Qld) and *Planning and Environment Court Act 2016* (Qld) would apply.**

**Second and alternatively, rather than a preliminary approval for a variation request, an applicant may pursue an application to amend the provisions of the**

**Mango Hill Infrastructure Development Control Plan including the relevant Sector Plan and Precinct Plan under ss 2.3.5 and 2.4.7 to accommodate the Proposed Development.**

**In either case, the application would require impact assessment with public notification and rights of objection.**

**An application to amend the Mango Hill Infrastructure Development Control Plan would be lodged under the present town planning legislation, the *Planning Act 2016* (Qld), as while the Development Control Plan specifically provides for issues with respect to public notification, the relevant decision rules, and appeals, to be dealt with under the provisions of *Integrated Planning Act 1997* (Qld) (see below), there is no reference to the provisions of that repealed legislation dealing with the application stage of IDAS.**

**Such application would be assessed and determined having regard to:**

- a. the provisions of *Integrated Planning Act 1997* (Qld) referred to above, that is the provisions of *Integrated Planning Act 1997* (Qld) dealing with:
  - (i) public notification required for impact assessable development (Chapter 3, Part 4);**
  - (ii) the decision stage including the decision rules for impact assessable development (Chapter 3, Part 5); and**
  - (iii) appeals to the Planning and Environment Court in respect of development applications (Chapter 4, Part 1, Division 8);****
- b. any relevant assessment benchmarks in state planning instruments in force at the time of the application;**
- c. any relevant assessment benchmarks found in the Mango Hill Infrastructure Development Control Plan itself; and**
- d. any relevant benchmarks in other applicable land use or development codes found to be relevant in the Moreton Bay Regional Planning Scheme 2016 v. 4 - which are not inconsistent with the Mango Hill Infrastructure Development Control Plan itself.**

**Please note, that in the absence of a particular application, it is not possible to advise with any certainty as to the relevance and impact of any state planning**

**instrument nor the hierarchy in which the assessment benchmarks should be interpreted.**

**Any inconsistencies between the Mango Hill Infrastructure Development Control Plan itself and the Moreton Bay Regional Planning Scheme 2016 v. 4 would be resolved in favour of the Mango Hill Infrastructure Development Control Plan.**

**If an impact assessable application is made (pursuant to the Development Control Plan) to amend that Plan, including the Precinct and Sector Plans, then the appeal rights under Chapter 4, Part 1, Division 8 of *Integrated Planning Act 1997* (Qld) would apply.**

Issue 5: Are there are any other matters to be considered in the making, assessing and deciding of any development application?

**No. But I shall make myself available to respond through Moreton Bay Regional Council Legal Services, to any further enquiries.**