

Wednesday, February 24, 2021 02:10

Tony Frampton

Binna Burra Investments Unit Trust

PO Box 1307

Capalaba QLD 4157

Via email: tonyf@ipd.net.au

Dear Tony and Wayne,

Stage 2 Constraints review

Please find attached Stage 2 Constraints review.

Please find attached and I look forward to meeting with you soon.

Regards

Yours Faithfully



Alex McMahon

AJ Mac Strategic Solutions

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Alex McMahon



Executive Summary

AJ Mac Strategic solutions has been engaged on stage-by-stage basis to make assessments and recommendations about the development known as The Village @Binna Burra, 618 Binna Burra road, and 29-33 Timbarra drive Beechmont.

Stage 1 of the works sought to examine the potential constraints for sale and development by the reviewing past and current approvals and the conditions of these approvals and their status. From this review the following assessments are made;

1. It appears that all conditions of the RAL permit have been achieved.
2. Nearly all unsatisfied conditions of the RAL permit and approval are tied to commencement of use.
3. No new planning schemes affect the RAL permit of the approval.
4. Any change to the approval that is not generally in accordance with the original approval will trigger the site to be assessed under a new planning scheme which will not deliver a favourable outcome and will devalue the site.
5. The infrastructure agreement provides significant value to the site as it would be unlikely that such a favourable agreement would be able to be achieved again.
6. It does not appear that the sale of any parcels of land has ability to affect the approval conditions.
7. Once a complete assessment of the of new planning schemes against the approval by a suitable qualified town planner is complete, further assessment should be completed determining the impact that this may have on the sale of the asset and or a new approval being sought.
8. The sale of parcels of land contained within the site will affect the CMS and approval if they are removed from the CMS.

Factual background

The project received a Development permit in 2008 for a 1 in 133 lot subdivision. Conditions of this permit were tied to:

1. The 1991 approval conditions
2. Updated conditions 2006

In 2008 the approval was granted to be assessed under the superseded 1995 planning scheme. This saw the development become self-assessable under this scheme and deliver a fully integrated tourist facility with café, shop, sport and recreation and accommodation.

After an unsuccessful application for the extension of RAL permit in 2012 an appeal was lodged in the land and environment court. This appeal was upheld in January 2013 and the permit to extend was granted with an expiry of 16 January 2015.

In 2013 the infrastructure agreement was executed and later that year registration of lots, first and new CMS under the approved RAL permit occurred.

In 2015 a request was made and approved agreeing that the development of the land was considered preserved and would not require further applications to extend the relevant period.

Review of existing DA

- The RAL permit and approval to be assessed under a superseded planning scheme have a substantial set of conditions which throughout the review appear to have been achieved.
- Most of the conditions are tied to building applications and commencement of use which are still to be satisfied in the future.

New planning schemes

- In 2017 the **SEQ Regional Plan** came into effect. The property currently does not get captured under the SEQ Regional Plan and therefore it has no impact on the development
- In March 2020 **Scenic Rim Planning Scheme 2020** came into effect. The parts of Beaudesert Shire Planning Scheme 2007, Boonah Shire Planning Scheme 2006 and the Ipswich Planning Scheme 2006 that applied to the Scenic Rim local government area were superseded on the 20 March 2020 by the commencement of the **Scenic Rim Planning Scheme 2020**. The development under its current approval is not affected by the 2020 Scenic Rim planning scheme.
- Upon review of all overlays affecting the property it is clear that if a new DA was sought that was substantially different and generally not in accordance with the 1991 approval then the site would be significantly burdened by Bushfire, koala, significant specie flora and fauna overlays.
- It is reasonable to assume that any significant variance away from this approval would result in the development being captured under the 2020 planning scheme, which would have significant impact on the size, and value of the development.

What are the benefits and risks of planning schemes or management plans on seeking a new DA?

- As previously stated, any change to the DA that is not generally in accordance with the original approval will ultimately trigger the site being assessed under the new planning scheme.
- The strength of the infrastructure agreement is something that provided a clear financial benefit to Binna Burra investments or any future Landowner that seeks to develop under the approvals. It is unlikely that such a favorable infrastructure agreement would be able to be negotiated today.
- Given the passage of time there has been a huge importance placed on environmental concerns. Given the now applied overlays it is unlikely that a favorable outcome would be achieved if assessed under the new planning scheme.

Has the sale of any parcels of Land impacted or have the potential to impact the approval and conditions?

- It does not appear that the sale of any parcels of land within the development has the potential to impact the approval and conditions.

Will the sale of any Parcels affect the approval or the CMS?

- In short yes, but only if they were removed from the CMS. Any lot on the land has been approved under the RAL permit and development approval. By selling off these lots individually you are potentially putting at risk the approvals and the infrastructure agreement.
- If the lots were not removed from the CMS, then this would not present a problem from an approval sense. It does raise significant questions as to how you would put these to market and the saleability (of individual small lot) that ultimately had conditions on the use and involvement in the CMS.
- Further legal advice should be sought in this regard.

Moving forward

1. Seek formal town planning advice from a suitably qualified Town Planner with experience in the LGA, regarding the approvals, subsequent planning schemes and infrastructure agreement to confirm the assessments made.
2. Agree:
 - a. Given the developments location, current prevailing market conditions and the availability of funding that these factors will significantly limit the sale price of the development.
 - b. For the development to move forward a solution needs to be found that sits under the current approval, limits capital outlay, drives income, improves the site, and enhances the sale price in the future.
 - c. A strategy to drive cash flow into the development immediately through development.
3. Seek formal advice regarding the CMS.
4. Provide formal brief to town planner on how we propose to deliver a solution on the site today without constructing formal dwellings.