

Our ref: DEV2022/1272

14 April 2023

Mr Behnoud Tahmaseby
Neumann Petroleum Pty Ltd
C/- Chevron Australia Downstream Pty Ltd
Email: Behnoud.Tahmaseby@chevron.com

Dear Mr Tahmaseby

Decision Notice to the Applicant under s89(1) of the *Economic Development Act 2012*

This decision notice relates to the Priority Development Area development application lodged by Neumann Petroleum Pty Ltd for the demolition of four (4) existing fuel storage tanks and the installation of two (2) replacement tanks at 645 Kingsford Smith Drive and 23-37 Theodore Street, Eagle Farm described as Lot 451 on SL6925 and Lot 593 on SL2981.

On 14 April 2023 the Minister for Economic Development Queensland (MEDQ) decided to refuse to grant an approval for the development application.

The reasons for the refusal are in the Statement of Reasons enclosed with this decision notice.

Should you have any queries in relation to this matter, please do not hesitate to contact Leila Torrens on 3452 7466 or at Leila.Torrens@dsdilgp.qld.gov.au.

Yours sincerely



Debbie McNamara
**General Manager
Economic Development Queensland**

Cc Chief Executive Officer, Brisbane City Council

Statement of reasons

Reasons provided under section 89(3) of the *Economic Development Act 2012* (Qld) (**ED Act**) in respect of the decision to refuse to grant a PDA development approval for the PDA development application made by Neumann Petroleum Pty Ltd for the demolition of four (4) existing fuel storage tanks and the installation of two (2) replacement tanks (the **development application**), with respect to land at 645 Kingsford Smith Drive and 23-37 Theodore Street, Eagle Farm described as Lot 451 on SL6925 and Lot 593 on SL2981.

Decision

1. I have decided to refuse the development application under sections 85 – 87 of the ED Act.
2. I am a lawful delegate of the Minister for Economic Development Queensland and have the delegated power to decide the development application.
3. I am satisfied that the requirements in section 85(1) of the ED Act have been met and that the development application can be decided, in that:
 - i. an information request has been made in relation to the application and the applicant has been given a notice under section 83B of the ED Act in relation to the request;
 - ii. the requirement to publicly notify the application applies and the applicant has substantially complied with section 84 of the ED Act;
 - iii. the submission period for the application has ended; and
 - iv. the relevant development does not relate to premises in a provisional priority development area.
4. I am satisfied having regard to 86(1) of the ED Act that there is no:
 - i. preliminary approval under the *Planning Act 2016* (Qld) in force for the land;
 - ii. PDA preliminary approval in force for the relevant land; or
 - iii. proposed development scheme for the relevant land.
5. Therefore, in accordance with section 86(1) of the ED Act I cannot grant a PDA development approval for the development application where the development is inconsistent with the Northshore Hamilton Priority Development Area Development Scheme (October 2022) (the **Development Scheme**).
6. The Land Use Plan in the Development Scheme includes the Vision for the Northshore Hamilton PDA; as well as the PDA development requirements being

the structural elements (section 2.4), PDA-wide criteria (section 2.5) and zone provisions (section 2.6).

7. Section 2.2.3 provides that PDA assessable development is consistent with the Land Use Plan if it is:
 - i. Consistent with all PDA development requirements; or
 - ii. Where inconsistent with any of the PDA development requirements, the development is consistent with the Vision, and the development is an interim use or there are sufficient grounds to justify the approval of the development despite the inconsistency with the relevant PDA development requirements.
8. The land the subject of the development application is located within the Enterprise Area and the Commercial Centre Zone identified in the Development Scheme.
9. I have decided the development application is inconsistent with the Development Scheme, in particular the following provisions:
 - i. Section 2.3 – Vision, in that:
 - (a) Section 2.3.2.3 – Enterprise Area – The development application does not facilitate or generate new clean, high technology and research-based services and employment, and does not carefully manage the ongoing transition of the area towards the area's intended uses under the Development Scheme. The development application will instead perpetuate the existing inconsistent use for high impact industry, through the construction of new fuel tanks; and
 - (b) Section 2.3.2.4 – Industry Area – Industrial uses are anticipated to occur in the Industry Area. The development application will perpetuate a high impact industrial use outside the Industry Area between Southern Cross Way and Curtin Avenue West, contrary to what is contemplated by the Development Scheme.
 - ii. Section 2.5 – PDA-wide criteria, in that:
 - (a) Section 2.5.1.3 – Building form – The development application proposes the construction of structures that do not respond to their surrounding context, in particular to the envisaged future built form of the Enterprise Area or the Commercial Centre Zone. Construction of structures for a high impact industrial use (ie fuel tanks) is not consistent with the envisaged future built form for a commercial area intended to accommodate, among other things, large scale commercial and showroom uses;
 - (b) Section 2.5.9.3 – Industrial hazard and risk – The development application proposes to entrench the existing industrial use, by extending its life, and therefore intensifies existing impacts (being the operation of a now-incompatible use under the Development Scheme) by prolonging existing impacts over a lengthier timeframe. The entrenchment of the existing use,

with its associated impacts, will delay the achievement of the Vision in the Scheme.

iii. Section 2.6.5 – Zone provisions for the Commercial Centre Zone, in that:

- (a) Section 2.6.5.1 – Development Intent – The development application would perpetuate a use (through the construction of new structures which will facilitate the extension of the life of the use) that does not complement, and is inconsistent with, the intended commercial and large-scale retail character of the Commercial Centre Zone;
- (b) Section 2.6.5.4 – Urban Design Provisions – The structures proposed to be constructed as part of the development application do not comply with the following urban design provisions for the Commercial Centre Zone:
 - a. Building elements and appearance – The proposal does not contribute to the activation of any street frontage. The proposed fuel tanks are not articulated in any way and are bulky and visually unappealing. They do not provide a distinctively commercial-retail appearance.
 - b. Ground level treatment – The proposal offers no activation at ground level nor any level. There are no opportunities for passive surveillance over areas in between the tanks that employees would be expected to walk through.
 - c. Landscaping – The proposal is not intending to deliver any landscape works. In general, the site is largely devoid of any landscaping.
 - d. Public realm – The proposal is not intending to deliver any improvements to the public realm.

- 10. Conditions of approval could not be imposed to achieve consistency with the Development Scheme.
- 11. Any approval of the development application would therefore be inconsistent with the Development Scheme, meaning I cannot grant an approval and must refuse the development application in accordance with section 86 of the ED Act.
- 12. The human rights relevant to this decision have been considered and the decision does not limit those human rights.

Material

13. In making this decision, I have relied on the following material:

- Briefing Note (DEPN23/216) and attachments including:
- Development application DEV2022/1272 and supporting documents

- Assessment and Recommendation Report prepared by Economic Development Queensland
- Draft decision notice including draft Statement of Reasons



Debbie McNamara
General Manager
Economic Development Queensland

14 April 2023

Date