



19 November 2020

Darren Cleland  
59 Rodgers Road  
MAREEBA QLD 4880

Planning Officer: Carl Ewin  
Direct Telephone: 4086 4656  
Our Reference: MCU/17/0001

Dear Sir

## Minor Change to an Existing Approval *Planning Act 2016*

I refer to your request to make a minor change to an existing approval issued on 16 November 2017. On 18 November 2020, Council decided your requested changes.

Details of the decision are as follows:

### APPLICATION DETAILS

Application No:	MCU/17/0001
Street Address:	59 Rogers Road, Biboohra
Real Property Description:	Lot 1 on RP708214
Planning Scheme:	Mareeba Shire Planning Scheme 2004 (Amendment No. 01/11)

### DECISION DETAILS

The following type of approval had been issued:

Development Permit for Material Change of Use - Motor Home Park

In relation to the request to make a change to the existing approval, Council decided to:

- A. Approve a change to condition 4.2.1

### CURRENCY PERIOD OF APPROVAL

This development approval has commenced.

### INFRASTRUCTURE

Where conditions relate to the provision of infrastructure, these are non-trunk infrastructure conditions unless specifically nominated as a "**necessary infrastructure condition**" for the provision of trunk infrastructure as defined under Chapter 4 of the *Planning Act 2016*.

**CONSOLIDATED ASSESSMENT MANAGER CONDITIONS**

## (A) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
  - found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
  - to ensure compliance with the following conditions of approval.
2. Timing of Effect
  - 2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the commencement of the use except where specified otherwise in these conditions of approval.
  - 2.2 Prior to the commencement of use, the applicant must notify Council that all the conditions of the development permit have been complied with, except where specified otherwise in these conditions of approval.
3. General
  - 3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure within the conditions of approval.
  - 3.2 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
  - 3.3 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to commencement of the use and at the rate applicable at the time of payment.
  - 3.4 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.
  - 3.5 Noise Nuisance

Refrigeration equipment, generators, pumps, compressors and mechanical ventilation systems must be located and/or designed, installed and maintained to achieve a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations.

Guests are not permitted to play amplified music of any kind.

### 3.6 Waste Management

The applicant shall ensure there is no on site disposal of refuse associated with the approved use unless such refuse is disposed of in refuse bins provided in accordance with the following:

- (i) No refuse is to be stored on site outside the refuse bins at any time.
- (ii) An on-site refuse storage area for all refuse bins must be provided and be screened from view from adjoining properties and road reserve by a 1 metre wide landscaped screening buffer, 1.8m high solid fence or building.

Lids or coverings must be installed on all refuse storage bins when not in use to prevent wildlife scavenging.

### 3.7 Bushfire Management

3.7.1 A Bushfire Management Plan, incorporating evacuation procedures, campfire guidelines and fire break/trail maintenance for the motor home park must be prepared to the satisfaction of Council's delegated officer. The approved use must comply with the requirements of the Management Plan at all times.

3.7.2 The applicant must ensure any open fires are appropriately managed and contained.

### 3.8 Flood Evacuation Plan

The applicant shall prepare a flood evacuation plan for the motor home park. A copy of the flood evacuation plan must be given to each guest upon arrival at the motor home park.

### 3.9 Signage

3.9.1 No more than one (1) advertising sign for the approved development is permitted on the subject site.

3.9.2 The sign must not exceed a maximum sign face area of 6m<sup>2</sup> and must not move, revolve, strobe or flash.

3.9.3 The sign must be kept clean, in good order and safe repair for the life of the approval.

3.9.4 The sign must be removed when no longer required.

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- 3.9.5 The erection and use of the advertisement must comply with the Building Act and all other relevant Acts, Regulations and these approval conditions.
- 3.10 The motor home park shall not accommodate more than 40 self-contained caravan/motorhomes at any one time.
- 3.11 The maximum length of stay for any caravan/motorhome must not exceed five (5) consecutive days.
- 3.12 The motor home park must only accommodate self-contained motor homes. Self-contained motor homes must have an on-board toilet and shower, on-board water supply and wastewater holding tanks.
4. Infrastructure Services and Standards
- 4.1 Access
- An access crossover must be constructed/upgraded (from the edge of Rogers Road to the property boundary of the subject site) to the satisfaction of Council's delegated officer.
- 4.2 Rogers Road
- 4.2.1 A 100 metres **long** single coat dust seal on Rogers Road, in the prevailing wind direction is to be completed within three years **of the commencement of the use**, for the purpose of minimising dust impacts on the dwelling house on Lot 1 on RP711202, to the satisfaction of Council's delegated officer.
- 4.2.2 The reasonable value, as agreed by Council's delegated officer, of work required under Condition 4.2.1, will be credited towards the infrastructure contribution payable under Condition 5.2.
- 4.3 Stormwater Drainage/Water Quality
- 4.3.1 The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.
- 4.3.2 Prior to the development commencing, the applicant must develop a Stormwater Quality Management Plan, including an Erosion and Sediment Control Plan. The plan must detail what measures will be implemented to prevent erosion in the event the surface of the motor home park area deteriorates due to wet weather and/or high traffic.
- 4.3.3 The applicant/developer must ensure that the Stormwater Quality Management Plan is complied with for the life of the development.

#### 4.4 Car Parking/Internal Driveways

- 4.4.1 All car parking associated with the motor home park must be accommodated within the identified motor home park area.
- 4.4.2 The internal access road shown on the approved plan must be constructed (from the edge of the access crossover mentioned in Condition 4.1 to the approved motor home park area) to a four (4) metre wide all weather compacted gravel standard, prior to the commencement of the use.

The internal access road must be maintained at this standard for the life of the development.

#### 4.5 Lighting

- 4.5.1 Where outdoor lighting is required the developer shall locate, design and install lighting to operate from dusk to dawn within all areas where the public will be given access, which prevents the potential for light spillage to cause nuisance to neighbours and must be provided in accordance with Australian Standard 1158.1 – Lighting for Roads and Public Spaces.
- 4.5.2 Illumination resulting from direct, reflected or other incidental light emanating from the subject land does not exceed 8 lux when measured at any point 1.5m outside the property boundary of the subject site. The lighting fixtures installed on site must meet appropriate lux levels as documented within Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting.

#### 4.6 *Non-Reticulated Water Supply*

All non-potable water supplied to park visitors must be clearly labelled at each tap - Non Potable Water - not safe for Human Consumption.

In the event that the motor home park is provided with a potable water supply, it must be treated so as to be potable (safe for drinking in accordance with National Health Medical Research Guidelines).

#### 4.7 On-Site Wastewater Management

- 4.7.1 No black or grey water from caravans/motorhomes is to be discharged on site.
- 4.7.2 Any accidental discharge of black or grey water on site must be reported to Council immediately.

5. Additional Payment Condition

5.1 The additional payment condition has been imposed as the development will create additional demand on trunk infrastructure which will create additional trunk infrastructure costs for council.

5.2 The developer must pay \$4,320.00 toward trunk infrastructure with the amount of the contribution increased on 1 July each year in accordance with the increase for the PPI index for the period starting on the day the development approval takes effect, adjusted by reference to the 3-yearly PPI index average to the date of payment.

A credit will be applied towards this contribution in accordance with Condition 4.2.2.

5.3 The trunk infrastructure for which the payment is required is:

- The trunk transport infrastructure servicing the land

5.4 The developer may elect to provide part of the trunk infrastructure instead of making the payment.

5.5 If the developer elects to provide part of the trunk infrastructure the developer must:

- Discuss with Council's delegated officer the part of the works to be undertaken;
- Obtain the necessary approvals for the part of the works;
- Indemnify the Council in relation to any actions, suits or demands relating to or arising from the works;
- Take out joint insurance in the name of the Council and the developer in the sum of \$20,000,000 in relation to the undertaking of the works;
- Comply with the reasonable direction of Council officers in relation to the completion of the works;
- Complete the works to the standards required by the Council; and
- Complete the works prior to endorsement of the plan of subdivision.

**REFERRAL AGENCY CONDITIONS**

Not Applicable.

**APPROVED PLANS/DOCUMENTS**

The approved plans for this development approval are listed in the following table:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
Appendix 4	Proposal Plan	-	-

**ADVISORY NOTES**

The following Advisory Notes are for information purposes only and do not form conditions of approval:

(A) ASSESSMENT MANAGER'S ADVICE

- (a) A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.

- (b) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

- (c) Compliance with Acts and Regulations

The erection and use of the building must comply with the Building Act and all other relevant Acts, Regulations and Laws, and these approval conditions.

- (d) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from [www.environment.gov.au](http://www.environment.gov.au)

- (e) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the "cultural heritage duty of care"). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from [www.datsip.qld.gov.au](http://www.datsip.qld.gov.au)

- (f) Motor Home Park/Caravan Park/Camping Ground

The applicant is advised that an application to Council for approval to operate under Council *Local Law No 1 (Administration) 2011* is required prior to the commencement of the motor home park/caravan park/camping ground.

**PROPERTY NOTES**

Not Applicable.

**VARIATION APPROVAL**

Not Applicable.

**FURTHER DEVELOPMENT PERMITS REQUIRED**

- Development Permit for Operational Work
- Access approval arising from condition number 4.1 (Please contact Planning Section to obtain application form and applicable fee)

**SUBMISSIONS**

There was one (1) properly made submission about the application. In accordance with the *Planning Act 2016*, the name, residential or business address, and electronic address of the principal submitter for each properly made submission is provided and attached.

Name of principal submitter	Address
1. W Cardew	PO Box 2050, Mareeba

**RIGHTS OF APPEAL**

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

**OTHER DETAILS**

If you wish to obtain more information about Council's decision, electronic copies are available on line at [www.msc.qld.gov.au](http://www.msc.qld.gov.au), or at Council Offices.

If you have any further queries in relation to the above, please contact Council's Planning Officer, Carl Ewin on the above number.

Yours faithfully



**BRIAN MILLARD**  
SENIOR PLANNER

**DECISION NOTICE HISTORY**

**MCU/17/0001** - Original Decision Notice 16 November 2017

Encl: Approved Plans/Documents  
Appeal Rights





Approved Plans/Documents



## Appeal Rights

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

### Chapter 6 Dispute resolution

#### Part 1 Appeal rights

#### 229 Appeals to tribunal or P&E Court

(1) Schedule 1 of the Planning Act 2016 states –

- (a) Matters that may be appealed to –
  - (i) either a tribunal or the P&E Court; or
  - (ii) only a tribunal; or
  - (iii) only the P&E Court; and
- (b) The person-
  - (i) who may appeal a matter (**the appellant**); and
  - (ii) who is a respondent in an appeal of the matter; and
  - (iii) who is a co-respondent in an appeal of the matter; and
  - (iv) who may elect to be a co-respondent in an appeal of the matter.

(Refer to Schedule 1 of the Planning Act 2016)

- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is –
  - (a) for an appeal by a building advisory agency – 10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal – at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises – 20 business days after a notice is published under section 269(3)(a) or (4); or

- (d) for an appeal against an infrastructure charges notice – 20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given – 30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for any other appeal – 20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note –*

*See the P&E Court Act for the court's power to extend the appeal period.*

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt. It is declared that an appeal against an infrastructure charges notice must not be about-
  - (a) the adopted charge itself; or
  - (b) for a decision about an offset or refund-
    - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
    - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

#### 230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that-
  - (a) is in the approved form; and

- (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to –
- the respondent for the appeal; and
  - each co-respondent for the appeal; and
  - for an appeal about a development application under schedule 1, table 1, item 1 – each principal submitter for the development application; and
  - for and appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
  - each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
  - for an appeal to the P&E Court – the chief executive; and
  - for an appeal to a tribunal under another Act – any other person who the registrar considers appropriate.
- (4) The *service period* is –
- if a submitter or advice agency started the appeal in the P&E Court – 2 business days after the appeal has started; or
  - otherwise – 10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.
- jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section –
- decision* includes-
- conduct engaged in for the purpose of making a decision; and
  - other conduct that relates to the making of a decision; and
  - the making of a decision or failure to make a decision; and
  - a purported decision; and
  - a deemed refusal.
- non-appealable*, for a decision or matter, means the decision or matter-
- is final and conclusive; and
  - may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
  - is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

#### 232 Rules of the P&E Court

- A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- However, the P&E Court may hear and decide an appeal even if the person has not complied with the rules of the P&E Court.

#### 231 Other appeals

- Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by