

24 July 2019

Our Ref: 19-462
Your Ref: MCU/19/0009

Chief Executive Officer
 Mareeba Shire Council
 PO Box 154
 MAREEBA QLD 4880

Attention: Mr Carl Ewin – Planning Officer

Dear Carl,

RE: NOTICE UNDER S52(1) OF THE PLANNING ACT TO MAKE A MINOR CHANGE TO A DEVELOPMENT APPLICATION FOR A MATERIAL CHANGE OF USE OVER LOTS 2 AND 3 ON SP223151 AT 3276 AND 3278 MULLIGAN HIGHWAY, SOUTHDGE, MOUNT MOLLOY.

We refer to the above matter and confirm that on behalf of Martin Anton (the Applicant), Urban Sync Pty Ltd (Urban Sync) has been asked to change the submitted plans of development under s52(1) of the *Planning Act 2016* (PA). The change is being undertaken to ensure consistency with the 22A Determination issued by DNRME on 16 July 2019.

The amended plans show the relocation of shed 2 from Lot 2, to inside of the 2ha concrete yard within Lot 3. The plans also clearly identify all the proposed activities and areas within the 2ha clearing area. The updated plans have been included in **Attachment 1** accordingly.

Note: both sheds are to be approximately 450m² (15m x 30m) in area.

In accordance with s52(3) of the PA, the development assessment process does not stop for a ‘minor change’. To assist Mareeba Shire Council (Council) in respect of their consideration and support for this request for a minor change to a development application prior to it being decided, an assessment against the relevant minor change tests made available under the PA are provided below in **Tables 1 & 2**. This assessment demonstrates that the proposed changes cannot be considered ‘Substantially Different Development’ and in turn, are in fact a ‘minor change’

Table 1 – Compliance with Minor Change Definition under Schedule 2 of the PA

Tests	Consideration of the proposed change
<i>A minor change, means that -</i>	
<i>For a development approval -</i>	
<i>Would not result in a substantially different development; and</i>	The proposed changes do not result in substantially different development (see Table 2 below).

<i>If a development application for the development, including the change, were made when the change application is made would not cause –</i>	
<i>(a) The inclusion of prohibited development in the application; or</i>	The proposed changes do not trigger any prohibited development under the PA, nor per Schedule 10, Parts 2-5, Parts 10-11 and Parts 16 and 20, of the Planning Regulations 2017.
<i>(b) Referral to a referral agency, other than to the chief executive, if there were no referral agencies for the development application; or</i>	Not Applicable, there were referral agencies for the originating development application (see below).
<i>(c) Referral to an extra referral agencies, other than to the chief executive; or</i>	No additional referral agencies would be triggered over and above those which were triggered for the original application.
<i>(d) A referral agency to assess the application against, or have regard to, matters prescribed under the regulation under section 55(2), other than matters the referral agency must have assessed the application against, or have regard to, when the application was made; or</i>	The referral agencies had regard to vegetation and State transport infrastructure when the application was originally referred. No other matters of State interest have been triggered as a result of the change
<i>(e) Public notification if public notification was not required for the development application.</i>	Public notification will be undertaken.

The Development Assessment Rules under the PA provides further guidance to assist in determining whether a change may constitute ‘substantially different development’. The phrase ‘substantially different development’ is not defined in the PA. Hence, the assessment of whether the effect of a proposed change would, or would not, result in a ‘substantially different development’ involves matters of fact and degree, which should be considered broadly and fairly. Accordingly, and in order to determine that the proposed changes do not in fact, result in ‘substantially different development’, an assessment of the proposed changes against the ‘substantially different development’ criteria listed under Schedule 1 of the DA Rules is provided below in **Table 2**.

Table 2 – Compliance with ‘Substantially Different Development’ Assessment under Schedule 1 of the DA Rules

Tests	Consideration of the Proposed Changes
<i>Involves a new use</i>	The proposed change does not involve a new use i.e., the resultant use will continue to involve a concrete recycling yard.
<i>Results in the application applying to a new parcel of land.</i>	The proposed change will be entirely contained within the original parcels of land included in the current application.
<i>Dramatically changes the built form in terms of scale, bulk and appearance.</i>	The proposed change do not involve any new gross floor area, any additional tonnage or any new building/structures. It simply involves the relocation of an already proposed shed form one part of the site to another.



<i>Changes the ability of the proposal to operate as intended.</i>	The proposed change does not change the ability of the development to operate as was originally intended i.e., the proposed change would continue to facilitate the operation of a concrete recycling yard.
<i>Removes a component that is integral to the operation of the development.</i>	The proposed change does not seek to remove any component that is understood to be integral to the operation of the development.
<i>Significantly impacts on traffic flow and the transport network, such as increasing traffic to the site.</i>	The proposed change will not trigger any additional vehicle movements to/from the site.
<i>Introduces new impacts or increases the severity of known impacts.</i>	We do not know of any new impacts that the change would cause, nor will it increase the severity of any known impacts. It is in fact likely to reduce impacts given it will reduce the amount of clearing on the site.
<i>Removes an incentive or offset component that would have balanced a negative impact of the development.</i>	The change does not seek to remove any incentive or offset components.
<i>Impact on infrastructure provision, location or demand.</i>	The proposed change will not impact on or change the requirements for infrastructure provision to the site/development.

Hence, we are of the view that the change being proposed constitutes a minor change to the current development application in accordance with s52(1) of the PA. Urban Sync requests written confirmation from MSC on this matter.

We trust this information is sufficient for your purposes. Should you require any additional information or wish to discuss this request in further detail, please contact me on 0488 200 229.

Yours faithfully,



Matt Ingram
Senior Planner

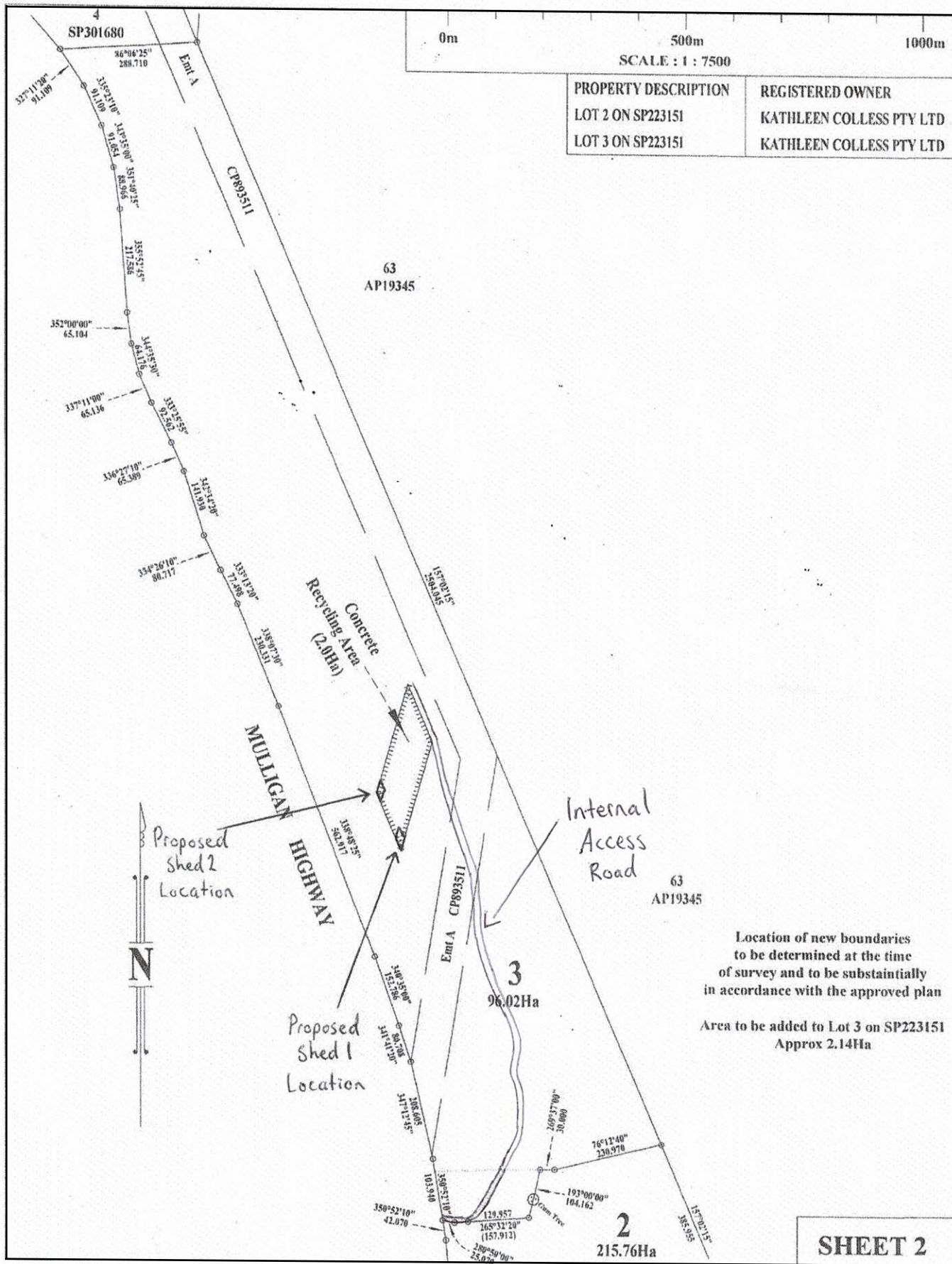
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**ATTACHMENT 1:
AMENDED PLANS**



Site Plan



Location of new boundaries to be determined at the time of survey and to be substantially in accordance with the approved plan

Area to be added to Lot 3 on SP223151 Approx 2.14Ha

Indicative Site Layout Plan

16°42'29"S 145°21'1"E

16°42'29"S 145°21'12"E



16°42'39"S 145°21'1"E

16°42'39"S 145°21'12"E

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50 metres

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Indicative Site Layout Plan


Legend

Road Crossing

 Bridge

 Tunnel

Road

 Highway

 Main

 Local

 Private

Railway



Natural parcel boundary



Land parcel

 Parcel

Volumetric parcel



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