

DELEGATED REPORT

SUBJECT: NEGOTIATED DECISION NOTICE - KVN AUSTRALIA TRUST
- MATERIAL CHANGE OF USE - RURAL INDUSTRY
(PACKING SHED) - LOT 225 ON HG293 - 3727 MAREEBA-
DIMBULAH ROAD, MUTCHILBA - MCU/19/0013

DATE: 25 November 2019

**REPORT OFFICER'S
TITLE:** Senior Planner

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	KVN Australia Trust	ADDRESS	3727 Mareeba- Dimbulah Road, Mutchilba
DATE NDN REQUEST LODGED	18 November 2019	RPD	Lot 225 on HG293
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Rural Industry (Packing Shed)		
FILE NO	MCU/19/0013	AREA	54.096 hectares
LODGED BY	Planz Town Planning	OWNER	DBC RSA Holdings Pty Ltd
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural zone		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	n/a		

ATTACHMENTS:

1. Decision Notice dated 3 October 2019
2. Applicant's written representations dated 18 November 2019

EXECUTIVE SUMMARY

Council approved a development application described in the above application details by delegated authority on 3 October 2019 subject to conditions. The Decision Notice was issued on 3 October 2019.

The application was code assessable and was therefore not required to undergo public notification.

The applicant's planning consultant has subsequently made written representations about Condition 4.4 (non-reticulated water supply) and also changing the approval to allow the development to be carried out in two stages.

It is recommended that the application for a negotiated decision notice be approved in full.

OFFICER'S RECOMMENDATION

It is recommended that:

- "1. In relation to the written representations made by the applicant's consultant regarding conditions of the following development approval:

APPLICATION		PREMISES	
APPLICANT	KVN Australia Trust	ADDRESS	3727 Mareeba-Dimbulah Road, Mutchilba
DATE NDN REQUEST LODGED	18 November 2019	RPD	Lot 225 on HG293
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Rural Industry (Packing Shed)		

and in accordance with the Planning Act 2016, the following

- (A) The approved plan/s of Council's Decision Notice issued on 3 October 2019 be amended as follows:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
=	<u>Stage 1</u>	=	=
0507 DA01, Issue D	Location Plan	Gregory G Terzi	19/08/2019
0507 DA1-01 A	Site Plan	Gregory G Terzi	Nov 2018
0507 DA02, Issue E	Site Plan Proposed	Gregory G Terzi	02/09/2019
0507 DA03, Issue E	Shed Facilities Layout - Proposed	Gregory G Terzi	19/08/2019
0507 DA04, Issue E	Shed Facilities Layout - Proposed Detail	Gregory G Terzi	19/08/2019
0507 DA05, Issue C	Part Floor Plan	Gregory G Terzi	19/08/2019
0507 DA06, Issue C	Part Floor Plan	Gregory G Terzi	19/08/2019
0507 DA07, Issue C	Cold Room Shed - typical cross section	Gregory G Terzi	19/08/2019
0507 DA08, Issue B	Road Elevation	Gregory G Terzi	19/08/2019
0507 DA09, Issue C	Trucks Operation - Proposed	Gregory G Terzi	19/08/2019

0507 DA10, Issue B	Ground Heights	Gregory G Terzi	19/08/2019
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- (B) Condition 2.1 of Council's Decision Notice issued on 3 October 2019 be amended as follows:

2.1 The **relevant** conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the commencement of **each stage of** the use except where specified otherwise in these conditions of approval.

- (C) Condition 4.2(b) of Council's Decision Notice issued on 3 October 2019 be amended as follows:

4.2 (b) All car parking spaces and trafficable areas must be concrete, bitumen or asphalt sealed, line-marked and appropriately drained prior to the commencement of the use, to the satisfaction of Council's delegated officer.

For Stage 1 only, the loading dock shall be of concrete construction, with the balance external circulation road and parking spaces to be surfaced with road base or similar. All areas surfaced with road base or similar, must be sealed with concrete, bitumen or asphalt as part of Stage 2.

- (D) Condition 4.4 of Council's Decision Notice issued on 3 October 2019 be amended as follows:

4.4 Non-Reticulated Water Supply

The development must be provided with a potable water supply that can satisfy the standards for drinking water set by the ~~Australian Drinking Water Guidelines 2004 (National Health and Medical Research Council and the National Resource Management Ministerial Council)~~ **Australian Drinking Water Guidelines 6, 2011 (National Health and Medical Research Council and the National Resource Management Ministerial Council)**.

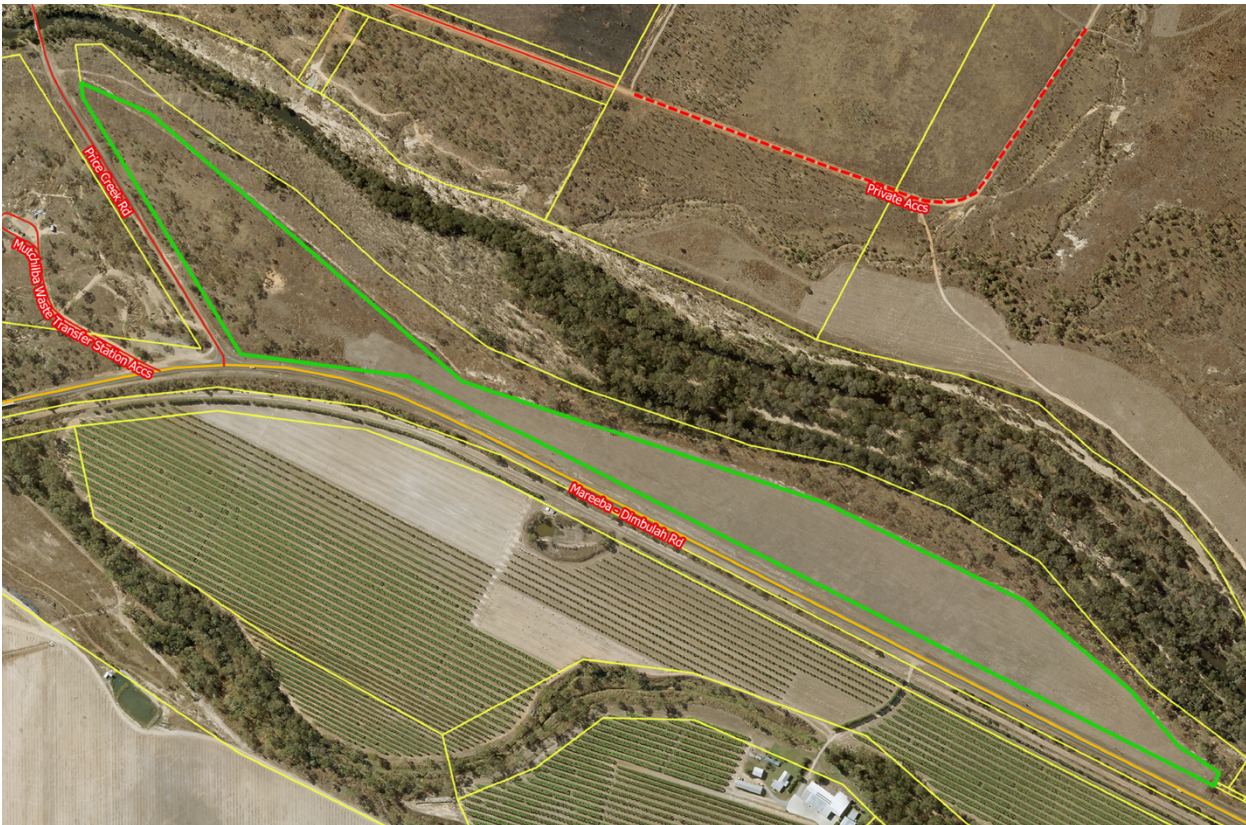
All non-potable sources of water must be sign posted "non-potable water supply" or similar in order to deter consumption.

2. A Negotiated Decision Notice be issued to the applicant advising of Council's decision."

THE SITE

The subject site is situated at 3727 Mareeba Dimbulah Road, Mutchilba and is described as part of Lot 225 on HG293. The site is irregular in shape with a total area of 13.967 hectares and is zoned Rural under the Mareeba Shire Council Planning Scheme 2016. The majority of the site is further mapped as Class A agricultural land.

The subject site contains approximately 1.3 kilometres of frontage to the Mareeba Dimbulah Road which is a State controlled road constructed to dual lane bitumen sealed standard. Access to the Mareeba Dimbulah Road will be provided via a new bitumen sealed crossover which will be located opposite the existing farm access. A secondary frontage of approximately 400 metres exists to Price Creek Road.



Map Disclaimer:

Based on or contains data provided by the State of Queensland (Department of Environment and Resource Management) (2009). In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.



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The subject site is located on the northern side of Mareeba Dimbulah Road approximately 300 metres north-west of the Mutchilba township. The land is zoned Rural and is presently unused for rural/agricultural purposes.

The Mutchilba waste transfer station is located immediately to the west.

BACKGROUND AND CONTEXT

Council, under delegated authority, approved an application made by Planz Town Planning on behalf of KVN Australia Trust for the issue of a development permit for Mareeba Change of Use - Rural Industry (Packing Shed) over land described as Lot 225 on HG293, situated at 3727 Mareeba-Dimbulah Road, Mutchilba.

The approval was granted subject to conditions and the Decision Notice was issued on 3 October 2019 and is included as **Attachment 1**.

The applicant's consultant has written to Council making representations (**Attachment 2**) in relation to Condition 4.4 and also changing the approval to allow the development to be carried out in stages.

APPLICANT'S REPRESENTATIONS

"On behalf of our client, KVN Australia Trust, we hereby make the following change representations regarding the conditions of approval in accordance with s75(2) of the Planning Act 2016.

Non-reticulated water supply

Condition 4.4 Non-reticulated water supply references compliance with the Australian Drinking Water Guidelines 2004 (National Health and Medical Research Council and National Resource Management Ministerial Council). Advice from the applicant is that this guideline is out-dated and has been superseded by ADWG 2011. Whilst we understand that Council accepts that the current guidelines apply, the issue is with contractual agreements for the construction of the development, which refer to the written conditions of approval. As such, in order to avoid issues at construction stage, the applicant seeks to amend the condition to reference the current guidelines, Australian Drinking Water Guidelines 6, 2011 (National Health and Medical Research Council and the National Resource Management Ministerial Council).

Staged development

The applicant is seeking to now stage the development in order to fast-track the construction of the cold room/de-greening room portion to meet farm production requirements with the main packing shed to be constructed 12-18 months afterwards. As such, the applicant proposes the following for Stage 1:

- *Cold room facility approximately 1,432m²;*
- *Sufficient fire-fighting capacity to suit, and to be augmented later for the total development;*
- *Crossover and roadworks to Mareeba-Dimbulah Road as per current TMR conditions;*
- *Loading dock proposed to be concrete construction;*
- *The balance external circulation and any required parking spaces to be road base or similar, with formal road sealing completed at Stage 2.*

There will be no staff based on the site for Stage 1. The produce will be offloaded from a B-Double truck into the storage facility and the de-greened bins re-loaded onto the truck. The expected traffic movements for Stage 1 will include:

- *Farm manager – 2 x trips per day;*
- *Truck deliveries – maximum 4 b-double trips per day.*

The proposed is outlined in the attached Staged plan of development. In order to provide for the staging of the development, it is requested the approval be amended to allow for the staging and the conditions of approval reflect the above.

Given the change representations outlined above and discussions with Council staff, we consider there are sufficient grounds to make the proposed amendments to the conditions of approval."

SPECIFIC CHANGES TO DECISION NOTICE

Approved Plans

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
0507 DA01, Issue D	Location Plan	Gregory G Terzi	19/08/2019
0507 DA1-01 A	Site Plan	Gregory G Terzi	Nov 2018
0507 DA02, Issue E	Site Plan Proposed	Gregory G Terzi	02/09/2019
0507 DA03, Issue E	Shed Facilities Layout - Proposed	Gregory G Terzi	19/08/2019
0507 DA04, Issue E	Shed Facilities Layout - Proposed Detail	Gregory G Terzi	19/08/2019
0507 DA05, Issue C	Part Floor Plan	Gregory G Terzi	19/08/2019
0507 DA06, Issue C	Part Floor Plan	Gregory G Terzi	19/08/2019
0507 DA07, Issue C	Cold Room Shed - typical cross section	Gregory G Terzi	19/08/2019
0507 DA08, Issue B	Road Elevation	Gregory G Terzi	19/08/2019
0507 DA09, Issue C	Trucks Operation - Proposed	Gregory G Terzi	19/08/2019
0507 DA10, Issue B	Ground Heights	Gregory G Terzi	19/08/2019

Response

The staging of the development is entirely a commercial/operational decision for the applicant.

Accordingly, there is no planning objection to staging, provided minor amendments are made to the decision notice to allow this to happen.

The approved plans should be amended to include the additional Stage 1 plan as follows:

"The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
=	<u>Stage 1</u>	=	=
0507 DA01, Issue D	Location Plan	Gregory G Terzi	19/08/2019
0507 DA1-01 A	Site Plan	Gregory G Terzi	Nov 2018
0507 DA02, Issue E	Site Plan Proposed	Gregory G Terzi	02/09/2019
0507 DA03, Issue E	Shed Facilities Layout - Proposed	Gregory G Terzi	19/08/2019
0507 DA04, Issue E	Shed Facilities Layout - Proposed Detail	Gregory G Terzi	19/08/2019
0507 DA05, Issue C	Part Floor Plan	Gregory G Terzi	19/08/2019
0507 DA06, Issue C	Part Floor Plan	Gregory G Terzi	19/08/2019
0507 DA07, Issue C	Cold Room Shed - typical cross section	Gregory G Terzi	19/08/2019
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0507 DA09, Issue C	Trucks Operation - Proposed	Gregory G Terzi	19/08/2019
0507 DA10, Issue B	Ground Heights	Gregory G Terzi	19/08/2019

Condition 2.1

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.

Response

The staging of the development is entirely a commercial/operational decision for the applicant.

Accordingly, there is no planning objection to staging, provided minor amendments are made to the decision notice to allow this to happen.

Condition 2.1 should be amended as follows:

*"2.1 The **relevant** conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the commencement of **each stage of** the use except where specified otherwise in these conditions of approval."*

Condition 4.2 (b)

4.2 Car Parking/Internal Driveways

- (a) *The applicant/developer must ensure the development is provided with on-site car parking spaces in accordance with the approved plans, which are available solely for the parking of vehicles associated with each use of the premises.*
- (b) *All car parking spaces and trafficable areas must be concrete, bitumen or asphalt sealed, line-marked and appropriately drained prior to the commencement of the use, to the satisfaction of Council's delegated officer.*
- (c) *All car parking spaces and internal driveways must be constructed in compliance with the following standards, to the satisfaction of Council's delegated officer:*
 - *Australian Standard AS2890:1 Off Street Parking – Car Parking Facilities;*
 - *Australian Standard AS1428:2001 – Design for Access and Mobility.*
- (d) *All parking spaces and trafficable areas must be maintained in good order and safe repair for the life of the development, to the satisfaction of Council's delegated officer.*

A sign must be erected in proximity to the access driveway indicating the availability of on-site parking.

Response

For Stage 1, the applicant proposes that gravel (road base) be permitted for circulation roads and parking areas. All gravel (road base) areas would be sealed as part of Stage 2.

The use of gravel in the rural zone is acceptable under the Parking and Access Code.

Condition 4.2(b) is recommended for amendment as follows:

- (b) *All car parking spaces and trafficable areas must be concrete, bitumen or asphalt sealed, line-marked and appropriately drained prior to the commencement of the use, to the satisfaction of Council's delegated officer.*

"For Stage 1 only, the loading dock shall be of concrete construction, with the balance external circulation road and parking spaces to be surfaced with road base or similar. All areas surfaced with road base or similar, must be sealed with concrete, bitumen or asphalt as part of Stage 2."

Condition 4.4

4.4 Non-Reticulated Water Supply

The development must be provided with a potable water supply that can satisfy the standards for drinking water set by the Australian Drinking Water Guidelines 2004 (National Health and Medical Research Council and the National Resource Management Ministerial Council).

All non-potable sources of water must be sign posted "non-potable water supply" or similar in order to deter consumption.

Response

An amendment to Condition 4.4 is proposed to reference the most up to date drinking water guideline.

It is recommended that Condition 4.4 be amended as follows:

"4.4 Non-Reticulated Water Supply

*The development must be provided with a potable water supply that can satisfy the standards for drinking water set by the ~~Australian Drinking Water Guidelines 2004 (National Health and Medical Research Council and the National Resource Management Ministerial Council)~~ **Australian Drinking Water Guidelines 6, 2011 (National Health and Medical Research Council and the National Resource Management Ministerial Council)**.*

All non-potable sources of water must be sign posted "non-potable water supply" or similar in order to deter consumption."

Date Prepared: 25 November 2019

DECISION BY DELEGATE

DECISION

Having considered the Senior Planner's report detailed above, I approve, as a delegate of Council, the application subject to the conditions listed in the report.

Dated the 25TH day of NOVEMBER 2019



BRIAN MILLARD
SENIOR PLANNER



ANTHONY ARCHIE
MANAGER DEVELOPMENT & GOVERNANCE

MAREEBA SHIRE
AS A DELEGATE OF THE COUNCIL

ATTACHMENT 1

65 Rankin Street
PO Box 154 MAREEBA QLD 4880

P: 1300 308 461
F: 07 4092 3323

W: www.msc.qld.gov.au
E: info@msc.qld.gov.au

3 October 2019

Planning Officer: Brian Millard
Direct Telephone: (07) 4086 4657
Our Reference: MCU/19/0013
Your Reference: P71880

KVN Australia Trust
C/- Planz Town Planning
PO Box 181
EDGE HILL QLD 4870

Dear Applicant/s

Decision Notice

Planning Act 2016

I refer to your application and advise that on 3 October 2019 under delegated authority, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No:	MCU/19/0013
Street Address:	3727 Mareeba - Dimbulah Road, Mutchilba
Real Property Description:	Lot 225 on HG293
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit for Material Change of Use - Rural Industry (Packing Shed)
Date of Decision:	3 October 2019

CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is six (6) years starting the day that this development approval takes effect. (Refer to Section 85 "Lapsing of approval at end of currency period" of the *Planning Act 2016*.)

Public Office: 65 Rankin Street, Mareeba QLD 4880. Postal address: PO Box 154, Mareeba QLD 4880

Document Set ID: 3641047
Version: 1, Version Date: 03/10/2019

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*.

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 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.
 - 3.2 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.
 - 3.3 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.

Mareeba Shire Council

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3.4 Noise Nuisance

Refrigeration equipment, pumps, compressors and mechanical ventilation systems must be located, designed, installed and maintained to achieve a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations and a maximum noise level of 8dB(A) above background levels as measured from commercial locations.

3.5 Waste Management

On site refuse storage area must be provided and be screened from view from adjoining properties and road reserve by 1 metre wide landscaped screening buffer, 1.8m high solid fence or building.

Where bulk bins are used and are to be serviced on site, certification by a Registered Professional Engineer of Queensland (RPEQ) must be provided to Council prior to the issue of a building permit which demonstrates that internal access is of adequate design and construction to allow waste collection/delivery vehicles to enter and exit the site in a forward gear.

3.6 Flood Immunity

Note: This approval is issued on the basis that the applicant/developer accepts that the cost of flood impact is an operational cost of the rural industry.

Prior to the commencement of the use, the applicant/developer must obtain a Flood Emergency Evacuation Plan for the rural industry (packing shed) prepared by suitably qualified persons having regard to Floodplain Management in Australia: Best Practice Principles and Guidelines (2000), prepared by Standing Committee on Agriculture and Resource Management (SCARM), CSIRO. The Flood Emergency Evacuation Plan must be prominently displayed in the rural industry.

4. Infrastructure Services and Standards

4.1 Stormwater Drainage

- (a) The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.
- (b) All stormwater drainage concentrated by the development must be collected from site and discharged to an approved legal point of discharge.

4.2 Car Parking/Internal Driveways

- (a) The applicant/developer must ensure the development is provided with on-site car parking spaces in accordance with the approved plans, which are available solely for the parking of vehicles associated with each use of the premises.
- (b) All car parking spaces and trafficable areas must be concrete, bitumen or asphalt sealed, line-marked and appropriately drained prior to the commencement of the use, to the satisfaction of Council's delegated officer.
- (c) All car parking spaces and internal driveways must be constructed in compliance with the following standards, to the satisfaction of Council's delegated officer:
 - Australian Standard AS2890:1 Off Street Parking – Car Parking Facilities;
 - Australian Standard AS1428:2001 – Design for Access and Mobility.
- (d) All parking spaces and trafficable areas must be maintained in good order and safe repair for the life of the development, to the satisfaction of Council's delegated officer.

A sign must be erected in proximity to the access driveway indicating the availability of on-site parking.

4.3 Landscaping

- (a) Prior to the commencement of the use, a landscape plan must be prepared for the site and submitted to Council's delegated officer for consideration and approval. The plan is to include landscaping generally in accordance with the approved site layout plan.
- (b) Plant species used must be selected from the Plant Schedule in Planning Scheme Policy 6 - Landscaping and preferred plant species.
- (c) The landscaping of the site must be carried out in accordance with the endorsed landscaping plan, and irrigated, mulched and maintained to the satisfaction of Council's delegated officer.

4.4 Non-Reticulated Water Supply

The development must be provided with a potable water supply that can satisfy the standards for drinking water set by the Australian Drinking Water Guidelines 2004 (National Health and Medical Research Council and the National Resource Management Ministerial Council).

All non-potable sources of water must be sign posted "non-potable water supply" or similar in order to deter consumption.

4.5 On-Site Wastewater Management

All on site effluent disposal associated with the approved use must be in compliance with the latest version of On-Site Domestic Wastewater Management Standard (ASNZ1547) to the satisfaction of the Council's delegated officer.

Note: Any on-site wastewater treatment system with a total daily peak design capacity of at least 21 equivalent persons (EP) is an Environmentally Relevant Activity (ERA 63 - Sewerage Treatment) and an Environmental Authority is required.

REFERRAL AGENCIES

The referral agencies applicable to this application are:

Material change of use of premises near a State transport corridor or that is a future State transport corridor		
Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorizing instrument, if all or part of the premises—	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4	State Assessment & Referral Agency (SARA) Department of State Development, Manufacturing, Infrastructure and Planning PO Box 2358 Cairns Qld 4870 CairnsSARA@dsdmip.qld.gov.au
(a) are within 25m of a State transport corridor; or		
(b) are a future State transport corridor; or		
(c) are—		
(i) adjacent to a road that intersects with a State-controlled road; and		
(ii) within 100m of the intersection		

A copy of any referral agency conditions are attached.

APPROVED PLANS

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
0507 DA01, Issue D	Location Plan	Gregory G Terzi	19/08/2019
0507 DA1-01 A	Site Plan	Gregory G Terzi	Nov 2018

0507 DA02, Issue E	Site Plan Proposed	Gregory G Terzi	02/09/2019
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0507 DA10, Issue B	Ground Heights	Gregory G Terzi	19/08/2019

ADVISORY NOTES

The following notes are included for guidance and information purposes only and do not form part of the assessment manager conditions:

(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.

(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.

(B) CONCURRENCE AGENCY CONDITIONS

Department of State Development, Manufacturing, Infrastructure and Planning conditions dated 27 September 2019.

PROPERTY NOTES

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

- Development Permit for Building Work
- Compliance Permit for Plumbing and Drainage Work

SUBMISSIONS

Not Applicable.

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.

During the appeal period, you as the applicant may suspend your appeal period and make written representations to council about the conditions contained within the development approval. If council agrees or agrees in part with the representations, a "negotiated decision notice" will be issued. Only one "negotiated decision notice" may be given. Taking this step will defer your appeal period, which will commence again from the start the day after you receive a "negotiated decision notice".

Mareeba Shire Council

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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, or at Council Offices.

Yours faithfully

BRIAN MILLARD
SENIOR PLANNER

Enc: Approved Plans/Documents
 Referral Agency Response
 Appeal Rights

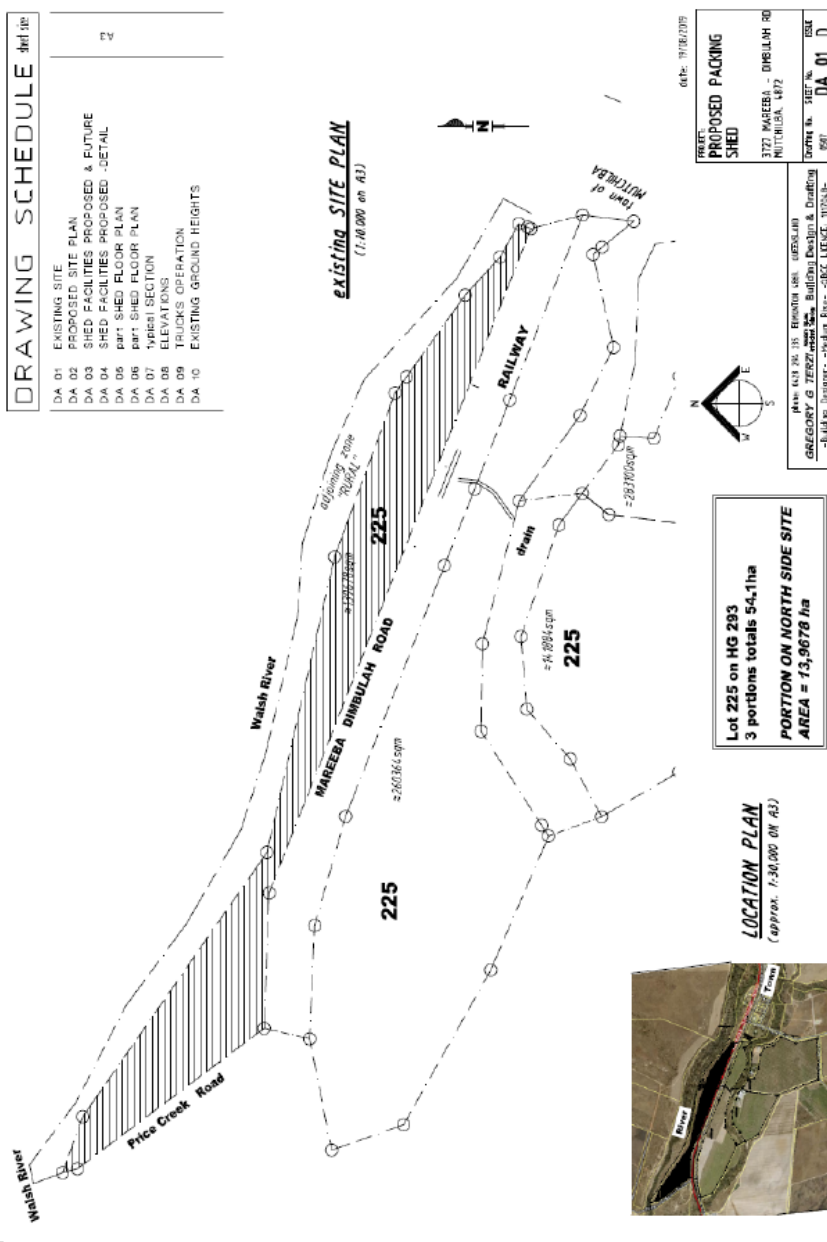
Copy: Department of State Development, Manufacturing, Infrastructure and Planning
 CairnsSARA@dsdmip.qld.gov.au

Mareeba Shire Council

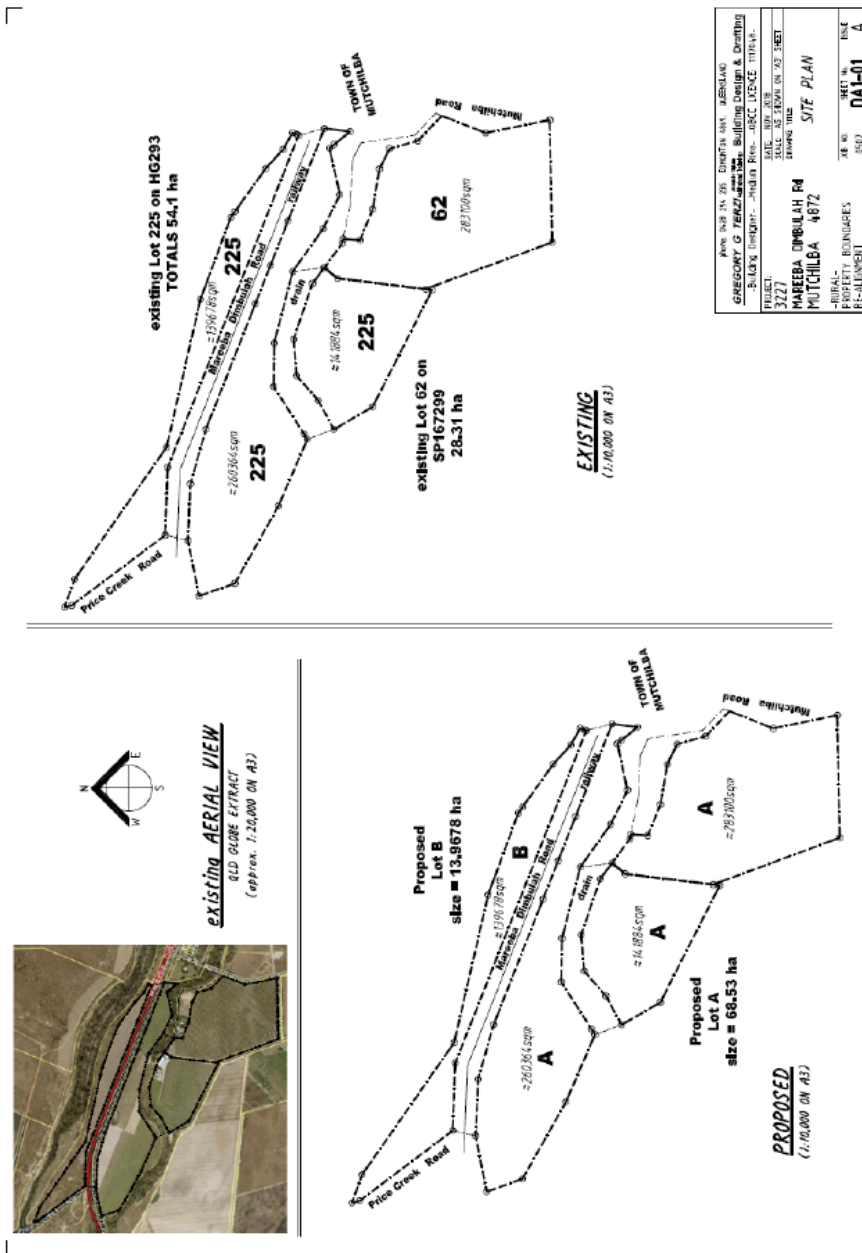
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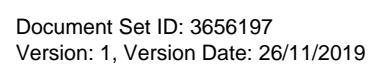
DRAWING SCHEDULE sheet no.

04.01	EXISTING SITE
04.02	PROPOSED SITE PLAN
04.03	SHED FACILITIES PROPOSED & FUTURE
04.04	SHED FACILITIES PROPOSED -DETAIL
04.05	part SHED FLOOR PLAN
04.06	part SHED FLOOR PLAN
04.07	typical SECTION
04.08	ELEVATIONS
04.09	TRUCKS OPERATION
04.10	EXISTING GROUND HEIGHTS



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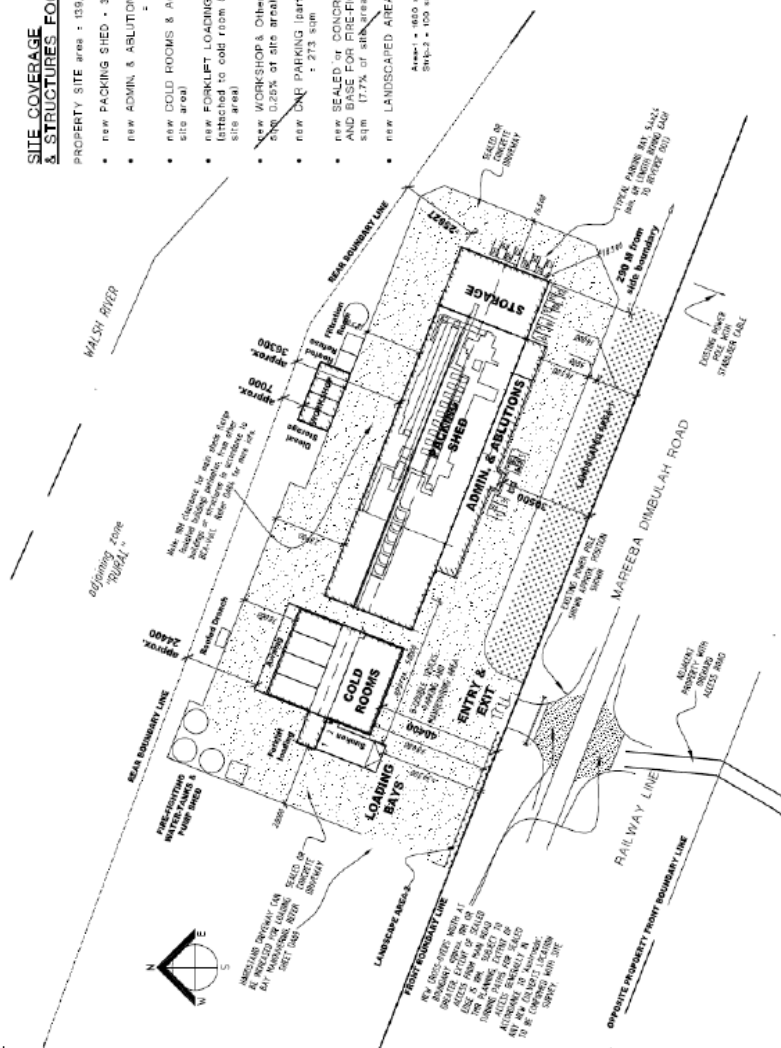




SITE COVERAGE & STRUCTURES FOOTPRINT:

PROPERTY SITE area = 139,878 sqm

- new PACKING SHED = 3771 sqm (2.6% of site area)
- new ADMIN. & SOLUTIONS (extended) = 680.5 sqm (0.4% of site area)
- new COLD ROOMS & Awning = 1237 sqm (0.9% of site area)
- new FORKLEIFT LOADING and DOCKING BAYS attached to cold room building = 289 sqm (0.2% of site area)
- new WORKSHOP & Other Misc. roofed areas = 342 sqm (0.2% of site area)
- new ONE PARKING (part of driveway) = 213 sqm (0.2% of site area)
- new SEALED IN CONCRETE for DRIVEWAYS, PATHS, AND BASE FOR FIRE FIGHTING FACILITY = 10,860 sqm (7.7% of site area)
- new LANDSCAPED AREAS = 1780 sqm total (1.3% of site area)
Area = 4500 sqm
Shrub = 100 sqm



DATE: 19/08/2019

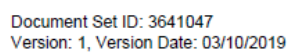
PROPOSED PACKING SHED

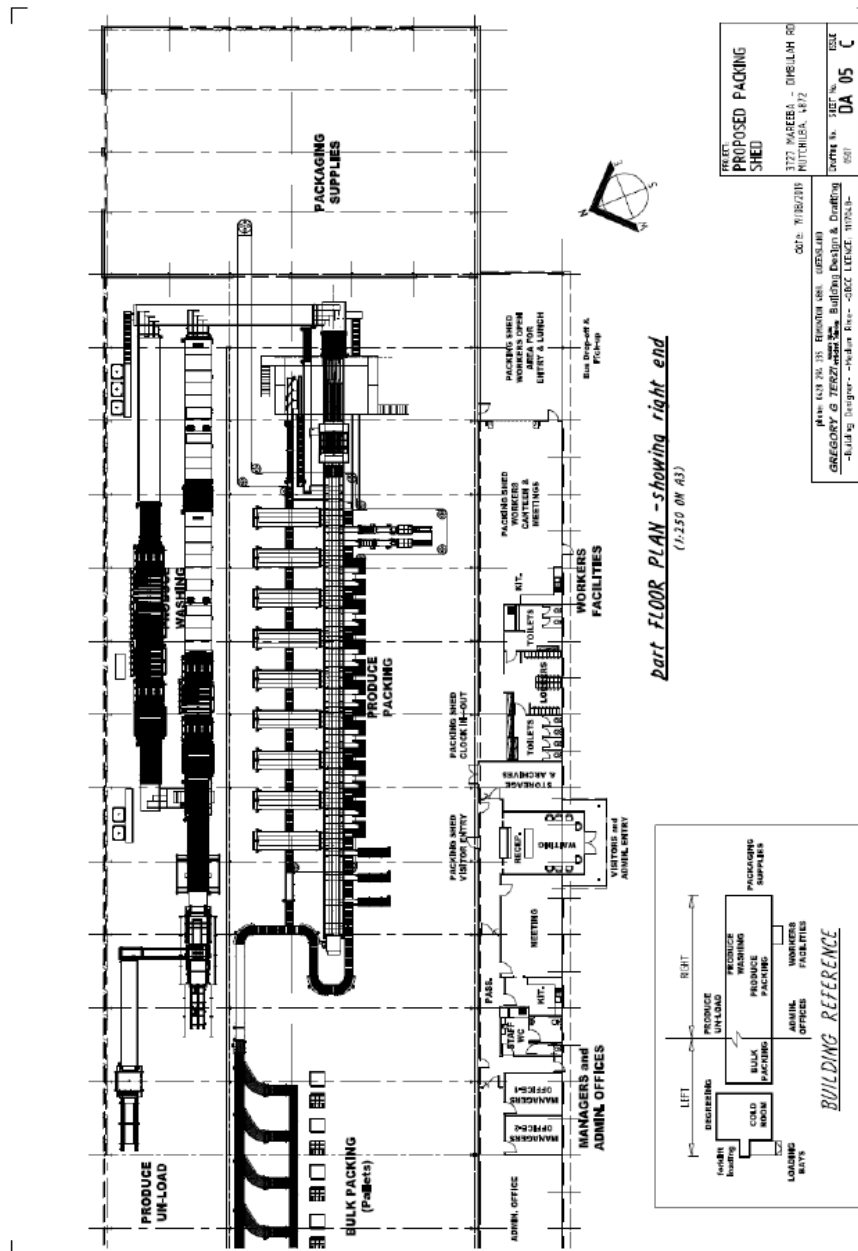
1777 MAREBA - DIMBULAH RD
MAREBA, NT

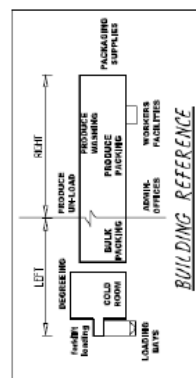
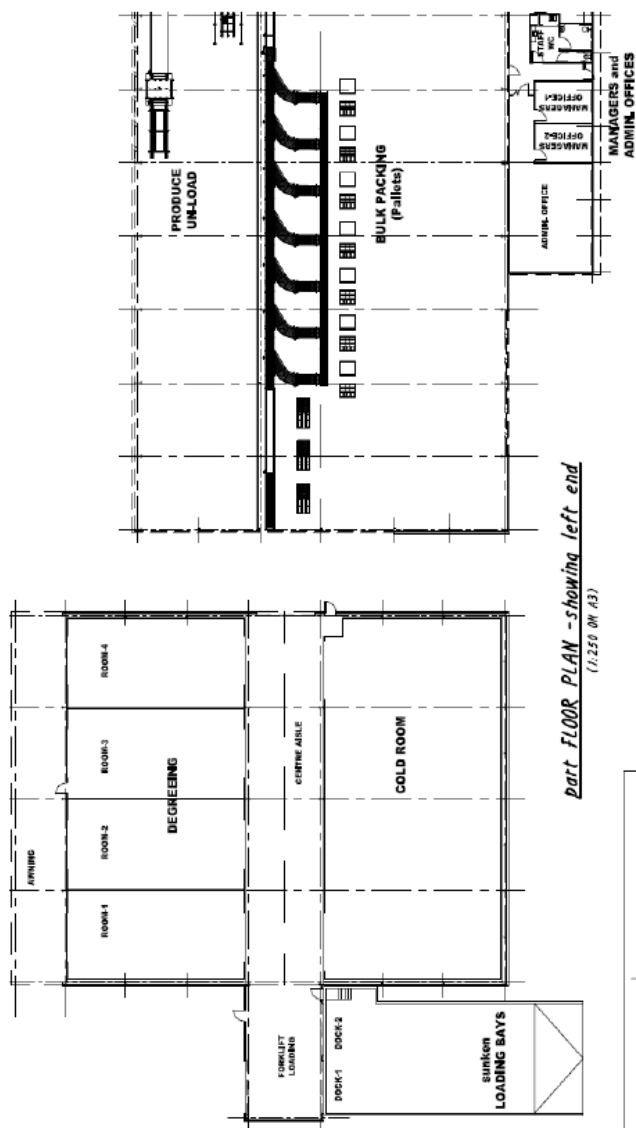
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1777 MAREBA - DIMBULAH RD
MAREBA, NT
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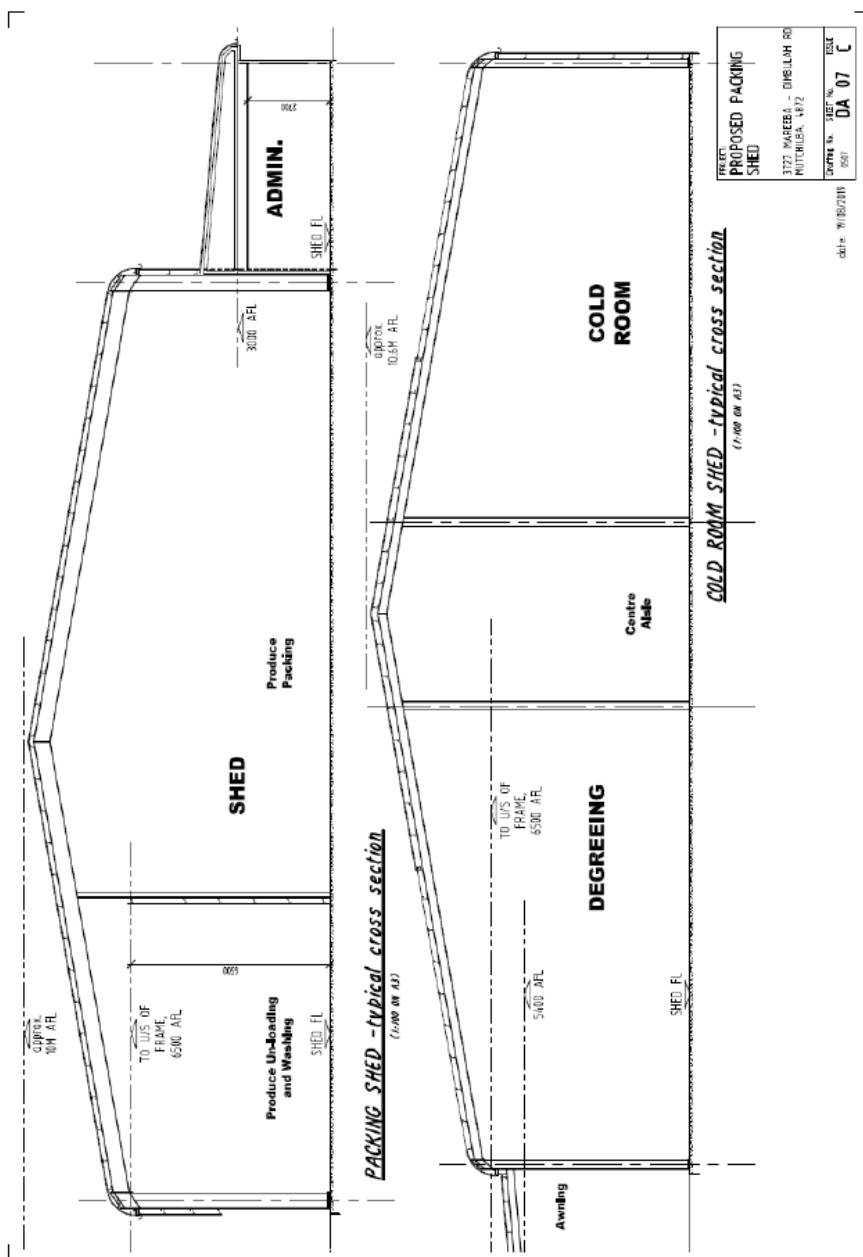
SHED FACILITIES LAYOUT - Proposed
(1:1000 on A3)







PROJECT	PROPOSED PACKING SHED
CLIENT	3777 MAREEBA - DUNDURRA RD MAREEBA, NT
DATE	02/12/2019
DRAWN BY	3777 MAREEBA - DUNDURRA RD GREGORY G. TESSERA & CO. Building Design & Drafting Building Designer - Modern Farm - 2022 LITCEA 2020-2021
SCALE	DA 06 C



Mareeba Shire Council

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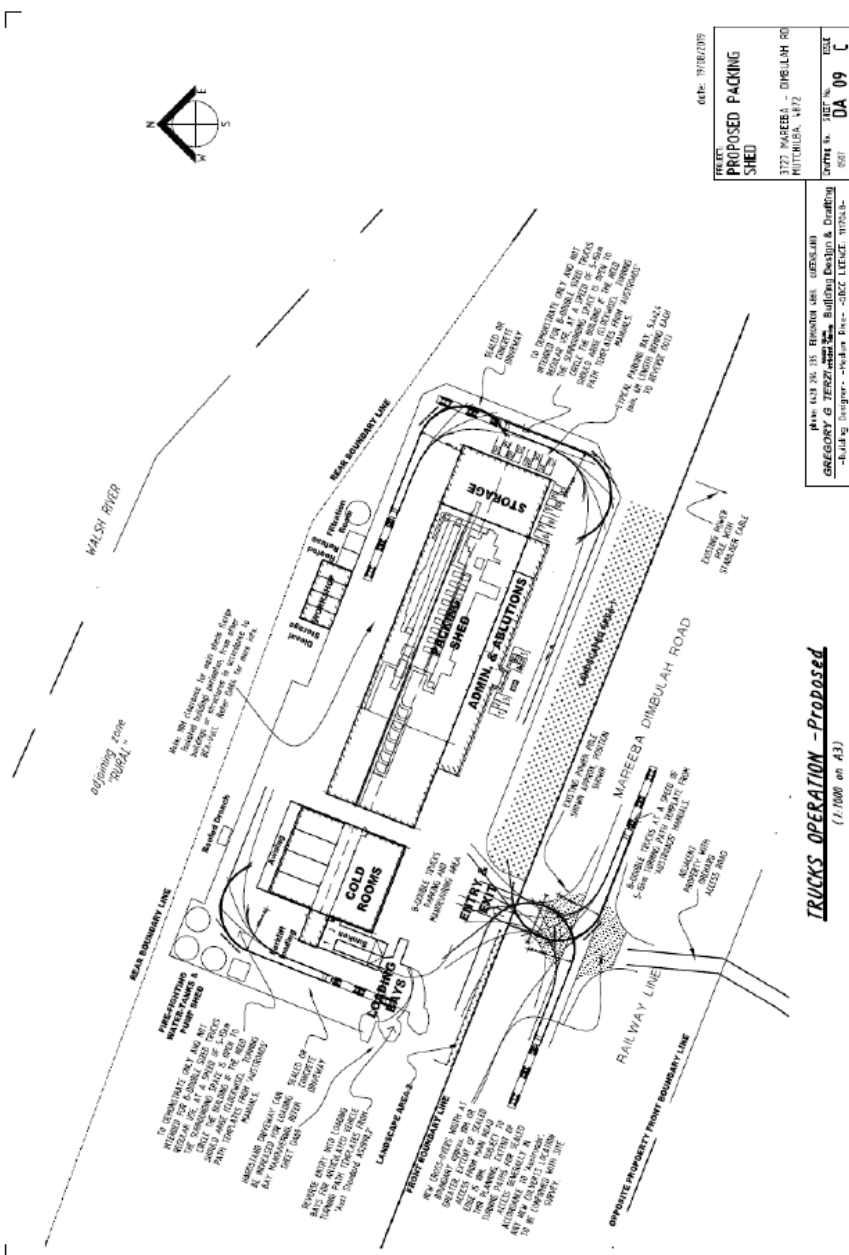
ROAD ELEVATION - South facing



con't ROAD ELEVATION -South facing
(12-000 ON A13)

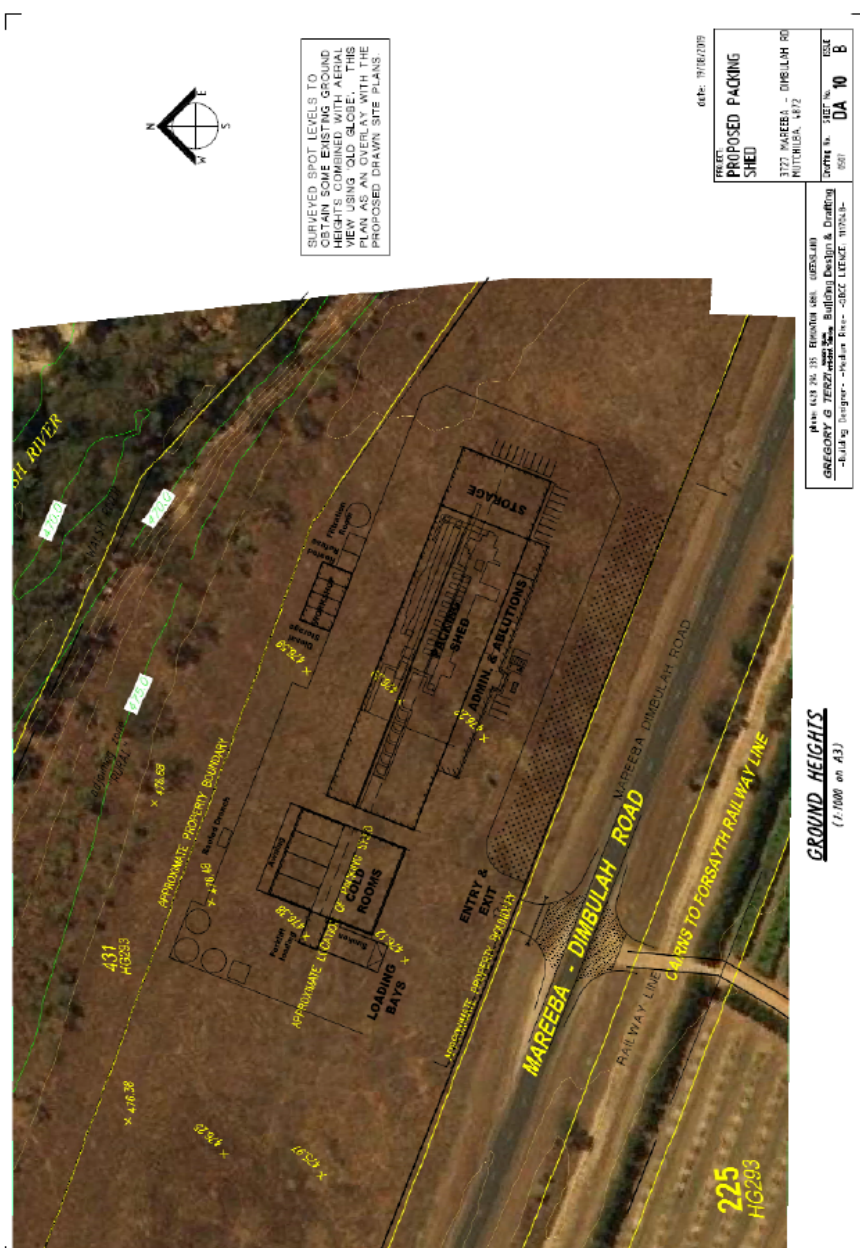
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Referral Agency Response

RA6-N



Department of
**State Development,
Manufacturing,
Infrastructure and Planning**

SARA reference: 1908-12907 SRA
Council reference: MCU/19/0013
Applicant reference: P71880

27 September 2019

Chief Executive Officer
Mareeba Shire Council
PO Box 154
Mareeba Qld 4880
planning@msc.qld.gov.au

Attention: Susie Lord

Dear Sir/Madam

SARA response—3727 Mareeba Dimbulah Road, Mutchilba

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the Department of State Development, Manufacturing, Infrastructure and Planning on 2 September 2019.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	27 September 2019
Conditions:	The conditions in Attachment 1 must be attached to any development approval.
Advice:	Advice to the applicant is in Attachment 2 .
Reasons:	The reasons for the referral agency response are in Attachment 3 .

Development details

Description:	Development permit	Material change of use for MCU Rural Industry (Packing Shed)
SARA role:	Referral Agency.	
SARA trigger:	10.9.4.2.4.1 - State transport corridors and future State transport corridors (Planning Regulation 2017)	

Page 1 of 7

Far North Queensland regional office
Ground Floor, Cnr Grafton and Hartley
Street, Cairns
PO Box 2358, Cairns QLD 4870

Mareeba Shire Council

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1908-12907 SRA

SARA reference: 1908-12907 SRA
 Assessment Manager: Mareeba Shire Council
 Street address: 3727 Mareeba Dimbulah Road, Mutchilba
 Real property description: Lot 225 on HG293
 Applicant name: KVN Australia
 Applicant contact details: C/- Susie Lord
 PO Box 181
 Edge Hill QLD 4870
 info@planztp.com

State-controlled road access permit: This referral included an application for a road access location, under section 82A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved
- Reference: TMR19-028190 (500-1322)
- Date: 26 September 2019

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads
ron.p.kaden@tmr.qld.gov.au

Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules). Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Belinda Jones, Senior Planning Officer, on 40373239 or via email CairnsSARA@dsdmp.qld.gov.au who will be pleased to assist.

Yours sincerely



Joanne Manson
 A/Manager (Planning)

cc: KVN Australia, info@planztp.com

enc: Attachment 1 - Referral agency conditions
 Attachment 2 - Advice to the applicant
 Attachment 3 - Reasons for referral agency response
 Attachment 4 - Representations provisions
 Attachment 5 - Approved plans and specifications

1908-12907 SRA

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the plans and specifications referenced below are found at Attachment 5)

No.	Conditions	Condition timing
Material change of use		
10.9.4.2.4.1 — State transport corridors and future state transport corridors - The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	<p>(a) Road access locations are to be located generally in accordance with TMR Layout Plan (864 – 37.27km) prepared by Queensland Government Transport and Main Roads, dated 20/09/2019, File Reference TMR19-28180 (500-1322), Issue A.</p> <p>(b) Road access works comprising of a sealed Basic right (BAR) turn treatment and a Rural basic left-turn treatment (BAL) must be provided at the road access location to proposed Lot B.</p> <p>(c) The road access works must be designed and constructed in accordance with Austroads Guide to Road Design, Part 4: Intersections and Crossing – General and Part 4A: Unsignalised and Signalised Intersections, specifically:</p> <ul style="list-style-type: none"> • Figure A28 Basic right (BAR) turn treatment on a two-lane rural road; and • Figure 8.2 Rural basic left-turn treatment (BAL). 	<p>(a) At all times</p> <p>(b) and (c) Prior to the commencement of use and to be maintained at all times.</p>
2.	<p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.</p> <p>(b) Any works on the land must not:</p> <ul style="list-style-type: none"> (i) create any new discharge points for stormwater runoff onto the state-controlled road; (ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road; (iii) surcharge any existing culvert or drain on the state-controlled road; (iv) reduce the quality of stormwater discharge onto the state-controlled road. 	<p>(a) and (b) At all times</p>

1908-12907 SRA

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) [v2.5]. If a word remains undefined it has its ordinary meaning.
Road Works Approval	
2.	Under section 33 of the Transport Infrastructure Act 1994, written approval is required from the Department of Transport and Main Roads to carry out road works on a state-controlled road. Please contact the Department of Transport and Main Roads' 4045 7144 to make an application for road works approval. This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the Department of Transport and Main Roads' as soon as possible to ensure that gaining approval does not delay construction.

1908-12907 SRA

Attachment 3—Reasons for referral agency response*(Given under section 56(7) of the Planning Act 2016)***The reasons for the department's decision are:**

- The department carried out an assessment of the development application against the State Development Provisions, version 2.5, State code 1: Development in a state-controlled road environment and has found that with conditions, the proposed development complies with the relevant performance outcomes.
- The proposed development is significantly set back from the state-controlled road (Mareeba Dimbulah Road) and unlikely to create a distraction to drivers, nor create a safety hazard.
- The location of the new access is considered appropriate and the Department of Transport and Main Roads has issued a Decision Notice – Permitted Road Access Location under s82(1) of the *Transport Infrastructure Act 1994*.
- To ensure the safe and efficient operation of the access, a condition has been included requiring access works to be undertaken.
- The development will result in a greater impervious area, but with conditions, increased stormwater runoff will be managed in an appropriate manner.
- The premises is not impacted by planned upgrades or future state transport corridors.

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- *Planning Regulation 2017*
- *The State Development Assessment Provisions* (version [2.5]), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system

DECISION NOTICE

MCU/19/0013
Page 25

1908-12907 SRA

Attachment 4—Change representation provisions

(page left intentionally blank – attached separately)

Department of State Development, Manufacturing, Infrastructure and Planning

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1908-12907 SRA

Attachment 5—Approved plans and specifications

(page left intentionally blank – attached separately)

Planning Act 2016 – Change representations provisions.**Chapter 3 Development Assessment****Division 2 Changing development approvals****Subdivision 1 Changes during appeal period****75 Making change representations**

- 1) The applicant may make representations (**change representations**) to the assessment manager, during the applicant's appeal period for the development approval, about changing—
 - (a) a matter in the development approval, other than—
 - i. a matter stated because of a referral agency's response; or
 - ii. a development condition imposed under a direction made by the Minister under chapter 3, part 6, division 2; or
 - (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- 2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- 3) Only 1 notice may be given.
- 4) If a notice is given, the appeal period is suspended—
 - (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
 - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
 - i. the applicant withdraws the notice, by giving another notice to the assessment manager; or
 - ii. the applicant receives notice that the assessment manager does not agree with the change representations; or
 - iii. the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- 5) However, if the assessment manager gives the applicant a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

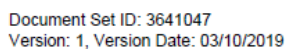
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Mareeba Shire Council

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76 Deciding change representations

- 1) The assessment manager must assess the change representations against and having regard to the matters that must be considered when assessing a development application, to the extent those matters are relevant.
- 2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
 - (a) the applicant; and
 - (b) if the assessment manager agrees with any of the change representations—
 - i. each principal submitter; and
 - ii. each referral agency; and
 - iii. if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
 - iv. if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
 - v. another person prescribed by regulation.
- 3) A decision notice (*a negotiated decision notice*) that states the assessment manager agrees with a change representation must—
 - (a) state the nature of the change agreed to; and
 - (b) comply with section 63(2) and (3).
- 4) A negotiated decision notice replaces the decision notice for the development application.
- 5) Only 1 negotiated decision notice may be given.
- 6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.



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 –
 - (a) the respondent for the appeal ; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, table 1, item 1 – each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
 - (e) 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
 - (f) for an appeal to the P&E Court – the chief executive; and
 - (g) for an appeal to a tribunal under another Act – any other person who the registrar considers appropriate.
- (4) The *service period* is –
 - (a) if a submitter or advice agency started the appeal in the P&E Court – 2 business days after the appeal has started; or
 - (b) 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.

231 Other appeals

- (1) 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 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-

 - (a) conduct engaged in for the purpose of making a decision; and

- (b) other conduct that relates to the making of a decision; and
- (c) the making of a decision or failure to make a decision; and
- (d) a purported decision ; and
- (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter-

- (a) is final and conclusive; and
- (b) 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
- (c) 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

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) 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.

ATTACHMENT 2



PO Box 181 Edge Hill
QLD 4870
07 4041 0445
info@planztp.com

97 Anderson Street
Manunda QLD 4870
planztp.com
ABN 83 128 085 870

18 November 2019

Our ref: P71880
Your ref: MCU/19/0013

Chief Executive Officer
Mareeba Shire Council
PO Box 154
Mareeba Qld 4880

via email: info@msc.qld.gov.au

Attention: Brian Millard

Dear Brian,

Decision Notice MCU/19/0013
Material Change of Use – Rural Industry (Packing Shed)
3727 Mareeba-Dimbulah Road, Mutchilba

I refer to the abovementioned development application recently approved by Mareeba Shire Council and the resultant Decision Notice dated 3 October 2019.

On behalf of our client, KVN Australia Trust, we hereby make the following change representations regarding the conditions of approval in accordance with s75(2) of the *Planning Act 2016*.

Change Representations

Non-reticulated water supply

Condition 4.4 Non-reticulated water supply references compliance with the Australian Drinking Water Guidelines 2004 (National Health and Medical Research Council and National Resource Management Ministerial Council). Advice from the applicant is that this guideline is out-dated and has been superseded by ADWG 2011. Whilst we understand that Council accepts that the current guidelines apply, the issue is with contractual agreements for the construction of the development, which refer to the written conditions of approval. As such, in order to avoid issues at construction stage, the applicant seeks to amend the condition to reference the current guidelines, *Australian Drinking Water Guidelines 6, 2011 (National Health and Medical Research Council and the National Resource Management Ministerial Council)*.

Staged development

The applicant is seeking to now stage the development in order to fast-track the construction of the coldroom / de-greening room portion to meet farm production requirements with the main packing shed to be constructed 12-18 months afterwards. As such, the applicant proposes the following for Stage 1:

- Cold room facility approximately 1,432m²;
- Sufficient fire-fighting capacity to suit, and to be augmented later for the total development;
- Crossover and roadworks to Mareeba-Dimbulah Road as per current TMR conditions;
- Loading dock proposed to be concrete construction;
- The balance external circulation and any required parking spaces to be road base or similar, with formal road sealing completed at Stage 2.



CREATING GREAT PLACES FOR PEOPLE





There will be no staff based on the site for Stage 1. The produce will be offloaded from a B-Double truck into the storage facility and the de-greened bins re-loaded onto the truck. The expected traffic movements for Stage 1 will include:

- Farm manager – 2 x trips per day;
- Truck deliveries – maximum 4 b-double trips per day.

The proposed is outlined in the attached Staged plan of development. In order to provide for the staging of the development, it is requested the approval be amended to allow for the staging and the conditions of approval reflect the above.

Given the change representations outlined above and discussions with Council staff, we consider there are sufficient grounds to make the proposed amendments to the conditions of approval.

We look forward to receiving a draft Negotiated Decision Notice from the Council in the near future. Please contact me if you have any queries in this regard.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S. Lord'.

Susie Lord
Planz Town Planning

Att:

1. Proposed Staged Plan of Development

