



26 July 2021

Yolande Martin
PO Box 564
KURANDA QLD 4881

Planning Officer: Carl Ewin
Direct Phone: 4086 4656
Our Reference: MCU/21/0012

Dear Applicant/s

Decision Notice

Planning Act 2016

I refer to your application and advise that on 21 July 2021, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

| | |
|----------------------------|---|
| Application No: | MCU/21/0012 |
| Street Address: | 5 Coondoo Street & 4-12 Thooree Street, Kuranda |
| Real Property Description: | Lot 407 on NR7409 & Lot 412 on SP103859 |
| Planning Scheme: | Mareeba Shire Council Planning Scheme 2016 |

DECISION DETAILS

| | |
|-------------------|---|
| Type of Decision: | Approval |
| Type of Approval: | Development Permit for Material Change of Use - Food and Drink Outlet |
| Date of Decision: | 21 July 2021 |

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*.)

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 generally 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 The applicant must demonstrate to 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 the 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.
 - 3.4 The use of a generator to power the food trailer/van is not permitted at any time.
 - 3.5 The food trailer/van must be painted a neutral colour, to the satisfaction of Council's delegated officer.
 - 3.6 In the event that a Tropical Cyclone is declared that has the potential to impact Kuranda, the food trailer/van and any customer seating must be removed from the site and stored in secure location.
 - 3.7 All waste oils, water, grey water and black water must be collected and disposed of off-site at an approved disposal facility/dump point. These materials must not be stockpiled for any length of time or disposed of on-site. In the event that any waste material is spilled on-site, the applicant/operator must notify Council immediately.

3.8 The food trailer/van may remain on-site or removed daily at the discretion of the applicant/operator.

3.9 Commercial delivery vehicles are not permitted to service the approved use.

3.10 Waste Management

Any on site refuse storage areas, except a bin for customers rubbish must be screened from view from adjoining properties and customers. All refuse bins must be emptied daily.

3.11 Signage

The following signage is permitted:

- (i) one (1) advertising sign facing Coondoo Street which must be mounted on a building façade, awning or post associated with Lot 407 on NR7409;
- (ii) one (1) sandwich board style sign on Coondoo Street along the frontage of Lot 407 on NR7409 and where strictly complying with Council's Local Law/s for footpath signage;
- (iii) one (1) sandwich board style sign on Thooree Street along the frontage of Lot 412 on SP103859 and where strictly complying with Council's Local Law/s for footpath signage;
- (iv) Signage on the food trailer/van itself.

Any advertising devices must:

- (i) Not resemble a traffic control device or give instructions to vehicular traffic;
- (ii) Not incorporate highly reflective materials or finishes;
- (iii) Not be illuminated, move, revolve, strobe or flash; and
- (iv) Be kept clean, in good order and safe repair for the life of the development.

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

4. Infrastructure Services and Standards

4.1 Surface Treatment/Erosion and Sediment Control

The ground surface where the food trailer/van is located and where any outdoor dining tables are located must be maintained with a grass cover or similar so as to not cause an erosion and sediment control issue, to the satisfaction of Council's delegated officer.

Should an erosion and sediment control issue arise as a result of the continued use of the site, the applicant/developer must appropriately surface treat all problem areas to alleviate any erosion and sediment control issues, to the satisfaction of Council's delegated officer.

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|--------------------------|
| REFERRAL AGENCIES |
|--------------------------|

Not Applicable.

APPROVED PLANS

The following plans are Approved plans for the development:

| Plan/Document Number | Plan/Document Title | Prepared by | Dated |
|----------------------|---|-------------|-----------|
| - | Site Plan - Proposed Food & Drink Outlet (Food Trailer) | Applicant | 8/07/2021 |
| 01 | External View 1 of Food Trailer | Applicant | 8/07/2021 |
| 02 | External View 2 of Food Trailer | Applicant | 8/07/2021 |
| 03 | External View 3 of Food Trailer | Applicant | 8/07/2021 |
| 04 | Internal View of Food Trailer | Applicant | 8/07/2021 |

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) Food Premises (restaurants/bed & breakfasts etc.)**

Premises proposed for the storage and preparation, handling, packing or service of food must comply with the requirements of the Food Act 2006.

(a) 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.

(b) 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

(c) 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

PROPERTY NOTES

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

- Food Licence

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".

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.

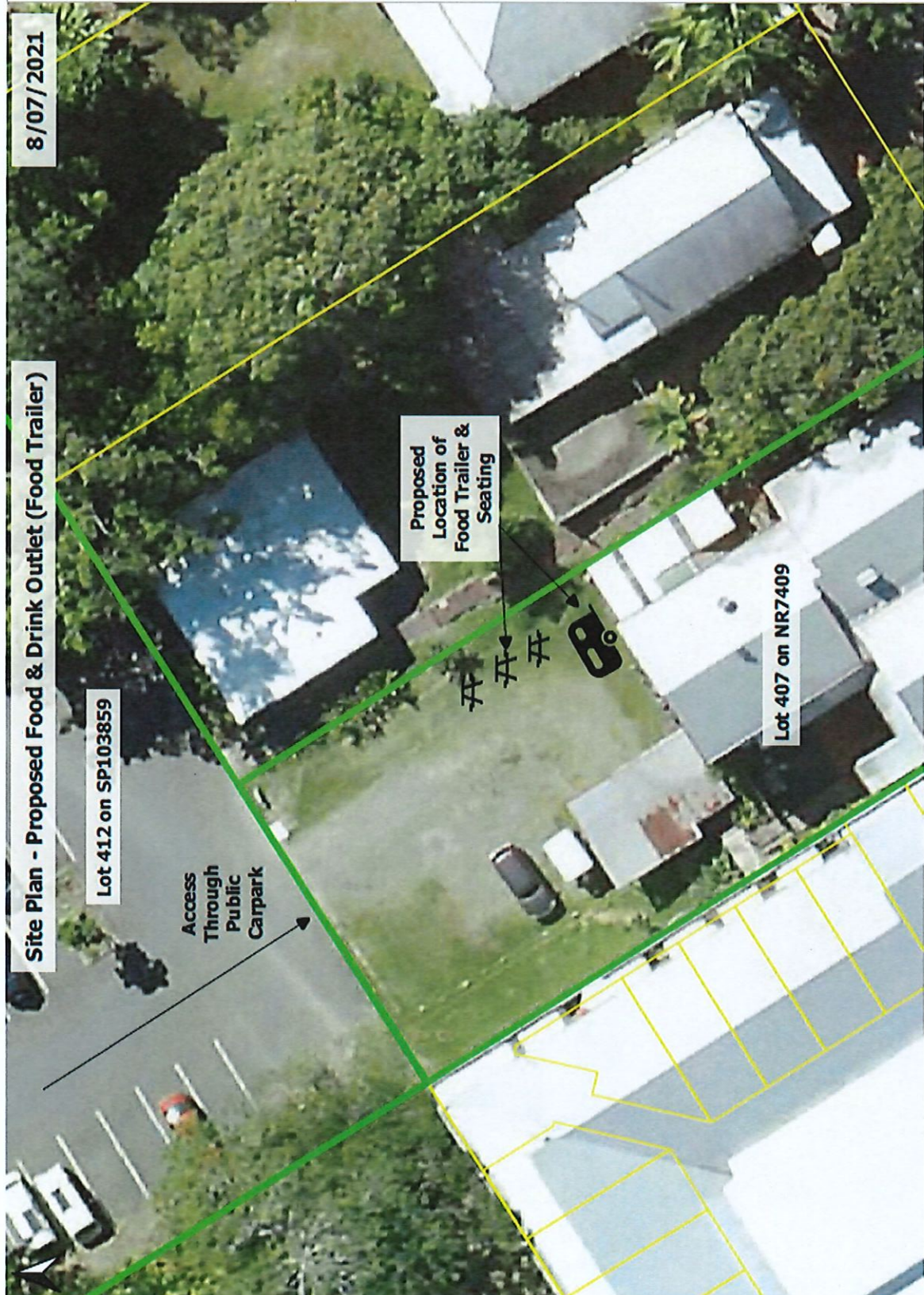
Yours faithfully



BRIAN MILLARD
SENIOR PLANNER

Enc: Approved Plans/Documents
Appeal Rights

Approved Plans/Documents



Plan No. 01

External View 1 of Food Trailer

8/07/2021



26/7/2021
B. n. d. A

Plan No. 02

External View 2 of Food Trailer

8/07/2021



26/7/2021
B. n. [Signature]

Plan No. 03

External View 3 of Food Trailer

8/07/2021



26/7/2021
S. M. [Signature]

Plan No. 04

Internal View of Food Trailer

8/07/2021



26/7/2021
B. n. [signature]

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.