



18 May 2023

Planning Officer: Carl Ewin
Direct Phone: (07) 4086 4656
Our Reference: MCU/22/0005
Your Reference: ET22-005

J & R Grego
C/- Elizabeth Taylor
23 Vallely Street
FRESHWATER QLD 4870

Dear Applicants,

Decision Notice

Planning Act 2016

I refer to your application and advise that on 17 May 2023, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No: MCU/22/0005
Street Address: 47 Myola Road, Kuranda
Real Property Description: Lot 2 on RP892259
Planning Scheme: Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision: Approval
Type of Approval: Development Permit for Material Change of Use – High Impact Industry (Mobile Concrete Batching Plant)
Date of Decision: 17 May 2023

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**(C) 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 Prior to the commencement of use, the applicant must notify Council that all the conditions 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.

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- 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 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 Emissions
- 3.4.1 Emissions associated with operational activities must not cause an 'environmental nuisance' within the meaning of the Environmental Protection Act (1994) to any sensitive receptor and comply with the Air Quality Objectives as stated within Schedule 1 of the Environmental Protection (Air) Policy 2019.
- 3.4.2 Where fitted, all vehicles used in the concrete batching operations must ensure that reversing alarms are of the squawker type rather than beepers.
- 3.4.3 Should concrete be allowed to set within a concrete truck mixing drum, the concrete truck mixing drum must be taken off site if the concrete is to be removed from the mixing drum. Removal of set concrete using noisy equipment such as jackhammers is not permitted to occur onsite.
- 3.5 Waste Management
- On-site refuge storage area/s must be provided and be screened from view from adjoining properties and road reserve by one (1) metre wide landscaped screening buffer or 1.8m high solid fence or building.
- 3.6 Hours of operation
- The authorised operating hours for the concrete batching plant are limited to between 6:00am and 4.00pm, Monday to Saturday. No concrete batching operations are permitted on Sunday or on public holidays.
- 3.7 Maximum permitted weekly/daily concrete batching production volume
- The maximum permitted weekly/daily concrete batching production volume is 120m³ per 6-day week with a maximum of 60m³, on any one day. Any unused concrete batching production volume is not accumulated.

4. Infrastructure Services and Standards

4.1 Access

An industrial access crossover must be upgraded/constructed (from the edge of Myola Road to the property boundary of the subject land) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

The access must include widened tapers onto Myola Road in both directions.

4.2 Stormwater/Wastewater Management

4.2.1 Prior to the use commencing, a stormwater/wastewater management plan must be prepared for the concrete batching plant use and submitted to Council's delegated officer for consideration and approval.

4.2.2 The stormwater/wastewater management plan must include:

- (a) Bunding of the concrete batching plant operational area;
- (b) Storage of all fuels, oils, cement and chemicals related to the concrete batching plant operation within the bunded area capable of holding at least 110% of the volume of the largest tank and/or 25% of total maximum drum inventory, whichever is the larger;
- (c) A roof structure over the concrete batching plant operational area, with walls on the southern and eastern side. The roof structure and walls are to be painted a neutral dark green colour;
- (d) Contaminated water from areas such as cement and secondary cementitious material storage, concrete loading, agitator bowl washing and slumping, concrete wash out storage and truck washing areas is collected in in-ground pits or tanks; and
- (e) In-ground pits or tanks maintain sufficient freeboard for rain events to ensure that contaminated water is not permitted to leave the site.

4.2.3 The stormwater/wastewater management plan must be implemented and maintained for the life of the development to the satisfaction of Council's delegated officer.

4.3 Landscape strip - Myola Road

- 4.3.1 Prior to the use commencing, a landscape plan must be prepared for the site and submitted to Council's delegated officer for consideration and approval.
- 4.3.2 The landscape plan must include a minimum one (1) metre wide landscape strip along the Myola Road frontage, planted on the existing mound immediately adjacent to the chain wire security fence.
- 4.3.3 The landscape strip must include shrubs and plants that will grow to form an effective visual buffer of no less than two (2) metres in height at maturity and should include at least 25% larger more advanced plant stock.
- 4.3.4 All plant varieties must be generally in accordance with Schedule A of Planning Scheme Policy No. 9 (Landscaping Policy).
- 4.3.5 The landscaping of the site must be carried out prior to the commencement of the use and in accordance with the endorsed landscaping plan, and irrigated, mulched and maintained for the life of the development to the satisfaction of Council's delegated officer.

REFERRAL AGENCIES

Not Applicable.

APPROVED PLANS

The following plans are Approved plans for the development:

Plan No.	Plan Name	Prepared by	Date
-	Proposal Plan – Kuranda Raw Materials	-	-

ADVISORY NOTES

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

(D) 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.dcceew.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.dsdsatsip.qld.gov.au.

(f) Transportation of Soil

All soil transported to or from the site must be covered to prevent dust or spillage during transport. If soil is tracked or spilt onto the road pavements as a result of works on the subject site, it must be removed prior to the end of the working day and within four (4) hours of a request from a Council Officer.

PROPERTY NOTES

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

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

SUBMISSIONS

There were twenty (20) properly made submissions about the application submitted within the 1st public notification period and there were twenty-five (25) properly made submissions about the application submitted within the 2nd public notification period.

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 below:

1st Round of public notification:

Name of Principal submitter	Address
1. Kylie Moore - support	21 Lotus Lane, Kuranda QLD 4881
2. Max and Majella Smith - support	majellamarysmith@gmail.com
3. Bev and Rod Tayler	82 Myola Road, Kuranda QLD 4881
4. Raymond Ganley	77 Monaro Close, Kuranda QLD 4881
5. Julie Cohen	canoona1@bigpond.com
6. Daryl Douglass (plus 10 signatories)	9 Jarawee Road, Kuranda QLD 4881
7. John Dyer	23 Monaro Close, Kuranda QLD 4881
8. James and Maureen Birgan	mobirgan@gmail.com
9. Biannka Brannigan	Biannkabrannigan80@hotmail.com
10. John Edwards	28 Monaro Close, Kuranda QLD 4881
11. Kathryn Edwards	28 Monaro Close, Kuranda QLD 4881
12. Peter Cohen	Punch Close, Kuranda QLD 4881
13. Warren and Patricia Green	45 Myola Road, Kuranda QLD 4881
14. TRACQS - support	PO Box 670, Kuranda QLD 4881
15. Friends of the Earth Far North Queensland	345 Fantin Road, Koah QLD 4881
16. Tracy Dods	27 Myola Road, Kuranda QLD 4881
17. Mick and Noela Jacobs - support	56 Myola Road, Kuranda QLD 4881
18. Doug Stephens (plus 30 signatories) - support	30 Douglas Track, Speewah QLD 4881
19. Jo Martin	451 Oak Forest Road, Kuranda QLD 4881
20. Kuranda Conservation Community Nursery Inc	1 Pademelon Lane, Kuranda QLD 4881

2nd Round of public notification:

Name of Principal submitter	Address
1. Max and Majella Smith - support	majellamarysmith@gmail.com
2. Bev and Rod Tayler	beverleetayler@gmail.com
3. Charles & Jackie Clarke	candjclarke@gmail.com
4. Cheryl Tonkin	cheryl.tonkin@gmail.com
5. Luciano Ceciliot	johnnolad@gmail.com
6. Raymond Ganley	jajanti1@bigpond.com
7. M Gompert - petition 139 signatories	PO Box 69, Kuranda QLD 4881
8. Biannka and Kate Brannigan	biannkabrannigan80@hotmail.com
9. John Edwards	jandkedwards@bigpond.com
10. Kathryn Edwards	jandkedwards@bigpond.com
11. Develop North - support	mark@developnorth.com.au
12. Nadine O'Brien	nadine_obrien@yahoo.com.au
13. Sarah Isaacs	sarahi3451@gmail.com
14. Ngoonbi Community Services Indigenous Corporation - support	ngoonbi@ngoonbi.org.au
15. Nicholas Tayler	nictayler351@hotmail.com
16. Quintilian Pty Ltd - support	29 Masons Road, Kuranda QLD 4881
17. Peter Cohen	peter.cohen1941@gmail.com
18. GEO - support	office@geo-group.com.au
19. Warren and Patricia Green	45 Myola Road, Kuranda QLD 4881
20. TRACQS - support	PO Box 670, Kuranda QLD 4881
21. Nicola and Tracy Dods	tracy@tracydods.com
22. Mick and Noela Jacobs - support	56 Myola Road, Kuranda QLD 4881
23. Doug Stephens - support	30 Douglas Track, Speewah QLD 4881
24. J & R Grego Group – Petition 111 signatories - support	jandrgregogroup@bigpond.com
25. Jo Martin	jo@ojoonline.com

RIGHTS OF APPEAL

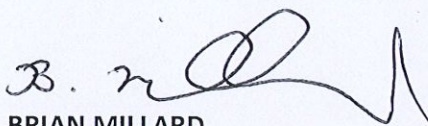
You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

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.

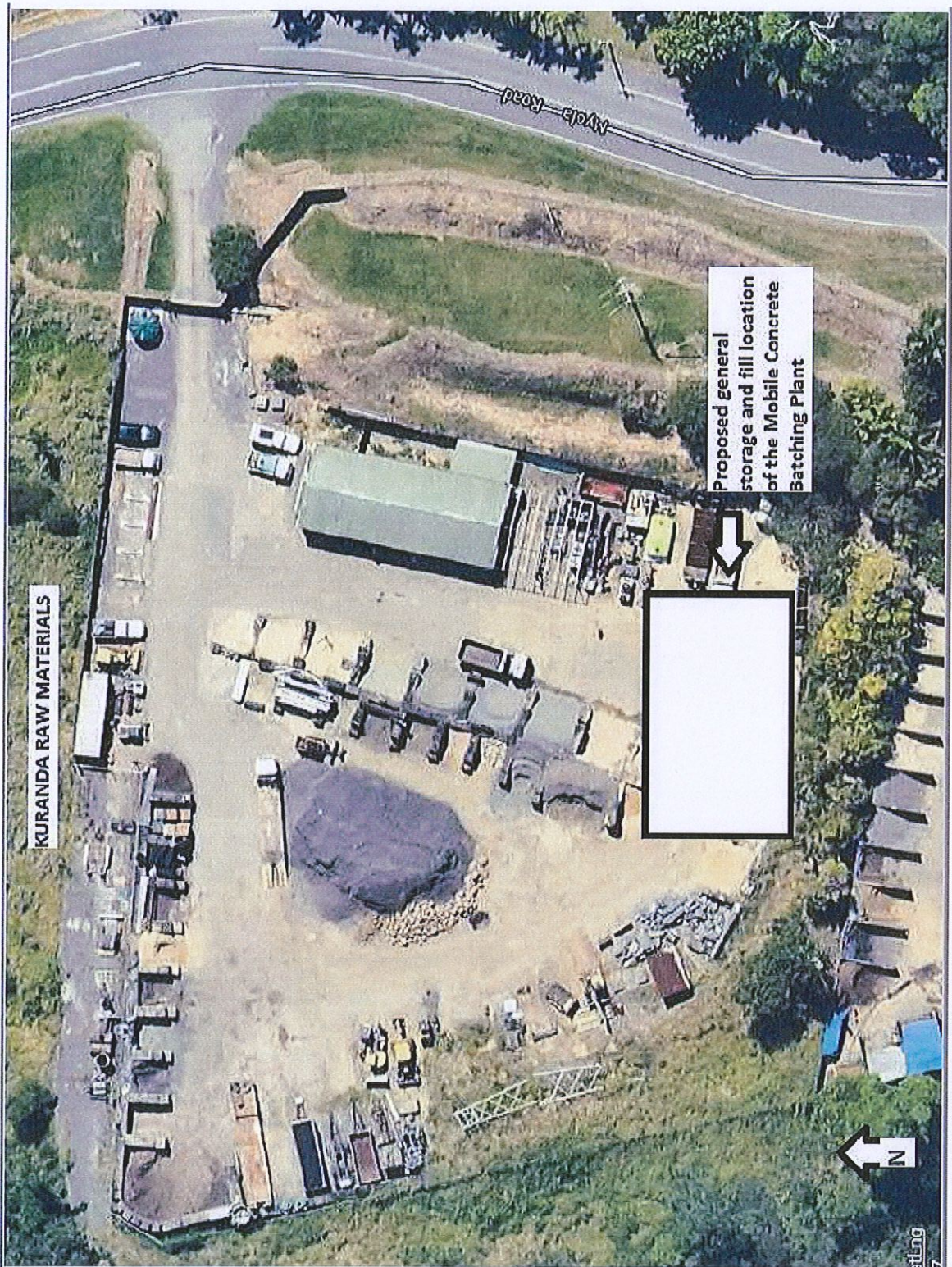
Yours faithfully



BRIAN MILLARD
SENIOR PLANNER

Enc: Approved Plans/Documents
Appeal Rights

Approved Plans/Documents



18/5/2023
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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.