

16 May 2024

Planning Officer: Carl Ewin  
Direct Phone: 07 4086 4656  
Our Reference: MCU/23/0014  
Your Reference: AU009935

Caldante Holdings Pty Ltd TTE  
C/- RPS AAP Consulting Pty Ltd  
PO Box 1949  
CAIRNS QLD 4870

Dear Applicants,

## **Decision Notice**

### ***Planning Act 2016***

I refer to your application and advise that on 15 May 2024, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

#### **APPLICATION DETAILS**

Application No: MCU/23/0014  
Street Address: 121 Douglas Track, Speewah  
Real Property Description: Lot 45 on N157358  
Planning Scheme: Mareeba Shire Council Planning Scheme 2016

#### **DECISION DETAILS**

Type of Decision: Approval  
Type of Approval: Development Permit for Material Change of Use – Function Facility  
Date of Decision: 15 May 2024

**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****(D) 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.

### 3.4 Waste Management

3.4.1 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.

3.4.2 Where bulk bins are used and are to be serviced on site, Council's delegated officer must be satisfied 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 only.

### 3.5 Function Type/Size and Frequency

**Note:** For the purposes of this approval, functions proposed to be held on-site are categorised into 3 sizes as follows (not including function organisers or catering/bar/audio staff):

- Small function – Up to 20 guests.
- Medium function – Between 21 and 99 guests.
- Large function – Between 100 and 150 guests.

**Note:** For the purposes of this approval, the following time periods are applicable:

- Daytime hours – 7am-6pm.
- Evening hours – 6pm-10pm
- Nighttime hours – 10pm-Midnight

3.5.1 No functions accommodating more than 150 guests are permitted on-site at any time.

3.5.2 Only 1 function is permitted on-site on any given day.

3.5.3 In order to minimise impacts on Cassowaries and threatened frog species, only 1 function per month that involves amplified music/loudspeakers is to be held at either Location 5 or 6.

#### 3.5.4 Large Functions

A maximum of two (2) large functions can be held in any calendar month, regardless of whether they include amplified music/loudspeakers. Any large function held over daytime hours only may be held Monday to Saturday, excluding Sundays and Public Holidays. Any large function running over evening or nighttime hours must be held on either a Friday or Saturday only.

#### 3.5.5 Small, Medium and/or Large Functions

- (i) A combined total of three (3) small, medium or large functions are permitted on-site in any calendar month **where amplified music/loudspeakers are proposed and/or when running outside daytime hours**. To achieve compliance with Condition 3.5.4 only a maximum of two (2) of these functions may be large sized functions.

Only one (1) of these three (3) monthly functions is permitted to run up until **midnight** with the two (2) other functions permitted

to operate up until **10pm only**. These three (3) specific functions which include amplified music/loudspeakers must be held on either a Friday or Saturday only.

- (ii) A further eight (8) functions (maximum of six (6) small and two (2) medium sized functions) are permitted in any calendar month where operating over **daytime hours only and where not involving amplified music/loudspeakers of any kind**. These functions can be held Monday to Saturday only, excluding Sundays and Public Holidays.
- (iii) In accordance with (i) and (ii) above, no more than 11 functions are to be held on-site in any calendar month.

3.5.6 If a monthly allocation of functions is not held over any given month, these functions cannot be “banked” and used in any other calendar month.

A register of all functions held and scheduled on site must be kept and made available to Council for review upon request.

3.5.7 It is the responsibility of the applicant/developer or function organiser to ensure all guests and function staff have vacated the property before the mandated function end time. All noise generating devices, including portable cold rooms/cooling equipment and audio equipment must be turned off before the function end time.

Staff are permitted to remain on site to pack up/clean up after daytime functions (remaining on-site till no later than 9pm), however for functions with 10pm and midnight end times, this must occur next day during daytime hours only.

### 3.6 Function Restrictions (by location)

**Note:** For the purposes of this approval, function Locations are those locations identified on “Figure 6.2: Function areas for assessment” of the Noise Impact Assessment prepared by Dedicated Acoustics dated 6 October 2023.

**Note:** For the purposes of this approval, “regulated devices” is any device that emits sound such as speakers, loudspeakers etc. and “aircon/cooling equipment” is any mechanical plant responsible for air-conditioning or cooling including cold-rooms and generators.

**No live music/bands are permitted on-site at any time.**

**No Fireworks are permitted on-site at any time.**

#### Location 1

- (i) Small outdoor functions are permitted only (no more than 20 guests);
- (ii) Functions must cease no later than 10pm;
- (iii) No alcoholic beverages are to be served past 9pm;
- (iii) The maximum aggregate sound levels, defined by peak levels on a meter which may be set to a slow sample rate must not exceed:

- 82 dB(A) for regulated devices at source; or
- 71 dB(A) for regulated devices at 1 metre from source (for convenience);
- 90 dB(A) for aircon/cooling equipment at source; or
- 79 dB(A) for aircon/cooling equipment at 1 metre from source.

**Location 2**

- (i) Small outdoor functions are permitted only (no more than 20 guests);
- (ii) Functions must cease no later than 12am (midnight);
- (iii) No alcoholic beverages are to be served past 11pm;
- (iii) The maximum aggregate sound levels, defined by peak levels on a meter which may be set to a slow sample rate must not exceed:
  - 87 dB(A) for regulated devices at source; or
  - 76 dB(A) for regulated devices at 1 metre from source (for convenience);
  - 92 dB(A) for aircon/cooling equipment at source; or
  - 81 dB(A) for aircon/cooling equipment at 1 metre from source.

**Location 3**

- (i) Small, medium and large outdoor functions are permitted (no more than 150 guests);
- (ii) Functions must cease no later than 10pm;
- (iii) No alcoholic beverages are to be served past 9pm;
- (iii) The maximum aggregate sound levels, defined by peak levels on a meter which may be set to a slow sample rate must not exceed:
  - 90 dB(A) for regulated devices at source; or
  - 79 dB(A) for regulated devices at 1 metre from source (for convenience);
  - 95 dB(A) for aircon/cooling equipment at source; or
  - 84 dB(A) for aircon/cooling equipment at 1 metre from source.

**Location 4**

- (i) Small, medium and large outdoor functions are permitted (no more than 150 guests);
- (ii) Functions must cease no later than 12am (midnight);
- (iii) No alcoholic beverages are to be served past 11pm;
- (iii) The maximum aggregate sound levels, defined by peak levels on a meter which may be set to a slow sample rate must not exceed:
  - 84 dB(A) for regulated devices at source; or
  - 73 dB(A) for regulated devices at 1 metre from source (for convenience);

- 89 dB(A) for aircon/cooling equipment at source; or
- 78 dB(A) for aircon/cooling equipment at 1 metre from source.

#### Location 5

- (i) Small indoor only functions are permitted within the structure at location 5 (no more than 20 guests);
- (ii) Functions must cease no later than 10pm;
- (iii) No alcoholic beverages are to be served past 9pm;
- (iii) The maximum aggregate sound levels, defined by peak levels on a meter which may be set to a slow sample rate must not exceed:
  - 87 dB(A) for regulated devices at source; or
  - 76 dB(A) for regulated devices at 1 metre from source (for convenience);
  - 92 dB(A) for aircon/cooling equipment at source; or
  - 81 dB(A) for aircon/cooling equipment at 1 metre from source.

#### Location 6

- (i) Small, medium and large indoor only functions are permitted within the structure at location 6 (no more than 150 guests);
- (ii) Functions must cease no later than 10pm;
- (iii) No alcoholic beverages are to be served past 9pm;
- (iii) The maximum aggregate sound levels, defined by peak levels on a meter which may be set to a slow sample rate must not exceed:
  - 87 dB(A) for regulated devices at source; or
  - 76 dB(A) for regulated devices at 1 metre from source (for convenience);
  - 92 dB(A) for aircon/cooling equipment at source; or
  - 81 dB(A) for aircon/cooling equipment at 1 metre from source.

### 3.7 Noise Management Plan

A Noise Management Plan (NMP) must be prepared which demonstrates how the use will comply with Conditions 3.5 and 3.6 of this approval, as well as *Part 7 – Mitigation* and *Part 8 - Recommendations* included in the Review of Assessment prepared by A.P. Bleeksma dated 12 March 2024. The NMP must include, but not be limited to:

- (i) The applicant/developer/function organiser must maintain a website (not a social media page) which includes a calendar of functions including but not limited to any large function, functions operating after 6pm or any function that includes amplified music/noise. The calendar is required to provide notification to interested residents. The calendar must include contact details for the function organiser/function manager for the purposes of submitting and logging noise complaints.

- (ii) Maintain a complaints register which details the nature of each complaint, the time it was made, and the action taken to rectify the complaint. Following each event, the applicant must notify Council of all complaints and remedy actions. The complaints register must be made available to Council upon request.
- (iii) Noise monitoring at source point and/or 1 metre from source every hour to ensure ongoing compliance with noise limits listed in Condition 3.6
- (iv) No subwoofers are to be used at any time.
- (v) Guests must remain in the designated function area and must not wander throughout the property.
- (vi) Demonstrate how loitering in the designated car parking area/s, which may cause noise nuisance for residents, will be avoided and enforced.
- (vii) Provide further details as to how the applicant/developer/function organiser will ensure the conditions of this approval are complied with, in particular how the applicant/developer/Function organiser is going to ensure that all guests and staff have vacated the property by the mandated function end time.

The NMP must be endorsed by Council's delegated officer prior to the commencement of the use.

The NMP must be implemented for every function with the requirements made known to all function organisers.

### 3.8 Acoustic Compliance Report

An acoustic compliance report is to be submitted to Council within six (6) months of the commencement of the use, or after a combined six (6) medium or large functions are held that include amplified music. The Acoustic compliance report must demonstrate that the functions held in that period complied with the following:

- (i) Conditions 3.5 and 3.6 (where applicable);
- (ii) The endorsed Noise Management Plan;
- (iii) Inclusion of any other relevant conditions including in this Development Permit.

### 3.9 Noise Complaints

Should Council or the applicant/developer/function organiser receive ongoing complaints from any particular sensitive receptor/s, and Council officer determine that these complaints are substantiated, the applicant/developer/function organiser must purchase and set up a Type 1 sound logging device capable of recording and logging continuous noise at the property boundary of the complaint/s origin (the closest boundary to the subject site).

Source sound levels emitted from either regulated devices or aircon/cooling equipment from functions should be adjusted to ensure noise levels at the sensitive receptor/s comply with the maximum allowable limits outlined in the Review of Assessment prepared by A.P. Bleeksma dated 12 March 2024 (as derived from the Environmental Protection Act s440 and the Environmental Protection (Noise) Policy 2019 Acoustic Quality Objectives).

If regulated device or aircon/cooling equipment is required to be adjusted to achieve compliance, these adjusted noise levels (in dB(A)) must be applied to future functions held on-site and the Noise Management Plan must be amended to ensure ongoing compliance utilising adjusted noise levels.

Any amended Noise Management Plan with the revised noise levels must be endorsed by Council's delegated officer prior to being implemented.

#### 4. Infrastructure Services and Standards

##### 4.1 Access Crossover

A commercial access crossover must be upgraded/constructed (from the edge of Douglas Track to the property boundary) in accordance with FNQROC Development Manual standards, to the satisfaction of Council's delegated officer.

##### 4.2 External Works – Douglas Track

4.2.1 Douglas Track (from where the existing bitumen seal ends, to a point 10 metres past the site access) must be upgraded to a minimum 4.5m wide bitumen sealed carriageway with 1.2m wide gravel shoulders in accordance with Table D1.4 (<100 vehicle movements per day) of the FNQROC development Manual.

The upgrade of this section of the road should include a bitumen/asphalt or concrete seal upgrade (in accordance with FNQROC Standards) to the development access as well as any access crossover servicing Lot 90 on RP732904 and Lot 7 on RP748802.

The abovementioned works must be approved by Council as part of a subsequent application for operational works, and the works completed **prior to the commencement of the use.**

4.2.2 A Road Safety Assessment must be undertaken by a suitably qualified RPEQ that identifies safety risks for vehicles using Douglas Track (between the eastern side of the Douglas Track/Speedwah Road intersection and the subject site). The safety assessment should be consider (but not be limited to) the following:

- (i) Road geometry (horizontal & vertical).
- (ii) Carriageway width (pavement, seal and shoulders) – ability for opposing traffic to safely pass each other.
- (iii) Vehicle sightlines.

- (iv) Intersection treatments.
- (v) Causeway crossing including the sharp bends/approaches either side.
- (vi) Other roadside hazards.

The report should provide recommendations on practical treatments to reduce the risk of any hazards to acceptable levels (e.g. localised pavement widening, signage, linemarking, road edge delineation etc.). The report should be submitted to Council for review and agreed works should be undertaken by the applicant/developer at no cost to Council.

The abovementioned works must be approved by Council as part of a subsequent application for operational works.

The development application required for the operational works associated with 4.2.2 must be "properly made" to Council within 12 months of the commencement of the use. Once approved, the operational works must be completed within 6 months of the Decision Notice being issued for the operational works, or a further period agreed to by Council's delegated officer (for reasons relating to weather related construction delays or unforeseen engineering related delays only).

#### 4.3 Stormwater Drainage/Water Quality

- 4.3.1 The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.
- 4.3.2 All stormwater drainage must be discharged to an approved legal point of discharge.

#### 4.4 Car Parking/Internal Driveways

- 4.4.1 The applicant/developer must ensure that the development is provided with an informal space on site capable of accommodating up to 60 vehicles and three (3) buses with the added provision for spillover parking if required. No parking of guest or staff vehicles or buses is permitted to occur outside the property boundary or within road reserve.
- 4.4.2 All car parking spaces, and trafficable areas must be surface treated with gravel or maintained with an intact grass cover so as to minimise dust and erosion and must be appropriately drained prior to the commencement of the use, to the satisfaction of Council's delegated officer.
- 4.4.3 Should Council receive a substantiated dust nuisance complaint, the applicant/developer must install an appropriate surface treatment to the car parking area and other trafficable areas on-site to alleviate the nuisance, to the satisfaction of Council's delegated officer.

4.4.4 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.

4.5 Non-Reticulated Water Supply

The development must be provided with a potable water supply, which may be provided by catering staff, at each function location 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.

4.6 On-Site Wastewater Management

Should permanent ablutions facilities be constructed onsite, all on site wastewater disposal associated with these facilities 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.

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.

Portable toilets are authorised for use on-site for functions, however no black or grey water is to be disposed of on-site, unless through an approved on-site wastewater disposal system.

The applicant/developer/function organiser must ensure that adequate ablutions facilities are provided based on the size of each individual function.

4.7 Lighting

Lighting associated with evening and nighttime functions must be set up to minimise light spillage and not cause nuisance to any neighbouring property. Where permanent outdoor lighting is proposed, the developer shall locate, design and install lighting in order to prevent the potential for light spillage to cause nuisance to neighbours and must be provided in accordance with Australian Standard 1158.1 – Lighting for Roads and Public Spaces.

Illumination resulting from direct, reflected or other incidental light emanating from the subject land does not exceed eight (8) lux when measured at any point 1.5m outside the property boundary of the subject site. The lighting fixtures installed on site must meet appropriate lux levels as documented within Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting.

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5. Additional Payment Condition (section 130 of the Planning Act 2016)

- 5.1 The additional payment condition has been imposed as the development will create additional demand on trunk infrastructure which will create additional trunk infrastructure costs for council.
- 5.2 The developer must pay \$11,318.50 as a contribution toward trunk infrastructure with the amount of the contribution increased on 1 July each year in accordance with the increase for the PPI index for the period starting on the day the development approval takes effect, adjusted by reference to the 3-yearly PPI index average to the date of payment.
- 5.3 The trunk infrastructure for which the payment is required is:
- The trunk transport network servicing the land (\$11,318.50)
- 5.4 The developer may elect to provide part of the trunk infrastructure instead of making the payment.
- 5.5 If the developer elects to provide part of the trunk infrastructure the developer must:
- Discuss with Council's delegated officer the part of the works to be undertaken;
  - Obtain the necessary approvals for the part of the works;
  - Indemnify the Council in relation to any actions, suits or demands relating to or arising from the works;
  - Take out joint insurance in the name of the Council and the developer in the sum of \$20,000,000 in relation to the undertaking of the works;
  - Comply with the reasonable direction of Council officers in relation to the completion of the works;
  - Complete the works to the standards required by the Council; and
  - Complete the works prior to the commencement of the use.
- 5.6 The value, as agreed by Council's delegated officer, of the external works required under Condition 4.2.1 will be credited towards the additional payment required under Condition 5.2. Any credit will not exceed \$11,318.50.

**REFERRAL AGENCIES**

Not Applicable.

**APPROVED PLANS**

The following plans are Approved plans for the development:

Plan / Document Number	Plan / Document Title	Prepared by	Dated
AU009935-1C	Proposed Material Change of Use – Function Facility	RPS AAP Consulting Pty Ltd	17/07/2023

**ADVISORY NOTES**

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

(E) 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) The change in the use of building/s on-site may also require a change in the classification of the building/s under the Building Act. You are advised to contact a Building Certifier to establish if a change in the classification of the building is required.
- (c) 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.

- (d) 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.

- (e) 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](http://www.dcceew.gov.au).

(f) 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](http://www.dsdsatsip.qld.gov.au).

(g) Electric Ants

Electric ants are designated as restricted biosecurity matter under the *Biosecurity Act 2014*.

Certain restrictions and obligations are placed on persons dealing with electric ant carriers within the electric ant restricted zone. Movement restrictions apply in accordance with Sections 74–77 of the *Biosecurity Regulation 2016*. Penalties may be imposed on movement of electric ant carriers and electric ants in contravention of the legislated restrictions. It is the responsibility of the applicant to check if the nominated property lies within a restricted zone.

All persons within and outside the electric ant biosecurity zone have an obligation (a **general biosecurity obligation**) to manage biosecurity risks and threats that are under their control, they know about, or they are expected to know about. Penalties may apply for failure to comply with a general biosecurity obligation.

For more information please visit the electric ant website at [Electric ants in Queensland | Business Queensland](#) or contact Biosecurity Queensland 13 25 23.

PROPERTY NOTES

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

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

**SUBMISSIONS**

There were thirty (30) properly made submissions about the application. In accordance with the *Planning Act 2016*, the name, residential or business address, and electronic address of the principal submitter for each properly made submission is provided below:

	Name of Principal submitter	Address
1.	Karen Kaye	<a href="mailto:sanfrandisko@gmail.com">sanfrandisko@gmail.com</a>
2.	Sharon Taylor, Michael Kunze & Julia Williams	<a href="mailto:Mkz019@outlook.com">Mkz019@outlook.com</a>
3.	Jo-Anne Pine	37 Douglas Track, Speewah QLD 4881 <a href="mailto:jpine59@hotmail.com">jpine59@hotmail.com</a>
4.	Alison Ylstra	90 Veivers Drive, Speewah QLD 4881 <a href="mailto:alihoo@icloud.com">alihoo@icloud.com</a>
5.	Susie Ostwald on behalf of Tyron Steele, Suzanne Ansell, Trevor Hastie, Tracy Jordan, Trevor Jordan & Trevor Thompson	137 Veivers Drive, Speewah QLD 4881 <a href="mailto:sostwald74@gmail.com">sostwald74@gmail.com</a>
6.	Ruth Beasley	106 Douglas Track, Speewah QLD 4881 <a href="mailto:ruthbeasley@westnet.com.au">ruthbeasley@westnet.com.au</a>
7.	Sharlene Kemp	77 Kelly Road, Speewah QLD 4881 <a href="mailto:etteleahpark@bigpond.com">etteleahpark@bigpond.com</a>
8.	Helen & Brett Kinnane	143 Veivers Drive, Speewah QLD 4881 <a href="mailto:copyan@bigpond.com">copyan@bigpond.com</a>
9.	Anne Austin	<a href="mailto:Anne.austin@my.jcu.edu.au">Anne.austin@my.jcu.edu.au</a>
10.	Charlotte Doger De Speville	20 Douglas Track, Speewah QLD 4881 <a href="mailto:cds@bigpond.com">cgs@bigpond.com</a>
11.	Kuranda Conservation Community Nursery Inc.	1 Pademelon Lane, Kuranda QLD 4881 <a href="mailto:kurandaconservation@hotmail.com">kurandaconservation@hotmail.com</a>
12.	Elizabeth Younghusband	127 Ganyan Drive, Speewah QLD 4881 <a href="mailto:singwoyaya@bigpond.com">singwoyaya@bigpond.com</a>
13.	Christopher Shipley & Elaine Senini	112 Douglas Track, Speewah QLD 4881
14.	Steven Mott & Marylou Wise	10 Douglas Track, Speewah QLD 4881
15.	Peggy Ladner	16 Pioneer Close, Speewah QLD 4881
16.	MK Metcalfe	18 Pioneer Close, Speewah QLD 4881
17.	Theresa Coogan & Chains MacLeod	11 Whipbird Close, Speewah QLD 4881
18.	Val Howe & Dave Howe	136 William Smith Drive, Speewah QLD 4881
19.	Anne Fitzpatrick	144 Veivers Drive, Speewah QLD 4881
20.	Teagan Blankers & Nicholas Stemp	125 Veivers Drive, Speewah QLD 4881
21.	Laure Albarel-Hepburn	82 Veivers Drive, Speewah QLD 4881
22.	Cheryl Pow	23 Douglas Track, Speewah QLD 4881
23.	Kim & Cameron Beard	28 Veivers Drive, Speewah QLD 4881
24.	Josh Miller	23 Veivers Drive, Speewah QLD 4881
25.	Debra Arthur	32 Walnut Close, Speewah QLD 4881
26.	Merrilyn Hayes	197 Ganyan Drive, Speewah QLD 4881
27.	Karen Cutler & Warwick Blight	60 Possum Close, Speewah QLD 4881
28.	Suzy Grinter	70 Veivers Drive, Speewah QLD 4881
29.	Kuranda Envirocare and Friends of the Kuranda Tree Frog	PO Box 494, Kuranda QLD 4881 <a href="mailto:info@envirocare.org.au">info@envirocare.org.au</a>
30.	Terry & Barb Patmore	<a href="mailto:Wild.t@bigpond.com">Wild.t@bigpond.com</a>

**RIGHTS OF APPEAL**

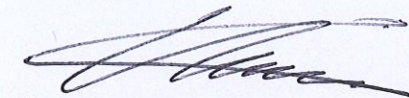
You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

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](http://www.msc.qld.gov.au), or at Council Offices.

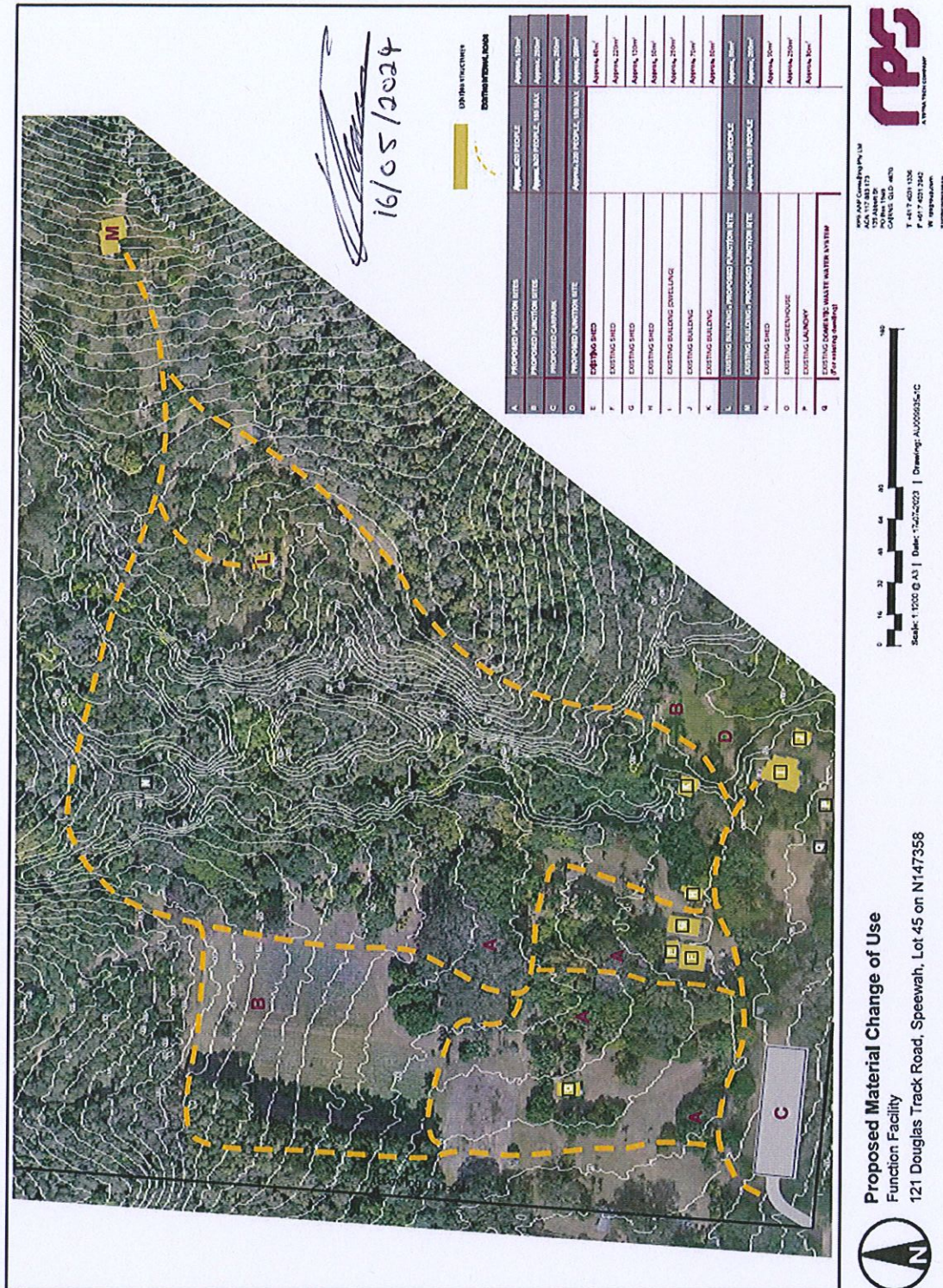
Yours faithfully



for **BRIAN MILLARD**  
**COORDINATOR PLANNING SERVICES**

Enc: Approved Plans/Documents  
Appeal Rights

# Approved Plans/Documents



## Appeal Rights

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

### Chapter 6 Dispute resolution

#### Part 1 Appeal rights

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

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

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

(Refer to Schedule 1 of the Planning Act 2016)

(2) An appellant may start an appeal within the appeal period.

(3) The **appeal period** is –

- (a) for an appeal by a building advisory agency – 10 business days after a decision notice for the decision is given to the agency; or
- (b) for an appeal against a deemed refusal – at any time after the deemed refusal happens; or
- (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises – 20 business days after a notice is published under section 269(3)(a) or (4); or
- (d) for an appeal against an infrastructure charges notice – 20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given – 30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for any other appeal – 20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note –*

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

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt. It is declared that an appeal against an infrastructure charges notice must not be about-

- (a) the adopted charge itself; or
- (b) for a decision about an offset or refund-
  - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
  - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

### 230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that-
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to –
  - (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.