



18 April 2018

F & L Zuvella
C/- Veris
PO Box 7627
CAIRNS QLD 4870

Planning Officer: Carl Ewin
Direct Phone: 4086 4656
Our Reference: BM:CE:nj
Your Reference: 32568

Dear Sir/Madam

Decision Notice

Planning Act 2016

I refer to your application and advise that on 18 April 2018, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No: MCU/17/0016
Street Address: 271 Springs Road MAREEBA QLD 4880
Real Property Description: Lot 1 on RP745857
Planning Scheme: Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision: Approval
Type of Approval: Development Permit for Material Change of Use
- Non-resident Workforce Accommodation
Date of Decision: 18 April 2018

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 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 for each stage of the development must be complied with to the satisfaction of Council’s delegated officer prior to the commencement of the use for each stage, except where specified otherwise in these conditions of approval.
 - 2.2 Prior to the commencement of use for each stage, the applicant must demonstrate to Council that all the conditions of the development permit for the relevant stage have been complied with, except where specified otherwise in these conditions of approval.
3. General

For Stage 1 and 2 (unless otherwise stated)

- 3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure or the additional payment condition/s within these conditions of approval.
- 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.

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- 3.3 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 for each stage and at the rate applicable at the time of payment.
- 3.4 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.
- 3.5 Noise Nuisance
- 3.5.1 The applicant/developer must ensure the use is operated and managed (including noise generated by residents) to not exceed a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations.
- 3.5.2 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.
- 3.6 Waste Management
- 3.6.1 On site refuse storage area/s must be provided and be screened from view from adjoining properties and road reserve by 1 metre wide landscaped screening buffer or 1.8m high solid fence or building.
- 3.6.2 Where bulk bins are used and are to be serviced on site, prior to the issue of a development permit for building works, 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.
- 3.7 Bushfire Management
- 3.7.1 The applicant/developer must ensure the development is provided with a minimum 5,000 litres of water storage for fire-fighting purposes in proximity to the approved use. Where tank storage is proposed, a 50mm male camlock fire brigade fitting must be installed.
- 3.7.2 A Bushfire Management Plan for the approved use, incorporating evacuation procedures for guests, must be prepared to the satisfaction of Council's delegated officer. The approved uses must comply with the requirements of the Management Plan at all times.

3.8 Length of Stay

The maximum length of stay for guests must not typically exceed 6 consecutive months, unless otherwise approved by Council's delegated officer.

3.9 Accommodation Capacity

For Stage 1

No more than 20 individual farm workers shall be accommodated on-site at any given time.

For Stage 2

No more than 40 individual farm workers shall be accommodated on-site at any given time.

3.10 Notification of Potential Rural Zone Impacts

The applicant is to erect signage in plain sight and in large legible writing at the kitchen/dining area, recreational area, and on each accommodation building advising residents that the subject land is zoned Rural under the Mareeba Shire Council Planning Scheme 2016 and is in a rural locality. The signage should generally state the following:

"Guests should take note:

- *The locality may be used for intensive rural uses;*
- *Guests may experience off site effects from rural activities, including noise, sprays and dust that may cause a loss of residential amenity. Existing and/or self-assessable agricultural and rural uses in the locality have a 'right to farm' or a right to legally continue the use."*

3.11 Residents accommodated by the approved use must be farm workers only.

The applicant/developer or any subsequent landowner/operator must keep a log book of all residents accommodated at the approved use which must include the dates of accommodation and the farm/s in which they were employed.

Any person not employed as a farm worker is not permitted to stay at the approved use.

3.12 Building Setback (Stage 2 only)

Both stage 2 accommodation buildings must be setback a minimum of 10 metres from the side and rear boundaries of the site.

4. Infrastructure Services and Standards

For Stage 1 and 2 (unless otherwise stated)

4.1 Access

The access crossover identified on the approved plan/s must be upgraded/constructed (from the edge of Springs Road and for a length of no less than 10 metres) in accordance with FNQROC Development Manual standards, to the satisfaction of Council's delegated officer.

Access to the development is limited to the abovementioned access only. No guests, visitors or service vehicles are permitted to access the approved use via any other site access point.

4.2 Stormwater Drainage/Water Quality

4.2.1 The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.

4.2.2 All stormwater drainage concentrated by the development must be collected from site and discharged to an approved legal point of discharge.

4.3 Car Parking/Internal Driveways

For Stage 1

4.3.1 Prior to the commencement of the use, the applicant/developer must ensure the development is provided with 2 minibus/van parking spaces which are available solely for the parking of vehicles associated with the approved use.

The parking spaces must be constructed to a compacted gravel standard, delineated and appropriately drained prior to the commencement of the use and must be maintained to this standard for the life of the development, to the satisfaction of Council's delegated officer.

For Stage 2

4.3.2 Prior to the commencement of the use, the applicant/developer must ensure the development is provided with 2 additional minibus/van parking spaces (4 total) which are available solely for the parking of vehicles associated with the approved use.

The parking spaces must be constructed to a compacted gravel standard, delineated and appropriately drained prior to the commencement of the use and must be maintained to this standard for the life of the development, to the satisfaction of Council's delegated officer.

For Stage 1 and 2

4.3.3 All internal driveways servicing the development must be upgraded/constructed to a compacted gravel standard and maintained for the life of the development, to the satisfaction of Council's delegated officer.

4.3.4 Car parking associated with the approved use is not permitted within the Springs Road road reserve at any time.

4.4 Fencing

For Stage 1

4.4.1 The applicant/developer must erect the following solid screen boundary fencing, at a height of 2.4 metres, and constructed of timber (overlapping palings) or colorbond/iron of neutral colour:

- (i) From the south-west corner of the site along the western boundary of the site to the southern end of the "existing shed" identified on the submitted plan/s; and
- (ii) From the south-west corner of the site along the southern boundary of the site to a point 10 metres past the easternmost "5 x 2 bed accommodation rooms" building identified on the submitted plan/s.

For Stage 2

4.4.2 The fencing required under 4.4.1 (ii) above must be extended along the southern boundary of the site to a point 10 metres past the easternmost accommodation building for Stage 2. The fencing must be of the height and standard required under 4.4.1.

All fencing must be erected prior to the commencement of the use for each stage and must be maintained in good order and safe repair for the life of the development, to the satisfaction of Council's delegated officer.

4.5 Water Supply

4.5.1 The development must be provided with a potable water supply that satisfies 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).

- 4.5.2 All non-potable water supplied to the development must be clearly labelled at each tap - Non-Potable Water - not safe for Human Consumption.

4.6 On-Site Wastewater Management

All on site effluent disposal associated with the approved uses 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.

5. Additional Payment Condition (For Stage 1 and 2)

- 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 Prior to the commencement of the use for each stage, the applicant/developer must pay a one-off payment of \$1,800.00 **per stage** 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 infrastructure servicing the land (roads)

- 5.4 The developer may elect to provide part of the trunk infrastructure instead of making the payments.

- 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.

REFERRAL AGENCIES

Not Applicable.

APPROVED PLANS

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
32568-001	Proposed Workers Accommodation on Lot 1 on RP745857	Veris	15/11/17

REFERENCED DOCUMENTS

Not Applicable.

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) The change in the use of the building may also require a change in the classification of the building 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.
- (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

PROPERTY NOTES

Not Applicable.

VARIATION APPROVAL

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

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

SUBMISSIONS

There was one (1) properly made submission 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.	Matthew Fealy for and on behalf of RT & SI Johnson	PO Box 51, Tolga QLD 4872

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

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 and 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

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- (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.