

Your Reference:

Our Reference: CW: RR: jw: 18-12 (FID85277, MCU003-18/19, 12093-35000-011, ID1428334, ID1431803)

Contact: Rentia Robertson

18 December 2018

Loula's Skin & Beauty
Attn: Jessica Bongers
Po Box 697
BILOELA QLD 4715

Dear Sir/Madam

Decision Notice – Approval

(Given under section s49(3) of the Planning Act 2016)

Application Number: *MCU003-18/19*
Description: *Home Based Business (Beauty Salon)*
Level of Assessment: *Impact Assessable*
Site Address: *11 Kookaburra, Page Place, 7-8 Gregory Court*
Lot & Plan Details: *Lot 11 on SP179691*

On 18 December 2018, under delegated authority the above development application was approved in full subject to conditions. The conditions of this approval are set out in Attachment 1. These conditions are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

1. Details of Approval

The following approval is given:

| | Planning Regulation 2017 reference | Development Permit | Preliminary Approval |
|--|---|-------------------------------------|-----------------------------|
| Making a Material Change of Use assessable under the planning scheme | | <input checked="" type="checkbox"/> | |

2. Approved Plans

The approved plan documents for this development approval are listed in the following table:

| Drawing/Report Title | Plan Name | Date |
|----------------------------|------------|------------|
| Floor Plan - Gregory Court | Floor Plan | 04/09/2018 |

3. Further Development Permits

Please be advised that there are no further development permits required.

4. Conflict with relevant instrument and reasons for the decision despite the conflict.

The assessment manager does not consider that the assessment manager's decision conflicts with a relevant instrument.

5. Submissions

There were no properly made submissions about the application.

6. Currency Period for the Approval

This development approval will lapse at the end of the period set out in section 85 of the *Planning Act 2016*.

7. Statement of Reasons

| | |
|---------------------------------------|--|
| Description of the development | Material Change of Use for a Home Based Business - Beauty Salon |
| Assessment Benchmarks | The approved development was assessed against the following benchmarks: Town Zone Code Development Standards Code Home Based Business Code Economic Resource Overlay - Agricultural Land Class Overlay Natural Features and Conservation Area Overlay - Catchment Overlay |

| | |
|---|---|
| Reasons for Decision | <u>Town Zone Code</u> |
| | The approved development complies with all Acceptable Outcomes of the Code. |
| | <u>Development Standards Code</u> |
| | The approved development complies with all Acceptable Outcomes of the Code. |
| | <u>Home Based Business Code</u> |
| The approved development complies with the Acceptable Outcomes of the Code. The proposal complies with the relevant Performance Outcomes of the Code. Conditions have been imposed to ensure ongoing compliance with PO2 and PO3. | |
| <u>Economic Resource Overlay - Agricultural Land Class</u> | |
| While identified on the Overlay Map, the current site area is insufficient to be considered a viable agricultural unit. | |
| <u>Natural Features and Conservation Area Overlay -</u> | |
| <u>Catchment Overlay-</u> | |
| The current site is mapped as located within the Catchment Overlay - Declared Sub Artesian Area No adverse impacts are expected as the proposal is located within the Town Zone, is connected to town water and is located within the sewerage serviced area. | |

8. Appeal rights

The rights of an applicant to appeal to a tribunal or the Planning and Environment Court against a decision about a development application are set out in chapter 6, part 1 of the Planning Act 2016. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the Planning Act 2016).

Appeal by an applicant

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

An applicant may also have a right to appeal to the Development tribunal. For more information, see schedule 1 of the Planning Act 2016.

Appeal by a submitter

A submitter for a development application may appeal to the Planning and Environment Court against:

- any part of the development application for the development approval that required impact assessment
- a variation request.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 229 of the Planning Act 2016.

Attachment 2 is an extract from the Planning Act 2016 that sets down the applicant's appeal rights and the appeal rights of a submitter.

The Planning and Environment Court appeals database lists all the appeals lodged in the Planning and Environment Court since 15 March 2008, which the department has been notified of. It contains information about the appeal, including the appeal number, site address, local government area, and a copy of the appeal notice, including grounds for the appeal. The appeal database is an easy way for anyone to obtain information about an appeal or check if an appeal has been lodged for a specific development application or approval.

The appeal database is available at

<https://planning.dsdmip.qld.gov.au/planning/our-planning-system/dispute-resolution>.

Should you require further assistance in relation to this matter, please do not hesitate to contact Council's Development Services section on (07) 4992 9500, quoting you application number of MCU003-18/19.

Yours Sincerely



Chris Welch

MANAGER ENVIRONMENT & PLANNING

Enc Attachment 1 – Part A Conditions imposed by the Assessment Manager
 Attachment 1 – Part B Assessment Manager Notes
 Attachment 2 – Appeal Rights
 Attachment 3 – Approved Drawings

MCU003-18/19 Attachment 1

Part A - Conditions imposed by the Assessment Manager

General

1. The proposed Material Change of Use is to be completed and carried out generally in accordance with the following approved plans and reports submitted with the Development Application, except where modified by the conditions of this Development Approval –

| Plan/Document number | Plan/Document name | Date |
|----------------------|----------------------------|---------------------------|
| - | Floor Plan - Gregory Court | Received on 04/09/2018 |

2. Comply with all of the conditions of this Development Approval prior to the commencement of the use, unless otherwise stated within this Decision Notice, and maintain compliance for the duration of the approved use.
3. Exercise the approval and complete all associated works, including any relocation or installation of services, at no cost to Council.
4. Alterations to public utilities, mains and services made necessary in connection with any of the works arising from this approval including works to restore and reinstate all roads are to be completed at no cost to Council.

Approved Use

5. The approved use of the premises is for Home Based Business (Beauty Salon) limited by the conditions of this development permit and must not be used for another type of Home Based Business, unless approved by Council. The scale of the approved use is to be consistent with the approved plans and any change requires further approval from Council.
6. A total of one advertising device, having a maximum sign face area of 0.6m² and not involving illumination or motion or flashing lights may be installed at the premises to advertise the approved Home Based Business.
7. The approved use must not operate outside the hours of 9.30am to 3pm, Monday to Friday, with the exception of Thursday when operations can continue from 9.30am to 6pm.
8. The Home Based Business must only be conducted by a maximum of 1 employee in addition to the resident/s of the house on the land.

9. The display and storage of goods and materials associated with the Home Based Business must not be visible at any property boundary.
10. The total number of visitors/customers associated with the Home Based Business must not exceed 8 persons per day in an average week.
11. Traffic movements generated by customers associated with the Home Based Business are limited to a total of 12 vehicle trips per day (where arriving is one trip and departing is another).
12. The operator of the Home Based Business is to ensure that customer appointments are scheduled at least 30 minutes apart and only one customer is scheduled to be at the premises at any one time to avoid customers waiting on the premises.
13. Vehicle parking associated with the dwelling and Home Based Business must be contained onsite. The car park shown on the approved plans must be allocated for customer parking only during operating hours.
14. The Home Based Business must not interfere with the amenity of the neighbourhood from the operation of machinery or electrical equipment, or from light, vibration, smell, fumes, smoke, vapour, dust, waste water, waste products, electrical interference or other forms of nuisance. Should Council receive a complaint about a nuisance/s associated with the Home Based Business, the use must cease until the source of the nuisance has been determined and addressed by the operator of the Home Based Business, to the satisfaction of Council.
15. This approval does not permit higher risk personal appearance services as in accordance with MP 5.2 Qld Development Code.

Waste Management

16. Waste must not be burned at the premises.

MCU003-18/19 Attachment 1

Part B – Assessment Manager Notes

Assessment Manager Notes

- A. In carrying out the activity or works associated with the development, all reasonable and practical measures are to be taken to minimise releases and the likelihood of releases of contaminants to the environment, except as otherwise provided by the conditions of this development approval.
- B. The applicant and or owner/s of the land and the person/s responsible for the management of the premise is/are to ensure ongoing compliance with conditions of this Development Permit including Conditions relating to the ongoing use of the premise, and the design and layout of the development.
- C. Pursuant to section 75 of the *Local Government Act 2009*, Council's written approval is required to carry out works on a road, or interfere with a road or its operation. This requirement applies to all Council-controlled roads within its local government area. The process for obtaining approval is set out in Council's *Local Law No. 1 (Administration) 2011*. Approval must be obtained prior to the commencement of the works.
- D. Please note the advice surrounding the applicants 'Environmental Obligations' contained in an attachment to the Decision Notice.
- E. Building works are to comply with the *Building Act 1975*, the Building Code of Australia and other relevant authorities.
- F. Failure to ensure ongoing compliance with the conditions of this Development Approval including conditions relating to the ongoing use of the premise, and the design and layout of the development may constitute an offence under the Planning Act.
- G. Where further development is proposed it is the applicant's / developer's responsibility to ensure further approvals are sought as required by the Banana Planning Scheme.

Noise

- A. Where a complaint has been received by Council about an environmental nuisance caused by noise emissions from the site, the operator of this activity must implement noise mitigation measures to address the complaint, as directed by Council. Such mitigation measures may include acoustic barriers, or limiting operations during sensitive times.

Environment & Health

A. Infection Control Requirements

Beauty Therapy is considered a non-higher risk personal appearance services under the Public Health (Infection Control for Personal Appearance Services) Act 2003. Non-higher risk personal appearance services are not required to be licensed with Council but are required to take all reasonable precautions and care to minimize the risk of infection to clients. This includes compliance with the Infection Control Guidelines for Personal Appearance Services.

Further, in order to comply with the infection control guidelines a business must have appropriate provision for hand washing, equipment washing, vermin proof storage, and surfaces that are easy to clean.

Cultural Heritage

- A.** This development approval does not authorise any activity that may harm Aboriginal cultural heritage. Under the Aboriginal Cultural Heritage Act 2003 you have a duty of care in relation to such heritage. Section 23(1) provides that, "A person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage".

Council does not warrant that the approved development avoids affecting Aboriginal cultural heritage. It may therefore be prudent for you to carry out searches, consultation, or a cultural heritage assessment to ascertain the presence or otherwise of Aboriginal cultural heritage. The Act and the associated duty of care guidelines explain your obligations in more detail and should be consulted before proceeding.

Attachment 2

Planning Act 2016 Extract on Appeal Rights

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 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.
- (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.

Attachment 3
Approved Drawings



Gregory Court

[Signature]
Banana Shire Council
PLANNING APPROVAL
18 DEC 2018