

**Your Reference:**

**Our Reference:** KH: RR mw: 21-04 (FID87104, MCU007-20/21, 12139-00000-000, ID1581578, ID1609153)

**Contact:** Rentia Robertson

28 April 2021

AB & TM Cook  
C/- Reel Planning CQ  
Attn: Brendan Standen  
PO Box 437  
ROCKHAMPTON QLD 4700

Dear Sir/Madam

**Negotiated Decision Notice – Approval**  
(Given under section 63 of the Planning Act 2016)

**Application Number:** MCU007-20/21  
**Description:** Low Impact Industry (Automotive Repair & Servicing) and Medium Impact Industry (Metal Fabrication)  
**Level of Assessment:** Impact Assessable  
**Site Address:** 62-76 DAWSON HIGHWAY, BILOELA  
**Lot & Plan Details:** Lot 1 on RP613646

On 27 April 2021, under delegated authority, your request for a Negotiated Decision Notice, received by Council on 30 March 2021, was approved to the extent detailed in this Notice. This Negotiated Decision Notice replaces the Decision Notice previously issued and dated 03 February 2021, approved 02 February 2021 under delegated authority.

### 1. Details of Approval

The following approval is given:

	<b>Planning Regulation 2017 reference</b>	<b>Development Permit</b>	<b>Preliminary Approval</b>
Making a Material Change of Use assessable under the planning scheme	s20	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## 2. Approved Plans

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

Plan/Document number	Plan/Document name	Date
SK-001 Project no: RP-043 Rev %	Site Plan – Proposed Industry Activities prepared by Design Architects as amended in red	08/12/2020

## 3. Further Development Permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- Operational Works

## 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. Referral Agencies

The referral agency for this application was:

Name of referral agency	Advice agency or concurrence agency	Referral Basis	Address
Chief Executive - Queensland Treasury - State Assessment Referral Agency (SARA)	Concurrence	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4	RockhamptonSAR A@dsmip.qld.gov.au  Fitzroy & Central Region PO Box 113 ROCKHAMPTON QLD 4701

## 7. 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*.

## 8. Statement of Reasons

<b>Description of the development</b>	Material change of use for a Low Impact Industry (Automotive Repair and Servicing) and Medium Impact Industry (Metal Fabrication)
<b>Assessment Benchmarks</b>	Town Zone Code Development Standards Code Natural Features and Conservation Area Overlay Economic Resources Overlay Code
<b>Reasons for Decision</b>	<p><u>Town Zone Code</u> The development complies or has been conditioned to comply with all applicable Acceptable Outcomes. Conditions imposed to PO2 in relation to Amenity.</p> <p><u>Development Standards Code</u> The development complies or has been conditioned to comply with all applicable Acceptable Outcomes. Conditions imposed as follows: PO2 Vehicular access and Driveway Crossovers PO3 Parking and Loading provision PO5 Car park design PO6 Impacts on the amenity PO7 Service vehicle provisions PO12 Stormwater drainage PO13 Erosion and sediment control PO17 Landscaping PO18 Retaining walls and Fences</p> <p><u>Natural Features and Conservation Area Overlay</u> The development complies or has been conditioned to comply with all applicable Acceptable Outcomes.</p> <p><u>Economic Resources Overlay Code</u> The development complies or has been conditioned to comply with all applicable Acceptable Outcomes.</p>

## 9. 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.

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 MCU007-20/21.

Yours Sincerely



Dr Keith Halford  
**MANAGER ENVIRONMENT & PLANNING**

CC All Referral Agencies (both advice and concurrence)

State Assessment and Referral Agency (SARA)  
[rockhamptonSARA@dilgp.qld.gov.au](mailto:rockhamptonSARA@dilgp.qld.gov.au)

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

# Attachment 1

## Part A - Conditions imposed by the Assessment Manager

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### 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
SK-001 Project no: RP-043 Rev %	Site Plan – Proposed Industry Activities prepared by Design Architects as amended in red	08/12/2020

- 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 - Low Impact Industry

- 5 The approved use of the premises is for a Low Impact Industry (Automotive Repair and Servicing) with operating hours of 6am to 6pm, Monday to Saturday.
- 6 All servicing and repairing of automotive vehicles occurs within an enclosed building with an impervious surface treatment.
- 7 Oil filters are stored within the enclosed building until collection.
- 8 No pollutants are to be released into soils or discharge to stormwater.

### Approved Use - Medium Impact Industry

- 9 Medium Impact Industry (Metal Fabrication) that involves:
  - a Welding and cutting volumes of up to 200 kilograms per week.
  - b Hours of operation between 8:00am to 5:00pm Monday to Friday.

## **Lighting**

- 10 Any lighting or illuminations including driveway lighting, down lighting from the premises are to be designed in accordance with Australian Standard: AS 4282 Control of the obtrusive effects of outdoor lighting, to ensure that no nuisance is caused to adjoining or adjacent premises and to road users.
- 11 Security and flood lighting is to be directed away from adjacent premises to minimise the protrusion of light outside the site.

## **Road work and access**

- 12 Contact is to be made with "Dial Before You Dig" before construction of any of the work commences in order to determine the location of any underground services adjoining the premises. Any damage to any services are to be repaired at no cost to Council.
- 13 Any damage to the existing road surface, services or furniture as a result of construction work is to be repaired to the pre-existing condition or better condition at no cost to Council.

## **Water and Sewerage Infrastructure**

- 14 All redundant water services are to be removed at no cost to Council. The water connection shall be through a single water supply connection. Separate application is to be made to Council for any new or enlarged connection.
- 15 Construction works in the vicinity of Councils water or sewerage infrastructure must not adversely affect the integrity of that infrastructure. Any work associated with the repair, replacement or alteration to the infrastructure is to be completed at no cost to Council.
- 16 The on-site sewerage system is to be maintained and the removal of waste is to be transported and disposed of through a licenced liquid waste collection service on a regular basis.

## **Contaminated Water**

- 17 A suitable Containment and Treatment system must be installed to capture any potentially contaminated water from the washdown bay, and prevent discharge of potentially contaminated water to groundwater, surface waters or the stormwater system.
- 18 Oil, grease, and other hydrocarbons separated by the Containment and Treatment system are to be removed by a licenced trade waste contractor to an approved waste treatment facility.

- 19 Contaminated water must not be directly or indirectly released from the premises.

### **Storage of Fuel, Oil and Chemicals**

- 20 Fuel, oils and chemicals must be stored within secondary spill containment when not in use or awaiting collection by a regulated waste transporter.

### **Operational works**

- 21 Prior to the commencement of site works, the applicant/developer must obtain an Operational Works approval from the Assessment Manager for all works defined in *Part B - Assessment Manager Notes – Engineering A*, and construction plans must be endorsed by the Assessment Manager. Once endorsed, the plans will form part of this approval and must be constructed to the satisfaction of the Assessment Manager. The construction plans must be in accordance with the Capricorn Municipal Design Guidelines (CMDG) and endorsed by a Registered Professional Engineer (RPEQ). The endorsed plans are to address all Conditions as part of this approval.
- 22 Prior to the commencement of use, all works approved in the Operational Works approval must be completed to the satisfaction of the Assessment Manager.

### **Crossover and Driveways**

- 23 The crossover/driveways to service the approved uses as part of this approval are to be constructed in accordance with an Operational Works approval and as per the following:
- a The vehicle crossover is to be constructed as per the proposed plan and in accordance with the requirements of the Capricorn Municipal Development Guidelines (Standard Drawing CMDG-R-042 or CMDG-R-043). Please note that the dimensions listed on this standard drawing are considered the minimum required for compliance.

### **Vehicle Parking and Manoeuvring Areas**

- 24 Detailed site plan/s is to be prepared by a qualified person and endorsed by an RPEQ is to be submitted for approval as per the requirements of the Capricorn Municipal Development Guidelines and relevant Australian Standards. This plan is to show the following:
- a Parking spaces as specified in Condition 25.
  - b Loading Bay as specified in Condition 26.
  - c Disability Parking as specified in Condition 25 a.
  - d Details of ground treatment at parking locations and site access.
  - e Vehicle manoeuvring paths and pedestrian footpaths.

- 25 A minimum of 17 car parking spaces must be provided and marked on the site for the use of the Low and Medium Impact Industries. The spaces are to be made available and accessible at all times while the uses are open for business. The works must be undertaken in accordance with an Operational Works approval and must include in particular:
- a A *minimum of 1* disabled parking space within the total number of car parking spaces delineated as per the requirements of the Manual of Uniform Traffic Control Devices (MUTCD) and in accordance with AS2890; and
  - b Crossfalls and gradients in accordance with Australian Standard AS2890: *Parking Facilities*
- 26 A minimum of 1 loading bay must be provided and marked on the site for the Low Impact Industrial's use. Loading bay is to be made available and accessible at all times while the use is open for business. The works must be undertaken in accordance with an Operational Works approval and must include in particular:
- a Loading bay is clearing marked and delineated, accessible at all time for use, and fully contained within the title boundaries.
  - b Designed in accordance with AS2890.2 and any other relevant Australian or Austroads Standards.
- 27 All car parking areas and access driveways must be maintained exclusively for vehicle parking and manoeuvring and kept in a tidy and safe condition at all times.
- 28 All vehicle car parking spaces that adjoin a landscaped area must include a 150mm high vertical concrete kerb or similar obstruction to prevent encroachment.
- 29 No vehicle storage or parking is permitted on the adjoining road reserve or on areas outside of the approved areas of this application.
- 30 Directional signage must be provided to direct visitors and customers to all off-street car parking that is proposed to be on site.
- 31 All service and heavy vehicles must enter and exit the site in a forward gear.

### **Landscaping/Streetscaping**

- 32 **(Amended 27 April 2021)** Landscaping to be planted on the inside of the front boundary to the frontage of the site from the eastern boundary to the western site access, excluding any building areas. Landscaping is to be, ~~with~~ a minimum width of 2m composing of native species. Proposed vegetation is required to have either a maximum height of 0.5m or a minimum clear trunk height of 1.5m at maturity.



- 33 (Amended 27 April 2021) A **detailed** site landscaping plan is to be submitted for approval as part of the Operational Works application. The plans ~~are to be prepared by a qualified person and~~ are to be in accordance with the requirements of the Capricorn Municipal Development Guidelines and relevant Australian Standards. ~~This plan is to show the following:~~
- ~~a Landscape specification of sufficient detail so that landscape works can be carried out;~~
  - ~~b Details of vegetation retained and proposed to be removed;~~
  - ~~c The type and location of all proposed plant species, including the nominal height attained by these species in two years and at maturity; and~~
  - ~~d Details of any irrigation system proposed.~~

All landscaping must be constructed and/or established in accordance with the Operational Works Application and must incorporate the use of tree, shrubs and groundcover plantings from Part6 Division 8 Schedule F.

- 34 (Amended 27 April 2021)~~The landscaping is to be maintained by the developer (i.e. watering, fertilising, mulching, weeding, and the like) at all times to the satisfaction of the Assessment Manager.~~

Landscaping, or any part thereof, upon reaching full maturity, must not:

- a Obstruct sight visibility zones as defined in the Austroads 'Guide to Traffic Engineering Practice' series of publications;
- b Adversely affect any road lighting or public space lighting; or
- c Adversely affect any Council infrastructure, or public utility.

The landscaped areas must be subject to:

- a A watering and maintenance plan during the establishment phase; and
  - b An ongoing maintenance and replanting program.
- 35 (Deleted 27 April 2021) ~~Any proposed landscaped/streetscaping works within Council's Road Reserve must comply with the requirements of the Capricorn Municipal Development Guidelines (Standard Drawing CMDG-G-016).~~

### **Erosion and Sediment Control**

- 36 Detailed Erosion and Sediment Management Plan, and associated engineered drawings, is to be provided to Council as part of the Operational Works application and in accordance with development guidelines. This Plan must comply with the Capricorn Municipal Development Guidelines.

- 37 During construction, the Developer is to undertake sedimentation and erosion control management as per the approved Erosion and Sediment Management Plan.

### **Stormwater Drainage**

- 38 Stormwater Management is to be undertaken in accordance with the approved Site Plan of this approval, as part of the Operational Works Application.
- 39 The stormwater drainage system serving the site is to be designed so that the development will not make material changes to the pre-development location, duration, frequency or concentration of overland stormwater flow at the point of discharge to all downstream properties including road reserves.
- 40 Stormwater formerly flowing onto the site must not be diverted onto other properties.
- 41 **(Amended 27 April 2021)** All stormwater being discharged from the site is to meet the requirements of the Capricorn Municipal Development Guidelines. ~~and the Queensland Water Quality Guidelines 2009:~~
- ~~a Contaminated water must not be directly or indirectly released from the premises onto the ground or into the groundwater at the premises.~~
  - ~~b Releases to stormwater must not cause any visible oil slick or other visible evidence of oil or grease, nor contain visible grease, scum, litter or floating oil.~~

### **Fencing**

- 42 A visual screen fence between the neighbouring accommodation facility on Lot 8 SP157702 and Medium Impact Industry must be constructed as part of the Operational Works application. Design and approval of the fence is to be in accordance with relevant Australian Standards, Capricorn Municipal Development Guidelines, and the following:
- a The screen fence must be a minimum height of 1.8 metres
  - b The screen must traverse a minimum of two thirds of the common property boundary starting from the rear alignment.
- 43 Construction and maintains of the screen fence is to be by the applicant/developer at no expense to council.

### **Amenity**

- 44 The premises must be maintained in a safe and tidy manner at all times.
- 45 All mechanical plant and equipment fitted to service the approved use such as air-conditioning units, external freezers and air compressors are to be

designed to incorporate acoustic attenuation or housed and screened to ensure prescribed noise levels are not exceeded, so that no harm or nuisance is caused to sensitive receptors.

- 46 Ensure that all reasonable and feasible avoidance and mitigation measures are employed so that noise, air, odour and light emissions generated by and associated with the approved use do not create a nuisance at any sensitive land use.
- 47 Where a complaint has been received by the applicant about an environmental nuisance, the applicant must keep a record of the complaint, and make available for council inspection including details of any investigation, monitoring or action undertaken.
- 48 The applicant /developer is to ensure that there are no impacts on adjoining land resulting from dust emissions. Any genuine complaint of nuisance caused by dust will require the proposed parking, storage and vehicle manoeuvring areas for the commercial vehicles to be paved or sealed to Council's satisfaction for the prevent of dust generation.

#### **Waste Management**

- 49 Waste must not be burned at the premises.
- 50 Waste must be recycled where recycling services are feasibly available.
- 51 The hours of servicing the refuse storage area is to be between 7am to 5pm daily.

**END OF CONDITIONS**

# Attachment 1

## *Part B - Assessment Manager Notes*

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- A** The approved development must also comply with Council's current Local Laws under the *Local Government Act 2009*.
- B** 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 2016*.
- C** The applicant is responsible for ensuring Queensland Fire Services requirements are met with respect to this development which may include but not be limited to the installation/upgrade of holding tanks or pumps as necessary to meet flow and pressure requirements.
- D** 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.
- E** 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.
- F** 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.
- G** 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.
- H** Please note the conditions dated 13 November 2020 imposed by the State Assessment and Referral Agency (SARA) as a concurrence agency and attached to this Decision Notice.

## Engineering

- A** Prior to commencing any of the following construction activities the applicant/developer will be required to obtain a development permit for Operational Works:
- i** Internal road works;
  - ii** External road works;
  - iii** Internal and external pathways;
  - iv** Earthworks;
  - v** Stormwater drainage ;
  - vi** Erosion and sediment control;
  - vii** Electricity and communication layout;
  - viii** Internal and external lighting; and
  - ix** Landscaping
- B** Operational works designs are to be in accordance with Capricorn Municipal Development Guidelines - CMDG Design Specifications and Standard Drawings ([www.cmdg.com.au](http://www.cmdg.com.au)), unless otherwise stated in a condition of the Development Approval.
- C** All works required pursuant to these conditions shall be undertaken and completed in accordance with Council's Standards - Capricorn Municipal Development Guidelines ([www.cmdg.com.au](http://www.cmdg.com.au) ) at the Applicant's expense.
- D** Approval from the Department of Transport and Main Roads for the final design of the crossover/driveway to the site from (insert road name), must be submitted in writing to Council prior to the commencement of construction.
- E** Any works on roads shall be conducted in accordance with the Queensland Department of Transport and Main Roads, "Manual of Uniform Traffic Control Devices – Part 3".
- F** All damage incurred to existing roads, footpaths, services or street furniture as a result of the proposed development shall be repaired within a reasonable period at the developer's expense. No expense will be borne by the Banana Shire Council.
- G** Appropriate building measures are to be incorporated into the final design to cater for noise attenuation in accordance with the Queensland Development Code, the Building Code of Australia, the Environmental Protection Act 1994, and all relevant standards.
- H** Any upgrades/amendments to the existing service connections that may be necessitated by this development shall be undertaken at the applicant's expense. Only one (1) water meter/connection, connection point is permitted per allotment.

- I All redundant services are to be removed by the applicant and inspected by Council's plumbing inspector or nominated representative prior to backfilling.
- J **(Added 27 April 2021) Any proposed landscaped/streetscaping works within Council's Road Reserve must comply with the requirements of the Capricorn Municipal Development Guidelines (Standard Drawing CMDG-G-016).**

### **Signage**

- A All proposed signage shall be the subject a separate approval for a development permit pursuant to the Banana Shire Planning Scheme.

### **General Environmental Duty**

- A The *Environmental Protection Act 1994* lists obligations and duties to prevent environmental harm, nuisances and contamination. The two primary duties that apply to everyone in Queensland are:  
**general environmental duty** – which means a person must not carry out any activity that causes or is likely to cause environmental harm, unless measures to prevent or minimise the harm have been taken; and  
**duty to notify of environmental harm** – to inform the administering authority and landowner or occupier when an incident has occurred that may have caused or threatens serious or material environmental harm.
- B It is an offence under the *Environmental Protection Act 1994* to cause environmental nuisance. Environmental nuisance includes unreasonable interference caused by noise, dust, fumes, odour, smoke, aerosols, particles or light.

### **Code of Practice for Motor Vehicle Workshop Operations**

- A A guidance document titled 'Code of Practice for Motor Vehicle Workshop Operations' has been produced by the Queensland Government Department of Environment and Science. Compliance with the Code will assist the applicant in identifying and managing potential impacts to the environment and comply with the *Environmental Protection Act 1994*.

### **Noise**

- A Activities must be managed such that noise emissions from the premises do not cause harm or nuisance to adjoining residents and comply with the requirements of the *Environmental Protection Act 1994* and *Environmental Protection (Noise) Policy 2019*.

**B** Noise must not be emitted outside the hours specified below-

Noise Source	Allowable Hours
Regulated devices (eg mowers, power tools, compressors, leaf blowers, nail guns etc)	7:00am to 7:00pm Monday to Saturday 8:00am to 7:00pm Sundays and public holidays
Amplifier devices (other than indoor venues and open air events)	7am to 10pm Business days 8am to 6pm Other days

**C** All noise producing machinery and equipment (including air conditioners, compressors and cooling systems) are to be fitted with noise attenuation features so that noise at a sensitive receptor does not exceed the levels indicated in Schedule 1 of the *Environmental Protection (Noise) Policy 2019* as follows -

**Schedule 1 Acoustic quality objectives**

Column 1	Column 2	Column 3		
Sensitive receptor	Time of day	Acoustic quality objectives (measured at the receptor) dB(A)		
		L <sub>Aeq,adj,1hr</sub>	L <sub>A10,adj,1hr</sub>	L <sub>A1,adj,1hr</sub>
residence (for outdoors)	daytime and evening	50	55	65
residence (for indoors)	daytime and evening	35	40	45
	night-time	30	35	40
commercial and retail activity (for indoors)	when the activity is open for businesses	45		

**Air**

**A** Suitable dust suppression should be used and/or screens or barriers should be erected, where required during construction works, to reduce the emission of dust or other such emissions from the site.

**B** Air and light emissions must be appropriately managed to prevent environmental nuisance beyond the boundaries of the property during all stages of the development including earthworks and construction.

**C** All artificial illumination is to be designed and installed so as not to cause a nuisance to occupants of nearby premises and any passing traffic. Security

and flood lighting is to be directed away from adjacent premises to minimise the protrusion of light outside the site.

### **Water and Stormwater**

- A** It is an offence under the *Environmental Protection Act 1994* to discharge the following to a roadside gutter or a water course:
  - i** sand, silt, mud and other such contaminants
  - ii** oils, chemicals, cement or concrete, paint, thinner, degreaser, rubbish and other such contaminants
- B** Any oil, waste oil, paints and chemicals kept on site are to be stored within a bund or otherwise in a manner that will prevent spills onto land or into stormwater.
- C** D6 Appropriate material must be kept on site for the containment and clean-up of spills, and any spills of oils, paints, chemicals etc must be contained and cleaned up as soon as possible.

### **Waste**

- A** It is an offence under the *Waste Reduction and Recycling Act 2011* to leave litter behind or allow litter to blow from site. All waste must be appropriately contained on site prior to removal.
- B** All regulated waste must be collected by a licensed contractor and taken to an approved waste disposal facility by an approved transporter.
- C** Trap Gully Landfill is the only approved waste facility within the Banana Shire for the disposal of commercial waste. No commercial waste is to be deposited at other Banana Shire landfills or transfer stations without prior written approval from Council.
- D** Any building repairs involving asbestos material must be undertaken in accordance with Workplace Health and Safety requirements.
- E** Regulated waste (including asbestos) is only to be disposed of at Trap Gully Landfill and an application form must be completed and approved prior to disposal.

### **Biosecurity**

- A** Section 23 of the *Biosecurity Act 2014* outlines the General Biosecurity Obligation. All landowners have a General Biosecurity Obligation (GBO) for managing biosecurity risks that are under their control and that they know about or should reasonably be expected to know about. All individuals and organisations whose activities pose or is likely to pose a biosecurity risk must:



- i take all reasonable and practical measures to prevent or minimise the biosecurity risk
- ii minimise the likelihood of causing a biosecurity event and limit the consequences if such an event occurs
- iii prevent or minimise the harmful effects a biosecurity risk could have
- iv not do anything that might make any harmful effects of a biosecurity risk worse

A biosecurity risk exists when you deal with any pest, disease, weed or contaminant. This includes moving an animal, plant, turf, soil, machinery and/or equipment that could carry a pest, disease, weed or contaminant.

### **Local Laws – overgrown allotment and/or accumulated objects**

- A It is an offence under *Local Law No.3 (Community and Environmental Management) 2011*, to allow an allotment to become overgrown with vegetation and/or accumulate objects to an extent that seriously effects visual amenity and/or is likely to harbor or attract reptiles.

### **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.

### **Declared Pests/Plants**

- A A landowner has an obligation to take reasonable steps to keep their land free of invasive plants and animals in accordance with the *Biosecurity Act 2014*. Consideration should be given to appropriate treating of invasive plants, where necessary, in the construction and operational phases of the proposed development to meet the obligations under this Act.

### **Mosquito breeding**

- A The site is required to be appropriately drained, and equipment appropriately maintained so that water is not allowed to accumulate or pond

in a manner that may allow mosquito breeding, as required under the *Public Health Regulation 2018*.

**END OF NOTES**

# **MCU007-20/21 Attachment 1**

*Part C - Conditions imposed by the Queensland Treasury*

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**Queensland Treasury**

SARA reference: 2010-19450 SRA  
Council reference: MCU007-20/21

13 November 2020

Chief Executive Officer  
Banana Shire Council  
PO Box 412  
Biloela Qld 4715  
enquiries@banana.qld.gov.au

Dear Sir/Madam

## SARA response—62-76 Dawson Highway, Biloela

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 28 October 2020.

### Response

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Outcome:	Referral agency response – with conditions.
Date of response:	13 November 2020
Conditions:	The conditions in <b>Attachment 1</b> must be attached to any development approval.
Advice:	Advice to the applicant is in <b>Attachment 2</b> .
Reasons:	The reasons for the referral agency response are in <b>Attachment 3</b> .

### Development details

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Description:	Development permit	Material change of use for low impact industry (automotive repair & servicing) and medium impact industry (metal fabrication)
SARA role:	Referral Agency	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 (Planning Regulation 2017)	
		Development application for a material change of use within 25m of a state transport corridor
SARA reference:	2010-19450 SRA	

Assessment Manager: Banana Shire Council  
Street address: 62-76 Dawson Highway, Biloela  
Real property description: 1RP613646  
Applicant name: AB & TM Cook  
Applicant contact details: PO Box 2088  
Milton QLD 4064  
rachel@reelplanning.com

## Representations

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An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules) Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Jonas Griffin Fodaro, Planning Officer, on 49242915 or via email RockhamptonSARA@dsmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Anthony Walsh  
Manager Planning

cc AB & TM Cook, rachel@reelplanning.com

enc Attachment 1 - Referral agency conditions  
Attachment 2 - Advice to the applicant  
Attachment 3 - Reasons for referral agency response  
Attachment 4 - Representations provisions

## Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application)

No.	Conditions	Condition timing
<b>Material change of use</b>		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	<p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.</p> <p>(b) Any works on the land must not:</p> <ul style="list-style-type: none"> <li>(i) create any new discharge points for stormwater runoff onto the state-controlled road;</li> <li>(ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road;</li> <li>(iii) surcharge any existing culvert or drain on the state-controlled road;</li> <li>(iv) reduce the quality of stormwater discharge onto the state-controlled road.</li> </ul>	At all times.

## Attachment 2—Advice to the applicant

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General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v2.6. If a word remains undefined it has its ordinary meaning.

## **Attachment 3—Reasons for referral agency response**

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(Given under section 56(7) of the *Planning Act 2016*)

### **The reasons for the SARA's decision are:**

- The proposal is to regularise two existing small industry businesses occurring over the site
- No new building works are proposed
- A condition is to be imposed to ensure the development does not result in any worsening of, stormwater, flooding or drainage impacts on the state-controlled road (Dawson Highway).
- The proposal is considered to comply with the State Development Assessment Provisions (version 2.6), specifically State code 1: Development in a state-controlled road environment with condition(s).

### **Material used in the assessment of the application:**

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version 2.6), as published by the SARA
- The Development Assessment Rules
- SARA DA Mapping system



## **Attachment 4—Change representation provisions**

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## Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules<sup>1</sup> regarding **representations about a referral agency response**

### Part 6: Changes to the application and referral agency responses

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#### 28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
  - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
  - (c) the applicant has given written agreement to the change to the referral agency response.<sup>2</sup>
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
  - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

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<sup>1</sup> Pursuant to Section 68 of the *Planning Act 2016*

<sup>2</sup> In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

## **Part 7: Miscellaneous**

### **30 Representations about a referral agency response**

30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.<sup>3</sup>

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<sup>3</sup> An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

## Attachment 2

# Planning Act 2016 Extract on Appeal Rights

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### 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**

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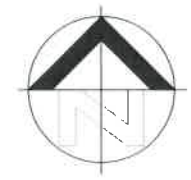


1 Site Plan  
1:1000 @ A3

drawing title:  
**SITE PLAN**

drawing no: **SK-001**

project no: **RP-043**



project: **A3 DRAWING** NOTED SCALES RELATE TO A3 DRAWINGS  
**PROPOSED INDUSTRY ACTIVITIES AND SHOP - NOT PART OF THIS APPROVAL**  
 location: 62-76 Dawson Highway, Biloela - LOT NO. 1 RP613646  
 client:

REV	DESCRIPTION	DATE
1	PRELIMINARY	09/09/2020
2	PRELIMINARY	21/09/2020
3	PRELIMINARY	21/09/2020
4	PRELIMINARY	30/10/2020

**PRELIMINARY SKETCH PLANS:**  
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ISSUED FOR	
<b>PRELIMINARY</b>	
scale: As indicated	rev: 4
date: OCT 20	
drawn: AUTHOR	

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