

Decision Notice

Planning Act 2016

16th April, 2021

G & K Wassmuth Family Trust Pty Ltd
9 Ross Street
Ayr Qld 4807
wassmuthautomotive@hotmail.com

Dear Sir/Madam,

I refer to your application and advise that Development Application No. **MCU21/0001** was assessed and approved in full subject to conditions. The decision was made by the Assessment Manager on the date below.

Details of decision are as follows:

Application Details

Application Number:	MCU21/0001
Street Address:	11 Ross Street, Ayr
Real Property Description:	Lot 55 on RP709781
Planning Scheme	Burdekin Shire IPA Planning Scheme

Decision Details

Type of Decision:	Approval with conditions
Type of Approval:	Development Permit - Material Change of Use for Vehicle Servicing and Mechanical Workshop
Date of Decision:	13 th April, 2021.

Currency Period of Approval

The currency period for this development approval is 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*.)

Please note that in terms of the Planning Act, the currency period can only be extended if the request is received before the approval lapses (see Section 85 "Lapsing of approval at end of currency period")

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

General

- 1.1 The development and conduct of the approved use of the premises, the carrying out and maintenance of any works on the premises and construction and maintenance of any building on the premises must be generally in accordance with the applications supporting material including all drawings/documents, except where modified by the conditions of this Development Permit and any approval issued there under.
- 1.2 Where a discrepancy or conflict exists between the written condition(s) of the approval and the approved plans, the requirements of the written condition(s) will prevail.
- 1.3 The proposed development must comply with all Planning Scheme requirements as applying at the date of this approval, except as otherwise specified by any condition.
- 1.4 Prior to commencement of the use a Site Based Management Plan (SBMP) shall be developed, implemented and complied with, which deals with controls on:
 - External lighting;
 - Noise emissions;
 - Dust emissions; and
 - Odour emissions.

The SBMP will need to be submitted and approved by the Chief Executive Officer prior to commencement of any lawful use is to be carried out on the subject land.
- 1.5 All activities including deliveries associated with the use may operate only between the hours of 7:00am to 6:00pm Monday to Friday and 8:00am to 1:30pm Saturday. There must be no operation on Sundays or public holidays.
- 1.6 The maximum number of employees allowed onsite during these hours of operation is (5) five.
- 1.7 The use of the development must not cause an unreasonable nuisance to the surrounding area.
- 1.8 The operator of the Mechanical Workshop must keep a Complaints Register on the land at all times, for the inspection of an authorised office of the Council identifying:
 - The time, date and detail of any complaint made to the operator relating to the use of the workshop; and
 - Any action or response taken by the operator to rectify or reasonably deal with the complaint.
- 1.9 Proposed landscaping is to be in accordance with the supporting material and completed prior to commencement of use.

Approved Plans

- 2.(a) The proposed development must be completed and maintained generally in accordance with the drawing/documents identified in the Table below, except as otherwise specified by any condition of this approval.

Drawing Title	Drawing/Revision	Date
Proposed Site Development & Floor Plan	TFBD-20037 A02 P3	22.10.20

- (b) Where a discrepancy or conflict exists between the written condition(s) of the approval and the approved plans, the requirements of the written condition(s) will prevail.
- (c) The proposed development must comply with all scheme requirements as applying at the date of this approval, except as otherwise specified by any condition of this approval.
- (d) The development must be constructed in the position and at the levels identified on the approved plans or as stipulated by a condition of this approval, noting that all boundary setback

measurements are taken from the real property boundary and not from such things as road bitumen or fence lines.

Compliance with conditions

3. The proposed development must comply with all conditions of this development permit prior to the commencement of the use.

Outstanding charges

4. All rates and charges (including regulated infrastructure charges), in arrears in respect of the land, subject of the application, are paid in full prior to the commencement of the proposed use.

Notice of Intention to commence the use

5. Prior to the commencement of the use on the site, written notice must be given to Council that the use (development and/or works) fully complies with the decision notice issued in respect of the use.

Public Utility Services/Damage

- 6.1 The developer must at its own cost undertake all necessary alterations to public utility mains and services as are rendered necessary by the carrying out of any required external works or other works associated with the approved development.
- 6.2 Any damage which is caused to Council's infrastructure as a result of the proposed development must be repaired immediately.

Building Work

- 7.1 A development permit for Building Works is to be obtained before any building works are carried out on the premise. (including demolition)
- 7.2 All structures are to be built in accordance with Council's "Erection of Structures Over or Adjacent to Sewers or Water Mains Policy".
- 7.3 Provide evidence that the proposed Workshop Building has had a classification approval granted under the provisions contained in the *Building Act 1975* and subordinate legislation prior to the commencement of the intended use.

Access and Parking

- 8.1 The construction of any new crossovers to give access to the land is to be the owner's responsibility and to the satisfaction of the Chief Executive Officer.
- 8.2 Parking space and layout must be designed in accordance with the provisions contained in the supporting material included in the plans submitted with the application by 'Tony Ferraris Consulting Building Design'.
- 8.3 Access to the premises, car parking and manoeuvring areas must be constructed in an all-weather low glare paving, exposed aggregate concrete or suitable dust suppressant material to the satisfaction of the Chief Executive Officer.
- 8.4 The existing crossover access onto Ross Street must be removed and the kerb and channel is to be reinstated to the approval of the Chief Executive Officer.
- 8.5 Provide line marked parking spaces adjacent to the property on Ross Street, in accordance with AS 2890.5

Drainage/Stormwater

- 9.1 A grated trench drain is to be installed at the property boundary to catch stormwater before crossing the footpath. The stormwater is to be conveyed to the kerb, under the footpath, in a suitable sized conduit as approved by Council.
- 9.2 Stormwater drainage from any new paved/sealed areas must be discharged under the footpath to kerb and channelling within the adjoining road reserves in accordance with AS3500.2.2003 or as otherwise required or agreed to in writing by the Chief Executive Officer.
- 9.3 The approved development and use(s) must not interfere with the natural flow of stormwater in the locality in such a manner as to cause ponding or concentration of stormwater on adjoining land or roads.
- 9.4 Any external catchments discharging to the premises must be accepted and accommodated within the development's stormwater drainage system.

Operational Works

10. Where operational works are required to be carried out for the development, the developer must, within a period of two years from the date of this permit and prior to the commencement of any work, lodge with Council an application for a development permit for operational works. As part of such application, the developer must submit:-
 - (a) detailed and complete engineering drawings and specifications of the proposed works prepared by a civil engineer, who is both registered under the Professional Engineer's Act 2002 and is current Registered Professional Engineer of Queensland; and
 - (b) certificate from the engineer who prepared the drawings stating that the design and specifications have been prepared in accordance with these conditions, relevant Council Codes and Planning Scheme Policies and the relevant Australian Standard Codes of Practice;

Amenity - Lighting

11. Any night and outdoor lighting must be designed, conducted and operated in accordance with 'AS 4282 – Control of the obtrusive effects of outdoor lighting'.

Environment and Health

- 12.1 All activities must be carried out within the confines of the workshop
- 12.2 Any storage of flammable and/or combustible liquids must comply with the minor storage provision of *Australian Standard AS:1940 The Storage and Handling of Flammable and Combustible Liquids*.
- 12.3 Any hazardous materials (e.g. oil and fuel) must be stored in a covered and bunded area.
- 12.4 Any liquid spills must be cleaned up immediately and disposed of in an appropriate manner that ensures environmental harm does not occur. An appropriate spill kit for the management of wastes and hazardous liquids associated with the activity must be readily available at the site. Anyone operating under this approval must be trained in the use of the spill kit.
- 12.5 The operator must investigate and address all environmental nuisance and/or environmental harm complaints. The following details must be recorded and provided to Council upon request:
 - a) time, date, name and contact details of the complainant;
 - b) reasons for the complaint;
 - c) any investigations undertaken;
 - d) conclusions formed; and

e) any actions taken.

When requested by Council, an assessment, including monitoring and/or sampling must be undertaken by a suitably qualified person(s) to investigate any complaint of environmental nuisance and/or environmental harm (which in the opinion of an authorised person is not frivolous, vexatious nor based on mistaken belief). Upon completion of the assessment, the results must be submitted to Council within 10 business days. This must be undertaken in accordance with any direction given by Council at the time.

If the results of the assessment indicate, or where it is determined by an authorised person, that environmental nuisance and/or environmental harm is being caused, abatement or control measures must be implemented as recommended by a suitably qualified person and/or Council.

- 12.6 No change, replacement or operation of any plant or equipment is permitted if the change, replacement or operation of the plant or equipment increases, or is likely to substantially increase, the risk of environmental nuisance and/or environmental harm above that expressly provided by this development approval/ environmental authority.
- 12.7 The washing down of the workshop, the cleaning of waste containers or the washing of any other items that generate contaminated water, is not permitted unless the contaminated water is directed to an approved wastewater treatment system prior to release.
- 12.8 Regulated wastes are to be removed for disposal by a licenced waste transporter.
- 12.9 Where a complaint is made about noise from the activity, that is considered reasonable by an authorised officer and cannot be resolved by the operator of the activity subject of this approval, the emission of noise from the development must not result in levels greater than those specified in Table 1 until circumstances which gave rise to the complaint are resolved.

Table 1: Noise Limits (dBA)

NOISE LIMITS MEASURED AT THE FACADE OF THE NEAREST NOISE SENSITIVE PLACE		
Period	Measured as LAeq,	Measured as maxLpA
7am - 6pm	55	60
6pm – 10pm	50	55
10pm – 7am	45	50

- 12.10 Spray painting is not permitted to be conducted at the site other than for minor touch-ups.
- 12.11 Abrasive blasting is to be conducted within a fully enclosed chamber, vented to the atmosphere through an effective dust extraction system and designed to enable frequent or continuous recovery of spent abrasives.

Referral Agencies

Not Applicable

Approved Plans

The following plans are Approved plans for the development:

Drawing Title	Drawing/Revision	Date
Proposed Site Development & Floor Plan	TFBD-20037 A02 P3	22.10.20

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:

- There must be no release that has been in contact with any contaminants at the site to any waters, watercourse, roadside gutter or stormwater drain.
- General waste and recycling services must comply with Council's Waste Management Policy.

Variation Approval

Not Applicable.

Further Development Permits Required

Development Permit for Building Work

Submissions

There were no properly made submissions about the application.

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".

**Assessment Manager
Signature:**



Date: 16th April, 2021.

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 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.

Statement of Reasons

Planning Act 2016 & The Planning Regulation 2017

This Notice is prepared in accordance with s63(5) and s83(7) of the Planning Act 2016 to inform the public about a decision that has been made in relation to a development application. The purpose of the Notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:

- the relevant parts of the Planning Scheme and Assessment Benchmarks against which the application was assessed; and
- any other information, documents or other material Council was either required to, or able to, consider in its assessment.

All terms used in this Notice have the meanings given them in the Planning Act 2016.

Assessment Benchmarks

The following assessment benchmarks applied to the proposed development:

- Desired Environmental Outcomes
- Residential Zone Code
- Industry Zone Code

REASONS FOR THE DECISION

Following an assessment of the development application against the assessment benchmarks listed above, it was determined the proposed development will not cause significant adverse impacts on the surrounding natural environment, built environment and infrastructure, community facilities, or local character and amenity.