

File: 16/191
Date: 16 September 2020

ADDS (NSW) Pty Ltd
PO Box R1784
ROYAL EXCHANGE NSW 1225

Attention: Sateesh Muvva

Dear Mr Muvva

**RE: EXTENSION TO PERIOD OF APPROVAL – MATERIAL CHANGE OF USE
“INDUSTRIAL ACTIVITIES” – “SERVICE STATION”, “COMMERCIAL ACTIVITIES”
– “CATERING PREMISES” (RESTAURANT) & “RESIDENTIAL ACTIVITIES” –
“MULTIPLE DWELLING” (3 STAFF ACCOMMODATION CABINS)
LOT 1 ON RP159143, 23129 CUNNINGHAM HIGHWAY, COOLMUNDA**

I wish to advise on 16 September 2020 a decision was made to approve the applicant's request to extend the currency period for the material change of use development approval at Lot 1 on RP159143, 23129 Cunningham Highway, Coolmunda.

The currency period has been extended for a further four (4) years and expires on **28 September 2024**. As per Section 389 of the *Sustainable Planning Act 2009*, this amendment is documented in the attached Notice of extension to period of approval.

If you require any further information, please contact Ronnie McMahon, Manager of Planning Services on (07) 4671 7400 or rmcmahon@grc.qld.gov.au, who will be pleased to assist.

Yours faithfully



Ronnie McMahon
Manager of Planning Services
Goondiwindi Regional Council



Appendix A

Notice of extension to period of approval



Notice of extension to period of approval
Sustainable Planning Act 2009 section 389

Author: Mrs Ronnie McMahon: JMW
Enquiries: (07) 4671 7400
File: 16/191

16 September 2020

ADDs (NSW) Pty Ltd
PO Box R1784
ROYAL EXCHANGE NSW 1225

Attention: Sateesh Muvva

Dear Mr Muvva

1. Details of development approval for which change is requested

Type of approval	Material Change of Use
Details of approved development	<i>"Industrial activities" – "Service Station", "Commercial activities" – "Catering premises" (Restaurant) and "Residential activities" – "Multiple dwelling" (3 staff accommodation cabins)</i>
Reference number of development approval	16/191
Street number and address of land to which approval relate	23129 Cunningham Highway, Coolmunda
Lot and plan details of land to which approval relates	Lot 1 on RP159143
Date the original development application was decided	28 September 2016
Date original approval lapses	28 September 2020

2. Details of request for change

Date request for change was properly made	28 August 2020
Responsible entity for deciding the request	Goondiwindi Regional Council
Description of requested changes	Extension of currency period for four (4) years to 28 September 2024

3. Decision on request for change

I wish to advise that, on 16 September 2020, the request to change the development approval was:

☐ refused or;

☒ approved (with no conditions); or

☐ approved with conditions.

Please note: The development approval will lapse on **28 September 2024** if the change of use has not commenced or an approval for an extension of time has not been granted prior to this date. The original conditions of the Decision Notice dated 5 October 2016 are still applicable.

4. Appeal rights

If the responsible entity for deciding this request is the assessment manager or a concurrence agency, the person who made the request to change the development approval may appeal against the decision in this notice to the Planning and Environment Court by lodging a written notice of appeal with the registrar of the Court. You may also have a right to appeal to the Building and Development Dispute Resolution Committee.

For more information about your appeal rights and how to commence an appeal, see the *Sustainable Planning Act 2009*, chapter 7, parts 1 and 2.

If the responsible entity for deciding this request is the assessment manager, an entity that gave the responsible entity a notice under the *Sustainable Planning Act 2009*, section 373 or a pre-request response may appeal against the decision in this notice to the Planning and Environment Court by lodging a written notice of appeal with the registrar of the Court. You may also have a right to appeal to the Building and Development Dispute Resolution Committee. For more information about your appeal rights and how to commence an appeal, see the *Sustainable Planning Act 2009*, chapter 7, parts 1 and 2.

Attached is an extract from the SPA which details the applicant's appeal rights and the appeal rights of any submitters regarding this decision.

If you have any queries relating to this matter, please contact Council's Manager of Planning Services, Mrs Ronnie McMahon on (07) 4671 7400.

Yours Sincerely



Ronnie McMahon
Manager of Planning Services
Goondiwindi Regional Council

EXTRACT FROM SUSTAINABLE PLANNING ACT 2009 RELATING TO APPEAL RIGHTS

Division 8 Appeals to court relating to development applications and approvals

461 Appeals by applicants

(1) An applicant for a development application may appeal to the court against any of the following—

- (a) the refusal, or the refusal in part, of the development application;
- (b) any condition of a development approval, another matter stated in a development approval and the identification or inclusion of a code under section 242;
- (c) the decision to give a preliminary approval when a development permit was applied for;
- (d) the length of a period mentioned in section 341;
- (e) a deemed refusal of the development application.

(2) An appeal under subsection (1)(a), (b), (c) or (d) must be started within 20 business days (the **applicant's appeal period**) after—

- (a) if a decision notice or negotiated decision notice is given—the day the decision notice or negotiated decision notice is given to the applicant; or
- (b) otherwise—the day a decision notice was required to be given to the applicant.

(3) An appeal under subsection (1)(e) may be started at any time after the last day a decision on the matter should have been made.

462 Appeals by submitters—general

(1) A submitter for a development application may appeal to the court only against—

- (a) the part of the approval relating to the assessment manager's decision about any part of the application requiring impact assessment under section 314; or
- (b) the part of the approval relating to the assessment manager's decision under section 327.

(2) To the extent an appeal may be made under subsection (1), the appeal may be against 1 or more of the following—

- (a) the giving of a development approval;
- (b) any provision of the approval including—

(i) a condition of, or lack of condition for, the approval; or

(ii) the length of a period mentioned in section 341 for the approval.

(3) However, a submitter may not appeal if the submitter—

- (a) withdraws the submission before the application is decided; or
- (b) has given the assessment manager a notice under section 339(1)(b)(ii).

(4) The appeal must be started within 20 business days (the **submitter's appeal period**) after the decision notice or negotiated decision notice is given to the submitter.

463 Additional and extended appeal rights for submitters for particular development applications

(1) This section applies to a development application to which chapter 9, part 7 applies.

(2) A submitter of a properly made submission for the application may appeal to the court about a referral agency's response made by a concurrence agency for the application.

(3) However, the submitter may only appeal against a referral agency's response to the extent it relates to—

- (a) development for an aquacultural ERA; or
- (b) development that is—

(i) a material change of use of premises for aquaculture; or

(ii) operational work that is the removal, damage or destruction of a marine plant.

(4) Despite section 462(1), the submitter may appeal against the following matters for the application even if the matters relate to code assessment—

- (a) a decision about a matter mentioned in section 462(2) if it is a decision of the chief executive;
- (b) a referral agency's response mentioned in subsection (2).

464 Appeals by advice agency submitters

(1) Subsection (2) applies if an advice agency, in its response for an application, told the assessment manager to treat the response as a properly made submission.

(2) The advice agency may, within the limits of its jurisdiction, appeal to the court about—

(a) any part of the approval relating to the assessment manager's decision about any part of the application requiring impact assessment under section 314; or

(b) any part of the approval relating to the assessment manager's decision under section 327.

(3) The appeal must be started within 20 business days after the day the decision notice or negotiated decision notice is given to the advice agency as a submitter.

(4) However, if the advice agency has given the assessment manager a notice under section 339(1)(b)(ii), the advice agency may not appeal the decision.

465 Appeals about decisions relating to extensions for approvals

(1) For a development approval given for a development application, a person to whom a notice is given under section 389, other than a notice for a decision under section 386(2), may appeal to the court against the decision in the notice.

(2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.

(3) Also, a person who has made a request under section 383 may appeal to the court against a deemed refusal of the request.

(4) An appeal under subsection (3) may be started at any time after the last day the decision on the matter should have been made.

466 Appeals about decisions relating to permissible changes

(1) For a development approval given for a development application, the following persons may appeal to the court against a decision on a request to make a permissible change to the approval—

(a) if the responsible entity for making the change is the assessment manager for the application—

(i) the person who made the request; or

(ii) an entity that gave a notice under section 373 or a pre-request response notice about the request;

(b) if the responsible entity for making the change is a concurrence agency for the application—the person who made the request.

(2) The appeal must be started within 20 business days after the day the person is given notice of the decision on the request under section 376.

(3) Also, a person who has made a request under section 369 may appeal to the court against a deemed refusal of the request.

(4) An appeal under subsection (3) may be started at any time after the last day the decision on the matter should have been made.

467 Appeals about changing or cancelling conditions imposed by assessment manager or concurrence agency

(1) A person to whom a notice under section 378(9)(b) giving a decision to change or cancel a condition of a development approval has been given may appeal to the court against the decision in the notice.

(2) The appeal must be started within 20 business days after the day the notice of the decision is given to the person.

468 Appeals against decision on request for compliance assessment

(1) A person to whom an action notice has been given under section 405(5) about a request for compliance assessment of development, a document or work may appeal to the court against the decision in the notice.

(2) The appeal must be started within 20 business days after the notice is given to the person.

469 Appeals against condition imposed on compliance permit or certificate

(1) A person who is given a compliance permit or compliance certificate subject to any conditions may appeal to the court against the decision to impose the condition.

(2) The appeal must be started within 20 business days after the day the compliance permit or compliance certificate is given to the person.

470 Appeals against particular decisions about compliance assessment

(1) A person to whom any of the following notices have been given may appeal to the court against the decision in the notice—

(a) a notice of a decision on a request to change or withdraw an action notice;

(b) a notice under section 413(2)(c) about a decision to refuse a request to change a compliance permit or compliance certificate.

(2) The appeal must be started within 20 business days after the day the notice is given to the person.

478 Appeals about particular charges for infrastructure

(1) This section applies to a person who has been given, and is dissatisfied with—

(a) an infrastructure charges notice, regulated infrastructure charges notice or adopted infrastructure charges notice; or

(b) a negotiated infrastructure charges notice, negotiated regulated infrastructure charges notice or negotiated adopted infrastructure charges notice.

(2) The person may appeal to the court against the notice.

(3) An appeal against a notice mentioned in subsection (1) must be started within 20 business days after the day the notice is given to the person.

(4) An appeal under this section may only be about—

(a) whether a charge in the notice is so unreasonable that no reasonable relevant local government or State infrastructure provider could have imposed it; or

(b) an error in the calculation of the charge.

(5) To remove any doubt, it is declared that an appeal under this section can not be about the methodology used to establish an adopted infrastructure charge or the charge in a relevant infrastructure charges schedule or regulated infrastructure charges schedule.

481 How appeals to the court are started

(1) An appeal is started by lodging written notice of appeal with the registrar of the court.

(2) The notice of appeal must state the grounds of the appeal.

(3) The person starting the appeal must also comply with the rules of the court applying to the appeal.

(4) However, the court may hear and decide an appeal even if the person has not complied with subsection (3).

490 Lodging appeal stops particular actions

(1) If an appeal, other than an appeal under section 465, 466 or 467, is started under division 8, the development must not be started until the appeal is decided or withdrawn.

(2) If an appeal is about a condition imposed on a compliance permit, the development must not be started until the appeal is decided or withdrawn.

(3) Despite subsections (1) and (2), if the court is satisfied the outcome of the appeal would not be affected if the development or part of the development is started before the appeal is decided, the court may allow the development or part of the development to start before the appeal is decided.

EXTRACT FROM SUSTAINABLE PLANNING ACT 2009

RELATING TO LAPSE DATES

341 When approval lapses if development not started

(1) To the extent a development approval is for a material change of use of premises, the approval lapses if the first change of use under the approval does not start within the following period (the relevant period)—

(a) 4 years starting the day the approval takes effect;

(b) if the approval states a different period from when the approval takes effect—the stated period.

(2) To the extent a development approval is for reconfiguring a lot, the approval lapses if a plan for the reconfiguration is not given to the local government within the following period (also the relevant period)—

(a) for reconfiguration not requiring operational works—2 years starting the day the approval takes effect;

(b) for reconfiguration requiring operational works—4 years starting the day the approval takes effect;

(c) if the approval states a different period from when the approval takes effect—the stated period.

(3) To the extent a development approval is for development other than a material change of use of premises or reconfiguring a lot, the approval lapses if the development does not substantially start within the following period (also the relevant period)—

(a) 2 years starting the day the approval takes effect;

(b) if the approval states a different period from when the approval takes effect—the stated period.

(4) Despite subsections (1) and (2), if there are 1 or more related approvals for a development approval mentioned in subsection (1) or (2), the relevant period is taken to have started on the day the latest related approval takes effect.

(5) If a monetary security has been given in relation to any development approval, the security must be released if the approval lapses under this section.

(6) The lapsing of a development approval for a material change of use of premises or reconfiguring a lot does not cause an approval mentioned in subsection (3) to lapse.

(7) In this section—

related approval, for a development approval for a material change of use of premises (the **earlier approval**), means—

(a) the first development approval for a development application made to a local government or private certifier, or first compliance permit for a request for compliance assessment made to a local government or entity nominated by a local government, within 2 years of the start of the relevant period, that is—

(i) to the extent the earlier approval is a preliminary approval—a development permit or compliance permit for the material change of use of premises; or

(ii) to the extent the earlier approval is a development permit or a preliminary approval for development mentioned in section 242(3)(a)(i) or (ii)—a development permit or compliance permit for building work or operational work necessary for the material change of use of premises to take place; and

(b) each further development permit, for a development application made to a local government or private certifier within 2 years of the day the last related approval takes effect, that is for building work or operational work necessary for the material change of use of premises to take place; and

(c) each further compliance permit, for a request for compliance assessment made to a local government or entity nominated by a local government within 2 years of the day the last related approval takes effect, that is for building work or operational work necessary for the material change of use of premises to take place.

related approval, for a development approval for reconfiguring a lot (also the **earlier approval**), means—

(a) the first development permit for a development application made to a local government, or first compliance permit for a request for compliance assessment made to a local government or entity nominated by a local government, within 2 years of the start of the relevant period, that is—

(i) to the extent the earlier approval is a preliminary approval—for the reconfiguration; or

(ii) to the extent the earlier approval is a development permit for reconfiguring a lot—for operational work related to the reconfiguration; and

(b) each further development permit, for a development application made to a local government within 2 years of the day the last related approval takes effect, that is for operational work related to the reconfiguration; and

(c) each further compliance permit, for a request for compliance assessment made to a local government or entity nominated by a local government within 2 years of the day the last related approval takes effect, that is for operational work related to the reconfiguration.

342 When approval lapses if development started but not completed—general

(1) Subsection (2) applies if—

(a) a condition requires assessable development, or an aspect of assessable development, to be completed within a particular time; and

(b) the assessable development, or aspect, is started but not completed within the time.

(2) The approval, to the extent it relates to the assessable development or aspect not completed, lapses.

(3) However, even though the approval has lapsed, any security paid under a condition mentioned in section 346(1)(f) may be used in a way stated by the approval, including, for example, to finish the development.

(4) This section does not apply to a preliminary approval to which section 242 applies