



21 March 2018

Council Ref: DA/17/0029

Our Ref: BM:CE:nj

Your Ref: F17/18

P English
C/- Elizabeth Taylor Town Planner
23 Valley Street
FRESHWATER QLD 4870

Decision Notice Approval

Sustainable Planning Act 2009 s334 and s335

Dear Applicant/s

***APPLICATION FOR MATERIAL CHANGE OF USE - AIR SERVICES (PRIVATE AIRSTRIP)
LOT 1 ON RP746336
SITUATED AT 343 FANTIN ROAD, KOAH***

I wish to advise that, at Council's Ordinary Meeting held on *21 March 2018*, the above development application was -

- Approved in full with conditions.

The conditions relevant to this approval are detailed in **section 5** of this notice. These conditions are clearly identified to indicate whether the Assessment Manager or a Concurrence Agency imposed them.

Approval under Section 331

This application **has not** been deemed to be approved under Section 331 of the Sustainable Planning Act 2009 (SPA).

1. Details of the approval –

Development Permit for Material Change of Use – Air Services (Private Airstrip)

2. Other approvals required from Council

- Access approval arising from condition number 4.1 (Please contact Planning Section to obtain application form and applicable fee).

3. Submissions -

There were **182** properly made submissions about the application. In accordance with s 335(l) of the SPA, the name and address of the principal submitter for each properly made submission are as follows —

Record of Submissions received for DA/17/0029		
Name	Address 1	Address 2
Natalie Waller	31 Douglas Track	Speewah QLD 4881
Warren Pine	37 Douglas Track	Speewah QLD 4881
Samantha Smeaton	245 Koah Road	Koah Qld 4881
Narelle Ross	9 Bolton Road	Koah Qld 4881
Anonymous (Katie)	Kennedy Highway	Walkamin QLD 4872
Jaide Stronggrove	1058 Koah Road	Koah Qld 4881
Phil Simpson C/- Liz Taylor	Koah Road	Koah Qld 4881
Mike Prien C/- Liz Taylor	Two Chain Road	Koah Qld 4881
Richard Copland	38 Copland Road	Koah Qld 4881
Anonymous (Rebecca)	9 Brickworks Road	Koah Qld 4881
Priscilla Ralph	8 Barron Street	Koah Qld 4881
Nadine O'Brien	345 Fantin Road	Koah Qld 4881
Jo Martin	451 Oak Forest Road	Kuranda QLD 4881
Seanne Mearthur	392 Oak Forest Road	Kuranda QLD 4881
Marc Jaschok	1248 Koah Road	Koah Qld 4881
Yamuna Sztraka	1063 Koah Road	Koah Qld 4881
Sarah Baxter	235 Palm Valley Road	Koah Qld 4881
William Johnston	24 Clohesy Street	Koah Qld 4881
Ruth Young	None provided	
Syd Walker	PO Box 774	Kuranda QLD 4881
Bruce Copland	PO Box 171	Smithfield Qld 4878
Fay Copland	38 Copland Road	Koah Qld 4881
Steven Nowakowski	29 Black Mountain Road	Kuranda QLD 4881
E.Heather Price	7 Melaleuca Close	Koah Qld 4881
Hans Zehntner	81 Kuranda Heights Road	Kuranda QLD 4881
Cathy Retter	19 Kullaroo Close	Kuranda QLD 4881
Linda Snart	7 Greenhills Road	Kuranda QLD 4881
Toni Rogers	11 Punch Close	Kuranda QLD 4881
Alison Kempe	3 Punch Close	Kuranda QLD 4881
Garth Owen	19 Kullaroo Close	Kuranda QLD 4881
Gabriela Schierenbeck	102 Koah Rd/PO Box 741	Koah Qld 4881
Cheryl Tonkin	76 High Chapparal Road	Kuranda QLD 4881
Maria Feliz Newman	4 Clohesy Street	Koah Qld 4881
Patricia Zehntner	81 Kuranda Heights Road	Kuranda QLD 4881
Andrew Hodgetts	33 Brockman Way	Smithfield Qld 4878
Bill Sokolich	283 Speewah Road	Speewah QLD 4881
Maree Kerr	2 Meeroo Street	Kuranda QLD 4881
Sharon Shone	235 Koah Road	Koah Qld 4881
Emma Ewing	Clohesy Street	Koah Qld 4881
Bonnie Riley	1087 Barron Street	Koah Qld 4881
Ashleigh Thorne	14 Barron Street	Koah Qld 4881
Jamie Lee Thorne	14 Barron Street	Koah Qld 4881
Vickie Harris	1078 Koah Road	Koah Qld 4881
Peggy S Martin	1078 Koah Road	Koah Qld 4881
Christine Van Koeverden	31 Natasha Close	Koah Qld 4881
P Wyatt	599 Koah Road	Koah Qld 4881
Matthew Webb	15 Northcote Street	Trinity Park Qld 4878
Michelle Webb	8 Mar Street	Koah Qld 4881

Tyrone Samson	8 Mar Street	Koah Qld 4881
Jacqui Hammond	6 Masons Road	Kuranda QLD 4881
Aaron Hobbler	1099 Koah Road	Koah Qld 4881
Rosalyn A Wyatt	599 Koah Road	Koah Qld 4881
Byron Campbell	64 Barron Street	Koah Qld 4881
Tania Tutton	12 Clohesy Street	Koah Qld 4881
Neal Martin	1079 Koah Road	Koah Qld 4881
Ian Brouff	12 Clohesy Street	Koah Qld 4881
John Lindsay	Lot 685 Koah Road	Koah Qld 4881
Gordon Bartlett	685 Koah Road	Koah Qld 4881
Amadeus Lang	24 Clohesy Street	Koah Qld 4881
Michael and Joanne Gunzburg	38 Tapiola Road	Koah Qld 4881
Beverley Anne Adamson	62 Barron Street	Koah Qld 4881
Hannah Wattel	PO Box 473	Kuranda QLD 4881
Shanna Janz	149 McCorry Road	Kuranda QLD 4881
Chloe McKay	149 McCorry Road	Kuranda QLD 4881
Kerry Geck	PO Box 401	Kuranda QLD 4881
Ian Hainsworth	30 Enigma Close	Speewah QLD 4881
Kaya Wilson	3338 Kennedy Highway	Mareeba Qld 4880
Paul M Maxwell	200 Cedar Park Road	Koah Qld 4881
Chris Hannam	53 William Smith Drive	Speewah QLD 4881
Miira Kostava	922 Koah Road	Koah Qld 4881
Julie Brunt	922 Koah Road	Koah Qld 4881
Nadine O'Brien x 2 Submission	345 Fantin Road	Koah Qld 4881
Jimi Hannam	53 William Smith Drive	Speewah QLD 4881
Scott Morrison & Sajidah Abdullah	961 Koah Road	Koah Qld 4881
Carole Myee Maxfield	442 Speewah Road	Speewah QLD 4881
Dorothy Clews	374 Ganyan Drive	Speewah QLD 4881
John & Susan Fraser	PO Box 274	Kuranda QLD 4881
Judith Bell	8 Clohesy Street	Koah Qld 4881
Linda Guy	516 Koah Road	Koah Qld 4881
Russell James	516 Koah Road	Koah Qld 4881
Aeron Holzhauser	450 Koah Road	Koah Qld 4881
Susan Tullipan	11 Dominikovic Close	Koah Qld 4881
Sam Conomo	9 Bolton Road	Koah Qld 4881
Narelle Ross x 2 Submission	9 Bolton Road	Koah Qld 4881
Tonia Rose	Lot 12 Dominikovic Close	Koah Qld 4881
Matthew Cole	6 Natasha Close	Koah Qld 4881
Muriel Richardson	16 Barron Street	Koah Qld 4881
David Pickering	Lots 1 & 2 Barron Street	Koah Qld 4881
Stuart Biggs	382 Ganyan Drive	Speewah QLD 4881
Aneta Thomsen	21 William Smith Drive	Speewah QLD 4881
Alison Yistra	90 Veivers Drive	Speewah QLD 4881
Arnold Erber	117 William Smith Drive	Speewah QLD 4881
Steven and Amanda Grist	1 Copland Road	Koah Qld 4881
William Wilson	457 Speewah Road	Speewah QLD 4881
Matthew Yates	48 Sanctuary Close	Speewah QLD 4881
Guy Summer and Suzanne Cove	222 Stoney Creek Road	Speewah QLD 4881
Yvonne House	9 Koah Road	Koah Qld 4881
Harry Dick	65 Palm Valley Road	Koah Qld 4881

Sam Musumeci	367 Koah Road	Koah Qld 4881
Gillian Louise Whitehead	3 Natasha Close	Koah Qld 4881
Nicola Cunningham	2413 Kennedy Hwy & 8 Marr St	Koah Qld 4881
Andrew Jowett	8 Tamarix Street	Chapel Hill Qld 4069
Richard Hunt	13 Edgar Street	Bungalow Qld 4870
Mick & Diane Mosch	PO Box 1490	Mareeba Qld 4880
Chris Jaschok	1248 Koah Road	Koah Qld 4881
Tracy Rusch	408 Koah Road	Koah Qld 4881
Sarah Smits	15 Law Street	Cairns North Qld 4870
B Dalla Costa	170 McBean Road	Paddys Green Qld 4880
Mark Chirio	441 Koah Road	Koah Qld 4881
Sophie McGrath	Koah Road	Koah Qld 4881
Irma Mikacaicunas	20 Weld Crescent	Trinity Beach Qld 4878
J Garbellini	516 Koah Road	Koah Qld 4881
Chris Van Koeverden	102 Koah Road	Koah Qld 4881
Rohan Rusch	408 Koah Road	Koah Qld 4881
Blake Hudson	118 Greenforest Road	Myola Qld 4881
Pat Storey	Fallon Road	Kuranda QLD 4881
Michelle Weeks	110 Clohesy River Road	Koah Qld 4881
M Kenny	14 Barron Street	Koah Qld 4881
Calvin Baker	15 William Smith Drive	Speewah QLD 4881
Justine Schlicht	22 Freedom Close	Speewah QLD 4881
Jemma Shelton	102 Koah Road	Koah Qld 4881
Noah Sailer	15 Law Street	Cairns North Qld 4870
Rohan Rusch	408 Koah Road	Koah Qld 4881
H Voogt	91 Scenic Drive	Speewah QLD 4881
Riette Voogt	Scenic Drive	Speewah QLD 4881
John & Kathryn Edwards	28 Monaro Close	Kuranda QLD 4881
Mark Bishop	2326 Kennedy Highway	Koah Qld 4881
Rob Stephenson	24 William Smith Drive	Speewah QLD 4881
Nadine O'Brien x 3rd objection	345 Fantin Road	Koah Qld 4881
Sarah Isaacs	345 Fantin Road	Koah Qld 4881
Nykea Raiston & Anthony Johnson	520 Koah Road	Koah Qld 4881
Kirsty Stephens	8 Gregory Terrace	Kuranda QLD 4881
Rozana Wright	426 Koah Road	Koah Qld 4881
Ken Wright	426 Koah Road	Koah Qld 4881
Adrian Church	7 Scrub Street	Kuranda QLD 4881
Keila Waksvik	6 Meeroo Street	Kuranda QLD 4881
Steven Nowakowski x 2nd objection	PO Box 4761	Cairns Qld 4870
Julie Cohen	2 Punch Close	Kuranda QLD 4881
Robert Edwards	28 Monaro Close	Myola Qld 4881
Rosemary Marks	165 Boyles Road	Kuranda QLD 4881
Heinz Mullert	11 Harriman Street	Kuranda QLD 4881
Bob Madden	81 Veivers Drive	Speewah QLD 4881
Duncan Stebbing	None provided	Keperra Qld 4054
Jeffrey Hunt	414 Koah Road	Koah Qld 4881
Michael Douglass	9 Jarawee Road	Kuranda QLD 4881
Jon Trapnell	58 Barron Falls Road	Kuranda QLD 4881
Ashley & Annmaree Sloan Coleman	PO Box 829	Kuranda QLD 4881
Geoffrey & Joy Stannett	1227 Koah Road	Koah Qld 4881

John Todd	PO Box 685	Kuranda QLD 4881
Nico Wouterse	4 Fairyland Road	Kuranda QLD 4881
Iveta Svihla	143 Oak Forest Road	Kuranda QLD 4881
Suzanne Bartlett	26 Mount Haren Road	Kuranda QLD 4881
Bruce Campbell	64 Barron Street	Koah Qld 4881
Belinda Fry	63 Masons Road	Kuranda QLD 4881
Matthew Fry	PO Box 132	Kuranda QLD 4881
Zalan Glen	13 Fairyland Road	Kuranda QLD 4881
Peter Cohen	40 Punch Close	Kuranda QLD 4881
Helen Downie	17 McKenzie Street	Myola Qld 4881
Suzy Grinter	70 Veivers Drive	Speewah QLD 4881
Brian Prove	Lot 198 Popovic Road	Koah Qld 4881
Tanya Vickers	RP 65 Greenforest Road	Kuranda QLD 4881
Ken Parsons	11 Shane Court	Kuranda QLD 4881
Charlene Cabral	29 Palm Valley Road	Koah Qld 4881
Malcolm McKeen	25 Copland Road	Koah Qld 4881
Kerry Geck x 2	25 Copland Road	Koah Qld 4881
Phillip Arthur Simpson	341 Fantin Road	Koah Qld 4881
Bill Sokolich x 2	283 Speewah Road	Speewah QLD 4881
Kerry Geck submits petition various objections		
Aileen Downs (submitted by Kerry Geck)	38 Rob Veivers Drive	Kuranda QLD 4881
M Wycherley (submitted by Kerry Geck)	415 Koah Road	Koah Qld 4881
R Wycherley (submitted by Kerry Geck)	415 Koah Road	Koah Qld 4881
Tonielle Christensen (submitted by Kerry Geck)	Kuranda	
Rose Hunter (submitted by Kerry Geck)	1093 Koah Road	Koah Qld 4881
Alexandra Worsfold	1248 Koah Road	Koah Qld 4881
Marc Jaschok x 2	1248 Koah Road	Koah Qld 4881
Garry Hooper	Lot 2 McCorry Rd / PO Box 78	Stratford Qld 4870
Daniel Stronggrove	1058 Koah Road	Koah Qld 4881
Gayle Hannah	42 Rob Veivers Drive	Kuranda QLD 4881
Julie Brunt x 2	922 Koah Road	Koah Qld 4881
Piers Freeman	1063 Koah Road	Koah Qld 4881
Sarah Rizvi	1063 Koah Road	Koah Qld 4881
Brendan Kent	8 Jumrun Close	Kuranda QLD 4881

4. Conflict with a 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. Conditions –

(A) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
 - found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
 - to ensure compliance with the following conditions of approval.

2. Timing of Effect

The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the commencement of the use except where specified otherwise in these conditions of approval.

3. General

3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure within the conditions of approval.

3.2 The applicant/landowner is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.

3.3 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.

3.4 Hours of Operation

The permitted hours for machinery to be used for maintaining the airstrip, for unscheduled aircraft maintenance, and for aircraft to take-off and land shall be between 7am and 6pm Monday to Sunday except for emergency use, which can be whenever necessary.

3.5 Permitted Flights

Recreational aircraft flights shall be limited as follows unless approved otherwise by Council:

- (i) 1 flight per day (non-cumulative), totalling 365 flights per normal calendar year, inclusive of the 52 flights per calendar year permitted under development permit MCU/09/0050;

Note: 1 "flight" includes 1 take-off movement and 1 landing movement, or vice-versa for "visitor flights" as visitor flights do not commence from the site.

3.6 Flight Logbook

The applicant/landowner must, for the life of the development, maintain a flight logbook, which contains records of all flight movements to and from the approved airstrip, including visitor flights. Flight records must include the aircraft used, and the date in which the flight/s was carried out.

At the request of Council officers, the logbook must be made available to Council for review.

3.7 Permitted Aircraft

Use of the airstrip is to be limited to Cessna 172, replica Spitfire MK5 and Glassair II aircraft, or other non-commercial aircraft with similar impact approved by Council's delegated officer. This excludes the use of the airstrip by emergency flights, which are permitted to use whatever aircraft necessary.

3.8 Flight Paths

When safe to do so, any aircraft taking off in a southerly direction (where not involving a circuit), must turn to the east immediately after take-off, preferably following the Fantin Road road reserve in a south-east direction in order to avoid flying over Lot 201 on NR3170.

Any circuit after take-off must be carried out to the east of the site.

Note: A circuit as depicted on the submitted plans is not mandatory during take-off or landing.

3.9 All scheduled maintenance of aircraft shall be undertaken off-site.

3.10 Water Supply for Fire Fighting Purposes

The development is to be provided with a source of water for fire-fighting purposes of not less than 5,000 litres. This may be satisfied by the provision of an accessible dam, swimming pool or tank. In the case of a tank supply, delivery of the water should be provided through a 50mm Camlock fitting. The outlet from the tank water supply or the dam/pool shall be located in an accessible position within 40 metres of the existing building.

3.11 Fuel Storage

Any fuel stored on site associated with the approved use must be kept in a sealed, bunded area with a storage capacity of at least 150% of the storage capacity of any fuel storage tanks/containers.

4. Infrastructure Services and Standards

4.1 Access

The sites existing access crossover must be upgraded/constructed (from the edge of the road pavement to the property boundary of the subject lot) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

4.2 Stormwater Drainage/Water Quality

- 4.2.1 Any material likely to degrade water (e.g. oils, lubricants, solvents, coolants, degreasing agents etc.) must be stored within a bunded area, or an appropriately designed chemical storage container, suitable for preventing the escape of material into surface or underground water resources.
- 4.2.2 An emergency spill containment kit must be kept on site at all times and used when a spill occurs to prevent the escape of any contaminants off-site.
- 4.2.3 Any aircraft wash down area/s is to be located so as to prevent the discharge of sediment, contaminants or wastewater to waterways, creeks or watercourses.

(B) ASSESSMENT MANAGER'S ADVICE

(a) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

(b) Compliance with Acts and Regulations

The erection and use of the building must comply with the Building Act and all other relevant Acts, Regulations and Laws, and these approval conditions.

(c) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from www.environment.gov.au

(d) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the "cultural heritage duty of care"). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from www.datsip.qld.gov.au

6. IDAS referral agencies –

The application did not require referral to any Referral Agency.

7. Approved Plans

The approved plans and/or documents for this development approval are listed in the following table.

Plan/Document Number	Plan/Document Title	Prepared by	Dated
32301-01 Sheet 1 of 2	Flight Plan For Take Off to South	Veris	1/06/2017
32301-01 Sheet 2 of 2	Flight Plan For Take Off to North	Veris	1/06/2017

8. When approval lapses if development not started (s341)

This development approval will lapse in accordance with Section 341 of the Sustainable Planning Act 2009 if development does not start within relevant period as stated below:

- Material Change of Use – four (4) years (starting the day the approval takes effect);

If there is one (1) or more subsequent related approvals for a development approval for a Material Change of Use or a reconfiguration, the relevant period for the approval will be taken to have started on the day the latest related approval takes effect.

9. Appeal rights –***Applicant may make representations about decision***

The applicant may make written representations to the assessment manager about: -

- a matter stated in the decision notice, other than a refusal or a matter about which a concurrence agency told the assessment manager under section 287(1) or (5); or
- the standard conditions applying to a deemed approval.

However, the applicant can not make representations under subsection (1)(a) about a condition attached to an approval under the direction of the Minister.

Attachment 2 is an extract from SPA which contains details regarding making representations about the decision.

Appeals by applicants

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

- the refusal, or refusal in part of the development application
- any condition of a development approval, another matter stated in a development approval and the identification or inclusion of a code under section 242 of SPA

- the decision to give a preliminary approval when a development permit was applied for
- the length of a period mentioned in section 341
- a deemed refusal of the development application.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 461(2) of SPA.

Applicants may also have a right to appeal to the Building and Development Dispute Resolution Committee. For more details, see SPA, chapter 7, part 2.

Appeals by submitters

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

- the part of the approval relating to the assessment manager's decision about any part of the application requiring impact assessment
- the part of the approval relating to the assessment manager's decision under section 327.

Details about submitter appeal rights for the Planning and Environment Court are set out in sections 462, 463 and 464 of SPA.

Submitters may also have a right to appeal to the Building and Development Dispute Resolution Committee. For more details, see SPA, chapter 7, part 2.

Attachment 3 is an extract from SPA which details the applicant's appeal rights and the appeal rights of any submitters regarding this decision.

10. When the development approval takes effect –

This development approval takes effect –

- if there is a submitter and the applicant does not appeal the decision, the earlier date of either:
 - when the submitter's appeal period ends; or
 - the day the last submitter gives the Assessment Manager written notice that the submitter will not be appealing the decision.

OR

- subject to the decision of the court, when the appeal is finally decided, if an appeal is made to the court.

Should you require any further information please contact Council's **Planning Officer, Carl Ewin** on the above telephone number.

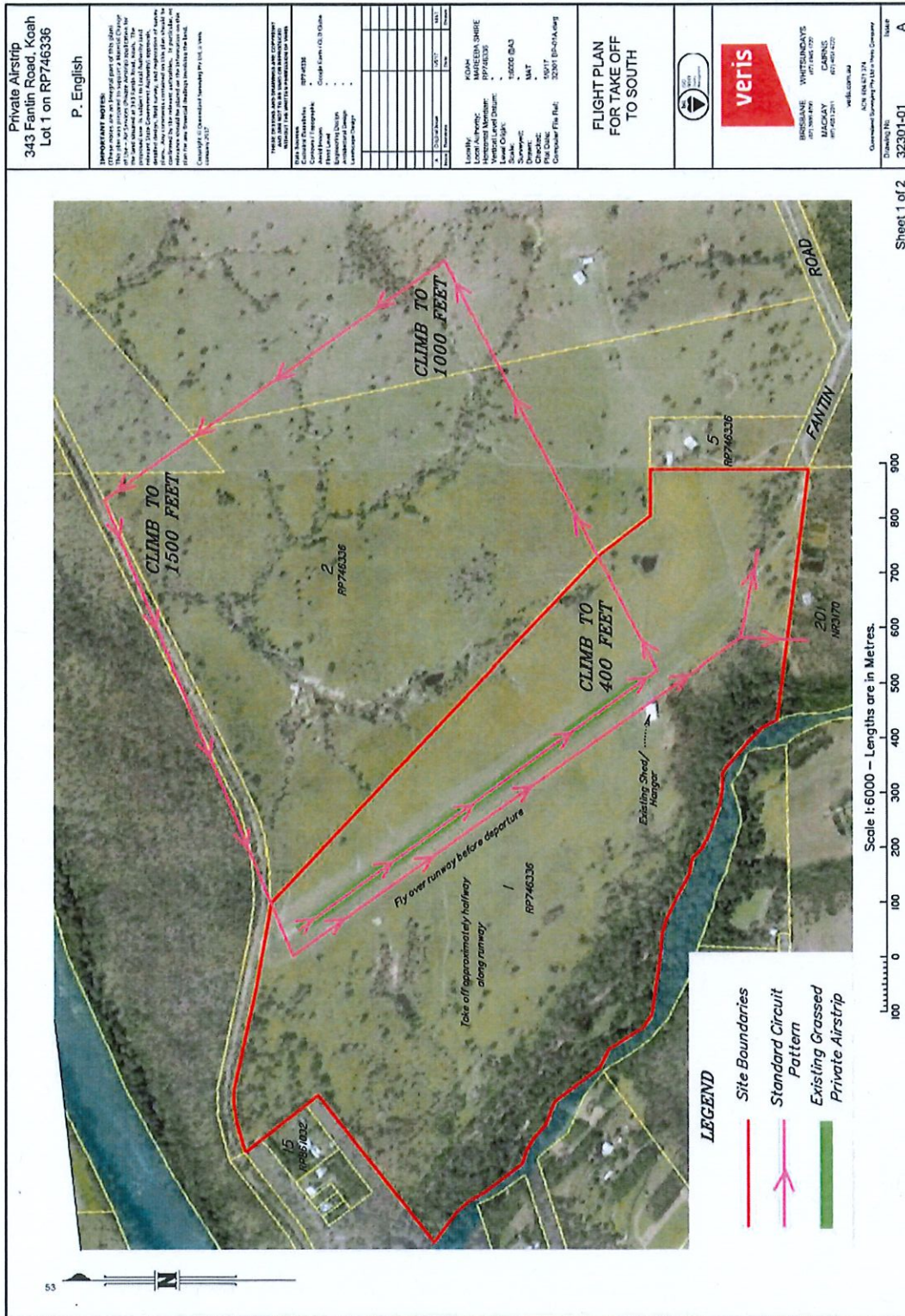
Yours faithfully



BRIAN MILLARD
SENIOR PLANNER

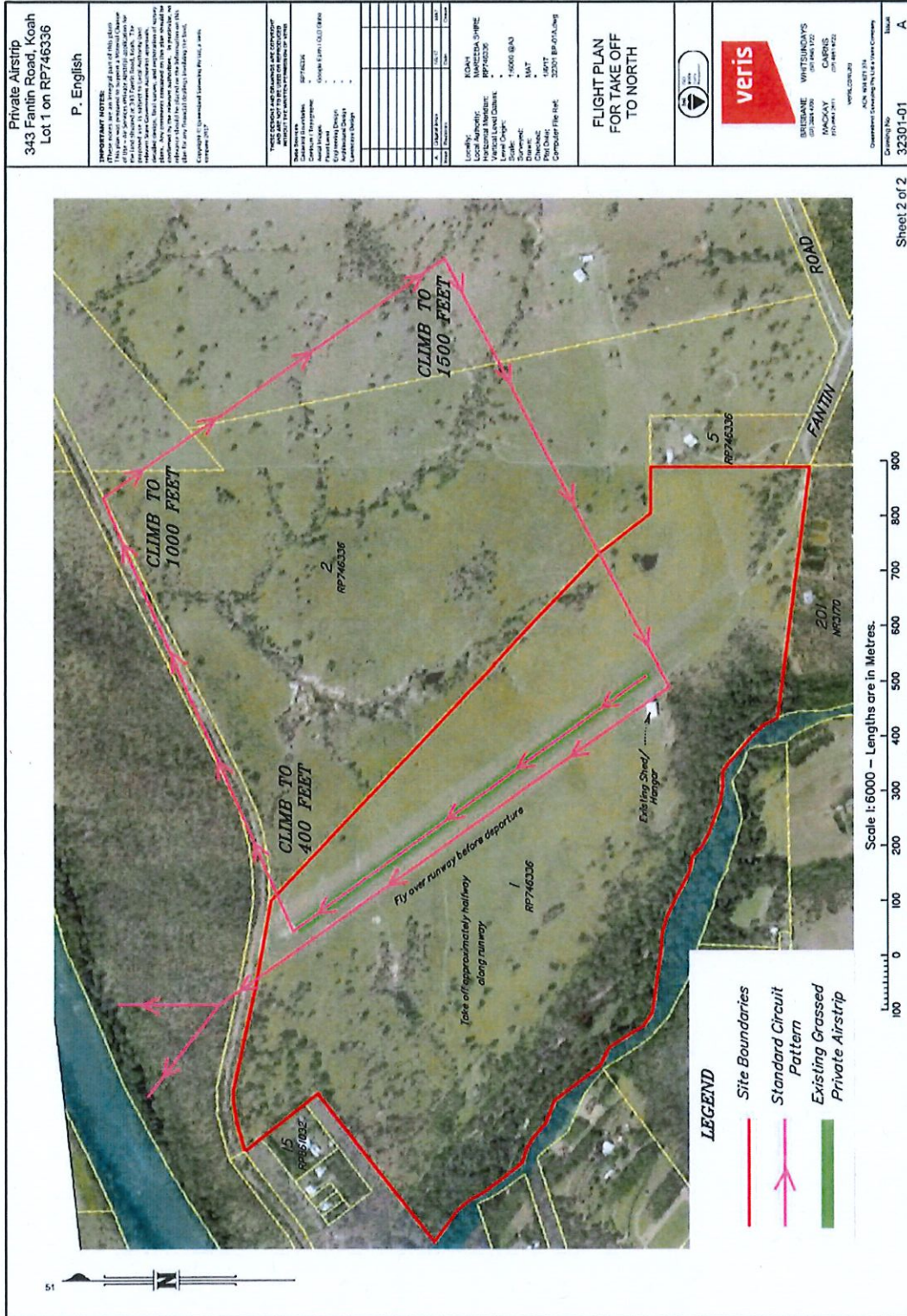
Enclosures: **Attachment 1 - Approved Plans of Development**
 Attachment 2 - SPA Extract - Making Representations about Decision
 Attachment 3 - SPA Extract on Appeal Rights

ATTACHMENT 1 - APPROVED PLANS OF DEVELOPMENT (ECM Doc Set ID 3260510)



Document Set ID: 3260510
Version: 1, Version Date: 23/06/2017

21/3/2018
B. [Signature]



Document Set ID: 3260510
Version: 1, Version Date: 23/06/2017

21/3/2018
B. Will

ATTACHMENT 2 - MAKING REPRESENTATIONS ABOUT DECISION**PART 8 - DEALING WITH DECISION NOTICES AND APPROVALS****DIVISION 1 CHANGING DECISION NOTICES AND APPROVALS DURING APPLICANT'S APPEAL PERIOD****360 APPLICATION OF DIV 1**

This division applies only during the applicant's appeal period.

361 APPLICANT MAY MAKE REPRESENTATIONS ABOUT DECISION

- (1) The applicant may make written representations to the assessment manager about—
 - (a) a matter stated in the decision notice, other than a refusal or a matter about which a concurrence agency told the assessment manager under section 287(1) or (5); or
 - (b) the standard conditions applying to a deemed approval.
- (2) However, the applicant can not make representations under subsection (1)(a) about a condition attached to an approval under the direction of the Minister.

362 ASSESSMENT MANAGER TO CONSIDER REPRESENTATIONS

The assessment manager must consider any representations made to the assessment manager under section 361.

363 DECISION ABOUT REPRESENTATIONS

- (1) If the assessment manager agrees with any of the representations about a decision notice or a deemed approval, the assessment manager must give a new decision notice (*the negotiated decision notice*) to—
 - (a) the applicant; and
 - (b) each principal submitter; and
 - (c) each referral agency; and
 - (d) if the assessment manager is not the local government and the development is in a local government area—the local government.
- (2) Before the assessment manager agrees to a change under this section, the assessment manager must consider the matters the assessment manager was required to consider in assessing the application, to the extent the matters are relevant.
- (3) Only 1 negotiated decision notice may be given.
- (4) The negotiated decision notice—
 - (a) must be given within 5 business days after the day the assessment manager agrees with the representations; and
 - (b) must comply with section 335; and
 - (c) must state the nature of the changes; and
 - (d) replaces—
 - (i) the decision notice previously given; or

- (ii) if a decision notice was not previously given and the negotiated decision notice relates to a deemed approval—the standard conditions applying to the deemed approval.
- (5) If the assessment manager does not agree with any of the representations, the assessment manager must, within 5 business days after the day the assessment manager decides not to agree with any of the representations, give written notice to the applicant stating the decision about the representations.

364 GIVING NEW INFRASTRUCTURE CHARGES NOTICE OR REGULATED INFRASTRUCTURE CHARGES NOTICE

- (1) This section applies if the development approved by the negotiated decision notice is different from the development approved in the decision notice or deemed approval in a way that affects the amount of an infrastructure charge or regulated infrastructure charge.
- (2) The local government may give the applicant a new infrastructure charges notice under section 633 or regulated infrastructure charges notice under section 643 to replace the original notice.

365 GIVING NEW REGULATED STATE INFRASTRUCTURE CHARGES NOTICE

- (1) This section applies if the development approved by the negotiated decision notice is different from the development approved in the decision notice or deemed approval in a way that affects the amount of a regulated State infrastructure charge.
- (2) The relevant State infrastructure provider may give the applicant a new regulated State infrastructure charges notice under section 669 to replace the original notice.

366 APPLICANT MAY SUSPEND APPLICANT'S APPEAL PERIOD

- (1) If the applicant needs more time to make the representations, the applicant may, by written notice given to the assessment manager, suspend the applicant's appeal period.
- (2) The applicant may act under subsection (1) only once.
- (3) If the representations are not made within 20 business days after the day written notice was given to the assessment manager, the balance of the applicant's appeal period restarts.
- (4) If the representations are made within 20 business days after the day written notice was given to the assessment manager—
- (a) if the applicant gives the assessment manager a notice withdrawing the notice under subsection (1)—the balance of the applicant's appeal period restarts the day after the assessment manager receives the notice of withdrawal; or
 - (b) if the assessment manager gives the applicant a notice under section 363(5)—the balance of the applicant's appeal period restarts the day after the applicant receives the notice; or
 - (c) if the assessment manager gives the applicant a negotiated decision notice—the applicant's appeal period starts again the day after the applicant receives the negotiated decision notice.

ATTACHMENT 3 - 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 prescribed 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) if the prescribed concurrence agency is the chief executive (environment)—development for an aquacultural ERA; or
 - (b) if the prescribed concurrence agency is the chief executive (fisheries)—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 (fisheries);
 - (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.