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Our Ref: MCU190

Doc No: 546484

23 February 2021

Lions Club of St George Inc T/A St George Recycling

Michael Kennedy

PO Box 234

ST GEORGE QLD 4487

Via email: stgeorgerecycling@gmail.com

Attention: Michael Kennedy

Dear Michael,

Decision notice approval

(Given under section 63(2) of the *Planning Act 2016*)

The development application described below was properly made to the Balonne Shire Council on 1 February 2021.

Applicant details

Applicant name: Lions Club of St George Inc T/A St George Recycling
Michael Kennedy

Applicant contact details: PO Box 234
ST GEORGE QLD 4487
Email: stgeorgerecycling@gmail.com

Application details

Application number: MCU190

Approval sought: Development Permit – Material Change of Use

Details of proposed development: Development application for Material Change of Use – Medium Impact Industry (Container Refund Depot and Storage Facility)

Location details

Street address: 150 Arthur Street, St George QLD 4487
Real property description: Lot 5 on STG8532

Decision

I wish to advise that, on 18 February 2021, the above development application was **approved in full** subject to conditions by Council. (Refer to the conditions contained in **Attachment 1**)

Details of the approval

This application is not taken to have been approved (a deemed approval) under section 64(5) of the *Planning Act 2016*.

The following approvals are given:

	Planning Regulation 2017 reference	Development Permit	Preliminary Approval
Development assessable under the planning scheme, superseded planning scheme, a temporary local planning instrument, a master plan or a preliminary approval which includes a variation approval - material change of use	N/A	<input checked="" type="checkbox"/>	

Further development permits

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

- Not Applicable

Properly made submissions

Not Applicable – No part of the application required public notification.

Referral agencies for the application

Not Applicable – No part of the application required referral.

Approved plans, specifications and drawings

Copies of the following approved plans, specifications and/or drawings are enclosed.

Plan/Document Number	Plan/Document Name	Date
-----	Site Plan	21/01/2021

Currency period for the approval (s.85 of the Planning Act)

For Material Change of Use - This approval lapses if the first change of use does not happen within 6 years after the approval starts to have effect.

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 certain applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

Appeal by an applicant

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

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

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

Appeal by an eligible submitter

An eligible submitter for a development application may appeal to the Planning and Environment Court against the decision to approve the application, to the extent the decision relates to:

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

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

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

To stay informed about any appeal proceedings which may relate to this decision visit: <https://planning.dsdmip.qld.gov.au/planning/our-planning-system/dispute-resolution/pe-court-database>.

For further information please contact Fiona Macleod, Planning and Development Officer on 07 4620 8842 or via email Fiona.macleod@balonne.qld.gov.au who will be pleased to assist.

Yours sincerely

A handwritten signature in blue ink, consisting of a stylized 'M' and 'G' followed by a flourish.

Matthew Magin
Chief Executive Officer

Enc: Attachment 1—Assessment Manager Conditions of Approval (Balonne Shire Council)
Attachment 2—Appeal provisions
Attachment 3—Statement of Reasons
Attachment 4—Approved plans and specifications

ATTACHMENT 1 – ASSESSMENT MANAGER CONDITIONS OF APPROVAL (BALONNE SHIRE COUNCIL)

Preamble

- i. The relevant planning scheme for this development is *Balonne Shire Planning Scheme 2019*. All references to the 'Planning Scheme' and 'Planning Scheme Schedules' within these conditions refer to the above Planning Scheme.
- ii. Under the Balonne Shire Planning Scheme 2019 a **“Medium Impact Industry Use”** means premises used for industrial activities that include manufacturing, producing, processing, repairing, altering, recycling, storing, distributing, transferring or treating of products and have one or more of the following attributes:
 - Potential for noticeable impacts on sensitive land uses due to offsite emissions including aerosol, fume, particle, smoke, odour and noise.
 - Potential for noticeable offsite impacts in the event of fire, explosion or toxic release.
 - Generates high traffic flows in the context of the locality or the road network.
 - Generates an elevated demand on the local infrastructure network.
 - Onsite controls are required for emissions and dangerous goods risks.
 - The use is primarily undertaken indoors.
 - Evening or night activities are undertaken indoors and not outdoors.
- iii. The *Environmental Protection Act 1994* states that a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm. Environmental harm includes environmental nuisance. In this regard, persons and entities involved in the operation of the approved development are to adhere to their 'general environmental duty' to minimise the risk of causing environmental harm to adjoining premises.
- iv. All Aboriginal Cultural Heritage in Queensland is protected under the *Aboriginal Cultural Heritage Act 2003* and penalty provisions apply for any unauthorised harm. Under the legislation a person carrying out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal Cultural Heritage. This applies whether or not such places are recorded in an official register and whether or not they are located in, on or under private land. The developer is responsible for implementing reasonable and practical measures to ensure the Cultural Heritage Duty of Care Guidelines are met and for obtaining any clearances required from the responsible entity.
- v. It is the responsibility of the developer to obtain all necessary permits and submit all necessary plans and policies to the relevant authorities for the approved use.
- vi. An operational works application will be required to be submitted to and approved by Council where there would be a change 1m or more in the level of any part of the land or

where any drainage path is affected; or for urban purposes that involve disturbing more than 2,500m² of land.

- vii. In completing an assessment of the proposed development, Council has relied on the information submitted in support of the development application as true and correct. Any change to the approved plans and documents may require a new or changed development approval. It is recommended to contact Council for advice in the event of any potential change in circumstances.

Use

1. The approved development is a Material Change of Use - "Medium Impact Industry Use" as defined in the Planning Scheme and as shown on the approved plans.
2. The approved development is to be carried out generally in accordance with the following approved plans/documents and subject to approval conditions. Where there is any conflict between the approval conditions and the details shown on the approved plans, the approval conditions prevail.

Plan/Document Number	Plan/Document Name	Date
-----	Site Plan	21/01/2021

3. During the course of constructing the works, the developer shall ensure that all works are carried out by appropriately qualified persons and the developer and the persons carrying out and supervising the work shall be responsible for all aspects of the works, including public and worker safety, and shall ensure adequate barricades, signage and other warning devices are in place at all times.

Compliance inspection

4. All conditions relating to the establishment of the approved development must be fulfilled prior to the approved use commencing, unless otherwise noted in these conditions.
5. Prior to the commencement of the use, the applicant shall contact Council to arrange a development compliance inspection.

Applicable Standards

6. All works must comply with:
 - a) the development approval conditions;
 - b) any relevant provisions in the Planning Scheme
 - c) any relevant Australian Standard that applies to that type of work; and

- d) any alternative specifications that Council has agreed to in writing and which the developer must ensure do not conflict with any requirements imposed by any applicable laws and standards.

Development works

7. The developer shall ensure that all approved works are carried out by appropriately qualified persons and the developer and the persons carrying out and supervising the work shall be responsible for all aspects of the works, including public and worker safety, and shall ensure adequate barricades, signage and other warning devices are in place at all times.
8. The developer is responsible for locating and protecting any Council and public utility services, infrastructure and assets that may be impacted on during construction of the development. Any damage to existing infrastructure (kerb, road pavement, existing underground assets, etc.) that is attributable to the progress of works on the site or vehicles associated with the development of the site shall be immediately rectified in accordance with the asset owners' requirements and specifications and to the satisfaction of the asset owners' representative(s).

Waste Management

9. All waste generated from construction of the premises must be effectively controlled on-site before disposal. All waste must be disposed of in accordance with the *Environmental Protection (Waste Management) Regulation 2000*.
10. All waste generated on-site must be managed in accordance with the waste management hierarchy as detailed in the *Waste Reduction & Recycling Act 2011*.

Stormwater Drainage

11. Stormwater drainage is to be provided in accordance with:
 - a) Queensland urban drainage manual, 3rd Edition, Queensland Department of Energy and Water Supply, 2013;
 - b) Pilgrim, DH, (ed), Australian Rainfall & Runoff – A Guide to Flood Estimation, Institution of Engineers, Australia, Barton, ACT, 1987; and
 - c) Class 1 and Class 10 buildings – National Construction Code, Volume 2.

Earthworks and Construction

12. During construction, erosion controls and silt collection measures are to be put in place to protect environmental values and mitigate potential impacts to adjoining properties and roadway/s.

Avoiding Nuisance

13. No nuisance is to be caused to adjoining properties and occupiers by the way of noise smoke, dust, rubbish, contaminant, stormwater discharge or siltation at any time during or after the establishment of the approved development.
14. Lighting of the site, including any security lighting, shall be such that the lighting intensity does not exceed 8.0 lux at a distance of 1.5 metres from the site at any property boundary.
15. All lighting shall be directed or shielded so as to ensure that no glare directly affects nearby properties.
16. The area and its surrounds shall be kept in an orderly fashion, free of rubbish and clear of weeds and long grasses. The approved development and the premises are to be maintained in a clean and tidy condition and not to pose any health and safety risks to the community.
17. Noise emissions from the development shall not cause environmental harm of nuisance to adjoining properties or "Sensitive Land Uses" in accordance with the *Environmental Protection (Noise) Policy 2008*.
18. Air emissions from the development shall not cause environmental harm of nuisance to adjoining properties or "Sensitive Land Uses" in accordance with the *Environmental Protection (Air) Policy 2008*.

Hours of Operation

19. Unless otherwise approved by Council, the activities associated with the Medium Impact Industry Use must only be conducted between the hours of;
 - 7am to 5pm, Monday to Saturday inclusive
20. Unless otherwise approved in writing by the Council, approved hours of construction are restricted to Monday – Saturday 6.30am to 6.30pm – noise permitted. Work or business which causes audible noise must not be conducted from or on the subject land outside the above times or on Sundays or Public Holidays.

Access

21. The landowner shall be responsible for the maintenance of vehicle crossovers from the road carriageway to the property boundary. Should any damage be caused at the approved access location, it is the landowner's responsibility to ensure this is reinstated. Any repair works are to be undertaken in consultation with Council and at the landowner's expense.

22. Vehicle access and manoeuvring shall be maintained generally in accordance with *Balonne Shire Council's Private Property Entrance Policy* dated 15 January 2010 ensuring no damage to the roadway.
23. Vehicles entering and exiting the development site must be able to enter and leave in forward direction. Reversing out of the development site is not permitted. Vehicle manoeuvres in this regard are to be totally contained within the development site boundaries.
24. Car parking and manoeuvring areas are designed in accordance with:
 - AS2890.1 – Parking Facilities
 - Austroads AP-34/95 - Design Vehicles and Turning Path Templates
 - The Access to Premises Standard' (Vol 1 of the National Construction Code).

No Cost to Council

25. The developer is responsible for meeting all costs associated with the approved development unless there is specific agreement by other parties, including the Council, to meeting those costs. This includes the costs of any services and infrastructure required in connection with the establishment of the development.

Latest versions

26. Where another condition refers to a specific published standard, manual or guideline, including specifications, drawings, provisions and criteria within those documents, that condition shall be deemed as referring to the latest versions of those publications that are publicly available at the commencement of the development works, unless a regulation or law requires otherwise.

Application Documentation

27. It is the developer's responsibility to ensure that all entities associated with this Development Approval have a legible copy of the Decision Notice, Approved Plans and Approved Documents bearing 'Council Approval'.

ATTACHMENT 2 – PLANNING ACT EXTRACT APPEAL RIGHTS

Chapter 6 Dispute resolution Part 1 Appeal rights

228 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.

229 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
 - (d) schedule 1, table 1, item 1—each principal submitter for
 - (e) the development application; and
 - (f) for an appeal about a change application under
 - (g) schedule 1, table 1, item 2—each principal submitter for
 - (h) the change application; and
 - (i) each person who may elect to become a co-respondent
 - (j) for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (k) for an appeal to the P&E Court—the chief executive; and
 - (l) 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 is 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.

230 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 the 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.

231 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 rules of the P&E Court.

ATTACHMENT 3 — STATEMENT OF REASONS

The following information is provided in accordance with section 63 of the *Planning Act 2016*.

Description of Development	Material Change of Use – “Medium Impact Industry (Container Refund Depot and Storage Yard)”
Assessment benchmarks	<p>The proposed development was assessed against the following Assessment benchmarks:</p> <ul style="list-style-type: none"> • Maranoa-Balonne Regional Plan; • <i>Darling Downs Regional Plan</i>; • <i>State Planning Policy</i>; and • <i>Balonne Shire Planning Scheme 2019</i> <ul style="list-style-type: none"> • Part 4 Local Government Infrastructure Plan • Part 5 Tables of assessment • Part 6 Zones <ul style="list-style-type: none"> ▪ Part 6.2.3 Industry zone code • Part 7 Development Codes <ul style="list-style-type: none"> ▪ Part 7.3.1 General development code
Relevant matters	The relevant matters are the Assessment benchmarks.
Matters raised in submissions	Not Applicable.
Reasons for decision	The development was assessed against all of the Assessment benchmarks listed above and complies with all of these Assessment benchmarks or has otherwise been conditioned to achieve compliance.

ATTACHMENT 4 — APPROVED PLANS AND SPECIFICATIONS

