



**I hereby give notice that a Planning and Environment Standing Committee Meeting will be held on:**

**Date: Tuesday, 31 January 2017**  
**Time: 9:00am**  
**Location: Administration Centre**  
**10 Furneaux Street**  
**Cooktown**

## **AGENDA AND BUSINESS PAPERS**

### **Planning and Environment Standing Committee Meeting**

**31 January 2017**

**Tim Cronin**  
**Chief Executive Officer**

**Order Of Business**

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- 1 ATTENDANCE**
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## **5 AGENDA ITEMS**

### **5.1 PLANNING AND ENVIRONMENT STANDING COMMITTEE CHARTER**

**File Number:** D17/861  
**Author:** Director Development, Environment & Community  
**Authoriser:** Gary Kerr, Director Development, Environment & Community  
**Attachments:** Nil

#### **PRECIS**

This report outlines the resolution for the formation of this committee and recommends the adoption of the Terms of Reference and governance guidelines by Council.

#### **BACKGROUND**

The Planning and Environment Standing Committee (Planning Committee) was formed by Council resolution 30281 on 19 June 2012 under *S 61 of the Local Government (Operations) Regulation 2010* and was delegated power to make decisions concerning planning and development applications and enquiries under *S 257 of the Local Government Act 2009*.

The resolution also included the following:

1. That every Councillor be a member of the Committee
2. That the Chair of the Committee and the quorum be appointed by that Committee
3. That all Committee meetings, if required are to be held on the Tuesday after the 1st Monday of each month commencing at 9.00 am.
4. That all meetings of this Committee are to be open to the public and all reports with the exception of those dealt with "in committee" to be made available with the agenda.

During the 2017 year there will be significant changes to the planning functions of Council. These will be driven by the introduction of the new 2017 Cook Shire Council Planning Scheme and the proposed introduction of new state planning legislation mid-year.

The Planning Committee will provide an excellent mechanism to keep Councillors informed and up to date with the changes and to assist in supporting efforts to inform the community of changes as well as making informed decisions on planning issues.

The Planning Committee will also provide an opportunity to raise customer service outcomes by enabling applications to be assessed more quickly whilst retaining appropriate due diligence in processes and assessment

#### **PROPOSED TERMS OF REFERENCE**

The Terms of Reference of the Planning Committee is to consider Development Applications that cannot be held over for the following full Council meeting, review the implementation and functionality of the 2017 Planning Scheme and receive briefings on the preparations and implementation of the proposed Planning Act 2017.

The Planning Committee will operate along the following governance principles:

1. Include every Councillor and will be chaired by the Mayor or nominated alternate;
2. A quorum will comprise a minimum four (4) Councillors
3. Meetings will be held on the first Tuesday of the month commencing at 9.00am
4. Meetings are to be advertised and open to the public and all reports with the exception of those dealt with "in committee" to be made available with the agenda.
5. The Planning Committee will exercise powers delegated to it by resolution 30281 on 19 June 2012, in that S 257 Delegation of local government powers of the Local Government Act 2009 states: *A local government may, by resolution, delegate a power under this Act or another Act to— (c) a standing committee, or joint standing committee, of the local government;*

### **RECOMMENDATION**

That the Committee recommend Council adopt the following Terms of Reference and governance guidelines for the operation of the Planning and Environment Standing Committee:

The Terms of Reference of the Planning Committee is to consider Development Applications that cannot be held over for the following full Council meeting, review the implementation and functionality of the 2017 Planning Scheme and receive briefings on the preparations and implementation of the proposed Planning Act 2017.

The Planning Committee will operate along the following governance principles:

1. Include every Councillor and will be chaired by the Mayor or nominated alternate;
2. A quorum will comprise a minimum four (4) Councillors
3. Meetings will be held on the first Tuesday of the month commencing at 9.00am
4. Meetings are to be advertised and open to the public and all reports with the exception of those dealt with "in committee" to be made available with the agenda.
5. The Planning Committee will exercise powers delegated to it by resolution 30281 on 19 June 2012, in that S 257 Delegation of local government powers of the Local Government Act 2009 states: *A local government may, by resolution, delegate a power under this Act or another Act to— (c) a standing committee, or joint standing committee, of the local government;*

**5.2 APPLICATION FOR A DEVELOPMENT PERMIT FOR DA/3675 - MATERIAL CHANGE OF USE FOR A RESTAURANT (BAR AND MINOR EXTENSION TO DINING AREA) ON LOT 98 SP249728 (LAURA ROADHOUSE) PENINSULA DEVELOPMENTAL ROAD, LAURA**

**File Number:** D17/809  
**Author:** Reel Planning Pty Ltd  
**Authoriser:** Gary Kerr, Director Development, Environment & Community  
**Attachments:** 1 Appendix A - DA/3675 - Approved Plans  
2 Appendix B - DA/3675 - Pre-lodgement Advice  
3 Appendix C - Infrastructure Charges Notice DA/3675

**PRECIS**

**Applicant:** Brett Ian Little  
c/- U&I Town Plan  
PO Box 426  
COOKTOWN QLD 4895

**Owner:** Ang-Gnarra Aboriginal Corporation of Laura

**Location:** Peninsula Development Road, Laura

**R.P.D.:** Lot 98 SP 249728

**Area:** 12.2 ha

**Zone:** Village

**Proposed Use:** Restaurant (Bar & Outdoor Dining Extension)

**Referral Agencies:** None Applicable

**Submissions:** None

**REPORT**

An application was made to Council on the 22 September 2016 for the issue of a development permit for a Material Change of Use for a Restaurant (Bar and Outdoor Dining Area extension) at Peninsula Development Road, Laura (Lot 98 SP 249728). An acknowledgement notice was issued by Council dated 5 October, 2016.

On the 19<sup>th</sup> of October 2016 Council issued an Information Request requiring the applicant to provide further information in relation to owner's consent, the proposed seating capacity of the restaurant and the standard of the existing driveway and car parking area. The applicant provided a complete response to Council's Information Request on the 28<sup>th</sup> of November 2016 in the form of a letter and attachments.

Public notification was undertaken between 1 December 2016 and the 10 January 2017. No submissions were received.

### **PROPOSAL**

The proposal involves a new bar and an extension to the existing dining area at the Laura Roadhouse. The bar will be constructed next to the existing outdoor dining area. The extension to the outdoor dining area is to replace an area lost as a result of the construction of the bar, as well as improve weather protection. The proposal will facilitate the sale of alcoholic drinks to accompany meals, as well as provide additional shelter for customers using the outdoor dining area. The existing Service Station, Restaurant and associated Caretaker's Residence are existing uses which will remain.

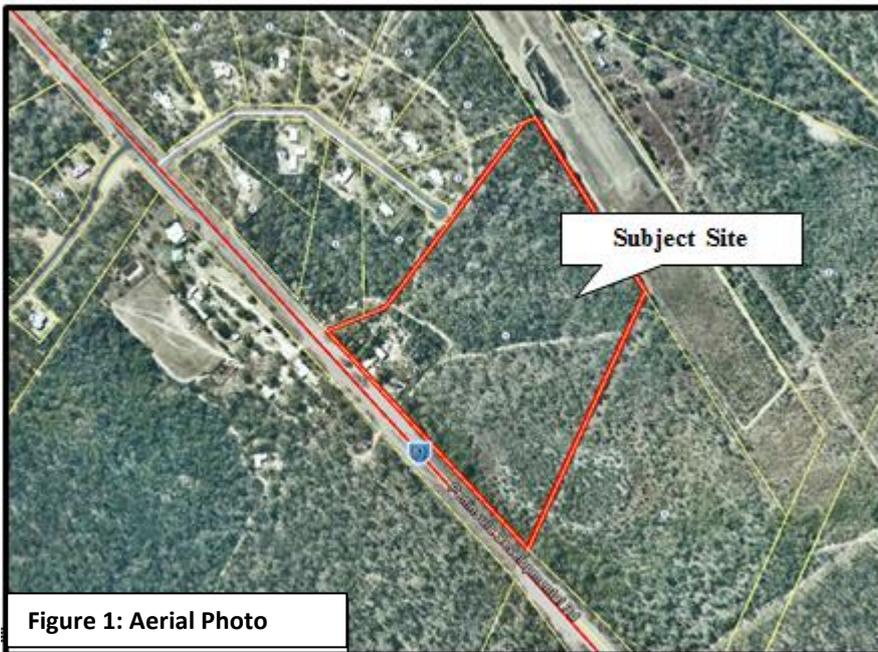
The extensions feature an outdoor covered dining area attached to the north of the existing Restaurant area and an enclosed Bar and covered area to the south. The development is intended to complement the existing use and the application material states that there is not expected to be any overall increase in patronage. It also states that the anticipated customer base will be comprised predominantly of passing visitors using the Peninsula Developmental Road.

### **THE SITE**

The subject land is described as Lot 98 SP249728 and has frontage to Peninsula Developmental Road of approximately 405m, with two informal vehicle crossovers to the State Controlled Road. The site contains an existing Service Station, covered Restaurant area and associated Caretaker's Residence at the site rear. It is understood that the current property owners and managers live within the Caretaker's Residence onsite.

There are two extended driveways accessing the site from Peninsula Developmental Road, with the north western driveway consisting of approximately 30m in width and the south eastern crossover extending approximately 48m. The site contains an 'On-street' car parking facility at the property frontage and a rear car parking area. The rear car parking area appears (from aerial photography) to be partly used for the outdoor storage of vehicles and equipment.

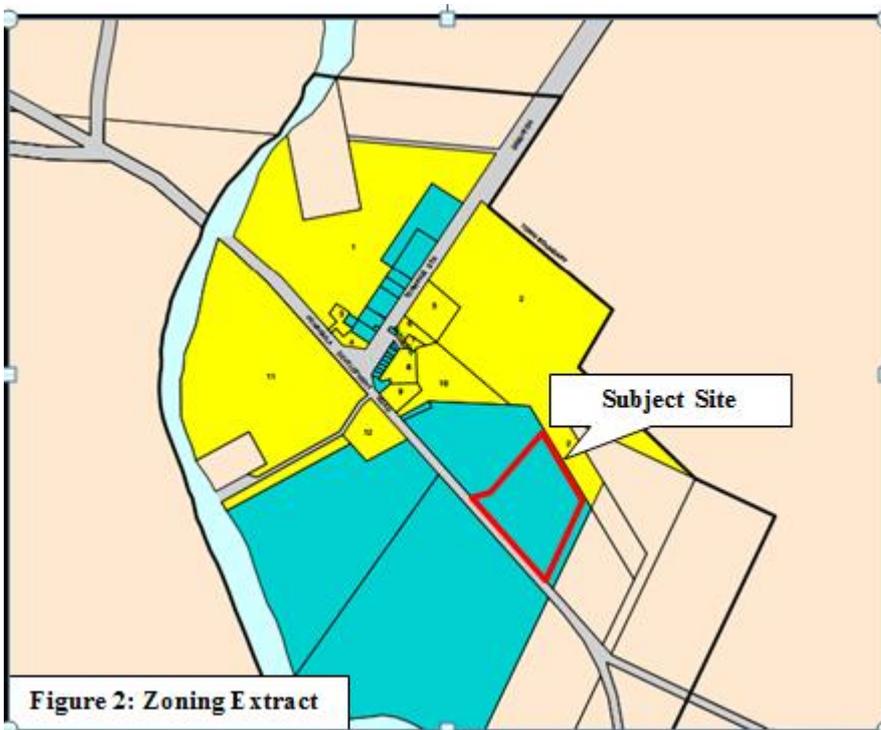
The site is located at the south-eastern edge of Laura. The Quinkan and Regional Cultural Centre is positioned on the opposite side of Peninsula Development Road. To the site's immediate North are a number of detached Dwelling houses and the Laura Airport strip.



**TOWN PLANNING CONSIDERATIONS**

**1. STATUTORY PLANNING CONTEXT**

The site is zoned Village within the Lakeland and Laura locality under Cook Shire Council’s 2007 Planning Scheme.



The proposal fits the ‘Restaurant’ definition, as defined below:

**Restaurant** – means the use of licensed or unlicensed premises for the provision of food and/or drinks to member of the public for consumption on or off the premises. This term also includes facilities commonly described as a café, milk bar, coffee shop, takeaway, drive-through outlet and fast food store.

A Restaurant is identified as an impact assessable use within the Village Zone. The application is therefore subject to impact assessment, allowing Council to consider the provisions of the Planning Scheme as a whole in assessing the application, including the strategic elements. The following Codes are also relevant:

- Village Zone Code;
- Laura & Lakeland Locality Code;
- Parking & Access Code;
- Works Services & Infrastructure Code; and
- Natural Hazards Code

## **2. COMPLIANCE WITH CODES AND POLICIES**

### **(i) DEOs**

The DEOs set the broad strategic direction for the Shire and describe the desired outcomes the planning scheme is seeking to achieve across a range of environmental, economic and social themes. They cover the following topics:

1. Economy
2. Environment
3. Settlement Patterns
4. Transport & Communications
5. Community
6. Rural Prosperity
7. Heritage
8. Safety

The proposed use is relatively minor in scale and intensity given that the development will support an existing Service Station and Restaurant use operating within the local area. The following DEOs are however of relevance to the proposal and the development is considered to generally demonstrate compliance with these higher order outcomes sought by the Planning Scheme:

#### **3.1.1 DEO 1: A Strong Economy**

*Cook Shire has a prosperous and growing economy, delivering jobs and rising living standards for all. The economy is centred around rural and extractive industries and tourism based on the Shire's natural and cultural assets. Opportunities to diversify within and beyond these sectors are grasped and the Shire becomes more self-reliant in retailing and services.*

#### Response

The proposed bar and outdoor dining extension will expand an existing use which primarily services the passing tourist trade. The proposal represents diversification within the site's existing range of uses. The proposal may also provide increased employment opportunities. On this basis, the proposed use is considered to contribute toward a strong, self-sufficient economy for the Shire and assists in achieving the DEO.

### **3.1.2 DEO 3: Efficient Settlement**

*Human settlement is consolidated in the existing towns and townships where it can be most cost effectively serviced. Cooktown functions as the largest administrative and commercial centre of the Shire, with Coen playing a significant role in the Northern Cape York area. The smaller townships of Marton, Lakeland, Laura, Portland Roads, Ayton and Rossville serve their respective localities. Land and infrastructure is provided at an appropriate scale and each of these settlements, to allow adequate housing, community services, recreational space and opportunities for business and industrial activities.*

#### Response

The proposal represents a logical expansion of the existing use which is consistent with the scale and character of development in the Laura township. Furthermore, the development is relatively minor and is not anticipated to undermine the role of Cooktown and Coen within the greater Cape York area. Therefore, the proposal helps achieve an efficient settlement pattern and achieves the DEO.

#### **(ii) Laura and Lakeland Locality Code**

The overall outcomes of the Laura and Lakeland Locality Code include the following:

- *The townships of Lakeland and Laura provide a range of basic services and facilities to residents, tourists and to the surrounding rural area;*
- *There is a general mix of land use typical of smaller townships, with non-residential uses being limited in scale and designed so as not to compromise residential amenity;*
- *New buildings and land uses reflect the low density, spacious character and design of the existing townships;*
- *The tourism industry expands on the basis of the internationally renowned Quinkin rock art and the Quinkin Centre, the Laura Aboriginal and Torres Strait Islander Dance Festival and the European and Chinese history of the area.*

The proposal is consistent with these overall outcomes in that:

- The proposed use will primarily service residents and tourists to the surrounding rural area;
- The proposal contributes to a range of uses typical of a smaller township and is of a location and scale which will not affect residential amenity;
- The proposal represents an extension to the rear of an existing building that is unlikely to be visible from the street or other public areas so there will not be any impact on the character of the existing township; and
- The proposed development seeks to expand the local tourism industry in close proximity to the Quinkin Centre.

#### **(iii) Village Zone Code**

The overall outcomes of the Village Zone include the following:

- *The Village Zone provides for a range of commercial, retail and community land uses as well as low density residential use;*
- *Employment generating activities are appropriately located to support the local community without detrimentally impacting upon the amenity of the township;*

- *Subdivision of Village zoned land only occurs where there is a demonstrated community need; and*
- *The design of buildings and structures is sympathetic to the existing character and the natural setting of the township.*

The proposal is consistent with these overall outcomes in that:

- The Village Zone contemplates commercial and retail activities;
- The proposed extensions to a Restaurant on the edge of the township are of an appropriate scale and location to support the local community;
- The proposal does not involve subdivision; and
- The extensions are unlikely to be visible from the street or other public spaces so there is limited change to the existing built form.

An assessment of the proposal against the Performance Criteria of the Village Zone Code is provided below:

<b>Performance Criteria</b>	<b>Proposal Compliance</b>
<b>Land Use</b>	
<b>PC 1</b> Residential uses are supported by a mix of commercial, community, recreation and industry uses where of a nature and scale that does not undermine the residential amenity.	The proposal refers to an existing approved commercial use which is generously separated from adjoining residential uses. Therefore, it is unlikely to compromise residential amenity.
<b>Scale and Density</b>	
<b>PC 2</b> The scale and design of buildings is consistent with the existing area.	The associated acceptable solution requires that there is not more than one House on a single lot. While this is technically true of the proposal, it is noted that the proposed extensions are relatively minor and are consistent with the built form of the existing service station and restaurant.
<b>PC 3</b> Buildings are consistent in height and bulk with the existing pattern of construction.	The proposed extensions will be single storey and less than 8.5m in height. Overall site cover will be far less than 50% thereby satisfying the associated acceptable solution.
<b>Amenity and Setbacks</b>	
<b>PC 4</b> High standards of residential amenity and landscaping are maintained and new buildings are setback from boundaries so as to minimise adverse impacts on the amenity of adjoining sensitive uses and the streetscape.	The associated acceptable solution requires fencing and landscaping where adjoining a residential or community use. The proposed use is located more than 175m from an adjoining residential and is buffered by dense bushland throughout this area. Therefore, the existing boundary interface is considered adequate.

Performance Criteria	Proposal Compliance
<p><b>PC 5</b> Privacy of adjoining residents is protected such that where windows of commercial uses look directly into a bedroom or living area of an adjoining dwelling unit, effective visual screening is provided (eg fixed screens or panels).</p>	<p>Adjoining residential uses are generously separated from the subject site and are not within direct view. Given this context, additional visual screening is not considered warranted in this instance.</p>
<p><b>Design</b></p>	
<p><b>PC 6</b> New buildings and structures are designed to:</p> <ul style="list-style-type: none"> <li>• Provide a high level of visual appeal;</li> <li>• To be in keeping with the predominate character of the area;</li> <li>• Ensure that walls facing the street frontage are articulated and punctuated by windows and doors (i.e. long expanses of blank and/or flat walls are unacceptable); and</li> <li>• Ensure that the street frontage and internal car parking areas are well capable of surveillance from dwelling unit(s) located on the site.</li> </ul>	<p>From a design perspective, the extensions are open, link to the existing pitched roof and are consistent with the character of the local area. Given their location, it is unlikely that the proposed extensions will be visible from the street, however the open nature of the outdoor dining area means that there are adequate viewpoints provided to the front and rear car parking areas.</p>
<p><b>PC 7</b> Non-residential uses provide appropriate weather protection for pedestrians.</p>	<p>The intent of the Performance Criteria is to facilitate continuous pedestrian awnings in a main street environment. The proposed extensions are remote from the street and as such there is no need to provide weather protection for pedestrians.</p>
<p><b>PC 8</b> Effective landscaping is employed to provide an attractive presentation to the street.</p>	<p>The development is for a small-scale extension and is located within a heavily vegetated environment. No additional landscaping is considered warranted.</p>
<p><b>PC 9</b> Safe and efficient vehicle movements are facilitated.</p>	<p>The existing frontage to the Peninsula Development Road is separated from the road pavement by a large reserve containing vegetation, forming an effective slip road and car parking area. This ensures that there is sufficient queuing and visibility to access and exit the site.</p>
<p><b>PC 10</b> Waste material is stored so as not to be unsightly and so as to be conveniently collected.</p>	<p>The proposed extensions will not dramatically change the waste generation from the site, so the existing waste storage facilities will remain.</p>

Performance Criteria	Proposal Compliance
<b>PC 11</b> Waste material is stored so as to ensure adequate containment and retention of waste material.	As above.
<b>Erosion Prone Land</b>	
<b>PC 12</b> In an Erosion Prone Area, there are no adverse impacts on habitat, soil cover or water quality and no significant threats to public safety, infrastructure integrity or the economic value of the Erosion Prone Area.	The site is not located within an area of Erosion Prone Land.
<b>Acid Sulfate Soils</b>	
<b>PC 13</b> Natural or built environments and human health are not harmed by the production of acid leachate resulting from disturbance of potential and/or actual acid sulfate soil by: Avoiding disturbance of such areas; or Treating and managing the disturbance to minimise the volume of acidic leachate within manageable levels, and Treating and managing surface and groundwater flows from areas of acid sulfate soils to minimise environmental harm.	The site is not located within an area of Acid Sulfate Soils.
<b>Pest Management</b>	
<b>PC 14</b> Movement of State Declared or environmental pest plants and pest animals is prevented by: <ul style="list-style-type: none"> <li>▶ Not introducing any new declared or environmental pest plants or animals on to the property; and</li> <li>▶ Not allowing seed or plant parts of declared or environmental pest plants to leave the property.</li> </ul>	The proposal involves construction in a cleared area of the site. A condition of approval is recommended to ensure that no pests are introduced during construction.

**(v) Parking and Access Code**

The Parking and Access Code seeks to ensure there is adequate staff and visitor parking as well as safe and efficient access to the site. The code specifies a minimum of four (4) spaces for a Service Station use in addition to one (1) car parking space per 50sqm for the Restaurant use area and one (1) space overall for a Caretaker’s residence. The interior space of the Restaurant is not clear however it is assumed that the existing uses require at least six (6) parking spaces. The proposed extensions trigger the need for one (1) additional parking space.

There is no formalised parking on site, although there is a large area at the rear of the Caretakers residence which would appear to be available. It is understood that most vehicles park in the road reserve at the front of the site and that this area has been improved with gravel. The applicant has argued that the existing unmarked spaces in the road reserve are considered appropriate on the basis that:

- There is adequate space available.

- The proposal will not result in increased patronage to the site and as such does not warrant car parking upgrades.
- In the event that parking spaces along the site frontage area not available, there is sufficient car parking space at the site rear to accommodate the existing Caretaker's Accommodation and the existing commercial demand.

Council Officers disagree that the proposed extensions will not attract additional patronage. The proposal aims to increase the range of services offered at the establishment and as such, can be expected to attract additional persons even though the physical outdoor dining area will not change dramatically. Despite this, there does appear to be adequate space in the road reserve to accommodate vehicles and it is noted that parking in this area associated with the existing uses has occurred for a long time. It is also noted that an informal overflow parking area exists at the rear of the site in the event that there is insufficient space or inadequate conditions in the road reserve. It is recommended that the applicant erect signage making patrons aware that additional parking is available at the rear of the site.

#### **(vi) Works, Services and Infrastructure Code**

This code seeks to ensure infrastructure is designed and constructed to a suitable standard and that works, services and infrastructure do not cause environmental degradation or increase the risk of natural hazards.

Specific performance criteria within this Code of relevance to this application include:

- **PC1** requires that the site be connected to the reticulated water system, where available. The site falls within the reticulated water area of Laura and it is understood that the site has an existing connection.
- **PC3** deals with sewage disposal and requires that sites outside a reticulated sewage area, be provided with on-site systems. It is understood that the site is has an existing on site system and given the scale of the extension it has been assumed that the existing system is sufficient.
- **PC5** requires that land be provided with internal and external drainage to minimise runoff and impacts on receiving waters. The application did not include any assessment of stormwater, however it is noted that the plans show that the extensions will feature a gutter system and introduce a limited amount of new impervious area. Therefore it is considered that the proposed change of use does not require additional stormwater detention or treatment in this instance.
- **PC6** requires that land is provided with a suitable electricity supply. Overhead power currently exists at the road frontage.
- **PC8** deals with upgrading the road frontage and access. The Peninsula Developmental Road is a State Controlled Road and therefore managed by the Department of Transport and Main Roads. For this reason frontage upgrades are not a consideration for Council.

#### **(vii) Natural Hazards Code**

The overall outcomes for the Natural Hazards Code seek to ensure that development is compatible with natural hazards in affected areas of the Shire, with impacts on existing developed areas to be minimised and ensuring that development does not materially increase the extent or the severity of natural hazards. The proposal will not increase the risk or exposure to natural hazards, with no known flooding, bushfire or erosion problems.

### **REFERRAL AGENCIES**

The application would normally require referral to the Department of Transport and Main Roads due to its frontage to a State Controlled Road. The applicant has however attained Pre-Lodgement advice from the Department of Infrastructure Local Government and Planning that the proposed use is an 'excluded material change of use' under Schedule 26 of the *Sustainable Planning Regulation 2009*. An excluded material change of use is not required to be referred to the department.

### **PUBLIC NOTIFICATION**

Public notification of the proposed development was required. This applicant has provided a notice stating that the application was publicly notified in accordance with Section 297 of the *Sustainable Planning Act 2009*. No submissions were received during the public notification period.

### **DISCUSSION ON ISSUES**

#### ***Land Use and Amenity***

The proposed use is identified as requiring impact assessment in the Village Zone. An assessment against the relevant DEOs, overall outcomes and codes does not however reveal any conflict with the Planning Scheme. In particular;

- The DEOs and overall outcomes reveal that a level of commercial and retail activity is anticipated in Laura;
- The proposal will increase the range of services available at a facility focussed on the passing tourist market;
- The Restaurant use is generously separated from adjoining residential uses and is consistent with existing land uses within the Laura locality; and
- The proposed extensions complement the site's existing built form and are consistent with the character of the area.

Therefore, the use is considered to be appropriately located on this site.

#### ***Infrastructure and Stormwater***

The application material did not include any information on the site's existing effluent disposal systems. The Site Plan identifies a stand-alone toilet block to the North of the Restaurant however it is unclear whether this facility is sufficient to service the extended outdoor dining area and bar. The application material states that the proposed extensions are not expected to result in additional patrons visiting the site. Council Officers disagree, however it is considered that any additional patronage would not be so great as to overwhelm an existing operating system.

Similarly, the application material did not provide any information on how additional stormwater will be controlled as a result of the development. The new works are on a large site and it is likely (having regard to the site contours) that stormwater would drain overland in a South West direction. Furthermore, the additional roof area and therefore impervious area, is relatively small so there is not expected to be a significant change to the existing stormwater conditions on site.

***Parking and Access***

The existing uses on site require at least six (6) car parking spaces when assessed against Council's 2007 Planning Scheme and the proposed extensions require at least one (1) additional space (for a total of seven (7)). It is recognised that the existing uses have occurred on site for a long time without any obvious formalised parking. Sufficient space for parking appears to exist in the road reserve, with overflow parking available at the rear of the site if required. It is recommended that the applicant erect signage making patrons aware that additional parking is available at the rear of the site.

**INFRASTRUCTURE CHARGES**

The application was lodged following the adoption of Council's Charges Resolution (No.1) of 2015. The resolution levies charges for water supply, sewerage, transport, public parks and community land and stormwater. Charges for sewerage and public parks and community land are not applicable to development in Laura.

A calculation of charges is based on Gross Floor Area (GFA) which relates to the internal area of buildings on site, but excludes areas used for the parking, loading or manoeuvring of vehicles. The applicant is also entitled to a credit for existing or past lawful uses which is to be subtracted from the charges applicable to the proposed development.

## **RECOMMENDATION**

That Council issue an approval for the development application submitted by Brian I Little c/o U&I Town Plan for the Material Change of Use for a Restaurant (Bar and Outdoor Dining Extension) over Lot 98 on Plan SP249728, Peninsula Developmental Road Laura, subject to the following conditions:

### **A. Assessment Manager (Council) Conditions**

#### **Approved Plan**

1. The development must be carried out generally in accordance with the following proposal plans except for any modifications required to comply with the conditions of this approval:
  - 'Site Plan – Proposed Bar & Covered Dining Area', prepared by U & I Town Plan, dated 28 November 2016;
  - 950-1, 'Covered Area Extension Site Plan', prepared by Home Improvement Designers, dated 23 August 2016;
  - 950-2, 'Slab and Roof Plans', prepared by Home Improvement Designers, dated 23 August 2016;
  - 950-3, 'Covered Area Extension- Typical Section & Details', prepared by Home Improvement Designers, dated 23 August 2016.

#### **Amenity**

2. There shall be no adverse impact on the amenity of the surrounding area by reason of light nuisance, dust or noise.

#### **Car Parking**

3. The applicant is to erect signage advising patrons of the availability of parking at the rear of the site.
4. The driveway providing access to the rear of the site, as well as space at the rear of the site suitable for the parking of vehicles is to be kept clear at all times.

#### **Storm Water**

5. Storm water must be directed to a legal point of discharge to the satisfaction of Council's Director Infrastructure Services.

#### **Public Utilities**

6. The proposal is to be connected to the reticulated water system and electricity supply prior to the commencement of the use.
7. The developer is responsible for the cost of any alterations to public utilities as a result of complying with the Conditions of this approval.

Utilities design must be in accordance with the FNQROC Development Manual D8 Operational Works Design Guidelines "Utilities".

#### **Environmental**

8. The applicant must ensure that no soil or silt runoff occurs from the site during the construction and operational phase of the development.
9. No State Declared or environmental pest plants and pest animals are to be introduced onto the property. The applicant/owner shall be responsible for the complete removal and destruction of any noxious weed or plants existing on the land the subject of the Development Permit.

**Compliance**

10. All conditions of this Development Permit are to be complied with prior to the use commencing and, where relevant, maintained during operation.

**Outstanding Charges**

11. All rates, service charge, interest and other charges levied on the land are to be paid prior to the use commencing.

**Infrastructure Charges**

12. Infrastructure charges must be paid to Council prior to the commencement of the use as indicated on the attached Adopted Infrastructure Charges Notice at the rate applicable at the time of payment.

**Currency Period**

13. The currency period for this application is four (4) years. Should the approved Restaurant (bar and minor Extension to Outdoor Dining Area) not be established within this time, the approval shall lapse.

**B. Assessment Manager (Council) Advice**

- a. A development permit is required for carrying out Building works (if required) and a Plumbing and Drainage approval/compliance permit is required for Plumbing and Drainage works prior to construction of any buildings associated with this development (if required).

**5.3 APPLICATION FOR A DEVELOPMENT PERMIT - DA/3699 - MATERIAL CHANGE OF USE FOR THE PURPOSE OF AN EXTENSION TO AN EXISTING CARAVAN PARK (ADDITIONAL 26 SITES) ON LOT 2 SP134204, 14 HOPE STREET, COOKTOWN**

**File Number:** D17/823  
**Author:** Reel Planning Pty Ltd  
**Authoriser:** Gary Kerr, Director Development, Environment & Community  
**Attachments:** 1 Appendix A - DA/3699 Approved Plan  
2 Appendix B - DA/3699 Infrastructure Charges Notice

**PRECIS**

**Applicant:** John A Noonan & Mary M Noonan t/a Cooktown Caravan Park  
c/- U&I Town Plan  
PO Box 426  
COOKTOWN QLD 4895

**Owner:** John A Noonan & Mary M Noonan

**Location:** 14 Hope Street, Cooktown

**R.P.D.:** Lot 2 SP 134204

**Area:** 1.962 ha

**Zone:** Low Density Residential

**Proposed Use:** Caravan Park

**Referral Agencies:** None Applicable

**Submissions:** None

**REPORT**

An application was made to Council on the 28 November 2016 for the issue of a development permit for a Material Change of Use for a Caravan Park (26 additional Caravan sites) at 14-16 Hope Street, Cooktown. An acknowledgement notice was issued by Council on 29 November, 2016.

On the 29 November 2016 Council advised that no further information was required in order to assess the application.

Public Notification was undertaken between 1 December 2016 and 10 January 2017. No submissions were received.

**PROPOSAL**

The proposal involves a Material Change of Use for a Caravan Park (26 Additional Sites). The application aims to regularise the use of twenty-six (26) existing Caravan sites which have been established since the park opened in 2000.

An approval was obtained in 2000 for fifteen (15) sites, however it is understood that when the applicant renewed their local law approval in 2001, twenty-six (26) additional sites were shown (a total of forty-one (41) sites). The Local Law approval has been granted each year, however the applicant never sought further Town Planning approval from Council.

The site plan shows a total of:

- Thirteen (13) powered caravan sites;
- Eleven (11) powered tent sites;
- Fifteen (15) unpowered tent sites; and
- Two (2) unpowered caravan sites.

No new works are proposed as it is considered that the existing site infrastructure is suitable to facilitate the total forty-one (41) sites.

### **THE SITE**

The subject land is located at 14 Hope Street, Cooktown, is described as Lot 2 on SP 134204 and has an overall area of 1.962 hectares. The site has been partially cleared for the Caravan Park use however remains heavily vegetated with mature trees and undergrowth. In its current form, the property contains a mix of powered caravan sites, powered tent sites and a central camp ground (for unpowered tent camping). The central area also incorporates an amenities block with a refuse storage area and car parking.

The site has a frontage of approximately 120m to Hope Street. The driveway connects to an internal ring road which provides access to all the caravan and tent sites. Each site contains sufficient space to park a vehicle (in addition to the caravan or tent), with a separate car parking area also providing eight (8) parking spaces for visitors (or guests checking in). The site is located within the Cooktown reticulated water and sewerage area and is serviced by an overhead electricity connection at Hope Street.

The site is located within a low density residential environment at the southern edge of the Cooktown urban area. Within this context, the majority of land remains undeveloped.



Figure 1: Aerial Photo

**TOWN PLANNING CONSIDERATIONS**

**1. STATUTORY PLANNING CONTEXT**

The site is zoned Low Density Residential within the Cooktown locality under Cook Shire Council’s 2007 Planning Scheme.

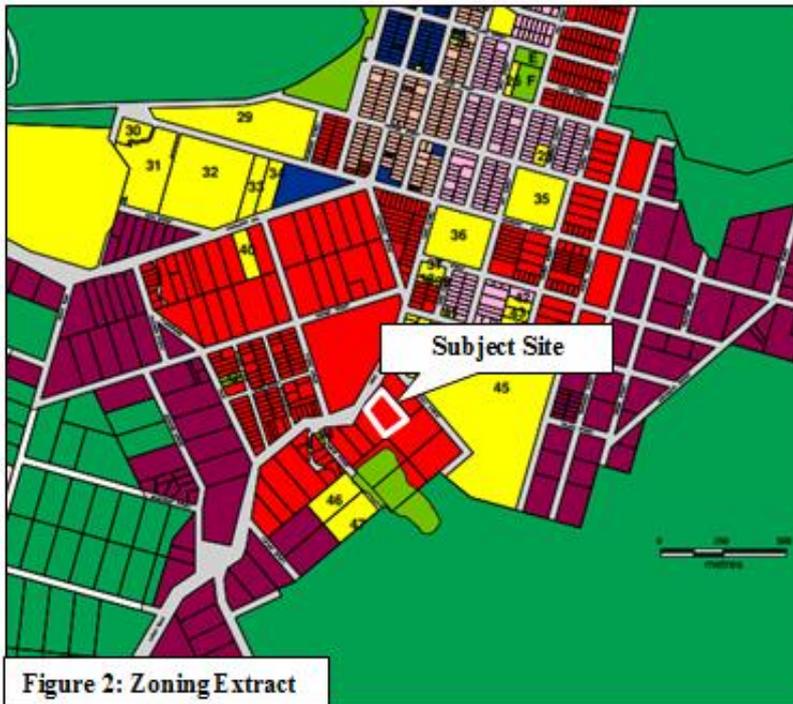


Figure 2: Zoning Extract

The proposal fits the definition for a ‘Caravan Park’ as defined below:

**Caravan Park** – means the use of premises for the parking/and or siting of two or more mobile campervans, caravans, cabins, relocatable homes or tents for the purpose of providing accommodation. This use may include any manager’s office/residence, amenity buildings, recreational and entertainment facilities and shop which cater exclusively for the occupants of the caravan park.

A Caravan Park is identified as impact assessable within the Low Density Residential zone. The application is therefore subject to impact assessment, allowing Council to consider the provisions of the planning scheme as a whole in assessing the application, including the strategic elements. The following codes are also relevant:

- Cooktown Locality Code;
- Low Density Residential Zone Code;
- Caravan Park Code;
- Parking & Access Code;
- Works Services & Infrastructure Code; and
- Natural Hazards Code.

## **2. COMPLIANCE WITH CODES AND POLICIES**

### **(i) DEOs**

The DEOs set the broad strategic direction for the Shire and describe the desired outcomes the Planning Scheme is seeking to achieve across a range of environmental, economic and social themes. They cover the following topics:

1. Economy
2. Environment
3. Settlement Patterns
4. Transport & Communications
5. Community
6. Rural Prosperity
7. Heritage
8. Safety

The following DEOs are relevance to the proposal and the development is considered to generally demonstrate compliance with these higher order outcomes sought by the Planning Scheme:

#### **3.1.1 DEO 1: A Strong Economy**

*Cook Shire has a prosperous and growing economy, delivering jobs and rising living standards for all. The economy is centred around rural and extractive industries and tourism based on the Shire's natural and cultural assets. Opportunities to diversify within and beyond these sectors are grasped and the Shire becomes more self-reliant in retailing and services.*

#### Response

The proposed change of use seeks to regularise a Caravan Park use which is centred around tourism and the Shire's natural assets. On this basis, the proposal is considered to assist in achieving the DEO.

#### **3.1.2 DEO 2: A Healthy Environment**

*The natural habitat, biodiversity and visual beauty of the Shire's terrestrial and aquatic environments are protected and the quality of its air and water is of a high standard. Human activities with significant impacts on the environment are carefully planned and managed, so that its long-term health is not diminished. Known mineral and other extractive resources are protected and used in a sustainable manner.*

Response

The existing use has a limited impact upon surrounding habitat values, given that minor clearing has already been undertaken to accommodate the site's development. Importantly there are no works proposed and the intention is to retain the existing natural bushland setting. Therefore, the proposal is considered to achieve the DEO.

**3.1.3 DEO 3: Efficient Settlement**

*Human settlement is consolidated in the existing towns and townships where it can be most cost effectively serviced. Cooktown functions as the largest administrative and commercial centre of the Shire, with Coen playing a significant role in the Northern Cape York area. The smaller townships of Marton, Lakeland, Laura, Portland Roads, Ayton and Rossville serve their respective localities. Land and infrastructure is provided at an appropriate scale and each of these settlements, to allow adequate housing, community services, recreational space and opportunities for business and industrial activities.*

Response

The Caravan Park is located at the southern edge of the Cooktown urban area. It will therefore reinforce and consolidate Cooktown as the administrative and commercial centre for the Shire and assist in achieving the DEO.

**(ii) Cooktown Locality Code**

The overall outcomes of the Cooktown Locality Code include the following:

- *Cooktown functions as the main administrative, commercial and service centre of the Shire;*
- *The population and employment base of the town expands and the availability of serviced land keeps pace with this;*
- *The historic built form of the main commercial area is retained and new building work reflects the scale, height and architectural characteristics of this historic streetscape;*
- *The town's scenic backdrop of hills and mountains retains its natural appearance and new development in such areas is not visually obtrusive;*
- *Development of Cherry Tree Bay is limited to public walking paths for passive recreation;*
- *The tourism industry expands on the basis of the town's history and its ability to provide accommodation and services to tourists seeking to experience the Shire's natural environment, cultural diversity and recreational and sporting fishing opportunities;*
- *Access to and public enjoyment of the town's waterfront is improved with quality recreational open space, commercial wharf facilities and tourist related business; and*
- *A marina is constructed to provide safe harbourage for the boats of permanent residents and to act as a base for coastal and international cruising yachts.*

The proposal is considered consistent with the overall outcomes in that:

- The proposed supports and facilitates the role of Cooktown as the main administrative, commercial and service centre of the Shire;
- The land is sufficiently remote from the historic built form of the main commercial area so not to be out of character;
- The use retains its bush setting so is consistent with the town's scenic backdrop of hills and mountains;

- Supports the tourism industry; and
- Is not located near Cherry Tree Bay, is not located near the waterfront and does not involve a marina.

**(iii) Low Density Residential Zone Code**

The overall outcomes of the Low Density Residential Zone Code include the following:

- *Residential neighbourhoods are low density in scale and design and provide a pleasant living environment with a high standard of amenity*
- *Residential neighbourhoods are located close to services and community facilities and provide an appropriate level of infrastructure; and*
- *Non-residential development which supports the immediate community is located and designed to maintain the amenity of the adjoining residential development*

The proposal is not for a conventional residential use and therefore much of the Low Density Residential code are not applicable to this assessment. However, the proposed development is generally consistent with these overall outcomes in that:

- The site's existing development is low density in scale and design;
- The proposal is well located in close proximity to services within central Cooktown and has access to an appropriate level of infrastructure; and
- The Caravan Park use retains a significant separation distance to adjoining residential development and is partially buffered by natural vegetation so does not prejudice future low density development on surrounding land.

**(iv) Caravan Park Code**

The overall outcomes of the Caravan Park Code include the following:

- *Caravan Parks are designed to provide an attractive living environment and an additional accommodation choice for both residents and visitors in suitable areas of the Shire;*
- *A high standard of amenity is provided for on-site residents and there are no detrimental impacts on the surrounding area; and*
- *Native vegetation is retained where feasible*

The proposal is consistent with these overall outcomes in that:

- It represents an expansion of an existing caravan park in an area on the edge of town in a bushland setting. This represents accommodation choice for residents and visitors compared to a number of other caravan parks closer to the centre of town in a more urban setting.;
- The open bushland setting results in a high standard of amenity for guests and remaining vegetation assists to buffer the use from surrounding land; and
- The proposal is not associated with any further vegetation removal.

An assessment of the proposal against the Performance Criteria of the Caravan Park Code is provided below:

<b>Performance Criteria</b>	<b>Proposal Compliance</b>
<b>Site Suitability</b>	
<b>PC 1</b> Caravan Parks are located so as to be easily and safely accessible to the travelling public.	The associated acceptable solution calls for access from a sealed road of minimum 20m reserve width. The proposal gains access from Hope Street, which meets these criteria.
<b>PC2</b> Caravan Parks have sufficient area for all individual sites, services and facilities, landscaping and vehicle manoeuvring and parking.	The associated acceptable solution calls for a minimum area of 1ha. The subject site is 1.962ha.
<b>PC3</b> Caravan Parks are well drained and flood free.	The site is not located within an identified flood area and analysis of the land contours would suggest it drains in a south west direction overland. The majority of the sites are unsealed and therefore will have no added impact on stormwater runoff.
<b>Vehicle Access and Manoeuvring</b>	
<b>PC 4</b> Safe and efficient vehicle movements are facilitated.	The associated acceptable solution seeks that the internal driveway be such that caravans can enter and leave in a forward gear. This is achieved on the subject site through the internal circular driveway.
<b>PC 5</b> Off-street parking for guest check-in/check-out is provided adjacent to the office or caretaker's residence.	The proposed visitor car parking area is provided adjacent to the onsite manager's office.
<b>Design</b>	
<b>PC 6</b> Buildings and structures or the purpose of providing recreation for guests are designed and located so as not to adversely impact on the amenity of guests or adjoining properties.	The existing main amenities building is located in a central position and is adequately separated from each surrounding camp sites and neighbouring properties.
<b>PC 7</b> Waste material is stored so as not to be unsightly and so as to be conveniently collected.	The site's refuse storage area is located in a convenient location in close proximity to the entry/exit driveway.
<b>PC8</b> Buildings, facilities, individual sites and internal roads are designed and located to minimise the need to remove native vegetation.	The proposal does not include any new building work and there is therefore no identified need to remove vegetation.

Performance Criteria	Proposal Compliance
<b>Individual Sites</b>	
<b>PC 9</b> Individual sites have adequate area for the comfort of guests.	The associated acceptable solution seeks an area of 60m <sup>2</sup> for tent spaces and 90m <sup>2</sup> for caravans. The site area of each site has not been identified on the proposed site plan, however it is noted that the majority of sites appear to contain adequate area for the comfort of guests. Each tent site has been identified as containing a minimum of 60 square metres.
<b>PC 10</b> Individual sites have direct access to an internal road and are delineated on at least two sides by use of fencing or landscaping.	Each caravan site has direct access to an internal ring road. Some landscaping exists between sites however the layout is such that each site is easily delineated.
<b>PC 11</b> Adequate separation is maintained between individual sites and facilities to provide privacy and comfort to guests.	There is adequate space and vegetation to ensure that individual sites are not so close as to result in privacy or comfort concerns for guests.
<b>PC 12</b> Sufficient open space is provided for guests' comfort.	The central Camp Ground area has the potential to function as a communal open space. In addition the bushland setting ensures there are other informal open spaces.
<b>PC 13</b> Landscaping: - Provides a pleasant visual presentation to the street frontage; - Reduces impacts on adjoining properties through the extensive use of boundary plantings. - Makes use of (and/or supplements) existing native vegetation wherever possible; and - Provides shade to guests.	The proposal seeks to retain the site's natural vegetation which reduces the impact on adjoining properties and provides shade to guests.

**(v) Parking and Access Code**

The Parking and Access Code seeks to ensure there is adequate staff and visitor parking as well as safe and efficient access to the site. The code specifies a minimum of one (1) car parking space for each caravan, cabin or tent site plus one (1) visitor space for each ten (10) sites. For the subject site, this equates to a total demand of forty-one (41) permanent and five (5) visitor spaces. The site plan identifies ten (10) visitor spaces in addition to stating that each site has sufficient room to accommodate one (1) vehicle. The proposal therefore complies with the parking requirement.

The existing access point to Hope Street appears to be located in a suitable position in relation to sight lines available on Hope Street. Moreover, as this application seeks to formalise the use of twenty-six (26) spaces which have been used for a number of years, there is evidence that the existing access and internal roads can operate adequately and without complaint.

**(vi) Works, Services and Infrastructure Code**

This code seeks to ensure infrastructure is designed and constructed to a suitable standard and that works, services and infrastructure do not cause environmental degradation or increase the risk of natural hazards.

Specific performance criteria within this code of relevance to this application include:

- **PC1** requires that the site be connected to the reticulated water system, where available. The site falls within the Cooktown reticulated water area.
- **PC3** deals with sewage disposal and requires that sites outside a reticulated sewage area, be provided with on-site systems. In this instance, the site is located within the Cooktown reticulated sewerage area.
- **PC5** requires that land be provided with internal and external drainage to minimise runoff and impacts on receiving waters. The application does not increase the site's existing impervious area or natural stormwater flow, which drains in a South West direction overland.
- **PC6** requires that land is provided with a suitable electricity supply. The site is serviced by an overhead electricity connection to Hope Street.
- **PC8** deals with upgrading the road frontage and access. In this instance, the existing frontage access is constructed to an acceptable standard and as such no new upgrading works are considered warranted.

**(vii) Natural Hazards Code**

The overall outcomes for the Natural Hazards Code seek to ensure that development is compatible with natural hazards in affected areas of the Shire, with impacts on existing developed areas to be minimised and ensuring that development does not materially increase the extent or the severity of natural hazards. The proposal will not increase the risk or exposure to natural hazards, with no known flooding, bushfire or erosion problems.

**PUBLIC NOTIFICATION**

The applicant undertook public notification, with the notification period referred to as being between 1 December 2016 and 22 December 2016. The *Sustainable Planning Act 2009* (SPA) states that public notification must not include any day between the 20 of December and 5 of January. The applicant contacted Council and requested that Council continue to assess the application on the basis that the sign and letters would be changed to refer to a revised period of between 1 December 2016 and 10 January 2017. The newspaper ad was not reissued.

Section 304 of the SPA states that an assessment manager can continue to assess and decide an application even though some aspects of public notification were not complied with. In order to rely on this section the assessment manager must be satisfied that the noncompliance would not affect the awareness of the public to the existence and nature of the application or that it restricted the opportunity of the public to make a properly made submission.

In this case the noncompliance was deemed to be limited to the incorrect dates on the newspaper ad. The newspaper ad only runs once, prior to the start of the notification period so Council officers considered that there was no impact to public awareness and it was unlikely to have affected any persons opportunity to make a submission.

No submissions were received during the public notification period.

### **DISCUSSION ON ISSUES**

#### ***Land Use***

The proposed Caravan Park use is not identified as a consistent use within the Low Density Residential Zone. The application is nevertheless supportable on the basis that:

- The proposed use is well located on the edge of the Cooktown urban area;
- The proposal seeks to extend an existing approved Caravan Park use;
- The caravan park has operated for over 15 years;
- The development layout generally complies with the use specific code; and
- Given the low site cover and minimal scale of existing development, the proposed use does not compromise the potential for future residential development.

Therefore, the proposed development is considered to be consistent with surrounding land uses and is an acceptable use for the site.

#### ***Residential Amenity***

At a site level, the Caravan Park layout appears to contain sufficient space for the amenity of residents. Whilst it is noted that each individual Caravan site does not incorporate clear boundaries for delineation, the bushland setting means that some areas of vegetation do exist between sites. From a practical perspective, the existing Caravan Park is also been successfully operating in this form for a number of years.

The Caravan Park is located within a low density residential area and is separated from the nearest residential use by more than 40m. The application seeks to retain the site's natural setting and does not introduce any new works. The proposal is therefore considered to retain an acceptable level of amenity for surrounding residential uses.

### **INFRASTRUCTURE CHARGES**

The application was lodged following the adoption of Council's Charges Resolution (No.1) of 2015. The resolution levies charges for water supply, sewerage, transport, public parks and community land and stormwater. Charges for sewerage are not applicable to the subject site, which features an onsite effluent disposal system.

A calculation of charges is based on a charge for each individual tent, caravan or cabin site. The applicant is also entitled to a credit for existing or past lawful uses which is to be subtracted from the charges applicable to the proposed development.

The application attracts charges for each individual caravan and tent site. The proposed site plan shows that fifteen (15) existing sites are approved, and on this basis a credit has been applied for the existing impervious area. These charges are reflected in the attached Infrastructure Charges Notice (see Appendix B).

## **RECOMMENDATION**

That Council issue an approval for the development application submitted by John A Noonan and Mary M Noonan t/a Cooktown Caravan Park c/- U&I Town Plan for the Material Change of Use for a Caravan Park (26 Additional Sites) over Lot 2 SP 134204, subject to the following conditions:

### **A. Assessment Manager (Council) Conditions**

#### **Approved Plan**

1. The development must be carried out generally in accordance with the following proposal plans except for any modifications required to comply with the conditions of this approval:
  - Appendix C, 'Site Plan – Cooktown Caravan Park', prepared by U & I Town Plan, dated 23 November 2016.

#### **Site Capacity**

2. The site is limited to a maximum of forty-one (41) individual sites.

#### **Amenity**

3. There shall be no adverse impact on the amenity of the surrounding area by reason of light nuisance, dust or noise.

#### **Internal Car Parking**

4. The development must make provision for a minimum five (5) off street visitor car parking spaces, to be located opposite the office as marked on Appendix C, 'Site Plan-Cooktown Caravan Park', prepared by U&I Town Plan, dated 23 November 2016.

#### **Public Utilities**

5. The proposal is to be connected to the reticulated water system, sewerage system and electricity supply prior to the commencement of the use.
6. The developer is responsible for the cost of any alterations to public utilities as a result of complying with the Conditions of this approval.

Utilities design must be in accordance with the FNQROC Development Manual D8 Operational Works Design Guidelines "Utilities".

#### **Environmental**

7. The applicant must ensure that no soil or silt runoff occurs from the site during the construction and operational phase of the development.
8. No State Declared or environmental pest plants and pest animals are to be introduced onto the property.

#### **Compliance**

9. All conditions of this Development Permit are to be complied with prior to the use commencing and, where relevant, maintained during operation.

**Outstanding Charges**

10. All rates, service charge, interest and other charges levied on the land are to be paid prior to the use commencing.

**Infrastructure Charges**

11. Infrastructure charges must be paid to Council prior to the commencement of the use as indicated on the attached Adopted Infrastructure Charges Notice at the rate applicable at the time of payment.

**Currency Period**

12. The currency period for this application is four (4) years. Should the approved caravan park not be established within this time, the approval shall lapse.

**B. Assessment Manager (COUNCIL) Advice**

- a. A development permit is required for carrying out Building works (if required) and a Plumbing and Drainage approval/compliance permit is required for Plumbing and Drainage works prior to construction of any buildings associated with this development.

**5.4 APPLICATION FOR A DEVELOPMENT PERMIT - DA/3678 - RECONFIGURATION OF A LOT FOR THE PURPOSE OF A BOUNDARY REALIGNMENT - 2 LOTS INTO 2 LOTS ON LOT 1 SP147286 & LOT 2 SP 147287, 7208 MULLIGAN HIGHWAY, LAKELAND**

**File Number:** D17/830  
**Author:** Reel Planning Pty Ltd  
**Authoriser:** Gary Kerr, Director Development, Environment & Community  
**Attachments:** 1 Appendix A - DA/3678 Proposal Plan

**PRECIS**

**Applicant:** Sharprock Pty Ltd  
c/- U&I Town Plan  
PO Box 426  
COOKTOWN QLD 4895

**Owner/s:** Lot 1 SP 147286: Peter J Inderbitzin & Franziska M M Inderbitzin  
Lot 2 SP 147287: David O Ainscough

**Location:** 7208 Mulligan Highway Lakeland & Mulligan Highway Lakeland

**R.P.D.:** Lot 1 SP 147286 & Lot 2 SP 147287

**Area:** Lot 1 SP 147286: 132.2 hectares  
Lot 2 SP 147287: 114.1 hectares

**Zone:** Rural

**Proposed Use:** Reconfiguration of a Lot (Boundary Realignment)

**Referral Agencies:** None Applicable

**Submissions:** Not Applicable

**REPORT**

An application was made to Council on the 30 September 2016 for the issue of a development permit for the Reconfiguration of a Lot (2 into 2 Boundary Realignment) at 7208 Mulligan Highway & Mulligan Highway, Lakeland.

On the 19 October 2016, Council issued an Information Request seeking owner's consent and clarification on the proposed area of each revised lot.

On the 8 December 2016 the applicant responded to the Information Request, providing a copy of written owner's consent and an amended proposal plan showing the area of each allotment.

**PROPOSAL**

The proposal is for the Reconfiguration of a Lot for a two (2) into two (2) lots by way of a Boundary Realignment. The application seeks to increase the area of Lot 1 SP 147286 by 1.25 hectares, resulting in an overall area of 133.45 hectares. The adjacent Lot 2 on SP 147287 will be reduced to 112.85 hectares. The proposed Boundary Realignment is intended to incorporate land within Lot 1 SP 147286 to facilitate the construction of a dam on the boundary of the two allotments.

**THE SITE**

The subject land is located at 7208 Mulligan Highway Lakeland and is formally described as Lot 1 on SP147286 and Lot 2 on SP 147287. Lot 1 has an area of 132.2 hectares and Lot 2 has an area of 114.1 hectares. The site consists of dispersed vegetation, three separate Dam structures and a dwelling house and associated outbuildings on Lot 2.

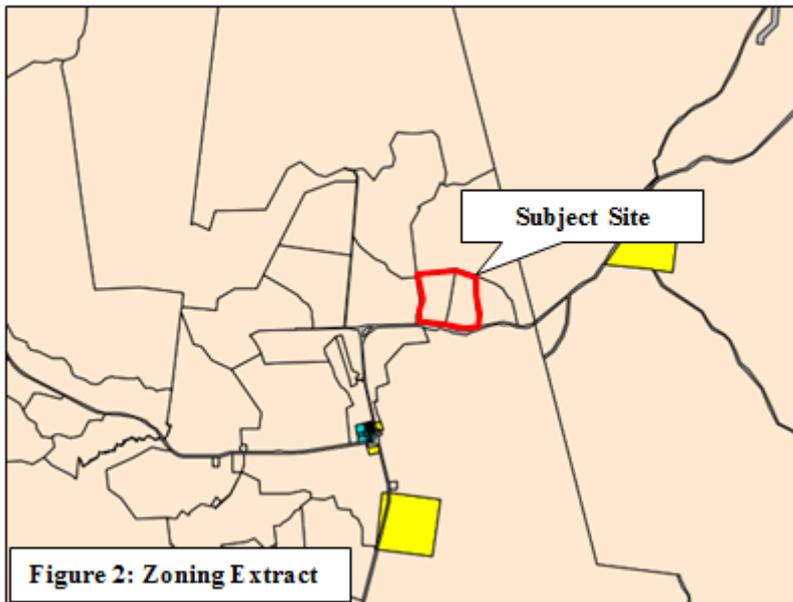
Lot 1 has a frontage of approximately 810m to the Mulligan Highway and Lot 2 has a frontage of approx. 1,030m to Mulligan Highway, a State Controlled Road. The site is located approximately 3.5kms north east of the urban area of Lakeland, outside of the Lakeland and Laura reticulated water area.



**TOWN PLANNING CONSIDERATIONS**

**1. STATUTORY PLANNING CONTEXT**

The site is zoned as Rural under Cook Shire Council's 2007 Planning Scheme.



Reconfiguration of a Lot is identified as Code Assessable in the Rural Zone, which means it must comply with the relevant planning scheme codes including (in this case):

- Rural Zone Code
- Reconfiguring a Lot Code
- Works, Services & Infrastructure Code
- Natural Hazards Code

## 2. COMPLIANCE WITH CODES

### (i) Rural Zone Code

The overall outcomes of the Cooktown Locality Code include the following:

- *The Rural Zone incorporates a range of agricultural, animal husbandry, forestry, aquaculture and supporting uses which strengthen the rural economy and service the rural community while preserving the amenity and character of rural land;*
- *Good Quality Agricultural Land is protected and is not alienated or fragmented;*
- *Rural zoned land identified as Future Urban Land provides for the long-term expansion of the township and is protected from inappropriate subdivision or changes of use, which could jeopardise its functionality as Future Urban Land. Subdivision of Future Urban Land for urban purposes only occurs where there is a demonstrated community need;*
- *The rural economy and community is serviced by adequate infrastructure (particularly roads);*
- *Intensive rural activities are located away from sensitive land uses and do not have a detrimental impact on the amenity of adjoining land;*
- *Scenic landscape values and the rural character of the land is preserved for enjoyment of residents, visitors and tourists;*
- *New extractive industry operations utilise significant local resources and are appropriately located and designed to mitigate any significant environmental impacts; and*
- *Existing extractive industry operations and known resource bodies are protected from the encroachment of incompatible land uses.*

The proposal is considered consistent with the overall outcomes in that:

- The proposal does not fragment Good Quality Agricultural Land;
- The site is not identified as Future Urban Land;
- The site is serviced by adequate road infrastructure in the Mulligan Highway;
- The land is located away from sensitive land uses;
- Intensive rural activities are not proposed; and
- The site is not in proximity to existing or known extractive industries.

An assessment of the proposal against the Performance Criteria of the Rural Zone Code is provided below:

<b>Performance Criteria</b>	<b>Proposal Compliance</b>
<b>Land Use</b>	
PC 1 Land use is primarily rural in nature. A range of non-rural uses are also located in this zone where they are complementary to the primary rural use (eg Roadside Stall) or where they have a direct and necessary connection to the wider rural community (eg. Veterinary Facility).	The proposed boundary realignment results in two revised lots which meet the minimum lot size for the Rural Zone and are able to accommodate existing and future rural uses as identified by the associated acceptable outcome.
<b>PC 2</b> The land use aspirations in any Indigenous Land Use Agreement (ILUA) are recognised.	The land is not identified within or close to that identified in an ILUA
<b>Scale and Density</b>	
<b>PC 3</b> Buildings are of a scale and design that is appropriate for a rural area.	No buildings are proposed as part of this application.
<b>Amenity and Setbacks</b>	
<b>PC 4</b> Buildings and structures are setback from road frontages and adjoining sensitive uses and landscaping and other measures (eg earth mounds and solid fences) are provided within this setback to: <ul style="list-style-type: none"> <li>▶ Complement the character of the area;</li> <li>▶ Minimise adverse impacts on roads and adjoining properties; and</li> <li>▶ Minimise the impact of dust on residents of the rural lot.</li> </ul>	No buildings are proposed as part of this application.
<b>Design</b>	
<b>PC 5</b> Advertising Devices: <ul style="list-style-type: none"> <li>▶ Consist of a single flat panel mounted on posts; and</li> <li>▶ Are well maintained; and</li> <li>▶ Do not create visual clutter; and</li> <li>▶ Are designed so as not to impact on the amenity of the locality; and</li> <li>▶ Are designed so as not to detract from the character and amenity of the locality or to create a traffic hazard.</li> </ul>	No advertising devices are proposed as part of this application.

Performance Criteria	Proposal Compliance
<b>Protection of Extractive Resources</b>	
<p>PC 6 Existing extractive industry operations and known resource bodies are protected from the encroachment of incompatible land uses.</p>	<p>The existing allotment is not near an existing or known extractive resource.</p>
<b>Erosion Prone Land</b>	
<p><b>PC 7</b> In an Erosion Prone Area, there are no adverse impacts on habitat, soil cover or water quality and no significant threats to public safety, infrastructure integrity or the economic value of the Erosion Prone Area.</p>	<p>The site is not in an erosion prone area.</p>
<b>Watercourse Protection</b>	
<p><b>PC 8</b> Where land uses or works occur adjacent to wetlands and/or watercourses identified on the Watercourses and Wetlands maps, there are no significant adverse effects on:</p> <ul style="list-style-type: none"> <li>▶ Water quality;</li> <li>▶ Ecological and biodiversity values; or</li> <li>▶ Landscape quality.</li> </ul>	<p>The proposed boundary realignment does not adjoin an identified watercourse or wetland and is unlikely to have an impact on water quality, Ecological and biodiversity values or landscape quality.</p>
<b>Acid Sulfate Soils</b>	
<p><b>PC 9</b> Natural or built environments and human health are not harmed by the production of acid leachate resulting from disturbance of potential and/or actual acid sulfate soil by:</p> <ul style="list-style-type: none"> <li>▶ Avoiding disturbance of such areas; or</li> <li>▶ Treating and managing the disturbance to minimise the volume of acidic leachate within manageable levels, and</li> <li>▶ Treating and managing surface and groundwater flows from areas of acid sulfate soils to minimise environmental harm.</li> </ul>	<p>The proposal does not affect any land at or below 5m AHD so will not have any effect on Acid Sulfate Soils.</p>
<b>Pest Management</b>	
<p><b>PC 10</b> Movement of State Declared or environmental pest plants and pest animals is prevented by:</p> <ul style="list-style-type: none"> <li>▶ Not introducing any new declared or environmental pest plants or animals on to the property; and</li> <li>▶ Not allowing seed or plant parts of declared or environmental pest plants to leave the property.</li> </ul>	<p>The applicant will be conditioned (as part of this application or a later application for building or operational work) to prepare a management plan dealing with State Declared or environmental pest plants.</p>

**(ii) Reconfiguring a Lot Code**

The overall outcomes of the Reconfiguring a Lot code seek to achieve the following:

- New lots are to be suitable for their intended use and appropriately designed and sited given the local landscape and topography;
- The layout represents an efficient use of the land;
- Suitable areas of public open space are provided;
- There is no impact on the Shire's water resources;
- GQAL is not compromised ; and
- The road design provides for the convenient and safe movement of people and vehicles.

Response

The proposal is considered to comply with these overall outcomes in that:

- The proposed layout is not compromised by the site's natural topography and characteristics.
- The proposed boundary realignment retains a regular allotment shape and therefore an efficient use of the land;
- A boundary realignment would not warrant provision of public open space;
- The boundary realignment is unlikely to impact the Shire's water resources
- The proposal does not adversely impact Good Quality Agricultural Land; and
- The site contains an existing access to the Mulligan Highway for each lot.

The proposed boundary realignment seeks to incorporate additional area within Lot 1 towards the rear (north) of the site. This reconfiguration is being undertaken to regularise the boundaries after construction of a dam commenced on the boundary. Outside of this realignment, there are no changes proposed to the frontage to the Mulligan Highway or any significant change to the width or depth of the lots. The proposal does not result in the creation of a new lot or introduce a rear lot arrangement so much of the Subdivision Design requirements of the code are not applicable.

The following performance criteria are relevant to the assessment of the application:

***PC1- Land configuration*** – *Lots have adequate area and appropriate dimensions for their intended use and good quality agricultural land is not lost to production through its fragmentation into economically unviable units, unless over-riding public benefit can be demonstrated.*

The proposed lots meet the requirements of the associated acceptable solution in that they exceed the minimum lot size of 100 hectares, have an appropriate depth to width ratio and retain a frontage in excess of 100 metres to the Mulligan Highway. Therefore, each rural allotment is considered to have an adequate area and appropriate dimensions for its intended use.

***PC8- Public Open Space*** – No public open space dedication is considered warranted for a boundary realignment of the type sought.

**PC11- Watercourse Protection** – PC11 seeks to avoid impacts on water quality, ecological and biodiversity values or landscape quality, of watercourses or wetlands as a result of reconfiguration. The proposed boundary realignment is not located adjacent to an identified wetland or watercourse and makes no direct changes to the area’s established patterns and stormwater flow.

### **(iii) Works, Services and Infrastructure Code**

This code seeks to ensure infrastructure is designed and constructed to a suitable standard and that works, services and infrastructure do not cause environmental degradation or increase the risk of natural hazards.

Specific performance criteria within this code of relevance to this application include:

- **PC1** requires that the site be connected to the reticulated water system, where available. The site falls outside of the Lakeland reticulated water area and therefore, rainwater tanks are to be provided for any future residential dwelling.
- **PC3** deals with sewage disposal and requires that sites outside a reticulated sewage area be provided with on-site systems. In this instance, an on-site sewerage treatment facility is to be provided for any future residential development on each lot.
- **PC5** requires that land be provided with internal and external drainage to minimise runoff and impacts on receiving waters. The application does not increase the site’s existing impervious area or natural stormwater flow, which appears to generally drain in a south east direction overland.
- **PC6** requires that land is provided with a suitable electricity supply. This will be considered for any future use on the land.
- **PC8** deals with upgrading the road frontage and access. In this instance, the proposed boundary realignment is not associated with an application for a new or intensified use of the land. On this basis no new upgrading works are considered warranted.

### **(iv) Natural Hazards Code**

The overall outcomes for the Natural Hazards Code seek to ensure that development is compatible with natural hazards in affected areas of the Shire, with impacts on existing developed areas to be minimised and ensuring that development does not materially increase the extent or the severity of natural hazards. The proposal will not increase the risk or exposure to natural hazards as it is not associated with an application for a new or intensified use of the land.

### **PUBLIC NOTIFICATION**

Public notification was not required for the application as it is code assessable and no informal objections were received by Council.

### **DISCUSSION**

The proposal seeks to realign the boundaries of two (2) existing lots, resulting in two (2) land parcels which meet the minimum lot size of 100 hectares and are of an appropriate width and depth to accommodate rural uses. The proposed development incorporates an additional 1.25 hectares within Lot 1 on SP 147286, allowing for the construction of a dam on the site.

It is noted that the dam construction has not been considered as part of the assessment of this application and the applicant should be reminded of their obligations to have the necessary approvals and/or permits in place.

**INFRASTRUCTURE CHARGES**

The application was lodged following the adoption of Council's Charges Resolution (No.1) of 2015. The resolution levies charges for water supply, transport and stormwater in Lakeland. In this case no additional charges are triggered.

## **RECOMMENDATION**

That Council issue an approval for the development application submitted by Sharprock Pty Ltd c/- U&I Town Plan for the Reconfiguration of a Lot (2 into 2 lot Boundary Realignment) over Lot 1 SP 147286 and Lot 2 SP 147287, subject to the following conditions:

### **A. Assessment Manager (Council) Conditions**

#### **Approved Plan**

- 1) The development must be carried out generally in accordance with the following proposal plans contained in Appendix A, except for any modifications required to comply with the conditions of this approval:
  - 'Boundary Realignment – Lot 1 on SP147286 & Lot 2 on SP147287', prepared by U & I Town Plan, dated 19 August 2016; and
  - 'Boundary Realignment – Lot 1 on SP147286 & Lot 2 on SP147287 – Further detailed plan', prepared by U & I Town Plan, dated 19 August 2016.

#### **Access**

- 2) Access to each lot must be via the existing access to the Mulligan Highway.

#### **Effluent Disposal**

- 3) Any application for wastewater treatment and disposal must include details of the proposed wastewater disposal systems and calculation demonstrating compliance with the Queensland Plumbing and Wastewater Code and AS/NZS1547:2000 – 'On-site domestic wastewater management'.

#### **Water Supply**

- 4) A separate source of water supply must be provided to each of the proposed allotments at the time of construction of a dwelling house. This would be satisfied by the provision of rainwater tanks with a minimum capacity of 50,000 litres for each lot. Where an alternative source of supply is available within the allotment, the applicant can provide certified evidence as to the flow rates and water quality of the bore water or other supply to eliminate or reduce the requirement for on-site water storage.

#### **Fire Management**

- 5) All lots must be maintained by the owners at all times so as not to create a fire hazard.

#### **Electricity Supply**

- 6) Each proposed lot must be provided with a reliable electricity supply at the time of construction of a house. Written evidence of such electricity supply must be provided at the time of lodgment of a building application for a house.

**Public Utilities**

- 7) The developer is responsible for the cost of any alteration to public utilities as a result of complying with conditions of this approval.
- 8) Utilities design must be in accordance with the FNQROC Development Manual D8 Operational Works Design Guidelines "Utilities".

**Compliance**

- 9) All conditions of this development permit are to be complied with prior to the Plan of Survey being submitted to Council for endorsement.

**Outstanding Charges**

- 10) All rates, service charge, interest and other charges levied on the land are to be paid prior to council endorsement of the Plan of Survey.

**Signing and Sealing**

- 11) The reconfiguration of a lot approved authorized by this Development Permit must be completed and the Plan of Survey submitted to Council for endorsement within two (2) years from the commencement of this approval or this approval will lapse.

**B. Advice (Council)**

- a. A development permit is required for carrying out Building works (if required) and a Plumbing and Drainage approval/compliance permit is required for Plumbing and Drainage works prior to construction of any buildings associated with this development.
- b. The development permit does not include an approval for Operational Works, filling or excavation not associated with the reconfiguring a lot application. Any future works requiring assessment against the planning scheme are to be applied for as a separate application.

**6 GENERAL BUSINESS**