



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

Date: Friday, 8 March 2019
Time: 9.00am
Location: Administration Centre
10 Furneaux Street
Cooktown

AGENDA AND BUSINESS PAPERS

Planning and Environment Standing Committee Meeting

8 March 2019

**Linda Cardew
Chief Executive Officer**

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1 ATTENDANCE

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Ordinary Meeting – 2 November 2019

4 BUSINESS ARISING

5 AGENDA ITEMS

5.1 APPLICATION FOR A DEVELOPMENT PERMIT DA/4008 - MAKING A MATERIAL CHANGE OF USE FOR AN EXTENSION TO THE EXISTING SHORT-TERM ACCOMMODATION (ONE (1) ADDITIONAL SELF-CONTAINED UNIT) ON LOT 4 CP866939, LOCATED AT HAGGERSTONE ISLAND, SHELburnE, CORAL SEA

File Number: D19/2414

Author: Graduate Planner

Authoriser: Lisa Miller, Manager, Planning & Environment

Attachments:

- 1 Nature Conservation Agreement - Haggerstone Island Nature Refuge 
- 2 Proposal Plans 
- 3 DNRME Pre-Lodgement Advice 

PRECIS

Applicant: Roy Leonard Turner, Haggerstone Island Holdings Pty Ltd
and AU Island Holdings Pty Ltd
C/- Kristy Gilvear, Gilvear Planning Pty Ltd
PO Box 228
Babinda QLD 4861

Owner: Department of Natural Resources, Mines and Energy

Location: Haggerstone Island

R.P.D: Lot 4 CP866939

Lot Size: 48.5 Hectares

Zone: Environmental Management and Conservation Zone

Existing Use: Short-Term Accommodation

Proposed Use: Extension to Existing Short-Term Accommodation (1 additional self-contained unit)

REPORT

An application was made to Council on 9 January 2019 for the issue of a development permit for a Material Change of Use for an extension to the existing Short-term Accommodation (1 additional self-contained unit) on Haggerstone Island. Council officers determined that they had sufficient information to assess the application; therefore no information request was issued. In addition, the Applicant confirmed via a number of pre-lodgement discussions with the State Assessment Referral Agency (SARA) that no State referrals, particularly for vegetation clearing, were required as part of this application. The application is subject to code assessment under the *Cook Shire Council Planning Scheme 2017*, meaning that no public notification is required.

BACKGROUND/HISTORY

The subject land was originally approved by Council to be rezoned to the Special Facilities Zone in January 1993. The extent of the development approved was delineated in the Plan of Development D9054, which attached the approval and formed part of that zoning. This plan indicated a main building and two (2) detached guest sleeping huts. These huts were in existence at the time of approval. The rezoning approval enabled the huts to be used for Tourist Accommodation.

Council on the 17 November 1999 issued a Decision Notice for the erection of a viewing platform and additional sleeping area subject to conditions. This additional sleeping area was described as an extension to the 'dormitory, studio, and laundry' building which was designated as 'staff quarters' on the rezoning plan of development.

Council on the 26 October 2005 issued a Decision Notice approval subject to conditions for two (2) x one (1) bedroom units (beach hut and tree house), Manager's Residence, and ancillary workshop and laundry. These buildings were constructed but building approval was not obtained prior to the currency period for the Material Change of Use lapsing.

The applicant reapplied for this approval with the addition of the two (2) one (1) bedroom staff accommodation units and this was approved by Council on 22 November 2012. This development was considered complete in November 2016.

On 10 February 2015, a perpetual lease was created by Department of Natural Resources, Mines and Energy (DNRME) for the purpose of a 'Regulated Island – Tourism'. This lease sets out the statutory, regulatory and special conditions to the property.

SITE

The development site is located on the north western coastline of Haggerstone Island which is situated off the east coast of Cape York to the south east of Cape Grenville. Haggerstone Island has an area of 48.5 hectares and is zoned Environmental Management and Conservation Zone under the *Cook Shire Council Planning Scheme 2017*.

Lot 4 is the subject of a Perpetual Lease subject to conditions, with the registered lessees being the applicants. Haggerstone Island is also subject to a Nature Conservation Agreement under the *Nature Conservation Act 1992* between "the State" and "the Landholder" which is attached as **Attachment 1**. An aerial view of Haggerstone Island is shown below and the development site can be seen on the north-western part of the Island.

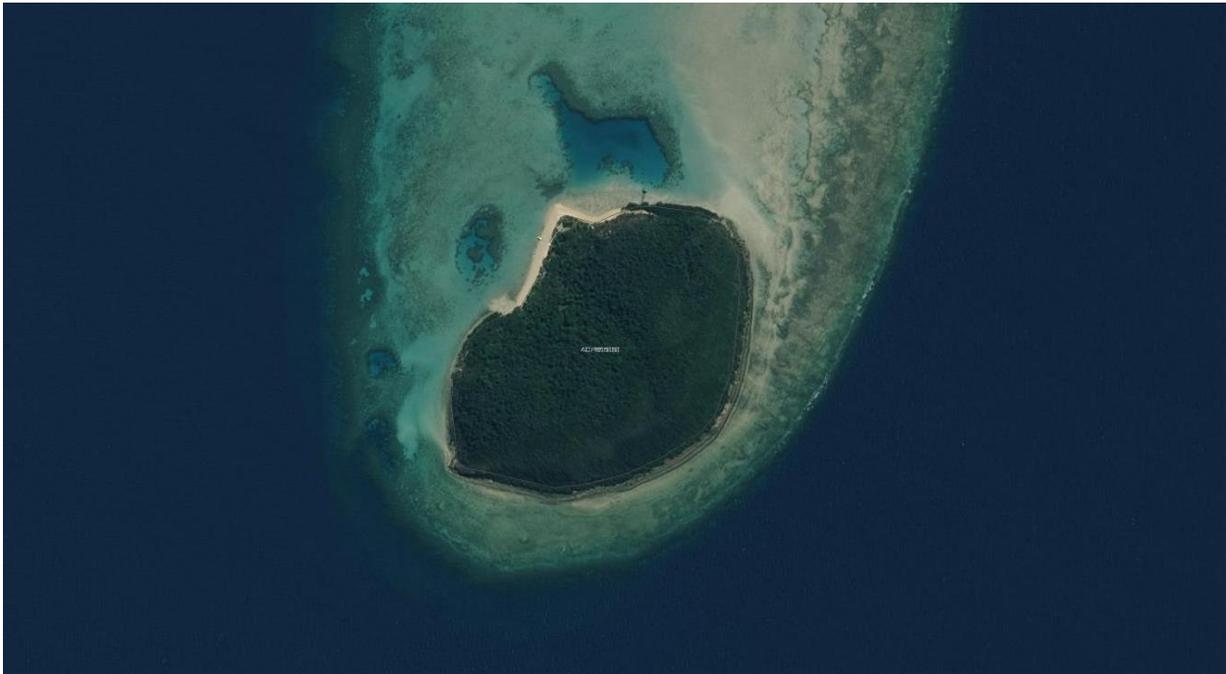


Figure 1 – Aerial View of Haggerstone Island (Courtesy DSDMIP Mapping)

PROPOSAL

The Applicant has proposed to provide an additional accommodation unit within the former Special Facilities zoned area. The structure is to be located between the existing main house and beach hut structures, within the western portion of the developed area on the Island.

The unit would be consistent in terms of materials, bulk form, height and scale to the existing accommodation units and would have an approximate 30 metre setback from the High-Water Mark that is consistent with the existing development.

The development comprises a two-storey building with a lounge, wet bar and bathroom on the ground floor with a bedroom on the first floor. The maximum occupancy of the unit would be two (2) persons.

As of the previous planning approval dated 22 November 2012, the resort was conditioned to have a maximum patronage of twelve (12) guests and four (4) staff at any one time. With the addition of this development, it is considered appropriate to change this condition to allow for fourteen (14) guests and four (4) staff at any one time.

It is further proposed that the unit will be located in an existing area which is primarily cleared of vegetation, and that minimal vegetation is required to be cleared to facilitate the development.

Proposal plans illustrating the development area are attached as **Attachment 2**, which includes:

- Location Plan;
- Catchments, Storage and Water System (Site Plan);
- Roof Detail;
- Internal Design Plan;
- Section A-A; and
- Plumbing Plan.

TOWN PLANNING CONSIDERATIONS**STATUTORY*****Cook Shire Council Planning Scheme 2017***

The established use on the site is for Short-term Accommodation, which under the Planning Scheme is defined as:

Short-term Accommodation

(a) Means the use of premises for –

- (i) Providing accommodation of less than 3 consecutive months to tourists or travellers;
or*
- (ii) A manager's residence, office, or recreation facilities for the exclusive use of guests, if the use is ancillary to the use in subparagraph (i); but*

(b) Does not include a hotel, nature-based tourism, resort complex or tourist park.

Lot 4 on CP866939 is located within the Environmental Management and Conservation Zone under the Planning Scheme. The use Short-term Accommodation is identified as code assessable development under Table 5.5.11 – Environmental Management and Conservation Zone of the Planning Scheme. The development application therefore requires assessment against the following codes:

- Environmental Management and Conservation Zone Code;
- Parking & Access Code;
- Works, Services and Infrastructure Code;
- Residential Use Code;
- Biodiversity Overlay Code;
- Bushfire Hazard Overlay Code; and
- Flood and Other Coastal Hazards Overlay Code.

A detailed assessment of the development against the applicable Planning Scheme codes is provided further below.

Cape York Regional Plan

The Minister of the Department of State Development, Manufacturing, Infrastructure, and Planning (DSDMIP) has identified that the Planning Scheme, specifically the strategic framework, appropriately advances the Cape York Regional Plan, as it applies in the Planning Scheme area. Consequently, the review of this development application against the provisions of the Planning Scheme satisfies assessment against the benchmarks stated in the Cape York Regional Plan.

State Planning Policies

All aspects of the State Planning Policy have been adequately reflected in the Planning Scheme. Accordingly, assessment against the applicable Planning Scheme provisions will address any relevant State issues.

State Development Assessment Provisions

The subject site is classed as a 'Protected Area (Nature Refuge)' and consists of 'Regulated Vegetation (Essential Habitat) and Regulated Vegetation Category B (Least Concern Regional

Ecosystem), although is considered to be exempt from a vegetation clearing referral to the State under Schedule 21 of the *Planning Regulation 2017*.

Schedule 21, Part 2, Section 4(2)(f)(ii) allows native vegetation clearing that is necessary for routine management in an area of land where the vegetation is a least concern regional ecosystem in a Category B area.

Schedule 24 of the *Planning Regulation 2017* defines routine management as:

(b) build necessary built infrastructure, including core airport infrastructure, other than contour banks, fences, roads or vehicular tracks, if –

- (i) if the clearing is not to source construction timber; and
- (ii) the total area cleared is less than 2ha; and
- (iii) the total area covered by the infrastructure is less than 2ha.

The State Assessment and Referral Agency's response confirming the above is included as **Attachment 3**.

COMPLIANCE WITH COOK SHIRE PLANNING SCHEME 2017 CODES

Environmental Management and Conservation Zone Code

The purpose of the **Environmental Management and Conservation Zone Code** is to provide for the protection and maintenance of areas which support biological diversity, ecological integrity, naturally occurring land forms, and coastal processes. The proposed development demonstrates full compliance with the performance outcomes of this code.

Biodiversity Overlay Code

The purpose of the **Biodiversity Overlay Code** is to protect biodiversity through:

- Avoiding development within biodiversity areas;
- Minimising the adverse impacts of development on biodiversity;
- Management of pest and invasive species;
- Strategic rehabilitation occurs through restoration of terrestrial and aquatic ecosystems;
- Encourage expansion of habitat connectivity;
- Minimise downstream impacts on biodiversity including fish habitats and the Great Barrier Reef.

The site is the subject of a Conservation Agreement under the *Nature Conservation Act 1992*. This Agreement provides for the use of the land for the purpose of a low-key tourist resort and prohibits the following:

- The interference with, destruction of, or removal of, any native plants including trees, shrubs and grasses;
- Any act or omission which may adversely affect any indigenous flora or fauna in their related habitats; and
- The removal of any timber.

The Agreement also limits development to the area mapped as the Special Facilities Zone, and states that the Landholder does not interfere, destruct or remove any native plants including trees, shrubs and grasses. Furthermore, a Special Condition of the perpetual lease requires that the Lessee must

not affect the structural or further structural or excavation improvements on the land, without the approval of the department administering the *Land Act 1994* and any other relevant authority having been first obtained. As such, the Conservation Agreement protects the biodiversity of the Island and therefore demonstrates full compliance with this code.

Bushfire Hazard Overlay Code

The proposed development would be located outside of any hazard area or buffer. The Applicant has provided a full response to the code based on this, therefore Council officers are satisfied that compliance is achieved. The existing accommodation facility has its own water supply for firefighting purposes, which can be topped up by the existing dam which services the facility.

Flood and Other Coastal Hazards Overlay Code

The site is mapped as an erosion prone area and the Applicant has stated *“The proposed development would be situated in an existing cleared area and would not require the removal of significant vegetation or result in the need for erosion control structures”*. As such, no further assessment of the code is required and Council officers are satisfied that the development demonstrates full compliance of the Flood and Other Coastal Hazards Overlay Code.

Residential Use Code

The trigger for this code is due to the development being for a ‘Short-term Accommodation’. The provision for this use of development under this code ensures that public open space is provided as a result of short-term accommodation developments. As the development site is located on a 45 hectare island with no other development (excluding the existing resort), it is considered that satisfactory public open space is provided. No further assessment of this code is required.

Parking and Access Code

Haggerstone Island is only accessible by boat and there is no requirement for the parking of vehicles, therefore the development demonstrates compliance with the Parking and Access Code.

Works, Services, and Infrastructure Code

The site has on-site water and sewerage facilities, and does not consist of any major electricity infrastructure. No filling or excavation is proposed. Full compliance with this code is demonstrated.

TIMEFRAMES (DEVELOPMENT ASSESSMENT RULES)

Under the Development Assessment Rules, the decision period of this application expires on 15 March 2019.

INFRASTRUCTURE CHARGES

The proposed development is located outside of any mapped PIA (Priority Infrastructure Area), therefore infrastructure charges are not imposed on the proposed development.

PUBLIC NOTIFICATION

This application does not require public notification as it is subject to code assessment.

REFERRAL AGENCIES

The application does not trigger any State referrals as mentioned above.

LINK TO CORPORATE PLAN

Key Strategy Priority:

Environment – Respect for the unique natural environment of the Cape, its history and the provision of sustainable, safe access for the enjoyment of the Cape’s communities and visitors.

Env 3: Appropriate consideration is given to planning and development controls, design guidelines, traditional ownership and sustainable development principles when making planning decisions.

Env 3a: Planning outcomes demonstrate the quality of development assessment processes by achieving results consistent with Council’s strategic direction.

DISCUSSION

The proposed development for an extension to the existing short-term accommodation by one (1) additional self-contained unit on Haggerstone Island is considered by Council officers to be compliant with both statutory and planning scheme provisions, and will have no detrimental impact on the island or surrounding environment itself.

This development is considered by Council officers to be a positive upgrade to the amenity of the existing short-term accommodation facility. The development provides an increase in tourist accommodation for tourists who visit Cook Shire, promoting growth and support to the local economy in Lockhart River and to surrounding communities in the northern region of Cook Shire. The development is therefore recommended to Council for approval, subject to reasonable and relevant conditions.

RECOMMENDATION

1. That the following reasons for the decision be included on the notice on Council's website (as required by section 63(4) of the *Planning Act 2016*) in the event that Council decides to approve the application:
 - (a) An assessment was made against the applicable assessment benchmarks and the proposed development demonstrated compliance.
 - (b) The proposed development for a Material Change of Use for an extension to the existing Short-term accommodation (one (1) additional self-contained unit) will have no detrimental impact on the island or surrounding environment itself.
2. That the application by Roy Leonard Turner, Haggerstone Island Holdings Pty Ltd C/- Kristy Gilvear, Gilvear Planning Pty Ltd for Development Permit DA/4008, Material Change of Use for an extension to the existing Short-term Accommodation (one (1) additional self-contained unit) on Lot 4 on CP866939 be approved subject to the following reasonable and relevant conditions.

A. Assessment Manager (Council) Conditions**Approved Plan**

1. The development must be carried out generally in accordance with the Proposal Plans submitted with the application, except for any variations required to comply with the conditions of this approval.

Patronage

2. Total patronage of the development must not exceed fourteen (14) guests and four (4) staff at any one time.

Effluent Disposal

3. Any application for waste water treatment and disposal must include details of the proposed wastewater disposal systems and calculations demonstrating compliance with the Queensland Plumbing and Wastewater Code and AS/NZS 1547:2000 – "On Site Domestic Wastewater Management". Details must be provided at the time of Building application.

Water Supply

4. The development must be connected to a potable water supply. This water supply must comply with the Australian Drinking Water Standards.

Environment

5. The applicant must ensure that the development has no adverse impacts on the functioning and integrity of habitats and environmental values contained within the conservation estate.
6. The applicant must ensure that no soil or silt runoff occurs from the site during the construction and operational phase of the development. A sediment control plan must be submitted to Council for approval prior to works commencing.
7. No State Declared or environmental pest plants and pest animals are to be introduced onto the property.

Construction and Waste Management Plan

8. The applicant must prepare and submit to Council a Construction Waste Management Plan. The plan is to be approved by Councils Manager Planning and Environment prior to the issue of a Development Permit for carrying out building works.

Electricity

9. The development must be connected to a reliable electricity supply. Details are to be provided at the time of building application.

Cultural Heritage

10. The applicant must ensure that when carrying out works associated with this development, all reasonable and practical measures are taken to ensure that works do not harm Aboriginal cultural heritage (the 'cultural heritage duty of care').

Internal Pathways

11. Internal pathways must be kept in a dust suppressed state at all times.

Building and Plumbing Approvals

12. All relevant building and plumbing approvals must be obtained prior to the use commencing.

Outstanding Charges

13. All rates, service charges, interest and other charges levied on the land are to be paid prior to construction.

Compliance

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

Stormwater

15. Stormwater must be directed to a legal point of discharge. Details are to be provided at the time of Building application.

Currency Period

16. The currency period for this application is six (6) years. Should the approved extension to the existing Short-term accommodation (one (1) additional self-contained unit) not be established within this time, the approval shall lapse.

B. Assessment Manager (Council) Advice

- 1) A development permit is required for carrying out Building Works, 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.
- 2) That the Applicant be advised that the development must be in accordance with the conditions stated in Perpetual Lease No. 40069401.

5.2 REQUEST FOR AN EXTENSION TO THE CURRENCY PERIOD FOR DEVELOPMENT PERMIT DA/3357 - RECONFIGURATION OF ONE (1) LOT INTO TWO (2) LOTS ON LAND DESCRIBED AS LOT 217 ON RP881059, LOCATED ON THE PENINSULA DEVELOPMENTAL ROAD, LAKELAND

File Number: D19/3560
Author: Graduate Planner
Authoriser: Lisa Miller, Manager, Planning & Environment
Attachments: Nil

PRECIS

Applicant: Michelle Vohland and Leigh Vohland
PO Box 1344
WALKAMIN QLD 4872

Owner: Michelle Vohland and Leigh Vohland

Location: Peninsula Developmental Road, Lakeland

Real Property Description: Lot 217 on RP881059

Area: 3.728 Hectares

Zone: Township

Use Classification: Reconfiguration of a Lot

Referral Agencies: Department of Transport and Main Roads (DTMR)

Submissions: Nil

REPORT

A request has been made to Council on 4 February 2019 under section 86 of the *Planning Act 2016*, for a two (2) year extension to the currency period for DA/3357, Reconfiguration of Lot 217 on RP881059, located at Peninsula Development Road, Lakeland.

The original Decision Notice for the application was issued by Council on 17 February 2015 for two (2) lots under the now superseded Cook Shire Planning Scheme 2007, with a currency period of four (4) years, expiring on the 17 February 2019.

The development approval seeks to create a new boundary on the western portion of the property, ultimately creating a new lot of 9,288m² within the Lakeland Township area. Refer to Figure 1 for the Council approved plan of development.

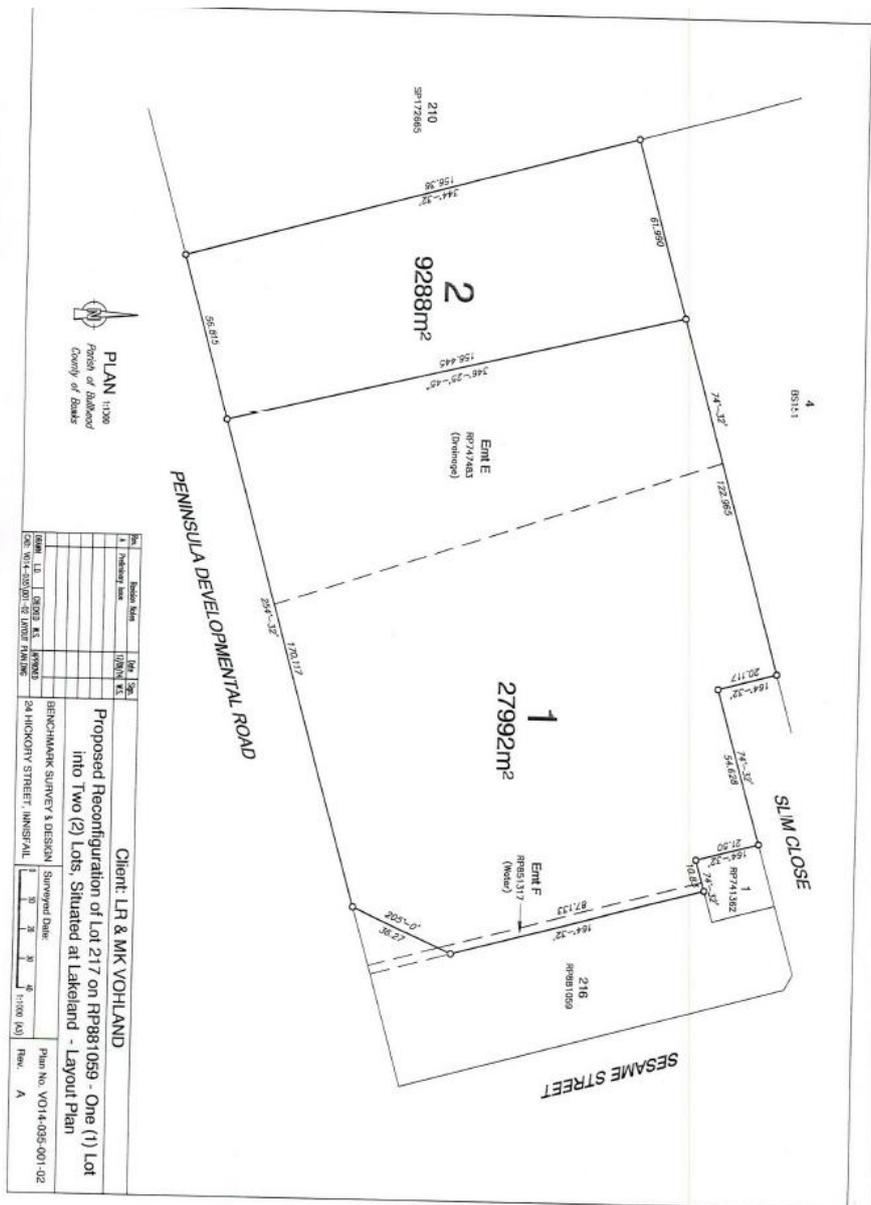


Figure 1: Plan of Development

TOWN PLANNING CONSIDERATIONS

The Applicant has advised that they are requesting an extension to the currency period for the above development permit due to being busy and not having enough time to attend to the matter for personal reasons. As such, the Applicant has requested a two (2) year extension in order to keep the development permit current and allow more time for the Applicant to complete the works associated with the development.

87(1) when assessing an extension application, the assessment manager may consider any matter that the assessment manager considers relevant, even if the matter was not relevant to assessing the development application.

It is considered relevant for Council to have regard to any changes to the planning framework that have taken place since the application was approved. At the time of the original approval, the site was located in the 'Village' Zone under the superseded 2007 Planning Scheme (under which the application was lodged), which is now known as the 'Township' Zone under the current Planning Scheme.

The purpose of the Township Zone is to provide for –

- (a) Small to medium urban areas in rural or coastal areas; or
- (b) A variety of uses and activities to service local residents, including, for example, business, community, education, industrial, open space, recreation, residential or retail uses or activities; and
- (c) Tourist attractions and short-term accommodation, if appropriate for the area.

The purpose of the previous Village Zone is consistent with the current purpose of the Township Zone, and as such, it is considered to be an appropriate development within the Lakeland area.

It is further acknowledged that under the current Planning Scheme that the subdivision would still trigger a code-assessable reconfiguring a lot application, requiring assessment against the same codes which the application was previously assessed against under the 2015 application; including–

- Village Zone Code (now Township Zone Code);
- Parking and Access Code;
- Works, Services and Infrastructure Code;
- Natural Hazards Code (now Bushfire Hazard Overlay Code); and
- Reconfiguring a Lot Code.

Despite the formal identification of these constraints in the current scheme, it is considered that such matters were assessed, and consequently addressed through the development approval conditions listed in the decision notice issued in 2015.

As a summary of the above, the application would still require the same level of assessment under the current Planning Scheme should the extension application be refused by Council, with the considerations likely to be the same. For this reason, an extension to the currency period for DA/3357 for a further two (2) years, as requested by the Applicant, is recommended by Council's Planning Department for approval. Council officers note that any further requests for an extension of the currency period would be considered by Council in the future, particularly where it can be demonstrated that progress has been made towards the completion of the development.

RECOMMENDATION

That Council grant a two (2) year extension the currency period for Development Permit DA/3357, Reconfiguration of Lot 217 on RP881059, located on the Peninsula Development Road, Lakeland, until 17 February 2021.

6 GENERAL BUSINESS

7 CONFIDENTIAL REPORTS

RECOMMENDATION

That Council considers the confidential report(s) listed below in a meeting closed to the public in accordance with Section 275 of the Local Government Regulation 2012:

7.1 Update on State Government Proposal for a Key Resource Area (KRA166)

This matter is considered to be confidential under Section 275(g) of the Local Government Regulation 2012, and the Council is satisfied that discussion of this matter in an open meeting would, on balance, be contrary to the public interest as it deals with any action to be taken by the local government under the Planning Act, including deciding applications made to it under that Act.