

DELEGATED REPORT

**SUBJECT:** SOUTH PACIFIC LAW - MATERIAL CHANGE OF USE - MULTIPLE DWELLING (5 RESIDENTIAL UNITS) - LOT 500 ON SP202676 (LEVEL B ON BUP100024) - 12 ROB VEIVERS DRIVE, KURANDA - MCU/19/0012

**DATE:** 15 August 2019

**REPORT OFFICER'S TITLE:** Planning Officer

**DEPARTMENT:** Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
<b>APPLICANT</b>	South Pacific Law as Mortgagee in Possession	<b>ADDRESS</b>	12 Rob Veivers Drive, Kuranda
<b>DATE LODGED</b>	25 July 2019	<b>RPD</b>	Lot 500 on SP202676 (Level B on BUP100024)
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Material Change of Use - Multiple Dwelling (Conversion of commercial space into 5 residential units)		

<b>FILE NO</b>	MCU/19/0012	<b>AREA</b>	Volumetric Lot
<b>LODGED BY</b>	RPS Australia East Pty Ltd	<b>OWNER</b>	South Pacific Law as Mortgagee in Possession
<b>PLANNING SCHEME</b>	Mareeba Shire Council Planning Scheme 2016		
<b>ZONE</b>	Centre zone		
<b>LEVEL OF ASSESSMENT</b>	Code Assessment		
<b>SUBMISSIONS</b>	n/a		

**ATTACHMENTS:** 1. Proposal Plan/s

EXECUTIVE SUMMARY

*Council is in receipt of a development application described in the above application details.*

*The application is code assessable and was not required to undergo public notification.*

*It has been assessed against the relevant statutory planning instruments, including the Regional Plan and the Planning Scheme and does not conflict with any relevant planning instrument.*

*Draft conditions were provided to the Applicant/ care of their consultant and have been agreed.*

*It is recommended that the application be approved in full with conditions.*

## OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
<b>APPLICANT</b>	South Pacific Law as Mortgagee in Possession	<b>ADDRESS</b>	12 Rob Veivers Drive, Kuranda
<b>DATE LODGED</b>	25 July 2019	<b>RPD</b>	Lot 500 on SP202676 (Level B on BUP100024)
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Material Change of Use - Multiple Dwelling (Conversion of commercial space into 5 residential units)		

and in accordance with the Planning Act 2016, the applicant be notified that the application for a development permit for the development specified in (A) is:

Approved by Council in accordance with the approved plans/documents listed in (B), subject to assessment manager conditions in (C), assessment manager's advice in (D), relevant period in (E), further permits in (F), and further approvals from Council listed in (G);

And

The assessment manager does not consider that the assessment manager's decision conflicts with a relevant instrument.

(A) APPROVED DEVELOPMENT: Development Permit for Material Change of Use - Multiple Dwellings (Conversion of commercial space into 5 residential units)

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
PR143575-2	Conceptual Unit Development	RPS	7/6/2019

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out generally in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:

- found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
- to ensure compliance with the following conditions of approval.

## 2. Timing of Effect

- 2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the commencement of the use except where specified otherwise in these conditions of approval.
- 2.2 Prior to the commencement of use, the applicant must notify Council that all the conditions of the development permit have been complied with, except where specified otherwise in these conditions of approval.

## 3. General

- 3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure or the payment of infrastructure charges within the conditions of approval or the Adopted Infrastructure Charges Notice.
- 3.2 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
- 3.3 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to commencement of the use and at the rate applicable at the time of payment.
- 3.4 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.

### 3.5 Noise Nuisance

Refrigeration equipment, pumps, compressors and mechanical ventilation systems must be located, designed, installed and maintained to achieve a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations.

The applicant is required to install and maintain suitable screening to all air conditioning, lift motor rooms, plant and service facilities located at the top of or on the external face of the building. The screening structures must be constructed from materials that are consistent with materials used elsewhere on the facade of the building. There are to be no individual external unscreened air conditioning units attached to the exterior building facade.

### 3.6 Waste Management

On site refuse storage area must be provided and be screened from view from adjoining units/properties by 1 metre wide landscaped screening buffer, 1.8m high solid fence of building.

### 3.7 Clothes drying area

A clothes dryer, or a clothes drying area appropriately screened from view of adjoining units/properties and the street to the satisfaction of Council's delegated officer, is to be provided for each unit.

## 4. Infrastructure Services and Standards

### 4.1 Access

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

The access crossover must be upgraded or constructed to ensure driveway gradients, allow for the safe and convenient ingress and egress of a standard vehicle, to the satisfaction of Council's delegated officer.

### 4.2 Stormwater Drainage/Water Quality

- (a) The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development and must take all reasonable and practical measures to ensure discharge occurs in compliance with the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual, to the satisfaction of Council's delegated officer.
- (b) The Stormwater Management Plan and Report must include provisions to intercept and control stormwater flows the driveway.
- (c) All stormwater drainage must be collected from site and discharged to an approved legal point of discharge.

### 4.3 Car Parking/Internal Driveways

On site car parking is to be constructed generally in accordance with Drawing No. PR143575-2. All car parking spaces and internal driveways must be concrete, bitumen or asphalt sealed, line marked, numbered and appropriately drained prior to the commencement of the use and to the satisfaction of Council's delegated officer. Line marking and car park numbering must remain clearly visible for the life of the development.

All car parking spaces and internal driveways must be constructed in compliance with the following standards, to the satisfaction of Council's delegated officer:

- Australian Standard AS2890:1 Off Street Parking – Car Parking Facilities;
- Australian Standard AS1428:2001 – Design for Access and Mobility.

#### 4.6 Lighting

Where outdoor lighting is required the developer shall locate, design and install lighting to operate from dusk to dawn within all areas where the public will be given access, which prevents the potential for light spillage to cause nuisance to neighbours and must be provided in accordance with Australian Standard 1158.1 – Lighting for Roads and Public Spaces.

Illumination resulting from direct, reflected or other incidental light emanating from the subject land does not exceed 8 lux when measured at any point 1.5m outside the property boundary of the subject site. The lighting fixtures installed on site must meet appropriate lux levels as documented within Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting.

#### 4.7 Water Supply

Where the existing reticulated water supply does not currently service the site or is not at an adequate capacity, the developer is required to extend or upgrade the reticulated water supply infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

If a new or upgraded water service connection is required to service the development, it must be provided in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Each unit must be individually metered.

#### 4.8 Sewerage Connection

The developer must connect the proposed development to Council's reticulated sewerage system in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Where sewerage connections are not available to the site, or where existing connections are not satisfactory for the proposed development, the developer is required to extend or upgrade the reticulated sewerage infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

### (D) ASSESSMENT MANAGER'S ADVICE

- (a) An Adopted Infrastructure Charges Notice has been issued with respect to the approved development. The Adopted Infrastructure Charges Notice details the type of infrastructure charge/s, the amount of the charge/s and when the charge/s are payable.
- (b) The Adopted Infrastructure Charges Notice does not include all charges or payments that are payable with respect to the approved development. A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.

(c) Endorsement Fees

Council charges a fee for the endorsement of Community Management Statements, easement documents, and covenants. The fee is set out in Council's Fees & Charges Schedule applicable for each respective financial year.

(d) The change in the use of the building may also require a change in the classification of the building under the Building Act. You are advised to contact a Building Certifier to establish if a change in the classification of the building is required.

(e) Compliance with applicable codes/policies

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

(f) Compliance with Acts and Regulations

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

(g) Environmental Protection and Biodiversity Conservation Act 1999

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

(h) Cultural Heritage

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

(E) RELEVANT PERIOD

When approval lapses if development not started (s.85)

- Material Change of Use – six (6) years (starting the day the approval takes effect);

(F) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS

- Development Permit for Building Work

(G) OTHER APPROVALS REQUIRED FROM COUNCIL

- Compliance Permit for Plumbing and Drainage Work

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

2. That an Adopted Infrastructure Charges Notice be issued for the following infrastructure charge/s for:

<b>Development Type</b>	<b>Rate</b>	<b>Measure</b>	<b>Charge</b>	<b>Credit Detail</b>	<b>Balance</b>
	<b>\$ per unit</b>	<b>No. of units</b>	<b>\$</b>	<b>\$94/m2 of office space</b>	<b>\$</b>
Residential	\$13,430.00	5	\$67,150.00	\$18,800.00	\$48,350.00
<b>TOTAL CURRENT AMOUNT OF CHARGE</b>					<b>\$48,350.00</b>

## THE SITE

The subject site is situated on the edge of Kuranda's business centre at 12 Rob Veivers Drive, Kuranda, and described as Lot 500 on SP202676 (Level B on BUP100024).

Lot 500 on SP202676 has a site area of 200m<sup>2</sup> and comprises vacant office space on the lower level of the existing retail complex. Commercial office space and shops are located at the street level.

Shops and office space on the ground floor level are accessible from the Rob Veivers Drive. Access to the proposed development is via a driveway from Rob Veivers Drive.

There is limited remnant vegetation located on the site due to historical clearing for urban purposes.

Electricity, water and telecommunication services are already provided to the existing premises.



**Map Disclaimer:**

Based on or contains data provided by the State of Queensland (Department of Environment and Resource Management) (2009). In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.

## BACKGROUND AND CONTEXT

On 7 January 1988, Council issued town planning consent approval C23/87 authorising development comprising of Retail, Workshop, Restaurant, Art Gallery and Caretaker Unit on the subject land.

An on street car parking area was constructed by several developers to serve this development and the neighbouring shopping complex at 14 Rob Veivers Drive. Much of the on street car parking was absorbed into Rob Veivers Drive when Council realigned Rob Veivers Drive in the late 1990's.

## PREVIOUS APPLICATIONS & APPROVALS

Nil

## DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Material Change of Use - Multiple Dwelling (Conversion of commercial space into 5 residential units) in accordance with the plans shown in **Attachment 1**.

The application includes the following description of the proposed development:



*"The applicant seeks a Material Change of Use to facilitate conversion of existing commercial units, defined under the Planning Scheme as "Office", on level B of BUP100024 to residential units, defined under the Planning Scheme as "Multiple Dwellings".*

*It is noted that Level A of the existing building is currently leased by other tenants and utilised for purposes of office space and shop. RPS notes that as other owners/tenants occupy parts of the upper level for office space and shop and this land use will continue as 'as of right' land uses. The application refers solely to the volumetric Lot 500 on SP202676, to enable the conversion of offices on Level B on BUP100024 to five (5) residential units, for future sale or lease.*

*This application is for a Material Change of Use for Multiple Dwellings at 12 Rob Veivers Drive, Kuranda, more formally described as Level B on BUP100024 within Volumetric Lot 500 on SP202676. In terms of building classification, the proposed development will involve changing the current 'Class 5' – "Office" to 'Class 1a' – "Multiple Dwelling".*

*We note that detailed plans depicting the internal layout of the proposed residential units have yet to be prepared. This is due to the considerable expense associated with preparing such plans (e.g. site survey to locate services, connection points etc, building design) and a degree of uncertainty as to whether approval will be granted. In summary, the applicant would prefer to defer these costs until such time as there is certainty that the "overarching" Material Change of Use approval has been granted. Given these circumstances, and in order to address any concerns Council may have regarding detailed design of the proposed units, we suggest that it would be appropriate (and acceptable to the applicant) if Council were to impose a condition upon approval along the lines of the following:*

*"Prior to seeking a development Permit for Building Works for the approved residential units, the applicant shall lodge for Council approval, detailed plans depicting the internal layout of each unit.*

*These plans shall demonstrate compliance of the proposed building works with conditions of this approval. As well as all relevant requirements of the Building Code of Australia, including those relating to minimum requirements for habitable rooms (area, dimensions and height), as well as fire separation between commercial and residential uses".*

## **REGIONAL PLAN DESIGNATION**

The subject site is included within the Urban Footprint land use category in the Far North Queensland Regional Plan 2009-2031. Kuranda is identified as a Village Activity Centre in the Regional Plan. The Regional Plan Map 3- 'Areas of Ecological Significance' also identifies the site is:

- *Strategic Rehabilitation Area*

## PLANNING SCHEME DESIGNATIONS

Strategic Framework:	<b>Land Use Categories</b>
Zone:	• Centre Area
Kuranda Local Plan:	Centre zone
Overlays:	Village Frame
	Hill and slope overlay
	Scenic amenity overlay

## RELEVANT PLANNING INSTRUMENTS

Assessment of the proposed development against the relevant planning instruments is summarised as follows:-

### (a) Far North Queensland Regional Plan 2009-2031

Separate assessment against the Regional Plan is not required because the Mareeba Shire Council Planning Scheme appropriately advances the Far North Queensland Regional Plan 2009-2031, as it applies to the planning scheme area.

### (b) State Planning Policy

Separate assessment against the State Planning Policy (SPP) is not required because the Mareeba Shire Council Planning Scheme appropriately integrates all relevant aspects of the SPP.

### (c) Mareeba Shire Council Planning Scheme 2016

#### Relevant Development Codes

The following Development Codes are considered to be applicable to the assessment of the application:

- 6.2.1 Centre zone code
- 7.2.1 Kuranda local plan code
- 8.2.8 Hill and slope overlay code
- 8.2.11 Scenic amenity overlay code
- 9.3.1 Accommodation activities code
- 9.4.2 Landscaping code
- 9.4.3 Parking and access code
- 9.4.5 Works, services and infrastructure code

The application included a planning report and assessment against the planning scheme. An officer assessment has found that the application satisfies the relevant acceptable outcomes (or performance outcome where no acceptable outcome applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
Centre zone code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).

Kuranda local plan code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Hill and slope overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Scenic amenity overlay code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Accommodation activities code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Landscaping code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Parking and access code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).
Works, services and infrastructure code	The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).

### (e) Planning Scheme Policies

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

A condition will be attached to any approval requiring all development works be designed and constructed in accordance with FNQROC Development Manual standards.

### (f) Adopted Infrastructure Charges Notice

The subject land is within the Priority Infrastructure Area.

In accordance with Council's Adopted Infrastructure Charges Resolution (No. 2) 2019, a charge of \$13,430.00 will apply to each new 1 or 2 bedroom residential unit - **\$67,150.00**.

A credit of \$94.00 per m2 applies for the existing 200m2 of office space - **\$18,800.00 credit**.

The applicable charge, minus the credit, is **\$48,350.00**.

### REFERRALS

This application did not trigger referral to a Concurrence Agency.

### Internal Consultation

Technical Services.

**PLANNING DISCUSSION**

Nil


***Date Prepared:***            *15 August 2019*

DECISION BY DELEGATE

DECISION

Having considered the Planning Officer's report detailed above, I approve, as delegate of Council, the application subject to the conditions listed in the report.

Dated the 15TH day of AUGUST 2019



**BRIAN MILLARD**  
**SENIOR PLANNER**

MAREEBA SHIRE  
AS DELEGATE OF THE COUNCIL

PROPOSAL PLANS

