

Assessment of application against relevant Development Codes

APPLICATION DETAILS

APPLICATION		PREMISES	
FILE NO:	OPW/17/0001	ADDRESS:	25, 67-71 & 73 Mason Road, Kuranda
APPLICANT:	A & A Salinovic	RPD:	Lots 101 to 104 on SP202702
LODGED BY:	Veris	AREA:	136.65 hectares
DATE LODGED:	28 July 2017	OWNER :	A & A Salinovic
TYPE OF APPROVAL:	Development Permit		
PROPOSED DEVELOPMENT:	Operational Works – Clearing of Vegetation		
PLANNING SCHEME:	Mareeba Shire Planning Scheme 2004 (Amendment No 01/11)		
ZONE:	Rural zone		
LEVEL OF ASSESSMENT:	Code Assessment		
SUBMISSIONS:	n/a		

Relevant Development Codes

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

Part 5, Division 2	Natural and Cultural Heritage Features Overlay Code
Part 5, Division 6	Significant Vegetation Overlay Code
Part 5, Division 8	Natural Disaster - Bushfire Overlay Code

Division 2 — Assessment Criteria for Natural and Cultural Heritage Features Overlay Code

5.3 NATURAL AND CULTURAL HERITAGE FEATURES OVERLAY CODE

The provisions in this division comprise the Natural and Cultural Heritage Features Overlay code. They are-

- compliance with Natural and Cultural Heritage Features Overlay code (section 5.4);
- overall outcomes for Natural and Cultural Heritage Features Overlay code (section 5.5);
- specific outcomes and probable solutions for the Natural and Cultural Heritage Features Overlay code (section 5.6).

5.4 COMPLIANCE WITH NATURAL AND CULTURAL HERITAGE FEATURES OVERLAY CODE

Development that achieves the specific outcomes in section 5.6, complies with the Natural and Cultural Heritage Features Overlay code.

5.5 OVERALL OUTCOMES FOR NATURAL AND CULTURAL HERITAGE FEATURES OVERLAY CODE

- (2) The overall outcomes are the purpose of the Natural and Cultural Heritage Features Overlay code.
- (3) The overall outcomes sought for the Natural and Cultural Heritage and Natural Features overlay code are:
- (a) The conservation and recognition of significant cultural heritage assets that demonstrate the history of development and use of land and resources within Mareeba Shire.
 - (b) Places, areas or sites identified as having significant value for cultural heritage, natural features or resources are protected from development or the effects of development that may significantly reduce those values, as applicable, in terms of:
 - (i) physical change; or
 - (ii) damage or removal; or
 - (iii) visibility; or
 - (iv) accessibility; or
 - (v) visual detracting; and
 - (c) Places, areas or sites identified as natural features that constrain development due to potential risk to the natural or built environment or human health or safety, are avoided or measures taken with regard to development that reduce the risk to acceptable levels.
 - (d) Mineral resources are protected from conflicting land uses to ensure their continued availability for use in the future development of Mareeba Shire and the Region.

5.6 SPECIFIC OUTCOMES AND PROBABLE SOLUTIONS FOR NATURAL AND CULTURAL HERITAGE FEATURES OVERLAY CODE

The specific outcomes sought for the Natural and Cultural Heritage Features Overlay code are included in column 1 of Table 26A and probable solutions and acceptable solutions in column 2 of Table 26A.

TABLE 26A

Specific Outcomes	Probable Solutions (code assessable)	Complies	Comments
<p>S1 Cultural Heritage Places</p> <p>(a) significant elements of the mining history of Mareeba Shire are conserved; and</p> <p>(b) buildings, structures and operational works which demonstrate significant historical periods in the development of the</p>	<p>PS1 No probable solution provided.</p>	✓	<p>The subject land does not feature any known elements of mining history.</p> <p>There are no mapped or known buildings, structures or operational works of historical significance on the subject land.</p> <p>There are no known natural features which are significant to the indigenous cultural heritage of the Shire on the subject land.</p>

<p>Shire are conserved; and (c) known natural features which are significant to the indigenous cultural heritage of the Shire are protected.</p>			
<p>S2 Areas under the Nature Conservation Act 1992</p> <p>Development within 100 metres of an identified area under the Nature Conservation Act 1992 which has rare and threatened species recognised by the Act, has no significant adverse effects on the area, including those related to:</p> <p>(a) management of fire risk, including the use of natural firebreaks; or (b) changes to natural drainage; or (c) unmanaged public access; or (d) effluent disposal; or (e) changes to natural activities of animals with respect to the location and effects of uses, fencing, lighting and the like.</p>	<p>PS2 No probable solution provided.</p>	<p>✓ Will be conditioned to comply.</p>	<p>The subject land is within 100 metres of the Barron Gorge National Park to the east and State Forest to the west.</p> <p>No development (vegetation clearing) is proposed within 100 metres of the Barron Gorge National Park.</p> <p>The development can be conditioned to restrict any vegetation clearing within 100 metres of the State Forest (Lot 1 on AP19290).</p>
<p>S3 Wetlands and Waterways</p> <p>(a) There are no significant adverse effects on identified wetlands and identified waterways in terms of:</p> <p>(i) habitat; or (ii) water quality; or (iii) landscape quality.</p> <p>(b) For intensive agriculture, a buffer is maintained from the high bank of a waterway having regard to :</p> <p>(i) water quality, and (ii) fauna habitat corridor, and (iii) the retention of undisturbed vegetation , or (iv) revegetation of appropriate areas with local endemic species.</p>	<p>PS3 No probable solution provided.</p>	<p>✓ Will be conditioned to comply</p>	<p>A waterway (Jumrum Creek) is mapped in the vicinity of the proposed development (Planning Scheme Map No. N1).</p> <p>The significant vegetation overlay code calls for the maintenance of a 50 metre buffer of vegetation from the high bank of the mapped waterway in the Rural zone. It is reasonable for this same buffer width to be conditioned in response to S3 of the Natural and Cultural Heritage Features Overlay.</p> <p>A second unmapped waterway is present on the land and the applicant has proposed that no clearing be undertaken within 25 metres of this waterway.</p> <p>Vegetation clearing is proposed to be selectively carried out using an excavator to minimise disturbance.</p> <p>The development will be conditioned to require appropriate interception devices that ensure removal of suspended matter (litter) and treatment of contaminated</p>

			<p>stormwater prior to crossing the boundary of the development or discharge into downstream roadside gutters, stormwater drainage systems or waterways.</p> <p>A visual impact assessment has been undertaken by GGI Landscape Architects. The assessment was undertaken to demonstrate the extent of clearing as per original Proposal Plan 31059-01A.</p> <p>In response to the visual impact assessment, the applicant has reduced the area of clearing to lessen the visual impact. The amended area of clearing is depicted on Proposal Plan 31059-01B. The visual impact of the amended area of clearing is depicted on the attached marked-up photographs.</p> <p>The applicant further emphasises that the area to be cleared will not be clear-felled leaving a bare earth scar in the landscape, instead, it is to be selectively cleared using an excavator or similar style of machine.</p> <p>The applicant has not provided any detail as to what criteria will be used in the selective clearing.</p> <p>Given the lack of applicant nominated selective clearing criteria, the conditions of any development approval should outline some minimum standards for tree retention.</p> <p>It is proposed to apply the following tree retention density:</p> <ul style="list-style-type: none"> (i) 70 trees per hectare below 430AHD contour; (ii) 150 trees per hectare from 430AHD contour and above.
<p>S4 Conservation of Buildings and Places of Local Heritage Significance</p> <ul style="list-style-type: none"> (i) Original in situ building fabric are preserved and restored; and (ii) material which is damaged or altered from its original state are repaired and replaced with contemporary materials consistent with existing built fabric; and (iii) The curtilage and setting of the 	<p>PS4 No probable solution provided.</p>	<p>n/a</p>	<p>Not applicable.</p>

<p>building are protected from development which conflicts with the character or scale of the existing building/s.</p>			
<p>S5 Respect for Form and Appearance of Natural Heritage Features and Cultural Heritage Features</p> <p>Development affecting Natural Heritage Features and Cultural Heritage Features does not adversely impact upon buildings and structures of historic significance.</p>	<p>PS5 No probable solution provided.</p>	<p>n/a</p>	<p>Not applicable.</p>
<p>S6 Retention of Natural Heritage Features and Cultural Heritage Features</p> <p>Buildings or structures within a Natural Heritage Feature or Cultural Heritage Feature are retained in an undamaged state or are enhanced through conservation of building fabric or structures.</p>	<p>PS6 No probable solution provided.</p>	<p>n/a</p>	<p>Not applicable.</p>
<p>S7 Mineral Resources are protected</p> <p>Mineral Resources are protected from conflicting land uses which may constrain the current or future utilisation of such resources.</p>	<p>PS7 No probable solution provided.</p>	<p>n/a</p>	<p>Not applicable.</p>

Division 6 — Assessment criteria for Significant Vegetation Overlay

5.15 SIGNIFICANT VEGETATION OVERLAY CODE

The provisions in this division comprise the Significant Vegetation Overlay code. They are-

- compliance with Significant Vegetation Overlay Code (section 5.16);
- overall outcome for Significant Vegetation Overlay (section 5.17);
- specific outcomes, probable solutions and acceptable solutions for the Significant Vegetation Overlay Code (section 5.18).

5.16 COMPLIANCE WITH THE SIGNIFICANT VEGETATION OVERLAY CODE

Development that achieves the specific outcomes in section 5.18 complies with the Significant Vegetation Overlay code.

5.17 OVERALL OUTCOMES FOR THE SIGNIFICANT VEGETATION OVERLAY

- (1) The overall outcomes are the purpose of the code.
- (2) The overall outcomes sought for the Significant Vegetation Overlay code are:
 - (a) the protection of remnant endangered regional ecosystems;
 - (b) the protection of vegetation in areas of high nature conservation values;
 - (c) the maintenance of biodiversity;
 - (d) the prevention of land degradation;
 - (e) prevent the fragmentation of wildlife corridors (Category B on Maps V1 and V2);
 - (f) the maintenance of scenic amenity.

5.18 SPECIFIC OUTCOMES, PROBABLE SOLUTIONS AND ACCEPTABLE SOLUTIONS FOR SIGNIFICANT VEGETATION OVERLAY CODE

The specific outcomes sought for the Significant Vegetation Overlay code are included in column 1 of table 31 and probable solutions and acceptable solutions in column 2 of table 31.

TABLE 31

Specific Outcomes	Acceptable Solutions (self assessable) or Probable Solutions (code assessable)	Complies	Comments
<p>S1 Waterways and adjacent habitat are protected by:</p> <ul style="list-style-type: none"> (i) Maintaining bank stability by protecting against erosion and slumping; and (ii) Maintaining water quality by filtering sediments, nutrients and other pollutants; and (iii) Maintaining aquatic habitat; and (iv) Maintaining wildlife habitat. 	<p>PS1.1 In areas identified as Category A or B on Planning Scheme Maps V1 and V2, vegetation is retained along each side of a waterway, within at least:</p> <ul style="list-style-type: none"> (i) 50 metres of each high bank of a waterway in the Rural (lots with areas of two (2) hectares and above), Open Space and Conservation zone; and (ii) 25 metres of each high bank of a waterway in the Rural Residential (lots with areas of two (2) hectares and above only) and Myola zone; and (iii) 10 metres of each high bank of a waterway in the Rural Residential (lots with areas below two (2) hectares) and Rural (lots with areas below two (2) hectares) zone. <p>PS1.2 Vegetation is retained on land with a slope greater than 15%.</p>	<p>✓ Will be conditioned to comply.</p>	<p>PS1.1 - The subject land is mapped as Category A on Planning Scheme Map No . V1.</p> <p>A waterway (Jumrum Creek) is mapped in the vicinity of the proposed development.</p> <p>The significant vegetation overlay code calls for the maintenance of a 50 metre buffer of vegetation from the high bank of the mapped waterway in the Rural zone. It is reasonable for this same buffer width to be conditioned in response to S3 of the Natural and Cultural Heritage Features Overlay.</p> <p>A second unmapped waterway is present on the land and the applicant has proposed that no clearing be undertaken within 25 metres of this waterway.</p>

Specific Outcomes	Acceptable Solutions (self assessable) or Probable Solutions (code assessable)	Complies	Comments
			<p>Vegetation clearing is proposed to be selectively carried out using an excavator to minimise disturbance.</p> <p>The development will be conditioned to require appropriate interception devices that ensure removal of suspended matter (litter) and treatment of contaminated stormwater prior to crossing the boundary of the development or discharge into downstream roadside gutters, stormwater drainage systems or waterways.</p> <p>PS1.2 - The applicant further emphasises that the area to be cleared will not be clear-felled leaving a bare earth scar in the landscape, instead, it is to be selectively cleared using an excavator or similar style of machine.</p> <p>The applicant has not provided any detail as to what criteria will be used in the selective clearing.</p> <p>Given the lack of applicant nominated selective clearing criteria, the conditions of any development approval should outline some minimum standards for tree retention.</p> <p>It is proposed to apply the following tree retention density:</p> <p>(iii) 70 trees per hectare below 430AHD contour;</p> <p>(iv) 150 trees per hectare from 430AHD contour and above.</p> <p>The development can be conditioned to comply with S1.</p>
<p>S2 Vegetation is retained outside the immediate area required for development to protect remnant endangered regional ecosystems and wildlife corridors (Wildlife Corridors are shown as Category B on Maps V1 and V2).</p>	<p>PS2.1 In areas identified as Category B on Maps V1 and V2,</p> <p>(i) For dwelling houses only an area of no more than 600m² which includes the dwelling house, areas for infrastructure provision, driveways and effluent disposal/irrigation areas is cleared and fenced; and</p> <p>(ii) For all developments All vegetation outside the area required for the approved development is retained.</p>	<p>n/a</p>	<p>Not applicable.</p> <p>The subject land is mapped as Category A on Planning Scheme Map No . V1.</p>

Division 8— Assessment Criteria for Natural Disaster-Bushfire Overlay

5.21 NATURAL DISASTER-BUSHFIRE OVERLAY CODE

The provisions in this division comprise the Natural Disaster-Bushfire Overlay code. They are-

- Compliance with Natural Disaster-Bushfire Overlay Code (section 5.22);
- Overall outcomes for Natural Disaster-Bushfire Overlay code(section 5.23);
- Specific outcomes, probable solutions and acceptable solutions for Natural Disaster-Bushfire Overlay code (section 5.24).

5.22 COMPLIANCE WITH THE NATURAL DISASTER-BUSHFIRE OVERLAY CODE

Development that is consistent with the specific outcomes in section 5.24 complies with the Natural Disaster-Bushfire Overlay code.

5.23 OVERALL OUTCOMES FOR THE NATURAL DISASTER-BUSHFIRE OVERLAY CODE

- (1) The overall outcomes are the purpose of the code.
- (2) The overall outcomes sought for the Natural Disaster-Bushfire Overlay code are that:
 1. The number of people and properties subject to bushfire hazards are minimised by regulating building location and design;
 2. Evacuation is facilitated in the event of any bushfire threat.
 3. The risk to life and property is minimised in areas of High and Medium Hazard Severity, with appropriate siting and design of lots and buildings, or the exclusion of inappropriate uses;
 4. Only certain types of development are regulated by the Natural Disaster-Bushfire Overlay, as follows:
 - (i) Development that increases in the number of people living, working, or congregating in those areas eg. Residential development, Shopping centres, Tourist facilities, Industrial or commercial uses involving large numbers of workers or customers; and
 - (ii) Development that involves institutional uses where evacuating people may be particularly difficult, eg, hospitals, education establishments, child care centres, retirement villages, and high security correctional centres; and
 - (iii) Development that increases the amount of hazardous materials that are manufactured or stored in bulk.

5.24 SPECIFIC OUTCOMES, PROBABLE SOLUTIONS AND ACCEPTABLE SOLUTIONS FOR NATURAL DISASTER-BUSHFIRE OVERLAY CODE

The specific outcomes sought for the Natural Disaster-Bushfire Overlay code are included in column 1 of table 34 and acceptable/probable solutions in column 2 of table 34.

TABLE 34

Specific Outcomes	Acceptable Solutions (self assessable) or Probable Solutions (code assessable)	Complies	Comments
S1 Development maintains the safety of people and property by mitigating the risk through:	For Self Assessment: PS1.1 Buildings and structures: (a) on lots greater than 2,500m ² : are sited in locations of lowest hazard within the lot; and achieve setbacks from hazardous vegetation ¹ of at least 15 metres; and	n/a	The proposed development will not increase the number of people living, working or congregating on the subject land.

¹ Hazardous vegetation comprises vegetation communities with a hazard score of 6 or more in Table A3.1 of Appendix 3 of SPP Guideline 1/03.

Specific Outcomes	Acceptable Solutions (self assessable) or Probable Solutions (code assessable)	Complies	Comments
<p>lot design and the siting of buildings; and including firebreaks that provide adequate:</p> <ul style="list-style-type: none"> - setbacks between buildings/structures and hazardous vegetation, and - access for firefighting/other emergency vehicles; providing adequate road access for firefighting/other emergency vehicles and safe evacuation; and providing an adequate and accessible water supply for fire-fighting purposes. 	<p>(b) on lots less than or equal to 2,500m²: are sited in locations of lowest hazard within the lot; and achieve setbacks from hazardous vegetation² of at least 5 metres. For Code Assessment:</p> <p>PS1.2 Buildings and structures:</p> <p>(a) on lots greater than 2,500m²: are sited in locations of lowest hazard within the lot; and achieve setbacks from hazardous vegetation³ of 1.5 times the predominant mature canopy tree height or 10 metres, whichever is the greater; and are located a minimum of 10 metres from any retained vegetation strips or small areas of vegetation; and are sited so that elements of the development least susceptible to fire are sited closest to the bushfire hazard.</p> <p>(b) on lots less than or equal to 2,500m², maximise setbacks from hazardous vegetation. For Self Assessment and Code Assessment:</p> <p>PS1.3 For uses involving new or existing buildings with a gross floor area greater than 50m², each lot has: a reliable reticulated water supply that has sufficient flow and pressure characteristics for fire fighting purposes at all times (minimum pressure and flow is 10 litres a second at 200 kPa); OR an on-site water storage of not less than 5,000 litres (eg accessible dam or tank with fire brigade tank fittings, swimming pool). For Code Assessment only:</p> <p>PS1.4 Lots are designed so that their size and shape allow for:</p> <p>(a) efficient emergency access to buildings for fire-fighting appliances (eg by avoiding long narrow lots with long access drives to buildings); AND</p> <p>(b) setbacks and building siting in accordance with PS1.2 above. For Code Assessment only:</p> <p>PS1.5 Firebreaks are provided by:</p> <p>(a) a perimeter road that separates lots from areas of bushfire hazard and that road has: a minimum cleared width of 20 metres; and a constructed road width and weather standard complying with local government standards.</p>		

² Hazardous vegetation comprises vegetation communities with a hazard score of 6 or more in Table A3.1 of Appendix 3 of SPP Guideline 1/03.

³ Hazardous vegetation comprises vegetation communities with a hazard score of 6 or more in Table A3.1 of Appendix 3 of SPP Guideline 1/03.

Specific Outcomes	Acceptable Solutions (self assessable) or Probable Solutions (code assessable)	Complies	Comments
	<p>OR</p> <p>(b) where it is not practicable to comply with PS1.5 (a), fire maintenance trails are located as close as possible to the boundaries of the lots and the adjoining bushland hazard, and the fire/maintenance trails: have a minimum cleared width of 6 metres; AND have a formed width and gradient, and erosion control devices to local government standards; AND have vehicular access at each end; and • provide passing bays and turning areas for fire-fighting appliances; AND are either located on public land, or within an access easement that is granted in favour of the local government and Queensland Fire & Rescue Service. AND</p> <p>(c) sufficient cleared breaks of 6 metres minimum width in retained bushland within the development (eg creek corridors and other retained vegetation) to allow burning of sections and access for bushfire response. For Code Assessment only: PS1.6 Roads are designed and constructed in accordance with applicable local government and State government standards and: a) have a maximum gradient of 12.5%;and b) exclude cul-de-sacs, except where a perimeter road isolates the development from hazardous vegetation or the cul-de-sacs are provided with an alternative access linking the cul-de-sacs to other through roads. For Code Assessment only: PS1.7 Development complies with a Bushfire Management Plan⁴ for the premises.</p>		
<p>For Code Assessment only: S2 Public safety and the environment are not adversely affected by the detrimental impacts of bushfire on hazardous materials manufactured or stored in bulk.</p>	<p>For Code Assessment only: PS2 Development complies with a Bushfire Management Plan⁵ for the premises.</p>	n/a	Not applicable.

⁴ Refer to Appendix 8 of State Planning Policy 1/03 (Mitigating the Adverse Impacts of Flood, Bushfire and Landslide) Guideline

⁵ Refer to Appendix 8 of State Planning Policy 1/03 (Mitigating the Adverse Impacts of Flood, Bushfire and Landslide) Guideline