

8.3 Y MARTIN - MATERIAL CHANGE OF USE - FOOD AND DRINK OUTLET - LOT 407 ON NR7409 & LOT 412 ON SP103859 - 5 COONDOO STREET AND 4-12 THOOREE STREET, KURANDA - MCU/21/0012

Date Prepared: 8 July 2021

Author: Planning Officer

Attachments:

1. Site Plan
2. Food Trailer Plans/Images

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	Yolande Martin	ADDRESS	5 Coondoo Street & 4-12 Thooree Street, Kuranda
DATE LODGED	31 May 2021	RPD	Lot 407 on NR7409 & Lot 412 on SP103859
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Food and Drink Outlet		
FILE NO	MCU/21/0012	AREA	Lot 407 - 1,012m ² Lot 412 - 5,054m ²
LODGED BY	Yolande Martin	OWNER	Lot 407 - John Volf Pty Ltd Lot 412 - Mareeba Shire Council
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Centre Zone		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	N/A - Code assessment only		

EXECUTIVE SUMMARY

Council is in receipt of a code assessable development application described in the above application details. Being code assessable, the application was not required to undergo public notification.

The applicants propose to semi-permanently establish their mobile food van at the rear of Lot 407 on NR7409 to sell food and drink to the public. The food van will take advantage of passing foot traffic from the well-used pedestrian linkages between Council's public carpark on Lot 412 and Coondoo Street. The food van will also benefit from its proximity to the public carpark itself which is used by many as a convenient location to park and access the Village.

The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and does not conflict with any relevant aspect of the Planning Scheme. The proposed food van business is generally consistent with a long established Kuranda Village theme of "alleyway" and "stall" style food businesses that are currently scattered throughout Kuranda's various markets and streets. The food van will not be visible from Coondoo Street and will be reasonably setback from Thooree Street. Considering its location tucked away behind existing

commercial development, no particular town planning concerns have been identified. Given the semi-permanent nature of the proposed development, conditions recommended are minimal and do not require the installation of any permanent site improvements.

Draft conditions were provided to the Applicant and have been agreed to. It is recommended that the application be approved, subject to conditions.

OFFICER'S RECOMMENDATION

- That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	Yolande Martin	ADDRESS	5 Coondoo Street & 4-12 Thooree Street, Kuranda
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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 - Food and Drink Outlet

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
-	Site Plan - Proposed Food & Drink Outlet (Food Trailer)	Applicant	8/07/2021
01	External View 1 of Food Trailer	Applicant	8/07/2021
02	External View 2 of Food Trailer	Applicant	8/07/2021
03	External View 3 of Food Trailer	Applicant	8/07/2021
04	Internal View of Food Trailer	Applicant	8/07/2021

(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 The applicant must demonstrate to 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 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.
 - 3.2 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to the commencement of the use and at the rate applicable at the time of payment.
 - 3.3 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.
 - 3.4 The use of a generator to power the food trailer/van is not permitted at any time.
 - 3.5 The food trailer/van must be painted a neutral colour, to the satisfaction of Council's delegated officer.
 - 3.6 In the event that a Tropical Cyclone is declared that has the potential to impact Kuranda, the food trailer/van and any customer seating must be removed from the site and stored in secure location.
 - 3.7 All waste oils, water, grey water and black water must be collected and disposed of off-site at an approved disposal facility/dump point. These materials must not be stockpiled for any length of time or disposed of on-site. In the event that any waste material is spilled on-site, the applicant/operator must notify Council immediately.
 - 3.8 The food trailer/van may remain on-site or removed daily at the discretion of the applicant/operator.
 - 3.9 Commercial delivery vehicles are not permitted to service the approved use.

3.10 Waste Management

Any on site refuse storage areas, except a bin for customers rubbish must be screened from view from adjoining properties and customers. All refuse bins must be emptied daily.

3.11 Signage

The following signage is permitted:

- (i) one (1) advertising sign facing Coondoo Street which must be mounted on a building façade, awning or post associated with Lot 407 on NR7409;
- (ii) one (1) sandwich board style sign on Coondoo Street along the frontage of Lot 407 on NR7409 and where strictly complying with Council's Local Law/s for footpath signage;
- (iii) one (1) sandwich board style sign on Thooree Street along the frontage of Lot 412 on SP103859 and where strictly complying with Council's Local Law/s for footpath signage;
- (iv) Signage on the food trailer/van itself.

Any advertising devices must:

- (i) Not resemble a traffic control device or give instructions to vehicular traffic;
- (ii) Not incorporate highly reflective materials or finishes;
- (iii) Not be illuminated, move, revolve, strobe or flash; and
- (iv) Be kept clean, in good order and safe repair for the life of the development.

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

4. Infrastructure Services and Standards

4.1 Surface Treatment/Erosion and Sediment Control

The ground surface where the food trailer/van is located and where any outdoor dining tables are located must be maintained with a grass cover or similar so as to not cause an erosion and sediment control issue, to the satisfaction of Council's delegated officer.

Should an erosion and sediment control issue arise as a result of the continued use of the site, the applicant/developer must appropriately surface treat all problem areas to alleviate any erosion and sediment control issues, to the satisfaction of Council's delegated officer.

(D) ASSESSMENT MANAGER'S ADVICE

(a) Food Premises (restaurants/bed & breakfasts etc.)

Premises proposed for the storage and preparation, handling, packing or service of food must comply with the requirements of the Food Act 2006.

(b) 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.

(c) 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

(d) 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

(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

- Nil

(G) OTHER APPROVALS REQUIRED FROM COUNCIL

- Food Licence

THE SITE

The subject land comprises two allotments situated at 5 Coondoo Street and 4-12 Thooree Street, Kuranda, more particularly described as Lot 407 on NR7409 and Lot 412 on SP103859. Both allotments are regular in shape with areas of 1,012m² and 5,054m² respectively and are both situated within the Centre Zone.

Lot 407 on NR7409 contains 20 metres of frontage to Coondoo Street. The front half the allotment is almost completely developed with business tenancies constructed to the Coondoo Street front boundary, and no vehicular access is available from Coondoo Street. Access to the rear of the allotment is gained informally through adjoining Lot 412 on SP103859 which is owned by Mareeba Shire Council. Residential units are also constructed on Lot 407. The rear half of the property is relatively unimproved and grassed. This grassed area is the proposed set down location for the food van.

Lot 412 on SP103859 is owned by the Mareeba Shire Council and is improved by the Kuranda Post Office and a large public carpark. No development is proposed on Lot 412 as part of this application. The allotment has been included in the application as it is the proposed lawful means of access to the development located at the rear of Lot 407, through the public carpark (for both the proposed food van operator and potential customers). The public car park is established over the majority of the allotment and is sealed, line marked and landscaped. The Kuranda Post Office is situated in the north-east corner of the allotment. The site is accessed from Thooree Street via two sealed crossovers and a footpath.

All surrounding lots are zoned Centre and contain predominately commercial development with some mixed use residential. The heritage Listed St Saviour's Anglican Church is situated on the adjoining allotment to the north.



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.

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BACKGROUND AND CONTEXT

Nil

PREVIOUS APPLICATIONS & APPROVALS

Nil

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Material Change of Use - Food and Drink Outlet in accordance with the plans shown in **Attachments 1 & 2**.

The applicant proposes to site a mobile food trailer/van at the rear of Lot 407 on NR7409 to sell coffees and a variety of healthy food options. The rear of Lot 407 where the trailer will be situated is not accessible from Coondoo Street, so access is required through rear adjoining Lot 412 on SP103859, which is Council owned and contains the Post Office and a large public carpark.

Tables and chairs will be situated adjacent the food trailer/van to cater for customers that want to sit down or are waiting for food/drink, however food will be predominantly served to take away.

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 a Village Activity Centre in the Regional Plan. The Regional Plan Map 3- 'Areas of Ecological Significance' also identifies the site as containing:

- *Strategic Rehabilitation Area*

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories <ul style="list-style-type: none"> • Centre Area Transport Elements <ul style="list-style-type: none"> • Local Collector Road • Principal Cycle Route
Zone:	Centre Zone
Local Plan:	Kuranda Local Plan
Overlays:	<ul style="list-style-type: none"> • Hill and Slope Overlay • Heritage Overlay

Planning Scheme Definitions

The proposed use is defined as:-

Column 1 Use	Column 2 Definition	Column 3 Examples include	Column 4 Does not include the following examples
Food and drink outlet	Premises used for preparation and sale of food and drink to the public for consumption on or off the site. The use may include the ancillary sale of liquor for consumption on site.	Bistro, café, coffee shop, drive-through facility, kiosk, milk bar, restaurant, snack bar, takeaway, tea room	Bar, club, hotel, shop, theatre, nightclub entertainment facility

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 Developments 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
- 8.2.7 Heritage overlay code
- 8.2.8 Hill and slope overlay code
- 9.3.2 Commercial activities code
- 9.4.2 Landscaping code
- 9.4.3 Parking and access code
- 9.4.5 Works, services and infrastructure code

The application did not include a planning report and assessment against the planning scheme. An officer assessment has found that the application satisfies the relevant acceptable solutions (or probable solutions/performance criteria where no acceptable solution 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 complies or can be conditioned to comply with the relevant acceptable outcomes contained within the code or performance outcomes where no acceptable outcome is provided or where an acceptable outcome cannot be met. For further commentary refer to the separate code document.
Kuranda local plan code	The application complies or can be conditioned to comply with the relevant acceptable outcomes contained within the code or performance outcomes where no acceptable outcome is provided or where an acceptable outcome cannot be met. For further commentary refer to the separate code document.
Heritage overlay code	The application complies or can be conditioned to comply with the relevant acceptable outcomes contained within the code or performance outcomes where no acceptable outcome is provided or where an acceptable outcome cannot be met. For further commentary refer to the separate code document.
Hill and slope overlay code	The application complies or can be conditioned to comply with the relevant acceptable outcomes contained within the code or performance outcomes where no acceptable outcome is provided or where an acceptable outcome cannot be met. For further commentary refer to the separate code document.
Commercial activities code	The application complies or can be conditioned to comply with the relevant acceptable outcomes contained within the code or performance outcomes where no acceptable outcome is provided or where an acceptable outcome cannot be met. For further commentary refer to the separate code document.

Landscaping code	The application complies or can be conditioned to comply with the relevant acceptable outcomes contained within the code or performance outcomes where no acceptable outcome is provided or where an acceptable outcome cannot be met. For further commentary refer to the separate code document.
Parking and access code	The application complies or can be conditioned to comply with the relevant acceptable outcomes contained within the code or performance outcomes where no acceptable outcome is provided or where an acceptable outcome cannot be met. For further commentary refer to the separate code document.
Works, services and infrastructure code	The application complies or can be conditioned to comply with the relevant acceptable outcomes contained within the code or performance outcomes where no acceptable outcome is provided or where an acceptable outcome cannot be met. For further commentary refer to the separate code document.

(D) Planning Scheme Policies/Infrastructure Charges Plan

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 work be designed and constructed in accordance with FNQROC Development Manual standards.

REFERRAL AGENCY

This application did not trigger referral to any Referral Agencies.

Internal Consultation

Nil

PLANNING DISCUSSION

Nil



Plan No. 01

External View 1 of Food Trailer

8/07/2021



Plan No. 02

External View 2 of Food Trailer

8/07/2021



Plan No. 03

External View 3 of Food Trailer

8/07/2021



Plan No. 04

Internal View of Food Trailer

8/07/2021

