

8.1 D, C & D MACKENZIE AND B RHODES - MATERIAL CHANGE OF USE - NATURE-BASED TOURISM - LOT 622 ON SP176565 - 702 SPEEWAH ROAD, SPEEWAH - MCU/22/0023

Date Prepared: 30 January 2023
Author: Senior Planner
Attachments: 1. Proposal Plans
2. Submission

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	D, C & D Mackenzie and B Rhodes	ADDRESS	702 Speewah Road, Speewah
DATE LODGED	17 November 2023	RPD	Lot 622 on SP176565
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use – Nature-based Tourism		
FILE NO	MCU/22/0023	AREA	35.911 hectares
LODGED BY	Freshwater Planning Pty Ltd	OWNER	D, C & D Mackenzie and B Rhodes
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural zone		
LEVEL OF ASSESSMENT	Impact Assessment		
SUBMISSIONS	One (1)		

EXECUTIVE SUMMARY

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

The application is impact assessable and one (1) properly made submission was received in response to public notification of the application.

The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 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	
APPLICANT	D, C & D Mackenzie and B Rhodes	ADDRESS	702 Speewah Road, Speewah
DATE LODGED	17 November 2023	RPD	Lot 622 on SP176565
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use – Nature-based Tourism		

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 – Nature-based Tourism

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
FP22/39 Rev A	Site Plan	Freshwater Planning	Nov 22
DAN.01	Plan and Elevations	-	Apr 22
DAN.02	Footing Plan, Roof Plan and Sections	-	Apr 22

(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 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 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 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 and a maximum noise level of 8dB(A) above background levels as measured from commercial location.

3.5 Waste Management

- 3.5.1 On site refuse storage area/s must be provided and be screened from view from adjoining properties and road reserve by 1 metre wide landscaped screening buffer or 1.8m high solid fence or building.

- 3.5.2 Where bulk bins are used and are to be serviced on site, prior to the issue of a development permit for building works, Council's delegated officer must be satisfied that internal access is of adequate design and construction to allow waste collection/delivery vehicles to enter and exit the site in a forward gear only.

3.6 Bushfire Management

- 3.6.1 A Bushfire Management Plan for the site, incorporating evacuation procedures for guests, must be prepared to the satisfaction of Council's delegated officer. The approved use must comply with the requirements of the Management Plan at all times.

- 3.6.2 An on-site water supply for firefighting purposes must be provided with a minimum capacity of 5,000 litres that must comprise either:

- (a) a stand-alone tank; or
- (b) a reserve section in the bottom part of the main water supply tank; or
- (c) a dam; or
- (d) a swimming pool.

Where tank water supply is provided, the outlet must be fitted with a 50mm ball valve with a camlock fitting for connection to firefighting appliances.

4. Infrastructure Services and Standards

4.1 Access

An access crossover must be constructed (from the edge of the Harper Road road pavement, extending for a distance of 10 metres) to the satisfaction of Council's delegated officer.

The applicant/developer is to make an application for driveway access onto a Council road. The application is to be accompanied by the relevant fee and will be required to certify or be assessed for compliance by Council's delegated officer.

4.2 Stormwater Drainage

4.2.1 The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.

4.2.2 All stormwater drainage concentrated by the development must be collected from site and discharged to an approved legal point of discharge.

4.3 Car Parking/Internal Driveways

The developer must ensure that the development is provided with sufficient on-site car parking spaces which are available for use solely for the parking of vehicles associated with the approved use. All car parking spaces and internal driveways must be constructed to at least compacted gravel standard, clearly identifiable and appropriately drained prior to the commencement of the use, to the satisfaction of Council's delegated officer.

4.4 Non-Reticulated Water Supply

The development must be provided with a potable water supply that can satisfy the standards for drinking water set by the Australian Drinking Water Guidelines 2004 (National Health and Medical Research Council and the National Resource Management Ministerial Council).

All non-potable sources of water must be sign posted "non-potable water supply" or similar in order to deter consumption.

4.5 On-Site Wastewater Management

All on site effluent disposal associated with the approved use must be in compliance with the latest version of On-Site Domestic Wastewater Management Standard (ASNZ1547) to the satisfaction of the Council's delegated officer.

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.

(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) 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.

- (d) 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.

- (e) 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.dcceew.gov.au.

- (f) 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.dsdsatsip.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

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

Development Type	Rate	Measure	Charge	Credit Detail	Balance
Nature-based tourism (transport network only)	per cabin				
Stage 1	\$1,013.00	1	\$1,013.00	Nil	\$1,013.00
Stage 2	\$1,013.00	1	\$1,013.00	Nil	\$1,013.00
TOTAL CURRENT AMOUNT OF CHARGE					\$2,026.00

THE SITE

The subject site is situated at 702 Speewah Road, Speewah and is described as Lot 622 on SP176565. The site is irregular in shape with an area of 35.911 hectares and is zoned Rural under the Mareeba Shire Council Planning Scheme 2016.

The site contains approximately 516 metres of frontage to Harper Road and 1054 metres of frontage to Speewah Road. Both frontage roads are constructed to rural gravel standard. The bitumen sealed section of Speewah Road ends approximately one (1) kilometre short of the subject site.

Access to the subject site is available off each road frontage via existing access crossovers.

The site is improved by a dwelling house which is located in the south-eastern corner overlooking Ganyan Creek. Ganyan Creek forms the southern boundary of the subject site.

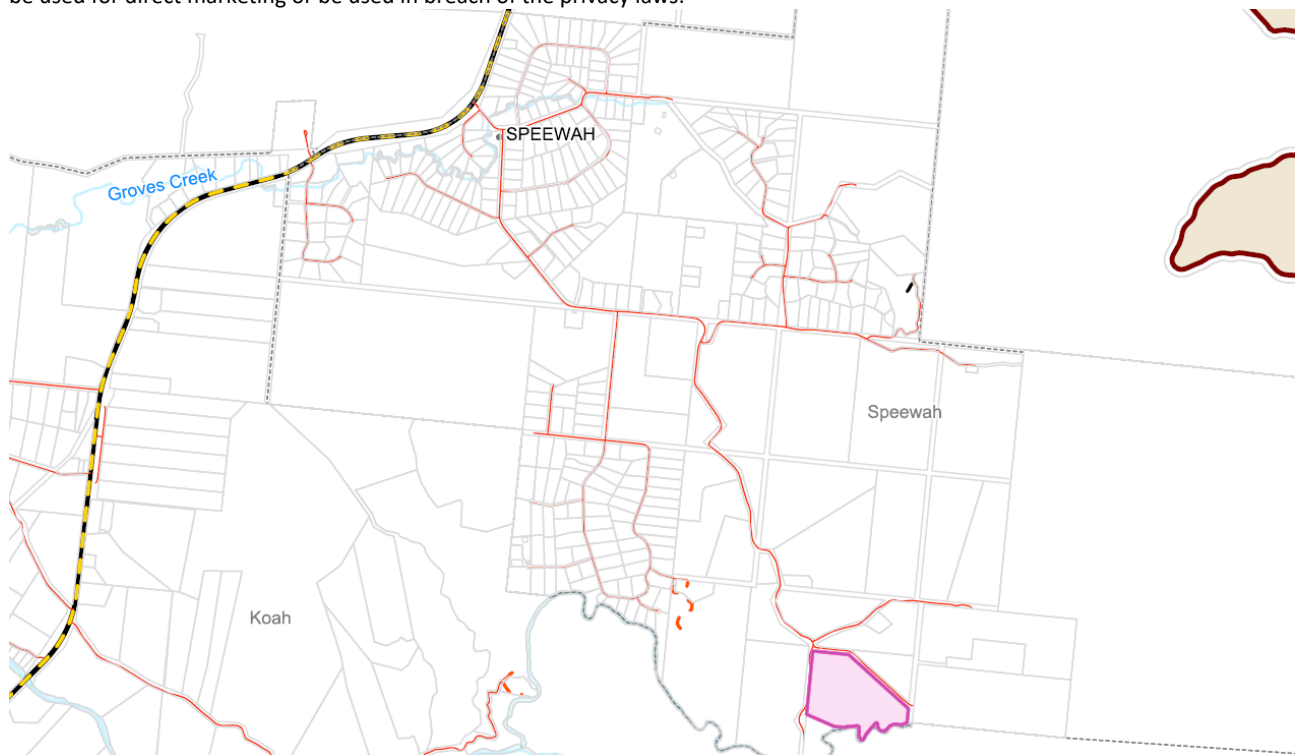
The subject site remains mostly vegetated, apart from a 3.4 hectare clearing around the dwelling house and a 1,500m² clearing which is the site of the proposed development.

Surrounding properties are zoned rural and are used for grazing and rural living purposes. Land immediately to the south, on the opposite side of Ganyan Creek is National Park.



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 – Nature-based Tourism in accordance with the plans shown in **Attachment 1**.

The development is described as follows:

“A Development Permit for a Material Change of Use is sought to facilitate the construction of two (2) Nature-Based Tourism Accommodation Cabins over two (2) Stages. The first stage is to provide the initial Accommodation Cabin with Stage 2 to include a future Accommodation Cabin. The site is designated within the Rural Zone of the Mareeba Shire Planning Scheme with the Planning Scheme supporting Nature-Based Tourism within Rural areas. The proposed Nature-Based Tourism Accommodation Cabins will be located within the existing cleared area and access is via the existing gated access located on Harper Road. The proposal will ensure to take a non-viable part of the Rural Allotment and convert into Nature-Based Tourism Accommodation to support the surrounding Speewah/Kuranda Townships and Tablelands Region.

The Nature-Based Tourism Accommodation Cabins proposes Single Bedroom Unit comprising of a shower, toilet, kitchen, living area and Bedroom with a deck. The Accommodation contains an approximate area of 96 m² and is provided as a nature-based/ecological friendly cabin. Each proposed Nature-Based Tourism Accommodation will be provided with a rainwater tank/s, solar (off-grid) power and onsite effluent disposal. The proposal is provided as an Eco-friendly Nature-Based Tourism Accommodation and will be provided with eco-friendly, natural servicing.

The site contains frontage to the Speewah and Harper Roads and contains existing accesses from each Road. No change to the existing accesses is proposed and each Nature-Based Tourism can be provided with a parking space.

There is sufficient room onsite for the manoeuvring of vehicles within the site and in particularly the cleared area where the Nature-Based Tourism is proposed. The proposal is accessed via a graded gravel road to ensure that the Nature-Based Tourism natural aesthetics are maintained and enhanced. Any car parking spaces will be appropriately sealed (gravel/grassed) in keeping with the natural environment.”

REGIONAL PLAN DESIGNATION

The subject site is included within the Regional Landscape and Rural Production Area land use category in the Far North Queensland Regional Plan 2009-2031. The Regional Plan Map 3- ‘Areas of Ecological Significance’ also identifies the site as:

- *Strategic Rehabilitation Area*
- *State & Regional Conservation Corridors*

- *Terrestrial Area of High Ecological Significance*
- *Terrestrial Area of General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories <ul style="list-style-type: none"> • Rural Area (Rural other) Natural Environment Elements <ul style="list-style-type: none"> • Biodiversity Areas
Zone:	Rural zone
Overlays:	Bushfire Hazard Overlay Environmental Significance Overlay Hill and Slope Overlay Transport Infrastructure 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
<i>Nature-based tourism</i>	<p><i>The use of land or premises for a tourism activity, including tourist and visitor short-term accommodation, that is intended for the conservation, interpretation and appreciation of areas of environmental, cultural or heritage value, local ecosystem and attributes of the natural environment.</i></p> <p><i>Nature-based tourism activities typically:</i></p> <ul style="list-style-type: none"> • <i>maintain a nature based focus or product</i> • <i>promote environmental awareness, education and conservation</i> • <i>carry out sustainable practices.</i> 	<p><i>Environmentally responsible accommodation facilities including lodges, cabins, huts and tented camps</i></p>	<p><i>Environment facility</i></p>

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**Strategic Framework***3.3 Settlement pattern and built environment**3.3.1 Strategic outcomes*

- (5) *Primary industries in Rural areas are not compromised or fragmented by incompatible and/or unsustainable development, including but not limited to subdivision that results in a detrimental impact on rural productivity. The valued, relaxed rural lifestyle, character and scenic qualities of the rural area are preserved and enhanced. The rural area is largely maintained to its current extent, while accommodating development directly associated with or reliant on natural resources including rural activities and tourism. Rural areas protect the shire's agricultural area and ensure food security. Other rural areas predominantly remain agricultural grazing properties.*

Comment

The proposed development will not compromise existing or potential future primary industries within the locality or rural zone in general. The proposed development is at least 175 metres from the nearest boundary and is substantially buffered by dense vegetation.

The low-impact nature-based tourism use, will not impact upon the valued relaxed rural lifestyle, character and scenic qualities of the of the rural area. The proposed development will not detract from the ability of the land to perform as a viable agricultural holding.

The proposed development complies with Strategic Outcome 5.

*3.3.11 Element - Rural areas**3.3.11.1 Specific outcomes*

- (1) *Rural areas include rural activities and land uses of varying scale, consistent with surrounding land use, character and site conditions.*

- (3) *Tourism, rural industry, intensive animal industries and outdoor recreation facilities are developed in the rural area in a way which:*
- (a) *does not impede or conflict with agricultural activities and production; and*
 - (b) *does not compromise rural character and scenic qualities; and*
 - (c) *does not adversely impact on ecological and biodiversity values.*
- (5) *Rural lifestyle, tourism, outdoor recreation, horticultural activities and natural bushland uses may be considered in other rural areas where appropriately located, serviced and otherwise consistent with the Strategic Framework.*

Comment

The proposed development will not compromise existing or potential future primary industries within the locality or rural zone in general. The proposed development is at least 175 metres from the nearest boundary and is substantially buffered by dense vegetation.

The low-impact nature-based tourism use, will not impact upon the valued relaxed rural lifestyle, character and scenic qualities of the of the rural area. The proposed development will not detract from the ability of the land to perform as a viable agricultural holding.

The proposed development complies with Specific Outcomes 1, 3 and 5.

3.7 Economic Development

3.7.7 - Element - Tourism

3.7.7.1 Specific Outcomes

- (4) *The outstanding scenic qualities of the regional landscape and the character and heritage values of the shire's activity centres are recognised and protected for their role in promoting and attracting visitors to the shire. Development in scenic and highly visible locations will minimise its impacts on scenic amenity through sensitive location, design, colour and scale.*
- (5) *A variety of small-scale, low impact tourist facilities are established across the rural landscape, including:*
- (a) *tourist attractions and facilities within activity centres;*
 - (b) *cultural interpretive tours;*
 - (c) *nature based tourism;*
 - (d) *sports and recreational activities;*
 - (e) *tourist attractions;*
 - (f) *adventure tourism;*
 - (g) *farm based tourism;*
 - (h) *food based tourism;*
 - (i) *bed and breakfasts;*
 - (j) *camping and recreational vehicle facilities;*
 - (k) *cycle tourism.*
- (6) *Small scale tourism related development is sensitively designed, scaled and located to not compromise the natural landscape values and agricultural values of Mareeba Shire.*

Comment

The proposed development will not compromise existing or potential future primary industries within the locality or rural zone in general. The proposed development is at least 175 metres from the nearest boundary and is substantially buffered by dense vegetation.

The low-impact nature-based tourism use, will not impact upon the valued relaxed rural lifestyle, character and scenic qualities of the of the rural area. The proposed development will not detract from the ability of the land to perform as a viable agricultural holding.

The proposed development complies with Specific Outcomes 4, 5 and 6.

Relevant Developments Codes

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

- 6.2.9 Rural zone code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.8 Hill and slope overlay 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
Rural zone code	The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcome where no acceptable outcome is provided) contained within the code.
Bushfire hazard overlay code	The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcome where no acceptable outcome is provided) contained within the code.
Environmental significance overlay code	The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcome where no acceptable outcome is provided) contained within the code.
Hill and slope overlay code	The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcome where no acceptable outcome is provided) contained within the code.
Landscaping code	The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcome where no acceptable outcome is provided) contained within the code.

	where no acceptable outcome is provided) contained within the code.
Parking and access code	The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcome where no acceptable outcome is provided) contained within the code.
Works, services and infrastructure code	The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcome where no acceptable outcome is provided) contained within the code.

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

(E) Adopted Infrastructure Charges Notice

Council's Adopted Infrastructure Charges Resolution (No. 1) 2022 does not specify a charge rate for nature-based tourism.

The subject land is only serviced by the trunk transport network (roads).

The standard charge for each ten vehicle movements per day is \$5,065.00.

The proposed development is assumed to generate two (2) vehicle movements per day for each cabin.

The applicable charge for each cabin will therefore be:

- $0.2 \times \$5,065.00 = \underline{\$1,013.00}$ (per cabin)

REFERRAL AGENCY

This application did not trigger referral to a Referral Agency.

Internal Consultation

Nil

PUBLIC NOTIFICATION

The development proposal was placed on public notification from 7 December 2022 to 18 January 2023. The applicant submitted the notice of compliance on 19 January 2023 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

One (1) properly made submission was received objecting to the proposed development.

The grounds for objection are summarised and commented on below:

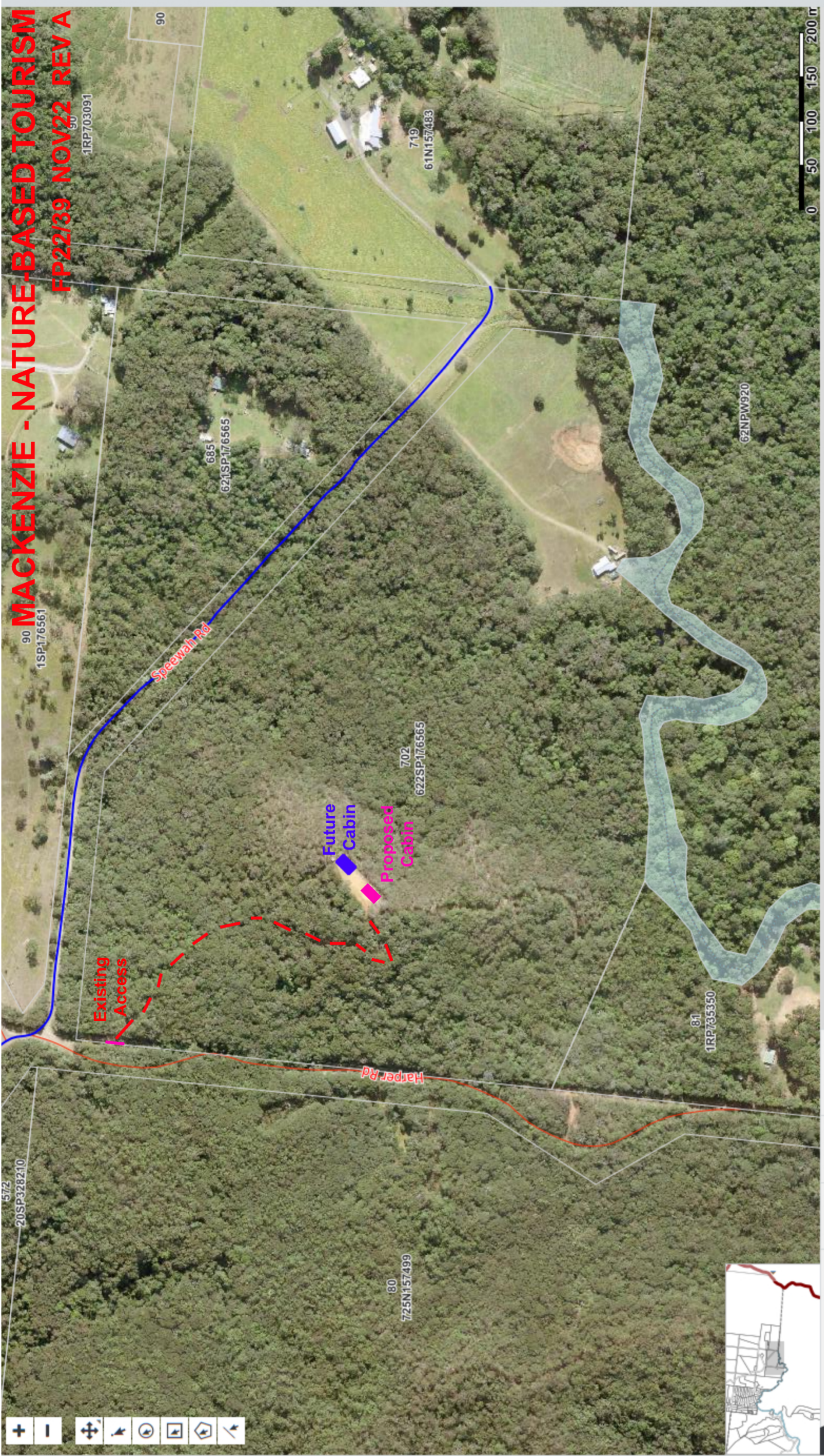
Grounds for objection	Comment
Submitter is a long-term resident and fears that the proposed development is only the start of more development.	<p>The proposed development is low key and proposed within an existing 1,500m² cleared area.</p> <p>The application is for two (2) cabins only.</p> <p>Any further future development will require separate assessment against the planning scheme in force at that time.</p>

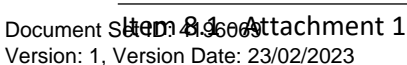
Submitters

Name of Principal submitter	Address
1. Gabriel Ephraims	Gabriel-Ephraims91@hotmail.com

PLANNING DISCUSSION

Nil





From: "Gabriel Ephraims" <Gabriel-Ephraims91@hotmail.com>
Sent: Fri, 9 Dec 2022 20:35:37 +1000
To: "Info" <info@msc.qld.gov.au>
Subject: Proposed property development
Categories: Added to ECM

Good evening, this is regarding the proposed property development on speewah road lot 702. We the people that have lived here for over 50 years and the family that are the pioneers of the area are utterly disgusted in what has been happening on this property and the property next door to it. These two new people that have bought out these property's have no regard for the land and have no community respect, this proposal is the start of what we see as an end to this beautiful part of the shire, once this gets approved these people are going to continue to build these things, they have already started to desecrate and damage the water ways and banks of the river with unnecessary clearing.
If you let this go ahead I will be taking this to a state level. Please do not give the go ahead!!

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