

8.4 M SEBESTYEN & Z SZARVAS - MATERIAL CHANGE OF USE - DUAL OCCUPANCY - LOT 2 ON SP287501 - 7B BLACK MOUNTAIN ROAD, KURANDA - MCU/24/0009

Date Prepared: 3 July 2024
Author: Coordinator Planning Services
Attachments: 1. Proposal Plans
 2. Submissions

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	M Sebestyen & Z Szarvas	ADDRESS	7B Black Mountain Road, Kuranda
DATE LODGED	3 May 2024	RPD	Lot 2 on SP287501
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use – Dual Occupancy		
FILE NO	MCU/24/0009	AREA	3.663 hectares
LODGED BY	Scope Town Planning	OWNER	M Sebestyen & Z Szarvas
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural Residential zone		
LEVEL OF ASSESSMENT	Impact Assessment		
SUBMISSIONS	Five (5)		

EXECUTIVE SUMMARY

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

The application is impact assessable and five (5) properly made submissions were 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.

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

OFFICER’S RECOMMENDATION

- That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	M Sebestyen & Z Szarvas	ADDRESS	7B Black Mountain Road, Kuranda
DATE LODGED	3 May 2024	RPD	Lot 2 on SP287501
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use – Dual Occupancy		

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 – Dual Occupancy

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
Figure 1	Aerial image of Development Site	-	-

(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.
 - 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 properties and road reserve by 1 metre wide landscaped screening buffer, 1.8m high solid fence or building.

3.7 Letterbox

Each unit is to be provided with an individual letter box.

3.8 Clothes Drying area

Sufficient area for clothes drying is to be provided in addition to the open space requirements of the units and is to be appropriately screened from view of adjoining properties and the street.

4. Infrastructure Services and Standards

4.1 Access

(a) The shared access crossover off Shiva Close be upgraded/constructed (from the edge of the Shiva Close road pavement for a distance of at least five (5) metres) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

(b) The layback kerb must be cut out as part of an upgraded concrete crossover to allow for a smoother transition between Shiva Close and the existing access driveway. A 40 mm lip is to be maintained along the kerb and channel.

(c) A signpost must be erected at the start of the access driveway to clearly identify the multiple properties being accessed via this single driveway. The colour of the sign post blades must be different to Council standard street name posts.

- (d) 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/Water Quality

- (a) The applicant/developer must take all necessary steps to ensure a non-worsening affect on surrounding land as a consequence of the development.
- (b) All stormwater drainage must be discharged to an approved legal point of discharge.

4.3 Car Parking/Internal Driveways

The applicant/developer must ensure the development is provided with 2 undercover car parking spaces (1 per unit) and 1 visitor parking space (covered or uncovered), which are available solely for the parking of vehicles associated with the use of the premises.

All car parking spaces and internal driveways must be concrete sealed and appropriately drained prior to the commencement of the use and to the satisfaction of Council's delegated officer.

4.4 Landscaping & Fencing

All established landscaping screens and fencing must be maintained for the life of the development.

4.5 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.

4.6 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 dwelling unit is required to be separately metered.

4.7 On-Site Wastewater Management

All on site wastewater 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.

(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) 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.

(e) 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.

(f) Electric Ants

Electric ants are designated as restricted biosecurity matter under the *Biosecurity Act 2014*.

Certain restrictions and obligations are placed on persons dealing with electric ant carriers within the electric ant restricted zone. Movement restrictions apply in accordance with Sections 74–77 of the *Biosecurity Regulation 2016*. Penalties may be imposed on movement of electric ant carriers and electric ants in contravention of the

legislated restrictions. It is the responsibility of the applicant to check if the nominated property lies within a restricted zone.

All persons within and outside the electric ant biosecurity zone have an obligation (a **general biosecurity obligation**) to manage biosecurity risks and threats that are under their control, they know about, or they are expected to know about. Penalties may apply for failure to comply with a general biosecurity obligation.

For more information please visit the electric ant website at [Electric ants in Queensland | Business Queensland](#) or contact Biosecurity Queensland 13 25 23.

(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

- 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:

Development Type	Rate	Measure	Charge	Credit Detail	Balance
Dual Occupancy					
1 or 2 bed dwelling	\$12,432.00	1	\$12,432.00	\$6,216.00	\$6,216.00
3 or more bed dwelling	\$17,446.40	1	\$17,446.40	\$17,446.40	\$0.00
TOTAL CURRENT AMOUNT OF CHARGE					\$6,216.00

THE SITE

The subject site is situated at and is described as Lot 2 on SP287501. The site is irregular in shape with an area of 3.663 hectares and is zoned Rural Residential under the Mareeba Shire Council Planning Scheme 2016.

The site contains approximately 31 metres of frontage to Black Mountain Road which is constructed to bitumen sealed standard for the full length of this frontage. Access to the site is not achieved from Black Mountain Road, instead, the site is accessed from Shiva Close via access easements A and B on SP226638, which are established over the access handles of Lots 1 on SP256625 and Lot 1 on RP725539, situated adjacent the subject site. These two (2) easements form part of the application for access purposes only. A shared bitumen and gravel sealed access road of approximate width of 3 metres has been established over the two (2) easements. Shiva Close is constructed to a bitumen sealed standard from kerb to kerb.

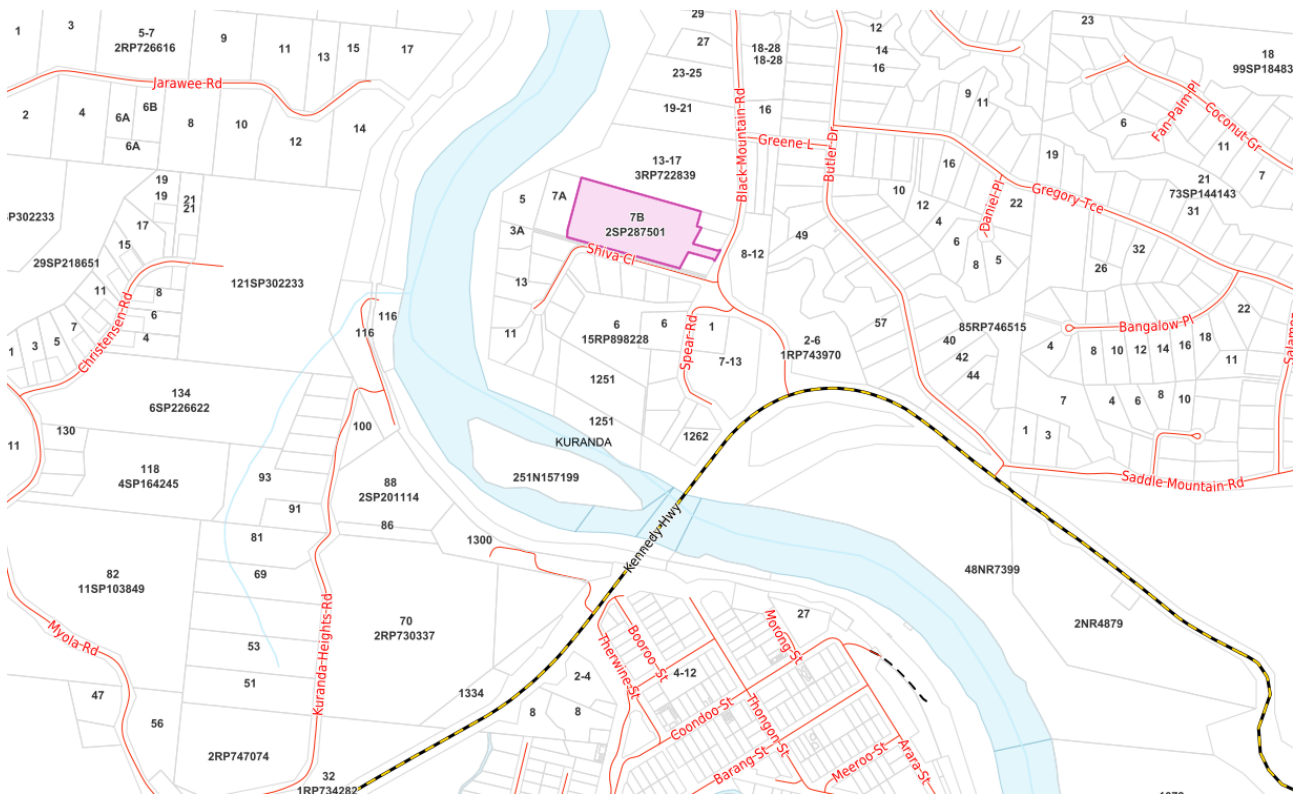
The site is predominantly covered in thick mature rainforest vegetation with the exception of a small portion of land in the south-west corner of the site. This cleared area contains the sites improvements which include the primary dwelling and a small cottage. The small cottage (located to the west of the primary dwelling) is presently used as a secondary dwelling (granny flat).

The site is connected to Council's reticulated water supply as well as electricity and telecommunications infrastructure. Allotments surrounding the site are zoned Rural Residential and are used for rural residential purposes.



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

- **DA/14/0058** – Host Farm (3 cabins)

Council, at its Ordinary Meeting held on 21 January 2015 approved development application DA/14/0058 for material change of use - host farm (3 cabins) on land described as Lot 4 on RP726331 and Easements A & B on SP226638, situated at Black Mountain Road and Shiva Close, Kuranda.

The secondary dwelling on the subject site was used as a host farm cabin until Lot 4 on RP726331 was subdivided in 2017 to create Lot 1 on SP287501 and Lot 2 on SP287501 (the subject site).

In 2018, the primary dwelling was constructed on the subject site and the former host farm cabin was converted to its current secondary dwelling (granny flat) use.

- **Housing Crisis – Planning Regulation 2017**

On 26 September 2022, the Queensland Government made an amendment to the *Planning Regulation 2017* to allow homeowners to rent out secondary dwellings to any person/s. Prior to this amendment, secondary dwellings were required to be occupied by a relative of the homeowner.

No expiry date was given for this amendment and it is likely to be extremely difficult to reverse the impact of this amendment at any point in the future.

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Material Change of Use - Dual Occupancy in accordance with the plans shown in **Attachment 1**.

The applicant describes the proposed development as follows:

“The proposed development is the Material Change of Use from a single Dwelling to a Dual Occupancy use utilizing the existing Dwelling Houses on the property. Both existing Dwellings will be retained in their current form and no additional Building Work or Operational Work is required for the proposed use to commence.

Both Dwellings are located on the property fronting Black Mountain Road with access obtained via Easement A on SP226638 burdening Lot 1 on RP725539 and B on SP226638 burdening Lot 1 on SP256625. These adjoining Easements contain a sealed driveway accessed via Shiva Close and service properties 3A, 3B, 5, 7A and 7B.

Infrastructure required to service the site is accessible via the Shiva Close frontage including site access, Reticulated Electricity, Telecommunications and Water network connections. The property is serviced by the Council Waste Collection service. The existing Dwellings are serviced by on-site effluent disposal systems.

The existing dwellings are serviced by a reticulated Electrical Network connection supplied via Shiva Close by underground electricity infrastructure. The electricity supply is metered separately for each Dwelling and will be retained.

The site is serviced by Telstra and NBN Co. hard lines connecting the site to the reticulated telecommunications network situated in the Shiva Close and Black Mountain Road reserves. The connections will be retained for use by the existing dwellings and are sufficient for the proposed use.”

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. 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:

- 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 Residential Area Natural Resource Elements <ul style="list-style-type: none"> • Biodiversity Area Transport Elements <ul style="list-style-type: none"> • Local Collector Road
Zone:	Rural Residential zone
Overlays:	Airport Environs Overlay Bushfire Hazard Overlay Environmental Significance Overlay

	Flood Hazard Overlay Hill and Slope Overlay Residential Dwelling House and Outbuilding Overlay Scenic Amenity Overlay Transport Overlay
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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
Dual occupancy	Premises containing two dwellings, each for a separate household, and consisting of: <ul style="list-style-type: none"> • a single lot, where neither dwelling is a secondary dwelling or • two lots sharing common property where one dwelling is located on each lot. 	Duplex, two dwellings on a single lot (whether or not attached), two dwellings within one single community title scheme under the <i>Body Corporate and Community Management Act 1997</i> , two dwellings within the one body corporate to which the <i>Building Units and Group Title Act 1980</i> continues to apply	Dwelling house, multiple dwelling

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

- (4) *Rural residential areas* are intended to support rural residential development of varying densities, to prevent further fragmentation and alienation of *rural areas*, *conservation areas* and *biodiversity areas* within the regional landscape. *Rural residential areas* predominantly maintain the current density of development, with infill subdivision of *rural residential areas* generally limited to identified areas where consistent with the desired character and where adequate services and infrastructure are available or can be adequately and cost-effectively provided.

Comment

The existing dwelling density on Shiva Close (excluding the subject site) is one (1) dwelling per 5,786m².

The proposed development represents one (1) dwelling per 18,315m² of the subject site.

The post development Shiva Close dwelling density would be one (1) dwelling per 6,925m².

The density being proposed by this application is consistent with Shiva Close and will not adversely impact on the established amenity.

3.3.10 Element—Rural residential areas

3.3.10.1 Specific outcomes

- (2) Infill development within *rural residential areas* occurs only where appropriate levels of infrastructure are available and provided, the existing rural living character can be maintained and an *activity centre* is proximate.

Comment

The existing dwelling density on Shiva Close (excluding the subject site) is one (1) dwelling per 5,786m².

The proposed development represents one (1) dwelling per 18,315m² of the subject site.

The post development Shiva Close dwelling density would be one (1) dwelling per 6,925m².

The density being proposed by this application is consistent with Shiva Close and will not adversely impact on the established amenity.

3.3.14 Element—Natural hazard mitigation

3.3.14.1 Specific outcomes

- (1) The risk of loss of life and property associated with bushfires, cyclones, flooding, landslides and other weather related events are minimised through the appropriate use of land having regard to its level of susceptibility to the hazard or potential hazard.

Comment

The established level of risk will not be altered by the proposed development. Each dwelling house will continue to be occupied as it currently is.

Neither dwelling house is sited within a flood or landslide hazard area. The larger dwelling house is partly within the bushfire potential impact buffer. Shiva Close acts as a reasonable firebreak between the dwelling house and the relevant area of medium potential bushfire hazard.

3.4 Natural resources and environment

3.4.1 Strategic outcomes

- (1) Mareeba Shire's outstanding natural environment, ecological processes and biodiversity values, including those within *conservation areas* and *biodiversity areas*, are conserved, enhanced and restored. Minimal loss of native vegetation is achieved in the shire through limited clearing of *biodiversity areas*, strategically located rehabilitation areas and the replanting of native vegetation. The impacts of pests and weeds on the natural environment is minimised and managed.

Comment

The entirety of the subject site is mapped as wildlife habitat.

The proposed development does not involve further clearing, new building work or notably more people living within a wildlife habitat area.

The proposed development is essentially a terminology change from secondary dwelling to dual occupancy.

3.4.4 Element—Biodiversity areas

3.4.4.1 Specific outcomes

- (1) Development avoids adverse impacts on the ecological values of *biodiversity areas* and where avoidance is not possible the adverse impacts are minimised and, for an area of high ecological significance, no net loss in biodiversity values is achieved.

Comment

The entirety of the subject site is mapped as wildlife habitat.

The proposed development does not involve further clearing, new building work or notably more people living within a wildlife habitat area.

The proposed development is essentially a terminology change from secondary dwelling to dual occupancy.

3.5.4 Element—Scenic amenity

3.5.4.1 Specific outcomes

- (1) Areas of high scenic amenity (such as *scenic routes*) are protected from development which is visually inappropriate, obtrusive, unattractive or insensitive. *Scenic routes* include:
 - (a) Great Tropical Drive;
 - (b) Savannah Way;
 - (c) Wheelbarrow Way;
 - (d) Black Mountain Road;

- (e) Barron Falls Road;
- (f) The Great Inland Way;
- (g) Kuranda Range; and
- (h) Rex Range

Comment

The Planning Scheme's Scenic Overlay applies a 500 metre buffer to the Kennedy Highway at Kuranda.

Whilst the 500 metre buffer covers most of the subject site, the existing dwelling houses are outside of the buffer area.

3.6 Transport and infrastructure

3.6.1 Strategic outcomes

- (1) *Local collector road and state controlled road* networks support the identified hierarchy of *activity centres* and the rural economy of Mareeba Shire. The location, density and scale of development supports the efficient and convenient movement of goods, services and people. Roads are progressively upgraded (including construction of *future state roads and future local connections*) and maintained to a high standard to support higher urban densities, rural production, tourism, commerce, industry and major trip generators.

Comment

The proposed development will not lead to an increase in traffic movements on Shiva Close.

The development will be conditioned to require the upgrade of the existing access crossover and to provide one (1) designated visitor carpark.

- (6) New development is appropriately sequenced and coordinated with existing and future water, wastewater, stormwater and transport infrastructure, to ensure the operations of existing infrastructure are not compromised and community needs continue to be met. New infrastructure is provided to development in accordance with Council's desired standards of service and supports a consolidated urban form to maximise return on investment. The ongoing operation of key infrastructure elements is not prejudiced by inappropriate development.

Comment

The development will be conditioned to require the upgrade of the existing access crossover and to provide one (1) designated visitor carpark.

All other infrastructure complies.

3.6.2 Element—Road network

3.6.2.1 Specific outcomes

- (4) Development provides off-street parking, loading and manoeuvring areas where possible and practicable.

Comment

The development will be conditioned to require the upgrade of the existing access crossover and to provide one (1) designated visitor carpark.

3.6.7 Element—Water supply and wastewater services

3.6.7.1 Specific outcomes

- (1) Development is provided with adequate water and wastewater infrastructure in accordance with Council's Desired Standards of Service.

Comment

Complies.

- (4) In areas not serviced by reticulated sewerage, on-site effluent disposal systems ensure the environment or amenity is not adversely impacted.

Comment

Complies.

3.6.8 Element—Stormwater management

3.6.8.1 Specific outcomes

- (2) Stormwater is managed and measures are implemented to ensure erosion is prevented or minimised and contaminants are not released into surrounding environs.

Comment

Complies.

3.6.9 Element—Waste management

3.6.9.1 Specific outcomes

- (4) On-site waste disposal and recycling areas are provided by development to meet operational requirements of storage, screening and collection.

Comment

Complies.

3.6.10 Element—Energy supply

3.6.10.1 Specific outcomes

- (1) Adequate, sustainable, reliable and secure electricity supply infrastructure is provided to the shire, including new development.

Comment

Complies.

3.6.11 Element—Information and communication technology

3.6.11.1 Specific outcomes

- (1) Households, businesses and industry within urban and rural communities are serviced with high-speed fibre-optic, high-speed wireless or satellite broadband internet connections across the shire.

Comment

Complies.

Relevant Developments Codes

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

- 6.2.10 Rural residential zone code
- 8.2.2 Airport environs overlay code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.6 Flood hazard overlay 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
Rural residential zone code	The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code. Further discussion is warranted regarding the following performance outcome: <ul style="list-style-type: none"> • Performance Outcome PO4 Refer to planning discussion section of report for commentary.
Airport environs overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Bushfire hazard overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.

Environmental significance overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Flood hazard overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Hill and slope overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Scenic amenity overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Accommodation activities code	<p>The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.</p> <p>Further discussion is warranted regarding the following acceptable outcome:</p> <ul style="list-style-type: none"> • Acceptable Outcome AO1 <p>Refer to planning discussion section of report for commentary.</p>
Landscaping code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Parking and access code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Works, services and infrastructure code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes 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 any development works be designed and constructed in accordance with FNQROC Development Manual standards.

(E) Adopted Infrastructure Charges Notice

A 20% discount is applied due to no sewerage infrastructure.

The subject site has the following infrastructure charge credits:

- Primary dwelling - \$17,446.40

- Secondary dwelling (former host farm cabin) - \$6,216.00

Conversion of the secondary dwelling to dual occupancy attracts a charge of \$12,432.00 (for a 1 or 2 bedroom dwelling). Applying the former host farm cabin credit, the proposed development attracts a charge of **\$6,216.00**.

REFERRAL AGENCY

This application did not trigger referral to a Referral Agency.

Internal Consultation

Not applicable.

PUBLIC NOTIFICATION

The development proposal was placed on public notification from 23 May 2024 to 13 June 2024. The applicant submitted the notice of compliance on 14 June 2024 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

Five (5) properly made submissions were received.

The grounds for objection/support are summarised and commented on below:

Grounds for objection /support	Comment
<p>Concerned about more traffic and potential for increased wildlife strikes</p>	<p>Both dwellings are already established on-site and both are currently occupied.</p> <p>The proposed development is effectively a name change from secondary dwelling to dual occupancy.</p> <p>The impacts of the proposed development, including traffic movements, is not expected to be any greater than what is already occurring on-site.</p> <p>The development will be conditioned to formalise a visitor parking space and improve the current access off Shiva Close</p>
<p>The subject site uses a shared access that is inadequate for the existing land uses and would be made worse by further development.</p> <p>The access is difficult/confusing for vehicles to find leading to u-turns on Shiva Close and annoyance to residents.</p>	<p>The upgrade of access off Shiva Close will be conditioned.</p> <p>The layback kerb must be cut out as part of a new concrete crossover to allow for a smoother transition between Shiva Close and the existing asphalt access driveway.</p> <p>A signpost will be required at the start of the access driveway to more clearly identify the multiple properties being accessed via this single driveway.</p>
<p>Lack of on-site carparking has caused vehicles to park on Shiva Close verges, damaging lawns and creating a hazard.</p>	<p>The development will be conditioned to require the provision of a dedicated visitor parking space.</p>
<p>Potential for more noise nuisance. Subject site was previously used a halfway house, with associated antisocial behaviour.</p>	<p>This is a potential risk with the occupation of any dwelling house and is not unit to the proposed development.</p>
<p>This development may be a first step to more development.</p>	<p>Any future development will need to be assessed against the planning scheme in force at the time it is proposed. The current</p>

	development is limited to what has been outlined in the application documentation.
--	------------------------------------------------------------------------------------

Submitters

Name of Principal submitter	Address
1. A Hopkinson	7A Black Mountain Road, Kuranda QLD 4881 Alyboo.torrguy@gmail.com
2. M Taylor	3 Shiva Close, Kuranda QLD 4881 Meaganjane.tyler84@gmail.com
3. D Callaghan	4 Shiva Close, Kuranda QLD 4881 Darrell.callaghan@hotmail.com
4. S Callaghan	4 Shiva Close, Kuranda QLD 4881 sophiehcallaghan@gmail.com
5. J Walkerden	3 Shiva Close, Kuranda QLD 4881 jimmywalkerden@gmail.com

PLANNING DISCUSSION

Compliance with Performance Outcome PO4 of the Rural Residential zone code and PO1 of the Accommodation Activities code is discussed below:

Rural Residential zone code

Accommodation Density

PO4

The density of Accommodation activities:

- (a) contributes to housing choice and affordability;*
- (b) respects the nature and density of surrounding land use;*
- (c) does not cause amenity impacts beyond the reasonable expectation of accommodation density for the zone; and*
- (d) is commensurate to the scale and frontage of the site.*

AO4

Development provides a maximum density for Accommodation activities of 1 dwelling or accommodation unit per lot.

Comment

The proposed development would result in two dwellings on the subject lot and would conflict with AO4.

Assessment is therefore required against PO4.

The proposed development would contribute to housing choice and housing supply. An increase in housing supply would aid in housing affordability.

The existing dwelling density on Shiva Close (excluding the subject site) is one (1) dwelling per 5,786m².

The proposed development represents one (1) dwelling per 18,315m² of the subject site.

The post development Shiva Close dwelling density would be one (1) dwelling per 6,925m².

The density being proposed by this application is consistent with Shiva Close and will not adversely impact on the established amenity.

The development complies with PO4.

Accommodation Activities code

All Accommodation activities, apart from Dwelling house

PO1

Accommodation activities are located on a site that includes sufficient area:

- (a) to accommodate all buildings, structures, open space and infrastructure associated with the use; and*
- (b) to avoid adverse impacts on the amenity or privacy of nearby land uses.*

AO1

Development is located on a site which provides the applicable minimum site area and minimum road frontage specified in Table 9.3.1.3B.

Comment

Table 9.3.1.3B does not nominate a minimum site area and frontage for dual occupancy in the Rural Residential zone.

The dimensions exceed the largest minimum area and frontage identified in Table 9.3.1.3B.

24005 – MCU – 7B Black Mountain Road Kuranda Qld. 4881

1 Proposal

1.1 Introduction

This application is for a Development Permit for a Material Change of Use, Dual Occupancy, over land at 7B Black Mountain Road, Kuranda Qld. 4881 formally known as Lot 2 on SP287501. The site is located within the Rural Residential Zone and is the beneficiary of 2 Easements for right of access via Shiva Close.

This application is classified as **Impact Assessable Development** subject to the provisions of the relevant codes of the Mareeba Shire Planning Scheme (2016) for a Material Change of Use as prescribed by Table 5.5.10.

1.2 Proposed Development

The proposed development is the Material Change of Use from a single Dwelling to a Dual Occupancy use utilizing the existing Dwelling Houses on the property. Both existing Dwellings will be retained in their current form and no additional Building Work or Operational Work is required for the proposed use to commence.

Both Dwellings are located on the property fronting Black Mountain Road with access obtained via Easement A on SP226638 burdening Lot 1 on RP725539 and B on SP226638 burdening Lot 1 on SP256625. These adjoining Easements contain a sealed driveway accessed via Shiva Close and service properties 3A, 3B, 5, 7A and 7B. A copy of the Easement Documents is included in this application as Appendix 2.



Figure 1: Aerial image of Development Site (Qld. Globe).



Document Set ID: 4350905
Version: 1, Version Date: 26/04/2024

Prepared by Scope Town Planning

From: "Alan Hopkinson" <alyboo.torryguy@gmail.com>
Sent: Fri, 24 May 2024 11:26:35 +1000
To: "Info" <info@msc.qld.gov.au>
Subject: Proposed Development
Categories: Added to ECM;Erika

My name is Alan Hopkinson, i live next door at 7A Black Mountain rd. My concerns are more vehicle traffic in the area as we live on a quiet road with a lot of native animals, Cassowary, Paddy melons, bandicoots ect. These animals are getting run over fairly regularly by drivers driving too fast on this small road.

Another concern is more noise pollution, we moved up to this tropical paradise to escape noise and chaos. 7B was used as a halfway house for some time and we could hear the yelling and screaming on a constant basis, this is not what we want to live next too.

And finally i am concerned that this may be a first step to the development of the entire property belonging to Mr Sebestyen and we do not need any more development in this diminishing rain-forest habitat.

Kind Regards

Alan Hopkinson

Document Set ID: 4364384
Version: 1, Version Date: 24/05/2024

From: "Darrell Callaghan" <darrell.callaghan@hotmail.com>
Sent: Wed, 5 Jun 2024 14:29:07 +1000
To: "Info" <info@msc.qld.gov.au>
Subject: Submission-Objection Proposed Development MCU/Dual Occupancy
MCU/24/009
Categories: Erika;Added to ECM

To Whom it May Concern,

I would like to address and object to the Proposed development on Black Mountain Road / Shiva Close Kuranda.

First of all no signage for these houses is currently present which outlines that are part of Black Mountain Road except a small sign on the mail box.

People regularly ask where these houses are including delivery drivers.

The increase traffic down our street we are having issue with including people parking on our front lawn or across the road. I would suggest insufficient parking is the cause of this problem.

I have spoken to the Police just last month in regards to a vehicle parked on our verge outside our house for 2 days.

Access road to these properties from Shiva Close doesn't even have a Kerb that is cutout out to join Shiva Close to make it look a street or maintained.

Also the driveway which is photographed below is for houses if I am not mistaken 3,5,7A and 7B which is opposite No 3 Shiva Close which causes further confusion as people think we are no 5 Black Mountain road.

Document Set ID: 4367866
Version: 1, Version Date: 05/06/2024



Document Set ID: 4367866
Version: 1, Version Date: 05/06/2024



Kind Regards,

Darrell Callaghan
4 Shiva Close Kuranda
darrell.callaghan@hotmail.com
0417 648 744 Mobil

Document Set ID: 4367866
Version: 1, Version Date: 05/06/2024

From: "Jimmy" <jimmywalkerden@gmail.com>
Sent: Mon, 10 Jun 2024 08:26:45 +1000
To: "Info" <info@msc.qld.gov.au>
Subject: Proposed Development DCA/24/0009
Categories: Erika;Added to ECM

To Brian Millard / Whom it may concern,

I am writing to object to the proposed development on Black Mountain Road / Shiva Close DCA/24/0009.

As I'm sure you are aware the access this block is via a little driveway located on Shiva close. This little driveway is the access for numerous Black Mountain Road addressed dwellings including number 3, 3a, 5, 7a, 7b and 7b2.

Due to the number of people at these addresses, and multiple vehicles that we all seem to have these days, this little unsigned, unlit, potholed driveway, accessed by a gap in the grass, driving over the gutter receives quite a bit of traffic daily.

In addition to this most days of the week we have vehicles parked in the street, often on the lawn out the front of my house (3 Shiva Close), on the lawn out the front of my neighbours house (4 Shiva Close) or on the lawn over the road. Due to this and from vehicles repeatedly using our lawns to U-turn on, when they can't find this access road or choose not to use the difficult driveway, I am continually repairing the wheel tracks in my lawn. I have had multiple incidents regarding this of which the police have now been involved on a few occasions. I would suggest this is due to the inadequacy of this access road, lack of acceptable car parking and room for turning around.

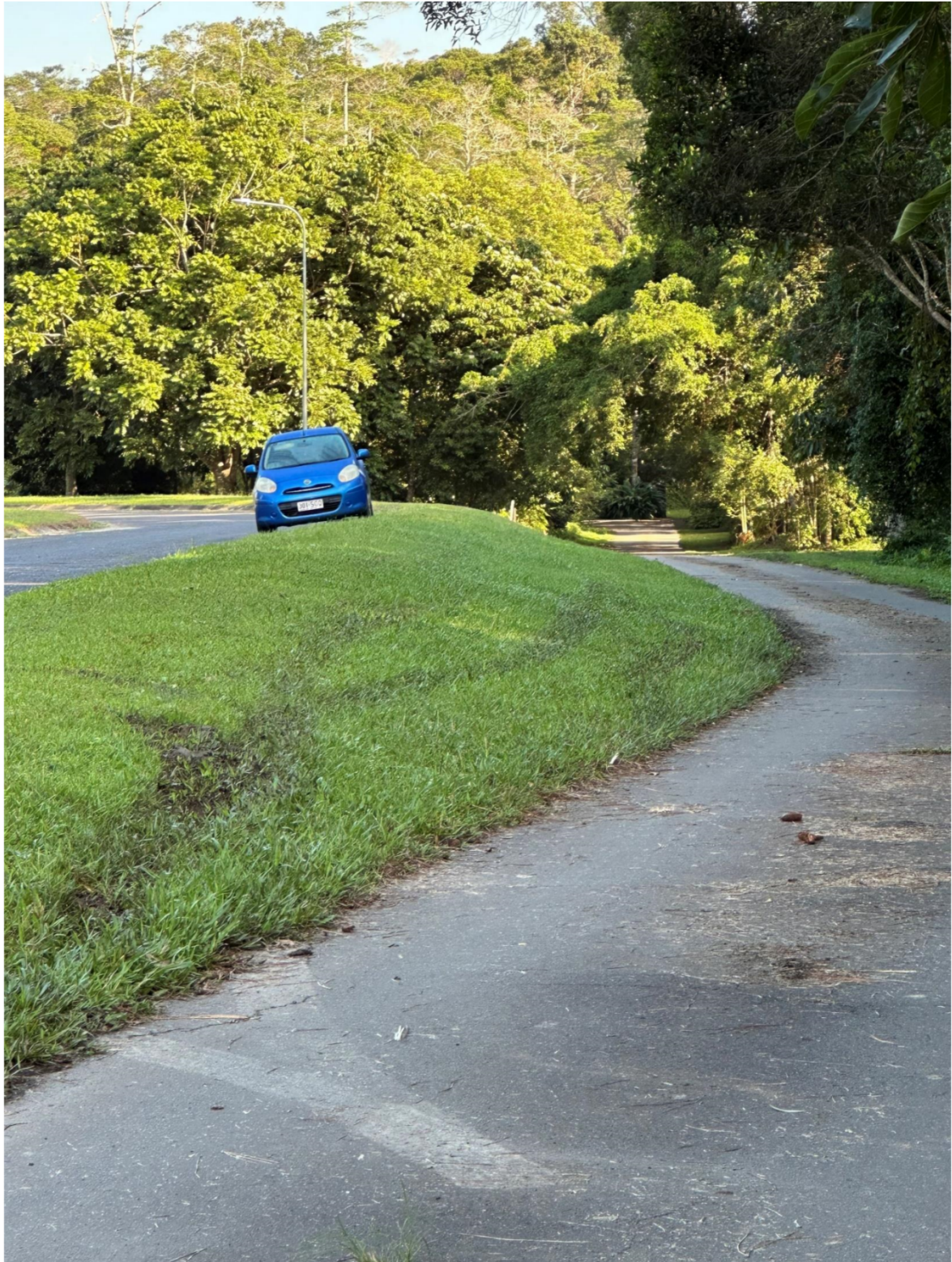
This access road is directly opposite my driveway, which also causes considerable confusion. We regularly have delivery drivers and visitors asking for directions or trying to access our property, on occasion very late at night.

Obviously this little access was never intended to deal with this volume of traffic and I feel any further developments to these Black Mountain addresses would only exacerbate these issues further.

Attached are a few photos to try to help clarify these issues.

Regards
Jimmy Walkerden

Document Set ID: 4369187
Version: 1, Version Date: 10/06/2024









From: "Meagan Jane Tyler" <meaganjane.tyler84@gmail.com>
Sent: Wed, 5 Jun 2024 09:58:51 +1000
To: "Info" <info@msc.qld.gov.au>
Subject: Subject : Submission-Objection Proposed Development MCU/Dual Occupancy MCU/24/009
Categories: Erika;Added to ECM

Dear MSC,

I am writing to you in regards to the proposed development on black mountain road
MCU/24/2009

My concerns is with the driveway for 7b, I am the home owner of number 3 shiva CL and our driveway is opposite 7b which is a shared driveway for number 3 5 7a and 7b

We already have alot of traffic going down that driveway and we also get a lot of cars thinking that our house is 3 5 7a A7b because of google maps. We are getting more and cars parked in shiva close because the access road to the property on black mountain down have enough room.

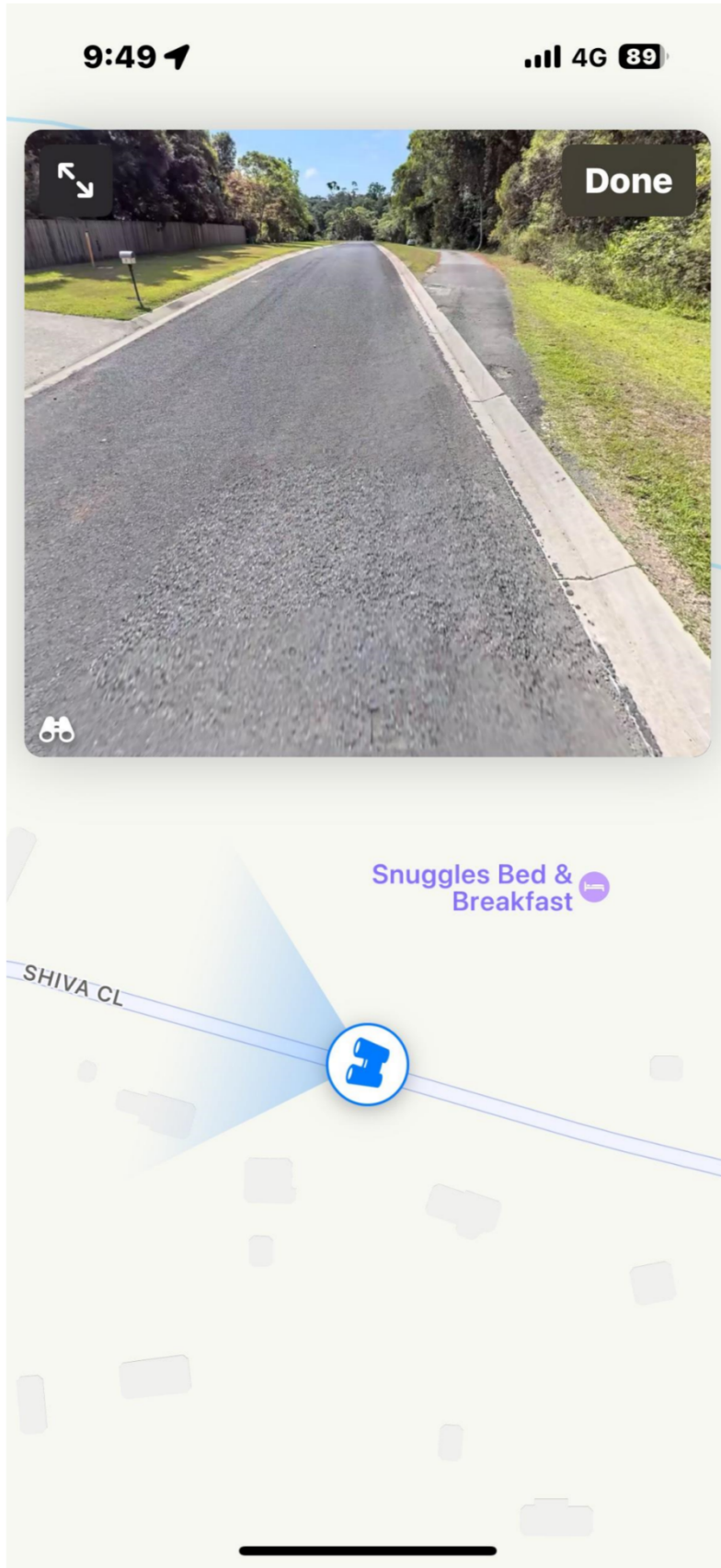
Please see attached photos of the driveway which I have concerns with.

Kind regards
Meagan Tyler
3 shiva Cl, Kuranda QLD 4881

Document Set ID: 4367741
Version: 1, Version Date: 05/06/2024







From: "Sophie Callaghan" <sophiecallaghan@gmail.com>
Sent: Thu, 6 Jun 2024 16:19:28 +1000
To: "Info" <info@msc.qld.gov.au>
Subject: Proposed development on Shiva Close/Black Mountain Road

To whoever it may concern

I would like to lodge an objection to the Proposed development on Black Mountain Road / Shiva Close Kuranda.

To find these houses there is no signage except a small sign on the mail boxes. This causes confusion with people trying to locate the properties and delivery asking where they are.

Increase traffic is causing issues with parking as cars are being parked on our property and across from our driveway which can be a hazard.

A police report was phoned in for a vehicle left on our verge for 2 days without being moved.

Road access to these properties is from Shiva Close and not a gazetted road which is causing I believe the issues and is not maintained .

The road access noted above is for 3,5,7A and 7B which is opposite No 3 Shiva Close is causing further confusion as to what address we are either Black Mountain Road or Shiva Close.

Kind regards
Sophie Callaghan
0478720560

Document Set ID: 4368476
Version: 1, Version Date: 07/06/2024