

DELEGATED REPORT

SUBJECT: DAVID IVES – MATERIAL CHANGE OF USE – HOME-BASED BUSINESS (BED AND BREAKFAST) – LOT 1 ON RP725853 – 264 BOYLES ROAD KURANDA - MCU/24/0011

DATE: 30 May 2024

REPORT OFFICER'S TITLE: Planning Technical Support Officer

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	David Ives	ADDRESS	264 Boyles Road, Kuranda
DATE LODGED	10 May 2024	RPD	Lot 1 on RP725853
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use – Home-Based Business (Bed and Breakfast)		

FILE NO	MCU/24/0011	AREA	7,269m2
LODGED BY	Freshwater Planning	OWNER	David J Ives
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	n/a		

ATTACHMENTS: 1. Proposal Plan/s

EXECUTIVE SUMMARY

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

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

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

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	
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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 – Home-Based Business (Bed and Breakfast)

- (B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
-	Site Plan	-	-
-	Image – Lotus Tent	-	-
-	Image – Lotus Tent	-	-

- (C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

- (a) Development assessable against the Planning Scheme

- 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 The approved bed and breakfast accommodation must only be used for short-term holiday accommodation typically not exceeding 3 consecutive months.
- 3.5 The approved bed and breakfast accommodation must not accommodate anymore than 6 guests at any time.
- 3.6 An on-site refuse storage area must be provided for the approved use and be screened from view from adjoining properties and road reserve by a 1 metre wide landscaped screening buffer or 1.8m high solid fence.
- 3.7 Signage associated with the bed and breakfast must not exceed 1 sign, located within the bounds of the property or on a boundary fence, and not exceeding 0.5m² in sign face area. The signage must not be illuminated or digital.

4. Infrastructure Services and Standards

4.1 Car Parking/Internal Driveways

The applicant/developer must ensure the development is provided with at least 1 car parking space within the bounds of the property which is made available solely for the parking of bed and breakfast guests vehicles.

Bed and breakfast guests must not park vehicles within any adjoining road reserve at any time.

(D) ASSESSMENT MANAGER'S ADVICE

(a) 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.

(b) 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.

(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.dcceew.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.dsdsatsip.qld.gov.au.

(e) 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.

(F) 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).

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

- Development Permit for Building Work

(H) OTHER APPROVALS REQUIRED FROM COUNCIL

- Compliance Permit for Plumbing and Drainage Work

THE SITE

The subject site is situated at 264 Boyles Road, Kuranda and is more particularly described as Lot 1 on RP725853. The site is regular in shape with an area 7,269m² and is zoned Rural under the Mareeba Shire Council Planning Scheme 2016.

The site is situated on the corner of Lotus Lane and Boyles Road and has approximately 64 metres of frontage to Boyles Road and 103 metres of frontage to Lotus Lane both are constructed to a bitumen sealed standard. The site consists of two (2) Dwelling Houses, associated outbuilding structures, and a pond.

The site is outside the Council town water and sewer network benefitted area. The property relies on onsite water storage for water supply and onsite treatment system for effluent disposal. All surrounding lots are zoned Rural and are predominantly established with single dwelling houses and various outbuildings with similar water storage being tanks, dams and ponds.





Map Disclaimer:

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

BACKGROUND AND CONTEXT

Nil

PREVIOUS APPLICATIONS & APPROVALS

Nil

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a quarantined assessment against relevant codes for accepted development subject to requirements being Material Change of Use – Home-Based Business (Bed and Breakfast) in accordance with the plans shown in **Attachment 1**.

The proposed home-based business (Bed and Breakfast) consists of a “Lotus Tent” situated approximately 14 metres from the sites northern dwelling. The Lotus tent will be 25m² in size. The existing “shack” overlooking the pond and adjacent toilet and shower block which lie adjacent the proposed tent will be made available for use as a package to bed and breakfast guests.

The level of assessment for the proposed development has increased from *Accepted development, subject to requirements*, to Code Assessable, containing non-compliance in relation to density, accommodation infrastructure and accumulated gross floor area over the site.

All other requirements for accepted development can be met as the proposed is considered “low scale development” utilising existing infrastructure and building improvements.

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 site contains the following areas of ecological significance:

- *Strategic Rehabilitation Area*

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Category • Rural Area (Rural Other)
Zone:	Rural zone
Overlays:	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
Home based business	A dwelling used for a business activity where subordinate to the residential use.	Bed and breakfast, home office, home based child care	Hobby, office, shop, warehouse, transport depot

RELEVANT PLANNING INSTRUMENTS

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

(a) Far North Queensland Regional Plan 2009-2031

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

(b) State Planning Policy

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

(c) Mareeba Shire Council Planning Scheme 2016

Relevant Development Codes

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

<p>natural breezes; (e) appearance of building bulk; and (f) relationship with road corridors.</p>	<p>setback of 0 metres from a frontage to a road that is not a State-controlled road.</p> <p>A02.3 Buildings and structures, except where a Roadside stall, include a minimum setback of: (a) 10 metres from a frontage to a sealed road that is not a State-controlled road; and (b) 100 metres from a frontage to any other road that is not a State-controlled road;</p>	<p>No new structures are sited within 10 metres of all boundaries or frontages.</p> <p>The proposal will retain the existing vegetated privacy rural setting that is currently achieved onsite.</p> <p>The development complies with PO2</p>
<p>Accommodation density PO3 The density of Accommodation activities: (a) respects the nature and density of surrounding land use; (b) is complementary and subordinate to the rural and natural landscape values of the area; and (c) is commensurate to the scale and frontage of the site.</p>	<p>A03.1 Residential density does not exceed one dwelling house per lot.</p> <p>A03.2 Residential density does not exceed two dwellings per lot and development is for: (a) a secondary dwelling; or (b) Caretaker's accommodation and includes building work or minor building work with a maximum gross floor area of 100m²; or (c) Rural worker's accommodation.</p>	<p>As the proposal is a Bed and Breakfast activity in addition to the existing residential use onsite. It is considered that the proposed will retain its current form of a vegetated landscaped rural setting and will remain consistent with the surrounding land use in the area for residential purposes.</p> <p>The development complies with PO3</p> <p>N/A</p>

Table 9.3.1.3A—Accommodation activities code

Performance Outcomes	Acceptable outcomes	Comments
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 .	The site is 7,269m² and is greater than the minimum 600m² site area requirements set out in table 9.3.1B for Home based business. The development complies with PO1.
All Accommodation activities, apart from Tourist park and Dwelling house PO2 Accommodation activities are provided with on-site refuse storage areas that are: (a) sufficient to meet the anticipated demand for refuse storage; and (b) appropriately located on the site having regard to potential odour and noise impacts on uses on the site and adjoining sites.	AO2.1 A refuse area is provided that: (a) includes a water connection; (b) is of a size and configuration to accommodate 2x240 litre bins per dwelling or accommodation unit where involving a use other than a residential care facility or retirement facility; and (c) is of a size and configuration to accommodate a minimum of two bulk refuse bins where involving a residential care facility or retirement facility.	Existing waste service will be utilised. Condition added regarding waste storage and screening on-site.
All Accommodation activities, except for Dwelling house PO3 Accommodation activities are designed to avoid overlooking or loss of privacy for adjoining uses. Note—These provisions apply to any adjoining use, both on an adjoining site and on the same site.	AO3 The windows of habitable rooms: (a) do not overlook the windows of a habitable room in an adjoining dwelling or accommodation unit; or (b) are separated from the windows of a habitable room in an adjoining dwelling or accommodation unit by a distance greater than: (i) 2 metres at ground level; and (ii) 8 metres above ground level; or (c) are treated with: (i) a minimum sill height of 1.5 metres above floor level; or (ii) fixed opaque glassed	The site provides an existing vegetation buffer and is naturally screened from adjoining properties. The closest Dwelling on neighbouring land is over 100 metres from the adjoining boundary line of Lot 2 on RP725853 in which is screened by vegetation on both lots. All other boundaries are adjoined by Road Reserve. Which are also privately screened with vegetation and gardens. The development complies with PO3

	<p>installed below 1.5 metres; or (iii) fixed external screens; or (iv) a 1.5 metre high screen fence along the common boundary.</p>	
<p>PO4 Accommodation activities are provided with sufficient private and communal open space areas which: (a) accommodate a range of landscape treatments, including soft and hard landscaping; (b) provide a range of opportunities for passive and active recreation; (c) provide a positive outlook and high quality of amenity to residents; (d) is conveniently located and easily accessible to all residents; and (e) contribute to an active and attractive streetscape.</p>	<p>AO4.1 Development, except for Caretaker's accommodation, Dwelling house, Dual occupancy or Home based business, includes communal open space which meets or exceeds the minimum area, dimension and design parameters specified in Table 9.3.1.3C.</p> <p>AO4.2 Development includes private open space for each dwelling or accommodation unit which meets or exceeds the minimum area, dimension and design parameters specified in Table 9.3.1.3D.</p> <p>AO4.3 Clothes drying areas are provided at the side or rear of the site so that they are not visible from the street.</p> <p>AO4.4 If for Dual occupancy, Multiple dwelling, Residential care facility or Retirement facility, development provides a secure storage area for each dwelling or accommodation unit which: (a) is located to facilitate loading and unloading from a motor vehicle; (b) is separate to, and does not obstruct, on-site vehicle parking or manoeuvring areas; (c) has a minimum space of 2.4m² per dwelling or accommodation unit; (d) has a minimum height of 2.1 metres; (e) has minimum dimensions to enable secure bicycle storage; (f) is weather proof; and</p>	<p>N/A</p> <p>Complies. The development will be provided with a fenced area which is outlined on the site plan within Attachment 1.</p> <p>Can be conditioned to comply.</p> <p>N/A</p>

	is lockable.	The development Complies with PO4
If for Home based business PO11 Home based businesses are compatible with the built form, character and amenity of the surrounding area, having regard to: (a) size and scale; (b) intensity and nature of use; (c) number of employees; and (d) hours of operation.	<p>AO11.1 The Home based business is located within a dwelling house or outbuilding associated with a dwelling house.</p> <p>AO11.2 The Home based business does not occupy a gross floor area of more than 50m².</p> <p>AO11.3 No more than 1 person (other than the residents of the site) is employed by the Home based business at any one time.</p> <p>AO11.4 The Home based business, unless a home office, bed and breakfast or farm stay, does not operate outside the hours of 7.00 am and 6.00 pm.</p> <p>AO11.5 The Home based business does not involve the public display of goods external to the building.</p>	<p>The proposed Bed and Breakfast will be utilising the existing structures and services over the site with the addition of a Lotus Tent being an accommodation aspect only with no plumbing.</p> <p>With the addition of the Lotus Tent being 25m² and utilising the existing structures onsite, the proposed use will just exceed the 50m² gross floor area requirement occupied over the allotment.</p> <p>As the site depicts a rural setting and all boundaries are provided with privacy screens being vegetation and gardens and the proposed is mainly utilising existing structures onsite, after review of Freshwater Plannings comments, the surrounding area density and the attached site plan, The development complies with PO11.2</p> <p>Complies. The home-based business will be operated by the owner / occupier</p> <p>N/A</p> <p>N/A</p>

	<p>AO11.6 The Home based business does not involve the repair, cleaning or servicing of any motors, vehicles or other machinery.</p> <p>AO11.7 Any equipment or materials associated with the Home based business are screened from public view and adjacent properties by fencing or landscaping.</p> <p>AO11.8 The business does not involve the use of power tools or similar noise generating devices.</p>	<p>N/A</p> <p>Complies.</p> <p>Condition Provided to Comply</p> <p>The Development complies with PO11</p>
<p>PO12 Home based businesses involving accommodation activities are appropriately scaled and designed to avoid detrimental impacts on the amenity and privacy of surrounding residences.</p>	<p>AO12.1 Home based businesses involving accommodation activities are limited to the scale specified in Table 9.3.1.3E.</p> <p>AO12.2 A farm stay dwelling or accommodation unit is located within 20 metres of the primary dwelling house.</p> <p>AO12.3 A farm stay is setback 100 metres from any property boundary.</p> <p>AO12.4 Entertainment and dining facilities associated with an accommodation activity are: (a) located at least 5 metres from the bedrooms of adjoining residences; and (b) located or screened so that they do not directly overlook private open space areas of adjoining properties.</p>	<p>The development will accommodate no more than 6 guests at one time. This is consistent with the proposed size and scale of the Bed and Breakfast use. The Development Complies with AO12.1</p> <p>Complies. The proposed use is located within 20 metres of the primary dwelling house.</p> <p>N/A</p> <p>Complies. The proposed use will be utilising the existing entertainment facilities onsite in the form of natural surroundings, some structures are located close and further away being separated by a pond / dam. As detailed on the site plan provided within Attachment 1.</p> <p>The Development complies with PO12</p>

Relevant Codes	Comments
Rural Zone Code	The application will satisfy the requirements for accepted development subject to requirements.
Hill and Slope overlay code	The proposed will only be providing a Lotus Tent as an additional accommodation aspect to the development. No further improvements are proposed for the development. All other structures are existing at the site. The application will satisfy the requirements for accepted development.
Accommodation activities code	The application will satisfy the requirements for accepted development subject to requirements.
Landscaping code	It is noted the property is established with existing gardens and landscaping throughout the site. The application will satisfy the requirements for accepted development subject to requirements.
Parking and access code	The proposal will utilise the existing carport and spacing available onsite. As noted in Freshwater Plannings report. The application will satisfy the requirements for accepted development subject to requirements.
Works, services and infrastructure code	The proposed will use the existing servicing and driveway crossovers available at the site. It is noted in Freshwater Plannings report that the proposal is not changing any of the existing servicing. The application will satisfy the requirements for accepted development subject to requirements.

(e) Planning Scheme Policies/Infrastructure Charges Plan

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

Where relevant, a condition would be attached to any approval requiring all development works be designed and constructed in accordance with FNQROC Development Manual standards.

(f) Adopted Infrastructure Charges Notice

The subject land is in the Rural Zone and a Home-Based Business of a low scale activity being Bed and Breakfast is considered accepted development subject to requirements.

The level of assessment has moved from accepted development to code assessment due to a quarantined assessment against the relevant codes for accepted development subject to requirements.

As the density of the proposed development is consistent with the Rural Zone code and the site is located in a rural setting outside the Town Centre and Benefitted areas, it is not proposed to apply additional infrastructure charges.

REFERRALS

This application did not trigger referral to a referral agency.

Internal Consultation

Nil

PLANNING DISCUSSION

Nil

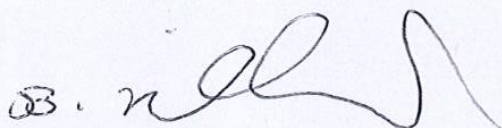
Date Prepared: 30 May 2024

DECISION BY DELEGATE

DECISION

Having considered the Technical Support Officers report detailed above, I approve, as a delegate of Council, the application subject to the conditions listed in the report.

Dated the 30TH day of MAY 2024



BRIAN MILLARD
COORDINATOR PLANNING SERVICES

MAREEBA SHIRE
AS A DELEGATE OF THE COUNCIL

PROPOSAL PLANS

