

PLANNING REPORT

SUBJECT: J SHAMBLER - MATERIAL CHANGE OF USE - TRANSPORT DEPOT- LOT 2 ON RP728461 - 22 MONARO CLOSE, KURANDA - MCU/18/0008

MEETING: Ordinary

MEETING DATE: 16 May 2018

REPORT OFFICER'S TITLE: Senior Planner

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	J Shambler	ADDRESS	22 Monaro Close, Kuranda
DATE LODGED	21 March 2018	RPD	Lot 2 on RP728461
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Transport Depot		

FILE NO	MCU/18/0008	AREA	1.263 hectares
LODGED BY	Elizabeth Taylor - Town Planner	OWNER	J Shambler
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural Residential		
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.

The key issues of the proposed development are establishing reasonable conditions to mitigate potential amenity impacts to a reasonable level, whilst acknowledging that one truck and trailer combination can be kept on the subject land as accepted (self assessable) development.

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	J Shambler	ADDRESS	22 Monaro Close, Kuranda
DATE LODGED	21 March 2018	RPD	Lot 2 on RP728461
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PROPOSED DEVELOPMENT	Material Change of Use - Transport Depot		

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 - Transport Depot

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
-	Untitled Map	-	-

(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, including but not necessarily limited to the subject of 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 **within three (3) months of the date of this approval taking affect.**
 - 2.2 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 external 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.
 - 3.3 Waste Management

On site refuge storage area 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.
 - 3.4 Hours of Operation

Any trailer coupling/decoupling, and any servicing, repair or cleaning of vehicles/trailers associated with the approved use shall be limited to the hours of 7:00am to 6:00pm Monday to Friday and 7:00am to 12:00pm Saturdays. No activities associated with the approved use are permitted on Sundays or Public Holidays.

However, the applicant/developer or subsequent owner/operator is permitted to enter or exit the site with the truck only outside of the abovementioned operating hours.
 - 3.5 Any fuel stored on site associated with the approved use (other than in the prime mover fuel tanks) must be kept in a sealed, bunded area with

a storage capacity of at least 150% of the storage capacity of any fuel storage tanks/containers.

4. Infrastructure Services and Standards

4.1 Access

An asphalt or concrete sealed (not bitumen) heavy duty access crossover with dimensions suitable for a prime mover and trailer, must be constructed (from the edge of Monaro Close to the property boundary of the subject land) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

4.2 Stormwater Drainage/Water Quality

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 Carparking/Internal Driveways

All trafficable areas associated with the approved use, including the trailer storage area, must be surface treated with crushed blue metal/rock, similar to that already installed on parts of the driveway, and maintained for the life of the development, to the satisfaction of Council's delegated officer.

4.4 Environmental Management

4.4.1 Any material likely to degrade the water (eg oils, lubricants, solvents, coolants, degreasing agents etc) must be stored within a bunded area, or an appropriately designed chemical storage container, suitable for preventing the escape of material into surface or underground water resources.

4.4.2 All waste products associated with the approved use including tyres, wheels, fluids (lubricants, fuels, solvents, coolants, degreasing agents etc.) must be disposed of off-site and must not be stored on site for an unreasonable length of time, to the satisfaction of Council's delegated officer.

4.5 Landscaping/Visual Screening

If the applicant/developer or subsequent landowner/operator proposes to remove the greenhouse structure situated immediately to the south of the trailer storage area shown on the approved plan, the following landscape buffer works are required prior to the removal of the structure:

- A two (2) metre wide landscape buffer planted along the entire length of the southern side of the trailer storage area. The landscape buffer must include ground cover, shrubs and trees that

will grow to form an effective buffer of no less than four (4) metres in height.

Plant species used must be selected from the Plant Schedule in Planning Scheme Policy 6 - Landscaping and preferred plant species.

All landscaping must be mulched, irrigated and maintained for the life of the development

(D) ASSESSMENT MANAGER'S ADVICE

(a) 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.

(b) The change in the use of the building may also require a change in the classification of the building under the Building Act. You are advised to contact a Building Certifier to establish if a change in the classification of the building is required.

(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.environment.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.datsip.qld.gov.au.

(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

- Nil

(H) OTHER APPROVALS REQUIRED FROM COUNCIL

- Access approval arising from condition number 4.1

THE SITE

The subject land is described as Lot 2 on RP728461, situated at 22 Monaro Close, Kuranda. The land is approximately 3.9km west of Kuranda township and 200 metres south of the Oakforest Road/Monaro Close intersection.

The land has an area of 1.263 hectares with a frontage of approximately 80 metres to Monaro Close. Monaro Close is constructed to a single lane bitumen sealed standard for its entire length. Access to the site is from Monaro Close at the most southerly point of the lots frontage.

The land is generally wedge shaped, being wider at the front than the rear. It slopes down from the Monaro Close frontage to Owen Creek which forms the rear boundary. The site is improved with a dwelling house and associated relative's accommodation, several sheds, greenhouse and a horse exercise yard.

The land has previously been cleared as a result of historic grazing activities and now features some regrowth trees scattered throughout. Dense vegetation is established along Owen Creek.

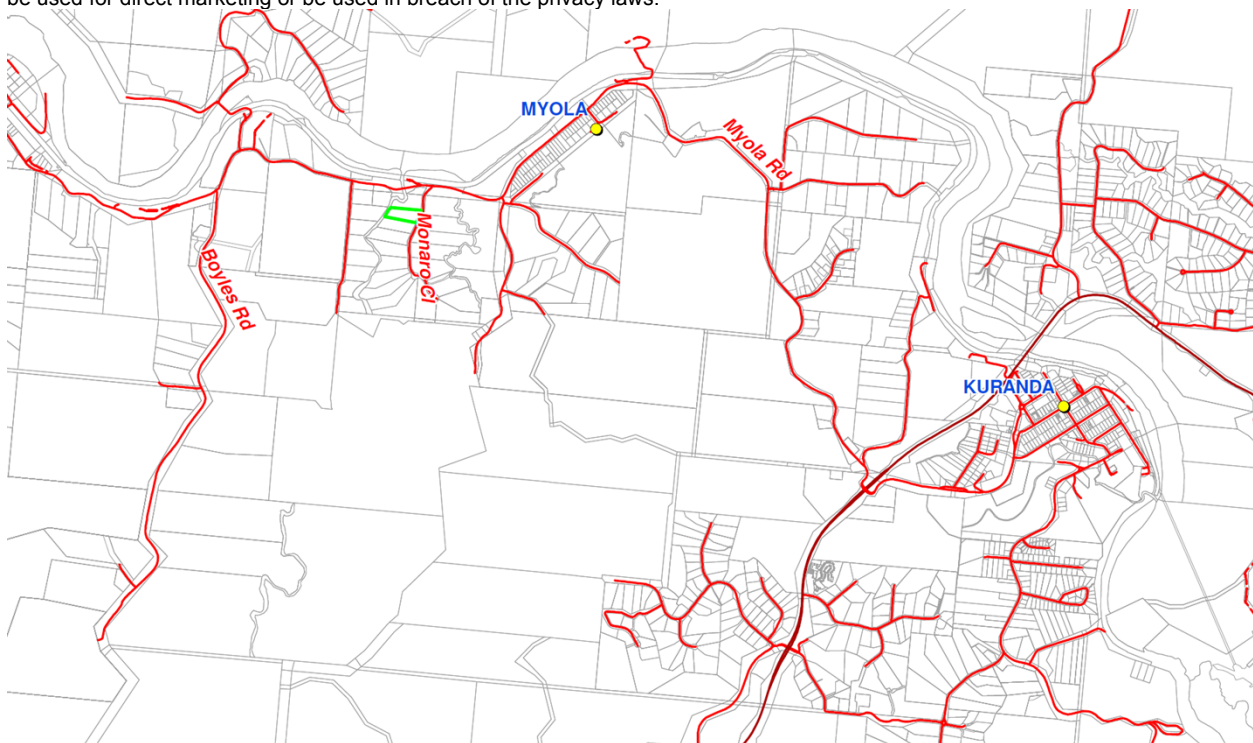
The land is serviced with reticulated electricity, telecommunications, on site effluent disposal and water supply.

Surrounding properties are zoned rural residential and have been developed for rural residential living 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

This development application is in response to a show cause notice issued by Council to the applicant on 13 February 2018.

The show cause notice alleged that a transport depot was being carried out on the subject land without an effective development permit.

PREVIOUS APPLICATIONS & APPROVALS

Nil

DESCRIPTION OF PROPOSED DEVELOPMENT

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

The application summarises the proposed development as follows:

“The land owner has made application to establish a Transport Depot on the site in association with running his transport business, as an owner operator, from the premises.

The land owner currently operates one (1) prime mover from the premise and has four (4) trailers. The business is an owner operator business and is not intended to become a large operation. The owner is often away for weeks at a time with his business and therefore has minimal impact on the amenity of the area and any perceived detrimental impacts associated with the previous parking of the prime mover and semi-trailer outside the site on the road verge will be negated with the designation and future use of an area on site for the Transport Depot storage of the truck and trailers.

*A copy of an Aerial Plan which has been annotated to show the designated area for the Transport Depot is attached at Appendix 1 (**Attachment 1**).*

No major servicing or repairs of the prime mover or trailers will occur on the site. The Transport Depot will operate in accordance with the Transport Depot definition in the Planning Scheme that allows: ancillary servicing, repair and cleaning of vehicles on the site.”

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 is:

- *Strategic Rehabilitation Area*
- *State & Regional Conservation Corridors*
- *Terrestrial Area of General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

Strategic Framework:

Land Use Categories

- Rural Residential Area

Natural Environment Elements

- Biodiversity Areas

Zone:

Rural Residential zone

Overlays:

- 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
Transport depot	Premises used for the storage, for commercial or public purposes, of more than one motor vehicle. The use includes premises for the storage of taxis, buses, trucks, heavy machinery and uses of a like nature. The term may include the ancillary servicing, repair and cleaning of vehicles stored on the premises.	Contractor's depot, bus depot, truck yard, heavy machinery yard	Home based business, warehouse, low impact industry, service industry

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:

- 6.2.10 Rural residential zone code
- 8.2.4 Environmental significance overlay code
- 8.2.8 Hill and slope overlay code
- 9.3.5 Industrial 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 solutions (or probable solutions/performance criteria where no acceptable solution applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
Rural residential zone 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. Further discussion is warranted with regards to the following: <ul style="list-style-type: none"> ▪ Performance Outcome PO8 - non residential developmental ▪ Performance Outcome PO9 - amenity Refer to planning discussion section of report.
Environmental significance overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Hill and slope overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Industrial activities code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Landscaping code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes 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. Further discussion is warranted with regards to the following: <ul style="list-style-type: none"> ▪ Acceptable Outcome AO6.3 – internal roads Refer to planning discussion section of report.
Works, services and infrastructure code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.

(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

All development works will be conditioned to be designed and constructed in accordance with the FNQROC Development Manual.

(f) Additional Trunk Infrastructure Condition

The subject land is located outside the identified Priority Infrastructure Area (PIA).

Section 130 of the Planning Act 2016 allows Council to condition additional trunk infrastructure outside the PIA.

The applicant has one (1) prime mover which can be kept on the subject land as accepted development. The application does not increase the number of prime movers, therefore the traffic movements will not be altered.

Accordingly, no additional trunk transport infrastructure payment condition is proposed.

REFERRALS

This application did not trigger a referral.

Internal Consultation

Technical Services

PLANNING DISCUSSION

Compliance with the relevant acceptable outcomes of the following development codes is discussed below. Where the development cannot comply with an acceptable outcome, it is considered compliance with the higher order performance outcome can be achieved.

Rural residential zone code**PO8**

Non-residential development:

- (a) is consistent with the scale of existing development;*
- (b) does not detract from the amenity of nearby residential uses;*
- (c) does not impact on the orderly provision of non-residential development in other locations in the shire; and*
- (d) directly supports the day to day needs of the immediate residential community; or*
- (e) has a direct relationship to the land on which the use is proposed.*

AO8

No acceptable outcome is provided.

Comment

The proposed transport depot is an owner/operator activity comprising a single prime mover and a maximum of four (4) trailers.

Under the planning scheme, the storage and operation of a single prime mover and trailer is accepted development on the subject land.

The effective impact of this code assessable development application will be to permit the storage of three (3) additional trailers on the subject land.

As the applicant is the sole driver and only one trailer can be towed at any one time, meaning for the vast majority of the time, the three (3) additional trailers will have little impact, other than being visible from parts of neighbouring properties.

The scale of the proposed development will not threaten other established transport depots throughout the Shire.

A site inspection was undertaken on 3 May 2018. Passing traffic on Monaro Close would be unlikely to notice any evidence of the transport depot use. The proposed trailer storage area will be largely screened from neighbouring properties by existing sheds, established vegetation and a large shadehouse.

The proposed development complies with PO8.

PO9

Development must not detract from the amenity of the local area, having regard to:

- (a) *noise;*
- (b) *hours of operation;*
- (c) *traffic;*
- (d) *advertising devices;*
- (e) *visual amenity;*
- (f) *privacy;*
- (g) *lighting;*
- (h) *odour; and*
- (i) *emissions.*

AO9

No acceptable outcome is provided.

Comment

The proposed transport depot is an owner/operator activity comprising a single prime mover and a maximum of four (4) trailers.

Under the planning scheme, the storage and operation of a single prime mover and trailer is accepted development on the subject land.

The effective impact of this code assessable development application will be to permit the storage of three (3) additional trailers on the subject land.

As the applicant is the sole driver and only one trailer can be towed at any one time, meaning for the vast majority of the time, the three (3) additional trailers will have little impact, other than being visible from parts of neighbouring properties.

A site inspection was undertaken on 3 May 2018. Passing traffic on Monaro Close would be unlikely to notice any evidence of the transport depot use. The proposed trailer storage area will be largely screened from neighbouring properties by existing sheds, established vegetation and a large shadehouse.

The development will be conditioned to limit maintenance and the hours maintenance is able to be carried out.

Similarly, the hours for trailer coupling/de-coupling will be conditioned to between 7:00am and 6:00pm.

Parking and access code

PO6

Development that involves an internal road network ensures that it's design:

- (a) *ensure safety and efficiency in operation;*
- (b) *does not impact on the amenity of residential uses on the site and on adjoining sites, having regard to matters of:*
 - (i) *hours of operation;*
 - (ii) *noise*
 - (iii) *light; and*
 - (iv) *odour;*
- (c) *accommodates the nature and volume of vehicle movements anticipated to be generated by the use;*
- (d) *allows for convenient access to key on-site features by pedestrians, cyclists and motor vehicles; and*
- (e) *in the Rural zone, avoids environmental degradation.*

AO6.3

Internal roads are imperviously sealed and drained, apart from those for an Energy and infrastructure activity or Rural activity.

Comment

The trailer storage area and internal driveway will be graveled to a similar standard to match existing graveled driveway.

The property will not be open to the general public.

Date Prepared: 8 May 2018

PROPOSAL PLANS

