PLANNING REPORT

SUBJECT: JAQUES AUSTRALIAN COFFEE PTY LTD & KELSEY &

LUKE ANDERSON - MATERIAL CHANGE OF USE - SPECIAL INDUSTRY (DISTILLERY) - LOT 232 ON NR4837 - 137

LEOTTA ROAD, MAREEBA - MCU/18/0015

MEETING: Ordinary

MEETING DATE: 15 August 2018

REPORT OFFICER'S

TITLE: Planning Officer

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	Jaques Australian Coffee Pty Ltd and Kelsey & Luke Anderson	ADDRESS	137 Leotta Road, Mareeba
DATE LODGED	24 May 2018	RPD	Lot 232 on NR4837
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Special Industry (Distillery)		

FILE NO	MCU/18/0015	AREA	66.925 hectares
LODGED BY	McPeake Town	OWNER	Hatmill Pty Ltd
	Planning Pty Ltd		-
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural zone		
LEVEL OF	Impact Assessment		
ASSESSMENT			
SUBMISSIONS	No submissions received	d	

ATTACHMENTS: 1. Proposal Plan/s

EXECUTIVE SUMMARY

Council is in receipt of an impact assessable development application described in the above application details. No submissions were received during public notification of the application.

The applicants propose the establishment of small-scale boutique distillery situated on the Jaques coffee plantation to be operated in conjunction with the existing Jaques café/restaurant, shop and farm tours. Initially the distillery will specialise in the production of coffee liqueur, with the potential future diversification to produce beer and other spirits. The liquor will be produced for sale off site,

as well as tasting and sale at the existing café/restaurant and shop which currently sells other liquor produced in the Shire.

The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and is not in conflict with any relevant aspect of the Planning Scheme.

Considering the small-scale nature of the proposed distillery, which will operate as a subsidiary component of the existing Jaques Coffee plantation operations, no significant town planning issues have been identified. The development is likely to result in a negligible increase in visitors to the site (outside those already visiting the café/restaurant and shop), is appropriately separated from nearby sensitive land uses and has been provided with adequate access, parking facilities and landscaping. As such, minimal conditioning has been included in the officer's recommendation.

Draft conditions were provided to the applicant, care of their consultant and have been agreed to.

It is recommended that the application be approved in full, subject to conditions.

OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	Jaques Australian Coffee Pty Ltd and Kelsey & Luke Anderson	ADDRESS	137 Leotta Road, Mareeba
DATE LODGED	24 May 2018 RPD Lot 232 on NR48		Lot 232 on NR4837
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Special Industry (Distillery)		

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 - Special Industry (Distillery)

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
-	Locality and Site Plan - "The Lukure	McPeake Town	-
	Collection" Proposes Distillery	Planning	
-	Distillery Room Floor Plan	McPeake Town	-
		Planning	
-	Distillery Room and House	McPeake Town	-
		Planning	

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

- (a) Development assessable against the Planning Scheme
- Development must be carried out substantially 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 or upkeep 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 Waste Management

- 3.5.1 Any on-site refuse storage areas used by the approved use must be screened from view from adjoining properties and road reserve by a 1 metre wide landscaped screening buffer, 1.8m high solid fence or building.
- 3.5.2 Where bulk bins are used and are to be serviced on site, internal access must be of adequate design and construction to allow waste collection/delivery vehicles to enter and exit the site in a forward gear.
- 3.5.3 Any putrescible waste receptacles are to be located and secured to prevent access by wildlife and vermin, to the satisfaction of Council's delegated officer.

3.6 Signage

Any signage/advertising devices relating specifically to the approved use must be wholly sited on the subject land and be limited to a cumulative sign face area of 6m² (inclusive of any existing signage) and must:

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

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

3.7 Bushfire Management

The applicant/developer must ensure the development is provided with a minimum 5,000 litres of water storage for fire-fighting purposes in proximity to the approved use. Where tank storage is proposed, a 50mm male camlock fire brigade fitting must be installed.

3.8 Environmental

- 3.8.1 The use of any chemical or substance in the distilling, processing and packaging of liquor, any wastewater discharge, and the disposal of any waste materials must not cause environmental harm as defined by the *Environmental Protection Act 1994*.
- 3.8.2 No release of contaminants, including but not limited to odour, dust, smoke, fumes, particulates and aerosols are to be emitted beyond the property boundaries of the subject land.
- 3.8.3 The approved use must be carried out in such a way as to prevent the release of contaminants to stormwater or nearby waterways.

4. Infrastructure Services and Standards

4.1 Access

The site's existing access crossover from Leotta Road, as well as the internal bitumen sealed access driveway used to access the approved use must be

maintained at a bitumen/asphalt or concrete standard, and appropriately drained, for the life of the development, to the satisfaction of Council's delegated officer.

4.2 Stormwater Drainage

- 4.2.1 The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.
- 4.2.2 All stormwater drainage concentrated by the development must be collected from site and discharged to an approved legal point of discharge.

4.3 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 and must be provided in accordance with Australian Standard 1158.1 – Lighting for Roads and Public Spaces.

Illumination resulting from direct, reflected or other incidental light emanating from the subject land does not exceed 8 lux when measured at any point 1.5m outside the property boundary of the subject site. The lighting fixtures installed on site must meet appropriate lux levels as documented within Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting.

(D) ASSESSMENT MANAGER'S ADVICE

(a) Food Premises

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

- (b) The change in the use of any 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

(E) RELEVANT PERIOD

When approval lapses if development not started (s.85)

- Material Change of Use six (6) years (starting the day the approval takes effect);
- (F) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS
 - Development Permit for Building Work
- (G) OTHER APPROVALS REQUIRED FROM COUNCIL
 - Compliance Permit for Plumbing and Drainage Work

THE SITE

The subject site contains the Jaques coffee plantation and is situated at 137 Leotta Road, Mareeba, and is more particularly described as Lot 232 on NR4837. The site has an area of 66.925 hectares and is zoned Rural under the Mareeba Shire Council Planning Scheme 2016. The site contains 560 metres of frontage to Leotta Road which is constructed to a bitumen sealed standard. Access to the site is gained via a bitumen sealed crossover at the very end of the constructed section of Leotta Road.

The majority of the site is being used for coffee production while some areas of the site remain vegetated or cleared and unused. The site is improved by four dwellings (1 house, 2 worker's cottages and 1 caretaker's cottage), multiple farm sheds and a cluster of centrally located buildings associated with the tourism component of the coffee plantation which include the café/restaurant and shop, coffee processing facilities, farm tour facilities and two large shade structures over some of the visitor car parking provided.

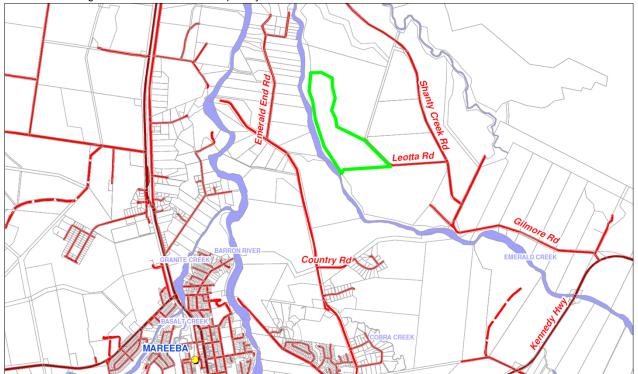
A bitumen sealed driveway links the site access to the visitor car parking area. A large dam also exists on the property adjacent to the site access.

All surrounding lots are zoned Rural and are used as either lifestyle lots or for cropping and livestock grazing. The location of the proposed distillery amongst the existing cluster of commercial buildings adjacent the caretaker's residence is shown on the map below (yellow star).



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

MC2004/35 - Public Tours of Coffee Farm

On 17 August 2004, Council resolved to issue a development permit for an application made by JL Jaques for Material Change of Use - Public Tours of Coffee Farm on land described as Lot 232 on NR4837, situated at Leotta Road, Mareeba (the subject site). The approval authorises the use of the site for coffee farm tours as well as the ancillary café/restaurant/shop use currently carried out on site.

MCU/07/0028 - Two (2) Worker's Cottages

On 18 December 2007, Council resolved to issue a development permit for an application made by Jason Jaques on behalf of Hatmill Pty Ltd for Material Change of Use - Two (2) Worker's Cottages on land described as Lot 232 on NR4837, situated at Leotta Road, Mareeba (the subject site). Both worker's cottages have been constructed.

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Material Change of Use - Special Industry (Distillery) in accordance with the plans shown in **Attachment 1**.

The application includes the following information about the proposed development:

"The proposed small-scale boutique distillery 'The Lukure Collection' is to be located within a small section of the Jaques Coffee Plantation, just outside of Mareeba. The head distiller is Mr Luke Andersen who is also the Operations Manager at Jaques Coffee Plantation.

The distillery is to utilise the coffee bean husk and pulp waste from the production of the coffee beans during the manufacturing process. The main distilled product to be produced by The Lukure Collection is a Coffee Liqueur. However, as the primary outcome of a distillery is the creation of alcohol its intended that in the future the distillery may also produce other spirits including whiskey, gin and vodka.

This innovative re-use of farm waste will be used in the distilling process to produce alcohol. It is considered that the introduction of another distillery in the Mareeba shire cements the region as a regional hub for distillation in Northern Queensland. Furthermore, reinforcing the regions food and wine trail credentials.

A small area of the existing Jaques Café will be used to sell the distillery products. And a small section of the existing cafe area will be utilised for tasting. The distilling area is to be located adjacent to the existing caretaker's residence as it is the most practical location to access existing infrastructure including a large coffee bean hopper.

As distillery infrastructure isn't much different to a brewery, the distillery may also (in future) when distillation isn't occurring, produce beer from the coffee bean waste product. Its determined that the inclusion of a brewery is consistent with the definition of Special Industry if the total volume of alcohol produced doesn't exceed 2,500L per year (edit - See note below).

The Distillery and Retail component is intended to operate with 2 employees (being the applicants), during the same operational hours of the Jaques Coffee Plantation Cafe (7 days per week 10am-4pm). It's expected that the distillery will result in a very small increase in visitation to the site. With visitation not expected to impact negatively upon on-site car parking or noticeable increased vehicular movements along Leotta Road."

Note: It should be noted that the Special Industry threshold for a distillery is the production of more than 2,500 litres of alcohol per year, which is envisaged by the applicants.

REGIONAL PLAN DESIGNATION

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

- Wetland Area of General Ecological Significance
- Terrestrial Area of General Ecological Significance

PLANNING SCHEME DESIGNATIONS

Strategic Framework:

Land Use Categories

• Rural Agricultural Area

Rural Other

Natural Environmental Elements

Biodiversity Areas

Zone: Rural

Agricultural Land Overlay Airport Environs Overlay Bushfire Hazard Overlay

Overlays: Environmental Significance Overlay

Flood Hazard Overlay

Transport Infrastructure Overlay

Planning Scheme Definitions

The proposed use is defined as:-

Column 1	Column 2	Column 3	Column 4 Does not include the following examples
Use	Definition	Examples include	
Special Industry	Premises used for industrial activities that include the manufacturing, producing, processing, repairing, altering, recycling, storing, distributing, transferring or treating of products and have one or more of the following attributes: • potential for extreme impacts on sensitive land uses due to offsite emissions including aerosol, fume, particle, smoke, odour and noise • potential for extreme offsite impacts in the event of fire, explosion or toxic release • onsite controls are required for emissions and dangerous goods risks • the use generally involves night time and outdoor activities • the use may involve the storage and handling of large volumes of dangerous goods • requires significant separation from non-industrial uses.	Tanneries, rendering plants, oil refineries, waste incineration, manufacturing or storing explosives, power plants, manufacturing fertilisers Note—additional examples may be shown in SC1.1.2 industry thresholds. Special industry threshold (3) - Distilling alcohol in works producing greater than 2500 litres per annum.	Low impact industry, medium impact industry, high 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

Strategic Framework

3.3 Settlement pattern and built environment

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

Comment

The proposed boutique distillery is small scale and is consistent with the existing commercial/tourist development currently carried out on site (coffee farm tours, café/restaurant and gift shop).

The development complies with specific outcome 1.

- (3) Tourism, rural industry, intensive animal industries and outdoor recreation facilities are developed in the rural area in a way which:
 - (a) does not impede or conflict with agricultural activities and production; and
 - (b) does not compromise rural character and scenic qualities; and
 - (c) does not adversely impact on ecological and biodiversity values.

Comment

The proposed boutique distillery will be sited amongst the existing cluster of buildings on site adjacent the existing Jaques café/restaurant and gift shop. The development will not impede or conflict with the sites agricultural activities (coffee plantation), will not compromise the rural character of the site or surrounds and will not impact on the ecological and biodiversity values.

The development complies with specific outcome 2.

3.7 Economic Development

- 3.7.2 Element Rural and Agricultural land
- 3.7.2.1 Specific outcomes
- (1) Agricultural areas are preserved for the purpose of primary production and are protected from fragmentation, alienation and incompatible development.

Comment

The proposed boutique distillery will be sited amongst the existing cluster of buildings on site adjacent the existing Jaques café/restaurant and gift shop. The development will not impede or conflict with the sites agricultural activities (coffee plantation) and will not alienate or fragment agricultural land.

The development complies with specific outcome 1.

(4) Built infrastructure and non-agricultural uses within farms will be co-located and clustered with existing farm dwellings and infrastructure to prevent encroachment on productive land.

Comment

The proposed boutique distillery will be sited amongst the existing cluster of buildings on site adjacent the existing Jaques café/restaurant and gift shop. The development will not impede or conflict with the sites agricultural activities (coffee plantation) and will not alienate or fragment agricultural land.

The development complies with specific outcome 4.

Relevant Development Codes

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

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 outcomes where an acceptable outcome cannot be achieved or an acceptable outcome is not provided) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
Rural Zone Code	The application can be conditioned to comply with the relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome provided) apart from the following:
	 Acceptable Outcome AO2.1
	Refer to planning discussion section of report.
Agricultural Land Overlay Code	The application can be conditioned to comply with the relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome provided).
Airport Environs Overlay Code	The application can be conditioned to comply with the relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome provided).
Bushfire Hazard Overlay Code	The application can be conditioned to comply with the relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome provided).
Environmental Significance Overlay Code	The application can be conditioned to comply with the relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome provided).
Flood Hazard Overlay Code	The application can be conditioned to comply with the relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome provided).
Transport Infrastructure Overlay Code	The application can be conditioned to comply with the relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome provided).

Industrial Activities Code	The application can be conditioned to comply with the relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome provided) apart from the following:
	 Acceptable Outcome AO1
	Refer to planning discussion section of report.
Landscaping Code	The application can be conditioned to comply with the relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome provided).
Parking and Access Code	The application can be conditioned to comply with the relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome provided).
Works, Services and Infrastructure Code	The application can be conditioned to comply with the relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome provided).

(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

A condition will be attached to any approval requiring all development works to be designed and constructed in accordance with FNQROC Development Manual Standards.

(f) Additional Trunk Infrastructure Condition

The proposed boutique distillery is considered small scale and will be established in proximity to the existing Jaques café/restaurant and gift shop. Liquor produced at the distillery will be available for sample and sale at the café/restaurant and shop as well as for sale off site.

The proposed distillery is considered a subsidiary component of the existing Jaques Coffee Plantation operations and is not likely to result in a noticeable increase in visitation to the site (outside those people already visiting the Jaques plantation for the farm tours, café/restaurant and gift shop). As such, a contribution towards trunk infrastructure is not considered necessary in this instance.

REFERRALS

This application did not trigger a referral under Schedule 10 of the *Planning Regulation 2017*.

Internal Consultation

Nil

PUBLIC NOTIFICATION

The development proposal was placed on public notification from 5 June 2018 to 25 June 2018. The applicant submitted the notice of compliance on 27 June 2018 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

No submissions were received.

PLANNING DISCUSSION

Noncompliance 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 specific outcome can be achieved.

Rural Zone Code

Siting, where not involving a dwelling house

PO₂

Development is sited in a manner that considers and respects:

- (a) the siting and use of adjoining premises;
- (b) access to sunlight and daylight for the site and adjoining sites;
- (c) privacy and overlooking;
- (d) air circulation and access to natural breezes;
- (e) appearance of building bulk; and
- (f) relationship with road corridors.

AO2.1

Buildings and structures include a minimum setback of:

- (a) 40 metres from a frontage to a State-controlled road; and
- (b) 10 metres from a boundary to an adjoining lot.

Comment

The proposed distillery use which involves the construction of a small distilling room will be sited approximately 2.5 metres from the site's western property boundary and is therefore non-compliant with AO2.1.

The allotment adjoining the land to the west is a piece of State owned land which separates the site from Emerald Creek. As such, there are no sensitive land uses in proximity to the western boundary of the site that will be impacted by the lesser setback achieved.

It is considered the development can comply with PO2.

Industrial Activities Code

Separation

P01

Industrial activities are appropriately separated from sensitive uses to ensure their amenity is maintained, having regard to:

- (a) noise;
- (b) odour;
- (c) light; and
- (d) emissions.

A01

Development is separated from sensitive uses as follows:

- (a) medium impact industry 250 metres; or
- (b) high impact industry 500 metres; or
- (c) special industry 1.5 kilometres.

Comment

The proposed special industry use (distillery) will be sited just 375 metres away from the closest neighbouring dwelling to the west (not including those dwellings on the subject site) and is therefore non-compliant with AO1 (c).

The proposed distillery is considered to be small scale and will be primarily contained to a small distilling room and operated in conjunction with the existing Jaques coffee plantation operations which include a café/restaurant, gift shop and farm tours. The proposed distilling room and operations will be effectively screened from view from any neighbouring properties by existing thick mature vegetation including riparian vegetation along Emerald Creek which also separates the proposed distillery from nearby sensitive uses.

Considering the above, in particular the nature and scale of the proposed use, development is not likely to impact on the amenity of nearby sensitive land uses and is therefore considered to comply with PO1.

Date Prepared: 31 July 2018

ATTACHMENT 1

PROPOSAL PLANS



Distillery Room Floor Plan

