



Our Ref: LM:mf:DA/4164 D20/20699

Your Ref: M1-20

15 July 2020

Franziska Inderbitzin
C/-U&i Town Plan
PO Box 426
Cooktown Qld 4895
Attention: Ramon Samanes

Dear Mr Samanes

Decision Notice - Approval (with conditions)
Given under section 63 of the *Planning Act 2016*

The development application described below was properly made to Cook Shire Council on 24 March 2020.

Applicant details

Applicant name: Franziska Inderbitzin and U&i Town Plan

Applicant contact details: PO Box 426
Cooktown Qld 4895

Application details

Application number: DA/4164

Approval sought: Development Permit for Material Change of Use

Description of the development proposed: Roadside Stall

Location details

Street address: 94 Peninsula Developmental Road Lakeland 4871

Real property description: Lot: 214 RP: 884196

Decision

Date of decision: 14 July 2020

Decision Details: Approved in full with conditions. These conditions are set out in Attachment 1 and are clearly identified to indicate whether the assessment manager or concurrence agency imposed them.

Details of the approval

Development Permit

Material Change of Use for a Roadside Stall (Code Assessable)

Conditions

This approval is subject to the conditions in Attachment 1.

Properly made submissions

Properly made submissions were received from the following principal submitters:

Referral Agencies

The referral agencies for the application are:

| Referral Agency | Referral Matter | Referral Role |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|---------------|
| Chief Executive - Department of Infrastructure, Local Government & Planning Far North Queensland Regional Office PO Box 2358 CAIRNS QLD 4870 Ph: (07) 07 4048 1111 Email: CairnsSARA@dsgmip.qld.gov.au MyDAS2 online referrals: https://prod2.dev-assess.qld.gov.au/suite/ | Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 | Concurrence |

Approved plans and specifications

Copies of the following plans, specifications and/or drawings are enclosed in Attachment 1.

Currency period for the approval

This development approval will lapse at the end of the period set out in section 85 of the *Planning Act 2016*.

Lapsing of approval if development started but not completed

Any period required under a development condition.

Rights of appeal

The rights of applicants to appeal to a tribunal or the Planning and Environment court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may be also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

An applicant and/or submitter may appeal to the Planning and Environment Court or the Development tribunal against a number of matters (see Schedule 1 of the *Planning Act 2016*).

A copy of the extracts of the above referenced sections of the *Planning Act 2016* are attached (Attachment 2).

For further information please contact Planning Officer, Michael Fallon or alternatively email: mail@cook.qld.gov.au on 07 4082 0500.

Yours sincerely



Lisa Miller
Manager
Environment and Planning

cc:
Chief Executive
Department of State Development, Manufacturing,
Infrastructure and Planning
Far North Queensland Regional Office
Cairns QLD 4870
Email: CairnsSARA@dsmip.qld.gov.au

enc: **Attachment 1 (Part 1)** – Conditions imposed by the assessment manager

Attachment 1 (Part 2) – Conditions imposed by a concurrence agency.

Attachment 2 – Extract of Appeal Provisions (Chapter 6, Part 1 and Part 2 and Schedule 1 of the *Planning Act 2016*).

Attachment 1 (Part 1) – Conditions imposed by the assessment manager

Approved Plans

1. The development must be carried out generally in accordance with the following plans (Appendix 'A') submitted with the application, except for any variations required to comply with the conditions of this approval:
 - Proposal Plan submitted in Response to Further Advice Notice – Prepared by U&i Town Plan – Dated: 12 June 2020.

Access

2. The road access location must be in accordance with the Department of State Development, Manufacturing, Infrastructure and Planning's Concurrence Agency response with conditions dated 11 May 2020.

Internal Driveway and Car Parking

3. The designated car parking area and internal driveways servicing the development must be constructed to a minimum compacted gravel standard to a minimum depth of 100mm and be appropriately drained prior to the commencement of the use, and maintained for the life of the development, to the satisfaction of Council's delegated officer.
4. All internal driveways and carparks must be maintained to the above standard for the life of the development.

Timing of Effect

5. The conditions of this development permit must be complied with to the satisfaction of Council's delegated officer prior to the commencement of the use.
6. The applicant must notify Council that all the conditions of the development permit have been complied with prior to the commencement of the use.

Hours of Operation

7. The operating hours shall be between 6:00am and 6:00pm each day.

Environmental

8. The applicant/developer must ensure that no soil or silt runoff occurs from the site during the construction and operational phase of the development.

Public Utilities

9. 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.

Stormwater

10. Stormwater must be directed to a legal point of discharge.

Currency Period

11. The currency period for this development approval is six (6) years. Should the use not be established within this time, the approval shall lapse.

Outstanding Charges

12. All rates, service charges, interest and other charges levied on the land must be paid prior to the use commencing.

B. Assessment Manager (Council) Advice

1. A development permit is required for carrying out Building Works, and a Plumbing and Drainage Approval/Compliance Permit is required for plumbing and drainage works prior to construction of any buildings associated with this development.
2. Premises proposed for the storage and preparation, handling, packing or service of food must comply with the requirements of the *Food Act 2006*.
3. 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.
4. The applicant/owner is to ensure compliance with the requirements of the *Aboriginal Cultural Heritage Act 2003*, and in particular - 'the duty of care' that it imposes on all landowners.

C. Concurrence Agency (Department of State Development, Manufacturing, Infrastructure and Planning) Response:

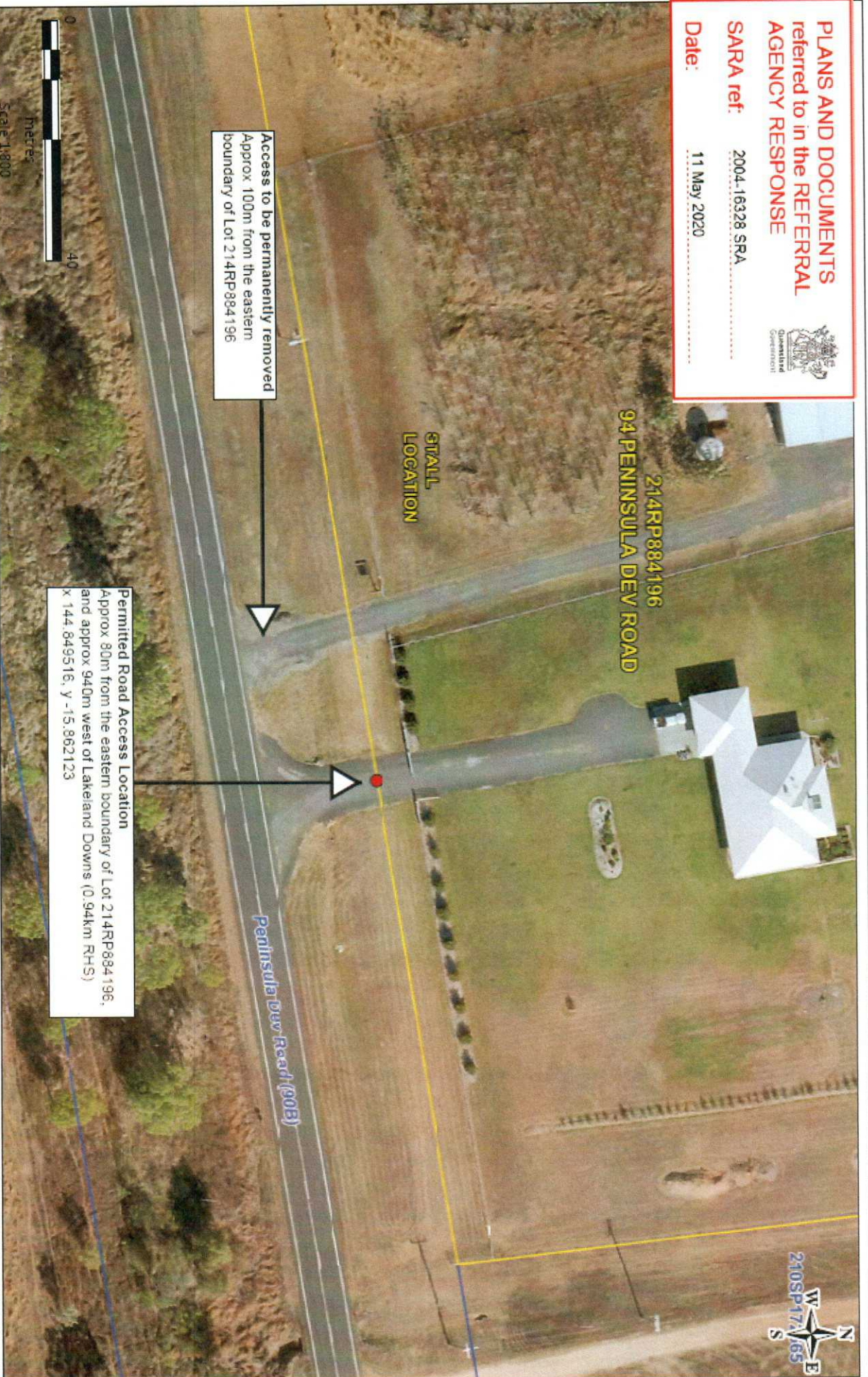
See the attached (Appendix 'B') response from the Department of State Development, Manufacturing, Infrastructure and Planning, dated 11 May 2020.

**PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE**



SARA ref: 2004-16328 SRA

Date: 11 May 2020



Access to be permanently removed
Approx 100m from the eastern
boundary of Lot 214RP884196

Permitted Road Access Location
Approx 80m from the eastern boundary of Lot 214RP884196,
and approx 940m west of Lakeland Downs (0.94km RHS)
X 144,849516, Y -15,862123



| | | | |
|---------------------------------------------------------------|------------------|--------------------------------------------|----------------------------------------|
| Branch Unit: Corridor Management / Far North Region | | File ref: TMR20-29830 (500-1002) | |
| Projection/Datum: Geocentric Datum of Australia (GDA) 1994 | | TMR Layout Plan 2 (90B - 0.98km) | |
| Land Parcels | Subject Land | Part: 1 / 1 | Queensland Transport and Main Roads |
| Issue: A | Drawn by: RPK | Date: 06/05/2020 | |

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Department of
**State Development,
Manufacturing,
Infrastructure and Planning**

SARA reference: 2004-16328
SRA Council reference: DA/4164
Applicant reference: M1-20

11 May 2020

Chief Executive
Officer Cook Shire
Council PO Box 3
Cooktown QLD 4895
mail@cook.qld.gov.au

Attention: Michael Fallon

Dear Sir/Madam

**SARA response—94 Peninsula Developmental Road,
Lakeland**

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the Department of State Development, Manufacturing, Infrastructure and Planning on 14 April 2020.

Response

| | |
|-------------------|-------------------------------------------------------------------------------------|
| Outcome: | Referral agency response – with conditions. |
| Date of response: | 11 May 2020 |
| Conditions: | The conditions in Attachment 1 must be attached to any development approval. |
| Advice: | Advice to the applicant is in Attachment 2 . |

Reasons: The reasons for the referral agency response are in **Attachment 3**.

Development details

Description: Development permit Material change of use for Roadside Stall

SARA role: Referral Agency.

SARA trigger: Material change of use near a State transport corridor - Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017)

SARA reference: 2004-16328 SRA

Assessment Manager: Cook Shire

Council

Street address: 94 Peninsula Developmental Road,

Lakeland Real property description: Lot 214 on RP884196

Applicant name: Franziska
Inderbitzin C/- U&i
Town Plan

Applicant contact details: PO Box 426
Cooktown QLD 4895
[ramon@uitownplan.com](mailto:ramon@uitownplan.com.au)
[.au](mailto:ramon@uitownplan.com.au)

State-controlled road access permit:

This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved
- Reference: TMR20-029830 (500-1002)
- Date: 7 May 2020

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at cairns.office@tmr.qld.gov.au

Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules)

Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Jarrod Clarke, Planning Officer, on 40373208 or via email CairnsSARA@dsgmip.qld.gov.au who will be pleased to assist.

Yours sincerely

A handwritten signature in black ink, appearing to read "Brett Nancarrow". The signature is written in a cursive style with a large, prominent loop at the end.

Brett Nancarrow
Manager
(Planning)

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the plans and specifications referenced below are found at Attachment 5)

| No. | Conditions | Condition timing |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| Material Change of Use | | |
| Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 - The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions: | | |
| 1. | <p>(a) The road access location is to be located generally in accordance with TMR Layout Plan 2 (90B - 0.98km), prepared by Queensland Government Transport and Main Roads, dated 06/05/2020, Reference TMR20-29830 (500-1002), Issue A.</p> <p>(b) Road access works comprising of a sealed rural property access must be provided at the road access location, approximately 80 metres from the eastern boundary of Lot 214 on RP884196.</p> <p>(c) The road access works must be designed and constructed in accordance with Austroads Guide to Road Design, Part 4: Intersections and Crossings – General, Figure 7.2 (a rural property access – single or dual carriage way(conditional)).</p> | <p>(a) At all times.</p> <p>(b) and (c) Prior to the commencement of use.</p> |
| 2. | The existing vehicular property access located between Lot 214 on RP884196 and Peninsula Developmental Road as identified by TMR Layout Plan 2 (90B - 0.98km, prepared by Queensland Government Transport and Main Roads, dated 06/05/2020, Reference TMR20- 29830 (500-1002), Issue A must be permanently closed and removed. | Prior to the commencement of use. |

Attachment 2—Advice to the applicant

| General advice | |
|----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Ref. | Advertising device |
| 1. | <p>Advertising advice should be obtained from the Department of Transport and Main Roads (DTMR) if the approved development intends to erect, alter or operate an advertising sign or another advertising device that would be visible from a state-controlled road, and beyond the boundaries of the state-controlled road, and reasonably likely to create a traffic hazard for the state-controlled road.</p> <p><i>Note: DTMR has powers under section 139 of the Transport Operations (Road Use Management - Accreditation and Other Provisions) Regulation 2015 to require removal or modification of an advertising sign and/or a device which is deemed that it creates a danger to traffic.</i></p> |
| Ref. | Road Access Works Approval |
| 2. | <p>In accordance with section 33 of the Transport Infrastructure Act 1994 (TIA), an applicant must obtain written approval from Department of Transport and Main Roads (DTMR) to carry out road works, including road access works on a state-controlled road.</p> <p>Please contact DTMR on 4045 7144 to make an application under section 33 of the TIA to carry out road works. This approval must be obtained prior to commencing any works on the state- controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).</p> <p>The road works approval process takes time – please contact Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p> |

Attachment 3—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

The reasons for the department's decision are:

- The development will not create a safety hazard for users of the state-controlled road.
- The change of use will not compromise the structural integrity or result in the worsening of the physical condition or operating performance of the state-controlled road.
- A development approval over the site will not compromise the state's ability to operate, maintain or construct state-controlled roads.

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version [2.6]), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system