

Our Ref: LM:lmDA/4604 AD2023/0002963

Your Ref: M2-23

28 June 2023

Jeremy and Ashleigh Smith
c/- U&i Town Plan
PO Box 426
Cooktown Qld 4895
E-mail: ramon@uitownplan.com.au
Attention: Ramon Samanes

Dear Mr Samanes

Decision Notice - Approval
Given under section 63 of the *Planning Act 2016*

With reference Development Application (DA/4604), please find attached the relevant Decision Notice, which was approved by Cook Shire Council in full, subject to conditions.

Details of the decision are as follows:

Decision Details

Date of Decision: Council approved the Development Application at a Council meeting on **27 June 2023**.

Approval 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.

Variation approval details

Not Applicable

Application Details

Application Number: DA/4604

Approval Sought: Development Permit for Material Change of Use

Description of the Development: Tourist Park – up to 74 persons

Category of Development: Assessable Development

Category of Assessment: Impact Assessment

Planning Scheme: *Cook Shire Council Planning Scheme 2017 v2.0*

Location Details

Street Address: 165 Barretts Creek Road COOKTOWN 4895

Real Property Description: Lot 13 BK157111

Local Government Area: Cook Shire

Assessment Manager Conditions

This approval is subject to the conditions in **Attachment 1**.

Further Development Permits

Not Applicable.

Properly Made Submissions

There were **no properly made** submissions for this application.

Referral Agencies

Not applicable - no part of the application required referral.

Other requirements under section 43 of the *Planning Regulation 2017*

Not Applicable.

Approved Plans and Specifications

Copies of the approved plans, specifications and/or drawings are enclosed in **Attachment 2**.

Currency Period for the Approval

(For a material change of use) This approval lapses if the first change of use does not happen within *six (6) years*. Should the approved use not commence within this time, the approval shall lapse.

Lapsing of approval if development started but not completed

In accordance with section 88(1) of the *Planning Act 2016*, a development approval, other than a variation approval, for development lapses to the extent the development is not completed within any period or periods required under a development condition.

Rights of Appeal

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* are provided in Attachment 4 of this Decision Notice.

Other Details

Council relies on the accuracy of information included in the application documentation when assessing and deciding applications.

If you find an inaccuracy in any of the information provided above, have a query, or need to seek clarification about any of these details, please contact Cook Shire Council's Planning and Environment Department on 07 4082 0500 or E-mail: mail@cook.qld.gov.au.

Yours sincerely



Lisa Miller

Manager

Planning and Environment

Cook Shire Council

- enc: **Attachment 1** - Conditions imposed by the assessment manager
Attachment 2 - Approved Plans (D23/18909)
Attachment 3 - Notice of Decision – Statement of Reasons (AD2023/0002966)
Attachment 4 - Extract of Appeal Provisions (Chapter 6 part 1 of the *Planning Act 2016*)

Attachment 1 - Conditions imposed by the assessment manager (Cook Shire Council)

A. Assessment Manager (Council) Conditions

No.	Condition	Timing
GENERAL		
1.	<p>COMPLIANCE WITH CONDITIONS</p> <p>The Developer is responsible for ensuring compliance with this development approval and the conditions of the approval by an employee, agent, contractor, or invitee of the Developer prior to the use commencing and, where relevant, maintained during operation.</p>	At all times
2.	<p>WORKS – DEVELOPER’S EXPENSE</p> <p>The cost of all works associated with the development and construction of the development, including services, facilities and/or public utility alterations required are met at no cost to the Council or relevant utility provider, unless otherwise stated in a development condition.</p>	At all times
3.	<p>WORKS - DAMAGE TO INFRASTRUCTURE</p> <p>The Developer must repair any damage to existing infrastructure (e.g. kerb and channel, footpath, or roadway) that may have occurred during any works undertaken as part of the development. Any damage that is deemed to create a hazard to the community, must be repaired immediately.</p>	At all times
4.	<p>WORKS – DESIGN & STANDARD</p> <p>Unless otherwise stated, all works must be designed, constructed, and maintained in accordance with the relevant Council policies, guidelines, and standards.</p>	At all times
5.	<p>WORKS – SPECIFICATION & CONSTRUCTION</p> <p>All engineering drawings/specifications, design and construction works must comply with the requirements of the relevant Australian Standards and must be approved, supervised, and certified by a Registered Professional Engineer of Queensland (RPEQ).</p>	At all times
6.	<p>COMMENCEMENT OF USE</p> <p>The use must not commence until the conditions of the approval relevant to each stage have been complied with.</p>	At all times



7.	<p>INFRASTRUCTURE CONDITIONS</p> <p>All development conditions contained in this development approval about infrastructure under Chapter 4 of the <i>Planning Act 2016</i> (the Act), should be read as being non-trunk infrastructure conditioned under section 145 of the Act, unless otherwise stated.</p>	At all times
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APPROVED PLANS & DOCUMENTS		
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8.	<p>APPROVED PLANS & DOCUMENTS</p> <p>Undertake the approved development generally in accordance with the approved plans and documents, including any amendments made in red on the approved plan(s) or document(s):</p> <table border="1" style="width: 100%; margin-top: 10px;"> <thead> <tr> <th style="width: 30%;">Title</th> <th style="width: 10%;">Sheet No.</th> <th style="width: 15%;">Date</th> <th style="width: 45%;">Prepared By</th> </tr> </thead> <tbody> <tr> <td>Site Plan – Cooktown Campout</td> <td>N/A</td> <td>24.04.2023</td> <td>U&I Town Plan</td> </tr> </tbody> </table>	Title	Sheet No.	Date	Prepared By	Site Plan – Cooktown Campout	N/A	24.04.2023	U&I Town Plan	At all times
Title	Sheet No.	Date	Prepared By							
Site Plan – Cooktown Campout	N/A	24.04.2023	U&I Town Plan							
9.	<p>CONDITIONS OF APPROVAL & APPROVED PLANS</p> <p>Where there is a conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval take precedence.</p>	At all times								

APPROVED USE – TOURIST PARK		
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10.	The approved use comprises of a campground for self-contained vehicles designated to the nominated area identified on the approved site plan.	At all times
11.	The development must be carried out in accordance with the approved site plan.	At all times

LIMITATIONS OF USE		
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12.	Occupancy of the approved Tourist Park must not exceed a maximum of seventy-four (74) persons at any one time.	At all times
13.	The maximum length of stay for any self-contained vehicle or guest must not exceed fourteen (14) consecutive days.	At all times

EFFLUENT DISPOSAL		
14.	All vehicles must be self-contained with appropriate waste and wastewater holding tanks. No grey or black wastewater is to be discharged on site	At all times

WATER SUPPLY		
15.	All vehicles must be self-contained with an adequate water supply	At all times
16.	Any non-potable water provided onsite must be clearly labelled at each tap – Non potable water - not safe for Human Consumption.	At all times

OPERATIONAL PLAN		
17.	Prior to commencement of the use of the Tourist Park, an Operational Plan must be developed, addressing all operational aspects of the Tourist Park including site access, parking, site security, site management, evacuation plan, emergency management and first aid, bushfire management, communications, waste management, safety guidelines concerning to the dam, and standards of behaviour.	At all times
18.	Operational aspects of the approved use must be carried out generally in accordance with the approved Operational Plan.	At all times

FIRE MANAGEMENT		
19.	A Bush Fire Management Plan, incorporating evacuation procedures, campfire guidelines and fire break/trail maintenance for the campground must be prepared to the satisfaction of Council's delegated officer and form part of the Operational Plan required in Condition 17. The approved use must comply with the requirements of the Management Plan at all times	At all times
20.	The campgrounds must be maintained at all times to a standard so as not to create a fire hazard.	At all times
21.	The owner must ensure that fire-fighting vehicles have acceptable access to the site for fire- fighting purposes	At all times

ENVIRONMENT		
22.	The applicant must ensure that no soil or silt runoff occurs from the site during the operational phase of the development and appropriate erosion and sediment controls are in place	At all times

AMENITY		
23.	The development shall have no adverse impact on the amenity of the surrounding area by way of light nuisance, dust or noise.	At all times

ELECTRICITY		
24.	All sites are to be self-contained. No electrical connection or supply is to be established	At all times

SIGNAGE		
25.	No more than one (1) advertising sign for the approved development is permitted on the subject site.	At all times
26.	The sign must not exceed a maximum sign face area of 6m ² and must not move, revolve, strobe or flash.	At all times
27.	The sign must be kept clean, in good order and safe repair for the life of the approval.	At all times
28.	The sign must be removed when no longer required.	At all times
29.	The erection and use of the advertisement must comply with the Building Act and all other relevant Acts, Regulations and these approval conditions.	At all times

B. Assessment Manager (Council) Advice

1. The currency period for the Material Change of Use approval is six (6) years. Should the approved use not commence within this time, the approval shall lapse.
2. The applicant/owner must notify Council of their intention to commence the use acceptable of and in compliance with these conditions or negotiated conditions (or court determined conditions) and prior to the commencement of the use. This will allow a check for compliance with conditions to be carried out by Council officers.



3. The applicant/owner is to ensure compliance with the requirements of the *Aboriginal Cultural Heritage Act* and in particular 'the duty of care' that it imposes on all landowners.
4. Prior to the commencement of the use a Local Law Permit will be required for the operation of the Tourist Park.
5. Removal of Protected Vegetation
This development approval does not approve or authorise the removal of vegetation that is otherwise protected under separate State or Federal legislation, including under the following:
 - A. *Environment Protection and Biodiversity Conservation Act 1999 (Cth)*;
 - B. *Nature Conservation Act 1999 (Qld)*;
 - C. *Vegetation Management Act 1999 (Qld)*.

Attachment 2 – Approved Plans (D23/19809)

Site Plan - Cooktown Campout

165 Barretts Creek Road, Cooktown

15°25'21"S 145°10'20"E



15°25'21"S 145°10'58"E



15°25'50"S 145°10'20"E

15°25'50"S 145°10'58"E

COOK SHIRE COUNCIL
DIGITALLY STAMPED
APPROVED PLAN

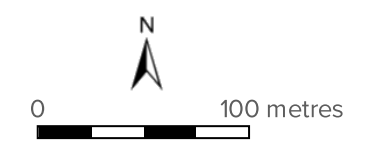
Development Application: Development Permit for Material Change of Use— Tourist Park (up to 74 People)

Lot: 13 on BK157111

Referred to in Cook Shire Council's Concurrence Agency Response

Approval Date: 27 June 2023
Application Number: DA/4604

Legend located on next page



Scale: 1:3527

Printed at: A3

Print date: 22/4/2023

Not suitable for accurate measurement.
Projection: Web Mercator EPSG 102100 (3857)

For more information, visit <https://qldglobe.information.qld.gov.au/help-info/Contact-us.html>

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Attachment 3 – Notice of Decision – Statement of Reasons (AD2023/0002966)

NOTICE ABOUT DECISION – STATEMENT OF REASONS

This Notice is prepared in accordance with s63(5) and s83(9) of the Planning Act 2016 to provide information about a decision that has been made in relation to a development application. The purpose of the Notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:

- the relevant parts of the Planning Scheme and Assessment Benchmarks against which the application was assessed; and*
- any other information, documents or other material Council was either required to, or able to, consider in its assessment.*

All terms used in this Notice have the meanings given them in the Planning Act 2016 or otherwise their ordinary meaning.

APPLICATION DETAILS

Application No:	DA/4604
Applicant:	Jeremy and Ashleigh Smith c/- U&i Town Plan
Proposal:	Development Permit for a Material Change of Use
Description of the Development:	Tourist Park – up to 74 persons
Street Address:	165 Barretts Creek Road, Cooktown QLD 4895
Real Property Description:	Lot 13 on BK157111
Planning Scheme:	<i>Cook Shire Council Planning Scheme 2017 v2.0</i>
Land Zoning:	Rural Zone
Assessment Type:	Impact Assessment

DECISION DETAILS

Type of Decision:	Approval with Conditions
Type of Approval:	Development Permit for Material Change of Use - Tourist Park (up to 74 persons)
Date of Decision:	27 June 2023

ASSESSMENT BENCHMARKS

The following Assessment Benchmarks applied to the development from the following Categorising Instruments:

Assessment Benchmarks	Comment
<i>Planning Regulation 2017</i> (Schedule 9)	Schedule 9 is not applicable as the application is not for building work under the Building Act.
<i>Planning Regulation 2017</i> (Schedule 10)	The application does not trigger a referral under Schedule 10.
Regional Plan	Section 2.2 of the Planning Scheme identifies that the Cape York Regional Plan has been adequately reflected in the Planning Scheme. A separate assessment against the Regional Plan is not required.
State Planning Policy (SPP), Part E	Section 2.1 of the Planning Scheme identifies that the superseded version of the <i>State Planning Policy</i> is integrated in the Planning Scheme. A review of the current version of the SPP (July 2017) and assessment benchmark mapping applicable to Part E has determined that the state interests are reflected in the Planning Scheme and no additional assessment provisions in the current SPP (part E) or updated mapping are applicable requiring further assessment against the SPP.
Temporary State Planning Policy	There are no Temporary State Planning Policies.

Local Categorising Instrument (Cook Shire Council Planning Scheme 2017):

- Strategic Framework;
- Rural Zone Code;
- Residential Use Code;
- Parking and Access Code;
- Works, Services, and Infrastructure Code;
- Biodiversity Overlay Code; and
- Bushfire Hazard Overlay Code.

Local Categorising Instrument (Variation Approval)

Not Applicable

Local Categorising Instrument (Temporary Local Planning Instrument)

Not Applicable

PUBLIC NOTIFICATION

A review of Council's records has determined no submissions were received.

REASONS FOR THE DECISION

The application is **approved** on the following grounds:

- a. An assessment was made against the applicable assessment benchmarks and the proposed development demonstrated compliance.
- b. The proposed development for Development Permit for Tourist Park (74 persons) is an appropriate use to be located on the site and will have no adverse impact on the rural character and amenity of the locality or adjoining lots.

REASONS FOR APPROVAL DESPITE NON-COMPLIANCE WITH ASSESSMENT BENCHMARKS

Not Applicable

ADDITIONAL RELEVANT MATTERS FOR IMPACT ASSESSMENT

Not Applicable

OTHER MATTERS PRESCRIBED BY THE PLANNING REGULATION 2017

Not Applicable

OTHER DETAILS

If you wish to obtain more information about Council's decision, including a copy of Council's Decision Notice and any conditions or plans relating to the development, please refer to Council's webpage.

Attachment 4 - Extract of Appeal Provisions (Chapter 6 part 1 of the *Planning Act 2016*)

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the *appellant*); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or

- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
 - (iii) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
 - (iv) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.

- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and

- (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
 - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
 - (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
 - (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
 - (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
 - (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.

- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
decision includes—
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.