

Our Ref: LM:Imc DA/4677:AD2023/0004947

Your Ref: J001675

19 September 2023

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Attention: Alan Irvin & Marcus McNee

Dear Mr Irvin and Mr McNee

Information Request

Given under section 12 of the Development Assessment Rules

Cook Shire Council has carried out a further review of your development application for the following premises.

Location Details

Street Address: 81 Savage Street Cooktown 4895

Real Property Description: Lot 212 C17915

Local Government Area: Cook Shire Council

Application Details

Application Number: DA/4677

Approval Sought: Development Permit for Material Change of Use

Description of Proposal: Shopping Centre

Category of Development: Assessable Development

Category of Assessment: Impact Assessment

Information Requested

Cook Shire Council has determined that the following additional information is needed to assess the application:

STRATEGIC FRAMEWORK

The development application is impact assessable and the strategic framework plays an important role in assessing the development application.

The strategic framework sets the policy position for planning within Cook Shire and forms the basis for ensuring appropriate development occurs. The planning scheme is clear in its intent to consolidate the Cooktown town centre and achieve important economic and community benefits as an outcome. The location of the proposed shopping centre is likely to undermine the town centre, creating a catalyst for retail and commercial development that is well removed from the main street.

The proposed development is inconsistent and in direct conflict with various specific outcomes of the strategic framework particularly relating to economic wellbeing and land use pattern including:

- 3.3.1.1(1)(a) - Cooktown's role as the major township and population centre is protected and enhanced through efficient use of commercial land in the business centre maximizing infill development opportunities that exist.
- 3.4.1.1 (7) – Establishing and expanding businesses in the Centre, Mixed Use and Township Zones is supported. Small-business and niche markets may be supported outside of these centres only where amenity impacts can be managed and the role of the centre is not undermined. The proliferation of commercial and industrial uses in residential areas is discouraged.
- 3.4.1.1 (9) – Development inconsistent with the planned location, intensity or type of land use must demonstrate there is a community need for such development, no adverse amenity or environmental impact and adequate access to infrastructure or orderly extension of infrastructure, including community infrastructure.

The planning report submitted with the application identifies that the '*proposed development is consistent with the strategic framework*'. Further information is required to demonstrate this position. The application material does not accurately address the strategic framework. For instance, Appendix G identifies that specific outcome 3.4.1.1(7) is not applicable to the proposed development.

Information required:

- 1. The proposed development does not meet a number of strategic outcomes and has the potential to significantly undermine the economic viability of the Cooktown town centre and result in adverse amenity and environmental impacts. Provide a detailed assessment of the development against the strategic outcomes of the planning scheme and demonstrate how the development is suitably located in the context of the strategic framework.**

MEDIUM DENSITY RESIDENTIAL ZONE

The site is included in the medium density residential zone. The purpose of the medium density residential zone is to provide for medium density multiple dwellings, community uses and small scale services, facilities and infrastructure to support local residents. The proposed development is for a large scale shopping centre development and this use is not consistent within the intent of the medium density residential zone. The proposed development does not comply with numerous performance outcomes of the medium density residential zone including:

- PO1 - The scale and height of buildings is consistent with medium density residential built form.
- PO2 – Buildings are sited to allow privacy and ventilation to adjoining properties and contribute to a pleasant streetscape by providing sufficient area for landscaping.
- PO3 – The design of buildings is in keeping with the intended character of the area.

The scale of non-residential land uses anticipated in the Medium density residential zone are those that are small scale. Given the size of the proposed building and the extent of car parking area, the development is not considered to be a small scale non-residential land use.

The planning report submitted with the application identifies that *'the proposed development is compatible with the relevant outcomes for the site under the Medium Density Residential Zone Code'*. Additionally, the assessment against the Medium density residential zone in Appendix G includes various inaccuracies including:

- The statement is made that the proposed development provides for 'community uses'. This is an inaccurate description of the development as a community use is the use of premises for providing artistic, social or cultural facilities or community services to the public. The proposed development is not a community use.
- The consideration of overall outcome 2(a) is inaccurate as this outcome relates to 'providing a pleasant living environment'. No consideration has been given to the potential amenity impacts on adjoining residential uses.

- Overall outcome 2(b) identifies the type of uses that are intended for the Medium density residential zone. A response of 'not applicable' has been provided in Appendix G, however this overall outcome is of relevance in assessing the suitability of the proposed development.
- The application material identifies that the proposed development complies with overall outcome 2(d). A response of 'complies' with this outcome is manifestly inaccurate as the proposed development does not reflect the residential built form and maintain residential amenity.

Information required:

2. Provide a detailed and accurate assessment of the development against the intent and performance outcomes of the Medium density residential zone of the Planning Scheme.
3. The proposed development exceeds the maximum height requirement of 8.5m (PO1 – Medium density residential zone code) and involves large expanses of built form with an extensive car parking area. Further information is required to demonstrate that the scale and height of buildings is consistent with a residential built form. It is noted that Appendix G identifies that the development complies with PO1 however this has been insufficiently justified.
4. The proposed development does not comply with the side setback requirement of 2.5 metres (PO2 – Medium density residential zone code) and insufficient justification has been provided to support a reduced setback. Of particular concern is the setback of the building is 0.25m to the western boundary and the car parking and driveway will require a vertical wall to interface with the existing surface. This is not a suitable setback to provide a buffer area between the site and the adjoining residential zoned land and existing dwelling. Provide additional details to demonstrate the impact of this reduced setback and the extensive retaining walls on the amenity of the adjoining property including visual amenity and micro-climate (breeze, shading and reduction to solar access and urban heat).
5. Provide detailed plans that confirm the transition details between existing surface levels and proposed design levels including the interface with the gully profile. The proposed plans should clearly demonstrate the interface with the adjoining land including site lines to the site.

NEED

It is acknowledged that the current shopping centre in Cooktown is no longer meeting the needs of the community and a new shopping centre will improve the shopping options available to the community.

However, it must be demonstrated that there is a need to locate the shopping centre in a location that does not accord with the Planning Scheme. Cook Shire Council has previously identified that there is vacant land that is appropriately located within the Centre zone that has the potential to be developed for a shopping centre and align with the strategic framework and zoning provisions of the Planning Scheme.

The development application material does not adequately demonstrate that existing Centre zoned land is not suitable and that there is a need to develop land that is inconsistent with the Planning Scheme and anticipated land use pattern.

It is noted that the submitted planning report provides a basic consideration of alternative sites, however this does not include the required level of detail to demonstrate that alternative sites more suitably located are not viable options for the development of a shopping centre. The report also identifies that *'there is a shortage of appropriately zoned land within the central business district'*. Insufficient information has been provided to support this statement.

Information required:

- 6. A detailed assessment of economic and planning need is required to be prepared by a suitably qualified person. The assessment is also required to consider the economic impacts of the proposed development in its location outside of the Cooktown town centre on the economic vitality of the Cooktown town centre.**

BIODIVERSITY

The site is mapped as containing essential habitat for endangered and vulnerable species including the Eastern Curlew, Western Alaskan Godwit and Great Sand Plover. Whilst it is noted that a portion of the site has already been cleared, there still remains some mapped essential habitat on the site.

The development application material does not sufficiently confirm the biodiversity and ecological values of the site nor does it identify any practices or procedures to be followed if endangered and vulnerable species are found during construction works. Insufficient information has been provided to demonstrate compliance of the proposed development with the Biodiversity overlay of the Planning Scheme and the state interest of biodiversity.

Information required:

- 7. Please provide an ecological assessment prepared by a suitably qualified person to establish the biodiversity and ecological values of the site and confirm the impacts of the proposed**

development on the identified values. Development is to be located in areas that avoid adverse impacts and where adverse impacts cannot be reasonably avoided, mitigation measures are required. The assessment should also include management techniques to ensure that the construction phase does not detrimentally impact endangered and vulnerable species.

PEDESTRIAN ACCESS

Drawing DA03 shows pedestrian access to Harrigan Street however no further information regarding pedestrian access is provided.

The site is well removed from the Cooktown town centre (approximately 700m) and it is important that the development achieves a high level of pedestrian, cycle and mobility scooter connectivity to the town centre and its residential catchment area. Any gaps in infrastructure should be identified and mitigation measures proposed to address active transport connectivity issues. Infrastructure that is of an insufficient width should also be identified and any proposed improvements to the infrastructure identified.

It should be noted that when preparing the draft Cook Shire Active Transport Plan consideration was not given to a shopping centre being located on the site and therefore this development is out of sequence for active transport planning that has been undertaken for Cooktown.

Information required:

- 8. Engage a suitably qualified active transport planner to confirm the nature and extent of works required to connect the site to the Cooktown town centre and surrounding residential areas. The proposed development will result in a change to desire lines for active transport planning and it is likely that existing active transport infrastructure will require upgrading.**
- 9. Confirm the location and design of a pedestrian crossing in Harrigan Street and connecting footpath works to ensure that pedestrians can safely access the proposed development.**
- 10. Address pedestrian connectivity between the school and the proposed development to ensure that safe and direct access is provided.**

ACOUSTIC IMPACTS

The site directly adjoins Low density residential zoned land on its western boundary. There are significant interface issues between the proposed shopping centre and the adjoining residential property relating to potential impacts on amenity. It is noted that the loading area and plant room

directly adjoin the western boundary of the site. The application material identifies that an acoustic barrier is proposed to be constructed, however the design of the proposed acoustic barrier is not supported by an acoustic report.

Information required:

11. Given the proximity of the site to noise-sensitive development (residential uses), an acoustic report prepared by a suitably qualified person is required to address potential noise impacts on residential amenity.

PARKING

The Planning Scheme requires one car parking space/50m² of gross floor area (GFA) for the shopping centre component of the development and one space/20m² for the liquor store and laundry. This results in a total of 53 car parking spaces being required on site and the proposed development provides 83 spaces. The proposed development achieves the minimum car parking rates specified by the Planning Scheme.

There are concerns that the car parking rates specified by the Planning Scheme may not reflect demand for car parking given the location of the site outside the Cooktown town centre. In the town centre there is ample angled kerbside parking available as well as the opportunity for multi-purpose trips in the town centre, that is, people parking and walking to different retail and business outlets.

Information required:

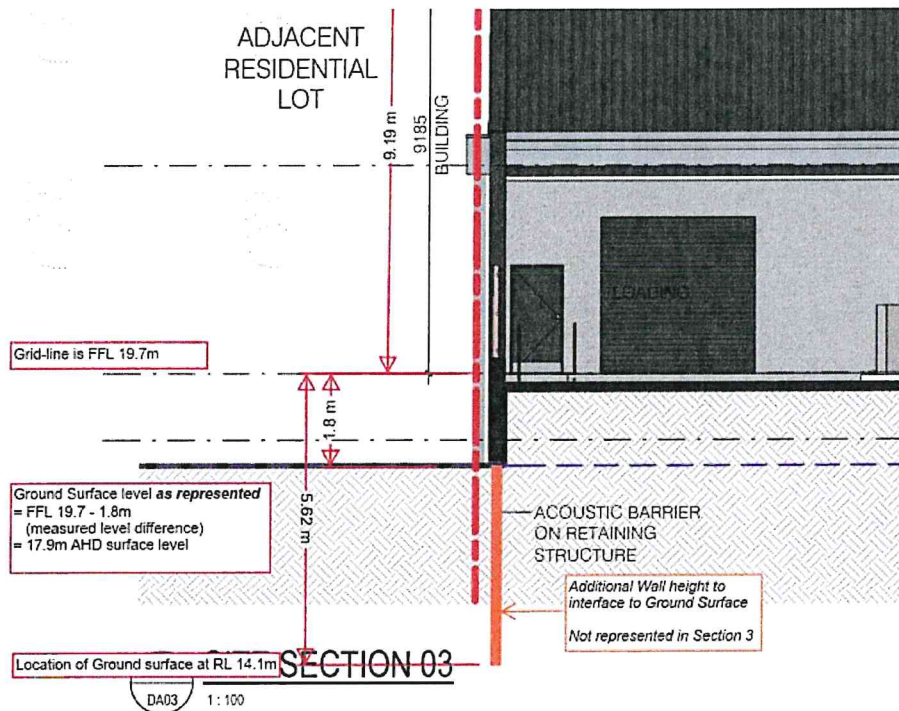
12. Please provide an analysis of car parking demand likely to be generated by the proposed development. This should consider the car parking numbers at the existing shopping centre and if parking demand is being sufficiently met by the existing development. The analysis should also identify that the proposed development will generate a higher car parking rate due to its location outside the Cooktown town centre.

PLANS

Concern is raised with the apparent discrepancies in the representation of the existing surface profile on the Architectural elevations and cross sections.

(a) Example A, Western Boundary on Section 3, Drawing DA08.

Section 3 on Drawing DA08 does not appear to represent the natural surface and resulting level difference correctly (refer extract below).



The existing surface is represented as being only 1.8m below the FFL line of 19.7m. That is, the natural surface level at the Lot boundary on drawing DA08 Section 3 is measured as approximately RL17.9m.

However, the spot level shown on drawing DA03 near Section 3 is nominated as RL14.1. This represents a difference of approximately 2.8m between the represented surface and the actual surface.

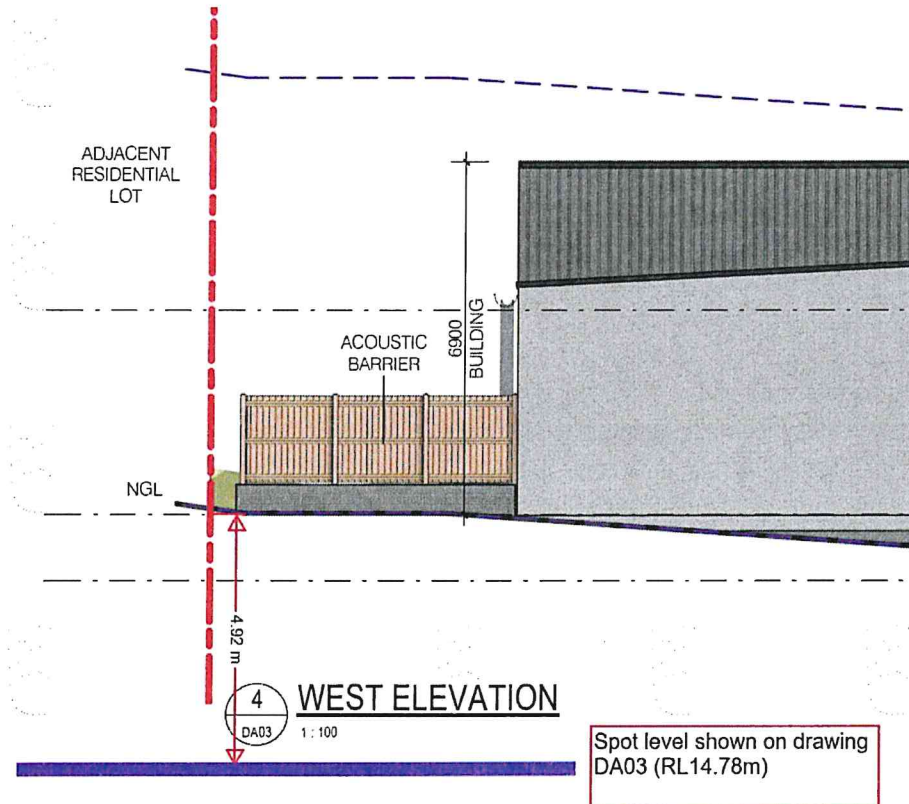
(b) Example B, Northwest Corner of Site.

The spot level shown on drawing DA03 at the corner of northern and western Lot boundaries is RL14.78. This level has been verified against the site contours in the Bulk Earthworks design.

However, there is an inconsistency between this level and the existing surface level (and profile) represented in the West Elevation shown on drawing DA07.

The existing surface level at the Lot boundary on drawing DA07 West Elevation section is shown to be coincident with or above the level of the FFL for the building, RL19.7m.

Given the building has minimal setback to the western boundary, the west elevation should reflect the levels along the western boundary. The spot level of RL14.78, verified from the Bulk Earthworks design, represents a difference of almost 5m from the existing ground level shown.



It appears that the long sections on drawing DA08 and DA07 do not present the natural surfaces at the western Lot boundary and the interface between design levels and natural surface levels correctly.

(c) Other locations.

In addition, the existing levels at western boundary of Section 2 and 3 on drawing DA08 are inconsistent with the levels shown on the Bulk Earthwork drawing (Neon Engineering Drawing 0006) that forms part of the application material for a separate development application for Operational Works (DA/4629).

The significant level differences (up to approximately 6m between gully invert on western Lot boundary and building ground FFL) result in potential for significant interface issues and indicate the apparent need for a high, vertical retaining wall.

The retaining wall heights/interface presented in Architect's section view drawings are not considered representative of the wall heights and level differences that will result from the proposed design for the development.

It is noted that the inconsistency/inaccuracy of natural surface levels presented in Architect's drawings also affects the representation of the allowable building height line.

Information required:

- 13. Provide revised drawings that address the apparent discrepancies with the existing ground surface level shown on the elevations and sections. The updated detail must also correct the building height line shown and ensure that the plans accurately represent the height above the existing ground level.**
- 14. A plan is required that clearly and accurately depicts the works required at the interface of the western boundary. Provide dimensioned plans including the offsets between Lot boundaries and proposed retaining walls, and the top and bottom wall heights proposed for retaining walls. This is a key consideration in determining the potential impacts of the development on the adjoining residential amenity.**
- 15. Provide revised drawings to eliminate the apparent encroachment across the Lot boundary as currently depicted in the Northern Elevation and Southern Elevation views shown on drawing DA06. All buildings and infrastructure must be located within the property boundary.**
- 16. The application is subject to public notification and it is important that the community has a good understanding of the impacts of the proposed development. A plan and images are required that depicts the completed IGA development in the context of adjoining land uses, preferably by the use of photo montages.**

EARTHWORKS

The proposed development will require extensive earthworks. It is noted that a separate application for Operational Works (DA/4629) has been lodged for the site, however it is necessary that the assessment of the Material Change of Use application also considers the nature and extent of earthworks that will be required to facilitate the proposed development. This is a key consideration in determining the suitability of the site for the proposed development.

Information required:

- 17. Confirm the earthworks volumes required to reshape the site to the proposed design levels and if the earthworks required achieve a balanced cut to fill operation within the site or whether material is required to be imported/exported. The estimated number of truck movements to undertake the earthworks also requires confirmation.**
- 18. Provide sections through the Harrigan Street and Savage Street Road verges and into the site and demonstrate the existing and proposed batters between the carpark and driveway levels and the existing road carriageway. Consideration is required of how the pedestrian corridors and accessibility to the site will be managed.**
- 19. The design information must be revised to show the existing site levels along the northern boundary and include all batters or retaining walls required to manage the large level differences to the adjoining lot to the north.**

TRAFFIC

The proposed development has the potential to generate a significant amount of traffic that has not been considered in road planning and design as the proposed development is not consistent with the planning intent for the site.

Information required:

- 20. Please revise the Engineering Services report and review the calculations and recommendation as Table 2 of the Engineering services report incorrectly states the posted speed limit of Harrigan Street is 60km/h.**
- 21. An analysis of the changed operation and increased traffic at the Hope/Harrigan/Savage Street intersection must be completed to verify safe operation of the intersection following development.**
- 22. The applicant is to provide an intersection layout on Harrigan Street that facilitates auxiliary lanes from left and right turning traffic entering and exiting the development. In particular, a Channelised Right Turn and an Auxiliary Left Turn must be provided for vehicular traffic entering the site from Harrigan Street. A dedicated left turn exit must also be provided from the main exit onto Harrigan Street.**

STORMWATER AND DRAINAGE

The application material contains limited information on stormwater and drainage and how run-off is intended to be conveyed through the site including runoff from the external catchment (s) and runoff from the development site with the large impervious areas.

Specifically, concern is raised in regard to the stormwater outlet into the existing gully at the western Lot boundary considering the large level difference between the design level and gully invert level. It is unclear how normal flow regimes can be achieved at the boundary without any transition drainage segment.

Information required:

- 23. Prepare a stormwater plan that considers how stormwater flows will be managed through the re-profiled site to the outlet to the gully at the western lot boundary. The design needs to address the significant level difference between the gully invert and the ground FFL. Runoff capture and conveyance will need to be for the 1%AEP event as discharging surface flows over the boundary retaining walls will not be acceptable. Drainage calculations should provide advice on the velocity at the discharge point and impacts on the downstream drainage path.**
- 24. A concept engineering services plan by Neon Engineering (022-2201-00-SK-0001) is included in the Engineering Report and shows a schematic drainage network. This plan requires additional detail including invert levels, pipe/pit sizes, pipe grade. Information must also be provided on the intended depth, volume, batter slopes associated with detention basin.**
- 25. Clarify the inconsistency between the detention basin footprint and shape presented in the concept engineering services plan (022-2201-00-SK-0001) compared with the development layout shown on Architect's drawing DA03.**
- 26. Provide drainage calculations (hydrology and hydraulics) in relation to pre and post development runoff and information on how the post development runoff will be collected and treated by the detention basin.**
- 27. The applicant is to advise how treatment for stormwater quality for the internal site areas will be achieved.**

WATER AND SEWER

The application material contains limited information on water supply and sewer infrastructure.

Consideration has not been given to potential firefighting storage supply on site. The engineering report indicates that water supply for on-site firefighting will be designed as part of the hydraulic design in a subsequent application. However, further information on water supply for firefighting must be provided as part of the Material Change of Use application to confirm whether additional site storage capacity is required and where this will be located within the development footprint. Firefighting tanks may require a substantial area and the location of this infrastructure requires consideration at the Material Change of Use stage to ensure appropriately integration within the site.

Information required:

- 28. Confirm the impact of the proposed development including the provision of waters supply for firefighting purposes on the Council water supply network.**
- 29. Further information is required to address the firefighting needs for a commercial development including the requirements to provide 30L/s firefighting flows for 4 hours. Council does not warrant the networks ability to provide sufficient pressure for commercial firefighting and therefore additional on-site infrastructure may be required.**
- 30. Provide additional information on the proposed sewer connection including but not limited to peak flows and daily volumes. It is noted that to connect to the Council gravity manhole on the north side of Harrigan Street, trenching or under-boring of Harrigan Street will be required. An assessment of the capacity of the existing sewerage system to accommodate additional flows must be undertaken and the upgrades necessary to allow connection identified. The connection point to Council's sewerage system may need to be located further down the gravity pipe network to avoid costly sewerage replacement. The assessment must also identify the location and capacity of any downstream pump stations that may be impacted by additional sewerage loads.**

Further details

The due date for providing the requested information is **three (3) months** from the date of this request, therefore you are required to respond no later than **19 December 2023**.

In accordance with section 13.2 of the Development Assessment Rules, you may respond by giving:

- (a) all of the information requested; or
- (b) part of the information requested; or

(c) a notice that none of the information will be provided.

As Cook Shire Council's assessment of your application will be based on the information provided, it is recommended that you provide all the information requested. In accordance with section 14.2 of the Development Assessment Rules, if you do not provide a response before the above due date (or a further agreed period), it will be taken as if you have decided not to respond to the information request and Cook Shire Council will continue the assessment of your application without the information requested.

Please note that Council may request further advice any time before the application is decided if other matters arise as a result of public notification or further assessment of the application.

For further information, if you have a query, or to seek clarification about any of these details, please contact 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