

2 October 2024

Our Ref: M4-24

Chief Executive Officer
Cook Shire Council
10 Furneaux Street
Cooktown, QLD, 4895

Attention: Planning Department

Dear Sir/Madam,

SUBJECT: RESPONSE TO INFORMATION REQUEST
MATERIAL CHANGE OF USE – COMMUNITY USE (ART GALLERY) & DWELLING HOUSE (SECONDARY DWELLING)
LOCATED AT – 3 MUNGKAN STREET, COEN
FORMALLY DESCRIBED AS – LOT 21 ON SP145568

We refer to Council's request for further information received on the 23 September. Council in their request deemed it necessary to request further additional information to allow them to complete the assessment of the application.

Each of the items have been individually addressed and are listed as follows:

Land Use - Accommodation

1. Clarification is required around the "accommodation" component of the proposed development and the associated land use under the Cook Shire Council Planning Scheme and Planning Regulation 2017.

Advice Note: Council's Action Notice dated 12 September 2024 sought clarification on the nature of the use of the "accommodation" component of the development. In response, the DA Form 1 was amended to include Dwelling House and Secondary Dwelling.

Officers note the following:

- A Dwelling House is the residential use of premises for a single dwelling and includes a secondary dwelling. A Dwelling House is typically a standalone use of premises and not commonly co-located with a Community Use.
- A Secondary Dwelling is not a land use definition. A Secondary Dwelling is defined in the administrative definitions of the Planning Scheme as a dwelling used in conjunction with, and subordinate to a Dwelling House.

As stated in Council's Action Notice, Officers seek clarification on the intended operation to ensure that the uses applied for adequately cover all aspects of the development (whether this be for Short-Term Accommodation, Dwelling Unit, etc.).

Response:

Please note that the project as funded is only for stages 1 & 2 and does not include stage 3 the dwellings. The dwelling house is to be used as a caretaker dwelling and/or for visiting artists who otherwise would not be able to attend the art centre. The secondary dwelling is to be used for visiting artists if the main dwelling is occupied. The residences make provision for 3 single persons or 3 couples to reside on the property.

As the dwellings are only intended for stage 3 of the development still to be funded, an option could be to withdraw it from the application whichever suits CSC best to progress the DA for the main intent i.e. the Art Centre.

Existing Buildings / Structures

- Information is required regarding the 'half-built structures' on the site, and clarification around necessary works should demolition be proposed.

***Advice Note:** Aerial imagery and the Applicant's Planning Report indicates existing 'half-built structures' located within the site. It is unknown if these structures are to be removed to facilitate the development, however assumed.*

Further, it is noted that the southern-most structure straddles the boundary of Lot 21 on SP145568 and Lot 18 on SP142881. Commentary will be required as to whether any permit or execution of an agreement is required to do so.

Response:

All current structures on Lot 21 are scheduled to be demolished as part of the construction process for the development. If Council is concerned, we understand as do Council that this can and will be controlled through a condition of approval.

Parking

- The Applicant is requested to provide amended plans demonstrating that provision is made for sufficient car parking spaces to accommodate the demand generated by the development.

***Advice Note:** The development has the potential to serve as a major attractor, particularly during larger events. It is noted that no car parking spaces (on-street or off-street) are proposed for the Community Use component, and insufficient justification has been provided in the Planning Report.*

While it is noted that the Parking and Access Code does not prescribe a parking rate for a Community Use, the Applicant is required to demonstrate that the parking is sufficient to meet the demand for the use.

It is recommended that, in responding to this item, an assessment is provided against the Parking and Access Code of the Planning Scheme.

Response:

We wish to confirm that the proposed use is not assessed against the code as there are no provisions regarding parking in the planning scheme for this type of facility being a Community Use. There are ample opportunities for on-street parking to occur and provides an area wide enough and provide ample parking opportunities should they be required. In terms of the nature of the parking requirements, this should be conditioned by Council and further addresses as part of later stages during the construction design process. Furthermore, the intent is for the organisers of an event, is for a bus service to be provided or buses to attend for which the required parking has been provided on-site.

External Works

4. The Applicant is requested to provide updated Proposal Plans that demonstrate the 'feature garden' wholly contained within the property boundary, and not encroaching into the Mungkan Street road reserve.

***Advice Note:** The Proposal Plans indicate a 'feature garden' with totem poles that extends beyond the property boundary into the Mungkan Street road reserve. These works are not supported and must be revised to be located wholly within the subject site.*

Response:

Our client at this initial stage is not able to amend the plans given significant time and budget constraints, and as such is happy to accept a condition of approval requiring the external works to be removed as part of a condition of approval through amended plans prior to building works for stage 1 commencing, or as Council considers reasonable.

Assessment Against Zone and Overlay Codes

Council's Action Notice dated 12 September 2024 suggested revising the application material to provide a thorough assessment against all applicable benchmarks.

5. The Applicant is requested to provide an assessment against the Acceptable Outcomes and Performance Outcomes (where relevant) of the Township Zone Code.

***Advice Note:** The development proposes a number of non-compliances with the Acceptable Outcomes of the Township Zone Code which have not been addressed or justified.*

The Applicant is required to provide an assessment against the Township Zone Code, having particular regard to the adjoining sensitive land use and any potential impacts that may arise from noise or the proposed location of the public amenities block.

Response:

ASSESSMENT BENCHMARKS

<i>Performance Outcomes</i>	<i>Acceptable Outcomes</i>	<i>Proposal Justification</i>
For accepted development subject to requirements and assessable development		
Built Form		
PO1	AO1.1 to AO1.4	Complies with the density, site coverage and building heights. Satisfied.
Siting		
PO2	AO2	Complies with the siting requirements and ensures the new buildings minimise adverse impacts on the amenity of the adjoining sensitive uses and the streetscape. Satisfied.
Design		
PO3	AO3.3	Given that the proposed art centre is adjacent to a residential premises is required to provide a solid 1.8m fence to screen the use, and landscaping of which there is significant landscaping throughout the site and a plan provided as part of this submission. The planting plan includes native plant species and seeks to improve the area dramatically from its current form. Satisfied.
PO4	AO4	Awnings are not considered applicable within this area. Satisfied.
PO5	AO5	Complies. Satisfied.
Waste Management		
PO6	AO6	All bins and waste storage areas are located on site and screened so as to not be visible from the street or neighbouring properties. To be applied as a condition of approval. Satisfied.
Acid Sulphate Soils		
PO7	AO7.1 & AO7.2	Not applicable in this location. Satisfied.
Pest Management		
PO8	N/A	Not applicable to this development in this location Satisfied.

6. The Applicant is requested to provide an assessment against the Bushfire Hazard Overlay Code.
Advice Note: The Bushfire Hazard Overlay Code is a relevant assessment benchmark, as the site is located within the Bushfire Hazard Overlay.

The Proposal Plans indicate development located wholly within a mapped hazard area, however this has not been discussed or addressed in the Planning Report. Further, the Planning Scheme identifies the land use of a Community Use as a 'vulnerable land use'.

Acceptable Outcome AO8 of the Bushfire Hazard Overlay Code seeks development of this nature, subject to mapped Medium Bushfire Hazard, to be supported by a Bushfire Hazard Management Plan.

Response:

We understand that the subject site is connected to reticulated water of which is considered acceptable to provide water supply in the event of a fire, providing water directly to the fire fighting services. Additionally, the site will be developed, landscaped and maintained to ensure that there are no bushfire hazards on-site. Furthermore, there is no authority to clear or provide buffers outside of the property, therefore no controls in that regards can form part of this development. Additionally, as part of the building application the Private Building Certifier will ensure controls as part of the built form to be applied to ensure compliance with the Bushfire Attack Levels (BAL) under the Building Code of Australia.

7. The Applicant is requested to provide an assessment against the Biodiversity Overlay Code.

Advice Note: The Biodiversity Overlay Code is a relevant assessment benchmark, as the site is located within the Biodiversity Overlay.

The Proposal Plans suggest a degree of vegetation retention, however, also indicates vegetation removal is required to facilitate aspects of the development. This has not been discussed or addressed in the Planning Report.

Officers reiterate that there is a degree of in-principle support for the development, however the above information is critical for Officers to proceed with an informed assessment of the proposal.

Response:

Council is correct in stating the site is within the biodiversity overlay, however the site is a developed site with structures on the site and as such the site can be cleared and does not impact on the biodiversity overlay. Other, existing developments in Mungkan St within the biodiversity overlay area is partially or fully cleared. The Site Development Plan for the proposed development clearly indicate vegetated areas and a planting plan reflecting native species plantings have also been provided as part of the development application material submitted, which demonstrates the commitment to improve the site as much as possible to its natural state. No further assessment required as the subject site is within urban area and the development is for an urban purpose.

Conclusion

That concludes our response to Council's Information Request, in which a response has been provided in relation to all matters raised by Council. We trust this application can now be progressed for assessment.

Should you require further information or clarification on any matter regarding this application, please do not hesitate to contact our officer on the email provided below.

Yours faithfully,



Ramon Samanes

Director, U&i Town Plan

E ramon@uitownplan.com.au | M 0411 344 110
