



FINAL MINUTES

ON 14 MAY 2008

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<u>Folio</u>	<u>Date</u>	<u>Particulars</u>
142	14.05.08	Ordinary Meeting

Declaration of Material Personal Interest

CR D CAMILLERI (Item 4.1)

CR K MAY (Item 12.1)

ORDINARY MEETING MINUTES

1. ATTENDANCE:

His Worship the Mayor, Cr C Meng (Chairperson), Crs G R Christensen, D T Comerford, P F Steindl, D J Perkins, D R Hatfield, D E Camilleri, W A Cameron, G R Thomsen, K J Casey and K L May were in attendance at the commencement of the meeting. Also present was Mr R Geraghty (Acting Chief Executive Officer) and Ms D Jeffery (Minute Secretary).

The meeting commenced at 10:07am.

2. APOLOGIES:

Nil.

3. CONDOLENCES:

Condolences were expressed at the passing of Robert Rasmussen, former Mackay City Council employee.

4. CONFIRMATION OF MINUTES:

4.1 ORDINARY MEETING MINUTES - 7 MAY 2008

Cr Camilleri declared a material personal interest in respect to item 8.4 of the Ordinary Meeting Minutes as a property owner in Farrellys Lane and left the Council Chambers at 10:09am whilst the item was being discussed and a decision taken thereon.

THAT the Minutes of the Ordinary Meeting held on 7 May 2008 be confirmed.

Moved Cr Comerford

Seconded Cr Perkins

CARRIED 10/0

10:10am – Cr Camilleri returned to the meeting.

5. BUSINESS ARISING OUT OF MINUTES OF PREVIOUS MEETING:

Nil.

6. MAYORAL MINUTES:

Nil.

7. CORRESPONDENCE AND OFFICERS' REPORTS:**7.1 MATERIAL CHANGE OF USE (INCONSISTENT USE - COMMERCIAL PREMISES) & MATERIAL CHANGE OF USE (EXTENSION TO COMMERCIAL PREMISES) - 9 BREWERS ROAD & 4-20 BROAD STREET, SARINA (189036-002-DA-2008-298)**

Application Number:	DA-2008-298
Action Officer:	Linda Pearson (Planning Officer) Ryan O'Leary (Consultant)
Applicant's Details:	Kilcor Properties Pty Ltd C/-Land Partners PO Box 2916 SOUTH BRISBANE QLD BC 4101
Proposal:	Material Change of Use (Inconsistent Use – Commercial Premises) & Material Change of Use (Extension to Commercial Premises)
Site Address:	9 Brewers Road & 4-20 Broad Street, Sarina
Property Description:	Lot 3 on RP742087 & Lot 2 on SP189036
Owner's Details:	Sarina Village Pty Ltd and Glenn Alexander & Carmel Mary Powell
Area:	11,302m ²
IPA Compliant Planning Scheme Zone:	Town Zone – Commercial Precinct – 4-20 Broad Street (Lot 2 on SP189036) and Town Zone – Residential Precinct – 9 Brewers Road (Lot 3 on RP742087)
Referral Agencies:	Department of Main Roads
Submissions:	5 Submissions
Attachments:	Attachment A: Locality Plan Attachment B: Proposal Plan Attachment C: Depart Main Roads Response

ASSESSMENT OF APPLICATION

Purpose of Report

The Applicant is seeking a Development Permit for a Material Change of Use – (Inconsistent Use – Commercial Premises) & Material Change of Use – (Extension to Commercial Premises) located at 9 Brewers Road & 4-20 Broad Street, Sarina, more fully described as Lot 3 on RP742087 & Lot 2 on SP189036 respectively. The site is approximately 11,302m² in area and is located on Broad Street and Brewer Road Sarina.

The proposed development principally involves the extension of an existing approved Shopping Centre, combined with the inclusion of additional land, at 9 Brewers Road, Sarina. The application seeks to facilitate an increase in gross leasable area of 410m² for the existing on-site Woolworths supermarket, provision of 27 additional car parking spaces and a new access point from Brewers Road to facilitate improved and additional service/delivery vehicle of delivery access/egress.

The proposed amendments to the siting of the loading dock and refuse enclosure, together with the new frontage to Brewer Street, will allow for delivery vehicles to enter via Broad Street and exit from Brewer Street. It is intended that the layout of the car park will generally remain the same, apart from the amendments to the north eastern section to allow for the continued forward movement of the service and delivery vehicles and to accommodate the extension of the shopping centre.

The application was submitted under the Sarina Shire Council IPA Planning Scheme and needs to be assessed against the provisions that Planning Scheme. The application are located within the **Town Zone**. However, it is confirmed that the subject sites fall across two separate Precincts. The site located at 9 Brewers Road on Lot 3 RP742087 is subject to the **Residential Precinct**, whilst the sites located at 4-20 Broad Street on Lot 2 SP189036 is subject to the **Commercial Precinct**.

As mentioned above, 9 Brewers Road, Sarina is located with the Town Zone, Residential Precinct. In accordance with the Planning Scheme a Commercial Premises is an inconsistent use within this designation. Moreover, it is considered likely that the proposed development would generate an increase in traffic, operational noise, exhaust fumes and refuse odours that would ultimately cause adverse impacts upon the amenity and character of the surrounding residential neighbourhood. The Applicant has not identified or confirmed the 'need' with respect to the extension of the Shopping Centre. It should be further noted, that the proposal will ultimately have a shortfall of 12 car parking bays, therefore raising concerns as to the ability of the centre to adequately service parking demand.

As such it is recommended that Council resolve to refuse the application based upon the proposals identified inconsistencies with the Sarina Shire Town Planning Scheme.

Resource Implications

There are no resource implications with regard to this Application.

Proposal

The Applicant is seeking a Development Permit for a Material Change of Use – (Inconsistent Use – Commercial Premises) and Material Change of Use – (Extension to Commercial Premises).

The proposed includes an extension to the existing on site Woolworths supermarket an increase in gross leasable area by 410m² to 2,930m², provision of 24 additional car parking spaces and a new access point from Brewers Road to facilitate additional service vehicle delivery access. The Applicant maintains that the proposed extension to the shopping centre has been designed to be consistent with the already approved buildings, and will use a range of material of a 'subtropical' design and feature. The Applicant further maintains that the new car parking area proposed over Lot 3 RP742087 will be adequately screened from the surrounding allotments.

Background

The original Shopping Centre development approval was issued on 17 March, 2006 and a Negotiated Decision Notice was issued on 26 June 2007 - SSC File Ref: MCU-00003 (Ass 60). Condition 2 of the Negotiated Decision Notice required the Applicant to provide 207 car parking spaces. Furthermore, Condition 10 allowed the deletion of 3 parking bays to provide a buffer area to bin storage (one space) and trolley bays (two spaces). However, Condition 11 stated:-

“Council grants this exemption on three car parking bays in reliance on the information provided by Kilcor letter dated 9 March 2006, that Kilcor will be developing adjacent land. Council would expect that the three removed parking bays would be included in any new development of this land additional to the requirements of that development. “

As such, the Applicant was required to provide 210 car parking spaces for the original approval with the abovementioned 3 spaces being provided when the Applicant acquired more land.

Development Assessment Process

Public Notification

The application underwent public notification and attracted five (5) objecting submissions. The submissions against the proposal identify a number of non compliant planning grounds. A detailed summary of the principal concerns raised is provided later in the this report.

Submissions

The Application was notified in accordance with the requirements of the *Integrated Planning Act 1997* and as a result of this process, five (5) individually prepared written submissions was received.

The five (5) individual written submissions received, each expressed opposition to the proposal. The principle concerns raised in these individual submissions are summarised and discussed in the table below:

<i>Issues Raised</i>	<i>Officer Comment</i>
The establishment of such an intensity and incompatible land use at the subject site will adversely detract from the established amenity of the residential areas directly adjoining and surrounding the subject site	The proposed Commercial Premises does not complement the style and character of exiting Residential Precinct. It is considered that the nature, scale and design of the proposal would adversely impact upon the visual amenity and character of the area.
The proposed Commercial Premises use is incompatible with existing residential uses on adjoining and surrounding land.	The proposed development is defined as a Commercial Premises within the Sarina Shire Planning Scheme which is identified as an inconsistent use. The proposed Commercial Premises is considered incompatible with existing residential uses on adjoining and surrounding land as detailed above.
The proposed development will adversely impact upon the safety of the community, particularly the residents of Brewer Road	The proposed development would generate adverse impacts upon the surrounding and adjoining residential neighbourhood. Brewer Road is a residential road that would be impacted upon by the increased traffic volume and scale that would subsequently create a risk to drivers, pedestrians and residents. In addition, noise, exhaust fumes and truck manoeuvring would also cause impacts on the adjoining residents.
Inadequate provisions of car parking spaces	<p>The original proposal required 210 car parking spaces. The proposed extension of 410m² required an additional 27 car parking spaces. Therefore, in accordance with Schedule 3, Standards for Provisions and Construction of Parking Areas, the proposed development is required to provide 237 car parking spaces.</p> <p>The Applicant has proposed to provide 225 car parking spaces, a shortfall of 12 spaces. The inadequate provisions of car parking spaces will generate a reliance on parking on the street to accommodate the demand generated by the proposal.</p>
Lighting, increased noise, exhaust and refuse odours would impacts on neighbouring residential properties.	The proposed development would cause an impact on the adjoining residential properties. These residents will be adversely impacted from lighting, noise, exhaust fumes and refuse odours generated from the proposed loading docks, refuse storage, trolley bays and additional 27 car parking spaces.

Assessment against the Sarina Shire Planning Scheme

Under the Sarina Shire Integrated Planning Act (IPA) Planning Scheme it has been established that the two sites related to the application are located within the Town Zone. However, it is confirmed that the subject sites fall across two separate Precincts. The site located at 9 Brewers Road on Lot 3 RP742087 is subject to the Residential Precinct, whilst the sites located at 4-20 Broad Street on Lot 2 SP189036 is subject to the Commercial Precinct.

The principal Codes considered directly relevant to the assessment of this application are:-

- Town Zone Code;
- Commercial Development Code; and
- Signage Code

The application has been assessed against the planning scheme with the following areas being inconsistent:

1. Inconsistent with the intent of the Residential Precinct

The intent of the ***Residential Precinct*** states:

(a) *Residential:*

- (i) *A range of housing types is provided for, although detached housing remains the dominant form, with higher densities located in Sarina town where there is good access to commercial and Community Facilities in the town;*
- (ii) *Residential uses have ready access to open space;*
- (iii) *Non-residential development in Sarina town provides a service to residents and is compatible with residential amenity; and*
- (iv) *Residential uses are adequately buffered from rural and industrial activities.*

The proposed development is defined as a Commercial Premises within the Sarina Shire Planning Scheme which is identified as an inconsistent use. The proposed Commercial Premises does not complement the style and character of existing Residential Precinct. The location of the proposed loading dock, car parking area, and refuge enclosure is positioned towards Brewer Road, which predominately consist of residential dwellings. As such, it is considered that the nature, scale and design of the proposal would adversely impact upon the visual amenity and character of the area.

Furthermore, the proposed service delivery vehicles that will enter via Broad Street and continue to exit onto Brewer Street would generate an adverse increase in noise, which would ultimately impact on the surrounding residents, particularly the residents adjoining the subject site's north-eastern boundary.

2. 4.41 Effect of Uses – (1) Specific Outcomes (Town Zone Code)

Amenity, Public Health or Safety

- (b) *There are no significant adverse effects on amenity, public health or safety, with regard to:*
- (i) *The siting, scale and design of buildings or other works;*
 - (ii) *Sewage disposal; or*
 - (iii) *Permanent or temporary occupation of, or access to, areas subject to natural hazards.*

The proposed development is considered inconsistent with the above Specific Outcome as the siting, scale and design of the proposed development and in particular the proposed service vehicle access, would cause impact on the surrounding residential properties. In addition, public safety would be affected as service, delivery and customer vehicles would exit via Brewer Road. Brewer Road is a residential road that would experience an increased volume and scale of traffic which will subsequently causes a risk to driver, pedestrians and residents. The proposal would require immediate road upgrades along Brewers Road and Broad Street, to adequately support the development.

Non-Residential Uses and Amenity

- (d) *Non-residential uses are located, designed and operated to avoid significantly changing the existing light, noise, dust, odours, traffic conditions or other physical conditions experienced by occupants of:*
- (i) *associated, adjoining or nearby residential uses; and*
 - (ii) *other types of non-residential uses.*

The proposed development is considered inconsistent with the above Specific Outcome as the location of the development would cause an impact on the adjoining residential properties. These residents will be adversely impacted from lighting, noise, exhaust fumes and refuse odours generated from the proposed loading docks, refuse storage, trolley bays and additional 27 car parking spaces.

3. 4.42 Provisions and Effects of Works (1) Specific Outcomes

Scale and Design of Effects

- (a) *Buildings and other works are consistent with the design of existing buildings and other works in the town where they occur.*

The proposed development is considered inconsistent with the above Specific Outcome. As previously mentioned, the proposed development is defined as a Commercial Premises which is classified as an inconsistent use within the Residential Precinct. The proposal would detract from the established amenity and character of the residential area.

Siting and Provisions of Works

- (b) *Buildings and other works are sited and provided on premises having regard to the safety of people using the premises and the adjoining premises, the amenity enjoyed by those people, and the maintenance of buildings and works, including appropriate provisions for:*
- (i) *access to natural light and ventilation;*

- (ii) *privacy;*
- (iii) *noise attenuation;*
- (iv) *landscaping; and*
- (v) *outlook*

The proposed development is considered to be inconsistent with the above Specific Outcome as the proposed development would cause impact on the adjoining residential properties with regards to lighting, noise, exhaust and refuse odours issues. Furthermore, public safety would be affected as the proposal would generate an increase volume of service, delivery and customer vehicles utilising Brewer Road.

Design and Roads

(e) *The safe and efficient operation of roads are maintained having regard to:*

- (i) *the location and design of access points;*
- (ii) *the design of stormwater drainage;*
- (iii) *impacts on any new use, through the effects of noise and dust resulting from the use of the road; and*
- (iv) *roads are upgraded to accommodate impacts from any new use.*

The proposed development is considered to be inconsistent with the above Specific Outcome. Brewer Road is a residential road that would be impacted upon by the increased traffic volume that would subsequently create a risk to drivers, pedestrians and residents. In addition, noise, exhaust fumes and truck manoeuvring would also cause impacts on the adjoining residents.

Provision and Design of Vehicle Parking

(f) *On-site parking accommodates the number and nature of vehicles required to service uses on the site.*

The proposed development provides 194 car parking spaces and 4 disabled car spaces (198 spaces in total).

As previously noted, the original Shopping Centre development approval required 207 car parking spaces. In addition, Council allowed the deletion of 3 parking bays to provide a buffer area to bin storage (one space) and trolley bays (two spaces). However, Condition 11 on the Negotiated Decision Notice states:-

Council grants this exemption on three car parking bays in reliance on the information provided by Kilcor letter dated 9 March 2006, that Kilcor will be developing adjacent land. Council would expect that the three removed parking bays would be included in any new development of this land additional to the requirements of that development.

As such, the original proposal required 210 car parking spaces. The proposed extension of 410m² required an additional 27 car parking spaces. Therefore, in accordance with Schedule 3, Standards for Provisions and Construction of Parking Areas, the proposed development is required to provide 237 car parking spaces.

The Applicant has proposed to provide 225 car parking spaces, a shortfall of 12 spaces. The inadequate provisions of car parking spaces will generate a reliance on on-street parking on the street to accommodate the demand generated by the proposal.

Therefore, it is considered that the proposed development would not be able to adequately provide the recommended vehicle parking requirements of the Planning Scheme.

Conclusion

Part of the subject site is located with the Town Zone, Residential Precinct. In accordance with the Planning Scheme a Commercial Premises is an inconsistent use within this designation. Moreover, it is considered likely that the proposed development would generate an increase in traffic, operational noise, exhaust fumes and refuse odours that would ultimately cause adverse impacts upon the amenity and character of the surrounding residential neighbourhood. The Applicant has not identified or confirmed the 'need' with respect to the extension of the Shopping Centre. It should be further noted, that the proposal will ultimately have a shortfall of 12 car parking bays, therefore raising concerns as to the ability of the centre to adequately service parking demand.

As such it is recommended that Council resolve to refuse the application based upon the proposals identified inconsistencies with the Sarina Shire Planning Scheme.

General Manager's Recommendation

- A. THAT Council refuse the Development Permit for Material Change of Use - (Inconsistent Use – Commercial Premises) & Material Change Use – (Extension to Commercial Premises) by Kilcor Properties Pty Ltd (Land Partners) on land described as 9 Brewers Road & 4-20 Broad Street, Sarina, more fully described as Lot 3 on RP742087 & Lot 2 on SP189036 respectively, related to the following grounds:
1. The proposal does not satisfy the Specific Outcomes of the Residential Precinct.
 2. The proposed development is defined as a Commercial Premises within the Sarina Shire Planning Scheme which is identified as an inconsistent use.
 3. The proposal is inconsistent with section 4.41 Effects of Use, Specific Outcome (b) Amenity, Public Health or Safety.
 4. The proposal is inconsistent with section 4.41 Effects of Use, Specific Outcome (d) Non-Residential Uses and Amenity.
 5. The proposal is inconsistent with section 4.42 Provisions and Effects of Works, Specific Outcome (a) Scale and Design of Works.
 6. The proposal is inconsistent with section 4.42 Provisions and Effects of Works, Specific Outcome (b) Siting and Provisions of Works

7. The proposal is inconsistent with section 4.42 Provisions and Effects of Works, Specific Outcome (e) Design and Roads
8. The proposal is inconsistent with section 4.42 Provisions and Effects of Works, Specific Outcome (f) Provision and Design of Vehicle Parking
9. The Applicant has not identified the need for the proposed extension
10. There are insufficient planning grounds to justify approval of the proposed development with regards to:
 - a) The proposed Commercial Premises does not complement the style and character of the exiting Residential Precinct;
 - b) The nature, scale and design of the proposal would adversely impact upon the visual amenity and character of the area;
 - c) Brewer Road would be impacted upon by an increased traffic volume scale of traffic that would subsequently create a risk to drivers, pedestrians and residents;
 - d) The proposed Commercial Premises is incompatible with existing residential uses on adjoining and surrounding land
 - e) The proposal would have a shortfall of 12 spaces; and
 - f) The surrounding residents would be adversely impacted from lighting, noise, exhaust fumes and refuse odours generated from the proposed loading docks, refuse storage, trolley bays and additional 27 car parking spaces

Council Resolution

THAT the General Manager's Recommendation be adopted.

Moved Cr Steindl

Seconded Cr May

CARRIED 11/0

7.2 MULTI-LEVEL MOTEL (168 ROOMS), COMMERCIAL USE, SHOP AND CATERING SHOP - MASSLAND GROUP PTY LTD - 41 MACALISTER STREET, 250, 240 & 232 ALFRED ST, MACKAY (700773-001-DA-2007-551)

Application Number:	DA-2007-551
Action Officer:	Linda Pearson

Applicant's Details:	Massland Group Pty Ltd C/-Humphreys Reynolds Perkins PO Box 244 MACKAY QLD 4740	
Proposal:	Material Change of use from Dwelling Houses and Laundromat to Multi-level, Mixed Commercial, Shop, Catering Shop & Motel Premises (Superseded Planning Scheme)	
Site Address:	41 Macalister Street, 250, 240 and 232 Alfred Street, Mackay	
Property Description:	Lots 1, 2 , 3 and 4 on RP700773	
Owner's Details:	Targa 1 Pty Ltd	
Area:	2,037m ²	
Superseded Planning Scheme Strategic Plan Designation: Zone:	Commercial Central Business	
Decision:	Decision Notice issued 27 th February 2008	
Attachments:	Attachment A: Attachment B:	Previous Council Report Proposal Plans

ASSESSMENT OF APPLICATION

Purpose of Report

Council issued a Decision Notice for the above application on the 27 February 2008. This Decision approved the proposed development for the construction of a Multi-Storey building containing a Motel, Commercial Premises, Catering Shop and Retail Shop.

The applicant has submitted representations (received 11 April 2008) on the conditions of that Decision notice and is requesting that Council review the relevant conditions.

Resource Implications

There are no resource implications with regard to this planning application.

Proposed Representations on Conditions

Background

The application was decided at a Council meeting by the former Mackay City Council. The report (see Attachment A – Previous Council Report) recommended that a hotel room floor be removed from the approved building. There were concerns with the amount of the proposed commercial premises floor area with the development and the proposed height of the building.

Part of the justification for this removal was trying to weigh up the planning scheme requirements and the outcomes for the subject site. In that report, it was stated:

“There is a fundamental difference in the desired outcomes for this parcel of land between Council and the Developer. The motel accommodation is considered a critical outcome in providing vital accommodation, which would serve the new convention centre, the entertainment centre and art space. However, the outcome for the Developer is an economical viable project.”

Previously the condition to remove a commercial floor was considered an appropriate outcome based on weighing up all the different considerations.

Representations made on the Conditions

The basic intent of the proposed changes by the applicant is to re-instate the commercial floor which was conditioned to be removed in the Decision Notice. Instead, the applicant is proposing to remove a hotel floor containing 28 hotel rooms. This will result in the total number of motel rooms being 140 instead of the approved 168 rooms. Previously Council had decided to allow a minor increase in the height of the building on the basis of providing a more viable hotel outcome. The applicant has provided a copy of a letter from a Hotelier group stating that *“the room inventory is not a factor in determining the star rating”*..

The key changes have been summarised as follows:

- Removal of a hotel floor (140 rooms in total remain) and the re-instating of Level 5 Commercial Floor
- An additional 9 car spaces being provided within the two floors of basement carparking.
- Increase in the height of building by 1.1m
- Increase in the commercial floor area by approximately 350m² (floor level 2)

When comparing the demand for car parking spaces the motel room floor requires less than a floor of commercial premises. If the additional 9 car spaces were not provided and the application was not compliant with the required number of car spaces this report would be recommending a refusal.

The outcomes being a motel / commercial development is one which is seen as being a benefit to the Mackay and greater community. There will be impacts as a result of this application being approved in this current form. The main impact will result from the amount of commercial premises being provided which will add to a very busy precinct.

1. Condition 1

1. Plan of Development

The approved Multi-level Motel Premises (168 rooms), Commercial Premises, Shop and Catering Shop must be completed and maintained generally in accordance with the Plans of Development (identified in the Table below) and supporting documentation which forms part of this application, except as otherwise specified by any condition of this approval.

<i>Drawing Number</i>	<i>Revision</i>	<i>Prepared By</i>	<i>Date</i>
<i>618 DA-01</i>	<i>B</i>	<i>GGI Architects</i>	<i>11/12/2007</i>
<i>618 DA-02</i>	<i>B</i>	<i>GGI Architects</i>	<i>11/12/2007</i>
<i>618 DA-03</i>	<i>B</i>	<i>GGI Architects</i>	<i>11/12/2007</i>
<i>618 DA-04</i>	<i>B</i>	<i>GGI Architects</i>	<i>11/12/2007</i>
<i>618 DA-05</i>	<i>B</i>	<i>GGI Architects</i>	<i>11/12/2007</i>
<i>618 DA-06</i>	<i>B</i>	<i>GGI Architects</i>	<i>11/12/2007</i>
<i>618 DA-07</i>	<i>B</i>	<i>GGI Architects</i>	<i>11/12/2007</i>
<i>618 DA-08</i>	<i>B</i>	<i>GGI Architects</i>	<i>11/12/2007</i>
<i>618 DA-09</i>	<i>B</i>	<i>GGI Architects</i>	<i>11/12/2007</i>
<i>618 DA-10</i>	<i>B</i>	<i>GGI Architects</i>	<i>10/12/2007</i>
<i>618 DA-11</i>	<i>B</i>	<i>GGI Architects</i>	<i>10/12/2007</i>
<i>618 DA-12</i>	<i>B</i>	<i>GGI Architects</i>	<i>10/12/2007</i>
<i>618 DA-13</i>	<i>B</i>	<i>GGI Architects</i>	<i>10/12/2007</i>
<i>618 DA-14</i>	<i>B</i>	<i>GGI Architects</i>	<i>10/12/2007</i>
<i>618 DA-15</i>	<i>C</i>	<i>GGI Architects</i>	<i>February 07</i>
<i>618 DA-16</i>	<i>B</i>	<i>GGI Architects</i>	<i>10/12/2007</i>
<i>618 DA-17</i>	<i>B</i>	<i>GGI Architects</i>	<i>10/12/2007</i>
<i>618 DA-18</i>	<i>B</i>	<i>GGI Architects</i>	<i>10/12/2007</i>
<i>618 DA-19</i>	<i>B</i>	<i>GGI Architects</i>	<i>10/12/2007</i>
<i>618 DA-20</i>	<i>B</i>	<i>GGI Architects</i>	<i>10/12/2007</i>

Proposed Condition by Applicant

1. Plan of Development

The approved Multi-level Motel Premises (168) rooms, Commercial Premises, Shop and Catering Shop must be completed and maintained generally in accordance with the Plans of Development (identified in the Table below) and supporting documentation which forms part of this application, except as otherwise specified by any condition of this approval.

Drawing Number	Revision	Prepared By	Date
618 DA-01	B E	GGI Architects	11/12/2007 10/04/08
618 DA-02	B E	GGI Architects	11/12/2007 10/04/08
618 DA-03	B E	GGI Architects	11/12/2007 10/04/08
618 DA-04	B E	GGI Architects	11/12/2007 10/04/08
618 DA-05	B E	GGI Architects	11/12/2007 10/04/08
618 DA-06	B E	GGI Architects	11/12/2007 10/04/08
618 DA-07	B E	GGI Architects	11/12/2007 10/04/08
618 DA-08	B E	GGI Architects	11/12/2007 11/04/08
618 DA-09	B E	GGI Architects	11/12/2007 10/04/08
618 DA-10	B E	GGI Architects	10/12/2007 10/04/08
618 DA-11	B E	GGI Architects	10/12/2007 10/04/08
618 DA-12	B E	GGI Architects	10/12/2007 10/04/08
618 DA-13	B E	GGI Architects	10/12/2007 10/04/08
618 DA-14	B E	GGI Architects	10/12/2007 10/04/08

618 DA-15	B E	GGI Architects	February 07-10/04/08
618 DA-16	B E	GGI Architects	10/12/2007 10/04/08
618 DA-17	B E	GGI Architects	10/12/2007 10/04/08
618 DA-18	B E	GGI Architects	10/12/2007 10/04/08
618 DA-19	B E	GGI Architects	10/12/2007 10/04/08
618 DA-20	B E	GGI Architects	10/12/2007 10/04/08

Justification by Applicant

Amended plans have been provided to replace the original approved plans. It is therefore requested that these amended plans replace the original approved plans stated above.

Response

Apart from the proposed changes to height and the re-instating of the commercial floor and removal of a motel room floor, there is an increase in car parking (9 extra car spaces), increase of 350m² of commercial floor area and the removal of footpath dining.

The provision of the additional 9 car spaces has required the relocation of the water break tanks which were previously located in the basement to the roof top. The size of break tanks have been reduced after further review by GHD Engineers.

2. Condition 2

The existing condition is stated below:

2. *Prior to the lodgement of Operational Works approval the approved plans of development must be amended to comply with the following matters:*
 - a) *Level 5 being Commercial premises must be removed from the development to achieve a maximum building height of 31.4m above 6.68m AHD. Maximum Height is defined the height from the habitable floor level (6.68 m AHD) to the Upper ceiling level of the habitable highest floor.*
 - b) *The outdoor dining area is to be removed from the footpath. Existing Kerb and channel alignments are to remain.*
 - c) *A schedule of external building materials and colours. All external building materials must be non-reflective.*

The amended plans must be submitted to Council for endorsement and then will form part of this Development Permit.”

Proposed Condition by Applicant

2. Prior to the lodgement of Operational Works approval the approved plans of development must be amended to ~~comply with the following matters:~~ include

- a) ~~Level 5 being Commercial premises must be removed from the development to achieve a maximum building height of 31.4m above 6.68m AHD. Maximum Height is defined as the height from the habitable floor level (6.68 AHD) to the Upper ceiling level of the habitable highest floor.~~
- b) ~~The outdoor dining area is to be removed from the footpath. Existing Kerb and Channel alignments are to remain.~~
- e) A schedule of external building materials and colours. All external building materials must be non-reflective.

Justification by Applicant

The following is an extract from the applicant's representation:

It is understood that Council has conditioned that in order to achieve a maximum building height of 31.4m above 6.68 AHD on the subject site, Level 5 being a Commercial floor, must be removed in order to achieve this height.

"As stated a number of times to Council during pre/post lodgement meetings and conversations, the proposed development's viability is strongly linked to the Commercial floor areas. The removal of even one (1) of these Commercial floors raises serious concerns as to whether the proposed development can continue based on this current condition.

As can be seen from the amended plans, the main change that has occurred is the removal of the Level 11 Motel floor instead from the approved plans in order to address the overriding issue of building height stated in Part A of this condition. The removal of this Motel floor will result in the overall building height of the proposed building to be 32.5m above 6.68m AHD measured to the upper ceiling level of the habitable highest floor.

Part B of this condition requires that the outdoor dining area on the footpath be removed from the approved plans. As can be seen on the amended plans, the outdoor dining areas have been removed from the Ground Floor Plan, Elevations and Section Plans. Therefore, it is requested that Part B of this condition be removed as it has been complied with and is no longer relevant.

A minor change that has been made to the approved plans is a change of use on Level 2 – Office. The approved plans show that this level contained a mixture of Office area, a Motel Administration area and a connecting corridor. As can be seen from the approved plans, the Motel Administration and corridor areas have been converted into additional Office area space on this level. This minor change is considered to comply with the intent of both the current zoning of "Central Business" and the strategic designation of "Commercial" as commercial office areas are already being proposed within the building and the additional office area is relatively minor in comparison to the existing Gross Floor Area of the development."

Additionally, the applicant's submission stated that there were an additional 9 car spaces being provided, this results in the development (with the commercial floor) being fully compliant with the car parking provisions.

Response

There has always been a slight difference of the desired outcomes on this subject site between the applicant and Council. Obviously as stated above the economic viability of the project is foremost in the developer.

The proposed amended plans do demonstrate that the outdoor dining areas have been removed from the proposal. Hence it is acceptable to approve the new plan for that level.

In relation to the removal of the Motel administration from Level 2 and the increase in commercial premises, this motel administration area has not been relocated elsewhere in the development. It is questionable where the behind the scenes activities such as laundry etc, will be located within the development. However this is not a planning consideration.

As the water break tanks have relocated to the roof level, an additional d) point has been added to this condition. It states that an amended roof plan be provided showing the location and height of water break tanks. Additionally it has been stated the water break tanks must not be visible and must not add any additional height to the structure.

3. Condition 20:

The existing condition is stated below:

20. *Maximum Building Height*

The building height shall not exceed 31.4m from the level of the minimum building floor level (6.68AHD) to the underside of the ceiling of the uppermost habitable room of the building.

Proposed Condition by Applicant

20. Maximum Building Height

The building height shall not exceed ~~31.4m~~ 32.5m from the level of the minimum building floor level (6.68AHD) to the underside of the ceiling of the uppermost habitable room of the building.

Justification by Applicant

As stated previously in these representations, the amended plans show that the Level 11 Motel floor rather than the Level 5 Commercial floor has been removed from the approved plans.

The floor to floor distance of the Level 5 Commercial floor is 4m as opposed to 2.9m for the Level 11 Motel floor. This naturally means that there is a 1.1m difference between these levels and as such, the overall building resulting in an overall building height 32.5m as stated above.

The request to amend the overall building height of the development is strictly in regards to the differing floor to floor distance of the Motel floor in comparison to the Commercial floor in order to address the overriding issue of building height.

Response

The increased height by 1.1m (from 31.4m to 32.5m) is considered to be minimal and will not cause any greater degree of material detriment or amenity impact.

4. Condition 15

The existing condition states:

15. Construction of Car Parking Areas

The car parking areas shall be constructed, sealed, linemarked and drained for a minimum of 166 carparking spaces in accordance with the approved plan and maintained thereafter. The carparking classification is Class 1 for internal parking and is to be designed in accordance with Australian Standard AS/NZS2890.1 – 2004. All carparking spaces and aisle widths shall be accessible by B99 design vehicles. The developer must submit plans that demonstrate this requirement at the time of lodgement of an application for Operational Works.

The applicant has not requested that this condition be changed however the amended plans include the provision of an additional 9 car spaces and hence this condition should be changed to accommodate the additional 9 car spaces.

Proposed Condition 15

15. The car parking areas shall be constructed, sealed, linemarked and drained for a minimum of 175 carparking spaces in accordance with the approved plan and maintained thereafter. The carparking classification is Class 1 for internal parking and is to be designed in accordance with Australian Standard AS/NZS2890.1 – 2004. All carparking spaces and aisle widths shall be accessible by B99 design vehicles. The developer must submit plans that demonstrate this requirement at the time of lodgement of an application for Operational Works.

Conclusion

The applicant has provided detailed justification as to why Council should support the proposed changes. The proposal is now compliant with the car parking requirements even with the commercial level 5 being re-instated and the height increase is minimal. The outstanding issue is the amount of commercial premises floor area. Given that the application has been lodged under the superseded planning scheme the amount of floor area does comply with the intent of the that Planning Scheme. However there have been Court decisions which have found that weight may be given to the current planning scheme requirements and intent. If Council chooses to accept the applicant's justification then the recommendation is stated below.

Further information on Massland Proposed Changes

1. Carparking

Proposed Use	Units/GFA	Rate	Required Provision	Proposed Provision
<i>Motel</i>	140	1 covered space/unit for the first 30 units & then ½ unit for the remainder plus 1 space/2 employees plus provision for bus parking where containing more than 30 units	92 (85 [140 rooms] + 7 [approx. 14 staff])	91
<i>Commercial Premises</i>	3,564.41m ²	1 space per 50m ²	71.28	72
<i>Shop</i>	84.44m ²	1 space per 50m ² in CBD	1.68	2
<i>Catering Shop (2 Restaurants)</i>	457.96m ²	1 space per 50m ² in CBD	9.1	10
TOTAL			174.06 (175)	175

2. Tandem Parking

The tandem parking arrangements are identified for valet parking for Motel Visitors.

3. Security Access

There are no security gates indicated on the proposal plans.

4. Justification for allowing the extra height

The existing approval issued by Council allowed a 1.4m height variation above the allowed 30m. This current change to the proposal is a variation of a condition of that approval which results in a further increase in the height of 1.1m.

The proposed increase in height is a total of 2.5m above the 30m height limit allowed under the Superseded Planning Scheme. The ability to lodge an application under the Superseded Planning Scheme lapsed in March 2008 and hence any further development in this area would have to be assessed against the current Planning Scheme requirements.

This is considered minor as the proposed height increase is under 10% variation which is deemed acceptable by the significant community benefits of this proposal to the adjacent cultural precinct. This proposal will provide much needed support services to this precinct, namely restaurants and accommodation.

General Manager's Recommendation

A. That Council approve the proposed changes to the conditions as identified below:

1. Plan of Development

The approved Multi-level Motel Premises (140) rooms, Commercial Premises, Shop and Catering Shop must be completed and maintained generally in accordance with the Plans of Development (identified in the Table below) and supporting documentation which forms part of this application, except as otherwise specified by any condition of this approval.

Drawing Number	Revision	Prepared By	Date
618 DA-01	E	GGI Architects	10/04/08
618 DA-02	E	GGI Architects	10/04/08
618 DA-03	E	GGI Architects	10/04/08
618 DA-04	E	GGI Architects	10/04/08
618 DA-05	E	GGI Architects	10/04/08
618 DA-06	E	GGI Architects	10/04/08
618 DA-07	E	GGI Architects	10/04/08
618 DA-08	E	GGI Architects	11/04/08
618 DA-09	E	GGI Architects	10/04/08
618 DA-10	E	GGI Architects	10/04/08
618 DA-11	E	GGI Architects	10/04/08
618 DA-12	E	GGI Architects	10/04/08
618 DA-13	E	GGI Architects	10/04/08
618 DA-14	E	GGI Architects	10/04/08
618 DA-15	E	GGI Architects	10/04/08
618 DA-16	E	GGI Architects	10/04/08
618 DA-17	E	GGI Architects	10/04/08
618 DA-18	E	GGI Architects	10/04/08
618 DA-19	E	GGI Architects	10/04/08
618 DA-20	E	GGI Architects	10/04/08

2. Prior to the lodgement of Operational Works approval the approved plans of development must be amended to :
 - a) Deleted
 - b) Deleted
 - c) A schedule of external building materials and colours. All external building materials must be non-reflective.
 - d) The roof floor plan must be amended to show the location of the water break tanks. The water break tanks must not be visible or add additional height to the roof area.

The amended plans must be submitted to Council for endorsement and then will form part of this Development Permit.”

15. Construction of Car Parking Areas

The car parking areas shall be constructed, sealed, linemarked and drained for a minimum of 175 carparking spaces in accordance with the approved plan and maintained thereafter. The carparking classification is Class 1 for internal parking and is to be designed in accordance with Australian Standard AS/NZS2890.1 – 2004. All carparking spaces and aisle widths shall be accessible by B99 design vehicles. The developer must submit plans that demonstrate this requirement at the time of lodgement of an application for Operational Works.

21. Maximum Building Height

The building height shall not exceed 32.5m from the level of the minimum building floor level (6.68AHD) to the underside of the ceiling of the uppermost habitable room of the building.

Council Resolution

THAT the matter lie on the table and the recommendation be reviewed.

Moved Cr Thomsen

Seconded Cr Hatfield

CARRIED 11/0

7.3 **RECONFIGURATION OF LOTS (4 INTO 4 RURAL LOTS) - F D VELLA - LOTS 2, 4, 11 AND 41 MARAJU-YAKAPARI ROAD, BALNAGOWAN 9159728-002-DA-2007-337)**

Application Number:	DA-2007-337
Action Officer:	Ben Miles
Applicant's Details:	FD Vella C/-Conics (Mackay) Pty Ltd PO Box 1895 MACKAY QLD 4740
Proposal:	Reconfiguration of Lots (4 into 4 Rural lots)
Site Address:	Lots 2, 4 and 11 Maraju-Yakapari Road, Balnagowan
Property Description:	Lot 2 on SP159728, Lot 4 on RP866431, Lot 11 on SP201877 and Lot 41 on RP704386
Owner's Details:	Anthony J and Fay D Vella
Area:	Lot 2: 12.36 Ha Lot 4: 15.60 Ha

	Lot 11: 21.22 Ha Lot 41: <u>29.47 Ha</u> Total: <u>78.65 Ha</u>
Mackay City Planning Scheme Locality: Precinct: Zone:	Mackay Hinterland Pioneer River and Southern Streams Rural
Referral Agencies:	<u>Concurrence Agency</u> Department of Main Roads
Attachments:	Attachment A: Locality Plan Attachment B: Existing Lot Layout Attachment C: Proposal Plan Attachment D: Main Roads Conditions

ASSESSMENT OF APPLICATION

Purpose of Report

The application involves a proposed Reconfiguration of Lots (4 into 4 Rural lots) at Maraju-Yakapari Road, Balnagowan. The subject site is identified by the *Mackay City Planning Scheme* as within the *Rural Zone*.

The proposal involves the reconfiguration of existing rural lots with areas between 12.36 and 29.47 hectares to create one relatively large proposed lot (69.29 hectares in area) as well as three smaller 'rural residential' sized lots (between 2.002 and 4.3 hectares in area). The proposed large lot will be "tied" over two roadways.

Effectively, the applicant contends that the proposed reconfiguration is acceptable given that:

- The proposed large lot will consolidate lots in land that is identified as Good Quality Agricultural Land (GQAL) and currently used for agriculture (cane farming);
- The proposed smaller lots are to be located on land that is not ideal for agriculture;
- The proposal will not result create additional lots in the Rural Zone; and
- Through the use of buffers, the proposed smaller lots will have a high amenity and will not impinge on the operation of agricultural activities on adjoining lots.

Despite this, it is considered that the proposed reconfiguration is inconsistent with a number of provisions of the *Mackay City Planning Scheme* given that:

- the proposed reconfiguration effectively constitutes Rural Residential development on land zoned Rural;
- it is unlikely that agricultural activities will be viable on the proposed smaller lots;
- it has not been adequately demonstrated that the area of land to be taken up by the proposed smaller lots is not GQAL;
- it has not been adequately demonstrated that there is an overriding community need and that there are no other alternative sites for the proposed development;
- the proposed buffers are consider to be inadequate; and

- the applicant has not addressed the provisions of the Development on Steep Land Overlay Code.

Resource Implications

There are no resource implications with regard to this planning application.

Proposal

Subject Site and Surrounds

The subject site is located on both sides of Maraju–Yakapari Road approximately 2 kilometers north west of the intersection of Maraju–Yakapari and Pleystowe Connection Roads and approximately 5 kilometers south of the intersection of Maraju–Yakapari Road and the Bruce Highway (refer to Attachment A – Locality Plan). The site is predominately used for cane production with a portion in the South East corner used for cattle grazing.

The subject site is surrounded by other large properties zoned Rural (refer to Attachment A – Locality Plan). The properties surrounding the subject site are used for either cane farming or cattle grazing.

Five (5) ‘rural residential sized’ lots (between 2.004 and 2.317 hectares) are located on the southern side of Erinagh Drive in close proximity to the subject site (refer to Attachment B – Existing Lot Layout). The Survey Plan for these lots was sealed on the 11th November 1993. These lots are currently zoned Rural under the *Mackay City Planning Scheme*.

Details of Proposal

The proposal involves the reconfiguration of lots (4 into 4 lots) by way of boundary realignment (refer to Attachment C – Proposal Plan). The proposed reconfiguration comprises the following:

<i>Lot</i>	<i>Characteristics</i>
Proposed Lot 15	Area: 69.29 hectares Lot is to be tied over Maraju-Yakapari Road and Camelzulus Road
Proposed Lot 14	Area: 2.002 hectares Frontage: 88 metre frontage to Maraju-Yakapari Road
Proposed Lot 13	Area: 4.3 hectares Frontage: 66 metre frontage to Maraju-Yakapari Road
Proposed Lot 12	Area: 3.03 hectares Frontage: 100 metre frontage to Maraju-Yakapari Road

As part of the supporting information provided the applicant advises that:-

- *only a small portion of land in the proposed Lot 12, 13 and 14 is identified as GQAL and most of the land identified as GQAL (within these lots) is either occupied by a Tramway Lease or is not considered to be ideal for agriculture due to steep gradients;*
- *the proposed reconfiguration (of the rest of the land) will reduce the fragmentation of viable GQAL by having areas currently used for cane farming consolidated in one lot of*

69.29 Ha (that is closer to the 100 hectare minimum required by the Mackay City Planning Scheme); and

- *the proposed reconfiguration will not result in additional lots being created.*
- *the buffers will be provided (refer also to Attachment C - Proposal Plan) for proposed Lots 12, 13 and 14;*

Development Assessment Process

Referral Agencies

The Department of Main Roads was a Concurrence Agency and have provided their response and required conditions to be included on any approval.

Assessment Against Planning Scheme

The proposed reconfiguration has been assessed against the following codes of the *Mackay City Planning Scheme*:

- Mackay Hinterland Locality Overall Outcomes and Code;
- Mackay Hinterland Locality – Rural Zone Overall Outcomes and Code;
- Reconfiguration of a Lot Code;
- Environment and Infrastructure Code;
- Bushfire Management Overlay Code;
- Development on Steep Land Overlay Code; and
- Good Quality Agricultural Land Overlay Code.

It is considered that the proposal is inconsistent with the following provisions:

- *Mackay Hinterland Locality Overall Outcome 2(f), Mackay Hinterland Locality – Rural Zone Overall Outcome 2(d), Specific Outcome P6 of the Mackay Hinterland Locality Code and “Lot Area and Dimensions” Specific Outcomes P1(i) and P2 of the Reconfiguration of a Lot Code* in that the proposed reconfiguration effectively constitutes Rural Residential development (proposed Lots 12, 13 and 14) in the Rural Zone;
- *Specific Outcome P5 of the Mackay Hinterland Locality Code, “Overall Design” Specific Outcome P1(i) of the Reconfiguration of a Lot Code* in that it is unlikely that proposed Lots 12, 13 and 14 will be able to sustain viable agricultural use/s given the size of these lots;
- *Specific Outcome P3 of the Reconfiguration of a Lot Code* as it is not considered that the proposed reconfiguration will improve the utility or accessibility of the Rural zoned land. All existing lots comprising the subject site currently have access to a sealed public road. The “tying” of a single lot over two separate road reserves is considered unwieldy and may encourage the future land owner/s to apply to separate the title (subdivide) to reflect the road boundaries;
- *Specific Outcome P1(i) of the Mackay Hinterland Locality – Rural Zone Code and Specific Outcomes P4 and P6 of the Good Quality Agricultural Land Overlay Code* in

that it is not considered that the applicant has adequately demonstrated that GQAL will not be taken out of agricultural use;

- *Specific Outcome P3* of the *Good Quality Agricultural Land Overlay Code* in that the applicant has not demonstrated that there is an overriding community need and that there are no other alternative sites for the proposed reconfiguration;
- *Specific Outcomes P1* and *P8* of the *Good Quality Agricultural Land Overlay Code* in that the proposed buffers are outside the proposed smaller residential lots and it is not considered that the proposed buffers are wide enough to adequately protect the residential amenity of the smaller lots from nearby agricultural uses. As such, the proposed development may result in conflicts between the residential and agricultural uses; and
- *Specific Outcomes P1, P2* and *P4* of the *Development on Steep Land Overlay Code* in that it has not been demonstrated that potential building sites on proposed Lots 12, 13 and 14 will have, at worst, a “very low” risk of landslip.

Advice from Minister of Local Government, Planning & Sport

On 15th March 2007, the then Minister of Local Government, Planning and Sport wrote to Council in relation to creating small lot in Rural areas. In summary it advises:

Pursuant to the IPA (1997) to depart from the established Council’s Policies (Planning Scheme in this instance) there must be sufficient planning grounds to justify the departure. The individuals personal circumstances are not planning grounds.

To creates lots below the standard of 100 Ha in the Rural zone for “rural residential” type living has the increased potential for:

- Loss of land for rural purposes (whether Good Quality Agricultural Land or not).
- Land use conflicts between rural activities and residential use which can further constrain the use of rural land.
- Greater cost for Government to service residences (road improvement, refuse collection, school bus etc).
- Poor access by residents to community facilities and services.

Conclusion

Given the abovementioned inconsistencies with the *Mackay City Planning Scheme*, it is not considered that the application, can be supported by Council.

Given the above it is recommended that Council refuse the application for Reconfiguration of a Lot Development Permit for 4 Lots.

General Manager's Recommendation

THAT Council refuse the Reconfiguration of a Lot – Development Permit application by F D Vella for Reconfiguration of Lots (4 into 4 Rural lots) at Lots 2, 4, 11 and 41 Maraju-

Yakapari Road, Balnagowan (Lot 2 on SP159728, Lot 4 on RP866431, Lot 11 on SP201877 and Lot 41 on RP704386) on the following grounds:

1. The proposal is inconsistent with the Mackay Council Planning Scheme and there are not sufficient planning grounds to justify an approval despite the inconsistency.
2. The proposal is inconsistent with the State Planning Policy 1/92 Good Quality Agricultural Land.

Council Resolution

THAT the matter be deferred to the next Ordinary Meeting to obtain appropriate approval conditions.

Moved Cr Christensen

Seconded Cr Camilleri

CARRIED 8/3

7.4 REPORT ON LOCAL GOVERNMENT APPEALS AND OTHER LEGAL ACTIONS

Copy was attached for all Members.

General Manager's Recommendation

THAT the report be received.

Council Resolution

THAT the General Manager's Recommendation be adopted.

Moved Cr Casey

Seconded Cr Thomsen

CARRIED 11/0

8. CONSIDERATION OF COMMITTEE REPORTS:

Nil.

9. RECEIPT OF PETITIONS:

Nil.

10. TENDERS:

Nil.

11. CONSIDERATION OF NOTIFIED MOTIONS

Nil.

12. LATE BUSINESS:

Cr May declared a material personal interest in respect to Item 12.1 as a member of the National Retailers Association and left the Council Chambers at 10:29am whilst the item was being discussed and a decision taken thereon.

12.1 SUNDAY TRADING HOURS

THAT the Mackay Regional Council opposes the application by the National Retailers Association to further deregulate Sunday trading hours in the Mackay region due to the negative impacts it will have on local sporting and community events, family life and small retail business in the Mackay region.

Moved Cr Christensen

Seconded Cr Camilleri

CARRIED 9/1

10:42am – Cr May returned to the meeting.

13. PUBLIC PARTICIPATION:

Nil.

14. CONFIDENTIAL REPORTS:

Nil.

THAT the meeting be adjourned.

Moved Cr Camilleri

Seconded Cr Cameron

CARRIED 11/0

10:44am – The Meeting was adjourned.

11:16am – The Meeting was reconvened.

THAT Council resolved to continue discussions on item 7.2

Moved Cr Casey

Seconded Cr Comerford

CARRIED 11/0

15. ITEM 7.2 - MULTI-LEVEL MOTEL (168 ROOMS), COMMERCIAL USE, SHOP AND CATERING SHOP - MASSLAND GROUP PTY LTD - 41 MACALISTER STREET, 250, 240 & 232 ALFRED STREET, MACKAY (700773-001-DA-2007-551)

Council Resolution

A. THAT Council approve the proposed changes to the conditions as identified below:

1. Plan of Development

The approved Multi-level Motel Premises (140) rooms, Commercial Premises, Shop and Catering Shop must be completed and maintained generally in accordance with the Plans of Development (identified in the Table below) and supporting documentation which forms part of this application, except as otherwise specified by any condition of this approval.

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618 DA-02	E	GGI Architects	10/04/08
618 DA-03	E	GGI Architects	10/04/08
618 DA-04	E	GGI Architects	10/04/08
618 DA-05	E	GGI Architects	10/04/08
618 DA-06	E	GGI Architects	10/04/08
618 DA-07	E	GGI Architects	10/04/08
618 DA-08	E	GGI Architects	11/04/08
618 DA-09	E	GGI Architects	10/04/08
618 DA-10	E	GGI Architects	10/04/08
618 DA-11	E	GGI Architects	10/04/08
618 DA-12	E	GGI Architects	10/04/08
618 DA-13	E	GGI Architects	10/04/08
618 DA-14	E	GGI Architects	10/04/08
618 DA-15	E	GGI Architects	10/04/08
618 DA-16	E	GGI Architects	10/04/08
618 DA-17	E	GGI Architects	10/04/08
618 DA-18	E	GGI Architects	10/04/08
618 DA-19	E	GGI Architects	10/04/08
618 DA-20	E	GGI Architects	10/04/08

2. Prior to the lodgement of Operational Works approval the approved plans of development must be amended to :
 - a) Deleted
 - b) Deleted
 - c) A schedule of external building materials and colours. All external building materials must be non-reflective.
 - d) The roof floor plan must be amended to show the location of the water break tanks. The water break tanks must not be visible or add additional height to the roof area.

The amended plans must be submitted to Council for endorsement and then will form part of this Development Permit.”

15. Construction of Car Parking Areas

The car parking areas shall be constructed, sealed, linemarked and drained for a minimum of 175 carparking spaces in accordance with the approved plan and maintained thereafter. The carparking classification is Class 1 for internal parking and is to be designed in accordance with Australian Standard AS/NZS2890.1 – 2004. All carparking spaces and aisle widths shall be accessible by B99 design vehicles. The developer must submit plans that demonstrate this requirement at the time of lodgement of an application for Operational Works.

21. Maximum Building Height

The building height shall not exceed 32.5m from the level of the minimum building floor level (6.68AHD) to the underside of the ceiling of the uppermost habitable room of the building.

FURTHER THAT the report on the further information on Massland Proposed Changes be included in the Agenda report.

Moved Cr Comerford

Seconded Cr Camilleri

CARRIED 11/0

16. SEAFORTH RECREATION CENTRE

THAT Council lobby the State Government regarding the proposed closure of the Seaforth Recreation Centre and express its concerns at this proposed action.

AND FURTHER THAT Council suggest that the management of the centre should be operated by the State Government in Mackay rather than Yeppoon.

Moved Cr Steindl

Seconded Cr Cameron

CARRIED 11/0

The meeting closed at 11:33am.

Confirmed on Wednesday 21 May 2008.

.....
MAYOR

.....
ACTING CHIEF EXECUTIVE OFFICER

