

5.02. MATERIAL CHANGE OF USE (IMPACT ASSESSMENT) - OUTDOOR SPORT AND RECREATION (ELECTRICALLY ASSISTED MOUNTAIN BIKE TOURS)

REPORT AUTHOR(S): Simon Clarke, Planning Consultant
GENERAL MANAGER: Paul Hoye, General Manager Operations
DEPARTMENT: Development and Environment

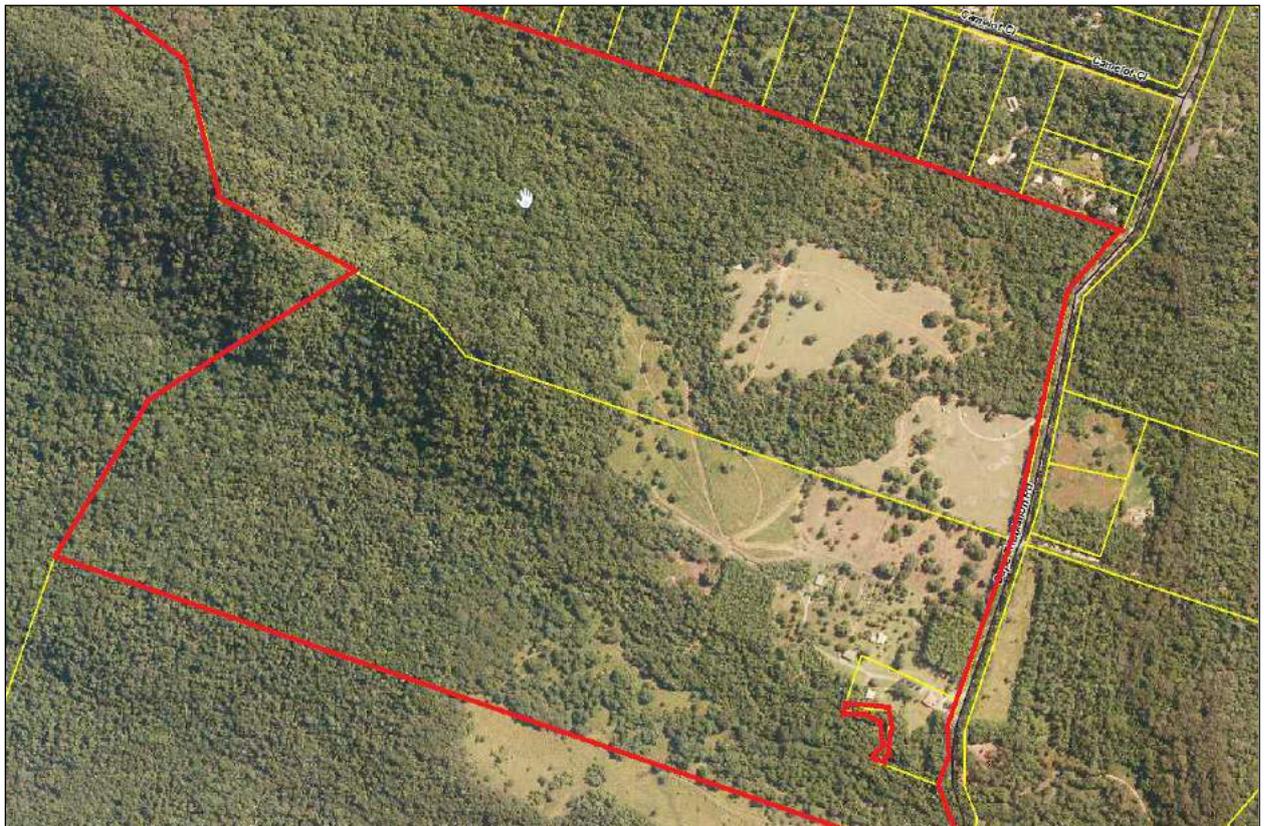
PROPOSAL Material Change of Use (Impact Assessment) - Outdoor Sport & Recreation (Electrically assisted mountain bike tours)

APPLICANT J Rogers
24 Camelot Close
Cape Tribulation QLD 4873

LOCATION OF SITE 3831R & 3781R Cape Tribulation Road, Cape Tribulation

PROPERTY Lot 1 on RP742906, Lot 2 on RP741072 and Lot 2 on RP742906

LOCALITY PLAN



LOCALITY Settlement Areas North of the Daintree River

PLANNING AREA Conservation

PLANNING SCHEME	Douglas Shire Planning Scheme 2006
REFERRAL AGENCIES	None
NUMBER OF SUBMITTERS	None
STATUTORY ASSESSMENT DEADLINE	24 February 2016
APPLICATION DATE	8 October 2015

RECOMMENDATION

That Council approves the development application for Outdoor Sport & Recreation (Electrically assisted mountain bike tours) over land described as Lot 1 on RP742906, Lot 2 on RP741072 and Lot 2 on RP742906, located at 3831R & 3781R Cape Tribulation Road, Cape Tribulation, subject to the following:

APPROVED DRAWING(S) AND / OR DOCUMENT(S)

The term 'approved drawing(s) and / or document(s)' or other similar expressions means:

Drawing or Document	Reference	Date
Site Plan	NC3615 prepared by Consultant Design and Draft, Town Planning and Project Management Services	9 December 2015

ASSESSMENT MANAGER CONDITIONS

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
 - a. The specifications, facts and circumstances as set out in the application submitted to Council; and
 - b. The following conditions of approval and the requirements of Council's Planning Scheme and the *FNQROC Development Manual*.

Except where modified by these conditions of approval

Timing of Effect

2. The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.

Limitation on Use

3. The tracks are to be used for electric assisted bike tours and pedestrian tours only. General motor bike, quad bike or other motor transport is not to be part of the use.

4. The tours are to be conducted on the tracks generally as shown on the approved drawings and groups are to be supervised at all times by a tour guide.
5. Visiting groups are to dismount at creek crossings and walk bikes through creeks to reduce impacts on the creek environment.

Hours of Operation

6. The proposed use is limited to 7.00am – 6.00pm daily.

Advertising signage

7. One A-Frame Sign is approved for the tour operation and is to be located within the premises at all times.

ADVICE

1. This approval, granted under the provisions of the *Sustainable Planning Act 2009*, shall lapse 4 years from the day the approval takes effect in accordance with the provisions of the *Sustainable Planning Act 2009*.
2. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
3. For information relating to the *Sustainable Planning Act 2009* log on to www.dilgp.qld.gov.au. To access the *FNQROC Development Manual*, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au.

EXECUTIVE SUMMARY

The application is seeking a development permit for Material Change of Use (Impact Assessment) to facilitate Outdoor Sport and Recreation (Electric Assisted Bike Tours). The tour will start from Mason's Café and traverse a 4km loop course, utilising existing rainforest tracks across three (3) adjoining freehold properties owned by the Mason family.

The proposal complies with the Desired Environmental Outcomes and the applicable Planning Scheme Codes. The proposal involves no new infrastructure or buildings and will operate a total of seven (7) electrically assisted bikes including the tour guide, per tour. The bikes will be transported via trailer to the site daily and kept at a secure location after business hours. The proposal will co-locate with Mason's Café where adequate car parking is available.

The application is recommended for approval.

TOWN PLANNING CONSIDERATIONS

Background

The land subject to the applications consists of three allotments, being Lot 1 on RP742906, Lot 2 on RP742906 and Lot 2 on RP741072 and comprises of 145 hectares. The existing site has been partially cleared and contains Mason's Store/Cafe.

Proposal

The proposal is seeking a development permit for a material change of use to establish "Outdoor Sport and Recreation" for the purpose of operating guided tours on electrically assisted mountain bikes. The tour will span across three (3) adjoining freehold properties owned by the Mason family. The tour will start at 3781R Cape Tribulation Road more formally known as Mason's Café and traverse a 4km loop course utilising existing rainforest tracks.

- Each tour will comprised a 6/1 customer to guide ratio and will cater for around 60 people per day;
- The bikes will be transported via trailer to the site daily and kept at a secure location after business hours;
- The proposal involves no new infrastructure or building work;
- The tour will utilise existing rainforest tracks, therefore no vegetation clearing is proposed;
- A small "A Frame Sign" is proposed to be erected daily during business hours in a safe location in front of Mason's Cafe;
- Car parking is available at Mason's Store to cater for the anticipated traffic flows generated by the proposed use.
- The tours will be seven days per week operating between 7.00am and 6.00pm.

The proposal will cross Myall Creek along the track. Riders will dismount and walk through the creeks. Water quality will be maintained and the proposal will not cause any environmental degradation.

Plans showing the proposed tracks are included at Attachment 1.

State Planning Requirements

There are no State Planning referral requirements for this particular application

Douglas Shire Planning Scheme Assessment

The land is included within the Conservation planning area and is part of the Settlement Areas North of the Daintree River Locality (Rainforest Tourism Precinct). The proposed use is defined within the planning scheme as 'Outdoor Sport and Recreation'.

Outdoor Sport and Recreation is an Impact (Inconsistent) use in the Conservation planning area (Rainforest Tourism Precinct). The application is therefore assessed against the entire planning scheme.

Development within the Shire must satisfy outcomes identified in the Planning Scheme which seek to achieve ecological sustainability. Outcomes are categorised within the following levels:

- Desired Environmental Outcomes
- Overall Outcomes for Localities
- Specific Outcomes for areas affected by an Overlay
- Specific Outcomes for Planning Areas or Particular Development
- Performance Criteria and associated Acceptable Solutions for a Specific Outcome, Performance Criteria and associated or Acceptable Solutions for Overall Outcomes.

Desired Environmental Outcomes

Chapter 2 of the Planning Scheme outlines the Desired Environmental Outcomes that underpin the Planning Scheme.

The Desired Environmental Outcomes are grouped under core matters which comprise ecological sustainability as follows:

- Ecological Processes and Natural Systems
- Economic Development
- Cultural, Economic, Physical and Social Well-being of the Community.

(1) Ecological Processes and Natural Systems

Desired Environmental Outcome	Applicant’s response
<p>DEO 1: The unique environmental values of the Shire, which result from its location within the Wet Tropics Bioregion, are maintained and protected for current and future generations.</p> <p>DEO 2: Those parts of the Shire located within the Wet Tropics and Great Barrier Reef World Heritage Areas and other adjacent areas of environmental value and ecological significance, are preserved and protected for nature conservation, landscape/scenic quality, biodiversity and habitat values, in particular the protection of the Southern Cassowary and its habitat and to ensure the integrity of natural processes.</p> <p>DEO 3: Natural waterways such as the Daintree River, the Mossman River, the Mowbray River and Dicksons Inlet, all wetlands but particularly those on the Directory of Wetlands of Importance in Australia, being the Lower Daintree River, Alexandra Bay and the Hilda Creek Headwater; and all catchments located in the coastal areas within the Shire, are managed to protect their ecological processes, enhance water quality, conserve riparian ecological values and landscape/scenic quality, while acknowledging nature based recreation opportunities.</p> <p>DEO 4: The unique environmental character of the Shire comprised of internationally renowned landscapes, ecologically significant</p>	<p>DEO 1 – 4 Response: The proposal protects the environmental values of the shire by promoting low impact ecotourism and showcasing the unique environmental character of the wet tropics.</p> <p>The electric bike tours will utilise existing rainforest tracks on private freehold land with no further vegetation clearing proposed. Therefore the proposal will not disturb the ecologically significant rainforest systems and complies with the outcomes sought for ecological processes and natural systems.</p>

Desired Environmental Outcome	Applicant's response
rainforest systems, sensitive coastal systems and areas of unsurpassed natural beauty, are maintained in association with sustainable development practices, which seek to minimise the effects of development on the natural environment.	

(2) Economic Development

Desired Environmental Outcome	Applicant's response
<p>DEO 5: A prosperous community with a strong rural sector, a dynamic tourism industry and commercial and industrial activities offering a diverse range of employment opportunities is supported by the sustainable use and management of the natural resources of the Shire.</p> <p>DEO 6: The natural resources of the Shire, such as GQAL, extractive resources, water and forestry resources, are protected and managed in a manner that ensures their ecological and economic values are assured for present and future generations.</p> <p>DEO 7: The values of the Shire are protected by a preferred pattern of development through identifying GQAL which sustains productive primary industries, particularly sugar, horticulture and cattle grazing industries, and consolidates growth and employment opportunities, primarily in the identified locations of Mossman and Port Douglas.</p> <p>DEO 8: The economic development of the Shire is facilitated by the provision of physical infrastructure which complements the conservation economy of the Shire with 82% of its lands within the WTWHA in an efficient, equitable and environmentally safe manner, as well as circulation networks which provide for the efficient movement of people and goods, without compromising the Captain Cook Highway as the scenic entry corridor to the Shire.</p>	<p>DEO 5 – 8 response The proposal promotes ecotourism and complements the conservation economy of the shire. Furthermore the proposal contributes to the economic sustainability of the shire by providing new employment opportunities and business enterprise to support the established tourism industry within Cape Tribulation. Therefore the proposal complies with the outcomes sought for economic development.</p>

(3) Cultural, Economic, Physical and Social Well-being of the Community

Desired Environmental Outcome	Applicant's response
<p>DEO 9: Places of cultural and heritage significance, both Indigenous and European, are identified, protected and retained for their significance and importance to the history and identity of the Shire.</p> <p>DEO 10: A range of housing options, which provide a high standard of living and a variety of different residential lifestyle opportunities, are available in the Shire and are provided in a sustainable manner with regard to the environment, including its people and communities and the provision of services and facilities.</p> <p>DEO 11: The distinctive character and unique sense of place of the towns, villages and other settlement areas in the Shire including the Daintree Lowlands Community, are maintained, promoting community pride and well-being and community safety and prosperity.</p> <p>DEO 12: Residential communities, particularly within the major tourism areas of Port Douglas, Daintree Village and the Daintree Lowlands maintain a prosperous economy, a sense of community with the natural features, character of those areas and community values and cohesion, promoting harmony between residents and visitors.</p>	<p>DEO 9 – 12 response: The proposal compliments the distinct character and unique sense of place that makes Cape Tribulation a world renowned location.</p> <p>The proposed tour provides an environmental friendly way to explore the rainforest and allows people of all ages and fitness levels to participate through the use of electrically assisted mountain bikes.</p> <p>Therefore, the proposal complies with the outcomes sought for Cultural, Economic, Physical and Social Wellbeing of the Community.</p>

Collectively, no issue is raised with compliance with the DEOs contained within the planning scheme and the proposed use.

Overall Outcomes for Localities

The land is included within the Settlement Areas North of the Daintree River.

The proposed use is considered to be generally consistent with the overall outcomes of the locality code, as outlined below:

- The land use will not compromise the values of WTMA by ensuring that adjacent settlement areas are limited in extent and have a character and identity which are complementary to those values;
- The proposal is low key and sustainable and within the development limits set by Daintree River ferry crossing and the vehicular capacity of the Alexandra Range crossing and the local road network;
- The proposal provides an appropriate level of economic opportunity for local residents;
- The proposal is designed and operated to achieve an environmentally sustainable outcome by taking into account the specific values of the area in which it is located and the site's constraints and opportunities;
- The use is sensitive and sympathetic to its remote location;
- The use will not compromise the natural forested character of the locality.

Specific Outcomes for Areas affected by an Overlay

The subject land is affected by the Cultural Heritage and Valuable Sites and the Natural Hazards Overlay.

(i) The Cultural Heritage and Valuable Sites Overlay

The purpose of this Code is to ensure that cultural heritage features of value, places/Sites/elements of cultural/historical significance and valuable Sites to the local and wider community are identified, recorded, retained and conserved, where possible, in order to:

- Protect the cultural heritage of the Shire;
- Acknowledge the local history of the Shire as an important community asset;
- Ensure that cultural heritage features of value and places/Sites/elements of cultural/historical significance and valuable Sites are protected from damage or loss, inappropriate redevelopment and from inappropriate adjacent development, wherever possible.

The Cultural and Valuable Sites overlay identifies Mason's Store as a significant site within the shire. The proposal involves no alterations to the existing building or new infrastructure which could detract from the cultural significance of Mason's Store. The proposal protects the cultural heritage of the site and acknowledges the local history of the shire as an important community asset. The proposal provides another opportunity to strengthen the emphasis on ecotourism within Cape Tribulation and will not have a detrimental impact upon the cultural significance of Mason's Store.

Therefore the proposal complies with the outcomes being sought for Cultural and Valuable Sites Overlay.

(ii) The Natural Hazards Overlay

The purpose of this Code is to ensure that development does not occur in areas prone to bush fires and to minimise any risks associated with bushfires in the Shire.

The proposal complies with the Natural Hazards Overlay. No new buildings or infrastructure are proposed and tours will only occur when weather permits.

Specific Outcomes for Planning Areas

The land is included within the Conservation Planning Area. It is also part of the Rainforest Tourism Precinct in the Northern Management Area of the Settlement Areas North of the Daintree River Locality.

It is considered that the proposed use is consistent with the intentions of the Tourist Precinct and therefore not in conflict with the planning scheme.

Performance Criteria and associated Acceptable Solutions

The following table addresses the applicability of each code within the planning scheme and the specific performance criteria and acceptable solutions contained within those codes. The dialogue following the table addresses specific areas of issue and/or non-compliance with the codes.

Douglas Shire Settlement Areas North of the Daintree River Planning Locality		Code Applicability	Compliance
Defined Use	Outdoor Sports & Recreation		
General Codes	Design and Siting of Advertising Devices Code	✓	Complies (see comment below)
	Filling and Excavation Code	✗	n/a
	Landscaping Code	✗	n/a
	Natural Areas and Scenic Amenity Code	✗	n/a
	Reconfiguring a Lot Code	✗	n/a
	Vehicle Parking and Access Code	✓	Complies (see comment below)
	Sustainable Development Code	✗	n/a

Compliance Issues(i) Vehicle Parking and Access Code

The proposed use, being Outdoor Sport and Recreation, will co-locate with the existing shop being Mason's Café. The current parking provisions and access arrangement established by the shop can adequately support the additional vehicle movements created by the proposal. The tour will have a maximum of six (6) customers on each tour and will not adversely impact upon the existing use.

(ii) Design and Siting of Advertising Devices Code

The proposed use will utilise a single "A Frame Sign" to advertise the business. The sign will be appropriately positioned outside Mason's Café and will not detract from the amenity of the locality or streetscape. The proposed advertising device compliments the existing tourism/information hub of Mason Café and therefore complies with the requirements of the Advertising Devices Code.

Referral Agency Requirements

None applicable.

Public Notification / Submissions

The application was publicly notified. There were no submissions in response to advertising.

ADOPTED INFRASTRUCTURE CHARGES

The proposed development does not trigger Adopted Infrastructure Charges.

COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following area outlines where Council has a clear responsibility to act:

Regulator: Meeting the responsibilities associated with regulating activities through legislation or local law.

Under the *Sustainable Planning Act 2009* and the *Sustainable Planning Regulation 2009*, Council is the assessment manager for the application.

ATTACHMENTS

Attachment 1 – Approved Plan(s) & Document(s)

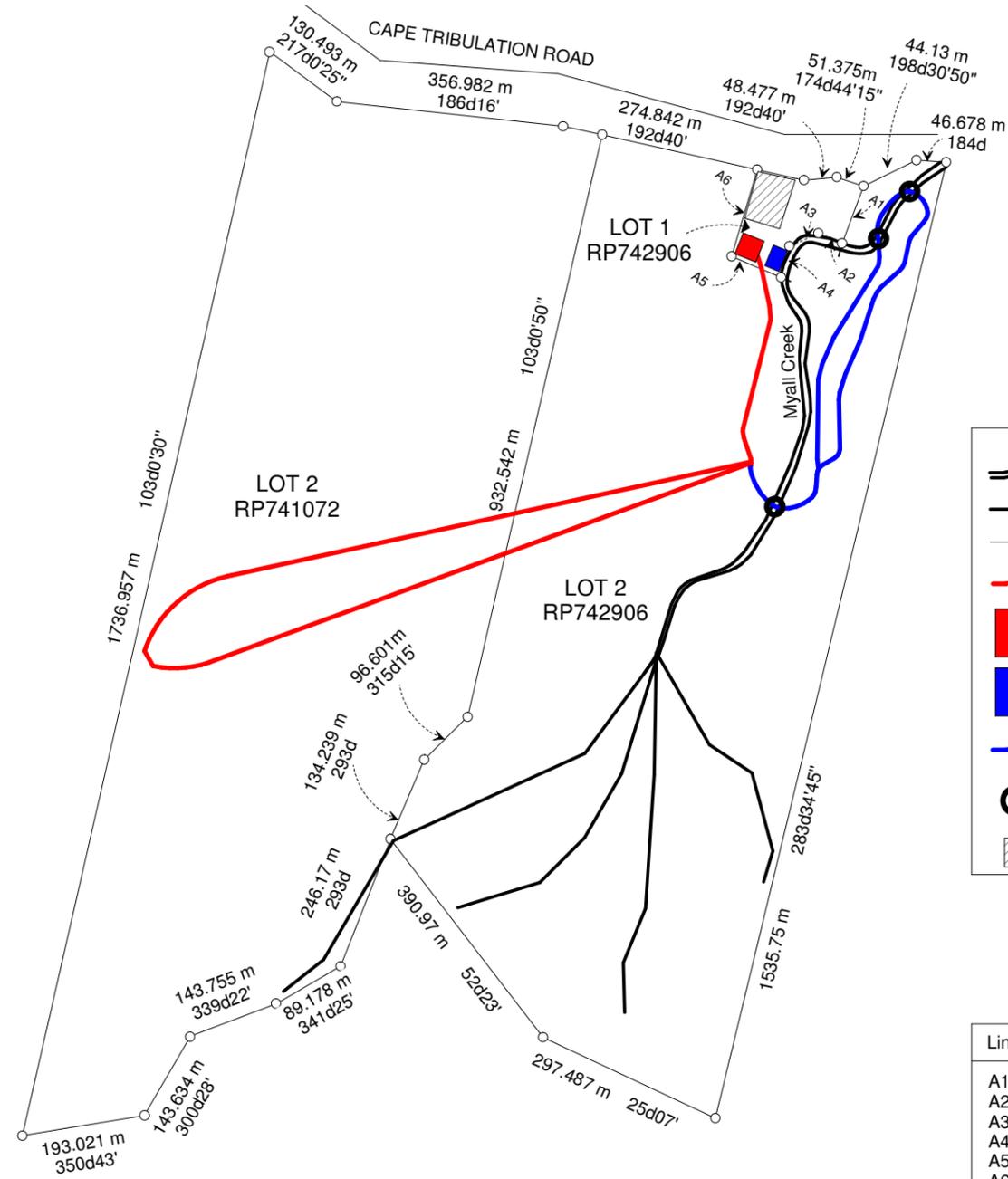
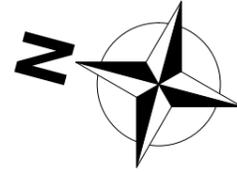
PROPERTY DESCRIPTION

PARISH: NOAH
 COUNTRY: Solander
 TENURE: Freehold
 ZONING: Rural

LOT SIZES

Lot 1 on RP742906 2.056ha
 Lot 2 on RP742906 72.016 ha
 Lot 2 on RP741072 74.28 ha

GA 1 €



Legend

- Creek/Waterway
- Mt. water runoff
- Boundary Line
- Mt. Bike Track
- Base of Tour
- Mason Cafe
- Secondary Mt. Bike Track
- Creek Crossing
- Car Park

Line	Lenght	Bearing
A1	172.62 m	109d31'30"
A2	83.995 m	12d58'20"
A3	50.44 m	285d32'30"
A4	49.44 m	321d03'50"
A5	40.24 m	12d49'55"
A6	94.25 m	285d20'35"

For Planning Approval Only - MCU - Outdoor Sport & Recreation
 Client: Jordan Rogers
 Address: 3831R & 3781R Cape Tribulation Road, Cape Tribulation



Amedments:
 Parish: NOAH
 County: Solander

SITE PLAN		Scale	NC3615
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