

YOUR REF: 564-002-002R-DSC
OUR REF: MCUI 1005/2015 (463884)

10 September 2015

Yenor Pty Ltd
C/- Peter Robinson
PO Box 2133
CAIRNS QLD 4870

Dear Sir

**ACKNOWLEDGEMENT NOTICE AND INFORMATION REQUEST
FOR MATERIAL CHANGE OF USE – RESTAURANT (OTHER THAN BAR
AND GRILL, DRIVE THROUGH OUTLET AND FAST FOOD OUTLET) AND
SHOPPING FACILITIES (PROVIDING CONVENIENCE SHOPPING FOR
THE LOCAL COMMUNITY, TRAVELLERS AND TOURISTS)
5961R DAVIDSON STREET, CRAIGLIE**

Receipt of the above application for a Restaurant (other than Bar and Grill, Drive Through Outlet and Fast Food Outlet) and Shopping Facilities (Providing Convenience Shopping for the Local Community, Travellers and Tourists) is acknowledged. It is noted the amended IDAS Form 1 was received by Council on 3 September 2015.

Please find attached an Acknowledgement Notice prepared in accordance with sections 267 and 268 of the *Sustainable Planning Act 2009*. The Acknowledgement Notice contains information relevant to the processing and assessment of the application.

It is indicated on the Acknowledgement Notice that the application requires referral to a referral agency. Accordingly you are required to forward a copy of the application and the attached Acknowledgement Notice to the State Assessment and Referral Agency within 20 business days (section 272). You must then advise Council in writing of the date that the application was referred to each agency (section 275). Should you be required to provide further information by the State Assessment and Referral Agency, then a copy of any response to such request must also be lodged with Council as the Assessment Manager (section 278(2)). Council requires that you provide two (2) copies of the response to all such information requests.

Public notification of the application may not commence until the end of the Information and Referral Stage.

■

After a preliminary examination of the above application, the following information is required in order to complete an assessment of the proposal (section 276):

Easement Document

1. Please provide detail of Easement D on SP262063 including the nature, extent and details of all benefited land. The proposed design indicates possible future use of the easement area for parking and landscaping. Please advise how such use and development is consistent with the easement document.
2. Page 7 of the planning report states,

“The easement along the northern boundary is an access easement in favour of the adjoin site which facilitates movement between the two and access to the rear without having to interfere with safe movement within the service station.”

The approved plans and development for the neighbouring service station annotate,

“The fencing between the properties is to be a 1.8m screen fence tapering to a height of 1.2 metres within 6m of the front boundary. The fence on the boundary may be of lesser height with the written permission of the adjoining property owner.”

Please provide a traffic report by a suitably qualified engineer demonstrating the safety of pedestrian and vehicle movements on and off the site having regard to the movement of vehicles on the neighbouring service station site and the movement of all vehicles that utilise the easement. In particular provide swept path movements for all types of delivery vehicles, including all fuel delivery vehicles, attending the neighbouring service station.

Dimensions of Plan

3. Please provide fully dimensioned plans including external building areas, external dining areas, driveways, loading areas car parking spaces and pedestrian pathways.

Disability Access

4. Please provide a plan demonstrating and certified by an appropriately qualified professional that the development complies with the Premises Standards in respect to disability access from the street and from appropriately allocated car parking spaces.
5. Please provide a plan demonstrating and certified by an appropriately qualified professional that the development complies with AS 2890 including current requirements for disability car parking requirements. Concern is raised with the possible conflict of the shared areas for disability parking and two-way vehicle access area.

Safety from Neighbouring Use

6. Please provide advice and demonstrate how the attendees to the land are safe guarded from the fuel storage facility on the neighbouring land, in particular the LPG above ground tank and traffic movements on the adjacent land.

Type of Land Uses Sought

7. The Planning report states that the Applicant is not considering to include specific businesses, *"like furniture sales and other large area retailers, high volume franchised fast food outlets such as Kentucky Fried Chicken, Subway, Hungry Jacks and the like, ... pharmacy, clothing and apparel and the like."* However, under the *Sustainable Planning Act 2009* the approval will be tied to the land not the Applicant.

"Restaurant (other than Bar and Grill, Drive Through Outlet and Fast Food Outlet) and Shopping Facilities (Providing Convenience Shopping for the Local Community, Travellers and Tourists)."

The terms *Bar and Grill, Drive Through Outlet and Fast Food Outlet* are included the in Planning Scheme definition of a Restaurant as being facilities commonly described in respect to a Restaurant. These terms are not further defined by the Planning Scheme.

While the term "drive through outlet" may be considered as an identifiable type of restaurant. Please demonstrate how the types of excluded restaurant facilities are defined and are regulated by the approval and the Responsible Authority. The Macquarie Dictionary (third edition 1998) defines "Fast Food" as, *'food for sale, such as chicken, chips, hamburgers etc., which can be provided without delay.'* For example where a bakery provides takeaway pies this commodity could be considered as a "Fast Food". What is the Applicant's definition of a *"Bar and Grill"* and how is such a use differentiated from a "bistro" or what would be described by a lay person as a restaurant.

8. The terms *"Convenience Shopping," "Local Community," "Travellers"* and *"Tourists"* are not further defined by the Scheme. Please demonstrate how the commodities for sale under the term *"Convenience Shopping"* are limited and defined and are regulated by the approval and the Responsible Authority. Please explain what is meant by the term *"Local Community."* Please advise what type of customer or attendee to the site would not include a person within the terms, *"Local Community," "Travellers"* and *"Tourists."*
9. Page 8 of the planning report includes the uses of *"General Store"* and *"Retail art gallery"* as a likely uses to be established. Please explain how the uses *"General Store"* and *"Retail art gallery"* are considered to be within the term of *"Convenience Shopping"* facility and how the uses of a *"pharmacy, clothing and apparel and the like"* facility are not.

10. Page 10 of the Planning report states,

“The uses applied for are:

- *Restaurant; and*
- *Shopping Facility.”*

This statement contradicts the previous parts of the report, as discussed above and that listed on the IDAS forms that specifically limit the description of types of restaurant and shopping facilities. Please fully and clearly clarify the proposed use sought for the land.

11. Section 1.7 of the Planning Scheme identifies outcomes of the Scheme and these include Acceptable Solutions. Section 3.2 further states that impact assessable (inconsistent) uses are identified as being inconsistent with the planning scheme. Please provide advice on what basis the meeting of a performance criteria negates the need to address the outcome sought under the Acceptable Solution of A1.1 of the Industry Planning Area Code.

Access to Local Community

12. Please map the area that is considered as the *“local community”* and how it is anticipated the *“local community”* will access the site. In particular, what type of method of transport and how safe pedestrian and bicycle access will be provided for the community on the eastern side of the Captain Cook Highway to negotiate and across the Highway. Consideration is to be provided in respect to current and future vehicle usage of the Highway. Please detail the assumptions on which this catchment is based. The map should also identify other premises where restaurant and or shopping facilities are available and their respective catchment areas.
13. Please provide evidence as to how considerations regarding the land uses in Portsmith, a major industrial area of a Regional City under a different Planning Scheme and identified as a different hierarchy of a local government area under the *Sustainable Planning Act 2009*, has relevance to the application lodged with Douglas Shire Council.

Loading and Refuse Area

14. Please provide swept path diagram demonstrating the movement of loading vehicles and garbage collection vehicles on the land having regard that all vehicles must enter and leave the property in a forward movement and that the whole of the loading and garbage collection vehicles must complete turns within the confines of the lot and not interfere with any visitor parking spaces.

A heavy vehicle (other than a combination other than a B-double, road train or a car carrier, that is 19 metres sided loading) delivery truck and a standard sized garbage truck should be applied in compiling this response.

Should you not apply heavy vehicle (19m) length please provide reasons

Amenity

15. Please provide advice as to how the amenity of the customers and land occupiers will be mitigated from the activities and uses of the neighbouring and surrounding area having regard to the existing uses and the uses anticipated to be established in the surrounding area, that is, self, code and impact assessable uses.
16. Please provide advice as to what particular amenity is offered at the site to enable the community to seek a, *“local experience, relaxing conditions to eat / drink and in the main, a good food experience,”* when the use is located in an Industry Planning Area and adjacent to the state-controlled Captain Cook Highway.

Planning Need

17. The last paragraph on Page 4 of the planning report states,

“the dominant economic activity is tourism and tourist accommodation. As a consequence, Port Douglas has a massive amount of retailing and food service premises relative to its permanent population.”

- a. Provide an economic planning analysis by a suitably qualified expert demonstrating there is a need for further land to be allocated for retailing and food service in the Shire, for the area of the Port Douglas and Environs Locality, and that where a need is established that the need be specifically addressed on the land.
 - b. Please provide advice in the economic planning analysis of the impact of a commercial retail hub in this location on the future development of the surrounding area, including the industry and service industry intent for this Special Management Area.
 - c. Please provide advice as to how the need identified in the planning report is not already catered for in existing commercial planning areas, including local centres and the approved expansion of the Shopping Facility at the northeast corner of Port Douglas Road and the Captain Cook Highway.
18. Please explain how it is inconvenient for the *“Local Community,” “travellers” and “tourists”* not to utilise the existing Shopping Facilities and Restaurants in comparison to the alleged need for these persons to use the premises.
 19. Paragraph 3 on page 5 of the Planning report states,

“South of Craiglie the drive north of Palm Cove is highly regarded for its scenic quality, but because of the topography through which it traverses, it is relatively slow speed and often taxing compared to other major rural arterial routes.”

While some small parts of this drive are at speeds of 60kmph, the majority of the drive is at 80 – 100 kmph. The trip from north of Palm Cove can take approximately one hour depending on traffic.

It is noted that travellers can stop at places between Palm Cove and Craiglie for refreshments and there are scenic outlook points where a driver can break the journey. Given the distance and time provide details and an explanation why it is necessary for a driver to stop at Craiglie for a restaurant and/or convenience shopping. Further why stopping is necessary when a few minutes more driving will result in access to existing facilities.

20. Please provide a map of the catchment area of the local residents expected to attend the premises and detail the assumptions on which this catchment is based. The map should identify other premises where restaurant and or shopping facilities are available and their respective local catchment areas.

21. Paragraph three on page 19 of the Planning report states,

“A recent survey carried out for the applicant estimates that there is currently 35,300 square metres of tourist retailing available in Port Douglas alone.”

Please provide a copy of the survey.

22. Provide a copy of the survey undertaken as mentioned in paragraphs 2, 3 and 4 on page 22 of the Planning report.
23. Please identify what is the, *“alternative retail centre of Port Douglas,”* that is a considerable distance away and inconvenient for local employees and travellers in paragraph 4 on page 33 of the Planning report.
24. Please provide comment as to why the proposal should not be considered as a defacto new local centre and provide comments in respect to P14 on page 6 of Appendix 1 of the Planning report.

Road Network and Efficiency

25. Please provide details of expected vehicle trips generated by the use, the number of users that would already be travelling past the site and the number that would specifically attend the site as the primary destination of the trip. Please map the catchment area for those attending the site as a primary destination.

Advertising Devices

26. Please provide plans and elevations of all advertising devices proposed for the land.

Other

If required, Council is willing to convene a meeting to discuss the above information request.

In accordance with section 279 of the *Sustainable Planning Act 2009*, the application will lapse if no response to this information request is received within six (6) months.

Please note that the information response to Council should include two (2) complete copies of the response and if plans form part of the response then two (2) sets of such plans at scale should also be provided.

Should you require any further information or assistance, please contact Jenny Elphinstone of Development and Environment on telephone number 07 4099 9482.

Yours faithfully

Donna Graham
Manager Development and Environment

Att

YOUR REF: 564-002-002R-DSC
OUR REF: MCUI 1005/2015 (463884)

10 September 2015

**ACKNOWLEDGEMENT NOTICE PURSUANT TO S 267 & S 268
SUSTAINABLE PLANNING ACT 2009 FOR DEVELOPMENT APPLICATION
5961R DAVIDSON STREET, CRAIGLIE**

PROPOSAL: Restaurant (Other Than Bar and Grill, Drive Through Outlet and Fast Food Outlet) and Shopping Facilities (Providing Convenience Shopping for the Local Community, Travellers and Tourists)

APPLICANT: Yenor Pty Ltd
C/- Peter Robinson
PO Box 2133
CAIRNS QLD 4870

LOCATION OF SITE: 5961R Davidson Street, Craiglie

REAL PROPERTY DESCRIPTION: Lot 58 on C22511

TYPE OF DEVELOPMENT:

The application seeks development approval for

	Sustainable Planning Regulation 2009, schedule 3 reference	Development Permit	Preliminary Approval
Development of a material change of use made assessable under the planning scheme.		<input checked="" type="checkbox"/>	<input type="checkbox"/>

REFERRAL AGENCIES

Based on the information provided in the application, referral is required to the State Assessment and Referral Agency (SARA), administered by the Department of Infrastructure, Local Government and Planning (DILGP).

DILGP prefers that referrals are made online at www.dilgp.qld.gov.au/MyDAS.

Alternatively, referrals can be posted or emailed as follows:

State Assessment and Referral Agency
Department of Infrastructure, Local Government and Planning
Far North Queensland Regional Office
Postal: PO Box 2358, CAIRNS QLD 4870
Email: CairnsSARA@dilgp.qld.gov.au

The triggers for the referral are listed in the following table:

For an application involving	Trigger (Schedule 7 Sustainable Planning Regulation 2009)	Name of technical agency	Advice or concurrence agency
State-controlled road	Table 3, Item 1	Department of Main Roads, Road Safety & Ports	Concurrence

This list is provided for your information only. It is the applicant's responsibility to identify any referral agencies for the application and give each referral agency a copy of:

- the application (including the application forms and supporting material)
- this acknowledgement notice, and
- any required application fee.

The above material must be given to all referral agencies within:

- 20 business days after the applicant receives this acknowledgement notice, or
- the further period agreed between the assessment manager and the applicant.

If you do not give the material mentioned above to all referral agencies within these timeframes, the application will lapse (see section 273 of the *Sustainable Planning Act 2009*).

CODE ASSESSMENT REQUIRED: No

IMPACT ASSESSMENT REQUIRED: Yes

The requirements for public notification are set out in the *Sustainable Planning Act* 2009, chapter 6, part 4. You should have regard to the legislation when carrying out the public notification. In summary, you are required to:

- publish a notice at least once in a newspaper circulating generally in the locality of the land;
- place a notice on the land in the way prescribed under the *Sustainable Planning Regulation* 2009, and
- give a notice to the owners of all land adjoining the land.

All of the above notices must be in the approved form available on the Department of Infrastructure, Local Government and Planning's website at www.dilgp.qld.gov.au .

The notification period for the application must be at least.

15 business days (not including any business days between and including 20 December in a particular year and 5 January in the following year) or

The notice placed on the land must remain on the land for all of the notification period.

**ASSESSMENT MANAGER INTENDS
TO MAKE AN INFORMATION
REQUEST:**

Yes. Refer to cover letter.