

30 November 2020

**Enquiries:** Jenny Elphinstone  
**Our Ref:** MCUI 2006\_2249/2 8/37/14(Doc ID 984673)  
**Your Ref:** 31565-002-01

Kakai Pty Ltd  
C/- Brazier Motti  
PO Box 1185  
CAIRNS QLD 4870

Email: [cns.planning@braziermotti.com.au](mailto:cns.planning@braziermotti.com.au)

Attention Mr Michael Tessaro

Dear Sir

**Development Application for Request for Minor Change for eth Material Change of use  
for Indoor Recreation, Outdoor Entertainment, Restaurant and Bar  
At 3781 Cape Tribulation Road Cape Tribulation  
On land described as Lots 1 and 2 on RP742906**

Please find attached the Decision Notice for the above-mentioned development application.

Please quote Council's application number: MCUI 2006\_2249/2 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9444.

Yours faithfully



*For*

**Paul Hoyer**  
**Manager Environment & Planning**

encl.

- Decision Notice
  - Approved Drawing(s) and/or Document(s)
  - Reasons for Decision
- Advice For Appeals (Decision Notice)



## Decision Notice

### Approval (with conditions)

*Given under section 83 of the Planning Act 2016*

#### Applicant Details

Name: Kakai Pty Ltd  
Postal Address: C/- Brazier Motti  
PO Box 1185  
CAIRNS QLD 4870  
Email: [cns.planning@braziermotti.com.au](mailto:cns.planning@braziermotti.com.au)

#### Property Details

Street Address: 3781 Cape Tribulation Road Cape Tribulation  
Real Property Description: Lots 1 and 2 on RP742906  
Local Government Area: Douglas Shire Council

#### Details of Proposed Development

Development Permit for MCU - Material Change of Use (Request for Minor Change (Indoor Rec/Outdoor Ent/Restaurant and Bar))

#### Decision

Date of Decision: 30 November 2020

Decision Details: That the application for a minor change application is approved whereby:

1. The approval Drawings and /or Documents include the following additional documents.  
**Approved Drawing(s) and/or Document(s)**  
The term 'approved drawing(s) and/or document(s) or other similar expressions means:

Drawing or Reference Document	Date
Elevation and colour scheme	As provided by the applicant (Council document 982185)
Structural Details	11 November 2020
Sketch Plan	ENG Consulting drawing 3948-2, Sheet 1 of 1
	May 2011
	11 November 2020

2. All other conditions and advices of the Negotiated Decision dated 29 April 2010 remain unchanged.

### **Further Development Permits**

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Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Building Work

All Plumbing and Drainage Work must only be carried in compliance with the Queensland *Plumbing and Drainage Act 2018*.

### **Currency Period for the Approval**

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This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

### **Rights of Appeal**

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The rights of applicants to appeal to a Tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

A copy of the relevant appeal provisions are attached.

Approved Drawing(s) and/or Document(s)

Typical Shelter

Figure 1: Cover Structure Design



Source: FNQ Shade 'n' Shelter

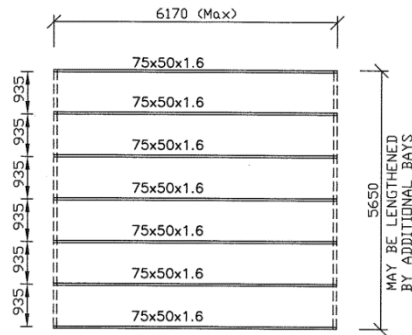
Figure 2: Colorbond Chart



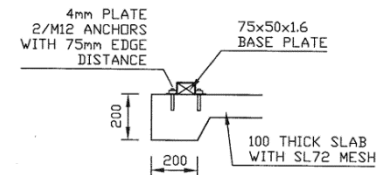
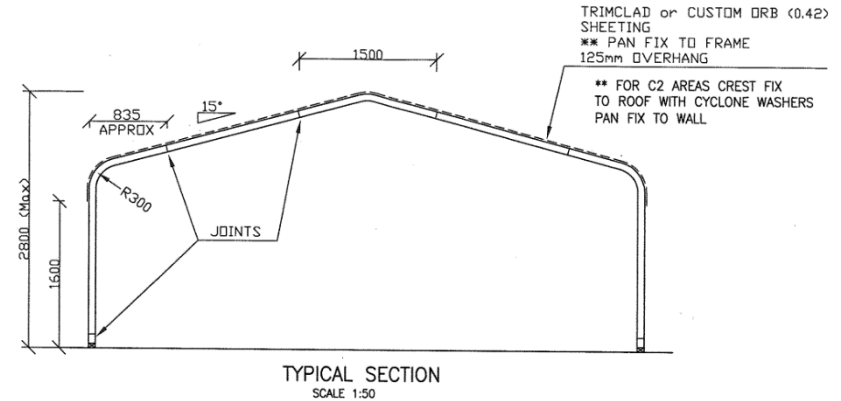
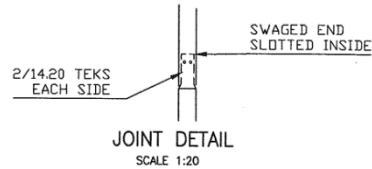
**Manor Red**

Source: Colorbond

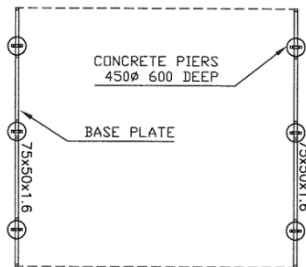
CONCRETE QUALITY  
ELEMENT SLUMP MAX. SIZE AGG. CONC. STRENGTH  
FOOTING 80mm 20mm 20MPa  
ALL WELDS TO BE USING E48 OR E55 LOW HYDROGEN ELECTRODE SUCH THAT THE STRENGTH OF THE COLD FORMED SECTIONS IS NOT REDUCED.  
2mm WELDS GENERALLY TO BE USED.



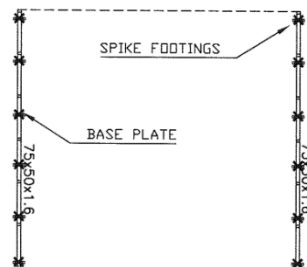
ROOF FRAMING PLAN  
SCALE 1:100



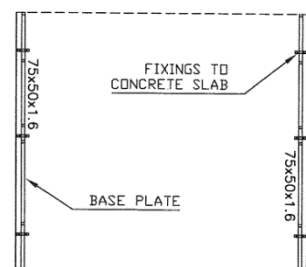
SLAB EDGE DETAIL  
SCALE 1:20



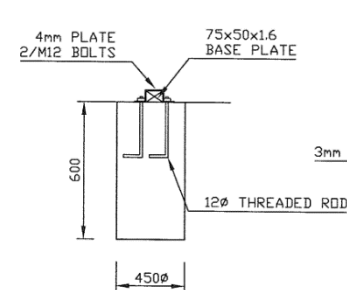
FOR EXTENDED SHED PROVIDE  
ADDITIONAL FOOTINGS AT 2000cc MAX.  
CONCRETE FOOTING LAYOUT  
SCALE 1:100



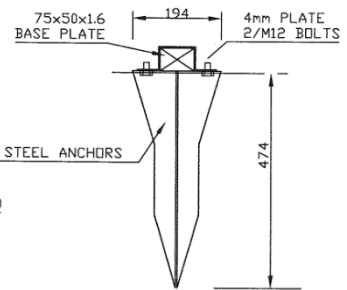
FOR EXTENDED SHED PROVIDE  
ADDITIONAL FOOTINGS AT 1500cc MAX.  
SPIKE FOOTING LAYOUT  
SCALE 1:100



FOR EXTENDED SHED PROVIDE  
ADDITIONAL FIXINGS AT 2000cc MAX.  
CONCRETE SLAB FOOTING LAYOUT  
SCALE 1:100

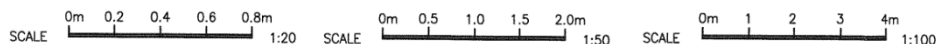


PIER FOOTING DETAIL  
SCALE 1:20



SPIKE FOOTING DETAIL

ANCHORS TO BE DRIVEN INTO FIRM COHESIVE GROUND  
NOTE: - IN LOOSE OR SANDY SOILS ADDITIONAL OR ALTERNATIVE ANCHORS SHOULD BE PROVIDED



CONSULTING  
CIVIL, STRUCTURAL AND HYDRAULIC ENGINEERING

A.B.N. 47 138 028 458

PH. (07) 5485 1736 POSTAL ADDRESS: P.O. BOX 243  
FAX. (07) 5485 8736 CARBOURNE QUEENSLAND 4510  
ADDRESS: 8/26 GEORGE ST, CARBOURNE

DATE	AMENDMENT

DRAWING TITLE  
STRUCTURAL DETAILS

PROJECT  
TRANSPORTABLE SHADE SHED  
6m SPAN  
N4/C2 DESIGN WIND REGION

CLIENT TRANSPORTABLE SHADE SHEDS

Registered Engineer:	DATUM	APPROVED	DRAWING NO. 3948-2
HUGH GEHRMANN /07/11	DRAWN TO	DATE: MAY 11	1 of 1
R.P.E.Q. 4008	Scale AS SHOWN	Amendment:	







Proposed Shade Structure within Lot 1 on RP742906  
Cape Tribulation Road, Cape Tribulation  
Kakai Pty Ltd



Sketch No. 31565/001A  
9 November 2020

## Existing Development Permit

### Attachment 2 – Existing Negotiated Decision Notice

ENQUIRIES: Mrs Michelle Henderson  
PHONE: (07) 4099 9457  
FAX: (07) 4044 3836  
YOUR REF: 31565 1-3  
OUR REF: 8/37/14 (2555672)

29 April 2010

Kakai Pty Ltd  
C/- Brazier Motti Pty Ltd  
PO Box 1185  
**CAIRNS QLD 4870**

Attention: Mr James Thorne-Stones

Dear Sir/Madam

**NEGOTIATED DECISION UNDER S363 SUSTAINABLE PLANNING ACT 2009:**  
**DEVELOPMENT APPLICATION FOR**  
**CAPE TRIBULATION ROAD, CAPE TRIBULATION**

With reference to the abovementioned Development Application which was determined by Council at the Ordinary Meeting held on 28 April 2010 please find attached the relevant Decision Notice.

The notice includes extracts from the Act with respect to making representations about conditions, suspension of the appeal period, and lodging an Appeal. The Restaurant will operate from the existing Takeaway building, and the projected number of patrons is not likely to increase until the Indoor and Outdoor Recreation components of the development are constructed. It is noted that the existing vehicle parking and infrastructure onsite is sufficient for the use. As such, the Restaurant use is able to commence without complying with conditions of the approval pertaining to the Indoor and Outdoor Recreation.

Should you have any enquires in relation to this Negotiated Decision Notice, please contact Michelle Henderson of Council's Development Assessment team on telephone number (07) 4099 9457.

Yours faithfully

Simon Clarke  
**Manager Development Assessment**

**Att**

40.2006.2249  
1/45



**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

**APPLICANT DETAILS**

Kakai Pty Ltd  
C/- Brazier Motti Pty Ltd  
PO Box 1185  
CAIRNS QLD 4870

**ADDRESS**

Cape Tribulation Road, Cape Tribulation

**REAL PROPERTY DESCRIPTION**

Lots 1 & 2 on RP742906

**PROPOSAL**

Indoor Recreation/Outdoor Entertainment Restaurant & Bar

**DECISION**

Approved subject to conditions (refer to approval package below).

**DECISION DATE**

This Negotiated Decision Notice dated 28 April 2010 replaces the Decision Notice dated 10 February 2010.

**TYPE**

Material Change of Use (Development Permit)

**REFERRAL AGENCIES**

*(MCU or ROL containing remnant vegetation as defined under the Vegetation Management Act 1999)*

Development Application Lodgement  
Department of Environment & Resource Management  
PO Box 15155  
CITY EAST QLD 4002

*(Heritage, Coastal & ERAs EPA)*

Development Application Lodgement  
Department of Environment & Resource Management  
(Formerly EPA)  
PO Box 15155  
CITY EAST QLD 4002

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**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

**SUBMISSIONS**

There were two (2) submissions for this application.

Matt & Michelle Wenden	Lot 1 Cape Tribulation Road	CAPE TRIBULATION QLD 4873
Stephen Walsh	Lot 24 Camelot Close	CAPE TRIBULATION QLD 4873

**FURTHER DEVELOPMENT PERMITS REQUIRED**

Development Permit for Building Works

Development Permit for Plumbing Works

Development Permit for Operational Works

**CODES TO COMPLY WITH FOR SELF-ASSESSABLE DEVELOPMENT**

None

**DOES THE ASSESSMENT MANAGER CONSIDER THE APPLICATION TO BE IN CONFLICT WITH APPLICABLE CODES, PLANNING SCHEME, STATE PLANNING POLICIES OR PRIORITY INFRASTRUCTURE PLAN (IF YES, INCLUDE STATEMENT OF REASONS)**

Not in conflict

**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
Schematic Site Plan	Drawing Prepared by Brazier Motti (Council Ref No 1669196)	20 July 2006
Site Plan	Drawing No D01_01 Prepared by Plansmart Building Design (Council Ref No 1908967)	August 2006
Floor Plan – Proposed restaurant/bar within existing building	Drawing Prepared by Brazier Motti (Council Ref No 1908967)	Received 10 Dec 2008
Floor Plan & Elevations – Proposed Indoor Recreation Area	Drawing No D01_02 Prepared by Plansmart Building Design (Council Ref No 1908967)	August 2006
Site Plan – Walkway and Platform Layout Plan	Drawing No S01 Rev P1 Prepared by Colefax Rodgers Consulting Engineers (Council Ref No 1908967)	Received 10 Dec 2008
Vegetation Impact Zone Plan	Drawing No S02 Rev A Prepared by Colefax Rodgers Consulting Engineers (Council Ref No 1908967)	Received 10 Dec 2008
Walkway Section	Drawing No S02 P1 Prepared by Colefax Rodgers Consulting Engineers (Council Ref No 1908967)	Received 10 Dec 2008

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**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;
  - 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

**Amalgamation Required**

- ~~2. The applicant/owner is responsible for the reconfiguration (amalgamation) of Lots 1 and 2 on RP742906 into one (1) lot. The Plan of Survey must be registered with the Department of Environment and Resource Management at the applicant's/owner's cost prior to Commencement of Use.~~

**Timing of Effect**

- ~~3.2.~~ The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.

**Water Supply**

- ~~4. The current water licence must be upgraded to commercial prior to commencement of use.~~
- ~~5.3.~~ The on-site water supply designated for use as potable water must meet the requirements of The Australian Drinking Water Guidelines. Any treatment system required must be installed and operational prior to commencement of use and is the responsibility of the property owner.
- ~~6.4.~~ Water storage tank(s) with a minimum capacity not less than 30,000 litres, and must be installed prior to occupation of the premises. Details of the water tank(s) must be shown on plans submitted with the building application. Such water tanks must be provided with:
  - a. Mosquito-proof screens of brass, copper, aluminium or stainless steel gauze not coarser than one (1) mm aperture mesh of substantial construction and installed in such manner as not to cause or accelerate corrosion; or
  - b. Flap valve at every opening of the tank or other receptacle; or

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**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

- c. Other approved means for preventing the ingress or egress of mosquitoes; and
- d. Where a tank or other receptacle is provided with a manhole, the manhole must have a diameter of no more than 40 cm; and
- e. The water tank(s) shall be fitted with a 50 mm ball valve with a camlock fitting.

**On-Site Effluent Disposal**

- 7.5. The method of on-site effluent disposal must be in accordance with the ERA 15a Approval with Certificate of Registration No.ENRE00728707 dated 7 December 2007. The treatment and disposal system must be installed and operational prior to commencement of use.

**Water Saving**

- 8.6. All toilet devices in the development must be fitted with dual flush cisterns and showers and hand basins in the development must be fitted with flow control valves or similar water control devices to generally restrict flow to nine (9) litres of water per minute.

**Vehicle Parking**

- 9.7. The minimum amount of vehicle parking must include twenty (20) car spaces and three (3) bus spaces. An informal overflow grassed area is also to be provided. The parking layout must comply with the Australian Standard AS2890.1 2004 Parking Facilities – off-street car parking and Douglas Shire Planning Scheme, in particular:
- a. Provision must be made for loading/unloading of vehicles;
  - b. Manoeuvring space must be provided to enable all vehicles to enter and exit the site in forward gear (including refuse and service/delivery vehicles);
  - c. The parking area must be set back a minimum of three (3) metres from the front property boundary and a minimum of three (3) metres from the side and rear property boundaries.

**Car Parking Layout**

- 10.8. The parking layout must comply with the Australian Standard AS2890.1 2004 Parking Facilities – off-street car parking and Douglas Shire Planning Scheme, in particular:

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**DECISION NOTICE DETAILS**  
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- a. Provision must be made for loading/unloading of vehicles;
- b. Manoeuvring space must be provided to enable all vehicles to enter and exit the site in forward gear (including refuse and service/delivery vehicles);
- c. The parking area must be set back a minimum of three (3) metres from the front property boundary and a minimum of three (3) metres from the side and rear property boundaries.

Amended plans must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

**Protection of Landscaped Areas from Parking**

449. Landscaped areas adjoining the parking area must be protected by a 150 mm high vertical concrete kerb or similar obstruction. The kerb must be set back from the garden edge sufficiently to prevent vehicular encroachment and damage to plants by vehicles.

**Parking Signage**

4210. Erect signs advising of the location of the off-street visitor parking area and access thereto. The signs must be erected prior to Commencement of Use. One (1) sign must be located on the Cape Tribulation Road frontage.

**External Works**

4311. Undertake the following works external to the land at no cost to Council:
- a. Repair any damage to existing roadway (including removal of concrete slurry from footways, roads, kerb and channel and stormwater gullies and drain lines) that may occur during and works carried out in association with the construction of the approved development.

All works in the road reserve need to be properly separated from pedestrians and vehicles, with any diversions adequately signed and guarded. Particular attention must be given to providing safe passage for people with disabilities i.e. the provision of temporary kerb ramps if pedestrian diversions are necessary.

**Environmental Management Plan**

4412. An Environmental Management Plan (EMP), incorporating an Erosion and Sediment Control Plan, must be undertaken by an appropriately qualified professional to determine the impacts and mitigation measures required to minimise such impacts. In particular, the EMP needs to comply with the:

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**DECISION NOTICE DETAILS**  
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- a. Environmental Protection (Water) Policy 2009;
- b. Environmental Protection Regulation 2008;
- c. FNQROC Development Manual.

The Environmental Management Plan must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work with the necessary works being undertaken prior to Commencement of Use.

**Acid Sulfate Soil Investigation**

4513. Undertake an Acid Sulfate Soil investigation in the area to be affected by this development. Soil sampling and analysis must be undertaken in accordance with procedures specified in, 'Guidelines for Sampling and Analysis of Lowland Acid Sulfate Soils in Queensland' (1998) or updated version of document produced by Department of Natural Resources and Water (DNRW – QASSIT), and State Planning Policy 2/02 – 'Planning and Managing Development involving Acid Sulfate Soils'. The results of this investigation must be submitted to Council for approval prior to Operational Works approval.

Identification of soils with a pyrite content in excess of the action levels nominated in the latest version of DNRW – QASSIT: 'Guidelines for Sampling and Analysis of Lowland Acid Sulfate Soils in Queensland' (1998) will trigger the requirement for preparation of an Acid Sulfate Soil Environmental Management Plan in accordance with the most recent requirements of the DNRW: 'Queensland Acid Sulfate Soil Technical Manual' (2002) including Soil Management Guidelines (updated Feb. 2003) which must be prepared to the satisfaction of the Chief Executive Officer.

**Storage of Machinery and Plant**

4614. The storage of any machinery, material and vehicles must not cause a nuisance to surrounding properties, to the satisfaction of the Chief Executive Officer.

**Vegetation Clearing**

4715. Existing vegetation on the subject land must be retained in all areas except those affected by the construction of access driveways, the installation of services as detailed on the approved plans. Any further clearing requires a Permit to Damage Protected Vegetation under Amendment 1 of 2006 Of Local Law No. 56 Vegetation Management.

Vegetation to be retained is to be identified and adequately fenced off for protection purposes prior to construction work commencing on the site.

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### **Building Colours**

4816. The exterior finishes and colours of Buildings and Structures are non-reflective and blend with the natural colours of the surrounding environment. Roofs must be of moderately dark to darker shades of green, grey, blue and brown.

The proposed building colours must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work

The applicant/owner must also ensure that the above Building Exterior requirements are made known in writing to all prospective purchasers.

### **Wildlife**

4917. Prior to removal of any tree, an inspection must be carried out for any signs of protected wildlife including nests and animal habitat. Should any recent wildlife activity be identified, removal of the tree must not occur until the animal has vacated the area of immediate danger. If the animal does not move from the area of danger, the Queensland Parks and Wildlife Services must be contacted for advice. Important habitat trees should be retained wherever possible.

### **Notification of Vegetation Clearing**

2018. Council's Development Assessment Branch must be notified two (2) days prior to the proposed date of commencement of any approved vegetation clearing to facilitate community awareness of such works.

### **Existing Creek and Drainage Systems**

2419. All existing creek systems and drainage areas must be left in their current state, including no channel alterations and no removal of vegetation unless consented to in writing by the Chief Executive Officer.

The applicant/owner must obtain any necessary approvals from the Department of Natural Resources and Mines for carrying out works in a watercourse.

### **Lawful Point of Discharge**

2220. All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development, all to the requirements and satisfaction of the Chief Executive Officer.

### **Erosion and Sediment Control**

2321. Soil and water management measures must be installed/implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the Environmental Protection Act 1994, and the FNQROC Development Manual).

### **Refuse Storage**

2422. Refuse storage is required to service the site in accordance with Council requirements. Brochures on these requirements – 'Requirements for Refuse Storage' are available from Cairns Water & Waste.
2523. The refuse bin enclosure must be roofed and bunded and fitted with a bucket trap.

### **Liquid Waste Disposal**

- ~~26. Trade waste discharge to sewer must meet the requirements of Cairns Water & Waste's Trade Waste Environmental Management Plan (TWEMP).~~
- ~~— A report demonstrating that the facility complies with the TWEMP must be submitted to and be approved by Council prior to the issue of a Development Permit for Building Work.~~
- ~~— The applicant must have all measures for pre-treatment installed prior to commencement of use.~~

### **Advertising Signage**

2724. All signage associated with the use must be approved by the Chief Executive Officer. The signage must comply with the Design and Siting of Advertising Devices Code contained within the Douglas Shire Planning Scheme and plans detailing the signage must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Works or Commencement of Use, whichever occurs first.

### **Health Requirements**

2825. Premises intended to be used for the storage, preparation, handling, packing and/or service of food must comply with the requirements of the Food Act 2006 and the Food Standards Code.
2926. Prior to construction or alteration of any premises used for storage, preparation, handling, packing and/or service of food, application for such must be made with Council's Public Health Unit.

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**DECISION NOTICE DETAILS**  
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3027. An application for the construction or alteration of any food premises must be accompanied by two copies of plans drawn to a scale not smaller than 1:100. Such plans are to include details of ventilation (including mechanical exhaust ventilation systems), finishes to walls, floors and ceilings, details of the proposed layout and materials to be used in the construction of all fixtures, fittings and equipment. The plans should include detailed cross sections of all areas to be included in the construction or alteration. All works must be carried out in accordance with the requirements of the Food Act 2006, Food Safety Standards and AS 4674 – 2004 – Design, construction and fit-out of food premises.
3428. Prior to operation of the food business, the operator must hold a current Food Licence issued by Council's Public Health Unit under the Food Act 2006. Every licensed food business is required to have a Food Safety Supervisor who has met specified competencies and is reasonably available at all times the business is operating. Contact the Council's Public Health Unit for further information.
3229. Noise from air-conditioning units, service equipment or other mechanical equipment must not emanate from the subject land to a degree that would, in the opinion of the Chief Executive Officer, create an environmental nuisance having regard to the provisions of the Environmental Protection Act 1994, Environmental Protection (Noise) Policy 1997 and Environmental Protection Regulation 1998 (Part 2A - Environmental Nuisance)

**Generators**

3330. All power generation devices are to be positioned and housed (including noise attenuation material) so as to mitigate noise nuisance to adjoining and nearby residents.

**Fuel Storage**

3431. ~~All fuels must be stored in an undercover and secure location at all times.~~ All petroleum products stored on site must be designed, constructed and maintained in accordance with AS1940-2004 – *The storage and handling of flammable and combustible liquids*.

**Landscaping**

3532. The existing landscape buffer must be retained along the road frontage of the site. The landscaping to be used must consist of 75 per cent of native and endemic species which must be planted in an irregular and random fashion to blend with existing vegetation. The use of palm trees must be limited and only used as an accent feature.

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**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

**CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS**

Concurrency Agency	Concurrency Agency Reference	Date	Council Electronic Reference
Department of Environment and Resource Management (formerly DNR)	IC0108CNS0016	17 Dec 09	2432257

Refer to Appendix 2: Concurrence Agency Requirements. (Please note that these conditions / requirements may be superseded by subsequent negotiations with the relevant referral agencies).

**ADVICE**

1. This approval, granted under the provisions of the *Sustainable Planning Act 2009*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 802 of the *Sustainable Planning Act 2009*.
2. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council Officers, prior to commencement of works.
3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
4. For information relating to the *Sustainable Planning Act 2009* log on to [www.dip.qld.gov.au](http://www.dip.qld.gov.au). To access Council's Development Manual, Local Laws and other applicable Policies log on to [www.cairns.qld.gov.au](http://www.cairns.qld.gov.au).

**RIGHTS OF APPEAL**

Attached

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**End of Decision Notice**

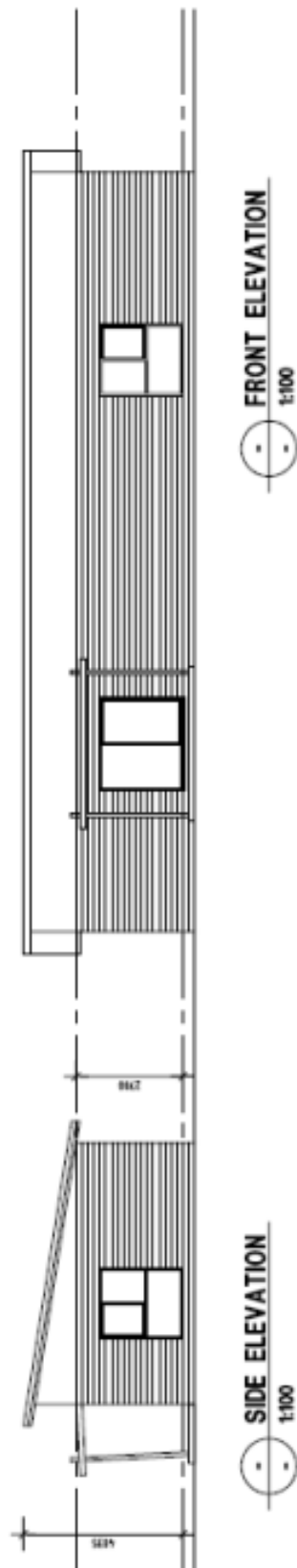
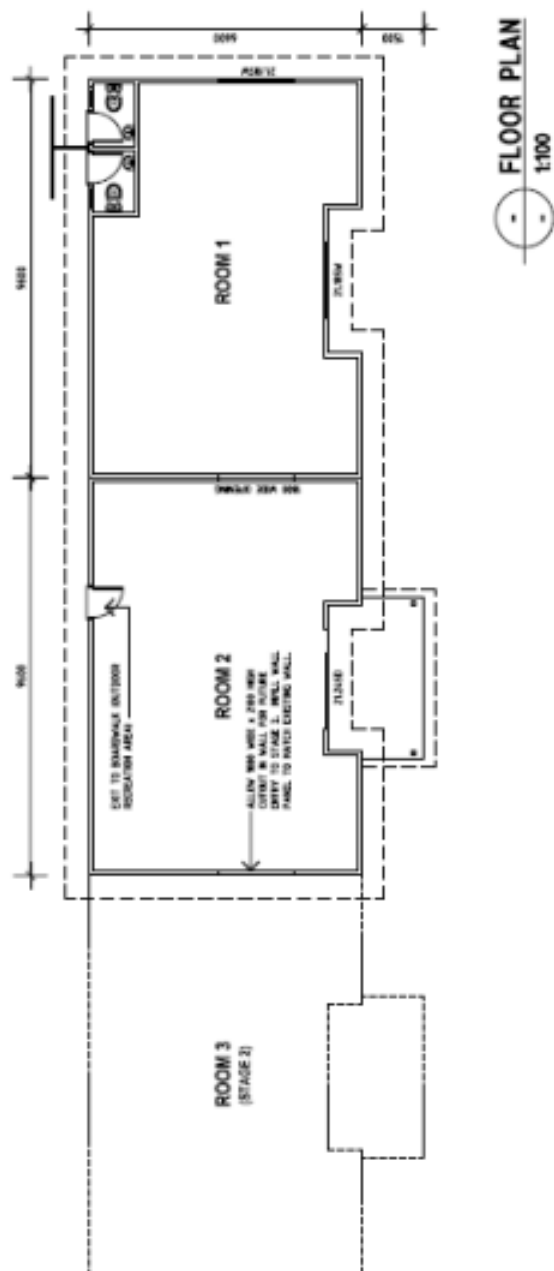












THIS DRAWING IS PROTECTED BY COPYRIGHT AND MUST NOT BE REPRODUCED OR USED WITHOUT THE WRITTEN APPROVAL OF PLANNING.

**PROPOSED INDOOR RECREATION AREA**  
at Lot 1 CAPE TRIBULATION Rd. CAPE TRIBULATION  
for KAKAI Pty. Ltd.

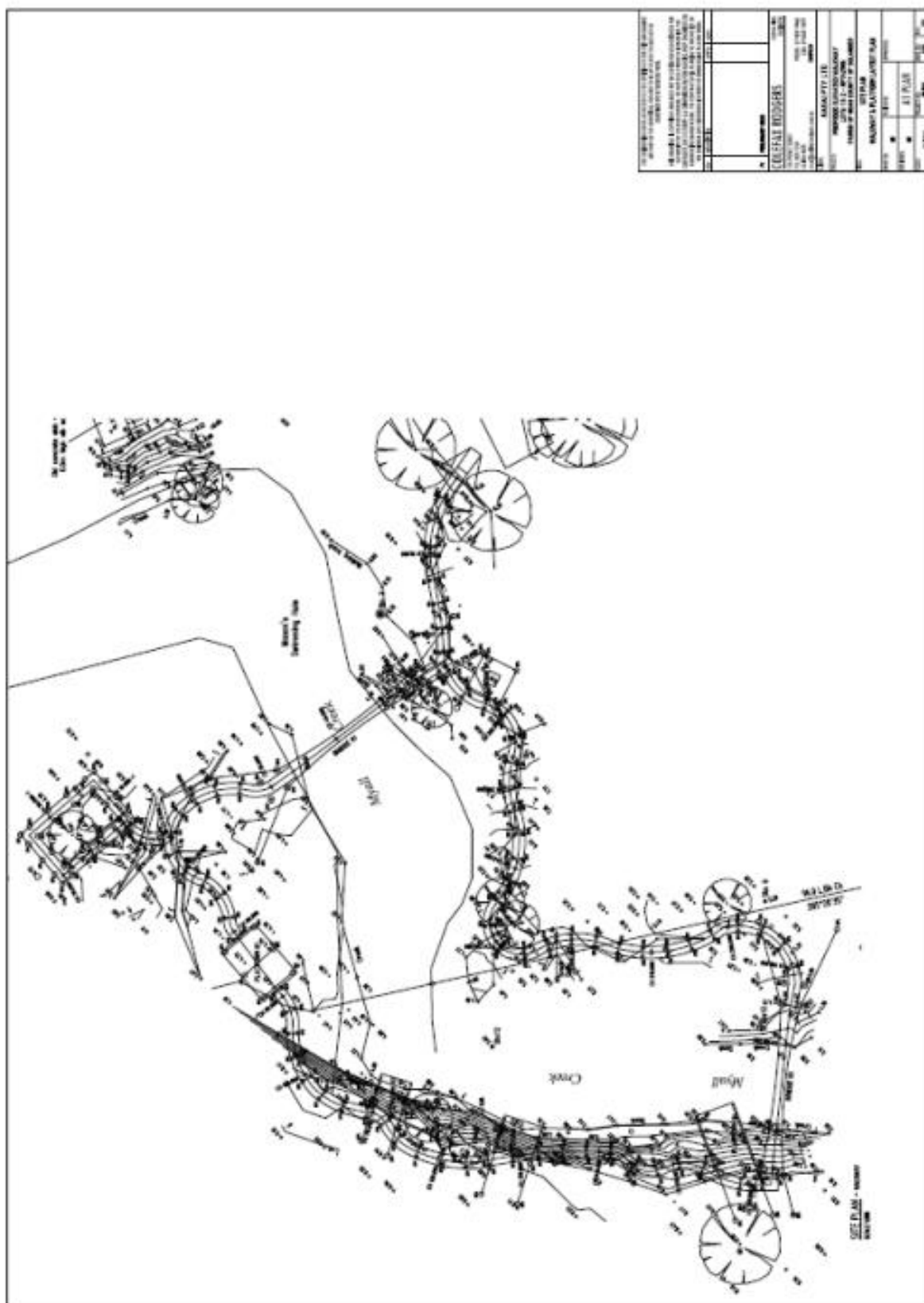


**plansmart**  
 3000 W. 10th Ave., Suite 200  
 Denver, CO 80202  
 (303) 733-8800  
 www.plansmart.com

Design: **M.J.**  
 Drawn: **R.P.**  
 Scale: **1:100**  
 Date: **AUG. 2008**

Job No: **07015**  
 Dwg No: **D01\_02**

Rev: [info@starchitectural.co.uk](mailto:info@starchitectural.co.uk)









**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

**APPENDIX 2 CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS**



Your Reference: 8/37/14  
Our Reference: IC0108CNS0016  
Contact: Cristina Froemmcke  
Directorate / Unit: Landscapes and Community Services  
Phone: (07) 4057 3890

Department of  
Environment and Resource  
Management

17 December 2009

The Chief Executive Officer  
Cairns Regional Council  
PO Box 359  
CAIRNS QLD 4870

**Attention: Michelle Henderson**



Dear Michelle

**MCU (IMPACT) INDOOR RECREATION, OUTDOOR ENTERTAINMENT AND A RESTAURANT/BAR (INCLUDING AN INTERPRETATIVE MUSEUM AND ELEVATED WALKWAY) TO THE EXISTING TAKEAWAY AND GENERAL STORE AT LOT 1 & 2 ON RP742906, CAPE TRIBULATION RD, CAPE TRIBULATION - REFERRAL AGENCY RESPONSE**

The Department of Environment and Resource Management (Concurrence agency and third party advice for the application) advises as follows:

The referral agency response for the application, prepared pursuant to section 3.3.16 of the *Integrated Planning Act 1997*, is **enclosed**. I look forward to receiving a copy of the decision notice for the application in due course.

Should you have any questions about this advice, please contact Cristina Froemmcke on 07 4057 3890.

Yours sincerely

Cristina Froemmcke  
Natural Resource Officer  
Landscapes and Community Services  
North Region

CC

Kakai Pty Ltd  
C/- Brazier Mott  
PO Box 1185  
CAIRNS QLD 4870  
**Attention: James Thorne-Stones**

Department of Environment  
& Resource Management  
Level 3, 5b Sheridan Street  
PO Box 937  
Cairns Queensland 4870  
Australia  
Telephone + 617 4057 3890  
Facsimile + 61 7 4057 3365  
Website [www.derm.qld.gov.au](http://www.derm.qld.gov.au)

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**APPENDIX 2 CONCURRENCE AGENCY CONDITIONS & REQUIREMENTS**



Your Reference: 8/37/14  
Our Reference: IC0108CNS0016  
Contact: Cristina Froemmcke  
Directorate / Unit: Landscapes and Community Services  
Phone: (07) 4057 3890

Department of  
Environment and Resource  
Management

17 December 2009

The Chief Executive Officer  
Cairns Regional Council  
PO Box 359  
CAIRNS QLD 4870



**Attention: Michelle Henderson**

Dear Michelle

**MCU (IMPACT) INDOOR RECREATION, OUTDOOR ENTERTAINMENT AND A RESTAURANT/BAR (INCLUDING AN INTERPRETATIVE MUSEUM AND ELEVATED WALKWAY) TO THE EXISTING TAKEAWAY AND GENERAL STORE AT LOT 1 & 2 ON RP742906, CAPE TRIBULATION RD, CAPE TRIBULATION - REFERRAL AGENCY RESPONSE**

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**Department of Environment and Resource Management –  
Referral agency response**

Given under Section 3.3.16 of the *Integrated Planning Act 1997*

**Application details**

1.1. Applicant's name	Kakai Pty Ltd
1.2. Property description	Lots 1 & 2 RP742906
1.3. Development type	Material Change of Use (MCU)
1.4. Assessment manager	Cairns Regional Council
1.5. Referral date	17 December 2008
1.6. Our references	Trackjob: IC0108CNS0016 Reclind: ATH/006800

2. **Concurrence agency response – Vegetation Management Act 1999 - Remnant Vegetation**  
Please refer to the attached concurrence agency response from Senior Vegetation Management Officer Daniel Gillinder dated 17 December 2008. (Attachment 1)

3. **Advice Agency Response – Wet Tropics World Heritage**  
Please refer to the attached Ecoaccess Notice dated 19/2/2009.(Attachment 2)

4. **Advice Agency Response – Acid Sulphate Soil**

The Department of Environment & Resource Management (DERM) has reviewed the application material provided for this development and is uncertain whether filling and excavation levels will trigger State Planning Policy 2/02 *Planning and Managing Development Involving Acid Sulfate Soils* (SPP 2/02) and referral to DERM as an advice agency per Schedule 2 of the *Integrated Planning Regulation 1998*.

Rationale for seeking information

The proposal includes the construction of a boardwalk of 270 metres in length, two (2) bridges and five (5) viewing platforms along Myall Creek. This construction requires excavation works to be carried out below 5 m AHD as per site plans prepared by Colefax Rodgers on 28/5/08 (Dwg S02 & 02). No information is given on the quantity of soil to be disturbed /excavated.

In the absence of an investigation or report with respect to acid sulfate soils as required by SPP2/02, DERM cannot currently advise further on this issue.

The Vegetation Management response (Attachment 1) states under Schedule 1, Reason 12 that 'No ASS will be exposed by the proposal as the application area is above 5 m AHD'. This statement refers only to any vegetation clearing and does not contradict this Advice Agency response.

Recommendation

DERM recommends that Council request the applicant to provide sufficient information to demonstrate that the proposed development has regard to achieving Outcome 1 of SPP 2/02, particularly:

- Whether ASS will be disturbed through any proposed excavation or fill (identify the depth, amount and location of excavation or fill); and
- What management practices are to be adopted to minimise environmental harm as a result of disturbance of ASS, should the investigation show that ASS will be disturbed as a result of the proposal.

This evidence should include an ASS investigation of the subject land by a suitably qualified person and a report prepared according to sections 6, 8 and 9 of the Guideline that accompanies SPP 2/02.

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Adequate management strategies should be determined and approved prior to operational works approval and construction commencing. DERM would be pleased to receive a copy of any investigation or proposed management practice for review.

Any queries about the assessment should be made to the coordinating officer for the application. Contact details for the coordinating officer are:

**Coordinating Officer:** Cristina Froemmcke  
**Address:** PO Box 937, Cairns QLD 4870  
**Phone:** 07 4057 3890

  
Cristina Froemmcke  
Natural Resource Officer  
Landscapes and Community Services  
North Region

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**Department of Environment and Resource  
Management – Referral Agency Response**

Given under Section 3.3.16 of the *Integrated Planning Act 1997*,  
Concurrence Agency response for *Vegetation Management Act 1999*

**1. Application information**

- 1.1. **Applicant's name:** Kakai Pty Ltd
- 1.2. **Property description:** 1 and 2 RP742906 - Cairns Regional Council
- 1.3. **Assessment Manager/Reference:** 8/37/14 (1910896) – Mrs Michelle Henderson
- 1.4. **Date application was referred to Department:** 19 December 2008
- 1.5. **Departmental Reference:** eLVAS Case No: 2006/012320, File Ref. No: MBA/000177, Trackjob No: TR1106ATH0003
- 1.6. **Type/s of development sought by the application:**
  - Material Change of Use

**2. Concurrence Agency response:**

The Chief Executive of the Department of Environment and Resource Management directs that the following conditions must be imposed on any approval given by the Assessment Manager:

- 2.1 Clearing is limited to the extent necessary for the proposed infrastructure and must remain consistent with the submitted plan: *Vegetation Impact Zone Plan – Project 06166: Proposed elevated walkway Lots 1 & 2 RP742906 – Drawing 02-A – Colefax Rodgers*.
- 2.2 Operational works, including post construction and maintenance, must be in general accordance with the *Offset Vegetation Management Plan for Lot 2 on RP742906 (eLVAS case number 2009/007807)* in Schedule 3 or any updated version of this plan as approved by the department.
- 2.3 The applicant must obtain a Riverine Protection Permit from DERM if deemed necessary prior to the commencement of any operational works that will destroy vegetation, excavate or place fill within Myall Creek.
- 2.4 An erosion and sediment control plan must be in place prior to any operational works. This plan and any clearing of remnant vegetation associated with this material change of use must be in accordance with the current *Institution of Engineers Australia Soil Erosion and Sediment Control –Engineering Guidelines for Queensland Construction Sites, Institution of Engineers Australia Queensland Division, Brisbane*.
- 2.5 All mature trees must be retained. Mature trees are trees and shrubs with a DBH (diameter at breast height) of:
  - 2.5.1 greater than 40cm for species in the genera *Eucalyptus*, *Corymbia*, *Angophora* and *Lophostemon*; and
  - 2.5.2 greater than 20cm for all other genera including *Melaleuca* spp.
- 2.6 **Offset and Voluntary Declaration**
  - 2.6.1 The applicant will, within four months of Council's approval of the development application, have entered into a legally binding agreement with the Department of Environment and Resource Management to secure the area identified in Schedule 2 as 'Category A Area', *Property Map of Assessable Vegetation 2009/007807*.

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- 2.6.2 The legally binding agreement will be in the form of a declaration of an area of high nature conservation value, made by the applicant under section 19E to 19M of the *Vegetation Management Act 1999* (also known as a voluntary declaration).
- 2.6.3 The applicant must act in general accordance with the terms of the *Offset Vegetation Management Plan for Lot 2 on RP742906 (eLVAS case number 2009/007807)* in Schedule 3 or any updated version of this plan as approved by the department.
- 2.6.4 Clearing of vegetation may not occur on the land within 'Category A Area' as identified in Schedule 2 on *Property Map of Assessable Vegetation 2009/007807* except in accordance with the terms of the legally binding agreement required by Conditions 2.6.1 and 2.6.2 and the Offset Management Plan as set out in Condition 2.6.3.
- 2.7 These conditions do not prevent vegetation being cleared outside of 'Category A Area' as identified in Schedule 3 on *Property Map of Assessable Vegetation 2009/007807* for a purpose described in Schedule 8, Part 1, Item 1A (freehold land) of the *Integrated Planning Act 1997* or if cleared in accordance with any subsequent development approval.

**3. Reasons:**

A Statement of Reasons is attached at Schedule 1.

**4. Additional comments or information:**

A search has been performed on the inventory of recorded Aboriginal cultural heritage sites over lots 1 and 2 RP742906 and no Aboriginal cultural heritage notings were found. However, the Chief Executive of DERM advises all Aboriginal cultural heritage in Queensland is protected under the *Aboriginal Cultural Heritage Act 2003*, and penalty provisions apply for any unauthorised harm. A person carrying out an activity must take all reasonable and practical measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are \$750,000 for a corporation and \$75,000 for an individual. This applies whether or not such places are recorded in an official register and whether or not they are located in, on or under private land.

The gazetted cultural heritage Duty of Care Guidelines sets out how you can comply with the cultural heritage duty of care. An assessment of the proposed activity against the Duty of Care Guidelines will help determine whether, or to what extent, Aboriginal cultural heritage may be harmed. Upon assessment, if you believe cultural heritage may be harmed by the proposed activity, you should contact the Cultural Heritage Coordination Unit for further advice on (07) 3238 3838 or e-mail: [cultural.heritage@nrw.qld.gov.au](mailto:cultural.heritage@nrw.qld.gov.au).

Further information on cultural heritage a copy of the Duty of Care Guidelines or cultural heritage search forms visit: [http://www.nrw.qld.gov.au/cultural\\_heritage/index.html](http://www.nrw.qld.gov.au/cultural_heritage/index.html).

**5. Authorised Officer Signature:**



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Daniel Gillinder  
Senior Vegetation Management Officer

Date of Response: 17 December 2009

Att. Schedule 1 – Statement of Reasons  
Schedule 2 – *Property Map of Assessable Vegetation 2009/007807*  
Schedule 3 – Offset Vegetation Management Plan

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eLVAS Case No: 2006/012320  
File Ref. No: MBA/000177  
Trackjob No: IR1106ATH0003

**Schedule 1**

**Statement of Reasons  
Referral Agency Response  
Application for Material Change of Use  
Kakai Pty Ltd**

The following Statement of Reasons is provided pursuant to s. 3.3.18(8) of the *Integrated Planning Act 1997*

**Introduction**

1. The Department of Environment and Resource Management (DERM) received an application from Kakai Pty Ltd on 19 December 2008.
2. The application is for MCU (Concurrence-Multiple Issue) on Lots 1 and 2 RP742906 - Cairns Regional Council.
3. A field inspection was conducted by the assessing officer on 17 April 2008.
4. An Information Request was sent by registered post to the applicant on the 22 January 2009.
5. The applicant responded to the Information Request on the 5 May 2009.
6. An Assessment Report was sent to the Delegate of the Chief Executive, Daniel Gillinder, on 11 December 2009.
7. The Delegate determined the Referral Agency Response on 17 December 2009.

**Evidence**

1. Application dated 19 December 2008.
  - a) Completed IDAS Form 1 Part "J".
  - b) Property Vegetation Management Plan.
2. *Integrated Planning Act 1997 & Integrated Planning Regulation 1998 (Schedule 2).*
3. *Vegetation Management Act 1999.*
4. *Department of Environment and Resource Management Concurrence Agency Policy for Material Change of Use* dated 23 August 2007.
5. *State Planning Policy (SPP) 1/03 - Mitigating the Adverse Impacts of Flood, Bushfire, and Landslide.*
6. Natural Resources (IPA) Delegation (No.2) 2008.
7. Information Request to applicant dated 22 January 2009.
8. Response to Information Request from applicant dated 5 May 2009.
9. Cairns Regional Council Planning Scheme (Douglas Shire Planning Scheme March 2008).
10. Photos taken of vegetation in the application area during field assessment on 17 April 2008.
11. Voluntary Declaration offer to applicant dated 7 December 2009 with Offset Vegetation Management Plan.
12. Vegetation Information Network Database.
13. Regional Ecosystem mapping (version 6).

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14. Geoscience Australia 1:100 000 topographic map sheet 7965.
15. Sirweb databases.
16. Bureau of Meteorology climate statistics.
17. Assessment Report dated 17 December 2009.

#### Findings of fact

The application was assessed under Table H – 1 of the *Concurrence Agency Policy for Material Change of Use (20 November 2006)* and the *Regional Vegetation Management Code for Coastal Bioregions 20 November 2006*.

1. Performance Requirement H1 is met
2. Performance Requirement H2 is met with conditions
3. Performance Requirement H3
  - a) Performance Requirement P2 (Wetlands) – The AS is met.
  - b) Performance Requirement P3 (Watercourses) is met with conditions.
  - c) Performance Requirement P4 (Connectivity) is met with conditions.
  - d) Performance Requirement P5 (Soil Erosion) – The AS is met.
  - e) Performance Requirement P6 (Salinity) is met.
  - f) Performance Requirement P7 (Conserving endangered and of concern RE) is met with conditions.
  - g) Performance Requirement P8 (Essential habitat) is met with conditions.
  - h) Performance Requirement P9 (Conservation status thresholds) – The AS is met.
  - i) Performance Requirement P10 (Acid Sulfate Soils) – The AS is met.

#### Reasons

It is considered by the assessing officer that this application meets the performance requirements of the Concurrence Agency Policy for Material Change of Use (20 November 2006) and the Regional Vegetation Management Code for Coastal Bioregions (20 November 2006), with conditions and with an Offsets Management Plan and Voluntary Declaration for the following reasons:

1. The application received 19 December 2008 is for the Material Change of Use of Lots 1 and 2 RP742906 from Rural to Interpretive Museum, Elevated Walkway and Restaurant/Bar for tourism purposes.
2. This proposal involves the clearing of endangered remnant vegetation also mapped as essential habitat.
3. The response to an Information Request received 5 May 2009 confirmed that the applicant still wishes to clear endangered remnant vegetation with essential habitat as part of the proposal with a proposed Offset area and Offset Vegetation Management Plan to comply with Performance Requirements PR.H.2 of Table H – 1, PR P.7 and PR P.8.
4. Clearing will not occur within or near a mapped natural or significant wetland.
5. The proposed development will traverse a stream order 3 watercourses and minimal clearing is proposed. Any development approval has been conditioned for the applicant to implement an erosion and sediment control plan and riverine protection permit. It is unlikely that the proposal will result in land degradation, loss of biodiversity or impact on ecological processes as bank stability, water quality and aquatic and terrestrial habitats will be maintained through the very small amount of trees that will require removal, the presence of low slope, and any development

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approval being conditioned to implementing erosion control measures on the banks of the watercourses.

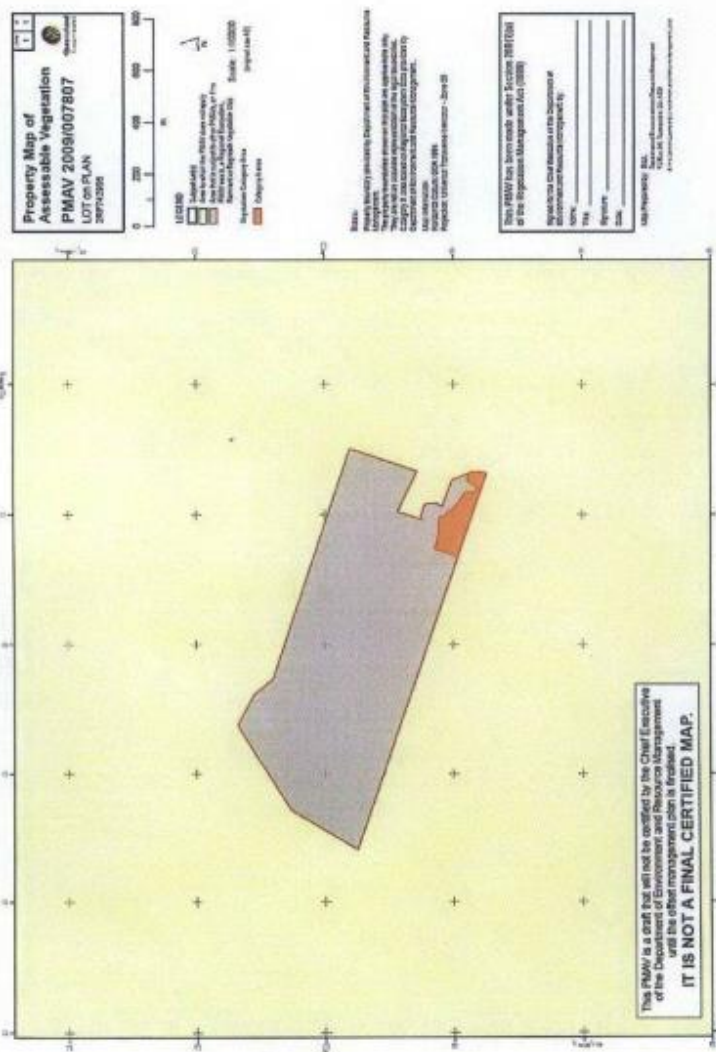
6. Clearing for the proposed development will not result in the loss of connectivity through the loss of ecosystem function or connectivity with remnant vegetation on adjoining properties or result in an increase in exposure to threatening due to the small amount of clearing proposed, the retention of mature trees and the provision of an offset area that greatly exceeds the area that may be cleared resulting in a greater extent of remnant and high value regrowth vegetation remaining in the landscape.
7. Clearing will occur on unstable soil on a slope less than 10%. Therefore, it is unlikely that the proposal will result in land degradation or impact on ecological processes.
8. The proposed clearing will unlikely modify underground hydrology and result in salinity or the salinisation of soil and groundwater due to the nature of the clearing, extent of remnant vegetation remaining in the landscape, vegetation type and climatic characteristics of the application area.
9. Clearing is proposed within an *endangered* regional ecosystem. The applicant proposes an offset that meets the requirements of DERM's *Policy for vegetation management offsets- version 2*. Therefore, the application will maintain the current extent of the endangered regional ecosystem.
10. Clearing is proposed within an area mapped as essential habitat. The applicant proposes an offset that meets the requirements of DERM's *Policy for vegetation management offsets- version 2*. Therefore, the application will maintain the current extent of the essential habitat.
11. No clearing will occur within a regional ecosystem within the conservation thresholds listed in the Code. Therefore it is unlikely to result in the loss of biodiversity or impact on regional ecosystem functioning of these regional ecosystems.
12. No acid sulfate soils will be exposed by the proposal as the application area is above 5m AHD.



Daniel Gillinder  
Senior Vegetation Management Officer

17 December 2009.

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#### IDAS Referral Agency Response

**SCHEDULE 3 – Offset Vegetation Management Plan**

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**Offset Vegetation Management Plan**  
**Lots 1 & 2 RP742906**  
**eLVAS Case Number (2009/007807)**

**Background**

This vegetation management plan is for a Voluntary Declaration (VDec) under the *Vegetation Management Act 1999* (VMA), and details how the area will be managed to conserve its high nature conservation value and prevent land degradation.

This vegetation management plan is binding on current and future owners and occupiers, under the terms of the VDec.

This management plan must be read in conjunction with the associated VDec documents:

- Declaration notice
- Declared area map
- Declared area Property Map of Assessable Vegetation

Except where a contrary intention appears, words and expressions used in this vegetation management plan have the same meaning as those defined in the VMA or *Integrated Planning Act 1997*.

**Section 1**

**1.1 Property and ownership details**

Name of Registered Owners, Licensees or Trustees	Mrs Winifred Ann Mason
Postal Address	CMA 4 Cape Tribulation QLD 4873
Phone	4098 0070
Fax	4098 0026
Email address	lawrence@masonstours.com.au
Real Property Description	Lot 2 on RP742906
Property Name	N/A
Area of Property (ha)	69.29ha
Local Government Area	Calms Regional Council
eLVAS case number	2009/007807
Tenure type	Estate in Fee Simple - Freehold

### 1.2 Registered Interests

Parcel (lot and plan)	Type of Registered Interest*	Registered interest holder's name and contact details
2 RP742906	Registered Owner	Mrs Winifred Ann Mason, contact details as above
2RP742906	Mortgage No. 601333529	Australia and New Zealand Banking Group Limited A.C.N. 005 357 522

### Section 2 Description of Management Area

The location and size of the Management Area is described on Brazier Motti Plan Numbers 31565/001B and 31565/002B. The size of the Management Area is 3 hectares. The Management Area is to have an elevated Boardwalk built around Myall Creek within an Endangered Regional Ecosystem (RE) (boardwalk plan attached at Appendix 1). The boardwalk design will have minimal impact on the ecosystem and will allow access and viewing of the vegetation surrounding Myall Creek in a controlled situation without the impacts normally associated with human access into sensitive areas. The minimal disturbance caused by the installation of the Boardwalk is being offset through a VDec over an area of land adjacent to the Myall Creek Vegetation (southern side) which is regrowth vegetation considered to be representative of the Endangered Regional Ecosystem 7.3.17, and therefore suitable for regional ecosystem classification.

The pre-clearing regional ecosystem is descriptive of the Management Area and is classified as 7.3.17 (Type 1a) 'complex mesophyll vine forest'. Past clearing of the site was related to logging and grazing practices over an extended period of time. The Management Area exhibits regrowth characteristic to 7.3.17.

The site is best described as well drained alluvium with high fertility. The existing vegetation is simplistic in structure and floristic complexity by comparison with more intact examples of this vegetation community. The integrity has been compromised by historical past clearing associated with adjoining land uses (grazing and logging) and cyclones within the last decade. Large trees are rare, with larger canopy species (e.g. *Endiandra microneura*, *Dysoxylum peltigrewianum*) typical of the lowland Cape Tribulation area.

The mid stratum is dominated by various palms (*Normanbya normanbyi*, *Licuala ramsayi*) and the mid to lower forest is a complex of various *Calamus* spp. (lawyer cane or "wait a while") seedlings, vines, shrubs and small trees (e.g. *Cleistanthus myrianthus*, *Brombya platynema*, *Medicosma sessiliflora*, *Medicosma fareana*, *Haplostichanthus ramiflorus*). The vines *Merremia peltata*, *Entada phaseoloides*, classically associated with disturbance in the Cape Tribulation area, are located in the disturbed, open canopy areas. The presence of *Lantana camara* is evident of highly disturbed areas as well as numerous grass and woody weed species.

There are numerous fauna species associated with the area that have contributed to the areas gradual rehabilitation. Due to the complexity of species over the site, many are unknown at this point without further on-site research. At present, a property map of assessable vegetation is not linked to the site; however, an application is underway to preserve the forestry area of the site for future harvesting.

### **Section 3 General Management Intent**

The purpose of the VDec is to protect and manage an area of Regrowth Vegetation so that it can attain Remnant Status. The aspiration is that over a 15 year period an area of Remnant Regrowth Vegetation, accepted by DERM as an offset and legally secured through a VDec, is managed and returned to Endangered Regional Ecosystem Status. It is expected that after the 15 year period the vegetation will attain remnant status of 7.3.17. The offset area, in time, will be capable of becoming at least as valuable biologically as the pre-cleared vegetation.

**Indicate purpose of voluntary declaration:**

- ☐ Participating in a conservation incentives program(s).
- ☒ To offset clearing associated with a development approval
- ☐ Rehabilitating areas subject to land degradation
- ☐ Participating in carbon emissions sequestration/offsetting opportunities.
- ☐ Other conservation purpose(s)

### **Section 4 Specific Management Outcomes**

- 1) The area will be managed, restored and protected until it becomes a mature version of the Remnant Regional Ecosystem 7.3.17 where that regional ecosystem has characteristics of essential habitat for the Southern Cassowary.
- 2) The area attains remnant status, and is mapped as regional ecosystem 7.3.17 on a certified regional ecosystem map. This is expected to occur within 15 years.
- 3) The proposed management intent and outcomes to achieve the regional ecosystem certification include:
  - *Management intent is to create and enhance regrowth forest to a standard that is representative of that removed for the boardwalk over a 15 year period. This area in time would be capable of becoming at least*



as valuable biologically as the forest removed. A ten year period would see a canopy covering the entire area, unless a natural disaster such as a severe tropical cyclone occurred.

- Restriction on access and activities undertaken near to the offset management area;
  - Controlling grass, weeds and other introduced/exotic species by primarily chemical means until regrowth naturally prohibits weed growth;
  - Maintenance of dead and/or diseased plants, including removal and replacement where practical and in the best interests of achieving remnant status;
  - Planting representative species, from genetic stock obtained locally into the areas where grass, weeds etc had been. This will occur in early autumn each year as previous revegetation activities have shown that if planting is undertaken in early autumn mortality of plantings is greatly reduced as watering is usually unnecessary and the plants have one year to develop roots before the chance of high winds.
  - Use species representative of the area that significantly increase faunal diversity that will naturally increase diversity of the offset area;
  - Follow up replanting and chemical weed control until trees reach a size that controls grass naturally. At this point most weed control is only on the edges due to sunlight penetrating there;
  - Pruning where needed to enhance survival rate of small trees;
  - Control of feral pigs in the subject area. This can be done by the landowner; however local government trappers can also be used. Trapping/or shooting would be the preferred methods, both have been used successfully during past revegetation on the subject land;
  - The fencing (2 string plain wire to allow wildlife access) of the road through the subject plot to prevent horses/vehicles straying onto small plants;
  - Assistance from local landcare groups/government bodies (where appropriate) in selecting appropriate species, education of species diversity and management of regrowth area to assist in achieving the management intent;
- 4) Restrictions on the use of the offset area to achieve the management intent and outcomes includes, restrictions to only persons permitted to enter the property, no introduction of new land use activities or actions that would compromise the management intent of this Plan. The area of offset will be restricted by way of VDec.
- 5) Management of Risks:
- New weed type appears that it is difficult to control – solution liaise with relevant government and local authorities and utilise their resources and knowledge to achieve a solution or use weed matting during planting;
  - Unable to source local seedlings representative of the area – solution create small onsite nursery and collect seed of the subject land and grow seedlings;
  - Unexpected dry spell – solution water the plants using existing water supply;

- *Massive pig infestation unable to be controlled by trapping or shooting – solution temporarily fence the revegetation area (without closing the riverine corridor) to exclude pigs;*
- *Severe Tropical Cyclone and/or extreme natural hazard that impacts on the site – solution stand up and stake, and/or replant and control weeds to assist recovery;*

f) A monitoring and reporting program will be implemented to measure and record the progress of the offset management area. Such monitoring and reporting will include:

- *An initial report to create a base data set for which to base of future reporting;*
- *An annual report will be prepared and submitted annually. This will include details of:*
  - *Weed control undertaken;*
  - *Number of trees planted;*
  - *Growth rates;*
  - *Any problems (risks) and how they were managed;*
  - *Wildlife sighted in the subject offset area; and*
  - *Review of methods to achieve the management intent.*

DRAFT



**Section 5 Identification of Current Threats and Potential Risks to Achieving Management Outcomes**

<input checked="" type="checkbox"/> Weeds Please identify (e.g. <i>Lantana camara</i> )	<input checked="" type="checkbox"/> Vegetation clearing Please identify (e.g. clearing of vegetation)	<input checked="" type="checkbox"/> Land degradation Please identify (e.g. gully erosion, salinity)
<input type="checkbox"/> Fire Please identify	<input checked="" type="checkbox"/> Development Please identify (e.g. Building works)	<input checked="" type="checkbox"/> Pest animals Please identify (e.g. Feral Pigs)
<input type="checkbox"/> Grazing Please identify	<input checked="" type="checkbox"/> Restoration / revegetation Please identify (e.g. poor restoration/seed propagation, natural disaster damage, malicious damage)	<input type="checkbox"/> Drought Please identify
<input checked="" type="checkbox"/> Disturbance / damage Please identify (e.g. activities affecting nests/burrows, or modification of banks of waterways/wetlands, damage to vegetation)	<input checked="" type="checkbox"/> Unauthorised access or use Please identify (unauthorised entry to management area)	<input type="checkbox"/> Other identified threats and/or potential risks

**Section 6 Management Area Actions and Requirements**

**6.1 Weeds**

- ☒ 6.1.1 Minimise the introduction, establishment and spread of non-native weeds including Declared Pest Plants listed under the *Land Protection (Pest and Stock Route Management) Act 2002*.
- ☒ 6.1.2 Control existing infestations of non-native weeds including Declared Pest Plants under the *Land Protection (Pest and Stock Route Management) Act 2002* and environmental weeds.
- ☒ 6.1.3 Control and eradicate any introduced and exotic weeds in accordance with management activities schedule [see Annexure A].

**Note:** Once declared, clearing of native plants (such as the Umbrella tree, Cadagi, wattle) which in some areas are identified as weed species, may require a permit from the Department of Environment and Resource Management (DERM).

## **6.2 Vegetation clearing**

- ☒ 6.2.1 Vegetation clearing may not be undertaken within the management area unless detailed in this management plan.
- ☒ 6.2.2 Vegetation clearing may only occur for essential management as defined in Schedule 8 of the *Integrated Planning Act 1997*.

## **6.3 Land Degradation**

- ☒ 6.3.1 Minimise adverse impacts associated with land uses and land management activities conducted within the management area (e.g. soil disturbance on steep slopes, disturbance of acid sulfate soils).
- ☒ 6.3.2 Conduct land uses and management activities in such a way to minimise the risk of land and water pollution, visual or other degradation from wastes within the management area.
- ☒ 6.3.3 Prevent or minimise soil erosion, compaction or any deterioration of the soil's physical, biological or chemical properties resulting from land uses and land management activities.

## **6.5 Development**

- ☒ 6.5.1 Written approval must be obtained from DERM (Vegetation Management) to apply for a material change of use (rezone) or reconfiguring a lot (subdivide) development application, or to lease the management area or to apply for a Property Map of Assessable Vegetation under the *Vegetation Management Act 1999*. Note: these activities must not impact on the achievement of management intents and outcomes.
- ☒ 6.5.2 No development will occur within the management area except:
  - For the construction of the elevated boardwalk consistent with the plan: *Vegetation Impact Zone Plan - Project 06166: Proposed elevated walkway Lots 1 & 2 RP742906 - Drawing 02-A - Colefax Rodgers* shown at Appendix 1.
  - To the extent necessary for essential management activities, including the maintenance of fences, vehicular tracks and watering facilities.

## **6.6 Pest Animals**



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6.6.1 Minimise the introduction of pest animals and control of existing populations of pest animals within the management area in accordance with the *Land Protection (Pest and Stock Route Management) Act 2002*.

- ☒ 6.6.2 Erect appropriate fencing where necessary to protect the area from Feral Pigs in accordance with pest animal guidelines available at [http://www.dpi.qld.gov.au/4790\\_8259.htm](http://www.dpi.qld.gov.au/4790_8259.htm)

### 6.7 Grazing

- ☒ 6.7.1 Grazing of domestic livestock will not occur within the management area.

### 6.8 Restoration / Revegetation

- ☒ 6.8.1 The correct floristic species, aligning with the pre-clear regional ecosystem/s description, are used in the restoration/revegetation of the management area.
- ☒ 6.8.2 A restoration/revegetation plan is developed. **Note:** This may require conducting transect studies of species occurrence in adjacent or other identified areas of the pre-clear regional ecosystem/s to determine abundance of ground, mid storey and canopy species to ensure that restoration / revegetation achieves the equivalent species composition. Planting schedules and vegetation structure should be determined from transects from the pre-clear regional ecosystem/s.
- ☒ 6.8.3 Restoration/revegetation uses seed stock sourced from the site or adjacent areas with the same pre-clear regional ecosystem/s equivalent to the management area.
- ☒ 6.8.4 The collection, handling and planting of collected seeds is used to guide restoration/revegetation activities.

### 6.9 Drought

- ☒ 6.9.1 Where restoration/revegetation fails due to drought, steps must be taken to mitigate the impacts (e.g. replanting, watering).

### 6.10 Disturbance/Damage

- ☒ 6.10.1 Activities in the management area do not damage, destroy, mark, move, dig up or otherwise interfere with active nests, burrows, roots, caves or other structures used by native animals.





6.10.2 The bed and banks of waterways are not modified unless associated with an approved management plan.

#### **6.11 Unauthorized Access or Use**

- ☒ 6.11.1 Any damage caused by unauthorised entry or use of the management area is mitigated to rectify the situation.
- ☒ 6.11.2 Construct suitable fencing around the management area to prevent entry of any persons, other than those directly related to the management plan.
- ☒ 6.11.3 Erect appropriate signs, notifying of the management / restoration / revegetation of the area, with entry prohibited by public for any purpose.

### **Section 7**

#### **7.1 Monitoring**

- ☒ 2x Yearly photo monitoring at defined points, with:
  - o Photo monitoring overlapping in a north, south, east and west direction; and
  - o Photos clearly marked with the date, location and direction.
- ☒ 2 x Yearly transects to assess the effectiveness of revegetation and/or to assess non-remnant / remnant status, including canopy cover and average vegetation height.

Monitoring activities will vary from site to site, depending on the particular characteristics of the Management Area. The Management Area:

- includes a wetland or watercourse and regular water quality testing is required to monitor the condition of the watercourse or wetland. Water quality testing must reflect the condition of the wetland or watercourse, as well as the condition of riparian vegetation. Water quality testing should be conducted in accordance with Waterwatch monitoring Australia guidelines.
- involves restoring an area of essential habitat, and Species and Essential Habitat monitoring is required. Monitoring must be relevant to the essential habitat factors and the species associated with the essential habitat.

### **Section 8**

#### **8.1 Reporting**

Reports to DERM detailing the progress against the proposed management outcomes will be required until the outcomes are achieved. Reports are required to be received by DERM by 31 July of each reporting year.

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- ☐ Regrowth vegetation with minimal risks – every 2 years.
- ☐ Regrowth vegetation with high risks - annual reporting.
- ☒ Long term revegetation/restoration - annual reporting for first 5 years, then two-yearly reporting for remaining 10 years.

The report will contain, as a minimum:

- ☒ Name and contact details of landholder. If someone other than the landholder is undertaking management activities (i.e. a contractor) then their details must also be provided;
- ☒ eLVAS case number 2006/012320;
- ☒ Lot on Plan property description and postal address;
- ☒ Where the proponent is proposing that the management outcomes have been achieved and the report is being submitted as the final report, the proponent must provide evidence that all management outcomes have been achieved in full.
- ☒ Photo monitoring.
- ☒ If transects conducted, revegetation/restoration data collected from transects, outlining species present, average canopy cover and height of vegetation. All data should be correctly labelled with date, location, GPS points for end points of transect and any other observations.
- ☒ Annexure A- Management Activities Schedule with the progress section completed.
- ☒ An overview of the progress of the management area in achieving the management outcomes and how any risks or threats have impacted on the area.
- ☒ An indication of any risks or potential threats that have become apparent to the management area since the development of the management plan, and activities to be undertaken to manage these threats and/or risks.

## **Section 9**

### **9.1 State Forest Products**

Not applicable



## Section 10

### 10.1 Supporting documentation

1. The areas which the management plan applies to are clearly identified on suitable mapping/imagery and attached to the management plan (see Brazier Motti Plan Numbers 31565/001B and 31565/002B).
2. Management Activities Schedule-Annexure A, completed with proposals to achieve each of the identified management outcomes.

## Section 11

### 11.1 Consent/Agreement

**SIGNED** by the (enter name of the delegate of the Chief Executive Officer and the relevant delegation) to indicate approval of the Vegetation Management Plan.

Name:.....

Position:.....

Signature:.....

Date:.....

**SIGNED** by Mrs Winifred Ann Mason being the current owner of the abovementioned property to indicate that the terms of this Vegetation Management Plan have been read, understood and accepted.

The landowner agrees that any non-compliance with the requirements of this Management Plan shall constitute a breach of the terms and conditions of the agreement entered into.

(Tick whichever is applicable)

☐ I have obtained independent legal advice on my obligations under this plan.

OR

☐ I have not obtained independent legal advice, though I have been advised by the Department of Environment and Resource Management that I should do so, and I accept the risks of not seeking such independent legal advice and sign this management plan on that basis.

Name:.....

Signature:.....

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Name:.....

Signature:.....

Date:.....

DRAFT

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**Annexure A – Management Activities Schedule**

The following management activities will be undertaken in the timeframes outlined. These activities are to be consistent with identified risks and potential threats in section 5. More management activities should be added if required.

Year ending 30 June 2010 (yearly until 2015 then reporting every two years)

Management activity	How the activity will be carried out	Where the activity will be carried out	When the activity will be carried out	Who will be carrying out the activity	Progress	Comments
1. Non-native weeds	Spot removal	In areas identified as on attached aerial photography.	Twice yearly in accordance with recognised guidelines.	Landowner, government body and/or contractor		
2. Pest Animal	Shooting, Trapping and baiting	In areas identified as on attached aerial photography.	As required when pest animals are found to be present.	Landowner, government body and/or contractor		
3. Degradation	Erosion control by plants, sediment traps and monitoring	In areas identified as on attached aerial photography.	At all times.	Landowner, appointed contractor		
4. Development	Development permit required from DERM, no development allowed except for maintenance of existing tracks and fences	In areas identified as on attached aerial photography.	At all times.	Landowner		
5. Restoration/Rehabilitation	Monitoring, replacement, prevention of risk through management, new plantings of trees	In areas identified as on attached aerial photography.	At all times and as stated in this Management Plan.	Landowner, appointed contractor		
6. Disturbance	Monitoring of risk, replanting of	In areas identified as on attached aerial photography.	When required following	Landowner		

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	damaged areas from disturbance	aerial photography	disturbance		
7. Clearing	No clearing without permit unless to maintain fences and tracks	In areas identified as on attached aerial photography.	At all times	Landowner	
8. Unauthorised access	Fences, signage, monitoring, restriction to management area	In areas identified as on attached aerial photography.	At all times	Landowner	

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**Attachment 2**



**Notice**

**Advice Agency Response – Conservation Estate**

This notice is issued by the Environmental Protection Agency pursuant to sections 3.3.15 and 3.3.19 of the Integrated Planning Act 1997.

Cairns Regional Council  
PO Box 359  
CAIRNS QLD 4870

cc: Kakai Pty Ltd  
Gibsonville Mills  
PO Box 1185  
CAIRNS QLD 4870

Your reference : B/37/14

Our reference : 319932

Attention: Mrs Michelle Henderson

Dear Mrs Henderson

Re: Advice concerning application for development at Cape Tribulation Road, Cape Tribulation (Lots 1 & 2 on Plan RP742906). Please treat this response as a properly made submission.

EPA referral number: IPAR01320708

Response type: Advice Agency Response

Date application received by EPA: 18 December 2006

ADVICE AGENCY JURISDICTION:	Item 38 of Table 2 of Schedule 2 of the Integrated Planning Regulation 1998.
ASSESSMENT MANAGER REFERENCE NUMBER:	B/37/14
APPLICANT:	Kakai Pty Ltd
ACTIVITY DESCRIPTION:	Development application for a Material Change of Use (Impact)
	Cape Tribulation Road, Cape Tribulation
DESCRIPTION OF SUBJECT LAND:	Lots: 1 & 2 Plan: RP742906

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**Advice Agency Response**

**Response to Development Application**

The lot is within 100m of Conservation Estate. The EPA, acting as an advice agency under the Integrated Planning Act 1997, provides the following advice to the application as detailed above.

**EPA third party advice**

The amended application is for a material change of use of Lots 1 & 2 on RP742906 (total area of 71.3ha) at Cape Tribulation Road, Cape Tribulation, to allow the development of a restaurant/bar, indoor recreation and outdoor entertainment areas, interpretive museum and an elevated walkway proposed to bridge Myall Creek in two locations. The development is intended to complement the existing takeaway and general store.

The properties share a common boundary with the Wet Tropics World Heritage Area and Daintree National Park and are highly likely to have several rare and threatened or otherwise significant plant and animal species present. Almost half of the area, mostly in the western undeveloped part of the larger parcel, comprises 'not of concern' vegetation. There is also a swathe of 'endangered' vegetation associated with Myall Creek. All of the vegetation on Lots 1 & 2 is essential cassowary habitat pursuant to the Vegetation Management Act 1999.

The elevated walkway and associated structures is the key issue for this agency. It is unclear how much endangered vegetation is proposed to be cleared or pruned to accommodate the elevated walkway, since from the documentation provided the entire route is marked 'Possible vegetation disturbance'. Accordingly, it is recommended that any permission should be subject to an inspection of the route by Council to approve any trees proposed to be removed/significantly pruned prior to such works commencing. The proponent should demonstrate to the satisfaction of Council that any impacts on the endangered vegetation/essential cassowary habitat will be minimised so that the important wildlife corridor function of Myall Creek is retained.

If rare and threatened plants are proposed to be disturbed, a permission would also need to be sought under the Nature Conservation Act 1992. Depending on the extent of 'Possible vegetation disturbance' proposed, the proponent should consider a referral to the Commonwealth under the Environmental Protection and Biodiversity Conservation Act 1999.

Should Cairns Regional Council approve the application in its current form, it should also be conditional on adequate sediment and erosion controls being implemented, especially close to Myall Creek during the construction phase for the walkway. This will minimise the possibility of adverse impacts on water quality and endangered stream-dwelling frogs.

**Additional information for applicants**

It is a requirement of the Environmental Protection Act 1994 that if the owner or occupier of this site becomes aware that a Notifiable Activity (as defined under Schedule 2 of the Environmental Protection Act 1994) is being carried out on this land or that the land has been affected by a hazardous contaminant, they must, within thirty (30) days after becoming aware the activity is being carried out, give notice to the Environmental Protection Agency. A list of Notifiable Activities is provided within Schedule 2 of the Environmental Protection Act 1994.

Yours sincerely



Signature

19/02/2009

Date

Gary Innis  
Manager, Planning  
Far Northern Region  
Environmental Protection Agency

Enquiries:  
Michael Tierney  
Environmental Protection Agency  
PO Box 2068  
CAIRNS QLD 4870  
Telephone: (07) 4046 6604  
Facsimile: (07) 4046 6606

## Reasons for Decision

1. The reasons for this decision are:
  - a. Sections 81, 81A and 83 of the *Planning Act 2016*;
  - b. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and
  - c. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
  - a. the development application was properly lodged to the Douglas Shire Council 17 November 2020 under section 79 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;
  - b. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy, the 1996 Douglas Shire Planning Scheme, the 2006 Douglas Shire Planning Scheme and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
  - a. the development triggered assessable development under the Assessment Table associated with the Conservation Zone Code;
  - b. Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
  - c. the applicant's reasons have been considered and the following findings are made:
    - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

## Non-Compliance with Assessment Benchmarks

Development complies with the planning scheme

## Extracts from the Planning Act 2016 – Appeal Rights

Planning Act 2016  
Chapter 6 Dispute resolution

[s 229]

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- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.
- (3) In this section—
  - conduct* means an act or omission.
  - representative* means—
    - (a) of a corporation—an executive officer, employee or agent of the corporation; or
    - (b) of an individual—an employee or agent of the individual.
  - state of mind*, of a person, includes the person's—
    - (a) knowledge, intention, opinion, belief or purpose; and
    - (b) reasons for the intention, opinion, belief or purpose.

## Chapter 6 Dispute resolution

### Part 1 Appeal rights

#### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
  - (a) matters that may be appealed to—
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) the person—
    - (i) who may appeal a matter (the *appellant*); and
    - (ii) who is a respondent in an appeal of the matter; and

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Authorised by the Parliamentary Counsel

- (iii) who is a co-respondent in an appeal of the matter; and
  - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
  - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
  - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
  - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
  - (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
    - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
    - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or

- (iii) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note—*

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
  - (a) the adopted charge itself; or
  - (b) for a decision about an offset or refund—
    - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
    - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

## **230 Notice of appeal**

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—



- (a) the respondent for the appeal; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
  - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
  - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
  - (f) for an appeal to the P&E Court—the chief executive; and
  - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
  - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
  - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.

- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

## **231 Non-appealable decisions and matters**

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—  
**decision** includes—
  - (a) conduct engaged in for the purpose of making a decision; and
  - (b) other conduct that relates to the making of a decision; and
  - (c) the making of a decision or the failure to make a decision; and
  - (d) a purported decision; and
  - (e) a deemed refusal.

**non-appealable**, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise,

whether by the Supreme Court, another court, any tribunal or another entity; and

- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

### **232 Rules of the P&E Court**

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

## **Part 2 Development tribunal**

### **Division 1 General**

#### **233 Appointment of referees**

- (1) The Minister, or chief executive, (the *appointer*) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—
  - (a) has the qualifications or experience prescribed by regulation; and
  - (b) has demonstrated an ability—
    - (i) to negotiate and mediate outcomes between parties to a proceeding; and
    - (ii) to apply the principles of natural justice; and
    - (iii) to analyse complex technical issues; and
    - (iv) to communicate effectively, including, for example, to write informed succinct and well-organised decisions, reports, submissions or other documents.