

5 April 2022

Enquiries: Jenny Elphinstone
Our Ref: MCUI 2023_5331/1(Doc ID 1149900)
Your Ref: 23006

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Angela Whittaker
c/- Scope Town Planning
38 Kowa Street
MAREEBA QLD 4880

Email: jburns@scopetownplanning.com.au

Attention Mr Johnathan Burns

Dear Sir

ACTION NOTICE
(in accordance with Section 3.1 of the Development Assessment Rules)

Reference is made to the development application lodged with Council on 31 March 2023.

The application is not a properly made application in accordance with Section 51(5) of the *Planning Act 2016*.

Applicant Details

Name: Angela Whittaker, C/ Scope Town Planning
Attention Johnathan Burns

Postal Address: 38 Kowa Street
Mareeba Qld 4880

Email: jburns@scopetownplanning.com.au

Property Details

Street Address: 6133 Captain Cook Highway Craiglie

Real Property Description: Lot: 3 on RP743352

Local Government Area: Douglas Shire Council

Application Details

Application Number: MCUI 2023_5331/1

Nature of Development Proposed: Material Change of Use for Low Impact Industry for the manufacture of residential and commercial window and door fabrication in addition to the continuing use of the dwelling house and secondary dwelling.

Description of the Development Proposed:

Material Change of Use for Low Impact Industry for the manufacture of residential and commercial window and door fabrication in addition to the continuing use of the dwelling house and secondary dwelling.

Reasons why the application is not properly made

The following is a statement of reasons why the application is not a properly made application:

1. Land over which the application has been made

The application is not properly made as it does not contain all the land over which the use is to operate.

The report states, *“The development site has frontage to and gains direct access via an existing crossover to the Captain Cook Highway, a State Controlled Road (Figure 8). The access driveway is split to service the Shed via a dedicated on-site internal driveway.”*

The aerial image of the site, as supplied by the Applicant, shows only one access point from the lot onto the neighbouring road. Two other accesses, appearing to service the dwelling house and the secondary dwelling are via a neighbouring lot. These latter accesses have no lawful access to the State-controlled road as there is no easement over the adjacent land and the adjacent land has not been included in the application.



Figure 2: Development Site aerial image. (Qld. Globe)

2. Applicant details and occupancy intent

The application does not clarify the intended occupancy and tenancy arrangement for the company to be situated on the land. That is, whether there any intended lease agreement and if so, the proposed length of lease period including any extension options and thus whether there is also the development for a Reconfiguration of a lot by lease arrangement.

3. Form 1

The submitted Form 1 states the use does not involve the use of an existing premises. The Form nominates the proposed use over the whole of the land. Where it is intended that the use operate only over part of the land, this should be clarified on the Form 1 and by the site plan details. Consideration of part of

The submitted plans nominate a “proposed shed.” The report includes an aerial image (as above) that clearly details the shed to be existing and the report also nominates the use of amenities to be provided elsewhere on the site. The form should clarify the existing and proposed areas where the development will occur.

The proposed use of the land should clarify any proposed continuation of the existing uses on the land, for example, “*dwelling house and secondary dwelling.*” Where there is any other use of the shed, including part of the shed this needs to be detailed in the application. The Form 1 should clarify whether the proposed use of Low Impact Industry is to operate in conjunction with other uses on the land. The application should detail where an alternative use also operates in the shed.

The nature of the Low Impact Industry development should be clarified on Form 1, for example “*Low Impact Industry for the manufacture of residential and commercial window and door fabrication.*”

Actions to be undertaken

The following actions must be undertaken in order to make the application a properly made application:

1. Include all land over which the application is made and provide the consent of all landowners.
2. Indicate whether the applicant is acting as the landowner, or for the company in the capacity of a Company Director or as a Company Secretary.
3. Clarify the relationship between the company, the tenancy of the dwelling house and the tenancy of the secondary dwelling. Clarify as to whether there is any reconfiguration of a lot by lease agreement.
4. Provide a correctly completed Form 1 with clarity of the extent of land over which the application is made and the details of any continuing use.

Due Date

Please note that in accordance with section 3.7 of the *Development Assessment Rules*, the application will be taken to have been not made if the above actions are not complied within 20 business days of this action notice unless otherwise agreed.

If the requirements within this notice are not undertaken within this period, Council will return the application and refund any paid application fee as soon as practicable.

The assessment period for the application will not commence until the application is taken to be properly made.

Other

Please quote Council's application number: MCUI 2023_5331/1 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

A handwritten signature in black ink, appearing to be 'P. Hoyer', written over a light blue horizontal line.

For
Paul Hoyer
Manager Environment & Planning