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30 May 2024

Assessment Manager  
Douglas Shire Council  
PO Box 723  
MOSSMAN QLD 4873  
Via: [enquiries@douglas.qld.gov.au](mailto:enquiries@douglas.qld.gov.au)

**Attention: Environment and Planning Team**

Dear Sir/ Madam,

**Re: Submission relating to Development Application MCUI 2024\_5572 seeking a Development Permit for Material Change of Use – Caretaker’s Accommodation, Environmental Facility, Nature-based Tourism, and Outstation on land described as Lots 12 and 172 on SP219620 and located at Cape Tribulation Road, Cape Tribulation**

Milford Planning refer to the abovementioned development application and provide the following submission in relation to the proposed development.

The submission is made to Douglas Shire Council (Council) as the Assessment Manager on behalf of [REDACTED] pursuant to Section 53 (6) of the *Planning Act 2016*.

In accordance with Schedule 2 of the *Planning Act 2016*, this submission is a properly made submission given it:

- a) is signed by each person who made the submission (the submission makers);
- b) is submitted during the defined period for making the submission;
- c) states the name and residential or business address of all submission makers;
- d) states its grounds, and the facts and circumstances relied on to support the grounds;
- e) states one postal or electronic address for service relating to the submission for all submission makers; and
- f) is made to the Assessment Manager.



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### Submission Grounds

This submission is made on the grounds detailed in the subsections below which identify specific areas where the proposed development conflicts with the relevant assessment benchmarks. The assessment benchmarks relevant to the Assessment Manager's assessment of this development application include the planning scheme and any other matter deemed relevant as per Section 45(5) of the *Planning Act 2016*.

We confirm our client's view that the nature of the proposal has potential to contribute to the tourism offering of the region. However, the proposed scale and density, particularly with the inclusion of sensitive accommodation uses, is not considered compatible with the amenity of the locality, and the site's constraints, and has the potential to be detrimentally affected by existing lawfully established development on the adjacent Lot 11 RP746567. The key areas of conflict with the relevant assessment benchmarks are further details below.

#### Amenity of Sensitive Uses

- The proposed development has not sufficiently demonstrated that there will be no adverse impacts to amenity resulting from the existing onsite waste water treatment plant on Lot 11 RP746567, particularly the adequacy of the proposed buffer to sensitive land use components. Compliance with Performance Outcome 3 of the Cape Tribulation and Daintree Coast Local Plan Code is therefore not demonstrated.
- The purpose of the Environmental Performance Code is achieved through overall outcomes including ensuring that *sensitive land uses are protected from amenity related impacts of lighting, odour, airborne particles and noise, through design and operation of the development*. The proposed development has not provided sufficient detail regarding the impact of existing lawful development on adjacent land on the amenity of proposed sensitive use components. Compliance with the overall outcomes of the Environmental Performance Code is therefore not demonstrated.
- The proposed development has not demonstrated that the existing onsite waste water treatment plant on Lot 11 RP746567, which has the potential to cause amenity impacts, is appropriately located and designed on the subject site to avoid such impacts. Performance Outcome 4 of the Environmental Performance Code requires the *potential odour causing activities associated with the development are avoided through design, location and operation of the activity*. Compliance with Performance Outcome 4 is therefore not demonstrated.
- The development has not demonstrated that the proposed sensitive accommodation components are being established in a location which will not receive potentially incompatible amenity impacts from surrounding existing development. In particular, the proposed accommodation uses are within close proximity to an existing lawful sewage treatment plant on the immediately adjoining property. The proposed development has therefore not demonstrated compliance with Performance Outcome 6 of the Environmental Performance Code.



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- The Strategic Framework's 'Urban Settlement' element under the 'Settlement Pattern' theme seeks to ensure *urban areas are protected from encroachment of competing and conflicting land use activities*. The inclusion of this provision demonstrates the planning scheme's intent of protecting existing lawful uses and operations and ensuring new development is located and designed to be compatible with the existing developed environment. The proposed development has not provided sufficient information to conclude that the proposed sensitive uses are compatible with the environment resulting from existing lawful operations.
  - The Strategic Framework's 'Water and Waste Management' element under the 'Infrastructure and Transport' theme recognises the challenges associated with unsewered development and the importance of appropriate management. In particular, it seeks to ensure *development in rural and rural residential areas is provided with a reliable, potable water supply and on-site effluent treatment that will ensure no detrimental impacts on amenity, health or wellbeing of communities or the natural environment*. The proposed development has not provided sufficient information regarding the impact of existing and proposed sewage treatment infrastructure on the amenity on sensitive land uses. Compliance with the planning scheme's Strategic Framework has therefore not been demonstrated by the development application.

#### Scale and Density

- The purpose of the Cape Tribulation and Daintree Coast Local Plan Code is achieved through overall outcomes which include limiting the scale of development, particularly to ensure it is of a *very low scale and remains within the limits imposed by the vehicular capacity of the Daintree River ferry crossing, the Alexandra Range road crossing and the local road network*. The development application has not demonstrated that there is a need for the intended scale and density in this location and on this specific site, noting the site's constraints. Compliance with the overall outcomes of the Cape Tribulation and Daintree Coast Local Plan Code is therefore not demonstrated.
- The development has not provided sufficient justification for the size and scale of the proposed infrastructure is compatible with the size and scale of development intended by the planning scheme for the site. Performance Outcome 19 of the Cape Tribulation and Daintree Coast Local Plan Code requires that development on this site, particularly in the Low Impact Residential Precinct, is for or compatible with a *detached dwelling of limited size and scale and necessary outbuildings and infrastructure*. The development application has not included detail of an on site electricity source, and in particular how and where such infrastructure can be located on the subject site. Resolution of an electricity source is required, particularly given the spatial requirements of solar infrastructure and the potential amenity effects of a generator source. The development application has also not provided sufficient information to confirm that there is enough area available on the subject site to accommodate a sustainably functioning wastewater absorption area, particularly given the coastal locality and soils. The development



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application has also failed to demonstrate that there is sufficient space dedicated on the subject site for stormwater detention to ensure adjoining properties are not detrimentally affected. Compliance with Performance Outcome 19 is therefore not achieved.

- The purpose of the Conservation Zone Code is achieved through overall outcomes including the requirement for *any low intensity facilities based on the appreciation of the natural environment or nature based recreation only establish where there is a demonstrated need and provided they have a minimal impact on the environmental and scenic amenity values of the site or surrounding area*. The proposed development includes such components, and also includes other associated components resulting in a development that does not align with the intent of the planning scheme. Compliance with the overall outcomes of the Conservation Zone Code is therefore not demonstrated.
- Performance Outcome 1 and Performance Outcome 5 relate to achieving the purpose of the Conservation Zone Code, reiterating the importance of the purpose and overall outcomes of the code. Given the abovementioned, compliance with these criteria is also not demonstrated by the development application.

#### **Other Relevant Matters**

In accordance with Section 45, Item 5 (b) of the *Planning Act 2016*, an impact assessment may be carried out against, or having regard to, any other relevant matter, other than a person's personal circumstances, financial, or otherwise.

Other relevant matters for consideration in the Assessment Manager's assessment of the proposed development include (but are not limited to) the following:

- alternative land is available in the immediate locality for the Applicant to develop, facilitating the ability to locate sensitive accommodation components further away from existing development with the potential to affect amenity of occupants;
- the ultimate function and amenity of the development and locality could be improved by reducing the density on the subject site to a scale more appropriate for the site and its constraints; and
- the construction and establishment of the proposed development is anticipated to result in the removal of vegetation, particularly given the large preconstructed nature of some components, with the removal of vegetation being inconsistent with the aesthetic and amenity anticipated by the planning scheme and desired by the community.

#### **Conclusion**

In conclusion, we confirm our view that the nature of the proposal has potential to contribute to the tourism offering of the region. However, the scale and density of the proposed sensitive accommodation use component however is not compatible with the amenity of the locality or the site's constraints, and the accommodation use component has the potential to be detrimentally affected by existing lawfully established development.



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It is suggested that sensitive components of the development may be better situated in a more appropriately zoned site within Cape Tribulation such the Low Impact Rural Production and Tourism Enterprise (Precinct 5) or Low Impact Tourism Accommodation (Precinct 6).

Council, as the Assessment Manager should place sufficient weight on this matter in completing its assessment. It is suggested that Council work with the Applicant to determine a scale of development that is capable of being supported by the site whilst maintaining compliance with the assessment benchmarks and importantly the intent for development within Douglas Shire.

To that end, we recommend:

- (1) Council work with the applicant to reduce the scale of the development and eliminate the sensitive use aspects of the proposal; and
- (2) in the event that (1) is unsuccessful, either approval the development subject to conditions that eliminate the sensitive uses (accommodation) from the proposal, or refuse the application altogether.

**Proceeding**

We welcome the opportunity to discuss the content of this submission correspondence with the Assessment Manager should that be of assistance, and we look forward to receipt of Council's decision in due course.

To discuss further or if you have any questions regarding this correspondence, please contact the undersigned on TEL: (07) 4724 0095.

Yours sincerely,

**MILFORD PLANNING**



Electronic

George Milford  
DIRECTOR

On behalf of the following submission makers:

<b>Submission Maker Signature</b>
<b>Submission Maker Name</b>
<b>Residential or Business Address</b>