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Enquiry Phone: Customer Service (07) 3412 5269
Property Key: 308491
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2 December 2019

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C/O GRUMMITT PLANNING PTY LTD
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SOUTHPORT BC QLD 4215



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Attn: Julie Cary

Dear Madam,

DECISION NOTICE - PLANNING ACT 2016

APPLICATION NUMBER MCUI/11/2019
PROPERTY ADDRESS 124 DISTILLERY ROAD, EAGLEBY QLD 4207
PROPERTY DESCRIPTION LOT 2 SP 102952
APPLICATION DESCRIPTION
• **MATERIAL CHANGE OF USE - TOURIST ATTRACTION AND MARKET**

1. DECISION

The above mentioned development application was assessed and **approved** subject to conditions. The decision was made by Logan City Council as the Assessment Manager on 2 December 2019.

2. APPROVAL TYPE

Development Permit

3. CONDITIONS OF APPROVAL - ASSESSMENT MANAGER

The Assessment Manager conditions are attached to this Decision Notice.

4. REFERRAL AGENCIES

The following were Referral Agencies applicable to this development application. If the Referral Agency has given conditions of approval or provided advice, it is listed below and is attached to this Decision Notice.

Department of State Development, Manufacturing, Infrastructure and Planning	Conditions are attached to this Decision Notice.
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5. PROPERLY MADE SUBMISSIONS

There were no properly made submissions that were received for this development application during the public notification period.

6. OTHER DEVELOPMENT PERMITS OR CERTIFICATES NECESSARY TO ALLOW THE DEVELOPMENT TO BE CARRIED OUT

Operational Works
Building Works
Plumbing and Drainage Works

7. STATEMENT OF REASONS

Description of the development	The proposed development is for a Material Change of Use - Tourist Attraction and Market.	
Assessment benchmarks	The proposed development was assessed against the following assessment benchmarks: • Biodiversity Areas Overlay Code; • Flood Hazard Overlay Code; • Landslide Hazard and Steep Slope Area Overlay Code; • Waterway Corridors and Wetlands Overlay Code; • Specialised Centre Zone Code; • Filling and Excavation Code; • Infrastructure Code; • Landscape Code; • Management of Emissions and Hazardous Activities Code; and • Servicing, Access and Parking Code.	
Relevant matters	Not applicable - Relevant Matters not required.	
Matters raised in submissions	Not applicable - No properly made submissions were received.	
Reasons for decision	The development was assessed against all of the assessment benchmarks listed above and complies with all of these with the exception(s) listed below.	
	Assessment benchmark	Reasons for the approval despite non-compliance with benchmark
	<i>Specialised Centre Zone Code:</i> <i>PO12</i>	AO12 requires that a building is to have a maximum height of 10 metres within 200 metres of the Albert River. As the existing building has a maximum building height of 15.4 metres within the 200 metre buffer of the Albert River, compliance cannot be demonstrated. Compliance with PO12 is therefore required. The proposed development involves the internal fitout of the existing building that was approved through a previous application. The existing building is also responsive to the topography of the area and is setback approximately 35 metres from the property boundary of the nearest residential zone category and will therefore not adversely impact on the property in regards to privacy, amenity and overshadowing. Therefore, the existing building is considered to comply with PO12 of the Specialised Centre Zone Code, as it applies to the Albert River Tourism Precinct.

	<i>Infrastructure Code:</i> PO3	The subject site has frontage to Distillery Road, which has been identified within Planning Scheme Policy 5 - Infrastructure as an industrial collector road. In order to achieve the required standard of an industrial collector road (24 metres wide) and comply with AO3, the subject site will require a 2 metre strip of land along the Distillery Road frontage of the site to be dedicated to Council as road reserve. The proposed development has not provided for this and therefore cannot comply with AO3. Compliance with PO3 is required to be demonstrated. PO3 requires development to be located to protect existing and planned infrastructure networks. Council's Technical Services officers have confirmed that, as part of any future upgrade of Distillery Road to an industrial collector standard, the required pavement width will fit adequately within the current road reserve. Council has also entered into an Infrastructure Agreement with the applicant, requiring the payment of a financial contribution to Council for the future upgrade of the Distillery Road pavement along the frontage of the subject site, to be made prior to the earlier of the commencement of a use in Stage 2 or timing specified by Council in an approval. The proposed development is therefore located to protect the existing and planned infrastructure works for Distillery Road and complies with PO3 of the Infrastructure Code.
	<i>Servicing, Access and Parking Code:</i> PO1	The proposed development provides for 643 car parking spaces across the entire site, consisting of 136 car parking spaces for the existing approved land uses and an additional 507 car parking spaces. Car parking provisions for a Market are listed under Table 9.4.7.3.2 of the Servicing, Access and Parking Code as per AO1; however, a Tourism Attraction is not listed and does not contain nominated car parking rates or provisions. To identify the likely car parking demand for the proposed development as an overall concept, comprising both the Tourist Attraction and Market uses, and to demonstrate compliance with PO1, the applicant has provided a Traffic Engineering Report prepared by TTM. The car parking demand for each stage of the proposed development, as estimated by TTM, is discussed further below. Stage 1 of the proposed development will include GFA attributable to both the Tourist Attraction and Market land uses. The Traffic Engineering Report prepared by TTM applied a car parking rate for the Tourist Attraction component of the proposed development equivalent to a Shopping Centre land use, which is prescribed within Table 9.4.7.3.2 of the Servicing,

		Access and Parking Code as having a rate of 1 space per 17m² of GFA. The Market use rate of 1 space per 5m² of GFA, as per Table 9.4.7.3.2 of the Servicing, Access and Parking Code has also been applied to the proposal. Using this methodology, a total of 724 car parking spaces is required for Stage 1 of the proposed development. Stage 2 will result in the entirety of the GFA being occupied by the Tourism Attraction land use. As stated previously, the proposed Market use within Stage 2 will be located entirely externally to the building, having no GFA, within an area of the car park that comprises 51 car parking spaces. Applying the Shopping Centre car parking rate across the entire 7,303m² of GFA for the Tourist Attraction use, a car parking demand of 430 car parking spaces was identified. The applicant also provided information regarding the amount of people expected on site at any given time, within both Stage 1 and Stage 2 of the proposed development. The total expected number of people present on site will be approximately 730 in the worst case scenario of which results to a demand of 730 car parks if every visitor were to drive. However, this does not account for people taking other modes of transport, including coaches, taxis and ride share arrangements, carpooling and the maximum amount of visitors present on site will only be on weekends. Each of these factors would result in the car parking demand for the development being much lower than 730 car parking spaces. A total of 643 car parking spaces is provided for the entire site as per previous approvals. Existing approved uses will utilise 136 of these car parking spaces during standard business hours. The proposed uses will therefore be allocated 507 car parking spaces during standard business hours throughout the working week. On weekends and outside of standard business hours, the proposed uses will be able to take advantage of the additional 136 car parking spaces and effectively utilise all 643 car parking spaces available on site. The proposed external market and food truck area will occupy 51 of these car parking spaces, resulting in 592 car parking spaces being available outside of standard business hours and when the external market and food truck area is operational. In consideration of the above factors that would provide alternative transport means to the proposed development, the proposed car parking is considered to be sufficient to meet the likely demand of the proposed development. Council's Technical Services officers have reviewed the report prepared by TTM
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		and agree that sufficient car parking spaces have been provided to service the proposed development and existing approved uses on the site. The applicant has therefore demonstrated compliance with PO1 of the Servicing, Access and Parking Code.
	<i>Flood Hazard Overlay Code: PO2 and PO5</i>	The southern portion of the subject site is affected by the Flood Hazard Overlay. More specifically, it affects the existing lower level car parking area located towards the rear of the site, which will be approximately 1 metre below the defined 2% AEP river flood level (7.5m Australian Height Datum). The proposed development will not be able to comply with AO2, as it will result in an increase in the number of people at risk from flooding up to and including the defined flood event, as well as increasing the number of people that need evacuation during a flood event. Compliance with PO2 is therefore required to be demonstrated. The proposed development will still result in an increase in the level of risk to people and vehicles, by allowing for the use of a car parking area that is affected by the 2% AEP event. Compliance with PO2 and PO5 as above has therefore not been demonstrated and compliance with the purpose of the Flood Hazard Overlay Code is required to be demonstrated. The purpose of the Flood Hazard Overlay Code is to be achieved through the overall outcomes of the code. The overall outcomes of the Flood Hazard Overlay Code states that development does not result in people and premises being at an unacceptable risk during a defined flood event, does not exacerbate the extent or severity of flooding or flood risk, protects and enhances the flood resilience (safety) of the community, including properties and does not add to the emergency management or evacuation burden during and after a flooding event. Conditions have been recommended requiring a Flood Emergency Management Plan to be implemented for the proposed development, with flood warning and emergency signage to be installed within the lower level car parking area. Furthermore, during a flood event, six (6) properties to the north of Distillery Road do not have flood free access to a road that will provide residents with a safe route to Henry Hester Drive. An Infrastructure Agreement has been executed between the applicant and Council, which secures passage through the site for these properties during a flood event. Conditions have also been recommended

		to ensure that an evacuation procedure for all properties north of Distillery Road, to gain flood free access through the site to Henry Hester Drive during any flood event, is implemented. The proposed development therefore will not result in an unacceptable level of risk to people and premises during a flood event, will not exacerbate the extent of flood risk and will improve the flood resilience and emergency management procedures for the proposed development and surrounding properties. Compliance with the overall outcomes and therefore, purpose, of the Flood Hazard Overlay Code has therefore been demonstrated.
Matters prescribed by a regulation	Not applicable.	

For further details on the assessment of this development application, please see the Delegated Report available for public viewing on the Logan City Council Planning and Development Online website at: <http://pdonline.logan.qld.gov.au>. When accessing Council's website please use the following Application Number: MCUI/11/2019.

8. CURRENCY PERIOD

In accordance with section 85 of the *Planning Act 2016*, this approval has a currency period of 6 years.

9. RIGHTS OF APPEAL

This Decision Notice may be appealed in accordance with the following sections of the *Planning Act 2016*:

- Chapter 6 (Dispute Resolution), Part 1 (Appeal Rights); and
- Schedule 1 (Appeals).

Appeals to the Planning and Environment Court

Information about how to proceed with an appeal to the Planning and Environment Court may be found on the Court's website: <http://www.courts.qld.gov.au/courts/planning-and-environment-court>

For further information about this application please contact the Assessment Manager, Daniel Wilson, on (07) 3412 5269 or via email to development@logan.qld.gov.au

Yours faithfully,

Jessica Binch
Senior Planning Officer - Major Developments
Major Developments and Appeals
Strategy and Sustainability