AGENDA

Planning & Environment Committee Meeting

Tuesday, 9 April 2019

commencing at 9.30am

Committee Room, 9 Pelican Street, Tewantin

Committee: Crs Brian Stockwell (Chair), Jess Glasgow, Ingrid Jackson, Tony Wellington

“Noosa Shire – different by nature”
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<td><strong>CONFIDENTIAL SESSION</strong></td>
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REPORTS FOR CONSIDERATION OF THE COMMITTEE

1 MCU19/0016 - DEVELOPMENT APPLICATION FOR MATERIAL CHANGE OF USE, DETACHED HOUSE SEAWARD OF THE COASTAL BUILDING LINE, LOCATED AT 54 SEAVIEW TERRACE, SUNSHINE BEACH

Author
Development Planner, Lisa Pienaar
Environment and Sustainable Development Department

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ECM/ Application/ MCU19/0016

Attachments
1. Architectural Plans
2. Landscaping Plan
(Note: Both attachments provided separately to this report)

APPLICATION DETAILS

Applicant
Brett McKenzie Mason

Proposal
Material Change of Use - Detached House in Coastal Protection Area (Seaward of Coastal Building Line)

Properly Made Date
11 February 2019

Information Request Date
Not applicable

Information Response Date
Not applicable

Decision Due Date
18 April 2019

Number of Submissions
Not applicable

PROPERTY DETAILS

Property Address
54 Seaview Terrace, Sunshine Beach Qld 4567

RP Description
Lot 63 RP 81810

Land Area
589 m²

Existing Use of Land
Dwelling

STATUTORY DETAILS

SEQRP Designation
Urban Footprint

Locality
Eastern Beaches

Zone
Detached Housing

Overlays
Natural Resource Overlay – Coastal Protection Area
Natural Hazard Overlay – Slide Hazard

Assessment Type
Code
RECOMMENDATION

That Council note the report by the Development Planner to the Planning & Environment Committee Meeting dated 9 April 2019 regarding Application No. MCU19/0016 for a Development Application for Material Change of Use for a Detached House seaward of the coastal building line, situated at 54 Seaview Terrace, Sunshine Beach and:

A. Refuse Application No. MCU19/0016 for the following reasons:

1. The proposal is in conflict with the assessment benchmarks of the State Planning Policy as it proposes development in an Erosion Prone Area and Natural Hazard Area.

2. The proposal is contrary to the provisions of the Planning Scheme in that it proposes development:
   a. in the Landslide Hazard Area thereby placing people and property at risk and does not maintain the natural processes and protection function of land forms and vegetation contrary to the provisions of the Natural Hazards Overlay Code.
   b. in the Coastal Protection Area extending seaward of the Coastal Building Line and is likely to adversely impact upon natural coastal processes contrary to the requirements of the Natural Resources Code.
   c. which does not protect the dunal area and natural environmental nor maintain the safety of people and works contrary to the Overall Outcomes for the Eastern Beaches Locality.

3. Recent modelling carried out by the Council indicates significant erosion is likely to occur in the future which may threaten life and property should the proposed development proceed.

4. Given the site is affected by the Coastal Building Line and is located in a highly vulnerable erosion prone area, the proposed 6m setback is not sufficient to minimise the risk of erosion.

B. Note the report is provided in accordance with Section 63(5) of the Planning Act 2016.

REPORT

1. PROPOSAL

The applicant proposes to remove the existing dwelling and construct a new 2 storey dwelling within the Coastal Protection Area identified under the Natural Resources Overlay. The dwelling is proposed to be located seaward of the Coastal Building Line. The Coastal Building Line is generally 15m from the seaward boundary. The background of the Coastal Building Line is provided in section 2.1 of this report. Refer Figure 1– Proposed Site plan for new dwelling & Figure 2 – Elevations for proposed dwelling.
Figure 1 – Proposed Site plan for new dwelling (Coastal Building Line in yellow)
2. SITE DETAILS

2.1. Background

The existing dwelling situated on the subject site was constructed in 1973, when building approval was granted. An addition to the dwelling received building approval in 1995. There is no planning approval documented for this property. The dwelling straddles the Coastal Building Line which was officially declared on 22 December 1984 under the Coastal Management Control District Regulations 1984. Refer Figure 3 – Subject site and Coastal Building Line.
As shown in Figure 3 – Subject site, the majority of development on the eastern side of Seaview Terrace has some form of building work seaward of the Coastal Building Line. As reference for Section 3 of this report, it is important to provide background to other development affected by the Coastal Building Line on the seaward side of Seaview Terrace. This is provided in Table 1 below.

**Table 1 – Background of development on lots affected by the Coastal Building Line on the seaward side of Seaview Terrace** (NB – Table as referenced in report for application no. 51987.2951.01- extra content added for this report)

<table>
<thead>
<tr>
<th>Address in Seaview Terrace</th>
<th>Development Approval</th>
<th>Date of Decision</th>
<th>Comments</th>
</tr>
</thead>
<tbody>
<tr>
<td>38</td>
<td>2005132004.240114</td>
<td>11 July 2005</td>
<td>No development seaward of the Coastal Building Line.</td>
</tr>
<tr>
<td>40</td>
<td>51993.271</td>
<td>1993</td>
<td>DA File misplaced. Building plans indicate development approximately 3m to 4m seaward of the Coastal Building Line.</td>
</tr>
<tr>
<td>42</td>
<td>TPC 1918</td>
<td>7 July 1987</td>
<td>Dwelling originally approved – part of building cantilevered into Coastal building line setback.</td>
</tr>
<tr>
<td></td>
<td>Change to TPC to add pool and deck</td>
<td>19 September 2018</td>
<td>Change to add deck and pool refused by Council. Currently in appeal stage.</td>
</tr>
<tr>
<td>Address in Seaview Terrace</td>
<td>Development Approval</td>
<td>Date of Decision</td>
<td>Comments</td>
</tr>
<tr>
<td>---------------------------</td>
<td>----------------------</td>
<td>------------------</td>
<td>----------</td>
</tr>
<tr>
<td>44</td>
<td>No DA records for original dwelling</td>
<td></td>
<td>Original dwelling appeared (from aerials) to comply with the Coastal Building Line setback.</td>
</tr>
<tr>
<td></td>
<td>MCU12/0159</td>
<td>9 January 2013</td>
<td>A portion of the building, a deck and pool (pool setback 4m – 5.7m from rear boundary) approved seaward of the Coastal Building Line. Third party referral to DEHP. Alignment of neighbouring property was considered in the assessment.</td>
</tr>
<tr>
<td></td>
<td>MCU15/0023</td>
<td>5 June 2015</td>
<td>A greater setback to the pool (4.9m to 6.5m from rear boundary) and a reduction of building forward of the Coastal Building Line when compared to the previous approval.</td>
</tr>
<tr>
<td>46 - 48</td>
<td>132005.2200</td>
<td>27 February 2007</td>
<td>The application was subject to the State Coastal Management Plan*. For context an extract from the planners report is provided below— The State Coastal Management Plan contains specific provisions relating to erosion prone areas when undertaking development assessment. The State Coastal Management Plan, Policy 2.2.2 applies to Erosion Prone Areas. For existing developed areas in the erosion prone area, the limit for new buildings is the building alignment of neighbouring properties. Further development is only to occur landward of this alignment. The proposed dwelling house is primarily located landward behind the 15 metre building setback line from the rear boundary. Although small sections of the house and the proposed pool extend within this setback, the development does not occur seaward of the neighbouring dwelling to the north or the existing deck on the site which is to be retained.</td>
</tr>
<tr>
<td>50</td>
<td>132004.4743</td>
<td>2005</td>
<td>The proposal is seaward of the Coastal Building Line and was subject to the State Coastal Management Plan, Policy 2.2.2. The assessment is similar to the neighbouring 46-48 Seaview Terrace.</td>
</tr>
<tr>
<td></td>
<td>MCU15/0096</td>
<td>13 May 2016</td>
<td>New dwelling (demolishing previous dwelling). A portion of the building, setback 5-8.25m back from rear boundary. Approved seaward of the Coastal Building Line. Alignment of neighbouring property was considered in the assessment. Approval for roof form – no further encroachment to rear boundary.</td>
</tr>
<tr>
<td></td>
<td>MCU15/0096.03</td>
<td>20 March 2017</td>
<td></td>
</tr>
<tr>
<td>Address in Seaview Terrace</td>
<td>Development Approval</td>
<td>Date of Decision</td>
<td>Comments</td>
</tr>
<tr>
<td>---------------------------</td>
<td>---------------------</td>
<td>-----------------</td>
<td>----------</td>
</tr>
<tr>
<td>52</td>
<td>131998.982104</td>
<td>14 December 1998</td>
<td>Extension to existing dwelling seaward of the Coastal Building Line. Referral to the Beach Protection Authority. Consideration of neighbouring properties alignment. Roof over second storey deck seaward of the Coastal Building Line. Not protruding further seaward than existing deck.</td>
</tr>
<tr>
<td></td>
<td>15246 DA</td>
<td>6 January 2016</td>
<td></td>
</tr>
<tr>
<td></td>
<td>131998.982104.1</td>
<td></td>
<td></td>
</tr>
<tr>
<td>54</td>
<td>No DA on file</td>
<td>Building approval 1973</td>
<td>Dwelling is constructed eastward of the Coastal building line. Dwelling approved and constructed prior to the introduction of the Coastal Building Line. Subject site – background provided above.</td>
</tr>
<tr>
<td>56</td>
<td>132005.901</td>
<td>29 November 2005</td>
<td>The proposal is seaward of the Coastal Building Line and was subject to the State Coastal Management Plan*, Policy 2.2.2. The assessment was similar numbers 46-48 &amp; 50 Seaview Terrace. New dwelling (demolishing previous dwelling). A portion of the building, setback 6.7-8.4m back from rear boundary. Approved seaward of the Coastal Building Line. Alignment of neighbouring property was considered in the assessment.</td>
</tr>
<tr>
<td></td>
<td>MCU13/0247</td>
<td>20 January 2014</td>
<td></td>
</tr>
<tr>
<td>56</td>
<td>MCU13/0247.02</td>
<td>14 February 2017</td>
<td>Changes include relocation of pool to upper level, extension of deck seaward and roof terrace. Alignment of neighbouring property was considered in the assessment in terms of average setback.</td>
</tr>
<tr>
<td>58</td>
<td>51996.2025 (04632 TP)</td>
<td>23 August 1996</td>
<td>A cantilevered deck seaward of the Coastal Building Line resulting in a 6m setback to the seaward boundary. Referral to the Beach protection Authority.</td>
</tr>
<tr>
<td>60</td>
<td>131999.982760</td>
<td>12 July 1999</td>
<td>Dwelling seaward of the Coastal Building Line. Extensions to an existing house built prior to the 1980’s.</td>
</tr>
<tr>
<td>62</td>
<td>132004.4920</td>
<td>26 November 2004</td>
<td>Dwelling seaward of the Coastal Building Line. The proposal was subject to the State Coastal Management Plan*, Policy 2.2.2. The assessment was similar to numbers 46-48, 50, &amp; 56 Seaview Terrace.</td>
</tr>
<tr>
<td>64</td>
<td>No DA except for an extension to the carport</td>
<td></td>
<td>The existing dwelling appears to extend approximately between 2m to 3m seaward of the Coastal Building Line.</td>
</tr>
</tbody>
</table>

*The State Coastal Management Plan commenced in February 2002 and ended in February 2012 and was replaced by State Planning Policy 3/11: Coastal Protection (2 Dec 2013). Since 2013 various State Planning Policies have lapsed or been repealed.
State Mapping

The site is also within an Erosion Prone Area and Coastal Management District as shown in SARA’s mapping below in Figure 4 - Coastal Management District and Erosion Prone Area.

As background for this report, the QLD Government Guideline: State Development Assessment Provisions State Code 8: Coastal development and tidal works provides information on the intent of the Coastal Building Line and the concept of coastal processes and this is provided below for Council’s reference.

Coastal Building Line

Coastal building lines are declared in those areas that are already developed for urban purposes and are highly vulnerable to coastal erosion. The intent of the coastal building line is to:

- provide a common alignment for building work;
- set back development from the coastline which reduces the erosion risk to people and property;
- provide space on the lot seaward of the development for construction of future erosion control structures wholly on the lot and not on State land.

Generally, no building work, including houses, sheds or swimming pools, would be permitted seaward of a coastal building line. Only works for the protection of existing buildings from sea erosion, such as seawalls, would be permitted seaward of a coastal building line.

Coastal Processes

Coastal processes are the natural processes occurring on the coast and in tidal water including:

- wind, waves, tides and currents which transfer energy to the coast and drive other processes;
- sediment transport to and along the coast;
- sediment accumulation or erosion onshore and offshore which builds or destroys landforms including foreshores, beaches, dunes, delta plains;
- the growth and spread of plants and succession of plant communities, especially where plants have a specific role in trapping sediment and building landforms (mangrove and dune colonizing grasses) and stabilizing sediments against erosion;
- changes in sea-level both temporary and permanent from weather events and climate change.
Localised Modelling – Noosa Council

The lot is also affected by Council’s new Coastal Hazards – Erosion Prone Area mapping. The modelling was undertaken in accordance with the Queensland Government Coastal Hazard Technical Guide. Modelling for Erosion Prone Area 1% AEP storm event consists of three future planning horizons – the years 2040, 2070 and 2100, as well as present day conditions, for a comparison. The modelling outputs were completed and signed off in February 2018 by the relevant representative of the QLD State Government ensuring the modelling was in accordance with the State guidelines. Figure 5 below shows the subject site and the newly modelled erosion prone areas.

![Figure 5 – Erosion Prone Area and subject site](image)

The modelling suggests that by 2040 and 2070, within the life of this development, approximately between 50% up to 80% of the site is affected by coastal erosion in a 1% AEP storm event.

Discussion with Applicant

The applicant was consulted at the Information request stage of the application process as to whether they would consider changing their proposal to have all proposed built form to be located landward of the Coastal Building Line. The applicant declined this option.

Around the same time Council officers met with the applicant, whereby the applicant conveyed their wish to build within 6 metres from the eastward boundary as per other residents in Seaview Terrace had. They expressed their disappointment with regard to timing, whereby policy positions had been strengthened since purchasing their property and submitting the application for the proposed dwelling.
2.2. Site Description
The site has a 15 metre frontage to Seaview Terrace and a 15.4 metre frontage to the Sunshine Beach coastal reserve and is rectangular in shape. The site is located on a steep escarpment where at the rear boundary, the land falls away to the beachfront. The site itself has a 7 metre fall from west to east.

An existing dwelling is located on the site within the Coastal Protection Area identified under the Natural Resources Overlay. The Coastal Building line traverses the site north to south as shown in Figure 1.

2.3. Surrounding Land Uses
The site adjoins detached houses to the north and south and to the west across Seaview Terrace. The site slopes steeply to the east adjoining north Sunshine Beach.

3. ASSESSMENT
3.1. Instruments for Statutory Assessment
The application under the Planning Act 2016 must be assessed against each of the following statutory planning instruments to the extent they are relevant to the development:

- State Planning Policy;
- South East Queensland Regional Plan;
- Planning Regulation 2017;
- The Noosa Plan.

3.2. State and Other Statutory Instruments
State Planning Policy
The State Planning Policy July 2017 (SPP) outlines particulars about compatible urban form that minimises impacts on coastal processes and avoids development that present unacceptable risk from coastal hazards. The Noosa Plan is generally consistent with the SPP. The State Planning Policy (State interest guideline – Coastal Environment) requires the coastal environment to be protected and enhanced and urban form to be compatible with this. Particularly this policy requires that development is avoided in areas that present an unacceptable risk from coastal hazards; and development avoids or minimises adverse impacts on coastal processes and coastal resources.

South East Queensland (SEQ) Regional Plan
The site is located within the Urban Footprint area of the SEQ Regional Plan. The proposal is consistent with the regional policies of the SEQ Regional Plan.

Planning Regulation 2017
The proposal is for urban activity within the Urban Footprint and is consistent with the assessment benchmarks contained in the Planning Regulation 2017 for the SEQ Region.

3.3. Statutory Instruments
State Provisions
The proposal seeks to construct a new dwelling seaward of the Coastal Building Line, providing a 6 metre setback to the building and a cantilevered deck 3 metres setback from the seaward boundary. The Coastal Building Line is generally 15m from the seaward boundary as shown in Figure 1 in Item 1 of this report.
A Development Permit for Building Works is required to be referred to the State Assessment and Referral Agency (SARA) as a Concurrence Agency. The applicant has referred the application in its current form prior to lodging this planning application with Council as provided for under the Planning Act 2016. SARA has no objection to the building works and imposed 3 conditions for the development. Refer Section 6.1 of this report.

Locality Provisions – Noosa Plan

The subject site is located in the Eastern Beaches Locality and is zoned Detached Housing. The proposed use is identified as a consistent use within the zone and is required to follow a code assessable application process.

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Planning Scheme</th>
<th>Proposal</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Site cover</td>
<td>40/40%</td>
<td>38/40/18%</td>
<td>✓</td>
</tr>
<tr>
<td>Soft landscaping</td>
<td>20%</td>
<td>55%</td>
<td>✓</td>
</tr>
<tr>
<td>Landscaping setbacks</td>
<td>20%</td>
<td>55%</td>
<td>✓</td>
</tr>
<tr>
<td>Building height</td>
<td>2 storeys max</td>
<td>2 storeys</td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td>8 metres</td>
<td>7.9 metres</td>
<td>✓</td>
</tr>
<tr>
<td>Boundary setbacks</td>
<td>6 metres</td>
<td>6 metres</td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td>1.5m/2m/2.5m</td>
<td>2.5 metres</td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td>1.5m/2m/2.5m</td>
<td>2.5 metres</td>
<td>✓</td>
</tr>
<tr>
<td></td>
<td>15 metres (where coastal building line) or 6 otherwise</td>
<td>6 metres &amp; cantilevered deck at 3 metres</td>
<td>X</td>
</tr>
<tr>
<td>Length of wall</td>
<td>15 metres max</td>
<td>12 metres</td>
<td>✓</td>
</tr>
</tbody>
</table>

Land Use & Works Provisions

The application has been assessed against applicable codes. The pertinent issues arising out of the assessment against the codes are discussed as follows, including:

- Eastern Beaches Locality Code
- Detached House Code
- Natural Resource Overlay Code
- Natural Hazard Overlay Code

Natural Resources Overlay Code – Coastal Protection

The relevant Specific Outcomes of the Natural Resources Overlay Code – Coastal Protection are provided below:

O18 The siting and design of development and materials used within the Coastal Protection Area, as identified on the Natural Resources Overlay Maps, do not cause any significant adverse impacts on the coastal resources of the location nor interrupt the natural cycles of erosion and accretion of foreshore areas and beaches.
O20 Buildings and other structures including swimming pools and retaining walls do not extend seaward of the coastal building line except—

a) uncovered and unenclosed cantilevered balconies that do not extend greater than 3m seaward of the coastal building line; and

b) are setback a minimum of 6m from the seaward boundary (refer below).

The proposal does not comply with Specific Outcome O18 as it is considered the development seaward of the Coastal Building Line has the potential to interrupt the natural cycles of erosion and accretion of the beach. Furthermore, the proposal does not comply with Specific Outcome 20 as the new development does not comply with the 15m setback of the coastal building line and the cantilevered walkway/deck is only setback 3 metres from the seaward boundary.

Given the proposal does not comply with the Specific Outcomes, the following Overall Outcomes for the Natural Resources Overlay Code are applicable:

13.42.2 The overall outcomes sought for the Natural Resources Overlay Code are—

f) for Coastal Protection Areas, development —

i) does not adversely impact upon natural coastal processes; and

ii) is designed and sited to protect the natural beach experience and visual amenity enjoyed by residents and others.

It is pertinent that new climate change information and modelling has highlighted that within the life of this development serious erosion may occur and risk life and property.

Erosion prone areas should be retained in their natural state where they can act as a buffer between land uses and the beach to allow the natural coastal processes to occur, without the need for intervention to protect human life and property. It is considered the proposal will adversely impact on the coastal processes as a 6m landscaped setback is not sufficient to minimise the risk of erosion.

Consistent with the Noosa Plan, no new buildings, structures, swimming pools and retaining walls can occur seaward of the coastal building line, except for uncovered and unenclosed cantilevered balconies that do not extend greater than 3 metres seaward of the Coastal Building Line and are setback a minimum of 6 metres from the seaward boundary. The proposed deck/walkway is 3 metres setback from the seaward boundary, with a large portion of the dwelling seaward of the Coastal Building Line.
While some of the dwellings on the seaward side of Seaview Terrace are constructed seaward of the Coastal Building Line, they complied with the statutory instruments in force at the time or were found to be consistent with surrounding development. Since that time new information of climate change effects on coastal processes have been modelled and more accurately depict the risk of erosion to the subject property as shown in Figure 5 in section 2.1.

Furthermore, it should be noted that State Government planning for coastal areas has changed over time. For example, between 2002 and 2012 State Planning Policy allowed for development seaward of the coastal building line providing it did not protrude seaward of the neighbouring properties building alignment. Whereas, the current State Development Assessment Provisions are much more restrictive, not permitting development seaward of the coastal building line except for coastal protection works. This highlights the Queensland State Government statutory planning instruments that recognise the importance of the risks of climate change and updated information available.

The application is considered to comply with Probable solution 18.1 which requires a mix of native landscaping to be provided for a width of 5m from the seaward boundary to provide buffering to the coastal dunal system.

The applicant submitted a detailed landscape plan that includes landscaping to 55% of the site and extensive mature and shrub native plantings within the 6 metre rear setback to the proposed dwelling. Pathways of sand with stone steppers are also proposed in this setback.

Generally

The site is subject to the Natural Hazards Overlay Code - Landslide Hazard area. The applicant has not provided a geotechnical report relating to proposed development which is required by the Overlay Code and the Detached House Code. It should be noted that the applicant was not requested to provide a geotechnical report as it was indicated at that time that the development would not be supported by officers.

Notwithstanding the above, the proposal largely complies with the Detached House Code. It appears that the roof form meets the minimum of 5 degrees requirement. The proposed vaulted roof form does soften the box profile of the dwelling, particularly from the east and west elevations. Refer Figure 6 – West elevation.

![Figure 6 – West elevation](image-url)
4. RISK & LIABILITY

There will be increasing pressure for property owners to seek protection for their built assets to combat erosion impacts. Who is responsible and who should cover this cost has some case law, but is still not clear yet.

Climate change presents considerable uncertainty in terms of severity and frequency of hazard. Council as assessment manager has a duty of care to give full consideration to coastal erosion and sea level rise risks. While a planning scheme might provide for a particular type of development to occur, the assessment manager must consider whether the design and siting of that development is compatible with the risk and that any coastal risks have been appropriately mitigated.

Advice from LGAQ and King and Co advise that Council has a duty of care to consider best available information at the time of assessing the development application.

5. DRAFT PLANNING SCHEME

The draft zoning under the new Planning Scheme is Low Density Residential. The parameters under the draft scheme with regard to site cover, height, built form and setbacks has remained unchanged. The draft Coastal Protection overlay code is further strengthened under the draft Planning Scheme based on new and current information with regard to coastal hazards. In summary, the draft Code includes provisions that recognises that development is sensitive to the foreshores and avoids the need for coastal protection works. Further where buildings on the site are already located within the coastal hazard area for year 2100 at the commencement of the scheme, new buildings, structures or retaining walls do not extend seaward of the coastal hazard area for year 2070. The Code refers to the Coastal Hazard areas mapping as recently released by Council. Refer Figure 5 – Erosion Prone Area and subject site. The existing dwelling and the proposed dwelling is located within the predicted erosion prone area for years 2100, 2070 & 2040.

6. CONSULTATION

6.1. Concurrence Agency for Building Work

The applicant’s building certifier referred the proposal to the State Assessment and Referral Agency (SARA), under Schedule 9 of the Planning Regulation 2017 for premises located seaward of the coastal building line, prior to submitting the planning application to Council for assessment.

On the 6 February 2018, the Department (DSDMIP) issued a Statement of Reasons and conditions for the development under Version 2.4 of the State Development Assessment Provisions (SDAP) which commenced 16 November 2018 – State Code 8 Coastal development and tidal works. The reasons for this decision provided by SARA for the proposal are as follows.

- To ensure the development is carried out generally in accordance with the plans of development submitted with the application.
- To ensure the development avoids or minimises adverse impacts on coastal resources and their values.
- To ensure any disturbance to acid sulfate soils is managed to prevent impacts to coastal environments.
The Department has responded with 3 conditions pertaining to the proposal as follows:

<table>
<thead>
<tr>
<th>No.</th>
<th>Conditions</th>
<th>Condition timing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>The proposed development must be carried out generally in accordance with the following plan: • Existing Overlay Site Plan, prepared by Sparks Architects, dated 18/12/18, drawing number DD 1.2, revision A.</td>
<td>Prior to the issue of the Certificate of Classification/Final Inspection Certificate or prior to the commencement of use, whichever comes first, and to be maintained at all times</td>
</tr>
<tr>
<td>2.</td>
<td>Erosion and sediment control measures which are in accordance with Best Practice Erosion and Sediment Control (BPESC) guidelines for Australia (International Erosion Control Association), are to be installed and maintained to prevent the release of sediment to tidal waters.</td>
<td>For the duration of the works</td>
</tr>
<tr>
<td>3.</td>
<td>(a) In the event that the works cause disturbance or oxidation of acid sulfate soil, the affected soil must be treated and thereafter managed (until the affected soil has been neutralised or contained) in accordance with the current Queensland Acid Sulfate Soil Technical Manual: Soil management guidelines, prepared by the Department of Science, Information Technology, Innovation and the Arts, 2014.</td>
<td>(a) Upon disturbance or oxidation until the affected soil has been neutralised or contained.</td>
</tr>
<tr>
<td></td>
<td>(b) Certification by an appropriately qualified person(s), confirming that the affected soil has been neutralised or contained, in accordance with (a) above is to be provided to <a href="mailto:palm@ces.qld.gov.au">palm@ces.qld.gov.au</a> or mailed to: Department of Environment and Science Permit and License Management Implementation and Support Unit GPO Box 2454 Brisbane Qld 4001</td>
<td>(b) At the time the soils have been neutralised or contained.</td>
</tr>
</tbody>
</table>

It is interesting to note, that Conditions 2 & 3 relate to construction management and not to the presence of structures seaward of the Coastal Building Line. Condition 1 acknowledges the development positioning seaward of the Coastal Building Line.

The State assessed the application against the relevant outcomes of the State Code 8 for development in an erosion prone area as shown below.
The State Code 8 seeks that there is no development seaward of the Coastal Building Line except for coastal protection work.

For guidance as to how to comply with the State Code 8 the guideline indicates the following:

Applications... should demonstrate that the proposed development is located landward of the coastal building line; or

1. justify why the proposed development cannot be located landward of the coastal building line; and

2. demonstrate how development seaward of the coastal building line is protected from coastal erosion both now and in the future.

The State’s coastal building lines have been in place since 1984, and the line is set 15 metres back from the seaward boundary in this location. This affects around a third of the property at the rear.

The proposal is not coastal protection work. The applicant’s proposed 6m setback has relied upon the alignment of neighbouring properties being built/approved under repealed legislation and policy.

The lot is highly vulnerable to coastal erosion and it is imperative to provide the maximum buffer to the sea to minimise the risk of coastal erosion. The 15m Coastal Building Line setback provides this buffer and ensures the development is more resilient to coastal erosion and sea level rise as climate change occurs.
Notably, State support for building works does not provide the ‘green light’ for development of the site as the proposal requires assessment against The Noosa Plan and approval required from Council to proceed. The proposal does not comply with the Noosa Plan and it cannot be conditioned to comply with the Planning scheme, as a substantial part of the dwelling is located within the 15 metre setback and significant alterations would be required to comply.

6.2. Other Referrals
The application was forwarded for comment to:

- Project Co-ordinator, Climate Change Adaptation, Strategic Planning
- Principal Strategic Planner, Strategic Planning

Advice from Strategic Planning is as follows:

Climate change presents considerable increased risk in terms of the severity and frequency of coastal erosion. Council has a duty of care and statutory obligation to give full consideration to current and future projected coastal erosion and sea level rise. The coastal building line is an important regulatory tool for limiting development within coastal hazard areas. While application of this has not always been consistent over the last few decades, new knowledge about coastal erosion risks along the Eastern Beaches highlights the need to take a strong position on ensuring that new development does not encroach seaward of the coastal building line. This is irrespective of what development is already existing on properties or their neighbouring properties.

Ensuring development does not encroach seaward of the coastal building line preserves important dune buffer areas that will be increasingly important into the future for stabilising and slowing dune erosion. It is critical that council has a consistent approach to the way it applies coastal building lines to help mitigate future risks.

Council’s new coastal hazard mapping for years 2040, 2070 and 2100 show the increased risk to coastal erosion overtime. At 2040 around half of the subject property is potentially at risk, by 2070 around three-quarters is at risk.

The State’s coastal building lines have been in place since the mid 1980s, and the line is set 15 metres back from the seaward boundary in this location. This affects around a third of the property at the rear.

Consistent with the Noosa Plan, no new buildings, structures, swimming pools and retaining walls can occur seaward of the coastal building line, except for uncovered and unenclosed cantilevered balconies that do not extend greater than 3 metres seaward of the Coastal Building Line.

6.3. Public Notification
Not applicable. The application is code assessable.

7. CONCLUSION & REASONS FOR DECISION
The 15m Coastal Building Line setback allows for the natural landscape to be the first line of storm protection and buffering. Providing the maximum buffer from the sea will ensure that future development is more resilient to coastal erosion and sea level rise as climate change effects arise. Furthermore, the 15m setback preserves the integrity and structure of the frontal dune for longer in the face of increased storm frequency, intensity and erosion without the need for coastal protection works.

The proposed 6m setback does not provide sufficient natural landscape buffering in this highly vulnerable erosion prone area. The 6m setback does not minimise the risk to erosion and allows for potential impacts on and interference with coastal processes.
The subject property and surrounding properties are within a Coastal Management District, an Erosion Prone Area and affected by the Coastal Building Line. Repealed policy and past assessment has resulted in development forward of the Coastal Building Line. However, new knowledge about coastal erosion including new erosion prone area modelling in accordance with State guidelines, highlights the need to take a strong position in ensuring that development does not encroach seaward of the Coastal Building Line to minimise risk to hazards.

The development is not in accordance with the relevant statutory planning instruments including The Noosa Plan's Natural Resources Overlay Code for Coastal Protection. The proposal raises significant planning concerns and is recommended for refusal for the following reasons:

1. The proposal is in conflict with the assessment benchmarks of the State Planning Policy as it proposes development in an Erosion Prone Area and Natural Hazard Area.

2. The proposal is contrary to the provisions of the Planning Scheme in that it proposes development:
   a. in the Landslide Hazard Area thereby placing people and property at risk and does not maintain the natural processes and protection function of land forms and vegetation contrary to the provisions of the Natural Hazards Overlay Code.
   b. in the Coastal Protection Area extending seaward of the Coastal Building Line and is likely to adversely impact upon natural coastal processes contrary to the requirements of the Natural Resources Code.
   c. which does not protect the dunal area and natural environmental nor maintain the safety of people and works contrary to the Overall Outcomes for the Eastern Beaches Locality.

3. Recent modelling carried out by the Council indicates significant erosion is likely to occur in the future which may threaten life and property should the proposed development proceed.

4. Given the site is affected by the Coastal Building Line and is located in a highly vulnerable erosion prone area, the proposed 6m setback is not sufficient to minimise the risk of erosion.

Departments/Sections Consulted:
- Chief Executive Officer
- Community Services
- Corporate Services
- Executive Services
- Environment & Sustainable Development
- Infrastructure Services
- Strategic Land Use Planning
- Community Development
- Community Facilities
- Financial Services
- Libraries & Galleries
- ICT
- Local Laws
- Procurement & Fleet
- Waste & Environmental Health
- Revenue Services
2 MCU19/0007 - DEVELOPMENT APPLICATION FOR MATERIAL CHANGE OF USE (ENTERTAINMENT AND DINING BUSINESS TYPE 2 RECREATION, AMUSEMENT AND FITNESS (FITNESS CENTRE), SITUATED AT 26 PROJECT AVENUE, NOOSAVILLE

Author
Development Planner, Lisa Pienaar
Environment and Sustainable Development Department

Index
ECM/ Application / MCU19/0007

Attachment
1. Proposal Plans

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<th>APPLICATION DETAILS</th>
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<td><strong>Applicant</strong></td>
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<td><strong>Proposal</strong></td>
</tr>
<tr>
<td><strong>Properly Made Date</strong></td>
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<tr>
<td><strong>Information Request Date</strong></td>
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<tr>
<td><strong>Information Response Date</strong></td>
</tr>
<tr>
<td><strong>Decision Due Date</strong></td>
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<tr>
<td><strong>Number of Submissions</strong></td>
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<table>
<thead>
<tr>
<th>PROPERTY DETAILS</th>
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<tbody>
<tr>
<td><strong>Property Address</strong></td>
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<tr>
<td><strong>RP Description</strong></td>
</tr>
<tr>
<td><strong>Land Area</strong></td>
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<tr>
<td><strong>Existing Use of Land</strong></td>
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</table>

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<tr>
<th>STATUTORY DETAILS</th>
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<tbody>
<tr>
<td><strong>SEQRP Designation</strong></td>
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<tr>
<td><strong>Locality</strong></td>
</tr>
<tr>
<td><strong>Zone</strong></td>
</tr>
<tr>
<td><strong>Overlays</strong></td>
</tr>
<tr>
<td><strong>Assessment Type</strong></td>
</tr>
</tbody>
</table>
RECOMMENDATION

That Council note the report by the Development Planner to the Planning & Environment Committee Meeting dated 9 April 2019 regarding Application No. MCU19/0007 for a Development Permit for Material Change of Use - Entertainment & Dining Type 2 Recreation amusement fitness (Fitness Centre) situated at 26 Project Avenue, Noosaville and:

A. Approve the application in accordance with the following conditions:

PLANNING

When Conditions must be Complied With

1. Unless otherwise stated, all conditions of this Decision Notice must be complied with prior to the use commencing, and then compliance maintained at all times while the use continues.

Approved Plans

2. Development authorised by this approval must be undertaken generally in accordance with the Approved Plans listed within this Decision Notice.

<table>
<thead>
<tr>
<th>Plan No.</th>
<th>Plan Name</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>D-11801-01A</td>
<td>Proposal Plan (site plan), drawn by Lynda McDougall</td>
<td>10/12/2018</td>
</tr>
<tr>
<td>D-11801-02A</td>
<td>Ground Floor Plan, drawn by Lynda McDougall</td>
<td>10/12/2018</td>
</tr>
<tr>
<td>D-11801-03A</td>
<td>East and West Elevations and mezzanine plan, drawn by Lynda McDougall</td>
<td>10/12/2018</td>
</tr>
<tr>
<td>D-11801-03A</td>
<td>South and North Elevations, drawn by Lynda McDougall</td>
<td>10/12/2018</td>
</tr>
</tbody>
</table>

Nature and Extent of Approved Use

3. Approval is for a Fitness Centre totalling a maximum floor area of 377m² including the amenity building.

Operating Hours and Class Times

4. The hours of operation and staff and patron numbers for the development must comply with the following requirements:

   a. The hours of operation for the approved use is limited to the hours between 5.00am and 9.00pm daily;

   b. The number of people (patrons and staff) must not exceed 15 people at any one time.

   c. Group classes must have a minimum 15 minute break between the conclusion of a class and the beginning of the next.

Noise

5. Noise nuisance beyond the boundary of the site shall not exceed the levels specified in Table 1.

Table 1

<table>
<thead>
<tr>
<th>PERIOD</th>
<th>Noise level at a commercial place measured as the adjusted maximum sound pressure level (Lamax, adj,T)</th>
</tr>
</thead>
<tbody>
<tr>
<td>5am – 6pm</td>
<td>Background noise level plus 10 dB(A)</td>
</tr>
<tr>
<td>6pm – 10pm</td>
<td>Background noise level plus 10 dB(A)</td>
</tr>
<tr>
<td>10pm – 7am</td>
<td>Background noise level plus 8 dB(A)</td>
</tr>
</tbody>
</table>
Amenity
6. The development must be undertaken and operated in a manner that causes no detrimental effect upon the amenity of the area by reason of the creation of excessive noise, lighting nuisance or other emissions.

Advertising Signage
7. Any advertising sign or device must comply with Council's policies on advertising devices.

Bicycle spaces and amenities
8. Facilities for 4 bicycle spaces must be provided for the approved use and be made available at all times to patrons and staff at the commencement of the use. Indicate their locations with an Operational Works application.
9. Shower and toilet facilities must be in accordance with the approved plans and available at the commencement of the use.

Landscaping Works
10. The development site must be landscaped. The works must be undertaken in accordance with an Operational Works approval and the Noosa Plan for that specific area and must include in particular:
   a. The extent of works shown on the approved Site Plan (D-11801-01A);
   b. An average of a 2 metre wide landscaping strip is to be provided along the Project Avenue road frontage of the subject site, exclusive of the access driveway and generally uncompromised by infrastructure items;
   c. All landscape works must be established and maintained in accordance with the approved design for the life of the development, and in a manner that ensures healthy, sustained and vigorous plant growth. All plant material must be allowed to grow to full form and be refurbished when its life expectancy is reached;
   d. All landscape works must be maintained generally in accordance with the approved design for the life of the development.

Site Access and Driveways
11. A sealed access driveway must be provided from Project Avenue to all parking and manoeuvring areas of the development. The works must be undertaken in accordance with an Operational Works approval and must include in particular a driveway crossover in accordance with Council’s Standard Drawing RS-051 and any associated addendums.

Car Parking
12. A minimum of 13 car parking spaces must be provided and marked on the site and made available and accessible at all times while the use is open for business. The works must be undertaken in accordance with an Operational Works approval and must include in particular:
   a. 11 visitor parking spaces (including scooter) within the total, which are clearly marked for that purpose and accessible at all times for visitor use;
   b. Car spaces 10 & 11 dedicated as staff parking spaces, which are clearly marked for that purpose;
   c. Dimensions, crossfalls and gradients in accordance with Australian Standard AS/NZS2890.1:2004 for the relevant user class.
13. All car parking areas and access driveways must be maintained exclusively for vehicle parking and manoeuvring and kept in a tidy and safe condition at all times.

14. Directional signage must be provided to direct visitors and customers to the car parking spaces provided on site.

**Stormwater Drainage**

15. The site must be provided with a stormwater drainage system connecting to a lawful point of discharge. The works must be undertaken in accordance with an Operational Works approval and must include in particular:
   a. Collection of runoff from the building and hardstand areas;
   b. Discharge to Council’s drainage system in Project Avenue and/or to a suitable easement.

**Electricity and Telecommunication Services**

16. Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary conduits, pits and pipes to accommodate the future connection of optic fibre technology telecommunications.

17. Certification must be submitted to Council from all relevant service providers which certifies that the development has met the requirements of this Decision Notice and all applicable legislation at the time of construction.

**Easements**

18. Unless otherwise agreed in writing by the relevant service provider, any public or third party infrastructure located on the subject site must be placed within an easement registered against the title of the property.

19. All easements must be designed in accordance with the planning scheme and granted at no cost to the Grantee. Where the Grantee is Council or a service authority, the easement documentation must be in accordance with the Grantee’s standard easement terms. Draft easement documentation must be submitted to Council for endorsement.

20. All works must be kept clear of any existing or proposed easements on the subject land, unless agreed otherwise in writing by the Grantee.

**Earthworks and Retaining Walls**

21. All fill and associated retaining walls/batters must be contained entirely within the subject site unless written permission from the respective landowner(s) is provided to Council. All earthworks must be undertaken in accordance with the provisions of Australian Standard AS3798: Guidelines on Earthworks for Commercial and Residential Developments.

**Damage to Services and Assets**

22. Any damage caused to existing services and assets as a result of the development works must be repaired at no cost to the asset owner at the following times:
   a. where the damage would cause a hazard to pedestrian or vehicle safety, immediately; or
   b. where otherwise, upon completion of the works associated with the development.

   Any repair work which proposes to alter the alignment or level of existing services and assets must first be referred to the relevant service authority for approval.
Performance Bond

23. Security in the form of a cash bond or trading bank guarantee to the sum of $5,000 must be submitted to Council, to secure performance of all conditions of this approval, prior to the issue of a Development Permit for Operational Works. The cash bond or trading bank guarantee will be returned on performance of the conditions of approval less any costs incurred by Council in respect of enforcing performance of this permit. Council reserves the right to call upon the bond or guaranteed sum to effect compliance with conditions.

B. Find the following are sufficient grounds to justify the decision despite the conflict with the Planning Scheme:

1. Some sport and recreational uses are accepted in the Industry Zone given the potential impacts of sport and recreation uses; and

2. The fitness centre relies on a large floor area that can be facilitated in an Industry zone, unlike other zones where it would be difficult to locate.

C. Note the report is provided in accordance with Section 63(5) of the Planning Act 2016.

REPORT

1. PROPOSAL

The applicant proposes to utilise an existing industrial shed and extend the shed in the future to accommodate a fitness centre/cross fit training facility. The existing floor space is 271m² (including a mezzanine level) and the extension to the east is proposed to be 84m². An amenities block with toilet and showers is to be located in a separate building from the existing building. The total proposed gross floor area of 377m².

The development proposes to include 13 car spaces, including 2 staff spaces and a disabled space and 4 scooter spaces. The original proposal was for 20 patrons and 3 staff. This has since been amended to allow for a maximum number of people (including staff) on site at any one time as long as it complies with car parking. To comply with the car parking requirement a total of 15 people are proposed to occupy the site at any one time. The fitness centre proposes to operate 5am-9pm, 7 days a week.

Refer to Figure 1 – Proposed gym.
Figure 1 – Proposed gym
2. SITE DETAILS

2.1. Background

The site was previously used by Sunrise Engineering and Welding. Part of the site was also utilised by the adjoining bus depot for access and parking. Refer to Figure 2 – Existing shed.

![Figure 2 – Existing Shed](image)

2.2. Site Description

The site has a 21 metre frontage to Project Avenue, with access to the site at the south western corner of the site. The site is relatively flat and existing on-site parking is informal, with no line marking. Refer Figure 3 – Subject site.

![Figure 3 – Subject site](image)
2.3. Surrounding Land Uses

The site is located in an existing industrial area, which is largely developed with the exception of some vacant sites located north and west of the site. A motor mechanic business adjoins the site to the north, a mixed industrial tenancy adjoins to the south and the east. Industrial factory tenancies are located opposite the site on the other side of Project Avenue.

3. ASSESSMENT

3.1. Instruments for Statutory Assessment

Under the Planning Act 2016 the application must be assessed against each of the following statutory planning instruments to the extent they are relevant to the development:

- State Planning Policy;
- South East Queensland Regional Plan;
- Planning Regulation 2017;
- The Noosa Plan.

3.2. State and Other Statutory Instruments

State Planning Policy

The Noosa Plan is generally consistent with the State Planning Policy July 2017 (SPP) and the SPP raises no further issues relevant to the proposed development.

South East Queensland (SEQ) Regional Plan

The site is located within the Urban Footprint area of the SEQ Regional Plan. The proposal is consistent with the regional policies of the SEQ Regional Plan.

Planning Regulation 2017

The following assessment benchmark from the Planning Regulation 2017 applies to the application:

- SEQ Development Area

The proposal is for urban activity within the Urban Footprint and is consistent with the assessment benchmarks contained in the Planning Regulation 2017 for the SEQ Region.

3.3. Statutory Instruments – Planning Scheme

The application must be assessed against the whole of the Noosa Plan to the extent the provisions are relevant to the development.

Locality Provisions

The subject site is located in the Noosaville Locality and is zoned Industry. The proposed fitness centre is identified as an inconsistent use in the industry zone and is required to follow an impact assessment process.

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Planning Scheme</th>
<th>Proposal</th>
<th>Complies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gross floor area</td>
<td>Not applicable</td>
<td>377 m²</td>
<td>✓</td>
</tr>
<tr>
<td>Site cover</td>
<td>Not applicable</td>
<td>37%</td>
<td>✓</td>
</tr>
<tr>
<td>Landscaped open space</td>
<td>15 m² min</td>
<td>152 m² (15%)</td>
<td>✓</td>
</tr>
<tr>
<td>Carparking</td>
<td>18.85 based on use area 6 based on patron numbers, whichever is the greater</td>
<td>13 equivalent spaces, including 12 spaces and 4 scooter spaces</td>
<td>X</td>
</tr>
<tr>
<td>Criteria</td>
<td>Planning Scheme</td>
<td>Proposal</td>
<td>Complies</td>
</tr>
<tr>
<td>----------------------------------------------</td>
<td>---------------------------------------------------------------------------------</td>
<td>---------------------------------------------------------------------------------------------------------------</td>
<td>----------</td>
</tr>
<tr>
<td>Bicycle Spaces</td>
<td>3.7 bicycle spaces</td>
<td>Showers and toilets provided. Condition requiring bicycle spaces is proposed.</td>
<td>✓</td>
</tr>
<tr>
<td>End of Trip Facilities*</td>
<td>1 locker per 2 bicycle spaces and; 1 shower cubicle with ancillary change room per 10 bicycle spaces</td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>(required only where 5 + spaces are required)</em></td>
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<td></td>
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</table>

### Land Use & Works Provisions

The application has been assessed against applicable codes as follows:

- Noosaville Locality Code
- Business Uses Code
- Engineering Works Codes
- Landscaping Code

The pertinent issues arising out of the assessment against the codes are discussed below.

**Overall Outcome**

v) ii of the Noosaville Locality Code seeks to protect the Noosaville industrial estate for industrial functions to the exclusion of incompatible uses, including residential, community and commercial uses, and some sport and recreation uses. Since the commencement of the Noosa Plan in 2006, gyms, ballet schools and the like have been approved in the Noosaville industrial area, given these uses are generally floor area consumptive and as such difficult to locate in the business centres. The size and scale of the building floor area for this proposal is larger than other gym uses previously approved in Industrial Zones within Noosaville, including the 158m² fitness studio/martial arts centre at 63 Rene Street and Crossfit Noosa at 9/5 Commerce Court which is 140m². Notably, parameters for gross floor area in the Industry zone are not specified in Noosa Plan.

### Carparking

The applicant originally identified that another approved fitness centre in Noosaville’s industrial estate (Selkirk Drive) have applied a car parking rate of 1.5 persons per car space in support of 20 patrons. The 1.5 persons per car space was applied when other uses were occurring on site and recognizing the parking demand from those uses. A car parking survey was also conducted for this site. An analysis determined the compatibility of other uses and their operating times and found that on site car spaces were available for the gym use due to operating times of the industrial uses. In this case, there are no other uses occurring on the site. Therefore, this scenario is not accepted for this site.

The applicant proposes 13 car spaces (12 car spaces, 4 scooter spaces). The Code requires 1 car space per 20m² of use area or 1 space per 3 persons capable of being entertained, whichever is the greater. Based on the total tenancy use area of 377m², 18.85 car spaces would be required for the proposed use. If 20 patrons were proposed (as originally requested), based on the rate of 1 space per 3 persons, 6.66 spaces would be required. This latter rate is not the greater rate in this case and therefore not applicable.

The applicant has indicated their willingness for Council to condition the approval to mitigate any impacts regarding class sizes and staggering of class times to ensure there is enough onsite car spaces for peak parking demands.

To arrive at an appropriate number of people able to occupy the site, Council’s traffic consultant was consulted with regard to such a use occupying the entire site. It was advised that in the case for gyms, 0.85 spaces per person (including staff) is reasonable in this case. This is based on the premise that patrons visiting gyms mostly drive their own cars, acknowledging that there is a small amount of ride sharing, and a small amount of walk and cycle. This is especially relevant for an industry area, when compared to a Business centre where walking and cycling would be more common.
Therefore, the proposed 13 spaces would enable sufficient car parking availability for a maximum number of 15 people present on site. A condition ensuring there is no overlapping of classes is also recommended to ensure car parks are available at all times.

The proposed fitness centre use, provided numbers are capped as recommended, has sufficient car parking available on site to address likely parking demands.

End of trip facilities
The Business Uses Code requires secure and convenient parking space for bicycles and end of trip facilities. The applicant has proposed end of trip facilities being showers and change rooms, however have not indicated proposed bicycle parking. The applicant indicated they will accept a condition for this requirement. Minimum bicycle parking is 1 bicycle park per 100m² of gross floor area. The proposed gross floor area is 377m². Therefore, it is proposed to condition the development to provide for 4 spaces for bicycles.

4. DRAFT PLANNING SCHEME
The site is to be located within a Medium Impact Industry zone and in the Venture Drive Enterprise precinct where sport and recreation uses may be accommodated. A fitness centre is considered an indoor sport and recreation use under the Draft Planning Scheme. Indoor sport and recreation uses are code assessable if located within an existing building and not involving the expansion of the building. The proposed use is within an existing building and there are plans to expand the building. Therefore, the proposal would be impact assessable and a consistent use under the Draft Planning Scheme.

5. CONSULTATION
5.1. Referral Agencies
Not applicable.

5.2. Other Referrals
The application was forwarded to the following internal Council officers:
- Engineering Officer, Development Assessment
- Traffic Consultant, Stuart Holland (parking rate only)

5.3. Public Notification
The application was publicly notified for 15 business days in accordance with the Planning Act 2016. No properly made submissions were received.

6. CONCLUSION & REASONS FOR DECISION
Whilst Entertainment and Dining Business Type 2 Recreation, amusement & fitness is an inconsistent use in the Industry Zone, The Noosa Plan does recognise that some entertainment uses will locate in the industrial area. The proposal can be conditioned to address car parking requirements by restricting the number of people on site at any one time, providing 1 car space per 0.85 persons utilising the site. Therefore the proposal is recommended for approval, subject to reasonable and relevant conditions.

Departments/Sections Consulted:
- Chief Executive Officer
- Community Services
  - Community Development
  - Community Facilities
  - Libraries & Galleries
  - Local Laws
  - Waste & Environmental Health
- Corporate Services
  - Financial Services
  - ICT
  - Procurement & Fleet
  - Property
  - Revenue Services
- Executive Services
  - Community Engagement
  - Customer Service
  - Governance
  - People and Culture
- Environment & Sustainable Development
  - Building & Plumbing Services
  - Development Assessment
  - Economic Development
  - Environmental Services
  - Strategic Land Use Planning
- Infrastructure Services
  - Asset Management
  - Buildings and Facilities
  - Civil Operations
  - Disaster Management
  - Infrastructure Planning, Design and Delivery
EXISTING MEZZANINE PLAN

APPROX. FLOOR AREA: 30.7m²

NOTES:

- Colourbond roofing & gutters to match existing.
- External walls to match existing blockwork. Finish to be rendered & painted.
- New 2500 wide eaves along entire southern wall to structural engineer's specifications.
- Additional blockwork walls & finish to match existing building finish. Hydraulic drainage plans to be supplied.
- New concrete to all external surfaces per structural engineer's details.
- Existing amenities within existing structure to be demolished. Services to be capped off and made good.
- Drainage & water services to new amenities block to hydraulic engineer's details.
- These plans are concept only.
# MCU16/0079.03 - REQUEST TO CHANGE A DEVELOPMENT APPROVAL FOR 5 MEMORIAL DRIVE, TEWANTIN

**Author** Coordinator Planning, Patrick Murphy  
Environment and Sustainable Development Department

**Index** ECM/ Application/ MCU16/0079.03

**Attachments** 1. Proposal Plans  
2. Comments by WBP Architects

## APPLICATION DETAILS

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<tr>
<td>Development Approval</td>
<td>Development Permit for Material Change of Use of Premises - Extension to existing RSL Club</td>
</tr>
<tr>
<td>Applicant</td>
<td>Rubicon Design and Construct</td>
</tr>
<tr>
<td>Request Received On</td>
<td>4 February 2019</td>
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</table>

## PROPERTY DETAILS

<table>
<thead>
<tr>
<th>Property Address</th>
<th>5 Memorial Avenue, Tewantin</th>
</tr>
</thead>
<tbody>
<tr>
<td>RP Description</td>
<td>Lot 10 on SP 273411</td>
</tr>
<tr>
<td>Land Area</td>
<td>6,116m²</td>
</tr>
<tr>
<td>Existing Use of Land</td>
<td>Tewantin Noosa RSL Club</td>
</tr>
</tbody>
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## STATUTORY DETAILS

<table>
<thead>
<tr>
<th>SEQRP Designation</th>
<th>Urban Footprint</th>
</tr>
</thead>
<tbody>
<tr>
<td>Locality</td>
<td>Tewantin and Doonan</td>
</tr>
<tr>
<td>Zone</td>
<td>Community Services</td>
</tr>
<tr>
<td>Overlays</td>
<td>Natural Hazard Overlay (Bushfire &amp; Acid Sulphate Soils)</td>
</tr>
<tr>
<td>Assessment Type</td>
<td>Minor Change to Development Approval</td>
</tr>
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</table>
RECOMMENDATION
That Council note the report by the Coordinator Planning to the Planning & Environment Committee Meeting dated 9 April 2019 regarding Application No. MCU16/0079.03 to make a minor change to an existing approval for extensions to the RSL club situated at 5 Memorial Avenue, Tewantin, described as Lot 10 on SP 273411 and:

A. Refuse the change for the following reasons:
   1. In accordance with architectural commentary at the time of the assessment of the original application the screens are required to reduce the impact of the building and provide visual interest to the building and streetscape.
   2. The building form presents as a back of house/ service area to Pelican Street with limited opportunity for landscaping to screen the building. The proposed presentation to Pelican Street is not an appropriate response to the local streetscape and is not reflective of the Tewantin character.
   3. The screens are required to ensure the building meets the overall specific outcomes of the Tewantin and Doonan Locality Code.

B. Consider the amended colour on the louvres as Generally in Accordance with the original approval.

C. Note the report is provided in accordance with Section 63(5) of the Planning Act 2016.

REPORT
1. PROPOSAL
The applicant has recently completed construction of extensions and renovations to the existing RSL club on the site, which were approved by Council in February 2017. A recent inspection of the site by Council staff revealed that the external appearance of the building was not in accordance with the conditions of approval with regard to the provision of timber look aluminium screens that were specifically included as part of the approved plans to address concerns with the appearance of the proposed building.

The applicant is requesting to amend the approved plans in order to be consistent with what has already been implemented on site. In this regard, the applicant seeks to amend Condition 2 and include amended plans that reflect the building façade without the approved louvres and screening.

A copy of the proposal plans are included at Attachment 1.

2. BACKGROUND
The Tewantin Noosa RSL has been located on the site for a number of years, with the original building occupying the land fronting Poinciana Avenue, being Lot 3. Since that time, the RSL has continued to grow in response to community need. The current development approvals for the existing RSL are briefly described below:

- TPC 1894 – Dining Room (Caterer’s Room) an Extension to Existing RSL;
- TPC 2782 – Extensions to Existing RSL Club;
- R 473 – Rezoning from Special Use – Church to Special Facilities RSL Club in accordance with a Plan of Development;
- 3B-388 Special Facilities (RSL Club in accordance with the Plan of Development);
- 1043 TC – Tewantin Noosa RSL and Citizens Memorial Club – Liquor Sales Area & Ancillary Changes;
- MCU16/0079 - Development Permit for Material Change of Use of Premises - Extension to existing RSL Club.
• MCU16/0079.01 – An amendment to the existing approval was approved by Council on 29 August 2017 primarily relating to changes to the internal floor layouts and the roof form.
• MCU16/0079.02 – An amendment to the existing approval was approved by Council on 22 May 2018 which increased the number of gaming machines from 180 to 195 machines.

The most recent Material Change of Use application (MCU16/0079) related to significant extensions and alterations to the RSL Club proposed along the Pelican and Doonella Street frontages of the site. During assessment of MCU16/0079, significant concerns were raised with the proposed building’s street presentation in terms of bulk, amenity and setbacks which resulted Council engaging an architectural consultant to review the proposal plans.

A locality plan of the site is provided below:

3. ASSESSMENT

3.1. Statutory Assessment

Under the Planning Act 2016 the application must be assessed against each of the following statutory planning instruments to the extent they are relevant to the development:

• State Planning Policy;
• South East Queensland Regional Plan;
• Planning Regulation 2017;
• The Noosa Plan.
The applicant has requested to make a minor change to a development approval under s78 of the Planning Act 2016. An application for a minor change to a development approval can only be made in circumstances where a change would constitute a ‘minor change’.

The proposed change to the development approval requested by the applicant is determined to constitute a minor change on the grounds that:

- the development would not result in substantially different development as the use and built form are not significantly altered;
- the change does not include prohibited development;
- the change would not require the application to be referred to an additional referral agency or cause a referral agency to have regard to new matters prescribed by regulation;
- where the original application was code assessable, the change would not cause the application to become impact assessable.

3.2. Statutory Instruments – Planning Scheme

The applicant seeks to amend condition 2.

**Condition 2** Development undertaken in accordance with this approval must generally comply with the approved plans of development. The approved plans are listed in the following table unless otherwise amended by these conditions.

<table>
<thead>
<tr>
<th>Plan No.</th>
<th>Rev.</th>
<th>Plan/Document Name</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1620/DA/1.02</td>
<td>D</td>
<td>Existing/Demolition Ground Floor Plan</td>
<td>15/05/17</td>
</tr>
<tr>
<td>1620/DA/2.01</td>
<td>P</td>
<td>Proposed Basement Plan – Stage 4</td>
<td>28/07/17</td>
</tr>
<tr>
<td>1620/DA/2.02</td>
<td>L</td>
<td>Proposed Ground Floor Plan – Stage 4</td>
<td>28/07/17</td>
</tr>
<tr>
<td>1620/DA/2.05</td>
<td>K</td>
<td>Proposed Roof Plan – Stage 4</td>
<td>28/07/17</td>
</tr>
<tr>
<td>1620/DA/3.01</td>
<td>G</td>
<td>Sections – Stage 4</td>
<td>28/07/17</td>
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<td>1620/DA/4.01</td>
<td>K</td>
<td>Elevations – Stage 4</td>
<td>28/07/17</td>
</tr>
<tr>
<td>1620/DA/5.01</td>
<td>G</td>
<td>Landscape Concept Strategy – Plan</td>
<td>28/07/17</td>
</tr>
<tr>
<td>1620/DA/5.02</td>
<td>E</td>
<td>Landscape Concept Strategy</td>
<td>28/07/17</td>
</tr>
</tbody>
</table>

For clarity, in regard to Plan No. 1620/DA/2.02 Rev. L Proposed Ground Floor Plan – Stage 4 dated 28/07/17 the maximum number of gaming machines is limited to 195 machines.

**Applicant’s Request**

The applicant requests that condition 2 be amended to reflect the building façade as constructed on site. The applicant states:

As seen below, the current Pelican Street façade of the RSL building is considered to be generally consistent with the stamped plans referenced within the decision notice. Whilst the timber look aluminium louvres are slightly different to that approved by Council, the chosen materials are still considered to be in keeping with the heritage character of Tewantin and thus complies with Condition 12 of the decision notice.
In addition, it is acknowledged that the Pelican Street façade does not include the additional louvers as illustrated within the stamped approved plans. Following DA approval, the construction estimates resulted in the need for cost saving measures. It was determined that the additional louvers along Pelican were not required as they were to be solely used a cosmetic feature, unlike the louvers used for the adjacent smoker's area which provided a barrier between the patron area and the street frontage.

Given the land owner and operator is a not-for-profit entity it is considered to be unreasonable to enforce the implementation of the additional louvers when they serve no other purpose than being a cosmetic feature.

The applicant considers the building façade to be in keeping with the heritage character of the area and has included a commentary plan prepared by WBP Architects included in Attachment 2 that outlines the difference between the approved plans and the current façade. An extract of this comparison is detailed below.
Assessment of Request

It is agreed that the aluminium screens installed around the smoking area are in keeping with the intent of the approved plans and reflect the appearance of timber battens. Whilst the finish of the screens is more reflective than originally envisaged, the subdued colour is sympathetic to the building and the surrounds and can be considered in accordance with the conditions of approval.
The applicant’s request for deletion of the screens approved to the eastern façade however is not supported. During assessment of the original application, significant concerns were raised with regard to the bulk and scale of the development especially with regard to the treatment of the street frontages. Council engaged an architectural consultant to review the plans and a number of revised plans were submitted. The second peer review of the proposal plans by Council’s architectural consultants included comments:

- the introduction of additional materiality, screening services, battening with a timber appearance and the deletion of one set of stairs has improved setback treatment;
- the introduction of different materials in response scheme has assisted in breaking up the perception of the podiums bulk when viewed from Pelican and Doonella Street.

The requirement for the screens was therefore a direct result of architectural comments that these screens were significant in reducing the impact of the building, breaking up the form and providing visual interest to the building and streetscape.

The current streetscape presentation to Pelican Street includes a sealed driveway entrance of over 9 metres in width that provides a direct view to the eastern façade of the building which has limited articulation as demonstrated in figure 4 below. The building form presents as a back of house/service area to Pelican Street with limited opportunity for landscaping to screen the building. This presentation to Pelican Street is not considered an appropriate response to the local streetscape and is not reflective of the Tewantin character which provides for smaller building forms with high levels of detail.

![Figure 4 – Photograph of Pelican Street Streetscape Presentation](image)

It is also noted that a number of setback concessions were granted as part of assessment of the original application and were linked to the use of additional materials, landscaping and screens and battens to break the bland, bulky building form.

The applicant’s submission is not supported.

4. **DRAFT PLANNING SCHEME**

The Draft Planning Scheme includes the site in the District Centre zone and the RSL use is a consistent use in the zone. The purpose of the District Centre zone includes outcomes that relate to design including:

- Development has a high level of architectural merit and contributes positively to the activation of the street and the character of the centre.
- Development reinforces the traditional ‘main street’ character and scale of development in the centre;
• Development facilitates the creation of vibrant and safe business centres, with attractive and functional buildings and streets with integrated high amenity public spaces

Performance outcomes also include specific requirements relating to building design and streetscape including:

• Frontages to public streets or other public or semi-public spaces are articulated with vertical elements to emphasise a finer-grain and human scale to the building frontage;

• Variations in the treatment and patterning of windows, sun protection and shading devices, or other elements of a façade treatment at a finer scale than the overall building structure

5. CONCLUSION & REASONS FOR DECISION

The applicant’s request to amend the approved plans to enable removal of screens that were required to provide articulation to the façade of the building is not supported. The screens were considered by architectural consultants to be an important component of the overall fabric of the building and were required to assist in reducing the overall scale and bulk of the development. Due to the existing driveway access, there is limited opportunity for landscaping to screen the area and the screens are required to provide additional articulation and detail to this area. The request to change the appearance of the louvres however is supported and considered to be Generally in Accordance with the approved plans.
MINOR CHANGE COMMENTARY

ATTACHMENT 2

ORIGINAL CONSENT VERSION

MINOR CHANGE VERSION

Page 44 of 90
4 OPW19/0046 - DEVELOPMENT APPLICATION FOR OPERATIONAL WORKS (ADVERTISING DEVICE) SITUATED AT 1/100 RENE STREET, NOOSAVILLE

Author Contract Planner, Ben Thrower  
Environment and Sustainable Development Department

Index ECM/ Application/ OPW19/0046

Attachments Nil

<table>
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<th>APPLICATION DETAILS</th>
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<tbody>
<tr>
<td>Applicant</td>
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<tr>
<td>Proposal</td>
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<td>Properly Made Date</td>
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<td>Information Request Date</td>
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<tr>
<td>Information Response Date</td>
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<tr>
<td>Decision Due Date</td>
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<td>Number of Submissions</td>
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<tr>
<th>PROPERTY DETAILS</th>
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<tr>
<td>Property Address</td>
</tr>
<tr>
<td>RP Description</td>
</tr>
<tr>
<td>Land Area</td>
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</tbody>
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| Existing Use of Land        | Industrial Business Type 1  
Industrial Business Type 2  
Education Type 3 |

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<tr>
<th>STATUTORY DETAILS</th>
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</thead>
<tbody>
<tr>
<td>SEQRP Designation</td>
</tr>
<tr>
<td>Locality</td>
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</tbody>
</table>
| Zone                        | Shire Business Centre  
Open Space |
| Overlays                    | Biodiversity: Environment Protection Area  
Natural Hazard Overlay: Bushfire Hazard and Acid Sulfate Soils |
| Assessment Type             | Code |
RECOMMENDATION

That Council note the report by the Contract Planner to the Planning & Environment Committee Meeting dated 9 April 2019 regarding Application No. OPW19/0046 for a Development Permit for Operational Works - Signage, situated at Noosa Metro Innovation Park, 1/100 Rene Street, Noosaville and:

A. Refuse the application for the following reasons:

1. The application proposes an Advertising Device in the form of a Wall Sign in excess of 4m² signface area which is inconsistent with:

   i. Overall Outcomes of The Noosa Plan’s Advertising Devices Code, being that:

      a. The proposed advertising device does not complement and detracts from the desirable characteristics of the natural and built environment in which the advertising devices are exhibited;

      b. The proposed advertising devices is not designed and integrated into the built form so as to minimise visual clutter;

      c. The proposed Advertising Device exceeds the legitimate need to provide directions and business identification in a manner that is consistent with achieving the codes overall outcomes; and

      d. Signs with a signface area exceeding 4m² are not located in Noosa Shire.

   ii. Specific Outcomes of The Noosa Plan’s Advertising Devices Code, being that:

      a. Signs with a signface area exceeding 4m² are inconsistent with the overall outcomes sought by this Code and are not located in Noosa Shire;

      b. The proposed sign is not compatible with the existing and future planned character of the locality in which it is situated;

      c. The proposed sign is not designed, sited and integrated to not contribute to the proliferation of visual clutter and to not unduly dominate the visual landscape; and

      d. The proposed sign is not of a scale, proportion and form that is appropriate to the streetscape in which it is located.

   iii. Probable Solutions of The Noosa Plan’s Advertising Devices Code, being that:

      a. Advertising devices do not include signs with a signface area exceeding the Acceptable Solutions of this Code or 4m², whichever is the lessor; and

      a. General design and amenity complies with the specific requirements for all types of advertising devices, including a Wall Sign, do not exceed a maximum signface area of 4m².

B. With regard to the other existing Window Sign advise the applicant to:

1. Make the Window Sign compliant with the Advertising Devices Code’s Acceptable Solutions; or

2. Remove the Window Sign; or

3. Lodge a development application seeking approval for the Window Sign.

C. Note the report is provided in accordance with Section 63(5) of the Planning Act 2016.
REPORT

1. PROPOSAL

The application seeks a retrospective Operational Works Development Permit for an existing Advertising Device in the form of a Wall Sign (non-illuminated) located on the side of an existing building located at Noosa Metro Innovation Park 1/100 Rene Street, Noosaville (refer to Figures 1 and 2). The subject sign is already erected on the wall of the existing building, in addition to:

- A second unapproved and non-conforming Window Sign which does not form part of this application; and

- An existing pylon sign which is located within the common property of Noosa Metro Innovation Park. This sign is the outcome of a successful appeal and approval by the Planning and Environment Court on 20 July 2009 following a decision by Council to refuse the sign.

This application is in response to a compliance check undertaken by Council’s Compliance Officer on or about 20 November 2018, who found the existing Wall Sign does not conform to the original approved plans and/or the Noosa Plan provisions.

The subject sign comprises a width of 5.6m and height of 1.57m, being a total signface area of 8.792m² (refer to Figure 3). Pertinent to the assessment of this application, the applicant considers the proposed sign is consistent with The Noosa Plan signface area provisions for the following reasons:

- “The proposed sign is compatible with the character of the industrial business locality in which it is exhibited. The locality comprises predominately of large, industrial buildings including examples of signage of similar or greater dimensions;

- The proposed sign is compatible with the scale and proportion of the building with the sign reflecting 2.5% of the northern façade;

- The proposed sign is of scale, proportion and form that is appropriate to the streetscape with the sign being integrated into the built form and proportionate to the size of the building. The sign is also compatible with other development in the immediate locality such as the directly adjacent Trade Link;

- The sign has been carefully considered so that it is integrated into the built form and proportionate to the size of the building with the size limited to 2.5% of the northern façade. Furthermore, the proposal seeks to consolidate signage into a single sign rather than having multiple signs so as to minimise visual clutter. The proposed sign is maintained below the total overall signage allowance of 10sqm for the site;

- The sign maintains and supports a high standard of architectural, urban and landscape design for the site in manner that is compatible with the industrial business locality.”

The application is before Council in accordance with the current decision making delegations because the proposed Wall Sign is recommended for refusal.
Figure 1 - Proposed Advertising Device (Wall Sign) location

Figure 2 - Photo of the subject Wall Sign, the unapproved Window Sign and existing Pylon Sign servicing 11 lots within the estate, as viewed from Rene Street

Figure 3 - Proposed Wall Sign dimensions, being 5.6mm width, 1.57m height and 8.792m² signface area.
2. SITE DETAILS

2.1. Background

On 13 May 2008 a Development Permit was granted for a Material Change of Use for Industrial Business Type 1 & 2 and Education Type 3 uses to operate on the site.

On 20 July 2009, the Planning and Environment Court issued a consent order permitting a 9.5m high Pylon Sign (Council reference 142008.1689). The sign was constructed soon afterwards and now provides a place for businesses within the estate to advertise, as seen within Figure 2.

On the 14 October 2010, an estate containing eleven individual lots and common property was created. The common property includes the driveway/access point to each lot and the location of existing Pylon Sign.

On 16 February 2018 a minor change to the existing approval was granted which included plans of development for the subject building (Council reference 132007.1841.7). The approved plan identifies two proposed Wall Signs, with each sign complying with the Noosa Plan, being 4m width, 1m height and a signface area of 4m² (refer to Figure 4).

![Figure 4 - Extract of plans approved 16 February 2018 illustrating two wall signs, each complying with the Noosa Plan, being 4m width, 1m height and a signface area of 4m².]

On or about 20 November 2018 Council’s compliance officer noted the existing sign does not conform with:

- The signage plan assessed and approved as part of the preceding change to the existing approval; and
- The Noosa Plan provisions as they relate to Advertising Devices.

As a result the applicant was advised that the sign needed to be reduced to 4m² signface area or an application (i.e. this application) would need to be submitted to Council.

Prior to lodgement of this application, the applicant’s representative contacted Council’s planning department, whereby they were advised that Council’s planners would likely recommend the application be refused based on conflicts with the Noosa Plan provisions. Regardless of this advice, the applicant proceeded to lodge this application as is.
On 14 March 2019, being post lodgement of this application, the applicant’s representative was again advised that Council’s planners would likely recommend the application be refused based on conflicts with the Noosa Plan provisions. Regardless of this advice, the applicant’s representative advised that they wished to proceed to a final decision to be made by Council.

Of relevance to the assessment and decision making for this development application, Council strengthened the signface area provisions within The Noosa Plan at its Ordinary Meeting on 15 June 2017 as part of the package of alignment amendments undertaken with the transition to the new Planning Act 2016. The amendment was directly in response to unfavourable mediation outcomes relating to the nearby StorageFirst Self Storage application for signage (Council reference OPW15/0214) and to address changes to decision rules under the Planning Act 2016. Based on the outcomes of this mediation process, Council’s solicitor recommended that:

- The Advertising Devices Code is strengthened if Council wishes to enforce the maximum signface area of 4m² for all developments; and
- The maximum signface area should be included as an item within the outcomes of the Advertising Devices Code rather than relying on the more subjective statements of the then current overall and specific outcomes of the code.

2.2. Site Description

The site supports an existing warehouse operating as an Industrial Business at 1/100 Rene Street, Noosaville (refer to Figure 5).

The site forms part of the Noosa Metro Innovation Park estate, which consists of similar warehouses and uses, while some of the lots within the estate remain vacant. The common property within the estate supports the existing Pylon Sign.

The proposed location of the Wall Sign is clearly visible from Rene Street.

Figure 5 - Aerial Photo of the site and Noosa Metro Innovation Park estate, illustrating the existing Pylon Sign, Wall Sign and Window Sign.
2.3. Surrounding Land Uses

The site is surrounded to the north and west by other similar Industrial Warehouse uses and Eenie Creek Bushland Reserve to the south and east (refer to Figure 6).

Adjoining the estate to the west is StorageFirst Self Storage which includes two signs exceeding 4m² signface area, being 6m² each. These signs are the result of a successful appeal against Council’s decision to refuse the proposed signs on the basis they exceed 4m² this occurred prior to Council strengthening its provisions related to signage in 2017.

Figure 6 - Aerial photo of the site and surrounding land uses.

3. ASSESSMENT

3.1. Instruments for Statutory Assessment

Under the Planning Act 2016 the application must be assessed against each of the following statutory planning instruments to the extent they are relevant to the development:

- State Planning Policy;
- South East Queensland Regional Plan;
- Planning Regulation 2017;
- The Noosa Plan.

3.2. State and Other Statutory Instruments

State Planning Policy

The Noosa Plan is generally consistent with the State Planning Policy July 2017 (SPP) and the SPP raises no further issues relevant to the proposed development.
South East Queensland (SEQ) Regional Plan

The site is located within the urban area of the SEQ Regional Plan. The proposal is consistent with the regional policies of the SEQ Regional Plan.

Planning Regulation 2017

The following assessment benchmark from the Planning Regulation 2017 applies to the application:

- SEQ Development Area

The proposal is for urban activity within the Urban Footprint and is consistent with the assessment benchmarks contained in the Planning Regulation 2017 for the SEQ Region.

3.3. Statutory Instruments – Planning Scheme

The application must be assessed against the Advertising Devices Code. The pertinent issues arising out of the assessment against the code provisions generally relate to the proposed sign’s 8.792m² signface area exceeding 4m². In addition, it is also considered the size and siting of the proposed sign is an excessively prominent element of the streetscape, contributes to the visual clutter in the street and is not consistent with the unobtrusive signage strategy sought for Noosa Shire.

Notably, the surrounding locality includes some other signs which exceed 4m² signface area. However, these signs have either been approved under court order, following a Council resolution to refuse the subject signage and/or are unlawful, with no development permit in place. It is noted that the Planning Scheme was amended, following the most recent Court Order, to strengthen Council’s resolution that advertising devices exceeding 4m² signface area are not located in Noosa Shire.

On this basis, the proposal is not supported as it is inconsistent with:

1. Overall Outcomes of The Noosa Plan’s Advertising Devices Code, being that:
   i. The proposed advertising device does not complement and detracts from the desirable characteristics of the natural and built environment in which the advertising devices are exhibited;
   ii. The proposed advertising devices is not designed and integrated into the built form so as to minimise visual clutter;
   iii. The proposed Advertising Device exceeds the legitimate need to provide directions and business identification in a manner that is consistent with achieving the codes overall outcomes; and
   iv. Signs with a signface area exceeding 4m² are not located in Noosa Shire.

2. Specific Outcomes of The Noosa Plan’s Advertising Devices Code, being that:
   i. Signs with a signface area exceeding 4m² are inconsistent with the overall outcomes sought by this Code and are not located in Noosa Shire;
   ii. The proposed sign is not compatible with the existing and future planned character of the locality in which it is situated;
   iii. The proposed sign is not designed, sited and integrated to not contribute to the proliferation of visual clutter and to not unduly dominate the visual landscape; and
   iv. The proposed sign is not of a scale, proportion and form that is appropriate to the streetscape in which it is located.
3. Probable Solutions of The Noosa Plan’s Advertising Devices Code, being that:
   i. Advertising devices do not include signs with a signface area exceeding the Acceptable Solutions of this Code or 4m², whichever is the lessor; and
   ii. General design and amenity complies with the specific requirements for all types of advertising devices, including a Wall Sign, do not exceed a maximum signface area of 4m².

While the existing unapproved and non-compliant Window Sign (refer to Figure 2) does not form part of this application, it is considered likely the same assessment outcome would apply should a development application be lodged seeking its approval. On this basis, and post Council’s decision of this application, it is recommended that Council’s compliance officers advise the applicant to either make the sign compliant, remove the sign or lodge a development application seeking a development permit for the sign.

4. DRAFT PLANNING SCHEME

The Draft Planning Scheme does not contain any assessment criteria relevant to Advertising Devices. Alternatively, Advertising Devices are proposed to be assessed under a new Local Law which is currently under draft.

5. CONSULTATION

5.1. Referral Agencies

Nil.

5.2. Other Referrals

Not applicable.

5.3. Public Notification

Not applicable.

6. CONCLUSION & REASONS FOR DECISION

The application seeks a retrospective Operational Works Development Permit for an existing Advertising Device in the form of a new Wall Sign located on the side of the existing industrial building located at Noosa Metro Innovation Park, 1/100 Rene Street, Noosaville. The proposed Advertising Device, in the form of a Wall Sign in excess of 4m² signface area, is considered inconsistent with the Overall Outcomes, Specific and Probable Solutions of the Advertising Devices Code because:

- Signs with a signface area exceeding 4m² are not to be located in Noosa Shire;
- The proposed advertising device does not complement and detracts from the desirable characteristics of the natural and built environment in which the advertising device is exhibited;
- The proposed sign is not compatible with the existing and future planned character of the locality in which it is situated; and
- The proposed sign is not of a scale, proportion and form that is appropriate to the streetscape in which it is located.

On this basis, it is recommended the application is refused.

While the existing unlawful Window Sign does not form part of this application it is recommended that Council’s compliance officers advise the applicant to:

1. Make the Window Sign compliant with the Advertising Devices Code’s Acceptable Solutions; or
2. Remove the Window Sign; or
3. Lodge a development application seeking approval for the Window Sign.
5 PLANNING & ENVIRONMENT COURT APPEAL NO. 245 OF 2019 (M DESIGN & FOURTEEN ENTERPRISES) - REFUSAL OF A MINOR CHANGE TO A DEVELOPMENT APPROVAL FOR ADDITION OF A SWIMMING POOL AND DECK AT 42 SEAVIEW TERRACE, SUNSHINE BEACH

Author Manager Development Assessment, Kerri Coyle
Environment & Sustainable Development Department

Index ECM/ Application/ 51987.2951.01 / Case / 245/2019 M Design and Fourteen Enterprises Pty Ltd

Attachments Nil

EXECUTIVE SUMMARY
Not applicable.

RECOMMENDATION
That Council note the report by the Manager Development Assessment to the Planning & Environment Committee Meeting dated 9 April 2019 regarding Planning & Environment Court Appeal No. 245 of 2019 and agree to defend the appeal.

REPORT
A report on this application to change an existing development approval for a house to facilitate the construction of a swimming pool and extend a deck within the Coastal Building Line at 42 Seaview Terrace, Sunshine Beach was considered by Council at its Ordinary Meeting on 20 December 2018.

At the Ordinary Meeting Council found the proposal was contrary to the Noosa Plan and state policy for coastal management and accordingly resolved to refuse the application for the following reasons:

1. The proposal is in conflict with the assessment benchmarks of the State Planning Policy as it proposes development in an Erosion Prone Area and Natural Hazard Area.
2. Development seaward of the Coastal Building Line is contrary to the building setbacks contained in the Planning Scheme and the setback provided under State Code 8; Coastal Development and Tidal Works of the State development assessment provisions.
3. Recent modelling carried out by the Council indicates significant erosion is likely to occur in the future which may threaten life and property should the proposed development proceed.
4. The proposal does not comply with the Planning Scheme in force at the time of the original approval, given the extent of excavation and vegetation removal in a sand dune area.
5. The proposal does not comply with the Natural Resources Overlay Code for Coastal Protection as it has the potential to adversely impact on natural coastal processes.
6. Given the site is affected by the Coastal Building Line and is located in a highly vulnerable erosion prone area, the proposed 6m setback is not sufficient to minimise the risk of erosion.
7. The proposal does not comply with the Biodiversity Overlay Code as vegetation is proposed to be removed within the Environmental Protection Overlay placing the integrity and resilience of the foreshore at risk.
8. The proposal is contrary to the Overall Outcomes for the Eastern Beaches Locality as it does not protect the dunal area and natural environment nor maintain the safety of people and works.

The applicant subsequently appealed the decision stating that the application should be approved subject to reasonable and relevant conditions.

It is in order for Council to defend the appeal and the recommendation is worded accordingly.

**Previous Council Consideration**

Ordinary Meeting Minutes, 20 December 2018, Item 1, Page 12

That Council note the report by the Development Planner to the Planning & Environment Committee Meeting dated 11 December 2018 regarding Application No. 51987.2951.01 to make a minor change to an existing approval for additions to a detached house to include a swimming pool, deck and other structures seaward of the coastal building line situated at 42 Seaview Tce, Sunshine Beach and:

A. Refuse the change for the following reasons:

1. The proposal is in conflict with the assessment benchmarks of the State Planning Policy as it proposes development in an Erosion Prone Area and Natural Hazard Area.

2. Development seaward of the Coastal Building Line is contrary to the building setbacks contained in the Planning Scheme and the setback provided under State Code 8; Coastal Development and Tidal Works of the State development assessment provisions.

3. Recent modelling carried out by the Council indicates significant erosion is likely to occur in the future which may threaten life and property should the proposed development proceed.

4. The proposal does not comply with the Planning Scheme in force at the time of the original approval, given the extent of excavation and vegetation removal in a sand dune area.

5. The proposal does not comply with the Natural Resources Overlay Code for Coastal Protection as it has the potential to adversely impact on natural coastal processes.

6. Given the site is affected by the Coastal Building Line and is located in a highly vulnerable erosion prone area, the proposed 6m setback is not sufficient to minimise the risk of erosion.

7. The proposal does not comply with the Biodiversity Overlay Code as vegetation is proposed to be removed within the Environmental Protection Overlay placing the integrity and resilience of the foreshore at risk.

8. The proposal is contrary to the Overall Outcomes for the Eastern Beaches Locality as it does not protect the dunal area and natural environment nor maintain the safety of people and works.

B. Note the report is provided in accordance with Section 63(5) of the Planning Act 2016.

**Finance & Risk**

It is premature at this stage to provide advice on the likely prospects of the appeal. There will be costs associated with defending the appeal.
Consultation

External Consultation - Community & Stakeholder

Wakefield Sykes – Solicitor

Internal Consultation

Departments/Sections Consulted:

- **Chief Executive Officer**
  - Executive Officer
  - Executive Support

- **Community Services**
  - Director
  - Community Development
  - Community Facilities
  - Libraries & Galleries
  - Local Laws
  - Waste & Environmental Health

- **Corporate Services**
  - Director
  - Financial Services
  - ICT
  - Procurement & Fleet
  - Property
  - Revenue Services

- **Executive Services**
  - Director
  - Community Engagement
  - Customer Service
  - Governance
  - People and Culture

- **Environment & Sustainable Development**
  - Director
  - Building & Plumbing Services
  - Economic Development
  - Environmental Services
  - Strategic Land Use Planning

- **Infrastructure Services**
  - Director
  - Asset Management
  - Buildings and Facilities
  - Civil Operations
  - Disaster Management
  - Infrastructure Planning, Design and Delivery
CONFIDENTIAL SESSION

6 CONFIDENTIAL: NOT FOR PUBLIC RELEASE - ENVIRONMENT LEVY POTENTIAL LAND ACQUISITION - LOT 3 RP186809

Author Principal Environment Officer, Peter Milne
Environment and Sustainable Development Department

Index ECM/ Subject/ Environment Levy

2. Bugler Francis Valuation

REASON FOR CONFIDENTIALITY

This report is CONFIDENTIAL in accordance with Section 275 (1) of the Local Government Regulation 2012, which permits the meeting to be closed to the public for business relating to the following:

(e) Contracts proposed to be made by it.