MATERIAL CHANGE OF USE (FOOD & DRINK OUTLET AND OFFICE) & PRELIMINARY APPROVAL FOR BUILDING WORK (LOCAL HERITAGE PLACE) AND FIXED OUTDOOR DINING STRUCTURE AT 17 - 19A & 21 SPENCE STREET, CAIRNS CITY – DIVISION 5

PROPOSAL: MATERIAL CHANGE OF USE (FOOD & DRINK OUTLET AND OFFICE), PRELIMINARY APPROVAL FOR BUILDING WORK (LOCAL HERITAGE PLACE) AND FIXED OUTDOOR DINING STRUCTURE

LAND OWNER: LALDY PTY LTD

APPLICANT: LALDY PTY LTD
C/- URBAN SYNC
PO BOX 2970
CAIRNS QLD 4870

LOCATION OF SITE: 17-19A & 21 SPENCE STREET, CAIRNS CITY

PROPERTY: LOTS 1 & 2 ON RP706479

PLANNING SCHEME: CAIRNSPLAN 2016

ZONE: PRINCIPAL CENTRE

LOCAL PLAN: CAIRNS CITY CENTRE

REFERRAL AGENCIES: N/A

NUMBER OF SUBMITTERS: N/A

STATUTORY ASSESSMENT DEADLINE: 28/09/2016

APPLICATION DATE: 22/06/2016

DIVISION: 5

APPENDIX: 1. APPROVED PLAN(S) & DOCUMENT(S)
2. NOTICE TO COMMENCE USE
3. INFRASTRUCTURE CHARGES NOTICE
4. ARTISTIC IMPRESSIONS
LOCALITY PLAN:

RECOMMENDATIONS:

A. That Council approves the Development Application for a Material Change of Use (Food and Drink Outlet and Office) over land at 17 - 19A and 21 Spence Street, Cairns City being Lots 1 and 2 on RP706479 subject to the following:

APPROVED DRAWING(S) AND / OR DOCUMENT(S)
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### Assessment Manager Conditions

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:

   a. The specifications, facts and circumstances as set out in the application submitted to Council;

   b. The following conditions of approval and the requirements of Council’s Planning Scheme and the FNQROC Development Manual.

   Except where modified by these conditions of approval.

### Timing of Effect

2. The conditions of the Development Permit must be satisfied prior to Commencement of Use, except where specified otherwise in these conditions of approval.

### Notice of Intention to Commence Use

3. Prior to the Commencement of Use, the Applicant shall provide written notice to Council that the development fully complies with the conditions of the Development Permit.

### Location of Outdoor Dining Structure

4. The outdoor dining structure area must be located a minimum 1.5 metres away from existing Council water and sewer infrastructure within Lake Street.

   A minimum 3 metre wide pedestrian clear space must be provided between the existing building and the outdoor dining structure. The space must remain free of obstruction to permit the free passage of pedestrians using the footpath. Seating is not permitted to be located within this area.
Use of Outdoor Dining Area

5. The outdoor dining area must only be used in conjunction with the carrying out of a Food and Drink Outlet within Lot 1 RP706479.

Use of Easement A RP706480

6. The use of Easement A RP706480 by the burdened tenement i.e. Lot 1 on RP706479 must not compromise the ability of the benefitted tenement to use the easement for the purpose for which it was established. Prior to the Commencement of Use, the Applicant shall provide written evidence to Council that the benefitted tenement i.e. Lot 2 RP706479 consents to the use of the easement.

Landscape Works

7. The Applicant shall submit for Operational Works approval a Detailed Landscape Plan prepared by a suitably qualified and experienced Landscape Architect/Landscape Designer illustrating the following:

   a. Planting design to both road frontages utilising species consistent with those utilised within the City Centre Alive upgrade of Lake Street and without detracting from the Local Heritage Place;

   b. Planting design to the surrounds of the outdoor dining structure;

   c. Footpath treatments to the frontage of the site which are consistent with those implemented as part of the City Centre Alive upgrade of Lake Street, with only works on Lake Street to be constructed;

   d. Any existing landscape treatments, either hardscape or softscape, street furniture, infrastructure or assets that are proposed to be removed, relocated or retained;

   e. inclusion of any other relevant conditions included in this Development Permit. A copy of this Development Permit must be given to the Landscape Architect/Landscape Designer responsible for the preparation of the Detailed Landscape Plan.

One (1) A3 copy and one (1) electronic copy (in pdf format) of the Detailed Landscape Plan must be submitted to Council for Approval prior to the commencement of construction activities associated with the approved development.

All landscaping works must be undertaken in accordance with the Approved Plan(s) and established prior to the Commencement of Use. Landscaped areas must be maintained at all times to the satisfaction of the Chief Executive Officer.
Note:
The Applicant should consult with Council’s City Centre Alive project team in relation to any proposed landscape treatments, species selection or street furniture. For instance, the bin on the corner, if it is to be removed or relocated, should be replaced with a design similar to that which has been provided on the corner outside the Bolands Centre.

Defects Liability Period for Public Works

8. Upon completion of the works carried out within the road reserve as depicted on the Detailed Landscape Plan required by Condition 7, the Applicant shall notify Council to arrange an on-site meeting with Council’s Environment Officer prior to the commencement of the defects liability period. The defects liability period however shall not commence prior to the outdoor dining structure being constructed.

The defects liability period shall comprise a period of not less than six (6) months during which the Applicant shall be responsible for the maintenance of the landscape works within the road reserve, the rectification of any defects arising from substandard workmanship and the replacement of any dead/dying species.

Upon completion of the defects liability period, the Applicant shall notify Council to arrange a further on-site meeting for acceptance of the landscape works within the road reserve by Council and the issue of a final works acceptance.

Liquid Waste Disposal

9. Trade waste discharged to sewer must meet the requirements of Cairns Water and Waste’s Trade Waste Environmental Management Plan (TWEMP). The existing 1,000L grease arrestor will be required to be upgraded where unable to comply with current TWEMP requirements.

Detailed Hydraulic Plans must be provided and accompanied by a report which demonstrates that the facility complies with the TWEMP. The plans and report must be submitted to and approved by Council prior to the issue of a Development Permit for Building Work. All measures for pre-treatment in accordance with the approved plans must be installed prior to the commencement of use.

Road Permit

10. The Applicant must obtain a Road Permit from Cairns Regional Council for the area of the proposed outdoor dining structure.
Lighting

11. All lighting installed upon the premises including but not limited to car parking areas, laneways and outdoor dining areas must be certified by Ergon Energy (or other such suitably qualified person). The vertical illumination at a distance of 1.5 metres outside the boundary of the site

Refuse Storage

12. The development is required to be serviced by bulk bins. Detailed design of the bulk bin storage area, including bunding and waste outlet incorporating a bucket trap must be shown on a plan of works to be submitted and approved by Council prior to the issue of a Development Permit for Building Works. The storage area must be constructed and available for use prior to the Commencement of Use.

Advertising Signage

13. Signage on the site must conform to the relevant provisions of Local Law No. 4 (Advertising Devices) and CairnsPlan 2016 requirements, to the satisfaction of the Chief Executive Officer.

Lawful Point of Discharge

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

Stormwater Management

15. The design of the outdoor dining structure and associated landscaping and footpath works must be carried out so as to not interfere with the existing stormwater flow capacity of the roadway and not create water pooling or ponding within the road lanes.

Existing Infrastructure/Assets

16. Where the proposed development will result in interference or a need to relocate existing infrastructure or assets i.e. NBN, Telstra, Traffic Light Controls, Parking Ticket Stations, Information/Directional Signage and the like, the Applicant shall liaise with the relevant owner of such infrastructure or asset prior to any interference or relocation occurring.

The Applicant shall provide written evidence to Council that where any infrastructure or asset has been interfered with or relocated, that the consent of the relevant infrastructure owner has been obtained. Such evidence shall be provided prior to the Commencement of Use.
Damage to Infrastructure

17. In the event that any part of Cairns Regional Council’s existing infrastructure is damaged as a result of construction activities occurring on the site or within the adjacent road reserve, the Applicant must notify Cairns Regional Council immediately of the affected infrastructure and have it repaired or replaced at the Applicant's cost prior to the Commencement of Use.

Sediment and Erosion Control

18. Soil and water management measures must be installed / implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the Environmental Protection Act 1994, and the FNQROC Development Manual) and Best Practice Erosion & Sediment Control – IECA Australasia, November 2008).

Construction Signage

19. Prior to the commencement of any construction works associated with the development, a sign detailing the project team must be placed on the road frontage of the site and must be located in a prominent position. The sign must detail the relevant project coordinator for the works being undertaken on the site, and must list the following parties (where relevant) including telephone contacts:

   a.   Developer;
   b.   Project Coordinator;
   c.   Architect / Building Designer;
   d.   Builder;
   e.   Civil Engineer;
   f.   Civil Contractor;
   g.   Landscape Architect

   The sign must be retained on the frontage of the site for the duration of construction activities.
Construction Management Plan

20. A Construction Management Plan must be submitted to, and endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work. The Construction Management Plan must address all activities/operations associated with construction including, but not limited to:

a. Hours of construction;

b. Parking of vehicles (including site employees and delivery vehicles);

c. Traffic management (including loading and unloading) prepared in accordance with the Manual for Uniform Traffic Control Devices;

d. Maintenance of safe pedestrian access across the site’s frontage (including access by persons with a disability);

e. Building waste storage and disposal;

f. On-site dust and noise management, so as to not cause a nuisance to the amenity of the surrounding area;

g. Location and details of construction signage including any signage that is to be illuminated;

The endorsed Construction Management Plan must be complied with and a copy kept on site at all times during construction of the development.

B. That Council approves the Development Application for a Preliminary Approval for Building Work (Local Heritage Place) over land at 17-19A and 21 Spence St, Cairns City being Lots 1 and 2 on RP706479 subject to the following:

Assessment Manager Conditions

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:-

a. The specifications, facts and circumstances as set out in the application submitted to Council; and

b. The following conditions of approval and the requirements of Council’s Planning Scheme and the FNQROC Development Manual.

Except where modified by these conditions of approval
Timing of Effect

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

Building Colours

3. The exterior colours and finishes must be complimentary to the historical style and character of the existing building. Details of the proposed colours and materials are to be submitted to Council for endorsement prior to the issue of a Development Permit for Building Work.

C. Provides consent to the making of the building application in the road reserve subject to the following:

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Land Owner Conditions

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:-
   a. The specifications, facts and circumstances as set out in the application submitted to Council;
   b. The following conditions, the requirements of Council’s Planning Scheme, Local Laws and the FNQROC Development Manual.

Timing of Effect

2. The conditions of consent must be effected prior to the issue of a Development Permit for Building Works, except where specified otherwise in these conditions.

Infrastructure

3. Plan(s) or engineering drawing(s) must be submitted to:
   a. confirm location of all infrastructure in the footpath, footing design for the proposed structure so as to not cause any adverse impacts on the footpath, infrastructure and buildings;
   b. detail the construction, protection and excavation methods, restrictions on various types of construction and compaction equipment, including maximum sizes of machines;
   c. confirm the final levels and finishes of the footpath, and the location, finished level of infrastructure and proposed structures; and
   d. confirm any impact of the proposed structure within the road reserve on CCTV sight lines and where impacted, provide recommendations for rectification.

Plan(s), drawing(s) and supporting information must be submitted to demonstrate the above to the satisfaction of the Chief Executive Officer.

4. For each part of Council’s infrastructure impacted by construction work a note shall be included on the relevant engineering/project drawing prior to the commencement of work on site specifying the restriction on the use of various types of construction and compaction equipment including maximum sizes of machines. Particular care should be taken in the vicinity of the existing 150AC water main, so as not to cause damage.

5. The final cover over the existing infrastructure is to be not of a lesser standard, size or quality than the existing cover, unless approved by the Chief Executive Officer prior to commencement of construction.
6. In the event that any part of Council’s existing infrastructure is damaged as a result of construction activities occurring, including but not limited to, mobilization of heavy earthmoving equipment, stripping and grubbing, the applicant/owner must notify Cairns Regional Council immediately of the affected infrastructure and have it repaired or replaced by Cairns Regional Council, at the cost of the land owner.

7. If existing hydrants, valves or manholes are found to be within an area of concrete the surround is to be set in the concrete with a compressible layer between it and the new concrete to allow removal for maintenance. All cover boxes and surrounds are to be replaced at the new levels in accordance with FNQROC Development Manual.

FURTHER ADVICE

1. This approval, granted under the provisions of the Sustainable Planning Act 2009, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of section 339 and section 341 of the Sustainable Planning Act 2009.

2. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council Officers, prior to commencement of works.

3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.

Infrastructure Charges Notice

4. A charge levied for the supply of trunk infrastructure is payable to Council towards the provision of trunk infrastructure in accordance with the Adopted Infrastructure Charges Notice, a copy of which is attached for reference purposes only. The original Adopted Infrastructure Charges Notice will be provided under cover of a separate letter.

The amount in the Adopted Infrastructure Charges Notice has been calculated according to Council’s Adopted Infrastructure Charges Resolution.

Please note that this Decision Notice and the Adopted Infrastructure Charges Notice are stand-alone documents. The Sustainable Planning Act 2009 confers rights to make representations and appeal in relation to a Decision Notice and an Adopted Infrastructure Charges Notice separately.

The amount in the Adopted Infrastructure Charges Notice is subject to index adjustments and may be different at the time of payment. Please contact the Development Assessment Team at council for review of the charge amount prior to payment.
The time when payment is due is contained in the Adopted Infrastructure Charges Notice.


**LAND USE DEFINITIONS***

In accordance with CairnsPlan 2016 the approved land uses of Food and Drink Outlet and Office are defined as*:

**Food and Drink Outlet**

Premises used for preparation and sale of food and drink to the public for consumption on or off the site. The use may include the ancillary sale of liquor for consumption on site.

Examples of the use include Bistro, Café, Coffee Shop, Drive-through Facility, Kiosk, Milk Bar, Restaurant, Snack Bar, Take-away, Tea Room.

**Office**

Premises used for an administrative, secretarial or management service or the practice of a profession, where no goods or materials are made, sold or hired and where the principal activity provides for the following:

- business or professional advice;
- services of goods that are not physically on the premises;
- office based administrative functions of an organisation

Examples of the use include Bank, Real Estate Agent, Administration Building

*These definitions are provided for convenience only. This Development Permit is limited to the specifications, facts and circumstances as set out in the application submitted to Council and is subject to the abovementioned conditions of approval and the requirements of Council’s Planning Scheme and the FNQROC Development Manual.

**EXECUTIVE SUMMARY:**

Council is in receipt of a combined Development Application for a Material Change of Use for a Food and Drink Outlet and Office and a Preliminary Approval for Building Works (Local Heritage Place) over land at 17-19A and 21 Spence St, Cairns City and more particularly described as Lots 1 and 2 on RP706479.

The proposed development consists of the removal of existing awnings and façade treatments to the existing building in order to restore and revitalise its historical appearance. A small extension of approximately 62m² is proposed on the upper level at the rear of the building, adjacent to the existing access easement and adjoining property boundary. The plans submitted with the application indicate that the downstairs portion of the building will be utilised for the purposes of a Restaurant/Bar/Deli with the upper level used for commercial and administrative activities.
External works are proposed consisting of the removal of five (5) on-street car parking spaces on the Lake Street frontage of the site (near the intersection with Spence Street). These spaces are proposed to be replaced with a combination of an outdoor dining structure and new landscape plantings and on-street works of a similar style to that provided on Lake Street outside of the Bolands Centre.

As the development is proposed within an existing building, which was constructed some 90 years ago, there has never been and has not been proposed to provide any car parking on the site. The laneway on the southern side of the building has previously been used to provide some limited private access to the rear of the building at 17-19A Spence St. On review of the site and the proposed development, Officers consider that it would not be feasible, without significant alteration to the existing building, to provide any onsite parking.

In assessing the proposed refurbishment, Officers have considered both the relevant Codes of CairnsPlan 2016 and also Council’s Best Practice Use of Footpaths Policy (December 2015). The proposed works will reinforce the intersection’s historical significance in conjunction with the three (3) State Heritage listed buildings being the Bolands Centre, the Central Hotel and the Adelaide Steamship Co. on the other corners of the intersection.

With regard to the proposal to remove five (5) existing car parking spaces to facilitate a new outdoor dining structure, Officers consider that the proposed structure will help facilitate and extend the pedestrian activation and attractiveness of this particular portion of Lake Street, with the on-street works proposed by the Applicant being complimentary to those carried out on Lake St, north of the intersection with Spence Street, as part of Council’s City Centre Alive project.

Based on the facts and circumstances of the Development Application and Officers’ assessment of same, it is recommended that Council approve the Development Application subject to relevant and reasonable conditions.

**PLANNING CONSIDERATIONS:**

**Background**

The subject site is located on the eastern corner of Spence Street and Lake Street in the Cairns CBD and is properly described as Lots 1 and 2 on RP706479. The site has a total area of approximately 907m² with approximately 30m frontages to both Lake Street and Spence Street. There is an existing access easement (Easement A RP706480, 38m²) within Lot 1 for the benefit of Lot 2.

As noted within the architectural statement prepared by Thomson Adsett and provided with the application, “the property was originally constructed for the National Bank of Australasia in 1926…and is a high quality exemplar of what can be described as Federation Tropical Style architecture. This can be seen in the buildings colonnade and verandas that although representative of tropical architectural vernaculars, have been interpreted in a Federation style”. 


The following image depicts the building in its original form circa 1952.

The building has been subject to a number of interior and exterior works since the cessation of the original banking activities on the site. These works have generally detracted from the historic style and character of the building, although the underlying façade remains in its original form.

The building is currently used for a variety of purposes including a restaurant, massage parlour and shop. The following image illustrates the building in its current form.
Proposal

The proposed development consists of the revitalisation of the existing historic building on the site which has been subject to incremental additions and alterations, both interior and exterior, over its 90 year history.

The works proposed include the removal of existing awnings, façade treatments and signage in order to restore the building to its original historical appearance. A small extension is proposed on the upper level of the property, adjacent to the existing access easement and adjoining property boundary. The extension of approximately 62m² is located over existing part of the rear of the building and will require the removal of the existing roof in this part. These works will not be readily visible from the street given the location at the rear of the building.

Plans submitted with the application indicate that the ground level portion of the building is proposed to be utilised for a combination of Restaurant/Bar/Deli with the upper level used for as both a commercial tenancy and administrative purposes associated with the ground level activities.

External works are proposed consisting of the removal of five (5) existing on-street car parking spaces on the Lake Street frontage of the site (near the intersection with Spence Street). These spaces are proposed to be replaced with a combination of an outdoor dining structure and new landscape plantings and on-street works of a similar style to that provided on Lake Street outside of the Bolands Centre.

External works are proposed consisting of the removal of five (5) existing on-street car parking spaces on the Lake Street frontage of the site (near the intersection with Spence Street). These spaces are proposed to be replaced with a combination of an outdoor dining structure and new landscape plantings and on-street works of a similar style to that provided on Lake Street outside of the Bolands Centre.

Officers note that the Applicant has made an application for a Road Permit (a temporary road closure) in relation to securing appropriate tenure over the portion of the road containing the proposed outdoor dining structure. A decision on the Road Permit has not yet been made as it is pending the outcome of this Development Application.

The following images provide artist impressions of both the revitalised building as seen from the opposite corner (outside of the Central Hotel) and from the southern side of the outdoor dining structure, looking north along Lake Street.
Assessment Process

As per the Table of Assessment for the Principal Centre Zone of CairnsPlan 2016, the proposed development triggered Code Assessment. Accordingly, Section 313(2) of the Sustainable Planning Act (2009) provides the relevant matters that Council as Assessment Manager must consider in the assessment of the application. The following sections of this report provide Council’s assessment against the relevant matters.
## CairnsPlan 2016 Assessment

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<th>Code Applicability</th>
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<td>City Centre</td>
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<td>Refer discussion below</td>
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<td>Land Use</td>
<td>Material Change of Use (Food &amp; Drink Outlet and Office) and Preliminary Approval for Building Work (Local Heritage Place)</td>
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<td>Refer to Centre design code and Places of significance code</td>
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<td>Coast processes</td>
<td>✓</td>
<td>N/A</td>
</tr>
<tr>
<td>Extractive resources</td>
<td>✓</td>
<td>N/A</td>
</tr>
<tr>
<td>Flood and inundation hazards</td>
<td>✓</td>
<td>No changes are proposed to the existing floor level of the building. Conditions have been included requiring the development not have an adverse effect on the existing stormwater capacity.</td>
</tr>
<tr>
<td>Hazardous and explosive facilities</td>
<td>✓</td>
<td>N/A</td>
</tr>
<tr>
<td>Hill slopes</td>
<td>✓</td>
<td>N/A</td>
</tr>
<tr>
<td>Landscape values</td>
<td>✓</td>
<td>Complies with relevant assessment criteria</td>
</tr>
<tr>
<td>Natural areas</td>
<td>✓</td>
<td>Complies with relevant assessment criteria</td>
</tr>
<tr>
<td>Neighbourhood character</td>
<td>✓</td>
<td>N/A</td>
</tr>
<tr>
<td>Places of significance</td>
<td>✓</td>
<td>Refer discussion below</td>
</tr>
<tr>
<td>Potential landslip</td>
<td>✓</td>
<td>N/A</td>
</tr>
<tr>
<td>Transport network</td>
<td>✓</td>
<td>Conditioned to comply with relevant assessment criteria</td>
</tr>
<tr>
<td>Advertising devices</td>
<td>✓</td>
<td>N/A</td>
</tr>
<tr>
<td>Centre design</td>
<td>✓</td>
<td>Refer discussion below</td>
</tr>
<tr>
<td>Environmental performance code</td>
<td>✓</td>
<td>Conditioned to comply with relevant assessment criteria</td>
</tr>
<tr>
<td>Excavation and filling</td>
<td>✓</td>
<td>Complies with relevant assessment criteria</td>
</tr>
<tr>
<td>Industry design</td>
<td>✓</td>
<td>N/A</td>
</tr>
<tr>
<td>Infrastructure works</td>
<td>✓</td>
<td>Conditioned to comply with relevant assessment criteria</td>
</tr>
<tr>
<td>Landscaping</td>
<td>✓</td>
<td>Refer discussion below</td>
</tr>
<tr>
<td>Parking and access</td>
<td>✓</td>
<td>Refer discussion below</td>
</tr>
<tr>
<td>Reconfiguring a lot</td>
<td>✓</td>
<td>N/A</td>
</tr>
<tr>
<td>Vegetation management</td>
<td>✓</td>
<td>Complies with relevant assessment criteria</td>
</tr>
</tbody>
</table>

## Compliance Discussion

The following section discusses the proposed developments non-compliance with relevant aspects of CairnsPlan 2016. In assessing the proposed development, Officers have considered not only the relevant Performance Criteria and Acceptable Measures, but also the Purpose statements of the codes relevant to the application.
City Centre Local Plan:

The application is generally compliant with the relevant Acceptable Outcomes of the Code with the exception of AO33.1 which relates to the provision of on-site car parking. Discussion regarding car parking is provided below in response to the Parking and Access Code.

Centre Design Code:

The application is generally compliant with the relevant Acceptable Outcomes of the Code with the exception of the following matters.

The Application does not comply with Acceptable Outcome AO10.4 relating to the provision of an awning for the full frontage of the site where a building is built to boundary. No awning connected to the building is proposed in this instance.

In assessing this matter, the relevant Performance Criterion (PO10) states that:

- Development results in an active streetscape that:
  - contributes to a high level of amenity for patrons and pedestrians; and
  - facilitates interactions between the public and private realm through active frontages.

Given the proposed development is occurring on and adjacent to a place of Local Heritage Significance, Officers consider that the proposed roof cover over the outdoor dining area which is proposed to extend across the footpath for the length of the structure provides an appropriate alternate solution to that sought by the Code. Further, the preservation of the existing building is in this instance, given its listing as a place of Local Heritage Significance, considered to be of higher importance than the provision of a wrap-around awning which would have a material effect on the existing façade.

The application proposes an alternate solution to Acceptable Outcome AO12.2 which specifies that public/semi-public spaces such as laneways/arcades/enclosed thoroughfares are a minimum of 6m in width to permit sight lines to/from adjacent pedestrian spaces. The Applicant has noted in response to this matter that the existing easement at the rear of the property is approximately 3m in width. Opportunities for casual surveillance will be created and the area activated through its integration with the ground floor activities i.e. as a break out area for the restaurant.

Acceptable Outcome AO13.1 states that a minimum of 10% of the site is landscaped. Officers agree with the Applicants representations regarding this matter in that due to the nature of the site i.e. one in which the building has been built to both road frontages and one side boundary, the opportunity for effective landscaping within the site is negligible. Officers consider that the proposed on-street landscape works around the outdoor dining structure will provide a much more effective landscape result for both the individual property and wider intersection context.
Places of Significance Overlay Code:

Officers consider that the proposed works to the Local Heritage Place are consistent with the expectations of the Code in that such works assist in the conservation and preservation of the façade of the building and its place in a historically significant intersection within the Cairns CBD. The removal of existing awnings will allow the detail of the façade to be more readily observed, whilst the addition of an outdoor dining structure, given the visual transparency of the design, will not compromise or conceal any significant features.

Parking and Access Code:

The proposed development is in conflict with the Code as there is no provision made for on-site car parking. This is primarily due to the historic nature of the building which was originally construction in 1926. The existing laneway on the southern side of the building has previously been used to provide some limited private access to the rear of the building at 17-19A Spence St.

On review of the site, its historical and current uses and the currently proposed development, Officers consider that it would not be feasible for onsite parking to be provided without significant alteration to the existing building. The car parking required under the Code for historical land uses and the proposed development are comparable.

It should be noted that the existing loading zone outside of the adjacent Palm Court Shopping Centre (34-40 Lake Street) will not be affected by the proposed on-street works.

**Best Practice Use of Footpaths Policy (December 2015)**

Council’s *Best Practice Use of Footpaths Policy* came into effect on 1 January 2014. The most recent amendment to the policy was presented to Council’s Ordinary Meeting of 16 December 2015 where Council adopted various amendments to the policy including specific criteria relating to fixed outdoor dining structures on Lake Street, between Spence Street and Shields Street and on Shields Street, between Grafton Street and Abbott Street.

On review of the current policy, it is noted that whilst the subject site is located outside of the areas of the CBD subject to specific design criteria, the proposed outdoor dining structure is considered to be consistent with the stated criteria for the following reasons:

- the proposed structure does not inhibit solar access to a shop front;
- the structure is considered to be an appropriate modern design response that compliments the historic building adjacent to its location;
- a 3m wide pedestrian zone is proposed between the structure and the building allowing sufficient room for pedestrian movement;
- the structure uses timber and stainless steel materials;
- landscape plantings and treatments will complement those installed as part of the city centre alive works in Lake Street, north of the intersection with Spence Street; and
- the proposed cover over the footpath provides more than 3m clearance.
Public Notification / Submissions

The proposed development triggered Code Assessment only and hence was not subject to Public Notification.

**INFRASTRUCTURE CHARGES:**

The proposed development triggers Infrastructure Charges. Refer to Appendix 3 to view calculations.

Ian Elliott-Smith
Planning Officer
Action Officer

[Signature]

Paul Cohen
A/Manager Strategic Planning & Approvals

[Signature]

Peter Boyd
A/General Manager Planning & Environment
APPENDIX 1: APPROVED PLAN(S) & DOCUMENT(S)

Locality Plan Proposed

PROPOSED REFURBISHMENT & ADDITIONAL WORKS
17-19 & 21 SPENCE STREET
LOT 2 RP 706479 & LOT 1 RP 706479

SITE AREA
LOT 1 RP 706479 = 467m²
LOT 2 RP 706479 = 472m²

GFA
LOT 1 RP 706479
TOTAL EXISTING GFA = 720m²
Ground Floor - 398m²
Level 1 - 322m²
TOTAL PROPOSED GFA = 785m²
Ground Floor - 398m²
Level 1 - 387m²

LOT 2 RP 706479
EXISTING PROPOSED GFA = 611m²
No building works proposed for Lot 2

OUTDOOR DINING ZONE
PROPOSED GFA = 66m²

PROPOSED EXTENSION PATHWAY / OUTDOOR DINING ZONE ON EX. ROAD RESERVE, SHOWN DASHED.
AREA APPROX. 135m²

Site Plan A3

1 : 2000
## NOTES OF INTENTION TO COMMENCE USE

**Development Permit**

*Sustainable Planning Act 2009*

### NOTICE OF INTENTION TO COMMENCE USE

<table>
<thead>
<tr>
<th>Development Permit</th>
<th>8/30/223</th>
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<tbody>
<tr>
<td>Date of Approval</td>
<td>28 September 2016</td>
</tr>
<tr>
<td>Approved Use</td>
<td>Food and Drink Outlet and Office</td>
</tr>
<tr>
<td>Location</td>
<td>17-19A &amp; 21 Spence Street CAIRNS CITY</td>
</tr>
<tr>
<td>Property Description</td>
<td>Lots 1 &amp; 2 on RP706479</td>
</tr>
</tbody>
</table>

I/we are hereby notifying Cairns Regional Council of my/our intention to commence the approved use outlined above

on ________________________________ (insert date).

I have read the conditions of the Decision Notice issued and believe that all the applicable conditions have been complied with.

**Applicant:** ________________________________

**Address:** ________________________________

**Contact Phone:** ________________________________

**Signature of Applicant/Owner**

**Date:** ________________________________
APPENDIX 3: ADOPTED INFRASTRUCTURE CHARGES NOTICE

---

**Adopted Infrastructure Charges Notice**

<table>
<thead>
<tr>
<th>Category</th>
<th>Use</th>
<th>Quantity</th>
<th>Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial (retail)</td>
<td>Food and drink outlet - Other</td>
<td>725</td>
<td>$110,190.00</td>
</tr>
<tr>
<td></td>
<td>Stormwater Charge</td>
<td>407</td>
<td>$3,952.50</td>
</tr>
<tr>
<td><strong>EXISTING CHARGE</strong></td>
<td></td>
<td></td>
<td><strong>$114,142.50</strong></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Category</th>
<th>Use</th>
<th>Quantity</th>
<th>Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>Commercial (retail)</td>
<td>Food and drink outlet - Other</td>
<td>825</td>
<td>$106,225.00</td>
</tr>
<tr>
<td></td>
<td>Stormwater Charge</td>
<td>407</td>
<td>$3,952.50</td>
</tr>
<tr>
<td><strong>PROPOSED CHARGE</strong></td>
<td></td>
<td></td>
<td><strong>$110,177.50</strong></td>
</tr>
</tbody>
</table>

**TOTAL CHARGE** $114,142.50  
**Account:** T448 05446

**DATE PAYABLE**  
MCU - Before the charge occurs

Note:

The infrastructure charges in this notice are levied in accordance with Section 635 of the Sustainable Planning Act 2009. These charges have been levied based on the highest use of the land. Where a lower use is proposed, representations regarding such use may be made to Council with supporting justification.

It has been calculated in accordance with Council’s Adopted Infrastructure Charges Resolution of 23 September 2015.

Charge rates are subject to index adjustments. The total charge amount indicated on this notice is current at the date of issue; the total charge due at the date of payment may change. Please contact the Development Assessment Team, Cairns Regional Council prior to payment for review. No GST is payable on infrastructure charges.

This Adopted Infrastructure Charges Notice attaches to the land identified in the notice.

Charges are payable by the date identified in the notice in accordance with Section 636 of the Sustainable Planning Act 2009 to Cairns Regional Council at any of Council’s Business Offices or by mail with your cheque or money order to Cairns Regional Council, PO Box 359, Cairns QLD 4870. Cheques must be made payable to Cairns Regional Council and marked ‘Not Negotiable’. Acceptance of a cheque is subject to collection of the proceeds. Post-dated cheques will not be accepted. Cairns Regional Council ABN 24 310 025 910.

Please contact the Development Assessment Team on (07) 4083 0544 or email developmentassessments@cairns.qld.gov.au if you have any concerns regarding infrastructure charges.

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Agenda – Ordinary Meeting 28 September 2016  
#5217229
APPENDIX 4: SUPPORTING INFORMATION – ARTISTIC IMPRESSIONS

Existing Image - Lake Street

Artist's Impression - Lake Street Proposed
Existing Image - Lake Street

Artist's Impression - Lake Street Proposed
Artist's Impression - Lake Street Footpath