

DETAILED ASSESSMENT REPORT

APPLICATION FOR DEVELOPMENT APPROVAL

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SUMMARY SHEET	
APPLICATION DETAILS	
Applicant:	Café Collective Trust
Owner:	Pumicestone Passage Developments Pty Ltd
Consultant:	Sunshine Coast Survey and Planning
Proposal	Development Permit for Material Change of Use of Premises to establish a Food and Drink Outlet
Properly Made Date:	27 August 2018
Information Request Date:	20 September 2018
Information Response Received Date:	2 November 2018
Decision Due Date	1 February 2018
Number of Submissions	12 Properly Made submissions were received. 8 submissions were in support and 4 submissions were in objection to the proposal.
PROPERTY DETAILS	
Division:	2
Property Address:	Pelican Waters Bvd PELICAN WATERS
RP Description:	Lot 603 SP 221893
Land Area:	1670m ²
Existing Use of Land:	Vacant land and carpark
STATUTORY DETAILS	
Planning Scheme:	Sunshine Coast Planning Scheme 2014 (29 June 2018)
SEQRP Designation:	Urban Footprint
Strategic Plan Designation:	Urban
Planning Area / Locality:	Golden Beach/Pelican Waters Local Plan Area
Planning Precinct / Zone:	Open Space Zone

Assessment Type:	Impact
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PROPOSAL:

The application seeks approval for a Development Permit for Material Change of Use of Premises to establish a Food and Drink Outlet. The Food and Drink Outlet is proposed to be located within a single storey building to be constructed on the premises. The building has a total building area of 314m², consisting of 233m² of internal space and an 81m² deck which is predominantly covered.

The building would be wholly located on Lot 603 and would project over the canal in the northwest corner of the site.

The Food and Drink Outlet is intended to be used for the purpose of a restaurant, however, would also incorporate a small area used for takeaway goods such as coffee, milk, bread, takeaway food and the like.

The use is proposed to operate between the hours of 5am to 10pm, 7 days a week.

The development proposes to provide a total of 17 car spaces, including 14 spaces which have already been constructed on the premises and 3 additional spaces. The development also proposes to provide 14 bicycle spaces.

Vehicular access to the site would remain in its current arrangement from Pelican Waters Boulevard via a separate left in entry and left out egress. An easement for public access would remain over the existing driveways and carparking area so that carpark is made available to the public with no limiting conditions or prohibitions.

Figure 1 – Site Layout Plan



Figure 2 – Perspective View (From Car park – Looking Northeast)



SITE DETAILS:

Site Features and Location

SITE AND LOCALITY DESCRIPTION	
Land Area:	1670m ²
Existing Use of Land:	Vacant land and carpark
Road Frontage:	96.5m to Pelican Waters Boulevard
Significant Site Features:	A portion of the canal is located in the northwest corner of the site.
Topography:	Flat
Surrounding Land Uses:	<ul style="list-style-type: none"> • Canal to the north. • Dwelling houses to the east and south, on the opposite side of Pelican Waters Boulevard. • Park to the west.

Item 8.2 Development Application Material Change of Use of Premises to Establish a Food and Drink Outlet at Pelican Waters Boulevard, Pelican Waters

Attachment 2 Detailed Assessment Report

The location of the subject site in relation to its surrounds is shown below:

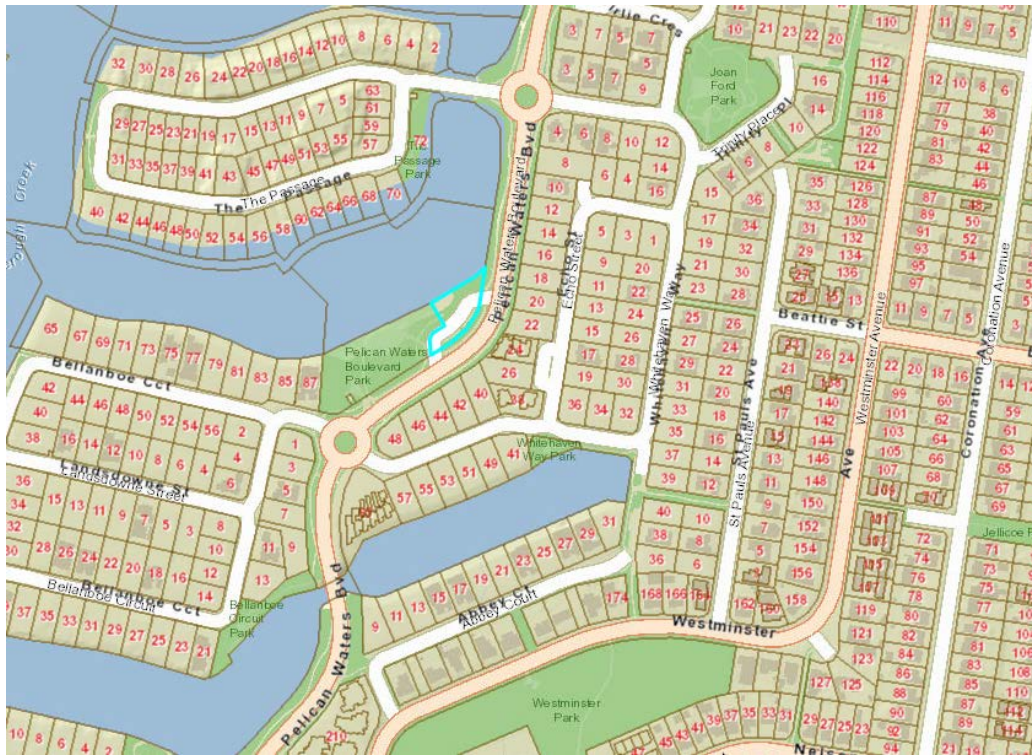


Figure 3 – Aerial Photograph of Site

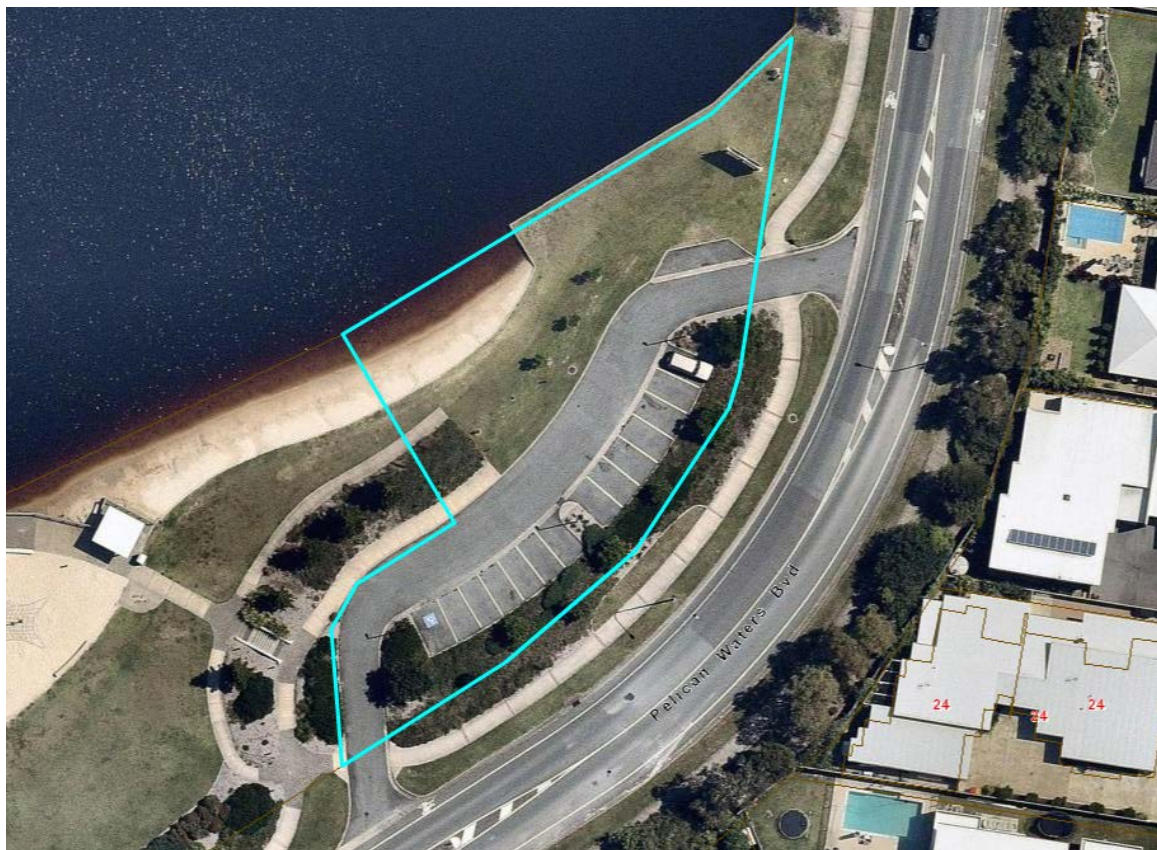


Figure 4 – Aerial Photograph of Site

Development History of Site

On 23 October 2009 Council approved a Development Permit for Material Change of Use to establish a restaurant and shop on the premises and associated Operational Works (Council Ref: 2009/56M0009). The approval allowed the restaurant and shop to have a total building area of 249m², consisting of 197m² of internal space and a 52m² deck.

The operational works component of the approved development was undertaken, including the establishment of the carpark and landscaping, however, the building comprising the restaurant and shop was never constructed. The Material Change of Use component of the approval subsequently lapsed.

The proposed Sunshine Coast Planning Scheme 2014 (Major Amendment) - Site Specific and Operational Matters proposes to amend the Tables of Assessment and the *Golden Beach/Pelican Waters local plan code* to allow Food and Drink Outlet and Shop to be code assessable and consistent uses respectively, subject to qualifications about scale and intensity of uses on the subject lot. The proposed amendment underwent public consultation from 30 July to 7 September 2018. The submissions are currently being reviewed and a consultation report will be presented to Council for consideration in due course.

ASSESSMENT:

Framework for Assessment

Categorising Instruments for Statutory Assessment

For the *Planning Act 2016*, the following categorising instruments may contain assessment benchmarks applicable to development applications:

- the *Planning Regulation 2017*
- the Planning Scheme for the local government area
- any temporary local planning instrument
- any variation approval

Of these, the planning instruments relevant to this application are discussed in this report.

Assessment Benchmarks Related to the *Planning Regulation 2017*

The *Planning Regulation 2017* (the Regulation) prescribes assessment benchmarks that the application must be carried out against, which are additional or alternative to the assessment benchmarks contained in Council's Planning Scheme. These assessment benchmarks may be contained within:

These assessment benchmarks are prescribed as being contained in:

- the SEQ Regional Plan and Part E of the State Planning Policy, to the extent they are not appropriately integrated into the Planning Scheme; and

- Schedule 10 of the Regulation.

PLANNING REGULATION 2017 DETAILS	
Applicable Assessment Benchmarks:	<u>State Planning Policy</u> <ul style="list-style-type: none"> • Part E

State Planning Policy (SPP), Part E

The assessment benchmarks of the SPP Part E that are relevant to the development proposal do not vary the current provisions of the Planning Scheme.

Assessment Benchmarks Related to the Planning Scheme

The following sections relate to the provisions of the Planning Scheme.

PLANNING SCHEME DETAILS	
Planning Scheme:	Sunshine Coast Planning Scheme (29 June 2018)
Strategic Framework Land Use Category:	Urban Area
Local Plan Area:	Golden Beach/Pelican Waters Local Plan Area
Zone:	Open Space Zone
Consistent/Inconsistent Use:	Potentially consistent use
Applicable Assessment Benchmarks:	<ul style="list-style-type: none"> • <i>Strategic Framework</i> • <i>Acid sulfate soils overlay code</i> • <i>Airport environs overlay code</i> • <i>Flood hazard overlay code</i> • <i>Height of buildings and structures overlay code</i> • <i>Golden Beach/Pelican Waters local plan code</i> • <i>Open space zone code</i> • <i>Business uses and centre design code</i> • <i>Nuisance code;</i> • <i>Safety and security code;</i> • <i>Stormwater management code;</i> • <i>Sustainable design code;</i> • <i>Transport and parking code;</i> • <i>Waste management code; and</i>

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| | <ul style="list-style-type: none"> • Works, services and infrastructure code. |
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Strategic Framework

The Strategic Framework is an Assessment Benchmark for Impact Assessable applications and considers the following matters:

- Settlement Pattern
- Economic Development
- Transport
- Infrastructure and Services
- Natural Environment
- Community Identity, Character and Social Inclusion
- Natural Resources
- Natural Hazards

The application has been assessed against each of the matters above and found to be consistent with the strategic policy direction of the planning scheme.

Planning Scheme Codes

The application has been assessed against each of the applicable codes and found to be compliant with, or can be conditioned to comply with, each. The pertinent issues arising out of assessment against the codes are discussed below:

Open Space Zone Code

Food and Drink Outlets are identified as consistent uses within the *Open space zone* where:

“located on Council owned or controlled land, conducted in association with an open space or sport and recreation use on the same site and having a gross leasable floor area not exceeding 100m².”

Where other than as specified above, Food and Drink Outlets are potentially consistent uses. Given that the proposed Food and Drink Outlet exceeds a gross leasable floor area of 100m² and because it is not Council Controlled land, it is a ‘potentially consistent’ use within the zone in accordance with column 2 of Table 6.2.14.2.1.

Overall Outcome (2)(p)(ii) of the *Open space zone code* requires that;
“a use listed as a potentially consistent use in column 2 of Table 6.2.14.2.1 to occur in the Open space zone only where further assessment has determined that the use is appropriate in the zone having regard to such matters as its location, nature, scale and intensity.”

The proposed Food and Drink Outlet would be positioned beside an existing park that contains a playground and equipment. As for the development’s suitability for the site in terms of location and nature, it is considered that the Food and Drink Outlet would complement and encourage the use park by residents and visitors alike. It is also considered that the use would provide casual surveillance to the park which would

contribute to the safety of the public space. Overall, it is considered that the use would be compatible with the adjacent park and provide a benefit to the local residents as a gathering place with high amenity value.

In terms of scale and intensity, the building would be a single storey development that would offer a bulk and scale that is compatible with nearby houses throughout the surrounding area. Many of these dwellings are 2 storeys in height and have significantly larger floor areas than the proposed use. It is also considered that the use can be operated in a way that would not impact on the amenity of the surrounding area or the external road network.

Council's Strategic Planning branch have also advised that given the proposed amendment has reached an advanced stage in the process (i.e. post public notification) weight can be afforded to the draft planning scheme amendment which would allow food and drink outlets and shops to be consistent uses and subject to code assessment on the subject lot.

Amenity / Noise

Given that the proposed Food and Drink Outlet is not located with a centre zone, a primary concern in relation to the application is the potential impacts that it may have on the amenity of nearby residents by way of noise. The key outcomes of the planning scheme relating to protecting the amenity of surrounding sensitive land uses are contained within the purpose and overall outcomes of the *Nuisance code* as follows:

- (1) *The purpose of the Nuisance code is to maintain community wellbeing and protect environmental values by preventing or mitigating:-*
 - (a) *nuisance emissions from development adversely impacting on surrounding sensitive land uses; and*
 - (b) *the exposure of proposed sensitive land uses to nuisance emissions from surrounding development.*

- (2) *The purpose of the Nuisance code will be achieved through the following overall outcomes:-*
 - (a) *development is located, designed, constructed and operated to maintain appropriate levels of amenity and environmental performance by:-*
 - (i) *not imposing unacceptable noise, light, glare, dust or odour emissions on surrounding sensitive land uses; and*
 - (ii) *ensuring that proposed sensitive land uses are not subject to unacceptable nuisance emissions generated from surrounding development; and*

The Food and Drink Outlet is proposed to operate between the hours of 5am to 10pm, 7 days per week.

To address noise concerns, the applicant submitted a Noise Assessment Report prepared by Simpson Engineering Group to accompany the application. The report considered potential noise impacts related to air conditioners, mechanical plant, vehicle noise (car parks, parking and deliveries), patron noise and amplified music.

The report provided an assessment of noise impacts on identified sensitive receivers for all proposed hours of operation against the noise criteria in the *Environmental Protection*

(Noise) Policy 2008 and in accordance with the *Nuisance code* contained within the *Sunshine Coast Planning Scheme 2014*.

The report concluded that the proposed café and restaurant would generally comply with all noise level goals sourced from the EPP(Noise), as well as noise level limits from the Licensing Commission (up to 10pm) subject to the following measures:

- No amplified music on the deck;
- The building being constructed with acoustic performance walls and roof Rw40, windows Rw 25 and doors Rw 20;
- Requiring that the mechanical plant and air-conditioning are designed to comply with 24 dB(A) at all nearby residences.

The report acknowledged, however, that the modelling of patron noise associated with the use of the outdoor deck has the potential to exceed the Environmental Protection Policy (Noise) background creep goal after 8pm. However, the report suggests that it is unlikely to occur in practice as patrons usually depart soon after their meal and the number of patrons expected to be using the outdoor deck after 8pm is much fewer in number than during the peak period for evening meals (i.e. before 7:30pm).

Council's Environmental Health Specialist has reviewed the Noise Assessment Report and has advised that it adequately demonstrates compliance with the nominated criteria, with the exception of patrons using the open outdoor deck area (against the background creep criteria). In relation to this issue, concern has been raised that deck area could potentially have up to 45 patrons which would likely exceed the limit by up to 5 dB (A) at the nearest sensitive receiver. Given the potential exceedance, conditions have been recommended that would require the deck area to be provided with operable acoustic screens (e.g. blinds/shutters/louvers or the like) installed along the north western aspect of the restaurant (lakeside), and that these must be shut closed between 8pm – 7am. Additionally, a condition has also been recommended to require the building must be acoustically* designed and constructed such that noise from live and/or amplified entertainment is not audible at any noise sensitive receptor at any time.

Car Parking

The development proposes to provide a total of 17 car spaces, including 15 spaces which have already been constructed on the premises and 2 additional spaces.

Acceptable Outcome AO3.1 and Table 9.4.8.3.3 of the *Transport and parking code* seek for a minimum car parking rate of 1 space per 15m² of gross floor area and outdoor dining area. The proposed Food and Drink Outlet has been calculated to have a total gross floor area and outdoor dining area of 320m², triggering a car parking demand of 21 spaces. Therefore, the proposal provides a shortfall of 4 car spaces. No traffic report or parking study has been provided to demonstrate that the lesser number of car spaces will be sufficient for the proposed size of the use.

Given that the Food and Drink Outlet shares the car park with the adjoining park and that people will also be occupying the car park for this purpose, there is concern that the proposed 17 spaces would not meet the reasonable requirements of the development as sought by Performance Outcome PO4 and Overall Outcome 2(d). Further, there is no availability car parking elsewhere along Pelican Waters Boulevard.

Subsequently, it is recommended that the floor area of the Food and Drink Outlet be reduced to 260m² of combined gross floor area and outdoor dining area as defined by the *Sunshine Coast Planning Scheme 2014*, to ensure that the use achieves Acceptable Outcome AO3.1.

Assessment Benchmarks Related to a Variation Approval

Not applicable.

Assessment Benchmarks Related to a Temporary Local Planning Instrument

Not applicable.

Other Assessment Matters

In addition to the assessment benchmarks referred to above, the *Planning Regulation 2017* requires that impact assessment must be carried out having regard to:

- the regional plan for a region; and
- the State Planning Policy, to the extent the State Planning Policy is not identified in the planning scheme as being appropriately integrated in the planning scheme.

South East Queensland Regional Plan (SEQRP)

The development is located within the Urban Footprint of the SEQRP. Having regard to the SEQRP, the development is consistent with the outcomes expressed and sought to be achieved by the SEQRP.

State Planning Policy (SPP)

Since the time the *Sunshine Coast Planning Scheme* commenced on 21 May 2014, a new SPP came into effect on 3 July 2017 and must be considered for development assessment to the extent the SPP is inconsistent with the planning scheme.

The proposal is consistent with the policy intent of the SPP and does not conflict with any of the identified state interests subject to imposition of the conditions in relation to dealing with the assessment benchmarks contained within the SPP.

CONSULTATION:

Referral Agencies

The application did not require referral to any Referral Agencies.

Other External Referrals

The application did not require any other external referrals.

Public Notification

The application was publicly notified for 15 days between 8 November 2018 and 30 November 2018 in accordance with the requirements of the *Planning Act 2016*. A total of 22 submissions were received, of which 12 were determined to be 'properly made' in accordance with the *Planning Act 2016*. Of the properly made submissions received, 4 were in objection to the development.

The following table provides a description of the matters raised in submissions received about the application, together with a statement of how those matters were dealt with in reaching a recommendation for the development proposal:

ISSUES	COMMENTS
<p>Car parking</p> <p>The development has a substantial shortfall in parking spaces.</p>	<p>The proposed development provides a total shortfall of 4 parking spaces. Conditions have been recommended which require the gross floor area and outdoor dining area to be reduced to 260m² to achieve the acceptable outcomes of the <i>Transport and parking code</i>.</p>
<p>Open Space Zone Code</p> <p>The proposal conflicts with the Open Space Zone Code as it is not a small scale low intensity use and does not cater for the informal recreation needs of residents and visitors.</p>	<p>Where exceeding a gross leasable floor area of 100m², Food and Drink Outlets are a 'Potentially Consistent' use within the Open Space Zone. It has adequately been demonstrated the proposed use is within a location and of a nature, scale and intensity that is appropriate for the site and compatible with the adjoining park use as detailed in the assessment report.</p> <p>Further, a planning scheme amendment is currently being considered which would make Food and Drink Outlets consistent and code assessable uses over the site, regardless of floor area.</p>
<p>Relevant matters</p> <p>Relevant matters have not been provided by the applicant to support the DA despite the conflicts.</p>	<p>Food and Drink Outlets are a potentially consistent use within the zone and therefore the proposal is not in conflict with the planning scheme.</p>
<p>Noise</p> <p>The development will cause unreasonable noise impact upon nearby sensitive land uses.</p>	<p>Reasonable and relevant conditions have been recommended to ensure that the proposed use would not unduly impact on the amenity of the surrounding premises by way of noise. A noise assessment report was submitted that adequately demonstrates the use can be managed in a manner that would not cause a noise nuisance.</p>

ISSUES	COMMENTS
	Conditions have been recommended that require the development to be managed in a manner that it will be inaudible at a noise sensitive receptor at any time.
<p>View Shed</p> <p>The development will result in unreasonable impacts on the view shed of nearby dwellings.</p>	<p>The proposal is for a single storey building that is less than the 8.5m height limit of the planning scheme and therefore would not unreasonably impact on views from nearby dwellings.</p>
<p>Water Quality</p> <p>Impinges into the lake area and there is potential that it will pollute the waterway.</p>	<p>The proposed development is wholly contained within a privately owned property. The driveway and car parking areas have already been constructed and subsequently there would be no additional impervious areas associated with these. Conditions have been recommended that require roof water to be discharged to a field inlet within the car park which drains directly to Council's piped stormwater system in Pelican Waters Boulevard and contains suitable water quality treatment devices.</p>
<p>Previous Approval</p> <p>The proposal would provide the opportunity for the original type of use (restaurant/shop) that was intended for the land when the land development took place around 2009</p>	<p>Noted.</p>
<p>Convenience</p> <p>It would provide the community with convenient access to coffee, meals, takeaway food, milk, bread and newspapers and will enhance the lifestyle for residents.</p>	<p>Noted.</p>
<p>Complement the Park</p> <p>The proposed food and drink outlet will complement the nearby park and provides needed toilets that will be made available to the public</p>	<p>Noted.</p>

CONCLUSION:

The proposed development sufficiently complies with the requirements of the Planning Scheme and does not raise any significant issues that cannot be addressed by reasonable and relevant conditions. The application is therefore recommended for approval.