



# Mareeba

## SHIRE COUNCIL

65 Rankin Street  
PO Box 154 MAREEBA QLD 4880

**P:** 1300 308 461

**F:** 07 4092 3323

**W:** [www.msc.qld.gov.au](http://www.msc.qld.gov.au)

**E:** [info@msc.qld.gov.au](mailto:info@msc.qld.gov.au)

20 February 2019

Planning Officer: Carl Ewin

Direct Phone: 4086 4656

Our Reference: BM:CE:nj

G & R Tatti  
C/- Max Slade Designs Pty Ltd  
PO Box 834  
TOLGA QLD 4882

Dear Applicant/s

## Decision Notice

### *Planning Act 2016*

I refer to your application and advise that on 20 February 2019, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

#### APPLICATION DETAILS

Application No:	MCU/18/0026
Street Address:	3 Kenneally Road, Mareeba
Real Property Description:	Lot 1 on RP725081
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

#### DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit for Material Change of Use - Short Term Accommodation (4 x 4 Bedroom Units)
Date of Decision:	20 February 2019

#### CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is six (6) years starting the day that this development approval takes effect. (Refer to Section 85 "Lapsing of approval at end of currency period" of the *Planning Act 2016*.)

**INFRASTRUCTURE**

Where conditions relate to the provision of infrastructure, these are non-trunk infrastructure conditions unless specifically nominated as a “*necessary infrastructure condition*” for the provision of trunk infrastructure as defined under Chapter 4 of the *Planning Act 2016*.

**ASSESSMENT MANAGER CONDITIONS****(A) ASSESSMENT MANAGER’S CONDITIONS (COUNCIL)****(a) Development assessable against the Planning Scheme**

1. Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
  - found necessary by Council’s delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
  - to ensure compliance with the following conditions of approval.
2. Timing of Effect
  - 2.1 The conditions of the development permit must be complied with to the satisfaction of Council’s delegated officer prior to the commencement of the use except where specified otherwise in these conditions of approval.
  - 2.2 Prior to the commencement of use the applicant must notify Council that all the conditions of the development permit have been complied with, except where specified otherwise in these conditions of approval.
3. General
  - 3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure or the payment of infrastructure charges within the Adopted Infrastructure Charges Notice.
  - 3.2 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
  - 3.3 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to commencement of the use and at the rate applicable at the time of payment.
  - 3.4 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council’s delegated officer.

### 3.5 Noise Nuisance

- 3.5.1 Refrigeration equipment, pumps, compressors and mechanical ventilation systems must be located, designed, installed and maintained to achieve a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations.

The applicant is required to install and maintain suitable screening to all air conditioning, lift motor rooms, plant and service facilities located at the top of or on the external face of the building. The screening structures must be constructed from materials that are consistent with materials used elsewhere on the facade of the building. There are to be no individual external unscreened air conditioning units attached to the exterior building facade.

3.5.2 Full time onsite manager

In order to minimise the likelihood of noise nuisance, a full time, onsite manager must be present onsite at all times during the operation of the approved use. The contact details for the onsite manager are to be made publicly accessible to all adjoining property owners.

### 3.6 Waste Management

An on-site refuse storage area must be provided and be screened from view from adjoining properties and road reserve by a 1 metre wide landscaped screening buffer or 1.8m high solid fence.

Where bulk bins are used and are to be serviced on site, certification by a Registered Professional Engineer of Queensland (RPEQ) must be provided to Council which demonstrates that internal access is of adequate design and construction to allow waste collection/delivery vehicle to enter and exit the site in a forward gear, prior to the issue of a development permit for operational works.

Any refuse storage area must be constructed on an impervious surface such as a concrete slab and must be provided with a water connection to facilitate cleaning of bins, other receptacles and the collection area itself, and must be drained into the site's wastewater network.

Should an existing refuse storage area be proposed to satisfy this condition, the existing refuse storage area must comply with the above requirements.

### 3.7 Clothes Drying area

Sufficient area for clothes drying is to be provided for the units and is to be appropriately screened from view of adjoining properties and the street, to the satisfaction of Council's delegated officer.

### 3.8 Window Screening

The applicant/developer is required to install and maintain suitable screening to all unit windows facing the south-east and north-east site boundaries for the purposes of privacy and reducing light spillage. The screening structures must be constructed from non-reflective materials that are consistent with materials used elsewhere on the facade of the building, to the satisfaction of Council's delegated officer.

### 3.9 Hot Water System Relocation

The applicant/developer is required to install and maintain appropriate screening to all hot water systems attached the unit structures. The screening structures must be constructed from materials that are consistent with materials used elsewhere on the structures.

### 3.10 Building Materials and Finishes

All building materials and finishes, including roofing iron/tiles, guttering, external cladding/blockwork/render and window screening structures must be made from non-reflective, modern building materials and must be of a neutral colour, to the satisfaction of Council's delegated officer.

## 4. Infrastructure Services and Standards

### 4.1 Access

Prior to the commencement of the use the existing site access must be upgraded to a commercial/industrial standard in order to accommodate two directional large vehicle traffic (from the edge of the road pavement to the property boundary of the subject lot) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

### 4.2 Stormwater Drainage/Water Quality

4.2.1 Prior to the issue of a development permit for building works, the applicant/developer must submit a Stormwater Management Plan and Report prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards of design and construction set out in the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual to the satisfaction of Council's delegated officer. Where staged works are proposed, the Stormwater Management Plan and Report must detail the stormwater drainage for the whole of the development and for each stage of the development.

4.2.2 The Stormwater Management Plan must ensure a non-worsening effect on surrounding land as a consequence of the development and

must take all reasonable and practicable measures to ensure discharge occurs in compliance with the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual.

4.2.3 The applicant/developer must construct the stormwater drainage infrastructure for the development in accordance with the approved Stormwater Management Plan and Report.

4.2.4 All stormwater drainage must be collected from site and discharged to an approved legal point of discharge.

#### 4.3 Car Parking/Internal Driveways

4.3.1 The applicant/developer must ensure that each unit is provided with one (1) car parking space (16 total) which are available solely for the parking of vehicles associated with the accommodation. The car parking spaces must be located within proximity to the accommodation units.

4.3.2 Prior to the commencement of the use, all car parking spaces including the administration office set down/car parking areas, and all internal driveways servicing the approved use must be concrete, bitumen or asphalt sealed, line marked and appropriately drained, to the satisfaction of Council's delegated officer.

All car parking spaces and internal driveways must be constructed in compliance with the following standards, to the satisfaction of Council's delegated officer:

- Australian Standard AS2890:1 Off Street Parking – Car Parking Facilities;
- Australian Standard AS1428:2001 – Design for Access and Mobility.

4.3.3 The internal driveways servicing the approved use must be wide enough to allow for two direction vehicle traffic, to the satisfaction of Council's delegated officer. If this is not the case and the existing loop road through the existing caravan park is proposed or required to service the development (short-term accommodation units only), this loop road must be upgraded to a concrete, asphalt or bitumen sealed standard, to a minimum width of four (4) metres (including any widening required on corners) and appropriately drained, to the satisfaction of Council's delegated officer.

#### 4.4 Landscaping & Fencing

4.4.1 Prior to the issue of a development permit for building works, a landscape plan must be prepared and submitted to Council's delegated officer for consideration and approval (one plan may be submitted for the entire site).

The landscape plan must include a minimum 30m<sup>2</sup> of landscaping and must include plant species selected from the Plant Schedule in Planning Scheme Policy 6 - Landscaping and preferred plant species.

A minimum of 25% of the landscaping plants must be provided as larger, advanced stock with a minimum foliage height of 0.7 metres.

The landscaping of the site must be carried out in accordance with the endorsed landscape plan prior to the commencement of the use and mulched, irrigated and maintained to the satisfaction of Council's delegated officer.

- 4.4.2 Prior to the commencement of the use, a solid 1.8 metre high timber paling (no gaps) or 1.8 metre high colorbond fence (of neutral colour) is to be erected along the entire length of the south-east boundary of the site.

Prior to the commencement of the use, a solid 1.8 metre high timber paling (no gaps) or 1.8 metre high colorbond fence (of neutral colour) is to be erected along the north-east boundary of the site from the north east corner of the site (behind the donga's) to a distance of no less than 40 metres along the boundary.

The abovementioned fencing is to be erected and maintained in good order for the life of the development, to the satisfaction of Council's delegated officer.

#### 4.5 Lighting

Where outdoor lighting is required the developer shall locate, design and install lighting to operate from dusk to dawn within all areas where the public will be given access, which prevents the potential for light spillage to cause nuisance to neighbours and must be provided in accordance with Australian Standard 1158.1 – Lighting for Roads and Public Spaces.

Illumination resulting from direct, reflected or other incidental light emanating from the subject land does not exceed 8 lux when measured at any point 1.5m outside the property boundary of the subject site. The lighting fixtures installed on site must meet appropriate lux levels as documented within Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting.

#### 4.6 Water Supply

Where the existing reticulated water supply does not currently service the site or is not at an adequate capacity, the developer is required to extend or upgrade the reticulated water supply infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to

service the development in accordance with FNQROC Development Manual standards (as amended).

If a new or upgraded water service connection is required to service the development, it must be provided in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

#### 4.7 Sewerage Connection

The developer must connect the proposed development to Council's reticulated sewerage system in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Where sewerage connections are not available to the site, or where existing connections are not satisfactory for the proposed development, the developer is required to extend or upgrade the reticulated sewerage infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

### REFERRAL AGENCIES

The referral agencies applicable to this application are:

Material change of use of premises near a State transport corridor or that is a future State transport corridor		
Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorizing instrument, if all or part of the premises—	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4	State Assessment & Referral Agency (SARA) Department of State Development, Manufacturing, Local Government & Planning PO Box 2358 Cairns Qld 4870  <a href="mailto:CairnsSARA@dilgp.qld.gov.au">CairnsSARA@dilgp.qld.gov.au</a>
(a) are within 25m of a State transport corridor; or		
(b) are a future State transport corridor; or		
(c) are—		
(i) adjacent to a road that intersects with a State-controlled road; and		
(ii) within 100m of the intersection		

A copy of any referral agency conditions are attached.

#### APPROVED PLANS

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
M 17 - 4595 Sheet No. A100	Overall Site Plan	Max Slade Designs	November 2017
M 17 - 4595 Sheet No. A101	Site Plan	Max Slade Designs	November 2017
M 17 - 4595 Sheet No. A111	Stage 3 - 4/4 Bedroom Units	Max Slade Designs	November 2017

#### ADVISORY NOTES

The following notes are included for guidance and information purposes only and do not form part of the assessment manager conditions:

##### (A) ASSESSMENT MANAGER'S ADVICE

- (a) An Adopted Infrastructure Charges Notice has been issued with respect to the approved development. The Adopted Infrastructure Charges Notice details the type of infrastructure charge/s, the amount of the charge/s and when the charge/s are payable.
- (b) The Adopted Infrastructure Charges Notice does not include all charges or payments that are payable with respect to the approved development. A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.
- (c) **Water Meters/Water Service Connection**  
Prior to the water service connection works commencing and the installation of the meters by Council, an application for a Plumbing Compliance Permit is required to be submitted with detailed hydraulic drawings. The cost of the required water connection and meter (capping of any existing meter may be required) will be determined based upon the approved hydraulic drawings at the time of lodgement of a Water Quotation Request.
- (d) **Property Connection to existing sewer main**

Prior to the property connection to the existing sewer main commencing, a request for a Property Connection Quotation must be lodged with Council. The cost of the required property connection will be determined based upon the assessment of the Property Connection Quotation Request.



(e) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

(f) Compliance with Acts and Regulations

The erection and use of the building must comply with the Building Act and all other relevant Acts, Regulations and Laws, and these approval conditions.

(g) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from [www.environment.gov.au](http://www.environment.gov.au)

(h) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the "cultural heritage duty of care"). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from [www.datsip.qld.gov.au](http://www.datsip.qld.gov.au)

(i) Motor Home Park/Caravan Park/Camping Ground

The applicant is advised that an application to Council for approval to operate under Council *Local Law No 1 (Administration) 2011* is required prior to the commencement of the use.

(j) Transportation of Soil

All soil transported to or from the site must be covered to prevent dust or spillage during transport. If soil is tracked or spilt onto the road pavements as a result of works on the subject site, it must be removed prior to the end of the working day and within four (4) hours of a request from a Council Officer.

<b>PROPERTY NOTES</b>
-----------------------

Not Applicable.

**FURTHER DEVELOPMENT PERMITS REQUIRED**

- Compliance Permit for Plumbing and Drainage Work
- Access approval arising from condition number 4.1 (Please contact Planning Section to obtain application form and applicable fee)

**SUBMISSIONS**

There were two (2) properly made submissions about the application. In accordance with the *Planning Act 2016*, the name, residential or business address of the principal submitter for each properly made submission is provided below;

Name of Principal submitter	Address
1. Steve Hogan	7 Kenneally Road, Mareeba QLD 4880
2. A & L Amante	PO Box 1049 Mareeba QLD 4880

**RIGHTS OF APPEAL**

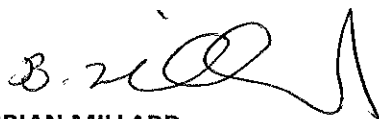
You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

During the appeal period, you as the applicant may suspend your appeal period and make written representations to council about the conditions contained within the development approval. If council agrees or agrees in part with the representations, a "negotiated decision notice" will be issued. Only one "negotiated decision notice" may be given. Taking this step will defer your appeal period, which will commence again from the start the day after you receive a "negotiated decision notice".

**OTHER DETAILS**

If you wish to obtain more information about Council's decision, electronic copies are available on line at [www.msc.qld.gov.au](http://www.msc.qld.gov.au), or at Council Offices.

Yours faithfully

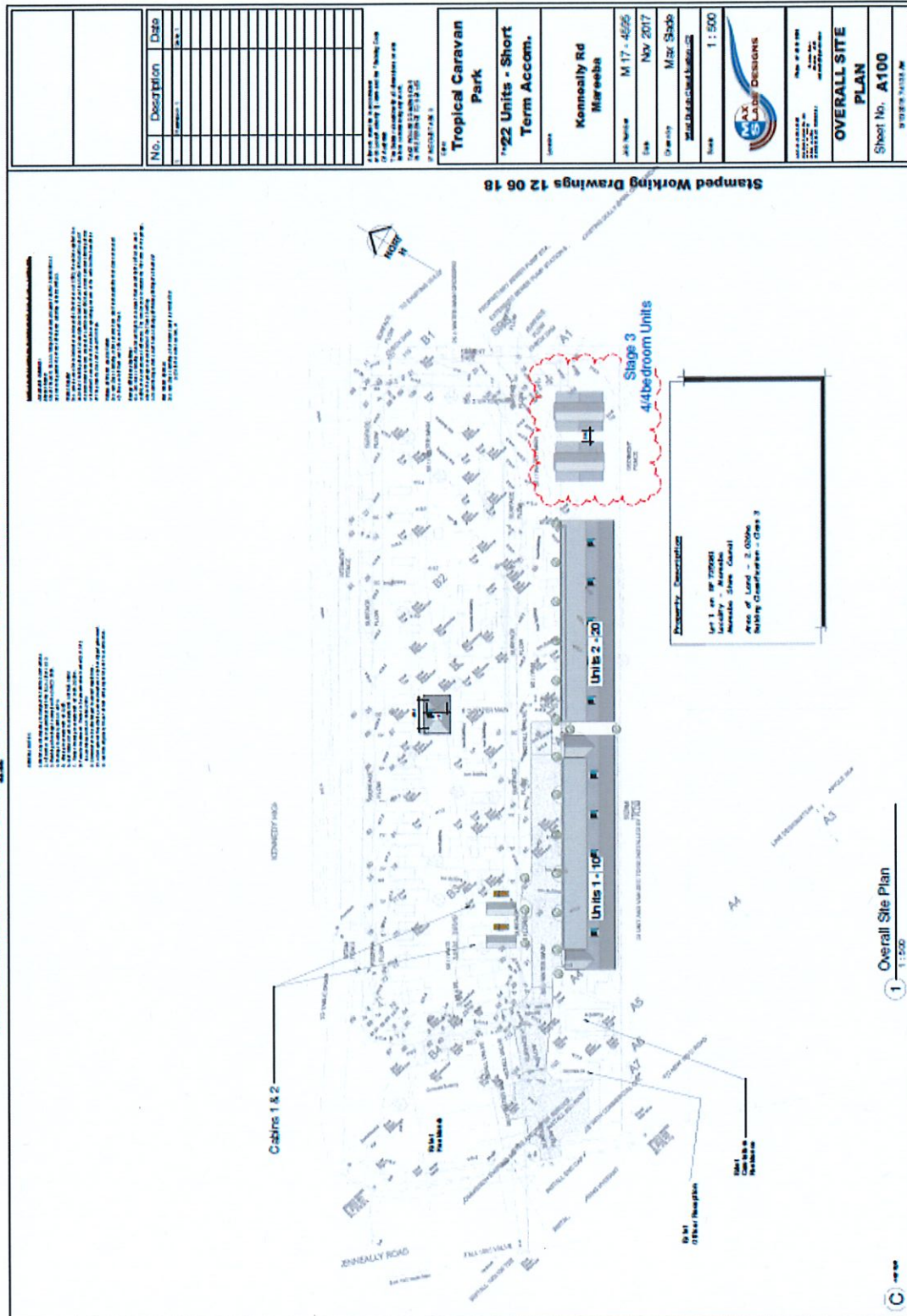


**BRIAN MILLARD**  
**SENIOR PLANNER**

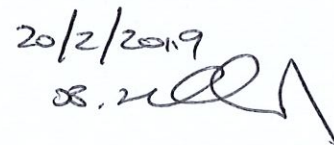
Enc: Approved Plans/Documents  
Referral Agency Response  
Appeal Rights  
Adopted Infrastructure Charge Notice

Copy: Department of State Development, Manufacturing, Infrastructure and Planning  
[CairnsSARA@dsdmip.qld.gov.au](mailto:CairnsSARA@dsdmip.qld.gov.au)

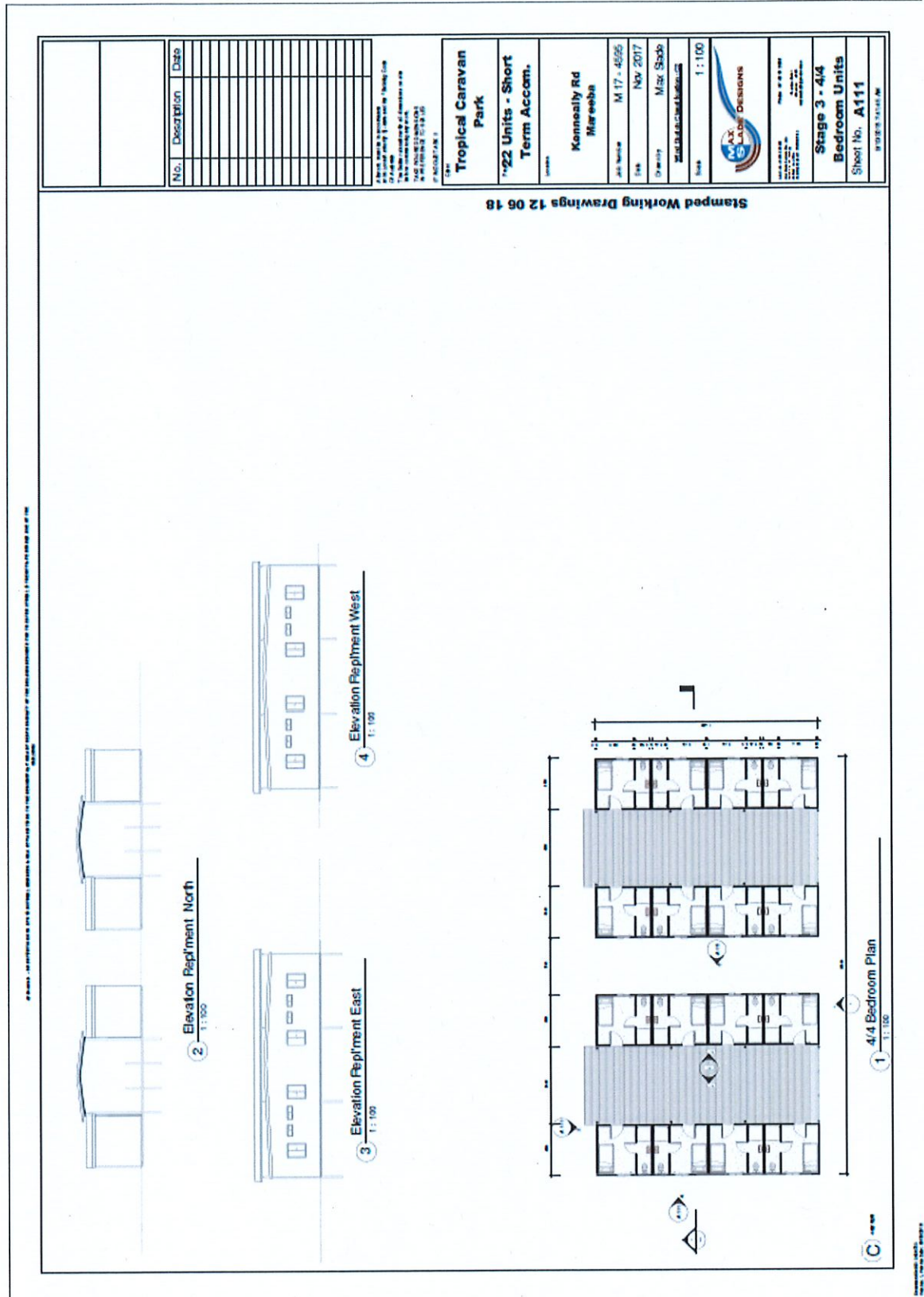
# Approved Plans/Documents



20/2/2019  
B. n







## Referral Agency Response

GE76-N



Department of  
**State Development,  
Manufacturing,  
Infrastructure and Planning**

Department of State Development, Manufacturing, Infrastructure and Planning

Statement of reasons for application 1810-8166 SRA

(Given under section 58 of the *Planning Act 2016*)

Departmental role: Referral agency

### Applicant details

Applicant name: G & R Tatti  
C/- Max Slade Designs Pty Ltd

Applicant contact details: PO Box 834  
Toiga QLD 4882  
maxslade@bigpond.net.au

### Location details

Street address: 3 Kenneally Road, Mareeba

Real property description: Lot 1 on RP725081

Local government area: Mareeba Shire Council

### Development details

Development permit: Material change of use for Short term accommodation - 4 x 4 bedroom units

### Assessment matters

Aspect of development requiring code assessment	Applicable codes
Material change of use	State Development Assessment Provisions, version 2.3, effective 2 July 2018, State code 1: Development in a state-controlled road environment

### Reasons for the department's decision

The reasons for the decision are:

- The department carried out an assessment of the material change of use application against State code 1 of the State Development Assessment Provisions and has found the proposal complies with the relevant performance outcomes.
- The proposed development does not require access to the state-controlled road (Kennedy Highway).
- Access to the proposed development is via a local government-controlled road (Kenneally Road).
- The proposed development does not impact on the safety, function and efficiency of the state-controlled road.
- The proposed development is appropriately setback from the Kennedy Highway and noise impacts will be minimised.

Far North Queensland regional office  
Ground Floor, Cnr Grafton and Harley  
Street, Cairns  
PO Box 2358, Cairns QLD 4870

Page 1 of 2

Document Set ID: 3477855

Version: 1, Version Date: 07/12/2018

1810-S166 SRA

**Decision**

Nature of approval	Nature of response	Date of decision
Concurrence agency response	Attach conditions to any approval	30 November 2018

**Relevant material**

- Development application material and submitted plans including
- State Development Assessment Provisions published by the Department of State Development, Manufacturing, Infrastructure and Planning (v2.3)
- *Planning Act 2016*
- Planning Regulation 2017
- SARA Development Assessment Mapping
- Development Assessment Rules version 1.1

RA6-N



Department of  
**State Development,  
Manufacturing,  
Infrastructure and Planning**

SARA reference: 1810-S168 SRA  
Council reference: MCU/18/0026

30 November 2018

Chief Executive Officer  
Mareeba Shire Council  
PO Box 154  
Mareeba QLD 4880  
planning@mso.qld.gov.au

Attention: Carl Ewin

Dear Sir/Madam

**Referral agency response—with conditions**  
(Given under section 58 of the *Planning Act 2016*)

The development application described below was properly referred to the Department of State Development, Manufacturing, Infrastructure and Planning on 31 October 2018.

**Applicant details**

Applicant name:	G & R Tatti C/- Max Slade Designs Pty Ltd
Applicant contact details:	PO Box 834 Tolga QLD 4882 maxslade@bigpond.net.au

**Location details**

Street address:	3 Kenneally Road, Mareeba
Real property description:	Lot 1 on RP725081
Local government area:	Mareeba Shire Council

**Application details**

Development permit	Material change of use for Short term accommodation - 4 x 4 bedroom units
--------------------	---

Page 1 of 6

Far North Queensland regional office  
Ground Floor, Cnr Grafton and Hartley  
Street, Cairns  
PO Box 2358, Cairns QLD 4870

Document Set ID: 3477556  
Version: 1, Version Date: 07/12/2018



1810-8166 GRA

**Referral triggers**

The development application was referred to the department under the following provisions of the Planning Regulation 2017:

- 10.9.4.2.4.1 State transport corridors and future State transport corridors

**Conditions**

Under section 56(1)(b)(i) of the *Planning Act 2016* (the Act), the conditions set out in Attachment 1 must be attached to any development approval.

**Reasons for decision to impose conditions**

The department must provide reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

**Advice to the applicant**

The department offers advice about the application to the applicant—see Attachment 3.

**Approved plans and specifications**

The department requires that the plans and specifications set out below and enclosed must be attached to any development approval.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Aspect of development: Material change of use				
Site Plan	Max Slade Designs	9/10/2018	M17 – 4595 Sheet No A101	1

A copy of this response has been sent to the applicant for their information.

For further information please contact Belinda Jones, Senior Planning Officer, SARA Far North QLD, on 40373239 or via email CairnsSARA@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Tony Croke  
Acting Manager

cc G & R Tatti C/- Max Slade Designs Pty Ltd. maxslade@bigpond.net.au

enc Attachment 1—Conditions to be imposed  
Attachment 2—Reasons for decision to impose conditions  
Attachment 3—Advice to the applicant  
Attachment 4—Approved plans and specifications

1810-8166 SRA

## Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
<b>Material change of use</b>		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 – State transport corridor (state-controlled road)—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
1.	The Stage 3 short term accommodation units must be located generally in accordance with the following plan, outside Category 2 and Category 3 transport noise corridor areas: <ul style="list-style-type: none"> <li>Site Plan prepared by Max Slade Designs, dated 9/10/2018, Reference M17 – 4585, Sheet No A101 and Revision 1 as amended in red by SARA on 30 November 2018.</li> </ul>	Prior to the commencement of use and to be maintained at all times.
2.	Direct access is not permitted between the Kennedy Highway and the subject site.	At all times.

1810-8166 SRA

**Attachment 2—Reasons for decision to impose conditions**

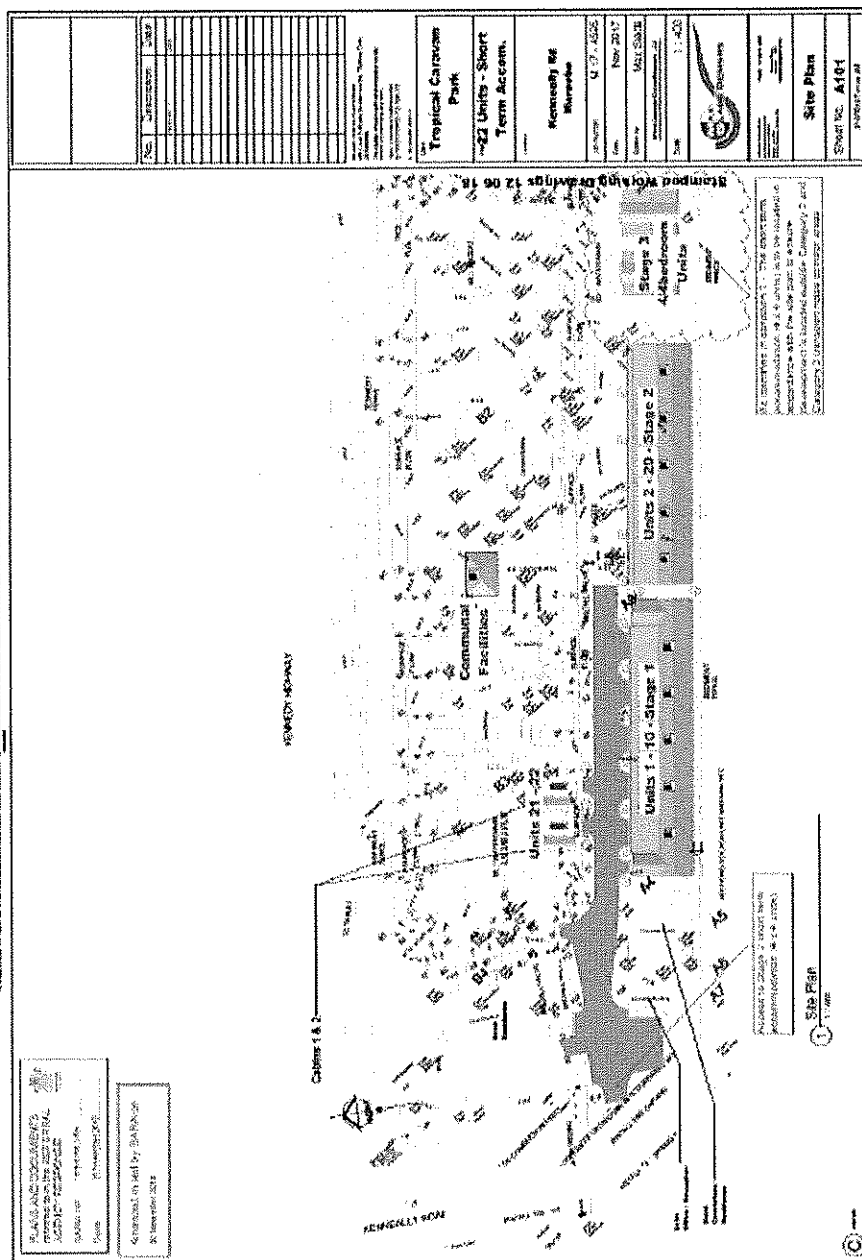
---

The reasons for this decision are:

- To minimise noise intrusions on a development from a state-controlled transport corridor.
- To ensure access to the state-controlled road from the site does not compromise the safety and efficiency of the state-controlled road. Direct access to the state-controlled road is prohibited where not required

822 806 671-76

**2. Use the correct pronunciation as you write.**



Page 11 of 11

Department of State, Government of Saskatchewan, Regina, Saskatchewan, Canada S4N 8A5. E-mail: [shirley.hart@govt.sk.ca](mailto:shirley.hart@govt.sk.ca)

Downloaded from <http://www.sagepub.com> at  
University of Western Ontario on October 12, 2014

## Appeal Rights

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

### Chapter 6 Dispute resolution

#### Part 1 Appeal rights

#### 229 Appeals to tribunal or P&E Court

(1) Schedule 1 of the Planning Act 2016 states –

(a) Matters that may be appealed to –

- (i) either a tribunal or the P&E Court; or
- (ii) only a tribunal; or
- (iii) only the P&E Court; and

(b) The person-

- (i) who may appeal a matter (**the appellant**); and
- (ii) who is a respondent in an appeal of the matter; and
- (iii) who is a co-respondent in an appeal of the matter; and
- (iv) who may elect to be a co-respondent in an appeal of the matter.

(Refer to Schedule 1 of the Planning Act 2016)

(2) An appellant may start an appeal within the appeal period.

(3) The **appeal period** is –

- (a) for an appeal by a building advisory agency – 10 business days after a decision notice for the decision is given to the agency; or
- (b) for an appeal against a deemed refusal – at any time after the deemed refusal happens; or
- (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises – 20 business days after a notice is published under section 269(3)(a) or (4); or
- (d) for an appeal against an infrastructure charges notice – 20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given – 30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for any other appeal – 20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note –*

*See the P&E Court Act for the court's power to extend the appeal period.*

(4) Each respondent and co-respondent for an appeal may be heard in the appeal.

(5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.

(6) To remove any doubt. It is declared that an appeal against an infrastructure charges notice must not be about-

- (a) the adopted charge itself; or
- (b) for a decision about an offset or refund-
  - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
  - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

### 230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that-
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to –
  - (a) the respondent for the appeal; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, table 1, item 1 – each principal submitter for the development application; and
  - (d) for an appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
  - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
  - (f) for an appeal to the P&E Court – the chief executive; and
  - (g) for an appeal to a tribunal under another Act – any other person who the registrar considers appropriate.
- (4) The *service period* is –
  - (a) if a submitter or advice agency started the appeal in the P&E Court – 2 business days after the appeal has started; or
  - (b) otherwise – 10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

### 231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section –
  - decision* includes-
  - (a) conduct engaged in for the purpose of making a decision; and

- (b) other conduct that relates to the making of a decision; and
- (c) the making of a decision or failure to make a decision; and
- (d) a purported decision ; and
- (e) a deemed refusal.

*non-appealable*, for a decision or matter, means the decision or matter-

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the Judicial Review Act 1991 or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

#### 232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with the rules of the P&E Court.