DELEGATED REPORT

SUBJECT: S & N WALMSLEY - MATERIAL CHANGE OF USE -

DWELLING HOUSE (SECONDARY DWELLING) - LOT 450 ON HG575 - 3224 MAREEBA-DIMBULAH ROAD, MUTCHILBA -

MCU/19/0007

DATE: 5 June 2019

REPORT OFFICER'S

TITLE: Planning Officer

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION			PREMISES	
APPLICANT	S & N Walmsley	ADDRESS	3224 Mareeba -	
			Dimbulah Road, Mutchilba	
DATE LODGED	29 May 2019	RPD	Lot 450 on HG575	
TYPE OF APPROVAL	Development Permit			
PROPOSED DEVELOPMENT	Material Change of Use	- Dwelling House (Secondary Dwelling)	

FILE NO	MCU/19/0007	AREA	7.34 hectares
LODGED BY	Emergent Building	OWNER	S & N Walmsley
	Approvals		
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural Zone		
LEVEL OF	Code Assessment		
ASSESSMENT			
SUBMISSIONS	N/A - Code Assessment Only		

ATTACHMENTS: 1. Proposal Plan/s

EXECUTIVE SUMMARY

Council is in receipt of a code assessable development application described in the above application details. Being code assessable, the application was not required to undergo public notification.

The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and does not conflict with any relevant aspect of the Planning Scheme.

It is recommended that the application be approved in full, subject to conditions.

URP-12/2011-1.2

OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	S & N Walmsley	ADDRESS	3224 Mareeba -
			Dimbulah Road,
			Mutchilba
DATE LODGED	29 May 2019	RPD	Lot 450 on HG575
TYPE OF	Development Permit		
APPROVAL	·		
PROPOSED	Material Change of Use - Dwelling House (Secondary Dwelling)		
DEVELOPMENT			, o

and in accordance with the Planning Act 2016, the applicant be notified that the application for a development permit for the development specified in (A) is:

Approved by Council in accordance with the approved plans/documents listed in (B), subject to assessment manager conditions in (C), assessment manager's advice in (D), relevant period in (E), further permits in (F), and further approvals from Council listed in (G);

And

The assessment manager does **not** consider that the assessment manager's decision conflicts with a relevant instrument.

(A) APPROVED DEVELOPMENT: Development Permit for Material Change of Use - Dwelling House (Secondary Dwelling)

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
391 Sheet no. WD02	Site Plan	G Terzi	7/12/18
391 Sheet no. WD03	Ground Floor Plan	G Terzi	7/12/18
391 Sheet no. WD04	Elevations Front & Left	G Terzi	7/12/18
391 Sheet no. WD05	Elevations Rear & Right	G Terzi	7/12/18

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

- (a) <u>Development assessable against the Planning Scheme</u>
- 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.

General

- 3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure within the conditions of approval.
- 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 The approved secondary dwelling must not be used to accommodate anyone other than the family of those persons residing in the primary dwelling.

3.6 Flood Immunity

The approved secondary dwelling must achieve a finished floor height equal to the finished floor height of the existing dwelling on the property.

4. Infrastructure Services and Standards

4.1 On-site Sewerage Disposal

Any associated on-site effluent disposal system must be constructed in compliance with the latest version On-Site Domestic Wastewater Management Standard (ASNZ1547) to the satisfaction of Council's delegated officer.

(D) ASSESSMENT MANAGER'S ADVICE

(a) 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.

(b) 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.

(c) 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

(d) 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

(F) RELEVANT PERIOD

When approval lapses if development not started (s.85)

- Material Change of Use six (6) years (starting the day the approval takes effect);
- (G) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS
 - Development Permit for Building Work
- (H) OTHER APPROVALS REQUIRED FROM COUNCIL
 - Compliance Permit for Plumbing and Drainage Work

THE SITE

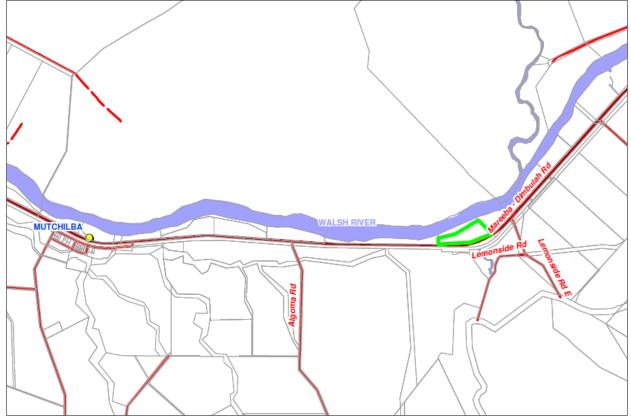
The subject site is situated approximately 4 kilometres east of the Mutchilba Township at 3224 Mareeba - Dimbulah Road, Mutchilba, and is described as Lot 450 on HG575. The site has an area of 7.34 hectares, is irregularly shaped and is zoned Rural under the Mareeba Shire Council Planning Scheme 2016. The site contains approx. 600 metres of frontage to the Mareeba - Dimbulah Road which is a State controlled Road and is constructed to a bitumen sealed standard. Access is gained via a single bitumen sealed crossover towards the western end of the property.

The site is generally flat with two seasonal watercourses/gullies traversing the eastern side of the property. These watercourses/gullies flow down into the Walsh River which is situated behind the site (to the north). The site however does not contain riparian frontage to the Walsh River with a piece of State-owned land between the two. The site is improved by a dwelling house and outbuildings constructed adjacent the northern boundary of the site.



Map Disclaimer:

Based on or contains data provided by the State of Queensland (Department of Environment and Resource Management) (2009). In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.



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The secondary dwelling structure the subject of this application has started being constructed towards the western end of the site approximately 140 metres from the existing dwelling. All surrounding lots are zoned Rural and are predominately used as rural lifestyle lots with no real substantial agricultural activity present.

BACKGROUND AND CONTEXT

Nil

PREVIOUS APPLICATIONS & APPROVALS

Nil

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Material Change of Use - Dwelling House (Secondary Dwelling) in accordance with the plans shown in Attachment 1.

REGIONAL PLAN DESIGNATION

The subject site is included within the Regional Landscape and Rural Production Area land use category in the Far North Queensland Regional Plan 2009-2031. The Regional Plan Map 3-'Areas of Ecological Significance' also identifies the site as containing:

- Strategic Rehabilitation Area
- State & Regional Conservation Corridors
- Wetland Area of General Ecological Significance
- Terrestrial Area of General Ecological Significance

PLANNING SCHEME DESIGNATIONS

Land	Use	Categ	ories
_	Div	1 1 1	_

Rural Area

Rural Agricultural Area

Rural Other

Natural Environment Elements Strategic Framework:

• Habitat Linkage

Transport Elements

State Controlled Road

B-double Route

Zone: Rural

> Agricultural Land Overlay **Bushfire Hazard Overlay**

Environmental Significance Overlay Overlays:

Flood Hazard Overlay Hill and Slope Overlay

Transport Infrastructure Overlay

Version: 1, Version Date: 05/06/2019

Document Set ID: 3527168

Planning Scheme Definitions

The proposed use is defined as:-

Column 1	Column 2	Column 3	Column 4 Does not include the following examples
Use	Definition	Examples include	
Dwelling House	A residential use of premises for one household that contains a single dwelling. The use includes domestic outbuildings and works normally associated with a dwelling and may include a secondary dwelling.		Caretaker's accommodation, dual occupancy, rooming accommodation, short-term accommodation, student accommodation, multiple dwelling

RELEVANT PLANNING INSTRUMENTS

Assessment of the proposed development against the relevant planning instruments is summarised as follows:-

(a) Far North Queensland Regional Plan 2009-2031

Separate assessment against the Regional Plan is not required because the Mareeba Shire Council Planning Scheme appropriately advances the Far North Queensland Regional Plan 2009-2031, as it applies to the planning scheme area.

(b) State Planning Policy

Separate assessment against the State Planning Policy (SPP) is not required because the Mareeba Shire Council Planning Scheme appropriately integrates all relevant aspects of the SPP.

(c) Mareeba Shire Council Planning Scheme 2016

Relevant Development Codes

The following Development Codes are considered to be applicable to the assessment of the application:

6.2.9	Rural zone code
8.2.1	Agricultural land overlay code
8.2.3	Bushfire hazard overlay code
8.2.4	Environmental significance overlay code
8.2.6	Flood hazard overlay code
8.2.8	Hill and slope overlay code
8.2.12	Transport infrastructure overlay code
9.3.1	Accommodation activities code
9.4.5	Works, services and infrastructure code

The application included a planning report and assessment against the planning scheme (codes listed below). An officer assessment has found that the application satisfies the relevant acceptable outcomes contained within the codes (or performance outcomes where no acceptable outcome has been provided). Where the proposal does not satisfy an acceptable outcome, it has been demonstrated that compliance can be achieved with the higher order performance outcome/s. It is considered the proposed development can comply with the relevant development codes provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments		
Rural zone code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.		
Agricultural land overlay code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.		
Bushfire hazard overlay code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.		
Environmental significance overlay code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.		
Flood hazard overlay code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code apart from the following:		
	 Acceptable Outcome AO10.1 		
	In this instance, it is considered that the development can comply with higher order Performance Outcome PO10. Refer to code document for commentary.		
Hill and slope overlay code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.		
Transport infrastructure overlay code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.		
Accommodation activities code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code apart from the following:		
	 Acceptable Outcome AO6.1 		
	 Acceptable Outcome AO6.2 		
	In both instances, it is considered that the development can comply with higher order Performance Outcome PO6. Refer to code document for commentary.		
Works, services and infrastructure code	The application can be conditioned to comply with the relevant acceptable outcomes contained within the code.		

(e) Planning Scheme Policies/Infrastructure Charges Plan

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

A condition will be attached to any approval requiring all development works be designed and constructed in accordance with FNQROC Development Manual standards.

REFERRALS

This application did not trigger referral.

Internal Consultation

Nil

PLANNING DISCUSSION

Nil

Date Prepared: 5 June 2016

DECISION BY DELEGATE

DECISION

Having considered the Planning Officer's report detailed above, I approve, as delegate of Council, the application subject to the conditions listed in the report.

Dated the 5TH day of JUNE 2019

BRIAN MILLARD SENIOR PLANNER

MAREEBA SHIRE AS DELEGATE OF THE COUNCIL

ATTACHMENT 1

APPROVED PLANS (ECM Doc Set ID 3523216)

