

8 CORPORATE AND COMMUNITY SERVICES

8.1 G & S HORNER - MATERIAL CHANGE OF USE - ANIMAL KEEPING (STABLES) - LOT 11 ON RP748324 - 2 EMERALD HEIGHTS ROAD, MAREEBA - MCU/19/0010

Date Prepared: 4 September 2019

Author: Planning Officer

Attachments: 1. Proposal Plans [↓](#)

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	G & S Horner	ADDRESS	2 Emerald Heights Road, Mareeba
DATE LODGED	2 July 2019	RPD	Lot 11 on RP748324
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Animal Keeping (Stables)		
FILE NO	MCU/19/0010	AREA	3.164 hectares
LODGED BY	U&i Town Plan	OWNER	G & S Horner
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural Residential (Precinct C)		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	N/A - Code Assessment only		

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 applicants propose the establishment of a 300m² stable building and roaming/exercise yard for the keeping of up to 20 horses.

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.

The key issue of the proposed development is ensuring that it does not detrimentally affect the amenity of the immediate area. Impacts and nuisances, if any, are likely to be experienced by immediate adjoining lots only and reasonable conditions have been included to minimise the potential for visual impact as well as noise, odour and dust nuisance. Traffic generated by the development will be minimal and is not likely to impact on Emerald Heights Road and its users or the wider Council road network.

Emerald Heights Estate, like other 5 acre (2 hectare) rural residential estates in the Shire (Ray Road, Ellery Road) contain many types of non-residential land uses of varying scales (hobby farms, transport depots, livestock keeping) that co-exist with little to no land use conflict. It is considered

that the proposed stable use can be established on site, albeit subject to particular conditions, with minimal impact on neighbouring properties.

Draft conditions were provided to the Applicant care of their consultant and have been agreed to.

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

OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	G & S Horner	ADDRESS	2 Emerald Heights Road, Mareeba
DATE LODGED	2 July 2019	RPD	Lot 11 on RP748324
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Animal Keeping (Stables)		

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 - Animal Keeping (Stables)

- (B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
M4-19 (2)	Proposed Development Plans - Animal Keeping (20 Horses)	U&i Town Plan	31/07/2019
FC1905012-1	Building Layout	Wide Span Sheds	13/06/2019

- (C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

- (a) Development assessable against the Planning Scheme

1. Development must be carried out generally in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, including but not necessarily limited to the subject of 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 **within three (3) months of this development permit taking affect** except where specified otherwise in these conditions of approval, or except where a subsequent alternate timeframe has been agreed upon by Council's delegated officer.
- 2.2 The applicant must notify Council when all the conditions of the development permit have been complied with, except where specified otherwise in these conditions of approval, and a subsequent compliance inspection be carried out by Council's delegated officer/s.

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/contributions contained 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 external 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.
- 3.4 Waste Management
 - 3.4.1 Any on site refuse storage areas must be screened from view from adjoining properties and road reserve by one (1) metre wide landscaped screening buffer or 1.8m high solid fence or building.
 - 3.4.2 Horse manure is not permitted to be stored on the property for any longer than 48 hours after collection from the stables/exercise areas and is not permitted to be sold from the property in bags or in bulk.
 - 3.4.3 Any other waste products collected from the stable floor or exercise yard such as wood shavings, sawdust and sand should be collected frequently enough so as to not cause an odour nuisance detectable at any property boundary and must be disposed of off-site at an approved waste disposal site.

3.5 Hours of Operation

The hours of operation for the approved use, including horse exercising and training but excluding any horse health care activities such as feeding, and veterinarian visits shall be limited to the hours between 6:30am and 6:30pm Monday to Saturday. No operations associated with the approved use (except those mentioned above) are permitted on Sundays or Public Holidays.

3.6 Horse Numbers

3.6.1 No more than 20 horses are to be kept on the property at any one time, inclusive of any "pet" horses or other horses not associated with the training business.

3.6.2 Horses not normally kept on the property are not permitted to be exercised or trained on the property at any time.

3.7 Horse Containment

3.7.1 Horses must be contained within the stable building or "existing fenced area for horses" shown on the approved plan at all times, unless being transported off-site or being exercised/trained in the exercise/training arena immediately to the south of the stable.

3.7.2 No more than two (2) horses at any time can be grazed on the property outside the "existing fenced area for horses" in line with Council's Local Laws and provided the minimum standards for animal keeping contained within Council's Local Laws are maintained at all times, to the satisfaction of Council delegated officer.

3.8 Horses transported off site for training must be loaded/unloaded onto transport vehicles within the "existing fenced area for horses" as shown on the approved plan only and must not be kept in transport vehicles for more than 10 minutes so as to minimise noise nuisance to surrounding residents. Transport vehicles are not to be left idling while loading/unloading of horses is taking place.

No horses are to loaded/unloaded or kept contained in vehicles for any length of time within the Emerald Heights Road reserve.

3.9 Building Materials and Finishes

All building materials and finishes, including roofing iron/tiles, guttering, external 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.

3.10 Signage

- 3.10.1 No more than one (1) advertising sign for the approved development is permitted on the subject site.
- 3.10.2 The sign must not exceed a maximum sign face area of 1m² and must not move, revolve, strobe or flash.
- 3.10.3 The sign must be kept clean, in good order and safe repair for the life of the approval and must be removed when no longer required.
- 3.10.4 The erection and use of the advertisement must comply with the Building Act and all other relevant Acts, Regulations and these approval conditions.

4. Infrastructure Services and Standards

4.1 Access

The existing access crossover must be upgraded/constructed (from the edge of Emerald Heights Road to the property boundary of the subject site) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

4.2 Stormwater Drainage/Water Quality

- 4.2.1 The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.
- 4.2.2 All stormwater drainage must be collected from site and discharged to an approved legal point of discharge.

4.3 Carparking/Internal Driveways

- 4.3.1 The "parking & turn around area" and "new internal driveway" shown on the approved plan must be bitumen, asphalt or concrete sealed, appropriately drained, and maintained for the life of the development, to the satisfaction of Council's delegated officer.
- 4.3.2 The parking and turn around area must include a minimum of three (3) parking spaces designed and delineated/line-marked to Australian Standard AS2890 and the new internal driveway must have a minimum width of 4 metres for its entire length, to the satisfaction of Council's delegated officer.

4.4 Site-specific Environmental Management Plan

The applicant/developer must prepare and submit a detailed site-specific Environmental Management Plan for the development, including practices and management strategies to address the following aspects:

- (i) Erosion and sediment control - to ensure no erosion and degradation over the site occurs as a result of the development and that the release of sediment to Cobra Creek and/or adjoining properties is minimised or avoided;
- (ii) Air quality management - to ensure no dust or noise nuisance is experienced at any nearby sensitive receptor;
- (iii) Odour reduction and management - to ensure no odour nuisance is experienced at any property boundary.

The site-specific Environmental Management Plan must be complied with for the life of the development and any incidents of non-compliance must be reported to Council.

Should Council receive a substantiated complaint relating to any environmental impacts on adjoining properties or nearby sensitive receptors arising from the approved use, the applicant/developer must provide and implement an alternative solution/s to alleviate the impact/s, to the satisfaction of Council's delegated officer.

4.5 Landscaping and fencing

4.5.1 Within three (3) months of this approval taking effect, the applicant/developer must ensure the following landscape buffering is established and growing:

- (i) A minimum 2-metre-wide landscape screening buffer along the northern property boundary extending a distance of 155 metres from the Emerald Heights Road frontage of the site;
- (ii) A minimum 2-metre-wide landscape screening buffer adjacent the southern property boundary extending from the Emerald Heights Road frontage of the site down to the western end of the solid screen fencing required under 4.5.2. The landscaping must be planted on the outside of the fencing and not within Easement A on RP748324.
- (iii) A minimum 1-metre-wide landscape screening buffer around the entire perimeter of the "existing fenced area for horses" shown on the approved plan (excluding access ways). Landscaping around the "parking & turnaround area" and "new internal driveway" is not required.

The abovementioned landscaping must be carried out in accordance with Planning Scheme Policy 6 - Landscaping and Preferred Plant Species and must include shrubs, plants or trees that form an effective visual buffer no less than three (3) metres in height. A minimum of 25% of plants must be provided as larger, advanced stock with a minimum height of 0.7m and the landscaping must be mulched, irrigated and maintained to the satisfaction of Council's delegated officer.

All landscaping must be maintained for the life of the development.

4.5.2 Within three (3) months of this approval taking effect, the applicant/developer must install two (2) metre high colorbond or overlapping timber paling fencing (of neutral colour) along the northern property boundary and adjacent the stables and parking & turn around to the extent shown on the approved plan (Plan No. M4-19 (2) dated 31/07/2019)

The fencing must be kept in good order and safe repair for the life of the development, to the satisfaction of Council's delegated officer.

4.6 Lighting

4.6.1 Where outdoor lighting is required the developer shall locate, design and install lighting 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.

4.6.2 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.

(D) 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) 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.

(d) 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.

(e) 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.

(f) 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.

(E) 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);

(F) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS

- Development Permit for Building Work

(G) OTHER APPROVALS REQUIRED FROM COUNCIL

- Access approval arising from condition number 4.1 (Please contact Planning Section to obtain application form and applicable fee)

2. That an Adopted Infrastructure Charges Notice be issued for the following infrastructure charge/s for:

Development Type	Rate	Measure	Charge	Credit	Balance
	\$ per m ²	m ²	\$	\$	\$
High Impact Rural	\$13.40	300	\$4,020.00	Nil	\$4,020.00
TOTAL CURRENT AMOUNT OF CHARGE					\$4,020.00

THE SITE

The subject site is situated at 2 Emerald Heights Road, Mareeba and is described as Lot 11 on RP748324. The site is irregular in shape, with a total area of 3.146 hectares and is zoned Rural Residential (Precinct C - 2 ha) under the Mareeba Shire Council Planning Scheme 2016. The site is accessed from the cul-de-sac head of Emerald Heights Road via a bitumen sealed crossover. Emerald Heights Road itself is bitumen sealed for its entire length.

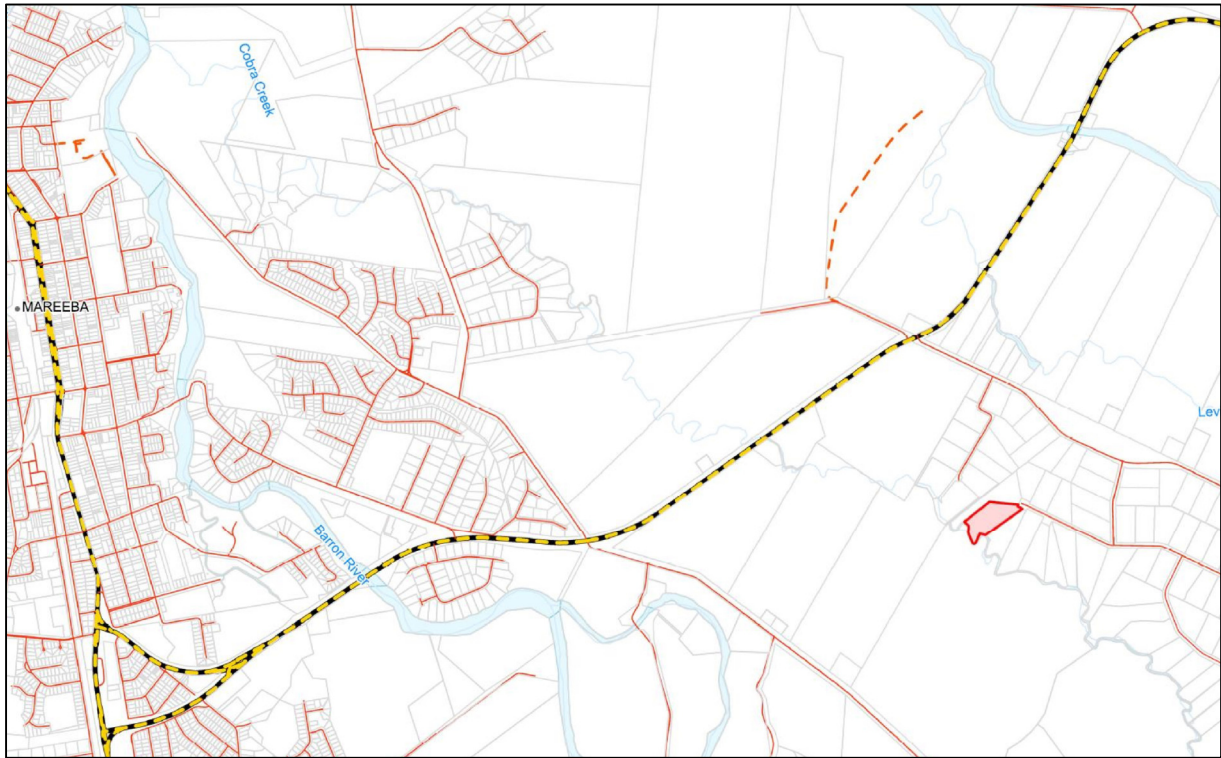
The site is improved by a dwelling house and swimming pool situated towards the front of the property and a timber fenced horse training yard and round exercise yard adjacent the sites south-east boundary. The majority of the site is predominately cleared with scattered vegetation. This vegetation is noticeable denser along the northern side of the site and towards the rear of the site leading down to Cobra Creek which runs immediately behind the property.

All lots immediately surrounding the site are zoned Rural Residential and contain single dwellings with some lots containing semi-rural uses such as hobby farms and the keeping of horses and cows on a non-commercial scale. Land to the west and south-west of the site on the opposite side of Cobra Creek is zoned Rural and is used for sugar cane cropping.



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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BACKGROUND AND CONTEXT

On 24 June 2019, Council received a complaint alleging that the subject site was being used unlawfully as a "horse training business". Upon investigation of the complaint, Council officers deemed that the subject site was being used for "Animal keeping" as defined under the Mareeba Shire Council Planning Scheme 2016 (see below - Planning Scheme Definitions).

Under the instruction of Council officers, the landowners engaged U&i Town Plan planning consultants to prepare and submit this development application for material change of use - animal keeping (stables) on their behalf.

PREVIOUS APPLICATIONS & APPROVALS

Nil

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Material Change of Use - Animal Keeping (Stables) in accordance with the plans shown in **Attachment 1**.

The application proposes the establishment of a Stable and ancillary exercise/training yard for the keeping of up to 20 horses. The application states the following:

"This development application seeks a development permit for a Material Change of Use under the Planning Act 2016 at 2 Emerald Heights Road, Mareeba. The Material Change of Use seeks to obtain approval for an Animal Keeping (stables) use to be established on site for up to 20 horses. The subject site is located close to town being only 8.7 kilometres from the central business district and is

appropriately positioned within the 2-hectare rural residential precinct on a quiet cul-de-sac on Emerald Heights Road. Accordingly, the site strongly lends itself to be utilised for this type of development as it provides a suitable quiet location for their horses that is only 8 minutes' drive from town.



The proposed stables structure is to be 10m wide x 30m long which will be used to house the horses, with a fence area around the perimeter of the structure for them to roam and feed during the day (see plan above).

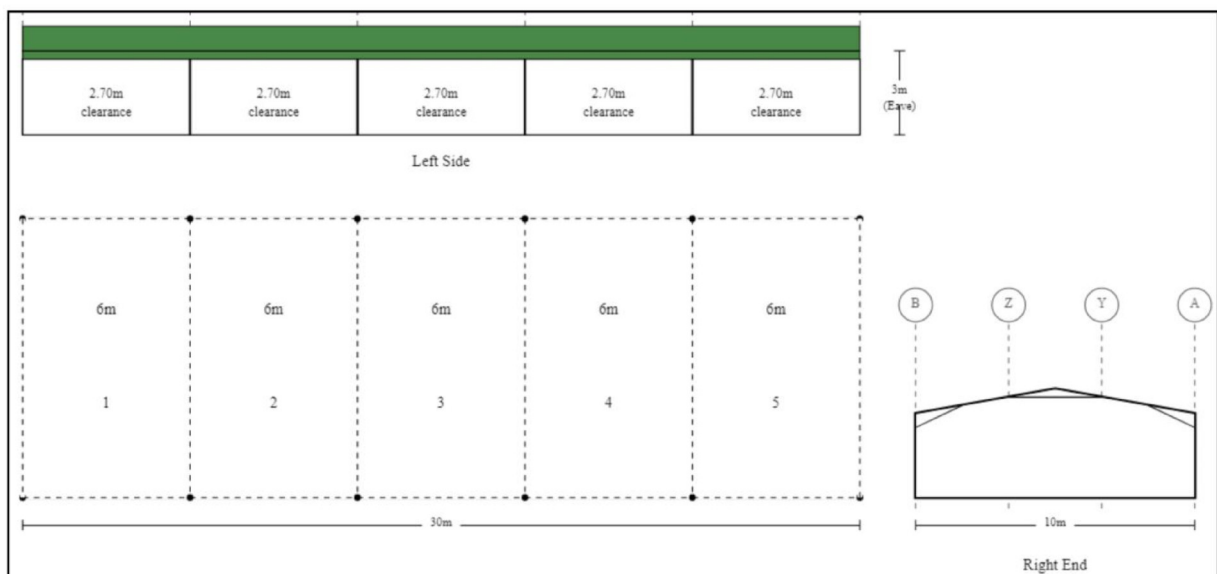


Figure 4: Extract from Development Plans

The owner currently has 10 horses of which two (2) are retired pets. Although they only have 10 horses at this stage, they want to ensure they cater for more as they do help with others for short periods of time. The proposed use will utilise one (1) full time staff member who looks after and

cleans the stables five (5) days a week. The owners of the property are also the trainers for the horses and they load up the horses in the morning and transport them to the Mareeba Race course. The work in the mornings occurs from around 6am to 9:30am. While the horses are not worked on Sundays and are usually at races on Saturdays. Other than housing the horses, the majority of the training and work on the racehorses is done at the Mareeba Race Course.

The stables will be cleaned 7 days a week with fresh shavings and a good base to make sure that there is no smell. All horse waste will be bagged and disposed to friends and relatives for compost and manure for their gardens.

In terms of additional traffic generation associated with the use, the full time-worker comes to the site five (5) days a week (into the site and out once a day). While the trainer who is the owner living at the site takes the horses every second day (in and out of the site once a day) maximum four (4) days a week on race weeks, otherwise three (3) days a week."

REGIONAL PLAN DESIGNATION

The subject site is included within the Rural Living 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:

- *Wetland Area of General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories
	▪ Rural Residential Area
	Natural Environment Elements
Zone:	▪ Biodiversity Area
	Rural Residential Zone
Overlays:	▪ Agricultural Land Overlay
	▪ Airport Environs Overlay
	▪ Bushfire Hazard Overlay
	▪ Environmental Significance Overlay

Planning Scheme Definitions

The proposed use is defined as:-

Column 1 Use	Column 2 Definition	Column 3 Examples include	Column 4 Does not include the following examples
Animal Keeping	<p><i>Premises used for boarding, breeding or training of animals.</i></p> <p><i>The use may include ancillary temporary or permanent holding facilities on the same site and ancillary repair and servicing of machinery.</i></p>	<p><i>Aviaries, catteries, kennels, <u>stables</u>, wildlife refuge</i></p>	<p><i>Aquaculture, cattle studs, domestic pets, feedlots, grazing of livestock, non-feedlot dairying, piggeries, poultry meat and egg production, animal husbandry</i></p>

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 Developments Codes

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

- 6.2.10 Rural residential zone code
- 8.2.2 Airport environs overlay code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 9.3.6 Rural activities code
- 9.4.2 Landscaping code
- 9.4.3 Parking and access code
- 9.4.5 Works, services and infrastructure code

The application included a planning report and assessment against the planning scheme. An officer assessment has found that the application satisfies the relevant acceptable solutions (or probable solutions/performance criteria where no acceptable solution applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
Rural Residential Zone Code	<p>The application can be conditioned to comply with the relevant acceptable outcomes (and/or performance outcomes where no acceptable outcome is provided) contained within the code, apart from the following:</p> <ul style="list-style-type: none"> Acceptable Outcome AO2.2 <p>The following Performance Outcomes address the establishment of non-residential development within the Rural residential zone and have been discussed further in the planning discussion section of the report:</p> <ul style="list-style-type: none"> Performance Outcome PO8 Performance Outcome PO9
Airport Environs Overlay Code	The application can be conditioned to comply with the relevant acceptable outcomes (and/or performance outcomes where no acceptable outcome is provided) contained within the code.
Bushfire Hazard Overlay Code	The application can be conditioned to comply with the relevant acceptable outcomes (and/or performance outcomes where no acceptable outcome is provided) contained within the code.
Environmental Significance Overlay Code	The application can be conditioned to comply with the relevant acceptable outcomes (and/or performance outcomes where no acceptable outcome is provided) contained within the code.
Rural Activities Code	<p>The application can be conditioned to comply with the relevant acceptable outcomes (and/or performance outcomes where no acceptable outcome is provided) contained within the code, apart from the following:</p> <ul style="list-style-type: none"> Acceptable Outcome AO5.1 <p>Refer to planning discussion section of report for commentary.</p>
Landscaping Code	<p>The application can be conditioned to comply with the relevant acceptable outcomes (and/or performance outcomes where no acceptable outcome is provided) contained within the code, apart from the following:</p> <ul style="list-style-type: none"> Acceptable Outcome AO1 Acceptable Outcome AO3.1 <p>Refer to planning discussion section of report for commentary.</p>
Parking and Access Code	The application can be conditioned to comply with the relevant acceptable outcomes (and/or performance outcomes where no acceptable outcome is provided) contained within the code.
Works, Services and Infrastructure Code	The application can be conditioned to comply with the relevant acceptable outcomes (and/or performance outcomes where no acceptable outcome is provided) contained within the code.

(D) 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 relevant development works be designed and constructed in accordance with FNQROC Development Manual standards.

Planning Scheme Policy 6 - Landscaping and Preferred Plant Species

If the application is approved, substantial landscape buffering will be required to be planted and maintained by the applicant/landowner. Conditions will be attached to any approval requiring site landscaping be carried out in accordance with the Planning Scheme Policy 6 - Landscaping and Preferred Plant Species.

(E) Adopted Infrastructure Charges Notice

The Mareeba Shire Council Adopted Infrastructure Charges Resolution (No. 2) 2019 - Table 1 - Adopted Charge Rates does not stipulate a particular charge rate for "Specialised uses" which is the use category that Animal keeping is included within. In determining a charge rate, a best fit approach was used and the "High impact rural" use category was considered appropriate in this instance.

The High impact rural use category charge rate is \$13.40 per m² of GFA. The proposed stable structure has a GFA of 300m². Therefore \$13.40/m² x 300m² = \$4,020.00.

An adopted infrastructure charge of \$4,020.00 will be issued with any approval.

REFERRAL AGENCY

The application did not require referral to any referral agency.

Internal Consultation

Environmental Health/Local Laws

PLANNING DISCUSSION

Compliance with the Performance Outcomes contained within the Rural Residential Zone Code, Rural Activities Code and the Landscaping Code are discussed below:

6.2.10 Rural Residential Zone Code***Outbuilding and residential scale******PO2***

Domestic outbuildings:

- (a) do not dominate the lot on which they are located; and*
- (b) are consistent with the scale and character of development in the Rural residential zone.*

AO2.2

On lots greater than 2 hectares, domestic outbuildings do not exceed:

- (a) 200m² in gross floor area; and*
- (b) 8.5 metres above natural ground level.*

Comment

The proposed stable structure will have a gross floor area (GFA) of 300m² and is therefore non-compliant with AO2.2.

Considering the size of the allotment (3.164 hectares) the proposed stable shed will not dominate the site, nor is it likely to impact on adjoining property owners given the setbacks achieved and the landscape buffering required by the conditions of approval. The proposed stable shed is also not inconsistent in size with other sheds in Emerald Heights Estate.

The development complies with PO2.

Non-residential development**PO8**

Non-residential development:

- (a) is consistent with the scale of existing development;*
- (b) does not detract from the amenity of nearby residential uses;*
- (c) does not impact on the orderly provision of non-residential development in other locations in the shire; and*
- (d) directly supports the day to day needs of the immediate residential community; or*
- (e) has a direct relationship to the land on which the use is proposed.*

AO8

No acceptable outcome is provided.

Comment

The proposed non-residential development:

- (a) - Includes buildings/structures that are consistent with the scale of existing development in the surrounding area;
- (b) - will be appropriately conditioned to ensure the stable use can co-exist with surrounding residential land uses with minimal land use conflict (see discussion for PO9 below);
- (c) - will not impact on the orderly provision of this type of development in other locations in the Shire;
- (d) - arguably could support the needs of residents in the immediate surrounds that require the horse training services provided by the proposed use.

The proposed development is considered to comply with PO8.

Amenity**PO9**

Development must not detract from the amenity of the local area, having regards to:

- (a) noise;*
- (b) hours of operation;*
- (c) traffic;*
- (d) advertising devices;*
- (e) visual amenity;*
- (f) privacy;*
- (g) lighting;*

- (h) odour; and
- (i) emissions.

A09

No acceptable outcome is provided

Comment

The proposed development is not likely to detrimentally impact on adjacent and nearby residential uses as a result of traffic (traffic generation minimal), advertising devices (none proposed but minimal amount allowed for in conditions), privacy or lighting.

Noise generated by the use is likely to be limited to the loading/unloading of horses to and from training at the Mareeba racecourse. This activity is not likely to occur seven (7) days per week and conditions have been included to ensure that the loading/unloading of horses does not occur before 6:30am and must occur adjacent the stable building away from property boundaries. Horses are also not to be kept in transport vehicles for extended lengths of time. Outside the loading/unloading of horses for transport off site, the only other noise associated with the use will be horses neighing and being exercised which is not likely to significantly impact on adjoining residents. Solid screen fencing and landscaping has been conditioned to further minimise the risk of noise nuisance as well as visual impact and dust nuisance to adjoining residents. Other conditions have also been included to minimise odour and dust nuisance relating to manure and waste collection and disposal, surface treatments and management plans.

Emerald Heights Estate, like other 5 acre (2 hectare) rural residential estates in the Shire (Ray Road, Ellery Road) contain many types of non-residential land uses of varying scales (hobby farms, transport depots, livestock keeping) that co-exist with little to no land use conflict. It is considered that the proposed stable use can be established on site, albeit subject to particular conditions, with minimal impact on neighbouring properties.

Subject to reasonable and relevant conditioning, it is considered the proposed development can comply with PO9.

9.3.6 Rural Activities Code**P05**

Animal keeping or intensive animal industries are located on land which has an area, dimensions and topography which all the use to function appropriately and be sufficiently separated from adjoining properties and uses.

A05.1

Development is located on a site which has an area of 60 hectares or greater.

Comment

The subject site has an area of just 3.164 hectares and is therefore non-compliant with A05.1.

The 60-hectare minimum lot size required by A05.1 is considered reasonable for some animal keeping and intensive animal industry uses that require large separation distances in order to

minimise off-site impacts such as kennels (noise impacts from barking) and piggeries and meat poultry farms (intense odour nuisance). However, the 60 hectare minimum lot size is not necessarily required for the less intense, smaller scale types of animal keeping uses such as stables and catteries.

It is considered that the subject sites area, dimensions and topography will allow the proposed stable to function appropriately, and as discussed above, the development has been appropriately conditions to minimise impacts on adjoining properties.

It is considered the proposed development can comply with PO5.

9.4.2 Landscaping Code

PO1

Development, other than in the Rural zone, includes landscaping that:

- (a) contributes to the landscape character of the Shire;*
- (b) compliments the character of the immediate surrounds;*
- (c) provides an appropriate balance between built and natural elements; and*
- (d) provides a source of visual interest.*

AO1

Development, other than in the Rural zone, provides:

- (a) a minimum of 10% of the site as landscaping;*
- (b) planting in accordance with Planning Scheme Policy 6 - Landscaping and preferred plant species;*
- (c) for the integration of retained significant vegetation into landscaping areas;*
- (d) on-street landscaping works in accordance with the Design Guidelines set out in Section D9 Landscaping, of the Planning Scheme Policy 4 - FNQROC Regional Development Manual.*

Comment

The proposed development includes less than 10% of the site as landscaping and is therefore non-compliant with AO1.

Despite this non-compliance, the amount of landscaping proposed, which for the most part has been secured by condition of approval, will contribute to the attractiveness of the site and provide an appropriate balance and buffer between the proposed development including its built form and surrounding residential development.

The proposed development complies with the relevant components of PO1.

LEGEND:

- Landscaped buffer / infill planting.
- Hedge-style plants to create buffer and windbreak. Also provide screening (~3m wide strips)

NOTE: To assist in establishing healthy plants and growth in these areas, soil is to be amended to improve the soil and growing conditions.

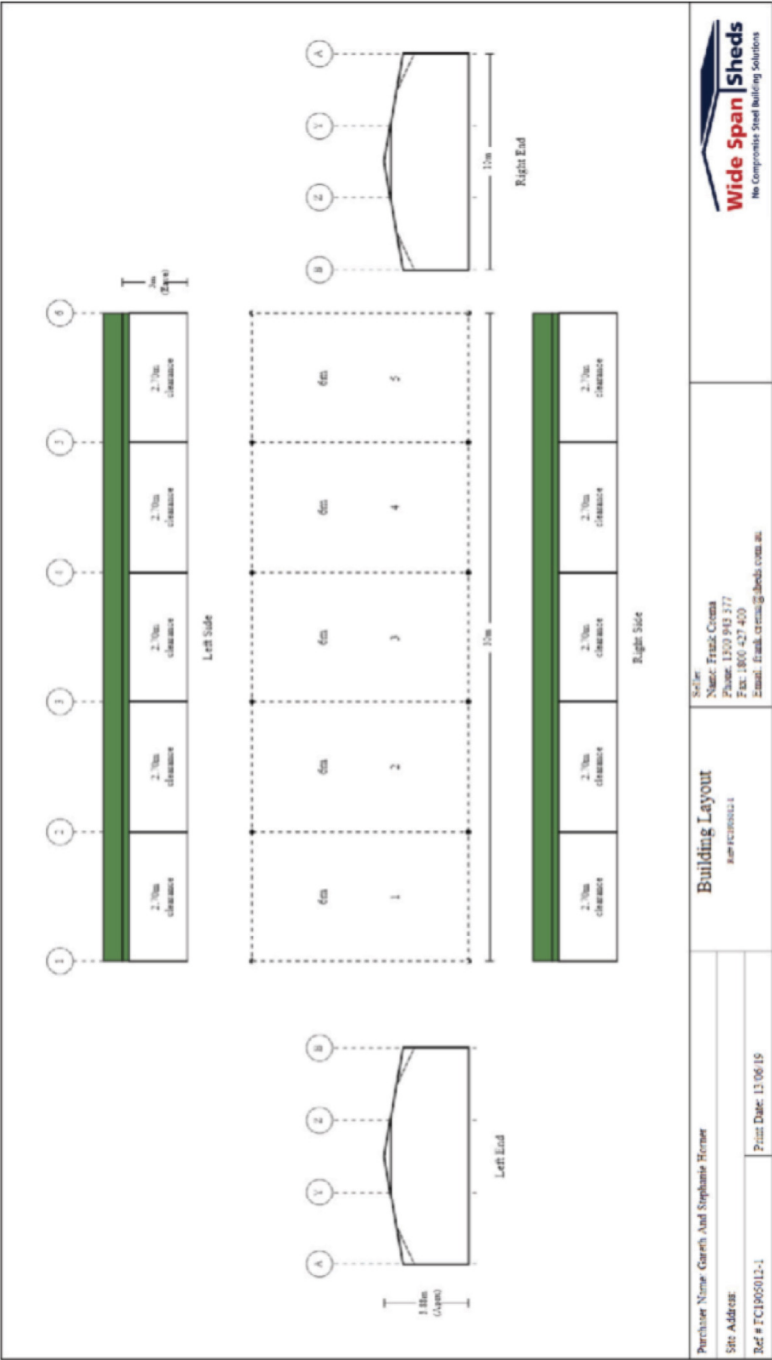
All landscaped areas will be serviced by an automated irrigation systems connected to a pump from Cobra Creek (riparian access).

All planted areas will be mulched and maintained at all times to ensure the plants remain healthy.

SOLID 1.8m High Timber Paling Fence for provide visual & noise screen

Plan No: 1901-19 (2)
Date: 31.07.19
1901 Town Plan
 1901 TOWN PLAN
 1901 TOWN PLAN
 1901 TOWN PLAN

Building Layout



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