

**DELEGATED REPORT**

**SUBJECT:** HOWE FARMING ENTERPRISES PTY LTD - MATERIAL CHANGE OF USE - ROOMING ACCOMMODATION - LOT 1 ON RP712174 AND LOTS 3 & 4 ON RP744995 - 261-265 BYRNES STREET, MAREEBA - MCU/20/0009

**DATE:** 4 September 2020

**REPORT OFFICER'S TITLE:** Senior Planner

**DEPARTMENT:** Corporate and Community Services

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**APPLICATION DETAILS**

APPLICATION		PREMISES	
<b>APPLICANT</b>	Howe Farming Enterprises Pty Ltd	<b>ADDRESS</b>	261-265 Byrnes Street, Mareeba
<b>DATE LODGED</b>	3 July 2020	<b>RPD</b>	Lot 1 on RP712174 and Lots 3 & 4 on RP711995
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Material Change of Use - Rooming Accommodation		

<b>FILE NO</b>	MCU/20/0009	<b>AREA</b>	3,036m2
<b>LODGED BY</b>	Max Slade Designs Pty Ltd	<b>OWNER</b>	Howe Farming Enterprises Pty Ltd
<b>PLANNING SCHEME</b>	Mareeba Shire Council Planning Scheme 2016		
<b>ZONE</b>	Centre zone		
<b>LEVEL OF ASSESSMENT</b>	Code Assessment		
<b>SUBMISSIONS</b>	n/a		

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**ATTACHMENTS:**

1. Proposal Plan/s
2. CairnsSARA Referral Agency Response - 29 July 2020

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**EXECUTIVE SUMMARY**

*Council is in receipt of a development application described in the above application details.*

*The application is code assessable and was not required to undergo public notification.*

*It has been assessed against the relevant statutory planning instruments, including the Regional Plan and the Planning Scheme and does not conflict with any relevant planning instrument.*

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

*It is recommended that the application be approved in full with conditions.*

## OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
<b>APPLICANT</b>	Howe Farming Enterprises Pty Ltd	<b>ADDRESS</b>	261-265 Byrnes Street, Mareeba
<b>DATE LODGED</b>	3 July 2020	<b>RPD</b>	Lot 1 on RP712174 and Lots 3 & 4 on RP711995
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Material Change of Use - Rooming Accommodation		

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), referral agency conditions in (E), relevant period in (F), further permits in (G), and further approvals from Council listed in (H);

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 - Rooming Accommodation

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
M20-4716 A101 A	Site Plan	Max Slade Designs	2/07/2020
M20-4716 A102 A	Layout Plan	Max Slade Designs	2/07/2020
M20-4716 A103 A	Communal Facilities	Max Slade Designs	2/07/2020

(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, 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 demonstrate to 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 additional payment condition/s within these 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 for each stage 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 Waste Management

- 3.5.1 On site refuse storage area/s must be provided and be screened from view from adjoining properties and road reserve by 1 metre wide landscaped screening buffer or 1.8m high solid fence or building.
- 3.5.2 Where bulk bins are used and are to be serviced on site, prior to the issue of a development permit for building works, Council's delegated officer must be satisfied that internal access is of adequate design and construction to allow waste collection/delivery vehicles to enter and exit the site in a forward gear only.

### 3.6 Full time onsite manager

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 public accessible to all adjoining property owners.

### 3.7 Accommodation Capacity

No more than 60 individual farm workers shall be accommodated on-site at any given time.

3.8 Residents accommodated by the approved use must be farm workers only.

The applicant/developer or any subsequent landowner/operator must keep a logbook of all residents accommodated at the approved use which must include the dates of accommodation and the farm/s in which they were employed.

Any person not employed as a farm worker is not permitted to stay at the approved use.

3.9 Any clothes drying areas are provided on site must be sited at the side or rear of the site so that they are not visible from Byrnes Street.

3.10 Noise Nuisance

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 and a maximum noise level of 8dB(A) above background levels as measured from commercial locations.

4. Infrastructure Services and Standards

4.1 Access

The access crossovers identified on the approved plan/s must be maintained for the life of the development in accordance with FNQROC Development Manual standards, 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 concentrated by the development must be collected from site and discharged to an approved legal point of discharge.

4.3 Car Parking/Internal Driveways

4.3.1 Prior to the commencement of the use, the applicant/developer must ensure the development is provided with five (5) car parking spaces, one (1) space for a 20 seater bus and four (4) bicycle parking spaces, which are available solely for the parking of vehicles associated with the approved use.

4.3.2 All car parking spaces and internal driveways must be concrete, bitumen or asphalt sealed and appropriately drained prior to the commencement of the use and must be maintained to this standard for the life of the development to the satisfaction of Council's delegated officer.

4.3.3 All car parking spaces and internal driveways must be constructed in compliance with the following standards and 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.

4.3.4 A sign must be erected in proximity to the access driveway indicating the availability of on-site car parking.

#### 4.4 Landscaping & Fencing

4.4.1 Prior to the commencement of the use, a landscape plan must be prepared for the site and submitted to Council's delegated officer for consideration and approval.

4.4.2 The landscaping plan must incorporate the following:

- A 1.5 metre wide landscaping strip along the full length of the subject site's eastern boundary.

4.4.3 All plant varieties must be generally in accordance with Schedule A of Planning Scheme Policy No. 6 (Landscaping and Preferred Plant Species).

4.4.4 Prior to the commencement of the use, the applicant/developer must erect a 1.8 metre high solid screen fence constructed of colorbond (of neutral colour) or other suitable material approved by Council, along the entire length of the side and rear boundaries of the subject site.

Where a building wall with a height of 1.8 metres or above is already established on part of the side or rear boundary, a screen fence will not be required for that same part of the side or rear boundary.

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

#### 4.5 Lighting

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.

Note: The design is to integrate the principles of Crime Prevention through Environmental Design (CPTED) theory. Lighting design is to illuminate potential

areas of concealment and is to project illumination so that a human face is easily discernible from 15 metres and there is to be sufficient night lighting, which renders people, colours, vegetation and objects correctly. i.e. 'white' light. Particular attention should be given to pathways, driveways and common external spaces.

(D) ASSESSMENT MANAGER'S ADVICE

- (a) 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.
- (b) The change in the use of the building may also require a change in the classification of the building under the Building Act. You are advised to contact a Building Certifier to establish if a change in the classification of the building is required.
- (c) A Trade Waste Permit will be required prior to the commencement of use.
- (d) 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.

- (e) 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.

- (f) 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).

- (g) 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).

(E) REFERRAL AGENCY CONDITIONS

CairnsSARA conditions dated 29 July 2020.

(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 at 261-265 Byrnes Street, Mareeba, and is described as Lots 3 & 4 on RP711995 and Lot 1 on RP712171. The site is generally square in shape, with a combined area of 3,036 square metres and is zoned Centre under the Mareeba Shire Council Planning Scheme 2016.

The site has approximately 53 metres of frontage to Byrnes Street. The relevant section of Byrnes Street is bitumen/asphalt sealed to an approximate width of 15 metres. Kerb and channel is constructed on both sides. A concrete footpath is established along the site's full frontage.

The site is improved by a single storey motel comprising two wings located around a central car parking area. Landscaping is established along much the site's Byrnes Street frontage.

All urban services are connected to the existing development.



**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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All neighbouring allotments on Byrnes and Herberton Streets are zoned Centre and are used for single dwelling houses. The lots adjoining the rear boundary are zoned Medium Density Residential and are predominantly used for single dwelling houses.

## BACKGROUND AND CONTEXT

The existing motel was constructed in the period between 1965 and 1971. It was operated as the Golden Leaf Motel for most of its life, before changing its name to the Mareeba Lodge Motel in recent years.

## PREVIOUS APPLICATIONS & APPROVALS

Nil

## DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Material Change of Use - Rooming Accommodation in accordance with the plans shown in **Attachment 1**.

The proposed development will see each of the 15 existing motel units used to accommodate a maximum of four (4) farm workers. The managers unit at the entrance to the existing motel will continue to serve as the on site managers residence.

A new single storey communal area building is planned for the south east corner of Lot 1 on RP712171. This communal area building will include kitchen and dining facilities for use by all residents.



The existing covered carparking will remain, however the primary source of transport for residents will be via applicant operated small commuter buses. The existing driveway is located with ingress and egress allowing all vehicles enter and exit in forward gear, including a medium ridged vehicle if necessary.

The site's existing landscaping is well established, especially to the Byrnes Street frontage. Additional landscaping is to be provided to the south east corner to soften any impact of the communal facilities building.

## REGIONAL PLAN DESIGNATION

The subject site is included within the Urban Footprint land use category in the Far North Queensland Regional Plan 2009-2031. Mareeba is identified as a Major Regional Activity Centre in the Regional Plan. The Regional Plan Map 3 - 'Areas of Ecological Significance' does not identify the site as being of any significance.

## PLANNING SCHEME DESIGNATIONS

	<b>Land Use Categories</b>
	<ul style="list-style-type: none"> <li>Centre Area</li> </ul>
Strategic Framework:	<b>Transport Element</b>
	<ul style="list-style-type: none"> <li>B-double Route</li> <li>Principal Cycle Route</li> </ul>
Zone:	Centre zone
Mareeba Local Plan:	Town Centre Fringe
Overlays:	<ul style="list-style-type: none"> <li>Airport Environs Overlay</li> </ul>

## Planning Scheme Definitions

The proposed use is defined as:-

<b>Column 1 Use</b>	<b>Column 2 Definition</b>	<b>Column 3 Examples include</b>	<b>Column 4 Does not include the following examples</b>
<b>Rooming accommodation</b>	<p>Premises used for the accommodation of one or more households where each resident:</p> <ul style="list-style-type: none"> <li>has a right to occupy one or more rooms</li> <li>does not have a right to occupy the whole of the premises in which the rooms are situated</li> </ul>	Boarding house, hostel, monastery, off-site student accommodation	Hospice, community residence, dwelling house, short-term accommodation, multiple dwelling

	<ul style="list-style-type: none"> <li>• <i>may be provided with separate facilities for private use</i></li> <li>• <i>may share communal facilities or communal space with one or more of the other residents.</i></li> </ul> <p><i>The use may include:</i></p> <ul style="list-style-type: none"> <li>• <i>rooms not in the same building on site</i></li> <li>• <i>provision of a food or other service</i></li> <li>• <i>on site management or staff and associated accommodation.</i></li> </ul> <p><i>Facilities includes furniture and equipment as defined in the Residential Tenancies and Rooming Accommodation Act 2008</i></p>		
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## 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:

- 6.2.1 Centre zone code
- 7.2.2 Mareeba local plan code
- 8.2.2 Airport environs overlay code
- 9.3.1 Accommodation 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 outcomes (or performance outcomes where no acceptable outcome applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
Centre zone code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Mareeba local plan code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Airport environs overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Accommodation activities code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Landscaping code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Parking and access code	The application can be conditioned to comply with the relevant acceptable outcomes (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 (or performance outcomes where no acceptable outcome is provided) 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.

#### (f) Adopted Infrastructure Charges Notice

The Mareeba Shire Council Adopted Infrastructure Charges Resolution (No. 1) 2020 - Table 1 places rooming accommodation into the Accommodation (long term) category.

The charge rate for rooming accommodation is \$9,635.00 for each bedroom with 3 or more beds.

The existing motel has an equivalent credit for short-term accommodation, therefore no additional infrastructure charges are payable for the change to rooming accommodation.

**REFERRALS**

The application triggered referral to CairnsSARA as a referral agency for State controlled roads.

CairnsSARA advised in a letter dated 29 July 2020 that they require the conditions to be attached to any approval (**Attachment 2**).

**Internal Consultation**

Technical Services

**PLANNING DISCUSSION**

Nil

**Date Prepared:** 4 September 2020

## DECISION BY DELEGATE

## DECISION

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

Dated the 7<sup>TH</sup> day of SEPTEMBER 2020



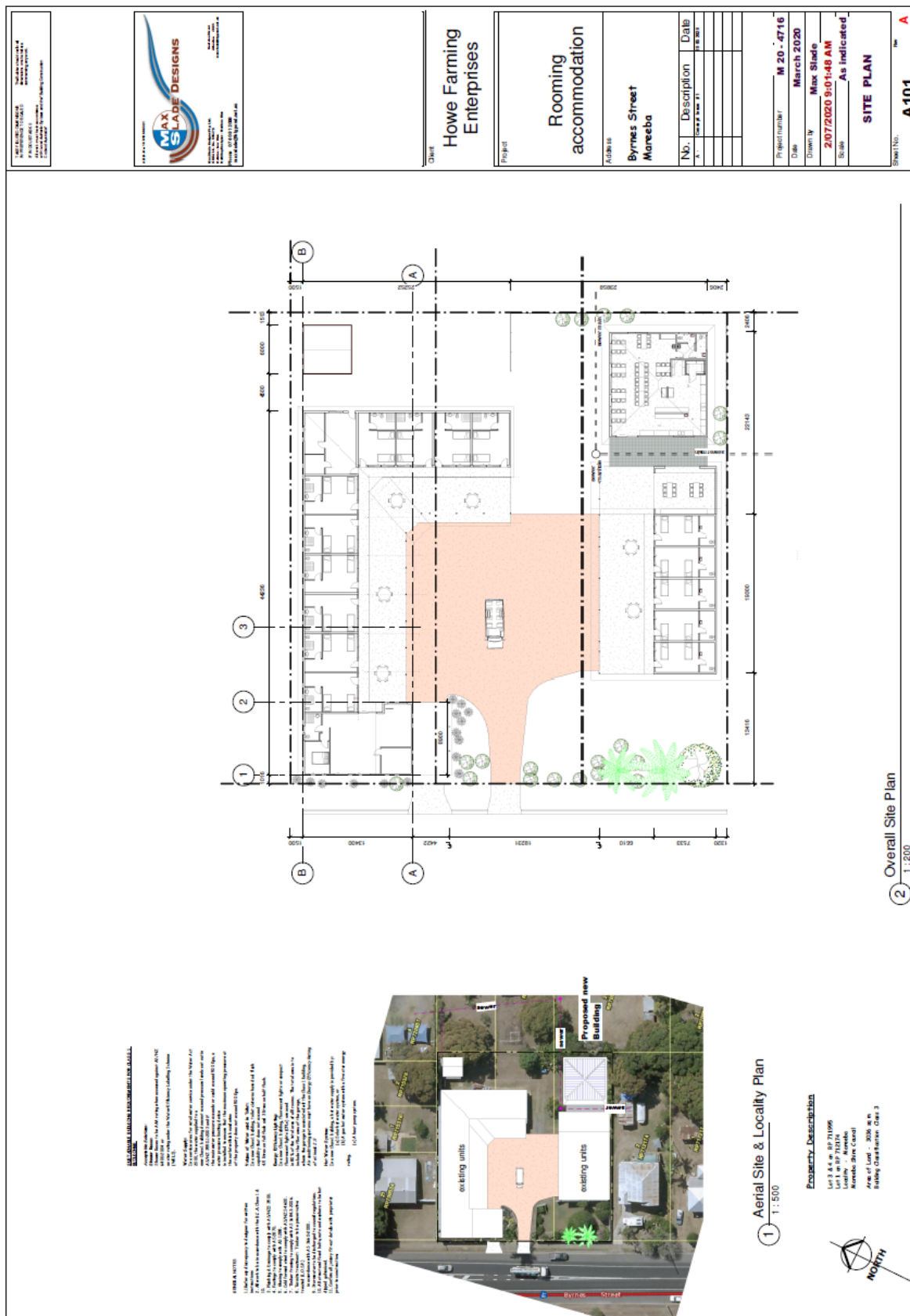
**BRIAN MILLARD**  
**SENIOR PLANNER**

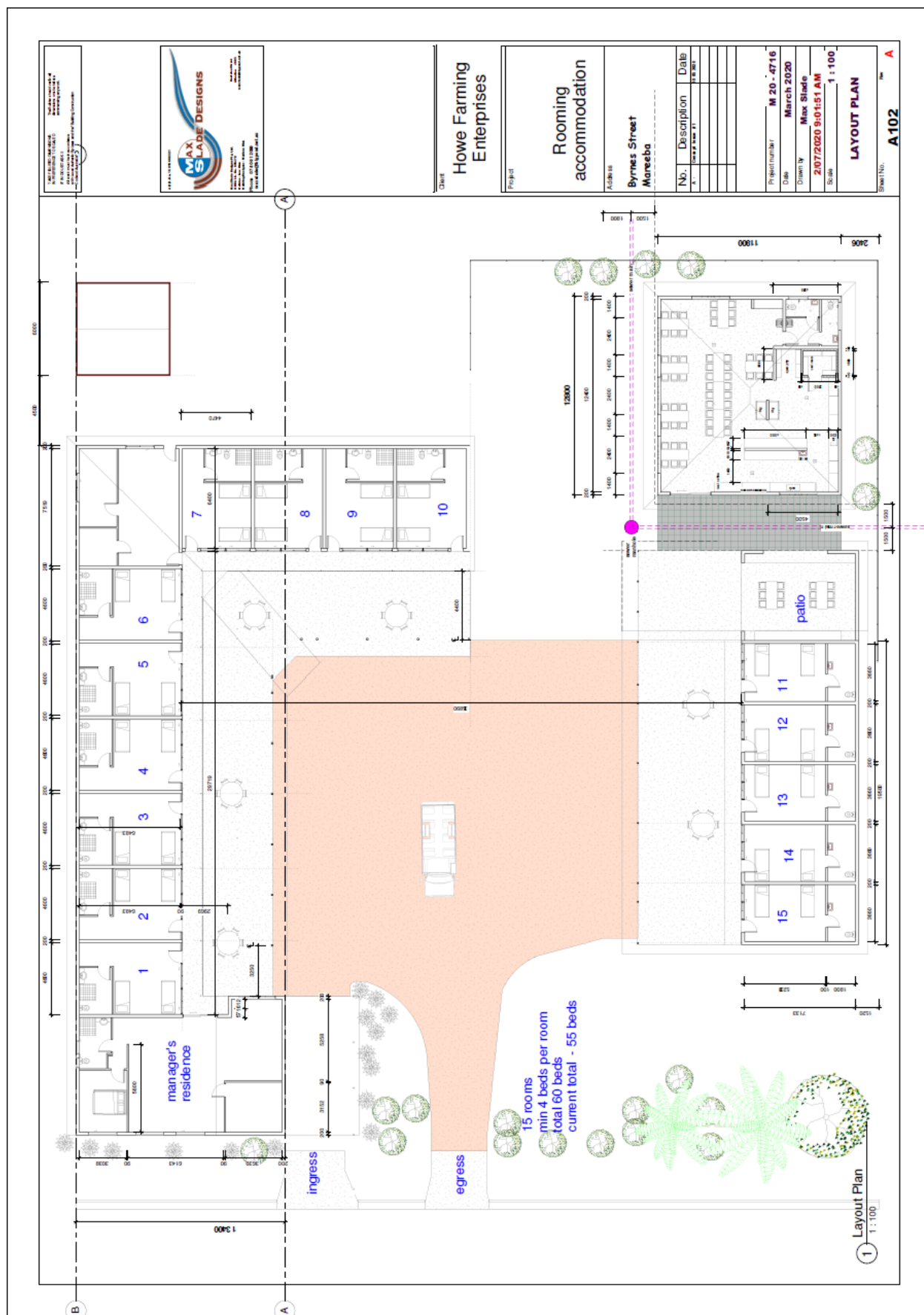


**ANTHONY ARCHIE**  
**MANAGER DEVELOPMENT & GOVERNANCE**

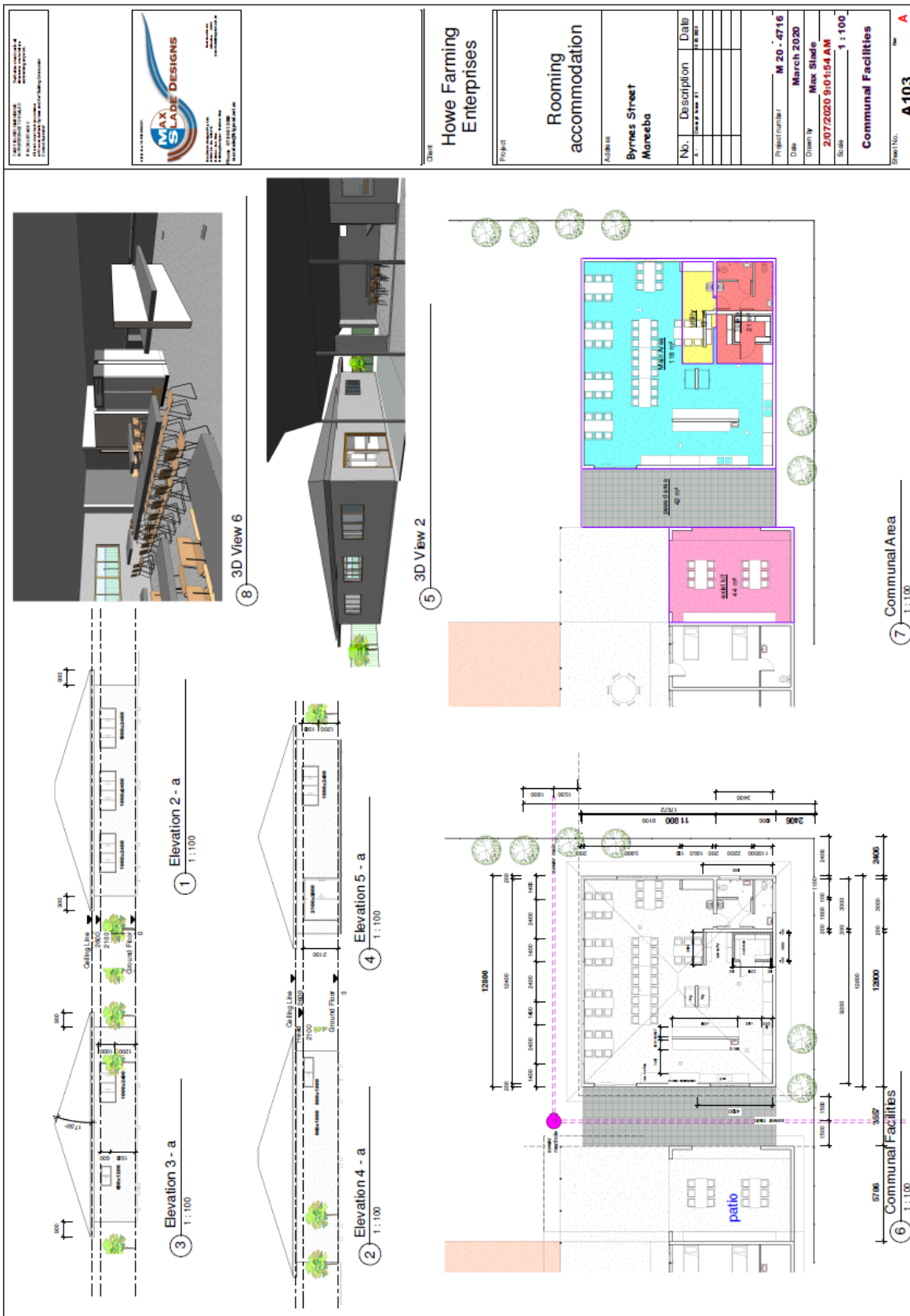
MAREEBA SHIRE  
AS A DELEGATE OF THE COUNCIL

PROPOSAL PLANS









## ATTACHMENT 2

RA6-N



Queensland Treasury

SARA reference: 2007-17688 SRA  
 Council reference: MCU/20/0009

29 July 2020

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

Attention: Carl Ewin

Dear Sir/Madam

## SARA response—261-265 Byrnes Street, Mareeba – Material Change of Use – Rooming Accommodation

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency on 10 July 2020.

### Response

Outcome:	Referral agency response – with conditions.
Date of response:	29 July 2020
Conditions:	The conditions in <b>Attachment 1</b> must be attached to any development approval.
Advice:	Advice to the applicant is in <b>Attachment 2</b> .
Reasons:	The reasons for the referral agency response are in <b>Attachment 3</b> .

### Development details

Description:	Development permit    Material Change of Use (Rooming Accommodation)
SARA role:	Referral Agency.
SARA trigger:	<b>Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1</b> (Planning Regulation 2017) - Material change of use within 25m of a state-controlled road

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

2007-17688 SRA

SARA reference: 2007-17688 SRA  
Assessment Manager: Mareeba Shire Council  
Street address: 261-265 Byrnes Street, Mareeba  
Real property description: Lot 1 on RP712174, Lot 3 on RP711995 and Lot 4 on RP711995  
Applicant name: Max Slade Designs Pty Ltd  
Applicant contact details: PO Box 834  
Tolga QLD 4882  
maxslade@bigpond.net.au

## Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules) Copies of the relevant provisions are in **Attachment 4**.

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

For further information please contact Anthony Westbury, Planning Officer, on 40373215 or via email CairnsSARA@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow  
Manager (Planning)

cc Max Slade Designs Pty Ltd, maxslade@bigpond.net.au  
enc Attachment 1 - Referral agency conditions  
Attachment 2 - Advice to the applicant  
Attachment 3 - Reasons for referral agency response  
Attachment 4 - Representations provisions

### Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application)

No.	Conditions	Condition timing
<b>Material change of use</b>		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 – Material change of use of premises near a State transport corridor—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 condition(s):		
1.	(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.	At all times.

**Attachment 2—Advice to the applicant**

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<b>General advice</b>	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v2.6. If a word remains undefined it has its ordinary meaning.
2.	<p><b>Advertising Device</b></p> <p>Advertising advice should be obtained from the Department of Transport and Main Roads (DTMR) if the approved development intends to erect, alter or operate an advertising sign or another advertising device that would be visible from a state-controlled road, and beyond the boundaries of the state-controlled road, and reasonably likely to create a traffic hazard for the state-controlled road.</p> <p>Note: DTMR has powers under section 139 of the Transport Operations (Road Use Management - Accreditation and Other Provisions) Regulation 2015 to require removal or modification of an advertising sign and / for a device which is deemed to create a danger to traffic.</p>

**Attachment 3—Reasons for referral agency response**

(Given under section 56(7) of the *Planning Act 2016*)

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**The reasons for the department's decision are:**

- No new or changed accesses are required to Byrnes Street (Mareeba-Dimbulah Road), a state-controlled road.
- The two existing accesses to Byrnes Street have been constructed to the Department of Transport and Main Roads (DTMR) access standards and requirements, and no additional works are required.
- There will be no increased traffic generation to the state-controlled road.
- Stormwater and drainage flows are appropriately managed and will not impact the state-controlled road.
- The proposed development is unlikely to compromise the safety, efficiency and operating conditions of Byrnes Street.
- The proposed development complies with the relevant provisions of State code 1: Development in a state-controlled road environment.

**Material used in the assessment of the application:**

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version [2.6]), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system

**Attachment 4—Change representation provisions**

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(page left intentionally blank – attached separately)



## Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules<sup>1</sup> regarding **representations about a referral agency response**

### Part 6: Changes to the application and referral agency responses

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#### 28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
  - (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
  - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
  - (c) the applicant has given written agreement to the change to the referral agency response.<sup>2</sup>
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
  - (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
  - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

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<sup>1</sup> Pursuant to Section 68 of the *Planning Act 2016*

<sup>2</sup> In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

## **Part 7: Miscellaneous**

### **30 Representations about a referral agency response**

- 30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.<sup>3</sup>

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<sup>3</sup> An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.