

DELEGATED REPORT

SUBJECT: S & N COCKREM - MATERIAL CHANGE OF USE - INDOOR SPORT & RECREATION (GYMNASIUM) - LOT 30 ON NR804457 - 9 WALLACE DRIVE, MAREEBA - MCU/20/0014

DATE: 16 November 2020

REPORT OFFICER'S TITLE: Planning Officer

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	S & N Cockrem	ADDRESS	9 Wallace Drive, Mareeba
DATE LODGED	4 November 2020	RPD	Lot 30 on NR804457
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Indoor Sport & Recreation (Gymnasium)		

FILE NO	MCU/20/0014	AREA	1,787m ²
LODGED BY	Planz Town Planning	OWNER	G & A Marinelli Pty Ltd
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Industry Zone		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	n/a		

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 aspect of the Planning Scheme.

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	S & N Cockrem	ADDRESS	9 Wallace Drive, Mareeba
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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 - Indoor Sport and Recreation (Gymnasium)

(B) **APPROVED PLANS:**

Plan/Document Number	Plan/Document Title	Prepared by	Dated
P72105	Site Plan	Planz Town Planning	28/10/2020

(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 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 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.
- 3.2 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.
- 3.3 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.
- 3.4 Waste Management
- On site refuse storage area must be provided and be screened from view from adjoining properties and road reserve by 1 metre wide landscaped screening buffer, 1.8m high solid fence or building.
- 3.5 Signage associated with the approved use shall be limited to that listed in Table 9.4.1.3D of the Advertising devices code for the Industry zone.

4. Infrastructure Services and Standards

4.1 Access

The existing access crossover servicing the car parking area from Slade Street must be maintained to FNQROC Development Manual standards for the life of the development, to the satisfaction of Council's delegated officer.

4.2 Stormwater Drainage/Water Quality

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

4.3 Car Parking

The applicant/developer must ensure that the development is provided with a minimum of 11 on-site car parking spaces which are available solely for the parking of vehicles associated with the approved use.

Council will accept the use of unsealed sections of the site to accommodate the required amount of parking, however the applicant/developer/gym operator must ensure that the hardstand area at the southern end of the site is occupied prior to utilising any unsealed sections. Furthermore, should Council receive a

substantiated dust complaint in relation to the use of any unsealed sections of the site for car parking, the applicant/developer must concrete, bitumen or asphalt seal and appropriately drain that section/s of the site within 3 months of Council's direction to do so.

(D) ASSESSMENT MANAGER'S ADVICE

- (a) 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.

- (b) 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.

- (c) 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.

- (d) 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

- (e) 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

- Nil

(G) OTHER APPROVALS REQUIRED FROM COUNCIL

- Nil

THE SITE

The subject site is situated on the corner of Wallace Drive and Slade Street at 9 Wallace Drive, Mareeba and is described as Lot 30 on NR804457. The site is regular in shape with a total area of 1,787m² and is zoned Industry (Trades & Services Precinct) under the Mareeba Shire Council Planning Scheme 2016.

The site is improved by a large industrial shed which is separated into 4 tenancies and a concrete sealed car parking area at the southern end of the site. The proposed crossfit gym will occupy the middle tenancy as shown on the below plan. The site is connected to all urban services. All surrounding lots are zoned industry and contain a mix of light to medium scale industrial uses.



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

Nil

PREVIOUS APPLICATIONS & APPROVALS

Nil

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Material Change of Use - Indoor Sport and Recreation (Gymnasium) in accordance with the plans shown in **Attachment 1**.

The following is an extract from the development application:

1.3 The Applicant and Operation of the use

The *CrossFit Mareeba* Gym has been operating since July 2014 and is recognised within the industry as one of the best facilities in Australia, in terms of quality of equipment, spacious layout, training climate and calibre of coaching. CrossFit provides elite training programs, however also provides functional fitness to a diverse range of clients from as young as 11 years up to over 65 years. The operation and business model is different to a conventional gymnasium as a CrossFit gym is a fitness training and coaching facility; clients do not simply turn up to use the gym – each workout is led by a CrossFit coach and clients must book into a class.

Currently operates out of 159 Walsh Street, Mareeba and the operators are choosing to move to the new premises. The site has four tenancies with the middle tenancy shed (tenancy 3) to be used by *CrossFit Mareeba* (figure 4). The tenancy is approximately 264m². The applicant will also run his Joinery business out of the southern tenancy (tenancy 4). The owner of the sheds will operate out of the other 2 tenancies.

As the CrossFit gym has been operating since July 2014, the applicant has reliable information on hours of operation, class size and nature of clients. The class sizes are typically 5-12 clients and one coach. The maximum class size is 16 as higher numbers do not allow for quality coaching and evaluation in the allotted time frame. There are two early class (5:30am & 6:30am), one “mum’s and dad’s” class (9:00am), one after school class (4:10pm), and one evening class 5:30pm. The most popular class time is 5:30am. Outside of these hours the gym is closed to members, however the gym has been open for one on one training by appointment in the past and may be again in the future. The CrossFit classes are summarised in the table below:

Current operating hours		Class times
Monday -Wednesday	5:30am – 7:15pm	5:30am, 6:30am, 9:00am, 4:10pm, 5:30pm
Thursday	5:30am – 6:15pm	5:30am, 6:30am, 9:00am, 4:10pm
Friday	5:30am – 6:30pm	5:30am, 6:30am, 9:00am, 4:10pm, 5:30pm
Saturday	7:00am – 8:00pm	7:00am
Sunday	Closed	

The applicant also advises that some clients:

- come 2 days a week, and attendance 4 days a week is encouraged
- are private 1 on 1 training classes outside the normal sessions

- a majority of clients are couples – e.g. married, sisters, mother / daughter or friends who train together, arriving in the same vehicle



Figure 4: Proposed CrossFit Mareeba onsite location

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 Regional Activity Centre in the Regional Plan. The site contains no areas of ecological significance.

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories • Industry Area
Zone:	Industry Zone
Precinct:	Trades and Services Precinct
Overlays:	N/A

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
Indoor sport and recreation	Premises used for leisure, sport or recreation conducted wholly or mainly indoors.	Amusement parlour, bowling alley, gymnasium, squash courts, enclosed tennis courts	Cinema, hotel, nightclub Entertainment facility, theatre

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:

- 6.2.5 Industry zone code
- 9.3.7 Sport and recreation 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 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
Industry 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.
Sport and Recreation 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.

REFERRAL AGENCY

This application did not trigger referral to a Referral Agency.

PLANNING DISCUSSION

Nil.

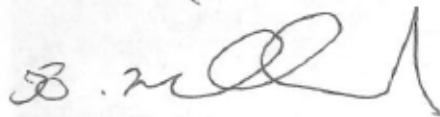
Date Prepared: 16 November 2020

DECISION BY DELEGATE

DECISION

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

Dated the 16TH day of NOVEMBER 2020



BRIAN MILLARD
SENIOR PLANNER

MAREEBA SHIRE
AS A DELEGATE OF THE COUNCIL

ATTACHMENT 1

PROPOSED PLANS

