DELEGATED REPORT

SUBJECT: COUGAR HOMES PTY LTD - MATERIAL CHANGE OF USE -RURAL WORKERS' ACCOMMODATION & SECONDARY DWELLING AND REFERRAL AGENCY RESPONSE FOR BUILDING WITHIN A FLOOD HAZARD AREA - LOT 86 ON HG754 - 99 PIN ROAD, MUTCHILBA - MCU/21/0001

DATE: 1 February 2021

| REPORT OFFICER'S | |
|-------------------------|------------------|
| TITLE: | Planning Officer |

DEPARTMENT: Corporate and Community Services

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|------|------|-----|------|-----|
|------|------|-----|------|-----|

| AP | PLICATION | | PREMISES |
|-------------------------|---|---------|-------------------------|
| APPLICANT | Cougar Homes Pty Ltd | ADDRESS | 99 Pin Road, Mareeba |
| DATE LODGED | 27 January 2021 | RPD | Lot 86 on HG754 |
| TYPE OF APPROVAL | Development Permit | | |
| PROPOSED DEVELOPMENT | Material Change of Use - Rural Workers' Accommodation & Secondary Dwelling and Referral Agency Response for Building Within a Flood Hazard Area | | |

| FILE NO | MCU/21/0001 | AREA | 41.267 ha |
|-----------------|--|-------|-----------|
| LODGED BY | The Building Approval | OWNER | J Gauci |
| | Company | | |
| 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 development was not required to undergo public notification.

The site currently contains 2 small dwellings (cottages). The applicants propose to convert 1 dwelling for use as rural workers' accommodation to accommodate an average of 2 persons/workers, and the conversion of the second dwelling for use as a secondary dwelling (granny flat) which will be subsidiary to a third brand new dwelling proposed to be constructed on the northern edge of the cluster of existing improvements. The new dwelling will be situated within

the potential flood hazard area, as are all the sites improvements, and will be sited approximately 40-50 metres from the proposed secondary dwelling.

The application does not conflict with any of the relevant development codes contained within the Planning Scheme. It is recommended that the applications be approved in full, subject to conditions. The applications have been separated over two recommendations.

OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

| APPLICATION | | PREMISES | |
|-------------|-------------------------------|---------------|------------------------|
| APPLICANT | Cougar Homes Pty Ltd | ADDRESS | 99 Pin Road, Mareeba |
| DATE LODGED | 27 January 2021 | RPD | Lot 86 on HG754 |
| TYPE OF | Development Permit | | |
| APPROVAL | | | |
| PROPOSED | Material Change of Use - Rura | Workers' Acco | ommodation & Secondary |
| DEVELOPMENT | Dwelling | | - |

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 Rural Workers' Accommodation and Secondary Dwelling
- (B) APPROVED PLANS:

| Plan/Document Number | Plan/Document Title | Prepared by | Dated |
|-------------------------|----------------------|----------------------|----------|
| CH - 611 Dwg. No.: 02 | Overall Site Plan | Cougar Homes Pty Ltd | Nov 2020 |
| CH - 611 Dwg. No.: 03 | Part Site Plan | Cougar Homes Pty Ltd | Nov 2020 |
| - | Building Setout Plan | Applicant | Nov 2020 |
| CH - 611 Dwg. No.: 04 | Floor Plan | Cougar Homes Pty Ltd | Nov 2020 |
| CH - 611 Dwg. No.: 06 | Elevations | Cougar Homes Pty Ltd | Nov 2020 |

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

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

- 1. Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
 - found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
 - to ensure compliance with the following conditions of approval.
- 2. Timing of Effect
 - 2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the commencement of the use except where specified otherwise in these conditions of approval.
 - 2.2 Prior to the commencement of use, the applicant must notify Council that all the conditions of the development permit have been complied with, except where specified otherwise in these conditions of approval.
- 3. General
 - 3.1 The 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 The rural workers' accommodation shall not be used for any other purpose, including rental to any person who is not engaged in activities on the property.

Upon request by Council, the applicant/owner shall be responsible for providing an annual return to Council, which demonstrates that the occupants of the rural workers' accommodation have been employed in accordance with the conditions of this approval, to the satisfaction of Council's delegated officer. The return shall include the names of staff employed, and, employment and wage/s records.

- **Note:** Providing a worker/s and their immediate family (if any) with rent free or discounted accommodation in lieu of providing labor on the subject property is acceptable by Council, provided evidence of such an agreement can be supplied upon Council's request.
- (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.

(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

2. That in relation to the following:

| A | PPLICATION | P | REMISES |
|-----------------------|---|------------------|---------------------------|
| APPLICATION NO: | MCU/21/0001 | | |
| RPD: | Lot 86 on HG754 | ADDRESS: | 99 Pin Road, Mutchilba |
| APPLICANT: | Cougar Homes Pty Ltd | OWNER: | J Gauci |
| | 7 Anderson Street | | |
| | MANUNDA QLD 4870 | | |
| ASSESSMENT MANAGER | The Building Approval Company | DATE REFERRAL | 27 January 2021 |
| | Redlynch Central Commercial Hub | RECEIVED: | |
| | 2 Chelsea Lane | | |
| | Redlynch QLD 4870 | | |
| TYPE OF APPROVAL: | Referral agency response for the Mareeba Shire Council Pla Overlay Code | | |

and in accordance with section 56 of the Planning Act 2016, the applicant and assessment manager be notified that the Mareeba Shire Council, as a referral agency for building work assessable against the Mareeba Shire Council Planning Scheme 2016, requires the assessment manager to include in the development permit for building works the conditions in (A) provided that the proposed development is in accordance with the following submitted material in (B) and for the reasons set out in (C)

(A) Conditions

- 1. The proposed future dwelling shall be constructed generally in accordance with the position and orientation shown on the site plan/s accompanying the application.
- 2. The dimensions of the dwelling shall not exceed those shown on the submitted building plans.
- 3. Prior to the occupation of the dwelling, the land owner must obtain a Flood Emergency Evacuation Plan for the class 1a dwelling prepared by suitably qualified persons having regard to Floodplain Management in Australia: Best Practice Principles and Guidelines (2000), prepared by Standing Committee on Agriculture and Resource Management (SCARM), CSIRO. The Flood Emergency Evacuation Plan must be prominently displayed in the class 1a dwelling at all times.

(B) Submitted Material

| Plan / Document | Plan / Document Name | Date |
|-----------------------|----------------------|----------|
| Number | | |
| CH - 611 Dwg. No.: 02 | Overall Site Plan | Nov 2020 |
| CH - 611 Dwg. No.: 03 | Part Site Plan | Nov 2020 |
| - | Building Setout Plan | Nov 2020 |
| CH - 611 Dwg. No.: 04 | Floor Plan | Nov 2020 |

| CH - 611 Dwg. No.: 06 Elevations | Nov 2020 |
|----------------------------------|----------|
|----------------------------------|----------|

(C) Reasons

The reasons and information used in the setting of the conditions detailed above include the relevant Codes of the Mareeba Shire Council Planning Scheme 2016.

THE SITE

The subject site is situated at 99 Pin Road, Mutchilba and is described as Lot 86 on HG754. The site has an area of 41.267 ha and is zoned Rural under the Mareeba Shire Council Planning Scheme 2016.

The site is accessed from Pin Road which bisects the property into 2 parcels. Pin Road is bitumen sealed. The majority of the property is cropped with Lychee Orchards and all improvements are clustered adjacent the north-east edge of the property adjacent the high bank of the Walsh River which flows past the property. The sites improvements include 2 large machinery/packing sheds various smaller sheds, and two small cottages. All surrounding lots are zoned Rural and are generally used for agricultural production.



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 - Rural Workers' Accommodation & Secondary Dwelling (Granny Flat) as well as a Referral Agency Response for Building Works (class 1a dwelling) assessable against the Flood Hazard Overlay Code in accordance with the plans shown in **Attachment 1**.

The site currently contains 2 small dwellings (cottages). The applicants propose to convert 1 dwelling for use as rural workers accommodation to accommodate an average of 2 persons/workers, and the conversion of the second dwelling for use as a secondary dwelling (granny flat) which will be subsidiary to a third brand new dwelling proposed to be constructed on the northern edge of the cluster of existing improvements. The new dwelling will become accepted development (pending an approval of this application) however will be situated within the potential flood hazard area, as are all the sites improvements, and will be sited approximately 40-50 metres from the proposed secondary dwelling.

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:

- Wetland Area of General Ecological Significance
- Terrestrial Area of General Ecological Significance

PLANNING SCHEME DESIGNATIONS

| Strategic Framework: | Land Use Categories • Rural Agricultural Area • Rural Other Natural Environmental Elements • Habitat Linkage Other Elements • Major Waterbody |
|----------------------|---|
| Zone: | Rural Zone |
| Overlays: | Agricultural Land Overlay Bushfire Hazard Overlay Environmental Significance Overlay Flood Hazard Overlay Hill and Slope 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 |
|---------------------------------|--|--------------------------------|---|
| 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 |
| Rural workers' accommodation | Any premises used as quarters for staff employed in the use of land for rural purposes, such as agriculture, intensive animal husbandry and forestry, conducted on a lot in the same ownership whether or not such quarters are self- contained. | Farm workers' accommodation | Short-term accommodation, caretaker's accommodation, dual occupancy, dwelling house, nature or rural based tourist accommodation, non- resident workforce accommodation, multiple dwellings |

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
- 9.3.1 Accommodation activities 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 Zone Code | The application complies or can be conditioned to comply with the acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code. |
| Agricultural Land Overlay Code | The application complies or can be conditioned to comply with the acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code. |
| Bushfire Hazard Overlay Code | The application complies or can be conditioned to comply with the acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code. |
| Environmental Significance Overlay Code | The application complies or can be conditioned to comply with the acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code. |

| Flood Hazard Overlay Code | The application complies or can be conditioned to comply with the acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code. |
|---|--|
| Hill and Slope Overlay Code | The application complies or can be conditioned to comply with the acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code. |
| Accommodation Activities Code | The application complies or can be conditioned to comply with the acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code. |
| Parking and Access Code | The application complies or can be conditioned to comply with the acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code. |
| Works, Services and Infrastructure Code | The application complies or can be conditioned to comply with the 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 any Referral Agency/s.

Internal Consultation

Nil

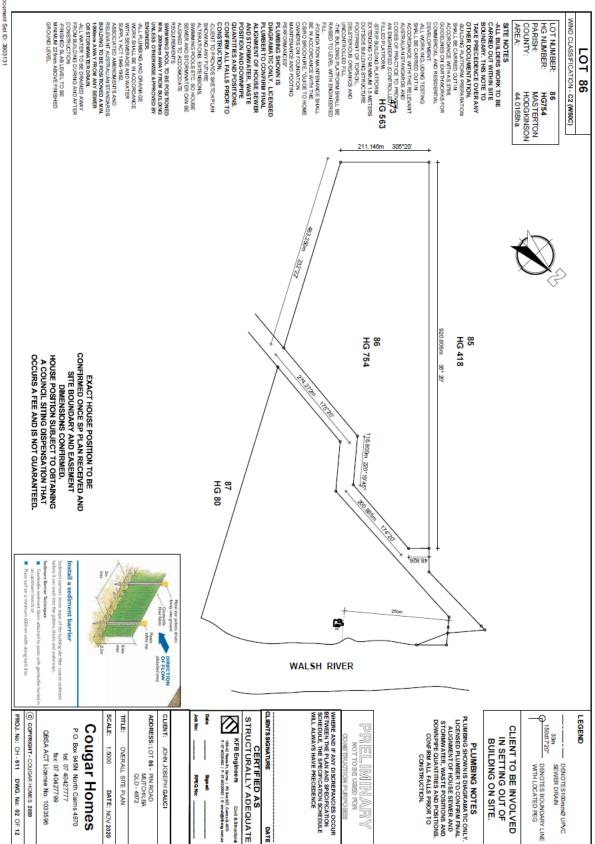
PLANNING DISCUSSION

Nil

Date Prepared: 1 February 2021

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 IST day of FEBRUART 2021 R BRIAN MILLARD SENIOR PLANNER MAREEBA SHIRE AS DELEGATE OF THE COUNCIL

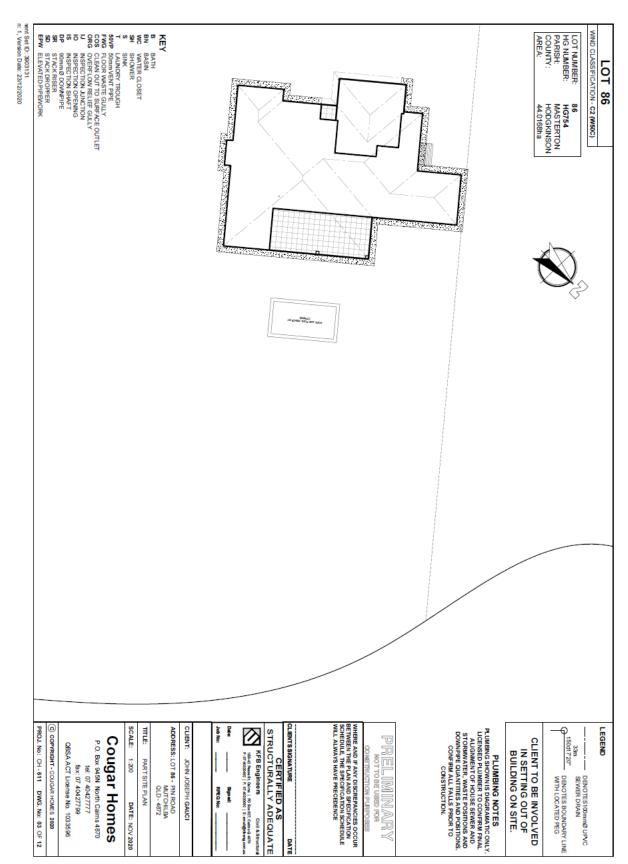


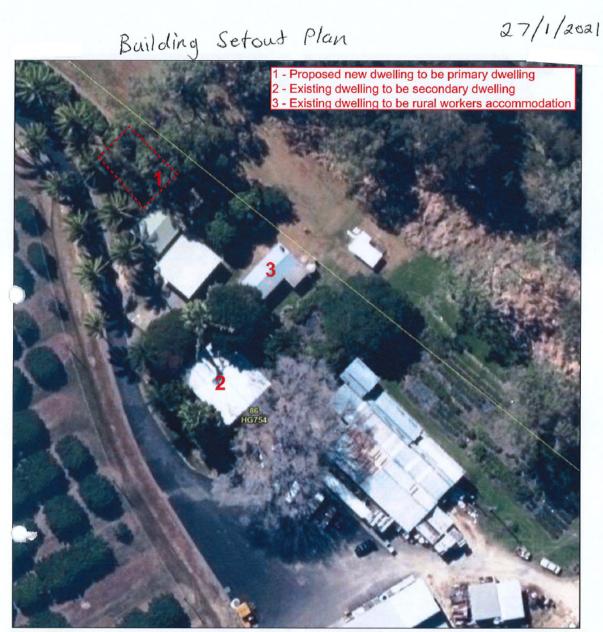
PROPOSED PLANS (ECM DSI # 3903131)

Document Set ID: 3803131 /ersion: 1, Version Date: 23/12/2020

Document Set ID: 3910192 Version: 1, Version Date: 01/02/2021

ATTACHMENT 1





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