

8.2 MISSION AUSTRALIA - MATERIAL CHANGE OF USE - ROOMING ACCOMMODATION (RESIDENTIAL REHABILITATION FACILITY) - LOT 2 ON RP747563 - 3338 KENNEDY HIGHWAY, MAREEBA - MCU/21/0002

Date Prepared: 12 March 2021

Author: Planning Officer

Attachments:

1. Proposal Plans
2. SARA Referral Agency Response (DTMR)
3. Submissions
4. Mission Australia Response to Submitter Concerns

APPLICATION DETAILS

| APPLICATION | | PREMISES | |
|----------------------|--|----------|-------------------------------|
| APPLICANT | Mission Australia | ADDRESS | 3338 Kennedy Highway, Mareeba |
| DATE LODGED | 5 February 2021 | RPD | Lot 2 on RP747563 |
| TYPE OF APPROVAL | Development Permit | | |
| PROPOSED DEVELOPMENT | Material Change of Use - Rooming Accommodation (Residential Rehabilitation Facility) | | |
| FILE NO | MCU/21/0002 | AREA | 8.847 ha |
| LODGED BY | Urban Sync Pty Ltd | OWNER | Vynpack Pty Ltd |
| PLANNING SCHEME | Mareeba Shire Council Planning Scheme 2016 | | |
| ZONE | Rural Zone | | |
| LEVEL OF ASSESSMENT | Impact Assessment | | |
| SUBMISSIONS | 4 Submissions Received | | |

EXECUTIVE SUMMARY

Council is in receipt of an impact assessable development application described in the above application details. Four (4) submissions were received during the mandatory public notification process, all of which objected to the proposed development.

The application proposes the construction of a voluntary admission drug and alcohol rehabilitation facility for up to 10 patients at a time. The facility will provide a 12 week holistic rehabilitation program on-site followed by a 6 month community aftercare program (off-site).

It is not uncommon for non-residential accommodation and small scale health-care based developments to be established within the Rural zone where not adjacent intensive farming/cropping activity. In this instance, a location in the Rural zone was sought to provide patients using the facility with a tranquil location appropriately separated from nearby towns/cities. The main concerns raised in submissions related to property devaluation as a result of the negative stigma surrounding drug and alcohol rehabilitation facilities and a concern that patients of the facility may stray from the site during their programs and trespass on surrounding properties. Mission Australia are aware of these concerns and have provided a statement in response which is included as **Attachment 4**. Mission Australia have stressed that those patients attending the facility

are their voluntarily and any unauthorised absence from the property will result in their immediate removal. Caregivers are also on-site 24/7 to supervise patients.

Notwithstanding this, issues relating to property devaluation and criminal activity like trespass do not form reasonable town planning grounds to refuse such a development. The application and supporting material has been assessed against the relevant provisions contained within the Mareeba Shire Council Planning Scheme 2016 and is not considered to be in conflict with 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, subject to conditions.

OFFICER'S RECOMMENDATION

(A) That in relation to the following development application:

| APPLICATION | | PREMISES | |
|----------------------|---|----------|----------------------------------|
| APPLICANT | Mission Australia | ADDRESS | 3338 Kennedy Highway, Mareeba |
| DATE LODGED | 5 February 2021 | RPD | Lot 2 on RP747563 |
| TYPE OF APPROVAL | Development Permit | | |
| PROPOSED DEVELOPMENT | Material Change of Use - Rooming Accommodation (Residential Rehabilitation Facility) | | |

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.

(B) APPROVED DEVELOPMENT: Development Permit for Material Change of Use - Rooming Accommodation (Residential Rehabilitation Facility)

(C) APPROVED PLANS:

| Plan/Document Number | Plan/Document Title | Prepared by | Dated |
|----------------------|---------------------------|-----------------------|------------|
| 21011 SK00 | Cover Sheet & Site Plan | Bau Design Architects | 17/01/2021 |
| 21011 SK01 | Carparking | Bau Design Architects | 17/01/2021 |
| 21011 SK10 | Plans Accommodation | Bau Design Architects | 17/01/2021 |
| 21011 SK11 | Plans Administration | Bau Design Architects | 17/01/2021 |
| 21011 SK40 | Elevations Accommodation | Bau Design Architects | 17/01/2021 |
| 21011 SK41 | Elevations Administration | Bau Design Architects | 17/01/2021 |
| 21011 SK70 | Elevations 3D Images | Bau Design Architects | 17/01/2021 |

(D) 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 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 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.

3.3 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to commencement of the use and at the rate applicable at the time of payment.

3.4 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.

3.5 Waste Management

The applicant/developer/operator shall ensure there is no on-site disposal of refuse associated with the approved use unless such refuse is disposed of in refuse bins provided in accordance with the following:

- (i) No refuse is to be stored on site outside the refuse bins at any time.
- (ii) On site refuse storage area for all refuse bins must be provided and be screened from view from adjoining properties and road reserve by a one (1) metre wide landscaped screening buffer, 1.8m high solid fence or building.

3.6 Bushfire Management

3.6.1 The development must be provided with a minimum 5,000 litres of water storage for firefighting purposes. The water storage can comprise of:

- (i) a separate tank; or
- (ii) a reserve section in the bottom part of the main water supply tank; or
- (iii) a dam; or
- (iv) a swimming pool.

Where a tank is provided, it must be fitted with standard rural fire brigade fittings and an adjacent hardstand area for heavy vehicles.

3.6.2 A Bushfire Management Plan, incorporating evacuation procedures for patients and staff, must be prepared to the satisfaction of Council's delegated officer. The approved use must comply with the requirements of the Management Plan at all times.

3.7 Signage

No advertising material associated with the approved use is permitted on-site (where visible from the Kennedy Highway) or along any part of the frontage of the site. Address signage in addition to the standard rural address post is permitted.

3.8 Staff must be present on-site 24 hours a day, seven (7) days per week to supervise patients. The direct contact phone number of facility staff must be made available to all neighbouring property owners within a one (1) kilometre radius of the site in order to assist with the reporting of any antisocial behavior.

3.9 The use of amplified music or PA systems are not permitted on-site at any time.

4. Infrastructure Services and Standards

4.1 Stormwater Drainage/Water Quality

4.1.1 The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.

4.1.2 All stormwater drainage concentrated by the development must be collected from site and discharged to an approved legal point of discharge.

4.2 Car Parking/Internal Driveways

A designated car parking area must be provided on-site and be of a size that can accommodate 16 vehicles, including one (1) designated disabled parking space. Individual parking bays are not required to be line marked.

The designated car parking area and internal driveway network servicing the development (as shown on the approved plans) must be constructed with compacted gravel to a minimum depth of 100mm and be appropriately drained prior to the commencement of the use, and maintained for the life of the development, to the satisfaction of Council's delegated officer.

4.3 Landscaping

Prior to the commencement of the use, the applicant / developer must prepare and submit a landscape plan in accordance with Planning Scheme Policy 6 for consideration and approval by Council's delegated officer. The landscape plan must include the following:

- (i) A minimum two (2) metre wide landscape buffer along the Kennedy Highway frontage of the site extending from the south-east corner of the site for a length of 165m (excluding the access driveway); and
- (ii) A minimum two (2) metre wide landscape buffer along the southern boundary of the site extending from the south-east corner of the site for a length of 90 metres.

Landscaping associated with points (i) and (ii) should include ground cover, shrubs and trees that will grow to form an effective visual buffer of no less than three (3) metres in height.

All landscaping should be established at the commencement of building works in order to be substantially established at the commencement of the use. All landscape buffers must be mulched, irrigated and maintained for the life of the development and to the satisfaction of Council's Delegated Officer.

4.4 Lighting

Where outdoor lighting is proposed to be installed, it must be designed and installed so as to not cause nuisance to any neighbouring property or Kennedy Highway user.

Illumination resulting from direct, reflected or other incidental light emanating from the subject site does not exceed eight (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.

4.5 Water Supply

The development must be provided with a potable water supply that can satisfy the standards for drinking water set by the Australian Drinking Water Guidelines 6, 2011 (National Health and Medical Research Council and the National Resource Management Ministerial Council).

All non-potable sources of water must be sign posted "non-potable water supply" or similar in order to deter consumption.

4.6 On-Site Wastewater Management

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

(E) ASSESSMENT MANAGER'S ADVICE

(a) Food Premises

Premises proposed for the storage and preparation, handling, packing or service of food must comply with the requirements of the Food Act 2006.

(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

(F) REFERRAL AGENCY CONDITIONS

Department of State Development, Infrastructure, Local Government and Planning conditions dated 10 March 2021.

(G) 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);

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

- Development Permit for Building Work
- Compliance Permit for Plumbing and Drainage Work

(I) OTHER APPROVALS REQUIRED FROM COUNCIL

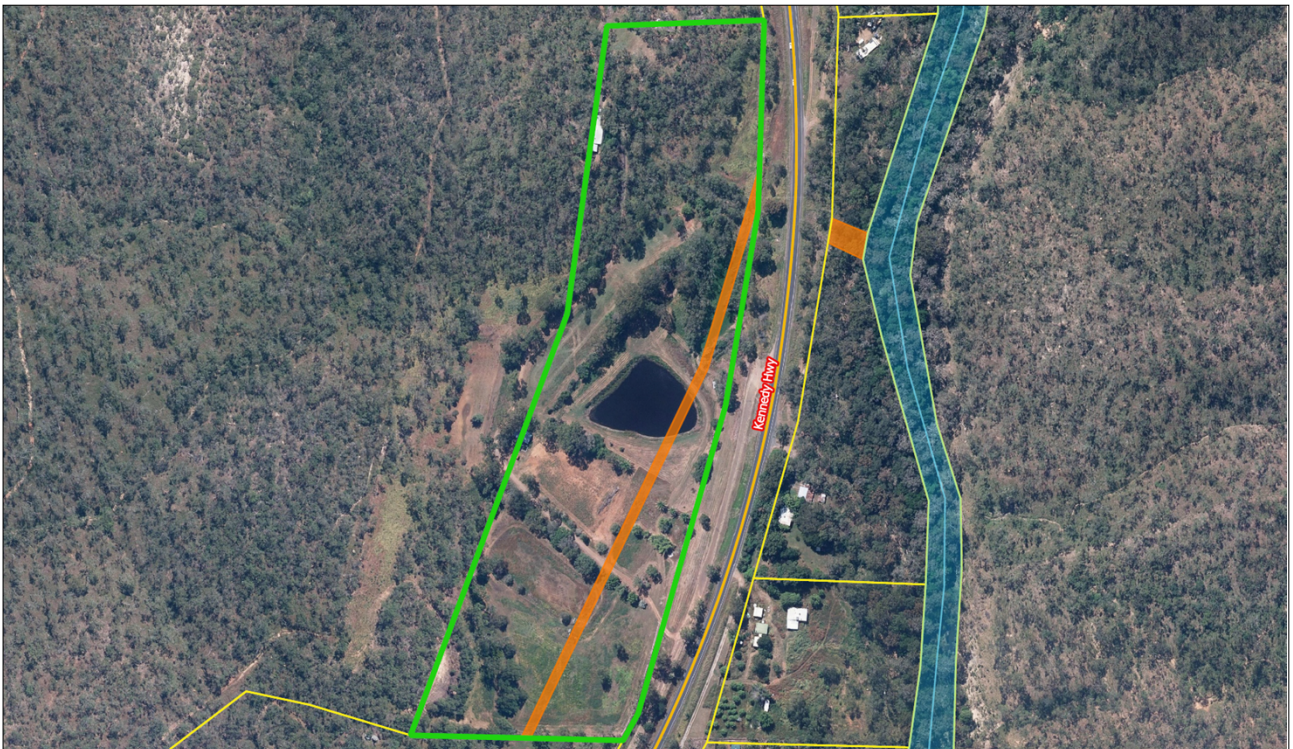
- Nil

THE SITE

The subject site is situated at 3338 Kennedy highway, Mareeba and is more particularly described as Lot 2 on RP747563. The site is irregular in shape with a total area of 8.847 hectares and is zoned *Rural* under the Mareeba Shire Council Planning Scheme 2016. The site contains 600 metres of frontage to the Kennedy Highway which is constructed to a bitumen sealed highway standard. Access is gained directly from the Kennedy Highway.

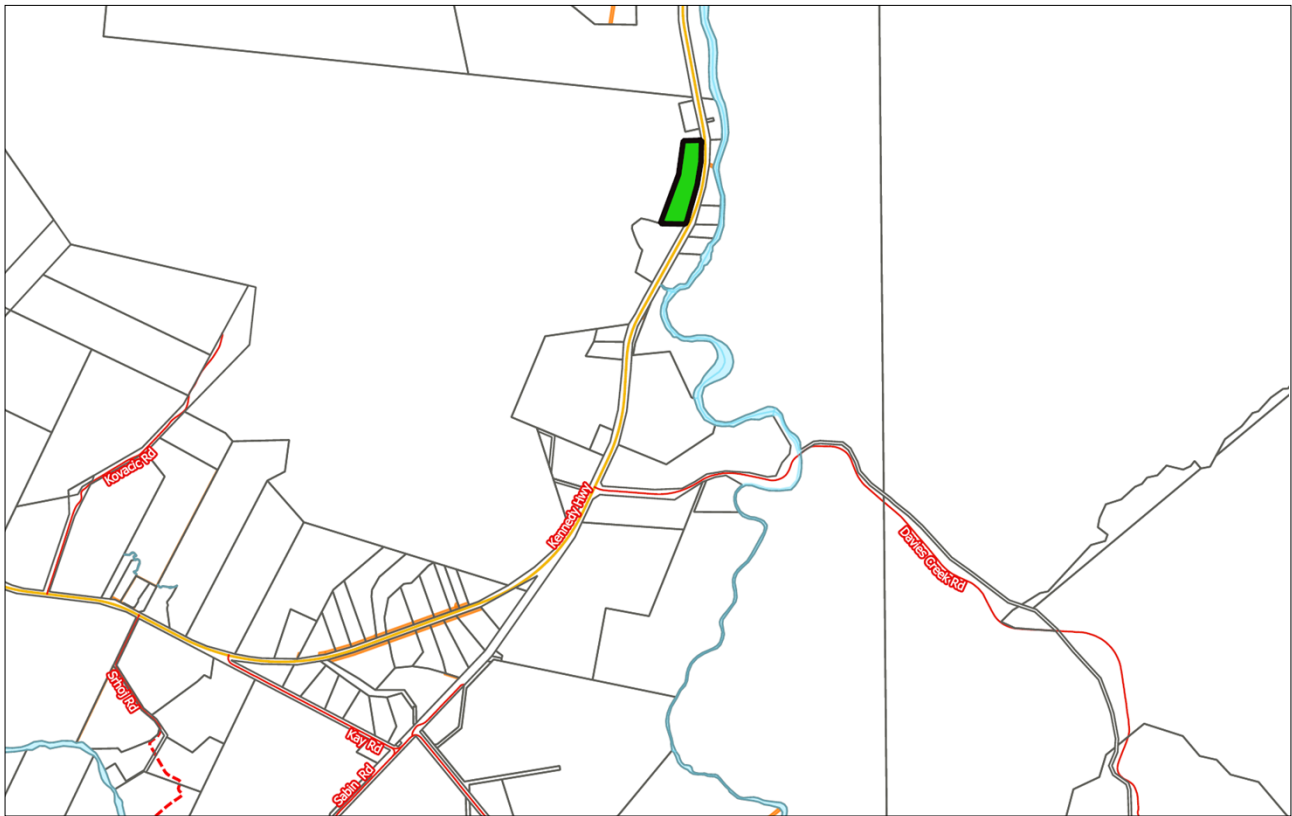
The site is improved by a dwelling in the north-west corner and few small sheds. A water storage dam associated with the site's former use as an aquaculture facility exists in the centre of the site with the other dams having been filled in. An electricity supply easement runs through the property generally in north - south direction.

All surrounding lots are zoned Rural and are predominately rural lifestyle lots.



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 - Rooming Accommodation (Residential Rehabilitation Facility) in accordance with the plans shown in **Attachment 1**.

The application includes the following details about the proposed rehabilitation facility:

"Mission Australia advises that the project and programs are similar in nature to the Triple Care Farms Program in Robertson, where the facility will seek to accommodate adult clients rather than young people and this facility will seek to incorporate 'Cognitive Behaviour Therapy' as opposed to the Triple Aged Care Farm where they do 'Dialectical Behaviour Group Therapy'. Other than these minor differences, the facilities are generally similar in nature.

The land and the position of the development area internally are considered suitable to accommodate the establishment of such a facility and Mission Australia will seek to provide residential accommodation for up to ten (10) clients, with ancillary health services to support

a 12-week holistic rehabilitation program followed by a 6-month community aftercare program.

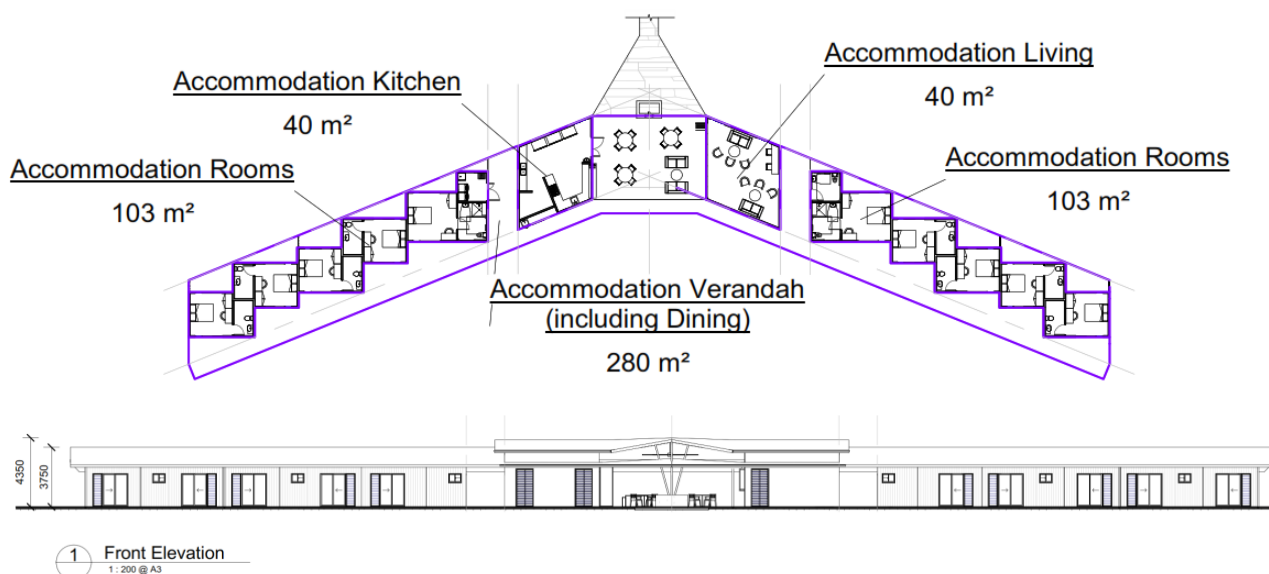
Once operational, the development will seek to integrate vocational programs to aid in the rehabilitation of residents. These programs can include, but are not limited to:

- *Therapeutic program: Providing a dialectical behaviour group therapy program modified for young people with substance dependence and an individual counselling program;*
- *Training: Development of farming and landscape skills, including learning to use farm equipment and machinery;*
- *Creative arts: Painting and sculpture and possible small-scale music classes;*
- *Individual case management: Support for young people from the point of making a referral to the program, through the 12-week rehabilitation and the 6-month community aftercare program; and*
- *Residential living skills: Building living skills including personal care, budgeting, cooking and household maintenance.*

The development will involve an entry driveway and car parking area to be extended from the existing access off the Kennedy Highway and the construction of Two (2) new buildings, being the Main Building and Offices, of which are outlined in greater detail below:

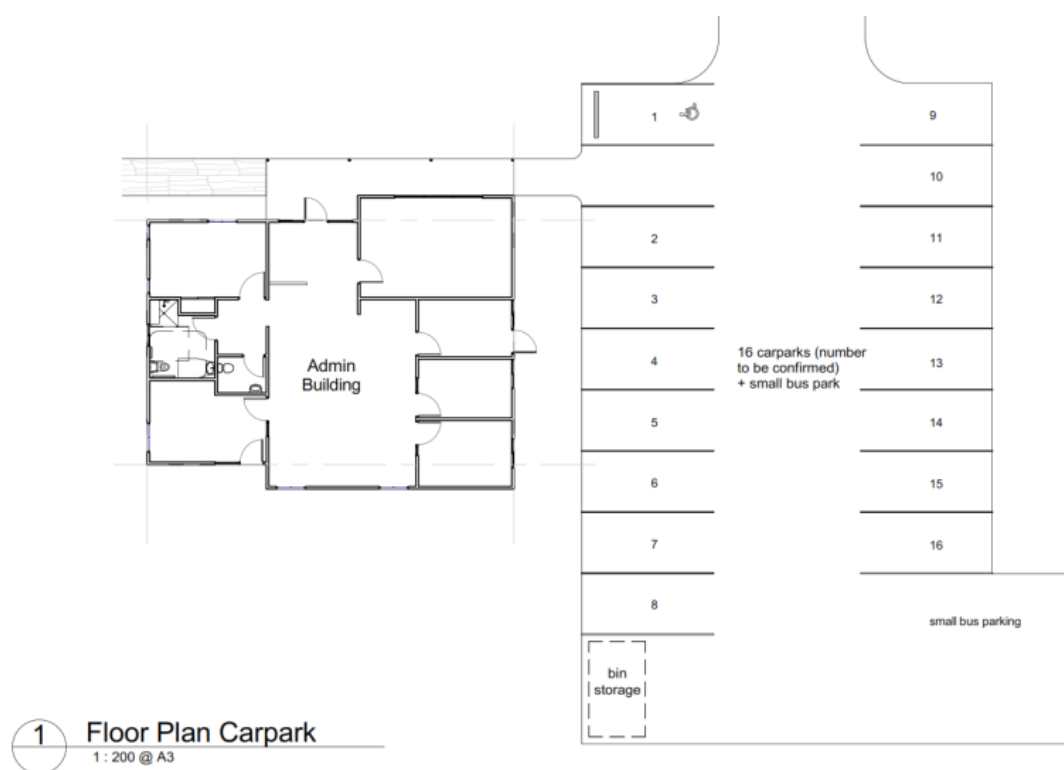
Main Building (Residential Rehabilitation Facility)

- Commercial Grade Kitchen;
- A Servery Area which adjoins the open-air dining/living space;
- Ten (10) ensuite rooms with private decks and disabled access (two (2) of these rooms also include bathrooms able to cater for persons with disabilities); and
- Media/Lounge Room;
- Storage areas for kitchen/linen supplies (lockable);
- Laundry area; and
- Communal unisex male/female toilets.



Administration Building

- *Open Plan Office accommodating between 6-8 people;*
- *Large meeting room;*
- *Counselling room;*
- *Reception room;*
- *Staff Toilet;*
- *Staff Kitchen;*
- *Single Staff Sleeping Quarters;*
- *Small Manager's Office; and*
- *Coordinators/team-leader's office (capacity for 3-4 Staff)*

**REGIONAL PLAN DESIGNATION**

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

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

PLANNING SCHEME DESIGNATIONS

| | |
|----------------------|--|
| Strategic Framework: | Land Use Categories <ul style="list-style-type: none"> • Rural Other Transport Elements <ul style="list-style-type: none"> • State Controlled Road • Principal Cycle Routes |
| Zone: | Rural Zone |
| Overlays: | <ul style="list-style-type: none"> • Bushfire Hazard Overlay • Hill & Slope Overlay • Transport Infrastructure 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 |
|------------------------------|--|---|---|
| Rooming accommodation | <p><i>Premises used for the accommodation of one or more households where each resident:</i></p> <ul style="list-style-type: none"> • <i>has a right to occupy one or more rooms</i> • <i>does not have a right to occupy the whole of the premises in which the rooms are situated</i> • <i>may be provided with separate facilities for private use</i> • <i>may share communal facilities or communal space with one or more of the other residents.</i> <p><i>The use may include:</i></p> <ul style="list-style-type: none"> • <i>rooms not in the same building on site</i> • <i>provision of a food or other service</i> • <i>on site management or staff and associated accommodation.</i> <p><i>Facilities includes furniture and equipment as defined in the Residential Tenancies and Rooming Accommodation Act 2008</i></p> | Boarding house, hostel, monastery, off-site student accommodation | Hospice, community residence, dwelling house, short-term accommodation, multiple dwelling |

RELEVANT PLANNING INSTRUMENTS

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

(A) Far North Queensland Regional Plan 2009-2031

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

(B) State Planning Policy

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

(C) Mareeba Shire Council Planning Scheme 2016

Strategic Framework

The following strategic framework Elements and Strategic/Specific Outcomes are relevant to the proposed development:

3.3 Settlement pattern and built environment

3.3.11 Element—Rural areas

3.3.11.1 Specific outcomes

- (1) *Rural areas* include rural activities and land uses of varying scale, consistent with surrounding land use, character and site conditions.

Comment

It is not uncommon for accommodation and health care facilities to be established within the Rural zone where a relaxed rural setting is sought for the benefit of the clients/patients as well as the operation of the facility. The proposed rehabilitation facility incorporates a treatment program that includes outdoor activities such as gardening, maintenance and horticulture, this coupled with a desire to site the facility well away from any urban centres formed the reasoning behind the site selection within the Rural zone as outlined in the application.

The scale of development proposed is not unreasonable and is not inconsistent in scale with other accommodation and health care based developments within the Shire's rural areas.

The development complies with specific outcome (1).

- (3) *Tourism, rural industry, intensive animal industries and outdoor recreation facilities are developed in the rural area in a way which:*
- (a) *does not impede or conflict with agricultural activities and production; and*
 - (b) *does not compromise rural character and scenic qualities; and*
 - (c) *does not adversely impact on ecological and biodiversity values.*

Comment

The proposed development will not impact on any known agricultural activity or rural industry as the immediate surrounding rural area is limited to livestock grazing and rural lifestyle uses. As discussed for (1) above, the scale of development proposed is not significant and is not likely to impact on the rural character or scenic qualities of the area. A condition will be attached to any approval requiring landscape buffering be provided along a portion of the sites frontage to help privatise the development and help screen it from view of Kennedy Highway users and residents on the eastern side of the Highway. The development will not impact on any ecological or biodiversity values.

The development complies with specific outcome (3).

- (7) *Rural areas preserve lands for future uses beyond the life of the planning scheme.*

Comment

Given the nature and scale of the proposed development, the Rural zone is considered an appropriate location for the rehabilitation facility (as discussed for specific outcome (1) above). The subject site has an area of just 8.8 hectares so has questionable agricultural viability in its current configuration and is considered more a rural lifestyle allotment.

The proposed development will not compromise specific outcome (7).

3.5 Community identity and diversity

3.5.1 Strategic outcomes

- (5) *A range of community facilities, that meet the needs of the Mareeba Shire community, is provided, maintained and enhanced. Facilities that cater for cultural events, community activities, sports and recreation are sensitively developed and integrated into the surrounding area. The range and location of community facilities caters for a wide cross section of interests and users in dispersed locations.*
- (6) *Easily accessible health care services and facilities are provided that meet community needs. Public health and safety is fostered in the design of the built environment in Mareeba Shire, including by promoting surveillance, activity and recreation.*

Comment

The proposed development is for a small scale (10 persons) voluntary admission rehabilitation facility. Although many patients will be coming from outside the Shire, this facility will likely

benefit residents of the Mareeba Shire that have drug and alcohol dependency problems whom wish to enter the proposed rehabilitation program.

The development complies with strategic outcomes (5) and (6).

3.5.7 Element—Health

3.5.7.1 Specific outcomes

- (1) *The establishment of new medical services and facilities, particularly in small communities with limited access to healthcare, is facilitated.*

Comment

The proposed development is for a small scale (10 persons) voluntary admission rehabilitation facility. Although many patients will be coming from outside the Shire, this facility will likely benefit residents of the Mareeba Shire that have drug and alcohol dependency problems whom wish to enter the proposed rehabilitation program.

The development complies with specific outcome (1).

3.6 Transport and infrastructure

3.6.2 Element—Road network

3.6.2.1 Specific outcomes

- (1) *The shire's road network is upgraded and extended to provide for the safe, efficient movement of vehicles and to cater for new development.*
- (4) *Development provides off-street parking, loading and manoeuvring areas where possible and practicable.*

Comment

The proposed development will be accessed directly from the State controlled Kennedy Highway. The Department of Transport and Main Roads where a referral agency and have conditioned access upgrade requirements.

Internally, the gravel sealed driveway and parking area proposed will be adequate to service the scale of development proposed.

The development complies with specific outcomes (1) and (4).

Relevant Developments Codes

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

- 6.2.9 Rural zone code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.8 Hill and slope overlay code
- 8.2.12 Transport infrastructure overlay code
- 9.3.1 Accommodation activities code
- 9.4.2 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 zone code | <p>The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcomes are provided) contained within the code, apart from the following:</p> <ul style="list-style-type: none"> Acceptable Outcome AO2.1 <p>In this instance, it is considered that the proposed development can satisfy higher order Performance Outcome PO2 - Refer to planning discussion section of report. Further commentary is also provided for Performance Outcomes PO5 and PO6.</p> |
| Bushfire hazard overlay code | <p>The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcomes are provided) contained within the code, apart from the following:</p> <ul style="list-style-type: none"> Acceptable Outcome AO2 Acceptable Outcome AO8 <p>In this instance, it is considered that the proposed development can satisfy higher order Performance Outcome PO2 and PO8 - Refer to planning discussion section of report.</p> |
| Environmental significance overlay code | <p>The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcomes are provided) contained within the code.</p> |
| Hill and slope overlay code | <p>The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcomes are provided) contained within the code.</p> |
| Transport infrastructure overlay code | <p>The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcomes are provided) contained within the code.</p> |
| Accommodation activities code | <p>The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcomes are provided) contained within the code.</p> |
| Landscaping code | <p>The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcomes are provided) contained within the code.</p> |

| | |
|---|---|
| Parking and access code | The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcomes are provided) contained within the code. |
| Works, services and infrastructure code | The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcomes are 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 development works be designed and constructed in accordance with FNQROC Development Manual standards.

REFERRAL AGENCY

The application triggered referral to Department of State Development, Infrastructure, Local Government and Planning of as a Referral Agency.

That Department advised in a letter dated 10 March 2021 that they require the conditions to be attached to any approval (**Attachment 2**).

Internal Consultation

Nil

PUBLIC NOTIFICATION

The development proposal was placed on public notification from 18 February 2021 to 10 March 2021. The applicant submitted the notice of compliance on 11 March 2021 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

4 submissions were received, all of which objected to the proposed development and are included in **Attachment 3**.

The grounds for objection are summarised and commented on below:

| Grounds for objection | Comment |
|---|---|
| The development will impact on the amenity of the surrounding Rural zone. | The proposed development is a small scale (10 persons) drug and alcohol rehabilitation facility for voluntary admission patients only. The scale of development proposed is not inconsistent with other non-rural developments that have occurred throughout Mareeba Shire's rural areas such as holiday/tourist parks, other healthcare retreats, churches, zoo's etc. A condition will be attached to any approval requiring the planting of landscape buffering along a portion of the front boundary to screen the development from view from residential |

| | |
|---|---|
| | land uses on the eastern side of the Highway as well as Highway users. The development will not generate a noticeable amount of traffic, nor will any amplified music or loudspeakers be permitted on-site (to be conditioned). No dust, odour or significant light is envisaged. It is unlikely the development will impact on the amenity of surrounding properties. |
| The proposed drug and alcohol rehabilitation facility will create a greenfield (new) demand for drugs in the immediate and broader area of the facility. | This is not a relevant town planning concern and does not form part of the assessment criteria contained within the Planning Scheme. Refer to Mission Australia's response to submitter concerns included in Attachment 4 . The facility is voluntary admission only. If any breaches occur, the patients involved are removed from the program and site immediately. |
| The chosen site is not fit for purpose. A more remote site should be chosen so as to minimise the risk of patients straying from the property or outside influences. | Council officers are required to assess the proposed use over a selected allotment/s as included in the development application. There is no assessment criteria contained within the Planning Scheme that dictates the level of "remoteness" that must be achieved for rehabilitation facilities. Refer to Mission Australia's response to submitter concerns included in Attachment 4 . |
| Clients/patients from the proposed rehabilitation facility will stray from the property and trespass on surrounding properties which may lead to property theft and other violent crime occurring. | This is not a relevant town planning concern and does not form part of the assessment criteria contained within the Planning Scheme. Criminal behaviour associated with a development is a Police matter. Council cannot anticipate that any patients of the facility will commit crimes on properties surrounding the site. Refer to Mission Australia's response to submitter concerns included in Attachment 4 . The facility is voluntary admission only, if patients wish to leave, they can leave on their own accord. If any breaches occur, the patients involved are removed from the program and site immediately. |
| <i>"Queensland Local Government Act 2009 Part 12 (Responsibilities of councillors) requires that the councillors must represent the current and future interests of the residents of the local government area. This proposal has an elevated risk of significant future negative change to the amenity of the area. In its proposed location, it also carries significant additional overt and latent risks for residents and the broader area. There is no upside to this proposal for residents of the area, only negative fallout and increased risk exposure. Therefore, the proposal is NOT in the current or future interests of the residents and thus according to the Act, Councillors therefore have a legal responsibility to veto the proposal in its current location."</i> | The application has been assessed for compliance against all relevant provisions contained within the Planning Scheme and does not conflict with any part of the Planning Scheme. The Queensland Local Government Act 2009 Part 12 (responsibilities of Councillors) does not form part of the assessment by Council officers. To be considered by Councillors. |
| <i>"As consultation proceeded with the representative of the proposed facility operator, it was noted that the retreat/rehab facility would operate under an 'open' policy, in other words, residents/patients would be free to come and go at whim. This adds to the highly invidious circumstances at play, specifically, that residents/patients have a statistically high probability of addiction relapse coupled with unfettered egress of the facility. In other words, there is a statistically high probability of persons</i> | Refer to Mission Australia's response to submitter concerns included as Attachment 4 . |

| | |
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| <i>leaving and entering the facility whilst intoxicated to varying degrees."</i> | |
| <i>"There are some precedents which, in part, serve to illustrate. The Kuranda Youth Facility/Rehab Centre operated by NEATO was an analogous example. During the time of its operation, an increase in theft and violent crime occurred. These increases in theft and violent crime was not limited to the boundary of that property but also throughout the broader area. That particular facility was there fore ultimately shut down. Shanty Creek is analogous, seeing theft and violent crime increases not just in the instant area but also in the extended areas of Bibbohra Road, Gilmore Road and Malone Road. Therefore, to varying degrees, history and precedent shows us that facilities which deal in similar fields have a high propensity for changing the amenity of an area in a negative way and increasing risk exposure for residents."</i> | <p>It is understood the Kuranda Youth Facility was not a voluntary admission facility. Patients are not forced to remain at the proposed rehabilitation facility. If they wish to leave, they will be immediately transported off the property by staff. This will decrease the risk of patients wandering off the site into the surrounding area.</p> <p>It is understood that there has been no recent crime occurring in proximity to the Shanty Creek Facility.</p> <p>Refer to Mission Australia's response to submitter concerns included as Attachment 4.</p> |
| <i>"However the current location chosen is not fit for purpose and indeed brings risk. Aside from the real risk of significant change to the amenity of the area, the location alongside the main arterial thoroughfare into Mareeba creates added risk. Specifically, the increase in density of slowing or stopping traffic entering/exiting that facility at a point of the Kennedy Highway which is a high speed zone (100 kph) creates heightened risk. There is a school children bus stop some 1200m along the road, bearing in mind the statistical probability of addiction relapse and therefore the compounded risk of impaired driving, all these factors come into play to heighten risk both for residents and facility residents/patients themselves, given that the facility is located immediately on a major arterial road."</i> | <p>The application was referred to the Department of Transport and Main Roads as a Referral Agency. The Departments major consideration for any development on a State controlled road is safety. The Department has conditioned access upgrades as part of their Referral Agency Response.</p> <p>Refer to Mission Australia's response to submitter concerns included as Attachment 4. It is unreasonable to assume substance impaired drivers will not be entering or exiting the facility.</p> |
| Councils Enterprise Risk Management Policy and Framework should be considered. | Councils Enterprise Risk Management Policy is not relevant to the assessment of the development application. The application has been assessed for compliance against the Mareeba Shire Council Planning Scheme 2016 and is not in conflict with any relevant aspect of the Planning Scheme. |
| The proposed site has no fencing. The lack of fencing and the sites proximity to the Kennedy Highway could be a safety concern for patients going though withdrawal and depression. | <p>Patients of the facility will be appropriately monitored. Security fencing is not considered reasonable or relevant. The Facility does not include mandatory attendance and is not proposed to be operated like a correctional facility. If a patient wishes to leave, they will be escorted from the property by staff.</p> <p>Refer to Mission Australia's response to submitter concerns included as Attachment 4.</p> |
| A drug and alcohol rehabilitation facility where clients can come and go as they please will not create a safe environment for neighbours. | Refer to Mission Australia's response to submitter concerns included as Attachment 4 . |
| Approval of such a facility is not conducive to the rural/farming lifestyle. If approved, the | The immediate area surrounding the site is not used for agricultural and rural uses are limited to livestock grazing. The |

| | |
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| proposed will set a precedent for other rural zoned areas. | development will not impact on rural uses. Given the nature and scale of the development, being small scale (10 patients only) and a voluntary admission facility (patients are required to "want to be there"), it is unlikely the facility will cause any unacceptable loss of amenity. Landscape buffering will be conditioned to ensure the facility is screened from view from Kennedy Highway users and residents of the lifestyle lots on the eastern side of the Highway. |
| The site is in proximity to a school bus pickup/drop off point. The development will put children at risk. | This is a criminal concern and is not a relevant town planning matter. Patients attending the program will not be under the influence of drugs and alcohol while at the facility, and they are not forced to remain on site if they wish to exit the program. Refer to Mission Australia's response to submitter concerns included as Attachment 4 . |
| Will this development set a precedent for other similar developments within the Rural zone. | No. Every development application is assessed on its individual merits. |

Submitters

| Name of Principal submitter | Address |
|-------------------------------|---|
| 1. Chris Hermann | 76 Spena Road, Mareeba QLD 4880 |
| 2. Francesco Barbieri | 171 Spena Road, Koah QLD 4881 |
| 3. Martin & Tracey Lobert | 4 Spena Road, Mareeba QLD 4880 |
| 4. Felix & Kathryn Buchgraber | 3462 Kennedy Highway, PO Box 370 Mareeba QLD 4880 |

PLANNING DISCUSSION

Non-compliance with assessment benchmarks contained within the Rural zone code and Bushfire hazard overlay code are discussed below:

6.2.9 Rural zone code

Siting, where not involving a dwelling house

PO2

Development is sited in a manner that considers and respects:

- (a) the siting and use of adjoining premises;*
- (b) access to sunlight and daylight for the site and adjoining sites;*
- (c) privacy and overlooking;*
- (d) air circulation and access to natural breezes;*
- (e) appearance of building bulk; and*
- (f) relationship with road corridors.*

AO2.1

Buildings and structures include a minimum setback of:

- (a) 40 metres from a frontage to a State-controlled road; and*
- (b) 10 metres from a boundary to an adjoining lot.*

Comment

The proposed administration building (only) will be sited just 27 metres back from the Kennedy Highway frontage. Despite not meeting the required 40m setback, given the topography of the site

in relation to the Highway which is cut into a hill adjacent the facility, the encroachment of the smaller administration building into this desired road setback is not likely to significantly impact on road users. The siting of the development will not aesthetically impact on any adjoining properties.

A condition has been attached requiring the planting of landscape buffering along part of the road boundary and the southern boundary which should almost completely screen the development from view of Kennedy Highway users.

The development does not conflict with PO2.

Amenity

PO6

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

- (a) noise;*
- (b) hours of operation;*
- (c) traffic;*
- (d) advertising devices;*
- (e) visual amenity;*
- (f) privacy;*
- (g) lighting;*
- (h) odour; and*
- (i) emissions.*

AO6

No acceptable outcome is provided.

Comment

Noise - The development is not likely to generate any significant noise. The use of amplified music and loudspeakers has been restricted through condition of approval.

House or operation - The proposed use allows for overnight accommodation so will technically operate 24 hours a day. Given the nature and scale of the development, the provision of overnight stays on-site is not likely to cause any amenity impact.

Traffic - The development will not generate a significant amount of traffic.

Advertising devices - No advertising devices are permitted on-site (conditioned).

Visual amenity - The scale of development proposed is not unreasonable. The building design is not unattractive. Landscape buffering has been conditioned along part of the front boundary and the southern boundary which will screen the development from view.

Privacy - The development will be staffed 24 hours a day. Overlooking is not possible given the location of the development. Privacy is not a concern.

Lighting - Standard outdoor lighting conditions have been applied so as to not cause nuisance to adjoining properties.

Odour - The development will not generate odour.

Emissions - The development will not generate emissions.

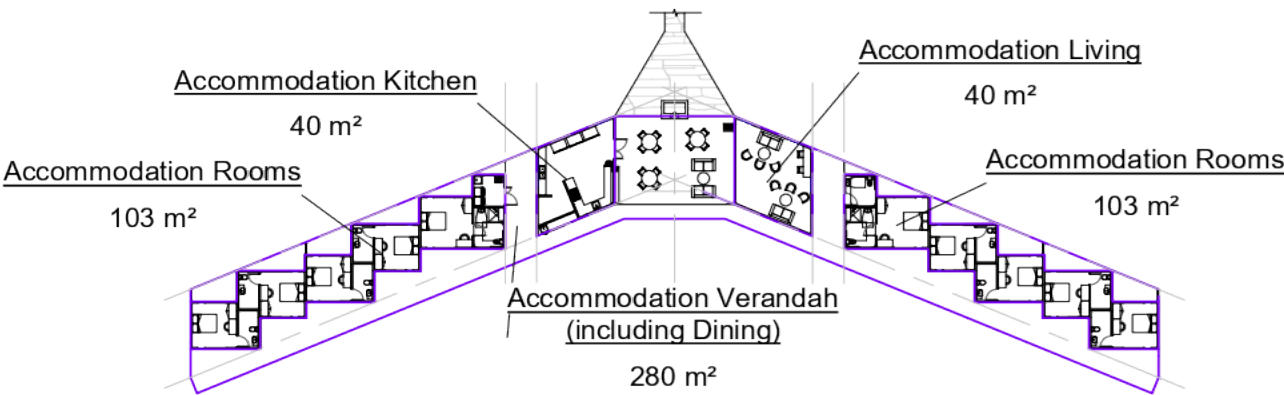
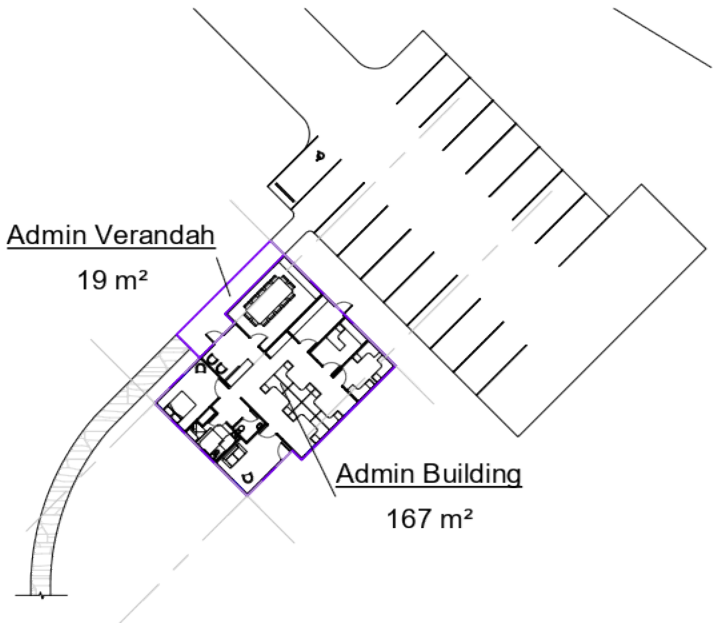
The development complies or will be conditioned to comply with PO6.

Mission Australia

Residential Rehabilitation Facility

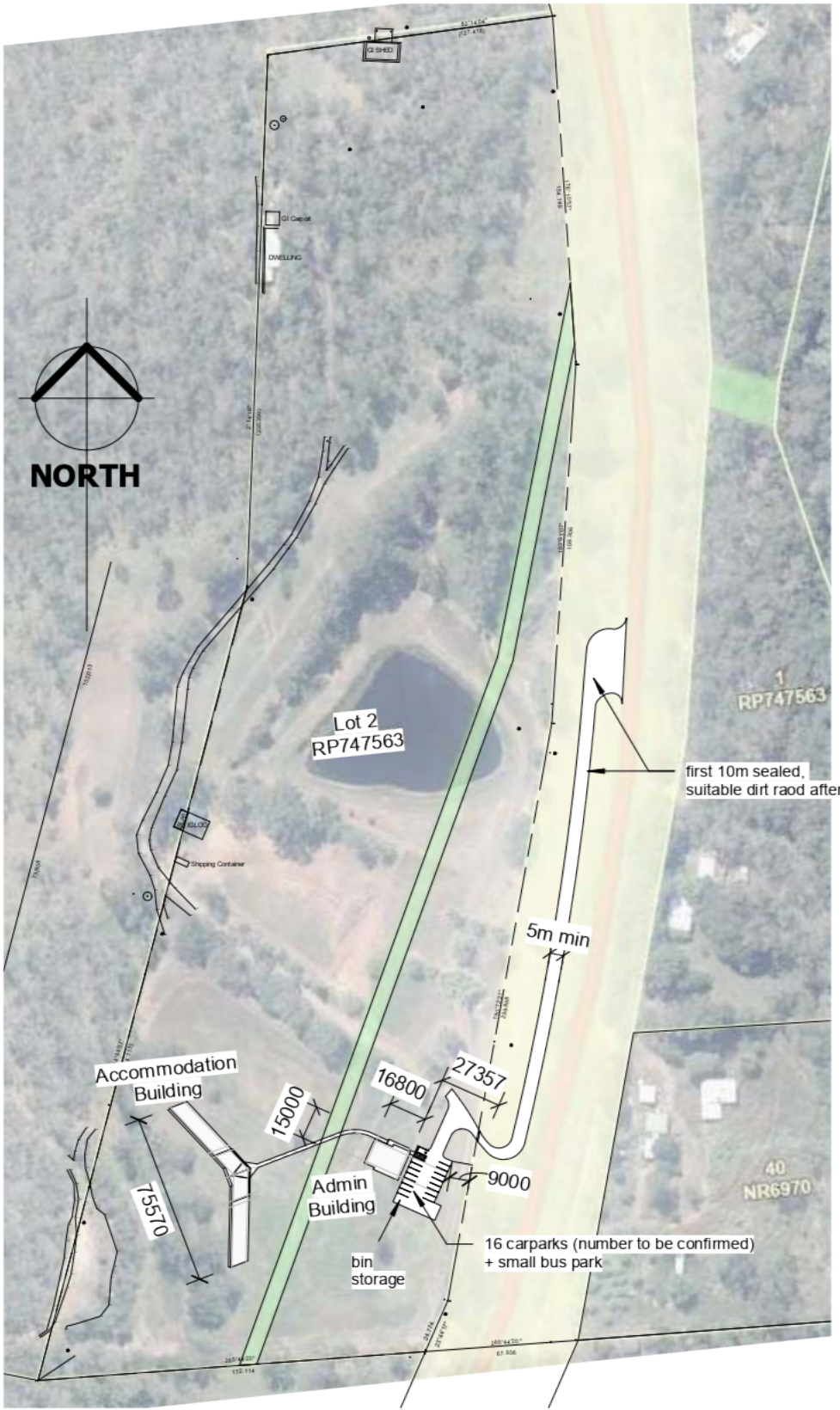
Mareeba, QLD

| Area Schedule | |
|---|--------------------|
| Name | Area |
| Accommodation Kitchen | 40 m ² |
| Accommodation Living | 40 m ² |
| Accommodation Rooms | 103 m ² |
| Accommodation Rooms | 103 m ² |
| Accommodation Verandah (including Dining) | 280 m ² |
| Admin Building | 167 m ² |
| Admin Verandah | 19 m ² |
| | 750 m ² |



2 Area Plan
1 : 500 @ A3

1 Site
1 : 2500 @ A3



Mission Australia

SK00 Cover Sheet & Site Plan

21011

Residential Rehabilitation Facility

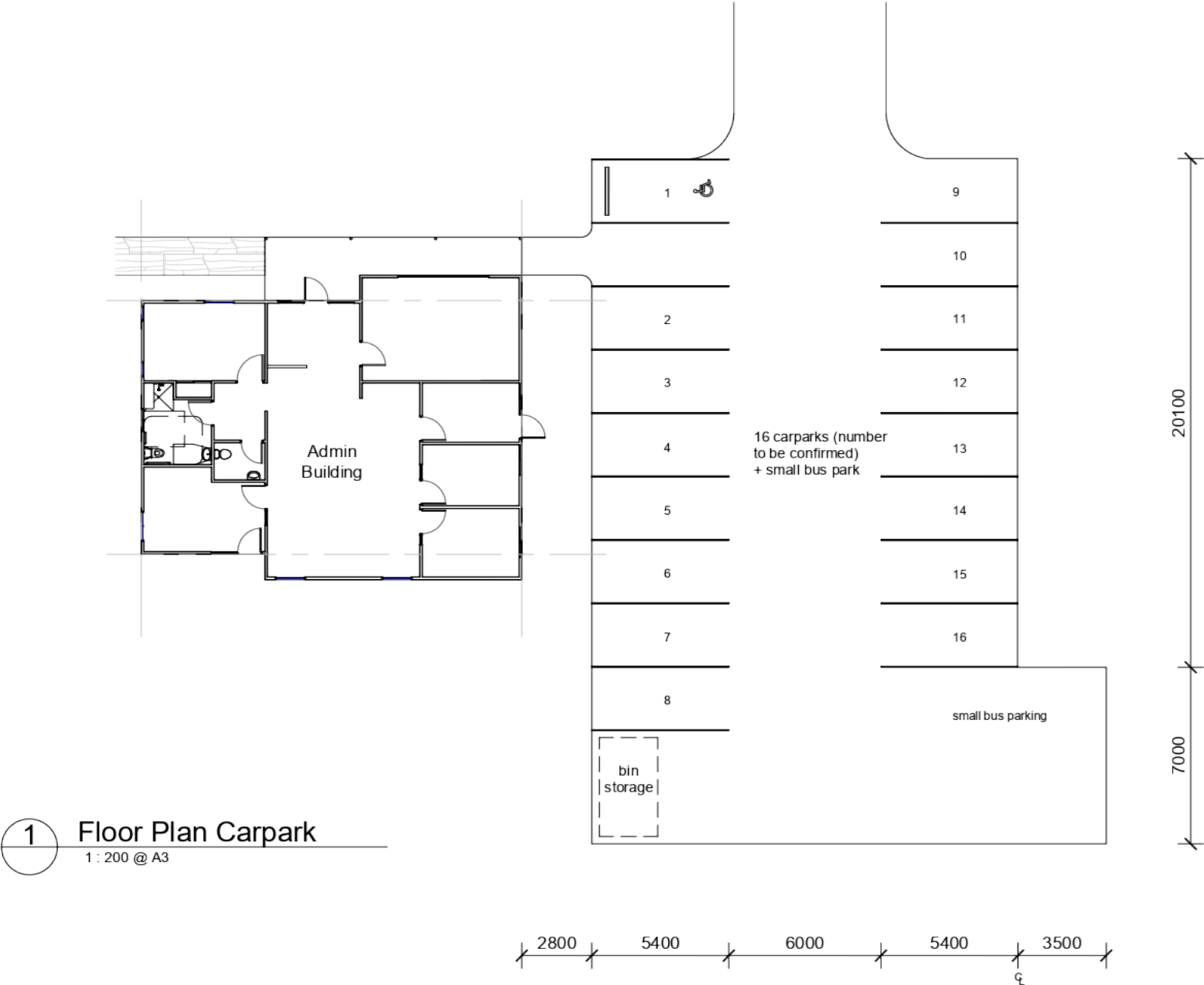
As indicated

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1 Floor Plan Carpark
1 : 200 @ A3

Mission Australia

SK01 Carparking

21011

Residential Rehabilitation Facility

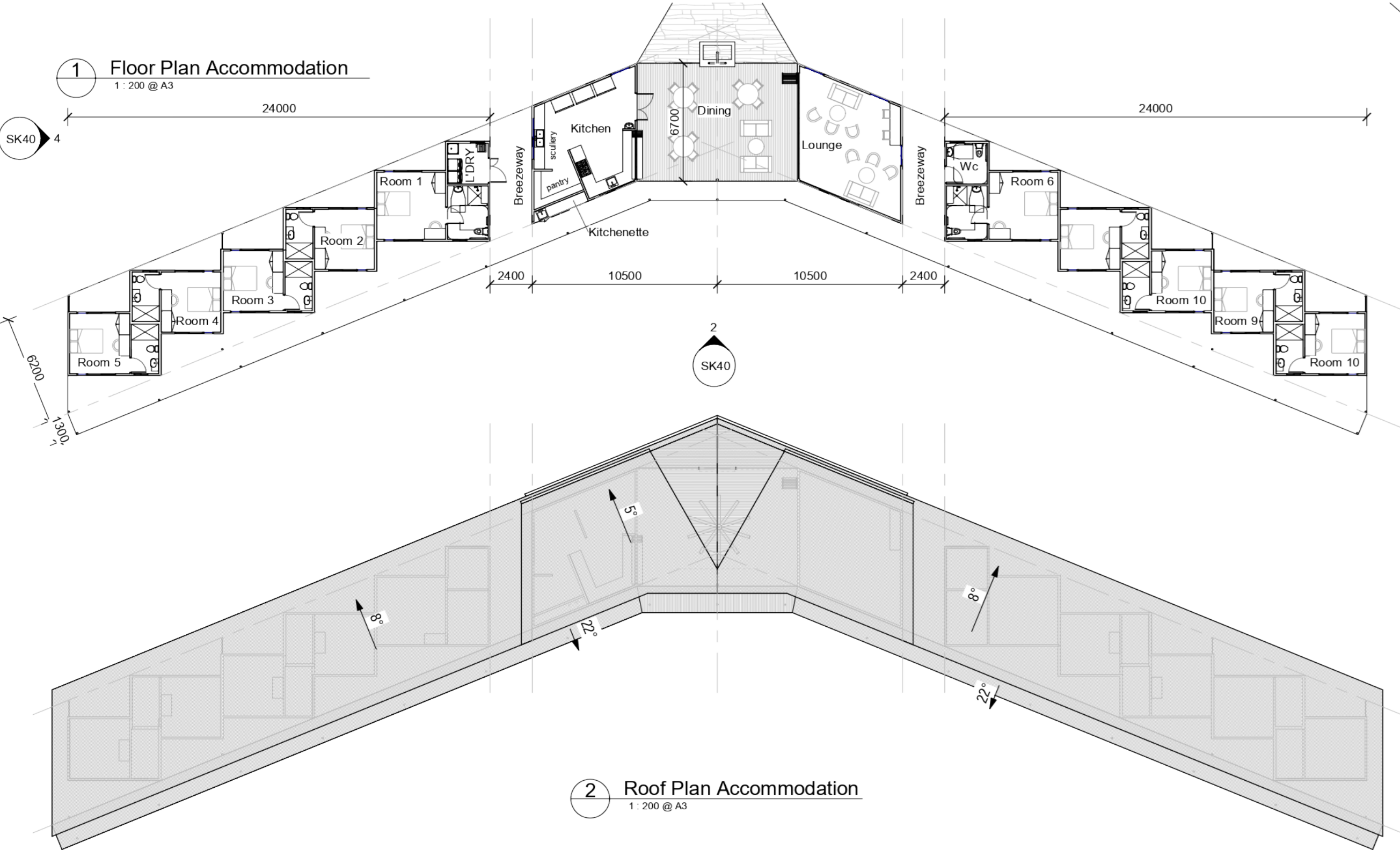
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Mission Australia

SK10 Plans Accommodation

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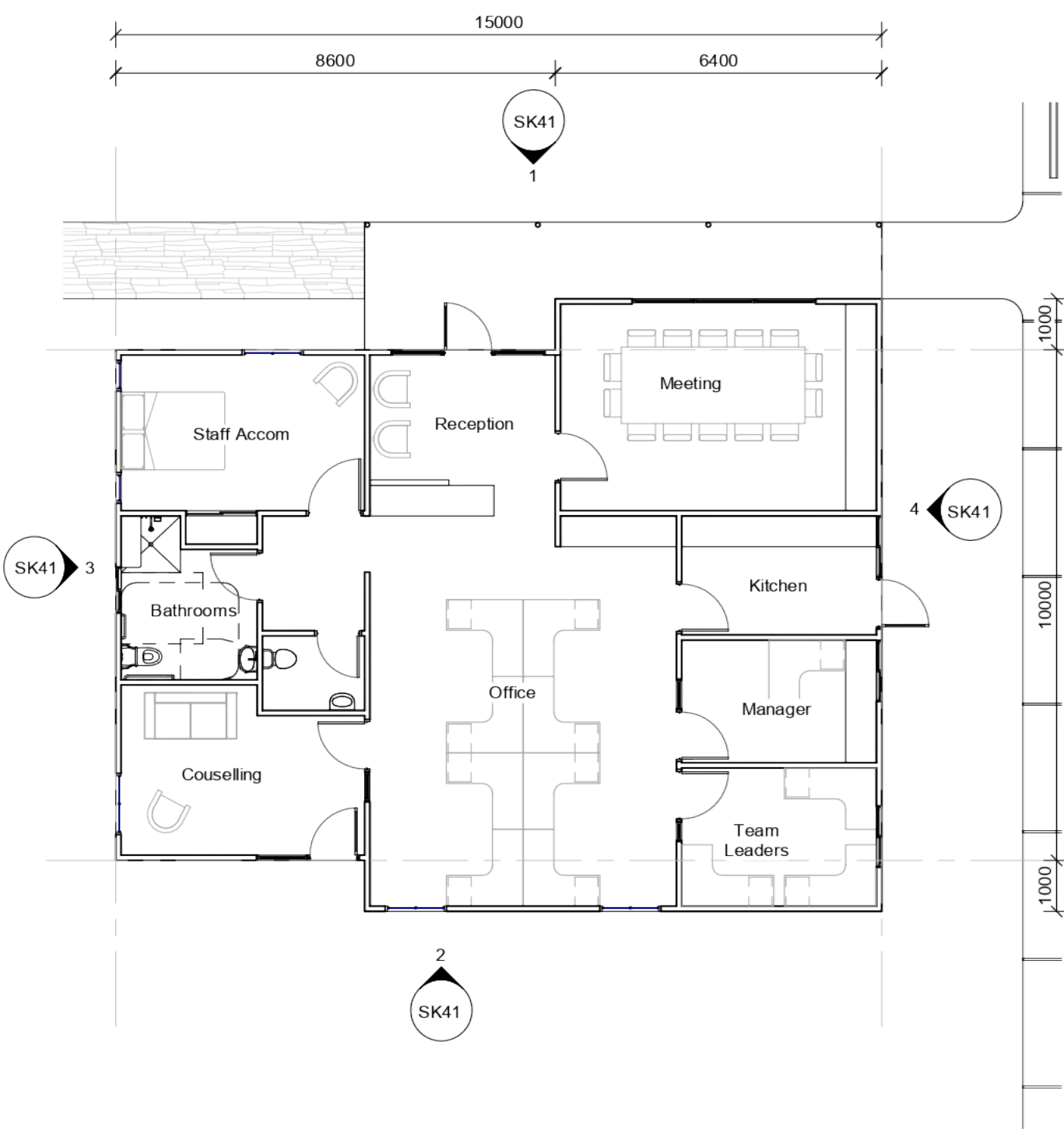
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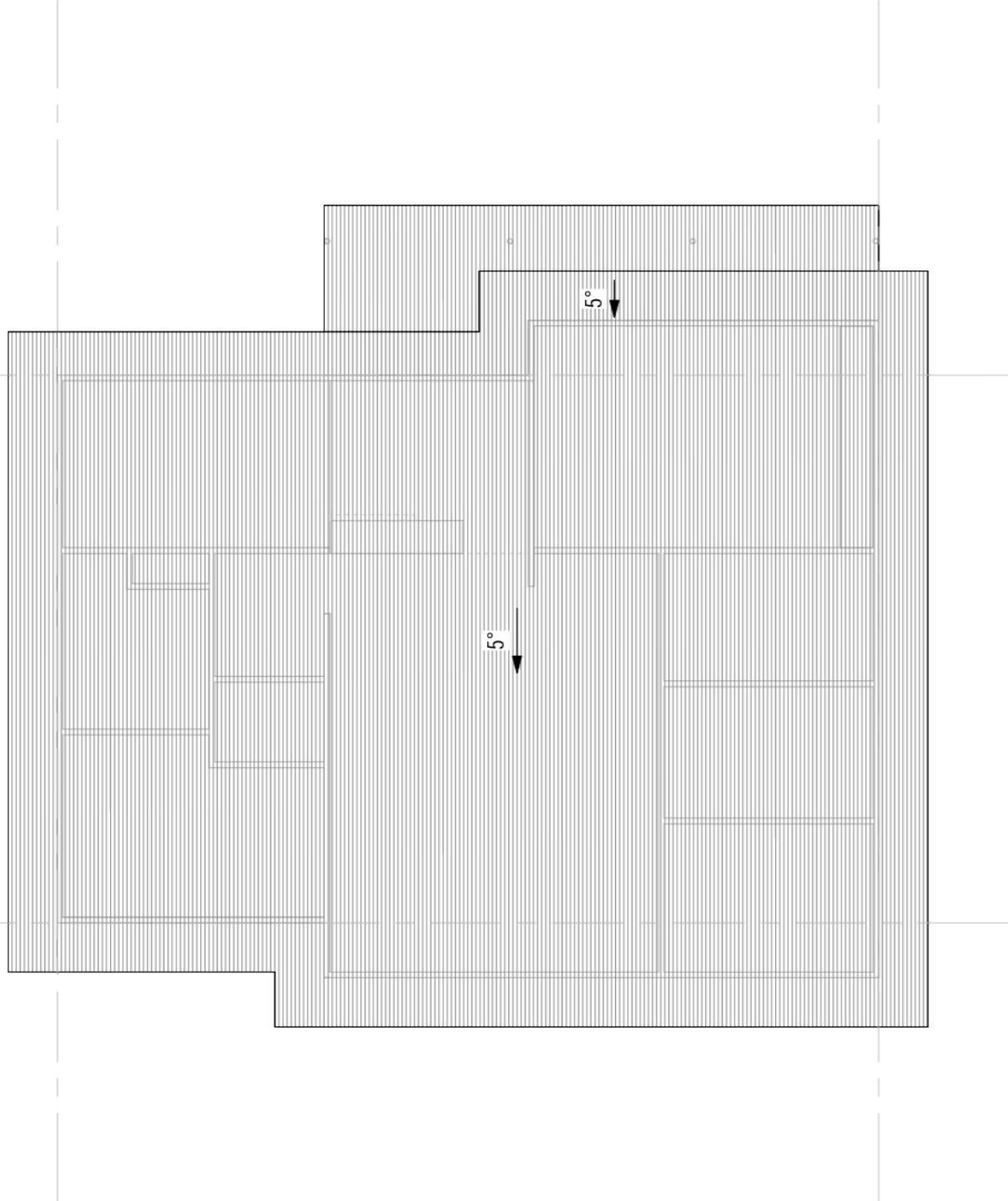
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1 Floor Plan Administration
1 : 100 @ A3



2 Roof Plan Administration
1 : 100 @ A3

Mission Australia

SK11 Plans Administration

21011

Residential Rehabilitation Facility

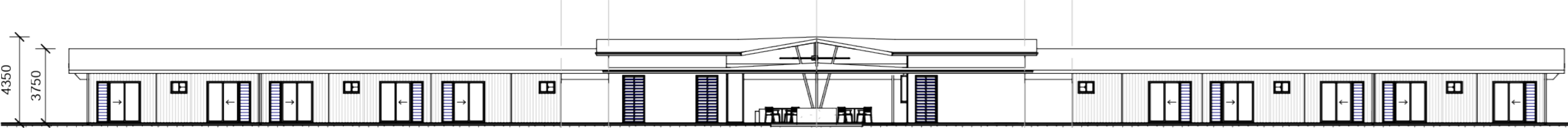
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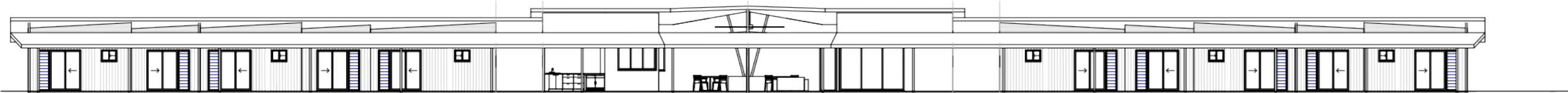
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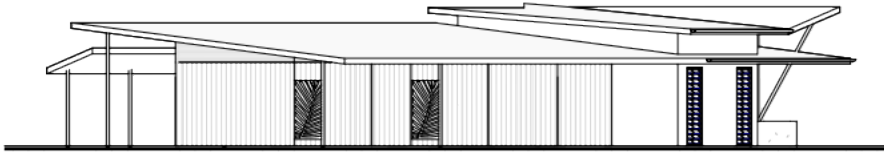
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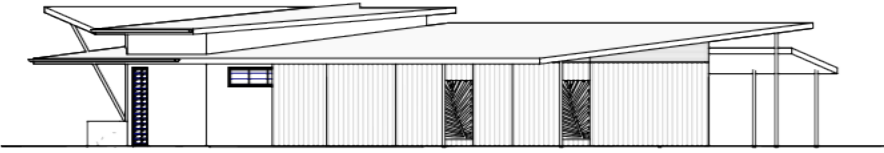
1 Front Elevation
1 : 200 @ A3



2 Back Elevation
SK10 1 : 200 @ A3



3 Side Elevation 1
1 : 200 @ A3



4 Side Elevation 2
SK10 1 : 200 @ A3

Mission Australia
Residential Rehabilitation Facility

SK40 Elevations Accommodation
1 : 200

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1

Front Elevation Admin

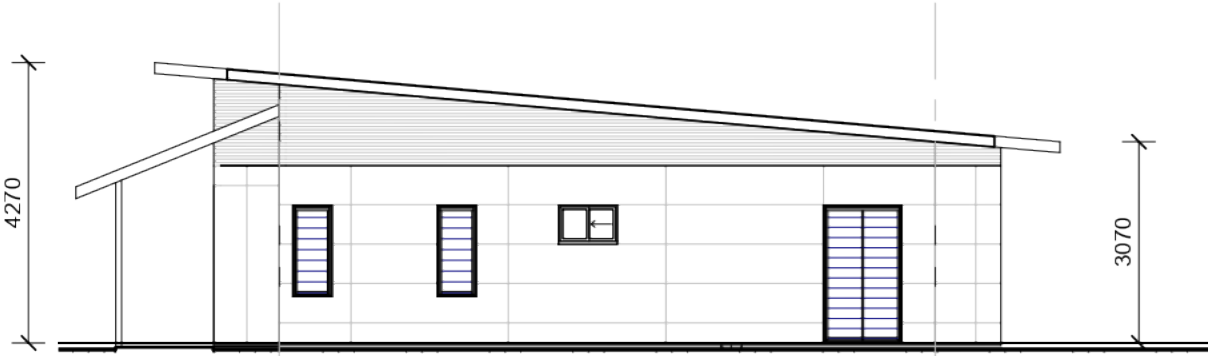
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2

Back Elevation Admin

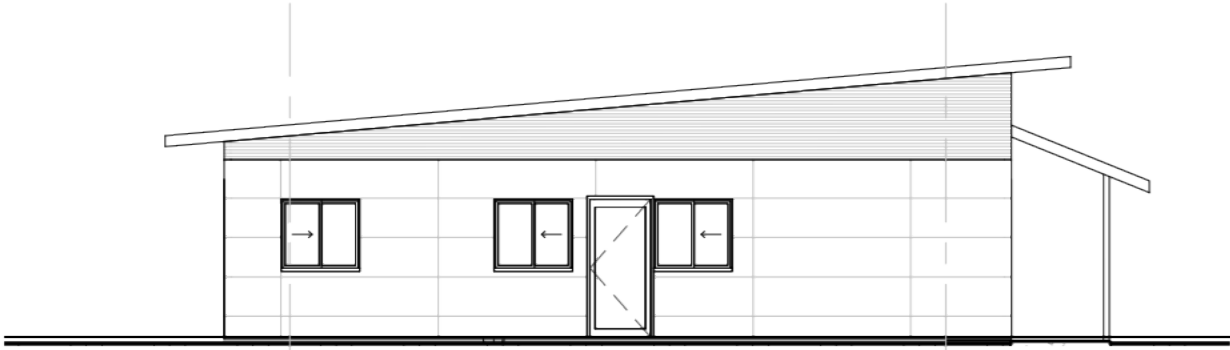
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3

Side Elevation Admin

SK11 1 : 100 @ A3



4

Carpark Elevation Admin

SK11 1 : 100 @ A3

| | | |
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| Mission Australia | SK41 Elevations Administration | 21011 |
| Residential Rehabilitation Facility | 1 : 100 | 2021-01-17 Issue 4 |

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Mission Australia
Residential Rehabilitation Facility

SK70 3D Images

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2021-01-17 Issue 4

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Our ref TMR21-032181 (500-1556)
 Your ref 20-638
 Enquiries Ronald Kaden



Department of
Transport and Main Roads

8 March 2021

Decision Notice – Permitted Road Access Location (s62(1) Transport Infrastructure Act 1994)

This is not an authorisation to commence work on a state-controlled road¹

Development application reference number MCU/21/0002, lodged with Mareeba Shire Council involves constructing or changing a vehicular access between Lot 2RP747563 the land the subject of the application, and Kennedy Highway (a state-controlled road).

In accordance with section 62A(2) of the *Transport Infrastructure Act 1994* (TIA), this development application is also taken to be an application for a decision under section 62(1) of TIA.

Applicant Details

Name and address Mission Australia
 C/- Urban Sync Pty Ltd
 PO Box 2970
 Cairns QLD 4870

Application Details

Address of Property 3338 Kennedy Highway, Mareeba QLD 4880
 Real Property Description 2RP747563
 Aspect/s of Development Development Permit for Material Change of Use for Rooming Accommodation (Residential Rehabilitation Facility)

Decision (given under section 67 of TIA)

It has been decided to approve the application, subject to the following conditions:

| No. | Conditions of Approval | Condition Timing |
|-----|--|------------------|
| 1 | The permitted road access location is approximately 100 metres from the southern boundary of Lot 2RP747563, in accordance with: 1. TMR Layout Plan (32A - 33.08km) Issue A 08/03/2021; and 2. Cover Sheet & Site Plan prepared by BAU Design Architects dated 17/01/2021 reference SK00 Issue 4. | At all times. |
| 2 | Direct access is prohibited between Kennedy Highway and 2RP747563 at any other location other than the permitted road | At all times. |

¹ Please refer to the further approvals required under the heading 'Further approvals'

Program Delivery and Operations
 Far North Region
 Cairns Corporate Tower, 15 Lake Street Cairns QLD 4870
 PO Box 6185 Cairns QLD 4870

Telephone +61 (07) 4045 7151
Website www.tmr.qld.gov.au
Email Far.North.Queensland.IDAS@tmr.qld.gov.au
 ABN: 39 407 690 291

Document Set ID: 3933200
 Version: 1 Version Date: 12/03/2021

| No. | Conditions of Approval | Condition Timing |
|-----|---|------------------|
| | access location described in Condition 1. | |
| 3 | <p>The use of the permitted road access location is to be restricted to:</p> <p>a) Design vehicles up to a maximum size Four Axle Truck - Class 5 Medium Length Heavy Vehicle**</p> <p>Note: ** as described in Austroads Vehicle Classification System</p> | At all times. |

Reasons for the decision

The reasons for this decision are as follows:

- a) Currently the subject site (Lot 2 on RP747563) has road frontage and vehicle access via Kennedy Highway, a Limited Access State-controlled road.
- b) The proposed development for rooming accommodation (residential rehabilitation facility) will require a changed access due to increased vehicle movements.
- c) Therefore, a decision under section 62 of the Act is required.

Please refer to **Attachment A** for the findings on material questions of fact and the evidence or other material on which those findings were based.

Information about the Decision required to be given under section 67(2) of TIA

1. There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
2. In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for information.

Further information about the decision

1. In accordance with section 67(7) of TIA, this decision notice:
 - a) starts to have effect when the development approval has effect; and
 - b) stops having effect if the development approval lapses or is cancelled; and
 - c) replaces any earlier decision made under section 62(1) in relation to the land.
2. In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply for a review of this decision only within 28 days after notice of the decision was given under the TIA. A copy of the review provisions under TIA and TPCA are attached in **Attachment C** for information.
3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

Further approvals

The Department of Transport and Main Roads also provides the following information in relation to this approval:

1. **Road Access Works Approval Required** – Written approval is required from the department to carry out road works that are road access works (including driveways) on a state-controlled road in accordance with section 33 of the TIA. This approval must be obtained prior to commencing any works on the state-controlled road. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the department to make an application.

If further information about this approval or any other related query is required, Mr Ronald Kaden, Technical Officer (Development Control) should be contacted by email at ron.p.kaden@tmr.qld.gov.au or on (07) 4045 7151.

Yours sincerely



Peter McNamara

Principal Engineer (Civil)

Attachments: Attachment A – Decision evidence and findings
Attachment B - Section 70 of TIA
Attachment C - Appeal Provisions
Attachment D - Permitted Road Access Location Plan

Attachment A
Decision Evidence and Findings

Evidence or other material on which findings were based:

| Title of Evidence / Material | Prepared by | Date | Reference no. | Version / Issue |
|-------------------------------------|--|-----------------|---------------------------|------------------------|
| TMR Layout Plan (32A - 33.08km) | Queensland Government Transport and Main Roads | 08 March 2021 | TMR21-32181 (500-1556) | A |
| Cover Sheet & Site Plan | BAU Design Architects | 17 January 2021 | SK00 | 4 |

Attachment B**Section 70 of TIA***Transport Infrastructure Act 1994*

Chapter 6 Road transport infrastructure

Part 5 Management of State-controlled roads

70 Offences about road access locations and road access works, relating to decisions under s 62(1)

- (1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.
- (2) A person to whom this section applies must not—
- (a) obtain access between the land and the State-controlled road other than at a location at which access is permitted under the decision; or
 - (b) obtain access using road access works to which the decision applies, if the works do not comply with the decision and the noncompliance was within the person's control; or
 - (c) obtain any other access between the land and the road contrary to the decision; or
 - (d) use a road access location or road access works contrary to the decision; or
 - (e) contravene a condition stated in the decision; or
 - (f) permit another person to do a thing mentioned in paragraphs (a) to (e); or
 - (g) fail to remove road access works in accordance with the decision.

Maximum penalty—200 penalty units.

- (3) However, subsection (2)(g) does not apply to a person who is bound by the decision because of section 68.

Attachment C
Appeal Provisions

Transport Infrastructure Act 1994
Chapter 16 General provisions

485 Internal review of decisions

- (1) A person whose interests are affected by a decision described in schedule 3 (the original decision) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
 - (a) applies to the review; and
 - (b) provides—
 - (i) for the procedure for applying for the review and the way it is to be carried out; and
 - (ii) that the person may apply to QCAT to have the original decision stayed.

485B Appeals against decisions

- (1) This section applies in relation to an original decision if a court (the appeal court) is stated in schedule 3 for the decision.
- (2) If the reviewed decision is not the decision sought by the applicant for the review, the applicant may appeal against the reviewed decision to the appeal court.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
 - (a) applies to the appeal; and
 - (b) provides—
 - (i) for the procedure for the appeal and the way it is to be disposed of; and
 - (ii) that the person may apply to the appeal court to have the original decision stayed.
- (4) Subsection (5) applies if—
 - (a) a person appeals to the Planning and Environment Court against a decision under section 62(1) on a planning application that is taken, under section 62A(2), to also be an application for a decision under section 62(1); and

(b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.

(5) The court may order—

(a) the appeals to be heard together or 1 immediately after the other; or

(b) 1 appeal to be stayed until the other is decided.

(6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.

(7) In this section—

original decision means a decision described in schedule 3.

reviewed decision means the chief executive's decision on a review under section 485.

Transport Planning and Coordination Act 1994
Part 5, Division 2 – Review of Original Decisions

31 Applying for review

- (1) A person may apply for a review of an original decision only within 28 days after notice of the original decision was given to the person under the transport Act.
- (2) However, if—
 - (a) the notice did not state the reasons for the original decision; and
 - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)the person may apply within 28 days after the person is given the statement of the reasons.
- (3) In addition, the chief executive may extend the period for applying.
- (4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

32 Stay of operation of original decision

- (1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the relevant entity.
- (2) The relevant entity may stay the original decision to secure the effectiveness of the review and any later appeal to or review by the relevant entity.
- (3) In setting the time for hearing the application, the relevant entity must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the relevant entity with it on the chief executive at least 2 business days before the hearing.
- (6) The stay—
 - (a) may be given on conditions the relevant entity considers appropriate; and
 - (b) operates for the period specified by the relevant entity; and
 - (c) may be revoked or amended by the relevant entity.
- (7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period the relevant entity allows the applicant to enable the applicant to appeal against the decision or apply for a review of the decision as provided under the QCAT Act.

(8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.

(9) In this section—

relevant entity means—

(a) if the reviewed decision may be reviewed by QCAT—QCAT; or

(b) if the reviewed decision may be appealed to the appeal court—the appeal court.

35 Time for making appeals

(1) A person may appeal against a reviewed decision only within—

(a) if a decision notice is given to the person—28 days after the notice was given to the person; or

(b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

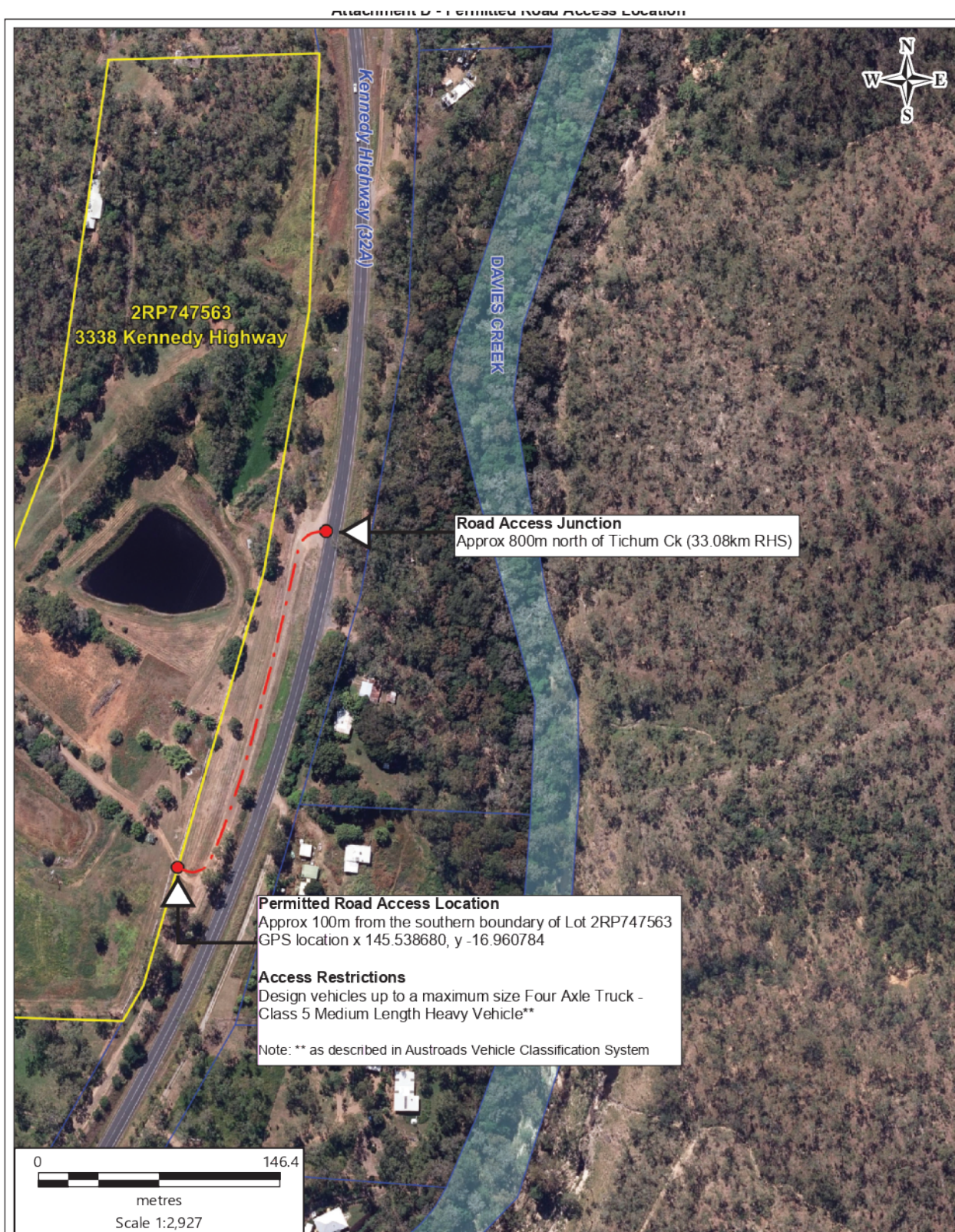
(2) However, if—

(a) the decision notice did not state the reasons for the decision; and

(b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

the person may apply within 28 days after the person is given a statement of the reasons.

(3) Also, the appeal court may extend the period for appealing.



| | |
|--|--------------|
| Branch/Unit: | |
| Corridor Management / Far North District | |
| Projection/Datum: Geocentric Datum of Australia (GDA) 1994 | |
| Parcels | Subject Land |
| Road access driveway | |

TMR Layout Plan (32A - 33.08km)



Queensland Government
Transport and Main Roads

| | | |
|---------------|----------------------------------|------------------|
| Plan: 1 / 1 | Issue: A | Date: 08/03/2021 |
| Drawn by: RPK | File ref: TMR21-32181 (500-1556) | |

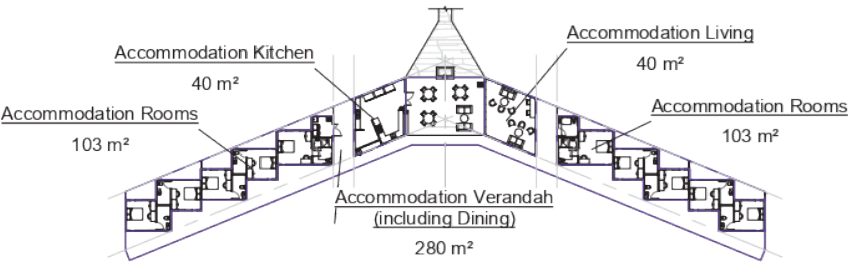
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Mission Australia
Residential Rehabilitation Facility
Mareeba, QLD

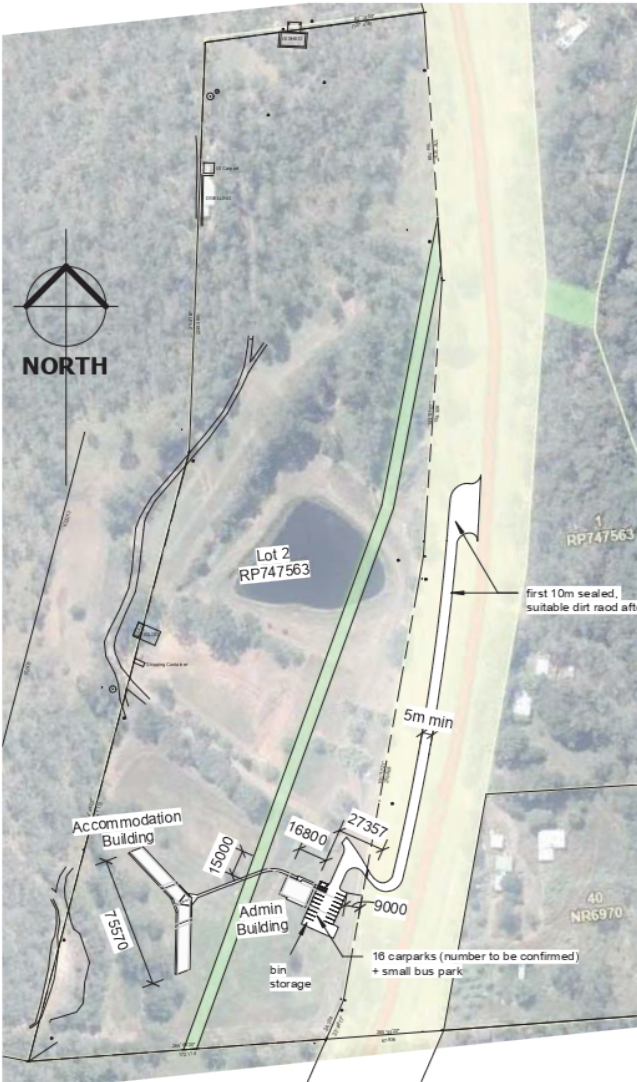
| Area Schedule | |
|---------------|------|
| Name | Area |

| | |
|---|--------------------|
| Accommodation Kitchen | 40 m ² |
| Accommodation Living | 40 m ² |
| Accommodation Rooms | 103 m ² |
| Accommodation Rooms | 103 m ² |
| Accommodation Verandah (including Dining) | 280 m ² |
| Admin Building | 167 m ² |
| Admin Verandah | 19 m ² |
| 750 m ² | |



2 Area Plan
1 : 500 @ A3

1 Site
1 : 2500 @ A3



Mission Australia

SK00 Cover Sheet & Site Plan

21011

Residential Rehabilitation Facility

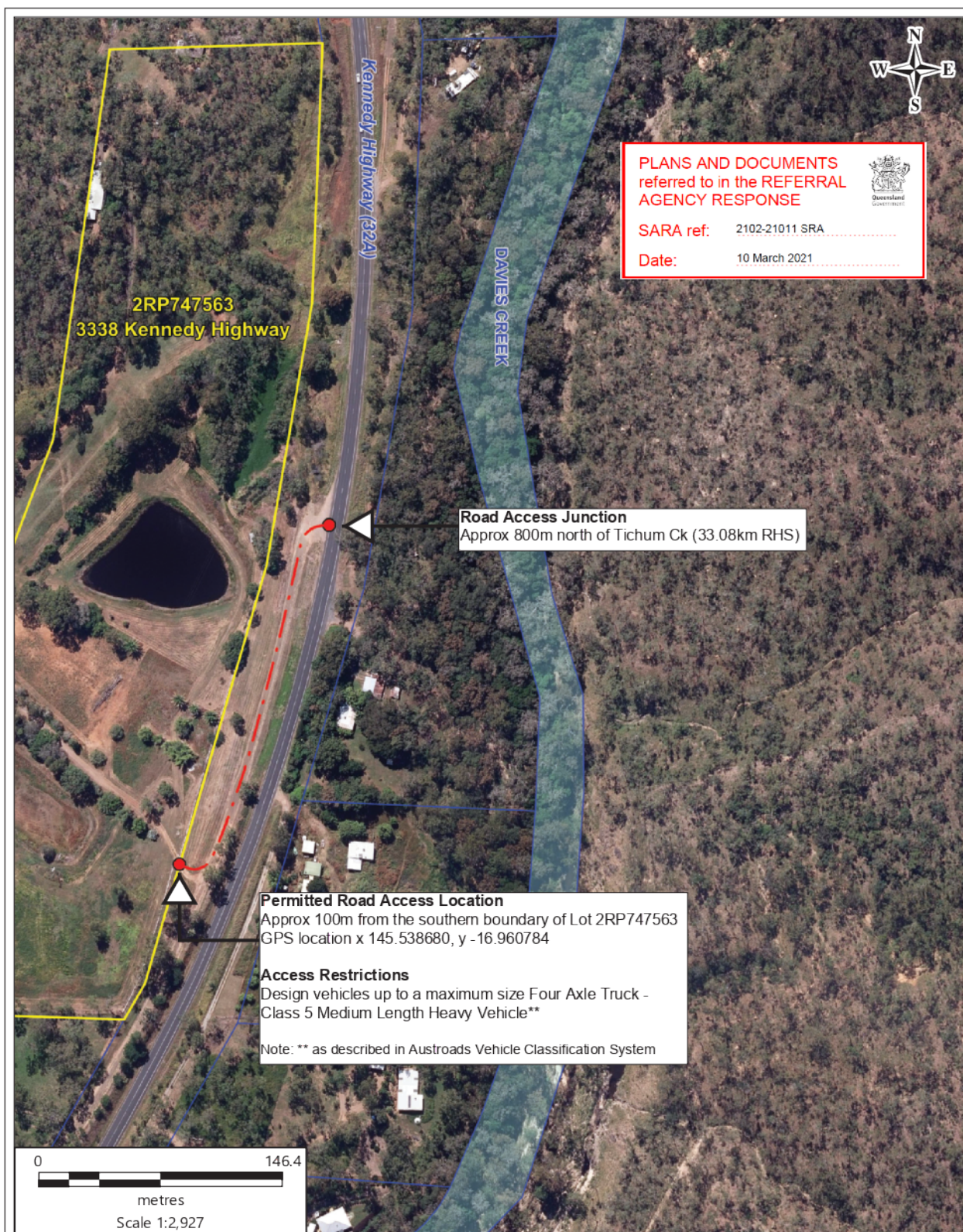
As indicated

2021-01-17 Issue 4

bau design
architects

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PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE

SARA ref: 2102-21011 SRA

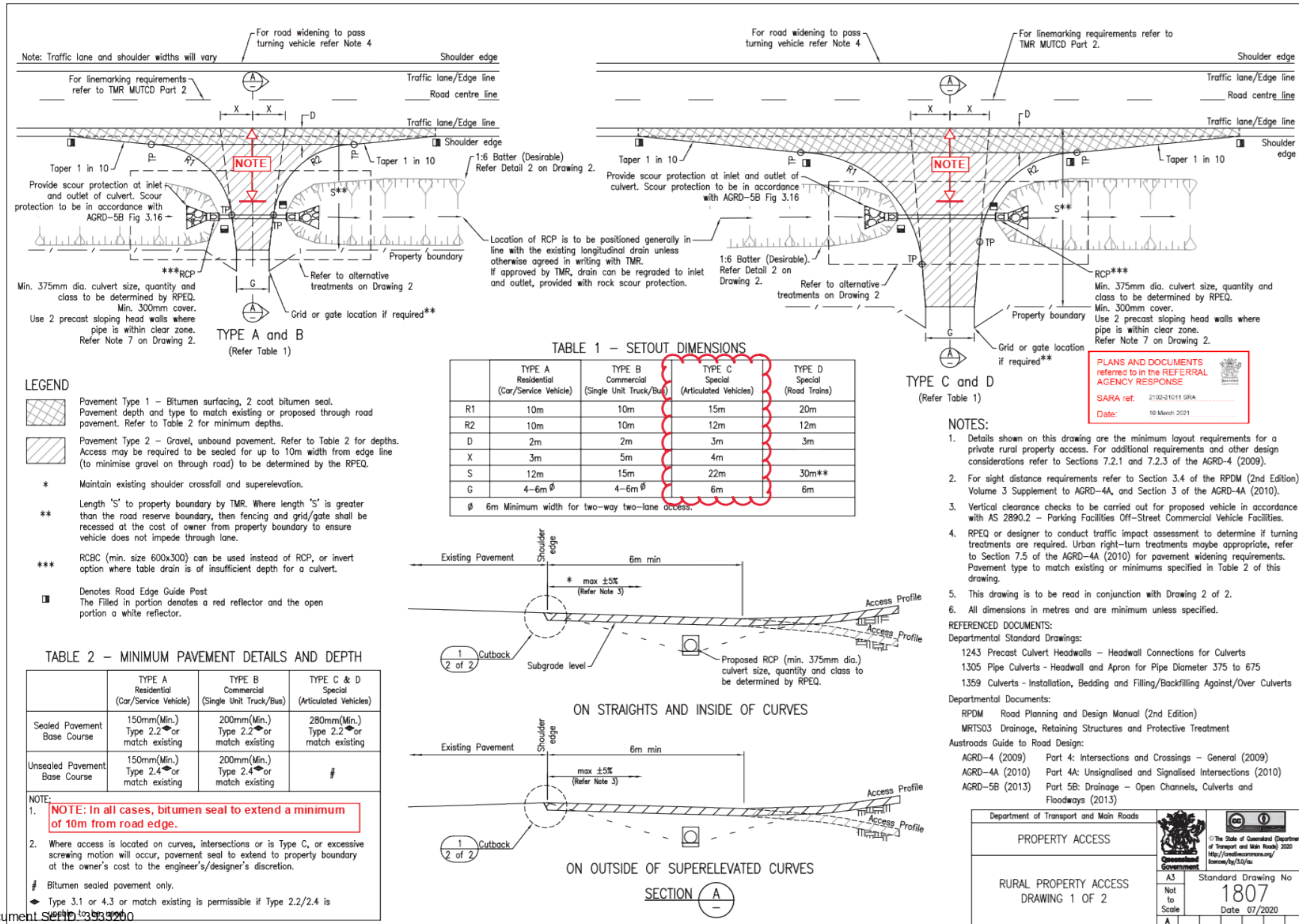
Date: 10 March 2021

| | |
|--|--------------|
| Branch/Unit: | |
| Corridor Management / Far North District | |
| Projection/Datum: Geocentric Datum of Australia (GDA) 1994 | |
| Parcels | Subject Land |
| Road access driveway | |

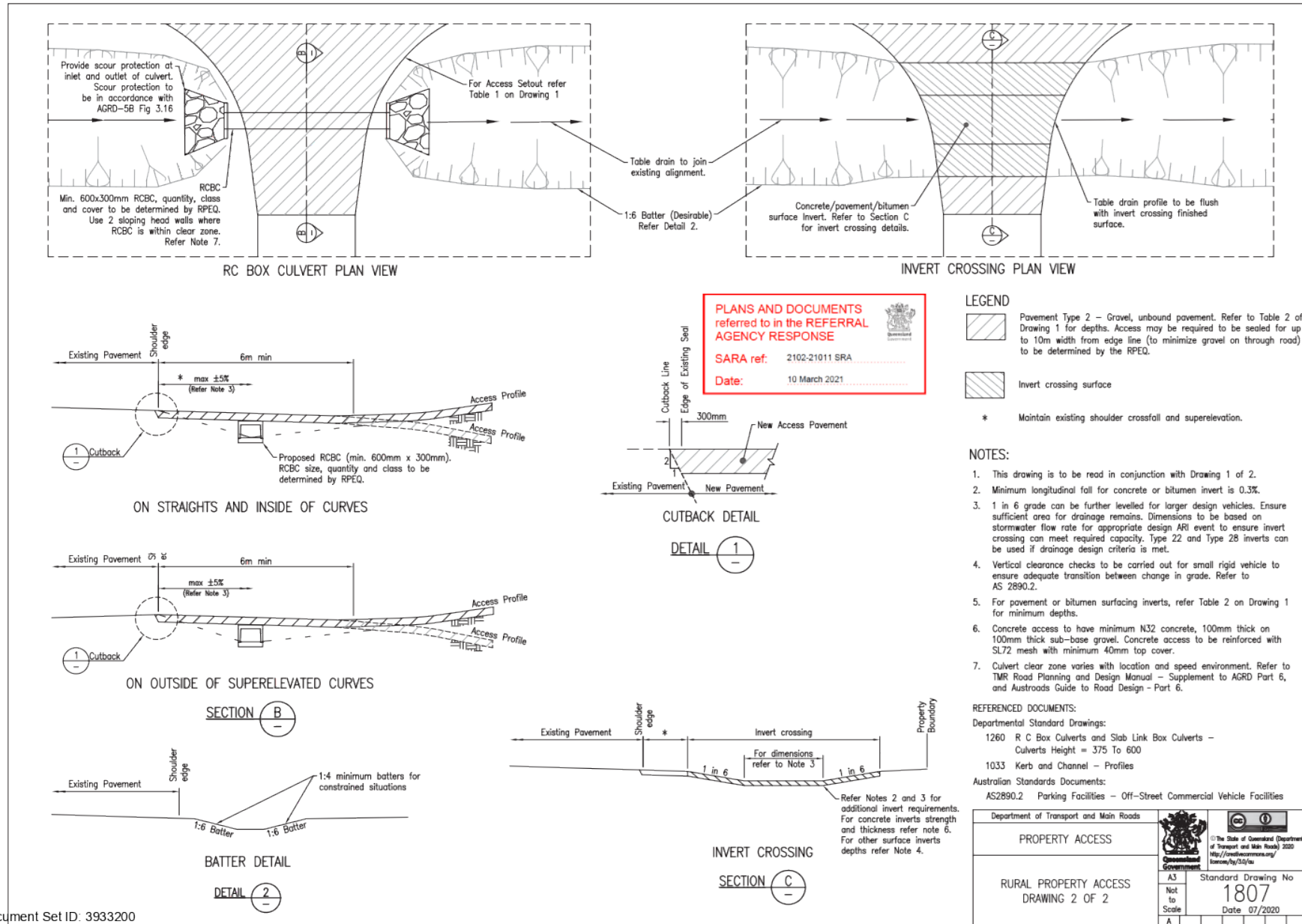
TMR Layout Plan (32A - 33.08km)

| | | |
|---------------|----------------------------------|------------------|
| | | |
| Plan: 1 / 1 | Issue: A | Date: 08/03/2021 |
| Drawn by: RPK | File ref: TMR21-32181 (500-1556) | |

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Document Set ID: 1393260
Version: 1 Version Date: 12/03/2021



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 Rules¹ regarding **representations about a referral agency response**

Part 6: Changes to the application and referral agency responses

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.²
- 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.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² 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.³

³ 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.

RA6-N



SARA reference: 2102-21011 SRA
Council reference: MCU/21/0002
Applicant reference: 20-638

10 March 2021

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—3338 Kennedy Highway, Mareeba

(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 February 2021.

Response

| | |
|-------------------|---|
| Outcome: | Referral agency response – with conditions. |
| Date of response: | 10 March 2021 |
| Conditions: | The conditions in Attachment 1 must be attached to any development approval. |
| Advice: | Advice to the applicant is in Attachment 2 . |
| Reasons: | The reasons for the referral agency response are in Attachment 3 . |

Development details

| | | |
|---------------|--|--|
| Description: | Development permit | Material Change of Use for Rooming Accommodation (Residential Rehabilitation Facility) |
| SARA role: | Referral Agency | |
| SARA trigger: | Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 (Planning Regulation 2017) | |

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

Document Set ID: 3933200
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2102-21011 SRA

Development application for a material change of use within 25m of a state-controlled road

SARA reference: 2102-21011 SRA

Assessment Manager: Mareeba Shire Council

Street address: 3338 Kennedy Highway, Mareeba

Real property description: Lot 2 on RP747563

Applicant name: Mission Australia

Applicant contact details: C/- Urban Sync Pty Ltd
PO Box 2970
Cairns QLD 4870
admin@urbansync.com.au

State-controlled road access permit: This referral included an application for a road access location, under section 62A(2) of *Transport Infrastructure Act 1994*. Below are the details of the decision:

- Approved
- Reference: TMR21-032181 (500-1556)
- Date: 8 March 2021

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at Far.North.Queensland.IDAS@tmr.qld.gov.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 Joanne Manson, Principal Planning Officer, SARA Far North QLD on 4037 3228 or via email CairnsSARA@dsmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Mission Australia, admin@urbansync.com.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 5 - Approved plans and specifications

State Assessment and Referral Agency

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Version: 1, Version Date: 12/03/2021

2102-21011 SRA

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) (Copies of the plans and specifications referenced below are found at **Attachment 5**)

| No. | Conditions | Condition timing |
|--|--|---|
| Material change of use | | |
| Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 – State transport corridors and future State transport corridors —The chief executive administering the Planning Act 2016 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 conditions: | | |
| 1. | (a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road. (b) Any works on the land must not: <ul style="list-style-type: none"> (i) create any new discharge points for stormwater runoff onto the state-controlled road; (ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road; (iii) surcharge any existing culvert or drain on the state-controlled road; (iv) reduce the quality of stormwater discharge onto the state-controlled road. | (a) & (b) At all times. |
| 2. | (a) The road access location is to be located generally in accordance with TMR Layout Plan (32A – 33.08km), prepared by Queensland Government Transport and Main Roads, dated 8/03/2021, Reference TMR21-31181 (500-15356), Issue A. (b) Road access works comprising of a sealed rural property access, must be provided at the road access location. (c) The road access works must be designed and constructed in accordance with TMR Standard Drawing No. 1807, Type C – Rural Property Access, dated 07/2020. | (a) At all times. (b) and (c): Prior to the commencement of use. |

2102-21011 SRA

Attachment 2—Advice to the applicant

| General advice | |
|-----------------------|--|
| 1. | Terms and phrases used in this document are defined in the Planning Act 2016 its regulation or the State Development Assessment Provisions (SDAP) v2.6. If a word remains undefined it has its ordinary meaning. |
| 2. | <p>Under section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads to carry out road works.</p> <p>Please contact the Department of Transport and Main Roads on 4045 7144 to make an application for road works approval.</p> <p>This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).</p> <p>Please contact the Department of Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p> |

Attachment 3—Reasons for referral agency response

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

The reasons for the department's decision are:

- The department carried out an assessment against the State Development Assessment Provisions, State code 1: Development in a state-controlled road environment and found the proposed development, with conditions, complies with the relevant provisions of the state code.
- The proposed development will be setback a sufficient distance of approximately 74m from the road edge of the Kennedy Highway, a state-controlled road and does not require any excavation or filling works.
- To ensure the existing vehicular access via the state-controlled road is upgraded to accommodate the increased traffic generation from the proposed development.
- To ensure impacts of stormwater events associated with the development area minimised and managed to avoid creating adverse impacts on the state transport corridor.
- The proposed development:
 - o does not create a safety hazard for users of the state-controlled road
 - o does not compromise the structural integrity of the state-controlled road
 - o does not result in a worsening of the physical condition or operating performance of the state-controlled road
 - o does not compromise the state's ability to maintain and operate the state-controlled road.

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

2102-21011 SRA

Attachment 4—Change representation provisions

(page left intentionally blank – attached separately)

State Assessment and Referral Agency

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2102-21011 SRA

Attachment 5—Approved plans and specifications

(page left intentionally blank – attached separately)

State Assessment and Referral Agency

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Version: 1, Version Date: 12/03/2021

Chris Herrmann

76 Spena Road, Mareeba Q 4880

Phone: 0419 739 585/email-chrisamarie@gmail.com

To: Mareeba Shire Council,

MAREEBA Q 4880

Re: DEVELOPMENT PERMIT FOR A MATERIAL CHANGE OF USE- ROOMING ACCOMMODATION
(RESIDENTIAL REHABILITATION FACILITY) – 3338 KENNEDY HIGHWAY, MAREEBA. APPLICATION
REFERENCE: MCU/21/0002

I am writing in reference to the above development proposal from Mission Australia to construct a rehabilitation facility in close proximity to our home. I wish to object to this development on the following grounds: -

- on purchasing our land approximately twenty years ago we did on the understanding that here and the surrounding areas will always be zoned rural. After reading the report submitted by the town planners Urban Sync on behalf of Mission Australia, I am not convinced that the construction of a Rehabilitation Facility is conducive to the rural/farming lifestyle
- if this proposal is approved does this then set up a precedence for other rural zoned areas?
- Is a drug and rehabilitation facility where clients can come and go as they please creating a safe environment for neighbours?
- It can be dressed up by the town planners to be maintained as a rural concern but at the end of the day it is still a drug and rehabilitation facility
- Will our land values be affected? Human nature dictates that most people would not want to live near a drug/alcohol rehabilitation facility
- As you are aware, Kennedy Highway has just undergone a safety upgrade with turn in lanes to some roads and lighting erected. The proposed development is on a very dangerous corner with no turn in lane to the block. As the size of the car park being built must dictate the number of cars which will be entering and exiting the facility has this issue been addressed? Also, will this be an issue during construction stage?

Thank you for your time in reading this and I hope that you will consider my objection.

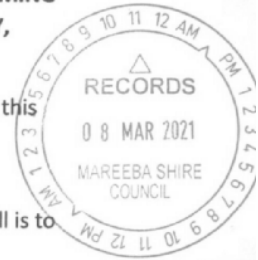
Chris G. Herrmann. 6/3/21.



PAGE 1 OF 3

RE: APPLICATION FOR A DEVELOPMENT PERMIT FOR A MATERIAL CHANGE OF USE – ROOMING ACCOMMODATION (RESIDENTIAL REHABILITATION FACILITY) AT 3338 KENNEDY HIGHWAY, MAREEBA. LOT 2 ON RP747563 APPLICATION REFERENCE NO. MCU/21/0002

I Francesco Barbieri local farmer from 171 Spena Road, Kennedy Highway, Mareeba, submit this objection in regarding the proposed development to set up a residential drug and alcohol rehabilitation facility in Mareeba Shire which is approximately 1.2km from my farm.



34 years ago, my parents purchased our block at Mareeba Shire and at the time was, and still is to my knowledge, classified as a rural lifestyle block. They moved to Spena Road to start up a prosperous life in Mareeba where they could raise their children in a country, family orientated community, far away from the city pressures including drugs and alcohol. We have always considered ourselves to be true locals and have contributed financially to the township of Mareeba whilst running our farm. All these years I have lived here my understanding of a rural lifestyle block meant no new blocks or subdividing of blocks into smaller blocks on this Cairns side of Malone Road and especially no public rehabilitation centres. This is what I and all my neighbours bought into and have been happily paying rates to Mareeba Shire Council for the past 30 to 40 years on a six-monthly basis.

Last week myself and my neighbours were very upset when it was brought to our attention that there was a proposal to build a drug and alcohol rehabilitation facility in our own back yard to facilitate what they call voluntary rehabilitation. My question is why should Mareeba Shire have to be responsible to facilitate and support Cairns drug and alcohol rehab patients (I was informed 80% of patients will be from Cairns). I also question whether there will be any financial benefit to our town.

What I understand on this proposed development is that (10) people will be getting rehabilitated on a three-month program and that the clients can come and go as they please, and then followed up by a six month follow up rehab in their own house all funded by the Federal Government. The first three months rehabilitation program involves activities on the proposed block and also a bus for activities in and around Mareeba Shire. I wonder how many citizens of Mareeba would object if they were aware of this.

I ask with the greatest of respect, our Mayor and all the councillor's, would you like to see this proposed development consisting of group activities in areas that your children and grandchildren play, walk and live. I feel that these activities should be away from the real world, more remote and not highway frontage or lifestyle blocks.

This is one of the most disturbing points as far as I am concerned. The rehabilitation facilities front door is on Mareeba State and High schools daily bus run and for the past 40 years all the boundary neighbours drop off and pick up their children and grand children on a daily basis 7am and 4pm from this spot. I also understand from the plans that the facility will have no security fencing and that the patients can come and go as they wish. My concern is that if one patient decides to cause trouble or break into a neighbouring property, they will only get removed or banned from the rehab program. I am concerned that the neighbouring properties are occupied by elderly Mareeba citizens who have lived their lives and paid their rates and just wish to live and enjoy peacefully the little time they have left of their lives. I sadly got informed today that Warren who worked voluntarily in the Rural Fire Brigade and who's property borders the proposed facility has passed away. God bless him and all the community service at Kay Road Rural Fire Department. The other boundary neighbour is Ian Weinert and is in the front door of the proposed development. He and his wife are both elderly

PAGE 2 OF 3

and personally told me they will have to get a big dog to feel safe and have some protection if approval is granted. At this stage they don't know if they are going to write an objection letter on time because they have meetings etc. to organise for the Rural Fire Brigade and they are arranged his neighbours (Warren) funeral to be held at Kay Road Rural Fire Station in the next few days. So unfortunately, that rules out the two bordering neighbours from submitting an objection. I feel saddened that these good people who do so much amazing, outstanding volunteer work in our community now have to deal with a drug and alcohol rehab facility being built in the front door. At their age they find it hard to confront these issues so I promised him I would lodge this on their behalf. It is the least I can do for them under the current sad circumstances they are dealing with at the moment. I would also like state that Ian Weinert is going to try to put an objection letter in (time permitting). He also informed me that the other neighbours on the boundary line are all renters and leasers and that is why no objection have been submitted by immediate neighbours. As they do not own the properties and can leave and rent somewhere else if required. I also believe the owners of the properties live in Tully, Aloomba and Cairns.

I understand if boundary neighbours don't object, we have a lot less ^{chance} to get this proposal stopped. In this matter because we a rural I and my neighbours agree that this proposal involves all properties on a 10km radius and that we should be entitled to a say on this very important matter. We have all paid rates and contributed both financially and personally to Mareeba Shire and voted in our Mayor and councillors to represent us in moments like this.

I have been informed the Federal Government is funding this project and I assume the people running it will be paid well. My question is why can't the facility be built in Cairns shire and they can rehabilitate Cairns people in their own area close to hospitals and police station where emergency services are only minutes away. I'm sure Cairns has plenty of places out of town and closer to emergency services.

This proposed site has no fencing. If one of the clients is going through depression and decides to walk out into 100km highway which has a blind corner on the proposed site, I fear that a terrible accident could occur and the vehicle driver has to live with that for the rest of their lives. We have had accidents like this in our area in the past few years. These are very upsetting and heart touching events. Main Roads new guide rail system on the highway could also pose a risk as you have no where to turn your car if pedestrians are on the road.

The main entrance to the proposed facility is on a corner on a very busy highway so traffic will be turning in on a blind spot. The speed limit is 100km per hour so my concern is that this is an added danger. Main Roads would be required to build a suitable entrance lane and I don't think this would be on their agenda having just completed major works on Kennedy Highway. I assume ten patients and six workers residing will create quite a traffic flow entering and exiting on a daily basis. It would be devastating to see a fatal accident and I hope and pray that it is not one of my family members.

Over the years I have called emergency services and police as a drugged-out bloke walked naked onto my property. As they are busy and we live out of town it took a while for them to arrive. We have waited up to 40 minutes for an ambulance to arrive so my concern is that if one of the rehab clients causes problems for neighbours how much damage can be done in 40 minutes. Quite a lot I believe.

Rehab centres have been in our shire for years and all manage to go on to the same direction. I have been informed that the Shanty Creek rehab on Gilmore Road caused problems for the neighbours. Farmers from the surrounding area had machinery and tools stolen by drug users and when police

PAGE 3 OF 3

recovered the machines the were unusable and the farmers had to dump them. Kuranda Youth facility ended up in the same predicament when youth offenders target neighbouring housing.

The establishments bring those sorts of people near our every day lives. Mareeba Hospital hands out needles to keep drug users clean and healthy and after a good deed they break into the Doctors and Nurses cars on the way out. Sad, sad, sad.

My other concern is that if this proposal gets approved that our property values will decrease. Whether this is fair or not it is a reality. No-one will want to buy in our area. If the idea is to grow our area, I don't think this is the best way to do it. I feel so strongly that as loyal, law abiding, rate paying locals, who contribute so much financially and physically to our community that we deserve your consideration to stop this proposal.

8-3-2021



FRANCESCO BABIERI

Sunday, March 7, 2021

Attn: Mareeba Shire Council
info@msc.qld.gov.au

From: Martin and Tracey Lobert
4 Spena Rd
Mareeba 4880

E: marty1000000@hotmail.com

Re: Application for Material Change of Use, Residential Rehab Facility at 3338
Kennedy Hwy, Mareeba, Lot 2 on plan RP747563. Reference number
MCU/21/0002.

Stance: Material Change of Use for this Property should NOT be approved for the
following reasons. Detailed information to expound on these factors is contained
within the main body of this submission.

EXECUTIVE SUMMARY

- Initial information indicated that the use of the property would be as a "Retreat". After consultation with a representative of the proposed operator, the more specific use of the property was revealed, being to act as a drug rehabilitation facility.
- The property lies within a quiet rural area whose occupants are in large part there for lifestyle purposes. The current amenity of the area reflects this.
- From a planning perspective, the radius of effected stakeholders far exceeds traditional thresholds, and in fact has the potential to affect the local community and amenity of the area at large.
- Relapse rates of 40-60 per cent are common across a range of licit and illicit drugs, from alcohol, tobacco and prescription drugs to heroin, cannabis, amphetamines or cocaine[i][ii], and on average it takes nine attempts to achieve sustained recovery from drug dependence[iv][v][vi], and even then, people need to be vigilant to avoid relapse. (Research papers cited are listed in the Appendix).

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Version: 1 Version Date: 08/03/2021

- During consultation with the representative of the proposed facility operator, it was advised that the retreat/rehab facility would operate under an "open" policy, in other words, residents/patients would be free to come and go at whim.
- Thus residents/patients have a statistically high probability of addiction relapse coupled with easy egress/ingress of the facility. i.e. there is a statistically high probability of persons leaving and entering the facility whilst intoxicated to varying degrees.
- This creates a greenfield demand for drugs in the immediate and broader area of the facility.
- There are precedents which indicate that increases in local area rates of theft and violent crime can result in these circumstances, based around similar facilities.
- The current location chosen is not fit for purpose. The real benefits of a remote location (and therefore relative isolation) for a retreat/rehab facility such as this are negated if it is situated right on a major arterial road with direct access to Mareeba township. The suitability of properties further west in the shire are eminently better suited.
- From the Mareeba Shire Council document suite, the Likelyhood Matrix and the Risk Consequence Matrix both indicate elevated levels of associated risk exposure.
- Queensland Local Government Act 2009 Part 12 (Responsibilities of councilors) requires that councilors must represent the current and future interests of the residents of the local government area. This proposal has an elevated risk of significant future negative change to the amenity of the area. In its proposed location, it also carries significant additional overt and latent risks for residents and the broader area. There is no upside to this proposal for residents of the area, only negative fallout and increased risk exposure. Therefore, the proposal is NOT in the current or future interests of the residents and thus according to the Act, councilors therefore have a legal responsibility to veto the proposal in its current location.
- Mareeba Shire Council document "Code of Conduct for Councilors" echoes the requirements of the Act, as well as requiring "decision-making in the public interest". Clearly the proposal is NOT in the public interest of existing residents and also by this measure, shire policy steers councilors to veto this proposal.

MAIN BODY

The property at 3338 Kennedy Hwy, Mareeba, Lot 2 on plan RP747563, has an application before council for consideration of a material change of use. Initial information indicated that the use of the property would be as a "Retreat". Given that this is a broad term, further information was sought during consultation with a representative of the proposed operator. Following questioning, the more specific use of the property was revealed, its primary use being to act as a drug rehabilitation facility.

The property lies within a rural area whose occupants are in large part there for lifestyle purposes. The current amenity of the area reflects this, specifically a quiet rural lifestyle. A facility such as is proposed is of grave concern as it has the ability to fundamentally change the current and clearly established amenity of the local and broader area to the detriment of residents. As will be highlighted below, there are existing precedents of similar situations which have proved detrimental, and not just to the immediate area, but also to the broader area and community. Thus, from a planning perspective, the radius of effected stakeholders far exceeds traditional thresholds, and in fact has the potential to affect the local community and amenity of the area at large.

Given the potential broad reach and consequences and with reference to the Mareeba Shire Council document - Enterprise Risk Management Process, Section 1. Council's Approach, Step 1: "Communicate and Consult - with internal and external stakeholders", as we are local stakeholders, this represents both the conduit and the necessity for the submission of this objection.

In the first instance, it is important to highlight the objective research data associated with the proposed facility. Specifically, **relapse rates of 40-60 per cent are common across a range of licit and illicit drugs, from alcohol, tobacco and prescription drugs to heroin, cannabis, amphetamines or cocaine[i][ii], and on average it takes nine attempts to achieve sustained recovery from drug dependence[iv][v][vi], and even then, people need to be vigilant to avoid relapse.** This data is drawn from objective published research papers from leading authors and organizations in the field. For reference and transparency, the documents cited are listed in the appendix.

As consultation proceeded with the representative of the proposed facility operator, it was noted that the retreat/rehab facility would operate under an "open" policy, in other words, residents/patients would be free to come and go at whim. This adds to the highly

invidious circumstances at play, specifically, that residents/patients have a statistically high probability of addiction relapse coupled with unfettered egress and ingress of the facility. In other words, there is a statistically high probability of persons leaving and entering the facility whilst intoxicated to varying degrees. Furthermore, the statistical probability of addiction relapse creates a greenfield demand for drugs in the area of the facility, with the immediate probability of attracting undesirable elements and certainly changing the amenity of the area for the worse.

There are some precedents which, in part, serve to illustrate. The Kuranda Youth Facility/Rehab Centre operated by NEATO was an analogous example. During the time of its operation, an increase in theft and violent crime occurred. This increase in theft and violent crime was not limited to the boundary of that property but also throughout the broader area. That particular facility was therefore ultimately shut down. Shanty Creek is also analogous, seeing theft and violent crime increases not just in the instant area but also in the extended areas of Biboora Rd, Gilmore Rd and Malone Rd. Therefore, to varying degrees, history and precedent shows us that facilities which deal in similar fields have a high propensity for changing the amenity of an area in a negative way and increasing risk exposure for residents.

It is important to note that there is no animosity intended with this objection, indeed, we are hugely sympathetic to sufferers of the disease of addiction. Retreats/Rehab centers may provide positive influences. However, the current location chosen is not fit for purpose and indeed brings risk. Aside from the real risk of significant change to the amenity of the area, the location alongside the main arterial thoroughfare into Mareeba creates added risk. Specifically, the increase in density of slowing or stopping traffic entering/exiting the facility at a point of the Kennedy Hwy which is a high-speed zone (100 kph) creates heightened risk. There is a school children bus stop some 1200m along the road. Bearing in mind the statistical probability of addiction relapse and therefore the compounded risk of impaired driving, all these factors come into play to heighten risk both for residents and facility residents/patients themselves, given that the facility is located immediately on a major arterial road.

The bitter irony is that there is no absolute necessity to utilize this particular property for this purpose. Unsurprisingly, the more remote the location of such a facility, the more arduous it is for residents to access drugs and thus remoteness actually assists in deterring the temptation of relapse. There are other properties located more remotely, to the west, which are much more suitable locations. Specifically, they would NOT be coincident with a major arterial thoroughfare, and the inherent remoteness far better

serves the interests of the facility and its residents by reducing ease of access and therefore reducing risk of relapse. To the west Lotus Glen is an analogous example of a facility whose remote location is actually mutually beneficial, benefiting both constituents and the facility.

Heightened risk associated with the proposed material change of use may include, amongst others, increases in motor vehicle accidents, increases in theft and/or violent crime, risk to the current amenity of the area etc. so it may be prudent to refer to Mareeba Shire Council risk mitigation documentation.

Should loss or injury to any persons result from enacting a material change of use for this purpose at this location, and given that the research papers, statistical data and precedents are in the public domain, this may represent a situation of either direct or vicarious liability for the Mareeba Shire Council. Council has a reference document to analyze risk. Specifically, the "Enterprise Risk Management Process" document gives guidance. In Section 1. Councils Approach – Step 3 Risk Assessment, the guidance is to "Identify, analyze and evaluate risks". Within that document with reference to the Likelihood Matrix, and referring to the research reference data noted above (i.e. Relapse rates of 40-60 per cent are common across a range of licit and illicit drugs, from alcohol, tobacco and prescription drugs to heroin, cannabis, amphetamines or cocaine[i][ii]) the probability of relapse and the associated negative/antisocial consequences can be said to be **Level 5 – Almost Certain**. From the Risk Consequence Matrix, moving down the categories:

- Health and Safety – Given the location of the proposed facility on a 100kmh primary arterial road, the increased daily density of traffic needing ingress and egress has potential for severe accidents with potential to easily be Category 4 - Major (hospitalization) or Category 5 – Catastrophic (Death). Further, given the above research data, there is a further elevated risk of drivers being impaired by substance intoxication.
- Legal/Compliance – As noted above, negative fallout from having such a facility in the proposed location is known to council by precedent. Chances of an event based on the statistical/research data of expected relapse rates back into drug use are high. The associated negative/antisocial consequences/behavior, include risk of accident, risk of incident, acts of theft, acts of violent crime etc. Thus, the chances of one or more of these events is, according to the Likelihood Matrix,

Level 5 – Almost Certain. In this pre-existing knowledge, council may expose itself to legal consequences should an incident occur as a result of granting approval to the material change of usage for this purpose, in this location. Depending on the severity of the incident, this may result in a Category 3, 4 or 5 (Moderate, Major or Catastrophic respectively) event. Again, this is amplified when one couples the likelihood, of being “almost certain” in the context of the underlying driving impetus of addiction and substance intoxication.

- Political/Reputational – Should an incident as envisaged above occur, the regional media interest would be considerable. After all, the mechanism to veto the proposal and thus not expose residents of the area to these elevated risks in the first instance, exists before us right now. Thus, after the fact, the clear question which would be asked by the media is “Given the greater suitability of properties for this purpose located further to the west, why was this proposal not vetoed in favor of another, more suitable location while council had the opportunity?”.

Council and councilors must balance the interests of the established community versus any elevated risks associated with an application for Material Change of Use. As well as the certain risk of a negative change in amenity to the broader area, there are other clear associated risks based on published research data and precedent. A change in material use for the purpose described at this location brings no gain to the local community but rather only risk. Indeed, the only conceivable gain in the immediate term is for a real estate agent making a sale and thus a quick commission. Hardly a reasonable trade off.

According to the Queensland Local Government Act, councilors have a primary legal obligation to existing residents and therefore by definition, also a responsibility to the maintenance of the existing amenity of the area. Specifically, from the Queensland Local Government Act 2009:

Part 12 Responsibilities of councilors

(1) A councilor must represent the current and future interests of the residents of the local government area.

This proposal is NOT in the interests of current residents. Secondly, according to the legislation this primary duty also extends to the FUTURE interests of those residents. This proposal has grave risk associated with it for the future of the residents of the area. Indeed, the Shire itself may open itself up to liability. A centre such as this is likely better suited to a more remote area, which exist in the west of the shire.

In short, for the location in question, there is no upside in this proposal for either residents, council nor for the proposed facility itself or indeed its residents. Rather, there is only risk. Precise future impact of this facility is difficult to define, however there is sufficient doubt and precedent to deduce that there is a high potential for negative fallout. We therefore urge councilors to act conservatively and in accordance with the legal requirements of the Queensland Local Government Act to vote against this material change in use proposal.

Regards,



Martin Lobert



Tracey Lobert

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Appendix:

[i] National Institute on Drug Abuse (National Institutes of Health, U.S. Department of Health and Human Services), Principles of Drug Addiction Treatment: A Research-Based Guide, 2009. NIH Publication No. 09-4180

[ii] Pitts JA, Establishment of an After Care Service, Alcohol Education and Rehabilitation Foundation Winter Conference 2003

[iv] 2007, Australian Treatment Outcome Study, National Drug & Alcohol Research Centre.

[vi] 13 Oct 2010, Prof Simon Chapman, article, ABC Health & Wellbeing online (typically takes 7-12 attempts to quit smoking)



Ph: 40933117

FELIX + KATHRYN BUCHGRABER

PO Box 370

MAREEBA 4880

10th MARCH 2021.

MAREEBA SHIRE COUNCIL

PO Box 154 (RANKIN STREET)

MAREEBA 4880

DEAR SIR/MADAM

RE: APPLICATION REFERENCE ACU/21/002

RN 3338 KENNEDY HIGHWAY LOT 2 RP747563

DEVELOPMENT OF ROOMING ACCOMMODATION

(REHABILITATION FACILITY)

We oppose the above application as this is not an operate location for such a development as the surrounding ^{area} is mainly Life Style Blocks.

The above block has main road frontage and is in an area where mobile reception is limited or non existent and landlines are often out of order in the wet season. How will we contact police (who will take about 30 minutes to respond) if we have

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over

problems with people there in rehabilitation leaving this facility?

We believe this is to be a low security facility where people can walk out if they choose, possibly breaking into our homes or vehicles looking for money or vehicles to escape the area.

We own properties that are only just over a kilometre south of this development (if it gets approval) at 3462 and 3464 Kennedy Highway.

A facility such as this will impact on the value of properties in the surrounding area.

We feel that a more remote location away from a major highway would be more suitable for such a facility.

yours faithfully,

F. Buchgraber
FELIX BUCHGRABER

K.R. Buchgraber
KATHRYN BUCHGRABER



North Qld Regional Office
38 Sturt Street
(PO Box 616)
Bungalow Q 4870

t 07 4037 2800
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Date: 16 March 2021

Chief Executive Officer
Mareeba Shire Council
PO Box 154,
Mareeba QLD 4880

Re: Response to concerns raised in the public submissions concerning proposed development at 3338 Kennedy Highway, Mareeba (Application No: MCU/21/0002).

Dear Planning Officer / Counsellors',

In response to some of the concerns raised in the public submissions Mission Australia would like to highlight that the proposed Residential Rehabilitation Facility will be completely voluntary, and when assessing client suitability, we will be assessing their commitment to the recovery process.

We understand that concerns have been raised by the public regarding clients of the facility coming and going and causing problems in the surrounding area. To clarify, if a client is not committed to participating in the proposed programs, they will not be accepted into the service or if they are not committed to the programs and process of recovery, they will be asked to leave the facility immediately and transported by staff out of the immediate area back to the community they were living prior to entry into our service. The service will not accept court ordered clients.

Residents days will be filled with therapeutic based activities and all clients of the service will be required to participate. The facility will be staffed 24 hours a day, 7 days per week and residents will have access to staff as and when required. If any residents go missing, they will be known and if they are unable to provide a verifiable explanation, they will be immediately terminated from the program.

Residents will not have access to any vehicles and the designated car park will be utilised by strictly staff members. There will be occasions where residents leave the property; however, this will be either by bus for a planned group activity or by a team member taking an individual to a health appointment. This will ensure that all residents are monitored at all times.

Visitors to the facility will be strictly monitored and regulated as visitors to an AOD residential facility can jeopardise the recovery process for all residents. Therefore, visitors will be coordinated and facilitated by the clinical or case management team as part of a resident's individual support plan.

The program framework has been developed to reduce the opportunity for clients to bring alcohol or illicit substances into the program and if any participant is found to have breached this they will be required to

Standing together with Australians in need until they can stand for themselves

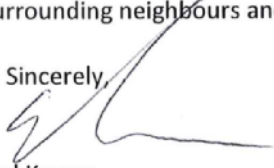
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leave the facility. Any participant that has been asked to leave the facility will be transported by staff back to the community they were living in upon entry to the service.

Once the facility is operational, the mobile number of the facilities management will be made available to the surrounding neighbours and will be readily contactable in regards to any future concerns.

Yours Sincerely,



Samuel Karam
Program Manager
FNQ AOD Residential Facility
Mission Australia