

8.1 CHANGE OF DEVELOPMENT APPROVAL - SUTARIYA BROTHERS PTY LTD - MATERIAL CHANGE OF USE - SERVICE STATION AND CARETAKER'S ACCOMMODATION - LOT 15 ON RP846956 - MALONE ROAD, MAREEBA - MCU/21/0014

Date Prepared: 2 March 2022

Author: Planning Officer

Attachments:

1. Decision Notice dated 18 November 2021
2. Applicants Request for Minor Change dated 15 February 2022

APPLICATION		PREMISES	
APPLICANT	Sutariya Brothers Pty Ltd	ADDRESS	Malone Road, Mareeba
DATE REQUEST FOR CHANGE TO DEVELOPMENT APPROVAL LODGED	16 February 2022	RPD	Lot 15 on RP846956
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Service Station and Caretaker's Accommodation		
FILE NO	MCU/21/0014	AREA	7,448m ²
LODGED BY	U&i Town Plan	OWNER	Sutariya Shantilal Dhirajlal & Sutariya Bhavin Dhirubhai
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural Residential		
LEVEL OF ASSESSMENT	Impact Assessment		
SUBMISSIONS	1 submission		

EXECUTIVE SUMMARY

Council approved a development application described in the above application details at its Ordinary Meeting held on 17 November 2021, subject to conditions. The application was impact assessable and one (1) properly made submission was received in response to public notification of the application (which was not an objection).

U&i Town Plan on behalf of the applicants, has subsequently lodged an application to change the development approval with regard to the physical layout of the site. The location of the shop and playground will change as well as the physical orientation of the main refuelling area and associated canopy. The proposed amendments will also add another high flow bowser and canopy where the shop building used to be located as well as a second access point (both accesses still via Malone Road).

The proposed changes relate to the physical layout of the site only and the additional hi-flow bowser and associated canopy do not represent a significant change to the built form in terms of scale, bulk

and appearance. The requested change is considered a "Minor Change" only and it is therefore recommended that the application be approved in full.

OFFICER'S RECOMMENDATION

It is recommended that:

1. In relation to the application to change the following development approval:

APPLICATION		PREMISES	
APPLICANT	Sutariya Brothers Pty Ltd	ADDRESS	Malone Road, Mareeba
DATE REQUEST FOR CHANGE TO DEVELOPMENT APPROVAL LODGED	16 February 2022	RPD	Lot 15 on RP846956
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Service Station and Caretaker's Accommodation		

and in accordance with the Planning Act 2016, the following

- (a) The approved plan/s of Council's Decision Notice issued on 18 November 2021 be amended as follows:

<i>Plan/Document Number</i>	<i>Plan/Document Title</i>	<i>Prepared by</i>	<i>Dated</i>
1532-PD-A-00 Issue - P3	Cover Sheet	Clarke and Prince Architects	May 2021
1532-PD-A-01 Issue - P6	Site Plan	Clarke and Prince Architects	May 2021
1532-PD-A-02 Issue - P3	Service Station Floor Plan	Clarke and Prince Architects	May 2021
1532-PD-A-03 Issue - P2	Fuelling Area - Floor Plan	Clarke and Prince Architects	May 2021
1532-PD-A-06 Issue - P1	Floor Plan - Caretakers Residence	Clarke and Prince Architects	May 2021
1532-PD-A-04 Issue - P2	Perspective Images	Clarke and Prince Architects	May 2021
1532-PD-A-05 Issue - P1	Street Elevations	Clarke and Prince Architects	May 2021
<u>1532-PD-A-100 Issue P1</u>	<u>Cover Sheet</u>	<u>Clarke and Prince Architects</u>	<u>Dec 2021</u>
<u>1532-PD-A-101 Issue P1</u>	<u>Site Plan</u>	<u>Clarke and Prince Architects</u>	<u>Dec 2021</u>
<u>1532-PD-A-102 Issue P1</u>	<u>Service Station Floor Plan</u>	<u>Clarke and Prince Architects</u>	<u>Dec 2021</u>
<u>1532-PD-A-103 Issue P1</u>	<u>Fuelling Area Floor Plan</u>	<u>Clarke and Prince Architects</u>	<u>Dec 2021</u>
<u>1532-PD-A-104 Issue P1</u>	<u>Perspective Images</u>	<u>Clarke and Prince Architects</u>	<u>Dec 2021</u>
<u>1532-PD-A-105 Issue P1</u>	<u>Street Elevations</u>	<u>Clarke and Prince Architects</u>	<u>Dec 2021</u>
<u>1532-PD-A-106 Issue P1</u>	<u>Floor Plan - Caretakers Residence</u>	<u>Clarke and Prince Architects</u>	<u>Dec 2021</u>

- (b) Condition 4.1 of Council's Decision Notice issued on 18 November 2021 be amended as follows:

4.1 Access

Both access crossovers must be upgraded to a commercial crossover standard

A commercial access crossover must be upgraded/constructed (from the edge of Malone Road to the property boundary of the subject land) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

- (c) Condition 4.4 of Council's Decision Notice issued on 18 November 2021 be amended as follows:

4.4 Traffic Impact Assessment - Roadworks External (Malone Road)

A traffic impact assessment must be prepared by a Registered Professional Engineer of Queensland (RPEQ) in order to estimate the proposed traffic likely to be generated by the development and identify any augmentations or improvements required to the existing road network (Malone Road) to provide safe and convenient access to the site.

*The traffic impact assessment should specifically address external works required on Malone Road between the intersection of the Kennedy Highway to a point 10 metres past the **easternmost ingress/egress** access to the site. Malone Road is currently not constructed to standard, so augmentation works should include widening on both sides of the road, turn lanes, traffic islands (if necessary), line-marking, signage and asphalt overlays to minimise damage made by turning vehicles.*

The traffic impact assessment must include detailed plans.

Plans for the abovementioned works must be submitted to Council as part of a subsequent application for operational works.

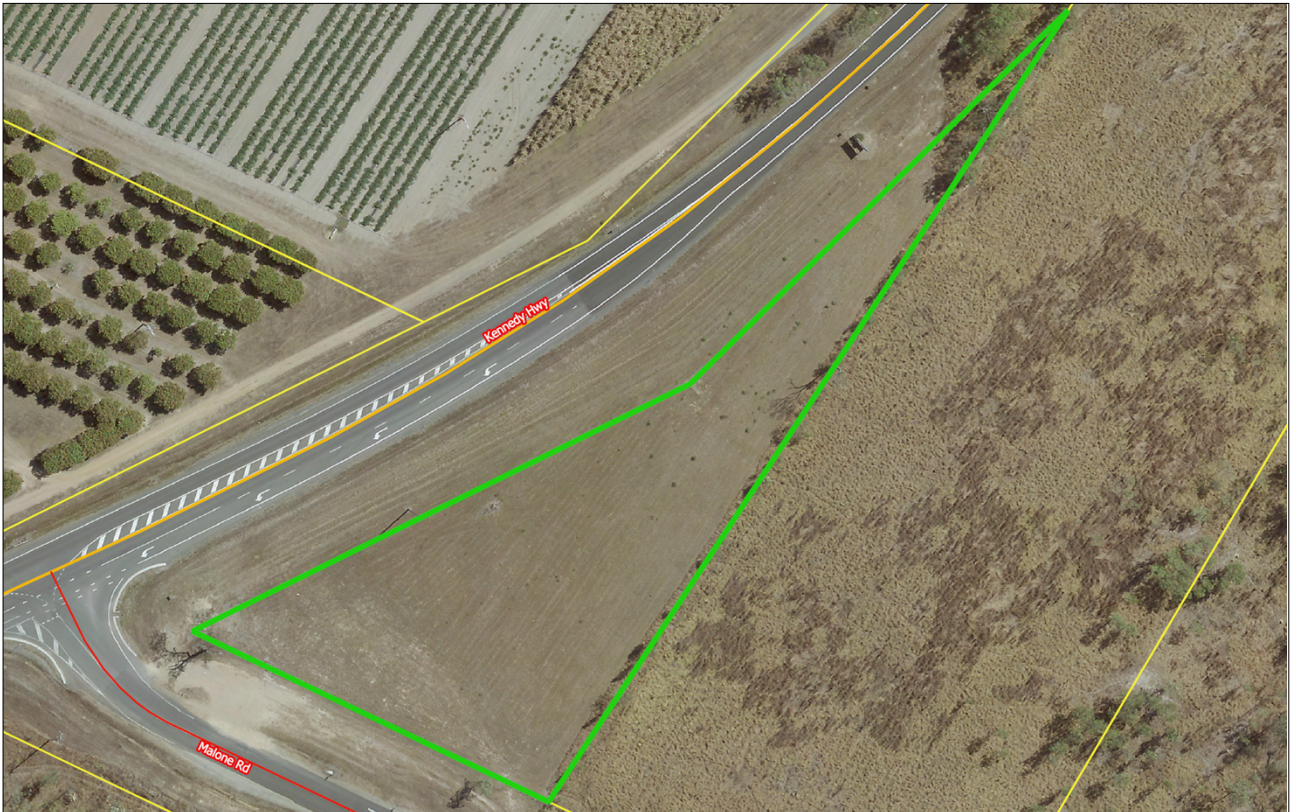
2. A Notice of Decision on Request to Change a Development Approval be issued to the applicant and the State Assessment and Referral Agency (SARA) via email CairnsSARA@dsdip.gov.au (reference: 2107-23539 SRA) advising of Council's decision.

THE SITE

The subject site is situated on the corner of Malone Road and the Kennedy Highway, Mareeba and is more particularly described as Lot 15 on RP846956. The site is irregular in shape with a total area of 7,448m² and is zoned Rural residential under the Mareeba Shire Council Planning Scheme 2016. Malone Road is accessed via an unsealed crossover situated in the southern corner of the allotment.

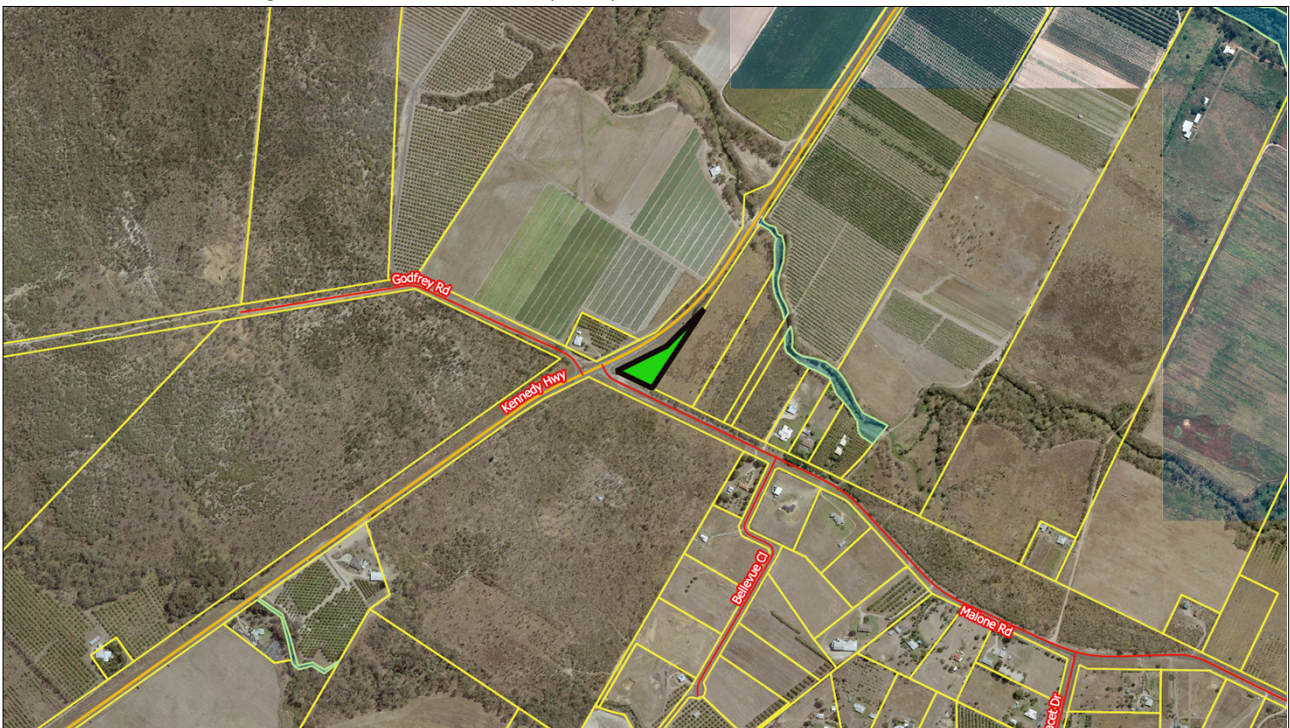
The site is currently vacant and predominantly cleared and grassed with some mature vegetation along the eastern boundary and northeast tip of the allotment. The site is not connected to Council's reticulated water and sewer networks.

The only immediate adjoining property is situated to the east and is zoned Rural residential and is vacant. Land in the broader area is zoned a mix of Rural residential, Rural and Emerging Communities and contains a mix of uses which include lifestyle lots, actively cropped rural lots and large vacant unused allotments.



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

Council at its Ordinary Meeting held on 17 November 2021 approved a development application for material change of use - service station and caretakers' residence on land described as Lot 15 on RP846956, situated on the corner of Malone Road and the Kennedy Highway, Mareeba, subject to conditions. The decision notice was issued on the 18 November 2021 (**Attachment 1**).

The application was impact assessable and one (1) properly made submission was received in response to public notification of the application (which was not an objection).

U&i Town Plan on behalf of the applicants has subsequently lodged an application to change the development approval with regard to the physical layout of the site (**Attachment 2**).

The location of the shop and playground will change as well as the physical orientation of the main refuelling area and associated canopy. The proposed amendments will also add another high flow bowser and canopy where the shop building used to be located as well as a second access point (both accesses still via Malone Road).

The proposed changes relate to the physical layout of the site only and the additional hi-flow bowser and associated canopy do not represent a significant change to the built form in terms of scale, bulk and appearance.

ASSESSMENT AND DECISION REQUIREMENTS

Minor change for a development approval - Planning Act 2016

Schedule 1: Substantially different development (Development Assessment Rules)

1. *An assessment manager or responsible entity may determine that the change is a minor change to a development application or development approval, where - amongst other criteria - a minor change is a change that would not result in 'substantially different' development.*

Schedule 2 - Dictionary of the Planning Act 2016 defines a minor change as follows:

Minor change means a change that—

(a) for a development application (not applicable).

(b) for a development approval—

(i) Would not result in substantially different development; and

(ii) If a development application for the development, including the change, were made when the change application is made would not cause—

(A) the inclusion of prohibited development in the application; or

(B) referral to a referral agency, other than to the chief executive, if there were no referral agencies for the development application; or

(C) referral to extra referral agencies, other than the chief executive; or

(D) a referral agency to assess the application against, or have regard to, matter prescribed by regulation under section 55(2), other than matters the referral agency must have assessed the application against, or have regard to, when the application was made; or

(E) *public notification if public notification was not required for the development application.*

2. *An assessment manager or responsible entity must determine if the proposed change would result in substantially different development for a change—*
 - (a) *made to a proposed development application the subject of a response given under section 57(3) of the Act and a properly made application;*
 - (b) *made to a development application in accordance with part 6;*
 - (c) *made to a development application after the appeal period.*
3. *In determining whether the proposed change would result in substantially differed development, the assessment manager or referral agency must consider the individual circumstances of the development, in the context of the change proposed.*
4. *A change may be considered to result in a substantially different development if any of the following apply to the proposed change:*
 - (a) *involves a new use; or*
 - (b) *result in the application applying to a new parcel of land; or*
 - (c) *dramatically changes the built form in terms of scale, bulk and appearance; or*
 - (d) *change the ability of the proposed development to operate as intended; or*
 - (e) *removes a component that is integral to the operation of the development; or*
 - (f) *significantly impacts on traffic flow and the transport network, such as increasing traffic to the site; or*
 - (g) *introduces new impacts or increase the severity of known impacts; or*
 - (h) *removes and incentive or offset component that would have balanced a negative impact of the development; or*
 - (i) *impacts on infrastructure provisions.*

Comment

The proposed change constitutes a *minor change* to the approval.

Assessing and deciding applications for minor changes

Section 81(2) of the Planning Act 2016 requires that Council must assess the proposed change having regard to:

- *The information the applicant included with the application*

Comment

The request for a minor change to the approval was provided by the applicant in an email to Council dated 15 February 2022 (**Attachment 2**). The required changes and Council officer response/s are addressed in the body of this report.

- *if submissions were made about the original application – the submissions*

Comment

The original development application was impact assessable and one (1) properly made submission was received during public notification of the application. The proposed change to

the service station development's internal layout will not impact the issues raised in the submission.

- Any pre-request response notice or response notice given in relation to the change application.

Comment

No pre-request response notice or response notice was received.

- All matters the responsible entity (Council) would or may assess against or have regard to, if the change application were a development application.

Comment

The required changes are addressed in the body of this report.

- Another matter that the responsible entity (Council) considers relevant.

Comment

No other matter is considered relevant.

REQUEST TO CHANGE THE DEVELOPMENT APPROVAL

Approved Plan/s

<i>Plan/Document Number</i>	<i>Plan/Document Title</i>	<i>Prepared by</i>	<i>Dated</i>
1532-PD-A-00 Issue - P3	Cover Sheet	Clarke and Prince Architects	May 2021
1532-PD-A-01 Issue - P6	Site Plan	Clarke and Prince Architects	May 2021
1532-PD-A-02 Issue - P3	Service Station Floor Plan	Clarke and Prince Architects	May 2021
1532-PD-A-03 Issue - P2	Fuelling Area - Floor Plan	Clarke and Prince Architects	May 2021
1532-PD-A-06 Issue - P1	Floor Plan - Caretakers Residence	Clarke and Prince Architects	May 2021
1532-PD-A-04 Issue - P2	Perspective Images	Clarke and Prince Architects	May 2021
1532-PD-A-05 Issue - P1	Street Elevations	Clarke and Prince Architects	May 2021

Request by Applicant

Refer to **Attachment 2**.

Response

Council officers have no concerns with the requested amendments to the internal layout of the development, the additional hi-flow bowser and canopy and the second access point. It is recommended the approved plans be amended to reflect the revised layout as follows:

<i>Plan/Document Number</i>	<i>Plan/Document Title</i>	<i>Prepared by</i>	<i>Dated</i>
1532-PD-A-00 Issue - P3	Cover Sheet	Clarke and Prince Architects	May 2021
1532-PD-A-01 Issue - P6	Site Plan	Clarke and Prince Architects	May 2021
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<u>1532-PD-A-106 Issue P1</u>	<u>Floor Plan - Caretakers Residence</u>	<u>Clarke and Prince Architects</u>	<u>Dec 2021</u>

Condition 4.1**4.1 Access**

A commercial access crossover must be upgraded/constructed (from the edge of Malone Road to the property boundary of the subject land) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

Request by Applicant

Refer to **Attachment 2**.

Response

Council officers have no concerns with the requested amendments to the internal layout of the development, the additional hi-flow bowser and canopy and the second access point. Condition 4.1 must be amended as there are now two (2) ingress/egress points proposed as follows:

4.1 Access

Both access crossovers must be upgraded to a commercial crossover standard *A commercial access crossover must be upgraded/constructed (from the edge of Malone Road to the property boundary of the subject land) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.*

Condition 4.4**4.4 Traffic Impact Assessment - Roadworks External (Malone Road)**

A traffic impact assessment must be prepared by a Registered Professional Engineer of Queensland (RPEQ) in order to estimate the proposed traffic likely to be generated by the development and identify any augmentations or improvements required to the existing road network (Malone Road) to provide safe and convenient access to the site.

The traffic impact assessment should specifically address external works required on Malone Road between the intersection of the Kennedy Highway to a point 10 metres

past the access to the site. Malone Road is currently not constructed to standard, so augmentation works should include widening on both sides of the road, turn lanes, traffic islands (if necessary), line-marking, signage and asphalt overlays to minimise damage made by turning vehicles.

The traffic impact assessment must include detailed plans.

Plans for the abovementioned works must be submitted to Council as part of a subsequent application for operational works.

Request by Applicant

Refer to **Attachment 2**.

Response

Council officers have no concerns with the requested amendments to the internal layout of the development, the additional hi-flow bowser and canopy and the second access point. Condition 4.4 must be amended as there are now two ingress/egress points proposed as follows:

4.4 Traffic Impact Assessment - Roadworks External (Malone Road)

A traffic impact assessment must be prepared by a Registered Professional Engineer of Queensland (RPEQ) in order to estimate the proposed traffic likely to be generated by the development and identify any augmentations or improvements required to the existing road network (Malone Road) to provide safe and convenient access to the site.

*The traffic impact assessment should specifically address external works required on Malone Road between the intersection of the Kennedy Highway to a point 10 metres past the **easternmost ingress/egress** access to the site. Malone Road is currently not constructed to standard, so augmentation works should include widening on both sides of the road, turn lanes, traffic islands (if necessary), line-marking, signage and asphalt overlays to minimise damage made by turning vehicles.*

The traffic impact assessment must include detailed plans.

Plans for the abovementioned works must be submitted to Council as part of a subsequent application for operational works.

65 Rankin Street
PO Box 154 MAREEBA QLD 4880

P: 1300 308 461
F: 07 4092 3323

W: www.msc.qld.gov.au
E: info@msc.qld.gov.au

18 November 2021

Planning Officer: Carl Ewin
Direct Phone: 4086 4656
Our Reference: MCU/21/0014
Your Reference: M7-21

Sutariya Brothers Pty Ltd
C/- U&i Town Plan
PO Box 426
COOKTOWN QLD 4895

Dear Applicants,

Decision Notice

Planning Act 2016

I refer to your application and advise that on 17 November 2021, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No: MCU/21/0014
Street Address: Malone Road, Mareeba
Real Property Description: Lot 15 on RP846956
Planning Scheme: Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision: Approval
Type of Approval: Development Permit for Material Change of Use - Service Station and Caretaker's Accommodation
Date of Decision: 17 November 2021

CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is six (6) years starting the day that this development approval takes effect. (Refer to Section 85 "Lapsing of approval at end of currency period" of the *Planning Act 2016*.)

Public Office: 65 Rankin Street, Mareeba QLD 4880. Postal address: PO Box 154, Mareeba QLD 4880

Document Set ID: 4032311
Version: 3, Version Date: 22/11/2021

INFRASTRUCTURE

Where conditions relate to the provision of infrastructure, these are non-trunk infrastructure conditions unless specifically nominated as a “*necessary infrastructure condition*” for the provision of trunk infrastructure as defined under Chapter 4 of the *Planning Act 2016*.

ASSESSMENT MANAGER CONDITIONS**(A) ASSESSMENT MANAGER’S CONDITIONS (COUNCIL)****(a) Development assessable against the Planning Scheme**

1. Development must be carried out generally in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
 - found necessary by Council’s delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
 - to ensure compliance with the following conditions of approval.
2. Timing of Effect
 - 2.1 The conditions of the development permit must be complied with to the satisfaction of Council’s delegated officer prior to the commencement of the use except where specified otherwise in these conditions of approval.
 - 2.2 Prior to the commencement of use, the applicant must notify Council that all the conditions of the development permit have been complied with, except where specified otherwise in these conditions of approval.
3. General
 - 3.1 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
 - 3.2 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to commencement of the use and at the rate applicable at the time of payment.
 - 3.3 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council’s delegated officer.
 - 3.4 Waste Management

On site refuse storage area must be provided and be screened from view from adjoining properties and road reserve by one (1) metre wide landscaped screening buffer, 1.8m high solid fence or building.

Mareeba Shire Council

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Where bulk bins are used and are to be serviced on site, certification by a Registered Professional Engineer of Queensland (RPEQ) must be provided to Council prior to the issue of a building permit which demonstrates that internal access is of adequate design and construction to allow waste collection/delivery vehicles to enter and exit the site in a forward gear.

3.5 Noise Nuisance

3.5.1 Refrigeration equipment, pumps, compressors and mechanical ventilation systems must be located, designed, installed and maintained to achieve a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations and a maximum noise level of 8dB(A) above background levels as measured from commercial locations.

3.5.2 The applicant is required to install and maintain suitable screening to all air conditioning, lift motor rooms, plant and service facilities located at the top of or on the external face of the building. The screening structures must be constructed from materials that are consistent with materials used elsewhere on the facade of the building. There are to be no individual external unscreened air conditioning units attached to the exterior building facade.

3.6 The authorised operating hours for the service station and associated shop are limited to between 5am and 8.30pm, seven (7) days per week. No operations associated with the service station or shop are permitted on-site outside these hours, including commercial refuse disposal or the replenishing of underground fuel storage tanks.

3.7 Any fuel ventilation outlets must be located as far away as practically possible from the common boundary with Lot 16 on SP195707.

4. Infrastructure Services and Standards

4.1 Access

A commercial access crossover must be upgraded/constructed (from the edge of Malone Road to the property boundary of the subject land) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

4.2 Stormwater Drainage/Water Quality

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

4.2.2 Prior to building works commencing the applicant must submit a Stormwater Management Plan and Report prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards of design and construction set out in the Queensland Urban

Drainage Manual (QUDM) and the FNQROC Development Manual to the satisfaction of Council's delegated officer.

- 4.2.3 The Stormwater Management Plan and Report must include provisions to intercept and control stormwater flows along driveways and hardstand areas.
- 4.2.4 The applicant/developer must construct the stormwater drainage infrastructure in accordance with the approved Stormwater Management Plan and Report.
- 4.2.5 All stormwater drainage must be collected from site and discharged to an approved legal point of discharge.
- 4.2.6 In addition to the Stormwater Management Plan, and prior to building works commencing, the applicant/developer must submit an Oily Water Management Plan, prepared and certified by a suitably qualified design engineer (RPEQ). The Plan must demonstrate how contaminants such as oil and/or fuel will be removed and stored prior to stormwater being discharged from the site.

4.3 Car Parking/Internal Driveways

- 4.3.1 The applicant/developer must ensure the service station and shop is provided with a minimum of 16 on-site car parking spaces as depicted on the approved plans (including 1 disabled parking space) as well as 1 RV parking space and 1 service vehicle parking space which are available solely for the parking of vehicles associated with the use of the premises. These parking spaces must be provided in addition to any fuel bowser parking spaces. The caretaker's accommodation must be provided with one (1) undercover parking space.
- 4.3.2 All car parking spaces and trafficable areas, including the truck turn around area and caretaker's accommodation driveway must be concrete sealed, line-marked and appropriately drained prior to the commencement of the use, to the satisfaction of Council's delegated officer.
- 4.3.3 All car parking spaces and trafficable areas must be constructed in compliance with the following standards, to the satisfaction of Council's delegated officer:
 - Australian Standard AS2890:1 Off Street Parking – Car Parking Facilities;
 - Australian Standard AS1428:2001 – Design for Access and Mobility.
- 4.3.4 The applicant/developer must ensure the development is provided with three (3) bicycle parking spaces in proximity to the shop building entrance/s.

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

Mareeba Shire Council

Document Set ID: 4032311
Version: 3, Version Date: 22/11/2021

4.4 Traffic Impact Assessment - Roadworks External (Malone Road)

A traffic impact assessment must be prepared by a Registered Professional Engineer of Queensland (RPEQ) in order to estimate the proposed traffic likely to be generated by the development and identify any augmentations or improvements required to the existing road network (Malone Road) to provide safe and convenient access to the site.

The traffic impact assessment should specifically address external works required on Malone Road between the intersection of the Kennedy Highway to a point 10 metres past the access to the site. Malone Road is currently not constructed to standard, so augmentation works should include widening on both sides of the road, turn lanes, traffic islands (if necessary), line-marking, signage and asphalt overlays to minimise damage made by turning vehicles.

The traffic impact assessment must include detailed plans.

Plans for the abovementioned works must be submitted to Council as part of a subsequent application for operational works.

4.5 Landscaping

4.5.1 Prior to building works commencing, a landscape plan must be prepared for the site and submitted to Council's delegated officer for consideration and approval. The extent of landscaping on site should be generally consistent with that shown on the submitted plan/s (Site Plan).

4.5.2 The landscape plan should include a three (3) metre wide landscape buffer along the southeast boundary for a length consistent with that shown on the submitted site plan. This southeast boundary landscape buffer must include shrubs, plants and trees that will grow to form an effective visual buffer of no less than four (4) metres in height at maturity and should include at least 25% larger more advanced plant stock.

4.5.3 All plant varieties must be generally in accordance with Schedule A of Planning Scheme Policy No. 9 (Landscaping Policy).

4.5.4 The landscaping of the site must be carried out prior to the commencement of the use and in accordance with the endorsed landscaping plan, and irrigated, mulched and maintained for the life of the development to the satisfaction of Council's delegated officer.

4.6 Acoustic Fencing

Prior to the commencement of the use, the applicant/developer must erect a solid 1.8m high, acoustic fence of neutral colour (timber fencing not permitted) along the southeast boundary (common with Lot 16 on SP195707) for a length of no less than 110 metres from the southern corner of the site.

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

4.7 Lighting

The developer shall locate, design and install lighting to operate from dusk to dawn within all areas where the public will be given access, which prevents the potential for light spillage to cause nuisance to neighbours and must be provided in accordance with Australian Standard 1158.1 – Lighting for Roads and Public Spaces.

Illumination resulting from direct, reflected or other incidental light emanating from the subject land does not exceed 8 lux when measured at any point 1.5m outside the property boundary of the subject site. The lighting fixtures installed on site must meet appropriate lux levels as documented within Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting.

NOTE: The design is to integrate the principles of Crime Prevention through Environmental Design (CPTED) theory. Lighting design is to illuminate potential areas of concealment and is to project illumination so that a human face is easily discernible from 15 metres and there is to be sufficient night lighting, which renders people, colours, vegetation and objects correctly. i.e. 'white' light. Particular attention should be given to pathways, driveways and common external spaces.

4.8 Signage

Advertising signage locations are limited to the fuelling canopy fascia, shop building fascia, walls and windows and the pylon sign. The pylon sign must be used to advertise fuel prices only. Advertising signage must not move, revolve, strobe or flash (can be illuminated).

Any advertising signage must be maintained in good order and safe repair for the life of the development, to the satisfaction of Council's delegated officer.

4.9 Non-Reticulated Water Supply

The service station and caretaker's accommodation must be provided with a potable water supply that can satisfy the standards for drinking water set by the Australian Drinking Water Guidelines 2004 (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.

4.10 Sewerage Connection

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

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REFERRAL AGENCIES

The referral agencies applicable to this application are:

Aspect of development stated in schedule 20		
<p>Development application for an aspect of development stated in schedule 20 that is assessable development under a local categorising instrument or section 21, if—</p> <p>(a) the development is for a purpose stated in schedule 20, column 1 for the aspect; and</p> <p>(b) the development meets or exceeds the threshold —</p> <p>(i) for development in local government area 1 — stated in schedule 20, column 2 for the purpose; or</p> <p>(ii) for development in local government area 2 — stated in schedule 20, column 3 for the purpose; and</p> <p>(c) for development in local government area 1 — the development is not for an accommodation activity or an office at premises wholly or partly in the excluded area</p> <p>However, if the development is for a combination of purposes stated in the same item of schedule 20, the threshold is for the combination of purposes and not for each individual purpose.</p>	<p>Part 9, Division 4, Subdivision 1, Table 1</p>	<p>State Assessment & Referral Agency (SARA) Department of State Development, Manufacturing, Infrastructure and Planning PO Box 2358 Cairns Qld 4870 CairnsSARA@dsdmip.qld.gov.au</p>
Material change of use of premises near a State transport corridor or that is a future State transport corridor		
<p>Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorizing instrument, if all or part of the premises—</p> <p>(a) are within 25m of a State transport corridor; or</p> <p>(b) are a future State transport corridor; or</p>	<p>Schedule 10, Part 9, Division 4, Subdivision 2, Table 4</p>	<p>State Assessment & Referral Agency (SARA) Department of State Development, Manufacturing, Infrastructure and Planning PO Box 2358 Cairns Qld 4870 CairnsSARA@dsdmip.qld.gov.au</p>

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(c) are— (i) adjacent to a road that intersects with a State-controlled road; and (ii) within 100m of the intersection		
--	--	--

A copy of any referral agency conditions are attached.

APPROVED PLANS

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
1532-PD-A-00 Issue - P3	Cover Sheet	Clarke and Prince Architects	May 2021
1532-PD-A-01 Issue - P6	Site Plan	Clarke and Prince Architects	May 2021
1532-PD-A-02 Issue - P3	Service Station Floor Plan	Clarke and Prince Architects	May 2021
1532-PD-A-03 Issue - P2	Fuelling Area - Floor Plan	Clarke and Prince Architects	May 2021
1532-PD-A-06 Issue - P1	Floor Plan - Caretakers Residence	Clarke and Prince Architects	May 2021
1532-PD-A-04 Issue - P2	Perspective Images	Clarke and Prince Architects	May 2021
1532-PD-A-05 Issue - P1	Street Elevations	Clarke and Prince Architects	May 2021

ADVISORY NOTES

The following notes are included for guidance and information purposes only and do not form part of the assessment manager conditions:

(A) 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.

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(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

PROPERTY NOTES

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

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

SUBMISSIONS

There was one properly made submissions about the application. In accordance with the *Planning Act 2016*, the name, residential or business address, and electronic address of the principal submitter for each properly made submission is provided below:

Name of Principal submitter	Address
1. C & C Iacutone	PO Box 677, Mareeba QLD 4880

RIGHTS OF APPEAL

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

During the appeal period, you as the applicant may suspend your appeal period and make written representations to council about the conditions contained within the development approval.

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If council agrees or agrees in part with the representations, a “negotiated decision notice” will be issued. Only one “negotiated decision notice” may be given. Taking this step will defer your appeal period, which will commence again from the start the day after you receive a “negotiated decision notice”.

OTHER DETAILS

If you wish to obtain more information about Council’s decision, electronic copies are available on line at www.msc.qld.gov.au, or at Council Offices.

Yours faithfully

BRIAN MILLARD
SENIOR PLANNER

Enc: Approved Plans/Documents
Referral Agency Response
List of Submitters
Appeal Rights

Copy: Department of State Development, Manufacturing, Infrastructure and Planning
CairnsSARA@dsdmip.qld.gov.au

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PROPOSED SERVICE STATION
KENNEDY HIGHWAY, WAREEBA, QLD

DRAWING LIST

NO	DESCRIPTION	DATE
102-00-00	CONCEPT	
102-00-01	CONCEPT	
102-00-02	CONCEPT	
102-00-03	CONCEPT	
102-00-04	CONCEPT	
102-00-05	CONCEPT	
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102-00-07	CONCEPT	
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102-00-99	CONCEPT	
102-00-100	CONCEPT	

VIEW FROM KENNEDY HWY SITE ENTRY

VIEW FROM KENNEDY HWY / MALONE RD INTERSECTION

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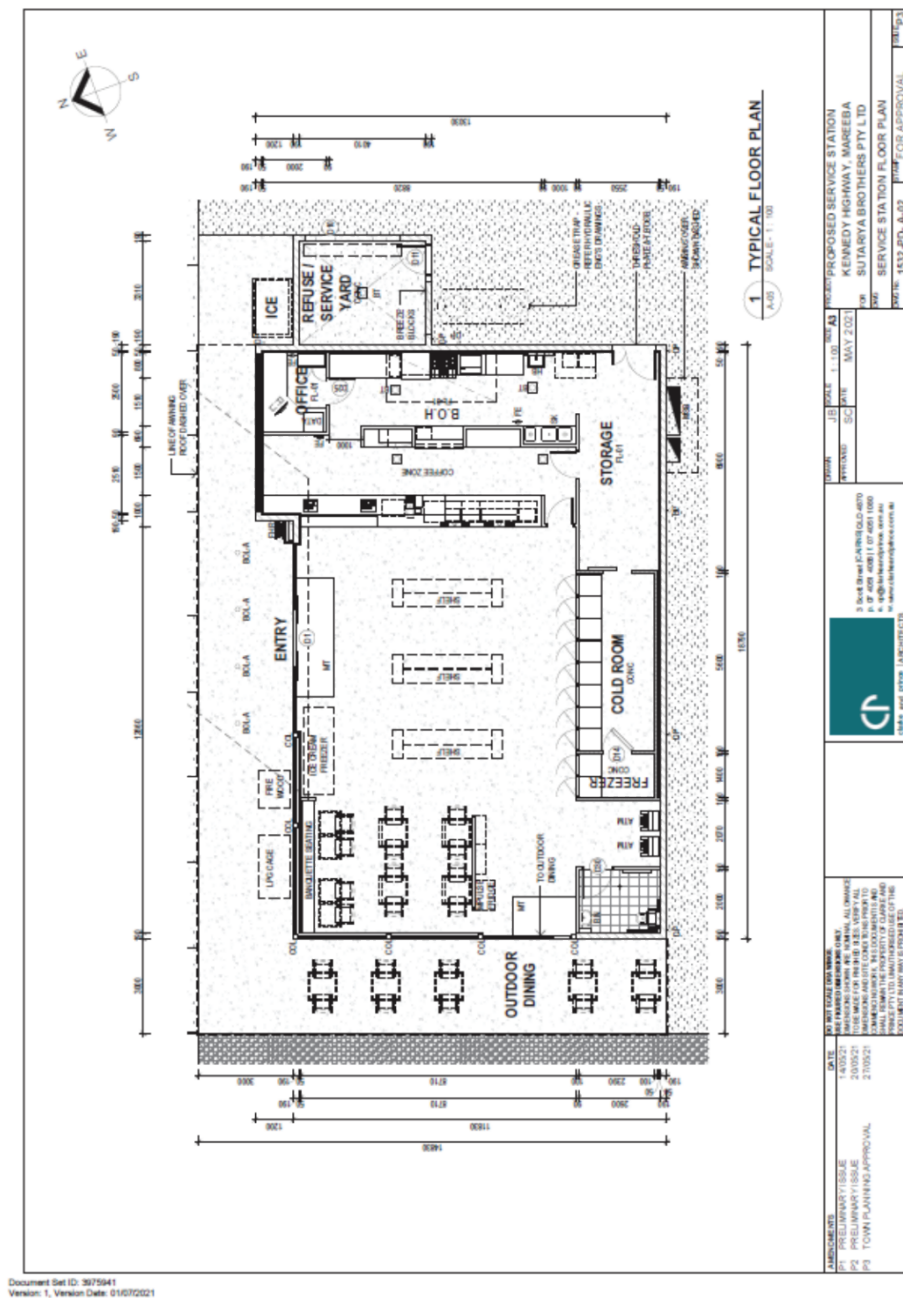
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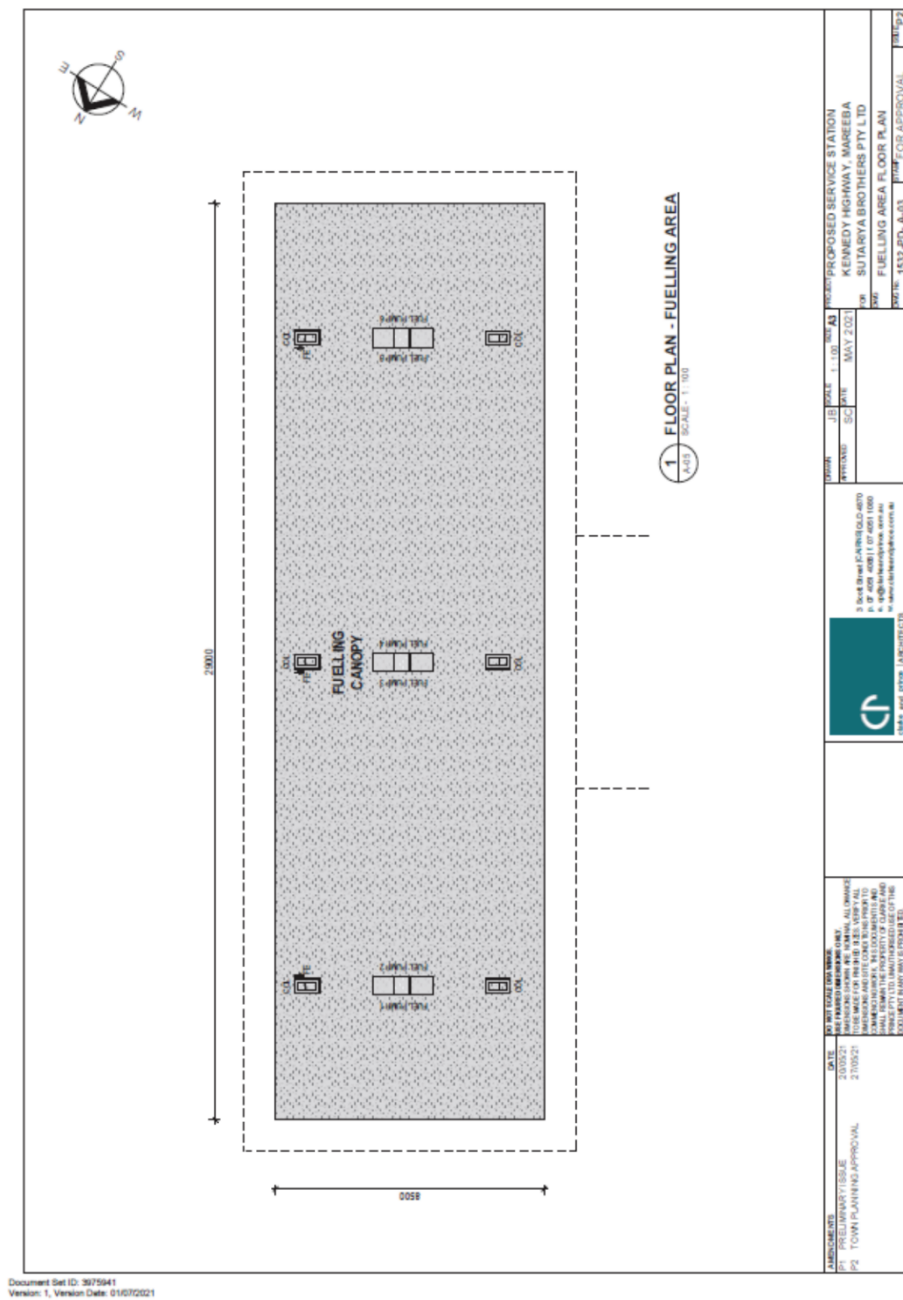


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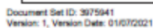
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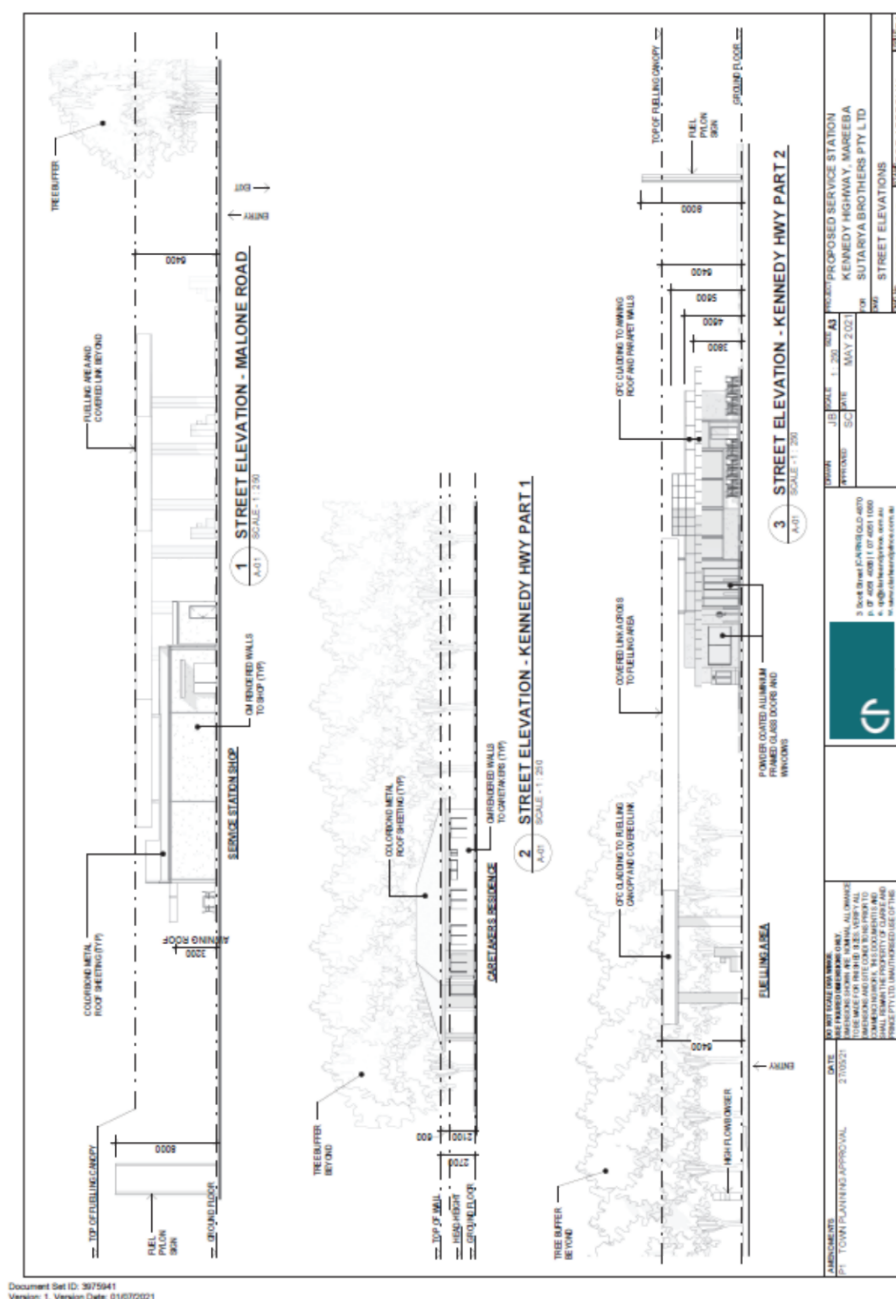
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Referral Agency Response

From: "No Reply" <mydas-notifications-prod2@qld.gov.au>
Sent: Fri, 3 Sep 2021 14:34:56 +1000
To: "Mary.McCarthy@dsdilgp.qld.gov.au"; "Planning (Shared)" <planning@msc.qld.gov.au>
Cc: "ramon@uitownplan.com.au" <ramon@uitownplan.com.au>
Subject: 2107-23539 SRA application correspondence - Malone Rd, Mareeba - Sutariya Brothers Pty Ltd - MCU/21/0014
Attachments: Attachment 4 - Approved Stormwater Drainage Management Plan.pdf, Representations about a referral agency response.pdf, 2107-23539 SRA SARA Response.pdf
Importance: Normal

Please find attached a notice regarding application [2107-23539 SRA](#).

If you require any further information in relation to the application, please contact the State Assessment and Referral Agency on the details provided in the notice.

This is a system-generated message. Do not respond to this email.

RA6-N



Email ID: RFLD-0021-0011-6002

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RA5-N



SARA reference: 2107-23539 SRA
 Council reference: MCU/21/0014
 Applicant reference: M7-21

3 September 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—Malone Road, Mareeba

(Referral agency response given under section 58 of the Planning Act 2016)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency on 13 July 2021.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	3 September 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 - service station and caretaker's accommodation
SARA role:	Referral Agency.	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017)	
	Development application for a material change of use within 25m of a state-controlled road and within 100m of an intersection with a state-controlled road	

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

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2107-23539 SRA

SARA reference: 2107-23539 SRA
Assessment Manager: Mareeba Shire Council
Street address: Malone Road, Mareeba
Real property description: Lot 15 on RP846956
Applicant name: Sutariya Brothers Pty Ltd
Applicant contact details: C/- U&I Town Plan
PO Box 426
Cooktown QLD 4895
ramon@uitownplan.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:

- Refused
- Reference: TMR21-033511 (500-1570)
- Date: 30 August 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 Mary McCarthy, Senior Planning Officer, on 47583404 or via email CairnsSARA@dsdilg.qld.gov.au who will be pleased to assist.

Yours sincerely



Tony Croke
Principal Planner

cc: Sutariya Brothers Pty Ltd, ramon@uitownplan.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

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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		
10.9.4.2.4.1 —The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
1.	<p>(a) The development must be carried out generally in accordance with Section 5 Stormwater Quantity Assessment of the Stormwater Drainage Management Plan prepared by Heath Rodgers Consulting engineers Pty Ltd, dated 04-06-2021, Reference 210220, in particular:</p> <ul style="list-style-type: none"> A detention basin is to be located at the north-eastern corner of the site as illustrated by the Concept Stormwater Drainage Plan, prepared by Rodgers Consulting Engineers Pty Ltd, Drawing No FO1, Revision A, dated 03-06-2021. All post-development stormwater runoff from the site is to be collected and discharged to the detention basin with a system of underground pipes and overland flow paths. <p>(b) RPEQ certification with supporting documentation must be provided to the corridor management unit at far.north.queensland.idas@tmr.qld.gov.au, within the Department of Transport and Main Roads', confirming that the development has been constructed in accordance with part (a) of this condition.</p>	<p>(a) At all times</p> <p>(b) Prior to the commencement of use</p>
2.	Direct access is not permitted between the Kennedy Highway and the subject site.	At all times

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Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v2.6. If a word remains undefined it has its ordinary meaning.
2.	<p>Advertising device The applicant should seek advice from the Department of Transport and Main Roads (DTMR) to ensure that the advertising device visible from a state-controlled road, and beyond the boundaries of the state-controlled road, is unlikely to create a traffic hazard for the state-controlled road.</p> <p>Note: DTMR has powers under section 139 of the <i>Transport Operations (Road Use Management - Accreditation and Other Provisions) Regulation 2015</i> to require removal or modification of an advertising sign and / or a device which is deemed to create a danger to traffic.</p>
3.	<p>Transport Noise Corridor Mandatory Part (MP) 4.4 of the Queensland Development Code (QDC) commenced on 1 September 2010 and applies to building work for the construction or renovation of a residential building in a designated <i>transport noise corridor</i>. MP4.4 seeks to ensure that the habitable rooms of Class 1, 2, 3 and 4 buildings located in a <i>transport noise corridor</i> are designed and constructed to reduce transport noise. <i>Transport noise corridor</i> means land designated under Chapter 8B of the <i>Building Act 1975</i> as a <i>transport noise corridor</i>. Information about <i>transport noise corridors</i> is available at state and local government offices.</p> <p>A free online search tool can be used to find out whether a property is located in a designated <i>transport noise corridor</i>. This tool is available at the State Planning Policy Interactive Mapping System website: https://spp.dsdp.esriaustraliaonline.com.au/geoviewer/map/planmaking and allows searches on a registered lot number and/or property address to determine whether and how the QDC applies to the land. Transport Noise Corridors are located under Information Purposes within Transport Infrastructure of the State Planning Policy (SPP) mapping system.</p>

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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 proposed development is for a material change of use for a service station and caretaker's accommodation.
- The proposed development will gain access from Malone Road, a local council road.
- SARA has assessed the development against State code 1: Development in a state-controlled road environment of the State Development Assessment provisions (SDAP), version 2.6, and determined that with conditions, the development achieves compliance with the performance outcomes of the State code.

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

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Attachment 4—Change representation provisions

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Attachment 5—Approved plans and specifications

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RODGERS CONSULTING ENGINEERS

210220 HR/PM 04-06-2021

To Whom It May Concern

Re: New Service Station

At: Kennedy Highway between Mareeba and Emerald Creek

PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE

SARA ref: 2107-23539 SRA

Date: 9 September 2021

Heath P Rodgers
MIE Aust RPEQ
Mob: 0418 692 087
admin@roddgersconsulting.com.au

124 Spence Street
PO Box 1769
Calvea Qld. 4870

Ph: 07 40 519 466
Fax: 07 40 519 477
Heath Rodgers Consulting Engineers Pty Ltd
ABN: 30 610 855 368

1 Overview

Rodgers Consultants has been engaged to prepare a Stormwater Drainage Management Plan to support a Development Application for a Service Station development on Lot 15 on RP 846956 at the corner of Malone Road and Kennedy Highway, Mareeba. The site is located within the Mareeba Shire Council local government area.



Figure 1.1 Site Locality

2 Existing Site Details

The site is currently vacant with good grass cover, bounded by heavy vegetation on the south-eastern boundary and falls gently towards the Kennedy Highway. The Malone Road pavement and northern table drain falls gently towards Kennedy Highway where it grades around the corner to the north-east and continues to flow north-east on the eastern side of the Kennedy Highway. The existing site levels and contours are shown on RPS drawing PR149751-1. Kennedy Highway is on a crest approximately 100m east of Malone Road.

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3 Proposed development

The proposed development is shown on Clarke & Prince drawing 1532-PD-A-01. The development includes:

- Refuelling areas for general and heavy vehicles
- Concrete hardstand and unsealed truck turning area
- Shop/retail building and on-site carparking

4 Flood Risk Review

Department of Natural Resources, Mines and Energy regional flood mapping indicates that the site is not affected by Q100 (1% AEP) flooding as shown in Figure 4.1 below.



Figure 4.1 Flood Map

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5 Stormwater Quantity Assessment

The proposed site is zoned Rural Residential and is currently vacant. To ensure a non-worsening impact on adjacent stormwater drainage systems (ie. Kennedy Highway table drain) this development will discharge postdevelopment stormwater flows into a detention basin located at the north-eastern corner of the site. The stormwater detention basin will be sized to detain flows for all events up to Q100 (1% AEP) and discharge flows to the Kennedy Highway at predevelopment flow rates.

The entire site currently falls and drains to the Kennedy Highway table drain and the postdevelopment site will continue to do so. Rodgers Consulting drawing F01 shows the concept stormwater drainage scheme proposed for this development.

Pre & post development stormwater flows calculated in accordance with QUDM are summarised as follows:

CATCHMENT	AREA	TIME OF CONCEN	FRACT IMPER	COEFF.	Vol.	Vol.	Vol.	Vol.	Vol.
	A	Tc	fi	C10	Q2	Q5	Q10	Q20	Q100
	m2	mins			m3/s	m3/s	m3/s	m3/s	m3/s
Predev	8412.5	40	0.10	0.70	0.082	0.113	0.131	0.156	0.227
Postdev	8412.5	6	0.41	0.78	0.195	0.278	0.330	0.399	0.597

Increases in stormwater flow will be detained in a basin located at the northern corner of the site as shown on Rodgers Consulting drawing F01. For the Q100 (1% AEP) event, the maximum storage requirement is 180m³ with a basin of 250m² and 720mm deep. The location of the basin allows for the site to discharge to the Kennedy Highway table drain at the lowest level possible to avoid excessive site filling. All postdevelopment stormwater runoff from the site will be collected and discharged to the basin with a system of underground pipes and overland flow paths.

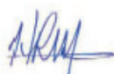
6 Summary

A stormwater drainage detention basin constructed at the northern corner of this site will ensure that postdevelopment stormwater discharge to the Kennedy Highway will remain at the predevelopment flow rate and this development will have a non-worsening impact on the Kennedy Highway drainage system.

Please do not hesitate to make contact should you require any clarification or further information.

Yours faithfully

RODGERS CONSULTING ENGINEERS



Heath P Rodgers

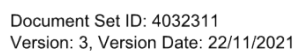
B.E. Hons, MIE Aust, RPEQ

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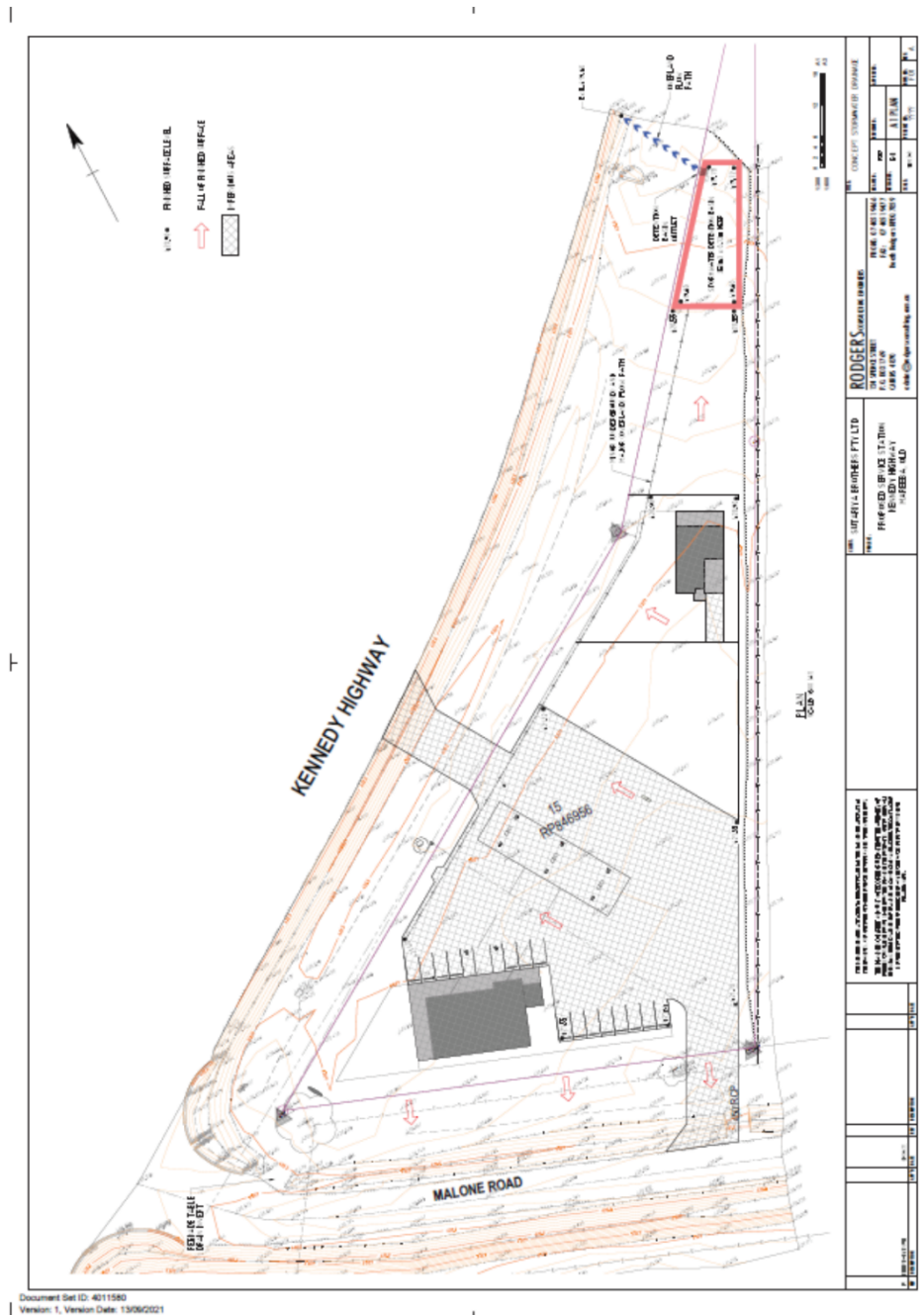
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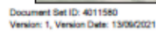
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Development Assessment Rules—Representations about a referral agency response

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.

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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.

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PLANNING ACT 2016 & THE PLANNING REGULATION 2017

Chapter 6 Dispute resolution**Part 1 Appeal rights****229 Appeals to tribunal or P&E Court**

- (1) Schedule 1 of the Planning Act 2016 states –
- (a) Matters that may be appealed to –
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) The person-
 - (i) who may appeal a matter (**the appellant**); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.

(Refer to Schedule 1 of the Planning Act 2016)

- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is –
- (a) for an appeal by a building advisory agency – 10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal – at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises – 20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice – 20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given – 30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for any other appeal – 20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note –

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.

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- (6) To remove any doubt. It is declared that an appeal against an infrastructure charges notice must not be about-
- (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund-
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that-
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to –
 - (a) the respondent for the appeal ; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, table 1, item 1 – each principal submitter for the development application; and
 - (d) for and appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (f) for an appeal to the P&E Court – the chief executive; and
 - (g) for an appeal to a tribunal under another Act – any other person who the registrar considers appropriate.
- (4) The *service period* is –
 - (a) if a submitter or advice agency started the appeal in the P&E Court – 2 business days after the appeal has started; or
 - (b) otherwise – 10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section –

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decision includes-

- (a) conduct engaged in for the purpose of making a decision; and
- (b) other conduct that relates to the making of a decision; and
- (c) the making of a decision or failure to make a decision; and
- (d) a purported decision ; and
- (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter-

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the Judicial Review Act 1991 or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with the rules of the P&E Court.

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From: "Ramon Samanes" <ramon@uitownplan.com.au>
Sent: Tue, 15 Feb 2022 08:58:12 +1000
To: "Carl Ewin" <CarlE@msc.qld.gov.au>; "Natacha Jones" <NatachaJ@msc.qld.gov.au>; "Brian Millard" <BrianM@msc.qld.gov.au>
Subject: Minor Change Application - MCU (Service Station and Caretaker's Accommodation) @ Malone Road, Mareeba
Attachments: Minor Change Application[1].pdf

Hello Carl,

As per section 80 of the *Planning Act 2016*, we have submitted a minor change application with SARA as a responsible entity for the MCU (Service Station and Caretaker's Accommodation).

In terms of the changed application with Council to reflect the new layout, we attach the minor change DA Form along with the amended plans for your consideration and acceptance.

Please let me know if you need anything else from us to process the changes.

Kind regards,
Ramon Samanes, **MPIA**
Director, U&i Town Plan



M: 0411 344 110

E: ramon@uitownplan.com.au

W: www.uitownplan.com.au



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From: Mary McCarthy <Mary.McCarthy@dsdilgp.qld.gov.au>
Date: Monday, 14 February 2022 at 10:36 am
To: "Ramon Samanes, U&i Town Plan" <ramon@uitownplan.com.au>
Subject: 220-27153 SPD - Malone Road, Mareeba

Good morning Ramon,

I can confirm that we have received your Minor Change application for the MCU (Service Station and Caretaker's Accommodation).

Per section 80 of the *Planning Act 2016*, where SARA is a Responsible Entity, can you please forward me a copy of the notice you have provided to Council as the Affected Entity.

This will help me manage timeframes.

Thank you.

Mary



Mary McCarthy

Senior Planning Officer

Planning and Development Services

Far North Queensland

Department of State Development, Infrastructure,
Local Government and Planning

Microsoft teams – [meet now](#)

P 4758 3404

E CairnsSARA@dsdilgp.qld.gov.au

Level 4, 445 Flinders Street, Townsville, QLD 4810

PO Box 1732, Townsville QLD 4810

<https://planning.statedevelopment.qld.gov.au/>

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Change application form

Planning Act Form 5 (version 1.2 effective 7 February 2020) made under Section 282 of the Planning Act 2016.

This form is to be used for a change application made under section 78 of the *Planning Act 2016*. It is important when making a change application to be aware of whether the application is for a minor change that will be assessed under section 81 of the *Planning Act 2016* or for an other change that will be assessed under section 82 of the *Planning Act 2016*.

An applicant must complete all parts of this form, and provide any supporting information that the form identifies as being required to accompany the change application, unless stated otherwise. Additional pages may be attached if there is insufficient space on the form to complete any part.

Note: All terms used in this form have the meaning given under the *Planning Act 2016*, the *Planning Regulation 2017*, or the *Development Assessment Rules (DA Rules)*.

PART 1 – APPLICANT DETAILS

1) Applicant details	
Applicant name(s) (individual or company full name)	Sutariya Brothers Pty Ltd c/- U&i Town Plan
Contact name (only applicable for companies)	Ramon Samanes
Postal address (P.O. Box or street address)	PO Box 426
Suburb	Cooktown
State	QLD
Postcode	4895
Country	
Email address (non-mandatory)	ramon@uitownplan.com.au
Mobile number (non-mandatory)	0411344110
Applicant's reference number(s) (if applicable)	M7-21(amended)

2) Owner's consent - Is written consent of the owner required for this change application?	
Note: Section 79(1A) of the <i>Planning Act 2016</i> states the requirements in relation to owner's consent.	
<input checked="" type="checkbox"/> Yes – the written consent of the owner(s) is attached to this change application <input type="checkbox"/> No	

PART 2 – LOCATION DETAILS

3) Location of the premises (complete 3.1) or 3.2), and 3.3) as applicable)				
3.1) Street address and lot on plan				
<input type="checkbox"/> Street address AND lot on plan (all lots must be listed), or <input type="checkbox"/> Street address AND lot on plan for an adjoining or adjacent property of the premises (appropriate for development in water but adjoining or adjacent to land e.g. jetty, pontoon. All lots must be listed).				
a)	Unit No.	Street No.	Street Name and Type	Suburb
			Malone Road	Mareeba
	Postcode	Lot No.	Plan Type and Number (e.g. RP, SP)	Local Government Area(s)
	4880	15	RP846956	Mareeba Shire Council
b)	Unit No.	Street No.	Street Name and Type	Suburb
	Postcode	Lot No.	Plan Type and Number (e.g. RP, SP)	Local Government Area(s)



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3.2) Coordinates of premises (appropriate for development in remote areas, over part of a lot or in water not adjoining or adjacent to land e.g. channel dredging in Moreton Bay) Note: Place each set of coordinates in a separate row.				
<input type="checkbox"/> Coordinates of premises by longitude and latitude				
Longitude(s)	Latitude(s)	Datum	Local Government Area(s) (if applicable)	
		<input type="checkbox"/> WGS84 <input type="checkbox"/> GDA94 <input type="checkbox"/> Other:		
<input type="checkbox"/> Coordinates of premises by easting and northing				
Easting(s)	Northing(s)	Zone Ref.	Datum	Local Government Area(s) (if applicable)
		<input type="checkbox"/> 54 <input type="checkbox"/> 55 <input type="checkbox"/> 56	<input type="checkbox"/> WGS84 <input type="checkbox"/> GDA94 <input type="checkbox"/> Other:	
3.3) Additional premises				
<input type="checkbox"/> Additional premises are relevant to the original development approval and the details of these premises have been attached in a schedule to this application				
<input checked="" type="checkbox"/> Not required				

PART 3 – RESPONSIBLE ENTITY DETAILS

4) Identify the responsible entity that will be assessing this change application Note: see section 78(3) of the Planning Act 2016
Mareeba Shire Council

PART 4 – CHANGE DETAILS

5) Provide details of the existing development approval subject to this change application			
Approval type	Reference number	Date issued	Assessment manager/approval entity
<input checked="" type="checkbox"/> Development permit <input type="checkbox"/> Preliminary approval	MCU/21/0014 (council ref) 2107-23539 SRA (SARA Ref)	18 November 2021	Mareeba Shire Council
<input type="checkbox"/> Development permit <input type="checkbox"/> Preliminary approval			
6) Type of change proposed			
6.1) Provide a brief description of the changes proposed to the development approval (e.g. changing a development approval for a five unit apartment building to provide for a six unit apartment building):			
We are submitting a change to the entire layout for the development given the removal of the access in the initial application from the Kennedy Highway. The entry and exit point as proposed in the plans provide better circulation and flow of traffic on and off the site. This was requested following further detailed inputs from the prospective operator of the service station.			
6.2) What type of change does this application propose?			
<input checked="" type="checkbox"/> Minor change application – proceed to Part 5 <input type="checkbox"/> Other change application – proceed to Part 6			

PART 5 – MINOR CHANGE APPLICATION REQUIREMENTS

7) Are there any affected entities for this change application		
<input type="checkbox"/> No – proceed to Part 7 <input checked="" type="checkbox"/> Yes – list all affected entities below and proceed to Part 7 Note: section 80(1) of the Planning Act 2016 states that the person making the change application must give notice of the proposal and the details of the change to each affected entity as identified in section 80(2) of the Planning Act 2016.		
Affected entity	Pre-request response provided? (where a pre-request response notice for the application has been given, a copy of the notice must accompany this change application)	Date notice given (where no pre-request response provided)
State Assessment Referral Agency	<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes – pre-request response is attached to this change application	3 September 2021
	<input type="checkbox"/> No <input type="checkbox"/> Yes – pre-request response is attached to this change application	
	<input type="checkbox"/> No <input type="checkbox"/> Yes – pre-request response is attached to this change application	

PART 6 – OTHER CHANGE APPLICATION REQUIREMENTS

Note: To complete this part it will be necessary for you to complete parts of DA Form 1 – Development application details and in some instances parts of DA Form 2 – Building work details, as mentioned below. These forms are available at <https://planning.dsdmip.qld.gov.au>.

8) Location details - Are there any additional premises included in this change application that were not part of the original development approval?
<input type="checkbox"/> No <input type="checkbox"/> Yes
9) Development details
9.1) Is there any change to the type of development, approval type, or level of assessment in this change application? <input type="checkbox"/> No <input type="checkbox"/> Yes – the completed Sections 1 and 2 of Part 3 (Development details) of DA Form 1 – Development application details as these sections relate to the new or changed aspects of development are provided with this application.
9.2) Does the change application involve building work? <input type="checkbox"/> No <input type="checkbox"/> Yes – the completed Part 5 (Building work details) of DA Form 2 – Building work details as it relates to the change application is provided with this application.
10) Referral details – Does the change application require referral for any referral requirements?
Note: The application must be referred to each referral agency triggered by the change application as if the change application was the original development application including the proposed change. <input type="checkbox"/> No <input type="checkbox"/> Yes – the completed Part 5 (Referral details) of DA Form 1 – Development application details as it relates to the change application is provided with this application. Where referral is required for matters relating to building work the Referral checklist for building work is also completed.
11) Information request under Part 3 of the DA Rules
<input type="checkbox"/> I agree to receive an information request if determined necessary for this change application <input type="checkbox"/> I do not agree to accept an information request for this change application Note: By not agreeing to accept an information request I, the applicant, acknowledge:

- that this change application will be assessed and decided based on the information provided when making this change application and the assessment manager and any referral agencies relevant to the change application are not obligated under the DA Rules to accept any additional information provided by the applicant for the change application unless agreed to by the relevant parties
 - Part 3 of the DA Rules will still apply if the application is an application listed under section 11.3 of the DA Rules.
- Further advice about information requests is contained in the [DA Forms Guide: Forms 1 and 2](#).

12) Further details

- ☐ Part 7 of DA Form 1 – Development application details is completed as if the change application was a development application and is provided with this application.

PART 7 – CHECKLIST AND APPLICANT DECLARATION

13) Change application checklist

I have identified the:

- responsible entity in 4); and
- for a minor change, any affected entities; and ☒ Yes
- for an other change all relevant referral requirement(s) in 10)

Note: See the Planning Regulation 2017 for referral requirements

For an other change application, the relevant sections of [DA Form 1 – Development application details](#) have been completed and is attached to this application ☐ Yes ☒ Not applicable

For an other change application, where building work is associated with the change application, the relevant sections of [DA Form 2 – Building work details](#) have been completed and is attached to this application ☐ Yes ☒ Not applicable

Supporting information addressing any applicable assessment benchmarks is attached to this application

Note: This includes any templates provided under 23.6 and 23.7 of DA Form 1 – Development application details that are relevant as a result of the change application, a planning report and any technical reports required by the relevant categorising instrument(s) (e.g. the local government planning scheme, State Planning Policy, State Development Assessment Provisions). For further information, see [DA Forms Guide: Planning report template](#). ☒ Yes

Relevant plans of the development are attached to this development application ☒ Yes
Note: Relevant plans are required to be submitted for all relevant aspects of this change application. For further information, see [DA Forms Guide: Relevant plans](#).

14) Applicant declaration

- ☒ By making this change application, I declare that all information in this change application is true and correct.
- ☒ Where an email address is provided in Part 1 of this form, I consent to receive future electronic communications from the responsible entity and any relevant affected entity or referral agency for the change application where written information is required or permitted pursuant to sections 11 and 12 of the *Electronic Transactions Act 2001*.

Note: It is unlawful to intentionally provide false or misleading information.

Privacy – Personal information collected in this form will be used by the responsible entity and/or chosen assessment manager, any relevant affected entity or referral agency and/or building certifier (including any professional advisers which may be engaged by those entities) while processing, assessing and deciding the change application.

All information relating to this change application may be available for inspection and purchase, and/or published on the assessment manager's and/or referral agency's website.

Personal information will not be disclosed for a purpose unrelated to the *Planning Act 2016*, Planning Regulation 2017 and the DA Rules except where:

- such disclosure is in accordance with the provisions about public access to documents contained in the *Planning Act 2016* and the Planning Regulation 2017, and the access rules made under the *Planning Act 2016* and Planning Regulation 2017; or
- required by other legislation (including the *Right to Information Act 2009*); or
- otherwise required by law.

This information may be stored in relevant databases. The information collected will be retained as required by the *Public Records Act 2002*.

PART 8 – FOR COMPLETION OF THE ASSESSMENT MANAGER – FOR OFFICE USE ONLY

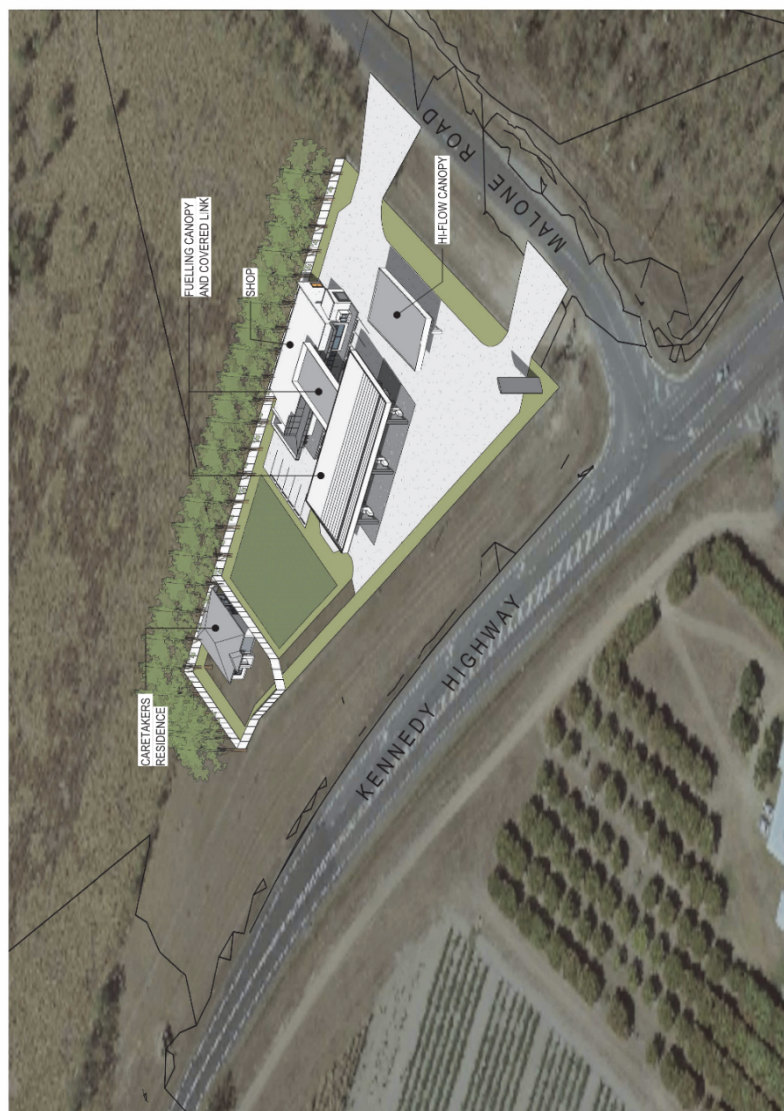
Date received: Reference number(s):

QLeave notification and payment

Note: For completion by assessment manager if applicable

Description of the work	
QLeave project number	
Amount paid (\$)	Date paid (dd/mm/yy)
Date receipted form sighted by assessment manager	
Name of officer who sighted the form	

KENNEDY HIGHWAY, MAREEBA, QLD

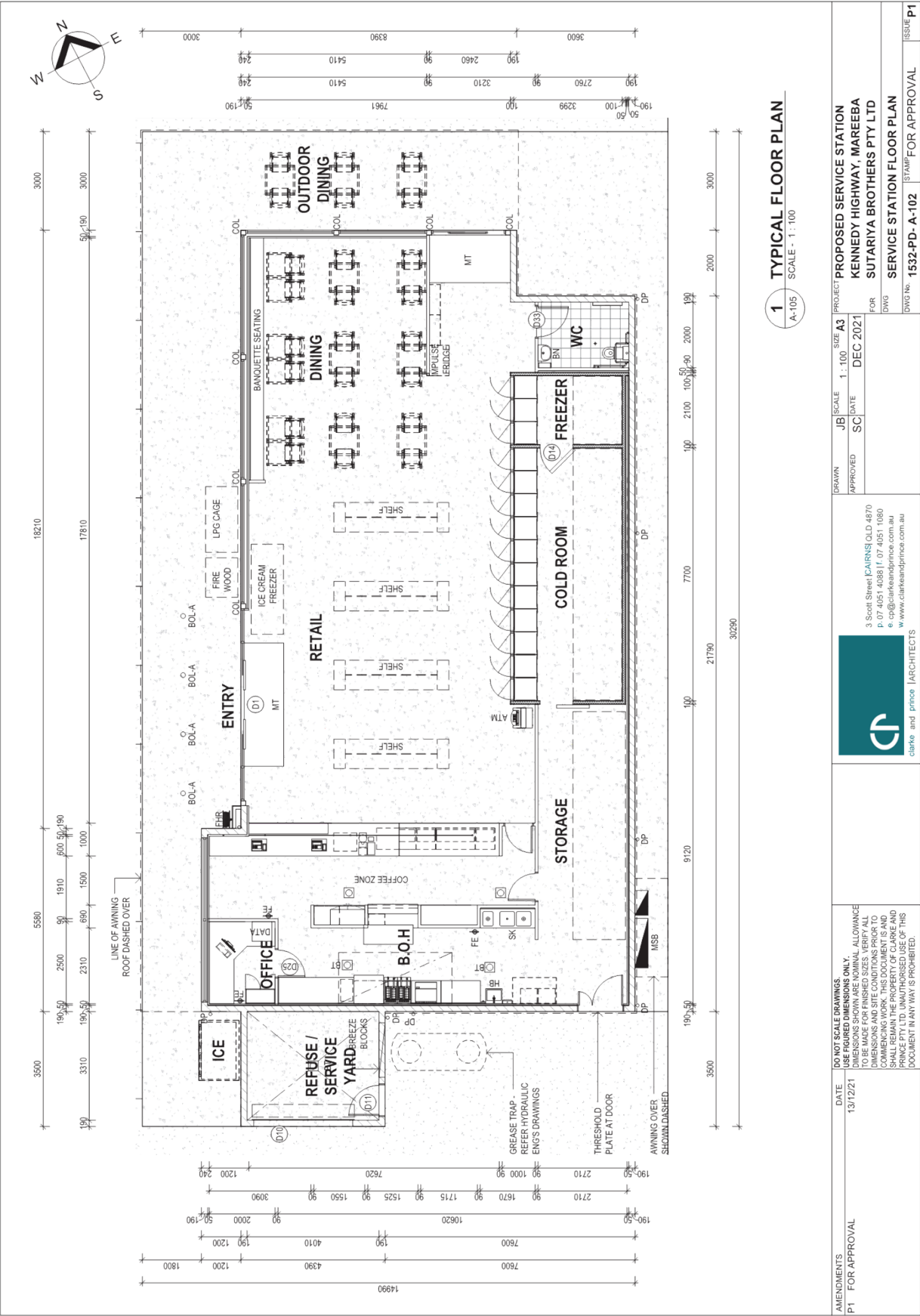


DRAWING LIST

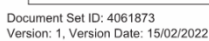
1532-PD-A-100 COVER SHEET
1532-PD-A-101 SITE PLAN
1532-PD-A-102 SERVICE STATION FLOOR PLAN
1532-PD-A-103 FUELLING AREA FLOOR PLAN
1532-PD-A-104 PERSPECTIVE IMAGES
1532-PD-A-105 STREET ELEVATIONS
1532-PD-A-106 FLOOR PLAN - CARETAKERS RESIDENCE

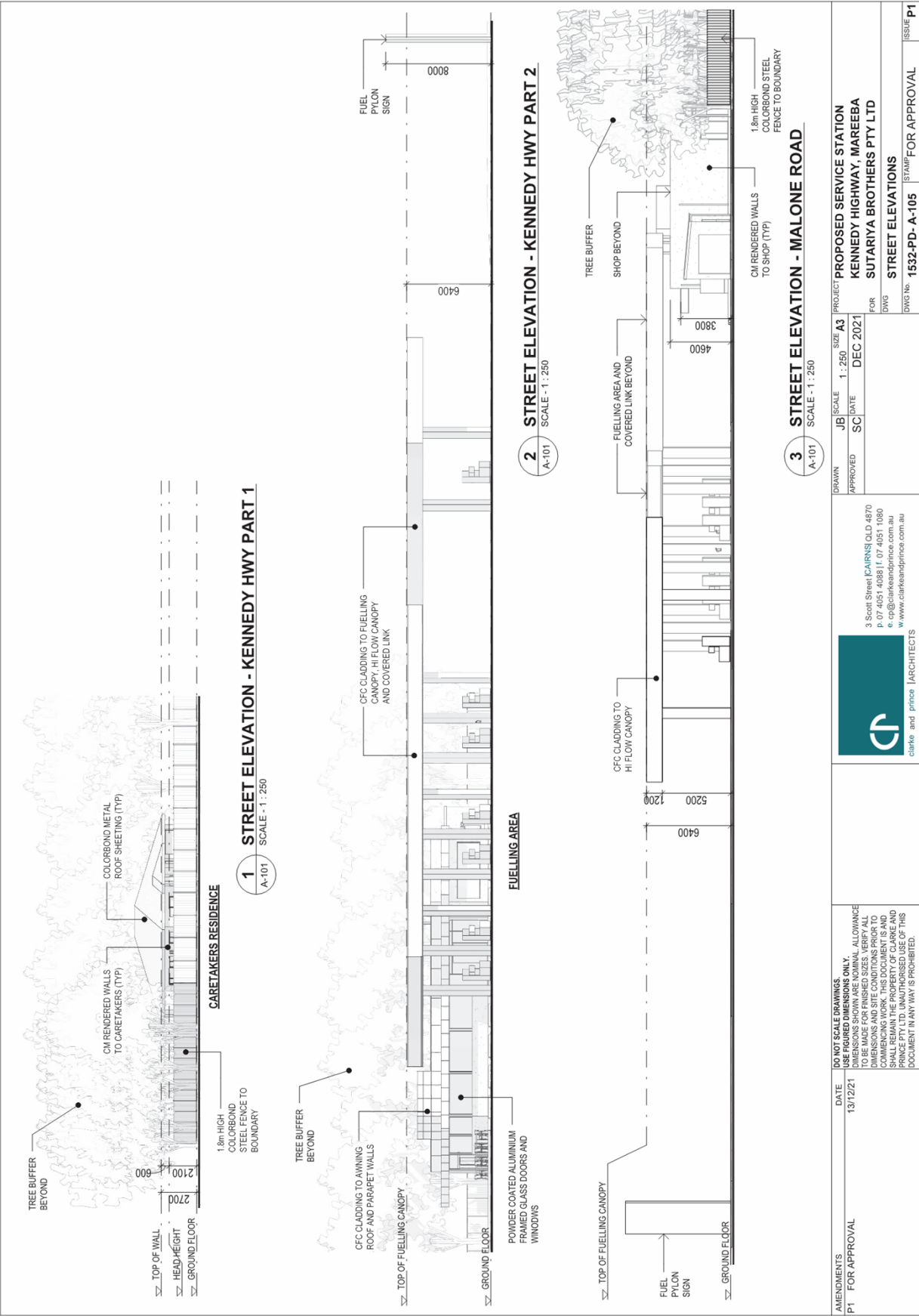
AMENDMENTS	DATE 13/12/21	DO NOT SCALE DRAWINGS. USE FIGURED DIMENSIONS ONLY. THESE DIMENSIONS ARE TO BE MADE FOR FINISHED SIZES. VERIFY ALL DIMENSIONS AND SITE CONDITIONS PRIOR TO COMMENCING WORK. THIS DOCUMENT IS AND SHALL REMAIN THE PROPERTY OF CLARKE AND ARCHITECTS. NO PART OF THIS DOCUMENT IN ANY WAY IS PROHIBITED.		<p>3 Scott Street CARNS QLD 4870 p. 07 4051 4088 f. 07 4051 1060 info@clarkeandarchitects.com.au www.clarkeandarchitects.com.au</p>	DRAWN	JS	SCALE	PROJECT									
					APPROVED	SC	DATE	SIZE	A3	PROPOSED SERVICE STATION KENNEDY HIGHWAY, MAREEBA SUTARIYA BROTHERS PTY LTD							
01 FOR APPROVAL							FOR	DEC 2021				DWG	COVER SHEET	DWG NO	1512-PD_A-100	STAMP FOR APPROVAL	ISSUE
																	P1











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AMENDMENTS P1 FOR APPROVAL	DATE 13/12/21	DO NOT SCALE DRAWINGS. USE FIGURED DIMENSIONS ONLY. FOR ALL DIMENSIONS, ALLOWANCE TO BE MADE FOR FINISHED SIZES. VERIFY ALL DIMENSIONS AND SITE CONDITIONS PRIOR TO COMMENCING WORK. THIS DOCUMENT IS AND SHALL REMAIN THE PROPERTY OF CLARKE AND PRINCE ARCHITECTS. UNAUTHORISED USE OF THIS DOCUMENT IN ANY WAY IS PROHIBITED.	 clarke and prince ARCHITECTS 3 Scott Street CARNS [CLD 4870 VIC 3103] [LOT 1060] e: cp@clarkeandprince.com.au w: www.clarkeandprince.com.au	DRAWN JB APPROVED SC	SCALE 1 : 250 DATE DEC 2021	SIZE A3	PROJECT PROPOSED SERVICE STATION KENNEDY HIGHWAY, MAREEBA FOR SUTARIYA BROTHERS PTY LTD DWG STREET ELEVATIONS	DWG No. 1532-PD- A-105	STAMP FOR APPROVAL	ISSUE P1

