

**DELEGATED REPORT**

**SUBJECT:** G PATERSON - MATERIAL CHANGE OF USE -  
CARETAKER'S ACCOMMODATION - LOT 21 ON SP237080 -  
155 MARTIN AVENUE, MAREEBA - MCU/21/0021

**DATE:** 18 November 2021

**REPORT OFFICER'S  
TITLE:** Planning Officer

**DEPARTMENT:** Corporate and Community Services

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**APPLICATION DETAILS**

APPLICATION		PREMISES	
APPLICANT	G Paterson	ADDRESS	155 Martin Avenue, Mareeba
DATE LODGED	11 November 2021	RPD	Lot 21 on SP237080
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Caretaker's Accommodation		

FILE NO	MCU/21/0021	AREA	8.22 hectares
LODGED BY	Emergent Building Approvals	OWNER	G Paterson
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural zone		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	n/a - code assessment only		

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**ATTACHMENTS:** 1. Proposal Plan/s

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**EXECUTIVE SUMMARY**

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

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

*It has been assessed against the Mareeba Shire Council Planning Scheme 2016 and no conflicts were identified.*

*It is recommended that the application be approved, subject to conditions.*

**OFFICER'S RECOMMENDATION**

1. That in relation to the following development application:

<b>APPLICATION</b>		<b>PREMISES</b>	
<b>APPLICANT</b>	G Paterson	<b>ADDRESS</b>	155 Martin Avenue, Mareeba
<b>DATE LODGED</b>	11 November 2021	<b>RPD</b>	Lot 21 on SP237080
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Material Change of Use - Caretaker's Accommodation		

and in accordance with the Planning Act 2016, the applicant be notified that the application for a development permit for the development specified in (A) is:

Approved by Council in accordance with the approved plans/documents listed in (B), subject to assessment manager conditions in (C), assessment manager's advice in (D), relevant period in (E), further permits in (F), and further approvals from Council listed in (G);

And

The assessment manager does not consider that the assessment manager's decision conflicts with a relevant instrument.

(A) APPROVED DEVELOPMENT: Development Permit for Material Change of Use - Caretaker's Accommodation

(B) APPROVED PLANS:

<b>Plan/Document Number</b>	<b>Plan/Document Title</b>	<b>Prepared by</b>	<b>Dated</b>
-	Site Plan	Applicant	11/11/21
-	Proposed Caretaker's Accommodation	Applicant	11/11/21

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out generally in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
  - found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
  - to ensure compliance with the following conditions of approval.

## 2. Timing of Effect

- 2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the commencement of the use except where specified otherwise in these conditions of approval.
- 2.2 Prior to the commencement of use, the applicant must notify Council that all the conditions of the development permit have been complied with, except where specified otherwise in these conditions of approval.

## 3. General

- 3.1 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
- 3.2 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to commencement of the use and at the rate applicable at the time of payment.
- 3.3 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.
- 3.4 The caretaker's accommodation shall not be used for any other purpose, including rental to any person who is not engaged in caretaker activities on the property.

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

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

## (D) ASSESSMENT MANAGER'S ADVICE

- (a) A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.
- (b) 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](http://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](http://www.datsip.qld.gov.au).

(E) RELEVANT PERIOD

When approval lapses if development not started (s.85)

- Material Change of Use – six (6) years (starting the day the approval takes effect);

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

- Nil

(H) OTHER APPROVALS REQUIRED FROM COUNCIL

- Nil

## THE SITE

The subject site is situated at 155 Martin Avenue, Mareeba and is described as Lot 21 on SP237080. The site is a rear access lot with the body being generally regular in shape with a total area of 8.22 hectares and is zoned Rural under the Mareeba Shire Council Planning Scheme 2016. The site is accessed from Martin Avenue via a 20 metre wide access handle that contains a 4m wide bitumen sealed crossover and driveway that runs right to the rear of the property. The site is currently improved by a large commercial wholesale nursery which includes outdoor and shaded plant stock as well as processing sheds. The nursery is established in the south-west corner of the property. A shed with a small dwelling attached is situated in the north-east (rear) corner of the property. This small dwelling is the subject of this application seeking to convert it for use as caretaker's accommodation. A larger primary dwelling will then be constructed in the south-east corner of the site.

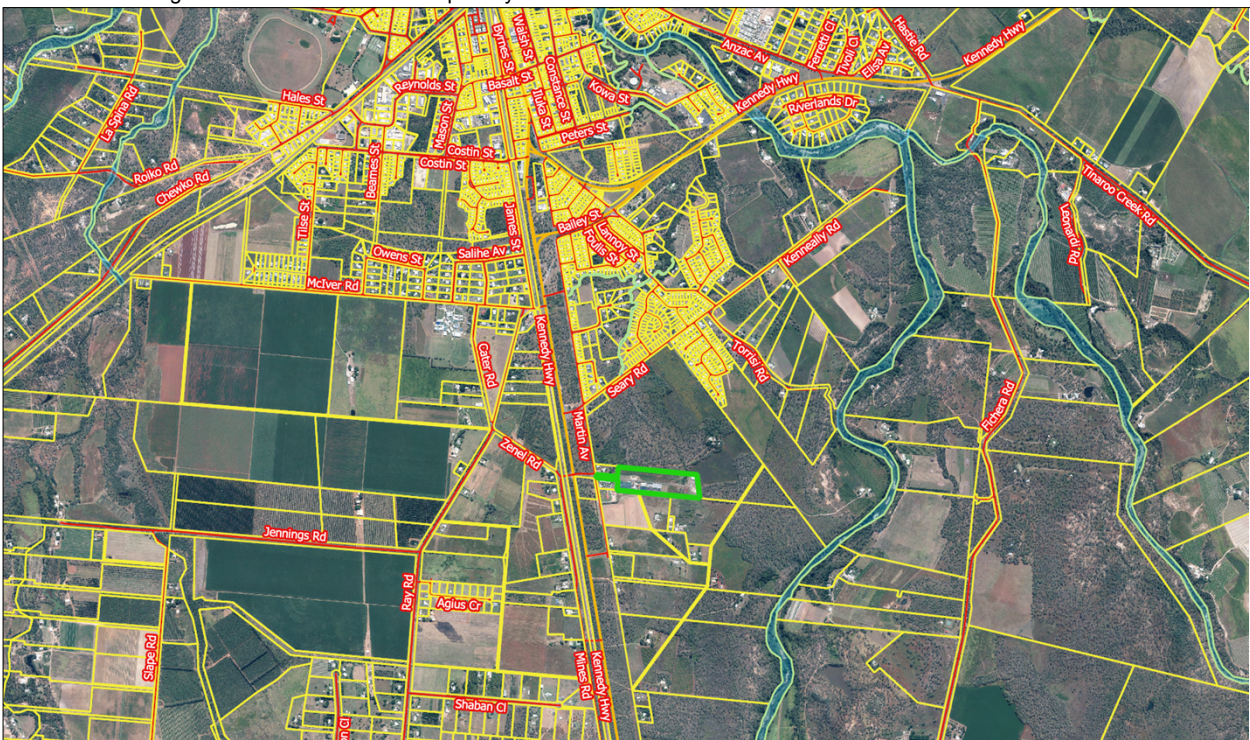
The site has been cleared of most native vegetation. All surrounding lots are zoned Rural and are generally used for a mix of purposes including livestock grazing, rural lifestyle and small scale cropping.





**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 - Caretaker's Accommodation in accordance with the plans shown in **Attachment 1**.

The applicants propose to convert the sites existing 70m<sup>2</sup> dwelling attached to the shed in the north-east corner of the site to caretaker's accommodation.

## 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 site does not contain any areas of ecological significance.

## PLANNING SCHEME DESIGNATIONS

Strategic Framework:	<b>Land Use Categories</b> <ul style="list-style-type: none"> <li>Rural Area (Rural Agricultural Area &amp; Rural other)</li> </ul>
Zone:	<b>Natural Environment Elements</b> <ul style="list-style-type: none"> <li>Biodiversity Area</li> </ul>
Overlays:	Rural zone Agricultural land overlay Airport environs overlay Bushfire hazard overlay Environmental significance overlay Regional infrastructure corridors and substations overlay Transport infrastructure overlay

## Planning Scheme Definitions

The proposed use is defined as:-

<b>Column 1 Use</b>	<b>Column 2 Definition</b>	<b>Column 3 Examples include</b>	<b>Column 4 Does not include the following examples</b>
<b>Caretaker's accommodation</b>	<i>A dwelling provided for a caretaker of a non-residential use on the same premises.</i>		<i>Dwelling house</i>

## RELEVANT PLANNING INSTRUMENTS

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

### (a) Far North Queensland Regional Plan 2009-2031

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

### (b) State Planning Policy

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

### (c) Mareeba Shire Council Planning Scheme 2016

#### Relevant Development Codes

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

- 6.2.9 Rural zone code
- 8.2.1 Agricultural land overlay code
- 2.2.2 Airport environs overlay code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.9 Regional infrastructure corridors and substations overlay code
- 9.3.1 Accommodation activities code
- 9.4.3 Parking and access code
- 9.4.5 Works, services and infrastructure code

The application did not include a planning report and assessment against the planning scheme. An officer assessment has found that the application satisfies the relevant acceptable outcomes (or performance outcomes where no acceptable outcomes applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
Rural zone code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Agricultural land overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Airport environs overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Bushfire hazard overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.

Environmental significance overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Regional infrastructure corridors and substations overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Accommodation activities code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Parking and access code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Works, services and infrastructure code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.

### (e) Planning Scheme Policies/Infrastructure Charges Plan

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

A condition will be attached to any approval requiring all development works be designed and constructed in accordance with FNQROC Development Manual standards.

### REFERRALS

This application did not trigger referral to a Referral Agency.

### Internal Consultation

Technical Services

### PLANNING DISCUSSION

Nil

**Date Prepared:** 18 November 2021

## DECISION BY DELEGATE

## DECISION

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

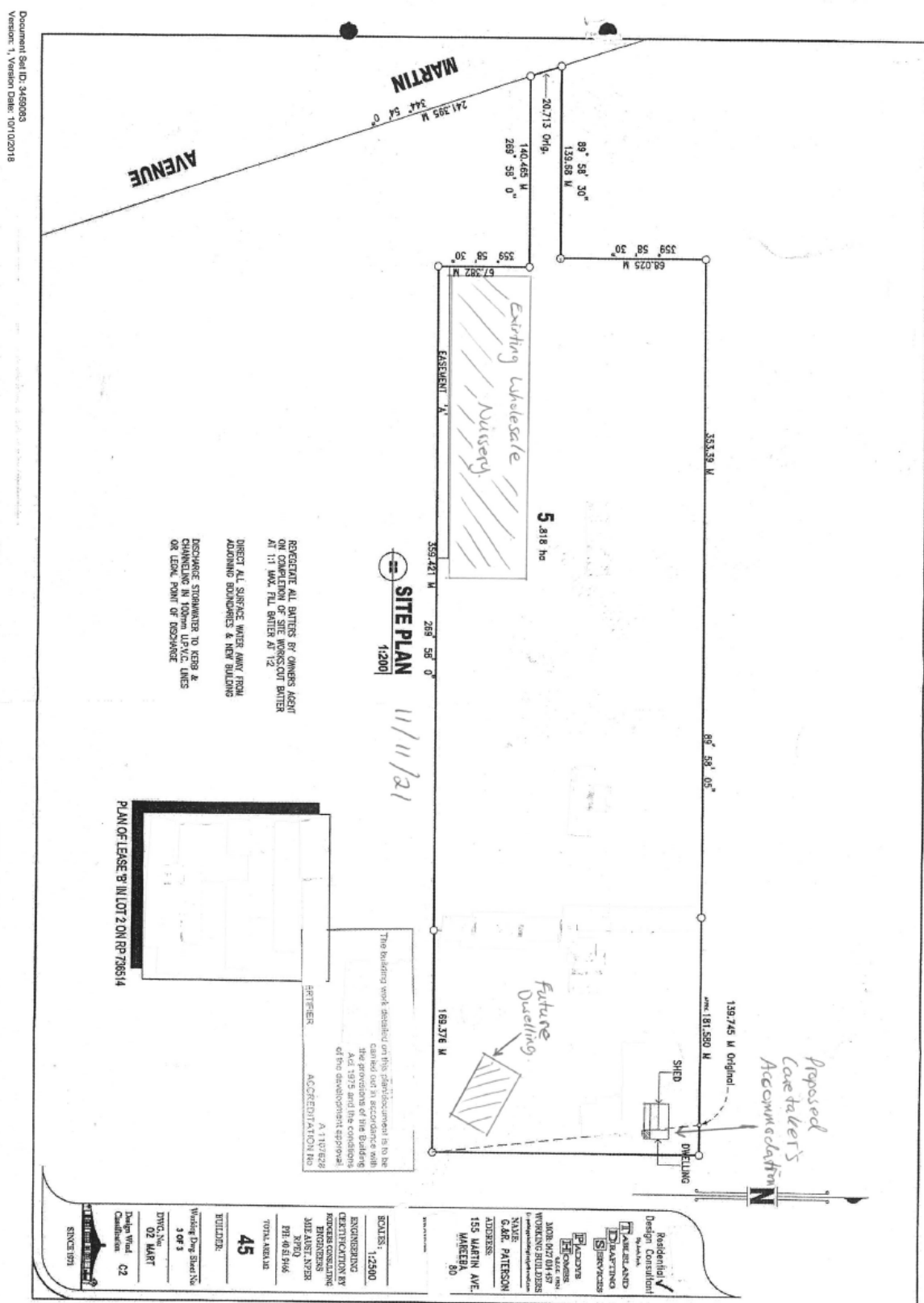
Dated the 18<sup>TH</sup> day of November 2021



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

MAREEBA SHIRE  
AS DELEGATE OF THE COUNCIL

## PROPOSAL PLANS



GORDON PATERSON  
PROPOSED CARETAKER'S ACCOMMODATION

11/11/21

