8.1 MAREBA ISLAMIC SOCIETY - MATERIAL CHANGE OF USE - EDUCATIONAL ESTABLISHMENT (EXTENSION TO EXISTING EDUCATIONAL & CULTURAL USES BUILDING) - LOT 311 ON M3563 - 108 WALSH STREET, MAREEBA - MCU/21/0023

Date Prepared: 10 January 2022
Author: Planning Officer

Attachments: 1. Proposal Plans

#### APPLICATION DETAILS

APPLICATION		PREMISES		
APPLICANT	Mareeba Islamic	<b>ADDRESS</b>	10	8 Walsh Street,
	Society		Ma	areeba
DATE LODGED	6 December 2021	RPD	Lo	t 311 on M3563
TYPE OF APPROVAL	Development Permit			
PROPOSED DEVELOPMENT	Material Change of Use	ange of Use - Educational Establishment (Extension		
	to Existing Educational & Cultural Uses Building)			
FILE NO	MCU/21/0023	AREA		1,012m <sup>2</sup>
LODGED BY	Freshwater Planning Pt	y OWNER		A Kochi, S Latif & S
	Ltd			Murat
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016			
ZONE	Centre Zone			
LEVEL OF	Code Assessment			
ASSESSMENT				
SUBMISSIONS	n/a			

## **EXECUTIVE SUMMARY**

Council is in receipt of a code assessable development application described in the above application details. Being code assessable, the application was not required to undergo public notification.

The applicants propose an expansion to the sites existing Islamic education centre situated at the rear of the site (behind the Mosque). The expansion will include the construction of a second storey on the existing educational and cultural uses building and will accommodate a maximum of 35 students. The existing building is already used for Islamic faith educational purposes in conjunction with the Mosque. The educational centre will operate like a conventional school Monday to Friday with a focus on the Islamic Faith (similar to Catholic Schools). It is understood the school will be required to be registered with the Department of Education.

The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and does not conflict with any relevant aspect of the Planning Scheme. The main planning issue identified during the assessment of the application was the lack of on-site carparking, however, considering the scale of the use (for a maximum of 35 students), and that students are proposed to be dropped off and picked up primarily via mini-bus, the development is not likely to impact on the availability of on-street parking or cause traffic congestion on Walsh and Lloyd Streets.

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

The applicants have requested a review of the initial \$4,398.00 application fee paid, on the basis that the Mareeba Islamic Society is a 'not-for-profit' organisation. Although requests for fee reductions are generally not accepted by Council officers on this basis alone, due to the modest scale of development proposed and subsequent reduced workload on Council officers when assessing this particular application (when compared to other applications for conventional scale educational establishments), it is also recommended that a partial refund of \$1,579.00 be granted, reducing the relevant fee to \$2,819.00 (small - medium impact assessment fee).

#### OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES			
APPLICANT	Mareeba Islamic Society	ADDRESS	108 Walsh St Mareeba	reet,	
DATE LODGED	6 December 2021	RPD	Lot 311 on M3563		
TYPE OF APPROVAL	Development Permit				
PROPOSED DEVELOPMENT	Material Change of Use - Educational Establishment (Extension to Existing Educational & Cultural Uses Building)				

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

A partial application fee refund of the of \$1,579.00 be applied to the application and refunded to the applicants;

#### 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 - Educational Establishment (Extension to Existing Educational

& Cultural Uses Building)

### (B) APPROVED PLANS

Plan/Document Number	Plan/Document Title	Prepared by	Dated
SA - 100V - 21 - 24 Sheet No. 01	Site Plan	SA Architectural Services	28/04/2021
SA - 100V - 21 - 24 Sheet No. 02	Existing Ground Floor	SA Architectural Services	28/04/2021
SA - 100V - 21 - 24 Sheet No. 03	Proposed Top Floor	SA Architectural Services	28/04/2021
SA - 100V - 21 - 24 Sheet No. 04	Elevations 1	SA Architectural Services	28/04/2021
SA - 100V - 21 - 24 Sheet No. 05	Elevations 2	SA Architectural Services	28/04/2021
SA - 100V - 21 - 24 Sheet No. 06	Cross Section A-A	SA Architectural Services	28/04/2021
SA - 100V - 21 - 24 Sheet No. 07	Cross Section B-B	SA Architectural Services	28/04/2021

# (C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

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

- 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 Student Enrolments

The total number of enrolled students shall not exceed 35. Upon request by Council, the applicant/operators must provide enrolment evidence to Council verifying school enrolment numbers.

# 3.5 Student drop-off/pick-up

Generally, students should be dropped off and picked up from the site via minibus to decrease the risk of traffic congestion, unless in case of emergency or other unplanned circumstance.

Should the need for alternate pick-up and drop-off arrangements be required for individual students, approval from Council's delegated officer must be sought.

## 3.6 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.

3.7 All windows on the southern side of the second storey must be fitted with opaque glass or fitted with external screening to stop overlooking into the southern adjoining property.

### 3.8 Noise Nuisance

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.

### 3.9 Air Conditioner & Building Plant Screening

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.

#### Infrastructure Services and Standards

# 4.1 Stormwater Management

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

All stormwater drainage collected from the site must be discharged to an approved legal point of discharge.

# 4.2 Water Supply

The developer must connect the proposed development to Councils reticulated water supply network in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

If a new or upgraded water service connection is required to service the development, it must be provided in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

# 4.3 Sewerage Connection

The developer must connect the proposed development to Council's reticulated sewerage system in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Where sewerage connections are not available to the site, or where existing connections are not satisfactory for the proposed development, the developer is required to extend or upgrade the reticulated sewerage infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

# 4.4 Lighting

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

#### (D) ASSESSMENT MANAGER'S ADVICE

- (a) An Adopted Infrastructure Charges Notice has been issued with respect to the approved development. The Adopted Infrastructure Charges Notice details the type of infrastructure charge/s, the amount of the charge/s and when the charge/s are payable.
- (b) The Adopted Infrastructure Charges Notice does not include all charges or payments that are payable with respect to the approved development. 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.
- (c) Food Premises (restaurants/bed & breakfasts etc.)

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

(d) 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.

(e) 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.

(f) 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

# (g) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the "cultural heritage duty of care"). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from www.datsip.qld.gov.au

### (E) RELEVANT PERIOD

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

- Material Change of Use six (6) years (starting the day the approval takes effect);
- (F) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS
  - Development Permit for Building Work
- (G) OTHER APPROVALS REQUIRED FROM COUNCIL
  - Compliance Permit for Plumbing and Drainage Work
- 2. That an Adopted Infrastructure Charges Notice be issued for the following infrastructure charge/s for:

Development Type	Rate	Measure	Charge	Credit Detail	Balance
	per m2 GFA	GFA (m2)			
Educational Establishment	\$98	160	\$15,680.00	Nil	\$15,680.00
TOTAL CURRENT AMOUNT OF CHARGE			\$15,680.00		

#### THE SITE

The subject site is situated on the corner of Walsh Street and Lloyd Street at 108 Walsh Street, Mareeba and is described as Lot 311 on M3563. The site is regular in shape with an area of 1,012m<sup>2</sup> and is zoned Centre under the Mareeba Shire Council Planning Scheme 2016. Walsh Street and Lloyd Street are constructed to bitumen/asphalt sealed standard.

The site contains the long established Mareeba Mosque, built in 1970, constructed at the eastern end of the site facing Walsh Street. An ablutions block is situated behind the Mosque as well as the Islamic Education Centre hall at the rear of the site. This hall is the subject of this application with a second storey proposed to be constructed on it. The remainder of the site is grassed and landscaped with gardens and mature trees. The site is connected to all urban services. No carparking is provided on-site with visitors to the Mosque and Education Centre using line marked on-street parking.

All immediate surrounding lots are zoned Centre. A medical centre is established on the adjoining allotment to the west while high density public housing units are located on the adjoining lot to the south. Most lots to the north and east contain dwellings with the newly constructed Mareeba Ambulance Station situated diagonally opposite the site.



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**

# Town Planning Consent C18/87

Town Planning Consent C18/87 was approved by Council on 20 August 1987. The consent permit authorises the use of the site as an Islamic Education Centre. This application proposes the expansion of this approved use to include a second storey on the existing education building to accommodate a maximum of 35 students in a conventional style school teaching environment (with a focus on the Islamic faith).

# **DESCRIPTION OF PROPOSED DEVELOPMENT**

The development application seeks a Development Permit for Material Change of Use - Educational Establishment (Extension to Existing Educational & Cultural Uses Building) in accordance with the plans shown in **Attachment 1**.

The applicants propose the construction of a second storey on top of the existing education and cultural uses building situated at the rear of the site. The second storey will provide approximately  $160 \text{m}^2$  of floor space to accommodate a maximum of 35 students. The school will operate like a conventional school, however, will have a particular focus on the Islamic faith, similar to that of Catholic Schools. It is understood the school will also be required to be registered with the State Department of Education.

The access and parking arrangements on the site will remain unchanged, with only on-street parking available to accommodate any additional demand. Historically, there has been no record or parking

shortfalls in the vicinity of the site, with most on-street parking along both frontages of the site predominantly being utilised by Islamic worshippers. It is proposed to drop off and pick up the students via mini-bus to help minimise the risk of any carparking shortfall and subsequent impact on Walsh Street and Lloyd Street users.

### **REGIONAL PLAN DESIGNATION**

The subject site is included within the Urban Footprint land use category in the Far North Queensland Regional Plan 2009-2031. Mareeba is identified as a Major Regional Activity Centre in the Regional Plan. The site does not contain any mapped areas of ecological significance.

### PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories  Centre Area  Transport Elements  Local Collector Road  Principal Cycle Routes
Zone:	Centre Zone
Local Plan:	Mareeba Local Plan
Overlays:	Heritage Overlay Airport Environs Overlay Transport Infrastructure Overlay

## **Planning Scheme Definitions**

The proposed use is defined as:-

Column 1	Column 2	Column 3	Column 4 Does not include the following examples
Use	Definition	Examples include	
Educational establishment	Premises used for training and instruction designed to impart knowledge and develop skills.  The use may include outside hours school care for students or onsite student accommodation.	Pre-preparatory, preparatory and primary school, secondary school, special education, college, university, technical institute, outdoor education centres	Childcare centre, home based child care, family day care

#### 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 Developments Codes**

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

- 6.2.1 Centre zone code
  8.2.2 Airport environs overlay code
  8.2.7 Heritage overlay code
  9.3.3 Community activities code
- 9.4.2 Landscaping code
- 9.4.3 Parking and access code
- 9.4.5 Works, services and infrastructure code

The application included a planning report and assessment against the planning scheme. An officer assessment has found that the application satisfies the relevant acceptable solutions (or probable solutions/performance criteria where no acceptable solution applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
Centre zone code	The application complies or can be conditioned to comply with the relevant acceptable outcomes contained within the code (or performance outcomes where no acceptable outcome is provided).
Airport environs overlay code	The application complies or can be conditioned to comply with the relevant acceptable outcomes contained within the code (or performance outcomes where no acceptable outcome is provided).
Heritage overlay code	The application complies or can be conditioned to comply with the relevant acceptable outcomes contained within the code (or performance outcomes where no acceptable outcome is provided).
Community activities code	The application complies or can be conditioned to comply with the relevant acceptable outcomes contained within the code (or performance outcomes where no acceptable outcome is provided).
Landscaping code	The application complies or can be conditioned to comply with the relevant acceptable outcomes contained within the code (or

	performance outcomes where no acceptable outcome is provided).
	The site already contains adequate established landscaping in the form of garden beds and mature trees. Additional landscaping is not considered necessary in this instance.
Parking and access code	The application complies or can be conditioned to comply with the relevant acceptable outcomes contained within the code (or performance outcomes where no acceptable outcome is provided) apart from the following:
	Acceptable Outcome AO1 - Car Parking Numbers
	Refer to planning discussion section of report.
Works, services and infrastructure code	The application complies or can be conditioned to comply with the relevant acceptable outcomes contained within the code (or performance outcomes where no acceptable outcome is provided).

# (D) Planning Scheme Policies/Infrastructure Charges Plan

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

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

### (E) Adopted Infrastructure Charges Notice

Adopted Infrastructure Charges Resolution (No. 1) of 2021 identifies an infrastructure charge rate of \$98.00 per m<sup>2</sup> of gross floor area (GFA) for "Educational Establishment" uses.

Based on the new second storey GFA of 160m2 (excluding the stairwell area), the applicable infrastructure charge is:

 $160(m^2) \times $98 = $15,680.00$ 

#### REFERRAL AGENCY

This application did not trigger referral to any Referral Agencies.

### **Internal Consultation**

Not applicable.

### **PLANNING DISCUSSION**

Noncompliance with the relevant acceptable outcomes of the Parking and access code is discussed below.

## Parking and access code

### Car parking spaces

### **PO1**

Development provides sufficient car parking to accommodate the demand likely to be generated by the use, having regard to the:

- (a) nature of the use;
- (b) location of the site;
- (c) proximity of the use to public transport services;
- (d) availability of active transport infrastructure; and
- (e) accessibility of the use to all members of the community.

### **AO1**

The number of car parking spaces provided for the use is in accordance with Table 9.4.3.3B.

# Comment

No car parking is proposed on site due to the site already being built up with no available space. The development is therefore non-compliant with AO1. It is proposed to utilise the existing on-street parking along the Walsh Street and Lloyd Street frontages of the site (13 on-street parking spaces including 1 disabled parking space).

The proposed educational establishment (school) will accommodate a maximum of 35 students. For this number of students, there is also likely to only be a small number of educators. Students will be dropped off and picked up from the site primarily via mini-bus with no individual drop-offs planned unless in unforeseen circumstances.

Historically, there has been no record or parking shortfalls in the vicinity of the site, with most onstreet parking along both frontages of the site predominantly being utilised by Islamic worshippers. It is considered that the amount of on-street parking currently provided along both the Walsh Street and Lloyd Street frontages of the site will be adequate to accommodate the demand likely to be generated by the use. The development complies with PO1.













