

**DELEGATED REPORT**

**SUBJECT:** REEVER AND OCEAN PTY LTD - MATERIAL CHANGE OF USE - NATURE BASED TOURISM - LOTS 16, 17, 18 & 22 ON N157227, LOT 19 ON N157452 AND LOTS 1 & 2 ON RP703984 - 77 & 112 BARNWELL ROAD, KURANDA - MCU/17/0012

**DATE:** 27 November 2017

**REPORT OFFICER'S TITLE:** Senior Planner

**DEPARTMENT:** Corporate and Community Services

**APPLICATION DETAILS**

APPLICATION		PREMISES	
<b>APPLICANT</b>	Reever and Ocean Pty Ltd	<b>ADDRESS</b>	77 & 112 Barnwell Road, Kuranda
<b>DATE LODGED</b>	20 October 2017	<b>RPD</b>	Lots 16, 17, 18 & 22 on N157227 Lot 19 on N157452 Lots 1 & 2 on RP703984
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Material Change of Use - Nature Based Tourism		

<b>FILE NO</b>	MCU/17/0012	<b>AREA</b>	Lot 16 - 57.617 ha Lot 17 - 57.713 ha Lot 18 - 63.012 ha Lot 22 - 37.259 ha Lot 19 - 39.5984 ha Lot 1 - 16.187 ha Lot 2 - 48.312 ha
<b>LODGED BY</b>	Cardno	<b>OWNER</b>	Lot 16 - A & A Easton & B Martin Others - Reever and Ocean Pty Ltd
<b>PLANNING SCHEME</b>	Mareeba Shire Council Planning Scheme 2016		
<b>ZONE</b>	Rural zone		
<b>LEVEL OF ASSESSMENT</b>	Code Assessment		
<b>SUBMISSIONS</b>	n/a		

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

## EXECUTIVE SUMMARY

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

*The applicants propose the establishment of an impermanent nature based tourism enterprise on the subject land for up to 60 tourists per day providing a range of activities and experiences including horse riding, quad bike tours, walking/hiking trails and shows and demonstrations of rural activities. The proposed development will seeks to showcase:*

- The unique natural environment of the site and the surrounding area;*
- Australian and North Queensland culture and lifestyle, with a focus on 'Australiana' rural activities such as cattle handling; and*
- The history of the site in the development of the rural economy of North Queensland, including the heritage values of Barnwell house and the grave of James Hamilton.*

*Being impermanent, the applicants intend the proposed use to operate on site up until the 30 June 2018. Any use rights over the site for tourist activities beyond the 30 June 2018 will be sought by way of a separate future development application.*

*The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and is not considered to conflict with any aspect of the Planning Scheme.*

*A condition will be attached to any approval limiting the operation of the development on the subject land till the 30 June 2018, at which time the use will be required to cease.*

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

## OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
<b>APPLICANT</b>	Reever and Ocean Pty Ltd	<b>ADDRESS</b>	77 and 112 Barnwell Road, Kuranda
<b>DATE LODGED</b>	20 October 2017	<b>RPD</b>	Lots 16, 17, 18 & 22 on N157227 Lot 19 on N157452 Lots 1 & 2 on RP703984
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Material Change of Use - Nature Based Tourism		

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 - Nature Based Tourism

(B) **APPROVED PLANS:**

Plan/Document Number	Plan/Document Title	Prepared by	Dated
HRP16299-006-FIG-01	Site Plan	Cardno	3/10/2017
HRP16299-006-FIG-02	Proposal Plan	Cardno	3/10/2017

(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, including but not necessarily limited to the subject of 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.

2.3 Approval Lapse Date

In accordance with section 65 (2) of the Act, This development permit will cease to have effect on **30 June 2018**. The approved use (as outlined in the facts and circumstances of the application) must cease by close of business on 30 June 2018.

### 3. General

3.1 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.

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

#### 3.3 Waste Management

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

#### 3.4 Hours of Operation

The operating hours shall be between 7am and 6pm, Monday to Sunday.

3.5 A maximum of 60 tourists per day (on average) are permitted on the subject site in association with the approved use.

3.6 Tourists are to be delivered to the site via bus only and are not permitted to access or be delivered to the approved use via a passenger-car of 5.2 metres length (or lesser length vehicle).

3.7 In order to reduce amenity impacts, quad bike activities associated with the approved use are not permitted within 150 metres of the northern boundary of Lot 22 on N157227 at any time.

Note - Quad bike activities associated with the existing use, namely animal husbandry, is permitted within this area.

3.8 The maximum noise level of any ATV (quad bike) operated in the conduct of the approved use shall not exceed 63dBA (measured at 50 metres from the ATV or at the boundary of any land not forming part of this development approval), and all ATV's must be governed not to exceed a speed of 20 kilometres per hour.

3.9 Any fuel stored on site associated with the approved use must be kept in a sealed, bunded area with a storage capacity of at least 150% of the storage capacity of any fuel storage tanks/containers.

### 4. Infrastructure Services and Standards

#### 4.1 Carparking/Internal Driveways

The designated car parking area must be constructed with compacted gravel to a minimum depth of 100mm and be appropriately drained prior

to the commencement of the use, and maintained for the life of the development, to the satisfaction of Council's delegated officer.

#### 4.2 Water Quality

- 4.2.1 Any material likely to degrade the water (eg oils, lubricants, solvents, coolants, degreasing agents etc) must be stored within a bunded area, or an appropriately designed chemical storage container, suitable for preventing the escape of material into surface or underground water resources.
- 4.2.2 An emergency spill containment kit must be kept on site at all times during the operation of the approved use.
- 4.2.3 Any vehicle/quad bike wash down areas are to be located so as to prevent the discharge of sediment, contaminants or wastewater to waterways, creeks or watercourses.
- 4.2.4 All new earthworks associated with access tracks, driveways and the like are to be maintained so that the risk and consequence of erosion is minimised, to the satisfaction of Council's delegated officer. All batters created by earthworks are to be vegetated or otherwise protected from scour as soon as possible after works are carried out, to the satisfaction of Council's delegated officer.
- 4.2.5 All tracks, including all creek/waterway crossings, driveways and the like used for ATV (quad bike) tours are to be constructed and maintained for the life of the development, so that the risk and consequence of erosion/sedimentation is minimised, to the satisfaction of Council's delegated officer.
- 4.2.6 ATV (quad bike) tours are not permitted to cross Owen Creek, Warril Creek or Cain Creek. Only the three (3) existing crossings of Haren Creek may be used for the ATV (quad bike) tours.

#### 4.3 Water Supply

The quality of water provided on site for human contact or consumption must be of a standard for drinking water set by the Australian Drinking Water Guidelines 2004 (National Health and Medical Research Council and the National Resource Management Ministerial Council).

#### 4.4 On-site Wastewater Management

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

### (D) 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 any buildings associated with the approved use 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:

- This approval ceases to have effect (lapses) on **30 June 2018** (refer to Condition 2.3)

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

- Development Permit for Building Work

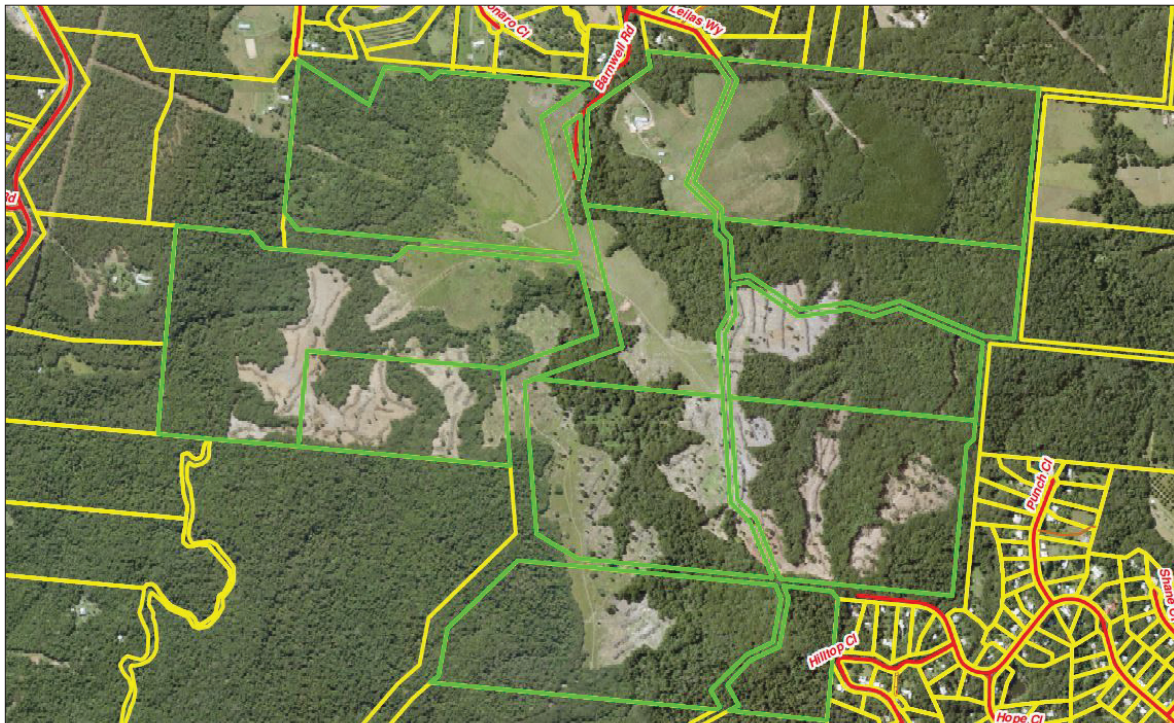
(G) OTHER APPROVALS REQUIRED FROM COUNCIL

- Compliance Permit for Plumbing and Drainage Work

## THE SITE

The subject land comprises 7 adjoining allotments situated at 77 and 112 Barnwell Road, Kuranda, and described as Lot 16, 17, 18 and 22 on N157227, Lot 19 on N157452 and Lots 1 and 2 on RP703984. The subject land has a combined area of approximately 320 hectares and is zoned Rural under the Mareeba Shire Council Planning Scheme 2016. The extent to which Lot 16 on N157227 (77 Barnwell Road) forms part of the application is for the purpose of facilitating access to the remainder of the subject land as the sites access road from Barnwell Road traverses the westernmost portion of Lot 16. No activity associated with the proposed use will occur on Lot 16 apart from accommodation vehicles travelling to the site.

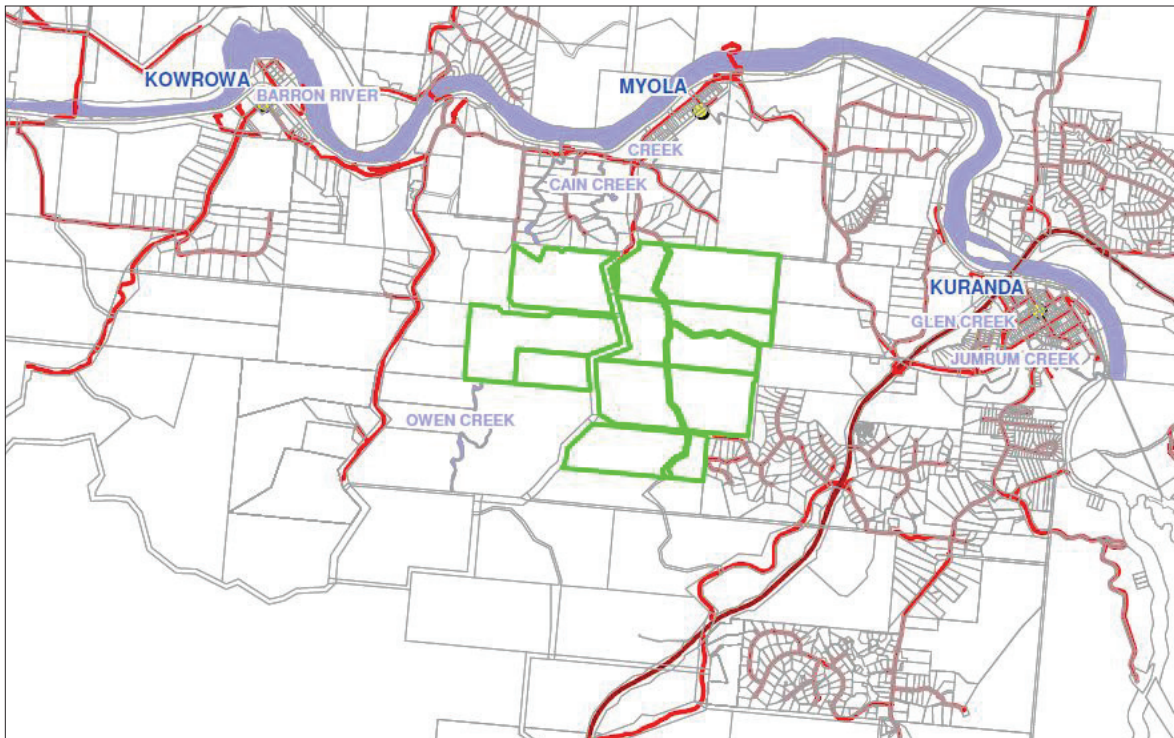
The land is accessed via Barnwell Road with the constructed section of the road terminating within the road reserve adjacent Lot 22. The continuation of the Barnwell Road road reserve remains undeveloped and traversed through the subject land to the south. A number of other sections of undeveloped road reserve also traverse the subject land in various directions. It is understood the applicants are in the final stages of an application for permanent road closure over the majority of these section of undeveloped road reserve.



**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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Of the six main land parcels subject to this application (excluding Lot 16), Lot 22 is the only parcel that contains any known improvements which include a dwelling, large car parking area/bus and truck turn around areas, two round yards for cattle mustering and horse training, an observation platform adjacent the southern round yard, and various animal shelters. The remainder of the subject land is undeveloped and is best described as undulating acreage with a mix of large cleared grassed areas and a network of vegetated gullies and watercourses. Owen Creek and Cain Creek both meander through the subject land.

Land surrounding the site is zoned a mix of Rural Residential and Rural and comprises a mix of smaller rural residential allotments containing single detached dwellings and larger rural holdings that remain predominately vegetated and are predominately used as large lifestyle lots with some used for low intensity livestock grazing.

## PREVIOUS APPLICATIONS & APPROVALS

### OW/16/0001 - Operational Works - Earthworks (Water Storage Dam)

Council, at its Ordinary Meeting on 20 July 2016 approved an application made by Civil Walker on behalf of the landowners, Reeve and Ocean Pty Ltd, seeking a development permit for operational works - earthworks (water storage dam) on land described as Lot 22 on N157227, situated at Barnwell Road, Kuranda. The Decision Notice was issued on 26 July 2016.

On 9 June 2017, Council, under delegated authority, approved a minor amendment to development approval OW/16/0001.



The water storage dam subject to development approval OW/16/0001 has been constructed in accordance with the conditions of approval and is considered to be lawfully established.

#### DA/16/0065 - Material Change of Use - Animal Keeping

On 9 February 2017, Council, under delegated authority, approved an application made by Cardno on behalf of the landowners, Reeve and Ocean Pty Ltd, seeking a development permit for material change of use - animal keeping on land described as Lot 22 on N157227, situated at Barnwell Road, Kuranda. The Decision Notice was issued on 9 February 2017.

Development approval DA/16/0065 has been acted upon and it is considered that the use is occurring in compliance with the conditions of approval.

#### PreEng/17/0029 - Application of Superseded Planning Scheme

Council, at its Ordinary Meeting on 19 July 2017, approved a request made by Cardno on behalf of the landowners, Reeve and Ocean Pty Ltd, for a development application for reconfiguring a lot - subdivision (12 into 186 lots) over land described as Lots 17 & 18 on N157227, Lots 1 & 2 on RP703984, Lot 22 on N157227, Lot 20 on N157423, Lots 19 & 95 on N157452, Lot 43 on N157359, Lot 129 on NR456, Lot 290 on N157480 and Lot 131 on N157491, situated at 112 Barnwell Road and 301 Boyles Road, Kuranda to be assessed under the superseded Mareeba Shire Planning Scheme 2004 (Amendment No. 01/11).

The applicant/developer has six (6) months from the date of the request approval to lodge the abovementioned development application (19 January 2017).

### **DESCRIPTION OF PROPOSED DEVELOPMENT**

The development application seeks a Development Permit for Material Change of Use - Nature-based Tourism in accordance with the plans shown in **Attachment 1**.

The application summaries the proposed development as follows:

*"The proposal involves the development of an impermanent Nature Based Tourism enterprise on the site, providing a range of activities and experiences for site visitors, including horse riding, quad bike tours, walking and hiking and displays and shows of rural activities. The proposed development seeks to showcase:*

- *the unique natural environment of the site and the surrounding area;*
- *Australian and North Queensland culture and lifestyle, with a focus on 'Australiana' rural activities such as cattle handling; and*
- *the history of the site in the development of the rural economy of North Queensland, including the heritage values of Barnwell house and the grave of James Hamilton.*

*The proposed Nature Based Tourism use will operate on site up to 30 June 2018. We note that the Applicant is prepared to accept a reasonable and relevant condition imposed on any approval issued by Council which limits the timing of the use to this period. The proposed development is intended to form an initial stage of the ultimate use of the site for tourism activities. Any use of the site for tourist activities, beyond 30 June 2018, will be sought to be established by way of a separate development application.*

*The proposed impermanent development will involve the construction of three new temporary structures within an integrated complex to the north of the existing Dwelling House. These structures comprise:*

- *A large pavilion for the seating and dining of tourists visiting the facility;*
- *A pavilion for food preparation; and*
- *A toilet block comprising three separate facilities for male, female and persons with disabilities (PWD) users."*

*"Tourists will travel to the site by way of private buses operated by the Applicant. A total of two buses are intended to service the site, with tourists transported to the site in the morning and leaving the site in the afternoon. These buses will travel along the Kennedy Highway, Myola Road and Barnwell Road to access the site. The movement of the buses on site will be facilitated by the existing driveway and manoeuvring area, which will provide for vehicle movement, passenger drop off/pick up and vehicle parking. A network of new pedestrian paths will be developed to facilitate all-weather foot traffic.*

*A total of up to 60 tourists per day will attend the site in relation to the proposed development.*

*The 112 Barnwell Road property is presently improved with a Dwelling House and structures and infrastructure associated with the various rural uses on the site, including Animal Keeping, Animal Husbandry and Cropping. These uses, including the Dwelling House, will continue on the site with the proposed development."*

## REGIONAL PLAN DESIGNATION

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

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

## PLANNING SCHEME DESIGNATIONS

Strategic Framework:

### Land Use Categories

- Rural Other

### Natural Environment Elements

- Biodiversity Areas
- Ecological Corridor
- Habitat Linkage

Zone:

Rural zone

Overlays:

- Airport Environs Overlay
- Bushfire Hazard Overlay
- Environmental Significance Overlay
- Hill and Slope 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>
Nature-based tourism	<p>The use of land or premises for a tourism activity, including tourist and visitor short-term accommodation, that is intended for the conservation, interpretation and appreciation of areas of environmental, cultural or heritage value, local ecosystem and attributes of the natural environment. Nature-based tourism activities typically:</p> <ul style="list-style-type: none"> <li>• maintain a nature based focus or product</li> <li>• promote environmental awareness, education and conservation</li> </ul> <p>carry out sustainable practices.</p>	Environmentally responsible accommodation facilities including lodges, cabins, huts and tented camps	Environment facility

## 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
- 8.2.2 Airport environs overlay code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.8 Hill and slope overlay code
- 8.2.12 Transport infrastructure overlay code
- 9.4.3 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.

<b>Relevant Codes</b>	<b>Comments</b>
Rural zone code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Airport environs overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Bushfire hazard overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Environmental significance overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Hill and slope overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Transport infrastructure overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Parking and access code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Works, services and infrastructure code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes 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 the FNQROC Development Manual.

Traffic generated by the proposed development will be limited to four (4) bus movements

#### **(f) Additional Trunk Infrastructure Condition**

The proposed development will result in a negligible increase in vehicle traffic along Barnwell and Myola Roads. Furthermore, the proposed development will operate on the subject land for a temporary period only, ceasing on 30 June 2018. In this instance it is not considered reasonable to require the applicant/developer to contribute to or upgrade Council's trunk infrastructure.

### **REFERRALS**

#### **Concurrence**

This application did not trigger a referral to a Concurrence Agency.

#### **Advice**

This application did not trigger a referral to an Advice Agency.

#### **Internal Consultation**

Not applicable.

### **PLANNING DISCUSSION**

Nil

**Date Prepared:** 27 November 2017

## DECISION BY DELEGATE

## DECISION

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

Dated the 27<sup>TH</sup> day of NOVEMBER 2017



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



**ANTHONY ARCHIE**  
**MANAGER DEVELOPMENT & GOVERNANCE**

MAREEBA SHIRE  
AS A DELEGATE OF THE COUNCIL







