

**DELEGATED REPORT**

**SUBJECT:** RUGGERI BROS PTY LTD - MATERIAL CHANGE OF USE - FOOD AND DRINK OUTLET, OFFICE, SHOP & HEALTH CARE SERVICES - LOTS 1 & 2 ON RP727346 - 13 & 13A HORT STREET, MAREEBA - MCU/22/0010

**DATE:** 20 June 2022

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

**DEPARTMENT:** Corporate and Community Services

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**APPLICATION DETAILS**

APPLICATION		PREMISES	
<b>APPLICANT</b>	Ruggeri Bros Pty Ltd	<b>ADDRESS</b>	13 & 13A Hort Street, Mareeba
<b>DATE LODGED</b>	20 May 2022	<b>RPD</b>	Lots 1 & 2 on RP727346
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Material Change of Use - Food and Drink Outlet, Office, Shop & Health Care Services		

<b>FILE NO</b>	MCU/22/0010	<b>AREA</b>	Lot 1 - 124m2 Lot 2 - 253m2
<b>LODGED BY</b>	Gilvear Planning	<b>OWNER</b>	Ruggeri Bros Pty Ltd
<b>PLANNING SCHEME</b>	Mareeba Shire Council Planning Scheme 2016		
<b>ZONE</b>	Centre zone		
<b>LEVEL OF ASSESSMENT</b>	Code Assessment		
<b>SUBMISSIONS</b>	n/a		

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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 relevant statutory planning instruments, including the Regional Plan and the Planning Scheme and does not conflict with any relevant planning instrument.

Draft conditions were provided to the Applicant/ care of their consultant and have been agreed.

It is recommended that the application be approved in full with conditions.

**OFFICER'S RECOMMENDATION**

1. That in relation to the following development application:

APPLICATION		PREMISES	
<b>APPLICANT</b>	Ruggeri Bros Pty Ltd	<b>ADDRESS</b>	13 & 13A Hort Street, Mareeba
<b>DATE LODGED</b>	20 May 2022	<b>RPD</b>	Lots 1 & 2 on RP727346
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Material Change of Use - Food and Drink Outlet, Office, Shop & Health Care Services		

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 - Food and Drink Outlet, Office, Shop & Health Care Services

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
0695 DA03 B	Floor Plan	QCB Pty Ltd	Jan 2022
0695 DA04 A	Site Elevation	QCB Pty Ltd	Jan 2022

(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

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.

## 3. General

3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure within the conditions of approval.

3.2 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.

3.3 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 Noise Nuisance

3.4.1 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.

3.4.2 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.

### 3.5 Waste Management

On site refuse storage area/s 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.

## 4. Infrastructure Services and Standards

### 4.1 Access

A **commercial** access crossover must be constructed (from the edge of Walsh Street to the property boundary of the subject lot) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

#### 4.2 Frontage Works

The applicant/developer is required to construct the following works, designed in accordance with the FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer:

- A 2 metre wide concrete footpath along the full frontage of the site to Walsh Street.
- Adjustments and relocations necessary to public utility services resulting from these works.

#### 4.3 Stormwater Management

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

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

#### 4.4 Lighting

Where outdoor lighting is required 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.

#### 4.5 Water Supply

A water service connection must be provided to the proposed development in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

#### 4.6 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.

### (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) 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.

## (c) A Trade Waste Permit will be required prior to the commencement of use.

## (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](http://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](http://www.datsip.qld.gov.au).

## (F) 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).

## (G) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS

- Development Permit for Building Work

## (H) OTHER APPROVALS REQUIRED FROM COUNCIL

- Compliance Permit for Plumbing and Drainage Work
- Access approval arising from condition number 4.1 (Please contact Planning Section to obtain application form and applicable fee)

## THE SITE

The site comprises Lots 1 and 2 on RP727346 and is situated at 13-13A Hort Street, Mareeba (on the corner of Hort Street and Walsh Street). The site is generally square in shape, with a combined area of 377 square metres and is zoned Centre under the Mareeba Shire Council Planning Scheme 2016.

The site has frontages of 19m to Hort Street and 21m to Walsh Street. The relevant sections of Hort Street and Walsh Street are bitumen/asphalt sealed to an approximate width of 20 metres. Kerb and channel is constructed on both sides. A concrete footpath is established along the site's Hort Street frontage and a 1 metre wide paved footpath exists along the Walsh Street frontage.

Access to the subject site is via an access crossover from Walsh Street to the very north of the property boundary.

The site was previously improved, substantially, by way of a large building which was lost (destroyed) as a result of a fire on 23 July 2021. The site is generally level due to the previous site improvements.

All urban services are available.



**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 - Food and Drink Outlet, Office, Shop & Health Care Services in accordance with the plans shown in **Attachment 1**.

The proposed development is as follows:

*The proposed development is for a single storey building which will be developed as four (4) individual tenancies able to cater to a variety of intended uses. The proposed development comprises a total area of 291m<sup>2</sup> with a small loading and unloading area provided to the rear which is accessed from Walsh Street via the existing access crossover.*

*A full-length awning is proposed to Hort Street which will contain public accesses to each of the four (4) proposed tenancies. The frontage to both Hort Street and Walsh Street will be improved by way of windows to mollify the built forms bulk.*

*The proposed development will have a maximum height of 4.2m with a site coverage of 77.19%. Setbacks associated with the proposed development are as follows:*

- 0m to Hort Street (the Primary Road Frontage);
- 0m to Walsh Street (the Secondary Road Frontage);
- 0m to the western boundary; and
- 4.04m to the rear boundary (noting a small area of 0m).

*The proposed development seeks a Development Permit for various land uses as defined within the Planning Scheme including:*

- *Food and Drink Outlet;*
- *Office;*
- *Shop; and*
- *Health Care Services.*

*In the initial occupancy, it is understood that likely tenants will include a Hairdresser, a Doctor's Office, a General Office and a small Take-away. However, the Application is scripted such that the proposed tenancies can be changed to reflect to market demand moving forward. That is, the tenants may change.*

*To cater to this demand, a broad range of land uses with generally similar Planning considerations and Assessment Benchmarks as defined within the Planning Scheme are sought.*

*The proposed development will not provide formalised landscaping on the subject site and is reliant on the existing streetscape improvements within the local area. This is consistent with development in the immediate vicinity of Hort Street and Walsh Street.*

*The proposed development will utilise the existing infrastructure connections benefitting the subject site with upgrades to be undertaken on an as needed basis.*

*The proposed development will continue to utilise the existing access crossover from Walsh Street. It is understood that this access crossover is fit for purpose and does not require any upgrades.*

*The proposed development will not provide any on-site parking and is reliant on the substantial on-street parking located within the local area. This approach is consistent with development in the surrounding CBD area which typically does not provide on-street parking for Lots of similar geospatial form and relies on onstreet parking which is substantially improved and provided for within the Road Reserve.*

## **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 Regional Plan Map 3- 'Areas of Ecological Significance' does not identify the site as being of any significance.



**PLANNING SCHEME DESIGNATIONS**

Strategic Framework:	<b>Land Use Categories</b> • Centre Area
Zone:	Centre zone
Mareeba Local Plan:	Town Centre Core
Overlays:	Airport Environs 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>
Food and Drink Outlet	Premises used for preparation and sale of food and drink to the public for consumption on or off the site. The use may include the ancillary sale of liquor for consumption on site.	Bistro, café, coffee shop, drive-through facility, kiosk, milk bar, restaurant, snack bar, takeaway, tea room	Bar, club, hotel, shop, theatre, nightclub entertainment facility
Health Care Services	Premises for medical, paramedical, alternative therapies and general health care and treatment of persons that involves no overnight accommodation.	Dental clinics, medical centres, natural medicine practices, nursing services, physiotherapy clinic	Community care centre, hospital
Office	Premises used for an administrative, secretarial or management service or the practice of a profession, whereon goods or materials are made, sold or hired and where the principal activity provides for one or more of the following: <ul style="list-style-type: none"><li>• business or professional advice</li><li>• service of goods that are not physically on the premises</li><li>• office based administrative functions of an organisation.</li></ul>	Bank, real estate agent, Administration building	Home based business, home office, shop, outdoor sales
Shop	Premises used for the display, sale or hire of goods or the provision of	Hairdresser, liquor store, department store, discount department store, discount	Adult store, food and drink outlet, showroom, market

	personal services or betting to the public.	variety stores, betting agencies, supermarket, corner store	
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## 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:

- 6.2.1 Centre zone code
- 7.2.2 Mareeba local plan code
- 8.2.2 Airport environs overlay code
- 9.3.2 Commercial activities 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 outcomes (or performance outcome where no acceptable outcome 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 can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Mareeba local plan 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.

Commercial 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.
Community 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.
Landscaping 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.

Planning Scheme Policy 9 - Footpath Paving

A 2 metre wide concrete footpath will be conditioned along the site's Walsh Street frontage.

### (f) Adopted Infrastructure Charges Notice

Due to the previous longstanding development of the subject land, no additional infrastructure charges are proposed.

## REFERRALS

This application did not trigger referral to a referral agency.

## Internal Consultation

Nil

## PLANNING DISCUSSION

Nil


**Date Prepared:** 20 June 2022

DECISION BY DELEGATE

**DECISION**

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

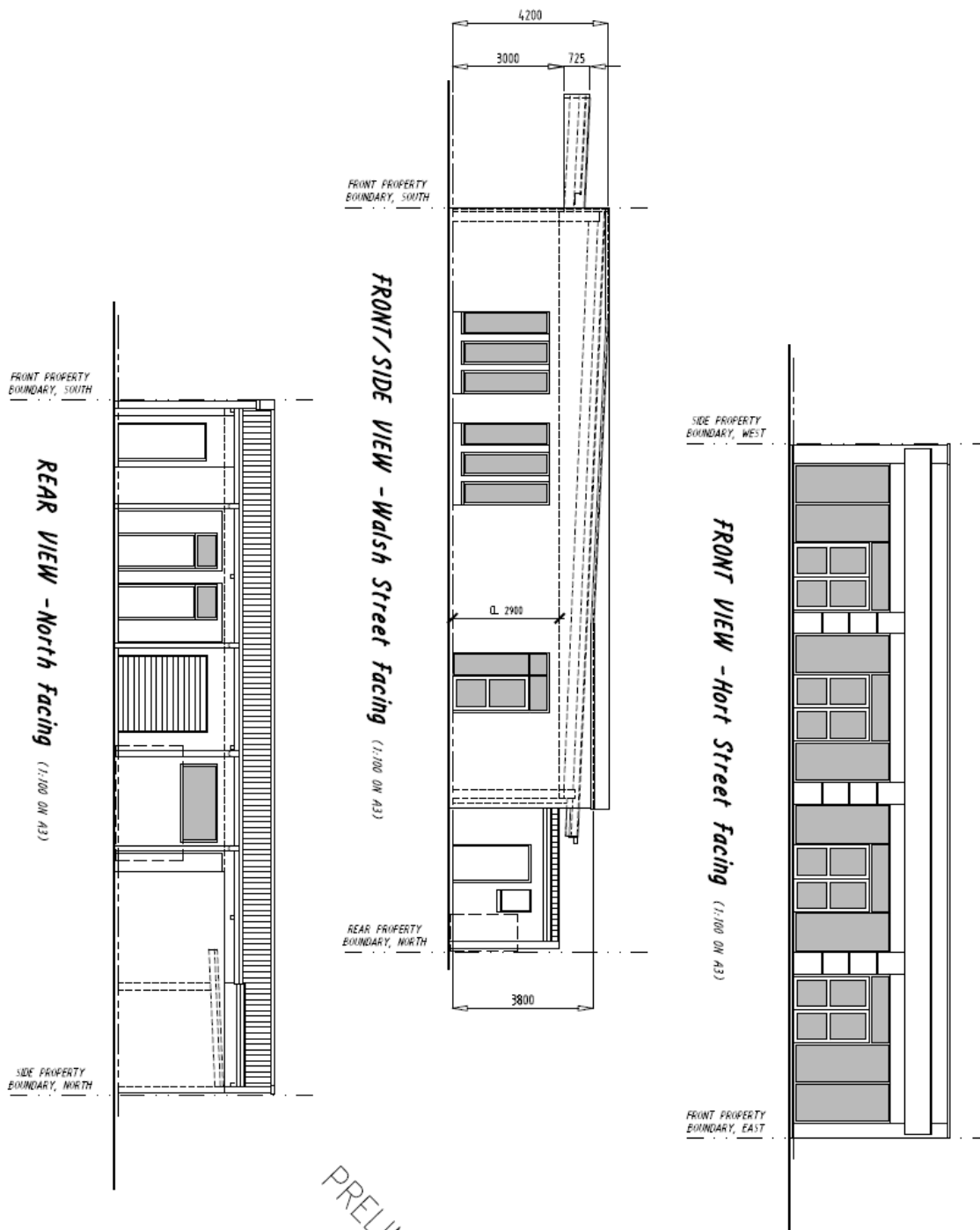
Dated the 20<sup>TH</sup> day of JUNE 2022



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

MAREEBA SHIRE  
AS A DELEGATE OF THE COUNCIL

PROPOSAL PLANS



PRELIMINARY



PROJECT: <b>13 HORT STREET MAREEBA 4880</b>	DATE: JAN 2022 SCALE: AS SHOWN ON 'A3' SHEET DRAWING TITLE: <i>Site ELEVATIONS</i>
PROPOSED COMMERCIAL RETAIL	JOB NO. 0695    SHEET No. <b>DA 04</b> ISSUE <b>A</b>

