

8.3 MERAKI EC PTY LTD - MATERIAL CHANGE OF USE - ANIMAL KEEPING (HORSE AGISTMENT SERVICES) & EDUCATIONAL ESTABLISHMENT (HORSE RIDING/EQUESTRIAN SCHOOL) - LOT 142 ON SP200237 & LOT 221 ON SP129907 - 5707 KENNEDY HIGHWAY, MAREEBA - MCU/22/0011

Date Prepared: 5 September 2022

Author: Senior Planner

Attachments:

1. Proposal Plans
2. State Assessment and Referral Agency response dated 24 August 2022
3. Submission

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	Meraki EC Pty Ltd	ADDRESS	5707 Kennedy Highway, Mareeba
DATE LODGED	19 May 2022	RPD	Lot 142 on SP200237 and part of Lot 221 on SP129907
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Animal Keeping (Horse Agistment Services) and Educational Establishment (Horse Riding/Equestrian School)		
FILE NO	MCU/22/0011	AREA	Lot 142 - 14.03 hectares Lot 221 - access only
LODGED BY	Urban Sync Pty Ltd	OWNER	Lot 142 - Y Van Reeuwijk Lot 221 - Department of Transport and Main Roads
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Lot 142 - Rural zone & Lot 221 - Community Facilities zone		
LEVEL OF ASSESSMENT	Impact Assessment		
SUBMISSIONS	One (1)		

EXECUTIVE SUMMARY

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

The application is impact assessable and one (1) properly made submission was received in response to public notification of the application.

The application and supporting material have been assessed against the Mareeba Shire Council Planning Scheme 2016 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	
APPLICANT	Meraki EC Pty Ltd	ADDRESS	5707 Kennedy Highway, Mareeba
DATE LODGED	19 May 2022	RPD	Lot 142 on SP200237 and part of Lot 221 on SP129907
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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), concurrence agency conditions in (E), relevant period in (F), further permits in (G), and further approvals from Council listed in (H);

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 - Animal Keeping (Horse Agistment Services) and Educational Establishment (Horse Riding/Equestrian School)

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
22038 SK01 Rev C	Cover Sheet	Dimarco Designs	20/07/2022
22038 SK02 Rev C	Site Plan	Dimarco Designs	20/07/2022
22038 SK03 Rev C	Plan and Elevations	Dimarco Designs	20/07/2022

(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
 - 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 Hours of Operation

The operating hours for the educational establishment (horse riding/equestrian school) aspect shall be between 9:30am and 5:00pm Tuesday to Sunday.
 - 3.5 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.
 - 3.6 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.
 4. Infrastructure Services and Standards
 - 4.1 Stormwater Management
 - 4.1.1 The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.

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

4.2 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).

4.3 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 (AS/NZS1547) to the satisfaction of the Council's delegated officer.

4.4 Car Parking/Internal Driveways

The applicant/developer must ensure that the development is provided with a minimum of 12 on-site car parking spaces which are available for use solely for the parking of vehicles associated with the use of the premises. All car parking spaces and internal driveways including within the subject site must be constructed to at least compacted gravel standard, clearly identifiable and appropriately drained prior to the commencement of the use, to the satisfaction of Council's delegated officer.

4.5 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.

4.6 Vegetation Buffering

4.6.1 A 2 metre wide vegetation buffer is to be planted within Lot 142 on SP200237, between the western side of the proposed covered arena and the common boundary with adjoining Lot 141 on SP200237. The vegetation buffer must extend for the full length of the western side of the proposed covered arena. The vegetation must have a minimum height at maturity of 4 metres. The plan depicting species and area to be planted must be submitted to Council's delegated officer for approval prior to the commencement of the use of the proposed covered arena.

4.6.2 The vegetation buffer must be maintained by the applicant and any subsequent owner of any part of the land affected by this condition.

(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.dcceew.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.dsdsatsip.qld.gov.au.

(E) REFFERAL AGENCY CONDITIONS

State Assessment and Referral Agency conditions dated 24 August 2022

(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

THE SITE

The subject site is described as Lot 142 on SP200237 and part of Lot 221 on SP129907, situated at 5707 Kennedy Highway, Mareeba.

Lot 221 on SP129907 is a section of the inactive Mareeba-Atherton rail corridor under the ownership of the State (Department of Transport and Main Roads) and is included in this application for access purposes only. The Department of Transport and Main Roads has issued an Access Licence to the applicant and provided landowner's consent for this application.

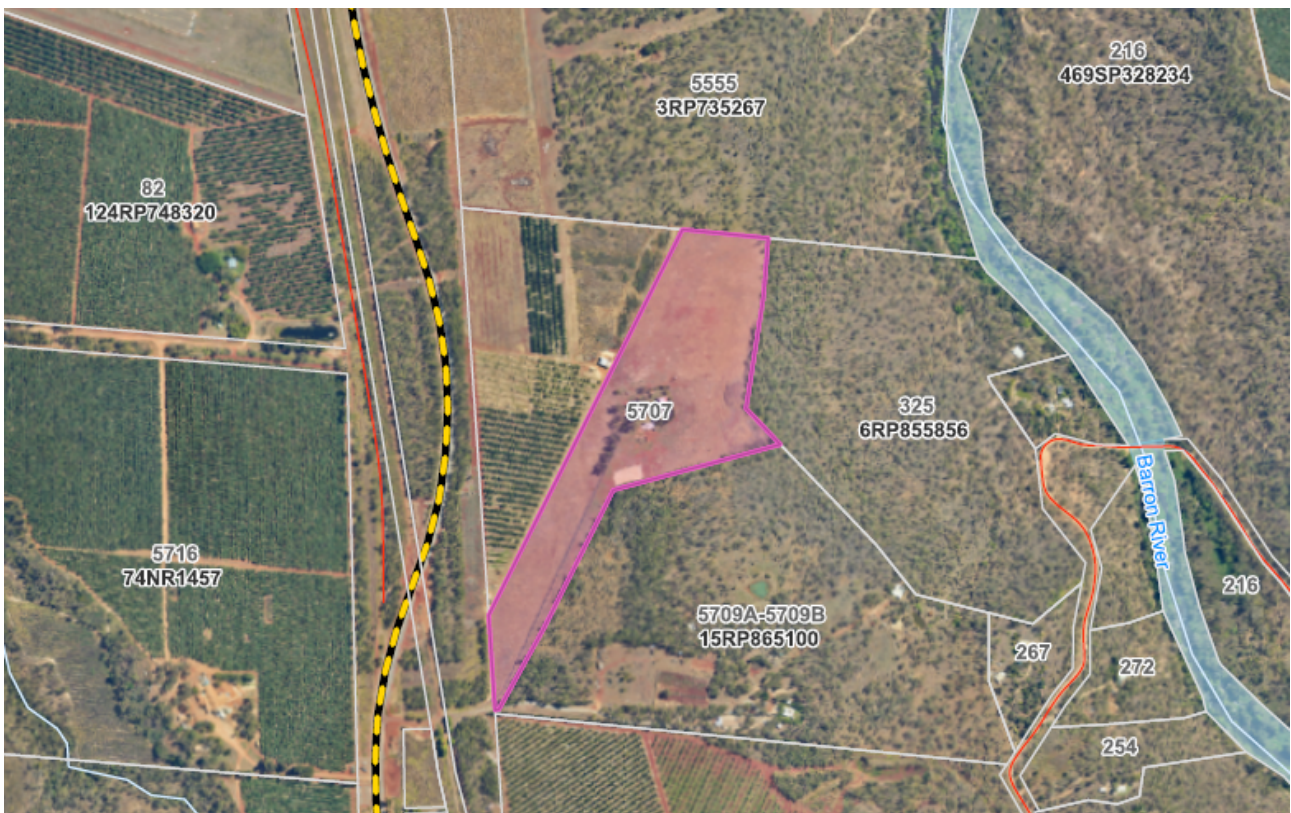
Lot 142 is an irregularly shaped Rural zoned allotment with an area of 14.03 hectares which is currently used for the purposes of Rural (Animal Keeping - horses) and Residential (Dwelling House). The site is improved with an existing outdoor horse arena, two buildings (a dwelling house and stables) and multiple ancillary structures (fencing and shade shelters).

The site is generally flat, with a slight fall from south to north. The site is cleared, apart from some existing landscaping in the centre of the site near the existing dwelling.

Access is obtained via a turnout onto the Kennedy Highway with a high quality bitumen sealed private driveway extending from the Kennedy Highway through to the site's dwelling house.

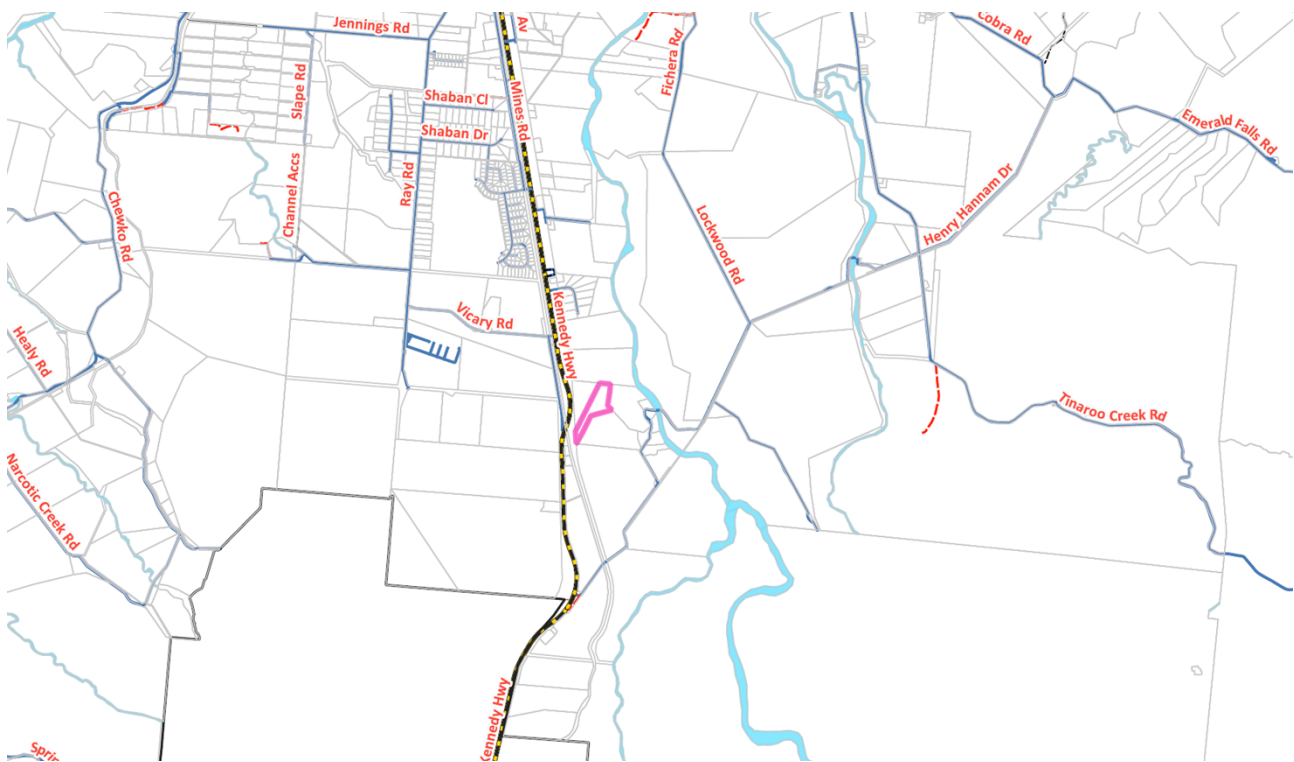
This site is serviced by a bore and water tanks and is not connected to Council's reticulated water infrastructure. The site is also not connected to Council's reticulated sewerage infrastructure and utilizes an existing on-site effluent system. The site is connected to telecommunications and electricity infrastructure.

All surrounding lots are zoned Rural and are used for mixed rural uses.



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 - Animal Keeping (Horse Agistment Services) and Educational Establishment (Horse Riding/Equestrian School) in accordance with the plans shown in **Attachment 1**.

The applicant outlines the proposed development as follows:

"The Animal Keeping component of the proposed development will involve horse agistment services for a maximum of twenty (20) horses which will be evenly spaced throughout the seven (7) paddocks on the site. It is expected that one (1) to two (2) clients will visit their horses each day.

The Educational Establishment component of the proposed development will involve a horse-riding/equestrian school that will include the following elements:

- *A new outdoor arena on the eastern side of the site, measuring approximately 1,750m² in area (50m x 35m); and*

- *A new indoor arena on the western side of the site, measuring approximately 2,320m² in area (80m x 29m) and which will have an approximate maximum height of eight (8) metres above ground level. The indoor arena will have an ‘arena’ area of 80m x 20m for horse riding with the additional width to be utilised for the arena kick walls, yards and horse stables.*

The horse-riding/equestrian school will operate up to six (6) days a week and will involve a maximum of twenty (20) clients per day in a various number of classes, although generally, client numbers will vary from two (2) to ten (10) per day. Classes will be between 30 minutes and one (1) hour in duration and generally only involve one (1) client at a time. However, occasionally i.e., no more than one per day, group classes will be offered which will include a maximum of ten (10) clients at any one time. The proposed development will include one (1) full time staff member and two (2) part time staff members.

The proposed development will be serviced with water from the existing on-site bore. Additional rainwater storage tanks MAY be installed at a later date should it be found the bore is not providing enough water for the proposed development.

The proposed development will include a toilet and new on-site effluent system. Investigations will be undertaken to determine what type of system will be required to service the anticipated demand generated by the development and the most suitable on-site location for this system.

The new indoor arena will be connected to the electricity in accordance with Ergon’s requirements. No changes to the existing telecommunications connections are proposed as the proposed development is not required to be connected to telecommunications (satellite NBN is available).

Stormwater from the proposed development will be directed to existing flow paths and will be done so to ensure there is no nuisance caused on adjoining properties as a result of stormwater.

The proposed development will utilise the existing site access arrangements.

The proposed development will provide five (5) formal (line marked) and seven (7) informal car parking spaces adjacent to the new indoor arena for use by clients. The formal car parking areas and manoeuvring will be improved with 150mm thick compacted gravel suitable for all weather movements and be dust free. The informal car parking area will be unimproved with signage identifying this space for overflow car parking should it be required."

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 is:

- *Terrestrial Area of General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	<p>Land Use Categories</p> <ul style="list-style-type: none"> • Rural Area <ul style="list-style-type: none"> • Rural Agricultural Area • Rural other <p>Infrastructure Elements</p>
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	<ul style="list-style-type: none"> Major Electrical Infrastructure <p>Transport Elements</p> <ul style="list-style-type: none"> State Controlled Road B-double Route Principal Cycle Route
Zone:	Lot 142 - Rural zone Lot 221 - Community Facilities zone
Overlays:	Agricultural Land Overlay Airport Environs Overlay Bushfire Hazard Overlay Environmental Significance Overlay Hill & Slope Overlay Regional Infrastructure Corridors and Substations Overlay Transport Infrastructure Overlay

Planning Scheme Definitions

The proposed use is defined as:

<i>Column 1 Use</i>	<i>Column 2 Definition</i>	<i>Column 3 Examples include</i>	<i>Column 4 Does not include the following examples</i>
Animal keeping	Premises used for boarding, breeding or training of animals. The use may include ancillary temporary or permanent holding facilities on the same site and ancillary repair and servicing of machinery.	Aviaries, catteries, kennels, stables, wildlife refuge	Aquaculture, cattle studs, domestic pets, feedlots, grazing of livestock, non-feedlot dairying, piggeries, poultry meat and egg production, animal husbandry
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 on-site student accommodation.	Pre-preparatory, preparatory and primary school, secondary school, special education, college, university, technical institute, outdoor education centres	Child care 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**Strategic Framework****3.3 Settlement pattern and built environment****3.3.1 Strategic outcomes**

- (5) Primary industries in *Rural areas* are not compromised or fragmented by incompatible and/or unsustainable development, including but not limited to subdivision that results in a detrimental impact on rural productivity. The valued, relaxed rural lifestyle, character and scenic qualities of the *rural area* are preserved and enhanced. The *rural area* is largely maintained to its current extent, while accommodating development directly associated with or reliant on natural resources including rural activities and tourism. *Rural areas* protect the shire's *agricultural area* and ensure food security. *Other rural areas* predominantly remain agricultural grazing properties.

Comment

The animal keeping (horse agistment) aspect of the development is an expected use in the rural zone. The educational establishment (horse riding/equestrian school) aspect is related to the keeping of horses and is compatible with the existing surrounding rural uses.

The proposed development will not further constrain the ongoing use of the rural zone.

3.3.11 Element—Rural areas**3.3.11.1 Specific outcomes**

- (1) *Rural areas* include rural activities and land uses of varying scale, consistent with surrounding land use, character and site conditions.

Comment

The animal keeping (horse agistment) aspect of the development is an expected use in the rural zone. The educational establishment (horse riding/equestrian school) aspect is related to the keeping of horses and is compatible with the existing surrounding rural uses.

The proposed development will not further constrain the ongoing use of the rural zone.

3.3.14 Element—Natural hazard mitigation**3.3.14.1 Specific outcomes**

- (1) The risk of loss of life and property associated with bushfires, cyclones, flooding, landslides and other weather related events are minimised through the appropriate use of land having regard to its level of susceptibility to the hazard or potential hazard.

Comment

The entirety of the subject site has been cleared of original vegetation and now comprises of paddock areas which act as a firebreak to the hazardous vegetation on neighbouring lots.

3.5 Community identity and diversity

3.5.1 Strategic outcomes

- (5) A range of community facilities, that meet the needs of the Mareeba Shire community, is provided, maintained and enhanced. Facilities that cater for cultural events, community activities, sports and recreation are sensitively developed and integrated into the surrounding area. The range and location of community facilities caters for a wide cross section of interests and users in dispersed locations.

Comment

The proposed development will achieve this outcome.

3.6 Transport and infrastructure

3.6.1 Strategic outcomes

- (1) *Local collector road* and *state controlled road* networks support the identified hierarchy of *activity centres* and the rural economy of Mareeba Shire. The location, density and scale of development supports the efficient and convenient movement of goods, services and people. Roads are progressively upgraded (including construction of *future state roads* and *future local connections*) and maintained to a high standard to support higher urban densities, rural production, tourism, commerce, industry and major trip generators.

Comment

The Kennedy Highway is a State Controlled Road and of an adequate standard to accommodate the additional traffic from the development. The State Assessment and Referral Agency has conditioned minor improvements to the existing turnout onto the Kennedy Highway.

3.6.2 Element—Road network

3.6.2.1 Specific outcomes

- (4) Development provides off-street parking, loading and manoeuvring areas where possible and practicable.

Comment

The development includes on-site parking and the site has adequate additional area to accommodate all possible car parking demands.

3.7.2 Element—Rural and Agricultural land

3.7.2.1 Specific outcomes

- (1) *Agricultural areas* are preserved for the purpose of primary production and are protected from fragmentation, alienation and incompatible development.

Comment

The animal keeping (horse agistment) aspect of the development is an expected use in the rural zone. The educational establishment (horse riding/equestrian school) aspect is related to the keeping of horses and is compatible with the existing surrounding rural uses.

The proposed development will not further constrain the ongoing use of the rural zone.

3.7.9 Element— Education, research, culture and the arts

3.7.9.1 Specific outcomes

- (4) Education, research, cultural and arts facilities of limited scale are established in *rural areas* only where the facility is dependent on the natural resources of the locality.

Comment

The horse riding/equestrian school is limited in scale and dependent on the rural land resource.

Relevant Developments Codes

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

- 6.2.2 Community facilities zone code
- 6.2.9 Rural zone code
- 8.2.1 Agricultural land overlay code
- 8.2.2 Airport environs overlay code
- 8.2.3 Bushfire hazard overlay code
- 8.2.8 Hill and slope overlay code
- 8.2.12 Transport infrastructure overlay code
- 9.3.3 Community activities code
- 9.3.6 Rural 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
Community facilities zone code (Lot 221 - railway corridor)	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.
Rural zone code	The application conflicts with the following acceptable outcome:

	<ul style="list-style-type: none"> • AO2.1(b) <p>The application complies with the higher order performance outcome PO2.</p> <p>Refer to planning discussion section of report.</p>
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.
Hill and slope 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.
Transport infrastructure 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.
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.
Rural 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.

(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

The subject site is not serviced by Council's infrastructure networks, with access directly onto State controlled road.

Accordingly, no infrastructure charge is applicable.

REFERRAL AGENCY

The application triggered referral to the State Assessment and Referral Agency (CairnsSARA - State transport infrastructure) as a Referral Agency.

That Department advised in a letter dated 24 August 2022 that they require the conditions to be attached to any approval (**Attachment 2**).

Internal Consultation

Not applicable.

PUBLIC NOTIFICATION

The development proposal was placed on public notification from 2 August 2022 to 24 August 2022. The applicant submitted the notice of compliance on 26 August 2022 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

One (1) properly made submissions was received to the proposed development.

The grounds for objection/support are summarised and commented on below:

Grounds for objection /support	Comment
Development may devalue property	Land value is subjective and not a planning consideration.
Submitters own the neighbouring avocado farm and if the proposed development is sold in the future, a new owner may make it difficult to farm. Suggest a wall against the common boundary.	The development will be conditioned to require the establishment of a vegetated buffer between the outdoor covered arena and the common boundary with the avocado farm.

Submitters

Name of Principal submitter	Address
1. W & E Tognola	PO Box 181, Atherton Qld 4883

PLANNING DISCUSSION

Compliance with Performance Outcome PO2 of the Rural zone code is discussed below:

6.2.9 Rural zone code***Siting, where not involving a Dwelling house*****PO2**

Development is sited in a manner that considers and respects:

- (a) the siting and use of adjoining premises;*
- (b) access to sunlight and daylight for the site and adjoining sites;*
- (c) privacy and overlooking;*
- (d) air circulation and access to natural breezes;*
- (e) appearance of building bulk; and*
- (f) relationship with road corridors.*

AO2.1

Buildings and structures include a minimum setback of:

- (a) 40 metres from a frontage to a State-controlled road; and*
- (b) 10 metres from a boundary to an adjoining lot.*

Comment

The development complies with AO2.1(a).

For AO2.1(b), the setback for the covered arena from the north-western side boundary is five (5) metres, not the ten (10) metres nominated by the acceptable outcome. The development must therefore be assessed against the higher order performance outcome PO2.

In terms of compliance with PO2:

- (a) Adjoining Lot 141 is developed for an avocado orchard. A farm shed is located approximately 60 metres to the north of the covered arena.
- (b) The siting of the covered arena does not adversely impact access to sunlight and daylight with that part of the covered arena within the 10 metre setback being approximately 4 metres in height.
- (c) The covered arena is well away from nearest dwelling house.
- (d) The covered arena is open sided and will allow for air circulation and access to breezes.
- (e) Whilst the covered arena is certainly significant in terms of area covered, it will have no walls and does not exceed the acceptable outcome for height. The proposed structure is not unusual for the rural zone, where modern onsite farm infrastructure often exceeds this size.
- (f) Existing vegetation will assist in screening the covered arena from nearby road reserves.

The development satisfies PO2.

ASSESSMENT ISSUE B

PROPOSED ARENA AND PADDOCK SUBDIVISION

5705 KENNEDY HWY, MAREEBA

MERAKI EC PTY. LTD.

DRAWN BY: **CD**
 SCALE: **N.T.S.**
 START DATE: **FEBRUARY 2022**
 END DATE: **FEBRUARY 2022**
 JOB No: **22038**
 SHEET No: **SK01** / SHEET No: **C**

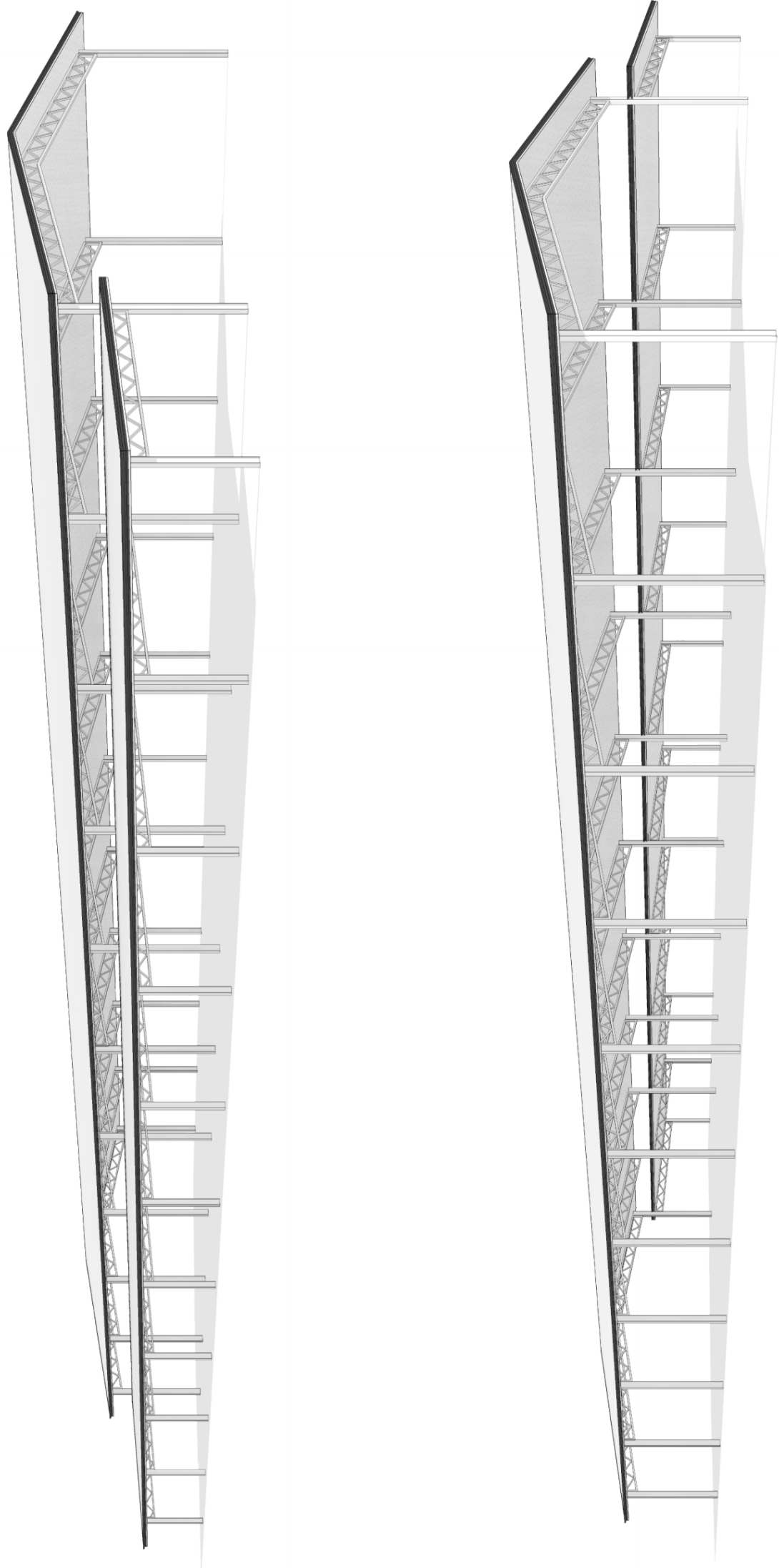
PLEASE NOTE: SUBSTITUTION OF ANY STRUCTURAL MEMBERS, JOINTS OR VARIATIONS TO THE DESIGN SHALL BE THE RESPONSIBILITY OF THE BUILDER/DISIGNER FOR THE STRUCTURAL INTEGRITY AND PERFORMANCE OF THE BUILDING.



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 1. ALL DESIGN, CONSTRUCTION METHODS AND MATERIALS TO BE IN ACCORDANCE WITH RELEVANT AUSTRALIAN STANDARDS AND CODES.
 2. CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE DESIGN AND DRAWINGS.
 3. CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE DESIGN AND DRAWINGS.
 4. CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE DESIGN AND DRAWINGS.

PROJECT REVISIONS
 No. DATE DETAILS
 A 19/02/2022 ARENA AS POSITIONED ON SITE
 B 20/02/2022 ARENA MOVED TO 3M FROM SITE BOUNDARY

DRAWING LIST			
NUMBER	DESCRIPTION	ISSUE DATE	REVISION No.
SK01	COVER SHEET	20/07/2022	C
SK02	SITE PLAN	20/07/2022	C
SK03	PLAN AND ELEVATIONS	20/07/2022	C





GENERAL NOTES
 ALL PLANS ARE TO BE READ IN CONJUNCTION WITH THE CONSTRUCTION NOTES

PROPERTY INFORMATION
 LOT NUMBER: LOT 142
 PLAN NUMBER: SP200237
 PARISH: MAREEBA
 SITE AREA: 14.03 Ha



PLEASE NOTE: SUBSTITUTION OF ANY STRUCTURAL MEMBERS, JOINTS OR VARIATIONS TO THE STRUCTURE SHALL BE AT THE SOLE RESPONSIBILITY OF THE BUILDER/DESIGNER FOR THE STRUCTURAL INTEGRITY AND PERFORMANCE OF THE BUILDING

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 DRAWN BY: MERAKI EC PTY LTD

- ALL DESIGN CONSTRUCTION METHODS AND MATERIALS TO BE IN ACCORDANCE WITH RELEVANT AUSTRALIAN STANDARDS AND CODES.
- CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE APPROVED DEVELOPMENT PLAN AND APPROVED CONTRACT DOCUMENTS.
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PROJECT REVISIONS

No.	DATE	DETAILS
A	10/02/2022	ISSUE FOR PERMIT
B	10/02/2022	AREA TO BE ADJUSTED ON SITE
C	20/02/2022	AREA TO BE ADJUSTED TO 30M FROM SIDE BOUNDARY

ASSESSMENT ISSUE B

PROPOSED ARENA AND PADDOCK SUBDIVISION

5705 KENNEDY HWY, MAREEBA

MERAKI EC PTY. LTD.

DRAWN BY: **CD**
 SCALE: **1:1250**
 START DATE: **FEBRUARY 2022**
 END DATE:
 JOB No: **22038**
 SHEET No: **SK02**
 SHEET No: **C**

SITE PLAN
 SCALE 1:1250

GENERAL NOTES
ALL PLANS ARE TO BE READ IN CONJUNCTION WITH THE CONSTRUCTION NOTES.

PLEASE NOTE: SUBSTITUTION OF ANY STRUCTURAL MEMBERS, JOINTS OR VARIATIONS TO THE DESIGN SHALL BE THE RESPONSIBILITY OF THE BUILDER/DESIGNER FOR THE STRUCTURAL INTEGRITY AND PERFORMANCE OF THE BUILDING.

ABN 24 346 833 179 | OBCC No 707188
W www.dymacodesigns.com.au | P 04 03 033 159
DYNAMIC CODES DESIGN & CONSTRUCTION PTY LTD
1. ALL DESIGN CONSTRUCTION METHODS AND MATERIALS TO BE IN ACCORDANCE WITH RELEVANT AUSTRALIAN STANDARDS AND CODES.
2. DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
3. DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
4. CONSTRUCTION DIMENSIONS SHALL PRECEDE TO CONSTRUCTION OF ANY TYPICAL DIMENSIONS.

PROJECT REVISIONS

No. DATE DETAILS
A 19/02/2022 AREA TO BE PORTFOLIO IN SITE
B 20/02/2022 AREA TO BE PORTFOLIO IN SITE
C 20/02/2022 AREA TO BE PORTFOLIO IN SITE

ASSESSMENT ISSUE B

ELEVATION 1
SCALE 1:200

ELEVATION 2
SCALE 1:200

ELEVATION 3
SCALE 1:200

ELEVATION 4
SCALE 1:200

FLOOR PLAN
SCALE 1:200

PROPOSED ARENA AND PADDOCK SUBDIVISION

5705 KENNEDY HWY, MAREEBA

MERAKI EC PTY. LTD.

DRAWN BY: **CD**

SCALE: **1:200**

START DATE: **FEBRUARY 2022**

ISSUE DATE: **22038**

JOB No: **SK03**

REV No: **C**

ELEVATION KEY

RA6-N



SARA reference: 2205-28973 SRA
 Council reference: MCU/22/0011
 Applicant reference: 21/739

24 August 2022

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—Horse Agistment Services and Riding School at 5707 Kennedy Highway, Mareeba

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 29 June 2022.

Response

Outcome:	Referral agency response – with conditions.
Date of response:	24 August 2022
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 - Animal Keeping (Horse Agistment Services) and Educational Establishment (Horse Riding School)
SARA role:	Referral Agency	

2205-28973 SRA

SARA trigger: **Schedule 10, Part 9, Division 4, Subdivision 2, Table 4** (Planning Regulation 2017) – Material change of use near a state-controlled road

SARA reference: 2205-28973 SRA

Assessment Manager: Mareeba Shire Council

Street address: 5707 Kennedy Highway, Mareeba

Real property description: Lot 142 on SP200237 (development site) and Lot 221 on SP129907 (access only)

Applicant name: Meraki EC Pty Ltd

Applicant contact details: C/- Urban Sync Pty Ltd
PO Box 2970
Cairns QLD 4870
jamie@urbansync.com.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 Anthony Westbury, Planning Officer, on 40373214 or via email CairnsSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Meraki EC Pty Ltd, jamie@urbansync.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

2205-28973 SRA

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)

No.	Conditions	Condition timing
Material change of use		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 – Material change of use of premises near a State transport corridor—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 condition(s):		
1.	(a) Road works comprising of a Basic right (BAR) turn treatment and a Rural basic left-turn treatment (BAL) must be provided at the Kennedy Highway / Unnamed Road T-intersection. (b) The road works must be designed and constructed in accordance with Austroads Guide to Road Design 2021 specifically: <ul style="list-style-type: none"> • Part 4: Intersections and Crossings – General, Figure A 6: Basic right (BAR) turn treatment on a two-lane rural road. • Part 4A: Unsignalised and Signalised Intersections, Figure 8.2: Rural basic left-turn treatment (BAL). 	Prior to the commencement of use.

2205-28973 SRA

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) v3.0. If a word remains undefined it has its ordinary meaning.
2.	<p>Road works approval</p> <p>Under section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads to carry out road works.</p> <p>Please contact the Department of Transport and Main Roads on 4045 7144 to make an application for road works approval.</p> <p>This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).</p> <p>Please contact the Department of Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p>

2205-28973 SRA

Attachment 3—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

The reasons for the SARA decision are:

- Lot 142 on SP200237 does not have road frontage or direct access via Kennedy Highway, a state-controlled road.
- Lot 142 on SP200237 is located approximately 117m from the Kennedy Highway / Unnamed Road intersection, while the development footprint is situated approximately 303m from the intersection.
- Road works to upgrade the Kennedy Highway / Unnamed Road intersection will ensure that the development can safely accommodate the increased traffic generation.
- The proposed development is unlikely to compromise the safety, function, and efficiency of Kennedy Highway or the Kennedy Highway / Unnamed Road intersection.
- The proposed development, with conditions, complies with the relevant provisions of State code 1: Development in a state-controlled road environment.

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)
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- *Human Rights Act 2019*

2205-28973 SRA

Attachment 4—Change representation provisions

(page left intentionally blank – attached separately)

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.

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.



23 August 2022

Wallace Tognola
PO BOX 181
Atherton Qld 4883

Council ref: MCU/22/0011

To whom it may concern

We object to the development change of use permit for the land LOT 142 ON SP200237 and LOT 221 SP129907 at 5707 Kennedy Highway Mareeba. On the grounds it will devalue the land LOT 141 SP200237 Kennedy Highway Mareeba in the future of us being able to sell our property. There was no mention of this when approached by the owner to build the complex. We have a farm with an Avocado orchard next to the said land. We came to a verbal agreement to allow the building to be no less than 3 metres from our boundary and that the spraying of chemicals and the running of the Avocado orchard will not be affected within reason.

Also if the present owner decides to sell/lease or hire the property in the future the new owners/hire do not make it difficult to operate our farm/orchard.

We have no objection of the shed being built, but possibly a wall against our boundary would be beneficial to the operation of our property.

Regards

WJ and EA Tognola

Contact details:
Wallace Tognola
PH. 0419201548
Email: wallacetognola51@icloud.com

Letter of awareness attached

Document Set ID: 4137164
Version: 1, Version Date: 24/08/2022



T 07 4051 6946
 E admin@urbansync.com.au
 O Level 1, 17 Aplin Street, Cairns
 M PO Box 2970, Cairns Q 4870
 ABN 83 169 940 649

1 August 2022

Our Ref: 21-739
Council Ref: MCU/22/0011

Wallace & Elizabeth Tognola
 PO BOX 181
 ATHERTON QLD 4883

Dear Sir/Madam,

**RE: APPLICATION SUBMITTED TO MAREEBA SHIRE COUNCIL (MCU/22/0011),
 APPLICATION FOR A DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF USE
 FOR ANIMAL KEEPING (HORSE AGISTMENT SERVICES) AND EDUCATIONAL
 ESTABLISHMENT (HORSE RIDING SCHOOL) AT 5707 KENNEDY HIGHWAY,
 MAREEBA, MORE FORMALLY DESCRIBED AS LOT 142 ON SP200237 & LOT 221
 SP129907.**

We refer to the above matter and note that a development application has been submitted for consideration by Mareeba Shire Council over land that is adjoining premises owned by you at Kennedy Highway, Mareeba (Lot 141 on SP200237). We enclose a copy of the public notification for your attention.

The application is before Council and should you require a copy of the full application it can be obtained from the Assessment Manager, Mareeba Shire Council.

Yours faithfully,

Matt Ingram
 Senior Planner
 E matt@urbansync.com.au | T 07 4051 6946 | M 0488 200 229