

8.1 LJ & SC SPEIGHT- MATERIAL CHANGE OF USE - UNDEFINED USE ('WORKFORCE ACCOMMODATION' AS DEFINED BY THE PLANNING REGULATION 2017) - LOT 512 ON NR8022 - KENNEDY HIGHWAY, MAREEBA - MCU/22/0016

Date Prepared: 2 November 2022

Author: Planning Officer

Attachments:

1. Proposal Plans
2. Department of State Development, Infrastructure, Local Government and Planning Referral Agency Response Dated 4 October 2022

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	LJ & SC Speight	ADDRESS	Kennedy Highway, Mareeba
DATE LODGED	22 August 2022	RPD	Lot 512 on NR8022
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Undefined Use ('Workforce Accommodation' as defined by the Planning Regulation 2017)		
FILE NO	MCU/22/0016	AREA	8,385m ²
LODGED BY	Freshwater Planning Pty Ltd	OWNER	LJ & SC Speight
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural zone		
LEVEL OF ASSESSMENT	Impact Assessment		
SUBMISSIONS	No Submissions Received		

EXECUTIVE SUMMARY

Council is in receipt of an impact assessable development application described in the above application details. During the mandatory public notification period, no submissions were received.

The application proposes the establishment of a workers accommodation facility to accommodate up to 64 workers. The accommodation facility will provide 64 individual 'single quarters' rooms provided within 16 demountable buildings (4 rooms per building). Each room will include separate ensuite toilet and shower facilities and shared cooking, dining and recreational areas will be provided on-site. An ancillary caretaker/managers residence is also proposed on-site. The development will be carried out in 2 stages, Stage 1 providing 40 rooms, and Stage 2 providing the additional 24 rooms.

This type of land use was previously defined by the Planning Scheme as 'Non-resident workforce accommodation', however, the Planning Regulation 2017 was recently amended which included the removal of the 'Non-resident workforce accommodation' definition, and the subsequent inclusion of a new 'Workforce accommodation' definition. Where an inconsistency exists between a land use definition in the Regulation and the Planning Scheme, the Regulation definition prevails.

As the Planning Scheme does not include the Regulation's new Workforce accommodation definition, this application needed to be made for an 'undefined use'.

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

Draft conditions were provided to the Applicant care of their consultant and have been agreed to. 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	
APPLICANT	LJ & SC Speight	ADDRESS	Kennedy Highway, Mareeba
DATE LODGED	22 August 2022	RPD	Lot 512 on NR8022
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Undefined Use ('Workforce Accommodation' as defined by the Planning Regulation 2017)		

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 - Undefined Use ('Workforce Accommodation' as defined by the Planning Regulation 2017)

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
ARCH-01 000	Floor Plan / Site Plan / Site Area	-	1 July 2022
ARCH-01 01/01 Rev 3	Floor Plan	-	1 May 2022
ARCH-03 03/05	Elevations	-	1 May 2022
ARCH-04 04/05 Rev 3	Floor Plan / Elevations / Perspectives	-	1 May 2022
ARCH-05 05/05	Floor Plan / Elevations / Perspectives	-	1 May 2022

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out substantially 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 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/developer must ensure the approved accommodation use is operated and managed (including noise generated by guests) to not exceed a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations.

No amplified music is permitted on-site at any time.
 - 3.5 Waste Management
 - 3.5.1 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.

3.5.2 Where bulk bins are used and are to be serviced on site, prior to the issue of a development permit for building works, Council's delegated officer must be satisfied that internal access is of adequate design and construction to allow waste collection/delivery vehicles to enter and exit the site in a forward gear only.

3.6 Length of Stay

The maximum length of stay for guests must not typically exceed nine (9) consecutive months, unless otherwise approved by Council's delegated officer.

3.7 Accommodation Capacity

No more than 64 individual workers shall be accommodated on-site at any given time.

Occupancy records must be kept and presented to Council upon request should any complaint of overcrowding be received.

3.8 Signage

Any advertising devices relating to the development must be wholly sited on the subject site and be limited to a cumulative sign face area of 6m² and must:

- (i) Not resemble a traffic control device or give instructions to traffic;
- (ii) Not incorporate highly reflective materials or finishes;
- (iii) Not be illuminated, move, revolve, strobe or flash; and
- (iv) Be kept clean, in good order and safe repair for the life of the development.

The erection of any signage must comply with the Building Act and all other relevant Acts, Regulations and these approval conditions. The sign must be removed at the decommissioning and rehabilitation stage of the development.

3.9 Notification of Potential Rural Zone Impacts

The applicant is to erect signage in plain sight and in large legible writing at the kitchen/dining area, recreational area, and on each accommodation building advising guests that the subject land is zoned Rural under the Mareeba Shire Council Planning Scheme 2016 and is in a rural locality. The signage should generally state the following:

"Guests should take note:

- *The locality may be used for intensive rural uses;*
- *Guests may experience off site effects from rural activities, including noise, sprays and dust that may cause a loss of residential amenity. Existing and/or self-assessable agricultural and rural uses in the locality have a 'right to farm' or a right to legally continue the use."*

3.10 The workforce accommodation shall not be used for any other purpose than that included in the Planning Regulation definition for 'Workforce Accommodation'.

Upon request by Council, the applicant/owner/operator shall be responsible for providing records to Council, which demonstrates that the occupants of the workforce accommodation are employed in the locality at a place of

employment consistent with the Planning Regulation definition.

3.11 A site manager must be present on-site at all times to ensure compliance with these conditions of approval.

3.12 Bushfire Management

3.12.1 A Bushfire Management Plan for the site, incorporating evacuation procedures for guests, must be prepared to the satisfaction of Council's delegated officer. The approved use must comply with the requirements of the Management Plan at all times.

3.12.2 An on-site water supply for firefighting purposes must be provided with a minimum capacity of 5,000 litres that must comprise either:

- (a) a stand-alone tank; or
- (b) a reserve section in the bottom part of the main water supply tank; or
- (c) a dam; or
- (d) a swimming pool.

Where tank water supply is provided, the outlet must be fitted with a 50mm ball valve with a camlock fitting for connection to firefighting appliances.

4. Infrastructure Services and Standards

4.1 Stormwater Drainage

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 concentrated by the development must be collected from site and discharged to an approved legal point of discharge.

4.2 Car Parking/Internal Driveways

4.2.1 The applicant/developer must ensure that the development is provided with 17 vehicle parking spaces, and four (4) bus parking spaces as shown on the approved plans. No parking of vehicles or buses is permitted to occur off-site.

4.2.2 All car parking spaces, and trafficable areas must be surface treated with an all-weather compacted gravel seal and appropriately drained prior to the commencement of the use, to the satisfaction of Council's delegated officer.

4.2.3 All car parking spaces and internal driveways must be constructed in compliance with the following standards, to the satisfaction of Council's delegated officer:

- Australian Standard AS2890:1 Off Street Parking – Car Parking Facilities;
- Australian Standard AS1428:2001 – Design for Access and Mobility.

4.2.4 All parking spaces and trafficable areas must be maintained in good order

and safe repair for the life of the development, to the satisfaction of Council's delegated officer.

A sign must be erected in proximity to the access driveway indicating the availability of on-site parking.

4.3 Landscaping & Fencing

Prior to building works commencing, the applicant/developer must prepare and submit a landscape plan in accordance with Planning Scheme Policy 6 for consideration and approval by Council's Delegated Officer. The landscape plan must include the following:

- (i) A minimum three (3) metre wide landscape buffer along the entire Kennedy Highway frontage of the site;
- (ii) A minimum two (2) metre wide landscape buffer along the entire length of the northern boundary (excluding access ways);
- (iii) a minimum two (2) metre wide landscape buffer along the entire length of the eastern boundary;
- (iv) a minimum two (2) metre wide landscape buffer along the entire length of the southern boundary of the site.
- (v) a 1.8m high colorbond fence (of neutral colour) or timber paling fence (with no gaps) along the entire length of the southern boundary sited on the inside of the 2m landscape buffer required under (iv).
- (vi) any landscaping proposed throughout the facility (not compulsory)

Landscaping associated with points (i), (ii), (iii) and (iv) should include ground cover, shrubs and trees that will grow to form an effective buffer of no less than 4 metres in height.

All perimeter landscaping must be undertaken when the building works commence so as to ensure reasonable establishment before the commencement of the use and must be mulched, irrigated and maintained for the life of the development and to the satisfaction of Council's Delegated Officer. The fencing required under (v) must be installed prior to the commencement of the use.

4.4 Non-Reticulated Water Supply

The development must be provided with a potable water supply that can satisfy the standards for drinking water set by the Australian Drinking Water Guidelines 2004 (National Health and Medical Research Council and the National Resource Management Ministerial Council).

All non-potable sources of water must be sign posted "non-potable water supply" or similar in order to deter consumption.

4.5 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.

Note: Any on-site wastewater treatment system with a total daily peak design

capacity of at least 21 equivalent persons (EP) is an Environmentally Relevant Activity (ERA 63 - Sewerage Treatment) and an Environmental Authority is required.

4.6 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.

(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 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) REFERRAL AGENCY CONDITIONS

Department of State Development, Infrastructure, Local Government and Planning conditions dated 4 October 2022.

(F) RELEVANT PERIOD

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

- Material Change of Use aspect – 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

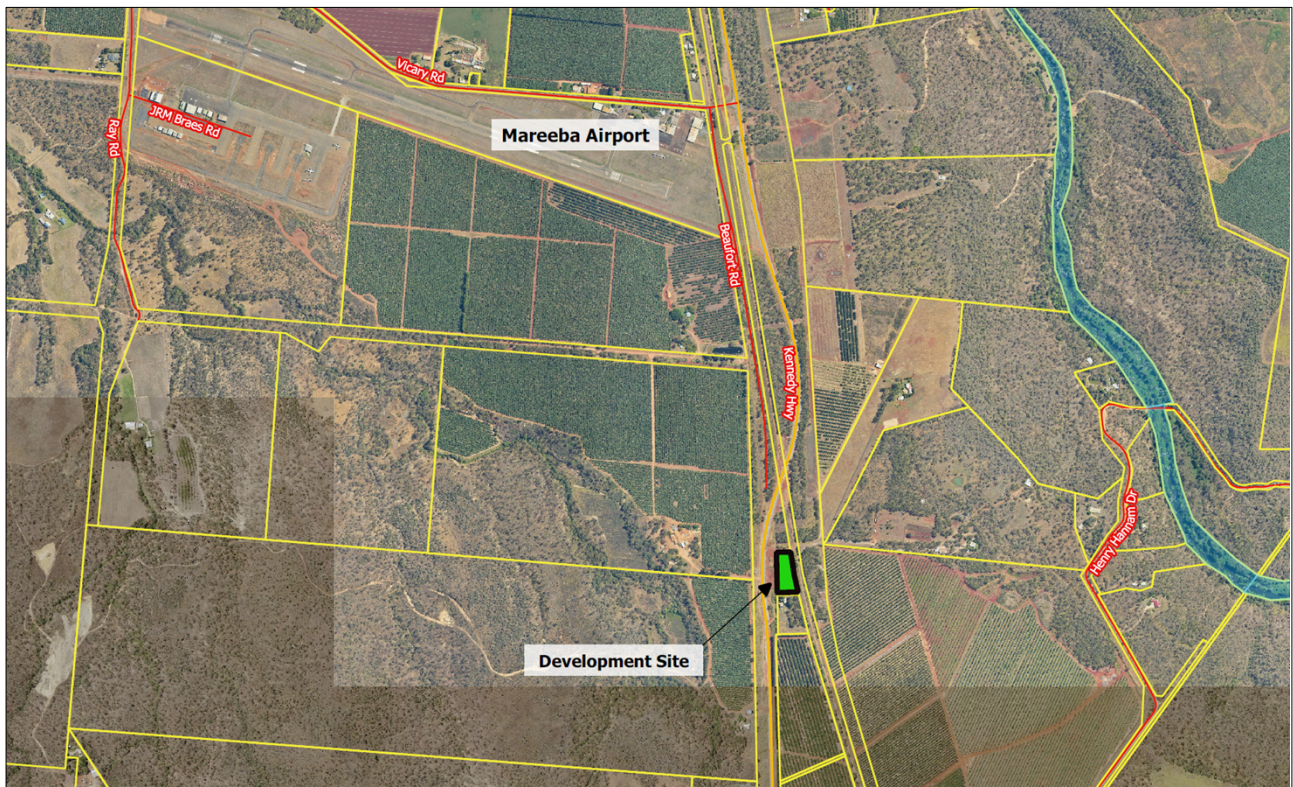
- Compliance Permit for Plumbing and Drainage Work

THE SITE



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

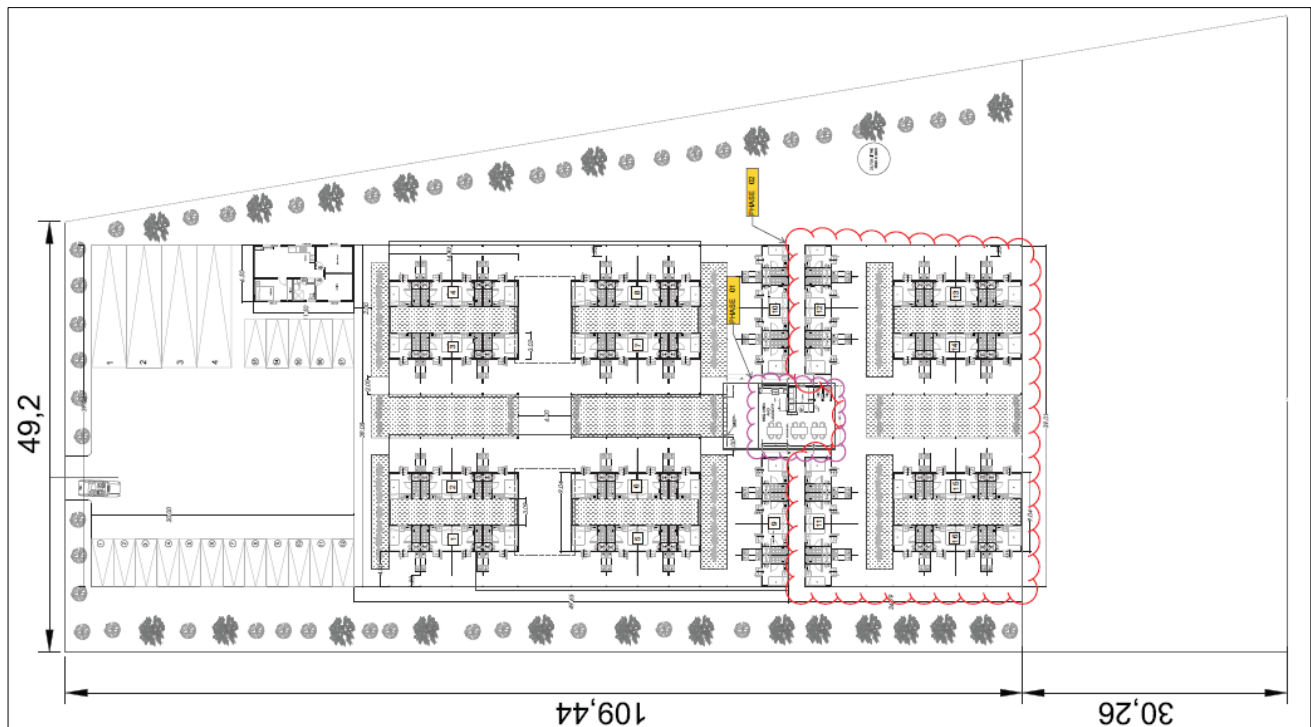
The development application seeks a Development Permit for Material Change of Use - Undefined Use ('Workforce Accommodation' as defined by the Planning Regulation 2017) in accordance with the plans shown in **Attachment 1**.

The application proposes the establishment of a workers accommodation facility to accommodate up to 64 workers. The accommodation facility will provide 64 individual 'single quarters' rooms provided within 16 demountable buildings (4 rooms per building). Each room will include separate ensuite toilet and shower facilities and shared cooking, dining and recreational areas will be provided on-site. An ancillary caretaker/managers residence is also proposed on-site. The development will be carried out in 2 stages, Stage 1 providing 40 rooms, and Stage 2 providing the additional 24 rooms.

A large carparking area will be provided at the northern end of the allotment which will be gravel sealed. Wastewater will be disposed of on-site through a series of wastewater treatment systems

and the site will be provided with a channel water supply that will need to be treated to make potable.

The site plans showing the general layout of the workforce accommodation facility is shown below:



REGIONAL PLAN DESIGNATION

The subject site is included within the Regional Landscape and Rural Production Area land use category in the Far North Queensland Regional Plan 2009-2031. The site contains no areas of ecological significance.

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories <ul style="list-style-type: none"> • Rural Agricultural Area • Rural Other Transport Elements <ul style="list-style-type: none"> • State Controlled Road • B-double Route • Railway Network • Principal Cycle Route
Zone:	Rural Zone
Overlays:	Agricultural Land Overlay Airport Environs Overlay Bushfire Hazard Overlay

Planning Regulation 2017 Land Use Definition

The proposed use is considered an 'undefined use' in the Mareeba Shire Council Planning Scheme 2016 due to a recent administrative change to the *Planning Regulation 2017*. Where there is an inconsistency between the land use definitions in the Planning Scheme and the Regulation, the Regulation definition prevails. The Regulation defines 'Workforce Accommodation' as follows :-

Workforce accommodation—

(a) means the use of premises for—

(i) accommodation that is provided for persons who perform work as part of—

(A) a resource extraction project; or

(B) a project identified in a planning scheme as a major industry or infrastructure project; or

(C) a rural use; or

(ii) recreation and entertainment facilities for persons residing at the premises and their visitors, if the use is ancillary to the use in subparagraph (i); but

(b) does not include rural workers' accommodation.

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

3.3.11 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 proposed development will provide accommodation for a maximum of 64 workers for short-medium term periods and with workers predominately being employed by farming ventures within the Shire. There is currently an identified shortage of accommodation within our region for farm workers and workers employed on major infrastructure projects. This development will help meet some of this demand. The proposed development makes

efficient use of the site and is not likely to detrimentally impact on surrounding agricultural land uses.

The proposed development is not likely to compromise Specific Outcome 1.

3.7 Economic Development

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.*
- (3) *Urban and rural residential development provides a buffer to adjacent rural areas in accordance with best practice.*

Comment

The subject site has an area of just 8,385m² so in itself has little agricultural viability.

The proposed workforce accommodation is considered to be an agricultural support use and is appropriately setback/screened from surrounding rural land uses. Given the nature of the proposed use (short - medium term accommodation for workers) the development is likely to be more resilient and subsequently less susceptible to land use conflict arising from adjoining farming activity.

The proposed development is not likely to compromise Specific Outcomes 1 and 3.

- (5) *Development ensures rural activities in all rural areas are not compromised by incompatible development and fragmentation.*

Comment

The subject site has an area of just 8,385m² so in itself has little agricultural viability.

The proposed workforce accommodation is considered to be an agricultural support use and is appropriately setback/screened from surrounding rural land uses. Given the nature of the proposed use (short - medium term accommodation for workers) the development is likely to be more resilient and subsequently less susceptible to land use conflict arising from adjoining farming activity.

The proposed development is not likely to compromise Specific Outcomes 5.

Relevant Developments Codes

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

- 6.2.9 Rural zone code
- 8.2.1 Agricultural land overlay code
- 8.2.2 Airport environs overlay code
- 8.2.3 Bushfire hazard overlay code
- 9.3.1 Accommodation 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
Rural zone code	<p>The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.</p> <p>Where an acceptable outcome cannot be met, it is considered that the proposed development can satisfy the relevant higher order performance outcome. Refer to code documents for full commentary.</p>
Agricultural land overlay code	<p>The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.</p> <p>Where an acceptable outcome cannot be met, it is considered that the proposed development can satisfy the relevant higher order performance outcome. Refer to code documents for full commentary.</p>
Airport environs overlay code	<p>The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.</p> <p>Where an acceptable outcome cannot be met, it is considered that the proposed development can satisfy the relevant higher order performance outcome. Refer to code documents for full commentary.</p>
Bushfire hazard overlay code	<p>The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.</p> <p>Where an acceptable outcome cannot be met, it is considered that the proposed development can satisfy the relevant higher order performance outcome. Refer to code documents for full commentary.</p>
Accommodation activities code	<p>The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.</p>

	Where an acceptable outcome cannot be met, it is considered that the proposed development can satisfy the relevant higher order performance outcome. Refer to code documents for full commentary.
Landscaping code	<p>The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.</p> <p>Where an acceptable outcome cannot be met, it is considered that the proposed development can satisfy the relevant higher order performance outcome. Refer to code documents for full commentary.</p>
Parking and access code	<p>The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.</p> <p>Where an acceptable outcome cannot be met, it is considered that the proposed development can satisfy the relevant higher order performance outcome. Refer to code documents for full commentary.</p>
Works, services and infrastructure code	<p>The application complies or can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.</p> <p>Where an acceptable outcome cannot be met, it is considered that the proposed development can satisfy the relevant higher order performance outcome. Refer to code documents for full commentary.</p>

(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 of approval will be included requiring all relevant development works be designed and constructed in accordance with FNQROC Development Manual standards (as amended).

REFERRAL AGENCY

The application triggered referral to the Department of State Development, Infrastructure, Local Government and Planning as a Referral Agency.

That Department advised in a letter dated 4 October 2022 that they require the conditions to be attached to any approval (**Attachment 2**).

Internal Consultation

Nil

PUBLIC NOTIFICATION

The development proposal was placed on public notification from 14 September 2022 to 5 October 2022. The applicant submitted the notice of compliance on 10 October 2022 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

No submissions were received.

PLANNING DISCUSSION

Nil