

**8.1 G & G CORDENOS AND S CORDENOS - MATERIAL CHANGE OF USE - CHILD CARE CENTRE - LOT 53 ON SP204554 - 47 ANZAC AVENUE, MAREEBA - MCU/22/0017****Date Prepared:** 27 March 2023**Author:** Senior Planner

**Attachments:**

1. Proposal Plans
2. State Assessment and Referral Agency response dated 24 March 2023
3. Submissions
4. Traffic Report prepared by SKF

**APPLICATION DETAILS**

APPLICATION		PREMISES	
APPLICANT	G & G Cordenos and S Cordenos	ADDRESS	47 Anzac Avenue, Mareeba
DATE LODGED	24 June 2022	RPD	Lot 53 on SP204554
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Child Care Centre		
FILE NO	MCU/22/0017	AREA	4061m2
LODGED BY	Planning Plus	OWNER	G & G Cordenos and S Cordenos
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Low Density Residential zone		
LEVEL OF ASSESSMENT	Impact Assessment		
SUBMISSIONS	Three (3)		

**EXECUTIVE SUMMARY**

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

The application is impact assessable and three (3) properly made submissions were received in response to public notification of the application.

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

A traffic report for the proposed development was prepared by SKF Consulting Engineers. The traffic report concludes that there are no traffic engineering impediments to the development proceeding. Further, the traffic report finds that the development will not impact the surrounding traffic network in such a way that requires upgrades external to the development.

The proposed development will include on site car parking in excess of the planning scheme requirements.

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>	G & G Cordenos and S Cordenos	<b>ADDRESS</b>	47 Anzac Avenue, Mareeba
<b>DATE LODGED</b>	24 June 2022	<b>RPD</b>	Lot 53 on SP204554
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Material Change of Use - Child Care Centre		

and in accordance with section 53 of Planning Act 2016, Council considers that the minor noncompliance with the public notification stage has not-

- (a) adversely affected the public's awareness of the existence and nature of the application; or
- (b) restricted the public's opportunity to make properly made submissions about the application;

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 - Child Care Centre

- (B) **APPROVED PLANS:**

Plan/Document Number	Plan/Document Title	Prepared by	Dated
1675-SK01	Cover Sheet	Humac Design	-
1675-SK02	Site Plan	Humac Design	-
1675-SK03	Site Imagery	Humac Design	-
1675-SK04	Area Plan	Humac Design	-

- (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 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.
- 3.5 Noise Nuisance
- Refrigeration equipment, pumps, compressors and mechanical ventilation systems must be located, designed, installed and maintained to achieve a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations and a maximum noise level of 8dB(A) above background levels as measured from commercial locations.
- 3.6 Air Conditioner & Building Plant Screening
- The applicant/developer 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.
- 3.7 Building Amenity

The development must complement and integrate with the established built character of the Low Density Residential zone, having regard to:

- (a) roof form and pitch;
- (b) eaves and awnings;
- (c) building materials, colours and textures; and
- (d) window and door size and location.

### 3.8 Safety fencing

A child proof fence or physical barrier is provided to prevent unintended access to the following areas, directly from indoor or outdoor areas intended to accommodate children:

- (a) Vehicle manoeuvring and parking areas;
- (b) Refuse storage and servicing areas; and
- (c) Air conditioning, refrigeration plant and mechanical plant.

### 3.9 Hours of Operation

The operating hours shall be between 6.30am and 6pm Monday to Saturday. No operations are permitted on Sunday or Public Holidays.

## 4. Infrastructure Services and Standards

### 4.1 Access

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

Where applicable, the applicant/developer must ensure that any redundant vehicle crossovers are removed and reinstated with kerb and channel.

### 4.2 Stormwater Drainage/Water Quality

4.2.1 Prior to building works commencing, the applicant/developer must submit a Stormwater Management Plan and Report prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards of design and construction set out in the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual to the satisfaction of Council's delegated officer.

4.2.2 The Stormwater Management Plan must ensure a non-worsening effect on surrounding land as a consequence of the development, and must take all reasonable and practicable measures to ensure discharge occurs in compliance with the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual.

- 4.2.3 The applicant/developer must construct the stormwater drainage infrastructure for the development in accordance with the approved Stormwater Management Plan and Report.
- 4.2.4 All stormwater drainage must be collected from site and discharged to an approved legal point of discharge.
- 4.3 Car Parking/Internal Driveways
  - 4.3.1 The applicant/developer must ensure the development is provided with on-site car parking spaces generally in accordance with Site Plan 1675-SK02 which are available solely for the parking of vehicles associated with the use of the premises.
  - 4.3.2 All car parking spaces and internal driveways must be concrete, bitumen or asphalt sealed and appropriately drained prior to the commencement of the use and to the satisfaction of Council's delegated officer.
  - 4.3.3 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.
- 4.4 Landscaping and Fencing
  - 4.4.1 The development must be landscaped in accordance with an approved landscape plan.
  - 4.4.2 Prior to the issue of the development permit for operational works, a detailed landscape plan, must be prepared for the site and submitted to Council's delegated officer for consideration and approval.
  - 4.4.3 The landscape plan must demonstrate compliance with the Landscaping Code. Plant species are to be generally selected from the Plant Schedule in Planning Scheme Policy 6 - Landscaping and preferred plant species.
  - 4.4.4 The landscaping plan must incorporate the following:
    - (i) A 1.8 metre high colorbond (neutral colour) solid screen fence must be established along the full length of the common boundary between Lot 53 on SP204554 and Lot 197 on NR3143.
    - (ii) The fencing is to be erected prior to the commencement of the use and maintained in good order for the life of the development, to the satisfaction of Council's delegated officer.

4.4.5 A minimum of 25% of new plants is provided as larger, advanced stock with a minimum plant height of 0.7 metres and mulched to a minimum depth of 0.1 metres with organic mulch.

4.4.6 The landscaping of the site must be carried out in accordance with the endorsed landscape plan/s, and prior to the commencement of the use, and mulched, irrigated and maintained to the satisfaction of Council's delegated officer.

#### 4.5 Lighting

Where installed, external lighting must be designed and installed in accordance with *AS4282 – Control of the obtrusive effects of outdoor lighting* so as not to cause nuisance to residents or obstruct or distract pedestrian or vehicular traffic.

#### 4.6 Water Supply

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

Where the existing reticulated water supply does not currently service the site or is not at an adequate capacity, the applicant/developer is required to extend or upgrade the reticulated water supply infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

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

#### 4.7 Sewerage Connection

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

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

### (D) ASSESSMENT MANAGER'S ADVICE

- (a) An Adopted Infrastructure Charges Notice has been issued with respect to the approved development. The Adopted Infrastructure Charges Notice details the type of

infrastructure charge/s, the amount of the charge/s and when the charge/s are payable.

- (b) The Adopted Infrastructure Charges Notice does not include all charges or payments that are payable with respect to the approved development. A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.

- (c) 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.

- (d) 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.

- (e) 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](http://www.dcceew.gov.au).

- (f) 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](http://www.dsdsatsip.qld.gov.au).

#### (E) REFERRAL AGENCY CONDITIONS

State Assessment and Referral Agency response dated 24 March 2023.

#### (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
- Development Permit for Operational Works

## (H) OTHER APPROVALS REQUIRED FROM COUNCIL

- Compliance Permit for Plumbing and Drainage Work

2. That an Adopted Infrastructure Charges Notice be issued for the following infrastructure charge/s for:

Development Type	Rate	Measure	Charge	Credit Detail	Balance
	per m2 GFA	GFA (m2)			
Child Care Centre	\$101.00	604.8	\$61,084.80	\$20,260.00 (1 lot)	\$40,824.80
<b>TOTAL CURRENT AMOUNT OF CHARGE</b>					<b>\$40,824.80</b>

**THE SITE**

The site is situated at 47 Anzac Avenue, Mareeba and is more particularly described as Lot 53 on SP204554. The site is irregular in shape with an area of 4,061m<sup>2</sup> and is zoned Low Density Residential under the Mareeba Shire Council Planning Scheme 2016.

The site is flat and except for a for sale sign in the north-eastern corner, vacant.

The site has frontages of approximately 107 metres to the Kennedy Highway and 80 metres to Anzac Avenue. Both frontage roads are constructed to bitumen sealed standard. Informal access to the site is gained from Anzac Avenue.

The properties adjoining the western boundary comprise of a residential lot containing a dwelling house, and Lot 201 containing the Mareeba Bowls Club and the new Mareeba Shire Council library. Both of these adjoining lots are zoned Low Density Residential.

The immediate locality is characterised by residential and rural residential lots generally ranging between 1,000m<sup>2</sup> and up to 8,000m<sup>2</sup>.

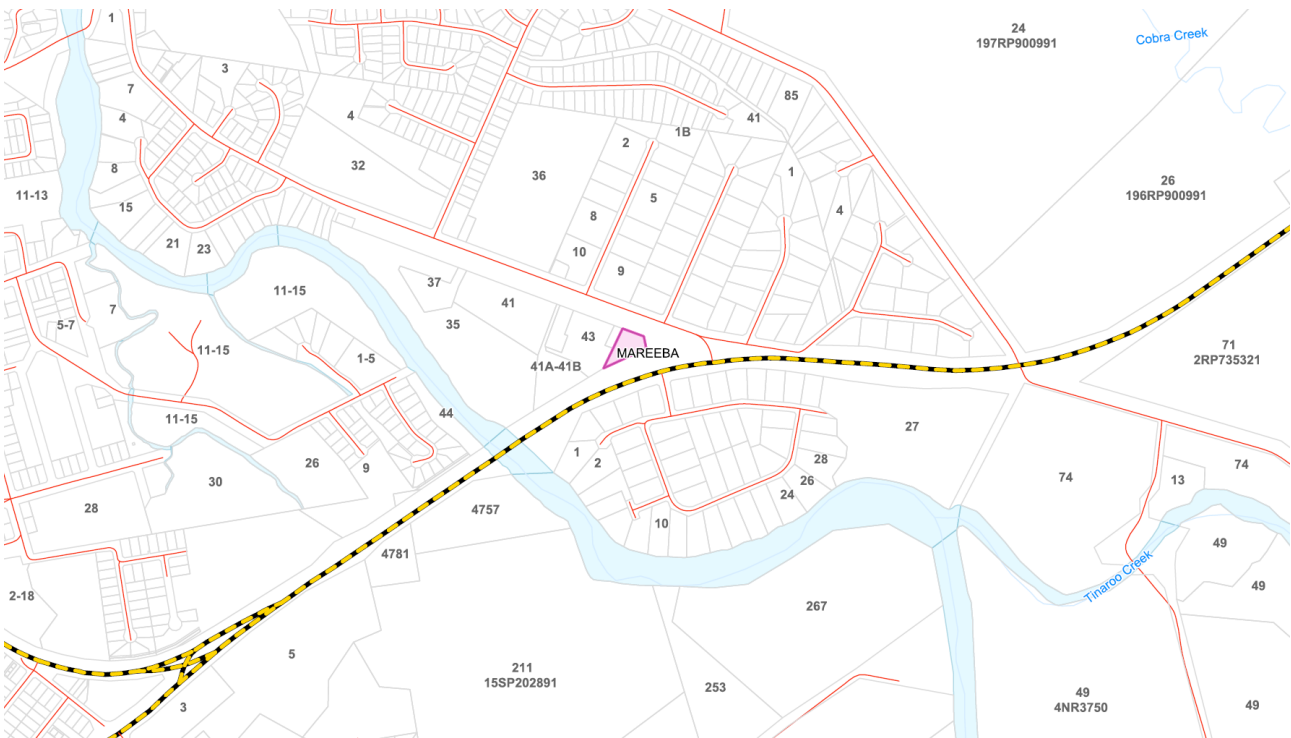
The site is not currently connected to Mareeba's reticulated water and sewerage networks.





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**BACKGROUND AND CONTEXT**

Lot 53 on SP204554 is a balance allotment left after the completion of the Riverland's Estate subdivision on the opposite side of the Kennedy Highway.

**PREVIOUS APPLICATIONS & APPROVALS**

1. **MCU/09/0051** - Material change of use application lodged on 28 October 2009 under the Mareeba Shire Planning Scheme 2004.

Material change of use application MCU/09/0051 proposed to develop the site for a motor showroom and associated vehicle repair station (proposed Mareeba Mitsubishi and Mareeba Mazda).

Council at its meeting held on 5 May 2010 resolved to refuse the application on the following grounds:

1. *The proposed development will compromise the achievement of the following Desired Environmental Outcomes:*
  - (h) *All members of the community have appropriate access to relevant services and facilities that meet their needs and create a sense of community satisfaction.*
  - (r) *The identification and protection of the amenity of noise sensitive development and liveability of residential areas.*
2. *The proposed development is in conflict with Part 4, Division 24, 4.135 Overall Outcomes for Future Residential Zone Code, (2):*
  - (i) *which provides the Mareeba Shire with an allocation of land in a "holding zone" within the life of this planning scheme, until such time as additional land is required to meet demand;*
  - (ii) *which allows for uses which are consistent with the current zones, but will not prejudice the intended development of the Future Residential zone;*
  - (iv) *where sporadic and premature subdivision of land is prevented, development is well planned and integrated with surrounding land uses, and any interim uses do not prejudice future development;*
  - (vii) *where urban design promotes a sense of place and community safety;*
3. *The proposed development is in conflict with Part 4, Division 6, 4.31 Overall Outcomes for Residential Zone Code, (2):*
  - (a) *is attractive and contains housing at a range of population densities that provides a pleasant and safe living environment for its occupants;*
  - (d) *provides for a mix of medium and high-density development within the existing urban fabric and is visually compatible with the scale and character of the surrounding area;*

2. **MCU/20/0017** - Material change of use application lodged on 28 July 2021 under the Mareeba Shire Council Planning Scheme 2016.

Material Change of Use for a Preliminary Approval including a variation request to vary the effect of the Mareeba Shire Council Planning Scheme 2016 to alter the level of assessment for 'childcare centre' from Impact assessment to Code assessment.

Council at its meeting held on 17 November 2021 resolved to refuse the application on the following grounds:

*The basis for the Council's decision to refuse item 8.3, is that the effect of the variations would remove submission rights for later development applications, particularly considering the amount and detail of information included is insufficient to enable submitters to exercise their submission rights at this time.*

## DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Material Change of Use - Child Care Centre in accordance with the plans shown in **Attachment 1**.

The applicant advises that the proposed plans have been prepared in accordance with the former Queensland Development Code (QDC) Part 22 - Child Care Centres. Based on the indoor and outdoor area requirements, the proposed centre will cater for up to 134 children and 14 staff.

The following aspects of the proposal are also noted:

- Single vehicular driveway off Anzac Avenue;
- Total of 29 car parking spaces including a DDA space and five (5) setdown spaces (the Planning Scheme requirement is for 18 spaces);
- Total floor area of 902m<sup>2</sup>, resulting in a site cover of 22%; and
- Significant landscape areas including buffer to adjoining residential properties which will be densely planted.

Traffic impacts have been assessed and a Traffic Report prepared by SKF Consulting Engineers (**Attachment 3**). The report concludes that the proposal achieves safe access and does not compromise the safe and efficient functioning of the surrounding road network.

## 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> <ul style="list-style-type: none"> <li>• Residential Area</li> </ul> <b>Transport Elements</b> <ul style="list-style-type: none"> <li>• State Controlled Road</li> <li>• Local Collector Road</li> <li>• Principal Cycle Network</li> </ul>
Zone:	Low Density Residential zone
Overlays:	<ul style="list-style-type: none"> <li>• Airport environs overlay</li> <li>• Hill and slope overlay</li> <li>• Residential dwelling house and outbuilding overlay</li> </ul>

	<ul style="list-style-type: none"> <li>• Transport infrastructure overlay</li> </ul>
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## 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>
<i>Childcare centre</i>	<i>Premises used for minding, education and care, but not residence, of children.</i>	<i>Crèche, early childhood centre, kindergarten, outside hours school care</i>	<i>Educational establishment, home based childcare, family day care</i>

## 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

##### 3.3.3 Element—Major regional activity centre

##### 3.3.3.1 Specific outcomes

- (1) The role and function of Mareeba as the *major regional activity centre* for services in Mareeba Shire is strengthened. Mareeba is to accommodate the most significant concentrations of regional-scale business, retail, entertainment, government administration, secondary and tertiary educational facilities and health and social services within the shire.

#### Comment

The proposed development does not compromise the role and function of Mareeba as the major regional activity centre for the Mareeba Shire.

- (2) Development within Mareeba over time enhances the Shire's self-sufficiency in terms of services offered, business and employment opportunities.

Comment

The proposed development will comply.

**3.3.7 Element—Residential areas and development****3.3.7.1 Specific outcomes**

- (4) *Residential areas* contain predominantly low density residential development and are characterised by traditional detached housing and Dual occupancy development.

Comment

The proposed development applies to one lot and will not alter the predominant form of development in residential areas.

**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 site is not identified as being at significant risk from any of the identified hazards.

**3.4 Natural resources and environment****3.4.1 Strategic outcomes**

- (1) Mareeba Shire's outstanding natural environment, ecological processes and biodiversity values, including those within *conservation areas* and *biodiversity areas*, are conserved, enhanced and restored. Minimal loss of native vegetation is achieved in the shire through limited clearing of *biodiversity areas*, strategically located rehabilitation areas and the replanting of native vegetation. The impacts of pests and weeds on the natural environment is minimised and managed.

Comment

The site does not contain or adjoin any such areas.

- (5) The air and acoustic environment of Mareeba Shire is managed to ensure its maintenance or improvement. Development maintains or enhances the health and well-being of the community and the natural environment.

Comment

The proposed development can be reasonably operated to minimise air and acoustic impacts.

- (6) Risks to health and safety caused by contaminated land are managed, including through the remediation of contaminated sites and the careful management of unexploded ordinances.

Comment

The subject site is not a suspected or recorded contaminated site.

### **3.4.3 Element—Pest and weed management**

#### **3.4.3.1 Specific outcomes**

- (3) Plants used for landscaping and street trees are ideally native species, appropriate for the purpose and the local environment, and do not introduce invasive or exotic plants into the shire.

#### Comment

The development would be conditioned to comply.

### **3.5.6 Element—Community facilities**

#### **3.5.6.1 Specific outcomes**

- (2) Development complements and sensitively integrates with existing halls, clubs, libraries, art galleries, places of worship, theatres, function rooms, community and cultural centres and other key community infrastructure. Development on sites adjoining community facilities will not obstruct or detract from their use, accessibility and functionality.

#### Comment

The development of a child care centre on the subject land will not compromise the ongoing use of the Cedric Davies Community Hub.

- (3) Community facilities are redeveloped in a way that is functional, safe and sensitive to the community's needs. Development of these sites is cognisant of the existing character and adjoining land uses of the area and addresses the street frontage to create a high level of accessibility and legibility to the community.

#### Comment

The development of a child care centre can reasonably comply.

### **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

Anzac Avenue is a Collector Road and the Kennedy Highway is a State Controlled Road. Both roads are of the necessary hierarchy to accommodate the proposed development.

- (6) New development is appropriately sequenced and coordinated with existing and future water, wastewater, stormwater and transport infrastructure, to ensure the operations of existing infrastructure are not compromised and community needs continue to be met. New

infrastructure is provided to development in accordance with Council's desired standards of service and supports a consolidated urban form to maximise return on investment. The ongoing operation of key infrastructure elements is not prejudiced by inappropriate development.

Comment

The development will be conditioned to require connections to the Mareeba reticulated water and sewerage networks.

**3.6.2 Element—Road network**

**3.6.2.1 Specific outcomes**

- (1) The shire's road network is upgraded and extended to provide for the safe, efficient movement of vehicles and to cater for new development.

Comment

SKF Consulting Engineers prepared a traffic report for the proposed development. The traffic report concludes that there are no traffic engineering impediments to the development proceeding.

Further, the traffic report finds that the development will not impact the surrounding traffic network in such a way that requires upgrades external to the development.

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

Comment

The development will comply.

**3.6.7 Element—Water supply and wastewater services**

**3.6.7.1 Specific outcomes**

- (1) Development is provided with adequate water and wastewater infrastructure in accordance with Council's Desired Standards of Service.

Comment

The development will be conditioned to connect to Mareeba's reticulated water and sewerage infrastructure.

- (2) Water storage, sewerage disposal and reticulation infrastructure is utilised and extended economically and efficiently to new development.

Comment

The development will be conditioned to connect to Mareeba's reticulated water and sewerage infrastructure.

- (6) Upgrades and extensions to water and wastewater infrastructure are designed and constructed in accordance with the FNQROC Regional Development Manual as amended.

Comment

The development can be conditioned to comply.

**3.6.8 Element—Stormwater management****3.6.8.1 Specific outcomes**

- (1) Water Sensitive Urban Design principles and adequate infrastructure are integrated into new development, ensuring:
  - (a) water quality objectives are met;
  - (b) a no worsening effect on surrounding land and the environment is achieved;
  - (c) flooding and ponding of water is avoided

Comment

The development can be conditioned to comply.

- (2) Stormwater is managed and measures are implemented to ensure erosion is prevented or minimised and contaminants are not released into surrounding environs.

Comment

The development can be conditioned to comply.

**3.6.9 Element—Waste management****3.6.9.1 Specific outcomes**

- (4) On-site waste disposal and recycling areas are provided by development to meet operational requirements of storage, screening and collection.

Comment

The development can be conditioned to comply.

**3.6.11 Element—Information and communication technology****3.6.11.1 Specific outcomes**

- (1) Households, businesses and industry within urban and rural communities are serviced with high-speed fibre-optic, high-speed wireless or satellite broadband internet connections across the shire.

Comment

The development can be conditioned to comply.

**3.7 Economic development****3.7.1 Strategic outcomes**

- (3) Mareeba Shire is increasingly provided with retail and business opportunities and improved government services to enhance self-sufficiency. These opportunities and services are consolidated through the clustering and co-location of commercial uses in *activity centres* and are particularly focussed within Mareeba. Kuranda, as a *village activity centre*, maintains its level of self-reliance through servicing its local catchment with a range of services and employment opportunities.



Comment

The proposed development complies.

**Relevant Developments Codes**

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

- 6.2.6 Low density residential zone code
- 7.2.2 Mareeba local plan code
- 8.2.2 Airport environs overlay code
- 8.2.8 Hill and slope overlay code
- 9.3.3 Community activities code
- 9.4.2 Landscaping code
- 9.4.3 Parking and access code
- 9.4.5 Works, services and infrastructure code

The application included a planning report and assessment against the planning scheme. An officer assessment has found that the application satisfies the relevant acceptable 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
Low density residential zone code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes) contained within the code.  Refer to planning discussion section of report.
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.
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.
Community activities code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes) contained within the code.  Refer to planning discussion section of report.
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.
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#### **(D) Planning Scheme Policies/Infrastructure Charges Plan**

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

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

#### **(E) Adopted Infrastructure Charges Notice**

Adopted Infrastructure Charges Resolution (No. 1) of 2022 identifies a charge rate for child care centres of \$101.00 per m<sup>2</sup> of gross floor area (GFA).

The calculated GFA for the proposed development is 604.8m<sup>2</sup>. This GFA calculation excludes the building amenities, outdoor covered areas, and hallways.

Based on \$101.00 per m<sup>2</sup> and a GFA of 604.8m<sup>2</sup>, the applicable infrastructure charge is:

- \$101.00 x 604.8 (minus a 1 lot credit of \$20,260.00)

Total Charge = **\$40,824.80**

#### **REFERRAL AGENCY**

The application triggered referral to the State Assessment and Referral Agency as a Concurrence Agency for State transport infrastructure.

The State Assessment and Referral Agency advised in a letter dated 24 March 2023 that they require the conditions to be attached to any approval (**Attachment 2**).

#### **Internal Consultation**

Technical Services

#### **PUBLIC NOTIFICATION**

The development proposal was placed on public notification from 22 August 2022 to 9 September 2022. The applicant submitted the notice of compliance on 13 September 2022 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

The three (3) specific public notification steps were:

- A notice was published in The Express Newspaper on 24 August 2022;
- Letters to adjoining owners were sent on 19 August 2022; and
- Notices were placed at the road frontages of the land on 20 August 2022, and maintained until 9 September 2022 (inclusive), being at least 15 business days.

Under the *Planning Act 2016*, the 15 business day public notification period should commence after all three (3) steps are taken, or 24 August 2022 in this instance.

Starting the 15 business day period on 24 August 2022 means that the 9 September 2022 end date technically results in only 12 business days of public notification.

Section 53 (3) of the *Planning Act 2016* allows for Council to assess and decide the application, notwithstanding this error.

*53(3) However, the assessment manager may assess and decide a development application even if some of the requirements of the development assessment rules about the notice have not been complied with, if the assessment manager considers any noncompliance has not-*

- (a) adversely affected the public's awareness of the existence and nature of the application; or*
- (b) restricted the public's opportunity to make properly made submissions about the application.*

Council officers are satisfied that the noncompliance in this instance has not adversely affected the public's awareness of the existence and nature of the application, nor has it restricted the public's opportunity to make a properly made submission.

It is noted that public notice signs were erected on the subject site on 20 August 2022 and maintained for the full 15 business day period. Further, no late submissions have been received by Council.

Three (3) properly made submissions were received and all of those objected to the proposed development.

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

Grounds for objection /support	Comment
Parks and green spaces are required, not commercial development.	Not relevant to the current application. Council has reviewed its Parks and Open Space Strategy and has multiple new projects planned throughout the Shire.
Application is a ploy to change the zoning for a higher land value and possibly to allow other commercial development.	The application is specifically for a child care centre. The application does not include a variation request and the underlying land zoning will remain Low Density Residential. The application does not create additional commercial land use rights.
A change in zoning will devalue properties in the area.	The application does not involve a change in zoning.
Increased traffic will cause issues with access to Ferretti Close, Anzac Avenue and the Kennedy Highway intersection.	SKF Consulting Engineers have prepared a traffic report for the proposed development. The traffic report concludes that there are no traffic engineering impediments to the development proceeding.

	Further, the traffic report finds that the development will not impact the surrounding traffic network in such a way that requires upgrades external to the development.
The child care centre will need to be connected to the reticulated water and sewerage networks. These networks do not currently service the site.	The development has been conditioned to require the applicant to provide connections to each network.
Development would detrimentally impact on the established residential amenity.  Residents have accepted the impacts of established non-residential (community based) uses in this locality, but these are now reached saturation point.	The planning scheme does not categorise a childcare centre as commercial development, instead it is categorised as a community activity.  All of the established childcare centres in Mareeba are located within or adjoining the Low Density Residential zone. These centres have demonstrated the ability to operate in a manner compatible with the amenity of nearby residential uses. There is a similar expectation for a childcare centre on the subject land.  A childcare centre is an essential service for many residents, particularly those on the fast developing eastern side of Mareeba.  As Mareeba grows, there will also be a need for additional services such as child care.
Precedent for other undeveloped land on Anzac Avenue.	All future applications will be considered on their individual merits.
Use of the Anzac Avenue road reserve in front of the subject land.	There is no proposal to use Anzac Avenue road reserve, other than the driveway to access the subject site.  All car parking for the proposed child care centre will be on site.
Council has not addressed alleged safety concerns with the access to the existing community hub and child care centre.	Not relevant to this application.  There is a separate access to this proposed development.

## Submitters

Name of Principal submitter	Address
1. S Gillies	PO Box 166, MAREEBA QLD 4880
2. R & E Piagno	PO Box 166, MAREEBA QLD 4880
3. M & H Cotter	18 Ferretti Close, MAREEBA QLD 4880

## PLANNING DISCUSSION

Compliance with Performance Outcome PO5, PO8 and PO9 of the Low Density Residential zone code is discussed below:

### 6.2.6 Low Density Residential zone code

#### **Gross Floor Area**

##### **PO5**

*Buildings and structures occupy the site in a manner that:*

- (a) makes efficient use of land;*
- (b) is consistent with the bulk and scale of surrounding buildings; and*
- (c) appropriately balances built and natural features.*

##### **A05**

*Gross floor area does not exceed 600m<sup>2</sup>.*

#### Comment

The proposed development has a total site cover of 902m<sup>2</sup>, which represents 22.2% of the total site area.

The calculated Gross Floor Area (GFA) for the proposed development is 604.8m<sup>2</sup>. The GFA calculation excludes the building amenities, outdoor covered areas, and hallways.

The proposed site cover allows for an appropriate balance of built form, open space and landscaping.

The proposed site cover makes an efficient use of the site and is not inconsistent with the predominant site coverage of other land in the Low Density Residential zone.

(Note: A05 is typically applied to Low Density Residential lots of around 1,000m<sup>2</sup> in area. The area of the subject site is 4,061m<sup>2</sup>)

The development complies with PO5.

#### **Non-residential development**

##### **PO8**

*Non-residential development is only located in new residential areas and:*

- (a) is consistent with the scale of existing development;*
- (b) does not detract from the amenity of nearby residential uses;*
- (c) directly supports the day to day needs of the immediate residential community; and*
- (d) does not impact on the orderly provision of non-residential development in other locations in the shire.*

##### **A08**

*No acceptable outcome is provided.*

#### Comment

The proposed development is non-residential (child care centre).

The scale of development is consistent with existing development being low set and single storey.

The planned setbacks, landscaping/fencing and orientation of the proposed building will maintain the established low density amenity.

The child care centre will support the day to day child care needs of this developing part of Mareeba.

The development of the subject site for a child care centre will not impact on the development of other non-residential uses/locations

The development complies with PO8.

**Amenity**

**PO9**

*Development must not detract from the amenity of the local area, having regard to:*

- (a) noise;*
- (b) hours of operation;*
- (c) traffic;*
- (d) advertising devices;*
- (e) visual amenity;*
- (f) privacy;*
- (g) lighting;*
- (h) odour; and*
- (i) emissions.*

**A09**

*No acceptable outcome is provided.*

Comment

SKF Consulting Engineers prepared a traffic report for the proposed development.

The traffic report concludes that there are no traffic engineering impediments to the development proceeding.

Further, the traffic report finds that the development will not impact the surrounding traffic network in such a way that requires upgrades external to the development.

All of the established childcare centres in Mareeba are located within or adjoining the Low Density Residential zone.

These centres have demonstrated the ability to operate in a manner compatible with the amenity of nearby residential uses.

There is a similar expectation for a childcare centre on the subject land.

A childcare centre is an essential service for many residents, particularly those on the fast developing eastern side of Mareeba.

The development complies with PO9.

**Compliance with Performance Outcome PO4 and PO5 of the Community Activities code is discussed below:**

9.3.3 Community Activities code

**Location**

**PO4**

*Development is compatible with the amenity of the surrounding area, having regard to:*

- (a) the location and type of vehicular access and parking;*
- (b) hours of operation;*
- (c) waste storage and collection;*
- (d) advertising devices and signage;*
- (e) visual amenity;*
- (f) privacy; and*
- (g) noise, odour and dust emissions.*

**AO4**

*No acceptable outcome is provided.*

**Comment**

5KF Consulting Engineers prepared a traffic report for the proposed development.

The traffic report concludes that there are no traffic engineering impediments to the development proceeding.

Further, the traffic report finds that the development will not impact the surrounding traffic network in such a way that requires upgrades external to the development.

All of the established childcare centres in Mareeba are located within or adjoining the Low Density Residential zone.

These centres have demonstrated the ability to operate in a manner compatible with the amenity of nearby residential uses.

There is a similar expectation for a childcare centre on the subject land.

A childcare centre is an essential service for many residents, particularly those on the fast developing eastern side of Mareeba.

The development complies with PO4.

**PO5**

*Community activities are highly accessible to the community they serve and are located to encourage multi-purpose trips.*

**A05.2**

*Development is located:*

- (a) within 800 metres walking distance of the Centre zone; or*
- (b) within 400 metres walking distance of a public transport stop; or*
- (c) provided with a connection to the pedestrian and cycle network.*

**Comment**

The subject site is within reasonable walking distance of the Cedric Davies Community Hub, the Amaroo Medical Centre and the major residential growth area for Mareeba.

A pedestrian pathway already established along Anzac Avenue linking back to Herberton Street.

The site is not in an unreasonable location in terms of providing convenient access to the public.  
The development complies with PO5.

**Compliance with Performance Outcome AO1 of the Parking and Access code is discussed below:**

**9.4.3 Parking and Access code**

**Car parking spaces**

***PO1***

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

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

***AO1***

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

*Note—Car parking spaces provided for persons with a disability are to be considered in determining compliance with AO1.*

**Comment**

Table 9.4.3.3B nominates the following parking requirements for child care centre:

*A minimum of 3 spaces will be required to be used for setting down and picking up of children, plus one space per 10 children for staff parking.*

*One SRV space.*

The proposed child care centre will cater for up to 134 children and have 14 staff.

A minimum of 18 spaces are required to satisfy Table 9.4.3.3B.

The development includes a total of 29 car parking spaces, including a DDA space and five (5) set down spaces.

The development complies with AO1.