

8.1	B CAMPBELL - MATERIAL CHANGE OF USE - SHORT-TERM ACCOMMODATION - LOT 1 ON RP719746 - 49 WALSH STREET, MAREEBA - MCU/23/0011
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Date Prepared: 16 August 2023

Author: Coordinator Planning Services

Attachments:

1. Proposal Plans
2. Submissions

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	B Campbell	ADDRESS	49 Walsh Street, Mareeba
DATE LODGED	16 June 2023	RPD	Lot 1 on RP719746
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use – Short-term Accommodation		
FILE NO	MCU/23/0011	AREA	794m2
LODGED BY	Freshwater Planning Pty Ltd	OWNER	B Campbell
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Low Density Residential zone		
LEVEL OF ASSESSMENT	Impact Assessment		
SUBMISSIONS	Six (6)		

EXECUTIVE SUMMARY

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

The application is impact assessable and six (6) 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.

The key concern raised in all submissions is the potential for overlooking and loss of privacy. This concern has been addressed through conditions requiring the installation of a 1.8 metre high solid screen fence along all side and rear boundaries and the installation of fixed external screens on all upper floor windows.

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	B Campbell	ADDRESS	49 Walsh Street, Mareeba
DATE LODGED	16 June 2023	RPD	Lot 1 on RP719746
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use – Short-term Accommodation		

and in accordance with the Planning Act 2016, the applicant be notified that the application for a development permit for the development specified in (A) is:

Approved by Council in accordance with the approved plans/documents listed in (B), subject to assessment manager conditions in (C), assessment manager’s advice in (D), relevant period in (E), further permits in (F), and further approvals from Council listed in (G);

And

The assessment manager does not consider that the assessment manager’s decision conflicts with a relevant instrument.

(A) APPROVED DEVELOPMENT: Development Permit for Material Change of Use – Short-term Accommodation

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
0730 DA01 A	Proposed Site Plan & Property Boundaries Plan	Gregory G Terzi	Jan 2023
0730 DA02 A	Ground Level – Proposed Floor and part Site Plan	Gregory G Terzi	Jan 2023
0730 DA03 A	Upper Level – Proposed Floor Plan	Gregory G Terzi	Jan 2023

(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 development approval would not have been issued if not for the conditions requiring the construction of infrastructure or the payment of infrastructure charges within the conditions of approval or the Adopted Infrastructure Charges Notice.
 - 3.2 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
 - 3.3 All 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.
 - 3.4 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.
 - 3.5 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.
 - 3.6 Waste Management

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

Sufficient area for clothes drying is to be provided at the rear of the short-term accommodation and is to be appropriately screened from view of adjoining properties and the street.
 - 3.8 A site manager must be present on-site at all times to ensure compliance with these conditions of approval.

The site manager's contact details must be made available to adjoining landowners.

4. Infrastructure Services and Standards

4.1 Access

Both access crossovers must be constructed (from the edge of the road pavement to the property boundary of the subject lot) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

4.2 Stormwater Drainage

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

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

4.3 Car Parking/Internal Driveways

The applicant/developer must ensure the development is provided with a minimum of three (3) on-site car parking spaces in accordance with Drawing No. 0730 Sheet DA 02 A, which are available solely for the parking of vehicles associated with the use of the premises. 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.

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 & Fencing

4.4.1 Prior to the commencement of the use, a minimum one (1) metre wide landscaping strip must be established along the entire Walsh Street frontage (excluding pedestrian and vehicle access points) of Lot 1 on RP719746.

4.4.2 Where new plants are to be planted, these plant varieties must be generally in accordance with Schedule A of Planning Scheme Policy No. 9 (Landscaping Policy).

4.4.3 The landscaping strip must be irrigated, mulched and maintained for the life of the development to the satisfaction of Council's delegated officer.

4.4.4 Prior to the commencement of the use, the applicant/developer must erect a 1.8 metre high solid screen fence constructed of Colourbond (of neutral colour) or other suitable material approved

by Council, along the entire length of the side and rear boundaries of Lot 1 on RP719746.

4.4.5 All fencing must be maintained in good order and safe repair for the life of the development, to the satisfaction of Council's delegated officer.

4.5 Privacy Screening

Prior to the commencement of the use, the applicant/developer must ensure directional privacy screening is installed external to all upper floor windows to effectively screen from view the adjoining allotments.

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) 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) The change in the use of the building may also require a change in the classification of the building under the Building Act. You are advised to contact a Building Certifier to establish if a change in the classification of the building is required.
- (d) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

(e) Compliance with Acts and Regulations

The erection and use of the building must comply with the Building Act and all other relevant Acts, Regulations and Laws, and these approval conditions.

(f) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from www.dcceew.gov.au.

(g) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the “cultural heritage duty of care”). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from www.dsdsatsip.qld.gov.au.

(h) Electric Ants

Electric ants are designated as restricted biosecurity matter under the *Biosecurity Act 2014*.

Certain restrictions and obligations are placed on persons dealing with electric ant carriers within the electric ant restricted zone. Movement restrictions apply in accordance with Sections 74–77 of the *Biosecurity Regulation 2016*. Penalties may be imposed on movement of electric ant carriers and electric ants in contravention of the legislated restrictions. It is the responsibility of the applicant to check if the nominated property lies within a restricted zone.

All persons within and outside the electric ant biosecurity zone have an obligation (a **general biosecurity obligation**) to manage biosecurity risks and threats that are under their control, they know about, or they are expected to know about. Penalties may apply for failure to comply with a general biosecurity obligation.

For more information please visit the electric ant website at Electric ants in Queensland | Business Queensland or contact Biosecurity Queensland 13 25 23.

(E) 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);

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

- Development Permit for Building Work

(G) OTHER APPROVALS REQUIRED FROM COUNCIL

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

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 bedroom with 1 or 2 beds	Bedrooms		1 Dwelling	
Accommodation (short term)	\$7,415.00	7	\$51,905.00	\$20,768.00	\$31,137.00
TOTAL CURRENT AMOUNT OF CHARGE					\$31,137.00

THE SITE

The subject site is situated at 49 Walsh Street, Mareeba and is described as Lot 1 on RP719746. The site is irregular in shape with a total area of 794m² and is zoned Low Density Residential under the Mareeba Shire Council Planning Scheme 2016.

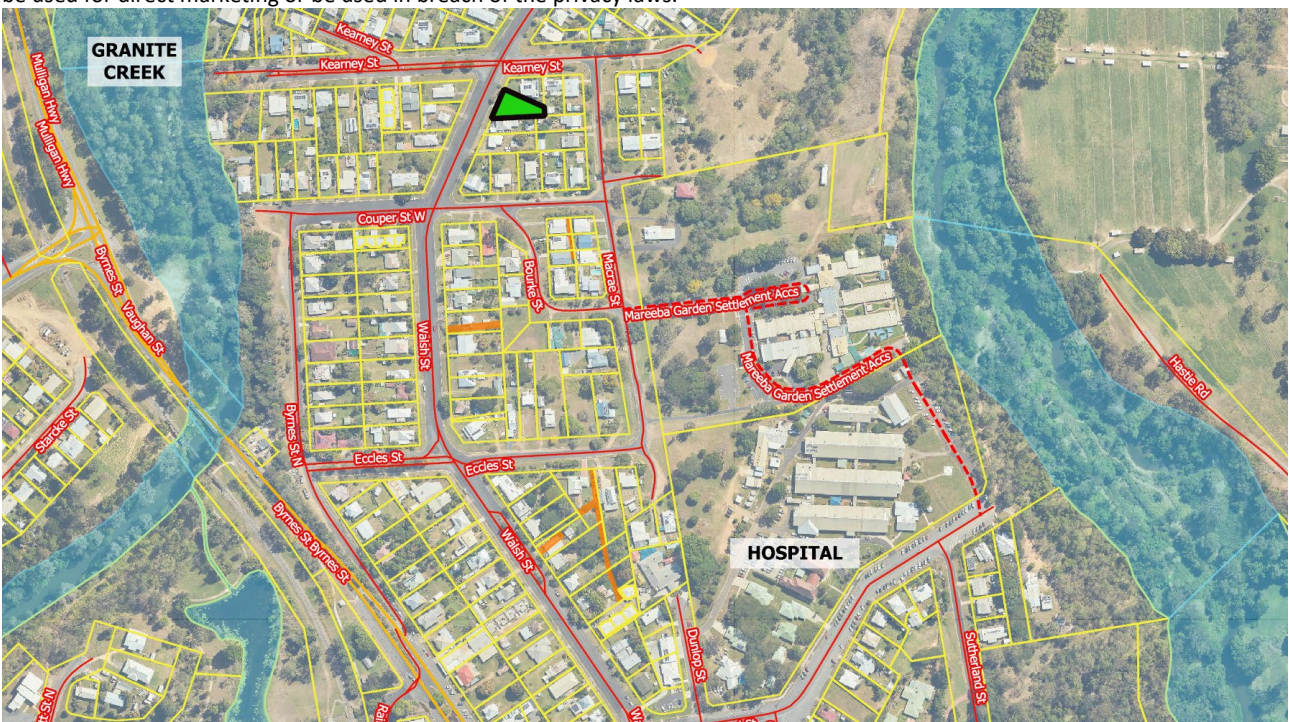
The site contains approximately 29.5 metres of frontage to Walsh Street which is constructed to a 19 metre wide bitumen sealed standard with kerb and channel on both sides. Access to the site is currently gained via a concrete driveway off Walsh Street.

The site is improved by a two-storey dwelling house presenting to the Walsh Street frontage and several domestic outbuildings at the rear. All adjoining lots are zoned Low Density Residential and each contain a single dwelling house.



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 – Short-term Accommodation in accordance with the plans shown in **Attachment 1**.

The applicant has provided the following outline of the proposed development:

“A Development Permit for a Material Change of Use is sought to facilitate the conversion of the existing Dwelling House and Structures into Short-Term Accommodation. The proposal is to provide necessary Accommodation supporting the immediate, surrounding Residential Areas, Commercial Activities and Agricultural Industries of Mareeba and the Tablelands Region. The proposed Short-Term Accommodation will ensure that no change to the existing Residential nature of the site and surrounding area is envisaged.

The proposed Short-Term Accommodation allows for the provision of seven (7) Bedrooms hosting a total of twelve (12) persons over the site. The proposed development consists of the following:

Ground Floor (disability standard)

- *Open Covered area*
- *Common Area*
- *Laundry*
- *Kitchen*
- *Amenities (Toilets and Shower)*
- *Two Bedrooms (inclusive of a Caretaker’s Room)*

Upper Floor

- *Kitchen*
- *Amenities (Toilet and Shower)*
- *Five Bedrooms*
- *Storage*

The site contains frontage to the Walsh Street and proposes to retain the existing access crossovers. It is understood that eastern crossover will need to be widened as per demonstrated on the Proposal Plans. The proposal provides for the provision of existing car parking spaces (in tandem) in addition to Disabled Parking Space with the ability for additional parking over the existing gravel area accessed from the existing gravel driveway. The proponents additionally provide bicycles for the Short-Term Accommodation patrons. The existing and proposed parking spaces are considered appropriate and acceptable given the site’s proximity to the Mareeba CBD, employee Buses/Transportation and availability of bicycles.

The site is connected to all available services and no change to the existing level of servicing is proposed with the conversion of the Dwelling House to Short-Term Accommodation. Appropriate Landscaping in the form of screening hedges/gardens and screening can be provided with the existing Landscaping to be maintained and enhanced.

It is considered that the proposed development is an appropriate Use for the site, immediate vicinity and surrounding environs providing additional Accommodation to the surrounding and local residents, Commercial Activities and Agricultural Industries of Mareeba and the Tablelands Region.”

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:	Land Use Categories • Residential Area
Zone:	Low Density Residential zone
Local Plan:	Mareeba Local Plan
Overlays:	Airport Environs Overlay Residential Dwelling House and Outbuilding Overlay Transport Infrastructure Overlay

Planning Scheme Definitions

The proposed use is defined as:

Column 1 Use	Column 2 Definition	Column 3 Examples include	Column 4 Does not include the following examples
Short-term accommodation	Premises used to provide short-term accommodation for tourists or travellers for a temporary period of time (typically not exceeding three consecutive months) and may be self-contained. The use may include a manager’s residence and office and the provision of recreation facilities for the exclusive use of visitors.	Motel, backpackers, cabins, serviced apartments, accommodation hotel, farm stay	Hostel, rooming accommodation, tourist park

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**

- (3) *Residential areas* and *urban expansion areas* support strategically located and logically sequenced residential development, maximising the efficient utilisation of new and existing infrastructure, particularly active and public transport. Residential development, including infill housing in designated areas, is focussed in Mareeba and the Kuranda district. A diversity of housing choices is developed within proximity to services and *activity centres* while protecting the character of the shire.

Housing for aged persons, both for independent and assisted living, is provided to support the aging population of the shire. Aged care development is provided in suitable locations in the *residential areas* and *urban expansion areas* of the shire.

Comment

The proposed development will further diversify housing choice within Mareeba.

The proposed development will make use of an existing seven bedroom dwelling to provide in demand accommodation for workers and tourists.

The site is close to the Mareeba central business district and is in walking distance to medical and other essential services.

The development complies.

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

- (1) Residential development, including Multiple dwellings and Dual occupancy, are sensitively integrated into the existing character of residential streets, predominantly in *residential areas* adjoining the *centre areas* of Mareeba and Kuranda. Infill development accounts for 20 percent of new dwellings constructed in Mareeba by 2031.

Comment

The proposed development will make use of an existing seven bedroom dwelling to provide in demand accommodation for workers and tourists.

Apart from additional screen fencing and external window screens, the appearance of the existing development will remain substantially unchanged.

The development complies.

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

Comment

The proposed development will make use of an existing seven bedroom dwelling to provide in demand accommodation for workers and tourists.

Apart from additional screen fencing and external window screens, the appearance of the existing development will remain substantially unchanged.

The development complies.

- (5) A range of mixed housing, affordable housing and social housing is provided in response to the diverse and changing demography of Mareeba Shire. This development is located in *residential areas* in a manner consistent with the character and amenity of the shire's *activity centres*.

Comment

The proposed development will further diversify housing choice within Mareeba.

The proposed development will make use of an existing seven bedroom dwelling to provide in demand accommodation for workers and tourists.

The site is close to the Mareeba central business district and is in walking distance to medical and other essential services.

The 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
- 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
Low density residential zone code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Mareeba local plan code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Airport environs overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Accommodation activities code	The application complies with applicable acceptable/probable solutions/performance criteria apart from the following: <ul style="list-style-type: none"> • AO1 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.

(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 2023 identifies an infrastructure charge rate of \$7,415.00 per (1 or 2 bed) bedroom for short term accommodation.

The proposed development includes seven (7) 1 or 2 bed bedrooms.

The applicable infrastructure charge, minus the credit for the existing dwelling, is:

- 7 bedrooms x \$7,415 (- \$20,768.00) = \$31,137.00.

REFERRAL AGENCY

This application did not trigger referral to a Referral Agency.

Internal Consultation

Not applicable.

PUBLIC NOTIFICATION

The development proposal was placed on public notification from 19 July 2023 to 11 August 2023. The applicant submitted the notice of compliance on 14 August 2023 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

Six (6) properly made submissions were received.

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

Grounds for objection /support	Comment
Concerns regarding privacy, overlooking and potential noise.	The submitters have requested that the development be conditioned to require suitable screen fencing and the installation of window screens to prevent overlooking and loss of privacy. The development has been conditioned to require 1.8 metre high solid screen fencing along all side and rear boundaries. Fixed external window screens have been conditioned for all upper floor windows.
Concern regarding the use of the second driveway.	The development will be conditioned to require all parking and vehicle manoeuvring areas to be constructed with an appropriately sealed (concrete, pavers or asphalt) surface.

Submitters

Name of Principal submitter	Address
1. K & J Merritt	22 Kearney Street, Mareeba QLD 4880
2. C & R Stephen	Lot 2 Geeberga Buthvaar Road, Kuttabul QLD 4741
3. V Grubb	4 Macrae Street, Mareeba QLD 4880
4. D Harrison	24 Kearney Street, Mareeba QLD 4880
5. J Merritt	22 Kearney Street, Mareeba QLD 4880
6. R Stephen	Lot 2 Geeberga Buthvaar Road, Kuttabul QLD 4741

PLANNING DISCUSSION

Non-compliance with assessment benchmarks contained within the Accommodation Activities Code are discussed below:

9.3.1 Accommodation activities code***All Accommodation activities, apart from Dwelling house***

PO1 *Accommodation activities are located on a site that includes sufficient area:*

- (a) to accommodate all buildings, structures, open space and infrastructure associated with the use; and*
- (b) to avoid adverse impacts on the amenity or privacy of nearby land uses.*

AO1

Development is located on a site which provides the applicable minimum site area and minimum road frontage specified in Table 9.3.1.3B.

Comment

Table 9.3.1.3B specifies a site area of 800m² and a frontage of 20 metres for short-term accommodation.

The subject site has an area of 794m² and a frontage of 29 metres.

The proposal involves the reuse of the existing dwelling house and some additional on site car parking. The development plans show that the site is able to accommodate the proposed development notwithstanding the 6m² shortfall in area.

Screen fencing and window screens can be installed to maintain the privacy of nearby land uses.

The development complies with PO1.