

**8.1 CALDANTE HOLDINGS PTY LTD - MATERIAL CHANGE OF USE - FUNCTION FACILITY - LOT 45 ON N157358 - 121 DOUGLAS TRACK, SPEEWAH - MCU/23/0014**

**Date Prepared:** 3 May 2024

**Author:** Senior Planner

- Attachments:**
1. Proposal Plan
  2. Noise Impact Assessment - Dedicated Acoustics dated 6 October 2023
  3. Third Party Review of Noise Impact Assessment - A.P. Bleeksma dated 12 March 2024
  4. Traffic Impact Assessment - Civil Walker dated 4 October 2023
  5. Third Party Review of Traffic Impact Assessment - NJM Engineering Consulting dated 7 December 2023
  6. Ecological Assessment - J Pitcher dated 2023
  7. Submissions

**APPLICATION DETAILS**

APPLICATION		PREMISES	
<b>APPLICANT</b>	Caldante Holdings Pty Ltd	<b>ADDRESS</b>	121 Douglas Track, Speewah
<b>DATE LODGED</b>	28 June 2023	<b>RPD</b>	Lot 45 on N157358
<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Material Change of Use – Function Facility		
<b>FILE NO</b>	MCU/23/0014	<b>AREA</b>	
<b>LODGED BY</b>	RPS AAP Consulting Pty Ltd	<b>OWNER</b>	Caldante Holdings Pty Ltd
<b>PLANNING SCHEME</b>	Mareeba Shire Council Planning Scheme 2016		
<b>ZONE</b>	Rural Zone		
<b>LEVEL OF ASSESSMENT</b>	Impact Assessment		
<b>SUBMISSIONS</b>	30 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, 30 submissions were received, all of which objected to the proposed development.

Speewah Gardens or Rosebud Farm, which are the colloquial names for the farming and garden operation on the subject site, comprises over 660 species of established palms, cycads, exotic plants, and tropical fruit trees. The intent of the proposed development is to facilitate use of the site for weddings and similar functions in addition to the continued use of the site for horticultural cropping and garden tours. The farm would be used for the hosting of weddings, civil ceremonies, and other similar functions at any of the six designated indoor and outdoor function locations which are set amongst the site’s unique gardens. Functions would vary in scale from less than 20 persons to a maximum of 150 persons.

Although the subject property is within the Rural zone, it is located adjacent two (2) separate clusters of Rural Residential zoned lots. The majority of submitters reside within these two (2) clusters and the predominant concern raised by submitters was the impact the development may have on the established amenity of the area due to increases in traffic from function guests as well as noise nuisance, particularly from functions involving amplified noise (speakers, DJ’s, bands etc.).

Although it is acknowledged that large functions 100 – 150 persons will likely generate a noticeable increase in traffic on Douglas Track, these sized functions will be limited to a frequency of no more than 2 per month. Traffic generated by smaller sized functions will be less of an impact. In addition to limiting the frequency of functions, road safety improvements and upgrades have been conditioned to ensure traffic impacts remain acceptable.

The Mareeba Shire Council Planning Scheme 2016 or Council’s Local Law does not currently contain specific noise emission criteria. In the absence of Shire specific noise criteria, the criteria contained within the Environmental Protection Act (section 440) as well as the Environmental Protection (Noise) Policy 2019 Acoustic Quality Objectives should be adopted. A Noise Impact Assessment (NIA) and subsequent third-party review of the NIA were carried out to assist in the preparation of a stringent set of noise conditions to ensure that an unacceptable loss of amenity would not be experienced by residents surrounding the site as a result of noise. In addition to stringent noise level restrictions, only one (1) function per month will be permitted to operate up to midnight, with two (2) other functions permitted to operate till 10pm only. The eight (8) other functions permitted per month must occur during daylight hours only.

The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and it is considered that the development can be appropriately conditioned to avoid conflict with any relevant aspect of the Planning Scheme.

It is recommended that the application be approved subject to conditions.

**OFFICER’S RECOMMENDATION**

(A) That in relation to the following development application:

APPLICATION		PREMISES	
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<b>TYPE OF APPROVAL</b>	Development Permit		
<b>PROPOSED DEVELOPMENT</b>	Material Change of Use – Function Facility		

and in accordance with the Planning Act 2016, the applicant be notified that the application for a development permit/preliminary approval 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.

(B) APPROVED DEVELOPMENT: Development Permit for Material Change of Use – Function Facility

(C) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
AU009935-1C	Proposed Material Change of Use – Function Facility	RPS AAP Consulting Pty Ltd	17/07/2023

(D) 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 Waste Management

3.4.1 On site refuge storage area/s must be provided and be screened from view from adjoining properties and road reserve by one (1) metre wide landscaped screening buffer or 1.8m high solid fence or building.

3.4.2 Where bulk bins are used and are to be serviced on site, 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.

### 3.5 Function Type/Size and Frequency

**Note:** For the purposes of this approval, functions proposed to be held on-site are categorised into 3 sizes as follows (not including function organisers or catering/bar/audio staff):

- Small function – Up to 20 guests.
- Medium function – Between 21 and 99 guests.
- Large function – Between 100 and 150 guests.

**Note:** For the purposes of this approval, the following time periods are applicable:

- Daytime hours – 7am-6pm.
- Evening hours – 6pm-10pm
- Nighttime hours – 10pm-Midnight

3.5.1 No functions accommodating more than 150 guests are permitted on-site at any time.

3.5.2 Only 1 function is permitted on-site on any given day.

3.5.3 In order to minimise impacts on Cassowaries and threatened frog species, only 1 function per month that involves amplified music/loudspeakers is to be held at either Location 5 or 6.

#### 3.5.4 Large Functions

A maximum of two (2) large functions can be held in any calendar month, regardless of whether they include amplified music/loudspeakers. Any large function held over daytime hours only may be held Monday to Saturday, excluding Sundays and Public Holidays. Any large function running over evening or nighttime hours must be held on either a Friday or Saturday only.

#### 3.5.5 Small, Medium and/or Large Functions

(i) A combined total of three (3) small, medium or large functions are permitted on-site in any calendar month **where amplified music/loudspeakers are proposed and/or when running outside daytime hours**. To achieve compliance with Condition 3.5.4 only a maximum of two (2) of these functions may be large sized functions.

Only one (1) of these three (3) monthly functions is permitted to run up until **midnight** with the two (2) other functions permitted to

operate up until **10pm only**. These three (3) specific functions which include amplified music/loudspeakers must be held on either a Friday or Saturday only.

- (ii) A further eight (8) functions (maximum of six (6) small and two (2) medium sized functions) are permitted in any calendar month where operating over **daytime hours only and where not involving amplified music/loudspeakers of any kind**. These functions can be held Monday to Saturday only, excluding Sundays and Public Holidays.
- (iii) In accordance with (i) and (ii) above, no more than 11 functions are to be held on-site in any calendar month.

3.5.6 If a monthly allocation of functions is not held over any given month, these functions cannot be “banked” and used in any other calendar month.

A register of all functions held and scheduled on site must be kept and made available to Council for review upon request.

3.5.7 It is the responsibility of the applicant/developer or function organiser to ensure all guests and function staff have vacated the property before the mandated function end time. All noise generating devices, including portable cold rooms/cooling equipment and audio equipment must be turned off before the function end time.

Staff are permitted to remain on site to pack up/clean up after daytime functions (remaining on-site till no later than 9pm), however for functions with 10pm and midnight end times, this must occur next day during daytime hours only.

### 3.6 Function Restrictions (by location)

**Note:** For the purposes of this approval, function Locations are those locations identified on “Figure 6.2: Function areas for assessment” of the Noise Impact Assessment prepared by Dedicated Acoustics dated 6 October 2023.

**Note:** For the purposes of this approval, “regulated devices” is any device that emits sound such as speakers, loudspeakers etc. and “aircon/cooling equipment” is any mechanical plant responsible for air-conditioning or cooling including cold-rooms and generators.

**No live music/bands are permitted on-site at any time.**

**No Fireworks are permitted on-site at any time.**

#### Location 1

- (i) Small outdoor functions are permitted only (no more than 20 guests);
- (ii) Functions must cease no later than 10pm;
- (iii) No alcoholic beverages are to be served past 9pm;
- (iii) The maximum aggregate sound levels, defined by peak levels on a meter which may be set to a slow sample rate must not exceed:
  - 82 dB(A) for regulated devices at source; or

- 71 dB(A) for regulated devices at 1 metre from source (for convenience);
- 90 dB(A) for aircon/cooling equipment at source; or
- 79 dB(A) for aircon/cooling equipment at 1 metre from source.

**Location 2**

- (i) Small outdoor functions are permitted only (no more than 20 guests);
- (ii) Functions must cease no later than 12pm;
- (iii) No alcoholic beverages are to be served past 11pm;
- (iii) The maximum aggregate sound levels, defined by peak levels on a meter which may be set to a slow sample rate must not exceed:
  - 87 dB(A) for regulated devices at source; or
  - 76 dB(A) for regulated devices at 1 metre from source (for convenience);
  - 92 dB(A) for aircon/cooling equipment at source; or
  - 81 dB(A) for aircon/cooling equipment at 1 metre from source.

**Location 3**

- (i) Small, medium and large outdoor functions are permitted (no more than 150 guests);
- (ii) Functions must cease no later than 10pm;
- (iii) No alcoholic beverages are to be served past 9pm;
- (iii) The maximum aggregate sound levels, defined by peak levels on a meter which may be set to a slow sample rate must not exceed:
  - 90 dB(A) for regulated devices at source; or
  - 79 dB(A) for regulated devices at 1 metre from source (for convenience);
  - 95 dB(A) for aircon/cooling equipment at source; or
  - 84 dB(A) for aircon/cooling equipment at 1 metre from source.

**Location 4**

- (i) Small, medium and large outdoor functions are permitted (no more than 150 guests);
- (ii) Functions must cease no later than 12pm;
- (iii) No alcoholic beverages are to be served past 11pm;
- (iii) The maximum aggregate sound levels, defined by peak levels on a meter which may be set to a slow sample rate must not exceed:
  - 84 dB(A) for regulated devices at source; or
  - 73 dB(A) for regulated devices at 1 metre from source (for convenience);
  - 89 dB(A) for aircon/cooling equipment at source; or
  - 78 dB(A) for aircon/cooling equipment at 1 metre from source.

**Location 5**

- (i) Small indoor only functions are permitted within the structure at location 5 (no more than 20 guests);
- (ii) Functions must cease no later than 10pm;
- (iii) No alcoholic beverages are to be served past 9pm;
- (iii) The maximum aggregate sound levels, defined by peak levels on a meter which may be set to a slow sample rate must not exceed:
  - 87 dB(A) for regulated devices at source; or
  - 76 dB(A) for regulated devices at 1 metre from source (for convenience);
  - 92 dB(A) for aircon/cooling equipment at source; or
  - 81 dB(A) for aircon/cooling equipment at 1 metre from source.

#### **Location 6**

- (i) Small, medium and large indoor only functions are permitted within the structure at location 6 (no more than 150 guests);
- (ii) Functions must cease no later than 10pm;
- (iii) No alcoholic beverages are to be served past 9pm;
- (iii) The maximum aggregate sound levels, defined by peak levels on a meter which may be set to a slow sample rate must not exceed:
  - 87 dB(A) for regulated devices at source; or
  - 76 dB(A) for regulated devices at 1 metre from source (for convenience);
  - 92 dB(A) for aircon/cooling equipment at source; or
  - 81 dB(A) for aircon/cooling equipment at 1 metre from source.

### **3.7 Noise Management Plan**

A Noise Management Plan (NMP) must be prepared which demonstrates how the use will comply with Conditions 3.5 and 3.6 of this approval, as well as *Part 7 – Mitigation* and *Part 8 - Recommendations* included in the Review of Assessment prepared by A.P. Bleeksma dated 12 March 2024. The NMP must include, but not be limited to:

- (i) The applicant/developer/function organiser must maintain a website (not a social media page) which includes a calendar of functions including but not limited to any large function, functions operating after 6pm or any function that includes amplified music/noise. The calendar is required to provide notification to interested residents. The calendar must include contact details for the function organiser/function manager for the purposes of submitting and logging noise complaints.
- (ii) Maintain a complaints register which details the nature of each complaint, the time it was made, and the action taken to rectify the complaint. Following each event, the applicant must notify Council of all complaints and remedy actions. The complaints register must be made available to Council upon request.

- (iii) Noise monitoring at source point and/or 1 metre from source every hour to ensure ongoing compliance with noise limits listed in Condition 3.6
- (iv) No subwoofers are to be used at any time.
- (v) Guests must remain in the designated function area and must not wander throughout the property.
- (vi) Demonstrate how loitering in the designated car parking area/s, which may cause noise nuisance for residents, will be avoided and enforced.
- (vii) Provide further details as to how the applicant/developer/function organiser will ensure the conditions of this approval are complied with, in particular how the applicant/developer/Function organiser is going to ensure that all guests and staff have vacated the property by the mandated function end time.

The NMP must be endorsed by Council's delegated officer prior to the commencement of the use.

The NMP must be implemented for every function with the requirements made known to all function organisers.

### 3.8 Acoustic Compliance Report

An acoustic compliance report is to be submitted to Council within six (6) months of the commencement of the use, or after a combined six (6) medium or large functions are held that include amplified music. The Acoustic compliance report must demonstrate that the functions held in that period complied with the following:

- (i) Conditions 3.5 and 3.6 (where applicable);
- (ii) The endorsed Noise Management Plan;
- (iii) Inclusion of any other relevant conditions including in this Development Permit.

### 3.9 Noise Complaints

Should Council or the applicant/developer/function organiser receive ongoing complaints from any particular sensitive receptor/s, and Council officer determine that these complaints are substantiated, the applicant/developer/function organiser must purchase and set up a Type 1 sound logging device capable of recording and logging continuous noise at the property boundary of the complaint/s origin (the closest boundary to the subject site).

Source sound levels emitted from either regulated devices or aircon/cooling equipment from functions should be adjusted to ensure noise levels at the sensitive receptor/s comply with the maximum allowable limits outlined in the Review of Assessment prepared by A.P. Bleeksma dated 12 March 2024 (as derived from the Environmental Protection Act s440 and the Environmental Protection (Noise) Policy 2019 Acoustic Quality Objectives).

If regulated device or aircon/cooling equipment is required to be adjusted to achieve compliance, these adjusted noise levels (in dB(A)) must be applied to



future functions held on-site and the Noise Management Plan must be amended to ensure ongoing compliance utilising adjusted noise levels.

Any amended Noise Management Plan with the revised noise levels must be endorsed by Council's delegated officer prior to being implemented.

#### 4. Infrastructure Services and Standards

##### 4.1 Access Crossover

A commercial access crossover must be upgraded/constructed (from the edge of Douglas Track to the property boundary) in accordance with FNQROC Development Manual standards, to the satisfaction of Council's delegated officer.

##### 4.2 External Works – Douglas Track

4.2.1 Douglas Track (from where the existing bitumen seal ends, to a point 10 metres past the site access) must be upgraded to a minimum 4.5m wide bitumen sealed carriageway with 1.2m wide gravel shoulders in accordance with Table D1.4 (<100 vehicle movements per day) of the FNQROC development Manual.

The upgrade of this section of the road should include a bitumen/asphalt or concrete seal upgrade (in accordance with FNQROC Standards) to the development access as well as any access crossover servicing Lot 90 on RP732904 and Lot 7 on RP748802.

The abovementioned works must be approved by Council as part of a subsequent application for operational works, and the works completed **prior to the commencement of the use.**

4.2.2 A Road Safety Assessment must be undertaken by a suitably qualified RPEQ that identifies safety risks for vehicles using Douglas Track (between the eastern side of the Douglas Track/Speewah Road intersection and the subject site). The safety assessment should be consider (but not be limited to) the following:

- (i) Road geometry (horizontal & vertical).
- (ii) Carriageway width (pavement, seal and shoulders) – ability for opposing traffic to safely pass each other.
- (iii) Vehicle sightlines.
- (iv) Intersection treatments.
- (v) Causeway crossing including the sharp bends/approaches either side.
- (vi) Other roadside hazards.

The report should provide recommendations on practical treatments to reduce the risk of any hazards to acceptable levels (e.g. localised pavement widening, signage, linemarking, road edge delineation etc.). The report should be submitted to Council for review and agreed works should be undertaken by the applicant/developer at no cost to Council.

The abovementioned works must be approved by Council as part of a subsequent application for operational works.

The development application required for the operational works associated with 4.2.2 must be “properly made” to Council within 12 months of the commencement of the use. Once approved, the operational works must be completed within 6 months of the Decision Notice being issued for the operational works, or a further period agreed to by Council’s delegated officer (for reasons relating to weather related construction delays or unforeseen engineering related delays only).

#### 4.3 Stormwater Drainage/Water Quality

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

4.3.2 All stormwater drainage must be discharged to an approved legal point of discharge.

#### 4.4 Car Parking/Internal Driveways

4.4.1 The applicant/developer must ensure that the development is provided with an informal space on site capable of accommodating up to 60 vehicles and three (3) buses with the added provision for spillover parking if required. No parking of guest or staff vehicles or buses is permitted to occur outside the property boundary or within road reserve.

4.4.2 All car parking spaces, and trafficable areas must be surface treated with gravel or maintained with an intact grass cover so as to minimise dust and erosion and must be appropriately drained prior to the commencement of the use, to the satisfaction of Council's delegated officer.

4.4.3 Should Council receive a substantiated dust nuisance complaint, the applicant/developer must install an appropriate surface treatment to the car parking area and other trafficable areas on-site to alleviate the nuisance, to the satisfaction of Council’s delegated officer.

4.4.4 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.

#### 4.5 Non-Reticulated Water Supply

The development must be provided with a potable water supply, which may be provided by catering staff, at each function location 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.

#### 4.6 On-Site Wastewater Management

Should permanent ablutions facilities be constructed onsite, all on site wastewater disposal associated with these facilities 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.

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.

Portable toilets are authorised for use on-site for functions, however no black or grey water is to be disposed of on-site, unless through an approved on-site wastewater disposal system.

The applicant/developer/function organiser must ensure that adequate ablutions facilities are provided based on the size of each individual function.

#### 4.7 Lighting

Lighting associated with evening and nighttime functions must be set up to minimise light spillage and not cause nuisance to any neighbouring property. Where permanent outdoor lighting is proposed, the developer shall locate, design and install lighting in order to prevent 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 eight (8) lux when measured at any point 1.5m outside the property boundary of the subject site. The lighting fixtures installed on site must meet appropriate lux levels as documented within Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting.

### 5. Additional Payment Condition (section 130 of the Planning Act 2016)

5.1 The additional payment condition has been imposed as the development will create additional demand on trunk infrastructure which will create additional trunk infrastructure costs for council.

5.2 The developer must pay \$11,318.50 as a contribution toward trunk infrastructure with the amount of the contribution increased on 1 July each year in accordance with the increase for the PPI index for the period starting on the day the development approval takes effect, adjusted by reference to the 3-yearly PPI index average to the date of payment.

5.3 The trunk infrastructure for which the payment is required is:

- The trunk transport network servicing the land (\$11,318.50)

5.4 The developer may elect to provide part of the trunk infrastructure instead of making the payment.

5.5 If the developer elects to provide part of the trunk infrastructure the developer must:

- Discuss with Council's delegated officer the part of the works to be undertaken;

- Obtain the necessary approvals for the part of the works;
- Indemnify the Council in relation to any actions, suits or demands relating to or arising from the works;
- Take out joint insurance in the name of the Council and the developer in the sum of \$20,000,000 in relation to the undertaking of the works;
- Comply with the reasonable direction of Council officers in relation to the completion of the works;
- Complete the works to the standards required by the Council; and
- Complete the works prior to the commencement of the use.

5.6 The value, as agreed by Council's delegated officer, of the external works required under Condition 4.2.1 will be credited towards the additional payment required under Condition 5.2. Any credit will not exceed \$11,318.50.

(E) ASSESSMENT MANAGER'S ADVICE

(a) A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.

(b) The change in the use of building/s on-site may also require a change in the classification of the building/s 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.

(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).

(g) 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.

(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 Operational Works

(H) OTHER APPROVALS REQUIRED FROM COUNCIL

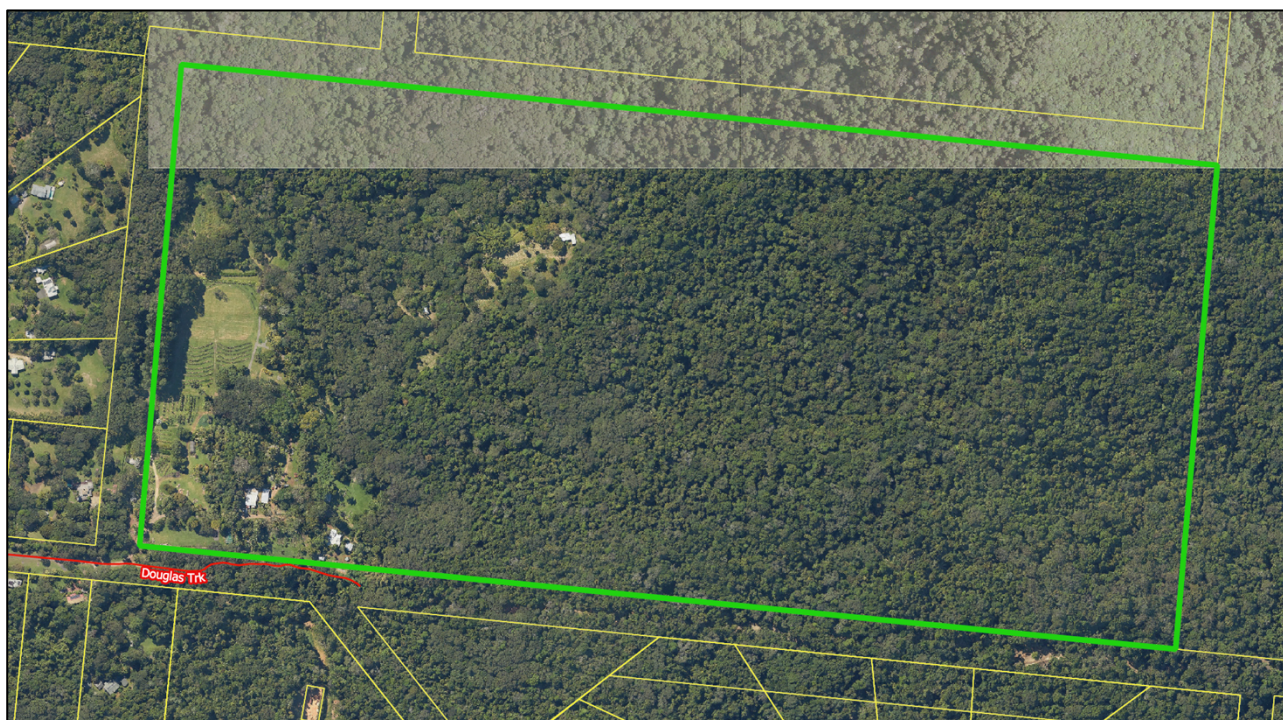
- Access approval arising from condition number 4.1 (Please contact Planning Section to obtain application form and applicable fee)

## THE SITE

The subject site is situated at 121 Douglas Track, Speewah and is described as Lot 45 on N157358. The site is regular in shape with an area of 64.75 hectares and is zoned Rural under the Mareeba Shire Council Planning Scheme 2016. The site contains 1.2 kilometres of frontage to the Douglas Track road reserve, however the road formation only extends approximately 250 metres along this frontage before turning into basically a public walking track and private driveway. The majority of Douglas Track is bitumen sealed, however reverts back to a formed gravel standard approximately 80 metres before the site access.

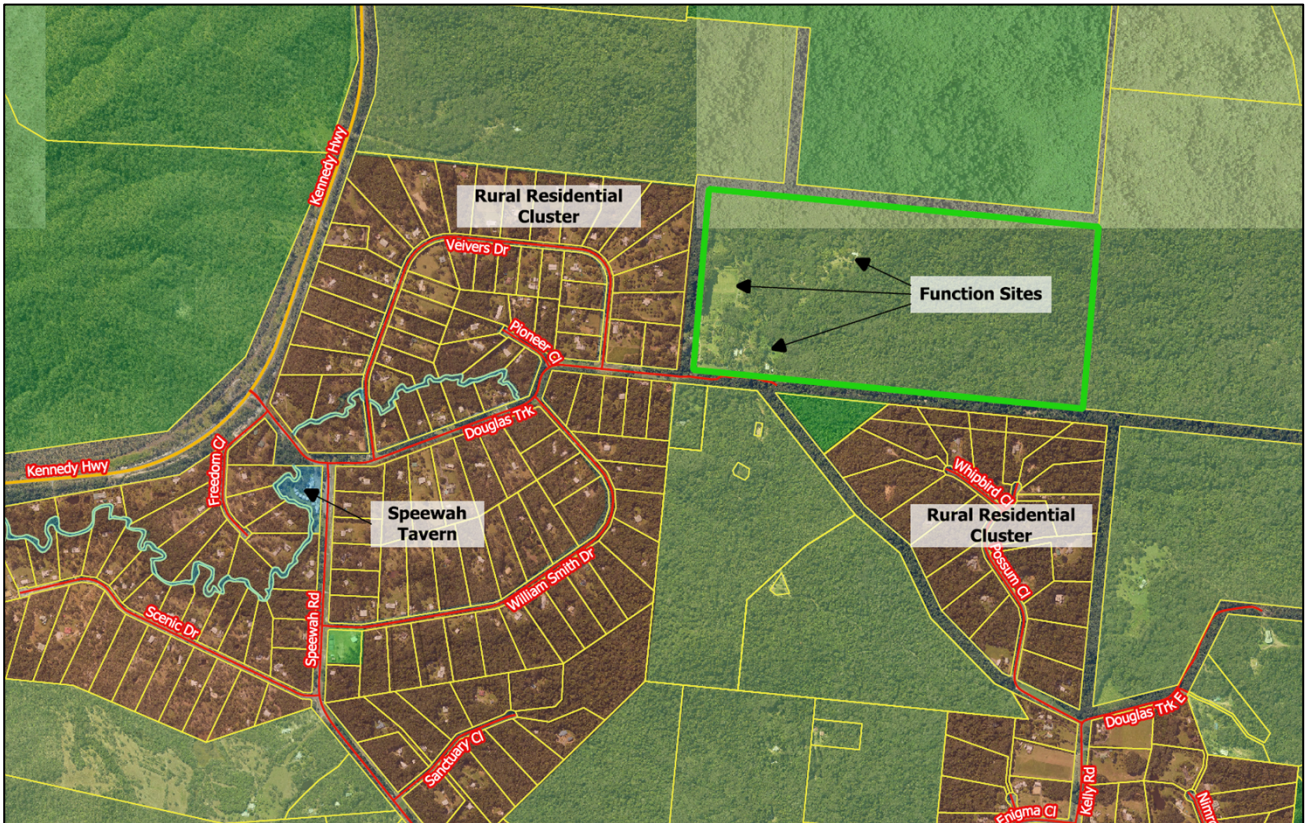
The eastern portion of the site is largely undeveloped and is covered with established rainforest vegetation. The south-west corner of the site was subject to historically clearing and contains a number of structures, which are accessed by existing vehicle tracks. The site is improved by a number of existing buildings that combined create a Dwelling House, comprising a single laundry building, a number of studio cabins, main building with bedroom and kitchen and various outbuildings (sheds). An extensive tropical fruit (rare fruit) farm, heliconia’s plantations and rare plant botanical gardens are planted throughout this south-west corner. This farm is operational and is referred to as ‘Speewah Gardens’ or ‘Rosebud Farm’.

A Forest Reserve sits adjacent the site to the north, which is zoned Conservation and is likely to become National Park in future. Land to the west and north-west is zoned Rural. Land to the south and east of the site is predominately zoned Rural residential and comprises two clusters of 2ha rural residential allotments. A zone map is included below.



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 – Function Facility in accordance with the plans shown in **Attachment 1**.

The application includes the following details about the proposed development:

*“The application seeks development approval for a Material Change of Use in order to establish a function facility on land located at 121 Douglas Track Road, Speewah described as Lot 45 on N157358.*

*Rosebud Farm is an established botanical garden, comprising over 660 species of established palms, cycads, exotics and tropical fruit trees. The intent of the proposed development is to facilitate use of the site for weddings and similar functions, in addition to the continued use of the site for horticultural cropping purposes and garden tours. The proposal would be limited to the hosting of wedding, civil ceremonies and other similar functions set amongst the tropical gardens and within existing buildings on the site. Car parking would be provided informally*

*within a cleared area of the site. Outdoor receptions would potentially be held on-site within designated locations with provision for marquees if required. Proposed events would be managed by a specialist event company who would organise catering and toilets and amenity facilities. No food preparation would be conducted on-site. Given that there are a number of proposed wedding or event locations on-site, The applicant proposes the use of temporary toilets and other facilities, which would be transported to the site to accommodate demand.*

*The subject site provides well established vegetation buffer along the site boundaries and the road frontage, creating an attractive open-air setting for formal and informal wedding ceremonies and similar events. The vegetation also assists in providing an acoustic and visual buffer from adjoining residential development.*

*It is intended that the proposed development would address an increasing demand for outdoor function facilities in the Mareeba Shire, specifically in and around the Kuranda/Speewah area. The subject site is ideally suited to open air ceremonies and the applicant is seeking to address demand and enquiries from the general public for such outdoor informal garden venues.*

*The managing event company would monitor audio levels and ensure that external noise levels do not exceed acceptable levels or cause environmental nuisance for residential development. The proposed functions would be held at one of several potential on-site locations nominated on the proposal plan, provided for reference as Appendix B. The proposed functions would be held outdoors or within existing buildings, as depicted on the proposal plan. The proposed function sites would cater for less than 20 people and up to a maximum of 150 people, dependent upon the function site locality and function requirements. No additional permanent structures or buildings are proposed as part of this application.*

*Guests would be encouraged to access the site via an organised bus service, however, the subject site does provide sufficient area for the proposed establishment of a car parking area within the southwest portion of the site. Vehicle movements throughout the site would be limited and guests would be transported to the function sites from the car park.*

*A proposal plan identifying the location of the proposed events, car parking area, existing buildings and existing internal tracks is included at Appendix B.”*

**REGIONAL PLAN DESIGNATION**

The subject site is included within the Regional Landscape and Rural Production Area land use category in the Far North Queensland Regional Plan 2009-2031. The Regional Plan Map 3- ‘Areas of Ecological Significance’ also identifies the site as containing:

- *Strategic Rehabilitation Area*
- *Local Conservation Corridors*
- *Terrestrial Area of High Ecological Significance*
- *Terrestrial Area of General Ecological Significance*

**PLANNING SCHEME DESIGNATIONS**

Strategic Framework:	<p><b>Land Use Categories</b></p> <ul style="list-style-type: none"> <li>• <i>Rural Area (Rural Other)</i></li> </ul> <p><b>Natural Environmental Elements</b></p> <ul style="list-style-type: none"> <li>• <i>Biodiversity Areas</i></li> <li>• <i>Habitat Linkage</i></li> </ul>
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Zone:	Rural Zone
Overlays:	Bushfire Hazard Overlay Environmental Significance Overlay Hill and Slope Overlay

**Planning Scheme Definitions**

The proposed use is defined as:

<b>Column 1 Use</b>	<b>Column 2 Definition</b>	<b>Column 3 Examples include</b>	<b>Column 4 Does not include the following examples</b>
<b>Function facility</b>	<i>Premises used for conducting receptions or functions that may include the preparation and provision of food and liquor for consumption on site.</i>	<i>Conference centre, reception centre</i>	<i>Community use, hotel</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*

*3.3.6 Element – Rural Villages*

*3.3.6.1 Specific outcomes*

- (1) Biboohra, Irvinebank, Julatten, Koah, Mutchilba, Mt Molloy, Myola and Speewah are rural villages, that have limited centre activities and other non-residential activities. Some rural villages include small clusters of activity in which limited, small-scale development may occur. Any growth within rural villages is limited and is proportionate to their current scale.*

Comment

Rosebud Farm, or Speewah Gardens, which are colloquial names for the subject site, comprises over 660 species of established palms, cycads, exotic plants, and tropical fruit trees. The intent of the proposed development is to facilitate use of the site for weddings and similar functions in addition to the continued use of the site for horticultural cropping and garden tours. The farm would be used for the hosting of weddings, civil ceremonies, and other similar functions to be held at 6 designated locations across the site. No new buildings or structures are proposed on-site as part of the development.

In terms of scale, the development does not represent an over development of the site.

The proposed development is consistent with the intent of Specific outcome 1.

### *3.3.10 Element – Rural residential areas*

#### *3.3.10.1 Specific outcomes*

- (6) *Small scale non-residential and tourism uses which do not impact on character and amenity are facilitated in rural residential areas.*

#### Comment

Although situated within the rural zone, the site sits adjacent a large cluster of rural residential zoned allotments. Conditions of approval have been recommended to ensure the development does not cause any unacceptable loss of amenity, particularly in relation to noise and traffic generation.

The development has been conditioned to comply with Specific outcome 6.

### *3.3.11 Element – Rural areas*

#### *3.3.11.1 Specific outcomes*

- (5) *Rural lifestyle, tourism, outdoor recreation, horticultural activities and natural bushland uses may be considered in other rural areas where appropriately located, serviced and otherwise consistent with the Strategic Framework.*

#### Comment

Rosebud Farm, or Speewah Gardens, which are colloquial names for the subject site, comprises over 660 species of established palms, cycads, exotic plants, and tropical fruit trees. The intent of the proposed development is to facilitate use of the site for weddings and similar functions in addition to the continued use of the site for horticultural cropping and garden tours. The farm would be used for the hosting of weddings, civil ceremonies, and other similar functions to be held at 6 designated locations across the site. No new buildings or structures are proposed on-site as part of the development.

Although situated within the rural zone, the site sits adjacent two clusters of rural residential zoned allotments. Conditions of approval have been recommended to ensure the development does not cause any unacceptable loss of amenity, particularly in relation to noise and traffic generation.

The proposed development remains consistent with the Strategic Framework and is therefore compliant with Specific outcome 5.

### 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.
- (2) Natural corridors through the landscape, including *ecological corridors*, and natural areas which provide linkages between areas of significant biodiversity and habitat value are protected and enhanced. Opportunities are realised to connect habitat fragments across the regional landscape through strategic rehabilitation and protection of potential habitat connection corridors, such as *habitat linkages*. The resilience of natural systems and wildlife to respond to climate change is strengthened by providing maximum connectivity across a range of habitats, allowing species to migrate and retreat.
- (3) The physical condition, ecological health, environmental values and water quality of surface water and groundwater systems, including but not limited to *major waterbodies* and *major watercourses*, is protected, monitored and improved. The impacts of Mareeba Shire's water quality, wetland and riparian health on the Great Barrier Reef and the Gulf of Carpentaria are recognised through integrating sustainable catchment management practices into land use planning. Riparian areas and areas surrounding ecologically significant wetlands will be enhanced as part of new development.
- (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 will be established over the western third of the site outside any areas mapped as Wildlife Habitat or Regulated Vegetation. This area of the site was extensively clearing in the early 1950's and has been substantially rehabilitated since this time.

Functions will occur over existing clearing areas of the site amongst the site's extensive gardens or within existing buildings. No new clearing or new building work is proposed as part of the development.

Appropriate conditions have been included to minimise environmental impact and impacts on the existing acoustic environment.

The proposed development will comply with Strategic Outcomes 1, 2, 3 and 5.

#### 3.4.2 Element – Conservation areas

### 3.4.2.1 Specific outcomes

- (1) New development adjacent to *conservation areas* will:
  - (a) be compatible with natural values; and
  - (b) sensitively located and setback from *conservation areas*; and
  - (c) ensure no irreparable disturbances to the areas of ecological significance; and
  - (d) mitigate the cumulative impacts of development; and
  - (e) ensures contaminants do not impact *conservation areas*.

#### Comment

Refer to the Ecological Assessment submitted with the application and included as **Attachment 6**.

Functions will occur over existing clearing areas of the site amongst the site's extensive gardens or within existing buildings. No clearing or building work is proposed as part of the development.

Appropriate conditions have been included to minimise environmental impact and impacts on the existing acoustic environment.

The development has been conditioned to comply with Specific outcome 1.

### 3.4.4 Element – Biodiversity areas

#### 3.4.4.1 Specific outcomes

- (1) *Development avoids adverse impacts on the ecological values of biodiversity areas and where avoidance is not possible the adverse impacts are minimised and, for an area of high ecological significance, no net loss in biodiversity values is achieved.*
- (2) *Development on lots containing biodiversity areas ensures their ongoing protection and retention through application of conservation covenants or dedication for public use.*
- (6) *Endangered and of-concern ecosystems and threatened species habitat including upland refugia ecosystems, wet sclerophyll, and the habitat of endemic species are protected across all land tenures.*

#### Comment

Refer to the Ecological Assessment submitted with the application and included as **Attachment 6**.

Functions will occur over existing clearing areas of the site amongst the site's extensive gardens or within existing buildings. No clearing or building work is proposed as part of the development.

Appropriate conditions have been included to minimise environmental impact.

The development has been conditioned to comply with Specific outcome 1, 2 and 6.

### 3.4.5 Element – Strategic rehabilitation and ecological corridors

### 3.4.5.1 Specific outcomes

- (1) *Ecological corridors* are major existing habitat corridors that link key *biodiversity areas* within Mareeba Shire and greater Far North Queensland region. Development does not compromise the habitat connectivity of *ecological corridors*.
- (2) *Habitat linkages* are strategically located future habitat corridors linking *biodiversity areas* within the shire. Development does not compromise the ability to realise these opportunities for ecological connectivity through progressive revegetation of *habitat linkages* with native vegetation.

#### Comment

Refer to the Ecological Assessment submitted with the application and included as **Attachment 6**.

Functions will occur over existing clearing areas of the site amongst the site's extensive gardens or within existing buildings. No clearing or building work is proposed as part of the development.

Appropriate conditions have been included to minimise environmental impact.

The development has been conditioned to comply with Specific outcome 1 and 2.

### 3.4.8 Element – Air and noise quality

#### 3.4.8 Specific outcomes

- (1) *The health, well-being, amenity and safety of the community and the environment is protected from the impacts of air emissions, noise and odour through appropriate management and adequate separation distances.*
- (3) *Land uses which emit high level of noise, including for example motor sports, gun clubs and the like will be appropriately located and managed to mitigate acoustic impacts.*

#### Comment

Refer to Planning Discussion section of the report for commentary on Noise.

The proposed development has been conditioned to comply with Specific outcomes 1 and 3.

### 3.6 Transport and infrastructure

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

- (5) *Development of new roads and upgrades to existing roads are designed and constructed in accordance with the FNQROC Regional Development Manual as amended.*

Comment

Refer to Planning Discussion section of the report for commentary on traffic impacts.

The proposed development has been conditioned to comply with Specific outcomes 1, 4 and 5.

**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.*
- (4) *In areas not serviced by reticulated sewerage, on-site effluent disposal systems ensure the environment or amenity is not adversely impacted.*

Comment

The proposed development has been conditioned to comply with Specific outcomes 1 and 4.

**Relevant Developments Codes**

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

- 6.2.9 Rural zone code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.8 Hill and slope overlay code
- 9.3.2 Commercial 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 outcomes where no acceptable outcome is provided, or where an acceptable outcome cannot be met) 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</p>

	<p>order performance outcome. Refer to code document for full commentary.</p> <p>Further discussion is warranted regarding the following performance outcomes:</p> <ul style="list-style-type: none"> <li>• Performance Outcome PO6 – Amenity</li> </ul> <p>Refer to planning discussion section of report for 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>
Environmental significance 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>
Hill and slope 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>
Commercial 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> <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>
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>

	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.
Parking and access code	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.  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.
Works, services and infrastructure code	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.  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.

**(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 included in any approval require all development works be designed and constructed in accordance with the procedures and standards set out in the FNQROC Development Manual.

**(E) Additional Trunk Infrastructure Condition – Road Infrastructure**

The subject land is located outside the identified Priority Infrastructure Area (PIA). Section 130 of the Planning Act 2016 (the PA) allows Council to condition additional trunk infrastructure outside the PIA.

Some sections of Douglas Track are currently not constructed to the required standard and the proposed development will place additional demand on this infrastructure. Based on assumptions included in the submitted Traffic Impact Assessment (TIA), the third party review of the TIA, the frequency of functions permitted under Condition 3.5, and the added assumption by Council Officers that for small functions (up to 20 persons) it is likely that the majority of small function guests will self -drive, the proposed development is likely to generate an estimated 7,948 vehicle movements per year, if all functions are held.

Considering a standard 2023/24 roads contribution of \$5,192.00 is equivalent to the traffic generated by a standard allotment or 10 vehicle movements per day (3,650 movements per year),



the contribution applicable to this development should be 2.18 x the standard contribution as follows:

- \$5,192.00 x 2.18 = **\$11,318.50**

The trunk infrastructure for which the payment is required is:

- The trunk transport infrastructure servicing the land (\$11,318.50)

The developer may elect to provide part of the trunk infrastructure instead of making the payment.

If the developer elects to provide part of the trunk infrastructure the developer must:

- Discuss with Council's delegated officer the part of the works to be undertaken;
- Obtain the necessary approvals for the part of the works;
- Indemnify the Council in relation to any actions, suits or demands relating to or arising from the works;
- Take out joint insurance in the name of the Council and the developer in the sum of \$20,000,000 in relation to the undertaking of the works;
- Comply with the reasonable direction of Council officers in relation to the completion of the works;
- Complete the works to the standards required by the Council; and
- Complete the works prior to the commencement of the use.

The development is not likely to place additional demand on any other trunk infrastructure network (water, sewer, parks or stormwater/drainage).

**REFERRAL AGENCY**

This application did not trigger referral to a Referral Agency.

**Internal Consultation**

Development Engineering (traffic impacts) and Environmental Health (acoustic noise quality objectives and outcomes)

**PUBLIC NOTIFICATION**

The development proposal was placed on public notification from 30 October 2023 to 20 November 2023. The applicant submitted the notice of compliance on 21 November 2023 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

30 properly made submissions were received all of which objected to the proposed development. The submissions are included as **Attachment 7**.

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

Grounds for objection /support	Comment
Traffic Impacts – The proposed development will increase the amount of cars/buses using Douglas Track which has some areas of reduced seal width as well as	Refer to Planning Discussion section of report regarding traffic impacts and required rad safety upgrades.

<p>a causeway crossing with sharp bends on the approaches.</p>	
<p>The proposed development will increase the number of drink drivers in the area.</p>	<p>This is an assumption and sits outside the bounds of the town planning assessment.</p>
<p>The proposed development will increase the amount of wildlife killed on the roads in the area due to an increase in traffic. This wildlife includes endangered species such as Cassowaries.</p>	<p>The majority of functions authorised to be held on-site under the approval (6 small &amp; 2 medium functions) must be held over daytime hours (7am – 6pm). Of the other 3 events authorised to occur in any given month, 2 must end by 10pm and 1 must end by 12am (midnight). In both instances, guest will be required to leave before these end times. It is the case with most functions that guest will arrive within a short, concentrated period prior to the function during daytime hours, however leave in a more spread out “trickled” manor. These controls on frequency of functions as well as end times will help minimise wildlife loss on surrounding roads. The applicants will also need to further investigate whether the application needs to undergo an EPBC Act referral to the Commonwealth, particularly given the presence of Cassowaries on and around the site.</p>
<p>Proposed night time functions will cause unacceptable noise impacts and nuisance to those living in the Speewah area.</p>	<p>Refer to recommended conditions of approval as well as the Planning Discussion section of report for commentary on noise conditions and noise mitigation strategies.</p>
<p>Residents adjoining the site have had to endure ongoing emissions from the site since its purchase by the applicant including machinery noise, smoke and construction noise.</p>	<p>Council has investigated the complaints received regarding emissions from the site and all have been found to be associated with the lawful undertaking of farming and cropping activities, as well as approved building and plumbing works.</p>
<p>When the vegetation is removed from the road reserves adjacent the property when these roads are upgraded, the property including the function locations will become visible to neighbours and road users. The site access will also be in an unsuitable location when these road reserves are developed.</p>	<p>Given the rural zoning of the site and surrounding land, it is highly unlikely that the current undeveloped sections of road reserve to the north, east and south of the site will be cleared for the construction of new roads.</p>
<p>The Speewah Gardens/Rosebud Farms website is advertising short term accommodation on-site, as well as the operation of a wholesale nursery.</p>	<p>These land uses are not associated with the proposed function facility use and should not be considered in this assessment of this application.</p>
<p>“All event areas look to be already developed before seeking approval from Council and one has to wonder whether this function facility development application is an afterthought.”</p>	<p>It is Council’s understanding that no commercial functions have been held on-site to date. Most of the function sites are within existing cleared areas amongst the sites extensive gardens or within long established buildings.</p>
<p>The Speewah Tavern is already operating which attracts little patronage, even when live music is advertised. Speewah does not need an additional function facility.</p>	<p>The presence of the Speewah Tavern, or its popularity is not a relevant consideration in the assessment of this application. Council is required to assess this application on its individual merits.</p>
<p>The function facility will impact on the tranquillity of existing walking tracks/horse riding tracks along Douglas Track.</p>	<p>A maximum of 3 functions per month will include amplified music and/or loudspeakers and will likely occur during evening and nighttime hours when the surrounding walking tracks are not in use. The noise management plan will need to include provisions to ensure that function guests remain within the designated function areas and do not wander the property.</p>
<p>The assumptions made regarding traffic generation in the TIA cannot be considered as a reasonable assumption. Furthermore, the TIA failed to consider rain events flooding the causeway crossing and cutting access off for function guests and staff who will be stranded on-site till the water subsides.</p>	<p>Refer to Planning Discussion section of report as well as Attachment 4 and 5 for commentary on traffic impacts and required road safety improvements.</p>

<p>The development will impact on nearby World Heritage Areas</p>	<p>Refer to Code Assessment Document for commentary on environmental impacts. Functions will occur over existing clearing areas of the site amongst the sites extensive gardens or within existing buildings. No clearing or building work is proposed as part of the development. Appropriate conditions have been included to minimise environmental impact. It is also likely that the application will require referral to the Commonwealth under the EPBC Act for issues relating to endangered and threatened species such as Cassowaries and frogs that may be present on and around the site.</p>
<p>The proposed development will decrease property valuations in the area.</p>	<p>This is not a relevant town planning consideration.</p>
<p>The proposed development will place additional burden on our emergency services, similar to events held at the Kuranda Amphitheatre.</p>	<p>This is an assumption. The majority of proposed functions will likely be private events and will not be open to the public like events held at the Amphitheatre which will drastically decrease the chances of emergency services such as police and ambulance needing to attend the property.</p>
<p>The application should require referral to the Federal Department of Climate Change, Energy, the Environment and Water under the Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act).</p>	<p>It is likely that this referral will be required. It is the applicants responsibility to contact the Commonwealth and initiate the referral process.</p>
<p>The proposal was poorly advertised during the public notification period, including the location of the public notice signage on the land.</p>	<p>Council officers are satisfied the public notification of the application was carried out in accordance with the requirements of the Act and Development Assessment Rules.</p>
<p>Guests will be parking along the Douglas Track road reserve and not within the property.</p>	<p>A condition of approval will ensure all guests and staff park within the property. Any evidence of this not occurring will be investigated by Council officers.</p>
<p>The residents of Speewah are accustomed to walking safely along Douglas Track with their children/dogs/horses. The proposed development will place these people and pets at risk.</p>	<p>Refer to Planning Discussion section of report as well as Attachment 4 and 5 for commentary on traffic impacts and required road safety improvements. Other relevant factors to consider are as follows:</p> <ul style="list-style-type: none"> <li>- Large functions will be capped at 2 per month.</li> <li>- Residents will be made aware of when large functions are being held or functions that occur over evening and nighttime hours through the function calendar.</li> <li>- Guests are likely to arrive in a short, concentrated periods of time generally outside peak traffic hours and will all be travelling in the one direction.</li> <li>- traffic leaving functions is likely to be spread out over a larger length of time and will occur in a more “trickled” manner. This traffic will also be travelling in the one direction.</li> <li>- Douglas Track includes ample space on either side of the road for pedestrians to walk safely away from the road edge.</li> </ul>
<p>The proposed development will have adverse impacts on the local environment, including potential damage to ecosystems, wildlife habitat and increased pollution.</p>	<p>Functions will occur over existing clearing areas of the site amongst the sites extensive gardens or within existing buildings. No clearing or building work is proposed as part of the development. Appropriate conditions have been included to minimise environmental impact. Refer to Planning Discussion section of report for commentary on environmental impacts. It is also likely that the application will require referral to the</p>

	Commonwealth under the EPBC Act for issues relating to endangered and threatened species such as Cassowaries.
The development will alter the character of the community, affecting the peaceful rural atmosphere.	Appropriate conditions have been recommended to ensure amenity impacts are minimised.
Council should facilitate a meeting with residents to address specific concern and gather community input on the matter.	This is not standard practice for Council to partake in. Council officers consider that submitter concerns have been appropriately addressed in this report and through the recommended conditions of approval.
<p>“We are concerned to note that MSC requested of Julian Pitcher, consultant, a report supporting the project. Surely such a request should come from the Developer and be presented to Council along with other required reports supporting his Application. This action begs the question of a conflict of interest by MSC. By asking for material from a consultant to support the proposal demonstrates that Council is already of a mind to support the DA before it is even assessed.</p> <p>We would like to assume that Council remains neutral and unbiased in all DAs it receives and that decisions are made after all material is received and considered by it, including submissions made by residents. The DSDILGP will be very interested if such a lack of governance has occurred. Is this an example of “delegated authority’ being put into the hands of those with an improper bias?”</p>	Council requested the applicant provide an ecological assessment, prepared by a suitably qualified professional. Council consider Julian Pitcher to be a suitably qualified professional and believe the ecological assessment submitted with the application satisfies the relevant assessment benchmarks contained within the Planning Scheme in relation to the natural environment.
Douglas Track needs to be widened with kerb and channel and speed humps need to be installed. Traffic lights also need to be installed at the intersection of Speewah Road and the Kennedy Highway.	Refer to Planning Discussion section of report as well as Attachment 4 and 5 for commentary on traffic impacts and required road safety improvements.
The margin between acceptable and unacceptable noise levels is quite narrow and may easily be breached.	Refer to Planning Discussion section of report for commentary on noise impacts. Also refer to Conditions 3.5 – 3.9.
All noise investigations were based off modelling which has not been validated using real world measured data from the area or from function noise.	Noise modelling is an accepted means of determining a development likely impacts. The noise levels conditioned as part of the Officer Recommendation are less than that originally recommended by the applicants acoustic consultant.
Even in the unlikely event that noise levels are not breached, noise levels will still be exceeded beyond current background noise levels which will impact on peoples sleep. EPA guidelines are considered acceptable levels, however, are not the optimal levels which are currently experienced by residents.	Refer to Planning Discussion section of report for commentary on noise impacts. Also refer to Conditions 3.5 – 3.9. This submitters concerns are correct, however development is allowed to exceed background noise levels (by a certain amount) under the relevant legislation and noise quality objectives.
Function guests will loiter in the carparking area which will cause noise nuisance for residents that live immediately nearby.	The Noise Management Plan will need to include measures to ensure that this does not occur, and also ensure all guests and staff have left the site prior to the designated function end times.
Those that reside adjacent the unsealed section of Douglas Track already experience dust nuisance. The increased traffic as a result of the development will further increase this nuisance, as will the car parking area which is not proposed to be sealed.	The applicant/developer is required to upgrade this section of Douglas Track prior to the commencement of the use which will alleviate dust nuisance.
“The owners are also purchasing a nearby property, which leads me to believe the approval of this submission is only the first step.”	This is not a relevant consideration for this application.

<p>Function guests will wander off the property along local roads.</p>	<p>The Noise Management Plan will need to include provisions to help ensure guests remain within the site itself and the designated function areas.</p>
<p>Submitters believe that there area already sufficient venues in the Kuranda/Speewah area to service afternoon and evening gatherings such as weddings and events with music (Kuranda Amphitheatre, Billabong, Kuranda Recreation Centre, Speewah Tavern, Kur-Cow and Kanjini Camping). Some of these facilities are much more rural and removed from other properties thereby not creating a large nuisance to the surrounding landholders. Where these facilities are close to residential or rural residential, they are restricted in the number of events that can be held with strict regulation on event closure times.</p>	<p>This is not a relevant consideration for the assessment of this application. Notwithstanding this, if this is the case, then the uptake of functions held at the subject site is likely to be affected, therefore further benefitting the surrounding residents.</p>
<p>Additional on-site wastewater disposal systems should be installed on-site. Relying on temporary ablutions facilities will only increase the likelihood of permanent on-site disposal systems being overloaded and failing.</p>	<p>Temporary mobile ablutions facilities are considered the best option for such a development, particularly considered the 6 different function locations spread across the property. This approach is somewhat become standard practice for rural function facilities.</p>
<p>The ecological assessment fails to address State Significant and Locally Significant biodiversity assessed by the Wet Tropics Biodiversity Planning Assessment. The report fails to address particular flora and fauna within the impact area.</p>	<p>Council’s Planning Officers are satisfied that the Environmental Assessment submitted with the application adequately addresses the assessment benchmarks within the Planning Scheme in relation to the natural environment. The Ecological Assessment acknowledged the presence of endangered and threatened species such as the Cassowary and frogs. The proposed development will likely trigger referral to the Commonwealth for assessment under the EPBC Act who are considered the most appropriate agency to deal with these at risk species.</p>

**Submitters**

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7. Sharlene Kemp	77 Kelly Road, Speewah QLD 4881 etteleahpark@bigpond.com
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10. Charlotte Doger De Speville	20 Douglas Track, Speewah QLD 4881 cds@bigpond.com
11. Kuranda Conservation Community Nursery Inc.	1 Pademelon Lane, Kuranda QLD 4881 kurandaconservation@hotmail.com
12. Elizabeth Younghusband	127 Ganyan Drive, Speewah QLD 4881 singwoyaya@bigpond.com
13. Christopher Shipley & Elaine Senini	112 Douglas Track, Speewah QLD 4881
14. Steven Mott & Marylou Wise	10 Douglas Track, Speewah QLD 4881
15. Peggy Ladner	16 Pioneer Close, Speewah QLD 4881
16. MK Metcalfe	18 Pioneer Close, Speewah QLD 4881
17. Theresa Coogan & Chains MacLeod	11 Whipbird Close, Speewah QLD 4881
18. Val Howe & Dave Howe	136 William Smith Drive, Speewah QLD 4881
19. Anne Fitzpatrick	144 Veivers Drive, Speewah QLD 4881
20. Teagan Blankers & Nicholas Stemp	125 Veivers Drive, Speewah QLD 4881
21. Laure Albarel-Hepburn	82 Veivers Drive, Speewah QLD 4881
22. Cheryl Pow	23 Douglas Track, Speewah QLD 4881
23. Kim & Cameron Beard	28 Veivers Drive, Speewah QLD 4881
24. Josh Miller	23 Veivers Drive, Speewah QLD 4881
25. Debra Arthur	32 Walnut Close, Speewah QLD 4881
26. Merrilyn Hayes	197 Ganyan Drive, Speewah QLD 4881
27. Karen Cutler & Warwick Blight	60 Possum Close, Speewah QLD 4881
28. Suzy Grinter	70 Veivers Drive, Speewah QLD 4881
29. Kuranda Envirocare and Friends of the Kuranda Tree Frog	PO Box 494, Kuranda QLD 4881 <a href="mailto:info@envirocare.org.au">info@envirocare.org.au</a>
30. Terry & Barb Patmore	Wild.t@bigpond.com

**PLANNING DISCUSSION**Rural Zone Code - Amenity**Amenity****PO6**

*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.

**AO6**

*No acceptable outcome is provided.*

Comment**Noise**

Performance Outcome PO6 of the Rural zone code ensures that new development is appropriately managed to minimise impacts on the amenity experienced in the vicinity of the development site. In terms of sensitive land uses, the subject site lies adjacent a large cluster of two (2) ha Rural residential zoned allotments to the west and south-east of the site. The proposed development is most at risk of impacting on residential amenity through noise impacts associated with functions that include amplified music and/or loudspeakers.

This application differs from other function facility proposals in that it proposes the use of six (6) designated function locations (instead of a single location), spread across the western third of the site. The two (2) farthest function sites (locations 5 & 6) are indoor function sites, with existing buildings located at both locations proposed to be retrofitted for use as function halls. The other four (4) locations are outdoor sites set amongst the property's extensive gardens.

In response to an information request made by Council, the applicants engaged an acoustic consultant to prepare and submit a Noise Impact Assessment (NIA) which is included as **Attachment 2**. Given the noise sensitive nature of the site location, Council then engaged a third-party noise expert to peer review the NIA and provide comment/further recommendations. This third-party peer review is included as **Attachment 3**.

The Mareeba Shire Council Planning Scheme 2016 or Council's Local Law does not currently contain specific noise emission criteria. In the absence of Shire specific noise criteria, the criteria contained within the Environmental Protection Act (section 440) as well as the Environmental Protection (Noise) Policy 2019 Acoustic Quality Objectives should be adopted. The NIA and third-party review were requested to ensure the proposed development either complied or could be reasonably conditioned to comply with this noise criteria to ensure that an unacceptable loss of amenity would not be experienced by residents surrounding the site. It is important to note that this noise emission criteria does not seek to maintain existing background noise levels experienced at neighbouring properties but instead seeks to ensure that background noise levels are not elevated beyond a point that is considered unreasonable or unacceptable.

In conjunction with both the TIA and the third-party review of the TIA, the assessing officer has included Conditions 3.5 – 3.9 in the officer recommendation to specifically manage noise. These conditions place restrictions on event size and frequency, maximum noise levels that must be adhered to at each function location, as well as maximum allowable time slots for each location to ensure the relevant noise emissions criteria is not breached. Also included in the Conditions is the requirement to prepare a Noise Management Plan (NMP). The NMP will help ensure that noise restrictions are adhered to, will provide a mechanism to notify surrounding landowners of upcoming functions as well as a means to log and manage any noise complaints.

It is considered that the suite of conditions included in the Officer Recommendation will help ensure noise impacts associated with the proposed development do not result in an unacceptable loss of amenity for nearby residents.

### Hours of operation

Condition 3.5 of the Officer Recommendation places controls on the frequency and hours of operation for functions at the site. Of note is the following:

- Only two (2) large functions (between 100-150 guests) can be held on site in any calendar month (regardless of whether they are proposed over daytime or evening/nighttime hours).
- Only three (3) functions that include amplified music/loudspeakers are permitted on-site in any calendar month. Of these three (3) functions, only one (1) is permitted to operate till midnight, with the other two (2) permitted to operate till 10pm only. They must be held on either a Friday or Saturday night only.
- A further six (6) small functions (up to 20 guests) and two (2) medium sized functions (20 – 100 guests) are permitted on-site per month but must operate over daytime hours only (7am – 6pm) and cannot be held on Sundays or Public Holidays.
- Functions cannot be “banked” if not used in any given month for use at another time.

It is considered that adequate controls have been placed on the frequency and operating hours of functions to ensure minimal impact on amenity. In this officer’s opinion, one function with amplified music operating till midnight, and two (2) other functions with amplified music operating till 10pm only will not result in an unacceptable loss of amenity for surrounding residents, particularly when the noise limits discussed above are enforced.

### Traffic

A Traffic Impact Assessment (TIA), prepared by a Registered Professional Engineer of Queensland (RPEQ), was submitted to Council outlined the developments impacts on the surrounding road network (**Attachment 4**). This traffic impact assessment was then peer reviewed by a third-party consulting RPEQ engaged by Council (**Attachment 5**).

The third-party review recommended the following:

*“Upgrade of unsealed section between 118 Douglas Track and Development Access*

*Design and construct a minimum 4.5m sealed carriageway with 1.2m gravel shoulders in accordance with FNQROC Development Manual Table D1.4 standard for a rural road with < 100 vehicles.*

*Comments:*

*If the unsealed section was left in its current form the rate of deterioration would increase with the additional traffic volumes. This would impact the level of maintenance required by Council.*



*The existing daily traffic volume for this section of Douglas Track has been estimated in the TIA to be in the order of 39 vehicles. On the day of a function with 150 guests, the traffic on this section of road would increase to 155 vehicles.*

*It is acknowledged that FNQROC Development Manual Table D1.4 requires a higher standard for this volume of traffic however it is not considered reasonable given:*

- *The traffic generation analysis has been based on maximum guest numbers of 150. It would not be envisaged that every function held would have this number of guests.*
- *The likelihood of vehicles being faced with opposing traffic would be minimum as the traffic generated by the function will be travelling primarily in the same direction at the start and again at the end of the function.*

#### Safety Improvement Works - Speewah Road intersection to Development Access

*A Road Safety Assessment should be undertaken by a suitably qualified RPEQ that identifies safety risks for vehicles using Douglas Track. The safety assessment should consider (but not be limited to) the following:*

- *Road Geometry (Horizontal & Vertical)*
- *Carriageway width (pavement, seal, and shoulder) - ability for opposing traffic to safely pass each other.*
- *Vehicle sightlines*
- *Intersection treatments*
- *Causeway Crossing including the sharp bends either side.*
- *Other roadside hazards*

*The report should provide recommendations on practical treatments to reduce the risk of any hazards to acceptable levels (e.g. localised pavement widening, signage, linemarking, road edge delineation etc.). The report should be submitted to Council for review and agreed works should be undertaken by the developer under an Operational Works Permit at no cost to Council.*

#### Comments:

*Based on the increased safety risk associated with additional traffic on Douglas Track, it is considered reasonable to require the developer to undertake safety improvements along the road, at their own cost.*

*The TIA outlines potential treatments that could be implemented to improve safety of the causeway crossing, however, does not consider any other safety hazards along the road.*

*Further to this, the TIA states that the developer could undertake the work, however propose that this cost be offset against their ultimate development headwork contributions.*

*It should be noted that Douglas Track is not classified as a Trunk Road in LGIP. Headwork contributions can generally only be credited when a developer is required to undertake Trunk Infrastructure upgrades that are identified in the LGIP Schedule of Works.*

In consultation with Council's Technical Services Department, the abovementioned works recommended by the third-party RPEQ are deemed reasonable and relevant and have been conditioned accordingly.

Given the presence of dwellings adjacent the unsealed section of Douglas Track approaching the site, it was considered reasonable to require this work to be carried out prior to the commencement of the use. However, given the substantial cost associated with carrying out a road safety audit and subsequently implementing the required safety upgrades, Council's assessing officer considers it reasonable to provide a 12-month period, after the commencement of the use to have this audit done and an operational works permit submitted to Council. The applicant/developer will then have 6-months to complete the required road upgrades. These timeframes will allow the development to commence and allow revenue to be collected to help fund the road safety upgrades.

Although it is acknowledged that the proposed development will increase safety risk on Douglas Track, deferring the traffic safety audit and subsequent road safety upgrades for a period of 18 months after the commencement of the use was made in consideration of the following:

- Initially, the number of functions held on site is likely to be minimal with the uptake within this period likely to be gradual.
- Residents in the area will know when functions are proposed to be held via the event calendar required to be maintained by the applicant/developer/function organiser.

A roads contribution of \$11,318.50 is payable under Condition 5. It is considered reasonable to credit this roads contribution against the cost of the Douglas Track tail widening works required under Condition 4.2.1 which will likely exceed this credit amount regardless.

### **Advertising devices**

No advertising devices are proposed as part of the development.

### **Visual amenity**

The proposed development will be effectively screened from view of surrounding residences because of both extensive plantings within the property itself as well as the vegetated road reserves surrounding the site.

**Privacy**

The proposed development is not likely to impact on the privacy of surrounding residents. The Noise Management Plan required by condition of approval will also need to include provisions to ensure guests remain in designated function areas and do not wander the property.

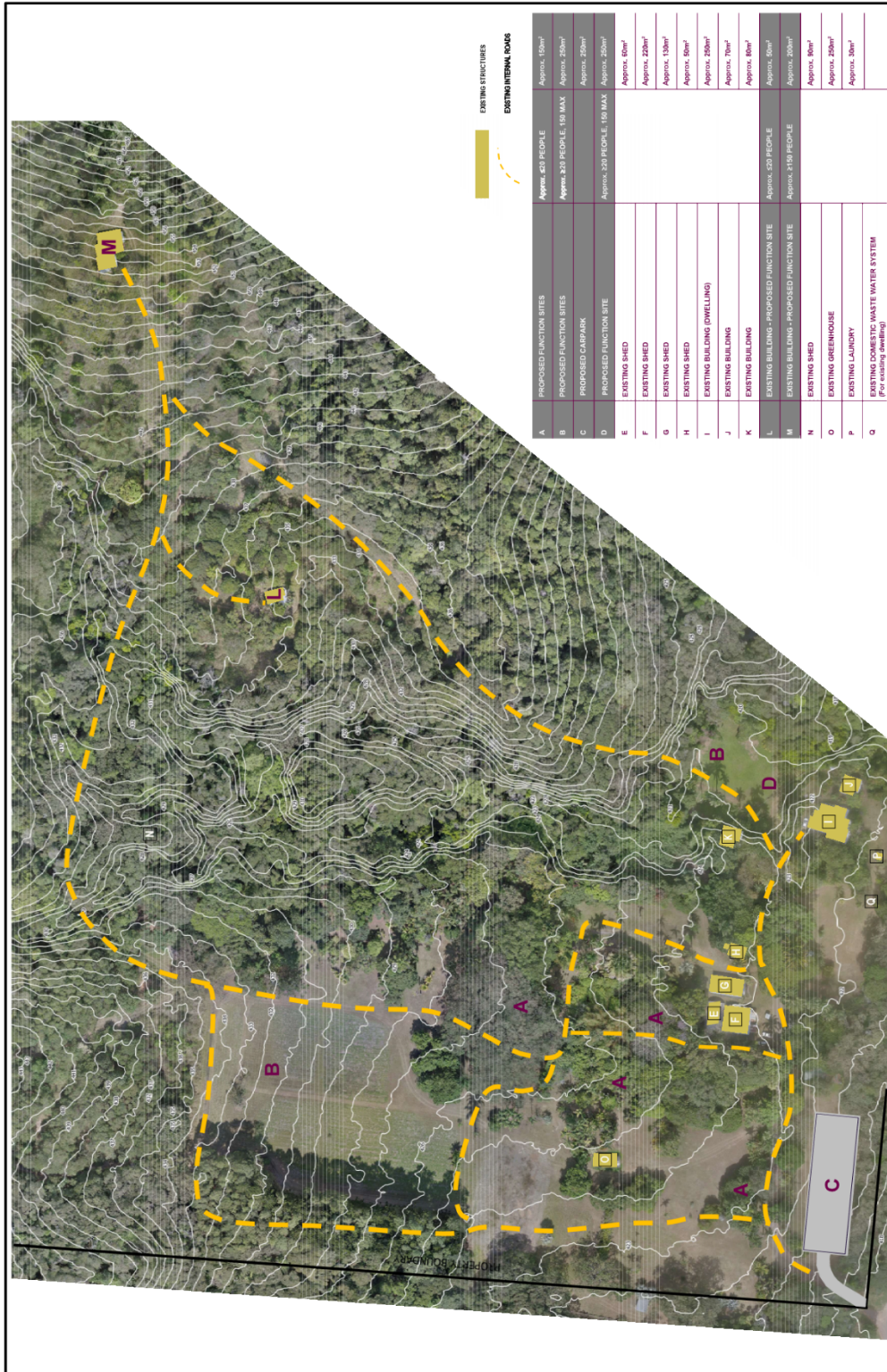
**Lighting**

A condition of approval has been included ensuring that temporary lighting established at functions does not cause nuisance to any neighbouring property. Notwithstanding this, most lighting arrangements at functions such as weddings are generally warm low levels of light that are not likely to cause nuisance to any neighbouring properties, particularly considering the setbacks achieved.

**Odour & Emissions**

The proposed development is not likely to produce significant amount of odour or other emissions such as dust and smoke. All trafficable areas will surface maintained to reduce the likelihood of dust nuisance. The separate distances achieved from nearby sensitive land uses should mitigate any other emissions.

With the inclusion of appropriate conditioning, it is considered that the proposed development can achieve compliance with PO6.



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Scale: 1:1200 @ A3 | Date: 17-07-2023 | Drawing: AUD09635-C  
 0 16 32 48 64 80 100

**Proposed Material Change of Use**  
 Function Facility  
 121 Douglas Track Road, Speewah, Lot 45 on N147358

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