

19 September 2024

Planning Officer: Brian Millard
Direct Telephone: 074086 4649
Our Reference: MCU/23/0012
Your Reference: F22/21

Two Rivers Community School
C/- Freshwater Planning
17 Barron View Drive
FRESHWATER QLD 4870

Dear Applicants,

Negotiated Decision Notice

Planning Act 2016

I refer to your application and the representations you made in respect to the decision notice.
On 18 September 2024, Council decided your representations.

Details of the decision are as follows:

APPLICATION DETAILS

Application No: MCU/23/0012
Street Address: Chewko Road and 267 McIver Road, Mareeba
Real Property Description: Lot 71 on SP292140
Planning Scheme: Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Council, on 18 September 2024, decided to issue the following type of approval:

Development Permit for Material Change of Use – Educational Establishment
In relation to representations, Council decided to:

- A. Agreed to change Condition 4.6.2 (iii) of Council's Decision Notice issued on 18 July 2024.

CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is six (6) years starting the day that this development approval takes effect. (Refer to Section 85 "Lapsing of approval at end of currency period" of the *Planning Act 2016*.)

INFRASTRUCTURE

Where conditions relate to the provision of infrastructure, these are non-trunk infrastructure conditions unless specifically nominated as a "**necessary infrastructure condition**" for the provision of trunk infrastructure as defined under Chapter 4 of the *Planning Act 2016*.

ASSESSMENT MANAGER CONDITIONS**(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 applicable to each stage must be complied with to the satisfaction of Council's delegated officer prior to the commencement of the relevant stage of the use except where specified otherwise in these conditions of approval.
 - 2.2 Prior to the commencement of each stage of the 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 Waste Management

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

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

3.5.3 All waste storage areas must remain covered and no food scraps disposed of on-site so as to not encourage scavenging from wildlife and birdlife.

3.6 Noise Nuisance

Refrigeration equipment, pumps, compressors and mechanical ventilation systems must be located, designed, installed and maintained to achieve a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations and a maximum noise level of 8dB(A) above background levels as measured from commercial locations.

3.6 Air Conditioner & Building Plant Screening

The applicant/developer is required to install and maintain suitable screening to all air conditioning, lift motor rooms, plant and service facilities located at the top of or on the external face of the building. The screening structures must be constructed from materials that are consistent with materials used elsewhere on the facade of the building. There are to be no individual external unscreened air conditioning units attached to the exterior building facade.

3.8 Emissions

Emissions associated with the development must not cause an 'environmental nuisance' within the meaning of the Environmental Protection Act (1994) to any sensitive receptor.

3.9 Safety fencing

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

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

The location and extent of fencing shall be determined by the applicant/developer after carrying out a risk assessment.

3.10 Student Enrolments

The total number of enrolled students shall not exceed three hundred (300), unless prior approval is granted by Council for an expansion of the existing use.

3.11 Bushfire Management

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

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

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

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

3.12 Biosecurity Management Plan

A Biosecurity Management Plan must be prepared and implemented for the site.

4. Infrastructure Services and Standards

4.1 Development Access

- 4.1.1 The access off Chewko Road must be designed and constructed in accordance with FNQROC Development Manual standard drawing for Rural Access S1105. The width and turn radius of the seal must be determined based on swept paths of the largest vehicle that would enter and exit the site.
- 4.1.2 The full length of the access road from Chewko Road to the property boundary must be upgraded/constructed to provide pavement and seal of a suitable standard to accommodate expected traffic volumes accessing the school.
- 4.1.3 The access road must be of a suitable width to accommodate two-way traffic including two buses passing each other. Turning paths confirming that vehicles can safely navigate the bends along the access road must be provided as part of the Operational Works application.
- 4.1.4 The railway level crossing must be upgraded in accordance with the State Assessment and Referral Agency response dated 30 May 2024.
- 4.1.5 The intersection of the existing access to the neighbouring properties to the south must be formalised from the new access road.

The works described above must be undertaken prior to commencement of use of Stage 1, at no cost to Council and will require approval under an Operational Works permit.

4.2 External Works

- 4.2.1 Design and construct the widening of Chewko Road pavement and seal on both approaches to the access intersection to provide trafficable shoulders of a width and length in accordance with Austroads Guide to Traffic Management Part 6 and Austroads Guide to Road Design Part 4A for a Rural Basic left and right turn treatment (BAL and BAR).

The works described above must be undertaken prior to commencement of use of Stage 1, at no cost to Council and will require approval under an Operational Works permit.

4.3 Revised Traffic Impact Assessment – Stage 6

- 4.3.1 A revised Traffic Impact Assessment (TIA) report must be submitted to Council prior to Stage 6 when all facilities constructed as part of Stage 1 to 5 is in operation. The TIA should analyse the impact that the development related traffic will have on Council's road network as a result of this stage and be based on actual traffic counts at the time.

Any external works determined to be required by Council following review of the revised assessment must be undertaken at no cost to Council and will require approval under an Operational Works permit.

4.4 Car Parking/Internal Driveways

- 4.4.1 The applicant/developer must ensure the development is provided with staged on-site car parking spaces generally in accordance with the approved plans, which are available solely for the parking of vehicles associated with the use of the premises.
- 4.4.2 All car parking spaces and internal driveways must be concrete, bitumen or asphalt sealed and appropriately drained prior to the commencement of the use and to the satisfaction of Council's delegated officer.
- 4.4.3 The car park must be designed in accordance with AS2890.1 Off-Street Car Parking including parking bay dimensions, aisle widths, speed control etc. The design is to be certified by an RPEQ that the car park provisions comply with Australian standards.
- 4.4.4 An internal traffic circulation design plan demonstrating swept paths must be submitted as part of the development application for Operational Works to demonstrate that adequate provision has been made for the manoeuvring of vehicles and buses.
- 4.4.5 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.

4.5 Stormwater Management

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

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

4.5.3 The applicant/developer must construct the stormwater drainage infrastructure for the development in accordance with the approved Stormwater Management Plan and Report.

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

4.6 Landscaping and Fencing

4.6.1 Prior to the commencement of the use of the site, a landscape plan must be prepared and submitted to Council's delegated officer for consideration and approval.

4.6.2 The landscaping plan must incorporate the following:

(i) A minimum 10 metre wide vegetated landscape buffer for the full length of the buffer zone shown on the approved plans.

(ii) A minimum 10 metre wide vegetated landscape buffer for 115 metres along the common boundary with Lot 1 on RP708284, directly to the south of the sports field/running track.

~~(iii) A 1.8 metre high colorbond (neutral colour) solid screen fence must be established along the site's common boundary with Lot 1 on RP708284 for the full length of the vegetated landscape buffers required under (i) and (ii).~~

(iii) The existing rural fence must be maintained along the site's common boundary with Lot 1 on RP708284 for the full length of the vegetated landscape buffers required under (i) and (ii).

(iv) The planting of one (1) shade tree for every six (6) parking spaces.

4.6.3 Landscaping associated with 4.6.2 (i) and (ii) must include ground cover, shrubs and trees that will grow to form an effective buffer of no less than four (4) metres in height.

4.6.4 Plant species are to be generally selected from the Plant Schedule in Planning Scheme Policy 6 - Landscaping and preferred plant species.

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

4.6.6 All landscaping must be maintained for the life of the development.

4.7 Lighting

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

4.8 Non-Reticulated Water Supply

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

All non-potable sources of water must be sign posted "non-potable water supply".

4.9 On-Site Wastewater Management

All on site effluent disposal associated with the approved use must be in compliance with the latest version of On-Site Domestic Wastewater Management Standard (ASNZ1547) to the satisfaction of the Council's delegated officer.

Note: Any on-site wastewater treatment system with a total daily peak design capacity of at least 21 equivalent persons (EP) is an Environmentally Relevant Activity (ERA 63 - Sewerage Treatment) and an Environmental Authority is required.

4.10 Electricity Supply

The development must be connected to the electricity supply network.

4.11 Telecommunications Infrastructure

The development must be provided with a connection to the national broadband network or telecommunication services.

REFERRAL AGENCIES

The referral agencies applicable to this application are:

- Schedule 10, Part 3, Division 4, Table 3 - Clearing native vegetation
- Schedule 10, Part 9, Division 4, Table 1 – Aspect of development stated in schedule 20 (Purpose 14 – Educational establishment)

The State Assessment and Referral Agency provided its response dated 30 May 2024.

A copy of the response conditions is attached.

APPROVED PLANS

The following plans are Approved plans for the development:

| Plan/Document Number | Plan/Document Title | Prepared by | Dated |
|----------------------|-------------------------------------|------------------------|------------|
| 162/A021 Issue 5 | Existing Site - 2021 | LIFE Design Consulting | 24/07/2023 |
| 162/A031 Issue 9 | Masterplan – Final Entire Site | LIFE Design Consulting | 10/10/2023 |
| 162/A041b Issue 7 | Masterplan -2041 School | LIFE Design Consulting | 10/10/2023 |
| 162/A041c Issue 6 | Masterplan 2041 School B&W | LIFE Design Consulting | 10/10/2023 |
| 162/A111 Issue 5 | Stage 1 Plan | LIFE Design Consulting | 24/07/2023 |
| 162/A112 Issue 3 | Stage 1 Plan – Parking and Drop-off | LIFE Design Consulting | 24/07/2023 |
| 162/A121 Issue 5 | Stage 2 Plan | LIFE Design Consulting | 24/07/2023 |
| 162/A131 Issue 6 | Stage 3 Plan | LIFE Design Consulting | 24/07/2023 |
| 162/A141 Issue 4 | Stage 4 Plan | LIFE Design Consulting | 24/07/2023 |
| 162/A151 Issue 4 | Stage 5 Plan | LIFE Design Consulting | 24/07/2023 |
| 162/A161 Issue 7 | Final Plan | LIFE Design Consulting | 24/07/2023 |
| 162/A162 Issue 3 | Final Plan – Parking and Drop-off | LIFE Design Consulting | 24/07/2023 |
| 162/A901 Issue 4 | 3D Views - Birdseye | LIFE Design Consulting | 24/07/2023 |
| 162/A902 Issue 4 | 3D Views - Birdseye | LIFE Design Consulting | 24/07/2023 |
| 162/A903 Issue 4 | 3D View from Entry | LIFE Design Consulting | 24/07/2023 |
| 162/A911 Issue 4 | 3D Views – Internal courtyard | LIFE Design Consulting | 24/07/2023 |

ADVISORY NOTES

The following notes are included for guidance and information purposes only and do not form part of the assessment manager conditions:

(D) ASSESSMENT MANAGER'S ADVICE

- (a) An Adopted Infrastructure Charges Notice has been issued with respect to the approved development. The Adopted Infrastructure Charges Notice details the type of infrastructure charge/s, the amount of the charge/s and when the charge/s are payable.

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

- (c) Compliance with applicable codes/policies

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

- (d) Compliance with Acts and Regulations

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

- (e) Environmental Protection and Biodiversity Conservation Act 1999

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

- (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.

- (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.

PROPERTY NOTES

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

- Development Permit for Operational Work
- Development Permit for Building Work
- Compliance Permit for Plumbing and Drainage Work

SUBMISSIONS

There were six (6) properly made submissions about the application. In accordance with the *Planning Act 2016*, the name, residential or business address, and electronic address of the principal submitter for each properly made submission is provided below:

| Name of Principal submitter | Address |
|-----------------------------|---|
| 1. E Maksuti | 42 Catherine Atherton Drive, Mareeba QLD 4880 |
| 2. C & S Bassani | PO Box 468, Mareeba QLD 4880 |
| 3. A Islam | akilislam@gmail.com |
| 4. M Iminov | 259 McIver Road, Mareeba QLD 4880 cynthiamurat@hotmail.com |
| 5. A Webb | 1 Owens Street, Mareeba QLD 4880 webbyfnq@gmail.com |
| 6. M & T Tiraboschi | PO Box 867, Mareeba QLD 4880 thelimeman@bigpond.com |

RIGHTS OF APPEAL

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

17. OTHER DETAILS

If you wish to obtain more information about Council's decision, electronic copies are available online at www.msc.qld.gov.au, or at Council Offices.

DECISION NOTICE HISTORY

MCU/23/0012 – Original Decision Notice dated 18 July 2024

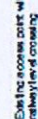
Yours faithfully



BRIAN MILLARD
COORDINATOR PLANNING SERVICES

Enc: Approved Plans/Documents
Referral Agency Response
Appeal Rights

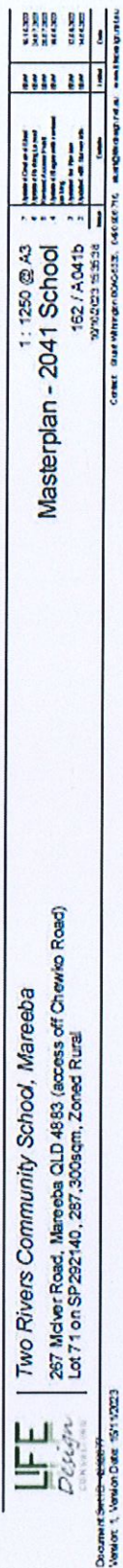
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CairnsSARA@dsdmip.qld.gov.au



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Version: 1.0
Revision: 1.0
Revision Date: 15/12/2023

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LIFE Design

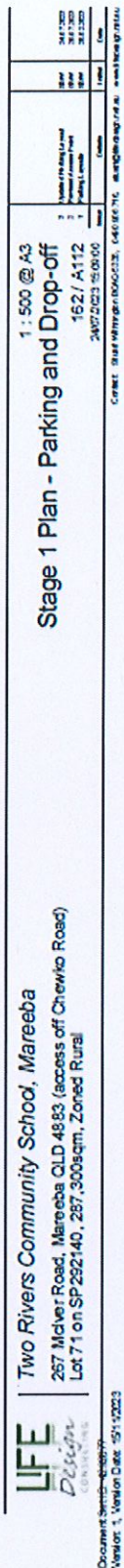
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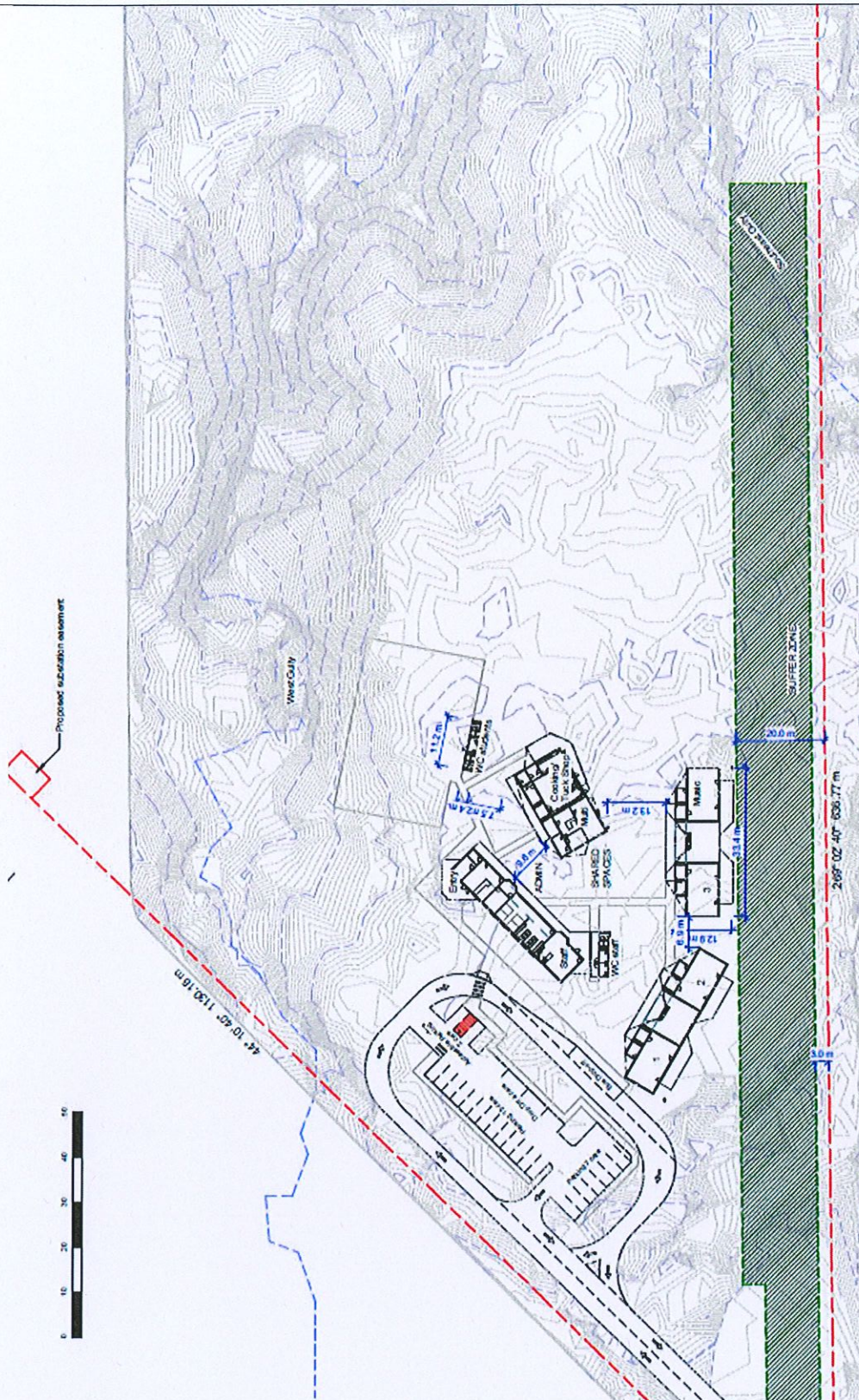
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LIFE *Design*

Two Rivers Community School, Mareeba

267 Mdver Road, Mareeba QLD 4883 (access off Chewko Road)
Lot 71 on SP292140, 287,300sqm, Zoned Rural

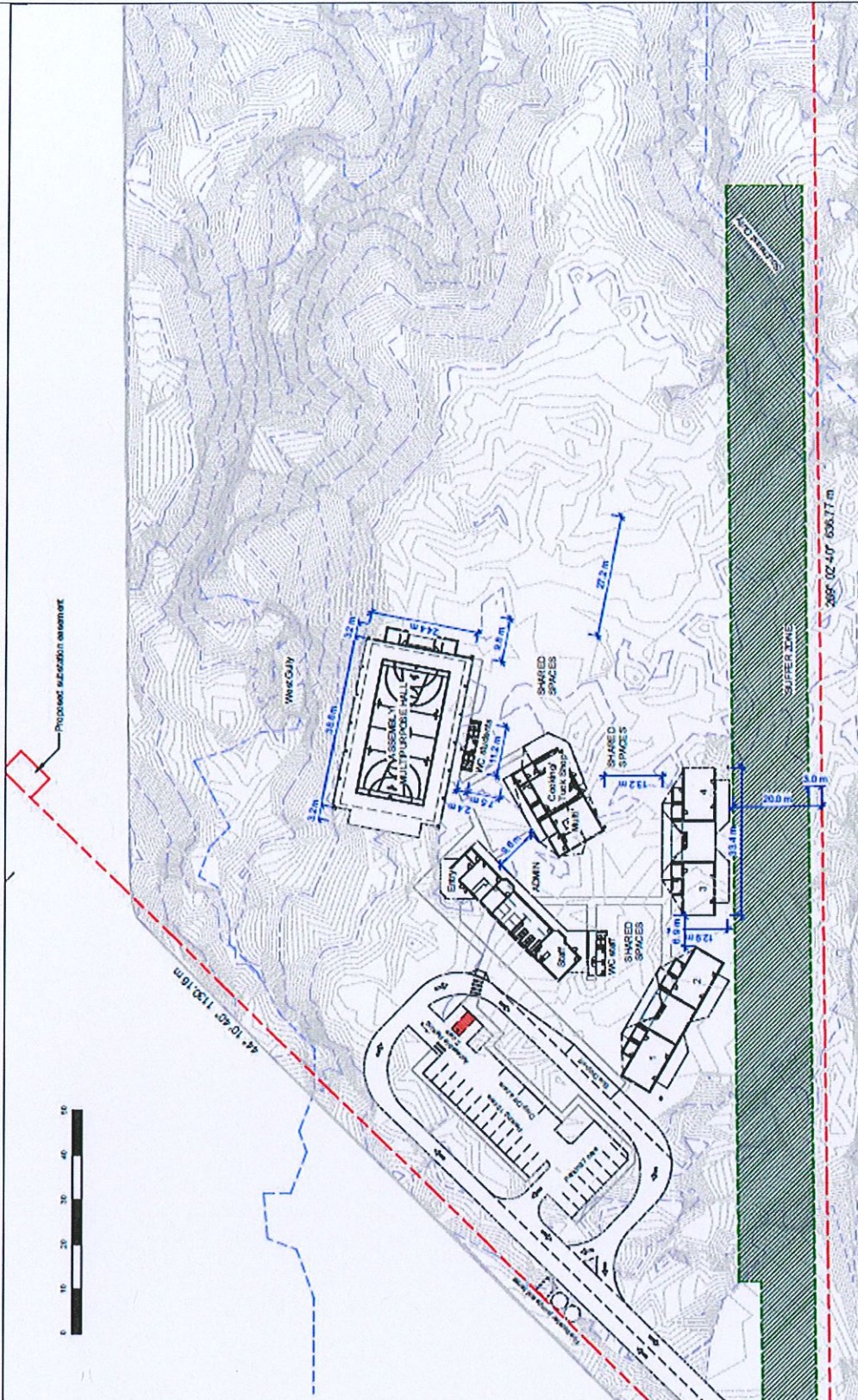
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Stage 2 Plan

162/ A121

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LIFE Design

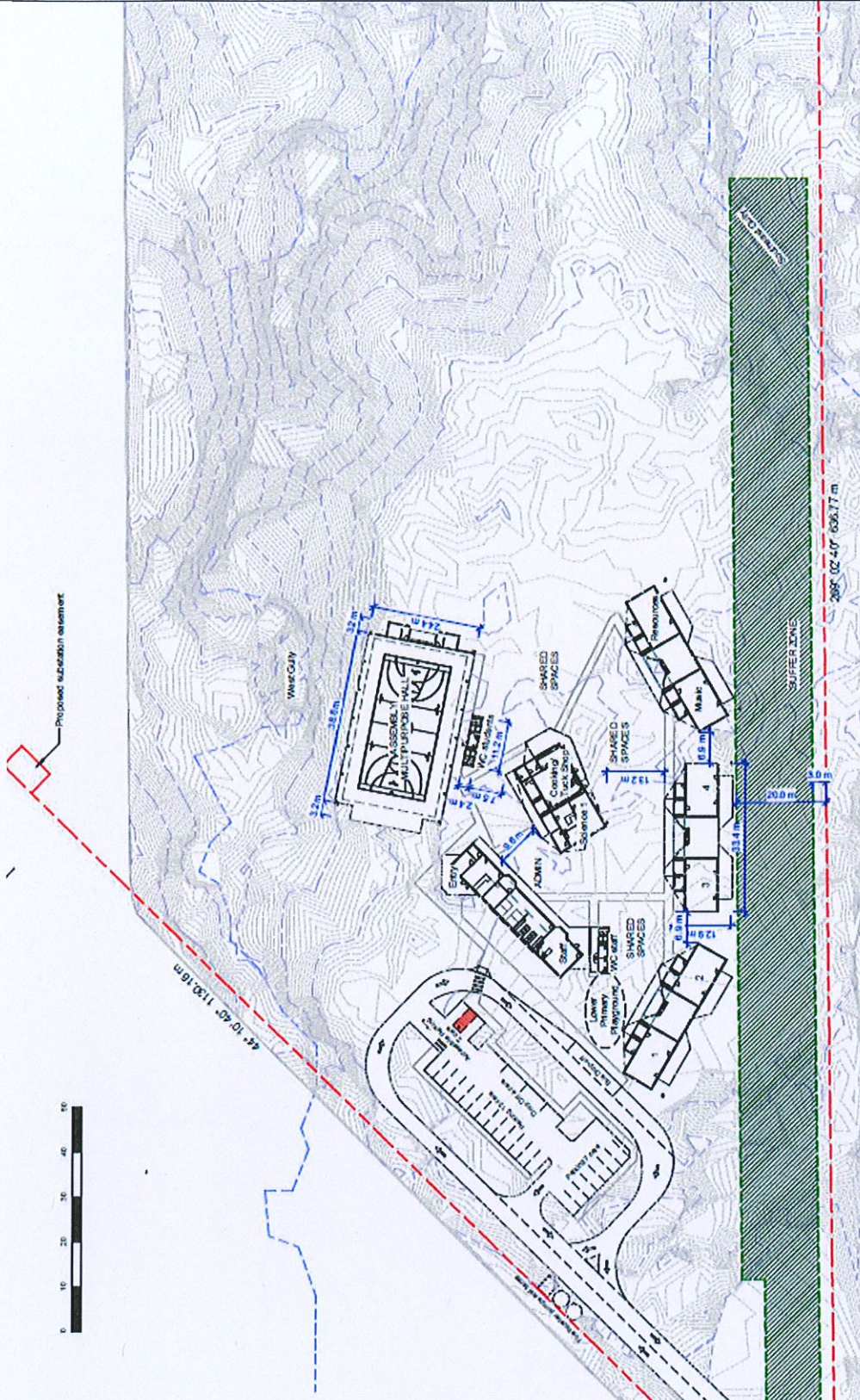
Two Rivers Community School, Mareeba
267 Midver Road, Mareeba QLD 4883 (access off Chewko Road)
Lot 71 on SP 292140, 267,300sqm, Zoned Rural

Document: 2023-0012-001
Version: 1, Version Date: 15/01/2023

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Stage 3 Plan
162/ A131
30/07/2023 15/01/24

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| 98. 1:750 @ A3 | 1 | Sheet | \$1,000.00 |
| 99. 1:750 @ A3 | 1 | Sheet | \$1,000.00 |
| 100. 1:750 @ A3 | 1 | Sheet | \$1,000.00 |

19/9/2024
B. m. [Signature]



LIFE
Design
CONSULTANTS

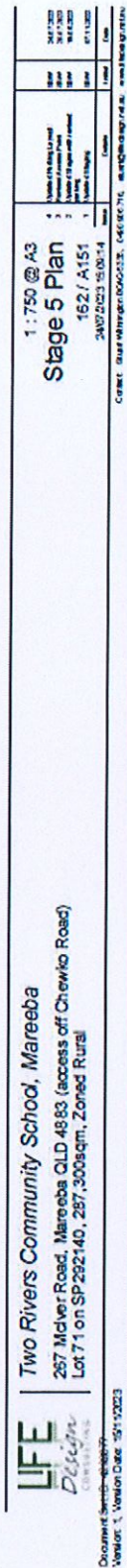
Document: School - Mareeba
Version: 1, Version Date: 05/12/23

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267 McIver Road, Mareeba QLD 4883 (access off Crewko Road)
Lot 7.1 on SP292140, 267,300sqm, Zoned Rural

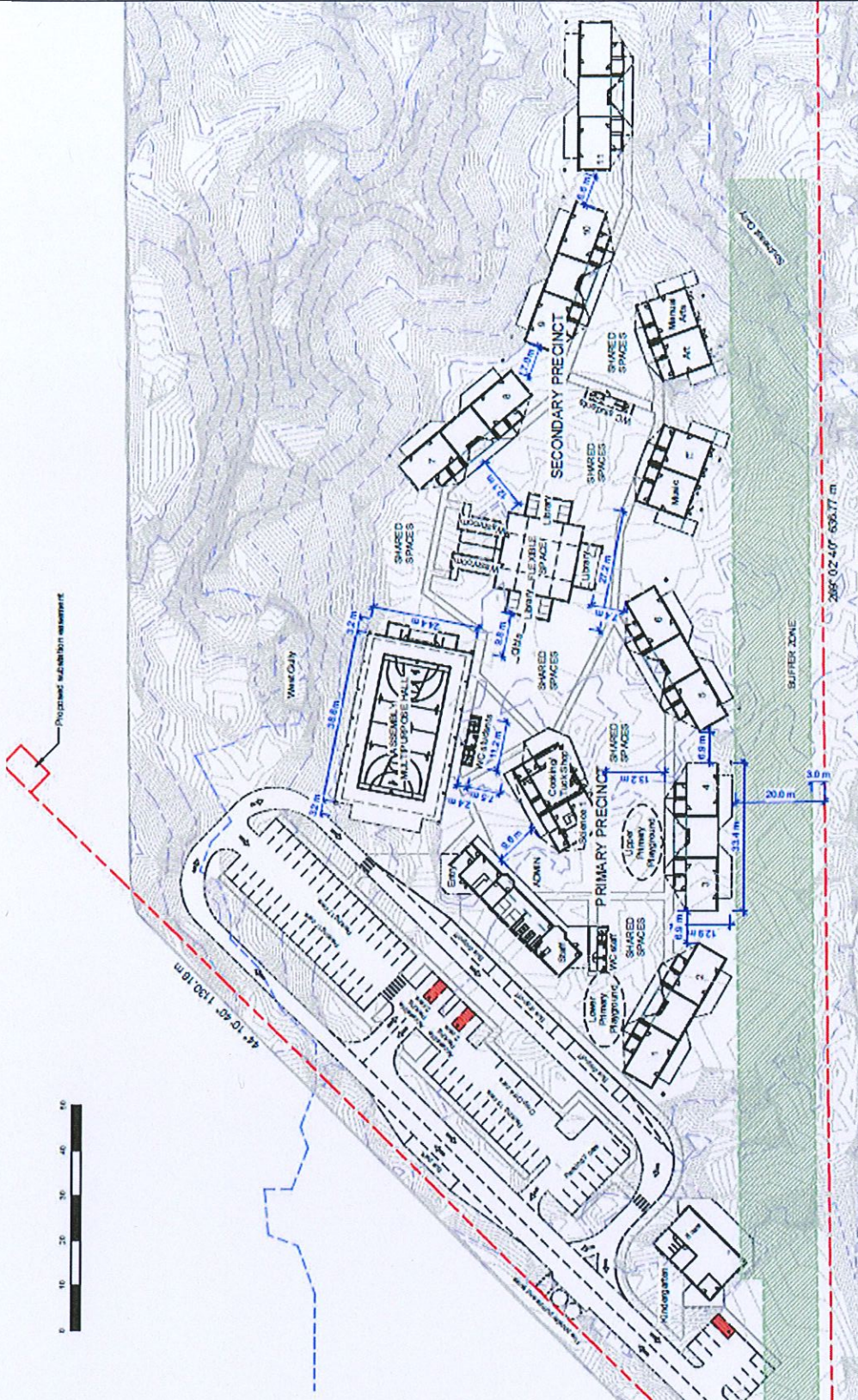
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Stage 4 Plan
162 / A141
20/02/23 TO 01/03

4. Submitter's Name: Life Design Consultants
5. Submitter's Contact Person: [Name]
6. Submitter's Phone: [Phone]
7. Submitter's Email: [Email]
8. Submitter's Address: [Address]
9. Submitter's Postcode: [Postcode]
10. Submitter's State: [State]
11. Submitter's Country: [Country]

19/9/2024
B. H. [Signature]



19/9/2024
B. n. Q. 1



1:750 @ A3
Final Plan
152 / A161
20/02/2023 15:02:21

| Item | Description | Author | Checker | Date |
|------|-------------------------|--------|---------|------------|
| 1 | Issue for Design & Plan | | | 20/02/2023 |
| 2 | Issue for Design & Plan | | | 20/02/2023 |
| 3 | Issue for Design & Plan | | | 20/02/2023 |
| 4 | Issue for Design & Plan | | | 20/02/2023 |
| 5 | Issue for Design & Plan | | | 20/02/2023 |
| 6 | Issue for Design & Plan | | | 20/02/2023 |
| 7 | Issue for Design & Plan | | | 20/02/2023 |
| 8 | Issue for Design & Plan | | | 20/02/2023 |
| 9 | Issue for Design & Plan | | | 20/02/2023 |
| 10 | Issue for Design & Plan | | | 20/02/2023 |

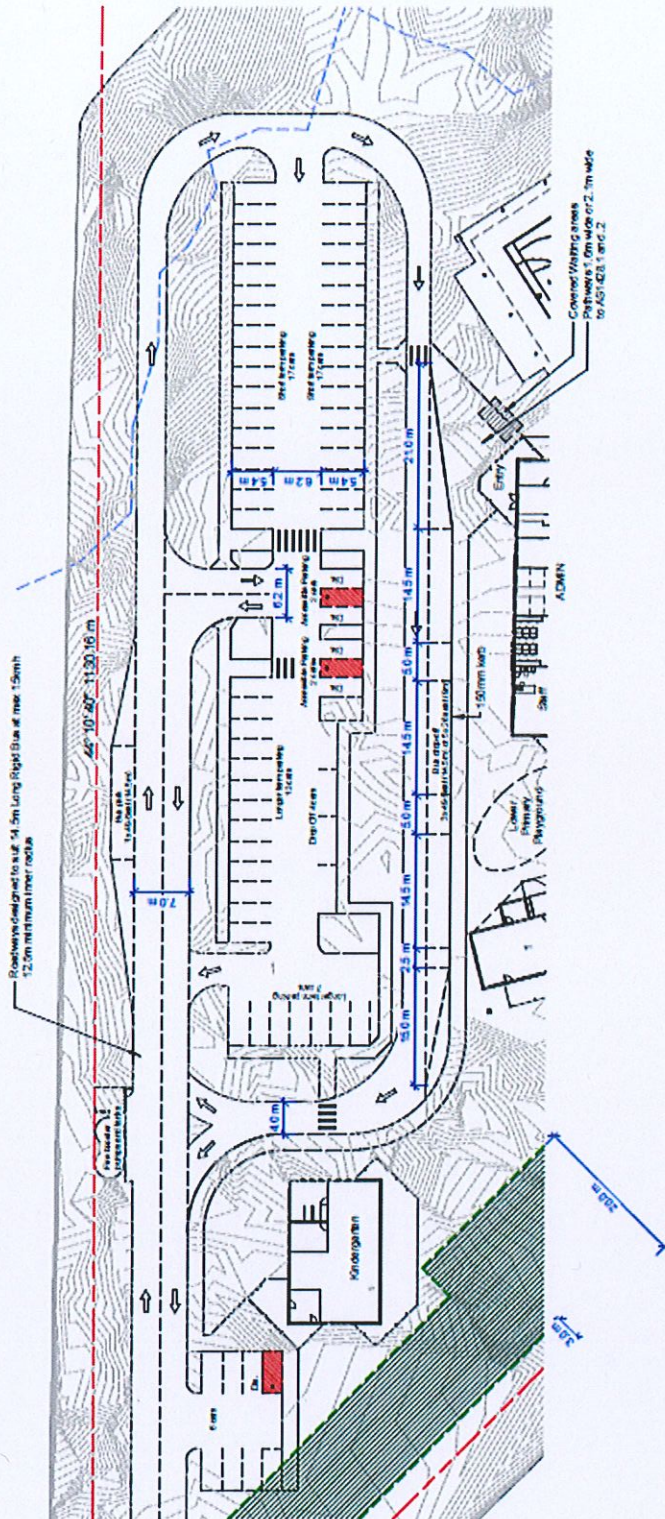
COMPET: RURAL MARRIAGE ROAD/23/02/23 15:02:21 15/02/2023 15:02:21


LIFE
Design
CONSULTANTS

Two Rivers Community School, Mareeba
257 Midver Road, Mareeba QLD 4883 (access off Chewko Road)
Lot 71 on SP 292140, 287,300sqm, Zoned Rural

Document: 2023-02-23-15:02:21
Version: 1, Version Date: 20/02/2023

19/9/2024
B. n. [Signature]





Two Rivers Community School, Mareeba
287 Mtver Road, Mareeba QLD 4883 (access off Chewko Road)
Lot 71 on SP 292140, 287,300sqm, Zoned Rural

1: 500 @ A3
Final Plan - Parking and Drop-off
152/ A162
2807-023 05/02/26

| | | Issues | Comments | Final | Issue |
|---|------------------------|--------|----------|-------|-----------|
| 1 | Submit CDR Book Layout | | | | 28/1/2023 |
| 2 | Finalise Access Point | | | | 28/1/2023 |
| 3 | Finalise Details | | | | 28/1/2023 |

Drawn by: [Shirley](#)

Version: 1, Version Date: 05/12/23

Client: [Hill Waterfront Developments](#) (486) 916 1111 [www.hillwaterfront.com.au](#)

19/9/2024
B. Z. [Signature]

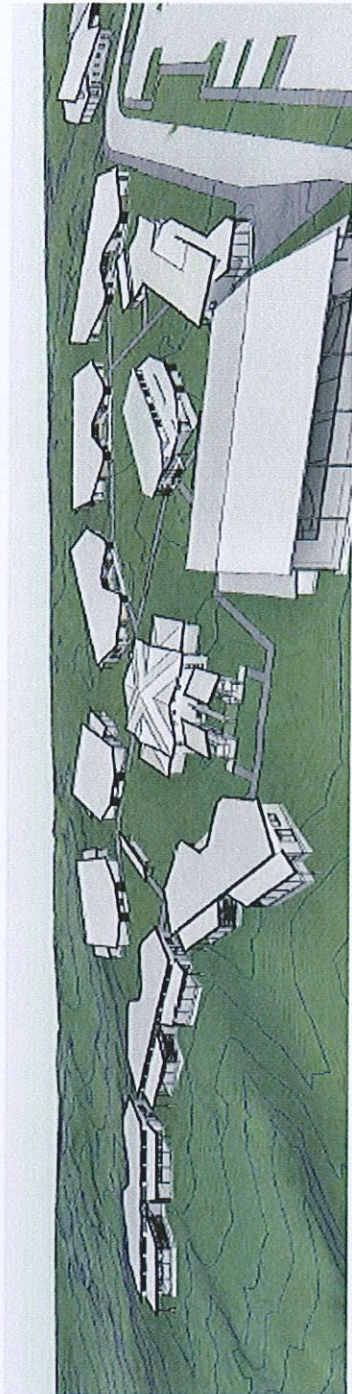


3D Views - Birdseye
152 / A901

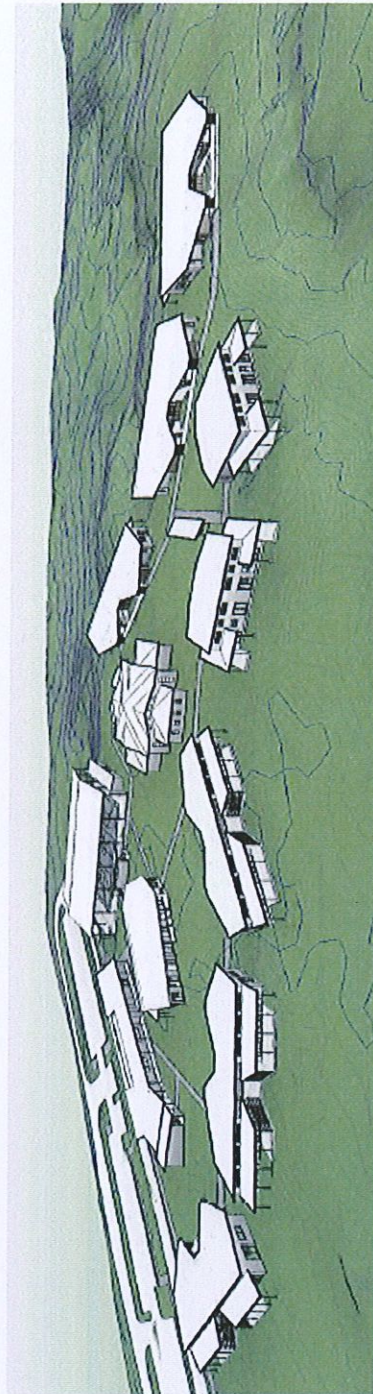
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| Case 2 | Case 2 | Case 2 |
| Case 3 | Case 3 | Case 3 |
| Case 4 | Case 4 | Case 4 |
| Case 5 | Case 5 | Case 5 |

Document ID: 55110-42200-39
Version: 1, Version Date: 03/15/2023

19/9/2024
28.11.24



① Persp - Birdseye from North



② Persp - Birdseye from South

LIFE
Design
CONCEPTS

Two Rivers Community School, Mareeba
267 McIver Road, Mareeba QLD 4883 (access off Chewio Road)
Lot 71 on SP292140, 287,300sqm, Zoned Rural

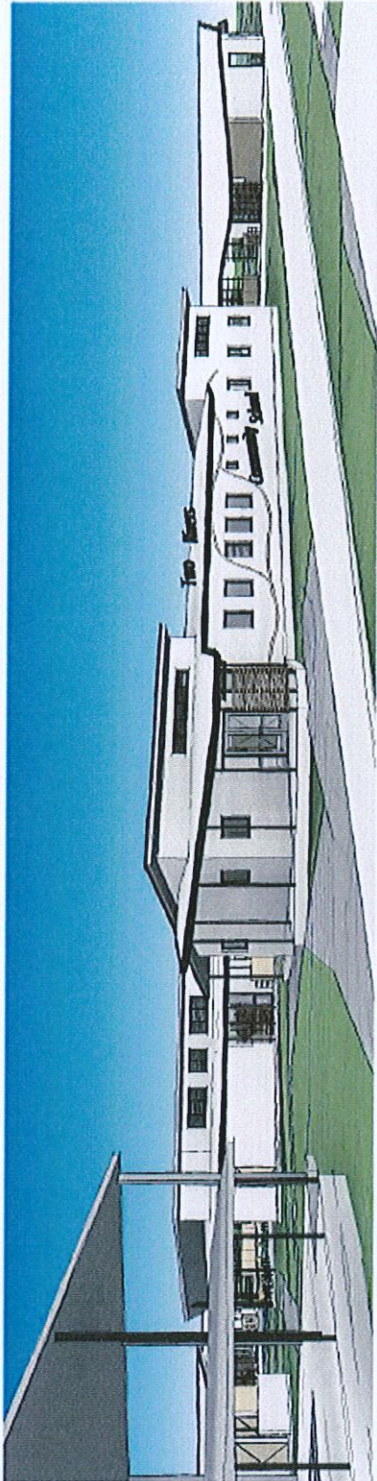
Document Name: 19/09/2024
Version: 1, Version Date: 19/09/2024

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3D Views - Birdseye
162 / A302
24/02/2023 15:10:54

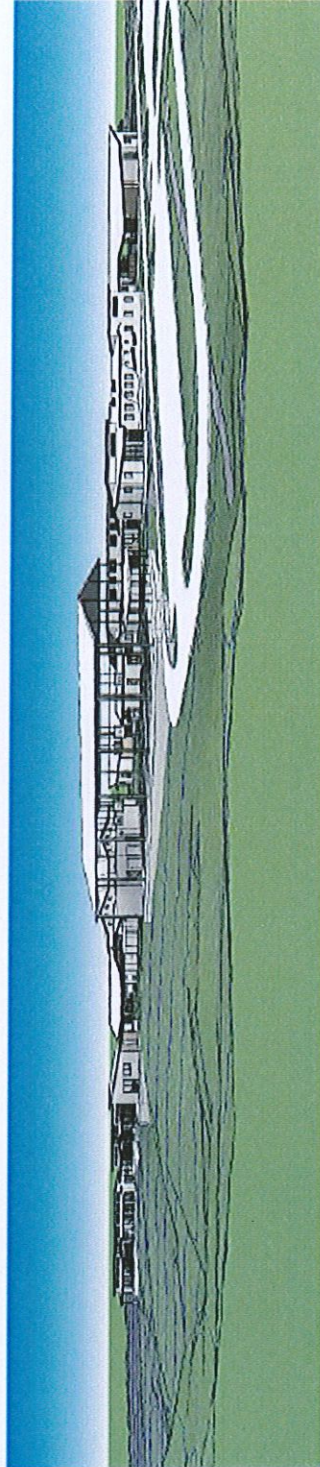
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| Item | Description | Author | Check | Date |
|------|---------------------|------------|-------|------------|
| 1 | 3D Views - Birdseye | 162 / A302 | | 24/02/2023 |
| 2 | 3D Views - Birdseye | 162 / A302 | | 24/02/2023 |
| 3 | 3D Views - Birdseye | 162 / A302 | | 24/02/2023 |

19/9/2024
B. n. Q



① Persp - Entry



② Persp - from bridge

| | | | | | | |
|--------------------------------------|---|------------------|---|------------------|--|------------------|
| LIFE DESIGN CONSULTANTS | Two Rivers Community School, Mareeba 267 McIver Road, Mareeba QLD 4883 (access off Chewink Road) Lot 71 on SP 252140, 287,300sqm, Zoned Rural | | 3D View from Entry @ A3 162 / A803 24/07/2023 15:11:30 | | 34.7.2023 24.7.2023 14.7.2023 14.7.2023 | |
| | Document Details Version 1, Version Date 15/1/2023 | 1 1 1 1 | 1 1 1 1 | 1 1 1 1 | 1 1 1 1 | 1 1 1 1 |

19/9/2024
B.2i Q

Referral Agency Response

RA6-N



SARA reference: 2311-38006 SRA
Council reference: MCU/23/0012
Applicant reference: F22/31

30 May 2024

Chief Executive Officer
Mareeba Shire Council
PO Box 154
Mareeba QLD 4880
planning@msc.qld.gov.au

Attention: Carl Ewin

Dear Sir/Madam

SARA referral agency response

(Referral agency response given under section 58 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 21 December 2023.

Response

| | |
|-------------------|---|
| Outcome: | Referral agency response – with conditions |
| Date of response: | 30 May 2024 |
| Conditions: | The conditions in Attachment 1 must be attached to any development approval |
| Advice: | Advice to the applicant is in Attachment 2 |
| Reasons: | The reasons for the referral agency response are in Attachment 3 |

Development details

| | | |
|---------------|--|--|
| Description: | Development permit | Material change of use - Educational Establishment |
| SARA role: | Referral agency | |
| SARA trigger: | Schedule 10, Part 3, Division 4, Table 3, Item 1 (10.3.4.3.1) of the Planning Regulation 2017 - Clearing native vegetation | |

2311-38006 SRA

Schedule 10, Part 9, Division 4, Subdivision 1, Table 1, Item 1
(10.9.4.1.1.1) of the Planning Regulation 2017 - State transport
infrastructure thresholds

SARA reference: 2311-38006 SRA
Assessment manager: Mareeba Shire Council
Street address: 267 Mciver Road, Mareeba
Real property description: Lot 71 on SP292140
Applicant name: Two Rivers Community School C/- Freshwater Planning Pty Ltd
Applicant contact details: 17 Barron View Drive
Freshwater QLD 4870
freshwaterplanning@outlook.com

Human Rights Act 2019
considerations: A consideration of the 23 fundamental human rights protected under
the *Human Rights Act 2019* has been undertaken as part of this
decision. It has been determined that this decision does not limit
human rights.

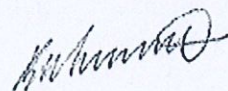
Representations

An applicant may make representations to a concurrence agency, at any time before the application is
decided, about changing a matter in the referral agency response (s.30 Development Assessment
Rules). Copies of the relevant provisions are in Attachment 4.

A copy of this response has been sent to the applicant for their information.

For further information please contact Isley Peacey, Senior Planning Officer, on 4037 3202 or via email
CairnsSARA@dsdipg.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Two Rivers Community School, freshwaterplanning@outlook.com
enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations about a referral agency response provisions
Attachment 5 - Documents referenced in conditions

2311-38006 SRA

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the documents referenced below are found at Attachment 5)

| No. | Conditions | Condition timing |
|--|---|-------------------|
| Material change of use – Educational Establishment | | |
| 10.3.4.3.1 – Native vegetation clearing - The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Resources to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s): | | |
| 1. | Clearing of vegetation must: (a) only occur within Area A(A1) and Area C(C1) as shown on the attached: (i) Vegetation Management Plan, prepared by Queensland Government, reference VMP 2311-38006 SRA, Sheet 1 of 1, version 1; and (ii) Attachment to Vegetation Management Plan VMP 2311-38006 SRA Derived Reference Points for GPS; (b) not exceed 3.314 hectares. | At all times |
| 2. | Built infrastructure, other than for roads, tracks, fences and underground services, must not be established, constructed or located within Area C(C1) as shown on the attached: (i) Vegetation Management Plan, prepared by Queensland Government, reference VMP 2311-38006 SRA, Sheet 1 of 1, version 1; and (ii) Attachment to Vegetation Management Plan VMP 2311-38006 SRA Derived Reference Points for GPS. | At all times |
| 3. | Any person(s) engaged or employed to carry out the clearing of vegetation under this development approval must be provided with a full copy of this development approval and must be made aware of the full extent of clearing authorised by this development approval. | Prior to clearing |

| No. | Conditions | Condition timing |
|---|---|---------------------|
| Material change of use – Educational Establishment | | |
| 10.9.4.1.1– State transport infrastructure thresholds—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s): | | |
| Stormwater management | | |
| 4. | (a) The stormwater management of the development must not cause a worsening to the operating performance of the railway corridor such that any works on the land must not: (i) create any new discharge points for stormwater runoff onto the railway corridor. (ii) concentrate or increase the velocity of flows to the railway corridor. (iii) interfere with and/or cause damage to the existing stormwater drainage on the railway corridor (iv) surcharge any existing culvert or drain on the railway corridor. (v) reduce the quality of stormwater discharge onto the railway | (a) At all times |

2311-38008 SRA

| | | |
|--------------------------------------|--|---|
| | <p>corridor.</p> <p>(b) Submit RPEQ certification, with supporting documentation, to the Program Delivery and Operations Unit, Far North Queensland Region (Far.North.Queensland.IDAS@tnr.qld.gov.au) within the Department of Transport and Main Roads, confirming that the development has been designed in accordance with part (a) of this condition.</p> <p>(c) Submit RPEQ certification, with supporting documentation, to the Program Delivery and Operations Unit, Far North Queensland Region (Far.North.Queensland.IDAS@tnr.qld.gov.au) within the Department of Transport and Main Roads, confirming that the development has been constructed in accordance with part (a) of this condition.</p> | <p>(b) Prior to obtaining development approval for operational work or building work, whichever occurs first, for the first stage</p> <p>(c) Within 20 business days of the completion of works, for the relevant stage</p> |
| Railway level crossing safety | | |
| 5. | <p>(a) The railway level crossing of the Mungana Branch Line at Chewko Road (ID: LXR_02336) must be upgraded to include the following:</p> <ul style="list-style-type: none"> (i) the road approaching the crossing is aligned to be perpendicular to the railway corridor between its intersection with Chewko Road and extending for at least 20m beyond the outer rail track (edge running rail) on the southern approach to the crossing. (ii) a road carriageway width at the level crossing that is at least 7.5m (2 x 3.75m traffic lanes), plus a 1.5m wide verge on both sides of the road. (iii) a sealed surface of asphaltic concrete, or similar material, which extends over the crossing and for a minimum distance of 10m from the outer rail track (edge running rail) on each road approach to the crossing, ensuring a maximum grade change of 6%, in accordance with the following standards: <ul style="list-style-type: none"> • 'Level crossings – Details of Sign Posting', prepared by Queensland Rail, dated 13/08/20, drawing number QR-C-S3394 and issue A. • 'Level crossings – Details of Private and Queensland Rail Maintenance Road Grading and Sign Posting', prepared by Queensland Rail, dated 13/08/20, drawing number QR-C-S3395 and issue A. • a RPEQ certified crossing foundation suitable for the proposed weight and volume of the maximum design vehicle. <p>(b) Provide written evidence from the railway manager to the Program Delivery and Operations Unit, Far North Queensland Region (Far.North.Queensland.IDAS@tnr.qld.gov.au) within the Department of Transport and Main Roads confirming that the development has been designed and constructed in accordance with part (a) of this condition.</p> | <p>(a) and (b) Prior to the commencement of operational work or building work, whichever occurs first</p> |
| 6. | <p>(a) The railway level crossing of the Mungana Branch Line at Chewko Road (ID: LXR_02336) must be upgraded to include the following safety controls in accordance with AS1742.7:2016 <i>Manual of uniform traffic control devices, Part 7: Railway Crossings</i>, comprising the following for each road approach to the level crossing:</p> <ul style="list-style-type: none"> (i) a RX-2 assembly with R6-25 signage with two pipe posts in accordance with section 2.2.2 of AS1742.7:2016 <i>Manual of uniform traffic control devices, Part 7: Railway Crossings</i> and associated Queensland Rail's 'Standard Level | <p>(a) and (c) Prior to the commencement of operational work or building work, whichever occurs first</p> |

2311-38006 SRA

| | | |
|-----------------------------------|--|---|
| | <p>Crossings Traffic Signs for Private & QR Maintenance Level Crossings', dated 25/05/2005 and drawing number 2588;</p> <p>(ii) stop lines in accordance with section 3.3 and Figure 4.6 of AS1742.7:2016 <i>Manual of uniform traffic control devices, Part 7: Railway Crossings</i>;</p> <p>(iii) no-overtaking barrier line in accordance with Section 3.5 and Figure 4.6 of AS1742.7:2016 <i>Manual of uniform traffic control devices, Part 7: Railway Crossings</i>; and</p> <p>(iv) incident Reporting Signage (quoting crossing reference 2336) in accordance with 'Level Crossings – Incident Reporting Sign', prepared by Queensland Rail, dated 16/02/06, drawing number 2622 and Issue A</p> <p>(v) railway crossing advance warning signage on both Chewko Road approaches to the railway level crossing in accordance with Section 2.2.5 and Figure 4.10 of AS1742.7:2016 <i>Manual of uniform traffic control devices, Part 7: Railway Crossings</i></p> <p>(vi) railway crossing advance warning signage on the southern approach (Unnamed Road) to the railway level crossing in accordance with:</p> <ul style="list-style-type: none"> • Section 2.2.5 and Figure 4.10 of AS1742.7:2016 <i>Manual of uniform traffic control devices, Part 7: Railway Crossings</i>; OR • Figure 4.5 of AS1742.7:2016 <i>Manual of uniform traffic control devices, Part 7: Railway Crossings</i>. <p>(b) The existing safety controls at the railway level crossing of the Mungana Branch Line at Chewko Road (ID: LXR_02336) namely, the railway crossing stop assembly (RX-2) must be removed.</p> <p>(c) Provide written evidence from the railway manager to the Program Delivery and Operations Unit, Far North Queensland Region (Far.North.Queensland.IDAS@tnr.qld.gov.au) within the Department of Transport and Main Roads confirming that the development has been designed and constructed in accordance with part (a) and (b) of this condition.</p> | <p>(b) Following the completion of part (a) of this condition</p> |
| Public passenger transport | | |
| 7. | <p>(a) Provide a school bus setdown facility at the location shown on the Stage 1 Plan – Parking and Drop-off, prepared by Life Design, dated 24/07/2023, drawing number 162/A112 and issue 3 (as amended in red).</p> <p>(b) The school bus setdown facility must be in accordance with the <i>Disability Standards for Accessible Public Transport 2002</i> made under subsection 31(1) of the <i>Disability Discrimination Act 1992</i> and include the following components:</p> <p>(i) one (1) continuous bus zone with capacity to accommodate the setdown of 1 x single unit rigid bus of 14.5m in length in accordance with Section 5.6.3.1 and Table 5-7 of Chapter 5 of the <i>Public Transport Infrastructure Manual 2015</i>.</p> <p>(ii) bus zone line marking and bus zone signage at either end of the bus zone in accordance with AS1742.11 – <i>Manual of uniform traffic control devices, Part 11: Parking controls</i>.</p> <p>(iii) a waiting area with shelter, seats and a bin in accordance with P2.1 – P2.4, S2, Outcome 1, Table 2 of <i>Planning for Safe Transport Infrastructure at Schools</i>.</p> | <p>(a) and (b) Prior to the commencement of use for Stage 1</p> |

2311-38006 SRA

| | | |
|--------------------------------------|---|--|
| 8. | <p>(a) Provide a school bus setdown facility at the location shown on the Final Plan – Parking and Drop-off, prepared by Life Design, dated 24/07/2023, drawing number 162/A162 and issue 3 (as amended in red).</p> <p>(b) The school bus setdown facility must be in accordance with the <i>Disability Standards for Accessible Public Transport 2002</i> made under subsection 31(1) of the <i>Disability Discrimination Act 1992</i> and include the following components:</p> <ul style="list-style-type: none"> (i) one (1) continuous bus zone with capacity to accommodate the concurrent setdown of 3 x single unit rigid buses of 14.5m in length with independent operation in-between in accordance with Section 5.6.3.1 and Table 5-7 of Chapter 5 of the <i>Public Transport Infrastructure Manual 2015</i>. (ii) bus zone line marking and bus zone signage at either end of the bus zone in accordance with AS1742.11 – Manual of uniform traffic control devices, Part 11: Parking controls. (iii) a waiting area with shelter, seats and a bin in accordance with P2.1 – P2.4, S2, Outcome 1, Table 2 of <i>Planning for Safe Transport Infrastructure at Schools</i>. | (a) and (b) Prior to the commencement of use for Stage 5 |
| 9. | <p>The property access and internal roadway shown on Masterplan 2041 School B&W, prepared by Life Design, dated 10/10/2023, drawing number 162/A041c and issue 6 (as amended in red) must be designed and constructed to be in accordance with the following to accommodate a single unit rigid bus of 14.5m in length:</p> <ul style="list-style-type: none"> (c) accommodate the swept path of a single unit rigid bus of 14.5m in length in accordance with Austroads Design Vehicles and Turning Path Templates; (d) include wayfinding signage to identify the separate vehicular routes to passenger loading zones, parking areas, exits and the like in accordance with the Queensland Manual of Uniform Traffic Control Devices, Part 2: Traffic Control Devices for General Use; and (e) provide priority movement to the 'bus route' over private vehicle routes by installing give way pavement marking and signage in accordance with sections 2.5 and 5.5.2 of Queensland Manual of Uniform Traffic Control Devices, Part 2: Traffic Control Devices for General Use. | Prior to the commencement of use for the relevant stage |
| Pedestrian and cyclist access | | |
| 10. | <p>(a) Provide the external and internal pedestrian pathway network, generally in accordance with the Stage 1 Plan – Parking and Drop-off, prepared by Life Design, dated 24/07/2023, drawing number 162/A112 and issue 3 (as amended by SARA in red).</p> <p>(b) The active transport network in part (a) of this condition must be in accordance with Table 1: Active Transport and Schedule 1 of <i>Planning for Safe Transport Infrastructure at Schools</i>.</p> | (a) and (b) Prior to the commencement of use for the relevant stage |

2311-38006 SRA

Attachment 2—Advice to the applicant and assessment manager

Advice to the applicant:

| General advice | |
|-------------------------------|--|
| 1. | Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> , its regulation or the State Development Assessment Provisions (SDAP) (version 3.0). If a word remains undefined it has its ordinary meaning. |
| Clearing of native vegetation | |
| 2. | To request an electronic file of the GPS coordinates/Derived Reference Points contained in an Attachment of this decision notice, email a request to the Department of Resources at vegetation.support@resources.qld.gov.au include application reference 2311-38006 SRA. |
| Works on a railway corridor | |
| 3. | <p>Pursuant to section 255 of the <i>Transport Infrastructure Act 1994</i>, the railway manager's written approval is required to carry out works in or on a railway corridor or otherwise interfere with the railway or its operations.</p> <p>All works in the railway corridor such as but not limited to pipeline crossings, service and utility connections and level crossing upgrades will require relevant approvals to be obtained from the railway manager such as a licence to enter and construct and a wayleave agreement. Please refer to Queensland Rail specification MD-20-173 – <i>Civil Non-Queensland Rail Underground Services in Queensland Rail Property</i>.</p> <p>Please note: The Department of Transport and Main Roads advise that the upgrades to the railway level crossing will be designed and constructed by the railway manager (Queensland Rail) or its approved contractor at the applicant's expense. The applicant is responsible for obtaining any necessary approvals, contract arrangements, and/or other agreements from the railway manager for the design and construction of the upgraded level crossing.</p> <p>You will also need to contact the railway manager to discuss available track closures to schedule the work, if approved.</p> <p>Please be advised that this referral agency response does not constitute an approval under section 255 of the <i>Transport Infrastructure Act 1994</i> and that such approvals need to be separately obtained from the railway manager.</p> <p>The applicant should contact the Queensland Rail property team at QRPropertyWayleaves@qr.com.au in relation to obtaining the necessary approvals.</p> |

Advice to the Assessment Manager under section 56(3) of the *Planning Act 2016*:

| General advice | |
|----------------|---|
| 1. | <p>The railway level crossing of the Mungana Branch Line at Chewko Road (ID: LXR_02336) is a public level crossing and will need to be included within the Interface Agreement with Queensland Rail.</p> <p>Please contact Queensland Rail to discuss this - QRPropertyWayleaves@qr.com.au</p> |

Attachment 3—Reasons for referral agency response

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

The reasons for the SARA's decision are:

The development complies with SDAP State code 6: Protection of state transport networks. Specifically, the development:

- Does not have an adverse impact on state transport infrastructure, public passenger transport infrastructure, active transport infrastructure and public passenger services
- Maintains the operating performance of the transport network;
- Ensures development enables safe and convenient access to public passenger transport
- does not create a safety hazard for users of state transport infrastructure or public passenger services
- does not result in a worsening of the physical condition or operating performance of the state transport network
- does not compromise the state's ability to cost-effectively construct, operate and maintain state transport infrastructure
- provides public passenger transport infrastructure to enable development to be serviced by public passenger transport;
- provides safe and direct access to public passenger transport infrastructure or active transport infrastructure, including access by cycling and walking.

The development complies with SDAP State code 16: Native vegetation clearing. Specifically, the development:

- clearing is minimised in order to conserve vegetation, avoid land degradation and loss of biodiversity, and maintain ecological processes;
- greenhouse gas contributions are minimised through continued ability for carbon sequestration processes to occur;
- adequate vegetation is maintained to sustainably manage the impacts of clearing on ecosystems and biodiversity, and avoids significant residual impacts upon MSEs; and
- impacts on vegetation are minimised where avoidance is not possible.
- There are no notices requiring compliance, vegetation management requirements or legally secured offset areas within the development site.

Material used in the assessment of the application:

- the development application material and submitted plans
- Planning Act 2016
- Planning Regulation 2017
- the SDAP (version 3.0), as published by SARA
- the Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- section 58 of the Human Rights Act 2019

Attachment 4—Representations about a referral agency response provisions

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2311-38008 SRA

Attachment 5—Documents referenced in conditions

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Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules¹ regarding representations about a referral agency response

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

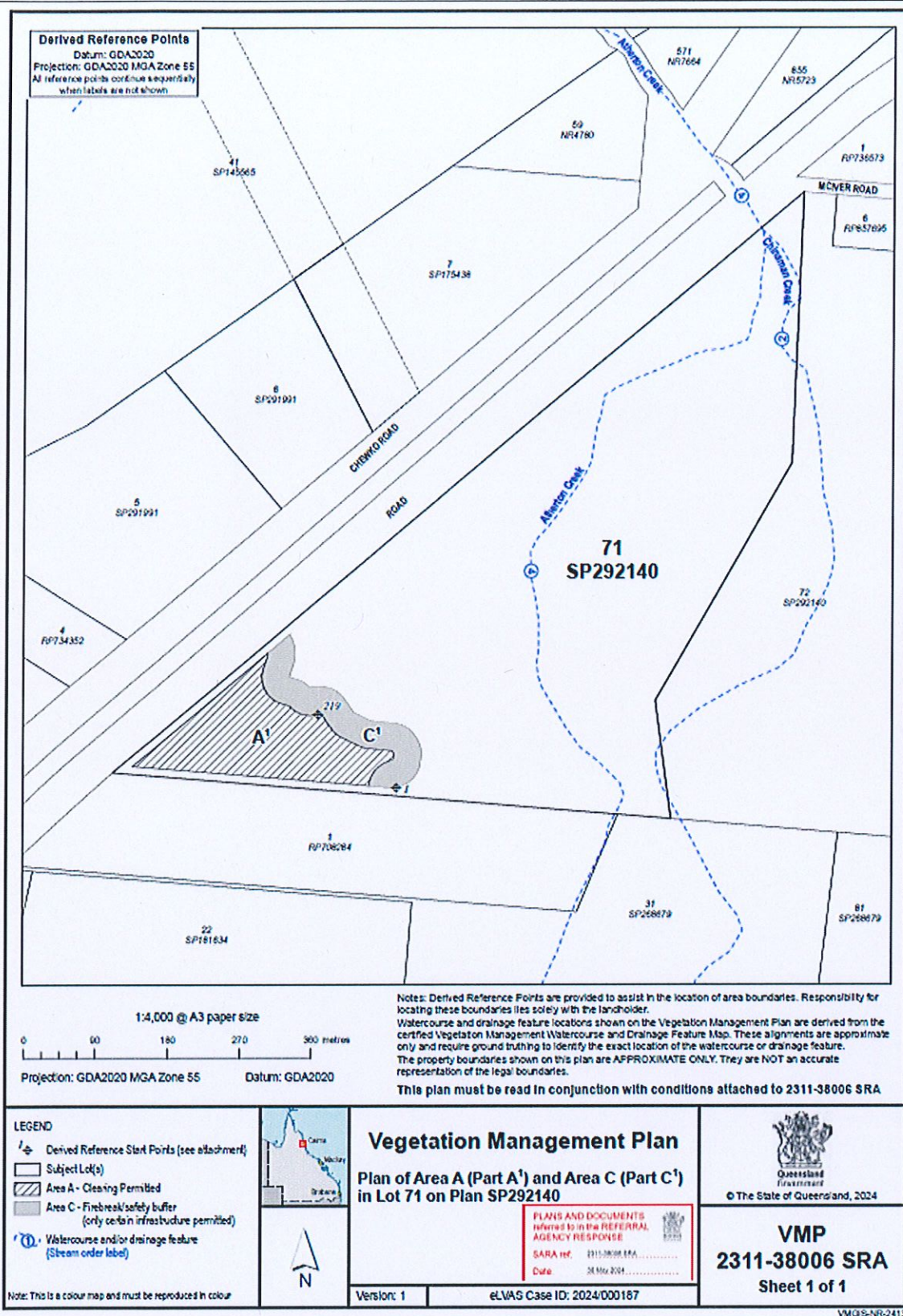
² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

Part 7: Miscellaneous

30 Representations about a referral agency response

30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.



Attachment to Plan: 2311-38006 SRA
Derived Reference Points
Datum: GDA2020, Projection: MGA Zone 55

Notes: Derived Reference Points are provided to assist in the location of area boundaries.
 Responsibility for locating these boundaries lies solely with the landholder and delegated contractor(s).
 Coordinates start at a point indicated on the accompanying plan and continue sequentially when labels are not shown.

PLANS AND DOCUMENTS
 referred to in the REFERRAL
AGENCY RESPONSE



SARA ref: 2311-38006 SRA.....

Date: 30 May 2024.....

| Part ID | Unique ID | Easting | Northing |
|---------|-----------|---------|----------|
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| C1 | 8 | 329209 | 8117269 |
| C1 | 9 | 329214 | 8117272 |
| C1 | 10 | 329218 | 8117274 |
| C1 | 11 | 329218 | 8117274 |
| C1 | 12 | 329226 | 8117278 |
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| C1 | 30 | 329178 | 8117298 |
| C1 | 31 | 329176 | 8117298 |
| C1 | 32 | 329174 | 8117299 |
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| C1 | 34 | 329169 | 8117302 |
| C1 | 35 | 329162 | 8117305 |
| C1 | 36 | 329158 | 8117307 |
| C1 | 37 | 329154 | 8117310 |
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| C1 | 51 | 329132 | 8117335 |
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| C1 | 55 | 329113 | 8117334 |
| C1 | 56 | 329108 | 8117336 |
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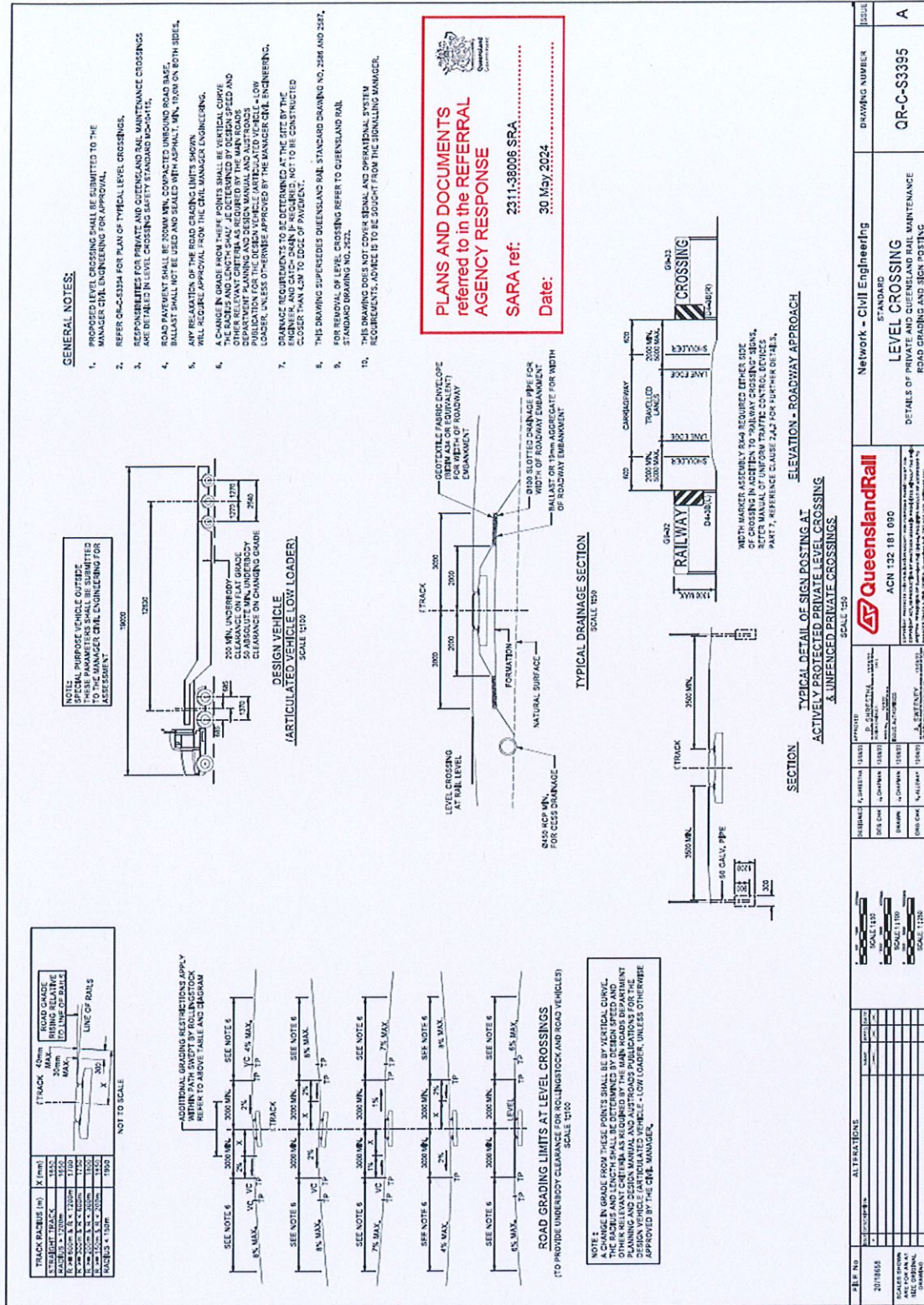
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| C1 | 92 | 329102 | 8117413 |
| C1 | 93 | 329103 | 8117411 |
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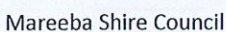
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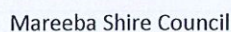
Date: 30 May 2024

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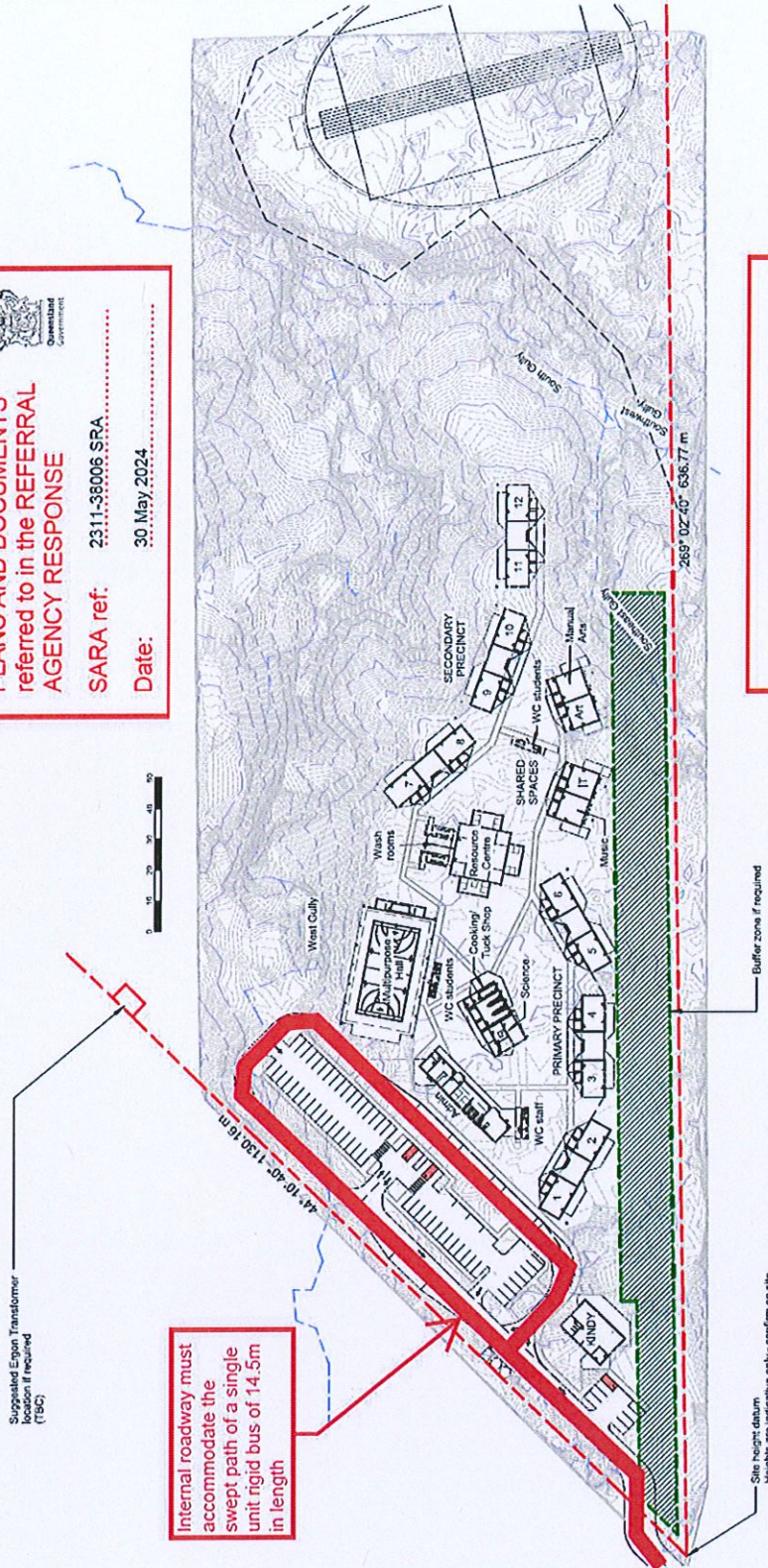






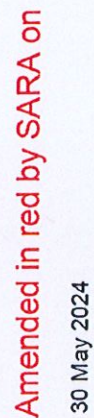
PLANS AND DOCUMENTS
referred to in the REFERRAL
AGENCY RESPONSE

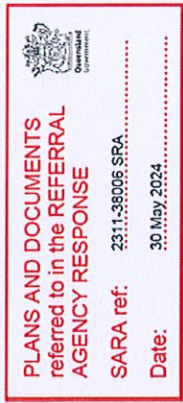
SARA ref: 2311-38006 SRA
Date: 30 May 2024




Amended in red by SARA on
30 May 2024

| | | | | | | |
|--------------------------------------|--|--|--|--|--|--|
| LIFE Design CONSULTANTS | Two Rivers Community School, Mareeba 267 Melver Road, Mareeba QLD 4883 (access off Chewko Road) Lot 71 on SP292140, 287,300sqm, Zoned Rural | | 1:1250 @ A3 Masterplan 2041 School B&W 162 / A041c 10/10/2023 15:35:19 | | Contact: Stuart Wilmshurst 0400030375, stuart@lifedesign.com.au, www.lifedesign.com.au | |
| | 1. Concept Design 2. Preliminary Design 3. Detailed Design 4. Construction Management 5. Operation & Maintenance 6. Decommissioning | 1. Concept Design 2. Preliminary Design 3. Detailed Design 4. Construction Management 5. Operation & Maintenance 6. Decommissioning | 1. Concept Design 2. Preliminary Design 3. Detailed Design 4. Construction Management 5. Operation & Maintenance 6. Decommissioning | 1. Concept Design 2. Preliminary Design 3. Detailed Design 4. Construction Management 5. Operation & Maintenance 6. Decommissioning | 1. Concept Design 2. Preliminary Design 3. Detailed Design 4. Construction Management 5. Operation & Maintenance 6. Decommissioning | 1. Concept Design 2. Preliminary Design 3. Detailed Design 4. Construction Management 5. Operation & Maintenance 6. Decommissioning |

Mareeba Shire Council





Two Rivers Community School, Mareeba
 267 Melver Road, Mareeba QLD 4883 (access off Chewko Road)
 Lot 71 on SP292140, 287,300sqm, Zoned Rural

Final Plan - Parking and Drop-off
 162 / A162
 1:500 @ A3

| Revised | By | Date |
|---------|------------------------|------------|
| 3 | Michael Peckley (Lead) | 24.02.2025 |
| 2 | Michael Peckley | 23.02.2025 |
| 1 | Michael Peckley | 22.02.2025 |

Project: Mareeba Warrumbarr School 2305-2335, 2400 742, 2400 743, 2400 744, 2400 745, 2400 746, 2400 747, 2400 748, 2400 749, 2400 750, 2400 751, 2400 752, 2400 753, 2400 754, 2400 755, 2400 756, 2400 757, 2400 758, 2400 759, 2400 760, 2400 761, 2400 762, 2400 763, 2400 764, 2400 765, 2400 766, 2400 767, 2400 768, 2400 769, 2400 770, 2400 771, 2400 772, 2400 773, 2400 774, 2400 775, 2400 776, 2400 777, 2400 778, 2400 779, 2400 780, 2400 781, 2400 782, 2400 783, 2400 784, 2400 785, 2400 786, 2400 787, 2400 788, 2400 789, 2400 790, 2400 791, 2400 792, 2400 793, 2400 794, 2400 795, 2400 796, 2400 797, 2400 798, 2400 799, 2400 800, 2400 801, 2400 802, 2400 803, 2400 804, 2400 805, 2400 806, 2400 807, 2400 808, 2400 809, 2400 810, 2400 811, 2400 812, 2400 813, 2400 814, 2400 815, 2400 816, 2400 817, 2400 818, 2400 819, 2400 820, 2400 821, 2400 822, 2400 823, 2400 824, 2400 825, 2400 826, 2400 827, 2400 828, 2400 829, 2400 830, 2400 831, 2400 832, 2400 833, 2400 834, 2400 835, 2400 836, 2400 837, 2400 838, 2400 839, 2400 840, 2400 841, 2400 842, 2400 843, 2400 844, 2400 845, 2400 846, 2400 847, 2400 848, 2400 849, 2400 850, 2400 851, 2400 852, 2400 853, 2400 854, 2400 855, 2400 856, 2400 857, 2400 858, 2400 859, 2400 860, 2400 861, 2400 862, 2400 863, 2400 864, 2400 865, 2400 866, 2400 867, 2400 868, 2400 869, 2400 870, 2400 871, 2400 872, 2400 873, 2400 874, 2400 875, 2400 876, 2400 877, 2400 878, 2400 879, 2400 880, 2400 881, 2400 882, 2400 883, 2400 884, 2400 885, 2400 886, 2400 887, 2400 888, 2400 889, 2400 890, 2400 891, 2400 892, 2400 893, 2400 894, 2400 895, 2400 896, 2400 897, 2400 898, 2400 899, 2400 900, 2400 901, 2400 902, 2400 903, 2400 904, 2400 905, 2400 906, 2400 907, 2400 908, 2400 909, 2400 910, 2400 911, 2400 912, 2400 913, 2400 914, 2400 915, 2400 916, 2400 917, 2400 918, 2400 919, 2400 920, 2400 921, 2400 922, 2400 923, 2400 924, 2400 925, 2400 926, 2400 927, 2400 928, 2400 929, 2400 930, 2400 931, 2400 932, 2400 933, 2400 934, 2400 935, 2400 936, 2400 937, 2400 938, 2400 939, 2400 940, 2400 941, 2400 942, 2400 943, 2400 944, 2400 945, 2400 946, 2400 947, 2400 948, 2400 949, 2400 950, 2400 951, 2400 952, 2400 953, 2400 954, 2400 955, 2400 956, 2400 957, 2400 958, 2400 959, 2400 960, 2400 961, 2400 962, 2400 963, 2400 964, 2400 965, 2400 966, 2400 967, 2400 968, 2400 969, 2400 970, 2400 971, 2400 972, 2400 973, 2400 974, 2400 975, 2400 976, 2400 977, 2400 978, 2400 979, 2400 980, 2400 981, 2400 982, 2400 983, 2400 984, 2400 985, 2400 986, 2400 987, 2400 988, 2400 989, 2400 990, 2400 991, 2400 992, 2400 993, 2400 994, 2400 995, 2400 996, 2400 997, 2400 998, 2400 999, 2400 1000, 2400 1001, 2400 1002, 2400 1003, 2400 1004, 2400 1005, 2400 1006, 2400 1007, 2400 1008, 2400 1009, 2400 1010, 2400 1011, 2400 1012, 2400 1013, 2400 1014, 2400 1015, 2400 1016, 2400 1017, 2400 1018, 2400 1019, 2400 1020, 2400 1021, 2400 1022, 2400 1023, 2400 1024, 2400 1025, 2400 1026, 2400 1027, 2400 1028, 2400 1029, 2400 1030, 2400 1031, 2400 1032, 2400 1033, 2400 1034, 2400 1035, 2400 1036, 2400 1037, 2400 1038, 2400 1039, 2400 1040, 2400 1041, 2400 1042, 2400 1043, 2400 1044, 2400 1045, 2400 1046, 2400 1047, 2400 1048, 2400 1049, 2400 1050, 2400 1051, 2400 1052, 2400 1053, 2400 1054, 2400 1055, 2400 1056, 2400 1057, 2400 1058, 2400 1059, 2400 1060, 2400 1061, 2400 1062, 2400 1063, 2400 1064, 2400 1065, 2400 1066, 2400 1067, 2400 1068, 2400 1069, 2400 1070, 2400 1071, 2400 1072, 2400 1073, 2400 1074, 2400 1075, 2400 1076, 2400 1077, 2400 1078, 2400 1079, 2400 1080, 2400 1081, 2400 1082, 2400 1083, 2400 1084, 2400 1085, 2400 1086, 2400 1087, 2400 1088, 2400 1089, 2400 1090, 2400 1091, 2400 1092, 2400 1093, 2400 1094, 2400 1095, 2400

Appeal Rights

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

(1) Schedule 1 of the Planning Act 2016 states –

- (a) Matters that may be appealed to –
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
- (b) The person-
 - (i) who may appeal a matter (**the appellant**); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.

(Refer to Schedule 1 of the Planning Act 2016)

(2) An appellant may start an appeal within the appeal period.

(3) The **appeal period** is –

- (a) for an appeal by a building advisory agency – 10 business days after a decision notice for the decision is given to the agency; or
- (b) for an appeal against a deemed refusal – at any time after the deemed refusal happens; or
- (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises – 20 business days after a notice is published under section 269(3)(a) or (4); or
- (d) for an appeal against an infrastructure charges notice – 20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given – 30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for any other appeal – 20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note –

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt. It is declared that an appeal against an infrastructure charges notice must not be about-
 - (a) the adopted charge itself; or

- (b) for a decision about an offset or refund-
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that-
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar must, within the service period, give a copy of the notice of appeal to –
 - (a) the respondent for the appeal ; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, table 1, item 1 – each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2 – each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and
 - (f) for an appeal to the P&E Court – the chief executive; and
 - (g) for an appeal to a tribunal under another Act – any other person who the registrar considers appropriate.
- (4) The *service period* is –
 - (a) if a submitter or advice agency started the appeal in the P&E Court – 2 business days after the appeal has started; or
 - (b) otherwise – 10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

231 Other appeals

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section –
decision includes-
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or failure to make a decision; and
 - (d) a purported decision ; and

- (e) a deemed refusal.
non-appealable, for a decision or matter, means the decision or matter-
- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the Judicial Review Act 1991 or otherwise, whether by the Supreme Court, another court, a tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with the rules of the P&E Court.