

PLANNING REPORT

SUBJECT: PLANNING REPORT - DO NOT TYPE OVER THIS FIELD THIS IS A PRECIS FIELD AND WILL POPULATE AFTER REGISTRATION F ZUVELA - MATERIAL CHANGE OF USE - NON-RESIDENT WORKFORCE ACCOMMODATION - LOT 1 ON RP745857 - 271 SPRINGS ROAD, PADDY'S GREEN - MCU/17/0016

MEETING: Ordinary

MEETING DATE: 18 April 2018

REPORT OFFICER'S TITLE: Planning Officer

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	F Zuvela	ADDRESS	271 Springs Road, Paddy's Green
DATE LODGED	11 January 2018	RPD	Lot 1 on RP745857
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Non-resident Workforce Accommodation		

FILE NO	MCU/17/0016	AREA	1 hectare
LODGED BY	Veris	OWNER	F & L Zuvela
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural		
LEVEL OF ASSESSMENT	Impact Assessment		
SUBMISSIONS	One (1)		

ATTACHMENTS: 1. Proposal Plan/s
3. Submitter letter/s

EXECUTIVE SUMMARY

Council is in receipt of an impact assessable development application described in the above application details. During public notification of the application, one (1) submission was received.

The purpose of the development application is twofold in that a development permit is sought for the existing unlawfully established non-resident workforce accommodation (20 beds) as well as a future stage providing a further 20 beds (40 beds total). The farm workers (residents) staying on site are transported to their places of employment (farms) via minibus/van only.

The proposed development is considered an agricultural support use as it will provide additional non-resident workforce accommodation for the Shire, with non-resident farm workers heavily relied upon by the Shire's agricultural sector.

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

The key issue with the proposed development is the proximity of the proposed accommodation facility to an active fruit orchard established on the larger rural lot adjacent the site. Although best practice land use planning would encourage an increased setback between sensitive land uses and active farmland, given the nature of the proposed use (short - medium term accommodation for farm workers only) the development is likely to be more resilient and subsequently less susceptible to land use conflict arising from adjoining farming activity.

Furthermore, it is considered that the adjoining agricultural land is already somewhat alienated by the presence of the development site, being a standalone rural lifestyle allotment. The proposed use of the subject site to provide farm worker accommodation which will directly support agricultural activity in the Shire is considered to be a sound use of the land and will value-add to the Shire's agricultural sector.

Conditions will be attached to any approval to minimise the likelihood of land use conflict occurring.

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

OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
APPLICANT	F Zuvela	ADDRESS	271 Springs Road, Paddy's Green
DATE LODGED	11 January 2018	RPD	Lot 1 on RP745857
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Non-resident Workforce Accommodation		

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

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

And

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

(A) **APPROVED DEVELOPMENT:** Development Permit for Material Change of Use - Non-resident Workforce Accommodation

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
32568-001	Proposed Workers Accommodation on Lot 1 on RP745857	Veris	15/11/17

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

1. Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:

- found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
- to ensure compliance with the following conditions of approval.

2. Timing of Effect

2.1 The conditions of the development permit for each stage of the development must be complied with to the satisfaction of Council's delegated officer prior to the commencement of the use for each stage, except where specified otherwise in these conditions of approval.

2.2 Prior to the commencement of use for each stage, the applicant must demonstrate to Council that all the conditions of the development permit for the relevant stage have been complied with, except where specified otherwise in these conditions of approval.

3. General

For Stage 1 and 2 (unless otherwise stated)

3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure or the additional payment condition/s within these conditions of approval.

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 for each stage and at the rate applicable at the time of payment.

3.4 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council's delegated officer.

3.5 Noise Nuisance

3.5.1 The applicant/developer must ensure the use is operated and managed (including noise generated by residents) to not exceed a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations.

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

3.6 Waste Management

3.6.1 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.

3.6.2 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.

3.7 Bushfire Management

3.7.1 The applicant/developer must ensure the development is provided with a minimum 5,000 litres of water storage for fire-fighting purposes in proximity to the approved use. Where tank storage is proposed, a 50mm male camlock fire brigade fitting must be installed.

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

3.8 Length of Stay

The maximum length of stay for guests must not typically exceed 6 consecutive months, unless otherwise approved by Council's delegated officer.

3.9 Accommodation Capacity

For Stage 1

No more than 20 individual farm workers shall be accommodated on-site at any given time.

For Stage 2

No more than 40 individual farm workers shall be accommodated on-site at any given time.

3.10 Notification of Potential Rural Zone Impacts

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

"Guests should take note:

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

3.11 Residents accommodated by the approved use must be farm workers only.

The applicant/developer or any subsequent landowner/operator must keep a log book of all residents accommodated at the approved use which must include the dates of accommodation and the farm/s in which they were employed.

Any person not employed as a farm worker is not permitted to stay at the approved use.

3.12 Building Setback (Stage 2 only)

Both stage 2 accommodation buildings must be setback a minimum of 10 metres from the side and rear boundaries of the site.

4. Infrastructure Services and Standards

For Stage 1 and 2 (unless otherwise stated)

4.1 Access

The access crossover identified on the approved plan/s must be upgraded/constructed (from the edge of Springs Road and for a length of no less than 10 metres) in accordance with FNQROC Development Manual standards, to the satisfaction of Council's delegated officer.

Access to the development is limited to the abovementioned access only. No guests, visitors or service vehicles are permitted to access the approved use via any other site access point.

4.2 Stormwater Drainage/Water Quality

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

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

4.3 Car Parking/Internal Driveways

For Stage 1

- 4.3.1 Prior to the commencement of the use, the applicant/developer must ensure the development is provided with 2 minibus/van parking spaces which are available solely for the parking of vehicles associated with the approved use.

The parking spaces must be constructed to a compacted gravel standard, delineated and appropriately drained prior to the commencement of the use and must be maintained to this standard for the life of the development, to the satisfaction of Council's delegated officer.

For Stage 2

- 4.3.2 Prior to the commencement of the use, the applicant/developer must ensure the development is provided with 2 additional minibus/van parking spaces (4 total) which are available solely for the parking of vehicles associated with the approved use.

The parking spaces must be constructed to a compacted gravel standard, delineated and appropriately drained prior to the commencement of the use and must be maintained to this standard for the life of the development, to the satisfaction of Council's delegated officer.

For Stage 1 and 2

- 4.3.3 All internal driveways servicing the development must be upgraded/constructed to a compacted gravel standard and maintained for the life of the development, to the satisfaction of Council's delegated officer.

- 4.3.4 Car parking associated with the approved use is not permitted within the Springs Road road reserve at any time.

4.4 Fencing

For Stage 1

- 4.4.1 The applicant/developer must erect the following solid screen boundary fencing, at a height of 2.4 metres, and constructed of timber (overlapping palings) or colorbond/iron of neutral colour:

- (i) From the south-west corner of the site along the western boundary of the site to the southern end of the "existing shed" identified on the submitted plan/s; and
- (ii) From the south-west corner of the site along the southern boundary of the site to a point 10 metres past the easternmost "5 x 2 bed accommodation rooms" building identified on the submitted plan/s.

For Stage 2

4.4.2 The fencing required under 4.4.1 (ii) above must be extended along the southern boundary of the site to a point 10 metres past the easternmost accommodation building for Stage 2. The fencing must be of the height and standard required under 4.4.1.

All fencing must be erected prior to the commencement of the use for each stage and 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 Water Supply

4.5.1 The development must be provided with a potable water supply that satisfies 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).

4.5.2 All non-potable water supplied to the development must be clearly labelled at each tap - Non-Potable Water - not safe for Human Consumption.

4.6 On-Site Wastewater Management

All on site effluent disposal associated with the approved uses must be in compliance with the latest version of On-Site Domestic Wastewater Management Standard (AS/NZS 1547) 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.

5. Additional Payment Condition (For Stage 1 and 2)

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 Prior to the commencement of the use for each stage, the applicant/developer must pay a one-off payment of \$1,800.00 **per stage** 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 infrastructure servicing the land (roads)

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

(D) ASSESSMENT MANAGER'S ADVICE

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

- (b) Compliance with applicable codes/policies

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

- (c) Compliance with Acts and Regulations

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

- (d) Environmental Protection and Biodiversity Conservation Act 1999

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

- (e) Cultural Heritage

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

(F) RELEVANT PERIOD

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

- Material Change of Use – six (6) years (starting the day the approval takes effect);

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

- Development Permit for Building Work

(H) OTHER APPROVALS REQUIRED FROM COUNCIL

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

THE SITE

The subject site is situated at 271 Springs Road, Paddy's Green and is described as Lot 1 on RP745857. The site has a regular shape with an area of 1 hectare and is zoned Rural under the Mareeba Shire Council Planning Scheme 2016. The site is accessed from Springs Road via a gravel access crossover sited on the western half of the frontage. Springs Road is constructed to a two-lane bitumen sealed standard for the full frontage of the site and back to its intersection with the Mareeba - Dimbulah Road.

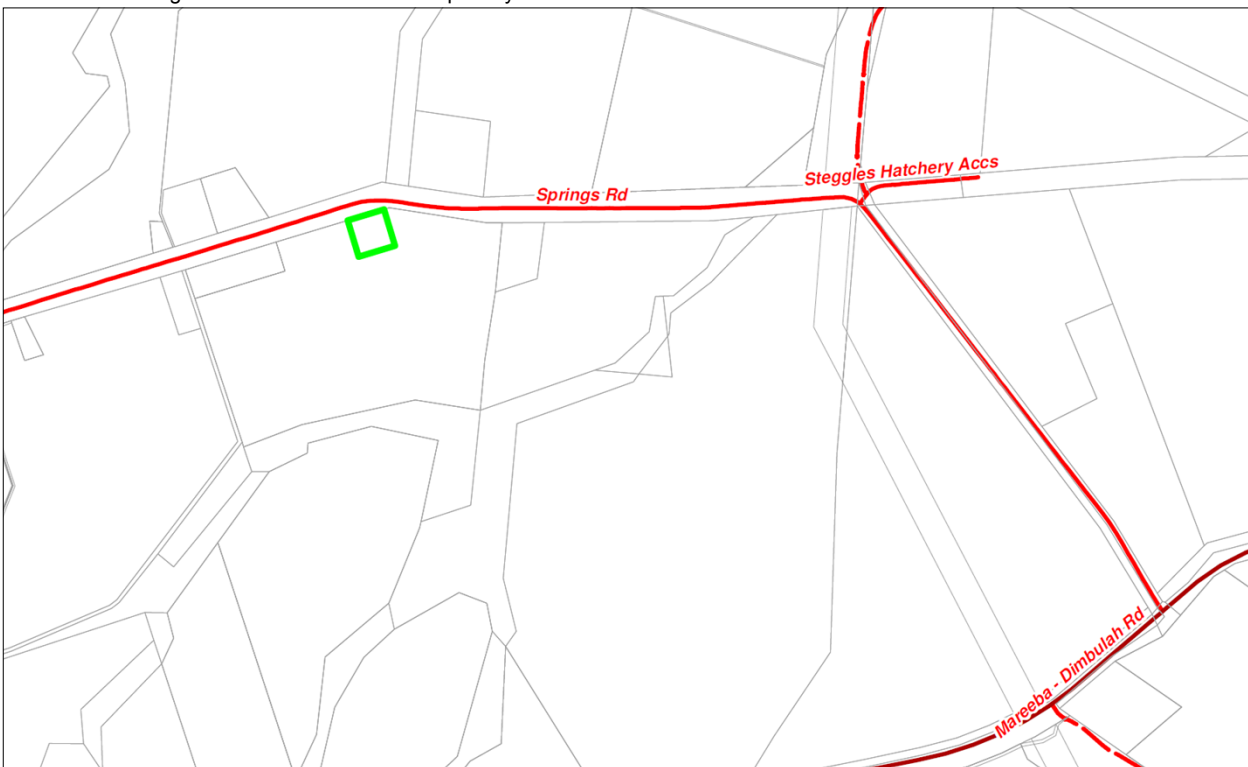
The site is generally flat and is improved by a number of structures built on the western half of the property which include a dwelling, multiple outbuildings, swimming pool and the existing non-resident workforce accommodation facility situated in the south-west corner. Approximately 70 fruit trees are established on the site.

All surrounding lots are zoned Rural, varying in size and use with some being small rural lifestyle allotments and others being larger rural holdings containing established orchards and other cropping activities.



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

It is understood that the applicants (landowners) have been using the established accommodation complex on and off since 2012 under the assumption that no development permits were required from Council.

Council received a complaint about the accommodation activity in early September 2017 and a compliance notice was issued to the landowner on 27 September 2017. Shortly after, the accommodation activity ceased operation and the landowner (applicant) engaged Veris to prepare and submit this application for a development permit for Material Change of Use - Non-resident Workforce Accommodation.

PREVIOUS APPLICATIONS & APPROVALS

Nil

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Material Change of Use - Non-resident Workforce Accommodation in accordance with the plans shown in **Attachment 1**.

The application provides the following description of the proposed development:

"The purpose of the application is twofold in that the applicants desire to obtain development permits for:

- *The existing unlawful accommodation use (20 beds); and*
- *Additional accommodation for 20 beds.*

The development will be undertaken in two (2) stages. Stage 1 being for the existing unlawful use and Stage 2 being for an additional 20 beds. The proposal is for the accommodation of up to 40 beds onsite.

The existing workers accommodation is depicted as Stage 1 on proposal plan 32568-001A, Appendix 10, and consists of:

- *Two (2) x 5 bedroom dongas with two beds/room;*
- *Two (2) ablutions blocks (6 toilets and 7 showers);*
- *Communal kitchen and dining area; and*
- *Recreation areas (covered and open)*

Stage 2 of the proposal will result in an additional two (2) x 5 bedroom dongas to be placed onsite providing accommodation for a further 20 beds. It is proposed that the existing ablution/kitchen/dining areas will be shared between the occupants. Additional recreation areas will be provided in proximity of the proposed accommodation donga.

The demographic of the workforce are fit, able bodied males. This eliminates the requirement for handicap access and separate male/female living quarters. The workers are provided a single vehicle (mini bus) from Jobs Australia Enterprises Ltd to transport themselves to and from the place of work. The use will result in a single vehicle being parked onsite. Parking for two (2) vehicles is provided at the front of the site. Additional vehicle parking is not required as the workers do not own vehicles.

The demand for non-resident workforce accommodation is surpassing supply. The proposal demonstrates that the use is appropriate for the site and locality."

REGIONAL PLAN DESIGNATION

The subject site is included within the Regional Landscape and Rural Production Area land use category in the Far North Queensland Regional Plan 2009-2031. The site does not contain any areas of ecological significance, as mapped by the Regional Plan.

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories • <i>Rural Agricultural Area</i>
Zone:	Rural
Overlays:	Agricultural Land Overlay Bushfire Hazard Overlay

Planning Scheme Definitions

The proposed use is defined as:-

Column 1 Use	Column 2 Definition	Column 3 Examples include	Column 4 Does not include the following examples
<i>Non-resident workforce accommodation</i>	<i>Premises used to provide accommodation for non-resident workers. The use may include provision of recreation and entertainment facilities for the exclusive use of residents and their visitors</i>	<i>Contractor's camp, construction camp, single person's quarters, temporary worker's accommodation</i>	<i>Relocatable home park, short-term accommodation, tourist park</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

3.3.11 Element - Rural areas

3.3.11.1 Specific Outcomes

- (1) *Rural areas include rural activities and land uses of varying scale, consistent with surrounding land use, character and site conditions.*

Comment

The proposed development is for a non-resident workforce accommodation complex to accommodate a maximum of 40 farm workers (over two stages) for short-medium term periods (generally six months) and is considered an agricultural support use. The development is not considered to be an inconsistent land use within the Rural zone.

The proposed development is not likely to detrimentally impact on adjoining uses, is considered complementary to the Rural zone (providing for a shortfall in farm worker accommodation) and is proportionate in scale considering the size of the site.

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

3.7 Economic Development

3.7.2 Element - Rural and Agricultural land

3.7.2.1 Specific outcomes

- (1) *Agricultural areas are preserved for the purpose of primary production and are protected from fragmentation, alienation and incompatible development.*
- (3) *Urban and rural residential development provides a buffer to adjacent rural areas in accordance with best practice.*

Comment

The land immediately adjacent the proposed accommodation complex contains an active mango orchard. Although best practice land use planning would encourage an increased setback between sensitive land uses and active farmland, given the nature of the proposed use (short - medium term accommodation for farm workers only) the development is likely to be more resilient and subsequently less susceptible to land use conflict arising from adjoining farming activity. Furthermore, conditions will be attached to any approval requiring boundary treatments to minimise the likelihood of land use conflict. These conditions will include 2.4 metre high solid screen boundary fencing as well as signage warning guests of the potential for negative emissions associated with adjoining farming activities (noise, dust, spray drift etc.).

It is considered that the adjoining agricultural land is already somewhat alienated by the presence of the subject site which is a standalone rural lifestyle allotment. The proposed use of the subject site to provide farm worker accommodation which will directly support

agricultural activity in the Shire is considered to be a reasonable and beneficial outcome for the subject site and surrounding rural zone. The proposed development is not likely to compromise Specific Outcomes 1 and 3.

- (4) *Built infrastructure and non-agricultural uses within farms will be co-located and clustered with existing farm dwellings and infrastructure to prevent encroachment on productive land.*

Comment

The subject site, with an area of just 1 hectare, is not considered to be agriculturally viable, as is evidenced by the use of the land as a rural lifestyle lot with a hobby orchard only. The proposed development will therefore not encroach on any productive agricultural land and is not considered to be in conflict with Specific Outcome 4.

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

Comment

The land immediately adjacent the proposed accommodation complex contains an active mango orchard. Although best practice land use planning would encourage an increased setback between sensitive land uses and active farmland, given the nature of the proposed use (short - medium term accommodation for farm workers only) the development is likely to be more resilient and subsequently less susceptible to land use conflict arising from adjoining farming activity. Furthermore, conditions will be attached to any approval requiring boundary treatments to minimise the likelihood of land use conflict. These conditions will include 2.4 metre high solid screen boundary fencing as well as signage warning guests of the potential for negative emissions associated with adjoining farming activities (noise, dust, spray drift etc.).

It is considered that the adjoining agricultural land is already somewhat alienated by the presence of the subject site which is a standalone rural lifestyle allotment. The proposed use of the subject site to provide farm worker accommodation which will directly support agricultural activity in the Shire is considered to be a reasonable and beneficial outcome for the subject site and surrounding rural zone. The proposed development is not likely to compromise Specific Outcomes 5.

Relevant Development Codes

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

- 6.2.9 Rural zone code
- 8.2.1 Agricultural land overlay code
- 8.2.3 Bushfire hazard overlay code
- 9.3.1 Accommodation activities code
- 9.4.2 Landscaping code
- 9.4.3 Parking and access code
- 9.4.5 Works, services and infrastructure code

The application included a planning report and assessment against the planning scheme. An officer assessment has found that the application satisfies the relevant acceptable solutions (or probable solutions/performance criteria where no acceptable solution applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
Rural Zone Code	<p>The application can be conditioned to comply with the relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome provided) apart from the following:</p> <ul style="list-style-type: none"> ▪ Acceptable Outcome AO2.1 ▪ Acceptable Outcome AO3.1 <p>Refer to planning discussion section of report.</p>
Agricultural Land Overlay Code	<p>The application can be conditioned to comply with the relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome provided). Further discussion is warranted regarding the following performance outcomes:</p> <ul style="list-style-type: none"> ▪ Performance Outcome PO1 ▪ Performance Outcome PO2 ▪ Performance Outcome PO3 <p>Refer to planning discussion section of report.</p>
Bushfire Hazard Overlay Code	<p>The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).</p>
Accommodation Activities Code	<p>The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).</p>
Landscaping Code	<p>The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).</p>
Parking and Access Code	<p>The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).</p>
Works, Services and Infrastructure Code	<p>The application can be conditioned to comply with the codes relevant acceptable outcomes and/or performance outcomes (where no acceptable outcome is provided).</p>

(e) Planning Scheme Policies/Infrastructure Charges Plan

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

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

(f) Additional Trunk Infrastructure Condition - Road Infrastructure

The subject land is located outside the identified Priority Infrastructure Area (PIA).

Each stage of the development is expected to generate the following vehicle movements:

Stage 1 - 2 minibus/vans generating 4 vehicle movements per day; and

Stage 2 - 2 additional minibus/vans generating a further 4 vehicle movements per day (8 total)

Under Planning Scheme Policy No. 6, the base contribution of \$4,500.00 is equivalent to the traffic from a standard allotment or 10 vehicle movements per day. As such, the contribution applicable to this development would be:

Stage 1 - $\$4,500 \times 0.4 = \$1,800.00$

Stage 2 - $\$4,500 \times 0.4 = \$1,800.00$

These contributions have been applied in Condition 5 of the Officer Recommendation.

REFERRALS

This application did not trigger a referral.

Internal Consultation

Building and Plumbing Departments

PUBLIC NOTIFICATION

The development proposal was placed on public notification from 19 January 2018 to 9 February 2018. The applicant submitted the notice of compliance on 12 February 2018 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

One (1) submission was received

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

Grounds for objection /support	Comment
1. Rubbish generated from the previous unlawful operation of the non-resident workforce accommodation is impacting on the adjoining property. The JJ Richards skip bin that services the subject site and that will service the proposed development is situated on this same adjoining property.	As part of the assessment and approval process, Council can condition the development to be provided with adequate refuse storage, however it is the responsibility of the site manager and residents to ensure rubbish is disposed of properly. This could also be considered a police matter. A condition has been attached to any approval requiring any refuse storage to be located wholly within the site and screened from view from adjoining properties and Springs Road users.
2. The submitter has raised concerns about a large number of vehicles associated with the development being parked within the road reserve along the frontage of the site.	Despite the fact that the application has stated that residents of the accommodation complex travel to and from work via minibus/van only and don't actually have personal vehicles, a condition will be attached to any approval restricting the use of the road reserve for the parking of any vehicles associated with the approved use. If any vehicles are parked within the road reserve the applicant/developer will be required to demonstrate that the vehicles do not belong to any residents staying at the accommodation complex.
3. When the development was previously in operation, it was being accessed across the neighbouring property.	A condition will be attached to any approval requiring all vehicles associated with the development to use the sites primary access only. This access will be required to be upgraded to FNQROC Development Manual standards.
4. The large number of vehicles associated with the proposed 40 bed accommodation facility will increase the likelihood of an accident occurring on Springs Road.	As stated in the application, residents staying at the accommodation complex are transported to and from the site to their place of employment via minibus/van. The development at maximum capacity (40 beds) is likely to generate an average of 8 vehicle movements per day (4 minibuses/vans). This increase in traffic is not considered significant.
5. The large on-site wastewater disposal system required to service the development will result in the leaching of effluent into the neighbouring property which could compromise the saleability of any fruit produced on the adjacent orchard.	A condition will be attached to any approval requiring the applicant/developer to obtain the required compliance permits for plumbing and drainage works associated with the development. This will include a on-site wastewater disposal system (likely a septic system) that is compliant with the Australian on-site domestic wastewater management standards. Advice was sought from Councils plumbing inspector who advised that a large system on the subject site was unlikely to impact on the adjoining fruit orchard through groundwater intrusion.
6. The submitter provided a negative character profile of the applicant/landowner include details on previous civil disputes.	This is not a valid town planning concern.
7. The applicant/landowner has previously hindered farming operations on the adjoining property by lodging multiple complaints with Work Place Health and Safety in regard to spray drift. On one occasion, residents previously staying at the accommodation facility (unlawfully) filmed the farmer while spraying his fruit orchard.	Refer to Planning Discussion section of report for comments regarding land use conflict. As stated by the submitter, the Workplace Health and Safety audits that were conducted concluded that the farming operations were compliant and deemed the complaints frivolous. A condition will be attached to any approval requiring the erection of 2.4 metre high solid screen fencing to help minimise land use conflict as well as the erection of signage around the accommodation facility warning residents of the potential for impacts from off-site farming operations.
8. The submitter has outlined the importance of protecting agricultural land from urbanisation and incompatible development.	Refer to Planning Discussion section of report for comments regarding land use conflict. The proposed development is not considered to be an incompatible land use within the Rural zone.

Submitters

Name of principal submitter	Address
1. Matthew Fealy for and on behalf of RT & SI Johnson	PO Box 51, Tolga QLD 4872

PLANNING DISCUSSION

Noncompliance with the relevant acceptable outcomes of the following development codes is discussed below. Where the development cannot comply with an acceptable outcome, it is considered compliance with the higher order performance outcome can be achieved.

Rural Zone Code

Siting, where not involving a dwelling house

PO2 *Development is sited in a manner that considers and respects:*

- (a) *the siting and use of adjoining premises;*
- (b) *access to sunlight and daylight for the site and adjoining sites;*
- (c) *privacy and overlooking;*
- (d) *air circulation and access to natural breezes;*
- (e) *appearance of building bulk; and*
- (f) *relationship with road corridors.*

AO2.1 *Buildings and Structures include a minimum setback of:*

- (a) *40 metres from a frontage to a State controlled road; and*
- (b) *10 metres from a boundary to an adjoining lot.*

Comment

Multiple building which make up the accommodation complex are situated within 10 metres of the only adjoining allotment, with some parts of the building sited approximately 0.5 metres from the common boundary. It is understood that to achieve fire separation requirements, the building will have to be moved to achieve a minimum 3 metre setback from this common boundary. In either case, the development is non-compliant with AO2.1.

Given the size of the subject site and even more so, the size of the large adjoining property, the reduced setback is not likely to have a detrimental impact on access to sunlight/daylight, privacy and overlooking (screen fencing mandatory), air circulation and access to natural breezes and appearance and building bulk. The non-compliant setback is to the rear of the site away from Springs Road and will therefore not impact on any road corridor.

The land immediately adjacent the proposed accommodation complex contains an active mango orchard. Although best practice land use planning would encourage an increased setback between sensitive land uses and active farmland, given the nature of the proposed use (short - medium term accommodation for farm workers only) the development is considered to be a little more resilient and subsequently less susceptible to land use conflict arising from adjoining farming activities. As such, the development is not likely to impact on the siting and use of the adjoining premises.

The proposed development is considered to achieve compliance with performance outcome PO2.

Accommodation density

PO3 *The density of Accommodation activities:*

- (a) *respects the nature and density of surrounding land use;*
- (b) *is complementary and subordinate to the rural and natural landscape values of the area; and*
- (c) *is commensurate to the scale and frontage of the site.*

AO3.1 *Residential density does not exceed one dwelling house per lot.*

Comment

The proposed development is for an accommodation complex to accommodate a maximum of 40 farm workers for short-medium term periods (generally six months) and is considered an agricultural support use. The development is not for a 'dwelling' as such and is not an inconsistent land use within the rural zone.

The proposed development is not likely to detrimentally impact on adjoining uses, is considered complimentary to the rural zone (providing for a shortfall in farm worker accommodation) and is proportionate in scale considering the size of the site.

The proposed development is considered to comply with performance outcome PO3.

Agricultural land overlay code

PO1 *The fragmentation or loss of productive capacity of land within the 'Class A' area or 'Class B' area identified on the **Agricultural land overlay maps (OM-001a-n)** is avoided unless:*

- (a) *an overriding need exists for the development in terms of public benefit;*
- (b) *no suitable alternative site exists; and*
- (c) *loss or fragmentation is minimised to the extent possible.*

AO1 *Buildings and structures are not located on land within the 'Class A' area or 'Class B' area identified on the **Agricultural land overlay maps (OM-001a-n)** unless they are associated with:*

- (a) *animal husbandry; or*
- (b) *animal keeping; or*
- (c) *cropping; or*
- (d) *dwelling house; or*
- (e) *home based business; or*
- (f) *intensive animal industry (only where for feedlotting); or*
- (g) *intensive horticulture; or*
- (h) *landing; or*
- (i) *roadside stalls; or*
- (j) *winery.*

Comment

The proposed development is for non-resident workforce accommodation and does not include a reconfiguration component and will therefore not result in the fragmentation of agricultural land. The subject site, with an area of just 1 hectare, is not considered to be agriculturally viable, as is evidenced by the use of the land as a rural lifestyle lot with a hobby orchard only.

The land immediately adjacent the proposed accommodation complex contains an active mango orchard. Although best practice land use planning would encourage an increased setback between sensitive land uses and active farmland, given the nature of the proposed use (short - medium term accommodation for farm workers only) the development is likely to be more resilient and subsequently less susceptible to land use conflict arising from adjoining farming activities. Furthermore, conditions will be attached to any approval requiring boundary treatments to minimise the likelihood of land use conflict. The development is not likely to impact on the productive capacity of adjoining agricultural land and is therefore considered to comply with performance outcome PO1.

PO2 *Sensitive land uses in the 'Class A' area, 'Class B' area or the 'Broadhectare rural' area identified on the **Agricultural land overlay maps (OM-001a-n)** are designed and located to:*

- (a) *avoid land use conflict;*
- (b) *manage impacts from agricultural activities, including chemical spray drift, odour, noise, dust, smoke and ash;*
- (c) *avoid reducing primary production potential; and*
- (d) *not adversely affect public health, safety and amenity.*

Comment

The land immediately adjacent the proposed accommodation complex contains an active mango orchard. Although best practice land use planning would encourage an increased setback between sensitive land uses and active farmland, given the nature of the proposed use (short - medium term accommodation for farm workers only) the development is likely to be more resilient and subsequently less susceptible to land use conflict arising from adjoining farming activity. Furthermore, conditions will be attached to any approval requiring boundary treatments to minimise the likelihood of land use conflict. These conditions will include 2.4 metre high solid screen boundary fencing as well as signage warning guests of the potential for negative emissions associated with adjoining farming activities (noise, dust, spray drift etc.).

It is considered that the adjoining agricultural land is already somewhat alienated by the presence of the subject site which is a standalone rural lifestyle allotment. The proposed use of the subject site to provide farm worker accommodation which will directly support agricultural activity in the Shire is considered to be a reasonable and beneficial outcome for the subject site and surrounding rural zone.

The proposed development is considered to comply with performance outcome PO2.

PO3 *Development in the 'Class A' area or 'Class B' area identified on the **Agricultural land overlay maps (OM-001a-n)**:*

- (a) *ensures that agricultural land is not permanently alienated;*
- (b) *ensures that agricultural land is preserved for agricultural purposes; and*
- (c) *does not constrain the viability or use of agricultural land.*

Comment

The land immediately adjacent the proposed accommodation complex contains an active mango orchard. Although best practice land use planning would encourage an increased setback between sensitive land uses and active farmland, given the nature of the proposed use (short - medium term accommodation for farm workers only) the development is likely to be more resilient and subsequently less susceptible to land use conflict arising from adjoining farming activities. Furthermore, conditions will be attached to any approval requiring boundary treatments to minimise the likelihood of land use conflict with adjoining agricultural activity. These conditions will include 2.4 metre high solid screen boundary

fencing as well as signage warning guests of the potential for negative emissions associated with adjoining farming activities (noise, dust, spray drift etc.).

It is considered that the adjoining agricultural land is already somewhat alienated by the presence of the subject site which is a standalone rural lifestyle allotment. The proposed use of the subject site to provide farm worker accommodation which will directly support agricultural activity in the Shire is considered to be a reasonable and beneficial outcome for the subject site and surrounding rural zone.

The proposed development is considered to comply with performance outcome PO3.

Date Prepared: 13 March 2018

ATTACHMENT 2

Chief Executive Officer
Mareeba Shire Council
65 Rankin St, Mareeba

Matthew Fealy
For and on behalf of
RT & SI Johnson
PO Box 51, Kairi,
QLD, 4872

**RE: DEVELOPMENT APPLICATION MCU/17/0016
MATERIAL CHANGE OF USE – NON RESIDENT WORKFORCE
ACCOMODATION (40 BEDS) – 271 SPRINGS RD, MAREEBA, LOT 1/RP745857**

Dear Mr Franks,

In regard to the above application, I would like to submit the following concerns:

1. Facility Concerns

- Rubbish: We are continually removing rubbish from beside Mr Zuvelas' property, including, often, glass beer bottle, which if we did not perform a "sweep" of the area near by before commencing farming operations, would result in glass bottle going through a variety of machines, such as the slasher, mulcher, resulting in millions of shards of glass being projected from the machine and remaining in the paddock, posing a valid safety risk. Note that his current weekly JJ Richards skip pick up remains on our property and has done for years, even after requests to remove it.
- Parking: "Turn onto springs road and follow it until you see a house on the left with a tonne of cars all parked on the front lawn, we are the next driveway". This is how we give direction to our property. There is a never ending flow of cars parked all over the front crown land, and our land. There have been a number of times we have had to request for cars to be moved so we can continue our farming operations, including at least 2 times when we have been unable to complete our tasks because the cars were not removed
- Access: All non-resident access to Mr Zuvelas property is currently via our land via a small driveway crossing over our property. The vehicular movements required for a 40 bed facility would pose a serious safety concern on what is quite a blind corner of Springs Road, it would only be a matter of time before an accident was to occur.
- Sewage/Draining: It is a requirement that I submit a minimum of 1 soil/leaf/fruit test each year for heavy metal analysis, it is also a requirement that no human effluent can be used on any crop or in any soil treatments. I cannot see how it would be possible for Mr Zuvelas facility to not have leaching septic onto our property. At the top of the food chain, humans have a high level of trace heavy metal in our waste, especially if our diet consists primarily of seafood, as the Pacific Island Community does, which is

predominately Mr Zuvelas clientele. If my soil becomes classified as unsuitable for food production because of Mr Zuvelas facility, it will be pursued legally.

2. Character Profile

- Mr Zuvela has demonstrated habitual disregard for societal rules, he has been illegally operating a non-resident workforce accommodation facility for many years, with no intent to legitimize his facility until now, after he has been 'caught'. Why would he even be considered for approval?
- Mr Zuvela has proven himself to be a societal pest, making no effort to restrain (up to as many as 6) dogs after repeated civil requests, his animals were slaughtering pets repeatedly, terrorizing our children as they walked to the bus, and repeatedly mounting our bitch (actually tearing into a cage we constructed to keep our bitch safe). This went on for years until we finally advised we will survey the boundaries with the intention of erecting a fence. It was at this stage that it became clear Mr Zuvela had been gradually over time, assuming land as his own to the tune of a number of meters on each boundary. Again we advised civilly that we have no intention of forcing him to remove the (illegal) accommodation dongas, but could he please restrain his dogs. He made no effort to do so. Eventually we requested he remove all buildings from our property and it was only after the threat of us removing them for him that he finally complied (Note there is still a structural corner of his shed on our property that again, we turn a blind eye to in the interest of civility)
- After years of our continued leniency, Mr Zuvela decided to intentionally disrupt our ability to farm, by making repeated complaints to the Office of Work Place Health and Safety in regard to Spray Drift. (Note that he had made no complaints until after he had been forced to relocate his dongas back onto his property, and realign his boundaries) Officer Bryan Badger of the Cairns branch made repeated visits to our property to address Mr Zuvelas concerns with a number of full audits of our practices, on each and every occasion it was determined that the accusations were false and our practices compliant, Mr Badger eventually advised Mr Zuvela that he was simply wasting their time to settle a neighbour disagreement. It is my understanding during one of these investigations were Mr Zuvela had advised his Mother in Law was in palliative care in the home with a list of disorders turned out to be completely fabricated.
- After exhausting his avenues with the OH&S, he chose to begin filming me and my workers whilst spraying. We had committed to notifying Mr Zuvela with a minimum of 2hrs notice (normally 24hrs) before we spray near his block, with the intent that he can take his own precautions (close doors, windows, and advise his residents in the dongas to remain indoors). Unfortunately Mr Zuvela used this opportunity as a way to notify his workers to ensure we were being filmed, and on many occasions, there would be up to 4 people with their mobile phones out against the fence filming me. When I

raised this with Mr Zuvela explaining that I can, and have, taken every precaution (over and above what is required by OH&S) to minimize the risk of Spray drift, it is his responsibility to his residents to minimize their risk, rather than instruct them to line up against the fence to watch, his response was one of complete disregard for their safety.

3. Protection of Agricultural Land

- Continued Urbanisation of Agricultural land is a global concern, so significant the risk, it is a regular agenda item at the meetings of the FAO, G20, US Farm Bill, United Nations and more. This is where it starts.
- There are many reports into the full extent of short sighted Urban development over the protection of Agricultural land, the Australian Farm Institute is a fantastic resource for many of them.
<http://farminstitute.org.au/publications/index.html>

Springs Rd, and the Mareeba/Dimbulah region as a whole, is agricultural land, not high-density housing land. Tinaroo was not constructed to serve a new metropolis. I recognize there is an alarming bed shortage for seasonal workers, but approving a 40 bed facility surrounded by farming is not the solution, in fact it will be the catalyst for the eventual demise of agriculture in the Shire due to the relentless burden of trying to farm, surrounded by high density living. Our regional bed shortage is a problem to be carefully considered, including the protection of agricultural land, and should there be a solution reached, a clearly defined process for development and compliance implemented that rewards the businesses/individuals who have the ability and track record of operating in good faith, not the bad actors who are precisely the ones giving the industry a bad name, the ones the Federal government are currently trying to weed out.

I implore you to maintain a long-term focus on what sustains the shire, and do the right thing to protect it.

Please do not hesitate to get in touch to discuss this matter further if required.

Regards,



Matthew Fealy
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Regards,



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