

DELEGATED REPORT

SUBJECT: EXPERIENCE CO LTD - MATERIAL CHANGE OF USE -
NATURE-BASED TOURISM - LOT 5 ON SP160172 -
FICHERA ROAD, MAREEBA - MCU/18/0011

DATE: 28 May 2018

**REPORT OFFICER'S
TITLE:** Senior Planner

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	Experience Co Ltd	ADDRESS	Fichera Road, Mareeba
DATE LODGED	10 April 2018	RPD	Lot 5 on SP160172
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Nature-Based Tourism (Bush-style dining area)		
FILE NO	MCU/18/0011	AREA	32.74 hectares
LODGED BY	Urban Sync Pty Ltd	OWNER	Skydive Investments Pty Ltd
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural zone		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	n/a		

ATTACHMENTS: 1. Proposal Plan/s

EXECUTIVE SUMMARY

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

The application is code assessable and was not required to undergo public notification.

It has been assessed against the relevant statutory planning instruments, including the Regional Plan and the Planning Scheme and does not conflict with any relevant planning instrument.

Draft conditions were provided to the Applicant/care of their consultant and have been agreed.

It is recommended that the application be approved in full with conditions.

OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
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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 - Nature-Based Tourism (Bush-style dining area)

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
18-326-001 Rev A	Site Plan	Urban Sync	10 April 2018

(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, including but not necessarily limited to the subject of any alterations:
 - found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
 - to ensure compliance with the following conditions of approval.
2. Timing of Effect
 - 2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the commencement of

the use except where specified otherwise in these conditions of approval.

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

3. General

- 3.1 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.

- 3.2 All external 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.

3.3 Waste Management

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

3.4 Hours of Operation

The standard operating hours shall be between 7am and 6pm, Monday to Sunday. No standard operations shall occur outside of these hours unless prior approval is sought from and granted by Council's delegated officer.

In the event that adverse weather affects the ability to conduct early morning hot air balloon flights, non-standard operating hours are permitted between 5am and 6pm.

- 3.5 A maximum of two (2) coaches associated with the approved use are permitted to transport tourists to and from the site each day.

- 3.6 Tourists are to be delivered to the site via bus only and are not permitted to access or be delivered to the approved use via a passenger-car.

4. Infrastructure Services and Standards

4.1 Access

Access to the subject land must be maintain (from the edge of the road pavement to the property boundary) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer, for the life of the development.

4.2 Carparking/Internal Driveways

The designated parking area must be constructed with compacted gravel to a minimum depth of 100mm and be appropriately drained prior to the commencement of the use, and maintained for the life of the development, to the satisfaction of Council's delegated officer.

4.3 Water Supply

The quality of water provided on site for human contact or consumption must be of a standard for drinking water set by the Australian Drinking Water Guidelines 2004 (National Health and Medical Research Council and the National Resource Management Ministerial Council).

4.4 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.

(D) ASSESSMENT MANAGER'S ADVICE

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

- (b) Food Premises

Premises proposed for the storage and preparation, handling, packing or service of food must comply with the requirements of the Food Act 2006.

- (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.environment.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.datsip.qld.gov.au.

(E) RELEVANT PERIOD

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

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

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

- Nil

(G) OTHER APPROVALS REQUIRED FROM COUNCIL

- Nil

THE SITE

The subject site is situated at Fichera Road, Mareeba and is described as Lot 5 on SP160172, situated approximately 5km south-east of Mareeba. The site is irregular in shape having an area of 32.74 hectares and is zoned Rural under the Mareeba Shire Council Planning Scheme 2016.

The site is unimproved, generally flat, falling towards the Barron River which abuts the western boundary. Some areas of steep land are present in the south-east corner and adjacent to the Barron River.

A 160 metre wide band of remnant vegetation is present over the westernmost extent of the subject land. A second, smaller band of remnant exists along the steep bank of the Barron River.

The site has approximately 150 metres of frontage to Fichera Road which is formed to a bitumen sealed standard. Access to the subject land is via an existing bitumen sealed driveway which connects to the north-eastern most corner of the lot. This driveway/access is shared with the property immediately to the north.

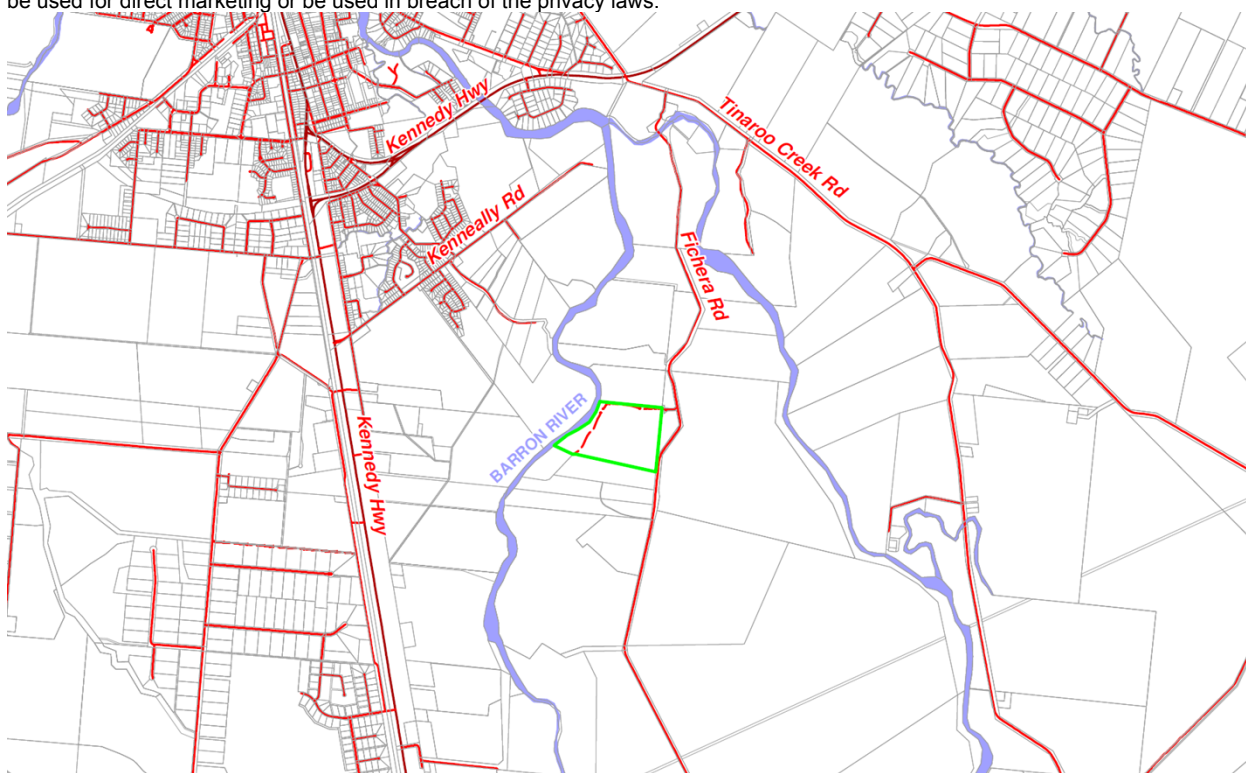
The land is not serviced by reticulated water and sewerage.

Surrounding allotments are zoned rural and contain a mix of land uses including rural lifestyle, low intensity grazing, horticulture and a motorhome park.



Map Disclaimer:

Based on or contains data provided by the State of Queensland (Department of Environment and Resource Management) (2009). In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.



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BACKGROUND AND CONTEXT

Nil

PREVIOUS APPLICATIONS & APPROVALS

Nil

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Material Change of Use - Nature-Based Tourism (Bush-style dining area) in accordance with the plans shown in **Attachment 1**.

The application summarises the proposed development as follows:

"The proposed 'bush style camp' will be non-fixed and is intended to facilitate the placement of temporary structures to support various dining activities associated with existing Hot Air Ballooning tours run by the Applicant and that already occur in the area.

The camp area will be nestled amongst the existing mature vegetation within the south-western portion of the site and along the western boundary of the indicative exclusive 'Use Area', as illustrated below in Figure 2 and include the following arrangements:

- *Operate seven (7) days a week, 365 days a year (weather permitting);*
- *Hours of operation will generally be from 7am to 11am, although the use may, in some instances, may occur at other times throughout the day (i.e., lunch time, dinner time, etc.). The use of the site during these times, however, will be limited;*
- *The exclusive 'Use Area' will be approximately 120m x 120m, with an approximate setback of 50m to the western boundary and approximately 20m from the top of the high bank of the adjacent waterway.*
- *Accommodate between 20-50 people per day; with the ability for a maximum of 150 persons per day at peak times. The use will require a total of two (2) staff, although the ground crew and pilots (maximum of ten (10)) will generally also visit the site to mingle with guests;*
- *Tourists will be coached to the site from numerous nearby, hot air ballooning take-off and landing sites and then from the site, back to their preferred drop of location in Cairns and the surrounds. There will be a maximum of two (2) coaches travelling to and from the site each day. All staff and equipment will travel to and from the site on these coaches;*

NB: Take-off and landing positions for the Hot Air balloons change regularly deepening on weather conditions.

- *Coaches will gain access to the site via the existing access from Fichera Road, with all existing unsealed driveways to accommodate onsite vehicular movements;*
- *An informal and unsealed parking/set-down and manoeuvring area for the coaches will be provided on the eastern side of the existing driveway within the designated 'Use Area';*

- *Weather protection will be provided by unfixed, but permanently placed tarps and/or gazebos;*
- *The vast majority of equipment (tables, chairs etc.) will be stored on site, with smaller equipment such as cutlery etc., being kept on site in storage containers and the like;*

NB: we reiterate here that the use involves no permanent structures.

- *No cooking or serving equipment will be stored on site. All serving equipment (bain-marie's, etc.) will be removed from site at the end of each day;*
- *No cooking or food preparation activities will be undertaken on site. All food is prepared off site and transported to site for consumption;*
- *All waste and food scraps will be removed and disposed of offsite at the end of each day by staff; and*
- *Portable toilets will be provided on site. These will be maintained by local contractor to ensure each toilet is maintained in a suitable standard for use."*

REGIONAL PLAN DESIGNATION

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

- *Wetland Area of General Ecological Significance*
- *Terrestrial Area of High Ecological Significance*
- *Terrestrial Area of General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

	Land Use Categories
	<ul style="list-style-type: none"> ▪ Rural Other ▪ Rural Agricultural Area
Strategic Framework:	Natural Environment Elements
	<ul style="list-style-type: none"> ▪ Biodiversity Areas ▪ Habitat Linkage
Zone:	Rural zone
Overlays:	<ul style="list-style-type: none"> ▪ Agricultural Land Overlay Overlay ▪ Airport Environs Overlay ▪ Bushfire Hazard Overlay ▪ Environmental Significance Overlay ▪ Hill and Slope Overlay ▪ Transport Infrastructure Overlay

Planning Scheme Definitions

The proposed use is defined as:-

Column 1 Use	Column 2 Definition	Column 3 Examples include	Column 4 Does not include the following examples
Nature-based tourism	<p>The use of land or premises for a tourism activity, including tourist and visitor short-term accommodation, that is intended for the conservation, interpretation and appreciation of areas of environmental, cultural or heritage value, local ecosystem and attributes of the natural environment. Nature-based tourism activities typically:</p> <ul style="list-style-type: none"> • maintain a nature based focus or product • promote environmental awareness, education and conservation <p>carry out sustainable practices.</p>	Environmentally responsible accommodation facilities including lodges, cabins, huts and tented camps	Environment facility

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**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
- 8.2.2 Airport environs overlay code
- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.6 Flood hazard overlay code
- 8.2.8 Hill and slope overlay code
- 8.2.12 Transport infrastructure overlay 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	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Agricultural land overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Airport environs overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Bushfire hazard overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Environmental significance overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Flood hazard overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Hill and slope overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Transport infrastructure overlay code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.
Parking and access code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within

	the code.
Works, services and infrastructure code	The application can be conditioned to comply with the relevant acceptable solutions/performance outcomes contained within the code.

(e) Planning Scheme Policies

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

All development works will be conditioned to be designed and constructed in accordance with the FNQROC Development Manual.

(f) Additional Trunk Infrastructure Condition

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

Section 130 of the Planning Act 2016 allows Council to condition additional trunk infrastructure outside the PIA.

The proposed use will involve a maximum of two (2) coaches travelling to and from the subject land each day. The daily traffic movements will not exceed ten (10) vehicle movements.

No additional trunk infrastructure condition is proposed.

REFERRALS

This application did not trigger a referral.

Internal Consultation

Technical services

PLANNING DISCUSSION

Nil

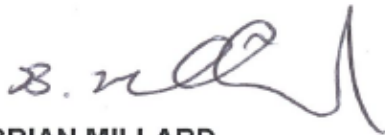
Date Prepared: 11 May 2018

DECISION BY DELEGATE

DECISION

Having considered the Planning Officer's report detailed above, I approve, as delegate of Council, the application subject to the conditions listed in the report.

Dated the 28TH day of MAY 2018



BRIAN MILLARD
SENIOR PLANNER

MAREEBA SHIRE
AS A DELEGATE OF THE COUNCIL

PROPOSAL PLANS

