

Tablelands Regional Council

AGENDA

Planning Committee

Coordination Centre, 15 Vernon Street, Atherton Qld 4883

Thursday, 12 January 2023

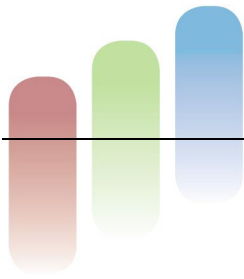
Commencing at 9:00 AM

THE PLANNING COMMITTEE MEETING OF THE TABLELANDS REGIONAL COUNCIL WILL BE HELD AT DISASTER COORDINATION CENTRE, 15 VERNON STREET, ATHERTON ON THURSDAY, 12 JANUARY 2023 AND THE ATTENDANCE OF EACH COUNCILLOR IS REQUESTED.

GARY RINEHART

CHIEF EXECUTIVE OFFICER





Council Members:

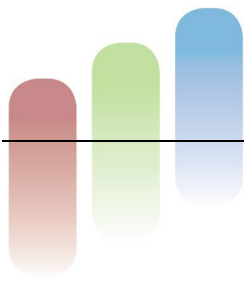
Mayor, Councillor Rod Marti
Deputy Mayor, Councillor Kevin Cardew
Division 1 - Councillor Kevin Cardew
Division 2 - Councillor Annette Haydon
Division 3 - Councillor Dave Bilney
Division 4 - Councillor David Clifton
Division 5 - Councillor Peter Hodge
Division 6 - Councillor Bernie Wilce

At this meeting contributions made by members of the public may be recorded by way of audio recording which will be used for the purpose of developing the minutes of the meeting and decision making of Council.

The Council Meeting will be streamed live, recorded and published on Council's website for future viewing.

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Tablelands Regional Council is bound by the Information Privacy Act 2009 to protect the privacy of personal information.



Principles for Local Government

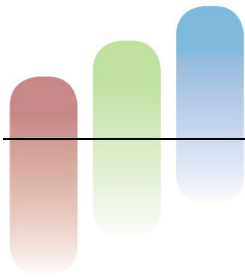
The **local government principles** stated in the Local Government Act 2009 are:

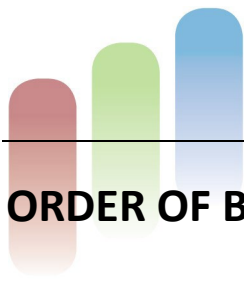
- (a) transparent and effective processes, and decision-making in the public interest;
- (b) sustainable development and management of assets and infrastructure, and delivery of effective services;
- (c) democratic representation, social inclusion and meaningful community engagement;
- (d) good governance of, and by, local government;
- (e) ethical and legal behaviour of councillors and local government employees.

Key Priorities and Strategic Goals from the TRC Corporate Plan

Strategic Themes

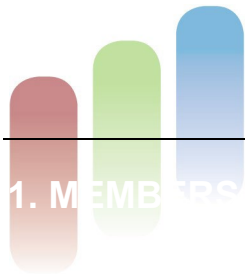






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8. CHIEF EXECUTIVE OFFICER

8.1. STATE OF QLD (DEPARTMENT OF EDUCATION) – NEGOTIATED DECISION NOTICE – MCU “OUTDOOR SPORT & RECREATION” – LOT 1 SP206189 – 30-90 MAUNDS ROAD, ATHERTON – MCU22/0016

REPORT DETAIL

Report Author: Senior Planner

Department: Development Services

Applicant:	State Of Queensland (Represented by the Department of Education) C/- RPS Australia East Pty Ltd (Cairns)
Landowner:	State Of Queensland SG
Proposal:	Material Change of Use for “Outdoor Sport and Recreation”
NDN Request Date:	24 November 2022
Street Address:	30-90 Maunds Road, ATHERTON QLD 4883
RP Description:	Lot 1 on SP206189
Lot Area:	11.49 Ha
Planning Scheme:	Tablelands Regional Council Planning Scheme 2016 (V4)
Designations:	Strategic Framework: Residential Local Plan: Atherton (No Precinct) Zone: Community Facilities Applicable Overlays: Environmental Significance, Transport Noise Corridor
Assessment Type:	Code
Number of Submissions:	N/A
Referral Agencies:	DTMR (C/- SARA)
Referred Internal Specialists:	<ul style="list-style-type: none"> • Development Engineer • Project Engineer - Water & Wastewater • Environmental Health Officer • Community Engagement Officer • Executive Manager Economic Development

- ATTACHMENTS:**
1. Decision Notice, dated 2 November 2022.
 2. Applicant’s representations dated 23 November 2022.

EXECUTIVE SUMMARY

At its ordinary meeting on 27 October 2022, Council approved, subject to conditions, the above-described development application (Decision Notice, dated 2 November 2022, provided as Attachment 1).

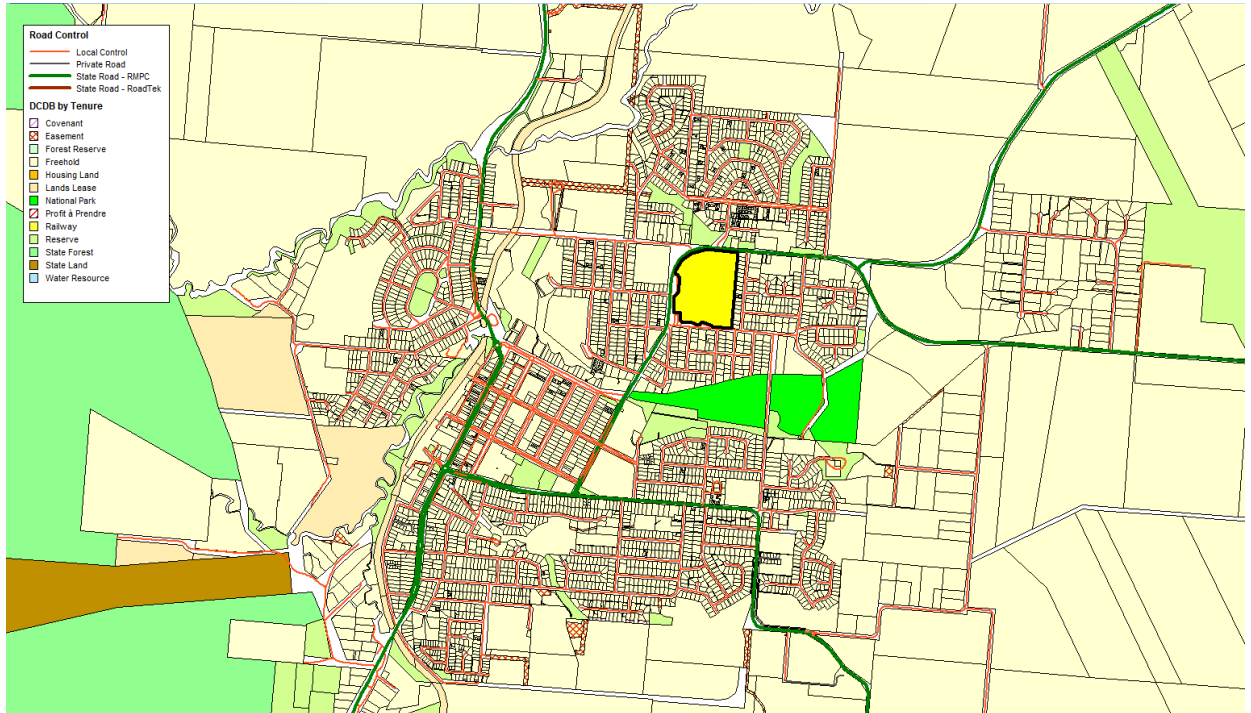
The Applicants’ consultant has subsequently made written representations, on their behalf (Attachment 2), in relation to conditions 4.2 (Car Parking and Drop-off/Pick-up Area), 4.3 (Pedestrian Linkages / Frontage Works) and 4.8 (Noise Nuisance). The representations are not supported on the basis that the current conditions provide sufficient certainty to enable the development to proceed whilst balancing the interests of Council, as the asset custodian of the adjacent carpark, and those of surrounding residents whose amenity stands to be potentially impacted by the development.

It is recommended that the request for a Negotiated Decision Notice be declined.

OFFICER'S RECOMMENDATION

That in relation to the approved Development Permit for a Material Change of Use for "Outdoor Sport and Recreation" (Multi-Purpose Court Facility) on land described as Lot 1 on SP206189 and located at 30-90 Maunds Road, Atherton (MCU22/0016), and the Applicants' request for a Negotiated Decision Notice dated 23 November 2022, Council resolves not to issue a Negotiated Decision Notice.

THE SITE





Land Area:	11.49 Ha
Existing Use of Land:	Atherton State High School and TAFE
Road Frontage:	696m to Maunds Road and 285m to First Avenue.
Significant Site Features:	School/TAFE buildings, sporting fields/courts and on-site parking facilities.
Topography:	Gradual slopes of less than 15% grade, draining from the south-east to north-west.
Surround Land Uses:	Established residential uses in the Low and Medium Density Residential Zones to the north, south, east and west. Commercial and community uses to the west (Hilltop shops and the former CSIRO site). Public open space to the north.

DESCRIPTION OF DEVELOPMENT

The subject approval is a Development Permit for a Material Change of Use for “Outdoor Sport and Recreation” (Multi-sport courts). The approved plans and conditions are included in the attached Decision Notice (Attachment 1) and the following proposal description is taken from the planning report that accompanied the application:

The proposed development is for the delivery of a new multi-purpose court facility within the Atherton State High School grounds at Maunds Road, Atherton. The facility would be used by the students at Atherton State High School during the day and made available through formal arrangements to community sporting associations during the evening and on weekends. The co-location of the facility within the School Grounds would provide for the greatest use of the facility and would maximise community return whilst minimising costs associated with building a standalone facility.

The facility would be located in the south west of the overall school site and would have frontage to Maunds Road to the west and to First Avenue to the south. Within the Maunds Road reserve to the west is an area of car parking has been constructed, containing 63 sealed and line marked car parking spaces. These spaces are currently used by the school during school hours and on school days and would be available for the additional use after school hours and on the weekends. To the south, within the First Avenue Road reserve is a dedicated drop-off and pick up area with a one way drive through arrangement with three car parking spaces. And further car parking to the east of the site containing approximately 12 car parking spaces. These would also be available for the after school and weekend use of the facility.

The facility itself would comprise two covered courts, with external sports lighting to 100 lux, and two uncovered courts and a club house. The building covering the courts would be a single storey open structure with a height of 9.6 metres and would provide a total covered area of approximately 1,700m². The club house would be single storey building with a height of 4 metres and would contain male and female toilets, canteen, meeting room and equipment storage. The development would be setback approximately 13.5 metres from the First Avenue frontage and approximately 3.0 metres from the western boundary to the Maunds Road Reserve.

The development would be used for school activities on school days and during school hours. Outside of school hours it would be used by community sporting associations. Current proposed uses include the use of the courts by the Tableland Netball Association who proposed to use the facility on the current days and times. It should be noted that these are nominal times and are subject to a degree of flexibility based upon the nature of the sporting association using the facility and do not include the occasional carnival use on weekends :

- Monday – Monday Mixed Netball 6pm to 9pm;
- Tuesday & Wednesday – Training and Coaching 3pm to 9pm;
- Thursday Games – 4pm to 9pm; and,
- Saturday Games – 8:30am to 1:00pm.

APPLICANTS' REPRESENTATIONS

Condition 4.2 – Car Parking and Drop-off/Pick-up Area

This condition currently reads:

Should it be substantiated by Council's delegated officer that the non-school related evening use of the adjacent Council-controlled car park and/or pick-up/drop-off area are causing "environmental nuisance" pursuant to the Environmental Protection Act 1994 (i.e. due to noise, outdoor lighting or headlight glare), Council reserves the right to restrict usage of the car park and/or pick-up/drop-off area. Should this occur, a minimum of 16 on-site spaces must be kept available to service the facility in the vicinity of the existing multipurpose hall, centrally located within Lot 1 on SP206189.

Applicant Representation

A full copy of the representations is provided as Attachment 2. Essentially, the representations request that this condition be deleted on the basis that potential restrictions on the use of the Council car park introduce uncertainty into the project compromising its ability to meet the funding criteria.

Officer's Response

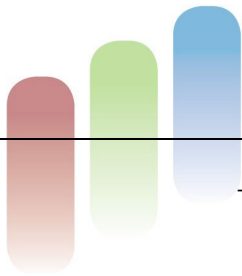
The representations are not supported given that Council, as the custodian of the asset, would retain the right to restrict use of the carpark regardless of whether this is specifically stated by the condition. The Parking and Access Code requires development proposals to demonstrate that sufficient on-site parking would be provided to accommodate the demand generated by the use and given the availability of parking facilities within the boundaries of the subject lot outside of school hours, the proposal does satisfy this requirement. The siting of the development has, however, been selected to encourage evening cross-utilisation of the adjacent Council carpark additional to its current school-related day use. The situation is no different than any other development that offers the full complement of on-site parking facilities, but which is also benefitted by being conveniently located to on-street parking facilities. There is no formal agreement between the Applicants and Council in regard to the operation and maintenance of the car park, in absence of which, Council is not obligated to give the Applicants any assurances about how it might opt to manage the asset in future.

Condition 4.3 – Pedestrian Linkages / Frontage Works

This condition currently reads:

If the pedestrian linkage from the north-eastern corner of the Council-controlled car park is not provided as shown on the approved Overall Ground Floor Plan (Drawing No. 262. AE-101, Revision 5, dated 1 March 2021), the Applicant/Developer is required to undertake the following works in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer:

- *A 2m wide section of concrete footpath must be constructed to connect the existing footpath on First Avenue to the proposed "new walkway" shown on the approved Overall Ground Floor Plan (Drawing No. 262. AE-101, Revision 5, dated 1 March 2021) and be located between the eastern access crossover of the adjacent Council-controlled car park and the western crossover of the drop-off/pick-up area.*
- *Where the proposed "new walkway" shown on the approved Overall Ground Floor Plan (Drawing No. 262. AE-101, Revision 5, dated 1 March 2021) would interface with the drop-off/pick-up area on First Avenue, a kerb ramp must be installed in accordance with FNQROC Development Manual Standard Drawing No. S1016.*
- *Footpath earthworks, topsoiling and turf reinstatement of disturbed verge areas beyond the above-described footpath works.*
- *Footpath earthworks and surfacing that achieve a level transition between adjoining footpath and grassed verge areas.*



- Adjustments and relocations necessary to public utility services resulting from frontage/access works.

Prior to any footpath works commencing within the Council-controlled car park and/or road reserve, plans for the works must be approved as part of an Operational Works application.

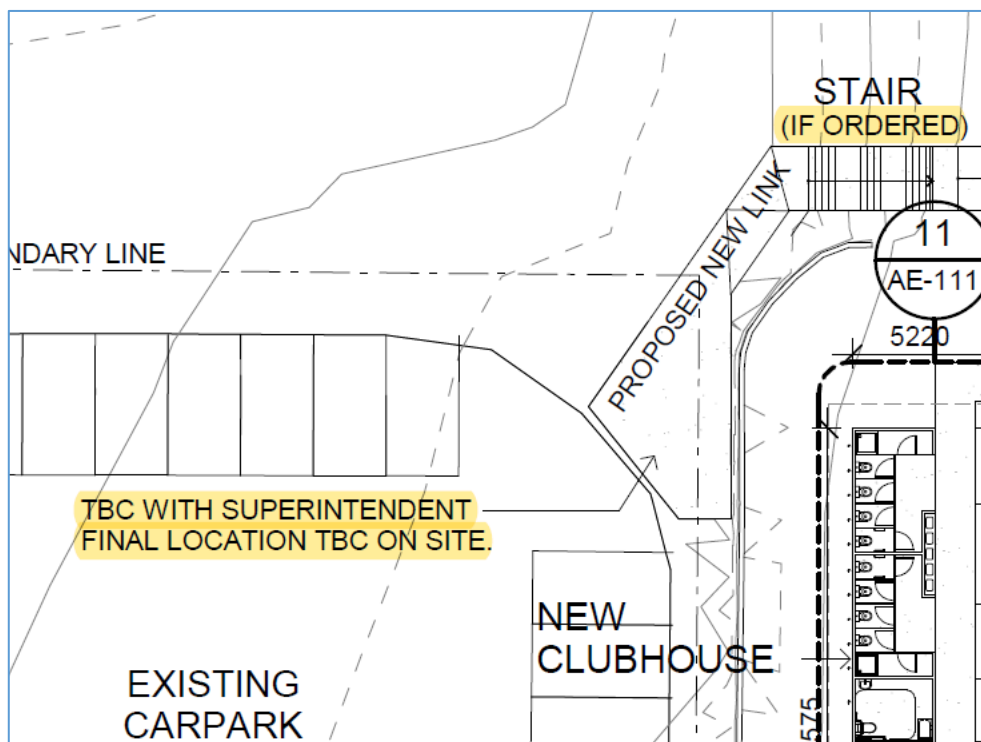
Applicant Representation

The representation to this condition reads:

“It is proposed as part of the development to provide the pedestrian linkage from the north-eastern corner of the Council-controlled car park and this is illustrated on the proposal plans, which were approved as part of the Development Permit. Condition 1 of the approval requires the development to be carried out substantially in accordance with the approved plans. On this basis, the condition is considered unnecessary and confuses the approval and should be deleted.”

Officer’s Response

Representation not supported. A snippet from the approved site plan is provided below, which indicates that the pedestrian link in the north-eastern corner of the parking lot is “To Be Confirmed”, and the associated stairs would be provided “If ordered”. In that context, the condition is necessary to ensure that a pedestrian link is provided in some form and does not prevent the Applicants from proceeding with the north-eastern link as the representations suggest. That being the case, they would not be required to provide a second pedestrian link.



Condition 4.8 – Noise Nuisance

This condition currently reads:

- (a) *Acoustic insulation with a minimum Noise Reduction Coefficient rating of 0.7 is to be incorporated into the underside roofing of the court structure to minimise reverberant noise build-up.*
- (b) *Any 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.*
- (c) *The Applicant/Developer is required to install and maintain suitable screening to any new 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.*
- (d) *Should Council's delegated officer receive a noise complaint(s) arising from the evening use of the facility and be able to substantiate that the indoor noise impacts associated with the normal operation of the facility (including the associated use of the adjacent Council-controlled car park and pick-up/drop-off area) for non-school related purposes as described in the application, exceed the relevant Acoustic Quality Objectives identified by the Environmental Protection (Noise) Policy 2019 [as amended] at the source of the complaint(s), the evening operation of the facility will be suspended beyond 7.00pm until such time as a noise impact assessment (prepared by an appropriately qualified acoustic specialist) is provided to, and endorsed by, Council's delegated officer, demonstrating compliance with the EP (Noise) Policy [as amended] at the source of the complaint(s). The assessment must include a study that models the impacts of noise on surrounding properties, specifically those fronting First Avenue and Maunds Road, and must be accompanied by information (e.g. plans, documentation) demonstrating how the recommendations of the assessment would be incorporated into the design and/or operation of the facility. NB: For the purposes of this condition, the "indoor noise impact" is taken to be that experienced at a sensitive receptor while the windows remain open for the duration of the evening use of the facility and the associated use of the adjacent Council-controlled car park and drop-off/pick-up area.*

Applicant Representation

Essentially, the representations submit that sub-condition (d) should be deleted on the grounds that there is a conflict between the relevant planning scheme benchmarks in so far as the need for sporting facilities to be located in close proximity to the community they service should be viewed as taking

priority over the standard of amenity experienced by surrounding residents. Further, it is submitted that amenity impacts related to noise are generally accepted by the school's surrounding residents and that this is demonstrated by the results of the non-statutory consultation process conducted by the Applicants.

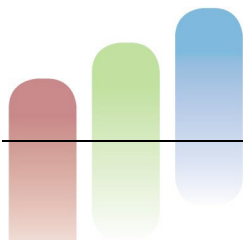
Officer's Response

The representations are not supported on the basis that:

- The acoustic report that accompanied the application acknowledges that the week-to-week use of the proposed facility, and the associated use of the adjacent Council car park, for non-school-related purposes would impact upon the acoustic amenity of nearby sensitive receivers (dwellings) such that the relevant Acoustic Quality Objectives identified by the *Environmental Protection (Noise) Policy 2019* would not be achieved without mitigation strategies being implemented.
- The suspension time of 7pm referenced by the condition was based on the submitted acoustic report, which states; "The noise environment at the development site is controlled by road traffic and emission from surrounding activity during daytime periods but reduces significantly from 7pm onwards in line with typical human behaviour".
- The mitigation strategies recommended by the acoustic report (e.g. attenuation fencing/earthworks, enclosing the courts, limiting hours of use) have not been incorporated into the proposal.
- The application was code assessable and, as such, was subject to a "bound assessment", meaning that officers cannot consider matters that fall outside the scope of the relevant codes when making their recommendation to Council. The sporting plans/strategies referenced by the representations do not carry statutory weight and are not reflected by the relevant codes. Officers' interpretation of the relevant codes (evidenced in part by the following two points) is that the need for sporting facilities to be conveniently located does not take precedence over amenity considerations, rather, the aims are to be achieved in parallel.
- Performance Outcome PO3 of the Sport and Recreation Activities Code requires that "Development is well designed and sited to ensure the amenity of the local area is protected".
- Performance Outcome PO4 of the Sport and Recreation Activities Code requires that "Development does not cause environmental nuisance beyond the boundaries of the site".
- The non-statutory community consultation process, conducted by the Applicants between 3 and 12 August 2022, resulted in 39 responses, which is not a significant sample size considering that Atherton is the region's largest township and the development is proposed for a school that has over 1,000 students. Many of the respondents were affiliated with the netball club and hence a relevant bias is apparent in the feedback received. The consultation flyer distributed to the adjacent residents makes no specific mention of the potential noise impacts and the engagement plan fails to acknowledge that the exemptions for noise,

described in section 440W of the *Environmental Protection Act 1994*, would not apply to the non-school-related evening use of the facility.

- The contention that the conditions are the sole factor introducing uncertainty into the project ignores that the real risk comes from having a facility that fails to incorporate appropriate noise mitigation measures. Removing the condition would not prevent the surrounding residents from making complaints, nor would it prevent them from initiating legal proceedings against the Applicants, Council and/or the relevant user groups due to a loss of amenity. Such is the importance of the condition, that in its absence, the officers' recommendation would not have been for approval. Contrary to instilling a greater level of certainty, if Council chooses to remove the condition, officers would be left without a "road map" for mediating any future conflicts between the land uses. In those circumstances, any resolution process would need to be dealt with via the mechanisms in place under the *Environmental Protection Act 1994*, if not via the courts.



DECISION NOTICE



2 November 2022

PO Box 573, Atherton QLD 4883
Telephone: 1300 362 242
info@trc.qld.gov.au

Dan O'Connor, A/ Principal Planner
Phone: 4089 2388
Email: troplanningadmin@trc.qld.gov.au

File Ref: MCU22/0016
Your Ref: PR152204

The State of Queensland (Represented by Department of Education)
C/- RPS Australia East Pty Ltd
Patrick.Clifton@rpsgroup.com.au

Dear Applicants

Decision Notice
Planning Act 2016 s63

I refer to your application and advise that at Council's Ordinary Meeting on 27 October 2022, Council decided to approve the application in full, subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No:	MCU22/0016
Proposal:	Material Change of Use for "Outdoor Sport and Recreation"
Street Address:	30 - 90 Maunds Road, Atherton
Real Property Description:	Lot 1 on SP206189
Planning Scheme:	TRC Planning Scheme 2016 (V4)

DECISION DETAILS

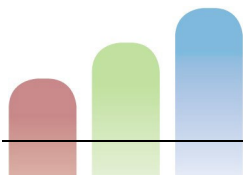
Type of Decision:	Approved in full subject to conditions.
Type of Approval:	Development Permit
Date of Decision:	27 October 2022
Deemed Approval (s64):	This application is <u>not</u> taken to have been approved pursuant to s64(5) of the <i>Planning Act 2016</i> (a deemed approval).

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" and Section 88 "Lapsing of Approval for failing to complete development" of the *Planning Act 2016*).

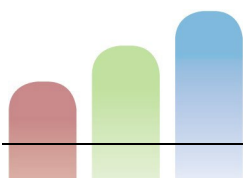
Public Office: 45 Mabel Street, Atherton
Service Centres: Atherton, Herberton, Malanda, and Ravenshoe www.trc.qld.gov.au

Document Set ID: 4182385
Version: 3, Version Date: 02/11/2022

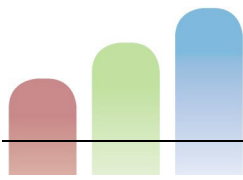


ASSESSMENT MANAGER CONDITIONS

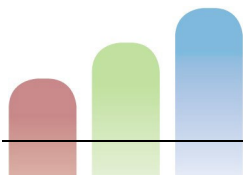
1	<p>Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:</p> <ul style="list-style-type: none"> - found necessary by Council's delegated officer at the time of examination 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	<p>Timing of Effect</p> <p>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.</p>
3	<p>General</p>
3.1	<p>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.</p>
3.2	<p>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.</p>
3.3	<p>Hours of Use</p> <p>The facility is approved for non-school related use between the hours of 7am and 9pm, Monday to Saturday, and between the hours of 7am and 6pm on Sundays and public holidays, except as otherwise required by these conditions of approval.</p>
4	<p>Infrastructure Services and Standards</p>
4.1	<p>Stormwater Drainage</p> <ul style="list-style-type: none"> (a) All necessary steps must be taken to ensure that the development has a non-worsening effect on surrounding land, including the State and Council controlled road reserves, and all stormwater is to be directed to an approved lawful point of discharge. (b) Prior to works commencing, a Stormwater Management Plan and Report must be submitted for endorsement, 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. (c) Prior to works commencing, a Stormwater Quality Management Plan and Report must be submitted for endorsement, prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards of design and construction set out in the Urban Stormwater Quality Planning Guideline and the Queensland Water Quality Guideline to the satisfaction of Council's delegated officer. (d) The Stormwater Quality Management Plan must include an Erosion and Sediment Control Plan that meets or exceeds the Soil Erosion and Sedimentation Control Guidelines (Institute of Engineers Australia) to the satisfaction of Council's delegated officer. (e) The above-described plans/reports must be submitted to Council as part of an application for Operational Works. (f) Stormwater drainage infrastructure must be constructed in accordance with the above-described plans/reports following endorsement by Council's delegated officer.



	<p>(g) During construction, temporary drainage, erosion and sediment control infrastructure will be installed to direct run-off to a lawful point of discharge clear of works.</p> <p>(h) Stormwater drainage works must be completed to the satisfaction of Council's delegated officer prior to the commencement of any approved use.</p>
4.2	<p>Car Parking and Drop-off/Pick-up Area</p> <p>Should it be substantiated by Council's delegated officer that the non-school related evening use of the adjacent Council-controlled car park and/or pick-up/drop-off area are causing "environmental nuisance" pursuant to the <i>Environmental Protection Act 1994</i> (i.e. due to noise, outdoor lighting or headlight glare), Council reserves the right to restrict usage of the car park and/or pick-up/drop-off area. Should this occur, a minimum of 16 on-site spaces must be kept available to service the facility in the vicinity of the existing multipurpose hall, centrally located within Lot 1 on SP206189.</p>
4.3	<p>Pedestrian Linkages / Frontage Works</p> <p>If the pedestrian linkage from the north-eastern corner of the Council-controlled car park is not provided as shown on the approved Overall Ground Floor Plan (Drawing No. 262. AE-101, Revision 5, dated 1 March 2021), the Applicant/Developer is required to undertake the following works in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer:</p> <ul style="list-style-type: none"> - A 2m wide section of concrete footpath must be constructed to connect the existing footpath on First Avenue to the proposed "new walkway" shown on the approved Overall Ground Floor Plan (Drawing No. 262. AE-101, Revision 5, dated 1 March 2021) and be located between the eastern access crossover of the adjacent Council-controlled car park and the western crossover of the drop-off / pick-up area. - Where the proposed "new walkway" shown on the approved Overall Ground Floor Plan (Drawing No. 262. AE-101, Revision 5, dated 1 March 2021) would interface with the drop-off/pick-up area on First Avenue, a kerb ramp must be installed in accordance with FNQROC Development Manual Standard Drawing No. S1016. - Footpath earthworks, topsoiling and turf reinstatement of disturbed verge areas beyond the above-described footpath works. - Footpath earthworks and surfacing that achieve a level transition between adjoining footpath and grassed verge areas. - Adjustments and relocations necessary to public utility services resulting from frontage/access works. <p>Prior to any footpath works commencing within the Council-controlled car park and/or road reserve, plans for the works must be approved as part of an Operational Works application.</p>
4.4	<p>Water Supply</p> <p>(a) The development must be connected to Council's reticulated water supply network in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.</p> <p>(b) Where the existing water supply connection is not adequate to service the proposed development, the Applicant/Developer is required to extend or upgrade the reticulated water supply infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended), to the satisfaction of Council's delegated officer.</p>
4.5	<p>Sewerage Connection</p>



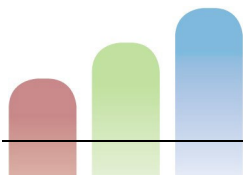
	<p>(a) The development must be connected to Council's reticulated sewerage network in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.</p> <p>(b) Where the existing sewerage connection is not adequate to service the proposed development, the Applicant/Developer is required to extend or upgrade the reticulated sewerage infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended), to the satisfaction of Council's delegated officer.</p>
4.6	<p>Earthworks</p> <p>Any filling/benching of the site that would result in the finished surface level of the courts being located above 790m AHD must not occur without the prior consent of Council's delegated officer, subject to the provision of a bulk earthworks plan prepared by a suitably qualified engineer, to their satisfaction.</p>
4.7	<p>Outdoor Lighting</p> <p>(a) All new external lighting must be designed, installed and operated so as to prevent the potential for light spillage to cause nuisance to adjacent residential uses or to pose a safety hazard to motorists in accordance with AS4282 (Control of the Obtrusive Effects of Outdoor Lighting) and AS1158.1 (Lighting for Roads and Public Spaces) as amended, and to the satisfaction of Council's delegated officer.</p> <p>(b) Outdoor lighting must be designed, installed and operated within Lot 1 on SP206189 as is necessary to ensure that a safe lighting environment is provided to the approved facility and to the adjacent Council-controlled car park and drop-off/pick-up area. Outdoor lighting to the car park and drop-off/pick-up area must continue to operate for at least 30 minutes after the scheduled use of the facility has ceased.</p> <p>(c) Pedestrian routes between the approved on/off site parking areas and the facility must be illuminated in accordance with the abovementioned standards and must continue to operate for at least 30 minutes after the scheduled use of the facility has ceased.</p>
4.8	<p>Noise Nuisance</p> <p>(a) Acoustic insulation with a minimum Noise Reduction Coefficient rating of 0.7 is to be incorporated into the underside roofing of the court structure to minimise reverberant noise build-up.</p> <p>(b) Any 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.</p> <p>(c) The Applicant/Developer is required to install and maintain suitable screening to any new 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.</p> <p>(d) Should Council's delegated officer receive a noise complaint(s) arising from the evening use of the facility and be able to substantiate that the indoor noise impacts associated with the normal operation of the facility (including the associated use of the adjacent Council-controlled car park and pick-up/drop-off area) for non-school related purposes as described in the application, exceed the relevant Acoustic Quality Objectives identified by the <i>Environmental Protection (Noise) Policy 2019</i> [as amended] at the source of the complaint(s), the evening operation of the facility will</p>



	<p>be suspended beyond 7.00pm until such time as a noise impact assessment (prepared by an appropriately qualified acoustic specialist) is provided to, and endorsed by, Council's delegated officer, demonstrating compliance with the EP (Noise) Policy [as amended] at the source of the complaint(s). The assessment must include a study that models the impacts of noise on surrounding properties, specifically those fronting First Avenue and Maunds Road, and must be accompanied by information (e.g. plans, documentation) demonstrating how the recommendations of the assessment would be incorporated into the design and/or operation of the facility. NB: For the purposes of this condition, the "indoor noise impact" is taken to be that experienced at a sensitive receptor while the windows remain open for the duration of the evening use of the facility and the associated use of the adjacent Council-controlled car park and drop-off/pick-up area.</p>
4.9	<p>Landscaping</p> <p>(a) Prior to the commencement of landscaping works, a landscaping plan, prepared substantially in accordance with Planning Scheme Policy No. 6 and the Sport and Recreation Activities Code is to be submitted for the endorsement of Council's delegated officer. The plan must nominate species in accordance with Schedule A of the policy.</p> <p>(b) Landscaping of the site is to be carried out substantially in accordance with the endorsed landscaping plan prior to commencement of the use and landscaping is to be irrigated, mulched and maintained to the satisfaction of Council's delegated officer until cessation of the approved use.</p>
4.10	<p>Waste Management</p> <p>On-site refuse storage areas are to be screened when viewed from adjacent properties and the road reserve by a minimum 1.8m high solid fence, dense landscaping or similar, to the satisfaction of Council's delegated officer.</p>

ASSESSMENT MANAGER ADVICE

(a)	<p>An Infrastructure Charges Notice has been issued with respect to the approved development. The Infrastructure Charges Notice details the type of infrastructure charges, the amount of the charges and when the charges are payable.</p>
(b)	<p>The 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.</p>
(c)	<p>Compliance with applicable codes/policies</p> <p>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.</p>
(d)	<p>Compliance with Acts and Regulations</p> <p>The erection and use of the building must comply with the <i>Building Act 1975</i> and all other relevant Acts, Regulations and Laws, and these approval conditions.</p>

**REFERRAL AGENCIES**

The referral agencies applicable to this application are:

Referral Status	Referral Agency and Address	Referral Trigger
Concurrence	State Assessment & Referral Agency (SARA) Department of State Development, Infrastructure, Local Government and Planning PO Box 2358 Caïms Qld 4870 CaïmsSARA@dsdilqp.qld.gov.au	<i>Planning Regulation 2017, Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Material change of use near a State transport corridor or a future State transport corridor)</i>

A copy of the concurrence agency response, dated 2 September 2022, is attached.

APPROVED PLANS

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
262. AE-030 (Rev 5)	SITE PLAN	Black & More / James Davidson Architect	01/03/21
262. AE-101 (Rev 5)	OVERALL GROUND FLOOR PLAN	Black & More / James Davidson Architect	01/03/21
262. AE-102 (Rev 5)	ROOF PLAN	Black & More / James Davidson Architect	01/03/21
262. AE-111 (Rev 1)	CLUBHOUSE PLAN	Black & More / James Davidson Architect	01/03/21
262. AE-201 (Rev 5)	ELEVATIONS	Black & More / James Davidson Architect	01/03/21
262. AE-202 (Rev 5)	ELEVATIONS	Black & More / James Davidson Architect	01/03/21

VARIATION APPROVAL

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

The following development permits are required to be obtained before the development can be carried out:

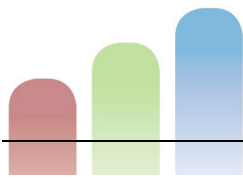
- Development Permit for Operational Work
- Development Permit for Building Work

OTHER APPROVAL/S REQUIRED FROM ASSESSMENT MANAGER (COUNCIL)

- Compliance Permit for Plumbing and Drainage Work

SUBMISSIONS

Not Applicable.



APPEAL RIGHTS

The rights of an applicant to appeal to a tribunal or the Planning and Environment Court against a decision about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For certain applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

Appeal by an applicant

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- the refusal of all or part of the development application
- a provision of the development approval
- the decision to give a preliminary approval when a development permit was applied for
- a deemed refusal of the development application.

An applicant may also have a right to appeal to the Development tribunal. For more information, see schedule 1 of the *Planning Act 2016*.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 229 of the *Planning Act 2016*.

An extract from the *Planning Act 2016* is attached that sets out the applicant's appeal rights and the appeal rights of a submitter.

To stay informed about any appeal proceedings which may relate to this decision visit: <https://planning.dsdmip.qld.gov.au/planning/our-planning-system/dispute-resolution/pe-court-database>.

If you wish to obtain more information about Council's decision, please contact the above-mentioned officer.

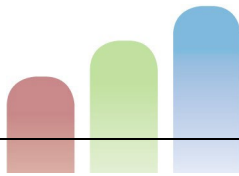
Yours faithfully

TUDOR TANASE
MANAGER PLANNING & ENVIRONMENT

Attachments:

1. Approved Plans
2. Concurrence Agency Response
3. Statement of Reasons
4. Appeal Rights

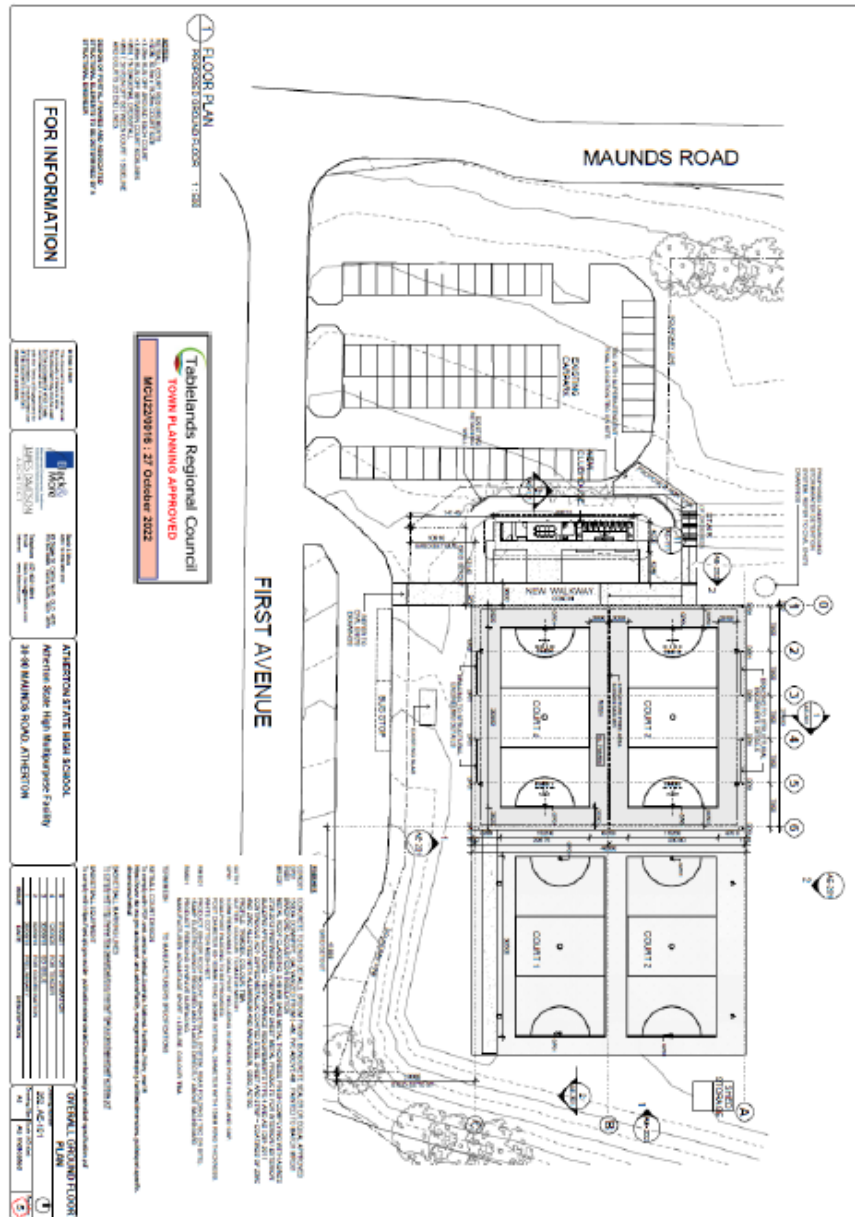
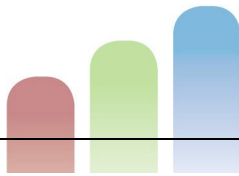
Cc: CaimsSARA@dsdip.qld.gov.au



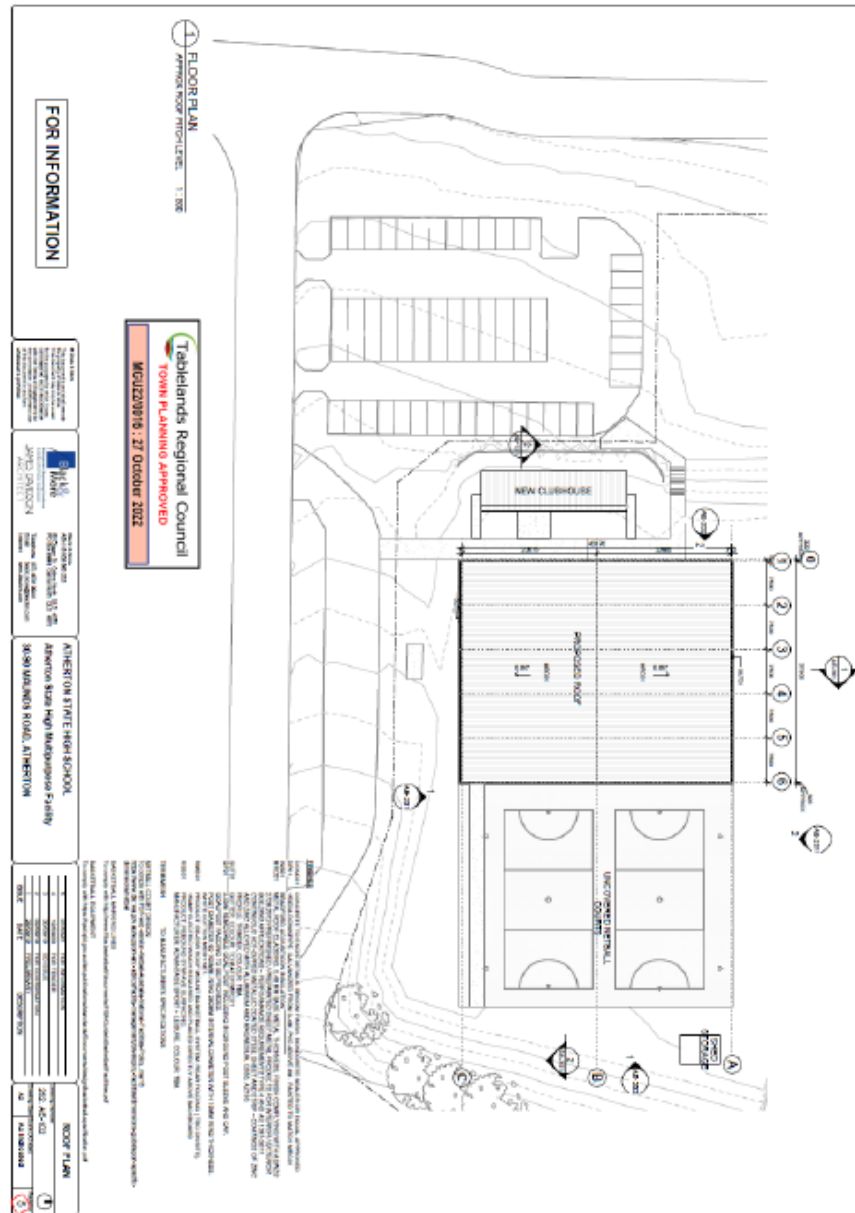
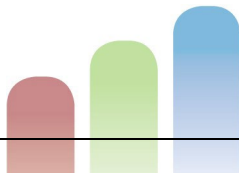
Attachment 1 – Approved Plans



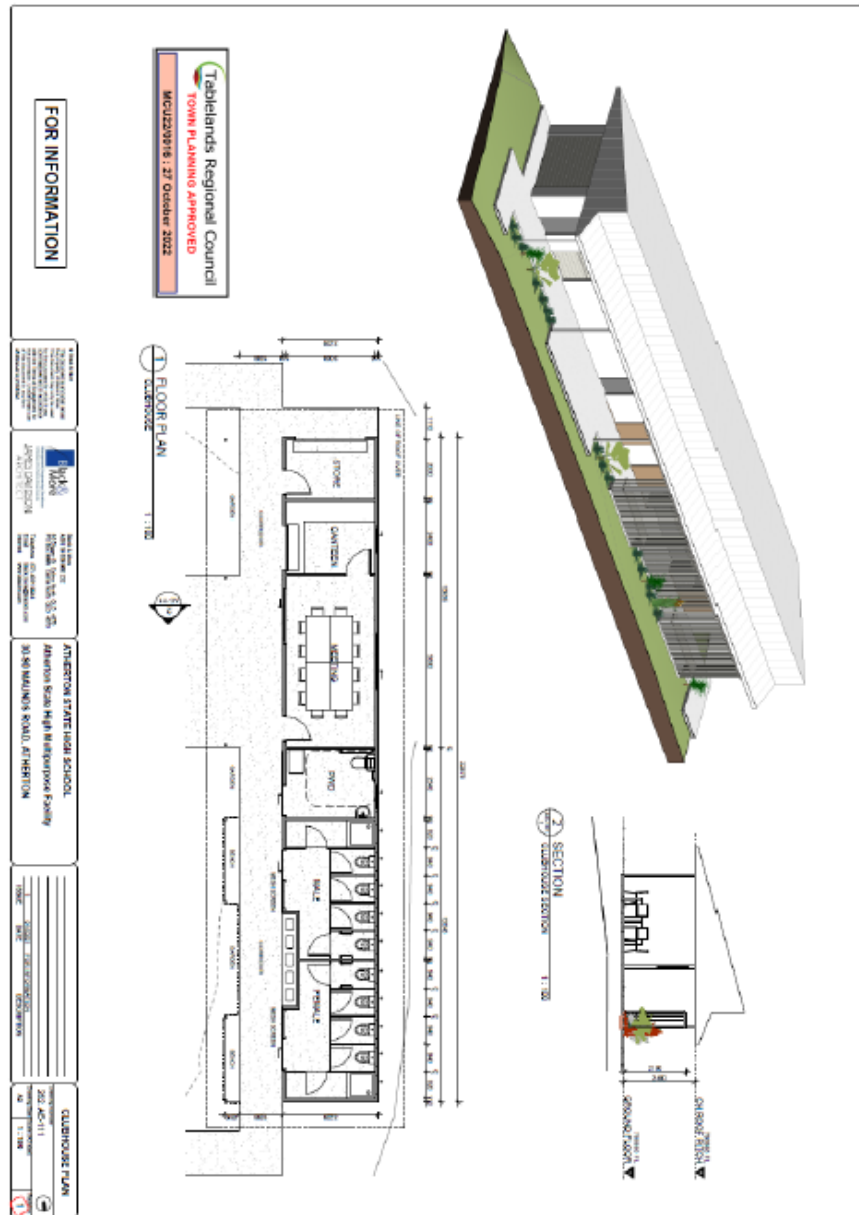
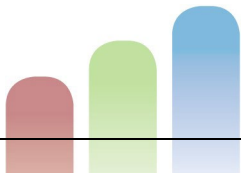
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Version: 3, Version Date: 02/11/2022



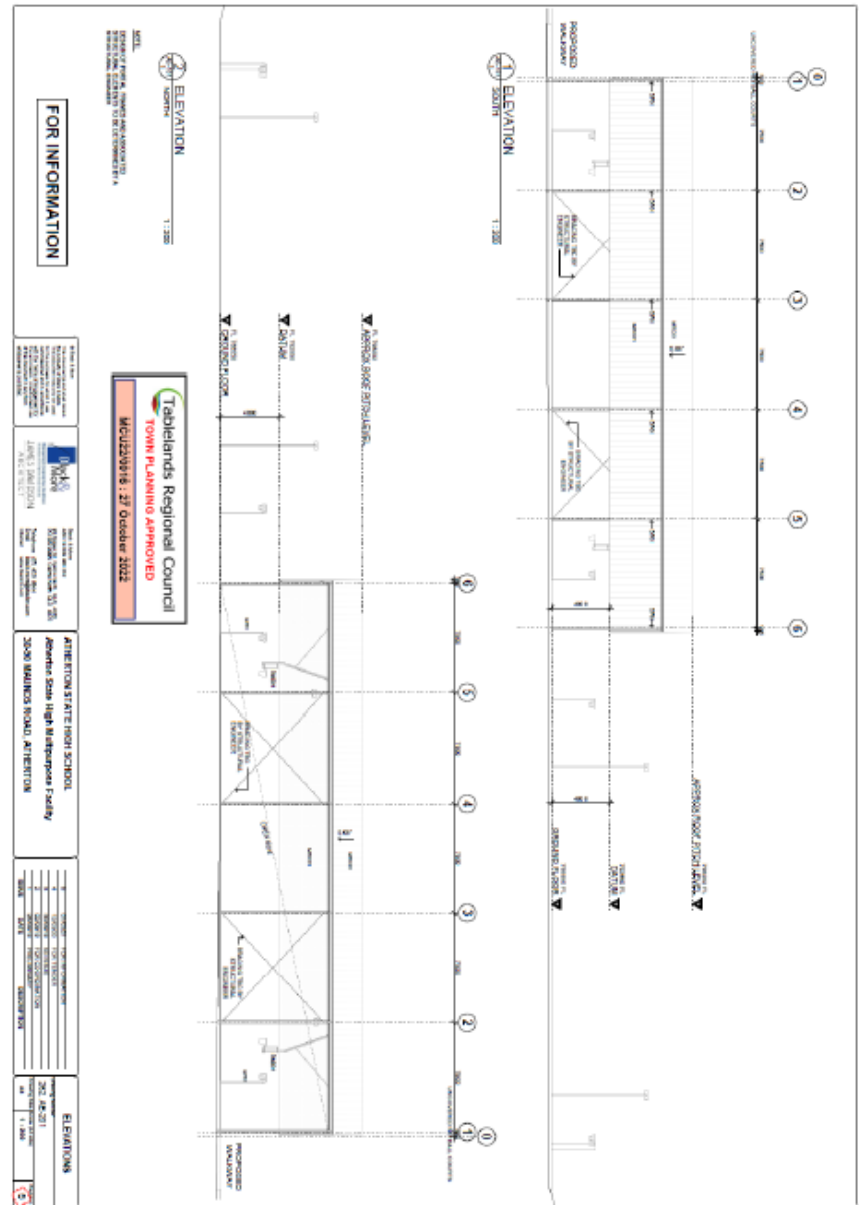
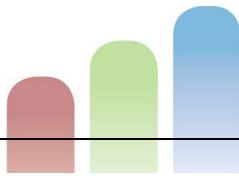
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Version: 3, Version Date: 02/11/2022



Document Set ID: 4182385
Version: 3, Version Date: 02/11/2022



Document Set ID: 4182385
Version: 3, Version Date: 02/11/2022



FOR INFORMATION

DATE: 27 October 2022
 DRAWN BY: [Name]
 CHECKED BY: [Name]

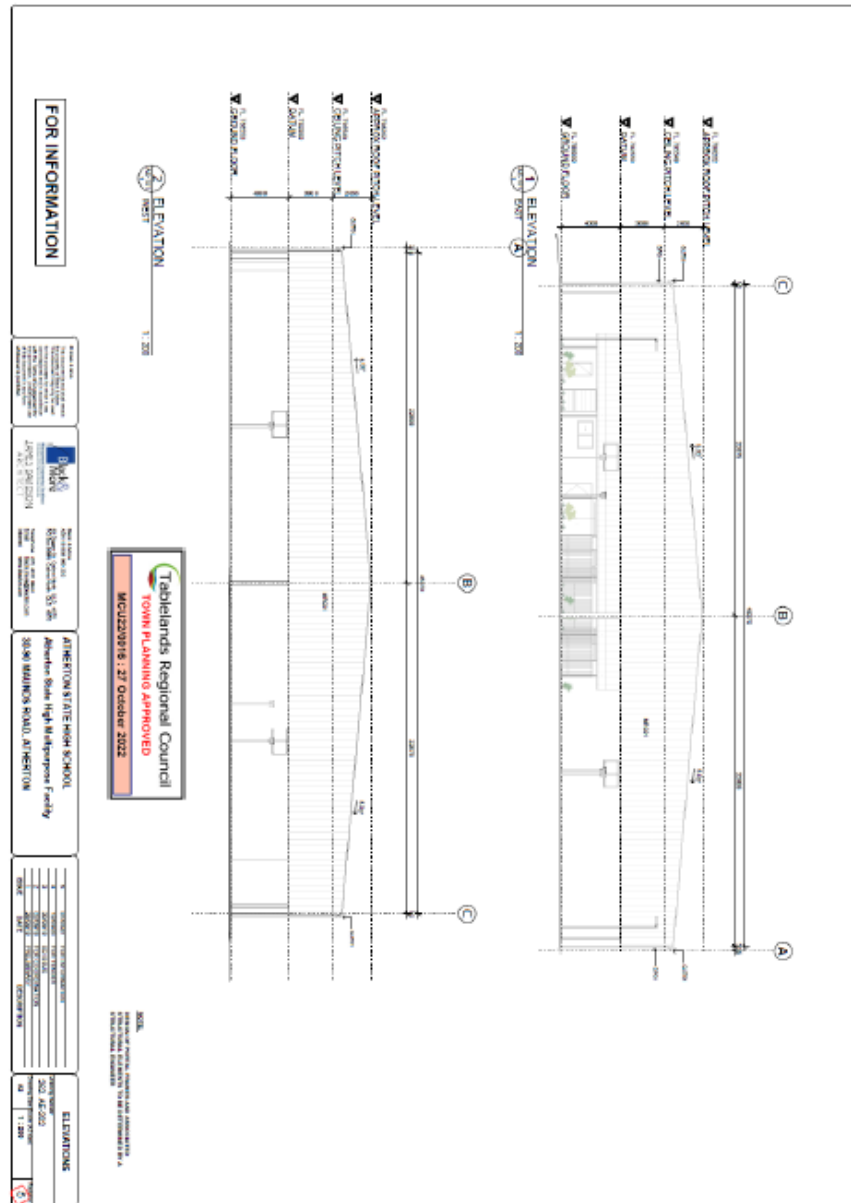
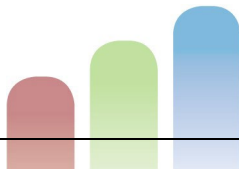


TABLELANDS REGIONAL COUNCIL
 TOWN PLANNING
 100 RIVERVIEW DRIVE
 MOUNTAIN VIEW, QLD 4700
 PH: 07 4072 5000
 FAX: 07 4072 5001
 WWW.TABLELANDSREGIONALCOUNCIL.GOV.AU

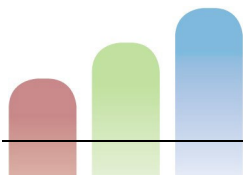
DATE: 27 October 2022
 DRAWN BY: [Name]
 CHECKED BY: [Name]

ATTENTION STATE HIGH SCHOOL
 Attention State High Midwestern Facility
 3000 BAINBRIDGE ROAD, ATTENTION

NO.	DESCRIPTION	ELEVATION
1	ROOF RISE	1.720
2	ROOF RISE	1.720
3	ROOF RISE	1.720
4	ROOF RISE	1.720
5	ROOF RISE	1.720
6	ROOF RISE	1.720



Document Set ID: 4182385
Version: 3, Version Date: 02/11/2022



Attachment 2 – Concurrence Agency Response

FA9-N



SARA reference: 2207-30145 SRA
Council reference: MCU22/0016
Applicant reference: PR162204

2 September 2022

Chief Executive Officer
Tablelands Regional Council
PO Box 573
Atherton Qld 4883
troplanningadmin@tro.qld.gov.au

Attention: Mr Dan O'Connor

Dear Sir/Madam

SARA response—30-90 Maunds Road, Atherton

(Referral agency response given under section 56 of the Planning Act 2016)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency on 4 August 2022.

Response

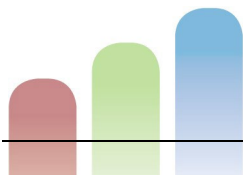
Outcome:	Referral agency response - No requirements
Date of response:	2 September 2022
Advice:	Advice to the applicant is in Attachment 1 .
Reasons:	The reasons for the referral agency response are in Attachment 2 .

Development details

Description:	Development permit	Material change of use for outdoor sport and recreation
SARA role:	Referral agency	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017) – Material change of use near a state transport corridor	
SARA reference:	2207-30145 SRA	
Assessment Manager:	Tablelands Regional Council	
Street address:	30-90 Maunds Road, Atherton	

Page 1 of 5

Far North Queensland regional office
Ground Floor, Orr Crafton and Harley
Street, Cairns
PO Box 2358, Cairns QLD 4870



2207-39145 DPA

Real property description: Lot 1 on SP206166
Applicant name: The State of Queensland (Represented by Department of Education)
C/- RPS Australia East Pty Ltd
Applicant contact details: PO Box 1949
Cairns QLD 4870
Patrick.Clifton@rpsgroup.com.au

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 3**.

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

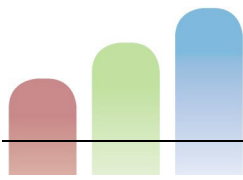
For further information please contact Belinda Jones, A/Principal Planning Officer, on 40373208 or via email CairnsSARA@dsdillp.qld.gov.au who will be pleased to assist.

Yours sincerely

Brett Nancarrow
Manager (Planning)

cc: The State of Queensland (Represented by Department of Education) C/- RPS Australia East Pty Ltd,
Patrick.Clifton@rpsgroup.com.au

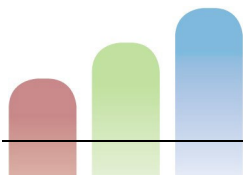
enc: Attachment 1 - Advise to the applicant
Attachment 2 - Reasons for referral agency response
Attachment 3 - Representations provisions



2207-30146 GRA

Attachment 1—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 <i>State Development Assessment Provisions (SDAP) v3.0</i> . If a word remains undefined it has its ordinary meaning.
2.	<p>An application for a road corridor permit is required for any ancillary works and encroachments on a state-controlled road including stormwater infrastructure. Under section 50(2) and Schedule 6 of the <i>Transport Infrastructure Act 1994</i> (TIA) and Part 6 and Schedule 1 of the <i>Transport Infrastructure (State-Controlled Roads) Regulation 2008</i>, the applicant must obtain a road corridor permit from the Department of Transport and Main Roads (DTMR) to carry out ancillary and encroachments works on a state-controlled road.</p> <p>The applicant is required to contact the Cairns district office of the Department of Transport and Main Roads on 4045 7144 to make an application for a Road Corridor Permit to carry out ancillary works and encroachments.</p> <p>Ancillary works and encroachments include but are not limited to stormwater infrastructure, advertising signs or other advertising devices, paths or bikeways, buildings/shelters/structures, vegetation clearing, landscaping and planting.</p>



2207-30145 SRA

Attachment 2—Reasons for referral agency response

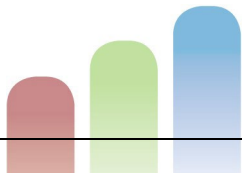
(Given under section 50(7) of the Planning Act 2016)

The reasons for the department's decision are:

- The proposed development is for outdoor sport and recreation associated with an existing school.
- No new access is proposed from the state-controlled road (Maunds Road).
- The proposed development is unlikely to impact on the safety and operational efficiency of state transport infrastructure.
- The development will not compromise the structural integrity of state transport infrastructure.
- The development does not compromise the state's ability to construct future state-controlled road and railway infrastructure.
- SARA has carried out an assessment of the development application against State code 1: Development in a state-controlled road environment and has found that the proposed development complies with relevant performance outcomes.

Material used in the assessment of the application:

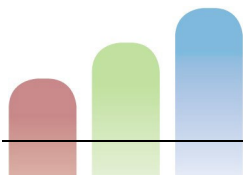
- The development application material and submitted plans
- Planning Act 2016
- Planning Regulation 2017
- The State Development Assessment Provisions (version 3.0), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system
- Human Rights Act 2019



2207-30146 SRA

Attachment 3—Change representation provisions

(page left intentionally blank – attached separately)



Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 26 and 30 of the Development Assessment Rules¹ regarding representations about a referral agency response

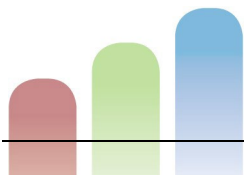
Part 6: Changes to the application and referral agency responses

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.

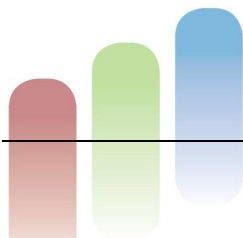


Part 7: Miscellaneous

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.



APPLICANT REPRESENTATIONS



Our ref: PR152204
Your ref: MCU22/0016

135 Abbott Street
Calms QLD 4870
T +61 7 4031 1336

Date: 23 November 2022

Chief Executive Officer
Tablelands Regional Council
PO Box 573
Atherton QLD 4883

Attn: Dan O'Connor, Acting Principal Planner

Dear Sir,

Material Change of Use (Outdoor Sport and Recreation), 30-90 Maunds Road, Atherton
Change representations regarding a development approval (pursuant to Section 75 of the *Planning Act 2016*)

Your Ref: MCU22/0016

We refer to your recent approval of this development application over the above site, made of behalf of The State of Queensland (Represented by the Department of Education). The development approval comprises:

- Development Permit for Material Change of Use for Outdoor Sport and Recreation.

We confirm receipt of the Decision Notice for the above approval on 2 November 2022 and note that the period for the submission of a request for a negotiated decision notice expires on 7 December 2022.

We write under Section 75 of the Act to make representations on the decision notice content and to seek issue of a negotiated decision notice amending the items discussed below.

Representations

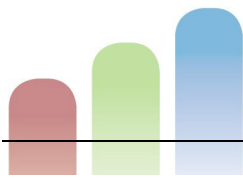
These representations relate specifically to a number of conditions of the approval that are considered to introduce uncertainty to the development approval granted and have put the project at funding risk.

As Council are aware, this project is being jointly funded by the Department of Tourism, Innovation and Sport and the Department of Education who are responsible for delivery of four Community Use of Schools pilot projects approved across Queensland. The Atherton State High School (ASHS) project is part of the pilot. The pilot projects are part of the Queensland Government's 10-year physical activity strategy *Activate! Queensland 2019-2029* (Activate! Queensland), in which the Queensland Government is encouraging greater community use of sport and recreation infrastructure in state schools to enhance participation opportunities across communities

In selecting this site and project for funding, the state departments considered a number of matters, including:

1. The Tablelands Regional Council Sport and Recreation Plan 2019-2024, adopted by Council on 13 December 2018, identifies a need for improved provision of, or access to, outdoor and indoor courts and a preference for increased use of school facilities. It further notes that Atherton State High School would like to develop a partnership with local clubs and Council to facilitate the shared funding and use of courts.

Objectives of the Sport and Recreation Plan includes, *investigating the provision of a regional court sports precinct which can support both basketball and netball to host competition and grow their*



Our ref: PR152204

sports. The investigation should include exploring the opportunities being offered at Atherton High School where 4 covered courts and two indoor courts could form an effective court sport precinct.

And

Working in partnership with Atherton State High School to increase the capacity of courts available at the school precinct.

This indicated that the proposed development was consistent with the strategy adopted by the Council in providing for sport and recreation resources in the Council area.

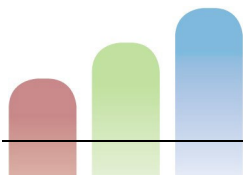
2. Netball Queensland State-wide Facilities Strategy 2018, identified as an immediate priority to identify a site to cater for four outdoor hard courts with lighting, and clubhouse facility with toilets, canteen, storage and other ancillary facilities.
3. That the school's Physical Education curriculum is adversely affected by the limited court facilities available.
4. Tableland Netball Association is no longer able to accommodate growth in membership, having had to cap participation numbers to 250 for the past 5 years. The Association is at capacity having turned away approx. 100 participants this season. Therefore, there is an opportunity for the Tableland Netball Association to grow and prosper by catering for the demand of netball activities that are unable to be offered to their members at this time.
5. That the location of the proposed facility adjacent residential premises is consistent with other similar facilities in other cities, including the Martyn Street complex (netball facility) in Cairns, which comprises 16 courts and regularly involves 360 players (excluding spectators) and operates up to 9pm in the evening.
6. The overall community benefit provided by the project would outweigh any potential impacts on adjacent residences, which already should have an expectation of some noise impacts, being adjacent to a school and a main road.
7. That the comprehensive consultation undertaken over a 4 year period, including a number of meetings with Council officers, the Mayor, CEO, and Council, highlighted there is a genuine community need / benefit for the proposed development.
8. The proposed facility will provide social, economic and health related benefits through increased participation in local sports across the Tablelands region and an economic benefit to the Atherton community through the holding of carnivals and events at the facility.

On the basis of this assessment it was considered that the project was an ideal project for funding and that it would deliver significant benefits to the community and to the wider region.

The conditions of approval have raised concerns in respect of the funding of this project by the Department of Tourism, Innovation and Sport. The current conditions of approval affect the ability of the proposed development being able to meet the funding criteria by introducing the uncertainty of a potential restriction of the use to 7pm. In addition the potential restriction of access to existing public car parking would introduce operational restrictions that are a further cause for concern.

The impact of the imposed conditions on the intended operation of the facility is that the Tableland Netball Association, who would be the primary beneficiary of the proposed development, would not be able to provide the required number of games and game times to accommodate the demand based upon a 7pm restriction. The uncertainty of a potential 7pm restriction affects any planning of the netball season, which would be severely impacted should such a requirement be imposed mid-season. The only way that the association would be able to operate with certainty is to assume a worst case scenario and plan to not operate after 7pm. As senior teams are unable to start any early than 8pm due to personal and work commitments and travel time with participants travelling from Milla Milla, Ravenshoe or Walkamin to play netball at the high school, this effectively means no senior games during the week. As parents are required to bring their children to sport, this also affects the teenager cohort, whose parents are typically working.

On the basis that the only certainty of operation, in accordance with the conditions of approval, is to conclude all games prior to 7pm, detailed consideration as to whether the project satisfies the funding criteria is required. On preliminary assessment and discussion, the entire project at risk as the project will be unable to meet the intent of the funding program. Not being able to meet the program intent of community use is a critical factor for DTIS and the Department needs to be able to reasonably ensure projects that are funded achieve the outcomes in which they are intended.



Our ref: PR152204

The anticipated consequence of the withdrawal of the funding is that the Tableland Netball Association, which is at participation capacity, will decline due to the inaccessibility of suitable sports infrastructure. Further pressure will be placed on the Council to secure an alternate location and funding options for the expansion of their association in line with this community based demand and Councils adopted Strategies. The alternate location is likely to result in similar concerns and issues if located within a built up area and an alternate facility would result in a greater capital cost and maintenance cost to the community to the current proposal.

The further delay and uncertainty would continue to negatively affect the school and the community as the project as the funding was allocated for release in 2019 and there is a heightened sense of expectations that this project will be delivered for student and community use given the media release from TRC. This may result in the school having to pursue a smaller facility that is for school use only and which would be unavailable for community use. Furthermore, the restrictions imposed by the approval would not be enforceable for school use only.

In order to provide funding and operational certainty to the project, it is requested that the Council consider changing a number of conditions of approval, as set out below.

Condition 4.2

Condition 4.2 of the approval states:

Car Parking and Drop-off/Pick-up Area

Should it be substantiated by Council's delegated officer that the non-school related evening use of the adjacent Council-controlled car park and/or pick-up/drop-off area are causing "environmental nuisance" pursuant to the Environmental Protection Act 1994 (i.e. due to noise, outdoor lighting or headlight glare), Council reserves the right to restrict usage of the car park and/or pick-up/drop-off area. Should this occur, a minimum of 16 on-site spaces must be kept available to service the facility in the vicinity of the existing multipurpose hall, centrally located within Lot 1 on SP206189.

It is requested that this condition be deleted.

Condition 4.3

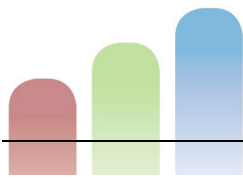
Condition 4.3 of the approval currently states:

Pedestrian Linkages / Frontage Works

If the pedestrian linkage from the north-eastern corner of the Council-controlled car park is not provided as shown on the approved Overall Ground Floor Plan (Drawing No. 262. AE-101, Revision 5, dated 1 March 2021), the Applicant/Developer is required to undertake the following works in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer:

- *A 2m wide section of concrete footpath must be constructed to connect the existing footpath on First Avenue to the proposed "new walkway" shown on the approved Overall Ground Floor Plan (Drawing No. 262. AE-101, Revision 5, dated 1 March 2021) and be located between the eastern access crossover of the adjacent Council-controlled car park and the western crossover of the drop-off / pick-up area.*
- *Where the proposed "new walkway" shown on the approved Overall Ground Floor Plan (Drawing No. 262. AE-101, Revision 5, dated 1 March 2021) would interface with the drop-off/pick-up area on First Avenue, a kerb ramp must be installed in accordance with FNQROC Development Manual Standard Drawing No. S1016.*
- *Footpath earthworks, topsoiling and turf reinstatement of disturbed verge areas beyond the above-described footpath works.*
- *Footpath earthworks and surfacing that achieve a level transition between adjoining footpath and grassed verge areas.*
- *Adjustments and relocations necessary to public utility services resulting from frontage/access works.*

Prior to any footpath works commencing within the Council-controlled car park and/or road reserve, plans for the works must be approved as part of an Operational Works application.



Our ref: PR152204

It is proposed as part of the development to provide the pedestrian linkage from the north-eastern corner of the Council-controlled car park and this is illustrated on the proposal plans, which were approved as part of the Development Permit. Condition 1 of the approval requires the development to be carried out substantially in accordance with the approved plans. On this basis, the condition is considered unnecessary and confuses the approval and should be deleted.

Condition 4.8

Condition 4.8 currently states:

Noise Nuisance

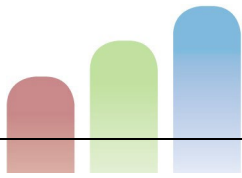
- (a) *Acoustic insulation with a minimum Noise Reduction Coefficient rating of 0.7 is to be incorporated into the underside roofing of the court structure to minimise reverberant noise build-up.*
- (b) *Any refrigeration equipment, pumps, compressors and mechanical ventilation systems must be located, 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.*
- (c) *The Applicant/Developer is required to install and maintain suitable screening to any new 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.*
- (d) *Should Council's delegated officer receive a noise complaint(s) arising from the evening use of the facility and be able to substantiate that the indoor noise impacts associated with the normal operation of the facility (including the associated use of the adjacent Council-controlled car park and pick-up/drop-off area) for non-school related purposes as described in the application, exceed the relevant Acoustic Quality Objectives identified by the Environmental Protection (Noise) Policy 2019 [as amended] at the source of the complaint(s), the evening operation of the facility will be suspended beyond 7.00pm until such time as a noise impact assessment (prepared by an appropriately qualified acoustic specialist) is provided to, and endorsed by, Council's delegated officer, demonstrating compliance with the EP (Noise) Policy [as amended] at the source of the complaint(s). The assessment must include a study that models the impacts of noise on surrounding properties, specifically those fronting First Avenue and Maunds Road, and must be accompanied by information (e.g. plans, documentation) demonstrating how the recommendations of the assessment would be incorporated into the design and/or operation of the facility. NB: For the purposes of this condition, the "indoor noise impact" is taken to be that experienced at a sensitive receptor while the windows remain open for the duration of the evening use of the facility and the associated use of the adjacent Council-controlled car park and drop-off/pick-up area.*

The concern in respect of this condition is part (d) that introduces the uncertainty of operational hours. It is considered that this condition needed to be weighed against the benefits that the proposed development would provide to the community.

As this is a code assessable application, the Council can only have regard to the applicable codes when determining the application. The site is located in the Community Facilities Zone and is required to be assessed against the relevant requirements of the Community Facilities Zone Code and the Sport and Recreation Activities Code.

The proposed development is considered to be consistent with the purpose of the Community Facilities Zone Code to ensure that community facilities are appropriately located in order to service the communities in the region now and in the future, whilst ensuring that impacts of the facilities are minimised. It is a community facility that would be appropriately located within existing school grounds and within close proximity to the community it is intending to serve now and in the future. Whilst there would be an impact of noise, the colocation of the use within a school ground and adjacent a main road (Maunds Road) and the design of the facility to face away from the adjacent residences is considered to minimise the impact of the facility on the community as a whole.

The purpose of the Sport and Recreation Activities Code includes to ensure sport and recreation facilities are convenient and accessible to the communities they serve, and do not detrimentally impact on the local



Our ref: PR152204

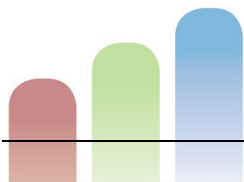
amenity or the local traffic network. The site is considered to be suitably located and would be convenient and accessible to the Atherton Tablelands Community. In this basis it is considered to be consistent with the purpose of the code. The issue is noise and whether that has a "detrimental Impact" on the local community. In this instance the overall impact of the development, as expressed in the Sport and Recreation Plan and the outcomes of the public consultation, is a positive impact and could not be considered to be detrimental.

On this basis it is requested that part (d) of condition 4.8 be deleted to provide certainty to the operation and use of the development.

We look forward to Councils positive response to this request. In the meantime, if you have any queries please contact the writer (contact details below).

Yours sincerely,
for RPS Australia East Pty Ltd

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**8.2. EVENTIDE HILLS DISTILLERY - MATERIAL CHANGE OF USE -
BOUTIQUE DISTILLERY & CELLAR DOOR OPERATION (UNDEFINED LAND
USE) LOT 3 RP729227 - 2-10 AULD ROAD, TOLGA MCU22/0022****REPORT DETAIL**

Report Author: Senior Planner

Department: Development Services

APPLICATION DETAILS:

Applicant:	Eventide Hills Distillery C/- Gilvear Planning Pty Ltd PO Box 228 Babinda QLD 4861
Applicant Reference:	J001471: KSM: JKM
Landowner:	Janet Carver
Proposal:	Material Change of Use for a Boutique Distillery & Cellar Door Operation (Undefined Land Use)
Properly Made Date:	3 September 2022
Street Address:	2-10 Auld Road, Tolga
RP Description:	Lot 3 on RP 729227
Lot Area:	20,270m ²
Planning Scheme:	Tablelands Regional Council Planning Scheme 2016 (v4)
Designations:	Strategic Settlement Pattern – Rural Framework: Residential Local Plan: Nil Zone: Rural Residential Zone – 4,000m ² Applicable Overlays: Precinct Nil
Assessment Type:	Impact
Number of Submissions:	Nil
Referral Agencies:	DTMR C/- State Assessment and Referral Agency
Referred Internal Specialists:	<ul style="list-style-type: none">• Environmental Health Officer• Building Services
Recommendation:	Approve with conditions

- ATTACHMENTS:**
1. Plans of Development
 2. Referral Agency Response
 3. Statement of Reasons

EXECUTIVE SUMMARY

The applicant is seeking a development permit for a Material Change of Use for a Boutique Distillery & Cellar Door Operation (Undefined Land Use) at 2-10 Auld Road, Tolga. In the application, the applicant has defined the Boutique Distillery and Cellar Door Operation as “...the operation of a Boutique Distillery and Cellar Door Operation on the premises and includes the following activities:

1. The distilling of spirits in small batches (non-continuous production).
2. The bottling, storage, and dispatch of small batch / boutique spirits.
3. The selling of small batch / boutique spirits from the premises.
4. The selling of items from the premises associated with small batch / boutique spirits (including bar tools, glasses, cocktail sets, and drink garnishes).
5. The selling of premade local products (including cheese, fruits and biscuits).
6. The preparation and selling of tasters or samples made from the boutique spirits.
7. The preparation and selling of cocktails made from the boutique spirits.
8. The undertaking of tours to showcase the production, distillation, and bottling processes.
9. The preparation and selling of food (e.g., street food, finger foods and canapés) by a third party (including by mobile food trucks).”

The proposed development will be staged, with the first stage consisting of a shop and cellar door with a limit of 15 tastings per day. The second stage will consist of the full extent of the use as described above and will be permitted upon the upgrade of the existing effluent disposal system.

The critical planning issue of the proposed development is whether the development is of a type and scale that is suited to the Rural Residential Zone. The development is a commercial/tourism venture with an industrial element. It has been determined that the development site is a suitable location for the use as there is adequate distance and vegetation separating the development from surrounding sensitive land uses meaning the development can adequately mitigate the impacts on residents in the area and the development is in keeping with the existing character and amenity of the area as it is to be located in an existing commercial building.

The development is in keeping with the outcomes within the strategic framework in that the development facilitates an emerging and innovative industry which provides employment opportunities in the region and there are no adverse impacts on the centre zone by locating the commercial use outside of the centre zone. Overall, it has been determined that the development does not conflict with the assessment benchmarks of the Tablelands Regional Council Planning Scheme 2016 (v4).

The application is impact assessable and no properly made submissions were received in response to public notification of the application. Draft conditions were provided to the applicant, care of their consultant, and have been agreed to.



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

OFFICER'S RECOMMENDATION

- (A) That Council resolve that the application does not conflict with a relevant instrument and approve a Development Permit for a Boutique Distillery & Cellar Door Operation (Undefined Land Use) on land described as Lot 3 on RP 729227, situated at 2-10 Auld Road Tolga subject to the following:

APPROVED PLANS/DOCUMENTS:

Plan No.	Plan Name	Date
Sheet 3, Issue A	<i>Floor Plan (Preliminary Issue)</i> , prepared by Superior Steel Homes	14 August 2022
Sheet 5, Issue A	<i>3D Views (Preliminary Issue)</i> , prepared by Superior Steel Homes	14 August 2022

ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

1. Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
 - found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
 - to ensure compliance with the following conditions of approval.
2. Timing of Effect
 - 2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the commencement of the use except where specified otherwise in these conditions of approval.
 - 2.2 Prior to the commencement of use, the Applicant/Developer must notify Council that all the conditions of the development permit (including any relevant referral agency conditions) have been complied with, except where specified otherwise in these conditions of approval.
3. General
 - 3.1 The Applicant/Developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.

3.2 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to commencement of the use and at the rate applicable at the time of payment.

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

3.4 Use Requirements

3.4.1 Until such time as an on-site effluent disposal system to accommodate the use is provided in accordance with Condition 4.5, the use is limited to a maximum of 15 persons per day for tastings. Use of toilet facilities is limited to persons attending tasting sessions and employees.

3.4.2 Until such time as an on-site effluent disposal system to accommodate the use is provided in accordance with Condition 4.5, no on-site dining is permitted. This includes consuming food from food trucks.

3.4.3 No open flames (such as candles, gas stoves, fire pits etc.) are permitted within 10m of the commercial building.

3.4.4 A designated outdoor smoking area must be established a minimum of 10m from the commercial building.

3.4.4.1 The smoking area must not be located directly outside the distilling room.

3.4.4.2 Smoking is not permitted outside of this smoking area.

Machinery (including the grain roller mill) shall only be operated between the hours of 7am and 6pm.

Advice note: The spirit distiller is not considered machinery for the purpose of interpreting the above condition and can be operated at all times.

3.4.5 The distillery must be mechanically ventilated to reduce the build-up of ethanol vapour.

3.4.6 An ethanol vapour detector must be installed in the kitchen area near the lowest point at the entrance to the kitchen.

3.4.7 Record Keeping

Adequate records must be kept and made available to Council for inspection on request to demonstrate compliance with the following conditions-

(i) Condition 3.4.1 & 3.4.2 – Use requirements

(ii) Condition 4.5 – On-site waste management

4. Infrastructure Services and Standards

4.1 Stormwater Drainage

All necessary steps must be taken to ensure that the development has a non-worsening effect on surrounding land, including the State and Council controlled road reserves, and all stormwater is to be directed to an approved lawful point of discharge.

4.2 On-site Car Parking

4.2.1 Prior to the commencement of the approved use, the Applicant/Developer must ensure that the development is provided with a minimum of 12 on-site car parking spaces, including a minimum of one (1) disabled space and one (1) SRV space, in accordance with AS2890.1, AS2890.2 and AS2890.6 (as amended).

4.2.1.1 Where the construction of an additional parking area is required to accommodate the required number of parking spaces, the area must be constructed to a compacted gravel base of 150mm minimum thickness with a minimum thickness of 25mm of asphalt surfacing, or compacted gravel base of 150mm minimum thickness with a two coat sprayed bitumen seal, to the satisfaction of Council's delegated officer.

4.2.2 Parking areas are kept and used exclusively for parking and are maintained in a suitable condition for parking and circulation of vehicles.

4.2.3 The parking area is compacted, sealed, drained, line marked prior to the commencement of the use.

4.2.4 No loading/unloading is to occur in the road reserve and all vehicles are to enter and exit the site in forward gear. When required, on-site parking spaces must be reserved as is necessary to facilitate the on-site turning movements of service and refuse collection vehicles.

4.2.5 Secure bicycle parking facilities for a minimum of 2 bikes must be provided within the boundaries of the site.

4.2.6 Pedestrian routes from the parking area to building entrances, are safe and readily identifiable.

4.2.7 A 2m wide concrete footpath must be constructed between the toilet facilities and the main building, to the satisfaction of Council's delegated officer.

4.3 Non-Reticulated Water Supply



4.3.1 Prior to commencement of the use, the applicant/developer must demonstrate that a minimum supply equivalent to 500 litres/person/day can be achieved by way of:

- on-site water storage tank/s; or
- a bore or bores are provided in accordance with the Design Guidelines set out in the Planning Scheme Policy 4 – FNQROC Regional Development Manual.

4.3.1.1 Where supply is proposed to be achieved via bore, the Applicant/Developer is required to provide Council's delegated officer with written evidence of the relevant licences/permits pursuant to the *Water Act 2000*.

4.3.2 The Applicant/Developer must demonstrate that any proposed source of potable water can satisfy the standards for drinking water identified by the Australian Drinking Water Guidelines (National Health and Medical Research Council and the National Resource Management Ministerial Council - as amended), to the satisfaction of Council's delegated officer.

4.5 On-site waste management

Prior to the use commencing beyond the limitations outlined in Conditions 3.4.1 and 3.4.2, the applicant/developer must submit documentation to the satisfaction of council's officer that the existing on-site effluent disposal system has either been upgraded or replaced as is necessary to accommodate the loading associated with the ultimate use of the premises as described in the planning report accompanying the application, in accordance with the *Plumbing and Drainage Act 2018*, the *Plumbing and Drainage Regulation 2019* and the *Environmental Protection Regulation 2019* (as amended).

4.6 Outdoor Lighting

Where outdoor lighting is required, it must be designed and installed to prevent the potential for light spillage to cause nuisance to any adjacent residential uses or to pose a safety hazard to motorists in accordance with AS4282 (Control of the Obtrusive Effects of Outdoor Lighting) and AS1158.1 (Lighting for Roads and Public Spaces).



4.7 Waste Management

- 4.7.1 On-site refuse storage areas are to be screened when viewed from adjoining properties and the road reserve by a 1.2m high solid fence, dense landscaping or similar.
- 4.7.2 Where bulk bins are used, the bins must be collected from a location within the boundaries of the site that enables refuse vehicles to enter and exit the site safely in forward gear.
- 4.7.3 Waste from the manufacturing process (dunder) is to be stored in a holding tank and collected by a regulated waste contractor.

4.8 Landscaping and Fencing

Within 6 months of commencing the use, the applicant/developer must provide:

- a) A landscape strip with a minimum width of 1.5m is provided adjacent the road frontage to Auld Road and Kennedy highway for the entire length of the parking area.
- b) The above-described plantings must comprise species selected from Schedule A of Planning Scheme Policy 6 and must be planted at no greater than 1m spacings
- c) Landscaping and fencing of the site are to be carried out in accordance with the above conditions prior to commencement of the approved use and landscaping is to be irrigated, mulched and maintained to the satisfaction of Council's delegated officer until cessation of the approved use.

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 1975*. You are advised to contact a Building Certifier to establish if a change in the classification of the building is required.
- b) Food Premises
The applicant is advised that they must apply for a food licence under the *Food Act 2006* prior to operating. Please make an appointment with the Environmental Health Officer.
- c) Advertising signage for the proposed development may require a Development Permit for Operational Works. Please contact the Community & Regional Planning Department prior to installing any advertising signage on the premises.

d) Compliance with applicable codes/policies

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

e) Compliance with Acts and Regulations

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

f) 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.dor.qld.gov.au.

REFERRAL AGENCY CONDITIONS

A copy of the referral agency conditions dated 20 October 2022 is attached.

CURRENCY PERIOD

The development approval lapses at the end of the following period (the *currency period*)—

- for any part of the development approval relating to a material change of use—if the first change of use does not happen within **6 years** after the approval starts to have effect;

The approval, to the extent it relates to the development or aspect not completed, lapses at the end of the currency period.

FURTHER DEVELOPMENT PERMITS REQUIRED

- Nil

OTHER APPROVALS REQUIRED FROM ASSESSMENT MANAGER (COUNCIL)

- Nil

THE SITE



Land Area: Lot 3 RP 729227

Existing Use of Land: Dwelling house

Road Frontage:	100m along Kennedy Highway, 242m along Auld Road, 85m along Arbouin Road
Significant Site Features:	Dwelling house, associated outbuildings and commercial building
Topography:	Relatively flat with gradual slope toward Arbouin Road
Surround Land Uses:	Cropping land to the north and west. Rail trail along the highway to the west

DESCRIPTION OF PROPOSED DEVELOPMENT

The applicant is seeking a development permit for a Boutique Distillery and Cellar Door Operation. This use is not defined in the TRC Planning Scheme. In the application, the applicant has defined the Boutique Distillery and Cellar Door Operation as "...the operation of a Boutique Distillery and Cellar Door Operation on the premises and includes the following activities:

- 10. The distilling of spirits in small batches (non-continuous production).
- 11. The bottling, storage, and dispatch of small batch / boutique spirits.
- 12. The selling of small batch / boutique spirits from the premises.
- 13. The selling of items from the premises associated with small batch / boutique spirits (including bar tools, glasses, cocktail sets, and drink garnishes).
- 14. The selling of premade local products (including cheese, fruits and biscuits).
- 15. The preparation and selling of tasters or samples made from the boutique spirits.
- 16. The preparation and selling of cocktails made from the boutique spirits.
- 17. The undertaking of tours to showcase the production, distillation, and bottling processes.
- 18. The preparation and selling of food (e.g., street food, finger foods and canapés) by a third party (including by mobile food trucks)."

The proposed development will be staged, with the first stage consisting of a shop and cellar door with a limit of 15 tastings per day. The second stage will consist of the full extent of the use as described above and will be permitted upon the upgrade of the existing effluent disposal system.

BACKGROUND AND CONTEXT

The development is proposed in an existing commercial building located on a Rural Residential lot. This building was originally established as a road-side stall when the land was in the Rural Zone. The stall was expanded and converted to a shop ("The Peanut

Place”) in 1978 and has since operated as a shop and café. While the proposed development is not typical of a rural residential area, the development is consistent with the long-established commercial use of this section of the site.

ASSESSMENT FRAMEWORK

An assessment of the proposed development against the relevant planning instruments is summarised as follows:

State Planning Policy 2017

A separate assessment against the State Planning Policy is not required as it is adequately reflected by the TRC Planning Scheme.

Regional Plan 2009-2031

A separate assessment against the Regional Plan is not required as it is reflected by the Tablelands Regional Council Planning Scheme 2016 (as amended).

Tablelands Regional Council Planning Scheme 2016 (v4) Designation/s

Strategic Plan designation:	Settlement Pattern – Rural Residential
Priority Infrastructure Area:	Nil
Zone:	Rural Residential Zone – 4,000m ² Precinct
Local Area Plan:	Nil
Overlays:	Nil

Strategic Framework

The following Strategic / Specific Outcomes are considered relevant to the assessment of the application:

Strategic/Specific Outcomes		Complie s	Comments
3.3.2.1.3	Other than small scale uses, commercial activities will not occur outside centre areas unless there is an overriding need in the public interest, there are no alternative sites in centre areas, there is no adverse impact on centre areas or the area surrounding the development and the site is readily accessible by a range of transport modes.	p	The use is considered a small-scale commercial/tourism development which includes an industrial element, being the on-site distilling process. The use is not well suited to the medium or heavy industrial zone precincts given the small scale of the distilling operation and the tourism component of the use requiring a higher level of amenity. The location in the rural residential zone links the product to its rural surroundings. The site is readily accessible for a range of transport due to its location on the highway and close proximity to the rail trail, which facilities active modes of transport such as walking and cycling. There is no adverse impact

			on the centre zone by locating the use outside of the centre zone.
3.3.2.1.4	Ribbon or strip commercial activities along state controlled roads and local collector roads is avoided outside of the centre areas.	p	While the development is considered ribbon or strip development as it is located along the Kennedy Highway outside of the centre zone, the development is within an existing commercial building which was constructed in the 1970s. The development does not represent <i>new</i> ribbon development.
3.3.10.1.3	Small industry areas and sites are designated in some rural activity centres and rural villages to support the local rural economies with light industry and trades. Where no industrial zoned land is supplied in rural activity centres and rural villages, some low impact industrial uses may be permitted in centre and residential areas where it is demonstrated impacts on surrounding land uses can be managed.	p	The development constitutes a use with small-scale industrial component located outside of the rural village of Tolga in the rural residential zone. The application has demonstrated that the impacts on surrounding land uses can be managed.
3.3.11.1.5	Small scale non-residential and tourism uses which do not impact on character and amenity are facilitated in rural residential areas.	p	The development constitutes a use with small-scale industrial component located in the rural residential zone. The development is in keeping with the existing character of the area as it is located in an existing commercial building. There is adequate distance and vegetation separating the development from surrounding sensitive land uses, which acts to protect the amenity of the area.
3.4.1.3	The outstanding natural environment, rural production, environmental facilities and scenic landscapes of the Tablelands provide a basis for the development of sustainable tourism enterprises. The Tablelands' geographical proximity to Cairns International Airport and tourist base provides opportunities for increasing visitation and exposure to the Tablelands. Large scale tourist accommodation facilities are developed in key sites across the region and a diverse range of short term accommodation facilities are provided in the regions towns and rural areas. Caravan and recreational vehicle users are provided with a variety of attractive locations to stay in the region. Adventure, nature based and food tourism experiences are developed across the regions rural and natural areas. The character and	p	The use is considered a small-scale commercial/tourism development which includes an industrial element, being the on-site distilling process. The use is considered a food tourism experience reliant on local produce and product.

	appeal of key towns, landscape features and <i>scenic routes</i> which attract tourists to the region will be maintained and enhanced. The south-western dry land savannah of the region accommodates further nature and rural based tourism development.		
3.4.1.7	The establishment of emerging industries and enterprises is facilitated in appropriate locations. Flexibility and responsiveness allow for economic diversity and innovation, leading to a greater variety of employment and meeting the changing needs of the community and economy. Home based businesses provide opportunities for self employment and small enterprise in <i>residential areas</i> where impacts are limited and manageable.	p	The use is considered a small-scale commercial/tourism development which includes an industrial element, being the on-site distilling process. While the rural residential zone is not where such a development would typically be located, the site is considered appropriate as it is utilising a long-established commercial building which has recently been disused. The development represents an innovative self-employment opportunity in an emerging industry.
3.4.6.1.2	Out-of-centre retail development is avoided and should only occur if there is not a suitable site in an appropriate centre area, a clearly demonstrated over-riding community need and evidence demonstrating that the development would not adversely impact existing centre areas.	p	The use is a small-scale commercial/tourism development which includes an industrial element, being the on-site distilling process. As such, there is no adverse impact on the centre zone by locating the use outside of the centre zone, as the industrial component of the development is not suitable in the centre zone. The development site is an appropriate site that utilises a currently disused commercial building while allowing the separation of the development from surrounding land uses due to the industrial component of the use.
3.4.11.1.1	New and emerging industries and services are accommodated in appropriate locations through responsiveness and flexibility without compromising long term planning.	p	The use is considered a small-scale commercial/tourism development which includes an industrial element, being the on-site distilling process. While the rural residential zone is not where such a development would typically be located, the site is considered appropriate as it is utilising a long-established commercial building which has recently been disused. The development represents an innovative self-employment opportunity in an emerging industry. The long term planning of the area as a residential area is compromised by the existing commercial building however it is not worsened by the establishment of the use within this building.
3.5.2.1.4	New development provides appropriately designed and	p	The development has been conditioned to provide adequate on-

	constructed off street parking sufficient to cater for likely demand.		site car parking spaces in the existing car parking area.
3.5.6.1.4	In areas not serviced by reticulated sewerage, on-site effluent disposal systems ensure the environment is not adversely impacted.	p	The development has been conditioned to provide an adequate on-site reticulated effluent disposal system and has been conditioned to limit the use until such time as this occurs.
3.5.7.1.1	Stormwater is managed to ensure no worsening of stormwater impacts on surrounding land and protection of environmental values.	p	The development has been conditioned to ensure a non-worsening effect from stormwater on surrounding land.
3.5.9.1.3	On-site waste disposal and recycling areas are provided by development to meet operational requirements of storage, and collection and screened from view.	p	The development has been conditioned to locate waste within a screened refuse area. It has also been conditioned that regulated waste from the manufacturing process be removed by a regulated waste contractor.
3.7.3.1.2	Plants used for landscaping and street trees are appropriate for the purpose and the local environment, are not invasive, exotic plants.	p	The development has been conditioned to provide landscaping in accordance with Planning Scheme Policy 6

Relevant Development Codes

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

6.2.2 Rural Residential Zone Code

9.3.12 Industrial Activities Code

9.3.5 Commercial Activities Code

9.4.2 Landscaping Code

9.4.3 Parking & Access Code

9.4.5 Works, Services and Infrastructure Code

The application included an assessment against the planning scheme. An officer assessment has found that the application satisfies the relevant codes set out above, provided reasonable and relevant conditions are attached to an approval.

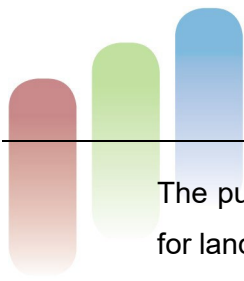
Planning Scheme Policies

The following planning scheme policies are relevant to the application:

PSP 4 FNQROC Regional Development Manual

This policy applies to the proposal and is generally achieved through conditions and any resulting operational works.

PSP 6 Landscaping and Preferred Plant Species



The purpose of this policy is to provide information on the minimum standards for landscaping plans. A condition of approval requires landscaping of the site to be undertaken in accordance with an approved landscaping plan prior to the commencement of the use.

Infrastructure Charges Notice

In accordance with Council's Adopted Infrastructure Charges Resolution No. 1 of 2019, Infrastructure Charges are not payable on the proposed development. Section 6.2, ii, of the AICR outlines that a credit will be applied for "a previous use that is no longer taking place on the premises if the use was lawful at the time the use was carried out...". The premises where the development is located is in an existing building which was formerly used as a lawfully established shop, as well as a food and drink outlet. The development does not include any building work, increase in GFA or impervious area and therefore will generate no increased demand on TRC's trunk infrastructure.

REFERRAL AGENCY/IES

In accordance with Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 of the *Planning Regulation 2017*, the application triggered referral to the Department of Transport and Main Roads care of the State Assessment and Referral Agency for a Material change of use of premises near a State transport corridor or that is a future State transport corridor.

A copy of the referral agency response/conditions dated 20 October 2022 is attached (Attachment 2).

Internal Consultation

The application was referred to Environmental Health Officer to provide expert advice on environmental health risks associated with the interface between the industrial element of the proposal (distilling) and other commercial activities including food and drink. The advice of the EHO has been integrated in the proposed conditions.

PUBLIC NOTIFICATION

The development proposal was placed on public notification from 10 October 2022 to 1 November 2022. The applicant submitted the notice of compliance on 1 November 2022 advising that the public notification requirements were carried out in accordance with the requirements of the Act.

No properly made submissions were received.



Critical Planning Issues

Location of development

The critical issue in the assessment of the application is whether the type and scale of development is suitable in the Rural Residential zone. The use is considered a small-scale commercial/tourism development which includes an industrial element, being the on-site distilling process.

While the development site is in the rural residential zone, the area has more of a rural character with active cropping and other rural activities occurring on surrounding lots. The area was previously in the Rural Zone and does not yet have the density expected in the 4,000m² precinct. There is adequate distance and vegetation separating the development from surrounding sensitive land uses, which acts to protect the amenity of the area. The development is also in keeping with the existing character of the area as it is to be located in an existing commercial building and faces toward the highway rather than toward the existing dwelling houses to the east and south of the development site. Given these factors, the development site is considered suitable for the type and scale of the development despite such a development not being characteristic of the Rural Residential Zone.

On-site effluent disposal system

A key issue in the assessment of the application was the on-site effluent disposal system. It was originally proposed that a condition be applied requiring that the state of the existing on-site effluent disposal be assessed by a suitably-qualified wastewater consultant and, where it is identified that an upgrade is required to the effluent disposal system to accommodate the use, the applicant must upgrade the system prior to the commencement of the use.

Earth Test, a local wastewater consultant, undertook the assessment of the effluent disposal system prior to TRC deciding the material change of use application. It was determined that the existing system could not accommodate the equivalent of 50 persons per day, meaning an upgrade would be required to the existing system to accommodate the use. The applicant requested that the business be allowed to establish itself in the new location before being required to upgrade the effluent disposal system, given the significant cost of completing the upgrade upfront. To facilitate this, it was proposed that the use would be limited to 15 persons per day for tastings, with no on-site dining permitted, until such time as the system was upgraded. The effluent disposal condition (Condition 4.5) was amended to reflect this and the following conditions were applied:



3.1 Use Requirements

- 3.1.1 Until such time as an on-site effluent disposal system to accommodate the use is provided in accordance with Condition 4.5, the use is limited to a maximum of 15 persons per day for tastings. Use of toilet facilities is limited to persons attending tasting sessions and employees.
- 3.1.2 Until such time as an on-site effluent disposal system to accommodate the use is provided in accordance with Condition 4.5, no on-site dining is permitted. This includes consuming food from food trucks.

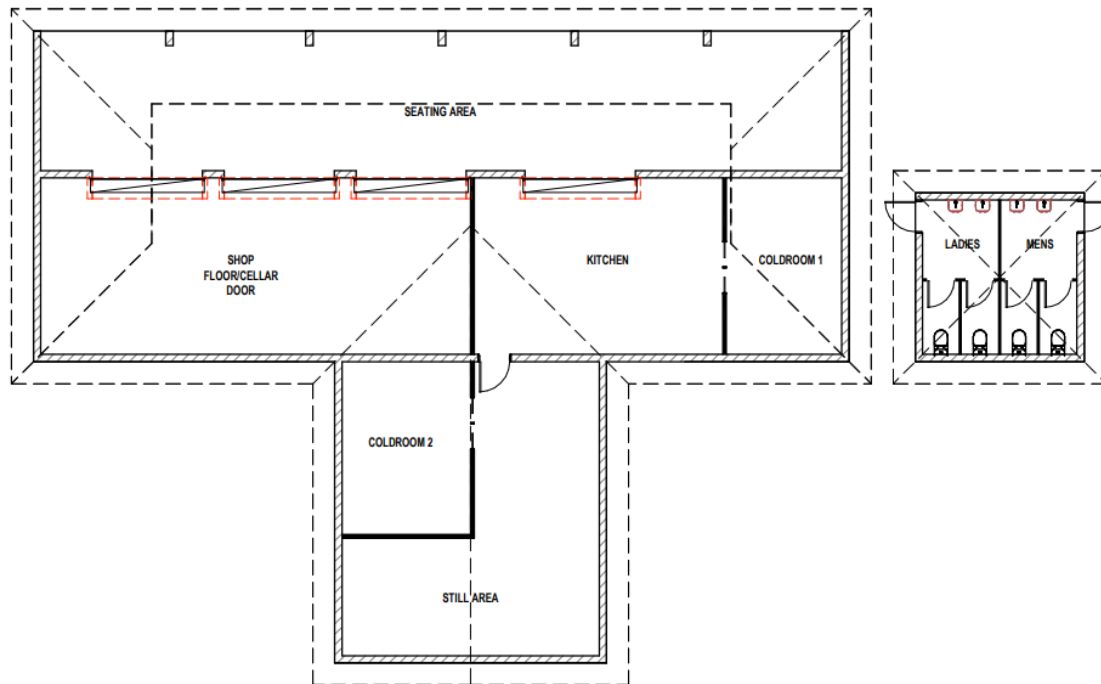
The applicant has agreed to all of the conditions.

Date Prepared: 6 December 2022

ATTACHMENT 1 - PLANS OF DEVELOPMENT

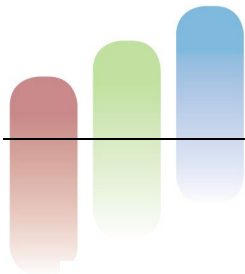


ELEVATION KEY
FLOOR AREAS LEGEND



DESIGN WIND	C	SOIL CLASSIFICATION	TBA
A			
No.	DATE	DESCRIPTION	
VARIATIONS INCLUDED IN THIS DRAWING			
DRAWING TITLE			
FLOOR PLAN			
SHEET	03	PRINT	14/08/2022 10:18:42 AM
PRELIMINARY:	?	CONSTRUCTION:	-
A3	SCALE	ISSUED	A
1:100 AT A3		DRAWN	WE
PRELIMINARY ISSUE			
ISSUING JOB	DRAWING		
PROJECT			
PROPOSED RESIDENCE			
Lot ?? on SP.???????			
CLIENT			
CLIENT			
PO BOX 876		QBCC. 1097802	
ATHERTON QLD 4883			
33-35 ALBRECHT ST			
TOLGA INDUSTRIAL ESTATE, QLD, 4882			
PH: 07 4095 4008			
EMAIL: info@sshq.com.au			
WEB: www.superiorsteelhomesq.com.au			
THIS DRAWING IS COPYRIGHT ©			

NOTE: (1). VERIFY ALL DIMENSIONS AND LEVELS BEFORE COMMENCING ANY WORK. (2). VERIFY ALL ON SITE DIMENSIONS BEFORE COMMENCING ANY FABRICATION. (3). FIGURED DIMENSIONS TO TAKE PRECEDENCE OVER SCALED MEASUREMENTS. (4). ALL WORK TO COMPLY WITH LOCAL AUTHORITY REQUIREMENTS, THE STANDARD BUILDING BY LAWS, THE BUILDING CODE OF AUSTRALIA AND RELEVANT AUSTRALIAN STANDARDS. (5). SUBSTITUTION OF ANY STRUCTURAL MEMBERS, & OR VARIATIONS TO ANY PART OF THE DESIGN, WILL VOID ANY RESPONSIBILITIES OF THE BUILDING DESIGNER FOR THE STRUCTURAL INTEGRITY & PERFORMANCE OF THE BUILDING.



ATTACHMENT 2 – REFERRAL AGENCY RESPONSE

RA6-N



SARA reference: 2209-31092 SRA
Council reference: MCU22/0022
Applicant reference: J001471: KSM: JKM

20 October 2022

Chief Executive Officer
Tablelands Regional Council
PO Box 573
Atherton QLD 4883
trcplanningadmin@trc.qld.gov.au

Attention: Isley Peacey

Dear Sir/Madam

SARA response—2-10 Arbouin Road, Tolga

(Referral agency response given under section 56 of the *Planning Act 2016*)

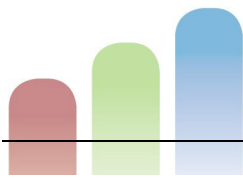
The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 21 September 2022.

Response

Outcome:	Referral agency response – with conditions
Date of response:	20 October 2022
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 for a Boutique Distillery and Cellar Door Operation (Undefined Land Use)
SARA role:	Referral agency	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017)	



Development application for a material change of use within 25m of a state-controlled road

SARA reference: 2209-31092 SRA

Assessment manager: Tablelands Regional Council

Street address: 2-10 Arbouin Road, Tolga

Real property description: Lot 3 on RP729227

Applicant name: Eventide Hills Distillery

Applicant contact details: PO Box 228
BABINDA QLD 4861
kristy@gilvearplanning.com.au

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.

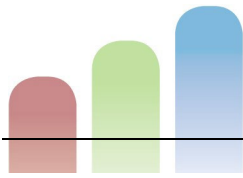
For further information please contact Sue Lockwood, Senior Planning Officer, on 40373214 or via email CairnsSARA@dSDLGP.qld.gov.au who will be pleased to assist.

Yours sincerely

Javier Samanes
A/Manager (Planning)

cc Eventide Hills Distillery, kristy@gilvearplanning.com.au

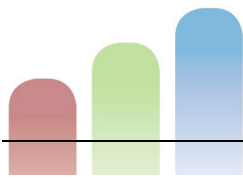
enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations provisions



Attachment 1—Referral agency conditions

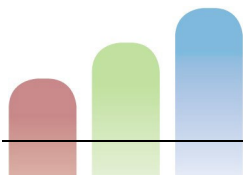
(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application)

No.	Conditions	Condition timing
Material change of use		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 —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 conditions:		
1.	Stormwater management of the development must ensure no worsening to the state-controlled road.	At all times.
2.	Direct access is not permitted between the Kennedy Highway and the subject site.	At all times.



Attachment 2—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) v3.0. If a word remains undefined it has its ordinary meaning.
Advertising device	
2.	<p>If the boutique distillery & cellar door operation – undefined land use is proposing to erect an advertising device that will be visible from a state-controlled road the applicant should seek advice from the Department of Transport and Main Roads (DTMR) to ensure that the advertising device visible from a state-controlled road, and beyond the boundaries of the state-controlled road, is unlikely to create a traffic hazard for the state-controlled road.</p> <p>Note: DTMR has powers under section 139 of the Transport Operations (Road Use Management - Accreditation and Other Provisions) Regulation 2015 to require removal or modification of an advertising sign and / or a device which is deemed to create a danger to traffic.</p>



Attachment 3—Reasons for referral agency response

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

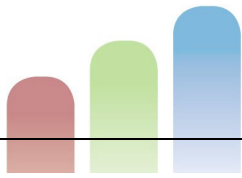
The reasons for SARA's decision are:

With conditions the proposed development complies with State code 1: Development in a state-controlled road environment. Specifically, the development:

- does not adversely impact the structural integrity or physical condition of state-controlled road or road transport infrastructure
- does not adversely impact the function and efficiency of state-controlled road
- does not adversely impact the state's ability to plan, construct, maintain, upgrade or operate state-controlled roads, future state-controlled roads or road transport infrastructure.

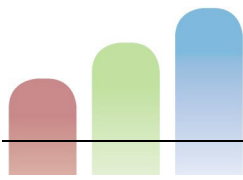
Material used in the assessment of the application:

- 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
- *Human Rights Act 2019*



Attachment 4—Representation provisions

(page left intentionally blank – attached separately)



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

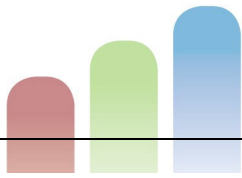
Part 6: Changes to the application and referral agency responses

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 3 - STATEMENT OF REASONS

Statement of Reasons *Planning Act 2016*

This Notice is prepared in accordance with s63(5) and s83(7) of the *Planning Act 2016* to inform the public about a decision that has been made in relation to a development application. The purpose of the Notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:

- The relevant parts of the Planning Scheme and Assessment Benchmarks against which the application was assessed; and
- Any other information, documents or other material Council was either required to, or able to, consider in its assessment.

All terms used in this Notice have the meanings given them in the *Planning Act 2016*.

Application Details

Application Number:	MCU22/0022
Property Address:	2-10 Auld Road TOLGA
RPD:	Lot 3 on RP729227
Proposal:	Material Change of Use for a Boutique Distillery & Cellar Door Operation (Undefined Land Use)
Planning Scheme:	Tablelands Regional Council Planning Scheme 2016 (v4)

Assessment benchmarks

- Strategic framework
- Rural residential zone code
- Industrial activities code
- Commercial activities code
- Landscaping code
- Parking & access code
- Works, services and infrastructure code

Reasons for the Decision

The development application is approved for the following reasons:

- a) The development can adequately mitigate impacts on the amenity and character of the rural residential zone through separation distances and vegetation buffering.
- b) There is no adverse impact on the centre zone by locating the commercial use outside of the centre zone.
- c) The development has been staged to ensure an adequate on-site effluent disposal system can accommodate the use.
- d) The use is considered a small-scale commercial/tourism development which represents an emerging industry in the area and provides opportunity for local employment.

**8.3. BARLETTA INVESTMENTS PTY LTD - MATERIAL CHANGE OF USE FOR WINERY - LOT 25 SP119116 - 255 MARKS LANE, ATHERTON - MCU22/0025****REPORT DETAIL**

Report Author: Senior Planner

Department: Development Services

APPLICATION DETAILS:

Applicant:	Barletta Investments Pty Ltd TTE C/- Freshwater Planning Pty Ltd
Applicant Reference:	MCU22/0025
Landowner:	Barletta Investments Pty Ltd
Proposal:	Material Change of Use for "Winery"
Properly Made Date:	6 September 2022
Street Address:	255 Marks Lane, Atherton 4883
RP Description:	Lot 25 on SP119116
Lot Area:	11.65 Ha
Planning Scheme:	Tablelands Regional Council Planning Scheme 2016 (V4)
Designations:	Strategic Framework: Agricultural Land, Scenic Route, Principal Cycle Route, B-Double Route Local Plan: N/A Zone: Rural Zone (Agricultural Land Precinct) Applicable Overlays: Water Resource Catchment, Environmental Significance, Slope, Transport Noise Corridor
Assessment Type:	Impact
Number of Submissions:	Nil
Referral Agencies:	DTMR C/- SARA
Referred Specialists: Internal	<ul style="list-style-type: none">• Development Engineer• Project Engineer Water and Wastewater
Recommendation:	Approve subject to conditions

- ATTACHMENTS:**
1. Plans of Development
 2. Referral Agency Response
 3. Statement of Reasons

EXECUTIVE SUMMARY

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

The application is impact assessable and no submissions were received in response to public notification of the application.

The proposal has been assessed against the relevant statutory planning instruments, including the Tablelands Regional Council Planning Scheme 2016 (V4) and does not conflict with any relevant planning instrument.



The key issues for the assessment relate to on-site effluent disposal, operational conditions and landscaping to the Gillies Range Road frontage of the site.

Draft conditions were provided to the Applicants, care of their consultant, and have been agreed.

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

OFFICER’S RECOMMENDATION

(A) That Council determines that the application seeking a Development Permit for a Material Change of Use for “Winery” on land described as Lot 25 on SP119116 and located at 255 Marks Lane, Atherton, be approved subject to the following plans and conditions:

APPROVED PLANS/DOCUMENTS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
150 – WD2	Site Plan	Own Home Design	12/08/21
150 – WD3	Floor Plan	Own Home Design	12/08/21

ASSESSMENT MANAGER’S CONDITIONS (COUNCIL)

1. Development must be carried out substantially in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
 - found necessary by Council’s delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
 - to ensure compliance with the following conditions of approval.
2. Timing of Effect
 - 2.1 The conditions of the development permit must be complied with to the satisfaction of Council’s delegated officer prior to the commencement of the use except where specified otherwise in these conditions of approval.
 - 2.2 Prior to the commencement of the use, Council must be notified that all 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 the conditions of this approval.
 - 3.2 All payments or bonds required to be made to the Council pursuant to any condition of this approval or the associated Infrastructure Charges Notice must be made prior to the commencement of the use and at the rate applicable at the time of payment.



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

4. Infrastructure Services and Standards

4.1 Stormwater Drainage

All reasonable and practicable measures must be taken to ensure that the development has a non-worsening effect on surrounding land and road reserves and that stormwater discharge occurs in compliance with the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual. During construction, temporary drainage, erosion and sediment control infrastructure must be installed to direct run-off to a lawful point of discharge clear of the works.

4.2 Car Parking and Manoeuvring Areas

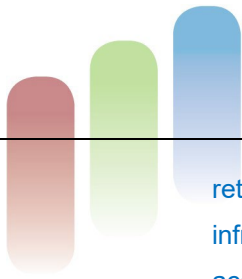
- (a) A minimum of four (4) sealed on-site car parking spaces must be retained, and kept available, to service the approved "Winery" within the existing sealed parking area (NB: This is additional to the minimum parking provision associated with the approved "Food Processing and Kiosk" use – MCU22/012).
- (b) A service vehicle parking area capable of accommodating a minimum of one (1) HRV is to be kept available within the gravel surfaced parking area during business hours.

4.3 Landscaping

- (a) A minimum 1m wide landscaping strip must be planted to screen for the gravel surfaced carpark when viewed from the Gillies Range Road to the satisfaction of Council's delegated officer.
- (b) The above-described landscaping strip must comprise shrub species selected from Schedule A of Planning Scheme Policy 6 that would have a minimum height at maturity of 1m and which are planted at no greater than 1m spacings.
- (c) The existing landscaping treatments along the Marks Lane and Gillies Range Road frontages of the site must be retained.
- (d) Landscaping is to be carried out prior to commencement of the use and all landscaping treatments must be irrigated, mulched and maintained to the satisfaction of Council's delegated officer for the life of the approved use.

4.4 Water Supply

- (a) The approved development is to be supplied by the reticulated water service connection and associated meter currently servicing the property.
- (b) Where the existing water supply connection is not adequate to service the proposed development, the Applicant/Developer is required to extend or upgrade the



reticulated water supply infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended), to the satisfaction of Council's delegated officer, OR, the Applicant/Developer must provide information, to the satisfaction of Council's delegated officer, that supply can be achieved via alternative on-site means (e.g. bore, rainwater tank).

4.5 On-site effluent disposal

Within 12 months of commencement of the use either:

- (a) Evidence of an Environmental Authority for the conduct of Environmentally Relevant Activity No. 63 (sewerage treatment) must be provided to Council accompanied by a written statement from the Department of Environment and Science that sewerage treatment facilities have been constructed to the Department's satisfaction; or
- (b) A written statement from the Department of Environment and Science must be provided confirming that the recently upgraded effluent disposal system does not constitute an Environmentally Relevant Activity.

4.6 Outdoor Lighting

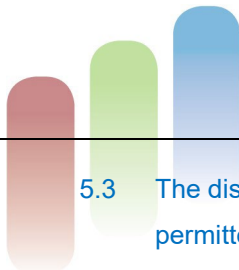
Where outdoor lighting is required, it must be designed and installed to prevent the potential for light spillage to cause nuisance to adjacent residential uses or to pose a safety hazard to motorists in accordance with AS4282 (Control of the Obtrusive Effects of Outdoor Lighting) and AS1158.1 (Lighting for Roads and Public Spaces).

4.7 Waste Management

- (a) An on-site refuse storage area must be provided and be screened from view from adjoining properties and road reserve by 1.8m high dense landscaping or solid fencing.
- (b) The kerb-side collection of refuse receptacles is not permitted, all refuse collection must occur internal to the site, where industrial bins are used, refuse collection vehicles must be able to safely and efficiently access the on-site refuse collection point and enter/exit the site in forward gear.
- (c) Putrescible waste receptacles are to be secured and located to prevent access by wildlife and vermin.

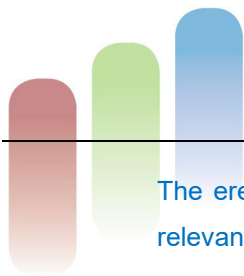
5. Operational Requirements

- 5.1 The use of any chemical or substance in the manufacturing process, any wastewater discharge and the disposal of any accumulated sediment material is to be treated prior to being discharged as stormwater or alternatively removed from the site for treatment and disposal.
- 5.2 Any stormwater leaving the premises shall contain no visible floating oil, grease, scum, litter or other matter.

- 
- 5.3 The discharge of contaminated run-off to the site, drainage features or waterways is not permitted.
 - 5.4 Airborne contaminants, including but not limited to odour, dust, smoke, fumes, particulates and aerosols are not to be emitted beyond the property boundaries of the premises.
 - 5.5 No incineration or open burning is to be carried out at the premises.
 - 5.6 Chemicals stored in bulk at the premises (>20L) must be stored in a bunded area that is large enough to contain 110% of the largest container stored.
 - 5.7 Any spillage of wastes or potential contaminants must be cleaned up immediately following an incident.
 - 5.8 The winery building must be designed so that internal run-off is captured by stormwater drains and external stormwater is prevented from entering buildings.

ASSESSMENT MANAGER'S ADVICE

- (a) An Infrastructure Charges Notice has been issued with respect to the approved development. The Infrastructure Charges Notice details the type of infrastructure charges, the amount of the charges and when the charges are payable.
- (b) The 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) Food Premises
A food licence is required under the *Food Act 2006* prior to the commencement of the approved use. Please contact Council's Environmental Health Officer on 1300 362 242 to make an appointment.
- (d) The change in the use of the building would also require a change in the classification of the building under the Building Act. You are advised to contact a Building Certifier regarding the change in the classification.
- (e) Advertising signage for the proposed development may require a Development Permit for Operational Works. Please contact Council's Development Services section prior to installing any advertising signage on the premises.
- (f) 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.
- (g) 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.

CURRENCY PERIOD

When approval lapses if development not started (*Planning Act 2016 s85*):

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

The approval, to the extent it relates to the development or aspect not completed, lapses at the end of the currency period.

REFERRAL AGENCY RESPONSE

Department of State Development, Local Government, Infrastructure and Planning, conditions dated 2 November 2022.

OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS

- Development Permit for Building Work

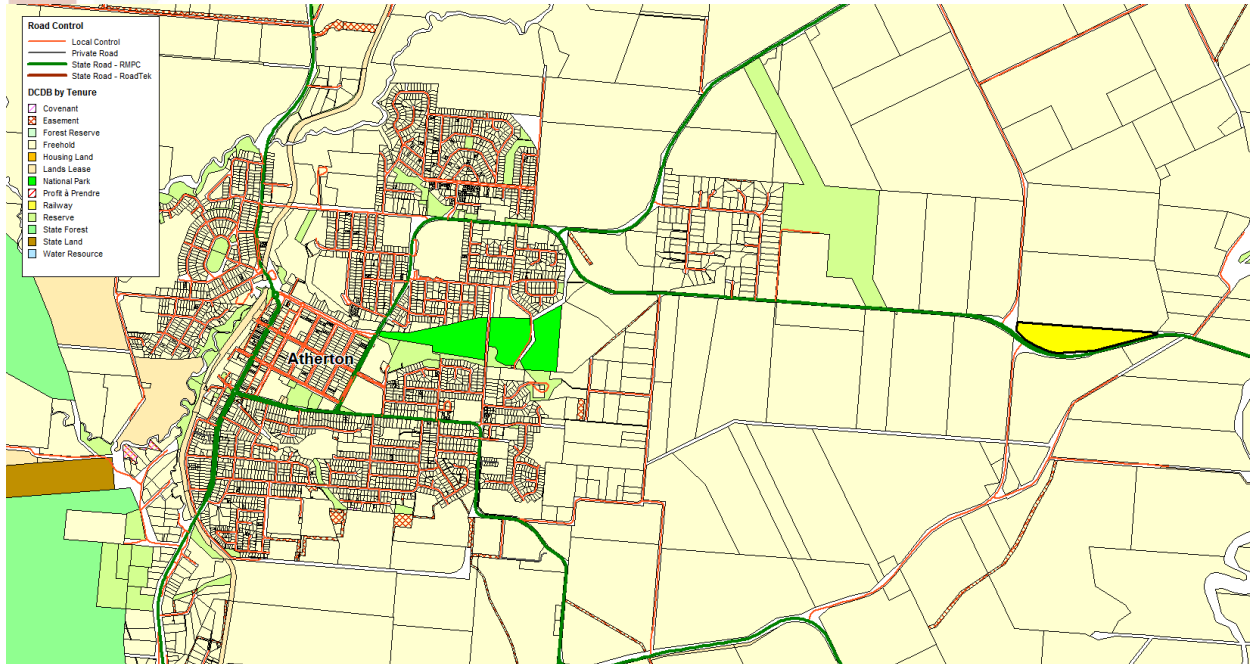
OTHER APPROVALS REQUIRED FROM COUNCIL

- Compliance Permit for Plumbing and Drainage Work.

(B) That Council issues an Infrastructure Charges Notice for the following infrastructure charges:

Calculation				
Catchment/s	Credits/Charge Exclusions (CE)	Additional demand	AICR Charge Category*	Charge amount
Outside PIA	Nil credits. -35% sewerage CE, Stormwater and Parks – N/A	86m ² of "Winery" GFA	\$20.00/m ² GFA before charge exclusions	\$1,720.00
Total Charge less Charge Exclusions				\$1,118.00

THE SITE

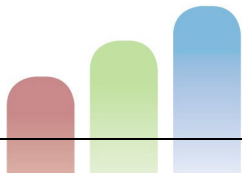




Land Area:	11.65 Ha
Existing Use of Land:	Cropping/tourist attraction (pick-your-own strawberry farm), produce packing shed and kiosk.
Road Frontage:	50m to Marks Lane and 1km to Gillies Range Road.
Significant Site Features:	A non-perennial tributary of the Barron River traverses the site flowing west to east.
Topography:	Relatively flat to undulating with slopes >15% along the banks of the watercourse.
Surround Land Uses:	Rural-zoned land predominantly comprising cropping with some animal husbandry and rural lifestyle uses.

DESCRIPTION OF PROPOSED DEVELOPMENT

The application seeks a Development Permit for a Material Change of Use for a “Winery” as shown by the proposed plans provided as Attachment 1. The following proposal description is taken from the planning report that accompanied the application:



The proposed development is for a Material Change of Use – Winery in the Agricultural Land Precinct within the Rural Zone of the Tablelands Regional Council’s Planning Scheme. The site is located at 255 Marks Lane, Atherton and is more particularly described as Lot 25 on SP119116. The site is irregular in shape, has an area of 11.65 hectares and contains existing buildings and structures associated with the Shaylee Strawberries Farming Operation and Café/Restaurant. The site is accessed from the existing Road Network, being Marks Lane via an existing crossover. No access is proposed via the Gillies Range Road. The proposal is to convert an existing structure over the site into the provision of a Winery, complimenting the existing Rural Activities over the site. A Winery is classified as a Rural Activity as per the defined activity groups within Schedule of Definitions of the Tablelands Regional Councils Planning Scheme Schedules and Policies. No change to the existing Rural Operations and Commercial Activities are envisaged with the proposed development.

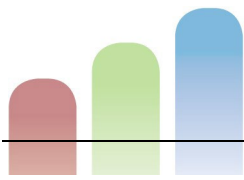
A Development Permit for a Material Change of Use is sought to facilitate the conversion (internal fit out) of an existing structure without affecting the existing Rural Operations (Strawberry Farm) and Commercial Activities (Café/Restaurant). The proposal is to redevelop the existing structure to the south of the Café into a Winery. This redevelopment is to further diversify the existing Rural Activities over the site whilst creating additional Tourist Activities on the Tablelands.

The proposed development is for the conversion of the existing structure onsite into a Winery which entails the inclusion of a freezer room, cold room (temperature controlled room), laboratory, cellar and tasting area. The fitout will provide for 115 m² of Winery with future expansion of the existing structure to include the provision of a covered outdoor seating area. The Winery will include the undertaking of vinification (Winemaking) along with the infusion of base spirits for the provision of liqueurs. It is noted that no distilling of alcohol will be provided with this development. It is expected that the infusion of spirits will be less than 1000 litres per annum at full production with the first few years expected to be significantly less (fewer than 300 litres). The proposed Winery is to contain the capacity for the fermentation and bottling of approximately 7000 litres per annum at full production. It is noted that full production, similar to the infusion, is not envisaged to be reached in the short to medium-term with the first year/s expected to only bottle 1500 litres.

The Shaylee Strawberries Farm have provided Freshwater Planning Pty Ltd with the following in relation to the Development Application:

The Winery is to further enhance an already tourism/cottage industry type business that is currently operating. The Strawberry farm originally had a small kiosk and mainly concentrated on the wholesale sales of strawberries with some retail sales at the Kiosk. As this strawberry farm is small and getting smaller when compared to the much bigger farms in the southeast corner, we decided to start steering away from the wholesale market as we could not reach the economies of scale needed to compete and achieve profitable pricing for our strawberries. In 2021 we decided to expand and relocate the kiosk into the cafe we have today, we now have a modern up to date cafe that serves the local community and tourists alike. As a result of this we have gone from a staff level of two (2) to ten (10) full time equivalent and close to twenty (20) when we are harvesting. The Winery is considered to further enhance the experience and also create additional employment. It is worth noting that all our full time staff are locals.

After speaking with tour operators mainly from the Cairns region about the idea of making wine they were supportive and excited about the idea and would incorporate Shaylee Strawberries into their itinerary when coming to the Tablelands. The idea for the Winery came from two ideas: one to add value to the strawberries we produce and secondly to further enhance the strawberry farm as a destination in its own right.



The site contains the existing bitumen seal provision of twenty-eight (28) parking spaces, inclusive of one (1) Disabled space and one (1) Bus parking space. The existing Food Processing and Kiosk (Café/Restaurant) requires the provision of five (5) parking spaces. In addition to this, there is a large, decomposed gravel area for additional staff parking and the likes. It is considered that an oversupply of parking spaces is provided over the site for the existing and proposed Uses with an acceptable level of vehicle manoeuvrability.

PREVIOUS APPLICATIONS & APPROVALS

The existing tourist/hospitality use of the site was originally approved by Council, subject to conditions, at their ordinary meeting on 10 August 2001. The proposal was assessed and decided under the 1983 Atherton Shire Planning Scheme and the development comprises a “Rural Industry” (Food Processing) component for the processing and packaging of strawberries grown on-farm and a “Catering Shop” (Kiosk) component for the sale of strawberry-based goods produced on-farm along with other refreshments imported to the site (e.g. tea/coffee, cold beverages, assorted foodstuffs). The original approval required that a minimum of five (5) on-site parking spaces be provided to service the use although the conditions/plans did not specify where they were to be located within the site or the standard of construction.

In May 2022, the Applicants lodged a retrospective minor change request seeking amendments to reflect building alterations, the provision of additional on-site parking facilities and alterations to internal vehicle circulation arrangements. The nature of the changes is summarised as follows:

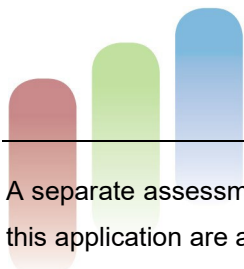
- Total building additions of approximately 131m² GFA (excluding amenities);
- Relocation of the existing kiosk (i.e. kitchen/food processing area and servery approx. 32m²) to the new GFA;
- Original shed GFA to be used entirely as a packing shed;
- Indoor customer seating (approx. 99m²);
- Undercover outdoor seating (approx. 75m²);
- New male/female public amenities (approx. 15m²);
- 24 additional on-site parking spaces (29 spaces total), bitumen sealing and line-marking of on-site parking and manoeuvring areas;
- Additional 4m wide sealed egress driveway to facilitate one-way internal vehicle circulation (NB: No change to vehicle access from Marks Lane); and
- Additional landscaping/turfing in the vicinity of the relocated kiosk.

On 18 August 2022, the requested changes were approved under delegated authority.

ASSESSMENT FRAMEWORK

An assessment of the proposed development against the relevant planning instruments is summarised as follows:

State Planning Policy 2017



A separate assessment against the State Planning Policy is not required as the sections relevant to this application are adequately reflected by the TRC Planning Scheme 2016 (V4).

FNQ Regional Plan 2009-2031

A separate assessment against the FNQ Regional Plan is not required as it is adequately reflected by the TRC Planning Scheme 2016 (V4).

Tablelands Regional Council Planning Scheme 2016 (V4) Designations

Strategic Plan designation:	Agricultural Land, Scenic Route, Principal Cycle Route, B-Double Route
Priority Infrastructure Area:	Outside PIA
Zone:	Rural Zone (Agricultural Land Precinct)
Local Area Plan:	N/A
Overlays:	Water Resource Catchment, Environmental Significance, Slope, Transport Noise Corridor

Planning Scheme Definitions

The proposed use is defined as:

“Winery means the use of premises for-

(a) Making; or

(b) Selling wine that is made on the premises.”

Strategic Framework

The following Strategic/Specific Outcomes are considered relevant to the assessment of the application:

Strategic/Specific Outcomes		Complies	Comments
3.3 Settlement Pattern and Built Environment			
3.3.1 Strategic Outcomes			
3.3.1.6	<p>Rural areas</p> <p>The primary industries upon which the regional economy is largely based are not compromised by incompatible development. The rural areas are retained in the current lot configuration for primary industry unless identified as an area for subdivision, while accommodating development based on natural resources including rural industry and tourism. Rural areas protect the region's Agricultural land and other rural areas from fragmentation and improve food security. Broad hectare rural areas remain large grazing properties to ensure their viability and preserve future opportunities for agriculture.</p>	<input checked="" type="checkbox"/>	<p>The proposed development is for farm/food-based tourism which aims to showcase local produce and products and give visitors an insight into the associated cultivation/production processes. It is complementary to rural uses occurring on, and adjoining the site, and would capitalise on the rural and regional landscape values of TRC thereby strengthening the agricultural sector through diversification into an emerging market. The use would be located within a part of the site that has long hosted farm infrastructure and therefore has no recent history of being cropped.</p>
3.3.12 Element – Rural areas			

3.3.12.1 Specific outcomes			
3.3.12.1.9	<p>Tourism, rural industry, intensive animal industries and outdoor recreation facilities are developed in the rural landscape in a way which:</p> <ul style="list-style-type: none"> •does not impede or conflict with agricultural activities and production; •does not compromise rural character and scenic qualities; and •does not adversely impact on environmental values. 	<input checked="" type="checkbox"/>	<p>The proposed development is for farm/food-based tourism which aims to showcase local produce and products and give visitors an insight into the associated cultivation/production processes. It is complementary to rural uses occurring on, and adjoining the site, and would capitalise on the rural and regional landscape values of TRC thereby strengthening the agricultural sector through diversification into an emerging market. The use would be located within a part of the site that has long hosted farm infrastructure and therefore has no recent history of being cropped.</p> <p>The Gillies Range Road is a designated scenic route on Strategic Framework mapping and a condition of approval is recommended requiring additional landscaping to be provided where parking facilities would be visible from the scenic route.</p> <p>Wine making is an industrial process that is not without the risk of contaminants/emissions being released to the receiving environment. As such, operational conditions are recommended to ensure that any potential environmental impacts are minimised.</p>

3.4 Economic Development

3.4.1 Strategic Outcomes

3.4.1.1	<p>Primary Industries</p> <p>The rural economy that underpins the settlement pattern of the Tablelands prospers and diversifies, with traditional and emerging primary industries continuing to provide the economic base of the region. Increasing opportunities for value-adding and processing primary products are realised on-farm and within surrounding towns. <i>Agricultural land</i>, strategic cropping land, rural industries and primary production are protected from development which will compromise their ability to operate, expand or intensify. Infrastructure which supports agriculture and primary industry is maintained and protected. Forestry and permanent plantations are expanded and established in the region in a manner which enhances the rural economy. <i>Rural areas</i> are maintained in economically viable holdings.</p>	<input checked="" type="checkbox"/>	<p>The proposed development is for farm/food-based tourism which aims to showcase local produce and products and give visitors an insight into the associated cultivation/production processes. It is complementary to rural uses occurring on, and adjoining the site, and would capitalise on the rural and regional landscape values of TRC thereby strengthening the agricultural sector through diversification into an emerging market. The use would be located within a part of the site that has long hosted farm infrastructure and therefore has no recent history of being cropped.</p>
3.4.1.3	<p>Tourism</p> <p>The outstanding natural environment, rural production, environmental facilities and scenic landscapes of the Tablelands provide a basis for the development of sustainable tourism enterprises. The Tablelands' geographical proximity to Cairns International Airport and tourist base provides opportunities for increasing visitation and exposure to the Tablelands. Large scale tourist accommodation facilities are developed in key</p>	<input checked="" type="checkbox"/>	<p>The proposed development is for farm/food-based tourism which aims to showcase local produce and products and give visitors an insight into the associated cultivation/production processes. It is complementary to rural uses occurring on, and adjoining the site, and would capitalise on the rural and regional landscape values of TRC thereby strengthening the agricultural sector through diversification into an emerging market.</p>

	sites across the region and a diverse range of short term accommodation facilities are provided in the regions towns and rural areas. Caravan and recreational vehicle users are provided with a variety of attractive locations to stay in the region. Adventure, nature based and food tourism experiences are developed across the regions rural and natural areas. The character and appeal of key towns, landscape features and <i>scenic routes</i> which attract tourists to the region will be maintained and enhanced. The south-western dry land savannah of the region accommodates further nature and rural based tourism development.		The Gillies Range Road is a designated scenic route on Strategic Framework mapping and a condition of approval is recommended requiring additional landscaping to be provided where parking facilities would be visible from the scenic route.
3.4.1.7	Small and emerging enterprise The establishment of emerging industries and enterprises is facilitated in appropriate locations. Flexibility and responsiveness allow for economic diversity and innovation, leading to a greater variety of employment and meeting the changing needs of the community and economy. Home based businesses provide opportunities for self employment and small enterprise in <i>residential areas</i> where impacts are limited and manageable.	<input checked="" type="checkbox"/>	
3.4.2 Element – Rural and agricultural land			
3.4.2.1 Specific outcomes			
3.4.2.1.1	Agricultural Land of Class A and B Agricultural Land Classification are preserved for the purpose of primary production and are protected from fragmentation, alienation and incompatible land uses and development.	<input checked="" type="checkbox"/>	The proposed development is for farm/food-based tourism which aims to showcase local produce and products and give visitors an insight into the associated cultivation/production processes. It is complementary to rural uses occurring on, and adjoining the site, and would capitalise on the rural and regional landscape values of TRC thereby strengthening the agricultural sector through diversification into an emerging market. The use would be located within a part of the site that has long hosted farm infrastructure and therefore has no recent history of being cropped.
3.4.2.1.3	Built infrastructure and non-agricultural uses within farms will be co-located and clustered with existing farm dwellings and infrastructure to prevent encroachment onto productive land.	<input checked="" type="checkbox"/>	
3.4.2.1.6	Development ensures rural activities in all rural areas are not compromised by incompatible development and fragmentation.	<input checked="" type="checkbox"/>	Agricultural buffering and separation measures are not necessary in this instance as the proposal is not a “sensitive land use”, such as tourist accommodation, which might otherwise warrant such measures to protect amenity.
3.4.4 Element – Rural enterprise			
3.4.4.1 Specific outcomes			
3.4.4.1.1	Rural industries and intensive horticultural uses are appropriately scaled and located in rural areas, including the establishment of further: <ul style="list-style-type: none"> • food and fibre processing facilities; • value adding of primary product; • cottage industries; • hydroponics; • aquaculture; • wholesale nurseries; and 	<input checked="" type="checkbox"/>	The proposed use is small-scale and complementary to existing rural/tourists uses occurring on, and adjoining, the site. The site is appropriately serviced by Council and State controlled road infrastructure, Council’s reticulated water supply and is serviced by, a recently upgraded, on-site effluent disposal system. A condition of approval is recommended requiring the Applicants to demonstrate that the current effluent

	<ul style="list-style-type: none"> intensive horticulture. 		disposal system satisfies Department of Environment and Science licencing requirements.
3.4.4.1.2	Rural industries of an appropriate scale are located within rural areas where an adequate level of infrastructure is available or can be provided and adverse impacts on surrounding land are limited and manageable.	<input checked="" type="checkbox"/>	
3.4.7 Element – Tourism			
3.4.7.1 Specific outcomes			
3.4.7.1.1	Yungaburra and Tinaroo consolidate their status as tourist destinations based on their unique local character and proximity to Lake Tinaroo. The emerging tourist economies of Herberton, Malanda and Millaa Millaa continue to attract more interest and visitors. Increasing levels of tourist accommodation and facilities are provided in all the region's activity centres.	<input checked="" type="checkbox"/>	The proposed development would be ideally positioned between Yungaburra and Tinaroo village to complement the existing tourist assets on offer.
3.4.7.1.4	The outstanding scenic qualities of the regional landscape and the character and heritage values of the region's towns are recognised and protected for their role in promoting and attracting visitors to the region. Development in scenic and highly visible locations will minimise its impacts on scenic amenity through sensitive location, design, colour and scale.	<input checked="" type="checkbox"/>	The Gillies Range Road is a designated scenic route on Strategic Framework mapping and a condition of approval is recommended requiring additional landscaping to be provided where parking facilities would be visible from the scenic route.
3.4.7.1.5	A variety of small-scale, low impact tourist facilities are established across the rural landscape, including: <ul style="list-style-type: none"> tourist attractions and facilities within towns and villages; cultural interpretive tours; nature based tourism; sports and recreational activities; tourist attractions; adventure tourism; farm based tourism; food based tourism; bed and breakfasts; and camping and recreational vehicle facilities. 	<input checked="" type="checkbox"/>	The proposal is for small-scale farm/food-based tourism which aims to showcase local produce and products and give visitors an insight into the associated cultivation/production processes. It is complementary to rural uses occurring on, and adjoining the site, and would capitalise on the rural and regional landscape values of TRC thereby strengthening the agricultural sector through diversification into an emerging market. The use would be located within a part of the site that has long hosted farm infrastructure and therefore has no recent history of being cropped. The Gillies Range Road is a designated scenic route on Strategic Framework mapping and a condition of approval is recommended requiring additional landscaping to be provided where parking facilities would be visible from the scenic route.
3.4.7.1.6	Small scale tourism related development in rural areas is sensitively designed, scaled and located so as to not compromise the natural landscape values and agricultural values of the Tablelands.	<input checked="" type="checkbox"/>	The Gillies Range Road is a designated scenic route on Strategic Framework mapping and a condition of approval is recommended requiring additional landscaping to be provided where parking facilities would be visible from the scenic route.
3.4.11 Element – Small scale and emerging industries			
3.4.11.1 Specific outcomes			
3.4.11.1.1	New and emerging industries and services are accommodated in appropriate locations through responsiveness and flexibility without compromising long term planning.	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> /N/A	The proposed development is for farm/food-based tourism which aims to showcase local produce and products and give visitors an insight into the associated cultivation/production processes. It is complementary to rural uses occurring on, and adjoining the site, and would capitalise on the rural and regional landscape values of TRC thereby strengthening the agricultural sector through diversification into an emerging market. The use would be located within a part of the site that has

			long hosted farm infrastructure and therefore has no recent history of being cropped.
3.5 Transport and Infrastructure			
3.5.1 Strategic Outcomes			
3.5.1.1	<p>Road network</p> <p><i>Local and State controlled road networks</i> support the identified hierarchy of <i>activity centres</i> and rural economy of the Tablelands. The location, density and scale of development supports the efficient and convenient movement of goods and people. Roads are progressively upgraded (including construction of <i>future state roads and local connections</i>) and maintained to a high standard to support higher urban densities, rural production, commerce, industry and major trip generators. Development provides off-street parking, loading areas and manoeuvrability. New streets integrate with the existing road network in a way which results in high levels of connectivity, accessibility and legibility to motorists and residents.</p>	<input checked="" type="checkbox"/>	The site is appropriately serviced by Council and State controlled road infrastructure. The application was referred to the Department of Transport and Main Roads (C/- SARA) for the assessment of potential impacts on the Gillies Range Road. The Department's conditions are provided as Attachment 2.
3.5.6 Element – Water supply and wastewater services			
3.5.6.1 Specific outcomes			
3.5.6.1.1	Development is efficiently and appropriately provided with water and wastewater infrastructure in accordance with Council's Desired Standards of Service.	<input checked="" type="checkbox"/>	The site is appropriately serviced by Council's reticulated water supply and is serviced by, a recently upgraded, on-site effluent disposal system. A condition of approval is recommended requiring the Applicants to demonstrate that the current effluent disposal system satisfies Department of Environment and Science licencing requirements.
3.5.6.1.3	Development in rural areas will demonstrate that it has access to adequate potable water and fire fighting water supply on-site.	<input checked="" type="checkbox"/>	
3.5.6.1.4	In areas not serviced by reticulated sewerage, on-site effluent disposal systems ensure the environment is not adversely impacted.	<input checked="" type="checkbox"/>	
3.5.7 Element – Stormwater management			
3.5.7.1 Specific outcomes			
3.5.7.1.1	Stormwater is managed to ensure no worsening of stormwater impacts on surrounding land and protection of environmental values.	<input checked="" type="checkbox"/>	A condition of approval is recommended that would ensure the proposed development would have a non-worsening effect, however, the risk of adverse stormwater impacts associated with the proposal is minimal given that the proposed increase in impervious area is negligible.
3.5.7.1.4	Stormwater is managed and measures are implemented to ensure erosion is prevented or minimised and contaminants are not released. New development does not place any unanticipated demand on existing infrastructure and provides its own future infrastructure required for the development.	<input checked="" type="checkbox"/>	<p>A condition of approval requires temporary sediment and erosion control measures to be installed during the construction phase of the development to prevent potential contaminants from entering the adjacent watercourse.</p> <p>Wine making is an industrial process that is not without the risk of contaminants/emissions being released to the receiving environment. As such, operational conditions are recommended to ensure that any potential environmental impacts are minimised.</p>
3.5.9 Element – Waste management			
3.5.9.1 Specific outcomes			

3.5.9.1.3	On-site waste disposal and recycling areas are provided by development to meet operational requirements of storage, and collection and screened from view.	<input checked="" type="checkbox"/>	A condition of approval is recommended to ensure that refuse storage areas would comprise screening and collection arrangements would be safe and efficient.
3.6.8 Element – Scenic amenity			
3.6.8.1 Specific outcomes			
3.6.8.1.1	Areas of high scenic amenity (including scenic routes) are protected from visually inappropriate and insensitive development. Development ensures scenic amenity values are maintained.	<input checked="" type="checkbox"/>	The Gillies Range Road is a designated scenic route on Strategic Framework mapping and a condition of approval is recommended requiring additional landscaping to be provided where parking facilities would be visible from the scenic route.
3.6.8.1.3	Development in highly visible and scenic locations minimises its impact on scenic amenity through sensitive location, design, materials, colour schemes, scale, minimising earthworks and retention of native vegetation.	<input checked="" type="checkbox"/>	
3.7 Natural Resources and Environment			
3.7.1 Strategic Outcomes			
3.7.1.2	<p>Watercourses and wetlands</p> <p>The physical condition, ecological health, environmental values and water quality of surface water and groundwater systems are protected and improved. The impacts of the Tablelands' water quality, wetland and riparian health on the Great Barrier Reef are recognised through integrating sustainable catchment management practices into land use planning. Stormwater, wastewater and potential contamination sources will be managed to protect environmental values and water quality within the catchment. Riparian areas of water courses and areas surrounding ecologically significant wetlands will be rehabilitated as part of new development.</p>	<input checked="" type="checkbox"/>	Wine making is an industrial process that is not without the risk of contaminants/emissions being released to the receiving environment. As such, operational conditions are recommended to ensure that any potential environmental impacts are minimised.
3.7.1.3	<p>Water resources</p> <p>The region secures a safe and reliable water supply, which adequately provides for the needs of the community, industry and agriculture. Important strategic sources of water, including the Barron Basin, Lake Tinaroo and the Atherton Basalt Aquifer, are recognised for their role in supporting the region's community, primary industries and economic base, and are not compromised by land uses and development. Contingent water supplies are protected from development which may prejudice their future use. Water is used sustainably and efficiently to ensure supply is available for physical, social and economic well being and for the natural environment. The extraction of groundwater from underground aquifers must not directly or indirectly cause environmental harm.</p>	<input checked="" type="checkbox"/>	The site is within the water resource catchment area for Lake Tinaroo but is located at its southern-eastern-most extremity (NB: The land directly opposite the site on Marks Lane is not in the catchment). The watercourse traversing the site is not permanent and does not discharge directly to the Lake. In that context, the recommended stormwater and operational conditions would be sufficient to ensure that the water quality values of the Lake are not compromised by the development.
3.7.1.4	<p>Emissions and contamination</p> <p>The air and acoustic environment of the Tablelands is managed to ensure its maintenance or improvement.</p>	<input checked="" type="checkbox"/>	Wine making is an industrial process that is not without the risk of contaminants/emissions being released to the receiving environment. As such, operational conditions are recommended to ensure

	Sensitive land uses are separated from areas containing or designated for activities that generate noise or air emissions. Development remediates contaminated sites. The Tablelands contains the highest incidence of unexploded ordnances in Queensland and this risk is carefully managed through identification of known risk sites, site preparation and reporting of potential hazardous objects.		that any potential environmental impacts are minimised.
3.7.7 Element – Air and noise quality			
3.7.7.1 Specific outcomes			
3.7.7.1.1	The health, well being, amenity and safety of the community and the environment are protected from the impacts of air emissions, noise and odour through appropriate management and adequate separation distances. Development is designed, constructed and operated to meet the objectives of the Environmental Protection Act 1994 (Air) Policy and the Environment Protection Act 1994 (Noise) Policy.	<input checked="" type="checkbox"/>	Wine making is an industrial process that is not without the risk of contaminants/emissions being released to the receiving environment. As such, operational conditions are recommended to ensure that any potential environmental impacts are minimised.
3.7.7.1.2	Land uses which emit high levels of noise, odour or air pollutants will be located and managed so as not to impact on the surrounding acoustic environment, amenity or well being of surrounding residents.	<input checked="" type="checkbox"/>	

Relevant Development Codes

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

- 6.2.1 Rural Zone Code
- 8.2.3 Environmental Significance Overlay Code
- 8.2.8 Water Resource Catchment Overlay Code
- 9.3.18 Rural 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 an assessment against the planning scheme. An officer assessment has found that where the application displays a conflict with an applicable Acceptable Outcome it either complies with, or has been conditioned to comply with, the corresponding Performance Outcome of the relevant codes. Further commentary is included in the Statement of Reasons provided as Attachment 3.

Planning Scheme Policies

The following planning scheme policies are relevant to the application:

PSP 4 – FNQROC Regional Development Manual

This policy applies to the proposal and would be achieved through the recommended conditions and any resulting operational works approval(s).

PSP 6 - Landscaping and Preferred Plant Species

The purpose of this policy is to provide information on the minimum standards for landscaping in relation to aspects including site preparation, species selection, plant spacings and maintenance. A condition of approval is recommended requiring landscaping to be undertaken in accordance with the policy prior to the commencement of the use.

PSP 11 - Separating Agriculture from other land uses

This policy provides technical guidance on ways to reduce the potential for conflict between farming activities and residential or other forms of incompatible development. Buffering and separation measures are not necessary in this instance as the proposal represents a form of rural industry and farm/food-based tourism, neither of which are “sensitive land uses”, such as tourist accommodation, that might otherwise warrant measures to protect amenity.

Infrastructure Charges Notice

In accordance with Council's Adopted Infrastructure Charges Resolution (No. 1 of 2019), Infrastructure Charges are payable. The infrastructure charges have been calculated as follows:

Calculation				
Catchment/s	Credits/Charge Exclusions (CE)	Additional demand	AICR Charge Category*	Charge amount
Outside PIA	Nil credits. -35% sewerage CE, Stormwater and Parks – N/A	86m ² of “Winery” GFA	\$20.00/m ² GFA before charge exclusions	\$1,720.00
Total Charge less Charge Exclusions				\$1,118.00

REFERRALS

Concurrence Agency


The application was referred to the Department of Transport and Main Roads (C/- the State Assessment and Referral Agency) as a concurrence agency for development potentially impacting upon the State controlled road network (Gillies Range Road). The Department’s response, including conditions, dated 2 November 2022, is provided as Attachment 2.

Internal Consultation

- Development Engineer
- Project Engineer Water and Wastewater

PUBLIC NOTIFICATION

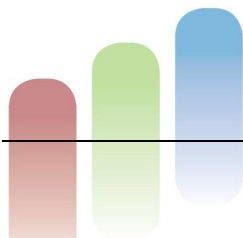
The development proposal was placed on public notification from 26 October 2022 to 18 November 2022. The notice of compliance was received on 21 November 2022 advising that the public notification tasks were carried out in accordance with the requirements of the Act.



No submissions were received.

CONCLUSION

The application is substantially consistent with the provisions of the Tablelands Regional Council Planning Scheme 2016 (V4) and the proposal is recommended for approval subject to reasonable and relevant conditions. The proposed development is for small-scale farm/food-based tourism which aims to showcase local produce and products and give visitors an insight into the associated cultivation/production processes. It is complementary to rural uses occurring on, and adjoining the site, and would capitalise on the rural and regional landscape values of TRC thereby strengthening the agricultural sector through diversification into an emerging market. The use would not result in the loss of Class A or B agricultural land, being located within a part of the site that has long hosted farm infrastructure and has no recent history of cropping. Further, the site is appropriately serviced by Council and State controlled road infrastructure, Council's reticulated water supply and on-site effluent disposal. While wine making is an industrial process that is not without the risk of contaminants/emissions being released to the receiving environment, operational conditions have been recommended to ensure that any potential environmental impacts are minimised.



REFERRAL AGENCY RESPONSE

RA6-N



SARA reference: 2209-31221 SRA
Council reference: MCU22/0025
Applicant reference: F22/32

2 November 2022

Chief Executive Officer
Tablelands Regional Council
PO Box 573
ATHERTON QLD 4883
troplanningadmin@trc.qld.gov.au

Attention: Dan O'Conner

Dear Sir/Madam

SARA response—Winery at Shaylee Strawberries Farm, 255 Gillies Range Road, Atherton (Lot 25 on SP119116)

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 28 September 2022.

Response

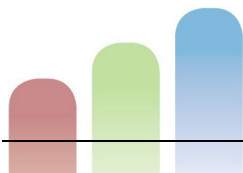
Outcome:	Referral agency response – with conditions
Date of response:	2 November 2022
Conditions:	The conditions in Attachment 1 must be attached to any development approval
Advice:	Advice to the applicant is in Attachment 2
Reasons:	The reasons for the referral agency response are in Attachment 3

Development details

Description:	Development permit	Material Change of Use for Winery
SARA role:	Referral agency	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017) – Material change of use near a state-controlled	

Page 1 of 6

Far North Queensland regional office
Ground Floor, Cnr Grafton and Hartley
Street, Cairns
PO Box 2358, Cairns QLD 4870



2209-31221 SRA

road and intersection

SARA reference: 2209-31221 SRA

Assessment manager: Tablelands Regional Council

Street address: 255 Gillies Range Road, Atherton

Real property description: Lot 25 on SP119116

Applicant name: Barletta Investments Pty Ltd

Applicant contact details: C/- Freshwater Planning Pty Ltd
17 Barron View Drive
Freshwater QLD 4870
freshwaterplanning@outlook.com

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.

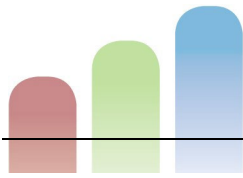
For further information please contact Anthony Westbury, Planning Officer, on 40373214 or via email CairnsSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely

Javier Samanes
A/Manager (Planning)

cc Barletta Investments Pty Ltd C/- Freshwater Planning Pty Ltd, freshwaterplanning@outlook.com

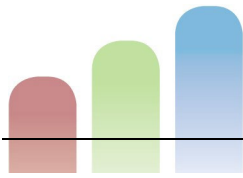
enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations provisions



Attachment 1—Referral agency conditions

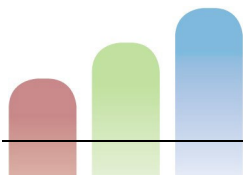
(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application)

No.	Conditions	Condition timing
Material change of use		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 – Material change of use of premises near a State transport corridor—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):		
1.	Direct access is not permitted between the Gillies Range Road and the subject site.	At all times.



Attachment 2—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) v3.0. If a word remains undefined it has its ordinary meaning.
2.	<p>Advertising Device</p> <p>If the winery development is proposing to erect an advertising device that will be visible from a state-controlled road, the applicant should seek advice from the Department of Transport and Main Roads (DTMR) to ensure that the advertising device visible from a state-controlled road, and beyond the boundaries of the state-controlled road, is unlikely to create a traffic hazard for the state-controlled road.</p> <p>Note: DTMR has powers under section 139 of the <i>Transport Operations (Road Use Management - Accreditation and Other Provisions) Regulation 2015</i> to require removal or modification of an advertising sign and / or a device which is deemed to create a danger to traffic.</p>



Attachment 3—Reasons for referral agency response

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

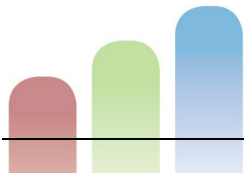
The reasons for the SARA decision are:

The proposed development, with conditions, complies with the relevant provisions of State code 1 of the SDAP, in that:

- The proposed development is unlikely to compromise the safety, function, and efficiency of Gillies Range Road, a state-controlled road, and the Gillies Range Road / Marks Lane intersection.
- The proposed winery is within an existing building which is setback approximately 57m from the property boundary and approximately 70m from the road edge of Gillies Range Road.
- Existing and proposed vehicle access is to Marks Lane, a local road, and is located a sufficient distance from the Gillies Range Road / Marks Lane intersection to maintain safety for users of the state-controlled road.
- The Gillies Range Road / Marks Lane intersection can safely accommodate the increased traffic generated by the proposed development.
- The proposed development will not increase stormwater and drainage flow, which is currently discharged away from the state-controlled road to an unnamed waterway that traverses the site.
- No works are proposed external to the site, with works limited to an internal fitout and addition of a small outdoor seating area to an existing building.

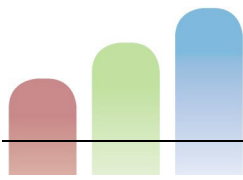
Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the State Development Assessment Provisions (version 3.0)
- the Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- *Human Rights Act 2019*



Attachment 4—Representations provisions

(page left intentionally blank – attached separately)



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

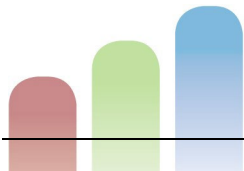
Part 6: Changes to the application and referral agency responses

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.

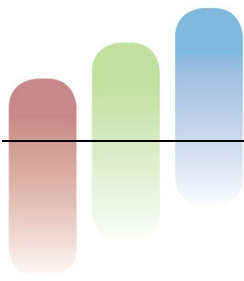


Part 7: Miscellaneous

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.



STATEMENT OF REASONS
PLANNING ACT 2016 & PLANNING REGULATION 2017

This Notice is prepared in accordance with s63(5) and s83(7) of the *Planning Act 2016* to inform the public about a decision that has been made in relation to a development application. The purpose of the Notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:

- The relevant parts of the Planning Scheme and Assessment Benchmarks against which the application was assessed; and
- Any other information, documents or other material Council was either required to, or able to, consider in its assessment.

All terms used in this Notice have the meanings given them in the *Planning Act 2016*.

Application Details

Application Number:	MCU22/0025
Property Address:	255 Marks Lane, Atherton 4883
RPD:	Lot 25 on SP119116
Proposal:	Material Change of Use for “Winery”
Planning Scheme:	TRC Planning Scheme 2016 (V4)

Reasons for the Decision

The application is substantially consistent with the provisions of the Tablelands Regional Council Planning Scheme 2016 (V4) and has been approved subject to reasonable and relevant conditions. The proposed development is for small-scale farm/food-based tourism which aims to showcase local produce and products and give visitors an insight into the associated cultivation/production processes. It is complementary to rural uses occurring on, and adjoining the site, and would capitalise on the rural and regional landscape values of TRC thereby strengthening the agricultural sector through diversification into an emerging market. The use would not result in the loss of Class A or B agricultural land, being located within a part of the site that has long hosted farm infrastructure and has no recent history of cropping. Further, the site is appropriately serviced by Council and State controlled road infrastructure, Council’s reticulated water supply and on-site effluent disposal. While wine making is an industrial process that is not without the risk of contaminants/emissions being released to the receiving environment, operational conditions have been imposed to ensure that any potential environmental impacts are minimised.

Applicable Assessment Benchmarks

Part 3 - Strategic Framework

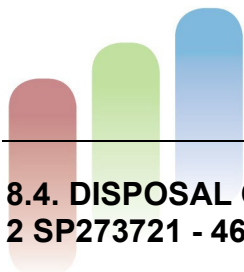
6.2.1 - Rural Zone Code

8.2.3 - Environmental Significance Overlay Code

8.2.8 - Water Resource Catchment Overlay Code

Compliance with Benchmarks

Relevant Codes	Comments
Part 3 - Strategic Framework	The proposed development complies with the assessment benchmarks of the Strategic Framework by virtue of conditions associated with the applicable codes.
6.2.1 - Rural Zone Code	<ul style="list-style-type: none"> • AO9/PO9, PO10, AO12/PO12, PO14 & PO18 - Condition 4.3 (Landscaping), Condition 4.1 (Stormwater Drainage), Condition 5 (Operational Requirements).
8.2.3 - Environmental Significance Overlay Code	The proposed development complies with the assessment benchmarks of this code by virtue of conditions associated with the other applicable codes.
8.2.8 - Water Resource Catchment Overlay Code	<ul style="list-style-type: none"> • AO2/PO2 - Condition 4.5 (On-site effluent disposal).
9.3.18 - Rural Activities Code	<ul style="list-style-type: none"> • PO5 - Condition 5 (Operational Requirements).
9.4.2 - Landscaping Code	<ul style="list-style-type: none"> • PO1 to PO10 – Condition 4.3 (Landscaping).
9.4.3 - Parking and Access Code	<ul style="list-style-type: none"> • AO2.1 to AO2.4/PO2 & AO14.1/PO14 – Condition 4.2 (Car Parking and Manoeuvring Areas).
9.4.5 - Works, Services, and Infrastructure Code	<ul style="list-style-type: none"> • AO1.2/PO1 – Condition 4.4 (Water Supply). • AO2.2/PO2 – Condition 4.5 (On-site effluent disposal). • PO3, PO14, PO15, PO16 & PO17 – Condition 4.1 (Stormwater Drainage). • AO12.1, AO12.2/PO12 – Condition 4.7 (Waste Management). • PO9 & PO13 – General Condition 3.1 (Protection and alteration of public utilities).



8.4. DISPOSAL OF NON-CURRENT ASSET - BOUNDARY CORRECTION - LOT 2 SP273721 - 46 KELLY STREET, ATHERTON

REPORT DETAIL

Report Author: Coordinator Legal & Governance

Department: Community & Corporate Services

EXECUTIVE SUMMARY

Council is in receipt of a Reconfiguring a Lot (RAL) planning application by FNQ Spec Homes Pty Ltd (for the creation of Community Titles Scheme), over existing Lot 2 on SP273721, 46 Kelly Street, Atherton. During the preparation of plans associated with the RAL application, encroachments on two boundaries were identified by the cadastral surveyor. The encroachments consist of structural retaining walls which are not practicable to relocate. In order to resolve the encroachments the most practicable solution is to lodge a further RAL application, amending the boundary of the current Lot 2 on SP273721 with the consent of all relevant parties, following which the survey plans associated with the CTS application may be updated to include the areas of land occupied by the current encroachments and sealed by Council. The proposed RAL will result in a nett reduction of 14m² of Council owned land (being part of Lot 3 on SP273721). There will also be a gain of 1m² to Lot 1 on RP738090 on the Eastern boundary to regularise a 15mm boundary encroachment into Lot 2 on SP273721.

The purpose of this report is to satisfy the requirements under Chapter 6, Division 2 of the *Local Government Regulation 2012* in relation to the disposal of non-current assets.

OFFICER'S RECOMMENDATION

"That Council:

1. Apply the exemption in s 236 (1)(iv) of the Local Government Regulation 2012 to dispose of an area of land, being part of Lot 2 on SP273721 ("the Land"), comprising of approximately 15m².
2. Acquire an area of land being part of Lot 1 on RP738090, comprising of an area of approximately 1m²;
3. Determine that it is appropriate to calculate the consideration for the disposed of land on the same square meter value as the sale price of the Land, notwithstanding it being acquired from the adjacent parcel (being Lot 3 on SP273721);
4. Determine that the area for the calculation of consideration is 14m² (area being disposed less area being acquired);

5. Determine that, except to the extent contemplated by this resolution, each party is to bear their own costs associated with the preparation, lodgement and finalisation of the matter; and
6. Require the owner of Lot 2 on SP273721, being FNQ Spec Homes Pty Ltd ACN 613 266 023 to provide consideration to Council calculated as follows:

$$\text{Consideration} = \frac{\text{Value Total Land Area}}{\text{Total Land Area}} \times \text{Nett Disposed Land Area}$$

$$\text{Consideration} = \frac{\$170,000}{1456\text{m}^2} \times 14\text{m}^2$$

$$\text{Consideration} = \$1,634.62$$
7. Delegates the power to the Chief Executive Officer to sign all documents and do all things necessary to finalise this matter.

BACKGROUND

On or about 27 April 2021, Council sold the property at 46 Kelly Street, Atherton, being Lot 2 on SP273721 to FNQ Spec Homes Pty Ltd ('the Developer'). On 9 May 2022, the Developer applied to Reconfigure a Lot (RAL) by way of the creation of community title scheme (CTS). Upon carrying out the survey for the purpose of preparing plans for sealing it was revealed that the retaining wall constructed by the Developer encroaches on to the adjoining Lot 3 on SP273721 (owned by Council) - an encroachment of approximately 15m². Further, another encroachment from the retaining wall of approximately 15mm over the length of the eastern boundary (total area of approximately 1m²) exists from Lot 1 RP738090.

To regularise the encroachment, the practicable solution is to lodge a further RAL application with the consent of all relevant owners (the present owners are Tablelands Regional Council and FNQ Spec Homes Pty Ltd). This is a straightforward development application that was decided by officers under delegation. However, as the RAL to regularise the encroachment will result in a nett loss of Council's land area, it is necessary to consider the provisions relating to the disposal of non-current assets as defined under the *Local Government Regulation 2012* ("the LGR").

Section 224 of the LGR requires that, generally, Council must first seek tenders or auction valuable non-current assets. Section 224 (7) defines a valuable non-current asset to include land or interest in land. For the purpose of disposal, this includes "...all or any part of an interest in the asset."

Section 236 of the LGR provides for exemptions to the general requirement to auction or offer for tender as contemplated by the relevant provisions of s 224 and s 227. Relevantly, s 236 (1) (c) (iv) provides for the disposal of land to an adjoining owner in the following circumstances:

(iv) the land is disposed of to a person who owns adjoining land if—

(a) the land is not suitable to be offered for disposal by tender or auction for a particular reason, including, for example, the size of the land or the existence of particular infrastructure on the land; and

(b) there is not another person who owns other adjoining land who wishes to acquire the land; and

(c) it is in the public interest to dispose of the land without a tender or auction; and

(d) the disposal is otherwise in accordance with sound contracting principles; or

The reason the Land is not suitable for disposal to another person is the disposal is the result of regularising encroachments of retaining walls on Lot 1 on RP738090 (Eastern Boundary) and Lot 3 SP273721 (Western Boundary).

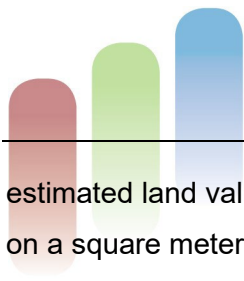
Council is the only adjoining owner, being the owner of the properties on the respective Eastern and Western boundaries.

It is in the public interest for Council to dispose of the land, in that to remove encroachments would be economically disproportionate to the cost of regularising the boundaries and the proposed disposal avoids the potential for costly legal disputes between Council and future owners of the proposed Community Titles Scheme.

On or about 27 April 2021, the land was sold to the owner (FNQ Spec Homes Pty Ltd ACN 613 266 023) by Council.

The cost of obtaining a valuation for 14m², is estimated to be in the order of \$550, being approximate 30% of the estimated value of the land.

Further to s 236 (1)(c)(iv), s 236 (3) and (5) are relevant. Section 236 (3) provides that a local government may only dispose of land where the consideration is equal to or more than the market value of the land or the interest in land. Section 236 (5) provides that a report about the market value of the land or interest in land from a registered valuer is required as evidence of the market value. However, given the relatively small area of land, the cost associated with a valuation is likely to equate to a significant portion of the



estimated land value. Accordingly, it is considered appropriate to apportion the land value on a square meter rate based on the sale price.

PROJECT OBJECTIVE AND SCOPE

Survey boundaries to regularise encroaching retaining walls, prior to sealing plans for the approval of a Community Title Scheme reconfiguration of lot.

LINK TO CORPORATE PLAN

Our Organisation

- Model leadership and good governance
- Deliver customer focused systems and processes

Our Economy

- Facilitate sustainable planning and development

LINK TO STRATEGIES, POLICIES AND PLANS

N/A

CONSULTATION

Internal

Acting Executive Manager Development Services

Senior Planner

Manager Finance

External

Montgomery Solicitors

Twines Surveys

Northern Property Valuers

LEGAL IMPLICATIONS

As provided in this body of the report.

This report relates to encroachments relating to real property. Property rights associated with encroachments are enforceable at law. The solution proposed in the report is to regularise the encroachments by changing the property boundaries with the consent of all parties.



This eliminates the risk of any future disputes and liability concerns between future owners.

POLICY IMPLICATIONS

N/A

FINANCIAL & RESOURCE IMPLICATIONS

Capital

Relates to the disposal of a non-current asset. However, the area of land represents approximately 0.029% of the total land area of Lot 3 on SP273721.

Operating

In order to complete the Reconfiguration, there will be survey costs and planning applications fees which will be shared between the parties. Council will receive consideration for the purchase of 14m² of land.

Is the expenditure included in the current annual budget?

The operational expense can be accommodated within the existing budget.

COST BENEFIT ANALYSIS

Alternative solutions to regularise encroachments involves the relocation of infrastructure. No costing has been formally considered but is expected to be substantially more expensive to address the encroachments in this way.

RISK / SUSTAINABILITY ASSESSMENT

As provided in this report.

IMPLEMENTATION/COMMUNICATION

Council will advise the Developers solicitor of the resolution relation to this matter.

CHANGE MANAGEMENT

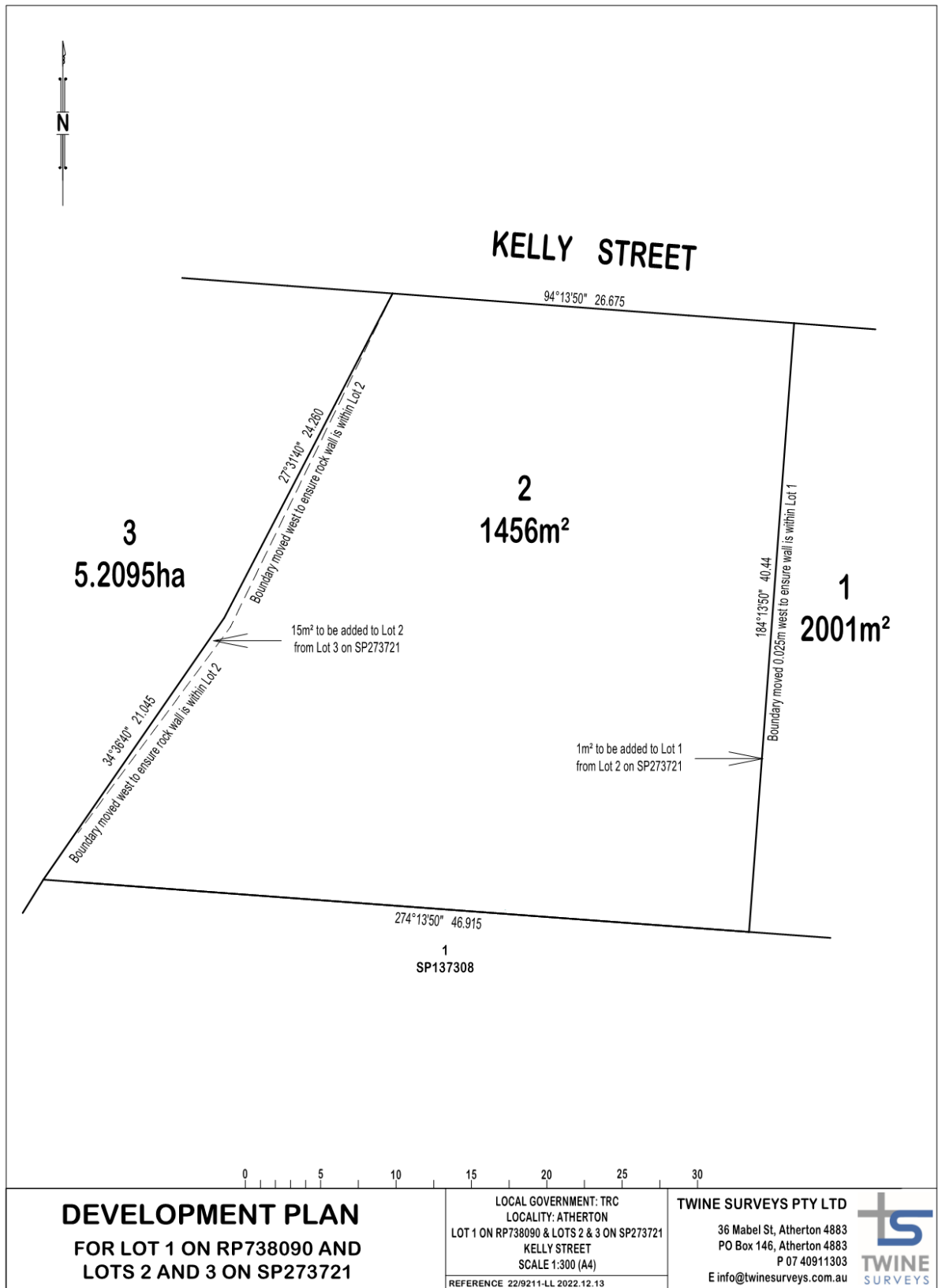
N/A

ATTACHMENTS

1. Sketch Plan Showing extent of encroachments

Date Prepared: 20 December 2022

Attachment 1 – Sketch Plan showing extend of Encroachments





8.5. DEVELOPMENT OPTIONS - 15-25 MAUNDS ROAD, ATHERTON

REPORT DETAIL

Report Author: A/Executive Manager Development Services

Department: Development Services

EXECUTIVE SUMMARY

Council passed the following resolution at its Ordinary Meeting of 21 September 2022

“That Council:

- 1. Notes the report in response to Resolution 14.1 Provision of the Opportunity to enable the construction of High-Density Housing dated 28 July 2022.*
- 2. Endorses the engagement of a suitability qualified person to prepare a Variation Request to introduce Medium Density Residential use rights over 15-25 Maunds Road, Atherton (Lot 1 on RP 726686) on behalf of Tablelands Regional Council.*
- 3. Notes that a further report will be presented to Council at the conclusion of the assessment period detailing the outcomes of the planning assessment and providing recommendations to Council.*
- 4. Notes that a further report outlining potential development and disposal opportunities will be tabled to Council after the planning assessment has been considered by Council, if required. “*

Following this resolution, Council Officers sought quotations from three (3) suitability qualified professionals to prepare and lodge the Variation Request to introduce Medium Density Residential use rights over 15-25 Maunds Road, Atherton. The quotes ranged in price from approximately \$10,000 - \$40,000 to manage this application.

During the months following the resolution, Council received a number of enquiries, emails, and letters from concerned residents expressing their objection to the proposed development application.

On receipt of the quotations and noting residents' concerns, officers undertook a preliminary review of the site and its potential development yield and impact on community in terms of loss of open space.

Whilst the site is relatively flat, unconstrained and presents the opportunity to be considered for future development, it is not considered to present a significant development yield when compared to other zoned land or future zoned land in the region.

For example, in 2020 Council commissioned a report regarding the highest value use for part of Lot 3 SP273721, at 47 Kelly St (with frontage to Grove St), Atherton. The report determined that the site has a developable area of 1.2 hectare (approx.) and is relatively unconstrained. The rezoning of this parcel forms part of Council’s current planning scheme amendments and is likely to be available for development in this calendar year.

After considering the cost of the application process, community feedback and concern, and potential cost and yield (ROI) of development at 15-25 Maunds Road, Atherton, it is recommended that Council does not proceed with the engagement of a suitability qualified person to prepare a Variation Request to introduce Medium Density Residential use rights over 15-25 Maunds Road, Atherton (Lot 1 on RP 726686) on behalf of Tablelands Regional Council.

OFFICER'S RECOMMENDATION

“That Council

1. Not proceed with the engagement of a suitability qualified person to prepare a Variation Request to introduce Medium Density Residential use rights over 15-25 Maunds Road, Atherton (Lot 1 on RP 726686) on behalf of Tablelands Regional Council.
2. Confirm its commitment to the key actions identified in Council’s Economic Development Strategy 2018-2022, one of which is to prepare for sale, or development of, Council's land holdings as determined by investment market conditions.
3. Continue to explore opportunities to facilitate higher density residential development in the Tablelands Regional Council Local Government Area.”

BACKGROUND

Council passed the following resolution at its Ordinary Meeting of 28 July 2022.

“That Council officers prepare a report on the potential sale and redevelopment of the area of land bounded by Maunds Road, Leinster Street & Pink Street Atherton as a medium and high-density housing opportunity AND FURTHER the report should be made available for consideration at the Ordinary Council Meeting in September 2022.”

Council progressed this resolution at its Ordinary Meeting of 21 September 2022 and resolved-

“That Council:

1. *Notes the report in response to Resolution 14.1 Provision of the Opportunity to enable the construction of High-Density Housing dated 28 July 2022.*
2. *Endorses the engagement of a suitability qualified person to prepare a Variation Request to introduce Medium Density Residential use rights over 15-25 Maunds Road, Atherton (Lot 1 on RP 726686) on behalf of Tablelands Regional Council.*
3. *Notes that a further report will be presented to Council at the conclusion of the assessment period detailing the outcomes of the planning assessment and providing recommendations to Council.*
4. *Note that a further report outlining potential development and disposal opportunities will be tabled to Council after the planning assessment has been considered by Council, if required. “*

This report has been prepared in response to this resolution.

SITE DETAILS

The site is formally known as 15-25 Maunds Road, Atherton (Lot 1 on RP 726686).



Image 1: Aerial Image of 15-25 Maunds Road, Atherton

The site is currently zoned Recreation and Open Space and is improved by some large trees and aged playground equipment. The site is surrounded by land zoned Medium Density Residential.



Image 2: Zoning extract of 15-25 Maunds Road, Atherton

The site is relatively flat and unconstrained and is owned by Tablelands Regional Council (TRC) as a freehold parcel and is capable of private sale providing the appropriate land disposal processes are followed to ensure equity and transparency.

PROJECT OBJECTIVE AND SCOPE

N/A

LINK TO CORPORATE PLAN

Our Economy

- Support economic and business development
- Assist in developing business capacity, growth, diversification and resilience
- Facilitate sustainable planning and development
- Promote the region and local businesses

LINK TO STRATEGIES, POLICIES AND PLANS

One of the key actions identified by Council’s Economic Development Strategy 2018-2022 is to prepare for sale or development of Council's land holdings as determined by investment market conditions.



CONSULTATION

Internal

This recommendation has been discussed with ELT.

External

No formal public consultation has occurred, however, there is general community awareness of the proposal which is evidenced by the number of enquiries received by Council in response to the September 2022 resolution.

LEGAL IMPLICATIONS

There are no specific legal implications associated with the proposed recommendation.

POLICY IMPLICATIONS

The policy implications are discussed throughout this report.

FINANCIAL & RESOURCE IMPLICATIONS

There are no financial or resource implications associated with the recommendation.

COST BENEFIT ANALYSIS

N/A

RISK / SUSTAINABILITY ASSESSMENT

N/A

IMPLEMENTATION/COMMUNICATION

External stakeholders will be notified via the conventional forms of digital and print media (e.g., “Business Matters” e-newsletter, “Our Council or Community” newspaper notices). Direct communication will be undertaken with the entities that provided a response to the RFQ.

CHANGE MANAGEMENT

N/A

ATTACHMENTS

1. Nil

Date Prepared: 20/12/2022



9. NOTICE OF MOTION

No Notices of Motion



10. BUSINESS WITHOUT NOTICE



11. CONFIDENTIAL ITEMS

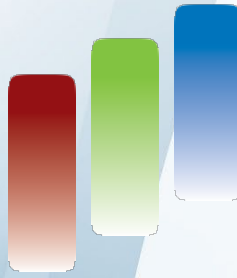
No confidential items



12. NEXT MEETING OF COUNCIL

The next meeting of Council will be held at Atherton

Ordinary Meeting 9:00 am on 25 January 2023



Live, discover and invest in a Tablelands community



Tablelands Regional Council

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#athertontablelands