

30 May 2018

Enquiries: Daniel Lamond
Our Ref: MCUC2609/2018 (856304)
Your Ref: J000696

Administration Office
64 - 66 Front St Mossman
P 07 4099 9444
F 07 4098 2902

Tibaldi Farming Company Pty Ltd
C/- Patrick Clifton, Gilvear Planning
PO Box 228
BABINDA QLD 4861

Dear Sir/Madam

**Development Application for Material Change of Use (Dwelling house and
domestic outbuildings)
Finlayvale Road, Finlayvale
Land Described as Lot 1 on RP740790**

Please find attached the Decision Notice for the above-mentioned development application.

Please quote Council's application number: MCUC2609/2018 in all subsequent correspondence relating to this development application. Should you require any clarification regarding this, please contact Daniel Lamond on telephone 07 4099 9456.

Yours faithfully

PAUL HOYE
Manager Sustainable Communities

encl.

- Decision Notice
- Approved Plans

DECISION NOTICE
APPROVAL (WITH CONDITIONS)
GIVEN UNDER SECTION 63 OF *THE PLANNING ACT 2016*

Thank you for your development application detailed below which was properly made on 24 April 2018. Please be aware that Douglas Shire Council has assessed your application and decided it as follows:

1. Applicant's details

Name: Tibaldi Farming Company Pty Ltd
Postal Address: C/- Patrick Clifton, Gilvear Planning
PO Box 228
BABINDA QLD 4861

2. Location details

Street Address: Finlayvale Road FINLAYVALE
Real Property Description: LOT: 1 RP: 740790
Local Government Area: Douglas Shire Council

3. Details of proposed development

Material Change of Use (Dwelling house and domestic outbuildings)

4. Decision

Date of decision: 30 May 2018

Decision details: Approved in full with conditions. These conditions are set out in Schedule 1.

Copies of the following plans, specifications and/or drawings are enclosed.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Aspect of development: Material Change of Use (Dwelling house and domestic outbuildings)				
(Sheds) Plan View, Front View, Rear View, Side View	Clarkeville Designs	1 December 2017	Drawing Number 1-12-17	None nominated
(House) Floor Plan	Clarkeville Designs	1 October 2017	Drawing Number 1-10-17	None nominated

(House) Front View, Rear View	Clarkeville Designs	1 October 2017	Drawing Number 1-10-17	None nominated
(House) Side View, Side View	Clarkeville Designs	1 October 2017	Drawing Number 1-10-17	None nominated
Site Plan prepared by Clarkeville Designs is not approved as part of this decision notice				

5. Conditions

This approval is subject to the conditions in Schedule 1.

6. Further development permits

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Building Work
- All Plumbing Work

7. Properly made submissions

Not applicable — No part of the application required public notification.

8. Currency period for the approval

This development approval will lapse at the end of the period set out in section 85 of *Planning Act 2016*. This is a six (6) year period from the date the approval takes effect.

9. Rights of appeal

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular 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*).

A copy of the relevant appeal provisions are included in Schedule 2.

SCHEDULE 1 – CONDITIONS AND ADVICE

PART 1A—CONDITIONS IMPOSED BY THE ASSESSMENT MANAGER

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:-
 - a. The specifications, facts and circumstances as set out in the application submitted to Council;
 - b. The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

Except where modified by these conditions of approval

Timing of Effect

2. The conditions of the Development Permit must be effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.

On-Site Effluent Disposal

3. The method of on-site effluent disposal must be in accordance with the waste water reports prepared by Earth Test, QBSA Lic No. 1017941, SI511.F2-17, SI511.F1-17 & SI511.F1-17 and must be in accordance with the Queensland Plumbing & Wastewater Code. Details of the wastewater treatment system to be installed must be approved by the Chief Executive Officer prior to any plumbing work commencing.

Geotechnical Assessment

4. A geotechnical risk assessment of the site is required to be undertaken in accordance with the AGS 2007 guidelines. The assessment and report must be prepared by a suitably qualified and experienced geotechnical engineer (RPEQ) and certify that:
 - a. the stability of the site, including associated buildings and infrastructure, will be maintained during the course of the development and will remain stable for the life of the development;
 - b. development of the site will not increase the risk of landslide hazard activity on other land, including land above the site;
 - c. the site is not subject to the risk of landslide activity on other land;
 - d. the development and adjacent existing slopes can achieve a low to very low risk in accordance with the AGS Guidelines. In locations where the identified risk levels are not either "low" or "very low", the RPEQ must identify if the risk can be reduced to the acceptable levels and provide design on the remedial works to be implemented to achieve this;
 - e. on-site waste water disposal is able to be accommodated on the site without increasing the risk of landslip.

The geotechnical assessment is to be submitted and endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Works and any required stabilising measures are undertaken prior to the commencement of use.

Vegetation Clearing

5. Existing vegetation on the subject land must be retained in all areas except those affected by the installation of services or access driveways.

Building Colours

6. The exterior finishes and colours of Buildings must be non-reflective and must blend with the natural colours of the surrounding environment to the satisfaction of the Chief Executive Officer.

Site Plan

7. A site plan drawn to an appropriate scale must be prepared and submitted to Council to the satisfaction of the Chief Executive Officer prior to the issue of a development permit for building works. The site plan must show:
 - a. Exact building locations with regard to the tops of the batters on existing benches;
 - b. details of any retaining walls required;
 - c. locations of the existing internal driveways;
 - d. extent of existing vegetation;
 - e. practical access from the unformed part of Finlayvale Road;
 - f. surveyed cadastral boundaries to the extent relevant.

Assessment of Access Driveway

8. Prior to the approval of a Development Permit for Building works, a detailed design of the proposed driveway and access shall be submitted and endorsed by the Chief Executive Officer. The driveway and access shall be:
 - a. designed to be no steeper than the gradients outlined in Planning scheme policy SC6.5 – FNQROC Development Manual;
 - b. designed such that where there is a grade shift to 1 in 4 (25%), there is an area with a grade of no more than 1 in 6 (16.6%) prior to this area, for a distance of at least 5 metres;
 - c. on gradients greater than 1 in 6 (16.6%) driveways are designed to ensure the cross-fall of the driveway is one way and directed into the hill, for vehicle safety and drainage purposes;
 - d. designed such that the transitional change in grade from the road to the lot is fully contained within the lot and not within the road reserve;
 - e. designed to include all necessary associated drainage that intercepts and directs storm water runoff to the storm water drainage system;
 - f. designed to ensure that any excavation or fill does not exceed 1.8 metres in height for each batter or retaining wall;

- g. designed in accordance with the Planning scheme policy SC6.5 – FNQROC Development Manual and AS2890.1- 2004. In particular, the grade, width, opportunity for passing bays and resulting earthworks are to be confirmed.

It appears that the access driveway is not wholly contained within the site and encroaches on lot 100 on SP243341. The driveway and access design shall demonstrate, by cadastral survey, that the driveway and access is wholly contained within the subject site.

NOTE: Douglas Shire Planning Scheme 2018 Version 1.0 identifies filling and excavation greater than 50m³ as requiring an Operational Works development approval from Council. Should driveway construction excavation and fill exceed this threshold, development approval may be required.

Batter Treatment on Pads and Driveways

9. The height of additional batters / retaining structures shall be generally limited to 1.8 metres with a total maximum height of 3.6 metres in successive batters unless specifically approved by Council. All batters must be constructed in a manner that minimises the construction footprint and has the ability to be screened.

Compliance with this condition must be detailed at the time of operational works development application submission, if triggered.

Drainage Plan

10. Provide a certified drainage plan which demonstrates protection of earthworks batters, drainage of pads and site driveway access.

PART 1B—ADVICE NOTES

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of section 85 of the *Planning Act 2016*.
2. This approval does not negate the requirement for compliance with relevant Local Laws and statutory requirements.
3. For information relating to the *Planning Act 2016* log on to <https://planning.dsdmip.qld.gov.au/>.
4. To access the FNQROC Development Manual, Douglas Shire Local Laws and other applicable Policies log on to www.dsc.qld.gov.au.

PART 1C—REASONS FOR DECISION

- The proposal generally complies with the 2018 Douglas Shire Planning Scheme version 1.0.
- Conditions have been imposed to require further technical assessments to demonstrate compliance with the benchmarks of the 2018 Douglas Shire Planning Scheme version 1.0.

SCHEDULE 2 – PLANNING ACT EXTRACT ON APPEAL RIGHTS

CHAPTER 6, PART 1 APPEAL RIGHTS

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
- (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the appellant); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The **appeal period** is—
- (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.
- Note — See the P&E Court Act for the court's power to extend the appeal period.*
- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
- (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—

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

SCHEDULE 1 APPEALS

1 Appeal rights and parties to appeals

- (1) Table 1 states the matters that may be appealed to—
- (a) the P&E court; or
 - (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
- (a) the refusal, or deemed refusal of a development application, for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (b) a provision of a development approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (c) if a development permit was applied for—the decision to give a preliminary approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (d) a development condition if—
 - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
 - (ii) the building is, or is proposed to be, not more than 3 storeys; and
 - (iii) the proposed development is for not more than 60 sole-occupancy units; or
 - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or

- (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
 - (g) a matter under this Act, to the extent the matter relates to—
 - (i) the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
 - (ii) the Plumbing and Drainage Act, part 4 or 5; or
 - (h) a decision to give an enforcement notice in relation to a matter under paragraphs (a) to (g); or
 - (i) a decision to give an infrastructure charges notice; or
 - (j) the refusal, or deemed refusal, of a conversion application; or
 - (k) a matter that, under another Act, may be appealed to the tribunal; or
 - (l) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
- (a) for a matter in subsection (2)(a) to (d)—
 - (i) a development approval for which the development application required impact assessment; and
 - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
 - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.
- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
- (a) column 1 states the appellant in the appeal; and
 - (b) column 2 states the respondent in the appeal; and
 - (c) column 3 states the co-respondent (if any) in the appeal; and
 - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.

Extract of Schedule 1 of the Planning Act 2016

Table 1			
Appeals to the P&E Court and, for certain matters, to a tribunal			
1. Development applications An appeal may be made against— <ul style="list-style-type: none"> (a) the refusal of all or part of the development application; or (b) the deemed refusal of the development application; or (c) a provision of the development approval; or (d) if a development permit was applied for—the decision to give a preliminary approval. 			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	1 A concurrence agency that is not a co-respondent 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application

**Table 2
Appeals to the P&E Court only**

2. Eligible submitter appeals
 An appeal may be made against the decision to give a development approval, or an approval for a change application, to the extent that the decision relates to—
 (a) any part of the development application for the development approval that required impact assessment; or
 (b) a variation request.

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for the change application	1 For a development application—the assessment manager 2 For a change application—the responsible entity	1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application

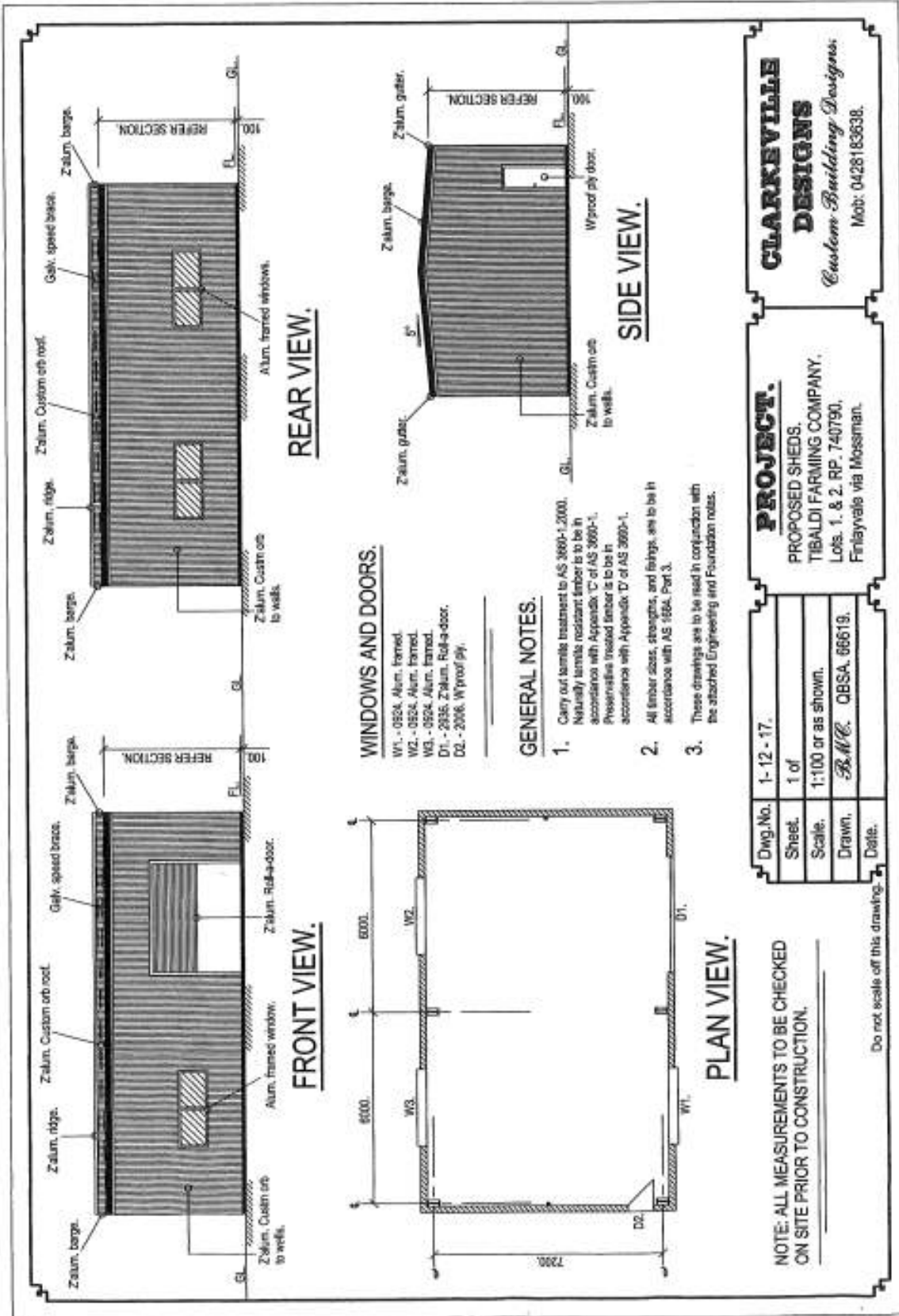
3. Eligible submitter and eligible advice agency appeals
 An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to—
 (a) any part of the development application or the change application, for the development approval, that required impact assessment; or
 (b) a variation request.

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 For a development application—an eligible submitter for the development application 2 For a change application—an eligible submitter for the change application 3 An eligible advice agency for the development application or change application	1 For a development application—the assessment manager 2 For a change application—the responsible entity	1 The applicant 2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application

Note:

Attached is a Rights of Appeal Waiver form (Schedule 3). Please complete and return this form if you are satisfied with the approval and agree to the conditions contained therein and you wish to waive the 20 day appeal period available under the *Planning Act 2016*

APPROVED PLANS (ATTACHING TO THE DECISION NOTICE)



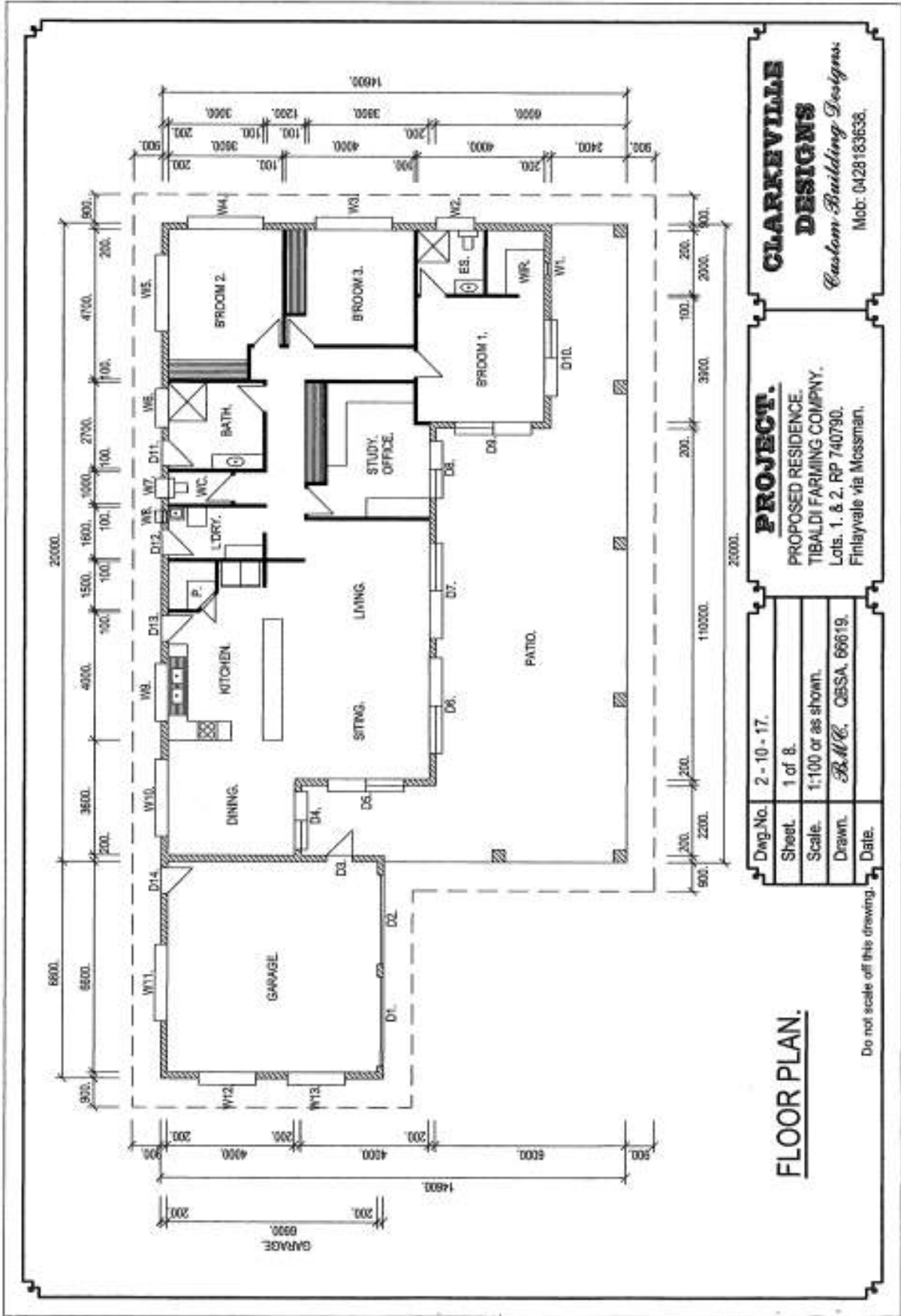
CLARKEVILLE
DESIGNS
Custom Building Designs
 Mob: 0428183638.

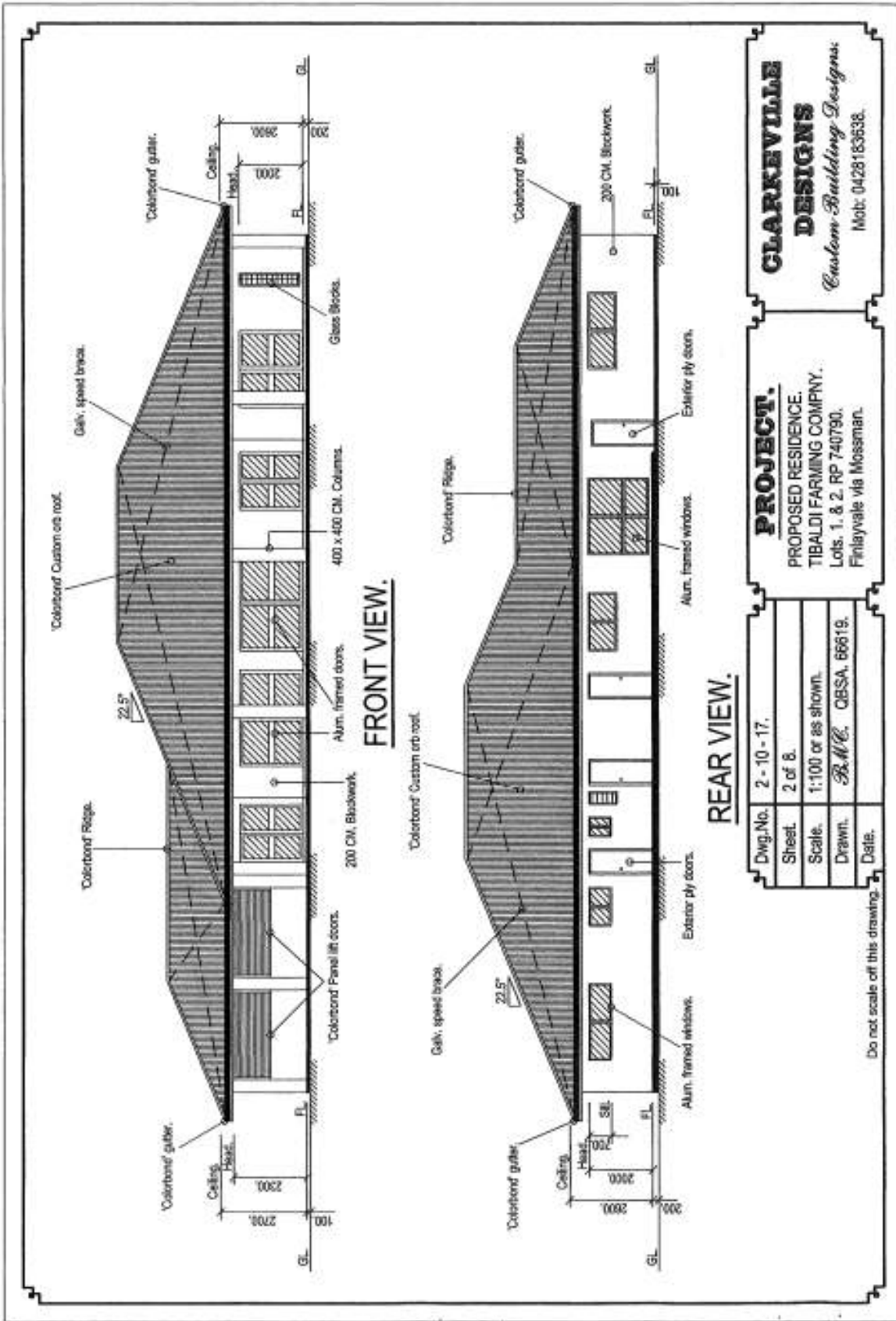
PROJECT.
 PROPOSED SHEDS.
 TIBALDI FARMING COMPANY.
 Lots. 1 & 2. RP. 740790.
 Finlayvale via Mossman.

Dwg.No.	1-12-17.
Sheet	1 of
Scale.	1:100 or as shown.
Drawn.	B.H.C. QBSA. 66619.
Date.	

NOTE: ALL MEASUREMENTS TO BE CHECKED ON SITE PRIOR TO CONSTRUCTION.

Do not scale off this drawing.





CLARKEVILLE
DESIGNS
Custom Building Designs
 Mob: 0428183638

PROJECT.
 PROPOSED RESIDENCE.
 TIBALDI FARMING COMPANY.
 Lots. 1. & 2. RP 740790.
 Finlayvale via Mossman.

Dwg.No.	2 - 10 - 17.
Sheet	2 of 8.
Scale	1:100 or as shown.
Drawn.	<i>B.H.C.</i> QB.SA. 66819.
Date	

Do not scale off this drawing.

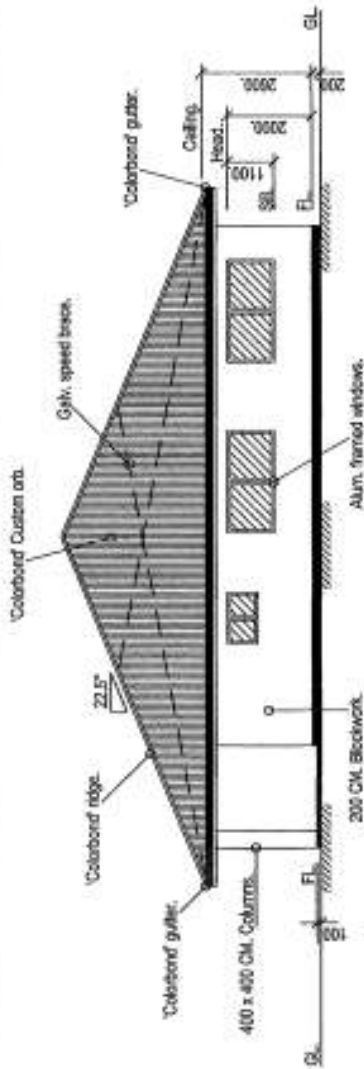
WINDOW AND DOOR SCHEDULE.

W1. - 1504. Glass Blocks.	D1. - 2325. Panel LH door.
W2. - 0712. Alum. framed.	D2. - 2326. Panel LH door.
W3. - 1124. Alum. framed.	D3. - 2009. W proof ply.
W4. - 1124. Alum. framed.	D4. - 2018. Alum. framed.
W5. - 0728. Alum. framed.	D5. - 2024. Alum. framed.
W6. - 0712. Alum. framed.	D6. - 2030. Alum. framed.
W7. - 0716. Alum. framed.	D7. - 2030. Alum. framed.
W8. - 0504. Glass Louvers.	D8. - 2018. Alum. framed.
W9. - 0516. Alum. framed.	D9. - 2024. Alum. framed.
W10. - 1504. Alum. framed.	D10. - 2024. Alum. framed.
W11. - 0504. Alum. framed.	D11. - 2026. W proof ply.
W12. - 0516. Alum. framed.	D12. - 2026. W proof ply.
W13. - 0516. Alum. framed.	D13. - 2026. W proof ply.
	D14. - 2026. W proof ply.

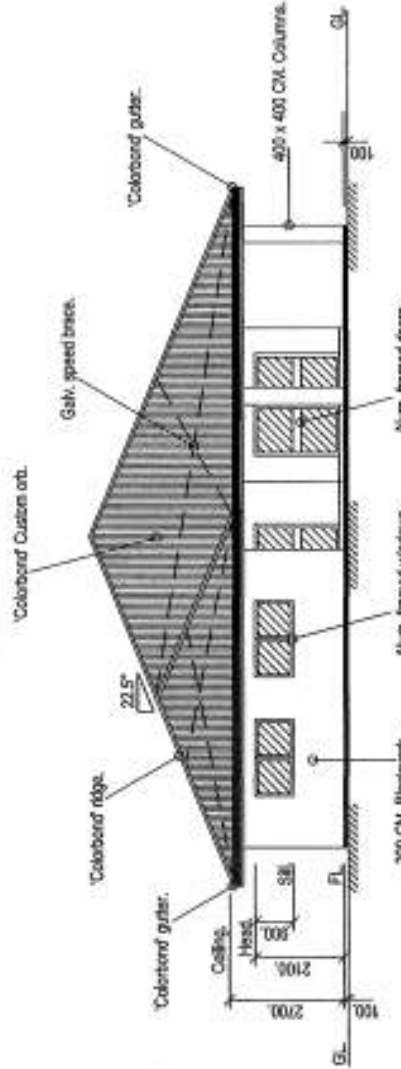
Internal Doors. - 2026 Internal Ply.

GENERAL NOTES.

1. Carry out termite treatment AS 3680-1:2003. Naturally termite resistant timber is to be in accordance with Appendix C of AS 3680-1. Preservative treated timber is to be in accordance with Appendix D of AS 3680-1.
2. All timber strengths, sizes, and fixings, are to be in accordance with AS 1684, Part 3.
3. This drawings are to be read in conjunction with the attached Engineering and Foundation notes.



SIDE VIEW.



SIDE VIEW.

Dwg.No.	2 - 10 - 17.
Sheet	3 of 8.
Scale	1:100 or as shown.
Drawn	B.M.B. QBSA, 66619.
Date	

Do not scale off this drawing.

PROJECT.

PROPOSED RESIDENCE.
TIBALDI FARMING COMPANY.
Lots. 1. & 2. RP 740790.
Finlayvale via Moesman.

CLARKEVILLE

DESIGNS

Custom Building Designs

Mcb: 0428163638.