

26 September 2018

Enquiries: Daniel Lamond
Our Ref: MCUC2802/2018 (873934)
Your Ref: J000775

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

Douglas Shire Community Services Association Ltd
C/- Gilvear Planning, Patrick Clifton
PO Box 228
BABINDA QLD 4861

Dear Sir/Madam

Development Application
Material Change of Use (Extension to Community Use)
20 Mill Street MOSSMAN
Land Described as LOT: 4 RP: 706271

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

Please quote Council's application number: MCUC2802/2018 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

Michael Kriedemann
A/ General Manager Operations

encl.

- Decision Notice
- Approved Plans

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

Please be aware that Douglas Shire Council has assessed your application and decided it at the Ordinary Council Meeting held 25 September 2018.

1. Applicant's details

Name: Douglas Shire Community Services Association Ltd

Postal Address: C/- Gilvear Planning, Patrick Clifton
PO Box 228
BABINDA QLD 4861

2. Location details

Street Address: 20 Mill Street MOSSMAN

Real Property Description: LOT: 4 RP: 706271

Local Government Area: Douglas Shire Council

3. Details of proposed development

Material Change of Use (Extension to existing Community Use)

4. Decision

Date of decision: 25 September 2018

Decision details: Approved in full with conditions.

5. Approved plans and specifications

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

A. APPROVED DRAWING(S) AND / OR DOCUMENT(S)

The term 'approved drawing(s) and / or document(s)' or other similar expressions means:

Drawing	Reference	Date
Site Plan	Plan prepared by applicant marked up on Lend Lease base plan	Submitted with application 2 August 2018
Elevation and Layout Plan	Plan prepared by Shade Sheds	February 2007

ASSESSMENT MANAGER CONDITIONS

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; and
 - 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.

Lawful Point of Discharge

3. All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development, all to the requirements and satisfaction of the Chief Executive Officer.

Ponding and/or Concentration of Stormwater

4. The development is not to create ponding nuisances.

Flood Immunity

5. The development must have a Q100 flood immune floor level.

ADVICE

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect.
2. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.

LAND USE DEFINITIONS*

In accordance with the 2018 *Douglas Shire Planning Scheme version 1.0*, the approved land use of development assessment application MCUC2802/2018 is defined as:

Column 1 Use	Column 2 Definition	Column 3 Examples	Column 4 Does not include the include following examples
Community Use	Premises used for providing artistic, social or cultural facilities and community support services to the public and may include the ancillary preparation and provision of food and drink.	Art gallery, community centre, community hall, library, museum.	Cinema, club, hotel, nightclub entertainment facility, place of worship.

*This definition is provided for convenience only. This Development Permit is limited to the specifications, facts and circumstances as set out in the application submitted to Council and is subject to the abovementioned conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

B. That Council resolves to waive the infrastructure charges levy generated by the development under the Local Government Infrastructure Plan.

C. Further Permits

1. The following Development Permits are required to be obtained before the development can be carried out:
 - a. Development Permit for Building Works.

D. Currency period for the approval

Under section 85(1)(a)(i) of the *Planning Act 2016*, the relevant period for the Preliminary Approval is six (6) years starting from the day the approval takes effect.

E. Reasons for Decision

The reasons for this decision are:

1. Sections 60, 62 and 63 of the *Planning Act 2016*:
 - a. A Community Use is code assessable development in the Centre Zone and is an expected form of development to establish in the Centre zone.
 - b. To ensure the development satisfies the associated benchmarks of the applicable codes within the 2018 Douglas Shire Planning Scheme;
 - c. To ensure the development satisfies the associated benchmarks of the applicable parts of the State Planning Policy;

- d. Where non-compliant with the applicable benchmark, the development does not compromise the corresponding Performance Outcome of the applicable code.
- e. To ensure compliance with the *Planning Act 2016*.

2. Findings on material questions of fact:

- a. The development application was properly lodged to the Douglas Shire Council on 7 August 2018 under section 51 of the *Planning Act 2016* and Part 1 of the Development Assessment Rules; and
- b. The development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2018 Douglas Shire Planning Scheme in making its decision as Assessment Manager.

3. Evidence or other material on which findings were based:

- a. The development triggered code assessable development under the Assessment Table associated with the Centre zone;
- b. Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
- c. The applicant's reasons have been considered and the following findings are made:
 - i. Subject to compliance with conditions of this Development Permit the development satisfactorily meets the Planning Scheme requirements.

6. Properly made submissions

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

7. 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 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

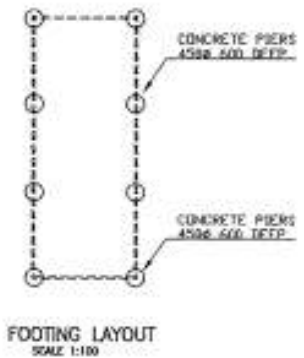
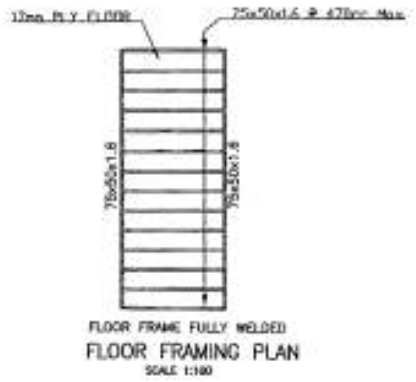
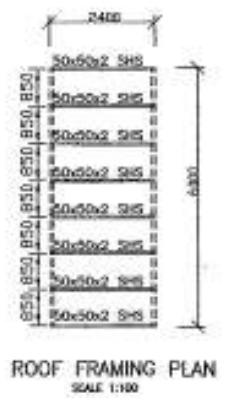
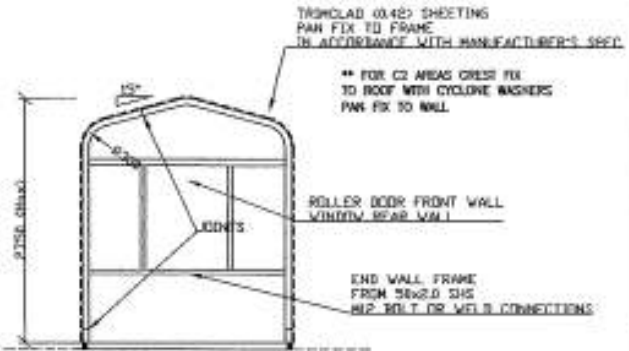
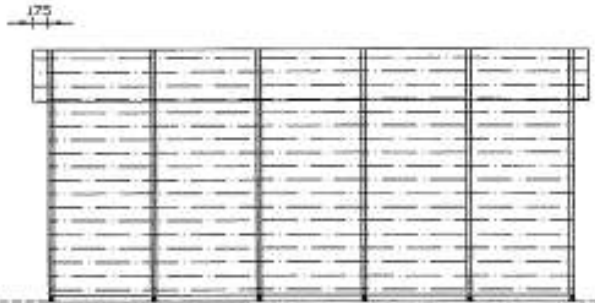
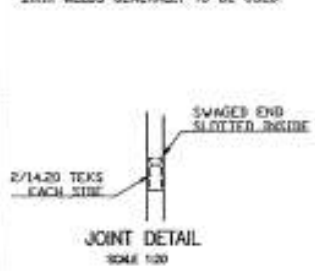
3. Eligible submitter and eligible advice agency appeals
 An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to—
 (a) any part of the development application or the change application, for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

CONCRETE QUALITY
 ELEMENT SLUMP MAX. SIZE AGG. CONC. STRENGTH
 FOOTING 80mm 20mm 20MPa
 ALL WELDS TO BE USING E48 OR E55 LOW HYDROGEN ELECTRODE SUCH THAT THE STRENGTH OF THE COLD FORMED SECTIONS IS NOT REDUCED.
 2mm WELDS GENERALLY TO BE USED.



AGL 990-600-520
E.N.G. CONSULTANTS Pty., Ltd.
 CIVIL AND STRUCTURAL ENGINEERING,
 13 East Street Caboolture
 Postal Address P.O. Box 1228, Caboolture Q. 4510
 Phone - 07-5490738, 2467-67028 Fax - 07-54908738



PROJECT
 PRE-FABRICATED
 2.4m x 6m STORAGE SHED
 C2/N4 DESIGN WIND AREA

CLIENT TRANSPORTABLE SHADE SHEDS			
Registered Engineer:	Scale:	DRAWING NO. TS14/S	
14/1/20	AS SHOWN	DATE FOR SET	1 OF 1
APPROVED:	Scale: AS SHOWN	DATE	Approved:

STATEMENT OF REASONS FOR NON-COMPLIANCE WITH ASSESSMENT BENCHMARKS

ASSESSMENT BENCHMARKS

Assessment Benchmark	Reasons for approval despite non-compliance with benchmark
<p data-bbox="204 418 464 477">Access, Parking and Servicing Code</p> <p data-bbox="204 506 280 539">AO1.1</p> <p data-bbox="204 568 496 723">The minimum number of on-site vehicle parking spaces is not less than the number prescribed in</p> <p data-bbox="204 752 472 810">Table 9.4.1.3.b for that particular use or uses.</p>	<p data-bbox="533 418 1362 913">In this instance, the site is located in close proximity to the main street of Mossman being Front Street. The site is readily accessible to visitors of the community use. The proposed development is a small-scale transportable building to provide an additional private and quiet space on site for the existing clients. It is not expected that the proposed additional space would increase the number of employees or patronage of the site nor increase demand for car parking spaces above that generated by the current use. On this basis and, notwithstanding that no additional car parking is being provided, it is considered that sufficient on-site car parking is provided to cater for the traffic expected to be generated by this additional minor development at an existing community use. The proposed development is able to satisfy Performance Outcome PO1 of the planning scheme.</p>