

13 December 2021

Enquiries: Jenny Elphinstone
Our Ref: MCUC 2011_4205/2 (Doc ID 1055144)
Your Ref: 20205046

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

Troowala Lifetime Super Fund CT Pty Ltd
C-/ GMA Certification Group Pty Ltd
PO Box 831
PORT DOUGLAS QLD 4877

Email: Hannah.D@gmacert.com.au

Attention Ms Hannah Dayes

Dear Madam

**Development Application for Request for Minor Change to the material change use
For a dwelling house (shed) (8/7/2226)
At 116 Hickory Road Cow Bay
On Land Described as Lot 376 on RP739003**

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

Please quote Council's application number: MCUC 2011_4205/2 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9444.

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

encl.

- Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - Reasons for Decision
- Advice For Making Representations and Appeals (Decision Notice)



Decision Notice

Approval (with conditions)

Given under sections 81, 81A & 83 of the Planning Act 2016

Applicant Details

Name: Troowala Lifetime Super Fund CT Pty Ltd (Tte)

Postal Address: C-/ GMA Certification Group Pty Ltd
PO Box 831
Port Douglas Qld 4877

Email: Hannah.D@gmacert.com.au

Property Details

Street Address: 116 Hickory Road Cow Bay

Real Property Description: Lot: 376 on RP739003

Local Government Area: Douglas Shire Council

Details of Proposed Development

Application for Minor Change for Development Permit (8/7/2226 AKA MCUC 2011_4205) for Material Change of Use for the use of the shed as a dwelling house.

Decision

Date of Decision: 13 December 2021

Decision Details: Approved whereby:

1. The approved plans are amended as follows:

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

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

Drawing or Document	Reference	Date
Site Plan	Drawing prepared by Steve Grogan (Council Ref No 3117656)	31 Mar 2011
Floor Plan	Drawing prepared by McSheds (Council Ref No 3138956)	23 Dec 2010

Elevations	Drawing prepared by McSheds (Council Ref No 3138956)	23 Dec 2010
<u>Site plan</u>	<u>Drawing prepared by applicant and provide to council on 26 November 2021 (Council document 1052572).</u>	<u>26 November 2021</u>
<u>Floor plan</u>	<u>Drawing prepared by applicant and provide to council on 26 November 2021 (Council document 1052572).</u>	<u>26 November 2021</u>
<u>FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access</u>		
<u>Rural Allotment Access</u>	<u>Standard Drawing S1105 Issue E</u>	<u>27 August 2020</u>

2. Conditions 8 and 10 are deleted as follows:

- ~~8. The Use of the Shed shall be for purposes ancillary to the residential use of the land.~~
- ~~10. This approval does not authorise the construction of a 'Dwelling Unit' on the site.~~

3. Include the following additional conditions:

Vehicle Access

- 11. Construct a rural allotment access in accordance with the FNQROC Development Manual Standard Drawing S1105 Rev F.
- 12. The Applicant must achieve a change of classification for the shed from a Class 10 to a Class 1A prior to the Commencement of Use.

4. The Advice 6 is deleted and replaced with the new advice as detailed below.

- ~~6. For information relating to the *Sustainable Planning Act 2009* log on to www.dgip.qld.gov.au. To access FNQROC Manual, Local Laws and other applicable Policies log on to www.cairns.qld.gov.au.~~

- 6. For information relating to the *Planning Act 2016* log on to www.dsdmip.qld.gov.au. To access the *FNQROC Regional Development Manual*, Local Laws, the Douglas Shire Planning Scheme and other applicable Policies log on to www.douglas.qld.gov.au

5. All other conditions of the respective approvals remain unchanged.

Additional Approved Drawing(s) and/or Document(s)

Refer to Attachment 1.

Existing Approval

Refer to Attachment 2.

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 and Drainage Work must only be carried in compliance with the Queensland *Plumbing and Drainage Act 2018*.

Currency Period for the Approval

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*.

Rights of Appeal

The rights 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*.

A copy of the relevant appeal provisions is attached.

Attachment 1 Additional Approved Drawing(s) and/or Document(s)

PLANNING STATEMENT : 116 Hickory Road, Cow Bay



Site Plan



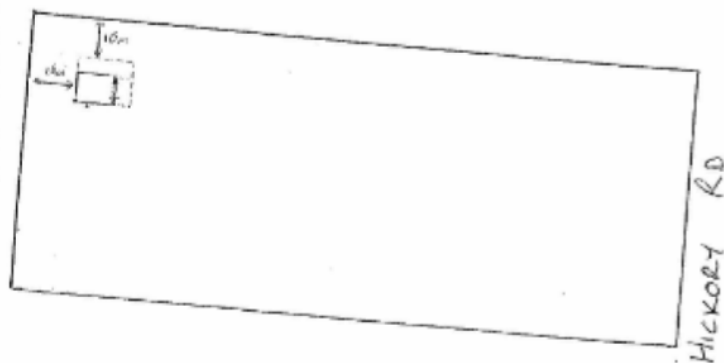
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Client Name:	STEVE GREGAN		
Postal Address:	PO BOX 379 CLIFTON BEACH 4879		
Phone:	0434 128 999	Fax:	
Site Address:	116 HICKORY RD COW BAY		

Lot:	376	RP:	739003	Local Authority:	CLIFTON BEACH
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Please ensure Roller Door position is marked on site plan.



Signed by Client:

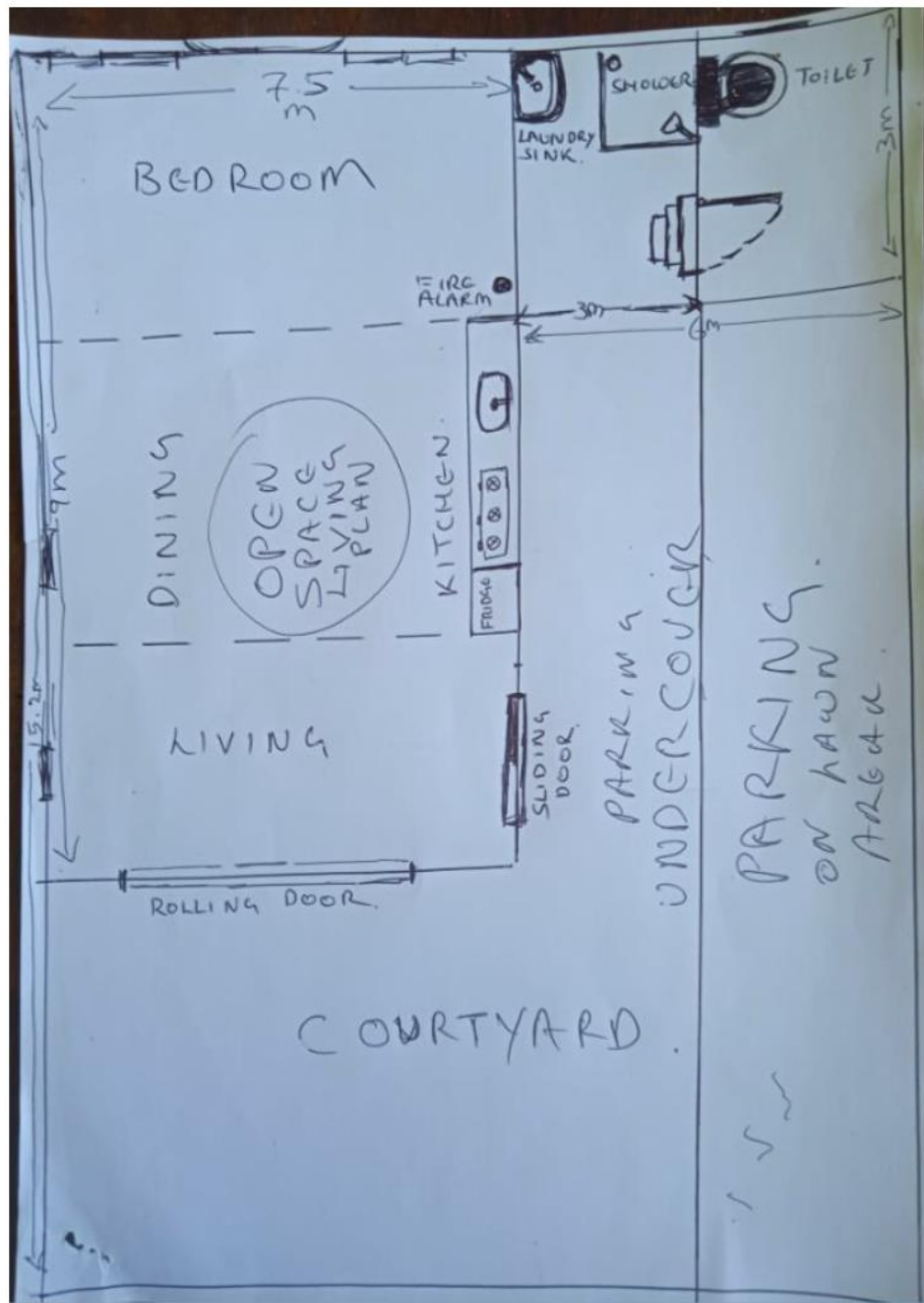
Date:

Signed on behalf of McSheds:

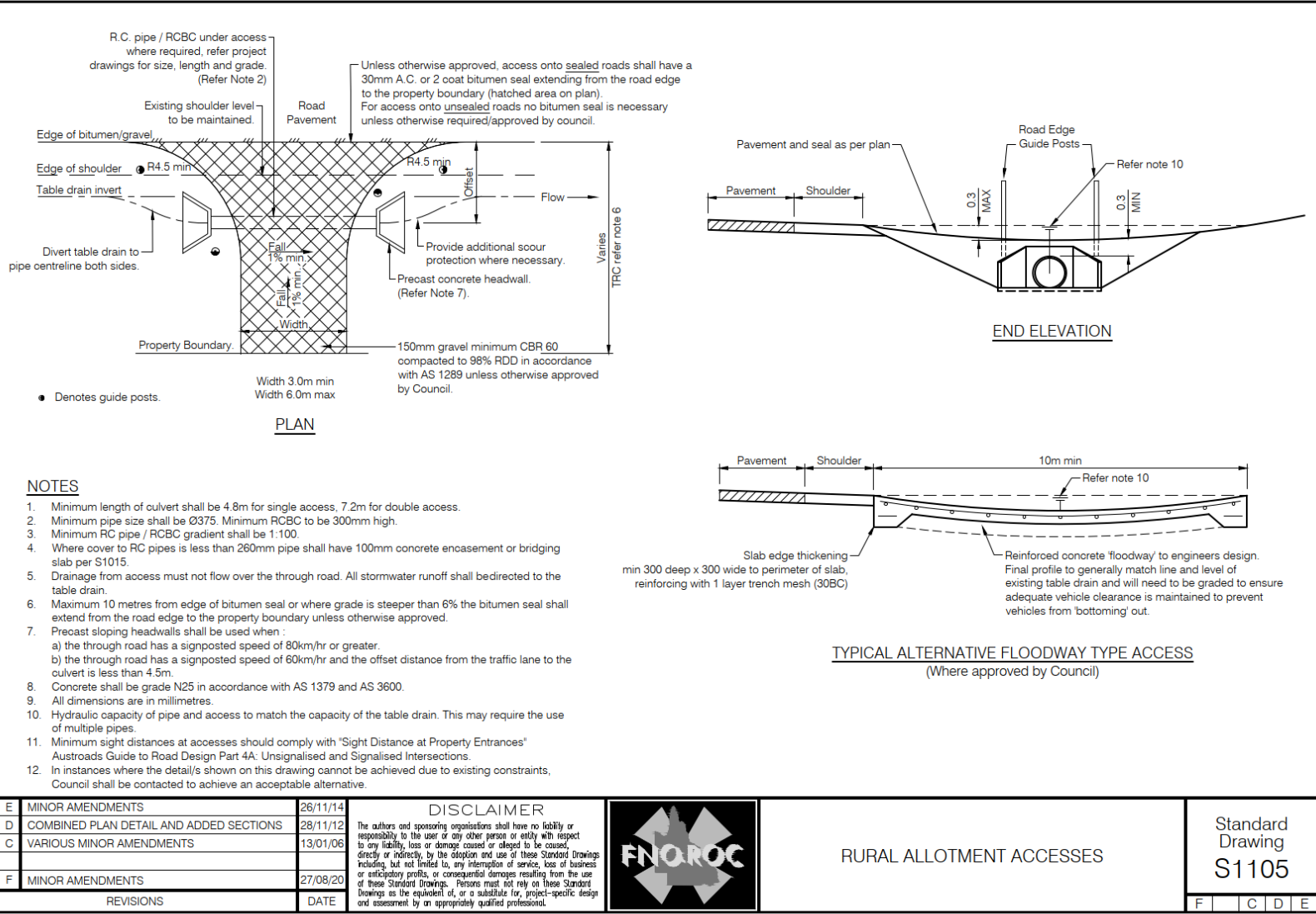
Date:

PRINTED SITE PLAN

Floor Plan



FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access



Attachment 2 – Existing Approval

ENQUIRIES: Michelle Henderson
PHONE: (07) 4099 9457
FAX: (07) 4044 3836
YOUR REF:
OUR REF: 8/7/2226 (3190784)

6 June 2011

Tamco Builders Pty Ltd
PO Box 468
TOLGA QLD 4882

Dear Sir/Madam

DECISION NOTICE UNDER S335 SUSTAINABLE PLANNING ACT 2009:
DEVELOPMENT APPLICATION FOR 116R HICKORY ROAD COW BAY

With reference to the abovementioned Development Application, please find attached the relevant Decision Notice, which was determined under Instrument of Delegation on 6 June 2011.

The notice includes extracts from the Act with respect to making representations about conditions, negotiated decisions, suspension of the appeal period, and lodging an Appeal.

Should you have any enquires in relation to this Decision Notice, please contact Michelle Henderson of Council's Development Assessment Team on telephone number (07) 4099 9457.

Yours faithfully

Kelly Reaston
Manager Development Assessment

Att.

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APPLICANT DETAILS

Tamco Builders Pty Ltd
PO Box 468
TOLGA QLD 4882

ADDRESS

116R Hickory Road Cow Bay

REAL PROPERTY DESCRIPTION

Lot 376 on RP739003

PROPOSAL

House (Shed)

DECISION

Approved subject to conditions (refer to approval package below).

DECISION DATE

6 June 2011

TYPE

Material Change of Use (Development Permit)

REFERRAL AGENCIES

None Applicable

SUBMISSIONS

There were no submissions for this application.

FURTHER DEVELOPMENT PERMITS REQUIRED

Development Permit for Building Works

CODES TO COMPLY WITH FOR SELF-ASSESSABLE DEVELOPMENT

None

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DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

DOES THE ASSESSMENT MANAGER CONSIDER THE APPLICATION TO BE IN CONFLICT WITH APPLICABLE CODES, PLANNING SCHEME, STATE PLANNING POLICIES OR PRIORITY INFRASTRUCTURE PLAN (IF YES, INCLUDE STATEMENT OF REASONS)

Not in conflict

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

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

Drawing or Document	Reference	Date
Site Plan	Drawing prepared by Steve Grogan (Council Ref No 3117656)	31 Mar 2011
Floor Plan	Drawing prepared by McSheds (Council Ref No 3138956)	23 Dec 2010
Elevations	Drawing prepared by McSheds (Council Ref No 3138956)	23 Dec 2010

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;
 - b. To ensure that the development complies in all respects with the following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual; and

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 to the requirements and satisfaction of the Chief Executive Officer.

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Vegetation Clearing

4. Existing vegetation on the subject land must be retained in all areas except those affected by the construction of access driveways, the installation of services as detailed on the approved plans. Any further clearing requires a Permit to Damage Protected Vegetation under Amendment 1 of 2006 Of Local Law No. 56 Vegetation Management.

Generators

5. Noise from; generators, air-conditioning units, swimming and spa pool filters, service equipment or other mechanical equipment, must not emanate from the subject land to a degree that would, in the opinion of the Chief Executive Officer, create an environmental nuisance having regard to the provisions of Chapter 8 Part 3B of the *Environmental Protection Act 1994*.

Fuel Storage

6. All fuels must be stored in an undercover and secure location at all times.

Building Colours

7. The exterior finishes and colours of Buildings are non-reflective and blend with the natural colours of the surrounding environment. Roofs must be of moderately dark to darker shades of green, grey, blue and brown.

The following proposed building colours are approved for use:

Exterior Walls – Dune
Roof – Bushland

The applicant/owner must also ensure that the above Building Exterior requirements are made known in writing to all prospective purchasers.

Land Use (Shed)

8. The use of the shed shall be for purposes ancillary to the residential use of the land.

Landscaping

9. All landscaping to be installed must consist of native and endemic species only and planted in an irregular and random fashion to blend with existing vegetation. Exotic species are not permitted.

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Exclusions

10. This approval does not authorise the construction of a "Dwelling unit" on the site.

ADVICE

1. This approval, granted under the provisions of the *Sustainable Planning Act 2009*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 339 of the *Sustainable Planning Act 2009*.
2. The applicant/owner is advised that this approval does not approve the construction of the building works. The applicant will be required to obtain a Development Permit for Building Work in order for construction to commence.
3. 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.
4. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
5. The taking of water, or interfering with water from streams or groundwater sources will require a permit administered under the *Water Act 2000* and issued by the regional office of the Department of the Natural Resources and Water. Further information can be obtained from the Department of Natural Resources and Water on (07) 4039 8431 or at www.nrw.qld.gov.au.
6. For information relating to the *Sustainable Planning Act 2009* log on to www.dglp.qld.gov.au. To access FNQROC Manual, Local Laws and other applicable Policies log on to www.cairns.qld.gov.au.

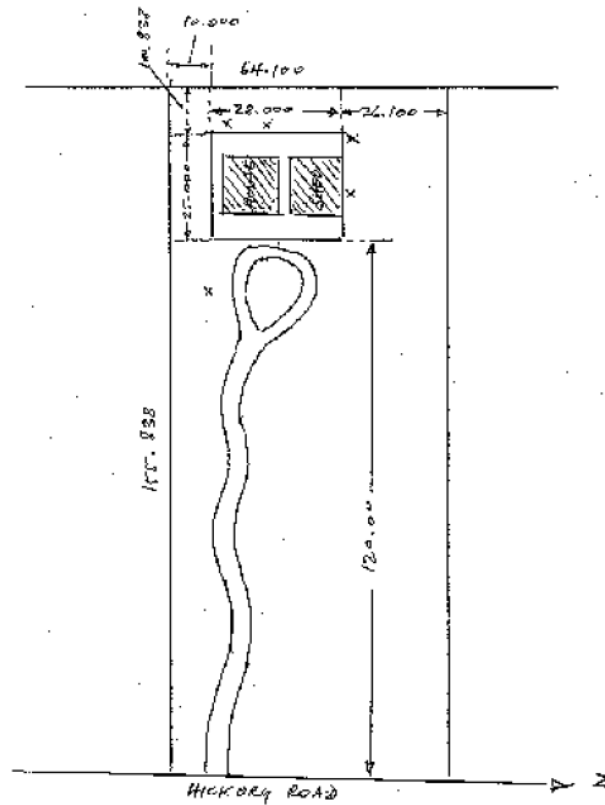
RIGHTS OF APPEAL

Attached

End of Decision Notice

APPENDIX 1 APPROVED PLAN(S) AND DOCUMENT(S)
(Future dwelling excluded)

SITE PLAN: PROPOSED CLEARING or SITE'S CONSTRUCTION
LOT 396, HICKORY ROAD, COW BAY
RA 939003



- X TREES ESTIMATED TO 900 M² SUR TO SITE
- PROPOSED DWELLING 144 M²
- PROPOSED SITE 126 M²
- (NB. BUILDING APP FOR SITE ONLY)

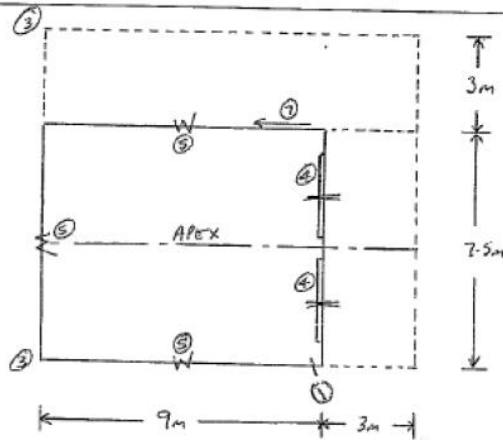
DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009



SPECIFICATION SHEET

Client Name: STEVE GREGAN
 Postal Address: PO Box 379 CLIFTON BEACH 4879
 Phone: 0434 128 999 Fax:
 Site Address: 116 HICKORY RD COW BAY

Building: 7.5 Span 12 Length 3 Height
 Awning: 3 Span 12 Length 12 Wind Rating



Legend

1	Electrical Conduct 32mm	5	Window - 900 x 1100				
2	PA Door	6	Window				
3	Downpipe Round <input checked="" type="checkbox"/> Square	7	SLIDING GLASS DOOR - 2100 x 1810				
4	Roller Door - 2700 x 2700	8					
Generator	Yes	No	Power on site	Yes	No	Distance to power	m
Aircell to Main Roof	Yes	No	m2	Aircell to Awning	Yes	No	m2
Anticon to Main Roof	Yes	No	m2	Anticon to Awning	Yes	No	m2
Anticon to Walls	Yes	No	m2	Aircell to Walls	Yes	No	m2
Sisalation Paper	Yes	No	m2	Support Mesh	Yes	No	m2

Signed by Client: Steve Gregan

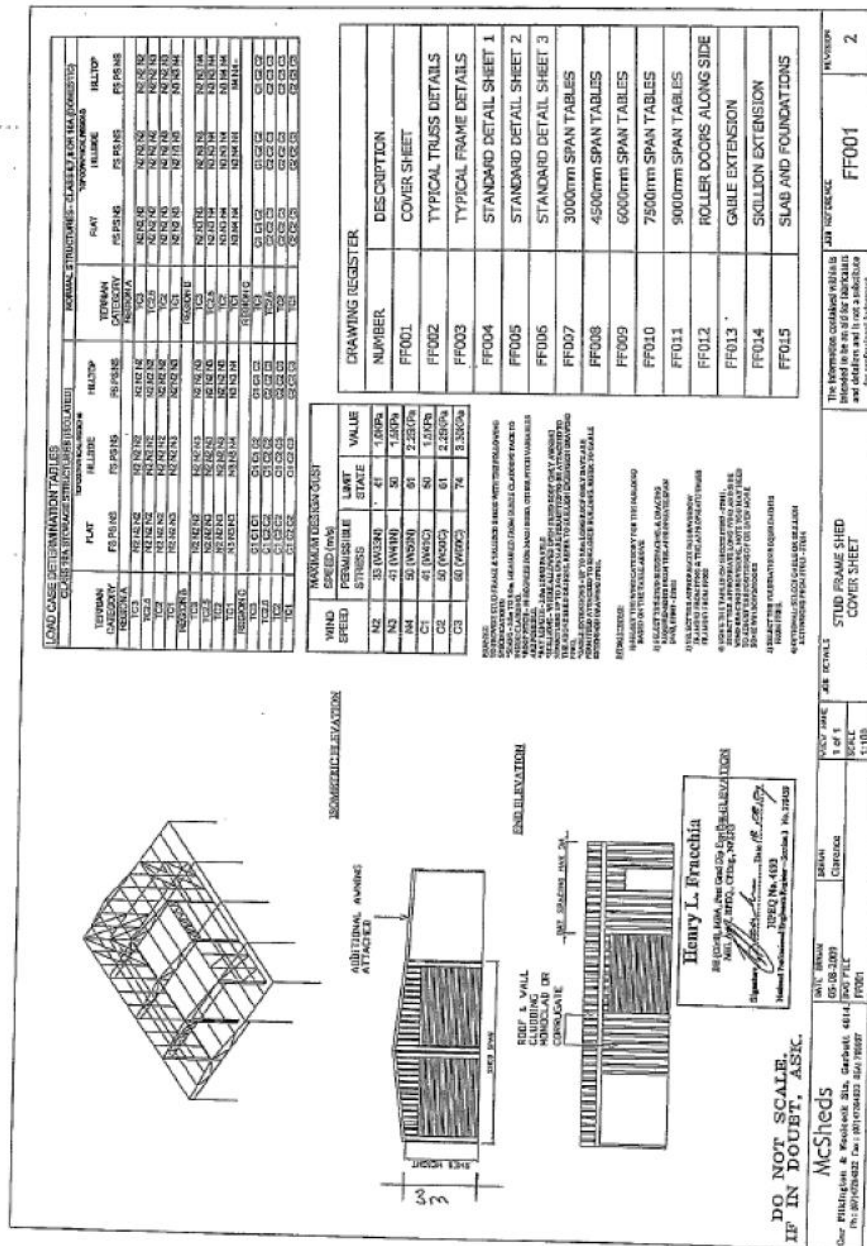
Date: 23/12/10

Signed on behalf of McSheds: [Signature]

Date: 23/12/10

SPEC SHEET

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Reasons for Decision

The reasons for this decision are:

1. Sections 78, 78A, 79, 81, 81A and 83 of the *Planning Act 2016*:
 - a. to ensure the development satisfies the benchmarks of the 2006 Douglas Shire Planning Scheme (As Amended) and the 2018 Douglas Shire Planning Scheme Version 1.0; and
 - b. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
 - a. the application for a minor change was properly lodged to the Douglas Shire Council 26 November 2021 under section 78, 78A, 79 of the *Planning Act 2016* and Part 1 of the Development Assessment Rules;
 - b. The application is for a minor change, being a minor change consistent with Schedule 2 of the *Planning Act 2016*;
 - c. the application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy, the 2006 Douglas Shire Planning Scheme (As Amended) and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
 - a. the development was code assessable development under the 2006 Douglas Shire Planning Scheme (As Amended);
 - b. the development, where considered under the 2018 Douglas Shire Planning Scheme Version 1.0 is also code assessable development
 - c. Council undertook an assessment in accordance with the provisions of sections 81, 81A and 83 of the *Planning Act 2016*; and
 - d. the applicant's reasons have been considered and the following findings are made:
 - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

Non-Compliance with Assessment Benchmarks

Through the amended conditions the development complies with the planning scheme and no concerns are raised.

Chapter 6 Dispute resolution

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 an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
 - (iii) otherwise—20 business days after the day the notice is given; or
- (g) 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, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
 - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; 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 to an appeal by filing a notice of election in the approved form—
 - (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.

(4) In this section—

decision includes—

- (a) conduct engaged in for the purpose of making a decision; and
- (b) other conduct that relates to the making of a decision; and
- (c) the making of a decision or the failure to make a decision; and
- (d) a purported decision; and
- (e) a deemed refusal.

non-appealable, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.