

Administration Office

64 - 66 Front St Mossman

P 07 4099 9444

F 07 4098 2902

27 June 2022

**Enquiries:** Jenny Elphinstone  
**Our Ref:** MCUC 2022\_4876/1 (Doc ID: 1094243)  
**Your Ref:** Additions to Caretaker's residence

J D Werner & D J Werner & J R Newton  
PO Box 1288  
MOSSMAN QLD 4873

Email: [djwerner@bigpond.com](mailto:djwerner@bigpond.com)

Dear Sir/Madam

**Development Application for a Minor Change to the  
Material Change of Use (caretaker's residence)  
At 69 Davidson Road Whyanbeel  
On Land Described as Lot 15 on RP706303**

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

Please quote Council's application number: MCUC 2022\_4876/1 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 Appeals (Decision Notice)



## Decision Notice

### Approval (with conditions)

*Given under section 83 of the Planning Act 2016*

#### Applicant Details

Name: J D Werner & D J Werner & J R Newton  
Postal Address: PO Box 1288  
MOSSMAN QLD 4873  
Email: [djwerner@bigpond.com](mailto:djwerner@bigpond.com)

#### Property Details

Street Address: 69 Davidson Road Whyanbeel  
Real Property Description: Lot 15 on RP706303  
Local Government Area: Douglas Shire Council

#### Details of Proposed Development

Minor change to the Development Permit for a Material Change of Use for a Caretaker's residence.

#### Decision

Date of Decision: 27 June 2022

Decision Details: 1. The following Drawings are approved:

##### **Approved Drawing(s) and/or Document(s)**

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

Drawing Document	or Reference	Date
First Floor Plan, Second Floor Plan	Clarkeville Designs, drawing 15-22, Sheet 1, undated, as submitted to Council (Doc 1092768) on 13 June 2022	13 June 2022

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

2. The following conditions and advices are included on the approval.

#### Assessment Manager Conditions & Advices

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.

#### Building Colours

3. The exterior finishes and colours of Buildings must be white or a shining finish.

#### Advices

1. 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.
2. This approval does not negate the requirement for compliance with all other relevant Council Local Laws and other statutory requirements.
3. For information relating to the *Planning Act 2016* log on to <https://planning.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](http://www.douglas.qld.gov.au).

#### Original Decision Notice

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As attached.

#### Further Development Permits

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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**

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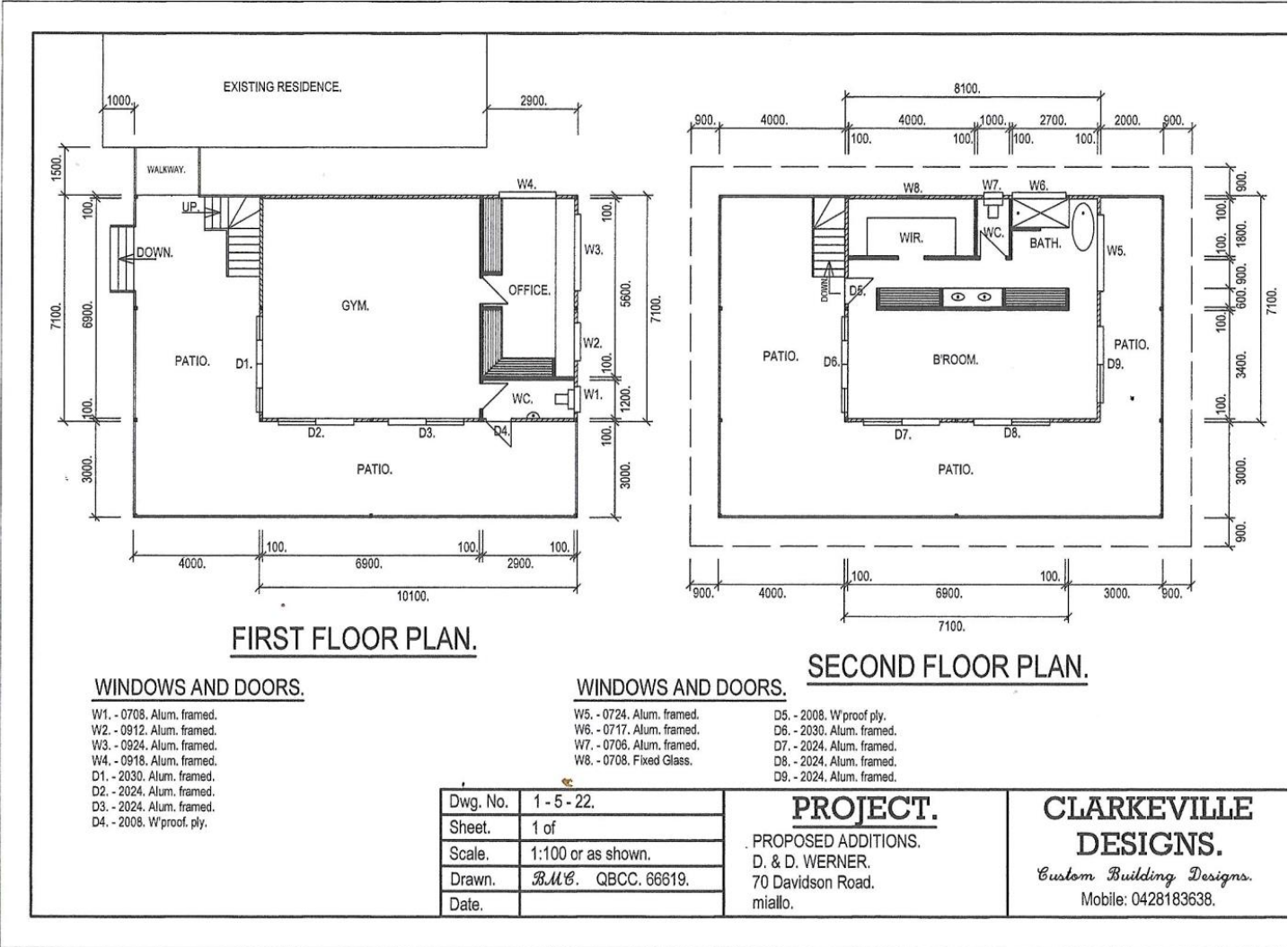
This approval for the additional work, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

### **Rights to Appeal**

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A copy of the relevant appeal provisions is attached.

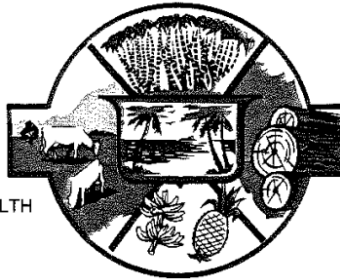
Approved Drawing(s) and/or Document(s)



# DOUGLAS SHIRE COUNCIL

PO BOX 357  
MOSSMAN QLD 4873

TELEPHONE:      FACSIMILE:  
(070) 98 1555      98 1902 — ADMINISTRATION  
(070) 98 1644      98 2006 — WORKS DEPOT  
(070) 98 1822      98 1062 — ENGINEERING & HEALTH  
(070) 98 1194      98 1902 — LIBRARY



ALL COMMUNICATIONS TO BE ADDRESSED TO:  
THE SHIRE CLERK

IF CALLING OR TELEPHONING ON THIS MATTER  
ASK FOR:

QUOTE REFERENCE:

YOUR REFERENCE:

The Manager  
A W E B Services  
PO Box 10  
PORT DOUGLAS QLD 4871

## TOWN PLANNING CONSENT PERMIT

**Application Number:** TPC 756  
**Permit Number:** 756  
**Date of Issue:** 28th March, 1994

**Real Property Description:** Part of Lot 15 RP 706303,  
Parish of Whyanbeel, County of Solander.

**Postal Address of Land:** Lot 15 Kingston Road,  
WHYANBEEL QLD 4873

**Nature of Existing Use:** Cattle Stud and Palm Nursery.

**Council Meeting:** 15th February, 1994.

**Nature of Approved Use:** Caretaker's Residence

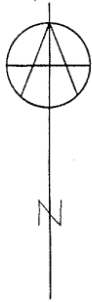
...2/.

**Conditions of Approval:-**

1. Should the development as approved not be commenced within a period of two (2) years from the date of the town planning approval, Council may implement action to revoke the approval as given.
2. The approval does not constitute a Building Permit and a Building Permit must be obtained before any building operations proceed.
4. All development must comply with the provisions of:-
  - (a) Council's Town Planning Scheme;
  - (b) The Local Government Act, The Local Government (Planning and Environment) Act, The Building Act, The Fire Safety Act, The Traffic Act, and all other relevant acts and regulations and the By-Laws of the Council shall at all times be observed and performed in relation to the land, the building, and the use and occupation thereof.
5. The conditions of the Town Planning consent are to be effected prior to the commencement of the specific use of the said consent.

 3/1/3

R J Ives  
CHIEF EXECUTIVE OFFICER



THIS PLAN IS OF AN IDENTIFICATION SURVEY ONLY, AND AS SUCH IS NOT EXAMINED FOR REGISTRATION BY THE OFFICE OF THE REGISTRAR OF TITLES, ALTHOUGH IT IS LOADED IN THAT OFFICE FOR SURVEY INFORMATION ONLY IN ACCORDANCE WITH THE SURVEYORS REGULATIONS 1978. NO RESPONSIBILITY CAN THEREFORE BE ACCEPTED FOR ANY FUTURE DIFFERENCE IN BOUNDARY DEFINITION WHICH MAY RESULT FROM RESURVEYS OF ADJOINING LANDS OR SUBSEQUENT REGISTRATION OF NEW SURVEY PLANS.

45  
NR 283

No Original Marks.  
Original Reference Tree

Proposed Location of Residence A.

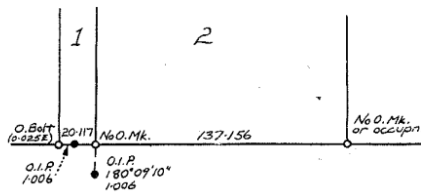
15  
RP 706303

1  
SR 353

Existing Residence

256 m

RP 724138



I HEREBY CERTIFY THAT I, JEREMY SCRIVEN, HAVE IDENTIFIED AND REMARKED THE BOUNDARIES SHOWN HEREON.

LICENSED SURVEYOR

Rural, Agricultural

JEREMY SCRIVEN & ASSOCIATES  
CONSULTING SURVEYORS  
LAND DEVELOPMENT CONSULTANTS

Suite 3 Centenary Building  
1-3 Front Street, Mossman Q 4873  
P.O. Box 329, Port Douglas Q 4871

Ph. 070 - 981148  
Fax. 070 - 981814  
A/H 070 - 985836

IDENTIFICATION SURVEY  
PART OF LOT 15  
on RP 706303

Parish of Whyanbeel  
County of Solander

CLIENT W. BUTLER

DRAWN MB

CHECKED JS

SCALE 1:2500

DATE 17/12 90

PLAN No 90233BUT - 1

3816



## Reasons for Decision

1. The reasons for this decision are:
  - a. Sections 78, 78A, 79, 81, 81A and 83 of the *Planning Act 2016*;
  - b. to ensure the development satisfies the benchmarks of the 1981 Planning Scheme for the Whole of the Douglas Shire and the 2018 Douglas Shire Planning Scheme Version 1.0; and
  - c. 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 13 June 2022 under sections 78, 78A, 79 of the *Planning Act 2016* and Part 1 of the Development Assessment Rules;
  - b. the development application contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy 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 triggered assessable development under the Assessment Table associated with the Rural Zone Code;
  - b. Council undertook an assessment in accordance with the provisions of sections 81, 81A and 83 of the *Planning Act 2016*; and
  - c. 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 additional conditions the development satisfactorily 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) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
  - (iv) 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.