

DELEGATED REPORT

SUBJECT: C DONG & Z ZHU - MATERIAL CHANGE OF USE -
CARETAKER'S ACCOMMODATION - LOT 4 ON RP733949 -
76 CLACHERTY ROAD, JULATTEN - MCU/20/0012

DATE: 27 August 2020

**REPORT OFFICER'S
TITLE:** Planning Officer

DEPARTMENT: Corporate and Community Services

APPLICATION DETAILS

APPLICATION		PREMISES	
APPLICANT	C Dong & Z Zhu	ADDRESS	76 Clacherty Road, Julatten
DATE LODGED	19 August 2020	RPD	Lot 4 on RP733949
TYPE OF APPROVAL	Development Permit		
PROPOSED DEVELOPMENT	Material Change of Use - Caretaker's Accommodation		

FILE NO	MCU/20/0012	AREA	6.877 ha
LODGED BY	Planz Town Planning	OWNER	C Dong & Z Zhu
PLANNING SCHEME	Mareeba Shire Council Planning Scheme 2016		
ZONE	Rural Zone		
LEVEL OF ASSESSMENT	Code Assessment		
SUBMISSIONS	N/A - Code Assessment Only		

ATTACHMENTS: 1. Proposal Plan/s

EXECUTIVE SUMMARY

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

The application is code assessable and was therefore not required to undergo public notification.

The application and supporting material has been assessed against the Mareeba Shire Council Planning Scheme 2016 and does not conflict with the Planning Scheme.

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

OFFICER'S RECOMMENDATION

1. That in relation to the following development application:

APPLICATION		PREMISES	
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and in accordance with the Planning Act 2016, the applicant be notified that the application for a development permit for the development specified in (A) is:

Approved by Council in accordance with the approved plans/documents listed in (B), subject to assessment manager conditions in (C), assessment manager's advice in (D), relevant period in (E), further permits in (F), and further approvals from Council listed in (G);

And

The assessment manager does **not** consider that the assessment manager's decision conflicts with a relevant instrument.

(A) APPROVED DEVELOPMENT: Development Permit - Material Change of Use - Caretaker's Accommodation

(B) APPROVED PLANS:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
0000_SD A-001	Site Plan	CA Architects	10/08/2020
0000_PD A-002	Plan Views	CA Architects	31/07/2020

(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)

(a) Development assessable against the Planning Scheme

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 must notify Council that all the 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 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 The caretaker's accommodation shall not be used for any other purpose, including rental to any person who is not engaged in caretaker activities on the property.

Upon request by Council, the applicant/owner shall be responsible for providing an annual return to Council, which demonstrates that the occupants of the caretaker's residence have been employed in accordance with the conditions of this approval, to the satisfaction of Council's delegated officer. The return shall include the names of staff employed, and, employment and wage/s records.

Note: *Providing a caretaker and their immediate family (if any) with rent free or discounted accommodation in lieu of providing caretaking services on the subject site is acceptable by Council, provided evidence of such an agreement can be supplied upon Council's request.*

4. Additional Payment Condition/s (section 130 of the Planning Act 2016)

- 4.1 The additional payment condition has been imposed as the development will create additional demand on trunk infrastructure which will create additional trunk infrastructure costs for council.
- 4.2 Prior to the commencement of the use (the occupation of the caretaker's accommodation) the applicant/developer must pay a single payment of \$4,820.00 as a contribution toward trunk infrastructure. Until paid, the amount of the contribution will generally increase on 1 July each year in accordance with the increase for the PPI index for the period starting on the day the development approval takes effect, adjusted by reference to the 3-yearly PPI index average to the date of payment.
- 4.3 The trunk infrastructure for which the payment is required is:
- The trunk transport network servicing the land (roads)
- 4.4 The developer may elect to provide part of the trunk infrastructure instead of making the payment.

4.5 If the developer elects to provide part of the trunk infrastructure the developer must:

- Discuss with Council's delegated officer the part of the works to be undertaken;
- Obtain the necessary approvals for the part of the works;
- Indemnify the Council in relation to any actions, suits or demands relating to or arising from the works;
- Take out joint insurance in the name of the Council and the developer in the sum of \$20,000,000 in relation to the undertaking of the works;
- Comply with the reasonable direction of Council officers in relation to the completion of the works;
- Complete the works to the standards required by the Council; and
- Complete the works prior to the commencement of the use.

(D) ASSESSMENT MANAGER'S ADVICE

(a) 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.

(b) 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.

(c) 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.

(d) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from www.environment.gov.au

(e) 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.datsip.qld.gov.au

(E) RELEVANT PERIOD

When approval lapses if development not started (s.85)

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

(F) OTHER NECESSARY DEVELOPMENT PERMITS AND/OR COMPLIANCE PERMITS

- Nil

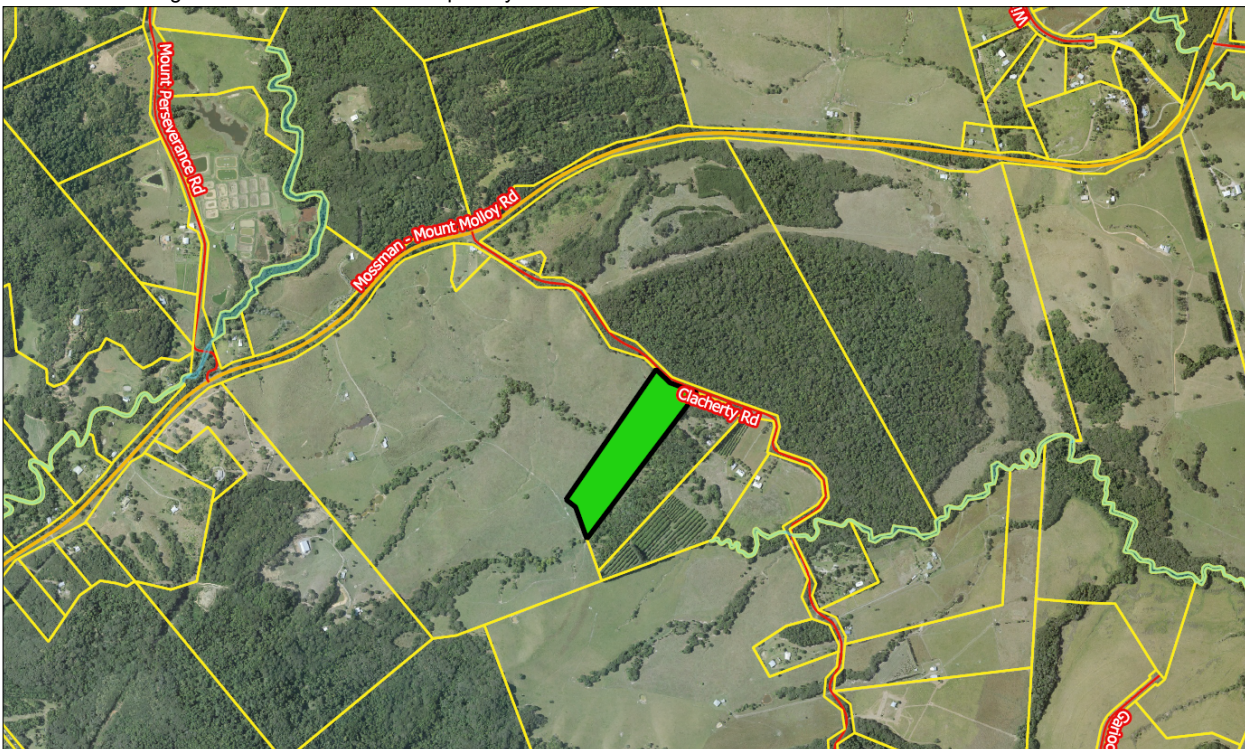
(G) OTHER APPROVALS REQUIRED FROM COUNCIL

- Nil



Map Disclaimer:

Based on or contains data provided by the State of Queensland (Department of Environment and Resource Management) (2009). In consideration of the State permitting use of this data you acknowledge and agree that the State gives no warranty in relation to the data (including accuracy, reliability, completeness, currency or suitability) and accepts no liability (including without limitation, liability in negligence) for any loss, damage or costs (including consequential damage) relating to any use of the data. Data must not be used for direct marketing or be used in breach of the privacy laws.



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THE SITE

The subject site is situated at 76 Clacherty Road, Julatten, and is more particularly described as Lot 4 on RP733949. The site is generally regular in shape, with a total area of 6.877 hectares and is zoned *Rural* under the Mareeba Shire Council Planning Scheme 2016. The site contains 149 metres of frontage to Clacherty Road which is constructed to a rural gravel road standard.

The site is improved by a small dwelling house and multiple outbuildings. Pockets of remnant vegetation are present over the front portion of the property as well as some mature riparian vegetation through the middle of the property along the seasonal watercourse that runs across the allotment. A pine tree plantation is established over the rear half of the property which is not believed to be commercial.

All surrounding lots are zoned Rural and are generally larger cleared grazing properties or vegetation lifestyle lots.

BACKGROUND AND CONTEXT

Nil

PREVIOUS APPLICATIONS & APPROVALS

Nil

DESCRIPTION OF PROPOSED DEVELOPMENT

The development application seeks a Development Permit for Material Change of Use - Caretaker's Accommodation in accordance with the plans shown in **Attachment 1**.

The sites existing dwelling will be converted for use as caretaker's accommodation and a future dwelling house will be constructed on site at a later date.

REGIONAL PLAN DESIGNATION

The subject site is included within the Regional Landscape and Rural Production Area land use category in the Far North Queensland Regional Plan 2009-2031. The Regional Plan Map 3- 'Areas of Ecological Significance' also identifies the site as containing:

- *Strategic Rehabilitation Area*
- *State & Regional Conservation Corridors*
- *Terrestrial Area of High Ecological Significance*
- *Terrestrial Area of General Ecological Significance*

PLANNING SCHEME DESIGNATIONS

Strategic Framework:	Land Use Categories <ul style="list-style-type: none"> ▪ Rural Agricultural Area Natural Environmental Elements <ul style="list-style-type: none"> ▪ Biodiversity Areas
Zone:	Rural Zone <ul style="list-style-type: none"> ▪ Agricultural Land Overlay ▪ Bushfire Hazard Overlay
Overlays:	<ul style="list-style-type: none"> ▪ Environmental Significance Overlay ▪ Hill and Slope Overlay

Planning Scheme Definitions

The proposed use is defined as:-

Column 1 Use	Column 2 Definition	Column 3 Examples include	Column 4 Does not include the following examples
Caretaker's accommodation	<i>A dwelling provided for a caretaker of a non-residential use on the same premises.</i>	N/A	<i>Dwelling house</i>

RELEVANT PLANNING INSTRUMENTS

Assessment of the proposed development against the relevant planning instruments is summarised as follows:-

(a) Far North Queensland Regional Plan 2009-2031

Separate assessment against the Regional Plan is not required because the Mareeba Shire Council Planning Scheme appropriately advances the Far North Queensland Regional Plan 2009-2031, as it applies to the planning scheme area.

(b) State Planning Policy

Separate assessment against the State Planning Policy (SPP) is not required because the Mareeba Shire Council Planning Scheme appropriately integrates all relevant aspects of the SPP.

(c) Mareeba Shire Council Planning Scheme 2016

Relevant Development Codes

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

- 6.2.9 Rural zone code
- 8.2.1 Agricultural land overlay code

- 8.2.3 Bushfire hazard overlay code
- 8.2.4 Environmental significance overlay code
- 8.2.8 Hill and slope overlay code
- 9.3.1 Accommodation activities code
- 9.4.5 Works, services and infrastructure code

The application did not include a planning report and assessment against the planning scheme. An officer assessment has found that the application satisfies the relevant acceptable solutions (or probable solutions/performance criteria where no acceptable solution applies) of the relevant codes set out below, provided reasonable and relevant conditions are attached to any approval.

Relevant Codes	Comments
Rural zone Code	<p>The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code, apart from the following:</p> <ul style="list-style-type: none"> ▪ Acceptable Outcome AO3.2 <p>It is considered that the development can comply with the higher order PO3 in this instance. Refer to separate code document for commentary.</p>
Agricultural land overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Bushfire hazard overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Environmental significance overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Hill and slope overlay code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Accommodation activities code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.
Works, services and infrastructure code	The application can be conditioned to comply with the relevant acceptable outcomes (or performance outcomes where no acceptable outcome is provided) contained within the code.

(e) Planning Scheme Policies/Infrastructure Charges Plan

The following planning scheme policies are relevant to the application:

Planning Scheme Policy 4 - FNQROC Regional Development Manual

A condition will be attached to any approval requiring all development works be designed and constructed in accordance with FNQROC Development Manual standards.

(f) Additional Trunk Infrastructure Condition - Road Infrastructure (Section 130 of PA)

The subject land is located outside the identified Priority Infrastructure Area (PIA).

Section 130 of the *Planning Act 2016* allows Council to condition additional trunk infrastructure outside the PIA.

The proposed development will further add to the expected daily vehicle movements on Council's transport network (once an as of right dwelling house is constructed on-site in future). Based on the 2020/2021 Augmentation of the Road Network Contribution rate (see Fees and Charges Schedule), the following contribution is considered appropriate:

- 1 (10 vmpd) x \$4,700.00 = **\$4,820.00**

REFERRALS

This application did not trigger referral to any Referral Agencies.

PLANNING DISCUSSION

Nil

Date Prepared: 27 August 2020

DECISION BY DELEGATE

DECISION

Having considered the Planning Officer's report detailed above, I approve, as delegate of Council, the application subject to the conditions listed in the report.

Dated the 27TH day of AUGUST 2020



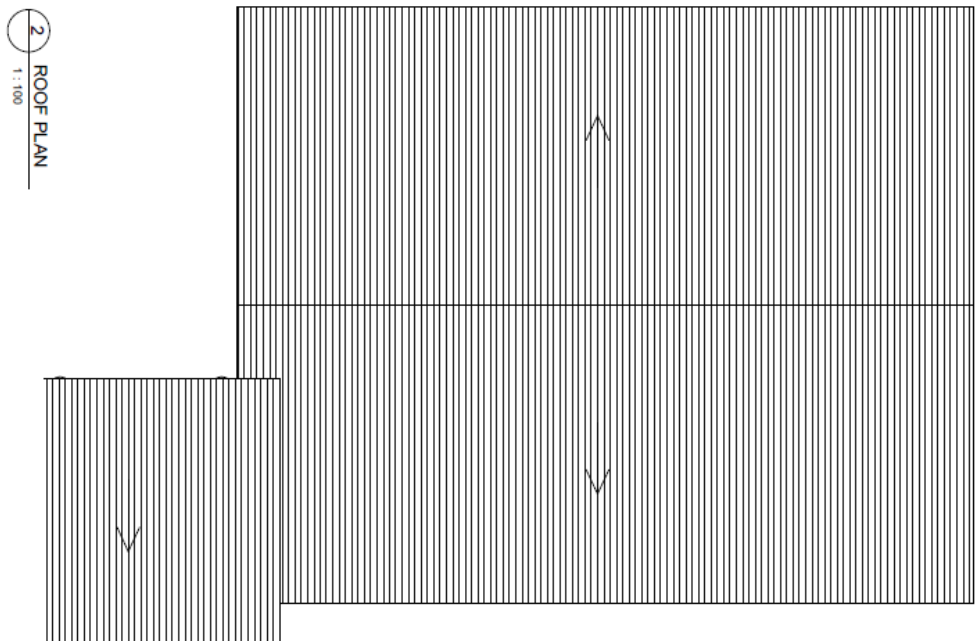
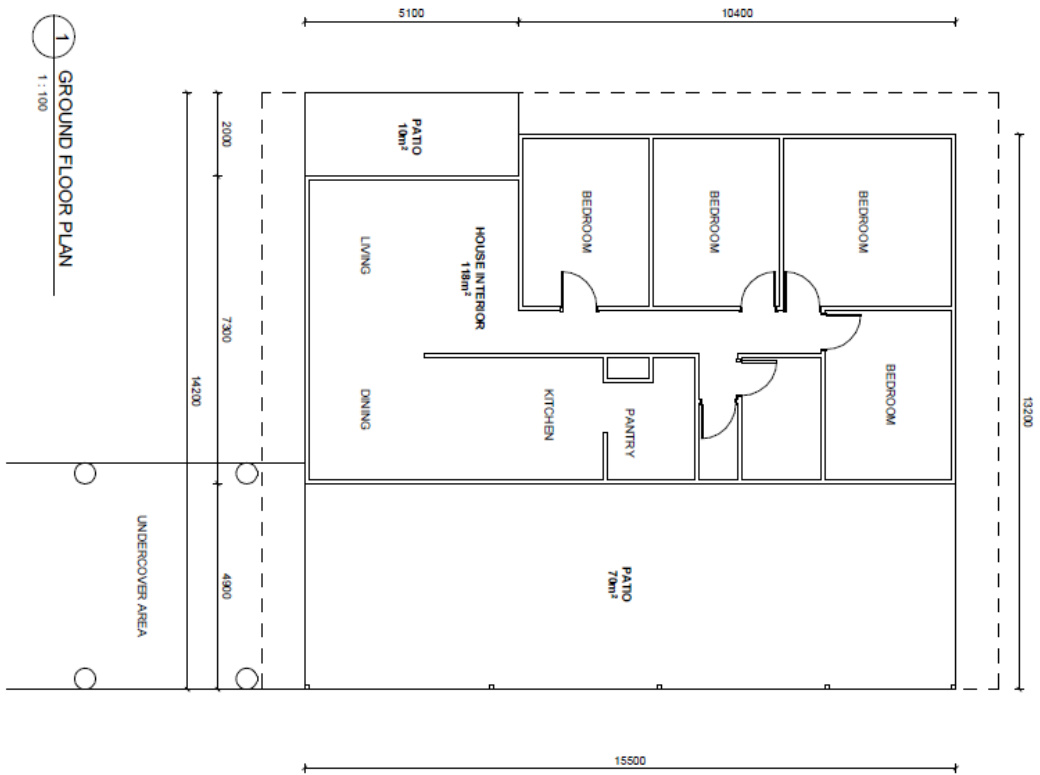
BRIAN MILLARD
SENIOR PLANNER

MAREEBA SHIRE
AS DELEGATE OF THE COUNCIL

ATTACHMENT 1

APPROVED PLANS (ECM Doc Set ID 3862133)





ISSUE NOTE TEXT

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Client Name

CA ARCHITECTS



PLAN VIEWS

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Version 1, Version Date: 18/08/2020

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