

Cloncurry Shire Council

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Our ref: OP:LT - TP01/21

18 March 2021

Marcus Fossey
Senior Town Planner
Veris
PO Box 158
MACKAY QLD 4740
Email: M.Fossey@veris.com.au

Dear Marcus

**DECISION NOTICE – DEVELOPMENT APPLICATION FOR MATERIAL CHANGE OF USE
– TRANSPORT DEPOT – 9 MCMASTER ROAD, CLONCURRY – LOT 6 ON RP884323**
(Given under section 63 of the *Planning Act 2016*)

The development application described below was properly made to the Cloncurry Shire Council on 5 February 2021.

Applicant details

Applicant name:	Barwen Pty Ltd
Applicant contact details:	C/- Veris Marcus Fossey PO Box 158 MCKAY QLD 4740

Application details

Application number:	TP01/21
Approval sought:	Development Permit
Nature of development proposed:	Material Change of Use
Description of the development proposed:	Transport Depot
Category of assessment:	Code Assessment

Location details

Street address:	9 McMaster Road, Cloncurry
Real property description:	Lot 6 on RP884323
Local government area:	Cloncurry Shire Council

Decision

Date of decision:	16 March 2021
Decision details:	Approved in full with conditions. These conditions are set out in Attachment 1.

Details of the approval

Development permit: Material Change of Use – Transport Depot

Conditions

This approval is subject to the conditions in Attachment 1.

Properly made submissions

There were no properly made submissions for this application.

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 provision is attached.

Currency period for the approval

This development approval will lapse unless substantially started at the end of the period set out in section 85 of *Planning Act 2016* which is 6 years after this approval starts to take effect.

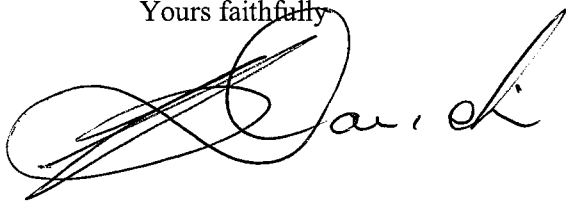
Approved plans and specifications

Table 1 Supporting documentation/reports

Report/Plan/Drawing Number	Plan/Document Name	Date
401039-PP01	Plan showing Material Change of Use	19/01/2021
	Elevations	
	Elevations	

Should you have any questions or concerns in respect of this matter please contact Council’s Acting Senior Town Planner, Larinda Turrell, at this office.

Yours faithfully



Bruce Davidson
Acting Chief Executive Officer

- Enc: Attachment 1—Conditions of the approval
- Attachment 2—Extract on appeal rights
- Attachment 3 – Statement of Reasons
- Attachment 4 - Approved Plans

ATTACHMENT 1 – CONDITIONS OF APPROVAL

NATURE OF DECISION				
A Cloncurry Shire Council issues a development permit for Development application - Reference TP01/21 Material Change of Use for a transport depot under the <i>Planning Act 2016</i> .				
GENERAL				
1. Site Layout				
The development must generally comply with the approved proposal plans and design drawings as referenced in the table below, which forms part of this application, except as otherwise specified by any condition of this approval.				
Title	Plan Number	Rev.no	Date	Prepared by
Plan showing Material Change of Use	401039-PP01	B	19/01/2021	Veris
Elevations				Cubex Group
Elevations				Cubex Group
2. Compliance with conditions				
(a) All conditions must be complied with prior to the commencement of the use, unless specified in an individual condition.				
(b) The conditions of this development approval are to be read in conjunction with the approved plans /drawings/documents at all times. Where a conflict occurs between the conditions of this approval and the approved plans/documents, the conditions of this development approval shall prevail.				
3. Fencing				
Security fencing, suitable to prevent unauthorised persons entering the site, is to be installed and maintained around the perimeter of the proposed work area.				
4. Landscaping				
As per the plans provided, landscaping shall be established and maintained at all times.				
5. Storage Equipment				
Equipment and machinery are stored in appropriate areas so as not to cause a nuisance to existing neighboring surrounds.				
6. Waste Management				
A screened waste storage area in the vicinity of a hose cock for cleaning proposes for general waste and regulated waste are to be provided within the site at accessible locations to allow for collection and removal to approved facilities.				
7. Stormwater Drainage				
Prior to works commencing (for any proposed filling or excavation), the applicant must submit to Council a detailed stormwater drainage plan checked and certified by a RPEQ.				
8. Noise Management				
Appropriate noise mitigation measures shall be put in place to contain and manage noise levels so as not to give rise to unacceptable effects on nearby sensitive receiving land uses.				
9. Dust Management				
During construction and operation of the approved use, the operator is to put in place appropriate mitigation measures for the suppression of dust, so as not to cause a nuisance.				
10. Works during construction				
a) Unless otherwise approved in writing by the assessment manager, hours of construction must not exceed 8.00 am to 6.00pm (Monday to Saturday).				

- b) Unless otherwise approved in writing by an authorised council officer, work must not be conducted from or on the premises outside the above hours or on Sundays or public holidays.

11. Advertising Devices

Advertising devices do not form part of this application. For the erection of any advertising devices, an application is to be submitted to Council for approval (Note – Advertising devices must comply with section 9.4.1 – Advertising device code).

12. Internal Access and Car Parking

- (a) All driveways, parking and manoeuvring areas are to be appropriately maintained to the satisfaction of Council or its delegate to ensure there is no nuisance to adjoining land uses or damage to public roads or infrastructure. A program of regular inspection and maintenance is to be undertaken by the applicant/site operator.
- (b) The car parking areas are to be constructed of a durable, suitable material, such as compacted hardstand gravel (minimum depth of 150mm).
- (c) On site access will be restricted to the highest design vehicle with such vehicles being capable of entering and exiting the site in forward gear at all times.
- (d) The proposed development will ensure that there is no conflict on site between the movement of the design vehicle with the largest turning circle and other vehicles utilised by customers/staff to the site.

13. Lighting

Any lighting is to be designed, installed and maintained principally in accordance with the requirement of “Civil Aviation Safety Authority Guideline Chapter 12 – Aerodrome Lighting: 1.2 Lighting in the vicinity of an aerodrome” and if as necessary, AS 4282 1997 “Control of the Obtrusive Effects of Outdoor Lighting” and AS 1158 2010 “Lighting for roads and public spaces”.

14. Damage to Council Infrastructure

In the event that any part of Council’s existing stormwater, water or road infrastructure is damaged as a result of activities occurring on the site, the applicant/owner must notify Cloncurry Shire Council immediately of the affected infrastructure and have it repaired or replace at no cost to Council.

15. Building works

This Development Approval does not include an assessment of building work against the requirements of the *Building Act 1975* and does not permit building work to occur unless, prior to the commencement of any building work, a Development Permit to carry out assessable building work under the *Building Act 1975* has been issued.

ADVICE – Please note that these are not conditions

- A.** The Applicant is responsible for securing all necessary approvals, permits and tenure, providing statutory notifications and complying with all relevant laws. Nothing in this development approval alleviates the need for the Applicant to comply with all relevant Local, State and Commonwealth laws and to ensure appropriate tenure arrangements have been made where the use of/reliance upon land other than that owned by the Applicant is involved. Without limiting this obligation, the Applicant is responsible for:
- (a) Obtaining all other/further necessary approvals, licences, permits, resource entitlements etc by whatever name called (this may include further development approvals under the “*Planning Act 2016*” and the planning scheme) required by law before the development the subject of this approval can be lawfully commenced and to carry out the activity for its duration;
 - (b) Providing any notifications required by law (by way of example only, to notify the administering authority pursuant to the “*Environmental Protection Act 1994*” of environmental harm being caused/threatened by the activity, and upon becoming aware the premises is being used for a ‘notifiable activity’); and

- (c) Ensuring the correct siting of structures on the land. An identification survey demonstrating correct siting and setbacks of structures may be requested of the Applicant to ensure compliance with this decision notice and applicable codes.

B. Indigenous Cultural Heritage Legislation and Duty of Care Requirement

The “*Aboriginal Cultural Heritage Act 2003*” (ACHA) establishes a duty of care to take **all** reasonable and practicable measures to ensure any activity does not harm Aboriginal cultural heritage. This duty of care:

- (a) Is not negated by the issuing of this development approval;
- (b) Applies on all land and water, including freehold land;
- (c) Lies with the person or entity conducting an activity; and
- (d) If breached, is subject to criminal offence penalties.

Those proposing an activity involving surface disturbance beyond that which has already occurred at the proposed site must observe this duty of care. Details of how to fulfil this duty of care are outlined in the duty of care guidelines gazetted with the ACHA. The Applicant should contact NRW’s Cultural Heritage Coordination Unit on (07) 3238 3838 for further information on the responsibilities of developers under the ACHA.

C. Limitation of Approval

The Council and its officers make no representations and provide no warranties as to the accuracy of the information contained in the development application including its supporting material provided to it by the Applicant.

The Council and its officers rely upon the applicant concerning the accuracy and completeness of the application and its supporting material and accepts the development application and supporting material as constituting a representation by the applicant as to its accuracy and completeness.

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 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.
- (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 Other appeals

- (1) Subject to this chapter, 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—
 - (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.

ATTACHMENT 3 – STATEMENT OF REASONS – TP01/21

NOTICE ABOUT DECISION - STATEMENT OF REASONS

The following information is provided in accordance with section 63(5) of *the Planning Act 2016*

Details of the Development

The proposed development application seeking a development permit for a Material Change of Use (transport depot) at 9 McMaster Road, Cloncurry, described as Lot 9 on RP884323.

On 16 March 2021, the above development application was approved in full, with conditions.

Reasons for the decision

A detailed assessment of the application by Council assessing officers has been undertaken and it is concluded as documented in this Development Assessment Report that the applicant has satisfactorily demonstrated compliance with the applicable benchmarks of the relevant planning scheme codes to enable Council to support the proposed development in granting its approval, subject to reasonable and relevant conditions being imposed.



Cloncurry Shire Council
 Town Planning
 Approved with Conditions

Approved Date: **16 MAR 2021**

DEVELOPMENT SUMMARY	
Total Site Area	1.21 ha
Site Coverage	1130m ² 9%
Landscaping	394m ²
Impervious Area	3177m ² 26%
Carparking Provided	26m ² (2)



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IMPORTANT NOTES:
 (These notes are an integral part of this plan)
 This plan has been prepared for Williams Stockfeeds for the purposes of Design. It is not to be used by any other person or corporation or for any other purposes.

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 14/09/2020

Issue	Revisions	Date	Drawn
B	Original	15.01.2021	KWL
A	Original	14.09.2020	GJF

Data Sources:
 Cadastral Boundaries
 Contours / Topographic
 Aerial Images
 Flood Level
 Engineering Design
 Architectural Design
 Landscape Design

Locality: Cloncurry
 Local Authority: Cloncurry Shire Council
 Projection:
 Horizontal Meridian:
 Vertical Level Datum:
 Level Origin:
 Scale: 1:750 @ A3
 Surveyed:
 Designed:
 Drawn: KWL 15/01/2021
 Checked: TT 15/01/2021
 Plot Date: 19 Jan, 2021
 Computer File Ref: 401039-PP01 Rev B.dwg

FP 01/21

9 McMaster Road,
 Cloncurry
 For
 Williams Stockfeeds

Plan Showing Material
 Change of Use,
 Transport Depot
 Lot 7 on RP884323

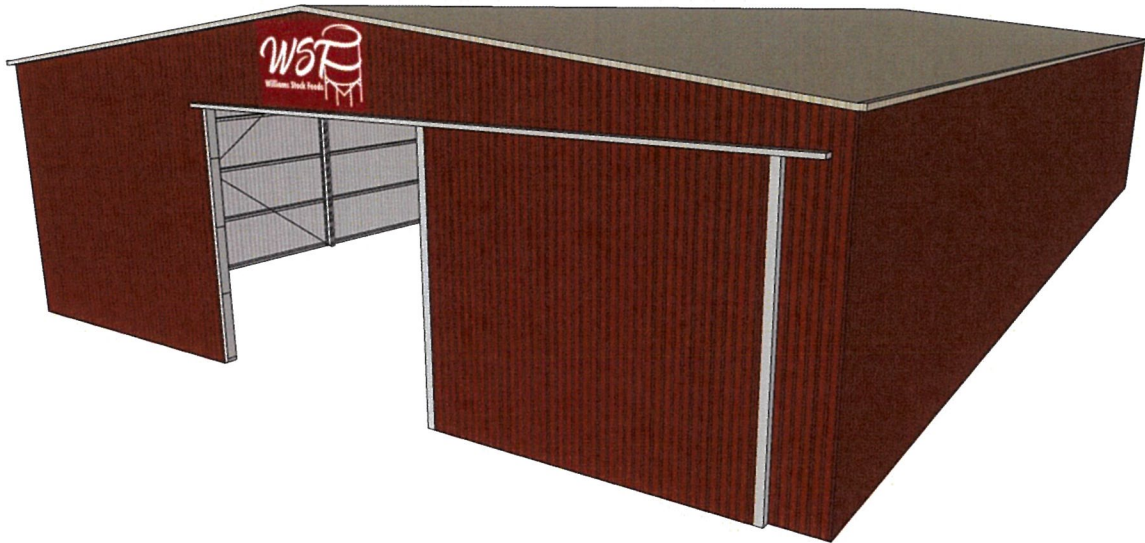
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Drawing No: 401039-PP01 Issue: B

ELEVATIONS

7259.6a



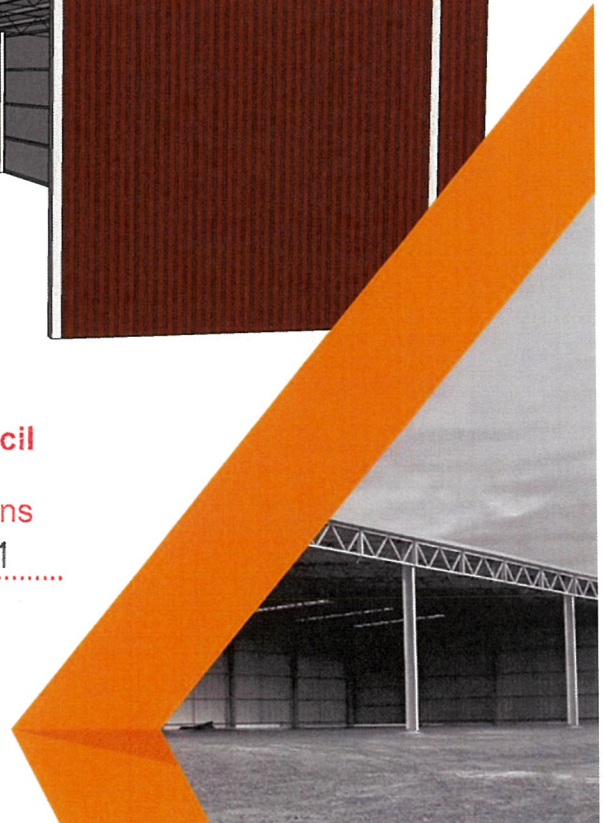
Cloncurry Shire Council
Town Planning
Approved with Conditions

Approved Date: 16 MAR 2021

TP 01/21

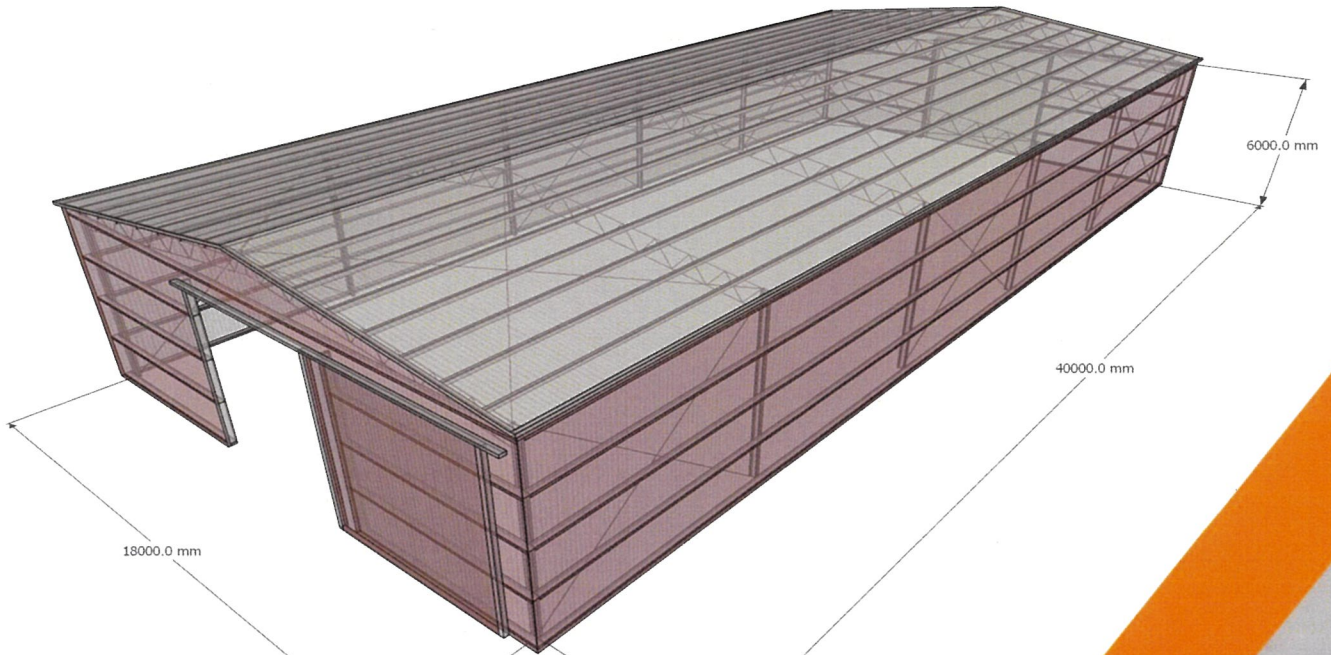
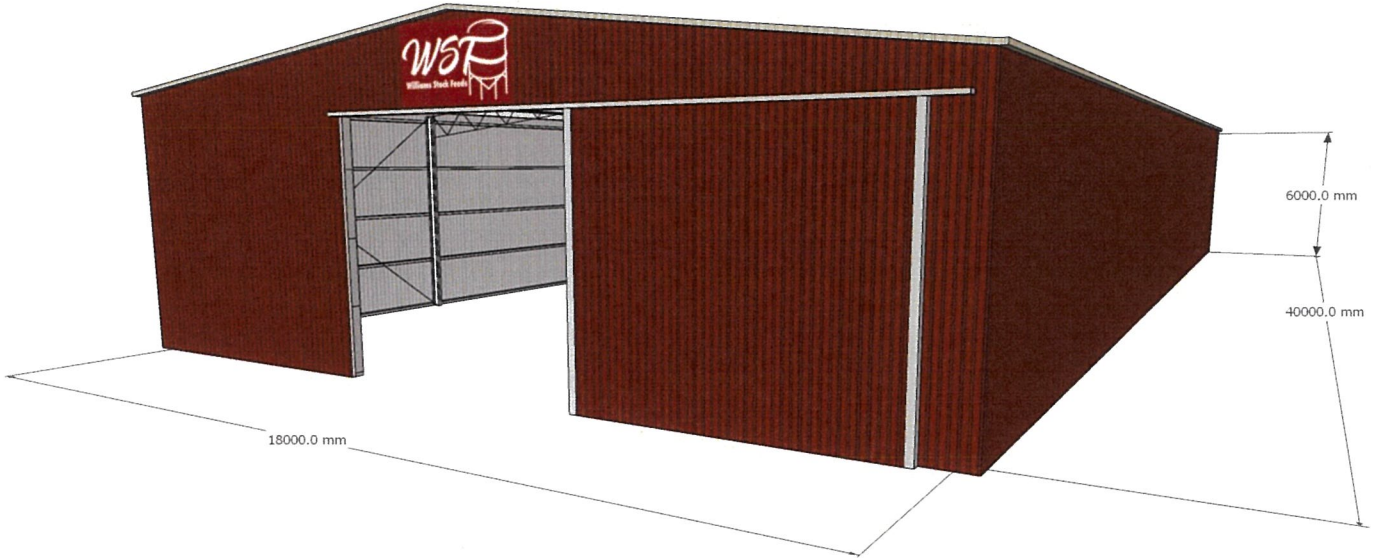


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ELEVATIONS

7259.6a



Cloncurry Shire Council
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Approved with Conditions

16 MAR 2021

Approved Date:

TP 01/21



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