

Your Ref: Material Change of Use (Outdoor Sport and Recreation – Horse Riding Facility)  
Our Ref: PC:HR MCU21\0001

28 July 2021

Mrs Christine Perry  
Ingham Riding for the Disabled Association Inc  
14 Seris Road  
PEACOCK SIDING QLD 4850

[christineperry@westnet.com.au](mailto:christineperry@westnet.com.au)

Dear Mrs Perry

**Negotiated Decision Notice**  
**Material Change of Use for Outdoor Sport and Recreation (Horse Riding Facility)**  
*Planning Act 2016*

Receipt of your application dated 18 June 2021 seeking a Negotiated Development Permit for Material Change of Use (Outdoor Sport and Recreation – Horse Riding Facility) at 14 Seris Road Peacock Siding, is acknowledged and its contents noted.

Please be advised that your application was assessed by relevant staff and considered at Council's General Meeting held on Tuesday, 27 July 2021.

Council resolved to approve the proposed negotiated application, subject to reasonable and relevant conditions which accord generally with the application as made. Council's Negotiated Decision Notice is attached for your perusal.

This Notice outlines aspects of the development, conditions of the approval (if any), currency period, approved plans and includes extracts from the *Planning Act 2016* with respect to making representations about conditions, negotiated decision, suspension of the appeal period and lodging an appeal, should you wish to do so.

Should you require any further information or clarification concerning this matter, please contact Council's Built Environment Team Leader, Hayley Roy on 4776 4609 for necessary assistance.

Yours sincerely



Kelvin Tytherleigh  
Chief Executive Officer

Encl - Negotiated Decision Notice



25 Lannercost Street  
INGHAM QLD 4850



PO Box 366 INGHAM QLD 4850  
ABN 46 291 971 168



4776 4600  
4776 3233



[council@hinchinbrook.qld.gov.au](mailto:council@hinchinbrook.qld.gov.au)  
HinchinbrookShireCouncil

28 July 2021

## APPLICATION DETAILS

This Infrastructure Charges Notice relates to the below development application:

Application Number	MCU21\0001
Property ID Number	106775
Applicant Details	Christine Perry Ingham Riding for the Disabled Association Incorporated 14 Seris Road PEACOCK SIDING QLD 4850
Owner Details	Christine Perry and Matthew Batty 14 Seris Road PEACOCK SIDING QLD 4850
Property Description	14 Seris Road, Peacock Siding Lot 1 on RP703060
Proposal	Material Change of Use – Outdoor Sport and Recreation (Horse Riding Facility)
Level of Assessment	Impact Assessment

## DECISION

Development assessment, as per the provisions of the *Planning Act 2016*, has been undertaken. The information below outlines the specifics of any approval or refusal issued by the Assessment Manager:

Deemed Approval	The application is deemed to be approved under s64 of the <i>Planning Act 2016</i> .
Nature of Change	In relation to the request to amend conditions under section 75 of the <i>Planning Act 2016</i> , Council decided under section 76 of the <i>Planning Act 2016</i> to approve a change to: <ul style="list-style-type: none"> <li>Condition 3.1 – Operations of Use</li> <li>Condition 3.2 – Operations of Use</li> </ul>
Decision History	MCU21\0001 – Original Decision Notice – 25 May 2021 MCU21\0001 – Negotiated Decision Notice – 27 July 2021
Decision Type	Development Permit – Material Change of Use
Planning Instrument	<i>Hinchinbrook Shire Planning Scheme 2017</i>

<p><b>Submissions</b></p>	<p>There was four properly made submissions received from the following submitters:</p> <p>Terrie Christensen and Ethan Giacomi-Christensen PO Box 1079 INGHAM QLD 4850</p> <p>Fred and Kay Christensen PO Box 1079 INGHAM QLD 4850</p> <p>Lindsay Wheeler Cane Supply Manager Wilmar Sugar Australia Limited PO Box 642 TOWNSVILLE QLD 4850</p> <p>Brazier Motti Pty Ltd on behalf of Angelo Trovato 595 Flinders Street TOWNSVILLE QLD 4810</p>
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## CONDITIONS OF APPROVAL

The conditions of this approval are set out in the Schedule of Conditions. The conditions are identified to indicate whether the Assessment Manager or referral agency (if any) imposed them.

## REFERRAL AGENCIES

State Assessment and Referral Agency (SARA)  
Planning Group  
Queensland Treasury  
PO Box 5666  
TOWNSVILLE QLD 4810

Pursuant to Section 56 of the *Planning Act 2016*, the SARA advises that it has no objection to Hinchinbrook Shire Council issuing a Development Approval for Material Change of Use (Outdoor Sport and Recreation – Horse Riding Facility), subject to the conditions, as attached.

## PROPERTY NOTES

Not Applicable.

## FURTHER APPROVALS REQUIRED

This approval does not authorise any filling of land or building work and a development permit for carrying out the above mentioned may require additional assessment.



This approval does not authorise any works within Council's Road Reserve (e.g. new/additional access, repair/modification to existing access or works to footpaths). If this is required as part of your development proposal, an application will need to be lodged with Council or other relevant authority.

## **RIGHTS OF APPEAL**

The rights of an applicant to appeal to the Planning and Environment Court against a decision about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*. 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*).

An applicant for a development application may appeal to the Planning and Environment Court against the following:

- The refusal of all or part of the development application;
- A provision of the development approval;
- The decision to give a preliminary approval when a Development Permit was applied for; and
- A deemed refusal of the development application.

The timeframes for starting an appeal in the Planning and Environment Court are set out in section 229 of the *Planning Act 2016*.

## **APPROVAL CURRENCY PERIOD**

Pursuant to section 85 of the *Planning Act 2016*, the development approval will lapse within six years after the approval starts to have effect, unless otherwise conditioned.

## **APPROVED PLANS AND SPECIFICATIONS**

The development must be carried out in accordance with the approved plans, specifications and/or drawings, along with the requirements of all relevant laws. Any deviation must have prior approval from the Chief Executive Officer.

Copies of the approved plans, specifications and/or drawings are attached.

## **NOTICE ABOUT DECISION – STATEMENT OF REASONS**

This Notice is prepared in accordance with section 63(5) and section 83(7) of the *Planning Act 2016* to inform the public about a decision that has been made in relation to a development application.

The purpose of this Notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:

- The relevant part of the Planning Scheme and Assessment Benchmarks against which the application was assessed; and
- Any other information documents or other material Council was either required to, or able to, consider in its assessment.

All terms used in this Notice have the meaning given them in the *Planning Act 2016*.

## NOTICE ABOUT DECISION – STATEMENT OF REASONS

The proposed development is considered to be consistent with the relevant overall outcomes of the *Hinchinbrook Shire Planning Scheme 2017*, in particular:

- The application has been approved as it is considered to meet, or have the ability to meet the requirements of the relevant aspects of the *Hinchinbrook Shire Planning Scheme 2017*; and
- Conditions of approval have been included to ensure that compliance with the *Hinchinbrook Shire Planning Scheme 2017*.

Should you require any further information or clarification concerning the Decision Notice, please contact Council's Built Environment Team Leader, Hayley Roy on 4776 4609 for necessary advice.

CONDITION		TIMING																								
1.	<p><b>Administration</b></p> <p>The applicant is responsible to carry out the approved development and comply with relevant requirements in accordance with:</p> <p>1.1 The specifications, facts and circumstances as set out in the application submitted to Council, including recommendations and findings confirmed within relevant technical reports;</p> <p>1.2 The development must unless stated, be designed, constructed and maintained in accordance with relevant Council policies, guidelines and standards; and</p> <p>1.3 The conditions of approval, the requirements of Council’s Planning Scheme and best practice engineering.</p>	At all times.																								
2.	<p><b>Approved Plans</b></p> <p>2.1 The development and use of the site is to be generally in accordance with the following plans that are to be the Approved Plans of Development, except as altered by any other condition of approval; and</p> <table><thead><tr><th>Plan / Document Name</th><th>Number</th><th>Date</th></tr></thead><tbody><tr><td>Site Plan and Elevation 1</td><td>-</td><td>-</td></tr><tr><td>Proposed Club Room – Building Layout</td><td>MC48501911004</td><td>09/11/19</td></tr><tr><td>Proposed Stables &amp; Tack – Building Layout</td><td>MC48501911002</td><td>07/11/19</td></tr><tr><td>Proposed Disabled Toilet – Building Layout</td><td>MC48501911003</td><td>07/11/19</td></tr><tr><td>Proposed Area Roof (Stage 2) – Building Layout</td><td>MC48501911001</td><td>07/11/19</td></tr><tr><td>Car Park Layout</td><td>-</td><td>-</td></tr><tr><td>Elevation 2</td><td>-</td><td>-</td></tr></tbody></table> <p>2.2 Where there is any conflict between the conditions of this approval and the details shown on the approved plan and documents, the Conditions of Approval prevail.</p>	Plan / Document Name	Number	Date	Site Plan and Elevation 1	-	-	Proposed Club Room – Building Layout	MC48501911004	09/11/19	Proposed Stables & Tack – Building Layout	MC48501911002	07/11/19	Proposed Disabled Toilet – Building Layout	MC48501911003	07/11/19	Proposed Area Roof (Stage 2) – Building Layout	MC48501911001	07/11/19	Car Park Layout	-	-	Elevation 2	-	-	At all times.
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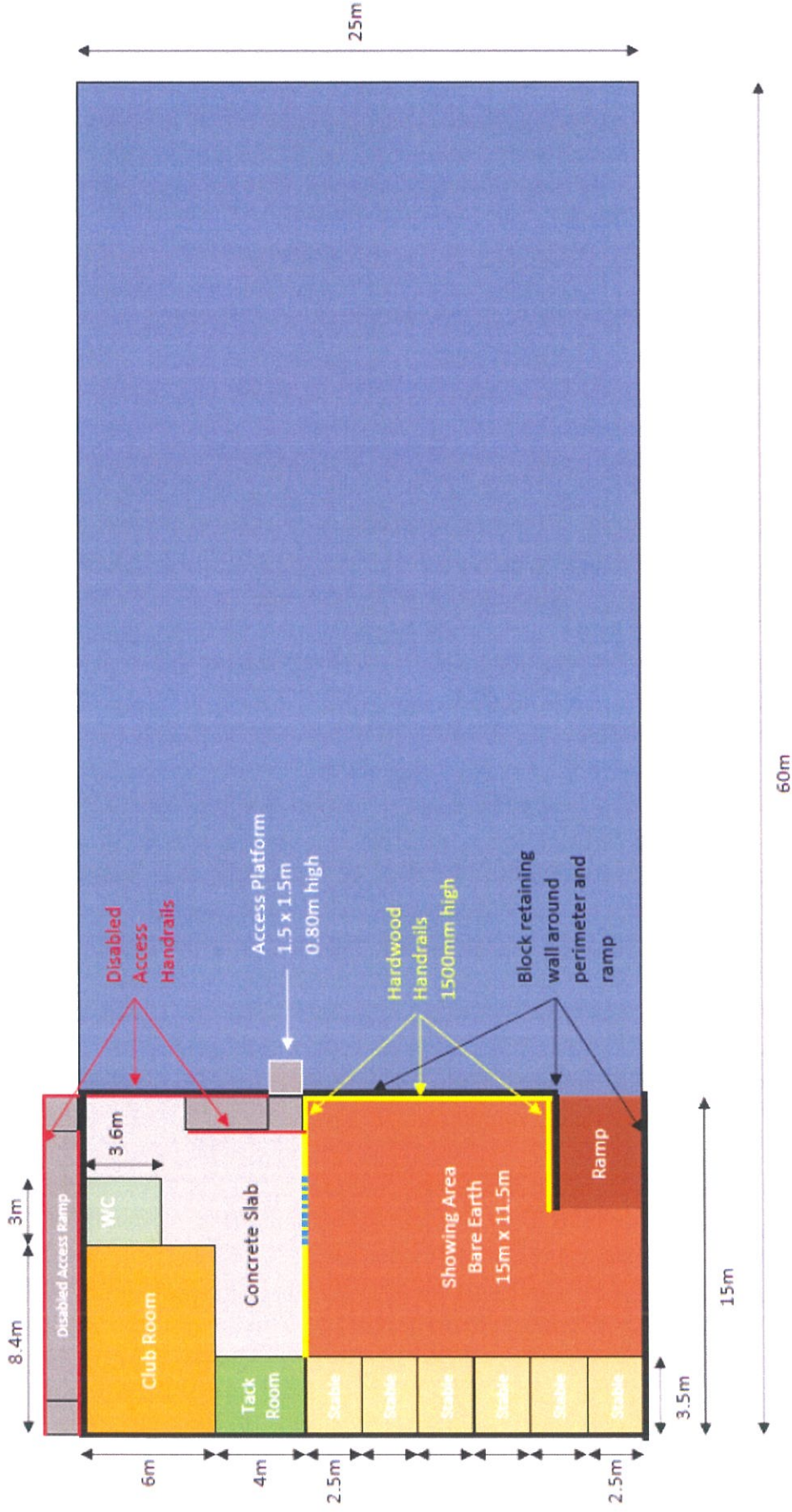
CONDITION	TIMING
<p><b>3. Operations of Use</b></p> <p>3.1 The <del>facility must only be used for horse riding associated with the activities coordinated under</del> <u>approved use is defined as horse riding and associated activities coordinated by</u> the Ingham Riding for the Disabled Association <u>and does not include any other commercial activity.</u></p> <p>3.2 The use may only operate between 9:00am to 5:00pm Monday to Friday and must not operate on a <del>Sunday or</del> public holiday.</p> <p>3.3 The use may operate with a maximum number of four participants at any given time.</p> <p>3.4 The use may operate with a maximum number of ten volunteers or employees at any given time.</p> <p><b>3.5</b> <u>The approved use, particularly Conditions 3.1, 3.2, 3.3 and 3.4, does not restrict the ongoing use of the subject site for private use or other accepted development under the <i>Hinchinbrook Shire Planning Scheme 2017</i>.</u></p>	At all times.
<p><b>4. Infrastructure Services</b></p> <p>4.1 The use must be provided an on-site water supply.</p> <p>4.2 The developer must ensure that a potable water supply is available to participants, volunteers and employees during all operational periods of the use.</p> <p>4.3 The use must be provided a dedicated on-site wastewater treatment system.</p> <p>4.4 The use must be connected to the electricity network.</p>	Prior to the commencement of use and maintained at all times.
<p><b>5. Car Parking and Vehicle Manoeuvring Areas</b></p> <p>a. The use must be provided a minimum of 14 car parks with a minimum of four car parks dedicated for persons with a disability.</p> <p>b. The car park and associated vehicle manoeuvring areas must be constructed with a dust free surface.</p> <p>c. All car park and associated vehicle manoeuvring areas must be constructed in accordance with AS2890.1 – Off-street car parking and AS2890.6 – Parking facilities – Off-street parking for people with a disability.</p>	Prior to the commencement of use and maintained at all times.

CONDITION	TIMING
<p><b>6. Built Form</b></p> <p>6.1 No building or structure forming part of the proposed use shall exceed 8.5 metres in height from the natural ground level.</p> <p>6.2 The undercover arena structure must be constructed as and remain an unenclosed structure.</p> <p>6.3 No building or structure forming part of the proposed use shall be located within six (6) metres of a property boundary.</p> <p>6.4 The perimeter of the approved arena must be fully fenced, with fencing constructed to a standard suitable to contain horses safely within the designated arena area.</p>	At all times.
<p><b>7. Stormwater</b></p> <p>All stormwater from the property must be directed to a lawful point of discharge or follow natural overland flow paths, such that it does not adversely affect surrounding properties or properties downstream from the development in accordance with Part 9.4.1.3 Infrastructure, Services and Works Code of the Hinchinbrook Shire Planning Scheme 2017.</p>	At all times.
<p><b>8. Damage to Infrastructure</b></p> <p>1. In the event that any part of Council's infrastructure is damaged as a result of work associated with the development, Council must be notified immediately of the affected infrastructure and have it repaired or replaced by Council, at no cost to Council.</p>	At all times.
<p><b>9. Environmental and Rural Amenity</b></p> <p>9.1 The use must ensure air quality is maintained in accordance with the objectives of the Environmental Protection (Air Quality) Policy 2019.</p> <p>9.2 The developer must prepare and implement a Dust Management Plan for the construction and operational stages of the use and that identifies the potential dust generation, potential dust impacts and applicable mitigation and management strategies.</p> <p>9.3 The use must ensure that noise is maintained in accordance with the objectives of the Environmental Protection (Noise) Policy 2019.</p> <p>9.4 Any lighting installed as part of the use must only be directed to areas internal to the subject land and must not emit glare or light above the levels defined in AS4282 - 1997 Control of the Obtrusive Effects of Outdoor Lighting.</p> <p>9.5 All plant, utilities and waste disposal areas associated with the use must be appropriately screened or located not to be visible from the street.</p>	At all times.
<p><b>10. Earthworks</b></p> <p>Any earthworks required in the construction of the proposed use must be undertaken in accordance with Australian Standard AS3798 "Guidelines on Earthworks for Commercial and Residential Developments".</p>	During construction.

CONDITION	TIMING
<b>11. Landscaping</b> 11.1 The developer must plant a landscape strip along the Stone River Road frontage for the full extent of the use. 11.2 The landscape strip along the Stone River Road frontage must comprise of fast growing tree species that can achieve a minimum of 15 metres in height and shall be planted in 8 metre increments.	Prior to the commencement of use and maintained at all times.
<b>12. Easement A on SP222594</b> The proposed use must not interfere with the safe and efficient function of Easement A on SP222594.	At all times.

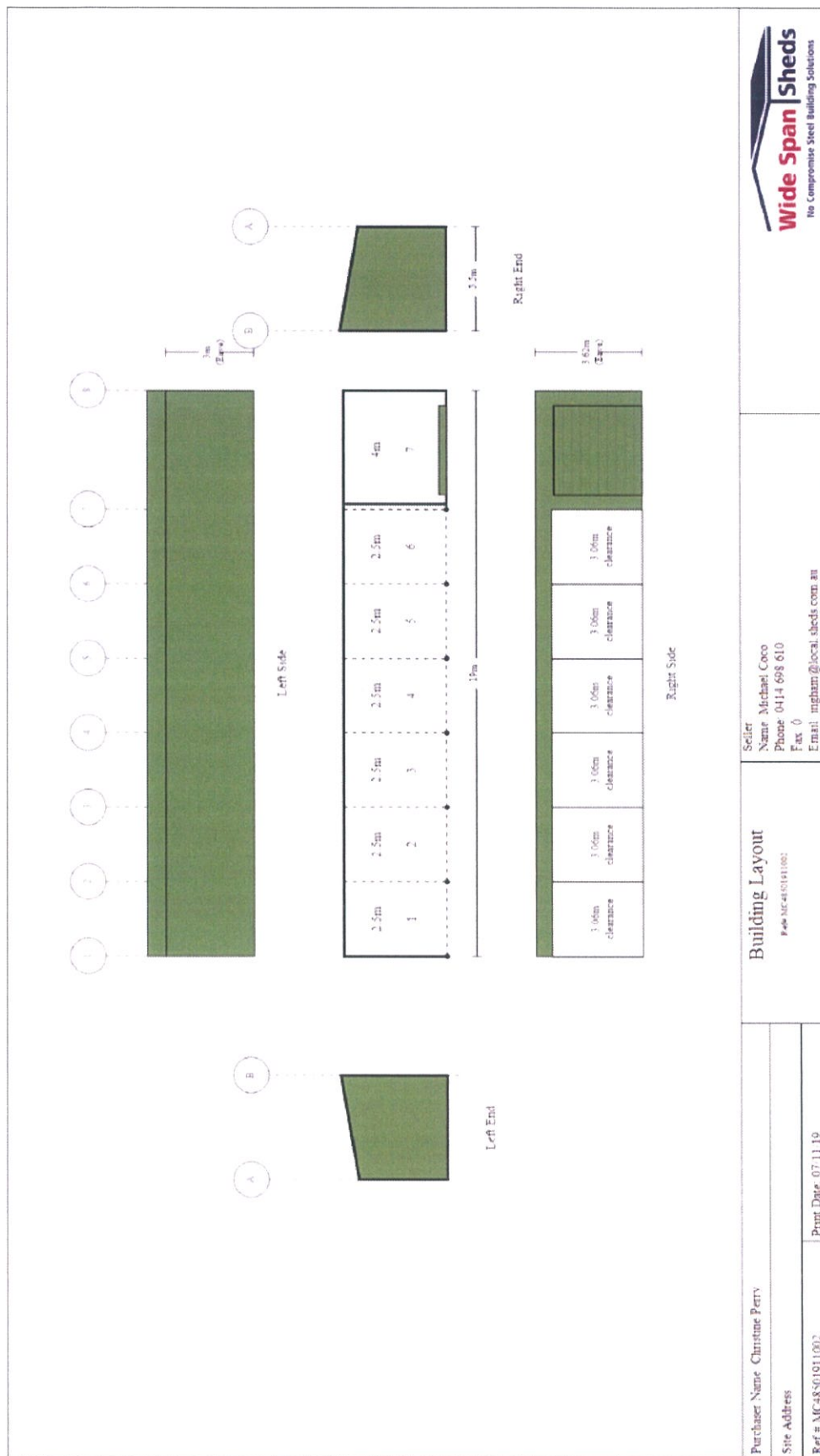
## FORMAL ADVICE

The development is set among a range of existing, lawful rural uses, activities and farming operations on surrounding land. While the carrying out of the approved use is generally consistent with this context, its users and operators must be cognisant of these ongoing activities. Operators and users of the approved use should not hold an expectation that changes are required by external land holders, businesses and operators in the vicinity of this activity should adapt existing practices (where lawful) to minimise disruption or enjoyment of the facility.

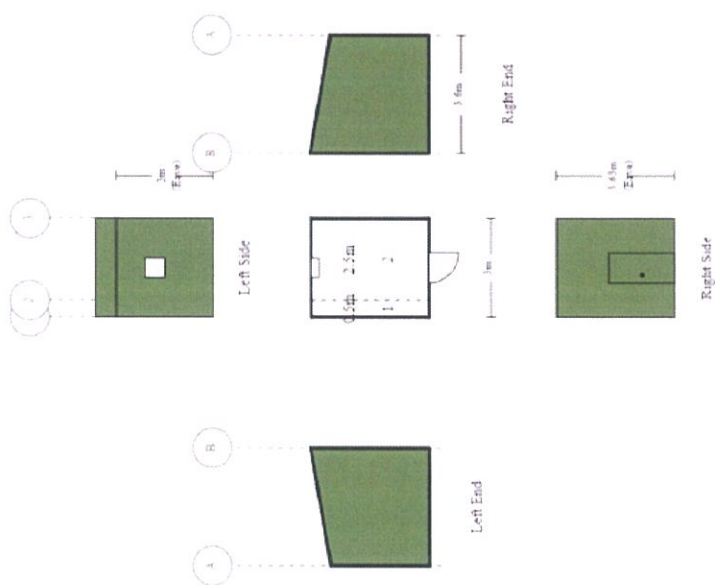


<p>Purchaser Name: Christine Perry</p> <p>Site Address:</p> <p>Ref: MC48 501011004</p> <p>Print Date: 06/11/19</p>	<p><b>Building Layout</b></p> <p>Scale: 1:100</p>	<p><b>Seller</b></p> <p>Name: Michael Coco</p> <p>Phone: 0414 698 610</p> <p>FAX: 0</p> <p>Email: mingham@local.sheds.com.au</p>		
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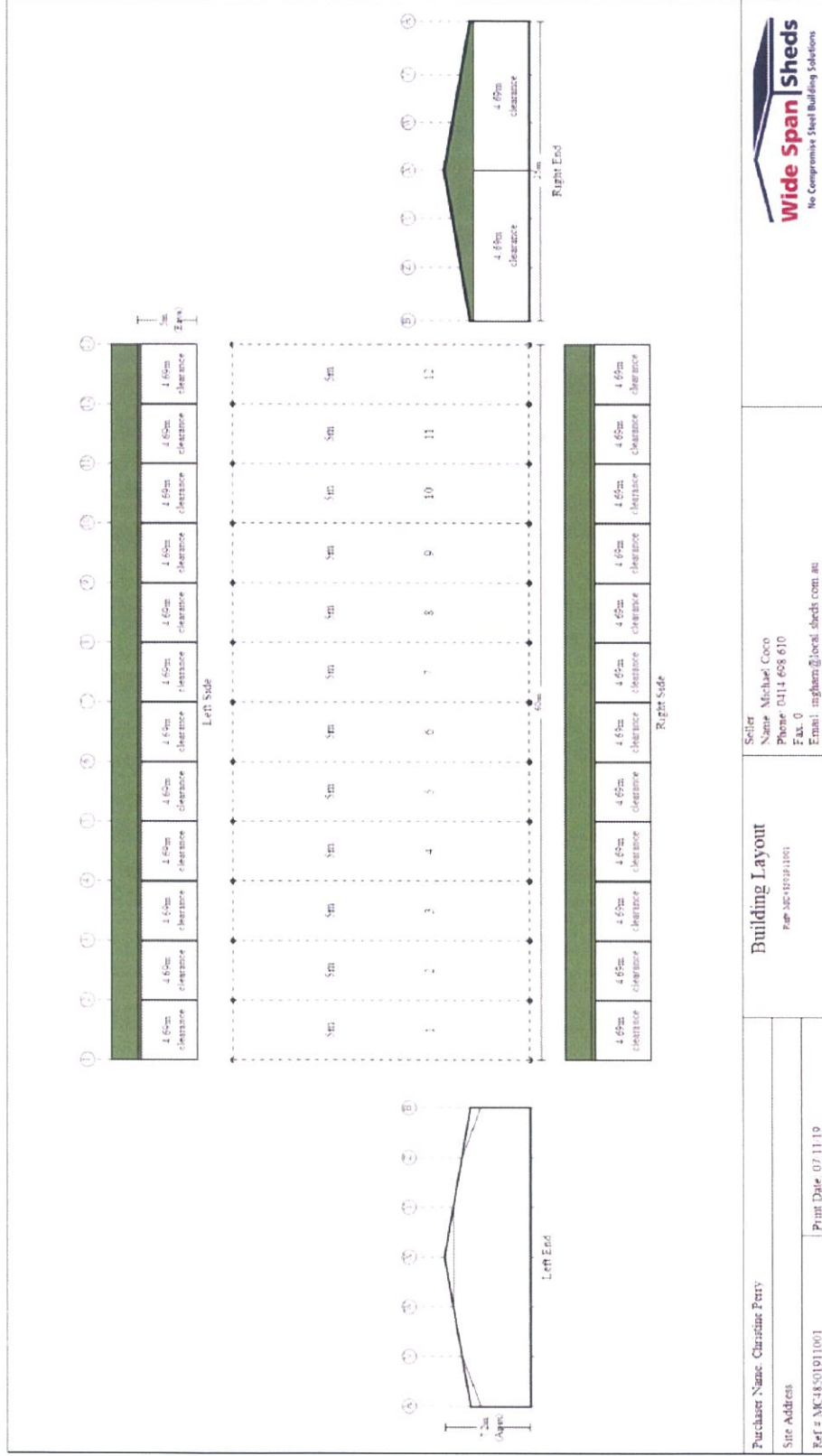
Proposed Stables & Tack:



d Disabled Toilet:

		<p><b>Wide Span Sheds</b> No Compromise Steel Building Solutions</p>	
<p><b>Purchaser Name:</b> Christine Perry</p>		<p><b>Seller Name:</b> Michael Coco</p>	
<p><b>Site Address:</b></p>		<p><b>Phone:</b> 0414 998 610</p>	
<p><b>Ref #:</b> MC4850191003</p>		<p><b>Fax:</b> 0</p>	
<p><b>Print Date:</b> 07/11/19</p>		<p><b>Email:</b> mingham@local.sheds.com.au</p>	
<p><b>Building Layout</b></p>		<p><b>Ref #:</b> MC4850191003</p>	

**sed Arena Roof (Stage 2):**



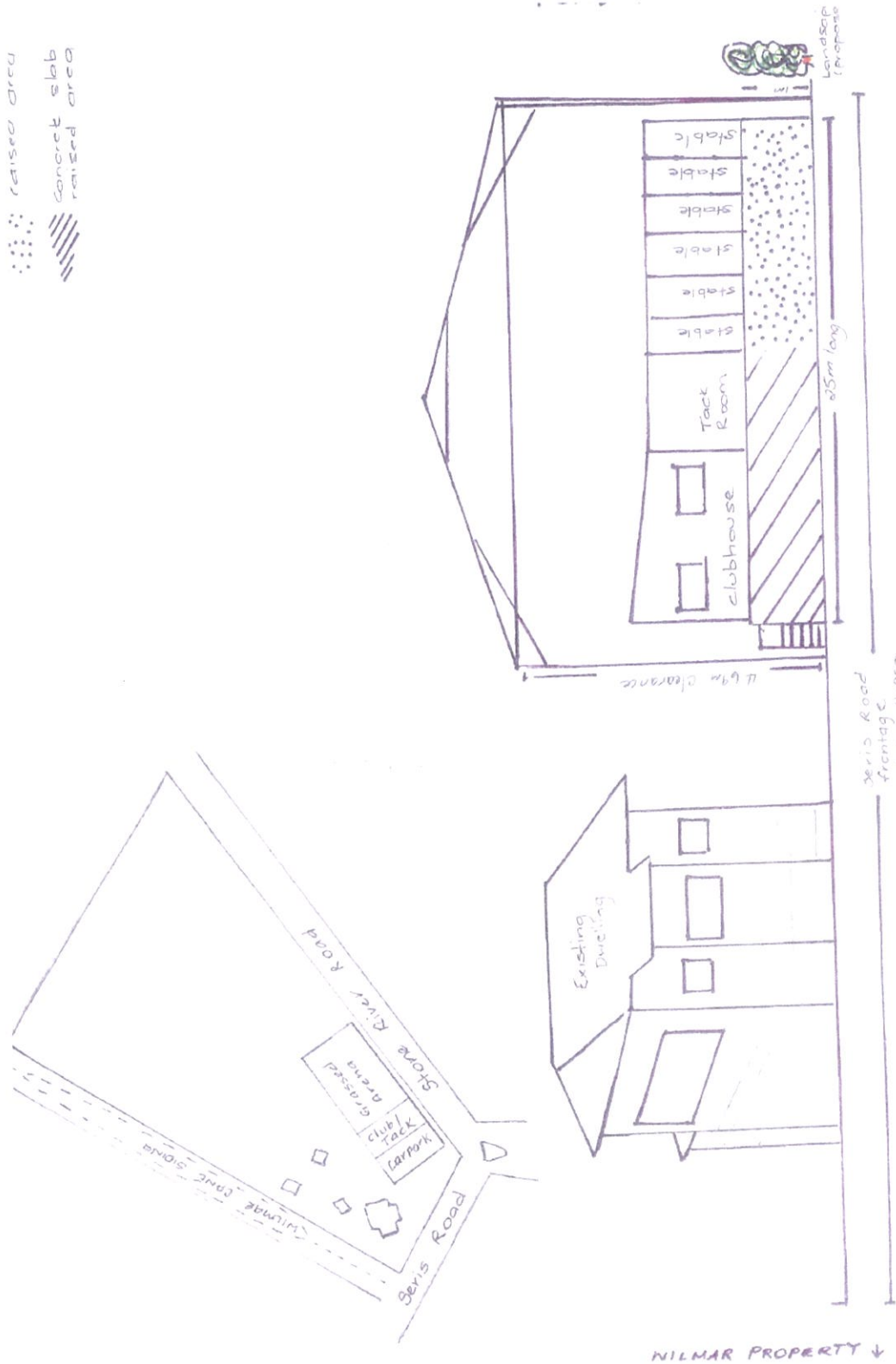
**Seller**  
Name: Michael Coco  
Phone: 0414 658 610  
Fax: 0  
Email: mjcoco@local.sheds.com.au

**Building Layout**  
Ref: 202-10101001

**Purchaser Name:** Christine Perry  
**Site Address:**  
**Ref:** 202-10101001  
**Print Date:** 07/11/19

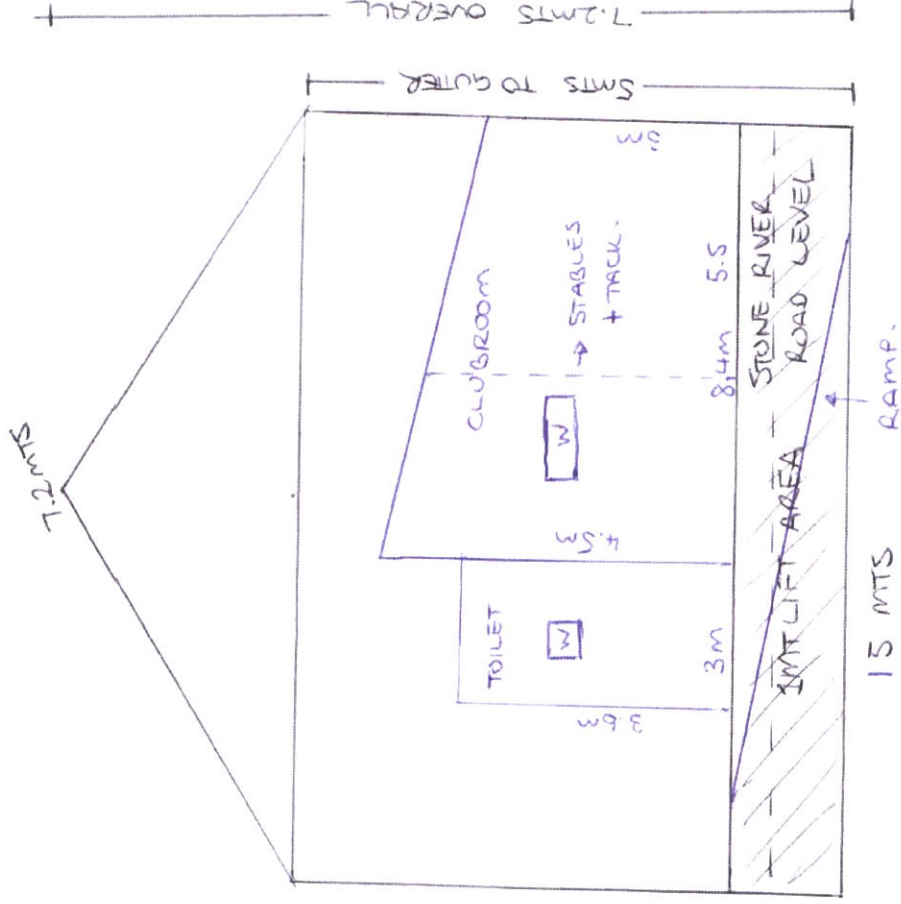
CAR PARK PLAN  
(NOT TO SCALE)





SERIS ROAD, PEACOCK SIDING

NOT TO SCALE



## **Development Assessment Rules—Representations about a referral agency response**

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules<sup>1</sup> regarding **representations about a referral agency response**

### **Part 6: Changes to the application and referral agency responses**

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#### **28 Concurrence agency changes its response or gives a late response**

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
  - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
  - (c) the applicant has given written agreement to the change to the referral agency response.<sup>2</sup>
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
  - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

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<sup>1</sup> Pursuant to Section 68 of the *Planning Act 2016*

<sup>2</sup> In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

## Part 7: Miscellaneous

### 30 Representations about a referral agency response

- 30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.<sup>3</sup>

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<sup>3</sup> An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

2103-21386 SRA

Assessment Manager: Hinchinbrook Shire Council  
Street address: Seris Road, Peacock Siding  
Real property description: Lot 1 on RP703060  
Applicant name: Ingham Riding for the Disabled Association  
Applicant contact details: 14 Seris Road  
Peacock Siding QLD 4850  
Christineperry@westnet.com.au

### Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules). Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Mac Haque, Senior Planning Officer, on 47583414 or via email [NQSARA@dsdmip.qld.gov.au](mailto:NQSARA@dsdmip.qld.gov.au) who will be pleased to assist.

Yours sincerely



Graeme Kenna  
Manager (Planning)

cc Ingham Riding for the Disabled Association, [Christineperry@westnet.com.au](mailto:Christineperry@westnet.com.au)  
enc Attachment 1 – Referral agency conditions  
Attachment 2 – Advice to the applicant  
Attachment 3 – Reasons for referral agency response  
Attachment 4 – Change representation provisions

## Attachment 1 — Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application)

No.	Conditions	Condition Timing
<b>Material Change of Use</b>		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 – Material change of use of premises near a State transport corridor – The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport & Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition:		
1.	Direct access is not permitted between Stone River Road and the subject site.	At all times
2.	(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.  (b) Any works on the land must not: <ul style="list-style-type: none"> <li>(i) create any new discharge points for stormwater runoff onto the state-controlled road;</li> <li>(ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road;</li> <li>(iii) surcharge any existing culvert or drain on the state-controlled road;</li> <li>(iv) reduce the quality of stormwater discharge onto state-controlled road.</li> </ul>	At all times
3.	Fencing sufficient to prevent unauthorised access by livestock must be provided along the site boundary with the state-controlled road in accordance with Standard Drawing SD1600 Rural Fence and Gates Timber Posts and Stays prepared by the Department of Transport and Main Roads.	Prior to the commencement of use and to be maintained at all times

2103-21386 SRA

**Attachment 2—Advice to the applicant**

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v2.6. If a word remains undefined it has its ordinary meaning.

### **Attachment 3 — Reasons for referral agency response**

(Given under section 56(7) of the *Planning Act 2016*)

**The reasons for the department's decision are:**

- To ensure the development does not create a safety hazard for users of a state-controlled road.
- To ensure the development does not compromise the structural integrity of state-controlled roads, road transport infrastructure or road works.
- To ensure the development does not result in a worsening of the physical condition or operating performance of state-controlled roads and the surrounding road network.
- To ensure the development does not compromise the state's ability to construct, or significantly increase the cost to construct state-controlled roads and future state-controlled roads.
- To ensure the development does not compromise the state's ability to maintain and operate state-controlled roads, or significantly increase the cost to maintain and operate state-controlled roads.

**Material used in the assessment of the application:**

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version 2.6), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system

2103-21386 SRA

**Attachment 4 — Change representation provisions**

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