



Mailing Address: PO Box 390, Gayndah Qld 4625
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Facsimile: (07) 4161 1425
Email: admin@northburnett.qld.gov.au
Web: www.northburnett.qld.gov.au
ABN: 23 439 388 197

17/01/2019

Your Reference: DA 02-19

Our Reference: 911753

Robert Slack
PO Box 65
STANTHORPE QLD 4380

Dear Sir/Madam

CONCURRENCE AGENCY RESPONSE
11 WARTON STREET, GAYNDAH

(Given under section 56(4) of the *Planning Act 2016*)

Thank you for your concurrence agency referral for the following premises which was properly referred on 17 January 2019. The North Burnett Regional Council has assessed the referral against the relevant matters of its jurisdiction and has made a decision as follows:

Applicant details

Applicant name: Robert Slack

Applicant contact details:

Email: robbircrslack@gmail.com

Phone:

Mobile: 0427 155 245

Site details

Street address: 11 Warton Street, Gayndah

Real property description: 13 RP183860

Application details

Application No:

Proposed development: Development Permit for Building Works

Aspects of development and type of approval being sought

| Nature of Development | Approval Type | Brief Description of Proposal |
|-----------------------|--------------------|-----------------------------------|
| Building Work | Development Permit | To construct a Class 10b building |

Referral triggers

The development application was referred to the Council under the following provisions of the *Planning Regulation 2017*

Schedule 9 – Building work assessable against the *Building Act*
Part 3 Division 2 Table 3 Design and Siting – QDC non-compliance
and/or QDC alternate provision assessment

Decision

Decision Details:

The North Burnett Regional Council advises the assessment manager that;

The development approval must be subject to stated development conditions set out in Attachment 1.

Conditions

This approval is subject to the conditions in Attachment 1.

The North Burnett Regional Council advises the assessment manager that the conditions must be attached to any development approval for the application in accordance with section 56 of the *Planning Act 2016* and that under section 62(b) of the *Planning Act 2016*. The assessment manager must attach this response to any approval for the development.

Reasons for decision to impose conditions

Under section 56 (7)(c) of the *Planning Act 2016*, the North Burnett Regional Council is required to set out reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

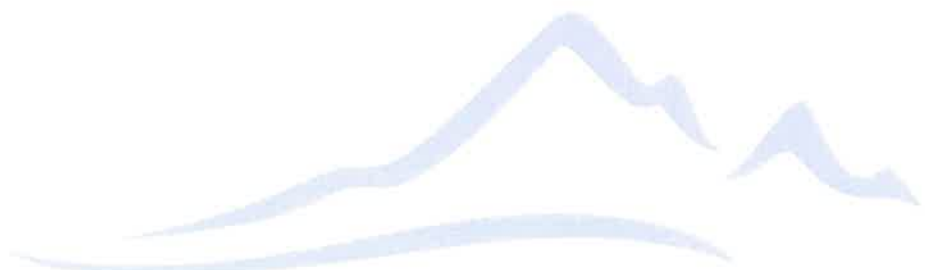
Approved Plans and Specifications

| Document No./ Reference | Title (prepared by) | Date |
|-------------------------|---|------|
| 1 | Amended Plans – Site Plans | |
| 2 | Amended Plans - Elevation Plans | |
| 3 | Amened Plans – Footing and Fixing Details | |

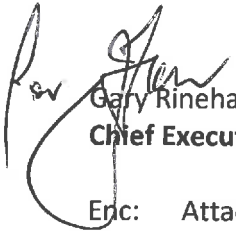
Giving of the Notice

Under section 56(4) of the *Planning Act 2016*, this notice of referral agency response has been issued (where applicable) to the applicant and the assessment manager of the application.

Should you require any further assistance in process, please contact Council's Development Services Department on 1300 696 272.



Yours faithfully


Gary Rinehard
Chief Executive Officer

Enc: Attachment 1-conditions to be imposed
Attachment 2-reasons for decision to impose conditions
Attachment 3-appeal rights
Attachment 4-plans

Attachment 1 – Conditions to be imposed by Concurrence Agency

| No. | Conditions |
|--------------------------|---|
| General | |
| 1. | Unless otherwise stated in a particular condition, all conditions must be completed prior to the completion of building works, or issue of a final certificate, whichever is the sooner, unless otherwise agreed to in writing by the Concurrence Agency. |
| Design and Siting | |
| 2. | The pergolas must not be altered in any way from what is shown on the endorsed plan. |
| Use | |
| 3. | The approved pergolas must not be used for any purposes other than outdoor living. |
| Landscaping | |
| 4. | Establish vine over the pergolas. |

Attachment 1B – Advice Notes

| | |
|----|--|
| A. | This Concurrence Agency Response does not represent a development approval for Building Works under the <i>Building Act 1975</i> . |
| B. | All building works the subject of this notice can only proceed once a development permit for building works is issued by a Building Certifier. |

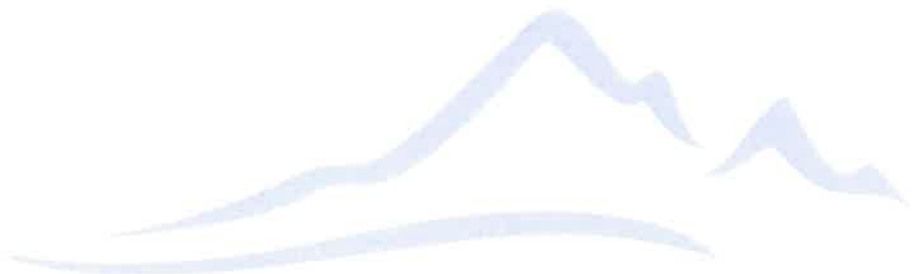


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Attachment 2 – Reasons for decision to impose conditions

The reason for this decision are:

- To ensure the development is carried out generally in accordance with the plans of development submitted with the application.



Attachment 3 – Planning Act 2016 Extract Appeal Rights

CHAPTER 6, 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.

SCHEDULE 1 APPEALS

1 Appeal rights and parties to appeals

- (1) Table 1 states the matters that may be appealed to—
 - (a) the P&E court; or
 - (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
 - (a) the refusal, or deemed refusal of a development application, for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (b) a provision of a development approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (c) if a development permit was applied for—the decision to give a preliminary approval for—
 - (i) a material change of use for a classified building; or
 - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
 - (d) a development condition if—
 - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
 - (ii) the building is, or is proposed to be, not more than 3 storeys; and
 - (iii) the proposed development is for not more than 60 sole-occupancy units; or
 - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
 - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
 - (g) a matter under this Act, to the extent the matter relates to—
 - (i) the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
 - (ii) the Plumbing and Drainage Act, part 4 or 5; or
 - (h) a decision to give an enforcement notice in relation to a matter under paragraphs (a) to (g); or
 - (i) a decision to give an infrastructure charges notice; or
 - (j) the refusal, or deemed refusal, of a conversion application; or
 - (k) a matter that, under another Act, may be appealed to the tribunal; or
 - (l) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
 - (a) for a matter in subsection (2)(a) to (d)—
 - (i) a development approval for which the development application required impact assessment; and
 - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
 - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.
- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
 - (a) column 1 states the appellant in the appeal; and
 - (b) column 2 states the respondent in the appeal; and
 - (c) column 3 states the co-respondent (if any) in the appeal; and
 - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.
- (8) In this section—

storey see the Building Code, part A1.1.

Extract of Schedule 1 of the Planning Act 2016

| Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal | | | |
|--|------------------------|--|---|
| <p>1. Development applications An appeal may be made against—</p> <p>(a) the refusal of all or part of the development application; or</p> <p>(b) the deemed refusal of the development application; or</p> <p>(c) a provision of the development approval; or</p> <p>(d) if a development permit was applied for—the decision to give a preliminary approval.</p> | | | |
| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |
| The applicant | The assessment manager | If the appeal is about a concurrence agency's referral response—the concurrence agency | <p>1 A concurrence agency that is not a co-respondent</p> <p>2 If a chosen assessment manager is the respondent—the prescribed assessment manager</p> <p>3 Any eligible advice agency for the application</p> <p>4 Any eligible submitter for the application</p> |

| Table 3 Appeals to a tribunal only | | | |
|---|--|------------------------------------|---|
| <p>1. Building advisory agency appeals An appeal may be made against giving a development approval for building work to the extent the building work required code assessment against the building assessment provisions.</p> | | | |
| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |
| A building advisory agency for the development application related to the approval | The assessment manager | The applicant | <p>1 A concurrence agency for the development application related to the approval.</p> <p>2 A private certifier for the development application related to the approval</p> |
| <p>2. Inspection of building work An appeal may be made against a decision of a building certifier or referral agency about the inspection of building work that is the subject of a building development approval under the Building Act.</p> | | | |
| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |
| The applicant for the development approval | The person who made the decision. | — | — |
| <p>3. Certain decisions under the Building Act and the Plumbing and Drainage Act An appeal may be made against—</p> <p>(a) a decision under the Building Act, other than a decision made by the Queensland Building and Construction Commission, if an information notice about the decision was given or required to be given under that Act; or</p> <p>(b) a decision under the Plumbing and Drainage Act, part 4 or 5, if an information notice about the decision was given or required to be given under that Act.</p> | | | |
| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |
| A person who received, or was entitled to receive, an information notice about the decision. | The person who made the decision | — | — |
| <p>4. Local government failure to decide application under the Building Act An appeal may be made against a local government's failure to decide an application under the Building Act within the period required under that Act.</p> | | | |
| Column 1 Appellant | Column 2 Respondent | Column 3 Co-respondent (if any) | Column 4 Co-respondent by election (if any) |
| A person who was entitled to receive notice of the decision | The local government to which the application was made | — | — |



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Attachment 4 – Approved Plans

