



**HINCHINBROOK
SHIRE COUNCIL**

Our Ref: BW17\0004

29 November 2017

JP & PM Jackson
46 Mount Spec Road
Paluma QLD 4816

Email: woodfrog@bigpond.com

Dear Sir/Madam,

DECISION NOTICE
Planning Act 2016

In relation to your recent request for building works assessable against a planning scheme, Council have assessed your application and it was APPROVED SUBJECT TO CONDITIONS. The decision was made on 28 November 2017.

APPLICATION DETAILS

Application Number: BW17\0004
Property ID Number: 106448

Applicant Details: James Patrick Jackson and Patricia Mary Jackson
46 Mount Spec Road
Paluma QLD 4816

Owner Details: James Patrick Jackson and Patricia Mary Jackson
46 Mount Spec Road
Paluma QLD 4816

Property Description: 313 Mount Gardiner Road, Bemerside
Lot 11 on RP908276, Parish of Cordelia

Proposal: Building Works Assessable Against a Planning Scheme (BWAP)
"Building work being undertaken to an existing land use which does not increase the intensity and scale of that land use and the site is subject to an applicable overlay"



Level of Assessment:	Code Assessment
Assessment Benchmarks:	Hinchinbrook Shire Planning Scheme Building Code of Australia Queensland Development Code MP 1.2

DEEMED APPROVAL

The application has not deemed to be approved under s.64 of the *Planning Act 2016*.

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 a referral agency (if any) imposed them.

REFERRAL AGENCIES

Not Applicable

PROPERTY NOTES

Not Applicable

FURTHER DEVELOPMENT PERMITS REQUIRED

This approval does not authorise any filling of land or building work, and a development permit for carrying out any filling of land and/or building work must be obtained.

This approval also does not authorise any works within Council's Road Reserve (e.g. new/additional access, repair/modifications to existing access or works to footpaths), or any filling of land permits.

If this is required the relevant application will need to be lodged with Council or other relevant authority.

RIGHTS OF APPEAL

You may appeal against any matter stated in the Decision Notice. Chapter 6, Part 1 and Part 2 of the *Planning Act 2016* detail appeal rights afforded to the applicant and submitter/s (if any) to the Planning and Environment Court or Building and Development Dispute Resolution Committee. Attached are the relevant provisions of the *Planning Act 2016* relating to the Rights of Appeal.

APPROVAL CURRENCY PERIOD

s.85 of the *Planning Act 2016* indicates when an approval lapses and this section is attached for your information.

APPROVED PLANS & SPECIFICATIONS

In accordance with the *Planning Act 2016*, a copy of the approved plans and specifications (if relevant) are attached.



FURTHER INFORMATION

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

Should you have any questions or seek clarification with regard to any aspect of this notice, I encourage you to contact Council's Development, Planning and Environmental Services on telephone (07) 4776 4609.

Yours sincerely,

Gerhard Visser
Planning & Development Manager

Enclosed: Approved Plans/Documents
 Appeal Rights



NOTICE ABOUT DECISION – STATEMENT OF REASONS

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

This Notice is prepared in accordance with s.63(5) and s.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 the Notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:

- the relevant parts 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 meanings given them in the *Planning Act 2016*.

REASONS FOR THE DECISION

The proposed development is considered to be consistent with the relevant overall outcomes of the planning scheme, in particular:

- The proposed structure (shed), is to be used ancillary to the proposed structures and use, will not impact negatively on the privacy of neighbouring residences due to the vegetated area between the proposed shed and adjoining dwelling;
- The proposed structure is not for habitable purposes and will not impede on the privacy of neighbouring residences;
- The proposed structure is not for habitable purposes and will not pose a direct fire safety danger to people;
- Relevant automatic fire suppression services are required to be installed; and
- The respective neighbour has consented to the proposed encroachment.



CONDITIONS OF APPROVAL**Conditions of Development**

The conditions of development for this development permit are as follows

Approved Plans

1. Carry out the approved development in accordance with the approved drawings and in accordance with:-
 - a) The specifications, facts and circumstances as set out in the application submitted to Council; and
 - b) Setbacks
 - i. Side boundary setback 1.8m
 - ii. Setback from adjoining property dwelling 41.1m

Construction and Operation

2. The construction work associated with this development shall be carried out in accordance with sound engineering practice. In particular, no nuisance is to be caused to adjoining residents by way of smoke, dust, stormwater discharges or siltation of drains, at any time, including non-working hours. Where material is to be carted to or from the site, loads are to be covered to prevent dust or spillage. Where material is spilled or carried on existing roads, it is to be removed forthwith so as to restrict dust nuisance and ensure traffic safety;
3. All fill and retaining material is to be contained within the applicant's land. Filling material which may wash or spill onto adjacent lands is to be removed;
4. Contaminated material excavated from the site must be managed and disposed of appropriately;
5. Where retaining walls are not used, the toe of fill is to be kept clear of the boundary and shallow earth drains are to be installed in the applicant's property of sufficient size to direct runoff towards the drainage systems;

Damage to Infrastructure

6. In the event that any part of Council's existing sewer, water, channel and kerbing or road infrastructure is damaged as a result of construction activities occurring on the site, including but not limited to, mobilisation of heavy earthmoving equipment, stripping and grubbing, the applicant/owner must notify Council immediately of the affected infrastructure and have it repaired or replaced by Council, at the developer's cost, prior to the Commencement of Use or approval and dating of the Building Compliance Certificate, whichever occurs first.

Stormwater & Drainage

7. All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties downstream from the development, all to the requirements and satisfaction of the Chief Executive Officer.



Fire Protection

8. The class 10a (shed) structure must be provided with relevant automatic fire suppression services.

Or in the alternative:

The class 10a (shed) structure must be provided with relevant fire protection as per BCA 1016 Volume 2, Clause 3.7 FRL 60/60/60

OR in the alternative:

Any other acceptable solutions as permissible in terms of the BCA or other applicable legislation.

Building

9. The class 10a (shed) structure requires a development permit for building works. The applicant is to seek and comply with all relevant building approvals to be issued by a qualified Building Certifier.



APPROVED PLANS/DOCUMENTS



HINCHINBROOK SHIRE COUNCIL

Lot 1 on RP908276



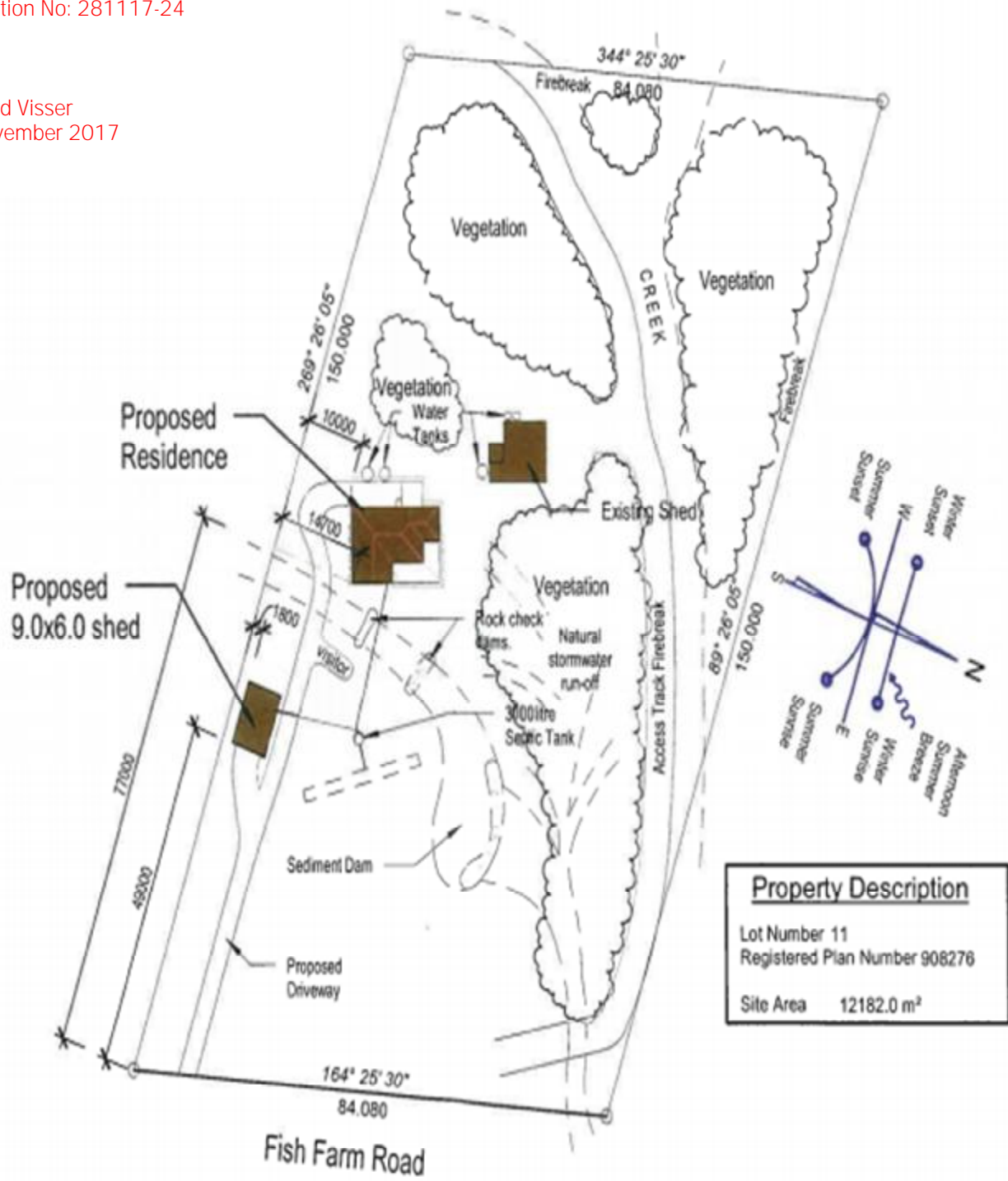
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Checked	Checked	Date: ____/____/____
APPROVED		Map No
Date: ____/____/____		

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HINCHINBROOK SHIRE COUNCIL

BWAP Application
APPROVED
Resolution No: 281117-24

Gerhard Visser
29 November 2017



APPEAL RIGHTS***PLANNING ACT 2016 & THE PLANNING REGULATION 2017*****Chapter 6 Dispute resolution****Part 1 Appeal rights****229 Appeals to tribunal or P&E Court**

- (1) Schedule 1 of the *Planning Act 2016* 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.

(Refer to Schedule 1 of the Planning Act 2016)

- (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 has 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.



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 –
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 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, a tribunal or another entity; and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a 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 the rules of the P&E Court.

