



## **HINCHINBROOK SHIRE COUNCIL**

Our Ref: SR18\0003

01 June 2018

E & E Thomas  
PO Box 1720  
Ingham QLD 4850

Email: [ethomas995@gmail.com](mailto:ethomas995@gmail.com)

Dear Sir/Madam,

### **DECISION NOTICE** *Planning Act 2016*

In relation to your recent request for siting dispensation, Council have assessed your application and it was APPROVED SUBJECT TO CONDITIONS. The decision was made on Tuesday 29 May 2018.

#### **APPLICATION DETAILS**

Application Number:	SR18\0003
Property ID Number:	101464
Applicant Details:	Ewan & Erica Thomas PO Box 1720 Ingham QLD 4850
Owner Details:	Ewan R Thomas & Erica K Thomas 10 Ferrero Street Lucinda QLD 4850
Property Description:	10 Ferrero Street, Lucinda, Queensland, 4850 Lot 19 on L46925, Parish of Cordelia
Proposal:	Residential Siting Relaxation – Rear & Side Boundary Dispensation
Level of Assessment:	Code Assessment



## **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**

All building works to be completed within two (2) years, commencing the date the decision is made, unless otherwise stated in the conditions of approval.

## **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

Council approve the rear and side boundary siting relaxation from the permissible 1.5m to 1.0m respectively for the construction of a new shed on Lot 19 on L46925, Parish of Cordelia and located at 10 Ferrero Street, Lucinda, subject to conditions.

The reasons for approval are:

- The proposed structure (shed) is to be used ancillary to the proposed residence and will not obstruct daylight and ventilation to habitable rooms on the adjoining properties and will not impede on the privacy of neighbouring residences;
- The proposed structure (shed) is not for habitable purposes and is located adjacent to an adjoining shed structure with similar setback distances;
- The proposed structure (shed) will not have an overshadowing effect on neighbouring residences; and
- The respective neighbours have consented to the proposed encroachment.



**CONDITIONS OF APPROVAL**

Conditions of Development		Compliance Timing									
Administration											
(1)	The developer is responsible to carry out the approved development and comply with relevant requirements in accordance with:- a. The specifications, facts and circumstances as set out in the application submitted to Council, including recommendations and findings confirmed within the technical reports; b. The development must unless otherwise stated, be designed, constructed and maintained in accordance with the relevant Council policies, guidelines and standards c. The conditions of approval, the requirements of Council's Planning Scheme and best practice engineering.	At all times									
Currency Period											
(2)	The currency period applicable to this approval. • Siting Relaxation – Two (2) Years until 05 June 2020	As per condition									
Approved Plans											
(3)	The development 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 conditions of this approval: <table><tr><th>Plan / Document Name</th><th>Number</th><th>Date</th></tr><tr><td>Site Plan – Siting Relaxation Lot 19 Ferrero Street, Lucinda</td><td>16-022</td><td>29/07/2016</td></tr><tr><td>Building for Ewan &amp; Erica Thomas Ferrero Street, Lucinda</td><td>13461</td><td>-</td></tr></table>	Plan / Document Name	Number	Date	Site Plan – Siting Relaxation Lot 19 Ferrero Street, Lucinda	16-022	29/07/2016	Building for Ewan & Erica Thomas Ferrero Street, Lucinda	13461	-	At all times
Plan / Document Name	Number	Date									
Site Plan – Siting Relaxation Lot 19 Ferrero Street, Lucinda	16-022	29/07/2016									
Building for Ewan & Erica Thomas Ferrero Street, Lucinda	13461	-									
(4)	Where there is any conflict between the conditions of this approval and the details shown on the approved plans and documents, the conditions of approval prevail.	At all times									
(5)	Where conditions require the above plans or documents to be amended, the revised document(s) must be submitted for endorsement by Council prior to the submission of a Development Application for Operational Works	As per condition									
Lawful Point of Discharge											
(6)	All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development, all to the requirements and satisfaction of the Chief Executive Officer.	At all times									



<p>(7) Where retaining walls, fences, buildings or other barriers, which would cause a “damming effect” and produce a concentrated flow at an outfall, are constructed a drainage system is installed to discharge the surface water such that it does not adversely affect surrounding properties or properties downstream from the development.</p>	At all times
<b>Building</b>	
<p>(8) The class 10a (shed) structure requires a development permit for building works.</p> <p>(9) The Applicant is to seek and comply with all relevant building approvals to be issued by a qualified Building Certifier.</p> <p>(10) The class 10a (shed) structure requires compliance to relevant Fire Safety regulations as reflected in s.3.7.1.6 of the Building Code of Australia (Volume Two).</p> <p>(11) The class 10a (shed) structure may not be used for habitation</p>	At all times
<b>Construction and Operations</b>	
<p>(12) Any 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 discharge 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 to existing roads, it is to be removed forthwith so as to restrict dust nuisance and ensure traffic safety.</p>	At all times
<b>Damage to Infrastructure</b>	
<p>(13) 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.</p>	At all times







Proposed Shed  
13m x 12m

Site Location



Data Sources & Acknowledgements

While every care is taken to ensure the accuracy of the data used on this map, the Council nor any data providers make no representation or warranty about its accuracy, reliability, completeness or suitability for any particular purpose and disclaims all responsibility and liability for any errors, omissions, damages and costs which you might incur as a result of the data being inaccurate or incomplete in any way for any reason.

Cadastral information sourced from Department of Natural Resources and Mines is current as at 2018 and is accurate 1:80,000. Copyright Department of Natural Resources and Mines 2018

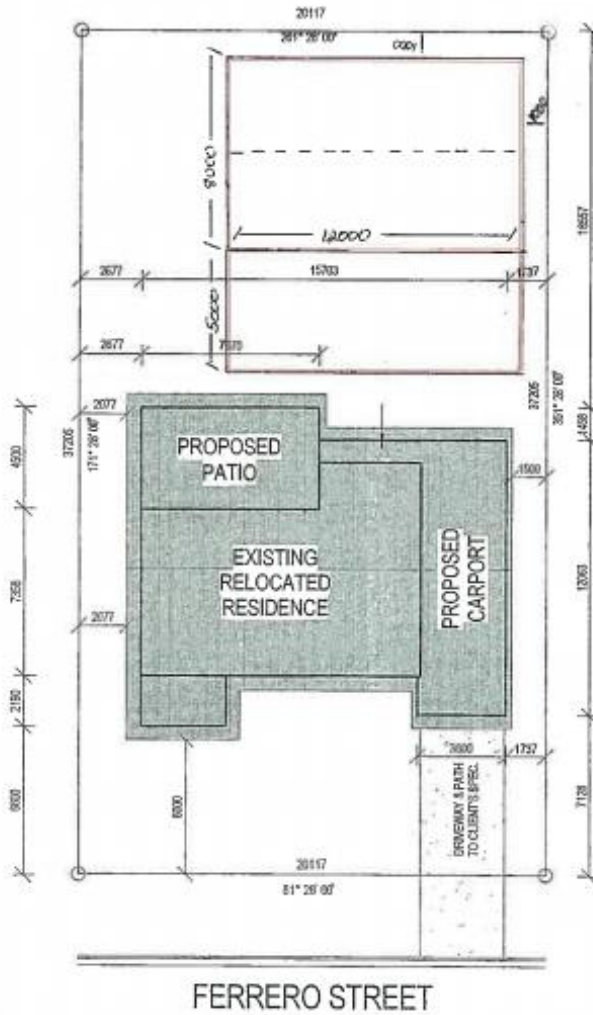
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**HINCHINBROOK SHIRE COUNCIL**

Residential Siting Relaxation  
**APPROVED**

Gerhard Visser  
01 June 2018



**1 SITE PLAN**  
1 : 200 AT A1 SHEET SIZE

**NOT FOR CONSTRUCTION**

**NOTES:**  
THIS DRAWING IS ONLY INTENDED TO OBTAIN A LOCAL AUTHORITY BUILDING PERMIT.  
LOCALITY WITH ALL RESIDENTIAL AUTHORITY REG. & S.A. PROPOSED CHANGES TO TAKE PRECEDENCE OVER SCALED MEASUREMENTS. DO NOT SCALE DRAWING.  
VERIFY ALL ON SITE DIMENSIONS & LEVELS PRIOR TO THE COMMENCEMENT OF ANY CONSTRUCTION.

PROJECT ISSUE & DESCRIPTION  
A - ENGINEER ON 10/06/18 - 20/06/2018  
B - ENGINEER CERTIFIED - 01/07/2018

**CB**  
**DESIGNS**  
BUILDING DESIGN & DRAFTING  
ABN: 110 607 787  
Licence No. 107238 Exp. 2015  
40 High Street, Lucinda QLD 4850  
PO Box 627, Lucinda QLD 4850  
Tel: (07) 4776 4338 Fax: (07) 4776 4339

PROJECT:  
HOUSE RELOCATION

CLIENT:  
DAMIAN DEVIETTI

SITE:  
LOT 19 FERRERO STREET  
LUCINDA, QLD 4850

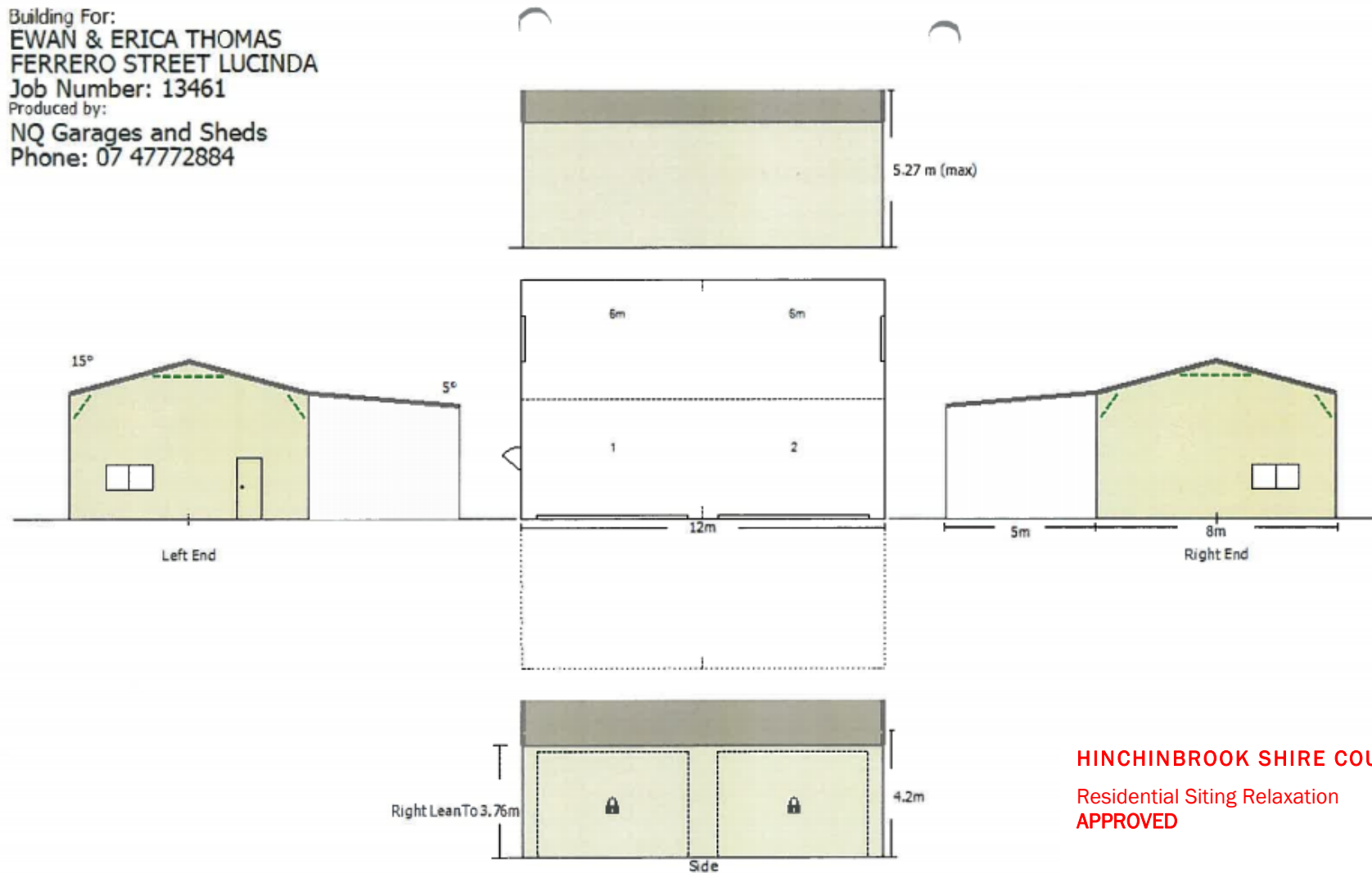
BUILDER:

DATE: 29-JUN-18 7:26:54 AM  
DRAWN: CE  
SCALE: 1 : 200  
SHEET NO: 1  
JOB NO. 16-022  
CLIENT JOB NO.

BUILDING FOOTPRINT 187.55 sqm SITE COVERAGE 28%	PROPERTY DESCRIPTION
NOTE: STORM WATER RUN OFF TO BE DRAINED AWAY FROM NEIGHBORING ALLOTMENTS.	LOT 19 SP 46925 AREA 748 m <sup>2</sup>



Building For:  
**EWAN & ERICA THOMAS**  
**FERRERO STREET LUCINDA**  
 Job Number: 13461  
 Produced by:  
**NQ Garages and Sheds**  
 Phone: 07 47772884



**HINCHINBROOK SHIRE COUNCIL**  
 Residential Siting Relaxation  
**APPROVED**

Gerhard Visser  
 01 June 2018

The local distributor you are dealing with is an authorised independent distributor of Fair Dinkum Sheds' products and enters into agreements with its customers on its own behalf and not as an agent of Fair Dinkum Sheds.

## 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&amp;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.

