

Council File Reference: 321820  
Council Contact: Brett Walsh  
Council Contact Phone: 07 4651 5625

25 February 2019

Cheryl Thompson  
c/- Murray & Associates (Qld) Pty Ltd  
PO Box 665  
EMERALD QLD 4720

### **Development Application**

### **Development Permit - Material Change of Use for Tourist Facility and Shop**

**Lot 1 on RP614188 and Lot 1 on RP608102, 98 and 100 Ash Street, Barcaldine**

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We refer to the assessment of the abovementioned development application.

Pursuant to section 83 of the *Planning Act 2016*, please find enclosed the **Decision Notice**.

If you have any queries please contact Brett Walsh at the Barcaldine Executive Office.

Yours faithfully



**Steven Boxall**  
**Chief Executive Officer**



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# DECISION NOTICE APPROVAL

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*PLANNING ACT 2016, SECTION 63*

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I refer to your application and advise that Barcaldine Regional Council decided to approve the application in full, subject to conditions. Details of the decision are as follows:

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## 1. APPLICATION DETAILS

**Application Number:** 321820  
**Properly Made Date:** 06 February 2019  
**Approval sought:** Development Permit for a Material Change of Use  
**Description of the proposed development:** Tourist Facility and Shop  
**Planning Scheme:** Barcaldine Shire Planning Scheme 2006 (Version 2)

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## 2. APPLICANT DETAILS

**Name:** Cheryl Thompson c/- Murray & Associates (QLD) Pty Ltd  
**Postal Address:** PO Box 665, Emerald QLD 4720  
**Email Address:** [andrewb@msurv.com](mailto:andrewb@msurv.com)

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## 3. PROPERTY DETAILS

**Street Address:** 98 and 100 Ash Street, Barcaldine  
**Real Property Description:** Lot 1 on RP614188 and Lot 1 on RP608102  
**Local Government Area:** Barcaldine Regional Council

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## 4. DECISION DETAILS

**Date of decision:** 25 February 2019  
**The following type of approval has been issued:** Development Permit for Material Change of Use for Tourist Facility and Shop  
**Decision details:** Approved in full with conditions. These conditions are set out in Attachment 1.

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## 5. APPROVED PLANS AND DOCUMENTS

A copy of the following plan is enclosed (Attachment 2):





|                                    |                |
|------------------------------------|----------------|
| Plan Name                          | Plan Reference |
| Concept Designs for 100 Ash Street | 180152-SK1/01  |

#### 6. CURRENCY PERIOD

This development approval will lapse at the end of the period set out in section 85 of the *Planning Act 2016*: if the first change of use does not happen within six (6) years after the approval starts to have effect.

#### 7. PROPERLY MADE SUBMISSIONS

Not applicable - the application was Code Assessable development and therefore no part of the application required public notification.

#### 8. REFERRAL AGENCIES

The development application was referred to the following referral agencies:

| Referral Agency   | Referral Matter   | Referral Role |
|---|---|---------------|
| Chief Executive<br>Department of State Development,<br>Manufacturing, Infrastructure and<br>Planning<br><br>Mackay Isaac Whitsunday Region<br>Office<br>PO Box 257<br>MACKAY QLD 4740<br>Ph: (07) 4898 6888<br>Email:<br>MIWSARA@dsgmip.qld.gov.au<br>MyDAS2 online referrals:<br><a href="https://prod2.dev-assess.qld.gov.au/suite/">https://prod2.dev-assess.qld.gov.au/suite/</a> | Schedule 10, Part 9,<br>Division 4, Subdivision<br>2, Table 4 (Material<br>change of use of<br>premises near a State<br>transport Corridor) | Concurrence   |

#### 9. FURTHER DEVELOPMENT PERMITS REQUIRED

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- Plumbing and Drainage Works; and
- Building Works

#### 10. 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* (included in the attachment to this decision notice). 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*).



An applicant may appeal to the Planning and Environment Court or the Development tribunal against a number of matters (see Schedule 1 of the *Planning Act 2016*).

A copy of the extracts of the above referenced sections of the *Planning Act 2016* are attached (Attachment 3).

**11. DELEGATED PERSON**

For further information please contact Mr Brett Walsh, Deputy Chief Executive Officer on (07) 4651 5600.

Yours sincerely,



**Steven Boxall**  
**Chief Executive Officer**

Enc.: Attachment 1 – Conditions imposed by the assessment manager  
Attachment 2 – Approved Plans  
Attachment 3 – Referral Agency Response  
Attachment 4 – Extract of Appeal Provisions (Chapter 6, Part 1 and Schedule 1 of the *Planning Act 2016*)  
Attachment 5 – Statement of Reasons





# Attachment 1

## Conditions imposed by the assessment manager

### 1.0 APPROVED PLANS AND DOCUMENTS

- 1.1 The approved development must be completed and maintained generally in accordance with the approved plans and documents, except where amended by the conditions of this permit:

| Plan Name                          | Plan Reference |
|------------------------------------|----------------|
| Concept Designs for 100 Ash Street | 180152-SK1/01  |

- 1.2 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 must prevail.

### 2.0 AMENITY – HOURS OF OPERATION

- 2.1 Operation of the proposed tourism facility and shop may only occur between the hours of 7:00am and 10:00pm, Monday to Saturday and on Sundays between the hours of 7:00am to 9:00pm.
- 2.2 Loading and unloading of goods may only occur between 7:00am and 6:00pm Monday to Friday, and 7:00am and 12 (noon) on Saturdays. Loading and unloading is not permitted on Sundays and Public Holidays.

### 3.0 ACCESS AND PARKING WORKS

- 3.1 A maximum of one (1) vehicle crossover may be provided to Ash Street, and a maximum of one (1) vehicle crossover may be provided to Willow Street.
- 3.2 A minimum of four (4) car parking spaces on the premises must be provided to support the demands of the use. Car parking must be provided generally in accordance with Council's access and parking standards, and the approved plans.

### 4.0 ROOF AND ALLOTMENT DRAINAGE WORKS

- 4.1 All roof and allotment drainage must be discharged such that it does not restrict, impair or change the natural flow of runoff water or cause a nuisance to adjoining properties or infrastructure.

### 5.0 SITE WORKS

- 5.1 Site works must be constructed such that they do not, at any time, in any way restrict, impair or change the natural flow of runoff water, or cause a nuisance or worsening to adjoining properties or infrastructure.

### 6.0 STORMWATER MANAGEMENT

- 6.1 All stormwater must drain to a demonstrated lawful point of discharge and must not adversely affect surrounding land or infrastructure in comparison to





the pre-development conditions, including but not limited to blocking, altering or diverting existing stormwater runoff patterns or having the potential to cause damage to other infrastructure.

## **7.0 ENVIRONMENTAL HEALTH**

7.1 Any lighting devices associated with the development, such as sensory lighting, must be positioned on the development site and shielded so as not to cause glare or other nuisance to nearby residents and motorists. Night lighting must be designed, constructed and operated in accordance with Australian Standard AS4282 "Control of the obtrusive effects of outdoor lighting".

7.2 Noise, light, dust or air emissions from the activity must not cause environmental harm or environmental nuisance.

7.3 In accordance with the Environmental Protection (Waste Management) Regulations, all waste storage areas must be kept in a clean, tidy condition, and sufficient waste containers and services are to be provided to cater for the containment and removal of all waste generated on the site.

## **8.0 SERVICES AND INFRASTRUCTURE**

8.1 Electricity and telecommunication services must be provided to the premises in accordance with the standards and requirements of the relevant service provider.

8.2 The premises must be connected to Council's reticulated water supply and sewerage networks.

## **9.0 CONSTRUCTION ACTIVITIES**

9.1 Erosion control measures and silt collection measures are implemented during the construction phase of development to ensure that environmental values are protected during construction activities.

## **10.0 ASSET MANAGEMENT**

10.1 Any alteration necessary to electricity, telephone, water mains, sewerage mains, and/or public utility installations resulting from the development or in connection with the development, must be undertaken and completed at no cost to Council.

10.2 Any damage to existing stormwater, water supply and sewerage infrastructure, kerb and channel, pathway or roadway (including removal of concrete slurry from public land and Council infrastructure), that occurs while any works are being carried out in association with this development approval must be repaired at full cost to the developer. This includes the reinstatement of any existing traffic signs or pavement markings that may have been removed or damaged.

## **ADVISORY NOTES**

1. The Developer and his employee, agent, contractor or invitee is responsible for ensuring compliance with the conditions of this development approval.



2. Where these Conditions refer to "Council" in relation to requiring Council to approve or to be satisfied as to any matter, or conferring on the Council a function, power or discretion, that role may be fulfilled in whole or in part by a delegate appointed for that purpose by the Council.
3. Prior to commencing any construction activities, the applicant/developer will be required to obtain further development permits for building work, and plumbing and drainage work, as required under relevant legislation for this work.
4. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements. Any provisions contained in this approval relating to the enforcement of any of the conditions shall be in addition to all other rights, powers and privileges that the Council may possess or obtain, and nothing contained in these conditions shall be construed so as to prejudice, affect or otherwise derogate or limit these rights, powers and privileges of the Council.
5. General environmental duty under the *Environmental Protection Act 1994* prohibits unlawful environmental nuisance caused by noise, aerosols, particles, dust, ash, fumes, light, odour or smoke beyond the boundaries of the development site during all stages of the development including earthworks, construction and operation.
6. This development approval does not authorise any activity that may harm Aboriginal cultural heritage. It is advised that under section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage (the "cultural heritage duty of care").

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**ALPHA OFFICE**

Phone: 07 4985 1166  
Fax: 07 4985 1162

**ARAMAC OFFICE**

Phone: 07 4652 9999  
Fax: 07 4652 9990

**BARCALDINE OFFICE**

Phone: 07 4651 5600  
Fax: 07 4651 1778



# **Attachment 2**

## Approved Plans

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**ALPHA OFFICE**  
Phone: 07 4985 1166  
Fax: 07 4985 1162

**ARAMAC OFFICE**  
Phone: 07 4652 9999  
Fax: 07 4652 9990

**BARCALDINE OFFICE**  
Phone: 07 4651 5600  
Fax: 07 4651 1778



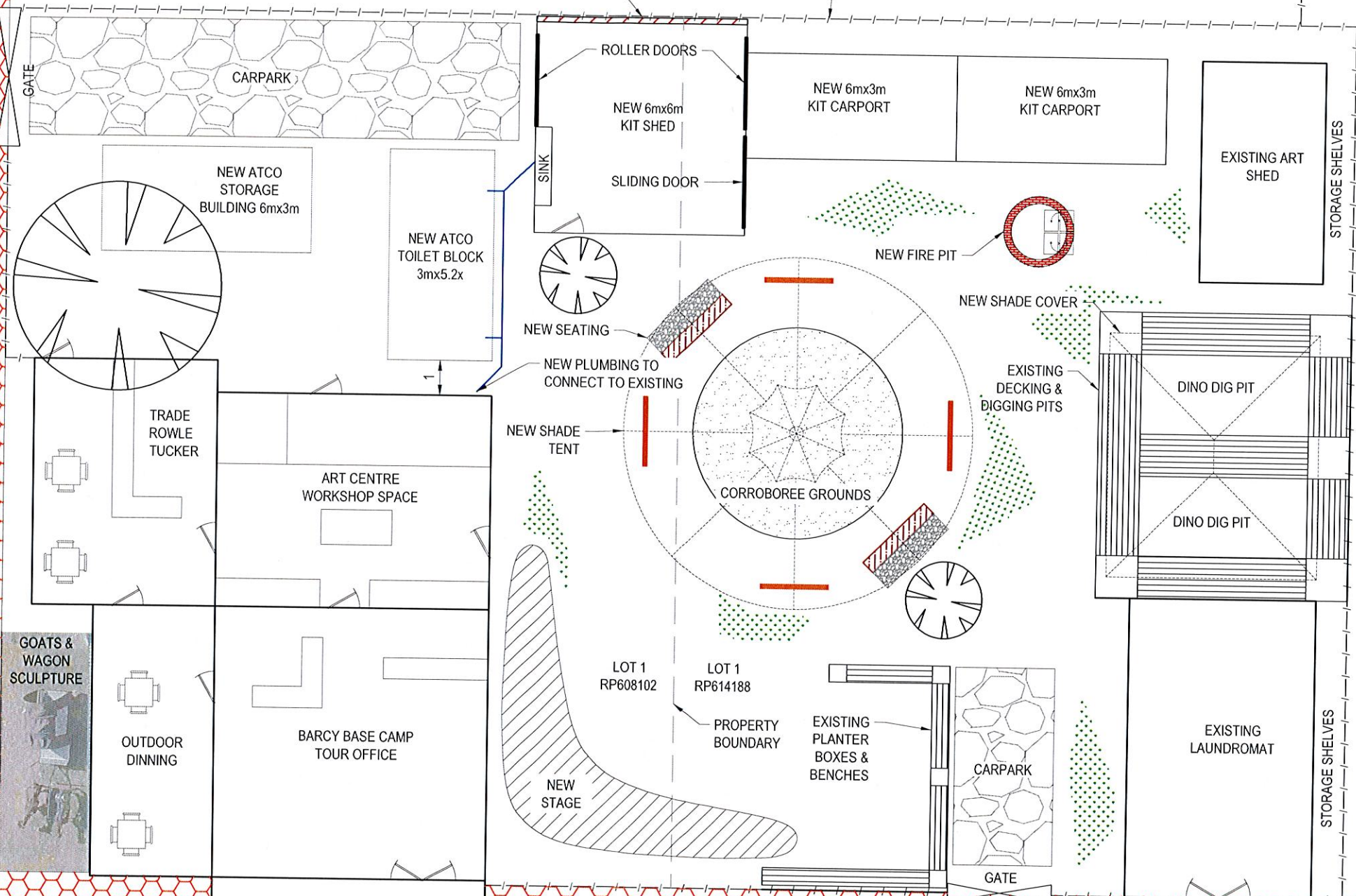




**PRELIMINARY**  
 NOT FOR CONSTRUCTION  
 1 February 2019 at 14:52

LOT 1  
 SP282902

BRICK FIRE PROTECTION WALL  
 FENCES



LOT 21B  
 RY184

WILLOW STREET

ON STREET ANGLE PARKING

PAVED FOOTPATH

PAVED FOOTPATH

AWNING  
 OVER  
 FOOTPATH

PAVED FOOTPATH

STORAGE SHELVES

STORAGE SHELVES

ON STREET ANGLE PARKING

ASH STREET

POWER POLES

**BARCALDINE REGIONAL COUNCIL**

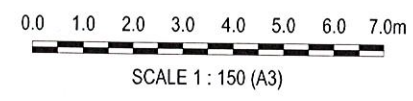
DIGITALLY STAMPED  
 APPROVED PLAN

**Development Application:**  
 Development Permit - Material Change of Use for Tourist Facility and Shop

**Lot:**  
 Lot 1 RP614188 and Lot 1 RP608102, 98 and 100 Ash Street, Barcaldine

Referred to in Council's Decision Notice

**Approval Date:** 25 February 2019  
**Application Number:** 321820



Date Printed: 01/02/2019 14:52:54

180152-SK1/01  
 Concept Designs for 100 Ash St





# **Attachment 3**

## Referral Agency Response

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***ALPHA OFFICE***

Phone: 07 4985 1166  
Fax: 07 4985 1162

***ARAMAC OFFICE***

Phone: 07 4652 9999  
Fax: 07 4652 9990

***BARCALDINE OFFICE***

Phone: 07 4651 5600  
Fax: 07 4651 1778



Our reference: 1902-9671 SRA  
Your reference: 321820

21 February 2019

The Chief Executive Officer  
Barcaldine Regional Council  
71 Ash Street  
BARCOLDINE QLD 4725  
council@barc.qld.gov.au

**Attention: Mr Brett Walsh**

Dear Mr Walsh

**Referral agency response—no requirements**

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

The development application described below was properly referred to the Department of State Development, Manufacturing, Infrastructure and Planning on 11 February 2019.

**Applicant details**

|                            |   |
|----------------------------|---|
| Applicant name:            | Cheryl Thompson C/- Murray & Associates (QLD) Pty Ltd |
| Applicant contact details: | PO Box 665<br>EMERALD QLD 4720<br>andrewb@mursurv.com |

**Location details**

|                            |  |
|----------------------------|--|
| Street address:            | 98 and 100 Ash Street, Barcaldine QLD 4725 |
| Real property description: | Lot 1 on RP608102 and Lot 1 on RP614188    |
| Local government area:     | Barcaldine Regional Council                |

**Application details**

|                    |  |
|--------------------|--|
| Development permit | Material Change of Use for a Tourist Facility and Shop |
|--------------------|--|

**Referral triggers**

The development application was referred to the department under the following provisions of the Planning Regulation 2017:

- 10.9.4.2.4.1 State transport corridors and future State transport corridors

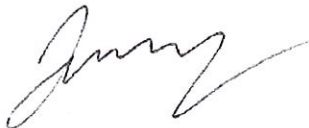
**No requirements**

Under section 56(1)(a) of the *Planning Act 2016*, the department advises it has no requirements relating to the application.

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

For further information please contact Jackie Hunter, Senior Planning Officer, on (07) 4898 6815 or via email MIWSARA@dsdmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Daniel Wagner  
A/Manager (Planning)  
**Mackay Isaac Whitsunday Regional Office**

cc Cheryl Thompson C/- Murray & Associates (QLD) Pty Ltd, andrewb@mursurv.com



Department of  
**State Development,  
 Manufacturing,  
 Infrastructure and Planning**

**Department of State Development, Manufacturing, Infrastructure and Planning**

**Statement of reasons for application 1902-9671 SRA**

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

Departmental role: Referral agency

**Applicant details**

Applicant name: Cheryl Thompson C/- Murray & Associates (QLD) Pty Ltd  
 Applicant contact details: PO Box 665  
 EMERALD QLD 4720  
 andrewb@mursurv.com

**Location details**

Street address: 98 and 100 Ash Street, Barcaldine QLD 4725  
 Real property description: Lot 1 on RP608102 and Lot 1 on RP614188  
 Local government area: Barcaldine Regional Council

**Development details**

Development permit: Material Change of Use for a Tourist Facility and Shop

**Assessment matters**

| Aspect of development requiring code assessment | Applicable codes   |
|---|--|
| Material Change of Use                          | State Development Assessment Provisions, version 2.4<br>State code 1: Development in a state-controlled road environment |

**Reasons for the department's decision**

The reasons for the decision are:

- Given the separation of the proposed development from the State-controlled road intersection, no adverse impacts on the State-controlled road network were identified during assessment of the application.
- The proposed development complies with the relevant provisions of State code 1: Development in a state-controlled road environment.



**Decision**

- The development application is for a Material Change of Use for a Tourist Facility and Shop, involving the expansion of the Barcy Base Camp which currently operates from the subject sites.
- The subject sites are located within 100 metres of the intersection of Willow Street and Oak Street, the latter being classified as a State-controlled road.
- The department has no requirements relating to the application.
- The department's referral agency response was given to the assessment manager on 21 February 2019.

**Relevant Material**

- Development application material (as lodged)
- Technical Agency Response from the Department of Transport and Main Roads
- State Development Assessment Provisions (version 2.4) published by the Department of State Development, Manufacturing, Infrastructure and Planning
- State Assessment and Referral Agency Development Assessment Mapping System
- *Planning Act 2016*
- Planning Regulation 2017
- Development Assessment Rules

# **Attachment 4**

Extract of Appeal Provisions (Chapter 6, Part 1 and  
Schedule 1 of the *Planning Act 2016*)

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**ALPHA OFFICE**  
Phone: 07 4985 1166  
Fax: 07 4985 1162

**ARAMAC OFFICE**  
Phone: 07 4652 9999  
Fax: 07 4652 9990

**BARCALDINE OFFICE**  
Phone: 07 4651 5600  
Fax: 07 4651 1778



(2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.

(3) In this section—

*conduct* means an act or omission.

*representative* means—

(a) of a corporation—an executive officer, employee or agent of the corporation; or

(b) of an individual—an employee or agent of the individual.

*state of mind*, of a person, includes the person's—

(a) knowledge, intention, opinion, belief or purpose; and

(b) reasons for the intention, opinion, belief or purpose.

## 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.



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- (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—  
*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 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.



## **Schedule 1 Appeals**

section 229

### **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 the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
  - (h) a decision to give an enforcement notice—
    - (i) in relation to a matter under paragraphs (a) to (g); or
    - (ii) under the Plumbing and Drainage Act; or
  - (i) an infrastructure charges notice; or
  - (j) the refusal, or deemed refusal, of a conversion application; 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.

| <b>Table 1</b><br><b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>   |
|---|
| <p>1. Development applications</p> <p>For a development application other than an excluded application, an appeal may be made against—</p> <ul style="list-style-type: none"><li>(a) the refusal of all or part of the development application; or</li><li>(b) the deemed refusal of the development application; or</li><li>(c) a provision of the development approval; or</li><li>(d) if a development permit was applied for—the decision to give a preliminary approval.</li></ul> |

| <b>Table 1</b><br><b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>   |                        |  |   |
|---|------------------------|--|---|
| Column 1<br>Appellant   | Column 2<br>Respondent | Column 3<br>Co-respondent<br>(if any)  | Column 4<br>Co-respondent<br>by election (if<br>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> |
| <p><b>2. Change applications</b></p> <p>For a change application other than an excluded application, an appeal may be made against—</p> <p>(a) the responsible entity's decision on the change application; or</p> <p>(b) a deemed refusal of the change application.</p> |                        |  |   |

| <b>Table 1</b><br><b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>  |                               |  |  |
|--|-------------------------------|--|--|
| Column 1<br>Appellant  | Column 2<br>Respondent        | Column 3<br>Co-respondent<br>(if any)                        | Column 4<br>Co-respondent<br>by election (if<br>any)   |
| <p>1 The applicant</p> <p>2 If the responsible entity is the assessment manager—an affected entity that gave a pre-request notice or response notice</p>   | <p>The responsible entity</p> | <p>If an affected entity starts the appeal—the applicant</p> | <p>1 A concurrence agency for the development application</p> <p>2 If a chosen assessment manager is the respondent—the prescribed assessment manager</p> <p>3 A private certifier for the development application</p> <p>4 Any eligible advice agency for the change application</p> <p>5 Any eligible submitter for the change application</p> |
| <p>3. Extension applications</p> <p>For an extension application other than an extension application called in by the Minister, an appeal may be made against—</p> <p>(a) the assessment manager’s decision on the extension application; or</p> <p>(b) a deemed refusal of the extension application.</p> |                               |  |  |



| <b>Table 1<br/>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>   |                               |  |   |
|---|-------------------------------|--|---|
| Column 1<br>Appellant   | Column 2<br>Respondent        | Column 3<br>Co-respondent<br>(if any)                          | Column 4<br>Co-respondent<br>by election (if<br>any)                                      |
| <p>1 The applicant<br/>2 For a matter other than a deemed refusal of an extension application—a concurrence agency, other than the chief executive, for the application</p>   | <p>The assessment manager</p> | <p>If a concurrence agency starts the appeal—the applicant</p> | <p>If a chosen assessment manager is the respondent—the prescribed assessment manager</p> |
| <p><b>4. Infrastructure charges notices</b><br/>                     An appeal may be made against an infrastructure charges notice on 1 or more of the following grounds—</p> <p>(a) the notice involved an error relating to—</p> <p style="padding-left: 20px;">(i) the application of the relevant adopted charge; or</p> <p><i>Examples of errors in applying an adopted charge—</i></p> <ul style="list-style-type: none"> <li>• the incorrect application of gross floor area for a non-residential development</li> <li>• applying an incorrect ‘use category’, under a regulation, to the development</li> </ul> <p style="padding-left: 20px;">(ii) the working out of extra demand, for section 120; or</p> <p style="padding-left: 20px;">(iii) an offset or refund; or</p> <p>(b) there was no decision about an offset or refund; or</p> <p>(c) if the infrastructure charges notice states a refund will be given—the timing for giving the refund; or</p> <p>(d) for an appeal to the P&amp;E Court—the amount of the charge is so unreasonable that no reasonable relevant local government could have imposed the amount.</p> |                               |  |   |



| <b>Table 1</b>  |   |                                       |   |
|---|---|---------------------------------------|---|
| <b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>   |   |                                       |   |
| Column 1<br>Appellant   | Column 2<br>Respondent  | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent<br>by election (if<br>any)  |
| The person given the infrastructure charges notice  | The local government that gave the infrastructure charges notice  | —                                     | —   |
| <p>5. Conversion applications</p> <p>An appeal may be made against—</p> <p>(a) the refusal of a conversion application; or</p> <p>(b) a deemed refusal of a conversion application.</p> |   |                                       |   |
| Column 1<br>Appellant   | Column 2<br>Respondent  | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent<br>by election (if<br>any)  |
| The applicant   | The local government to which the conversion application was made | —                                     | —   |
| <p>6. Enforcement notices</p> <p>An appeal may be made against the decision to give an enforcement notice.</p>  |   |                                       |   |
| Column 1<br>Appellant   | Column 2<br>Respondent  | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent<br>by election (if<br>any)  |
| The person given the enforcement notice   | The enforcement authority   | —                                     | If the enforcement authority is not the local government for the premises in relation to which the offence is alleged to have happened—the local government |

**Table 2  
Appeals to the P&E Court only**

**1. Appeals from tribunal**

An appeal may be made against a decision of a tribunal, other than a decision under section 252, on the ground of—

- (a) an error or mistake in law on the part of the tribunal; or
- (b) jurisdictional error.

| Column 1<br>Appellant                       | Column 2<br>Respondent                              | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent<br>by election (if<br>any) |
|---|---|---------------------------------------|--|
| A party to the proceedings for the decision | The other party to the proceedings for the decision | —                                     | —  |

**2. Eligible submitter appeals**

For a development application or change application other than an excluded application, an appeal may be made against the decision to approve the application, to the extent the decision relates to—

- (a) any part of the development application or change application that required impact assessment; or
- (b) a variation request.

| Column 1<br>Appellant   | Column 2<br>Respondent   | Column 3<br>Co-respondent<br>(if any)  | Column 4<br>Co-respondent<br>by election (if<br>any) |
|---|--|--|--|
| <p>1 For a development application—an eligible submitter for the development application</p> <p>2 For a change application—an eligible submitter for the change application</p> | <p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p> | <p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency’s referral response—the concurrence agency</p> | Another eligible submitter for the application       |



| <b>Table 2<br/>Appeals to the P&amp;E Court only</b>  |  |  |   |
|---|--|--|---|
| <p><b>3. Eligible submitter and eligible advice agency appeals</b></p> <p>For a development application or change application other than an excluded application, an appeal may be made against a provision of the development approval, or a failure to include a provision in the development approval, to the extent the matter relates to—</p> <p>(a) any part of the development application or change application that required impact assessment; or</p> <p>(b) a variation request.</p> |  |  |   |
| Column 1<br>Appellant   | Column 2<br>Respondent   | Column 3<br>Co-respondent<br>(if any)  | Column 4<br>Co-respondent<br>by election (if<br>any)  |
| <p>1 For a development application—an eligible submitter for the development application</p> <p>2 For a change application—an eligible submitter for the change application</p> <p>3 An eligible advice agency for the development application or change application</p>  | <p>1 For a development application—the assessment manager</p> <p>2 For a change application—the responsible entity</p> | <p>1 The applicant</p> <p>2 If the appeal is about a concurrence agency’s referral response—the concurrence agency</p> | <p>Another eligible submitter for the application</p> |
| <p><b>4. Compensation claims</b></p> <p>An appeal may be made against—</p> <p>(a) a decision under section 32 about a compensation claim; or</p> <p>(b) a decision under section 265 about a claim for compensation; or</p> <p>(c) a deemed refusal of a claim under paragraph (a) or (b).</p>  |  |  |   |

| <b>Table 2<br/>Appeals to the P&amp;E Court only</b>  |  |                                       |  |
|---|--|---------------------------------------|--|
| Column 1<br>Appellant   | Column 2<br>Respondent                           | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent<br>by election (if<br>any)                           |
| A person dissatisfied with the decision   | The local government to which the claim was made | —                                     | —  |
| <p><b>5. Registered premises</b><br/>An appeal may be made against a decision of the Minister under chapter 7, part 4.</p>  |  |                                       |  |
| Column 1<br>Appellant   | Column 2<br>Respondent                           | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent<br>by election (if<br>any)                           |
| <p>1 A person given a decision notice about the decision</p> <p>2 If the decision is to register premises or renew the registration of premises—an owner or occupier of premises in the affected area for the registered premises who is dissatisfied with the decision</p>   | The Minister                                     | —                                     | If an owner or occupier starts the appeal—the owner of the registered premises |
| <p><b>6. Local laws</b><br/>An appeal may be made against a decision of a local government, or conditions applied, under a local law about—</p> <p>(a) the use of premises, other than a use that is the natural and ordinary consequence of prohibited development; or</p> <p>(b) the erection of a building or other structure.</p> |  |                                       |  |



| <b>Table 2<br/>Appeals to the P&amp;E Court only</b>   |                        |                                       |  |
|--|------------------------|---------------------------------------|--|
| Column 1<br>Appellant  | Column 2<br>Respondent | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent<br>by election (if<br>any) |
| A person who—<br>(a) applied for the decision; and<br>(b) is dissatisfied with the decision or conditions. | The local government   | —                                     | —  |

| <b>Table 3<br/>Appeals to a tribunal only</b>  |                        |                                       |  |
|--|------------------------|---------------------------------------|--|
| <p>1. Building advisory agency appeals</p> <p>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<br>Appellant  | Column 2<br>Respondent | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent<br>by election (if<br>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> |

**Table 3  
Appeals to a tribunal only**

**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.

| Column 1<br>Appellant                      | Column 2<br>Respondent           | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent<br>by election (if<br>any) |
|--|----------------------------------|---------------------------------------|--|
| The applicant for the development approval | The person who made the decision | —                                     | —  |

**3. Certain decisions under the Building Act and the Plumbing and Drainage Act**

An appeal may be made against—

- (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
- (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.

| Column 1<br>Appellant   | Column 2<br>Respondent           | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent<br>by election (if<br>any) |
|---|----------------------------------|---------------------------------------|--|
| A person who received, or was entitled to receive, an information notice about the decision | The person who made the decision | —                                     | —  |

**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.

| <b>Table 3<br/>Appeals to a tribunal only</b>               |  |                                       |  |
|---|--|---------------------------------------|--|
| Column 1<br>Appellant                                       | Column 2<br>Respondent                                 | Column 3<br>Co-respondent<br>(if any) | Column 4<br>Co-respondent<br>by election (if<br>any) |
| A person who was entitled to receive notice of the decision | The local government to which the application was made | —                                     | —  |



# Attachment 5

## Statement of Reasons

### Notice about decision Statement of reasons

*PLANNING ACT 2016, SECTION 63(5)*

|                                       |   |
|---------------------------------------|---|
| <b>Description of the Development</b> | Development Application (Code assessable) – Material Change of Use (Development Permit) for Tourist Facility and Shop.  |
| <b>Application number</b>             | 321820  |
| <b>Address</b>                        | 98 and 100 Ash Street, Barcaldine   |
| <b>Property description</b>           | Lot 1 on RP614188 and Lot 1 on RP608102   |
| <b>Type of approval</b>               | Development Permit for Material Change of Use   |
| <b>Decision</b>                       | Approved in full with conditions  |
| <b>Date of approval</b>               | 25 February 2019  |
| <b>Reasons for Decision</b>           | <p>a) The commercial activities being Tourist Facility and Shop use is a supported use in the Commercial Zone.</p> <p>b) The site is serviced by all necessary utilities and access and parking is provided in accordance with Council standards.</p> <p>c) The site is not affected by any Land Characteristics Maps and will not result in off-site impacts that may affect these mapped local planning interests.</p> <p>d) The development does not compromise the relevant elements of the Central West Regional Plan and State Planning Policy.</p>   |
| <b>Assessment Benchmarks</b>          | <p>The Proposed Development was assessed against the following assessment benchmarks:</p> <ul style="list-style-type: none"> <li>▪ Commercial Zone Code – Part 4 of the <i>Barcaldine Shire Planning Scheme 2006</i> (Version 2, effective from 29 November 2013)</li> </ul>  |
| <b>Compliance with Benchmarks</b>     | <p>The development is assessed against the assessment benchmarks listed above and complies.</p> <ul style="list-style-type: none"> <li>▪ The purpose of the Commercial Zone Code is encompassed by a set of outcomes prescribed under section 4.4.3.3 of the Planning Scheme. No Conflicts were identified with the Code's overall outcomes.</li> <li>▪ No conflicts were identified upon assessment of the proposal against the finer-grained elements of the Code, being the Performance Criteria and acceptable solutions in section 4.4.3.4 of the Planning Scheme. These criteria are identified as follows: <ul style="list-style-type: none"> <li>○ The building renovation and other site improvements do not change existing building height, (being less than 8.5 metres and two (2) storeys).</li> <li>○ The proposal maintains existing built to boundary buildings on the eastern boundary, and provides an additional built to boundary shed on the northern boundary. These setbacks are deemed acceptable as the buildings are of a small scale (i.e. single storey) and are not located in proximity to other buildings on neighbouring sites.</li> <li>○ Conditions have been imposed to ensure the use only</li> </ul> </li> </ul> |





|  |  |
|--|--|
|  | <p>operate between the hours of 7:00am and 10:00pm, Monday to Saturday. These operating hours exceed the prescribed times within the assessment benchmark by 1 hour. It is considered that the extended operating hours are reasonable and will unlikely result in any nuisance or loss of amenity to nearby residential areas.</p> <ul style="list-style-type: none"> <li>○ Conditions have been imposed to ensure that loading and unloading of goods only occurs between 7:00am and 6:00pm Monday to Friday, and 7:00 am and 12 (noon) on Saturdays. Loading and unloading will not be permitted on Sundays and Public Holidays.</li> <li>○ The proposal provides a total use area of approximately 500sqm, or 50% of the site. This complies with the prescribed maximum total use area of 75%.</li> <li>○ Traffic movement to the site will be facilitated through state roads and roads within the commercial zone. Adequate on street angle parking is provided along the sites frontages to cater for site patrons.</li> <li>○ Conditions have been imposed to maintain an appropriate standard of design in terms of stormwater management, considering the new impervious area for the on-site parking area.</li> </ul> <ul style="list-style-type: none"> <li>▪ The proposal complies with the balance of assessment benchmarks prescribed in the Code, which is attributed to the proposed Tourist Facility and Shop use being a supported land use in the Commercial Zone.</li> </ul> |
| <b>Matters prescribed by Regulation</b>                                | <p>-The Central West Regional Plan, to the extent the Regional Plan is not identified in the Planning Scheme as being appropriately reflected in the Planning Scheme;<br/>         -The State Planning Policy, to the extent the SPP is not identified in the Planning Scheme as being appropriately reflected in the Planning Scheme;<br/>         -Any development approval for, and any lawful use of, the premises or adjacent premises; and<br/>         -The common material.</p>  |
| <b>Relevant matters for impact assessable development</b>              | Not applicable – the proposal was subject to code assessment.  |
| <b>Matters raised in submissions for impact assessable development</b> | Not applicable – the proposal did not require public notification.   |

If you find an inaccuracy in any of the information provided above or have an enquiry or seek clarification about any of these details, please contact Council.

Yours faithfully,



**Steven Boxall**  
**Chief Executive Officer**

