

23 March 2020

Enquiries: Rebecca Taranto  
Our Ref: AAEX 2020\_3501/1  
Your Ref: 20000024

Administration Office  
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Mareeba Sheds and Gas  
C/- Emergent Building Approvals  
PO Box 2784  
**MAREEBA QLD 4880**

Email: beau@emergentba.com.au

Dear Sir/Madam

**Concurrence Agency Response for Amenity and Aesthetics Request (Shed)**  
**At 14 Kingfisher Lane WHYANBEEL**  
**On Land Described as Lot 5 on RP 893101**

The referral agency material for the development application described below was properly referred to Douglas Shire Council on 11/03/2020.

Please quote Council's application number: AAEX 2020\_3501/1 in all subsequent correspondence relating to this matter.

Should you require any clarification regarding this, please contact Rebecca Taranto on telephone 07 4099 9444.

Yours faithfully

  
**Paul Hoyer**  
**Manager Environment & Planning**

encl.

- Approved Drawing(s) and/or Document(s)
- Advice For Making Representations and Appeals



## Concurrence Agency Response

*Given under section 56 of the Planning Act 2016*

### Applicant Details

**Name:** Mareeba Sheds and Gas  
**Postal Address:** C/- Emergent Building Approvals  
PO Box 2784  
Mareeba QLD 4880  
**Email:** beau@emergentba.com.au

### Assessment Manager

**Name:** Emergent Building Approvals  
**Postal Address:** PO Box 2784  
MAREEBA QLD 4880  
**Email:** beau@emergentba.com.au

### Property Details

**Street Address:** 14 Kingfisher Lane Whyanbeel  
**Real Property Description:** Lot 5 on RP 893101  
**Site Area:** 1.964m<sup>2</sup>  
**Local Government Area:** Douglas Shire Council

### Application Details

**Proposed Development:** Amenity and Aesthetics Request for construction of shed in a previously levelled and cleared site. At 14 Kingfisher Lane Whyanbeel. On land described as Lot 5 on RP 893101

### Aspects of development and type of approval being sought

The proposed development triggers a Development Permit for Building Work – *Referral trigger for concurrence agency response in accordance with section 1.7.4 of the 2018 Douglas Shire Planning Scheme Hillslopes overlay code acceptable outcome AO1.1 for self- assessable development.*

Performance Criteria	Acceptable Solution	Proposal
PO1 Hillslopes Overlay Code		
The landscape character and visual amenity quality of hillslopes areas is retained to protect the scenic backdrop to the region.	Development is located on parts of the site that are within the Hillslopes constraint subcategory as shown on the Hillslopes Overlay Maps.	The application is for the construction of a single storey Colourbond shed to be sited on a previously cleared and level site adjacent to the existing dwelling within the Hillslopes Overlay area.

## Decision

**Date of Decision:** 23 March 2020

**Decision Details:** Approved subject to conditions.

## Approved Drawing(s) and/or Document(s)

The term approved drawing(s) and/or document(s) or other similar expressions means:

Drawing or Document	Reference	Date
Site Plan	Site Plan prepared by Michael Fuller Dwg no. S005. Douglas Shire Council Doc ID 944051	Not nominated
Shed Plan No 1.	Shed Plan prepared by Ranbuild Dwg no. 393949-GA. Douglas Shire Doc. ID 944051	Not nominated
Shed Plan No 2.	Shed Plan prepared by Ranbuild. Dwg no. 393949-GA. Douglas Shire Doc. ID 944051	Not nominated

Copies of the following plans, specifications and/or drawings are enclosed.

## Concurrence Agency Conditions & Advices

In accordance with the *Planning Act 2016*, the following conditions are to attach to any development approval:

1. The development is undertaken in accordance with the facts and circumstances set out in the development application referred to Council.

## Advice

1. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
2. This approval does not negate the requirement for compliance with all other relevant Council Local Laws and other statutory requirements.

3. For information relating to the *Planning Act 2016* log on to [www.statedevelopment.qld.gov.au/](http://www.statedevelopment.qld.gov.au/). To access the *FNQROC Development Manual*, Local Laws, the Douglas Shire Planning Scheme and other applicable Policies log on to [www.douglas.qld.gov.au](http://www.douglas.qld.gov.au)

## **Reasons for Decision**

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The reasons for this decision are:

- a. to ensure the development satisfies the Performance Criteria stated in the Hillslopes Overlay Code from the 2018 Douglas Shire Planning Scheme version 1.0.

## **Findings on material questions of fact**

- a) The development application was properly referred to the Douglas Shire Council on 11/03/2020 under Section 54 of the *Planning Act 2016* and Part 2 of the Development Assessment Rules.
- b) The development application contained a report that Council reviewed together with Council's own investigation in making its referral agency assessment.

## **Evidence or other material on which findings were based.**

- a) The development triggered referral agency assessment under Schedule 9, Part 3, Division 2, Table 3 of the *Planning Regulation 2017*.
- a) Council undertook an assessment in accordance with the provisions of sections 55 and 56 of the *Planning Act 2016*.

## **Relevant Period**

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Under the *Planning Act 2016*, Council requires that the relevant period of approval for any development is to be two (2) years starting the day the approval takes effect.

## **Rights to make Representations & Rights of Appeal**

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The rights of applicants to make representations and rights 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*.

A copy of the relevant appeal provisions are attached.

# Approved Drawing(s) and/or Document(s)

## Neil & Denise Thrower proposed shed site



Address- 14 Kingfisher Lane Whyanbeel	Site Plan	Project: New Shed
Property Description- Lot 5 on RP 893101	DWG No: S005	Drawn By: Michael Fuller QBCC Lic: 1268102

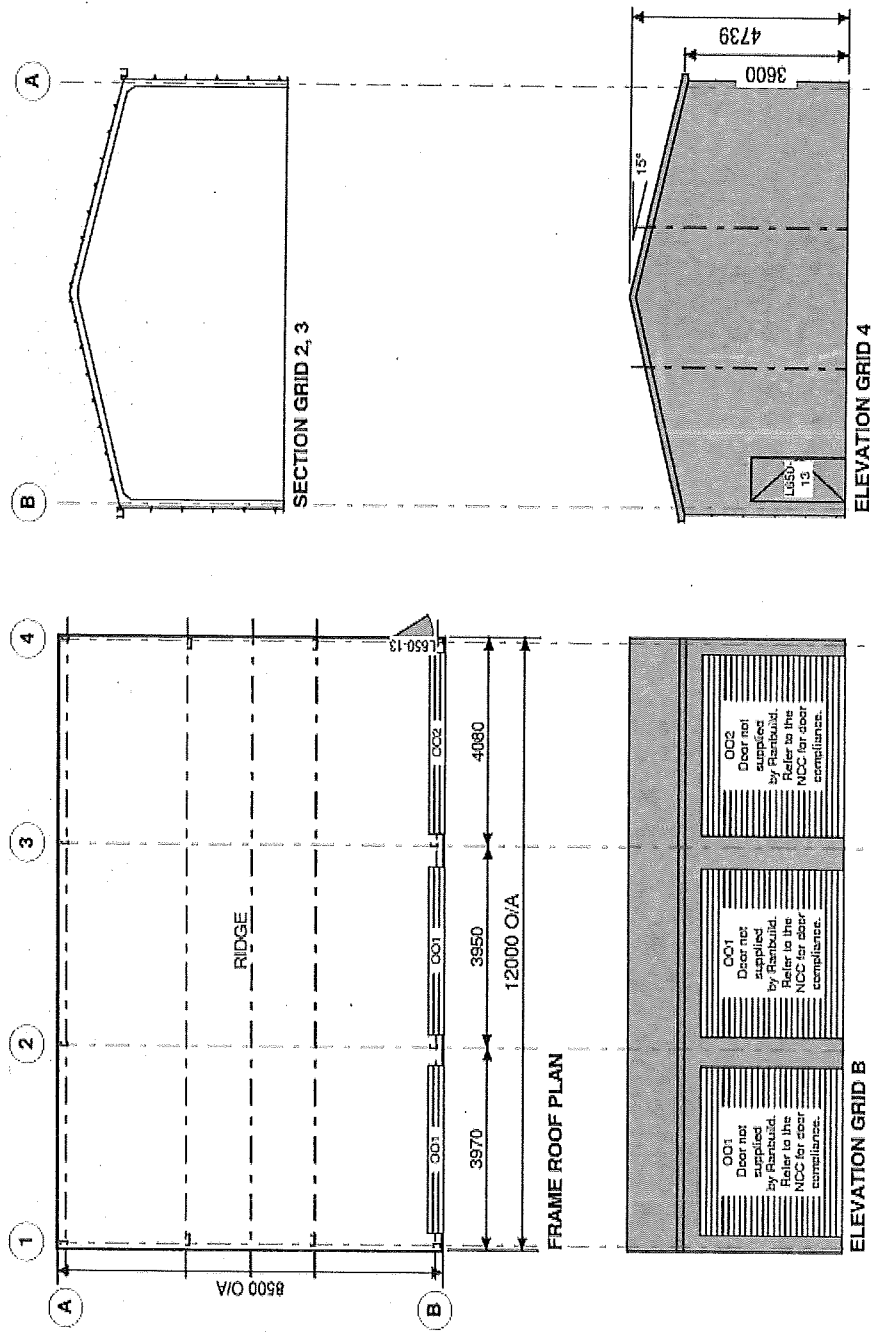
CLADDING			
ITEM	PROFILE (min)	FINISH	COLOUR
ROOF	CUSTOM ORS 6-42 BMT	CB	CV
WALLS	TRIMDEX 0-42 BMT	CB	CV
CORNERS		CB	CV
BARGE	"	CB	CV
GUTTER	ENGLINE	CB	CV

0.35bmi-0.40tet; 0.42bmi-0.47tet; 0.48bmi-0.53tet


ACCESSORY SCHEDULE & LEGEND		
QTY	MARK	DESCRIPTION
2	001	Roller Door opening, 3100 high x 3200 wide, Roller Door must be fitted, refer to the NCC for door compliance.
1	002	Roller Door opening, 3100 high x 3520 wide, Roller Door must be fitted, refer to the NCC for door compliance.
1	L650-13	Lamine Door & Frame Kit, 650/37, 51in 2040 x 820 Clear

WIND DESIGN		
IMPORTANCE LEVEL	REGION	TERRAIN
2	C	2.5
		1.0

CLIENT	Neil and Denise Thrower	
SITE	14 Kingfisher Lane MOSSMAN QLD 4873	
BUILDING	SUNDOWN DELUXE 8500 SPAN x 3600 EAVE x 12000 LONG	
TITLE	GENERAL ARRANGEMENT	
SCALE A4 SHEET 1:25	DRAWING NUMBER 393949-GA	REV A
		PAGE 1/2

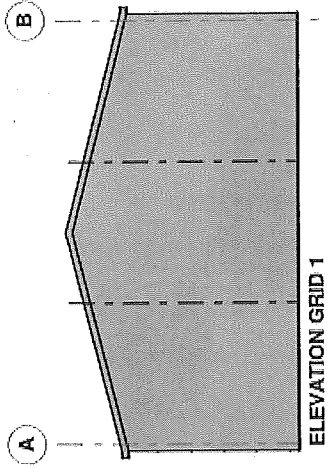
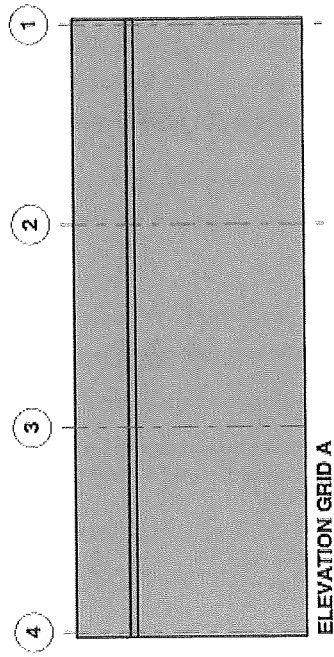


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WALL BRACING MUST BE FITTED TO ANY 2  
GARAGE SIDE WALL BAYS.

SCALE A4 SHEET 1:125	REV A
DRAWING NUMBER 393949-GA	PAGE 2/2

## Part 7: Miscellaneous

### 29 Missed referral agency

- 29.1 This section applies if, at any time before the application is decided, an applicant has not referred the application to a referral agency referred to in section 55(1) of the Act or to another referral agency for all referral requirements under section 55(2) of the Act in the time provided to refer the application (a *missed referral agency*).<sup>21</sup>
- 29.2 A *party* to the application may, by notice given to each other party to the application, advise the parties that the applicant has not referred the application in accordance with section 54(1) of the Act.
- 29.3 Despite section 31.1(a) and subject to section 31.4 where notice has been given under section 29.2, the application does not lapse as a result of a missed referral agency.<sup>22</sup>
- 29.4 The applicant must refer the application in accordance with section 5.1, as if 'the day after part 1 has ended' is 'after the day the applicant gave or received notice about a missed referral agency'.
- 29.5 Part 2 and part 3 apply to the missed referral agency once action is taken under section 29.4.
- 29.6 Despite section 11.1, any referral agency referred the development application as a result of this section may make an information request.
- 29.7 If a notice about a missed referral agency is given before part 5 starts, then part 5 cannot start before part 2 has ended in relation to the missed referral agency.<sup>23</sup>
- 29.8 If part 4 applies to the application, the giving of a notice under this section has no effect on any actions already undertaken under part 4.

### 30 Representations about a referral agency response

- 30.1 An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.<sup>24</sup>

### 31 Lapsing of the application

- 31.1 An application lapses if the applicant does not carry out the following actions in the prescribed period, including any further agreed period under the relevant section—
- (a) give the referral agency material to each referral agency that is party to the application and advise the assessment manager when the referral agency material was given under section 5, section 27 or section 29, as relevant to the application;<sup>25</sup> or
  - (b) undertake the actions to publicly notify the application requiring public notification; or
  - (c) give a notice of compliance under section 18 to the assessment manager for the application requiring public notification.
- 31.2 Despite section 31.1 the applicant may revive the application within 20 days of the application lapsing by—
- (a) undertaking the actions under section 31.1; and
  - (b) giving notice to the assessment manager advising that the relevant actions under section 31.1 have been undertaken.
- 31.3 If the applicant does not undertake the required actions under section 31.2 within the prescribed period, the lapsed application may not be revived.

<sup>21</sup> As provided for under section 5.

<sup>22</sup> As set out in section 31.4, this section has no effect where a missed referral notice has already been given about the missed referral agency.

<sup>23</sup> Section 23.2 describes the effect on the decision period if part 5 had already commenced before notice about the missed referral had been given.

<sup>24</sup> An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

<sup>25</sup> This provision is subject to section 29.3.



# Extracts from the Planning Act 2016 – Appeal Rights

Planning Act 2016  
Chapter 6 Dispute resolution

[s 229]

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- (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

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Current as at 19 March 2020

Authorised by the Parliamentary Counsel

- (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 an appeal relating to the *Plumbing and Drainage Act 2018*—
    - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
    - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or

- (iii) otherwise—20 business days after the day the notice is given; or
- (g) 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, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
  - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
  - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; 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 to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
  - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.

- (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 Non-appealable decisions and matters**

- (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.

## **Part 2 Development tribunal**

### **Division 1 General**

#### **233 Appointment of referees**

- (1) The Minister, or chief executive, (the *appointer*) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—
  - (a) has the qualifications or experience prescribed by regulation; and
  - (b) has demonstrated an ability—
    - (i) to negotiate and mediate outcomes between parties to a proceeding; and
    - (ii) to apply the principles of natural justice; and
    - (iii) to analyse complex technical issues; and
    - (iv) to communicate effectively, including, for example, to write informed succinct and well-organised decisions, reports, submissions or other documents.