

18 April 2019

Enquiries: Jenny Elphinstone T: 07 4099 9482
Our Ref: SITE 3081/2018 (Doc ID 899417)
Your Ref: E4843 GMA 20191463

Administration Office
64 - 66 Front St Mossman
P 07 4099 9444
F 07 4098 2902

Benck Marketing P/L T/A Patio World
Attn Casey Able
39 Cannon Street
MANUNDA QLD 4877

Copy To: CJ Abell and DW Abell
11 Ives Avenue
WONGA BEACH QLD 4870

casey@patioworld.com.au

cc adminpd@gmacert.com.au

Dear Sir/ Madam

**EXEMPTION CERTIFICATE
ISSUED UNDER THE *PLANNING ACT 2016*
11 IVES AVENUE WONGA BEACH**

Council refers to your request for an exemption certificate for the following premises received as properly made on 11 April 2019.

Summary of Exempt Development

Building work as lodged with Council on 11 April 2019 being Building Work made assessable under the Planning Scheme, against the Flood and Storm Tide Hazard Overlay Code, for a patio.

1. Location details

Street address: 11 Ives Avenue, Wonga Beach
Real property description: Lot 66 on RP892256

2. Exemption

Council wishes to advise that an exemption certificate has been granted on 18 April 2019 for development as shown on R shown on Patio World Job No E4843, sheets 1 of 13, Site Plan and Sheet 2 of 3 Elevations and Plan, both dated 9 April 2019 and submitted to Council on 11 April 2019 (Council document ID: 898527) is exempt under this certificate for Building Work made assessable development under the Planning Scheme, against the Overlay Code for Flood and Storm Tide Hazard, Schedule 8 Table 1A, Item 2 of the *Planning Regulation 2017*.

3. Referral agencies

Not Applicable.

4. Reasons for giving exemption certificate

The development is exempt under this certificate under Section 46(3)(b) of the *Planning Act 2016* for the following reason(s):

- The effects of the development would be minor or inconsequential, considering the circumstances under which the development was categorised as assessable development.

5. When exemption certificate ceases to have effect

This exemption certificate has effect for two years from the day after the day it is given. To the extent development does not comply with any of the following, the exemption certificate has no effect.

Other

Please quote Council's application number: SITE 3081/2019 in all subsequent correspondence relating to this development application. Should you require any clarification regarding this matter, please contact Jenny Elphinstone on telephone 07 4099 9482 or by email enquiries@douglas.qld.gov.au.

Yours faithfully



PAUL HOYE
Manager Environment and Planning

18 April 2019

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Dear Sir/ Madam

**CONCURRENCE AGENCY RESPONSE – WITH CONDITIONS
ISSUED UNDER THE *PLANNING ACT 2016*
11 IVES AVENUE WONGA BEACH**

Douglas Shire Council advises that the referral decision for the development application described below has been approved subject to conditions by Council's delegate on 18 April 2019.

1. Application details

Applicants:	Benck Marketing P/L T/A Patio World Attn Casey Able 39 Cannon Street Manunda Qld 4877
Assessment Manager:	GMA Certification Group PO Box 831 Port Douglas Qld 4877
Location:	11 Ives Avenue, Wonga Beach
Property description	Lot 66 on RP892256
Local government area:	Douglas Shire Council
Application description	Siting dispensation referral for a patio setback from the front boundary.

2. Description of assessment benchmarks

Development Permit for Building Work – *Queensland Development Code*, Part MP 1.2 (lots 450m² and over), Siting Dispensation.

Performance Criteria	Acceptable Solution	Proposal
P1	6000mm from road	The outermost projection of the patio is to be located 4700mm from the road boundary.

3. Aspects of development and type of approval being sought:

Referral Trigger(s)

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

Referral Trigger: *Schedule 9, Division 2, Table 3- Design and Siting*

4. Decision date: 18 April 2018

5. Decision

A. Under section 55 & 56 of the *Planning Act 2016* and Schedule 9, Part 3, Division 2, Table 3 *Planning Regulation 2017* Council requires that the following conditions attach to any development approval:

1. The specifications, facts and circumstances as set out in the application submitted to Council.

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	Patio World Job E4843, Sheet 1 of 3	9 April 2019
Elevation and Plan	Patio World Job E4843, Sheet 2 of 3	9 April 2019

B. Reasons for Decision

Under Sections 55 and 56 of the *Planning Act 2016* and Schedule 9, Part 3, Division 2, Table 3 of the *Planning Regulation 2017*, the reasons for this decision are:

- a. condition 1; and
- b. to ensure the development satisfies the Performance Criteria stated in P1 of MP1.2, of the Queensland Development Code.

Findings on material questions of fact

- a. The development application was properly referred to the Douglas Shire Council on 15 April 2019 under Section 54 of the *Planning Act 2016* and Part 2 of the Development Assessment Rules and forwarded for determination.

- b. The development application contained a report which 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*.
- b. Council undertook an assessment in accordance with the provisions of sections 55 and 56 of the *Planning Act 2016*.
- c. The relevant provisions of the *Queensland Development Code*.

C. Relevant Period

Under section 85(c)(i) of the *Planning Act 2016*, Council requires that the relevant period for any development approval is to be two (2) years starting from the day the approval takes effect.

D. The Applicant should have regard to the following advices:

- 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 including the Mirage Plan under the *Integrated Resort Development Act 1987* and any associated Principle Body Corporate By-Laws.
- 3. For information relating to the *Planning Act 2016* log on to www.dilgp.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

6. Other

This advice includes extracts from the Act with respect to making representations about conditions, refer to Attachment 2.

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. 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). Refer to Schedule 3.

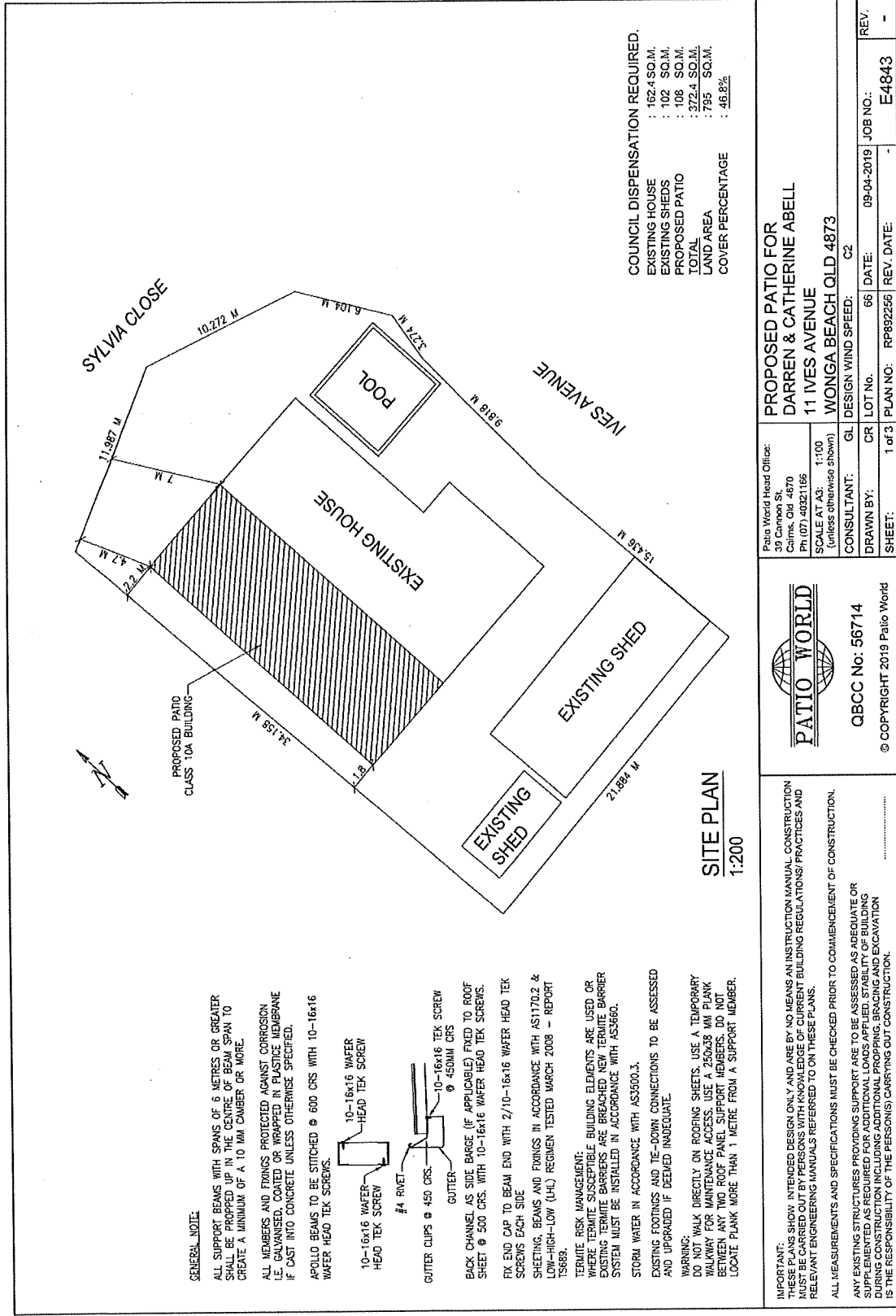
Should you require any further clarification regarding this matter, please contact Jenny Elphinstone of Development Assessment and Coordination on 07 4099 9482 or via email at enquiries@douglas.qld.gov.au .

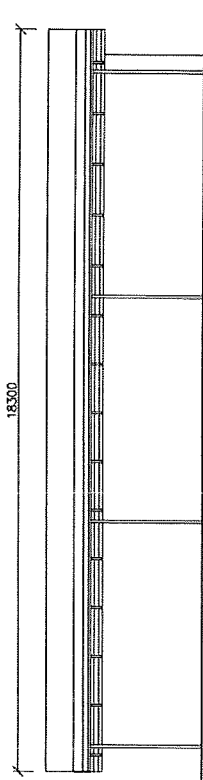
Yours faithfully

PAUL HOYE
Manger Environment and Planning

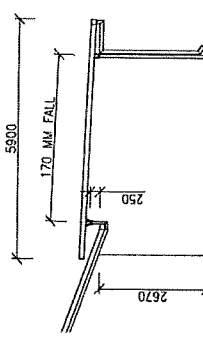
Attachment 1 – Approved Drawing(s) and/or Document(s)
Attachment 2 – Rights of Representation and Rights of Appeal

ATTACHMENT 1 APPROVED PLAN(S) & DOCUMENT(S)

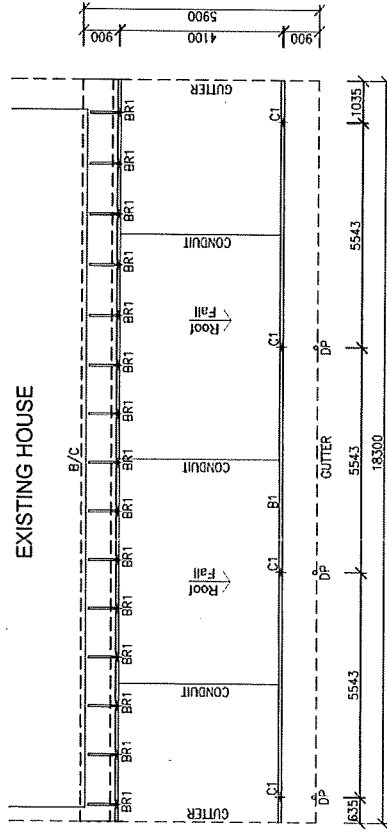




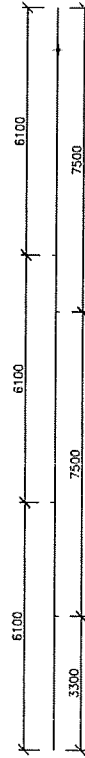
ELEVATION A
1:100



ELEVATION D
1:100




PLAN VIEW
1:100



BEAM SPLICE
1:100

- APOLLO ROOF - 108 SQ. M. COVER
41 SHEETS @ 5825 MM
REFER APOLLO MANUAL PG.20
- B1: 170x75 APOLLO BEAM
BRI: A1345 BUILD-OVER-ROOF BRACKET @ EVERY TRUSS. LOCATION AND QUANTITY SHOWN INDICATIVE ONLY.
- C1: 70x70x5 AL POST
HIGHEST POST LOAD: 25.4KN
ELECTRICAL: THREE CONDUITS

 <p>PATIO WORLD QBCC No: 56714 © COPYRIGHT 2019 Patio World</p>		<p>PROPOSED PATIO FOR DARREN & CATHERINE ABELL 11 IVES AVENUE WONGA BEACH QLD 4873</p>	
		<p>Patio World Head Office: 30 Cannon St. Calms, Qld 4870 Ph (07) 40321186 SCALE AT A3: 1:100 (unless otherwise shown)</p>	
<p>CONSULTANT: GL DRAWN BY: CR SHEET: 2 of 3</p>		<p>DESIGN WIND SPEED: C2 LOT No. 66 DATE: 09-04-2019 JOB NO.: E4843 REV. -</p>	

C/B
D/A

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*).¹⁹
- 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.²⁰
- 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.²¹
- 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.²²

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;²³ or

¹⁹ As provided for under section 5.

²⁰ 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.

²¹ 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.

²² 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.

²³ This provision is subject to section 29.3.

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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

- (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
 - (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
 - (f) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.

- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, table 1, item 1—each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); and

- (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
 - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.
- (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.