

# Cloncurry Shire Council

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Our ref: 225331

22 March 2018

Matthew Hasted  
40 Uhr Street  
CLONCURRENCY QLD 4824  
Email: [mhasted@hotmail.com](mailto:mhasted@hotmail.com)

Dear Matthew

**REFERRAL AGENCY RESPONSE — SITING DISPENSATION – 40 UHR STREET,  
CLONCURRENCY APPROVAL (WITH CONDITIONS)**  
(Given under section 57 of the *Planning Act 2016*)

The development application described below was properly made to the Cloncurry Shire Council on 16 February 2018.

**Applicant details**

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Applicant name: Matthew Hasted  
Applicant contact details: 40 Uhr Street  
CLONCURRENCY QLD 4824

**Application details**

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Application number: TP01/18  
Approval sought: Development Permit  
Nature of development proposed: Referral Agency for Building Work – Referral Response  
Details of proposed development: Relaxation for set back from the southern side boundary of 200mm in lieu of the 1.5 metres required  
Category of assessment: Code Assessment

**Location details**

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Street address: 40 Uhr Street  
Real property description: Lot 13 on MPH14011  
Local government area: Cloncurry Shire Council

**Decision**

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Date of decision: 20 March 2018

Decision details: Approved in full with conditions. These conditions are set out in Attachment 1 and are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

**Details of the approval**

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Development permit Referral Agency for Building Work – Referral Response

**Conditions**

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This approval is subject to the conditions in Attachment 1.

**Further development permits**

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

1. Building Approval

**Properly made submissions**

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Not applicable—No part of the application required public notification.

**Rights of appeal**

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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*).

A copy of the relevant appeal provisions are attached.

**Currency period for the approval**

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This development approval will lapse at the end of the period set out in section 85 of *Planning Act 2016*, which is:

- If the development does not start within 2 years after the approval starts to take effect.

**Approved plans and specifications**

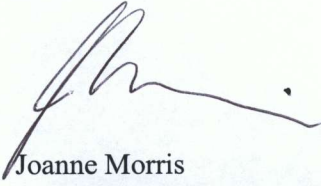
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A copy of the following plans is enclosed.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
<b>Aspect of development:</b> Referral Agency Response				
Site Plan 1 – 40 Uhr Street				

Should you have any questions or concerns in respect of this matter please contact Council's Planning and Development Officer, Larinda Turrell at this office.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Joanne Morris', with a long horizontal flourish extending to the right.

Joanne Morris  
Acting Chief Executive Officer

- Encl: Attachment 1—Assessment manager and concurrence agency conditions  
Attachment 2 – Statement of Reasons  
Attachment 3 - Appeal provisions  
Attachment 4 - Approved plans and specifications

**ATTACHMENT 1 CONDITIONS OF APPROVAL**

1. The development must generally comply with the plan(s) and supporting documentation referenced in the table below and attached as stamped “Approved Subject to Conditions” which forms part of this approval, unless otherwise specified by any condition of this approval.

Plan Name	Plan No.	Revision No.	Plan/Revision Date
Site Plan 1 – 40 Uhr Street			

2. Any stormwater runoff from the shed must be managed on the site so as not to adversely impact the adjoining property.
3. No building works are to commence without the necessary development permits in place.
4. That the carport is never to be enclosed.

## ATTACHMENT 2 – STATEMENT OF REASONS

### ***NOTICE ABOUT DECISION - STATEMENT OF REASONS***

The following information is provided in accordance with section 63(5) of *the Planning Act 2016*

Development application TP01/18 was received from the owner of 40 Uhr Street, Cloncurry also known as Lot 13 on MPH14011 for a permanent structure being a carport less than 1.5m from the southern side boundary.

The siting dispensation is for a proposed carport 18m long, 5.8m wide and 3.6m at its highest point, with the gutter being 200mm from the southern side boundary in lieu of the 1.5 metres required.

On 20 March 2018, the above development application was:

approved in full with conditions

#### **1. Reasons for the decision**

The reasons for this decision are:

The proposed carport is a single storey structure with a maximum height of 2.950 metres which will have minimal impact on the subject site and adjoining property. The extent of non-compliance with the minimum setback of 1.5 metres is assessed as being unlikely to impact on the adjoining property in terms of amenity and privacy. There is no objection to the proposal from a planning viewpoint.

#### **2. Assessment benchmarks**

The following are the benchmarks applying for this development:

<b>Benchmarks applying for the development</b>	<b>Benchmark reference</b>
<b>Queensland Development Code:</b> <b>P2 Buildings and structures –</b> (a) provide adequate daylight and ventilation to <i>habitable</i> rooms; and (b) allow adequate light and ventilation to <i>habitable</i> rooms of <i>buildings</i> on adjoining <i>lots</i> . (c) do not adversely impact on the amenity and privacy of residents on adjoining <i>lots</i> .	The proposed carport is an open carport that is not considered to impact on access to natural light, sunlight and does not create overbearing development for the adjoining dwelling house on the southern boundary nor their open space, and does not impact on the amenity and privacy.

## 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.



ATTACHMENT 4 – APPROVED PLAN



Cloncurry Shire Council  
Town Planning  
Approved with Conditions

TP 01/18 Approved Date: 20 MAR 2018