

Cloncurry Shire Council

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Our ref: WES:LGT (TP02/19)

17 April 2019

Wally and Robyn Ernst
c/- Cloncurry Constructions
PO Box 6
CLONCURRENCY QLD 4824
Email: brad@curryconstructions.com.au

Dear Wally and Robyn,

**REFERRAL AGENCY RESPONSE — SITING DISPENSATION – 29 SHEAFFE 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 1 April 2019.

Applicant details

Applicant name: Wally and Robyn Ernst
Applicant contact details: 29 Sheaffe Street
CLONCURRENCY QLD 4824

Application details

Application number: TP02/19
Approval sought: Development Permit
Nature of development proposed: Referral Agency for Building Work – Referral Response
Details of proposed development: Required siting of a permanent structure, being a carport less than 6m from the southern side boundary and 1.5m from the western side boundary
Category of assessment: Code Assessment

Location details

Street address: 29 Sheaffe Street
Real property description: Lot 3 on RP718624
Local government area: Cloncurry Shire Council

Decision

Date of decision: 16 April 2019

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

Development permit Referral Agency for Building Work – Referral Response

Conditions

This approval is subject to the conditions in Attachment 1.

Further development permits

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

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

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*. 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 is attached.

Currency period for the approval

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

A copy of the following plans is enclosed.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Aspect of development: Referral Agency Response				
Site Plan 1 – 29 Sheaffe Street	Cloncurry Constructions	01.04.09		
ShedTec Elevation Plan	ShedTec	09/01/2019	215474	

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



Brendan Pearce
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 – 29 Sheaffe Street			01/04/2009
Shed Tec - Elevations	215474		09/01/2019

2. Dispensation is valid for twelve (12) months;
3. Any stormwater runoff from the carport must be managed on the site so as not to adversely impact the adjoining property;
4. Any gates along the boundary must open onto the applicant's property and NOT Council's verge/road reserve/footpath;
5. This Development Approval does not include an assessment of building work against the requirements of the *Building Act 1997* and does not permit building work to occur. Prior to the commencement of any building work, a Development Permit to carry out assessable building work under the *Building Act 1997* must be obtained.
6. Repair any damage to the existing kerb and channel, footpath or roadway (including removal of concrete slurry from footways, roads, kerb and channel and stormwater drains) and reinstate any existing traffic signs and pavement markings that have been removed or damaged during any works carried out in association with the approved development.
7. The carport is not to be enclosed at any time.

ATTACHMENT 2 - STATEMENT OF REASONS – TP02/19

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 29 Sheaffe Street, Cloncurry also known as Lot 3 on RP718624 for a permanent structure being a carport less than 6m from the southern side road boundary and 1.5m from the western side boundary.

The siting dispensation is for a proposed carport 19.8m long, 6m wide and 4.3m at its highest point, from the required 6m and 1.5m boundaries.

On the 16 April 2019, the above development application was approved in full, with conditions.

Reasons for the decision

The proposed carport is a single storey structure with a maximum height of 4.3 metres which will have minimal impact on the subject site and adjoining property. The extent of non-compliance with the minimum setback of 6 metres and 1.5m is assessed as being unlikely to impact on the adjoining property in terms of amenity and privacy.

Includes design and siting which provides a pleasant living environment for occupants, including enough useable private open space for recreation, visual outlook and service functions of the occupants;

Includes appropriate level of privacy for occupants of adjoining properties and provides safe vehicle access and parking for residential use.

There is no objection to the proposal from a planning viewpoint.

1. Assessment benchmarks

The following are the benchmarks applying for this development:

Benchmarks applying for the development	Benchmark reference
Queensland Development Code: P2 Buildings and structures – (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 western 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—
 - (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.

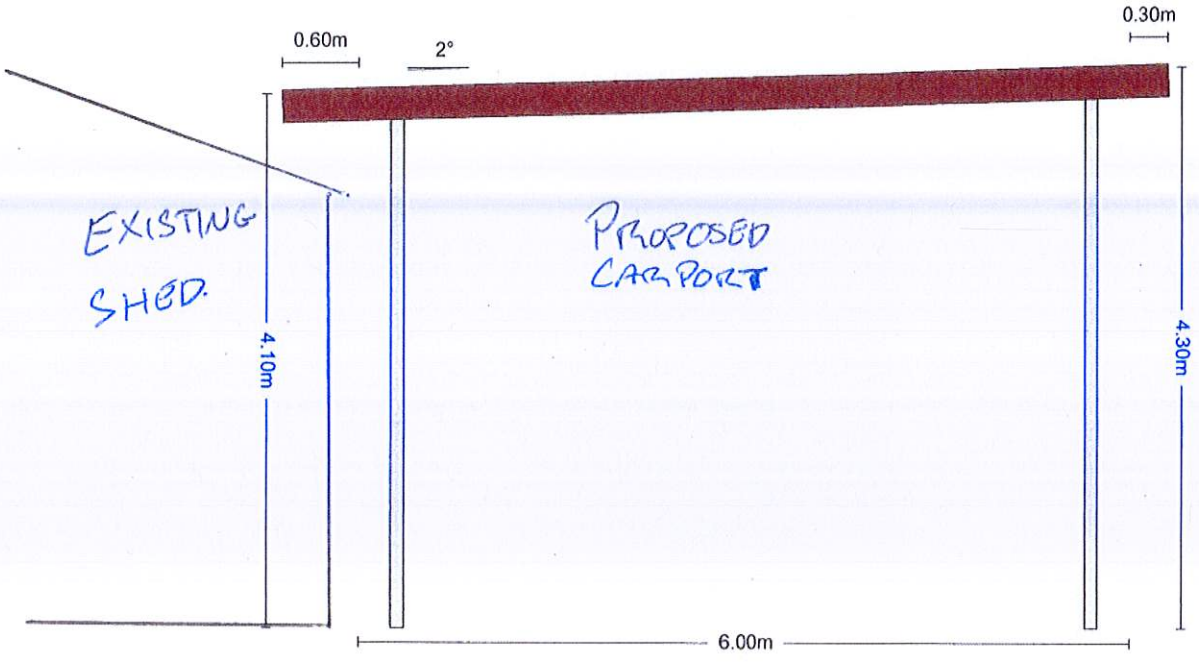
232 Rules of the P&E Court

- (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 PLANS



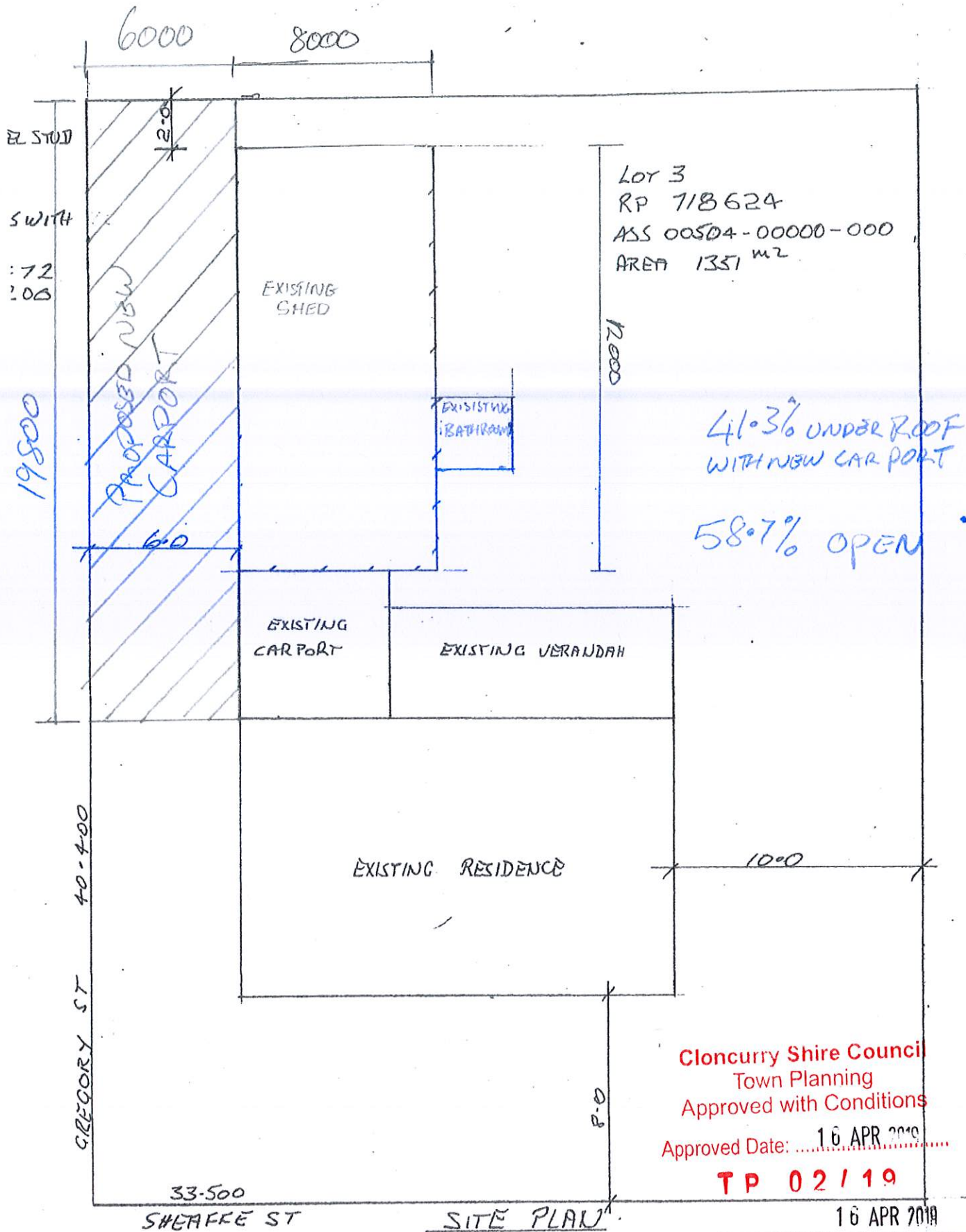
Cloncurry Constructions Pty Ltd		Quotation
ABN: 42 063 776 125	Phone: 07 4742 1801	No: 215474
Address: Lot 131 Powerhouse Rd Cloncurry QLD 4824	Fax: 07 4742 2285	Date: 09/01/2019
Email: brad@curryconstructions.com.au	Lic No: 1048674	Valid: 30 Days



Front View
From WEST SIDE



Side View
From GREGORY ST



PROPOSED STORE SHED & BATHROOM
FOR W & R ERNST
AT 29 SHEAFFE ST CLONCURRY,
PAGE 7:7 PLAN ELEVATION SITE PLAN
BUILDER CLONCURRY CONST. 1-4-09

