

Our Reference: DISBLD/2025/86
Contact Officer: Jackie Blechynden
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CONCURRENCE AGENCY RESPONSE*Planning Act 2016 Section 56*

Pablo Pier Byass
PO Box 11347
CENTENARY HEIGHTS QLD 4350

Email: [REDACTED]

29 January 2025

Dear Sir & Madam,

Location: 4 Grey Street, SOUTH TOOWOOMBA QLD 4350
Property Description: Lot 58 SP207970

The Toowoomba Regional Council as a concurrence agency under the *Planning Act 2016* advises the assessment manager that Council has assessed the proposal received on 9 January 2025 and has no objection as per the details listed below. The assessment has been made pursuant to the provisions of the *Queensland Development Code, Mandatory Part 1.1*.

Details of the Assessment

Council has no objection to the proposal to establish:

- A new vertical garden with a length that spans the entire rear boundary of approximately 16.7m and encompasses the side boundaries of the back yard making this a built-to-boundary structure, with an apex height of 2.4m.

Conditions

The proposed Wall is approved generally in accordance with the plans (REF: Drawing No. GSVG2501 002, 008, 009) prepared by the applicant and supporting documentation received by Council on 9 January 2025.

NIL Conditions**Advices**

Please note this is not an approval to carry out building work.

This assessment has not considered the provisions of other parts of the *Queensland Development Codes*, *National Construction Code Series (NCC)* or the *Toowoomba Regional Planning Scheme*, except where identified.

Further approvals/referrals may be required.

Yours faithfully



Tennille Durham
Acting Principal Built Environment
Environmental and Regulatory Services

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 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, section 316(2) 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—

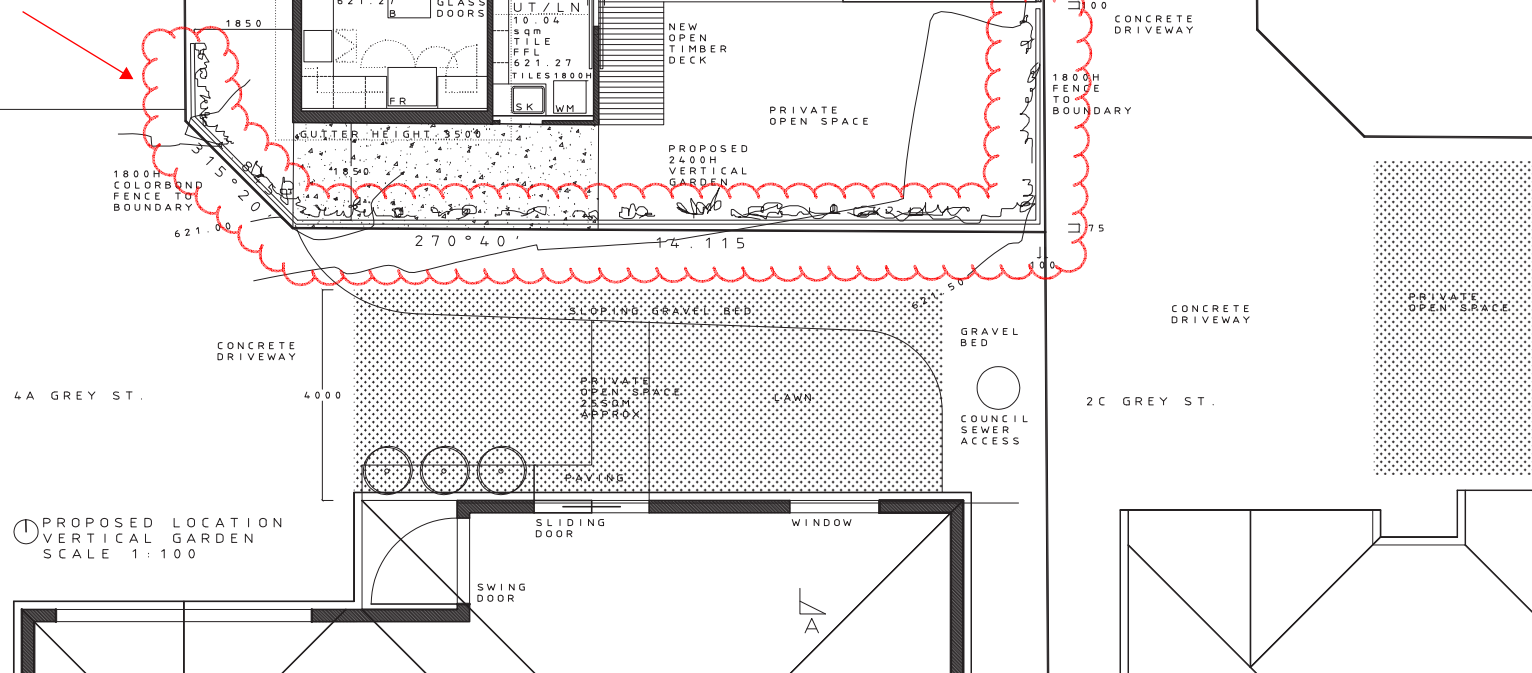
- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
- (c) is not subject 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

Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
1. Development applications An appeal may be made against— (a) the refusal of all or part of the development application; or (b) the deemed refusal of the development application; or (c) a provision of the development approval; or (d) if a development permit was applied for—the decision to give a preliminary approval.			
Table 1 Appeals to the P&E Court and, for certain matters, to a tribunal			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	1 A concurrence agency that is not a co-respondent 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application



TOOWOOMBA REGIONAL COUNCIL

CONCURRENCE AGENCY RESPONSE

This plan and attached documents form part of the
Development Approval dated
29/01/2025
and is subject to conditions of Approval Number
DISBLD/2025/86


Authorised Person

This approval relates only to the
proposed Vertical Garden Wall.
All other works are excluded
from the approval.

4 GREY STREET

SOUTH TOOWOOMBA, QUEENSLAND,
AUSTRALIA 4350

PROJECT

ALTERATIONS + ADDITIONS TO
EXISTING RESIDENCE
(PROPOSED
VERTICAL GARDEN
WITHIN SOUTH BOUNDARY)

DESIGN

PB

DRAWINGS

PB

ATTN:

THESE DRAWINGS MUST NOT BE
SCALED. FIGURED DIMENSIONS MAY
ONLY BE TAKEN FROM THESE
DRAWINGS AND THE NATIONAL
CONSTRUCTION CODE.

NOTES

PLEASE NOTE:
BUILDING PLAN SHOWN HAS BEEN
APPROVED + IS CURRENTLY UNDER
CONSTRUCTION.

ONLY PROPOSED VERTICAL GARDEN
IS SUBJECT OF THIS SITING
DISCRETION APPLICATION.

STAGE

PLANNING

PURPOSE

SITING DISCRETION

DATE

09.01.2025

SCALE

1:50 @ A3

DRAWING SET

GSVG2501

DRAWING

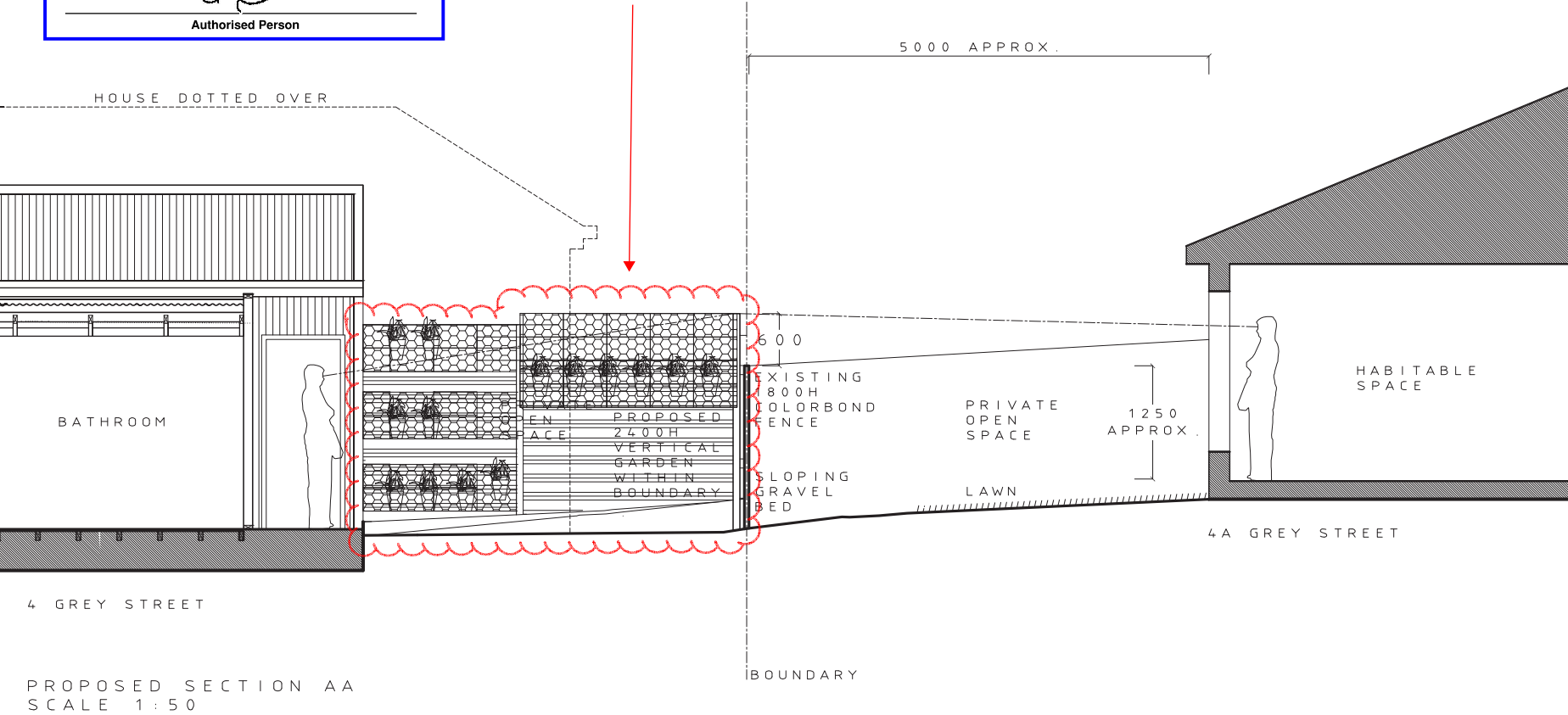
PROPOSED
SECTION AA

REVISION

A

DRAWING NO.

008



TOOWOOMBA REGIONAL COUNCIL

CONCURRENCE AGENCY RESPONSE

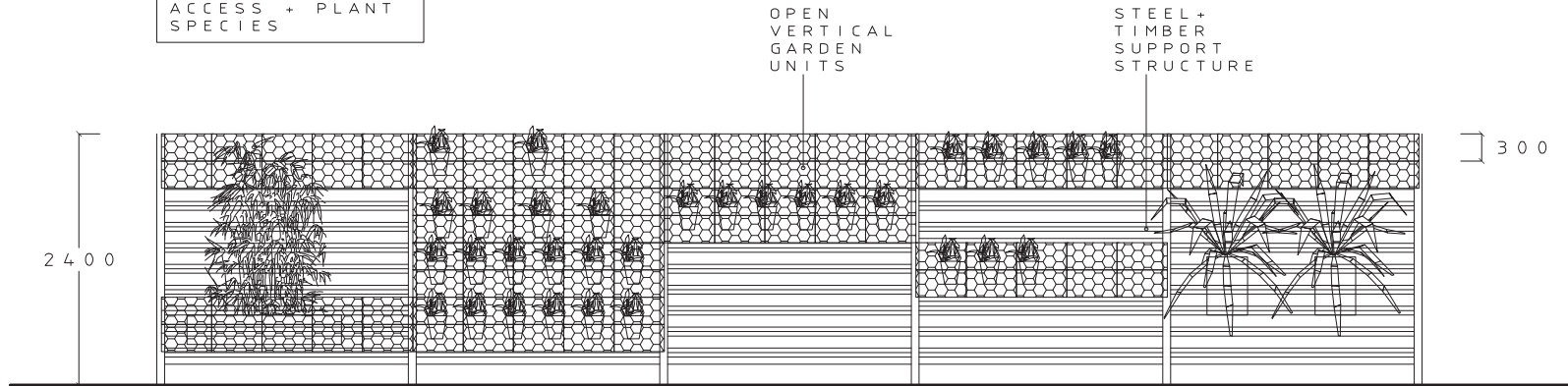
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PLEASE NOTE :
CONFIGURATION
OF VERTICAL
GARDEN TO VARY
WITH SOLAR
ACCESS + PLANT
SPECIES



PROPOSED TYPICAL ELEVATION
VERTICAL GARDEN
SCALE 1:50

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PURPOSE

SITING DISCRETION

DATE

09.01.2025

SCALE

1:50 @ A3

DRAWING SET

GSVG2501

DRAWING

PROPOSED
TYPICAL ELEVATION
VERTICAL GARDEN

REVISION

A

DRAWING NO.

009