

Our Reference: EXEM/2024/7663  
CS Portal Reference: N/A  
Contact Officer: Elliott Barber  
Contact: (07) 4695 5685  
Email: [development@tr.qld.gov.au](mailto:development@tr.qld.gov.au)

**EXEMPTION CERTIFICATE**  
*Planning Act 2016 Section 46*

**RECEIVED**  
01/06/2026  
**TOOWOOMBA  
REGIONAL COUNCIL**

Megan Radford and Luke Radford  
C/- Property Projects Australia  
PO Box 3686  
TOOWOOMBA QLD 4350

Email: [james@propertyprojectsaustralia.com.au](mailto:james@propertyprojectsaustralia.com.au)  
[alistair@propertyprojectsaustralia.com.au](mailto:alistair@propertyprojectsaustralia.com.au)

29 November 2024

Dear Sir,

**Request for:** Exemption Certificate  
**Development Type:** Building Work - Partial Demolition of a Neighbourhood Character Place  
**Location:** 2 Fogarty Street, EAST TOOWOOMBA QLD 4350  
**Property Description:** Lots 12, 13 and 14 RP16707

I refer to your request for an Exemption Certificate received 20 November 2024. Toowoomba Regional Council has assessed the proposed assessable Building Work for demolition in the front half of a Neighbourhood Character Place (Table 5.7:1 of Chapter 5.7 – Categories of development and assessment – Building Work of the *Toowoomba Regional Planning Scheme 2012 (TRPS)*) at the abovementioned location.

I wish to advise that an exemption certificate has been granted on 29 November 2024 for development comprising Building Work for demolition in the front half of a Neighbourhood Character Place at the abovementioned location in accordance with the attached plan set.

Please find the Exemption Certificate attached. The development must be carried out in accordance with this certificate.

If you have any questions in relation to this certificate please contact Council's Senior Planner, Elliott Barber on the above telephone number.

Yours faithfully



Jayden Forbes-Mitchell  
Lead Senior Planner, Planning Branch

# Exemption Certificate

## Planning Act 2016 Section 46

<b>APPLICATION NUMBER:</b>	EXEM/2024/7663
<b>APPLICANT:</b>	Megan Jane Radford and Luke Mathew Radford
<b>DATE OF ISSUE:</b>	29 November 2024
<b>LOCATION:</b>	2 Fogarty Street, EAST TOOWOOMBA QLD 4350
<b>PROPERTY DESCRIPTION:</b>	Lots 12, 13 and 14 RP16707

### DESCRIPTION OF THE DEVELOPMENT

The following development at the abovementioned property is exempt under this certificate:

Building Work for demolition within the front half of a Neighbourhood Character Place (Patial Demolition) as per the following plans:

**Plan No:** SD11-01A

**Description:** Proposed Demolition Extents, prepared by Elia Architecture and dated 16 October 2024

### REFERRAL AGENCIES

Nil.

### REASONS FOR GIVING EXEMPTION CERTIFICATE

The development is exempt as per this certificate under Section 46(3)(b) of the *Planning Act 2016* for the reason that the effects of the development would be minor or inconsequential, considering the circumstances under which the development was categorised as assessable development.

- The proposed works substantially retain the Neighbourhood Character Place and features of the structure that contribute to the established local streetscape are reinstated (verandah) or retained in an altered format (gable end).
- The proposed works do not compromise the purpose and overall outcomes sought for land within the Neighbourhood Character Overlay and is able to demonstrate compliance with the relevant Performance Outcomes and Assessment Benchmarks.
- The proposed demolition works are not to be conducted in isolation and are a necessary prerequisite to enable proposed alterations and additions to occur to the Neighbourhood Character Place under Development Application PSW/2024/5440.

### WHEN EXEMPTION CERTIFICATE CEASES TO HAVE EFFECT

This exemption certificate has effect for two years from the day after the day it is given.

### ADVICE NOTES

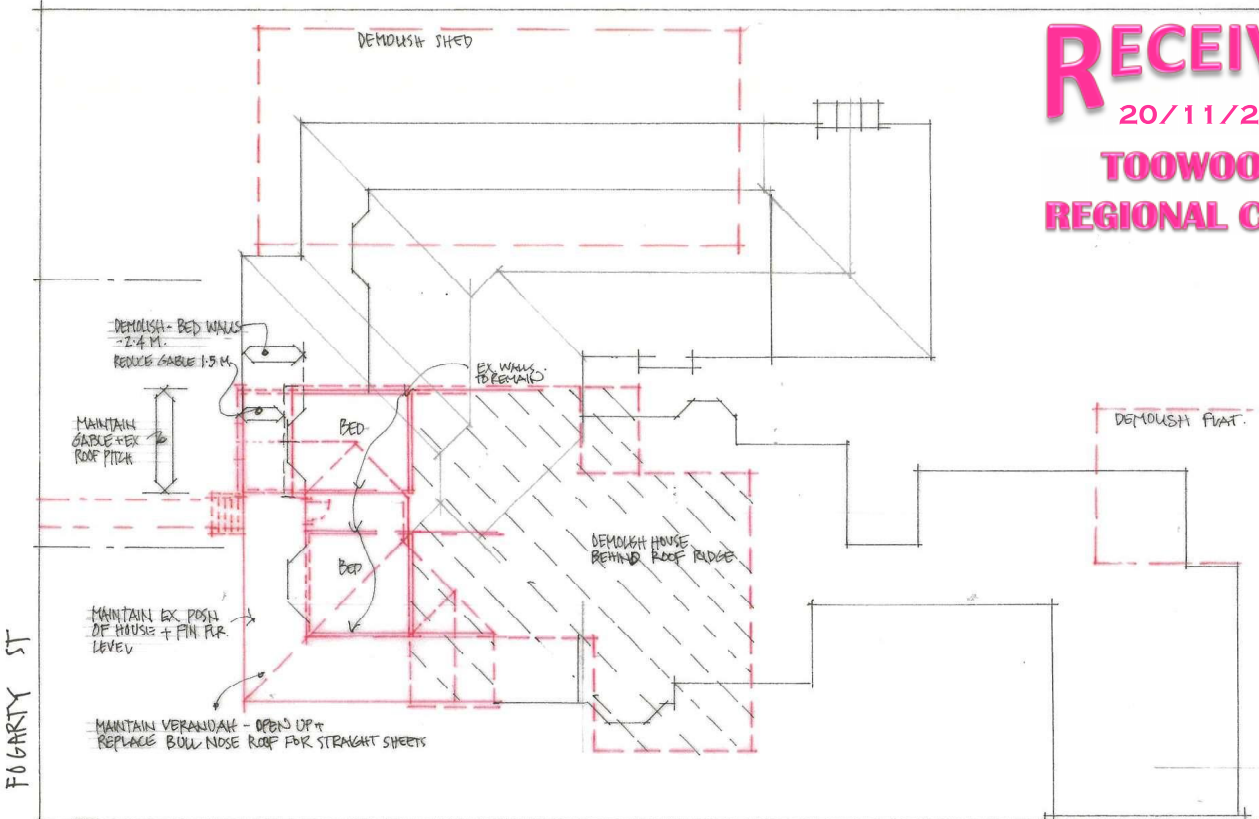
This exemption relates to development (Building Work) requiring approval under the *Planning Act 2016*. It is the approval holder's responsibility to obtain any other necessary approvals, licences or permits required under State and Federal legislation or Council local law, prior to carrying out the development. Information with respect to other Council approvals, licenses or permits may be found on the Toowoomba Regional Council website. For information about State and Federal requirements please consult with these agencies directly.

The development (Building Work) has only been assessed in accordance with the provisions of the *Toowoomba Regional Planning Scheme 2012*.

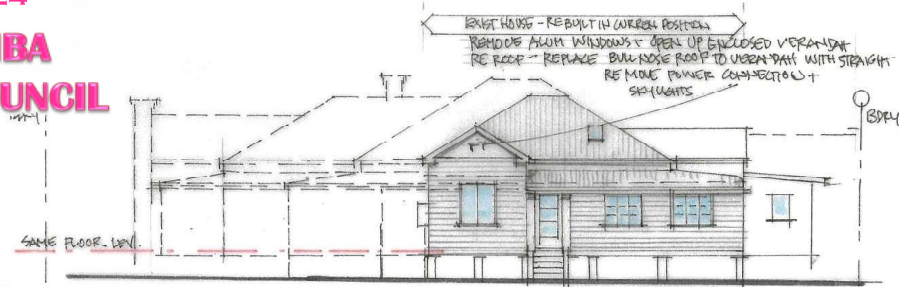
### ATTACHMENTS

Attachment 1 – Referenced Plans

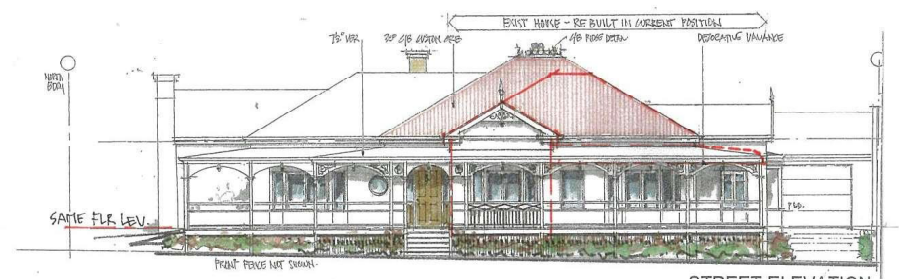
**RECEIVED**  
 20/11/2024  
**TOOWOOMBA**  
**REGIONAL COUNCIL**



**FLOOR PLAN** 1:200



**EXISTING STREETSCAPE**



**PROPOSED STREETSCAPE** 1:200

**STREET ELEVATION**

**RADFORD RESIDENCE ALTERATIONS** 5011-01A

at 2 FOGARTY STREET, EAST TOOWOOMBA QLD 4350  
 for MEGAN RADFORD

**PROPOSED DEMOLITION EXTENTS**  
 drawing title / scale  
 project no 240404  
 date 16-10-24



PO Box 380, 9/661 Oxley Road, Corinda QLD 4075  
 p: 07 3379-7611 e: bris@elia.com.au  
 PO Box 547, 4/109 Herries St, Toowoomba QLD 4350  
 p: 07 4632-0200 f: 07 4638 8044 e: tmba@elia.com.au

Our Reference: PSW/2024/5440  
CS Portal Reference: N/A  
Officer: Elliott Barber  
Contact: (07) 4695 5685  
Email: [development@tr.qld.gov.au](mailto:development@tr.qld.gov.au)

**Development Application Decision Notice  
APPROVAL**

*Planning Act 2016 Section 63*

Megan Radford and Luke Radford  
C/- Property Projects Australia Pty Ltd  
PO Box 1264  
NEW FARM QLD 4005

Email: [alistair@propertyprojectsaustralia.com.au](mailto:alistair@propertyprojectsaustralia.com.au)  
[marcus@propertyprojectsaustralia.com.au](mailto:marcus@propertyprojectsaustralia.com.au)

17 February 2025

Dear Sir,

**Location:** 2 & 2A Fogarty Street, EAST TOOWOOMBA QLD 4350  
**Property Description:** Lots 12-14 RP16707  
**Relevant Planning Scheme:** *Toowoomba Regional Planning Scheme 2012*

The Development Application for a Preliminary Approval for Building Work Assessable Against the Planning Scheme – Code – Additions and Alterations to a Neighbourhood Character Place, for the abovementioned property has been assessed and approved in full with Conditions. It is considered that the approved development generally complies with the relevant assessment benchmarks or can be conditioned to comply. The decision was made on 14 February 2025. The following provides all the relevant details:

**Details of Approval**

Preliminary Approval – Building Work (Planning Scheme Works) – Code – Additions and Alterations to a Neighbourhood Character Place

**Referral Agencies**

Concurrence Agencies Name & Address: N/A

Advice Agencies Name & Address: N/A

**Conditions and Advices**

Assessment Manager's Conditions: As per attached Schedule 1

Concurrence Agency Conditions: N/A

### Currency Period

In accordance with section 85(1)(c)(i) of the *Planning Act 2016* (Qld), this Development Approval lapses if the development does not substantially start within two (2) years of this Development Approval starting to have effect.

### Further Development Permits Required

- Building Work
- Plumbing and Drainage Work

### Submissions

Not applicable – no part of the application required notification.

### Rights of Appeal

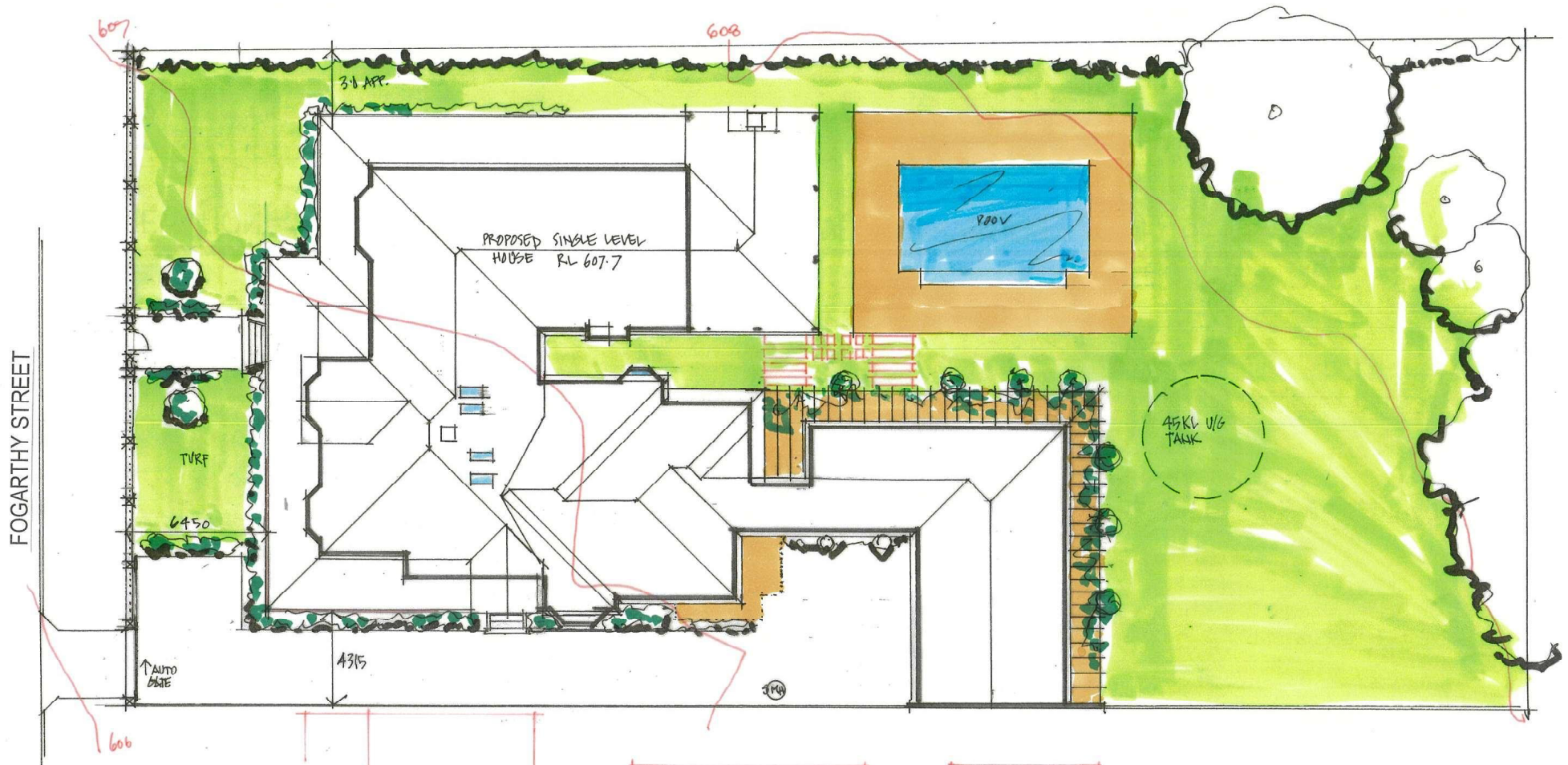
Attached is an extract from the *Planning Act 2016* which details your appeal rights regarding this decision.

The *Planning Act 2016* is available on the Office of the Queensland Parliamentary Counsel website via: <https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2016-025>.

Yours faithfully

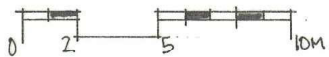


Jayden Forbes-Mitchell  
Acting Principal Planner, Planning Branch



FOGARTHY STREET

**SITE PLAN** 1:200 24/01/25



**RP DESCRIPTION**

LOTS 12, 13 14 on RP 18707  
Area 1983 sqm



**TOOWOOMBA REGIONAL COUNCIL**

**APPROVED PLAN**

referred to in Council's Decision Notice dated  
**17 February 2025**

This plan is subject to conditions of Approval Number  
**PSW/2024/5440**



Assessment Manager

**RADFORD RESIDENCE ALTERATIONS** *SD0-02 E*

at 2 FOGARTY STREET, EAST TOOWOOMBA QLD 4350  
for MEGAN RADFORD

**PROPOSED SITE PLAN**

drawing title / scale  
PO Box 380, 9/661 Oxley Road, Corinda QLD 4076  
p: 07 3379-7611 e: bris@elia.com.au

drawing no  
©  
**240404**  
project no  
**24-1-25**  
date



PO Box 547, 4/109 Herries St, Toowoomba QLD 4350  
p: 07 4632-0200 f: 07 4638 8044 e: tmbs@elia.com.au

TOOWOOMBA REGIONAL COUNCIL

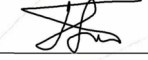
APPROVED PLAN

referred to in Council's Decision Notice dated

17 February 2025

This plan is subject to conditions of Approval Number

PSW/2024/5440



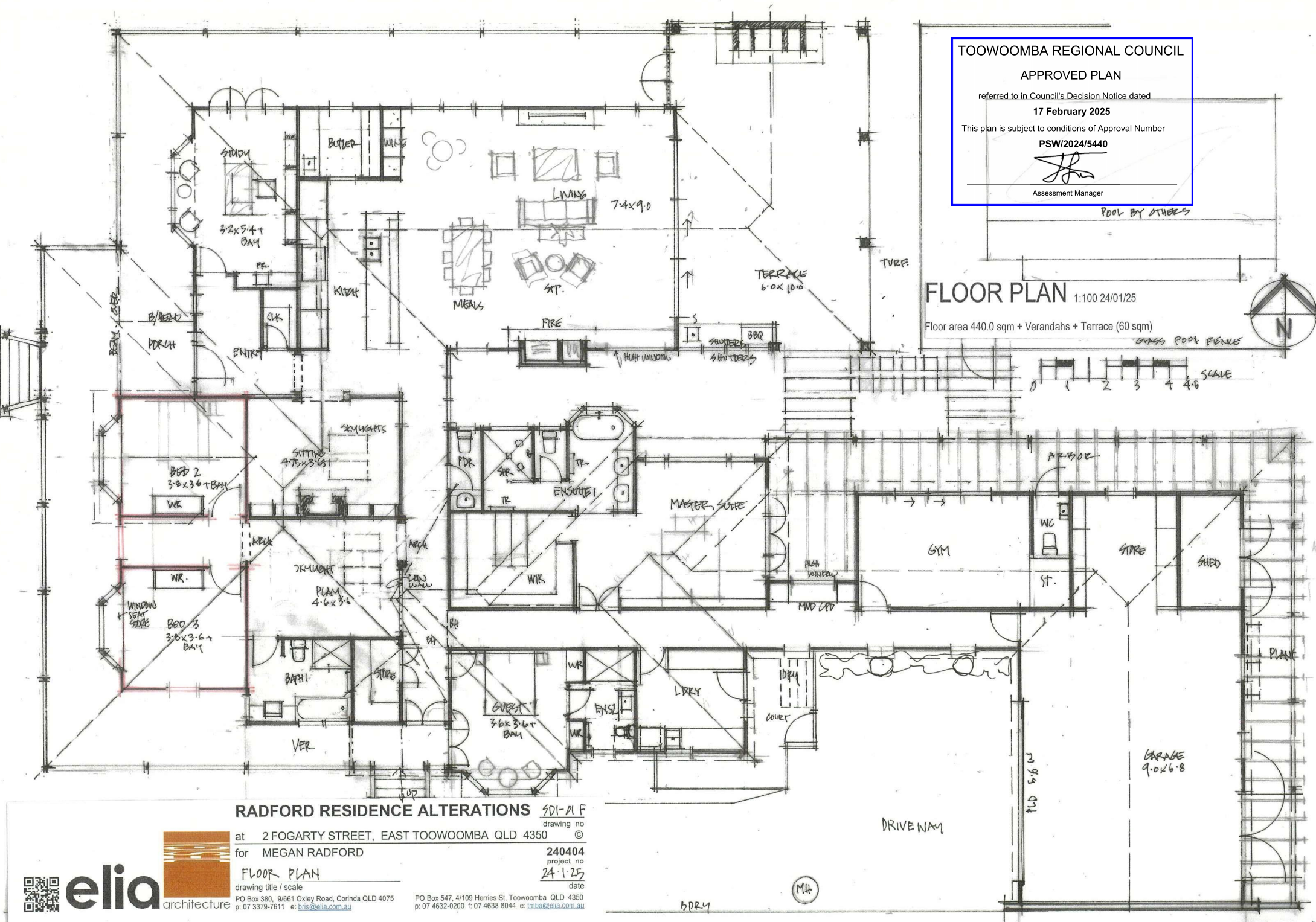
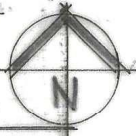
Assessment Manager

POOL BY OTHERS

# FLOOR PLAN 1:100 24/01/25

Floor area 440.0 sqm + Verandahs + Terrace (60 sqm)

CROSS POOL FENCE



## RADFORD RESIDENCE ALTERATIONS SD1-21 F

drawing no  
at 2 FOGARTY STREET, EAST TOOWOOMBA QLD 4350 ©  
for MEGAN RADFORD

240404

project no

24-1-25

date



FLOOR PLAN

drawing title / scale

PO Box 380, 9/661 Oxley Road, Corinda QLD 4075  
p: 07 3379-7611 e: bris@elia.com.au

PO Box 547, 4/109 Herries St, Toowoomba QLD 4350  
p: 07 4632-0200 f: 07 4638 8044 e: tmba@elia.com.au

5DRY



DRIVEWAY



STREET ELEVATION 1:100



SOUTH ELEVATION 1:100

**EXTERNAL FINISHES SCHEDULE**

- ROOF - Custom Orb - Colorbond
- GUTTERS - Colorbond Quad
- FASCIA - Timber Painted or Colorbond
- VALANCE + Gable detail - DETAIL TIMBER PAINTED
- FINIALS - Dr Timber Painted
- GABLE ROLLS - Colorbond
- WALLS - Dr Timber Weatherboards - Painted
- BALUSTRADE - Dr Timber Top and Timber dowels balusters, and Sq Tmbr crosses
- STAIRS - Timber painted
- SUBFLOOR INFILL - Dr Timber battens - Painted
- CHIMNEY - Select Face Brick and Conc Cap
- ARBORS - Dressed Timber
- FIRE WALL - Concrete Block

**TOOWOOMBA REGIONAL COUNCIL**

**APPROVED PLAN**

referred to in Council's Decision Notice dated  
**17 February 2025**  
 This plan is subject to conditions of Approval Number  
**PSW/2024/5440**

Assessment Manager

DA MARK UP SD 3-01.D.

**RADFORD RESIDENCE ALTERATIONS SD 3-01.E**

at 2 FOGARTY STREET, EAST TOOWOOMBA QLD 4350

for MEGAN RADFORD

STREET ELEVATION + SOUTH

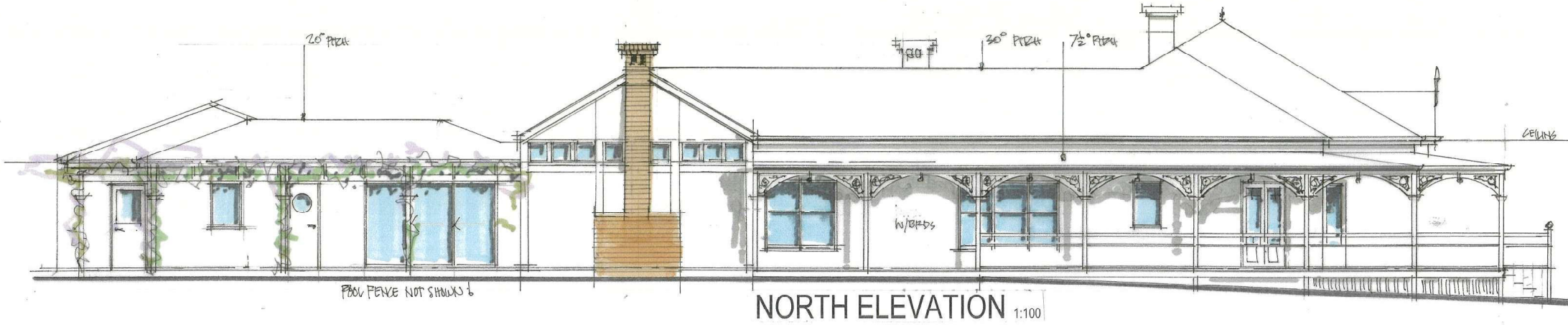
drawing title / scale  
 PO Box 380, 9/661 Oxley Road, Corinda QLD 4075  
 p: 07 3379-7611 e: bris@elia.com.au

drawing no  
 240404  
 project no  
 10.2.25  
 date

PO Box 547, 4/109 Herries St, Toowoomba QLD 4350  
 p: 07 4632-0200 f: 07 4638 8044 e: jmba@elia.com.au

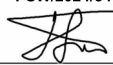


**elia** architecture



**EXTERNAL FINISHES SCHEDULE**

- ROOF – Custom Orb - Colorbond
- GUTTERS – Colorbond Quad
- FASCIA – Timber Painted or Colorbond
- VALANCE + Gable detail – DETAIL TIMBER PAINTED
- FINIALS – Dr Timber Painted
- GABLE ROLLS – Colorbond
- WALLS – Dr Timber Weatherboards – Painted
- BALUSTRADE – Dr Timber Top and Timber dowels balusters, and Sq Tmbr crosses
- STAIRS – Timber painted
- SUBFLOOR INFILL – Dr Timber battens – Painted
- CHIMNEY – Select Face Brick and Conc Cap
- ARBORS – Dressed Timber
- FIRE WALL – Concrete Block

**TOOWOOMBA REGIONAL COUNCIL**  
**APPROVED PLAN**  
 referred to in Council's Decision Notice dated  
**17 February 2025**  
 This plan is subject to conditions of Approval Number  
**PSW/2024/5440**  
  
 Assessment Manager

**RADFORD RESIDENCE ALTERATIONS SD3-02 D**

at 2 FOGARTY STREET, EAST TOOWOOMBA QLD 4350  
 for MEGAN RADFORD  
**NORTH + EAST ELEVATIONS**  
 drawing title / scale  
 PO Box 380, 9/661 Oxley Road, Corinda QLD 4075  
 p: 07 3379-7611 e: [bris@elia.com.au](mailto:bris@elia.com.au)  
 drawing no 240404  
 project no 6-8-24  
 date  
 PO Box 547, 4/109 Herries St, Toowoomba QLD 4350  
 p: 07 4632-0200 f: 07 4638 8044 e: [tmba@elia.com.au](mailto:tmba@elia.com.au)





# TOOWOOMBA REGIONAL COUNCIL

A.B.N. 997 8830 5360

## SCHEDULE 1

### PRELIMINARY APPROVAL FOR BUILDING WORK ASSESSABLE AGAINST THE PLANNING SCHEME – CODE

<b>APPLICATION NUMBER:</b>	PSW/2024/5440
<b>APPLICANT:</b>	Megan Radford and Luke Radford
<b>LOCATION:</b>	2 & 2A Fogarty Street, EAST TOOWOOMBA QLD 4350
<b>PROPERTY DESCRIPTION:</b>	Lots 12-14 RP16707
<b>APPROVED USE:</b>	Additions and Alterations to a Neighbourhood Character Place
<b>ZONING / PRECINCT:</b>	Low Density Residential Zone / General Precinct

#### A. ASSESSMENT MANAGER'S CONDITIONS:

##### PLANNING

##### APPROVED USE

1. This Preliminary Approval is for Building Work Assessable against the Planning Scheme (Additions or Extensions to a Neighbourhood Character Place).

##### APPROVED PLANS

2. The development must be carried out generally in accordance with the Approved Plans listed below, subject to the conditions of this Development Approval:

**Plan No:** SD0-02, Issue E

**Description:** Proposed Site Plan, prepared by elia architecture, dated 24 January 2025 and received by Council 10 February 2025.

**Amendments:** Nil.

**Plan No:** SD1-01, Issue F

**Description:** Floor Plan, prepared by elia architecture, dated 24 January 2025 and received by Council 10 February 2025.

**Amendments:** Nil.

**Plan No:** SD3-01, Issue E

**Description:** Street Elevation + South Elevation, prepared by elia architecture, dated 10 February 2025 and received by Council 10 February 2025.

**Amendments:** Nil.

**Plan No:** SD3-02, Issue D

**Description:** North and East Elevations, prepared by elia architecture, dated 6 August 2024 and received by Council 29 August 2024.

**Amendments:** Nil.

## **FURTHER DEVELOPMENT APPROVALS**

3. This Preliminary Approval does not authorise the carrying out of assessable development. A Development Permit for Building Work must be obtained prior to the commencement of Building Work.

## **B. ADVICES:**

### **GENERAL ADVICES**

#### **OTHER LAWS & REQUIREMENTS**

- 1) This Development Approval relates to development requiring approval under the *Planning Act 2016* only. It is the approval holder's responsibility to obtain any other necessary approvals, licenses or permits required under State and Federal legislation or Council local law, prior to carrying out the development. Information with respect to other Council approvals, licenses or permits may be found on the Toowoomba Regional Council website. For information about State and Federal requirements please consult with these agencies directly.
- 2) Carrying out works on a road or interfering with the road or its operation will require a permit under *Subordinate Local Law No. 1.15 (2020)*. The application form can be found on Council's website at [www.tr.qld.gov.au](http://www.tr.qld.gov.au). For further information contact the Road Operations Branch through Council's Customer Service Centre on 131 872.
- 3) The development has only been assessed in accordance with the provisions of the *Toowoomba Regional Planning Scheme 2012*. No assessment has been made in respect of the provisions of the *Building Code of Australia* and/or the *Queensland Development Code*.

#### **WHEN APPROVAL STARTS TO HAVE EFFECT**

- 4) This Development Approval starts to have effect in accordance with the provisions of Section 71 of the *Planning Act 2016*.

#### **WHEN APPROVAL LAPSES**

- 5) This Development Approval will lapse in accordance with the provisions contained in Sections 85 and 88 of the *Planning Act 2016*, unless otherwise stated elsewhere within this Development Approval.

#### **EXCAVATION & FILLING**

- 6) The *Toowoomba Regional Planning Scheme 2012* (TRPS) declares excavation and filling activity involving less than 50m<sup>3</sup> of material and excavation and filling activity to a depth or height lower than 1m to be accepted development. Any combination of excavation or filling where 50m<sup>3</sup> or more of fill is deposited on, or 50m<sup>3</sup> or more of excavated material is removed from the premises and excavation or filling is not associated with 'Building Work' as defined under the *Planning Act 2016*, must obtain an Operational Work approval from Council before commencing site works.

## **ENVIRONMENTAL HARM**

- 7) The *Environmental Protection Act 1994* (EP Act) states that a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm.

Environmental harm includes environmental nuisance. In this regard persons and entities involved in the civil, earthworks, construction and operational phases of this development are to adhere to their 'general environmental duty' to minimise the risk of causing environmental harm. Environmental harm is defined by the EP Act as any adverse effect, or potential adverse effect (whether temporary or permanent and of whatever magnitude, duration or frequency) on an environmental value, and includes environmental nuisance.

Therefore, no person should cause any interference with the environment or amenity of the area by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit, sediment, oil or otherwise, or cause hazards likely in the opinion of the Administering Authority to cause undue disturbance or annoyance to persons or affect property not connected with the use.

## **WATER POLLUTION**

- 8) In accordance with the *Environmental Protection Act 1994*, all sand, silt, mud, paint, cement, concrete, construction material and demolition material, and other such waste material must not be deposited or placed where it could reasonably be expected to travel into a roadside gutter, stormwater drain or watercourse. On the spot fines apply for such offences.

## **FIRE ANTS**

- 9) The State of Queensland has been declared a quarantine area for the Red Imported Fire Ant. Should this approval involve the movement of restricted items from areas of known infestation the provisions of the *Biosecurity Act 2014* apply, compliance with statutory provisions must be achieved.

## **BUILDING APPROVAL REQUIRED FOR CERTAIN FENCES & RETAINING WALLS**

- 10) A Development Approval for Building Work is required for the following:
- 10.1 Fences where:
    - The fence is part of a pool fence; or
    - The fence is over 2m in height (from natural ground level); or
    - The fence is attached to a retaining wall and the combined mean height is over 2.4m in height from natural ground level;
  - 10.2 Retaining walls where:
    - The wall is retaining fill having a height greater than 1m in height above the wall's natural ground surface; or
    - The wall is located within 1.5m of a building or another retaining wall; or
    - There is a load or surcharge imposed above the retaining wall (i.e. driveway, batter, building or the like); and
  - 10.3 Retaining walls and/or fences are sited within 1.5m of a property boundary line and the combined height of the structures exceeds 2m (including where the retaining wall is less than 1m).

### **BUILDING OVER, OR NEAR, COUNCIL INFRASTRUCTURE**

- 11) Any construction carried out near or over existing Council services should be in accordance with Council's adopted Policy (*Queensland Development Code NMP 1.4 – Excavation and Piling Near Sewers, Stormwater Drains and Water Mains*) and Council's Planning Scheme Policy SC6.3 PSP No. 3– *Water and Wastewater Infrastructure*. A Concurrence Agency referral of the Building Work Application to Council's Water and Wastewater Services Branch may be required.

### **MANDATORY RAINWATER TANKS**

- 12) Toowoomba Regional Council requires mandatory rainwater tanks and water saving measures on new dwellings and commercial buildings. Queensland Development Code (QDC) 4.2 is now applicable to any new class 1 (a)(i) buildings (single detached dwellings) on blocks greater than 250m<sup>2</sup>. Dwellings on lots less than 250m<sup>2</sup> are exempt. Queensland Development Code 4.3 is applicable for any new commercial buildings (class 5 to 9). Please note that Multiple Dwellings are exempt. Further information can be found at:

<https://www.tr.qld.gov.au/environment-water-waste/water-supply-dams/water-restrictions-conservation/13320-rainwater-tanks>

### **C. ATTACHMENTS:**

- Approved Development Plans
- Appeal provisions pursuant to the *Planning Act 2016*.

Chapter 6, Part 1 of the Planning Act 2016 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 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) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
      - (iv) 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.

# APPENDIX C

## Approvals

Prepared by:

**Toowoomba Regional Council**