

20 September 2024

Charleville Construction & Tiles Pty Ltd
c/ NorthGroup Consulting
3A/32 Billabong Street
Stafford QLD 4053

Email: brendan.andrews@northgroup.com.au

Dear Sir/Madam

Decision Notice – Refusal

Given under section 63 of the Planning Act 2016

Details of the decision are as follows:

DATE OF DECISION

Council refused the Development Application at the Council meeting on 18 September 2024.

APPLICATION DETAILS

Application No:	PA7776
Approval Sought:	Development Permit for a Material Change of Use for Multiple Dwelling
Description of the Development	Multiple Dwelling (4 units)
Planning Scheme:	<i>Murweh Shire Council Planning Scheme 2017 (Version 2)</i>

LOCATION DETAILS

Street Address:	158 King Street, Charleville
Real Property Description:	Lot 2 RP96590

DECISION DETAILS

The application has been refused for the following reasons:

- (a) The scale, density and character of the development is not complementary or compatible with the surrounding residential development.
- (b) The proposed development is inconsistent with the applicable assessment benchmarks of the Murweh Shire Planning Scheme 2017 (v2) specifically; Township Zone code, Purpose and overall outcomes, performance outcome 1 (assessable development), performance outcome 3

(Charleville residential precinct) and General development code, Purpose and overall outcomes, performance outcome 5 (building design), performance outcome 6 and 7 (Dual Occupancy and Multiple Dwellings).

- (c) Compliance cannot be achieved by imposing development conditions.

PROPERLY MADE SUBMISSIONS

Not applicable – no part of the application required public notification.

REFERRAL AGENCIES

There were no referral agencies as part of this application.

OTHER REQUIRMENTS UNDER SECTION 43 OF THE PLANNING REGULATION 2017

Not Applicable

RIGHTS OF APPEAL

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the Planning Act 2016 is attached (Attachment 2).

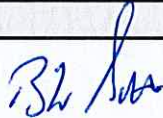
OTHER DETAILS

You are further advised that the truth and accuracy of the information provided in the application form and accompanying information is relied on when assessing and deciding this application. If you find an inaccuracy in any of the information provided above or have a query or need to seek clarification about any of these details, please contact Murweh Shire Council on (07) 4656 8355.

DELEGATED PERSON

Name: Bruce Scott (CEO)

Signature:



Enc. **Attachment 1** – Notice about a Decision Notice

Attachment 2 – Extract of Appeal Provisions (Chapter 6, Part 1 and Schedule 1 of the *Planning Act 2016*).

NOTICE ABOUT DECISION – STATEMENT OF REASONS

This Notice is prepared in accordance with s63(5) of the Planning Act 2016 to provide information about a decision that has been made in relation to a development application. The purpose of the Notice is to enable a public understanding of the reasons for the planning decision, specifically having regard to:

- the relevant parts of the Planning Scheme and Assessment Benchmarks against which the application was assessed; and*
- any other information, documents or other material Council was either required to, or able to, consider in its assessment.*

All terms used in this Notice have the meanings given them in the Planning Act 2016 or otherwise their ordinary meaning.

APPLICATION DETAILS

Application No:	PA7776
Applicant:	Charleville Construction & Tiles Pty Ltd c/ NorthGroup Consulting
Proposal:	Development Permit for Material Change of Use for Multiple Dwelling
Description of the Development:	Multiple Dwelling (4 units)
Street Address:	158 King Street, Charleville
Real Property Description:	Lot 2 RP96590
Planning Scheme:	Murweh Shire Council Planning Scheme 2017 (Version 2)
Zone:	Township
Precinct	Charleville residential precinct
Assessment Type:	Code

DECISION DETAILS

Type of Decision:	Refusal
Date of Decision:	18 September 2024

ASSESSMENT BENCHMARKS

The following Assessment Benchmarks applied to the development from the following Categorising Instruments:

Categorising Instrument (*Planning Regulation 2017*)

This application did not trigger any matters prescribed by the regulation

Categorising Instrument (*State Planning Policy - July 2017*)

Local Categorising Instrument (Murweh Shire Council Planning Scheme 2017 v2):

Assessment benchmarks:

Township zone code

General development code

Local Categorising Instrument (Variation Approval)

- Not applicable.

Local Categorising Instrument (Temporary Local Planning Instrument)

- Not applicable.

PUBLIC NOTIFICATION

Not applicable – no part of the application required public notification.

REASONS FOR THE DECISION

The application is **refused** for the following reasons:

- (a) The scale, density and character of the development is not complementary or compatible with the surrounding residential development.
- (b) The proposed development is inconsistent with the applicable assessment benchmarks of the Murweh Shire Planning Scheme 2017 (v2) specifically; Township Zone code, Purpose and overall outcomes, performance outcome 1 (assessable development), performance outcome 3 (Charleville residential precinct) and General development code, Purpose and overall outcomes, performance outcome 5 (building design), performance outcome 6 and 7 (Dual Occupancy and Multiple Dwellings).
- (c) Compliance cannot be achieved by imposing development conditions.

REASONS FOR APPROVAL DESPITE NON-COMPLIANCE WITH ASSESSMENT BENCHMARKS

Not applicable.

ADDITIONAL RELEVANT MATTERS FOR IMPACT ASSESSMENT

Not applicable.

OTHER MATTERS PRESCRIBED BY THE PLANNING REGULATION 2017

Not applicable.

OTHER DETAILS

If you wish to obtain more information about Council's decision, please refer to Council's webpage at <https://www.murweh.qld.gov.au/building-development-1/building-development/8>

ATTACHMENT 2

APPEAL RIGHTS

(Planning Act 2016 & Planning Regulation 2017)

Attached under separate cover (this page has been intentionally left blank)

- (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 a decision of the Minister, under chapter 7, part 4, to amend the registration of premises to include additional land in the affected area for the premises—20 business days after the day a notice is published under section 269A(2)(a); or
 - (e) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
 - (f) 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
 - (g) 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
- (h) 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