
DELEGATED AUTHORITY ITEM IMPLEMENTATION & ASSESSMENT BRANCH
MATERIAL CHANGE OF USE - CODE ASSESSMENT FOR A FAMILY ACCOMMODATION
- BC CURREY SURVEYS - LOT 182 ON RP156422 - 17 COURTNEY DRIVE, UPPER
COOMERA- DIVISION 2 FILE PN130860/01/DA2

BRIEF SUMMARY

Council is in receipt of a Material Change of Use application to legalise the unlawful constructed Family Accommodation at 17 Courtney Drive, Upper Coomera. The applicant previously has lodged an application which lapsed as a result of not responding to the Information Request within the statutory timeframe. Council's officers had concerns in relation to plumbing and drainage and requested further information which applicant failed to provide on time. This application accompanies the response to the Information Request which was issued by Council Officers previously.

BASIC INFORMATION

Title Details	Lot 182 on RP156422
Address	17 Courtney Drive Upper Coomera
Applicant	Joan Lillian & Christine Madden
Owner At Time Of Lodgement	Joan Lillian & Christine Madden
Current Owner	Joan Lillian & Christine Madden
Site Area	33,410 m²
Date Application Received	21 December 2005
Domain	N/A
LAP & Precinct	Coomera LAP
Approval Type	Development Permit
Further Development Permits	Building Works, Plumbing and Drainage, Operational Works (Landscaping), Vehicle Crossover Permit.

BACKGROUND

Council is currently in receipt of a Material Change of Use Application for a Family Accommodation as a result of a Show Cause Notice dated 11 June 2003. The proposed Family Accommodation was previously a Stable and was converted to a Family Accommodation unit in conjunction of the primary residence which was constructed over 11 years prior to this application.

On 26 November 2004, Council issued an Information Request which identified a number of plumbing and drainage issues which demonstrated non-compliance with the Plumbing and Drainage Act 2002. The applicant experienced great difficulty in obtaining appropriate details of existing plumbing and drainage system as the development was constructed. As a consequence of this difficulty and the timeframe for response to the Information Request has lapsed, the applicant has lodged a fresh application to proceed with the Material Change of Use application for a Family Accommodation.

PROPOSAL

Council is in receipt of a Material Change of Use for a Family Accommodation to formalise the use of an existing Family Accommodation Unit.

The primary dwelling is complemented by the Family Accommodation in style, Colour and Character. No additional vehicular or pedestrian paths have been created for the constructed Family Accommodation (subject of the application) as both buildings utilise

the same access. In relation to parking spaces, the primary dwelling provides two under covered parking bays with additional area for extra parking on site for both buildings.

SITE & ENVIRONMENT

Characteristics of Site & Surrounding Environment

The site is approximately 2.5 kilometres west of the Pacific Highway Motorway and is accessed via a gravel track off Courtney Drive. The subject site contains a Primary Residence, Family Accommodation and two separate horse-riding areas.

The site is located on the south western perimeters of the Coomera Local Area Plan and currently is designated in the Park Living Precinct. The surrounding area is characterised by detached dwellings on rural residential sized allotments. However, the area has been subject of amendment to Coomera LAP to enable urban residential and medium -high residential land uses.

DEVELOPMENT ASSESSMENT

Relevant Planning Scheme Codes - Summary

Place Code	Constraint Code	Specific Development Code
Coomera Local Area Plan (Park Living Precinct)	▪ Car Parking, Access and Transport Integration	Family Accommodation

Compliance with the Relevant Place Code

As recorded on the attached Code Template(s) the proposed Family Accommodation generally meets the applicable Performance Criteria and complies with the Acceptable Solutions of the abovementioned applicable codes except the following:

Compliance with the Relevant Specific Development Code

The proposal complies with all of the Specific Development Code's Acceptable Solutions and Performance Criteria, except as follows.

Family Accommodation			
Performance Criteria	Acceptable Solution	Compliance With Acceptable Solution	Compliance With Performance Criteria
Quote PC	Quote AS		Yes / No - refer below
PC1	AS1.1.2	Alternative Solution is provided	Yes

PC1 - Siting

The Family Accommodation must be sited in close proximity to that of the primary dwelling

AS1.1.1 & AS1.1.2

The Family Accommodation is attached to or included within the primary dwelling.

OR

AS1.1.2

The Family Accommodation is a detached dwelling located within ten metres of the primary dwelling.

Applicant's Alternative Solutions

"The proposed Family Accommodation Unit is proposed wholly contained within an existing building approximately 30 metres north west of the primary residence. A vehicular roundabout separates the two building".

Officer's Comment

An inspection of the site has revealed that the existing Family Accommodation is not visible from the road frontage due to the distance from the road, and therefore does not appear as a two separate dwelling on the subject site. Furthermore, where the dwelling house and Family Accommodation is constructed is the flattest part of the allotment and a horse-riding track has been established between the primary house and the constructed Family Accommodation. It is considered that due to the site constraint the applicant's alternative solution is deemed to be acceptable and therefore is recommended for approval.

Assessment of Other Aspects of the Proposal

- The application triggers assessment against Car parking, Access and Transport Integration Constraint Code. The Family Accommodation use is in conjunction with the detached dwelling on site and adequate car parking area is available on site for both dwellings. As such, assessment against this code is considered to be unnecessary and the proposal can be adequately conditioned so as not to cause an adverse impact on the surrounding residential amenity.
- The assessment officer contacted Council's plumbing and drainage section (Mr. Paul Novy) and enquired about the previous issues of plumbing and related problems. It was indicated that the previous plumbing issues have been clarified and Council's Plumbing Section is satisfied with the plumbing report (refer to the email received from the above-mentioned officer).

REFERRALS

The subject application was referred to the following Council internal referrals, through DART process:

- Transport Planning
- Plumbing & Drainage

Correspondence via Internal Memos and Emails established the suitability of the proposed development (refer to file). Where required additional information or amendments to the development have been conditioned in the Officer's Recommendation to ensure compliance with Council's requirements.

Transport Planning Section of Council has assessed the application through the DART process and has no concerns with the proposal.

INFRASTRUCTURE CHARGES CALCULATIONS

Please find below the standard infrastructure charge conditions for the above application.

Contributions toward Recreation Facilities Network Infrastructure shall be paid to the Council in accordance with Planning Scheme Policy 16 prior to the issue of a certificate for building works or the carrying out of final plumbing inspection whichever occurs first. The amount of the contribution currently is as follows:

Recreation Facilities - Coomera

Account: 74648 RDP006 0.4100 Equivalent Tenements @ \$4,833.00 =	1,981.53
TOTAL	\$1,981.53

Contributions shall be calculated at rates current at due date for payment.

Contributions toward Sewerage Network Infrastructure shall be paid to the Council in accordance with Planning Scheme Policy 3B prior to the issue of a certificate for building works or the carrying out of final plumbing inspection whichever occurs first. The amount of the contribution currently is as follows:

Sewer 2 Infrastructure - Pimpama

Account: 74648 S2PIMPMA 0.2750 Equivalent Tenements @ \$2,286.00 =	628.65
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Sewer 1 Infrastructure - Pimpama

Account: 74648 S1PIMPMA 0.2750 Equivalent Tenements @ \$3,500.00 =	962.50
TOTAL	\$1,591.15

Contributions shall be calculated at rates current at due date for payment.

Contributions toward Transport Network Infrastructure shall be paid to the Council in accordance with Planning Scheme Policy 19 prior to the issue of a certificate for building works or the carrying out of final plumbing inspection whichever occurs first. The amount of the contribution currently is as follows:

Transport Infrastructure - Coomera

Account: 74648 TRANSPRT 2.0000 Vehicle Trips @ \$256.00 =	512.00
TOTAL	\$512.00

Contributions shall be calculated at rates current at due date for payment.

Contributions toward Water Supply Network Infrastructure shall be paid to the Council in accordance with Planning Scheme Policy 3A prior to the issue of a certificate for building works or the carrying out of final plumbing inspection whichever occurs first. The amount of the contribution currently is as follows:

Water 2 Infrastructure - Pimpama

Account: 74648 W2PIMPMA 0.2750 Equivalent Tenements @ \$1,880.00 =	517.00
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Water 1 Infrastructure - Pimpama

Account: 74648 W1PIMPMA 0.2750 Equivalent Tenements @ \$1,795.00 =	493.63
TOTAL	\$1,010.63

Contributions shall be calculated at rates current at due date for payment.

ADVERTISING

N/A

CONCLUSION

Council is in receipt of a Material Change of Use (Code Assessment) application to legalise the existing unlawfully established Family Accommodation on premises located at 17 Courtney Drive, Upper Coomera.

An assessment of the application against 'Our Living City' Gold Coast Planning Scheme 2003 revealed that the proposed land use meets the intent of the Performance Criteria of the Family Accommodation Specific Development Code, Coomera LAP Place Code and applicable Constraint Codes. As such, it is recommended that the application be approved subject to the imposition of reasonable and relevant conditions.

RECOMMENDATION

It is recommended Council resolve that in respect to the following property:

Real Property Description	Lot 182 on RP156422
Address of Property	17 Courtney Drive, Upper Coomera
Area of Property	33,410 m ²
Proposed Use	Family Accommodation

- A The applicant be notified as required under the provisions of the Integrated Planning Act that under Delegated Authority the Manager Implementation & Assessment Branch approves the issue of a Development Permit for Material Change of Use for a Family Accommodation subject to the following conditions:

DEVELOPMENT IN ACCORDANCE WITH PLANS

- 1 The development shall be carried out generally in accordance with the approved plan/s and details listed below, stamped and returned to the applicant with this decision notice.

Plan No.	Rev.No.	Title	Date	Drawn by
2023-04	A	Ground & First Floor Plan	02/12/05	B. C. Currey (Surveys)
2023-04	B	Elevations Plan	02/12/05	B. C. Currey (Surveys)

INFRASTRUCTURE CHARGES

- 2 Contributions toward Recreational Facilities Network Infrastructure shall be paid to the Council in accordance with Planning Scheme Policy 16, prior to the issue of a certificate for building works, or the carrying out of final plumbing inspection, whichever occurs first. The amount of the contribution shall be as follows:

Recreation Facilities - Coomera

Account: 74648 RDPU06 0.4100 Equivalent Tenements @ \$4,833.00= 1,981.53
TOTAL \$1,981.53

Contributions shall be calculated at rates current at due date for payment.

- 3 Contributions toward Sewerage Network Infrastructure shall be paid to the Council in accordance with Planning Scheme Policy 3B prior to the issue of a certificate for building works or the carrying out of final plumbing inspection whichever occurs first. The amount of the contribution shall be as follows:

Sewer 2 Infrastructure - Pimpama

Account: 74648 S2PIMPAMA 0.2750 Equivalent Tenements @ \$2,286.00= 628.65

Sewer 1 Infrastructure - Pimpama

Account: 74648 S1PIMPAMA 0.2750 Equivalent Tenements @ \$3,500.00= 962.50
TOTAL \$1,591.15

Contributions shall be calculated at rates current at due date for payment.

- 4 Contributions toward Transport Network Infrastructure shall be paid to the Council in accordance with Planning Scheme Policy 19 prior to the issue of a certificate for building works or the carrying out of final plumbing inspection whichever occurs first. The amount of the contribution shall be as follows:

Transport Infrastructure - Coomera

Account: 74648 TRANSPORT 2.0000 Vehicle Trips @ \$256.00 =	\$512.00
TOTAL	\$512.00

Contributions shall be calculated at rates current at due date for payment.

- 5 Contributions toward Water Supply Network Infrastructure shall be paid to the Council in accordance with Planning Scheme Policy 3A prior to the issue of a certificate for building works or the carrying out of final plumbing inspection whichever occurs first. The amount of the contribution shall be as follows:

Water 2 Infrastructure - Pimpama

Account: 74648 W2PIMPAMA 0.2750 Equivalent Tenements @ \$1,880.00=517.00

Water 1 Infrastructure - Pimpama

Account: 74648 W1PIMPAMA 0.2750 Equivalent Tenements @ \$1,795.00=493.63	
TOTAL	\$1,010.63

Contributions shall be calculated at rates current at due date for.

CAR PARKING AND ACCESS

- 6 The applicant shall ensure that there is one (1) additional car parking space for the proposed Family Accommodation at no cost to Council and to the satisfaction of the Chief Executive Officer.

SERVICES AND UTILITIES

- 7 The development shall be connected to Council's reticulated sewerage system, at a point nominated by the Chief Executive Officer, and at no cost to Council.
- 8 The development shall be connected to Council's water supply system prior to the commencement of the use, at a point nominated by the Chief Executive Officer, and at no cost to Council.
- 9 Any alteration to public utility mains, Council infrastructure, services or installations necessitated by the development shall be undertaken at no cost to Council and to the satisfaction of the Chief Executive Officer or the relevant utility agency, as the case may be. Such shall occur prior to the commencement of the use the subject of this approval.
- 10 All proposed structures shall be located a minimum distance of 2.0 metres from Council infrastructure (i.e. sewer, stormwater and water).

DRAINAGE AND FILLING

- 11 During the transportation of soil and other fill material:
- All trucks hauling soil, or fill material shall have their loads secure and covered; and

- Any spillage that falls from the trucks or their wheels shall be collected and removed from the site and streets along which the trucks travel, on a daily basis; and
 - Prior to vehicles exiting the site, measures shall be taken to remove soil from the wheels of such vehicles to prevent soil and mud being deposited on public roads and streets.
- 12 The developer shall design and construct the proposal to ensure that all stormwater drainage is directed to a Lawful Point of Discharge in accordance with QUDM Section 3.02. Should the development be unable to satisfy the conditions of the first test of QUDM Section 3.02 a detailed drainage plan shall be submitted to Council for approval prior to the issue of the development permit for carrying out building work, or if an application for carrying out building work is not required, prior to commencement of the use the subject of this approval.
- 13 The developer shall provide for the on-site retention of stormwater for re-use for on-site irrigation and wash down purposes. Prior to the issue of a Development Permit for Building Work, the developer shall submit a report to Council demonstrating that:
- Adequate capacity is provided to satisfy the reasonable needs of the development (and lessen the demand for the use of reticulated water for non-essential irrigation and maintenance uses); and
 - The water storage is accessible for use, including the connection to hose cocks and the on-site irrigation system where relevant; and
 - The water storage tank(s) are suitably located and/or buffered so as not to detract from the amenity of the development or the streetscape.

Such details when approved by the Chief Executive Officer shall form part of the endorsed plans referred to herein and shall be complied with by the applicant.

CONSTRUCTION

- 14 The applicant shall ensure that the construction of all works to be carried out pursuant to these conditions or as a result of this approval is carried out only between 6:30 am to 6:30 pm Monday to Saturday inclusive. No works will be carried out outside these hours or on Sundays or Public holidays unless prior written approval is given by Chief Executive Officer.

SPECIFIC CONDITIONS

- 15 No more than one (1) Family Accommodation dwelling unit capable of being used as a single functional household is to be erected on the site.
- 16 The applicant is to ensure that the Family Accommodation is at all times used for accommodation purposes for members of the family of the primary dwelling house or personal staff necessary for the health or well-being of the members of the primary household.
- 17 The Family Accommodation may not be rented as a separate dwelling unit.
- 18 This approval is valid for a period of five (5) years from the date of this Decision Notice.

- 19 The developer shall suitably notify the Levying Branch of Council so that intending purchasers are aware of their obligations relating to Family Accommodation requirements when a rate search is requested, prior to the commencement of the use the subject of this decision notice.

GENERAL

- 20 A copy of the decision notice and accompanying stamped approved plans for this material change of use shall be submitted with any application for the carrying out of building work.

GENERAL ADVICE - Please note that this is not a condition

- B That the applicant be advised that nothing in this decision notice alleviates the need to observe all relevant legislation, Council's Planning Schemes and Local Laws.
- C The developer be advised that an application for a Vehicular Crossing Permit is required to be obtained in accordance with the requirements of the Local Laws No. 11.

D NOTICE OF INDIGENOUS CULTURAL HERITAGE LEGISLATION AND DUTY OF CARE REQUIREMENT

The *Aboriginal Cultural Heritage Act 2003* commenced in Queensland on April 16, 2004. The Act is administered by the Department of Natural Resources, Mines and Energy (DNRME). Under the new Act, Indigenous parties are key in assessing cultural heritage significance.

The *Aboriginal Cultural Heritage Act 2003* establishes a Duty of Care for Indigenous cultural heritage. This applies on all land and water, including freehold land. The Cultural Heritage Duty of Care lies with the person or entity conducting an activity.

Penalty provisions apply for failing to fulfil the Cultural Heritage Duty of Care.

Those proposing an activity that involves additional surface disturbance beyond that which has already occurred at the proposed site need to be mindful of the Duty of Care requirement.

Details of how to fulfil the Duty of Care are outlined in the Duty of Care Guidelines gazetted with the Act.

Council strongly advises that you contact DNRME's Cultural Heritage Coordination Unit on 3238 3835 or 3238 3839 to obtain a copy of the Duty of Care Guidelines and further information on the responsibilities of developers under the terms of the *Aboriginal Cultural Heritage Act 2003*.