



**APPEAL**  
*Integrated Planning Act 1997*

**File No. 3/07/030**

**BUILDING AND DEVELOPMENT TRIBUNAL – DECISION**

**Concurrence Agency:** Maroochy Shire Council  
**Certifier** Suncert Building Consultants  
**Site Address:** *withheld*-“the subject site”  
**Appellant:** *withheld*

**Nature of Appeal:**

This is an appeal under section 4.2.7(2)(b) of the *Integrated Planning Act 1997* (“**IPA**”) against the decision of the Maroochy Shire Council acting as a concurrence agency pursuant to s 9(a) and item 19, schedule 2, table 1 of the *Integrated Planning Regulation 1998*, to refuse an application for proposed additions to a dwelling on “the subject site”.

**Date and Place of Hearing:** Friday 22 June 2007 commencing at 9.00 am  
On the subject site.

**Tribunal:** Mr Paul R Smith – Chairperson  
Mr John Gillespie – General Referee

**Present:** Appellant / Owner;  
Mr S. Rushton – Suncert Building Consultants;  
Mr J. Dunn – Maroochy Shire Council representative

**Decision:**

The Tribunal **sets aside** the decision of the Maroochy Shire Council (acting as a concurrence agency) dated 12 March 2007 and in lieu thereof substitutes the following decision:

*“The Maroochy Shire Council has not concurrence agency requirements.”*

## **Material Considered**

The material considered in arriving at this decision include:

- Lodgment of 'Form 10 - Notice of Appeal', attachments and payment of the prescribed fee to the Registrar dated 9 May 2007;
- Suncert Building Consultants decision notice dated 30 April 2007;
- Maroochy Shire Council Concurrence Agency Response dated 12 March 2007;
- "Form 18 – Notice of Election" provided to the Registrar on 21 June 2007;
- Verbal submissions made by the representatives at the hearing;
- Maroochy Planning Scheme;
- The Queensland Development Code;
- The *Integrated Planning Act 1997*; and
- The *Integrated Planning Regulation 1998*;

## **Background and Reasons for decision**

The site inspection carried out revealed that the building work, the subject of this appeal, had been completed.

The Tribunal formed the opinion that the development complied with the performance criteria of Code 4.1, Element 1.P2 of the Maroochy Shire Town Planning Scheme, namely the building is sited to contribute positively to the streetscape, maximise community safety, and maintain the amenity of adjacent land and dwellings by having regard to building character and appearance.

### **The Tribunal complement the representatives at the hearing**

The Tribunal complements all representatives at the hearing for their candid, respectful and helpful submissions.

---

**Paul Smith**

**Building and Development Tribunal General Referee (Chair)**

**Date: 10 July 2007**

## **Appeal Rights**

Section 4.1.37. of the *Integrated Planning Act 1997* provides that a party to a proceeding decided by a Tribunal may appeal to the Planning and Environment Court against the Tribunal's decision, but only on the ground:

- (a) of error or mistake in law on the part of the Tribunal or
- (b) that the Tribunal had no jurisdiction to make the decision or exceeded its jurisdiction in making the decision.

The appeal must be started within 20 business days after the day notice of the Tribunal's decision is given to the party.

## **Enquiries**

All correspondence should be addressed to:

The Registrar of Building and Development Tribunals  
Building Codes Queensland  
Department of Local Government, Planning, Sport and Recreation  
PO Box 15031  
CITY EAST QLD 4002  
**Telephone (07) 3237 0403: Facsimile (07) 32371248**