



Development Tribunal – Decision Notice

Planning Act 2016, section 255

Appeal Number: 19-028

Appellant: Queensland Fire and Emergency Service

Assessment Manager: Geoffrey Mitchell (Building Certifier – Licence Number A20976)

Site Address: 58 French Road, Pittsworth described as Lot 1 on AG 4028 (the site)

Appeal:

Appeal under the *Planning Act 2016* (PA), section 229 and schedule 1, section 1, table 3, item 1 in relation to a decision under the *Building Act 1975* (BA) to issue a Development Application Decision Notice for a building (the subject building) located at the site.

Date, time and place of hearing: 12.00pm Thursday 15 August 2019 at the site of the subject building; and

1.00pm Thursday 15 August 2019 at the Queensland Fire and Emergency Service Office at 5 Krinke St Pittsworth.

Tribunal: Michael Moran – Chair
Ken Crase – Member
Mr Samuel le Noble – Member (absent at hearing)

Present:

Appellant:

- Athol Knox- QFES
- Steve Horvth - QFES
- Michael Albrow- QFES
- David Gilbard- QFES
- Neil Fanning- QFES

Respondent:

- Geoff Mitchell- GMA Certification Group

Co-Respondent:

- Glen Rowan- RMA Engineers
- Graham Timms- Omnii

Owner:

- Lionel Moore
- Shane Moore- Moore Trailers
- Adam Prentice- Moore Trailers

Decision:

The Development Tribunal (Tribunal), in accordance with section 254(2)(c) of the *Planning Act 2016* (PA) sets the decision aside and replaces the decision of the assessment manager with another decision, namely, the development application be approved subject to amending the fire engineering report to include:

- i. modelling the smoke ventilation with reference to the as constructed readily openable low level openings located on only the northern elevation of the subject building; and
- ii. a qualitative approach pursuant to Section 1.2.9.2 of International Fire Engineering Guidelines; and

when the provisions of Section 101 of the *Building Act 1975* are satisfied the Certificate of Classification for the subject building to have a restriction that with the exception of vehicle trailers being manufactured, consistent with Table E1.5 of the Building Code of Australia 2015, combustible goods must not be stored to a height greater than 4 metres.

Background:

1. The appeal is by the Queensland Fire and Emergency Service (QFES) against the decision of Mr Geoff Mitchell acting as the building certifier under the *Building Act 1975* (BA) to issue a Development Application Decision Notice (the GMA Development Application Decision Notice dated 2 July 2019) for the subject building and failing to accept QFES’s referral agency advice regarding the deletion of both a Deemed-to-Satisfy (Deemed-to-Satisfy) smoke exhaust system and sprinkler system.

The subject building has been constructed for Moore Trailers, primarily as a workshop for the manufacture of truck trailers, having an associated office, on land at 58 French Road, Pittsworth described as Lot 1 on AG4028.

2. The GMA Development Application Decision Notice dated 2 July 2019 states the subject building is:

Building Class & Description of Works:

[Class] 5	<i>New Construction of Office, Boardroom & Staff Room</i>
[Class] 8	<i>New Construction of Workshop/ Mezzanine Floor</i>

3. The subject building has a rise in storey of 2.
4. The GMA Development Application Decision Notice dated 2 July 2019 - Attachment A states:

Approved Documentation

.....
Fire Engineering Report
Omnii Consulting Fire Engineers Report
.....

Approved Documentation
Building Conditions
Referral Agencies

- i. *Comply with the attached report of the Queensland Fire and Emergency Service reference No. 18-06045 with regard to Fire Mains (including booster and/or pumps, and Vehicular access for large isolated buildings). The Certifier has considered the remaining advice in regard to the Performance Solution Components and the Smoke and Heat Venting Systems (Natural Smoke Venting), and considers that the*

removal of the sprinklers and natural smoke venting as detailed in the Fire Engineering report satisfies compliance with the relevant performance requirements as listed in this decision.

ii.

Application Specific Conditions

- i. *This approval includes assessment against the 7 performance provisions of the NCC. The requirements listed in the Fire Engineering Report of Omnii Consulting Fire Engineers Project Number 7305100 Rev B Dated May 2019 form part of the conditions of this approval.*
- ii.
- viii. *The building is to be provided with a system of natural ventilation in accordance with BCA Part E Table E2.2a Large Isolated Building (a)(v) as specified in the Fire Engineering Report.*
- ix.

Standard Conditions

- i.
- ii. *All references made to the BUILDING CODE OF AUSTRALIA (BCA) within this approval are references to the version in force on the date the application was made (NCC 2015).*

5. The third last paragraph, page 4 of Mr Geoff Mitchell's written submission dated 20 August 2019 states:

The application was submitted in two stages. Stage 1 included the administration and approx. 50% of the workshop space. This was approved along with a complying report from QFES number 16-03220 on the 22 June 2016. We understand that works commenced on the site around this time.

In March 2018 we were further engaged to commence the approvals for Stage 2.

6. Bullet point 1 of the QFES written submission (not dated) received by email 21 August 2019 states:

QFES were not given opportunity to provide referral advice prior to construction of the second stage base build.

7. Page 3 of 5 of the QFES referral advice dated 12 June 2019 states:

*Building Details
Class 5, 7b, 8
Floor area 14,150m²
Effective Height 4.5m*

8. Page 3 of 5 of the QFES referral advice dated 12 June 2019 also states:

*Assessment Details
Fire Engineering Report: OMNII Fire Engineering Report. Project Number 7305100.
Revision B. May 2019*

9. Table 5.2 of the Omnii FER states:

The building as a whole is primarily a workshop for the manufacture of truck trailers, where the trailers are limited to 4.3m in height. There are limited areas of storage for trailer components.

10. Table 5.3 of the Omnii FER states:

*Floor Area 14,150
Ceiling Height 9.5 (peak)*

11. Table 6.2 of the Omnii FER states:

*Protective Measures
Fire Detection System*

12. Section 7.1.3 of the Omnii FER states:

.....

As part of the Proposed Solution, storage shall be in dedicated area and less than 4m in height in accordance with the NCC Table E1.5 concerning the maximum height of the storage.

The building is to be provided with a fire detection and alarm system, based upon heat detectors, that is monitored by the fire brigade.

The building is also provided with a fire hydrant system, a fire hose reel system, fire extinguishers and natural ventilation. Whilst the natural ventilation will be based upon 1.5% of floor area,

13. At the Hearing on 15 August 2019 the owner Mr Lionel Moore stated the subject building is a vehicle trailer manufacturing facility and the function of the building relied on overhead gantry cranes to move material and vehicle trailers throughout the building and that each of the pitched roof bays of the subject building would have 10 gantry cranes consequently limiting the height of the materials to 4 metres. Mr Lionel Moore also stated road rules limited a vehicle trailer height to 4.3 metres.

14. Section 7.1.6 of the Omnii FER states:

*7.1.6 Verification Methodology and Acceptance Criteria
Quantitative analysis method based on the comparative assessment of maximum credible Fuel Load Energy Density (FLED) in a NCC DTS Class 7b/8 building (FL(DTS)) and the expected FLED in the subject building (FL(PS)).*

Acceptance will be shown if $FL(PS) \leq FL(DTS)$.

15. The Form 10, Grounds for appeal states:

..... This comparative approach is inconsistent with Section 1.2.9.1 of the Australian Building Code Boards International Fire Engineering Guidelines 2005.

16. Section 1.2.9.1 of IFEG states:

Both comparative and absolute approaches may be adopted in the analysis strategy. The methods chosen will be appropriate to the approach used.

17. Section 7.1.8 of the Omnii FER provides an Absolute Qualitative Assessment.

18. Section 7.1.9 of the Omnii FER provides a Comparative Qualitative Assessment and states:

.....
Given that the storage shall be no more than 4m in height, and the trailers are no more than 4.3m in height, the volume of the building used for storage and manufacturing is effectively 63,675m³ (based upon a used height of 4.5m). The remaining volume of the building is then 52,935m³ (116,610m³ – 63,675m³) – that is, an air space.
.....

19. The Form 10, Grounds for appeal states:

..... *the FER fails to provide a quantitative analysis to directly address safe occupant egress or the facilitation of fire brigade invention for a building an estimated fuel load of 9,044,122 MJ.*

Jurisdiction:

The Tribunal has jurisdiction to hear the Appeal under the *Planning Act 2016* (PA), section 229 and schedule 1, section 1, table 3, item 1 in relation to a decision to give a development approval for building work to the extent the building work required code assessment against the 'building assessment provisions' under the *Building Act 1975* (BA).

Decision Framework:

1. The appellant must establish that the appeal should be upheld (section 253(2) of the PA).
2. The tribunal must hear and decide the appeal by way of a reconsideration of the evidence that was before the person who made the decision appealed against section 253(4) of the PA).
3. The tribunal must decide the appeal in the manner outlined in section 254(2) of the PA and must not make a change, other than a minor change, to a development application (section 254(3) of the PA).

Material Considered:

The material considered in arriving at this decision comprises:

4. Form 10 – Appeal Notice', grounds for appeal and correspondence accompanying the appeal lodged with the Tribunals Registrar 5 July 2019.
5. GMA Development Application Decision Notice dated 2 July 2019.

6. QFES referral advice dated 12 June 2019.
7. QFES written submission (not dated) tendered to the Tribunal at the hearing 15 July 2019 and marked 'A' by the Tribunal for identification purposes.
8. Mr Geoff Mitchell's written submission dated 20 August 2019.
9. Drawings:

Drawing No	Revision	Drawing No	Revision	Drawing No	Revision
F101	3A	S-A.102	5	S-A.300	2
F101	2A	S-A.103	2	S-A.301	1
H202	2A	S-A.130	1	S-A.500	1
H902	2A	S-A.131	1	S-MP.000	3
S-A.100	4	S-A.200	2	S-MP.001	3
S-A.101	4	S-A.201	2		

10. QFES written submission (not dated) received by email 21 August 2019.
11. The Omnii Fire Engineering Report, Project Number 7305100, Revision B, May 2019.
12. Australian Building Code Boards International Fire Engineering Guidelines 2005.

Reasons for Decision:

1. The following material describes the subject building as having a floor area 14,150m² and a volume greater than 108,000m³:
 - a. GMA Development Application Decision Notice dated 2 July 2019; and
 - b. Section 5 of the Omnii Fire Engineering Report, Project Number 7305100, Revision B, May 2019; and
 - c. QFES referral advice dated 12 June 2019
2. QFES referral advice dated 12 June 2019 references the Omnii Fire Engineering Report.
3. QFES were provided at least one opportunity to provide referral advice prior to construction of the second stage base build.
4. The GMA Development Application Decision Notice dated 2 July 2019 considers the QFES referral advice.
5. The function of the building relies on overhead gantry cranes to move material and vehicle trailers throughout the warehouse part of the building limiting the height of the materials to 4 metres.
6. As stated in Mr Geoff Mitchell's written submission dated 20 August 2019, if the roof of the subject building was 730mm lower, the building would have a volume less than 108,000m³ and comply with the Deemed-to-Satisfy of BCA.

7. Section 3 of the Omnii FER states:

Smoke Ventilation

d. Natural smoke venting must be provided in accordance with NCC DTS provisions, and as follows:

- i. permanent openings must be provided at roof level with a free area equating to not less than 1.5% of floor area; and*
- ii. permanent or readily openable low level openings with a free area equating to not less than 1.5% of floor area must be provided.*

8. The building is to be provided with a system of natural ventilation in accordance with BCA Part E Table E2.2a Large Isolated Building (a)(v) as specified in the Fire Engineering Report.

9. NCC 2015, Table E2.2a General Provisions for Large Isolated Buildings (a)(v) states:

natural smoke venting, with ventilation openings distributed as evenly as practicable and comprising permanent openings at roof level with a free area not less than 1.5% of floor area and low level openings which may be permanent or readily openable with a free area not less than 1.5% of floor area.

10. The Tribunal inspection conducted on 15 August 2019 identified readily openable low level openings which are located on only the northern elevation of the subject building.

11. NCC 2015, Table E2.2a General Provisions for Large Isolated Buildings (a)(v) requires *ventilation openings distributed as evenly as practicable.*

12. Low level openings are not distributed as evenly as practicable.

13. The NCC 2015 deemed-to-satisfy smoke hazard management options for a large isolated building having a floor area no greater than 18,000m² and volume no greater than 108,000m³ include:

- a. A fire detection and alarm system; or
- b. Natural smoke ventilation.

14. The Omnii FER requires a fire detection system and natural smoke ventilation.

15. The function of the subject building relies on overhead gantry cranes to move material and vehicle trailers limiting the height of goods to no more than 4 metres. The volume between the gantry crane and underside of the roof exists as a consequence of the construction necessary for the roof. If the roof of the subject building was 730mm lower, the building would have a volume less than 108,000m³ and comply with the Deemed-to-Satisfy of BCA.

Michael Moran

Development Tribunal Chair

Date: 21 October 2019

Appeal Rights

Schedule 1, Table 2 (1) of the *Planning Act 2016* provides that an appeal may be made against a decision of a Tribunal to the Planning and Environment Court, other than a decision under section 252, on the ground of -

- (a) an error or mistake in law on the part of the Tribunal; or
- (b) jurisdictional error.

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

The following link outlines the steps required to lodge an appeal with the Court.

<http://www.courts.qld.gov.au/courts/planning-and-environment-court/going-to-planning-and-environment-court/starting-proceedings-in-the-court>

Enquiries

All correspondence should be addressed to:

The Registrar of Development Tribunals
Department of Housing and Public Works
GPO Box 2457
Brisbane QLD 4001

Telephone (07) 1800 804 833 Facsimile (07) 3237 1248

Email: registrar@hpw.qld.gov.au