
BUILDING AND DEVELOPMENT TRIBUNAL - DECISION

Local Government: Gold Coast City Council

Site Address: 16 Christobel Court, Broadbeach Waters

Nature of Appeal: Appeal under section 4.2.9 of the Integrated Planning Act 1997 against the decision of the Gold Coast City Council to condition the waterfront boundary siting relaxations by requiring any volume reduction of flood storage capacity caused by the structure above the batter embankment to be compensated by an equal volume of excavation to the satisfaction of the Chief Executive Officer.

Date and Place of Hearing: 10 October 2001 at Floor 25, 41 George Street, Brisbane.

Tribunal: Ron de Veer

Present: Mike Smith, Clarendon Homes
Alan Greet, Queensland Building Consulting Group
Ken Wilcox, Queensland Building Consulting Group
Brian Gobie, Gold Coast City Council
Ron de Veer, tribunal member

Decision:

In accordance with section 4.2.34. of the Integrated Planning Act 1997, I confirm the decision appealed against.

In addition, I request the Council amend its standard condition relating to flood storage capacity compensation along the following lines-

Any volume reduction of flood storage capacity caused by the building work above the batter embankment and within the nominated waterfront boundary setbacks, is to be compensated by an equal volume of excavation unless otherwise agreed by the Chief Executive Officer. Details of flood storage compensation are to be shown on the plans lodged for approval of building work.

Reasons:

The condition requiring compensation of any flood storage capacity reduction by an equal volume of excavation is reasonable and relevant. If this condition was not imposed, other properties in the neighbourhood would be subject to higher flood levels than would otherwise be anticipated.

The appeal applicant expressed concerns at the hearing over the wording of the Council condition and of the conflicting advice from Council officers. I agree the wording of the standard condition should be amended as recommended above to clarify the intention of the condition is only to apply to the flood storage capacity within the nominated waterfront boundary setbacks.

In addition, the flood storage capacity is based on the batter embankment having a certain slope. A site with a less steep batter slope would have a lesser impact on the flood storage capacity. This should also be recognised in the standard condition.

Ron de Veer
Tribunal Referee
Date: 10 October 2001



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 Communication and Information, Local Government, Planning and Sport
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