



7 August 2026

Ref: WTJQ25-019

Brisbane City Council
GPO Box 1434
Brisbane Qld 4001

Attention: Beau Morris

**RESPONSE TO ACTION NOTICE FOR DEVELOPMENT APPLICATION (COUNCIL REF. A007037259)
PROPERTY AT: 1202 CREEK RD CARINA HEIGHTS QLD 4152**

Dear Beau,

Willowtree Planning (Willowtree) acts on behalf of Carindale PPG Pty Ltd (the Applicant) regarding the above Development Application (DA) submitted to the Brisbane City Council (Council) over the land mentioned above.

We refer to the Action Notice issued by Council dated 29 June 2026 under section 51 of the Planning Act 2016 (the Act), advising that the DA is not a properly made application. This letter responds specifically to the requirement in items 1(a) and 3 of the Action Notice for written consent of the owner of Lot 0 on GTP103679 (1230 Creek Road, Carina Heights), and the related amendment to Question 3.1 of DA Form 1 sought in item 1(b) of the Action Notice.

Rather than provide the owner's consent, and the metes and bounds description and plan for Lot 0 on GTP103679 sought by Council, the Applicant has amended DA Form 1 to remove this land from the DA altogether. The amended DA Form 1 is enclosed and excludes any reference to Lot 0 on GTP103679/1230 Creek Road, Carina Heights, from Question 3.1.

Premises the subject of the application

Following this amendment, the premises the subject of the material change of use are identified in DA Form 1 as:

1. the subject site at 1202 Creek Road, Carina Heights, described as Lot 14 on SP259793; and
2. Easement A on RP187668, within Lot 1 on RP885793, which provides frontage and right of way to Creek Road, a public road.

Lot 0 on GTP103679 does not form part of the premises the subject of the DA. As that land is no longer part of the application, the owner's consent, and the metes and bounds description and plan, sought by Council in respect of it are not required.

Section 51 of the Planning Act 2016

Section 51(1) of the Act requires only that a development application be made in the approved form, accompanied by the documents required under the form and the required fee. Section 51(2) requires the written consent of the owner of the premises only to the extent the application is for, relevantly,

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a material change of use of premises that are not excluded premises. As Lot 0 on GTP103679 is not part of the premises the subject of the DA, section 51(2) does not apply to that land.

Administrative completeness, rather than full assessment

Council's underlying concern with the easement over Lot 0 on GTP103679 is directed at the design, configuration and safety of the existing driveway and crossover to Creek Road. This is a technical matter, and one properly raised, if necessary, by an information request under the Development Assessment Rules, rather than at lodgement. Council's consideration at this stage should be confined to the administrative completeness of the DA against section 51(1) and (2) of the Act. Any matters concerning the safety, function or design of access and egress are appropriately dealt with at the information request stage, and ultimately, if required, as a condition of any development approval, rather than as a precondition to the DA being properly made.

The Act draws a clear distinction between whether a DA is properly made under section 51, and whether the proposed development satisfies the relevant assessment benchmarks. As the DA requires impact assessment, section 45(5) requires the assessment to be carried out against the assessment benchmarks in the categorising instrument, and permits regard to be had to other relevant matters. Under section 60(3) of the Act, the assessment manager must, after carrying out that assessment, decide to approve the application, approve it subject to development conditions, or refuse it. Section 65 permits development conditions that are relevant to, and reasonably required for, the development, which may include conditions addressing access and egress. These are the mechanisms by which Council may properly test and, if necessary, resolve matters of access and egress design. Section 51 is not one of them, and does not import this test as a precondition to the DA being properly made.

On this basis, the DA, as amended by the enclosed DA Form 1, satisfies the requirements of section 51(1) and (2) of the Act and should be confirmed as properly made. We request Council's written confirmation to this effect.

Should you require any further clarification, please do not hesitate to contact the undersigned on dtynne@willowtp.com.au or 0448 972 959.

Yours faithfully,



Darcy Thynne
Associate (QLD)
Willowtree Planning Pty Ltd

