

18 May 2026

**Enquiries:** Kieren Nyko  
**Our Ref:** MCUC 2014\_11/1 (Doc ID 1365953)  
**Your Ref:** N/A

Administration Office  
64 - 66 Front St Mossman  
P 07 4099 9444  
F 07 4098 2902

Bradley Fisher  
19 Zena Close  
CAPE TRIBULATION QLD 4873

Dear Sir/Madam

**Extension to Currency Period for Development Permit for  
Material Change of Use (Dwelling house) at 19 Zena Close, Cape Tribulation  
On Land Described as Lot 12 on RP738897**

Please find attached the Decision Notice for the above-mentioned development application.

Please quote Council's application number: MCUC 2014\_11/1 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Kieren Nyko on telephone 07 4099 9444.

A copy of your appeal rights under the *Planning Act 2016* is also enclosed.

Yours faithfully



**For**  
**Leonard Vogel**  
**Manager Environment & Planning**

encl.

- Decision Notice
- Advice For Making Representations and Appeals (Decision Notice)



## Decision Notice

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*Given under s 87 of the Planning Act 2016*

### Applicant Details

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Name: Bradley Fisher  
Postal Address: 19 Zena Close  
CAPE TRIBULATION QLD 4873  
Email: fishoz67@yahoo.com.au

### Property Details

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Street Address: 19 Zena Close, Cape Tribulation  
Real Property Description: Lot 12 on RP738897  
Local Government Area: Douglas Shire Council

### Details of Proposed Development

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Extension to Currency Period for Development Approval for Material Change of Use (Dwelling house)

### Decision

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Date of Decision: 15 May 2026  
Decision Details: Approved

#### 1. Details of Proposed Development

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Extension to currency period for the Development Permit for Material Change of Use for Dwelling house over land described as Lot 12 on RP738897, located 19 Zena Close, Cape Tribulation, for a period of a further six (6) years.

#### 2. Approved Development

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A copy of the approved development is included in Schedule 1.

### **3. Further development permits**

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Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Building Work

Please be advised that approvals are also required for work under the *Plumbing and Drainage Act 2002*.

### **4. Advice**

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A building approval is required to be obtained from a building certifier before building works commence on site in accordance with the *Building Act 1975*.

Furthermore, before a building certifier can provide a building approval a plumbing permit must be obtained in accordance with the *Plumbing and Drainage Act 2002*. A plumbing and drainage application is to be made to Douglas Shire Council.

Once all works are complete the building certifier will need to inspect and issue a final certificate for the building work undertaken.

In accordance with the *Building Act 1975*, the building certifier will provide copies of all building approval documentation to Douglas Shire Council who will maintain these records for future reference.

### **5. Properly Made Submissions**

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Not applicable — no part of the application required public notification.

### **6. Referral Agencies**

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Not applicable — no part of the application required referral.

### **7. Currency Period for the Approval**

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This development approval will lapse at the end of 7 April 2032.

### **8. Rights of Appeal**

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The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

Schedule 2 is an extract from the *Planning Act 201* that sets down the applicant's appeal rights.

## SCHEDULE 1 – CURRENT APPROVAL

**YOUR REF:** Zena Cl, Cape Tribulation  
**OUR REF:** MCUC 11/2014 (423376)

26 June 2014

Mr Brad Fisher & Ms Claire Pelham  
C/- Greg Skyring Design & Drafting Pty Ltd  
11 Noli Close  
**MOSSMAN QLD 4873**

Attention: Mr Greg Skyring

Dear Sir

**CHANGED DECISION NOTICE UNDER S 375 SUSTAINABLE  
PLANNING ACT 2009: DEVELOPMENT APPLICATION FOR  
LOT 12 ZENA CLOSE, CAPE TRIBULATION**

With reference to the request for a minor change to the Development Approval for the abovementioned Development Application, which was determined under Instrument of Delegation on 26 June 2014, please find attached the relevant Changed Decision Notice.

The Notice includes extracts from the Act with respect to lodging an Appeal.

Should you have any enquiries in relation to this Changed Decision Notice, please contact Jenny Elphinstone of Council's Development and Environment Branch on telephone number 07 4099 9482.

Yours faithfully

Donna Graham  
Manager Development & Environment

Att

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**DECISION NOTICE DETAILS**  
**SUSTAINABLE PLANNING ACT 2009**

**APPLICANT DETAILS**

Brad Fisher & Claire Pelham  
C/- Greg Skyring Design & Drafting Pty Ltd  
11 Noli Close  
MOSSMAN QLD 4873

**ADDRESS**

Lot 12 Zena Close, Cape Tribulation

**REAL PROPERTY DESCRIPTION**

Lot 12 on RP738897

**PROPOSAL**

House

**DECISION**

Approved subject to conditions (refer to approval package below).

**DECISION DATE**

7 April 2014

**TYPE**

Material Change of Use (Development Permit)

**REFERRAL AGENCIES**

None Applicable

**SUBMISSIONS**

There were no submissions for this application.

**FURTHER DEVELOPMENT PERMITS REQUIRED**

Development Permit for Building Work  
Development Permit for Plumbing Work

**CODES TO COMPLY WITH FOR SELF-ASSESSABLE DEVELOPMENT**

None

**DOES THE ASSESSMENT MANAGER CONSIDER THE APPLICATION TO BE IN CONFLICT WITH APPLICABLE CODES, PLANNING SCHEME, STATE PLANNING POLICIES OR PRIORITY INFRASTRUCTURE PLAN (IF YES, INCLUDE STATEMENT OF REASONS)**

Not in conflict

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**APPROVED DRAWING(S) AND / OR DOCUMENT(S)**

The term 'approved drawing(s) and / or document(s)' or other similar expressions means:

Drawing or Document	Reference	Date
Site Plan, Floor Plans	Greg Skyring Design and Drafting Pty Ltd Plan 212-13 Sheet 1 of 3	As submitted with application on 10 January 2014
Elevations - House	Greg Skyring Design and Drafting Pty Ltd Plan 212-13 Sheet 2 of 3	As submitted with application on 10 January 2014
Carport Floor plan and Elevations	Greg Skyring Design and Drafting Pty Ltd Plan 212-13 Sheet 3 of 3	As submitted with application on 10 January 2014
Onsite Sewerage Assessment	ETS Geotechnical, Onsite Sewerage Assessment Report No GT12-020-001R Fisher_Rev1-GT13-020-001R Rev 3 (Council document 422578)	15 April 2013
Geotechnical Investigation	ETC Geotechnical, Geotechnical Report No: GT13-0320-001R Rev 1	15 April 2013
Advice to retain batters	Nikki Huddy email to Council regarding compliance actions to recommendations of ETC Geotechnical, Geotechnical report no. GT13-0320-001R Rev-1	10 March 2014

**ASSESSMENT MANAGER CONDITIONS**

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
  - a. The specifications, facts and circumstances as set out in the application submitted to Council, including recommendations and findings confirmed within technical reports; and
  - b. The following conditions of approval and the requirements of Council's Planning Scheme and the *FNQROC Development Manual*.

Except where modified by these conditions of approval.

**Timing of Effect**

2. The conditions of the Development Permit must be satisfied prior to Commencement of Use, except where specified otherwise in these conditions of approval.

**Lawful Point of Discharge**

3. The flow of all external stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development.

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### **Water Supply**

4. Water storage tank(s) with a minimum capacity not less than 30 000 litres must be installed prior to occupation of the premises. Details of the water tank(s) must be shown on plans submitted with the Building Application. Such water tank(s) must be provided with:
  - a. (i) Mosquito-proof screens of brass, copper, aluminium or stainless steel gauze not coarser than one (1) mm aperture mesh of substantial construction and installed in such manner as not to cause or accelerate corrosion;  
  
or
  - (i) Flap valve at every opening of the tank or other receptacle;  
  
or
  - (iii) Other approved means for preventing the ingress or egress of mosquitoes;  
and
- b. Where a tank or other receptacle is provided with a manhole, the manhole must have a diameter of no more than 40 cm; and
- c. A 50 mm ball valve with a camlock fitting.

The water tank must be installed and operational prior to the Commencement of Use.

### **On-Site Effluent Disposal**

5. The method of on-site effluent disposal must be in accordance with the recommendations contained in the ETS Geotechnical On-Site Sewerage Assessment Report No. GT12-020-001R Fisher\_Rev1 dated 15 April 2013 or any other report approved by the Chief Executive Officer. An onsite effluent disposal system must be installed and operational prior to the Commencement of Use. Details of the wastewater treatment system to be installed must be approved by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

### **Damage to Infrastructure**

6. In the event that any part of Council's existing infrastructure is damaged as a result of construction activities occurring on the site, Council must be notified immediately of the affected infrastructure and have it repaired or replaced by Council at no cost to Council.

### **Vegetation Clearing**

7. Existing vegetation on the land must be retained in all areas except those affected by the construction of access driveways and/or the installation of services as detailed on the approved plans. All pruning of trees is to be in accordance with the requirements of Australian Standard *Pruning of Amenity Trees AS 4373-2007*.

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Vegetation to be retained must be protected from any damage to the trunk, roots and branches during the construction period and where possible damage may occur effective fencing or barriers are to be installed and maintained in accordance with Australian Standard AS 4970-2009 *Protection of trees on development sites*.

Any further clearing requires a Permit for Operational Works unless exempt development as specified by the Planning Scheme.

### **Landscaping**

8. Areas affected by building works must be landscaped generally in accordance with the approved plans. In particular:
  - a. Landscaping must include planting of all cut and fill batter areas; and
  - b. Disturbed areas of land for the creation of driveways must be revegetated with native species found in the locality.

The area affected by building works affected areas must be landscaped within twelve months of the Commencement of Use and maintained thereon while the approval remains in effect.

A ten (10) metre wide landscape buffer must be maintained along the road frontage of the site. The landscaping must consist of 75 per cent of native and endemic species which must be planted in an irregular and random fashion to blend with existing vegetation. The use of palm trees in this landscape buffer must be limited and only used as an accent feature.

All landscaping to be installed must consist of native and endemic species and must be planted in an irregular and random fashion to blend with existing vegetation. Exotic species are not permitted.

### **Weed Management**

9. Any invasive and / or declared weed species found on the land must be eradicated from the site over time. For assistance with eradication methods visit the Queensland Biosecurity website on [www.daff.qld.gov.au](http://www.daff.qld.gov.au) .

### **Building Colours**

10. The exterior finishes and colours of Buildings are non-reflective and blend with the natural colours of the surrounding environment. Roofs and structures (including water tanks) must be of moderately dark to darker shades of green, grey, blue and brown.

The applicant must provide colour samples to the Chief Executive Officer, that comply with this requirement, prior to the issue of the Development Permit for Building Works.

The above requirements must be made known in writing to all prospective purchasers.

### **Sediment and Erosion Control**

11. Soil and water management measures must be installed/implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the *Environmental Protection Act 1994*, and the *FNQROC Development Manual*).

### **External Works**

12. Undertake the following external works:
  - a. Provide concrete crossover(s) and apron(s) in accordance with *FNQROC Development Manual Standard Drawing S1105*. A copy is attached at Appendix 2.

The crossover must not impact on stormwater flows in minor and major flow events.

### **Internal Driveway and Footpath**

13. The Applicant must construct and maintain a minimum three (3) metre wide gravel driveway from the property boundary to the carport.

The Applicant must construct a minimum 1.2 metre wide gravel pedestrian pathway from the carport to the House.

The driveway and footpath must be constructed prior to Commencement of Use in accordance with the *FNQROC Development Manual* to the satisfaction of the Chief Executive Officer.

### **Geotechnical Report**

14. Construction must be in accordance with the recommendations of the Geotechnical Report prepared by ETS Geotechnical Report No: GT13-020-001R Rev 1 dated 15 April 2013 and as per the email by Nikki Huddy dated 10 March 2014 to Douglas Shire Council stating that the batters are to be retained GT13-020-001R Rev 3 dated June 2014, Revision 3 applying either Option 1 or Option 2.

Any The retaining wall/structure must be constructed of materials and/or finished in colours, which blend with the surrounding natural environment.

The works must be supervised by a Registered Professional Engineer of Queensland with all work detailed on a certificate of supervision and a copy of the supervision certificate submitted to Council upon completion.

The retaining works must be installed with the associated Certificate provided to the Chief Executive Officer prior to the Commencement of Use.

### **Removal of Other Structures**

15. All other structures existing on the land and not included on the approved plans and/or documents, or otherwise defined as exempt development under the Sustainable Planning Act, must be removed from the land prior to the Commencement of Use.

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## **Noise**

16. Noise from generators or other mechanical equipment, must not emanate from the subject land to a degree that would, in the opinion of the Chief Executive Officer, create an environmental nuisance having regard to the provisions of Chapter 8 Part 3B of the *Environmental Protection Act 1994*.

## **ADVICE**

1. This approval, granted under the provisions of the *Sustainable Planning Act 2009*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of section 339 and section 341 of the *Sustainable Planning Act 2009*.
2. The applicant/owner is advised that this approval does not approve the construction of the building work. A Development Permit for Building Work must be obtained in order for construction to commence.
3. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
4. All future land owners are to be advised of the conditions of the approval by the vendor.
5. The land owner is to be mindful of trees on neighbouring land and the possible instability of those trees.
6. Specialist geotechnical engineering advice should be gained prior to undertaking any changes to the bench and area of uncontrolled fill, other than as required through the condition of the approval.
7. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
8. For information relating to the *Sustainable Planning Act 2009* log on to [www.dsdip.qld.gov.au](http://www.dsdip.qld.gov.au) . To access the *FNQROC Development Manual*, Local Laws and other applicable Policies log on to [www.douglas.qld.gov.au](http://www.douglas.qld.gov.au) .

## **LAND USE DEFINITIONS\***

In accordance with *Douglas Shire Planning Scheme 2008* the approved land use of House is defined as:

*Means the use of premises comprising one (1) Dwelling Unit, located on one (1) lot for the exclusive residential use of one (1) Household. The use includes:*

- *Outbuildings/structures incidental to and necessarily associated with the residential use;*
- *the care of children in accordance with the *Child Care (Family Day Care) Regulation 1991*;*
- *accommodation for a member or members of the extended family of the Household occupying the House and for personal staff; and*

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- *a display house which displays to the general public the type of construction or design offered by a builder/developer, for a maximum period of 12 months and which then converts to a House for the exclusive use of one (1) Household.*

\*This definition is provided for convenience only. This Development Permit is limited to the specifications, facts and circumstances as set out in the application submitted to Council and is subject to the abovementioned conditions of approval and the requirements of Council's Planning Scheme and the *FNQROC Development Manual*.

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**RIGHTS OF APPEAL**

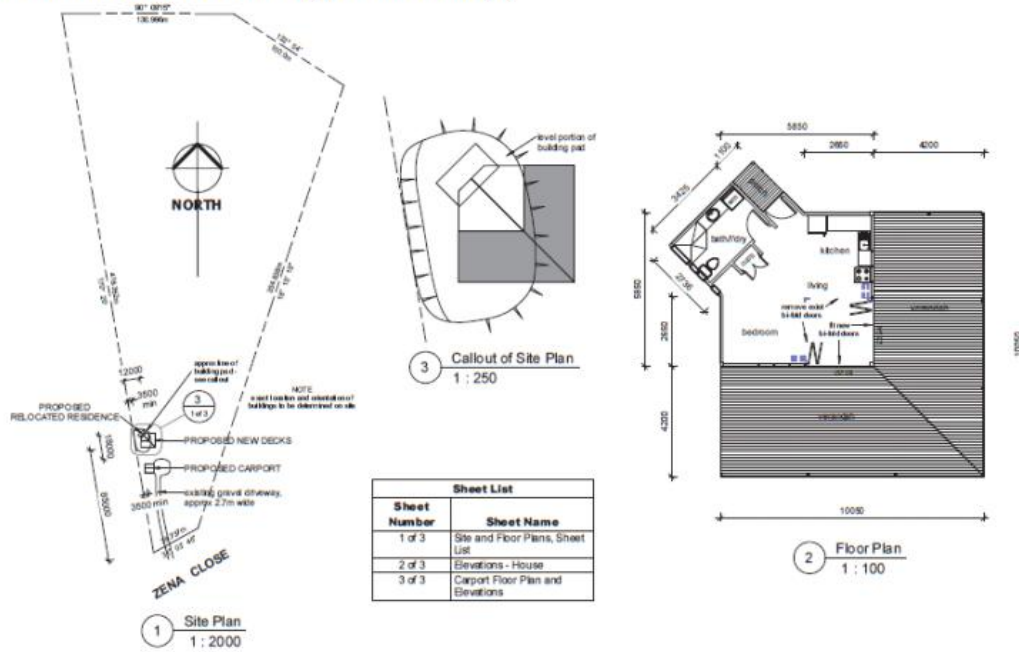
Attached

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**End of Decision Notice**

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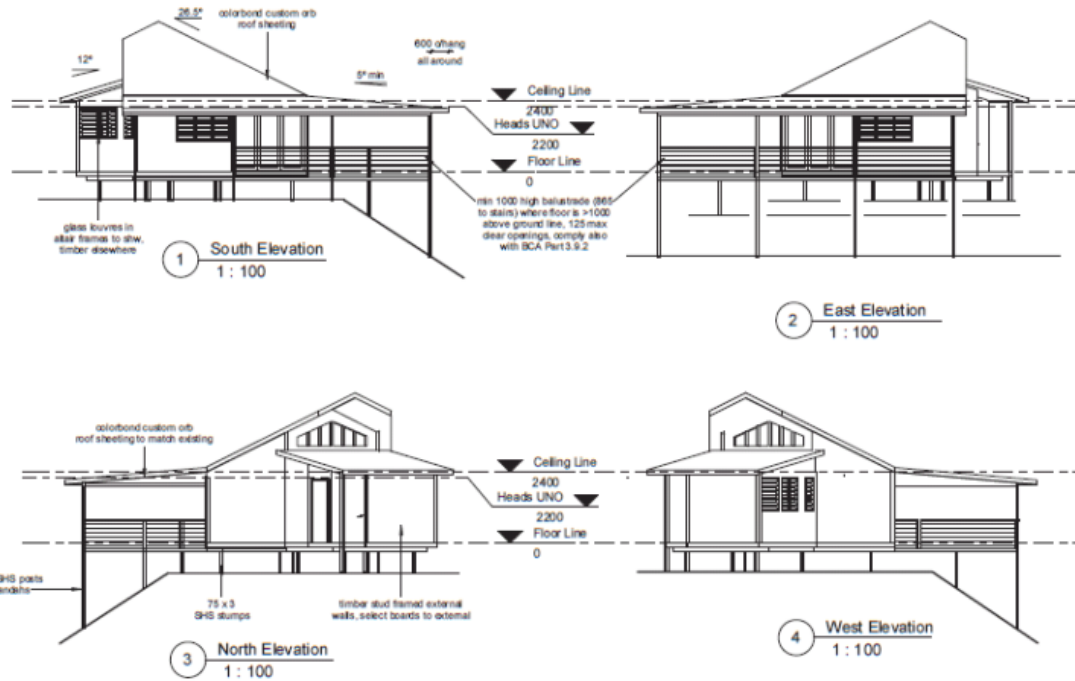
**APPENDIX 1: APPROVED PLAN(S) & DOCUMENT(S)**



Sheet List	
Sheet Number	Sheet Name
1 of 3	Site and Floor Plans, Sheet List
2 of 3	Elevations - House
3 of 3	Carport Floor Plan and Elevations

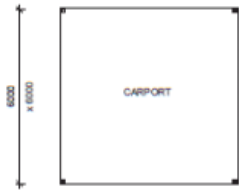
<b>GREG SKYRING</b> <i>Design and DRAFTING</i> Pty. Ltd. <small>11 Noll Close, Moorabin Q. 4875</small> <small>Uk Under QBS/Act 1981 - No. 1040271</small> <small>Phone/Fax: 071 4386381</small> <small>Email: gskyring@gregskyking.com.au</small>	<b>PROJECT</b> Proposed Residence, L12 RP738897, Zena Close, CAPE TRIBULATION	<b>CLIENT</b> B Fisher and C Peiham	<b>WIND CLASS</b> C2	<b>PLAN NUMBER</b> 212-13	<b>SHEET</b> 1 of 3
		<b>SCALE:</b> As indicated	<b>PLAN TITLE</b> Site and Floor Plans, Sheet List	<b>DATE OF ISSUE</b> prelim	<b>REV</b>

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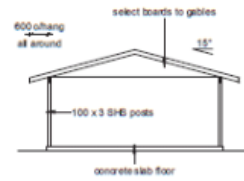


<b>GREG SKYRING</b> <i>Design and DRAFTING</i> Pty. Ltd. <small>Lic Under QCSA Act 1991 - No 1940371</small> 11 Noll Close, Mosman Q. 4157    Email: <a href="mailto:skyring@gregskyring.com.au">skyring@gregskyring.com.au</a> Phone/Fax: 071 4060391    Mobile: 0410212672	<b>PROJECT</b> Proposed Residence, L12 RP738897, Zena Close, CAPE TRIBULATION	<b>CLIENT</b> B Fisher and C Pelham	<b>WORD CLASS</b> C2	<b>PLAN NUMBER</b> 212-13	<b>SHEET</b> 2 of 3
		<b>SCALE</b> 1 : 100	<b>PLAN TITLE</b> Elevations - House	<b>DATE OF ISSUE</b> prelim	<b>REV</b>

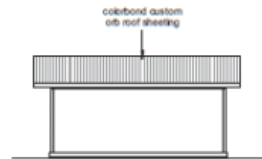
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1 Carport Floor Plan  
1 : 100



2 East Elevation - Carport  
1 : 100



3 South Elevation - Carport  
1 : 100

<b>GREG SKYRING</b> <i>Design</i> and DRAFTING Pty Ltd <small>Lic Under QCCA Act 1991 - No 1040271</small> <small>11 Noll Close, Mossman Q. 4873</small> <small>Phone/Fax: (07) 4 0963001 Mobile: 0415213913 Email: gskyring@optusnet.au</small>	<b>PROJECT</b> Proposed Residence, L12 RP738997, Zena Close, CAPE TRIBULATION	<b>CLIENT</b> B Fisher and C Pelham		<b>WDC CLASS</b> C2	<b>PLAN/NUMBER</b> 212-13	<b>SHEET</b> 3 of 3
		<b>SCALE</b> 1 : 100	<b>PLAN TITLE</b> Carport Floor Plan and Elevations	<b>DATE OF ISSUE</b> prelim	<b>REV</b>	

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Planning Act 2016  
Chapter 3 Development assessment

[s 74]

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*relevant preliminary approval* means a preliminary approval given under the old Act by an entity other than a private certifier.

## **Division 2            Changing development approvals**

### **Subdivision 1        Changes during appeal period**

#### **74        What this subdivision is about**

- (1) This subdivision is about changing a development approval before the applicant's appeal period for the approval ends.
- (2) This subdivision also applies to an approval of a change application, other than a change application for a minor change to a development approval.
- (3) For subsection (2), sections 75 and 76 apply—
  - (a) as if a reference in section 75 to a development approval were a reference to an approval of a change application; and
  - (b) as if a reference in the sections to the assessment manager were a reference to the responsible entity; and
  - (c) as if a reference in section 76 to a development application were a reference to a change application; and
  - (d) as if the reference in section 76(3)(b) to section 63(2) and (3) were a reference to section 83(4); and
  - (e) with any other necessary changes.

#### **75        Making change representations**

- (1) The applicant may make representations (*change representations*) to the assessment manager, during the applicant's appeal period for the development approval, about changing—

- 
- (a) a matter in the development approval, other than—
    - (i) a matter stated because of a referral agency's response; or
    - (ii) a development condition imposed under a direction given by the Minister under part 6, division 2; or
    - (iii) a development condition imposed under a direction given by the chief executive under section 106ZF(2); or
  - (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(d).
- (2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
  - (3) Only 1 notice may be given.
  - (4) If a notice is given, the appeal period is suspended—
    - (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
    - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
      - (i) the applicant withdraws the notice, by giving another notice to the assessment manager; or
      - (ii) the assessment manager gives the applicant the decision notice for the change representations; or
      - (iii) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
  - (5) If the applicant makes the change representations during the appeal period without giving a notice under subsection (2),

the appeal period is suspended from the day the representations are made until—

- (a) the applicant withdraws the change representations by notice given to the assessment manager; or
  - (b) the assessment manager gives the applicant the decision notice for the change representations; or
  - (c) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- (6) Despite subsections (4) and (5), if the decision notice mentioned in subsection (4)(b)(ii) or (5)(b) is a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

## **76 Deciding change representations**

- (1) The assessment manager must assess the change representations against and having regard to the matters that must be considered when assessing a development application, to the extent those matters are relevant.

*Note—*

For change representations for a development approval for development requiring social impact assessment, see also section 106ZI.

- (2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
- (a) the applicant; and
  - (b) if the assessment manager agrees with any of the change representations—
    - (i) each principal submitter; and
    - (ii) each referral agency; and
    - (iii) if the assessment manager is not a local government and the development is in a local

- 
- government area—the relevant local government;  
and
- (iv) if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
  - (v) another person prescribed by regulation.
- (3) A decision notice (a *negotiated decision notice*) that states the assessment manager agrees with a change representation must—
- (a) state the nature of the change agreed to; and
  - (b) comply with section 63(2) and (3).
- (4) A negotiated decision notice replaces the decision notice for the development application.
- (5) Only 1 negotiated decision notice may be given.
- (6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.

## Subdivision 2 Changes after appeal period

### 77 What this subdivision is about

This subdivision is about changing a development approval, other than the currency period, after all appeal periods in relation to the approval end.

### 78 Making change application

- (1) A person may make an application (a *change application*) to change a development approval.

*Note—*

For the making of a change application for a development approval that was a PDA development approval, see also the *Economic Development Act 2012*, sections 51AM, 51AN and 51AO.

## Extracts from the Planning Act 2016 – Appeal Rights

Planning Act 2016  
Chapter 6 Dispute resolution

[s 229]

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- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.
- (3) In this section—
  - conduct* means an act or omission.
  - representative* means—
    - (a) of a corporation—an executive officer, employee or agent of the corporation; or
    - (b) of an individual—an employee or agent of the individual.
  - state of mind*, of a person, includes the person's—
    - (a) knowledge, intention, opinion, belief or purpose; and
    - (b) reasons for the intention, opinion, belief or purpose.

## Chapter 6 Dispute resolution

### Part 1 Appeal rights

#### 229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
  - (a) matters that may be appealed to—
    - (i) either a tribunal or the P&E Court; or
    - (ii) only a tribunal; or
    - (iii) only the P&E Court; and
  - (b) the person—
    - (i) who may appeal a matter (the *appellant*); and
    - (ii) who is a respondent in an appeal of the matter; and

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Current as at 18 July 2025

Authorised by the Parliamentary Counsel

- (iii) who is a co-respondent in an appeal of the matter;  
and
- (iv) who may elect to be a co-respondent in an appeal  
of the matter.

*Note—*

For limitations on appeal rights in relation to a development approval for development requiring social impact assessment, see section 106ZJ.

- (2) An appellant may start an appeal within the appeal period.
- (3) The ***appeal period*** is—
  - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or
  - (d) for an appeal against a decision of the Minister, under chapter 7, part 4, to amend the registration of premises to include additional land in the affected area for the premises—20 business days after the day a notice is published under section 269A(2)(a); or
  - (e) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
  - (f) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
  - (g) for an appeal relating to the *Plumbing and Drainage Act 2018*—
    - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and*

*Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or

- (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
  - (iii) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
  - (iv) otherwise—20 business days after the day the notice is given; or
- (h) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

*Note—*

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.
- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
  - (a) the adopted charge itself; or
  - (b) for a decision about an offset or refund—
    - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
    - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

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**230 Notice of appeal**

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
  - (a) is in the approved form; and
  - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
  - (a) the respondent for the appeal; and
  - (b) each co-respondent for the appeal; and
  - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
  - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
  - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
  - (f) for an appeal to the P&E Court—the chief executive; and
  - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
  - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
  - (b) otherwise—10 business days after the appeal is started.

- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
  - (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
  - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department’s website for this purpose.

## 231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—

**decision** includes—

  - (a) conduct engaged in for the purpose of making a decision; and
  - (b) other conduct that relates to the making of a decision; and

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- (c) the making of a decision or the failure to make a decision; and
  - (d) a purported decision; and
  - (e) a deemed refusal.

**non-appealable**, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

## 232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

## Part 2 Development tribunal

### Division 1 General

#### 233 Appointment of referees

- (1) The Minister, or chief executive, (the **appointer**) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—

- (2) This section is subject to section 123.

**123 Agreements about payment or provision instead of payment**

- (1) The recipient of an infrastructure charges notice and the local government that gave the notice may agree about either or both of the following—
- (a) whether the levied charge under the notice may be paid other than as required under section 122 including whether the charge may be paid by instalments;
  - (b) whether infrastructure may be provided instead of paying all or part of the levied charge.
- (2) If the levied charge is subject to an automatic increase provision, the agreement must state how increases in the charge are payable under the agreement.

**Subdivision 5 Changing charges during appeal period**

**124 Application of this subdivision**

This subdivision applies to the recipient of an infrastructure charges notice given by a local government.

**125 Representations about infrastructure charges notice**

- (1) During the appeal period for the infrastructure charges notice, the recipient may make representations to the local government about the infrastructure charges notice.
- (2) The local government must consider any representations made by the recipient.
- (3) If the local government—
- (a) agrees with a representation; and
  - (b) decides to change the infrastructure charges notice;

the local government must, within 10 business days after making the decision, give a new infrastructure charges notice (a *negotiated notice*) to the recipient.

- (4) The local government may give only 1 negotiated notice.
- (5) A negotiated notice—
  - (a) must be in the same form as the infrastructure charges notice; and
  - (b) must state the nature of the changes; and
  - (c) replaces the infrastructure charges notice.
- (6) If the local government does not agree with any of the representations, the local government must, within 10 business days after making the decision, give a decision notice about the decision to the recipient.
- (7) The appeal period for the infrastructure charges notice starts again when the local government gives the decision notice to the recipient.
- (8) However, if the recipient gives the local government a notice withdrawing the representations before the local government has given a negotiated notice or decision notice—
  - (a) the appeal period is taken to have been suspended from the day the representations were made; and
  - (b) the balance of the appeal period restarts on the day after the day the local government receives the notice of withdrawal.

*Note—*

See also section 126 in relation to suspending the appeal period by notice.

## **126 Suspending appeal period by notice**

- (1) If the recipient needs more time to make representations, the recipient may give a notice suspending the appeal period to the local government.
- (2) The recipient may give only 1 notice.