

14 September 2018

Administration Office

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Enquiries: Neil Beck  
Our Ref: BW 2836/2018 (872587)  
Your Ref: 20182402 PO6071

R J Lapaer  
C/- GMA Certification Group  
PO Box 831 PORT DOUGLAS QLD 4877

Dear Sir

**Building Works Assessable against the Planning Scheme (Dwelling Additions)  
At 109R Camelot Close – Cape Tribulation:  
On Land Described as Lot 19 on RP733182**

Thank you for lodging the above Development Application with Council on 3 September 2018.

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

Please quote Council's application number: BW 2836/2018 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Neil Beck on telephone 07 4099 9451.

Yours faithfully

**PAUL HOYE**  
**Manager Sustainable Communities**

encl.

- Decision Notice
- Approved Plans

**DECISION NOTICE —  
APPROVAL (WITH CONDITIONS)  
(GIVEN UNDER SECTION 63 OF *THE PLANNING ACT 2016*)**

Thank you for your development application detailed below which was properly made on 3 September 2018. Please be aware that Douglas Shire Council has assessed your application and decided it as follows:

**1. Applicant's details**

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Name: R J Lapaer  
Postal Address: C/- GMA Certification Group  
PO Box 831 PORT DOUGLAS QLD 4877

**1. Location details**

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Street address: 109R Camelot Close CAPE TRIBULATION  
Real property description: LOT: 19 RP: 733182  
Local government area: Douglas Shire Council

**2. Details of the proposed development**

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Preliminary Approval for Building Works

**3. Decision**

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Decision details: Approved in full with conditions. These conditions are set out in Schedule 1.  
Date of Decision: 14 September 2018

**4. Approved plans and specifications**

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Copies of the following plans, specifications and/or drawings are enclosed.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Site Plan	Clarkeville Designs	1 October 2017	2-8-17	N/A
Ground & First Floor	Clarkeville Designs	1 October 2017	2-8-17	N/A
Elevations	Clarkeville Designs	1 October 2017	2-8-17	N/A
East View	Clarkeville Designs	1 October 2017	2-8-17	N/A

**5. Conditions**

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This approval is subject to the conditions in Schedule 1.

## 6. 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:

- Building Work
- Plumbing and Drainage Work depending on the outcome of Condition 5.

## 7. Currency period for the approval

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Under section 85(1)(a)(i) of the Planning Act 2016, the relevant period for the Preliminary Approval is to be six (6) years starting from the day the approval takes effect.

## 8. Reasons for Decision

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The reasons for this decision are:

1. Section 60 of the *Planning Act 2016*:
  - a. the approved plan(s) and document(s);
  - b. the Conditions and advices as Schedule 1
  - c. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme; and
  - d. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
  - a. the development application was properly lodged to the Douglas Shire Council on 3 September 2018 under section 51 of the *Planning Act 2016* and Part 1 of the Development Assessment Rules;
  - b. the development application contained a report which Council reviewed together with Council's own investigation of assessment against the 2018 Douglas Shire Planning Scheme.
3. Evidence or other material on which findings were based:
  - a. the development triggered assessable development under the Assessment Table associated with the Conservation Zone, 2018 Douglas Shire Planning Scheme;
  - b. Council undertook an assessment in accordance with the provisions of sections 60 and 63 of the *Planning Act 2016*; and
  - c. the applicant's reasons have been considered and the following findings are made:
    - i. Subject to conditions the development satisfactorily meets the Planning Scheme requirements;

## **9. Rights of appeal**

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The rights of applicants to make representations are set out in the Development Assessment Rules. 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 the 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 includes extracts from the Development Assessment Rules and the *Planning Act 2016* that sets down these rights.

## **SCHEDULE 1 CONDITIONS AND ADVICES IMPOSED BY THE ASSESSMENT MANAGER**

### **PART 1A – CONDITIONS IMPOSED BY THE ASSESSMENT MANAGER**

#### **Approved Development**

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; 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 effected prior to Commencement of Use, except where specified otherwise in these conditions of approval.

#### **Lawful Point of Discharge**

3. All 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, all to the requirements and satisfaction of the Chief Executive Officer.

#### **No Clearing**

4. No clearing is approved unless otherwise permitted under the Planning Scheme.

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

5. Details that the existing onsite waste water has the ability to service the approved extensions is to be demonstrated prior to the issue of a Development Permit for Building Work. Should upgrades be required, then such works must be undertaken in accordance with Queensland Plumbing & Wastewater Code the Queensland Plumbing & Wastewater Code.

#### **Generators**

8. Noise from; generators, air-conditioning units, swimming and spa pool filters, service equipment 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*.

#### **Building Colours**

10. The exterior finishes and colours of Buildings must be non-reflective and must 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.

### **PART 1B – ADVICE NOTES**

1. 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 potential cyclone warning and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.

2. This approval does not negate the requirement for compliance with relevant Local Laws and statutory requirements.
3. For information relating to the *Planning Act 2016* log on to [www.dsdmip.qld.gov.au](http://www.dsdmip.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 the *2018 Douglas Shire Planning Scheme* the approved land use is defined as follows.

Column 1 Use	Column 2 Definition	Column 3 Examples	Column 4 Does not include the include following examples
Dwelling House	<p>A residential use of premises for one household that contains a single dwelling.</p> <p>The use includes domestic outbuildings and works normally associated with a dwelling and may include a secondary dwelling.</p>		<p>Caretaker's accommodation, dual occupancy, hostel, short-term accommodation, student accommodation, multiple dwelling.</p>

\*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.

## SCHEDULE 2 – PLANNING ACT EXTRACT ON APPEAL RIGHTS

### CHAPTER 6, 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
    - (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.
- (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 an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
  - (e) 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
  - (f) 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.

#### 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, table 1, item 1—each principal submitter for the development application; and
  - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
  - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); 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 by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.

## **SCHEDULE 1 APPEALS**

### **1 Appeal rights and parties to appeals**

- (1) Table 1 states the matters that may be appealed to—
  - (a) the P&E court; or
  - (b) a tribunal.
- (2) However, table 1 applies to a tribunal only if the matter involves—
  - (a) the refusal, or deemed refusal of a development application, for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (b) a provision of a development approval for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (c) if a development permit was applied for—the decision to give a preliminary approval for—
    - (i) a material change of use for a classified building; or
    - (ii) operational work associated with building work, a retaining wall, or a tennis court; or
  - (d) a development condition if—
    - (i) the development approval is only for a material change of use that involves the use of a building classified under the Building Code as a class 2 building; and
    - (ii) the building is, or is proposed to be, not more than 3 storeys; and
    - (iii) the proposed development is for not more than 60 sole-occupancy units; or
  - (e) a decision for, or a deemed refusal of, an extension application for a development approval that is only for a material change of use of a classified building; or
  - (f) a decision for, or a deemed refusal of, a change application for a development approval that is only for a material change of use of a classified building; or
  - (g) a matter under this Act, to the extent the matter relates to—



- (i) the Building Act, other than a matter under that Act that may or must be decided by the Queensland Building and Construction Commission; or
  - (ii) the Plumbing and Drainage Act, part 4 or 5; or
  - (h) a decision to give an enforcement notice in relation to a matter under paragraphs (a) to (g); or
  - (i) a decision to give an infrastructure charges notice; or
  - (j) the refusal, or deemed refusal, of a conversion application; or
  - (k) a matter that, under another Act, may be appealed to the tribunal; or
  - (l) a matter prescribed by regulation.
- (3) Also, table 1 does not apply to a tribunal if the matter involves—
- (a) for a matter in subsection (2)(a) to (d)—
    - (i) a development approval for which the development application required impact assessment; and
    - (ii) a development approval in relation to which the assessment manager received a properly made submission for the development application; or
  - (b) a provision of a development approval about the identification or inclusion, under a variation approval, of a matter for the development.
- (4) Table 2 states the matters that may be appealed only to the P&E Court.
- (5) Table 3 states the matters that may be appealed only to the tribunal.
- (6) In each table—
- (a) column 1 states the appellant in the appeal; and
  - (b) column 2 states the respondent in the appeal; and
  - (c) column 3 states the co-respondent (if any) in the appeal; and
  - (d) column 4 states the co-respondents by election (if any) in the appeal.
- (7) If the chief executive receives a notice of appeal under section 230(3)(f), the chief executive may elect to be a co-respondent in the appeal.

**Extract of Schedule 1 of the Planning Act 2016**

<b>Table 1</b>			
<b>Appeals to the P&amp;E Court and, for certain matters, to a tribunal</b>			
1. Development applications An appeal may be made against— <ul style="list-style-type: none"> <li>(a) the refusal of all or part of the development application; or</li> <li>(b) the deemed refusal of the development application; or</li> <li>(c) a provision of the development approval; or</li> <li>(d) if a development permit was applied for—the decision to give a preliminary approval.</li> </ul>			
Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
The applicant	The assessment manager	If the appeal is about a concurrence agency's referral response—the concurrence agency	1 A concurrence agency that is not a co-respondent 2 If a chosen assessment manager is the respondent—the prescribed assessment manager 3 Any eligible advice agency for the application 4 Any eligible submitter for the application

**Table 2  
Appeals to the P&E Court only**

2. Eligible submitter appeals  
 An appeal may be made against the decision to give a development approval, or an approval for a change application, to the extent that the decision relates to—  
 (a) any part of the development application for the development approval that required impact assessment; or  
 (b) a variation request.

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 For a development application—an eligible submitter for the development application  2 For a change application—an eligible submitter for the change application	1 For a development application—the assessment manager  2 For a change application—the responsible entity	1 The applicant  2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application

3. Eligible submitter and eligible advice agency appeals  
 An appeal may be made against a provision of a development approval, or failure to include a provision in the development approval, to the extent the matter relates to—  
 (a) any part of the development application or the change application, for the development approval, that required impact assessment; or  
 (b) a variation request.

Column 1 Appellant	Column 2 Respondent	Column 3 Co-respondent (if any)	Column 4 Co-respondent by election (if any)
1 For a development application—an eligible submitter for the development application  2 For a change application—an eligible submitter for the change application  3 An eligible advice agency for the development application or change application	1 For a development application—the assessment manager  2 For a change application—the responsible entity	1 The applicant  2 If the appeal is about a concurrence agency's referral response—the concurrence agency	Another eligible submitter for the application

**Note:**

Attached is a Rights of Appeal Waiver form (Schedule 3). Please complete and return this form if you are satisfied with the approval and agree to the conditions contained therein and you wish to waive the 20 day appeal period available under the *Planning Act 2016*