Cloncurry Shire Council

38-46 Daintree Street PO Box 3 Cloncurry QLD 4824 ABN: 76 581 540 914



Telephone: (07) 4742 4100
Facsimile: (07) 4742 1712
Email: council@cloncurry.qld.gov.au

Website: www.cloncurry.qld.gov.au

Our ref: 230391 - TP10/18

18 December 2018

G. Baker
C/- BNC Planning
PO Box 5493
TOWNSVILLE QLD 4810
Email: enquirie@bncplanning.com.au

Dear Benjamin

DECISION NOTICE – DEVELOPMENT APPLICATION – MATERIAL CHANGE OF USE – (OFFICE) LOT 40 SIR HUDSON FYSH DRIVE, CLONCURRY, APPROVAL (WITH CONDITIONS)

(Given under section 63 of the Planning Act 2016)

The development application described below was properly made to the Cloncurry Shire Council on 30 October 2018.

Applicant details

Applicant name:

C G. Baker

Applicant contact details:

C/- BNC Planning

PO Box 5493

TOWNSVILLE QLD 4810

Application details

Application number:

TP 10-18

Approval sought:

Development Permit

Nature of development proposed:

Material Change of Use

Details of proposed development:

Office

Category of assessment:

Code Assessment

Location details

Street address:

Lot 40 Sir Hudson Fysh Drive, Cloncurry

Real property description:

Lot 40 on CP911399.

Local government area:

Cloncurry Shire Council

Decision

Date of decision:

11 December 2018

Decision details:

Approved in full with conditions. These conditions are set out

in Attachment 1.

Details of the approval

Development permit:

Material Change of Use - Office

Conditions

This approval is subject to the conditions in Attachment 1.

Properly made submissions

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

Rights of appeal

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*).

A copy of the relevant appeal provisions is attached.

Currency period for the approval

This development approval will lapse at the end of the period set out in section 85 of *Planning Act 2016* which is 6 years after this approval starts to take effect.

Approved plans and specifications

Copies of the following plans are enclosed.

Report/Plan/Drowing Number	Bar/Dogman(Name	Dao
WD100	Site Plan	Aug -2018
WD-000	Title Sheet	Aug-2018
WD-300	Elevation	Aug -2018
WD-200	Ground Floor	Aug -2018
WD-201	Level 1	Aug -2018
WD-800	Kitchen & Bar Elevations	Aug-2018

For further information please contact Andrew Humpherys, Council's Senior Town Planner, on 4742 4100 or via email council@cloncurry.qld.gov.au who will be pleased to assist.

Yours faithfully

David Bezuidenhout Chief Executive Officer

Attachment 1—Assessment manager conditions

Attachment 2 – Statement of Reasons

Attachment 3 - Appeal provisions

Attachment 4 - Approved plans and specifications

ATTACHMENT 1 - CONDITIONS OF APPROVAL

NATURE OF DECISION

A The Cloncurry Shire Council issues a development permit for Development application - Reference TP10-18 Material Change of Use – Office under the *Planning Act 2016*.

GENERAL

1. Site Layout

The development must generally comply with the Approved Proposal Plans and Design Drawings as referenced in the table below, which forms part of this application, except as otherwise specified by any condition of this approval.

PARTITIE AND	Plan No	Reve Date	Riepared By
Site Plan	WD100	Aug -2018	Geoff's Building Service
Title Sheet	WD-000	Aug-2018	Geoff's Building Service
Elevation	WD-300	Aug -2018	Geoff's Building Service
Ground Floor	WD-200	Aug -2018	Geoff's Building Service
Level 1	WD-201	Aug -2018	Geoff's Building Service
Kitchen & Bar Elevations	WD-800	Aug-2018	Geoff's Building Service

2. Compliance with conditions

- (a) All conditions must be complied with prior to the commencement of the use, unless specified in an individual condition.
- (b) The conditions of this development approval are to be read in conjunction with the approved plans /drawings/ documents at all times. Where a conflict occurs between the conditions of this approval and the approved plans / documents, the conditions of this development approval shall prevail.

MATERIAL CHANGE OF USE

3. Light Intensity

Outdoor lighting will comply with the requirements of the Civil Aviation Safety Authority Guideline Chapter 12 – Aerodrome lighting, 1.2. Lighting in the vicinity of an aerodrome.

4. Waste Management

Waste storage areas for general waste and regulated waste are to be provided within the site at accessible locations to allow for collection and removal to approved facilities.

5. Stormwater Drainage

- (a) Stormwater discharging from the site is to be directed to the lawful point of discharge.
- (b)Overland flow paths on the site must not be altered in a way that inhibits or alters the characteristics of existing overland flows on other properties or that creates an increase in flood damage to nearby properties.
- (c) Stormwater from disturbed areas is to the retained and treated within the construction site in accordance with the erosion and sediment control plan before discharge to the lawful point of discharge.
- (d)Any damage to Council's infrastructure as a result of the proposed works must be repaired immediately

6. Noise Management

Noise mitigation measures shall be put in place to contain and manage noise levels so as not to give rise to unacceptable effects on nearby sensitive receiving land uses.

7. Erosion and Sediment Control

During construction, sediment and erosion control measures are to be implemented in accordance with the policy SC6.4.16 Erosion and Sediment Control in PSP3-0 Operational Works and Services of the Cloncurry Shire Planning Scheme 2016.

8. Car Parking

Adequate car parking is to be provided as per Table 8.3.2.3-2 of the *Cloncurry Shire Council Planning Scheme 2016*.

9. Dust Management

During construction and operation of the approved use, the operator is to put in place appropriate mitigation measures for the suppression of dust, so as not to cause a nuisance.

10. Building and Plumbing approvals

All relevant Building and Plumbing approvals are to be in place before construction works commence.

11. Works during construction

- a) Unless otherwise approved in writing by the assessment manager, hours of construction must not exceed 8.00 am to 6.00pm (Monday to Saturday).
- b) Unless otherwise approved in writing by the assessment manger, work must not be conducted from or on the premises outside the above hours or on Sundays or public holidays.

ADVICE - Please note that these are not conditions

- A. The Applicant is responsible for securing all necessary approvals, permits and tenure, providing statutory notifications and complying with all relevant laws. Nothing in this development approval alleviates the need for the Applicant to comply with all relevant Local, State and Commonwealth laws and to ensure appropriate tenure arrangements have been made where the use of/reliance upon land other than that owned by the Applicant is involved. Without limiting this obligation, the Applicant is responsible for:
 - (a) Obtaining all other/further necessary approvals, licences, permits, resource entitlements etc by whatever name called (this may include further development approvals under the "Planning Act 2016" and the planning scheme) required by law before the development the subject of this approval can be lawfully commenced and to carry out the activity for its duration;
 - (b) Providing any notifications required by law (by way of example only, to notify the administering authority pursuant to the "Environmental Protection Act 1994" of environmental harm being caused/threatened by the activity, and upon becoming aware the premises is being used for a 'notifiable activity'); and
 - (c) Ensuring the correct siting of structures on the land. An identification survey demonstrating correct siting and setbacks of structures may be requested of the Applicant to ensure compliance with this decision notice and applicable codes.

B. Indigenous Cultural Heritage Legislation and Duty of Care Requirement

The "Aboriginal Cultural Heritage Act 200" (ACHA) establishes a duty of care to take all reasonable and practicable measures to ensure any activity does not harm Aboriginal cultural heritage. This duty of care:

- (d) Is not negated by the issuing of this development approval;
- (e) Applies on all land and water, including freehold land;
- (f) Lies with the person or entity conducting an activity; and
- (g) If breached, is subject to criminal offence penalties.

Those proposing an activity involving surface disturbance beyond that which has already occurred at the proposed site must observe this duty of care. Details of how to fulfil this duty of care are outlined in the duty of care guidelines gazetted with the ACHA. The Applicant should contact NRW's Cultural Heritage Coordination Unit on (07) 3238 3838 for further information on the responsibilities of developers under the ACHA.

C. Limitation of Approval

The Council and its officers make no representations and provide no warranties as to the accuracy of the information contained in the development application including its supporting material provided to it by the Applicant.

The Council and its officers rely upon the applicant concerning the accuracy and completeness of the application and its supporting material and accepts the development application and supporting material as constituting a representation by the applicant as to its accuracy and completeness.

ATTACHMENT 2 - STATEMENT OF REASONS - TP 10-18

NOTICE ABOUT DECISION - STATEMENT OF REASONS

The following information is provided in accordance with section 63(5) of the Planning Act 2016

Details of the Development

The proposed development is for Material Change of Use – Office at 40 Sir Hudson Fysh Drive, Cloncurry described as Lot 40 on CP 911399.

On 11 December 2018, the above development application was approved in full with conditions.

Reasons for the decision

The development application seeking a development permit for a material change of use for construction of an office is code assessable under the planning scheme.

In particular, the development is in Airport Environs Overlay. However, the proposed development is low-key (below the height restriction of 12 metres), is not located within a building restricted area and will not be a public safety hazard or attract wildlife. The proposed development complies with all the other applicable benchmarks of the relevant planning scheme codes. Appropriate conditions have been included to ensure that relevant code requirements are implemented.

A detailed assessment of the application by Council assessing officers has been undertaken and it is concluded as documented in the Development Assessment Report that the applicant has satisfactorily demonstrated compliance with the applicable benchmarks of the relevant planning scheme codes to enable Council to support the proposed development in granting its approval, subject to reasonable and relevant conditions being imposed.

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
 - (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-
 - 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—
 - the establishment cost of trunk infrastructure identified in a LGIP; or
 - the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- 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.
- (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 Other appeals

- (1) Subject to this chapter, 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-
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision;
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.

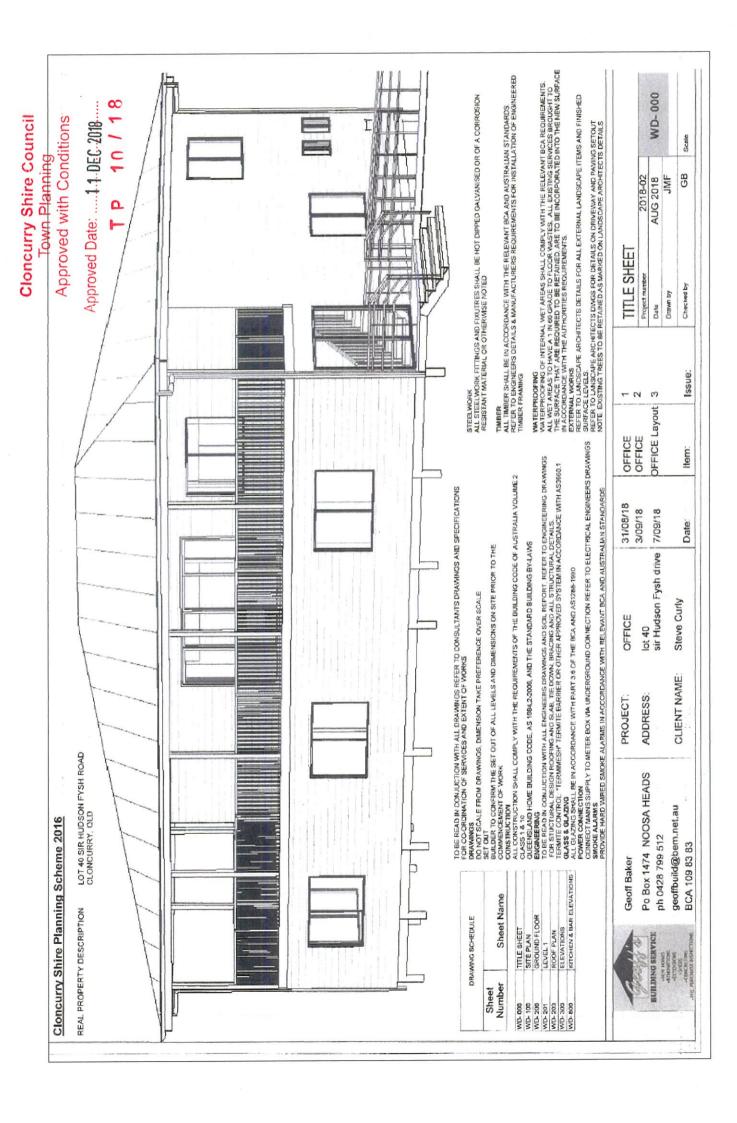
non-appealable, for a decision or matter, means the decision or matter—

- (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.

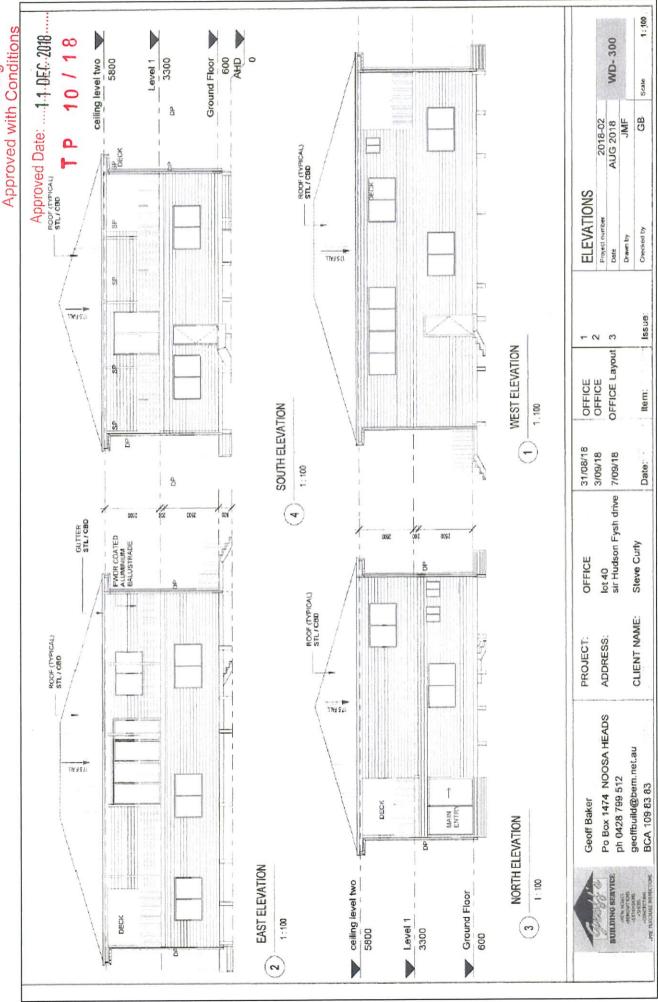
232 Rules of the P&E Court

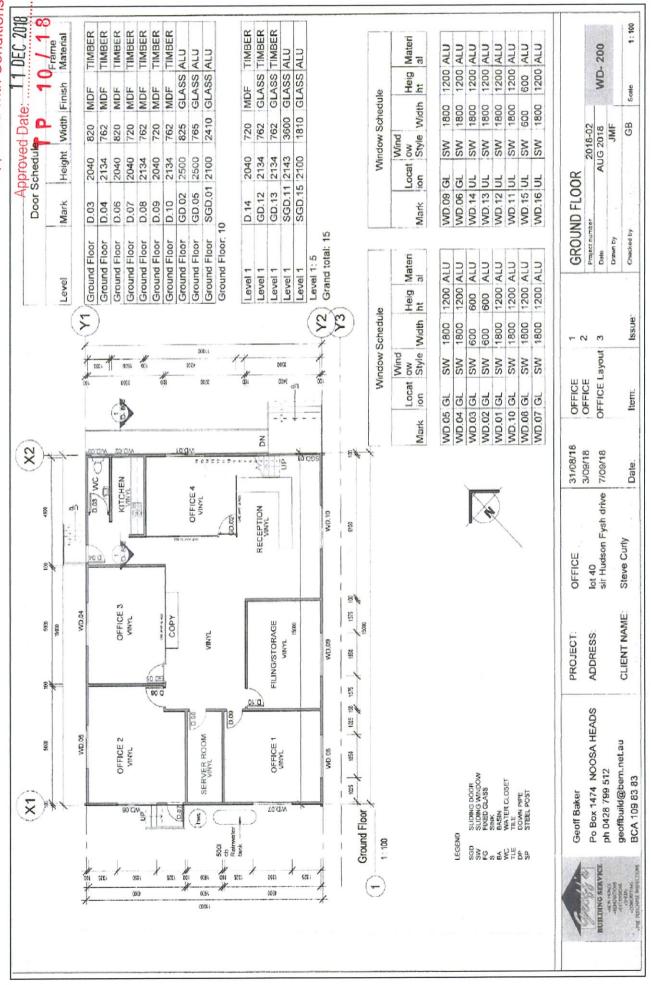
- A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

ATTACHMENT 4 - APPROVED PLANS & SPECIFICATIONS



Cloncurry Shire Council
Town Planning
Approved with Conditions





Cloncurry Shire Council Town Planning

As indicated ceiling level two Hevel 1 Level 1 WD-800 Approved with Conditions Scale KITCHEN & BAR ELEVATIONS
Project number 2018-02
Date AUG 2018
Date JMF - Zippy bap 8 GB Approved Date: 60 Checked by Leminate Bench top and Joinery Bar Front counter Bar Inside view 90 000 1:50 1:50 Bar counter ssne ceiling level two 9 1:50 6 T 0 B 72 3300 **DFFICE Layout** OFFICE SD Item: 509 31/08/18 3/09/18 lot 40 sir Hudson Fysh drive 7/09/18 400 400 400 400 600 900 Date: Bar Area Floor plan Steve Curly Bar back wall OFFICE Open shelf in laminate 1:100 1:50 Suthway thes 4 (5) CLIENT NAME: ADDRESS: PROJECT: 20mm laminate bench top Ground Floor 1 125 066 Tiled splashback Po Box 1474 NOOSA HEADS ds geoffbuild@bem.net.au 80 80 80 W Sec ph 0428 799 512 BCA 109 83 83 35 KITCHEN MINT Geoff Baker 8 80 3230 Š 8 0 Ee Kitchen Floor plan 9 8/0 Kitchen Elevation UILDING SERVICE ** 030 2002 (7) \odot