



26 July 2021

Senior Planner: Brian Millard
Direct Phone: 4086 4657
Our Reference: BM:nj
Your Reference: F21/04

BTM & S Stankovich Pty Ltd
C/- Freshwater Planning Pty Ltd
17 Barronview Drive
FRESHWATER QLD 4870

Dear Applicant/s

Decision Notice

Planning Act 2016

I refer to your application and advise that on 21 July 2021, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No:	MCU/21/0006
Street Address:	2-8 Karobean Drive and Merindah Close, Mareeba
Real Property Description:	Part of Lot 2 on SP298298 and part of Lot 48 on SP320488
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit for Material Change of Use - Office and Warehouse
Date of Decision:	21 July 2021

CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is six (6) years starting the day that this development approval takes effect. (Refer to Section 85 "Lapsing of approval at end of currency period" of the *Planning Act 2016*.)

INFRASTRUCTURE

Where conditions relate to the provision of infrastructure, these are non-trunk infrastructure conditions unless specifically nominated as a “*necessary infrastructure condition*” for the provision of trunk infrastructure as defined under Chapter 4 of the *Planning Act 2016*.

ASSESSMENT MANAGER CONDITIONS**(A) ASSESSMENT MANAGER’S CONDITIONS (COUNCIL)****(a) Development assessable against the Planning Scheme**

1. Development must be carried out generally in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
 - found necessary by Council’s delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
 - to ensure compliance with the following conditions of approval.
2. Timing of Effect
 - 2.1 The conditions of the development permit must be complied with to the satisfaction of Council’s delegated officer prior to the commencement of the use, except where specified otherwise in these conditions of approval.
 - 2.2 Prior to the commencement of use, the applicant must demonstrate to Council that all the conditions of the development permit have been complied with, except where specified otherwise in these conditions of approval.
3. General
 - 3.1 The applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
 - 3.2 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to the commencement of the use, and at the rate applicable at the time of payment.
 - 3.3 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements (as amended) and to the satisfaction of Council’s delegated officer.
 - 3.4 Noise Nuisance
 - 3.4.1 Refrigeration equipment, pumps, compressors and mechanical ventilation systems must be located, designed, installed and maintained to achieve a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations and a maximum noise level of 8dB(A) above background levels as measured from commercial locations.

3.4.2 Where a forklift is used on site and fitted with an audible alarm, the volume of the audible alarm must be adjusted to ensure the audible alarm is not able to be heard outside of the boundary of approved area.

3.4.3 Loudspeakers of any kind must not be used in association with the approved use, unless in an emergency situation.

3.5 Air Conditioner & Building Plant Screening

The applicant is required to install and maintain suitable screening to all air conditioning, lift motor rooms, plant and service facilities located at the top of or on the external face of the building. The screening structures must be constructed from materials that are consistent with materials used elsewhere on the facade of the building. There are to be no individual external unscreened air conditioning units attached to the exterior building facade.

3.6 Waste Management

All on site refuse storage area/s must be screened from view from adjoining properties and road reserve by a 1 metre wide landscaped screening buffer, 1.8m high solid fence or building.

3.7 Hours of Operation

The operating hours for the Office and Warehouse shall be between 7am and 6pm, Monday to Friday and between 7am - 1pm Saturday.

No operations are permitted on Sundays or Public Holidays.

4. Infrastructure Services and Standards

4.1 Access

Access to the approved use must be via the existing rear drive located within Lot 2 on SP298298.

4.2 Stormwater Drainage/Water Quality

4.2.1 The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.

4.2.2 All stormwater drainage concentrated by the development must be collected from site and discharged to an approved legal point of discharge.

4.3 Car Parking/Internal Driveways

The applicant/developer must ensure the development is provided with on-site car parking spaces in generally in accordance with Drawing DA02 Issue B, which are available solely for the parking of vehicles associated with the use of the premises. All car parking spaces, and internal driveways must be concrete, bitumen or asphalt sealed and appropriately drained prior to the commencement of the use and to the satisfaction of Council's delegated officer.

All car parking spaces, and internal driveways must be constructed in compliance with the following standards, to the satisfaction of Council's delegated officer:

- Australian Standard AS2890:1 Off Street Parking – Car Parking Facilities;
- Australian Standard AS1428:2001 – Design for Access and Mobility.

4.4 Landscaping

4.4.1 The development must be landscaped in accordance with an approved landscape plan.

4.4.2 Prior to the commencement of the approved use, a detailed landscape plan, must be prepared for the site and submitted to Council's delegated officer for consideration and approval.

4.4.3 The landscape plan must demonstrate compliance with the Landscaping Code. Plant species are to be generally selected from the Plant Schedule in Planning Scheme Policy 6 - Landscaping and preferred plant species.

4.4.4 The landscaping of the site must be carried out in accordance with the endorsed landscape plan/s, and prior to the commencement of the use, and mulched, irrigated and maintained to the satisfaction of Council's delegated officer.

4.5 Acoustic Fencing

Prior to the commencement of the use, the applicant/developer must erect a solid 1.8 metre high, acoustic fence of neutral colour along the entire western, northern and eastern boundaries of the Metes and Bounds Area shown on Drawing DA01 Issue B.

All fencing must be maintained in good order and safe repair for the life of the development, to the satisfaction of Council's delegated officer.

4.6 Lighting

Where installed, external lighting must be designed and installed in accordance with *AS4282 – Control of the obtrusive effects of outdoor lighting* so as not to cause nuisance to residents or obstruct or distract pedestrian or vehicular traffic.

4.7 Water Supply

The developer must connect the proposed development to Council's reticulated water supply in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

Where the existing reticulated water supply does not currently service the site or is not at an adequate capacity, the developer is required to extend or upgrade the reticulated water supply infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

If a new or upgraded water service connection is required to service the development, it must be provided in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council’s delegated officer.

4.8 Sewerage Connection

The developer must connect the proposed development to Council’s reticulated sewerage system in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council’s delegated officer.

Where sewerage connections are not available to the site, or where existing connections are not satisfactory for the proposed development, the developer is required to extend or upgrade the reticulated sewerage infrastructure to connect the site to Council’s existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

REFERRAL AGENCIES

Not Applicable.

APPROVED PLANS

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
0639 DA01 B	Site Plan -Existing	Gregory G Terzi	Jan 2021
0639 DA02 B	Proposed Site Plan	Gregory G Terzi	Jan 2021
0639 DA03 B	Proposed Building Floor Plan	Gregory G Terzi	Jan 2021
0639 DA04 A	Elevations	Gregory G Terzi	Jan 2021

ADVISORY NOTES

The following notes are included for guidance and information purposes only and do not form part of the assessment manager conditions:

(A) ASSESSMENT MANAGER’S ADVICE

- (a) An Adopted Infrastructure Charges Notice has been issued with respect to the approved development. The Adopted Infrastructure Charges Notice details the type of infrastructure charge/s, the amount of the charge/s and when the charge/s are payable.

- (b) The Adopted Infrastructure Charges Notice does not include all charges or payments that are payable with respect to the approved development. A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.
- (c) A Trade Waste Permit will be required prior to the commencement of use.
- (d) Compliance with applicable codes/policies

The development must be carried out to ensure compliance with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by a condition of this approval.

- (e) Compliance with Acts and Regulations

The erection and use of the building must comply with the Building Act and all other relevant Acts, Regulations and Laws, and these approval conditions.

- (f) Environmental Protection and Biodiversity Conservation Act 1999

The applicant is advised that referral may be required under the *Environmental Protection and Biodiversity Conservation Act 1999* if the proposed activities are likely to have a significant impact on a matter of national environmental significance. Further information on these matters can be obtained from www.environment.gov.au.

- (g) Cultural Heritage

In carrying out the activity the applicant must take all reasonable and practicable measures to ensure that no harm is done to Aboriginal cultural heritage (the "cultural heritage duty of care"). The applicant will comply with the cultural heritage duty of care if the applicant acts in accordance with gazetted cultural heritage duty of care guidelines. An assessment of the proposed activity against the duty of care guidelines will determine whether or to what extent Aboriginal cultural heritage may be harmed by the activity. Further information on cultural heritage, together with a copy of the duty of care guidelines and cultural heritage search forms, may be obtained from www.datsip.qld.gov.au.

PROPERTY NOTES

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

- Development Permit for Building Work
- Compliance Permit for Plumbing and Drainage Work

SUBMISSIONS

There were six (6) properly made submissions about the application. In accordance with the *Planning Act 2016*, the name, residential or business address, and electronic address of the principal submitter for each properly made submission is provided below:

Name of Principal submitter	Address
1. B & T Alifracco	PO Box 998, Mareeba QLD 4880
2. F & J Birkbeck	16 Jannali Court, Mareeba QLD 4880
3. M & A Sharples	13 Karobean Drive, Mareeba QLD 4880
4. T Thies	Tara_lilly_95@hotmail.com
5. W & J Ryan	14 Jannali Court, Mareeba QLD 4880
6. Y Wildman	9 Karobean Drive, Mareeba QLD 4880

RIGHTS OF APPEAL

You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

During the appeal period, you as the applicant may suspend your appeal period and make written representations to council about the conditions contained within the development approval. If council agrees or agrees in part with the representations, a "negotiated decision notice" will be issued. Only one "negotiated decision notice" may be given. Taking this step will defer your appeal period, which will commence again from the start the day after you receive a "negotiated decision notice".

OTHER DETAILS

If you wish to obtain more information about Council's decision, electronic copies are available on line at www.msc.qld.gov.au, or at Council Offices.

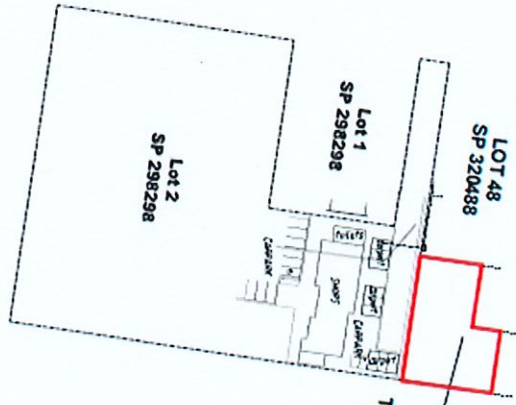
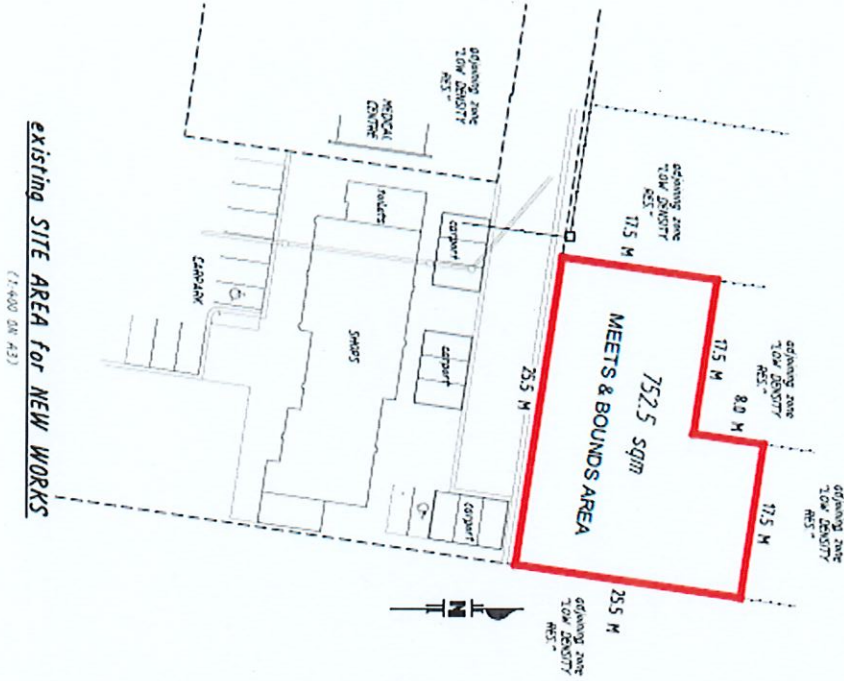
Yours faithfully



BRIAN MILLARD
SENIOR PLANNER

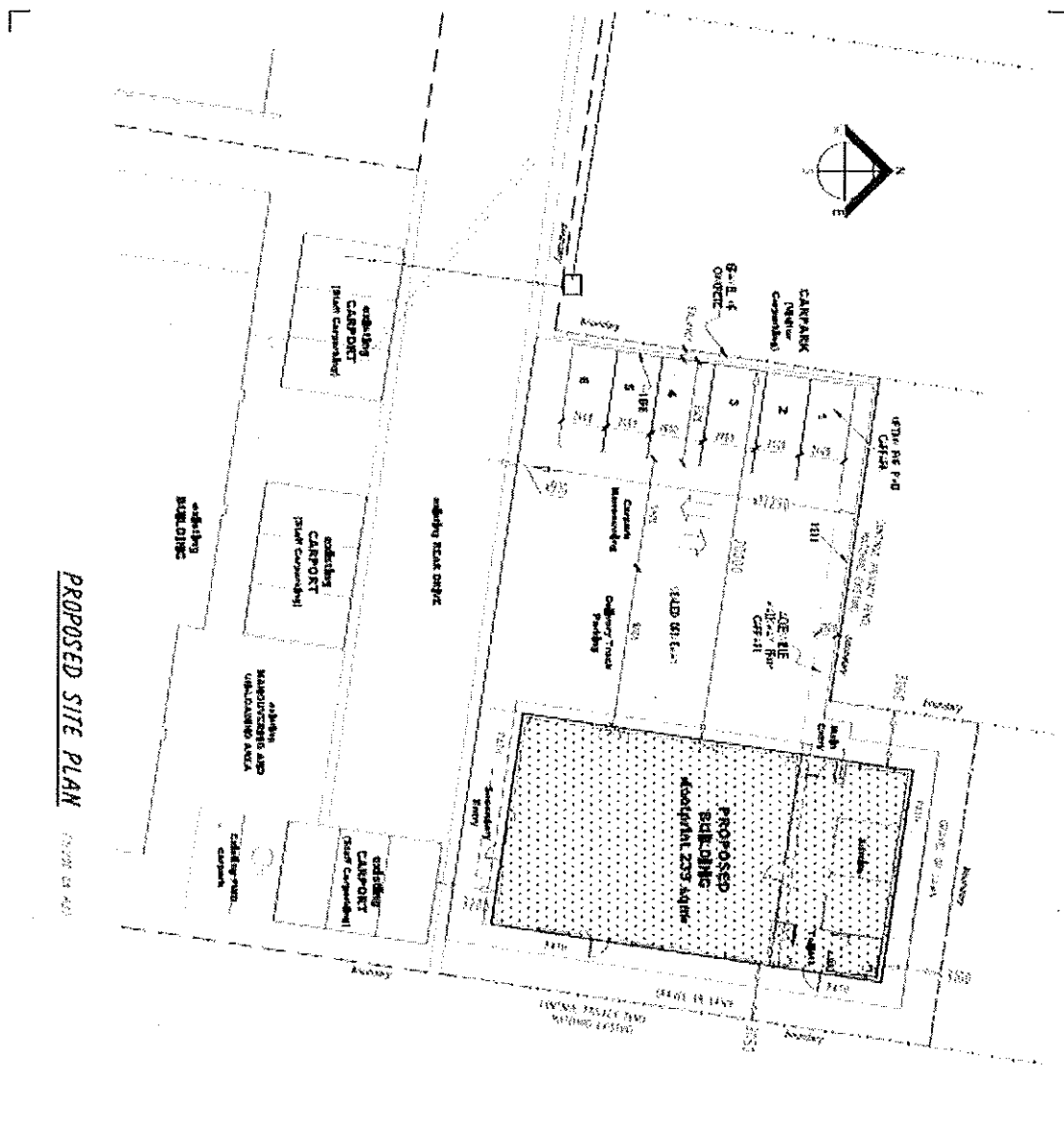
Enc: Approved Plans/Documents
Appeal Rights
Adopted Infrastructure Charge Notice

Approved Plans/Documents

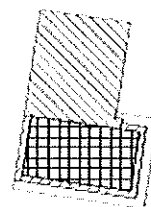


11/11/21 11:55 Edition 1/11 MED-L40 GREGORY G TERZI Building Design & Drafting -existing Designer- -plan File- -DEC LICENCE-	
PROJECT KAROEAN VILLAGE SHOPPING CENTRE MAREEBA 4880	DATE: 21/01/2021 CASE: AT: 21/01/2021 II-16 TALE SITE PLAN -EXISTING
PROPOSED BUILDING	SHEET NO: 0639 DA 01 B

26/7/2021
B. [Signature]



PROPOSED SITE PLAN



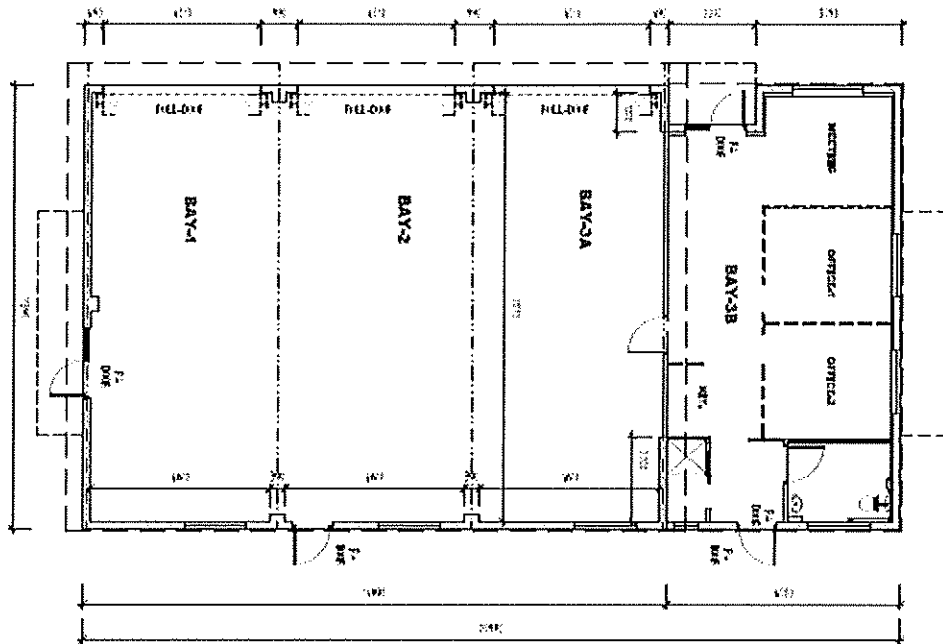
PLANNING SCHEME INFO

- Existing use: Retail, Office
- Max site area = 5.5 ha
- Proposed use: Retail, Office
- Proposed building = 2.5 ha
- Proposed site area = 2.5 ha
- Proposed building footprint = 0.5 ha
- Proposed site area = 2.5 ha
- Proposed building footprint = 0.5 ha

REGULATIONS

(Name of the Applicant) GREGORY G TERZIO Building Design & Drafting -Building Design- -Medium Rise- -RCC CONCRETE-	
PROJECT KAROUBE VILLAGE SHOPPING CENTRE MAREEBA 4880	DATE: 18/11/21 SCALE: AS SHOWN ON SHEET 18/11/21
PROPOSED BUILDING	SHEET NO: DA 02 OF: 6

26/7/2021
B. Will



Proposed Building - FLOOR PLAN

(see also the other sheets) GREGORY G. TERZI Building Design & Drafting -Building Design- -Mechanical- -ELECTRICAL-	
PROJECT KAROBEAN VILLAGE SHOPPING CENTRE MAREEBA 4880	DATE: 20/11/20 SCALE: AS SHOWN ON SHEET DRAWING TITLE PROPOSED BUILDING FLOOR PLAN
PROPOSED BUILDING	SHEET NO: 03 OF: 03 B

26/7/2021
B. Miller

Appeal Rights

PLANNING ACT 2016 & THE PLANNING REGULATION 2017

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 of the *Planning Act 2016* 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.

(Refer to Schedule 1 of the Planning Act 2016)

- (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.

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- (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 has 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.

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 –

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
- (c) the making of a decision or 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, a tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, a 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 the rules of the P&E Court.