



Mareeba

SHIRE COUNCIL

65 Rankin Street
PO Box 154 MAREEBA QLD 4880

P: 1300 308 461

F: 07 4092 3323

W: www.msc.qld.gov.au

E: info@msc.qld.gov.au

1 July 2021

Anton Demolitions
C/- RPS Australia East Pty Ltd
PO Box 1949
CAIRNS QLD 4870

Senior Planner: Brian Millard
Direct Phone: 4086 4657
Our Reference: RAL/21/0009
Your Reference: PR145175

Dear Applicants,

Decision Notice

Planning Act 2016

I refer to your application and advise that on 1 July 2021 under delegated authority, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No: RAL/21/0009
Street Address: 3278 Mulligan Highway, Mount Molloy
Real Property Description: Lot 3 on SP298325 & Lot 4 on SP301680
Planning Scheme: Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision: Approval
Type of Approval: Development Permit for Reconfiguration of a Lot - Boundary Realignment & Access Easement
Date of Decision: 1 July 2021

CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is four (4) 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, and subject to any alterations:
 - found necessary by the 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 endorsement of the plan of survey, 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 endorsement of the plan of survey and at the rate applicable at the time of payment.
 - 3.3 The developer must relocate (in accordance with FNQROC standards) any services such as water, sewer, drainage, telecommunications and electricity that are not wholly located within the lots that are being created/serviced where required by the relevant authority, unless approved by Council’s delegated officer.
 - 3.4 Where utilities (such as sewers on non-standard alignments) traverse lots to service another lot, easements must be created in favour of Council for access and maintenance purposes. The developer is to pay all costs (including Council’s legal expenses) to prepare and register the easement documents.

3.5 Charges

All outstanding rates, charges and expenses pertaining to the land are to be paid in full.

4. Infrastructure Services and Standards

- 4.1 The access road between the existing Mulligan Highway substation access and the northern boundary of proposed Lot 3 must be constructed to all weather gravel standard in accordance with Table 9.4.3.3C of the Parking and Access Code, to the satisfaction of Council's delegated officer.

REFERRAL AGENCIES

The referral agencies applicable to this application are:

Reconfiguring a lot near a State transport corridor		
Development application for reconfiguring a lot that is assessable development under section 21, if—	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1	State Assessment & Referral Agency (SARA) PO Box 2358 Cairns QLD 4870 CairnsSARA@dsdmip.qld.gov.au
(a) <u>all or part of the premises are within 25m of a State transport corridor; and</u>		
(b) 1 or more of the following apply—		
(i) the total number of lots is increased;		
(ii) the total number of lots adjacent to the State transport corridor is increased;		
(iii) <u>there is a new or changed access between the premises and the State transport corridor;</u>		
(iv) an easement is created adjacent to a railway as defined under the Transport Infrastructure Act, schedule 6; and		
(c) the reconfiguration does not relate to government supported transport infrastructure		
Reconfiguring a lot subject to an easement or near a substation site		
Development application for reconfiguring a lot that is assessable development under section 21, if-	Schedule 10, Part 9, Division 2, Table 1	Town Planning Ergon Energy PO Box 264 Fortitude Valley Qld 4006 townplanning@ergon.com.au
(a) <u>all or part of the lot is subject to an easement-</u>		
(i) for the benefit of a distribution entity, or transmission entity, under the Electricity Act; and		Advice agency only.

(ii) for a transmission grid or supply network; or		
(b) part of the lot is within 100m of a substation site		

A copy of the referral agency conditions are attached.

APPROVED PLANS

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
PR145175-4 A	Proposed Boundary Realignment - Option A	RPS	13-5-2021

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) Endorsement Fees

Council charges a fee for the endorsement of a Survey Plan, Community Management Statements, easement documents, and covenants. The fee is set out in Council's Fees & Charges Schedule applicable for each respective financial year.

(b) 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.

(c) Notation on Rates Record

A notation will be placed on Council's Rate record with respect to each lot regarding the following conditions:

- a registered easement over the subject site

(d) 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.

(e) 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.

(f) Ergon Energy Advice

The applicant is advised that Ergon Energy has provided an advice agency response dated 16 June 2021.

(B) CONCURRENCE AGENCY CONDITIONS

SARA Referral Agency response dated 15 June 2021.

PROPERTY NOTES

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

Not Applicable.

SUBMISSIONS

Not Applicable.

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



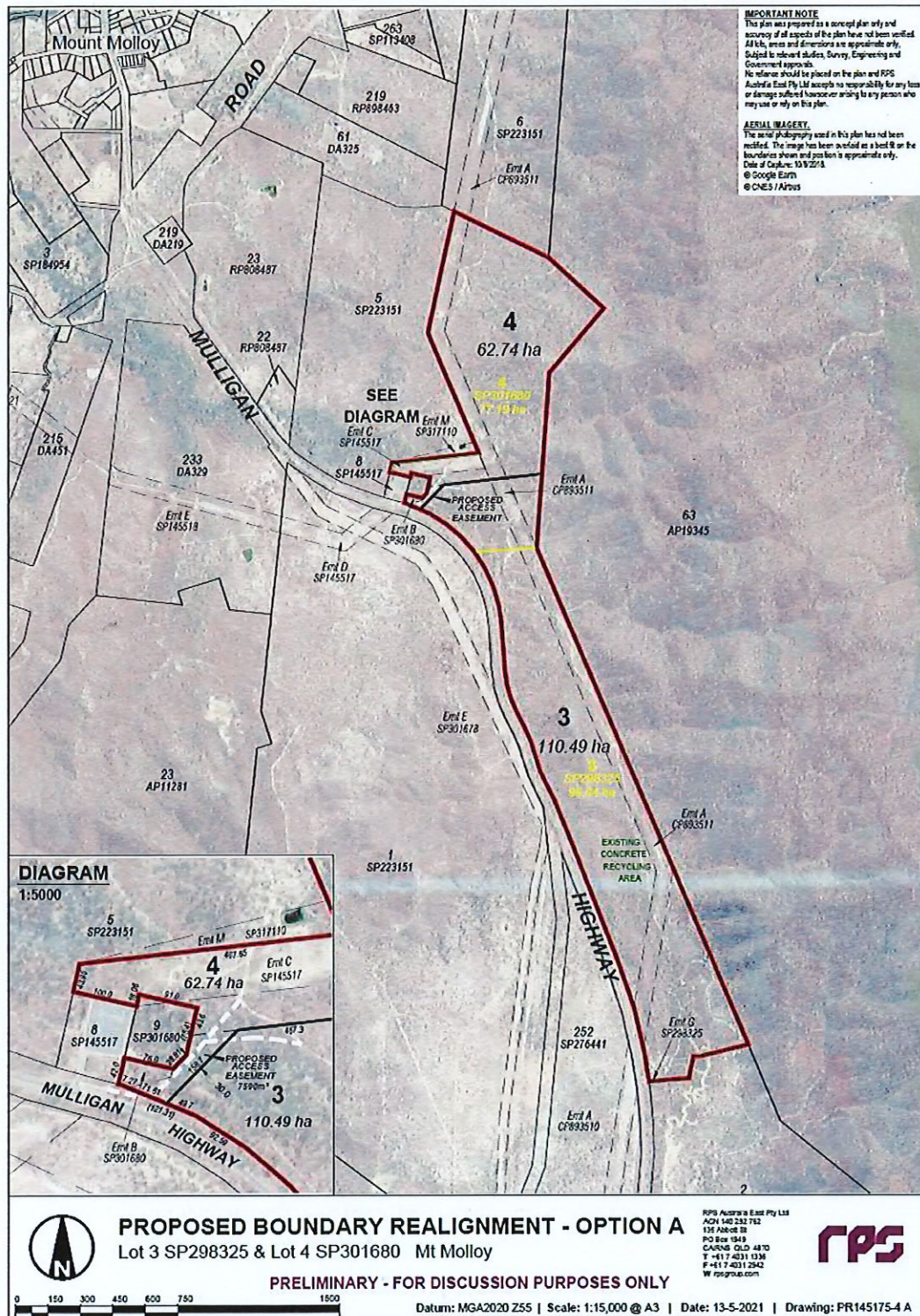
BRIAN MILLARD
SENIOR PLANNER

Enc: Approved Plans/Documents
 Referral Agency Response
 Appeal Rights

Copy: Department of State Development, Manufacturing, Infrastructure and Planning
 CairnsSARA@dsdmip.qld.gov.au

Ergon Energy
townplanning@ergon.com.au

Approved Plans/Documents



Referral Agency Response

RA6-N



SARA reference: 2105-22570 SRA
Council reference: RAL/21/0009
Applicant reference: PR145175/OLD/SD/L80386

15 June 2021

Chief Executive Officer
Mareeba Shire Council
PO Box 154
Mareeba Qld 4880
planning@msc.qld.gov.au

Attention: Mr Carl Ewin

Dear Sir/Madam

SARA response—3278 and 3580 Mulligan Highway, Mount Molloy

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency on 18 May 2021.

Response

Outcome:	Referral agency response – with conditions
Date of response:	15 June 2021
Conditions:	The conditions in Attachment 1 must be attached to any development approval.
Advice:	Advice to the applicant is in Attachment 2 .
Reasons:	The reasons for the referral agency response are in Attachment 3 .

Development details

Description:	Development permit	Reconfiguring a lot (boundary realignment - two lots into two lots) & access easement
SARA role:	Referral agency	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 (Planning Regulation 2017)	

Page 1 of 7

Far North Queensland regional office
Ground Floor, Cnr Grafton and Hartley
Street, Cairns
PO Box 2358, Cairns QLD 4870

Document Set ID: 3971190
Version: 1, Version Date: 22/06/2021

2105-22570 SRA

SARA reference: 2105-22570 SRA
Assessment Manager: Mareeba Shire Council
Street address: 3278 and 3580 Mulligan Highway, Mount Molloy
Real property description: Lot 3 on SP298325 and Lot 4 on SP301680
Applicant name: Anton Demolitions Pty Ltd
c/- RPS Australia East Pty Ltd
Applicant contact details: 135 Abbott Street
Cairns QLD 4870
Stacey.Devaney@rpsgroup.com.au

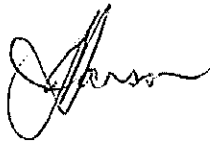
Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules) Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Belinda Jones, Principal Planning Officer, on 40373239 or via email CairnsSARA@dsgmip.qld.gov.au who will be pleased to assist.

Yours sincerely



Joanne Manson
A/Manager (Planning)

cc Anton Demolitions Pty Ltd, Stacey.Devaney@rpsgroup.com.au

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations provisions
Attachment 5 - Approved plans and specifications

2105-22570 SRA

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (Copies of the plans and specifications referenced below are found at Attachment 5)

No.	Conditions	Condition timing
Reconfiguring a lot		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 - The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	The road access location is to be located generally in accordance with TMR Layout Plan 2 (34A – 35.68km), prepared by Queensland Government Transport and Main Roads, dated 11/06/2021, Reference TMR21-32990 (500-1140), Issue B.	At all times.
2.	<p>(a) The applicant must register an access easement on the title of proposed Lot 4 for shared access to proposed Lot 3. The access easement is to continue to provide access to Lot 9 on SP301680.</p> <p>(b) The applicant must provide to Cairns Corridor Management Unit (Far.North.Queensland.IDAS@tmr.qld.gov.au) of the Department of Transport and Main Roads a copy of Registration Confirmation Statement/s and easement registration dealing number/s as evidence of the registration of the easement/s referred to in part (a) of this condition.</p>	<p>(a) At the time of survey plan registration.</p> <p>(b) Within 20 business days of registration of the easements.</p>

2105-22570 SRA

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v2.6. If a word remains undefined it has its ordinary meaning.

2105-22570 SRA

Attachment 3—Reasons for referral agency response(Given under section 56(7) of the *Planning Act 2016*)**The reasons for the department's decision are:**

- The site is accessed from a state-controlled road (Mulligan Highway).
- The proposed development is a relatively minor development to realign the boundary between two existing lots and create an access easement.
- The proposed development is unlikely to impact on the safety and operational efficiency of the Mulligan Highway.
- There will be no change to stormwater and drainage associated with the site as the development does not involve any earthworks or new buildings.
- The development will not compromise the structural integrity of the Mulligan Highway.
- The development does not compromise the state's ability to construct future state-controlled roads.
- The department carried out an assessment of the development application against State code 1: Development in a state-controlled road environment and has found that with conditions, the proposed development complies with the relevant performance outcomes.

Material used in the assessment of the application:

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- The *State Development Assessment Provisions* (version 2.6), as published by the department
- The Development Assessment Rules
- SARA DA Mapping system

2105-22570 SRA

Attachment 4—Change representation provisions

(page left intentionally blank – attached separately)

2105-22570 SRA

Attachment 5—Approved plans and specifications

(page left intentionally blank – attached separately)



Branch/Unit:	Corridor Management / Far North District
Projection/Datum:	Geocentric Datum of Australia (GDA) 1994
<div style="display: flex; justify-content: space-between;"> <div> <div style="border: 1px solid blue; width: 20px; height: 10px; display: inline-block;"></div> Parcels </div> <div> <div style="border: 1px solid yellow; width: 20px; height: 10px; display: inline-block;"></div> Subject land </div> </div>	<div style="display: flex; justify-content: space-between;"> <div> <div style="border: 1px solid red; width: 20px; height: 10px; display: inline-block;"></div> Existing easement </div> <div> <div style="border: 1px solid red; width: 20px; height: 10px; display: inline-block;"></div> Proposed easement </div> </div>
<div style="border-top: 1px dashed red; width: 20px; height: 10px; display: inline-block;"></div> Proposed boundary	

TMR Layout Plan 2 (34A - 35.77km)



Queensland Government
Transport and Main Roads

Plan:	1 / 1	Issue:	B	Date:	11/06/2021
Drawn by:	RPK	File ref:	TMR21-32990 (500-1140)		

Document Set ID: 3971190
Version: 1, Version Date: 22/06/2021

Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules¹ regarding representations about a referral agency response

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

Part 7: Miscellaneous

30 Representations about a referral agency response

- 30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.



420 Flinders Street, Townsville QLD 4810
PO Box 1090, Townsville QLD 4810
ergon.com.au

16 June 2021

Mareeba Shire Council
PO Box 154
Mareeba QLD 4880

Attention: Carl Erwin
Via email: info@msc.qld.gov.au

Cc Anton Demolitions Pty Ltd
c/- RPS Australia East Pty Ltd
PO Box 1949
Cairns QLD 4870

Attention: Stacey Devaney; Owen Dalton
Via email: stacey.devaney@rpsgroup.com.au

Dear Carl,

Referral Agency Response – Development Permit for Reconfiguring a Lot (Boundary Realignment – 2 into 2 lots and Access Easement) at 3278 & 3580 Mulligan Highway, Mount Molloy (Lot 4 on SP301680 and Lot 3 on SP298325)

**Council Ref: RAL/21/0009
Applicant Ref: PR145175
Our Ref: HBD 7341313**

We refer to the abovementioned Development Application, which has been referred to Ergon Energy pursuant to section 54(1) of the *Planning Act 2016*.

In accordance with Schedule 10, Part 9, Division 2 of the *Planning Regulation 2017*, the application has been assessed against the purposes of the *Electricity Act 1994* and *Electrical Safety Act 2002*. This notice is provided in accordance with section 56 of the *Planning Act 2016*.

Should the Assessment Manager decide to approve the proposed Reconfiguration of a Lot, as an Advice Agency for the Development Application, Ergon advises the following in relation to the development:

1. The development is to be carried out in accordance with the plans identified on the following page. Any changes to these plans should be resubmitted to Ergon for further review and comment.

Have you seen our fact sheets?

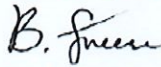
See the 'considerations when developing around electricity infrastructure' section of our website
www.ergon.com.au/referralagency

Approved Plans			
Title	Plan Number	Rev.	Date
Proposed Boundary Realignment – Option A	PR145175-4	A	13 May 2021

2. The conditions of any easements in favour of Ergon must be maintained at all times.

Should you require further information regarding this matter, feel free to contact the undersigned on 0455 403 399 or email townplanning@ergon.com.au.

Yours faithfully,



Benjamin Freese
Town Planner

Have you seen our fact sheets?

See the 'considerations when developing around electricity infrastructure' section of our website
www.ergon.com.au/referralagency

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.

-
- (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.