



22 March 2018

Officer: Carl Ewin, Planning Officer
Direct Phone: 07 4086 4656
Our Ref: MCU/17/0015
Your Ref: Mount Carbine 309699

Telstra Corporation Limited
C/- Service Stream Mobile Communications
PO Box 510
LUTWYCHE QLD 4030

Dear Sir/Madam

Decision Notice

Planning Act 2016

I refer to your application and advise that on 21 March 2018, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No:	MCU/17/0015
Street Address:	6806 Mulligan Highway MOUNT CARBINE
Real Property Description:	Lot 0 on SP154001
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit for Material Change of Use - Telecommunications Facility
Date of Decision:	21 March 2018

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 substantially 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 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 commencement of the use except where specified otherwise in these conditions of approval.
 - 2.2 Prior to the commencement of use, the applicant must notify 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 the condition(s) of this approval.
 - 3.2 All payments required to be made to the Council (including contributions, charges and bonds) 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

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.

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 must be installed and maintained. 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.

4. Infrastructure Services and Standards

4.1 Lighting

4.1.1 Where outdoor lighting is required the developer shall locate, design and install lighting to operate from dusk to dawn within all areas where the public will be given access, which prevents the potential for light spillage to cause nuisance to neighbours and must be provided in accordance with Australian Standard 1158.1 – Lighting for Roads and Public Spaces.

Illumination resulting from direct, reflected or other incidental light emanating from the subject land does not exceed 8 lux when measured at any point 1.5m outside the property boundary of the subject site. The lighting fixtures installed on site must meet appropriate lux levels as documented within Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting.

4.1.2 Warning lights shall not be installed on the tower, unless specifically required by other relevant legislation.

4.2 Building Materials & Finishes

4.2.1 Any equipment cabinets shall be a neutral colour.

4.2.2 The monopole tower shall be painted a colour equivalent to Colorbond 'Pale Eucalypt' in order to help achieve an effective visual blend with the surrounding landscape.

4.2.3 The perimeter fence shall be chain wire mesh.

4.3 Operational Requirements

- 4.3.1 The radiofrequency field emissions from the installed tower shall not exceed the Australian Radiation Protection and Nuclear Safety Agency mandated exposure limits for continuous exposure to radio frequency transmissions from mobile phone base stations at any time, at any location.
- 4.3.2 Within three (3) months of the site becoming operational, a site compliance certificate is to be carried out by an appropriately qualified person to verify that the site complies with the requirements and limits of the Australian Radiation Protection and Nuclear Safety Agency, Radiation Protection Standard, 2002 Maximum Exposure Levels to Radio Frequency Fields – 3 kHz to 300 GHz. This certificate is to be submitted to Council for consideration within three (3) months of the tower becoming operational.

4.4 Decommissioning and Site Rehabilitation

If the use is abandoned, the site must be rehabilitated to a level that achieves the following:

- (i) The monopole and associated infrastructure is removed from the site; and
- (ii) The site is made suitable for other uses compatible with the locality; and
- (iii) Restores the visual amenity of the site.

REFERRAL AGENCIES

The referral agencies applicable to this application are:

Material change of use of premises near a State transport corridor or that is a future State transport corridor		
<i>Development application for a material change of use, other than an excluded material change of use, that is assessable development under a local categorizing instrument, if all or part of the premises—</i> <i>(a) are within 25m of a State transport corridor; or</i> <i>(b) are a future State transport corridor; or</i> <i>(c) are—</i> <i>(i) adjacent to a road that intersects with a State-</i>	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4	State Assessment & Referral Agency (SARA) Department of Infrastructure, Local Government & Planning PO Box 2358 Cairns Qld 4870 CairnsSARA@dilgp.qld.gov.au

controlled road; and (ii) within 100m of the intersection		
Material change of use that is assessable development under a local categorising instrument (clearing native vegetation on prescribed land)		
<p><i>Development application for a material change of use that is assessable development under a local categorising instrument and relates to a lot that is 5ha or larger, if—</i></p> <p><i>(a) the application—</i></p> <p><i>(i) is for a preliminary approval that includes a variation request; and</i></p> <p><i>(ii) relates to a lot that contains native vegetation shown on the regulated vegetation management map as a category A area or category B area; and</i></p> <p><i>(iii) is for a material change of use, other than a non-referable material change of use; or</i></p> <p><i>(b) the application is not stated in paragraph (a) and all of the following apply—</i></p> <p><i>(i) the material change of use does not involve prescribed clearing;</i></p> <p><i>(ii) accepted operational work may be carried out because of the material change of use, or the material change of use involves operational work that is assessable development under section 5;</i></p> <p><i>(iii) the accepted operational work or assessable operational work includes development other than the clearing of regulated regrowth vegetation on freehold land, indigenous land, or land the subject of a lease given under the Land Act for agriculture or grazing purposes</i></p>	Schedule 10, Part 3, Division 4, Table 3	<p>State Assessment & Referral Agency (SARA) Department of Infrastructure, Local Government & Planning PO Box 2358 Cairns Qld 4870</p> <p>CairnsSARA@dilgp.qld.gov.au</p>

A copy of any referral agency conditions is attached.

APPROVED PLANS

The following plans are Approved plans for the development:

Approved Plans

Plan/Document Number	Plan/Document Title	Prepared by	Dated
Q114459 S1	Site Access and Locality Plan	Service Stream Mobile Communications	25/09/17
Q114459 S1-1	Site Layout	Service Stream Mobile Communications	25/09/17
Q114459 S1-2	Antenna Layout	Service Stream Mobile Communications	25/09/17
Q114459 S3	North West Elevation	Service Stream Mobile Communications	25/09/17
Q114459 G1	Site Tenure Plan	Service Stream Mobile Communications	25/09/17

REFERENCED DOCUMENTS

Not Applicable.

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) 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.

(b) 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.

(c) 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

(d) 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

(e) Transportation of Soil

All soil transported to or from the site must be covered to prevent dust or spillage during transport. If soil is tracked or spilt onto the road pavements as a result of works on the subject site, it must be removed prior to the end of the working day and within four (4) hours of a request from a Council Officer.

(E) CONCURRENCE AGENCY CONDITIONS

Department of Infrastructure, Local Government and Planning conditions dated 21 December 2017.

PROPERTY NOTES

Not Applicable.

VARIATION APPROVAL

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

- Development Permit for Building Work

SUBMISSIONS

There were no properly made submissions received.

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

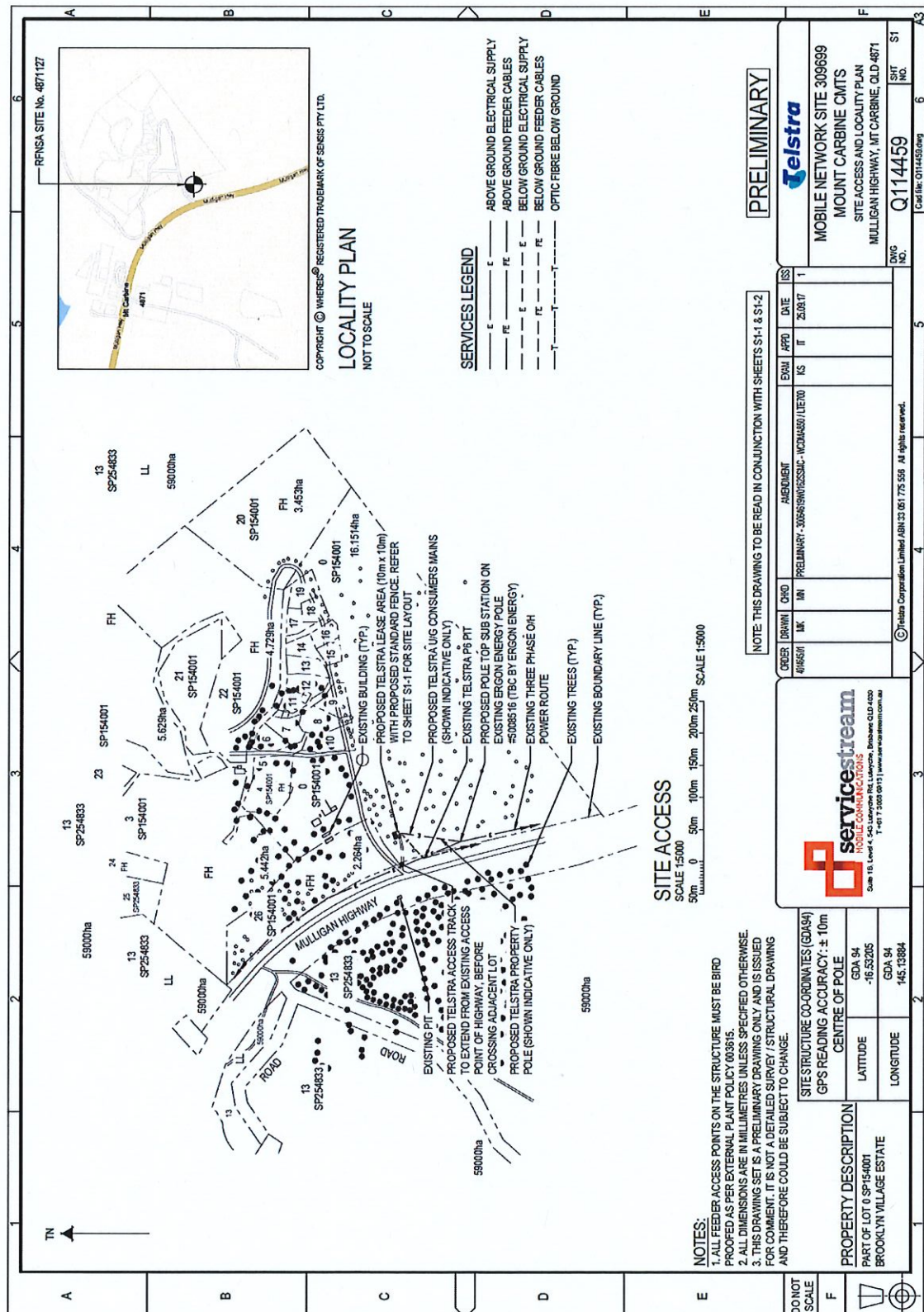


BRIAN MILLARD
SENIOR PLANNER

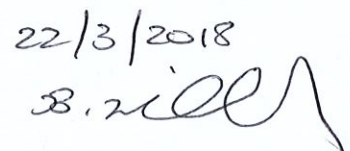
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 Referral Agency Response
 Appeal Rights

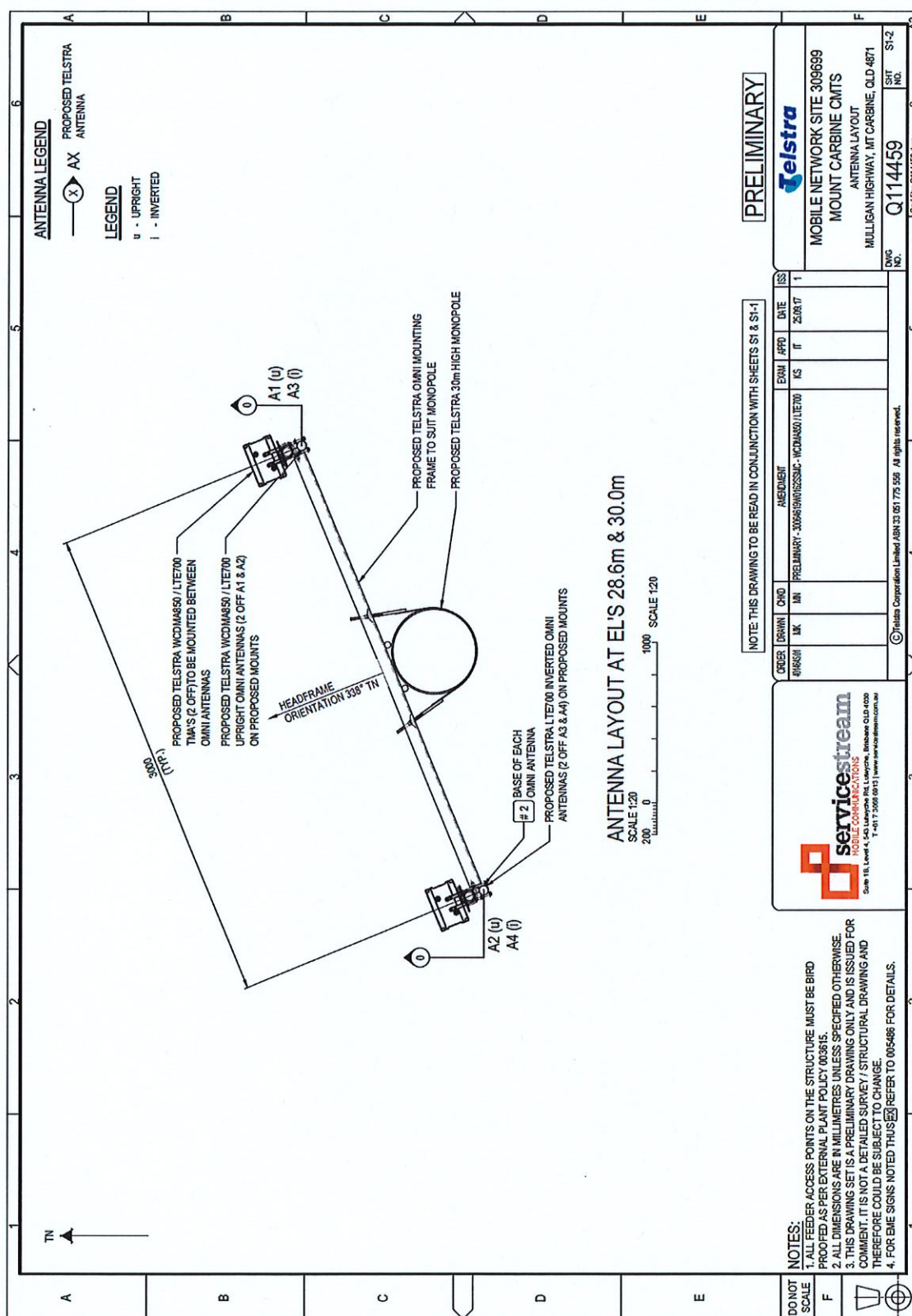
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Approved Plans/Documents



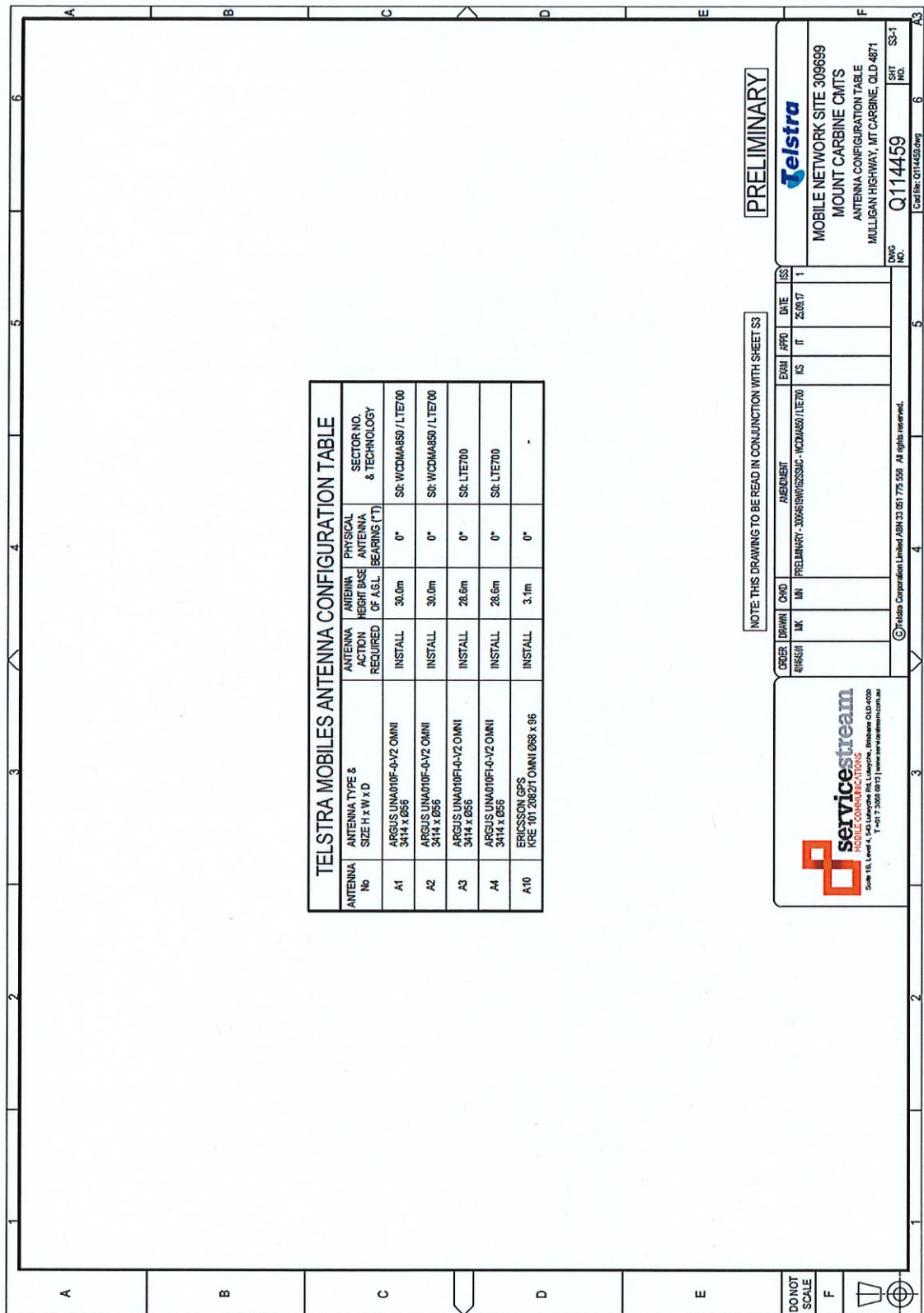
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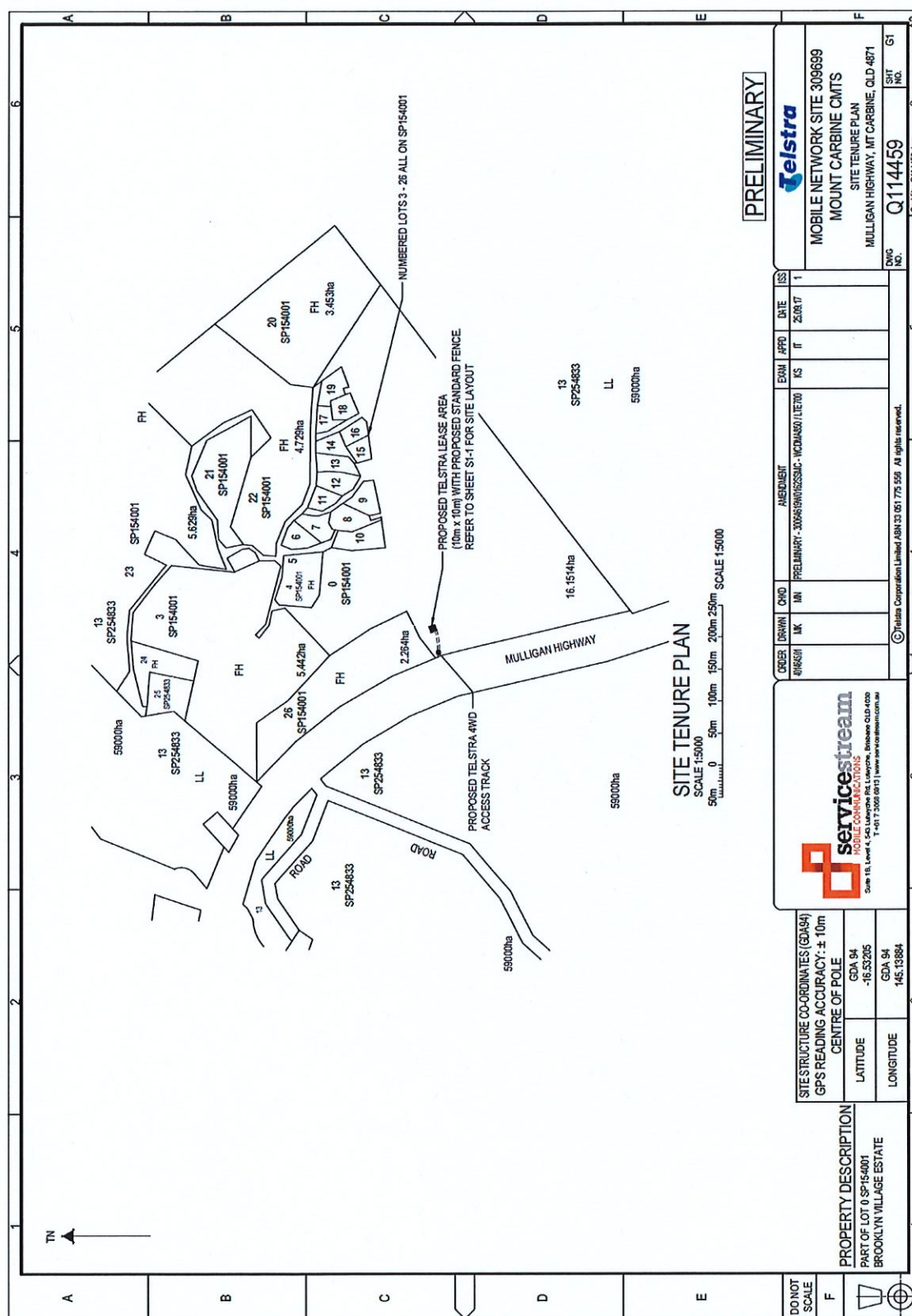


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Referral Agency Response

RA6-N



Department of Infrastructure,
Local Government and Planning

Our reference: 1711-2452 SRA
Your reference: MCU/17/0015

21 December 2017

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

Attention: Carl Ewin

Dear Sir/Madam

Referral agency response—with conditions
(Given under section 56 of the *Planning Act 2016*)

The development application described below was properly referred to the Department of Infrastructure, Local Government and Planning on 24 November 2017.

Applicant details

Applicant name:	Telstra Corporation Limited C/- Service Stream Mobile Communications
Applicant contact details:	PO Box 510 Lutwyche QLD 4030 geordie.pippos@servicestream.com.au

Location details

Street address:	6808 Mulligan Highway
Real property description:	Lot 0 on SP154001
Local government area:	Mareeba Shire Council

Application details

Development permit	Material Change of Use for a Telecommunications Facility
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Referral triggers

The development application was referred to the department under the following provisions of the Planning Regulation 2017:

- 10.3.4.3.1 Clearing native vegetation
- 10.9.4.2.4.1 State transport corridors and future State transport corridors

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

1711-2452 SRA

Conditions

Under section 56(1)(b)(i) of the *Planning Act 2016* (the Act), the conditions set out in Attachment 1 must be attached to any development approval.

Reasons for decision to impose conditions

The department must provide reasons for the decision to impose conditions. These reasons are set out in Attachment 2.

Approved plans and specifications

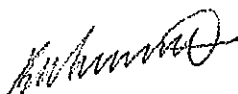
The department requires that the plans and specifications set out below and enclosed must be attached to any development approval.

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Aspect of development: Material change of use				
Queensland Government Transport and Main Roads	Queensland Government Transport and Main Roads	29/11/2017	TMR17-23169 (500-1200)	Issue A
Mobile Network Site 309699 Mount Carbine CMTS – Site access and locality plan	Service Stream Mobile Communications	25/9/2017	Q114459, Sheet No. S1	Issue 1
Mobile Network Site 309699 Mount Carbine CMTS – Site Layout	Service Stream Mobile Communications	25/9/2017	Q114459, Sheet No. S1-1	Issue 1

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

For further information please contact Jenny Sapuppo, Senior Planning Officer, on 5644 3212 or via email CairnsSARA@dlgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Telstra Corporation Limited C/- Service Stream Mobile Communications,
geordie.pippos@servicestream.com.au

enc Attachment 1—Conditions to be imposed
Attachment 2—Reasons for decision to impose conditions
Approved plans and specifications

1711-2452 SRA

Attachment 1—Conditions to be imposed

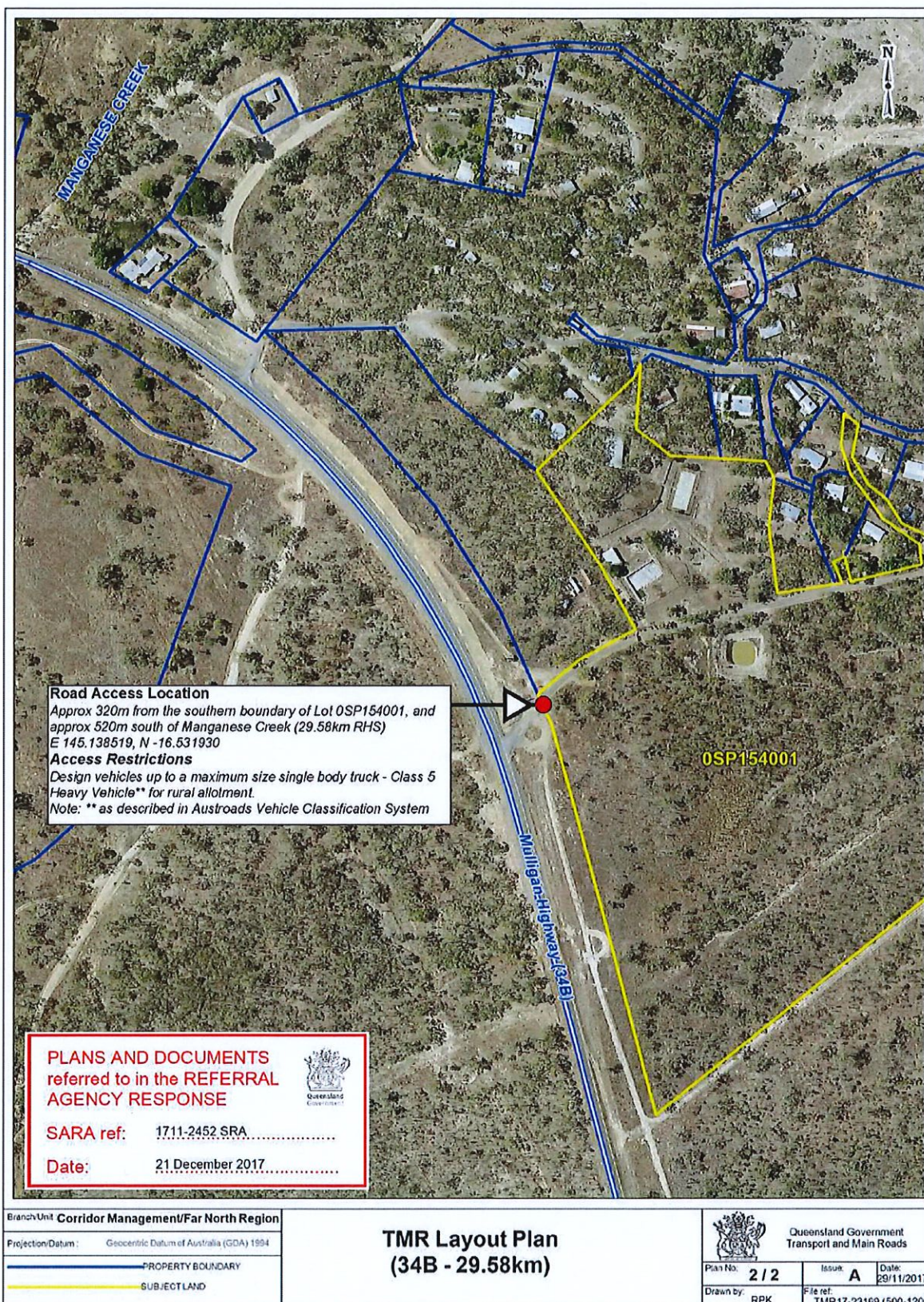
No.	Conditions	Condition timing
Material change of use		
State transport corridors —The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development 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 approximately 320 metres from the southern boundary of Lot 0 on SP154001, generally in accordance with the following plans: <ul style="list-style-type: none"> • TMR Layout Plan (34B - 29.58km), prepared by Queensland Government Transport and Main Roads, dated 29/11/2017, reference TMR17-23169 (500-1200), Issue A, and • Mobile Network Site 309699 Mount Carbine CMTS – Site Access and Locality Plan, prepared by Service Stream Mobile Communications, dated 25.09.17, reference Q114459, Sheet No. S1, Issue 1. 	At all times.
2.	Direct access is prohibited between the Mulligan Highway and Lot 0 on SP154001 at any other location other than the permitted road access location described in Condition 1.	At all times
Material change of use		
Clearing native vegetation —The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Natural Resources and Mines 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):		
3.	The development must be carried out generally in accordance with the following plans: <ul style="list-style-type: none"> • Mobile Network Site 309699 Mount Carbine CMTS – Site access and locality plan, prepared by Service Stream Mobile Communications, dated 25/9/2017, reference Q114459, Sheet No. S1, Issue 1 • Mobile Network Site 309699 Mount Carbine CMTS – Site Layout, prepared by Service Stream Mobile Communications, dated 25/9/2017, reference Q114459, Sheet No. S1-1, Issue 1. 	At all times
4.	Any person(s) engaged or employed to carry out the <u>clearing of vegetation</u> under this development approval must be provided with a full copy of this development approval, and must be made aware of the full extent of <u>clearing</u> authorised by this development approval.	Prior to clearing

1711-2452 SRA

Attachment 2—Reasons for decision to impose conditions

The reasons for this decision are:

- To ensure the road access location to the state-controlled road from the site does not compromise the safety and efficiency of the state-controlled road.
- To ensure access to the state-controlled road from the site does not compromise the safety and efficiency of the state-controlled road.
- To ensure the development is carried out generally in accordance with the plans of development submitted with the application.
- To ensure compliance with the development approval.







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.