



17 November 2022

Senior Planner: Brian Millard
Direct Phone: 4086 4657
Our Reference: RAL/22/0013
Your Reference: 22-813

Simms Veneer & Sawmills Pty Ltd
C/- Urban Sync Pty Ltd
PO Box 2970
CAIRNS QLD 4870

Dear Applicants,

Decision Notice

Planning Act 2016

I refer to your application and advise that on 16 November 2022, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No: RAL/22/0013
Street Address: 31 Trimble Road, Mareeba
Real Property Description: Lot 265 on NR6775
Planning Scheme: Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision: Approval
Type of Approval: Development Permit for Reconfiguring a Lot - Subdivision (1 into 2 lots)
Date of Decision: 16 November 2022

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

The assessment manager does consider that the assessment manager’s decision conflicts with a relevant instrument.

Details of the conflict with the relevant instrument	Reason for the decision, including a statement about the sufficient grounds to justify the decision despite the conflict
<p>The application conflicts with 3.3.1 Strategic outcomes (5) and (6) of the Planning Schemes Strategic Framework (As amended by TLPI No. 01 of 2021) - proposed Lots 1 and 2 will have an area less than 60 ha.</p>	<p>The proposed subdivision will create two allotments, these being proposed Lots 1 and 2 with areas of 17.5 hectares and 15.6 hectares respectively.</p> <p>The proposed development seeks to separate the existing lawful sawmill use from the balance of the underutilised rural agricultural land.</p> <p>The applicant purchased the subject land around 2006 with the primary intent of building and operating a new sawmill to cater for the plantation timber being logged primarily from the State forestry plantations throughout the region.</p> <p>The applicant advises that the sawmill development represents a significant investment of approximately \$11,500,000.00 and their focus continues to be on operating this sawmill. The sawmill does not have a fixed lifespan and is expected to continue to operate whilst plantation timber is replanted and harvested throughout the region.</p> <p>Due to the applicant's focus on their primary business of sawmilling, the agricultural land resource (proposed Lot 1) has remained underutilised since 2006. This agricultural land is likely to continue to remain underutilised unless it can be separated from the sawmill use and sold to an entity focused on farming.</p> <p>Of particular relevance is Strategic outcome 3.3.1(5), as amended by the TLPI, which stipulates that subdivision of rural land does not result in a ‘<i>detrimental impact on rural productivity or fragments large land holdings</i>’. The subject site is already half the size sought for the rural zone and the proposed subdivision occurs along a site</p>

	<p>already fragmented by the existing Gilmore Road and will not result in any further fragmentation of the site, in its current physical form and operation. There will be no loss of agricultural activities resulting from this proposal, instead, the creation of proposed Lot 1 is very likely to increase agricultural activity.</p> <p>Strategic outcome 3.3.1(6), as amended by the TLPI, also states that '<i>new subdivisions which propose lots less than the minimum lot size of 60ha are not supported within the Rural Zone</i>'. The site is already less than 60ha and is bisected by Gilmore Road, which physically fragments the site into two portions of approximately 15ha each.</p> <p>The proposed subdivision seeks to formalise these two fragmented portions of the site into two individual lots, as determined by the existing site constraints so that the existing sawmill can operate entirely independently from the remainder of the site (proposed Lot 1 - the agricultural land resource).</p> <p>Accordingly, the proposed development will not compromise or further fragment the site beyond its current physical characteristics, nor result in any incompatible land use (proposed Lot 1 already contains a dwelling house), nor compromise the existing rural character or quality of the site.</p> <p>The proposed development does not conflict with the overall settlement pattern or built environment intended for the zone.</p>
<p>The application conflicts with 3.3.11.1 Specific Outcomes (2) & (3) of the Planning Schemes Strategic Framework (As amended by TLPI No. 01 of 2021) - proposed Lots 1 and 2 will have an area less than 60 ha.</p> <p>The application conflicts with 6.2.9.2 Purpose (3)(a) of the Rural zone code - proposed Lots 1 and 2 will have an area less than 60 ha.</p> <p>The application conflicts with Performance outcome PO1.1 of the Reconfiguring a lot code - proposed Lots 1 and 2 will have an area less than 60 ha.</p>	<p>The proposed development seeks to separate the existing lawful sawmill use from the balance of the underutilised rural agricultural land.</p> <p>The applicant purchased the subject land around 2006 with the primary intent of building and operating a new sawmill to cater for the plantation timber being logged primarily from the State forestry plantations throughout the region.</p> <p>The applicant advises that the sawmill development represents a significant investment of approximately \$11,500,000.00 and their focus continues to be on operating this sawmill. The sawmill does not have a fixed lifespan and is expected to continue to operate whilst plantation timber is replanted and harvested throughout the region.</p> <p>Due to the applicant's focus on their primary business of sawmilling, the agricultural land resource (proposed Lot 1) has remained</p>

underutilised since 2006. This agricultural land is likely to continue to remain underutilised unless it can be separated from the sawmill use and sold to an entity focused on farming.

The subject site is already half the size sought for the rural zone and the proposed subdivision occurs along a site already fragmented by the existing Gilmore Road and will not result in any further fragmentation of the site, in its current physical form and operation. There will be no loss of agricultural activities resulting from this proposal, instead, the creation of proposed Lot 1 is very likely to increase agricultural activity.

The overarching purpose of the TLPI as reflected in the Ministers Statement of Reasons (for imposing the TLPI) is to disallow subdivision in the Rural zone where creating lots less than 60 ha in order to:

- Minimise further fragmentation of agricultural land and maintain larger lot sizes to ensure the economic viability of rural land holdings; and
- to protect important agricultural and rural land from incompatible development and encroachment by urban and rural residential development.

The subject site was effectively fragmented by the approval and subsequent development of the sawmill in 2006. The sawmill use and agricultural land resource of proposed Lot 1 are two distinct land uses with no reliance on each another.

The proposed subdivision does not propose any further physical fragmentation and will only recognise the existing constraints created by the existence of the sawmill and Gilmore Road.

The proposed development will not cause adverse impacts to the existing or future use of the land, as intended by the Settlement Pattern and Built Environment Theme of the Strategic Framework.

Accordingly, the rural production values of the site and locality will not be compromised by further fragmentation, alienation or introduction of new incompatible land uses.

<p>The application conflicts with 3.6.1 Strategic Outcome (6) of the Planning Schemes Strategic Framework (As amended by TLPI No. 01 of 2021) - proposed Lots 1 and 2 will have an area less than 60 ha.</p>	<p>The proposed development seeks to separate the existing sawmill use from the balance of the agricultural land.</p> <p>Both proposed lots already contain all infrastructure necessary to facilitate their respective ongoing use.</p> <p>Notwithstanding the less than 60 hectares lot size, the proposed subdivision will not place any additional demand on infrastructure networks. This statement is reinforced by the no requirement responses from the referral agencies responsible for State transport infrastructure and the electricity network.</p> <p>Further, no infrastructure upgrade conditions have been proposed by Council officers.</p>
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(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 endorsement of the plan of survey, except where specified otherwise in these conditions of approval.
3. General
 - 3.1 The development approval would not have been issued if not for the conditions requiring the construction of infrastructure or the payment of infrastructure charges/contributions contained within the conditions of approval.
 - 3.2 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.

- 3.3 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 the endorsement of the plan of survey and at the rate applicable at the time of payment.
- 3.4 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.
- 3.5 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.
- 3.6 Where approved existing buildings and structures are to be retained, setbacks to any new property boundaries are to be in accordance with Planning Scheme requirements for the relevant structure and/or Queensland Development Code. Where existing building/s are in proximity to new property boundaries, a plan demonstrating compliance with the required setback must be submitted prior to endorsement of the plan of survey.
- 3.7 All works must be designed, constructed and carried out in accordance with FNQROC Development Manual requirements and to the satisfaction of Council’s delegated officer.
- 3.8 Charges

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

REFERRAL AGENCIES

The referral agencies applicable to this application are:

Table 1 - Reconfiguring a lot near a State transport corridor		
Development application for reconfiguring a lot that is assessable development under section 21, if- (a) all or part of the premises are within 25m of a State transport corridor; and (b) 1 or more of the following apply- (i) the total number of lots is increased;	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1	Department of State Development, Infrastructure, Local Government and Planning - State Assessment & Referral Agency (SARA) PO Box 2358 Cairns QLD 4870 CairnsSARA@dsmip.qld.gov.au

<p>(ii) the total number of lots adjacent to the State transport corridor is increased;</p> <p>(iii) there is a new or changed access between the premises and the State transport corridor;</p> <p>(iv) an easement is created adjacent to a railway as defined under the Transport Infrastructure Act, schedule 6; and</p> <p>(c) the reconfiguration does not relate to government supported transport infrastructure</p>		
<p>Table 3 - Reconfiguring a lot near a State-controlled road intersection</p>		
<p>Development application for reconfiguring a lot that is assessable development under section 21, if-</p> <p>(a) all or part of the premises are-</p> <p>(i) adjacent to a road (the <i>relevant road</i>) that intersects with a State-controlled road; and</p> <p>(ii) within 100m of the intersection; and</p> <p>(b) 1 or more of the following apply-</p> <p>(i) the total number of lots is increased;</p> <p>(ii) the total number of lots adjacent to the relevant road is increased;</p> <p>(iii) there is a new or changed access between the premises and the relevant road; and</p> <p>(c) the reconfiguration does not relate to government supported transport infrastructure</p>	<p>Schedule 10, Part 9, Division 4, Subdivision 2, Table 3</p>	<p>Department of State Development, Infrastructure, Local Government and Planning - State Assessment & Referral Agency (SARA) PO Box 2358 Cairns QLD 4870</p> <p>CairnsSARA@dsgmip.qld.gov.au</p>

Table 1 - 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) all or part of the lot is subject to an easement-		Note: Referral agency may give advice only.
(i) for the benefit of a distribution entity, or transmission entity, under the Electricity Act; and		
(ii) for a transmission grid or supply network; or		
(b) part of the lot is within 100m of a substation site		

A copy of any 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
22-813 Issue A Sheet No. D01	Plan of Subdivision	Urban Sync Pty Ltd	08 June 2022

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) 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.
- (b) 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.

(c) 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.

(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.dcceew.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.dsdsatsip.qld.gov.au.

FURTHER DEVELOPMENT PERMITS REQUIRED

Not Applicable.

SUBMISSIONS

There were no properly made submissions about the application.

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

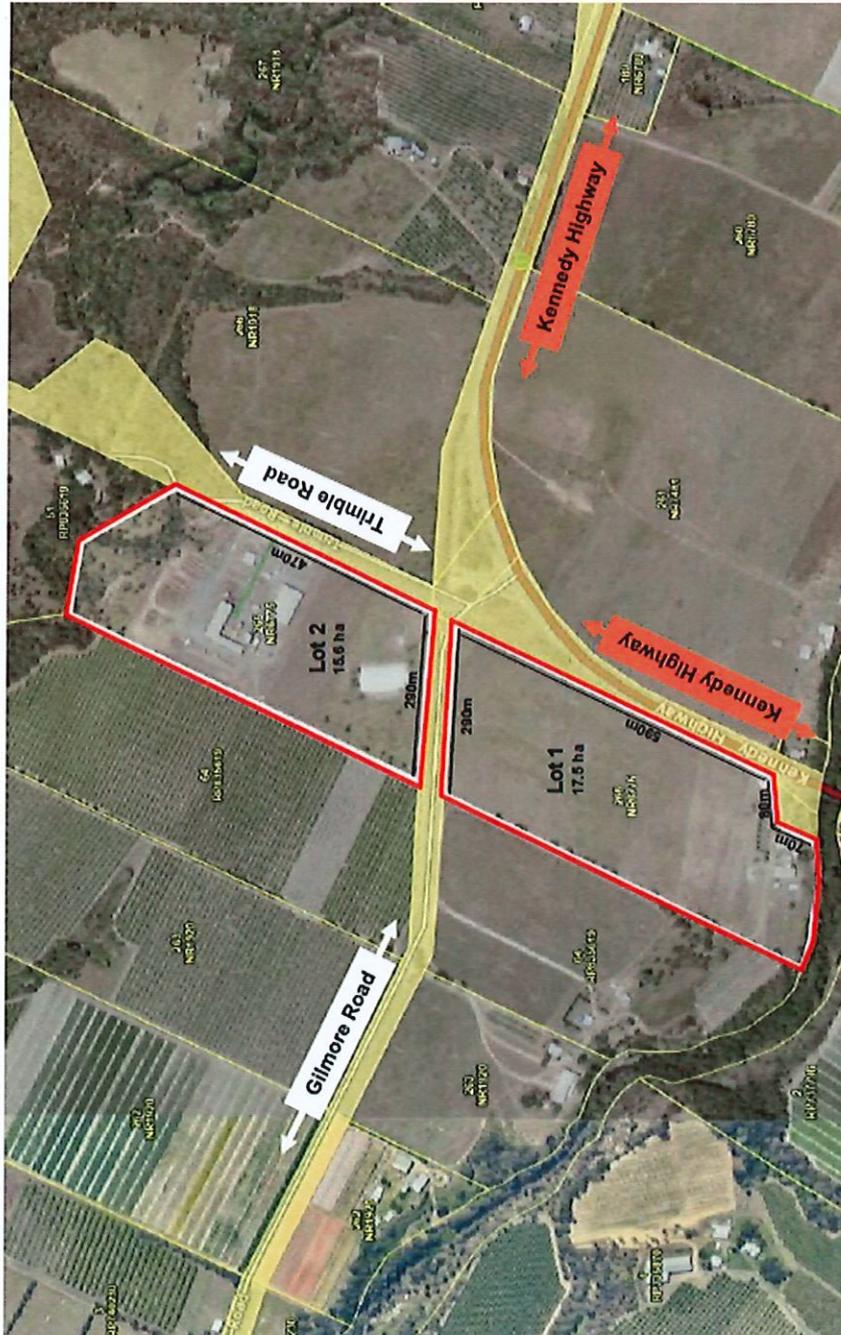


BRIAN MILLARD
SENIOR PLANNER

Enc: Approved Plans/Documents
 Referral Agency Response
 Appeal Rights

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

Approved Plans/Documents



Please note: Measurements are approximate indication only

PROPOSED SUBDIVISION Simms Veneer & Sawmills Pty Ltd 31 Trimble Road, Mareeba (Lot 265 on NR6775)	Job No. 22-813	Issue: A	Date: 08 June 2022	Sheet No. D01	Title: Plan of Subdivision	Prepared By: Urban Sync Pty Ltd
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17/11/2022
B. [Signature]

	Referral Agency Response
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RA9-N



SARA reference: 2208-30217 SRA
 Council reference: RAL/22/0013
 Applicant reference: 22-813

18 August 2022

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

Attention: Brian Millard

Dear Sir/Madam

SARA response—31 Trimble Road, Mareeba(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 (SARA) on 2 August 2022.

Response

Outcome:	Referral agency response - No requirements Under section 56(1)(a) of the <i>Planning Act 2016</i> , SARA advises it has no requirements relating to the application.
Date of response:	18 August 2022
Advice:	Advice to the applicant is in Attachment 1.
Reasons:	The reasons for the referral agency response are in Attachment 2

Development details

Description:	Development permit Reconfiguring a lot (1 lot into 2 lots).
SARA role:	Referral Agency.
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 (Planning Regulation 2017)
	Development application for reconfiguring a lot near a State transport corridor
SARA reference:	2208-30217 SRA
Assessment Manager:	Mareeba Shire Council

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

2203-30217 SRA

Street address: 31 Trimble Road, Mareeba
Real property description: Lot 265 on NR6775
Applicant name: Simms Veneer & Sawmills Pty Ltd
C/- Urban Sync Pty Ltd
Applicant contact details: PO Box 2970
Cairns QLD 4870
jamie@urbansync.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 3.

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

For further information please contact Joanne Manson, Principal Planning Officer, on 40373214 or via email CairnsSARA@dcdilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Duncan Livingstone
A/Manager (Planning)

cc Simms Veneer & Sawmills Pty Ltd C/- Urban Sync Pty Ltd, jamie@urbansync.com.au
enc Attachment 1 - Advice to the applicant
Attachment 2 - Reasons for referral agency response
Attachment 3 - Representations provisions

2208-30217 SRA

Attachment 1—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) v3.0. If a word remains undefined it has its ordinary meaning.

2208-30217 SRA

Attachment 2—Reasons for referral agency response*(Given under section 58(7) of the Planning Act 2016)***The reasons for the department's decision are:**

The proposed development complies with State code 1: Development in a state-controlled road environment and can be supported without conditions as it:

- does not increase the likelihood or frequency of accidents, fatalities or serious injury for users of a state-controlled road
- does not adversely impact the structural integrity or physical condition of state transport infrastructure
- does not adversely impact the function and efficiency of state transport infrastructure
- does not adversely impact or increase costs for the state's ability to plan, construct, maintain, upgrade or operate state transport infrastructure.

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 3.0), as published by Department of State Development, Infrastructure, Local Government and Planning
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping
- *Human Rights Act 2019*

2208-30217 SRA

Attachment 3 — Change representation provisions

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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.

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.