



9 March 2023

Planning Officer: Carl Ewin
Direct Phone: 4086 4656
Our Reference: RAL/22/0022
Your Reference: AU007724

MGA Investments Pty Ltd TTE
C/- RPS AAP Consulting Pty Ltd, Patrick Clifton
PO Box 1949
CAIRNS QLD 4870

Dear Applicants,

Decision Notice

Planning Act 2016

I refer to your application and advise that on 3 March 2023 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/22/0022
Street Address:	3609 Mulligan Highway, Mount Molloy
Real Property Description:	Lot 1 on SP223151
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit for Reconfiguration of a Lot - Subdivision (1 into 3 lots)
Date of Decision:	3 March 2023

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 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 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 Bushfire Management

3.8.1 Any new dwelling erected on the proposed allotments must:

- (i) Achieve a setback from hazardous vegetation of 1.5 times the predominant mature canopy tree height or 10 metres, whichever is greater.
- (ii) Include on-site water storage of not less than 5,000 litres, with a 50mm male camlock fire brigade fitting where necessary, to be provided at the same time the dwelling is constructed.

3.8.2 A Bushfire Management Plan will be prepared to the satisfaction of Council's delegated officer. The approved use must comply with the requirements of the Management Plan at all times.

3.9 Charges

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

- 3.10 A 10 metre wide access easement must be established over Lot 102 to service Lot 103 generally in accordance with the position and orientation shown on the approved plan. The access easement documents must be submitted to Council for review prior to endorsement of a plan of survey.

4. Infrastructure Services and Standards

4.1 Access Easement Standard

A compacted gravel, all weather access driveway must be constructed for the full length of the access easement included over Lot 102, to the satisfaction of Council's delegated officer.

4.2 Stormwater Drainage

The applicant must ensure a non-worsening effect on surrounding land as a consequence of the development and must take all reasonable and practicable measures to ensure discharge occurs in compliance with the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual.

4.3 On-Site Wastewater Management

At the time of construction of a new dwelling on any lot, any associated on-site effluent disposal system must be constructed in compliance with the latest version On-Site Domestic Wastewater Management Standard (ASNZ1547) to the satisfaction of the Council's delegated officer.

REFERRAL AGENCIES

The referral agencies applicable to this application are:

Table 1 - Reconfiguring a lot near a State transport corridor		
<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 within 25m of a State transport corridor; and</p> <p>(b) 1 or more of the following apply—</p> <ul style="list-style-type: none"> (i) the total number of lots is increased; (ii) the total number of lots adjacent to the State transport corridor is increased; (iii) there is a new or changed access between the premises and the State transport corridor; (iv) an easement is created adjacent to a railway as defined under the Transport Infrastructure Act, schedule 6; <p>and</p>	<p>Schedule 10, Part 9, Division 4, Subdivision 2, Table 1</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@dsmip.qld.gov.au</p>

(c) the reconfiguration does not relate to government supported transport infrastructure		
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 Note: Referral agency may give advice only.
(a) all or part of the lot is subject to an easement-		
(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
AU007724-1 A	Proposed Reconfiguration. Lots 101 to 103 cancelling Lot 1 on SP223151	RPS	21-12-2022

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) Historic Grave Site

The gravesite of Georgina Mathieson exists at the southern end of the property. This gravesite is included in the Planning Scheme's Local Heritage Register which contains information about the site and its historic significance. The gravesite has a wrought

iron surround, painted white for easy identification. Any modification or disturbance of the gravesite other than routine maintenance is considered assessable development.

(c) 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.

(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) Notation on Rates Record

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

- conditions regarding bushfire management
- registered easements over the subject land

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

(B) CONCURRENCE AGENCY CONDITIONS

State Assessment and Referral Agency response dated 20 February 2023

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



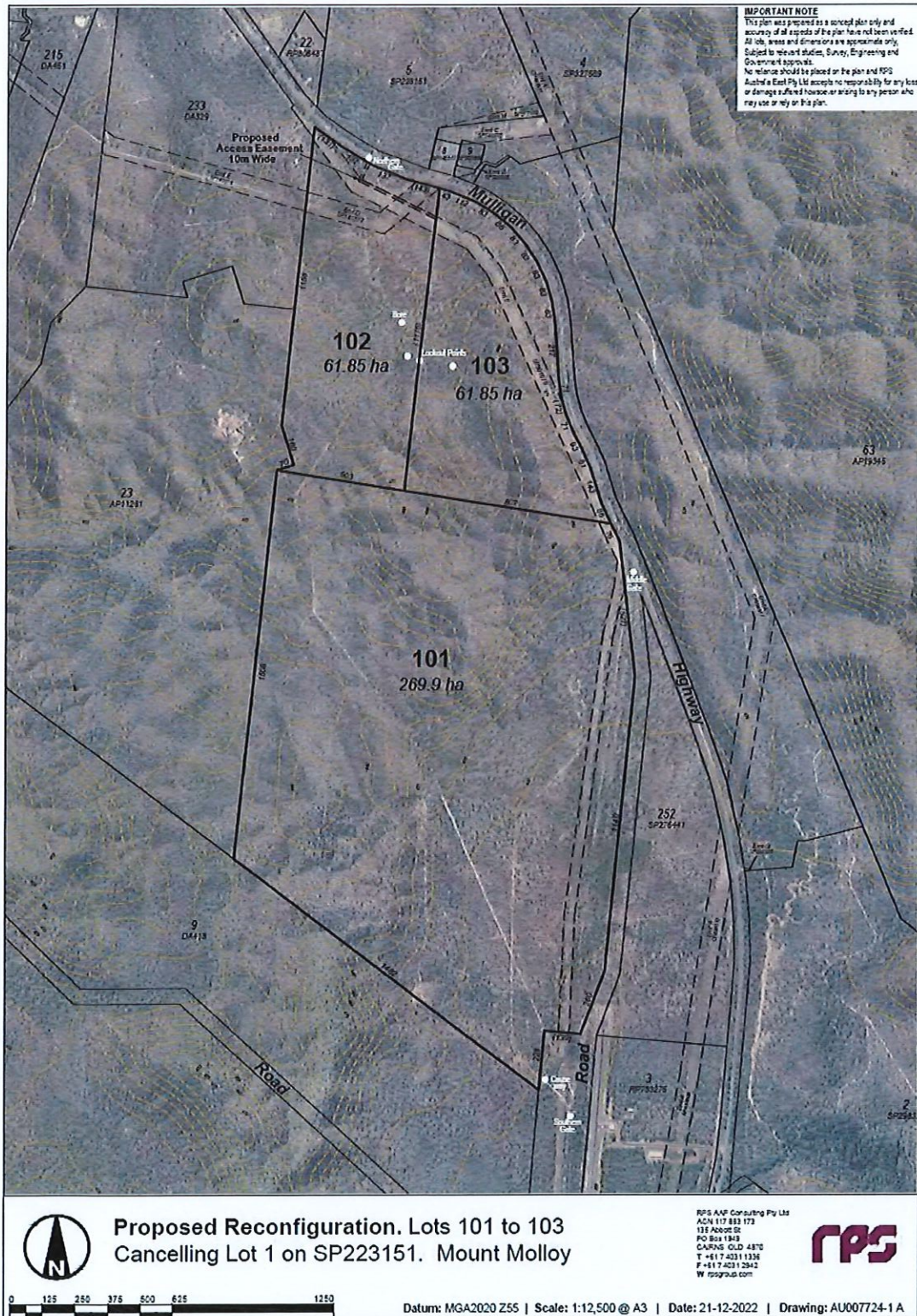
BRIAN MILLARD
SENIOR PLANNER

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: 2301-32906 SRA
 Council reference: RAL/22/0022
 Applicant reference: AU007724

20 February 2023

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

Attention: Carl Ewin

Dear Sir/Madam

SARA referral agency response—3609 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 (SARA) on 18 January 2023.

Response

Outcome:	Referral agency response – with conditions
Date of response:	20 February 2023
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 for RAL for Subdivision (1 into 3 Lots) and access easement
SARA role:	Referral agency	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 1 (Planning)	

Page 1 of 7

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

2301-32906 SRA

Regulation 2017).

Development application for a reconfiguring a near a state transport corridor – within 25m of a state-controlled road

Schedule 10, Part 9, Division 4, Subdivision 2, Table 3 (Planning Regulation 2017)

Development application for a reconfiguring a lot near a state transport corridor - within 25m of a state-controlled road intersection

SARA reference:	2301-32906 SRA
Assessment manager:	Mareeba Shire Council
Street address:	3609 Mulligan Highway, Mount Molloy
Real property description:	Lot 1 on SP223151
Applicant name:	MGA Investments Pty Ltd C/- RPS AAP Consulting Pty Ltd
Applicant contact details:	PO Box 1949 Cairns QLD 4870 Patrick.Clifton@rpsgroup.com.au
State-controlled road access permit:	This referral included an application for a road access location, under section 62A(2) of <i>Transport Infrastructure Act 1994</i> . Below are the details of the decision: <ul style="list-style-type: none">• Approved• Reference: TMR23-038476 (500-1140)• Date: 14 February 2023

If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at ron.p.kaden@tmr.qld.gov.au

Human Rights Act 2019 considerations:

A consideration of the 23 fundamental human rights protected under the *Human Right Act 2019* has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.

Representations

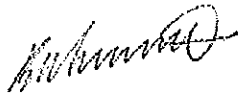
An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules). Copies of the relevant provisions are in **Attachment 4**.

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

2301-32906 SRA

For further information please contact Sue Lockwood, Senior Planning Officer, on 40373214 or via email CairnsSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc MGA Investments Pty Ltd C/- RPS AAP Consulting Pty Ltd, Patrick.Clifton@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 about a referral agency response provisions
Attachment 5 - Documents referenced in conditions

2301-32906 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 documents referenced below are found at Attachment 5)

No.	Conditions	Condition timing
Reconfiguring a lot		
10.9.4.2.1.1 – Reconfiguring a lot near a state transport corridor— 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.	<p>(a) The road access locations are to be located generally in accordance with TMR Layout Plan (34A – 36.05km), prepared by Queensland Government Transport and Main Roads, dated 10/02/2023, Reference TMR23-38476 (500-1140), Issue A.</p> <p>(b) Road access works comprising of additional upgrading works must be provided at the northern (proposed Lot 102) road access location.</p> <p>(c) The road access works must be designed and constructed in accordance with TMR Standard Rural Property Access Drawing, Sheets 1 & 2, Drawing No. 1807, Type B – Rural Property Access, dated 11/2021, and Revision B.</p>	<p>(a) At all times.</p> <p>(b) and (c) Prior to submitting the Plan of Survey to the local government for approval.</p>
2.	Direct access is not permitted between the Mulligan Highway and proposed Lot 101 and proposed Lot 103.	At all times.
3.	<p>(a) The applicant must register an access easement on the title of proposed Lot 102 for the shared access to proposed Lot 103.</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>

2301-32906 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) (version 3.0). If a word remains undefined it has its ordinary meaning.
2.	<p>Transport Noise Corridor</p> <p>Mandatory Part (MP) 4.4 of the Queensland Development Code (QDC) commenced on 1 September 2010 and applies to building work for the construction or renovation of a residential building in a designated transport noise corridor. MP4.4 seeks to ensure that the habitable rooms of Class 1, 2, 3 and 4 buildings located in a transport noise corridor are designed and constructed to reduce transport noise. Transport noise corridor means land designated under Chapter 8B of the <i>Building Act 1975</i> as a transport noise corridor. Information about transport noise corridors is available at state and local government offices.</p> <p>A free online search tool can be used to find out whether a property is located in a designated transport noise corridor. This tool is available at the State Planning Policy Interactive Mapping System website: State Planning Policy Interactive Mapping System (SPP) and allows searches on a registered lot number and/or property address to determine whether and how the QDC applies to the land. Transport Noise Corridors are located under 'Information Purposes' within 'Transport Infrastructure' of the SPP.</p>
Further development permits required	
3.	<p>Road Works Approval</p> <p>Under section 33 of the <i>Transport Infrastructure Act 1994</i>, written approval is required from the Department of Transport and Main Roads (DTMR) to carry out road works.</p> <p>Please contact DTMR on 4045 7144 to make an application for road works approval.</p> <p>This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).</p> <p>Please contact DTMR as soon as possible to ensure that gaining approval does not delay construction.</p>

2301-32906 SRA

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

With conditions the proposed development:

- 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-controlled roads, road transport infrastructure, public passenger transport infrastructure or active transport infrastructure
- does not adversely impact the function and efficiency of state-controlled roads or future state-controlled roads
- does not adversely impact the state's ability to plan, construct, maintain, upgrade or operate state-controlled roads, future state-controlled roads or road transport infrastructure
- protects community amenity from significant adverse impacts of environmental emissions generated by road transport infrastructure or vehicles using state-controlled roads.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- *Planning Regulation 2017*
- the SDAP (version 3.0), as published by SARA
- the Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- section 58 of the *Human Rights Act 2019*

Attachment 4—Representations about a referral agency response provisions*(page left intentionally blank – attached separately)*

2301-32906 SRA

Attachment 5—Documents referenced in conditions

(page left intentionally blank -- attached separately)

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*

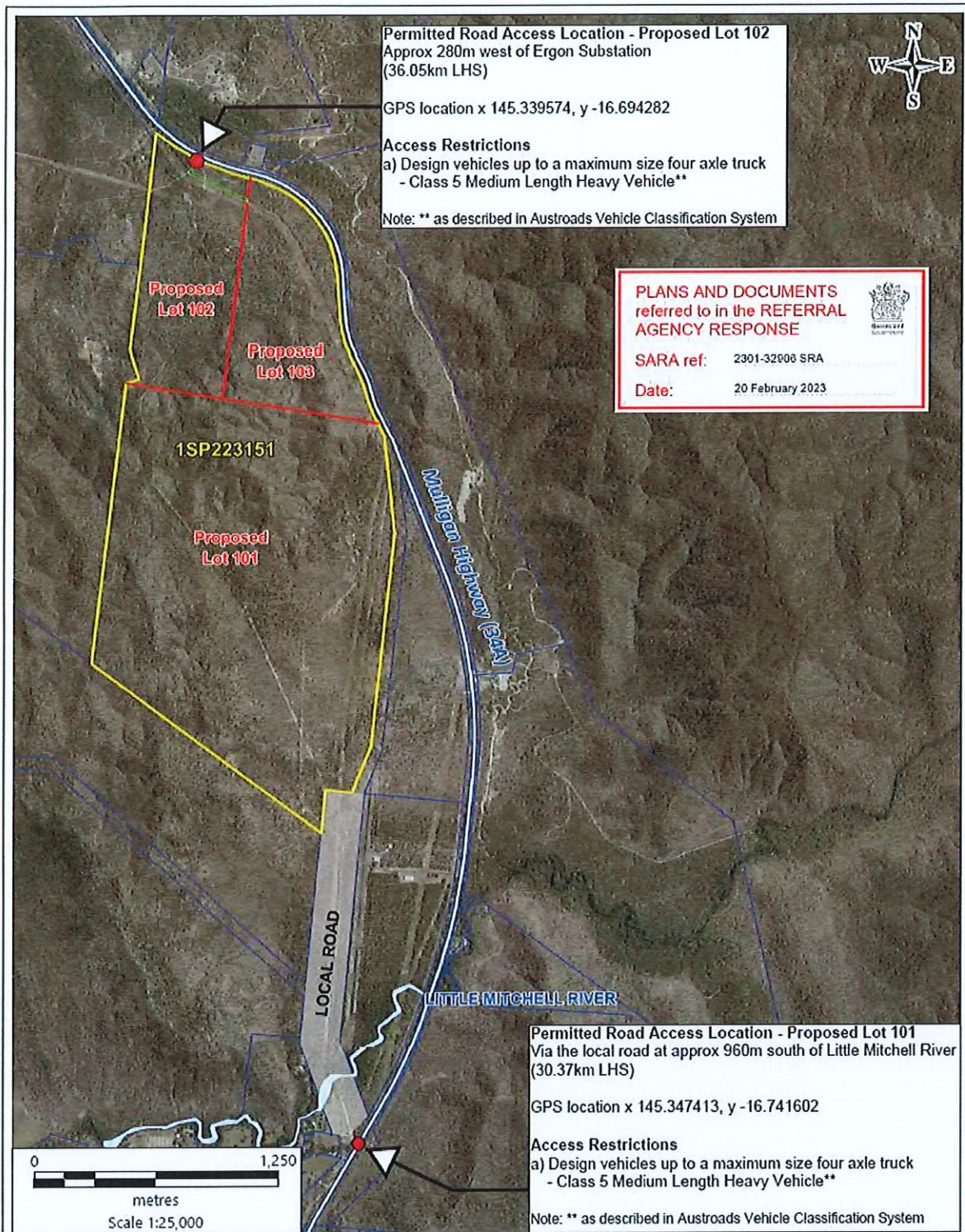
² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

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.



Permitted Road Access Location - Proposed Lot 102
 Approx 280m west of Ergon Substation
 (36.05km LHS)

GPS location x 145.339574, y -16.694282

Access Restrictions
 a) Design vehicles up to a maximum size four axle truck
 - Class 5 Medium Length Heavy Vehicle**

Note: ** as described in Austroads Vehicle Classification System

PLANS AND DOCUMENTS
 referred to in the REFERRAL
 AGENCY RESPONSE

SARA ref: 2301-32008 SRA
 Date: 20 February 2023

Permitted Road Access Location - Proposed Lot 101
 Via the local road at approx 960m south of Little Mitchell River
 (30.37km LHS)

GPS location x 145.347413, y -16.741602

Access Restrictions
 a) Design vehicles up to a maximum size four axle truck
 - Class 5 Medium Length Heavy Vehicle**

Note: ** as described in Austroads Vehicle Classification System

Brand/Unit : Corridor Management / Far North District

Projection/Datum : Geocentric Datum of Australia (GDA) 2020

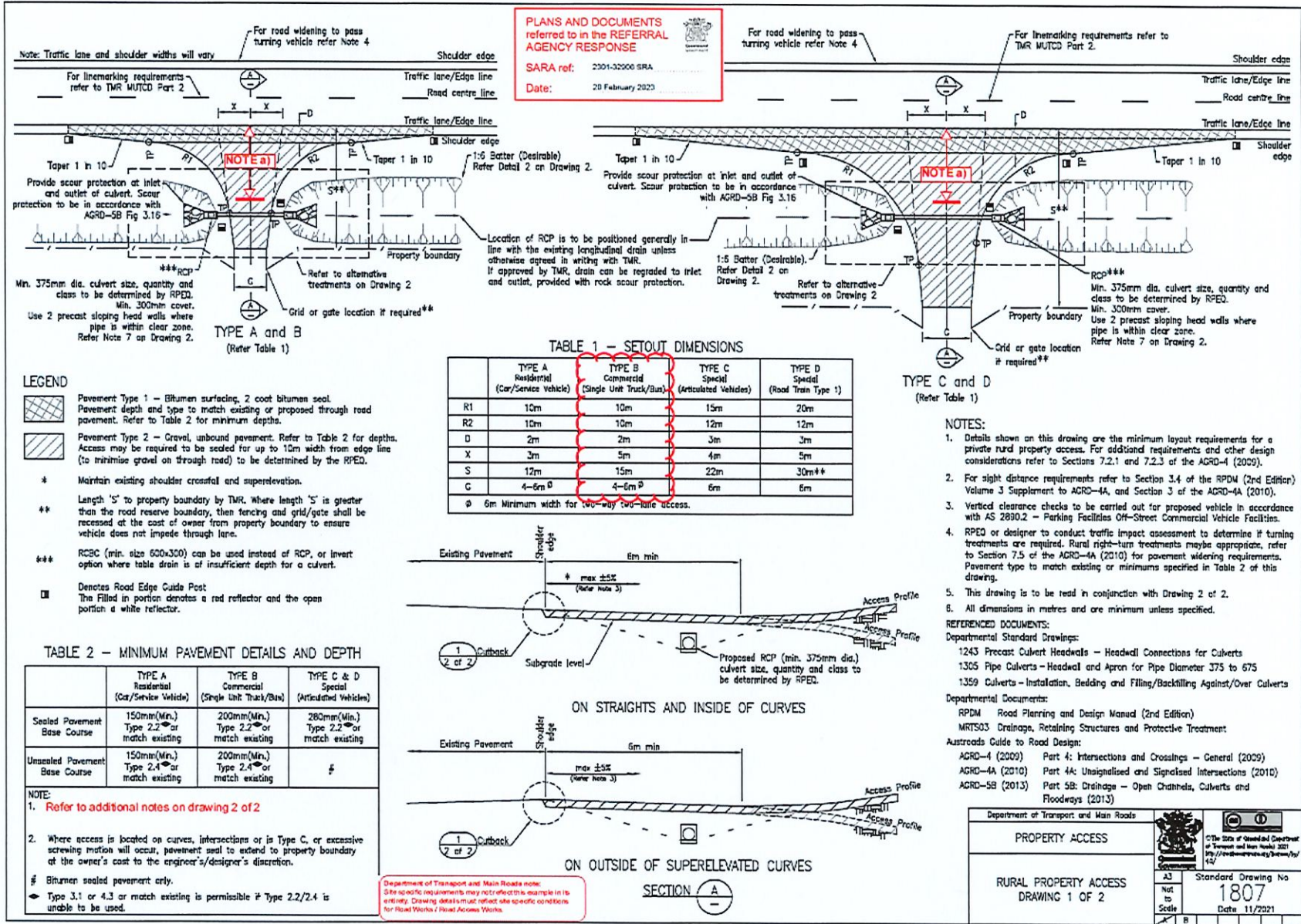
Land parcels
 Subject land
 Proposed boundary
 Proposed easement

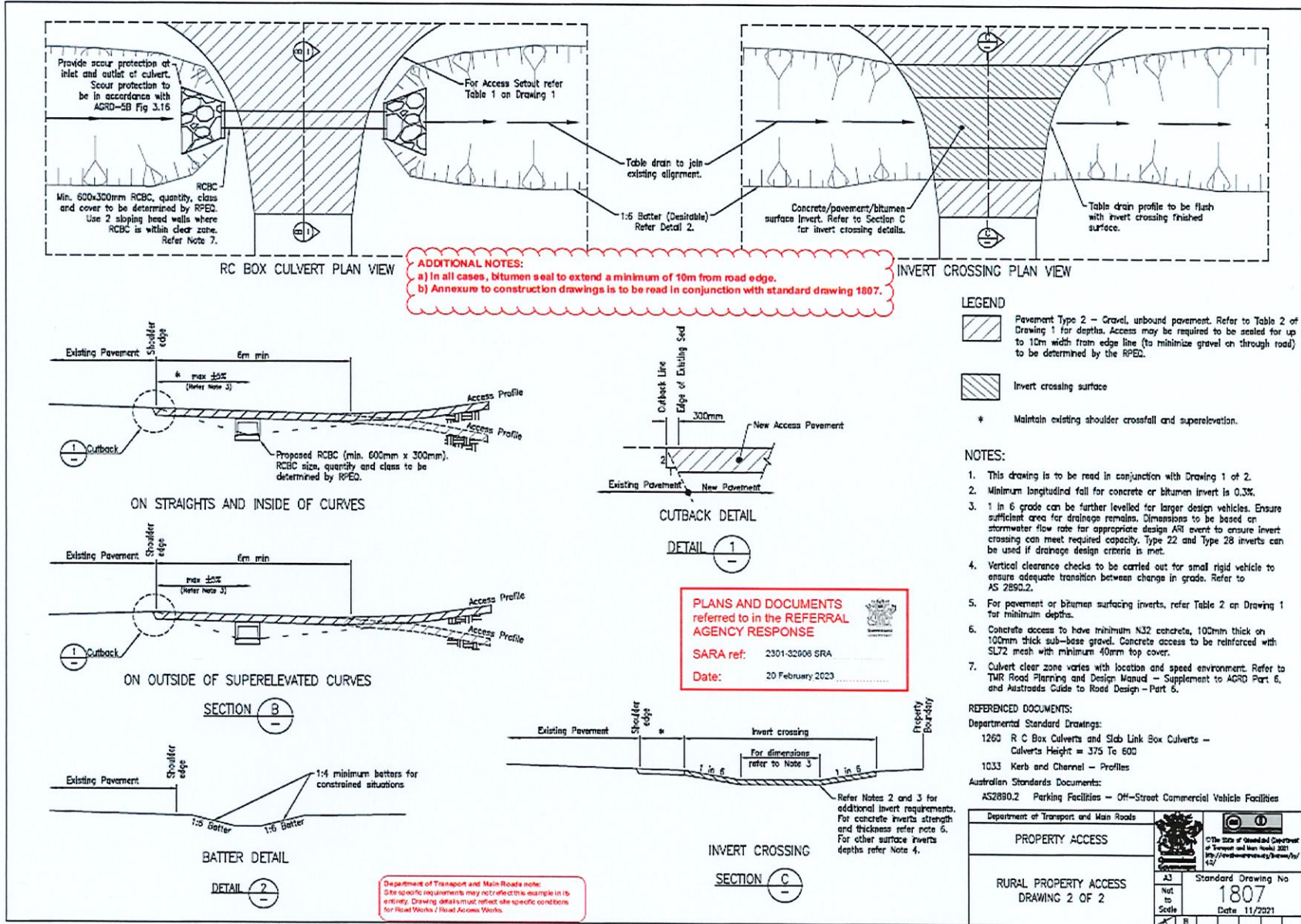
**TMR Layout Plan
 (34A - 36.05km)**

Queensland Government
 Transport and Main Roads

Plan:	1 / 1	Issue:	A	Date:	10/02/2023
Drawn by:	RPK	File ref:	TMR23-38476 (500-1140)		

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Department of Transport and Main Roads		<p>© The State of Queensland Government of Transport and Main Roads 2021 http://www.transportandmainroads.qld.gov.au/</p>
PROPERTY ACCESS		
RURAL PROPERTY ACCESS		Standard Drawing No
DRAWING 2 OF 2		1807
		Date 11/2021



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

28 February 2023

MGA Investments Pty Ltd TTE
C/- RPS AAP Consulting Pty Ltd
Via email: patrick.clifton@rpsgroup.com.au

Attention: Patrick Clifton

Cc Mareeba Shire Council
Attention: Carl Ewin

Via email: info@msc.qld.gov.au

Dear Patrick,

Referral Agency Response Notice to Application for Development Permit for Reconfiguring a Lot – Subdivision (1 into 3 lots) over land at 3609 Mulligan Highway, Mount Molloy and described as Lot 1 on SP223151.
Council Ref: RAL/22/0022
Our Ref: HBD 7673998

We refer to the above mentioned 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 RAL, as an Advice Agency for the Application, Ergon requires that the Assessment Manager impose the following conditions:

1. The development is carried out generally in accordance with the below referenced plans. Any significant alterations to these plans should be resubmitted to Ergon for comment:

Title	Document Ref.	Date
Proposed Reconfiguration Plan	AU007724-1 A	21-12-2022

Have you seen our fact sheets?

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

Ergon Energy Corporation Limited ABN 50 087 646 062

2. Access to the existing Ergon easements and access along the easements must be available to Ergon personnel, including vegetation crews and regular routine line inspection crews, and heavy equipment, such as Heavy Trucks, Machinery and Cranes for construction, maintenance and emergency services, at all times.
3. Ergon will require the Developer / owner to supply and install gates where fencing prohibits access to and along the easement area.
4. Satisfactory clearance from the existing electricity wires must be maintained in accordance with the *Electrical Safety Regulations 2013* at all times.
5. Rubbish, materials and / or tall equipment such as cranes and excavators are not permitted to be stored on the easement.
6. Any proposed underground services are to be kept to the outer edge of the easement and are to only cross the easement as near as possible to right angles.
7. Consideration must be given to the type of vegetation planted in the easement.
8. Any costs or damages incurred by Ergon as a result of the works on the easement are to be met by the property Developer / owner.
9. All existing easement conditions must be adhered to.
10. All future works should be in accordance with the Electricity Entity Requirements: Working Near Overhead and Underground Electric Lines WP1323.

Should you require further information regarding this matter, feel free to contact the undersigned on 0428 943 997 or email townplanning@ergon.com.au.

Yours faithfully,



Scott Pearson
Senior 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

Ergon Energy Corporation Limited ABN 50 087 646 062

Page 2

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.