

21 September 2023

Senior Planner: Carl Ewin  
Direct Phone: (07) 4086 4656  
Our Reference: MCU/23/0011  
Your Reference: F23/10

B Campbell  
C/- Freshwater Planning Pty Ltd  
17 Barron View Drive  
FRESHWATER QLD 4870

Dear Applicants,

## Decision Notice

### *Planning Act 2016*

I refer to your application and advise that on 20 September 2023, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

#### APPLICATION DETAILS

Application No: MCU/23/0011  
Street Address: 49 Walsh Street, Mareeba  
Real Property Description: Lot 1 on RP719746  
Planning Scheme: Mareeba Shire Council Planning Scheme 2016

#### DECISION DETAILS

Type of Decision: Approval  
Type of Approval: Development Permit for Material Change of Use  
Short-Term Accommodation  
Date of Decision: 20 September 2023

**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****(C) ASSESSMENT MANAGER'S CONDITIONS (COUNCIL)****(a) Development assessable against the Planning Scheme**

1. Development must be carried out generally in accordance with the approved plans and the facts and circumstances of the use as submitted with the application, subject to any alterations:
  - found necessary by Council's delegated officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements; and
  - to ensure compliance with the following conditions of approval.
2. Timing of Effect
  - 2.1 The conditions of the development permit must be complied with to the satisfaction of Council's delegated officer prior to the commencement of the use except where specified otherwise in these conditions of approval.
  - 2.2 Prior to the commencement of use, the applicant must 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 development approval would not have been issued if not for the conditions requiring the construction of infrastructure or the payment of infrastructure charges within the conditions of approval or the Adopted Infrastructure Charges Notice.
  - 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 or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to commencement of the use and at the rate applicable at the time of payment.

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- 3.4 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.
- 3.5 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.
- 3.6 Waste Management  
On site refuse storage area must be provided and be screened from view from adjoining properties and road reserve by 1 metre wide landscaped screening buffer, 1.8m high solid fence or building.
- 3.7 Clothes Drying Facilities  
Sufficient area for clothes drying is to be provided at the rear of the short-term accommodation and is to be appropriately screened from view of adjoining properties and the street.
- 3.8 A site manager must be present on-site at all times to ensure compliance with these conditions of approval.  
The site manager's contact details must be made available to adjoining landowners.
4. Infrastructure Services and Standards
- 4.1 Access  
Both access crossovers must be constructed (from the edge of the road pavement to the property boundary of the subject lot) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.
- 4.2 Stormwater Drainage
- 4.2.1 The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.
- 4.2.2 All stormwater drainage concentrated by the development must be collected from site and discharged to an approved legal point of discharge.
- 4.3 Car Parking/Internal Driveways  
The applicant/developer must ensure the development is provided with a minimum of three (3) on-site car parking spaces in accordance with Drawing No. 0730 Sheet DA 02 A, which are available solely for the parking of vehicles associated with the use of the premises. All car parking spaces and internal driveways must be concrete, bitumen or asphalt sealed and appropriately drained prior to the commencement of the use and to the satisfaction of Council's delegated officer.

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

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

#### 4.4 Landscaping & Fencing

- 4.4.1 Prior to the commencement of the use, a minimum one (1) metre wide landscaping strip must be established along the entire Walsh Street frontage (excluding pedestrian and vehicle access points) of Lot 1 on RP719746.
- 4.4.2 Where new plants are to be planted, these plant varieties must be generally in accordance with Schedule A of Planning Scheme Policy No. 9 (Landscaping Policy).
- 4.4.3 The landscaping strip must be irrigated, mulched and maintained for the life of the development to the satisfaction of Council's delegated officer.
- 4.4.4 Prior to the commencement of the use, the applicant/developer must erect a 1.8 metre high solid screen fence constructed of Colourbond (of neutral colour) or other suitable material approved by Council, along the entire length of the side and rear boundaries of Lot 1 on RP719746.
- 4.4.5 All fencing must be maintained in good order and safe repair for the life of the development, to the satisfaction of Council's delegated officer.

#### 4.5 Privacy Screening

Prior to the commencement of the use, the applicant/developer must ensure directional privacy screening is installed external to all upper floor windows to effectively screen from view the adjoining allotments.

#### 4.6 Lighting

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.

**REFERRAL AGENCIES**

Not Applicable.

**APPROVED PLANS**

The following plans are Approved plans for the development:

Plan/Document Number	Plan/Document Title	Prepared by	Dated
0730 DA01 A	Proposed Site Plan & Property Boundaries Plan	Gregory G Terzi	Jan 2023
0730 DA02 A	Ground Level – Proposed Floor and part Site Plan	Gregory G Terzi	Jan 2023
0730 DA03 A	Upper Level – Proposed Floor Plan	Gregory G Terzi	Jan 2023

**ADVISORY NOTES**

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

**(D) ASSESSMENT MANAGER'S ADVICE**

- (a) An Adopted Infrastructure Charges Notice has been issued with respect to the approved development. The Adopted Infrastructure Charges Notice details the type of infrastructure charge/s, the amount of the charge/s and when the charge/s are payable.
- (b) The Adopted Infrastructure Charges Notice does not include all charges or payments that are payable with respect to the approved development. A number of other charges or payments may be payable as conditions of approval. The applicable fee is set out in Council's Fees & Charges Schedule for each respective financial year.
- (c) The change in the use of the building may also require a change in the classification of the building under the Building Act. You are advised to contact a Building Certifier to establish if a change in the classification of the building is required.
- (d) Compliance with applicable codes/policies

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

(e) Compliance with Acts and Regulations

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

(f) Environmental Protection and Biodiversity Conservation Act 1999

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

(h) Electric Ants

Electric ants are designated as restricted biosecurity matter under the *Biosecurity Act 2014*.

Certain restrictions and obligations are placed on persons dealing with electric ant carriers within the electric ant restricted zone. Movement restrictions apply in accordance with Sections 74–77 of the *Biosecurity Regulation 2016*. Penalties may be imposed on movement of electric ant carriers and electric ants in contravention of the legislated restrictions. It is the responsibility of the applicant to check if the nominated property lies within a restricted zone.

All persons within and outside the electric ant biosecurity zone have an obligation (a **general biosecurity obligation**) to manage biosecurity risks and threats that are under their control, they know about, or they are expected to know about. Penalties may apply for failure to comply with a general biosecurity obligation.

For more information please visit the electric ant website at [Electric ants in Queensland | Business Queensland](#) or contact Biosecurity Queensland 13 25 23.

**PROPERTY NOTES**

Not Applicable.

**FURTHER DEVELOPMENT PERMITS REQUIRED**

- Development Permit for Building Work
- Compliance Permit for Plumbing and Drainage Work
- Access approval arising from condition number 4.1 (Please contact Planning Section to obtain application form and applicable fee)

**SUBMISSIONS**

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

Name of Principal submitter	Address
1. K & J Merritt	22 Kearney Street, Mareeba QLD 4880
2. C & R Stephen	Lot 2 Geeberga Buthvaar Road, Kuttabul QLD 4741
3. V Grubb	4 Macrae Street, Mareeba QLD 4880
4. D Harrison	24 Kearney Street, Mareeba QLD 4880
5. J Merritt	22 Kearney Street, Mareeba QLD 4880
6. R Stephen	Lot 2 Geeberga Buthvaar Road, Kuttabul QLD 4741

**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.

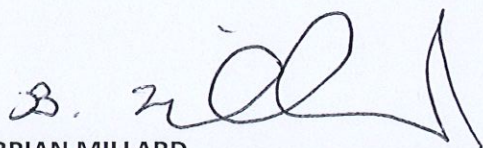
During the appeal period, you as the applicant may suspend your appeal period and make written representations to council about the conditions contained within the development approval. If council agrees or agrees in part with the representations, a “negotiated decision notice” will be issued. Only one “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”.

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**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](http://www.msc.qld.gov.au), or at Council Offices.

Yours faithfully

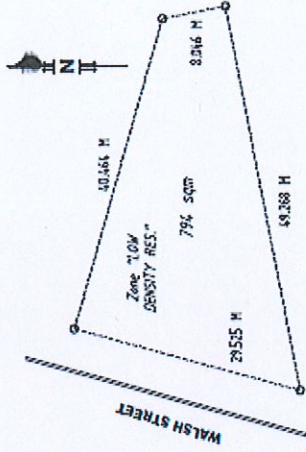


**BRIAN MILLARD**  
**COORDINATOR PLANNING SERVICES**

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



Approved Plans/Documents



**PROPERTY BOUNDARIES PLAN**  
(1:500 ON A3)

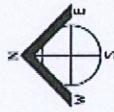
LOT 1 on RP 719 746



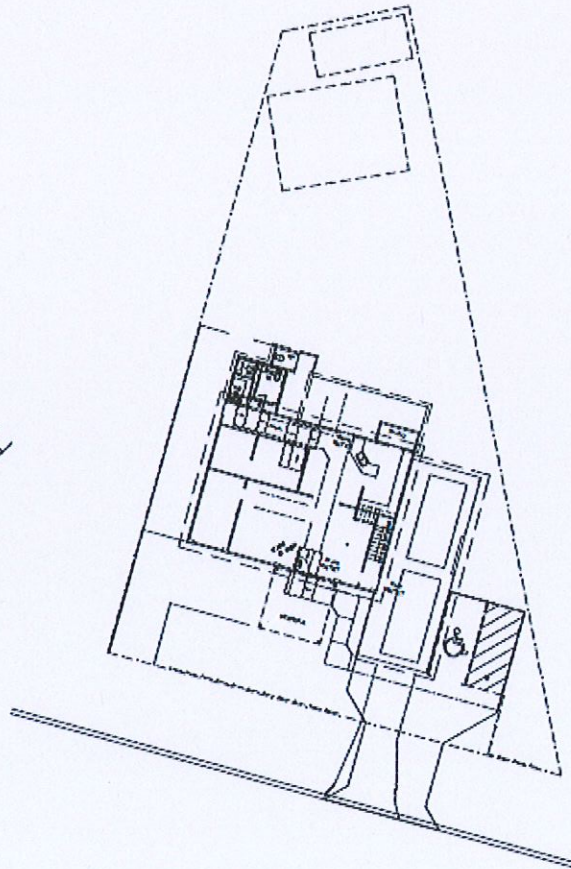
Site Aerial View Extract from QLD Globe  
(copy at 1:1000 ON A3)

DATE:	15/07/22	SHEET NO.:	01/01
SCALE:	AS SHOWN ON THIS SHEET	DRAWING TITLE:	SITE PLAN
PROJECT:	4/9 WALSH STREET MAREEBA 4880	JOB NO.:	0133
	RESIDENTIAL - PROPOSED SHORT TERM ACCOMMODATION	SHEET NO.:	DA 01
		DATE:	15/07/22

DATE: 01/09/23  
DRAWN BY: ERIN WATSON  
CHECKED BY: GREGORY G. TERZAGLIA  
GREGORY G. TERZAGLIA  
-Building Designer - Medium Rise - 0800 LICENCE: 1110348



PRELIMINARY

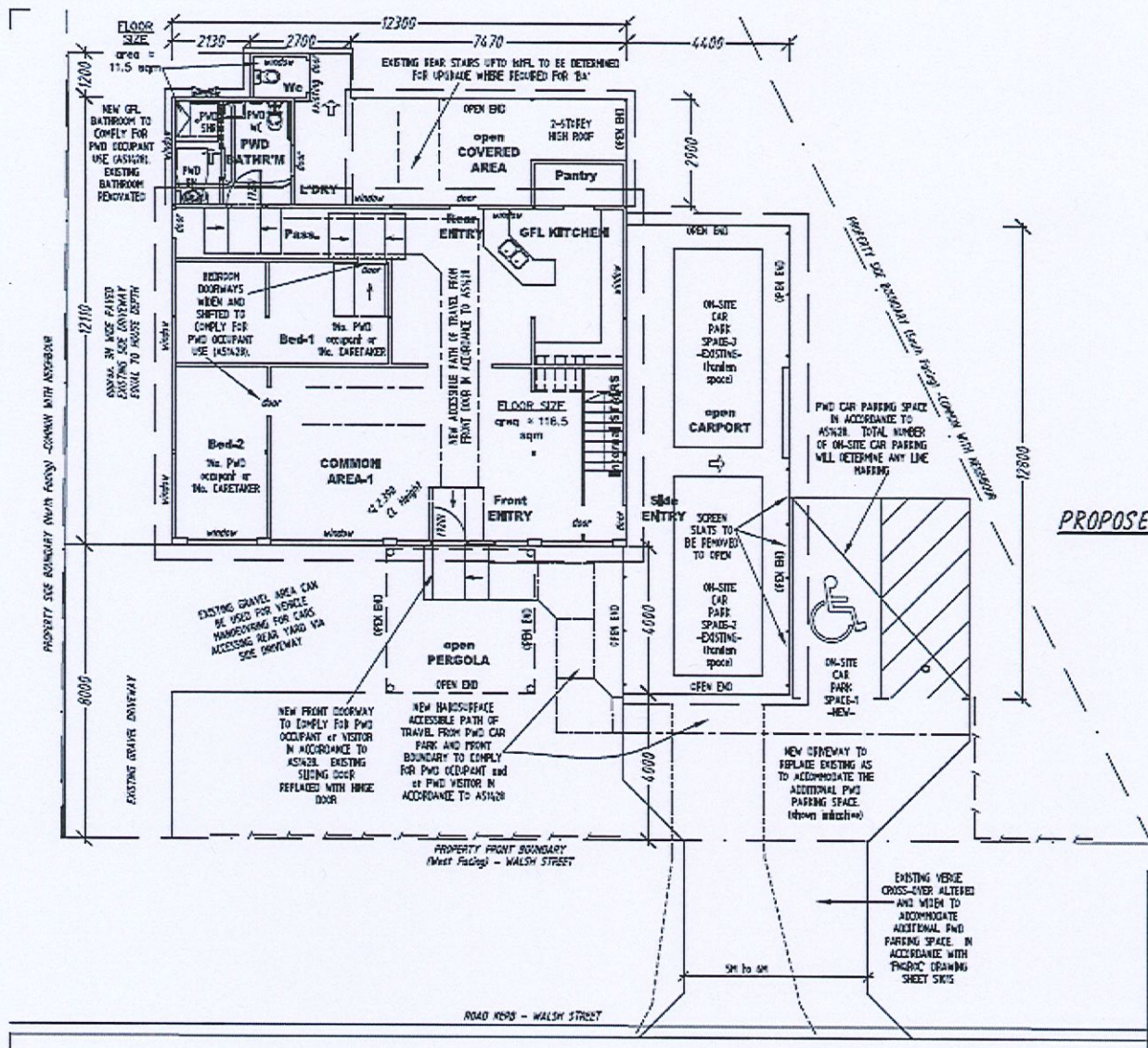


**PROPOSED SITE PLAN**  
-site & boundary clearance  
(1:250 ON A3)

21/9/2023  
28.12.23

PRELIMINARY

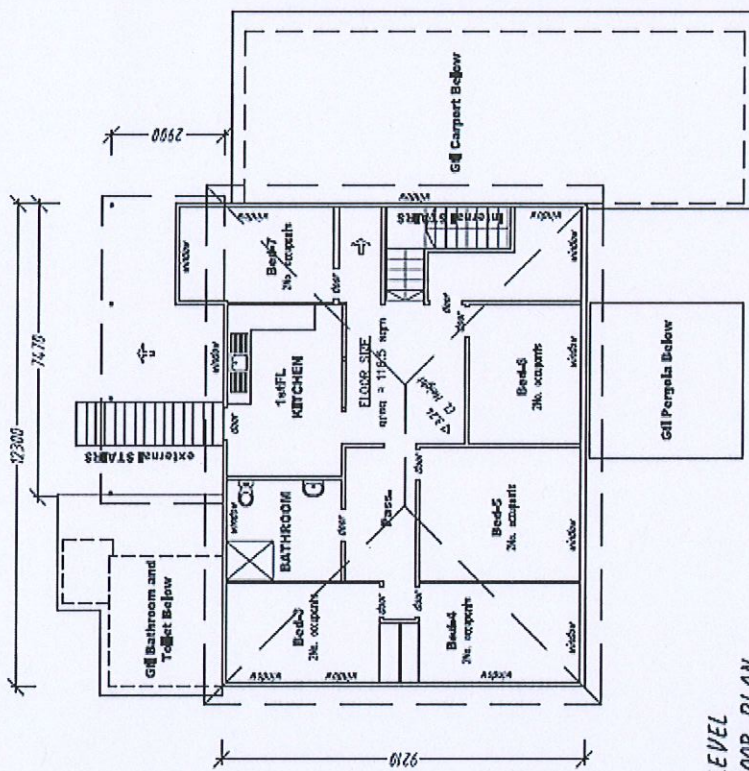
**GROUND LEVEL  
PROPOSED FLOOR and part SITE PLAN**  
(1:100 ON A3)



phone: 0422 294 375 EDMONTON ABER QUEENSLAND <b>GREGORY G TERZI</b> <i>Principal</i> Building Design & Drafting -Building Designer- -Medium Risk- -QBCC LICENCE: 117048-	
PROJECT: 49 WALSH STREET MAREEBA 4880	DATE: JAN 2023 SCALE: AS SHOWN ON 'A3' SHEET DRAWING TITLE: Ground Level FLOOR PLAN
-RESIDENTIAL- PROPOSED SHORT TERM ACCOMMODATION	JOB NO: 0730 SHEET NO: DA 02 ISSUE: A

21/9/2023  
R. n. d.

PRELIMINARY



UPPER LEVEL  
PROPOSED FLOOR PLAN  
(1:100 CH 43)

DATE: JAN 2023	Upper Level
SCALE: AS SHOWN ON THIS SHEET	FLOOR PLAN
DRAWING TITLE	
PROJECT: 49 WALSH STREET MAREEBA 4880	RESIDENTIAL- PROPOSED SHORT TERM ACCOMMODATION
JOB NO. 0730	SHEET NO. DA 03
	PAGE A

Plan: 49 WALSH STREET, MAREEBA, QLD 4880  
GREGORY G TERZANI, Building Designer & Drafting  
-Building Designer- -Medium Rise- -BASIC LICENCE INTAKE-

21/9/2023  
B. Hill

## 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.