

22 April 2025

Planning Officer: Carl Ewin
Direct Phone: 07 4086 4656
Our Reference: MCU/24/0021
Your Reference: 24019

Aldo G Pezzelato
C/- Scope Town Planning
183 Summerfields Drive
CABOOLTURE QLD 4510

Dear Applicants,

Decision Notice

Planning Act 2016

I refer to your application and advise that on 16 April 2025, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

APPLICATION DETAILS

Application No:	MCU/24/0021
Street Address:	3711 Kennedy Highway, Mareeba
Real Property Description:	Lot 4 on RP725861
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit for Material Change of Use – Tourist Park (3 x Tourist Cabins & Ancillary Guest Facilities)
Date of Decision:	16 April 2025

CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is **6 (six) 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

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 applicant/developer is responsible for the cost of necessary alterations to existing public utility mains, services or installations required by works in relation to the proposed development or any works required by condition(s) of this approval.
 - 3.2 All payments or bonds required to be made to the Council pursuant to any condition of this approval must be made prior to 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 Emissions

Emissions associated with guest activities must not cause an 'environmental nuisance' within the meaning of the Environmental Protection Act (1994) to any sensitive receptor and must comply with the Air Quality Objectives as stated within Schedule 1 of the Environmental Protection (Air) Policy 2019.

The on-site manager/caretaker must ensure that cabin guests behave in such a manner as to minimise noise impacts on surrounding properties.

Amplified music at a volume which causes nuisance to any adjacent or nearby sensitive land use is not permitted on-site at any time.

3.5 Waste Management

3.5.1 On site refuse storage area/s must be provided and be screened from view from adjoining properties and road reserve by one (1) metre wide landscaped screening buffer or 1.8m high solid fence or building.

3.5.2 Where bulk bins are used and are to be serviced on site, prior to the issue of a development permit for building works, Council's delegated officer must be satisfied that internal access is of adequate design and construction to allow waste collection/delivery vehicles to enter and exit the site in a forward gear only.

3.6 Length of Stay

The maximum length of stay for guests must not typically exceed seven (7) days, unless otherwise approved by Council's delegated officer.

3.7 Accommodation Capacity

No more than eight (8) guests shall be accommodated across all three (3) cabins at any given time.

3.8 Pets

Guests are not permitted to bring domestic pets on-site, at any time.

3.9 Cabin Construction Standards

All three cabins must be constructed on-site from new, contemporary building materials and all external walls, roofs and guttering must be of a neutral colour. Demountable, prefabricated or transportable buildings are not permitted to be used on-site.

3.10 Blade style or similar external privacy screens must be fitted to all windows on the north-west side of the cabins in order to help maintain the privacy of the residents of adjoining Lot 5 on RP725861. All cabin verandah/patios must be situated on the south-east side of the cabins.

3.11 Guests with caravans/campervans/camper trailers and the like are not permitted to occupy these vehicles/trailers at any time during their stay.

3.12 Signage

Any advertising devices relating to the development must be wholly sited on the subject site and be limited to a cumulative sign face area of 1.5m² and must:

- (i) Not resemble a traffic control device or give instructions to traffic;
- (ii) Not incorporate highly reflective materials or finishes;
- (iii) Not be illuminated, move, revolve, strobe or flash; and
- (iv) Be kept clean, in good order and safe repair for the life of the development.

The erection of any signage must comply with the Building Act and all other relevant Acts, Regulations, and these approval conditions. The sign must be removed at the decommissioning and rehabilitation stage of the development.

3.13 Notification of Potential Rural Zone Impacts

The applicant is to erect signage in plain sight and in large legible writing at each cabin advising guests that the subject land is situated adjacent and nearby lawful established farming operations. The signage should generally state the following:

"Guests should take note:

- *The locality is and may be used for cropping;*
- *Guests may experience off site effects from cropping activities, including noise, odour and dust that may impact on residential amenity. Existing agricultural and rural uses in the locality have a 'right to farm' or a right to legally continue the use."*

3.14 The ancillary managers/caretaker's residence must only be used to accommodate a manager or caretaker (and immediate family) engaged in the operation and upkeep of the approved tourist park use and may only be used for this purpose while the tourist park use is in operation.

This approval does not authorise the use of the dwelling as a standalone caretaker's accommodation as separately defined by the Mareeba Shire Council Planning Scheme 2016.

- 3.15 A site manager/caretaker must be present on-site at all times while guests are on-site to ensure compliance with these conditions of approval.

The site manager/caretaker's phone number must be made available on the proposed advertising sign or separate site erected at the site entrance so that they can be contacted if anyone wishes to lodge a complaint regarding guest activity on-site.

3.16 Bushfire Management

3.16.1 A Bushfire Management Plan for the site, incorporating fire-pit management, fuel reduction practices and evacuation procedures for guests, must 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.

3.16.2 An on-site water supply for firefighting purposes must be provided with a minimum capacity of 5,000 litres that must comprise either:

- (a) a stand-alone tank; or
- (b) a reserve section in the bottom part of the main water supply tank; or
- (c) a dam; or
- (d) a swimming pool.

Where tank water supply is provided, the outlet must be fitted with a 50mm ball valve with a camlock fitting for connection to firefighting appliances.

3.17 Guest Facilities & Pool Closure

Guests are not permitted to use the communal guest facilities, amenities or pool area after 9pm each day.

- 3.18 1 x permanently located fire-pit is permitted for each cabin for use by guests and must be positioned and operated in such a way as to not cause a nuisance (smoke, ash etc.) to any adjoining property, at any time.
Fire-pits are not to be used on-site when community fire bans are in place.

4. Infrastructure Services and Standards

4.1 Stormwater Management/Water Quality

4.1.1 The applicant/developer must take all necessary steps to ensure a non-worsening effect on surrounding land as a consequence of the development.

4.1.2 All stormwater collected from the cabins, amenities building and swimming pool area must be collected and discharged to an approved legal point of discharge, to the satisfaction of the assessing building certifier.

4.2 Car Parking/Internal Driveways

4.2.1 The applicant/developer must ensure that each cabin is provided with 1 dedicated parking space adjacent the cabin. No parking is permitted in the Kennedy Highway road reserve at any time.

4.2.2 The first 75 metres of the internal driveway (commencing at the bitumen sealed Highway access) must be constructed to a bitumen sealed standard with a minimum width of 3 metres and constructed with one-way crossfall so that stormwater collected on the driveway flows back into the development site, to the satisfaction of Council's delegated officer.

All remaining internal driveways, trafficable areas and car parking spaces must be surface treated with an all-weather compacted gravel seal (bitumen, asphalt or concrete may also be used to seal these areas) and appropriately drained prior to the commencement of the use, to the satisfaction of Council's delegated officer.

4.2.3 All bitumen and gravel sealed parking spaces, driveways and trafficable areas must be maintained in good order and safe repair for the life of the development, to the satisfaction of Council's delegated officer.

A sign must be erected in proximity to the access driveway indicating the availability of on-site parking.

4.3 Landscaping & Fencing

4.3.1 Prior to building works commencing, the applicant/developer must prepare and submit a landscape plan in accordance with Planning Scheme Policy 6 for consideration and approval by Council's Delegated Officer. The landscape plan must include any landscaping proposed in between and surrounding the 3 cabins and should include ground cover, shrubs and trees that will soften the visual impact of the three cabins when viewed from adjoining properties.

Landscaping should include a minimum of 25% of plantings as larger, advanced stock with a minimum plant height of 0.7 metres and must be mulched, irrigated and maintained for the life of the development, to the satisfaction of Council's Delegated Officer.

- 4.3.2 Prior to the commencement of the use, 1.8m high solid screen colorbond fencing (of neutral colour) must be installed along the eastern boundary of the site, extending from the north-east corner of the allotment for a distance of 70 metres (minimum).

This fencing must be maintained in good order and safe repair for the life of the development, to the satisfaction of Council's delegated officer.

4.4 Non-Reticulated Water Supply

The development must be provided with a potable water supply that can satisfy the standards for drinking water set by the Australian Drinking Water Guidelines 2004 (National Health and Medical Research Council and the National Resource Management Ministerial Council).

All non-potable sources of water must be sign posted "non-potable water supply" or similar in order to deter consumption.

4.5 On-Site Wastewater Management

All on site wastewater disposal associated with the approved use must be in compliance with the latest version of On-Site Domestic Wastewater Management Standard (ASNZ1547) to the satisfaction of the Council's delegated officer.

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 eight (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

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		
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— (a) are within 25m of a State transport corridor; or (b) are a future State transport corridor; or (c) are— (i) adjacent to a road that intersects with a State-controlled road; and (ii) within 100m of the intersection	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1	State Assessment & Referral Agency (SARA) Department of State Development, Infrastructure, Local Government and Planning PO Box 2358 Cairns Qld 4870 CairnsSARA@dsdilgp.qld.gov.au

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
24019	Proposed Layout of Tourist Park – 3711 Kennedy Highway, Mareeba	Scope Town Planning	-
-	Living Area (Cabin Layout)	Scope Town Planning	-

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) Food Premises (restaurants/bed & breakfasts etc.)**

Premises proposed for the storage and preparation, handling, packing or service of food must comply with the requirements of the Food Act 2006.

- (b) 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.

- (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) 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.

- (e) Caravan Park/Camping Ground/Tourist Park

The applicant is advised that an application to Council for approval to operate under Council *Local Law No 1 (Administration) 2011* is required prior to the commencement of the motor home park/caravan park/tourist park.

- (f) 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.

- (g) 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.

(h) 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.

PROPERTY NOTES

Not Applicable.

FURTHER DEVELOPMENT PERMITS REQUIRED

- Development Permit for Building Work
- Compliance Permit for Plumbing and Drainage Work

SUBMISSIONS

There were 5 (five) 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. Mario, Carolina and Linda Tarsitano	3709 Kennedy Highway, Mareeba
2. Rodney and Cherryl Land	PO Box 841, Mareeba QLD 4880
3. Susan Land	PO Box 841, Mareeba QLD 4880
4. Tracy Mazzer	PO Box 246, Mareeba QLD 4880
5. Rosina Tatti (Tropical Travellers Park)	PO Box 344, Mareeba QLD 4880

RIGHTS OF APPEAL

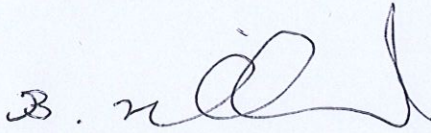
You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

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
COORDINATOR PLANNING & BUILDING

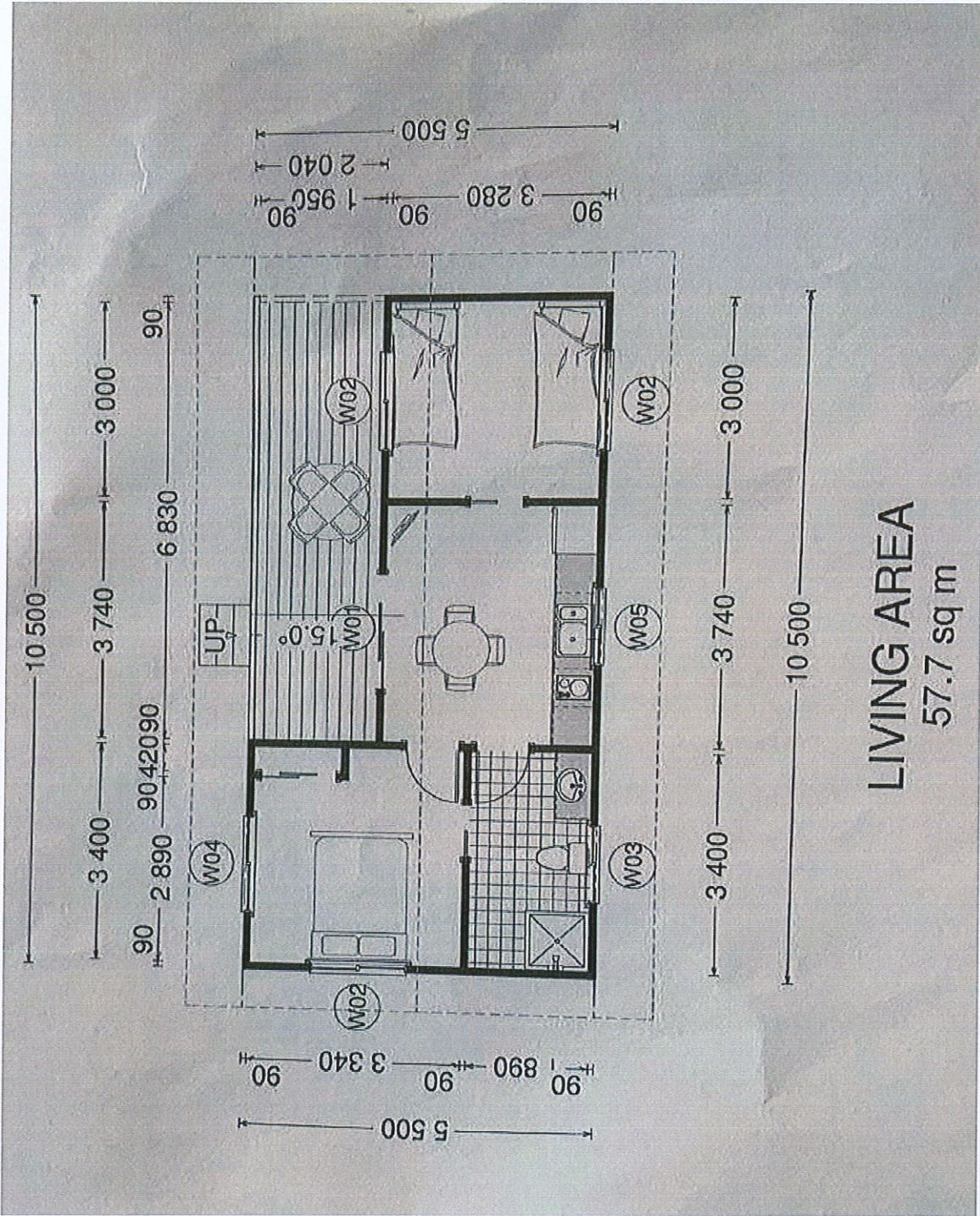
Enc: Approved Plans/Documents
 Referral Agency Response
 Appeal Rights

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

Approved Plans/Documents



22/4/2025
B. m. Q.



22/4/2025
B. n. [Signature]

Referral Agency Response

RA6-N



SARA reference: 2411-43684 SRA
Council reference: MCU/24/0021
Applicant reference: 24019

2 January 2025

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—3711 Kennedy Highway, 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 5 December 2024.

Response

Outcome:	Referral agency response – with conditions
Date of response:	2 January 2025
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	Material change of use for Tourist Park (3 x Cabins & Ancillary Guest Facilities)
SARA role:	Referral agency	
SARA trigger:	Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017)	

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

2411-43684 SRA

	Development application for a material change of use within 25m of a state-controlled road
SARA reference:	2411-43684 SRA
Assessment manager:	Mareeba Shire Council
Street address:	3711 Kennedy Highway, Mareeba
Real property description:	4RP725861
Applicant name:	Mr A. Pezzelato C/- Scope Town Planning
Applicant contact details:	183 Summerfields Drive Caboolture QLD 4510 scopetownplanning@gmail.com
State-controlled road access permit:	<p>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:</p> <ul style="list-style-type: none">• Approved• Reference: TMR24-044427• Date: 20 December 2024 <p>If you are seeking further information on the road access permit, please contact the Department of Transport and Main Roads at by email at caims.office@tmr.qld.gov.au or by phone on (07) 4045 7151.</p>
<i>Human Rights Act 2019</i> considerations:	<p>A consideration of the 23 fundamental human rights protected under the <i>Human Rights Act 2019</i> has been undertaken as part of this decision. It has been determined that this decision does not limit human rights.</p>

Representations

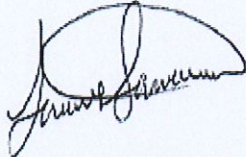
An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules). Copies of the relevant provisions are in Attachment 4.

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

2411-43884 SRA

For further information please contact Tony Croke, Principal Planner, on 40373205 or via email CairnsSARA@dsditgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Javier Samanes
A/ Manager (Planning)

cc Mr A. Pezzelato, scopetownplanning@gmail.com

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

2411-43684 SRA

Attachment 1—Referral agency conditions

(Under section 58(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
Development Permit - Material change of use (Tourist Park)		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 – Material change of use near a state transport corridor—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
1.	The road access location is to be located generally in accordance with TMR Layout Plan (32A – 36.87km), prepared by Queensland Government Transport and Main Roads, dated 19/12/2024, Reference TMR24-044427, Issue B.	At all time
2.	The existing vehicular property access located between Lot 4 on RP725861 and the Kennedy Highway must be permanently closed and removed and the fence line reinstated with the existing adjacent fence line.	Prior to commence of use

2411-43684 SRA

Attachment 2—Advice to the applicant

General advice	
1.	Terms and phrases 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 3.1). If a word remains undefined it has its ordinary meaning.
2.	Advertising device The applicant should seek advice from the Department of Transport and Main Roads (DTMR) to ensure that advertising device(s) visible from a state-controlled road, and beyond the boundaries of the state-controlled road, is unlikely to create a traffic hazard for the state-controlled road. Note: DTMR has powers under section 139 of the <i>Transport Operations (Road Use Management - Accreditation and Other Provisions) Regulation 2015</i> to require removal or modification of an advertising sign and / or a device which is deemed to create a danger to traffic For more information regarding the RAM or the Third-Party Advice process, please contact the Department of Transport and Main Roads at Far.North.Queensland.IDAS@tmr.qld.gov.au .

2411-43684 SRA

Attachment 3—Reasons for referral agency response

(Given under section 58(7) of the *Planning Act 2016*)

The reasons for the SARA's decision are:

SARA assessed the proposed development against the relevant provisions of the SDAP:

- State code 1: Development in a state-controlled road environment

The development complies with the assessment benchmarks of State code 1 of SDAP (version 3.1) in that the development:

- is unlikely to create a safety hazard for users of the state-controlled road
- does not compromise the structural integrity of the state-controlled road
- does not result in a worsening of the physical condition or operating performance of the state-controlled road
- does not compromise the state's ability to maintain and operate state-controlled roads or, or significantly increase the cost to maintain and operate state-controlled roads
- is unlikely to compromise the safety, function, and efficiency of the state-controlled road, or the state-controlled road network.

Stormwater resulting from the proposed development is unlikely to adversely impact the state-controlled road.

The development is therefore considered to comply with the assessment benchmarks, subject to conditions that:

- specifies a road access location and require a commercial vehicle access
- limits the road access to one location and requires a redundant road access to be closed.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (version 3.1), 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

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2411-43684 SRA

Attachment 5—Documents referenced in conditions

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Our ref TMR24-044427
Your ref
Enquiries Ronald Kaden



Department of
Transport and Main Roads

20 December 2024

Decision Notice – Permitted Road Access Location
(s62(1) Transport Infrastructure Act 1994)

This is not an authorisation to commence work on a state-controlled road¹

Development application reference number U/24/0021, lodged with Mareeba Shire Council involves constructing or changing a vehicular access between Lot 4RP725861, the land the subject of the application, and Kennedy Highway (a state-controlled road).

In accordance with section 62A(2) of the *Transport Infrastructure Act 1994* (TIA), this development application is also taken to be an application for a decision under section 62(1) of TIA.

Applicant Details

Name and address A. Pezzelato c/- Scope Town Planning
c/- Scope Town Planning 183 Summerfields Drive
Caboolture QLD 4510

Application Details

Address of Property 3711 Kennedy Highway, Mareeba QLD 4880
Real Property Description 4RP725861
Aspect/s of Development Development Permit for Material Change of Use for Tourist
Park (3 x Tourist Cabins & Ancillary Guest Facilities)

Decision (given under section 67 of TIA)

It has been decided to approve the application, subject to the following conditions:

No.	Conditions of Approval	Condition Timing
1	The permitted road access location is near the common boundary with Lot 3RP725861, in accordance with: a) TMR Layout Plan (32A - 36.87km) Issue B 19/12/2024 (Attachment D)	At all times.
2	Direct access is prohibited between Kennedy Highway and Lot 4RP725861 at any other location other than the Permitted Road Access Location described in Condition 1.	At all times.

¹ Please refer to the further approvals required under the heading 'Further approvals'

Program Delivery and Operations
Far North Region
Cairns Corporate Tower, 15 Lake Street Cairns QLD 4870
PO Box 6185 Cairns QLD 4870

Telephone +61 (07) 4045 7151
Website www.tmr.qld.gov.au
Email Far.North.Queensland.IDAS@tmr.qld.gov.au
ABN: 39 407 690 291

No.	Conditions of Approval	Condition Timing
3	<p>The use of the permitted road access location described in Condition 1 is to be restricted to:</p> <p>a) Design vehicles up to a maximum size Four Axle Truck - Class 5 Medium Length Heavy Vehicle**</p> <p>Note: ** as described in Austroads Vehicle Classification System</p>	At all times.
4	<p>The existing Road Access Location (gate) situated:</p> <p>a) between Kennedy Highway and Lot 4RP725861, and</p> <p>b) approximately 40 metres from the common boundary with Lot 3RP725861 must be permanently closed and the fence line reinstated with the existing adjacent fence line.</p>	Prior to commencement of development use.

Reasons for the decision

The reasons for this decision are as follows:

- a) The subject site (Lot 4 on RP725861) has road frontage and vehicle access via Kennedy Highway, a state-controlled road.
- b) Kennedy Highway is a limited access road (Limited Access Plan LA 10583).
- c) The previous use of the land was a mango farm which required semi-trailer (19.0m) articulated vehicular access.
- d) The proposed development is for a tourist park which will not require the larger size vehicles and therefore has been restricted to single body trucks.
- e) A previous section 62 decision for access was made for this land in March 2018 at its western boundary. This access appears to never have been used.
- f) A property gate has, at some stage, been installed approximately 40 metres from the eastern boundary.
- g) The proposed development indicates access required to be at the eastern boundary.
- h) As the proposed development is seeking a new access and increasing generation, a new section 62 approval is required to be issued by TMR.

Please refer to **Attachment A** for the findings on material questions of fact and the evidence or other material on which those findings were based.

Information about the Decision required to be given under section 67(2) of TIA

1. There is no guarantee of the continuation of road access arrangements, as this depends on future traffic safety and efficiency circumstances.
2. This decision has been based on the current land use and the historic nature of the access subject to this decision. Be advised that if the land is further developed and/or intensified, the department will reassess the access requirements in accordance with the department's policies at that time to ensure that the road safety and transport efficiency outcomes for the state-controlled road network are maximised. This may or may not require all future access to be provided via the local road network.

3. In accordance with section 70 of the TIA, the applicant for the planning application is bound by this decision. A copy of section 70 is attached as **Attachment B**, as required, for information.

Further information about the decision

1. In accordance with section 67(7) of TIA, this decision notice:
 - a) starts to have effect when the development approval has effect; and
 - b) stops having effect if the development approval lapses or is cancelled; and
 - c) replaces any earlier decision made under section 62(1) in relation to the land.
2. In accordance with section 485 of the TIA and section 31 of the *Transport Planning and Coordination Act 1994* (TPCA), a person whose interests are affected by this decision may apply for a review of this decision only within 28 days after notice of the decision was given under the TIA. A copy of the review provisions under TIA and TPCA are attached in **Attachment C** for information.
3. In accordance with section 485B of the TIA and section 35 of TPCA a person may appeal against a reviewed decision. The person must have applied to have the decision reviewed before an appeal about the decision can be lodged in the Planning and Environment Court. A copy of the Appeal Provisions under TIA and TPCA is attached in **Attachment C** for information.

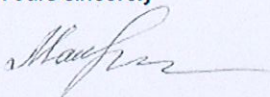
Further approvals

The Department of Transport and Main Roads also provides the following information in relation to this approval:

1. Road Access Works Approval Required – Written approval is required from the department to carry out road works that are road access works (including driveways) on a state-controlled road in accordance with section 33 of the TIA. This approval must be obtained prior to commencing any works on the state-controlled road. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ). Please contact the department to make an application.

If further information about this approval or any other related query is required, Ronald Kaden, Technical Officer (Development Control) should be contacted by email at cairns.office@tmr.qld.gov.au or on (07) 4045 7151.

Yours sincerely



Liliya Yates
A/Principal Engineer (Civil)

Attachments: Attachment A – Decision evidence and findings
Attachment B - Section 70 of TIA

Attachment C - Appeal Provisions
Attachment D - Permitted Road Access Location Plan

Attachment A
Decision Evidence and Findings

Evidence or other material on which findings were based:

Title of Evidence / Material	Prepared by	Date	Reference no.	Version / Issue
TMR Layout Plan (32A - 36.87km)	Queensland Government Transport and Main Roads	19 December 2024	TMR24-044427	B
Proposed Tourist Park layout (STP)	Scope Town Planning	-	Figure 5	-
Vehicle Access to state-controlled roads policy	Queensland Government Transport and Main Roads	2023	-	-

Attachment B
Section 70 of TIA

Transport Infrastructure Act 1994
Chapter 6 Road transport infrastructure
Part 5 Management of State-controlled roads

70 Offences about road access locations and road access works, relating to decisions under s 62(1)

- (1) This section applies to a person who has been given notice under section 67 or 68 of a decision under section 62(1) about access between a State-controlled road and adjacent land.
- (2) A person to whom this section applies must not—
- (a) obtain access between the land and the State-controlled road other than at a location at which access is permitted under the decision; or
 - (b) obtain access using road access works to which the decision applies, if the works do not comply with the decision and the noncompliance was within the person's control; or
 - (c) obtain any other access between the land and the road contrary to the decision; or
 - (d) use a road access location or road access works contrary to the decision; or
 - (e) contravene a condition stated in the decision; or
 - (f) permit another person to do a thing mentioned in paragraphs (a) to (e); or
 - (g) fail to remove road access works in accordance with the decision.

Maximum penalty—200 penalty units.

- (3) However, subsection (2)(g) does not apply to a person who is bound by the decision because of section 68.

Attachment C
Appeal Provisions

Transport Infrastructure Act 1994
Chapter 16 General provisions

485 Internal review of decisions

- (1) A person whose interests are affected by a decision described in schedule 3 (the **original decision**) may ask the chief executive to review the decision.
- (2) The person is entitled to receive a statement of reasons for the original decision whether or not the provision under which the decision is made requires that the person be given a statement of reasons for the decision.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 2—
 - (a) applies to the review; and
 - (b) provides—
 - (i) for the procedure for applying for the review and the way it is to be carried out; and
 - (ii) that the person may apply to QCAT to have the original decision stayed.

485B Appeals against decisions

- (1) This section applies in relation to an original decision if a court (the appeal court) is stated in schedule 3 for the decision.
- (2) If the reviewed decision is not the decision sought by the applicant for the review, the applicant may appeal against the reviewed decision to the appeal court.
- (3) The *Transport Planning and Coordination Act 1994*, part 5, division 3—
 - (a) applies to the appeal; and
 - (b) provides—
 - (i) for the procedure for the appeal and the way it is to be disposed of; and
 - (ii) that the person may apply to the appeal court to have the original decision stayed.
- (4) Subsection (5) applies if—
 - (a) a person appeals to the Planning and Environment Court against a decision under section 62(1) on a planning application that is taken, under section 62A(2), to also be an application for a decision under section 62(1); and

(b) a person appeals to the Planning and Environment Court against a decision under the Planning Act on the planning application.

(5) The court may order—

(a) the appeals to be heard together or 1 immediately after the other; or

(b) 1 appeal to be stayed until the other is decided.

(6) Subsection (5) applies even if all or any of the parties to the appeals are not the same.

(7) In this section—

original decision means a decision described in schedule 3.

reviewed decision means the chief executive's decision on a review under section 485.

Transport Planning and Coordination Act 1994
Part 5, Division 2 – Review of Original Decisions

31 Applying for review

- (1) A person may apply for a review of an original decision only within 28 days after notice of the original decision was given to the person under the transport Act.
- (2) However, if—
 - (a) the notice did not state the reasons for the original decision; and
 - (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)the person may apply within 28 days after the person is given the statement of the reasons.
- (3) In addition, the chief executive may extend the period for applying.
- (4) An application must be written and state in detail the grounds on which the person wants the original decision to be reviewed.

32 Stay of operation of original decision

- (1) If a person applies for review of an original decision, the person may immediately apply for a stay of the decision to the relevant entity.
- (2) The relevant entity may stay the original decision to secure the effectiveness of the review and any later appeal to or review by the relevant entity.
- (3) In setting the time for hearing the application, the relevant entity must allow at least 3 business days between the day the application is filed with it and the hearing day.
- (4) The chief executive is a party to the application.
- (5) The person must serve a copy of the application showing the time and place of the hearing and any document filed in the relevant entity with it on the chief executive at least 2 business days before the hearing.
- (6) The stay—
 - (a) may be given on conditions the relevant entity considers appropriate; and
 - (b) operates for the period specified by the relevant entity; and
 - (c) may be revoked or amended by the relevant entity.
- (7) The period of a stay under this section must not extend past the time when the chief executive reviews the original decision and any later period the relevant entity allows the applicant to enable the applicant to appeal against the decision or apply for a review of the decision as provided under the QCAT Act.

(8) The making of an application does not affect the original decision, or the carrying out of the original decision, unless it is stayed.

(9) In this section—

relevant entity means—

- (a) if the reviewed decision may be reviewed by QCAT—QCAT; or
- (b) if the reviewed decision may be appealed to the appeal court—the appeal court.

35 Time for making appeals

(1) A person may appeal against a reviewed decision only within—

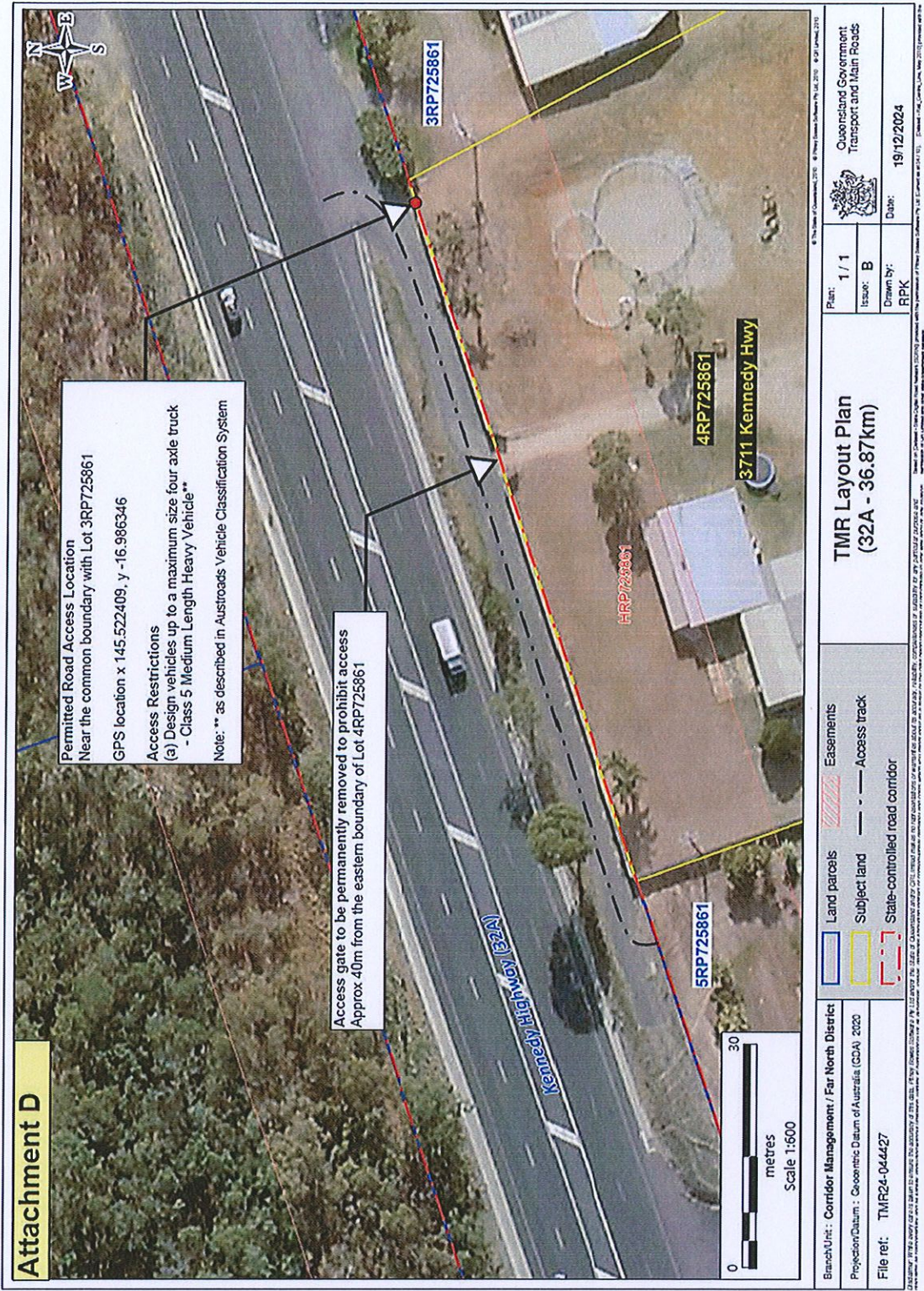
- (a) if a decision notice is given to the person—28 days after the notice was given to the person; or
- (b) if the chief executive is taken to have confirmed the decision under section 34(5)—56 days after the application was made.

(2) However, if—

- (a) the decision notice did not state the reasons for the decision; and
- (b) the person asked for a statement of the reasons within the 28 days mentioned in subsection (1)(a);

the person may apply within 28 days after the person is given a statement of the reasons.

(3) Also, the appeal court may extend the period for appealing.



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.