



10 April 2018

Edward Balzarolo
PO Box 282
DIMBULAH QLD 4872

Planning Officer: Carl Ewin
Direct Phone: 4086 4656
Our Reference: BM:CE:nj

Dear Sir/Madam

Decision Notice

Planning Act 2016

I refer to your application and advise that on 10 April 2018 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:	OPW/18/0002
Street Address:	327 Leasingham Creek Road, Dimbulah
Real Property Description:	Lot 88 on HG88
Planning Scheme:	Mareeba Shire Council Planning Scheme 2016

DECISION DETAILS

Type of Decision:	Approval
Type of Approval:	Development Permit for Operational Works - Earthworks (Water Storage Dam)
Date of Decision:	10 April 2018

CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is two (2) 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) General**

- (i) All operational works must be designed and constructed in accordance with the procedures as set out in the FNQROC Development Manual.
- (ii) 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, and subject to any alterations:
 - found necessary by the Council's Delegated Officer at the time of examination of the engineering plans or during construction of the development because of particular engineering requirements;
 - to ensure the works comply in all respects with the requirements and procedures of the FNQROC Development Manual and good engineering practice; and
 - to ensure compliance with the following conditions of approval.
- (iii) Council's examination of the documents should not be taken to mean that the documents have been checked in detail and Council takes no responsibility for their accuracy. If during construction, inadequacies of the design are discovered, it is the responsibility of the Principal Consulting Engineer to resubmit amended plans to Council for approval and rectify works accordingly.
- (iv) Note, this approval is for a water storage dam only. The dam is NOT to be used for swimming. If it is to be used for swimming then a separate Development Permit will need to be obtained for building work.

- (b) Filling or excavation (excluding access roads) is not permitted within 1.5 metres of any property boundary.

(c) Hours of Work

- (i) Work involving the operation of construction plant and equipment of any description, shall only be carried out on site during the following times:
 - 7.00am to 6.00pm, Monday to Friday;

- 7.00am to 1.00pm Saturdays;
- No work is permitted on Sundays or Public Holidays.

- (ii) No variation to the above working hours is allowed unless otherwise agreed in writing by Council.

(d) Transportation of Soil

- (i) All soil transported to or from the site must be covered to prevent dust or spillage during transport. If soil is tracked or spilt onto the road pavement from works on the subject land, it must be removed no later than at the end of each working day. Sediment must not enter Council's stormwater drainage network.

(e) Dam Construction

- (i) Dam construction must be undertaken in accordance with design plan submitted with the application.
- (ii) Within three (3) months following the completion of construction of dam works, any disturbed areas are grassed to provide a coverage of at least 8m² in every 10m² to minimise the potential for erosion or dust.
- (iii) At the completion of construction, the applicant/developer is to provide Council with certification from a RPEQ engineer confirming that the dam has been constructed in accordance with the certified design plan and engineering advice listed in (i) above.

(B) REFERRAL AGENCY CONDITIONS

Department of State Development, Manufacturing, Infrastructure and Planning conditions dated 27 March 2018.

REFERRAL AGENCIES

The referral agencies applicable to this application are:

Assessable development under s5 (clearing native vegetation on prescribed land)		
Development application for operational work that is assessable development under section 5, other than an application— (a) for operational work relating to reconfiguring a lot stated in table 2, item 1, column 2; or	Schedule 10, Part 3, Division 4, Table 1	State Assessment & Referral Agency (SARA) Department State Development, Manufacturing, Local Government & Planning PO Box 2358 Cairns Qld 4870 CairnsSARA@dilgp.qld.gov.au

(b) for operational work relating to a material change of use stated in table 3, item 1, column 2; or (c) that the chief executive is the assessment manager for		
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A copy of any referral agency conditions is attached.

APPROVED PLANS

Plan/Document Number	Plan/Document Title	Prepared by	Dated
-	Site Plan - Dam	-	-

REFERENCED DOCUMENTS

Not Applicable.

ADVISORY NOTES

Not Applicable

PROPERTY NOTES

Not Applicable.

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

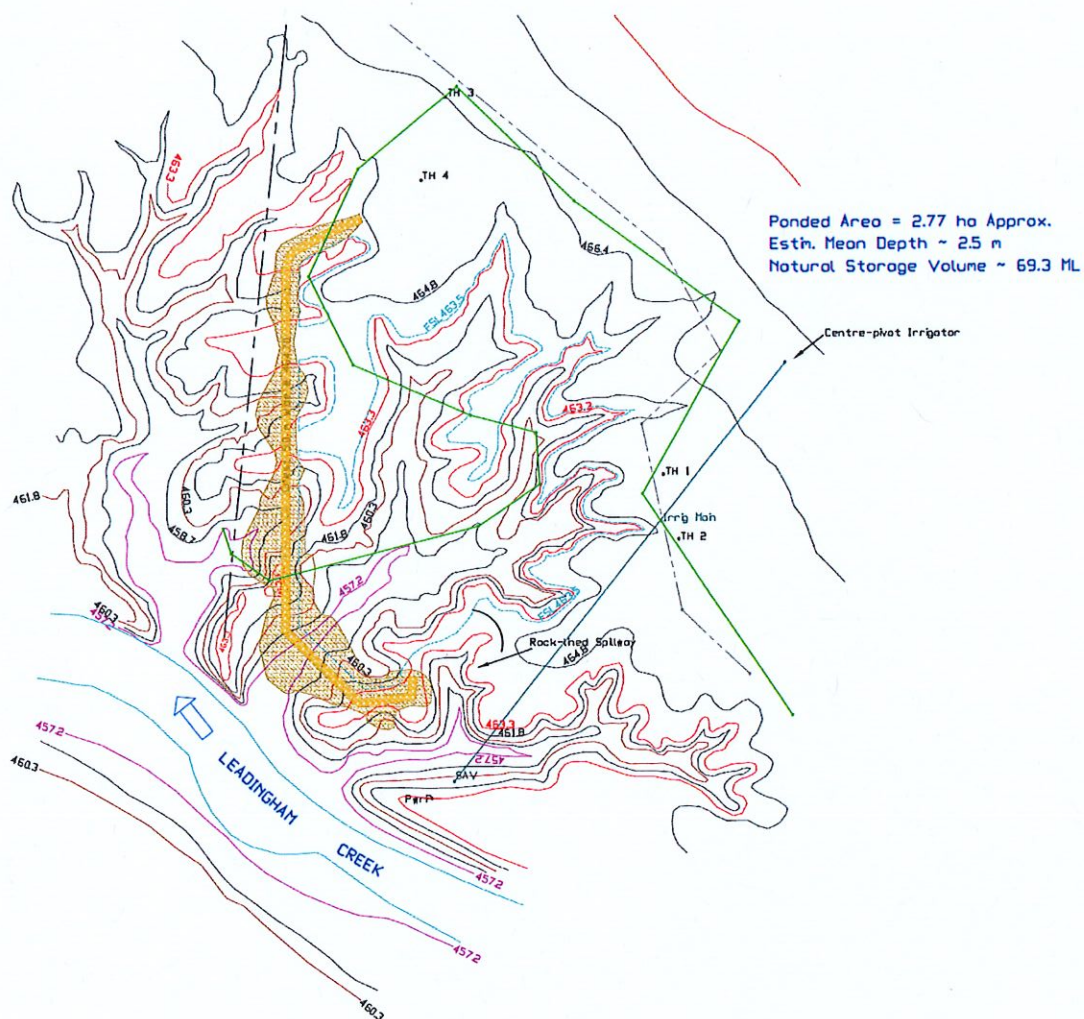


BRIAN MILLARD
SENIOR PLANNER

Enc: Approved Plans/Documents
 Referral Agency Response
 Appeal Rights

Copy: Department of Infrastructure, Local Government and Planning
 CairnsSARA@dilgp.qld.gov.au

Approved Plans/Documents



Document Set ID: 3343562
Version: 1, Version Date: 06/02/2018

10/4/2018
B. V. L.

Referral Agency Response

RA6-N



Department of
State Development,
Manufacturing,
Infrastructure and Planning

Our reference: 1802-4156 SRA
Your reference: OPW/18/0002

27 March 2018

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

Attention: Carl Ewin

Dear Sir / Madam

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

The development application described below was properly referred to the Department of State Development, Manufacturing, Infrastructure and Planning on 26 February 2018.

Applicant details

Applicant name:	Mr Edward Balzarolo
Applicant contact details:	PO Box 222 Dimbulah QLD 4872 balzofarming@gmail.com

Location details

Street address:	327 Leedingham Creek Road, Dimbulah
Real property description:	Lot 88 on HG88
Local government area:	Mareeba Shire Council

Application details

Development permit	Operational work for Earthworks (Water Storage Dam)
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Referral triggers

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

Schedule 10, Part 3, Division 4, Table 1 – Clearing native vegetation

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

1802-4156 SRA

Conditions

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

Reasons for decision to impose conditions

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

Approved plans and specifications

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

Drawing/report title	Prepared by	Date	Reference no.	Version / issue
Aspect of development: Operational work				
Technical Agency Response Plan (Vegetation) Plan 1802-4156 SRA	Queensland Government Department of Natural Resources Mines and Energy	21 March 2018	TARP 1802-4156 SRA	-

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

For further information please contact Michele Creecy, Senior Planning Officer, on 4037 3206 or via email CairnsSARA@dlgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Brett Nancarrow
Manager (Planning)

cc Mr Edward Balzarolo, balzofarming@gmail.com
enc Attachment 1—Conditions to be imposed
Attachment 2—Reasons for decision to impose conditions
Approved plans and specifications

1802-4156 SRA

Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
Aspect of development Operational work (construction of a dam)		
Schedule 10, Part 3, Division 4, Table 1 – Clearing vegetation—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of Department of Natural Resources, Mines and Energy 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 clearing of vegetation under this development approval is limited to the areas identified as Areas A [A ¹ -A ³] as shown on attached Technical Agency Response Plan (TARP) 1802-4156 SRA dated 21 March 2018.	At all times
2.	Clearing within any watercourse or drainage feature, or within 25 metres of the defining bank of any watercourse or drainage feature must: (a) not exceed 20 metres in width; and (b) not occur within five metres of the defining bank, unless clearing is required into or across the watercourse or drainage feature.	While clearing is occurring
3.	<p>a) Prepare a management plan addressing erosion and sediment control erosion in line with Best Practice Erosion and Sediment Control (BPESC) guidelines for Australia (International Erosion Control Association):</p> <p>i) The management plan must be prepared by a Certified Professional in Erosion and Sediment Control (CPESC) and recommend erosion and sediment control measures to ensure the rates of soil loss and sediment movement are the same or less than those prior to the development.</p> <p>ii) Submit, for information purposes only, a copy of the Management Plan mentioned at part (a) of this condition to: Vegetation Management Department of Natural Resources, Mines and Energy Address: PO Box 5318, Townsville Qld 4810 Email: northvegetation@dnrme.qld.gov.au</p> <p>b) Implement and maintain all required erosion and sediment control measures identified within the Management Plan mentioned at part a) of this condition.</p>	<p>Prior to commencement of work.</p> <p>At all times during construction.</p>

1802-4156 SRA

Attachment 2—Reasons for decision to impose conditions

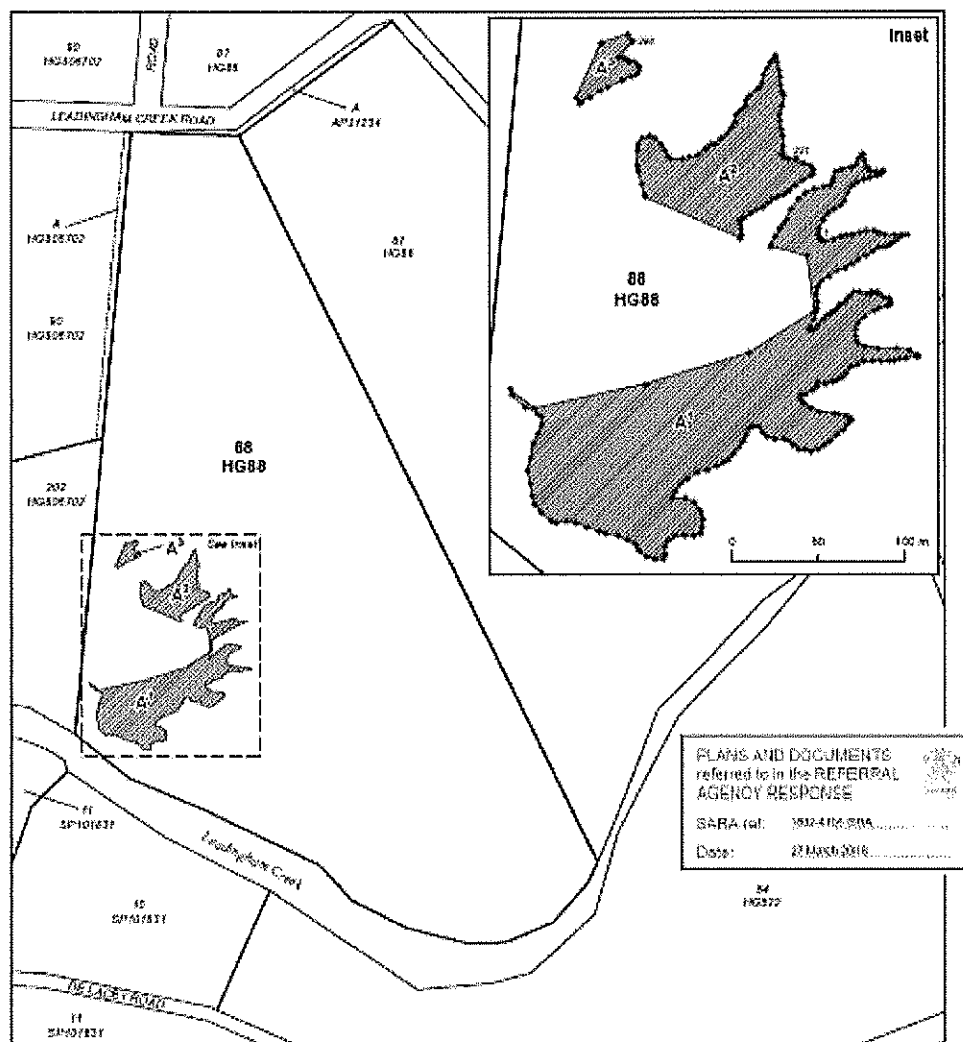
The reasons for this decision are:

- To ensure compliance with Performance outcome PO1 so clearing occurs in accordance with the Technical Agency Response Plan (TARP) for the subject site.
- To ensure protection of watercourses and drainage features, in particular Leadingham Creek.
- To ensure that proposed measures to address sediment run-off from the eroding gully is appropriately addressed.

1802-4156 SRA

Approved plans and specifications

1802-4156 SRA



1:5000 @ A3 size
0 50 100 200 300 400 500 m
Projection: UTM (MGA Zone 56) Datum: GDA84

Note: Derived Reference Points are provided to assist in the location of the Technical Agency Response boundaries. Responsibility for locating these boundaries lies solely with the landholder and delegated engineering).

The property boundaries shown on this plan are APPROXIMATE ONLY. They are NOT an accurate representation of the legal boundaries.
Note: This plan must be read in conjunction with Technical Agency Response 1802-4156 SRA

LEGEND • Derived Reference Points for GPS (see Attachment to plan) (Show the points shown only) □ Subject Lots ■ Area A (Parts A1 - A3) Note: This is a colour plan and should only be reproduced in colour.	Technical Agency Response (Vegetation) Plan Plan of Area A (Parts A1 - A3) in Lot 88 on HG88 ELVAS: 2018/201906	
CENTRE: MAREEBA LOCALITY OF DIMBULAH Map Reference: 7403 File Reference: 1802-4156/20190606	REGION: NORTH LOCAL GOVT: MAREEBA SHIRE Compiled from: OGC, PDS & LandUse Prepared by: SRA - JMA Date: 21 March 2018	TARP 1802-4156 SRA Sheet 1 of 1

1802-4156 SRA

Page 1 of 1

Attachment to Plan: 1802-4156 SRA

Derived Reference Points for GP8

Horizontal Datum: GDA94 Projection: Transverse Mercator MGA 94 Zone 56

Note: Derived Reference Points are provided to assist in the location of the Technical Agency Response boundaries. Responsibility for locating these boundaries lies solely with the landholder and delegated contractor(s). This attachment must be read in conjunction with the accompanying plan and the Technical Agency Response 1802-4156 SRA. Derived Reference Points are indicated on the accompanying plan and proceed sequentially if labels are missing.

Parcel	ID	Easting	Northing	Parcel	ID	Easting	Northing	Parcel	ID	Easting	Northing
A1	1	302040	3100000	A1	61	302124	3100000	A1	121	302041	3100000
A1	2	302043	3100000	A1	62	302131	3100000	A1	122	302042	3100000
A1	3	302047	3100000	A1	63	302135	3100000	A1	123	302043	3100000
A1	4	302132	3100000	A1	64	302139	3100000	A1	124	302044	3100000
A1	5	302135	3100000	A1	65	302143	3100000	A1	125	302045	3100000
A1	6	302138	3100000	A1	66	302147	3100000	A1	126	302046	3100000
A1	7	302141	3100000	A1	67	302151	3100000	A1	127	302047	3100000
A1	8	302144	3100000	A1	68	302155	3100000	A1	128	302048	3100000
A1	9	302147	3100000	A1	69	302159	3100000	A1	129	302049	3100000
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A1	12	302156	3100000	A1	72	302171	3100000	A1	132	302052	3100000
A1	13	302159	3100000	A1	73	302175	3100000	A1	133	302053	3100000
A1	14	302162	3100000	A1	74	302179	3100000	A1	134	302054	3100000
A1	15	302165	3100000	A1	75	302183	3100000	A1	135	302055	3100000
A1	16	302168	3100000	A1	76	302187	3100000	A1	136	302056	3100000
A1	17	302171	3100000	A1	77	302191	3100000	A1	137	302057	3100000
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A1	21	302183	3100000	A1	81	302207	3100000	A1	141	302061	3100000
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A1	23	302189	3100000	A1	83	302215	3100000	A1	143	302063	3100000
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A1	25	302195	3100000	A1	85	302223	3100000	A1	145	302065	3100000
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A1	58	302294	3100000	A1	118	302355	3100000	A1	178	302098	3100000
A1	59	302297	3100000	A1	119	302359	3100000	A1	179	302099	3100000
A1	60	302300	3100000	A1	120	302363	3100000	A1	180	302100	3100000

1802-4156 SRA

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Attachment to Plan: 1802-4156 SRA

Derived Reference Points for GP8

Horizontal Datum: GDA84 Projection: Transverse Mercator MGA 64 Zone 55

Note: Derived Reference Points are provided to assist in the location of the Technical Agency Response boundaries. Responsibility for locating these boundaries lies solely with the landholder and delegated contractor(s). This attachment must be read in conjunction with the accompanying plan and the Technical Agency Response 1802-4156 SRA. Derived Reference Points are indicated on the accompanying plan and proceed sequentially if labels are missing.

Parcel	ID	Easting	Northing	Parcel	ID	Easting	Northing	Parcel	ID	Easting	Northing
A1	131	302083	3106642	A3	141	302044	3106624	A3	305	301919	3106023
A1	132	302080	3106624	A3	142	302042	3106621	A3	306	301918	3106022
A1	133	302086	3106626	A3	143	302044	3106623	A3	307	301903	3106021
A1	134	302070	3106626	A3	144	301986	3106612	A3	304	301925	3106048
A1	135	302073	3106625	A3	145	301983	3106613	A3	305	301922	3106045
A1	136	302077	3106611	A3	146	301983	3106619	A3	306	301903	3106044
A1	137	302081	3106614	A3	147	301984	3106617	A3	307	301900	3106042
A1	138	302087	3106617	A3	148	301983	3106621	A3	308	301915	3106040
A1	139	302083	3106618	A3	149	301984	3106620	A3	309	301902	3106038
A1	140	302086	3106619	A3	150	301984	3106623	A3	310	301902	3106034
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A2	223	302084	3106640	A3	283	302067	3106642				
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A2	239	302045	3106590	A3	299	301981	3106623				
A2	240	302044	3106589	A3	300	301973	3106623				
A2	241	302043	3106588	A3	300	301969	3106624				

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.