



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 Leedingham 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

<p>(b) for operational work relating to a material change of use stated in table 3, item 1, column 2; or</p> <p>(c) that the chief executive is the assessment manager for</p>		
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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

Referral Agency Response

RA6-N

Queensland
GovernmentDepartment of
State Development,
Manufacturing,
Infrastructure and PlanningOur 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

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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@dilgp.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

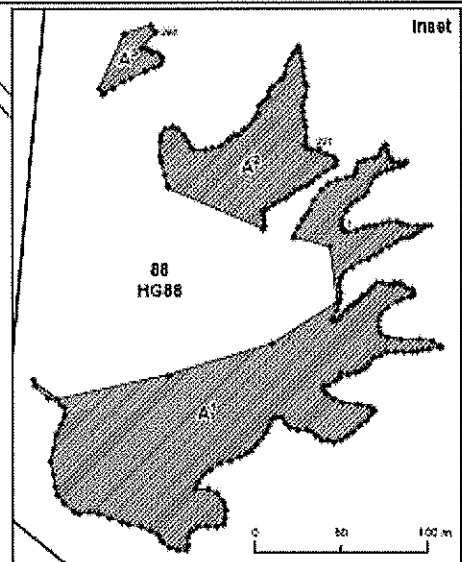
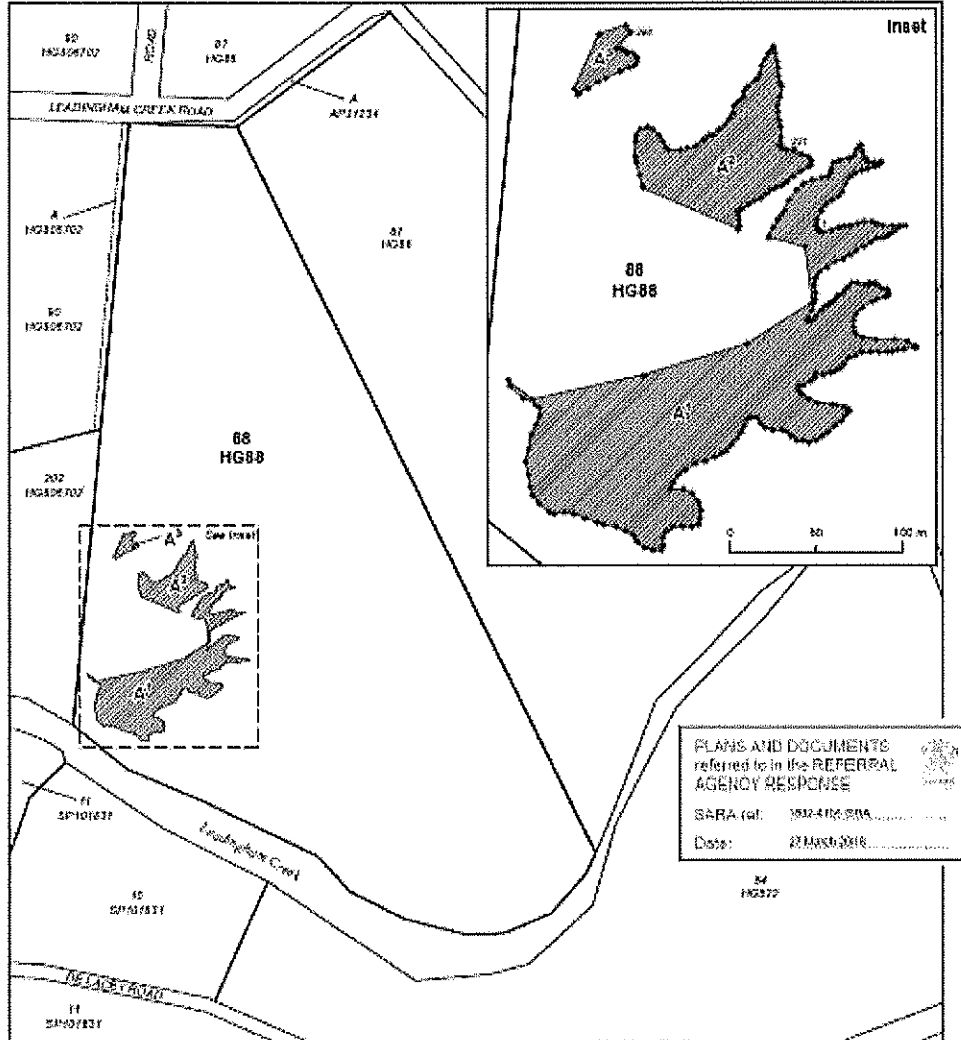
The reasons for this decision are:

- 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



PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE

SARA (ref: 1802-4156 SRA
 Date: 21 March 2018

1:5000 @ A3 size
 0 50 100 200 300 400 500 m
 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 contractors.
 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
 Projection: UTM (MGA Zone 66) Datum: ODA84

LEGEND • Derived Reference Points for GPS (see Attachment to plan) (Area that 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: 2018001926		
	CENTRE: MAREEBA LOCALITY OF: DIMBALAH Map Reference: 2103	REGION: NORTH LOCAL GOVT: MAREEBA SHIRE Compiled from: OGDN, PDRP & VaeO Data Prepared by: SRA - JSMH Date: 21 March 2018	

Attachment to Plan: 1802-4156 SRA

Derived Reference Points for GPS

Horizontal Datum: GDA94 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 assessment 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	302120	3106626	A1	61	302124	3106626	A1	121	302141	3106626
A1	2	302123	3106626	A1	62	302125	3106626	A1	122	302144	3106626
A1	3	302127	3106626	A1	63	302128	3106626	A1	123	302148	3106626
A1	4	302132	3106626	A1	64	302133	3106626	A1	124	302153	3106626
A1	5	302135	3106626	A1	65	302136	3106626	A1	125	302158	3106626
A1	6	302138	3106626	A1	66	302139	3106626	A1	126	302163	3106626
A1	7	302143	3106626	A1	67	302144	3106626	A1	127	302168	3106626
A1	8	302148	3106626	A1	68	302149	3106626	A1	128	302173	3106626
A1	9	302153	3106626	A1	69	302154	3106626	A1	129	302178	3106626
A1	10	302158	3106626	A1	70	302159	3106626	A1	130	302183	3106626
A1	11	302163	3106626	A1	71	302164	3106626	A1	131	302188	3106626
A1	12	302168	3106626	A1	72	302169	3106626	A1	132	302193	3106626
A1	13	302173	3106626	A1	73	302174	3106626	A1	133	302198	3106626
A1	14	302178	3106626	A1	74	302179	3106626	A1	134	302203	3106626
A1	15	302183	3106626	A1	75	302184	3106626	A1	135	302208	3106626
A1	16	302188	3106626	A1	76	302189	3106626	A1	136	302213	3106626
A1	17	302193	3106626	A1	77	302194	3106626	A1	137	302218	3106626
A1	18	302198	3106626	A1	78	302199	3106626	A1	138	302223	3106626
A1	19	302203	3106626	A1	79	302204	3106626	A1	139	302228	3106626
A1	20	302208	3106626	A1	80	302209	3106626	A1	140	302233	3106626
A1	21	302213	3106626	A1	81	302214	3106626	A1	141	302238	3106626
A1	22	302218	3106626	A1	82	302219	3106626	A1	142	302243	3106626
A1	23	302223	3106626	A1	83	302224	3106626	A1	143	302248	3106626
A1	24	302228	3106626	A1	84	302229	3106626	A1	144	302253	3106626
A1	25	302233	3106626	A1	85	302234	3106626	A1	145	302258	3106626
A1	26	302238	3106626	A1	86	302239	3106626	A1	146	302263	3106626
A1	27	302243	3106626	A1	87	302244	3106626	A1	147	302268	3106626
A1	28	302248	3106626	A1	88	302249	3106626	A1	148	302273	3106626
A1	29	302253	3106626	A1	89	302254	3106626	A1	149	302278	3106626
A1	30	302258	3106626	A1	90	302259	3106626	A1	150	302283	3106626
A1	31	302263	3106626	A1	91	302264	3106626	A1	151	302288	3106626
A1	32	302268	3106626	A1	92	302269	3106626	A1	152	302293	3106626
A1	33	302273	3106626	A1	93	302274	3106626	A1	153	302298	3106626
A1	34	302278	3106626	A1	94	302279	3106626	A1	154	302303	3106626
A1	35	302283	3106626	A1	95	302284	3106626	A1	155	302308	3106626
A1	36	302288	3106626	A1	96	302289	3106626	A1	156	302313	3106626
A1	37	302293	3106626	A1	97	302294	3106626	A1	157	302318	3106626
A1	38	302298	3106626	A1	98	302299	3106626	A1	158	302323	3106626
A1	39	302303	3106626	A1	99	302304	3106626	A1	159	302328	3106626
A1	40	302308	3106626	A1	100	302309	3106626	A1	160	302333	3106626
A1	41	302313	3106626	A1	101	302314	3106626	A1	161	302338	3106626
A1	42	302318	3106626	A1	102	302319	3106626	A1	162	302343	3106626
A1	43	302323	3106626	A1	103	302324	3106626	A1	163	302348	3106626
A1	44	302328	3106626	A1	104	302329	3106626	A1	164	302353	3106626
A1	45	302333	3106626	A1	105	302334	3106626	A1	165	302358	3106626
A1	46	302338	3106626	A1	106	302339	3106626	A1	166	302363	3106626
A1	47	302343	3106626	A1	107	302344	3106626	A1	167	302368	3106626
A1	48	302348	3106626	A1	108	302349	3106626	A1	168	302373	3106626
A1	49	302353	3106626	A1	109	302354	3106626	A1	169	302378	3106626
A1	50	302358	3106626	A1	110	302359	3106626	A1	170	302383	3106626
A1	51	302363	3106626	A1	111	302364	3106626	A1	171	302388	3106626
A1	52	302368	3106626	A1	112	302369	3106626	A1	172	302393	3106626
A1	53	302373	3106626	A1	113	302374	3106626	A1	173	302398	3106626
A1	54	302378	3106626	A1	114	302379	3106626	A1	174	302403	3106626
A1	55	302383	3106626	A1	115	302384	3106626	A1	175	302408	3106626
A1	56	302388	3106626	A1	116	302389	3106626	A1	176	302413	3106626
A1	57	302393	3106626	A1	117	302394	3106626	A1	177	302418	3106626
A1	58	302398	3106626	A1	118	302399	3106626	A1	178	302423	3106626
A1	59	302403	3106626	A1	119	302404	3106626	A1	179	302428	3106626
A1	60	302408	3106626	A1	120	302409	3106626	A1	180	302433	3106626

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 landowner 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
AP	151	302003	3102642	AP	241	302044	3102624	AP	331	302125	3102623
AP	152	302000	3102624	AP	242	302042	3102621	AP	332	302122	3102622
AP	153	302005	3102622	AP	243	302044	3102622	AP	333	302125	3102622
AP	154	302070	3102622	AP	244	302060	3102622	AP	334	302122	3102622
AP	155	302075	3102622	AP	245	302060	3102622	AP	335	302122	3102622
AP	156	302077	3102621	AP	246	302060	3102622	AP	336	302123	3102624
AP	157	302081	3102621	AP	247	302064	3102621	AP	337	302120	3102622
AP	158	302087	3102621	AP	248	302063	3102621	AP	338	302125	3102622
AP	159	302083	3102621	AP	249	302064	3102622	AP	339	302122	3102622
AP	160	302080	3102621	AP	250	302064	3102622	AP	340	302122	3102624
AP	161	302087	3102621	AP	251	302060	3102622	AP	341	302127	3102622
AP	162	302090	3102621	AP	252	302060	3102622	AP	342	302121	3102622
AP	163	302099	3102621	AP	253	302064	3102622	AP	343	302122	3102622
AP	164	302123	3102622	AP	254	302067	3102622	AP	344	302122	3102622
AP	165	302126	3102622	AP	255	302067	3102622	AP	345	302122	3102622
AP	166	302111	3102621	AP	256	302062	3102622	AP	346	302123	3102622
AP	167	302113	3102624	AP	257	302063	3102624	AP	347	302124	3102622
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AP	170	302116	3102622	AP	260	302078	3102622				
AP	171	302117	3102622	AP	261	302053	3102621				
AP	172	302119	3102622	AP	262	302052	3102622				
AP	173	302122	3102622	AP	263	302052	3102622				
AP	174	302123	3102622	AP	264	302053	3102622				
AP	175	302126	3102622	AP	265	302050	3102622				
AP	176	302122	3102622	AP	266	302050	3102622				
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AP	178	302119	3102622	AP	268	302044	3102622				
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AP	180	302113	3102621	AP	270	302046	3102622				
AP	181	302119	3102621	AP	271	302047	3102622				
AP	182	302120	3102621	AP	272	302046	3102622				
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AP	197	302070	3102621	AP	287	302060	3102622				
AP	198	302073	3102621	AP	288	302057	3102622				
AP	199	302070	3102621	AP	289	302057	3102622				
AP	200	302069	3102621	AP	290	302060	3102621				
AP	201	302069	3102621	AP	291	302060	3102621				
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AP	206	302065	3102622	AP	296	302073	3102622				
AP	207	302062	3102622	AP	297	302072	3102624				
AP	208	302045	3102622	AP	298	302067	3102622				
AP	209	302044	3102622	AP	299	302073	3102622				
AP	210	302043	3102622	AP	300	302072	3102622				

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 and 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

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- (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.