



# Mareeba

## SHIRE COUNCIL

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18 April 2019

Planning Officer: Carl Ewin  
Direct Phone: 4086 4656  
Our Reference: MCU/18/0007  
Your Reference: P81735

Porkdig Pty Ltd  
C/- Planz Town Planning  
PO Box 181  
EDGE HILL QLD 4870

Dear Applicant/s

## Decision Notice

### *Planning Act 2016*

I refer to your application and advise that on 17 April 2019, Council decided to approve the application in full subject to conditions.

Details of the decision are as follows:

#### APPLICATION DETAILS

Application No: MCU/18/0007  
Street Address: 1 Herberton Street and 255 Byrnes Street, Mareeba  
Real Property Description: Lots 701 and 702 on M3565  
Planning Scheme: Mareeba Shire Council Planning Scheme 2016

#### DECISION DETAILS

Type of Decision: Approval  
Type of Approval: Development Permit for Material Change of Use - Service Station & Food and Drink Outlet  
Date of Decision: 17 April 2019

#### CURRENCY PERIOD OF APPROVAL

The currency period for this development approval is six (6) years starting the day that this development approval takes effect. (Refer to Section 85 "Lapsing of approval at end of currency period" of the *Planning Act 2016*.)

**INFRASTRUCTURE**

Where conditions relate to the provision of infrastructure, these are non-trunk infrastructure conditions unless specifically nominated as a “*necessary infrastructure condition*” for the provision of trunk infrastructure as defined under Chapter 4 of the *Planning Act 2016*.

**ASSESSMENT MANAGER CONDITIONS****(A) 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 Waste Management

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

Where bulk bins are used and are to be serviced on site, certification by a Registered Professional Engineer of Queensland (RPEQ) must be provided to

Council prior to the issue of a building permit which demonstrates 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.

### 3.5 Noise Nuisance

3.5.1 Refrigeration equipment, pumps, compressors and mechanical ventilation systems must be located, designed, installed and maintained to achieve a maximum noise level of 3dB(A) above background levels as measured from noise sensitive locations and a maximum noise level of 8dB(A) above background levels as measured from commercial locations.

3.5.2 The applicant is required to install and maintain suitable screening to all air conditioning, lift motor rooms, plant and service facilities located at the top of or on the external face of the building. The screening structures must be constructed from materials that are consistent with materials used elsewhere on the facade of the building. There are to be no individual external unscreened air conditioning units attached to the exterior building facade.

## 4. Infrastructure Services and Standards

### 4.1 Access

Both proposed access crossovers must be upgraded/constructed to a commercial access crossover standard (from the edge of Byrnes/Herberton Street pavement to the property boundary of the subject land) in accordance with the FNQROC Development Manual, to the satisfaction of Council's delegated officer.

Any redundant vehicle crossovers must be removed and kerb and channel and any footpaths reinstated, to the satisfaction of Council's delegated officer.

### 4.2 Stormwater Drainage/Water Quality

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

4.2.2 Prior to building works commencing the applicant must submit a Stormwater Management Plan and Report prepared and certified by a suitably qualified design engineer (RPEQ) that meets or exceeds the standards of design and construction set out in the Queensland Urban Drainage Manual (QUDM) and the FNQROC Development Manual to the satisfaction of Council's delegated officer.

4.2.3 The Stormwater Management Plan and Report must include provisions to intercept and control stormwater flows along driveways.

4.2.4 The applicant/developer must construct the stormwater drainage infrastructure in accordance with the approved Stormwater Management Plan and Report.

4.2.5 All stormwater drainage must be collected from site and discharged to an approved legal point of discharge.

4.2.6 In addition to the Stormwater Management Plan, and prior to building works commencing, the applicant/developer must submit an Oily Water Management Plan, prepared and certified by a suitably qualified design engineer (RPEQ). The Plan must demonstrate how contaminants such as oil and/or fuel will be removed and stored prior to stormwater being discharged from the site.

#### 4.3 Car Parking/Internal Driveways

4.3.1 The applicant/developer must ensure the development is provided with a minimum of 10 on-site car parking spaces (including 1 disabled parking space) as well as 1 RV parking space and 1 service vehicle parking space which are available solely for the parking of vehicles associated with the use of the premises. These parking spaces must be provided in addition to any fuel bowser parking spaces and car wash bay spaces.

4.3.2 All car parking spaces and trafficable areas must be concrete sealed, line-marked and appropriately drained prior to the commencement of the use, to the satisfaction of Council's delegated officer.

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

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

4.3.4 The applicant/developer must ensure the development is provided with 3 bicycle parking spaces in proximity to the shop/food and drink outlet building entrances.

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

#### 4.4 Landscaping

4.4.1 Prior to the commencement of the use, a landscape plan must be prepared for the site and submitted to Council's delegated officer for consideration and approval. The extent of landscaping on site should be generally consistent with that shown on the submitted plan/s (Site Plan).

4.4.2 All plant varieties must be generally in accordance with Schedule A of Planning Scheme Policy No. 9 (Landscaping Policy).

4.4.3 The landscaping of the site must be carried out in accordance with the endorsed landscaping plan, and irrigated, mulched and maintained for the life of the development to the satisfaction of Council's delegated officer.

#### 4.5 Fencing

Prior to the commencement of the use, the applicant/developer must erect a 1.8m high solid screen colorbond fence (of neutral colour) along the entire length of the eastern boundaries of Lots 701 and 702 on M3565.

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

#### 4.6 Lighting

The developer shall locate, design and install lighting to operate from dusk to dawn within all areas where the public will be given access, which prevents the potential for light spillage to cause nuisance to neighbours and must be provided in accordance with Australian Standard 1158.1 – Lighting for Roads and Public Spaces.

Illumination resulting from direct, reflected or other incidental light emanating from the subject land does not exceed 8 lux when measured at any point 1.5m outside the property boundary of the subject site. The lighting fixtures installed on site must meet appropriate lux levels as documented within Australian Standard 4282 – Control of the Obtrusive Effects of Outdoor Lighting.

NOTE: The design is to integrate the principles of Crime Prevention through Environmental Design (CPTED) theory. Lighting design is to illuminate potential areas of concealment and is to project illumination so that a human face is easily discernible from 15 metres and there is to be sufficient night lighting, which renders people, colours, vegetation and objects correctly. i.e. 'white' light. Particular attention should be given to pathways, driveways and common external spaces.

#### 4.7 Signage

4.7.1 The number, type and size of advertising signage, including pylon signage, is limited to that shown on the submitted plans and must not move, revolve, strobe or flash (can be illuminated).

4.7.2 The pylon signage must be designed and installed so as to not impede the vision of any pedestrian or vehicle using the Byrnes and Herberton Street intersection, to the satisfaction of Council's delegated officer.

#### 4.8 Water Supply

4.8.1 Where the existing reticulated water supply does not currently service the site or is not at an adequate capacity, the developer is required to extend or upgrade the reticulated water supply infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

4.8.2 A water service connection must be provided to the subject land in accordance with FNQROC Development Manual standards (as amended) to the satisfaction of Council's delegated officer.

4.9 Sewerage Connection

4.9.1 Where sewerage connections are not available to the site, or where existing connections are not satisfactory for the proposed development, the developer is required to extend or upgrade the reticulated sewerage infrastructure to connect the site to Council's existing infrastructure at a point that has sufficient capacity to service the development in accordance with FNQROC Development Manual standards (as amended).

4.9.2 The developer must connect the proposed development to Council's reticulated sewerage system in accordance with FNQROC Development Manual Standards (as amended) to the satisfaction of Council's delegated officer.

**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		
<p>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—</p> <p>(a) are within 25m of a State transport corridor; or</p> <p>(b) are a future State transport corridor; or</p> <p>(c) are—</p> <p>(i) adjacent to a road that intersects with a State-controlled road; and</p> <p>(ii) within 100m of the intersection</p>	<p>Schedule 10, Part 9, Division 4, Subdivision 2, Table 4</p>	<p>State Assessment &amp; Referral Agency (SARA) Department of State Development, Manufacturing Infrastructure &amp; Planning PO Box 2358 Cairns Qld 4870</p> <p><a href="mailto:CairnsSARA@dilgp.qld.gov.au">CairnsSARA@dilgp.qld.gov.au</a></p>

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
12-A101 Rev 1	Title page	Michael Ferris and Ptnrs Pty Ltd	26 Oct 2018
12-A203 Rev 1	Site Plan	Michael Ferris and Ptnrs Pty Ltd	26 Oct 2018
12-A205 Rev 1	Floor Plan - Level 1	Michael Ferris and Ptnrs Pty Ltd	26 Oct 2018
12-A301 Rev 1	Elevations	Michael Ferris and Ptnrs Pty Ltd	26 Oct 2018
12-A401 Rev 1	Architectural Sections	Michael Ferris and Ptnrs Pty Ltd	26 Oct 2018

**ADVISORY NOTES**

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

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

- (a) A number of other charges or payments may be payable as a result of conditions of approval. The applicable fees are set out in Council's Fees & Charges Schedule for each respective financial year.

**(b) Water Meters/Water Service Connection**

Prior to the water service connection works commencing and the installation of the meters by Council, an application for a Plumbing Compliance Permit is required to be submitted with detailed hydraulic drawings. The cost of the required water connection and meter (capping of any existing meter may be required) will be determined based upon the approved hydraulic drawings at the time of lodgement of a Water Quotation Request.

**(c) Property Connection to existing sewer main (house connection branch installation)**

Prior to the property connection to the existing sewer main commencing, a request for a Property Connection Quotation must be lodged with Council. The cost of the required property connection will be determined based upon the assessment of the Property Connection Quotation Request.

**(d) Food Premises**

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

- (e) A Trade Waste Permit will be required prior to the commencement of use for the food and drink outlet component of the development only (trade waste permit will not be issued for the service station).

- (f) 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.

- (g) 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.

- (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.environment.gov.au](http://www.environment.gov.au)

- (i) 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.datsip.qld.gov.au](http://www.datsip.qld.gov.au)

(B) REFERRAL AGENCY CONDITIONS

Department of State Development, Manufacturing, Infrastructure and Planning conditions dated 7 February 2019.

**PROPERTY NOTES**

Not Applicable.



**FURTHER DEVELOPMENT PERMITS REQUIRED**

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

**SUBMISSIONS**

There were no properly made submissions about the application.

**RIGHTS OF APPEAL**

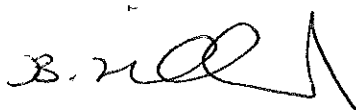
You are entitled to appeal against this decision. A copy of the relevant appeal provisions from the *Planning Act 2016* is attached.

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

Yours faithfully



**BRIAN MILLARD**  
**SENIOR PLANNER**

Enc: Approved Plans/Documents  
Referral Agency Response  
Appeal Rights

Approved Plans/Documents

1 30.00m Scale

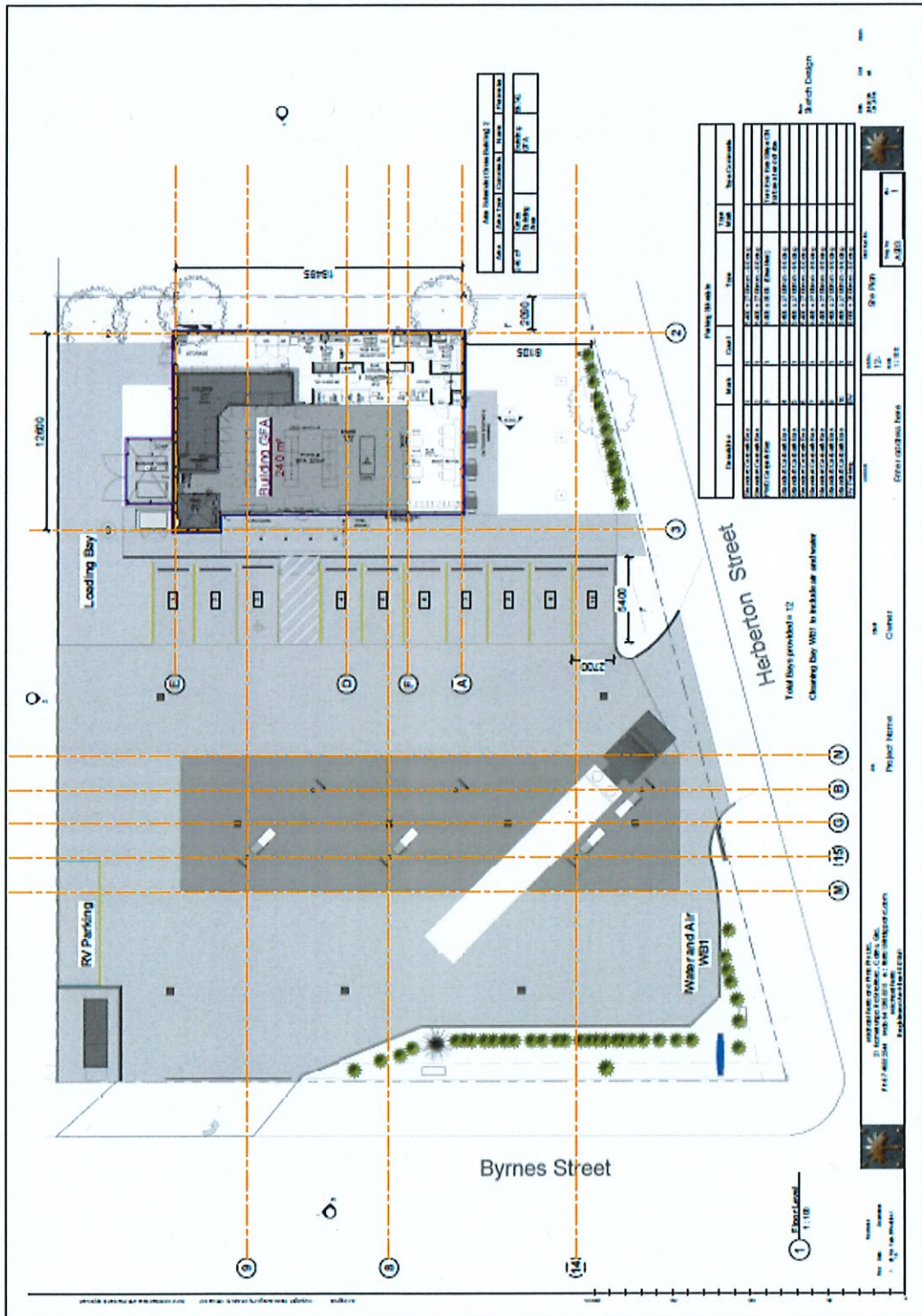
Item	Item Name	Quantity	Unit	Material	Notes
1	CONCRETE	1	m <sup>2</sup>	CONCRETE	
2	PAVING	1	m <sup>2</sup>	PAVING	
3	LANDSCAPING	1	LOT	LANDSCAPING	
4	ROOFING	1	m <sup>2</sup>	ROOFING	
5	GLAZING	1	m <sup>2</sup>	GLAZING	
6	MECHANICAL	1	LOT	MECHANICAL	
7	ELECTRICAL	1	LOT	ELECTRICAL	
8	PLUMBING	1	LOT	PLUMBING	
9	PAINTING	1	LOT	PAINTING	
10	LANDSCAPING	1	LOT	LANDSCAPING	

Totals (excludes = 12)  
Changeable: 100% (includes all and water)

**NEW FUEL AND FOOD OUTLET : BYRNES and HERBERTON STREETS MAREEBA**

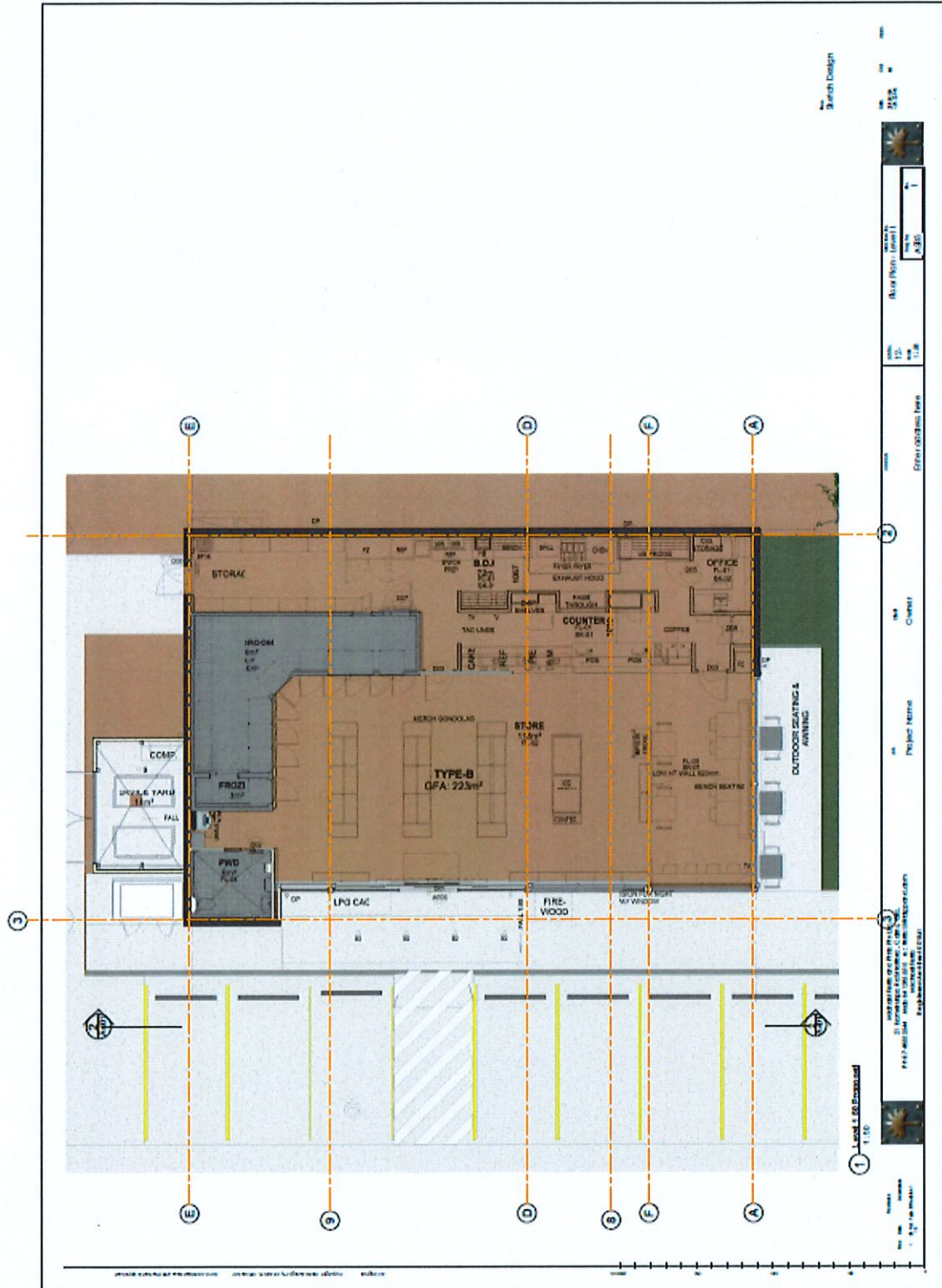
Project Name: NEW FUEL AND FOOD OUTLET : BYRNES and HERBERTON STREETS MAREEBA  
Client: MAREEBA SHIRE COUNCIL  
Project Name: NEW FUEL AND FOOD OUTLET : BYRNES and HERBERTON STREETS MAREEBA  
Client: MAREEBA SHIRE COUNCIL

18/4/2019  
B. N. [Signature]

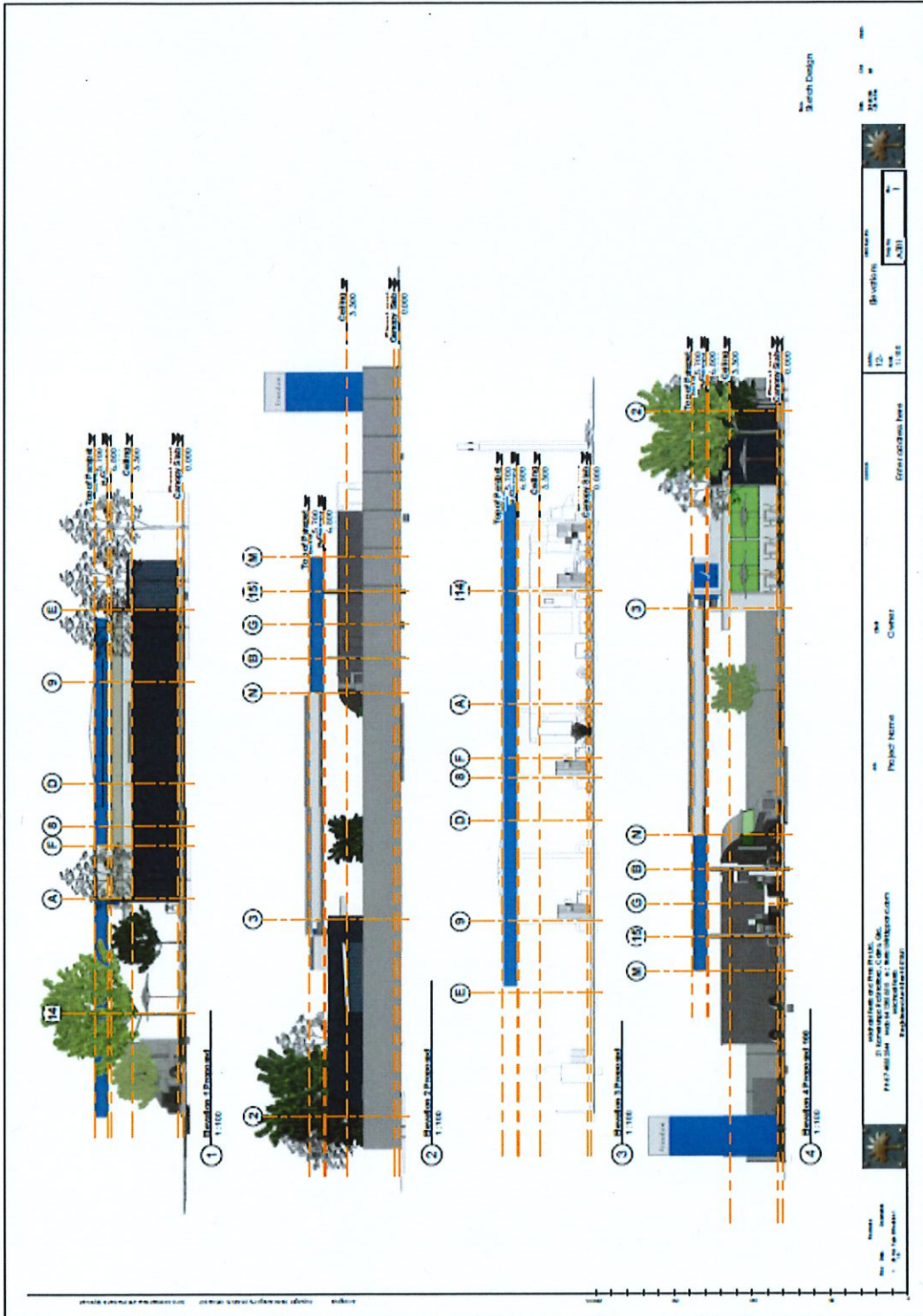


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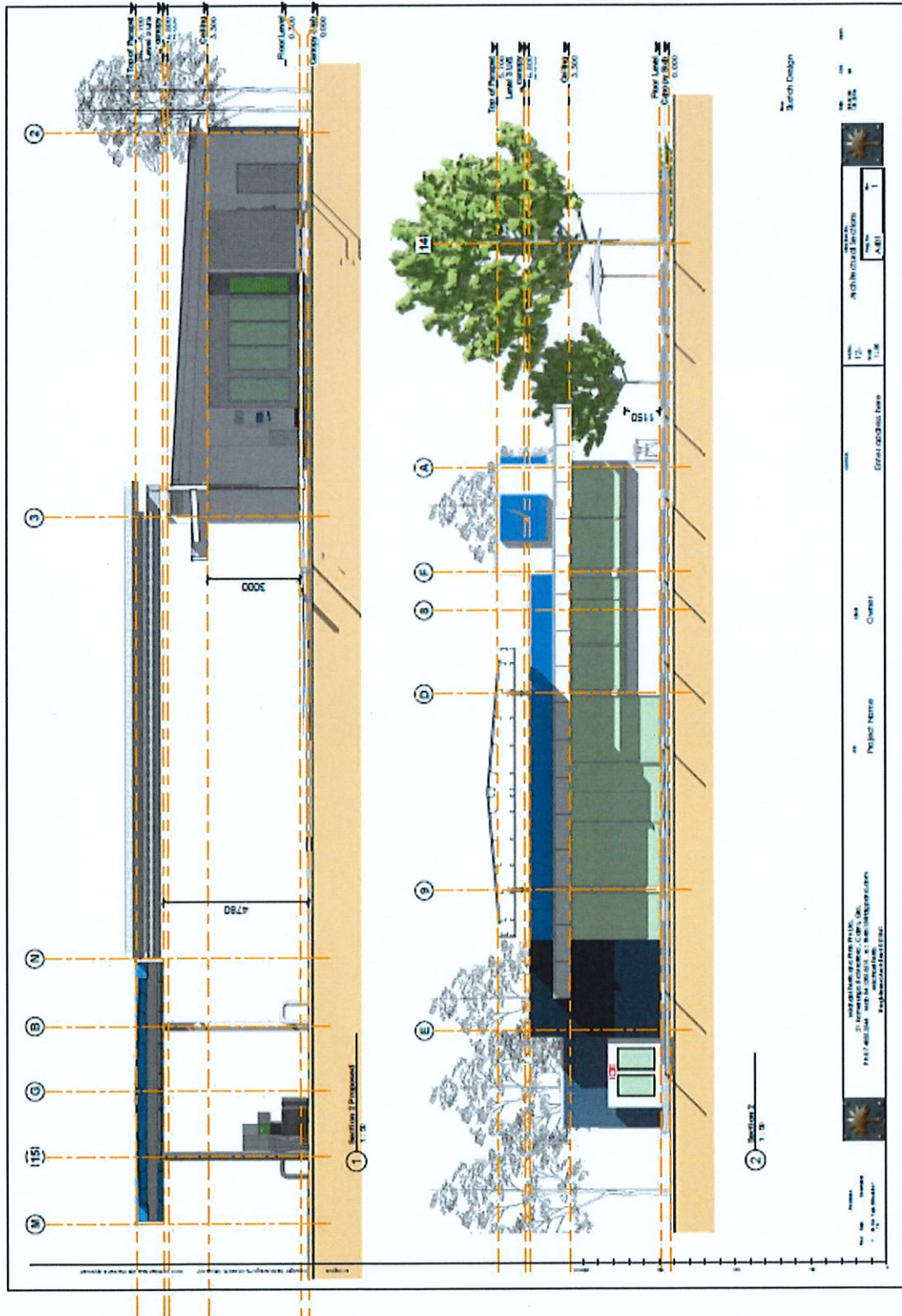


18/4/2019  
B. Will



18/4/2019  
B. W. [Signature]





18/4/2019  
B. Will

## Referral Agency Response

RA6-N



Department of  
**State Development,  
Manufacturing,  
Infrastructure and Planning**

Our reference: 1804-4780 SRA  
Your reference: MCU/18/0007

7 February 2018

The 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 58 of the *Planning Act 2016*)

The development application described below was properly referred to the Department of State Development, Manufacturing, Infrastructure and Planning on 10 April 2018.

### Applicant details

Applicant name:	Porkdig Pty Ltd
Applicant contact details:	C/ Planz Town Planning, PO Box 181 Edge Hill QLD 4870 susie@planztp.com

### Location details

Street address:	1 Herberston Street, Mareeba; 255 Byrnes Street, Mareeba
Real property description:	701M3565; 702M3565
Local government area:	Mareeba Shire Council

### Application details

Development permit	Material change of use for Service Station and Food & Drink Outlet
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Page 1 of 6

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

Document Set ID: 3469789  
Version: 1, Version Date: 08/02/2019

1604-4760 SRA

**Referral triggers**

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

- 10.9.4.2.4.1 State transport corridors and future State transport corridors

**Conditions**

Under section 58(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.

**Advice to the assessment manager**

Under section 58(3) of the Act, the department offers advice about the application to the assessment manager—see Attachment 3.

**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
<b>Aspect of development: Material change of use</b>				
TMR Layout Plan (664 – 1.60km)	Queensland Government Transport and Main Roads	31/01/2019	TMR18-24313 (500-1194)	A
10m Semi Fuel Tanker Access Existing Eastbound onto Herberton Street	CivilWalker Consulting Engineer	21.01.19	155-001-SK7	2
Access Crossovers (Commercial & Industrial Vehicle Crossing)	FNQROC	23/10/17	S1015	D

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

For further information please contact Tony Croke, Principal Planner, on 40373205 or via email [CairnsSARA@dsdmip.qld.gov.au](mailto:CairnsSARA@dsdmip.qld.gov.au) who will be pleased to assist.

Yours sincerely



Brett Nancarrow  
Manager (Planning)

cc Porkdig Pty Ltd, [susie@planztp.com](mailto:susie@planztp.com)

Department of State Development, Manufacturing, Infrastructure and Planning

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Document Set ID: 3489759  
Version: 1, Version Date: 08/02/2019



1804-4780 ERA

enc    Attachment 1—Conditions to be imposed  
         Attachment 2—Reasons for decision to impose conditions  
         Attachment 3—Advice to the assessment manager  
         Approved plans and specifications

1804-4780 SRA

## Attachment 1—Conditions to be imposed

No.	Conditions	Condition timing
<b>Material change of use</b>		
10.9.4.2.4.1 - State transport corridors and future State transport corridors (State-controlled road)— The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):		
<b>Vehicular Access to state-controlled road</b>		
1.	<p>(a) The road access location, is to be located generally in accordance with TMR Layout Plan (884 – 1.80km) prepared by Queensland Government Transport and Main Roads, dated 31/01/2019, File Reference TMR18-24313 (500-1104), Issue A.</p> <p>(b) Road access works comprising of a sealed industrial crossover must be provided generally in accordance with the 10m Semi Fuel Tanker Access Existing Eastbound onto Herberton Street Plan, prepared by CivilWalker, dated 21.01.19, Drawing No 155-001-SK7 and Revision 2.</p> <p>(c) The road access works must be designed and constructed in accordance with Far North Queensland Regional Organisation of Councils (FNQROC) Standard Drawing S1015 – Access Crossovers (Commercial &amp; Industrial Vehicle Crossing), dated 23/10/17, Revision D.</p>	<p>(a) At all times.</p> <p>(b) and (c): Prior to the commencement of use and to be maintained at all times.</p>
<b>Removal of redundant access</b>		
2.	<p>(a) The existing access located between Lot 701 on M3585 and Mareeba-Dimbulah Road (Byrnes Street) is to be permanently closed and removed.</p> <p>(b) The kerb and channelling between the pavement edge and the property boundary of the subject site must be reinstated in accordance with Far North Queensland Regional Council Organisation (FNQROC) Concrete Kerb and Channel, Standard Drawing S1000, dated 23/10/2017, Issue F at no cost to the Department of Transport and Main Roads.</p>	Prior to the commencement of use.
<b>Stormwater management</b>		
3.	<p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.</p> <p>(b) Any works on the land must not:</p> <ul style="list-style-type: none"> <li>i) create any new discharge points for stormwater runoff onto the state-controlled road; and</li> <li>ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road.</li> </ul>	<p>(a) and (b) At all times.</p>

1804-4780 ERA

**Attachment 2—Reasons for decision to impose conditions**

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The reasons for this decision are:

- To ensure the road access location to the state-controlled road from the site does not compromise the safety and efficiency of the state-controlled road.
- To ensure the design of any road access maintains the safety and efficiency of the state-controlled road.
- To maintain the safety and efficiency of the state-controlled road by reducing the number of road access.
- To ensure the impacts of stormwater events associated with development are minimised and managed to avoid creating any adverse impacts on the state-controlled road.

1804-4760 GRA

Attachment 3—Advice to the assessment manager

General advice	
Advertising Device	
1.	<p>A local government should obtain advice from the Department of Transport and Main Roads (DTMR) if it intends to approve the erection, alteration or operation of an advertising sign or another advertising device that would be visible from a state-controlled road, and beyond the boundaries of the state-controlled road, and reasonably likely to create a traffic hazard for the state-controlled road.</p> <p>Note: DTMR has powers under section 13B 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 that it creates a danger to traffic.</p>
Road Works Approval	
2.	<p>In accordance with section 33 of the <i>Transport Infrastructure Act 1994</i> (TIA), an applicant must obtain written approval from Department of Transport and Main Roads (DTMR) to carry out road works, including road access works on a state-controlled road. Please contact DTMR on 4045 7144 to make an application under section 33 of the TIA to carry out road works. This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).</p> <p>The road works approval process takes time – please contact Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p>

## 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.