

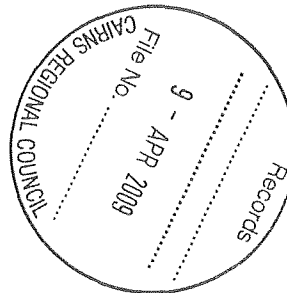
Our Ref: 62830/BCS/NAC/L65095
Date: 9 April 2009
Attn: Manager, Planning

Conics (Cairns) Pty Ltd
ABN 90 055 931 096

www.conics.com.au
t +61 7 4098 1148
f +61 7 4098 1814
e portdouglas@conics.com.au

Port Douglas Office
Unit 10 Pioneer Close
Craigie Queensland 4877
(PO Box 355) Mossman
Queensland Australia 4873

Chief Executive Officer
Cairns Regional Council
PO Box 359
CAIRNS QLD 4870



Via: Mail

Dear Sir/Madam,

RE: Request to change Development Approval MCUC 007/07 under Section 3.5.24 and Section 3.5.33 of the Integrated Planning Act 1997

We refer to Council's Decision Notice relating to the abovementioned development approval, your reference MCUC 007/07, and on behalf of Town and Country Limited, and in accordance with Section 3.5.24 of the Integrated Planning Act 1997, we hereby request a minor change to the development approval included as **Annexure 1** to this submission.

Please find attached IDAS Form 2 and a cheque for the appropriate fee as per Cairns Regional Council 2008/2009 Schedule of Fees, being \$680.00. We provide the following representations and recommendations in support of the requested changes.

Plan of Development

The approved development and the conduct of the approved use, the carrying out of any works on the premises and the construction of any buildings on the premises associated with the development must generally be in accordance with the details of the application and the following approved Plan/s of Development:

Title	Plan No.	Date
Site Plan	CO650-DA-01	Jan 2007
Elevations	CO650-	Jan 2007
Main Roads Concept Layout	GCS06-194	06/05/07
DMR Option Concept Layout	GCS06-194	06/05/07

Except where such plans are modified by the terms of this approval.

We are seeking a change to the Plan of Development, as generally shown on Plan No. 07125-DA100B, included for reference as Attachment 1. The proposed changes are a result of negotiations with Woolworths and a study of the current market. The main changes are listed below:

- A total reduction in Gross Floor Area from 8146m² to 7136m²
- Removal of the First Floor Office Space
- Inclusion of a new specialty shop area along the Northern Boundary
- Refurbishment of the existing building to align with the proposed new building
- Relocation of the new building area back towards the western boundary
- Proposed Licensed Covered Dining Area in the North East corner of the site.



The proposed changes are in accordance with the Douglas Shire Planning Scheme, and simply relate to the internal layout. The overall GFA of the site has been decreased in order to provide a more functional and community oriented space. The new layout provides increased safety for vehicles, in that there are less parking spaces at the rear of the buildings, and there is a covered walkway between the existing building and the new building. We therefore request that Condition 1 be amended as follows:

The approved development and the conduct of the approved use, the carrying out of any works on the premises and the construction of any buildings on the premises associated with the development must generally be in accordance with the details of the application and the following approved Plan/s of Development:

Title	Plan No.	Date
Site Plan–Site Concept Plan	CO650-DA-04 07125-DA100B	Jan-2007 Jan 2009
Elevations	CO650-	Jan-2007
Main Roads Concept Layout	GCS06-194	06/05/07
DMR Option Concept Layout	GCS06-194	06/05/07

Except where such plans are modified by the terms of this approval.

Car Parking

A car parking area with a minimum of three hundred and thirty (330) spaces shall be constructed, sealed, drained and line marked in accordance with the relevant Australian Standard and the approved plan of development and maintained thereafter.

The developer/owner is to provide an amended plan of development prior to obtaining a Building Permit, showing nine (9) designated Disable Car Parking spaces in accordance with the provisions of the Douglas Shire Planning Scheme.

In relation to the car parking, the number of spaces is determined by the floor area of the development. As the floor area of the site has been decreased, the number of car spaces is also reduced. The Planning Scheme provides that 4 spaces are required per 100m². thus giving a required total of 285. The proposed development is providing 297 car parks which include 7 disabled spaces. We are therefore seeking that condition 15 be deleted and condition 14 be amended as follows:

A car parking area with a minimum of ~~three hundred and thirty (330)~~ two hundred and eighty-five (285) spaces shall be constructed, sealed, drained and line marked in accordance with the relevant Australian Standard and the approved plan of development and maintained thereafter.

~~The developer/owner is to provide an amended plan of development prior to obtaining a Building Permit, showing nine (9) designated Disable Car Parking spaces in accordance with the provisions of the Douglas Shire Planning Scheme.~~

STATUTORY CONSIDERATIONS

The proposed amendments to the plans of development remain consistent with the provisions of the Planning Scheme for Douglas Shire, with the majority of the changes relating to the internal layout. The proposed changes also comply with Section 3.5.24 of the Integrated Planning Act 1997 in that no additional referral agencies would be triggered should the development application be remade on this day, and the development was code assessable and no change to the level of assessment would result from the proposed revisions. Further, as the development was Code Assessable, there was no provision under the IPA for submissions, and therefore it is reasonable to note that no submissions would be received as a result of the change.



In accordance with the provisions of Section 3.5.24 of the IPA, the Department of Transport and Main Roads have also been advised of the requested change.

CONCLUSION

We submit this representation on behalf of Town and Country Limited for the consideration of Council and request that the proposed amendments to the approval be considered favourably in due course.

We trust this information is sufficient for your purposes, however should you require any further details or clarification, please do not hesitate to contact the writer by telephone.

Yours faithfully
CONICS (Cairns) PTY LTD

Natalie Clark
Planner

Enc Decision Notice – MCUC 007/07
 IDAS Form 2 and Cheque Payable to CRC for \$680.00
 Amended Plan of Development – Drawing No. 07125-DA100B

Form 2 Development Application

idas

Request to change an existing approval

Details of person making the request

1. Who is making the request?

Company/organisation name (If applicable)	Town and Country Limited		
Individual applicant/Contact person (If there is more than one applicant, provide details under Add another applicant)			
Title	Ms	First name	Natalie
		Last name	Clark
Postal address	Conics (Cairns) Pty Ltd - PO Box 355 MOSSMAN Q 4873		
Contact telephone number	07 4098 1148	Mobile phone number	0409 838 264
Facsimile number	07 4098 1814	e-mail address	natalie.clark@conics.com.au

Details of the existing approval

2. What are the details of the approval sought to be changed

Type of approval	Identification number	Date issued	Assessment manager (If request not made to the assessment manager)
<input checked="" type="checkbox"/> Development Permit	MCUC 007/07	8 August 2007	Douglas Shire Council (now Cairns Regional)
<input type="checkbox"/> Preliminary Approval			

Identification of the premises

3. Can any part of the premises be identified by a street address or lot on plan description?

☐ No - Answer Q3(a)☒ Yes - Complete Table B and Q3(b)

Table B

Street Address				Lot on plan description		Local government area
Unit Number	Street number	Street Name and official suburb/locality name	Post code	Lot No	Plan type and number	
1	63	Front Street, Mossman	4873	101	SP186233	Cairns Region

3(b). Can the address be further described by shop/tenancy number or storey/level?

☒ No☐ Yes - Complete Table C

4. Can the premises best be identified by coordinates (e.g. for development proposed in waters, or on a site within a large rural lot)?

☒ No

☐ Yes - Complete Table D

5. What is the total area that makes up the premises (i.e. the area covered by the application)?

Area of land above high water mark/outside watercourse		Area in a water body or watercourse	
2.38	<input type="checkbox"/> m ² <input checked="" type="checkbox"/> hectares (Tick applicable unit)		<input type="checkbox"/> m ² <input type="checkbox"/> hectares (Tick applicable unit)

Owner's consent and resource owner's agreement

6. Is the person making the request the owner of the land to which the approval attaches?

☒ Yes ☐ No - Complete Table E - provide details for each owner on a separate row, or on an attachment to this form if applicable. **Note: Advice provided at the end of this form details when owner's consent is not required.**

7. If an application for the existing approval were being made now (i.e. at the time of making this request), would evidence be required to support the application because it involved taking or interfering with a State-owned resource prescribed by schedule 10 of the *Integrated Planning Regulation 1998* (IP Reg) or any other regulation

☒ No ☐ Yes - Complete Table F and submit, with the application, written agreement to the request.

Nature of the request

8. What is the nature of the request for change? (Tick the applicable box(es))

☐ An extension of the period before an approval lapses (under IPA, section 3.5.22)

☐ To change the development approval other than a change of condition (under IPA, section 3.5.24)

☒ To change or cancel a condition of approval (under IPA, section 3.5.33) - Go to Q11

☐ To change conditions of a rezoning approval given under the *Local Government (Planning and Environment) Act 1990* (under IPA, section 6.1.35A) - Go to Q12

9. Were one or more concurrence agencies involved in the approval?

☐ No ☐ Yes - Complete Table G. Submit, with the application, a copy of the notice required to be sent to each agency under IPA sections 3.5.22(1)(a) and 3.5.24(1)(b).

10. Does the request for change relate to an aspect of the approval that involved a building referral agency?

☐ No ☐ Yes - Complete Table H. Submit, with the application, a copy of the notice required to be sent to each agency under IPA section 3.5.24(1)(b).

Details and reasons or justification for the request

11. What are the details of the requested change and the reasons or justification for the change? Use a different row for each change if more than one.

	Details of requested change (including extension of the period if relevant)	Reasons or justification for the requested change
1	Request to make a minor change to the Development Approval	Internal layout change to better facilitate the community
2	Amendment to Condition 1 and Condition 14	Plan of Development has changed and there is a decrease in GFA which affects the number of car parking spaces required
3	Deletion of Condition 15	This condition is now irrelevant to the development

Mandatory attachments and information

12. What are the mandatory attachments and supporting information accompanying this application?

	Description of attachment or information (e.g. notice to concurrence/building referral agencies, owner's consent, resource owner's agreement, drawings, reports)	Title and date (if applicable) (e.g. James Street Traffic Report)	Method of delivery to assessment manager
1	Conics Planning Submission		over the counter
2	Amended Site Concept Plan	07125-DA100B	over the counter

OFFICE USE ONLY

Date Received

Reference Numbers

Cost Code (applicable to EPA only)

433062
(ERAs)**Advice for completing Form 2****General advice**

- Form 2 may be used for any one of the four types of request for changing an existing approval -
 - an extension of the period before an approval lapses (under IPA, section 3.5.22)
 - to change or cancel a condition of approval (under IPA, section 3.5.33)
 - to change the development approval other than a change of condition (under IPA, section 3.5.24)
 - to change conditions of a rezoning approval given under the *Local Government (Planning and Environment) Act 1990* (P&E Act) (under IPA, section 6.1.35A)
- Form 2 is not an approved form under the IPA. The assessment manager, concurrence agency or court may have their own form for the purpose of making a request to change an approval. In the case of a request to change conditions of a rezoning approval, the P&E Act establishes the process to be followed and provides for the local government to determine the required form.
- The entity that should receive the request is:
 - for an extension of the period before an approval lapses - the assessment manager (even if the approval was granted by the court (IPA, section 3.5.22(9)))
 - to change or cancel a condition of approval - the entity that decided or required the condition (i.e. the assessment manager, a concurrence agency or the court)
 - to change the development approval - the assessment manager
 - to change conditions of a rezoning approval - the local government
- When paying fees to the Environmental Protection Agency by electronic funds transfer (EFT) for requests relating to environmentally relevant activities (ERAs) or coastal development, use the process from the information sheet *Electronically paying fees to the Environmental Protection Agency (EPA)* and attach the form *Electronic Funds Transfer (EFT) payment notification* to the request.

Q1	Any person may make a request to change an approval. However, in the case of a development approval for building work or operational work for the supply of community infrastructure on land designated for the community infrastructure, only the person supplying the infrastructure may make a request (IPA, section 3.5.33(3A)).
Q2	If the request is made to a concurrence agency or the court, notice of any subsequent change or cancellation of a condition must be given to the assessment manager (IPA, section 3.5.33(9)).
Q6	<ul style="list-style-type: none"> • If the person making the request is not the owner of the land to which the approval attaches, the request must be accompanied by the owner's consent. (IPA, sections 3.5.22(3), 3.5.24(3), 3.5.33(3)). • However, owner's consent is not required if the approval is for: <ul style="list-style-type: none"> • a mobile and temporary ERA; or • building work or operational work for the supply of community infrastructure on land designated for community infrastructure (IPA, section 3.5.33(3A)).
Q7	The request must also be accompanied by the written agreement of the chief executive from whom evidence of resource allocation or entitlement would be required if an application for approval were being made. (IPA, sections 3.5.22(5), 3.5.24(5), 3.5.33(3C))
Q9	For a request to extend the period before an approval lapses, or to change a development approval, each concurrence agency for the approval must be given written notice of the request (IPA, sections 3.5.22(1), 3.5.24(1)).
Q10	For a request to change a development approval, if the subject of the request involved a building referral agency, that agency also needs to be given notice of the request (IPA, section 3.5.24(1)). For a request to change conditions the opinion of a relevant building referral agency must be given regard to by the entity deciding the request (IPA, section 3.5.33(9)).

Handwritten signature/initials



Mrs Natalie Clark – Planning Officer
Planning Services Section - ☎ (07) 4099 9456
planning@dsc.qld.gov.au

MCUC 007/07

Town & Country Limited
C/- Jenny Elphinstone Pty Ltd
PO Box 1098
MOSSMAN QLD 4873

8 August 2007

INTEGRATED PLANNING ACT DECISION NOTICE

DEVELOPMENT APPLICATION

Applicant's Name : Town & Country Limited
Owner's Name : Town & Country Limited
Proposal : Material Change of Use for the purpose of Shopping
Facilities and Business Facilities
Application Number : MCUC 007/07
Site Address : 63 Front Street, Mossman
Property Description : Lot 101 on SP186233, Parish of Victory, County of Solander

A. Decision: **Decision Date:** 2 August 2007

Approved subject to Conditions

B. Type of Development Approval:

Material Change of Use

Development Permit

.../2.

C. Referral Agency:

Department of Main Roads
Peninsular District
PO Box 6185
CAIRNS QLD 4870

D. Conditions

Plan of Development

1. The approved development and the conduct of the approved use, the carrying out of any works on the premises and the construction of any buildings on the premises associated with the development must generally be in accordance with the details of the application and the following approved Plan/s of Development:

Title	Plan No.	Date
Site Plan	CO650 – DA 01	Jan 2007
Elevations	CO650	Jan 2007
Main Roads Concept Layout	GCS06 – 194	06/05/07
DMR Option Concept Layout	GCS06 – 194	06/05/07

Except where such plans are modified by the terms of this approval.

Currency Period

2. This development approval lapses four (4) years after the day that the development approval takes effect, unless extended under Section 3.5.22 of the Integrated Planning Act 1997.

Landscaping

3. The following amendments are to be made to the landscaping plan, titled Landscape Concept Planting Design, numbered LCPP-0001 and dated 7 Feb 2007, submitted with the proposed development:
 - (a) The landscaping area along the rear western boundary is to be increased to 1.5 m wide to allow for dense screening vegetation;
 - (b) Golden Penda's or a similar native shade tree is to be incorporated into the landscaped area along the road frontage at 4 metre centres to provide shade to the car parking area directly adjacent.

The amended plan is to be submitted to Council prior to obtaining a building permit/operational works permit.

4. A Landscaping Maintenance Schedule for a period of three (3) years is to be provided to Council with the amended landscaping plan. The Maintenance Schedule is to be accompanied by a \$10,000.00 performance bond. The bond is refundable at the completion of the scheduled period on the provision the landscaping is established and maintained in accordance with the Schedule.
5. The owner/developer shall be responsible for all maintenance work for a period of three (3) years. Council will not accept the landscaping off maintenance until it meets the requirements of Council's Engineering Services.
6. Irrigation for external landscaping shall be transferred to Council's reticulated water system prior to landscaping being accepted as off maintenance.

Water Supply

7. The plans and specifications of the internal water supply must be submitted to Council at Operational Works application stage for this development for review.

This system must make provision for services to the boundaries of all lots, including main works; envelope pipes at cross street services and valve and hydrant markers and be designed in accordance with the requirements of Planning Policy No.6 "Planning Scheme Policy No.6 "FNQROC Development Manual".

Sewerage

8. No additional external structural loads are permitted to be applied to Council's existing sewer as a consequence of the approved development. Plans and specifications for the internal sewer and connection to Council's sewerage system are to be submitted to Council with the application for Operational Works.

Electricity and Telephone Services

9. All electrical lines along the full frontages of the subject site (Front Street) are to be placed underground. These works are to be undertaken by Ergon Energy at the developers/owners expense and are to be completed prior to commencement of the approved use.

Stormwater

10. All stormwater run-off from non-permeable surfaces and roof areas occurring on the site must be collected within the premises and discharged to the legal and practical point of discharge which has been nominated as Front Street. The applicant is required to extend the existing underground stormwater (from the existing surge pit located adjacent current entrance) for the full frontage of the allotment. In addition the applicant is to extend the existing kerb and channel for the full frontage of the allotment and undertake the necessary widening of Front Street. Plans and specifications for the control of stormwater (including design of discharge outlet, layout of kerb and channel and widening of Front Street) must be submitted to Council with the application for Operational Works. The approved use must not:
 - a) Interfere with the natural flow of stormwater;
 - b) Cause ponding of stormwater on adjoining properties.
11. The developer/owner is required to place pollution control devices in stormwater drains in accordance with the requirements of Planning Policy No.6 "Planning Scheme Policy No.6 "FNQROC Development Manual". The design and location of these devices must be submitted at Operational Works application stage.

Contributions

12. The developer/owner shall pay to the Council headworks contributions for water supply and sewerage in accordance with Council's Planning Scheme Policy No. 11 – Water Supply and Sewerage Headworks and Works External Contributions (The Policy). The contribution shall be calculated at the rate per Equivalent Domestic Connection (EDC) applicable at the time of payment in accordance with the policy.

The current number of EDC's for the approved use are:

Water Supply	21.8
Sewerage	21.8

Flooding and Drainage

13. Plans of the filling and excavation are to be designed in accordance with the FNQROC Development Manual and be submitted at Building Work stage and must not:
 - (a) Pond water on the site, adjacent site or impact on the adjacent State-controlled road;
 - (b) Result in an increase in the flow of water across a site or any other land or the adjacent State-controlled road; and
 - (c) In an increase in the volume of water or concentration of water in a watercourse and overland flow paths;

Car parking

14. A car parking area with a minimum of three hundred and thirty (330) spaces shall be constructed, sealed, drained and line marked in accordance with the relevant Australian Standard and the approved plan of development and maintained thereafter.
15. The developer/owner is to provide an amended plan of development prior to obtaining a Building Permit, showing nine (9) designated Disabled Car Parking spaces in accordance with the provisions of the Douglas Shire Planning Scheme.

Refuse

16. There is to be provided within the development an area for the storage and washing of all refuse containers in accordance with the *Environmental protection (Interim Waste) Regulation 1996*. Such area is to be:
 - a) sufficient in size to be able to house all mobile garbage (wheelie) bins including recycling bins
 - b) situated so as not to cause an odour nuisance to any adjacent properties; and
 - c) imperviously paved and drained to a suitable silt trap; and
 - d) discharged to sewer to the satisfaction of the General Manager Engineering Services; and
 - e) provided with a suitable hose cock with backflow prevention device and hose ; and
 - f) roofed or provided with a suitable automatic diversion valve (or other approved method) designed to prevent the ingress of stormwater to sewer.

Advertising Devices

17. The developer/owner is to provide each Business/Shopping Facility with a blank "Below Awning Sign" with the following dimensions:
 - (a) Maximum height of 0.6 metres;
 - (b) Maximum width of 0.3 metres;
 - (c) Maximum length of 2.5 metres and does not project beyond the awning.

The blank sign can then be designed by the occupant of the facility when confirmed.

Environmental Management Plan

19. The Developer is to submit with the application for approval of Operational Works, an Environmental Management Plan (EMP) in accordance with the requirements of Planning Scheme Policy No.10 *"Reports and Information the Council may Request"*. This EMP must detail the controls to be utilised to ensure that no environmental harm or nuisance is caused from the construction of the works and must include a Stormwater Management Plan.

Compliance

20. All conditions shall be complied with prior to the occupancy of the building for the approved use or commencement of the approved use on the land. Any developer security, associated with this approval will not be released until all conditions of approval are complied with.

Security

21. To guarantee the satisfactory completion of the landscaping and to ensure payment of headworks contributions, the developer shall lodge with the Council a Cash Bond or Guarantee to the value of \$194,957.00. Such guarantee shall be lodged prior to the issue of a Building Work Permit. The Council may call up this Guarantee to complete all or any part of the works mentioned herein in accordance with the conditions of this approval, should the developer fail to do so prior to issuing a permit for Building Work.

Advice

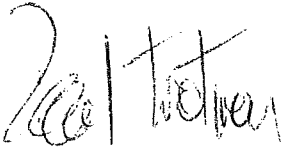
Should any future business wish to utilise a Chalk Board or A Frame Advertising Device; registration is required through Council's Environmental Health Services.

An application for an Operational Works Permit for an Advertising Device will be required to be submitted and approved by Council prior to the installation of any proposed Tenancy Sign or other advertising sign assessable against the Planning Scheme.

E. Further Development Approvals Required:

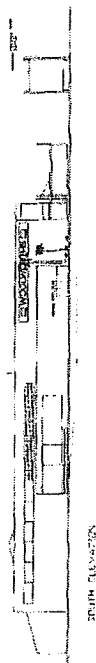
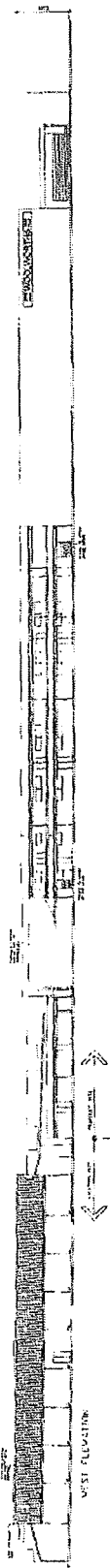
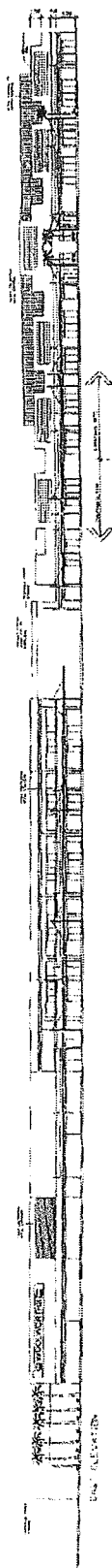
Operational Work
Building Permit

Development Permit
Development Permit

A handwritten signature in black ink, appearing to read 'Paul Trotman', is written over the text of the Operational Work Building Permit.

Paul Trotman
General Manager – Development & Environment

Appendix A – Plans of Development



PROJECT TITLE		PROJECT NO.	
SHOPPING CENTRE		C0680	
PROPOSED DEVELOPMENT		3	
SOUTH ELEVATION			
SHOPPING CENTRE			
2nd FLOOR			
MONTGOMERY			

100% BUILDING AND SITE DEVELOPMENT ONLY

THE PROPOSED WOODWORTH'S SHOPPING CENTRE 1000sqm (floor area)

EXISTING WOODWORTH'S SHOPPING CENTRE 1650sqm

PROPOSED FIRST FLOOR OFFICES

FRONT STREET

PRELIMINARY
Not for construction.

trg

MOSSMAN
DEVELOPMENT AT
LOT 22 TO FRONT STREET

SITE
CONCEPT
PLAN

LOT
TOWN & COUNTRY

DATE
MAY 27 11:20 AM
BY
J. P. WILSON

07/125-6-007

PRELIMINARY
Not for construction.

*Division 8 – Appeals to court relating to development applications***Appeals by applicants**

- 4.1.27. (1) An applicant for a development application may appeal to the court against any of the following:-
- (a) the refusal, or the refusal in part, of a development application;
 - (b) a matter stated in a development approval, including any condition applying to the development, and the identification of a code under Section 3.1.6;66
 - (c) the decision to give a preliminary approval when a development permit was applied for;
 - (d) the length of a currency period;
 - (e) a deemed refusal.
- (2) An appeal under subsection (1)(a) to (d) must be started within twenty (20) business days (the “**applicant’s appeal period**”) after the day the decision notice or negotiated decision notice is given to the applicant.
- (3) An appeal under subsection (1)(e) may be started at any time after the last day a decision on the matter should have been made.

Division 10 – Making an appeal to court

How appeals to the court are started

- 4.1.39
- (1) An appeal is started by lodging written notice of appeal with the registrar of court.
 - (2) The notice of appeal must state the grounds of the appeal.
 - (3) The person starting the appeal must also comply with the rules of the court applying to the appeal.
 - (4) However, the court may hear and decide an appeal even if the person has not complied with subsection (3).

Division 10 – Making an appeal to court

How appeals to the court are started

- 4.1.39**
- (1) An appeal is started by lodging written notice of appeal with the registrar of the court.
 - (2) The notice of appeal must state the grounds of the appeal.
 - (3) The person starting the appeal must also comply with the rules of the court applying to the appeal.
 - (4) However, the court may hear and decide an appeal even if the person has not complied with subsection (3).