

20 April 2018

Enquiries: Jenny Elphinstone T 07 4099 9482
Our Ref: MCUC 2014/11 (Doc ID 850969)
Your Ref: Request to extend approval.

Administration Office
64 - 66 Front St Mossman
P 07 4099 9444
F 07 4098 2902

Mr Bradley Fisher
CMA 4
CAPE TRIBULATION QLD 4873

clarepelham@hotmail.com

Dear Sir

**EXTENSION APPLICATION FOR DEVELOPMENT APPROVAL FOR A
MATERIAL CHANGE OF USE FOR A HOUSE AT 19R ZENA CLOSE CAPE
TRIBULATION ON LAND DESCRIBED AS LOT 12 ON RP738897**

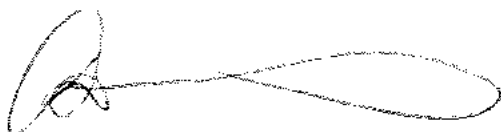
Thank you for lodging the above Application with Council that was received on 10 April 2018.

Please find attached the Decision Notice.

Please quote Council's application number: MCUC 11/2014 in all subsequent correspondence relating to this development application. Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9482.

A copy of your appeal rights under the *Planning Act 2016* is also enclosed.

Yours faithfully



DARRYL CREE
Chief Executive Officer

encl.

- Decision Notice
- Appeal rights

DECISION NOTICE — APPROVAL
(GIVEN UNDER SECTION 87 OF *THE PLANNING ACT 2016*)

Thank you for your development application detailed below which was received on 10 April 2018 and properly made on 18 April 2018. Please be aware that Douglas Shire Council has assessed your application and decided it as follows:

1. *Applicant's details*

Name: Bradley Fisher

Postal Address: C/- Clegg Town Planning
PO Box 2144
TOOWONG BC QLD 4066

2. *Location details*

Street Address: 19R Zena Close, Cape Tribulation

Real Property Description: Lot 12 on RP738897

Local Government Area: Douglas Shire Council

3. *Details of proposed development*

Extension application for the Development Permit for the material change of use for a House over land described as Lot 12 on RP738897, located 19R Zena Close, Cape Tribulation, for a further six years.

4. *Decision*

Date of decision: 18 April 2018.

Decision details: Approved.

5. *Approved Development*

A copy of the approved development is included in Schedule 1.

6. *Further development permits*

Please be advised that the following development permits are required to be obtained before the development can be carried out:

- All Building Work.

Please be advised that approvals are also required for work under the *Plumbing and Drainage Act 2002*.

7. Properly made submissions

Not applicable — no part of the application required public notification.

8. Referral Agencies

Not applicable — no part of the application required referral.

9. Currency period for the approval

This development approval will lapse at the end of 7 April 2024.

10. Rights of appeal

The rights of applicants to appeal to a tribunal or the Planning and Environment Court against decisions about a development application are set out in chapter 6, part 1 of the *Planning Act 2016*. For particular applications, there may also be a right to make an application for a declaration by a tribunal (see chapter 6, part 2 of the *Planning Act 2016*).

Schedule 2 is an extract from the *Planning Act 201* that sets down the applicant's appeal rights.

SCHEDULE 1 – CURRENT APPROVAL

YOUR REF: Zena Cl, Cape Tribulation
OUR REF: MCUC 11/2014 (423376)

26 June 2014

Mr Brad Fisher & Ms Claire Pelham
C/- Greg Skyring Design & Drafting Pty Ltd
11 Noil Close
MOSSMAN QLD 4873

Attention: Mr Greg Skyring

Dear Sir

**CHANGED DECISION NOTICE UNDER S 375 SUSTAINABLE
PLANNING ACT 2009: DEVELOPMENT APPLICATION FOR
LOT 12 ZENA CLOSE, CAPE TRIBULATION**

With reference to the request for a minor change to the Development Approval for the abovementioned Development Application, which was determined under Instrument of Delegation on 26 June 2014, please find attached the relevant Changed Decision Notice.

The Notice includes extracts from the Act with respect to lodging an Appeal.

Should you have any enquiries in relation to this Changed Decision Notice, please contact Jenny Elphinstone of Council's Development and Environment Branch on telephone number 07 4099 9482.

Yours faithfully

Donna Graham
Manager Development & Environment

Att

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DECISION NOTICE DETAILS
SUSTAINABLE PLANNING ACT 2009

APPLICANT DETAILS

Brad Fisher & Claire Pelham
C/- Greg Skyring Design & Drafting Pty Ltd
11 Noli Close
MOSSMAN QLD 4873

ADDRESS

Lot 12 Zena Close, Cape Tribulation

REAL PROPERTY DESCRIPTION

Lot 12 on RP738897

PROPOSAL

House

DECISION

Approved subject to conditions (refer to approval package below).

DECISION DATE

7 April 2014

TYPE

Material Change of Use (Development Permit)

REFERRAL AGENCIES

None Applicable

SUBMISSIONS

There were no submissions for this application.

FURTHER DEVELOPMENT PERMITS REQUIRED

Development Permit for Building Work
Development Permit for Plumbing Work

CODES TO COMPLY WITH FOR SELF-ASSESSABLE DEVELOPMENT

None

**DOES THE ASSESSMENT MANAGER CONSIDER THE APPLICATION
TO BE IN CONFLICT WITH APPLICABLE CODES, PLANNING
SCHEME, STATE PLANNING POLICIES OR PRIORITY
INFRASTRUCTURE PLAN (IF YES, INCLUDE STATEMENT OF
REASONS)**

Not in conflict

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APPROVED DRAWING(S) AND / OR DOCUMENT(S)

The term 'approved drawing(s) and / or document(s)' or other similar expressions means:

Drawing or Document	Reference	Date
Site Plan, Floor Plans	Greg Skyring Design and Drafting Pty Ltd Plan 212-13 Sheet 1 of 3	As submitted with application on 10 January 2014
Elevations - House	Greg Skyring Design and Drafting Pty Ltd Plan 212-13 Sheet 2 of 3	As submitted with application on 10 January 2014
Carport Floor plan and Elevations	Greg Skyring Design and Drafting Pty Ltd Plan 212-13 Sheet 3 of 3	As submitted with application on 10 January 2014
Onsite Sewerage Assessment	ETS Geotechnical, Onsite Sewerage Assessment Report No GT12-020-001R Fisher-Rev4-GT13-020-001R Rev 3 (Council document 422578)	15 April 2013
Geotechnical Investigation	ETC Geotechnical, Geotechnical Report No: GT13-0320-001R Rev 1	15 April 2013
Advice to retain batters	Nikki Huddy email to Council regarding compliance actions to recommendations of ETC Geotechnical, Geotechnical report no- GT13-0320-001R Rev 1	10 March 2014

ASSESSMENT MANAGER CONDITIONS

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
 - a. The specifications, facts and circumstances as set out in the application submitted to Council, including recommendations and findings confirmed within technical reports; and
 - b. The following conditions of approval and the requirements of Council's Planning Scheme and the *FNQROC Development Manual*.

Except where modified by these conditions of approval.

Timing of Effect

2. The conditions of the Development Permit must be satisfied prior to Commencement of Use, except where specified otherwise in these conditions of approval.

Lawful Point of Discharge

3. The flow of all external stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream from the development.

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Water Supply

4. Water storage tank(s) with a minimum capacity not less than 30 000 litres must be installed prior to occupation of the premises. Details of the water tank(s) must be shown on plans submitted with the Building Application. Such water tank(s) must be provided with:
 - a. (i) Mosquito-proof screens of brass, copper, aluminium or stainless steel gauze not coarser than one (1) mm aperture mesh of substantial construction and installed in such manner as not to cause or accelerate corrosion;

or

(i) Flap valve at every opening of the tank or other receptacle;

or

(iii) Other approved means for preventing the ingress or egress of mosquitoes;
and
 - b. Where a tank or other receptacle is provided with a manhole, the manhole must have a diameter of no more than 40 cm; and
 - c. A 50 mm ball valve with a camlock fitting.

The water tank must be installed and operational prior to the Commencement of Use.

On-Site Effluent Disposal

5. The method of on-site effluent disposal must be in accordance with the recommendations contained in the ETS Geotechnical On-Site Sewerage Assessment Report No. GT12-020-001R Fisher_Rev1 dated 15 April 2013 or any other report approved by the Chief Executive Officer. An onsite effluent disposal system must be installed and operational prior to the Commencement of Use. Details of the wastewater treatment system to be installed must be approved by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

Damage to Infrastructure

6. In the event that any part of Council's existing infrastructure is damaged as a result of construction activities occurring on the site, Council must be notified immediately of the affected infrastructure and have it repaired or replaced by Council at no cost to Council.

Vegetation Clearing

7. Existing vegetation on the land must be retained in all areas except those affected by the construction of access driveways and/or the installation of services as detailed on the approved plans. All pruning of trees is to be in accordance with the requirements of Australian Standard *Pruning of Amenity Trees* AS 4373-2007.

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Vegetation to be retained must be protected from any damage to the trunk, roots and branches during the construction period and where possible damage may occur effective fencing or barriers are to be installed and maintained in accordance with Australian Standard AS 4970-2009 *Protection of trees on development sites*.

Any further clearing requires a Permit for Operational Works unless exempt development as specified by the Planning Scheme.

Landscaping

8. Areas affected by building works must be landscaped generally in accordance with the approved plans. In particular:
- a. Landscaping must include planting of all cut and fill batter areas; and
 - b. Disturbed areas of land for the creation of driveways must be revegetated with native species found in the locality.

The area affected by building works affected areas must be landscaped within twelve months of the Commencement of Use and maintained thereon while the approval remains in effect.

A ten (10) metre wide landscape buffer must be maintained along the road frontage of the site. The landscaping must consist of 75 per cent of native and endemic species which must be planted in an irregular and random fashion to blend with existing vegetation. The use of palm trees in this landscape buffer must be limited and only used as an accent feature.

All landscaping to be installed must consist of native and endemic species and must be planted in an irregular and random fashion to blend with existing vegetation. Exotic species are not permitted.

Weed Management

9. Any invasive and / or declared weed species found on the land must be eradicated from the site over time. For assistance with eradication methods visit the Queensland Biosecurity website on www.daff.qld.gov.au.

Building Colours

10. The exterior finishes and colours of Buildings are non-reflective and blend with the natural colours of the surrounding environment. Roofs and structures (including water tanks) must be of moderately dark to darker shades of green, grey, blue and brown.

The applicant must provide colour samples to the Chief Executive Officer, that comply with this requirement, prior to the Issue of the Development Permit for Building Works.

The above requirements must be made known in writing to all prospective purchasers.

Sediment and Erosion Control

11. Soil and water management measures must be installed/implemented prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the *Environmental Protection Act 1994*, and the *FNQROC Development Manual*).

External Works

12. Undertake the following external works:
 - a. Provide concrete crossover(s) and apron(s) in accordance with *FNQROC Development Manual Standard Drawing S1105*. A copy is attached at Appendix 2.

The crossover must not impact on stormwater flows in minor and major flow events.

Internal Driveway and Footpath

13. The Applicant must construct and maintain a minimum three (3) metre wide gravel driveway from the property boundary to the carport.

The Applicant must construct a minimum 1.2 metre wide gravel pedestrian pathway from the carport to the House.

The driveway and footpath must be constructed prior to Commencement of Use in accordance with the *FNQROC Development Manual* to the satisfaction of the Chief Executive Officer.

Geotechnical Report

14. Construction must be in accordance with the recommendations of the Geotechnical Report prepared by ETS Geotechnical Report No: GT13-020-001R Rev 4 dated 15 April 2013 and as per the email by Nikki Huddy dated 10 March 2014 to Douglas Shire Council stating that the batters are to be retained GT13-020-001R Rev 3 dated June 2014, Revision 3 applying either Option 1 or Option 2.

~~Any~~ The retaining wall/structure must be constructed of materials and/or finished in colours, which blend with the surrounding natural environment.

The works must be supervised by a Registered Professional Engineer of Queensland with all work detailed on a certificate of supervision and a copy of the supervision certificate submitted to Council upon completion.

The retaining works must be installed with the associated Certificate provided to the Chief Executive Officer prior to the Commencement of Use.

Removal of Other Structures

15. All other structures existing on the land and not included on the approved plans and/or documents, or otherwise defined as exempt development under the Sustainable Planning Act, must be removed from the land prior to the Commencement of Use.

Noise

16. Noise from generators or other mechanical equipment, must not emanate from the subject land to a degree that would, in the opinion of the Chief Executive Officer, create an environmental nuisance having regard to the provisions of Chapter 8 Part 3B of the *Environmental Protection Act 1994*.

ADVICE

1. This approval, granted under the provisions of the *Sustainable Planning Act 2009*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of section 339 and section 341 of the *Sustainable Planning Act 2009*.
2. The applicant/owner is advised that this approval does not approve the construction of the building work. A Development Permit for Building Work must be obtained in order for construction to commence.
3. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
4. All future land owners are to be advised of the conditions of the approval by the vendor.
5. The land owner is to be mindful of trees on neighbouring land and the possible instability of those trees.
6. Specialist geotechnical engineering advice should be gained prior to undertaking any changes to the bench and area of uncontrolled fill, other than as required through the condition of the approval.
7. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
8. For information relating to the *Sustainable Planning Act 2009* log on to www.dsdp.qld.gov.au . To access the *FNQROC Development Manual*, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au .

LAND USE DEFINITIONS*

In accordance with *Douglas Shire Planning Scheme 2008* the approved land use of House is defined as:

Means the use of premises comprising one (1) Dwelling Unit, located on one (1) lot for the exclusive residential use of one (1) Household. The use includes:

- *Outbuildings/structures incidental to and necessarily associated with the residential use;*
- *the care of children in accordance with the Child Care (Family Day Care) Regulation 1991;*
- *accommodation for a member or members of the extended family of the Household occupying the House and for personal staff; and*

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- *a display house which displays to the general public the type of construction or design offered by a builder/developer, for a maximum period of 12 months and which then converts to a House for the exclusive use of one (1) Household.*

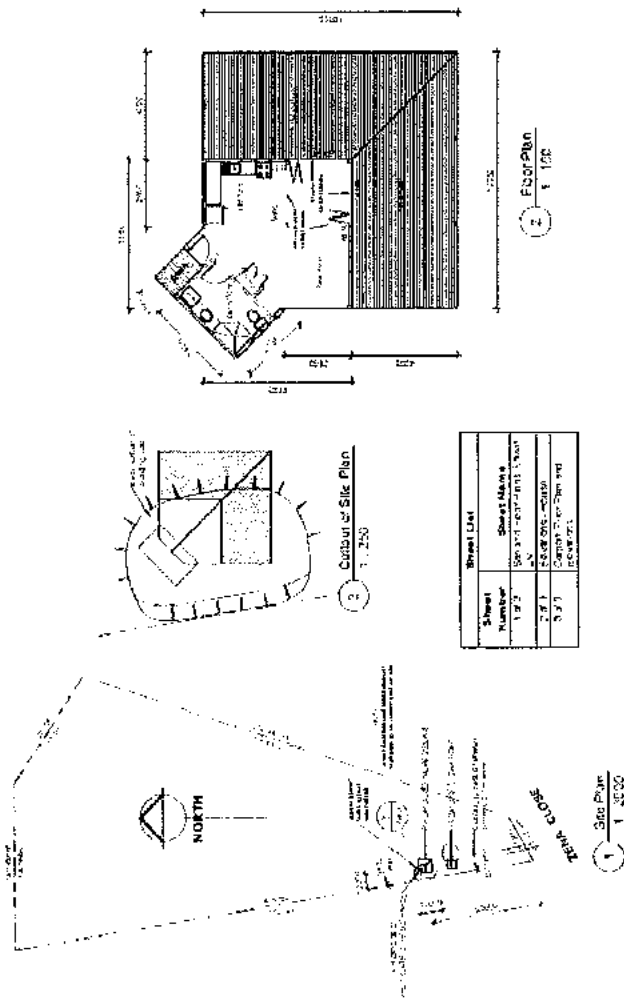
*This definition is provided for convenience only. This Development Permit is limited to the specifications, facts and circumstances as set out in the application submitted to Council and is subject to the abovementioned conditions of approval and the requirements of Council's Planning Scheme and the *FNQROC Development Manual*.

RIGHTS OF APPEAL
Attached

End of Decision Notice

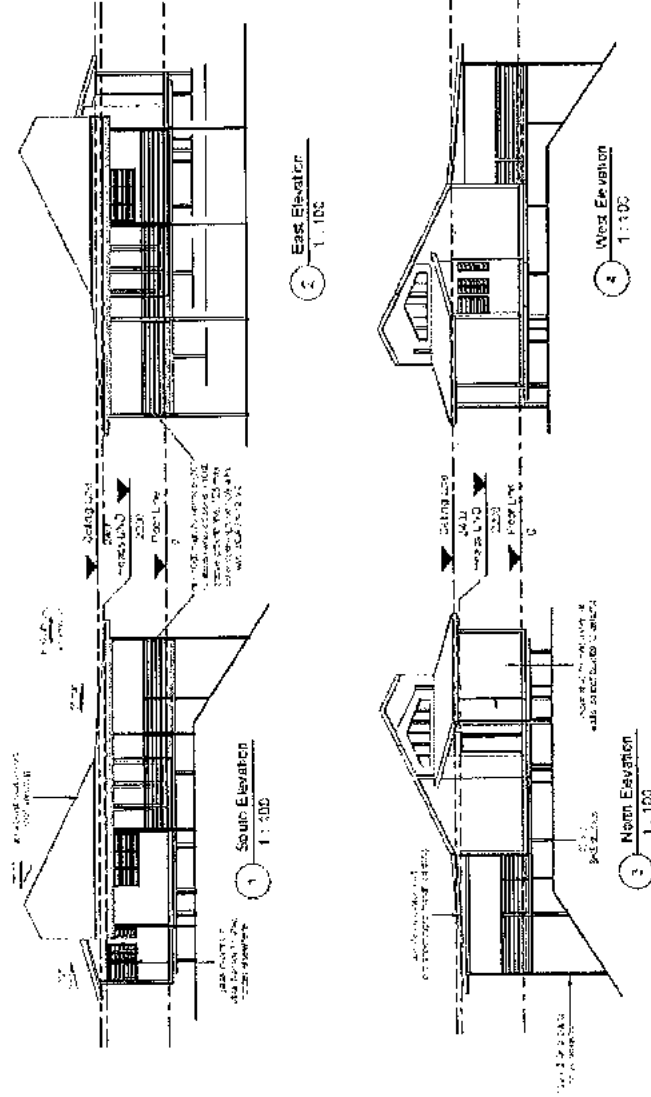
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APPENDIX 1: APPROVED PLAN(S) & DOCUMENT(S)



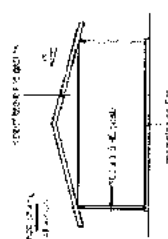
CDCC SKYRINK <i>Design and Drafting</i> 11500 15th St. NW Suite 100 Silver Spring, MD 20901 Tel: (301) 581-1111 Fax: (301) 581-1112	PROJECT Proposed Addition 11500 15th St. Silver Spring, MD 20901 Zoned R-OC 3000 sq. ft. addition		CLIENT B. F. and C. R. Post		DATE 12/1/83		DRAWN BY J. L.		CHECKED BY J. L.		SCALE 1/8" = 1'-0"		SHEET NO. 1 of 1	
	TITLE Addition		DATE 12/1/83		DRAWN BY J. L.		CHECKED BY J. L.		SCALE 1/8" = 1'-0"		SHEET NO. 1 of 1			

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9:12

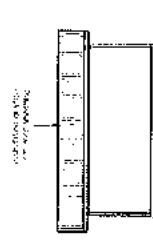


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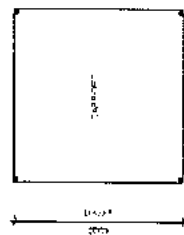
GREG SKYRING <i>Design & Drafting</i>		4170 S. GARY VANCOUVER, BC V6M 2K7
1. 100% IN HOUSE 2. 100% IN HOUSE		4170 S. GARY VANCOUVER, BC V6M 2K7
PROPOSED CUSTOMER: 112 49703357 2000 - 2002 CAPE TREATMENT		4170 S. GARY VANCOUVER, BC V6M 2K7
1. 100% IN HOUSE 2. 100% IN HOUSE		4170 S. GARY VANCOUVER, BC V6M 2K7



2 First Elevation - Carpet 1.150



2 South Elevator - Capot
1.100



1 Cargen Floor Plan
11/1/00

[illegible]

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SCHEDULE 2 – PLANNING ACT EXTRACT ON APPEAL RIGHTS

Planning Act 2016
Chapter 6 Dispute resolution

[s 229]

- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.
- (3) In this section—
 - conduct* means an act or omission.
 - representative* means—
 - (a) of a corporation—an executive officer, employee or agent of the corporation; or
 - (b) of an individual—an employee or agent of the individual.
 - state of mind*, of a person, includes the person's—
 - (a) knowledge, intention, opinion, belief or purpose; and
 - (b) reasons for the intention, opinion, belief or purpose.

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 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

Current as at 3 July 2017

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Authorised by the Parliamentary Counsel

- (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.
- (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 is 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.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

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 1901*, 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 1901* 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 the 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, any tribunal or another entity; and
- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any 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 rules of the P&E Court.

