

22 October 2024

Enquiries: Neil Beck
Our Ref: MCUC 2023_5501/1 (1258094)
Your Ref: 2023-01-36

V I Donovan
C/- Aspire Town Planning & Project Services
PO Box 1040
MOSSMAN 4873

Dear Dan

Decision Notice for Change Application - Material Change of Use (Dual Occupancy)
21 Sand Street PORT DOUGLAS
On Land Described as LOT: 14 TYP: PTD PLN: 20934

Please find attached the Decision Notice for the request for a Change Application.

Please quote Council's application number: MCUC 2023_5501/1 in all subsequent correspondence relating to this development approval..

Should you require any clarification regarding this, please contact Neil Beck on telephone 07 4099 9451.

Yours faithfully



Neil Beck
A/Manager Environment & Planning

encl.

- Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - Statement of Reasons
- Advice For Making Representations and Appeals (Decision Notice)



Decision Notice

Approval (with conditions)

Given under s 63 of the Planning Act 2016

Applicant Details

Name: V I Donovan

Postal Address: C/- Aspire Town Planning & project Services
PO Box 1040
MOSSMAN QLD 4873

Email: admin@aspireqld.com

Property Details

Street Address: 21 Sand Street PORT DOUGLAS

Real Property Description: LOT: 14 TYP: PTD PLN: 20934

Local Government Area: Douglas Shire Council

Details of Proposed Development

Material Change of Use (Dual occupancy)

Decision

Date of Decision: 22 October 2024

Decision Details: Approved (subject to conditions)

Approved Drawing(s) and/or Document(s)

Copies of the following plans, specifications and/or drawings are enclosed.

Drawing or Document	Reference	Date
Site Plan	Danny Vos Architect, Rev G	12 October 2023
Ground Floor Plan	Danny Vos Architect, Rev G	12 October 2023
First Floor Plan	Danny Vos Architect, Rev G	12 October 2023

Elevations	Danny Vos Architect, Rev G	12 October 2023
Site Plan	Danny Vos Architect, Rev B	30 September 2024
Floor Plan	Danny Vos Architect, Rev B	30 September 2024
Roof Plan	Danny Vos Architect, Rev B	30 September 2024
Elevations & Sections	Danny Vos Architect, Rev B	30 September 2024

Note – The plans referenced above will require amending in order to comply with conditions of this Decision Notice.

Assessment Manager Conditions & Advices

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; 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 effected prior to the Commencement of Use, except where specified otherwise in these conditions of approval.

~~Amendment to Design~~

- ~~3. Plans of the development must be amended to accommodate the following changes:~~
 - ~~a. Setback the garages from either side boundary to be a minimum of 300mm from the outermost projection of the garages;~~
 - ~~b. Provide a privacy screen fence along the side boundary.~~

~~Amended plans are to be submitted and endorsed by the Chief Executive Officer prior to the issued of a Development Permit for Building Work.~~

Air-conditioning Screens

3. Air-conditioning units located above ground level and visible from external properties and the street must be screened with appropriate materials to improve the appearance of the building. Such screening must be completed prior to the Commencement of Use.

Damage to Council Infrastructure

4. In the event that any part of Council's existing sewer/water or road infrastructure is damaged as a result of construction activities occurring on the site, the applicant/owner

must notify Council immediately of the affected infrastructure and have it repaired or replaced at no cost to Council.

Water Supply and Sewerage Works

5. Undertake the following water supply and sewerage works internal to the subject land:
 - a. Provide a single internal sewer connection in accordance with the FNQROC Development Manual. One connection point is required to service the development.
 - b. Provide a single water connection in accordance with the FNQROC Development Manual. The water meter must contain a subsidiary meter for the individual dwelling units..

All identified work must be satisfactorily completed prior to the Commencement of Use.

Demolish Structures and Services

6. All structures not associated with the approved development (including disused services and utilities) must be demolished and/or removed from the subject land. The sewer jump-up must be capped to ensure no egress of contaminants during the demolition and construction period.

Vehicle Parking

7. The car parking layout must comply with the Australian Standard AS2890.1 2004 Parking Facilities – off-street car parking and be constructed in accordance with Austroads and good engineering design. In addition, all parking, driveway and vehicular manoeuvring areas must be imperviously sealed and drained.

Drainage

8. Undertake a local drainage investigation to demonstrate that the construction of the development does not result in adverse impacts on surrounding properties as a consequence of interrupting existing overland flow paths or will result in increased ponding of stormwater on surrounding properties.

The drainage investigation must be submitted and endorsed by the Chief executive Officer prior to the issue of a Development Permit for Building Work.

Stockpiling and Transportation of Fill Material

9. Soil excavated from the site is not to be stockpiled in locations that can be viewed from adjoining premises to the extent reasonable or a road frontage for any longer than one (1) month from the commencement of works.

Transportation of fill or spoil to and from the site must not occur within:

- a. peak traffic times;
- b. before 7:00 am or after 6:00 pm Monday to Friday;
- c. before 7:00 am or after 1:00 pm Saturdays; or
- d. on Sundays or Public Holidays.

Emissions

10. Dust emissions or other air pollutants, including odours, must not extend beyond the boundary of the site and cause a nuisance to surrounding properties during construction.

Storage of Machinery and Plant

11. The storage of any machinery, material and vehicles must not cause a nuisance to surrounding properties, to the satisfaction of the Chief Executive Officer.

Lawful Point of Discharge

12. All stormwater from the property must be directed to a lawful point of discharge being the street frontages, such that it does not adversely affect surrounding properties or properties downstream from the development.

Ponding and/or Concentration of Stormwater

13. The proposed development is not to create ponding nuisances and/or concentration of stormwater flows to adjoining properties. The drainage investigation required by a condition of the Development Permit is to address this item.

Minimum Fill and Floor Levels

14. All habitable floor levels in all buildings must be located 300mm above existing ground levels on site.

Construction Signage

15. Prior to the commencement of any construction works associated with the development, a sign detailing the project team must be placed on the road frontage of the site and must be located in a prominent position. The sign must detail the relevant project coordinator for the works being undertaken on the site, and must list the following parties (where relevant) including telephone contacts:
 - a. Developer;
 - b. Project Coordinator;
 - c. Architect;
 - d. Builder;
 - e. Civil Engineer;
 - f. Civil Contractor;
 - g. Landscape Architect.

Landscaping Plan

16. Submit a Landscape Plan detailing how the site is to be landscaped to provide for an attractive street frontage, landscaping of setback areas and planter beds located on the 1st floor.

The Landscape Plan is to be submitted and endorsed prior to the issue of a Development Permit for Building works with landscaping installed in accordance with the

approved plan prior to the Commencement of Use.

On- street works

17. Provide access crossovers in accordance with FNQROC Development Manual Standard Drawing S1015D.

ADVICE NOTES

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect.
2. 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.
3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.

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

All Plumbing and Drainage Work must only be carried in compliance with the Queensland *Plumbing and Drainage Act 2018*.

Concurrence Agency Response

None Applicable

Currency Period for the Approval

This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

Rights to make Representations & Rights of Appeal

The rights of applicants to make representations and rights 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*.

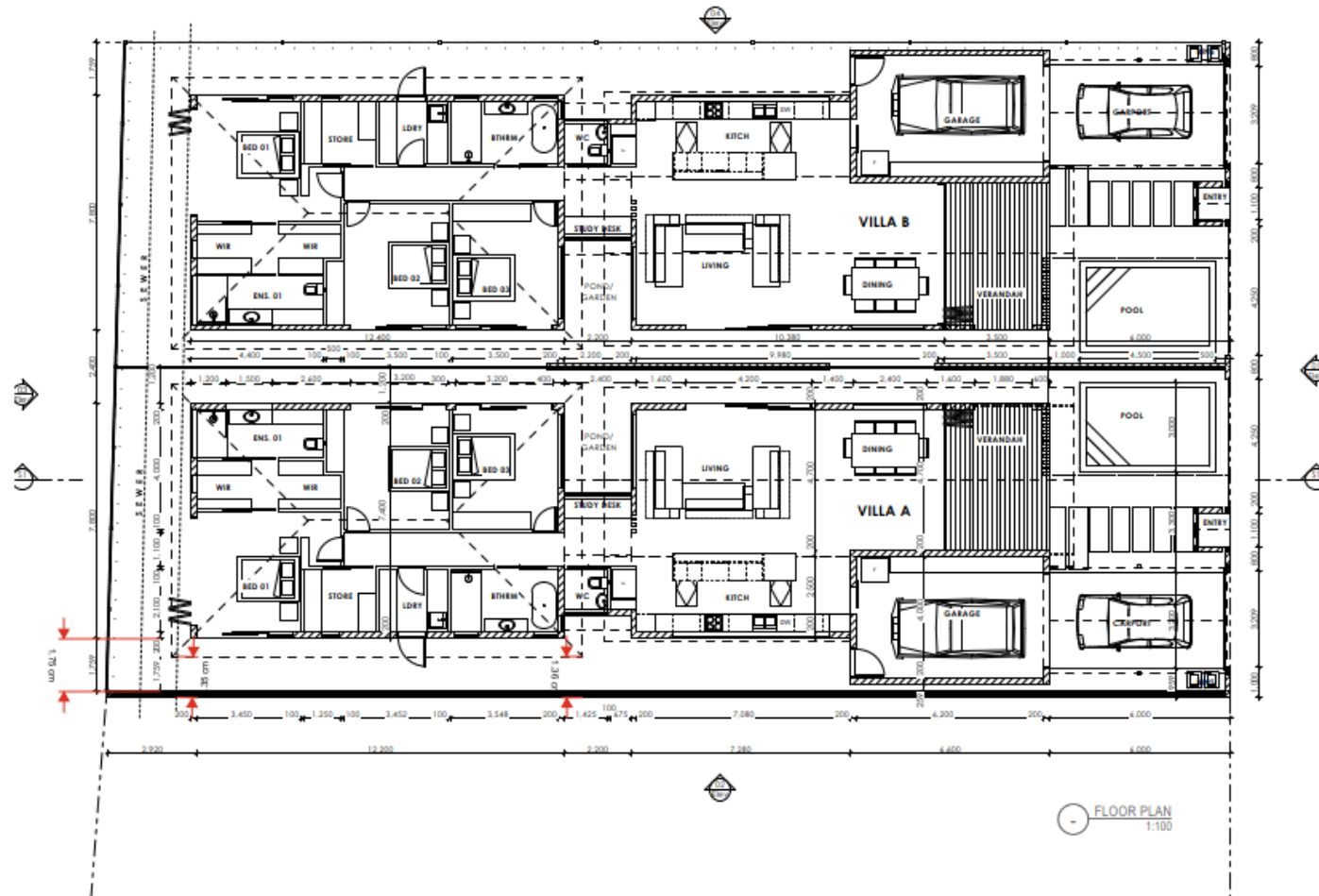
A copy of the relevant appeal provisions is attached.

Approved Drawing(s) and/or Document(s)





MINOR AMENDMENT



FLOOR PLAN
1:100

NOTE:
DO NOT SCALE OFF THIS DRAWING. ALL WORK TO COMPLY WITH RELEVANT
CODES AND STANDARDS. TO BE READ IN CONJUNCTION WITH ENGINEER'S
DRAWINGS/SPECIFICATIONS. IN CASE OF ANY DISCREPANCIES, PLEASE
CONSULT THE ARCHITECT.

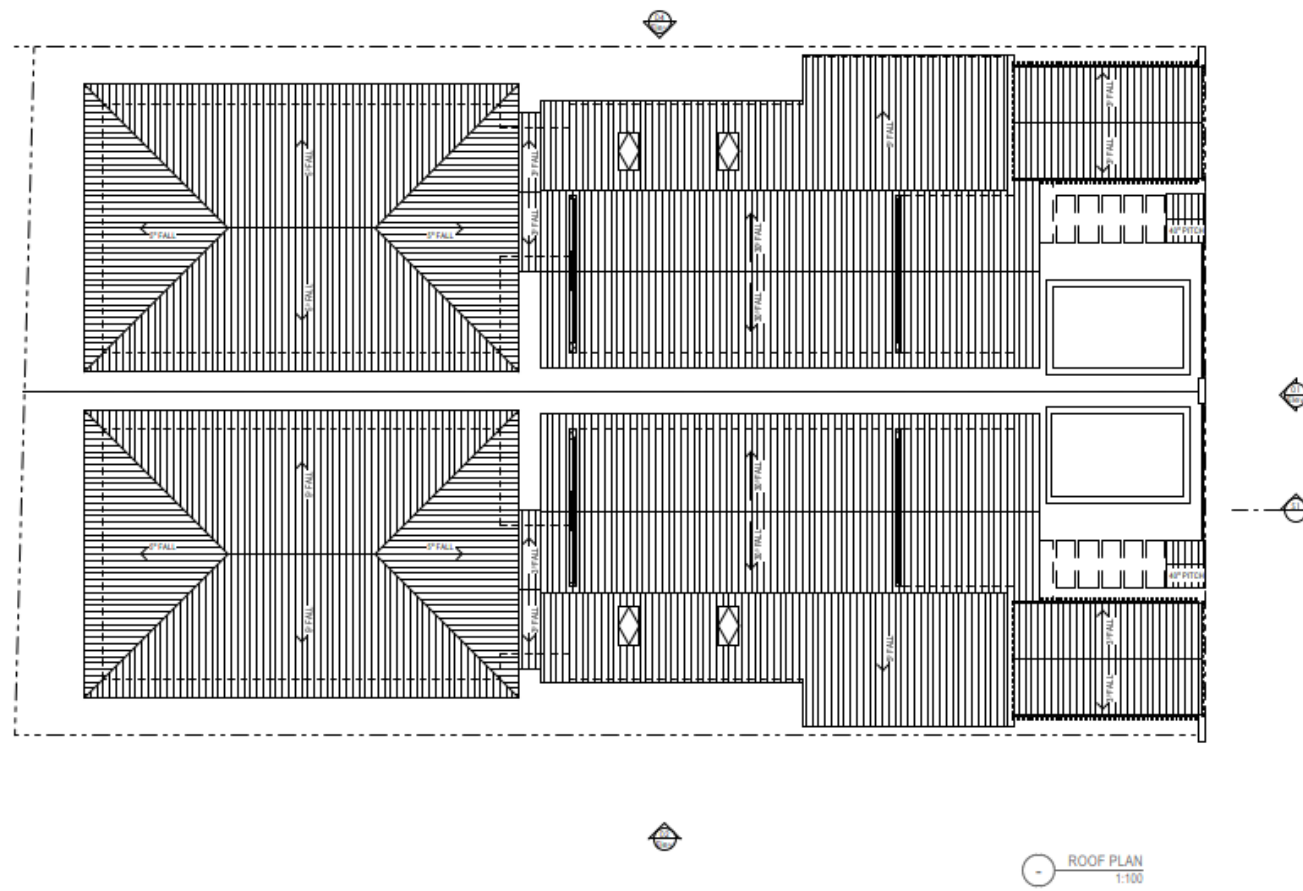
CMS Consulting Engineer PTY LTD
208 Buchanan Street, Westport QLD 4870
Phone: 07 4331 2775 Email: chris@cmsengineers.com.au

VOS
Architect
m 0415 300 748

PROPOSED VILLAS
VIRGINIA DONOVAN
21 SAND STREET (LOT 14 on PTD 20934), PORT DOUGLAS 4877

REV B
A3 SHEET
30/09/2024

2.1

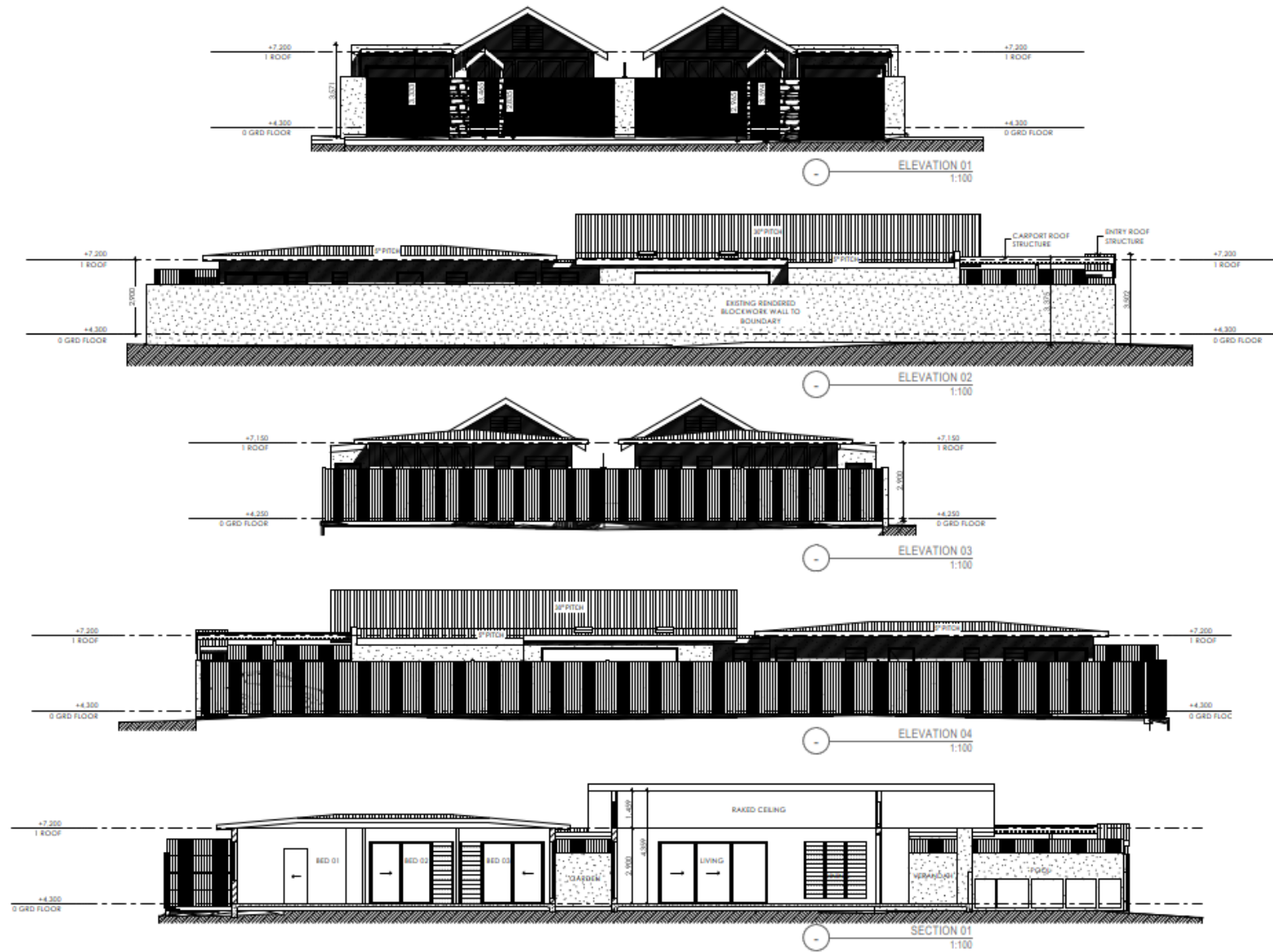


NOTE:
DO NOT SCALE OFF THIS DRAWING. ALL WORK TO COMPLY WITH RELEVANT
CODES AND STANDARDS. TO BE READ IN CONJUNCTION WITH ENGINEER'S
DRAWINGS/SPECIFICATIONS. IN CASE OF ANY DISCREPANCIES, PLEASE
CONSULT THE ARCHITECT.

CMS Consulting Engineer PTY LTD
208 Buchan Street, Westport QLD 4870
Phone: 07 4331 2775 Email: chris@cmsengineers.com.au

VOS
Architect
m 0415 300 748

PROPOSED VILLAS
VIRGINIA DONOVAN
21 SAND STREET (LOT 14 on PTD 20934), PORT DOUGLAS 4877



NOTE:
DO NOT SCALE OFF THIS DRAWING. ALL WORK TO COMPLY WITH RELEVANT
CODES AND STANDARDS. TO BE READ IN CONJUNCTION WITH ENGINEER'S
DRAWINGS/SPECIFICATIONS. IN CASE OF ANY DISCREPANCIES, PLEASE
CONSULT THE ARCHITECT.

CMS Consulting Engineer PTY LTD
208 Buchan Street, Westport QLD 4870
Phone: 07 4331 2775 Email: chris@cmsengineers.com.au

VOS
Architect
m 0415 300 748

PROPOSED VILLAS
VIRGINIA DONOVAN
21 SAND STREET (LOT 14 on PTD 20934), PORT DOUGLAS 4877

REV B
A3 SHEET
30/09/2024

3.1

Reasons for Decision

1. The reasons for this decision are:
 - a. Sections 60, 62 and 63 of the *Planning Act 2016*;
 - b. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and
 - c. to ensure compliance with the *Planning Act 2016*.
2. Findings on material questions of fact:
 - a. the development application was properly lodged to the Douglas Shire Council 17 August 2023 under section 51 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*. A Request to Change the development approval was received on 7 October 2024;
 - b. the request to change the development approval contained information from the applicant which Council reviewed together with Council's own assessment against the 2017 State Planning Policy and the 2018 Douglas Shire Planning Scheme Version 1.0 in making its assessment manager decision.
3. Evidence or other material on which findings were based:
 - a. the development triggered assessable development under the Assessment Table associated with the Medium Density Residential Zone Code;
 - b. Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
 - c. the applicant's reasons have been considered and the following findings are made:
 - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

Planning Act 2016
Chapter 3 Development assessment

[s 74]

Division 2 Changing development approvals

Subdivision 1 Changes during appeal period

74 What this subdivision is about

- (1) This subdivision is about changing a development approval before the applicant's appeal period for the approval ends.
- (2) This subdivision also applies to an approval of a change application, other than a change application for a minor change to a development approval.
- (3) For subsection (2), sections 75 and 76 apply—
 - (a) as if a reference in section 75 to a development approval were a reference to an approval of a change application; and
 - (b) as if a reference in the sections to the assessment manager were a reference to the responsible entity; and
 - (c) as if a reference in section 76 to a development application were a reference to a change application; and
 - (d) as if the reference in section 76(3)(b) to section 63(2) and (3) were a reference to section 83(4); and
 - (e) with any other necessary changes.

75 Making change representations

- (1) The applicant may make representations (*change representations*) to the assessment manager, during the applicant's appeal period for the development approval, about changing—
 - (a) a matter in the development approval, other than—
 - (i) a matter stated because of a referral agency's response; or

-
- (ii) a development condition imposed under a direction made by the Minister under chapter 3, part 6, division 2; or
 - (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- (2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- (3) Only 1 notice may be given.
- (4) If a notice is given, the appeal period is suspended—
- (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
 - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
 - (i) the applicant withdraws the notice, by giving another notice to the assessment manager; or
 - (ii) the applicant receives notice that the assessment manager does not agree with the change representations; or
 - (iii) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- (5) However, if the assessment manager gives the applicant a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

76 Deciding change representations

- (1) The assessment manager must assess the change representations against and having regard to the matters that

- must be considered when assessing a development application, to the extent those matters are relevant.
- (2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
- (a) the applicant; and
 - (b) if the assessment manager agrees with any of the change representations—
 - (i) each principal submitter; and
 - (ii) each referral agency; and
 - (iii) if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
 - (iv) if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
 - (v) another person prescribed by regulation.
- (3) A decision notice (a *negotiated decision notice*) that states the assessment manager agrees with a change representation must—
- (a) state the nature of the change agreed to; and
 - (b) comply with section 63(2) and (3).
- (4) A negotiated decision notice replaces the decision notice for the development application.
- (5) Only 1 negotiated decision notice may be given.
- (6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.

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
 - (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 an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
 - (iii) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
 - (iv) otherwise—20 business days after the day the notice is given; or
- (g) 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, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and

- (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; 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 to an appeal by filing a notice of election in the approved form—
 - (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (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 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), 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 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.