

16 November 2017

Enquiries: Jenny Elphinstone  
Phone: (07) 4099 9482  
Council Reference: MCUC 2359/2017 (D#834122)  
Your Reference: 20174418

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

Prosilio Pty Ltd  
PO Box 82  
PORT DOUGLAS QLD 4877

Attention Mr Tony McGrath

Dear Sir

**DEVELOPMENT APPLICATION FOR MATERIAL CHANGE OF USE FOR A HOUSE  
AT L3 FERRERO ROAD CRAIGLIE ON LOT 3 ON SP161461**

Council refers to the above development application as properly made with Council on 15 November 2017. Please find attached the Decision Notice.

Please quote Council's application number MCUC 2359/2017 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.

Yours faithfully

**SIMON CLARKE**  
**A/Manager Sustainable Communities**

encl.

- Decision Notice & associated schedules

cc GMA Certification [adminpd@gmacert.com.au](mailto:adminpd@gmacert.com.au)

**DOUGLAS SHIRE COUNCIL**  
**DECISION NOTICE — DEVELOPMENT PERMIT (WITH CONDITIONS)**  
**(GIVEN UNDER SECTION 63 OF *THE PLANNING ACT 2016*)**

Douglas Shire Council has assessed your application and decided it as follows.

**1. Location details**

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Street address: Lot 3 Ferrero Road, Craiglie

Real property description: Lot 3 on SP161461

Local government area: Douglas Shire Council

**2. Details of the proposed development**

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Development Permit for Material Change of Use for a House in respect to P4, Rural Planning Area Code, 2006 Douglas Shire Planning Scheme (as amended).

**3. Decision**

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Decision details: A Development Permit for a Material Change of Use for a House is approved in full with conditions.

These conditions are set out in Schedule 1 and the approved plans are included in Schedule 2.

Date of decision: 16 November 2017

**4. Approved drawing(s) and / or document(s)**

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

Drawing/report title	Prepared by	Date	Reference no.	Version
3D Views Site Plan Detail Site Plan Floor and Area Plans, Floor Plan – Northern Half Floor Plan – Southern Half Elevations – Sheet 1 Elevations – Sheet 2	Greg Skyring Design & Drafting	9/10/2017	Sheets 1 - 8 of 8	A

A copy of the listed drawings(s) and / or documents is included in Schedule 2.

## 5. Conditions

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This approval is subject to the conditions and advices included in Schedule 1. These conditions are clearly identified to indicate whether the assessment manager or concurrence agency imposed them.

## 6. Further development permits

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

- All Building Work.
- Approvals are also required for:
- All Plumbing and Drainage Work.

## 7. Properly made submissions

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

## 8. Referral agencies for the application

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Not applicable

## 9. Currency period for the approval

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Under section 85(1)(a) of the *Planning Act 2016*, the relevant period for any development approval is to be six (6) years starting from the day the approval takes effect.

## 10. Reasons for decision

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The reasons for this decision are:

A. Section 60 of the *Planning Act 2016*:

- i. conditions 1 and 2; and
- ii. to ensure the development satisfies the Performance Criteria stated in P4, Rural Planning Area Code, 2006 Douglas Shire Planning Scheme (as amended).

B Findings on material questions of fact:

- i. The development application was properly lodged to the Douglas Shire Council on 15 November 2017 under section 51 of the *Planning Act 2016* and Part 1 of the Development Assessment Rules; and
- ii. The development application contained a report which Council reviewed together with Council's own investigation in making its assessment manager decision.

- C. Evidence or other material on which findings were based:
- i. The development triggered assessable development under Performance Criteria stated in P4, Rural Planning Area Code, 2006 Douglas Shire Planning Scheme (as amended);
  - ii. Council undertook an assessment in accordance with the provisions of section 60 of the *Planning Act 2016*; and
  - iii. The applicant's reasons are concurred with and the following findings are also made:
    - a. As the road is of a gravel finish the land is subject to dust emissions in particular during the dry season. A condition of the approval requires the applicant to maintain a 6m wide vegetation buffer that has a height of approximately 2 metres, except at the driveway entry to ensure good sight lines. This condition is imposed to minimise the impact of dust from the road; and
    - b. No details have been provided regarding compliance or otherwise for P14 and the standard of vehicle access. It is noted no application has been lodged for non-compliance with the Acceptable Solution / Planning Scheme Policy. These matters can be sufficiently addressed by an Advice Statement.

## **11. Rights to make Representations and rights of appeal**

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The rights of applicants to make representations and to appeal are included in Schedule 4.

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**END DECISION NOTICE**

## Schedule 1 - Conditions and advices imposed by the 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;
  - 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 Commencement of Use, except where specified otherwise in these conditions of approval.

### Landscape Buffer

3. The owner must provide and maintain a 6m wide landscape buffer from the property boundary to the road, with exception at the intersection of the driveway to achieve good sight lines. The landscape buffer is to be established with species to provide an approximate height of 2m after five years of growth.

### Advice Notes

1. The Applicant's attention is drawn to P14, Rural Planning Area Code, 2006 Douglas Shire Planning Scheme (as amended). No details were provided or a development application sought regarding non-compliance with the associated A14.1. Given the elevation of the building the external finishes also need to apply to the underside of the building where exposed.
2. The Applicant's attention is drawn to the FNQROC Development Manual Drawing S1105 Rural Allotment Accesses for the standard vehicle crossing. A copy of the latest version of this drawing is included in Schedule 3.
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. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements including Council's Planning Scheme and the *FNQROC Development Manual*.
5. For information relating to the *Planning Act 2016* log on to [www.dilgp.qld.gov.au](http://www.dilgp.qld.gov.au) . To access the *FNQROC Development Manual*, Local Laws, the Douglas Shire Planning Scheme and other applicable Policies log on to [www.douglas.qld.gov.au](http://www.douglas.qld.gov.au) .

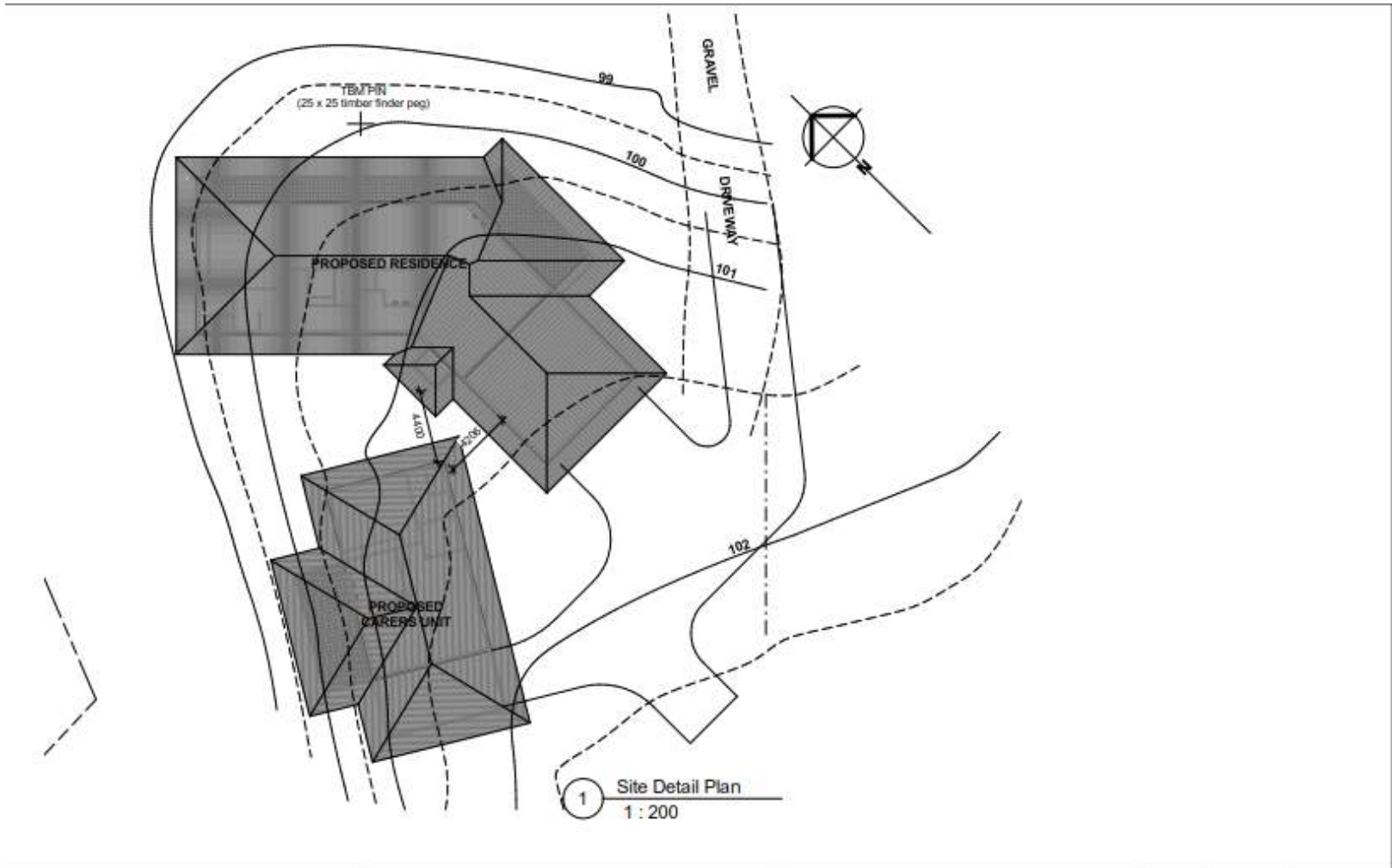
**Schedule 2 – Approved drawing(s) and / or document(s)**

1 3D - front left

2 3D - front right

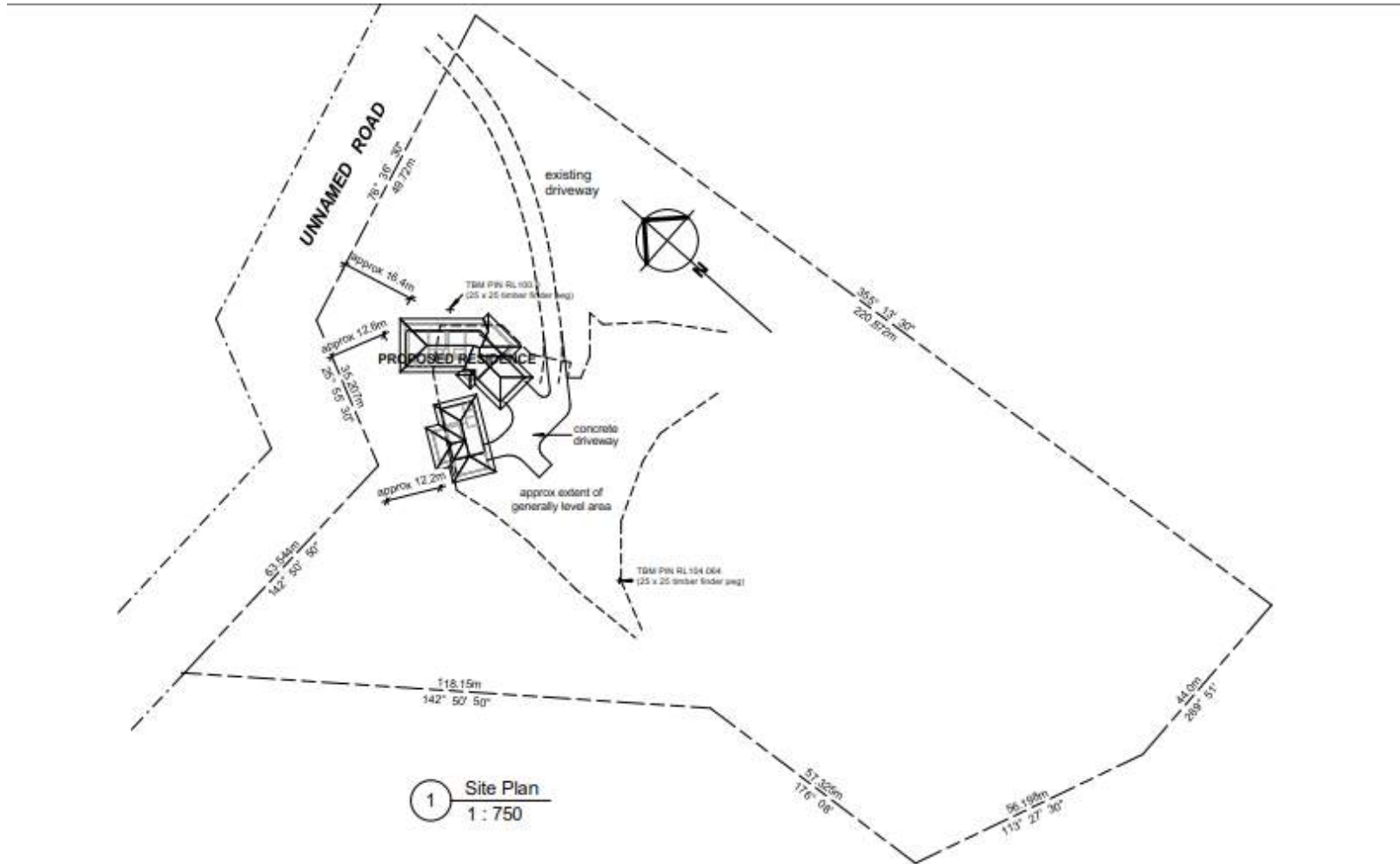
3 3D - rear right

<b>GREG SKYRING</b> <i>Design</i> and DRAFTING Pty. Ltd. <small>Lic Under QBSA Act 1991 - No 1040371</small> 11 Noli Close, Moesman Q. 4873 <small>Phone/Fax: (07) 43882001                  Mobile: 0415212852                  Email: greg@gregskyringdesign.com.au</small>	PROJECT Proposed Residence, Ferrero Road, L3 SP161461, CRAIGLIE	CLIENT	WIND CLASS	PLAN NUMBER	SHEET
		T. McGrath	C2	408-17	1 of 8
SCALES	PLAN TITLE:	DATE OF ISSUE	REV		
	3D Views	prelim 09.10.17	A		



1 Site Detail Plan  
1 : 200

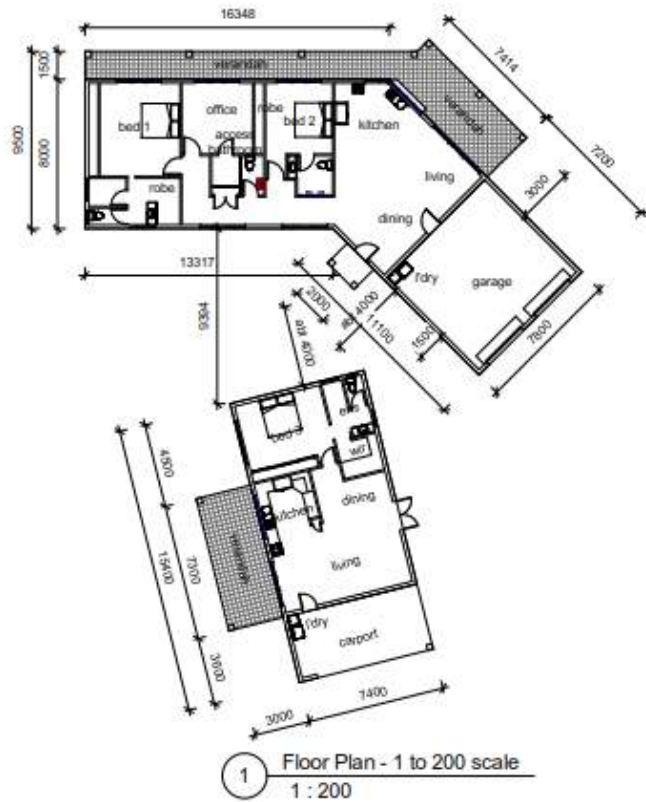
<b>GREG SKYRING</b> <i>Design</i> and DRAFTING Pty. Ltd. <small>Lic Under QBSA Act 1991 - No 1040371</small> 11 Nott Close, Mossman Q. 4873 <small>Phone/Fax: (07) 40922001          Mobile: 0415212852          Email: greg@gregskyringdesign.com.au</small>	PROJECT Proposed Residence, Ferrero Road, L3 SP161461, CRAIGLIE	CLIENT	WIND CLASS	PLAN NUMBER	SHEET
		T. McGrath	C2	408-17	2 of 8
		SCALES	PLAN TITLE	DATE OF ISSUE	REV
		1 : 200	Site Detail Plan	prelim 09.10.17	A



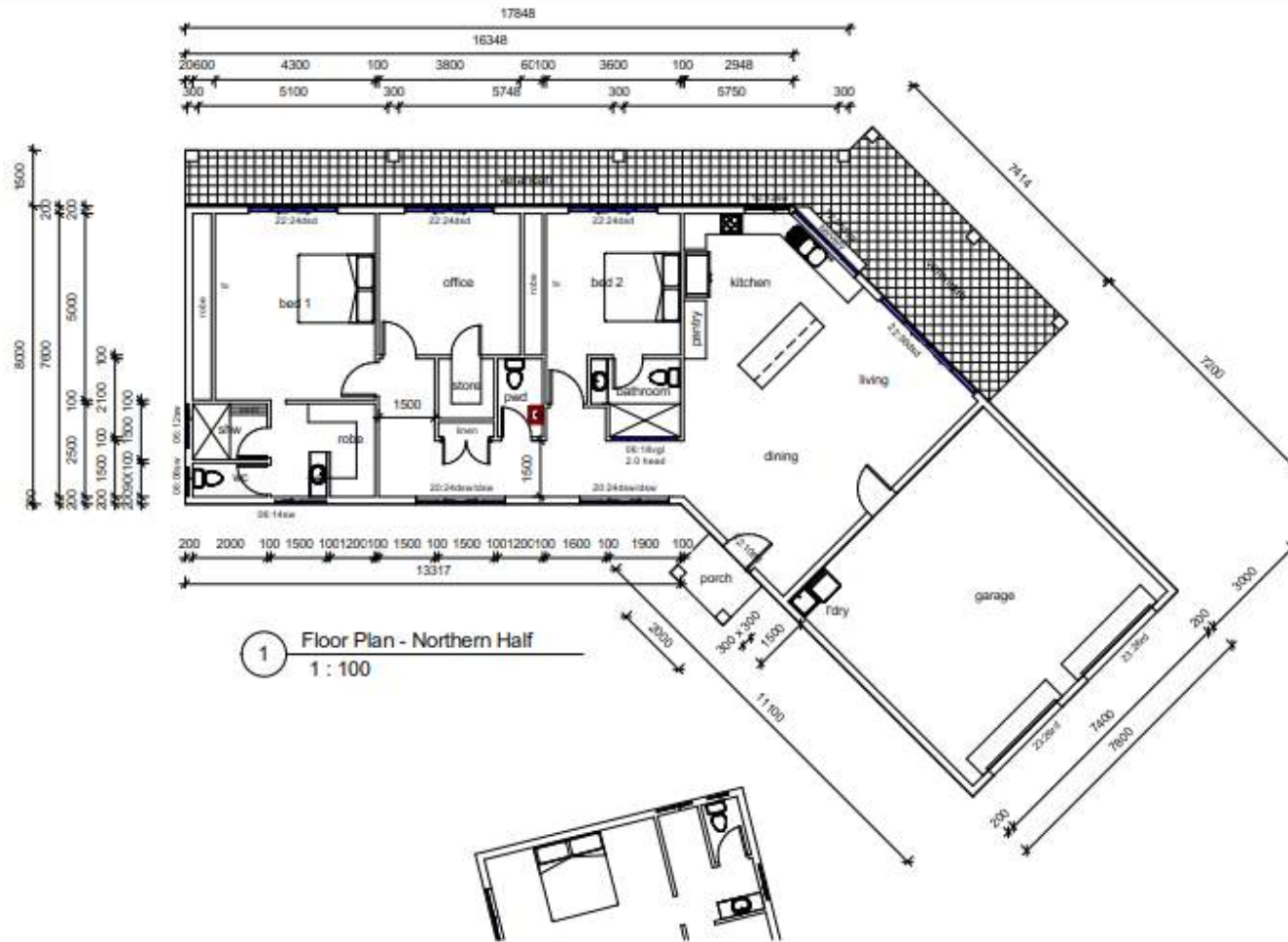
1 Site Plan  
1 : 750

<b>GREG SKYRING</b> <i>Design</i> and DRAFTING Pty. Ltd. <small>Lic Under QBSA Act 1991 - No 1040371</small> 11 Noll Close, Mosman Q. 4873 <small>Phone/Fax: (07) 40982001          Mobile: 0416212652          Email: greg@skyringdesign.com.au</small>	<b>PROJECT</b> Proposed Residence, Ferrero Road, L3 SP161461, CRAIGLIE	<b>CLIENT</b> T. McGrath	<b>WIND CLASS</b> C2	<b>PLAN NUMBER</b> 408-17	<b>SHEET</b> 3 of 8
		<b>SCALE</b> 1 : 750	<b>PLAN TITLE</b> Site Plan	<b>DATE OF ISSUE</b> prelim 06.11.17	<b>REV</b> A

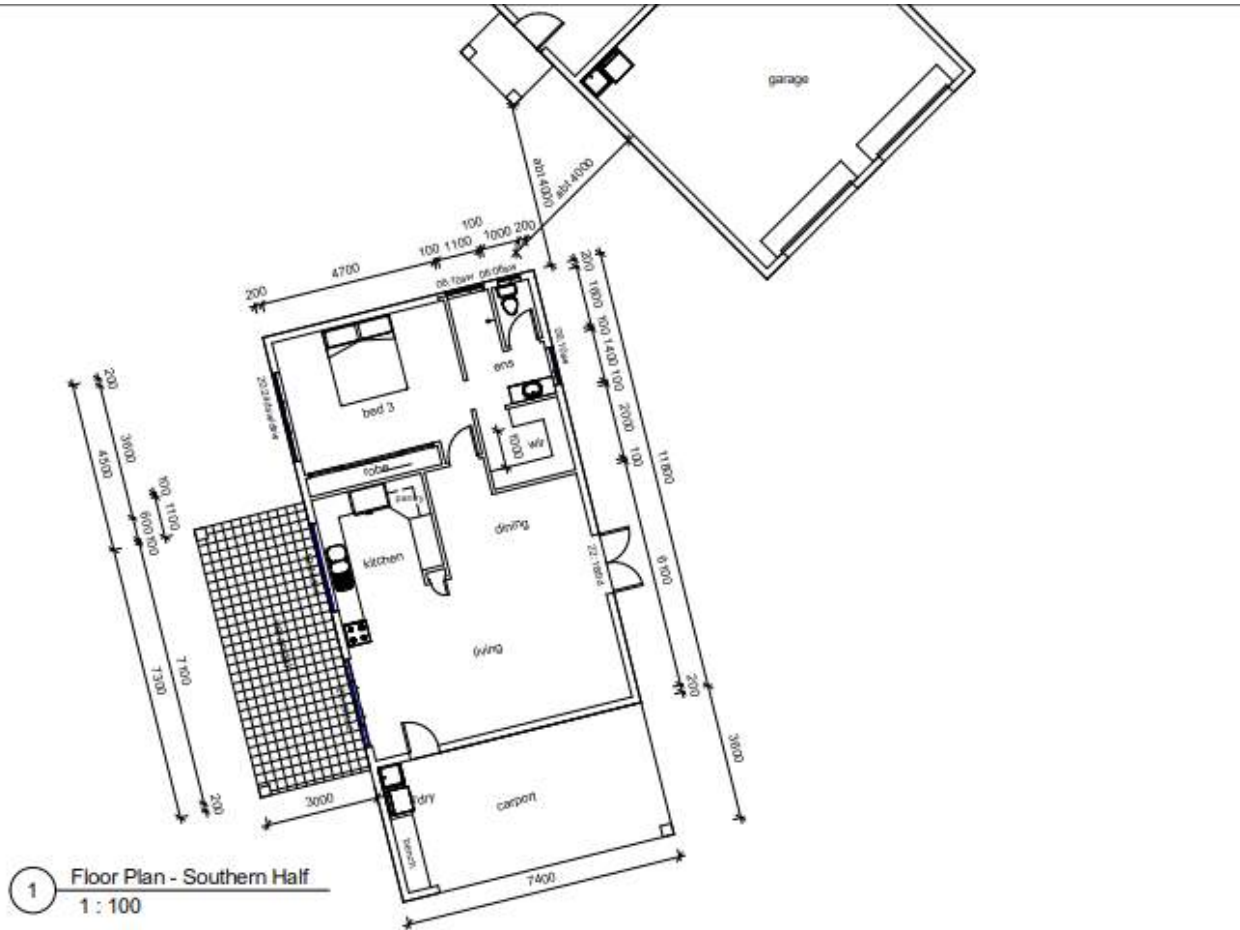




<b>GREG SKYRING</b> <i>Design</i> and DRAFTING Pty. Ltd. <small>Lic Under QBSA Act 1991 - No 1040371</small> <b>11 Noll Close,</b> <b>Mossman Q. 4873</b> <small>Phone/Fax: (07) 40882081          Mobile: 0419212652          Email: greg@skyringdesign.com.au</small>	<b>PROJECT</b> Proposed Residence, Ferrero Road, L3 SP161461, <b>CRAIGLIE</b>	<b>CLIENT</b> T. McGrath	<b>BOND CLASS</b> C2	<b>PLAN NUMBER</b> 408-17	<b>SHEET</b> 4 of 8
		<b>SCALES</b> 1 : 200	<b>PLAN TITLE</b> Floor and Area Plans - 1 to 200 scale	<b>DATE OF ISSUE</b> prelim 09.10.17	<b>REV</b> A



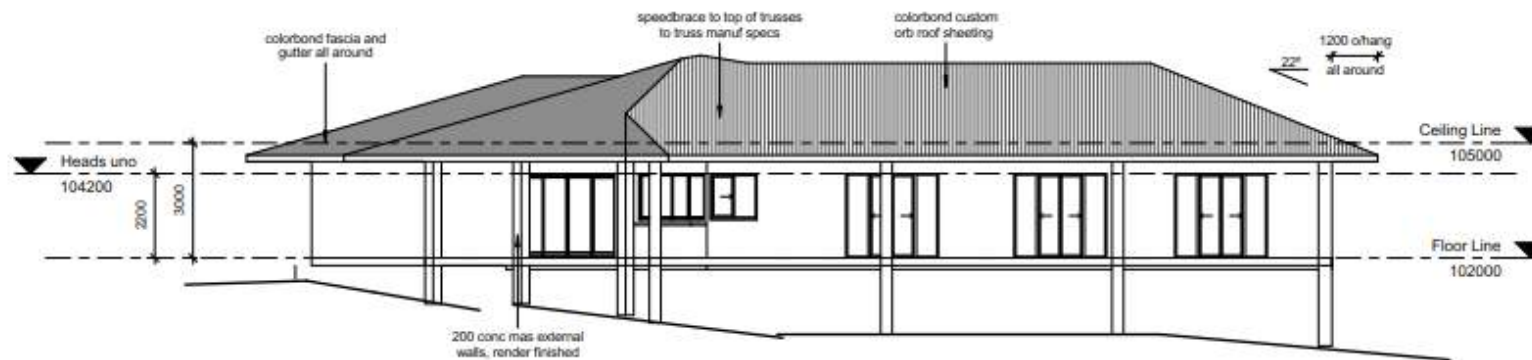
<b>GREG SKYRING</b> <i>Design</i> and DRAFTING Pty Ltd. <small>Lic Under QBSA Act 1991 - No 1040371</small> 11 Noll Close, Mossman Q. 4873 <small>Phone/Fax: (07) 43982061          Mobile: 0415212652          Email: greg@skyringdesign.com.au</small>	<b>PROJECT</b> Proposed Residence, Ferrero Road, L3 SP161461, CRAIGLIE	<b>CLIENT</b> T. McGrath	<b>WIND CLASS</b> C2	<b>PLAN NUMBER</b> 408-17	<b>SHEET</b> 5 of 8
		<b>SCALES</b> 1 : 100	<b>PLAN TITLE</b> GDF30P Floor Plan - Northern Half	<b>DATE OF ISSUE</b> prelim 09.10.17	<b>REV</b> A



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		<b>SCALE</b> 1 : 100	<b>PLAN TITLE</b> Floor Plan - Southern Half	<b>DATE OF ISSUE</b> prelim 09.10.17	<b>REV</b> A



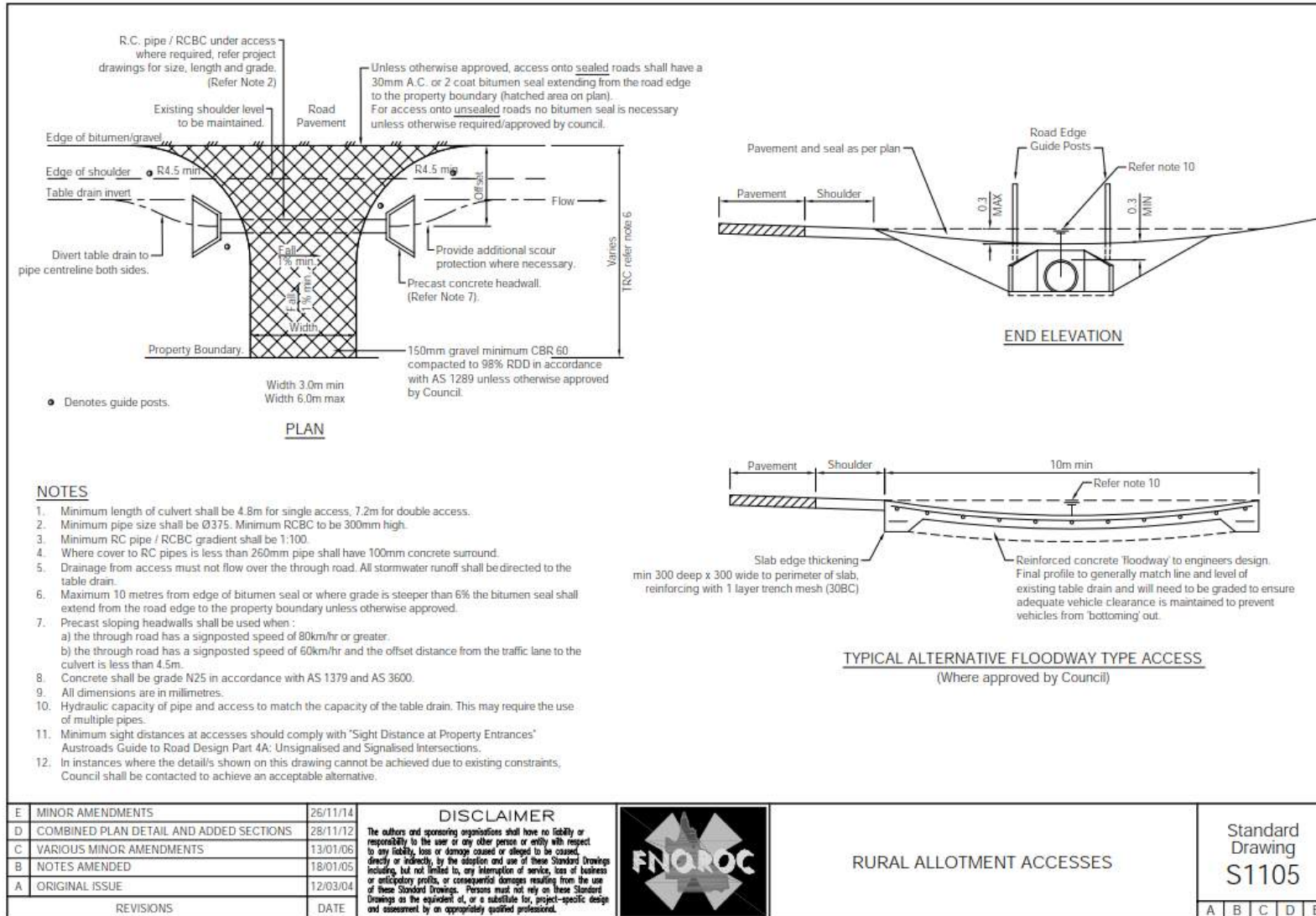
1 South East Elevation  
1 : 100



2 North East Elevation  
1 : 100

<b>GREG SKYRING</b> <i>Design</i> and DRAFTING Pty Ltd. <small>Lic Under QBSA Act 1991 - No 1040371</small> 11 Noll Close, Mossman Q. 4873 <small>Phone/Fax: (07) 49982001          Mobile: 04 152 12652          Email: greg@skyringdesign.com.au</small>	<b>PROJECT</b> Proposed Residence, Ferrero Road, L3 SP161461, CRAIGLIE	<b>CLIENT</b> T. McGrath		<b>WIND CLASS</b> C2	<b>PLAN NUMBER</b> 408-17	<b>SHEET</b> 7 of 8
		<b>SCALES</b> 1 : 100	<b>PLAN TITLE</b> Elevations - Sheet 1		<b>DATE OF ISSUE</b> prelim 09.10.17	<b>REV</b> A

# Schedule 3 FNQROC Development Manual Drawing S1105 Rural Allotment Access



## Schedule 4 – Applicant’s Rights to Make Representations

- (a) on the day the referral agency’s response for the missed referral agency is received by the assessment manager; or
- (b) if the missed referral agency does not give a referral agency’s response—on the day the referral agency’s assessment period of the missed referral agency ends.

### **Part 8                    Dealing with decision notices and approvals**

#### **Division 1                Changing decision notices and approvals during applicant’s appeal period**

##### **360    Application of div 1**

This division applies only during the applicant’s appeal period.

##### **361    Applicant may make representations about decision**

- (1) The applicant may make written representations to the assessment manager about—
  - (a) a matter stated in the decision notice, other than a refusal or a matter about which a concurrence agency told the assessment manager under section 287(1) or (5); or
  - (b) the standard conditions applying to a deemed approval.
- (2) However, the applicant can not make representations under subsection (1)(a) about a condition attached to an approval under the direction of the Minister.

**362 Assessment manager to consider representations**

The assessment manager must consider any representations made to the assessment manager under section 361.

**363 Decision about representations**

- (1) If the assessment manager agrees with any of the representations about a decision notice or a deemed approval, the assessment manager must give a new decision notice (the *negotiated decision notice*) to—
  - (a) the applicant; and
  - (b) each principal submitter; and
  - (c) each referral agency; and
  - (d) if the assessment manager is not the local government and the development is in a local government area—the local government.
- (2) Before the assessment manager agrees to a change under this section, the assessment manager must consider the matters the assessment manager was required to consider in assessing the application, to the extent the matters are relevant.
- (3) Only 1 negotiated decision notice may be given.
- (4) The negotiated decision notice—
  - (a) must be given within 5 business days after the day the assessment manager agrees with the representations; and
  - (b) must comply with section 335; and
  - (c) must state the nature of the changes; and
  - (d) replaces—
    - (i) the decision notice previously given; or
    - (ii) if a decision notice was not previously given and the negotiated decision notice relates to a deemed approval—the standard conditions applying to the deemed approval.

- (5) If the assessment manager does not agree with any of the representations, the assessment manager must, within 5 business days after the day the assessment manager decides not to agree with any of the representations, give written notice to the applicant stating the decision about the representations.

**364 Giving new notice about charges for infrastructure**

- (1) This section applies if the development approved by the negotiated decision notice is different from the development approved in the decision notice or deemed approval in a way that affects the amount of a levied charge.
- (2) The local government may give the applicant a new infrastructure charges notice to replace the original notice.

**366 Applicant may suspend applicant's appeal period**

- (1) If the applicant needs more time to make the representations, the applicant may, by written notice given to the assessment manager, suspend the applicant's appeal period.
- (2) The applicant may act under subsection (1) only once.
- (3) If the representations are not made within 20 business days after the day written notice was given to the assessment manager, the balance of the applicant's appeal period restarts.
- (4) If the representations are made within 20 business days after the day written notice was given to the assessment manager—
  - (a) if the applicant gives the assessment manager a notice withdrawing the notice under subsection (1)—the balance of the applicant's appeal period restarts the day after the assessment manager receives the notice of withdrawal; or
  - (b) if the assessment manager gives the applicant a notice under section 363(5)—the balance of the applicant's appeal period restarts the day after the applicant receives the notice; or



- (c) if the assessment manager gives the applicant a negotiated decision notice—the applicant’s appeal period starts again the day after the applicant receives the negotiated decision notice.

## **Division 2            Changing approvals—request for change after applicant’s appeal period ends**

### **Subdivision 1        Preliminary**

#### **367    What is a *permissible change* for a development approval**

- (1) A *permissible change*, for a development approval, is a change to the approval that would not, because of the change—
  - (a) result in a substantially different development; or
  - (b) if the application for the approval were remade including the change—
    - (i) require referral to additional concurrence agencies; or
    - (ii) for an approval for assessable development that previously did not require impact assessment—require impact assessment; or
  - (c) for an approval for assessable development that previously required impact assessment—be likely, in the responsible entity’s opinion, to cause a person to make a properly made submission objecting to the proposed change, if the circumstances allowed; or
  - (d) cause development to which the approval relates to include any prohibited development.
- (2) For deciding whether a change is a permissible change under subsection (1)(b) or (d), the planning instruments or law in force at the time the request for the change was made apply.

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- (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

- (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.

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- (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 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—

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- (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.