

13 June 2018

Enquiries: Jenny Elphinstone Tel 07 4099 9482  
Our Ref: MCUC 2566/2018 (Doc ID 859414)  
Your Ref:

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

Ms Suzanne Jane Lennox  
PO Box 135  
**SMITHFIELD QLD 4878**

Dear Madam

**DEVELOPMENT APPLICATION FOR MATERIAL CHANGE OF USE FOR A DWELLING  
HOUSE (CODE ASSESSMENT) AT LOT 66 GEORGE ROAD, FOREST CREEK  
ON LAND DESCRIBED AS LOT 66 ON RP735856**

Council refers to the above development application lodged with Council on the 22 March 2018.

Please find attached the Decision Notice for the above-mentioned development application.

Please quote Council's application number: MCUC 2566/2018 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 or at [jenny.elphinstone@douglas.qld.gov.au](mailto:jenny.elphinstone@douglas.qld.gov.au).

Yours faithfully

  
**PAUL HOYE**  
Manager Sustainable Communities

encl.

- Decision Notice
- Approved Plans
- Applicant's Rights to make representations and applicant's appeal rights.

## DOUGLAS SHIRE COUNCIL

### DECISION NOTICE — APPROVAL (WITH CONDITIONS) (GIVEN UNDER SECTION 63 OF *THE PLANNING ACT 2016*)

Thank you for your development application detailed below which was properly made on the 22 March 2018. Please be aware that Douglas Shire Council has assessed your application and decided it as follows.

#### 1. Applicant's details

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Name: Ms Suzanne Jane Lennox

Postal Address: PO Box 135  
SMITH FIELD QLD 4878

#### 2. Location details

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Street address: 66L George Road, Forest Creek

Real property description: Lot 66 on RP735856

Assessment Manager: Douglas Shire Council

#### 3. Details of the proposed development

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Development Permit for a material change of use for a Dwelling House.

#### 4. Decision

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Decision details: Development Permit approved in full with conditions.  
These conditions are set out in Schedule 1 and are clearly identified to indicate whether the assessment manager or a concurrence agency imposed them.

Date of decision: 13 June 2018.

#### 5. Approved plans and specifications

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

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Aspect of development: Material Change of Use				
Site plan	ICE International, Consulting Engineers and Managers	February 2018	Job 15147, Drawing 01	N/A

Drawing/report title	Prepared by	Date	Reference no.	Version/issue
Elevations	ICE International, Consulting Engineers and Managers	February 2018	Job 15147, Drawing 02	N/A
Footing plan	ICE International, Consulting Engineers and Managers	February 2018	Job 15147, Drawing 03	N/A
Shed / Carport Layout & Elevations	ICE International, Consulting Engineers and Managers	February 2018	Job 15147, drawing 05	N/A
Lintels and footings	ICE International, Consulting Engineers and Managers	February 2018	Job 15147, Drawing 06	N/A

## 6. Conditions

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

## 7. Further development permits

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

- Development permit for Building work for all buildings, sheds and structures.

Note separate permits are required for the installation of plumbing fixtures and an onsite waste water treatment facility under the Queensland *Plumbing and Drainage Act 2002*.

## 8. Properly made submissions

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

## 9. Referral agencies for the application

Not applicable.

## **10. Currency period for the approval**

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This development approval will lapse at the end of the period set out in section 85 of Planning Act 2016, being six (6) years from the date of approval..

## **11. Rights of appeal**

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The rights of applicants to make representations and the 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*. 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 2016* that sets down the applicant's right to make representations and appeal rights.

## **SCHEDULE 1 CONDITIONS AND ADVICES IMPOSED BY THE ASSESSMENT MANAGER**

### **PART 1A – 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

2. The approval is retrospective for the house and shed at the current location on the land.

#### **Timing of Effect**

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

#### **Geotechnical Assessment**

3. Within one year of the approval a geotechnical assessment of the batter at the rear of the building pad must be carried out by a qualified and experienced geotechnical consultant, and the batter must be amended to incorporate recommendations made within a further twelve months unless an earlier date is advised by the consultant.

#### **Lawful Point of Discharge**

4. All 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, all to the requirements and satisfaction of the Chief Executive Officer.

#### **No further Clearing**

5. No further clearing is approved unless otherwise permitted under the Planning Scheme.

#### **Bushfire Considerations**

6. Suitability of design and materials in regards to bushfire risk are to be addressed through the further Development Permit for Building Work.

#### **Treatment of Onsite Waste**

7. The method of on-site effluent disposal must be in accordance with the *Queensland Plumbing and Drainage Act 2002* and Section 33 of the *Environmental Protection Policy (Water) 1997*. 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.

#### **Water Supply**

8. Water storage tank(s) with a minimum capacity not less than 10,000 litres, with a minimum of a 7,500 litre tank, and 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 tanks must be provided with:
  - a. 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
  - b. Flap valve at every opening of the tank or other receptacle; or
  - c. Other approved means for preventing the ingress or egress of mosquitoes; and

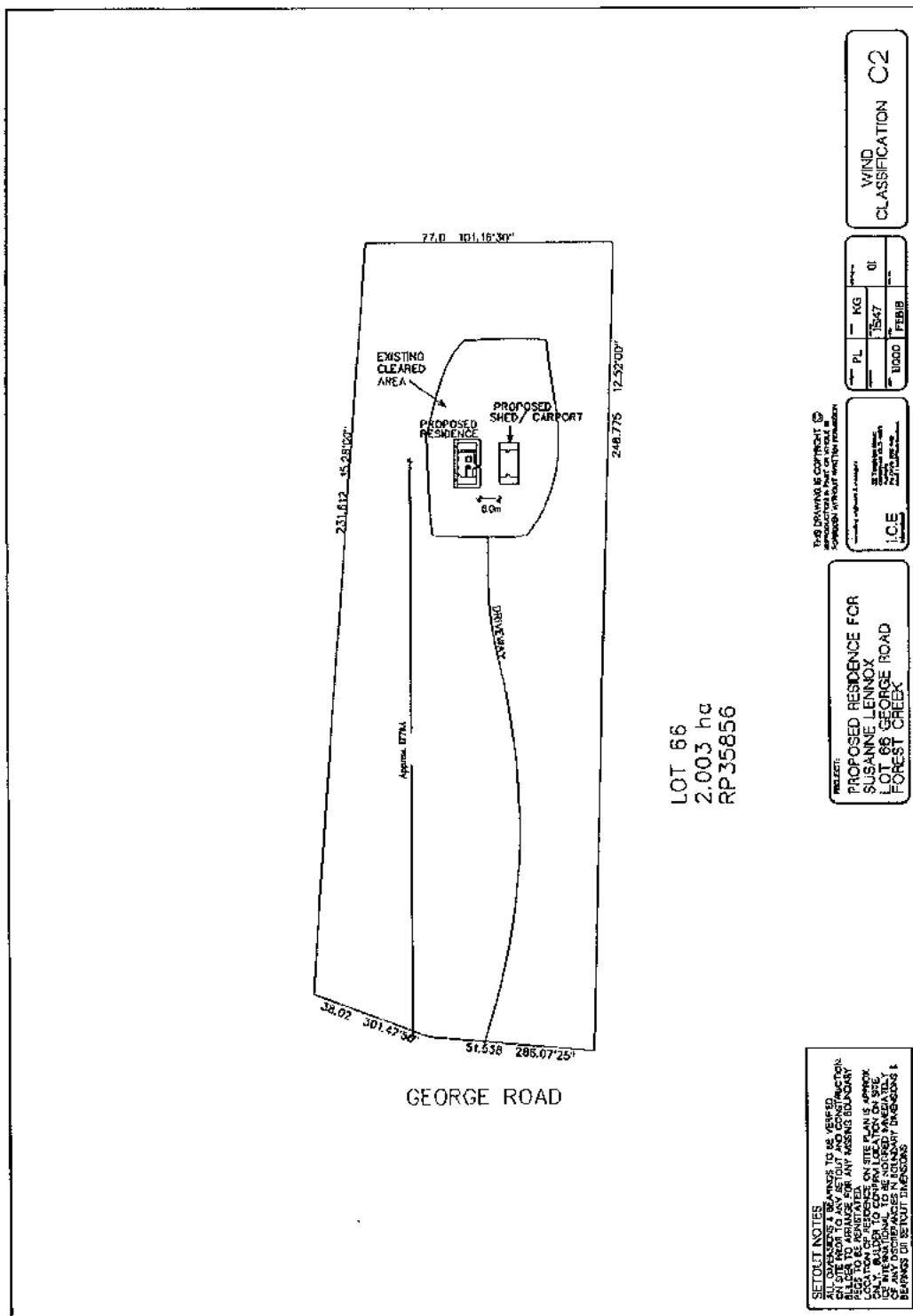
- d. Where a tank or other receptacle is provided with a manhole, the manhole must have a diameter of no more than 40 cm; and
- e. The water tank(s) shall be fitted with a 50 mm ball valve with a camlock fitting.

## **PART 1B – ADVICE NOTES**

### **ADVICE**

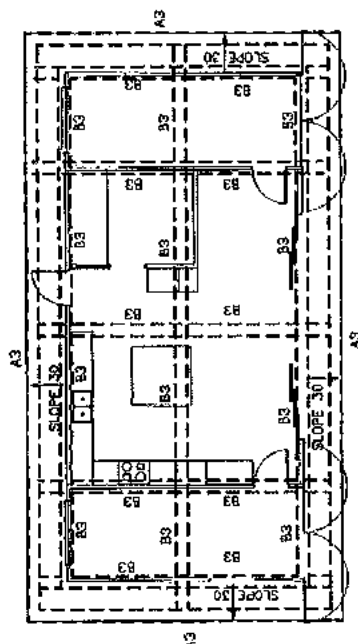
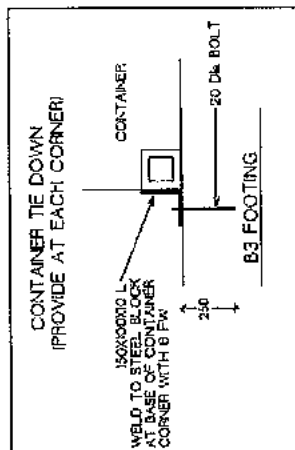
1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse two (2) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.
2. In respect to Condition 3 Council recommends advice be sought from the qualified and experienced geotechnical consultant prior to finalising the application for a development permit for building work, as access to the batter at the rear of the building pad may be restricted by the development of the house.
3. It is recommended additional soil tests be taken, where necessary, to ensure the house is not located on fill.
4. 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 potential cyclone warning and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
5. This approval does not negate the requirement for compliance with relevant Local Laws and statutory requirements including the need to address invasion of any weed species.
6. For information relating to the *Planning Act 2016* log on to <https://planning.dsdmip.qld.gov.au/> . To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to [www.douglas.qld.gov.au](http://www.douglas.qld.gov.au).

# Approved plans and specifications









3FBT4 X 2000 ACROSS CORNERS

SLAB NOTES:  
 1. SLAB LENGTH/ WIDTH 41m.  
 2. SLT2 MESH 25 COVER TOP  
 3. SLAB LENGTH/ WIDTH -  
 4. MEASURE FROM SLAB END TO END  
 5. BETWEEN CONTROL JOINTS  
 or

PROVIDE RETAINING WALLS  
WHERE REQUIRED.  
SEE CONTOUR PLAN & CONSULT  
WITH ICE IF NECESSARY.

IF CUT/FILL IS GREATER THAN 300mm, ICE INTERNATIONAL IS TO BE INFORMED, AS SITE MAY REQUIRE RECLASSIFICATION AND POSSIBLE RE-DESIGN

- [illegible]

PROPOSED CONTAINER  
RESIDENCE SLAB PLAN

**SETOUT NOTES**  
ALL DIMENSIONS & BEARINGS TO BE VERIFIED ON SITE PRIOR TO ANY SETOUT AND CONSTRUCTION BEGINS TO ASSURE FOR ANY MISSING BOUNDARY MARKS TO BE REINSTATED.  
LOCATION OF RESIDENCE ON SITE PLAN IS APPROX. BUILDER TO CONFIRM LOCATION ON SITE. ANY INTERFERING TO BE NOTED IMMEDIATELY. ANY DISCREPANCIES IN BOUNDARY DIMENSIONS & BEARINGS ON SETOUT DIMENSIONS

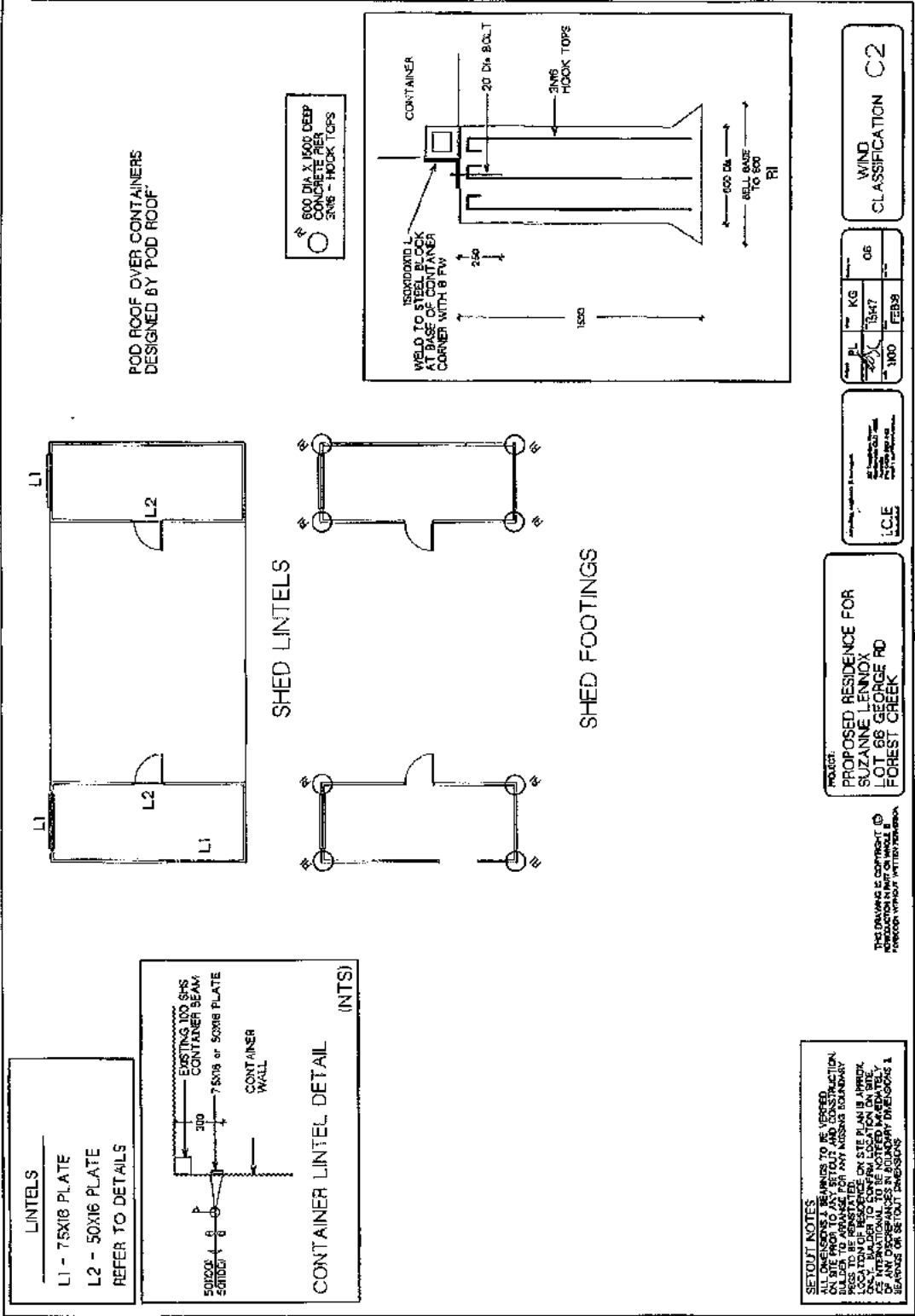
PROPOSED RESIDENCE FOR  
SUZANNE LENNOX  
LOT 68 GEORGE RD  
FOREST CREEK

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 PROHIBITED WITHOUT ITS WRITTEN PERMISSION

PL	KG	03
<del>PL</del>	<del>KG</del>	<del>03</del>
100	100	100

WIND  
CLASSIFICATION C2





## SCHEDULE 2 – PLANNING ACT EXTRACT ON APPEAL RIGHTS

Sustainable Planning Act 2009  
Chapter 6 Integrated development assessment system (IDAS)

[s 360]

- (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.

- (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.

- (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—

- (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.