

5 August 2021

Enquiries: Jenny Elphinstone
Our Ref: MCUI 2021_4081/1 (Doc ID 1028038)
Your Ref: P81619

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

Christopher Hirst & Elisabeth Kendall Hirst and
Hirst SMSF Pty Ltd
C/ Ms Nikki Huddy
Planz Town Planning
PO Box 181
EDGE HILL QLD 4870

Email: info@planztp.com

Dear Madam

**Development application for Material Change of Use for
Short-term accommodation and Caretaker's accommodation
At 40 & 44 Nicole Drive Cape Tribulation
On land described as Lots 4 and 5 on RP738897**

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

Please quote Council's application number: MCUC 2021_4081/1 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9444.

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

encl.

- Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - Reasons for Decision
- Advice For Making Representations and Appeals (Decision Notice)
- Adopted Infrastructure Charges Notice
- Advice For Making Representations and Appeals (Infrastructure Charges)



Decision Notice

Approval (with conditions)

Given under section 63 of the Planning Act 2016

Applicant Details

Name: Hirst SMSF Pty Ltd (Tte) & E K Hirst & C Hirst
Postal Address: PO Box 181
EDGE HILL QLD 4870
Email: info@planztp.com

Property Details

Street Address: 40 & 44 Nicole Drive Cape Tribulation
Real Property Description: Lots 4 and 5 on RP738897
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Material Change of Use for Short-term accommodation and Caretaker's accommodation.

Decision

Date of Decision: 5 August 2021
Decision Details: Approved (subject to conditions)

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

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

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

Drawing or Document	Reference	Date
Overall site plan	Applicant drawing provided on 27 April 2021 (Council document 1009907).	27 April 2021

Drawing or Document	Reference	Date
Proposed Caretaker's building and site plan	Greg Skyring Design and Drafting Pty Ltd Plan 202-21 Revision A	10 March 2021
Cabin accommodation floor plan	Gavin Paddock Building designer drawing 98/568-4-A.	11 November 1998
Cabin accommodation elevations	Gavin Paddock Building designer drawing 98/568-7-A.	11 November 1998

Assessment Manager Conditions & Advices

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.

Guest Limit

3. The maximum number of persons/bed spaces to be accommodated on the site at any time for the Short term Accommodation is ten (10) persons comprising two (2) cabins with two bed spaces for two persons each; and a two-bedroom short term accommodation dwelling with an attached garden apartment providing accommodation for six (6) persons. These accommodation figures are exclusive of the Caretaker's Accommodation.

Guests have a maximum stay of thirty (30) consecutive nights.

Location and Operation of Uses

4. The short-term accommodation cabins and the short-term accommodation dwelling with attached garden apartment are located on Lot 5 on RP738897. The use of the short-term accommodation is discontinued and the use rights under this approval lapse, where the Lot is no longer held together in the same ownership and operation as Lot 4 on RP738897.

The Caretaker's Accommodation is located on Lot 4 on RP738897 and the caretaking activity is over the whole of Lots 4 and 5 on RP738897.

The use of Short-term accommodation lapses where the caretaking activity no longer occurs over the whole of the Lots 4 and 5 on RP738897. In such a circumstance the Caretaker's accommodation on Lot 4 can continue as caretaking associated with activities on Lot 4.

Operators

5. The use is only to be conducted by a resident(s) of the premises or a caretaker(s) and appropriate employees.

Accommodation Management Plan

6. The operation of the accommodation must be in accordance an approved Management Plan. The Management Plan outlines how the accommodation is managed including, but not limited to, matters such as guest transport on the site, waste, any service of food and beverages and guest safety and behaviour. The Management Plan must be submitted to the satisfaction of the Chief Executive Officer prior to Commencement of Use. The Management Plan can be amended from time to time by approval of the Chief Executive Officer. The Management Plan must be adhered to at all times.

Availability of onsite management

7. The resident(s) or caretaker(s) or their representative / employee must be available at all times and is responsible for all persons on the premises. Twenty-four (24) hour communication must be made available between the traveller / visitor occupants and resident/ caretaker while the traveller / visitors are residing at the property.

On-Site Effluent Disposal

8. The method of on-site effluent disposal must be in accordance with the Queensland Plumbing & Wastewater Code. 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

9. The on-site water supply designated for use as potable water must meet the requirements of The Australian Drinking Water Guidelines. Any treatment system required must be installed and operational prior to commencement of use and is the responsibility of the property owner.

Vehicle Parking and Access

10. The amount of vehicle parking must be as specified in Council's Planning Scheme which is a minimum as follows:

Caretaker's accommodation – one (1) car parking space;

Short term accommodation cabins – one car parking space for each cabin; and

Short-term accommodation dwelling and attached garden apartment – two car parking spaces.

The parking areas must be designated and identified on site, to the satisfaction of the Chief executive Officer.

The applicant must provide access vehicles for the guests between the car parking area and the short -term accommodations. Access track areas must include a safe turning area near each of the short-term accommodation cabins. The internal access driveways must have a minimum of a solid ground cover must be provided and maintained to a satisfactory standard for the life of the approved use (e.g.- blue stone and gravel products) to the satisfaction of the Chief Executive Officer.

Safe access tracks on the land must be provided between the Caretaker's accommodation and the Short-term accommodations that do not result in excessive dust or ground erosion to the satisfaction of the Chief Executive Officer.

Vegetation Clearing

11. Existing remnant 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. Any further clearing requires assessment against the Planning Scheme.

Generators

12. All power generation devices are to be positioned and housed (including noise attenuation material) so as to mitigate noise nuisance to adjoining and nearby residents.

Fuel Storage

13. All fuels must be stored in an undercover, secure and bunded location at all times.

2018 Douglas Shire Council Planning Scheme Definitions

Column 1 Use	Column 2 Definition	Column 3 Examples include	Column 4 Does not include the following examples
Caretaker's accommodation	A dwelling provided for a caretaker of a non-residential use on the same premises.		Dwelling house.
Short term Accommodation	<p>Premises used to provide short-term accommodation for tourists or travellers for a temporary period of time (typically not exceeding three consecutive months) and may be self-contained.</p> <p>The use may include a manager's residence and office and the provision of recreation facilities for the exclusive use of visitors.</p>	Motel, backpackers, cabins, serviced apartments, accommodation hotel, farm stay.	Hostel, rooming accommodation, tourist park.

Advice

1. Where from time to time the Short-term accommodation buildings are occupied in total by a family the premises will be considered as a dwelling house. This approval does not revoke the continued use of a Dwelling house and bed and breakfast as a continuing use lawfully established under previous planning instruments.
2. Note Schedule 24 of the Planning Regulation 2017 defines the use of short term accommodation as follows.

“short-term accommodation—

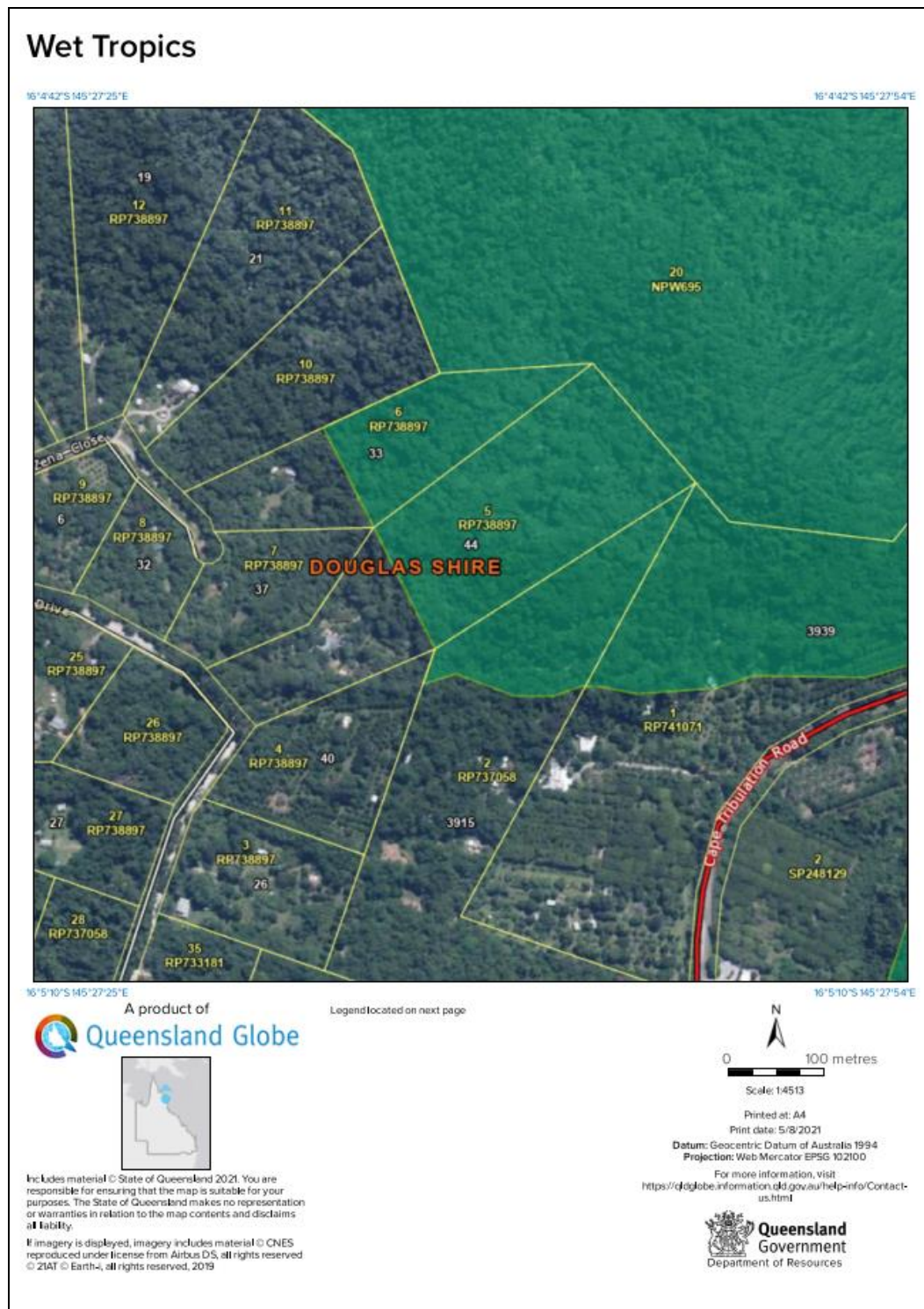
(a) means the use of premises for—

(i) providing accommodation of less than 3 consecutive months to tourists or travellers; or

(ii) a manager's residence, office, or recreation facilities for the exclusive use of guests, if the use is ancillary to the use in subparagraph (i); but

(b) does not include a hotel, nature-based tourism, resort complex or tourist park.”
3. Vegetation clearing is currently subject to the 2018 Douglas Shire Planning Scheme, specifically Section 9.4.9 Vegetation Management Code. The Code nominates accepted development that may occur in respect to the removal of pests species and other instances.
4. 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 Section 85 of the *Planning Act 2016*.

5. Part of the land is contained in the Wet Tropics, refer to the Map below. Separate approvals may be required to undertake land uses and development in the Wet Tropics. The applicant is encouraged to contact the Wet Tropics Management Authority to clarify the need for any approval.



Wet Tropics

Legend

Wet Tropics of Queensland
World Heritage Area



Local government



Address



Land parcel



Parcel

Property



Land parcel label

Road

Highway

Main

Local

Private

Attribution

Maxar

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6. 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.
7. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
8. The use of vehicles over opened roads require these vehicles to be appropriately registered through the Queensland Department of Transport.
9. For information relating to the *Planning Act 2016* log on to www.dsdmip.qld.gov.au. To access the *FNQROC Development Manual*, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au.

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 Operational Work

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

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)

SITE PLAN 40 - 44 NICOLE DR, CAPE TRIBULATION

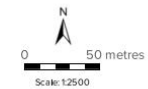
Council Ref MCUI 2021_4081



A product of
Queensland Globe



Legend located on next page



Printed at: A3
Print date: 27/4/2021
Datum: Geocentric Datum of Australia 1994
Projection: Web Mercator EPSG 102100
For more information, visit <https://qdglobe.information.qld.gov.au/help-info/contact-us.html>

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Caretaker Accommodation - Lot 4

WALL FRAMING

EXTERNAL

2/90 x 45 FB TOP R -
M12 H.D. BOLTS @ 1200 c/c
U.N.O.
90 x 45 FB STUDS @ 450 c/c
90 x 45 FB BOTTOM R

LINTELS

OPEN. LINTEL	STUDS	BESE	H.D.
900 100 x 50 F14	1	M12	
1200 125 x 50 F14	2	M12	
1500 150 x 50 F14	2	M12	
1800 175 x 50 F14	2	M12	
2100 200 x 50 F14	2	M12	
2400 175 x 75 F14	3	M12	
2700 200 x 75 F14	3	M12	
3000 225 x 75 F14	3	M12	
3300 250 x 75 F14	4	M12	
3600 275 x 75 F14	4	M12	

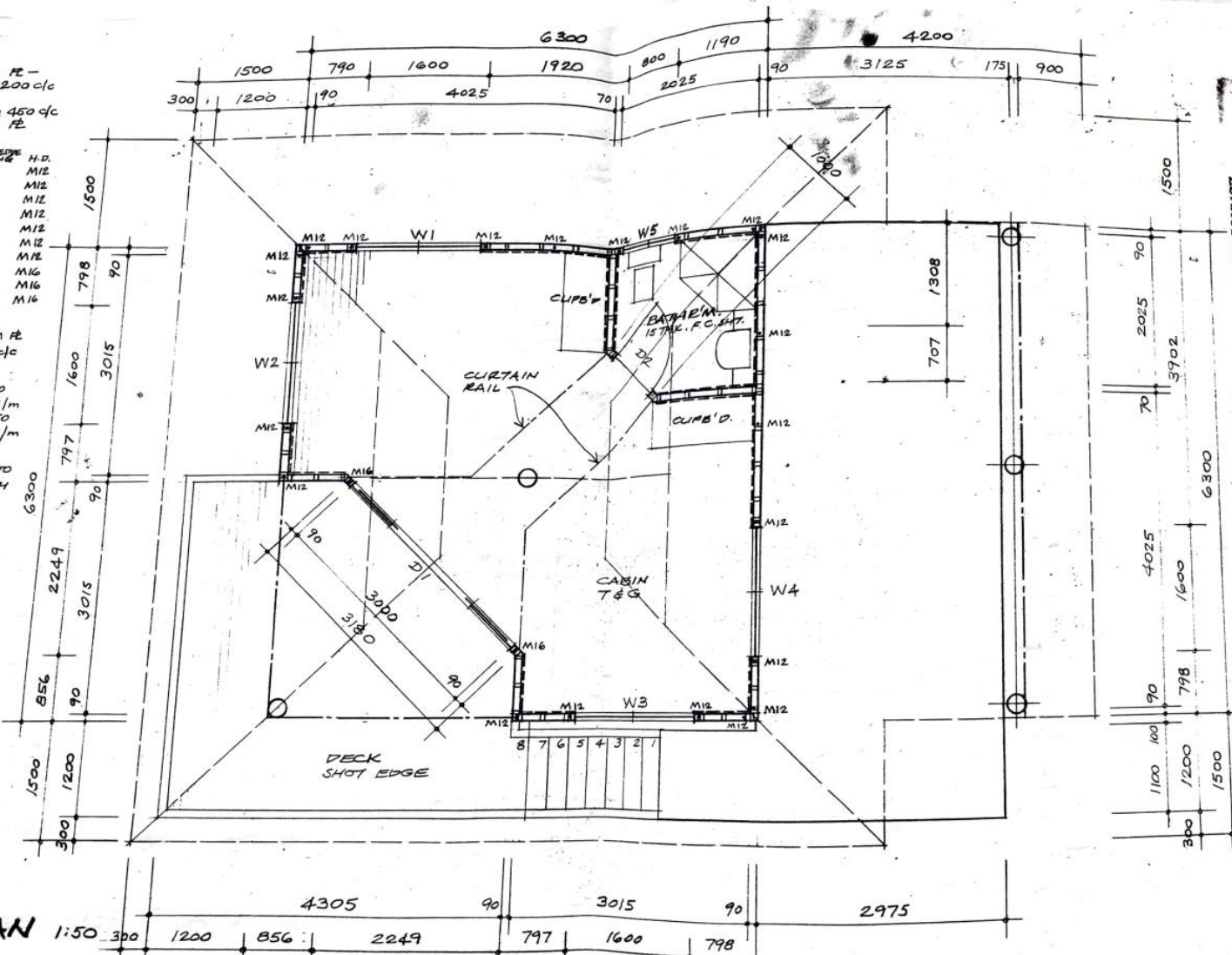
INTERNAL
70 x 45 F5 TOP & BOTTOM R
70 x 35 F5 STUDS @ 600 c/c

BRACING NOTES

PLYWOOD FIXED TO
MANUF'S SPEC. FOR 4 kN/m
PLYWOOD FIXED TO
MANUF'S SPEC. FOR 3 kN/m

NOTE

ALL TIMBER FRAMING TO
BE IN ACCORDANCE WITH
TRAPAC W50C TIMBER
FRAMING MANUAL



The building work shown on this drawing/document is approved subject to the conditions issued on the approval

This drawing is signed in red by the designer, is an authentic copy of plans produced by this design office, for this specific building and No responsibility will be taken for the unauthorized use of these drawings.

W50C

FLOOR PLAN 1:50

PROPOSED BED & BREAKFAST CABINS FOR

D. & A. Gotts

AT TRIB VALLEY FRUIT FARM, LOT 5, NICOLE DRIVE, CAPE TRIBULATION, QLD, 4873

11.11.98

DRAWING NO. **98/568-4-A**

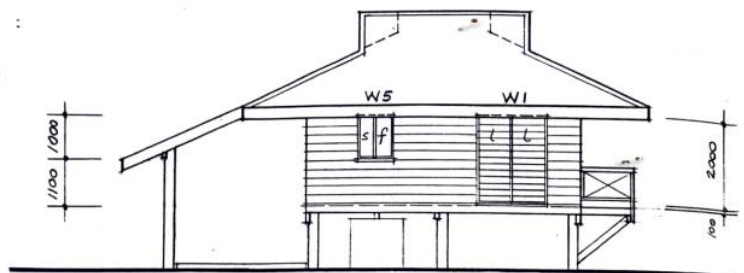
MULTITEC CONSULTING GROUP PTY LTD
ACN No 083 885 741
STRUCTURAL/FOOTING DETAILS ARE
CERTIFIED AS STRUCTURALLY
ADEQUATE IN ACCORDANCE WITH
ENGINEERS CERTIFICATE
CERTIFICATE NO: 98004
SIGNATURE/DATE: *[Signature]*
10/11/98

Gavin Paddock

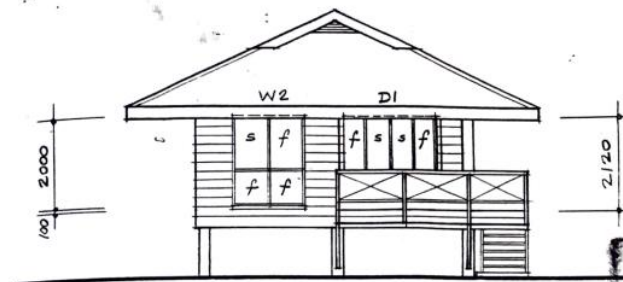
BUILDING DESIGNER

COMMERCIAL, RESIDENTIAL AND INDUSTRIAL DESIGN FOR THE TROPICS
Studio 5 / 96 Martyn Street, Cairns, Queensland, 4870
Phone/Fax (07) 4041 4041 + Mobile 0419 655 420
BDAQ Membership No.210 BSA Licence No.066267

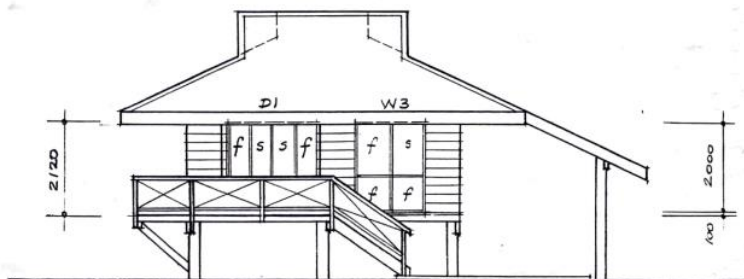
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DRIVEWAY ELEVATION 1:100



SIDE ELEVATION 1:100



CREEK ELEVATION 1:100



CARPORT ELEVATION 1:100

The building is subject to the conditions issued on the approval.

PROPOSED BED & BREAKFAST CABINS FOR

D. & A. Gotts

AT TRIB VALLEY FRUIT FARM, LOT 5, NICOLE DRIVE, CAPE TRIBULATION, Q.L.D. 4873

11.11.98

DRAWING NO. **98/568-7-A**

This drawing signed in red by the designer, is an authentic copy of plans produced by this design office, for this specific building site.

G. Paddock

No responsibility will be taken for the unauthorized use of these drawings.

Gavin Paddock

BUILDING DESIGNER

COMMERCIAL, RESIDENTIAL AND INDUSTRIAL DESIGN FOR THE TROPICS

Studio 5 / 96 Martyn Street, Cairns, Queensland, 4870

Phone/Fax (07) 4041 4041 + Mobile 0419 655 420

BDAQ Membership No.210 BSA Licence No.066267

Builder to verify all works prior to commencement of project is no responsibility shall be taken after starting. Do not scale off plan, figured dimensions to take precedence. This plan remains the property of GAVIN PADDOCK and any reproduction in part or in whole is prohibited unless written permission is obtained. COPYRIGHT RETAINED

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 20 April 2021 under section 51 of the *Planning Act 2016* and Part 1 of the *Development Assessment Rules*;
 - b. the development application 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 Conservation 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.

Non-Compliance with Assessment Benchmarks

Through the conditions of the approval the development complies with the planning scheme and no concerns are raised.

Adopted Charges



2018 Douglas Shire Planning Scheme version 1.0 Applications

ADOPTED INFRASTRUCTURE CHARGES NOTICE

C Hirst E Kendall Hirst & Hirst SMSF P/L		N/A	0
DEVELOPERS NAME		ESTATE NAME	STAGE
40-44 Nicole Drive	Cape Tribulation	Lots 4 and 5 on RP738897	7558 & 7559
STREET No. & NAME	SUBURB	LOT & RP No.s	PARCEL No.
MCU Caretaker's and Short Term Accommodations		MCUC 2021_4081/1	6
DEVELOPMENT TYPE		COUNCIL FILE NO.	VALIDITY PERIOD (year)
1026894	1	Payment before the change occurs	
DSC Reference Doc. No.	VERSION No.		

Infrastructure Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021 (Came into effect on 1 March 2021).
Douglas Shire Council Infrastructure Charges Resolution (No.2) 2021.

		Charge per Use	rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
Proposed Demand							
Caretaker's accommodation	Residential	\$13,632.40 per one bedroom caretaker's residence	\$13,632.40	1	\$13,632.40		
Short term Accommodation	Short-term accommodation	\$13,632.40 per three bedroom accommodation	\$13,632.40	1	\$13,632.40		
Short Term Accommodation	Short-term accommodation	\$6,393.33 per one bedroom short term accommodation	\$6,393.33	2.00	\$12,786.66		
Total Demand					\$40,051.46		
Existing Credit							
3 bedroom Dwelling House			\$24,143.38	1	\$24,143.38		
Non- water service area	(Discount applied to Proposed uses - existing use, being \$15,980.08)	30% discount on net	\$15,980.08	-0.3	\$4,772.42		Code 895 GL 7470.0135.0825
Non-sewer service are	(Discount applied to Proposed uses - existing use, being \$15,980.08)	35% discount on net	\$15,980.08	-0.35	\$5,593.03		
Total Credit					\$34,508.83		

Required Payment or Credit **TOTAL** **\$5,542.63**

Prepared by	Jenny Elphinstone	30-Jul-21	Amount Paid	
Checked by	Neil Beck	5-Aug-21	Date Paid	
Date Payable	MCU - Before the change occurs		Receipt No.	
Amendments		Date	Cashier	

Note:

The Infrastructure Charges in this Notice are payable in accordance with Sections 119 and 120 of the *Planning Act 2016* as from Council's resolution from the Ordinary Meeting held on 23 February 2021.

Charge rates under the Policy are subject to indexing.

Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

Charges are payable to: Douglas Shire Council. You can make payment at any of Council's Business Offices or by mail with your cheque or money order to Douglas Shire Council, PO Box 723, Mossman QLD 4873. Cheques must be made payable to Douglas Shire Council and marked 'Not Negotiable.' Acceptance of a cheque is subject to collection of the proceeds. Post dated cheques will not be accepted

Any enquiries regarding Infrastructure Charges can be directed to the Development & Environment, Douglas Shire Council on 07 4099 9444 or by email on enquiries@douglas.qld.gov.au

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) 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.

5 August 2021

Enquiries: Jenny Elphinstone
Our Ref: MCUI 2021_4081 (Doc ID 1028038)
Your Ref: P81619

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

Christopher Hirst & Elisabeth Kendall Hirst and
Hirst SMSF Pty Ltd
C/ Ms Nikki Huddy
Planz Town Planning
PO Box 181
EDGE HILL QLD 4870

Email: info@planztp.com

Dear Madam

**Adopted Infrastructure Charge Notice
For development application for Material Change of Use for
Short-term accommodation and Caretaker's accommodation
At 40 & 44 Nicole Drive Cape Tribulation
On land described as Lots 4 and 5 on RP738897**

Please find attached the Adopted Infrastructure Charges Notice issued in accordance with section 119 of the *Planning Act 2016*.

The amount in the Adopted Infrastructure Charges Notice has been calculated according to Council's Adopted Infrastructure Charges Resolution.

Please also find attached extracts from the Act regarding the following:

- your right to make representations to Council about the Adopted Infrastructure Charges Notice; and
- your Appeal rights with respect to the Adopted Infrastructure Charges Notice.

Please quote Council's application number: MCUI 2021_4081 in all subsequent correspondence relating to this matter.

Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9444.

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

encl.

- Adopted Infrastructure Charges Notice
- Rights to Make Representations and Appeals Regarding Infrastructure Charges

Adopted Infrastructure Charges Notice



2018 Douglas Shire Planning Scheme version 1.0 Applications

ADOPTED INFRASTRUCTURE CHARGES NOTICE

C Hirst E Kendall Hirst & Hirst SMSF P/L		N/A	0
DEVELOPERS NAME		ESTATE NAME	STAGE
40-44 Nicole Drive		Lots 4 and 5 on RP738897	7558 & 7559
STREET No. & NAME		LOT & RP No.s	PARCEL No.
MCU Caretaker's and Short Term Accommodations		MCUC 2021_4081/1	6
DEVELOPMENT TYPE		COUNCIL FILE NO.	VALIDITY PERIOD (year)
1026894		1	Payment before the change occurs
DSC Reference Doc. No.		VERSION No.	

Infrastructure Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021 (Came into effect on 1 March 2021).
Douglas Shire Council Infrastructure Charges Resolution (No.2) 2021.

Proposed Demand	Charge per Use	rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
Caretaker's accommodation Residential	\$13,632.40 per one bedroom caretaker's residence	\$13,632.40	1	\$13,632.40		
Short term Accommodation Short-term accommodation	\$13,632.40 per three bedroom accommodation	\$13,632.40	1	\$13,632.40		
Short Term Accommodation Short-term accommodation	\$6,393.33 per one bedroom short term accommodation	\$6,393.33	2.00	\$12,786.66		
Total Demand				\$40,051.46		
Existing Credit						
3 bedroom Dwelling House		\$24,143.38	1	\$24,143.38		
Non- water service area (Discount applied to Proposed uses - existing use, being \$15,980.08)	30% discount on net	\$15,980.08	-0.3	\$4,772.42		
Non-sewer service are (Discount applied to Proposed uses - existing use, being \$15,980.08)	35% discount on net	\$15,980.08	-0.35	\$5,593.03		
Total Credit				\$34,508.83		

Required Payment or Credit **TOTAL** **\$5,542.63**

Prepared by	Jenny Elphinstone	30-Jul-21	Amount Paid	
Checked by	Neil Beck	5-Aug-21	Date Paid	
Date Payable	MCU - Before the change occurs		Receipt No.	
Amendments		Date	Cashier	

Note:

The Infrastructure Charges in this Notice are payable in accordance with Sections 119 and 120 of the *Planning Act 2016* as from Council's resolution from the Ordinary Meeting held on 23 February 2021.

Charge rates under the Policy are subject to indexing.

Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

Charges are payable to: Douglas Shire Council. You can make payment at any of Council's Business Offices or by mail with your cheque or money order to Douglas Shire Council, PO Box 723, Mossman QLD 4873. Cheques must be made payable to Douglas Shire Council and marked 'Not Negotiable.' Acceptance of a cheque is subject to collection of the proceeds. Post dated cheques will not be accepted

Any enquiries regarding Infrastructure Charges can be directed to the Development & Environment, Douglas Shire Council on 07 4099 9444 or by email on enquiries@douglas.qld.gov.au

Subdivision 5 Changing charges during relevant appeal period

124 Application of this subdivision

This subdivision applies to the recipient of an infrastructure charges notice given by a local government.

125 Representations about infrastructure charges notice

- (1) During the appeal period for the infrastructure charges notice, the recipient may make representations to the local government about the infrastructure charges notice.
- (2) The local government must consider the representations.
- (3) If the local government—
 - (a) agrees with a representation; and
 - (b) decides to change the infrastructure charges notice;the local government must, within 10 business days after making the decision, give a new infrastructure charges notice (a *negotiated notice*) to the recipient.
- (4) The local government may give only 1 negotiated notice.
- (5) A negotiated notice—
 - (a) must be in the same form as the infrastructure charges notice; and
 - (b) must state the nature of the changes; and
 - (c) replaces the infrastructure charges notice.
- (6) If the local government does not agree with any of the representations, the local government must, within 10 business days after making the decision, give a decision notice about the decision to the recipient.
- (7) The appeal period for the infrastructure charges notice starts again when the local government gives the decision notice to the recipient.

126 Suspending relevant appeal period

- (1) If the recipient needs more time to make representations, the recipient may give a notice suspending the relevant appeal period to the local government.
- (2) The recipient may give only 1 notice.
- (3) If the representations are not made within 20 business days after the notice is given, the balance of the relevant appeal period restarts.
- (4) If representations are made within the 20 business days and the recipient gives the local government a notice withdrawing the notice of suspension, the balance of the relevant appeal period restarts the day after the local government receives the notice of withdrawal.

Division 3 Development approval conditions about trunk infrastructure

Subdivision 1 Conditions for necessary trunk infrastructure

127 Application and operation of subdivision

- (1) This subdivision applies if—
 - (a) trunk infrastructure—
 - (i) has not been provided; or
 - (ii) has been provided but is not adequate; and
 - (b) the trunk infrastructure is or will be located on—
 - (i) premises (the *subject premises*) that are the subject of a development application, whether or not the infrastructure is necessary to service the subject premises; or
 - (ii) other premises, but is necessary to service the subject premises.

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) 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—
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