

3 November 2017

Our Reference: OP 2297/2017 (D#832724)
Your Ref: Malone's Signage Craiglie

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

Malone's Butchery Pty Ltd
C/- RECS
PO Box 894
PORT DOUGLAS QLD 4877

Dear Sir / Madam

**DEVELOPMENT APPLICATION FOR OPERATIONAL WORK
FOR ADVERTISING DEVICES X 3
AT 10/5-7 TEAMSTERS CLOSE CRAIGLIE
LOT 10 ON SP144722**

Council refers to your development application for operational work for three advertising devices lodged with Council on 6 October 2017. Council determined the application at the Ordinary Meeting held on 31 October 2017. Please find attached the Decision Notice.

Should you require any clarification regarding this, please contact Jenny Elphinstone on telephone 07 4099 9482.

Yours faithfully

TRACEY CROUCH
A/Manager Sustainable Communities

encl. Decision Notice

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

In regards to your development application detailed below which was properly made on 6 October 2017 Douglas Shire Council has assessed your application and decided it as follows.

1. Applicant's details

Name: Malone's Butchery Pty Ltd

Postal Address: C/- RECS
PO Box 894
Port Douglas QLD 4877

2. Location details

Street Address: 10/5-7 Teamsters Close, Craiglie
Real Property Description: Lot 10 on SP144722

Local Government Area: Douglas Shire Council

3. Details of proposed development

Development Permit for Operational Work for Advertising Devices (x 3)

4. Planning instrument

2006 Douglas Shire Planning Scheme (as amended)

5. Decision

Date of decision: 31 October 2017

Decision details: Approved subject to conditions and advices. These conditions and advices are included in Schedule 1.

6. Statement of Reasons

The statement is included in Schedule 2 and is provided in accordance with section 63 of the *Planning Act 2016*.

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

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

Drawing or Document	Reference	Date
Site Plan/Locality Plan	RECS Project 100-2017 Sheet DA2 Revision A	12 September 2017
Proposed Signage	Generally in accordance with RECS Project 100-2017 Sheet DA1 Revision A dated 12 September 2017 and as amended by Condition 3.	To be determined
Elevations	Generally in accordance with RECS Project 100-2017 Sheet DA3 Revision A dated 12 September 2017 and as amended by Condition 3.	To be determined

A copy of the 'approved drawing(s) and / or document(s)' are included in Schedule 1.

8. Further development permits

Not applicable.

9. Properly made submissions

Not applicable.

10. Currency period for the approval

This approval, granted under the provisions of the Planning Act 2009, 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*.

11. Rights to make Representations and Rights of appeal

The rights of applicants to make representations regarding the decision are attached (see Part 8 Division 1 of the *Planning Act 2016*).

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

A copy of the relevant right to make representations and the appeal provisions are included in Schedule 3.

SCHEDULE 1 – CONDITIONS , ADVICE AND PLANS

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; and
 - b. The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

Except where modified by these conditions of approval

Timing of Effect

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

Amended Design

3. The design is to be amended whereby:
 - a. size of the advertising devices must be reduced whereby:
 - i. The proposed projecting off-wall advertising device for Malone's Butchery is replaced with the location and dimensions of the existing Malone's Butchery sign and this sign is made structurally sound; and
 - ii. The proposed flat wall advertising devices for Sail Structures FNQ and RAM Engineering are each of the maximum dimensions 3m width by 2m height; and
 - b. The area of Lot 0 surrounding the Malone's Butchery advertising device is to be relandscaped.

A copy of the amended plan must be provided to satisfaction of the Chief Executive Officer prior to the erection and display of any Advertising Devices.

Body Corporate Consent

4. The erection and display of any advertising device on the landscaping area adjacent to the building, on Lot 0 on SP144722, must only be with the consent of the Body Corporate and the landscaping must be maintained.

Landscaping

5. The area of Lot 0 surrounding the Malone's Butchery advertising device must be landscaped to the satisfaction of the Chief Executive Officer. All advertising devices and the landscaping must be maintained in a neat and tidy manner.

No Animation, Flashing or Illumination

6. No advertising device is to be illuminated, flashing or animated.

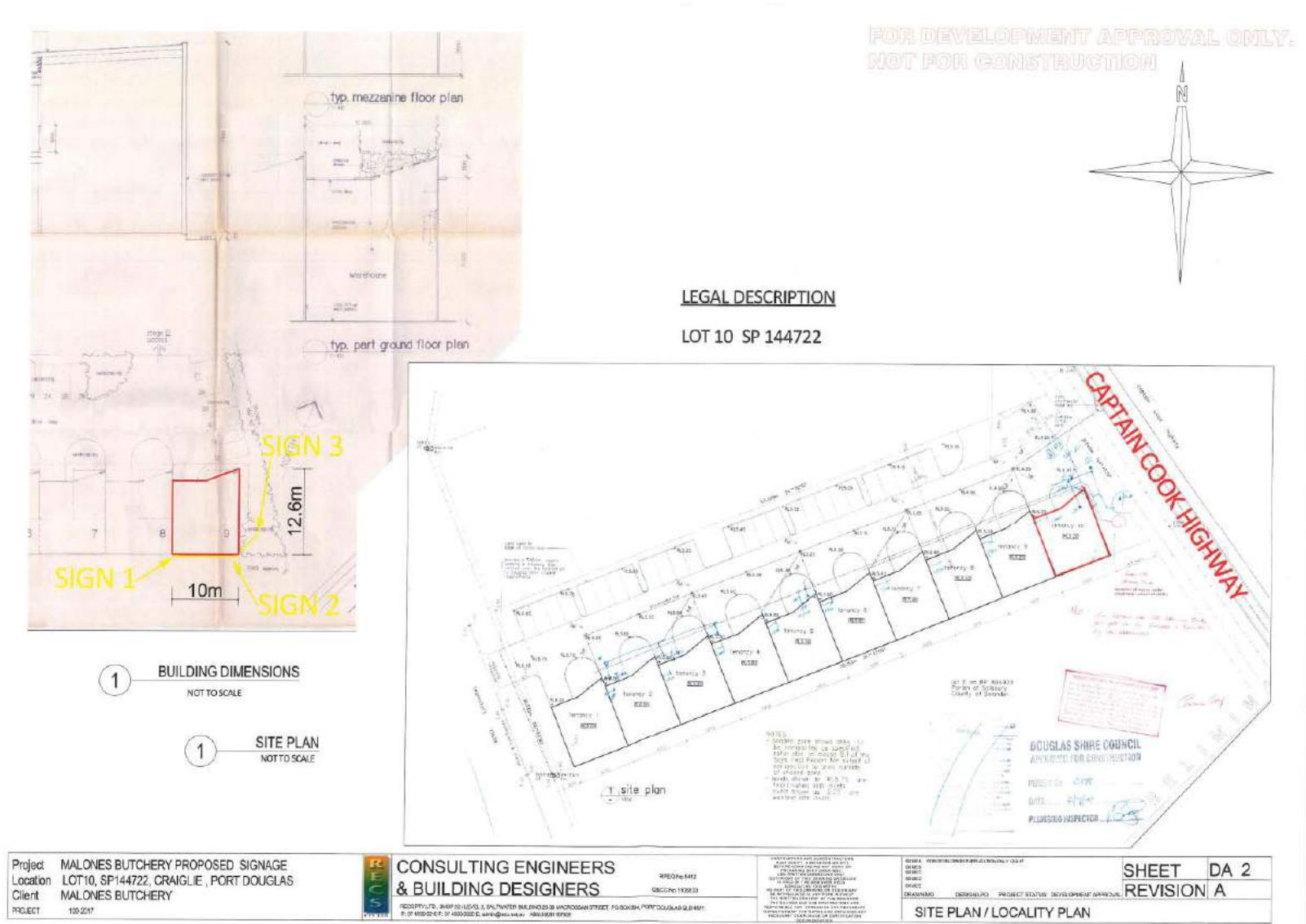
Advertising Device Content

7. The advertising device content can only be for a business occupying land at 5-7 Teamsters Close, Craiglie, Lots 1-10 on SP144722.

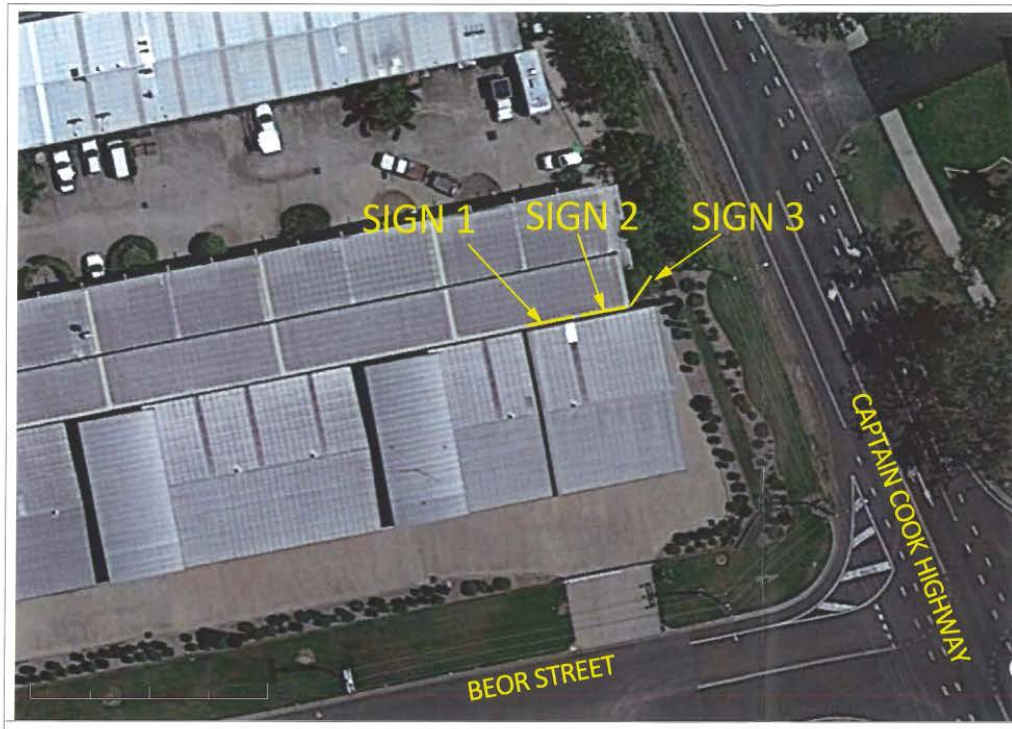
ADVICE

1. This approval does not authorise the trespass onto any neighbouring land for the purpose of erecting and/or maintaining the advertising devices.
2. This approval, granted under the provisions of the *Planning Act 2009*, 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*.
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.
5. For information relating to the *Planning Act 2016* log on to www.dilgp.qld.gov.au. 6To access the *FNQROC Development Manual*, Local Laws and other applicable Policies, log on to www.douglas.qld.gov.au.

Approved Drawing(s) and / or Document(s) (To be amended as per Condition 3)



FOR DEVELOPMENT APPROVAL ONLY.
NOT FOR CONSTRUCTION



1 SITE PLAN
NOT TO SCALE



SIGN 1 (2 X 5m)



SIGN 2 (2 X 5m)



SIGN 2 (2 X 4m)

1 PROPOSED SIGNAGE (INDICATIVE)
NOT TO SCALE

Project	MALONES BUTCHERY PROPOSED SIGNAGE		CONSULTING ENGINEERS & BUILDING DESIGNERS RECS PTY LTD, SHOP 22 / LEVEL 2, 8A TWENTY BUILDING 20-30 MACROSSAN STREET, PO BOX 894, PORT DOUGLAS QLD 4877, P: 07 409 81017, F: 07 409 80201, E: info@recs.com.au, ABN 55091181008	<small>RPEQ No 5412 QBCC No 1108331</small>	<small>DESIGNER'S AND SUBCONTRACTOR'S DECLARATION I, THE UNDERSIGNED, AS AN ENGINEER REGISTERED UNDER THE REGISTERED PROFESSIONAL ENGINEERS AND ARCHITECTS ACT 2003, HAVE PREPARED THIS DOCUMENT IN COMPLIANCE WITH THE REQUIREMENTS OF THE ACT AND THE REGULATIONS IN RESPECT OF THE SIGNATURE AND SEAL OF THE REGISTERED ENGINEER OR ARCHITECT. NO PART OF THIS DOCUMENT MAY BE REPRODUCED OR TRANSMITTED IN ANY FORM OR BY ANY MEANS, WITHOUT THE WRITTEN CONSENT OF THE CONSULTING ENGINEERS AND BUILDING DESIGNERS PRACTICE. THE CONSULTING ENGINEERS AND BUILDING DESIGNERS PRACTICE ACCEPTS NO LIABILITY FOR ANY MISTAKES, OMISSIONS OR INADEQUACIES IN THE DESIGN OR CONSTRUCTION DOCUMENTATION.</small>	<small>ISSUE A FOR DEVELOPMENT APPLICATION ONLY 100-17</small>	SHEET	DA 1		
Location	LOT10, SP144722, CRAIGLIE, PORT DOUGLAS					<small>ISSUE B</small>			REVISION	A
Client	MALONES BUTCHERY					<small>ISSUE C</small>				
PROJECT	100-2017					<small>ISSUE D</small> <small>DRAWN BY</small> DESIGN LPO <small>PROJECT STATUS:</small> DEVELOPMENT APPROVAL				

SIGN 1 (2 X 5m) SIGN 2 (2 X 5m)

SIGN 3 (5 X 4m)

storage
PORT DUGUCLAS
VARIOUS SIZES WITH SECURE ACCESS
ALFREDHILL ROAD, PORT DUGUCLAS
4008 5685



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SCHEDULE 2 STATEMENT OF REASONS

EXECUTIVE SUMMARY

Application has been made to display advertising devices: two signs to be flush with the building's wall; and one sign projecting off the wall. The land is located at Teamsters Close, Craiglie and backs onto the Captain Cook Highway. However, no vehicle access is available to the land from the Highway. The signage will be visible to north-travelling vehicles on the Highway.

There is currently a free standing sign on the land that promotes Malone's Butchery. While the Malone's Butchery shop is located in the town centre, the company also owns Lot 10 on the land. The existing advertising device is considered satisfactory. The proposed off-wall and flat wall advertising devices are considered excessive in size.

Provided the wall advertising devices are reduced in size and the Malone's Butchery advertising device is for the existing device, the advertising is considered acceptable and reflects the industrial character and use of the land.

A condition of the approval requires the landscaping to be reinstated and maintained.

TOWN PLANNING CONSIDERATIONS

Background

The industrial sheds on the land were established under a Development Permit issued by the former Douglas Shire Council on 29 July 2003. A concurrence agency condition of the approval states that no advertising device can be placed on the adjacent State-controlled road.

Proposal

The applicant seeks to display two signs affixed to the building façade, above the height of the neighbouring development.

An additional, third sign is proposed to project from the building adjacent to the Captain Cook Highway.

State Planning Requirements

There are no State requirements in respect to the application.

Douglas Shire Planning Scheme Assessment

An assessment of the development is tabled below.

Douglas Shire Port Douglas and Environs Planning Locality		Code Applicability	Compliance
Locality	Port Douglas and Environs	✓	Complies through conditions, refer to comment
Planning Area	Industry	✓	Complies through conditions refer to comment
General Code	Design and Siting of Advertising Devices Code	✓	Refer to comment

Compliance Issues

Port Douglas and Environs Locality Code and Industry Planning Area Code

The land is in Special Management Area 3 – Service Industry Precincts (Craiglie). The acceptable solution states that all structures are to be setback 8 metres from the Highway or no closer than the average setback of adjacent properties and not within the landscaped setback to the Highway. The proposed off-wall advertising device is sited within this setback area. Concern is raised with the size of the projecting off-wall advertising device. There is an existing free-standing advertising device in this area and this is considered sufficient and in keeping with the character of the area.

The proposed wall advertising devices, while to be affixed to the wall, are also within the setback area. Concern is raised with the size of these devices and a condition of the approval requires these to be reduced.

A further condition of approval requires the landscaping to be re-established and maintained in the area of the Malone's Butchery device. These requirements enable the proposal to satisfactorily meet the performance criteria of the code.

Design and Siting of Advertising Devices Code

The proposed signage does not meet the acceptable solutions with respect to sign dimensions, area of signage, location of signage and the number of signs per premises. The acceptable solutions seek one sign per premises, a maximum width of 3m, a maximum height of 2m, a maximum area of 4m² and to be at a ground floor height. These measurements and requirements apply regardless of the site location.

The corresponding performance criteria states, "*Advertising Devices are subservient in scale to the primary use/s carried out on the site.*" The proposed height and position above ground of the advertising devices is consistent with the adjacent building. The width of the advertising devices is considered excessive as the devices occupy the total façade area for Unit 10 that is visible above the neighbouring building.

A condition of the approval requires the width of the wall signs to be a maximum of 3m having regard to the size of the façade.

COUNCIL'S ROLE

Council can play a number of different roles in certain circumstances and it is important to be clear about which role is appropriate for a specific purpose or circumstance. The implementation of actions will be a collective effort and Council's involvement will vary from information only through to full responsibility for delivery.

The following area outlines where Council has a clear responsibility to act:

Regulator: Meeting the responsibilities associated with regulating activities through legislation or local law.

Under the *Sustainable Planning Act 2009* and the *Sustainable Planning Regulation 2009*, Council is the assessment manager for the application.

SCHEDULE 3 – PLANNING ACT EXTRACT ON MAKING REPRESENTATIONS AND 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.