

5 October 2022

Enquiries: Daniel Lamond
Our Ref: MCUC 2022_4949/1 (1114078)
Your Ref: PATRICK CLIFTON

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

RPS Australia East Pty Ltd
PO Box 1949
CAIRNS QLD 4870

Dear Sir/Madam

**Development Application for Material Change of Use (Multiple Dwelling)
At 2-4 St Crispins Avenue PORT DOUGLAS
On Land Described as LOT: 25 RP: 747342**

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

Please quote Council's application number: MCUC 2022_4949/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully



For
Paul Hoyer
Manager Environment & Planning

cc. State Assessment and Referral Agency (SARA) E: CairnsSARA@dilgp.qld.gov.au

encl.

- Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - Concurrence Agency Response
 - 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 s 63 of the Planning Act 2016

Applicant Details

Name: RPS Australia East Pty Ltd
Postal Address: PO Box 1949
CAIRNS QLD 4870

Property Details

Street Address: 2-4 St Crispins Avenue PORT DOUGLAS
Real Property Description: LOT: 25 RP: 747342
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit - Material Change of Use (Multiple Dwelling)

Decision

Date of Decision: 5 October 2022
Decision Details: Approved (subject to conditions)

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

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

| Drawing or Document | Reference | Date |
|---|--------------------------------|----------------|
| Setout Plan | NQ Homes plan sheet 10 of 11 | 30 June 2022 |
| Floor Plan | NQ Homes plan sheet 2 of 11 | 30 June 2022 |
| Elevations | NQ Homes plan sheet 3 of 11 | 30 June 2022 |
| FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access | | |
| Access Crossovers | Standard Drawing S1015 Issue E | 27 August 2020 |

| | | |
|--|--------------------------------|----------------|
| Concrete driveway for allotment access | Standard Drawing S1110 Issue F | 27 August 2020 |
|--|--------------------------------|----------------|

Assessment Manager Conditions & Advices

1. Carry out the approved development generally in accordance with the approved drawing(s) and/or document(s), and in accordance with:
 - a. The specifications, facts and circumstances as set out in the application submitted to Council; and
 - b. The following conditions of approval and the requirements of Council's Planning Scheme and the FNQROC Development Manual.

Except where modified by these conditions of approval

Timing of Effect

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

Fencing

3. The fence fronting St Crispins Avenue must not exceed 1.8m in height and must be at least 50% transparent for each panel.

Damage to Council Infrastructure

4. In the event that any part of Council's existing sewer, water or road infrastructure is damaged as a result of construction activities occurring on the site, the applicant/owner must notify Council immediately of the affected infrastructure and have it repaired or replaced at no cost to Council.

Water Supply and Sewerage Works Internal

5. Undertake the following water supply and sewerage works internal to the subject land:
 - a. The development must be serviced by a single internal water and sewerage connection made clear of any buildings or structures;
 - b. Water supply sub-metering must be designed and installed in accordance with The Plumbing and Drainage Act 2002 and the Water Supply (Safety and Reliability) Act 2008;
 - c. Upgrade to the extent necessary water supply and sewer connections to cater for the demand of the development;

All the above works must be designed and constructed in accordance with the FNQROC Development Manual. All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer prior to commencement of use.

Vehicle Parking

6. The amount of vehicle parking must be as specified in Council's Planning Scheme and detailed on the approved plans.

External Works

7. Undertake the following works external to the land at no cost to Council:
 - a. Provide a vehicle crossover and apron to St. Crispins Avenue, designed and constructed in accordance with the FNQROC Development Manual standard drawings S1015 and S1110.
 - c. Repair any damage to existing roadway (including removal of concrete slurry from footways, roads, kerb and channel and stormwater gullies and drain lines) that may occur during and works carried out in association with the construction of the approved development.

Emissions

8. Dust emissions or other air pollutants, including odours, must not extend beyond the boundary of the site and cause a nuisance to surrounding properties to the satisfaction of the Chief Executive Officer.

Storage of Machinery and Plant

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

Lawful Point of Discharge

10. The development is not to create ponding nuisances and/or concentration of stormwater flows to adjoining properties causing nuisance, and;
 - a. All stormwater from the property must be directed to a lawful point of discharge being St Crispins Avenue or through Easement H to the rear, and;
 - b. An drainage study is to be undertaken and RPEQ certified to demonstrate and confirm that Easement H and its constructed drainage infrastructure can adequately cater for stormwater discharge if Easement H is to be relied upon.
 - c. The certified drainage study must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

Sediment and Erosion Control

11. Soil and water management measures must be installed prior to discharge of water from the site, such that no external stormwater flow from the site adversely affects surrounding or downstream properties (in accordance with the requirements of the Environmental Protection Act 1994, and the FNQROC Development Manual).

Details of Development Signage

12. The development must provide clear and legible signage incorporating the street number for the benefit of the public.

Landscaping Plan

13. The site must be landscaped in accordance with details included on a Landscaping Plan developed in accordance with Planning Scheme Policy SC6.7. The Landscaping Plan must detail the following:
- a. Deep planting of setback areas and planter beds within the development;
 - b. Provide fencing details (materials and finishes), particularly with respect to any fencing fronting St Crispins Avenue;
 - e. Landscaping of a maximum of a 600mm wide strip outside the St Crispins Avenue frontage fence on road if road planting is proposed.
 - f. A copy of this Development Approval must be given to the applicant's Landscape Architect/Designer.

A 'to scale' copy of the landscape plan must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work. The approval and completion of all landscaping works must be undertaken prior to commencement of use. Landscaped areas must be maintained at all times to the satisfaction of the Chief Executive Officer.

Further Development Permits

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

- Building Work

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

Concurrence Agency Response

| Concurrence Agency | Concurrence Reference | Agency | Date | Doc ID |
|--------------------|-----------------------|--------|-------------------|---------|
| SARA | 2208-30377 SRA | | 13 September 2022 | 1110052 |

Note – Concurrence Agency Response is attached. This Concurrence Agency Response maybe amended by agreement with the respective agency.

Currency Period for the Approval

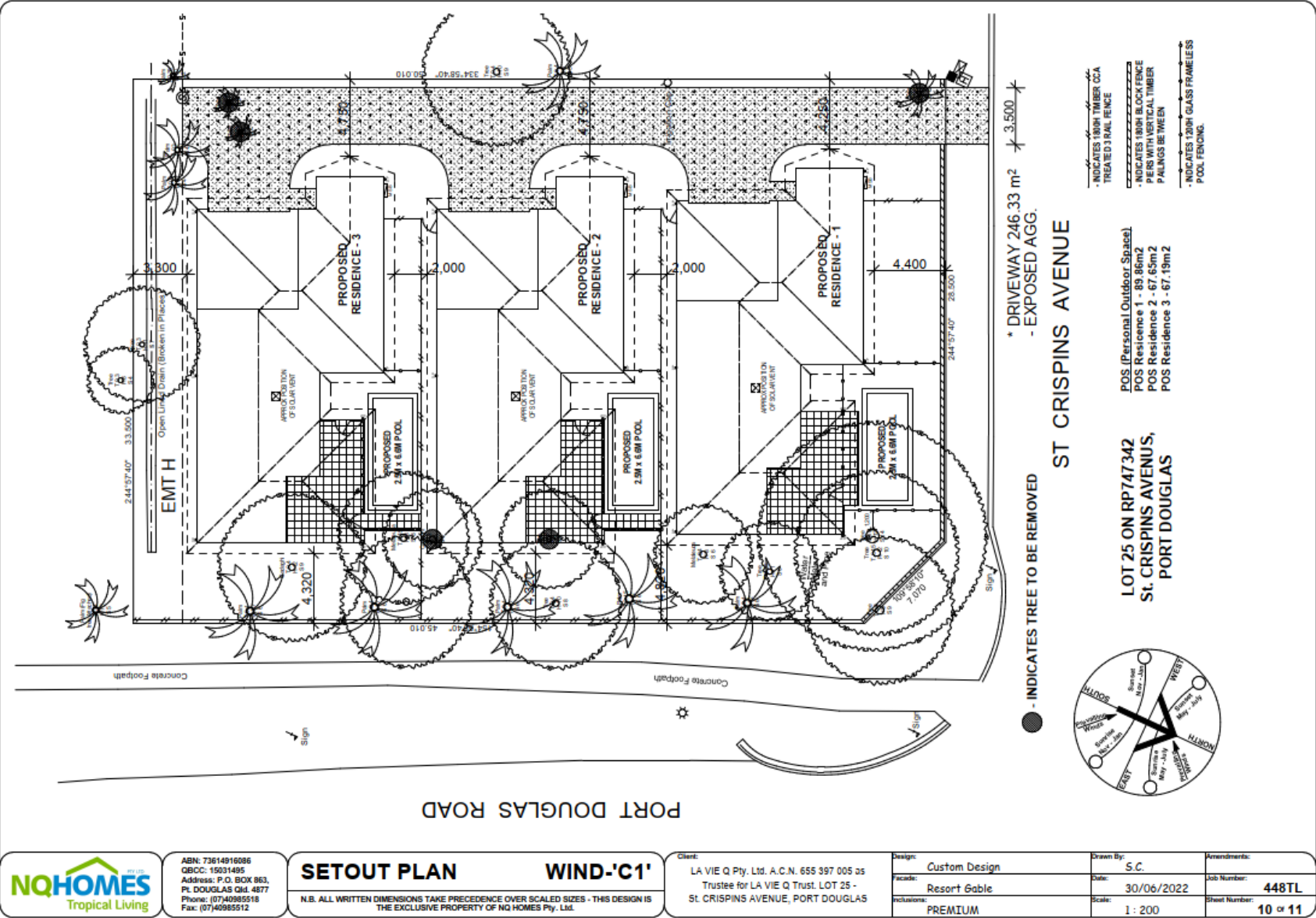
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

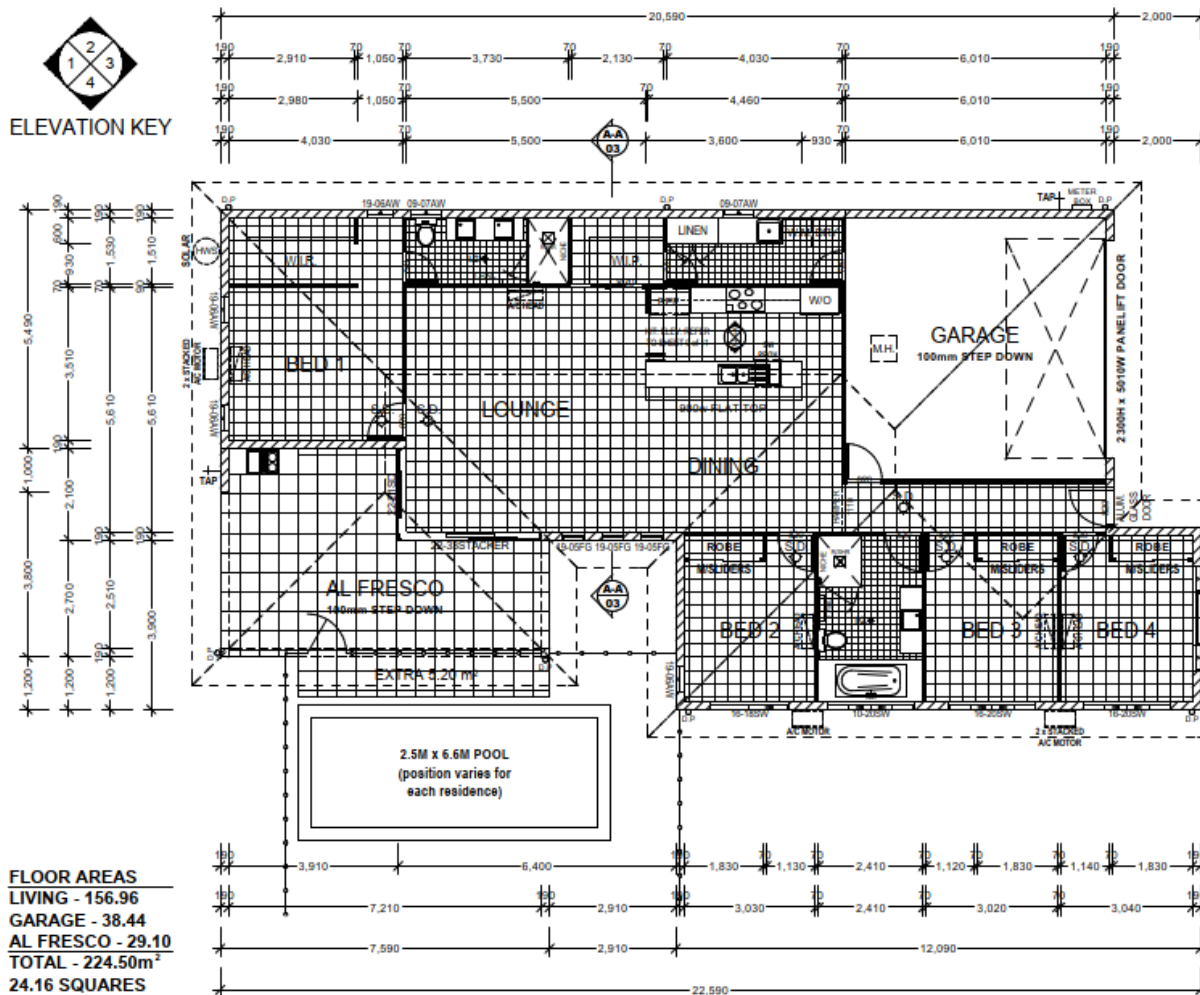
Rights to make Representations & Rights of Appeal

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 are attached.

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





FLOOR AREAS
 LIVING - 156.96
 GARAGE - 38.44
 AL FRESCO - 29.10
 TOTAL - 224.50m²
 24.16 SQUARES

NOTE : ADDITIONAL BRACING WILL BE REQUIRE TO VANITY WALLS. (FLOATING VANTIES)

ENERGY EFFICIENCY NOTES:
 : ALL TAPWARE & SHOWERS
 TO BE 3 STAR min.
 : ALL TOILETS TO BE 4 STAR
 min.
 : SOLAR HOT WATER SYSTEM
 TO BE INSTALLED.

GENERAL NOTES :
 : Solar block 2 to all alum. framed glass doors
 and windows.
 : Dishwasher prov. with SPP and cold water
 plumbing.
 : Lift off hinges to wc.
 : Mechanical exhaust to wc with no external
 opening.
 : Niches - 900H base with a 2100H head U.N.O.
 : Hampers and Openings - 2100H head U.N.O.
 : Bulkheads - 2100H U.N.O.

'RESIDENCE-1'



ABN: 73614916086
 QBCC: 15031495
 Address: P.O. BOX 863,
 PT. DOUGLAS Qld. 4877
 Phone: (07)40985518
 Fax: (07)40985512

FLOOR PLAN

WIND-'C1'

N.B. ALL WRITTEN DIMENSIONS TAKE PRECEDENCE OVER SCALED SIZES - THIS DESIGN IS
 THE EXCLUSIVE PROPERTY OF NQ HOMES Pty. Ltd.

Client:
 LA VIE Q Pty. Ltd. A.C.N. 655 397 005 as
 Trustee for LA VIE Q Trust. LOT 25 -
 ST. CRISPINS AVENUE, PORT DOUGLAS

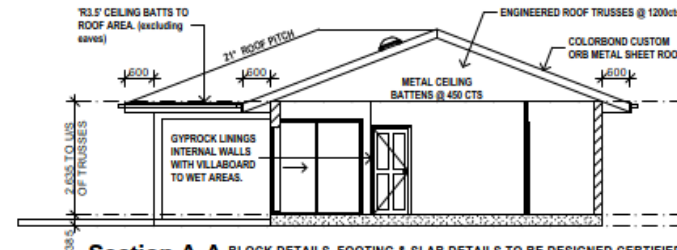
Design:
 Custom Design
 Facade:
 Resort Gable
 Inclusion:
 PREMIUM

Drawn By:
 S.C.
 Date:
 30/06/2022
 Scale:
 1 : 100

Amendments:
 Job Number:
 448TL
 Sheet Number:
 2 of 11

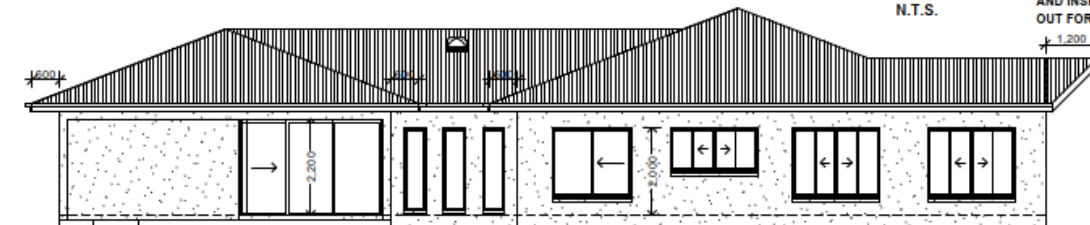


Elevation 1



Section A-A BLOCK DETAILS, FOOTING & SLAB DETAILS TO BE DESIGNED, CERTIFIED AND INSPECTED BY A RPEQ ENGINEER PRIOR TO WORK BEING CARRIED OUT FOR A 'C' CLASS SITE AND WIND-'C1' WIND RATING.
N.T.S.

ALL STRUCTURAL TIMBER HAS BEEN TREATED IN ACCORDANCE WITH THE AS3600.1 FOR TERMITE PROTECTION.



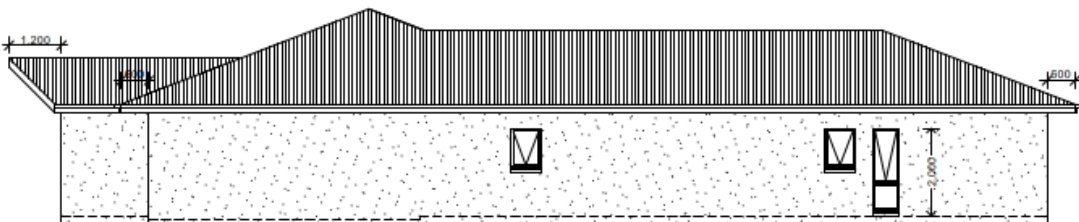
Elevation 2



Elevation 3



Block Fence Elevation



Elevation 4

EXTERNAL COLOUR SCHEME:
Colourbond Roof Iron / Fascia & Gutter 'Basalt'
External Rendered Walls 'Basalt'
Window Frames 'Woodland Grey'
Garage Panel Lift Door 'Basalt'

'RESIDENCE-1'



ABN: 73614916086
QBCC: 15931495
Address: P.O. BOX 863,
PT. DOUGLAS Qld. 4877
Phone: (07)40965518
Fax: (07)40965512

ELEVATIONS

WIND-'C1'

N.B. ALL WRITTEN DIMENSIONS TAKE PRECEDENCE OVER SCALED SIZES - THIS DESIGN IS THE EXCLUSIVE PROPERTY OF NQ HOMES Pty. Ltd.

Client:
LA VIE Q Pty. Ltd. A.C.N. 655 397 005 35
Trustee for LA VIE Q Trust. LOT 25 -
ST. CRISPINS AVENUE, PORT DOUGLAS

Design:
Custom Design
Facade:
Resort Gable
Inclusions:
PREMIUM

Drawn By:
S.C.
Date:
30/06/2022
Scale:
1 : 100

Amendments:
Job Number:
448TL
Sheet Number:
3 of 11

Concurrence Agency Conditions

RA6-N



SARA reference: 2208-30377 SRA
Council reference: MCUC 2022_4949/1
Applicant reference: PR151977

13 September 2022

Chief Executive Officer
Douglas Shire Council
PO Box 723
MOSSMAN QLD 4873
enquiries@douglas.qld.gov.au

Attention: Daniel Lamond

Dear Sir/Madam

SARA response—Multiple Dwelling at 2 - 4 St Crispins Avenue, Port Douglas (Lot 25 on RP747342)

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 16 August 2022.

Response

| | | |
|-------------------|--|--|
| Outcome: | Referral agency response – with conditions | |
| Date of response: | 13 September 2022 | |
| Conditions: | The conditions in Attachment 1 must be attached to any development approval | |
| Advice: | Advice to the applicant is in Attachment 2 | |
| Reasons: | The reasons for the referral agency response are in Attachment 3 | |

Development details

| | | |
|--------------|--------------------|--|
| Description: | Development permit | Material Change of Use for Multiple Dwelling |
| SARA role: | Referral agency | |

SARA trigger: Schedule 10, Part 9, Division 4, Subdivision 2, Table 4 (Planning Regulation 2017) – Material change of use near a state-controlled road and intersection

SARA reference: 2208-30377 SRA

Assessment manager: Douglas Shire Council

Street address: 2-4 St Crispins Avenue, Port Douglas

Real property description: Lot 25 on RP747342

Applicant name: La Vie Q Pty Ltd

Applicant contact details: C/- RPS Australia East Pty Ltd
PO Box 1949
Cairns QLD 4870
patrick.clifton@rpsgroup.com.au

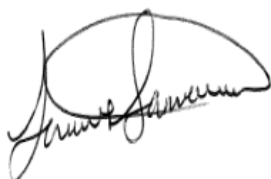
Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules). Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Anthony Westbury, Planning Officer, on 40373214 or via email CairnsSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Javier Samanes
Manager (Planning)

cc La Vie Q Pty Ltd C/- RPS Australia East Pty Ltd, Patrick.Clifton@rpsgroup.com.au

enc Attachment 1 - Referral agency conditions
Attachment 2 - Advice to the applicant
Attachment 3 - Reasons for referral agency response
Attachment 4 - Representations provisions

Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following condition must be attached to any development approval relating to this application)

| No. | Condition | Condition timing |
|---|--|---|
| Material change of use | | |
| Schedule 10, Part 9, Division 4, Subdivision 2, Table 4, Item 1 – Material change of use of premises near a State transport corridor—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition: | | |
| 1. | <p>(a) Noise attenuation measures must be provided to achieve the following noise criteria for private open space:</p> <ul style="list-style-type: none"> • $\leq 57\text{dB(A)}$ L_{10} (18 hour) free field (measured L_{90} (18 hour) free field between 6am and 12 midnight $\leq 45\text{dB(A)}$); or • $\leq 60\text{dB(A)}$ L_{10} (18 hour) free field (measured L_{90} (18 hour) free field between 6am and 12 midnight $> 45\text{dB(A)}$). <p>(b) The noise attenuation measures required in part (a) of this condition must be designed in accordance with:</p> <ul style="list-style-type: none"> • Chapter 7 integrated noise barrier design of the Transport Noise Management Code of Practice: Volume 1 (Road Traffic Noise), Department of Transport and Main Roads, 2013; and • Technical Specification-MRTS15 Noise Fences, Transport and Main Roads, 2019 <p>(c) RPEQ certification must be provided to Program, Delivery and Operations, Far North District at: Far.North.Queensland.IDAS@tmr.qld.gov.au within the Department of Transport and Main Roads, confirming that the development has been constructed in accordance with parts (a) and (b) of this condition.</p> | Prior to the commencement of use and to be maintained at all times. |

Attachment 2—Advice to the applicant

| General advice | |
|----------------|---|
| 1. | Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v3.0. If a word remains undefined it has its ordinary meaning. |

Attachment 3—Reasons for referral agency response

(Given under section 56(7) of the *Planning Act 2016*)

The reasons for SARA's decision are:

The proposed development, subject to a condition, complies with the relevant provisions of State code 1: Development in a state-controlled road environment as follows:

- The proposed development is unlikely to compromise the safety, function, and efficiency of Port Douglas Road and the Port Douglas Road / St Crispins Avenue intersection.
- Proposed vehicle access is to St Crispins Avenue, a local road, and is located a sufficient distance from the Port Douglas Road / St Crispins Avenue intersection to maintain safety for users of the state-controlled road.
- The Port Douglas Road / St Crispins Avenue intersection can safely accommodate the increased traffic generated by the proposed development.
- Increased stormwater and drainage flow is appropriately managed to avoid adverse impacts to the state-controlled road.
- Noise attenuation measures are provided to minimise noise impacts from vehicles using Port Douglas Road.

Material used in the assessment of the application:

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (version 3.0)
- the Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- *Human Rights Act 2019*

Attachment 4—Representations provisions

(page left intentionally blank – attached separately)

Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules¹ regarding **representations about a referral agency response**

Part 6: Changes to the application and referral agency responses

28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
 - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
 - (c) the applicant has given written agreement to the change to the referral agency response.²
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
 - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

¹ Pursuant to Section 68 of the *Planning Act 2016*

² In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

Part 7: Miscellaneous

30 Representations about a referral agency response

30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.³

³ An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

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 9 August 2022 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 Medium Density Residential Zone Code;
 - b. Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
 - c. the applicant's reasons have been considered and the following findings are made:
 - i. Subject to conditions, the development satisfactorily meets the Planning Scheme benchmarks.

Planning Act 2016
Chapter 3 Development assessment

[s 74]

Division 2 Changing development approvals

Subdivision 1 Changes during appeal period

74 What this subdivision is about

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

75 Making change representations

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

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

76 Deciding change representations

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

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

Chapter 6 Dispute resolution

Part 1 Appeal rights

229 Appeals to tribunal or P&E Court

- (1) Schedule 1 states—
 - (a) matters that may be appealed to—
 - (i) either a tribunal or the P&E Court; or
 - (ii) only a tribunal; or
 - (iii) only the P&E Court; and
 - (b) the person—
 - (i) who may appeal a matter (the *appellant*); and
 - (ii) who is a respondent in an appeal of the matter; and
 - (iii) who is a co-respondent in an appeal of the matter; and
 - (iv) who may elect to be a co-respondent in an appeal of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
 - (a) for an appeal by a building advisory agency—10 business days after a decision notice for the decision is given to the agency; or
 - (b) for an appeal against a deemed refusal—at any time after the deemed refusal happens; or
 - (c) for an appeal against a decision of the Minister, under chapter 7, part 4, to register premises or to renew the registration of premises—20 business days after a notice is published under section 269(3)(a) or (4); or

- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
 - (iii) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
 - (iv) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.

- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and

- (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
 - (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
 - (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.
- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, section 316(2), schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.

- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
decision includes—
 - (a) conduct engaged in for the purpose of making a decision; and
 - (b) other conduct that relates to the making of a decision; and
 - (c) the making of a decision or the failure to make a decision; and
 - (d) a purported decision; and
 - (e) a deemed refusal.**non-appealable**, for a decision or matter, means the decision or matter—
 - (a) is final and conclusive; and
 - (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise, whether by the Supreme Court, another court, any tribunal or another entity; and
 - (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

232 Rules of the P&E Court

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

5 October 2022

Enquiries: Daniel Lamond
Our Ref: MCUC 2022_4949 (1114078)
Your Ref: PATRICK CLIFTON

RPS Australia East Pty Ltd
PO Box 1949
CAIRNS QLD 4870

Dear Sir/Madam

**Adopted Infrastructure Charge Notice
For Development Application Material Change of Use (Multiple Dwelling)
At 2-4 St Crispins Avenue PORT DOUGLAS
On Land Described as LOT: 25 RP: 747342**

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: MCUC 2022_4949 in all subsequent correspondence relating to this matter.

Should you require any clarification regarding this, please contact Daniel Lamond 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 | | | |
| La Vie Q Pty Ltd Trustee under instrument 721520723 <small>DEVELOPERS NAME</small> | | N/A <small>ESTATE NAME</small> | |
| 2-4 St Crispins Avenue <small>STREET No. & NAME</small> | | Lot 25 on RP747342 <small>LOT & RP No.s</small> | |
| Port Douglas <small>SUBURB</small> | | 217 <small>PARCEL No.</small> | |
| MCU for Multiple dwellings <small>DEVELOPMENT TYPE</small> | | MCUC 2022_4949 <small>COUNCIL FILE NO.</small> | |
| 1113693 <small>DSC Reference Doc. No.</small> | | 6 <small>VALIDITY PERIOD (year)</small> | |
| 1 <small>VERSION No.</small> | | Payment before commencement of use for MCU; and Prior to signing and sealing of survey form for ROL | |

Infrastructure Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021 (Came into effect on 1 March 2021)

| Proposed Demand | Charge per Use | \$ Rate | Floor area/No. | Amount | Amount Paid | Receipt Code & GL Code |
|--|------------------------------------|--------------|----------------|--------------------|-------------|------------------------|
| Residential Multiple_dwelling | \$_per_3_or_more_bed room_dwelling | 24,553.81 | 3 | \$73,661.43 | | |
| Total Demand | | | | \$73,661.43 | | |
| <u>Credit</u> Existing land use 3 or more bedroom dwelling 1 lot | \$_per_3_or_more_bed room_dwelling | 24,553.81 | 1 | \$24,553.81 | | |
| Total Credit | | | | \$24,553.81 | | |
| Required Payment or Credit | | TOTAL | | \$49,107.62 | | |

| | | | |
|--------------|--|----------|-------------|
| Prepared by | J Elphinstone | 4-Oct-22 | Amount Paid |
| Checked by | D Lamond | 5-Oct-22 | Date Paid |
| Date Payable | MCU - prior to the commencement of use | | |
| Amendments | | | 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) for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018*—at anytime after the period within which the application or matter was required to be decided ends; or
 - (iv) otherwise—20 business days after the day the notice is given; or
- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

See the P&E Court Act for the court's power to extend the appeal period.

- (4) Each respondent and co-respondent for an appeal may be heard in the appeal.

- (5) If an appeal is only about a referral agency's response, the assessment manager may apply to the tribunal or P&E Court to withdraw from the appeal.
- (6) To remove any doubt, it is declared that an appeal against an infrastructure charges notice must not be about—
 - (a) the adopted charge itself; or
 - (b) for a decision about an offset or refund—
 - (i) the establishment cost of trunk infrastructure identified in a LGIP; or
 - (ii) the cost of infrastructure decided using the method included in the local government's charges resolution.

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
 - (a) is in the approved form; and
 - (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—
 - (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and

- (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
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- (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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- (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.

