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25 October 2023

Enquiries:Rebecca TarantoOur Ref:MCUC 2023\_5336/1 (Doc ID:1178895)

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

A B Hall C/- RPS AAP Consulting Pty Ltd PO Box 1949 CAIRNS QLD 4870

Dear Sir/Madam

#### Development Application for Material Change of Use (Dwelling house and bridge link) At 21 Murphy Street Port Douglas and 19 Murphy Street Port Douglas On Land Described as Lot 110 on PTD2091 and Lot 109 on PTD2091

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

Please quote Council's application number: MCUC 2023\_5336/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully

*For* Paul Hoye Manager Environment & Planning

encl.

- Decision Notice
  - Approved Drawing(s) and/or Document(s)
  - Concurrence Agency Response
  - Reasons for Decision response to properly made submissions.
- Advice For Making Representations and Appeals (Decision Notice)



# **Decision Notice**

Approval (with conditions)

Given under s 63 of the Planning Act 2016

Applicant Details						
Name:	A B Hall					
Postal Address:	C/- RPS AAP Consulting Pty Ltd PO Box 1949 CAIRNS QLD 4870					
Email:	cairnsreception@rpsgroup.com.au					
Property Details						
Street Address:	21 Murphy Street Port Douglas					
Real Property Description:	19 Murphy Street Port Douglas Lot 110 on PTD2091 Lot 109 on PTD2091					
Local Government Area:	Douglas Shire Council					

### **Details of Proposed Development**

Development Permit for Material Change of Use -Dwelling house and bridge link

#### Decision

Date of Decision:	25 October 2023
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
Existing Condition and Demolition Plan	Architecture By Us Dwg TP01 Rev A	11 August 2023
Proposed Site Plan	Architecture By Us	11 August 2023

	Dwg TP02 Rev A	
Proposed Lower Ground Floor Plan	Architecture By Us Dwg TP03 Rev A	11 August 2023
Proposed Ground Floor Plan	Architecture By Us Dwg TP04 Rev A	11 August 2023
Proposed First Floor Plan	Architecture By Us Dwg TP05 Rev A	11 August 2023
Proposed Roof Plan	Architecture By Us Dwg TP06 Rev A	11 August 2023
Earthworks	Architecture By Us Dwg TP12	24 May 2023
Proposed Section	Architecture By Us Dwg TP13	24 May 2023
Proposed Delivery Storage and Seating Detail	Architecture By Us Dwg TP14	7 February 2023
Proposed Elevations	Architecture By Us Dwg TP07	7 February 2023
Proposed Elevations	Architecture By Us Dwg TP08	7 February 2023
Proposed Fence Elevations	Architecture By Us Dwg TP09	7 February 2023
Proposed Sections	Architecture By Us Dwg TP10	7 February 2023
Development Overview-3D Visualisation Studies	Architecture By Us Council Doc id; 1150858	7 February 2023
Development Overview-3D Visualisation Studies	Architecture By Us Council Doc id; 1150858	7 February 2023
Development Overview-3D Visualisation Studies	Architecture By Us Council Doc id; 1150858	7 February 2023
Development Overview-3D	Architecture By Us	7 February 2023

Visualisation Studies	Council Doc id; 1150858	
Development Overview-3D Visualisation Studies	Architecture By Us Council Doc id; 1150858	7 February 2023
Development Overview-3D Visualisation Studies	Architecture By Us Council Doc id; 1150858	7 February 2023
Development Overview-3D Visualisation Studies	Architecture By Us Council Doc id; 1150858	7 February 2023
Development Overview-3D Visualisation Studies	Architecture By Us Council Doc id; 1150858	7 February 2023
Finishes Schedule	Architecture By Us Council Doc id; 1150858	7 February 2023
Proposed Stormwater Drainage Plan and Site Access	Rodgers Consulting Engineers Dwg C01 Rev. DA Project No. 220704	25 July 2023
Retaining Wall Plan and Site Layout	Rodgers Consulting Engineers Dwg S02 Rev. DA Project No. 220704	7 August 2023
Retaining Wall Details Sheet 1	Rodgers Consulting Engineers Dwg S02 Rev. DA Project No. 220704	7 August 2023
Retaining Wall Details Sheet 2	Rodgers Consulting Engineers Dwg S03 Rev. DA Project No. 220704	7 August 2023
Landscape Documentation	RPS Project Number 010764.001 Drawing Number CS01 Rev03	10/08/2023
Planting Schedule	RPS Project Number 010764.001 Drawing Number SC02 Rev03	10/08/2023
Materials and Finishes Schedule	RPS Project Number 010764.001 Drawing Number SC03 Rev03	10/08/2023
External Works- Plan 1 of 1	RPS Project Number 010764.001 Drawing Number EW01 Rev03	10/08/2023

Planting Plan 1 of 1	RPS Project Number 010764.001 Drawing Number PP 01 Rev03	10/08/2023			
Landscape Details 1 of 1	RPS Project Number 010764.001 Drawing Number LD01 Rev03	10/08/2023			
Landscape Elevation 1 of 2	RPS Project Number 010764.001 Drawing Number LD02 Rev03	10/08/2023			
Landscape Elevation 2 of 2	RPS Project Number 010764.001 Drawing Number LD03 Rev03	10/08/2023			
Landscape Perspective 1 of 1	RPS Project Number 010764.001 Drawing Number LD04 Rev03	10/08/2023			
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

### 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.

### **Operational Works**

- 3. An Operational Work Approval is required for the water and sewer, earthworks, retaining structures, site stormwater drainage, driveway construction and works within the road reserve. The application for Operational Work must include, but not be limited to, the following:
  - a) Water and Sewerage work required to service the site; and
  - b) Earthwork internal to the site; and
  - c) All retaining and supporting structures over 1m in height; and

- Connection to the stormwater pipe located within Easement D on SP227593; and;
- e) Work within the road reserve for the driveway, extension of the bitumen road and kerb and channel; and
- f) All earthworks must be carried out in accordance with section CP1.13 and D5 of the FNQROC Development Manual. A copy of the contractors Erosion and Sediment Control Plan (ESCP) is to be submitted to Council prior to the issue of a Development Permit for Operational Work. Measures nominated in the ESCP must be implemented prior to commencement of any earthworks. The ESC Plan must address the Institution of Engineers' Australia Guidelines for Soil Erosion and Sediment Control and the Environment Protection (Water) Policy and Clauses CP1.06, CP1.13 and D5.10 of Council's FNQROC Development Manual; and
- g). All work must be carried out in accordance with the requirements and recommendations from the Geotechnical Report prepared by Geo Design, Reference 22050AA-D-RO1-v1, dated 24 August 2022, prepared by Steve Ford RPEQ 25762, and the Earthworks Plan prepared by Architecture By Us, Sheet TP12, dated 24 May 2023. In particular all works are to be carried out under the direction and supervision of Geo Design to confirm design and construction adequacy.

Such works must be completed to the requirements and satisfaction of the Chief Executive Officer prior to commencement of use.

### External Works

- 4. Undertake the following works external to the land at no cost to Council;
  - a). Construct kerb and channel along the frontage of the property. The alignment and extent of kerb and channel will be determined at the time of seeking a Development Permit for Operational Works noting Council's desire to tie into the existing kerb and channel fronting 23 Murphy Street;
  - b). Widen the bitumen on Murphy Street to meet with the kerb and channel; and
  - c). Provide a new access crossover and apron to 21 Murphy Street.

All works in the road reserve need to be properly separated from pedestrians and vehicles, with any diversions adequately signed and guarded. Particular attention must be given to providing safe passage for people with disabilities i.e. the provision of temporary kerb ramps if pedestrian diversions are necessary.

Such work must be constructed prior to commencement of use.

Note: the above works are not considered to be creditable or trunk related works in accordance with Section 145 of the *Planning Act 2016*.

#### Discharge of Onsite Storm Water

5. Connection to the stormwater pipe located within Easement D on SP227593 must be constructed in accordance with FNQROC Standard Drawing Field Inlet Pits S1070. Such works must be completed to the requirements and satisfaction of the Chief Executive Officer prior to commencement of use.

#### Connection to Sewer

6. Provide a single internal sewer connection that complies with the requirements of the Queensland Development Code MP 1.4- Building over or near relevant infrastructure. All work must be carried out to the requirements and satisfaction of the Chief Executive Officer prior to commencement of use.

### Retaining Walls and Timber Fencing.

7. All retaining walls must be constructed of materials and/or finished in colours, which blend with the surrounding natural environment.

All retaining walls or structures higher than one (1) metre must be structurally certified by an RPEQ prior to the issue of a Development Permit for Building Work.

## Bridge Link on 19 Murphy Street (Lot 109 on PTD2091)

 The bridge link at 19 Murphy Street may only remain in place whilst there is a reciprocal and similar bridge link provided on the adjacent 21 Murphy Street (Lot 110 on PTD2091). Should the bridge link on 21 Murphy Street be removed, the portion of the bridge on Lot 109 on PTD2091 must be demolished within 6 months.

#### Bridge Link on 21 Murphy Street (Lot 110 on PTD2091)

 The bridge link at 21 Murphy Street may only remain in place whilst there is a reciprocal and similar bridge link provided on the adjacent 19 Murphy Street (Lot 109 on PTD2091). Should the bridge link on 19 Murphy Street be removed, the portion of the bridge on Lot 110 on PTD2091 must be demolished within 6 months.

#### Height of Delivery Hutch Wall

10. The delivery hutch wall must not be more than two (2) metres in height at the front road boundary.

#### External Building Colours

11. The exterior finishes must be generally in accordance with the approved Finishes Schedule prepared by Architecture By Us, dated 07 February 2023. Any changes to the approved exterior finishes must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

#### Landscaping

12. The site must be landscaped in accordance with details included in the landscape documentation prepared by RPS, Project Number 010764.001 dated 10 August 2023 prior to the commencement of use and maintained at all times to the satisfaction of the Chief Executive Officer.

The trees to be retained as identified on the External Works Plan (Drawing No. EW01 Rev 3), prepared by RPS, dated 8 August 2023, must be protected as per the Australian Standard Protection of Trees on Development Sites AS 4970-2009.

#### Vegetation Damage

13. This Approval does not include the removal of vegetation on neighbouring lots or within the road reserve. Removal of vegetation on neighbouring lots or within the road reserve requires further development application/s be submitted Council.

#### Bushfire Hazard

14. The house must be developed in accordance with AS3959- 2009.

#### Damage to Council Infrastructure

15. 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, including but not limited to; mobilisation of heavy construction equipment, stripping and grubbing, the applicant/owner must notify Council immediately of the affected infrastructure and have it repaired or replaced at the developer's/owners/builders cost, prior to the Commencement of Use.

#### **Off-site impacts**

16. Dust emissions or other air pollutants, including odours, must not extend beyond the

boundary of the site and cause a nuisance to surrounding properties.

## ADVICE

- 1. 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 s85 of the *Planning Act 2016*.
- 2. 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.
- 3. This approval does not negate the requirement for compliance with all other relevant Local Laws and other statutory requirements.
- 4. Light emanating from the site must not cause a light nuisance to surrounding properties in accordance with the *Environmental Protection Act 1994*.
- 5. The development approval does not permit the landscaping beyond the property boundary. Any such work would be subject to achieving suitable tenure and approval under the Planning Scheme.
- 6. For information relating to the *Planning Act 2016* log on to <u>www.dsdmip.qld.gov.au</u>. To access the FNQROC Development Manual, Local Laws and other applicable Policies, log on to <u>www.douglas.qld.gov.au</u>.

#### 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





















PRELIMINARY

Instant
Instant
Instant
Instant
Proprior
Proprior
Proprior
Proprior

Image: I









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DEVELOPMENT OVERVIEW - 3D VISUALISATION STUDIES ROPOSED RESIDENTIAL DEVELOPMENT AT 21 MURPHY STREET PORT DOUGLAS QUEENSLAND 4877

ISSUE DATE 07/02/2023

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DEVELOPMENT OVERVIEW - 3D VISUALISATION STUDIES ROPOSED RESIDENTIAL DEVELOPMENT AT 21 MURPHY STREET PORT DOUGLAS QUEENSLAND 4877

ISSUE DATE 07/02/2023

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DEVELOPMENT OVERVIEW - 3D VISUALISATION STUDIES ROPOSED RESIDENTIAL DEVELOPMENT AT 21 MURPHY STREET PORT DOUGLAS QUEENSLAND 4877

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ISSUE DATE 07/02/2023

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DEVELOPMENT OVERVIEW - 3D VISUALISATION STUDIES ROPOSED RESIDENTIAL DEVELOPMENT AT 21 MURPHY STREET PORT DOUGLAS QUEENSLAND 4877

ISSUE DATE 07/02/2023

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DEVELOPMENT OVERVIEW - 3D VISUALISATION STUDIES ROPOSED RESIDENTIAL DEVELOPMENT AT 21 MURPHY STREET PORT DOUGLAS QUEENSLAND 4877

ISSUE DATE 07/02/2023



Natural cement colour.







TB TIMBER SCREEN AL POWDER COATED ALUMINIUM to match Colorbond

"Monument"

ES

velvet finish

EXPRESSED STEEL to match Colorbond "Monument"

FINISHES SCHEDULE ROPOSED RESIDENTIAL DEVELOPMENT AT 21 MURPHY STREET PORT DOUGLAS QUEENSLAND 4877

ISSUE DATE 07/02/2023

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#### PLANTING SCHEDULE

CODE	BOTANICAL NAME	COMMON NAME	MINIMUM POT SIZE	HEIGHT AND SPREAD	CALIPER	SPACING	STAKES AND GUYS	COUNT	NATIVE STATUS
TREE									
ATR ft	ATRACTOCARPUS fitzalanii	Brown Gardenia	300mm	4000 x 4000 mm	100 mm	REFER PLAN	YES	4	Intranational
CYA coo	CYATHEA cooperi	Fem Tree	300mm	4000 x 3000 mm	100 mm	REFER PLAN	YES	1	QLD Endemic
XAN chr	XANTHOSTEMON chrysanthus	Black Penda	300mm	4000 x 6000 mm	100 mm	REFER PLAN	YES	6	QLD Endemic
SHRUB									-
CYC med	CYCAS media	Australian Nut Palm	300mm	300 x 300 mm		REFER PLAN	NO	7	Not Native
CYC nev	CYCAS revoluta	Sago Palm	300mm	300 x 300 mm		REFER PLAN	NO	7	Not Native
PALM					· · · · · ·				
ARC ale	ARCHONTOPHOENIX alexandrae	Alexandra Palm	300mm	4000 x 2000 mm	100 mm	REFER PLAN	NO	17	Regional Endemic
LIC ram	LICUALA ramaayi	Australian Fan Palm	300mm	4000 x 2000 mm	100 mm	REFER PLAN	NO	15	QLD Endemic
GROUND C	OVER	1							
ALP cae	ALPINIA caerulea	Native Ginger	140mm	140 x 140 mm		REFER PLAN	NO	391	Intranational
ALP mod	ALPINIA modesta	Narrow-leaved Ginger	140mm	140 x 140 mm		REFER PLAN	NO	243	QLD Endemic
ASP aux	ASPLENIUM australasicum	Birds Nest Fern	140mm	150 x 150 mm		REFER PLAN	NO	101	Native / Not Endemic
BLE nud	BLECHNUM nudum	Fishbone Waterfern	140mm	150 x 150 mm		REFER PLAN	NO	153	Intranational
COR str	CORDYLINE stricts	Native Cordyline	140mm	140 x 140 mm		REFER PLAN	NO	402	Not Native
DIA cae	DIANELLA caerulea	Northern Flax	140mm	150 x 150 mm		REFER PLAN	NO	257	Native / Not Endemic
GAR act	GARDENIA actinocarpa	Daintree Gardenia	140mm	150 x 150 mm		REFER PLAN	NO	421	QLD Endemic (Endangered
LOM hys	LOMANDRA hystrix	Matt Rush	140mm	140 x 140 mm		REFER PLAN	NO	150	Intranational
LOM Ion	LOMANDRA longifolia	Spiny-Head Matt Rush	140mm	140 x 140 mm		REFER PLAN	NO	421	Intranational
PLE rac	PLEURANTHODIUM racemigerum	Raceme Ginger	140mm	150 x 150 mm		REFER PLAN	NO	185	QLD Endemic

#### NOTE:

The contractor shall review the plant schedule to ensure that drawings and schedules concur. Where insufficient detail or discognancies may eaist on either the plans or the schedule, it is the contractors responsibility to resolve immediately with the Landscape Architect and prior to providing lender pricing, signed work contractors or commensament of works.

#### NATIVE STATUS PERCENTAGE:

QLD Endemic Intranational Regional Endemic Native / Not Endemic	- 35.3% - 29.4% - 5.9% - 11.8%	All are native plants of douglas local government area.
Not Native	- 17.6%	

In accordance with Douglas Shire Planning Scheme - 7.2.4 Port Douglas/Craiglie Local Plan Code - Section PO4, the landscaping of the development complements the existing tropical character of Port Douglas and Craiglie, by incorparating around 80% of Native/Emdemic planting species in its proposed design outcome. This will also comply with the Port Douglas Waterfront Masterplan -Landscape Design Guide, Design Principles where it it states "60% of total proposed species are to be endemic or native species".


Code / Item 1	Ranuf. / Supplier	Requirements / Comments	Code / Item	Manuf./Supplier	Requirements / Comments	1
Prep			Hardscape			
sion and silt control measures		Refer construction site management plan	E1 - Edge Type 1		Type: Continuous concrete Edge	( <b>I</b>
eet-up (all landscape)		Advise location of site shed if applicable			Sizing: 150mm x 150mm Colour: ONYX	
ply of temporary power and		During the contraction period	11		Tool Joint Spacing: 2500mm max	
87					Expansion Joint Spacing: 10000mm max	
e protection fence thworks		Refer Arborist specification	PD1 - Pond		Type: Custom Square Pond Size: 4400mm x 4400mm Subject to Detail Design	
avation/ Filling to adjust civil files		To adjust civil profiles to desired shape and trim.	PT1 - Pavement Type 01		Type: Plain Coloured Broom Finish Concrete Stabs Aggregate: to AS1179	
ding and Trim (all landscape)		All landscape-Assumes bulk levels are left within 150-300mm of required finished levels 150mm assumed for burf	1		Colour: TBD with Architect Finish: Light broom finish - samples to be approved Silp Resistance: P4 Wet Pendulum Test refer AS HB 198	
		300mm assumed for planting			Joints: TBD	
sting			PT2 - Timber Decking		Type: Timber Decking	
e Guard		Praxis - 1500 square Duraplate Tree Grate as supplied by CityGreen	1		TBD with Architect	1
ot Barrier		Type: Nylex General Products "Root Barrier" HDPE, or approved equivalent. Rod Width: 900mm	STP - Concrete Stepper	Bunnings	Type: Anaton Rectangle Concrete Paving Stab Size: 600mm x 450mm Colour: Grey	
		Minimum Width: 3000mm and 1500mm from centre of tree.			Or Equal	
facape			-			
1 - Planting Area Type 1		Type: Planting Area Over Natural Ground Mutch: Imported weathered hoop pine chip bank Deght: 100mm - Refer to specifications for details. Soils to FNGROC requirements				
2 - Planting Area Type 2		Type: Planting Area Over Natural Ground	1			
		Much: Imported Rock Mulch - S0mm DIA River Gravel Depth: 100mm - Refer to specifications for details.				
		Solis to FNQROC requirements				NOT FOR
1 - Turf on Ground		Type: Turf over natural ground Species: min 95% Couch 25mm thick – First grade, 100% cover.	1			CONSTRUCTIO
		Solis to FNQROC requirements				
			-			
						In Self-Off-Male 2011 In 10 Proving Control 2011 In 10 P
						Production of the service set production car would be assess the weight difference and all other and service in product thereing the descent and production of product the special of the descent product and difference in product when the descent product and the product and to DTA descent product and the product and the DTA descent product and product an
						A remain the formation of the formation
						Anthony Hall - Property Owner
						21 Muphy Street, Port Douglas
						MATERIALS AND FINISHES
						010764.001
						1 mil 1 mil











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D. 11.83.05.888 DI USD Const DIRECTORS 21 Biophy Street, Peri Dissipari/12710318764 201 - Landscapel® Technical/DI Rest27 Monphy Street\_Peri Dissipari, PERI ed.



## FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access





**Reasons for Decision** 

The reasons for this decision are:

- 1. Sections 60, 62 and 63 of the *Planning Act 2016*:
  - a) to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme Version 1.0; and
  - b) 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 on 4 April 2023 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:
  - c) the development triggered assessable development under the Assessment Table associated with the Low-Medium Density Residential Zone Code;
  - d) Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
  - e) 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.

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Divi	Division 2		Changing development approvals			
Sub	divis	sion	1 Changes during appeal period			
74	What this subdivision is about					
	(1)		subdivision is about changing a development approva re the applicant's appeal period for the approval ends.			
	(2)	appli	subdivision also applies to an approval of a chang cation, other than a change application for a mino ge to a development approval.			
	(3)	For s	ubsection (2), sections 75 and 76 apply—			
		(a)	as if a reference in section 75 to a development approva were a reference to an approval of a change application and			
		(b)	as if a reference in the sections to the assessmen 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	Ma	king	change representations			
	(1)	<i>repre</i> appli	applicant may make representations ( <i>chang</i> esentations) to the assessment manager, during th cant's appeal period for the development approval, about ging—			
		(a)	a matter in the development approval, other than-			
			<ul> <li>a matter stated because of a referral agency' response; or</li> </ul>			

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- (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—
    - 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

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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.

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(d)	for	an	appeal	against	an	infrastructure	charges		
	noti	ce—	20 busine	ess days a	fter t	he infrastructure	e 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.

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- (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

- 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

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	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—				
	<ul> <li>(a) if a submitter or advice agency started the appeal in the P&amp;E Court—2 business days after the appeal is started or</li> </ul>				
	(b) otherwise—10 business days after the appeal is started.				
(5	b) A notice of appeal given to a person who may elect to co-respondent must state the effect of subsection (6).				
(6	A person elects to be a co-respondent to an appeal by filin notice of election in the approved form—				
	<ul> <li>(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</li> </ul>				
	(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 N	on-appealable decisions and matters				
(1	Subject to this chapter, section 316(2), schedule 1 and t P&E Court Act, unless the Supreme Court decides a decisi or other matter under this Act is affected by jurisdiction error, the decision or matter is non-appealable.				

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- (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

- 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.

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