

13 March 2020

Enquiries: Daniel Lamond
Our Ref: MCUI 2019_3171 (945199)
Your Ref: B8857

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

Optus Mobile Pty Ltd
C/- Metasite Pty Ltd
PO Box 31
CROWS NEST NSW 1585

Attention: Joel Stuart

Dear Sir

**Development Application for Telecommunications Facility
3910 Cape Tribulation Road, Cape Tribulation
LOT: 0 on SP: 219085 and LOT: 4 on SP: 219085**

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

Please quote Council's application number: MCUC 2019_3171 in all subsequent correspondence relating to this development application.

Should you require any clarification regarding this, please contact Daniel Lamond on telephone 07 4099 9456.

Yours faithfully

Paul Hoyer
Manager Environment & Planning

encl.

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



Decision Notice

Approval (with conditions)

Given under section 63 of the Planning Act 2016

Applicant Details

Name: Optus Mobile Pty Ltd
Postal Address: C/- Metasite Pty Ltd
PO Box 31
CROWS NEST NSW 1585
Email: joel.stuart@metasite.com.au or
mdsspropertyissues@optus.com.au

Property Details

Street Address: 3910 Cape Tribulation Road, Cape Tribulation
Real Property Description: LOT: 0 on SP: 219085 & LOT: 4 on SP: 219085
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit - Material Change of Use (Telecommunications Facility)

Decision

Date of Decision: 10 March 2020
Decision Details: Approved (subject to conditions)

Submissions:

There was one (1) properly made submission for this application.

Submitter	Address
Bradley Fisher	19 Zena Close, Cape Tribulation

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
Overall Site Plan	Drawing No. B8857-P1, Revision 3.	28 January 2020
Draft Site Layout	Drawing No. B8857-P1, Revision 3.	28 January 2020
Draft Site Elevation	Drawing No. B8857-P1, Revision 3.	28 January 2020
Tree Removal Plan	Optus Mobile Site: B8857 Cape Tribulation for Metasite, Rev 1	17 February 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.

Health

3. The facility must comply with all relevant State and National Standards in relation to emission of light, vibration, odour and radiation.

The telecommunications facility must be operated in accordance with Radio Communications (Electromagnetic Radiation – Human Exposure) Standard 2014 in relation to the limits for continuous exposure of the general public to radio-frequency electromagnetic energy or other Standard of the Commonwealth of Australia more relevant at the time.

Colours

4. The exterior finishes and colours of the facility must be non-reflective and must blend with the natural colours of the surrounding environment. Colours must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

Fencing and Signage

5. Construct fencing for the perimeter of the facility with a minimum 2.4 metre high mesh security fence being of a dark colour. The facility is to be signed with appropriate hazard and warning signs.

Landscaping

6. Prior to the commencement of use the Applicant must establish, to the satisfaction of the Chief Executive Officer, a landscaped screening buffer to the West, south and eastern side of the compound and tower site. The Landscape Plan must detail species endemic to the locality including trees that will achieve a mature height of no more than 10 metres to obscure direct view of the lower half of the tower, and additional low level trees and shrubs to screen the direct ground level view of the compound and equipment shelter.

A landscape plan detailing the above requirements must be endorsed by the Chief Executive Officer prior to commencement of construction.

Limited Approval

7. The Development hereby approved lapses at the expiry of agreement to lease the land from the land owner or entity from which a lease may be attained. Prior to the lapse of the life of the approval the telecommunications tower and all associated infrastructure, buildings, structures and fencing must be decommissioned and removed and the site reinstated to its original condition to the satisfaction of the Chief Executive Officer. All costs associated with the decommissioning and final removal shall be borne by the Applicant or entity that operates the tower at the time of removal.

Access

8. Construct practical access from the frontage of Cape Tribulation Road to the tower site and include a hardstand area for service vehicle set down. The access and set down area is not required to be sealed but must be constructed with a base that does not create a dust nuisance.

Sediment and Erosion Control

9. All earthworks must be carried out in accordance with section CP1.13 and D5 of the FNQROC Development Manual and must comply with the following:
 - a. Measures nominated in the ESCP must be implemented prior to commencement of any earthworks.
 - b. 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.

Flood Immunity

10. All equipment shelters must have a finished floor level of no less than 4.74 metres AHD.

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

Currency Period for the Approval

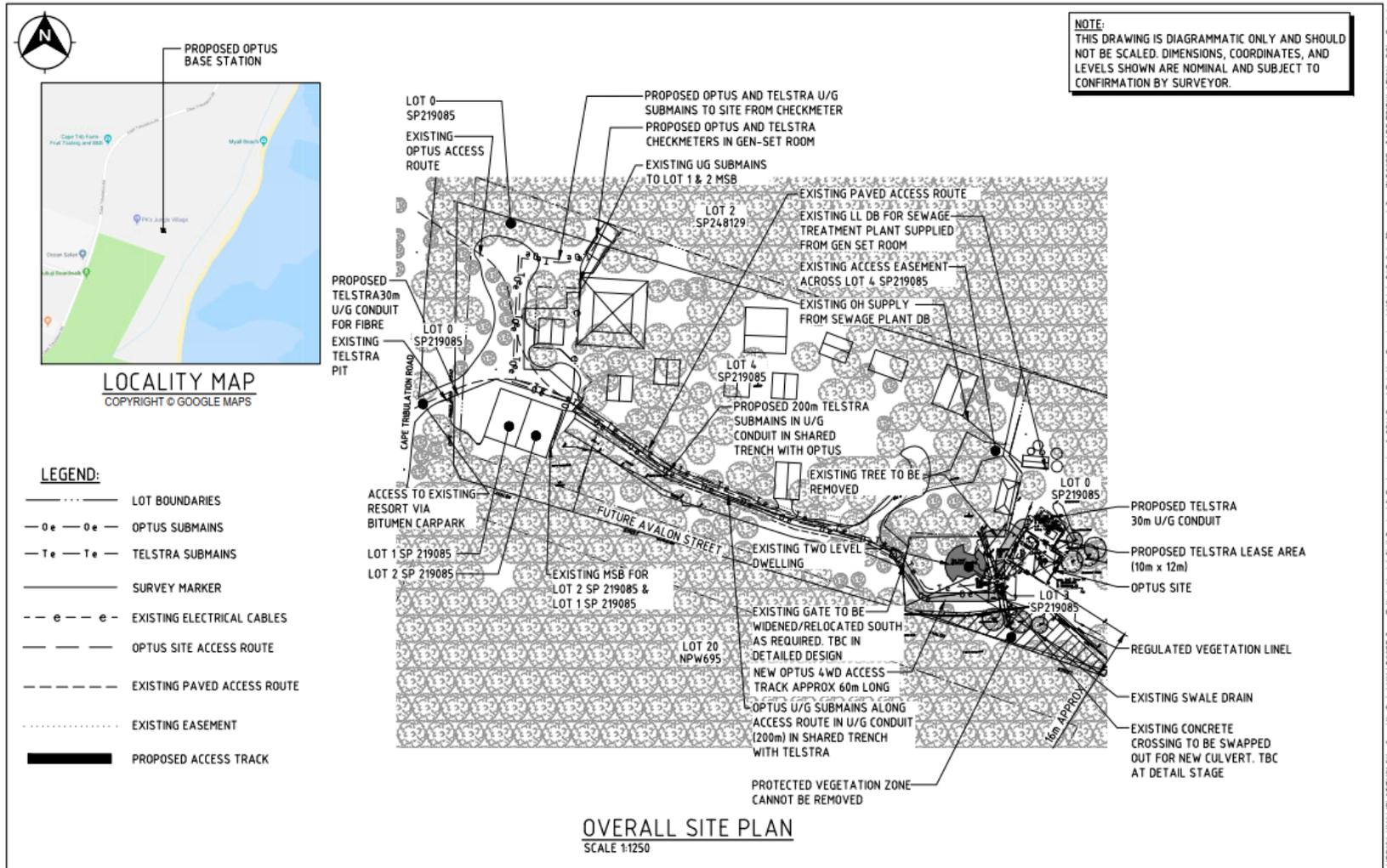
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

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 are attached.

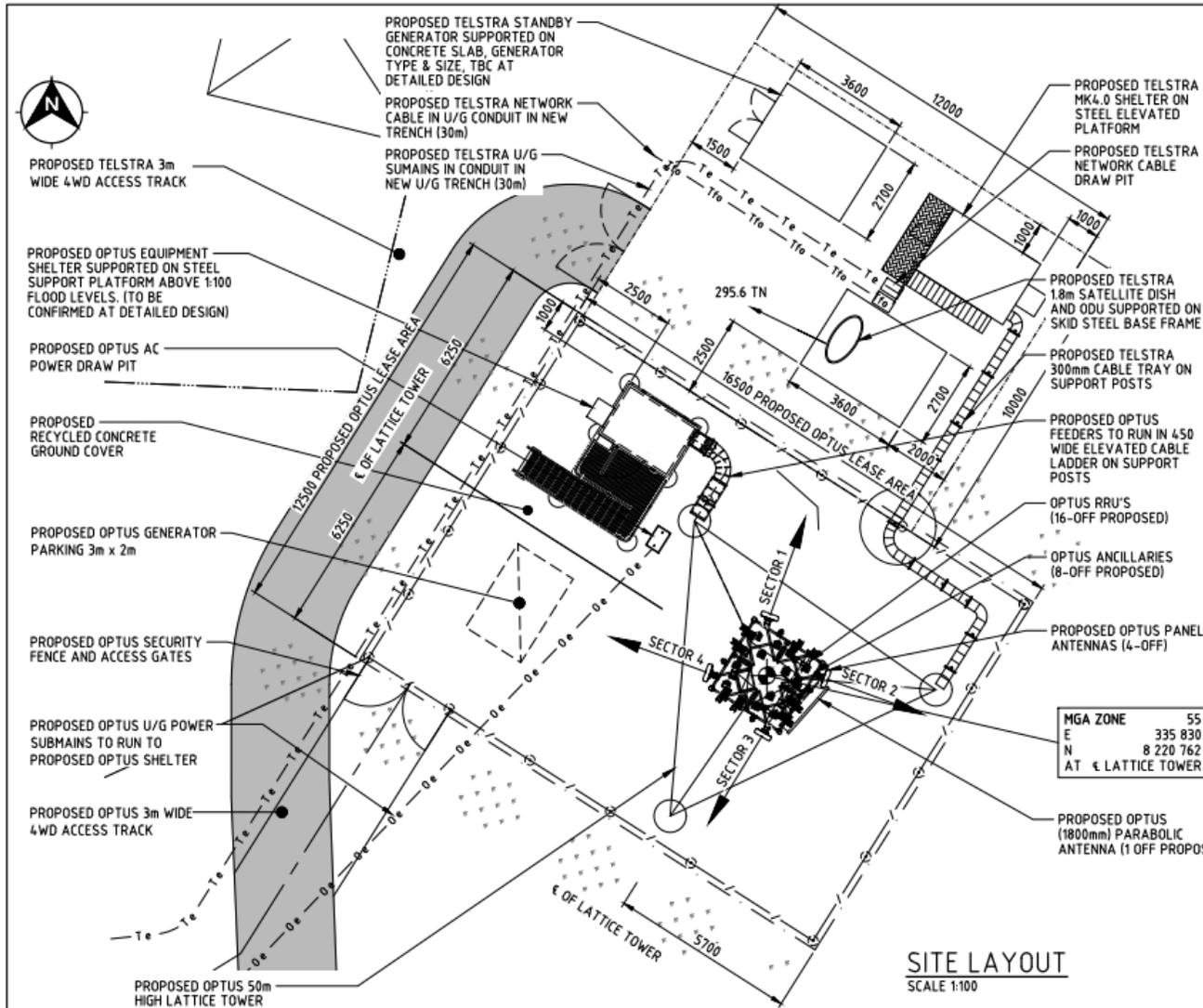
Approved Drawing(s) and/or Document(s)



				MOBILE NETWORK AUSTRALIA SITE No. B8857 - Q CAPE TRIBULATION		ACCESS TRACK PLAN FOR APPROVAL	
03 20.01.20 ISSUED FOR APPROVAL 02 20.04.19 ISSUED FOR APPROVAL 01 22.12.17 ISSUED FOR APPROVAL		METASITE AU RT PJ HUAMEI BL AP BC JH OPUS AM AP BC JH		Client: CAPE TRIBULATION ROAD, CAPE TRIBULATION		Drawing No: B8857-P1 Revision: 03	

CAD File: E:\Vly Drive\WPS124-HUAMEI\OPTUS\Site Specific Data\NH\B8857 Cape Tribulation\6 Civil Design\2 Existing Drawings\MS IN-CAD Only Do not Send\B8857_CAPE TRIBULATION_DS1_Backdraft.rvt

CAD File: G:\VY Drive\VP5124-HUAWEI\OPTUS\Site Specific Data\N\B8857-Cape Tribulation\6 Civil Design\2. Engineering & SDV Docs\Existing Drawings\MS IM-CAD Only (Do not Send)\B8857_CAPE TRIBULATION_DSL_Backdrafted



- SITE ADDRESS:**
 LOT 0 / SP219085
 CAPE TRIBULATION ROAD,
 CAPE TRIBULATION, QLD 4873
- NOTES:**
- BASIS OF DESIGN**
 - > SITE INSPECTION 19/06/2019
 - PANEL ANTENNAS**
 - > 1-OFF PROPOSED HUAWEI ASI4517R1 12 PORT ANTENNA PER SECTOR (EACH 2.8m MAX. LONG) AT EL. 49.00m.
 - > SECTOR 1 - 20°, SECTOR 2 - 110°, SECTOR 3 - 210°, SECTOR 4 - 290°
 - > MOUNTED TO STAND OFF MOUNTS ON HEADFRAME.
 - TRANSMISSION**
 - > Ø1800 PARABOLIC ANTENNA AT EL. 45.00m (1 OFF PROPOSED)
 - EQUIPMENT SHELTER**
 - > PROPOSED ICS TYPE A2 SHELTER (2.5m x 1.8m WITH AIRCONS).
 - > SUPPORTED ELEVATED STEEL PLATFORM ABOVE 1:100 LEVEL.
 - OPTUS LATTICE TOWER**
 - > PROPOSED 50m HIGH LATTICE TOWER WITH OPTUS SQUARE HEADFRAME AT EL. 49.00m.
 - FEEDER CABLES**
 - > SIZE: 6/12 (4 OFF) TRUNK CABLE
 - > LENGTH: 60m
 - > PROPOSED TRUNK CABLES TO RUN FROM SHELTER IN 450 WIDE ELEVATED CABLE LADDER THEN RUN UP LATTICE TOWER UTILISING FEEDER SUPPORT BRACKETS.
 - SITE ACCESS**
 - > SITE ACCESS VIA EXISTING BITUMEN CARPARK AND THEN VIA NEW 50m APPROX. 4WD ACCESS TRACK. ENTRY OFF CAPE TRIBULATION ROAD.
 - > OPTUS SITE 250m FROM CAPE TRIBULATION ROAD ENTRY.
 - ANTENNA ACCESS**
 - > CLIMBING LADDER AND DOUBLE LANYARD ACCESS PROVIDED ON LATTICE TOWER.
 - POWER SUPPLY**
 - > PROPOSED OPTUS CHECK METER TO BE INSTALLED IN LANDLORDS' GEN SET ROOM AND 3-PHASE AC POWER TO BE PROVIDED FROM THE GEN SET. OPTUS AC POWER SUBMAINS TO TAKE SHORTEST ROUTE TO OPTUS SHELTER.
 - > PROPOSED U/G OPTUS AC POWER SUBMAINS >320m APPROX.
 - > DETAILS TO BE CONFIRMED AT DETAILED DESIGN.
 - OTHER (PAINTING, LANDSCAPING, SCREENING)**
 - > PROPOSED OPTUS EQUIPMENT INCLUDES, LATTICE TOWER, HEADFRAME, MOUNTS, SHELTER, SHELTER PLATFORM, ANTENNAS, RRUS, ANCILLARIES TO BE PAINTED BLACK.

SITE LAYOUT
 SCALE 1:100

05	04.11.20	ISSUED FOR APPROVAL	METASITE	AU	RT	RT	PJ
02	19.04.19	ISSUED FOR APPROVAL	HUAWEI	BL	AP	BC	JH
01	02.10.17	ISSUED FOR APPROVAL	OPTUS	AM	AP	BC	JH
Rev	Date	Revision Details	Consultant	CAD	Designer	Verifier	Approver



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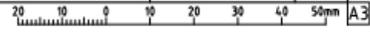
Client:
Project: MOBILE NETWORK AUSTRALIA
 SITE No. B8857 - Q
 CAPE TRIBULATION
 CAPE TRIBULATION ROAD, CAPE TRIBULATION

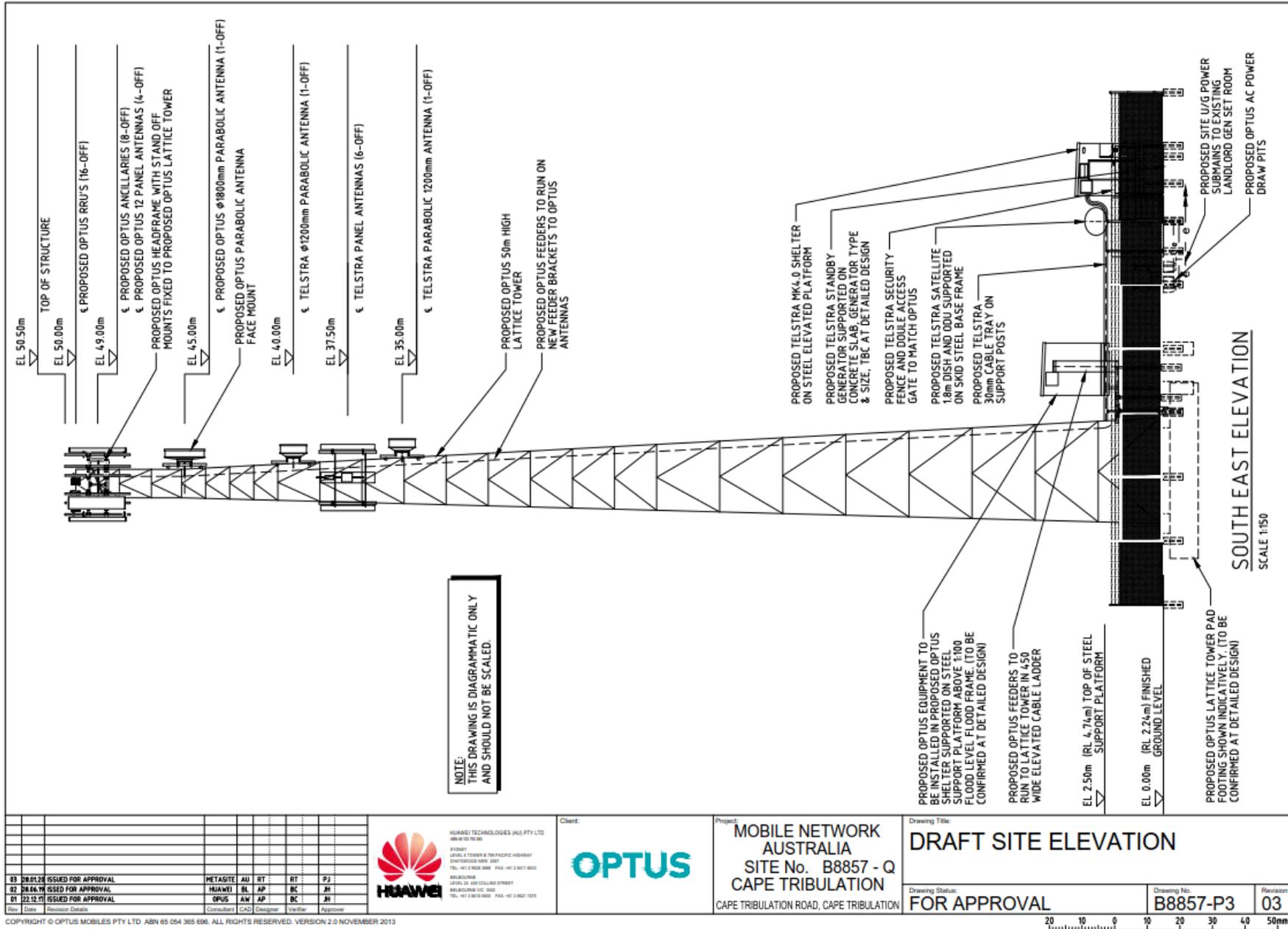
Drawing Title:
DRAFT SITE LAYOUT SHEET 1

Drawing Status:
FOR APPROVAL

Drawing No.: B8857-P1
Revision: 03

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03	18 JUL 20	ISSUED FOR APPROVAL	HETASITE	AU	RT	RT	P2
02	28 JUN 20	ISSUED FOR APPROVAL	HUAWEI	RL	AP	BC	JH
01	22 JUL 19	ISSUED FOR APPROVAL	OPTUS	AW	AP	BC	JH
Rev	Date	Revision Details	Consultant	CAD	Designer	Verifier	Approver

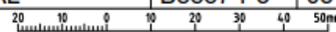


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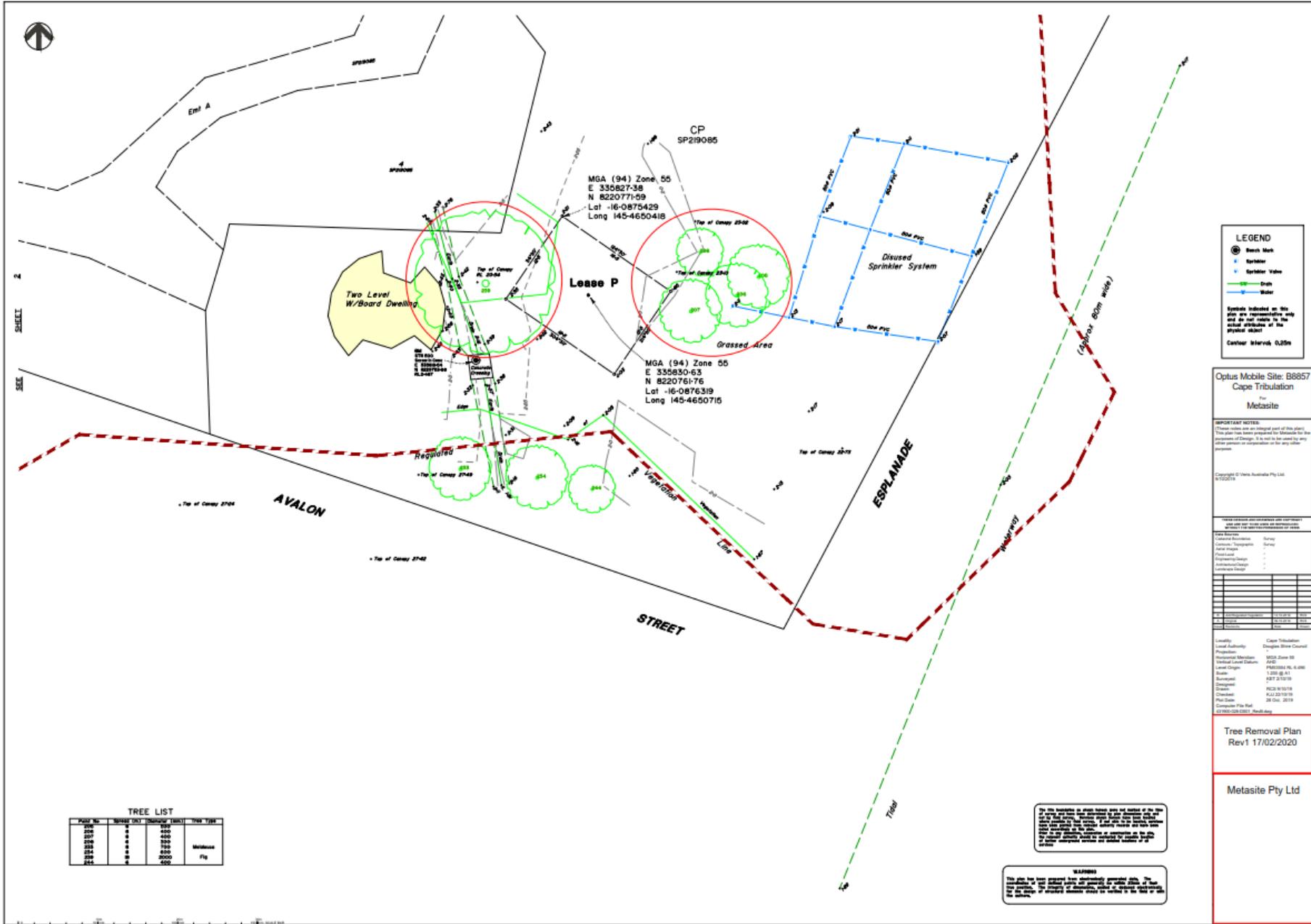


Client: MOBILE NETWORK AUSTRALIA
 Project: SITE No. B8857 - Q
 CAPE TRIBULATION
 CAPE TRIBULATION ROAD, CAPE TRIBULATION

Drawing Title: DRAFT SITE ELEVATION
 Drawing Status: FOR APPROVAL
 Drawing No: B8857-P3
 Revision: 03



CAD File: G:\My Drive\WPS124 - HUAWEI OPTUS\Site Specific Data\NH\B8857 Cape Tribulation\6 Civil Design\2. Engineering & SDV Docs\Existing Drawings\MS Int-CAD Only (do not send)\B8857_CAPE TRIBULATION_DS1_Backdraft



LEGEND

- Bench Mark
- Sprinkler
- Sprinkler Valve
- Drain
- Water

Systems indicated on this plan are representative only and do not relate to the actual attributes of the physical subject.

Contour Interval: 0.25m

Optus Mobile Site: B8857
Cape Tribulation
For
Metasite

IMPORTANT NOTES:
This plan has been prepared for Metasite for the site shown. It is not to be used for any other purpose. It is not to be used for any other purpose.

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020 202 2020

Metasite Pty Ltd
100 West Street, Cairns, QLD 4878
www.metasite.com.au

Task	Description	By	Date
Site Survey	Site Survey		
Concept Design	Concept Design		
Final Design	Final Design		
Construction	Construction		
Operation	Operation		
Maintenance	Maintenance		
Demolition	Demolition		
Reconstruction	Reconstruction		
Renovation	Renovation		
Extension	Extension		
Alteration	Alteration		
Refurbishment	Refurbishment		
Relocation	Relocation		
Replacement	Replacement		
Reinstatement	Reinstatement		
Reconstruction	Reconstruction		
Renovation	Renovation		
Extension	Extension		
Alteration	Alteration		
Refurbishment	Refurbishment		
Relocation	Relocation		
Replacement	Replacement		
Reinstatement	Reinstatement		

Location: Cape Tribulation
Local Authority: Douglas Shire Council
Proprietor: Metasite Pty Ltd
Title Reference: MGA Zone 05
Title Reference: 335830-63
Local Origin: 1:200 @ A1
Scale: 1:200 @ A1
Drawing No: 22/02/2020
Drawing Date: 17/02/2020
Drawing Title: Tree Removal Plan
Drawing No: 22/02/2020
Drawing Date: 17/02/2020
Drawing Title: Tree Removal Plan

Tree Removal Plan
Rev1 17/02/2020

Metasite Pty Ltd

TREE LIST

Tree No	Species	DBH (cm)	Height (m)	Tree Type
204	M	400	400	
207	M	400	400	
208	M	300	300	
209	M	300	300	Metasite
210	M	400	400	
211	M	2000	2000	Fig
212	M	400	400	

NOTES:
1. The site is located on a steep slope and the removal of the trees will result in a significant increase in the risk of erosion and landslides. The removal of the trees will also result in a significant increase in the risk of flooding. The removal of the trees will also result in a significant increase in the risk of soil erosion. The removal of the trees will also result in a significant increase in the risk of soil erosion.

WARNING:
This plan has been prepared for Metasite Pty Ltd. It is not to be used for any other purpose. It is not to be used for any other purpose. It is not to be used for any other purpose. It is not to be used for any other purpose.

Reasons for Decision

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*.

Findings on material questions of fact:

- a) the development application was properly lodged to the Douglas Shire Council on 11 July 2019 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.

Evidence or other material on which findings were based:

- a) the development triggered assessable development under the Assessment Table associated with the Conservation Zone Code;
- b) Council undertook an assessment in accordance with the provisions of sections 60, 62 and 63 of the *Planning Act 2016*; and
- c) the applicant's reasons have been considered and subject to the development complying with conditions of the Development Permit, the development satisfactorily meets the Planning Scheme benchmarks.

Extracts from the Planning Act 2016 - Making Representations During Applicant's Appeal Period

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.

Extracts from the Planning Act 2016 – Appeal Rights

Planning Act 2016
Chapter 6 Dispute resolution

[s 229]

- (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 an appeal relating to the *Plumbing and Drainage Act 2018*—
 - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
 - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or

(iii) otherwise—20 business days after the day the notice is given; or

- (g) for any other appeal—20 business days after a notice of the decision for the matter, including an enforcement notice, is given to the person.

Note—

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

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

230 Notice of appeal

- (1) An appellant starts an appeal by lodging, with the registrar of the tribunal or P&E Court, a notice of appeal that—
- (a) is in the approved form; and
- (b) succinctly states the grounds of the appeal.
- (2) The notice of appeal must be accompanied by the required fee.
- (3) The appellant or, for an appeal to a tribunal, the registrar, must, within the service period, give a copy of the notice of appeal to—

-
- (a) the respondent for the appeal; and
 - (b) each co-respondent for the appeal; and
 - (c) for an appeal about a development application under schedule 1, section 1, table 1, item 1—each principal submitter for the application whose submission has not been withdrawn; and
 - (d) for an appeal about a change application under schedule 1, section 1, table 1, item 2—each principal submitter for the application whose submission has not been withdrawn; and
 - (e) each person who may elect to be a co-respondent for the appeal other than an eligible submitter for a development application or change application the subject of the appeal; and
 - (f) for an appeal to the P&E Court—the chief executive; and
 - (g) for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The *service period* is—
- (a) if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - (b) otherwise—10 business days after the appeal is started.
- (5) A notice of appeal given to a person who may elect to be a co-respondent must state the effect of subsection (6).
- (6) A person elects to be a co-respondent to an appeal by filing a notice of election in the approved form—
- (a) if a copy of the notice of appeal is given to the person—within 10 business days after the copy is given to the person; or
 - (b) otherwise—within 15 business days after the notice of appeal is lodged with the registrar of the tribunal or the P&E Court.

- (7) Despite any other Act or rules of court to the contrary, a copy of a notice of appeal may be given to the chief executive by emailing the copy to the chief executive at the email address stated on the department's website for this purpose.

231 Non-appealable decisions and matters

- (1) Subject to this chapter, 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.

Part 2 Development tribunal

Division 1 General

233 Appointment of referees

- (1) The Minister, or chief executive, (the *appointer*) may appoint a person to be a referee, by an appointment notice, if the appointer considers the person—
 - (a) has the qualifications or experience prescribed by regulation; and
 - (b) has demonstrated an ability—
 - (i) to negotiate and mediate outcomes between parties to a proceeding; and
 - (ii) to apply the principles of natural justice; and
 - (iii) to analyse complex technical issues; and
 - (iv) to communicate effectively, including, for example, to write informed succinct and well-organised decisions, reports, submissions or other documents.