

12 January 2023

Enquiries: Rebecca Taranto
Our Ref: MCUI 2022_5140/1 (Doc ID:1133989)
Your Ref: Cow Bay-TLS-RCP-017-A

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

Amplitel Pty Ltd
C/- Acquirecomm Pty Ltd
PO Box 586
Elsternwick VIC 3185

Dear Sir/Madam

**Development Application for Material Change of Use (Telecommunications facility)
At 174 Buchanan Creek Road Cow Bay
On Land Described as Lot 5 on BK157130**

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

Please quote Council's application number: MCUI 2022_5140/1 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 Hoyer
Manager Environment & Planning

encl.

- Decision Notice
 - Approved Drawing(s) and/or Document(s)
 - 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: Amplitel Pty Ltd
Postal Address: C/- Acquirecomm Pty Ltd
PO Box 586
Elsternwick VIC 3185
Email: emily@acquirecomm.com

Property Details

Street Address: 174 Buchanan Creek Road, Cow Bay
Real Property Description: Lot 5 on BK157130
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Material Change of Use (Telecommunications Facility)

Decision

Date of Decision: 12 January 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
Tower AMS Site QLD004808	Amplitel DWG. Q117239 Sheet S1	24/06/2022
Antenna Layout	Amplitel DWG. Q117239	24/06/2022

	Sheet S1	
West Elevation	Amplitel DWG. Q117239 Sheet S1	24/06/2022
Telstra Antenna Configuration Table	Amplitel DWG. Q117239 Sheet S3-1	24/06/2022
Figure 1 and Figure 2	Acquirecomm Council Doc id: 1118415	Submitted with Application on 25 October 2022
FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access		
Rural Allotment Access	Standard Drawing S1105 Issue E	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.

Colours

3. The colour of the tower must be black, dark green or dark grey, raw galvanised steel finish is not permitted. Colours must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

Fencing, Gates and Signage

4. Replace the existing double gates and fencing for the perimeter of the facility with a minimum 1.8 metre high, dark colour mesh security fence. The facility is to be signed with appropriate hazard and warning signs.

Existing Structures

5. Ensure all existing structures are maintained to a fit for purpose standard. Where structural repairs are necessary, all external building materials must blend with the natural colours of the surrounding environment.

Air Safety

6. The Applicant is responsible for submitting a report to Civil Aviation Safety Authority (CASA) in accordance with Reporting Tall Structures.

Health

7. The facility must comply with all relevant State and National Standards in relation to emission of light, vibration 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. And ARPANSA policies with respect to compliance with mandated standard (Radio Communications (Electromagnetic Radiation- Human Exposure Standard 2003).

Limited Approval

8. The Development hereby approved lapses at the expiry of agreement to lease the land from the landowner 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.

External Works

9. Undertake the following external works:
 - a. Construct a rural allotment access generally in accordance with FNQROC Development Manual Standard Drawing S1105 prior to the commencement of the use.

ADVICE

- 1 This approval, granted under the provisions of the *Planning Act 2016*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 85 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 potential cyclone warning 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 relevant Local Laws and statutory requirements.
4. For information relating to the *Planning Act 2016* log on to www.dsdmip.qld.gov.au. To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to www.douglas.qld.gov.au.

Further Development Permits

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

- All Building Work

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

Currency Period for the Approval

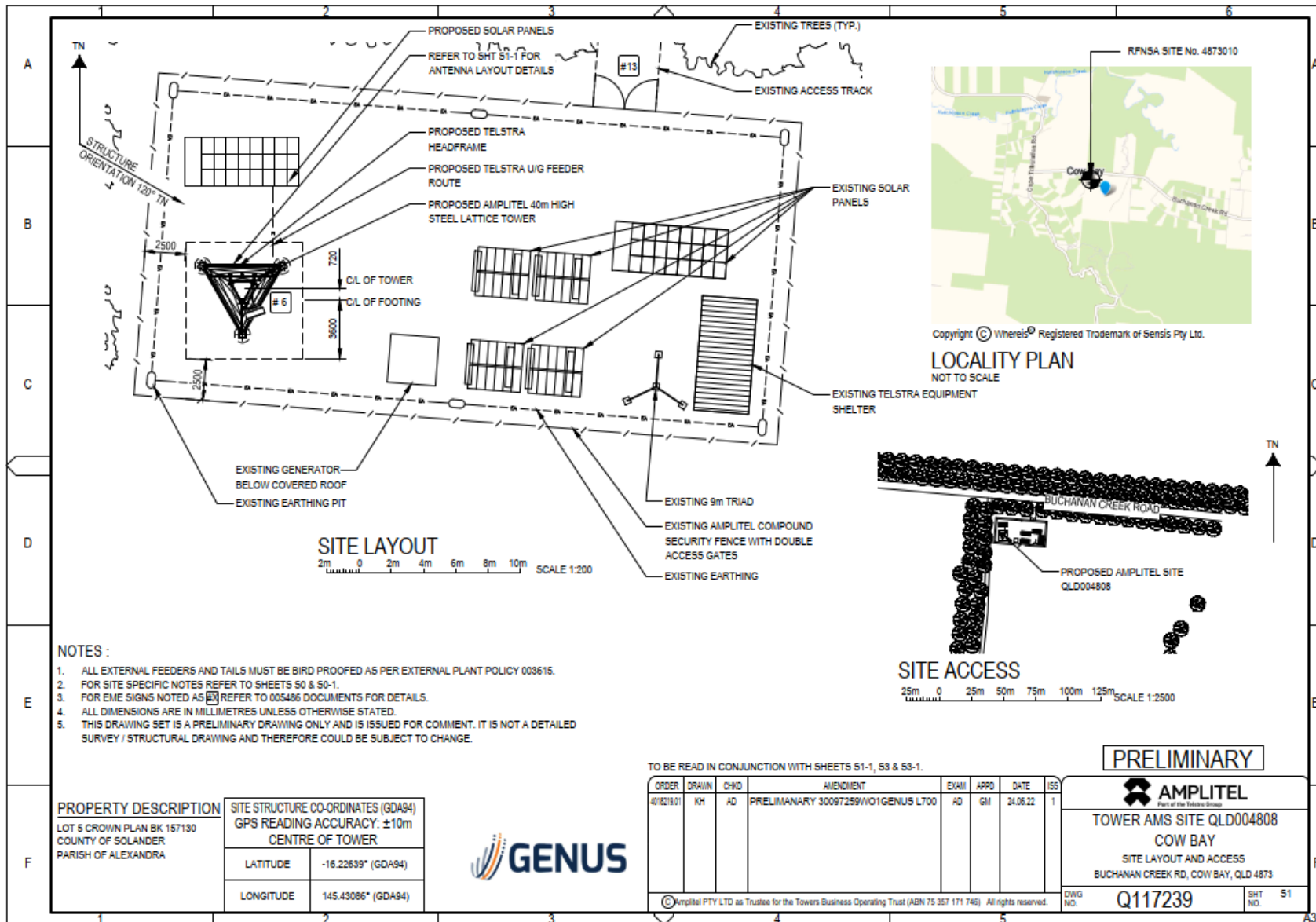
This approval, granted under the provisions of the *Planning Act 2016*, shall lapse six (6) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

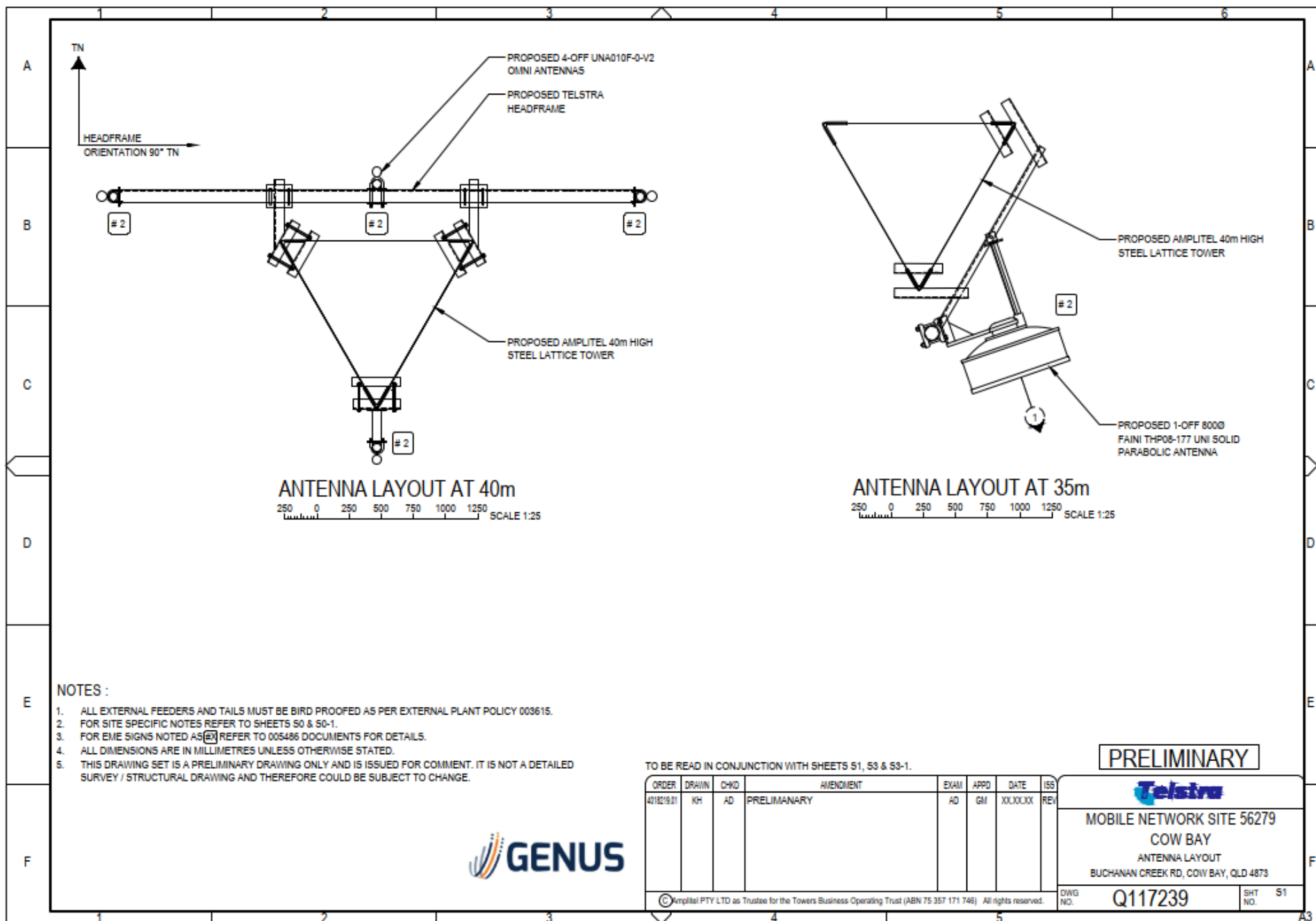
Rights to make Representations & Rights of Appeal

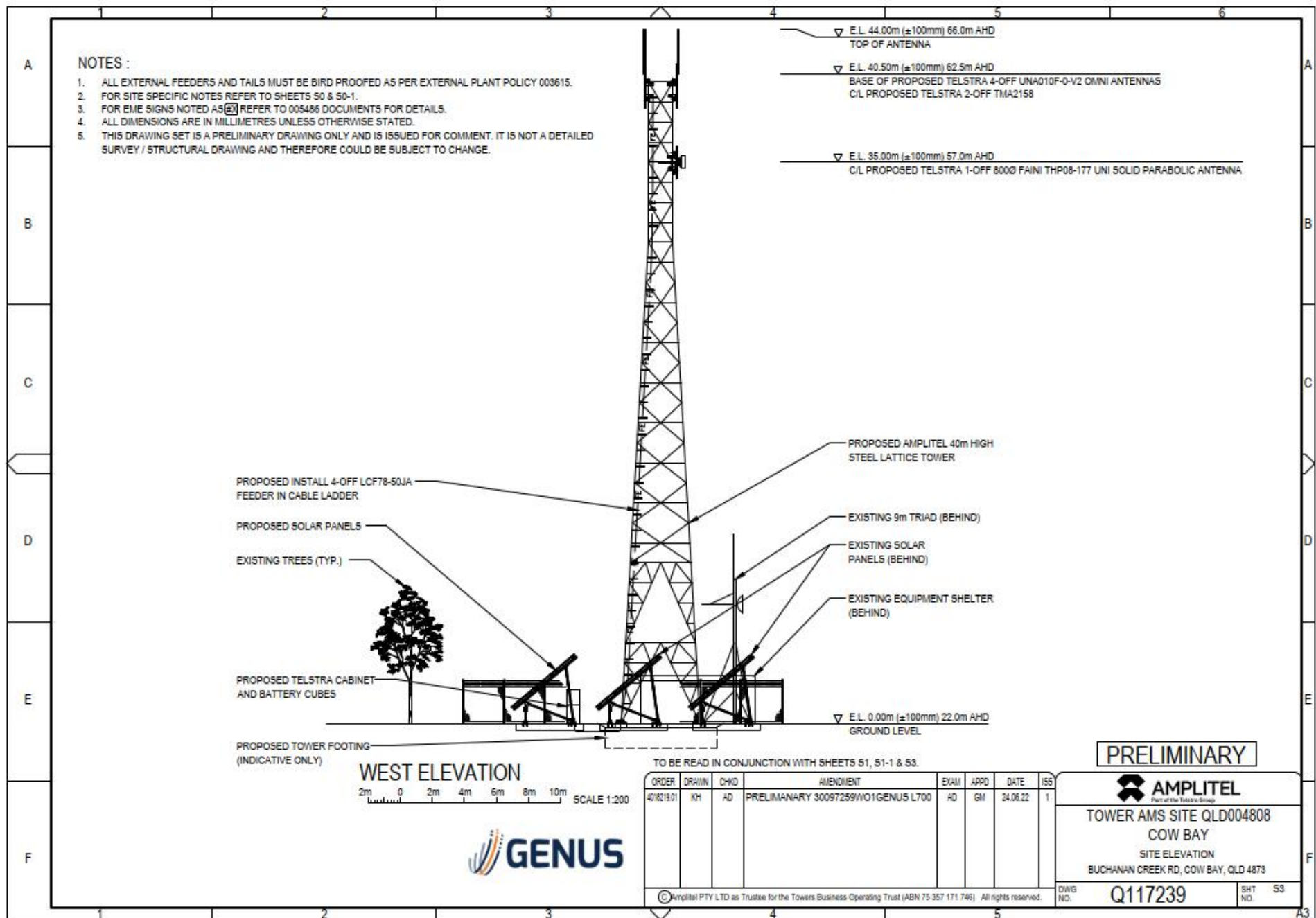
The rights of applicants to make representations and rights to appeal to a Tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

A copy of the relevant appeal provisions are attached.

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








	1	2	3	4	5	6
A						A
B						B
C						C
D						D
E						E
F						F


TELSTRA ANTENNA CONFIGURATION TABLE					
ANTENNA No	ANTENNA TYPE & SIZE H x W x D	ANTENNA STATUS	ANTENNA HEIGHT CIL A.G.L.	ANTENNA BEARING (x°T)	SECTOR NO. & TECHNOLOGY
A1	ARGUS UNA010F-0-V2 3414 x 56mm	INSTALL	40.5m	0°	50: LTE700/INR850
A2	ARGUS UNA010F-0-V2 3414 x 56mm	INSTALL	40.5m	0°	50: LTE700/INR850
A3	ARGUS UNA010F-0-V2 3414 x 56mm	INSTALL	40.5m	0°	50: LTE700/INR850
A4	ARGUS UNA010F-0-V2 3414 x 56mm	INSTALL	40.5m	0°	50: LTE700/INR850
A5	FAINI THP08-177 UNI SOLID PARABOLIC 0.8m DIAM.	INSTALL	35.0m	161°	TRANSMISSION



TO BE READ IN CONJUNCTION WITH SHEETS S1, S1-1 & S3.

ORDER	DRAWN	CHKD	AMENDMENT	EXAM	APPD	DATE	ISS
40/8219.01	KH	AD	PRELIMINARY 30097259/WO1GENUS L700	AD	GM	24.06.22	1

PRELIMINARY



MOBILE NETWORK SITE 56279
COW BAY
ANTENNA CONFIGURATION TABLE
BUCHANAN CREEK RD, COW BAY, QLD 4873

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DWG NO.	SHT NO.
Q117239	S3-1

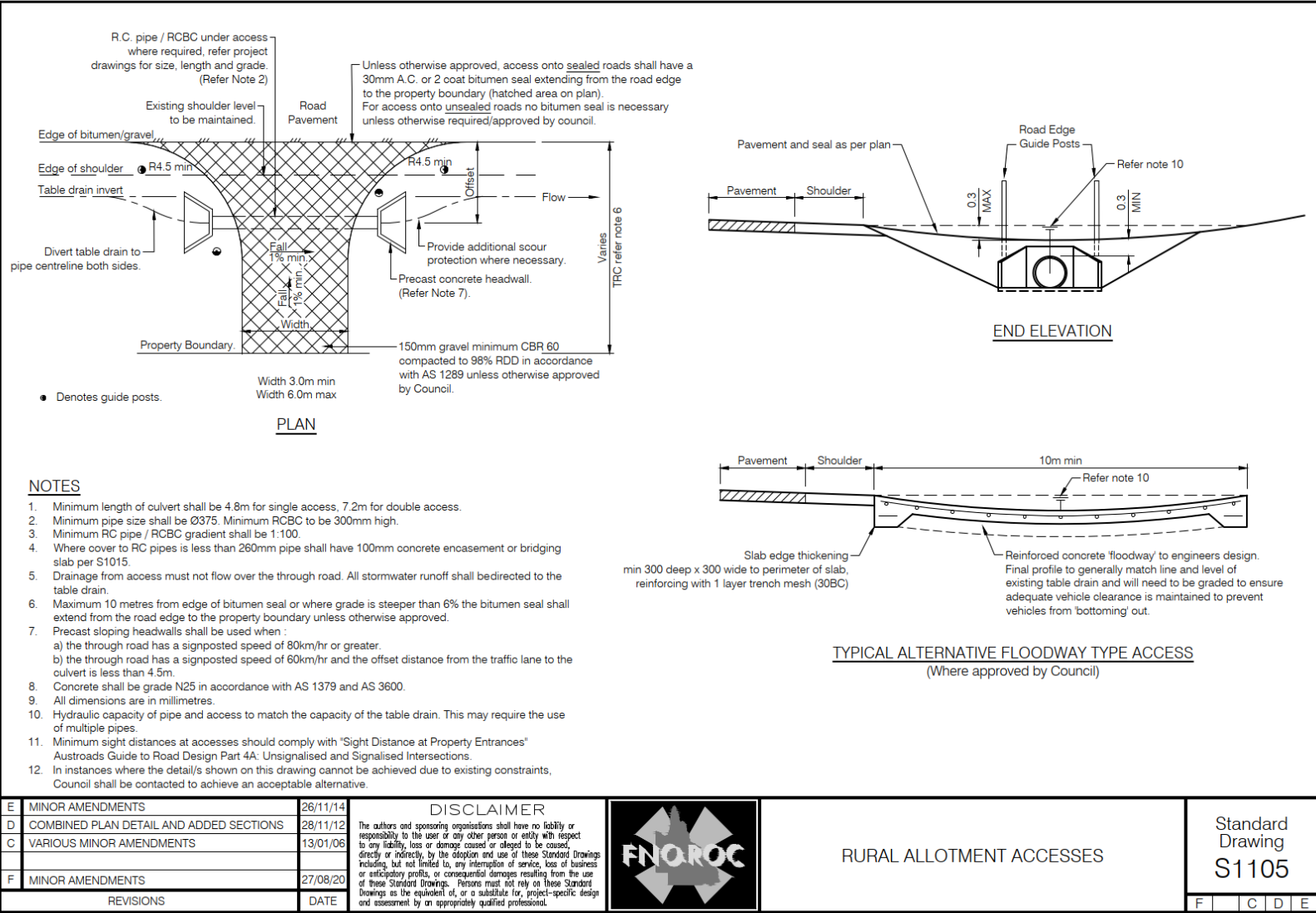


FIGURE 1 AERIAL IMAGE OF SUBJECT SITE (DOUGLAS SHIRE INTERACTIVE MAP SERVICE)



FIGURE 2 AERIAL VIEW SHOWING BROADER AREA AND SITE (YELLOW STAR) WITH THE CONSERVATION ZONE

FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access



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 25/10/2022 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 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. One properly made submission was received, and one not properly made submission was received.
 - Submitters;
 - i. Simon Hodgson and Gemma Heggie
60 Silver Ash Road
Cow Bay QLD 4873
 - ii. Kellie Gee
- Consideration of Submissions.

Grounds of Submissions	Planning Considerations
The existing Optus network has been adjusted within the past 24hrs to be working adequately, therefore there is no need to change the existing infrastructure.	The area surrounding the location of the proposed 4Gx macro cell base station has been identified as being a black spot with sporadic and unreliable telecommunications service. The new tower will use the latest technology to provide reliable service to the surrounding community.
Placing mobile phone towers in a World Heritage area is not acceptable due to the negative impacts of such high electromagnetic frequencies (EMF) upon the forest's flora and fauna species and people residing and visiting the area.	The tower has been designed in accordance with guidelines provided by the International Commission on Non-Ionizing Radiation Protection (ICNIRP) relating to levels of allowable public exposure to radio frequency fields, and mandated standard (RPS3) for Electromagnetic Fields (EMF), (also known as Electromagnetic Energy or Electromagnetic Radiation) set by Australian Radiation Protection and Nuclear Safety Agency (ARPANSA). Both guidelines provide for large safety margins.
Effects of EMF have not been studied over a substantial period of time.	Although the effects of EMF have not been studied over a long period of time, the development will emit

	electromagnetic fields below the international standard provided by International Commission on Non-Ionizing Radiation Protection and by Australian Radiation Protection and Nuclear Safety Agency.
The proposed tower is a much-needed piece of infrastructure and will fill the mobile dead spot which covers most of the Cow Bay lowland area.	The location of the proposed tower has been identified to fill a blackspot in mobile phone coverage in the Cow Bay area and is expected to improve connectivity and communications for residents, businesses and tourists.
Improved mobile reception gives us a better chance to have reception, which will greatly improve communication in case of an emergency and safety on the roads as emergency services will be able to be contacted from more locations.	The proposed tower will provide social benefits such as improved access to emergency services in the event of accident, floods, and storm events, and will provide the community with better access to tele-health and education services.
Improved mobile reception for home-based business	At present, unreliable telecommunications compromise the operation and expansion of businesses within the area. A more reliable telecommunications service will support local economic development.

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.