

21 March 2025

Enquiries: Rebecca Taranto
Our Ref: MCUC 2025_5714/1 (Doc ID:1286424)

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

C M Dixon
C/- Aspire Town Planning
PO Box 1040
MOSSMAN QLD 4873

Dear Sir/Madam

**NOTICE OF DECISION
FOR REQUEST FOR NEGOTIATED DECISION NOTICE**

Council wishes to advise that your request for a Negotiated Decision Notice has been refused. More particularly, your request to delete Condition 10 of the Decision Notice (Doc id; 1278860) is refused under the following grounds;

1. To maintain the natural character of the lowlands landscape, development within a scenic route buffer/ view corridor area must be landscaped in accordance with the requirements of the landscaping code.
2. The species of bamboo formally recognised as *Gigantochloa pseudoarundinacea* which has been planted in the area where landscaping is required under Condition 10 is not included on Table SC6.7.8 -Plant species schedule of Planning Scheme Policy SC6.7- Landscaping.

The Decision Notice dated 7 February 2025 remains valid and unchanged. Please see a copy of the Decision notice attached below. Should you wish to discuss this matter further, please contact the Planning Department on 07 4099 9444.

Yours faithfully



Neil Beck
Acting Manager Environment & Planning

Administration Office

64 - 66 Front St Mossman

P 07 4099 9444

F 07 4098 2902

7 February 2025

Enquiries: Rebecca Taranto
Our Ref: MCUC 2025_5714/1 (Doc ID:1278860)
Your Ref:

C M Dixon
C/- Aspire Town Planning
PO Box 1040
Mossman QLD 4873

Dear Sir/Madam

**Development Application for Material Change of Use-
Dwelling House and Ancillary Shed
At Captain Cook Highway Mowbray
On Land Described as Lot 1 on SP270340**

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

Please quote Council's application number: MCUC 2025_5714/1 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



Neil Beck
Acting 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: C M Dixon
Postal Address: C/- Aspire Town Planning
PO Box 1040
Mossman QLD 4873
Email: admin@aspireqld.com

Property Details

Street Address: Captain Cook Highway Mowbray
Real Property Description: Lot 1 on SP270340
Local Government Area: Douglas Shire Council

Details of Proposed Development

Development Permit for Material Change of Use-Dwelling House and Ancillary Shed

Decision

Date of Decision: 7 February 2025
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
Site Plan	Unauthored Drawing Council Doc id; 1274314	Submitted with Application on 15 January 2025
2.0 Floor Plan	Wide Span Sheds Pty Ltd Drawing No. AWSH240121-2	2 December 2024

	Page 2 of 14	
3.0 Elevations	Wide Span Sheds Pty Ltd Drawing No. AWSH240121-2 Page 3 of 14	2 December 2024
FNQROC Regional Development Manual Standard Drawing/s for Vehicle Access		
Rural Allotment Access	Standard Drawing S1105 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;
 - 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.

Finished Floor Level

3. The finished floor levels of all habitable rooms must be a minimum of 500mm above the 1% AEP for storm tide inundation which is understood to be 3.046m AHD. Therefore, finished floor levels should be at least 3.546 AHD.

On-Site Effluent Disposal

4. The method of on-site effluent disposal must be in accordance with the *Queensland Plumbing and Drainage Act 2002* and Section 33 of the *Environmental Protection Policy (Water) 1997*. Details of the wastewater treatment system to be installed must be approved by the Chief Executive Officer prior to the issue of a Development Permit for Building Work.

Water Supply

5. Water storage tank(s) with a minimum capacity not less than 30,000 litres must be installed prior to occupation of the Dwelling House. Such water tanks must be provided with:
 - a. Mosquito-proof screens of brass, copper, aluminium or stainless-steel gauze not coarser than one (1) mm aperture mesh of substantial construction and installed in such manner as not to cause or accelerate corrosion; or
 - b. Flap valve at every opening of the tank or other receptacle; or
 - c. Other approved means for preventing the ingress or egress of mosquitoes; and
 - d. The water tank(s) shall be fitted with a 50 mm ball valve with a camlock fitting.

Bushfire Hazard

6. The Dwelling construction must be in accordance with AS3959-2009 and AS3959-2018.

Building Colours

7. White and shining metallic finishes must not be used on external surfaces of buildings. Buildings are to be of external colours which are reflective of the surrounding environment

and must be provided for endorsement by the Chief Executive Officer prior to the issue of a development permit for Building Work.

Design of the Dwelling House and Shed

8. The overall height of the Dwelling House and shed must not exceed 8.5 metres.

Vegetation Clearing.

9. Existing vegetation on the subject land must be retained in all areas except those generally in accordance with the area detailed on the approved Site Plan (Council Doc id; 1274314).

Landscape Buffer

10. Prior to the issue of the final building inspection certificate, a landscaping plan must be endorsed and approved landscaping completed to the satisfaction of the Chief Executive Officer. The landscaping must;
 - (a) be developed in accordance with Planning Scheme Policy SC6.7- Landscaping;
 - (b) be made up of species with high screening qualities;
 - (c) have a minimum depth of from the front road boundary of 5 metres; and
 - (d) be for the full width of the area between the shed and Captain Cook Highway.

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 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.

Noise Attenuation

4. As the subject lot is located within a designated transport corridor, the design of the Dwelling must comply with the requirements of Part 4.4 of the Queensland Development Code.

Site Survey

5. It is advised that a suitably qualified surveyor be engaged to survey the allotment boundaries prior to construction of the dwelling and shed.

Additional Clearing of Vegetation

6. Apart from the clearing permitted under this approval, should additional clearing of vegetation be proposed, you are advised to first seek advice from the State Referral Assessment Agency (SARA) who can be contacted via the following link www.statedevelopment.qld.gov.au
7. 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 is attached.

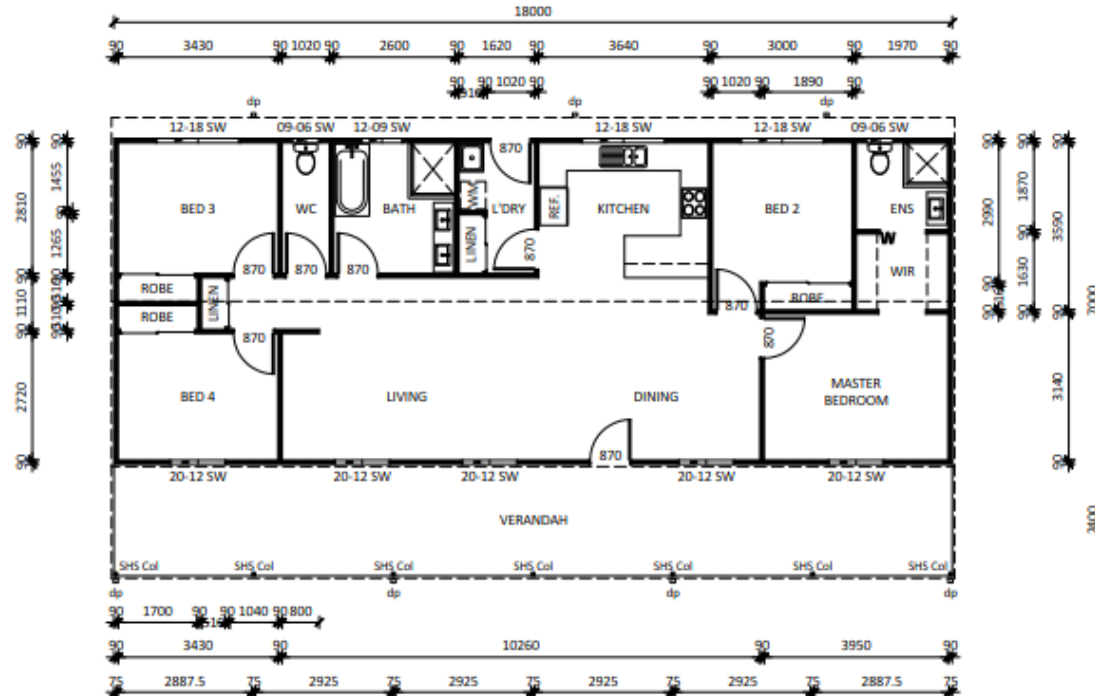
Approved Drawing(s) and/or Document(s)





ELEVATIONS

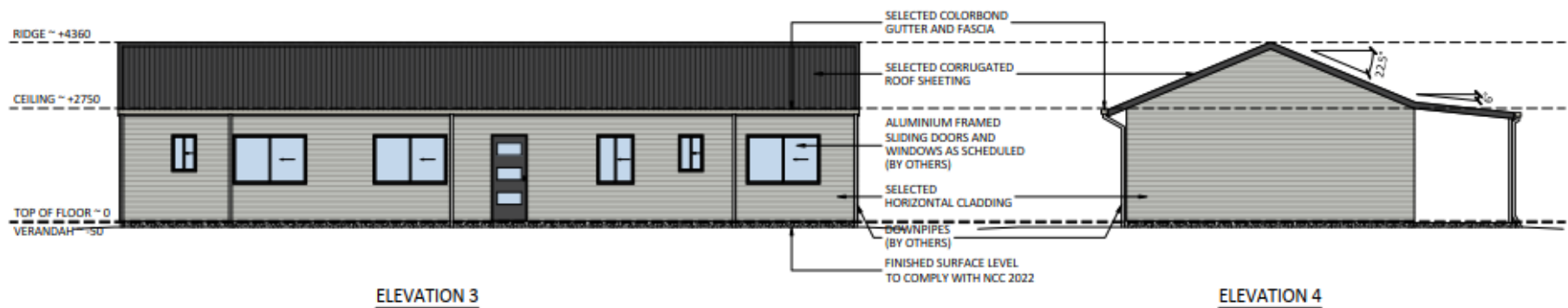
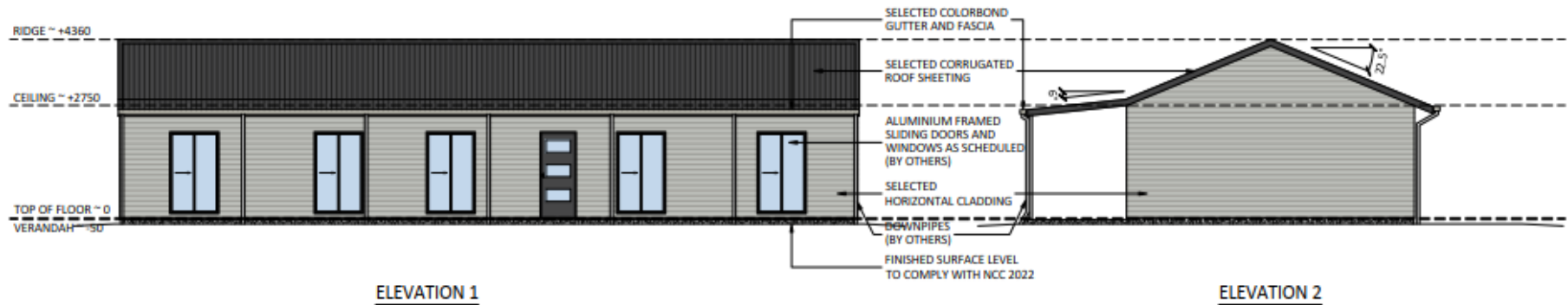
FLOOR AREA	126.00 sqm
VERANDAH	43.20 sqm
TOTAL	169.20 sqm



2.0 FLOOR PLAN

NOTE: Amenities and Furnishing shown are illustrative only

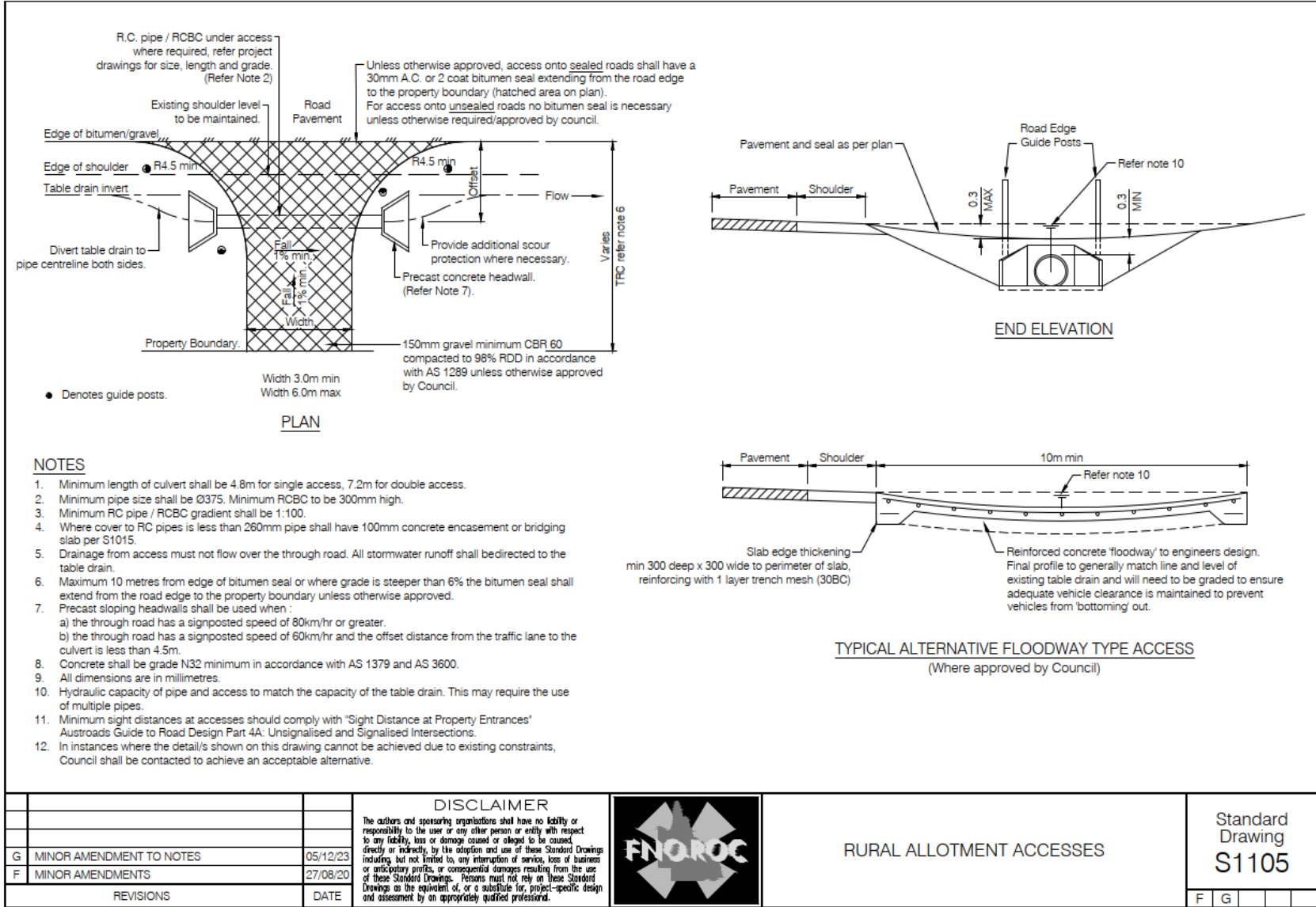
Purchaser Name: Mark Pollard		<div>Engineering</div> <div>NOT FOR CONSTRUCTION</div> <div>Page 2 of 14</div> <div>© Copyright Steelix IP Pty Ltd</div>	<div>Seller: Wide Span Homes</div> <div>Wide Span Sheds Pty Ltd</div> <div>Phone: 1300 943 377</div> <div>Fax:</div> <div>Email: engineering@steelix.com.au</div>	<div>Apex Engineering Group PTY LTD</div> <div>ACN 632 588 562</div> <div>ME Aust. (Registered NER Structural) 5276680</div> <div>QLD : RPEQ No. 24223, TAS : 185770492, VIC : PE0003848, N.T : 303557ES;</div> <div>Practising Professional Structural & Civil Engineers</div> <div>Signature: </div> <div>John Ronaldson</div> <div>Date: 02/12/24</div>
Site Address: Lot 1 captain cook highway Mowbray QLD 4877 Australia				
Drawing # ANSH040121 - 2	Print Date: 02/12/24			



3.0 ELEVATIONS

Purchaser Name: Mark Pollard		<div>Engineering</div> <div>NOT FOR CONSTRUCTION</div> <div>Page 3 of 14</div> <div>© Copyright Steels IP Pty Ltd</div>	<div>Seller: Wide Span Homes</div> <div>Wide Span Steels Pty Ltd</div> <div>Phone: 1300 943 377</div> <div>Fax:</div> <div>Email: engineering@steels.com.au</div>	<div>Apex Engineering Group PTY LTD</div> <div>ACN 632 588 562</div> <div>ME Aust. (Registered NER Structural) 5276680</div> <div>QLD : RPEQ No. 24223, T&S : 185770492, VIC : PE0003848, N.T. : 303557ES;</div> <div>Practising Professional Structural & Civil Engineers</div> <div><div>Signature: </div><div>John Ronaldson</div><div>Date: 02/12/24</div></div>
Site Address: Lot 1 captain cook Highway Mowbray QLD 4877 Australia				
Drawing # A/NSH240121 - 2	Print Date: 02/12/24			

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 15/01/2025 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 Environmental Management 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.

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 assessment manager gives the applicant the decision notice for 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) If the applicant makes the change representations during the appeal period without giving a notice under subsection (2), the appeal period is suspended from the day the representations are made until—
 - (a) the applicant withdraws the change representations by notice given to the assessment manager; or
 - (b) the assessment manager gives the applicant the decision notice for the change representations; or

- (c) 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.
- (6) Despite subsections (4) and (5), if the decision notice mentioned in subsection (4)(b)(ii) or (5)(b) is 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.

Subdivision 2 Changes after appeal period

77 What this subdivision is about

This subdivision is about changing a development approval, other than the currency period, after all appeal periods in relation to the approval end.

78 Making change application

- (1) A person may make an application (a *change application*) to change a development approval.

Note—

For the making of a change application for a development approval that was a PDA development approval, see also the *Economic Development Act 2012*, sections 51AM, 51AN and 51AO.

- (2) A change application must be made to the responsible entity for the application.

78A Responsible entity for change applications

- (1) The *responsible entity* for a change application is—
 - (a) if the change application is for a minor change to a development condition of a development approval stated in a referral agency's response for the development application or another change application for the approval—the referral agency; or

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 a decision of the Minister, under
chapter 7, part 4, to amend the registration of premises
to include additional land in the affected area for the
premises—20 business days after the day a notice is
published under section 269A(2)(a); or
 - (e) for an appeal against an infrastructure charges
notice—20 business days after the infrastructure charges
notice is given to the person; or
 - (f) 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
 - (g) 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
- (h) 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.

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—