

23 September 2021

**Enquiries:** Daniel Lamond  
**Our Ref:** CA 2021\_4090/1 (1038153)

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

N D Verri  
C/- Planning Plus  
PO Box 399  
REDLYNCH QLD 4870

Dear Sir

**Negotiated Decision Notice for Combined Application (Material Change of Use for  
Dual Occupancy and Reconfiguring a Lot for one lot into two)  
At 56 Mudlo Street PORT DOUGLAS  
On Land Described as LOT: 7 TYP: PTD PLN: 20933**

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

Please quote Council's application number: CA 2021\_4090/1 in all subsequent correspondence relating to this development application.

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

Yours faithfully



**For**  
**Paul Hoyer**  
**Manager Environment & Planning**

encl.

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



## Negotiated Decision Notice

### Approval (with conditions)

*Given under section 63 of the Planning Act 2016*

#### Applicant Details

Name: N D Verri  
Postal Address: C/- Planning Plus  
PO Box 399  
REDLYNCH QLD 4870  
Email: evan@planningplusqld.com.au or

#### Property Details

Street Address: 56 Mudlo Street PORT DOUGLAS  
Real Property Description: LOT: 7 TYP: PTD PLN: 20933  
Local Government Area: Douglas Shire Council

#### Details of Proposed Development

Development Permit for Combined Application (Material Change of Use for Dual Occupancy and reconfiguring a Lot for one lot into two)

#### Decision

Date of Decision: 31 August 2021 for Development Approval, 23 September 2021 for Negotiated Decision Notice  
Decision Details: Approved (subject to conditions)

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

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

Drawing or Document	Reference	Date
Site Plan, General Notes & Legend	Nathan Verri plan, Sheet 01, Rev 9	3 August 2021
Floor Plans	Nathan Verri plan, Sheet 02, Rev 9	3 August 2021

Elevations and Perspectives	Nathan Verri plan, Sheet 03, Rev 9	3 August 2021
Landscape Concept Plan	Plan prepared by Kate Hewett Landscape Design, page 1 of 3, issue C	4 August 2021
Details and typical level 1 planting	Plan prepared by Kate Hewett Landscape Design, page 2 of 3, issue B	12 July 2021
Landscape Planting Plan	Plan prepared by Kate Hewett Landscape Design, page 2 of 3, issue B	12 July 2021

### **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.

### **Air-conditioning Screens**

3. Air-conditioning units located above ground level and visible from external properties and the street must be screened with appropriate materials to improve the appearance of the building. Such screening must be completed prior to the Commencement of Use.

### **Damage to Council Infrastructure**

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

### **Sewerage Works Internal**

5. Connect each dwelling via separate jump-up to Councils sewerage network traversing the rear of the property.

### **Vehicle Parking**

6. The car parking layout must comply with the Australian Standard AS2890.1 2004 Parking Facilities – off-street car parking and be constructed in accordance with

Austroads and good engineering design. In addition, all parking, driveway and vehicular manoeuvring areas must be imperviously sealed, drained and line marked.

### **Lighting**

7. The vertical illumination at a distance of 1.5 metres outside the boundary of the subject land must not exceed eight (8) lux measured at any level upwards from ground level.

### **External Works**

8. Undertake the following works external to the land at no cost to Council:
  - a. Provide two vehicle crossovers and aprons to Mudlo Street;
  - b. Undertake planting of a 600mm wide garden bed with appropriate species along the exterior edge of the perimeter fence on the Mudlo Street road reserve;
  - c. Construct a 2000mm wide concrete footpath across the Mudlo Street frontage in accordance with the FNQROC Development Manual;
  - d. Repair any damage to existing roadway (including removal of concrete slurry from footways, roads, kerb and channel and stormwater gullies and drain lines) that may occur during and works carried out in association with the construction of the approved development.

### **Stockpiling and Transportation of Fill Material**

9. Soil excavated from the site is not to be stockpiled in locations that can be viewed from adjoining premises or a road frontage for any longer than one (1) month from the commencement of works.  
Transportation of fill or spoil to and from the site must not occur within:
  - a. peak traffic times;
  - b. before 7:00 am or after 6:00 pm Monday to Friday;
  - c. before 7:00 am or after 1:00 pm Saturdays; or
  - d. on Sundays or Public Holidays.

### **Emissions**

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

### **Storage of Machinery and Plant**

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

### **Landscaping Plan**

12. The site must be landscaped in accordance with details included on the landscaping plans prepared by Kate Hewett Landscape Design, with the exception of the following changes and requirements;
  - a. No stepping stones are permitted on the road verge;
  - b. Side boundary deep planting is to be in a staggered and offset pattern;

- c. Prior to deep planting of side boundaries, the locations of plantings on the ground must be endorsed by the Chief Executive Officer.

### **Lawful Point of Discharge**

13. All stormwater from the property must be directed to a lawful point of discharge being Mudlo Street, such that it does not adversely affect surrounding properties or properties downstream from the development.

### **Ponding and/or Concentration of Stormwater**

14. The proposed development is not to create ponding nuisances and/or concentration of stormwater flows to adjoining properties.

### **Minimum Fill and Floor Level**

15. All floor levels in all buildings must be located 300mm above the Q100 flood immunity level, plus any hydraulic grade effect (whichever is the greater), in accordance with FNQROC Development Manual and Planning Scheme requirements.

### **Sediment and Erosion Control**

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

### **Refuse Storage Area**

- ~~17. The refuse bin enclosure must be roofed, bunded, and connected to sewer with a bucket trap. A hose cock fitting must also be provided to the refuse facility.~~
17. Area for two 240L wheelie bins must be provided for each dwelling unit.

### **Construction Signage**

18. Prior to the commencement of any construction works associated with the development, a sign detailing the project team must be placed on the road frontage of the site and must be located in a prominent position. The sign must detail the relevant project coordinator for the works being undertaken on the site, and must list the following parties (where relevant) including telephone contacts:
  - a. Developer;
  - b. Project Coordinator;
  - c. Architect/Building Designer;
  - d. Builder;
  - e. Civil Engineer;
  - f. Civil Contractor;
  - g. Landscape Architect.

### **RECONFIGURATION OF A LOT**

**The term ‘approved drawing(s) and / or document(s)’ or other similar expressions means:**

Drawing or Document	Reference	Date
Site Plan, General Notes & Legend	Nathan Verri plan, Sheet 01, Rev 9	2021

### **ASSESSMENT MANAGER 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; 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 Council endorsing the Survey Plan, except where specified otherwise in these conditions of approval.

#### **Fire Separation**

3. The boundary placement between each dwelling must be in accordance with the National Construction Code and in particular, the building setbacks from the side boundaries must comply with the fire regulations within the code.

#### **Timing of Lot Reconfiguration**

4. Prior to Council endorsing the Plan of Survey;
  - a. The under slab must be completed for both dwellings with the relevant building inspection undertaken. The slab must be deemed satisfactory with the relevant documentation submitted to Council.
  - b. Construction of the dual occupancy development must be commenced to the extent of three courses of blocks.

#### **Water Supply**

5. Provide separate water meters and connection for each dwelling unit.

#### **Sewer Connection**

6. The development must be connected to Council's reticulated sewer system in accordance with the following requirements;
  - a. Provide a separate sewer connection for each allotment;
  - b. Create an easement in favour of proposed lot 1 burdening proposed lot 2, to contain the house connection branch traversing proposed lot 2;

- c. No sewer main extension is to occur.

### **Further Development Permits**

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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**

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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**

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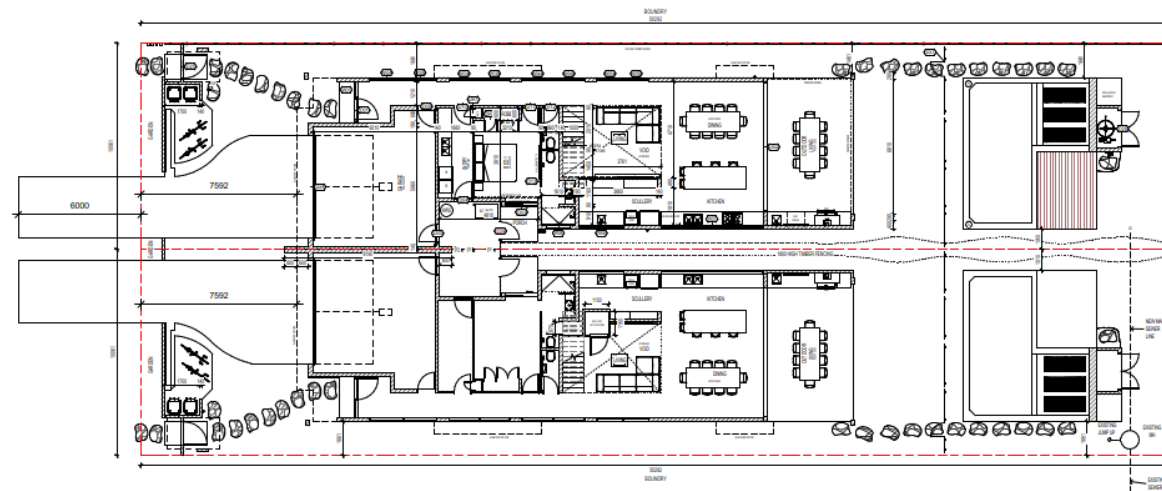
The rights of applicants to make representations and rights to appeal to a Tribunal or the Planning and Environment Court against decisions about a development application are set out in Chapter 6, Part 1 of the *Planning Act 2016*.

A copy of the relevant appeal provisions are attached.

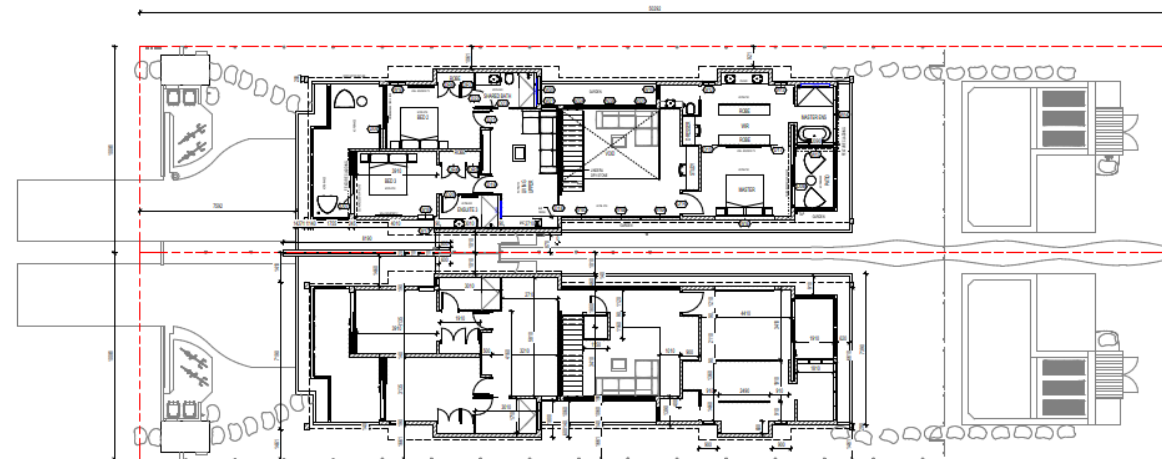




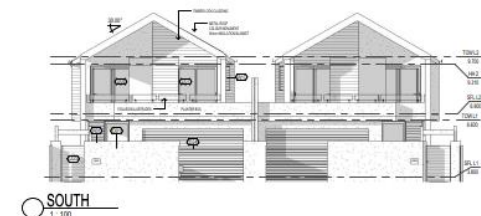
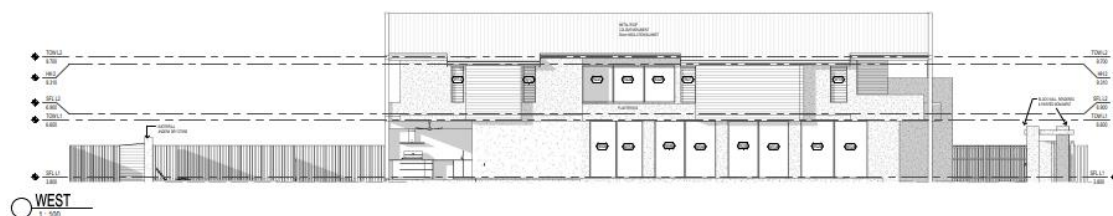
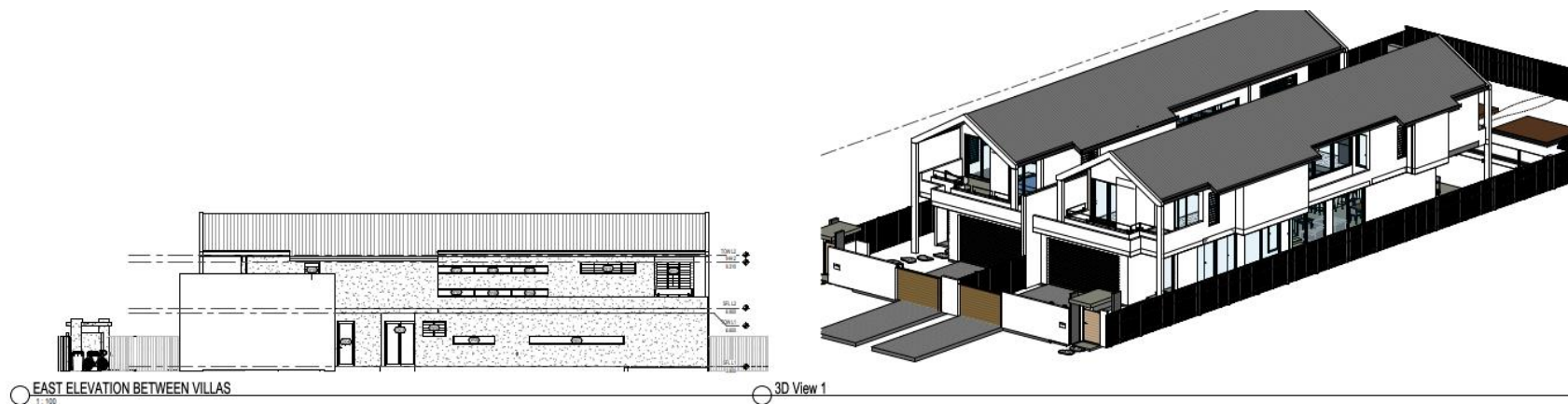
GATE HOUSE	4m <sup>2</sup>
GARAGE	26m <sup>2</sup>
LOWER INTERNAL	122m <sup>2</sup>
LOWER EXTERNAL	41m <sup>2</sup>
UPPER INTERNAL INC VOID	150m <sup>2</sup>
UPPER EXTERNAL	42m <sup>2</sup>
GROSS FLOOR AREA	411m <sup>2</sup>
COVERAGE AREA	221m <sup>2</sup>
SITE AREA	550m <sup>2</sup>
COVERAGE %	45.4%



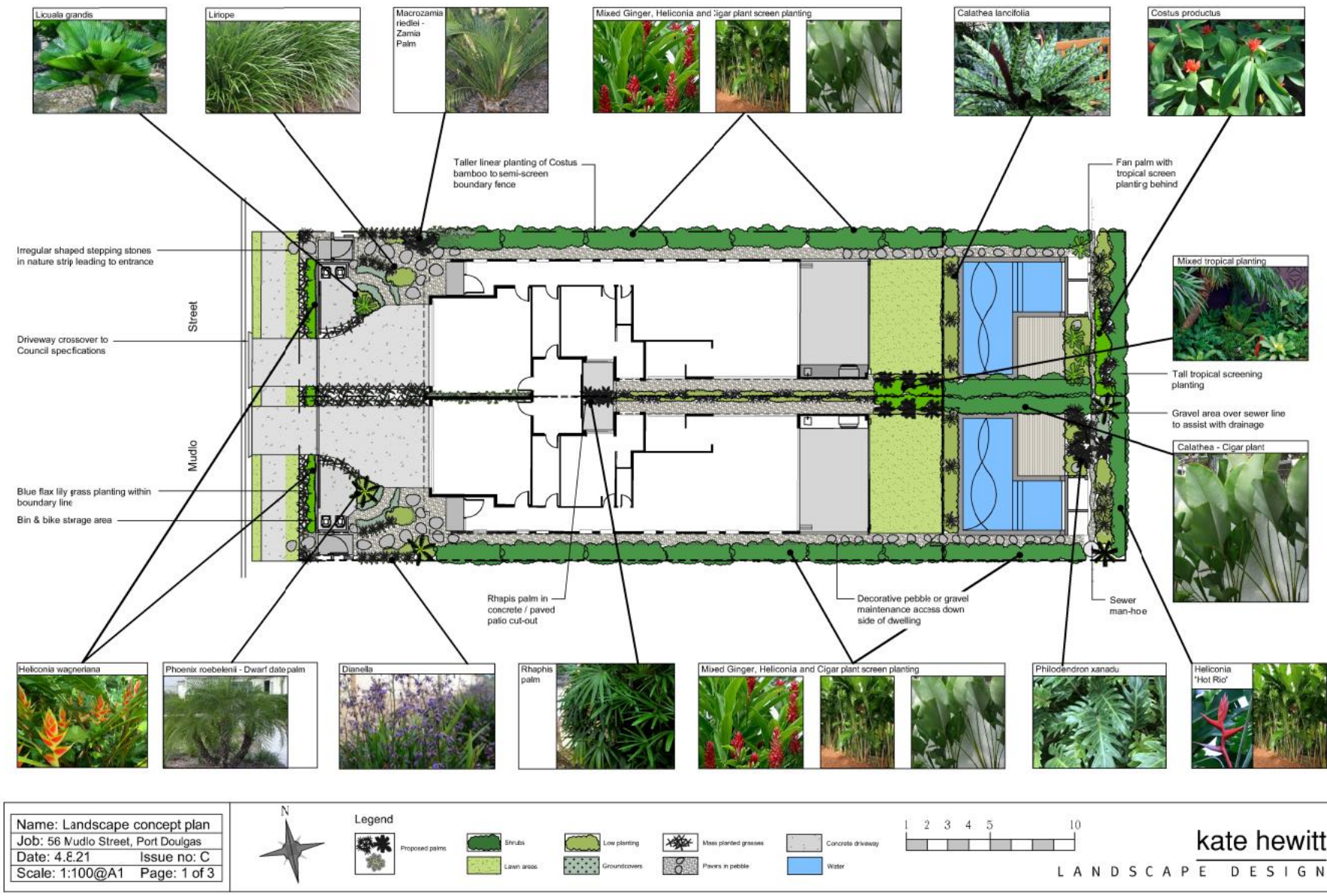
**FLOOR PLAN - LEVEL 1**  
1:100



**FLOOR PLAN - LEVEL 2**  
1 : 100



Landscape concept plan - Ground floor 1:100 @ A1

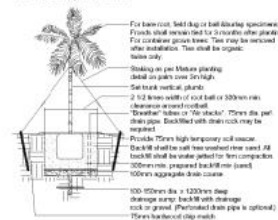




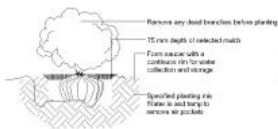
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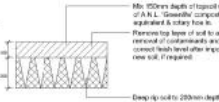
Palm planting detail n.t.s



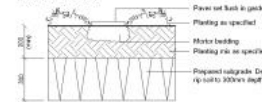
Shrub planting detail n.t.s



Soil preparation detail n.t.s



Stepping stones in garden &  
river stones n.t.s

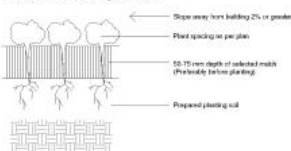


**1. Soil preparation**  
All proposed plant beds to be stripped of 150mm of soil and topped with at least 200mm of soil (preferably local)

**2. New plantings**  
Newly planted trees and large shrubs should be secured to stakes to prevent any damage.  
Planting holes for plant material should be large enough in size to take root ball with additional space to take back filling of good quality planting mix.  
Mature heights of planting as shown on planting schedule show the greatest height possible in ideal conditions.  
These heights may vary and are subject to particular site conditions, possible container environments and intended hedging or pruning for functional requirements such as available planting width, intended access under branches and solar access.

**3. Turf / lawn**  
Lay turf on prepared leveled soil. Ensure drainage is correct.  
Use locally available suitable turf mix.  
Curved steel edging (or similar) to be confirmed and chosen by owner.

Groundcover planting detail n.t.s



Symbol	Botanical name	Common name	Cent. size	Mature height	Spacing	No. req.
<b>Ferns / Palms / Accent Plants</b>						
RHA	<i>Raphia excelsior</i>	Lady Finger Palm	300mm	3-2.0M	As specim	8
<b>Groundcovers / Climbers</b>						
ACH	<i>Acynonitis repens</i>	Summer Love	150mm	0.5M	600mm	22
OC	<i>Ocotelea Silver Falls</i>	Silver Falls	150mm	0.3M	As specim	6
LOR	<i>Loropetalum chinense</i>	Purple pale	150mm	0.3M	400mm	38
<b>Ornamental grasses/trapperyaved plants</b>						
PRK	<i>Philodendron 'Gloria'</i>	PARADISE (please to avoid secondary / tender plants)	200mm	0.4M	600mm	25

Planting schedule specifies to be sourced from local nurseries supplying plants of local provenance whenever possible. Numbers are exact. If unsure please contact Landscape Designer.

Container sizes may vary due to availability. In most cases please ensure a size that will work for this site.

Planting schedule species to be sourced from local nurseries, supplying plants of local provenance wherever possible.  
Numbers are exact. If unsure please contact Landscape Designer.  
Container sizes may vary due to availability, in most cases please ensure a size that will work for this site.

Name: Details & Typical level 1 planting	
Job: 56 Mudlo Street, Port Douglas	
Date: 12.7.21	Issue no: B
Scale: 1:100@A1	Page: 2 of 3



kate hewitt  
LANDSCAPE DESIGN

[illegible]

Symbol	Botanical name	Common name	Cont. size	Mature height	Spacing	No. req.
<b>Ferns / Palms / Acent Plants</b>						
ALP	<i>Alpinia purpurata</i>	Red Ginger	300mm	2-2.5M	1000mm	0
CAL	<i>Cyrtos axillaris</i>	Tree Fern (Native tree fern)	300mm	2-4.0M	As shown	0
CAE	<i>Calathea lutea</i>	Cuban Cigar plant	300mm	2-3M	1000mm	0
CAL-R	<i>Calathea lancifolia</i>	Rattlesnake plant	200mm	1-2M	800mm	0
COS	<i>Cosmos stenophyllus</i>	Cobra Geyser	300mm	1.5-2.5M	800mm	0
COP	<i>Cosmos productus</i>	Spiral girger	200mm	1M	800mm	0
COR	<i>Cordyle fufosa</i>	Cordyle's 'Purple Prince'	200mm	1M	As shown	0
HEL	<i>Heliconia wagneriana</i>	Heliconia	200mm	1.5-2M	800mm	0
HEL-B	<i>Heliconia lutea</i>	Heliconia 'Hot Rio Nights'	200mm	2-3M	800mm	0
LQ	<i>Localandras</i>	Fan Palms	300mm	2M	As shown	0
PHO	<i>Phorbea nabeleba</i>	Round Date Palm	300mm	1.5-3M	As shown	0
RHA	<i>Rapis excelsior</i>	Lady Finger Palm	300mm	2-2.5M	As shown	0
MAC	<i>Macrozamia reedii</i>	Zamia Palm	300mm	1.0M	As shown	0
<b>Groundcovers / Climbers</b>						
TRA	<i>Trachelospermum jasminoides</i>	Chinese Star Jasmine	150mm	1-2M	As shown	0
FIC	<i>Ficus pumila</i>	Creeping fig	150mm	climber	As shown	0
<b>Ornamental/strappy/leaved plants</b>						
DC	<i>Daniella 'Little Jess'</i>	Blue Flap Lily 'Little Jess'	100mm	0.4M	800mm	0
LJR	<i>Liriope muscari</i>	Lily turf	100mm	0.6M	800mm	0
SPA	<i>Spatheiphyllum</i>	Peace Lily	100mm	0.4M	800mm	0
PHX	<i>Philodendron 'Xanadu'</i>	Xanadu (shade tolerant / understory / border plant)	200mm	0.5M	700mm	0

Planting schedule species to be sourced from local nurseries supplying plants of local provenance wherever possible.  
Numbers are exact: if unsure please contact Landscape Designer.  
Container sizes may vary due to availability, in most cases please ensure a size that will work for this site

kate hewitt  
LANDSCAPE DESIGN

## Reasons for Decision

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 14 April 2021 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 Tourist Accommodation 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.
4. Reasons for decision despite non-compliance with benchmarks.
  - a. The development is consistent with the planning intent for the area and is consistent in form and scale with the surrounding street-scape.

## **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) 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.

7 September 2021

**Enquiries:** Daniel Lamond  
**Our Ref:** CA 2021\_4090 (1035121)  
**Your Ref:**

N D Verri  
C/- Planning Plus  
PO Box 399  
REDLYNCH QLD 4870

Dear Sir

**Adopted Infrastructure Charge Notice  
For Combined Application for Material Change of Use for Dual Occupancy and  
Reconfiguring a Lot for one into two lots.  
At 56 Mudlo Street PORT DOUGLAS  
On Land Described as LOT: 7 TYP: PTD PLN: 20933**

Please find attached the Adopted Infrastructure Charges Notice issued in accordance with section 119 of the *Planning Act 2016*.

The amount in the Adopted Infrastructure Charges Notice has been calculated according to Council's Adopted Infrastructure Charges Resolution.

Please also find attached extracts from the Act regarding the following:

- your right to make representations to Council about the Adopted Infrastructure Charges Notice; and
- your Appeal rights with respect to the Adopted Infrastructure Charges Notice.

Please quote Council's application number: CA 2021\_4090 in all subsequent correspondence relating to this matter.

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

Yours faithfully



**Paul Hoyer**  
**Manager Environment & Planning**

encl.

- Adopted Infrastructure Charges Notice
- Rights to Make Representations and Appeals Regarding Infrastructure Charges

# Adopted Infrastructure Charges Notice



2018 Douglas Shire Planning Schemes Applications

## ADOPTED INFRASTRUCTURE CHARGES NOTICE

Nathan Verri Pty Ltd C/- Planning Plus Pty Ltd DEVELOPERS NAME		NOVA ESTATE NAME	0 STAGE
56 Mudlo Street STREET No. & NAME	Port Douglas SUBURB	L7 PTD20933 LOT & RP No.s	1995 PARCEL No.
Dual Occupancy DEVELOPMENT TYPE		MCUC 2021/ 4090 COUNCIL FILE NO.	6 VALIDITY PERIOD (year)
1029633 DSC Reference Doc. No.	1 VERSION No.		

Adopted Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021.

Locality	Charge per Use	rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
Mossman						
<b>Proposed Demand</b>						
Dual Occupancy 2	1	29,697.35	3 or more bedroom	59,394.70		
<b>Total Demand</b>				<b>59,394.70</b>		
<b>Existing Credit</b>						
House 1	1	29,697.35	1	29,697.35		
						<b>Code 895 GL 07500.0135.0825</b>

Required Payment or Credit **TOTAL** **\$29,697.35**

Prepared by	D Lamond	12-Aug-21	Amount Paid	N/A
Checked by	N Beck	12-Aug-21	Date Paid	N/A
Date Payable				
Amendments	Date		Receipt No.	N/A
			Cashier	N/A

### Note:

The Infrastructure Charges in this Notice are payable in accordance with Sections 119 and 120 of the *Planning Act 2016* as from Council's resolution from the Ordinary Meeting held on 23 February 2021

Charge rates under the current Policy are not currently subject to indexing.

Charges are payable to: Douglas Shire Council. You can make payment at any of Council's Business Offices or by mail with your cheque or money order to Douglas Shire Council, PO Box 723, Mossman QLD 4873. Cheques must be made payable to Douglas Shire Council and marked 'Not Negotiable.' Acceptance of a cheque is subject to collection of the proceeds. Post dated cheques will not be accepted

Any enquiries regarding Infrastructure Charges can be directed to the Development & Environment, Douglas Shire Council on 07 4099 9444 or by email on enquiries@douglas.qld.gov.au



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## **Subdivision 5      Changing charges during relevant appeal period**

### **124      Application of this subdivision**

This subdivision applies to the recipient of an infrastructure charges notice given by a local government.

### **125      Representations about infrastructure charges notice**

- (1) During the appeal period for the infrastructure charges notice, the recipient may make representations to the local government about the infrastructure charges notice.
- (2) The local government must consider the representations.
- (3) If the local government—
  - (a) agrees with a representation; and
  - (b) decides to change the infrastructure charges notice;the local government must, within 10 business days after making the decision, give a new infrastructure charges notice (a *negotiated notice*) to the recipient.
- (4) The local government may give only 1 negotiated notice.
- (5) A negotiated notice—
  - (a) must be in the same form as the infrastructure charges notice; and
  - (b) must state the nature of the changes; and
  - (c) replaces the infrastructure charges notice.
- (6) If the local government does not agree with any of the representations, the local government must, within 10 business days after making the decision, give a decision notice about the decision to the recipient.
- (7) The appeal period for the infrastructure charges notice starts again when the local government gives the decision notice to the recipient.

**126 Suspending relevant appeal period**

- (1) If the recipient needs more time to make representations, the recipient may give a notice suspending the relevant appeal period to the local government.
- (2) The recipient may give only 1 notice.
- (3) If the representations are not made within 20 business days after the notice is given, the balance of the relevant appeal period restarts.
- (4) If representations are made within the 20 business days and the recipient gives the local government a notice withdrawing the notice of suspension, the balance of the relevant appeal period restarts the day after the local government receives the notice of withdrawal.

**Division 3 Development approval conditions about trunk infrastructure**

**Subdivision 1 Conditions for necessary trunk infrastructure**

**127 Application and operation of subdivision**

- (1) This subdivision applies if—
  - (a) trunk infrastructure—
    - (i) has not been provided; or
    - (ii) has been provided but is not adequate; and
  - (b) the trunk infrastructure is or will be located on—
    - (i) premises (the *subject premises*) that are the subject of a development application, whether or not the infrastructure is necessary to service the subject premises; or
    - (ii) other premises, but is necessary to service the subject premises.

## Chapter 6 Dispute resolution

### Part 1 Appeal rights

#### 229 Appeals to tribunal or P&E Court

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

- (d) for an appeal against an infrastructure charges notice—20 business days after the infrastructure charges notice is given to the person; or
- (e) for an appeal about a deemed approval of a development application for which a decision notice has not been given—30 business days after the applicant gives the deemed approval notice to the assessment manager; or
- (f) for an appeal relating to the *Plumbing and Drainage Act 2018*—
  - (i) for an appeal against an enforcement notice given because of a belief mentioned in the *Plumbing and Drainage Act 2018*, section 143(2)(a)(i), (b) or (c)—5 business days after the day the notice is given; or
  - (ii) for an appeal against a decision of a local government or an inspector to give an action notice under the *Plumbing and Drainage Act 2018*—5 business days after the notice is given; or
  - (iii) 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.
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- (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
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## 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.