

Administration Office

64 - 66 Front St Mossman

P 07 4099 9444

F 07 4098 2902

28 July 2020

**Enquiries:** Neil Beck  
**Our Ref:** OP 2020\_3458/1 (963875)  
**Your Ref:** 20190541

Austart Homes Pty Ltd  
C/- CivilWalker Consulting Engineers  
PO Box 542  
CLIFTON BEACH QLD 4879

**Email:** daryl@civilwalker.com.au

Dear Sir

**Development Application for Operational Works (Driveway & Sewer)  
At 11-15 Dickson Street CRAIGLIE  
On Land Described as LOT: 404 TYP: C PLN: 2251**

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

Please quote Council's application number: OP 2020\_3458/1 in all subsequent correspondence relating to this development application.

Also find attached a 'Pre-Start' meeting template, which identifies the information that must be provided for Council approval, prior to the commencement of works.

The template also provides the Consulting Engineer with a format for conducting the meeting. An invitation to attend the meeting must be sent to Council's representative Neil Beck on telephone number 07 4099 9451, giving at least five (5) working days notification if possible.

In addition to the Decision Notice, Council provides the following 'Advice Statement' which relates to issues that are relevant to the proposed works:

1. The Consulting Engineer is to present all contractors with a copy of this Decision Notice and the Council approved plans, prior to the commencement of works;
2. Further detail is required as to how the development will achieve a lawful point of discharge in order to satisfy conditions of the ROL approval.

Should you require any clarification regarding this, please contact Neil Beck on telephone 07 4099 9451.

Yours faithfully



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

encl.

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



## Decision Notice

### Approval (with conditions)

*Given under section 63 of the Planning Act 2016*

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#### Applicant Details

**Name:** Austart Homes Pty Ltd  
**Postal Address:** C/- CivilWalker Consulting Engineers  
PO Box 542  
CLIFTON BEACH QLD 4879  
**Email:** daryl@civilwalker.com.au

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#### Property Details

**Street Address:** 11-15 Dickson Street CRAIGLIE  
**Real Property Description:** LOT: 404 TYP: C PLN: 2251  
**Local Government Area:** Douglas Shire Council

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#### Details of Proposed Development

Development Permit for Operational Works (Operational Works – Driveway and Sewer Works)

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#### Decision

**Date of Decision:** 28 July 2020  
**Decision Details:** Approved (subject to conditions)

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

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

<u>Drawing No.</u>	<u>Description</u>
194-001-C01	COVER SHEET, DRAWING INDES & LOCALITY
194-001-C02	GENERAL ARRANGMENT
194-001-C03	MISCELLANEOUS DETAILS

**Note** – The plans referenced above will require amending in order to comply with conditions of this Decision Notice.

## **Assessment Manager Conditions & Advices**

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### **1. General**

- a. Drawings must be submitted “for construction” and must be certified as approved by a registered professional engineer of Queensland (RPEQ).

### **2. Earthworks**

- a. The applicant is to ensure that any earthworks undertaken as part of the works maintains a free draining surface with no ponding of standing water resulting. Any amendments proposed to the existing finished surface profiles are to be identified and reported to Council prior to being undertaken on site. Resultant amendments shall be recorded on as constructed drawings to be submitted at the completion of the project. Earthworks required to achieve free draining lots are to be undertaken prior to approval and dating of the Survey Plan.

### **3. Stormwater**

- a. The proposed driveway culvert design is not accepted as it does not comply with the requirements of Condition 7a of the ROL approval and the referenced FNQROC Standard Drawing S1105.

In accordance with Note 2 on FNQROC Standard Drawing S1105, the driveway culvert is to be a minimum of 300mm high box culvert. This is to avoid blockages and associated localised flooding adjacent an identified Council trunk road link.

If required, the developer is to regrade the downstream table drain invert through to Dickson Street drain to accommodate the 300mm box culvert depth for the driveway. The reprofiled drain must be topsoiled and grass seeded at a minimum.

- b. The proposed development must not create ponding nuisances and/or a concentration of stormwater flows to adjoining properties.
- c. All stormwater from the property must be directed to a lawful point of discharge such that it does not adversely affect surrounding properties or properties downstream, in accordance with the Queensland Urban Drainage Manual, Fourth Edition (2016).

*Advice note: Further application may be required to address the elements of Condition 5 of the Decision Notice. In particular, Condition 5c and 5e (i) and (ii).*

### **4. Sewer**

- a. The applicant is to confirm that the sewer clearances are in accordance with FNQROC and the plumbing code.
- b. The applicant is to confirm that the requirements of Conditions 4c, d, e and f. are addressed and provide further information to satisfy the requirements of these conditions prior to requesting a pre-start meeting.

## 5. Erosion and Sediment Control

- a. A copy of the Contractor's Erosion and Sediment Control (ESC) Plan is to be submitted to Council and endorsed by the Consulting Engineer, prior to commencement of any works. In particular, the ESC Plan must address the Institution of Engineers Australia Guidelines for Soil Erosion and Sediment Control and the Environment Protection (Water) Policy and Clauses CP1.05, CP1.13 and D5.10 of Council's FNQROC Development Manual.

## 6. Miscellaneous

- a. CCTV inspections are to be reviewed by the supervising engineer and the Engineering Report and Certification by an RPEQ provided to Council prior to Works Acceptance as required under FNQROC Development Manual CP1.25 Project Documentation.

### Advice

1. The future truncation of the corner of Old port Road and Dickson Street will be conditioned on the future development of Lot 11. **Further Development Permits**

Not applicable

### Concurrence Agency Response

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None Applicable

### Currency Period for the Approval

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This approval, granted under the provisions of the *Planning Act 2016*, shall lapse two (2) 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*.

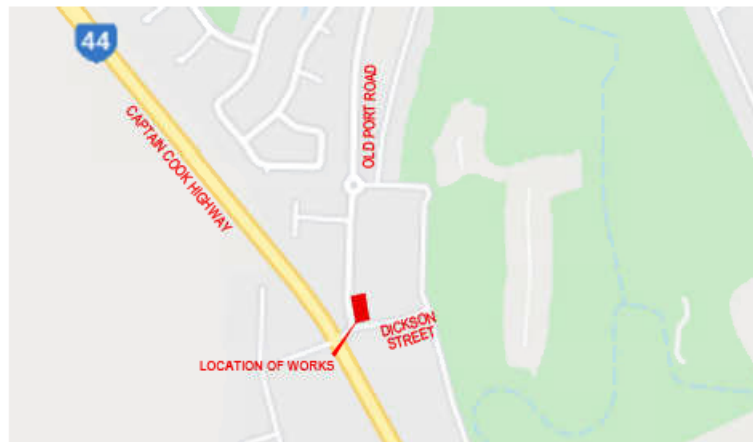
A copy of the relevant appeal provisions are attached.

# AUSTART HOMES PTY LTD

## SUBDIVISION AT 11-15 DICKSON ROAD

### CRAIGLIE

PROJECT No: 194-001

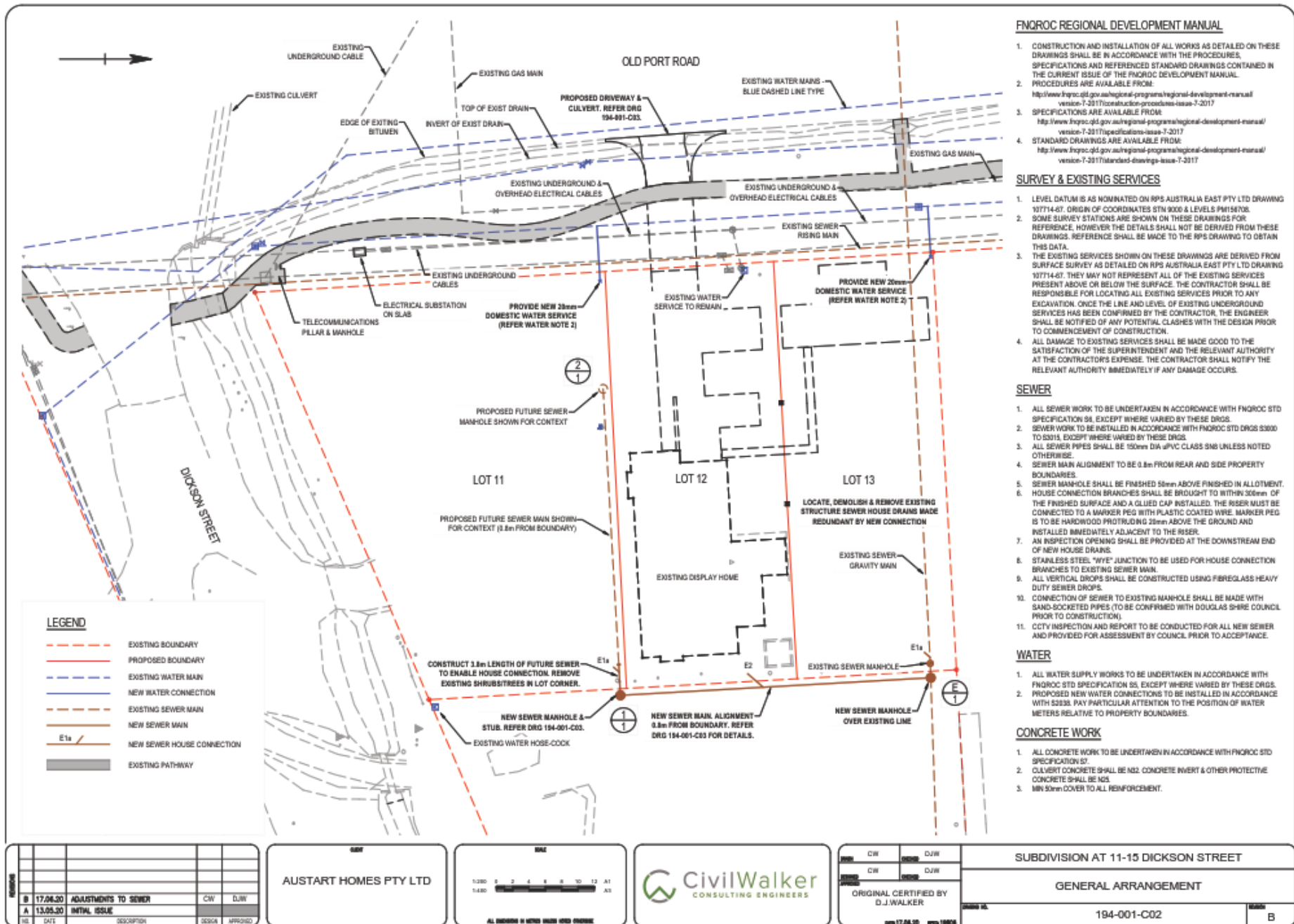


LOCALITY PLAN  
N.T.S.

#### PROJECT SPECIFIC DRAWINGS

DRAWING No.	DRAWING TITLE	REVISION
194-001-C01	COVER SHEET, DRAWING INDEX & LOCALITY	B
194-001-C02	GENERAL ARRANGEMENT	B
194-001-C03	MISCELLANEOUS DETAILS	B

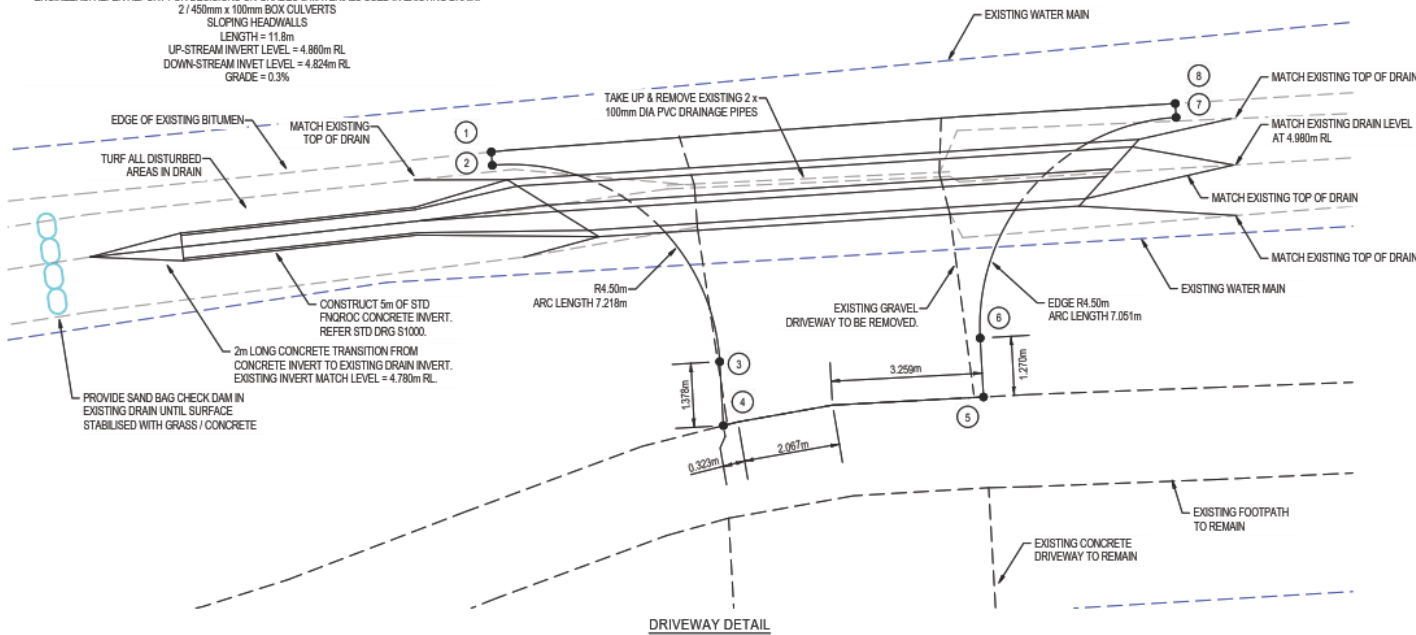
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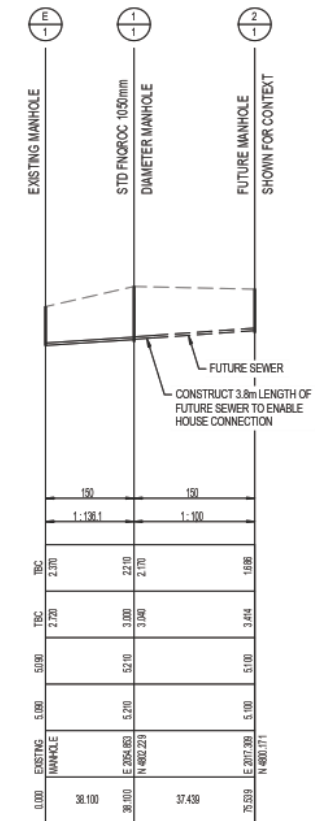
**DRIVEWAY CULVERT**  
 DESIGNED IN ACCORDANCE WITH LOCAL DRAINAGE STUDY PREPARED BY CIVILWALKER CONSULTING ENGINEERS. REFER REPORT FOR DECISIONS ON GRADES & MATERIALS USED IN EXISTING DRAIN.  
 2 / 450mm x 100mm BOX CULVERTS  
 SLOPING HEADWALLS  
 LENGTH = 11.8m  
 UP-STREAM INVERT LEVEL = 4.860m RL  
 DOWN-STREAM INVERT LEVEL = 4.824m RL  
 GRADE = 0.3%

OLD PORT ROAD



**DRIVEWAY SET-OUT TABLE**

POINT	EASTING	NORTHING	LEVEL
1	1986.737	4800.503	5.120
2	1987.025	4800.524	5.115
3	1991.258	4805.415	5.153
4	1992.634	4805.491	5.160
5	1992.027	4811.095	5.125
6	1990.759	4811.025	5.120
7	1986.017	4815.252	5.150
8	1985.718	4815.234	5.155

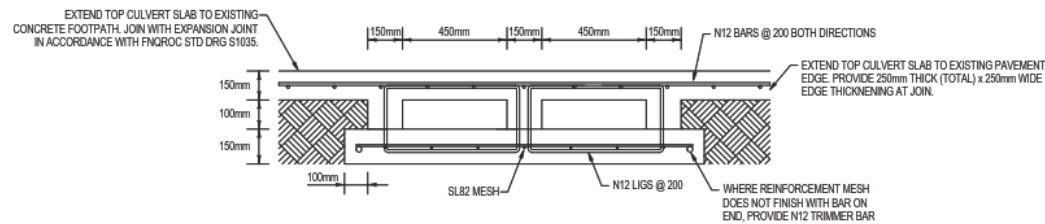


DIAMETER  
GRADE

DEPTH TO INVERT
INVERT LEVEL
DESIGN SURFACE LEVEL
EXISTING SURFACE LEVEL
SET-OUT COORDINATES
RUNNING CHAINAGE

LINE

**SEWER LONGITUDINAL SECTION**



**CULVERT DETAIL**

REV	DATE	DESCRIPTION	DESIGN	APPROVED
B	17.06.20	ADJUSTMENTS TO SEWER	CW	DJW
A	13.05.20	INITIAL ISSUE		

OWNER	AUSTART HOMES PTY LTD
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SCALE	ALL DIMENSIONS IN METRES UNLESS NOTED OTHERWISE
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DRAWN	CW	CHECKED	DJW
DESIGNED	CW	APPROVED	DJW
ORIGINAL CERTIFIED BY D.J.WALKER			
DATE 17.06.20 BY 19806			

SUBDIVISION AT 11-15 DICKSON STREET	
MISCELLANEOUS DETAILS	
DRAWING NO.	194-001-C03
REVISION	B



## **Division 2            Changing development approvals**

### **Subdivision 1        Changes during appeal period**

#### **74        What this subdivision is about**

- (1) This subdivision is about changing a development approval before the applicant's appeal period for the approval ends.
- (2) This subdivision also applies to an approval of a change application, other than a change application for a minor change to a development approval.
- (3) For subsection (2), sections 75 and 76 apply—
  - (a) as if a reference in section 75 to a development approval were a reference to an approval of a change application; and
  - (b) as if a reference in the sections to the assessment manager were a reference to the responsible entity; and
  - (c) as if a reference in section 76 to a development application were a reference to a change application; and
  - (d) as if the reference in section 76(3)(b) to section 63(2) and (3) were a reference to section 83(4); and
  - (e) with any other necessary changes.

#### **75        Making change representations**

- (1) The applicant may make representations (*change representations*) to the assessment manager, during the applicant's appeal period for the development approval, about changing—
  - (a) a matter in the development approval, other than—
    - (i) a matter stated because of a referral agency's response; or

- (ii) a development condition imposed under a direction made by the Minister under chapter 3, part 6, division 2; or
- (b) if the development approval is a deemed approval—the standard conditions taken to be included in the deemed approval under section 64(8)(c).
- (2) If the applicant needs more time to make the change representations, the applicant may, during the applicant's appeal period for the approval, suspend the appeal period by a notice given to the assessment manager.
- (3) Only 1 notice may be given.
- (4) If a notice is given, the appeal period is suspended—
  - (a) if the change representations are not made within a period of 20 business days after the notice is given to the assessment manager—until the end of that period; or
  - (b) if the change representations are made within 20 business days after the notice is given to the assessment manager, until—
    - (i) the applicant withdraws the notice, by giving another notice to the assessment manager; or
    - (ii) the applicant receives notice that the assessment manager does not agree with the change representations; or
    - (iii) the end of 20 business days after the change representations are made, or a longer period agreed in writing between the applicant and the assessment manager.
- (5) However, if the assessment manager gives the applicant a negotiated decision notice, the appeal period starts again on the day after the negotiated decision notice is given.

## **76 Deciding change representations**

- (1) The assessment manager must assess the change representations against and having regard to the matters that

- must be considered when assessing a development application, to the extent those matters are relevant.
- (2) The assessment manager must, within 5 business days after deciding the change representations, give a decision notice to—
- (a) the applicant; and
  - (b) if the assessment manager agrees with any of the change representations—
    - (i) each principal submitter; and
    - (ii) each referral agency; and
    - (iii) if the assessment manager is not a local government and the development is in a local government area—the relevant local government; and
    - (iv) if the assessment manager is a chosen assessment manager—the prescribed assessment manager; and
    - (v) another person prescribed by regulation.
- (3) A decision notice (a ***negotiated decision notice***) that states the assessment manager agrees with a change representation must—
- (a) state the nature of the change agreed to; and
  - (b) comply with section 63(2) and (3).
- (4) A negotiated decision notice replaces the decision notice for the development application.
- (5) Only 1 negotiated decision notice may be given.
- (6) If a negotiated decision notice is given to an applicant, a local government may give a replacement infrastructure charges notice to the applicant.



## Extracts from the Planning Act 2016 – Appeal Rights

Planning Act 2016  
Chapter 6 Dispute resolution

[s 229]

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- (2) The person is taken to have engaged in the representative's conduct, unless the person proves the person could not have prevented the conduct by exercising reasonable diligence.

- (3) In this section—

**conduct** means an act or omission.

**representative** means—

- (a) of a corporation—an executive officer, employee or agent of the corporation; or
- (b) of an individual—an employee or agent of the individual.

**state of mind**, of a person, includes the person's—

- (a) knowledge, intention, opinion, belief or purpose; and
- (b) reasons for the intention, opinion, belief or purpose.

## Chapter 6 Dispute resolution

### Part 1 Appeal rights

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

- (1) Schedule 1 states—

- (a) matters that may be appealed to—

- (i) either a tribunal or the P&E Court; or
- (ii) only a tribunal; or
- (iii) only the P&E Court; and

- (b) the person—

- (i) who may appeal a matter (the **appellant**); and
- (ii) who is a respondent in an appeal of the matter; and

- 
- (iii) who is a co-respondent in an appeal of the matter;  
and
  - (iv) who may elect to be a co-respondent in an appeal  
of the matter.
- (2) An appellant may start an appeal within the appeal period.
- (3) The *appeal period* is—
- (a) for an appeal by a building advisory agency—10  
business days after a decision notice for the decision is  
given to the agency; or
  - (b) for an appeal against a deemed refusal—at any time  
after the deemed refusal happens; or
  - (c) for an appeal against a decision of the Minister, under  
chapter 7, part 4, to register premises or to renew the  
registration of premises—20 business days after a notice  
is published under section 269(3)(a) or (4); or
  - (d) for an appeal against an infrastructure charges notice—  
20 business days after the infrastructure charges notice  
is given to the person; or
  - (e) for an appeal about a deemed approval of a development  
application for which a decision notice has not been  
given—30 business days after the applicant gives the  
deemed approval notice to the assessment manager; or
  - (f) for an appeal relating to the *Plumbing and Drainage Act  
2018*—
    - (i) for an appeal against an enforcement notice given  
because of a belief mentioned in the *Plumbing and  
Drainage Act 2018*, section 143(2)(a)(i), (b) or  
(c)—5 business days after the day the notice is  
given; or
    - (ii) for an appeal against a decision of a local  
government or an inspector to give an action notice  
under the *Plumbing and Drainage Act 2018*—5  
business days after the notice is given; or

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

*Note—*

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

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

## **230 Notice of appeal**

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



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



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

## **231 Non-appealable decisions and matters**

- (1) Subject to this chapter, schedule 1 and the P&E Court Act, unless the Supreme Court decides a decision or other matter under this Act is affected by jurisdictional error, the decision or matter is non-appealable.
- (2) The *Judicial Review Act 1991*, part 5 applies to the decision or matter to the extent it is affected by jurisdictional error.
- (3) A person who, but for subsection (1) could have made an application under the *Judicial Review Act 1991* in relation to the decision or matter, may apply under part 4 of that Act for a statement of reasons in relation to the decision or matter.
- (4) In this section—
- decision** includes—
- (a) conduct engaged in for the purpose of making a decision; and
  - (b) other conduct that relates to the making of a decision; and
  - (c) the making of a decision or the failure to make a decision; and
  - (d) a purported decision; and
  - (e) a deemed refusal.

**non-appealable**, for a decision or matter, means the decision or matter—

- (a) is final and conclusive; and
- (b) may not be challenged, appealed against, reviewed, quashed, set aside or called into question in any other way under the *Judicial Review Act 1991* or otherwise,

whether by the Supreme Court, another court, any tribunal or another entity; and

- (c) is not subject to any declaratory, injunctive or other order of the Supreme Court, another court, any tribunal or another entity on any ground.

## **232 Rules of the P&E Court**

- (1) A person who is appealing to the P&E Court must comply with the rules of the court that apply to the appeal.
- (2) However, the P&E Court may hear and decide an appeal even if the person has not complied with rules of the P&E Court.

# **Part 2 Development tribunal**

## **Division 1 General**

### **233 Appointment of referees**

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