

27 April 2022

**Enquiries:** Jenny Elphinstone  
**Our Ref:** ROL 2021\_4012/1 (Doc ID 1060618)  
**Your Ref:** Q184103:BG

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

Port Douglas Land Developments Pty Ltd  
C/- Cardno  
PO Box 1619  
CAIRNS QLD 4870

[billy.glover@cardno.com.au](mailto:billy.glover@cardno.com.au)

Attention Mr Billy Glover

Dear Sir

**Negotiated Decision Notice - New Port Estate Stage 2  
Development Application for Reconfiguring a Lot  
At Captain Cook Highway Craiglie on land described as Lot 2 on SR431**

Please find attached the Negotiated Decision Notice for the above-mentioned development application. Please quote Council's application number: ROL 2021\_4012/1 in all subsequent correspondence relating to this development application.

Council reiterates the following advice regarding the future development of the balance area of the land, as depicted in the Master Plan Port Douglas Estate, Captain Cook Highway, Craiglie, prepared by Cardno Plan Q184103-MP01E dated 13 February 2020, as follows:

- "a. The Planning Scheme supports appropriate residential development of the remaining balance of the land;*
- b. Council anticipates further development of the balance of the land is complimented by: the upgrade of the intersection of the Captain Cook Highway and Andreassen Road; the construction of an internal, connection of Wabul Street to Andreassen Road; and an appropriate sound mound and landscaping to ensure the visual amenity of the Highway and the entrance to Port Douglas and Craiglie is of a high standard; and*
- c. The future development of any further stages of the balance lot must be in accordance with an approved master plan including lot layout, infrastructure planning and flood and storm water modelling."*

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

Yours faithfully



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

cc. State Assessment and Referral Agency (SARA) E: [CairnsSARA@dilgp.qld.gov.au](mailto:CairnsSARA@dilgp.qld.gov.au)

encl.

- Decision Notice
  - Approved Drawing(s) and/or Document(s)
  - Concurrence Agency Response
  - Reasons for Decision
- Advice For Appeals (Negotiated Decision Notice)
- Adopted Infrastructure Charges Notice
- Advice For Appeals (Infrastructure Charges)

Proposed Master Plan



**MASTER PLAN**  
**PORT DOUGLAS ESTATE**  
**CAPTAIN COOK HIGHWAY**  
**CRAGLIE**



Tel: (07) 4634 0500  
 This plan is conceptual and for discussion purposes only. All areas, dimensions and text are approximate, subject to investigation, survey, engineering and local authority and agency approvals.

**PRELIMINARY ONLY**

Date: 22nd August 2019 | Scale: 1:1500 @ A1 | Drawn: MC | Job No.: Q184103 | Plan No.: Q184103-MP01 D



# Negotiated Decision Notice

## Approval (with conditions)

*Given under section 76 of the Planning Act 2016*

### Applicant Details

Name: Port Douglas Land Developments Pty Ltd  
Postal Address: C/- Cardno  
PO Box 1619  
CAIRNS QLD 4870  
Email: [billy.glover@cardno.com.au](mailto:billy.glover@cardno.com.au)

### Property Details

Street Address: Captain Cook Highway Craiglie  
Real Property Description: Lot 2 on SR431  
Local Government Area: Douglas Shire Council

### Details of Proposed Development

Development Permit for Reconfiguring a Lot (One lot into 39 lots, new road and balance land).

### Decision

Date of Decision: 26 April 2022. This Negotiated Decision notice replaces the Decision Notice dated 14 December 2021  
Decision Details: Representations Approved in Part (as detailed below).

### Approved Drawing(s) and/or Document(s) Subject to amended plans required by Condition 3

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
New Port Estate, Port Douglas, Stage 2.	Cardno Plan No. Q184103-SP02B, dated 8 October 2021 and as to be amended by Condition 3.	To be confirmed.

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

## **Assessment Manager Conditions & Advices**

---

The approval is subject to the following conditions and advices

### **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 the approval of the Plan of Survey, except where specified otherwise in these conditions of approval.

### **Lot Layout**

3. The lot layout plan must be revised and provided to the satisfaction of the Chief Executive Officer prior to the lodgement of the application for operational work, generally in accordance with the Cardno Plan No. Q184103-SP02B, dated 8 October 2021, and amended to detail:
  - a. All residential lots to have a minimum site area of 600m<sup>2</sup>, a minimum road frontage of 15 metres and to be able to contain a rectangle of minimum dimensions 20 metres x 15 metres; and
  - b. Include a temporary turn around on the balance lot for the extension of Greenbriar Avenue and Wabul Street.
  - c. Demonstrate how safe access will be achieved to each lot fronting Greenbriar Avenue and nominate driveway locations that achieve safe intersection sight distance for the speed category of the road, or amend the lot layout to avoid lot fronting Greenbriar Avenue;
  - d. Demonstrate how car parking can be achieved for lots fronting Greenbriar Avenue without compromising pedestrian and on-road cycle traffic, or suitably amend the road alignment of Greenbriar Avenue;
  - e. Provide an easement for the future sewer extension through to Andreasson Road to guarantee security of tenure for the future sewer connectivity through to the Andreasson Road reserve noting the applicant's request for the current pump station to be considered as the trunk infrastructure for the local catchment;

The lot yield may change as a result of the above requirements.

### **Filling Lots**

4. Each lot must be filled to achieve a Q100 plus hydraulic modelling flood immunity and storm tide inundation (having regard to sea level rise for the year 2100).

### **Developer Credits for the Construction of Trunk Infrastructure**

5. The Infrastructure Agreement must detail the circumstances on which the monies will be reimbursed. For any residual monies owed after the completion of the development, the Infrastructure Agreement must detail the circumstances on which the monies will be reimbursed and the timing of any such reimbursement.

The scope of works and cost of constructing Trunk Infrastructure, as identified under Council's Local Government Infrastructure Plan (LGIP) must be agreed to by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works to construct the infrastructure.

### **Road Upgrade**

6. ~~At a minimum, upgrade the Beor Street intersection as required by Queensland Department of Transport and Main Roads, and also provide for an Auxiliary left turn (AUL) for the movements out of Beor Street (east).~~

Design and undertake construction of an upgrade to Beor Street (east) for the provision of two approach lanes at its intersection with Captain Cook Highway.

The lane capacity and configuration is to be determined from a revised traffic analysis.

The study must be prepared by an appropriately qualified and experienced RPEQ Traffic Engineer and be submitted to Council prior to the lodgement of the application for operational work for the subdivision. The report must detail:

- a. assumptions for the trip distribution and network assignment;
- b. a sensitivity analysis should be undertaken in relation to these assumptions; and
- c. SIDRA outputs for all legs and each approach lane for the intersection including LOS, DOS, queue length and delay.

The above considerations for the Study and the outcomes of the Study must be to the satisfaction of the Chief Executive Officer.

All works are to be at no cost to Council. The upgrade must include associated linemarking, pavement widening and street lighting.

The applicant must obtain an approval from the Department of Main Roads and Council regarding the works scope. ~~The agreed scope must be to the satisfaction of the Chief Executive Officer and achieved prior to the lodgement of the application for operational work for the subdivision.~~

### **Acid Sulfate Soils**

7. Undertake an Acid Sulfate Soil investigation in the area to be affected by this development. Soil sampling and analysis must be undertaken in accordance with procedures specified in, 'Guidelines for Sampling and Analysis of Lowland Acid Sulfate Soils in Queensland' (1998) or updated version of document produced by the Department of Natural Resources, Mines and Energy (Previously DNRW – QASSIT), and State Planning Policy 2/02 – 'Planning and Managing Development involving Acid Sulfate Soils'. The results of this investigation must be submitted to Council for approval prior to any earthworks or clearing being commenced on the site.

Identification of soils with a pyrite content in excess of the action levels nominated in the latest version of DNRME – QASSIT: 'Guidelines for Sampling and Analysis of Lowland Acid Sulfate Soils in Queensland' (1998) will trigger the requirement for preparation of an Acid Sulfate Soil Environmental Management Plan in accordance with the most recent requirements of the DNRME: 'Queensland Acid Sulfate Soil Technical Manual' (2002) including Soil Management Guidelines (updated Feb. 2003) which must be prepared to the satisfaction of the Chief Executive Officer and form part of the application for a Development Permit for Operational Work.

### **Water Supply and Sewerage Master Plan**

- 8 Individual Master Plans for the provision of Water Supply and Sewerage for the development must be prepared and accompanied by supporting calculations to demonstrates how the development can be serviced.

The Development Application for Operational Work must include these Master Plans with supporting information (including Hydraulic Network Analysis) to demonstrate how Stage 2 and the ultimate development will be connected to and serviced by Council's Infrastructure.

In particular:

- a. For sewerage the sizing, location and services corridor is to be identified for the gravity sewerage alignment from Andreasson Road through to the new sewage pump station. Security of tenure in the form of an easement in favour of Council is to be provided for the full extent of this corridor through to Andreasson Road.
- b. Amended plans for the future pressure main alignment from the pump station to the Council approved connection point are to be provided. The plans are to be updated to include the extent of pressure main completed to date with the as-constructed information. The surface levels are to be updated to include the as-constructed surface from the drain upgrade and stage 1 earthworks. Where constructed rock lining of the drain is in close proximity to the future pressure main, this information is to be included on the updated master plans.
- c. The pressure main is to be connected to Council's system at a location where sufficient capacity exists. The applicant is to meet with Council's Sewerage Officers to confirm known capacity issues and determine a suitable point of connection. The Master Plan must document the considerations on the selection of the connection point, pressure main corridor and any relevant inputs from Council Officers, (this should include Minutes of Meetings and formal correspondence at a minimum);
- d. The Water Supply Master Plan must include a new main along the Captain Cook Highway and not rely on water supply from the adjacent development to the north, (Wabul Drive). Suitable valving and connectivity is to be provided to the existing system to enable proper operation and management of the water network, however, future stages of the development must obtain water connection external to the adjoining estate at a point where sufficient capacity exists.

In addition, the Master Plans must identify how water supply and sewerage infrastructure capacity will be provided in an orderly and sequential manner having regard to the overall development size and demands. The Master Plans must set out the proposed infrastructure delivery matched to the timing and staging of the development.

In the event that the Master Plan identifies upgrades to the existing Council infrastructure to service the ultimate development, the Master Plan must detail any interim servicing arrangements for the development and identify thresholds (lot yield and timing) associated with those interim and ultimate servicing arrangements. The Master Plans must also identify any external catchments that will be connected to and/or serviced by the internal water supply and sewer networks.

The plan of the works must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer, prior to the lodgement of the Survey Plan with Council for endorsement.

### **Water Supply and Sewerage Infrastructure Plan**

9. Water supply and sewerage infrastructure plans for Stage 2 with supporting information including hydraulic network analysis must be submitted demonstrating how the development will be serviced by Council's Infrastructure. In particular the plan must:
  - a. Include the external catchments on Andreasson Road that will be connected to the internal sewer or water networks consistent with the applicant's request for the Network Pump Station to be relocated from Andreasson Road to Stage 11 of this estate; and

- b. Identify any trunk infrastructure external to the subdivision that may require upgrading to accommodate the development.

The water supply and sewerage infrastructure plan must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.

### **Water Supply and Sewerage Works**

10. The extent of Water Supply and Sewerage Works to the site to connect the site to existing water supply and sewerage infrastructure will be determined by the Master Plans to be prepared for consideration and approval by Council. The following minimum infrastructure elements are required:
  - a. Provide a single internal water and sewer connection to each lot in accordance with the FNQROC Development Manual.
  - b. Connect to the existing water main in Greenbriar Avenue and extend the main for the full length of Stage 2 so that each allotment can be provided with a water service connection to the lot frontage; and
  - c. Provide district meters at locations nominated by Council; and
  - d. Provide an easement from the southern extent of Stage 2 through to Andreasson Road on the sewerage reticulation alignment nominated in the Master Plan to ensure security of tenure for the connectivity of all lots as envisaged by the LGIP Plans.

Three (3) copies of a plan of the works must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works.

All works must be carried out in accordance with the approved plans, to the requirements and satisfaction of the Chief Executive Officer, prior to the lodgement of the Survey Plan with Council for endorsement.

### **Inspection of Sewers and Stormwater**

11. CCTV inspections of all constructed sewers and stormwater piped systems must be undertaken for all infrastructure that will become an asset of Council. An assessment of the CCTV records will be undertaken and any identified defects are to be rectified to the satisfaction of the Chief Executive Officer at no cost to Council.

### **Drainage Construction**

12. The applicant / owner must undertake the development of the land in accordance with the findings of the updated Drainage Study.

Associated earthworks and landscaping must be completed in accordance with the approved plans prior to the lodgement of the Survey Plan with Council for endorsement.

### **Lawful Point of Discharge**

13. 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 from the development to the requirements and satisfaction of the Chief Executive Officer.

### **Plan of Drainage Works**

14. The subject land must be drained to the satisfaction of the Chief Executive Officer. In particular,
  - a. Drainage infrastructure in accordance with the FNQROC Development Manual
  - b. The drainage system from the development must incorporate a gross pollutant trap(s) or equivalent measure(s), meeting the following Council specifications for stormwater quality improvement devices (SQID), namely:

- i. End-of-line stormwater quality improvement devices (SQID) shall be of a proprietary design and construction and shall carry manufacturer's performance guarantees as to removal of foreign matter from stormwater and structural adequacy of the unit.
  - ii. SQIDs shall remove at least ninety-five per cent of all foreign matter with a minimum dimension of three (3) mm and shall be configured to prevent re-injection of captured contaminants. The SQID treat all first flush runoff, which shall be defined as that volume of water equivalent to the runoff from the three (3) month ARI storm event. The location of SQIDs within the drainage system shall be planned to ensure that the first flush waters from all parts of the (developed) catchment are treated.
  - iii. The design of the SQID shall not compromise the hydraulic performance of the overall drainage system.
  - iv. SQIDs shall be positioned so as to provide appropriate access for maintenance equipment.
- c. All new allotments shall have immunity from flooding associated with an ARI 100 year rainfall event; and
  - d. Where practical, all new allotments must be drained to the road frontages, drainage easements or drainage reserves and discharged to the existing drainage system via storm water quality device(s).

### **Sediment and Erosion Control**

- 15. A sediment and erosion control plan must be submitted prior the issue of a Development Permit for Operational Works. Such plans 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).

### **Landscape Plan**

- 16. Undertake landscaping of the site and street frontages of new roads in accordance with *FNQROC Development Manual* and in accordance with a landscape plan. The landscape plan must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Work. In particular, the plan must show:
  - a. Planting of the footpath with trees, using appropriate species with consideration to be given to creating an individual sense of place and character to the estate;
  - b. Provision of an earth mound, landscaping and appropriate fencing along the western boundary for the extent of Stage 2 development, in order to provide sufficient screening and amenity for the development and external areas of the site;
  - c. The provision of suitable shade trees;
  - d. Species to have regard to the Planning Scheme Policy No.SC6.7 Landscaping; and
  - e. Road verges to be seeded and grassed;

Permanent irrigation or any other embellishments are not permitted.

Inclusion of all requirements as detailed in other relevant conditions included in this Approval, with a copy of this Development Approval to be given to the applicant's Landscape Architect / Designer.

Two (2) A1 copies and one (1) A3 copy of the landscape plan must be endorsed by the Chief Executive Officer prior to the issue of a Development Permit for Operational Works. Areas to be landscaped must be established prior to the lodgement of the Survey Plan with Council for endorsement and must be maintained for the duration of the on-maintenance period to the satisfaction of the Chief Executive Officer.

## **Electricity Supply**

17. Written evidence from Ergon Energy advising if distribution substation/s are required within the development must be provided. If required, details regarding the location of these facilities must be submitted to the Chief Executive Officer accompanied by written confirmation from Ergon Energy. Details regarding electricity supply must be provided prior to the issue of a Development Permit for Operational Works.

## **Electricity and Telecommunications**

18. Written evidence of negotiations with Ergon Energy and the telecommunication authority must be submitted to Council stating that both an underground electricity supply and telecommunications service will be provided to the development prior to the lodgement of the Survey Plan with Council for endorsement.

## **Street Lighting**

19. The following arrangements for the installation of street lighting within the proposed subdivision must be provided prior to the lodgement of the Plan of Survey for signing and dating:

- a. Prior to the approval and dating of the Plan of Survey, a Rate 2 lighting scheme is to be prepared by Ergon Energy or its approved consultant and submitted to the Chief Executive Officer for approval. The Rate 2 lighting scheme is to be designed in accordance with the relevant Road Lighting Standard AS/NZS 1158 and the FNQROC Development Manual. The applicable lighting category is to be determined from the Road Hierarchy Table D1.1 and the corresponding applicable Lighting Categories Table D8.1 as identified in the FNQROC Development Manual.

The design must provide the applicable illumination level specified in the Road Lighting Standard AS/NZS 1158 at the following road elements:

- i Intersections;
- ii Pedestrian Refuges;
- iii Cul-de-sacs; and
- iv LATM Devices (Including Roundabouts)

LATM Devices are to be shown on the civil layout design, the electrical services and street lighting design must be submitted in accordance with Ergon Energy's latest Distribution Design Drafting Standard.

- b. Prior to the lodgement of the Survey Plan with Council for endorsement written confirmation that the relevant capital contribution required by Ergon Energy has been paid must be submitted, to ensure that the street lighting will be constructed.
- c. Where a new intersection is formed on an existing roadway for the purpose of accessing a new subdivision development, the intersection and existing road approaches must be provided with street lighting for a distance equivalent to at least two (2) spans either side of the intersection to the relevant Lighting Category.
- d. Where an existing intersection is required to be upgraded as part of a development approval, the intersection and existing road approaches must be provided with street lighting for a distance equivalent to at least two (2) spans either side of the intersection to the relevant Lighting Category.

## **Stock Piling and Transportation of Fill Material**

20. Soil used for filling or spoil from the excavation 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 unless the mounded earth is grassed, maintained and does not detrimentally impact on stormwater. A drainage plan demonstrating the sufficiency for stormwater approved by an RPEQ must be provided to the satisfaction of the Chief Executive Officer where filling or spoil is stockpiled for more than one (1) month.

Transportation of fill or spoil to and from the site must not occur within:

- a. peak traffic times; or
- b. before 7:00 am or after 6:00 pm Monday to Friday; or
- c. before 7:00 am or after 1:00 pm Saturdays; or
- d. on Sundays or Public Holidays.

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

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

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

#### **Construction Access**

23. Vehicular access to the site for construction purposes of the reconfiguration of a lot approval must only be provided from Andreassen Road unless authorised by the Chief Executive Officer.

#### **Fencing and continued agricultural use of balance land.**

24. a. Where the continued agricultural use of the balance land abuts new lots, the lots adjacent to this activity must be provided with a standard timber paling fence of 1.8 metres (approximate) height together with a grassed setback of a further 20 metres (minimum) beyond the fencing.
- b. Where the continued agricultural use of the balance of the land occurs adjacent to the existing of Wabul Street a grassed buffer separation of 20 metres (minimum is to be provide on the balance land, beyond the road). Works occurring in this buffer area may include trunk infrastructure.

#### **Damage to Council Infrastructure**

25. 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, including, but not limited to, mobilisation of heavy construction equipment, stripping and grubbing, the applicant/owner must notify Council immediately of the affected infrastructure and have it repaired or replaced at the developer's/owner's/builder's cost, prior to the lodgement of the Survey Plan with Council for endorsement.

#### **Sewer Easement Agreement**

26. Council's standard sewer easement document is to be utilised for the Sewer Easement required under Conditions 1, 8 and 10 above.

Costs associated with the surveying of the easement for sewer infrastructure purposes and lodgement of the easement documents is to be reimbursed to the Applicant in accordance with an Infrastructure Agreement to the satisfaction of the Chief Executive Officer.

The agreement for the Sewer Easement is to be entered into prior to the issue of a Development Permit for Operational Work.

The applicant is to instigate the provision of the easement within 20 business days of Chief Executive Officer's formal request for the easement with a fulfillment of the provision within a further 20 business days.

#### **Advices**

1. This approval, granted under the provisions of the *Planning Act 2016*, shall lapse four (4) years from the day the approval takes effect in accordance with sections 85(1)(b) and 71 of the *Planning Act 2016*.

2. This approval does not negate the requirement for compliance with all relevant Local Laws and statutory requirements.
3. For information relating to the *Planning Act 2016*, log on to [www.dsd.qld.gov.au](http://www.dsd.qld.gov.au) . To access the FNQROC Development Manual, Local Laws and other applicable Policies log on to [www.douglas.qld.gov.au](http://www.douglas.qld.gov.au).

### Infrastructure Charges Notice

4. A charge levied for the supply of trunk infrastructure is payable to Council towards the provision of trunk infrastructure in accordance with the Infrastructure Charges Notice, refer to Attachment 3. The original Infrastructure Charges Notice will be provided under cover of a separate letter.

The amount in the Infrastructure Charges Notice has been calculated according to Council's Infrastructure Charges Resolution. Please note that this Decision Notice and the Infrastructure Charges Notice are stand-alone documents. The *Planning Act 2016* confers rights to make representations and appeal in relation to a Decision Notice and an Infrastructure Charges Notice separately.

### Further Development Permits

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

- All Operational Work

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

### Concurrence Agency Response

Concurrence Agency	Concurrence Agency Reference	Date	Council Electronic Reference
State Department Manufacturing, Infrastructure and Planning	2103-21727 SRA	12 July 2021	1024039

**Note** – Concurrence Agency Response is attached. This Concurrence Agency Response maybe amended by agreement with the respective agency.

### Currency Period for the Approval

This approval, granted under the provisions of the *Planning Act 2016*, shall lapse four (4) years from the day the approval takes effect in accordance with the provisions of Section 85 of the *Planning Act 2016*.

### 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) - Subject to amended plans required by Condition 3



# Concurrence Agency Conditions

RA6-N



SARA reference: 2103-21727 SRA  
Council reference: ROL2021\_4012  
Applicant reference: Q184103

12 July 2021

Chief Executive Officer  
Douglas Shire Council  
PO Box 723  
Mossman Qld 4873  
enquiries@douglas.qld.gov.au

Attention: Jenny Elphinstone

Dear Sir/Madam

## SARA response—Stage 2 New Port Estate Residential Subdivision at Captain Cook Highway, Craiglie

(Referral agency response given under section 56 of the *Planning Act 2016*)

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency on 24 March 2021.

### Response

---

Outcome:	Referral agency response – with conditions.
Date of response:	12 July 2021
Conditions:	The conditions in <b>Attachment 1</b> must be attached to any development approval.
Advice:	Advice to the applicant is in <b>Attachment 2</b> .
Reasons:	The reasons for the referral agency response are in <b>Attachment 3</b> .

### Development details

---

Description:	Development permit	Reconfiguring a Lot (1 Lot into 34 Lots, New Road and Balance Lot).
SARA role:	Referral Agency	
SARA trigger:	<b>Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1</b> (Planning Regulation 2017) - Reconfiguring a lot near a State-	

Page 1 of 7

Far North Queensland regional office  
Ground Floor, Cnr Grafton and Hartley  
Street, Cairns  
PO Box 2358, Cairns QLD 4870

controlled road

**Schedule 10, Part 9, Division 4, Subdivision 2, Table 3, Item 1**  
(Planning Regulation 2017) - Reconfiguring a lot near a State-  
controlled road intersection

SARA reference: 2103-21727 SRA  
Assessment Manager: Douglas Shire Council  
Street address: Captain Cook Highway, Craiglie  
Real property description: Lot 2 on SR431  
Applicant name: Port Douglas Land Developments Pty Ltd  
Applicant contact details: C/- Cardno (Qld) Pty Ltd  
PO Box 1619  
CAIRNS QLD 4870  
billy.glover@cardno.com.au

## Representations

An applicant may make representations to a concurrence agency, at any time before the application is decided, about changing a matter in the referral agency response (s.30 Development Assessment Rules) Copies of the relevant provisions are in **Attachment 4**.

A copy of this response has been sent to the applicant for their information.

For further information please contact Anthony Westbury, Planning Officer, on 40373215 or via email CairnsSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Joanne Manson  
A/Manager (Planning)

cc Port Douglas Land Developments Pty Ltd C/- Cardno, billy.glover@cardno.com.au

enc Attachment 1 - Referral agency conditions  
Attachment 2 - Advice to the applicant  
Attachment 3 - Reasons for referral agency response  
Attachment 4 - Representations provisions

## Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application)

No.	Conditions	Condition timing
<b>Reconfiguring a lot</b>		
Schedule 10, Part 9, Division 4, Subdivision 2, Table 1, Item 1 – Reconfiguring a lot near a State transport corridor, and Schedule 10, Part 9, Division 4, Subdivision 2, Table 3, Item 1 – Reconfiguring a lot near a State-controlled road intersection—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Transport and Main Roads to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following conditions:		
1.	<p>(a) A 2.4 - 2.6 metre noise barrier must be constructed in accordance with the Noise Impact Assessment Report, prepared by Cardno, dated 25 March 2019, reference I019_Q184013.</p> <p>(b) The noise barrier must be designed in accordance with:</p> <ul style="list-style-type: none"> <li>(i) the Department of Transport and Main Roads' Road Traffic Noise Management Code of Practice, Volume 1, Chapter 6 and 7.</li> <li>(ii) Specification MRTS15 Noise Fences (March 2019).</li> <li>(iii) Standard Drawing Road Manual, Part 13, Number 1606.</li> </ul> <p>(c) RPEQ certification must be provided to the Road Corridor Management Unit, Department of Transport and Main Roads, Far North Queensland Region (Far.North.Queensland.IDAS@tmr.qld.gov.au), confirming that the development has been constructed in accordance with parts (a) and (b) of this condition.</p>	Prior to submitting the Plan of Survey to the local government for approval and to be maintained at all times.
2.	<p>(a) Stormwater management of the development must ensure no worsening or actionable nuisance to the state-controlled road.</p> <p>(b) Any works on the land must not:</p> <ul style="list-style-type: none"> <li>(i) create any new discharge points for stormwater runoff onto the state-controlled road.</li> <li>(ii) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road.</li> <li>(iii) surcharge any existing culvert or drain on the state-controlled road.</li> <li>(iv) reduce the quality of stormwater discharge onto the state-controlled road.</li> </ul>	(a) & (b) At all times.
3.	Direct access is not permitted between Captain Cook Highway and the subject site.	At all times
4.	(a) Road works comprising of a channelized right-turn treatment with a short turn slot (CHR(S)) must be provided to upgrade the Captain Cook Highway / Beor Street intersection.	Prior to submitting the Plan of Survey to the local government for approval

	<p>(b) The road works must be designed and constructed in accordance with Austroads Guide to Road Design, Part 4: Intersections and Crossings – General, specifically:</p> <ul style="list-style-type: none"><li>• Figure A 29: Channelized right-turn treatment with a short turn slot (CHR(S)) two lane rural road for north bound vehicles turning right from Captain Cook Highway into Beor Street.</li></ul>	
--	---	--

## Attachment 2—Advice to the applicant

<b>General advice</b>	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> its regulation or the State Development Assessment Provisions (SDAP) v2.6. If a word remains undefined it has its ordinary meaning.
2.	<p><b>Transport Corridor Noise</b></p> <p>Mandatory Part (MP) 4.4 of the Queensland Development Code (QDC) commenced on 1 September 2010 and applies to building work for the construction or renovation of a residential building in a designated transport noise corridor. MP4.4 seeks to ensure that the habitable rooms of Class 1, 2, 3 and 4 buildings located in a transport noise corridor are designed and constructed to reduce transport noise. Transport noise corridor means land designated under Chapter 8B of the Building Act 1975 as a transport noise corridor. Information about transport noise corridors is available at state and local government offices.</p> <p>A free online search tool can be used to find out whether a property is located in a designated transport noise corridor. This tool is available at the State Planning Policy Interactive Mapping System website: <a href="https://spp.dsip.esriaustraliaonline.com.au/geoviewer/map/planmaking">https://spp.dsip.esriaustraliaonline.com.au/geoviewer/map/planmaking</a> and allows searches on a registered lot number and/or property address to determine whether and how the QDC applies to the land. Transport Noise Corridors are located under Information Purposes within Transport Infrastructure of the State Planning Policy (SPP) mapping system.</p>
3.	<p><b>Advertising Device</b></p> <p>The proposed development is proposing to erect an advertising device that will be visible from a state-controlled road. The applicant should seek advice from the Department of Transport and Main Roads (DTMR) to ensure that the advertising device visible from a state-controlled road, and beyond the boundaries of the state-controlled road, is unlikely to create a traffic hazard for the state-controlled road.</p> <p>Note: DTMR has powers under section 139 of the Transport Operations (Road Use Management - Accreditation and Other Provisions) Regulation 2015 to require removal or modification of an advertising sign and / for a device which is deemed that it creates a danger to traffic.</p>
4.	<p><b>Roads Works Approval</b></p> <p>Under section 33 of the Transport Infrastructure Act 1994, written approval is required from the Department of Transport and Main Roads to carry out road works.</p> <p>Please contact the Department of Transport and Main Roads on 4045 7144 to make an application for road works approval.</p> <p>This approval must be obtained prior to commencing any works on the state-controlled road reserve. The approval process may require the approval of engineering designs of the proposed works, certified by a Registered Professional Engineer of Queensland (RPEQ).</p> <p>Please contact the Department of Transport and Main Roads as soon as possible to ensure that gaining approval does not delay construction.</p>

### **Attachment 3—Reasons for referral agency response**

(Given under section 56(7) of the *Planning Act 2016*)

#### **The reasons for the SARA decision are:**

- The site has road frontage to Captain Cook Highway a state-controlled road, and Wabul Street and Andreassen Road, both local roads. There is no direct vehicle access to Captain Cook Highway with existing access available via Wabul Street and Andreassen Road.
- Proposed access for the Stage 2 development site will be via Wabul Street via the local road network, including the approved Stage 1 development, through to the Captain Cook Highway / Beor Street intersection.
- Road works to the Captain Cook Highway / Beor Street intersection will ensure the intersection can accommodate the increased traffic generation from the Stage 2 development and not result in a worsening of operating conditions on the state-controlled road network.
- Connections to council services, infrastructure and utilities will be obtained via the approved Stage 1 development and will not impact Captain Cook Highway.
- The development will be set back a sufficient distance (minimal distance approx. 22m) from the state-controlled road, and required excavation and filling will not adversely impact the state-controlled road.
- The noise barrier will minimise traffic noise impacts to future residents of the development.
- Stormwater and drainage flows are appropriately managed and will not impact the state-controlled road.
- The proposed development is unlikely to compromise the safety, efficiency, and operating conditions of Captain Cook Highway.
- With conditions, the proposed development complies with the relevant provisions of State code 1: Development in a state-controlled road environment.

#### **Material used in the assessment of the application:**

- The development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- *The State Development Assessment Provisions (version 2.6)*
- The Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system

## Reasons for Decision

The reasons for this decision are:

1. Sections 60, 62 and 63 of the *Planning Act 2016*:
  - a. the approved plan(s) and document(s) as per A above;
  - b. the Conditions and Advices as per B above;
  - c. to ensure the development satisfies the benchmarks of the 2018 Douglas Shire Planning Scheme; and
  - d. 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 5 March 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 investigation of assessment against the State Planning Policy and the 2018 Douglas Shire Planning Scheme 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 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 requirements.

## Non-Compliance with Assessment Benchmarks

Through the conditions of the approval the development complies with the Planning Scheme and no concerns are raised.

**ADOPTED INFRASTRUCTURE CHARGES NOTICE**

<b>Port Douglas Land Developments Pty Ltd</b> DEVELOPERS NAME		<b>New Port Estate</b> ESTATE NAME	<b>2</b> STAGE
<b>L2 Captain Cook Highway</b> STREET No. & NAME	<b>Craiglie</b> SUBURB	<b>L2 SR 431</b> LOT & RP No.s	<b>4913</b> PARCEL No.
<b>ROL (1 into 39 lots)</b> DEVELOPMENT TYPE	<b>1</b> VERSION No.	<b>ROL 2021_4012/1</b> COUNCIL FILE NO.	<b>6</b> VALIDITY PERIOD (year)
<b>1079556</b> DSC Reference Doc. No.		<b>Payment before commencement of use for MCU; and Prior to signing and sealing of survey form for ROL</b>	

Infrastructure Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021 (Came into effect on 1 March 2021)

Proposed Demand	Charge per Use	\$ Rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
ROL 39 Lots	per lot	24,553.81	39	\$957,598.59		
Total Demand				<b>\$957,598.59</b>		
<b>Credit</b>						
3 or more bedroom dwelling	per 3 or more bedroom dwelling	24,553.81	1	\$24,553.81		
Total Credit				<b>\$24,553.81</b>		
						Code 895 GL GL7500.135.825

Required Payment or Credit **TOTAL** **\$933,044.78**

Prepared by	<b>Jenny Elphinstone</b>	<b>13-Apr-22</b>	Amount Paid	
Checked by	<b>Neil Beck</b>	<b>13-Apr-22</b>	Date Paid	
Date Payable	<b>ROL - Before the Local Government approves the plan of subdivision</b>		Receipt No.	
Amendments		Date	Cashier	

**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 Policy are subject to indexing.  
Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

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

---

## 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.

27 April 2022

**Enquiries:** Jenny Elphinstone  
**Our Ref:** ROL 2021\_4012 (Doc 1060618)  
**Your Ref:** Q184103:BG

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

Port Douglas Land Developments Pty Ltd  
C/- Cardno  
PO Box 1619  
CAIRNS QLD 4870

[billy.glover@cardno.com.au](mailto:billy.glover@cardno.com.au)

Attention Mr Billy Glover

Dear Sir

**Adopted Infrastructure Charge Notice  
For Development Application Reconfiguring a Lot  
One lot into 39 lots, New Road and Balance Land  
At Captain Cook Highway Craiglie  
On Land Described as Lot 2 on SR431**

At the Ordinary Meeting held on 26 April 2022 Council considered your representations regarding the issued Infrastructure Charges Notice and resolved to issue an amended Infrastructure Charges Notice whereby:

- “1. *The Notice clarifies credit for trunk infrastructure, as determined through an Infrastructure Agreement, can be offset against the applicable charges; and*
2. *There is no change to applicable Infrastructure Charges Resolution against which the charges are applied on the basis that:*
  - a. *The Infrastructure Charges Notice is issued after the Decision Notice is issued and is related to the Infrastructure Charges applicable at the time the application is determined. The Infrastructure Charges applicable to the development is not dependent on when the application was lodged.”*

Council also resolved to advise the following, “*In respect to the Infrastructure Charges Notice clarifies where the condition of the approval requires an amended lot layout that is likely to result in a reduced number of lots. As yet this final number of lots has not been determined and that the Infrastructure Charges Notice can be recalculated at the time of payment relevant to the number of lots sought for the respective survey plan.*”

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 your Appeal rights with respect to the Adopted Infrastructure Charges Notice.

Please quote Council's application number: ROL 2021\_4012 in all subsequent correspondence relating to this matter.

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

Yours faithfully



**For**  
**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 Scheme version 1.0 Applications

## ADOPTED INFRASTRUCTURE CHARGES NOTICE

Port Douglas Land Developments Pty Ltd DEVELOPERS NAME		New Port Estate ESTATE NAME	2 STAGE
L2 Captain Cook Highway STREET No. & NAME	Craigie SUBURB	L2 SR 431 LOT & RP No.s	4913 PARCEL No.
ROL (1 into 39 lots) DEVELOPMENT TYPE		ROL 2021_4012/1 COUNCIL FILE NO.	6 VALIDITY PERIOD (year)
1079556 DSC Reference Doc. No.	1 VERSION No.	Payment before commencement of use for MCU; and Prior to signing and sealing of survey form for ROL	

Infrastructure Charges as resolved by Council at the Ordinary Meeting held on 23 February 2021 (Came into effect on 1 March 2021)

	Charge per Use	\$ Rate	Floor area/No.	Amount	Amount Paid	Receipt Code & GL Code
<b>Proposed Demand</b>						
ROL 39 Lots	per lot	24,553.81	39	\$957,598.59		
	Total Demand			<b>\$957,598.59</b>		
<b>Credit</b>						
3 or more bedroom dwelling	per 3 or more bedroom dwelling	24,553.81	1	\$24,553.81		
	Total Credit			<b>\$24,553.81</b>		
						Code 895 GL GL7500.135.825

Required Payment or Credit **TOTAL** \$933,044.78

Prepared by	Jenny Elphinstone	13-Apr-22	Amount Paid	
Checked by	Neil Beck	13-Apr-22	Date Paid	
Date Payable	ROL - Before the Local Government approves the plan of subdivision		Receipt No.	
Amendments		Date	Cashier	

**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 Policy are subject to indexing.  
Any Infrastructure Agreement for trunk works must be determined and agreed to prior to issue of Development Permit for Operational Work.

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

---

## 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.