

17 July 2019

Enquiries: Neil Beck
Our Ref: SITEX 3183/2019 (910081)

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

M S Hunt
PO Box 573
MOSSMAN QLD 4873

Copy:
GMA Certification Group Pty Ltd
PO Box 831
PORT DOUGLAS QLD 4877

Dear Sir / Madam

EXEMPTION CERTIFICATE

Thank you for your request for an exemption certificate for the following premises received on 11 July 2019.

Summary of Exempt Development

Construction of a shed as detailed in Attachment 1

1. Location details

Street address: 5 Bayil Drive BONNIE DOON

Real property description: LOT: 119 SP: 199682

I wish to advise that an exemption certificate has been granted on 17 July 2019 for a shed as detailed in Attachment 1.

2. Referral agencies

Not Applicable

3. Reasons for giving exemption certificate

The development is exempt under this certificate under s46(3)(b) of the Planning Act 2016 for the following reason(s):

- The development was categorised as assessable development only because of particular circumstances that no longer apply.

4. When exemption certificate ceases to have effect

This exemption certificate does not lapse.

Please quote Council's application number: SITEX 3183/2019 in all subsequent correspondence relating to this request.

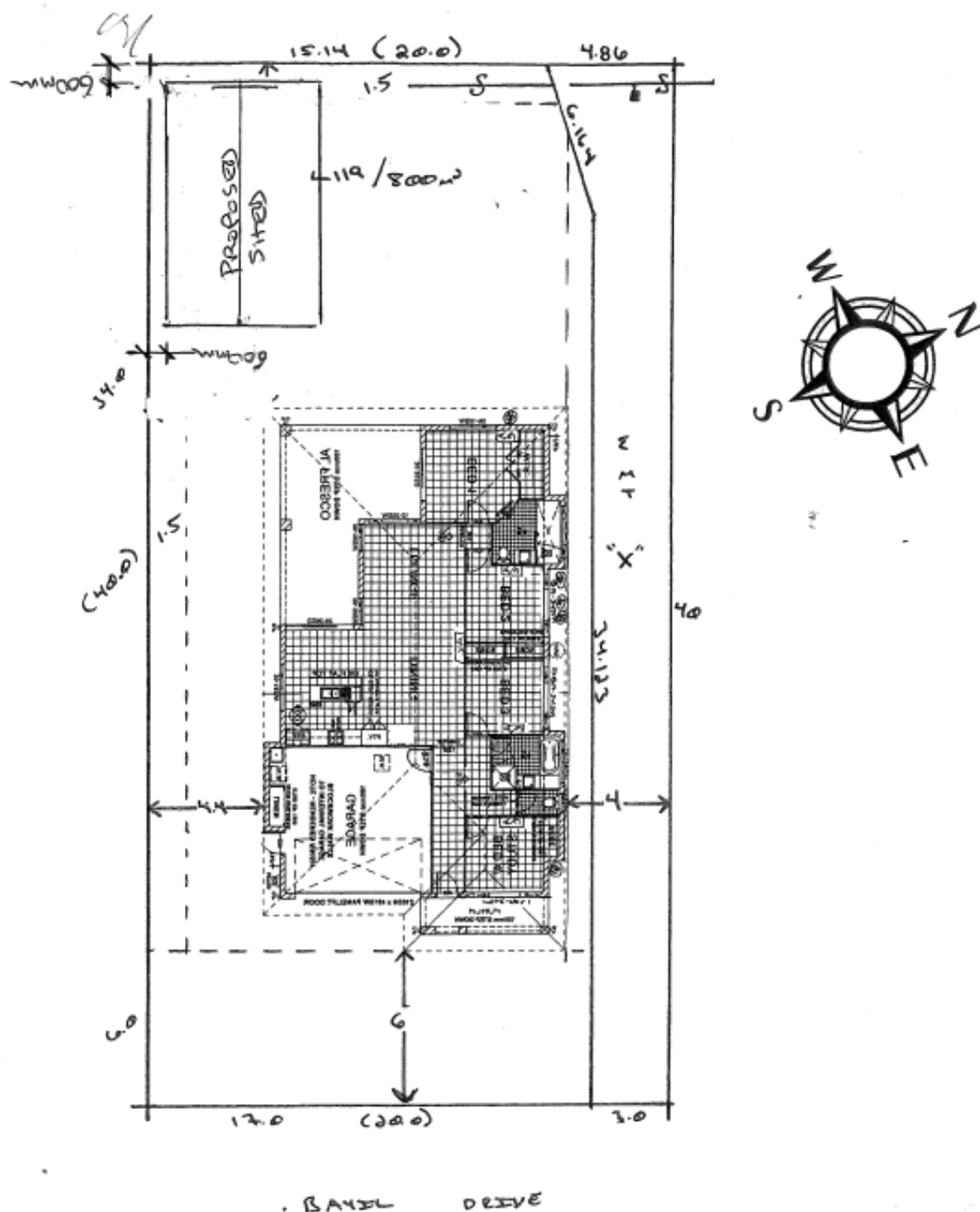
Should you require any clarification regarding this matter, please contact Neil Beck on telephone 07 4099 94551.

Yours faithfully

PAUL HOYE
Manager Environment & Planning

Cc GMA Certification Group Pty Ltd

Attachment 1



Tony Soltys
NEW HOME CONSULTANT
0407 991 902
tony@nqhomes.com.au
PO Box 863, Port Douglas QLD 4877
Phone (07) 4098 5518
Fax (07) 4098 5512
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ABN 37 110 349 892
Builders Licence No. 1056588

22 Sept15 - Preliminary Sighting Only

Flinders 202 – Mirror Imaged

HUNT, M.

L119 Bayil Drive, Cooya Beach

DP/RP/SP: SP199682

Parish: Victory County: Solander

Scale: 1:200

Note: All areas & dimensions are approximate only, subject to survey, drafting & final approval. All plans subject to copyright.

17/07/2019

Enquiries: Neil Beck
Our Ref: SITEX3183/2019 (910081)
Your Ref: 20192731

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

M S Hunt
PO Box 573
MOSSMAN QLD 4873

Dear Sir / Madam

**Concurrence Agency Response – With Conditions
Issued under the *Planning Act 2016*
5 Bayil Drive BONNIE DOON**

The referral agency material for the development application described below was properly received by Douglas Shire Council on 11/07/2019.

Applicant details: M S Hunt
PO Box 573
MOSSMAN QLD 4873

Assessment Manager: GMA Certification Group Pty Ltd
PO Box 831
PORT DOUGLAS QLD 4877

Land details:
Street Address: 5 Bayil Drive BONNIE DOON
Real Property Description: LOT: 119 SP: 199682
Site Area: 800 m²
Local Government Area: Douglas Shire Council

Application details:
Proposed Development:

Aspects of development and type of approval being sought:
Development Permit for Building Work – *Queensland Development Code*, Part MP 1.2 (lots 450m² and over), Siting Dispensation.

Performance Criteria	Acceptable Solution	Proposal
P2	1.5m from side boundary	600mm for garage

Referral Trigger(s)

The development application was referred to Council under the following provisions of the *Planning Regulation 2017*:

Referral Trigger: *Schedule 9, Division 2, Table 3- Design and Siting*

Decision date: 17 July 2019

Decision

A. Under section 55 & 56 of the *Planning Act 2016* and Schedule 9, Part 3, Division 2, Table 3 *Planning Regulation 2017* Council requires that the following conditions attach to any development approval:

1. The specifications, facts and circumstances as set out in the application submitted to Council.

APPROVED DRAWING(S) AND / OR DOCUMENT(S)

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

Drawing or Document	Reference	Date
Site Plan	As Attached	Undated
Floor Plan	01 Rev A	19 June 2019
Elevation	02 Rev A	19 June 2019

B. Reasons for Decision

Under Sections 55 and 56 of the *Planning Act 2016* and Schedule 9, Part 3, Division 2, Table 3 of the *Planning Regulation 2017*, the reasons for this decision are:

- a. condition 1; and
- b. to ensure the development satisfies the Performance Criteria stated in P1 of MP1.2, of the Queensland Development Code.

Findings on material questions of fact

- a. The development application was properly referred to the Douglas Shire Council on 11 July 2019 under Section 54 of the *Planning Act 2016* and Part 2 of the Development Assessment Rules and forwarded for determination.
- b. The development application contained a report which Council reviewed together with Council's own investigation in making its referral agency assessment.

Evidence or other material on which findings were based

- a. The development triggered referral agency assessment under Schedule 9, Part 3, Division 2, Table 3 of the *Planning Regulation 2017*.
- b. Council undertook an assessment in accordance with the provisions of sections 55 and 56 of the *Planning Act 2016*.
- c. The relevant provisions of the *Queensland Development Code*.

C. Relevant Period

Under section 85(c)(i) of the *Planning Act 2016*, Council requires that the relevant period for any development approval is to be two (2) years starting from the day the approval takes effect.

D. The Applicant should have regard to the following advices:

1. All building site managers must take all action necessary to ensure building materials and / or machinery on construction sites are secured immediately following the first cyclone watch and that relevant emergency telephone contacts are provided to Council officers, prior to commencement of works.
2. This approval does not negate the requirement for compliance with all other relevant Council Local Laws and other statutory requirements.
3. For information relating to the *Planning Act 2016* log on to www.dilgp.qld.gov.au . To access the *FNQROC Development Manual*, Local Laws, the Douglas Shire Planning Scheme and other applicable Policies log on to www.douglas.qld.gov.au .

This advice includes extracts from the Act with respect to making representations about conditions and lodging an Appeal.

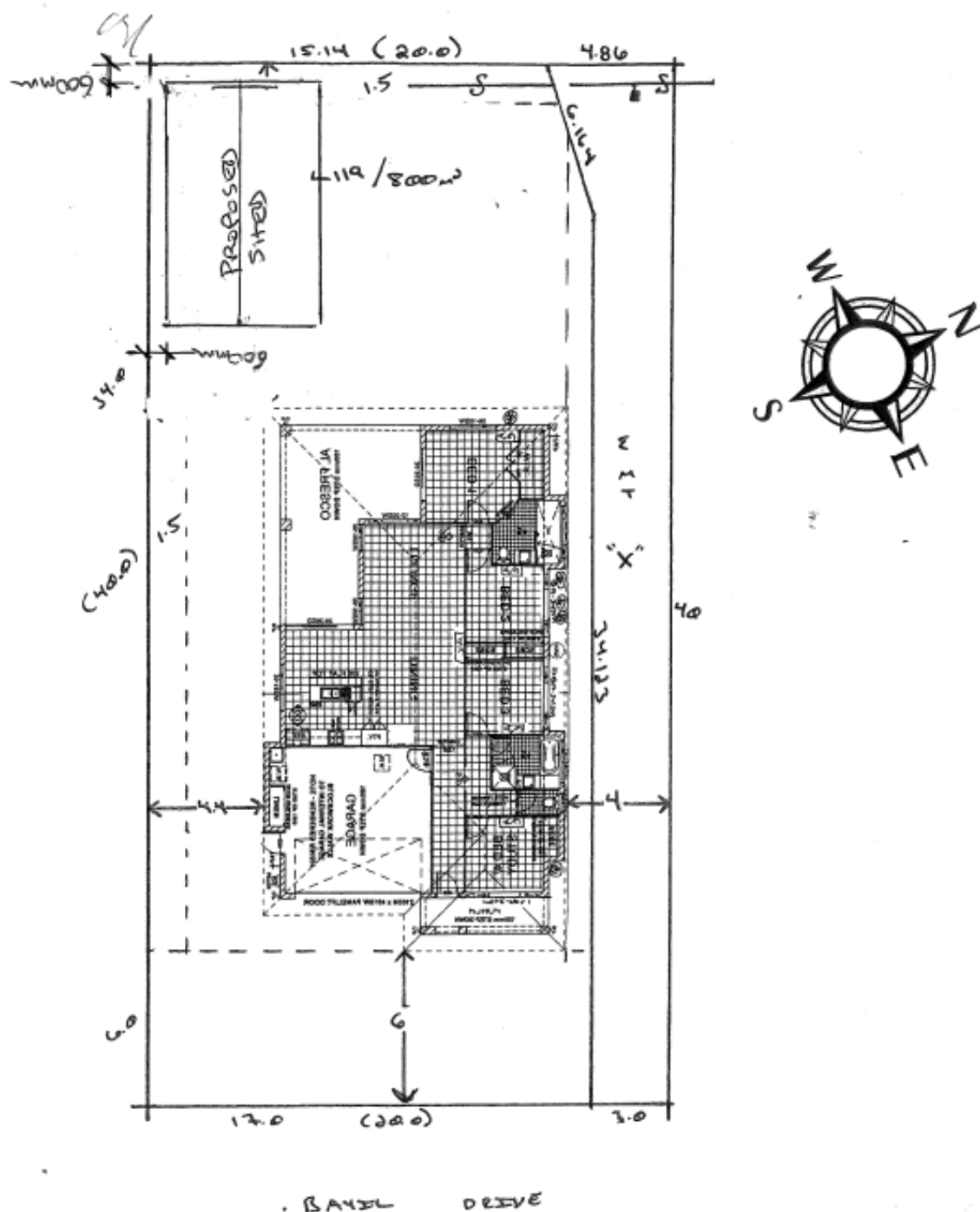
Should you require any further clarification regarding this matter, please contact Neil Beck of Environment & Planning on 07 4099 9451.

Yours faithfully

PAUL HOYE
Manger Environment & Planning

Att. Attachment 1 – Approved Drawings
Attachment 2 – Rights of Representation and Rights of Appeal

Attachment 1 – Approved Drawings



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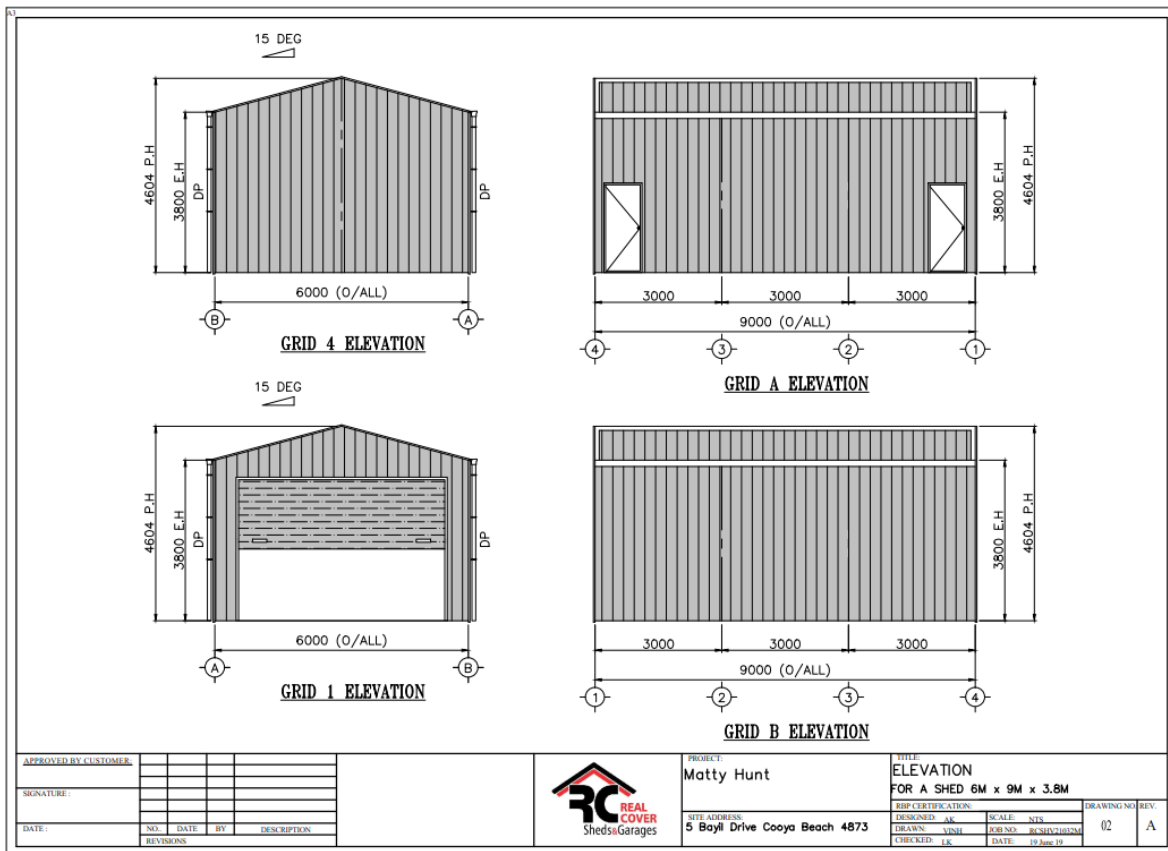
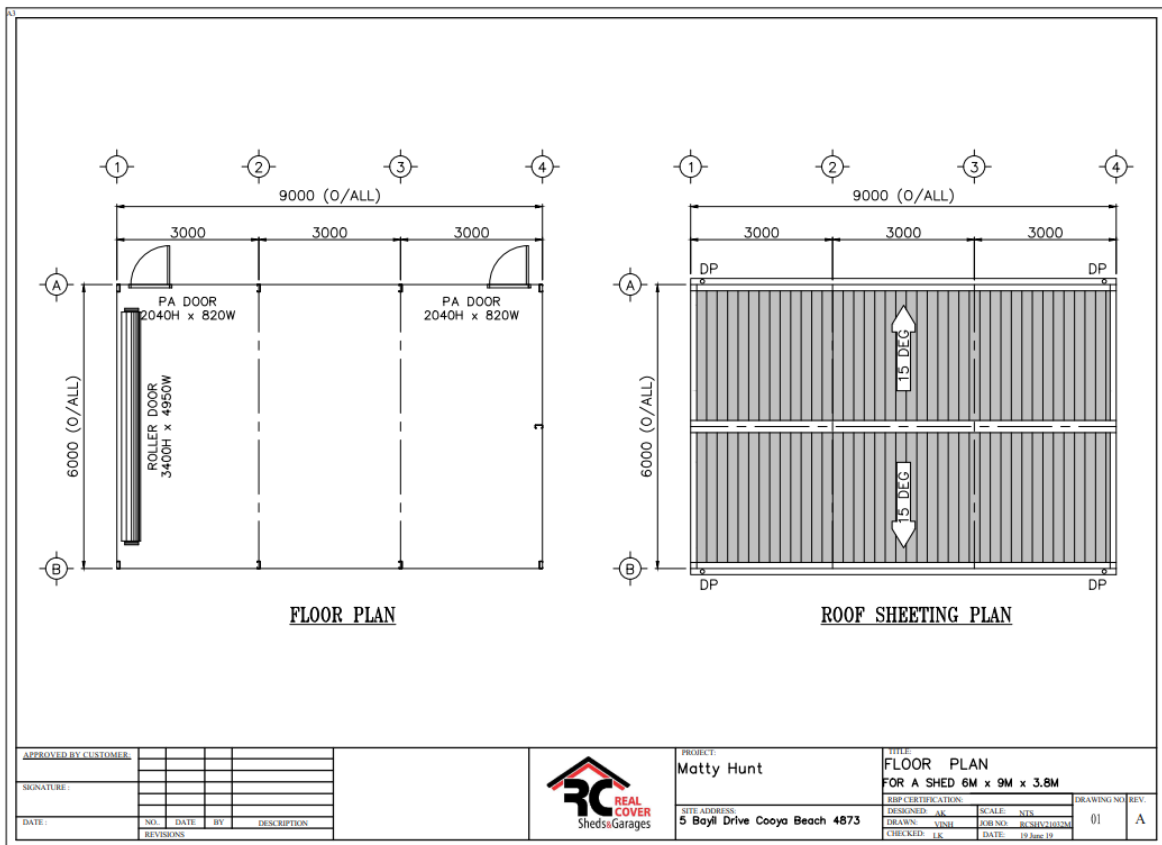
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Part 7: Miscellaneous

29. Missed referral agency

- 29.1. This section applies if, at any time before the application is decided, an applicant has not referred the application to a referral agency referred to in section 55 (1) of the Act or to another referral agency for all referral requirements under section 55(2) of the Act in the time provided to refer the application (a **missed referral agency**).¹⁹
- 29.2. A party to the application may, by notice given to each other party to the application, advise the parties that the applicant has not referred the application in accordance with section 54(1) of the Act.
- 29.3. Despite section 31.1(a) and subject to section 31.4 where notice has been given under section 29.2, the application does not lapse as a result of a missed referral agency.²⁰
- 29.4. The applicant must refer the application in accordance with section 5.1, as if 'the day after part 1 has ended' is 'after the day the applicant gave or received notice about a missed referral agency'.
- 29.5. Part 2 and part 3 apply to the missed referral agency once action is taken under section 29.4.
- 29.6. Despite section 11.1, any referral agency referred the development application as a result of this section may make an information request.
- 29.7. If a notice about a missed referral agency is given before part 5 starts, then part 5 cannot start before part 2 has ended in relation to the missed referral agency.²¹
- 29.8. If part 4 applies to the application, the giving of a notice under this section has no effect on any actions already undertaken under part 4.

30. Representations about a referral agency response

- 30.1. 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.²²

31. Lapsing of the application

- 31.1. An application lapses if the applicant does not carry out the following actions in the prescribed period, including any further agreed period under the relevant section—
- (a) give the referral agency material to each referral agency that is party to the application and advise the assessment manager when the referral agency material was given under section 5, section 27 or section 29, as relevant to the application;²³ or

¹⁹ As provided for under section 5.

²⁰ As set out in section 31.4, this section has no effect where a missed referral notice has already been given about the missed referral agency.

²¹ Section 23.2 describes the effect on the decision period if part 5 had already commenced before notice about the missed referral had been given.

²² An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

²³ This provision is subject to section 29.3.

- (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 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, table 1, item 1—each principal submitter for the development application; and
 - (d) for an appeal about a change application under schedule 1, table 1, item 2—each principal submitter for the change application; and
 - (e) each person who may elect to become a co-respondent for the appeal, other than an eligible submitter who is not a principal submitter in an appeal under paragraph (c) or (d); 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 by filing a notice of election, in the approved form, within 10 business days after the notice of appeal is given to the person.
- (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 Other appeals

- (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.