

Our Reference: RAL/2021/5430/C
CS Portal Reference: N/A
Contact Officer: Elliott Barber
Contact: (07) 4695 5685
Email: development@tr.qld.gov.au

Decision Notice
CHANGE TO A DEVELOPMENT APPROVAL
Planning Act 2016 Section 83

Tuana Park Pty Ltd
C/- Property Projects Australia
PO Box 3686
TOOWOOMBA QLD 4350

Email: blake@propertyprojectsaustralia.com.au

9 October 2023

Dear Sir/Madam

Development Approval: Reconfiguring a Lot – Code – Two (2) Lots into 35 Lots
Location: 2-8 Margetts Street, PITTSWORTH QLD 4356
Property Description: Lots 39 & 156 P2102
Relevant Planning Scheme: *Toowoomba Regional Planning Scheme 2012*

I refer to your application received on 2 August 2023 for a change to the development approval for Reconfiguring a Lot approved on 24 June 2022.

The change application was assessed against the relevant assessment benchmarks as identified in the *Toowoomba Regional Planning Scheme 2012* for the development.

On the 6 October 2023, the change application was approved as per the attached Schedule. The changes are considered to be consistent with the relevant assessment benchmarks.

All deletions are identified by **bolded** strikethrough of text and all additions are identified by **bolded** text.

Rights of Appeal

Attached is an extract from the *Planning Act 2016* which details your appeal rights regarding this decision.

Yours faithfully



Jayden Forbes-Mitchell
Senior Planner, Planning



TOOWOOMBA REGIONAL COUNCIL

A.B.N. 997 8830 5360

SCHEDULE 1

DEVELOPMENT PERMIT FOR RECONFIGURING A LOT – CODE

APPLICATION NUMBER:	RAL/2021/5430/C
APPLICANT:	Tuana Park Pty Ltd
LOCATION:	2-8 Margetts Street, PITTSWORTH QLD 4356
PROPERTY DESCRIPTION:	Lot 156 P2102, Lot 39 P2102
APPROVED USE:	Reconfigure Two (2) Lots into 35 Lots
ZONING:	Low-medium Density Residential Zone / Regional Residential Precinct

A. ASSESSMENT MANAGER'S CONDITIONS:

PLANNING

APPROVED DEVELOPMENT

1. This Development Approval is for Reconfiguring a Lot, being the subdivision of Two (2) Lots into 35 Lots.

CARRY OUT AND MAINTAIN DEVELOPMENT

2. The development must comply with the provisions of Council's Local Laws, Planning Scheme Policies, Planning Scheme and Planning Scheme Codes to the extent they have not been varied by this Development Approval.
3. Unless otherwise stated, all conditions must be complied with prior to Council's approval of the Plan of Subdivision prior to registration with the Department of Resources.
4. The development must be maintained generally in accordance with the Approved and Amended Plans and Documents subject to or modified by any conditions of this Development Approval.

APPROVED PLANS

5. The development must be carried out generally in accordance with the Approved Plans listed below, subject to the conditions of this Development Approval and the amendments listed below:

Plan No: W21009-01d, Amendment D
Description: Proposed Lots 1-35, EMTS A-J, prepared by Wilson Survey and Design Pty Ltd, dated 18 May 2022 and received by Council 19 May 2022
Amendments: As notated in RED on the Approved Plan

Plan No: W21009-02b, Amendment B
Description: Staging Plan, prepared by Wilson Survey and Design Pty Ltd, dated 18 May 2022 and received by Council 19 May 2022
Amendments: As notated in RED on the Approved Plan

LOT NUMBERING

6. The numbering of all approved lots must remain as indicated on the Approved Plan/s (unless otherwise amended/approved by Council).

COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS (OPERATIONAL WORK)

7. Prepare and submit applications to Council and obtain a Development Permit for Operational Work for the following:
 - 7.1 Roadworks (including footpaths);
 - 7.2 Driveway Crossovers (proposed Lots 1, 19-22 and 26-27);
 - 7.3 Stormwater Infrastructure;
 - 7.4 Bulk Earthworks;
 - 7.5 Wastewater Infrastructure; and
 - 7.6 Water Infrastructure.

COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS (FOR ENDORSEMENT)

8. Prepare and submit the following documents in accordance with the conditions of this Development Approval and obtain Council's endorsement:
 - 8.1 Landscape Plan.

COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS

9. Prepare and submit for Council's approval a Plan of Subdivision in accordance with Schedule 18 of the *Planning Regulation 2017*.

STAGED DEVELOPMENT

10. Staging of the development is to occur in accordance with the staging indicated on Plan No. W21009-02b, Amendment B, Staging Plan, prepared by Wilson Survey and Design Pty Ltd and dated 18 May 2022, subject to and modified by any conditions of this Development Approval.
11. Staging of infrastructure and works is to occur in accordance with the staging indicated on Plan No. 210158, DA-22, Revision A, Staging Layout Plan, prepared by Baker Rossow Consulting Engineers and dated 1 June 2022, subject to and modified by any conditions of this Development Approval.
12. Stages must be completed in sequential order (i.e. Stage 1 must be completed before Stage 2), or may be combined and constructed at one time, subject to all conditions applicable to the relevant stage/s being complied with.
13. The development must be carried out in accordance with those conditions applicable to one or more of the stages of development as follows:
 - 13.1 Conditions Applicable to all Stages of Development:
 - 1 – 14, 17, 19 – 24, 26, 29 – 100, 102 and 105 – 109.

13.2 Additional Conditions Applicable to Stage 1 of Development:

15, 18, 25, 101 and 103 – 104.

13.3 Additional Conditions Applicable to Stage 2 of Development:

16 and 27 – 28.

AVAILABILITY OF APPROVED DOCUMENTATION DURING WORKS

14. A legible copy of the Development Approval, including the Approved and Amended Plans and Documents bearing Council's approved stamp must be available on the subject land for inspection at all times during subdivision earthworks and construction.

DEDICATIONS, AGREEMENT AND CONTRIBUTIONS

EASEMENTS

15. As part of Stage 1, an easement for drainage purposes must be registered in favour of Toowoomba Regional Council against the title of all lots which convey stormwater from the development to a lawful point of discharge. The easement must be located over any overland flow paths or underground stormwater infrastructure connecting the low point of the proposed new road with Pittsworth Felton Road and must be included on the Plan of Subdivision for Council's approval. The width of the easement must be the greater of the following:

15.1 Three (3) metres; or

15.2 The width required to extend one (1) metre beyond the outer edges of any pipe or culvert constructed within the easement; or

15.3 The width required to fully accommodate the 1% AEP flow path connecting the low point of the proposed new road, plus freeboard in accordance with Table 9.3.1 of the *Queensland Urban Drainage Manual*.

16. As part of Stage 2, an easement for drainage purposes must be registered in favour of Toowoomba Regional Council against the title of all lots (nominally proposed Lot 28). The easement must be located over any overland flow paths or underground stormwater infrastructure connecting the low point of the proposed new road with Pittsworth Felton Road and must be included on the Plan of Subdivision for Council's approval. The width of the easement must be the greater of the following:

16.1 Three (3) metres; or

16.2 The width required to extend one (1) metre beyond the outer edges of any pipe or culvert constructed within the easement; or

16.3 The width required to fully accommodate the 1% AEP flow path connecting the low point of the proposed new road, plus freeboard in accordance with Table 9.3.1 of the *Queensland Urban Drainage Manual*.

Note: *Underground infrastructure should be sized to minimise the extent of the above ground flow path and maximise the usable land area on proposed Lot 28.*

17. An easement for sewerage purposes must be registered in favour of Toowoomba Regional Council against the title of all lots (nominally proposed Lots 20-28). The easement must be a minimum four (4) metres wide and must be centred over the existing Council wastewater reticulation line traversing the subject land.

- ~~18. As part of Stage 1, an easement for Right of Way purposes must be registered in favour of Toowoomba Regional Council against the title of all lots (nominally the Balance Lot following completion of Stage 1). The easement must be located over the temporary gravel turnaround area at the termination of the new road as required under Condition 91 of this Development Approval, in addition to providing a 1.5m wide clear zone around the edge of the turnaround bulb.~~
19. Where the Grantee is Council or a service authority, the easement documentation must be in accordance with the Grantee's standard easement terms and documents or any other terms and conditions as deemed necessary to fulfil the purpose of the easement.
20. Easement documentation must be prepared and submitted to Council, at no cost to Council, for endorsement where Council is the Grantee or review against conditions of approval otherwise.
21. Unless consistent with the terms of the easement and authorised under this Development Approval, any permanent works or structures must be kept clear of any existing or proposed easements on the subject land.

FEES AND CHARGES

22. All current and outstanding fees, rates, interest and other charges levied on the property, must be paid in accordance with the rate at the time of payment prior to Council's approval of the Plan of Subdivision.

DEVELOPMENT CONSTRAINTS

FLOOD IMMUNITY

23. All earthworks undertaken on part of the premises to which the Flood Hazard Overlay applies must be carried out in accordance with a Development Permit for Operational Work, or the following where there is no requirement for a Development Permit for Operational Work:
- 23.1 Earthworks must not physically alter any watercourse or floodway and must not include vegetation clearing;
- 23.2 Earthworks must not reduce onsite flood storage capacity and contain within the subject land any changes to depth/duration/velocity of flood waters of all floods up to and including the highest known flood event for the subject land; and
- 23.3 Earthworks must not change the flood characteristics of the highest known flood event outside the subject land in ways that result in:
- i) loss of flood storage;
 - ii) loss of/changes to flow paths;
 - iii) acceleration or retardation of flows; and/or
 - iv) any reduction in flood warning times elsewhere.
24. Any fence traversing land within the Flood Hazard Overlay must be constructed to minimise disruption to flood flows.

REMOVAL OF EXISTING BUILDINGS & STRUCTURES

25. Demolish or relocate all buildings, structures and on-site effluent disposal systems on the subject land (with the exception of structures fully contained within proposed Lot 1 **and proposed Lot 8**) prior to Council's approval of the Plan of Subdivision for Stage 1.

WORKS

STREET NAMING

26. Forward a letter of Request for Street Naming to Council providing three (3) alternative names for each new street.

Note: Street names must be in accordance with AS4819:2011 - Rural and Urban Addressing, and are subject to Council's requirements and payment of the applicable fees in accordance the Fees and Charges Schedule.

PERMANENT SURVEY MARKS

27. A total of one (1) Permanent Survey Mark (PSM) must be supplied and connected to Australian Height Datum and provided in the following location:

27.1 In the verge in front of proposed Lot 28, in the vicinity of the southern corner.

28. Documentation detailing placement of the PSMs must be lodged with Council at the time of lodgement of the Plan of Subdivision.

ENGINEER'S CERTIFICATION AND SUPERVISION OF WORKS

29. Plans and specifications for all works associated with vehicular access, refuse collection vehicle manoeuvring, roadworks, stormwater drainage, wastewater, water infrastructure, earthworks, or any other works required on Council infrastructure, must be prepared and certified by a Registered Professional Engineer Queensland - Civil (RPEQ).

30. A RPEQ must submit to Council a copy of the:

30.1 Design Certificate prior to commencement of the works; and

30.2 Construction Supervision Certificate upon completion of the works certifying that works are in accordance with the approved plans and specifications.

31. Any works that have been certified by an RPEQ must be carried out under the supervision of an RPEQ with all executed works being detailed on a Construction Supervision Certificate.

32. Where any condition refers to, or requires, an Engineer to perform a task or function, the Engineer must hold professional indemnity insurance to the value of \$2,000,000. A Certificate of Currency must be submitted to Council with any Design Certificate or Construction Supervision Certificate.

STORMWATER DRAINAGE

33. All land adjoining the development must be protected from ponding or nuisance from stormwater resulting from the development for the life of the development.

34. All stormwater infrastructure necessary to convey run-off from roof and developed surface areas, and any run-off onto the subject land from adjacent areas, must be provided in accordance with a Development Permit for Operational Work.

Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.

35. Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and be approved by Council for the internal and any external stormwater infrastructure. The design and the construction of the works must be certified by a RPEQ - Civil.

36. Submit to Council for approval, as part of the Development Application for a Development Permit for Operational Work, a Detailed Stormwater Management Plan prepared by a Registered Professional Engineer Queensland - Civil (RPEQ) in accordance with the relevant standards in *Planning Scheme Policy No. 2 - Engineering Standards - Roads and Drainage Infrastructure* (PSP No.2) demonstrating the following:
- 36.1 Stormwater is conveyed to a lawful point of discharge in accordance with the stormwater discharge conditions of this Development Approval;
 - 36.2 Stormwater on both sides of Margetts Street has been appropriately considered (to confirm the amount of stormwater that enters the proposed new road from Margetts Street in the minor and major storm events, and to confirm if the proposed development redirects stormwater from the eastern side of Margetts Street to the north rather than accepting stormwater into the subject land);
 - 36.3 That a nominal 260m² building area is able to be provided on proposed Lot 28, clear of any easements and land affected by the Flood Hazard Overlay Code (or land identified as being impacted by flooding or overland flow in an endorsed Flood Study);
 - 36.4 The table drain along Pittsworth Felton Road has sufficient capacity while remaining compatible with the existing power poles; and
 - 36.5 No new stormwater manholes are located within the road pavement.

LANDOWNER'S CONSENT

37. Written consent from the owner of 318 Pittsworth Felton Road (Lot 40 on P2102) must be obtained where stormwater infrastructure works require modifications to the driveway crossover of that Lot. The written consent must be submitted to Council at the time of lodgement of a Development Application for a Development Permit for Operational Work involving modifications to the existing driveway crossover.

STORMWATER DISCHARGE

38. Stormwater from the new roofed and sealed areas must be picked up and discharged by way of sealed underground pipe to a lawful point of discharge. Where stormwater is conveyed to the street channel, the works must be constructed in accordance with the current version of the Institute of Public Works Engineering Australasia standard drawing titled 'Kerb and Channel Residential Drainage Connections', drawing number RS-081.

Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.

39. Outlets to the street channel must be limited to a maximum discharge of 50 litres per second at any one point of discharge, and where practical, spread across the street frontage(s) so as not to concentrate the discharge to any one location.
40. Design and construction of all internal stormwater drainage works must comply with applicable section of *Australian and New Zealand Standard AS/NZS 3500 - Plumbing and Drainage Code* and the *Queensland Urban Drainage Manual*.

STORMWATER – CONVEYANCE OF STORMWATER VIA DRAINAGE EASEMENT

41. Drainage easements must be registered over all drainage structures and concentrated flow paths on private land, including on adjoining land where required to connect to a lawful point of discharge, in accordance with the relevant requirements in *Planning Scheme Policy No. 2 - Engineering Standards - Roads and Drainage Infrastructure*.

BULK EARTHWORKS OVER 50 M³ OR OVER 1M CUT OR FILL

42. All cut, fill and associated batters must be undertaken in accordance with a Development Permit for Operational Work and contained entirely within the subject land.

AIR QUALITY IMPACT MITIGATION

43. Odours or airborne contaminants which are noxious or offensive to public amenity or safety, likely to cause environmental harm or environmental nuisance or exceed the *Air Quality Objectives* listed in the *Environmental Protection (Air) Policy 2019* as measured at any sensitive place or commercial place must not be released to the atmosphere during site works and throughout the life of this Development Approval.
44. All reasonable and feasible avoidance and mitigation measures are employed so that dust emissions generated during site works do not exceed the following levels when measured at any sensitive place or commercial place:
- 44.1 Dust deposition of 120 milligrams per square metre per day, averaged over 1 month, when monitored in accordance with the most recent version of *Australian Standard AS3580.10.1 Methods for sampling and analysis of ambient air - Determination of particulate matter - Deposited matter - Gravimetric method*.

VIBRATION IMPACT

45. Construction activities and equipment that produce vibrations must not impact upon the amenity of adjacent commercial and residential receptors or cause impacts to the structural integrity of the existing buildings/improvements, including foundations, on adjoining properties.
46. Where considered warranted by Council and when requested in writing to do so, a vibration impact investigation must be undertaken to determine what level of vibration impact is occurring. In such circumstances, a suitably qualified person must monitor, interpret and record all parameters in order to determine whether or not vibration impacts are below those stated in Table 1. The results of the investigation must be provided to Council within fourteen (14) days of the request or a longer period if specified in any such request.

Table 1 - Human comfort vibration limits to minimize nuisance

Building	Work Period	Resultant PPV (mm/s)	
		Lower Limit	Upper Limit
Dwellings	Standard Hours	1.0	2.0
	Non-standard hours – evening (6pm to 10pm)	0.3	1.0
	Non-standard hours – night (10pm to 7am)		
Medical / health buildings (wards, surgeries, operating theatres, consulting rooms)	All	0.3	1.0
Educational facilities (rooms designed for teaching purposes)	While in use		
Court of Law (Court Rooms)			
Court of Law (Court reporting and transcription areas, Judges' chambers)			
Community Buildings (libraries, places of worship)	While in use	1.0	2.0
Commercial (offices) and retail areas			

Source: Table 3.3.1.1(a) of TMR Transport Noise Management Code of Practice Volume 2 – Construction Noise and Vibration (Code of Practice – Construction)

CONSTRUCTION WASTE MANAGEMENT & STORAGE

47. Waste generated during demolition, excavation and construction must be managed in accordance with the waste management hierarchy as detailed in the *Waste Reduction and Recycling Act 2011*.
48. The on-site storage and disposal of demolition, excavation and construction waste (including the storage and disposal of night soil) must comply with the *Environmental Protection Regulation 2019*.
49. Fires are not to be lit to dispose of demolition or construction waste.
50. No demolition, excavation or construction waste is to be used as fill or buried on-site (with the exception of cut material recycled from the subject land and used on the subject land), or be used as fill or buried elsewhere, unless otherwise permitted:
 - 50.1 Elsewhere within this Development Approval;
 - 50.2 In accordance with an associated Development Permit for Operational Work;
 - 50.3 In association with and in accordance with an Environmental Authority issued under the *Environmental Protection Act 1994*;
 - 50.4 In accordance with either a general or specific approval of a resource for beneficial use (otherwise known as a beneficial use approval) issued under the *Waste Reduction and Recycling Act 2011*; or
 - 50.5 In accordance with a written approval issued by Council under the *Environmental Protection Regulation 2019* relating to the depositing or disposal of general waste from a premises not serviced by Council.
51. Demolition, excavation and construction waste (including night soil) must not be placed or stored within the road reserve at any time.

EROSION & SEDIMENT CONTROL

52. Stockpiles of topsoil, sand, aggregate, spoil or other material capable of being moved by the action of wind or running water must be stored clear of drainage paths and not within the road reserve at any time.
53. Measures such as sediment fences, earth berms, temporary drainage, temporary sediment basins, dewatering or stormwater filtering devices to prevent eroded material, sediment or sediment laden water from being transported to adjoining properties, roads or stormwater drainage systems must be provided.
54. Where erosion and sediment control measures have been damaged, fail or are inadequate and erosion or the release of sediment or sediment laden stormwater has occurred from the subject land or associated works, any resultant property or environmental damage or interference caused must be repaired or cleaned up within 24 hours or upon the direction of Council, at no cost to the affected parties.
55. All disturbed areas must be mulched or turfed as soon as possible during construction.
56. Measures such as vehicle baths, wash-down and construction matting together with dust suppressants and wraps, exposed ground and stockpile sprinkling must be put in place to minimise site vehicles tracking sediment onto adjoining streets during the course of the construction period, and to prevent dust nuisance during construction and the ensuing 'on-maintenance' period where applicable.

DAMAGE TO SERVICES & ASSETS

57. Protect Council and public utility services and assets during construction of the development.
58. Any damage caused to existing services and assets as a result of the development works must be repaired at no cost to the asset owner in accordance with the following timing:
 - 58.1 Where the damage would cause a hazard to pedestrian or vehicle safety or interrupts a service to the community, immediately; or
 - 58.2 Where otherwise, as soon as reasonably possible, but no later than completion of the works associated with the development or prior to the commencement of use, whichever is the earlier.
59. Any repair work which includes alteration to the alignment or the level of existing services and assets must first be referred to the relevant service authority for approval.
60. Construction, alterations and any repairs to Council infrastructure is undertaken in accordance with Council's relevant policies and requirements at no cost to Council.

Note: Council must be notified of any damage to water and sewer immediately on Ph: 131 872.

SERVICES & UTILITIES

WASTEWATER INFRASTRUCTURE (GENERAL)

61. The subdivision must be connected to Council's existing wastewater reticulation system in accordance with Council's *Wastewater Infrastructure Policy 2.04* at no cost to Council.
Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.
62. The design and construction of the works must be in accordance with Council's *Wastewater Infrastructure Policy 2.04*.

63. Any compensation or costs associated with obtaining agreement from owners or trustees of properties affected by the construction of the works must be at no cost to Council.
64. Any works on Council's 'live' wastewater infrastructure must be carried out by Council. A Private Works Quotation must be requested from Council, payment made for the works, and the works completed by Council.
65. Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted and be approved by Council for internal and external wastewater reticulation works and in accordance with the approved plans and documents of this Development Approval.
66. Any existing wastewater connection traversing more than one (1) approved lot must be disconnected and removed.
67. Certification must be provided to Council by a Licensed Plumber that the disconnection has been carried out.

WATER SUPPLY

68. The subdivision must be provided with a water supply system capable of servicing each lot in accordance with Council's *Water Infrastructure Policy 2.03* at no cost to Council.

Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.

69. Unless able to be used as part of the development, any existing connection must be disconnected at no cost to Council.
70. Any existing water supply connection traversing more than one (1) approved lot must be disconnected and removed.
71. Certification must be provided to Council by a Licensed Plumber that the disconnection has been carried out.
72. Where works have been carried out to disconnect or remove traversing pipes, certification must state that a separate water supply has been provided for all lots containing buildings which previously had a metered water supply, and that new water meters have been provided where necessary.
73. Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted and be approved by Council for internal and external water supply works and in accordance with the approved plans and documents of this Development Approval.

TELECOMMUNICATION

74. Install telecommunications infrastructure to service each approved lot which complies with the following:
 - 74.1 The requirements of the *Telecommunications Act 1997* (Cth);
 - 74.2 For a fibre ready facility, the NBN Co's standard specifications current at the time of installation; and
 - 74.3 For a line that is to connect a lot to telecommunications infrastructure external to the premises, the line is located underground.

75. Unless otherwise stipulated by telecommunications legislation at the time of construction, the development must be provided with all necessary pits and pipes, and conduits to accommodate the future connection of optic fibre technology telecommunications.
76. Provide to Council written evidence from all relevant service providers that the telecommunications infrastructure is installed in accordance with the conditions of this Development Approval and all applicable legislation at the time of construction.

Note: *The Telecommunications Act 1997 (Cth) specifies where the deployment of optical fibre and the installation of fibre-ready facilities is required. For further information visit www.infrastructure.gov.au/tind.*

Note: *For telecommunication services, written evidence must be in the form of either a "Telecommunications Infrastructure Provisioning Confirmation" where such services are provided by Telstra, or a "Notice of Practical Completion", "Confirmation of Payment" or "Post Execution of Development" Letter where such services are provided by NBN Co.*

ELECTRICITY

77. An electricity supply must be made available to service each approved lot within the subdivision. This supply must be in accordance with the relevant standards of the electricity distributor.
78. Written evidence must be submitted to Council from the electricity distributor advising that provision has been made for connection of reticulated electricity service for each approved lot in accordance with all applicable legislation at the time of construction.

Note: *In relation to reticulated electricity, written evidence must be in the form of a "Certificate of Supply" or "Supply is Available" supplied by the relevant service provider.*

TRANSPORT & ACCESS

ROADWORKS (EXTERNAL TO SUBDIVISION)

79. Existing roads must be widened for the full frontage of the subject land, as follows:

Street:	Margetts Street
Classification:	Urban Collector
Construction Standard:	Widening as required to achieve a minimum pavement width of 8.5m, together with the provision of 1.5m wide concrete footpath and kerb and channel along the eastern verge.

Note: *This condition is imposed pursuant to Section 145 of the Planning Act 2016.*

80. The design and construction of Margetts Street must comply with *Planning Scheme Policy No. 2 - Engineering Standards - Roads and Drainage Infrastructure* (PSP No.2) and must include in particular:
- 80.1 Widening as required to achieve a minimum pavement width of 8.5m, together with the provision of 1.5m wide concrete footpath along the eastern verge;
 - 80.2 Concrete kerbing and channelling;
 - 80.3 Temporary asphalt kerbing to tapers;
 - 80.4 Underground stormwater drainage;
 - 80.5 Relocation of utility and Council services; and

80.6 Street lighting.

81. Any pavement widening must join neatly to the existing pavement so that there are no specific irregularities in line or level resulting at or adjacent to the join for the length of the construction. Where necessary the existing pavement must be brought to a satisfactory standard in accordance with PSP No. 2 to allow for the above.
82. All street surfacing must be in accordance with the pavement construction standards in PSP No. 2.
83. Verge widths, street reserve widths, intersection treatment, provision of parking and speed control devices must comply with Council's requirements in PSP No. 2.
84. Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and approved by Council for the road works external to the subject land and in accordance with the approved plans and documents of this Development Approval. All approved road works must be completed and accepted on-maintenance prior to the endorsement of any Plan of Subdivision.
85. The design and construction of the works must be certified by a Registered Professional Engineer Queensland (RPEQ) - Civil.

ROADWORKS (INTERNAL TO SUBDIVISION)

86. Internal roads must generally be constructed as shown on Plan No. 210158, DA-01, Revision C, prepared by Baker Rossow Consulting Engineers and dated 1 June 2022.
87. The internal roads must be constructed to a sealed standard, including kerb and channel on both sides of the new roads. Such kerb and channeling must be an approved residential kerb and channel. The internal roads must be as follows:
 - 87.1 The proposed new road must have an 18 metre road reserve width with a 7 metre carriageway width measured between channel inverts; and
 - 87.2 The entrances from Margetts Street must generally be as detailed on Plan No. 210158, DA-01, Revision C, prepared by Baker Rossow Consulting Engineers and dated 1 June 2022.

Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.

88. All street surfacing must consist of an approved asphaltic concrete.
89. Verge widths, street reserve widths, intersection treatment, provision of parking, footpaths and speed control devices must comply with Council's requirements, as set out in *Planning Scheme Policy No. 2 - Engineering Standards - Roads and Drainage Infrastructure (PSP No.2)*.
90. Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and be approved by Council for the road works and in accordance with the approved plans and documents of this Development Approval. All approved road works must be completed and accepted on-maintenance prior to Council's approval of the Plan of Subdivision.
91. Where temporary dead ends are provided at stage boundaries, with a length greater than a single lot frontage, a temporary gravel surfaced turnaround area must be constructed to the geometry of Council's standard cul-de-sac turning areas:
 - 91.1 The design and the construction of the works must be certified by a RPEQ - Civil.

PEDESTRIAN & CYCLE PATHS

92. The following works must be constructed in accordance with *Planning Scheme Policy No. 2 - Engineering Standards - Roads and Drainage Infrastructure (PSP No.2)* and any current pedestrian and cycleway plans:
- 92.1 A 1.5m wide concrete pedestrian path for the full frontage of the subject land along Margetts Street as well as the full length of the proposed new road;
 - 92.2 Provision must be made for wheelchair and pram access at all kerb crossings associated with pathways, in accordance with *IPWEA Standard Drawing RS-090 – Ramped Pedestrian Crossings*. A kerb ramp to facilitate crossing of Margetts Street must be provided in the Margetts Street frontage of proposed Lot 35 in general proximity to the Pittsworth Felton Road intersection;
 - 92.3 The sealing of paths must be carried out following completion of all development works on the subject land, but prior to Council's approval of the Plan of Subdivision;
 - 92.4 The required work includes any surface earthworks, grinding or saw cutting to ensure the footpath finishes flush with all existing service covers and the like, or alternatively these services are raised or altered, so as not to create a pedestrian safety hazard; and
 - 92.5 Any concrete footpath or cycleway must comply with *IPWEA Standard Drawing RS-065 – Concrete Pathway*. Where necessary, reprofiling of the verge area must be undertaken to enable the construction of concrete pathways with a maximum cross fall of 2.5%. Footpaths must be located a minimum of 1m clear of property boundaries unless otherwise agreed by Council.

Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.

93. Prior to the commencement of any works on the subject land, a Development Application for a Development Permit for Operational Work must be submitted to and be approved by Council for the construction of the concrete footpaths in accordance with the approved plans and documents of this Development Approval. The design and the construction of the works must be certified by a RPEQ - Civil.

ROADWORKS SIGNAGE AND PEDESTRIAN SAFETY

94. All works carried out on or near roadways must be adequately signed in accordance with the *Manual for Uniform Traffic Control Devices – Part 3, Works on Roads*.

Note: Road or lane closures require approval from Council's Principal Engineer Road Operations, and all conditions of that approval complied with during construction of the works.

95. Safe pedestrian access along Council's footpaths must be maintained at all times.

Note: Should access to footpaths need to be restricted, a separate 'Temporary road or footpath closure' must be obtained from Council's Principal Engineer Road Operations, prior to the commencement of the works.

STREET LIGHTING

96. Provide street lighting in accordance with *PSP No. 2 - Engineering Standards - Roads and Drainage Infrastructure* and *Australian Standard AS/NZS 1158 - Lighting for roads and public spaces*.

REMOVAL OR MODIFICATION OF COUNCIL TRAFFIC SIGNS OR PARKING BAYS

97. Obtain the written approval of Council's Coordinator Traffic Management for any works involving the removal or modification of existing Council traffic signs or parking bays prior to the works commencing. Where approved by Council such works are to be undertaken at no cost to Council.
98. The installation or modification of any street signs or line marking must be in accordance with the Manual of Uniform Traffic Control Device (MUTCD).

ACCESS (FOOTPATH CROSSOVERS AND DRIVEWAYS)

99. A vehicle crossover (crossing of the verge) and a suitable sealed driveway must be constructed from the kerb and channel to the property boundary, for proposed Lots 1, 19-22 and 26-27 in accordance with the following requirements:
 - 99.1 The Institute of Public Works Engineering Australasia *Drawings RS-049 Residential Driveways Plan 1 of 2* and *RS-050 Residential Driveways Plan 2 of 2*, and in accordance with *Australian Standard AS 2890 - Parking Facilities (Part 1 and as relevant Part 2)*;
 - 99.2 Council's standards, namely *AS2890 & PSP No. 2 - Engineering Standards - Roads and Drainage Infrastructure*;
 - 99.3 For hatchet lots, the sealed driveway must be constructed for the full extent of the access corridor and must be a minimum width of 3 metres, with 5.5 metre wide passing opportunities every 30 metres. Underground service conduits for water supply, electricity, house drainage and any other services must be provided as part of the access driveway;
 - 99.4 The driveway surfacing must consist of an approved hot mixed asphaltic concrete, segmental clay/concrete pavers or patterned/plain concrete;
 - 99.5 The driveway must be constructed so as not to concentrate stormwater runoff onto neighbouring properties;
 - 99.6 The vehicle accesses (crossing of the verge) must be located a minimum one (1) metre clear of existing maintenance holes, fire hydrants, power poles, streetlights, or signage (unless otherwise approved herein);
 - 99.7 Undertake any necessary relocation of all existing services clear of the accesses (crossing of the verge) that will serve the subject land and contact all relevant service authorities and comply with their requirements in relation to these works;
 - 99.8 Where used for parking, the longitudinal gradient and crossfall of all driveways must comply with the requirements of AS2890.1; and
 - 99.9 Where applicable, the concrete footpath in the vicinity of the vehicle crossover (crossing of the verge) must be saw cut, removed and replaced by the vehicle crossover (crossing of the verge). The vehicle crossover is to be graded at not steeper than 2.5% for the width of the footpath.

PROPERTY ACCESS

100. Direct access to Pittsworth Felton Road is not permitted from proposed Lots 28-35 at any time.

REMOVAL OF UNNECESSARY PROPERTY ACCESS(ES)

101. Remove the existing redundant property accesses in Margetts Street adjacent to the subject land. The works must include, but are not limited to the following:

- 101.1 Removal of the existing property accesses and reinstatement of the verge with turf, consistent with a Development Permit for Operational Work for roadworks.

Note: This condition is imposed pursuant to Section 145 of the Planning Act 2016.

PREMISES IDENTIFICATION

102. Prior to off maintenance, reflective street numbers must be affixed to the kerb in front of each lot.

LANDSCAPE & ECOLOGY

LANDSCAPING WORKS (GENERAL)

103. Submit to Council for endorsement, a Landscape Plan prepared by a suitably qualified person that details the following in relation to street trees:
- 103.1 The species to be planted and their location;
 - 103.2 A planting schedule indicating the number of each species type and container size of plants;
 - 103.3 The typical planting detail including preparation, backfill, staking and mulching;
 - 103.4 Landscaping associated with each stage where relevant;
 - 103.5 Typical cross section through each street typology indicating clearance of street trees from underground services, kerbs and footpaths in accordance with PSP2 Engineering Standards; and
 - 103.6 North point, scale and drawing number.
104. The Landscape Plan must be submitted to Council prior to the lodgement of any Development Application for a Development Permit for Operational Work and receive endorsement by Council prior to commencement of any site works or earthworks.

Note: Street trees required to be supplied as a condition of this Development Approval must be supplied in 45L containers or as otherwise specified.

LANDSCAPING WORKS (PROVISION OF STREET TREES)

105. Plant and maintain for a period of 12 months, one (1) street tree for every fifteen (15) metres of road frontage within the road reserve of Margetts Street and the new road, capable of reaching twelve (12) metres in height at maturity. A change in the number and/or variation to the location of street trees may be varied in an approved landscape plan.
106. The selection and planting of any street tree, including any street tree required to replace a removed street tree must be in accordance with the requirements of *Planning Scheme Policy No.8 - Street Trees*, *Planning Scheme Policy No. 2 - Engineering Standards - Roads and Drainage Infrastructure*, the Toowoomba Regional Council Street Tree Master Plan, and the approved Landscape Plan.
107. All landscape works must be established by a suitably qualified person and maintained in accordance with the conditions of this Development Approval for the life of the development, and in a manner that ensures healthy, sustained and vigorous plant growth. All plant material must be allowed to grow to full form and be replaced when its life expectancy is reached.

REMOVAL OF EXISTING TREES AND VEGETATION

108. Clearing, including felling, pushing, lopping and grubbing of existing trees and vegetation not identified for retention must be undertaken by a suitably qualified person and must include:
- 108.1 Stump grinding to below finished surface level;
 - 108.2 Rectification to the finished surface levels and materials;
 - 108.3 No damage to other vegetation to be retained;
 - 108.4 No burning of removed vegetation and debris; and
 - 108.5 Conclude with the area being stabilised against erosion and vegetated.

FAUNA MANAGEMENT DURING REMOVAL OF EXISTING TREES AND VEGETATION

109. Prior to clearing all trees to be removed are to be inspected for wildlife (i.e. koalas, possums, birds nests etc.). If wildlife is present, the tree must not be felled or pruned until the wildlife has left the tree or has been removed by a legislative compliant Fauna Spotter Catcher.

B. ADVICES:

GENERAL ADVICES

SUBMISSION OF PLANS/DOCUMENTS FOR ENDORSEMENT

- 1) The conditions of this Development Approval require submission of plans/documents to Council for endorsement. Please address the plans/documents for endorsement to Council's Development Services Branch with the Reference No. RAL/2021/5430 and send to development@tr.qld.gov.au.

INFRASTRUCTURE CHARGES

- 2) Infrastructure charges are now levied by way of an Infrastructure Charges Notice, issued pursuant to Section 119 of the *Planning Act 2016*.

OTHER LAWS & REQUIREMENTS

- 3) This Development Approval relates to development requiring approval under the *Planning Act 2016* only. It is the approval holder's responsibility to obtain any other necessary approvals, licenses or permits required under State and Federal legislation or Council local law, prior to carrying out the development. Information with respect to other Council approvals, licenses or permits may be found on the Toowoomba Regional Council website. For information about State and Federal requirements please consult with these agencies directly.
- 4) Any works impacting outside the property boundary will require a permit under Subordinate Local Law No. 1.15 (2020) (Carrying Out Works on a Road or Interfering with a Road or its Operation). Please contact Council's Road Operations Branch through our Customer Service Centre on 131 872. The application can be found on Council's website at www.tr.qld.gov.au.
- 5) The development has only been assessed in accordance with the provisions of the *Toowoomba Regional Planning Scheme 2012*. No assessment has been made in respect of the provisions of the *Building Code of Australia* and/or the *Queensland Development Code*.

WHEN APPROVAL STARTS TO HAVE EFFECT

- 6) This Development Approval starts to have effect in accordance with the provisions of Section 71 of the *Planning Act 2016*.

WHEN APPROVAL LAPSES

- 7) This Development Approval will lapse in accordance with the provisions contained in Sections 85 and 88 of the *Planning Act 2016*, unless otherwise stated elsewhere within this Development Approval.

EXCAVATION & FILLING

- 8) The *Toowoomba Regional Planning Scheme 2012* (TRPS) declares excavation and filling activity involving less than 50m³ of material and excavation and filling activity to a depth or height lower than 1m to be accepted development. Any combination of excavation or filling where 50m³ or more of fill is deposited on, or 50m³ or more of excavated material is removed from the premises and excavation or filling is not associated with 'Building Work' as defined under the *Planning Act 2016*, must obtain an Operational Work approval from Council before commencing site works.

DEMOLITION OF BUILDING

- 9) Any structures located on the subject land that are to be removed require the obtaining of any necessary building approvals, and certification by a Building Certifier that the resulting setbacks and/or fire rating of any remaining buildings comply with the Standard Building Regulations.

ENVIRONMENTAL HARM

- 10) The *Environmental Protection Act 1994* (EP Act) states that a person must not carry out any activity that causes, or is likely to cause, environmental harm unless the person takes all reasonable and practicable measures to prevent or minimise the harm.

Environmental harm includes environmental nuisance. In this regard persons and entities involved in the civil, earthworks, construction and operational phases of this development are to adhere to their 'general environmental duty' to minimise the risk of causing environmental harm. Environmental harm is defined by the EP Act as any adverse effect, or potential adverse effect (whether temporary or permanent and of whatever magnitude, duration or frequency) on an environmental value and includes environmental nuisance.

Therefore, no person should cause any interference with the environment or amenity of the area by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, waste products, grit, sediment, oil or otherwise, or cause hazards likely in the opinion of the Administering Authority to cause undue disturbance or annoyance to persons or affect property not connected with the use.

WATER POLLUTION

- 11) In accordance with the *Environmental Protection Act 1994*, all sand, silt, mud, paint, cement, concrete, construction material and demolition material, and other such waste material must not be deposited or placed where it could reasonably be expected to travel into a roadside gutter, stormwater drain or watercourse. On the spot fines apply for such offences.

FIRE ANTS

- 12) The State of Queensland has been declared a quarantine area for the Red Imported Fire Ant. Should this approval involve the movement of restricted items from areas of known infestation the provisions of the *Biosecurity Act 2014* apply, compliance with statutory provisions must be achieved.

QUALIFIED PERSON

- 13) For the purpose of preparing a Landscape Plan, a suitably qualified person is considered to be a Registered Landscape Architect or Landscape Designer with a minimum of three (3) years current experience in the field of landscape design.

C. ATTACHMENTS:

- Concurrence Agency Conditions Schedule 2
- Approved Development Plans
- Appeal provisions pursuant to the *Planning Act 2016*.

SCHEDULE 2

CONCURRENCE AGENCY (CONDITIONS AND COMMENTS)

**DEPARTMENT OF STATE DEVELOPMENT, INFRASTRUCTURE, LOCAL GOVERNMENT AND
PLANNING**



Changed referral agency response

Our reference: 2303-33975 SPD

Referral agency response—with conditions

(Given under section 83 of the *Planning Act 2016*)

Date of original response: 25 November 2021

Original reference: 2110-25293 SRA



The development application described below was properly referred to the State Assessment and Referral Agency (SARA) on 14 October 2021.

Applicant details

Applicant name: Tuana Park Pty Ltd, C/- Property Projects Australia

Applicant contact details: Level 1, 618 Brunswick Street
New Farm, QLD 4005
blake@propertyprojectsaustralia.com.au

Location details

Street address: 2-8 Margetts Street, Pittsworth

Real property description: Lots 39 and 156 on P2102

Local government area: Toowoomba Regional Council

Application details

Development permit: Reconfiguring a lot – Two (2) Lots into 35 Lots

Referral triggers

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

- Schedule 10, part 9, division 4, subdivision 2, table 1, item 1 Reconfiguring a lot near a state transport corridor
- Schedule 10, part 9, division 4, subdivision 2, table 3, item 1 Reconfiguring a lot near a state-controlled road intersection

enc Attachment 1—Changed conditions to be imposed
Attachment 2—Advice to the applicant
Attachment 3—Reasons for changed referral agency response

Attachment 1—Changed conditions to be imposed

No.	Conditions of development approval	Condition timing
Development Permit for Reconfiguring a lot – 2 lots into 35 Lots		
10.9.4.2.1.1 and 10.9.4.2.3.1—Reconfigure a lot near a state transport corridor—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of 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 condition:		
1.	<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> <p>(i) interfere with and/or cause damage to the existing stormwater drainage on the state-controlled road;</p> <p>(ii) surcharge any existing culvert or drain on the state-controlled road.</p> <p>(c) RPEQ certification with supporting documentation must be provided to the Department of Transport and Main Roads, confirming that the development has been designed and constructed in accordance with parts (a) and (b) of this condition.</p>	<p>(a) At all times.</p> <p>(b) At all times.</p> <p>(c) Prior to submitting the Plan of Survey to the local government for approval.</p>
2.	<p>(a) Carry out the development generally in accordance with the Scenario 2: Predicted Noise Levels with Acoustic Barrier of the Road Traffic Noise Assessment prepared by Range Environmental Consultants dated 10/09/2021, reference J000610, revision 1. In particular –</p> <p>(i) construct a 1.8 metre noise barrier along the northern boundary of the subject site.</p> <p>(b) The noise barrier must be designed in accordance with:</p> <p>(i) the Department of Transport and Main Roads' Road Traffic Noise Management Code of Practice, Chapter 5' Specifications MRS15 and MRTS15</p> <p>(c) RPEQ certification must be provided to the Department of Transport and Main Roads, confirming that the development has been designed and constructed in accordance with parts (a) and (b) of this condition.</p>	<p>Prior to submitting the Plan of Survey to the local government for approval and to be maintained at all times</p>

Attachment 2—Advice to the applicant

General advice	
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), (version 2.6). If a word remains undefined it has its ordinary meaning.
2.	Road corridor permit: An application for a Road Corridor Permit is required for any ancillary works and encroachments on the state-controlled road under section 50(2) and Schedule 6 of the <i>Transport Infrastructure Act 1994</i> and Part 5 and Schedule 1 of the <i>Transport Infrastructure (State-Controlled Roads) Regulation 2006</i> . Please contact the Department of Transport and Main Roads (Darling Downs Office) to make an application for a Road Corridor Permit. Ancillary works and encroachments include but are not limited to advertising signs or other advertising devices, paths or bikeways, buildings/shelters, vegetation clearing, landscaping and planting.
3.	The subject site is located within a Transport Noise Corridor. Habitable rooms of relevant residential buildings located within a transport noise corridor must comply with the <i>Queensland Development Code MP4.4 Buildings in a transport noise corridor, Queensland Government, 2015</i> . Transport noise corridors are mapped on the State Planning Policy interactive mapping system (https://spp.dsdip.esriaustraliaonline.com.au/geoviewer/map/planmaking/?lotplan=39P2102).

Attachment 3—Reasons for changed referral agency response

The reasons for SARA's changed response are:

With conditions, the development complies with State code 1: Development in a state-controlled environment of the SDAP. Specifically, the development:

- does not increase the likelihood or frequency of accidents, fatalities or serious injury for users of a state-controlled road
- does not adversely impact the structural integrity or physical condition of state-controlled roads, road transport infrastructure, public passenger transport infrastructure or active transport infrastructure
- does not adversely impact the function and efficiency of state-controlled roads or future state-controlled roads
- does not adversely impact the state's ability to plan, construct, maintain, upgrade or operate state-controlled roads, future state-controlled roads or road transport infrastructure
- does not significantly increase the cost to the state to plan, construct, upgrade or maintain state-controlled roads, future state-controlled roads or road transport infrastructure
- does not adversely impact the state's ability to operate public passenger services on state-controlled roads
- protects community amenity from significant adverse impacts of environmental emissions generated by road transport infrastructure or vehicles using state-controlled roads.

Material used in the assessment of the application

- the development application material provided and submitted plan as part of the change application
- the SDAP (version 3.0)
- the Development Assessment Rules
- SARA DA Mapping system
- *Planning Act 2016*
- Planning Regulation 2017
- *Section 58 Human Rights Act 2019.*

Chapter 6, Part 1 of the Planning Act 2016 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.