

Our Reference: OW/2021/6849/A
Contact Officer: Arun Khatri
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Negotiated Decision Notice
APPROVAL
Planning Act 2016 Section 76

Tunney Investments Pty Ltd
133-153 Rosevale Street
DRAYTON QLD 4350

Email: andrew@amcivildesign.com.au

25 September 2023

Dear Sir/Madam

Location: 574-608 South Street, GLENVALE QLD 4350
Property Description: Lot 5 SP194434, Emt E SP283664, Lot B AP16369
Relevant Planning Scheme: *Toowoomba Regional Planning Scheme 2012*

Council received your change representations under section 75 of the *Planning Act 2016* on 17 August 2023. A decision was made on 22 September 2023 to issue a Negotiated Decision Notice. This Negotiated Decision Notice replaces the Decision Notice previously issued and dated 27 June 2023.

Nature of Changes

All deletions are identified by **bolded strikethrough** of text in the attached Schedule/s.
All additions are identified by **bolded** text in the attached Schedule/s.

Details of Approval

Development Permit – Operational Works Request for Negotiated Decision Road Work Drainage Work Stormwater Earthworks Water infrastructure and Sewage Infrastructure

Conditions and Advices

Assessment Manager's Conditions: As per attached Schedule 1

Currency Period

In accordance with section 85(1)(c)(i) of the *Planning Act 2016* (Qld), this Development Approval lapses if the development does not substantially start within Two (2) Years of this Development Approval starting to have effect.

Rights of Appeal

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

The *Planning Act 2016* is available on the Office of the Queensland Parliamentary Counsel website via:

<https://www.legislation.qld.gov.au/view/pdf/inforce/current/act-2016-025>

Yours faithfully



Sanjeewa Manamperi
Principal Engineer
Development Infrastructure and Growth

SCHEDULE 1

DEVELOPMENT PERMIT FOR OPERATIONAL WORKS

APPLICATION NUMBER:	OW/2021/6849/A
APPLICANT:	Tunney Investments Pty Ltd
LOCATION:	574-608 South Street, GLENVALE QLD 4350
REAL PROPERTY DESCRIPTION:	Lot 5 SP194434, Emt E SP283664, Lot B AP16369
APPROVED USE:	Request for Negotiated Decision Road Work Drainage Work Stormwater Earthworks Water infrastructure and Sewage infrastructure

A. ASSESSMENT MANAGER'S CONDITIONS:

GENERAL

APPROVED DEVELOPMENT

1. This Development Approval is for carrying out operational work for:
 - 1.1 Bulk Earthworks;
 - 1.2 Vehicular Access;
 - 1.3 Wastewater Reticulation;
 - 1.4 Water Reticulation;
 - 1.5 Roadworks; and
 - 1.6 Stormwater Infrastructure;

CARRY OUT AND MAINTAIN DEVELOPMENT

2. The development must comply with the provisions of Toowoomba Regional 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 acceptance of the works on maintenance, and thereafter.
4. All work associated with this Development Approval must be completed within two (2) years of this Development Approval starting to have effect.

APPROVED DRAWINGS

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

Drawing No: 304 C-01, Revision C.

Description: Cover Sheet Locality Plan & Notes, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Nil.

Drawing No: 304 C-100, Revision C.

Description: Roadworks & Drainage Layout Plan - Sheet 1, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Unless otherwise agreed by Council amended in accordance with the following:

- Bollard and a lockable rail is to be provided at the end of the South Street construction inline with the end board.
- The 1 in 10 taper on the west bound traffic lane is to be moved further west. The taper is to start after the western most tangent point of the South and Sandalwood Drive intersection.
- Condition 6.4

Drawing No: 304 C-101, Revision C.

Description: Roadworks & Drainage Layout Plan - Sheet 2, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Unless otherwise agreed by Council amended in accordance with the following:

- Lot 65 to be provided with a concrete driveway.
- Cul-de-sac at the end of road one is to be constructed to a permanent standard including being finished with asphalt.
- A asphalt kerb is to be provided along the perimeter of the cul-de-sac head to road 1.
- Pit 1/4 is to be moved to the east so it is located in the concrete kerb and channel and finished with a gully pit.
- Condition 6.8

Drawing No: 304 C-102, Revision C.

Description: Roadworks & Drainage Layout Plan - Sheet 3, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Unless otherwise agreed by Council amended in accordance with the following:

- Condition 6.4.
- Condition 6.8

Drawing No: 304 C-200, Revision C.

Description: Bulk Earthworks Plan – Sheet 1, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Unless otherwise agreed by Council amended in accordance with the following:

- Condition 6.1.
- Condition 6.2.
- Condition 6.3.

Drawing No: 304 C-201, Revision C.

Description: Bulk Earthworks Plan – Sheet 2, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Unless otherwise agreed by Council amended in accordance with the following:

- Condition 6.1.
- Condition 6.8.

Drawing No: 304 C-202, Revision C.

Description: Bulk Earthworks Plan – Sheet 3, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Unless otherwise agreed by Council amended in accordance with the following:

- Condition 6.1.
- Condition 6.8.

Drawing No: 304 C-210, Revision C.

Description: Bulk Earthworks Notes & Details, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Nil.

Drawing No: 304 C-300, Revision C.
Description: Roadworks Notes & Details, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Roadworks note 2 to be amended to specify a minimum 300mm of pavement behind back of kerb.

Drawing No: 304 C-301, Revision C.

Description: Concrete Pavement Notes & Details, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Nil.

Drawing No: 304 C-302, Revision C.

Description: Road Typical Cross Sections – Sheet 1, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Unless otherwise agreed by Council amended in accordance with the following:

- Condition 6.1.
- Condition 6.2.
- Condition 6.3.
- Pavement to extend a minimum of 300mm behind back of kerb.

Drawing No: 304 C-303, Revision C.

Description: Road Typical Cross Sections – Sheet 2, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Pavement to extend a minimum of 300mm behind back of kerb.

Drawing No: 304 C-310, Revision C.

Description: South Street Longitudinal Section, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Unless otherwise agreed by Council amended in accordance with the following:

- Condition 6.1.
- Condition 6.2.

Drawing No: 304 C-311, Revision C.

Description: South Street Cross Sections – Sheet 1, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Unless otherwise agreed by Council amended in accordance with the following:

- Condition 6.1.
- Condition 6.2.
- Condition 6.3.
- Pavement to extend a minimum of 300mm behind back of kerb.

Drawing No: 304 C-312, Revision C.

Description: South Street Cross Sections – Sheet 2, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Unless otherwise agreed by Council amended in accordance with the following:

- Condition 6.1.
- Condition 6.2.
- Condition 6.3.

Drawing No: 304 C-313, Revision C.

Description: McDougall Street Longitudinal Section, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Unless otherwise agreed by Council amended in accordance with the following:

- Condition 6.1.
- Condition 6.2.

- Drawing No:** 304 C-314, Revision C.
Description: McDougall Street Cross Sections – Sheet 1, prepared by AM Civil Consulting Engineers and dated 12/08/2022.
Amendments: Unless otherwise agreed by Council amended in accordance with the following:
- Condition 6.1.
- Condition 6.2.
- Pavement to extend a minimum of 300mm behind back of kerb.
- Drawing No:** 304 C-315, Revision C.
Description: McDougall Street Cross Sections – Sheet 2, prepared by AM Civil Consulting Engineers and dated 12/08/2022.
Amendments: Unless otherwise agreed by Council amended in accordance with the following:
- Condition 6.2
- Pavement to extend a minimum of 300mm behind back of kerb.
- Drawing No:** 304 C-316, Revision C.
Description: Road 1 Longitudinal Section, prepared by AM Civil Consulting Engineers and dated 12/08/2022.
Amendments: Nil.
- Drawing No:** 304 C-317, Revision C.
Description: Road 1 Cross Sections, prepared by AM Civil Consulting Engineers and dated 12/08/2022.
Amendments: Unless otherwise agreed by Council amended in accordance with the following:
- Condition 6.2.
- Pavement to extend a minimum of 300mm behind back of kerb.
- Drawing No:** 304 C-320, Revision C.
Description: Intersection Details Plan, prepared by AM Civil Consulting Engineers and dated 12/08/2022.
Amendments: Unless otherwise agreed by Council amended in accordance with the following:
- Condition 6.1.
- Condition 6.2.
- Condition 6.3.
- Condition 6.8.
- Drawing No:** 304 C-400, Revision C.
Description: Stormwater Catchment Plan, prepared by AM Civil Consulting Engineers and dated 12/08/2022.
Amendments: Unless otherwise agreed by Council amended to include the entire upstream catchment of South Street.
- Drawing No:** 304 C-410, Revision C.
Description: Stormwater Long Sections 39% AEP – Sheet 1, prepared by AM Civil Consulting Engineers and dated 12/08/2022.
Amendments: Unless otherwise agreed by Council amended in accordance with condition 6.4.
- Drawing No:** 304 C-411, Revision C.
Description: Stormwater Long Sections 39% AEP – Sheet 2, prepared by AM Civil Consulting Engineers and dated 12/08/2022.
Amendments: Unless otherwise agreed by Council amended in accordance with condition 6.4.
- Drawing No:** 304 C-412, Revision C.
Description: Stormwater Long Sections Interallotment, prepared by AM Civil Consulting Engineers and dated 12/08/2022.
Amendments: Nil.
- Drawing No:** 304 C-420, Revision C.
Description: Stormwater Notes & Details prepared by AM Civil Consulting Engineers and dated 12/08/2022.
Amendments: Nil.

Drawing No: 304 C-430, Revision C.
Description: Stormwater Drainage Structure Details, prepared by AM Civil Consulting Engineers and dated 12/08/2022.
Amendments: Nil.

Drawing No: 304 C-440, Revision C.
Description: Stormwater Calculations 39% AEP, prepared by AM Civil Consulting Engineers and dated 12/08/2022.
Amendments: Unless otherwise agreed by Council amended in accordance with the following:

- Condition 6.4.
- Flow widths to meet the requirements of QUDM 2016.
- Table to be updated to include the depth vs velocity product. Depth vs velocity product to meet the requirements of QUDM 2016.

Drawing No: 304 C-441, Revision C.
Description: Stormwater Calculations 1% AEP, prepared by AM Civil Consulting Engineers and dated 12/08/2022.
Amendments: Unless otherwise agreed by Council amended in accordance with the following:

- Condition 6.4.
- Table to be updated to include flow width and flow depth parameters.
- Table to be updated to include the depth vs velocity product. Depth vs velocity product to meet the requirements of QUDM 2016

Drawing No: 304 C-500, Revision C.
Description: Sewer Reticulation Plan, prepared by AM Civil Consulting Engineers and dated 12/08/2022.
Amendments: Unless otherwise agreed by Council amended in accordance with the following:

- Condition 6.7.

Drawing No: 304 C-510, Revision C.
Description: Sewer Reticulation Longitudinal Section, prepared by AM Civil Consulting Engineers and dated 12/08/2022.
Amendments: Unless otherwise agreed by Council amended in accordance with the following:

- Sewer depth between manholes to be reduced to ensure a maximum depth of 4.0m is achieved.
- Condition 6.7.

Drawing No: 304 C-520, Revision C.
Description: Sewer Reticulation Notes & Details, prepared by AM Civil Consulting Engineers and dated 12/08/2022.
Amendments: Nil.

Drawing No: 304 C-600, Revision C.
Description: Water Reticulation Plan – Sheet 1, prepared by AM Civil Consulting Engineers and dated 12/08/2022.
Amendments: Unless otherwise agreed by Council amended in accordance with the following:

- Updated to show the existing sewer rising main, discharge manhole and gravity sewer that crosses South Street.
- The location and depth of the existing sewer rising main, discharge manhole and gravity sewer are to be located via onsite potholing.
- Minimum clearances between the sewer infrastructure and water infrastructure is to be provided in accordance with the Toowoomba Regional Council's Water Infrastructure Policy 2.03.
- Valve to be provided just before the dead end cap of the developments water service.

Drawing No: 304 C-601, Revision C.

Description: Water Reticulation Plan – Sheet 2, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Unless otherwise agreed by Council amended in accordance with condition 6.8 and the watermain alignment along Mcdougall Street is to be amended in accordance with the following:

- The watermain on the northern side of road 1 is to be located at a standard alignment from the eastern boundary of lot 75 (i.e. located with a 1.5m offset from the eastern boundary).
- The watermain crossing road 1 is to be provided on an angle to achieve the standard alignment to lot 75's eastern boundary.

Drawing No: 304 C-700, Revision C.

Description: Erosion & Sediment Control Plan Phase 1 – Sheet 1, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Unless otherwise agreed by Council amended in accordance with the following:

- Condition 6.3.

Drawing No: 304 C-701, Revision C.

Description: Erosion & Sediment Control Plan Phase 1 – Sheet 2, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Unless otherwise agreed by Council in accordance with condition 6.8.

Drawing No: 304 C-702, Revision C.

Description: Erosion & Sediment Control Plan Phase 2 – Sheet 1, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Unless otherwise agreed by Council amended so that all disturbed areas within the verge of South Street are reinstated with turf. The South Street verge between chainage 240 to 360 with the exception of the turfed swale can be grassed seeded.

Drawing No: 304 C-703, Revision C.

Description: Erosion & Sediment Control Plan Phase 2 – Sheet 2, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Unless otherwise agreed by Council in accordance with the following:

- Condition 6.8.
- Extent of turf shown to match the typical turf laying details with footpath (i.e. turf to be provided between back of kerb and footpath and for an 800mm width between footpath and property boundary.
- 800mm wide strip of turf to be provided around the Cul-de-sac head.
- The full width of the Mcdougall Street Verge between the constructed road and Kurruwa Crescent Park is to be turfed for the frontage of Lot 504 (SP197958).

Drawing No: 304 C-710, Revision C.

Description: Erosion & Sediment Control Plan Notes & Details, prepared by AM Civil Consulting Engineers and dated 12/08/2022.

Amendments: Nil.

6. Unless otherwise agreed by Council the approved plans must be amended in accordance with the following requirements:

6.1 Batters within road reserves to be a maximum of 1 in 4.

6.2 Where a batter exceeds 1 in 20 against a footpath a section 0.5m at 1 in 20 must be provided against the footpath.

6.3 A single grass lined swale is to be provided along south street (chainages 230-365). The swale is to be shaped to direct and discharge the overland flow towards the existing drainage corridor without cause erosion or actionable nuisance.

6.4 The minor storm event for South Street and Mcdougall Street are to be design to a 10% AEP storm event.

- 6.5. ~~Amended to demonstrate that all infrastructure (including sewer, water and stormwater) will be constructed outside of the Open Space Zone (as identified by Council's planning scheme mapping), with the exception of necessary crossings of the existing gullies or unless otherwise agreed to by Council.~~

~~**Advice Note:** Council is willing to accept the infrastructure being located within the Open Space Zone on the western side of the existing drainage corridor. Council also accepts the proposed pump station along Boundary Court that will be located within the Open Space Zone.~~

- 6.6. Where infrastructure ~~meets condition 6.5 and~~ is located within the Open Space zone the amended plans are to demonstrate maximised retention of the existing significant vegetation over 200mm in diameter where they are located within 15 metres of any construction activity. The amended plans are at a minimum to include the following:

6.6.1 Survey plotting and labelling on construction drawings, the location of all trees over 200mm trunk diameter located within 15 metres of any construction activity associated with any underground infrastructure installation associated with this development. Plotted location and labelling of trees on construction drawings are to align with the Arborist report required to be submitted to Council for endorsement in Condition 9.2.

6.6.2. The plotting of respective Tree Protection Zone (TPZ) and Structural Root Zone (SRZ) circles for all surveyed trees on construction drawings.

- 6.7 Amended to remove the design discrepancy in line C between the drawings approved under OW/2021/6130 (304-S-501, Rev C, 304-S-502, Rev C, 304-S-512, Rev D) and the drawings approved under OW/2021/6849 (304-C-500, Rev C, 304-C-510, Rev C).

Advice Note: Where the sewer grade exceeds 5% grade the sewer longitudinal section plans are to be amended to show the number and spacing of trench stops. Number and spacing of trench stops to be provided in accordance with Clause 9.10 of WSA 02 – 2014 -Gravity Sewerage Code of Australia.

- 6.8. A three equal chord 6m radius curve truncation as per RAL/2017/5693/A condition 19 is to be provided on the southwestern corner of the Mcdougall Street and Road 1 intersection.

7. Any drawings to be amended must only incorporate the amendments listed within this Development Approval and must be resubmitted and approved by Council ten (10) business days prior to a request for prestart, prior to the issue of any additional Operational Works approval, Building Works approval or Council's approval of plumbing and drainage works, or prior to commencement of use, whichever occurs first if applicable.

APPROVED DOCUMENTS

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

Document: J001425-001-R-Rev0

Description: Geotechnical Investigation Report - Proposed Subdivision Development Lot 5 on SP194434 and Lot 20 D133639 574-608 South Street and 87-145 Euston Road prepared by Core Consultants and dated December 2021.

Amendments: Nil

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

9. The following plans/documents are to be submitted and approved by Council a minimum of ten (10) business days prior to the prestart meeting:

- 9.1 A plan view and longitudinal section of the existing rising main, discharge manhole and gravity sewer crossing south street is to be provided. Plans to include but not be limited to the following information:
 - 9.1.1 Location and depth of sewerage infrastructure.
 - 9.1.2 existing natural surface levels.
 - 9.1.3 South Street pavement and verge levels.
 - 9.1.4 Identify cover/depth of existing infrastructure in relation to the proposed south street construction. Noting minimum and maximum cover requirements of the Toowoomba Regional Council Planning Scheme are to be maintained.

- 9.2. An Arborist report is to be submitted and endorsed by Council prior to any pre-start meeting associated with this development. The Arborist report is required to identify and assess for suitability to safely retain, any tree located within the Open Space zone where construction activity is proposed within 15 metres of the trunk and the tree has a trunk diameter of 200mm or greater. The Arborist report is required to address the requirements of AS4970-2009 Protection of Trees on Development Sites, and must contain at a minimum:
 - 9.2.1 Tree locations and plot numbers (labelling);
 - 9.2.2 Growing conditions and context (e.g. ground conditions);
 - 9.2.3 Inspection methodology (aerial inspection, visual tree assessment, other);
 - 9.2.4 Tree dimensions (height, crown spread and trunk diameter, TPZ and SRZ radial measurements);
 - 9.2.5 Health and structural condition;
 - 9.2.6 Useful life expectancy;
 - 9.2.7 Tree Retention value;
 - 9.2.8 Identification of trees to be retained and removed, including justifications;
 - 9.2.9 Details of the construction activities and their likely impact;
 - 9.2.10 Percentage of incursion into TPZ from proposed construction activities;
 - 9.2.11 Tree protection measures to be applied for all trees identified for retention, including but not limited to provision of Arboricultural Work Method Statements (AWMS);
 - 9.2.12 Recommendations; and
 - 9.2.13 Supporting evidence (pictures, test results and site plan with trees plotted).

- 9.3 Detailed designs plans signed by an RPEQ-Civil is to be provided for the proposed Rock Filled Reno Mattresses. Detailed plans to include but not be limited to the following:
 - 9.3.1 Plan view of the Reno Mattresses layout for each location.
 - 9.3.2 Cross sections of the Reno Mattress layout for each location including identification of natural ground line.
 - 9.3.3 Cover from top of sewer infrastructure to bottom of Reno Mattresses.
 - 9.3.4 Specification of the Mattresses size, max/min rock size.

9.3.5 Detailed survey data for each location.

Advice Note: The proposed Reno Mattresses' will be located in mapped fish habitat waterways. Design engineer to ensure the design complies with all relevant state requirements including requirements outlined within the Department of Agriculture and Fisheries Accepted development requirements for operational work that is constructing or raising waterway barrier works.

COMPLETION PERIOD

10. In accordance with section 88(1) of the *Planning Act 2016* (Qld), this Development Approval lapses if the development is not completed within 2 years of this Development Approval starting to have effect.

FEES, CHARGES AND SECURITIES

11. The following estimates of construction costs have been used to determine the amounts provided in the 'Request for Payment':

11.1	Roadworks;	\$ 843,336.45
11.2	Stormwater:	\$ 621,142.50
11.3	Water Reticulation:	\$ 79,959.00
11.4	Wastewater Reticulation:	\$ 127,655.00

12. Following satisfactory inspection of the completed works, and acceptance of the works "on maintenance", a minimum of 12 month "defects liability period" will apply. During this time, a security will be retained to ensure correction of any defects in the constructed works. The fees, charges and securities detailed in the attached 'Statement of Fees' must be paid before and prior to Council accepting the works on-maintenance. The following security against defects will apply:

12.1	Roadworks;	\$ 84,334.00
12.2	Stormwater:	\$ 62,114.00
12.3	Water Reticulation:	\$ 7,960.00
12.4	Wastewater Reticulation:	\$ 12,766.00

CONSTRUCTION REQUIREMENTS

PRE-START MEETING

13. A pre-start meeting as outlined in *Planning Scheme Policy No 2 SC6.2.7.9* attended by Council's officers, the Supervising Engineer and the Contractor, must be arranged by the Supervising Engineer and held at a time and place mutually convenient to all attendees.

Note: Pre-Start prerequisites include but are not limited to the provisions of Planning Scheme Policy No 2 SC6.2.7.9, 6.2.7.7.2 and the conditions of this approval.

14. At the pre-start meeting, the Supervising Engineer must provide to Council a Project Quality Plan and have received approval from Council prior to works commencing.
15. The conditional requirements of conditions 5, 6, 7, 9, 16, 38 and 47 are required to be met prior to Council attending the pre-start meeting.

16. Written confirmation from Ergon Energy confirming that the proposed earthworks along South Street are acceptable or confirmation that Ergon Energy are aware of the works and have required alterations to the existing electrical infrastructure is to be provided to Council ten (10) business days prior to a request for a prestart meeting to be held.

Advice Note: Approval for park access must be sought from Council's Park and Recreation Services Branch via Council's Customer Service Centre prior to any works or access associated with the development being undertaken in the park. Please consult Council's Parks and Recreation Services Branch regarding access fees and the requirement of a bond in accordance with Council's adopted fees and charges. There will also be conditions specific to the proposed works including but not limited to timing of works (to ensure minimal impact on park users) and the provision of public liability insurance for all contractors.

HOURS OF CONSTRUCTION

17. Unless otherwise approved in writing by Council approved hours of construction are between the hours of 6.30 am to 6.30 pm Monday to Saturday.
18. Unless otherwise approved in writing by Council no works are permitted on public holidays.
19. Any activities which cause noise nuisance must not be carried out on the subject land outside the approved hours of construction or on Sundays or Public Holidays.

CONSTRUCTION WORKS

20. The construction works shall be in accordance with the requirements outlined in *Planning Scheme Policy No 2 SC6.2.7.7*.
21. During the course of construction works:
 - 21.1 Ensure that the works are carried out by a qualified contractor;
 - 21.2 Accept responsibility for all aspects of the works, including public safety; and
 - 21.3 Ensure adequate barricades, signage and other warning devices are in place at all times.
22. A minimum of \$10 million of Public Liability Insurance and Workers Compensation Insurance must be secured at all times throughout the construction and maintenance periods by the developer /contractor.

VERGE WORKS

23. All work carried out in the road reserve must be carried out during daylight hours only unless approved otherwise by Council. No excavations, stockpiles of material or other hazards or obstructions are to be left on the verge during hours of darkness.

Note: Should access to footpaths, verge or road 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.

DAMAGE TO SERVICES & ASSETS

24. Protect Council and public utility services and assets during construction of the development.
25. 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:
 - 25.1 Where the damage would cause a hazard to pedestrian or vehicle safety or interrupts a service to the community, immediately; or

25.2 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.

26. 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.

27. 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 131 872

PEDESTRIAN AND CYCLIST SAFETY

28. Safe pedestrian and cyclist 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.

EROSION AND SEDIMENT CONTROL

29. Erosion and sediment control measures in accordance with *Planning Scheme Policy PSP No. 2 - Engineering Standards – Roads and Drainage Infrastructure* must be implemented as necessary, and must be maintained at all times during the works period.

30. 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.

31. 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.

32. 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.

33. 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 prevent 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.

WORKS

STORMWATER DRAINAGE

34. All stormwater drainage works carried out under this Development Approval must comply with *Planning Scheme Policy PSP No. 2 - Engineering Standards – Roads and Drainage Infrastructure*.

35. Stormwater quality must be ensured by the use of stormwater quality best management practice.

36. All land adjoining the development must be protected at all times from ponding or nuisance from stormwater resulting from the development.

Advice Note: Condition 36.2 of RAL/2017/5693/A requires the development to meet the requirements outlined within the Water Sensitive Urban Design objectives listed in PSP No. 2 and State Planning Policy July 2017. The current stormwater design does not meet the required quality objectives. In order to plan seal the development will be required to meet these objectives, as such the approved plans listed within this development approval should be amended to include stormwater quality treatment or alternatively an infrastructure agreement between the developer and Council will need to be undertaken.

WASTEWATER INFRASTRUCTURE

37. Construction of the wastewater reticulation systems must be in accordance with Council's *Wastewater Infrastructure Policy 2.04*.

38. Where the location and levels of existing services are unknown, the contractor must pothole to establish the accurate location and level. The existing services must be included on amended detailed design drawings, which must be submitted to Council for approval a minimum of ten (10) Business days prior to the prestart meeting. Required clearances and cover to the existing wastewater infrastructure must be maintained unless otherwise approved by Council.

39. Any connection to or modification of Council's live wastewater infrastructure must be undertaken by Council.

Note: For a private works quotation for the required works Council's Water & Wastewater Department can be contacted on ph 131 872. Subject to payment of the quotation, a suitable time for this work to be carried out must be agreed with Council.

Note: House Connection Branches (Riser/Jump-ups) must be located wholly within the individual serviced allotment in accordance Council's policy.

40. Sewerage maintenance hole construction methods are required to be carried out in accordance with WSA02-2014 CI 7.6.2. It is required that a pre-cast cover slab is required to be used for all maintenance holes with compatible proprietary pre-cast spacer ring and access cover components required to be used to achieve required finished surface levels. The components are required to allow for disassembly and reassembly of parts and include certified lifting points for maintenance activities to be undertaken

41. Wastewater maintenance holes must be vacuum tested (negative pressure) in accordance with WSA02-2014 CI 21.4.5. Council reserves the right to nominate different maintenance holes to what the independent testing organisation may select for test locations. The nominated test locations must be submitted to Council 5 days prior to testing occurring.

42. All manholes located in Lot 20 of D133639 must be provided with marker posts.

43. All sewer manholes lids must be properly cleaned and greased prior to Council's on-maintenance inspection.

WATER SUPPLY INFRASTRUCTURE

44. Construction of the water supply reticulation systems must be carried out in accordance with Council's *Water Infrastructure Policy 2.03*.

45. Retro-reflective pavement markers (RRPM) and marker plates must be provided in accordance with the Eastern Downs Regional Organisation of Councils (EDROC) *Drawing Number EDROC-33*.

46. Hydrants and Valves must be installed in accordance with the Water Services Association of Australia (WSAA) *Standard Drawing WAT-1301*. Hydrant and valve covers must be supplied and installed in accordance with Council's *Standard Specification for Council Works and Development Installations - Supply of Hydrant and Valve Covers (and Identification/Marking)*.

47. Enveloping conduits for property service connections must be extended from the water main to the property boundary on the opposite side of the road where property service connections are required to cross the road. The enveloping conduit installation must be by the Contractor in accordance with Council's *Standard Drawing Number 101214-001*. The property service connections must be installed by Council at no cost to Council.
48. All live connections to the existing water supply networks and water meter installations must be carried out by Council at no cost to Council.

Note: For a private works quotation for the required works Council's Water & Wastewater Department can be contacted on ph 131 872. Subject to payment of the quotation, a suitable time for this work to be carried out must be agreed with Council.

49. Where the location and levels of existing services are unknown, the contractor must pothole to establish the accurate location and level. The existing services must be included on amended detailed design drawings, which must be submitted to Council for approval a minimum of ten (10) business days prior to the pre-start meeting. Required clearances to the existing water infrastructure (including thrust blocks), must be maintained unless approved by Council.
50. Where existing water main cover is less than the minimum required as per Council standards, suitable remedial action must be taken in consultation and agreement with Council.
51. All unnecessary water connections must be compliantly disconnected.
52. A minimum 0.5 metres horizontal clearance is maintained to the water main alignment from the existing/constructed footpath.
53. All trees must be located minimum 2.0m away from the water mains.
54. Retro-reflective pavement markers (RRPM) and marker plates must be provided in accordance with the Eastern Downs Regional Organization of Council's (EDROC) Drawing Number EDROC-33. Kerb Painting must be done just prior to on-maintenance inspection and marker plates must be installed during on-maintenance period, just prior to the off-maintenance inspection.

PROTECTION AND RETENTION OF EXISTING TREES AND VEGETATION WITHIN OPEN SPACE ZONE

55. A Pre-start meeting is required to be held between Council Arborist and the engaged Project Arborist, prior to the commencement of any on-site works.
56. Trees identified within the Open Space zone suitable for retention which have construction works proposed within the respective Tree Protection Zone (TPZ), as determined in accordance with AS4970-2009 Protection of Trees on Development Sites, must be protected for the duration of construction. All construction works must be carried out in accordance with the endorsed Arborist Report, and:
 - 56.1 Establishment of a work exclusion area around trees to be retained prior to commencement of construction to avoid damage and soil compaction from plant and machinery;
 - 56.2 A Project Arborist (a person whom holds a minimum qualification of AQF Level 5 in Arboriculture), is to be engaged and be present onsite for supervising all construction activities proposed to occur within the Tree Protection Zone (TPZ) as determined by Australian Standards AS4970-2009 Protection of Trees on Development Sites, for any and all trees identified for retention where works are proposed within the TPZ;
 - 56.3 The Project Arborist is to provide an Arborist Certification Report at the completion of works, identifying that the works undertaken within the TPZ of the existing trees to be retained, has not resulted in harm to the subject tree. The Arborist Certification report is to contain at a minimum the following:

- 56.3.1 Statements of works (type and extent) which have been undertaken within the Tree Protection Zone (TPZ) of retained trees;
- 56.3.2 Statements and evidence (photographic) of protection measures utilised to protect trees identified for retention;
- 56.3.3 Statements and evidence (photographic) of any roots identified that are greater than 50mm in diameter, how such roots were managed and severed as part of the works; and
- 56.3.4 Certification that the works which have been undertaken within the Tree Protection Zone of the existing trees to be retained have not resulted in harm to the subject trees.

56.4 Tree protection is to be maintained until works are completed or accepted on-maintenance.

VEHICULAR ACCESS

- 57. The vehicle access (crossing of the verge) to lot 65 must be constructed generally in accordance with 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)*;
- 58. The vehicle access (crossing of the verge) must align neatly on both sides with the pedestrian footpath and verge with a maximum cross fall of 2.5%. Where there is an existing pedestrian path, the existing footpath in the vicinity of the driveway must be saw cut, removed and replaced by the driveway crossover. The driveway is to be graded at not steeper than 2.5% for the width of the footpath.
- 59. The vehicle access (crossing of the verge) must be located a minimum 1 metre clear of existing maintenance holes, fire hydrants, power poles, streetlights, or signage (unless otherwise approved herein).
- 60. Undertake any necessary relocation of all existing services clear of the vehicle access (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.
- 61. Any removal or modification of any existing Council traffic signs and/or parking bays must obtain the separate written approval of Council's Principal Engineer – Road Operations.

EARTHWORKS AND RETAINING WALLS

- 62. All earthworks and retaining walls must be undertaken and constructed in accordance with:
 - 62.1 The approved drawings and documents; and
 - 62.2 Where not otherwise specified in the approved drawings and documents, in accordance with *Planning Scheme Policy SC6.2.5 – Earthworks* in the *Toowoomba Regional Planning Scheme*.
 - 62.3 The recommendations/requirements outlined with the Approved Geotechnical Report listed within this Development Approval.
- 63. All earthworks, including batters, must be fully contained within the subject land and must not in any way impact on the properties adjoining the subject land.
- 64. Where earthworks or retaining walls are required to be constructed in adjoining properties to achieve compliant batters written owners consent from the adjoining property owner will be required.

65. The transport routes for the haulage of material between the subject land and land receiving or sourcing fill shall be identified and submitted to Council's Roads Operation Branch for approval prior to the commencement of transport operations.
66. Where applicable all retaining walls adjacent to a Council controlled space (e.g. road reserve, public open space, easements, pedestrian links and drainage reserves) are to have permanent fencing installed prior to the (acceptance of the works on maintenance. Endorsement by Council of the design and construction details of the fencing to be installed must be granted prior to works commencing on the construction of the fences.

Note: The purpose of the fencing is to ensure both safety and aesthetic outcomes are appropriately addressed.

SIGNAGE AND LINEMARKING

67. All works on or near roadways must be adequately signed in accordance with Toowoomba Regional Council Planning Scheme Policy *PSP No. 2 - Engineering Standards – Roads and Drainage Infrastructure* as well as the Department of Transport and Main Roads *Manual of Uniform Traffic Control Devices (MUTCD)*.

Note: Any road or lane closures will require written application to Council, and all conditions of Council approval must be complied with throughout construction of the works.

68. All street signs and line marking must be installed and/or modified to suit the new works in accordance with Toowoomba Regional Council Planning Scheme Policy *PSP No. 2 - Engineering Standards – Roads and Drainage Infrastructure* as well as the Department of Transport and Main Roads *Manual of Uniform Traffic Control Devices (MUTCD)* prior to acceptance of the works on-maintenance.
69. Any removal or modification of any existing Council traffic signs and/or parking bays will require the separate written approval of Council's Principal Engineer – Road Operations.

PAVEMENT DESIGN

70. The pavement design for all roads must be confirmed after in-situ subgrade testing prior to construction of the pavement. Pavement design details and test results must be submitted and approved by Council a minimum of five (5) business days prior to the pre-start meeting/commencement of pavement works on the subject land.

STREET LIGHTING

71. The street lighting design and installation must comply with *Planning Scheme Policy SC6.2.6 – Road and public space lighting*.

WORKS INSPECTIONS

72. During the construction phase, Council must be given at least 48 hours' notice to carry out the following joint inspections where applicable:
 - 72.1 Proof rolling and profile of subgrade;
 - 72.2 Proof rolling and profile of base course;
 - 72.3 Pre-seal inspection of pavements;
 - 72.4 Underground pipework, including property connections and thrust blocks, prior to backfilling;
 - 72.5 Pressure tests for water supply and wastewater pipes and manholes; and
 - 72.6 Other inspections as deemed necessary by Council.

Note: No liability or warranty is implied or expressed by any inspection or the absence of any inspection, or by a Council decision relating thereto.

73. Prior to the on-maintenance inspection, the completed and signed Project Quality Plan and all construction test results for all works approved under this development approval must be lodged with Council for review and Council records. If the results are incomplete or unsatisfactory, the works (including any necessary remedial works as applicable) will not be accepted on maintenance until complete and satisfactory testing is undertaken and/or results are lodged with Council.

CERTIFICATION OF CONSTRUCTION WORKS

74. A supervision certificate completed by a Registered Professional Engineer of Queensland – Civil must be provided upon completion of the works certifying that the works have been completed in accordance with the approved plans and specifications.
75. The Registered Professional Engineer of Queensland performing any task or function associated with the proposed works must hold professional indemnity insurance to the value of \$2 million.

AS-CONSTRUCTED DRAWINGS & ACCOMPANYING ADAC XML DIGITAL FILE

76. The As-Constructed package of data consisting of the following, must be provided prior to acceptance of the works on-maintenance or before commencement of use:
- 76.1 Red-lined marked-up “Approved for Construction” Drawings showing changes to construction materials, design levels, locational details and other amendments from the approved design that may have occurred during the Operational Works phase.
- Marked-up drawings to be submitted in PDF file format only and to be clear and legible when printed at A3 scale;
 - All pages are to include a signed Certification Block endorsed by:
 - an RPEQ Registered Engineer attesting to the accuracy of the engineering aspects and materials noted on the drawings; and
 - Registered Surveyor verifying the accuracy of the locational details, relative levels, boundaries and alignments as shown on the drawings.
- 76.2 An accompanying compliant ADAC XML and DWG files to be submitted with all details and values (e.g. survey levels, material types) matching the associated marked-up As-Constructed drawings including details of any retired and/or removed existing assets.

Note: Further details, including a sample “Downloadable” drawing template and guidelines on the preparation of both the As-Constructed Drawings and accompanying ADAC XML files can be found on Councils website.

Note: Clean As-Constructed Drawings are to be prepared at an A1 scale, printable to A3. Further details, including a sample “Downloadable” drawing template and guidelines on the preparation of both the As-Constructed Drawings and accompanying ADAC XML files can be found on Councils Website

B. ADVICES:

RELIANCE ON ENGINEER'S CERTIFICATION

- 1) In approving plans and specifications for this project, Council has carried out an audit check of information submitted by AM Civil Consulting Engineers. Accordingly, Council has placed reliance on the certificate of design signed by the Registered Professional Engineer Queensland (RPEQ) that the Approved Plans and specifications are correct and in accordance with required engineering standards. The RPEQ bears full responsibility for all aspects of the engineering design. Council reserves the right to require further amendments and/or additions at a later stage, should design errors become apparent.

WHEN APPROVAL STARTS TO HAVE EFFECT

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

WHEN APPROVAL LAPSES

- 3) 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.

OTHER LAWS & REQUIREMENTS

- 4) 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.
- 5) 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.
- 6) 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*.

EXTRACTIVE ACTIVITIES

- 7) In accordance with the *Environmental Protection Act 1994*, a separate approval from the Department of Environment and Science (Department) to carry out Environmentally Relevant Activity: *ERA16 - Extractive and screening activities* may be required prior to commencing earthworks. You should contact the Department on 1300 130 372 (select Option 4) to seek advice if such an approval is required based on the specifics of this approval.

CLEARING OF PROTECTED PLANTS

- 8) In accordance with *Nature Conservation (Animals) Regulation 2020* you must check the flora survey trigger map, prior to the clearing of any native plants found on the subject land to determine if a flora survey must be undertaken and if a clearing permit for clearing endangered, vulnerable and near threatened plants ('EVNT plants') and their supporting habitat is required.

Under the Regulation, if a flora survey identifies that EVNT plants are not present or can be avoided by 100m, the clearing activity may be exempt from a permit, however an exempt clearing notification form must be submitted to the Department of Environment and Science. In an area other than a high risk area, a clearing permit is only required where a person is, or becomes, aware that EVNT plants are present, though a range of exemptions do apply. Clearing of least concern plants is generally exempt from requiring a clearing permit. For further information associated with the clearing of protected plants and to obtain flora survey trigger map for your site please refer to the Departmental website.

ENVIRONMENTAL HARM

- 9) 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.

ENVIRONMENT PROTECTION & BIODIVERSITY CONSERVATION ACT 1999

- 10) An additional approval from the Commonwealth Government under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) may be required in relation to the approved development. The EPBC Act relates to actions that may have a significant impact on matters of national environmental significance (NES) or the environment generally if on Commonwealth land. These matters of NES include nationally listed threatened and migratory species, Ramsar wetlands, World Heritage, Commonwealth marine and nuclear actions.

The EPBC Act provides that a person must not take an action that has, will have or is likely to have a significant impact on matters of NES, without the approval of the Commonwealth Environment Minister. Such actions should be referred to the Minister for a decision on whether or not approval is required under the EPBC Act.

Contact the Australian Government Department of Agriculture, Water and the Environment to discuss any obligations under the EPBC Act.

STREET TREE DISTURBANCE & REMOVAL APPROVAL

- 11) This Development Approval does not infer or give approval to the owners or occupiers of the subject land to disturb or remove street trees. A separate Street Tree Disturbance or Removal Approval is required where a street tree is expected to be disturbed or removed. Please contact Council's Parks and Recreation Services Branch via Council's Customer Service Centre for further information in respect of street trees.

WATER POLLUTION

- 12) 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.

ABORIGINAL CULTURAL HERITAGE ACT 2003

- 13) There may be a requirement to establish a Cultural Heritage Management Plan and/or obtain approvals pursuant to the *Aboriginal Cultural Heritage Act 2003* ("ACH Act").

The ACH Act establishes a cultural heritage duty of care which provides that: "A person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal cultural heritage." It is an offence to fail to comply with the duty of care. Substantial monetary penalties may apply to individuals or corporations breaching this duty of care. Injunctions may also be issued by the Land Court, and the Minister administering the ACH Act may also issue stop orders for an activity that is harming or is likely to harm Aboriginal cultural heritage or the cultural heritage value of Aboriginal cultural heritage.

You should contact the Department of Aboriginal and Torres Strait Islander Partnership (DATSIP) Cultural Heritage Unit to discuss any obligations under the ACH Act.

FIRE ANTS

- 14) 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 *Nature Conservation (Plants) Regulation 2020* apply, compliance with statutory provisions must be achieved.

PROJECT QUALITY PLANS

- 15) Examples of typical Development Project Quality Plans are included in the Appendices of PSP No 2 Engineering Standards – Roads and Drainage Infrastructure. Please contact Council if you require assistance locating or compiling example Development Project Quality Plans for water and sewer.

PARK ACCESS PERMITS

- 16) Approval for park access must be sought from Council's Park and Recreation Services Branch via Council's Customer Service Centre prior to any works or access associated with the development being undertaken in the park. Please consult Council's Parks and Recreation Services Branch regarding access fees and the requirement of a bond in accordance with Council's adopted fees and charges. There will also be conditions specific to the proposed works including but not limited to timing of works (to ensure minimal impact on park users) and the provision of public liability insurance for all contractors.

C. ATTACHMENTS:

- Appeal provisions pursuant to the *Planning Act 2016*.

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—
- either a tribunal or the P&E Court; or
 - only a tribunal; or
 - only the P&E Court; and
- (b) the person—
- who may appeal a matter (the **appellant**); and
 - who is a respondent in an appeal of the matter; and
 - who is a co-respondent in an appeal of the matter; and
 - 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*—
- 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
 - 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
 - for an appeal against a failure to make a decision about an application or other matter under the *Plumbing and Drainage Act 2018* – at anytime after the period within which the application or matter was required to be decided ends; or
 - 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—
- the adopted charge itself; or
 - for a decision about an offset or refund—
 - the establishment cost of trunk infrastructure identified in a LGIP; or
 - 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—
- is in the approved form; and
 - 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—

- the respondent for the appeal; and
 - each co-respondent for the appeal; and
 - 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
 - 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
 - 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
 - for an appeal to the P&E Court—the chief executive; and
 - for an appeal to a tribunal under another Act—any other person who the registrar considers appropriate.
- (4) The **service period** is—
- if a submitter or advice agency started the appeal in the P&E Court—2 business days after the appeal is started; or
 - 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—
- 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
 - 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—
- conduct engaged in for the purpose of making a decision; and
 - other conduct that relates to the making of a decision; and
 - the making of a decision or the failure to make a decision; and
 - a purported decision; and
 - a deemed refusal.

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

- is final and conclusive; and
- 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
- 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.