

Our Reference: MCUI/2014/4094/D
Contact Officer: Jun Ong
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Decision Notice
CHANGE TO A DEVELOPMENT APPROVAL
Planning Act 2016 Section 83

Newtown Properties (Qld) Pty Ltd
C/- HPC Planning
PO Box 15038
CITY EAST QLD 4002

Email: hilary.b@hpcplanning.com.au

11 August 2026

Dear Madam,

Development Approval: Material Change of Use - Impact - Child Care Centre
Location: 202 Russell Street and 49 Wallace Street, NEWTOWN QLD 4350
Property Description: Lot 17 SP357460
Relevant Planning Scheme: *Toowoomba Regional Planning Scheme 2012*

I refer to your application received on 2 June 2026 for a change to the development approval for Material Change of Use – Impact – Child Care Centre approved on 7 March 2026.

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

On the 11 August 2026, 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



Krys Den Hertog,
Principal Planner, Planning Branch

SCHEDULE 1

DEVELOPMENT PERMIT FOR MATERIAL CHANGE OF USE - IMPACT

APPLICATION NUMBER:	MCUI/2014/4094/D
APPLICANT:	Newtown Properties (Qld) Pty Ltd
LOCATION:	202 Russell Street and 49 Wallace Street, NEWTOWN QLD 4350
PROPERTY DESCRIPTION:	Lot 17 SP357460
APPROVED USE:	Child Care Centre
ZONING / PRECINCT:	Low Density Residential Zone / General Precinct

A. ASSESSMENT MANAGER'S CONDITIONS:

PLANNING

APPROVED USE AND INTENSITY

1. This development permit is for a material change of use for Child Care Centre-, as follows:
 - 1.1 Maximum of ~~449~~ 120 Children; and
 - 1.2 Maximum of 22 Full-time Equivalent Staff.
2. This Development Permit does not imply or comprise an approval for any use(s) other than that listed in Condition 1.

CARRY OUT AND MAINTAIN DEVELOPMENT

3. 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 are not varied by this Development Approval.
4. Unless otherwise stated, all conditions must be complied with prior to the commencement of use and thereafter.
5. Complete all building work associated with this Development Approval, including work required by any of the conditions of this Development Approval prior to the commencement of use. Such building work is to be carried out generally in accordance with the Approved Plans and Documents and, where the building work is assessable development, in accordance with a Building Works approval.
6. The development must be maintained in accordance with the Approved and Amended Plans and Documents subject to or modified by any conditions of this Development Approval.

APPROVED AND AMENDED PLANS

7. The development must be carried out generally in accordance with the Approved Plans listed below, subject to the conditions of this approval:

~~Plan No: SD1-01, I~~

~~Description: Site Plan, prepared by Elia Architecture and dated 3 July 2014~~

~~Amendments: Amend plan in accordance with Conditions 17, 68-70, 91 and 108 as follows:~~

- ~~• remove existing crossover and concrete driveway on eastern boundary of Russell Street frontage;~~
- ~~• replace with a 2m wide landscaping buffer on eastern boundary (as shown in blue);~~
- ~~• remove acoustic fence on the eastern property boundary and replace with 1.8m fence (as shown in red); and~~
- ~~• extend existing fence along the full frontage of Russell Street (exclusive of the pedestrian access).~~

~~Plan No: SD1-04, F~~

~~Description: Proposed Floor Plan, prepared by Elia Architecture and dated 3 July 2014~~

~~Amendments: Amend plan in accordance with Conditions 70 and 108 as follows:~~

- ~~• remove existing crossover and concrete driveway on eastern boundary of Russell Street frontage; and~~
- ~~• replace with a 2m wide landscaping buffer on eastern boundary.~~

~~Plan No: SD3-01~~

~~Description: Street Elevation, prepared by Elia Architecture and dated 3 July 2014~~

~~Amendments: Amend plan in accordance with Conditions 17 and 68-70 as follows:~~

- ~~• remove existing crossover and concrete driveway on eastern boundary of Russell Street frontage;~~
- ~~• extend existing fence along the full frontage of Russell Street (exclusive of the pedestrian access).~~

~~Plan No: SD3-02~~

~~Description: Elevations, prepared by Elia Architecture and dated 13 July 2014~~

~~Amendments: Nil~~

~~Plan No: TWB-129 Revision C~~

~~Description: Stormwater layout prepared by Harrison Infrastructure Group and dated 30 January 2015~~

~~Amendments: Nil~~

Plan No: Sheet 10, Revision K

Description: Proposed Site Plan – Building A, prepared by Cyber Drafting and Design and dated 22 January 2024

Amendments: As amended in red and orange by Council.

Plan No: Sheet 11, Revision K

Description: Proposed Site Plan – Building B, prepared by Cyber Drafting and Design and dated 22 January 2024

Amendments: As amended in red and orange by Council.

~~Plan No: Sheet 12, Revision K~~

~~Description: Proposed Floor Plan – Building A, prepared by Cyber Drafting and Design and dated 22 January 2024~~

~~Amendments: Nil.~~

~~Plan No: Sheet 14, Revision L~~
~~Description: Proposed Floor Plan – Building A, prepared by Templo Design and dated 30 January 2025~~
~~Amendments: Nil.~~

~~Plan No: Sheet 13, Revision K~~
~~Description: Proposed Floor Plan – Building B, prepared by Cyber Drafting and Design and dated 22 January 2024~~
~~Amendments: Nil.~~

~~Plan No: Sheet 14, Revision K~~
~~Description: Proposed Elevations – Building A, prepared by Cyber Drafting and Design and dated 22 January 2024~~
~~Amendments: Nil.~~

~~Plan No: Sheet 15, Revision K~~
~~Description: Proposed Elevations – Building A, prepared by Cyber Drafting and Design and dated 22 January 2024~~
~~Amendments: Nil.~~

~~Plan No: Sheet 16, Revision K~~
~~Description: Proposed Elevations – Building B, prepared by Cyber Drafting and Design and dated 22 January 2024~~
~~Amendments: Nil.~~

Plan No: 19229, Sheet 12, Revision AA
Description: Proposed Site Plan – Building A, prepared by Templo Design and dated 20 July 2026
Amendments: As amended in red and orange by Council.

Plan No: 19229, Sheet 13, Revision AA
Description: Proposed Site Plan – Building B, prepared by Templo Design and dated 20 July 2026
Amendments: As amended in red and orange by Council.

Plan No: 19229, Sheet 14, Revision AA
Description: Proposed Floor Plan – Building A, prepared by Templo Design and dated 20 July 2026
Amendments: Nil.

Plan No: 19229, Sheet 15, Revision AA
Description: Proposed Floor Plan – Building B, prepared by Templo Design and dated 20 July 2026
Amendments: Nil.

Plan No: 19229, Sheet 17, Revision AA
Description: Proposed Elevations – Building A, prepared by Templo Design and dated 20 July 2026
Amendments: Nil.

Plan No: 19229, Sheet 18, Revision AA
Description: Proposed Elevations – Building A, prepared by Templo Design and dated 20 July 2026
Amendments: Nil.

Plan No: 19229, Sheet 19, Revision AA
Description: Proposed Elevations – Building B, prepared by Templo Design and dated 20 July 2026
Amendments: Nil.

~~7.1 The Approved Plans must be amended to incorporate the amendments listed within this Development Approval and resubmitted to Council prior to the issue of any Operational Works approval, Building Works approval or Council's approval of plumbing and drainage works, or prior to commencement of use, whichever occurs first.~~

APPROVED AND AMENDED DOCUMENTS

8. ~~The development must be carried out generally in accordance with the Approved Document listed below, subject to the conditions of this approval and the amendments listed below:~~

~~Document: Noise Assessment Report~~

~~Description: Noise Assessment Report, prepared by Noise Measurement Services Pty Ltd dated 15 July 2014~~

~~Amendments: Amend the Report as follows:~~

- ~~• Re-model noise expected to be generated by the development given changes in the layout (including deletion of vehicle access from Russell Street, changes to the landscaping buffer on the eastern boundary adjacent to carpark and tapering of acoustic barriers) to confirm compliance with the acoustic quality objectives listed within the *Environmental Protection (Noise) Policy 2008*.~~

9. ~~An amended Noise Assessment Report as required by Condition 8 must be submitted to the Manager, Development Assessment for endorsement prior to:~~

~~9.1 The issuing of a Development Permit for Building Works; or~~

~~9.2 Council's approval of plumbing and drainage works.~~

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

10. Prepare and submit applications to Council and obtain Operational Works approval for the following:

- 10.1 Stormwater Infrastructure (Connection to Council reticulation);
- 10.2 Vehicle Crossings; and
- 10.3 Advertising Device.

Note: This Development Permit does not consent to any advertising device shown on the Approved Plans listed within this Development Approval. Any advertising device must apply for a separate Development Permit for Operational Works where not complying with self assessable criteria of the Advertising Devices Code.

COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS (COMPLIANCE ASSESSMENT)

11. Prepare and submit a Landscape Plan to Council for ~~compliance assessment against~~ endorsement prepared by a suitably qualified person and prepared generally in accordance with the relevant standards and requirements listed in the Landscaping Code contained within the *Toowoomba Regional Planning Scheme* and the landscaping conditions of this Development Approval.

Note: *A new landscape plan is required to be submitted to comply with conditions for change application MCUI/2014/4094/D.*

APPROVED DOCUMENTATION

12. A legible copy of the Approved Plans and Approved Document bearing Council's approved stamp endorsement and the Decision Notice must be available on the subject land and available for inspection at all times during construction and earthworks.

DEDICATIONS, AGREEMENTS AND CONTRIBUTIONS

AMALGAMATION OF LOTS

13. The subject land must be amalgamated to form ~~two allotments as shown on the Plan of Proposed Subdivision Lots 15 and 16 (K3441-A2), prepared by K.J Wilson Cadastral Surveyor and dated 25 July 2014.~~ a single allotment.
14. The Plan of Survey for amalgamation must be registered, and proof of registration provided to Council.

DEVELOPMENT CONSTRAINTS

PRESERVATION OF NEIGHBOURHOOD CHARACTER

15. The addition located at the building entrance on the northern façade is to utilise materials and finishes to match existing exterior materials.
16. All fencing visible from the Russell Street frontage must not be greater than 1.2m in height.
17. Existing fencing on Russell Street must be retained and additional panels must be provided to extend the full frontage of Russell Street (exclusive of the pedestrian access) and must match the design and colour of the existing fence.

WORKS

ENGINEER'S CERTIFICATION AND SUPERVISION OF WORKS

18. Plans and specifications for all works associated with vehicular access and stormwater drainage, or any other works required on Council infrastructure, must be prepared and certified by a Registered Professional Engineer Queensland - Civil (RPEQ).
19. A Construction Supervision Certificate must be provided by a RPEQ upon completion of the works certifying that works are in accordance with the approved plans and specifications.
20. 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 with any Design Certificate or Construction Supervision Certificate.

STORMWATER DRAINAGE

21. The site must be provided with a stormwater drainage system as shown in the Approved Drawings listed within this Development Approval. Connection to the existing stormwater reticulation must occur at the location shown in the Approved Drawing or at another location approved by Council.

Note: This condition is imposed pursuant to Section 665 of the Sustainable Planning Act 2009.
22. All private stormwater quality devices installed within the site as part of the development must be maintained for the life of the development, in accordance with the manufacturer's guidelines and to best management practice, to ensure continuing level of performance for water quality for stormwater discharged from the subject site.

23. All land adjoining the development must be protected from ponding or nuisance from stormwater resulting from the proposed development for the duration of the development works.
24. All internal and external stormwater drainage works must be constructed generally in accordance with the Approved Drawings.
25. At the completion of the approved internal and external stormwater drainage works for the development, submit to Council a Construction Supervision Certificate prepared by an RPEQ certifying that the established works complies with the stormwater drainage and discharge conditions of this Development Approval.

CONSTRUCTION WASTE MANAGEMENT & STORAGE

26. 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*.
27. 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 2008*.
28. Fires are not to be lit to dispose of demolition or construction waste.
29. 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 site and used on site), or be used as fill or buried elsewhere, unless otherwise permitted:
 - 29.1 Elsewhere within this Development Approval;
 - 29.2 In accordance with an associated Operational Works approval;
 - 29.3 In association with and in accordance with an Environmental Authority issued under the *Environmental Protection Act 1994*;
 - 29.4 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
 - 29.5 In accordance with a written approval issued by Council under the *Environmental Protection Regulation 2008* relating to the depositing or disposal of general waste from a premises not serviced by Council.
30. Demolition, excavation and construction waste (including night soil) must not be placed or stored within the road reserve at any time.

EROSION & SEDIMENT CONTROL

31. 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.
32. 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.

- 33. 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 site 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.
- 34. All disturbed areas must be mulched or turfed as soon as possible during construction.
- 35. 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.

DAMAGE TO SERVICES & ASSETS

- 36. Undertake all reasonable measures to protect Council and public utility services and assets during construction of the development.
- 37. 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:
 - 37.1 Where the damage would cause a hazard to pedestrian or vehicle safety or interrupts a service to the community, immediately; or
 - 37.2 Where otherwise, as soon as reasonably possible, but no later than completion of the works associated with the development.
- 38. 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.

SERVICES & UTILITIES

WATER SUPPLY

- 38A. The development must be connected to Council's reticulated water supply 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.
- 38B. Any works on Council's 'live' water supply 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.
- 38C. The development's internal firefighting system must be designed and constructed in accordance with Council's *Water Infrastructure Policy 2.03* and relevant Australian Standards at no cost to Council. If the internal firefighting system is proposed to connect to Council's reticulation system, confirm compliant performance in Council's existing system prior to requesting any fire service connections. All pressure and flow tests within Council infrastructure must be undertaken by Council at no cost to Council.
- 38D. Where the development requires higher fire flows than listed in Council's *Water Infrastructure Policy 2.03* for the relevant land zone, the Council water reticulation network must be upgraded, or fire break tanks must be provided at no cost to Council.

SEWERAGE INFRASTRUCTURE (GENERAL)

- 38E. The development must be connected to Council's existing wastewater reticulation system at no cost to Council in accordance with Council's *Wastewater Infrastructure Policy 2.04*.

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

39. The sewer house drainage connection point located in the eastern driveway requires the vertical shaft to be capped with a heavy duty, trafficable system finished flush with the finished surface level of the driveway.
40. All works requiring alteration or extension of infrastructure to be undertaken by Council must be completed under a private works agreement with Council and at no cost to Council.

Note: A quotation for private works can be obtained by contacting Council's Water Services Department.

AMENITY & OPERATION OF USE

VISUAL AMENITY

41. Any graffiti on buildings, structures or fences on the subject land visible from public viewing locations must be removed within 24 hours or upon direction by Council.
42. Any graffiti deterrent building design elements and surface treatments are to be maintained at all times.
43. All buildings, structures and fences as well as the subject land must be maintained in a clean and tidy manner at all times.
44. All fixed mechanical plant must be contained within the building or visually screened to all street frontages, public viewing locations and adjoining premises.
45. Open storage areas, loading areas, and other unsightly areas, must be screened from view from all street frontages and public places.

FENCING & WALLS (GENERAL)

46. Any existing fence or wall not meeting the requirements of this Development Approval must be removed and replaced with a fence or wall that meets the requirements of this Development Approval.
47. Unless otherwise approved in writing by Council, boundary fences or walls must not be erected in a parallel arrangement with any existing fence or wall erected along the same boundary - that is the existing fence or wall is to be completely removed and replaced.
48. Unless otherwise specified elsewhere within this Development Approval, the required height of a fence or wall is measured from the highest adjacent finished ground level.
49. Where there is a change in level between adjoining properties at the boundary that exceeds 1m, the overall total height of any combination of fence and wall must not exceed 3m from the lowest adjacent finished ground level.
50. Pay the total cost of the new fencing and the removal of any existing fencing.
51. Fences must be maintained in a good state of repair and ensure that privacy is maintained between the development and adjoining properties.

52. Should any existing fence not comply with the requirements of this approval or provide insufficient screening, the fence must be replaced at no cost to Council or adjoining owners in accordance with the requirements of this approval.

FENCING & WALLS - INTERFACE TO PUBLIC REALM

53. Fencing provided adjacent to public places (streets, public walkways, laneways and open space areas) must not exceed a maximum height of 1.2m.

STREET IDENTIFICATION

54. The street number of all buildings must be clearly identifiable and located in a prominent position near the site entry, either on the kerb or a letterbox, or viewable from the site entry and located by signage on buildings or the subject land.

LETTERBOX

55. A private letterbox which complies with the requirements of Australia Post must be provided adjacent to the road frontage.

SATELLITE DISHES

56. A maximum of one (1) satellite dish per dwelling may be provided on the subject land. The diameter of any satellite dish must not exceed one (1) metre.

Note: The installation of a satellite dish with a diameter greater than 900mm is assessable development under the Building Regulation 2006 and requires an approval from a private building certifier.

ACCESS FOR PEOPLE WITH DISABILITIES

57. Access must be provided for people with disabilities in accordance with *Australian Standard AS1428.1: Design for Access and Mobility* by means of an unimpeded continuous path of travel from any adjacent roadway, adjoining public open space and from any disabled access car parking bay, to all parts of the development that are normally open to the public.

SAFETY, SECURITY & PUBLICLY ACCESSIBLE FACILITIES

58. The development must be designed and constructed to enhance community safety by ensuring:
- 58.1 Vandal proof fittings, fixtures and materials which are hardy and easily removable are used in the construction and finishing of the development; and
 - 58.2 Ground level windows use toughened glass, screens or other protective measures to deter unlawful entry to the development.
59. The development and hard landscaping must not comprise of highly reflective materials that create slippery or otherwise hazardous conditions.
60. Where constructing an awning or other overhead device over a footpath, a lighting system must be installed to light the covered footpath to a minimum of 20 lux, when measured at the footpath level and plane.
61. Safety and security lighting must be designed, sited, and installed in accordance with *Australian Standard AS 1158.3.1 - Road Lighting - Pedestrian Area (Category P) Lighting - Performance and Installation Design Requirements*.

Note: All lighting provided for safety and security purposes must also consider its impact on surrounding land uses and in accordance with the Outdoor Lighting Impact Mitigation Conditions must be designed, sited, installed and tested to comply with Australian Standard AS4282-1997 Control of the obtrusive effects of outdoor lighting

- 62. Pedestrian routes between car parking areas and buildings must be clearly signed and marked.
- 63. Parking spaces designated for patrons must allow direct access to the building using pedestrian pathways and not require the crossing of driveways.
- 64. The allocation of car parking spaces between employees, residents and visitors as applicable, must be physically separated, distinctly identified and adequately sign-posted to clearly direct vehicular traffic to these respective areas.

PEDESTRIAN & CYCLIST FACILITIES

- 65. Cyclist facilities must be provided for the development in accordance with the following:
 - 65.1 Bicycle parking facilities for the secure on-site storage of bicycles in accordance with the *Austrroads Guide to Traffic Management - Part 11: Parking* (Section 7.8.5), and designed to meet *Australian and New Zealand Standard AS/NZ 2890.3 - Parking Facilities - Bicycle Parking Facilities*; and

TRANSPORT, VEHICULAR ACCESS & PARKING

PROVISION OF VEHICULAR ACCESS

- 66. The proposed vehicle access from the site to Wallace Street must be sealed from the street kerb to the property boundary. The access must be designed by a Registered Professional Engineer Queensland (RPEQ) – Civil and must include the provision of adequate access width and flares to suit the proposed entry and exit maneuvers. Such works must include any requirements identified as part of any traffic report for the development, or as specifically required below:
 - 66.1 The proposed access must be constructed in the location as shown on the Approved Plans listed within this Development Approval (as amended);
 - 66.2 The proposed access must be constructed generally in accordance with the Institute of Public Works Engineering Australasia Drawing *RS-051 Heavy Duty Vehicle Crossing* and in accordance with *Australian Standard AS 2890 – Parking Facilities (Part 1 and as relevant Part 2)*;
 - 66.3 The property access 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, a matching crossfall must be provided;
 - 66.4 The property access must be located a minimum of one (1) metre clear of existing power poles, streetlights or other signage;
 - 66.5 Be responsible for any necessary relocation of all existing services clear of the access that will serve the property and is required to contact all relevant service authorities and comply with their requirements in relation to these works;
 - 66.6 The property access must include suitable tapers and flares to accommodate the required turning paths of a refuse collection vehicle; and
 - 66.7 Be responsible for all costs associated with providing the required clearance or protection to the watermain on Wallace Street.

Note: This condition is imposed pursuant to Section 665 of the Sustainable Planning Act 2009.

67. The final design and layout of the property access, or any modification of existing property accesses, must be in accordance with the self-assessment criteria in the Works and Services Code in the Toowoomba Regional Planning Scheme prior to any construction works within the road reserve. The design and the construction of the works must be certified by a RPEQ – Civil as follows:
- 67.1 A Design Certificate must be submitted with the application for operational works; and
- 67.2 A Construction Supervision Certificate must be submitted at the completion of the approved works.

PROPERTY ACCESS

68. Direct vehicle access from Russell Street is not permitted at any time.

REMOVAL OF UNNECESSARY PROPERTY ACCESS

69. Remove the existing redundant property accesses on Russell Street adjacent to the site (including eastern and western property access). The works must include, but are not limited to the following:
- 69.1 Removal of the existing property accesses and reinstatement of the concrete kerb to match the existing the concrete kerb; and
- 69.2 The footpath must be reinstated to match the required footpath profile and turfed.

Note: This condition is imposed pursuant to Section 665 of the Sustainable Planning Act 2009.

70. Remove the existing concrete driveway on the eastern boundary.
- 70A. Remove the existing western vehicle crossover on Wallace Street and reinstate the kerb and channel and verge to match the existing profile.

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

ON-SITE CAR PARKING, SERVICE BAYS & MANOEUVRING

71. The premises must be provided with a total minimum of ~~twenty-two (22)~~ ~~twenty-nine (29)~~ **thirty one (31)** on-site car parking spaces including one space for people with disabilities, together with standing and maneuvering for a refuse collection vehicle. Car parking and maneuvering areas must be:
- 71.1 Constructed generally as shown on the Approved Plans listed within this Development Approval;
- 71.2 Provided with a sealed surface and be line marked or otherwise delineated to the minimum dimensions detailed in the *Toowoomba Regional Planning Scheme* and *Australian Standard AS2890 - Parking Facilities*;
- 71.3 Designed and constructed in accordance with the requirements of AS2890;
- 71.4 Designed to ensure disabled car parking spaces are located in close proximity to a primary building entrance and meet the requirements of *AS 2890.6:2009 Parking facilities – Off-street parking for people with disabilities* and *AS 1428.1:2009 Design for access and mobility – General requirements for access - New building work*;

- 71.5 Provided with signage and pavement markings that indicate the location of parking areas and the proposed flow of traffic through the site. Refuse collection (both entry and exit) must occur via Wallace Street only;
- 71.6 Parking spaces ~~44-22~~ ~~44-29~~ **1-16** as shown on the Approved Plans (as amended) listed within this Development Approval must be for staff only and provided with signage and pavement markings;
- 71.7 Accessible and available to the general public and staff during approved hours of operation; and
- 71.8 Car park entrances must be physically restricted outside of the business hours of the approved use using a lockable gate or similar device.

ENVIRONMENT

REMOVAL OF EXISTING STREET TREES

- 72. The removal or modification (including any disturbance of the root system within the drip line) of a street tree must not be undertaken unless otherwise approved in writing by Council and in accordance with any conditions associated with the granted approval.
- 73. Any replacement of the street tree on Wallace Street directly adjacent to Lot 15 is to be replaced with two advanced trees of a species at the discretion of Council's Parks and Recreation Services Branch.
- 74. Provision of one (1) street tree within the road reserve directly adjacent to proposed Lot 16 of a species at the discretion of Council's Parks and Recreation Services Branch.

PROTECTION OF STREET TREES

- 75. Street trees affected by works within the 'Precautionary Area', must be protected for the duration of construction. All works must be carried out in accordance with the relevant standards in *Planning Scheme Policy No.8 - Street Trees* and must include in particular:
 - 75.1 Establishment of a work exclusion area around the street tree to be retained prior to commencement of construction to avoid damage and soil compaction from plant and machinery;
 - 75.2 Providing Council with one weeks' notice of any excavation works affecting the 'Precautionary Area' of a street tree so that a Council Arborist may be present during excavation works;
 - 75.3 During excavation works, where roots greater than 50mm diameter are uncovered that need to be severed, obtain approval from a Council Arborist to sever the root, and if granted, do so with a cutting device and not a ripping device; and
 - 75.4 Street tree protection is to be maintained until works are completed or accepted on-maintenance.

WASTE MANAGEMENT (GENERAL)

- 76. All waste generated from construction of the development must be effectively controlled on site before disposal. All waste must be disposed of in accordance with the *Environmental Protection Regulation 2008*.
- 77. All waste generated on site must be managed in accordance with the waste management hierarchy as detailed in the *Waste Reduction and Recycling Act 2011*.

REFUSE STORAGE AREA

- 78. The bin storage area shown on the Approved Site Plan must be provided and must:
 - 78.1 Be screened from public view with a minimum 1.5m high solid fence or wall;
 - 78.2 Be designed to enable bins to be washed out within the storage area;
 - 78.3 Have an impervious floor, graded and drained to an area of significant landscaping, a water treatment device or water quality improvement system; and
 - 78.4 Have a tap and hose located within 5 metres.
- 79. The size and capacity of the bin storage area must be sufficient to accommodate:
 - 79.1 The level of waste likely to be generated from the development having regard to the frequency of refuse collection;
 - 79.2 General refuse bins of an industrial type appropriate to the nature and scale of the use;
 - 79.3 Recycling bins appropriate to the nature and scale of the use; and
 - 79.4 A floor area with dimensions which exceed the size of the nominated bin size by at least 300mm at the rear and both sides and 600mm at the front.

WASTE COLLECTION

- 80. Unless otherwise approved by Council in a waste management plan, arrangements for waste collection are provided in accordance with the following requirements:
 - 80.1 The refuse and recycling bins must be located in a manner that allows the refuse vehicle to pick them up automatically without the driver or any other person having to relocate them;
 - 80.2 The collection of putrescible waste arising from the activities undertaken on this development must be collected and removed at periods not exceeding seven days;
 - 80.3 The waste collection method must ensure that waste is adequately managed to prevent escape of contamination; and
 - 80.4 Waste removal is to be conducted between the hours of 7.00am and 6.00pm, excluding Sundays and Public Holidays.
- 81. Refuse and recycling bin collection areas must be maintained to ensure that:
 - 81.1 Waste containers are kept in a clean state and in good repair;
 - 81.2 Waste containers are provided with tight-fitting lid assemblies designed to prevent ingress of pests and water; and
 - 81.3 All waste containers supplied are stored within the boundaries of the premises other than during collection times where kerb-side collection is approved.

OUTDOOR LIGHTING - IMPACT MITIGATION

- 82. Any outdoor lighting must mitigate adverse lighting and illumination impacts in accordance with the following requirements:

- 82.1 Outdoor Lighting is designed, installed and regulated in accordance with the parameters outlined in *Australian Standard AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting* including impact mitigation measures such as:
- (i) Providing graduated intensity lighting with lower level brightness at the perimeter of the subject land and higher intensities at the centre of the subject land;
 - (ii) Directing lighting onto the subject land and away from neighbouring properties; and
 - (iii) Using shrouding/baffling devices to preclude light overspill onto surrounding properties where necessary; and
- 82.2 Outdoor lighting is provided in accordance with *Australian Standard AS 1158.1.1 – Road Lighting – Vehicular Traffic (Category V) Lighting – Performance and Installation Design Requirements* to avoid creating a traffic hazard on adjacent roads.

NOISE IMPACT MITIGATION

83. Unless otherwise approved in writing by Council, building work (as per the definition of the *Environmental Protection Act 1994*) that creates audible noise must be confined to:
- 83.1 Monday to Saturday: 6.30AM to 6.30PM; and
- 83.2 Sundays and Public Holidays: Nil.
84. Unless otherwise approved in writing by Council, the approved use, including staff arrivals and departures, must not operate outside the hours of:
- 84.1 6:00AM to 7:00PM Monday to Friday;
- 84.2 Not at all on Saturday, Sunday or any Public Holiday; and
- 84.3 Outdoor play areas: 7:00AM to 7:00PM 6:00PM.
85. Service vehicle movements associated with the approved use (including loading and unloading of goods and materials) must not occur outside the hours of 7AM to 6PM Monday to Friday and not at all on Sundays or Public Holidays.
86. ~~The development must be carried out in accordance with the findings and recommendation in the noise impact assessment report entitled Noise Assessment Report, prepared by Noise Measurement Services Pty Ltd dated 15 July 2014 (as amended) as follows:~~
- ~~86.1 Recommended noise mitigation measures must be implemented; and~~
- ~~86.2 Noise generated from the subject site must comply with the *Environment Protection (Noise) Policy 2008*.~~
- Buildings A and B shown on the Approved Plans listed within this Development Approval must be designed, constructed and maintained to achieve the internal noise limit criterion of the Acoustic Quality Objectives within the *Environmental Protection (Noise) Policy 2019*.
87. All “refrigeration equipment”, “pumps”, “regulated devices”, and “air conditioning equipment” as defined by the *Environmental Protection Act 1994* must be designed, installed, operated and maintained to comply with the noise standards as specified within the *Environmental Protection Act 1994*.

88. Any noise generated from the subject site is to comply with the ~~Environment Protection (Noise) Policy 2008~~ noise limit criteria listed in Table 1. Activities (e.g. material delivery, rubbish removal) conducted on the site must not cause significant adverse noise impacts on neighbouring residents through the generation of excessive noise.

Table 1 - Noise Limits

	Noise level measured in dB(A)	
	Variable noise assessment criteria $L_{Aeq\ adj, T}^*$	Continuous noise assessment criteria $L_{Aeq\ adj, T}^{\wedge}$
Day (7am-6pm)	47	42
Evening (6pm-10pm)	44	44
Night (10pm-7am)	36	36
Sleep Disturbance	45 dB(A) L_{Amax} internal noise limits	

*= Adjusted A-weighted equivalent continuous sound pressure level - Using time-weighting 'Fast Response', the constant equivalent of the instantaneous levels of existing environment plus noise of activity under consideration that would result in the same total sound energy being produced during the time period T , where T is measured for a period no less than 15 minutes, when the activity is causing a steady state noise, and no less than 1 hour when the activity is causing an intermittent noise, unaffected by extraneous noise and adjusted for tonality and impulsiveness.

$\wedge$ = Adjusted A-weighted sound pressure level - Obtained by using time-weighting 'Fast Response' and arithmetically averaging the visual maximum levels of the noise of activity under investigation, considering tonality and impulsiveness during the time period T , where T is measured for a period no less than 15 minutes.

89. Drainage grating over trafficable areas must be well secured and maintained to prevent rattling.
90. Driveway areas are to be finished with surface coatings which prevent tyre squeal. An uncoated surface is acceptable.
91. Acoustic barriers must be constructed on the site for noise attenuation. The barriers must be constructed in accordance with the ~~Noise Impact Assessment Report (as amended) and Site Plan (as amended)~~ Approved Plans listed within this Development Approval and the following requirements and a Building Works approval:
- 91.1 Within the subject site, located along all the side boundaries (~~including the northern boundary of proposed Lot 16~~) and erected to 2m or 2.1m from the finished ground level in height (~~except as shown in red on the Site Plan (as amended)~~) as shown on the Approved Plans;
- 91.2 The barriers must be constructed using materials such as lapped timber fencing, FC sheet, masonry, plywood, glass, acrylic glass, or a combination of to achieve a minimum surface density of 11 kg/m² or 12.5kg/m² as shown on the Approved Plans:
- 91.3 The barriers must have no gaps (i.e. are solid) including between partitions, between partitions and posts and between partitions and the finished ground level; and
- 91.4 The barriers must be tapered at the street frontage as follows:
- (i) North-East boundary of ~~Lot 15 on Russell Street~~ must be tapered from the fascia of the adjoining dwelling at 200 Russell Street to match the height of the adjoining property's front fence;
 - (ii) North-West boundary of ~~Lot 15 on Russell Street~~ must be tapered from the fascia of the adjoining dwelling at 204 Russel Street to match the height of the adjoining property's front fence;
 - (iii) South-East boundary of ~~Lot 15 on Wallace Street~~ must be tapered within 3m of road frontage to a height of 1.2m; and.

~~(iv) South West boundary of Lot 15 on Wallace Street must be tapered within 3m of road frontage to a height of 1.2m.~~

92. Prior to any application for an Operational Works approval or Building Works approval submit to Council a Fixed Mechanical Plant Noise Assessment prepared by a qualified person certifying that fixed mechanical plant has been designed and can be installed, operated to comply with the noise criterion contained within Section 4.2.1 of the approved Noise Impact Assessment Report (as amended) listed within this Development Approval.
93. A register (record) of all noise complaints received must be maintained and kept on the premises. As a minimum, the register is to provide an accurate record of:
- 93.1 Time, date, name and contact details of complainant;
 - 93.2 Reason for complaint (issue);
 - 93.3 Investigation undertaken;
 - 93.4 Conclusions formed; and
 - 93.5 Actions taken to resolve complaint and mitigate nuisance.
94. A copy of the register of complaints referred to in Condition 93 must be provided to the Manager, Development Assessment within seven (7) days of the request of the Toowoomba Regional Council.
95. If a complaint is received by Council, which is determined by Council not to be a frivolous or vexatious complaint, Council may request the applicant to submit certification from an independent and appropriately qualified acoustic consultant that demonstrates the measured noise levels emitted by the development are less than the noise limit criteria listed in Table 1. ~~approved predicted noise levels as specified within the the approved Noise Impact Assessment Report (as amended) listed within this Development Approval.~~
96. The certification, if required by a request in accordance with Condition 95 must be submitted to Council within three (3) months of the request and if it identifies that the measured noise levels exceed the noise limit criteria listed in Table 1 ~~or approved predicted noise levels~~, a Noise Management Plan prepared by an appropriately qualified acoustic consultant must also be submitted at the same time for approval by Council, demonstrating how the ~~approved predicted levels~~ noise limit criteria will be achieved.
97. Implement any approved additional noise mitigation measures recommended by a Noise Management Plan (if required by Condition 96) within three (3) months of approval of the Noise Management Plan.

AIR QUALITY / ODOUR MANAGEMENT

98. Odours or airborne contaminants, including dust, smoke fumes and aerosols which are noxious or offensive to public amenity or safety, likely to cause environmental harm or nuisance or exceed the air quality objectives on the *Environmental Protection (Air) Policy 2008* must not be released to any sensitive receptor or commercial place as defined in the *Environmental Protection Act 1994*.

AMENITY AND OPERATION OF USE

LANDSCAPING

99. The development site must be landscaped in accordance with works shown on the Approved Plans ~~listed within this Development Approval~~, with the addition of the following:

- 99.1 The landscape plan must be prepared by a suitably qualified and ~~and experienced Landscape Architect, horticulturist, or other person experienced in landscape design and construction~~ person in accordance with the applicable requirements in table 9.3.4:7 of the Landscape Code in the Toowoomba Regional Planning Scheme;
- 99.2 The Landscape Plan must address the applicable acceptable outcomes or performance outcomes of the Landscape Code and any other relevant landscaping requirements applicable to the development in the Toowoomba Regional Planning Scheme; and
- 99.3 The Landscape Plan must detail:
- (i) The typical species to be planted, consisting mainly of drought-tolerant species suitable to their individual location on site;
 - (ii) The number and size of plants; ~~and~~
 - (iii) The typical planting detail including preparation, backfill, staking and mulching-;
 - (iv) Internal dimensions of all planting areas;
 - (v) Location, height and finish of any fencing fronting public land (including street frontages);
 - (vi) Location and species of existing site vegetation to be removed and/or retained in accordance with this Development Approval; ~~and~~
 - (vii) A minimum of a 1.4m wide landscape strip, comprising of screen planting, along the Wallace Street frontage between the driveway and the western boundary;
 - (viii) **Provision of shade trees to achieve over vehicle carparking areas; and**
 - (ix) **Provision of screen planting of a minimum 2 metres width within the front setback area to adequately screen bin storage areas from public view along Wallace Street.**
100. All declared weeds must be removed from the subject land and the land maintained free of declared weeds at all times.
101. All trees, shrubs or landscaped areas (excluding declared weeds) identified for retention must be maintained and disturbance avoided from construction work.
102. Landscaping provided within the front boundary setback of the subject land and around car parking areas within the subject land must allow visibility into the site by:
- 102.1 Using trees which have a clean trunk height of at least 1.8 metres (at maturity); and
 - 102.2 Using shrubs with a maximum height of 0.75 metres, in order to retain sight lines.
103. A landscape strip having a minimum width of ~~8.57~~ 7.0 metres must be provided along the ~~full length of the Wallace Street frontage within proposed Lot 15 (exclusive of vehicle and pedestrian access to the site)~~ between the driveway and the eastern boundary which must include ~~four (4)~~ a minimum of two (2) trees capable of reaching a height of 5m at maturity and a landscape buffer of ~~2m~~ 1.3m width on the ~~southern~~ eastern boundary, generally located as shown on the Approved Plans listed within this Development Approval.
104. A minimum of 70% of landscaped areas must be retained as a permeable surface.

105. Landscape areas must be maintained as per the approved Landscape Plan, and the site must remain in a clean and tidy state at all times.
106. ~~Retain the existing Jacaranda tree on Lot 16.~~
107. Retain existing vegetation on site, specifically vegetation within the Russell Street frontage.
108. The driveway on the eastern property boundary must be removed in accordance with Condition 70 and replaced with a 2m wide landscape buffer on the eastern boundary.

VISUAL AND GENERAL AMENITY

109. Any graffiti on the buildings/structures/fences on the subject land must be immediately removed. Any graffiti deterrent building design elements and surface treatments are to be maintained at all times
110. All buildings/structures and the subject land must be maintained in a clean and tidy manner, at all times.
111. All plant, air-conditioning equipment and the like must be contained within the building or visually screened to all street frontages, public viewing locations and adjoining premises.
112. ~~Windows in those parts of buildings exceeding three (3) storeys in height must not utilise glass with a reflectivity exceeding 20% and must incorporate sun control devices.~~
113. Open storage areas, loading areas, refuse storage areas and other unsightly areas, must be screened from view from all street frontages and public places.
114. Any clothes drying facilities are:
 - 114.1 Not visible from the street or other public viewing locations; or
 - 114.2 Screened by fixed permanent screening devices for the extent that is visible from the street or other public viewing locations.
115. Active recreation facilities and services (e.g. garbage collection points, pumps, compressors, air conditioners and other plant) which generate high noise levels must be located away from bedrooms of adjacent dwellings and must be acoustically treated to not cause a nuisance (as described under the *Environmental Protection (Noise) Policy 1997* and regulations and policies made thereunder) to neighbouring properties.

INDOOR AND OUTDOOR LIGHTING FOR SAFETY & SECURITY

116. Outdoor security lighting must ensure the safety of users of the development by:
 - 116.1 Providing outdoor lighting in accordance with *Australian Standard AS 1158.3.1 – Road Lighting – Pedestrian Area (Category P) Lighting – Performance and Installation Design Requirements*; and
 - 116.2 The use of vandal resistant lighting in public or publicly accessible areas.
117. Lighting must be provided to the following areas of the site:
 - 117.1 The entries and exits of the approved buildings; and
 - 117.2 The pathways between the parking areas and the entrances/exits of the building/s.

118. Lighting required under Condition 117 must be provided in compliance with the relevant requirements of *Australian Standard AS 1158.3.1 – Road Lighting – Pedestrian Area (Category P) Lighting – Performance and Installation Design Requirements*.

OUTDOOR LIGHTING – IMPACT MITIGATION

119. Any outdoor lighting must mitigate adverse lighting and illumination impacts in accordance with the following requirements:
- 119.1 Outdoor lighting is limited to low level security lighting only that does not exceed 8.0 lux measured at 1.5m beyond the site boundaries;
- 119.2 Outdoor Lighting is designed, installed and regulated in accordance with the parameters outlined in *Australian Standard AS 4282 – Control of the Obtrusive Effects of Outdoor Lighting* including impact mitigation measures such as:
- (i) Providing graduated intensity lighting with lower level brightness at the perimeter of the subject land and higher intensities at the centre of the subject land;
 - (ii) Directing lighting onto the subject land and away from neighbouring properties; and
 - (iii) Using shrouding/baffling devices to preclude light overspill onto surrounding properties where necessary; and
- 119.3 Outdoor lighting is provided in accordance with *Australian Standard AS 1158.1.1 – Road Lighting – Vehicular Traffic (Category V) Lighting – Performance and Installation Design Requirements* to avoid creating a traffic hazard on adjacent roads.

B. ADVICES:

GENERAL ADVICES – MATERIAL CHANGE OF USE

Infrastructure Charges

- 1) Infrastructure charges are now levied by way of an infrastructure charges notice, issued pursuant to section 635 119 of the ~~*Sustainable Planning Act 2009*~~ *Planning Act 2016*.

Fire Ants

- 2) 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 *Plant Protection Act 1989* apply. Compliance with statutory provisions must be achieved.

Disposal of Construction & Demolition Material

- 3) Construction and demolition material must be lawfully disposed of with regard to the *Environmental Protection (Waste Management) Regulation 2000*.

Advertising Signs

- 4) Placing an advertising device on premises is self assessable development where complying with the *Advertising Devices Code* in the *Toowoomba Regional Planning Scheme 2012*. A separate Development Permit for Operational Works will be required for any Advertising Signs not complying with the acceptable outcomes of the Advertising Devices Code.

When Approval Takes Effect

- 5) This approval takes effect in accordance with the provisions of Section 339 of the *Sustainable Planning Act 2009*.

When Approval Lapses

- 6) This approval will lapse in accordance with the provisions contained in Sections 341 and 342 of the *Sustainable Planning Act 2009*, unless otherwise stated in the conditions of Development Approval.

Building Approval Required for Certain Fences and Retaining Walls

- 7) A fence or retaining wall more than 2.0 metres in height from natural ground level may require a Development Permit for Building Work. This includes the total height of a fence erected on top of a retaining wall. Liaise directly with Council's Building Services Section to determine any requirement for a Development Permit for Building Work.

Aboriginal Cultural Heritage

- 8) It is advised that under Section 23 of the *Aboriginal Cultural Heritage Act 2003*, a person who carries out an activity must take all reasonable and practicable measures to ensure the activity does not harm Aboriginal Cultural Heritage (the "cultural heritage duty of care"). Maximum penalties for breaching the duty of care are listed in the Aboriginal Cultural Heritage legislation. The information on Aboriginal Cultural Heritage is available from the Department of Environment and Resource Management.

Trade Waste Approval

- 10) This approval does not infer or give approval to the owners or occupiers of the subject land to discharge trade waste to Council's sewers. Council administers trade waste regulation as defined in the *Water Supply (Safety & Reliability) Act 2008* through its Trade Waste Policy and Trade Waste Environmental Management Plan.

Application forms may be obtained by contacting Trade Waste Services on telephone 4688 6712. A completed application should be lodged at the building/plumbing application stage.

The following physical trade waste requirements apply:

- 10.1 The installation of a grease trap to treat the kitchen waste. The size can be determined by referencing Council's Guidelines for Sizing Grease Interceptor Traps at the Plumbing application stage.
- 10.2 Installation of a sub water meter or meters to record the water used in the kitchen, laundry, bottle prep room and any arts type sinks or cleaners sinks within the complex.
- 10.3 A cleaners' sink for disposal of floor washing wastewater etc.

Buildings

- 11) The proposed development has only been assessed in accordance with the provisions of the Planning Scheme. No assessment has been made in respect of the provisions of the Building Code of Australia and/or Queensland Development Code.

Street Trees

- 12) Separate written approval from Council will be required for:
- 12.1 Any removal or modification of any existing Council street tree;
 - 12.2 Any disturbance of the root system within the drip line of the street tree; and/or
 - 12.3 The construction of an access driveway within the drip line of the street tree.

C. ATTACHMENTS:

- Approved Development Plans
- Appeal provisions pursuant to the *Planning Act 2016*.

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.