

Our Reference: RAL/2026/302  
CS Portal Reference: N/A  
Officer: Cassidy Pugh  
Contact: 07 4688 6971  
Email: [development@tr.qld.gov.au](mailto:development@tr.qld.gov.au)

**Development Application Decision Notice**  
**APPROVAL**  
*Planning Act 2016 Section 63*

Peter Kim, Adam Kim and Michelle Kim  
C/- Alpha Planning Applications  
PO Box 764  
TOOWOOMBA CITY QLD 4350

Email: [andrew@alphaplanning.com.au](mailto:andrew@alphaplanning.com.au)

19 June 2026

Dear Sir/Madam

**Location:** 162 Kim Road and Kim Road, WELLCAMP QLD 4350  
**Property Description:** Lot 3 RP222288, Lot 5 RP222288  
**Relevant Planning Scheme:** *Toowoomba Regional Planning Scheme 2012*

The Development Application for Reconfiguring a Lot – Impact – Boundary Realignment (Two (2) Lots into Two (2) Lots), for the abovementioned property has been assessed and approved in full with Conditions. It is considered that the approved development generally complies with the relevant assessment benchmarks or can be conditioned to comply. The decision was made on 12 June 2026. The following provides all the relevant details:

#### Details of Approval

Development Permit – Reconfiguring a Lot – Impact – Boundary Realignment (Two (2) Lots into Two (2) Lots)

#### Referral Agencies

Concurrence Agencies Name & Address: Department of State Development, Infrastructure and Planning  
PO Box 825  
TOOWOOMBA QLD 4350

Advice Agencies Name & Address: N/A

#### Conditions and Advices

Assessment Manager's Conditions: As per attached Schedule 1

Concurrence Agency Conditions: As per attached Schedule 2

#### Currency Period

In accordance with section 85(1)(b)(ii) of the *Planning Act 2016* (Qld), this Development Approval lapses if a plan for the reconfiguration is not given to Council in accordance with the *Land Title Act 1994* (Qld) within four (4) years of this Development Approval starting to have effect.

#### **Further Plans/Documents for Endorsement**

The following documents/plans require Endorsement:

- Survey Plan

#### **Submissions**

There were no properly made submissions for this application.

#### **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



James Leader  
A/Lead Senior Planner, Planning Branch



# TOOWOOMBA REGIONAL COUNCIL

A.B.N. 997 8830 5360

## SCHEDULE 1

### DEVELOPMENT PERMIT FOR RECONFIGURING A LOT – IMPACT

<b>APPLICATION NUMBER:</b>	RAL/2026/302
<b>APPLICANT:</b>	Peter Kim and Adam Kim and Michelle Kim
<b>LOCATION:</b>	162 Kim Road and Kim Road, WELLCAMP QLD 4350
<b>PROPERTY DESCRIPTION:</b>	Lot 3 RP222288, Lot 5 RP222288
<b>APPROVED USE:</b>	Boundary Realignment (Two (2) Lots into Two (2) Lots)
<b>ZONING / PRECINCT:</b>	Rural Zone/ 100ha minimum Precinct

#### A. ASSESSMENT MANAGER'S CONDITIONS:

##### PLANNING

##### APPROVED DEVELOPMENT

1. This Development Approval is for Reconfiguring a Lot, being for a Boundary Realignment of Two (2) Lots into Two (2) Lots.

##### CARRY OUT AND MAINTAIN DEVELOPMENT

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

##### APPROVED PLANS

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

**Plan No:** 25-044-2

**Description:** Plan Showing Proposed Lots 5 & 6 Cancelling Lots 3 & 5 on RP222288 Kim Road, prepared by SMK Land Surveyors Pty Ltd and dated 12 June 2025

**Amendments:** Nil

##### LOT NUMBERING

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

## **COUNCIL APPROVAL OF PLANS, DOCUMENTS & WORKS**

7. Prepare and submit for Council's approval a Plan of Subdivision in accordance with Schedule 18 of the *Planning Regulation 2017*. For the purposes of Section 1(4) of Schedule 18, the stated date by which the request must be made is the last date of the currency period of this approval.

## **DEDICATIONS, AGREEMENT AND CONTRIBUTIONS**

### **FEES AND CHARGES**

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

## **WORKS**

### **STORMWATER DRAINAGE**

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

### **DAMAGE TO SERVICES & ASSETS**

10. Protect Council and public utility services and assets during construction of the development.
11. 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:
  - 11.1 Where the damage would cause a hazard to pedestrian or vehicle safety or interrupts a service to the community, immediately; or
  - 11.2 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.
12. 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.
13. 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*

### **AIR QUALITY IMPACT MITIGATION**

14. Odours or airborne contaminants which are noxious or offensive to public amenity or safety, likely to cause environmental harm or environmental nuisance or exceed the *Air Quality Objectives* listed in the *Environmental Protection (Air) Policy 2019* as measured at any sensitive place or commercial place must not be released to the atmosphere during building and operational works.
15. All reasonable and feasible avoidance and mitigation measures are employed so that dust emissions generated during site works do not exceed the following levels when measured at any sensitive place or commercial place:

- 15.1 Dust deposition of 133 milligrams per square metre per day, averaged over 1 month, when monitored in accordance with the most recent version of *Australian Standard AS3580.10.1 Methods for sampling and analysis of ambient air - Determination of particulate matter - Deposited matter - Gravimetric method*.

### **CONSTRUCTION WASTE MANAGEMENT & STORAGE**

16. 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*.
17. The on-site storage and disposal of demolition, excavation and construction waste (including the storage and disposal of night soil) must comply with the *Environmental Protection Regulation 2019*.
18. Fires are not to be lit to dispose of demolition or construction waste.
19. No demolition, excavation or construction waste is to be used as fill or buried on-site (with the exception of cut material recycled from the subject land and used on the subject land), or be used as fill or buried elsewhere, unless otherwise permitted:
- 19.1 Elsewhere within this Development Approval;
  - 19.2 In accordance with an associated Development Permit for Operational Work;
  - 19.3 In association with and in accordance with an Environmental Authority issued under the *Environmental Protection Act 1994*;
  - 19.4 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
  - 19.5 In accordance with a written approval issued by Council under the *Environmental Protection Regulation 2019* relating to the depositing or disposal of general waste from a premises not serviced by Council.
20. Demolition, excavation and construction waste (including night soil) must not be placed or stored within the road reserve at any time.

### **CONSTRUCTION NOISE IMPACT MITIGATION**

21. Building work (as per the definition of the *Environmental Protection Act 1994*) that creates audible noise must be confined to the hours of 6:30 am and 6:30 pm Monday to Saturday (excluding Public Holidays) unless otherwise approved by Council in an endorsed Construction Environmental Management Plan.

### **EROSION & SEDIMENT CONTROL**

22. 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.
23. 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.

24. 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.
25. All disturbed areas must be mulched or turfed as soon as possible during construction.

## **LANDSCAPE & ECOLOGY**

### **REMOVAL OF EXISTING TREES AND VEGETATION**

26. Clearing, including felling, pushing, lopping and grubbing of existing trees and vegetation not identified for retention must be undertaken by a suitably qualified person and must:
  - 26.1 Retain old growth tree hollows and suitably relocate and distribute for nesting fauna;
  - 26.2 Mulch all other wood and leaf material (without root balls, soil or debris and minimising weed seeds) for re-usable mulch;
  - 26.3 Have mulch for re-use in landscape or rehabilitation stockpiled and aged for a minimum of three months;
  - 26.4 Have mulch stockpiles no larger than 1000m<sup>3</sup>, 2.5m in height and with 10m separation between piles;
  - 26.5 Allow for existing endemic ground flora to be translocated to suitable landscaping and rehabilitation areas; and
  - 26.6 Conclude with the area being stabilised against erosion.
27. Any processing of trees or vegetation must be carried out in a safe manner and without exceeding the noise and air emission levels listed or prescribed in this Development Approval.

### **FAUNA MANAGEMENT DURING REMOVAL OF EXISTING TREES AND VEGETATION**

28. A legislative compliant Fauna Spotter Catcher must be engaged to manage fauna prior and during clearing to:
  - 28.1 Ensure works are carried out in accordance with the *Nature Conservation Act 1992*.
  - 28.2 Undertake pre-clearing inspections including fauna relocation and removal or blocking of all vacant hollows;
  - 28.3 Ensure clearing works avoids nesting times of animals and birds;
  - 28.4 Co-ordinate staging and sequence of clearing with fauna protection;
  - 28.5 Protect and recover fauna during clearing operations (not previously removed); and
  - 28.6 Manage the translocation of animals and recovery procedures in accordance with relevant legislation.

### **ECOLOGICAL PRESERVATION - FAUNA MANAGEMENT**

29. Any proposed new fencing to delineate boundary alignments must be constructed to allow for the movement of fauna. Such fencing must:

- 29.1 Allow adequate clearance at ground level for macropods;
- 29.2 Not include any use of barbed wire or similar materials; and
- 29.3 Provide regular opportunities for passage over and through.

#### **BUSHFIRE MANAGEMENT - FUTURE DWELLING REQUIREMENTS**

- 30. All future dwellings on bushfire prone lots must be provided with a water storage reservoir having a minimum 10,000 litres of water for emergency firefighting purposes. Such storage must be provided in addition to the water supply capacity required for domestic use and must be provided in the form of either a dam, swimming pool, or rainwater tank located within 40m of the dwelling.
- 31. Where water storage is provided by way of rainwater tank, separate water storage for firefighting purposes must be provided either in a separate rainwater tank or a reserve section in the main water supply tank on which:
  - 31.1 the domestic take off from the tank is at or above the 10,000 litre point; and
  - 31.2 standard rural fire brigade fittings (a 50mm male camlock coupling and ball valve) are fitted to the tank outlet for access by four wheel drive rural services vehicles.
- 32. The water storage reservoir must be provided with a water delivery mechanism that will function during an emergency event (such as an electric pump with auxiliary power supply or a petrol driven firefighting pump) and hose of sufficient length to easily reach around to all sides of the dwelling.
- 33. A hard stand area within 6m of the water storage reservoir must be provided to ensure accessibility for fire fighting vehicles.

#### **B. ADVICES:**

##### **GENERAL ADVICES:**

#### **INFRASTRUCTURE CHARGES**

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

#### **OTHER LAWS & REQUIREMENTS**

- 2) 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.
- 3) 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](http://www.tr.qld.gov.au).
- 4) The development has only been assessed in accordance with the provisions of the *Toowoomba Regional Planning Scheme 2012*. No assessment has been made in respect of the provisions of the *Building Code of Australia* and/or the *Queensland Development Code*.

#### **WHEN APPROVAL STARTS TO HAVE EFFECT**

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

#### **WHEN APPROVAL LAPSES**

- 6) 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.

#### **ENVIRONMENTAL HARM**

- 7) 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.

#### **FIRE ANTS**

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

#### **C. ATTACHMENTS:**

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

**SCHEDULE 2**

**CONCURRENCE AGENCY (CONDITIONS AND COMMENTS)**

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

SARA reference: 2602-50635 SRA  
Council reference: RAL/2026/302

**RECEIVED**  
23/02/2026  
**TOOWOOMBA**  
**REGIONAL COUNCIL**

23 February 2026

Chief Executive Officer  
Toowoomba Regional Council  
PO Box 3021  
TOOWOOMBA QLD 4350  
development@tr.qld.gov.au

Attention: Cassidy Pugh

Dear Ms Pugh

## SARA referral agency response—162 Kim Road, Wellcamp

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

The development application described below was confirmed as properly referred by the State Assessment and Referral Agency (SARA) on 11 February 2026.

### Response

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Outcome:	Referral agency response – with conditions
Date of response:	23 February 2026
Conditions:	The conditions in <b>Attachment 1</b> must be attached to any development approval
Advice:	Advice to the applicant is in <b>Attachment 2</b>
Reasons:	The reasons for the referral agency response are in <b>Attachment 3</b>

### Development details

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Description:	Development permit	Reconfiguring a Lot for a Boundary Realignment (Two (2) into Two (2) Lots)
SARA role:	Referral agency	
SARA trigger:	Schedule 10, Part 3, Division 4, Table 2, Item 1 (10.3.4.2.1) (Planning Regulation 2017) - Reconfiguring a lot that involves clearing native vegetation	
SARA reference:	2602-50635 SRA	
Assessment manager:	Toowoomba Regional Council	

Street address: 162 Kim Road, Wellcamp & Kim Road, Wellcamp

Real property description: Lots 3 & 5 on RP222288

Applicant name: Peter Kim, Adam Kim and Michelle Kim C/- Alpha Planning Applications

Applicant contact details: PO Box 764  
TOOWOOMBA CITY QLD 4350  
andrew@alphaplanning.com.au

*Human Rights Act 2019* considerations: A consideration of the 23 fundamental human rights protected under the *Human Rights Act 2019* has been undertaken as part of this decision. It has been determined that this decision does not limit human rights

## Representations

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

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

For further information please contact Zinal Chand, Planning Officer, on (07) 3432 2410 or via email ToowoombaSARA@dasilgp.qld.gov.au who will be pleased to assist.

Yours sincerely



Paul Gleeson  
A/Manager

enc Attachment 1 - Referral agency conditions  
Attachment 2 - Advice to the applicant  
Attachment 3 - Reasons for referral agency response  
Attachment 4 - Representations about a referral agency response provisions  
Attachment 5 - Documents referenced in conditions

cc Peter Kim, Adam Kim and Michelle Kim C/- Alpha Planning Applications, andrew@alphaplanning.com.au

## Attachment 1—Referral agency conditions

(Under section 56(1)(b)(i) of the *Planning Act 2016* the following conditions must be attached to any development approval relating to this application) (A copy of the document referenced below is found in Attachment 5)

No.	Conditions	Condition timing
<p>Schedule 10, Part 3, Division 4, Table 2, Item 1 (10.3.4.2.1)—The chief executive administering the <i>Planning Act 2016</i> nominates the Director-General of the Department of Natural Resources and Mines, Manufacturing and Regional and Rural Development to be the enforcement authority for the development to which this development approval relates for the administration and enforcement of any matter relating to the following condition(s):</p>		
1.	<p>The development must be carried out generally in accordance with the following plan:</p> <p>(a) Plan Showing Proposed Lots 5 &amp; 6 Cancelling Lots 3 &amp; 5 on RP222288 Kim Road, prepared by SMK Land Surveyors Pty Ltd, dated 12/06/2025, reference 25-044-2.</p>	<p>Prior to submitting the Plan of Survey to the local government for approval</p>

## Attachment 2—Advice to the applicant

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<b>General advice</b>	
1.	Terms and phrases used in this document are defined in the <i>Planning Act 2016</i> , its regulation or the State Development Assessment Provisions (SDAP) (version 3.5). If a word remains undefined it has its ordinary meaning.

## Attachment 3—Reasons for referral agency response

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

### The reasons for the SARA's decision are:

- SARA assessed the development against State code 16: Native vegetation clearing (State code 16) of the State Development Assessment Provisions (SDAP), version 3.5:
- The development complies with the assessment benchmarks of State code 16 of SDAP in that the development:
  - o avoids clearing, or where avoidance is not reasonably possible, minimises clearing to:
    - a. conserve vegetation
    - b. avoid land degradation
    - c. avoid the loss of biodiversity
    - d. maintain ecological processes
  - o minimises contributions to greenhouse gas emissions
  - o for vegetation retention purposes, is undertaken in a manner that retains or regenerates vegetation by sustainably managing the impacts of the clearing on regional ecosystems, biodiversity and ecological processes over time
  - o avoids impacts on vegetation and minimises and mitigates impacts on vegetation where avoidance is not possible

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

- the development application material and submitted plans
- *Planning Act 2016*
- Planning Regulation 2017
- the SDAP (version 3.5), as published by SARA
- the Development Assessment Rules
- SARA DA Mapping system
- State Planning Policy mapping system
- section 58 of the *Human Rights Act 2019*

## Attachment 4—Representations about a referral agency response provisions

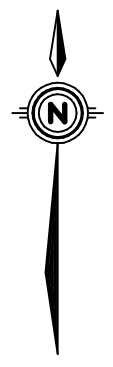
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## **Attachment 5—Documents referenced in conditions**

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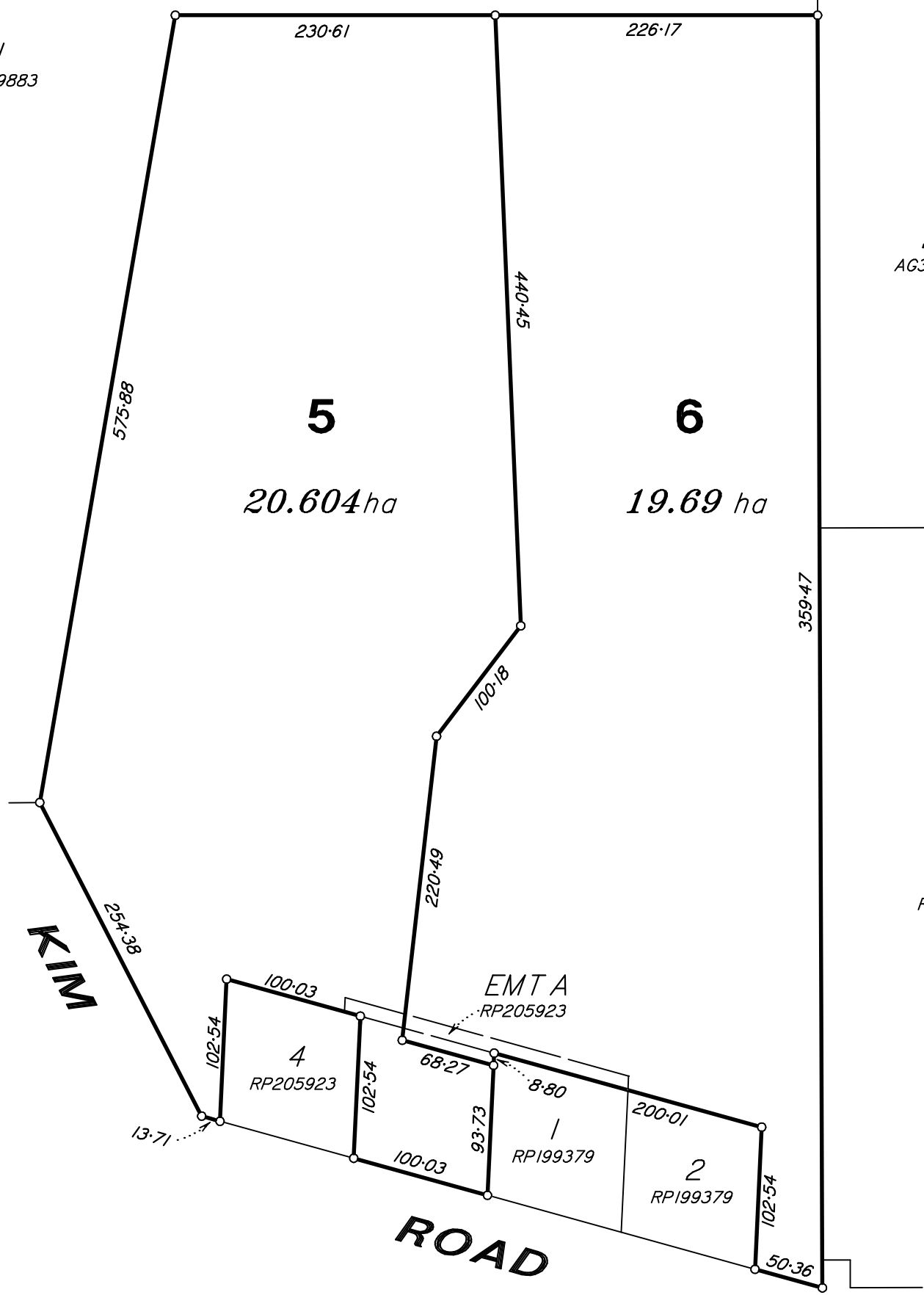
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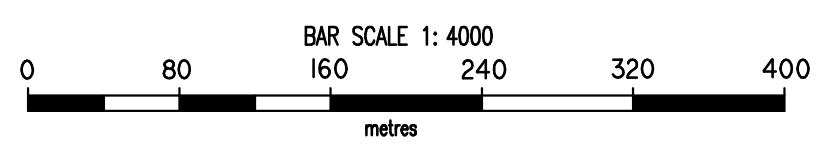
**Note:**

This plan was prepared for Adam Kim as a proposed subdivision to accompany a subdivision application to the Toowoomba Regional Council and should not be used for any other purpose. The dimensions, areas and total number of lots shown hereon are subject to field survey and also to the requirements of Council and any other relevant legislation. In particular, no reliance should be placed on this plan for any financial dealings involving the land. Service alignments shown are approximate only and have been plotted from DBYD records. Contours have been sourced from QLD Govt Lidar data and are shown at 1.0m intervals. This note is an integral part of this plan.

**PLANS AND DOCUMENTS referred to in the REFERRAL AGENCY RESPONSE**

SARA ref: 2602-50635 SRA

Date: 23 February 2026

**Adam Kim**

PLAN SHOWING PROPOSED LOTS

SCALE: 1:4000

**SMK**  
LAND SURVEYORS Pty Ltd

Gatton PO Box 109, Gatton Qld 4343  
Ph 0427 713 508  
Email: dan@smkls.com.au

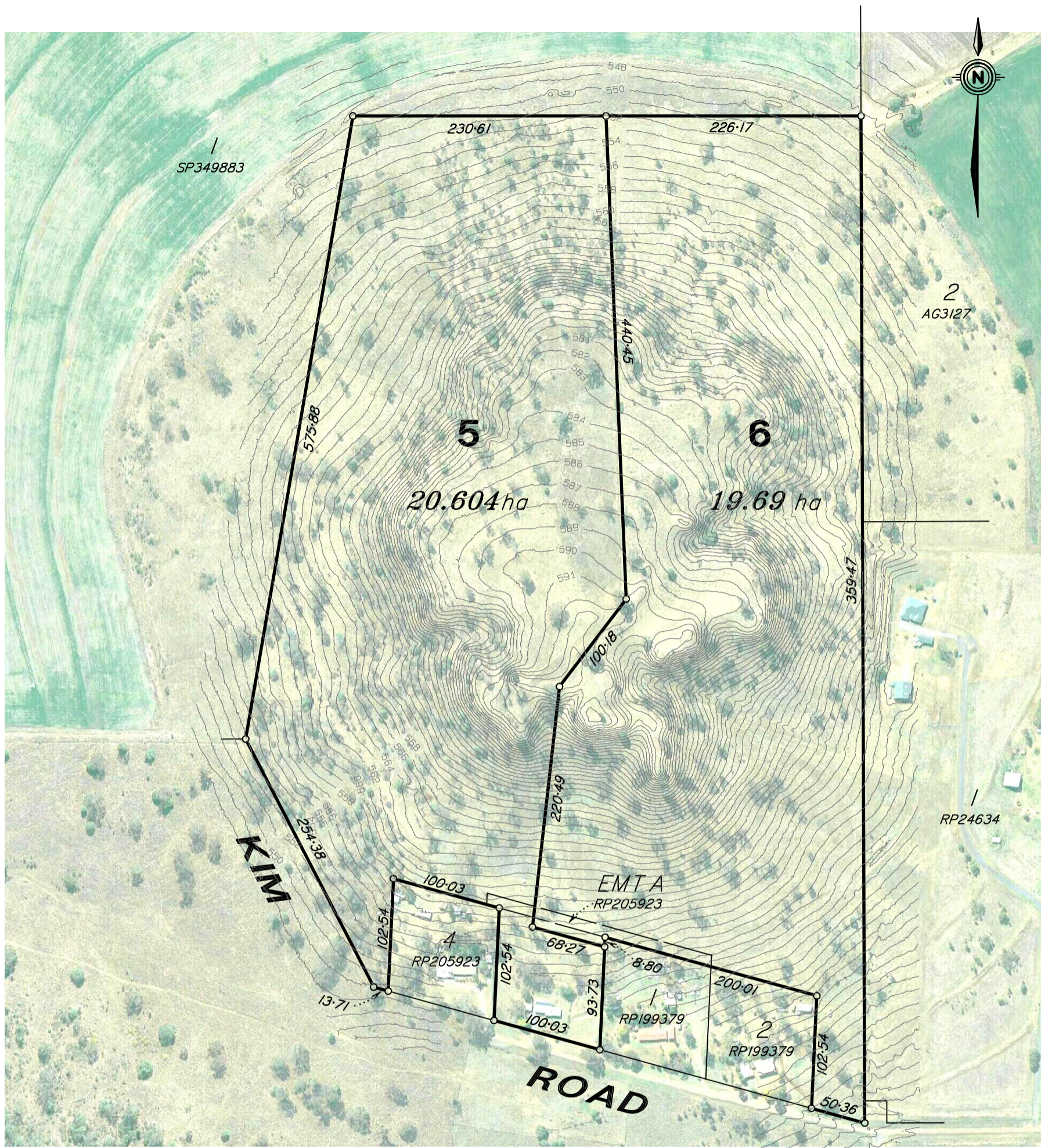
Associated Company  
SMK QLD Pty Ltd  
Brisbane - Goondiwindi

5 & 6  
CANCELLING LOTS 3 & 5 ON RP222288  
KIM ROAD

25-044-2

Drawn DJF 12/06/2025 Checked DPL 12/06/2025 LOCALITY WELLCAMP

25-044 **A3**




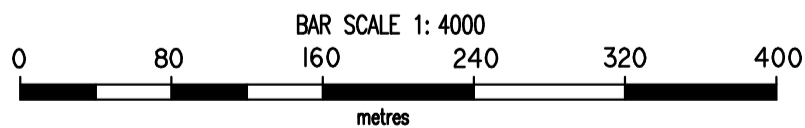
**Note:**

This plan was prepared for Adam Kim as a proposed subdivision to accompany a subdivision application to the Toowoomba Regional Council and should not be used for any other purpose. The dimensions, areas and total number of lots shown hereon are subject to field survey and also to the requirements of Council and any other relevant legislation. In particular, no reliance should be placed on this plan for any financial dealings involving the land. Service alignments shown are approximate only and have been plotted from DBYD records. Contours have been sourced from QLD Govt Lidar data and are shown at 1.0m intervals. This note is an integral part of this plan.

**PLANS AND DOCUMENTS** referred to in the REFERRAL AGENCY RESPONSE

SARA ref: 2602-50635 SRA

Date: 23 February 2026

<b>Adam Kim</b>		<b>PLAN SHOWING PROPOSED LOTS 5 &amp; 6</b>		SCALE: 1:4000	
<b>SMK LAND SURVEYORS Pty Ltd</b> Gatton PO Box 109, Gatton Qld 4343 Ph 0427 713 508 Email: dan@smkls.com.au Associated Company SMK QLD Pty Ltd Brisbane - Goondiwindi		<b>CANCELLING LOTS 3 &amp; 5 ON RP222288</b> <b>KIM ROAD</b>		<b>25-044-2</b>	
Drawn	DJF	12/06/2025	Checked	DPL	12/06/2025
LOCALITY			WELLCAMP		
25-044			<b>A3</b>		

# Development Assessment Rules—Representations about a referral agency response

The following provisions are those set out in sections 28 and 30 of the Development Assessment Rules<sup>1</sup> regarding **representations about a referral agency response**

## Part 6: Changes to the application and referral agency responses

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### 28 Concurrence agency changes its response or gives a late response

- 28.1. Despite part 2, a concurrence agency may, after its referral agency assessment period and any further period agreed ends, change its referral agency response or give a late referral agency response before the application is decided, subject to section 28.2 and 28.3.
- 28.2. A concurrence agency may change its referral agency response at any time before the application is decided if—
- (a) the change is in response to a change which the assessment manager is satisfied is a change under section 26.1; or
  - (b) the Minister has given the concurrence agency a direction under section 99 of the Act; or
  - (c) the applicant has given written agreement to the change to the referral agency response.<sup>2</sup>
- 28.3. A concurrence agency may give a late referral agency response before the application is decided, if the applicant has given written agreement to the late referral agency response.
- 28.4. If a concurrence agency proposes to change its referral agency response under section 28.2(a), the concurrence agency must—
- (a) give notice of its intention to change its referral agency response to the assessment manager and a copy to the applicant within 5 days of receiving notice of the change under section 25.1; and
  - (b) the concurrence agency has 10 days from the day of giving notice under paragraph (a), or a further period agreed between the applicant and the concurrence agency, to give an amended referral agency response to the assessment manager and a copy to the applicant.

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<sup>1</sup> Pursuant to Section 68 of the *Planning Act 2016*

<sup>2</sup> In the instance an applicant has made representations to the concurrence agency under section 30, and the concurrence agency agrees to make the change included in the representations, section 28.2(c) is taken to have been satisfied.

## **Part 7: Miscellaneous**

### **30 Representations about a referral agency response**

- 30.1. An applicant may make representations to a concurrence agency at any time before the application is decided, about changing a matter in the referral agency response.<sup>3</sup>

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<sup>3</sup> An applicant may elect, under section 32, to stop the assessment manager's decision period in which to take this action. If a concurrence agency wishes to amend their response in relation to representations made under this section, they must do so in accordance with section 28.

## 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—
- (a) the adopted charge itself; or
- (b) 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—
- (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—
- 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.